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SENATE—*Thursday, July 23, 1998*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. David W. Anderson, of the Faith Baptist Ministry, Sarasota, FL.

PRAYER

The guest Chaplain, Rev. David W. Anderson, Faith Baptist Ministry, Sarasota, FL, offered the following prayer:

Almighty Creator and Giver of life, we bow before You with thankful hearts for the innumerable blessings bestowed upon America. Your wisdom guides us to truth, and Your power sustains our freedom. Your forgiveness cleanses our transgressions, and Your Spirit calls us to be a righteous and just Nation.

Wonderful Counselor, enable the men and women of this Senate to balance the pressures of their individual lives with the demands of their offices. Comfort their hearts in times of personal crisis and protect their families. Grant them time with their loved ones and remind them of their need for faith. Strengthen their character and clarify their vision that they might address the complex issues facing our Nation with wisdom, courage, and compassion.

Lord, bless the talents that You have bestowed upon these Your servants. Reward them for the leadership they exercise. Give them the courage to do what is right, the conviction to resist what is wrong, and the counsel to discern the difference. Help them to discuss issues of national concern in a spirit of unity and cooperation, knowing that together they serve the same people and the same sovereign God. In Jesus' Name, I pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. GREGG. Mr. President, this morning the Senate will resume consideration of the Commerce/Justice/State bill. At 9:15 a.m. the Senate will vote in relation to the Craig amendment followed by a vote in relation to the underlying Kyl amendment. Following those votes, under a previous consent agreement, the Senate will debate several amendments to be offered to the C.J.S. bill. At the conclusion of that debate, which is expected by early afternoon, the Senate will proceed to a stacked series of votes in relation to those amendments. Following disposition of all amendments in order, it is expected that the Senate will quickly proceed to final passage of the Commerce/Justice/State appropriations bill. Upon completion of the C.J.S. bill it is hoped that the Senate will begin consideration of the transportation appropriations bill. Therefore Members should expect another late night session with votes as the Senate attempts to make progress on the remaining appropriations bills. I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. COATS). Under the previous order, leadership time is reserved.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the Commerce-Justice-State appropriations bill, S. 2260, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2260) making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kyl/Bryan amendment No. 3266, to prohibit Internet gambling.

Craig modified amendment No. 3268 (to amendment No. 3266), to clarify that Indian gaming is subject to Federal jurisdiction.

AMENDMENT NO. 3268

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes for debate, divided in the usual form, on amendment No. 3268, offered by the Senator from Idaho, Mr. CRAIG.

Mr. KYL. Mr. President, since Senator CRAIG is not here, without impinging on the time, I ask unanimous consent that the Presiding Officer, Senator COATS, as well as Senators ENZI, BOND, and MCCONNELL, be added as cosponsors of the amendment of the Senator from Nevada and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, perhaps Senator CRAIG would like to call for a vote on both his amendment and the underlying amendment. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Without objection, it is in order to request the yeas and yeas.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I join the Senator and ask for the yeas and nays on the Craig amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I understand each side has 5 minutes. If the desk will notify me when I have used 2 minutes.

Mr. President, my amendment to the Kyl amendment attempts to clarify what I think is important that we do. The Indian Affairs Committee has the authority to hold hearings to move legislation, to bring it to the floor as it relates to Indian gaming. We created IGRA, the Indian Gaming Regulatory Act, and the National Indian Gaming Commission for the purpose of regulating Indian gaming. Indian gaming is regulated.

But the Senator from Arizona, without hearings on this in the authorizing

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● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

committee, steps in and makes significant changes in the Indian gaming law. Now, the Senator from Arizona and I agree that gaming ought to be regulated; it ought to be controlled, the access ought to be controlled. We want it limited. But in this case, it isn't a matter of limiting, it is a matter of outlawing, stopping something that is already out there, already working, already has stood the test of officialdom, and we believe it meets those standards, and that is the National Indian Lottery. So I hope that my colleagues will stand with me in saying we want regulation and control.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. CRAIG. I appreciate that. We don't want this kind of stepping in and simply wiping out, with the appropriate committee not holding a hearing to understanding what is exactly going on. That is the intent of my amendment—to maintain the integrity of the National Indian Gaming Commission and the recognition of the relationships between the Indian Nations and the United States itself and the treaty relationship that is clear and has been well established.

I retain the remainder of my time.

Mr. KYL. Mr. President, I yield time to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I oppose the Craig amendment, which will change gambling in the United States as we currently know it. It will give legal validity to the claims that the tribes have that they can provide gambling all over the United States. They cannot; it is illegal. This amendment would give them a monopoly on the Internet in every home in America, without any age discrimination. That is the reason we require it to be on premises, so we can check to see if kids are gambling. This will eliminate enforcement in States like mine where we have had a referendum on gambling.

It was defeated 2-to-1 in every single county in our State. We do not want gambling in Wyoming. We defeated it soundly. This would allow gambling in Wyoming. This would give national legal validity. This will replace lotteries across the State, when they can finally advertise it to the extent that they really want to do it. This will provide for eventual, complete electronic gambling for every home in America, without any State being able to oppose it.

I ask you to oppose the Craig amendment and support the Kyl amendment.

Mr. KYL. Mr. President, I am pleased to yield 1 minute to the Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I am in support of Senator KYL, but I must state my objection to Senator CRAIG's amendment.

In my career in the U.S. Congress, representing Atlantic City, I have never risen on the floor to oppose gaming. But this is too much. All of our communities have a right to decide when and where we want gaming. We restricted it to one city in New Jersey. Under Senator CRAIG's amendment, every living room, every child's bedroom in America will become a gaming parlor. The Internet will bring gaming to children, and it won't be restricted to problem gamers. There will not be any control. If we want to have Indian tribes having Indian gaming, let them do it on their reservation. That is their right, their sovereignty. But my State has sovereignty, too. We have decided not to allow gaming in every community. Some States, like Utah, and many of your States, have decided not to have it at all. Now it will be imposed upon you with a monopoly of gaming on the Internet, available to everyone. I urge my colleagues to defeat the Craig amendment.

Mr. INOUYE. Mr. President, I rise to address some of the statements that were made in our debate last evening on Senator CRAIG's amendment on Senator KYL's amendment on internet gaming.

First, Mr. President, I want to make clear that the amendment we propose absolutely would not exempt Indian tribal governments and Indian gaming from the purview of the Internet Gaming Prohibition Act.

Rather, the amendment allows only the conduct of those games with the application of technology—not internet technology—but the application of television and satellite-generated technology that we envisioned could be used for the conduct of bingo or games that are subject to a tribal-state compact under the Indian Gaming Regulatory Act.

The language on page eleven of Senator KYL's amendment makes it abundantly clear that each person placing or receiving or otherwise making a bet or wager must be physically located on Indian land and that class III games must be conducted consistent with a tribal-state compact and only in the state to which the compact applies.

So we are not proposing to exempt Indian gaming from the internet gaming prohibitions. outlined in Senator KYL's amendment.

Secondly, I would want my colleague from Arizona to know that as we read it, there is an ambiguity in the amendment.

States are authorized to enforce the provisions of this amendment, should it become law, for violations by a person.

The term "person" includes "any government"—which must refer to tribal governments, because all other levels of government are specifically mentioned.

Thus, while one section of the bill would restrict state authority to what is provided in tribal state compacts, another section of the bill gives states broad authority to enforce the act as it may relate to the conduct of tribal governments.

Senator CRAIG's amendment would simply preserve the status quo and maintain the integrity of the pervasive federal regulatory scheme in which federal criminal laws are enforced by the United States on Indian lands—a framework, which as I said last evening, has been in place for over one hundred years.

I thank my colleague from Idaho and I wish to assure my colleague from Arizona that I look forward to continuing to work with him as this bill proceeds to conference to address these two matters that I have outlined.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, I inquire how much time remains.

The PRESIDING OFFICER. The Senator has 2 minutes 40 seconds.

Mr. KYL. I yield 1 minute 20 seconds to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank my colleague from Arizona.

Mr. President, I rise in opposition to the Craig amendment. Three million children in America today are on line on the Internet. By the year 2000, 15 million children will be on the Internet.

Senator KYL and I have offered an amendment which takes a public policy which I think every parent in America will support; that is, to prohibit gambling on the Internet. There simply is no way to control access to the Internet and to the types of gambling that are offered.

If the Craig amendment is adopted, that policy is effectively emasculated.

I join with the junior Senator from Arizona in asking this body to defeat the amendment because every child and every home in America that is on the Internet will have access to gambling on the Internet.

My view is that there is no public policy that would support, in effect, a carve-out to say that we prohibit gambling on the Internet in America for everyone except Indian tribes. That makes no sense, may I respectfully submit to the Presiding Officer and to my colleagues.

If you believe, as Senator KYL and I do, that Internet gambling should be regulated and that we should not have access to Internet gambling by children, vote against the Craig amendment.

I thank the Chair.

Mr. KYL. Mr. President, the Senator from Idaho wishes to close. Therefore, let me reiterate the key points that the Senator from New Jersey, and also the Senators from Wyoming and Nevada, have made; that is, that you cannot have any exceptions to a national prohibition on Internet gambling if you want the policy to work, because if anyone can do it, then the gambling can occur in the homes, in the privacy of the homes around this country by children, by problem gamblers, or by anyone else if there is any exception because the Internet reaches across interstate boundaries. It knows no boundaries. It reaches into any State. And no State can protect its citizens and protect its public policy of outlawing this activity.

I want to make it very clear that this activity is not being conducted legally today.

In a letter written by the State attorneys general, including the attorney general of Idaho on this precise point, the attorneys general said,

> If Internet gaming is allowed to facilitate the remote placing of bets on an Indian gaming activity, the ultimate absurdity would result. The logical consequence of such a position is that any off-reservation telephone, computer with a modum et cetera, would become a gambling device by which the consumer could communicate with the tribe for the purpose of gambling.

And they specifically refer to the Coeur d'Alene Tribe in Idaho, which is the tribe that the Senator from Idaho wants to permit to gamble.

I urge a vote against the Craig amendment.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, the Senator from Arizona quotes a letter crafted in 1992. Since that time, the tribe in the State of Idaho has a compact that has been established. The attorney general of the State of Idaho believes this is significant.

The topic of children is an interesting item. The Presiding Officer, I and everyone else is very concerned with children's access to the Internet. We recognize the need to provide legislation to block that, and we should.

What I am talking about is something that is already official, that is already underway, and we have not heard a great hue and cry about the damaging of or the destruction of children.

There is something else that is interesting.

We heard from New Jersey and we heard from Nevada. They are protecting their big gaming interests. There are already exceptions in this bill.

There are five exceptions in this bill to use the Internet system to traffic information about gaming.

The Senator is not pure on this. Let's be real, and let's be honest about it. Let's use the committees we have. Let's use the law, the rules, and regulations to govern, control, and regulate Indian gaming structured in a certain way to protect it so that children don't have access to it; so that there is an official screening process; that it is effectively monitored and controlled.

I agree that we ought to control the Internet system, and we ought to make sure that there is not unlimited access. That is exactly what we are trying to do here today.

But let's not destroy the laws that we have created for Native Americans in this country—the controls, and the regulatory system that is established out there.

We heard from the former chairman of the committee. We have already heard from the chairman of the committee. He is saying no hearings were held. A Senator from outside the committee reaches in and changes substantially the structure of the IGRA law and the National Indian Gaming Commission law.

What I am telling you this morning is that you have an option to keep whole the law of the land, which we crafted to control Indian gaming, while at the same time protecting the Internet from open access from offshore gaming from the kind of things that the Senator from Arizona has an absolute right to be concerned about. I, too, am concerned, and I hope that my colleagues will join with me in voting for the Craig amendment to protect the integrity of the Indian Gaming Commission, and the national Indian gaming law that we have established.

With that, I yield the remainder of my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, what is the situation now? Are we prepared to go to that vote unless I use leader time at this point?

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. I give myself such leader time as I might use. I will be brief, because I know Members are expecting to vote right away.

But I rise to speak against the Craig amendment. I have a long history of being interested in and concerned about the rights and guarantees that we have given Indian tribes. We have one in my home State that has been very industrious. They are really good entrepreneurs and good citizens. I enjoy working with them very much. But this is something beyond that. This would give them ability to get into Internet gambling in a way that it could go into every school and every home all across America.

This is not about tribal rights on their reservation or within their tribal areas. This goes across America. To have a special carve-out for Indian tribes on gambling, I think, is just a fundamental mistake.

I understand why the Senator from Idaho feels he must do that. I understand that there have been some court actions about it. But I also think there is a fundamental principle here. And this violates that principle. They should not be given an opportunity that nobody else in America would have. It touches all Americans.

I am always hesitant to rise in opposition to my friend and my coleader in the Republican Party. But I think in this instance he is just fundamentally wrong.

I urge colleagues to vote against the Craig amendment.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 18, nays 82, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—18

Biden
Boxer
Campbell
Cochran
Craig
D'Amato
Daschle
DeWine
Domenici
Harkin
Inouye
Johnson
Kempthorne
Kerrey
McCain
Moynihan
Stevens
Wellstone

NAYS—82

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Chafee
Cleland
Coats
Collins
Conrad
Coverdell
Dodd
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

The amendment (No. 3268) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BRYAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3266

The PRESIDING OFFICER. The Senate now will have 2 minutes, under the previous agreement, for debate on the Kyl amendment.

The Senator from Arizona is recognized.

Mr. KYL. Thank you, Mr. President.

Mr. President, I thank everyone for the last vote.

The point is, if you are going to ban an activity because the public policy of all 50 States is that their children and the families in those States should be protected from this activity, if you ever allowed one exception, then because of the nature of the Internet, you wouldn't have a bill.

I appreciate that, and I think that clears the way for passage of the Internet Gambling Prohibition Act. I note for the RECORD some of the organizations that support this legislation: Ralph Nader's Public Citizen, the Christian Coalition, the Focus on the Family and Family Research Council, National Coalition Against Legalized Gambling and Against Gambling Expansion.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. Will Members please cease all conversations?

Mr. KYL. Mr. President, sports organizations, in particular, are obviously very much afraid of the adulteration of professional and amateur sports. As a result, groups like the National Amateur Athletic Association, Major League Baseball, NFL, NBA, National Hockey League, National Soccer League, and, of course, law enforcement and all 50 States attorneys general support this legislation. In fact, it is because of them that we are proposing it. We can't protect the citizens of our States unless we have legislation of this kind.

Mr. MCCONNELL. Mr. President, I commend Senator KYL for his hard work and determination in bringing S. 474 to the floor today. I am most appreciative that during the process, you have worked closely with several parimutuel industry groups to make certain that S. 474 does not unduly restrict Internet commerce. The bill reflects a clear understanding of this emerging medium and its potential for both honest and unscrupulous purposes.

Mr. KYL. Thank you, Senator MCCONNELL.

Mr. MCCONNELL. Mr. President, I wish to engage the Senator from Arizona in a short colloquy. This is a complicated bill. It addresses areas where technology is rapidly evolving. Some of my questions may be fairly arcane and will be of interest only to those intimately familiar with the intricacies of the interstate simulcasting of horse racing so I ask that my fellow members be patient with us as we work our way through some of these issues.

Senator KYL, as you are well aware, there are a myriad of federal and state laws and regulations that impact interstate simulcasting. In every instance, I will assume that we are addressing only the application of the language of S. 474 and not the general legality of any specific example given. With that understanding, I will proceed with the first of my questions.

Senator KYL, am I correct that S. 474 does not apply to racetracks that may advertise or make past performances, how-to-bet, promotional, and other similar kinds of information available whether via a racetrack World Wide Web site on the Internet or other technological media.

Mr. KYL. The Senator is correct.

INFORMATION ASSISTING IN PLACING A BET OR WAGER

Mr. MCCONNELL. Senator KYL, I now want to discuss the impact of S. 474 on the current practice of the horse racing industry commonly referred to as "simulcasting and commingling of parimutuel pools." Simulcasting of horse racing across the country and around the world has grown exponentially in recent years, to the point that simulcasting now accounts for as much as 60 percent of the industry's total wagering.

To foster growth in the simulcasting market, tracks now routinely merge or commingle the parimutuel pools from several tracks and off track parimutuel facilities into common parimutuel pools. Current odds and winning payoffs are then calculated using a totalizator system. Commingling is a practice preferred by bettors because it increases pool sizes and thus helps to minimize the fluctuation of odds and payoffs.

Any diminution in its current ability to simulcast or commingle pools could have catastrophic effects on the parimutuel industry.

Mr. KYL. Senator MCCONNELL, I assure you S. 474 is not intended to limit the racing industry's activities in the area of simulcasting and commingling of parimutuel pools.

Mr. MCCONNELL. Senator KYL, I appreciate your willingness to consider the parimutuel industry. Now, if I may clarify a few more points.

Section 2 of the bill exempts four categories from the definition of "information assisting in the placing of a bet or wager." My next few questions relate to the applicability of these provisions.

First, Senator KYL, as to the first category of exempt information, found in subsection (8)(C)(i), am I correct in assuming that "common pool parimutuel pooling" and "commingling of parimutuel pools" are two names for the same process—the merging of parimutuel pools from two or more locations for purposes of calculating the odds and payoffs?

Mr. KYL. Yes, you are correct.

Mr. MCCONNELL. Senator KYL, according to subsection (8)(C)(i) in section 2 of the bill, information concerning parimutuel pools that is exchanged between certain racetracks or other parimutuel facilities is exempted from the prohibition on "information assisting in the placing of a bet or wager" so long as that information is "used only to conduct common pool parimutuel pooling." Does this mean that a racetrack or other parimutuel facility may accept wagers on races run at another facility (known as the Host Track), whether the Host Track is located within the same state or in another state or foreign country, and commingle its parimutuel pools into the parimutuel pools at the Host Track?

Mr. KYL. Yes, commingling of wagers as you describe is permitted by S. 474. However, each facility that participates in the pools must be licensed by the state or approved by the laws of the foreign jurisdiction in which it operates.

Mr. MCCONNELL. What if the Host Track located in one state utilizes a totalizator system located in a second state or even a foreign country—could a racetrack or parimutuel facility located in either the host state or a third state commingle wagers on races run at the Host Track into the parimutuel pools at the Host Track without violating S. 474?

Mr. KYL. Yes, assuming each facility that participates in the pools is duly licensed by the State or approved by the laws of the foreign jurisdiction in which it operates. Subsection (8)(C)(ii) states that "information exchanged between" certain racetracks or other parimutuel facilities and "a support service located in another State or foreign jurisdiction" is not considered "information assisting in the placing of a bet or wager" if "the information is used only for processing bets or wagers made by or with that facility under applicable law."

The location of the totalizator or other similar system used to process parimutuel pools is irrelevant if the parimutuel pools are transmitted from and received by facilities each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

Similarly, commingling may require the use of data transmission or phone lines that pass through numerous states. In such event, it is irrelevant whether parimutuel wagering is legal in all such states. The only relevant inquiry is whether each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

The term "support system" should be read broadly to mean any system or service necessary to transmit or process information related to the commingling of parimutuel pools, including totalizator systems, telephone lines, and other similar technological devices essential to the commingling process.

Mr. MCCONNELL. What if the host for the wagering pools is in one state or foreign country, the totalizator is in a second state or foreign country, and the race is actually contested in a third state or foreign country. Could commingling of pools take place under this arrangement without violating S. 474?

Mr. KYL. Yes, assuming each facility that participates in the pools is duly licensed by the State or approved by the laws of the foreign jurisdiction in which it operates. As I states earlier, the location of the totalizator or other similar system used to process parimutuel wagers is irrelevant if the parimutuel pools are transmitted to or from facilities each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

Mr. McCONNELL. Senator KYL, the phrase "approved by the foreign jurisdiction in which the facility is located" is used throughout subsection (8)(C). In some foreign countries, the law may simply permit simulcasting and commingling of pari-mutuel pools without requiring formal approval by a regulatory authority. I presume that in such cases, S. 474's approval requirement will be satisfied.

Mr. KYL. Senator McCONNELL, you are correct.

ACCOUNT AND INTERACTIVE WAGERING

Mr. McCONNELL. Senator KYL, I would like to discuss the impact of S. 474 on account wagering. It is presently legal, and operating to varying degrees, in eight states. Other states are presently considering this form of wagering on racing. The horse racing industry wants to be able to continue account wagering and other similar activities that utilize emerging technologies. A variety of federal and state statutes and regulations now govern this activity and together, they form a capable regulatory system for parimutuel wagering. Again, any restriction on the current regulatory structure might unduly hamper one of racing's most promising areas for growth.

Mr. KYL. Senator McCONNELL, what I stated earlier with respect to simulcasting and commingling of parimutuel pools applies equally to account wagering. This bill is not intended to hamper the future growth of horse racing.

Mr. McCONNELL. Senator KYL, again, I appreciate your willingness to consider the parimutuel industry. Now, if I may clarify a few more points.

Section 3 of the bill broadly prohibits both individuals and persons engaged in a gambling business from placing, receiving, or otherwise making a bet or wager through the Internet or any other interactive computer service. Then, subsection (e) of that section grants two exceptions related to racing: one is an exception for wagers placed by persons physically present at a racetrack or parimutuel facility; a second exception is provided for persons placing, making, or receiving a parimutuel wager on a "closed-loop subscriber-based service that is wholly intrastate."

My first question is this. Am I correct in my analysis that S. 474 does not prohibit or restrict account wagering by telephone?

Mr. KYL. Yes, the bill does not address telephone account wagering.

Mr. McCONNELL. Am I correct that an interactive account wagering system that uses a variety of communications media and computer technology to present audio and/or video information about the races to the home and to communicate wagers from the home to a racetrack or parimutuel facility constitutes an "interactive computer service."

Mr. KYL. Yes.

Mr. McCONNELL. Will such an interactive account wagering system that accepts wagers only from account holders physically located within the same state as the facility where the account wagering system originates pass muster under section 3 of S. 474?

Mr. KYL. Yes, assuming the interactive account wagering system meets the requirements for a "closed loop subscriber-based service" as defined in section 3 of the bill.

Mr. McCONNELL. Senator KYL, does a person have to be physically present at a facility that is open to the public to make a lawful interactive account wager?

Mr. KYL. Again, so long as the person placing the wager is doing so using a "closed-loop subscriber-based service" the person is not required to be physically present at a facility that is open to the public to make a lawful wager.

Mr. McCONNELL. What if the facts are the same as my first interactive account wagering question (i.e., both customer and facility are physically present in the same state) but the race on which the account holder is wagering is being contested in another state or foreign country and the facility where the account wagering system originates is commingling its pools, including its account wagering pools, into the pools of the out-of-state host track where the race is being run. Will this fit within the exceptions found in Section 3 of S. 474?

Mr. KYL. Yes, assuming of course that the wagering pools are being commingled in accordance with section 2 of the bill and further assuming the account wagering system meets the requirements for a "closed loop subscriber-based service."

Mr. McCONNELL. Senator KYL, just a few more questions and we will be finished.

In section 3, Section 1085(e)(2) of the bill, you prohibit the use of an agent or proxy to place wagers unless the agent or proxy is acting on behalf of a licensed parimutuel facility "in the operation of the account wagering system owned or operated by the parimutuel facility." What if a facility licensed to operate an account wagering system engages a separate company to provide the technical expertise necessary to implement an interactive account wagering system on its behalf. Would such an agency fall within the scope of the permitted agency provisions of the bill referenced above?

Mr. KYL. Yes, such a system is an allowed agent, assuming, of course, the interactive account wagering system meets the requirements for a "closed-loop subscriber-based service that is wholly intrastate."

Mr. McCONNELL. thinking back to our earlier discussion of a "support service," what if the facility where the interactive account wagering system originates chooses to utilize support services such as a totalizator system or an interactive computer system located in a second state or even a foreign country to service the account holders.

Mr. KYL. The use of such support services does not change the result assuming the account wagering system meets the requirements for a "closed loop subscriber-based service that is wholly intrastate." As stated previously, the location of the totalizator, path of the phone lines, or the site of other similar support systems is irrelevant.

ENFORCEMENT

Mr. McCONNELL. Finally, Senator KYL, section 4 of the bill spells out in great detail the civil remedies available to U.S. Attorneys and State Attorneys General to enforce the provisions of S. 474. Section 5 likewise calls for the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General of the United States and the Secretary of Commerce, to commence negotiations with foreign countries in order to conclude international agreements that would enable the United States to enforce the bill.

Nonetheless, many are concerned that this legislation will be difficult to enforce. If the only entities that obey it are the legitimate, state-licensed parimutuel operators, which they will, while others outside the jurisdictions of the federal and state authorities do not, then you still have the potential for consumer fraud while not producing any revenues for the federal government, state governments or the racing industry itself.

Mr. KYL. Senator McCONNELL, I am confident that the Justice Department and the National Association of Attorneys General will vigorously enforce this legislation.

Mr. McCONNELL. Senator KYL, once again I thank you and your staff for your hard work and tenacity in bringing this issue before the Senate. I also thank you for your patience in working through these very complicated issues.

Mr. KYL. Senator McCONNELL, you are welcome. I am very pleased that we have been able to work together to protect legitimate, law abiding interests who make significant contributions to the nation's economy.

Mr. LEAHY. Mr. President, I have long been an advocate for legislation that ensures that existing laws keep pace with developing technology. It is for this reason that I have sponsored and supported over the past few years a host of bills to bring us into the 21st Century. These bills have included the National Information Infrastructure (NII) Protection Act of 1995; the Criminal Copyright Improvement Act of 1997; the WIPO Copyright and Performances and Phonograms Treaty Implementation Act of 1997; the Digital Millennium Copyright Act of 1998; and legislation that passed the Senate on June 26, 1998, to authorize the comprehensive independent study of the effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

This same impetus underlies my support of legislation to ensure our nation's gambling laws keep pace with developing technology, particiularly the Internet. The Department of Justice has noted that "the Internet may have diminished the effectiveness of current gambling statutes, in part because existing laws may relate only to sports betting and not the type of interactive gambling (e.g., poker) that the Internet makes possible." Vermonters have spoken very clearly that they do not want certain types of gambling permitted in the state, and they do not want current laws to be rendered obsolete by the Internet. I believe, therefore, that there is considerable value in updating our Federal gambling statutes, and I have been pleased to work with Senator KYL on his legislation intended to accomplish that goal, the Internet Gambling Prohibition Act of 1998.

The legislation has been improved since it eas reported out of committee.

The Senate Judiciary Committee reported out the bill on October 23, 1997. Although I voted in favor of the legislation at that time, I noted that I had several concerns about the bill and that I wished to work with Senator KYL and others to address these concerns.

The bill as originally drafted might have inadvertently outlawed the tri-state lottery that is run by the states of Vermont, New Hampshire and Maine. Although Vermonters have clearly indicated that they do not want many other forms of gambling, they do want to maintain this tri-state lottery, which has been in operation since 1985.

The legislation now under consideration states that the prohibitions against Internet gambling in the bill shall not apply to any otherwise lawful bet or wager that is placed, received, or otherwise made for a multi-state lottery operated jointly between two or more States in conjunction with State lotteries, if the lottery or activity is expressly authorized and licensed or regulated under Federal or applicable State law.

I would like to thank the office of Vermont's Attorney General for working with Senator KYL and me to craft this language to ensure that Vermont, New Hampshire and Maine's tri-state lottery remains a permissible activity under this bill.

As originally introduced, the bill contained Sense of the Senate language that the Federal Government should have extraterritorial jurisdiction over the transmission to or receipt from the United States of bets or wagers, information assisting in the placing of bets or wagers, and any communication that entitles the transmitter or recipient to the opportunity to receive money or credit as a result of bets or wagers.

That provision was changed, and when the bill was reported out of the Judiciary Committee, the Sense of the Senate provision was replaced with a requirement that not later than six months after the date of enactment, certain Administration officials would be required to commence negotiations with foreign countries in order to conclude international agreements that would enable the United States to enforce the bill.

I was concerned about the constitutionality of this new requirement mandating that the Executive Branch undertake international negotiations, particularly in light of the decision of the 1993 U.S. Court of Appeals for the Ninth Circuit in Earth Island Institute versus Christopher. The court in this case held unconstitutional a portion of a statute which directed the Secretary of State to initiate international negotiations regarding the protection and conservation of a certain species of sea turtles.

Specifically, the court held this type of directive to intrude upon the conduct of foreign relations by the Executive Branch on the grounds that the "Constitution commits the power to make treaties to the President."

The Department of Justice also recommended the deletion of this section. As Anthony Sutin, Acting Assistant Attorney General, stated in his May 28, 1998, letter to me on this legislation:

> If we request that foreign countries investigate, on our behalf, conduct that is legal in the foreign state, we must be prepared to receive and act upon foreign requests for assistance when the conduct complained of is legal, or even constitutionally protected, in the United States.
>
> For example, if we ask a foreign country to investigate an activity (e.g., gambling) that is legal in the foreign state, that country may, for example, ask us to investigate constitutionally protected speech originating on computers based in the United States (e.g., that arguably violates that nation's "hate speech" laws). Considering all of the challenges facing law enforcement in the information age, we believe that current efforts should focus on conduct which either is, or should be, universally condemned.

Senator KYL agreed to my request that this section of the bill be deleted, and I believe that the legislation is considerably improved for that reason.

Another constitutional concern was raised by earlier versions of the bill that stated that "information assisting in the placing of a bet or wager"—"(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; (B) includes any information that invites the information described in subparagraph (A) to be transmitted;" and then included some exceptions.

I was concerned, as was the Department of Justice, that this language was vague and might raise constitutional concerns as it might be construed to apply to persons who do not have the intent to participate in or assist illegal gambling transactions. Similarly, these earlier versions of the legislation could have been interpreted to prohibit Internet advertising of activities that are entirely legal. This appeared to be an unintentional result of the earlier versions, but one that raised serious constitutional issues.

The Department of Justice suggested deleting subsection (B) altogether, and inserting the phrase "in violation of state or Federal law" at the end of subsection (A). The addition of this latter phrase would ensure that transmission of information assisting in the placing of legal bets or wagers would not be criminalized by this legislation. Senator KYL agreed to delete subsection (B), but he did not add the phrase "in violation of state or Federal law" at the end of subsection (A). I hope this later suggestion by the Department of Justice is accepted as the legislation moves through the legislative process.

In the bill as originally introduced, an individual bettor who was found guilty of Internet gambling would have been subject to a penalty of $5,000, one year of prison or both. I thought that penalty was extreme. If someone places a $1 bingo bet over the Internet, that might not be activity we want to encourage, but I also do not think we need to lock that individual up in prison and charge him or her 5,000 times that amount in penalties. I expressed my view to Senator KYL, and as a result he softened the penalty for individual bettors.

As the bill currently reads, the individual bettor would be subject to (A) fines not more than the greater of (i) three times the greater of the total amount that the individual is found to have wagered or received or (ii) $500; (B) 3 months prison; or (C) both. I hope that prosecutors and judges will use proper discretion when determining, even under this more reasonable regime, whether to expend federal resources prosecuting and imprisoning individuals who place de minimis bets.

The bill as introduced criminalized the activities of those persons engaged in the "business of betting or wagering," but the bill did not define what constituted a "business of betting or wagering." I believe that it is important that if Congress is going to make certain activities illegal, and subject the executor of that activity to hefty monetary fines and imprisonment, we need to be very clear about what activity, exactly, we are making illegal.

The version of the bill that is now under consideration makes it unlawful for a person engaged in a gambling business for betting or wagering to use the Internet or any other interactive computer service. The bill defines the term "gambling business" as a gambling business that involves one or more persons who conducts, finances, manages, supervises, directs or owns all or part of such business and has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

Although I preferred to use the definition of an "illegal gambling business" found in 18 U.S.C. 1955, I believe the bill as it currently reads is an improvement from the original version, and I appreciate Senator KYL's willingness to work with me on this issue.

In addition, language was inserted into the bill which dictates special rules that would apply in any proceeding instituted under the bill in which application is made for a temporary restraining order or an injunction against an interactive computer service. I was not party to the negotiations on this language, nor am I convinced that this language is necessary. Courts, when determining the appropriateness of equitable relief, generally consider factors such as the significance of the threat of irreparable harm to a plaintiff if the injunction is not granted; the state of the balance between this harm and the injury that granting the injunction would inflict on the defendant; the probability that the plaintiff will succeed on the merits; and the public interest. It has not, to date, been demonstrated to me why these traditional standards are not adequate to address situations involving interactive computer services, and I fear that this new language in the bill might cause more mischief than it would cure. I hope that we can continue to work on this language as the bill advances through the legislative process.

Finally, the Senate has accepted an amendment by Senator BRYAN to include a provision addressing Internet games known as "sports fantasy leagues". I understand that many of the companies that offer these sports fantasy league games are concerned about the wording of this provision. I also understand that they will be seeking refinements in the language as we move through the legislative process, and I look forward to working with them as well as Senator BRYAN and Senator KYL in that regard.

Mr. KYL. Mr. President, I want to note that an interactive computer service whose facilities or service are used by another person as a means of communication to engage in an activity prohibited by section 1085, and where the interactive computer service does not have the intent that such facilities or service be used for such illegal activity, shall not be considered to violate subsection (b)(1)(B).

Mr. KERRY. Mr. President, I would like to direct a few comments to Senator KYL's amendment adding the Internet Gambling Prohibition Act to S. 2260, the Commerce, Justice, State Appropriations bill. I join with my colleague in opposing unrestricted gambling on the Internet, and I support the adoption of his amendment. However, there are often a variety of reasonable approaches to a problem, and we should be careful not to over-legislate. This is true, especially with respect to a vital new medium like the Internet which promises to be an engine of growth for our economy and a source of unprecedented benefits to our citizens for years to come. We need to think carefully before government commandeers the electronic network, through online service providers, in the pursuit of conduct we don't like. While I do not object to asking service providers to cooperate in ways that do not involve significant expense or retard the growth and flow of Internet traffic, I am not convinced that the provisions of the current proposal strike the proper balance. In addition, there is a high risk that we may inadvertently sap the vitality of the Internet if we start to require service providers to serve as an arm of our law enforcement agencies. It is my hope that we can address these concerns as we go to conference with the House.

Mr. JOHNSON. Mr. President, I rise today in strong support of the amendment offered by Senators KYL and BRYAN with respect to gambling on the Internet. I am an original cosponsor of S. 474, the Internet Gambling Prohibition Act of 1997, as introduced in March of last year. I also sponsored the House version of this legislation in the 104th Congress because I am committed to preventing children's access to gambling on the Internet and the harm to the American public in general that is sure to follow unregulated gaming.

Gambling in this country has always been a very regulated activity no matter where it takes place. Unfortunately, we are now faced with a potential explosion of unregulated gambling—gambling on the Internet. States have become so concerned about this problem that state attorney's general nationwide have filed suits against gambling operators on the Internet. The Kyl-Bryan amendment clearly defines objectionable internet activity and establishes guidelines for law enforcement to crack down on those who solicit wagering on-line. The bill applies existing laws against telephone betting or wagering to all electronic communications. This Internet gambling ban will be applied to those who accept bets and those who do the betting.

While the Internet provides our children with many educational opportunities, we must closely scrutinize the industry to ensure that children are not let into the world of unregulated gambling. Preventing children or addicted gamblers from being able to gamble in an unregulated fashion on their home computer must be one of our highest priorities as we venture into the new and dynamic area of regulating electronic commerce.

However, as important as the Internet gambling ban legislation is to protecting this nation's children, I feel compelled to state my concerns about the impact of several provisions included in the pending version of the Internet gambling ban legislation as they may impact Indian tribes. I want to take this opportunity to express my strong support for Senator CRAIG's second degree amendment aimed at addressing several of these provisions. Under the Kyl amendment, the Indian Gaming Regulatory Act (IGRA) would be amended without any involvement or input by the committee of jurisdiction, the Senate Indian Affairs Committee, or any tribal consultation.

Senator CRAIG's amendment would make certain that currently lawful activities fully regulated by the federal government and permitted under the IGRA are not impacted by the Kyl amendment. I believe the Craig amendment is not a carve-out or loophole for Indians, but merely aims to preserve the IGRA process. The Craig amendment does not allow for any new type of Indian gaming. Our emphasis today ought to focus on unregulated internet gaming. To the extent that Congress deals with regulated Indian gaming, it should do so in separate legislation with tribal input.

Like Senator CRAIG, I do not want to encourage special treatment or special exemptions for Indian tribes. I just expect equitable treatment of currently lawful gaming activities by tribes and, most importantly, I expect the Senate to respect the committee of jurisdiction on this issue and invite the input of impacted Indian tribes.

As the Indian tribes in my state will attest, Indian Gaming is a regulated industry. Poverty, unemployment, poor health and welfare dominate much of reservation life across the country. With budget cuts to the BIA and other federal support programs for Indians, Congress must continue to encourage economic self sufficiency at the tribal level. If there are shortcomings with the effectiveness of the current IGRA, they should be addressed with tribal consultation. I am troubled at the prospect of Internet gambling sites opened by any entity, but again, so far as this concern deals with already regulated Indian gaming, it ought to be addressed in separate legislation.

Nationwide, approximately 98 percent of all tribes use the revenue generated by casinos and bingo operations to provide housing, health services, and education to tribal members. Federal law requires tribal governments to use gaming revenue to fund these essential services. It is properly up to each tribe to determine for itself whether it wants to permit regulated gaming within its boundaries. Frankly, I would prefer that other types of economic activity would take hold in Indian country, but I also recognize that in the eyes of many tribal leaders, gaming has proven to be the only successful economic growth option that has worked. Our nation must have tightly regulated Indian gaming, but the ultimate decision whether to permit gaming on a particular reservation should be with the tribe itself. I am committed to protecting the interests of tribes in my state and across the country as they explore economic development through lawful gaming ventures.

Like many of my colleagues, I realize that this debate is clear evidence of the pressing need for Congress to revisit existing Indian gaming regulations and law. I will urge the Senate Indian Affairs Committee to continue moving forward on this matter.

Mr. President, as an original cosponsor of S. 474, I am nevertheless committed to the Internet Gambling Prohibition Act because the bottom line of this legislation is protecting our citizens and especially our kids. I am aware that the Justice Department believes overall enforcement of this law will be difficult, but I feel strongly that the time has come for Congress to push this issue and instruct Justice to develop the necessary enforcement capabilities and end unlawful Internet gambling. I will support the Senators from Arizona and Nevada, and will work with the Senators and the conferees on this appropriations bill to address the remaining issues of concern to tribes.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, let's get it straight what this does. All of you came to me and said, "I can't vote for the Craig amendment because it expands gambling on the Internet." What the Kyl amendment does is expands gambling.

Right now it is illegal to use the wire to place a bet. U.S. Code 18, section 1084, Transmission of Wagering Information Penalties. Read it. I don't have a minute. It is illegal now.

What the Kyl amendment does is make what is now illegal legal for certain carved-out exceptions which benefit—and there is nothing wrong with this, depending on your interests—which benefit certain segments of the gambling industry. That is what this does.

If I had more than a minute, I would explain in more detail. This expands gambling. It does not cut back on gambling. It expands it. What is now illegal in certain areas becomes legal.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. BRYAN. Mr. President, I ask unanimous consent to speak for 1 minute on this issue.

Mr. BIDEN. Reserving the right to object, only if I have a minute in response.

The PRESIDING OFFICER. Is there objection to the request?

Mr. McCAIN. Objection.

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I would like to hear an additional minute——

The PRESIDING OFFICER. Objection is heard. The yeas and nays have been ordered. The clerk will call the roll.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that a minute be granted to the Senator from Delaware and a minute to the Senator from Nevada.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Nevada is recognized for 1 minute.

Mr. BRYAN. Mr. President, let me say in response to my good friend, the able Senator from Delaware, every States attorneys general in America supports this amendment. Mr. Freeh, the Director of the Federal Bureau of Investigation, supports this amendment.

Under the current law, Internet gambling is spreading all over. There are 140 web sites, $1 billion. We seek to close that door. The Kyl-Bryan amendment seeks to prohibit Internet gambling for everyone—for everyone—so it is not an expansion of gaming.

We want to take gambling off the Internet so kids, libraries, and everybody else who can dial up on the Internet these days will not have access to an Internet gambling site. There are currently 140. That is twice as many as the year before. A year from now, there will be 500 if we don't close this hole. The Christian Coalition, everyone from major league sports teams to the attorneys general to the consumer groups all support this amendment.

The PRESIDING OFFICER. The time allocated to the Senator has expired. The Senator from Delaware has 1 minute.

Mr. BIDEN. Mr. President, that is the first part. Read the second part. It says, a little phrase says exceptions:

> Exceptions—Otherwise lawful bets or wagers that are placed, received or otherwise made wholly interstate for State lotteries, racing or parimutuel activity.

Exceptions.

Let me point out one other thing. Under current Federal law, it is illegal to take a bet using a telephone wire, which means that under current law, basically all Internet gambling is illegal because you use a wire.

Under the Kyl amendment, it would become legal to take a bet on the Internet if the States where the bettor placed and received authorized the bet and the bettor is a subscriber of a gambling company's network. This is an expansion. Expansion.

If you want to do something about the Internet, strike exceptions, and I promise you, the sponsors will vote against this. Strike exceptions. If you don't want any betting using the wire, strike "exceptions."

The PRESIDING OFFICER. The time allocated to the Senator has expired.

The question is on agreeing to amendment No. 3266. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 10, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—90

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
D'Amato
DeWine
Dodd
Dorgan
Durbin
Enzi
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—10

Biden
Craig
Daschle
Domenici
Feingold
Harkin
Inouye
Moynihan
Stevens
Wellstone

The amendment (No. 3266) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay the motion on that table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. Mr. President, I ask unanimous consent for floor privileges for Linn Schulte-Sasse, a staffer for the Senator from Minnesota, Senator WELLSTONE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I thank the National Association of Attorneys General, especially Attorney General Dan Lungren and Attorney General Jim Doyle, and Thomas Gede, Traci Sanders, Alan Kesner, and Stephen Higgins, of my staff, and Andy Vermilye of Senator BRYAN's staff for their assistance in the bill which we have just passed. I appreciate their efforts very, very much.

Mr. NICKLES. Mr. President, I compliment my colleague from Arizona and also Senator BRYAN from Nevada for their leadership in and passage of their amendment. I think it is a very important amendment and not an easy one. I compliment them for doing it.

AMENDMENT NO. 3272

(Purpose: To amend certain criminal laws relating to the compensation of attorneys)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] for himself, Mr. INHOFE and Mr. SESSIONS, proposes an amendment numbered 3272.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. COMPENSATION OF ATTORNEYS.

(a) CONTROLLED SUBSTANCES ACT.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed by that attorney during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the action is to be prosecuted receives for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

"(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation may not be granted for any calendar month in an amount that exceeds the maximum amount specified in clause (i).".

(b) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(d)(3) of title 18, United States Code, is amended—

(1) by striking "Payment" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), payment"; and

(2) by adding at the end the following:

"(B) MAXIMUM PAYMENTS.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).".

The PRESIDING OFFICER. There are 10 minutes equally divided on this amendment. The Senator from Oklahoma is recognized.

Mr. NICKLES. The amendment I send to the desk on behalf of myself, Senator INHOFE, and Senator SESSIONS would try to bring some balance on what we pay for court-appointed attorneys in Federal death penalty cases. Right now, we find out that in a case conducted in Colorado, the so-called McVeigh case, Oklahoma City bombing case, the defense attorneys—these are court-appointed, taxpayer-financed attorneys—are compensated at a rate much higher than we pay U.S. attorneys.

I wasn't aware of this. I didn't know about it until the U.S. attorneys from Oklahoma mentioned to me that in some cases court-appointed defenders are paid at rates maybe three, four, or maybe five times as much as they are paid.

Just to give you the figures, the U.S. attorneys in most places around the country are paid $118,000.

A court-appointed defense attorney is paid $125 an hour. In some of these cases, like the Oklahoma City bombing case, it is not unreasonable that they might work 80 hours or more per week. That means they make $10,000 a week. A U.S. attorney makes $10,000 a month—actually, a little less than that. So the essence of this amendment is that we should not compensate court-appointed attorneys more than we pay U.S. attorneys. I might mention that in the Oklahoma City case, we had a court-appointed attorney and I think 13 assistants, all of whom would be eligible to receive these large sums.

So I thank my colleague, Senator SESSIONS, who is a former U.S. attorney, and also my colleague, Senator INHOFE. I hope we can adopt this amendment.

Mr. GREGG. Mr. President, I rise in support of the amendment. I think it is an excellent amendment. It is an issue that we have raised a number of times at the subcommittee level with the judges. We are not only concerned about the reimbursement schedules being skewed, but we are especially concerned about the fact that in capital crimes we are spending an extraordinary amount of money on defense counsel—over a million dollars in many instances. That comes right out of the taxpayers' pockets. It is very difficult and it skews the entire ability to do other defense work because of how much money is pouring into the capital crime area.

This specific amendment is right on target. I strongly support it. I hope we will not have to go to a vote on it, but if we do, I hope we can agree to this.

Mr. HOLLINGS. Mr. President, Senator LEAHY of Vermont is presently conducting a hearing, and he is in opposition to this. He is unable to be here to speak at this time.

I am persuaded by the Senator from Oklahoma.

I yield whatever time is necessary to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just state my understanding of this. When I was in private practice—and I don't pretend to know the details of all the circumstances the Senator from Oklahoma is talking about, but when I was court appointed to handle a case, I was expected, through that hourly fee that was granted to me, to cover all of my costs, which meant the costs of my office, costs of my assistants, the costs of everything.

Frankly, the hourly fee I got for court-appointed work was substantially less than the hourly fee I got for any other work. And I assume that is still the case. So I think to make the comparison he is making and say the U.S. attorney gets $118,000 and the court-appointed attorney gets $125 per hour, and that we should try to make a comparison there, I think it is really very much apples to tangerines because, in fact, the U.S. attorney has a tremendous office arrangement, with support of all kinds, in addition to his salary, whereas the court-appointed attorney gets none of that.

Mr. NICKLES. If the Senator will yield, I want to make clear that what we are talking about is compensation. We are talking about payments, not about overhead. The Senator from New Hampshire mentioned that in these Federal cases expenses are allowed. I am talking about compensation. I also might mention that, in Oklahoma, I compared what we pay in Oklahoma for a capital case; there is a $20,000 cap—$20,000 to the lead attorney, and for co-counsel, $5,000.

I might mention, on other cases on the Federal level—for a felony case, we have caps at $3,500. All I am talking about is having a cap equal to the salary. So we are talking salaries, not about other benefits.

Mr. BINGAMAN. Mr. President, if I could ask the Senator, does his amendment contain a cap as to each case? Is he saying that each capital case will be limited to a certain amount that can be spent on the defense attorney?

Mr. NICKLES. To respond to my colleague, we are talking about so much, not per case, but per attorney. We didn't limit the number of attorneys. We just didn't want to be in a situation where a U.S. attorney is hiring additional counsel and to have the defense counsel say, "Hey, we can pay three or four times more. Come fight on our side of the case."

Right now, in the case of the Oklahoma City bombing case, the defense attorneys made—I am not talking about expenses—they individually made probably three or four times as much as U.S. attorneys. I think that is inequitable. I am talking about what they receive in take-home pay, per attorney.

Mr. BINGAMAN. Let me just clarify. When you are talking about the take-home pay for the court-appointed counsel, you are talking about the amount of funds they take with which to pay for their law firm's ability to participate in the case. I think that is clearly a figure that bears very little resemblance to what the U.S. attorney gets in salary and the paycheck that he takes home at the end of each month. I think you are trying to put an artificial limit on what the court-appointed counsel can get, which I think is a real disservice to the criminal justice system. If we are going to continue with the notion that we are going to have court-appointed counsel for people who are accused of crimes and who can't afford their own counsel, we have to have some reasonable way of compensating them and not expect that court-appointed counsel to work for nothing half of the time, or more, during each month.

Mr. President, based on my understanding of the amendment, I oppose the amendment. I understand that Senator LEAHY is opposed to the amendment, but he is not able to be here right now to make a statement. I think this will artificially limit the amount of work that court-appointed counsel are able to do on behalf of criminal defendants. To that extent, I think it subverts the criminal justice system. I oppose it.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 1 minute 48 seconds.

Mr. NICKLES. Mr. President, certainly, my colleague has a right to oppose the amendment. Let me capsulize it again. We have a situation where Federal death penalty cases—most of them are handled in the States and most States have caps. My State has a cap of $20,000 for the lead attorney. We are not doing that. We are not capping what somebody can pay for their private attorneys. They can pay their private attorney anything they want to.

Since we are talking about court-appointed attorneys, they are going to be paid for by the taxpayers, like we pay U.S. attorneys. I am saying that we should not pay that individual—their compensation, not their overhead or expenses; those are other items—three or four times as much as we pay the U.S. attorneys.

I didn't even say we would limit the number of attorneys. I want people to have an adequate defense. In the McVeigh case, the defense counsel had 13 or 14 attorneys. The expenses are going to come out and be public, and people will be outraged. I am trying to have basic equity. I don't think they should make more than a U.S. attorney. I think that is a real outrage. Then when you find out they might have made three or four times as much money as a U.S. attorney—and again, I am not talking about expenses, I am talking about what they make—that is an injustice. We need equity and balance. That is why I have proposed this amendment. I hope my colleagues will vote for it.

Mr. President, my colleague from South Carolina says U.S. attorneys almost make as much as U.S. Senators. Most of us work a little more than 40 hours a week. Again, I just urge my colleagues to support the amendment. I will ask for the yeas and nays if my colleague from New Mexico wants them.

Mr. BINGAMAN. I don't require the yeas and nays. I would like to be reported as voting against the amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the order, the amendment will be stacked to be voted on later.

Who seeks recognition?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3273

(Purpose: To prohibit from trademark the flag, coat of arms or other insignia of any federally recognized Indian tribes)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mew Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 3273.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

Notwithstanding any rights already conferred under the Trademark Act, Section 2 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes," approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052(b)), is amended in subsection (b) by inserting "or of any federally recognized Indian tribe," after "State or municipality,".

Mr. BINGAMAN. Mr. President, the amendment is a simple amendment to correct a longstanding error in what is known as the Lanham Act, the statute that controls what can and what cannot be trademarked.

In doing so, let me indicate my appreciation to Senator LEAHY and Senator INOUYE for their support and, of course, my colleague Senator DOMENICI.

Mr. President, the Lanham Act of 1946, the primary statute governing what can and cannot be trademarked, protects flags, coats of arms, and official insignia of the United States, States, municipalities, and foreign nations.

It essentially says those cannot be trademarked. However, the act neglects to protect the insignias which belong to American Indian tribes. I believe strongly that this was an oversight. It is time we corrected the oversight.

Significantly, I want to be clear that in offering this amendment, I do not intend to affect existing trademark rights that may already have been conferred under this act. This amendment also does not have any affect on any current existing, non-trademarked usage of these tribal insignia but only sets out to prohibit the trademarking of tribal insignia in the same way a State's, municipality's, foreign nation's, and the United States' insignia currently is protected.

A key point that must be made here is that tribal governments are recognized as forms of government listed under the Act and should be treated in the same way that State, municipal, county, and of course the United States governments are considered. The Lanham Act originally was passed in 1946, and at that time, there was not as much recognition of the governmental status that federally-recognized Indian tribes hold. Today, however, we understand more than ever that tribal governments are sovereign and should be respected as such. Thus, it is an appropriate time to include federally recognized tribes for protection under the Lanham Act.

Significantly, tribal insignia often are considered sacred by a respective Indian tribe, and for that reason they should be prohibited from trademark.

The Lanham Act protects from trademark anything that would disparage a belief. For example, if someone wanted to trademark a crucifix, Star of David, or Madonna and Child, in such a way that would disparage any one of those significant symbols, the trademark office is directed by law to deny that application for trademark.

However, there are is no similar protections for the many symbols that American Indian people hold very sacred. For example, the Zia pueblo, which is located in New Mexico, holds very sacred a symbol they refer to as the "sun symbol." This symbol is probably familiar to many people because it appears on the flag of the State of New Mexico. It is a very popular symbol among businesses and artisans. The Pueblo of Zia generally does not take particular issue with the use of the symbol unless there is an attempt to have the symbol trademarked, the use of which would disparage their religious beliefs. Clearly they have a real interest in seeing that someone else does not come along and trademark the insignia that the tribe has always claimed as its own. Unless you are a tribal member, you could not appreciate the significance of the symbol. In fact, Zia Pueblo holds the symbol so sacred that it would be against their religious beliefs to disclose to anyone outside of the tribe how they use the symbol in their sacred rituals.

Indeed, applications have been submitted to the Office of Patent and Trademarks, and each time an application is submitted, the Pueblo must contest the application. This involves substantial legal costs to the Pueblo, and the Pueblo Tribe is not in a financial circumstance where it can take on those legal costs in an indefinite future.

The Pueblo is located in a very isolated, desolate area of the state and has very high unemployment. I admire the Pueblo because they hold fast the centuries-old traditions and beliefs in spite of that great economic hardship. They are a non-gaming tribe and have few resources for water treatment facilities, schools or other vital services. Nonetheless, they are willing to contest the trademarking of a symbol that they hold very sacred. The problem is pervasive among all twenty-two tribes in New Mexico and among all American Indian tribes nationwide.

Yet we have a statute in place that protects every form of government, even foreign nations, but it does not protect American Indian governments.

By simply inserting "federally recognized Indian tribes" in a list that already includes "United States," "States," "municipality," and "foreign nation," my amendment finally will offer protection from trademark to tribes the same protection that already is conferred upon any other form of government. My amendment does not affect any existing trademark rights that may already have been conferred under the Lanham Act.

What we are saying here is that we should take the Lanham Act where it provides for exceptions and says that you cannot trademark the insignia of the United States, States, municipalities, and foreign nations. We are saying we should assert federally recognized Indian tribes as another one of the categories that enjoys this same protection.

To me, it is a very straightforward amendment. I see no real basis for anyone opposing the amendment. I hope that it will be agreed to. I urge my colleagues to support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair would like to clarify that the time remaining to the proponents is 5 minutes 58 seconds, and for the opponents, 10 minutes.

Does anyone seek recognition?

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the time be evenly charged against the two sides, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I yield the remainder of my time.

Mr. GREGG. Mr. President, we yield the remainder of our time, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will be postponed.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, we are waiting for one or two Senators to come down. I simply advise my colleagues that progress is being made. We now have two votes ordered. We have a number of amendments still pending under the unanimous consent agreement, and we are trying to work out a number of them. Hopefully, we will soon have the next amendment in order to be offered.

While we are waiting for that, though, I would like to speak on another subject. I ask unanimous consent to speak as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALAN B. SHEPARD, JR.

Mr. GREGG. Mr. President, last night Alan Shepard died. Alan Shepard is a huge figure in the lives of those of us who are in that postwar baby boom generation which went through the Sputnik experience and the early days of our space program. He is a huge figure especially for those of us who come from New Hampshire, because he was born and raised in Derry, NH, a small town. In fact, a while after he went into space, for many years, Derry sort of changed its name and called itself Space Town in honor of Alan Shepard.

He was really an extraordinary American, embodying so much of what makes our country a special place. He came from a small, rural community. It has gotten quite big. In fact, it is a city now. But when he grew up, it was still a small, rural community. He committed his life to service of this Nation and, of course, he was one of those exceptional people who was in the early test pilot program which transitioned into the early astronaut program. We have the great benefit of having another one of those exceptional people in the Senate with us in Senator GLENN.

Alan Shepard was the first to go into space as an American, and his impact on our country was extraordinary because of that. I can recall very vividly—I must have been 9 or 10 years old—that our whole class in school met in the evening in order to watch this thing called Sputnik go through the sky. And it threw a great scare into our Nation at the time because we, at that time, having come out of World War II and the Korean war, viewed ourselves as a nation of extraordinary strength and really a nation of at least scientific leadership that was unparalleled, and suddenly the Soviet Union, which was a clear and present threat of proportions which cannot even be appreciated today, had launched a satellite which made it clear we were not maybe as far ahead as we thought we were. In fact, in the area of space we were behind.

And so the commitment was made to overtake the Soviet lead in space technology, but, more importantly, to make America the preeminent space explorer of the world. That commitment was made first by President Eisenhower and followed aggressively by President Kennedy, President Johnson and President Nixon. But the personification of the success of that commitment was Alan Shepard, because not only did he go into space as the first American, but then after overcoming significant physical restrictions—he had a very severe inner ear problem which he went back and had operated on—he went back into space and landed on the Moon. Of course, who can forget his hitting a golf ball on the Moon. I think he used a 6 iron and hit it 300 yards—almost a Tiger Woods drive.

Alan Shepard was a person who believed totally in the American dream and who lived the American dream. He was an icon of our culture and clearly a dominant figure of our time. We will miss him. In New Hampshire, we will especially miss him because we are very proud of him. We are a small State. At that time we had less than 1 million people, and here it is, with less than 1 million people, we sent the first person in space and he was from New Hampshire. Great pride.

I express my sorrow to his family and join with all Americans in thanking him for what he did for our Nation, to restore our pride in ourselves and to establish once again that we are a nation that is unique, filled with people who are unique, who, when we pull together to take on a task, no matter how daunting, such as putting a person on the Moon and putting a person in space, will always succeed.

Mr. President, I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3274

(Purpose: To authorize the local law enforcement block grant program)

Mr. GREGG. Mr. President, I send to the desk an amendment on behalf of Senator DEWINE and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. DEWINE, for himself and Mr. LEAHY, proposes an amendment numbered 3274.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GREGG. Mr. President, I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3274) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. ABRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3275

(Purpose: To prohibit the Administrator of the Environmental Protection Agency from implementing or enforcing the public water system treatment requirements related to the copper action level of the national primary drinking water regulations for lead and copper until certain studies are completed)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for himself and Mr. HAGEL, proposes an amendment numbered 3275.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 135, after line 11, insert the following:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

Mr. KERREY. Mr. President, this amendment is offered by myself and my colleague from Nebraska, Senator HAGEL. We intend to talk on it for a brief period of time and then we will withdraw the amendment.

I offered this amendment in a similar fashion on the HUD and independent agencies appropriations bill. We, since that time, entered into negotiations with the Environmental Protection Agency and it is possible that the problems we have in Nebraska will be resolved. It is also possible that the issue does not get resolved. If that is the case, I want to alert my colleagues that there will be an opportunity to vote on this amendment at some point, if Senator HAGEL and I and the rest of the Nebraska delegation are not able to get satisfaction from the Environmental Protection Agency. As I said, they are attempting to work with us at this point to try to resolve this problem.

The problem simply stated is that, under the rulemaking of the Safe Drinking Water Act, there was established a lead and copper rule. Under the procedures of the Safe Drinking Water Act, these rules get reviewed every 6 years, so it is an appropriate time—it has been 7 years—an appropriate time for us to be reevaluating the science supporting the rule itself. That is essentially what we are challenging to begin with.

There is not a single city in Nebraska that has copper in excess of 1.3 milligrams in its water supply. So, you say, what is the problem? The problem is that if water sits in copper pipes overnight, the first draw on that water will produce copper in excess of 1.3 milligrams in some of our systems. Thus, our cities are being asked to invest millions of dollars to take care of the problem by removing the copper in a manner that is acceptable to the EPA.

That will become a very critical part of this issue, because the EPA tells us what is and is not acceptable to take care of a problem that, as I said, has not produced a public health problem in Nebraska. We don't have a public health problem in Nebraska. We don't have any public health people saying we believe there is a clear and present problem with copper, a problem such as exists with lead. With lead, there is a public health problem, although not in Nebraska. With copper, we have no public health problem. What we have, instead, is a scientific evaluation by EPA which has caused them to say we should not allow any more than 1.3 milligrams per liter of copper in drinking water. And as a consequence, all across the country EPA is asking cities to invest substantial amounts of money to treat and reduce the concentration of copper below 1.3 milligrams.

I have a chart here. Some statements have been made by other institutions in regard to what is a safe amount of copper, which I would like to read, just to establish that there is a significant amount of dispute on the science of this. Not a small amount of dispute, but a significant amount.

The World Health Organization has established 2 milligrams per liter as their standard for copper in drinking water. That is 60 percent higher than 1.3 milligrams per liter.

In Canada, they have declared 5.3 milligrams per day as the lowest oral dose at which local GI irritation was seen.

The National Academy of Sciences in 1977 said:

> Limited data are available on the chronic toxicity of copper. The hazard from dietary intakes of up to 5 milligrams per day appear to be quite low.

A longer statement, made in 1994 by the Centers for Disease Control in regards to a study in Nebraska—this study is currently being peer reviewed, which EPA needs to have in order to make a final determination:

> . . . at the time of the survey, people were not experiencing GI related to the level of [copper] in their drinking water, even though 51 of the selected homes had [copper] drinking water levels that were greater than two times the EPA action level the year prior to the study. . .

There is a significant amount of scientific disagreement as to what the standard ought to be. Again, we are not experiencing a public health problem. If we are experiencing a public health problem, let's get after it and deal with it. That is what the Safe Drinking Water Act is all about. If you don't have a public health problem, you should not, in my judgment, be requiring the municipalities to make an investment that produces no benefit. That is basically what we are talking about here.

The municipalities have a limited amount of money. They have to go to their taxpayers to pay for any treatments to drinking water. We go to taxpayers through the state revolving loan fund. We then provide funds to the States and the States and municipalities make the determination: How do we spend our money so as to maximize the public health in our community? The states and the municipalities are telling us that they don't see a public health problem with copper, but they are willing to try to work with the Environmental Protection Agency to solve this problem.

Mr. President, first of all, we have asked the Environmental Protection Agency to allow the National Academy of Sciences to impanel a study group to evaluate the science that underlies this standard—a peer reviewed evaluation—and come back and say, "This is our current estimate of the situation, our current estimate based upon reviewing all the science, particularly the peer-reviewed science that is out there; this is what we see the current situation to be."

Allow EPA, in short, to do what the Safe Drinking Water Act says it is supposed to do, which is to review these regulations once every 6 years. It has been 7 years. There is plenty of evidence that would indicate it is time for EPA to review this standard, including other people's evaluations, and as I said, the presence of an overwhelming fact, which is that we are not experiencing public health problems in Nebraska.

In our negotiations—Senator HAGEL, Congressmen BEREUTER, CHRISTENSEN and BARRETT—we had a meeting yesterday with EPA. We are asking EPA to empower and to contract with the National Academy of Sciences to do a study of the science underlying this rule to determine whether 1.3 milligrams per liter is reasonable. If we get a "yes" on that request, which we don't have at the moment—as I said, my colleagues may be spared the opportunity of coming down here and voting on this amendment.

There is another problem we are experiencing with EPA. Again, we talked with region 7, and we talked, as well, with Administrator Browner, and perhaps we can get true flexibility. We have asked for flexibility in dealing with this problem. I will describe for my colleagues one of the things the Nebraska department of health asked the Environmental Protection Agency for, in terms of flexibilities in implementing this rule, and the answer from EPA was no. They asked if it would be OK if the State of Nebraska paid for the removal of copper piping and copper fixtures, get rid of the copper altogether as a solution to this problem. The answer from EPA was that this is not one of the acceptable solutions that is on their list.

Eliminating the copper was not an acceptable solution to the EPA, Mr. President, nor was it acceptable to engage in a significant public health campaign to help people understand—and to ask them to flush, once a day, the water in their systems to remove the copper that leached into the water after sitting overnight in the pipes—especially in smaller communities where you have a relatively small audience. EPA was saying things like, "Well, yeah, but somebody could get up in the middle of the night and have to go to the bathroom and maybe forget and take a drink of water."

This is the sort of reason given to people to support legislation like the Safe Drinking Water Act? We want the Government to be a positive force in keeping our people safe, but when we hear rationale like this, we scratch our heads and wonder whether or not it is all worthwhile.

We seem to frequently run into this sort of inability to bring common sense to the process. I am hopeful that Administrator Browner—she was very positive yesterday—I am hoping Administrator Browner will, first of all, ask the National Academy of Sciences to do a study of the underlying science, which is overdue given the conflicting analyses we have seen; and, second, to direct region 7 to work with us to get a flexible plan that enables us, bottom line, to have our cities and our States saying to us, "We have identified a solution here; we have a means of dealing with this; here is what it is going to cost us; we are willing to make this investment."

Understand, at the community level where they are drinking the water, they are saying, "There are public health problems that are much larger than this. We don't have anyone getting sick from copper. We understand you all think we ought to be getting sick at these levels, but we are not. We are willing to work with you and willing to make an investment, but we want that investment to be justified. We want the cost to track somehow with the benefit. We want to be able to say here is the benefit we are getting with the cost of the expenditure itself."

I am pleased to inform my colleagues, at the conclusion of Senator HAGEL's and my remarks on this, we are prepared to withdraw this amendment and not put you through the process of voting on this at this time. But if we are not able to get a satisfactory answer from Administrator Browner, I inform my colleagues there will be an opportunity to vote on this amendment.

My guess is that any of you out there who have municipalities that are discussing this with the Environmental Protection Agency—I guarantee you, all you have to do is talk to your colleagues in Minnesota and ask them how it worked. They implemented the EPA plans for copper removal, and it hasn't worked in nearly half of the 130 water systems they were forced to treat. They did everything the EPA told them to do to reduce copper levels and it didn't work. They still have the problem and are now scratching their heads and trying to figure out what they are going to do next.

Mr. President, I appreciate the indulgence of the Senator from South Carolina and the Senator from New Hampshire and other colleagues. I look forward to coming to the floor and saying that this issue is satisfactorily resolved. Administrator Browner, I believe, is making a good-faith effort, but we have a ways to go before we are certain we don't have to come back and appeal to our colleagues, who are likely experiencing similar things, to give us a change in the law that will give us time to allow these scientific studies to be reviewed, and possibly, this rule revised.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Nine-and-a-half minutes remain for the proponents. The Chair recognizes the junior Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, I rise to support this amendment sponsored by my good friend and colleague, the senior Senator from Nebraska, Senator KERREY.

As Senator KERREY has very directly stated, this amendment is an attempt to bring some much-needed common sense—common sense, Mr. President, common sense—to the EPA regulatory process. We are not in any way attempting to amend the Safe Drinking Water Act.

I commend my colleague from Rhode Island, the distinguished chairman of the Environment and Public Works Committee, Senator CHAFEE, for his hard work in crafting this bill over the years and having brought it up to date and focused on what is important, and that is to protect the safety of our drinking water. It is important that we be clear on this point. We are not attempting to amend the Public Works Committee's hard efforts, the Safe Drinking Water Act. No attempt is being made to amend the Safe Drinking Water Act.

What we are asking here is EPA delay the enforcement of copper regulations until the completion of scientific studies that are already underway. Regulations imposed by the EPA on copper levels in drinking water are unrealistic and will impose financial hardships on a number of communities in Nebraska. Is it too much to ask—really, is it too much to ask—that scientific studies be completed before costs are imposed? Mr. President, that is just common sense.

The town of Hastings, NE, population 23,000, will be forced to pay over $1 million in the first year to comply with these onerous regulations and $250,000 the year after that. More than 60 Nebraska water systems face similar financial burdens because of the EPA's enforcement of these copper regulations.

The most incredible part of this issue is that the EPA has not proven that there is a health risk. As my friend, Senator KERREY, said, they want to prove it; they want to tell us we have it, but they can't make the scientific link. The EPA used case studies to set these copper levels, some of which are over 40 years old, and often included only a few people. One EPA case study from 1957 refers to 15 nurses, 10 of which got sick after drinking cocktails with between 5.3 and 32 milligrams of copper—very strong scientific evidence.

Yet, a 1994 interim study conducted by the Centers for Disease Control and Prevention found that EPA's copper standard seriously exaggerated health effects in Nebraska due to water consumption. In comparison, the CDC study conducted in 1994 to examine almost 200 households in Nebraska in a controlled, scientific way, found no relationship between the copper concentrations and illness.

One of the problems in Nebraska, Mr. President, is that copper does not come from the city's water system. It comes from copper pipes—copper pipes—in individual homes. Yet only six of the homes tested, in Hastings, NE, had copper levels above the EPA standards. And for those six homes, the EPA is going to force the people of the entire town in Nebraska to spend millions of dollars to change the system.

This is folly. This is nonsense. This is one of the most clear examples of EPA zealousness that I think I have ever seen.

The State of Nebraska has attempted to make its case with the EPA but has been repeatedly dismissed. The State suggested allowing residents to let the water run in the taps for a short period of time before using water for drinking. Nebraska's Department of Health and Human Services would have used a public education program to ensure that this "flushing" method was done correctly. Residents already did this on their own and copper levels dropped to nearly zero—copper levels dropped to nearly zero—after letting the tap run for a few seconds. The State also said it would pay to replace the copper plumbing for affected households.

The attorney general of the State of Nebraska has filed a lawsuit to try to block the EPA enforcement of these regulations until we have some sound science. And the Governor, Governor Nelson, is involved.

The attitude of the EPA toward the people of Nebraska has been one of supreme arrogance. Some of my colleagues may wonder why this is such a problem in Nebraska. Why haven't they heard about this in their States?

Well, Nebraska is unique, not only because we play decent football, Mr. President, but also because we rely, almost exclusively, on groundwater for our water supplies. Because of this, some towns and cities in Nebraska do not have a central water system but a number of systems that feed into the main system.

For these towns of Nebraska, treating drinking water means treating each individual well, which drastically increases costs. And for what? The people of Nebraska do not want unsafe drinking water; of course they don't. If there was a real health risk, they would pay to have the water treated. But when the scientific evidence shows no health risk, when the EPA rejects every commonsense alternative—many of what my colleague from Nebraska talked about—what are the people of Nebraska to do? They have turned to their congressional delegation. They have turned to their Congress and asked for help.

The Constitution gives Congress the authority to decide whether or not Federal agencies can spend the money of the American taxpayers, what they spend it on, and why they spend it. Too often we have neglected this authority and let Federal agencies run right over the top of the American people, the very people who pay the bills—the taxpayers. But we don't have a voice. That is why Senator KERREY and I are on the floor today.

We are here to bring the case of the people of Nebraska to the Senate, as our colleagues are doing in the House. We have no other recourse, Mr. President. Again, we are not attempting to amend the Safe Drinking Water Act. We are asking to change the regulations so that we have some ability, some flexibility to wait until we have sound science. What an outrageous request. What an outrageous request.

Mr. President, dealing with the EPA is like wandering around in the Land of Oz, this mystical land. But we wish to pull back the curtain and get to some reality and common sense. It is my hope, as is the hope of my friend and colleague, the senior Senator from Nebraska, that our colleagues will listen to this plea and will assist us in this effort. We are grateful for an opportunity to tell our story—a real story.

Thank you. I yield the floor.

The PRESIDING OFFICER (Ms. SNOWE). Who yields time?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Madam President, I ask unanimous consent that letters in support for this amendment from the National Governors' Association, the Central Nebraska Mayor's Association, the League of Nebraska Municipalities, the city of Columbus, the city of Hastings, the village of Snyder, and the village of Fairmont be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, July 16, 1998.
Hon. BOB KERREY,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR KERREY: We are writing to share our concerns about the lead and copper rule promulgated by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act. Communities in many states, particularly smaller communities, face substantial costs under this rule. We understand that serious questions have been raised about the rule, including the justification for the current action level, the cost effectiveness of the rule, and the replicability of the sampling procedures used under the rule. We understand that the rule may also interfere with the implementation of other pending regulations, such as the Disinfectant/Disinfection Byproducts Rule. Such interference could have serious adverse health consequences.

In the face of these uncertainties, we urge you to take steps to ensure that the lead and copper rule is based on the best available, peer-reviewed science and is subject to risk assessment, comparative risk assessment, and risk management techniques that include analyses of costs and benefits. The Governors have recommended that for all regulations with a substantial potential impact on public health or the economy, the regulatory agency should be required to certify that the regulation is likely to produce benefits that justify the costs. In determining that the benefits justify the costs, the agency should consider the full scope of qualitative and quantitative costs and benefits, exercise sound judgment, use realistic assumptions, weigh all reasonable alternatives, and strike an appropriate balance between costs and benefits.

We would appreciate your assistance in ensuring that EPA satisfies these recommendations in the case of the lead and copper rule. Thank you for your consideration of this important issue.

Sincerely,

E. BENJAMIN NELSON,
Chair, Committee on Natural Resources.
MARC RACICOT,
Vice Chair, Committee on Natural Resources.

CENTRAL NEBRASKA
MAYOR'S ASSOCIATION,
June 8, 1998.
Hon. ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: We are writing to convey to you the solid support of four major Nebraska communities for the recent efforts by the Nebraska congressional delegation regarding the lead and copper rule designation in the Safe Drinking Water Act. In an April 24, 1998 letter to USEPA, Nebraska's congressional delegation unanimously urged bringing common sense and good scientific evidence to the copper rule. We support that position and encourage you to continue pressing this issue in our behalf, as well as that of many other Nebraska communities.

As you are well aware, epidemiological evidence generated by the Centers for Disease Control indicates that the drinking water standards for copper are arbitrarily established at levels far below those believed to pose any threat to human health. Incredibly, the level established by USEPA is less than the recommended daily minimum amount of cooper for human consumption, established by another federal agency. What is more unnerving, is the fact that cities are being mandated to make significant changes to their water delivery systems, not because of the source of supply, or because of the water systems themselves, but because of the copper water services in private homes. This of course can be solved by running the water for a few seconds each morning before taking any water for drinking purposes, which, we suspect, is a universal practice. Viewed another way, does USEPA have any evidence whatsoever that anyone is consuming water with "unaccepted levels" of copper in it?

We believe that USEPA has strayed from its original mandate of ensuring a clean environment. Instead, communities throughout the country are confronted with the hypertechnical wanderings of a bureaucratic juggernaut, promulgating unreasonably stringent environmental standards that lack good scientific evidence, ignore practical testing procedures, and are totally devoid of any common sense.

It is particularly vexing to deal with unreasonable standards which will cost Nebraskans millions of dollars while providing no apparent benefit. Cities are asked by their populations to provide essential services that enhance the quality of life of their citizens. Dollars are tight and public scrutiny is high. The waste of time, effort, and precious dollars on misguided notions like the copper rule for drinking water, is totally unacceptable. Please continue and intensify your efforts to bring good scientific evidence to these and other rules, regulations and standards of USEPA.

Thank you again for your interest in this matter.

Sincerely,

KEN GRADY,
Mayor of Grand Island.
JAMES D. WHITAKER,
Mayor of North Platte.
J. PHILLIP ODOM,
Mayor of Hastings.
PETER S.———,
Mayor of Kearney.

LEAGUE OF
NEBRASKA MUNICIPALITIES,
Lincoln, NE, July 17, 1998.
Senator BOB KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERREY: Thanks for your attempted heroics late (verrrrry late) last night on behalf of Nebraska municipal water distribution systems. The staff at the League of Nebraska municipalities informed me that you used considerable debating skills and knowledge of procedure to try to amend a measure to give Nebraskans some relief from the EPA Copper Rule. It is not that often anymore that you get to see good debating skills put to use in legislative process, but you apparently made Nebraska look good.

Again, I appreciate all the work that you and your staff have put in on this issue. As you know, and very effectively communicated, compliance with this regulation will cost Nebraskans millions of dollars for little or no health benefit. Nebraska municipal officials are not against the protection of public health. They live in the very communities that they serve. But meeting the "at the tap-first draw" copper standard seems to be throwing money away.

Sincerely,

JIM VAN MARTER,
League President,
Mayor, Holdrege, Nebraska.

COLUMBUS, NE,
July 10, 1998.
Hon. ROBERT KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERREY: On behalf of the City of Columbus, I would like to lend our support to your amendment to place a prohibition on the enforcement of the Copper Ruling by the Environmental Protection Agency (EPA).

From all indications, this ruling appears unsupported by scientific evidence. If this should be enforced, it will cost our city thousands of dollars.

I ask that you give us every consideration in fighting this ruling. We appreciate your leadership in helping us concerning this matter.

Sincerely,

GARY GIEBELHAUS,
Mayor.

HASTINGS, NE,
July 10, 1998.

Re Copper regulations.

Hon. TRENT LOTT,
Rayburn Building,
Washington, DC.

DEAR SENATOR LOTT: I am writing to you on behalf of the citizens and water rate payers of the City of Hastings, Nebraska, an agricultural community of 22,000 people located in the south central part of the state. The drinking water system for our community is operated by our local Board of Public Works. Tests of drinking water (taken in private homes) indicate that the levels of copper in the water barely exceeds the action level for copper established pursuant to the 1986 Safe Drinking Water Act. The State of Nebraska has issued an order to the City, directing implementation of costly "optimal corrosion control treatment".

USEPA's active level for copper in drinking water is based upon two outdated (one is at least 40 years old) and unreliable studies. Recent epidemiological evidence generated by the Centers for Disease Control indicates that the drinking water standards for copper are arbitrarily established at levels far below those believed to pose any threat to human health. It is most noteworthy that the level established by USEPA is less than the federally recommended daily minimum amount of copper for human consumption. In fact, the amount of copper in a multiple vitamin tablet exceeds the USEPA's action level.

Senator, we, and many other communities around the country, are being directed by government to expand millions of dollars on our water systems in just a few short years, with literally no reasonable expectation of benefit to public health. This makes absolutely no sense at all. We would hope that you agree that it is foolish to act on poor information, when good information is readily attainable. We need your help. (Our water department, which operates at a loss most years, estimates that installation of the required modifications will cost $1,000,000 initially, with an added operations expense of approximately $250,000 per year.)

Nebraska Senator Robert Kerrey and Chuck Hagel have introduced legislation which would prohibit USEPA's implementation or enforcement of this rule until more reliable studies can be completed and evaluated. The expected time frame for obtaining this much more reliable information is less than 30 months.

We ask that you join our Nebraska Delegation in its efforts to gain a reprieve which makes eminent sense. In our estimation, there are no risks associated with taking the time to get the facts straight. We do not know of even one copper related illness, belly ache or sniffle in the more than one hundred year history of this county. I can tell you without fear of contradiction, that if we had the one million dollars and more to spend, the public health and quality of life in our community would be much better served by spending that money on fire trucks and police cars.

Public health and safety are the top priority of Hastings city government. We, and many other units of local government are on the front line. But we have precious few resources and dollars for this effort. Please help prevent the bureaucratic misdirection of our dollars and resources, so that we can do what is best for our community.

You can undoubtedly discern from the tone of this letter, that I am already convinced that further studies will show that the action level for copper is unreasonably low. My limited review of available data, and information provided by those knowledgeable on the matter, unanimously support this conviction. Please rest assured, however, that Hastings will expeditiously comply with whatever standard emanates from the more current studies. We have faith in good science. Recent history shows that Congress shares that faith.

Thank you for your interest in this matter.

Sincerely,

J. PHILLIP ODOM,
Mayor of Hastings.

SNYDER, NE,
July 14, 1998.

Senator ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: I am sending this letter to inform you of the costs of a small town to comply with the copper rule. The population of the Village of Snyder is 280, and we have a water budget of $31,000.00 for this fiscal year. Snyder also has two (2) wells, according to our engineer our capital expenses would be $30,000.00 for building modification and equipment purchases. The ongoing operational costs including chemicals, training, administrative, and repairs/maintenance would cost $12,000.00. The first year would cost the Village $42,000.00, and require us to budget an additional $12,000.00 per year. If we have to use bonds to pay for the capital costs, there will be additional expenses.

This does not include the cost of a corrosion control study as required by the administrative order. Our engineer estimated between $3,000.00 and $3,500.00, or the quarterly notices that we have to publish. There is also the cost of additional water testing that we are required to perform.

Although, the easy answer is to raise rates it is not always the best one.

I would like to thank you for your efforts to help us.

I am enclosing a separate cost breakdown.

Sincerely,

JOEL D. HUNKE,
Chairperson,
Village Board of Trustees.

Enclosure.

Village of Snyder estimated cost for compliance lead and copper administrative order

Capital expenses:	
1. Modify well house buildings at $10,000/building	$20,000
2. Purchase equipment at $5,000/well	10,000
Total capital expenses	$30,000
Ongoing operational costs:	
1. Chemicals at $0.10/1,000 gallons of water 1997 production was 44,675,000 gallons	4,468
2. Monitoring, testing, training, administrative $3,000/yr for 1st well and $2,500/yr for 2nd well	5,500
3. Repairs and Maintenance $1,000/well/year	2,000
Total operational costs	11,968
Grand total	41,968

FAIRMONT, NE,
July 13, 1998.

Re Lead and copper ruling.

Senator ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: The Fairmont Village Board of Trustees would like to thank you for your efforts to assist municipal water systems in Nebraska which are currently under Administrative Order for violation of copper standards in drinking water.

I am enclosing a letter from our engineers pertaining to the costs if Fairmont would have to comply with the Administrative Order. In review it would cost the village $45,000 for the capital outlay and approximately $18,000 annually for ongoing operations costs.

Our village board believes that the copper action level is excessively stringent, has an excessive safety margin and is not supported by sound scientific data and studies. The ruling requires the village to expend public funds for monitoring and treatment of public water supply system of the Village in order to correct contaminations which occur within the service lines and plumbing systems owned by private persons or entities, and our board does not feel that public funds should be used in this manner.

Thank you for your assistance in this matter and if you need additional information, please contact our office or the League of Nebr. Municipalities.

Sincerely,

DAVID R. SEGGERMAN,
Chairperson, Fairmont Village Board of Trustees.

Enclosure.

JOHNSON ERICKSON O'BRIEN,
Wahoo, NE, July 8, 1998.

Re Lead and copper rule estimated cost for compliance.

LINDA CARROLL,
Clerk,
Fairmont, NE.

DEAR LINDA: This letter is in response to recent requests that we have gotten regarding the cost of compliance with the Lead and Copper Rule.

Every case will be different, but I believe that the following will provide a good general guideline for determining how much it will cost to deal with the Lead and Copper Rule.

C. In general, most well buildings are not set up to provide adequate space or provide an appropriate environment for use as a chemical feed room. Depending on the building site conditions and the layout, we believe it is likely that the well building will need to be expanded and rough cost for the building modifications would be $10,000 per well (POE).

D. The type of chemical treatment that will be necessary for each well will depend on the detailed chemical analyses of the well water. However, for planning purposes, we would estimate that the cost for chemical feed equipment and electrical modifications needed could be approximately $5,000/well (POE) and the raw cost of chemical would be approximately 10¢/1,000 gallons of water pumped.

E. In addition, to the chemical cost, it would be anticipated that considerable additional cost/time will be involved in the daily monitoring of the chemical feed systems, testing, and administrative time involved in maintaining records, etc. It would appear reasonable to assume that the costs could be around $3,000/yr. for the first well, and maybe $2,500 for each added well.

F. Also, I would expect that repairs and maintenance costs could be $1,000/well/year to keep pumps and controls updated/operational.

In conclusion, we believe that costs for Lead and Copper Rule compliance would be:

A. Capital Expenditure Costs
  1. Building Modification: $10,000/well (POE)
  2. Equipment Costs: $5,000/well (POE)
  Total: $15,000/well (POE)

B. Ongoing Operational Costs
  1. Chemical Costs: 10¢/1,000 gal. pumped
  2. Operational/Administrative Costs: $3,000/yr. 1st well (POE) $2,500/yr. each added well (POE)
  3. Repairs/Maintenance: $1,000/yr./well (POE)

If you have any questions regarding this letter or if you need anything further from us, please feel free to advise.

Sincerely,

RON BOTORFF.

A. Village of Fairmont has 3 wells @$15,000.00=$45,000.00 Capital set up.

B. Village of Fairmont 1997 water use 75,000,000 gallons+1,000 @10¢=7,500.00 Chemical Cost.

Operation/Admin—1 well @$3,000.00+2 wells @$2,500.00=8,000.00 Oper/Admin.

Repairs & Maint. 3 wells @$1,000.00=3,000.00 Rep. & Maint.

In review, the capital expenditure for the Village of Fairmont would be approximately $45,000.00 and annual expenditures for ongoing operational costs would be approximately $18,500.

Mr. KERREY. Madam President, I am prepared to yield back the remainder of my time. I do not know if—Senator CHAFEE is probably not going to speak because I told him we would withdraw the amendment.

I say to the Senator from New Hampshire, if you don't want to take the additional 10 minutes, I will ask unanimous consent to withdraw the amendment.

Mr. GREGG. I have no objection to the Senator from Nebraska withdrawing the amendment.

Mr. KERREY. Do we need to yield back time in opposition?

The PRESIDING OFFICER. Yes, the Senator should yield back his time.

Mr. GREGG. I will yield back our time.

AMENDMENT NO. 3275 WITHDRAWN

Mr. KERREY. I ask unanimous consent that the amendment offered by myself and Senator HAGEL be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

The amendment (No. 3275) was withdrawn.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. What is the parliamentary status now?

The PRESIDING OFFICER. Amendments are in order.

AMENDMENT NO. 3276

(Purpose: To condition the availability of funds for United States diplomatic and consular posts in Vietnam)

Mr. KERRY. Madam President, therefore, I send an amendment to the desk and ask for its immediate consideration on behalf of myself, Senator JOHN MCCAIN, and Senator BOB KERREY.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself, Mr. MCCAIN and Mr. KERREY, proposes an amendment numbered 3276.

Mr. KERRY. I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 96, strike line 23 and all that follows through line 12 on page 100 and insert the following:

SEC. 405. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

Mr. KERRY. Madam President, are we operating under a time agreement on this?

The PRESIDING OFFICER. Twenty minutes evenly divided.

Mr. KERRY. Twenty minutes equally divided.

Madam President, I yield myself such time as I may use. I ask that the Chair let me know when I have used 7 minutes.

Madam President, for the past 3 years we have had language in the appropriations bill that prohibits funding for the expansion of our diplomatic presence in Vietnam unless the President of the United States certifies that Vietnam is cooperating on the POW/MIA issue.

The fact is that the standard currently in law requires a tough certification by the President. The President has to certify that Vietnam is fully cooperating. The President has to certify that in good faith Vietnam is cooperating in four specific areas: resolving discrepancy cases, live sightings and field activities, remains recovery and repatriation, providing documents, and assisting in the trilateral investigations with Laos.

That is a fair and a sensible standard, Madam President. However, section 405 of the pending bill that has been put into the bill creates a whole new standard. It creates a standard of significant increased capacity for subjectivity and for distortion and, frankly, for an unreasonableness, which, if adopted, would set back our relationship and our capacity to build the progress and relationship not just on POW/MIA but on human rights and other issues where we have been making progress.

The amendment that I offer with Senator MCCAIN from Arizona and Senator BOB KERREY from Nebraska would strike section 405, replacing it with the language in the current law that requires a certification from the President, and requires the same standard of certification that we have had over the course of the last years.

In our judgment, section 405 will not only undo much of the cooperation that we have but could conceivably set back our capacity to be able to find answers on the POW/MIA issue. We believe it would undermine the policy of normalization and it would create an unreasonable certification standard in an effort to prevent the expansion of our diplomatic presence and, thus, our relationship.

Current law requires the President to certify whether or not Vietnam is cooperating in good faith. I want the Senate to know that the President made that certification on March 4 of this year, as he has for the past 2 years.

Section 405, however, in the legislation that we seek to strike, incorporates a standard that requires the President to somehow say that they are fully forthcoming, fully cooperating in good faith, and the words "fully forthcoming" present all kinds of complications about what is possible to give, what is not possible, what documents somebody may have, whether or not it is possible to give them, and raises issues that the POW/MIA committee and those who have been involved in this issue for a long period of time have argued for some period of time and resolve with the language that is currently in the law.

Over the many years that I have been involved in this issue, we have always had a struggle over this central question of what they have, what they don't have, who may have it, who has control of it, and if you get caught in the total subjectivity of a standard that no one in the intelligence community or elsewhere believes they can possibly meet, all we do is create a mischief in the process.

There is no question that we need to keep pressing for documents. We are. We just had a whole new slug of documents turned over that we are in the process of translating. We discovered new items from many of these unilateral turnovers of documents. The point is, they are happening because there is a cooperative effort, because we are engaged in marching down a road together in order to try to assert the truth here.

I think we also have to recognize that just as we deem certain documents pertaining to the military and to our country's national security as being classifiable or sensitive, so do they. We may not view it the same way, but clearly they are going to present, and their agencies—whether the defense agency, the interior agency—will argue that one document or another represents a security risk. So we have to work through the process of that. If we hold ourselves accountable to a standard where we are subject to some agency or bureaucrat being less than forthcoming in that regard about a document we don't even know they have, it seems to me we are creating an impossible situation and an impossible standard.

In addition to that, section 405 also adds other new conditions to the process. It requires Vietnam to resolve hearsay reports which pertain to the possible or confirmed prisoner of war/missing in action. Apart from the question of how anyone resolves a hearsay report, this requirement would add an enormous burden to both the American and Vietnamese teams, who are on the ground, who are pursuing nonhearsay reports. They are already tasked on a very clear schedule of trying to determine every single nonhearsay report, absolutely certain evidence they have, which requires them to go out into the field, interview, dig, do a whole host of other very time-consuming efforts. To suggest that every single hearsay report has got to be resolved to the exclusion of the confirmed reports that they are already pursuing is to, again, raise this to a standard of absurdity.

The fact is, we have made enormous progress on the POW/MIA issue precisely because of Vietnamese cooperation. In the last 5 years, American and Vietnamese teams have concluded 30 joint field activities in Vietnam; 233 sets of remains have been repatriated, and 97 have been identified.

The PRESIDING OFFICER. The Senator has used 7 minutes.

Mr. KERRY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. It is my understanding I have 10 minutes.

The PRESIDING OFFICER. That is correct.

Mr. SMITH of New Hampshire. I yield myself 7 minutes at this point.

I rise to support the committee language that is in the bill before us with respect to Vietnam. I urge my colleagues on both sides of the aisle to listen carefully to the debate between myself and my colleague from Massachusetts.

It seems that we can depend on three things anymore in America—death, taxes, and the fact that Senators KERRY and MCCAIN will somehow oppose any language that I try to support in regard to the POW/MIA issue.

Senator KERRY said that this is not workable, that the term "fully forthcoming" is not workable. Of course it is workable. It is workable because the language says that the President's judgment, the President's own judgment, is based on information available to the U.S. Government. There is nothing unworkable about that language at all. It is very workable. The President has continued to certify the very language that the Senator from Massachusetts wants to revert back to, which was language that I helped to write and put in the bill last year. We are simply upgrading it a little bit. That is not anything to be concerned about. The President still does the certification. It is his judgment. No one is changing that. I might not agree with the President's judgment from time to time, but he has the right to make that judgment under the law. That is the issue here.

I hope the Senators and their staffs who are monitoring this debate will look at section 405 to see what the Senator from Massachusetts is striking—it is found on page 96 of the committee bill—because it is reasonable. I think most Senators will resist the effort to strike it. It is reasonable.

Senator GREGG and the committee support this language. The committee language continues a certification process that was begun in 1995 when the President established full diplomatic relations with Vietnam. It has continued, through this year, when the President issued his latest certification in March. Now, whether or not we agree or disagree with the President's certification is not the issue. I happen to disagree. I didn't believe he should have certified based on the evidence. But he did, and he has the right to do that under the law.

What the committee has done is to further modify the language in an appropriate manner based on developments and communications from the executive branch over the last year. Each time, in the end, the President has complied with the certification process. I have no doubt he will do it this time. In fact, let me refer to the President's own words when he issued the most recent certification in March of this year.

> In making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

That is the President. I have that document right here, signed by the President of the United States.

I ask unanimous consent this document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Presidential Determination No. 98-16]

MEMORANDUM FOR THE SECRETARY OF STATE

Subject: Vietnamese Cooperation in Accounting for United States Prisoners of War and Missing in Action (POW/MIA).

As provided under section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, Public Law 105-119, I hereby determine, based on all information available to the United States Government, that the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following four areas related to achieving the fullest possible accounting for Americans unaccounted for as a result of the Vietnam War:

(1) resolving discrepancy cases, live sightings, and field activities;

(2) recovering and repatriating American remains;

(3) accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIAs; and

(4) providing further assistance in implementing trilateral investigations with Laos.

I further determine that the appropriate laboratories associated with POW/MIA accounting are thoroughly analyzing remains, material, and other information, and fulfilling their responsibilities as set forth in subsection (B) of section 609, and information pertaining to this accounting is being made available to immediate family members in compliance with 50 U.S.C. 435 note.

I have been advised by the Department of Justice and believe that section 609 is unconstitutional because it purports to use a condition on appropriations as a means to direct my execution of responsibilities that the Constitution commits exclusively to the President. I am providing this determination as a matter of comity, while reserving the position that the condition enacted in section 609 is unconstitutional.

In making this determination I have taken into account all information available to the United States Government as reported to me, the full range of ongoing accounting activities in Vietnam, including joint and unilateral Vietnamese efforts, and the concrete results we have attained as a result.

Finally, in making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the Federal Register.

WILLIAM J. CLINTON.

Mr. SMITH of New Hampshire. For the Senator from Massachusetts and others now to basically prevent the committee from updating the language based on the President's own words, and based on the words of Sandy Berger and others, sends a terrible message, a message that I simply do not understand, for the life of me, why we have to fight this battle day in and day out, year in and year out, on the floor of the Senate. There is nothing wrong with this language, I say to my colleague, with all respect. The President still has the right to certify. And he does in spite of the fact that I disagree, many times, with his reasoning for the certification.

To prevent the committee from updating this language sends, I think, a terrible message to the Government of Vietnam: It is OK, do whatever you want. Go ahead, provide us documents, don't provide us documents; provide us access, don't provide us access, it doesn't matter. The families of 2,000-plus American service personnel still unaccounted for, don't worry about it. Our Nation's veterans, we no longer attach the same priorities to the POW/MIA effort in our development of relations with Vietnam which we had in the last 3 years. Don't worry about that. Let's go ahead, pursue lines of trade, sell oil, buy oil, whatever. Set up a full diplomatic mission. Don't worry about these things. Don't worry about POW/MIA. That is a side issue that is not really important.

That is reason alone for the Senators and my colleagues to table this amendment. Don't send this kind of message to the families. God knows they have been through enough. They support the language in the committee bill. That should be enough right there. These are the people who have suffered. It hasn't been Senator SMITH; it hasn't been others on the Senate floor—well, in some cases, there has been great suffering by some of my colleagues in the Vietnam war. But it is the families of the missing who want this message. We should do it for them, if for no other reason. They have been in touch with me as recently as this morning. They passionately object to what the Senator from Massachusetts is trying to do. They have told me that.

I ask unanimous consent that their statements be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SMITH of New Hampshire. I have statements from the League of Families, the Alliance of Families, from 70 former POWs, from major veterans groups, including the American Legion. And I know that others support what we are doing, like the National Vietnam Veterans Coalition, and many others support the language and support the committee process.

So I hope that we will defeat this effort.

EXHIBIT 1

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING
IN SOUTHEAST ASIA,
Washington DC, July 23, 1998.

Hon. BOB SMITH,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH: The POW/MIA families strongly support the language currently in the Commerce, State, Justice appropriations bill as the best way to motivate the Socialist Republic of Vietnam government to account for Americans still missing from the Vietnam War.

The League is not surprised that the Clinton Administration, faced with another Congressional certification requirement, prefers broad language that is politically easier to finesse, than specific criteria that must be met. However, at the League's 29th Annual Meeting, U.S. Ambassador to Vietnam, the Honorable Douglas "Pete" Peterson, expressed frustration that the language was too broad, requiring either certification of full cooperation or nothing, leaving no room for incremental judgments.

The League's position is based upon past and current official assessments of what Vietnam can do unilaterally to account for missing Americans. Unilateral actions do not simply mean support for joint field operations, a necessary process in the longer term, but steps by the government of Vietnam to locate and return identifiable remains and provide relevant documents that are still being withheld.

Congress has the ability to stand behind those who serve—past, present and future—by retaining the language in the Committee's bill. Efforts by Senators John Kerry and John McCain to remove this language may be well-intended, but are illogical. There is no risk that Vietnam will halt bilateral POW/MIA cooperation and risk achieving their priority mission of MFN. By retaining the Committee's language, Congress can signal it recognizes that more can and should be done by Vietnam on this issue of stated highest national priority to the Clinton Administration and understandable importance to the American people.

Please stand with the POW/MIA families and America's veterans and oppose the Kerry/McCain amendment to remove relevant POW/MIA language.

Respectfully,
ANN MILLS GRIFFITHS,
Executive Director.

NATIONAL ALLIANCE OF FAMILIES,
Bellevue, WA, July 21, 1998.

Hon. ROBERT SMITH,
Dirksen Building,
Washington, DC.

DEAR SENATOR SMITH: The membership of the National Alliance of Families strongly opposes any effort to weaken the Committee's language which is already in the Commerce, Justice, and State, the Judiciary Appropriations Bill No. S. 2260 for the fiscal year 1999 in respect to the POW/MIA Accounting (Sec. 405).

We support your efforts on behalf of our loved ones who still remain Prisoner of War and/or Missing in Action from the Vietnam War.

Thank you for your generous and strong dedication to those men who have served their Country these many years.

Sincerely,
DOLORES APODACA ALFOND,
National Chairperson.

AN OPEN LETTER TO PRESIDENT CLINTON
FROM FORMER U.S. POWS

AMERICAN DEFENSE INSTITUTE,
Alexandria, VA, July 10, 1995.

The Honorable WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As former U.S. Prisoners of war during the Vietnam Conflict, we are writing to request you not to establish normal diplomatic relations with Vietnam until you can certify that there has been full disclosure and cooperation by Hanoi on the POW/MIA issue. While we appreciate Vietnam's support for U.S. crash site recovery and archival research efforts, we know firsthand Vietnam's ability to withhold critical information while giving the appearance of cooperation. We were all subjected to such propaganda activity during the war, and we would be the least surprised if Hanoi was continuing to use similar tactics in its dealings with the United States.

Of particular concern to us are the several hundred POW/MIA cases involving our fellow servicemen who were captured or lost in enemy-controlled areas during the war, yet they still have not been accounted for by Vietnam. We understand that much of the fragmentary information provided by Vietnamese officials to date indicates they could do more to resolve these cases.

Some of our fellow servicemen became missing during the same incidents which we survived. They have not been accounted for. Some were captured and never heard from again. They have not been accounted for. Some were known to have been held in captivity for several years and their ultimate fate has still not been satisfactorily resolved. They have not been accounted for. Still others were known to have died in captivity, yet their remains have not been repatriated to the United States. They have not been accounted for.

Finally, we remain deeply concerned with reports from U.S. and Russian intelligence sources that maintain several hundred unidentified American POWs were held separately from us during the war, in both Laos and Vietnam, and were not released by Hanoi during Operation Homecoming in 1973. Many of these reports have yet to be fully investigated.

America deserves straightforward answers if Vietnam really wants normalized diplomatic and economic relations. If Vietnam truly has nothing to hide on the POW/MIA issue, then why have they not released their wartime politburo and prison records on American POWs and MIAs? Why have they not fully disclosed other military records on POWs and MIAs?

We would only be compounding a national tragedy if we normalized relations with Hanoi before you, as Commander in Chief, can tell us Hanoi is being fully forthcoming in accounting for our missing comrades.

Perhaps more than any other group of Americans, we want to put the war behind us. But it must be done in an honorable way. We, therefore, ask you to send a clear message to Hanoi that America expects full cooperation and disclosure on American POWs and MIAs before agreeing to establish diplomatic and special trading privileges with Vietnam.

Sincerely,
John Peter Flynn, Lt Gen, USAF (ret).
Robinson Risner, Brig Gen, USAF (ret).
Sam Johnson, Member of Congress.
Eugene "Red" McDaniel, CAPT, USN (ret).
John A. Alpers, Lt Col, USAF (ret).
William J. Baugh, Col, USAF (ret).
Adkins, C. Speed, MAJ, USA (ret).
F.C. Baldock, CDR, USN (ret).
Carroll Beeler, CAPT, USN (ret).
Terry L. Boyer, Lt Col, USAF (ret).
Cole Black, CAPT, USN (ret).
Paul G. Brown, LtCol, USMC (ret).
David J. Carey, CAPT, USN (ret).
John D. Burns, CAPT, USN (ret).
James V. DiBernado, LtCol, USMC (ret).
F.A.W. Franke, CAPT, USN (ret).
Wayne Goodermote, CAPT, USN (ret).
Jay R. Jensen, Lt Col, USAF (ret).
James M. Hickerson, CAPT, USN (ret).
James F. Young, Col, USAF (ret).
J. Charles Plumb, CAPT, USN (ret).
Larry Friese, CDR, USN (ret).
Julius Jayroe, Col, USAF (ret).
Bruce Seeber, Col, USAF (ret).
Konrad Trautman, Col, USAF (ret).
Lawrence Barbay, Lt Col, USAF (ret).
Ron Bliss, Capt, USAF (ret).
Arthur Burer, Col, USAF (ret).
James O. Hivner, Col, USAF (ret).
Gordon A. Larson, Col, USAF (ret).
Robert Lewis, MSgt, USAF (ret).
James L. Lamar, Col, USAF (ret).
Armand J. Myers, Col, USAF (ret).
Terry Uyeyama, Col, USAF (ret).
Richard D. Vogel, Col, USAF (ret).
Ted Guy, Col, USAF (ret).
Paul E. Galanti, CDR, USN (ret).
Laird Guttersen, Col, USAF (ret).
Lawrence J. Stark, Civ.
Michael D. Benge, Civ.
Marion A. Marshall, Lt Col, USAF (ret).
Richard D. Mullen, CAPT, USN (ret).
Philip E. Smith, Lt Col, USAF (ret).
William Stark, CAPT, USN (ret).
David F. Allwine, MSgt, USAF (ret).
Bob Barrett, Col, USAF (ret).
Jack W. Bomar, Col, USAF (ret).
Larry J. Chesley, Lt Col, USAF (ret).
C.D. Rico, CDR, USN (ret).
Robert L. Stirm, Col, USAF (ret).
Bernard Talley, Col, USAF (ret).
Paul Montague, Civ.
Leo Thorsness, Col, USAF (ret).

Robert Lerseth, CAPT, USN (ret).
Ray A. Vodhen, CAPT, USN (ret).
Richard G. Tangeman, CAPT, USN (ret).
John Pitchford, Col, USAF (ret).
Steven Long, Col, USAF (ret).
Brian Woods, CAPT, USN (ret).
Dale Osborne, CAPT, USN (ret).
Ralph Galati, Maj, USAF (ret).
Ronald M. Lebert, Lt Col, USAF (ret).
Harry T. Jenkins, CAPT, USN (ret).
John C. Ensch, CAPT, USN (ret).
Render Crayton, CAPT, USN (ret).
Henry James Bedinger, CDR, USN (ret).
Brian D. Woods, CAPT, USN (ret).
Read B. Mecleary, CAPT, USN (ret).
Ted Stier, CDR, USN (ret).
James L. Hutton, CAPT, USN (ret).
John H. Wendell, Lt Col, USAF (ret).
John W. Clark, Col, USAF (ret).
Carl B. Crumpler, Col, USAF (ret).
Verlyne W. Daniels, CAPT, USN (ret).
Roger D. Ingvalson, Col, USAF (ret).

THE AMERICAN LEGION,
Washington, DC, September 18, 1997.

Hon. JUDD GREGG,
Chairman, Subcommittee on Commerce, Justice, State, and Judiciary, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: The American Legion urges you and your colleagues to retain in conference the Senate-passed language on the POW/MIA Issue and U.S. relations with Vietnam (Sec. 406) in the Commerce, Justice, State, and Judiciary Appropriations bill for the Fiscal Year beginning October 1, 1997.

As you know, Section 406 states no funds will be made available for U.S. diplomacy with Vietnam, beyond what existed prior to July 11, 1995, until President Clinton certifies to Congress that Vietnam is "fully cooperating" on the POW/MIA issue based on a "formal assessment of all information available to the U.S. Government."

This new certification will be critical in view of the Senate's findings this past April, during the debate that took place during Pete Peterson's confirmation hearing as Ambassador to Vietnam. Most importantly, The President's certification last year was "seriously flawed" and not the result of a careful and thorough analysis of the facts.

Section 406 is vital to letting communist Vietnam know that their full cooperation, which includes unilateral cooperation, in accounting for our missing and captured personnel from the Vietnam War is still a precondition to full normalization of relations.

At The American Legion's 79th National Convention earlier this month, our delegates unanimously reaffirmed our policy that insists on the fullest cooperation before any further favorable actions towards Vietnam be taken.

Again, we urge you in the strongest possible terms, to retain the Senate-passed language on the POW/MIA issue.

Thank you for your continuing cooperation and support.

ANTHONY G. JORDAN,
National Commander.

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mr. SMITH of New Hampshire: I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Madam President, I yield myself 2 minutes.

Senator MCCAIN is chairing a committee; otherwise, he would be here. Senator HAGEL also wanted to speak in favor of my amendment, but he had to go away for a moment. I don't know if he will return in time.

Let me say to colleagues that for the families and for the legitimate concerns of all those groups that want to make sure that this process is working properly, they can look with pride to the fact that we are engaged in the most expensive, most thorough, most effective, most extraordinary and comprehensive effort to provide for the accounting of the missing in the history of human warfare.

No country has ever before, in all of human history, gone to the lengths that we have gone to, to try to account for our missing and our lost in the course of a war. That is what we are doing today. There is, in the current law, a requirement that the President certify that, based upon all information available to the U.S. Government, that Vietnam is fully cooperating in good faith with the United States in resolving discrepancy cases, live sightings, field activities, recovering and repatriating American remains, accelerating efforts to help provide documents that would lead to the fullest possible accounting of prisoners of war and the missing in action, providing further assistance in implementing trilateral investigations with Laos, and recovering all archival eyewitness accounts, and so forth.

That is the current law. What the Senator from New Hampshire seeks to do is place a whole lot of new hoops in, some of which can't be met because the intelligence community itself is divided over it. Then they have a whole new way of arguing, saying that, gee, we are not doing the job. There is even a requirement in his section 405 about a specific document that has to be resolved, the main intelligence directorate and ministry of defense of the Soviet Union document of 1971. This has been analyzed extensively by our intelligence community. Let me just say that document has been found to be in error, inaccurate. And to have us now argue about it is a waste of the time, I think, of the standard.

I reserve the remainder of my time.

Mr. SMITH of New Hampshire. Madam President, with all due respect of my colleague, on that last point, this is a document entitled the Comprehensive Report of the U.S.-Russia Joint Commission on POWs/MIAs, of which Senator John KERRY is a member, and I am, as well as others. In that document, which Senator KERRY signed, is this phrase:

> There is debate within the U.S. side of the commission as to whether the numbers cited in these reports are plausible. The U.S. Government has concluded that there probably is more information in Vietnamese party and military archives that could shed light on these documents. But, to date, such information has not been provided by the Vietnamese government.

That is an absolute statement signed by Senator KERRY, which goes exactly in the opposite direction of what the Senator is trying to do by striking the language. It says simply that the Vietnamese have not provided all of the information. This commission says so and it was signed by the Senator himself. So I do not understand how the Senator can sign one document and come to the floor and try to strike all the language that supports the document that he signed. I think the whole matter is just subject to great criticism in that regard alone.

In addition, I have a letter from Sandy Berger, the President's National Security Adviser, that says, "Vietnam's full faith efforts in cooperating on this issue are essential to the development of the relationship."

We have that in our language. In addition, there is another letter from Mr. Berger, dated April 10, 1997. The previous one was August 15, 1997. The same point: We will continue efforts already underway to require additional information on these documents, the 735 document, including access to this document, and on and on and on—all of these relating directly to the language.

In addition, the Senator from Arizona, who I understand is supporting the Senator from Massachusetts, said on the floor of the Senate on April 10, Madam President:

> I thank [the Senator from New Hampshire] because if it had not been for him, this very important letter from the White House would not have come to our leader signed by Sandy Berger, Assistant to the President for National Security Affairs. It lays out a very important set of priorities for further actions that need to be taken by the United States and by the Vietnamese so that we can finally put this difficult chapter behind us.

That is exactly what we are doing in this language, laying out this series of priorities. It is updating it and laying out the priorities. I urge my colleagues to simply look at 405 and respect the wishes of the families and veterans groups and others, and please keep the language in there for the sake of those people who have suffered so much throughout this process.

I yield the floor.

Mr. KERRY. Madam President, I yield myself the balance of time. My colleagues know there is nobody in the U.S. Senate more committed to finding out what happened than our colleague, Senator JOHN MCCAIN, who spent 6 years-plus of his life in a prison in Vietnam. Senator MCCAIN understands very clearly, as others of us do, that a few years ago, there were 196 individuals on the list of last known alive in Vietnam. In the last few years, because of our efforts, we have determined the fate for all but 43 of those 196. The Defense Department is opposed to the language the Senator from New Hampshire has put in the bill because they say it will set back our effort to get the answers on the other 43. The administration is opposed to it. I believe that, in good conscience, the Senate should be opposed to that language because it will set back our efforts and set back our progress.

Mr. GREGG. Has all time expired?

The PRESIDING OFFICER. Yes.

Mr. GREGG. I move to table the Kerry amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

Mr. GREGG. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Madam President, I move to table the Kerry amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will occur in sequence at a later time. Who seeks recognition?

Mr. GREGG. Madam President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3277, 3278, AND 3279, EN BLOC

Mr. GREGG. Madam President, I send amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Hampshire (Mr. GREGG), for himself and Mr. HOLLINGS, proposes amendments numbered 3277, 3278, and 3279 en bloc.

Mr. GREGG. Madam President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3277

TITLE V—INDEPENDENT AGENCIES

FEDERAL COMMUNICATIONS COMMISSION

On page 105, at the end of line 22, insert the following: "*Provided further*, That any two stations of that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal by November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video provider (including off-air, cable and satellite distribution)."

AMENDMENT NO. 3278

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

AMENDMENT NO. 3279

At the end of the bill insert the following new title:

TITLE—

SECTION 1. SHORT TITLE.

This title may be cited as the "National Whale Conservation Fund Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socioeconomic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SEC. 3. NATIONAL WHALE CONSERVATION FUND.

Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

"(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

"(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

"(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

"(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

"(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

"(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1)—

"(I) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section; or

"(II) any amount (or portion thereof) received by the Secretary as a settlement or award for damages in a civil action or other legal proceeding relating to damage of natural resources.

"(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

"(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

"(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

"(B) most warrant, and are most likely to benefit from, research managment, or educational activities that may be funded with amounts made available from the fund.

"(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.".

Mr. GREGG. Madam President, I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. Is there objection?

If there is no further debate, without objection, the amendments are agreed to en bloc.

The amendments (Nos. 3277, 3278, and 3279), en bloc, were agreed to.

Mr. GREGG. Madam President, I move to reconsider the vote by which the amendments were agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Madam President, to bring our colleagues up to speed, we now are down to four amendments which are still to be debated and on which votes may be ordered. We presently have votes ordered on at least three amendments. We are waiting for our colleagues who have these amendments in order to come to the floor and make their presentations. It looks as if we will begin voting probably in an hour or so, I hope. There will be a sequence of votes that will be at least three long, potentially six.

Madam President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3280

(Purpose: To express the sense of the Senate regarding the impact of Japan's recession on the economies of East and Southeast Asia and the United States)

Mr. LIEBERMAN. Madam President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. Lieberman], for himself, Mr. Thomas, Mr. Graham, Mr. Lugar, Mr. Bingaman, Mr. Mack, Mr. Durbin, Mr. Inhofe, Mr. Kohl, Mr. Reid, Mr. Breaux and Mr. Brownback, proposes an amendment numbered 3280.

Mr. LIEBERMAN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. Smith of New Hampshire). Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6___. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION.

(a) Findings.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will contract by 1.5 percent in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive price pressures on United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.

(11) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States gross domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 11,500,000,000,000 yen in government spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) The American people and the countries of East and Southeast Asia are looking for a demonstration of Japanese leadership and close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking reform, market deregulation, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of the new Prime Minister of Japan and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

Mr. LIEBERMAN. Mr. President, I rise today to offer this bipartisan amendment, a sense-of-the-Senate resolution expressing our concern about the impact of Japan's recession on the economies of East Asia, Southeast Asia and the United States, and particularly appealing to the members—our colleagues and friends—of the Liberal Democratic Party in Japan, which is meeting tomorrow to choose their new president, who will in turn become the next Prime Minister of Japan—to be mindful of the very profound and friendly concern that we have in the U.S. Senate about the condition of the Japanese economy, about its impact on the people of Japan, of Asia, and indeed, of the United States.

I am privileged to offer this bipartisan amendment on behalf of Senators Thomas, Graham, Lugar, Bingaman, Brownback, Durbin, Kohl, Reid, Mack, Breaux and Inhofe.

For almost a half century, the United States has worked with Japan for the common goals of peace, stability, democracy and prosperity in East Asia and the world. However, in the face of the deepening Asian economic crisis, this alliance currently faces what may be its toughest challenge yet.

So far, the United States has survived the Asian crisis relatively unscathed, thanks to our long-lived boom economy. But I fear that good fortune may now be ending. By some estimates, worldwide GDP growth will drop from 3.7 percent this year to 2.4 percent next year. Analysts have attributed plummeting commodity prices to the Asian crisis in this country and throughout the world. A major dropoff in demand for U.S. products in Asia has pushed the trade deficit well beyond expectations to a record $15.75 billion—15 and three-quarters billion—this May. Industrial production in OECD countries like the United States has fallen from 5 percent to 2 percent and is expected to fall further again to 1 percent.

The slide of Asian currencies against the dollar has put serious competitive pressures on our exports and another round of competitive devaluations would have devastating consequences on our industries and our workers.

Unquestionably, Mr. President, if the Asian recession continues, its impact on our economy will worsen and millions of Americans will feel what is happening in Japan and Asia.

This bipartisan resolution emphasizes that the strong recovery of the Japanese economy, which remains by far the largest in Asia, comprising fully two-thirds of the Asian economy, will make or break the region. With every subsequent analysis, the economic picture in Japan darkens.

Japan's financial system has fundamental flaws which have only recently been brought to light, but which most everyone now acknowledges, and the wide scope of their ramifications continues to unsettle and surprise economists. Bad bank loans in Japan account for $574 billion in debt in banks in Japan which claimed to be solvent only recently, a problem which is perpetuated by a weak auditing system. Formal and informal barriers severely restrict free competition, often holding foreign market share in certain sectors down below 5 percent. The yen continues to fall, down 45 percent against the dollar since 1995. Further devaluation of the yen could lead to a devaluation of the Chinese yuan, an event which would have significant ramifications, and bad ones, for the entire global economy, particularly for us in the United States.

All of these factors have led to substantial and understandable dissatisfaction among the Japanese people which they expressed earlier this month, with surprising clarity to many people, in a historic election for the Upper House of Parliament. The ruling Liberal Democratic Party lost 17 of its 61 seats and the primary opposition party, the Democratic Party of Japan, picked up nine members to reach a total of 47 seats in the Upper House. These election results should be taken very seriously in the United States. The situation is bad in Japan, the people of Japan know it, and without change, it will get worse.

It is today axiomatic that we live and work in a global economy. When an economic crisis of this magnitude hits a country as large and significant as Japan, the entire world feels the impact; particularly we feel it. Japan is, after all, our second largest trading partner. Japan imported almost $66 billion of American goods last year. That is more than four times the import of American goods into China, in spite of its much larger population. With 40 percent of American total agricultural product going abroad, the Asian economic crisis is, of course, having a very negative impact on American farmers.

It is no surprise that we are suffering along with East Asia. Without a rally by the Asian economies, American growth will fall off. By all accounts, a stable Japan is the first significant step to a broader Asian recovery.

Mr. President, I do want to indicate to my colleagues and the managers of the bill, I am prepared to yield the floor at any point if anyone wishes to proceed. If the managers have other business they want to do at this time, I am prepared to put the rest of my statement in the RECORD. If not, I will be equally prepared to proceed. I thank the managers, noting the nod from the Democratic floor manager.

Japan has taken steps to address its economic troubles. Economic stimulus packages and structural reform committees have been set in place. However, both the vast extent of the reforms necessary and the current political turnover including the resignation of Prime Minister Hashimoto after the election returns, which I have just described, make it imperative that we in the United States place our full support behind the forces of change, bold change, in Japan, lest they lose momentum.

Swift reform hopefully will be a priority in relations between our two nations. We know, of course, the President has been in touch with the leadership of Japan. Secretary Rubin has done the same.

And it seems only proper, and in some sense is necessary, that the Congress of the United States make clear its broad-based concern for the current economic condition of Japan—and here on the eve of the Liberal Democratic Party elections tomorrow, it is our deep hope, our plea, that change be implemented.

So today, along with the distinguished group of Members of both parties, whose names I mentioned earlier, I am pleased to offer this resolution to express to our President and to the Government of Japan that the Senate of the United States is following Japan's economic performance with increasing anxiety and is very concerned about the pressure that Japan's current economic crisis is putting on our overall bilateral relationship.

While we applaud efforts in Japan in assessing the damage and beginning the reform, we need to maintain a strong position supporting the implementation of those reforms, even though we know they will be painful. The resolution that we submit today cites a number of fundamental reforms crucial to recovery in Japan and Asia, including deregulation of the Japanese economy, liberating the creative, innovative forces that are there, improvement of market access for foreign entities wishing to do business in Japan, enforcement of fair trade, and particularly bold and substantial banking reform.

These are all actions which will increase the competitiveness of the Japanese market and of Japanese companies, providing greater opportunities for foreign investment in Japan and for the success of individual Japanese and foreign entrepreneurs.

Mr. President, a more open and healthy Japanese economy is fundamental to the recovery of the entire Asian region.

Seeing no one else on the floor, Mr. President, I ask unanimous consent for 1 more minute to complete this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

Long into the foreseeable future, Japan will remain one of our most important economic trading partners and strategic allies in the world, sharing our common goals of regional and worldwide prosperity and peace. The importance of our alliance, though, compels us to speak out and place our support behind the most innovative reform efforts in Japan and push for a swift resolution of the economic crisis there.

Earlier this week, the House passed a similar resolution with the overwhelming support of 391 Members—only 2 opposed. Given the urgency of the issue and the value of a unified congressional position, I urge my colleagues to support this bipartisan resolution.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. We yield back all time. Does the Senator wish a vote?

Mr. LIEBERMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the previous order, the amendment is now set aside.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, at this time I ask unanimous consent that we now proceed with the four previously ordered votes, two minutes to debate prior to each vote, and that the three succeeding votes be limited to 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I thank the Chair.

AMENDMENT NO. 3272

The PRESIDING OFFICER. The order of business is the Nickles amendment numbered 3272. There are 2 minutes of debate equally divided.

Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent that all time on the Nickles amendment be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Nickles amendment No. 3272.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—53

Abraham
Allard
Ashcroft
Bennett
Bond
Boxer
Breaux
Burns
Byrd
Campbell
Chafee
Cochran
Conrad
Coverdell
Craig
Domenici
Dorgan
Enzi
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hagel
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thurmond
Warner
Wyden

NAYS—47

Akaka
Baucus
Biden
Bingaman
Brownback
Bryan
Bumpers
Cleland
Coats
Collins
D'Amato
Daschle
DeWine
Dodd
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatch
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mack
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Specter
Thompson
Torricelli
Wellstone

The amendment (No. 3272) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I ask unanimous consent the next vote on the Bingaman amendment, No. 3273, be passed over and put at the end of the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3276

Mr. GREGG. Mr. President, I believe the next vote will be on my motion to table.

The PRESIDING OFFICER. The pending question is now the Kerry amendment, numbered 3276. Under the previous order, there will now be 2 minutes of debate equally divided.

Who yields time?

Mr. KERRY. I yield 30 seconds to the Senator from Arizona.

Mr. McCAIN. Who goes first, proponents or opponents?

The PRESIDING OFFICER. The Senator from Arizona has been given 30 seconds.

Mr. McCAIN. All right. Mr. President, this would prevent the opening of a consulate in South Vietnam. At least once a year, sometimes more often, we have to vote on whether we want to make progress on relations with Vietnam or whether we want to go back to a situation which existed for many years after the war. This would prevent the opening of a consulate in South Vietnam. It would basically prohibit us from being able to make progress on the resolution of the POW/MIA issue, which every objective observer in the Pentagon says has been going along well, and it would, frankly, inhibit our ability to reach a full accounting.

I recommend we vote for the Kerry amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. I yield myself the remainder of the time.

We have the most extensive effort to account for our service people in the history of human warfare, and that effort would be significantly set back by the language the Senator from New Hampshire has put in place because the cooperation of the Vietnamese would be affected by the judgments he asks the President to make.

We keep in place the current law. The current law has worked effectively. Of 196 people we last knew to be alive in Vietnam, we have received information that has told the families of what happened to all but 43 of them. We want the answers for those other 43. The way to do that is by continuing with the current law, not the new language of the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire has 1 minute.

Mr. SMITH of New Hampshire. Mr. President, there is nothing inappropriate at all about continuing the updating of the certification process. The President of the United States still must certify. This does not change that. This does not, as the Senator from Arizona said, close down the consulate at all. It simply says the process, ongoing, is to continue to have the Vietnamese participate fully and cooperate fully with accounting for MIAs. That is all it is.

We have had correspondence from Mr. Berger on this matter. We have had comments from Senator KERRY himself, and Senator McCAIN, on the floor, indicating this is a process that should work—forward. So there is absolutely no reason to oppose it.

I point out, 70 former POWs have supported what I am doing in a letter, as does the American Legion, as does the League of Families, the Alliance of Families, and VVA, and many others.

I think the evidence is there to say this does not interrupt certification and the amendment of the Senator from Massachusetts should be tabled.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to lay on the table amendment No. 3276. The yeas and nays have been ordered.

The Senators are advised this will be a 10-minute vote.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 34, nays 66, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—34

Ashcroft
Bennett
Bond
Brownback
Byrd
Campbell
Collins
Coverdell
Craig
D'Amato
Enzi
Faircloth
Feingold
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Lott
Moseley-Braun
Nickles
Reid
Roberts
Santorum
Sessions
Smith (NH)
Snowe
Thurmond

NAYS—66

Abraham
Akaka
Allard
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Burns
Chafee
Cleland
Coats
Cochran
Conrad
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Feinstein
Ford
Glenn
Gorton
Graham
Hagel
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Reed
Robb
Rockefeller
Roth
Sarbanes
Shelby
Smith (OR)
Specter
Stevens
Thomas
Thompson
Torricelli
Warner
Wellstone
Wyden

The motion to lay on the table the amendment (No. 3276) was rejected.

CHANGE OF VOTE

Mr. COVERDELL. On rollcall vote 231, I voted no. It was my intention to vote yea. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. GREGG. I ask unanimous consent to vitiate the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that the underlying amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3276) was agreed to.

Mr. KERRY. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3280

The PRESIDING OFFICER. The pending question is now the Lieberman amendment No. 3280. Under the previous order, there will be 2 minutes of debate equally divided.

Mr. LIEBERMAN. Mr. President, little more than 24 hours from now, the members of the Liberal Democratic Party will be meeting in Japan to choose their new head, who will in turn become the next Prime Minister of Japan. In that sense, this resolution, which I have been privileged to introduce with a bipartisan group of cosponsors, the principal cosponsor being Senator THOMAS of Wyoming, the chairman of the Asian Subcommittee of Foreign Relations, this resolution could not come at a better time. It recognizes the importance of our bilateral relationship with Japan, perhaps the most important bilateral relationship we have. It notes the economic crisis in Japan and the way in which it is beginning to affect our economy. Commodity prices are dropping; our import-export balance is being affected; our trade deficit is going up.

It appeals to the leadership of our great ally, Japan, as the Liberal Democratic Party meets tomorrow, to not just choose a new leader but to choose a new bold course which will directly address the economic crisis in that country which is now affecting us. I urge a strong bipartisan vote on this as a message to our friends in Japan.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I don't doubt the sincerity of our dear colleague, who is one of our more respected Members, in offering a sense-of-the-Senate resolution that the Japanese ought to promote economic growth. However, I have to say, having been here to almost midnight last night, it makes little sense to me that we are going to have a 100-0—if everybody is here—rollcall vote on this sense-of-the-Senate resolution when nobody is opposed to Japan having economic growth.

I don't know how we are going to pass the appropriations and adjourn and keep the Government running if we are going to continue to do this. It is not just Democrats, it is Republicans as well.

We are for the amendment, but why we have to have a rollcall vote on it, I don't understand.

I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment numbered 3280. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 2, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—2

Kerrey
Wellstone

The amendment (No. 3280) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3273

Mr. GREGG. Mr. President, I ask unanimous consent to vitiate the vote on No. 3273, the Bingaman amendment.

The PRESIDING OFFICER (Mr. INHOFE). Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3273, AS MODIFIED

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from New Mexico, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is modified.

The amendment (No. 3273), as modified, is as follows:

At the appropriate place, insert:

No funds may be used under this Act to process or register any application filed or submitted with the Patent and Trademark Office under the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes," approved July 5, 1946, commonly referred to as the Trademark Act of 1946, as amended, after the date of enactment of this Act for a mark identical to the official tribal insignia of any federally recognized Indian tribe for a period of one year from the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3273), as modified, was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3281

(Purpose: To eliminate the potential for fraud in the investor visa program)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Mr. BUMPERS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. BUMPERS, proposes an amendment numbered 3281.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

SEC. .

(a) Add the following at the end of 8 U.S.C. 1153(b)(5)(C):

(iv) Definition:

(A) As used in this subsection the term "capital" means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a payback period that exceeds 21 months;

(B) Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioner's sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry, prior to approval of conditional lawful permanent resident status.

(b) This section shall not apply to any application filed prior to July 23, 1998.

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3281) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, for the information of our colleagues, we now turn to the Smith amendment. Under the terms of the agreement, there will be 40 minutes of debate on this amendment. I expect we will begin voting on final passage and on the Smith amendment no earlier than 3 o'clock and no later than 3:15.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Is the Chair prepared to receive an amendment?

The PRESIDING OFFICER. We are prepared. Under the previous order, there will be 20 minutes equally divided and then 20 minutes on the second-degree amendment.

Mr. GREGG. Will the Senator from Oregon yield?

Mr. SMITH of Oregon. Yes.

Mr. GREGG. As I understand, there has been an agreement reached between the parties here that there will be 40 minutes of debate equally divided between the Senator from Oregon, who will control half of that time, and the Senator from Massachusetts, who will control half of that time. Is that correct?

Mr. SMITH of Oregon. That is correct.

Mr. GREGG. I ask unanimous consent that be the procedure under which we function.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3258

(Purpose: To establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes)

Mr. SMITH of Oregon. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. SMITH], for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. GORTON, Mr. BUMPERS, Mr. HATCH, Mr. MCCONNELL, Mr. MACK, Mr. KEMPTHORNE, Mr. SANTORUM, Mr. FAIRCLOTH, and Mr. THURMOND, proposes an amendment numbered 3258.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. SMITH of Oregon. Mr. President, I rise today along with Senators WYDEN, CRAIG, GRAHAM of Florida, BUMPERS, GORTON, HATCH, MCCONNELL, MACK, KEMPTHORNE, SANTORUM, FAIRCLOTH, and THURMOND to offer the Agricultural Jobs, Opportunity, Benefits and Security Act of 1999, also known as AgJOBS. Our bill will create a streamlined guest worker program to allow a reliable supply of legal, temporary, agricultural workers.

Why is this necessary? Currently, in this country, we have a process for guest workers that is terribly broken. The H-2A program, if I could show you graphically, has a 6-page application for each worker, with 325 pages of instructions as to how to fill it out. As a consequence, all of the foreign workers who are in this country are here either illegally or having been grandfathered in through earlier amnesties.

It is estimated by the GAO that 40 percent of those who are here are illegal. As a consequence of that, the GAO has said there is not a farm labor supply problem because we have all these illegal aliens here. I am simply saying, and I am doing it on a bipartisan basis, we owe this country something better than a system that relies upon illegal immigration. We ought to give these foreign workers the dignity of being here under law, with some basic human standards and some benefits to which they ought to be entitled when they are here. It is for that reason that Senator WYDEN and I have approached the farm community and asked them to give as much as they can, to help economically to fix this program. I believe they have responded. It is for that reason there are so many Republicans and Democrats on this bill.

I know there are still some misgivings. I know my friend from Massachusetts has misgivings; the Senators from California do. But what we want to do is get this bill to a conference committee with some place markers so we can provide a forum where this can be further refined. Let me tell you the kinds of features Senator WYDEN and I share in a common desire to ultimately change American law in a very fundamental way in order to avoid a very large crisis for consumers, for farm employers, and for farm workers.

We are proposing in this bill the establishment of a national registry which will replace the current system that so few are able to use, even if they could afford to use it. This is going to be a registry for domestic workers only, in a way that will allow farmers to know where they can go for workers and where they can have legal status. In exchange for this, there will be added to the current system—we are going to preserve all the basic rights that are guaranteed; all the labor guarantees that are there will remain there. We are going to have a prevailing wage rate, something that reflects a level that the agricultural community can afford, and also one that gives probably in excess of 1.5 million farm workers a pay raise. We are not talking about the minimum wage, we are talking about a prevailing wage plus 5 percent.

In addition to that, we are talking about a transportation allowance and a housing allowance. These are things that we owe those who come here to this country to do agricultural work. These are things which my friends on the left have been asking for, for a long, long time. I am here to say the time is now to say yes. We are saying yes to that. We are doing it on a basis, though, that recognizes the economics of the farmer also, because the truth is, most of the agricultural employers in this country are not big corporate farms, they are mom and pop who are trying to make a bottom line. They do not even control, in most cases, the price that they get for their commodities.

We believe—Senator WYDEN and I and Senator GRAHAM of Florida, who has been so helpful on this, and others on the Democrat side—that we have found the middle ground here that wins for consumers but, more important, wins for agricultural workers and also for farmers.

With that, I yield time to my colleague from Oregon, whose help I appreciate very much, Senator WYDEN.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I hope this amendment is just the beginning of the debate on agricultural labor. But I believe that the legislation before the Senate is based on three principles that can last well into the 21st century and be in the interests of both farm workers and farm employers.

The first principle on which this amendment is based is that the U.S. worker must come first—that U.S. workers, for example, when they participate in the registry, will have the right of first refusal to any available farm job in our country, and that the Federal Government is required to notify those workers about available positions.

Second, this amendment brings before the Senate specific changes proposed over the years by the Farm Worker Justice Fund to improve working conditions for the farm workers in our country.

Third, it will replace the current dysfunctional system for administering this program with one that is modern and is based on the use of computer technology.

At every step along the way, this package tries to address specific concerns raised by worker advocates, as well as those advocating for the growers. My colleague, Senator SMITH, talked about the registry. If a U.S. worker participates in the registry, that worker is entitled to benefits that U.S. workers are not entitled to today, such as housing and transportation. And the registry also seeks to address the concerns of growers, specifically, by saying that when a grower utilizes this registry, the grower can then be certain that there is a presumption that their workers are legal.

The last point I would like to raise, because I know many of my colleagues want to speak and have important questions, deals with exactly the number of people involved in farm labor in our country. This is the centerpiece of the question. We have heard a lot of talk on the floor of the Senate about a guest worker program. There are very few legal guest workers. There are 1.6 million farm workers in our country and perhaps 25,000 guest workers who are here legally under the current program. The 1.6 million farm workers, who work on those farms, have virtually no legal entitlements other than to the minimum wage. So what this legislation does is it potentially extends basic worker protections to a far greater share of that 1.6 million pool of workers, save 25,000. It will create a circumstance in which hundreds of thousands more farm workers get access to housing and transportation and other benefits that they do not have today.

I know this is a new concept, but it is an important one because what this amendment seeks to do is to change the nature of the system so we can make sure the bulk of our workers are legal in America. The General Accounting Office made the judgment that there was no shortage of workers in America, but they concluded that way because they counted illegal workers. Right now, any grower can tell you that their workers may appear to be legal, but that the Social Security Administration often rejects more than half of the Social Security numbers filed. So what we have is a situation with growers caught between being penalized because they cannot find legal workers or being felons because their workers are not legal.

I believe workers deserve better and growers deserve better. That is what this amendment does. I appreciate Senator SMITH giving me this time from the allotment that he has.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I join with my colleagues from Oregon, both of my colleagues from Oregon, and certainly the Senator from Florida, who have worked with us to craft the legislation that is now before you.

For several years, I have tried to deal with the H-2A problem, only to be unsuccessful. I must tell you, Mr. President, I have watched the problem grow across America in a most inhumane way because the workforce is needed and the workers come. They come across our borders illegally, they are subjected to inhumane environments, in many instances, and, as a result, a great problem has grown, not only for a workforce seeking work, but also for the individual or individuals who provide the work, American agriculture. We have here a rare opportunity. It is an opportunity to fix a problem before it truly becomes a crisis on both sides. And in fixing that problem, my colleagues from Oregon and Florida, and myself involved, have attempted to approach it in a very commonsense way. That is to avoid the conflicts for millions of Americans, and recognizes, as Senator WYDEN just said, that the American worker should come first, but in a state of near full employment where the unemployable, or those who choose not to work, are the only ones remaining. Clearly, we are at a point of crisis, and we must offer that opportunity to farm labor, to those who are willing to, and under a condition now that I think is much more presentable.

Growers want and need a stable and predictable workforce, a legal workforce. They don't like playing around the edges of illegality. Let us make this workforce legal under the conditions that have been spelled out in this legislation. I think that provides a good, fair, market-based compensation. Prevailing wage is the wage issue here, and that is as it should be.

Unemployed workers, and those hoping to move from welfare to work, want and need to be matched up with decent jobs. That is what our society ought to be directed toward. American citizens should have first claim, as I said, to American jobs, but all workers would rather be working legally and hope for protection of basic labor standards.

These goals are not always met. In fact, current Federal law and its bureaucratic implementation are hurting growers and workers which have created a system that has created a monstrous bureaucracy. The Senator from Oregon talks of the multitude of pages necessary and in an attempt to determine who is and who isn't legal, of course, the employer oftentimes being held liable.

This is why I am pleased I can join with my colleagues in proposing what I think is phenomenally constructive reform in the H-2A Agricultural Guest Worker Program. Failure to fix or replace this program means the Federal Government is completely ignoring the needs of a significantly changed agricultural labor market.

Many employers who meet legal standards of diligence when they hire a worker really have no idea if the next raid by the Immigration and Naturalization Service will scare off their workforce and their crops will rot in the field. That is not an exaggeration. Just a few weeks ago that happened in the State of Georgia, just to our south: One county, a raid; the rest of the county was cleared out of a workforce which left crops rotting in the fields. It is an issue in Georgia, in Florida, in Idaho, in Oregon, in New York, in Kentucky—all over the country where this particular type of work force is necessary.

California growers and local officials have made a real effort to address this shortfall with welfare-to-work efforts—which does not appear to be helping.

The GAO study that has helped prompt the kind of urgency that the Senators from Oregon spoke to estimated that as many as 600,000 farm workers, or 37 percent of the 1.6 million, are not legally authorized to work in the United States—600,000. That is a problem, a very big problem, a problem created by laws and by a Department of Labor, and I am pleased that they have worked with us to resolve this issue.

As workers disappear from U.S. fields—and crops stay there, instead of moving to stores and consumers—U.S. food will be replaced by foreign imported food.

This means a mainstay in our economy—the U.S. agriculture industry—is threatened with a major breakdown. And our families are threatened with an increased risk to their health and safety because of food-borne diseases.

Also, the current H-2A program has been a red-tape nightmare. Even when growers meet all deadlines, GAO found that DOL misses its statutory deadlines 40 percent of the time.

The current H-2A program has been completely ineffective as a means of obtaining temporary and seasonal workers—supplying only about 24,000 out of 1.6 million farm workers.

In the 1996 Immigration Law, and in appropriations over recent years, Congress has made it a priority to secure our borders and crack down on illegal immigration.

What is needed is a bipartisan effort to reform the current H-2A system, having the following components:

Creation of a new, voluntary national registry of migrant farmworkers to which growers can turn for workers they know are legal.

If enough domestic workers cannot be supplied through the registry, growers could apply for legal guest workers through an expedited, reformed H-2A program.

The new program would resemble current H-2A, but it would have faster turnaround, less red tape, and greater certainty for employers.

It would also have continued protection for workers, and greater flexibility for employers, related to conditions of employment, such as housing, transportation, and market-based wages.

I invite my colleagues to support me in this important endeavor.

Mr. President, again, I appreciate the bipartisan work that has gone into this initiative and that we were able to bring it promptly to the floor. I hope there is a strong majority, a bipartisan vote in the Senate to move it to conference.

I yield the floor.

Mr. KENNEDY. Mr. President, I see my friend and colleague from California. How much time does she need?

Mrs. BOXER. Sixty seconds.

Mr. KENNEDY. I yield a minute to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President. I rise today to say that what we have in front of us is a major rewrite of the Guest Worker Program. This particular proposal has had no hearings.

I have talked with my colleagues, of whom I am very fond, on both sides of the issue, and I am getting different responses. One says it will vastly increase illegal immigration; the other says it will control it.

One says it will depress agricultural workers' wages; and the other one says, no, it is going to get better.

One says it will take away housing from farm workers; the other says it will get better.

What is the impact on American workers? We don't know. I say to my good friends on both sides, something like this ought not be rushed away. I have 60 seconds to talk. My colleague from California, who has been a leader on this issue, is going to have 4 minutes or 5 minutes. This is wrong. We really ought to do this in the right way: send it to the committee and have a full hearing.

I yield back my time to my colleague. I thank him.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I request up to 10 minutes of time from the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon has 3½ minutes remaining.

Mr. SMITH of Oregon. I have been informed by the managers of the bill that we have now available on both sides until 3 o'clock. Senator KENNEDY and I have agreed we will split it evenly. I believe there is more time.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KENNEDY. Reserving the right to object, and I will not. As I understand it, what we were going to do is divide the total time evenly, from the time the amendment was laid down until the time of the vote; am I correct?

Mr. SMITH of Oregon. The Senator is correct.

The PRESIDING OFFICER. That is correct. We are treating it as a unanimous consent request, and there is no objection.

Mr. SMITH of Oregon. Mr. President, before Senator GRAHAM speaks, I ask unanimous consent that the amendment that we intended to send actually be sent, and that the amendment we will be voting on will be the one with the changes which we all understand are there.

The PRESIDING OFFICER. The Senate will be properly informed. There are an extra 5 minutes to each side. The Senator from Oregon has 8 minutes 39 seconds remaining. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, the current system is broken. Let me just give a few examples of that collapse. According to the General Accounting Office report issued the end of 1997, there were 600,000 illegal agricultural workers in the United States—600,000. In my State of Florida, a major agricultural production State, in 1997 the number of H–2A visas, the visas that would create a legal status for an alien agricultural worker, were four; not 400 or 4,000, but four.

Third, the American worker is disadvantaged under the current system. As an example, if an American agricultural worker is employed by an American farmer, the American farmer must pay Social Security and other employment taxes on the wages earned by that American farm worker. But if the American farmer employs a non-U.S. farm worker, those taxes do not have to be collected and, thus, there is an incentive to employ the foreign worker before employing the American worker.

Farmers are in a sea of complexity. There is a process under the current law in which a farmer can make an application for an H–2A worker. Supposedly, that application is to be processed within 20 days. In 1996, more than one-third of the applications failed to meet that 20-day processing period, and so the farmer was not able to get a signal as to whether his request for legal foreign workers would be met.

This fails the foreign worker. It fails the foreign workers by forcing most of them into an illegal status where they lack the respect and protection that a legal program would provide.

If I could give one example: In August of 1992, after Hurricane Andrew hit south Dade County, FL—a major agricultural production area—there was concern about a public health epidemic and therefore there was the desire to have people immunized against a variety of potential diseases.

The public health officials found it extremely difficult to get the agricultural workers to come forward to be immunized for their own protection and the protection of the general public because they knew they were illegal and were afraid that, by presenting themselves for an immunization shot, they would be making themselves subject to deportation. That is the kind of fear and terror in which we have over 600,000 human beings in the United States, who are harvesting our food, live on a daily basis.

Finally, the current system fails the American consumer. We have the opportunity in this country and have had historically access to the best food produced under the most sanitary conditions and the most affordable food in the world. But if we have many more instances, as the Senator from Idaho talked about occurred recently in Georgia, where a major crop rots on the field because of the inability to secure a legal workforce, we will be denying the American consumer what we have traditionally assumed is an American birthright.

Mr. President, the current system is broken. The Senator from Oregon and others, who have joined together in this bipartisan effort, have attempted to understand what those problems are that contributed to the brokenness of the current system and to present a series of prescriptions to correct that.

We look forward to working with our colleagues in a process of refining the proposal that we have made, but we believe this represents a significant step forward in terms of protecting the rights of American workers, of creating a legal workforce for the American farmer, and particularly the interest of the American consumer.

Thank you.

AMENDMENT NO. 3258, AS MODIFIED

Mr. SMITH of Oregon. Mr. President, I could not hear the rule on my unanimous consent request. And I send a modified amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Just reserving the right to—is that the modification that we talked about before?

Mr. SMITH of Oregon. It is, I say to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment (No. 3258), as modified, follows:

At the appropriate place, insert the following new title:

TITLE ____—TEMPORARY AGRICULTURAL WORKERS

SEC. ____01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Job Opportunity Benefits and Security Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. ____01. Short title; table of contents.
Sec. ____02. Definitions.
Sec. ____03. Agricultural worker registries.
Sec. ____04. Employer applications and assurances.
Sec. ____05. Search of registry.
Sec. ____06. Issuance of visas and admission of aliens.
Sec. ____07. Employment requirements.

Sec. ___08. Enforcement and penalties.
Sec. ___09. Alternative program for the admission of temporary H–2A workers.
Sec. ___10. Inclusion in employment-based immigration preference allocation.
Sec. ___11. Migrant and seasonal Head Start program.
Sec. ___12. Regulations.
Sec. ___13. Funding from Wagner-Peyser Act.
Sec. ___14. Report to Congress.
Sec. ___15. Effective date.

SEC. ___02. DEFINITIONS.

In this title:

(1) Adverse effect wage rate.—The term "adverse effect wage rate" means the rate of pay for an agricultural occupation that is 5-percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the average hourly equivalent of the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture. No adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(2) Agricultural employment.—The term "agricultural employment" means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(3) Eligible.—The term "eligible" as used with respect to workers or individuals, means individuals authorized to be employed in the United States as provided for in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1188).

(4) Employer.—The term "employer" means any person or entity, including any independent contractor and any agricultural association, that employs workers.

(5) Job opportunity.—The term "job opportunity" means a specific period of employment for a worker in one or more specified agricultural activities.

(6) Prevailing wage.—The term "prevailing wage" means with respect to an agricultural activity in an area of intended employment, the rate of wages that includes the 51st percentile of employees in that agricultural activity in the area of intended employment, expressed in terms of the prevailing method of pay for the agricultural activity in the area of intended employment.

(7) Registered worker.—The term "registered worker" means an individual whose name appears in a registry.

(8) Registry.—The term "registry" means an agricultural worker registry established under section ___03(a).

(9) Secretary.—The term "Secretary" means the Secretary of Labor.

(10) United states worker.—The term "United States worker" means any worker, whether a United States citizen, a United States national, or an alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or 218 of the Immigration and Nationality Act, as in effect on the effective date of this title.

SEC. ___03. AGRICULTURAL WORKER REGISTRIES.

(a) Establishment of Registries.—

(1) In general.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities;

(B) to maximize the work period for eligible United States workers; and

(C) to provide timely referral of such workers to temporary and seasonal agricultural job opportunities in the United States.

(2) Coverage.—

(A) Single state or group of states.—Each registry established under paragraph (1) shall include the job opportunities in a single State, or a group of contiguous States that traditionally share a common pool of seasonal agricultural workers.

(B) Requests for inclusion.—Each State requesting inclusion in a registry, or having any group of agricultural producers seeking to utilize the registry, shall be represented by a ,registry or by a registry of contiguous States.

(b) Registration.—

(1) In general.—An eligible individual who seeks employment in temporary or seasonal agricultural work may apply to be included in the registry for the State or States in which the individual seeks employment. Such application shall include—

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the registry or registries on which the individual desires to be included;

(D) the specific qualifications and work experience possessed by the applicant;

(E) the type or types of temporary or seasonal agricultural work the applicant is willing to perform;

(F) such other information as the applicant wishes to be taken into account in referring the applicant to temporary or seasonal agricultural job opportunities; and

(G) such other information as may be required by the Secretary.

(2) Validation of employment authorization.—No person may be included on any registry unless the Attorney General has certified to the Secretary of Labor that the person is authorized to be employed in the United States.

(3) Workers referred to job opportunities.—The name of each registered worker who is referred and accepts employment with an employer pursuant to section ___05 shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred pursuant to section ___05.

(4) Removal of names from a registry.—The Secretary shall remove from all registries the name of any registered worker who, on 3 separate occasions within a 3-month period, is referred to a job opportunity pursuant to this section, and who declines such referral or fails to report to work in a timely manner.

(5) Voluntary removal.—A registered worker may request that the worker's name be removed from a registry or from all registries.

(6) Removal by expiration.—The application of a registered worker shall expire, and the Secretary shall remove the name of such worker from all registries if the worker has not accepted a job opportunity pursuant to this section within the preceding 12-month period.

(7) Reinstatement.—A worker whose name is removed from a registry pursuant to paragraph (4), (5), or (6) may apply to the Secretary for reinstatement to such registry at any time.

(c) Confidentiality of Registries.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this title.

(d) Advertising of Registries.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

SEC. ___04. EMPLOYER APPLICATIONS AND ASSURANCES.

(a) Applications to the Secretary.—

(1) In general.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a United States worker through a search of the appropriate registry, in accordance with section ___05. Such application shall—

(A) describe the nature and location of the work to be performed;

(B) list the anticipated period (expected beginning and ending dates) for which workers will be needed;

(C) indicate the number of job opportunities in which the employer seeks to employ workers from the registry;

(D) describe the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question;

(E) describe the wages and other terms and conditions of employment the employer will offer, which shall not be less (and are not required to be more) than those required by this section;

(F) contain the assurances required by subsection (c); and

(G) specify the foreign country or region thereof from which alien workers should be admitted in the case of a failure to refer United States workers under this title.

(2) Applications by associations on behalf of employer members.—

(A) In general.—An agricultural association may file an application under paragraph (1) for registered workers on behalf of its employer members.

(B) Employers.—An application under subparagraph (A) shall cover those employer members of the association that the association certifies in its application have agreed in writing to comply with the requirements of this title.

(b) Amendment of Applications.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer amends an application on a date which is later than 21 days prior to the date on which the workers on the amended application are sought to be employed, the Secretary may delay issuance of the report described in section 05(b) by the number of days by which the filing of the amended application is later than 21 days before the date on which the employer desires to employ workers.

(c) Assurances.—The assurances referred to in subsection (a)(1)(F) are the following:

(1) Assurance that the job opportunity is not a result of a labor dispute.—The employer shall assure that the job opportunity for which the employer requests a registered worker is not vacant because a worker is involved in a strike, lockout, or work stoppage in the course of a labor dispute involving the job opportunity at the place of employment.

(2) Assurance that the job opportunity is temporary or seasonal.—

(A) Required assurance.—The employer shall assure that the job opportunity for which the employer requests a registered worker is temporary or seasonal.

(B) Seasonal basis.—For purposes of this title, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(C) Temporary basis.—For purposes of this title, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

(3) Assurance of provision of required wages and benefits.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section 07 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

(4) Assurance of employment.—The employer shall assure that the employer will refuse to employ individuals referred under section 05, or terminate individuals employed pursuant to this title, only for lawful job-related reasons, including lack of work.

(5) Assurance of compliance with labor laws.—

(A) In general.—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) Limitations.—The disclosure required under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(6) Assurance of advertising of the registry.—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) Assurance of contacting former workers.—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for registered workers, and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous worker, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(8) Assurance of provision of workers compensation.—The employer shall assure that if the job opportunity is not covered by the State workers' compensation law, that the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(d) Withdrawal of Applications.—

(1) In general.—An employer may withdraw an application under subsection (a), except that, if the employer is an agricultural association, the association may withdraw an application under subsection (a) with respect to one or more of its members. To withdraw an application, the employer shall notify the Secretary in writing, and the Secretary shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) Limitation.—An application may not be withdrawn while any alien provided status under this title pursuant to such application is employed by the employer.

(3) Obligations under other statutes.—Any obligation incurred by an employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) Review of Application.—

(1) In general.—Promptly upon receipt of an application by an employer under subsection (a), the Secretary shall review the application for compliance with the requirements of such subsection.

(2) Approval of applications.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section 08(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

(3) Rejection of applications.—If the Secretary determines that an application fails to meet 1 or more of the requirements of subsection (a), the Secretary, as expeditiously as possible, but in no case later than 7 days after the receipt of such application, shall—

(A) notify the employer of the rejection of the application and the reasons for such rejection, and provide the opportunity for the prompt resubmission of an amended application; and

(B) offer the applicant an opportunity to request an expedited administrative review or a de novo administrative hearing before an administrative law judge of the rejection of the application.

(4) Rejection for program violations.—The Secretary shall reject the application of an employer under this section if the employer has been determined to be ineligible to employ workers under section 08(b) or subsection (b)(2) of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

SEC. 05. SEARCH OF REGISTRY.

(a) Search Process and Referral to the Employer.—Upon the approval of an application under section 04(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered workers with the qualifications requested by the employer. The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will commit to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

(b) Deadline for Completing Search Process; Referral of Workers.—As expeditiously as possible, but not later than 7 days before the date on which an employer desires work to begin, the Secretary shall complete the search under subsection (a) and shall transmit to the employer a report containing the name, address, and social security account number of each registered worker who has committed to work for the employer on the date needed, together with sufficient information to enable the employer to establish contact with the worker. The identification of such registered workers in a report shall constitute a referral of workers under this section.

(c) Notice of Insufficient Workers.—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section 04(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

SEC. 06. ISSUANCE OF VISAS AND ADMISSION OF ALIENS.

(a) In General.—

(1) Number of admissions.—The Secretary of State shall promptly issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section 05(c);

(B) upon receipt of an application (or copy of an application under subsection (b));

(C) upon receipt of the report required by subsection (c)(1)(B); or

(D) upon receipt of a report under subsection (d).

(2) Procedures.—The admission of aliens under paragraph (1) shall be subject to the procedures of section 218A of the Immigration and Nationality Act, as added by this title.

(3) Agricultural associations.—Aliens admitted pursuant to a report described in paragraph (1) may be employed by any member of the agricultural association that has made the certification required by section 04(a)(2)(B).

(b) Direct Application Upon Failure To Act.—

(1) Application to the Secretary of State.—If the employer has not received a

referral of sufficient workers pursuant to section ___05(b) or a report of insufficient workers pursuant to section ___05(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section ___04(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) EXPEDITED CONSIDERATION BY SECRETARY OF STATE.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) REDETERMINATION OF NEED.—

(1) REQUESTS FOR REDETERMINATION.—

(A) IN GENERAL.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) ADDITIONAL AUTHORIZATION OF ADMISSIONS.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) JOB-RELATED REQUIREMENTS.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) EMERGENCY APPLICATIONS.—Notwithstanding subsections (b) and (c), the Secretary may promptly transmit a report to the Attorney General and Secretary of State providing notice of a need for workers under this subsection for an employer—

(1) who has not employed aliens under this title in the occupation in question in the prior year's agricultural season;

(2) who faces an unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot refer able, willing, and qualified workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) REGULATIONS.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

SEC. ___07. EMPLOYMENT REQUIREMENTS.

(a) REQUIRED WAGES.—

(1) IN GENERAL.—An employer applying under section ___04(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate.

(2) PAYMENT OF PREVAILING WAGE DETERMINED BY A STATE EMPLOYMENT SECURITY AGENCY SUFFICIENT.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1) based upon such a determination, such payment shall be considered sufficient to meet the requirement of paragraph (1).

(3) RELIANCE ON WAGE SURVEY.—In lieu of the procedure of paragraph (2), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary.

(4) ALTERNATIVE METHODS OF PAYMENT PERMITTED.—

(A) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

(B) COMPLIANCE WHEN PAYING AN INCENTIVE RATE.—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(C) TASK RATE.—For purposes of this paragraph, the term "task rate" means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(D) GROUP RATE.—For purposes of this paragraph, the term "group rate" means an incentive payment method in which the payment is shared among a group of workers working together to perform the task.

(b) REQUIREMENT TO PROVIDE HOUSING.—

(1) IN GENERAL.—An employer applying under section ___04(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal commuting distance.

(2) TYPE OF HOUSING.—In complying with paragraph (1), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or, in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation.

(3) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(4) LIMITATION.—Nothing in this subsection shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(5) CHARGES FOR HOUSING.—

(A) UTILITIES AND MAINTENANCE.—An employer who provides housing to a worker pursuant to paragraph (1) may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for maintenance and utilities, or such lesser amount as permitted by law.

(B) SECURITY DEPOSIT.—An employer who provides housing to workers pursuant to paragraph (1) may require, as a condition for providing such housing, a deposit not to exceed $50 from workers occupying such housing to protect against gross negligence or willful destruction of property.

(C) DAMAGES.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(6) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), subject to subparagraphs (B) through (D), the employer may on a case-by-case basis provide a reasonable housing allowance. An employer who offers a housing allowance to a worker pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) LIMITATION.—At any time after the date that is 3 years after the effective date of this title, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(C) EFFECT OF CERTIFICATION.—If the governor of the State makes the certification of insufficient housing described in subparagraph (A) with respect to an area of employment, employers of workers in that area of employment may not offer the housing allowance described in subparagraph (A) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to subparagraph (B).

(D) AMOUNT OF ALLOWANCE.—The amount of a housing allowance under this paragraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(c) Reimbursement of Transportation.—

(1) To place of employment.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section ___05(a).

(2) From place of employment.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes the period of employment for the job opportunity involved, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the place of employment to the worker's permanent place of residence.

(3) Limitation.—

(A) Amount of reimbursement.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) the most economical and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) Distance traveled.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(d) Continuing Obligation To Employ United States Workers.—

(1) In general.—An employer that applies for registered workers under section ___04(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who are referred under section ___05(b) after the employer receives the report described in section ___05(b).

(2) Limitation.—An employer shall not be obligated to comply with paragraph (1)—

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section ___04(a) has elapsed; or

(B) during any period in which the employer is employing no aliens in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for job opportunities in the occupation and area of intended employment to which the worker has been referred, or other occupations in the area of intended employment for which the worker is qualified that offer substantially similar terms and conditions of employment.

(3) Limitation on requirement to provide housing.—Notwithstanding any other provision of this title, an employer to whom a registered worker is referred pursuant to paragraph (1) may provide a reasonable housing allowance to such referred worker in lieu of providing housing if the employer does not have sufficient housing to accommodate the referred worker and all other workers for whom the employer is providing housing or has committed to provide housing.

(4) Referral of workers during 50-percent period.—The Secretary shall make all reasonable efforts to place a registered worker in an open job acceptable to the worker, including available jobs not listed on the registry, before referring such worker to an employer for a job opportunity already filled by, or committed to, an alien admitted pursuant to this title.

SEC. ___08. ENFORCEMENT AND PENALTIES.

(a) Enforcement Authority.—

(1) Investigation of complaints.—

(A) In general.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section ___04 or an employer's misrepresentation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) Statutory construction.—Nothing in this title limits the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers or, in the absence of a complaint under this paragraph, under this title.

(2) Written notice of finding and opportunity for appeal.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subsection (b) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

(b) Remedies.—

(1) Back wages.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) Failure to pay wages.—Upon a final determination that the employer has failed to pay the wages required under this title, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) Other violations.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section ___04(a) has—

(A) filed an application that misrepresents a material fact; or

(B) failed to meet a condition specified in section ___04,

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation and may recommend to the Attorney General the disqualification of the employer for substantial violations in the employment of any United States workers or aliens described in section 101(a)(15)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year. In determining the amount of civil money penalty to be assessed or whether to recommend disqualification of the employer, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

(4) Program disqualification.—

(A) 3 years for second violation.—Upon a second final determination that an employer has failed to pay the wages required under this title or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of 3 years.

(B) Permanent for third violation.—Upon a third final determination that an employer has failed to pay the wages required under this section or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General, and the Attorney General shall disqualify the employer from any subsequent employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(c) Role of Associations.—

(1) Violation by a member of an association.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of this title, as though the employer had filed the application itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

(2) Violation by an association acting as an employer.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this title.

SEC. ___09. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H-2A WORKERS.

(a) Amendments to the Immigration and Nationality Act.—

(1) ELECTION OF PROCEDURES.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking "(c)(1) The" and inserting "(c)(1)(A) Except as provided in subparagraph (B), the"; and

(C) by adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a), the importing employer may elect to import the alien under the procedures of section 218 or section 218A, except that any employer that applies for registered workers under section ____04(a) of the Agricultural Job Opportunity Benefits and Security Act of 1998 shall import nonimmigrants described in section 101(a)(15)(H)(ii)(a) only in accordance with section 218A. For purposes of subparagraph (A), with respect to the importing of nonimmigrants under section 218, the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture.".

(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

"ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS

"SEC. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

"(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

"(A) CRITERIA FOR ADMISSIBILITY.—

"(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section ____06 of the Agricultural Job Opportunity Benefits and Security Act of 1998, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

"(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or being provided status under this section if the alien has, at any time during the past 5 years—

"(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

"(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

"(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

"(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

"(C) ABANDONMENT OF EMPLOYMENT.—

"(i) IN GENERAL.—An alien admitted or provided status under this section who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section ____06 of the Agricultural Job Opportunity Benefits and Security Act of 1998 by the employer who prematurely abandons the alien's employment.

"(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

"(i) IN GENERAL.—The Attorney General shall cause to be issued to each alien admitted under this section a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

"(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

"(I) specify the date of the alien's acquisition of status under this section;

"(II) specify the expiration date of the alien's work authorization; and

"(III) specify the alien's admission number or alien file number.

"(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

"(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section ____06(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section ____06 of the Agricultural Job Opportunity Benefits and Security Act of 1998.

"(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien's last admission to the United States under this section, whichever occurs first.

"(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States. Upon approval of an application for an extension of stay or change in the alien's authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application.

"(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien's authorized employment, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

"(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(a) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

"(b) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, then the Attorney General shall so report to Congress and make recommendations on appropriate courses of action."

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking "specified in this paragraph" and inserting "specified in this subparagraph (other than in clause (ii)(a))".

(c) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

"Sec. 218A. Alternative program for the admission of H–2A workers.".

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218 of the Immigration and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218.

(B) The table of contents of that Act is amended by striking the item relating to section 218A.

(C) The section heading for section 218 of that Act is amended by striking "ALTERNATIVE PROGRAM FOR".

(3) TERMINATION OF EMPLOYER ELECTION.—Section 214(c)(1)(B) of the Immigration and Nationality Act is amended to read as follows:

"(B) Notwithstanding subparagraph (A), the procedures of section 218 shall apply to the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a).".

(4) MAINTENANCE OF CERTAIN SECTION 218 PROVISIONS.—Section 218 (as redesignated by paragraph (2) of this subsection) is amended by adding at the end the following:

"(d) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.".

(5) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this title.

SEC. 10. INCLUSION IN EMPLOYMENT-BASED IMMIGRATION PREFERENCE ALLOCATION.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following:

"(iii) AGRICULTURAL WORKERS.—Qualified immigrants who have completed at least 6 months of work in the United States in each of 4 consecutive calendar years under section 101(a)(15)(H)(ii)(a), and have complied with all terms and conditions applicable to that section.".

(b) CONFORMING AMENDMENT.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(iv)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to aliens described in section 101(a)(15)(H)(ii)(a) admitted to the United States before, on, or after the effective date of this title.

SEC. 11. MIGRANT AND SEASONAL HEAD START PROGRAM.

(a) IN GENERAL.—Section 637(12) of the Head Start Act (42 U.S.C. 9832(12)) is amended—

(1) by inserting "and seasonal" after "migrant"; and

(2) by inserting before the period the following: ", or families whose incomes or labor is primarily dedicated to performing seasonal agricultural labor for hire but whose places of residency have not changed to another geographic location in the preceding 2-year period".

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2), strike "13" and insert "14";

(2) in paragraph (2)(A), by striking "1994" and inserting "1998"; and

(3) by adding at the end the following new paragraph:

"(8) In determining the need for migrant and seasonal Head Start programs and services, the Secretary shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.".

SEC. 12. REGULATIONS.

(a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Secretary of Agriculture on all regulations to implement the duties of the Attorney General under this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this title.

SEC. 13. FUNDING.

If additional funds are necessary to pay the start-up costs of the registries established under section 03(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.). Except as provided for by subsequent appropriation, additional expenses incurred for administration by the Attorney General, the Secretary of Labor, and Secretary of State shall be paid for out of appropriations otherwise.

SEC. 14. REPORT TO CONGRESS.

Not later than 3 years after the date of enactment of this Act and 5 years after the date of enactment of this Act, the Attorney General and the Secretaries of Agriculture and Labor shall jointly prepare and transmit to Congress a report describing the results of a review of the implementation of and compliance with this title. The report shall address—

(1) whether the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed by employers;

(2) whether the program has ensured that aliens admitted under this program are employed only in authorized employment, and that they timely depart the United States when their authorized stay ends;

(3) whether the program has ensured that participating employers comply with the requirements of the program with respect to the employment of United States workers and aliens admitted under this program;

(4) whether the program has ensured that aliens admitted under this program are not displacing eligible, qualified United States workers or diminishing the wages and other terms and conditions of employment of eligible United States workers;

(5) whether the housing provisions of this program ensure that adequate housing is available to workers employed under this program who are required to be provided housing or a housing allowance; and

(6) recommendations for improving the operation of the program for the benefit of participating employers, eligible United States workers, participating aliens, and governmental agencies involved in administering the program.

SEC. 15. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this title.

Mr. SMITH of Oregon. How much time is remaining?

The PRESIDING OFFICER. The Senator from Oregon has 3 minutes remaining.

Mr. SMITH of Oregon. We are going to reserve that for the Senator from Washington.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, in 1960, Edward R. Murrow shocked the Nation with his famous television documentary on the exploitation of farm workers in America. His report, "Harvest of Shame," led to the repeal of the bracero program in 1964, under which 4.6 million Mexican workers had been brought to this country to harvest U.S. crops under harsh and abusive conditions.

I remember very clearly as a junior member on the Human Resources Committee the extensive hearings that we had and the travels that we took to many different parts of this country.

Yet here we are today considering an amendment that creates a new large-scale foreign agricultural worker program. Don't we ever learn? Have the special interests no shame.

A new bracero program would be harmful to American farmworkers, harmful to efforts to control illegal immigration, and harmful to the nation.

If the Senate votes for this amendment, it is voting for another "harvest of shame." It is voting to let thousands of poor foreign farmworkers come here and stay permanently. This amendment opens the floodgates to foreign workers. It gives them permanent green cards if they work here for four consecutive harvests.

This amendment turns its back on years of efforts to improve conditions for America's farmworkers we admit under.the current immigration laws.

A vast new guest worker program is completely unnecessary. As the General Accounting Office said in December: "Ample supplies of farm labor appear to be available in most areas."

I refer our colleagues to page 6 of the December publication of the GAO. It says:

> GAO's own analysis suggests, and many farm labor experts, government officials, and grower and farm labor advocates agree, that a widespread farm labor shortage has not occurred in recent years and does not now appear to exist. . . It found that 13 counties maintained annual double-digit unemployment rates, and 19 percent had rates above the national average.

The late Barbara Jordan and her Commission on Immigration Reform unanimously—unanimously—concluded that creating such a program would be a "grievous mistake". Every Federal immigration commission in modern times has concluded that agricultural guestworker programs should not be expanded. The Commission on Immigration Reform, the Commission on Agricultural Workers in 1992, and the Hesburgh Commission in 1981 all reached that conclusion.

The so-called protections in this amendment can be easily circumvented. The Department of Labor does not even have the authority to limit the issuance of visas if it finds that the employment of foreign labor is hurting U.S. workers. This bill strips all of the protections in the current program.

First, this amendment weakens the requirements to hire American farmworkers first. It requires the Department of Labor to set up a new high-tech registry in which growers post their jobs and American workers who register with the Labor Department can be matched with them. But all a company has to do is check the registry—if it can't get a worker right away, it can bring in a foreign worker. A check with the registry is the only recruitment an employer has to do, and we do not know if the registry will even work.

Most American farmworkers earn less than $12,000 a year. They don't have computers at home, where they can log onto the Internet and check the registry. In fact, many American farmworkers can't even afford telephones to call the registry. Until we know that a registry really can work, it is nothing but a gimmick that lets growers evade their responsibility to hire U.S. workers first.

This amendment also eliminates the requirement that growers must provide housing for the foreign workers they bring in. Even under the discredited bracero program, employers were required to provide housing.

But under this amendment, all growers have to provide is a housing voucher. What foreign worker can negotiate the American housing market? How can a farmworker from Mexico or the Caribbean find an apartment in rural America to rent for just a few weeks when he doesn't know his way around, can't speak English, and doesn't have a car? You can make the housing as generous as you want. But many of these workers are going to be homeless.

This amendment also weakens the wage standards and will depress the wages of American farmworkers already struggling to make ends meet. American farmworkers are the poorest of the working poor. I ask unanimous consent that an article from the New York Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 19, 1998]

THE MIDDLE CLASS: WINNING IN POLITICS, LOSING IN LIFE

(By Louis Uchitelle)

The great American middle class, Politicians of the left and right court it. Policies, liberal and conservative, are proclaimed on its behalf. Health care reform was to have eased its cares. Tuition subsidies educate its children. President Clinton made a "middle class tax cut" a centerpiece of his election campaign.

Most voters see themselves as members of the middle class, so Newt Gingrich, the House Speaker, picked up the theme. When the Republican-controlled Congress finally passed a tax bill last year, he described it as the Republican "fulfillment of what President Clinton promised—a middle class tax cut."

But for all its mythic power, the middle class is finishing last in the race for improvement in the current economic boom. At the top and bottom of the economic ladder, wages are rising briskly. In the middle, they are rising slowly. This is unusual. While upper-income people often improve their lot faster than the middle class, lower-income workers hardly ever do.

The middle class of political exhortation and national myth isn't the same as the statistical middle of the wage scale, the place where progress is surprisingly slow. Half of the so-called middle class tax cuts enacted last year went to people earning more than $93,000. And while the median household earns almost $40,000 a year, the median individual wage is much lower: $11.13 an hour last month, or about $23,000 a year for a 40-hour work week.

It isn't that workers in this statistical middle—people earning roughly $23,000 to $32,000 a year for a 40-hour week—are visibly aggrieved because they are losing ground to their upper- and lower-earning fellow citizens. After all, their pay has gone up faster than the inflation rate over the last two years, even if the increase is not as great as the one experienced by lower- and upper-income workers.

"Everyone seems to be reacting to the favorable improvement in their pay," said Richard Curtin, director of consumer surveys at the University of Michigan. "But the longer the expansion lasts, the more people will turn toward comparisons with other groups. That's when the grumbling and the wage demands begin. When you look across society, you are not really seeing that yet."

THE MIDDLE-CLASS LIFE

Lots of things can help someone improve his lot in life, of course. A rising stock market, tax breaks, inheritance, government subsidies like Medicare and Social Security, extra hours on the job and overtime pay all pay roles, particularly for those at the top and bottom of the income ladder. The really wealthy often rely not on wages but on earnings from their investments. And many households put together the wages of two or three household members, bringing the median household income to nearly $40,000, which is enough to live a middle-class life in most of the United States.

By some estimates, a family of four must bring in at least $27,000 a year from one or more wage earners to maintain what John Schwarz, a political scientist at Arizona State University, describes as "a minimally adequate standard of living." In pursuit of that goal, most people measure their standing in the work force by what they earn individually on the job.

The bottom 20 percent on the national wage scale, earning $14,500 a year or less for a 40-hour week, has gained the most ground over the last two years, once wages are adjusted for inflation. Upper-income Americans, those earning north of $75,000 a year, have gained almost us much as the low-income people in the same two-year stretch. The middle group has gained a little ground since 1996, but less than the others.

BREAKTHROUGH

Viewed over the full eight years of the current economic expansion, the middle has actually lost ground, while the top and the bottom have gained at roughly the same gradual pace. Once wages are adjusted for inflation, the low end, for the first time, has regained all the ground lost in the early 1990's and is now earning more than in 1989, when the last economic expansion ended and a recession set in, undercutting wages.

Workers earnings slightly more than the poorest group or, at the other extreme, somewhat less than the richest wage earners, also did better than those in the middle, although not as well as those at either extreme.

The breakthrough came this year. The low-end wage, a maximum of $6.99 an hour last month for the bottom 20 percent, was 20 cents higher than in 1989, adjusted for inflation, according to the Economic Policy Institute, which calculated the trends from data provided by the Labor Department's Bureau of Labor Statistics.

By comparison, the median wage, smack in the middle, was $11.13 an hour in June, or 17 cents lower than in 1989. The upper end, mostly peopled by well educated and skilled workers, seldom loses ground in any year. At the high end, the wage of $24.63 an hour today, adjusted for inflation, is 91 cents ahead of the comparable 1989 level.

There are reasons, of course, for the slide in the middle. Despite all the rhetorical emphasis on policies that favor the middle class, it is low-income workers who have gotten the extra nod from Washington in this economic expansion—particularly through a 90-cents-an-hour increase in the minimum wage since October 1996. It was an increase that the Democrats proposed and the Republicans in Congress finally favored.

The minimum reached $5.15 an hour last September, and the ripple effect has pushed up wages for workers earning as much as 50 cents an hour over the minimum. That is a big portion of the people in the lower 20 percent of the American work force.

"The higher minimum wage is the key factor that has lifted people at the bottom," said Edward Wolff, a labor economist at New York University, whose own earnings calculations produced roughly the same results as those of the Economic Policy Institute.

The economy has played a big role, too. A surge in growth over the last two years and a falling unemployment rate produced labor shortages that showed up first at the low end of the work force. Meanwhile, middle-level workers, while finding jobs easily enough, had more difficulty raising their wages. Mr. Wolff and other labor economists tick off the reasons.

Computers have diluted the demand for clerks, secretaries and other medium-skilled workers. Unions, once the powerful bargaining agents of middle Americans, are weak today. Rising imports have hurt workers who make the same goods in this country. Corporate downsizing spread in the 1990's through white-collar ranks, making middle-income people feel less secure in their jobs and more reluctant to push for raises. And a bigger percentage of the work force now has a college education or at least some college training, diluting the demand for them. The wages of people with only four years of college are no longer rising.

"While middle income people benefit from the tight labor market, they have a harder time digging themselves out of the wage hole," said Jared Bernstein, a labor economist at the Economic Policy Institute.

HARD TO HELP

They are also harder for government to help, says Edward Montgomery, the Labor Department's chief economist. A huge swath of people who earn roughly $23,000 to $55,000 a year—and pay more than 40 percent of all Federal income taxes—are much more on their own than lower-income workers. There

> are government-subsidized training programs, for example, to get unemployed people into the low end of the labor force. The minimum wage and the earned-income tax credit (a Republican initiative that rebates tax revenue to low-wage workers) put a floor under their income. But middle-level people depend much more on their own dealings with their employers to determine their situations.
>
> "It is harder for government policies to reach these middle level people," Mr. Montgomery said. "In a free enterprise society, we are hesitant to subsidize an employer for something he would do anyway."

Mr. KENNEDY. This study shows that despite the extraordinary prosperity we have seen in the United States, the farmworkers are on the lowest rung—working the hardest—the lowest rung of the economic ladder and have moved backward in terms of their real purchasing power. They already suffer double-digit unemployment, and this amendment will make that crisis worse. It eliminates the requirement in current immigration law that foreign workers must be paid a wage that will not depress wages for American farmworkers.

Even if an American worker shows up early in a harvest, he will not be guaranteed the job if an employer has foreign workers. In fact, that is the way most American migrant farmworkers get their jobs—by just showing up. For years—for decades—they have travelled farm to farm at harvest time. They show up for the job, harvest after harvest.

Under current law, if an American worker shows up in the first half of a harvest, he gets the job, even if a foreign worker is already there. This is called the "50 percent rule." Under this amendment, if that American worker is not on the new computer "registry," he cannot get the job.

I am also concerned that this amendment will encourage illegal immigration. After spending billions of dollars to strengthen the Border Patrol to keep illegal immigrants out, it makes no sense to instruct the INS to cut a gaping hole in the border fence, and look the other way as illegal immigrants pour through.

We know from the hard lesson of past experiences that foreign agricultural worker programs create patterns of illegal immigration that can't be stopped. The first workers to come here may be legal, have temporary work visas—but they create an endless chain of illegal immigration, as relatives, neighbors, and friends follow them into America.

In fact, under this amendment, if you work in this program for four years, you get a green card and can stay in America forever. An unlimited number of workers can enter under this reckless program. There is no cap. Hundreds of thousands of workers can come in, work four years, get green cards, and stay forever.

As Philip Martin, a leading agricultural labor economist at the University of California at Davis, has stated, when it comes to temporary foreign worker programs, "There is nothing more permanent than a temporary worker."

The original bracero program did not really end in 1964. It established a permanent, well-traveled path of illegal immigration. And three and a half decades later, we are still paying a price. A comprehensive joint study by the United States and Mexico, completed last year, put it this way:

> History has shown that U.S.-sanctioned bracero recruitment in the 1950s oriented many Mexican workers toward the U.S. labor market instead of toward local jobs and development. This began a tradition of migration, raised expectations, and set into place a baseline of individuals and families who would eventually reside permanently in the U.S. Although meant to be a temporary supply of workers, an unintended consequence was to create a resident population.

This amendment adds to that problem, Mr. President. I think it will hurt America's vulnerable farmworkers and cause permanent damage to our immigration policies. I urge my colleagues to oppose it.

How much time remains?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. KENNEDY. I yield 7 minutes to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Massachusetts.

Mr. President, I am really disappointed that this program is being ramrodded through on an appropriations bill. This program represents a huge new immigration program and no one should think to the contrary.

Fifty percent of all the people that are going to come in from other countries under this program will go to one State—California. California has not been afforded the time to do the analysis to see how this program would affect it. This program is a Trojan horse.

When I heard the testimony on a registry program on the Judiciary Committee I thought, "Great idea; I want to support it." When the Senators made the announcement, I was a cosponsor. Then I saw that attached to the concept of the registry program was also a huge immigration program with no controls whatever, no way of asserting whether individuals go back, and as a matter of fact—and I will explain that shortly—setting up incentives for these people to remain in the country in a legal status. In California, this will mean literally tens of thousands of additional immigrants coming into the State. We currently have 2 million people in California in illegal status. This will only add to the number of illegal status.

Let me say how this will happen. Under the amendment, if the Department of Labor cannot find American workers—and there is no registry in place in California—this bill will go into play. The large agricultural associations will apply for 20,000, 30,000 permits at a time. The Department of Labor has 7 days to respond to that. If they don't respond to that huge number in that period of time, the permits are authorized and the foreign workers come in. There is no way of knowing who they are, whether they have any bona fide documents.

Additionally, once a worker is in this country for 10 months, they can apply for a 3-year extension. Therefore, you effectively are granting a stay of 3 years to someone who comes in. They then should return, and if they come back for one more year, they are here for all time. They gain legal status under this program. There are no caps on any numbers being brought in.

The major part of concern in this bill—and I want this in the RECORD, is section 6(b)1, the application to the Secretary of State that sets up this 7-day period when the employer submits the application for alien workers directly to the Secretary of State with a copy of the application provided to the Attorney General seeking the issuance of visas and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers.

Then there is an expedited consideration by the Secretary of 5 days.

It is physically impossible to consider 20 or 30,000 applications in 5 days. It is set up to permit the entry of large numbers of people about whom nothing will be known—whether they really will go home, whether they really will stay at the job, work at the job. I think this is going to make the Bracero Program look good in retrospect.

Now, what I object to is I would like to vote for something that would help what is becoming an increasing problem. That increasing problem is that increasingly farmers cannot find adequate labor to harvest their crops. In our State, you have these counties with 20 percent and 30 percent unemployment rates. It is amazing, but it is true. Unemployment rate is high, but the farmer cannot find the help. This is where the registry was supposed to help. But the registry and the importation program go into effect simultaneously. Consequently, if there is nobody on the registry, you have the opening to import 20, 30, 50, 75,000 workers with no limit. That is what I had hoped we would have the time to work out. We don't know whether the housing allowance will work in California. California isn't Oregon. Costs are much higher. Housing is unavailable.

AMENDMENT NO. 3282 TO AMENDMENT NO. 3258, AS MODIFIED

Mrs. FEINSTEIN. I send an amendment to the desk.

The PRESIDING OFFICER. The Chair would suggest that until the time has either been used or yielded back, an amendment is not in order.

Mrs. FEINSTEIN. All right.

Mr. KENNEDY. Mr. President, I think the proponent of the major amendment knew that this was going to be offered. I ask unanimous consent it be in order now to be able to offer the amendment.

Mr. SMITH of Oregon. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

> The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3282 to amendment No. 3258.

The amendment is as follows:

> On page 20, line 19, after the period, insert: "Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2–A visas that they may sponsor at the discretion of the Secretary of Labor."

Mrs. FEINSTEIN. What this does, and I quote from the amendment:

> Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2–A visas that they may sponsor at the discretion of the Secretary of Labor.

This would give the Secretary of Labor the opportunity to see that there is a reasonable number attached to this limited processing time because with the limited processing time, if you apply for 50,000 people, as could well be the case in California, you would not be able to meet the processing deadline.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator has 10 minutes remaining; opposing has 3 minutes remaining.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, it is hard to do justice to the topic in 5 minutes.

Let me say I think something is happening on the floor of the Senate that takes us backward as a nation. There have been many people that have given their sweat and tears and even blood to try and improve conditions for farm workers. There have been Senators in the past that have done that. This amendment really undercuts some of this very important work.

What we are saying in this amendment is essentially this: We are saying to the growers, listen, you don't have to really worry about the market. If the growers can't find the workers, pay better wages and have better working conditions. How many more reports do we have to have, from Harvest of Shame, to reports today of working conditions? The wages and uncivilized working conditions of farm workers are a national disgrace. If the growers want to have people working for them, then just have civilized working conditions and decent wages.

What this amendment essentially says is that what we are going to do is actually add to the exploitation by enabling you growers to essentially rely on a new guest worker program. Mr. President, we don't need a new guest worker program. Senator KENNEDY talked about the GAO report. I heard the farm worker justice fund mentioned earlier. They don't talk about this as reform; they talk about it as deform. We have a very strange situation here. We are saying that the growers can't get the workers, and now what we have is a program that cuts payments for guest workers. This cuts the payments for the guest workers. So in order to attract more workers, we enable growers to rely on people coming in from other countries, and we cut their wages.

I don't call this reform. I don't call this a change for the better. What we are essentially doing is putting the Federal Government at the service of a sector—in this particular case the growers—as a source of cheap labor. It is a huge mistake. Now, if we want to do better by way of working conditions for legal workers, I am all for it. If we want to reform the Guest Worker Program, I am all for it. But that is not what this is about. This is a huge step backward.

I hear about the vouchers. I mean, I did a lot of organizing in rural communities. The question is whether there is any housing. What good does it do to have vouchers if there isn't adequate housing there? We no longer deal with that protection. Then, in addition, the three-fourths minimum work guarantee is eliminated.

Workers who used to travel long distances are now promised wages for at least three-fourths of the season for which they are being hired. That guarantee is no longer there. This essentially takes the Guest Worker Program backwards. It adds to exploitation. It undercuts the working conditions of farm workers, which are already atrocious in this country. I say to the growers, with all due respect, if you want to have more people working for you, pay decent wages, have civilized working conditions. We ought not to be asking the Federal Government to essentially move in and supply these growers with a form of cheap labor, exploited labor. This isn't reform, this is deform. I hope there will be a strong vote against it.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I yield the balance of our time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, these agricultural workers are already here. The Senator from California spoke of 2 million illegal workers already here. But we would think from the remarks of the opponents of this amendment that somehow or another we were spoiling a very good system that gave high wages, a wonderful set of attractions, and only needed to be strengthened. We aren't, Mr. President.

We have a situation that makes a violator of the law out of almost every agricultural employer in the United States of America who needs labor on a seasonal basis. What we propose to do is to say that many of these workers, whatever their conditions, are infinitely superior to the country from which they came, which is the reason they are willing to pay good money to be smuggled across our borders, several of whom die in the desert in the attempt to hide during the time that they are here, not to claim any of the rights they might otherwise have.

Our proposal would make many of them legally here, with very real rights, with the ability to go home legally and to come back again legally, rather than to have to stay because of the difficulty of crossing the border. Mr. President, tens of thousands of words have been uttered on the floor of this Senate in the last 3 weeks about the plight of our farmers, with collapsed Asian markets and lower prices. Here, for once, we have an opportunity to do something tangible for our farm community, to give them the labor that they cannot get in any legal fashion from citizens, or others, to allow them to be law-abiding, as they wish to do; and instead we have an argument that we better keep the present system; we better keep a system in which there are millions of illegal farm workers here because we don't care to try something that allows this labor to be provided legally. That is the difference.

Do we want the labor that is there now, and will be there tomorrow, to be legal labor? Or do we think the present situation with all these illegals is perfectly fine? Yes or no; up or down. Let's allow these people to be here legally, to help us to improve their own lives legally.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I understand we have 5 minutes.

The PRESIDING OFFICER. Five minutes remain.

Mr. KENNEDY. I yield a minute to Senator WYDEN.

Mr. WYDEN. I thank my colleague for his patience. It has been mentioned that this is in some way a bracero program. My friends, this is not. Under the Bracero Program, for example, there was no right of first refusal for U.S. workers to available jobs in our country. That is what is different here—U.S. workers first, first dibs on any available position.

Point No. 2: There has been discussion that this amendment would in some way increase illegal immigration. Right now, of the 1.6 million farm workers, perhaps a million of them are illegal. What we are advocating is an above-ground system that guarantees fundamental protections to legal workers. Some of our opponents, it seems to me, prefer an underground system that is going to keep thousands of those workers hidden in the back of a U-Haul trailer or the trunk of a car. That is not humane. We don't want those workers in the back of a U-Haul or in the trunk of a car. We want them participating in a legal, humane system that rewards both the workers and the growers. That is why this proposal makes sense. I hope it will receive strong support from our colleagues.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have talked to the managers of the bill about the acceptance of an amendment.

I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3283 TO AMENDMENT NO. 3258

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3283 to amendment No. 3258.

The amendment is as follows:

At the end of the amendment add the following:

SEC. . PRESIDENTIAL AUTHORITY.

In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles: where the procedures for using the program are simple and the least burdensome for growers; which assures an adequate labor supply for growers in a predictable and timely manner; that provides a clear and meaningful first preference for U.S. farm workers and a means for mitigating against the development of a structural dependency on foreign workers in an area or crop; which avoids the transfer of costs and risks from businesses to low wage workers; that encourages longer periods of employment for legal U.S. workers; and which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

Mr. President, as I have expressed, I have serious concerns about the development of this program. Similar kinds of programs have been considered and rejected by the Hesburgh Commission. The Barbara Jordan Commission, which really had many thoughtful men and women on it, reviewed these kinds of programs and expressed the same kinds of concerns that I have expressed here briefly this afternoon. For that reason, as well as the very important adverse impact that I think it will have on wages; and because of its impact in terms of opening up some unpredictable, unknown, and uncertain aspects of immigration policy that I oppose this.

Having said all that, I commend my friends, Senator SMITH and Senator WYDEN. They have appeared before our committees on this issue. They have been enormously constructive and positive and responsive to those that had differing views on this. They have, brought a very considerable amount of thought to this issue and they have impressed me, as I know they have all Members, about their willingness to try and work this thing through in a constructive way. I intend to vote in opposition for the reasons outlined. But I want to work with them and see if we cannot respond to these kinds of concerns. Both of them have expressed their deep-seated concerns about these issues as well. We do have differences, but they have demonstrated on this issue, as in other areas, a willingness to try and find common ground. I thank them for their courtesies to date and for their willingness to continue to develop something that is going to be effective. I and others who share this view will look forward to working with them.

Mr. President, I am prepared to yield whatever time I have to the Senator from Oregon.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator has 40 seconds.

Mr. SMITH of Oregon. Mr. President, I thank the Senator from Massachusetts.

I join in the spirit of trying to work on this issue to resolve a situation that I truly believe is broken. If we don't succeed in this, we are frankly not going to say that we are content with the status quo. The status quo is not acceptable. These people are here in this country illegally. There ought to be a way in which they can be here legally to do this work, which they want to do, and which we need them to do in order to avoid a serious crisis on the American farm.

I ask my colleagues to support this amendment. It is historic. It is important. But it is also a work in progress. This bill represents progress.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on the Kennedy second-degree amendment.

Mr. GREGG addressed the Chair.

Mr. KENNEDY. Mr. President, I ask that the underlying amendment be modified with our amendment. I ask unanimous consent that be done.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendments (Nos. 3282 and 3283) were agreed to.

Mr. KENNEDY. As I understand it, Mr. President, the proposal of the Senators from California and Massachusetts has been included in the underlying amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I thank the Chair.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. For the information of all of our Members, we will begin voting on this amendment and then proceed to final passage at approximately 3:30.

MODIFICATION TO AMENDMENT NO. 3261, AS MODIFIED, PREVIOUSLY AGREED TO

Mr. GREGG. Mr. President, I send to the desk on behalf of Senator SPECTER a technical modification to the Craig amendment numbered 3261.

"(2) Within funds appropriated in this Act for 'necessary expenses of the Offices of United States Attorneys, $1,500,000 shall be available for the Attorney General to hire additional assistant U.S. attorneys and investigators in the city of Philadelphia, Pennsylvania, for a demonstration project to identify and prosecute individuals in possession of firearms in violation of federal law."

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, while we are waiting, I would like to take a moment. We are, hopefully, about to move to final passage after the vote on the Smith amendment is taken care of.

I would like to take a moment to thank the staff for the extraordinarily hard work they put into this. Both the majority staff and the minority staff spent countless hours bringing this bill forward. It is a complicated bill. They spent the last 3 or 4 days, almost, working on it. We have seen a lot of amendments. More than a little bit of intricate thought has gone into it. It has a very complex matrix of issues. And it could not possibly have been managed without the strong and professional support that we have received from the staff.

I would like to also specifically thank former minority clerk Scott Gudes, who has moved on but whose work for 12 years on this committee was extraordinary, and whom I very much enjoyed working with. His replacement, Lila Helms, is a great addition and has carried on Scott's exceptional work. Emelie East and Dereck Orr have also been great assets, I am sure, to the minority and to the majority, as a result of their efforts.

On my own staff, countless hours have been put in, and I especially thank Jim Morhard, who is clerk of the committee. I don't think he has seen his family, or anyone else, other than the inside of these walls for days and weeks. I very much appreciate his efforts and the expertise he has brought to this.

Along with him, the professional staff of Paddy Link, Kevin Linskey, Carl Truscott, Dana Quam, and Vas Alexopoulos have been extraordinary; Kris Pickler, and Jackie Cooney of my personal staff, and Virginia Wilbert, who have been extraordinary also, have not only put their oars in but have aggressively rowed this boat toward the shore. We hope it will arrive very soon.

It is really a team effort. And we have an extremely strong team, a team made up of Cal Ripkens and Ken Griffeys. We are very lucky to have them, and we thank them for all their time and effort.

I have been advised that the Democratic leader is willing to proceed with a vote at 3:15. We will begin voting on the Smith amendment at 3:15.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank Chairman GREGG in the first instance. I have had the occasion to handle several bills myself. I have watched it for over 30 years. Several Senators on our side of the aisle have remarked along with me in the back of the cloakroom that they have never seen a bill that was better managed and that Senator GREGG has done an outstanding job, which I want to note for the RECORD.

As the distinguished Senator stated, the staffs on both sides have just done an outstanding job. They worked around the clock. I have never seen this many amendments actually move in this short a time. It couldn't have been done, of course, without the folks here right at the front desk on both sides of the aisle.

Let me thank Jim Morhard, Kevin Linskey, Paddy Link, Carl Truscott, Dan Quam, and Virginia Wilbert, of the majority staff; and Lila Helms, Emelie East, and Dereck Orr. Actually, as Senator GREGG has pointed out, Lila has come in now to replace Scott Gudes, which is next to impossible. He was as good as there ever was. But she has already brought that statement into contest. She, Emelie East, and Dereck Orr have been working around the clock and have been doing a great job.

I am glad that the Senator from New Hampshire notes this for the RECORD. Too often we forget that we couldn't handle these bills without Scott Gudes, and Dereck Orr on our side of the aisle. I can tell you that.

Mr. GREGG. Mr. President, I ask unanimous consent that the managers' amendments be in order notwithstanding the fact that they amend language already amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3284 THROUGH 3321, EN BLOC

Mr. GREGG. I now send to the desk a series of amendments cleared by both managers on behalf of myself and Senator HOLLINGS. I further ask they be considered and adopted en bloc and motion to reconsider these amendments be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. HOLLINGS, proposes amendments numbered 3284 through 3321, en bloc.

Mr. GREGG. I renew my unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3284 through 3321) were agreed to, as follows:

AMENDMENT NO. 3284

TITLE I—DEPARTMENT OF JUSTICE

On page 2, line 24, insert "forfeited" after the first comma.

On page 45, line 17, strike "13" and insert "286".

On page 5 of the Bill, on lines 8 and 9, strike the following: "National Consortium for First Responders", and insert the following: "National Domestic Preparedness Consortium".

On page 27 of the Bill, on line 10, after the words "unit of local government", insert the words "at the parish level".

On page 29 of the Bill, on line 13 after "Tribal Courts Initiative", insert the following:

", including $400,000 for the establishment of a Sioux Nation Tribal Supreme Court"

On page 51 of the Bill, after line 9, insert the following:

SEC. 121. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking "or";

(2) in subsection (g)(3), by striking "minimally sufficient" and inserting "State sexual offender"; and

(3) by amending subsection (1) to read as follows:

"(i) PENALTY.—A person who is—

"(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

"(2) required to register under a sexual offender registration program in the person's State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

"(3) described in section 4042(c)(4) of title 18, United States Code and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

"(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law No. 105-119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second or subsequent offense under this subsection, be imprisoned for not more than 10 years.".

On page 51 of the Bill, after line 9, insert the following:

SEC. 123. (a) IN GENERAL.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

"(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a residential training center. The Director may approve training conducted in not more than 3 separate sessions.".

(b) CONFORMING AMENDMENT.—Section 200108(c) of the Police Corps Act (42 U.S.C. 14097(c)) is amended by striking "16 weeks of".

(c) REAUTHORIZATION.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking "$20,000" and all that follows before the period and inserting "$50,000,000 for fiscal year 1999, $70,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $90,000,000 for fiscal year 2002".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

On page 66, line 5, strike the proviso "*Provided further*, That $587,992,000 shall be made available for the Procurement, acquisition and construction account in fiscal year 1999:" and insert in lieu thereof "*Provided further*, That of the $10,500,000 available for the estuarine research reserve system, $2,000,000 shall be made available for the Office of response and restoration and $1,160,000 shall be made available for Navigation services, mapping and charting: *Provided further*, That of funds made available for the National Marine Fisheries Service information collectin and analyses, $400,000 shall be made available to continue Atlantic Herring and Mackerel studies: *Provided further*, That of the $8,500,000 provided for the interstate fisheries commissions, $7,000,000 shall be provided to the Atlantic States Marine Fisheries Commission for the Atlantic Coastal Cooperative Fisheries Management Act, $750,000 shall be provided for the Atlantic Coastal Cooperative Statistics Program, and the remainder shall be provided to each of the three interstate fisheries commissions (including the ASMFC): *Provided further*, That within the Procurement, Acquisition and Construction account that $3,000,000 shall be made available for the National Estuarine Research Reserve construction, and $5,000,000 shall be made available for Great Bay land acquisition."

On page 72, line 15, after "(3)(L)", replace the brackets with parentheses around the phrase "as identified by the Governor" and on line 16, before the period add a quotation mark.

TITLE V—INDEPENDENT AGENCIES

SMALL BUSINESS ADMINISTRATION

On page 116, line 17, change "1998" and "1999" to "2000".

On page 117, line 6, strike "to this appropriation and used for necessary expenses of the agency" and insert in lieu thereof "to and merged with the appropriations for salaries and expenses:"

On page 117, line 12, strike "20(n)(2)(B)" and insert in lieu thereof "20(d)(1)(B)(ii)".

AMENDMENT NO. 3285

(Purpose: To prohibit the publication of identifying information relating to a minor for criminal sexual purposes)

On page 51, between lines 9 and 10, insert the following:

SEC. 121. INTERNET PREDATOR PREVENTION.

(a) Prohibition and Penalties.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"§ 2261. Publication of identifying information relating to a minor for criminal sexual purposes

"(a) Definition of Identifying Information Relating to a Minor.—In this section, the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

"(b) Prohibition and Penalties.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.".

(b) Technical Amendment.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"2261. Publication of identifying information relating to a minor for criminal sexual purposes.".

AMENDMENT NO. 3286

(Purpose: To require Internet access providers to make available Internet screening software)

On page 135, between lines 11 and 12, insert the following:

Sec. 620. (a) Requirement.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Obligations of Internet Access Providers.—

"(1) In general.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

"(2) Definitions.—As used in this subsection:

"(A) Internet access provider.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

"(B) Internet access services.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.".

"(C) Screening software.—The term 'screening software' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.".

(b) Applicability.—The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

Mr. DODD. Mr. President, I rise today to offer an amendment designed to give parents a tool to help protect their children from pornography and sexual predators on the Internet. According to Wired magazine, there are currently some 28,000 web sites containing hard- and soft-core pornography. And that number is growing at an alarming rate, it is estimated that 50 pornographic sites are added to the Internet each day.

Sadly, many of out children are, out of curiosity or by accident, exposed to such sites while surfing the web. They type in search terms as innocuous as "toys"—only to find graphic images and language on their display terminal.

Mr. President, the Internet is profoundly changing the way we learn and communicate with people. Today, our children have unprecedented access to educational material through the Internet. It provides children with vast opportunities to learn about art, culture and history—the possibilities are endless.

However, this advanced technology also brings with it a dark side for our children. Many children who are browsing the net—often unaccompanied by an adult—come across material that is unsuitable for them, and is oftentimes sexually explicit.

Mr. President, every parent worries about strangers approaching their children in their neighborhood or on the playground at school. And they teach their children how to avoid these strangers. But, today, these strangers are literally inside our homes. They are only a mouse click away from our children. In our libraries and bookstores, we store reading material that is harmful to minors in areas accessible only to adults. Yet, in cyberspace, these same materials are as accessible to a child as his or her favorite bedtime story.

Pornography and predators are now reaching our children, via the Internet, in the privacy and safety of their own homes and classrooms. This kind of access to our children is alarming, and this invasion of our children's privacy and innocence is unconscionable.

We, as a nation, have an obligation to ensure that surfing the web remains a safe and viable option for our children. We have a responsibility to make sure that they are able to learn and grow in an environment free of sexual predators and pornographic images. Clearly, there is no substitute for parental supervision. Yet, I think we can all agree that many parents know less about the Internet than their children. Parents are convinced of the Internet's educational value, but they feel anxious about their ability to supervise children while they use it.

In my view, it is important that we encourage parents and children to use the Internet together. But clearly, it is difficult for any adult to monitor children online all of the time.

Therefore, I believe we need to provide our parents with the tools to protect and guide our children. The amendment I offer today is a modest measure designed to provide one such tool. It would ensure that Internet access providers make screening software available to customers purchasing Internet access services.

The amendment would allow customers to have the opportunity to obtain—either for a fee or no charge, as determined by the provider—screening software that permits customers to limit access to material on the Internet that is harmful to minors. Like going to the pharmacy and being asked if you want a child-proof lid for a prescription medication, my bill would require that Internet access providers ask parents whether they would like to obtain screening software.

It is not a guarantee that children using the Internet would be protected from pornography and predators. And it is not a substitute for parental supervision. But it can be an extension of parental supervision—a tool we put in their hands to help protect their kids—much as we did when we voted to give parents the v-chip.

I hope my colleagues will endorse this amendment, and I urge its adoption.

AMENDMENT NO. 3287

(Purpose: To move Schuylkill County, PA from the Eastern District to the Middle District of Pennsylvania)

SEC. . TRANSFER OF COUNTY.

(a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Philadelphia, and Schuylkill" and inserting "and Philadelphia"; and

(2) in subsection (b) by inserting "Schuylkill," after "Potter,".

(b) Effective Date.

(1) In general.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) Pending cases not affected.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) Juries not affected.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

AMENDMENT NO. 3288

(Purpose: To require a report regarding the analysis of the United States Trade Representative with respect to any subsidies provided by the Government of the Republic of Korea to Hanbo Steel)

At the appropriate place in title VI, insert the following new section:

SEC. ___. REPORT ON KOREAN STEEL SUBSIDIES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the "Trade Representative") shall report to Congress on the Trade Representative's analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative's contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative's contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) STATUS OF INVESTIGATION.—The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

Mr. BYRD. Mr. President, this amendment addresses the continued problem of trade-distorting subsidies given by the Korean Government to its domestic steel industry. Unfair trade practices by the Korean Government are causing the U.S. steel industry—including one of West Virginia's largest employers, Weirton Steel Corporation—to lose millions of dollars. These losses impact U.S. communities, which must carry the burden of Korea's unfair practices by contending with a lower tax and job base.

I joined my colleagues in the Senate Steel Caucus in signing letters to U.S. Trade Representative (USTR) Charlene Barshefsky and U.S. Department of Commerce Secretary William Daley regarding violations by the South Korean Government of the World Trade Organization (WTO) Subsidy Code. Regrettably, the responses to those letters were not satisfactory.

My amendment would simply require the United States Trade Representative to report on Korean steel subsidies. Accurate information on unfair trade practices is vital to the future of the U.S. steel industry and its workers. This amendment would send the Korean Government a clear message that we expect our trading partners to adhere to fair trading practices, but, more importantly, it would send a message to American workers that this Congress is prepared to defend our own commercial interests and take action against the Korean Government's infringement upon U.S. rights under the WTO agreement.

U.S. imports of steel from South Korea have increased by nearly forty-five percent during the first four months of 1998. These surging Korean steel imports are possible due to the Korean government's continued use of illegal subsidies—subsidies that unfairly disadvantage the U.S. steel industry. The negative impact of these Korean subsidies cannot be ignored. Illegal foreign steel sales are severely undermining the economic stability in regions throughout our country that rely upon steel for jobs—literally taking money out of the pockets of these workers as well as their neighbors, who depend upon this industry for their livelihood.

For the U.S. steelworkers in the Upper Ohio Valley and throughout our nation, we must continue to pursue efforts to end the entry of foreign products into this country that unfairly place our domestic industries at risk. We must restore confidence in our trade laws.

I appreciate Members' support of this initiative.

AMENDMENT NO. 3289

(Purpose: To prohibit the use of funds for the enforcement in fiscal year 1999 of certain regulations regarding the Global Maritime Distress and Safety System (GMDSS) with respects to United States fishing industry vessels)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. Notwithstanding any other provision of law, no funds appropriated or otherwise made available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GDDSS).

GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM

Mr. MURKOWSKI. Mr. President, this amendment will delay for one year the application of the Global Maritime Distress and Safety System, abbreviated as GMDSS, to fishing industry vessels. The purpose of the delay is to allow the Federal Communications Commission (FCC) the time to address a number of serious concerns that have recently come to light involving GMDSS for fishing industry vessels. Also Mr. President, let me make clear that the delay will not affect any other type of vessel.

GMDSS is a system created by the International Maritime Organization (IMO) under the Convention on the Safety of Life at Sea (SOLAS). It was intended to improve safety for large cargo and passenger vessels on international voyages. It is scheduled to go into effect on February 1 of next year. There is no doubt that GMDSS will indeed improve safety for these types of vessels.

Fishing vessels are very specifically not covered by SOLAS, but the FCC regulation requiring GMDSS for international passenger and cargo vessels is also being applied to large domestic fishing industry vessels anyway.

Because these types of vessels operate very differently, there are serious questions as to whether the system should be applied in the same way.

The most important of the questions that has been raised for the fishing industry involves the safety and well-being not of the fishing vessels required to carry GMDSS equipment, but of the smaller vessels that work around them.

One of the things that makes GMDSS attractive to large vessels on international voyages is that it is automated, using a feature called Digital Selective Calling (DSC). Because of this, when the large vessels switch to GMDSS on February 1, they will no longer be required to maintain a continuous watch on the two emergency frequencies used under the current system.

In the United States, the watchstanding requirement has been extended to the year 2005 for VHF Channel 16, but will cease on February 1 for 2182 kilohertz. These are the two frequencies used by small vessels, including the small fishing vessels that operate in and around the larger vessels that will be required to convert to GMDSS.

When a fishing vessel is in distress, the vessels closest to it and in the best position to render aid are other fishing vessels working in the same area.

But, Mr. President, what will happen when the small vessel sends out a distress call, only to find that the larger and better-equipped fishing vessels around it are no longer listening?

This is—obviously, and with very good reason—a major concern. Under the theory of GMDSS, contact with other vessels is to be replaced by contact with a shore station. That's all well and good on an international voyage, where it may eliminate confusion and speed up response. But for fishing vessels, it may very well slow response time—and believe me, Mr. President, in the frigid waters of the Bering Sea in the winter, every second counts toward life—or toward death. Because of this, there is a very real danger that shifting the largest and most capable vessels of the fleet to GMDSS may actually degrade safety for smaller, but far more numerous vessels operating in the same areas.

In fact, although the GMDSS system is supposed to replace ship-to-ship emergency communications with a unified ship-to-shore system maintained by the Coast guard, the fact is that the Coast Guard itself is not ready to implement it fully.

With the system scheduled to go into effect in just a few months, there are still major shore-based components that have not yet been installed. In Alaska, for example, the Coast Guard is only this summer starting the installation of medium-frequency receivers. And throughout the country, installation of VHF receivers has been delayed indefinitely—it is "on hold." According to the Coast Guard's own task force on GMDSS, the VHF system will probably not be in place before 2003 at the earliest.

The fact that GMDSS was not designed for the fishing fleet is an issue itself. Most every mariner of any sort is familiar with SOLAS, and knows that it does not apply to fishing vessels. As a result, when the FCC published the proposed GMDSS rule in 1990, and when it made the rule final in 1992, the fishing industry was not made aware that it would be applied to fishing industry vessels, which are generally treated as a separate class of vessels under U.S. law.

Indeed, when the proposed GMDSS regulation was printed in the Federal Register in 1990, it specified that fishing vessels would not be included: "Small ships, such as private fishing vessels and recreational yachts, are not affected by the proposed changes." This same statement is still being repeated, in an informational document about GMDSS that is currently offered on the FCC's Internet site.

Given this confusion, it is no wonder that the fishing industry's concerns did not surface sooner; most of the industry was unaware of the need to comment. This alone is a huge flaw in the way the rulemaking was conducted, but one that can be corrected given a little more time to explore and address the fishing industry's concerns.

Mr. President, the affected fishing industry vessels already carry all but one feature of the GMDSS system. They have VHF radios and single-side-band radios, EPIRBS, radars, radar transponders and hand-held VHF radios for their life rafts, and so forth. Each vessel already carries—at a guess—$20,000 to $30,000 worth of sophisticated communications equipment. The only thing they are lacking is the Digital Selective Calling (DSC) feature.

In a recent meeting with the Coast Guard and the FCC, we learned that there is no reason DSC could not be added to the existing equipment for a very reasonable cost—perhaps $5,000. However, the industry has indicated that electronics vendors have so far either declined to sell DSC as a separate component, or if they do, to offer a component warranty on it. Instead, they are insisting that the fishing industry purchase large consoles where all of the GMDSS equipment is pre-installed—at a cost of $50,000 to $60,000 dollars each. Because of the confined nature of the wheelhouse on the average vessel, significant structural changes may have to be made to fit the console in place, and of course, the existing $30,000 of equipment would have to be scrapped. That means, Mr. President, that the cost of outfitting these vessels may reach as much as $100,000—all to get a $5,000 piece of equipment on board. That, Mr. President, is why people get upset at their government. That, Mr. President, is just plain wrong.

These are just a few of the very serious issues that justify a delay for fishing industry vessels so that the rule can be re-examined and improved with better input from the industry. No one wants to see safety degraded in any way—including by mandating "improvements" that may be no such thing.

It may be that GMDSS is the way to go for fishing industry vessels as well as the large international cargo vessels and passenger liners it was designed for. If so, it should be adopted, and I'm sure it will be. But if not, we must take the time to listen first.

Mr. GREGG. Will the Senator from Alaska yield for a question?

Mr. MURKOWSKI. Mr. President, I am very happy to yield for a question from the distinguished manager.

Mr. GREGG. It is my understanding that this amendment will delay for one year the application of the GMDSS requirements for fishing industry vessels, but not other types of vessels. Is that the understanding of the Senator from Alaska?

Mr. MURKOWSKI. Mr. President, the manager is quite correct. This amendment will apply only to fishing industry vessels such as catcher-boats, catcher-processors, mothership processors and fish tender vessels. Other types of vessels to which the rule applies, such as cargo and passenger ships, will not be affected.

Mr. GREGG. Is it the Senator's intention that the federal agencies involved would then use this period of time to further examine the issue of applying GMDSS requirements to the fishing industry?

Mr. MURKOWSKI. Once again, Mr. President, the distinguished manager is correct. Based on discussions with the two agencies directly involved in this matter, and with the fishing industry, it is evident that the industry has legitimate concerns and questions that have not been answered. The moratorium will allow the agencies the time to revisit the issue in the detail that it deserves. I hope they will take the opportunity either to reopen the rulemaking with respect to fishing industry vessels or to open a new rulemaking that specifically deals with such vessels, so that the unique characteristics of the fishing industry are considered.

Mr. GREGG. I thank the Senator. In my view this is a very legitimate goal and I join the Senator from Alaska in expressing the hope that the agencies will revisit this matter.

AMENDMENT NO. 3290

(Purpose: To provide for the payment of special masters, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

"(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITION.—"; and

(2) in paragraph (4)—

(A) by inserting "(A)" after "(4)";

(B) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009-201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995."; and

(C) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321-165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.".

AMENDMENT NO. 3291

(Purpose: To provide for the waiver of fees for the processing of certain visas for certain Mexico citizens and to require the continuing processing of applications for visas in certain Mexico cities)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) DELAYED COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) RECOUPMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) for the processing of machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such combined border crossing cards and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been required to be replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 116(b)(2) of this Act), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

AMENDMENT NO. 3292

(Purpose: To require a study and report on the adequacy of processing nonimmigrant visas by United States consular posts)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) The purpose of this section is to protect the national security interests of the United States while studying the appropriate level of resources to improve the issuance of visas to legitimate foreign travelers.

(b) Congress recognizes the importance of maintaining quality service by consular officers in the processing of applications for nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(c) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(1) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(2) the adequacy of service to international tourism;

(3) the adequacy of computer and technical support to consular posts; and

(4) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(d)(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to Congress setting forth—

(A) the results of the study conducted under subsection (c); and

(B) the steps the Secretary has taken to implement timeliness standards.

(2) Beginning one year after the date of submission of the report required by paragraph (1), and annually thereafter, the Secretary of State shall submit a report to Congress describing the implementation of timeliness standards during the preceding year.

(e) In this section—

(1) the term "nonimmigrant visas" means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) the term "timeliness standards" means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

Mr. GRAHAM. Mr. President, I am introducing an amendment to the Commerce/Justice/State Appropriations bill regarding the Consular Service and the issuing of tourist visas.

I strongly endorse tight immigration controls and strict visa policies to ensure that illegal aliens and criminal activity do not cross our nation's borders.

At the same time, we must recognize the economic importance of tourism in this country and ensure that legitimate foreign travelers are not penalized by an overwhelmed consular service.

To that end, I am asking the State Department to report to Congress on a regular basis the status of visa backlogs at our embassies worldwide and to conduct a study on whether the appropriate resources are being dedicated to the consular service.

Tourism is a $473 billion dollar business in the United States and our country's second largest employer, behind the health care industry.

We bring in more tourists to the U.S. than we send overseas, creating a $26 billion dollar trade surplus, equal in size to the car and auto parts trade deficit with Japan.

By the year 2007, less than ten years away, the World Tourism Organization predicts the U.S. tourism market will double to nearly $885 billion dollars.

We must make certain our consular services and visa procedures are streamlined, improved, and protective of national security interests in order to capitalize on the growing international tourism market.

I hope you can support me in requiring the State Department to study consular resources and report back on what improvements or resources are needed to make it the best in the world, a secure system that can help promote U.S. as an international destination.

AMENDMENT NO. 3293

On page 86, line 8, insert the following after the colon: "*Provided further*, That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons;".

At the end to title VII, insert the following:

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

(RESCISSION)

Of the total amount of appropriations provided in Acts enacted before this Act for the Interparliamentary Union, $400,000 is rescinded.

AMENDMENT NO. 3294

(Purpose: Relating to arrearage payments to the United Nations)

(The text of the amendment (No. 3294) is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 3295

(Purpose: To provide for reviews of criminal records of applicants for employment in nursing facilities and home health care agencies)

At the appropriate place in the bill, insert the following:

CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES

SEC. ___. (a) AUTHORITY TO CONDUCT BACKGROUND CHECKS.—

(1) IN GENERAL.—A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) SUBMISSION OF REQUESTS.—A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) SEARCH AND EXCHANGE OF RECORDS.—Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) USE OF INFORMATION.—Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section to cover the cost of conducting the search and providing the records.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) CRIMINAL PENALTY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) IMMUNITY FROM LIABILITY.—A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term "home health care agency" means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term "nursing facility" means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.

Mr. KOHL. Mr. President, I rise today to express my gratitude to the managers for including an amendment offered by myself and Senator HARRY REID. The managers have worked hard to reach consensus on this legislation, and I commend them for their efforts.

I believe that this amendment will take another important step toward protecting our nation's elderly and disabled patients from abuse and neglect. The vast majority of employees in nursing homes and home health agencies work hard under stressful conditions to provide the highest quality care. However, there has been too many instances where people with criminal backgrounds and abuse histories have gained employment in long-term care facilities and subsequently abused patients in their care. This is inexcusable; Congress should take every step necessary to make sure that these facilities have the tools they need to screen potential employees.

During consideration of the Senate Budget Resolution, the Senate unanimously adopted my Sense of the Senate amendment, which expressed strong support for the establishment of a national background check system to weed out known abusers and people with violent criminal backgrounds. The amendment that is included in the manager's package today takes this one step further. This amendment authorizes nursing facilities and home health care agencies to utilize the FBI fingerprint background check system to screen potential employees. It is important to note that this amendment does not mandate that these facilities conduct the checks. It simply allows them to access the FBI system if they choose to do so.

Many States, nursing facilities and home care agencies have already taken steps to better screen their long-term care employees. This amendment will give them another tool to use in their efforts to screen out known abusers. However, our job does not end here. I still believe that Congress must act to establish a national registry that will coordinate abuse information between States, and require that all long-term care facilities utilize both the registry and the FBI system. I have been working for passage of such legislation, and I am pleased that the President has recently endorsed my idea as well. I look forward to working with the President and all of my colleagues in the future on this important effort.

It is vital that we continue to take steps to protect our most vulnerable citizens from abuse, neglect and mistreatment, especially at the hands of those who are charged with their care. I believe that this amendment is another step in that direction. Again, I thank the managers for working with me in this effort. I yield the floor.

AMENDMENT NO. 3296

(Purpose: To prohibit the use of funds for foreign travel or foreign communications by officers and employees of the Antitrust Division of the Department of Justice)

On page 51, between lines 9 and 10, insert the following:

SEC. 121. None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with, any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff. *Provided, however*, That this section shall not: (1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to 15 U.S.C. sections 6201–6212, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

Mr. GORTON. Mr. President, the Justice Department is out of control, Mr. President. Evidence appears to be mounting that officials at the Department's Antitrust Division have been traveling around the world urging foreign governments to join them in their witch hunt against Microsoft.

As far as this Senator is concerned, such action should be prohibited.

It seems the Administration is reaching out a helping hand to U.S. competitors overseas. While foreign governments work hard to protect their most important industries, our Justice Department is assisting those foreign governments in their efforts to keep one of America's most vibrant, innovative, and successful companies out of their markets.

In a letter sent last week to Attorney General Janet Reno, my colleagues Senators SESSIONS, ABRAHAM, and KYL raised some provocative questions about the activities of Justice Department officials overseas. They have learned that Joel Klein and his staff at the Department's Antitrust Division are busily recruiting their foreign counterparts in their war against Microsoft.

First and foremost, Mr. President, I'd like to know what Justice Department officials, whose work focuses exclusively on issues here at home, are doing traveling overseas at the taxpayers' expense. According to the letter, in the last six months, Joel Klein has traveled to Japan, Russell Pittman, Chief of the Competition Policy Section of the Antitrust Division has visited Brazil, Dan Rubinfeld, chief economist for the Antitrust Division has gone to Israel, and Deputy Assistant Attorney General Douglas Melamed spent a week in Paris in June.

At a time when Joel Klein has been complaining that his division does not have enough money or people to do its job effectively, he and his staff are traveling around the world on the Justice Department's dime. And they are using those foreign visits as a bully pulpit to tout the merits of their case against Microsoft and encouraging foreign governments to join in the attack.

This kind of activity is reprehensible. It is even more egregious when one notes that it is being financed by the American people—many of whom may wind up losing their jobs and their livelihood if Joel Klein is successful.

Here is the evidence my colleagues have compiled to date:

Joel Klein visited Japan to meet with the Japanese Fair Trade Commission last December. A month later, the Trade Commission raided Microsoft's Tokyo offices, confiscating thousands of company documents.

When Russell Pittman went to Brazil in May, he spoke publicly to senior Brazilian government officials responsible for antitrust enforcement in that country, outlining the Justice Department's case against Microsoft in detail. Nine days later, The Brazilian government announced its intention to begin legal proceedings against the company.

A quote from Mr. Pittman at this event is particularly troubling, and, I might add, somewhat ironic. He accused Microsoft of behaving "like an arrogant monopolist, even acting arrogantly in its relations with the antitrust authorities, it will receive from these agencies what it deserves." Who is calling whom arrogant? A government bureaucrat on a taxpayer funded jaunt to Brazil? If the situation were not so serious, I would find this quote to be quite amusing, Mr. President.

In Israel in May, Dan Rubinfeld gave a public speech on the Department's case against Microsoft to an audience that included Israeli officials responsible for antitrust enforcement. He later met privately along with his sidekicks from the Federal Trade Commission with a group of Israeli government officials to outline the DOJ's complaint against Microsoft.

Not surprisingly, the Israeli government is now in discussions with Microsoft concerning its business practices in that country.

And finally, on June 8th, Douglas Melamed briefed the OECD's Competition Law and Policy Committee in Paris on the strengths of the Department's case against Microsoft. The OECD Committee includes officials from Europe, Japan, Canada, and Brazil.

I applaud Senators SESSIONS, ABRAHAM, and KYL for bringing this issue to light, Mr. President. It is just one in a series of steps by the Administration to tie the hands of successful U.S. companies.

Thousands of jobs in my home state of Washington are being put on the line by a contemptuous group of bureaucrats over at the Justice Department.

That is why I have decided to offer an amendment today to prohibit the Justice Department from soliciting or encouraging foreign governments to engage in antitrust against U.S. companies defending themselves against antitrust suits filed by the U.S. government here at home. My amendment is narrow in scope. It was carefully drafted to ensure that it is not overreaching.

It will simply ensure that Joel Klein and his staff at the Antitrust Division do not travel abroad at the expense of U.S. taxpayers for the purpose of encouraging foreign governments to attack successful U.S. businesses.

I assure my colleagues that I am very disappointed that this amendment is necessary at all. That U.S. government officials in this Administration are engaged in practices that serve no other purpose than to harm U.S. companies, their employees, their families of their employees, and the small businesses whose livelihoods depend on the success of those companies is truly disheartening.

I urge my colleagues to join me in condemning the actions of Antitrust Division officials and to pass this important amendment today. Attorney General Reno and Assistant Attorney General Klein need to know that their actions will not go unnoticed and that they cannot continue down their current path of denouncing U.S. businesses overseas.

Mr. HATCH. Mr. President, at the outset, let me say that I don't support the Department of Justice divulging confidential information to foreign governments in an attempt to encourage them, in any way, to take or threaten legal action against any U.S. company. I don't think the Department has done that. They assure me that they have not done that.

I am aware of the letter that was sent to the Department inquiring whether the Department has encouraged any foreign antitrust authority to take action against Microsoft. I await the Department's formal response to the letter sent by my colleagues. If—and I emphasize if—the Department of Justice was encouraging foreign countries to bring a cause of action against Microsoft—or any other American company—I would do all I can to put a stop to it. The Department of Justice has a responsibility to enforce U.S. antitrust laws—not Japan's, Brazil's or the European Union's. But having said that, the Department assures me they have done no such thing.

I have to say, though, that, if Microsoft's charges prove groundless, one could reasonably conclude that this appears to be an assault, albeit a faint one, by Microsoft, on the Department of Justice's ongoing efforts to investigate potential violations of U.S. antitrust laws. When I first heard about this allegation, I was surprised that this is the best "offensive" more that their team of lobbyists and Washington lawyers could come up with. I was expecting a much more innovative strategy, given the reported offensive Microsoft has threatened to launch against the Department of Justice. As I said before, I too oppose efforts by our government to encourage or solicit any foreign government to take hostile actions against a U.S. company.

However, I had a concern that any such amendment not hinder the ability of the Antitrust Division to investigate violations of our—United States'—antitrust laws. And also it does not prohibit mutual assistance that the Department and its foreign counterparts provide to each other under a ratified treaty or as authorized by the International Antitrust Enforcement Assistance Act of 1994.

Mr. President, I want to thank Senator GORTON and his staff for his cooperation and willingness to work with me and ensure that the amendment does not have any such adverse impact. With this modification I am happy to lend my support to this amendment.

The International Antitrust Enforcement Assistance Act passed the Senate unanimously in 1994. Let me also say that my friend and colleague, Senator GORTON, did not object to it then. This statute provides the important authority for the Attorney General when a mutual assistance agreement is in place, to cooperate with foreign agencies in assisting each other's efforts to prevent illegal antitrust activities. Given the increasingly international scope of the antitrust laws, it is crucial that the enforcement agencies have sufficient legal authority and the necessary tools to obtain information located abroad that would help them protect American consumers and businesses from antitrust abuses.

Finally, I again want to thank Senator GORTON for his cooperation and willingness to work with me and I am happy that we were able to work out our concerns with this amendment.

AMENDMENT NO. 3297

(Purpose: to exempt orphans adopted by United States citizens from grounds of removal)

At the appropriate place in the bill, insert the following:

SEC. . EXCEPTION TO GROUNDS OF REMOVAL.

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

"(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 201(b)(2)(A)(i) as an orphan described in section 101(b)(1)(F)", unless that alien has knowingly declined U.S. citizenship.

AMENDMENT NO. 3298

(Purpose: To prevent disclosure of personal and financial information of corrections officers in certain civil actions until a verdict regarding liability has been rendered)

At the appropriate place in title I of the bill, insert the following:

SEC. 1___. PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS.

Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal,

State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

AMENDMENT NO. 3299

(Purpose: To allow continued helicopter procurement by Border Patrol)

In the appropriate place, insert the following:

"*Provided further*, That the Border Patrol is authorized to continue helicopter procurement while developing a report on the cost and capabilities of a mixed fleet of manned and unmanned aerial vehicles, helicopters, and fixed-winged aircraft."

AMENDMENT NO. 3300

(Purpose: To extend temporary protected status for certain nationals of Liberia)

At the appropriate place in the bill insert the following:

SEC. . EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALS OF LIBERIA.

(a) Continuation of Status.—Notwithstanding any other provision of law, any alien described in subsection (b) who, as of the date of enactment of this Act, is registered for temporary protected status in the United States under section 244(c)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(A)(iv)), or any predecessor law, order, or regulation, shall be entitled to maintain that status through September 30, 1999.

(b) Covered Aliens.—An alien referred to in subsection (a) is a national of Liberia or an alien who has no nationality and who last habitually resided in Liberia.

Mr. REED. Mr. President, I rise to commend my colleagues for including an extension of Temporary Protected Status for Liberians until September 30, 1999 in the Fiscal Year 1999 Commerce, Justice, State Appropriations bill.

The histories of Liberia and the United States have been intertwined since 1847 when our nation's founding fathers helped freed American slaves found the sovereign state of Liberia. The first Liberians adopted the U.S. Constitution as a model and named the capital of the new country Monrovia, after President James Madison. Diplomatic, military and trade relations flourished between the two countries until the late 1980's.

Then, in December 1989, Liberia was engulfed by a civil war that would last for seven years and continue to boil below the surface. Over 150,000 people died and more than one-half of the population fled the country or was internally displaced. During the conflict, food production was halted and the country's infrastructure was destroyed.

Several thousand Liberians who were forced from their homes because of the civil war sought refuge in the United States. In 1991, the Attorney General determined that Liberia was experiencing an ongoing armed conflict which prevented Liberian nationals from safely returning home. She granted Liberians who were present in the United States on March 27, 1991 temporary protected status (TPS), which provides temporary relief from deportation. Because the conflict in Liberia continued to rage, the Attorney General extended TPS each year for the next six years. Furthermore, conditions in Liberia deteriorated to such an extent in 1996, that the Attorney General "redesignated" TPS for Liberians who arrived after March 27, 1991 but were living in the United States on June 1, 1996. Never before in history had the Attorney General been compelled to redesignate a state for TPS.

Recently, however, the Attorney General declared that TPS would end for all Liberians on September 28, 1998. It is true that on July 19, 1997, Liberians elected former warlord Charles Taylor president and 300 international observers deemed the election free and fair. It is also true that this new government has pledged to rebuild the economy and reconcile the ethnic factions.

However, there are signs which indicate that Liberia is not as safe and stable as many would like to believe. In early December 1997, a prominent opposition leader was assassinated. Furthermore, a newspaper and two radio stations were temporarily shut down by the government.

A pastor of a church in my home state of Rhode Island had a conversation just yesterday with an individual who just returned from Liberia who stated that people in Liberia are afraid to criticize the government in any way. The secret police sweep neighborhoods at night, people disappear and bodies mingle with garbage under a bridge in Monrovia.

I would also like to relay the comments of Bishop Arthur Kulah to my colleagues who may wish to know why TPS is still needed. Bishop Kulah is a United Methodist leader who lost his parents and two brothers in the civil war. He recently spoke with Liberians living in Rhode Island and when they asked if it would be safe to return when TPS was terminated, he replied, "People who have been fighting for ten years will not suddenly change. It may be quiet and then flare up overnight. The disarmament was not complete. People still have guns."

This weekend the Liberian community in Rhode Island will celebrate the 151st anniversary of Liberia's independence. They will celebrate the history and culture of their country and look forward to the day when they can safely go home. But that time is not now, Mr. President. They came to this country seeking peace and security. We have an obligation to offer them refuge until it is truly safe to go back.

AMENDMENT NO. 3301

(Purpose: To provide for the adjustment of status of certain asylees in Guam)

At the appropriate place in the bill, insert the following:

SEC. ___. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM.

(a) Adjustment of Status

(1) Exemption from Numerical Limitations.—The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(2) Limitation on Fees.—

(A) In general.—Any alien described in subsection (b) who applies for adjustment of status to that of an alien lawfully admitted for permanent residence under section 209(b) of that Act shall not be required to pay any fee for employment authorization or for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or adjustment of status.

(B) Effective date.—This paragraph shall apply to applications for employment authorization or adjustment of status filed before, on, or after the date of enactment of this Act.

(b) Covered Aliens.—An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

AMENDMENT NO. 3302

(Purpose: To focus resources of the Department of Justice on prosecuting violations of federal gun laws)

On page 9, beginning on line 15, strike "Attorneys." and insert the following: "Attorneys: *Provided further*, That of the total amount appropriated, not to exceed $3,000,000 shall remain available to hire additional assistant U.S. Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area of the United States) which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended."

AMENDMENT NO. 3303

(Purpose: Relating to information infrastructure grants of the National Telecommunications and Information Administration)

On page 72, between lines 16 and 17, insert the following:

Sec. 209. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under "National Telecommunications and Information Administration" under the heading "information infrastructure grants" is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under "DEPARTMENT

OF COMMERCE" is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under "DEPARTMENT OF COMMERCE" except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION" and under the heading "INFORMATION INFRASTRUCTURE GRANTS".

(B) Amounts appropriated under any heading under "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY".

(C) Amounts appropriated under any heading under "NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION".

(c)(1) Notwithstanding any other provision of this Act, the second proviso under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

AMENDMENT NO. 3304

(Purpose: To amend the International Emergency Economic Powers Act to clarify the conditions under which export controls may be imposed on agricultural products)

At the appropriate place, insert the following new section:

SEC. __ . AGRICULTURAL EXPORT CONTROLS.

The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

"SEC. 208. AGRICULTURAL CONTROLS.

"(a) IN GENERAL.—

"(1) REPORT TO CONGRESS.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

"(2) APPLICATION OF PARAGRAPH (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

"(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

"(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

"(b) JOINT RESOLUTION.—

"(1) IN GENERAL.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on _____________.', with the blank space being filled with the appropriate date.

"(2) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) REFERRAL.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

"(4) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) CONSIDERATION IN SENATE AND HOUSE OF REPRESENTATIVES.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(6) PASSAGE BY 1 HOUSE.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(c) COMPUTATION OF TIME.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.".

AMENDMENT NO. 3305

On page 101, line 17, insert after the period: "*Provided*, That, of this amount, $1,400,000 shall be available for Student Incentive Payments."

Mrs. HUTCHISON. Mr. President, I rise to explain a provision included in the Commerce, Justice, State appropriations bill manager's amendment and to convey my thanks to Senator GREGG and Senator HOLLINGS for including it. This provision directs funding for the Student Incentive Payment (SIP) program for FY99.

I am very concerned about language in the Administration's budget calling for a four-year phase-out of SIP, beginning in FY99. These payments are used to help students at state maritime schools defray the cost of their education. In exchange for an annual stipend while they are in school, these students incur a 6 year obligation in the Navy and Merchant Marine Reserve. They represent an important element of the Navy's professional mariners and a cadre of trained professionals available in the event of a national emergency when activation of the Ready Reserve Fleet is required.

I commend the subcommittee for sharing my concern. The subcommittee report reflects this concern by calling upon MARAD to report on the willingness of the Navy to pay for the program. However, I understand that discussions between the Navy and MARAD are still on-going which, while encouraging, may mean that the incoming class at state maritime academies may not be able to take advantage of SIP as their classmates ahead of them have, and those behind them hopefully will. If we are going to ensure continuity, we have to fund SIP for another year in this bill.

This provision restores SIP funding in the FY99 budget, preserving the program in order to allow the Navy to assume the funding responsibility beginning in FY2000. I am pleased that we have bought more time for MARAD and the Navy to negotiate the transfer of financial responsibility for this program. I am very hopeful that we will have a negotiated continuation of SIP under the Navy in FY2000 and beyond. I thank the Chairman for working with me to ensure this result.

AMENDMENT NO. 3306

(Purpose: To require certain new employees in the Office of the United States Trade Representative to work exclusively on investigating the acts, policies, and practices of the Canadian Wheat Board and whether the acts, policies, or practices cause material injury to the United States grain industry, and for other purposes)

At the appropriate place in title VI, insert the following new section:

SEC. ___. INVESTIGATION OF PRACTICES OF CANADIAN WHEAT BOARD.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 of the new employees authorized in fiscal years 1998 and 1999 for the Office of the United States Trade Representative shall work on investigating pricing practices of the Canadian Wheat Board and determining whether the United States spring wheat, barley, or durum wheat industries have suffered injury as a result of those practices.

(b) SCOPE OF INVESTIGATION.—The purpose of the investigation described in subsection (a) shall be to determine whether the practices of the Canadian Wheat Board constitute violations of the antidumping or countervailing duty provisions of title VII of the Tariff Act of 1930 or the provisions of title II or III of the Trade Act of 1974. The investigation shall include—

(1) a determination as to whether the United States durum wheat industry, spring wheat industry, or barley industry is being materially injured or is threatened with material injury as a result of the practices of the Canadian Wheat Board;

(2) a determination as to whether the acts, policies, or practices of the Canadian Wheat Board—

(A) violate, or are inconsistent with, the provisions of, or otherwise deny benefits to the United States under, any trade agreement, or

(B) are unjustifiable or burden or restrict United States commerce;

(3) a review of home market price and cost of acquisition of Canadian grain;

(4) a determination as to whether Canadian grain is being imported into the United States in sufficient quantities to be a substantial cause of serious injury or threat of serious injury to the United States spring wheat, barley, or durum wheat industries; and

(5) a determination as to whether there is harmonization in the requirements for cross-border transportation of grain between Canada and the United States.

(c) ACTION BASED ON RESULTS OF THE INVESTIGATION.—

(1) IN GENERAL.—If, based on the investigation conducted pursuant to this section, there is an affirmative determination under subsection (b) with respect to any act, policy, or practice of the Canadian Wheat Board, appropriate action shall be initiated under title VII of the Tariff Act of 1930, or title II or III of the Trade Act of 1974.

(2) CORRECTION OF HARMONIZATION PROBLEMS.—If, based on the investigation conducted pursuant to this section, there is a determination that there is no harmonization for cross-border grain transportation between Canada and the United States, the United States Trade Representative shall report to Congress regarding what action should be taken in order to harmonize cross-border transportation requirements.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) DEFINITION OF GRAIN.—For purposes of this section, the terms "Canadian grain" and "grain" include spring wheat, durum wheat, and barley.

AMENDMENT NO. 3307

(Purpose: To preserve and enhance local FM radio service for underserved counties)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) IN GENERAL.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

"(c) FM TRANSLATOR STATIONS.—(1) It may be the policy of the Commission, in any case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a community in such county) that has a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

"(A) authority for the origination of unlimited local programming through the station on a primary basis but only if the licensee abides in such programming by all rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations; and

"(B) authority to operate the station (either omindirectionally or directionally, with facilities equivalent to those of a station operating with maximum effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if—

"(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

"(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference as required by rules and regulations of the Commission applicable to full service FM stations; and

"(iii) the station complies with any other rules, regulations, and policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

"(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)—

"(A) may accept or receive any amount of theoretical interference from any full service FM station;

"(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

"(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

"(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

"(E) may utilize a directional antennae in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

"(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

"(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

"(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under clause (i).".

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows:

"SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.".

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) or (B) of section 331(c)(1) of the Communications Act of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision not to renew the license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license not to be renewed.

AMENDMENT NO. 3308

(Purpose: To provide for a study of sediment control at Grand Marais, Michigan)

At the appropriate place in title II, insert the following:

SEC. 2___. SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

AMENDMENT NO. 3309

(Purpose: To establish certain limitations with respect to build-out and moving costs of the Patent and Trademark Office)

On page 62, lines 3 through 16, strike "That if the standard build-out" and all that follows through "covered by those costs." and insert the following: "That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.".

AMENDMENT NO. 3310

(Purpose: To require that reports submitted to the Committee on Appropriations concerning matters within the jurisdiction of the Committee on the Judiciary also be submitted to the Committee on the Judiciary)

On page 51, line 9, add a new section 121:

"SEC. 121. For fiscal year 1999 and thereafter, for any report which is required or authorized by this act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns matters within the jurisdiction of the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently as the report is submitted to the Committee on Appropriations of the Senate or of the House of Representatives."

AMENDMENT NO. 3311

(Purpose: To amend the Immigration and Nationality Act to eliminate, for alien battered spouses and children, certain restrictions rendering them ineligible to apply for adjustment of status, suspension of deportation, and cancellation of removal, and for other purposes)

At the end of the bill, add the following:

TITLE ___—VAWA RESTORATION ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the "VAWA Restoration Act".

SEC. ___02. REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by inserting "of an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" after "The status";

(2) in subsection (a), by adding at the end the following: "An alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) who files for adjustment of status under this subsection shall pay a $1,000 fee, subject to the provisions of section 245(k).";

(3) in subsection (c)(2), by striking "201(b) or a special" and inserting "201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special";

(4) in subsection (c)(4), by striking "201(b))" and inserting "201(b) or an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))";

(5) in subsection (c)(5), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))" after "an alien"; and

(6) in subsection (c)(8), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)" after "any alien".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for adjustment of status pending on or after the date of the enactment of this title.

SEC. ___03. REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—

(1) SPECIAL RULE FOR CALCULATING CONTINUOUS PERIOD FOR BATTERED SPOUSE OR CHILD.—Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

"(1) TERMINATION OF CONTINUOUS PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(B) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.".

(2) EXEMPTION FROM ANNUAL LIMITATION ON CANCELLATION OF REMOVAL FOR BATTERED SPOUSE OR CHILD.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

"(C) Aliens whose removal is canceled under subsection (b)(2).".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—

(1) IN GENERAL.—Subparagraph (C) of section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(A) by amending the subparagraph heading to read as follows:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—"; and

(B) in clause (i)—

(i) by striking "or" at the end of subclause (IV);

(ii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iii) by adding at the end the following:

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. ___04. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

"(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) DEPORTATION PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) APPLICABILITY.—Paragraph (1) shall apply to motions filed by aliens who—

(A) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.); or

(ii) section ___03 of this title.

AMENDMENT NO. 3312

(Purpose: To amend the Violence Against Women Act of 1994 to ensure greater protection of elderly women)

On page ___, after line ___, insert the following:

SEC. ___. (a) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting ", including older women" after "combat violent crimes against women"; and

(ii) by inserting ", including older women" before the period; and

(B) in subsection (b)—

(i) in the matter before subparagraph (A), by inserting ", including older women" after "against women";

(ii) in paragraph (6), by striking "and' after the semicolon;

(iii) in paragraph (7), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(8) developing, through the oversight of the State administrator, a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.";

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1), by inserting "and elder domestic abuse experts" after "victim services programs"; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—

(A) in paragraph (7), by striking "and' after the semicolon;

(B) in paragraph (8), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(9) the term 'elder' has the same meaning as the term 'older individual' in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

"(10) the term 'domestic abuse' means an act or threat of violence, not including an act of self-defense, committed by—

"(A) a current or former spouse of the victim;

"(B) a person related by blood or marriage to the victim;

"(C) a person who is cohabitating with or has cohabitated with the victim;

"(D) a person with whom the victim shares a child in common;

"(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

"(F) a person similarly situated to a spouse of the victim, or by any other person;

if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

Mr. DURBIN. Mr. President, I rise today to introduce this amendment with my distinguished colleagues Senators COLLINS, JEFFORDS, REID, HARKIN, MIKULSKI, CLELAND, and GRAHAM.

Unfortunately for some, domestic violence is a life long experience. Those who perpetrate violence against their family members do not desist because the family member grows older. In fact, in some cases, the abuse may become more severe as the victim ages becoming more isolated from the community with their removal from the workforce. Other age-related factors such as increased frailty may increase a victim's vulnerability. it also is true that older victims' ability to report abuse is frequently confounded by their reliance on their abuser for care or housing.

Every seven minutes in Illinois, there is an incidence of elder abuse. Several research studies have shown that elder abuse is the most under reported familial crime. It is even more under reported than child abuse with only between one in eight and one in fourteen incidents estimated to be reported. Seniors who experience abuse worry they will be banished to a nursing home if they report abuse. They also must struggle with the ethical dilemma of reporting abuse by their children to the authorities and thus increasing their child's likelihood of going to jail. Shame and fear gag them so that they remain "silent victims."

The Commerce-Justice-State Appropriations bill funds the STOP law enforcement state grants program. This program provides funding for services and training for officers and prosecutors for dealing with domestic violence. This training needs to be sensitive to the needs of all victims, young and old. However, the images portrayed in the media of the victims of domestic violence generally depict a young woman, with small children. Consequently, may people including law enforcement officers may not readily identify older victims as suffering domestic abuse. The victims themselves may also be reluctant to report such abuse. Many older women were raised to believe that family business is a private matter. Problems within families were not to be discussed with anyone, especially strangers or counselors. Only a handful of domestic abuse programs throughout the country are reaching out to older women.

This amendment seeks to improve the STOP grants program by making it more sensitive to the needs of the nations seniors. We know that great improvements have taken place since the Violence Against Women Act was first passed. One of the most successful programs is the law enforcement and prosecutor training program, which received over $200 million in FY 1998. This bill would increase that level to $210 million. Improvement in this program can be made with respect to identifying abuse among all age groups especially seniors who are often overlooked. When the abuser is old, there may be a reticence on the part of law enforcement to deal with this person in the same way that they might deal with a younger person. Who wants to send an "old guy" to jail? However, lack of action jeopardizes the victim further because then the abuser has every reason to believe that there are no consequences for their actions. Another common problem is differentiating between injuries related to abuse and injuries arising from aging, frailty or illness. too many older women's broken bones have been attributed to disorientation, osteoporosis or other age-related vulnerabilities without any questions being asked to make sure that they are not the result of abuse.

With the greying of America, the problems of elder domestic abuse in all its many ugly manifestations, is likely to grow. I believe that we need to take a comprehensive look at our existing family violence programs and ensure that these programs serve seniors and are sensitive and knowledgeable of elder domestic abuse.

I am pleased to be joined by Senators REID, HARKIN, CLELAND, MIKULSKI, GRAHAM, JEFFORDS, and COLLINS in offering this amendment, which focuses attention on the needs of the "forgotten older victims of domestic violence."

Mr. BIDEN. Mr. President, the Violence Against Women Act of 1994 included vital provisions to protect abused immigrant women—so they wouldn't have to choose to stay in an abusive marriage or be deported from America

This has helped a relatively small number of battered women—a few thousand each year—but it was important that we—on a bipartisan basis—took this moral step.

Since 1994, we have found other ways in which we in effect force women to remain in abusive marriages and rely on their abusive husbands for their immigration status.

This amendment restores the protections of the original Violence Against Women Act in four key ways:

By ensuring that battered women are included in the narrow immigration provision already included in this bill.

By preventing the roughly 1500 women per year who complete the full process of proving that they are in fact battered from being deported solely because of some arbitrary limits.

By allowing the Immigration and Naturalization Service to permit a battered woman to remain in the U.S. even though she has left the country for a brief period—provided that she has an understandable reason (such as in the case of a woman who was literally taken to Mexico against her will).

And by requiring the Immigration and Naturalization Service to give a battered woman an opportunity to prove that she was battered and eligible for Violence Against Women Act relief before deporting her under an order issued without her notice.

This is an important amendment—even though it will affect a modest number of battered women. I am pleased that this amendment is cosponsored by Senators ABRAHAM, KENNEDY, LEAHY, WELLSTONE and others. I am also pleased that this amendment has been accepted and will be adopted by the full Senate unanimously.

Ms. COLLINS. Mr. President, I rise today to support the amendment introduced by my distinguished colleague from Illinois, Senator DURBIN, to strengthen the capability of our law enforcement community to protect older women from violence.

There is no conduct less consistent with the precepts of a civilized society than the physical abuse of those unable to defend themselves. Our recognition of this has led to an aggressive and ongoing campaign against child abuse, and it must lead to an equally strong response to domestic violence directed at older Americans.

Mr. President, at a 1995 hearing in Portland, Maine, chaired by my predecessor, Senator Cohen, elder abuse was aptly described as "society's secret shame." Family violence, particularly when directed at the elderly, was a major concern of Senator Cohen, and I welcome the opportunity to continue his efforts to combat this intolerable mistreatment of older Americans.

Mr. President, earlier this year my home state released its crime statistics for 1997. I was cheered by the wonderful news that crime fell by 8.7% from 1996, to the lowest rate in at least 20 years. Hidden behind this positive statistic, however, was one that was very disquieting, namely, that domestic violence increased by 7.8%. Ironically, at the same time as we are becoming less likely to be harmed by strangers, many of our neighbors face an increasing threat from members of their own households.

National data demonstrate that cases of domestic elder abuse, which includes neglect as well as physical abuse, are steadily increasing. From 1986 to 1996, the number of cases went from 117,000 to 293,000, an increase of 150%. Furthermore, there is widespread agreement that this type of abuse is greatly underreported. For example, although the number of reported cases in 1994 was 241,000, the National Center on Elder Abuse estimates that the true number of cases was 818,000.

Mr. President, while these numbers indicate a serious and growing problem, all of the statistics in the world do not describe the problem as eloquently as the words of a single victim. At the Maine hearing, one such victim told what happened to her at the hands of her husband after her children left home.

> [T]hings got really bad. I had two broken wrists, cracked ribs, held down with his knee on my chest with a knife at my throat. I was made to crawl across the floor with a gun resting on my head, ready to fire. I've been choked until I was limp, and then he would drop me on the floor with a kick. I've been spit on, thrown through a window, dragged into the lake as he said he was going to drown me.

Astonishingly, but not atypically, the witness was married to her husband for 44 years.

Mr. President, this type of treatment cannot be tolerated. As a cosponsor of the Durbin amendment, I sincerely hope that my colleagues will take this modest step to enhance the ability of the law enforcement community to protect this vulnerable segment of our society.

AMENDMENT NO. 3313

(Purpose: To modify the membership of the Federal-State Joint Board on universal service)

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a) IN GENERAL.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) MEMBERSHIP OF JOINT BOARD.—

"(A) IN GENERAL.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

"(i) 3 shall be members of the Federal Communications Commission;

"(ii) 1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

"(iii) 5 shall be State utility commissioners nominated by the national organization of State utility commissions, with at least 2 such commissioners being commissioners of commissions of rural States.

"(B) CO-CHAIRMEN.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the 5 members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the co-chairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

"(C) RURAL STATE DEFINED.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.".

(b) FCC TO ADOPT PROCEDURES PROMPTLY.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

(c) RECONSTITUTED JOINT BOARD TO CONSIDER UNIVERSAL SERVICE.—The Federal-State Joint Board established under section 254(a)(1) of the Communications Act of 1934 (47 U.S.C. 254(a)(1)) shall not take action on the Commission's Order and Order on Reconsideration adopted July 13, 1998, (CC Docket No. 96-45; FCC 98-160) relating to universal service until—

(1) the Commission has adopted rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)); and

(2) the co-chairmen of the Joint Board have been chosen under that section.

Mr. BROWNBACK. Mr. President, I have offered an amendment that would provide rural States with a stronger representation on the Federal-State Joint Board on Universal Service (Joint Board).

Such a change is necessary because critical universal telephone service issues have been mishandled by the Joint Board since the passage of the Telecommunications Act of 1996.

The Joint Board was intended to provide the States with an opportunity to help craft national universal service policy because the States are more experienced in dealing with these issues than their national counterparts.

The Act created the Joint Board and required the Board to make recommendations concerning how the Federal Communications Commission (FCC) should implement the universal service provisions contained in the Act.

However, the Joint Board was chaired by former FCC Chairman Reed Hundt, and the Board made recommendations that undermine rural interests and put upward pressure on rural residential telephone rates.

The Joint Board needs greater representation from the States, especially rural States. My amendment would do the following:

Add an additional State Utility Commissioner to the Joint Board.

Require that two of the five State Utility Commissioners serving on the Board represent rural States.

Require that one of the State Commissioners and one of the FCC Commissioners serve as Co-Chairmen of the Joint Board.

Mr. President, this amendment would ensure that rural interests are adequately represented on the Joint Board, and that the recommendations made to the FCC are consistent with the universal service goals of the Act.

Mr. President, I have been very frustrated with the manner in which universal service issues have been addressed by the Joint Board and the FCC since the passage of the Act. Although it is the most important part of universal service, the high-cost piece has been getting the short shrift.

The FCC has just referred a number of critical high-cost issues back to the Joint Board for its consideration. This amendment is critical because rural communities across the country need to be effectively represented on the Board as it reviews these issues. The States, especially rural States, have the most experience dealing with the high-cost issues, and the recommendations of the Joint Board must adequately reflect their input and their expertise.

AMENDMENT NO. 3314

(Purpose: To provide for the nonpoint pollution control program of the Coastal Zone Management program of the National Oceanic and Atmospheric Administration)

At the appropriate place in title II, insert the following:

SEC. 2___. NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

NONPOINT POLLUTION CONTROL

Mr. TORRICELLI. Mr. President, I would like to thank Senators GREGG and HOLLINGS for accepting this amendment to the Commerce, Justice, State and Judiciary Appropriations Bill which directs $3 million to the implementation of nonpoint pollution control plans in the Coastal Zone Management Program.

I rise to draw this country's attention to the national significance of our coasts as an integral part of our national infrastructure. As we approach the next century, we must treat them like our roads, schools, and technology, as the foundation of economic development, job creation, and current prosperity. Our coasts are a central element of the tourism industry which nationally employs 14.4 million people and contributes over 10% to our GDP, making it the second-largest sector in the economy.

With more than 50% of the nation's population living within 50 miles of the shore, our coastal areas are heavily used resources under severe environmental pressures from land development and associated activities as well as seasonal pressures from summer vacationers. For example, over 400,000 people live in the immediate vicinity of the Barnegat Bay estuary in New Jersey; in the summer that number doubles to 800,000. The popularity of Barnegat Bay has caused non-point source pollution from runoff and storm water discharges resulting in blooms of brown tide algae in 1995, 1997, and as recently as last month. Polluted runoff is the major reason why pfiesteria and hazardous algal blooms frequently close rivers, kill fish and make people sick. Nationwide, 40% of our waters are not fit for fishing and swimming; 30% of our shellfish beds are closed or restricted for harvest; and 2500 beaches were declared unsafe for swimming in 1996.

Created in the 1970's, the Coastal Zone Management (CZM) Program is a voluntary partnership between the federal government and coastal states and territories to preserve and restore our coastal areas. The program encourages the wise use of land and water resources through the preparation of special area management plans to protect natural resources while providing for coastal dependent economic growth.

Section 6217 of the 1990 Coastal Zone Reauthorization Amendments requires states and territories with approved coastal zone management programs to develop and implement coastal nonpoint pollution plans. Through prior federal assistance, 29 plans (see attachment) have been conditionally approved and are ready for implementation. (In addition, Texas, Georgia, and Ohio, recently entered the CZM program and will also be working to develop nonpoint runoff plans.) The premise behind this amendment is simple: the federal government must continue to support those who have developed nonpoint pollution plans and are now ready to implement them. These funds are an investment in our future, an investment that will pay dividends not just for our towns and states, but for the entire country and for generations to come.

I ask unanimous consent that the list of states with approved plans be entered into the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STATES AND TERRITORIES WITH APPROVED COASTAL NONPOINT POLLUTION PLANS

Alabama
Alaska
American Samoa
California
Connecticut
Delaware
Florida
Guam
Hawaii
Louisiana
Maine
Maryland
Massachusetts
Michigan
Mississippi
New Hampshire
New Jersey
New York
North Carolina
Northern Mariana Islands
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Virgin Islands
Virginia
Washington
Wisconsin

AMENDMENT NO. 3315

On page 34, line 20, insert the following: Strike "65,960,000" and insert "66,960,000".

On page 34, line 19, insert the following: Strike "$119,960,000" and insert "$120,960,000".

AMENDMENT NO. 3316

(Purpose: To provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. CHILD EXPLOITATION SENTENCING ENHANCEMENT.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

AMENDMENT NO. 3317

On page 128, line 9, strike "(1)";

On page 129, line 3, strike "(2)" and insert in lieu thereof "(b)"; on line 6, strike "paragraph (1)" and insert in lieu thereof "subsection (a)"; on line 14, strike "(3)" and insert in lieu thereof "(c)"; strike "subsection" and insert in lieu thereof "section".

On page 129, strike all of the subsection "(b)" beginning on line 18 to the end of the subsection on page 130.

AMENDMENT NO. 3318

(Purpose: To provide for funding for a firearm violation demonstration project)

On page 9, line 15, strike the period and insert the following: ":*Provided further*, That $2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which $1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania and $800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.".

AMENDMENT NO. 3319

(Purpose: To require the submission in advance of a certification to Congress before certain funds are disbursed for contributions to the United Nations)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. Before any additional disbursement of funds may be made pursuant to the sixth proviso under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (as contained in Public Law 105–119)—

(1) the Secretary of State shall, in lieu of the certification required under such sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the reform budget of $2,533,000,000 for the biennium 1998–1999; and

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.

AMENDMENT NO. 3320

At the appropriate place in Title IV, insert the following new section:

SEC. . BAN ON EXTRADITION OR TRANSFER OF U.S. CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) None of the funds appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term "International Criminal Court" means the court established by agreement concluded in Rome on July 17, 1998.

AMENDMENT NO. 3321

(Purpose: To prohibit the availability of funds for the International Criminal Court unless the agreement establishing the Court is submitted to the Senate for its advice and consent to ratification as a treaty)

On page 100, between lines 18 and 19, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998, or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization that is used to provide support to the International Criminal Court described in paragraph (1),

unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

Mr. GREGG. I very much appreciate the kind comments obviously of the Senator from South Carolina. This bill has been a fairly complicated exercise, but its movement is entirely tied to the fact that the Senator from South Carolina brings to this floor extraordinary expertise and professionalism. It is a joy to work with him because his knowledge of how to move things around here is second to none and his history as to where some of the issues lie is equally dramatic, and so I greatly appreciate the chance to work with him. I thank him for all of his support and effort. This has been a bill that has moved forward as a result of the strong support of the Senator from South Carolina.

Mr. HOLLINGS. I thank our chairman. Has our managers' amendment been adopted?

Mr. GREGG. Yes.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, the Manager's Amendment includes $800,000 to hire additional assistant U.S. attorneys and investigators in Camden County, New Jersey. This amendment builds on an initiative that was originally proposed by Senator SPECTER. At his request, the bill provides $1.5 million to hire additional assistant U.S. attorneys and investigators in Philadelphia to enforce federal laws designed to keep firearms out of the hands of criminals.

I appreciate Senator SPECTER's effort. I think that additional law enforcement funding will help stop the gun carnage on our streets. My amendment would expand this effort into Camden, which neighbors Philadelphia. I want to ensure that the crackdown in Philadelphia does not simply push gun criminals into Camden. Clearly, a cooperative effort will provide a more comprehensive solution for the entire region.

I want to thank Senator GREGG and Senator HOLLINGS for their help with this amendment.

Mr. MCCONNELL. Mr. President, will the distinguished manager of the bill, Senator GREGG, yield for a colloquy?

Mr. GREGG. I am happy to yield to the Senator from Kentucky for a colloquy.

Mr. MCCONNELL. Mr. President, the Communications Assistance for Law Enforcement Act of 1994 (CALEA) was intended to preserve the ability of law enforcement agencies to conduct court-approved wiretaps on new digital networks. Implementation of this important legislation is currently two-and-one-half years behind schedule because industry and law enforcement have not been able to reach agreement on technical standards required under CALEA. In March of this year, the Department of Justice, the FBI, industry, and privacy groups all agreed that the Federal Communications Commission (FCC) should resolve the technical capability standards dispute as envisioned under CALEA. The latest information I have from the FCC is that the Commission does not expect to issue a final electronic surveillance capability standard until late this year.

Does the Senator from New Hampshire agree that the FCC should make this decision?

Mr. GREGG. I believe that the FCC should move expeditiously to resolve this matter.

Mr. MCCONNELL. After the statutory compliance date—October 25, 1998—telecommunications carriers could be subject to fines of up to $10,000 per day for failure to deploy equipment to meet CALEA compliance standards that currently do not exist and will not exist until the FCC sets the standard. According to industry sources, telecommunications equipment manufacturers will need approximately two years after the FCC sets a final standard to develop technology to meet the new standard.

CALEA authorized the Attorney General to reimburse the industry up to $500 million for the costs directly associated with modifying equipment that was installed or deployed before January 1, 1995 (the statutory "grandfather date"). Since January 1, 1995, a significant portion of all wireline switches, a majority of cellular switches, and virtually all personal communications services devices have been installed.

Mr. President, I am concerned that if the FCC sets a new CALEA technical capability standard and there is no change to the January 1, 1995 statutory grandfather date, industry may be required to retrofit that equipment at their own expense at a cost that could exceed hundreds of millions of dollars.

I do not think that the American people want to pay what could be considered an electronic surveillance tax running into the hundreds of millions of dollars. I know that the people in my state of Kentucky do not. I recognize that this is a complicated controversial issue, but I believe that Congress must act this year to adjust both the statutory compliance and grandfather dates contained in CALEA to allow the statute to work and avoid the prospect of an electronic surveillance tax on consumers.

I would like to work with the Chairman and the distinguished Ranking Member of the Subcommittee, Mr. HOLLINGS of South Carolina, to see if together, we can find a way to address this problem this year.

Mr. GREGG. I would be happy to work with the distinguished Senator and Senator HOLLINGS, the ranking member of the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies on this issue.

Mr. MCCONNELL. I thank the Chairman, and I yield the floor.

REPEAL OF SECTION 110 IN CJS APPROPRIATIONS BILL

Mrs. MURRAY. Mr. President, I rise in strong support of the Commerce, State, Justice Appropriations measure. As a member of the Appropriations Committee, I can speak to the importance of this legislation and I commend Senator GREGG and Senator HOLLINGS for putting this bipartisan product together.

I could speak to many important provisions in this bill for my constituents. From fisheries to the cops on the street to export assistance, this bill is important to Washington state. But there is one provision in the bill that I wish to give special attention to today. And that's the language to repeal Section 110 of the 1996 Illegal Immigration Act.

The repeal of Section 110 is one of my highest priorities for the year. As a member of the Appropriations Committee, I do strongly support including the repeal in the Commerce, State, Justice Appropriations legislation.

Section 110 requires the Immigration and Naturalization Service to develop an automated entry and exit system for the purpose of documenting the entry and departure of "every alien" entering and leaving the United States. It was not until after Section 110 became law that Congress became aware of the full impact of this new language.

As currently written, Section 110 will have disastrous consequences for U.S. border communities whose economies are dependent on border travel, trade and tourism. For example, more than $1 billion dollars in economic activity is generated each day by legal crossings between the U.S. and Canada. More than 116 million people legally crossed the border from Canada in 1996. This travel and economic activity will be discouraged to the detriment of U.S. interests if we impose new restrictions and create additional bureaucratic delays along our shared borders.

Section 110 will have dire consequences for my entire state and particularly for the residents of Northwest Washington in Whatcom County. In my state, Section 110 will create an invisible barrier between neighbors, families and coworkers who happen to live on different sides of the border. More than $250 million dollars of annual economic activity in Washington state will be threatened. Border infrastructure which is already inadequate and overwhelmed at certain times of the year will be further burdened with new documentation requirements and traffic congestion certain to anger both American citizens and Canadian nationals. It is estimated that Section 110 will almost immediately create a 12 hour backup at the border in Blaine, Washington.

Section 110 is a ticking time bomb. It's really that simple. The INS does not have the technology, facilities or trained personnel to implement this language. The real explosive issue here is the cost to implement Section 110. The INS is silent on this issue. That's because it will cost billions of dollars to implement the Section 110 time bomb. Let's be very clear on this point, without changes this provision will cost billions of dollars not anticipated by either the Congress or the American people.

Many of my constituents in Whatcom County will view the repeal of Section 110 as the most significant action taken by the Congress this year. Section 110 is the classic square peg solution for a round hole problem. That's why I've been fighting for more than a year to scrap the disastrous language.

Last year, I introduced the first Senate bill on this issue. My bill, S. 1205, the U.S.-Canada Economic Friendship Preservation Act of 1997 seeks to exempt Canadians from Section 110. The effort to fix the Section 110 problem has grown tremendously since the introduction of my bill. Communities across Washington state and virtually the entire Northern Border are working to preserve our close ties with our Canadian neighbors. Governors from Washington state, Michigan, Texas, Arizona and others are supporting the effort. Editorials endorsing the repeal of Section 110 have been written all across the country including The Bellingham Herald, The Seattle Post Intelligencer, The Los Angeles Times, The Washington Post, and The San Diego Union Tribune have all criticized Section 110. Numerous Chambers of Commerce and other business and community groups from all parts of the country are supporting the repeal Section 110 effort.

Various legislative efforts have garnered bipartisan and broad support. I am also an original cosponsor of Senator ABRAHAM's legislation addressing Section 110 and I compliment him for his leadership and advocacy on this issue. Senator ABRAHAM has been a champion in this effort; holding hearings along the border and in Washington, D.C. in his capacity as Chairman of the Immigration Subcommittee. I continue to believe the Senate in addition to passing the language in this bill should pass Senator ABRAHAM's stand alone bill on Section 110.

I commend my colleagues at the Appropriations Committee for taking this action to repeal Section 110. And I urge my colleagues to give this language strong and bipartisan support.

NOAA WEATHER RADIO COVERAGE IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, I rise today to update the Senate on my efforts to enhance statewide emergency warning systems in South Dakota. A person only has to open up a newspaper or watch the evening news to learn of the latest plight afflicting some region of the country. In recent years, our nation has been continuously ravaged by natural disasters, ranging from mudslides in California, massive flooding in the Midwest, as well as the annual hurricane and tornado seasons. These disasters have resulted in fatalities, enormous property damage, and has caused lingering disruptions of entire communities. This has never been more evident then this year, as our nation continues to feel the effects of the weather anomaly known as El Nino. Since August 1992, the National Oceanic and Atmospheric Administration (NOAA) has calculated that twenty-one weather-related disasters caused a staggering $90 billion in damages and resulted in over 900 fatalities.

South Dakota has by no means escaped Mother Nature's destructive path. Last year, South Dakota was plagued by severe weather conditions, beginning with record snowfalls in January and February, and the worst flooding in the state's history in April and May. Many residents were displaced from their homes, and the final cost for clean-up and assistance total in the millions of dollars. This year has been no different. Heavy rains have once again flooded homes and farmland in the northeast part of the state.

Recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. The Spencer disaster made me realize that additional efforts need to be made in order to provide citizens with the earliest possible warning of imminent danger. In my efforts to find new ways to update South Dakota's antiquated early warning system, it was brought to my attention that an immediate solution to upgrading the system would be the use of NOAA Weather Radios.

NOAA Weather Radios broadcast National Weather Service (NWS) warnings, watches, forecasts and other hazard information 24 hours a day. These NOAA Weather Radios automatically sound an alarm and turn themselves on when a severe weather warning or emergency information is issued for a specific county. These radios receive a signal that is broadcast from NWS transmitters located throughout the state. Seventy percent of South Dakota's population currently can receive these NOAA Weather Radio warnings. However, due to the rural nature and dispersed population of South Dakota, there are not enough NWS radio transmitters to provide total NOAA Weather Radio coverage. Many small towns who would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the South Dakota NWS to examine ways in which we can increase NOAA Weather Radio coverage so that 95 percent of South Dakota's population reside within range of a transmitter. I have met with Department of Commerce Under Secretary Dr. James Baker, who also is the Administrator of NOAA, to inquire about the requirements for attaining almost complete NOAA Weather Radio coverage for South Dakota. Following my discussions with Dr. Baker, I held several meetings throughout South Dakota with NWS representatives, emergency managers, and county officials to ascertain opportunities and resources already available in our state to augment our existing NOAA Weather Radio coverage.

The South Dakota NWS expects that eight additional transmitters would provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and my office forthwith.

During consideration of the FY 1999 Commerce, Justice, State, and Judiciary Appropriations bill, I have worked with Senator GREGG and Senator HOLLINGS in examining all available options to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95 percent of South Dakota's population is covered by NOAA Weather Radio.

Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in augmenting South Dakota's NOAA Weather Radio coverage. Although South Dakota is extremely well-prepared to deal with the impending tornado season, I believe it is my responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I look forward to working with Senator GREGG, Senator HOLLINGS and the conferees to locate funding for additional NOAA Weather Radio transmitters for South Dakota, and I appreciate their willingness to work with me on this critically important issue.

Mr. WELLSTONE. Mr. President, I rise to discuss a provision contained in the Commerce/Justice/State Appropriations bill: "Grants to Combat Violent Crime Against Women on Campuses," which provide $10 million a year to the Department of Justice for dissemination to colleges. I want to thank Senator GREGG, the Chairman of the Appropriations Subcommittee on Commerce, Justice, and State, for working with me to ensure that this provision becomes law.

In the 1980s, several high profile violent crimes on campuses raised concern about campus crime and security, resulting in the Student Right-to-Know and Campus Security Act (C.S.A.) in 1990. Though overall crime rates are declining, sexual assaults throughout the United States, including on college campuses, are on the rise. Studies tell us:

Twenty percent of college-aged women will be victims of sexual assault at some point during their college careers.

According to a 1995 study, 82 percent of rapes or sexual assaults in 1992–93 involved a person the victim knew.

Rape remains the most under reported violent crime in America, with approximately 1 in 6 rapes reported to police.

I am very concerned about sexual assault on college campuses. A 1991 survey of more than 6,000 college students found that 42 percent of women students reported some form of sexual assault, including forcible sexual contact, attempted rape, and completed rape. This is simply unacceptable and we must do something to turn this around.

We have already taken an important step in addressing violence on campuses. Already included in the Higher Education Act are efforts to strengthen reporting so that we can get more accurate statistics and a national baseline study has been commissioned to look at the policies and procedures regarding sexual assault, and how effective they are.

That's a great start, but it's not enough. It's not enough to simply get better statistics. It's not enough to look at how sexual assaults are dealt with on campuses. We have to go further. We have to combat sexual assault on campuses. We have to end the violence. Even one victim of sexual assault is too many.

A critical component to addressing violence against women on campus is good collaboration among those who work with victims of sexual assault—campus police, local law enforcement, campus administrators, and victim services. We need to improve the coordinated response to violence on campuses. We need consistent enforcement and implementation of policies regarding sexual assault. We need enhanced communication between the campus and local community.

And in turn, this increased communication will result in more accurate statistics. According to a GAO report released last March, one of the reasons we don't have good statistics is that campuses have had trouble deciding how to include crimes reported to campus officials who are not campus police. It's not unusual for crimes on campus to be reported to local police and not reported in campus crime reports. Improving collaboration within and between campus and off-campus agencies will improve the statistics—and therefore give us a more realistic picture of violence on campuses. It will also improve services and care for victims.

The grant program we've created—Grants to Combat Violent Crime Against Women on Campuses—would make $10 million a year available to college campuses so that campus personnel and student organizations could work with campus administrators and police. The aim is to improve security and investigation methods to combat violence against women on campus and to improve victim services. These efforts may include partnerships with local criminal justice folks and community victim services organizations. Collaborating with community resources is especially critical when campuses have minimal victim support services and students are isolated from community support systems.

Some say, "Why do this federally? Shouldn't schools do this themselves?" But why should we be surprised that schools have yet to properly initiate these collaborations when communities haven't even started. We need to hold the line on violence everywhere, in schools and in communities. And the only way to overcome violence involves setting up collaborative programs, and that takes funds. That's what the federal government does when it is functioning best—get the ball rolling.

Campus safety is an educational access issue. Violence on campus is a huge barrier to education for many students who are in fear of being attacked because they feel unprotected on their own campuses. Without adequate prevention and protection services, many students—women in particular—continue to become victims of attacks, while others remain afraid to take night classes or to study late at the library. And victims of sexual assault may choose to leave school because they feel unprotected.

How are college women supposed to focus on their educations when one out of five college women will be a victim of sexual assault? And if it's not themselves personally, it will surely be their roommates, their classmates, their sorority sisters, or their friends. College is the time when many young people begin to break away from the protection of their families, a time of learning—both in the classroom and out—a time of freedom. But for many young women, it's also a time of trauma, a time of victimization, a time of violence. It's time to make campuses safe.

During the Higher Education Act Markup in the Senate, I reached a public agreement with Senator GREGG to work together to develop a Campus Safety Collaborative Grant Program. On May 6th, Senator GREGG agreed to the language I proposed, creating a $10 million grant program administered by the Department of Justice for collaborative grants to colleges in order to combat violence on campus. Consequently, the Senate Working Group—Senator JEFFORDS, KENNEDY, COATS, and DODD—adopted the language into the Manager's Substitute of the Higher Education Act. And I am very pleased that Senator GREGG has inserted funding for this program into the Commerce/State/Justice Appropriations Bill.

The Wellstone/Gregg Collaborative Grant Program states: "enough is enough. It's time to end the violence." I thank Senator GREGG for all of his efforts, and I urge my colleagues to support this important provision.

IOWA COMMUNICATIONS NETWORK (ICN)

Mr. HARKIN. Mr. President, I understand that the intent of Section 254(h) of the Communications Act of 1934, commonly referred to as the Schools, Libraries and Rural Health Care Providers program or the "E-Rate" program, is to provide schools, libraries and health rural care providers with access to advanced telecommunications services. I believe that the Iowa Communications Network (ICN), a state run and owned communications network, as well as similarly situated entities, should be able to fully participate in the E-rate program. If the ICN is denied that opportunity by the Federal Communications Commission (FCC), Iowa schools will be unfairly and improperly placed at a disadvantage.

The FCC has said that an entity must be a common carrier to be a telecommunications carrier, as that term is used in Section 254(h) of the Communications Act of 1934, and to receive payments from the universal service fund for providing telecommunications service to schools, libraries and rural health care providers. The Universal Service Administrative Company is treating the ICN as a carrier for purposes of paying into the universal service fund, and ICN is, in fact, paying into the fund. The Iowa Utilities board, the local expert on this issue, has stated that the ICN functions as a common carrier under Iowa law, since the ICN serves all of its customers on equal terms and conditions. In light of these facts, does the center believe the ICN and other systems like it should be fully eligible to receive the benefits of the fund, including those available to telecommunications carriers?

Mr. MCCAIN. Given the statement of facts that the Senator has presented, it is my belief that it was clearly my intent and the intent of Congress that a State network organized and operated like the ICN is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934.

In addition to any action taken by the Federal Communications Commission, the Commerce Committee intends to further look into this issue. This program should treat all involved equally and not give any advantage to some while placing others at a disadvantage. Together, with the Ranking Member, we will do what is necessary and appropriate to deal with this matter.

Mr. HOLLINGS. I agree with Senator McCAIN, the Chairman of the Commerce Committee, and Senator HARKIN that a State network organized and operated like the Iowa Communications Network is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934. I will certainly work with Senator McCAIN and others if this issue arises in the Commerce Committee.

Mr. HARKIN. I appreciate your attention to this important issue.

FTC REGIONAL OFFICE

Ms. SNOWE. Mr. President, as the Senator from New Hampshire knows, I recently urged the Federal Trade Commission to reconsider their decision to close the Boston Regional Office and move all area activity for consumer protection and antitrust matters to New York City. The Boston office has served the people of Maine—and the rest of New England—well for over 40 years and I am concerned that thee may be adverse consequences as the Boston office is uniquely situated in New England to focus on fraud and deception issues that target senior citizens, or for unsubstantiated advertising claims that affect consumers' pocketbooks.

The Boston office has been a leader in coordinating efforts to combat consumer fraud in the New England area, partnering with regional FBI and IRS officials in its efforts to detect fraud on the Internet. The office has also worked with Canadian officials on cross-border fraud. In addition, the office has been active in addressing false and unsubstantiated advertising claims that affect consumers' health and safety, for instance stopping a company from claiming that their calcium product prevented osteoporosis, or preventing misleading food safety claims for a food thawing tray, or stopping a company from selling water treatment devices that did not meet the claims made.

The Boston office has also worked with senior citizens to detect and avoid telemarketing fraud specifically targeted at them, and also spends a great deal of its time performing other consumer and business outreach and educational services, including educational outreach to the next generation of consumers—the schoolchildren throughout New England.

I hope that the FTC can be urged to first consider the findings of a GAO independent evaluation due out in September before they continue with their planned closure of the Boston Office in December.

Mr. GREGG. I understand your concern about the possible adverse effects the closure of the Boston Regional Office could have on the people of New England, and while we have not heard a groundswell of protest from the public for keeping the office open, the situation may well be that the office will not be missed until or if New Englanders can no longer get the response they expected when lodging consumer complaints. The GAO findings as to the effectiveness of the Boston office should certainly be considered by the FTC Commissioners as they plan their restructuring plan to maximize their resources to best serve the consumers of the U.S., and including the residents of New England. I thank the lady Senator from Maine for requesting the GAO Study so that the FTC can quantify the best use of their limited resources.

Ms. SNOWE. I thank the Senator from new Hampshire for all his assistance and fine work as Chairman of the Commerce, Justice, State and Judiciary Appropriations Subcommittee, and for his effectiveness in bringing about the passage of this legislation today.

PFIESTERIA

Mr. FAIRCLOTH. I wish to enter into a colloquy with Senator GREGG in order to emphasize the funding needs of North Carolina in regards to Pfiesteria and the expertise available to research this toxic microbe at N.C. State university.

Pfiesteria is a toxic microbe that kills fish and causes widespread fish disease. Its toxins are known to affect many species of commercially important finfish and shellfish.

Pfiesteria is also highly toxic to people—it causes subtle, but serious, impacts on human health. People who are exposed to toxic outbreaks of Pfiesteria, where fish are dead or filled with open bleeding sores from this creature's toxins, can be seriously hurt as well.

Medical studies have shown that fishermen and other people whom have been exposed to these toxic outbreaks have suffered profound memory loss and learning disabilities for months afterward. Laboratory workers exposed to airborne toxins from Pfiesteria have had other health impacts that have lingered for years, suggesting the potential for some long-term, lingering health problems for people in estuaries where toxic outbreaks occur.

Pfiesteria's toxins are extremely potent—People are hurt from these toxins if they have contact with the water, or even if they breathe the air over places where Pfiesteria is attacking fish. These toxins affect the human nervous system. They also strip the skin from fish, make deep bleeding sores, and suppress the immune system. Small amounts of the toxins can make fish very sick in three-five seconds and kill them in five minutes.

Pfiesteria was first discovered in 1991, as a major cause of fish kills in the Albemarle—Pamlico Estuary of North Carolina. This estuary is of great importance to the commercial fishing industry of this country. It is the second largest estuary on the U.S. mainland, and it supplies half of the total area used by fish from Maine to Florida as nursery ground. Recently, Pfiesteria also affected small numbers of fish in the largest estuary on the U.S. mainland, the Chesapeake Bay.

Pfiesteria, and its close relatives, have been confirmed in the mid-Atlantic and southeastern U.S. Toxic Pfiesteria and its close relatives are believed to be widely distributed in many warm temperate estuaries and coastal waters of the country and the world.

Pfiesteria thrives in polluted waters that are over-enriched in nutrients from sewage and other wastes. With exponential human population growth a reality for many coastal areas of our country, more of our people are living and working near waters where these toxic outbreaks occur.

Pfiesteria has affected the largest and second largest estuaries on the U.S. mainland with major economic impacts. Its toxic outbreaks have caused millions of dollars of damage to seafood, tourism, and other industries in coastal areas. Thus, Pfiesteria has become a high profile national issue for human health and the coastal economy. Its toxic outbreaks are expected to increase in coming years, associated with sewage and other wastes.

Pfiesteria can have potentially devastating impacts on our fish resources. Beyond easily detected fish kills, Pfiesteria affects fish at the population level by severely impairing their reproduction, the survival of their eggs and young, and their ability to fight disease.

Pfiesteria's impacts on human health are also serious: Imagine what it would be like to appear normal, but to have no idea of where you are, to be unable to put words into sentences, or to understand English. You have lucid moments in which you realize that something is terribly wrong; then you slide back down. As you begin to recover, you must take reading lessons to be able to read again. Imagine life style changes—that even after you are able to test normally for learning and memory, you must compensate because you have lost the ability to process information as quickly as you could before the illness occurred, and you do not recover it. Imagine not being able to strenuously exercise because when you try, you develop severe bronchitis or pneumonia. Consider what it would be like to be a fairly young, energetic person who must be on antibiotics more than a third of the year, five years after being affected . . . what it would be like to watch as increasingly potent antibiotics do not help you recover from the most recent, nearly constant illness, and to fear the prospect of reaching the point at which the most potent antibiotics no longer can help.

This description characterizes the lives of several laboratory workers five to seven years following Pfiesteria toxin exposure.

In North Carolina, Pfiesteria has poisoned and killed millions of fish nearly every year from 1991, when scientists first discovered it, to the present. Last year, its toxic outbreaks also killed about 30,000 fish in Chesapeake waters.

Thus, the Albemarle-Pamlico, which is of such great importance to fisheries along the Atlantic Seaboard, has been hit hardest by Pfiesteria. North Carolina also has the world's foremost scientific expertise on Pfiesteria.

Dr. JoAnn M. Burkholder is a Professor of Aquatic Botany and Marine Sciences at North Carolina State University, and a Pew Fellow. She obtained a Bachelor of Science degree in zoology from Iowa State University, a Master of Science in aquatic botany from the University of Rhode Island, and a Ph.D. in botanical limnology from Michigan State University. Dr. Burkholder's research over the past 25 years has emphasized the nutritional ecology of algae, dinoflagellates, and seagrasses, especially the effects of cultural eutrophication on algal blooms and seagrass disappearance. Since co-discovering the toxic dinoflagellate, Pfiesteria piscidia, in 1991, she has worked to characterize its complex life cycle and behavior, its stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially important finfish and shellfish in estuaries and aquaculture facilities.

Howard Glasgow is the Director of North Carolina State University Acquatic Botany Laboratories. He obtained a Bachelor of Science degree in Chemistry and a Bachelor of Arts degree in Marine Biology from the University of North Carolina at Wilmington. Mr. Glasgow is now finishing a Ph.D. degree in Marine Sciences from North Carolina State University. Before joining the Aquatic Botany Program at NCSU in 1990 Mr. Glasgow was President and CEO of Glasgow Electronics (North Carolina's 2nd largest electronics servicing and engineering organization) were in 1989 he was nominated Businessman of the year and appointed as a member of Who's Who In U.S. Executives. His scientific interests compliment Dr. Burkholder's, and together they have characterize Pfiesteria's complex life cycle and behavior. Including research describing Pfiesteria's responses to stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially valuable finfish and shellfish in estuaries and aquaculture facilities.

The researchers who discovered it as a major cause of fish kills in estuaries have been working with Pfiesteria at North Carolina State University for the past decade. Nearly all of the science articles that have been published on Pfiesteria—that is, nearly all of the information available about it—has been contributed by that laboratory.

Armed with this formidable expertise, these researchers are poised to make the most rapid and significant progress to understand and control Pfiesteria, so that our people, and our fisheries, do not continue to be seriously hurt by it.

Despite the demonstrated expertise of this laboratory on the Pfiesteria issue, very little federal funding support has reached it.

These researchers are well-known for their leadership role in providing information about Pfiesteria that is critically needed by coastal resource managers, policy makers, and fishermen and many other folk who utilize our estuaries. Their research laboratory is located in the heart of the area where toxic Pfiesteria outbreaks have been most severe.

The funding would also make it possible for the most experienced researchers to determine the environmental conditions that promote toxic activity by Pfiesteria, so that its toxic production can be significantly reduced, and so that we can develop effective management strategies to discourage Pfiesteria's growth.

This funding would make it possible to achieve rapid progress in identifying the suite of toxins that produced by Pfiesteria, so that improved tools can be developed to diagnose Pfiesteria toxin exposure in people, to ensure that seafood is safe for human consumption, and to develop medicines to reduce the impacts of Pfiesteria's toxins in people and help them recover.

Mr. GREGG. I appreciate you bringing this funding issue to my attention, and I will work with you on this matter. I agree with you that scientific talent available at N.C. State University should be funded.

Mr. HOLLINGS. I appreciate the dedication of researchers at the N.C. State University. Howevr, this dedication is not limited to that institution, and we also must recognize the expertise and important contribution of government and academic scientists throughout the Eastern United States in dealing with this problem. For example, researchers at the National Ocean Service laboratory at Charleston are playing a critical role in developing methods for detecting Pfiesteria toxins. The reduction of toxin outbreaks must rely on bringing our combined federal, state and academic resources to bear on the problem in a cooperative and cost effective manner.

JEFFERSON PARISH COMMUNICATIONS SYSTEM

Mr. BREAUX. Mr. President, I would like to engage in a colloquy with Senator GREGG, the distinguished Chairman of the Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies, Senator HOLLINGS, the Subcommittee's distinguished Ranking Member, and Senator LANDRIEU, my distinguished colleague from Louisiana, concerning an important public safety matter in Jefferson Parish, Louisiana.

As my colleagues know, the Jefferson Parish Sheriff's Office has gained attention as one of our nation's most innovative and accomplished law enforcement agencies. Unfortunately, the Sheriff's Office's has been stymied in the past by a grossly inadequate and outdated conventional 450 MHz UHF radio system that has threatened public safety. It simply cannot provide the secure and varied communications capabilities needed by the Jefferson Parish Sheriff's Office in order for it to communicate with various state and federal law enforcement agencies.

To meet its operational needs, the Sheriff's Department has pursued the purchase of a new 800 MHz communications system. This new system will enable the Sheriff's Office to maintain a high and secure level of communication with district personnel and others. Through better communication, each officer can patrol his or her reporting areas more effectively. The new system will also enable the Sheriff's Office to successfully communicate with residents and other public safety officials during emergency situations, such as natural disasters, which require coordination of state and federal efforts.

I would like to thank the Subcommittee for recognizing the importance of this project and for providing partial funding for this initiative in last year's appropriations bill. Unfortunately, Congress only provided half of what the Sheriff's Office needs to complete the new communications system. Now is the time for Congress to finish its commitment to fund this project.

Ms. LANDRIEU. Mr. President, I would like to join my colleague in thanking the Subcommittee for its action last year in providing funding for this vital initiative. I fully agree with my distinguished colleague that the completion of the new communications system for the Jefferson Parish Sheriff's Office is a high priority project that deserves funding under the FY 1999 COPS Technology Grant Program. The Sheriff's Department has committed to at least a 50-50 cost share with the federal government for this initiative which can serve as a national model. Further, the new communications system will help meet a clear public safety need by supporting interoperability and thus enhancing communication between the Jefferson Parish Sheriff's Department and a number of other local and national law enforcement and public safety agencies throughout the region. This interoperability will enhance the Sheriff's Department's effectiveness in combating crime and responding to area-wide public safety emergencies.

I would also like to add that funding is needed in order for the Sheriff's Office to meet FCC requirements and the procurement implementation schedule for the new system.

Mr. BREAUX. Given the importance of this project, I hope that the conferees will agree to provide funding for completion of the enhanced radio system for the Jefferson Parish Sheriff's Department.

Ms. LANDRIEU. I join my colleague from Louisiana in urging my distinguished colleagues to work in conference to finish the federal commitment we have made to this much-needed system.

Mr. GREGG. I would like to thank the Senators from Louisiana for understanding that the Subcommittee was unable to accommodate the entire request for funding in last year's appropriations bill. Funding for the completion of the new communications system for the Jefferson Parish Sheriff's Office in Jefferson Parish is a project worthy of attention in conference this year.

Mr. HOLLINGS. The Senators from Louisiana have highlighted an important issue. I agree with the distinguished Chairman that the completion of the communications system for the Jefferson Parish Sheriff's Office is a project that deserves consideration and I will give this matter my attention in conference.

Mr. BREAUX. The support from the distinguished Chairman and Ranking Member of the Subcommittee in this matter is greatly appreciated.

DATA SURVEY OF NARRAGANSETT BAY

Mr. CHAFEE. Mr. President, I want to engage in a colloquy with the chairman of the subcommittee, Senator GREGG.

On page 93 of the report accompanying the FY99 Commerce, Justice, State and the Judiciary Appropriations Act (S. Rept. 105–235) is a provision appropriating $1 million for a data survey of Narragansett Bay, to be conducted in conjunction with the Rhode Island Coastal Resources Management Council (CRMC). I would like to outline to the chairman my understanding of the purpose of these funds, and request his concurrence.

The $1 million appropriated for this project is to be used by CRMC for a Geographic Information System (GIS) software program to develop digital data on Narragansett Bay's resource conditions, availability and use. Advanced sonar technology would be employed to assess the Bay's bottom sediment types, habitat and use conflicts. A previous EPA study, the Narragansett Bay Critical Resource mapping project, was unable to collect data on bottom habitat, due to the limitations of research methods used at the time.

The data collected by this project would provide CRMC with information that, combined with input from other sources, would be helpful in determining appropriate sites for aquaculture leases, a function currently hindered by inadequate data and ongoing disputes over use. The data would also be useful in making several other decisions related to marine management issues. In addition, the project is intended to provide for studies relating to questions regarding environmentally sound and economically sustainable forms of aquaculture by the University of Rhode Island's Partnership for the Coastal Environment.

It is intended that the data collected and developed under this project not only be utilized by CRMC, but will also be made available to other Federal and State agencies as well as private fishery and conservation groups. I would like to briefly describe some of the entities that could potentially benefit from this data and ought to have access to it.

First, the National Marine Fisheries Service (NMFS) and the Rhode Island Department of Environmental Management (DEM) could use the data to identify existing essential fish habitats (EFH) not only in Narragansett Bay, but also in nearby Rhode Island and Block Island sounds. In addition, the Rhode Island Economic Development Corporation (RIEDC) ought to have access to the data in order to help establish suitable shipping lanes for larger vessels serving the cargo port at Quonset Point. Further, the data could be useful to NOAA's National Estuary Research Reserve NERR in selecting eelgrass restoration sites, identifying areas impacted by fishing gear, and areas suitable for habitat restoration. Finally, the data should be accessible to interested private fishery and conservation groups, such as the Rhode Island Shellfishermen's Association, the Ocean State Fisherman's Association and Save the Bay.

Let me also point out what this project is not intended for. This initiative is not aimed at giving preference to one group or interest over another in the use of, or issuance of permits in, Narragansett Bay and other marine resources in Rhode Island. Instead, it is simply intended to provide State and Federal authorities with the best possible information to assist them in making the most responsible public policy decisions not just on aquaculture permitting, but also on a variety of matters involving our precious natural resources.

I would ask Chairman GREGG if he concurs that the description I have provided on this funding is the Committee's intent?

Mr. GREGG. Yes, that is correct.

PATHOGEN RESEARCH RELATED TO BALLAST WATER

Mr. KOHL. I would like to thank the Senator from New Hampshire, the Chairman of the Subcommittee on Commerce, Justice, and State Appropriations, for his work on this bill. In particular, I appreciate his efforts to maintain funding for the Sea Grant College Program, which facilitates so much valuable research in the Great Lakes and other coastal areas of this country.

As this process moves forward, it is my hope that the conferees working on this bill will ultimately support and reiterate the language included in the House Committee report related to pathogen research and the Sea Grant College Program. Specifically, this language encourages the agency "to conduct research related to the public health risks posed by pathogens released in ballast water discharges in ports around the country."

While we know that pathogens from other regions of the world are sometimes present in the ballast tanks of ships that enter our ports, we have very little information about the public health risks posed by those pathogens. It is important that we improve our state of knowledge in this regard. The Sea Grant College Program and its network of about 300 universities are appropriately positioned to undertake this research. They are in this position due to their ongoing research on aquatic nuisance species and ballast water, as well as their affiliation with human health experts at their network universities.

Would the Senator from New Hampshire agree that this research on public health risks posed by pathogens in ballast water is important, and efforts should be made through the Sea Grant College Program to undertake such human health risk studies?

Mr. GREGG. I would concur with the Senator from Wisconsin that it is important to improve the state of understanding about the potential human health risks of pathogens that enter U.S. waters via ballast water, and that the Sea Grant College Program is an appropriate agency to conduct and facilitate such research.

Mr. KOHL. I appreciate the Senator's comments, and understanding of these concerns. Will the Senator be willing to support the inclusion of language in the conference report with regard to such research?

Mr. GREGG. While I can make no promises with regard to the final outcome of the conference, I will work with the Senator to address these concerns in the conference report.

SAFE SCHOOLS INITIATIVE

Mr. BIDEN. Mr. President, I would ask to engage the Senator from New Hampshire, Mr. GREGG, in a brief colloquy regarding a portion of the report which accompanies the bill, calling on the COPS office to direct $175 million to the Safe Schools Initiative, for the hiring of additional police officers to improve the safety of our school children. I strongly support the Committee's effort, lead by Chairman GREGG and ranking member HOLLINGS, to meet this highly important duty. I just wanted to get a clarification about the Committee's intent—is it the Committee's intent that D.A.R.E. police officers would be eligible to be funded under the Safe Schools Initiative?

Mr. GREGG. I appreciate the Senator's concern on this subject. The Committee believes that D.A.R.E. police officers would clearly quality under the Safe Schools Initiative. However, we are not yet ready to increase the D.A.R.E program above the FY 1998 level which has already been approved by the Office of Justice Programs. Of course, such decisions would be made at the local level—they decide the types of community police officers which would best accomplish the goals of the Safe Schools Initiative.

Mr. BIDEN. I thank the Senator for his interest in this matter and for his clarification of the Committee report.

WESTERN SLOPE DRUG ENFORCEMENT

Mr. CAMPBELL. Mr. President. I seek recognition to raise an important issue with the manager of this bill, Senator GREGG.

One area of growing concern in my home state of Colorado is the production, distribution and use of methamphetamines. To help law enforcement address this problem, I pushed for designation and funding of the Rocky Mountain HIDTA which is operating in many regions of the state, and secured additional funding in the Treasury subcommittee for a methamphetamine initiative through the Office of National Drug Control Policy. I also have supported budget increases for the Drug Enforcement Administration, but believe that agency can do much more, especially to help Western Colorado.

The Western Slope of Colorado is becoming a major drug transit point because of its close proximity to I–70, its easy access to trains, buses and planes, and the large geographic areas which law enforcement officers have to patrol. The scope of the methamphetamine problem in this area recently was underscored by the Grand Junction Chief of Police, Gary Konzak. Chief Konzak informed me that "the quality of life of this city and the safety of its citizens are in peril if significant and organized law enforcement resources are not deployed soon to combat this menace."

Based on his almost 30 years of law enforcement in Chicago before coming to Colorado, Chief Konzak believes neighborhoods and communities in Western Colorado are vulnerable to degradation similar to what he witnessed when crack cocaine arrived in the Chicago area in the early and mid 1980s.

Mr. President, in Colorado the DEA operates a regional office in Denver and recently established a field office in Glenwood Springs. However, I believe the DEA can do much more to assist police chiefs and sheriffs in Mesa County, Montrose County and other counties on the Western Slope.

The bill we are considering today includes a significant increase in the DEA's budget for the coming fiscal year. The bill also includes $24.5 million and 100 agents specifically for the Methamphetamine Initiative to target and investigate methamphetamine trafficking, production and abuse.

Chief Konzak and other law enforcement officials throughout the Western Slope believe there is an urgent need for a DEA presence, through a field office or permanently assigned agents. I strongly support their request for assistance from the DEA and ask the Chairman for his support.

Mr. GREGG. I thank the senior Senator from Colorado for raising this important issue and for his work on the Commerce, Justice, State subcommittee to make DEA funding a main priority. I can appreciate his concern for the tragic ways methamphetamines can ravage communities, and commit to working with him in urging the DEA to establish a field office on the Western Slope of Colorado.

Mr. CAMPBELL. I thank the chairman for his support and look forward to working with him to address the methamphetamine problem on Colorado's Western Slope.

NEW JERSEY STATE POLICE

Mr. LAUTENBERG. Mr. President, I rise to confirm my understanding of a provision that will be included in the manager's amendment to the Commerce, Justice and State appropriation bill. I had proposed an amendment that would provide $1 million to equip New Jersey State Police vehicles with video cameras. It is my understanding, and I want to confirm this with Mr. GREGG, the distinguished Floor Manager of this legislation, that these funds will be made available by reallocating $1 million to the COPS Program. That $1 million would then be directed to the New Jersey State Police for video cameras in its vehicles, in the same manner that COPS Technology Program funds are directed to various programs on page 61 of the Committee Report to this legislation, e.g., $935,000 for the Missoula County, MT, mobile data terminals. Is my understanding correct?

Mr. GREGG. Yes.

Mr. LAUTENBERG. Is it also the understanding of the Senator that he will support the $1 million for the New Jersey State Police in a Conference Committee with the House?

Mr. GREGG. Yes.

Mr. LAUTENBERG. I would like to thank the distinguished Chairman of the Appropriations Subcommittee on Commerce, Justice, and State for his help with this matter. I appreciate his cooperation and I commend him for all of his hard work on this legislation. I know that it is difficult to accommodate the various requests from colleagues, and I think he and his excellent staff do it with grace and understanding. I also want to thank Senator HOLLINGS, the Ranking Member on the Subcommittee, it is always a pleasure to work with him and his fine staff.

The video cameras that will be funded under this provision will help the police document evidence which will assist prosecutors and also protect the innocent. With these cameras in place, people who are pulled over will think twice before acting violently toward the police. Additionally, the cameras will ensure that the troopers are following proper procedures when they make traffic stops.

In my home State of New Jersey, we must find ways to help resolve disputes and ease tensions between the police and the public they are sworn to protect. These cameras are an important step forward.

Again, I thank Senator GREGG and Senator HOLLINGS for their help in securing this critical funding.

ORGANIZATION FOR INTERNATIONAL ECONOMIC AND COOPERATION

Mr. DOMENICI. Mr. President, I rise today to address one of the international organizations funded in the Commerce, Justice, State, and the Judiciary Appropriations bill that is currently pending. I speak of the Organization for International Economic and Cooperation, or OECD, as it is known.

Mr. President, we live in an era where the pubic rightly demands both less government and higher quality services. This is an era where government downsizing and reform are expected of not just federal, state, and local governments, but also to international organizations.

One organization that has understood that less is better when it comes to government is OECD. The OECD was founded in 1961 as a successor to the Organization for European Economic Cooperation, which was formed to administer the Marshall Plan. As the situation in Europe has changed, so has the work of the OECD evolved. Its purpose today is to contribute to the world economy through economic cooperation among its member nations and beyond.

The OECD works on issues such as regulatory reform, electronic commerce and tax reform. With its first-rate studies and current information, OECD helps the United States and its other member nations to stay ahead of the curve in the fast-changing global economy. Its work offers policy makers important insight on what the United States can do to benefit from globalization and general economic liberalization.

At the same time, the OECD has understood that it, too, has to change. On its own initiative, the OECD has undertaken a significant process of reform, committing to cut its overall spending by ten percent. It is well on its way toward achieving this goal.

The distinguished Chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee has put an emphasis on getting all international organizations to cut administrative costs. The pending bill reflects reductions in funding to those organizations that are above 15 percent in total administrative costs. Based on the State Department data available to the Subcommittee—a 1997 report which includes data only through 1995—the Subcommittee has reduced funding for the OECD. The OECD has indicated to me that its administrative costs are now only about 12.4 percent of its budget.

I urge the Department of State to provide the Subcommittee with more recent data so that those international organizations that have reduced their overall administrative costs can be appropriately reviewed for FY 1999 funding. For organizations that have pursued reform, such as the OECD, I hope the Subcommittee will reconsider the Administration's budget request for inclusion in the final bill.

WATERLINE EXTENSION PROJECT

Mr. CLELAND. Mr. President, I would first like to thank my distinguished colleagues, the Chairman Senator GREGG and Ranking Member Senator HOLLINGS, for their leadership and superb management of this bill. I would like to take a moment to express my support for a matter of great importance to me, specifically obtaining funding for a Waterline Extension Project in Georgia. The project would involve providing $1,000,000 in Economic Development Administration (EDA) Public Works (Title I) funds for construction of an extended 16-inch water line (16,000 L.F.) along Macon Road (U.S. Highway 80) from Muscogee County into Talbot County. I understand that a proposal for this project was submitted to the EDA, but the application was denied. Apparently, the application was rejected because the project did not identify any, or a significant number of, near term new jobs. However, I have been assured that, although one industry alone would not fulfill the new job requirement, the waterline would allow several new industries to locate in the area which will more than meet the new job requirement. In fact, there have been commitments in writing from three businesses of their intent to locate in the newly developed industrial site. Talbot County is one of the most economically depressed counties in Georgia. In fact, in 1994, Talbot County had approximately 25% of its population living below the poverty line, ranking near the bottom of the state. If funded, the waterline would provide the vital infrastructure needed to serve potential industrial sites located in Talbot County and bring with it much needed opportunities for employment in well paying jobs. Senator HOLLINGS, I understand that Committee policy prohibits earmarking EDA funding for individual projects. Is that accurate?

Mr. HOLLINGS. My colleague is correct.

Mr. CLELAND. I thank the Senator. I understand that although projects are not earmarked, language is provided in the bill about projects intended to provide favorable recommendations to the EDA, if the project meets EDA criteria. Is my understanding correct?

Mr. GREGG. The Senator from Georgia is correct.

Mr. CLELAND. I thank the Senator. I understand that the EDA has stated a willingness to meet with County and City officials to review and reconsider the proposal at any time. Given the importance of this project and the apparent discrepancy between the information provided by local officials and the information cited by EDA in rejecting the proposal, I urge that the EDA give prompt consideration of any such request for a meeting. Further, assuming that the job-creating potential of the waterline Extension Project can be verified, I ask the distinguished Chairman and Ranking Member if they would agree that this is the kind of project Congress intended for EDA to give favorable consideration to in its public works construction program?

Mr. HOLLINGS. The Senator is correct.

Mr. GREGG. With the information provided, I believe the Senator's understanding is correct.

Mr. CLELAND. I, along with residents of Talbot and Muscogee Counties, thank my colleagues for their understanding and support and believe that this project would provide a critical economic boost to this region.

SWORDFISH CONSERVATION INITIATIVE

Mr. GREGG. I wish to enter into a colloquy with Senator FAIRCLOTH in order to address his concerns about the conservation of swordfish.

The National Marine Fisheries Service is in the process of implementing several management measures to ensure sustainable use of the Atlantic swordfish resource. The rampant importation of undersized Atlantic swordfish harvested by foreign fishing vessels is one of the most serious problems facing domestic and international management of this highly migratory species. The Congress recognizes the significance of this effort and, through the leadership of Senator FAIRCLOTH, this appropriations subcommittee provided $500,000 in this fiscal year for NMFS to fully address this specific concern.

The Committee intends that NMFS will utilize this particular appropriation to implement changes in our current system in order to prevent importation of Atlantic swordfish not harvested in a manner that is consistent with recommendations under the International Convention for the Conservation of Atlantic Tunas (ICCAT).

I ask my colleague from North Carolina to elaborate upon the intent of the Committee in its initiative to address Atlantic swordfish importation problems.

Mr. FAIRCLOTH. The United States has taken a firm conservation position with respect to ICCAT management recommendations. Our domestic fishermen comply with a tightly managed quota designed to rebuild this stock through international cooperation. Through efforts of the NMFS and our fishermen, we harvest only the annual amount specified for the American fishery, and we abide by the minimum swordfish size requirement of 33 lbs. Indeed, despite our harvest of less than five percent of the total Atlantic swordfish catch, the United States is working within the system to manage this resource in a sustainable fashion.

Unfortunately, however, not all countries are playing by the rules. Several foreign nations are allowing the harvest of swordfish smaller than the American minimum legal size. Further, this "black market" swordfish often time find its way into our restaurants and fish markets, and we are effectively undermining our resource rebuilding programs and our ability to compete in the marketplace by allowing this situation to continue.

I concur with my colleague from New Hampshire that it is time for us to reign in this illegal activity—to enforce our fishery regulations equally across the board—and protect our domestic fishermen who are operating just as we have asked them to. The intent of the Congress in the swordfish conservation initiative is to arm NMFS with the financial resources necessary to develop a program to restrict the importation of Atlantic swordfish that are below the United States minimum size. I understand NMFS is examining a number of possible management options, including dealer permits, country of origin documentation requirements, and the designation of restricted ports of entry for Atlantic swordfish to facilitate inspections.

I encourage them to continue in their deliberations, communicate fully with our fishermen, and implement a program to address our resource and equitability concerns.

OECD DEVELOPMENT CENTER

Mrs. HUTCHISON. Mr. President, the OECD Development Center works to promote market-opening reforms in developing nations and has provided valuable research and resources to policy makers and analysts in developed nations and developing countries alike. the OECD Development Center was established at the initiative of the United States in 1962, and we have played a leadership role in the Center ever since. I believe it is important to note the OECD Development Center's contribution as a bridge between OECD nations and emerging economies around the world.

Mr. GREGG. I appreciate and understand the remarks of the Senator from Texas in support of the OECD Development Center and the important role it performs.

BROADCASTING ACTIVITIES

Mr. BIDEN. Mr. President, I would like to briefly discuss the funding levels for international broadcasting in this legislation. I am disappointed by the considerable reductions in the Senate bill in this account. We have important priorities in this account. Radio Free Asia, Radio Free Europe/Radio Liberty (RFE/RL), and the Voice of America are critical instruments of American foreign policy. For a relatively modest cost, these broadcasting agencies project American values and promote American ideals. RFE/RL was of critical importance during the Cold War in undermining the tight control on information imposed by the communist states in Eastern Europe and Eurasia. Although the Cold War is over, RFE/RL still have an important function in a region where independent media are not yet firmly established, and, in many countries, is barely adequate. I authored the legislation in 1994 which created Radio Free Asia—which broadcasts news about local events to China and the other dictatorships in the region—and I want to ensure that it has the necessary resources so that it can perform its function.

It is my understanding that Committee has assumed that the bill fully funds Radio Free Asia at the requested level of $19.4 million. Is that the understanding of the Chairman?

Mr. GREGG. That is correct.

Mr. BIDEN. I appreciate that clarification. I understand that the Chairman and Ranking Member have a very tight allocation this year, but I hope that they will do what they can to try to restore the funds that were reduced in the Committee mark for broadcasting activities.

Mr. GREGG. I will say to the Senator from Delaware that I will do my best, within the allocation, to provide additional resources to this account.

Mr. HOLLINGS. I share the view of the chairman that we will do what we can on this account.

Mr. BIDEN. Additionally, I would note that the Committee report makes reference to the fact that the statute authorizing Radio Free Asia provides for a sunset a year from now. That is true, but the Senator from New Hampshire should understand that, in my view, it is quite likely that Radio Free Asia will be reauthorized next year. I plan to introduce such legislation early in the next Congress, and I would expect that it would be included as part of next year's Foreign Relations Authorization Act.

Mr. GREGG. I am grateful for that information from the Senator from Delaware. I know that he is a strong advocate of Radio Free Asia as well as the other broadcasting services. I look forward to working with him on this issue as the bill goes to conference and in the coming years.

JOINT MARINE AQUACULTURE EDUCATION PROJECT

Ms. SNOWE. Mr. President, I would like to engage the Chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee, Senator GREGG, in a colloquy.

Mr. GREGG. Mr. President, I would be pleased to join the Senator from Maine in a colloquy.

Ms. SNOWE. Mr. President, S. 2260 provides funding for the National Oceanic and Atmospheric Administration to support a joint marine aquaculture education project in Maine. The committee report lists the project sponsor in Maine as the Island Institute, but the actual sponsor is the Teel Cove Sea Farm. While Teel Cove is associated with the Island Institute, the two organizations are separate entities. In this case, Teel Cove is the chief sponsor of the project in Maine and should be listed as the recipient in the bill or report. I believe that this was the committee's intention. I would like to ask Senator GREGG if his understanding of this matter is consistent with mine, and also whether he would be willing to take appropriate action to ensure that a correction will be made and Teel Cove will be designated as the project sponsor in Maine.

Mr. GREGG. Mr. President, I agree with Senator SNOWE on this point. Teel Cove is the intended recipient and I will make sure that this matter is clarified before the conference on this legislation is completed.

Ms. SNOWE. Mr. President, I thank Senator GREGG for his statement and his agreement to address this matter. I would also like to ask Senator GREGG if my understanding is correct that the bill before us provides the Administration's full request for funding of the State of Maine's Atlantic salmon recovery plan.

Mr. GREGG. Mr. President, this bill does provide the Administration's requested level of funding for the Maine Atlantic salmon recovery plan.

Ms. SNOWE. Mr. President, I thank the subcommittee chairman, Senator GREGG, for his clarifications and assistance.

FISHING CAPACITY REDUCTION PROGRAM

Mr. WYDEN. I thank the Subcommittee Chairman for including $50,000 in the Committee Appropriations report for a potential loan to fund an innovative fishing capacity reduction program on the Pacific Coast. The program, if it receives the approval of fishermen on the West Coast, would be the first capacity reduction program to be ultimately funded by the fishing industry itself.

To comply with the requirements of section 504(b) of the Federal Credit Reform Act (2 U.S.C. 661c), an appropriation is required to cover the potential cost to the government for a debt obligation. My request assumed that the maximum potential cost to the government likely to be determined for the loan would be one percent, which would allow a loan of $5 million based on the $50,000 appropriated by the Committee. It is my understanding that if the Secretary of Commerce finds that the potential default rate for the loan is less than one percent, the loan amount would be accordingly higher than the $5,000,000 authorized by the report. For example, if the potential default rate for a future Pacific Coast buyback is determined to be one-half of one percent, the loan could be as high as $10,000,000 based on the appropriated $50,000. Is my understanding correct?

Mr. GREGG. Yes, the Senator's understanding is correct.

Mr. WYDEN. Further, I would like to clarify to the Chairman in my request, I was seeking credit authority for a maximum loan of $35 million. Is it the Chairman's understanding that if the Secretary of Commerce finds there is a potential default rate low enough for a loan of $35 million, that a loan of $35 million could be made?

Mr. GREGG. Yes, this is my understanding.

Mr. WYDEN. I thank the Chairman for this clarification and his recognition of the opportunity presented by the Pacific Coast plan.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) WEATHER RADIO COVERAGE IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. The Spencer disaster made me realize that every effort needs to be made in order to provide citizens with the earliest possible warning of imminent danger. In my efforts to find new ways to update South Dakota's antiquated early warning system, it was brought to my attention that an immediate solution to upgrading the system would be the use of NOAA Weather Radios.

NOAA Weather Radios broadcast National Weather Service (NWS) warnings, watches, forecasts and other hazard information 24 hours a day. These NOAA Weather Radios automatically sound an alarm and turn themselves on when a severe weather warning or emergency information is issued for a specific county. These radios receive a signal that is broadcast from NWS transmitters located throughout the state. Seventy percent of South Dakota's population currently can receive these NOAA Weather Radio warnings. However, due to the rural nature and dispersed population of South Dakota, there are not enough NWS radio transmitters to provide total NOAA Weather

Radio coverage. Many small towns who would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the South Dakota NWS to examine ways in which we can increase NOAA Weather Radio coverage so that 95 percent of South Dakota's population reside within range of a transmitter. I have met with Department of Commerce Under Secretary Dr. James Baker, who also is the Administrator of NOAA, to inquire about the requirements for attaining almost complete NOAA Weather Radio coverage for South Dakota. Following my discussions with Dr. Baker, I held several meetings throughout South Dakota with NWS representatives, emergency managers, and county officials to ascertain opportunities and resources already available in our state to augment our existing NOAA Weather Radio coverage.

The South Dakota NWS expects that eight additional transmitters would provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and my office forthwith.

I hope I will have an opportunity to work with members of the conference committee for the Commerce, Justice, State, and Judiciary Appropriations bill in order to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95% population of South Dakota's population is covered by NOAA Weather Radio.

Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in augmenting South Dakota's NOAA Weather Radio coverage. Although South Dakota is extremely well-prepared to deal with the impending tornado season, I believe it is my responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I ask Senator HOLLINGS, do you support my efforts to enhance statewide emergency warning systems in South Dakota through the acquisition of additional NOAA Weather Radio transmitters?

Mr. HOLLINGS. Yes, I support the efforts of the Senator from South Dakota, and I appreciate your bringing the situation in South Dakota to the Senate's attention. I will work to locate funding for this important initiative.

Mr. JOHNSON. I thank the Senator for his support. With the prediction of a highly volatile hurricane season expected in your region of the country, I am sure the Senator is aware of the immediate warning that NOAA Weather Radios provide emergency managers and residents of his state in preparing for an oncoming storm, and how invaluable this early warning is in mitigating the loss of lives and property. Mr. Chairman, will you support my proposed efforts to increase NOAA Weather Radio coverage in South Dakota?

Mr. GREGG. I will work with Senator HOLLINGS and Senator JOHNSON to locate funding for additional NOAA Weather Radio transmitters for South Dakota.

Mr. JOHNSON. I thank the Chairman for his support, and I deeply appreciate your and the Senator from South Carolina's willingness to work with me on this critically important issue.

SHEA'S PERFORMING ARTS CENTER

Mr. MOYNIHAN. Mr. President, I rise to enter into a colloquy with my colleagues, Senator D'Amato, and the distinguished managers of the Commerce, State, and Justice appropriations bill. Mr. President, we have in Buffalo a wonderful old theater, known now as Shea's Performing Arts Center. It opened in 1926 as motion pictures made their ascendance in the nation's entertainment industry, and was also the site of numerous stage productions. As Buffalo's population shifted to the suburbs or elsewhere, Shea's fell on hard times and was almost demolished in the 1970s. But citizens banded together, formed a non-profit group, and began restoration efforts. Today Shea's is on the National Register of Historic Places and is a cornerstone of Buffalo's downtown. I would ask the managers of the bill if they would encourage the Economic Development Administration to consider an application from Shea's Performing Arts Center and provide a grant if warranted.

Mr. D'AMATO. I also hope that the Economic Development Administration will see the merit in awarding a grant to Shea's. In addition to restoration and preservation efforts, the theater needs to be expanded backstage so that it can accommodate the large touring musicals and other productions that people would flock to downtown Buffalo to see. If Shea's were able to accommodate and present the biggest and best in live entertainment, it would be a tremendous boost for Buffalo's economy. I too hope my colleagues will encourage EDA to give every consideration to an application from Shea's.

Mr. GREGG. As I would like to be of assistance to my colleagues from New York, I do encourage the EDA to consider such an application from Shea's Performing Arts Center within all applicable procedures and guidelines, and to fund it if warranted.

Mr. HOLLINGS. I too suggest that EDA consider and fund an application from Shea's if the application has merit and meets all applicable procedures and guidelines.

Mr. MOYNIHAN. I am deeply appreciative of my distinguished colleagues from New Hampshire and South Carolina.

Mr. D'AMATO. I also thank my colleagues for their help.

ERIE, PA, NATIONAL WEATHER SERVICE OFFICE

Mr. SPECTER. Mr. President, I have sought recognition to comment on the Senate Appropriations Committee's decision to provide funding to reopen the Erie National Weather Service office at least in part starting this Fall. Congressman ENGLISH and I were in Erie in April for meetings with local officials and residents on this important issue and our appropriations success is a direct result of that visit. During that visit, I once again heard the troubling litany of severe weather incidents in Erie, which include blizzards and tornadoes which went unreported and put thousands of residents at risk.

I am pleased that Chairman GREGG was able to fulfill part of my request regarding the National Weather Service's activities in the Erie area and wanted to confirm with him that it is our understanding that pursuant to the language in this bill, the agency will undertake mitigation activities which will include having Weather Service personnel in the Erie office 7 days a week, 24 hours a day, for 6 months beginning October 1, 1998.

I will continue to focus with Congressman ENGLISH and Senator SANTORUM on our goal of reopening the Erie office permanently and ensuring that the office is equipped with the most advanced forecasting equipment available in the federal government. The six-month reopening of the office represents a good interim fix and I thank the Chairman for his help.

Mr. GREGG. I concur with my colleague from Pennsylvania as to my understanding of the agency's intentions. The bill before us provides sufficient funds to reopen the Erie office for six months on an around-the-clock staffing basis as part of the effort to mitigate any degradation of service since the Erie office was closed in 1996. I was pleased to be able to provide at least some of the funds he requested and look forward to working with him on this issue as this bill moves to conference with the House of Representatives.

ESSENTIAL FISH HABITAT

Mr. KEMPTHORNE. Mr. President, I wish to engage the Senator from New Hampshire, the Subcommittee chairman of Commerce, Justice, State and the Judiciary and the Senator from South Carolina, the Ranking Member of that Subcommittee in a colloquy.

As chairman of the Drinking Water Fisheries and Wildlife Subcommittee of the Environment and Public Works Committee, I am concerned that the National Marine Fisheries Service's guidelines on essential fish habitat have exceeded the scope of congressional intent. In 1996, Congress amended the Magnuson-Stevens Fishery Conservation and Management Act. The National Marine Fisheries Service's interpretation of a provision in that Act concerns me, the States and a diverse range of affected businesses and citizens throughout the country.

Mr. GREGG. The intent of the original provision was to establish procedures to gather information on essential fish habitat, wherever possible encouraging interagency coordination when other administration programs complemented the EFH goal.

Mr. KEMPTHORNE. As my distinguished colleague points out, the original provision was limited, focusing on increased efficiency and, wherever appropriate, information coordination. Congress did not intend to authorize a provision that created a sweeping new regulatory program.

Concerns have been raised about the complexity of the NMFS "essential fish habitat" regulations not add a new level of regulation in addition to what is required under the endangered Species Act.

Mr. GREGG. I appreciate the concerns of the Senator. The report accompanying this bill raises issues about the essential fish habitat program.

Mr. HOLLINGS. I am aware of the report language accompanying the Commerce, Justice, State and the Judiciary Appropriations bill, and I did not object to the inclusion of that language. The EFH provisions of the Magnuson-Stevens Act are intended to address growing concerns over the loss of habitat essential to the health of marine fisheries, including many commercially and recreationally valuable stocks.

Mr. KEMPTHORNE. As envisioned by NMFS, essential fish habitat covers much of the coastal, marine, and estuarine waters of the United States, and it includes some inland habitat for anadromous species. The broad definition of "essential fish habitat" raised concerns that NMFS will apply the EFH virtually everywhere.

In addition, serious concerns have been raised by nonfishing interests regarding their lack of participation in the development of these guidelines. Nonfishing interests were not heavily involved in the development of the guidelines. But when NMFS issued the proposal, a coalition of groups felt that their participation should have been solicited.

Mr. GREGG. It is my understanding that since the NMFS regulation was proposed, that community has offered comments. Given the scope of the EFH proposal, and the wide-ranging impacts on nonfishing entities, I believe the agency should take the view of all entities into consideration.

Mr. KEMPTHORNE. I agree. They object to the scope of the proposed EFH program and are concerned that it will subject activities, including land development, agriculture, water supply, forestry, and mining, to the jurisdiction of the Fishery Management Councils under the Magnuson-Stevens Fishery Conservation and Management Act. Ideally, these guidelines, along with the comments submitted by nonfishing interests, will be thoroughly reviewed and, if necessary, republished by the NMFS. Congress should carefully watch this situation.

Mr. GREGG. The report accompanying this bill directs the General Accounting Office to review the National Marine Fishery Service's implementation of the Magnuson-Stevens Act, including the essential fish habitat provisions. Congress should receive a thorough report on this matter, and I look forward to receiving the results of the GAO's review.

Mr. KEMPTHORNE. I thank the chairman.

PHARMACY RECORD KEEPING

Mr. HATCH. For some time, I have been disturbed over reports that the Drug Enforcement Administration has been imposing multiple, substantial fines for what amount to minor pharmacy record-keeping violations. I am referring to cases in which no unauthorized person obtain control of controlled substances.

Violations of sections 842(a)(5) and (10) of the Controlled Substances Act can result in penalties of $25,000 per violation. I understand that between 1989 and 1997, $50 million in such fines have been assessed.

These provisions of the law adopt a strict liability standard for all record-keeping violations, even a minor error such as a mis-recording of a zipcode, or the insertion of a ditto mark.

While we all favor strong regulation of controlled substances, a rule of reason should prevail here.

For that reason, I am supportive of the thrust of the language contained in sections 118 and 199 of S. 2260.

Section 118 adopts a "knowingly" standard, rather than a strict liability standard.

Section 119 gives the courts discretion in assessing a fine, unlike current law which is not permissive. In addition, this section lowers the maximum penalty per occurrence from $25,000 to $500.

In combination, sections 118 and 119 may provide more correction than is warranted. For example, by adding a scienter requirement, while at the same time lowering the maximum fine, we may be creating an atmosphere in which sloppy record keeping is encouraged.

Overall, however, I am supportive of the work of the Committee in this area of long-standing concern to the Congress, drug wholesalers, pharmacies and drug stores. We should not be using this part of the statute as a "cash cow" to line the government's coffers.

I will not offer an amendment to these sections at this time. However, I am hopeful that I may work with my colleagues in the Senate and the House to address these concerns in conference.

Mr. GREGG. I appreciate the concerns raised by the Senator from Utah. As you know, we inserted this provision after learning of several cases in which large fines were imposed for realtively minor violations of the Controlled Substances Act. We will be glad to work with you and our House colleagues during the conference, and we appreciate your forebearance in not offering an amendment at this time.

COURTHOUSE SECURITY RENOVATIONS

Mr. LEVIN. Mr. President, I wish to engage the distinguished Chairman of the subcommittee in a brief colloquy regarding the very important issue of Federal courthouse security. As I am sure the Chairman is aware, each day Federal courthouses across the country must temporarily detain thousands of prisoners awaiting trials, hearings and interviews. The facilities must be secure because the courthouses are occupied by members of the public and the judiciary. For example, the U.S. Marshal's Service, which oversees Federal courthouse security, recommends that larger courthouses be equipped with a secure garage area referred to as a "sally port" where prisoners can be transferred to the courthouse by van or bus, a detention facility where prisoners can be temporarily held, secure interview rooms where prisoners can be questioned by Assistant U.S. Attorneys, and if possible some separate secure hall or corridor through which a violent or dangerous prisoner can be transferred to a courtroom apart from the public and the judiciary.

Mr. GREGG. I am aware of the security needs of the various courthouses.

Mr. LEVIN. Mr. Chairman, it has come to my attention that many of the older Federal courthouses do not have proper facilities to adequately secure prisoners and assure the safety of the public and the judiciary. For example, in my own state of Michigan the U.S. Courthouse in Detroit, which is a large older courthouse, is in desperate need of security improvements. The building contains no sally ports, and prisoners are transferred from vans and buses in the same modern ventilation systems that control the spread of air bourne diseases such as tuberculosis. Also, there are no interview rooms in which defendants or prisoners acting as witnesses for the Government can be questioned by Assistant U.S. Attorneys or their own counsel. This has led to difficulties for the local U.S. Attorney, and the U.S. Marshal, who has been forced to use extra members of his staff that are needed elsewhere to instead guard meeting rooms while the interviews take place. Moreover, the Detroit courthouse has no secure corridor to transfer prisoners from the detention cells to the courtrooms so that dangerous prisoners must be transferred in the same halls that are used by the public. Finally Mr. Chairman, the Marshal's Service has informed me that there is also a problem with many newly constructed courthouses, which cannot be opened because insufficient money is available to equip the building with a minimum level of security systems such as security cameras and monitors. I want to commend the Chairman and ranking member for appropriating money specifically for courthouses in Detroit and Grand Rapids. However, I would ask that more money be made available for courthouse security projects.

Mr. GREGG. I am aware of the problems you have raised with respect to courthouse security, and you have made a strong argument on behalf of increased funding for courthouse security projects. I would like very much to fund more courthouse security projects such as those in Michigan. Unfortunately, we are operating under tight budgetary constraints. While there are many deserving projects, the Committee could only fund a limited number. I will continue to work with you in the coming year to solve this serious problem of courthouse security.

SMALL BUSINESS ADMINISTRATION'S OFFICE OF ADVOCACY

Mr. KERRY. Mr. President, as Ranking Democrat on the Committee on Small Business, I wish to express my support for funding the Small Business Administration's Office of Advocacy at the full requested level of $1.4 million for FY 1999. The Office of Advocacy plays a vital role in the Federal government by conducting research on issues of particular importance to small business. Recently these issues have included, among other things, access to capital, procurement policy and the cost of Federal regulations. Small businesses are 99 percent of America's businesses; they created more than 90 percent of new jobs in recent years. The research performed by the Office of Advocacy is an important tool for policy makers and legislators who focus on the nation's small businesses. It deserves to be funded at the full $1.4 million, as requested by the Administration.

Since the Office is typically funded from the SBA's general salaries and expenses account without specific designation, I ask for clarification from my colleagues, Senators GREGG and HOLLINGS, Commerce, State, Justice Appropriations Subcommittee Chairman and Ranking Member, respectively. Was it the Subcommittee's intent to fund the Office of Advocacy's economic research function at $1.4 million?

Mr. GREGG. Mr. President, the bill assumes funding of the Economic Research Division of SBA's Office of Advocacy at $1.4 million for FY 1999. This Subcommittee believes the office has provided good service to the small business community. Much of that work is also useful for Congress and other policymakers.

Mr. HOLLINGS. Mr. President, I concur with Subcommittee Chairman GREGG. The work of the Office of Advocacy is important to lawmakers and policymakers alike. It was our intent that the Office of Advocacy receive FY 1999 funding at the full requested amount of $1.4 million.

Mr. HATCH. Mr. President, I see my colleague from New Jersey Senator TORRICELLI, and the distinguished bill manager on the floor. I would like to briefly engage them in a colloquy on the amendment offered by the Senator from New Jersey, relating to model guidelines on bounty hunters to be published by the Attorney General.

I understand the concerns of Senator TORRICELLI in this matter. None of us want to see abuses by bounty hunters. I am also sure that he does not wish to do any thing to adversely affect the bail bond industry, which has served our criminal justice system well in providing release of non-dangerous criminal defendants pending trial.

Mr. TORRICELLI. I say to the Chairman of the Judiciary Committee that that is a correct interpretation of my intent.

Mr. HATCH. I continue to have some concerns about my colleague's amendment in this respect. However, I believe that these concerns could be resolved during conference. Would the Senator agree to work with me to address this issue?

Mr. TORRICELLI. I would be glad to assure Senator HATCH that I will work with him to ensure that the product that emerges from conference resolves both of our concerns.

Mr. GREGG. Mr. President, I, too, would like to say that I am committed to working during conference with both Senator HATCH and Senator TORRICELLI to address the Judiciary Committee Chairman's concerns.

Mr. HATCH. Mr. President, I thank my colleagues for their consideration, and look forward to working with them on this.

HIGH-TECHNOLOGY ASSISTANCE FOR SMALL- TO MEDIUM-SIZED MANUFACTURERS

Mr. GREGG. Mr. President, my home State of New Hampshire leads the nation in the percentage of private sector employees in high technology jobs. The high technology business in New Hampshire has made the State economy strong and has helped lower the unemployment rate. I am pleased with the investment that high technology companies have made in my state. I am concerned, however, that the benefits to the State from these industries do not reach the more rural areas of New Hampshire. Much of the benefits of the high technology growth have been concentrated in the southern, more urban parts of the State. The more rural areas in the north are not growing as quickly or realizing the benefits of new, innovative technology as widely.

It recently came to my attention that the University of Hew Hampshire's Wittemore School of Business Small Development Center (NH SBDC) has come up with a plan to help the rural areas in New Hampshire take advantage of New Hampshire's technology industries' growth. The NH SBDC proposes to launch a model program to provide technical assistance to small-medium-sized manufacturers (SMMs) in rural areas, which will allow them to benefit from the innovative technology being utilized in other parts of the state. New Hampshire's program could serve as a model for other states that are experiencing similarly slow growth in rural areas. Among the services that NH SBDC intends to provide are: linking rural SMMs to high technology companies; identifying SMMs that have the greatest potential for implementing economic development in rural areas; and helping SMMs identify critical paths to success in their areas.

The NH SBDC would like to implement this plan with funds from the Small Business Administration (SBA). The SBA often funds projects similar to this and, in fact, currently has a successful program in place called the SBA 7(j) program that provides funding for training and technical assistance to rural areas. If the SBA and the NH SBDC work together to develop the plan outlined by NH SBDC, I believe that it could have a significant positive impact on New Hampshire's rural manufacturers. The knowledge gained from this innovative concept can eventually help all States overcome similar problems in rural areas.

I urge the SBA to accommodate the NH SBDC's request for assistance with this project. I look forward to working with the SBA to ensure that this program can be launched to help rural companies all over the United States benefit from the innovative technologies that are used in more urban areas.

Mr. BYRD. Mr. President, I want to applaud the Chairman of the Subcommittee, Senator GREGG of New Hampshire, and the subcommittee's Ranking Member, Senator HOLLINGS of South Carolina, for their work on the Commerce-Justice-State Appropriations bill. They have crafted a good piece of legislation that will help to meet a variety of needs across the country.

One of the important and pressing issues addressed in this legislation is school safety. During the past several months, we have seen several tragic incidents of school violence. These acts are not limited to specific geographic regions or family backgrounds, nor do they have a single catalyst. Those who have committed such cowardly acts have done so for different reasons, at different times, in different schools. But these acts of school violence have at least one thing in common—they have spurred all of us to take a closer look at what can be done to better protect our children at school.

In this Commerce-Justice-State legislation, the Senate offers one new tool in that effort. We have earmarked $210 million in the bill for a new national safe schools initiative geared to assist community-level efforts.

Parents should not have to worry, when they put their children on the bus to school in the morning, that those children will not return home safely in the afternoon. In an effort to provide local school districts with more resources to reduce the levels of violence in our classrooms, I supported this initiative to strengthen local violence prevention and technology efforts.

Within the $210 million, $25 million will assist communities in developing and implementing local school safety approaches. Another $10 million is for the National Institute of Justice to develop new, more effective safety technologies and communications systems that can provide communities with quick access to the information they need to identify potentially violent youths.

Perhaps most important is the $175 million for the Community Oriented Policing Services Program to increase community policing in and around schools. This would be an extension of the COPS program which has been widely hailed as a successful deterrent to crime. In West Virginia, some school districts already partner with the local police department to have what they call "police resource officers" in the schools. Officers and educators alike believe that having a familiar police presence in the hallways and a cruiser in the parking lot helps to reduce violence at school.

Ensuring that our classrooms are safe demands that we do everything possible to find safe places for our children to learn and play and grow. While there is no single answer or solution to this pressing problem, the funding in this bill is an important step toward that common goal.

Mr. President, also in this legislation is an amendment I added on behalf of the thousands of families in West Virginia's Upper Ohio Valley and throughout the country who rely on the steel industry for their livelihoods. These are the people who work in the shops and in the mills, and who pay the taxes, and whose sweat keeps America running. My amendment calls for a report by the United States Trade Representative on trade subsidies provided by the South Korean government to its domestic steel industry. Illegal foreign steel subsidies are severely undermining the economic stability in regions throughout our country—literally taking money out of the pockets of American families and putting it into the accounts of foreign governments.

The American steel industry for too long has been forced to compete in an international marketplace that was unbalanced by foreign subsidies, especially those of the South Korean government. By offering this amendment, I want to send a clear message: the United States will not allow foreign governments to undercut fair trading practices. This Congress is prepared to defend our country's commercial interests and take action when those interests are threatened.

West Virginia companies, like Weirton Steel, should not be expected to compete in a marketplace that places unfair obstacles in their paths. When foreign governments subsidize industries, they tip the playing field, change the rules, and make it unfair. Those overseas subsidies directly impact the jobs and livelihoods of working men and women and their families here at home, as we have seen in Weirton.

FUNDING FOR GUN PROSECUTION PROJECTS

Mr. HATCH. Mr. President, I appreciate the manager of the bill accepting the amendment I filed to the Commerce-Justice-State appropriations bill, S. 2660, which directs the Attorney General to identify two major metropolitan areas besieged by gun-related crime and to initiate vigorous federal gun prosecution projects in those districts. The amendment directs $3,000,000 in funding for hiring additional prosecutors and investigators to ensure that criminals bearing guns are not released due to a lack of prosecutorial resources.

The inspiration for this amendment is "Project Exile," an extraordinarily successful effort by the United States Attorney for the Eastern District of Virginia to rid Richmond of armed criminals by "exiling" all those who use firearms to commit a crime to federal prison, regardless of the number of weapons or quantities of drugs seized. "Project Exile" also made use of the media to deliver its message that "An illegal gun will get you five years in federal prison." That message was plastered on billboards, a city bus, TV commercials, and business cards distributed by local police.

The results of "Project Exile" speak for themselves. In just one year, over 300 individuals were indicated under Project Exile and 363 guns were seized. More than 191 armed criminals were removed from Richmond's streets, including the members of a violent gang responsible for a number of murders. The average sentence for the individuals that have thus far been convicted and sentenced is 56.1 months. Moreover, homicides for the period from November, 1997 through May, 1998 were running more than 50% below the same period for the previous year and there was a corresponding reduction in the rate of gun carrying by criminals. "Project Exile" has effectively broken the spiral of violent crime in Richmond.

My colleague, the senior Senator from Idaho, introduced an amendment which was passed yesterday which seeks to set up a similar project in the Eastern District of Pennsylvania in Philadelphia. The senior Senator from Pennsylvania had earlier secured this funding in the committee report to this bill. It is important, however, that these projects be tested in a number of jurisdictions to ensure that their effectiveness can be measured in a wide range of circumstances. By setting up a number of test projects in different locales, we should be able to prove beyond any doubt that a truly determined and aggressive effort by law enforcement to rigorously enforce existing federal gun laws will have the effect of lowering the incidence of violent crime and will create safer communities for our citizens.

We don't need tougher gun control laws on abiding citizens to stem violent crime, we need to aggressively use the effective laws we have to take violent criminals off the streets. We saw yesterday where the Senate stands on issues such as mandatory trigger locks on guns and vicarious liability for gunowners, and I am glad that the Senate is devoting even more resources to targeting violent criminals who use guns. I urge my colleagues to support me in this effort.

Mr. McCAIN. Mr. President, I want to thank the managers of this bill for their hard work in putting forth annual legislation which provides federal funding for numerous vital programs. The Senate will soon vote to adopt the Commerce, Justice, State Appropriations Bill for the Fiscal Year 1999. I intend to support this measure because it provides funding for fighting crime, enhancing drug enforcement, and responding to threats of terrorism. This further addresses the shortcomings of the immigration process, continues the operating of the judicial process, facilitates commerce throughout the United States, and fulfills the needs of the State Department and various other agencies.

However, I regret that I must again come forward this year to object to the millions of unrequested, low-priority, wasteful spending in this bill and its accompanying report. This year's bill has $361 million in pork-barrel spending. This is a slight improvement over last year's FY 98 Commerce, Justice, State Appropriations Bill, which contained $384.2 million in pork-barrel spending. However, $361 million is still an unacceptable amount of money to spend on low-priority, unrequested, wasteful projects. In short, Congress must curb its appetite for such unbridled spending.

The multitude of unrequested earmarks buried in this proposal will undoubtedly further burden the American taxpayers.

This statement highlighting wasteful and unnecessary spending in authorization and appropriations bills may appear to be a mere political ploy. This is not the case. $361 million spent on locality-specific, special interests, pork-barrel projects is not mere rhetoric. Wasteful spending of this amount warrants serious debate. Wasteful spending of this magnitude erodes the public's trust in our system of government.

Sunshine is often the best disinfectant. Congress and the American public must be made aware of the magnitude of wasteful spending endorsed by this body. While the amounts associated with each individual earmark may not seem extravagant, taken together, they represent a serious diversion of taxpayers' hard-earned dollars to low priority programs at the expense of numerous programs that have undergone the appropriate merit-based selection process. I take very strong exception to a large number of provisions in the bill before us today.

I have compiled a lengthy list of the numerous add-ons, earmarks, and special exemptions provided to individual projects in this bill. It would take a substantial amount of time to recite this list to you. Instead, I request unanimous consent to include this list in the RECORD. However, I will discuss some of the more troubling provisions of the Commerce, Justice, State Appropriations Bill in detail.

$12 million is earmarked for the Director of the United States Information Agency in the state of Hawaii, in order to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, and an additional $7 million dollars is earmarked for the East-West Center in Hawaii.

$3 million is earmarked in this bill to carry out the provisions of the North/South Center Act of 1991 in Florida, known as the North/South Center, and, an additional $500,000 is earmarked in this bill for the North/South Center in Florida.

$925,000 is set aside to allow the Utah State Olympic Public Safety Command to continue to develop and support a public safety program for the 2002 Winter Olympics.

$5 million is earmarked for the Utah Communication Agency Network for upgrades of security and communications infrastructure for law enforcement needed for the 2002 Winter Olympics.

An earmark of $750,000 to fund Chesapeake oyster research at Texas State University.

Why are we spending $22.5 million on the East-West and North/South Centers alone. What makes these centers so extraordinary that they receive specific earmarks in this Appropriations bill. I am not condemning the North/South or East-West Centers. Nor am I condemning the merits of the purposes they serve. I am simply condemning the manner which they are receiving scarce government funds.

I am sure there are other centers throughout the U.S. which serve the same or similar missions as the North-South and East-West Centers. Other well-deserving projects of merit and national necessity deserve to compete for the scarce funds gobbled up by locality specific earmarks such as the North/South and East-West Centers. Unfortunately, these projects will never receive fair deliberation if the Appropriations Committee pre-determines their fate by "recommending" and "urging" the Department to give special consideration to certain projects over others. In sum, it is patently unfair to divert scarce resources to pork-barrel, special interest projects, at the expense of well-deserving projects which would benefit the public as a whole.

The bill also contains language that directs the Immigration and Naturalization Service to expand the duty station in Grand Junction, Colorado. Moreover, this language directs the INS to open new duty stations in Alamosa, Glenwood Springs, Craig, Durango, and Greely, Colorado. The Committee does not explain why specific sites are higher in priority than others, or why these sites are more deserving of funding. I fail to comprehend why these locations should receive such special attention while the rest of the nation must compete for funds in the appropriate merit-based selection process.

Mr. President, I will not deliberate much longer on this subject, but I strongly object to the wasteful spending in this Appropriations bill. How can we combat the American public's cynicism towards our governmental system when we continue to fund low-priority, wasteful pork-barrel projects?

I urge my colleagues on both sides of the Capitol and on both sides of the aisle to develop a better standard which curbs our habit of funneling hard-earned taxpayer dollars to locality-specific special interests. Commitment to the public good must continue to be our priority. We can only live up to this challenge by eliminating the practice of catering to low-priority special interests, at the expense of the average American.

As I have said in the past, I look forward to the day when Congress can present to the American people a budget that is both fiscally responsible and ends the practice of wasteful pork-barrel spending in Appropriations bills.

FOREIGN AFFAIRS AGENCIES

Mr. BIDEN. Mr. President, as we close debate on the Commerce, Justice, State appropriations bill, I would like to make a few comments on the funding for the foreign affairs agencies.

I want to express my appreciation to the Chairman and Ranking Member of the Subcommittee for their efforts to provide adequate funding for the foreign policy agencies within the tight allocation they have. The United States is a great military and economic power, with extensive interests overseas. To protect those interests, we need both a strong military and a strong diplomatic corps. "Diplomatic readiness" is more than a slogan; it represents a commitment to ensure that our diplomats, who stand on the front lines of our national defense, have the resources to perform the many tasks we entrust to them.

I commend the Committee for providing, in particular, the necessary funding to modernize the Department of State's information technology. The Department made some bad choices in previous years, and is now saddled with antiquated computer and telecommunications technology. Information is central to the task of diplomacy, and we are undermining our interests substantially unless we properly equip the Department with modern technology.

I'd like to say a few words about the Bureau of Export Administration in the Department of Commerce, which performs several functions that are vital to the national security of the United States. The managers of the bill before us were unable to find $2.5 million for three of those vital functions. I appeal to the managers to make every effort to find those funds in conference, so that we can continue to safeguard the national security as the American people expect us to do.

These important Export Administration needs are as follows:

Ten new positions (8 full-time equivalents) to fully staff Export Administration field offices, so that they can mount more intensive enforcement of U.S. controls over dual-use items that could otherwise be diverted to military or terrorist uses;

Three new positions (2 full-time equivalents) to enhance the enforcement regarding shipments to Hong Kong, so as to prevent or stop any diversion of strategically-controlled goods to China; and

Six positions (4 full-time equivalents) to maintain the Nonproliferation Export Control teams that help countries in the former Soviet Union to improve their export control systems.

The first two items, which require a total of $2.2 million, are self-explanatory. At a time when we have legitimate concerns regarding the possible Chinese diversion to military purposes of machine tools and high-speed computers, we must give the Bureau of Export Administration the funds and positions it needs to fully enforce U.S. law and regulations that control such exports and provide for follow-up monitoring of their overseas use.

The Nonproliferation Export Control teams require a word of further explanation. This function—which is part of the Cooperative Threat Reduction program—has proceeded for some years with funding from the Department of Defense and the Department of State. The Department of Commerce agreed last year, however, to assume the costs of its participation in that program. The State and Defense budgets no longer include funding for the Nonproliferation Export Control teams. If Commerce Department funds are not found for this purpose, this valuable program could well be lost.

What would we lose if the Nonproliferation Export Control teams were to go away? Those teams have performed incredibly well, fostering ties at the customs agent level and helping the former Soviet states to establish export control laws and institutions to can prevent the loss of sensitive goods and information to rogue states or terrorist groups.

For example, the Government of Ukraine wants a team to help brief members of its parliament on inadequacies in Ukraine's current law. The Government of Slovakia wants help in developing regulations to implement its new export control law. Export Administration's teams support these efforts in full cooperation with other U.S. departments and agencies.

I realize that resources are tight, but it would be a grave mistake, in my view, to let this valuable non-proliferation resource slip away from us. So I urge my colleagues, the managers of this bill, to find the $1.3 million needed to keep the Nonproliferation Export Control teams alive and well in Fiscal Year 1999. I also urge them to find the $1.2 million needed to improve our own export enforcement regarding dual-use goods that we must prevent from being used against U.S. interests. I realize these are small amounts in a bill that funds three large cabinet departments, but they could go a long way in advancing our non-proliferation interests.

In closing, I want to again express my appreciation to the managers of this bill. They had a very difficult task in balancing all the competing interests in this bill, and I believe they did an excellent job in balancing those interests.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I ask unanimous consent that at 3:15 we begin the vote on the Smith amendment, to be followed by the vote on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3258, AS MODIFIED, AS AMENDED

Mr. GREGG. Mr. President, I ask for the yeas and nays on the Smith amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I call for the regular order.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3258, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—68

Abraham
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bryan
Bumpers
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Reid
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—31

Akaka
Boxer
Byrd
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Rockefeller
Sarbanes
Torricelli
Wellstone

NOT VOTING—1

Specter

The amendment (No. 3258), as modified, as amended, was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3322

(Purpose: To amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Hampshire [Mr. GREGG], for Mr. DURBIN, proposes an amendment numbered 3322.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, it is so ordered.

The amendment (No. 3322) was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Regular order.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Specter

The bill (S. 2260), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—MODIFICATION TO AMENDMENT NO. 3278 TO S. 2260

Mr. SHELBY. Mr. President, on behalf of Senator GREGG, I send amendment No. 3278 to the desk. I ask unanimous consent it be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment follows:

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter should be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of the United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

PATIENT ACCESS TO ACUPUNCTURE SERVICES ACT OF 1998

Mr. HARKIN. Mr. President, I wanted to make a few comments on a bill that Senator MIKULSKI and I introduced just yesterday. The bill number is S. 2340. It is called the Patient Access to Acupuncture Services Act of 1998. It will provide limited coverage for acupuncture under Medicare and under the Federal Employees Health Benefits Program. It is an important bill that reflects an appropriate and needed response to both progress in science and to the demand for complementary and alternative treatments for pain and illness.

I acknowledge Senator MIKULSKI's strong support for the bill and for cosponsoring the bill. She has been a strong supporter of effective alternative therapies and has long realized and appreciated the importance and significance of such therapies to our health care system.

Mr. President, approximately 90 million Americans suffer from chronic illnesses, which, each year, cost society roughly $659 billion in health care expenditures, lost productivity and premature death. Despite the high costs of this care, studies published in the Journal of the American Medical Association reveal that the health care delivery system is not meeting the needs of the chronically ill in the United States.

Many of these Americans are looking desperately for effective, less costly alternatives therapies to relieve the debilitating pain they suffer. In 1990 alone, Americans spent nearly $14 billion out-of-pocket on alternative therapies. Harvard University researchers have found that fully one-third of Americans regularly use complementary and alternative medicine, making an estimated 425 million visits to complementary and alternative practitioners of these therapies—surpassing those made to conventional primary care practitioners!

And with good reason. Last November, a consensus conference of the National Institutes of Health approved the use of acupuncture in standard U.S. medical care. It was the first time that the NIH had endorsed as effective a major alternative therapy, and it was just the type of medical breakthrough that I had hoped for and envisioned when I worked to establish the Office of Alternative Medicine at NIH.

The NIH experts cited data showing that acupuncture can effectively relieve certain conditions, such as nausea, vomiting and pain, and shows promise in treating chronic conditions such as lower back pain, substance addictions, osteoarthritis and asthma.

In 1993, the FDA reported that Americans spent $500 million for up to 12 million acupuncture visits. In 1996, after reviewing the science, the FDA removed acupuncture needles from the category of "experimental medical devices" and now regulates them just as it does other devices, such as surgical scalpels and hypodermic syringes. Acupuncture is effectively used by practitioners around the world. The World Health Organization has approved its use to treat a variety of medical conditions, including pulmonary problems and rehabilitation from neurological damage.

It has been reported that more than 1 million Americans currently receive acupuncture each year. Access to qualified acupuncture professionals for appropriate conditions should be ensured. Including this important therapy under Medicare and FEHBP coverage will promote a progressive health system that integrates treatment from both acupuncturists and physicians, and in many cases we see more and more where physicians are acupuncturists. It will expand patient care options. I also believe it will reduce health care costs because of the relatively low cost of acupuncture compared to conventional pain management therapies.

Research is still needed to demonstrate the effectiveness of other alternative therapies. This research is vitally important, but we must act now to help the millions of Americans who can benefit from the knowledge we have already gained.

The 21st century is just around the corner. Less than 50 years ago, treatments that are now considered conventional—organ transplants, nitroglycerin for heart patients, immunology, and x-ray and laser technology—were decried as quackery by the medical establishment. Everyday we face new biological and emotional challenges for which modern Western medicine has no remedy. Now science is revealing the effectiveness of many complementary and alternative treatments, including acupuncture, which I might point out is not a new treatment but, indeed, has been practiced in China for the last 2,000 to 3,000 years, and, increasingly, more Americans are choosing these alternative therapies to manage their health and to treat the illness.

Let us listen to the science, and heed the urgent need for progress. Mr. President, the nation's leading scientists have demonstrated the safety and effectiveness of acupuncture as a treatment for a wide range of pain and illness. It makes common sense that Medicare and FEHBP cover this legitimate course of therapy.

I invite other Senators as cosponsors. Hopefully, we can get the bill passed during this session.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, on February 25, 1997, a number of us introduced the Patients' Bill of Rights. Since that time, the Republican leadership has sought to delay and deny action. The leadership and Senator GRAMM have made it very clear that they are not yet willing to allow a free and fair debate.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield without losing my right to the floor.

Mr. LOTT. I would like to say to the Senator that we would be glad to agree to have this debate and go forward with the Patients' Bill of Rights issue. I would like to begin thinking in terms of what we could work out as a unanimous consent agreement. Going back to June 18, originally it was suggested that Senator KENNEDY's bill be up and we have an alternative, and that we have a good debate and vote. That is fine. Let's do that. Then I suggested, well, if we could get some time agreements on when we could complete it, with some limited amount of amendments, we could do that. I don't think 40 would be considered reasonable.

But I am saying to the Senator that I would like to work something out. I am hoping that next week, Wednesday or Thursday, we are going to get to this and get it done before we go home for the August recess period.

I just want to say that we are ready. We would like to do this. Beginning next week, I am going to start asking unanimous consent requests to actually get it done, because we are ready to go to a vote. But we also have other things. And Senator KENNEDY has been cooperative. We have been working to get issues done. We need to try to do that and allow time for a full and fair debate on this issue. We would be glad to do that.

I just wanted to make sure he was aware that we are willing to do that.

Mr. KENNEDY. Mr. President, I have heard that same explanation, with all respect, by the majority leader for some period of time.

I want to just review, since the majority leader is on the floor at the present time—we had the budget resolution. We had 7 days of debate. We had 105 amendments. Defense authorization, we had 6 days of debate, 150 amendments; Internal Revenue Service restructuring, 8 days of debate, 13 amendments. We had tobacco, 17 days and scores of amendments; agriculture, 5 days of debate and 55 amendments. The Senator now is saying, Well, we will bring it up next week, just before we get out, and have a vote on your amendment or the Daschle bill and/or the Republican proposal.

Mr. President, I just wonder why we can't have a full debate on the comparison between the emergency room provisions of the Republican guarantees and those in the Patients' Bill of Rights.

I intend to talk about those—now I have the floor. I have the floor. I am glad to yield—but when I inquired of the leader on other occasions, he gave us that other little answer about, "We are going to come to this sometime when we are ready to come to it, some other time, next week, and maybe Wednesday, or Thursday, just before we go out we will have some proposal." We are just spelling out now what has been included in these different bills and why it is important to have a full and fair debate on them.

We have seen and we know what the leadership's position has been until the very recent days, and that has been to refuse to permit us to have a markup in our committee, refused us to be able to even have scheduling. I have seen the list of the Republican leadership, and it never was on the list of the Republican leadership in terms of priorities.

Now we are glad that last Friday there was the publication of the "Republican Bill of Rights." That was last Friday. But I want to just review, since the leader mentioned the proposal that was put forward by the leader. This was, I believe, the June proposal that was put forward by the majority leader.

> I ask unanimous consent that prior to the August recess [June 18, that was 4 weeks before, June 18] prior to the August recess, the majority leader, after notification to the minority leader, shall turn to the consideration of a bill to be introduced by the majority leader [no information about what that is] or his designee, regarding health care [and further] I ask the Senate to proceed to its immediate consideration; and that, following the reporting . . . by the clerk, Senator DASCHLE, or his designee, be recognized to offer a substitute to the text of S. 1891 as introduced on March 31.

That isn't our bill.

Now, it goes on. It does not include the right to hold the plans accountable. It does not include protecting people who buy their own insurance policy.

Let me just go on.

> I further ask that during the consideration of the health care issue it be in order for Members to offer health care amendments in the first and second degree. I further ask unanimous consent that the Chair not entertain a motion to adjourn or recess for the August recess prior to a vote on or in relation to the majority leader's bill and the minority leader's amendment, and that following those votes it be in order for the majority leader to return the legislation to the calendar.

Even if we win the vote, the majority leader has the ability to send it to the calendar—not send it over to the House of Representatives, send it to the calendar, even if we win that proposal.

Now, it continues.

> Finally, I ask unanimous consent that it not be in order to offer any legislation, motion or amendment relative to health care prior to the initiation of the agreement and following the execution of the agreement.

Not be in order to offer any legislation, motion or amendment to health care.

Well, there it is, Mr. President. We are scared in the Senate. After we have some vote, even if we survive, the majority leader can put it back on the calendar, and under the consent agreement we can't even talk about health care for the rest of the session; for the rest of the session. That is what it says here, the rest of the session.

Now, that is the consent agreement that is referred to. "I want to remind the Senator from Massachusetts we keep asking the Democrats for proposals on it."

I don't know how long it took to reject that particular proposal, but there it is. In all the time I have been in the Senate, this is really the most preposterous proposal, consent agreement I have ever heard, that if you are going to be successful and win, instead of sending the bill over to the House, you put it right back on the calendar, and you cannot have a vote on the legislation. And then after that, you can't bring up any issue relating to health for the rest of the session—nothing on privacy, nothing on expanding the whole Medicare system in terms of purchasing, the possibility for elderly citizens to buy into the Medicare system, no way. Nothing dealing with any of the issues dealing with health care. That is the proposal and that is what we are supposed to say, "Oh, what a fair proposal this is."

And so we have the Republican proposal that was introduced last Friday. Now, we have no interest in delay of the legislation. We have been asking for action for 18 months. We insist on a fair debate on accountability. That is what we are asking, fair debate on accountability. We have had scores of amendments and days of debate on other legislation, and we are entitled to fair debate on accountability on these measures.

There are dramatic differences on these measures. I will take a few moments to get into some of those.

Senator DASCHLE made a series of formal offers on July 16th, asking for a debate beginning on July 21 with 20 amendments on a side. It is almost a week later and all we have is that maybe sometime Wednesday or Thursday next week we may have time to have a debate on an issue which is of paramount importance for the parents and families of the people of this country.

So this is not an unreasonable request given the importance of this bill and the large number of loopholes in the Republican proposal which will be the bill in the Chamber.

We had, as I mentioned, days of debate on the budget resolution, 6 days of debate on defense authorization, 150 amendments. We had 8 days of debate on the Internal Revenue bill, just concluded 5 days of debate and 55 amendments on the agricultural appropriations bill.

This is the most important health care bill that this Congress will consider, and we are now told by the majority leader that maybe sometime next week he will make a request that we deal with this in 2 days. We had 8 days, as I mentioned, on the Internal Revenue bill, and 5 days of debate, as I mentioned, on agriculture. Now, the majority leader and Senator GRAMM are insisting the only way they will debate the issue is up or down on their bill and one vote and that is it.

The American people deserve to know where their Members stand on a number of critical issues that are essential to patient protection. The Senate deserves an opportunity to amend and improve the Republican bill. It is not unreasonable to ask Members where they stand on whether protections should apply to all 161 million privately ensured Americans or leave 100 million out. The Republican proposal leaves out more than 100 million Americans. Now, maybe they have good reason to do so. Their answer is the States are doing it. Well, we ought to have an opportunity to find out and discuss what the States are doing and how much they are doing and how effective it is, given the kinds of concerns that patients have. Let's have a debate on that. But, oh, no. No, no, we don't have time to get into the fact of whether their measure will just cover 48 million and exclude 110 million, or cover all of them. It is a pretty important issue, it seems to me, Mr. President.

Is it unreasonable to ask Members where they stand on allowing a sick child with rare cancer access to a specialist to treat that particular disease?

We had very powerful testimony this morning from a very outstanding oncologist, a specialist who has been operating primarily on women with breast cancer, and she was, with tears in her eyes, talking about the various patients she is treating now who come to her with these various tumors in their breasts. And she looks at the first part of the chart and finds out what the size of that particular tumor was when it was first diagnosed and then what it is on the day that she is there called upon to operate.

She says the time that lapses between the first discovery of those biopsies, which demonstrate that the tumors are cancerous, to the time she gets to see them is often the difference between life and death and more often than not, as she looks over the various files that she gets of various women, the ones with the largest gaps are the ones who are part of HMOs and the procedures that have been denied.

Or listen to the doctor who was talking today about a particular procedure that was going to be necessary for a child who was having constant headaches, and the doctor said, "What we need is an MRI," and the HMO turned that down. Under the Republican bill, since the cost of that MRI was $750, that decision would not be able to be appealed. It was less than $1,000. This was a family of five, income of $30,000. The difficulty of that family was having the $750.

And do you know what the family did? They went down to the county hospital—the county hospital. After a period of time, they were able to get that MRI in the county hospital to find out about the needs of that particular child. You know something. The taxpayers picked up the tab for that. And the bottom line of that HMO looked better and better because they didn't have to pay for that important service which the subscriber had effectively paid for when they signed on for the health care coverage.

Mr. President, we ought to be able to talk and debate about what is going to happen, what kind of protections are we going to give doctors when they speak out for their patients in the HMO system. Are they going to be under the Republican program which still permits doctors to be fired if they object to prescribing certain procedures to patients that are not desired or approved by an HMO? Shouldn't we provide protections for doctors that are looking out for their patients? It is not in the Republican bill. Shouldn't we have a time to debate that issue out here to find out about it?

What about the independent and timely third party review? Do the Members know that on the independent review, under the Republican program, those who are going to be paid to review the various procedures which are being reviewed and appealed are going to be paid for by the HMO, the same HMO? Do they know the restrictions in the Republican proposal in terms of the limitations for the types of procedures that can be appealed? We don't want to debate that?

I can understand why the Republican leadership doesn't want to debate it. Because it is indefensible. It is indefensible. We ought to debate it.

And access to clinical trials, an enormously important issue, particularly for individuals who have some of the most serious illnesses in our society, we are going to say or give assurance to those who may have breast cancer—are we going to exclude them from participation in those clinical trials? It is an important distinction between the Republican proposal and our Patients' Bill of Rights.

We have the continuity of care. When a family has a doctor they are seeing and that doctor is dropped from a particular program, under our proposal we provide that there is going to be a continuity of care. Perhaps it is an expectant mother who is going to deliver and, for one reason or another, that doctor is dropped from the particular plan. We give assurances.

So does the Republican program. Listen to this. If the employer, however, makes a judgment to change the plans in the middle of the year, and that doctor is treating this same patient, under the Republican program there is no longer continuity of care. Both programs show continuity of care. You have to read the small print; you have to understand what the small print says. Shouldn't we have an opportunity to debate that issue?

The whole question of accountability is something that demands an opportunity to debate that issue. We are talking about the protection that is given to 23 million Americans, county and State employees; 11 million Americans who have private insurance companies. There is no indication there is any escalation of their costs in their program, nothing showing that has been introduced here in the Senate. Some have tried to represent these as extraordinary escalations of cost, but there is no indication, nothing has been put in the RECORD. What has been put in the RECORD is these 23 million Americans. In CalPERS, in California, they have this system with accountability and liability built in so they can hold the HMOs accountable, and there is no apparent increase in the cost of those programs.

Basically, what we are saying is very simple, a very simple concept at the heart of our proposals and which I believe the Republicans have to be able to defend, because it is lacking in their proposal and it is worthy of debate. That issue alone is worth hours of debate here in the U.S. Senate, with the American people watching, because we believe that ultimately the judgment and decision on medical decisions ought to be made by the doctors and the patients, and not by accountants of insurance companies for the profits of those particular insurance companies. That is a basic and fundamental core difference. We ensure that is going to be the case with a number of different protections in our bill. That kind of assurance is lacking in the Republican bill.

There will be those who say, "No, it is not lacking." We ought to have a chance to debate, so the American people can make up their own minds and find out whether it is lacking. We can get the legislation out and show where it is lacking. But that is something basic and fundamental.

We also believe we ought to be able to leave it up to the States to make those judgments and decisions on calling the tune on the issues of accountability and liability. We hear a great deal around this body about "one size does not fit all," that all knowledge is not in Washington, DC, or on the floor of the U.S. Senate; that the States have some awareness and understanding about these issues and problems. How many times have we heard that speech? You have heard the speech, but you will not hear it when we are debating the Patients' Bill of Rights. You will not hear it because our proposal leaves it up to the States to be able to enforce the issues of accountability. We leave it up to the States to be able to do so. Not the Republican leadership program. They effectively preclude the States from having any voice—shut them out, shut out the States.

I hope we don't hear that argument about the importance of all knowledge failing to be in the U.S. Congress and Senate, so let the States decide. That is not going to be an argument you will hear, because under the Republican proposal they will not let the States decide.

What is the issue we are talking about? We are talking about a medical decision that is made by the doctor and the patient, which is overruled by the HMO and causes grievous injury to that individual—maybe life or serious illness; maybe a mother or father, trying to make sure those children and the members of the family are not just going to be left homeless, without any kind of compensation for the decision that is being made for the profits of that particular industry overriding the clear medical decisions. There has to be accountability. There has to be accountability.

We have seen effective programs which we have built into programs on appeals, internal appeals and external appeals, that also have accountability. It works. We improve and strengthen the quality of those programs. We have 11 million Americans—11 million Americans—who have independent insurance programs that have this kind of accountability. It works for them.

So we have 34 million Americans who have this kind of protection, but we are asked to exclude it, to deny the States from even letting those citizens who live in that State who want it from having it. That is part of the Republican program. Don't we think that is worthy of a debate? Do you want to muzzle us from having some kind of debate and discussion on that particular issue? That just does not make sense.

Mr. President, when the leadership wants to go ahead on these appropriations, I am glad to yield the floor so the Senate can move ahead on Senate business. But I want to just make a final few comments.

Mr. President, I believe the Republicans have abandoned their 16-month-long pattern of stonewalling our Patients' Bill of Rights. Now they have produced a plan that borrows the name of our legislation and nothing else. The Senate Republican plan is not a bill of rights, it is a bill of wrongs. The Senate Republican plan is even weaker than the House Republican plan. It is a "Gingrich lite." It protects industry profits instead of protecting patients, and it is so riddled with loopholes, it is a license for continued abuse. It allows insurance company accountants to continue to make medical decisions, and not doctors and patients.

It is very interesting that 170 organizations that represent doctors, patients, and nurses support our program. And who supports the Republican program? The insurance industry and the HMOs. Does that tell you something? Does that tell you something? Mr. President, on this issue it tells us a great deal. This is not a question where we have some ideas, and half the doctors in the country and half the patients' organizations say this is a better idea, and our colleagues on the other side have half of them, and people can say, "Why don't you get together?"

They don't have them. They don't have them. They don't have the principal organizations. I will be glad to hear any organizations representing health professionals or patients groups that they have.

We still haven't heard. I can't believe if you didn't have them, they wouldn't have them out there. We have them. They support our program. They support the real Patients' Bill of Rights.

But they do have the health insurance industry and they have the HMO organizations, the trade organizations that represent HMOs—they support their program.

Mr. President, we believe that patients with cancer and heart disease and other serious illnesses will not have timely access to specialists and the treatment they need. It immunizes managed care plans from liability for abuses that injure or even kill a patient. No other industry in America has this immunity from any liability which the health insurance industry has and which is protected in the Republican program, and the managed care industry doesn't deserve it either.

Most of the minimal protections in the Republican leadership plan do not even apply, as I mentioned, to the majority of Americans. Two-thirds of the people with private insurance, more than 100 million Americans, will not benefit from the Senate Republican plan. The HMOs are effectively exempt from regulation under their plan because most of their standards apply only to employer-based, self-funded plans. Let me repeat that. Most of the standards in the legislation do not even apply to the HMOs, only to employer-based, self-funded plans covering about a third of privately insured Americans.

Even if the Senate Republican leadership plan was passed, 100 million Americans would be left out. This is unacceptable to the American people and should be unacceptable to the Senate.

The Senate leadership introduced their legislation on Friday. I reviewed the print over the weekend, and the sum total of what is not in their plan at all is staggering. The fact that these minimal protections only apply to a third of the people who need help is shocking. But the disinformation campaign does not end there. Even the protections they claim to have provided turn out, in most cases, to be less than half a loaf.

In my time, I have seen special interest protection programs masquerading as consumer protection programs many times, but I have never seen anything as indefensible as this. The Republican plan does not include many key protections.

There is no provision to prevent health plans from arbitrarily interfering with the decisions of the doctors.

There is no provision to guarantee access to necessary speciality care.

There is no provision to allow individuals killed or injured by plan abuse to hold the plans liable.

There is no provision to allow participation in clinical trials.

There is no provision to allow access to prescription drugs not on a plan formulary.

There is no provision for continuity of care when an employer switches plans.

There is no effective ban on plan practices which gag physicians; no limits on improper incentive arrangements.

We were looking to address this issue of gagging the physician. They say, "Oh, yes, we have that; we have a provision that says we will not gag physicians." The problem is, unless you address the firing clauses of the HMOs that permit the heads of the HMOs to fire doctors whenever they want, then the gag provisions are meaningless, because they can say, "OK, you can go out and talk all you like, but you're not coming in to work tomorrow." Let's get real on this, Mr. President. That is effectively what the Republican program does.

It has no prohibitions against these financial incentives for doctors. It won't publish financial incentives for doctors so that the public, in reviewing a plan, can find out if a doctor has financial incentives for providing certain kinds of treatment and not providing others, which is happening today. We have given examples of those types of procedures. There are no protections for that.

It does not include a requirement for comparative plan quality information. You cannot find out about the consumers', the patients', satisfaction.

You can't find that out. If you ask to find that out, they say, "Well, that's going to be too bureaucratic; that is going to require too much paperwork; that is going to be a rule or regulation, it is going to be a Federal Government rule or regulation, that is going to raise costs for these particular programs."

What we are talking about is patient satisfaction, patients staying in these programs: Are they satisfied with these programs? Good ones provide that, Mr. President. These are the elements that are left out of the Republican plan entirely, but even those essentially included are full of loopholes.

The Republicans say they protect you if you need emergency room care, but they have included less than half of the protections provided by the Democratic plan or even the protections that are already included in Medicare. I wonder how many of our colleagues know that the protection that they have indicated on the prudent layperson, prudent layman standard is an entirely different one from the one that is in Medicare. Who would have known that?

Mr. BIDEN. Will the Senator yield for a question?

Mr. KENNEDY. I will be glad to yield.

Mr. BIDEN. I know the Senator knows a great deal about this, but I watched the press conference our Republican colleagues held hailing their Patients' Bill of Rights. You just went through and will continue to go through all the things they left out. I find it very curious the things they say are in their bill, which, in fact, are not in their bill.

One, they say that a woman can pick as a primary care physician an ob/gyn. Second, they advertise that this means you have access to the emergency room. Third, they talk about continuity of doctors so they say you can choose your doctor. And fourth, they say no gag rule. This is the party of gag rule, and now they say no gag rule. I kind of respected them when they were just flat out saying they were just against any of this.

Does the Senator have an explanation as to why they would pick the four most often stated complaints of the American public and suggest that their bill covers those things? It just seems strange to me that the party of the gag rule says they want an antigag rule, and yet there still is no antigag rule; that the party that said when they were going after Clinton's health plan, you should be able to choose your own doctor, will not allow you to choose a specialist or choose the doctor you need; that the party that suggested the costs of the Clinton plan were too high and everyone could just go to the emergency room are not, in fact, providing access to emergency room care the way in which the American public is looking at it. Why did they pick these four things to say they were for and not any of the rest? Is there some strategy here I am missing?

Mr. KENNEDY. Those happen to be the ones that have shown the highest in the polls. I am not saying that is the reason they selected them necessarily. As the Senator was going over them, I was writing them down. Those are the ones that are the top in terms of the polls.

I say to the Senator, what I would like to ask him is, here the Republicans talk about the market forces, that we ought to let people, consumers, make judgments on the basis of information. Under our proposal, we have tried to have information so that people can make the judgment and decisions with regard to their health care plan. Patient satisfaction, for example. Patient satisfaction—not very difficult. Most of the good ones show that in any event.

Absolutely not, they point out, and say: We are not going to provide or support any of that additional information because that is a bureaucratic ruling; it is going to cost the HMO more to require that; therefore, we cannot support even that particular proposal.

But the Senator is quite right. They use these words, "speciality care," "emergency room," and the "gag rule."

The spokesperson for the College of Emergency Physicians visited with us today. I think the Senator was there at the time. She reviewed instance after instance after instance where just the words, "the protections of access to the emergency room," were vacant and empty and without the protections that are included in the Patients' Bill of Rights and resulted, in one instance, in the loss of a leg of a young child, the horrific condition of a young girl who had a serious dislocation and her vital signs dropped dramatically and was in real danger of death, and other instances that were taking place in the emergency room.

Mr. BIDEN. Well, let me say to the Senator that I, quite frankly, admired—disagreed, but admired—my Republican colleagues when they made no bones about the fact that they did not want any interference in any way by the Government to do anything about HMOs. At least theirs was a principled stand. They said, "Look, the insurance companies, in driving down costs, are more important than all these other factors. We're not going to do anything."

What bothers me—and this is me; you are not saying this, I know it, but I am saying it—what bothers me is the apparent cynicism of picking four items which most often my constituency speaks to, to say they are covered, and nothing else. And even when you look into those four items, they are not really covered.

They are going to be going around—and the insurance companies are spending tens of millions of dollars in ads—saying, "We want you to have the right to choose a doctor."

Wait a minute. That is what they said before. But under the Republican bill, the American people can't choose their doctor, if the doctor they happen to need is a specialist, if the doctor they happen to need is in an emergency room and they don't meet the standard that the HMO sets.

I have not been nearly as involved in this debate as my friend from Massachusetts. And as the old joke goes: He has forgotten more about health care than I am going to learn. But I would feel better about what is going on here if the Republicans said what they truly believe, "Hey, look, we're not changing our position. We don't think you should be able to choose your own doctor. We don't think there should be an antigag rule. We don't think you should change the requirements to get emergency room access. We don't think that a woman should be able to choose her gynecologist as her primary physician."

Let me tell you what I think they figured out. I know of no wrath like that of the wrath of a woman who says, "I can't go to the doctor that I need and trust the most." And so they seem to be yielding only in places—and only in part—where the loudest cries are coming from. But, there are so many, many, many, many loopholes in what they say they are doing, and so much they leave out.

I kind of yearn for the day when they just stood up on the floor like they do on guns and say, "Hey, look, guns are not bad. You know, guns don't kill people. People kill people." I kind of like that. I admire it. But this, I don't know.

There will be a multimillion-dollar campaign we are all going to endure, and you do not have to be a rocket scientist to figure out where this is going before this is all over. And I expect I am going to hear your name mentioned a couple hundred thousand times before this is over, too. But at any rate, I thank you for answering my question.

Mr. KENNEDY. I thank the Senator for his interest and also his strong advocacy in terms of the people in his State on this issue. We want you to know that we are still committed to trying to get something worked out. This matter is too important for the reasons that the Senator has outlined. We still want to try and get something worked out. We had been taking a long time before we could get even the recognition of a bill on the other side. Now we ought to go about what is in the best interest of the patients in this country.

I just mention, finally, to the Senator, what I was just talking about: Every doctors organization, every nurses organization, every health professional and patients organization supports our proposal. We have not got a single one on the other side except the health insurance companies and the HMO plans on it. So we want to try and work this out. We are going to do the best that we can. But we are not going to yield in terms of protecting the interests of the consumers.

I thank the Senator.

Mr. BIDEN. I thank the Senator.

Mr. KENNEDY. I want to take just a few moments to review this very moving testimony in terms of the emergency rooms. These are comments made by Dr. Charlotte Yeh, who is the Chair of the Federal Government Affairs Committee for the American College of Emergency Physicians. And these are comments that she made.

> In Boston, a boy's leg was seriously injured in an auto accident. At a nearby hospital, emergency doctors told the parents he would need vascular surgery to save his leg and a surgeon was ready and available in the hospital.
>
> Unfortunately, for this young man, his insurer insisted he be transferred to an "in-network" hospital for the surgery. His parents were told if they allowed the operation to be done anywhere else, they would be responsible for the bill. They agreed to the move. Surgery was performed three hours after the accident. But by then, it was too late to save his leg.
>
> These are not episodes from the TV program, "ER." These are not anecdotes. They are real people with real lives.
>
> A bipartisan majority in the Congress has called for enactment of standards that will put an end to episodes like the ones I just described. Last year, the Congress adopted the prudent layperson standard and other protections for Medicare and Medicaid patients seeking emergency care. We thought there was a consensus on this issue!

There was consensus on this issue, Mr. President.

> Just a few weeks ago, we were delighted to see that Republican Task Forces in both the House and Senate had decided to include the "prudent layperson" standard in their respective protection measures.
>
> But we are very disturbed about the way in which the emergency services protections were drafted in the Republican "Patient Protection Act." As a physician, it seems that a little unnecessary surgery was performed on the "prudent layperson" standard to the point where it is barely recognizable as the consumer protection we envisioned.
>
> What is the difference between the real "prudent layperson" standard included in the "Balanced Budget Act" and the Democratic "Patients' Bill of Rights" and the "imposture" that has been included in the GOP "Patient Protection Act"?
>
> The GOP Patient Protection Act would establish a weaker coverage standard for privately insured patients than what exists for Medicare and Medicaid patients.

It gets back to what they are talking about. The name of the legislation—Senator DASCHLE—they take the various code words going down the line. They took the "prudent layperson" definition, and then they altered and changed it. These are the emergency physicians that I am reading from.

The GOP Patient Protection Act establishes a weaker coverage standard for privately insured patients than for the Medicare and Medicaid patients. The Democratic bill will provide the same protections for all patients.

> The GOP Patient Protection Act establishes a two-tiered test for coverage of emergency services and guarantees coverage only for a "screening examination."
>
> The Democratic bill would require that health plans cover all services necessary to evaluate and stabilize the patient to anyone who meets the prudent layperson standard—no questions asked!
>
> The GOP Patient Protection Act sets no limits on the amount of cost-sharing the managed care plans would be allowed to charge patients who seek emergency services from a non-network provider.

You get it? They have a prudent layperson. They further define it to mean less in terms of health care protections. And then they include copays. So if they go there, they are going to have to pay up through the nose for it.

Don't you think we ought to be able to discuss that on the floor of the U.S. Senate, to see which way this body wants to go on that particular protection for emergency rooms, for consumers of this country? No. We can't—evidently, no. No. We haven't got time. We haven't got time to be able to ask our Republican friends, Why did you do it this way? Why did you change it? Why did you change it?

Well, I think it is quite clear why they changed it, because the insurance industry wanted them to change it. The GOP Patient Protection Act sets no limits on the cost-sharing.

The Democratic bill would protect patients who reasonably seek emergency services to protect their health from being charged unreasonable copays and deductibles.

We protect the consumer.

The GOP Patient Protection Act sets no guidelines for the coordination of poststabilization care, making it possible for emergency physicians to coordinate and obtain authorization for necessary follow-up care with the managed care plans.

> The Democratic bill would require the health plans to adhere to new Federal guidelines that require managed care plans to be available to coordinate poststabilization care, instead of just permitting the managed plan to turn off the phone at 5 o'clock.
>
> Obviously—

And I continue now with her statement:

> we are very troubled by the changes to the "prudent layperson" standard in the "Patient Protection Act."
>
> Our assessment is that this legislation—

Now, these are the emergency room physicians. There isn't a family in this country that does not have some concern—they have children or parents; loved ones—about the importance of having an emergency room that is going to look after an emergency, that is going to affect the family. And there isn't a person that is listening to this program, watching it, that has not had to spend time in an emergency room themselves or their loved ones in a family.

It is very important. And what is happening out there with regard to HMOs, in too many instances, is that they are putting the interests of the insurance industry ahead of the emergency needs of the patient. That isn't what I am saying, although it is what the emergency room doctors are saying.

This is their final assessment:

> Our assessment is that this legislation—
>
> [1.] Will provide less protection for privately insured patients than for Medicare and Medicaid patients.
>
> [2.] Will lead to more coverage disputes, not less. [Do we hear that—will lead to more coverage disputes, not less.]
>
> [3.] Will create even more barriers, not fewer.
>
> [4.] Will create new loopholes for managed care plans to deny coverage of emergency services.

These are the doctors who are dedicated and committed to providing emergency services to the people. That is their assessment, and we are not going to be permitted to debate and discuss the impact of the Republican bill on the patients of this country as compared to our Patients' Bill of Rights. We are going to be denied that opportunity, Mr. President?

> In four years, we have come so far, but we cannot support these provisions in their current form. We will do everything in our power to ensure the "prudent layperson" standard that is enacted will be consistent with the meaningful protections that Congress enacted for Medicare and Medicaid beneficiaries. Hard-working Americans who pay their premiums deserve no less.

Now, Mr. President, I will conclude in just a moment. I want to sum up where I think we are in this whole experience. During recent years, we have seen a very dramatic shift from the indemnity health care provisions to the HMOs. We have seen the ERISA provisions that were developed in the early 1970s which exclude liability protections for American consumers. Those particular provisions were developed to protect pensions—it wasn't really thought about in terms of the application of these provisions of the law in terms of health care plans. If you go back and read the discussion and the debate, it wasn't really considered. It was there to protect pensions, and it has worked reasonably well to protect pensions.

It hasn't worked to protect the patients in these programs. Nonetheless, we have seen the growth of the HMOs. And we have some outstanding health maintenance organizations. We have some of the best in my own State of Massachusetts. The basic concept behind the HMOs was to try to create the financial incentive for keeping people healthier so that the various health organizations would encourage the preventive health care measures, and by keeping people healthier, on what we call a "capitation" program—that is, that the HMO gets a certain payment for an individual; if they keep them healthier, then the HMO's financial situation improves. That made a good deal of sense.

In the better HMOs it works, and it works effectively. The problem is you have many at the lower end that are reflecting the kinds of abuses we have talked about here today. They have to be corrected. They should be corrected.

Legislation has been introduced, and we have been excluded from the opportunity of having it scheduled. Now we have, finally, the Republican leadership's provisions, which were introduced in the Senate last Friday, and we still have no time that has been set aside.

When you look over the range of different provisions in this legislation and the importance of this, we need to have a reasonable opportunity to debate and discuss these measures. The best we were able to get out of the Republican leadership initially was that, "We are not going to schedule what we don't want to schedule." That is what I heard on the floor of the U.S. Senate about 2 weeks ago. Then we heard that, "We are developing a program and will schedule this when we want to schedule it." Then we see the legislation that has been introduced. Now we are told, "We may or may not get to that in the day or two before the designated recess."

There is not a measure that affects families in this country that is more important than the Patients' Bill of Rights. It deserves full debate and discussion and thoughtful consideration. It deserves the best judgment of all of the Members, and it deserves a bipartisan resolution at the end to try to see that we do something that is meaningful to provide protections for families. What will be unacceptable is some kind of a toothless piece of legislation that picks up the buzzwords but fails to provide the protections for the American people.

I hope we can get about the business of having this debate and having this result. Every day we delay, we fail to protect our fellow citizens. This issue is not one that is getting better; it is one which cries out for action. It cries out for action now. The earlier, the better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. NICKLES. Will the Senator yield?

Mr. SHELBY. I yield to the distinguished Senator from Oklahoma.

HEALTH CARE LEGISLATION

Mr. NICKLES. I appreciate my colleague yielding for a moment. I sat here and waited for awhile for my colleague from Massachusetts to speak, and then the Senator from Delaware decided to speak. I wanted to make a couple of comments concerning the health care legislation.

One, I regret maybe some of the tone of some of the debate that has been made. I am very interested in trying to come up with a reasonable time agreement to take up this legislation. We have offered to do that. We have offered to give a vote on both the Democrat and the Republican proposals. I understand my colleague wants more time. He probably would like to spend a month on it. I heard him say it is the most important legislation we have before the Senate. I think I heard him say the same thing about the tobacco legislation. We spent 4 weeks on tobacco legislation, and we are not going to spend 4 weeks on this. The Senate is scheduled to be in session about 5 additional weeks, so we don't have the luxury of time that maybe we have had in the past.

My colleague from Massachusetts made the comment and said we tried to bring this up 18 months ago. That is not correct. His bill was introduced on March 31. Three days later, he was trying to pass a sense-of-the-Senate resolution, saying we will pass it this year. We have agreed to bring it up this year. We have agreed to give it adequate time for debate. We have not agreed to spend an unlimited amount of time on this.

I want to respond to a couple of the statements that were made concerning the Republican proposal. Much to my chagrin, I had hoped my colleague, and colleagues on the other side, would try to find out what is good and maybe see where we can move forward, but instead he has trashed our proposal. I resent that, or I regret it—I guess regret would be the more proper terminology.

We have 49 cosponsors of this legislation. We had a task force that met for months, 7 months, to formulate positive, constructive health care legislation, legislation that would help alleviate some of the problems in the health care industry, legislation that would help protect those people who don't have protections in health care.

I heard my colleague say their plan only affects 48 million Americans and exempts two-thirds. That is absolutely not correct. The facts are, every single ERISA-covered plan, every single employer-sponsored health plan in America would have an appeal process. It is a different process than our colleagues on the Democrat side have followed, but for a good reason. We don't want to drive up health care costs.

What we want to do is make sure people who are denied health care will have an appeal to where they can get health care—not that they have to go to court to get a health care decision—so they can have an appeal through an outsider who has nothing whatever to do with their case and have it be reviewed immediately or expeditiously if there is a serious health care problem. They can even have an outside appeal. We put in "binding decision" on the outside appeal. The decisions would be binding. The plan would have to pay if someone said, "Wait a minute. We thought we were waiting for coverage and we didn't get it." They would have an internal appeal and an external appeal and that applies to every single employer-sponsored plan in America. We have heard different numbers. It is about 125 million Americans who would be covered under those plans—every single one—unlike my colleagues' plan; I looked at his. I just want to say that it is the right to sue for more. Under the Democrat bill, their idea is that we are going to get more health care by having more suits. We are going to sue people. You can already sue a health care plan to get a covered service. They want to sue for more.

In the Democrat proposal, they have 56 new causes of action where you can sue. It would be an invitation for litigation, to not only sue the health care plan but to sue the employer as well. I have been in the private sector, I have been an employer, a small employer—maybe a little larger; I went from a few employees to 100 employees. If you make employers liable for suits on health care plans, they will drop health care plans very quickly and you will have an increase in the number of uninsured that will be in the millions. You will also have costs. CBO estimated that the Democrat bill would increase health care costs by 4 percent over what they are already estimated to cost, at 5.2 percent. That is a 9.2 percent cost increase if we enact the Democrat bill. That would cause millions of people to lose health insurance. I don't think that is smart.

So I want to just make sure that our colleagues are aware of the fact that we are willing to have a significant, credible debate. We are willing to consider various alternatives. We are not willing to get an unlimited amount of time. Earlier, my colleague had offered his bill on an appropriations bill. I said it didn't belong there. Maybe we should have left it there. We could have offered some substitutes.

One way or another, we are going to take up this issue. It is our intention to take it up prior to the August break. That is the majority leader's call. We understand that we have a lot of appropriations bills to do, and that must be done. I know my colleagues on the Transportation Committee are ready to go to work. I won't delay them much longer. We will have adequate time to debate the pros and cons of this bill.

I heard some other allegations—that they don't do anything. The Senator from Delaware said, "They have all this lip service. They provide for emergency care, gag clauses, and access, direct access to OB/GYN and pediatricians, but that doesn't do anything." I disagree. We protect the unprotected. We don't have the philosophy that we should preempt States who are, in many cases, doing a better job than the Federal Government. There is a presumption on the Democrat side that the Federal Government can do it better than State government. Let's protect the unprotected, cover the plans that don't have protections often by the State.

My State has 24 mandates. They have a lot of things that aren't in the Democrat plan or Republican plan, and they are doing quite well. They are considering many more. Most States are looking at the Patients' Bill of Rights, and 36 States have already enacted several others, and 45 States already have a gag clause. Maybe some people think Washington, DC, should decide what kind of communication should or should not be made by physicians, and so on.

My point is, I think we have tried to craft a very careful, balanced, good proposal that won't escalate costs, that won't have undue mandates. The Democrat proposal has 359 mandates. Maybe instead of calling it the Kennedy bill, the Patients' Bill of Rights, they should call it the Kennedy bill of mandates, because it is this idea that the Government in Washington, DC, should dictate everything.

So I look forward to the debate. I look forward to resolving this issue and trying to come up with a good, responsible bill that won't drive up health care costs, that won't add layers and layers of bureaucracy and regulation and red tape, that won't really deter quality health care.

Our bill, I might mention, has a lot of things to deal with improving quality health care. I compliment Senator COLLINS, Senator FRIST, Senator JEFFORDS, and others who worked to put a lot of quality provisions in this health care, whether you are dealing with women's health, or dealing with research, trying to get research out to States and rural areas that would really improve quality health care—not a Federal definition that we know best, but trying to really advance technology and get that information to patients, to various areas around the country that would actually improve the quality of health care in America today.

I thank my colleagues who are managing this bill. I hope they will have success in moving this bill forward. I look forward to the debate and, hopefully, a debate next week on the so-called Patients' Bill of Rights.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ZAAZHOA CASE

Mr. JEFFORDS. Mr. President, I rise today to share some great news and to give thanks to the Members who helped me with respect to this very emotional situation that we have dealt with. I want to share the great news that three young Vermont girls who were abducted to Egypt are now back. I want to thank 56 of my colleagues for their support in this case for signing a letter to urge their return to Vermont. I also want to thank the Egyptian and American Governments for their invaluable assistance.

Last October, anticipating a Vermont court order giving his wife sole custody of their three girls, Michael Zaazhoa took Sarah, Maryam and Leila under falsified passports and fled to Egypt. Lamis Zaazhoa began the frantic search for her girls, ages 3, 5 and 6, which took 9 months, and culminated in a joyful reunion at the U.S. Embassy in Cairo this past Friday.

Lamis listened to the wise counsel of her family and decided to go the long, anxious route of petitioning the Egyptian courts for sole custody of her children under Egyptian law and getting an Egyptian court order for the return of her girls. The Vermont delegation quickly swung into action in support of her efforts, enlisting the help of the U.S. Embassy in Cairo and the Egyptian Embassy in Washington.

After the Egyptian courts ruled squarely in Lamis's favor, I walked around the Senate floor with a letter from Senator LEAHY and me to President Mubarak of Egypt, asking for his support. Fifty-five of my Colleagues signed this letter. I am deeply appreciative of my Colleagues help, which I consider pivotal to the success of our efforts. And I am very grateful to the Egyptian Embassy and Egyptian Government for its help in ensuring that Egyptian law was enforced and the girls were returned to their mother. The staff of the American Embassy was there for us all along, and arranged the swift return to the United States of Lamis and her girls once they were reunited.

I wish I could have invited all of my colleagues to the wonderful meeting Senator LEAHY and I had with these three sweet girls yesterday! Their beautiful smiles and the joy on Lamis's face deeply touched the hearts of all those present. In difficult situations like these, we rely on the good offices of our Government, and the cooperation of our friends in foreign governments. And yesterday we saw with our own eyes the beautiful fruits of those efforts!

This is an unusual result. Many of these cases occur, but very, very few are reconciled the way this was. I thank Jeff Munger of my staff in Vermont, whose sister brought to his attention the plight of the children and spearheaded the results that we got. So, again, I thank all the Members for their helpfulness in getting the three little girls back to Vermont.

I thank the Chair.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. SHELBY. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. 2307, the transportation appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

> A bill (S. 2307) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, in putting together the Fiscal Year 1999 Transportation Appropriations bill, we were faced with the difficulty of trying to adhere to the spending levels in the new highway and transit authorization bill and still provide adequate levels of funding for other transportation priorities. We have done that in this bill, and I think it represents a balanced approach to meeting our nation's transportation needs. I want to thank the Chairman of the Committee on Appropriations Senator STEVENS, for all his assistance and advice as we put this bill together and moved it through sub and full committee consideration.

We have also worked diligently with the senior Senator from New Jersey, Senator LAUTENBERG, the ranking minority member of the subcommittee on transportation appropriations, and with the distinguished ranking member of the Committee on Appropriations, Senator BYRD, to try to accommodate the requests of every Member of the Senate. No one got everything they asked for, but I think as Members look at the details of the bill, they will see that we did our best, with the limited resources we had, to accommodate everyone's request.

I want to outline just a few highlights of the bill, if I may.

The Airport Improvement Program is set at $2.1 billion for 1999, the highest level ever. This funding will expand the capacity of our Nation's airports, reduce delays and congestion, and, most importantly, it will improve aviation safety in America. As the demand for air travel increases, we must ensure that our airports are able to efficiently handle traffic that will come with it.

Highway spending is also at the highest level in history—more than $27 billion. This funding will help States clear out their backlog of overdue highway construction and improvement projects. With more than 40,000 American lives lost each year on our Nation's highways, we must do everything to make them as safe as possible. Highway spending not only improves safety but also will provide good jobs for thousands of Americans.

I believe we have adequately funded both the Coast Guard and the Federal Aviation Administration operations accounts, and we have provided increased flexibility for the Secretary to manage both operations accounts to meet air traffic control and drug interdiction demands.

I am pleased that we were able to fully appropriate the authorized levels for the National Highway Traffic Safety Administration. That agency's funding in this bill represents an 8 percent increase over last year and will aid in their efforts to conduct airbag research, develop automatic crash avoidance technologies, and increase seatbelt use, and also reduce drunk driving on our highways.

The Federal Transit Administration will receive $5.365 billion, an 11 percent increase from 1998. These funds will be used to build new light rail transit systems, replace dilapidated public buses, and construct intermodal facilities to speed the transfer of people from one transportation mode to another.

Regarding Amtrak, the bill provides an additional $555 million on top of the $1.1 billion Amtrak will receive from the Taxpayer Relief Act that we passed last year.

My concerns about the level of Federal subsidies for Amtrak are well known in this body. Since the railroad was created in 1971, Amtrak has received $21 billion in Federal support. That is an average of $750 million a year. Mr. President, that is a disproportionately high level of subsidy for a railroad that only serves 20 million intercity passengers every year. Mr. President, by way of comparison, 600 million Americans fly every year. This means that more people fly in a 2-week period than ride Amtrak over the course of the year. The bill before you this evening contains a provision requiring Amtrak to print the per-passenger subsidy on each Amtrak ticket sold. According to the GAO, Amtrak loses an average of $47 per passenger. I think the American people have a right to know how their tax dollars are being spent.

Finally, Mr. President, let me comment on the Project Labor agreement provision. At full committee consideration of the transportation appropriations bill, the chairman requested that we postpone the debate on this provision until the floor. I believe that the chairman's position to postpone this debate until the floor made sense. And I know that he has been working to resolve this issue in a fashion that will allow the transportation appropriations bill to move expeditiously through the Senate. I will continue to work with the chairman and with Members on both sides of this issue to see if we can craft—and I believe we will be able to craft—a solution that is workable for everyone involved. The intent of the original language in the bill was to prohibit discrimination against any worker in this country simply because he or she chooses not to join a union.

Mr. President, I am proud of what we have been able to accomplish in this bill. I believe it will benefit all Americans by improving transportation services in this country. I look forward to working with the members of the committee and the Members of the Senate to move this bill through the Senate.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from New Jersey.

Mr. LAUTENBERG. Thank you, Mr. President.

Mr. President, I am obviously pleased that the Senate has now turned to the consideration of the transportation appropriations bill. It has been some time in coming. And action on the transportation bill has been delayed for several weeks while the committee sought to resolve some of the challenges that arise when there are vital interests needs to be met with too few resources to meet them.

Mr. President, I first ask unanimous consent that Peter Rogoff, a member of my staff, be permitted privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Thank you, Mr. President.

Mr. President, it is always interesting, to me anyway, that when we get to something like transportation and we start talking about the numbers and how much we are able to spend on highways and aviation, on buses, and rail, whatever we do, we still fall short on this country's needs for investment in infrastructure.

There isn't a Senator here who doesn't come to Senator SHELBY or me during the time of the negotiations looking for more opportunities to invest in infrastructure. They want to get rid of the potholes, get rid of the obsolete bridges, update our system.

I know I speak for the chairman of the subcommittee, Senator SHELBY, with whom I have the pleasure and opportunity to work—Senator SHELBY and I have known each other for some time. He is a man with specific opinions on things. I could be described as a "pussycat"—I don't think so. But we have our differences out on the table, and we work to resolve them. There is one thing in this relationship, and that is mutual respect. I want to say today that Senator SHELBY has not only exhibited patience but also a genuine interest in resolving issues, getting rid of the problems, and getting on with the task. Between us, I think we have a pretty good piece of legislation.

For me, one of the greatest challenges that we faced in developing this bill was finding the funds for Amtrak. Senator SHELBY, as is his wont, spoke out about his views on Amtrak. But he has respect for others' views—for those people who see Amtrak as an integral part of the transportation system in this country, an essential part of the system.

While he is concerned about the amount of subsidy that Amtrak is getting from the Federal Government, it is also bidding its way towards self-sufficiency. Until we have the proper kind of equipment that attracts riders, that can make the trip—and the trips are made in faster times, particularly in the Northeast section, where in just the few States that Amtrak goes through with probably 100 million people, it is a significant part of the population in the country. Yes, it requires subsidy, but so does aviation.

We go beyond the ticket tax, which is significant. What we are saying to the people who ride in aviation is you pay a tax for this. We don't really say that in similar terms with Amtrak. You pay a heavy tax when you fly. The system is totally built by the taxpayer and local interests when it comes to aviation. If Amtrak didn't operate, I would like to point out that we would need 7,500 new flights a year on 757s to make up for the numbers of people who are carried on Amtrak.

We were able to fashion a compromise which was in this bill reported unanimously by the Appropriations Committee on July 14. It includes $555 million for Amtrak for the coming year, and as the chairman noted, there is over $1 billion worth of funding; some of that in operating expenses; some of that in capital expense, but it is $66 million less than the level requested by the administration.

Now, we are on the verge—1999 is the year—of getting high-speed rail equipment in the Northeast corridor. And for the benefit of those who are listening not familiar with it, the Northeast corridor is that corridor of traffic between Washington here in the South, and Boston on the northern run, with New York and Newark as the intermediate points along the way.

Well, if we can get that ride down—and I think that we can—to less than 2½ hours, I can tell you, Mr. President, I have been out at the airport many times to take a flight that was advertised to be 40 and 45 minutes, and it has taken 3 hours. It is not because the airplane is so slow. It is that it's so crowded we can't get off the ground. And sometimes I find when I land in the Newark area we have to wait 30, 40 minutes to get to a gate. We are straining at the seams. And if anybody rides the highways of America they know there is plenty of congestion. I don't care what State it is, you will find a place in those States where highway congestion is unbearable, the air is foul, and we are consuming far more fuel than we ought to because we are building a further dependence on the countries outside our shores that produce it.

And so this investment in Amtrak is one that is going to be made to get us to be able to take delivery on the high-speed equipment which is due next year, 1999.

I thank Senator STEVENS, the chairman of the committee, and Senator BYRD, the ranking member of the full committee, as well as, again, Senator SHELBY, the chairman of the Subcommittee on Transportation, for helping us to find an acceptable funding level for Amtrak, and I also thank them for their patience throughout the process.

The Transportation Subcommittee faced a real daunting challenge in constructing a bill that kept faith with the promises included in the recently enacted Transportation Equity Act. That is the transportation program for the next half dozen years for the 21st century. It is a beginning into the 21st century, and with our infrastructure investment, as modest as it is, I can't say that it is one of America's proudest achievements because we are woefully underfunded, but it is a good start in the 21st century and I am looking forward to building on that.

The TEA 21, as it is referred to in acronym fashion, law authorized substantial increases in our surface transportation programs, and this appropriations bill includes a historic 15-percent increase for funding for the Federal Highway Administration, and an 11-percent increase in funding for the Federal Transit Administration. Separate from these well-deserved increases in the surface transportation area, the bill seeks to meet, to the best of our ability, the needs of the FAA.

You heard me just reciting the fact that crowding in the air is not an insignificant factor. If you want to fly into the New York area, or you want to fly into the Chicago area, the significant metropolitan hubs across our country, you have to share that space, and if the weather turns foul you wait forever. We could upgrade the system. There are other countries that have systems where takeoffs and landings are done at zero visibility. It is done mechanically. The pilot has to be there, but that airplane can touch down safely when you can't see the ground. I know I have been in a couple of flights like that, and it is always a shock when you don't see something and you feel that hard ground beneath you.

That is what we ought to be doing. We have to invest more in all of our transportation modes and aviation as well. The Coast Guard is one incredible agency. We ask so much of the Coast Guard. We not only have them out doing drug interdiction, which is a very popular part of their agenda, but if one looks at the marine system that we have in our country, the development of boating, fishing, the whole recreational aspect of marine life is there because the Coast Guard manages it. They put out the buoy markers. I know sometimes I get lost out there, so I can tell you that they are there. It is not that they have moved. It is that I haven't been able to find them properly.

It is an incredible system. And on top of that, they do pollution patrol; they do a patrol to try to intercept illegal immigrants who want to get to this great country of ours and are willing to risk their lives to do it, sometimes in tire tubes out in the ocean. The Coast Guard is there to provide interdiction, but also humanitarian service as well. And when it comes to rescues at sea, boy, there is nobody better than the Coast Guard. They know how to do it, and they are called on by everybody on every occasion. We just saw a ship fire, the Carnival Cruise Line ship in Florida. The ones I saw right there on the spot were the Coast Guard. They are always there. They need constant investment. I know one of the complaints in some of the northern areas is they don't have enough icebreaking equipment, for instance. We get it sometimes from the Defense Department.

So, when you put all these needs together, it is not an easy challenge. I say, once again, Chairman SHELBY and his staff, Wally Burnett, Reid Cavnar and Joyce Rose, do a terrific job, as well as the people on my staff, Peter Rogoff and Liz O'Donoghue—I mentioned before Peter Neffenger—and Carole Geagley, for the job the staff has done.

The staff has worked very hard. I don't think it is realized outside that by no means are these 9 to 5 jobs. Yes, they are. I am sorry. They are 9 at night to 5 the next morning. That is the kind of jobs they are. We give them time off to sleep, go home, meet their families, say hello to their newborns, get breakfast—the work requirement is beyond comprehension, in many cases. But it gets done, and I am proud of what we did this year.

Mr. President, as Members are aware, and the chairman brought it up, the bill as reported by the Appropriations Committee contains an extremely controversial rider. It is something regarding Project Labor agreements. The provision effectively wanted to stop labor-management agreements that have served successfully for years to hold down construction costs and improve working conditions. Imagine—on those occasions, which are too few, where management and labor shake hands across the table, no longer could they say, "These are the conditions we are going to be working under. This is what you can expect from us, and this is what you can expect from us; we are going to bridge our differences now, before this job starts. We are going to decide on things like pay scales and work schedules and health care—all of those things. We are going to decide together on the schedule that we want to meet. We want to be proud of this job when it is finished."

The chairman of the Appropriations Committee used a reference. He said in the Alaskan pipeline they had an agreement that saved billions of dollars, because everybody understood exactly what their responsibilities were and there was no room for work stoppages or things of that nature. It is a system that works. Why some people felt it was time to stop it, I don't understand. But I respect the differences that we have here.

The issue was discussed at length during full committee markup of the bill. As Senator SHELBY noted, Chairman STEVENS asked us to defer this until we get to the floor and get this bill out there so Senators can see it and understand what we are doing. We did just that, and the result is we have a compromise that Senator STEVENS sought to develop that would allow the bill to move forward and gain the President's signature.

Senator SHELBY and others involved, Senator KENNEDY from Massachusetts, and I, agreed this was a consensus with which we could live. I am delighted that took place so we did not have to wrangle over it. We want to get this bill in place so when the new year starts, October 1, we are ready to go with the new spending levels and new programs.

Once we have concluded our opening remarks, we are going to adopt the managers' amendment that encompasses a compromise on this issue, so all parties are agreed they will live with it. I thank my colleagues for their efforts in reaching this compromise.

In closing, I want to express my view that the most important funding in this bill is not for any individual project or any individual State. The most important funding in the annual transportation appropriations bill is the taxpayers' dollars that we commit to maintaining safety throughout our national transportation network.

Safety in the skies—we know we are crowded, we know we are busy, and we know there is a terrific strain on the staff who maintain the aviation system, the controllers, those in the towers and those in the service routes along the way. They do a terrific job. One need only look at the accident record, the number of people. Senator SHELBY mentioned there are 600 million travelers a year. Look at that and thank the Lord, look at the accident record. You will see one of the nearly perfect systems that one could imagine operating in our skies with all that volume.

We want the same thing on our roads. We want to reduce drunk, careless driving. We would like to even reduce road rage. I don't know how we do it. Sometimes we get into rage here, but we should be able to do that.

Safety on our waterways—again, the Coast Guard is there marking out routes. It is just a terrific facility that we have.

So, safety is the No. 1 priority of my agenda. It is the No. 1 priority for the Secretary of Transportation, Secretary Slater, and for the President of the United States. He talks about it a lot. And Senator SHELBY indicated he is interested in safety.

I am hoping one day we will be able to shore up our .08 blood alcohol level bill. We passed a bill that goes part of the way, but we have to go further in order to make it complete. The worst thing that can happen to a family is to lose a youngster, a young person, to an automobile accident when we try so hard to bring them up, to raise them and encourage them, and then have somebody get in a car where someone has been drinking too much and end their life.

We are focused on safety. We are going to do that. I cannot overemphasize the responsibility that every Senator has in ensuring our transportation laws protect the safety of our traveling public to the maximum extent possible. The fate of the traveling public is truly in our hands each and every day. During the up and coming debate we are going to discuss a number of amendments that are critically important to the safety of our constituents.

With that, I yield the floor to my colleague. We are ready to consider amendments and start with the managers' amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, first of all, I thank the distinguished Senator from New Jersey for his kind remarks, because we do work together on a lot of issues, not only in the Appropriations Committee but also we both serve on the Intelligence Committee and spend a lot of time generally behind closed doors. He is an active member of that committee, too.

AMENDMENT NO. 3324

(Purpose: An amendment on the part of the managers)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for himself and Mr. LAUTENBERG, proposes an amendment numbered 3324.

Mr. SHELBY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19 of the bill in line 2, strike ": *Provided*, That $3,000,000 shall be transferred to the Appalachian Regional Commission".

On page 26 of the bill, line 15, insert the following before the period: "*Provided further*, That of the funds provided under this heading, $5,000,000 shall be made available for grants authorized under title 49 United States Code section 22301".

On page 20 of the bill, in line 17, after the colon, insert: "*Provided further*, That within the $20,000,000 made available for refuge roads in fiscal year 1999 by section 204 of title 23, United States Code, as amended, $700,000 shall be made available to the U.S. Army Corps of Engineers to determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska and $1,500,000 shall be made available for improvements to the Crooked Creek access road in the Charles M. Russell National Wildlife Refuge, Montana:".

On page 28 of the bill, amend the figure in line 5 to read "7,500,000".

On page 44 of the bill, insert at the beginning of line 1 the following: "New York City NY Midtown west ferry terminal".

On page 51 of the bill, insert after line 19 the following: "Whittier, AK intermodal facility and pedestrian overpass".

On pages 86 and 87 of the bill, strike all of section 336 (lines 16–24 and lines 1–10).

On page 88 of the bill, in line 18, after the semicolon insert the following:

(3) in subsection (d), by inserting "(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1))" after "subsection (b)(3)(B)(i) of this section"; and.

And on page 88 of the bill, in line 19, amend the "(3)" subsection number to read "(4)".

On page 90 of the bill, in line 1, after the semicolon insert the following: "$3,500,000 is provided for the Providence-Boston commuter rail project;".

On page 92 of the bill, after line 25, insert the following:

SEC. 351. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking "Pirate Cove" and inserting "Pirates' Cove and 4-lane connector to Mississippi Highway 468".

On page 78 of the bill, strike lines 8–15, and insert the following:

SEC. 322. None of the funds in this or any other Act may be used to compel, direct or require agencies of the Department of Transportation in their own construction contract awards, or recipients of financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

Mr. SHELBY. Mr. President, this amendment has been cleared on both sides of the aisle. I think it makes sense and will allow us to move forward with the bill.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no objection, the amendment is agreed to.

The amendment (No. 3324) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I would just like to tell my colleagues in the Senate, some of them are here on the floor and in their offices, Senator LAUTENBERG and I are ready to move this bill toward third reading. We haven't heard from anyone. We will give a few more minutes in case somebody wants to get in, or offer an amendment to this bill, but we believe this is a well put together bill, as I said earlier. Both sides have put a lot of work into it. We should not keep Senators here all evening. We will move as soon as we can.

If we don't hear from somebody on the floor in just a few minutes, it is my idea, if Senator LAUTENBERG concurs at that time, to move to third reading.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. If I might, I knew we constructed a good bill. I didn't realize it was this good. But the fact of the matter is I guess we covered everybody's requests fully. But we should wait to see if any of our colleagues want to come down to the floor and commend us for it.

Otherwise, I think we are seriously ready to go. I am feeling a little lightheaded because we haven't heard a lot of criticism. But the bill is here. If there are people who want to amend it in any way, let them come down now or forever hold their peace, or something.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that a fellow in Senator BINGAMAN's office, Mr. Dan Alpert, be given floor privileges during the pendency of the transportation appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thank you.

OCCUPATIONAL AIR QUALITY TESTS IN COAL MINES

Mr. WELLSTONE. Mr. President, I rise today to call to the attention of colleagues a disturbing set of circumstances and facts which I believe merit investigation and probably legislative action on the part of the Senate. I also believe that the facts I am about to discuss warrant more attention than they have received so far from the Justice Department.

There is evidence of significant violation of Federal law leading to great harm. I hope that in addition to the Congress responding appropriately, the Justice Department might look further into this matter.

I am referring to what appears to be a record of widespread systematic cheating on occupational air quality tests by operators of many of our Nation's coal mines. This alleged cheating, of which there appears to be nearly incontrovertible evidence, apparently has led to much unnecessary suffering in thousands of American families. It likely also has led to the unnecessary death from black lung disease of thousands of American coal miners.

Unfortunately, I am not referring to conditions that existed early in this century, or even conditions of the 1950s or 1960s. I'm talking about circumstances of the 1970s, 1980s and 1990s. I'm talking about allegations related to existing conditions and practices in American coal mines today.

I ask unanimous consent, Mr. President, to have printed in the RECORD a series of articles that appeared in April of this year in the Louisville Courier-Journal.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

> FROM THE EDITOR
>
> For years, a quiet but deadly tragedy has been played out in the nation's underground coal mines.
>
> Coal mine operators have known about it.
>
> The federal government has known about it.
>
> And coal miners themselves have known about it.
>
> The tragedy is that in 1998 black-lung disease still exists and hundreds of miners nationwide die of the disease each year because of cheating on air-quality tests.
>
> Doctors have known for a century that coal dust causes black lung, which can be prevented through underground dust-control measures.
>
> But 30 years after Congress placed strict limits on airborne dust and ordered mine operators to take periodic tests inside their mines, almost 1,500 miners die of black lung every year.
>
> The Courier-Journal set out to find out why.
>
> The answers were shocking.
>
> In a year-long investigation that involved interviews with 255 working and retired miners and computer analysis of more than 7 million government records, The Courier-Journal found that, among other things:
>
> Miners continue to breathe dangerous levels of coal dust because cheating on dust tests is rampant.
>
> Most coal mines send the government air samples with so little dust that experts say they must be fraudulent.
>
> Many mine operators—non-union mine operators in particular—don't comply because strict adherence to safety regulations is time-consuming, costly and cuts into profits.
>
> The federal agency responsible for protecting miners ignored overwhelming evidence of cheating.
>
> Nearly every miner interviewed said that cheating on dust tests is common and that many miners help operators falsify tests to protect their jobs.
>
> And almost no coal miners qualify for black-lung benefits under Kentucky's new workers' compensation law.
>
> Since publication of the series, Kentucky's attorney general has asked U.S. Attorney General Janet Reno to investigate why mine-safety officials have ignored evidence of cheating. And state lawmakers have called for a special session to adopt new legislation on workers' compensation.
>
> This reprint includes the entire five-day series, supporting editorials, followups and a guest column by the top mine-safety official.
>
> We think this piece of work represents outstanding public service journalism in the finest tradition of The Courier-Journal.

Mr. WELLSTONE. That is the newspaper of Louisville, KY.

This remarkable series of five articles, principally by a reporter named Gardiner Harris, is titled "Dust, Deception and Death." The series documents an apparent pattern of falsification of coal dust sampling tests by coal mine operators and it details the consequences of that dishonesty: unnecessary suffering and early death for American coal miners.

It is an extraordinary report. I do not believe it has received enough attention, although hearings have been taking place at the state level in Kentucky to look into the charges.

The paper conducted a year-long investigation. Hundreds of current and former miners were interviewed. More than 7 million government records were examined. Based on that research, the Courier-Journal's reporters concluded that cheating on air-quality tests in coal mines has contributed to great suffering and to a large number of deaths from black lung disease among American coal miners. Their reporting reveals that the Federal Government, at least until very recently, largely ignored readily observable indications of that cheating.

I do not draw absolute conclusions at this time from what is reported in the Courier-Journal. But I can say that what is reported in this series is consistent with what I saw and heard when I visited with miners in Eastern Kentucky a year ago. I was told then that cheating goes on in the dust sampling program in American coal mines. And I heard from sick and dying miners and their families about the connection between coal-mine conditions and black lung disease—especially in non-union mines.

We in the Federal Government have a responsibility to these workers and their families. At the end of my statement, I will make some suggestions regarding actions I believe we should take in the Senate. And I hope that colleagues, as they become more aware of this situation, might add to those suggestions and help determine the most appropriate response to what I believe is a national shame.

The initial shame is that the suffering and death of thousands of Americans appears to be the direct result of systematic cheating on a government-monitored health-protection program. The deeper shame is that we in the Federal Government have had the opportunity to know it, yet so far we haven't done very much about it. Dedicated people in the appropriate Federal agency, the Mine Safety and Health Administration (MSHA), are beginning to address this problem. J. Davitt McAteer, who is the Assistant Secretary for MSHA, has begun during recent years to take a number of steps, and he has called for further steps beyond those he has taken. But we still are not doing enough.

Before I cite some details from the series, I would like to read a portion of the newspaper's editorial on this subject into the RECORD. This Louisville Courier-Journal editorial, printed on Sunday, April 19, is headlined, "Death and Denial." It begins as follows:

> Coal is an outlaw industry. It is now, and it always has been. Coal is the closest thing to brute, unrepentant late 19th Century capitalism that we have left in American life. If you don't believe that, just consider the fact that ranks of miners choke to death every year because coal operators routinely cheat. They cheat on air-quality tests which could save lives. When they do that, they cheat workers of the years they would be able to spend with families and friends but for an early death from black lung. And this grotesque disease continues as the principal killer of coal miners, just as it has been for a half-century.

That is not the conclusion of some outside group of hostile critics of the coal industry. It is the editorial position of a major newspaper in the state of Kentucky, where that industry remains important to the economy. Let me recite the conclusion of that same editorial: "One-third of all the nation's underground mines get cited for excessive dust. And those are just the operations that are caught in the flawed, sporadic dust tests. Miners are more than exhausted with this continuing outrage. They're dying."

Mr. President, every article in this series warrants reading in its entirety. There are some sad and shocking quotes from former foremen in the mines, as well as from miners themselves about their own roles in test falsification. There are heartbreaking profiles that illustrate the human consequences of this reality. Men who are suffocating to death, whose lungs are destroyed, who cannot even crawl up two steps at their home without stopping and gasping for breath. I hope Senators will read the story of Leslie Blevins, 45-year old former coal miner who is dying of silicosis, a form of black lung. I hope Senators will read the story of Terry Howard and his family. Terry died in 1995 of black lung disease. He was 45.

Let me try to summarize some of the series' important findings.

The first and most important conclusion of the series is that coal miners today continue to breathe hazardous amounts of coal dust because falsification of dust sampling is still widespread. In 1972, strict dust limits in coal mines went into effect. That was a result of the 1969 Federal Coal Mine Health and Safety Act. Today, under that Act, every two months, operators of underground coal mines have to test the air in the mines for dust. They use air pump machines attached to certain of the miners' belts to collect air samples. Then government laboratories weigh the amount of dust collected in those machines' plastic cassettes. Also, in addition to weighing the dust cassettes once they have been turned in, Federal government supervisors actually oversee the company-conducted testing on one occasion per year.

How is the Federal dust-sampling program working? Not very well. In fact, the dust-sampling program, crucial as it is, today is a big part of the problem. Numerous miners, former mine owners and managers told the Courier-Journal that the sampling is routinely falsified. "Most of the time, we just turn them off," one miner said of the machines. Many miners described how the pumps often were hung where the air was clear of dust, or placed in lunch buckets. Some are run outside the mines or not at all.

According to the newspaper's reporting, in 1997, at about half the nation's underground coal mines, at least 15 percent of the air samples taken were almost completely dust-free. It is virtually impossible for those tests to have been accurate, according to experts. Assistant Secretary McAteer, who I believe is an honorable man and is moving in the right direction in addressing the problem, told the paper that these samples are "inaccurate," "unfathomable," and "statistically impossible." In other words, Assistant Secretary McAteer was saying that those results were not accurate. They could not have been accurate. They indicated cheating. That was in 1997.

Cheating is reprehensible, of course. But what matters even more is the reason for the cheating. The paper's reporting provides compelling evidence that this widespread cheating is for the purpose of covering up the existence of severely hazardous conditions—dusty conditions which exceed federally allowable levels and which are still causing black lung disease today. How can that be, one might ask? We put the law in place. We have an agency devoted to enforcing it. Surely the mine operating companies are not interested in endangering their workers. And yet they do.

It appears from the evidence that mine operators don't comply with the Federal dust-sampling program mainly because it would cost them time and money to do so. It is a sad and maddening observation, but it appears to be true. Furthermore, it apparently also is the case that the coal mine operating companies do not comply with the Federal dust sampling program today because up to this point they have had little to fear from the Federal Government when they cheat. Even when convictions have been obtained in cases of falsification of dust tests, penalties seem to have been light.

So far, the Federal Government has not been up to the job of protecting miners' health. MSHA appears over a period of years to have largely ignored readily available evidence that cheating was occurring. They are not ignoring it now, although I believe we need to make sure they are doing everything that is possible to do. Penalties for violations, as well as investigations and prosecutions, have been a largely ineffective deterrent. One-third of the mines are cited for dust-level violations, but the fines are generally small. For years average fines were about $100, and even now the average fine is just a few hundred dollars. Those are for the violations which are caught—instances where the measurable dust exceeded allowable levels. The kind of cheating which is documented in the Louisville series, which is a separate issue, has gone largely unpunished because it has gone largely uncaught. Furthermore, even after miners have contracted one or more of the diseases which are known collectively as black lung disease, few are able to qualify for government benefits intended to relieve their plight.

The most important information in this series of articles is not only that American miners continue to suffer and die from black lung disease today. Many Senators are aware that, whereas we pledged as a nation to eliminate black lung disease 28 years ago, we still have not accomplished that goal. The Federal Government pays approximately $1 billion annually for programs directly related to black lung diseases. States pay worker's compensation health benefits to miners with black lung disease. So we know that thousands of Americans suffer from black lung disease. The important information in this series, however, which would have been new and surprising to me had I not visited with coal miners in Eastern Kentucky last year, is information which I think should shock Members of the Senate. That information is that it appears that the cheating on air-quality testing by coal mine operators, the falsification of coal dust sampling tests, continues to go on today on a widespread scale. That—if true, and it appears to be—is what we must acknowledge is a national disgrace.

What does this mean? It means that the cause of future suffering and dying is going on, unabated, in today's coal mines. Right now, today. We can talk about responsibility and accountability for dishonesty in the past, which has led to today's suffering. We should. We should investigate it thoroughly, and if federal laws have been broken, then we should prosecute. But if false sampling continues today, and if we allow it to go on, then we in the Senate are failing in our responsibility to protect thousands of American coal miners from serious health hazards while they are on the job. We literally would be encouraging through our inaction the continued exposure of miners to conditions and practices that we have every indication will condemn thousands of them to suffering and early death. We are responsible. We cannot allow coal operators to cause avoidable suffering and death. I say avoidable because suffering and death from black lung disease is avoidable. Coal can be mined profitably without subjecting miners to dirty conditions that will give them black lung disease.

Mr. President, we may not solve this problem during the remainder of this Congress. It will probably not be a simple matter, and we have only a few remaining legislative weeks. It cannot be solved overnight, even though every day that cheating occurs American miners are exposed to deadly levels of black-lung-causing coal dust. Nonetheless, we can do some things immediately. We should.

We should hold at least an initial hearing on the subject of the effectiveness, or the lack of effectiveness, of current Federal measures to eliminate black lung disease. Such a hearing should include testimony regarding the voluminous evidence presented in the Louisville Courier-Journal series indicating widespread cheating on dust sampling tests. It might take more than one hearing to get to the bottom of the problem, not to mention the best solutions to it. But there should be a hearing, and I have directed a request for such a hearing to the Chairman of the Labor Subcommittee on Public Health and Safety, Senator FRIST, as well as to that Subcommittee's Ranking Member, Senator KENNEDY. We need to call attention to the issue, and we need to send a signal to American miners and their families that we will meet our responsibility to learn the truth and protect their health and safety.

Second, we need to ensure that MSHA has sufficient resources to carry out more of their own dust sampling, as well as more monitoring of tests conducted by the coal mine operators. I hope when we consider the Labor-HHS Appropriations bill that we will provide adequate funding to MSHA to do more testing. The companies have shown that they will not carry out accurate tests. At the same time, I do not believe that we should simply increase our own Federal spending and testing, and meanwhile take the companies off the hook. The companies should continue to test, as well, and they must be held thoroughly accountable for their results. A more rigorous testing and monitoring program by MSHA would both improve the reliability of the test results, and it would also help us identify more of the individuals and companies that are cheating on the tests and endangering the health of miners.

MSHA already has increased its spot-inspections of mines that have turned in tests with suspiciously low dust levels. The agency should go further, and they should have the resources to ensure they are able to go further. I believe Federal enforcement agencies should consider whether increased criminal and civil prosecution is warranted for what appears to be the systematic circumvention of the Mine Safety Act. By enforcement agencies I am referring to MSHA and the Department of Justice.

The number of criminal prosecutions has been low if the claims asserted in the Louisville newspaper series are correct. Between 1980 and early 1997, there were only 96 cases in which criminal charges were successfully brought by the Federal government for violations in the area of coal mine safety and health. That is 96 cases over a 16 year period, or about six a year. It is my understanding that very few, if any, even of that small number of successful prosecutions were for the kind of cheating documented in the newspaper series. If cheating on dust sampling, which endangers people's lives, is as widespread as has been alleged, then I believe current Justice Department prosecution has been less than it should be. I do not know if the problem has been at MSHA, or if the problem has been at the Department of Justice. It may be difficult to prove this cheating. It may be difficult to get miners to testify. But if what the series portrays is true, then we are simply not doing a good job of deterring these illegal practices—practices which are causing illness and death.

Finally, the Secretary of Labor last year proposed new rules governing implementation of the Black Lung Benefits Act—rules which to my knowledge still have not taken effect. This set of proposed revisions to the Black Lung Benefits Act is sound, justified and needed. It should be implemented. Only about 7.5 percent of Black Lung claims have been granted since the early 1980s, with nearly one-third of claims tied up in lengthy hearing and appeals processes. Litigation consumes almost half of the Black Lung Trust Fund's administrative expenses. The Department of Labor's new rules were published in the Federal Register in January of last year, and they should be put into effect.

Mr. President, I will return to the floor to speak further about this issue before the year is over. I hope we can conduct a hearing in the Labor Committee. I hope we will provide adequate appropriations for the Mines Safety and Health Administration. And I hope we will do right for the safety and health of American miners. I intend to do all I can as a United States Senator to see that we do so. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1999

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, we have notified all Members that we would like to complete action on the transportation appropriations bill. I believe our managers are ready to move in that direction.

We have a list of amendments now that have been identified.

I ask unanimous consent that the following amendments be the only first-degree amendments in order to the pending transportation bill, and subject to relevant second-degree amendments:

Managers' amendments; Senator LOTT, three relevant amendments; Senator SHELBY, three relevant amendments; Senator FRIST, regarding cemeteries; Senator ABRAHAM, regarding name change, ITS; Senator SPECTER, regarding bond issue; Senator DEWINE, regarding Coast Guard; Senator MCCONNELL, regarding expedited review; Senator MCCAIN, regarding Amtrak bookkeeping; Senator LEAHY, regarding helicopters; Senator BYRD, two relevant amendments; Senator LEVIN, regarding commuter rail; Senator BUMPERS, relevant; Senator LAUTENBERG, relevant in three instances; Senator DASCHLE, three relevant amendments; Senator KERRY, one amendment on Amtrak; Senator FEINGOLD, relevant amendment; Senator JOHNSON, two relevant amendments; and Senator DURBIN, regarding smoking on international flights.

Mr. LAUTENBERG. And Gramm on drugs.

Mr. LOTT. And one last, Senator GRAMM possibly, one amendment regarding Coast Guard.

Mr. President, we deleted the Feingold relevant.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, while we have leadership on the floor, we have heard the list. That is now confined. I think we ought to get on with the business of getting it done. We could wrap this bill up in short order. There is a full agenda. The majority leader holds out a plum at the end of the ladder. The plum swings a week from Friday. This helps reach that goal.

I ask my colleagues if they want to get out of here on Friday—I know most of them would like to stay, but you will have to put up with us in getting out early.

Mr. LOTT. I thank the managers of this legislation. Senators SHELBY and LAUTENBERG are on the verge of setting a very commendable record. I ask that they quickly go through this list of amendments and dispose of them and, as soon as possible, identify any needed votes, get a time agreement on those votes, and get it done as quickly as possible. It would help us be prepared to move on to other appropriations bills and be able to get out of here as scheduled next Friday.

I yield the floor.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I know the hour is beginning to get late and Members would like to know what they can expect tonight. We do have a list of amendments that the managers are working on right now. I believe most of those are going to be resolved without the necessity of extended debate, or even a vote.

We should know in another 15 minutes or so exactly what that would be. I hope there won't be more than one or two amendments that require some time.

Our intent would be to do those amendments that are necessary and final passage, and then Senator DASCHLE and I would like to go to the District of Columbia appropriations bill. Senator COATS and Senator LIEBERMAN have an amendment that they are prepared to debate tonight, discuss tonight, and we hope to have all debate on that and other amendments, but the vote on the amendments and final passage we would propose would be done then Monday night at 5 o'clock in order to accommodate one of the managers.

Tomorrow, while we will have a vote or two early in the morning, we will go to the credit union bill early in the morning. There are not expected to be any recorded votes on the credit union bill in the morning.

So in summation, if we could get cooperation on the transportation bill, we could wrap that up here relatively shortly and that would be the final vote tonight, if the Members would cooperate with us.

Senator DASCHLE has been working to get this amendment list identified. He agrees that this would be a good approach. The Members would have a decent night tonight, and we would be able to wrap up early in the morning and then go to the credit union bill.

I ask Senator DASCHLE if that is his thinking on this process at this time.

Mr. DASCHLE. Mr. President, I thank the Senators on both sides for the cooperation that they have given on transportation, as well as on the District of Columbia. I think we can accommodate Senators' schedules and the need to pass these two bills in an appropriate time by taking the actions the majority leader has outlined.

So I think this is a plan that will still require some cooperation and support on both sides of the aisle, but I think we can do it. I think it is the best way with which to accommodate schedules as well as the need to address these issues soon. So I certainly commend the majority leader for the recommendations and the proposal, and I hope we can complete our work.

Mr. LOTT. I thank the Senator. I thank the Chair.

I yield the floor. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, we are working together, Senator LAUTENBERG and I, and our staffs. We are close to resolving a number of amendments here, but there are some amendments that will require votes. I just ask the sponsors to come on down to the floor because we are probably going to have to have some votes on them: The McConnell amendment regarding expedited review, the McCain amendment regarding Amtrak bookkeeping, the Leahy amendment regarding helicopters, the Kerry amendment regarding Amtrak, and the Durbin amendment, smoking on international flights.

It is just a few minutes before 7. Senator LAUTENBERG and I are ready to move. If Members who are sponsoring those amendments would come on down and help us, I think it would expedite the bill tonight.

Mr. LAUTENBERG. Mr. President, I understand that the majority leader, the leadership has agreed we are going to finish this bill tonight?

Mr. SHELBY. That is right.

Mr. LAUTENBERG. It becomes a matter of Members' choice; you either finish it late or you finish it early. I am not dismissing the importance of anybody's amendment, but now is the time to do it. If it is not important enough to get over here and do it, I think we will try to expedite things, if the majority leader and minority leader agree, to get to a third reading. We have a couple of things we can do. We should do them. We are now looking at the possibility of clearing some.

So until then, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

AMENDMENT NO. 3326

(Purpose: To provide for expedited review to ensure constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 3326.

Mr. McCONNELL. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92, after line 25, add the following:

SEC. 3__. JUDICIAL REVIEW OF CONSTITUTIONAL CLAIMS.

(a) EXPEDITED CONSIDERATION.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any claim challenging the constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 113), whether on its face or as applied.

(b) APPEAL TO SUPREME COURT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim described in subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

(2) DEADLINES FOR APPEAL.—

(A) NOTICE OF APPEAL.—Any appeal under paragraph (1) shall be taken by a notice of appeal filed within 10 calendar days after the date on which the order of the district court is entered.

(B) JURISDICTIONAL STATEMENT.—The jurisdictional statement shall be filed within 30 calendar days after the date on which the order of the district court is entered.

(3) STAYS.—No stay of an order described in paragraph (1) shall be issued by a single Justice of the Supreme Court.

(c) APPLICABILITY.—Subsections (a) and (b) shall apply with respect to any claim filed after June 9, 1998, but before June 10, 1999.

Mr. McCONNELL. Mr. President, the amendment I have sent to the desk simply says that the courts should tell us once and for all whether the DBE Program in the new ISTEA law is constitutional.

The new ISTEA law, now referred to as the Transportation Equity Act for the 21st Century, or TEA 21 for short, contains the much debated and long discussed DBE Program.

As every Senator knows, and as the Supreme Court has made clear, this Government-mandated program requires States and private contractors to treat persons differently based on race. The DBE Program, at a minimum, grants benefits and presumptions to some persons based on race and ethnicity but denies the same benefits and presumptions to others based on race and ethnicity.

Now, some say that the preferences are vast and pervasive, while others say preferences are only slight and incremental. Some say that preferences are unfair. Others say that any burdens placed on persons of the wrong race are far outweighed by the benefits for the citizens of the "officially preferred" race.

Mr. President, my views on this issue are well known and well documented in the CONGRESSIONAL RECORD. But the policy debate over TEA 21 and the DBE Program is over for now. We have moved beyond that policy debate for the moment. The only thing that the Senate can do today is to ensure the constitutionality of the DBE Program mandated in TEA 21. That is precisely what my amendment does.

Mr. President, when the topic is racial preferences, it is rare that both parties can find any agreement. But I think today is that rare moment. I think there are several areas of agreement today that should lead to unanimous approval of my amendment.

First, I think we all agree that the Supreme Court has acknowledged that racial preference programs subject persons to unequal treatment under the law.

In landmark Supreme Court cases, like Adarand v. Pena, and City of Richmond v. Croson, the Court made it clear that programs doling out different presumptions, benefits, and burdens based on race, in fact, subject Americans to unequal treatment under the law.

In the words of the Supreme Court:

> Whenever the government treats any person unequally because of his or her race, that person has suffered an injury that falls squarely within the language and the spirit of the Constitution's guarantee of equal protection.

Moreover, the Court explained:

> We deal here with a classification based upon the race of the participants, which must be viewed in light of the historical fact that the central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States. This strong policy renders racial classifications "constitutionally suspect," and subject to the "most rigid scrutiny," and "in most circumstances irrelevant" to any constitutionally acceptable legislative purpose.

So, Mr. President, out of the mouth of the highest court in the land we hear our first undisputed fact: Programs like the DBE Program subject Americans to unequal treatment under the law.

Our second undisputed fact is that the Supreme Court will only tolerate such unequal treatment if the program can survive the test of strict scrutiny. That is, is the program, first, narrowly tailored; second, to remedy past discrimination?

Let me again quote the Supreme Court in Adarand. The Court said:

> We hold today that all racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by a reviewing court under strict scrutiny.

This leads me to the third undisputed fact: Strict scrutiny is an extremely high constitutional hurdle. The administration has conceded the height and depth of the constitutional challenge following Adarand. It has spent a considerable amount of resources over the last 3 years trying to respond to Adarand.

Let me count the ways. First, the administration was forced to launch a governmentwide review of all racial preference programs; second, the President even promised to "mend" those programs that were broken; third, the Justice Department and the Commerce Department joined forces to embark upon an unprecedented national benchmark survey to help figure out whether various racial preference programs could survive the strict scrutiny test after the Adarand case; and finally, several media reports have indicated that the President has been forced to make good on the part of his promise, and that he has attempted to end or curtail several programs.

Mr. President, I think it is clear to all of us that strict scrutiny is an extremely high constitutional hurdle. Let me quote our colleague, Senator BYRD, on this point. My typically astute and always distinguished colleague from West Virginia explained in the CONGRESSIONAL RECORD that the Supreme Court's decision in Adarand "makes it exceedingly difficult for any affirmative action program to pass constitutional muster." And as the Senate's unofficial historian, Senator BYRD dutifully noted that "the last time the Supreme Court upheld a statute based on a racial or national origin classification under the strict scrutiny test was in 1944."

Undisputed fact No. 4: Upon remand, the district court in Adarand followed the Supreme Court's lead and found that the DBE Program could not meet the test of strict scrutiny. Let me read the relevant portion of the district court's opinion and order:

> It is ordered that section 1003(b) of ISTEA, [that is, the Disadvantaged Business Enterprise Program] and . . . the regulations promulgated thereunder . . . are unconstitutional.

In fact, the district court, like many of us in the Senate, expressly questioned whether any race-based statute could be upheld as constitutional.

The Federal judge concluded, "I find it difficult to envision a race-based classification that is narrowly tailored."

The district court's ruling was not exactly a surprise to many of the Nation's constitutional scholars. As the Congressional Research Service has explained, the district court's decision in Adarand "largely conforms to a pattern of Federal rulings which have invalidated State and local government programs to promote minority contracting in the following places: Richmond, San Francisco, San Diego, Dade County, Florida, Atlanta, New Orleans, Columbus, [the State of] Louisiana, and [the State of] Michigan, among others. . . ."

So let me repeat undisputed fact No. 4. The DBE Program was declared unconstitutional by the Federal court in Colorado.

Undisputed fact No. 5: The attempt to respond to Adarand did not involve any statutory reform whatsoever. The administration's reform of the law came in the form of a maze of complex and lengthy new regulations to try to fix the ISTEA program.

Undisputed fact No. 6: Members of both parties expressed concern about the constitutionality of the program, and many of those who voted to support it relied upon the administration's promises and proposed regulations. I am sure that my colleagues will remember that in March of this year, 1998, a divided Senate spent several hours over the course of 2 days debating whether a "mended" transportation program that continues to treat persons differently based on race would now be upheld as constitutional. Ultimately, 58 Senators took the administration at its word and reauthorized the program, but with a very watchful eye.

I think that my good friend from New Mexico summed up the feeling of those Senators who supported the new DBE Program, but had the following admonition. Senator DOMENICI said:

> I say to the administration very clearly right now: You have now put the signature of the Attorney General of the United States and the Secretary of [Transportation] on the answer to . . . seven questions [about the constitutionality of this program]. And this Senator [Senator DOMENICI, referring to himself] and I think a number of other Senators, is going to be voting to keep the provisions in the bill based on these kinds of assurances. . . . If, in fact, it comes out in a few months that the regulations are not being interpreted in a way suggested here, then I assure you that we will change them. . . . This better come as a very, very, serious challenge to the administration as they finally implement this program.

This candor and concern was also expressed by other Members on both sides of the aisle. Let me share an insightful colloquy pointing out the constitutional concerns. This colloquy involved the distinguished Environment and Public Works committee chairman, Senator CHAFEE; the ranking member, Senator BAUCUS; the chairman of the Subcommittee on Transportation and Infrastructure, Senator WARNER; and Senators DOMENICI and DURBIN.

Let me read those statements from the CONGRESSIONAL RECORD of March 5 of this year.

Senator DURBIN said:

> I believe the DBE program must be implemented in a manner that is constitutional. I believe that it is critical to the integrity of the program, and to the Senate's support of that program. Therefore, I would like to ask the chairman and ranking member—whose committee has oversight of the DBE program—is it their intention to press the Department to ensure that the new regulations pass constitutional muster?

That was a question being asked by the Senator from Illinois, Senator DURBIN.

Senator CHAFEE, the chairman of the committee responding:

> Yes, it is. We have made it clear to the Secretary that while one can never predict with 100 percent certainty what language may pass constitutional muster, the Committee expects the Secretary and his legal staff to do their utmost to make sure that the new regulations closely follow the guidance set forth by the Court in Adarand.

Senator BAUCUS, the ranking minority member of the committee says:

> I concur. It is the committee's intention that this program be carried out in a manner

that is consistent with the Constitution. We expect no less. Secretary Slater is aware of, and I am assured agrees with, our views on this matter.

Senator WARNER. As chair of the subcommittee that sponsored this bill, I have a particular interest in this matter and want to assure the Senator that adherence to Adarand is our intent.

Senator DOMENICI. I appreciate the Senator's confirmation on this point. Let me ask further: Will the committee continue to be in touch with Department officials as the regulations are ready for release? And will the committee scrutinize the new regulations to ensure that the Department did in fact follow the Court's guidance under Adarand?

Senator CHAFEE. Yes, we will.

Senator BAUCUS. I can assure the Senator, and the Senate, that we will indeed.

Senator WARNER. We certainly intend to.

Senator DOMENICI. I am pleased to hear it, and I want to thank the Senators for taking the time to respond to my concerns.

Mr. President, I could stand here on the floor and read statement after statement made by Members of both parties during the ISTEA debate in March of this year that spell out the Senate's serious constitutional concerns about the DBE Program. But I think it is abundantly clear that every Member of the Senate understands the constitutional guarantees and obstacles that stand in the way of a Federal highway program that treats Americans differently based on the immutable trait of race.

Let me say that I wholeheartedly agree with and appreciate the constitutional concerns set forth by Senators CHAFEE, BAUCUS, WARNER, DURBIN, and DOMENICI. We must ensure that the new DBE Program is constitutional.

My amendment is perfectly consistent with these constitutional concerns, and I hope all Senators will fully support my amendment.

Undisputed fact No. 7: The proposed regulations were not final prior to our vote back in March on the DBE Program. In fact, the proposed regulations are still not final, even though the CONGRESSIONAL RECORD is filled with statements promising that the new DBE regs would be final in April or May of this year.

Well, Mr. President, we are now headed into August, and it is my understanding that the States and contractors still have no guidance from DOT on how to run this multibillion-dollar DBE Program in compliance with the Constitution, with Adarand, with the Supreme Court and the law of the land.

So as the statements that I read earlier from Senators CHAFEE, BAUCUS, and others made clear, we do not know for sure whether the regulations make the DBE Program more constitutional or less constitutional. We do not know for sure whether the proposed regulations will help or hurt, whether the regs alter the statute to allow the program to pass the stringent test of strict scrutiny, or whether the Federal courts will follow the district court in Adarand and continue to strike down the program as unconstitutional.

Mr. President, undisputed fact No. 8: The Senate should take its oath to uphold the Constitution seriously. Mr. President, let me say that all of us, when we come into the Senate, solemnly swear that we will support and defend the Constitution of the United States. I think we can all agree that this is a constitutional oath that should be taken seriously. In fact, for a good portion of our history, the Congress mandated an expedited Supreme Court review of any and all constitutional questions.

In more recent years, the Congress has focused the expedited review approach on those important laws that are surrounded by legitimate questions of constitutional validity. A quick search by the Congressional Research Service has documented several recent laws and bills that have included expedited Supreme Court review provisions. I think my colleagues will remember each of these. Let me name just a few: the Line-Item Veto Act; the Communications Decency Act; the census sampling in last year's Commerce-Justice-State appropriations bill; the District of Columbia Schools Opportunity Scholarships Act; and the Gramm-Rudman-Hollings Act. All of those rather well-known measures had an expedited review provision. These are only a few of the bills that have included expedited review provisions. These were generally supported and passed in both Houses of Congress for the simple reason that there were legitimate questions of constitutionality surrounding key provisions of the bills.

Mr. President, this leads me to undisputed fact No. 9: I think we can all agree that, at a minimum, there are legitimate questions of constitutional validity regarding the DBE Program. Both the Senate and the House acknowledged these questions when we had extended debate and a divided vote back in March on whether the program was constitutional.

Moreover, the TEA 21 law is direct evidence that both the Senate and the House feel that there are legitimate constitutional questions surrounding the DBE Program. Specifically, TEA 21 contains a provision that prohibits the Department of Transportation from cutting off Federal transportation funds whenever a State discontinues its federally mandated DBE Program in compliance with a court order striking down the program as unconstitutional. So, Mr. President, the very law we passed makes it perfectly clear that there are valid questions of constitutionality about the DBE Program.

The courts have also made it clear that the DBE Program raises genuine questions of constitutionality. Case law is replete with courts striking down programs that mandate different rules and different treatment for citizens of different races. The Congressional Research Service, as I noted earlier, has found that the recent Adarand decision by the district court conforms to a pattern of Federal rulings striking down racial preference programs across the country. I have here a long list of cases in the last few years where courts have declared programs like the DBE Program to be unconstitutional. This list shows court decisions by the Supreme Court, D.C. circuit, the third circuit, the fourth circuit, the fifth circuit, the sixth circuit, the seventh circuit, the ninth circuit, the eleventh circuit—all striking down race-based programs. The list also shows other unambiguous rulings of lower courts in Georgia, Connecticut, Ohio, Louisiana, Michigan, Colorado, and the city of Houston—again, all striking down race-based programs.

Mr. President, I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RACE-BASED CONTRACTING PROGRAMS ARE ROUTINELY STRUCK DOWN

The Congressional Research Service has explained that the recent district court decision in *Adarand* conforms to a pattern of federal rulings across the country striking down race-based contracting programs as unconstitutional.

See City of Richmond v. *Croson*, 488 U.S. 469 (1989); *Lutheran Church-Missouri Synod* v. *FCC*, 141 F.3d 344 (D.C. Cir. 1998); *Monterey Mechanical* v. *Wilson*, 125 F.3d 702 (9th Cir. 1997); *Engineering Contractors Ass'n of South Florida, Inc.* v. *Metropolitan Dade Co. 1997 WL 535626 (11th Cir. 1997); U.S.* v. *Board of Education of the Township of Piscataway*, 91 F.3d 1547 (3d Cir. 1996); *Hopwood* v. *State of Texas.*, 95 F.3d 53 (5th Cir. 1995), *cert. denied*, 116 S.Ct 2581 (1996); *Podberesky* v. *Kirwan*, 38 F.3d 147 (4th Cir. 1994), *cert. denied*, 115 S.Ct. 2001 (1995); *O'Donnell Construction Co.* v. *District of Columbia*, 963 F.2d 420 (D.C. Cir. 1992); *Milwaukee County Pavers Ass'n.* v. *Feidler*, 922 F.2d 419 (7th Cir. 1991); *Associated General Contractors of California, Inc.* v. *San Francisco*, 813 F.2d 922 (9th Cir. 1987); *Michigan Road Builders Assoc., Inc.*, v. *Milliken*, 834 F.2d 583 (6th Cir. 1987).

Houston Contractors Association v. *Metropolitan Transit Authority of Harris County*, 993 F.Supp. 545 (S.D. Tex. 1997); *Adarand* v. *Pena*, 965 F. Supp. 1556 (D. Colo. 1997); *Associated General Contractors of America* v. *Columbus*, 936 F. Supp. 1363 (S.D. Ohio 1996); *Louisiana Associated General Contractors, Inc.* v. *Louisiana*, 669 So.2d 1185 (La. 1996); *Contractors Ass'n. of Eastern Pennsylvania* v. *Philadelphia*, 893 F. Supp. 419 (E.D. Pa. 1995), *affirmed* 91 F. 3d 586, (3d Cir. 1996) *cert. denied*, 117 S. Ct. 953 (1997); *Arrow Office Supply* v. *Detroit*, 826 F. Supp. 1072 (E.D. Mich. 1993); *Arrow Office Supply* v. *Detroit*, 826 F. Supp. 1072 (E.D. Mich. 1993); *Associated General Contractors of Connecticut* v. *New Haven*, 791 F. Supp. 941 (D. Conn. 1992); *S.J. Groves & Sons Co.* v. *Fulton County*, 696 F. Supp. 1480 (N.D. Ga. 1987).

Mr. McCONNELL. Finally, Mr. President, undisputed fact No. 10: If we are willing to grant expedited review to ensure the constitutionality of everything from census sampling to vouchers to vetoes to balanced budget laws to Internet restrictions, then surely we would all agree that Americans deserve to know whether an important law involving race, civil rights, the 5th and 14th amendments, is constitutional.

We all know that there are many more cases striking down racial preference programs than there are cases striking down vouchers, or line-item vetoes, or balanced budget laws, or Internet restrictions. In fact, I will bet that you could combine and add up all of the cases striking down vouchers, line-item vetoes, balanced budget laws, and Internet restrictions, and that amount still would be less than the number of court cases striking down racial preference programs. Surely, if we have given expedited review to all of those other issues, then we are going to give expedited review to the critical issue of civil rights and the constitutional guarantee of equal protection of the laws.

Mr. President, I have spelled out 10 undisputed facts which serve as the common ground for the amendment I have offered. I think these facts are more than reason enough to immediately pass this expedited review amendment.

Let me simply close by pointing out that the time for debating the constitutionality of the DBE Program has passed. Now the courts must decide. My proposed amendment simply just says that the Supreme Court should tell us once and for all whether a transportation program that treats contractors and subcontractors differently based on race can survive strict scrutiny.

We must ensure the constitutionality of the DBE Program. We owe it to the States and localities that are receiving the billions of dollars in TEA 21 funds.

We owe it to the contractors who are threatened with the loss of jobs and contracts if they do not comply with the constitutionally suspect mandate of TEA 21.

We owe it to the minority-owned businesses who are forced to hang in the balance and twist in the constitutional winds wondering if the current program will survive a court challenge.

And, finally, we owe it to every American who sent us to the U.S. Senate to faithfully uphold the Constitution.

Mr. President, that is all this amendment would do. Regardless of how Senators may have voted on this measure back in March, this would quite simply just provide expedited Supreme Court review in this field. This is something we have frequently done, as I indicated in my prepared remarks.

I hope that this amendment will be cleared and accepted on both sides of the aisle.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Mr. President, I would like to respond to the amendment by the Senator from Kentucky. But at the outset, I want to point out that inasmuch as this amendment came, we haven't had a chance to go back and check citations and check the references that he made in the speech. However, I would point out that at the outset, the simple and obvious undisputed fact is that the Governor of Kentucky does not like the idea of there being any disadvantaged business enterprise law in this great country, and wants very much to see it repealed. This amendment is no more and no less than a subterfuge for that. Frankly, as far as I can determine, it will effectively tie up the consideration of this legislation.

I tried to listen as closely as I could to the Senator from Kentucky in his argument with regard to the reasons for the expedited consideration.

I would point out that our Constitution provides a process, a procedure, for judicial review of legislation passed by this Congress, not the least of which requires the handling of a case in controversy. Those constitutional requirements and those procedures have been in place really since, I would say, the founding of this country. But that probably is not true. Marbury v. Madison was probably the first case in which the ability of the judiciary to determine the constitutionality of an act of Congress was upheld. And I think the precedent goes back to that.

The Senator from Kentucky wants to have this Senate say that the procedure that has stood in very good stead for the consideration of all the legislation that we have passed over the last couple hundred years is not good enough when the issue is race; that it is not good enough when the issue is gender; and, that is not good enough when the issue is providing some avenue for bringing people into the main stream of our American economy who had heretofore been excluded from it.

I point out that the DBE is shorthand for Disadvantaged Business Enterprise. It is in the first instance a business enterprise. It says that of the contracting that takes place in transportation, it is only right, it is only fair, that women, that minorities—and minorities meaning a whole range of people—have an opportunity to participate as equal partners in the conduct of business for the development of the Nation's transportation system. This is not anything, or this should not be anything dramatic. This shouldn't, frankly, rattle any cages, particularly when one considers that the amount of contracting the last time I looked was less than 5 percent for women and for minorities.

When you think about that, you are talking about women being roughly half the population of this country and minorities as roughly another 40 percent or 30 percent of this country. So the majority of the population is allowed an opportunity to participate at a minority level in contracting under the Department of Transportation by virtue of this Disadvantaged Business Enterprise Act. It has obviously been a matter of controversy precisely because it speaks to open the door to women, it speaks to open the door to minorities, it speaks to Federal contracting activity under the auspices of, again, the Disadvantaged Business Enterprise section of ISTEA, which is the Intermodal Surface Transportation and Efficiency Act.

This has been a controversy to the extent that the Supreme Court has already taken the issue up in another context at least with regard to a State court law in the Adarand v. Pena case.

In the Adarand v. Pena case, the Supreme Court said that the Federal Government must subject affirmative action programs to "strict scrutiny," meaning that the programs must be "narrowly tailored" to meet a "compelling government interest."

The Court explicitly in that case stated that affirmative action is, in fact, still necessary. It wrote, and I want to quote from the Adarand case:

> The unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and the government is not disqualified from acting in response to it.

I will even take issue with that part of the dicta in the case in that the DBE law, the Disadvantaged Business Enterprise law, applies not just to racial minorities; it applies not just to ethnic minorities, but applies to women as well.

So we have a situation in which individuals who, because of their situation, their status, their station in society, had not been previously able to do business, start out with something of a disadvantage, and it is for that reason that the program was initiated to correct that imbalance to bring some fairness, to bring some equity, to bring some fair share of the spending of Federal contracting dollars with the majority-minority community.

I say again, "majority-minority" community, because when you add women and African Americans, Hispanic Americans, Native Americans, Asian Americans, all of the different groups included in the definition, the last time I looked, when you add all of the minority groups, when you add women, you are really talking about a majority of the population of this country. The DBE, Disadvantaged Business Enterprise, section of the law allows them to participate in the transportation equity, in the Department of Transportation funding.

The question is, Why are we here to talk about this amendment? What does this amendment do, and why does it seek to do it? Well, what this amendment says is that the minute someone comes in and says, "Oh, my goodness, I don't think that this is constitutional," that the case has to be expedited; that the district court advance, expedite over everything else.

That means, then, that if you are a district court judge, and someone comes in with a case that says, "Ah-ha. I think that the program that is giving this female contractor the asphalt paving contract in my State, I think that is illegal." Then your case goes ahead of the murder cases on the docket; your case goes ahead of the drug cases on the docket; your case goes ahead of the antitrust cases on the docket; your case goes ahead of the civil rights cases on the docket; and your case goes ahead of everybody.

We have to ask ourselves: Does this make any sense at all? Why is there such an egregious harm? What devastating occurrence has taken place that would give this claim a right to overcome everything else on a court's docket and make it go directly to the Supreme Court? Do not pass go, do not take advantage of the procedures that have been placed literally, in many instances, since the founding of this Republic.

The Senator from Kentucky apparently thinks that opening up the door and allowing women and allowing minorities to have some part of the business enterprise of this country is just that egregious an occurrence that it ought to take precedence in its ability to be challenged in the courts; that we ought to throw aside hundreds of years of precedents in court, hundreds of years of procedure in order to make certain that a claim of this magnitude goes directly to the Supreme Court, and has an opportunity to be heard immediately before anybody else has the right to get protected.

I submit to my colleagues that the logic of this amendment is what fails it the most. It is simply not logical to put aside everything else on a court's docket to avoid the court of appeals altogether, to take this dramatic move to redress what injury. What injury? I think the Senator from Kentucky fails to demonstrate the injury. The Senator from Kentucky also fails to talk about what standing, what case or controversy, what issue would give rise again to the need to undo all of the procedures associated with the challenging of the constitutionality of cases in the courts of this country.

So what this amendment really is about is attacking the legality of the DBE set-aside program through the side door. Would that it be through the back door, it would be even more direct. But this goes through a side door and takes with it the integrity of the court's procedures. This goes through a door that says, "Whenever we don't like something in this Congress, we can just change the law and change the relationship between the courts and the executive branch and the legislative branch willy-nilly as we see fit and come up with a brand new procedure that we create out of whole cloth."

That is what this amendment does. It creates from whole cloth a process of appeal for a set of circumstances, again, the injury of which, frankly, escapes me, and I think escapes a number of our colleagues.

I would point out that the front-door attack on the DBE Program failed, failed by 58 votes during the ISTEA debate, and it was, frankly, a very good thing, in my opinion. I understand the Senator from Kentucky and I see these things differently, but in my opinion it was a very good thing that a number of our colleagues recognized they would have to go home and explain to all of the women who had wanted to do business with the Department of Transportation the door was slammed in their face, and that wasn't a good thing. Then they would have to go home and explain to all of their minorities, be they racial minority or ethnic minority, why the door was slammed in their face. And that would not be a good thing.

The amendment was defeated in the front-door attack, and so now the Senator from Kentucky has developed a way to come at it sideways by saying, We are not going to ourselves repeal it, or attempt to repeal it, because we cannot repeal it; we are not ourselves going to take on straight forward the legality or the propriety of the Disadvantaged Business Enterprise Program, and we are not going to go in the back door, either. We are going to get in the side door. We are going to let anybody out there who might want to take up this cudgel for us, who might want to play politics in the courts for us, we are going to give them an opportunity to do it, and we are going to let them do it in an expedited way.

Well, let me suggest that this is not a place where new judicial procedures ought to be supported. There is no reason for this new set of procedures or for this new expedited appeals process. This controversial amendment does not belong on this bill because, quite frankly, I believe this amendment in and of itself would be enough to bring down this bill. I don't think the Senator from Kentucky or anybody else wants to see something as important as this legislation go down over this novel, creative, innovative, imaginative, interesting but bizarre, legal procedure that is being suggested by the Senator from Kentucky.

I have just received a note from the ranking member, and I don't know if he wants to say something or not, but, in any event, I certainly will defer to him and his leadership in this area. He has been exemplary over time.

Mr. President, I plead with the Senator from Kentucky to refrain from the controversy that is about to be visited on this very important legislation.

I thank the Chair, and I yield the floor.

Mr. LAUTENBERG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, this is not a complicated amendment. We had the debate back in March on the DBE Program and the Senate spoke. The Senate decided that it wanted to accept on faith that the administration would issue regulations that complied with the Adarand decision and the subsequent district court decision ruling the DBE Program to be unconstitutional. All the amendment of the Senator from Kentucky does is provide for an expedited review of those regs once they are promulgated and litigated as they will certainly be litigated.

It is not unusual on matters of extraordinary and constitutional significance for the Congress to say, "We would like to get an expedited review, an answer to the issue." So that is all this amendment is about. It does not deal with the merits of the debate at all. The Senator from Kentucky did not support the program and did think the Senate ought to follow the Adarand case, but the Senator from Kentucky lost that debate, cheerfully, I might say, and all we are asking for here in this proposal is to get an expedited Supreme Court review of the new regs after they are promulgated.

I, frankly, thought this amendment would be accepted and am somewhat surprised that we are having a debate about it. But that is all this amendment does. Regardless of how Senators may have voted on the DBE Program back in March, this is not about that. All this amendment does is obtain an expedited decision by the Supreme Court once some regulations are, at long last, promulgated.

I see my friend from Alabama in the Chamber. Let me just mention a few other bills in which we did this. This is not unusual. We did it with the line-item veto, which the Supreme Court recently struck down. We had such a provision in the Communications Decency Act. We had it in the census sampling measure in last year's Commerce-State-Justice appropriations bill. We had a similar provision in the D.C. Schools Opportunity Scholarships

Act and the Gramm-Rudman-Hollings Act.

Mr. President, this is not in any way extraordinary or unusual to hope that the Supreme Court might give us some expedited guidance is a matter of great importance.

Mr. President, I see the Senator from Alabama in the Chamber. I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I had occasion to study this issue previously, and there is a serious question this country is facing. I believe the Supreme Court has given attention and careful review to it. I believe they are very, very sensitive to the national interest in having minority citizens, minority groups be able to rise and succeed in our Nation. At the same time, I think the Supreme Court is troubled by a policy that, in effect, says you have a preference simply because of the color of your skin. In fact, I think that they have said Adarand could violate the Constitution of the United States. That is a serious matter. I believe the Adarand decision is well decided. I believe in my judgment, and I don't claim to be a Supreme Court Justice, but in my judgment the present statute that we passed is in violation of Adarand. But, regardless of that, the President has said that he can cure the problems of Adarand through regulations and they intend to issue regulations that would avoid this conflict. I am not sure that is possible. It may be. But what I hear the Senator from Kentucky to say is we are not here to debate that issue again. We are simply saying that if this law, and the regulations imposed by it, violate the Constitution of the United States, before we pass it we ought to set up a system in which there can be a prompt review by the courts to judge on that.

That is all this does, it seems to me. I salute him for suggesting at least one small step that will reach a final conclusion of this matter.

Before the Senate Judiciary Committee we had hearings on this matter. We had the lady who was married to the president of Adarand Corporation. She testified how they had suffered because of the set-asides in the transportation law. I think it is a serious question. If it is outside the Constitution, they ought to have an expedited review.

I think the Senator from Kentucky has proposed a reasonable, fair amendment. I think any of us ought to be able to support that. I thank him for doing so, and I look forward to continuing this healthy debate about how we ought to disperse the benefits in this country, what standards should be applied, and how our goods and services ought to be dispersed. I suggest they should not be dispersed on the basis of the color of one's skin.

Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN. Will the Senator from Alabama yield for a question?

Mr. SESSIONS. I will be glad to. I have yielded the floor.

Ms. MOSELEY-BRAUN. Is the Senator from Alabama aware that the program applies not just to people based on the color of their skin, but also to women, as well as other ethnic groups who have not historically done business with the Department of Transportation?

Mr. SESSIONS. Yes, the Senator is quite correct. It does apply to a number of different circumstances. Some of those circumstances, I suggest, probably are constitutional. Many of those things may be required. Certain parts of it may not be. I suggest, with regard to those that may not be, let's go on and not have it take 3 years to get up through the court system. Let's have a review so there can be a prompt determination of what would be legitimate and what would not be.

Ms. MOSELEY-BRAUN. I thank the Senator.

The PRESIDING OFFICER (Mr. FRIST). Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no further debate, the question is on agreeing to amendment No. 3326.

The amendment (No. 3326) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I want to thank Senator SHELBY and the entire Senate Transportation Appropriations Committee for their work putting together this legislation. I would like to briefly engage my colleagues in a colloquy on an issue important to me and my constituents in Vermont; preservation of our nation's historic covered bridges. The recently passed federal transportation legislation, ISTEA-2, contains language authorizing funding to protect historic wooden covered bridges. The National Historic Covered Bridge Preservation Act asks the Secretary of Transportation to study the appropriate techniques to protect and preserve covered bridges, distribute this information to states and towns across the country and grant funds to fully repair and protect these beautiful old historic structures. The bill, that is now law, authorizes $10 million for these activities. I understand the difficulty my colleagues had in distributing funds in this legislation. Although no funds were directly appropriated for these activities, I would ask the Chairman of the Senate Transportation Appropriations Subcommittee if he would agree that preservation of historic covered bridges should be a priority?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that preserving our nation's historic covered bridges should be a priority for the U.S. Department of Transportation and transportation departments across the nation.

Mr. JEFFORDS. Would the Senator agree that from available funds included in this legislation for the Federal Highway Administration that priority should be given to funding the collection and dissemination of information concerning historic covered bridges, conduct research on the history of historic covered bridges, and study the techniques for protecting historic covered bridges from rot, fire, natural disasters or weight related damage? Would the Senator agree that the Federal Highway Administration should use available funds to develop and publish guidance for implementation of the National Historic Covered Bridge Preservation Act?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that the Federal Highway Administration should make this a priority and move to publish guidance as soon as possible.

Mr. JEFFORDS. Would the Chairman of the Senate Transportation Appropriations Committee agree that funding for the repair and reconstruction of covered bridges should be given priority within the Bridge Discretionary Program?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that every effort should be made by the Secretary of Transportation to use funds from within the Bridge Discretionary Program to repair and rehabilitate covered bridges across the nation.

Mr. JEFFORDS. I would like to thank both Chairman CHAFEE and Chairman SHELBY for their commitment to covered bridges and for working with me to ensure that the program is fully funded within available funds at the U.S. Department of Transportation.

Mr. GORTON. Mr. President, I rise today in support of the Transportation Appropriations measure crafted by Senator SHELBY. This bill takes a significant step forward in addressing the transportation needs of the nation, and more specifically of Washington state.

As the Aviation Subcommittee Chairman, I am especially pleased with the generous increase in funding for the Airport Improvement Program. The Airport Improvement Program provides valuable grants to fund the capital needs of the nation's commercial airports and general aviation facilities. It allows the Secretary of Transportation and the FAA Administrator to fund planning, design, and construction of airport projects directly affecting aircraft operations, including runways, aprons, and taxiways, with the purpose of maintaining a safe and efficient nationwide system of public use airports.

Adequate funding for AIP is integral to addressing the infrastructure needs of our national aviation system. The GAO estimates that the gap between available funds and projected maintenance and construction costs for airports is almost $3 billion. The $2.1 billion included in this measure for AIP is a significant step toward bridging this gap. As the Aviation Subcommittee Chairman, I will continue to look for the best possible way to assist the Appropriations Committee in meeting the infrastructure needs of our aviation system.

Chairman SHELBY also included several aviation related items that will have a positive impact on Washington state's airports. Inclusion of $6 million for the Contract Tower Cost-Sharing Pilot Program is certainly a positive development for my state. This new program, which I am also working on in the context of the FAA reauthorization measure, will allow local airports that fall below the eligibility criteria for the existing program to cost-share with the FAA. The $6 million included by Chairman SHELBY will cover cost-sharing arrangements for approximately 30 contract towers across the country. Olympia and Felts Field are the two affected airports in Washington state that will be able to maintain their contract towers and, therefore, not diminish the current level of safety.

I am pleased that the Chairman included $3 million for the Tactical (Transponder) Landing System. This system was recently certified by the FAA and could provide immense benefit to airports that are surrounded by geographical barriers such as mountainous terrain or approaches over water that render the current Instrument Landing System useless. With the installation of a TLS, Boeing field, whose current approach patterns cause significant noise problems for local residents, will be able to structure much more agreeable landing patterns. Moscow/Pullman airport, which is also named in the bill, should be an excellent test of the effectiveness of a TLS in mountainous terrain.

I would also like to commend Chairman SHELBY for giving priority consideration to Felts Field, Pangborn Field, Paine Field, and Spokane International airports, which all face unique problems that I look forward to working with the FAA to resolve in a safe and timely manner.

This bill is not only positive for aviation. The Chairman has realized that innovative thinking and problem solving in the transportation field deserves priority consideration. This is demonstrated in the Transportation Planning, Research, and Development account, where the Chairman included two projects in Washington state that will serve as models for communities across the nation. The first is a freight mobility study instigated by the Kent, Washington Chamber of Commerce that will bring together representatives from federal, state, and local governments, as well as the shipping, trucking, and rail industries, along with organized labor, to brainstorm on ways we can make the existing system work better, realizing that we have finite resources with which to improve our aging infrastructure.

The other Washington state project included in the Transportation Planning, Research and Development account is the Chehalis Basin/I–5 Flooding project. Currently, flooding in the Interstate 5 corridor near Centralia/Chehalis in Washington state seriously compromises freight mobility, with damage and impact estimates of $50–80 million per day. The Washington State Department of Transportation (WSDOT) is currently planning to solve the problem by elevating the freeway for almost three miles. This would be a typical transportation project, but it would also exacerbate the flooding problem in the Chehalis River Basin and have extensive environmental impacts. The plan is estimated to cost $98 million, with funding anticipated from the federal roads allocation to the states. As an alternative, Lewis County is leading a consortium of three counties (with Grays Harbor and Thurston), two cities (Centralia and Chehalis) and the Chehalis Tribe to eliminate the I–5 flooding problem by solving the flooding problem in the upper Chehalis River Basin. Work on this project is well-advanced, and cost estimates range between $60–80 million. I look forward to working with the Chairman to ensure a significant federal contribution to assist in the costly permitting process that will make this common sense alternative solution a reality.

The Chairman was also very generous in his support for the Regional Transit Authority, which was recently renamed Sound Move. On November 5, 1996, the voters of the Puget Sound region approved this $3.91 billion transportation proposal. Sound Move will increase the capacity of the region's transportation system through a fix of light rail, commuter rail, High Occupancy Vehicle (HOV) expressways, regional express bus routes and "community connections" (such as park-and-ride lots and transit centers). Once completed, transit customers will be able to travel throughout a densely populated tri-county region in the state—Pierce, King and Snohomish counties—by local bus, regional bus, light rail and commuter rail, using a single ticket.

By passing the Sound Move ballot measure, voters in the Puget Sound region agreed to provide the local funding portion of the plan through a .4 percent increase in the local sales tax and a .3 percent increase in the motor vehicle excise tax. These tax revenues will provide a stable, dependable, dedicated source of local revenue for building, maintaining and operating the system. Coupled with revenue collected from bonds and fareboxes, this funding will provide a 62 percent local match for the light rail and commuter rail portions of the project and over 80 percent of the total $3.91 billion project.

Despite the voters' clear willingness to pay for an improved transportation system, the Regional Transit Authority needs federal financial assistance to successfully implement the light rail and commuter rail portions of this plan. The rail segment of the Sound Move proposal includes: a 25-mile light rail line with 26 stations between Seattle's University District and the City of SeaTac via downtown Seattle and the Seattle-Tacoma International Airport; a 1.6-mile light rail line between downtown Tacoma and the Tacoma Dome train station; and an 81-mile commuter line using existing freight track between Everett and Lakewood with at least 14 stations.

Mr. President, Sound Move is one of the most cost-effective projects in the nation, with one of the strongest local commitments. In fact, Sound Move ranked Medium/High in all categories in the recently released Department of Transportation FY '99 Report on Funding Levels and Allocation of Funds for Transit Major Capital Investments. These rankings demonstrate the overall strength of the project, which boasts ridership and cost effectiveness estimates that unquestionably rank it among the top new starts in the country. The voters around Puget Sound are eager to join the federal government in making this project a reality and it is my hope that the $60 million included in this measure for the rail component of Sound Move will be supplemented by the full $18 million which was included in the House bill for buses.

Mr. President, once again, I would like to thank the chairman for crafting a fair measure that adequately funds our national priorities while realizing and addressing the unique transportation problems facing Washington state.

Mr. McCAIN. Mr. President, the Senate has completed action on several of the annual appropriations bills that fund the federal government and its many programs.

The appropriations bills that have cleared the Senate to date contain many good provisions and generally provide appropriate levels of funding to continue the necessary functions of the federal government. But, Mr. President, these bills regretfully continue the practice of earmarking billions of taxpayers dollars for pork-barrel projects.

Over my tenure in Congress, I have consistently fought Congressional earmarks that direct money to particular projects or recipients, believing that such decisions are far better made through competitive, merit-based guidelines and procedures.

Traditionally, earmarking has been more geared to political interests rather than public needs and priorities. Highway demonstration projects, earmarked by Congress, have been a classic case-in-point. Most of these projects, which totals more than $9 billion in the Transportation Efficiency Act for the 21st Century (TEA–21), don't even appear on state priority lists.

The same is true for many other Congressional earmarks. I find this an appalling waste of taxpayer dollars. And, S. 2307 is typical of the types of earmarks and set-asides that Members add to the multi-billion dollar appropriations bills we annually consider.

This bill and report earmark more than $1.1 billion for site-specific bridge repairs and airport projects, research activities at selected universities, intelligent transportation projects, ferry systems, road improvements in ski areas, state-specific snow removal activities, bus purchases and transit projects.

Mr. President, S. 2307 continues Amtrak's subsidies yet goes so far to concoct yet a new spending scheme to pay for its operating costs. I will be proposing an amendment to ensure Amtrak's financial situation is not a moving target and that the integrity of the reform legislation enacted just over six months ago is not jeopardized by the proposals in this measure.

This bill further earmarks several million dollars of Amtrak's capital funds for new projects associated with Amtrak. The Committee report earmarks $1.4 million to relocate an Amtrak passenger station in Pennsylvania, $2.5 million to refurbish two turbo trainsets for Amtrak's empire corridor, and $1 million to install a speed monitoring system on locomotives operating between New Haven, CT and Boston, MA. The report also directs that $800,000 be used to restore the historic Southern Pines, NC, railroad station, which is owned by the State of North Carolina and served by Amtrak's Silver Star route.

Didn't the Congress agree last year that Amtrak needs to operate like a legitimate business? Isn't that why we approved legislation which placed Amtrak on a glidepath to free itself of operating subsidies? How is directing Amtrak to carry out these projects or requiring it to spend its resources on certain stations going to help Amtrak ever achieve its financial goals? Amtrak should be permitted to expend its funds on those projects it deems most critical, not on projects required by the whims of Congress.

Mr. President, in addition to the types of earmarking I have mentioned, the Appropriators have taken a number of actions that fall squarely under the authorizers' duties. For example, the bill would prohibit the Coast Guard from implementing any new navigation user fees. This means the Administration would be prevented from implementing even reasonable new user fees. I understand the concerns that the user fee proposed by the Administration are discriminatory in that they would target only certain users of the navigation system, but the language in the bill is overly restrictive.

Mr. President, there are some small earmarks in this year's transportation appropriations bill as well as some very large earmarks. For example:

More than 80 percent of the total funding provided for Intelligent Transportation Systems deployment projects are earmarked. The bill specifically sets aside more than $84 million for projects in 20 cities and counties, and in 13 states.

Although no dollar amounts are set for individual bus projects, the bill prohibits the Federal Transit Administration from using any of the $393,550,000 provided in the bill for any project not designated in S. 2307. All of the 150 TEA–21 authorized bus projects are included in the bill, and more than 150 new projects are named. Some of these projects have been earmarked in the past and others are new additions to the bus earmark parade.

The appropriators have earmarked all of the $902,800,000 provided for the new transit and transit system extensions program. Many of the projects are unauthorized and were not requested by the Administration.

Examples of the earmarks for unauthorized projects include $2.5 million for multimodal transportation in Albuquerque/Santa Fe, New Mexico; $8 million for a transitway corridor in North Miami; and $250,000 for a micro rail trolley system in Sioux City, IA.

Why are the appropriators so reluctant to permit projects to be awarded based on a competitive and meritorious process that would be fair for all the states and local communities? I suspect it is due to the fact they doubt the merits and worth of the very projects they are earmarking.

The bill contains a legislative amendment to section 1110 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). By making a simple definitional change, the provision would modify ANILCA to permit helicopters to land in all conservation system units in Alaska, including National Forests, National Wildlife Refuges, National Parks, and National Wilderness Areas. The legislative changes could result in large-scale helicopter tourism in these sensitive conservation system units. The transportation appropriations bill is not the appropriate forum to address a controversial environmental issue. A helicopter's ability to hover over an area is disruptive to wildlife, including large game species and nesting birds. In addition, the capability of a helicopter to land in areas where airplanes cannot causes concern for the integrity of the habitat.

I have only mentioned a few of the examples of earmarks and special projects contained in this measure and I will not waste the time of the Senate going over each and every earmark.

Mr. President, I also want to express the critical need for Congress to send a very clear message to Secretary Slater regarding the Department of Transportation's treatment of the committee report accompanying this bill. Earlier this week, I chaired a hearing on the Department's actions regarding discretionary funding decisions. Believe it or not, some of the DOT modal administrations do not even understand the clear delineation regarding statutory bill language and a committee report. While I did my best to impress upon these modes—particularly the Federal Transit Administration—that report language does not have the effect of law, I am still not sure they get it.

Therefore, I urge Secretary Slater to take immediate action to educate his Department on the very clear and significant differences between the bill language and report language. Report language is not law. Report language does not have the effect of law. Report language is advisory. It's as simple as that.

CONTRACT TOWER COST-SHARING

Mr. FAIRCLOTH. I would like to ask the distinguished chairman of the Transportation appropriations subcommittee about the provision in the bill that includes $6 million for an FAA contract tower cost-sharing program. I have several contract towers in my stat that would benefit greatly from such a program. What is the intention of this provision?

Mr. SHELBY. The FAA contract tower program has been proven to be a very cost-effective way for the FAA and local airports to work as partners to improve air traffic safety in many smaller communities. In fact, the Department of Transportation Inspector General recently determined that the program provides quality air traffic control services at a lower cost compared to the FAA. This cost-sharing program would enable some airports that fall just below the eligibility criteria for a contract tower to retain their air traffic control services by paying for a share of the costs. The Committee believes that this program will improve aviation safety in small communities at a minimal expense to the FAA.

HIGHWAY RESEARCH AND DEVELOPMENT, BRIDGE STRUCTURES AND THE UTAH TRANSPORTATION CENTER

Mr. BENNETT. Mr. President, I rise today to enter a colloquy with the Chairman of the Subcommittee on Transportation Appropriations, Senator SHELBY. The topic of my colloquy addresses the ongoing design/build work on Interstate 15 through the Salt Lake Valley and the unique opportunity this project presents to conduct seismic and other bridge structure research on existing overpasses that will soon be replaced.

I would like to thank the Transportation Appropriations Chairman for his interest and support of research on Interstate 15 bridge structures during the reconstruction of this important segment of highway. The Subcommittee on Transportation Appropriations included language in its report (105–249, page 96) which provides $2,000,000 for research on Interstate 15 bridge structures. This report language directs the Federal Highway Administration to make this money available to the Utah Department of Transportation (UDOT) and the Utah Transportation Center (UTC), Chairman SHELBY, am I correct in understanding that UDOT was included in this language primarily to facilitate the flow of these federal funds to the Utah Transportation Center which will administer the research done by Utah State University, University of Utah and Brigham Young University?

Mr. SHELBY. My colleague from Utah is correct in his understanding of this situation. Since the Federal Highway Administration already has a relationship developed with UDOT, the Committee included the state agency to facilitate the flow of these research funds to the Utah Transportation Center made up by the universities mentioned. The Committee believes that these funds should be made available to the UTC expeditiously so that this opportunity for bridge structure research is not lost.

Mr. BENNETT. I thank the Chairman of the Subcommittee for his clarification and I thank the Chair for its time and attention on the Senate Floor.

SOUTHWEST FLORIDA INTERNATIONAL AIRPORT APPLICATION FOR A LETTER OF INTENT

Mr. MACK. Mr. President, southwest Florida is one of the fastest growing areas in the country. Not surprisingly it is also my understanding that RSW is the third fastest growing airport in the United States. Additionally, I am told RSW has experienced an average annual growth of 9.2 percent over the past ten years.

Due to this unprecedented growth, RSW has embarked upon a major expansion program which includes construction of a new terminal and runway. This project is one of the State of Florida's most important airport projects and it has received substantial funding from the State. Moreover, the Federal Aviation Administration has provided discretionary funding for this worthy project due, in no small part, to the support of the distinguished Chairman of the Transportation Appropriations Subcommittee, Senator SHELBY, and his subcommittee over the past two years through the prior Transportation Appropriations bills. I very much appreciate the support of the Senator for RSW and its expansion project.

Additionally, as the Senator may be aware, earlier this year RSW submitted a request for a Letter of Intent to the FAA in order to support their expansion project from the agency. Over the course of the last several years, recognizing the budget constraints which the FAA must operate under, RSW officials have worked hard to significantly reduce the federal share of this project by more than 30 percent.

I believe the Chairman of the Subcommittee can appreciate the efforts of RSW, in working with the FAA, to craft a plan which meets the needs of the airport yet substantially cuts costs in an effort to remain within the FAA's anticipated budget constraints. I feel confident this is the type of cooperation from a project which the FAA should consider for priority LOI consideration.

Mr. SHELBY. I thank the distinguished Senator from Florida for his comments regarding our subcommittee's past support of the Southwest Florida International Airport. The Senator has been very active in keeping the subcommittee informed on the progress of the expansion at RSW. Because of this, I am well aware of the intense growth that this airport has experienced over the past several years.

Likewise, I am aware of the efforts of RSW to work with the FAA in developing an LOI request, and that this effort has resulted in a substantial reduction in their request, making it reasonable within today's budget environment. I believe the behavior and efforts exhibited by RSW in working with the FAA, as well as their established need, are exactly the sorts of things the FAA should be looking for when considering LOI requests. Accordingly, I encourage the FAA to give priority consideration to RSW's request for a Letter of Intent.

Mr. MACK. I thank my colleague from Alabama for his past commitment and support of the Southwest Florida International Airport (RSW) and look forward to continue working with him in the future.

KEEP HELICOPTERS OUT OF WILDERNESS

Mr. LEAHY. Mr. President, there are maybe thirty-five legislative days left this Congress. We have passed six out of thirteen appropriations—and those have been the easier ones. Now—we are facing the appropriations bills that are bogged down with legislative riders and have already invoked Presidential veto threats.

The Transportation Appropriations bill though is fairly clean and we might be able to pass it tonight. Unfortunately, the temptation to put environmental riders on this bill could not be resisted. Section 342 of this bill will overturn eighteen years of national environmental policy, open some of the most pristine wilderness in the country to helicopter landings.

Mr. President, I was here when the Alaska National Interest Lands Conservation Act was passed by Congress. I remember the careful balance that was crafted to pass this landmark legislation. The question of allowing helicopters was raised at that time and the answer we came up with was to not allow them in wilderness areas except for emergency situations. If you look at the legislative history included in the Senate Report for ANILCA it specifically lists what transportation was allowed in wilderness areas and helicopters are not one of them.

Instead, it directed the Secretary of the Interior to allow airplanes to be used in wilderness areas for traditional activities. Mr. President, I understand why this exception to the national Wilderness Act was made for Alaska and I supported it at the time. But I supported it as part of a larger compromise. One that this language will now undo.

Two years ago, the Forest Service conducted an Environmental Impact Statement on this same proposal and concluded that helicopters were not airplanes and were not a traditional means of access to the wilderness areas. Obviously, some of my colleagues do not like this conclusion and felt that tacking an environmental rider onto the transportation appropriation bill was the best way to get around it.

The Interior Department has also objected to this language due to the impact on wildlife in these wilderness areas. Mr. President, I think we all know that a helicopter flying overhead is much louder than a small airplane flying overhead. Helicopters blast the adjacent area with a minimum of 100 decibels or more.

But this language is not about just sheer noise. It is also about allowing helicopters to hover and land anywhere in these areas—the remote reaches of the Tongass National Forest, the glaciers of Kenai Fjords National Park and even the inlets of Glacier Bay.

Although it may seem like it now, I am not the only person speaking out against this language. I have over thirty five letters from outfitters, bush pilots and tour guides in Alaska who oppose this language.

So, Mr. President, I simply ask: What is the rush? Why are we including language in a transportation appropriations bill that rewrites legislation that has been on the books for eighteen years, on which no hearings have been held and that has been recommended for a veto?

Mr. FEINGOLD. Mr. President, I want to express my concern about Section 342 of the Senate FY 99 Transportation Appropriations Bill. That section creates an exception in the Alaska National Interest Lands Conservation Act allowing helicopter landings by the general public on federally-designated wilderness and other protected lands within Alaska.

Federal wilderness lands in Alaska are covered by two federal laws: the Wilderness Act of 1964 and the Alaska National Interest Lands Conservation Act, known as ANILCA. To describe the interaction of these statutes in more detail, Mr. President, the Wilderness Act establishes a federal definition of wilderness, and governs the use and administration of land within the various states that have been designated by Congress as federal wilderness. ANILCA, which passed in 1980, is the statute which designated various lands within the state of Alaska as federal wilderness. It also conferred other federal land use designations, creating parks, monuments and other protected status lands in Alaska.

The reason I am concerned about Section 342 of the bill before us is that it replaces the word "airplane" with "aircraft" within ANILCA. Though such a change would appear benign to those who do not know the statute well. However, that is not the case. The practical effect of the proposed amendment would be to permit helicopter landings by the general public in federal wilderness areas and other protected lands in Alaska.

Why is this such a concern, Mr. President? There are two major reasons why I find this one-word switch troubling. First, expanding the type of aircraft allowed in federal wilderness areas violates the Wilderness Act and sets an alarming precedent.

Section 1110 of ANILCA presently permits the general public use, on lands protected under the act, of "snow machines, motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities." Although airplane use is specifically permitted in Alaska under ANILCA, helicopter landings by the general public are prohibited in all federal wilderness. However, helicopter landings are permitted on a discretionary basis by the federal land management agencies for emergency situations. All public lands in Alaska allow helicopters to land for that purpose.

I strongly support allowing helicopters in wilderness areas to rescue injured or lost visitors. And those uses are already allowed. However, I have concerns about allowing helicopter landings in wilderness for other than emergency reasons, for purely recreational purposes.

In my home state of Wisconsin, people love the wilderness areas they visit such as the Boundary Waters Canoe Area Wilderness and the wilderness areas in the Nicolet and Chequamegon National Forests. The reason they love those places, Mr. President, is not only because they are among the most beautiful spots in the Upper Midwest, but also precisely because they are remote and are challenging to reach. National Parks are beautiful places. I support them, and I visit them with my family. However, National Parks, which have roads and restaurants and maintained campsites, are not the same as the lands protected under the Wilderness Act. National Parks are maintained for public access, wilderness areas by contrast, are areas where one can bring one's canoe and tent and hike in, or fly to in a float plane, as permitted today under ANILCA. By these means of transportation visitors can enter wilderness areas in a relatively low impact manner.

Allowing helicopters into wilderness areas would mean managing lands, that according to the Wilderness Act are supposed to remain undisturbed by human access, in a contradictory manner. Imagine being in a remote spot surrounded by nature on a nice getaway and having a helicopter land right next to you to drop people off for an afternoon of wandering around? I believe we should not sacrifice the very reasons we have protected wilderness in an effort to increase access to the wilderness. If it's easy to get to, it's not a wilderness.

Second, Congress and federal land management agencies have already considered the issue of helicopter use on wilderness lands in Alaska and have found it to be inappropriate and incompatible. The Forest Service has explicitly considered and rejected helicopters in Alaska's wilderness. In 1997, the Forest Service completed an EIS specifically addressing helicopter landings in more limited circumstances than the language in this bill. At that time, the proposal was to allow helicopters in areas other than specifically designated wildlife, cultural resource, and research areas. Section 342 would allow helicopters in all areas.

The legislative history of ANILCA also specifically excluded helicopters from lands designated under that Act. The Senate Energy Committee considered special access to lands subject to ANILCA, and the Committee Report stated "the transportation modes covered by this section are float and ski planes, snowmachines, motor boats, and dogsleds."

Congress has already considered this issue, Mr. President, and we have found that helicopters for general public access do not have a place in Alaska's wilderness areas. I would urge that we not go back on this sound judgment. I yield the floor.

AMTRAK

Mr. McCAIN. Mr. President, I am very concerned over this bill's proposal concerning Amtrak's funding and will offer an amendment to ensure the proposed scheme does not jeopardize the integrity of the Amtrak Reform and Accountability Act, P.L. 105–134, enacted on December 2, 1997.

Congress worked for a number of years in a bipartisan manner and each side accepted compromises in order to provide Amtrak with the statutory reforms it said it needed to allow it a real chance to meet its financial goals. The reform bill was based on both Amtrak's Strategic Business Plan, a plan charting Amtrak's financial operating and capital needs, and its federal grant request. And of course, its ultimate approval was the key to releasing the $2.2 billion "tax credit" for capital investment.

As my colleagues well know, I am not a proponent of a system that was intended to be privatized two years after it was created in 1971, but instead today has racked up more than $21 billion in taxpayer support even though it serves less than one percent of the traveling public. However, I worked in good faith with my colleagues and compromised to enable enactment of a legitimate reform bill.

I have been standing by the deal I cut. I have done nothing to hinder Amtrak nor have I offered proposals to prevent it from having the opportunity to fulfill its goals. But am I the only one who believes a deal is a deal?

Mr. President, I am sick and tired of the Administration and Amtrak seeking to change the agreement which is law.

First the law required the establishment of an 11-member Amtrak Reform Council (ARC) comprised of individuals appointed by the House, Senate, and the President. The ARC is responsible for evaluating Amtrak's performance and make recommendations to Amtrak for further cost containment, productivity improvements, and financial reforms. The ARC is required to submit annual reports to Congress and it is responsible for determining if Amtrak is meeting its financial goals.

While the House and Senate fulfilled its duties to appoint its members, the President has yet to make all of his appointments. As such, Senator LOTT, myself, and Congressman SHUSTER encouraged the appointed members to meet and begin carrying out its duties.

It seems the Administration thought they could hold up the ARC from doing its work if it dragged its feet long enough but that is not the case. In fact, the Department of Transportation even resisted fulfilling its administrative duties associated with the ARC in an attempt to hinder the ARC. But the ARC members have not let DOT hold them back and they have begun a steady meeting schedule.

Next the law called for a new Reform Board to replace the Amtrak Board of Directors serving at the time of enactment. Since we expect Amtrak to try to reinvent itself and to operate like a real business, we included a provision to allow a new leadership to guide Amtrak and instill a "new culture" among Amtrak employees and management.

Mr. President, several provisions concerning the establishment of the new Board were included in the reform bill in an attempt to prompt timely action by the Administration and Congress. Unfortunately, the spirit of these provisions was met with little regard.

The law required the new Board to be in place by March 31, 1998. Yet, the Senate did not receive even a single nomination from the President until the eve of the Memorial Day Recess. Due to concerns that the Administration may drag its feet indefinitely, Amtrak's authorization was linked to the nomination and confirmation of a new Board. Specifically, the law provides that if the new Reform Board has not assumed the responsibilities of the Amtrak Board of Directors before July 1st, Amtrak's authorization would lapse. The law also automatically discharged pending Board nominations from the Senate Commerce Committee if the Committee had failed to act by June 1st.

Presidential nominations require Senate confirmation, with hearings and review by the appropriate Senate Committees accompanying nominations. Yet due to the lack of timely action by the Administration, the Commerce Committee had no opportunity to carry out its duties prior to the statutory automatic June 1st discharge. It is my view the Administration's timing was a direct attempt to circumvent the Commerce Committee's authority in this regard.

Mr. President, my position regarding the new Board was made clear from day one. I repeatedly voiced my concerns to the Administration each time I heard rumors of its plans to reappoint current members. I was very clear that the Commerce Committee would not report favorably any Board hold-overs and I remained firm on that position. I truly believed even the Administration would acknowledge we didn't create a new Board only to reappoint the same members.

So what happened? The Administration sent up the nominations as Congress headed into a recess. Two of the six nominations needing confirmation were Board holdovers—that is, one-third. As I have said before, the Administration must have known that the Commerce Committee would be unable to fulfill its hearings and review prior to the statutory discharge date, given the Administration's stealth nomination submission.

However, in an effort to ensure Amtrak's authorization remained intact, I again worked in good faith with the Majority Leader and others to confirm some of the nominations in order to meet the deadline. The Commerce Committee now has an opportunity to consider whether the pending Board nominees should be approved and sent to the full Senate for a vote.

The law further provides for Amtrak to be free of operating subsidies within five years. If the ARC determines Amtrak is not meeting its fiscal goals, the ARC is to develop a plan for an alternative system. At the same time, Amtrak is to develop a plan for its liquidation. If at such time this occurs, the Congress will then need to approve a restructuring plan, or the liquidation proceeds.

As I've mentioned, the sunset trigger is contingent upon Amtrak meeting its fiscal goals and being free of operating subsidies by fiscal year 2002. Yet the Administration is again attempting to get around the law. And this time, the Appropriators are helping. .

The Appropriation bill proposes to permit Amtrak to pay for its operating expenses with its capital funds. I am told this proposal is strictly due to budgetary scoring concerns. However, I am not sold.

With the stroke of a pen, this bill jeopardizes the integrity of the reform bill—specifically the sunset trigger. Amtrak's proponents could just waive this bill as a demonstration that Amtrak is free of operating subsidies, since the bill does not include a line item for operating expenses as historically has been the case.

As I see it, Amtrak and the Administration are simply attempting to shift operating expenses into its capital budget, thereby backing away from agreements reached last year during the hard-fought reauthorization process. While the reauthorization placed a cap on the amount of money that may be appropriated in any one year for operational expenses or capital investments, the authorized levels were based on Amtrak's own projected financial needs.

Mr. President, during the last days of negotiations on the reform legislation, you may recall certain members of the Amtrak Board of Directors negotiated a new labor agreement which raised salaries for union employees, thereby incurring a substantial increase in its operational costs. Amtrak's projected net loss for FY 1998 is greater than the previous year's in part due to the Board's own actions. Yet, the Board assured us at the time that the labor agreement would require no action by Congress—nor more importantly, would the labor agreement place any additional obligations on the American taxpayers. However, shifting labor costs into the "capital" account could clearly result in the taxpayers once again being forced to cover expenses due to Amtrak's poor management decisions.

We authorized Amtrak at funding levels based on its own projected needs. Further, we directed an independent financial assessment of Amtrak be carried out under the direction of the Inspector General of the Department of Transportation. That audit will be based in part on Amtrak's Strategic Business Plan, including its projected operating and capital costs. Should Amtrak be permitted to significantly change the way it accounts for operating and capital expenses, an accurate accounting could be next to impossible. The proposed change in the use of capital funds raises legitimate concerns whether Amtrak and the Administration may be attempting to keep Amtrak's financial situation and Strategic Business Plan projections a moving target.

Further, we have continually been told Amtrak has critical capital investment needs. Yet, I am told that more than $500 million of the $621 million for capital would likely go to cover labor and other operational costs under this latest proposed scheme. If Amtrak is permitted to shift capital funds to cover what traditionally have been considered operating costs, how will Amtrak make up for the corresponding loss in funding for its capital improvements? Time and again we have been told Amtrak faces critical infrastructure investment needs which must be met if Amtrak is to have any chance of becoming a viable operation. Time and again we have been told Amtrak needed a dedicated source of capital. As I see it, the change has the very real potential for jeopardizing Amtrak's abilities to meet its capital needs which it has sought so long to accomplish.

Therefore, the amendment I will offer is intended to retain some semblance of legitimacy to P.L. 105-134.

BUS FUNDING FOR NORTHERN NEW MEXICO PARK AND RIDE

Mr. BINGAMAN. I know the Chairman and Ranking Member are aware of the proposal in the state of New Mexico to start up a new park and ride transit system that would serve the cities of Los Alamos, Pojoaque, Española, and Santa Fe. I first brought this exciting proposal to the senators' attention last September. Is the Chairman also aware that last August the State of New Mexico ran a two-week trial run of the proposed transit system and that the demonstration was an enormous success, with over 1500 riders per day and an estimated reduction of 750 vehicles?

Mr. SHELBY. Yes, Senator, I am aware of the success of the state of

New Mexico's initial two-week demonstration of the Northern New Mexico Park and Ride.

Mr. BINGAMAN. I know the Senators are aware that, at my request, last year the subcommittee provided $1.5 million to the state to begin full-time transit service in Northern New Mexico this fall using leased buses and borrowed facilities. Is the Ranking Member also aware that the commitment of the local governments to the program has also been demonstrated by individual contributions of $100,000 each from the City of Santa Fe, Santa Fe County, Los Alamos County, and the Los Alamos National Laboratory?

Mr. LAUTENBERG. Yes, Senator BINGAMAN, I am aware of the funding commitments from the local governments and Los Alamos Lab for the Northern New Mexico Park and Ride.

Mr. BINGAMAN. Is my understanding correct that for fiscal year 1999 the Transportation Appropriations Subcommittee did not identify individual programs and funding amounts for discretionary grants for bus and bus facilities, but that the conference with the other body may present an opportunity to identify individual projects and funding amounts? If that is indeed the case, can the citizens of Northern New Mexico count on the Senators' efforts to identify $10 million to purchase the needed buses and bus facilities to allow the Park and Ride program to continue beyond the first year?

Mr. SHELBY. The Senator can be assured we will give the project our full consideration in the conference.

Mr. LAUTENBERG. I appreciate knowing of the Senator from New Mexico's interest in the Northern new Mexico Park and Ride.

Mr. BINGAMAN. I thank the Senators for their consideration.

CONSTRUCTION OF THE NEW CASTLE COUNTY AIRPORT CONTROL TOWER

Mr. BIDEN. Mr. President, I rise this evening on behalf of myself and my distinguished colleague from Delaware, Senator BILL ROTH, to note the importance of a project at the New Castle County Airport in Delaware that involves the Federal Aviation Administration, and to ask the help of the managers of this bill.

In an extraordinary—and what is believed to be the first-of-its-kind offer—the owners of the New Castle County Airport—a bi-state compact known as the Delaware River and Bay Authority—has agreed to pay the approximately $5 million it will cost to construct and equip a new control tower. This facility will replace the 43-year old existing tower which does not meet federally-mandated safety and environmental standards.

The FAA, however, has now taken the position that not only should the Delaware River and Bay Authority finance the cost to design and construct a new control tower, but also pay $2.3 million for the FAA's overhead, equipment and administrative costs to oversee the project.

In addition, the FAA wants the sponsor to reimburse the agency $1 million for costs related to the relocation of the FAA's Very High Frequency radar system (VOR) at the Airport—even though the FAA's current lease indicates the FAA should bear such costs.

With the Airport sponsor willing to finance the significant cost of constructing a new control tower for the FAA, the agency should not impose additional overhead costs on that sponsor.

The owners of the Airport have worked diligently and cooperatively with the FAA for the past three years on this project, but continue to encounter further financial demands and bureaucratic delays.

Clearly, this new control tower will help the FAA. Not only will the FAA get a new, state-of-the-art tower at no cost, if the New Castle County Airport is able to expand, it will help the FAA solve the growing problem of air traffic congestion at major commercial airports in Philadelphia, Baltimore and New York.

We believe it is in the best safety interests of all parties—the FAA, the Delaware River and Bay Authority, and most importantly the flying public—that this critical airport in Delaware be allowed to construct a new control tower facility for the FAA, without additional financial demands and delays.

It's our understanding that the House Appropriations Committee Report accompanying the FY'99 Transportation Appropriations bill specifically directs the FAA to assume the approximate $3.3 million in overhead costs. I rise today to bring this important issue to the attention of the Chairman and Ranking Member and to seek your help in working to include this House language in the Conference Report.

Mr. SHELBY. Yes, we appreciate the concerns raised by the Senators from Delaware. We agree with the House Report language and want to assure you that we will work with you to ensure that these additional overhead costs are not imposed on the airport sponsor willing to construct the new control tower.

Mr. BIDEN. I thank the Senator, and I yield the floor.

Mr. DEWINE. Mr. President, I would like to take a moment to commend the Chairman of the Appropriations Subcommittee on Transportation, Senator SHELBY, for the work he has done on this bill. It is not easy to balance the competing interests in any appropriations bill, but I think it is even more difficult on transportation appropriations. I would also like to call attention to one area of the Senate's bill which is very different than the House version.

The Federal Automated Surface Observing System (ASOS) Program, which began in the late 1980's, is sponsored by the Federal Aviation Administration (FAA), the National Weather Service (NWS), and the Department of Defense (DoD) and currently includes over 860 ASOS units. For its part, as of December 2, 1997, the FAA had procured 569 ASOS units. Yet only 297 of these units had been commissioned as of June 16, 1998.

The current Senate bill provides $20.97 million for the Automated Surface Observing System (ASOS). This amount is $11 million more than the Administration request. According to the Committee report, $9.9 million is to be used to commission systems that have already been purchased. This only makes sense. After all, the Federal government purchased these systems. They might as well be used.

Last year, Congress appropriated $10 million more than the Administration request to procure nearly 30 more ASOS units. If the past is an accurate indicator, these units will sit idle until FAA finds the funds to commission them. In essence, what we are doing is purchasing technology with great potential but fraught with high maintenance costs and are going to be unusable for a number of years when, it is my understanding that there are other alternatives that cost less and can be used immediately. In fact, I understand that one of these alternatives, the Automated Weather Observing System (AWOS) is very popular in many states, including the Chairman's home state of Alabama.

I would draw my colleague's attention to the action taken yesterday by the House Committee on Appropriations. In its companion to the bill before us, that panel declined to fund any of these systems for the coming fiscal year but noted the Senate Committee's action. The House report language says that both systems (AWOS and ASOS) are "meritorious" and takes the strong position that if additional funding beyond the Administration's request is provided in the final conference action, that "an equitable distribution" of the additional funding should be provided for both systems.

I strongly support the action taken by our House colleagues and urge my good friend, the Chairman of the Subcommittee to join me to inject fairness, cost-effectiveness and competition into this program.

Mr. SHELBY. I thank the Senator from Ohio for his statement. I have listened with interest to his remarks and recognize his concerns. The Senator from Ohio has raised very compelling arguments and I will carefully consider his request during the conference committee's deliberations.

Mr. KOHL. I would like to engage Senator SHELBY in a colloquy with respect to an issue of importance to my

State of Wisconsin and the entire Midwest Region. As you may know, Wisconsin and eight other Midwestern states, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska and Ohio, working with Amtrak, have undertaken planning studies of a Midwest regional rail system to be hubbed in Chicago. The regional rail system would provide modern service on all existing rail corridors as well as several new corridors within the nine-state region. By connecting major Midwestern metropolitan areas, ridership and revenue projections have revealed that the rail network would operate without subsidy, enhance regional economic development and increase mobility in corridors with congested highway systems. To date, the states and Amtrak have contributed $468,500. The Federal Railroad Administration has also contributed $200,000 to this endeavor. I understand that the Committee grappled with unique constraints this year due to the firewalls created by the Transportation Equity Act, the so-called TEA–21. Implementation planning funds are needed, however, to move this important project forward. For this reason, I do hope that I can count on your assistance if additional resources become available in conference and as this process moves forward.

Mr. SHELBY. I know this initiative was of interest to the senior Senator from Wisconsin and that you had requested funds so that your State and the other Midwestern states could complete detailed implementation planning. As you know, we were unable to fund high speed rail corridor planning studies in the Senate Transportation Appropriations bill due to budget constraints. However, I will work with you and if we revisit this issue in conference and take another look at corridor planning studies, I assure you that the Midwest Rail initiative will receive every consideration.

Mr. HOLLINGS. Mr. President, I rise to briefly discuss a provision in this legislation which I was pleased to sponsor. The interstate network of railroads faces several problems. As you are aware, several areas in the United States currently experience serious rail freight congestion. We frequently hear of delays on the delivery of goods for two to three weeks because of rail congestion. With more train traffic, there has also been an increase in rail related accidents. There is no comprehensive system which manages the interface between trains and cars at the huge number of highway crossings in the United States. In South Carolina alone, there are 32,000 crossings. This situation is compounded in many parts of the country. Congestion is worsened and safety is jeopardized because passenger trains, high-speed trains, and freight trains all use the same track.

Unlike the national tracking of air traffic that assures millions of safe passenger air miles each year, comprehensive automated management and control of movement and location in the rail industry does not exist. The Transportation Safety Research Alliance, a non-profit public/private partnership which includes industry and research institutions, is seeking to develop an advanced, integrated technology system that would provide direction, movement, and highway crossing control for the rail freight industry. Without such a system, we are going to experience more accidents endangering the public safety and more delays to shippers and consumers that harm the Nation's commerce. This bill includes language directing the Federal Railroad Administration to provide $500,000 towards the development of this project. I want to thank the Subcommittee Chairman, Senator SHELBY, and the Ranking Member, Senator LAUTENBERG, for including this language. I appreciate your leadership in the Conference to ensure that this provision is included in the Conference Report.

Mr. SANTORUM. I also wish to express my support for this provision. One of the key industry members of the Transportation Safety Alliance, Union Switch and Signal, is headquartered in Pittsburgh, Pennsylvania. They manufacture signaling automation and control systems for railroads, and are at the cutting edge of an industry which can help our country achieve greater rail safety in the 21st century.

Senator LAUTENBERG. The issue of rail safety in this country is of great importance to me. I appreciate your comments, and will work to keep this provision in the Conference Report.

ADVANCED CIVIL SPEED ENFORCEMENT SYSTEMS UPGRADE

Mr. BIDEN. Mr. President, I say to my good friend and colleague, the distinguished Chairman of the Finance Committee, that I note with interest that the report on the bill before us provides funds in the amount of $1 million for the upgrade of safety systems on all locomotives operating between New Haven, CT, and Boston, MA.

Mr. LAUTENBERG. That is correct.

Mr. ROTH. We have a question for the distinguished Ranking Member of the Transportation Appropriations Subcommittee. Is it the intent of this legislation that installation of the advanced civil enforcement systems be performed at the facility that has the expertise, capability, and prior experience to assemble and test cab signal equipment?

Mr. BIDEN. These new speed monitoring systems are important to the operation of the Northeast Corridor and we want to ensure that the installation is done at a facility where the workers have the skills and experience to do the job right.

Mr. LAUTENBERG. That is our intent; that is the facility that should do the job.

PORTLAND LIGHT RAIL FUNDING

Mr. WYDEN. Mr. President, I would like to engage the Chairman and Ranking Member of the Transportation Appropriations Subcommittee in a colloquy to clarify the funding provided for Portland Light Rail. The Committee Report on the Transportation Appropriations Bill has a single line item for the Portland Westside and South-North Light Rail projects. However, the Committee report description is ambiguous as to how the funding provided may be used. The description reads:

> Portland Westside and south-north LRT projects.—The Committee recommends $26,700,000 for the Portland Westside LRT project. . . .

The report then goes on to describe both projects. It is the Committee's intention to provide this funding for both the Westside and south-north project?

Mr. SHELBY. Yes. The Committee intends the funding to be available for both projects.

Mr. WYDEN. I thank the Chairman for this clarification. I would also ask whether the Committee intends to allow the $26.7 million amount provided for Portland light rail to be utilized either for completion of the Westside project or final design and right-of-way acquisition for the south-north project?

Mr. LAUTENBERG. Yes. The Committee intends this funding to be available for either of these purposes.

Mr. WYDEN. I thank the distinguished Chairman and Ranking Member for their assistance in providing funding for both of these important transit projects.

CHEHALIS I–5 FLOOD CONTROL PROJECT

Mr. GORTON. Mr. Chairman, I would like to bring to your attention a project that is of utmost importance to Southwest Washington state, the Chehalis I–5 Flood Control Project. You were gracious enough to include $250,000 for this project in the manager's amendment in full committee, and I would like to thank you for your attention to this matter. Unfortunately, this project, which will ultimately cost taxpayers $18 million less than the initial option proposed by the Washington State Department of Transportation, will require $2.5 million in FY 1999 to wade through the myriad of permits that must be completed before this project can move forward. I would like to work with you in conference to ensure that this project has the Federal support to become a reality.

Mr. SHELBY. I appreciate your bringing this matter to my attention. I look forward to working with you in conference to ensure that an innovative project such as the Chehalis I–5 Flood Control Project receives the federal commitment that it deserves.

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3327

(Purpose: To provide additional resources for the United States Coast Guard for drug interdiction efforts)

Mr. DEWINE. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. COVERDELL, Mr. GRAHAM, Mr. BOND, Mr. GRASSLEY and Mr. FAIRCLOTH, proposes an amendment numbered 3327.

Mr. DEWINE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 8 of the bill, in line 17 after the colon insert: *Provided further*, That not less than $2,000,000 shall be available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola.

On page 5 of the bill, in line 4, strike "$165,215,000" and insert "$158,468,000";

On page 9 of the bill, in line 2, strike $388,693,000" and insert "$426,173,000";

On page 9 of the bill, in line 4, strike $215,473,000" and insert "$234,553,000";

On page 9 of the bill, in line 7, strike "$46,131,000" and insert "$55,131,000";

On page 9 of the bill, in line 9 strike "$35,389,000" and insert "$44,789,000";

On page 77 of the bill, in line 15, strike "$10,500,000" and insert "$17,247,000".

Mr. DEWINE. Mr. President, yesterday 15 of my colleagues and I introduced the Western Hemisphere Drug Elimination Act, legislation that would restore balance to our comprehensive antidrug strategy. My friend from Florida, Congressman BILL MCCOLLUM, is leading a similar effort in the House of Representatives.

This legislation is a $2.6 billion effort—$2.6 billion over the next 3 years. This is an outline. It is a blueprint to really restore balance to our antidrug effort. Unfortunately, over the years, the effort that we are putting in in regard to interdiction has gone down significantly as a percentage of our total budget. And we need to restore that balance.

This legislation is a $2.6 billion, 3-year investment to reduce the amount of drugs coming into this country and to drive up the cost of drug trafficking. Taken together, this strategy will drive up the price of drugs and, most importantly, then drive down the incidence of the use of drugs in our country. This is an important investment in the future of America and the future of our children.

Today, one day later, after having introduced this bill, the Senate will, I hope, take the first step towards realizing that investment. I am pleased to have just sent to the desk an amendment offered along with Senator COVERDELL, Senator GRAHAM of Florida, Senator BOND, and Senator GRASSLEY, an amendment that will provide much needed resources for the U.S. Coast Guard, resources that will increase their drug interdiction capability.

Specifically, Mr. President, our amendment would accomplish two goals. One, it would increase the funds available for equipment devoted to drug interdiction by approximately $37.5 million. Second, the amendment would set aside resources needed to restore a much needed drug interdiction operation in the Caribbean.

Mr. President, I see the distinguished chairman of the Transportation Subcommittee, Senator SHELBY, on the floor. I would like to engage in a colloquy with him to go over the particulars of the bipartisan amendment that I have offered.

First, I would like, before I do that, to discuss the $37.5 million secured for additional resources.

Specifically, Mr. President, with respect to sea-based resources, our amendment would enable the Coast Guard to reactivate one T-AGOS vessel and acquire two additional T-AGOS vessels. These vessels, originally Navy submarine hunters, have proved to be quite valuable for counterdrug operations because they have the room needed for command and control equipment, such as sensors and communications equipment.

In addition, the amendment also would enable the Coast Guard to acquire a maritime interdiction patrol boat and satellite communications equipment for patrol boats.

With respect to Coast Guard air operations, our amendment would allow for the reactivation of three maritime control aircraft. These are jet aircraft that would be used by the Coast Guard to track and pursue drug traffickers.

Finally, our amendment would allow for the acquisition of forward-looking infrared systems. This technology enables the Coast Guard to track heat signatures in the water.

Why is this important? Well, drug traffickers, drug runners in the Caribbean, use what we call, and they call, "go-fast" boats, boats that are too fast for detection in tracking using conventional radar. The infrared systems can detect "go-fast" boats and thus allow for more effective aerial surveillance.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I appreciate the effort of the Senator from Ohio, first, in offering this very important amendment and, second, in briefly tonight explaining to the Senate the kinds of resources that are to be acquired with the additional assistance he has been talking about. I also commend him for his diligence in seeking additional funds for the Coast Guard dealing with interdiction.

Mr. DEWINE. I thank my friend from Alabama very much for his very kind words and for his leadership in assisting with this amendment.

There is one additional component, Mr. President, of this amendment that I would like to discuss briefly this evening, and that is the set-aside that will enable the Coast Guard to restore a very effective drug interdiction program in the Caribbean.

My interest in drug interdiction activities in the Caribbean stems, in part, from my interest in the island nation of Haiti. The hard reality is that the Caribbean—from Haiti to the Bahamas—is fast becoming once again a major illegal drug transit route.

On one of my recent trips, Mr. President, I saw that, in particular, Haiti is becoming an attractive rest-stop on the cocaine highway. It is strategically located about halfway between the source country, Colombia, and the destination country, the United States. Haiti law enforcement, though slowly getting better, is, at this point, utterly unequipped, unprepared to put a dent in this drug trade.

What is more, the Coast Guard fleet consists of a handful of boats. They are making progress. They have certainly a long way to go. As the poorest country in the hemisphere, Haiti is extremely vulnerable to the kind of bribery and corruption that the drug trade needs in order to flourish. Not surprisingly, the level of drugs moving now through Haiti has dramatically increased.

According to a U.S. Government interagency assessment on cocaine movement, in 1996 between 5 and 8 percent of the cocaine coming into the United States passed through Haiti. By the third quarter of 1997, the percentage jumped to 12 percent, and increased yet again to 19 percent by the end of that year.

Accordingly, we responded to this crisis with an interdiction strategy called Operation Frontier Lance—Operation Frontier Lance—which utilized Coast Guard cutters, speedboats, and helicopters, all to detect and capture drug dealers on a 24-hour-per-day basis.

Incidentally, this operation was modeled after another successful interdiction effort that took place off the coast of Puerto Rico called Operation Frontier Shield.

Mr. President, last May I boarded the U.S. Coast Guard Cutter *Dallas* and observed Operation Frontier Lance and observed the men and women who are on the front line—and were on the front line—carrying out our antidrug operation. And I came away thinking that this is the kind of effort, the kind of coordination of resources, that we need not just off the coast of Haiti and the Dominican Republic but also throughout the drug trafficking routes throughout the entire Caribbean.

Mr. President, unfortunately—unfortunately—funding for Frontier Lance ran out last month. This once effective roadblock on the cocaine highway is no more. With our amendment, we can get that operation and/or similar operations in the region back up and running.

Specifically, our amendment secures operations funding that will allow Operation Frontier Lance or similar operations to resume. And with the additional resources I described earlier, the Coast Guard has an even greater ability to flex its drug interdiction muscle in the entire region.

Mr. President, I express my thanks again to the chairman and the ranking member of the Transportation Subcommittee, Senator SHELBY and Senator LAUTENBERG, for their very effective efforts to assist me and the distinguished list of cosponsors of this amendment. I also send my thanks to the staff of the subcommittee for their effort. Their effort was great and it was first rate. This would not have happened without them.

As I said at the beginning of my statement, Mr. President, this amendment today is a first step. I expect that there will be many more steps in the future, steps that are needed if we are going to restore a truly balanced, truly effective drug control strategy.

This amendment represents a bipartisan effort to make a targeted and very specific investment, an investment in stopping drugs before—before—they reach America. It will take similar efforts over the course of the next 3 years to bring our drug strategy back into balance and, most important, back on the course of reducing drug use in our homes, our schools, and our communities.

I thank the Chair and yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, the Senator from Ohio presents, I think, very effectively the case for continuing the efforts that we have had in the past—some quite successful—to intercept the drug trafficking, and to make sure that we do not let down our guard, and to maintain the facilities and personnel that we need to do it.

The thing I am concerned about—and I commend the Senator from Ohio for bringing this to our attention; we will be looking at this over the next period of time—the offset for this amendment, if I am not mistaken, is proposed to come out of the administrative costs at DOT; am I correct in that?

Mr. DEWINE. That is correct.

Mr. LAUTENBERG. That account has been severly tested. We will look closely to see if we can put together the package that the Senator from Ohio is recommending.

I do send up a note of caution as we look at it. We have been warned that we could face a RIF, reduction in force, at DOT at the levels currently in the bill for administrative expenses.

The chairman and I have been very careful to try to make sure that the dollars we expend are those that are most effective in providing transportation facilities, helping the Coast Guard, helping FAA, and we have been all along trying to reduce the administrative side, the travel side, all of those things. We are both staunch supporters of the Coast Guard with our coastal States and in deep appreciation for what the Coast Guard has done.

The drug interdiction mission I talked about earlier today, and I am prepared on this side to accept the DeWine-Graham amendment, but I have to know that the chairman and I are going to take a fresh look at DOT's administrative costs in conference.

Mr. SHELBY. Mr. President, I want to state to my colleagues tonight that I believe myself, as I said earlier, that what Senator DEWINE is offering to do makes a lot of sense. I will work with Senator DEWINE and Senator LAUTENBERG in the conference when we get into the seriousness of what we can do with money. Interdiction here dealing with drugs should be and will be one of our No. 1 priorities.

Mr. DEWINE. Mr. President, let me thank both of my colleagues, the ranking member and the chairman, for their great cooperation. I understand my colleague has expressed his concerns about the money situation. I look forward to working with both Members in regard to that.

I appreciate your concern for the Coast Guard. I believe this is money very well spent. I think the Coast Guard knows what to do with its money. They know how to get the job done. I have been out literally in the field or on the sea with them to see what they can do. They do a good job getting it done.

I understand the concerns with regard to the money.

I don't know if there is any further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3327) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3328 AND 3329, EN BLOC

Mr. SHELBY. Mr. President, I have two amendments, one on behalf of Senator MCCAIN, and one on behalf of Senator SPECTER. It is my understanding they have been cleared. I send them to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments en bloc numbered 3328 and 3329.

Mr. SHELBY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments en bloc are as follows:

AMENDMENT NO. 3328

(Purpose: To ensure that the policies and goals of the Amtrak Reform and Accountability Act of 1997 will be met, and for other purposes)

At the appropriate place insert:

SEC. . The change in definition for Amtrak capital expenses shall not affect the legal characteristics of capital and operating expenditures for purposes of Amtrak's requirement to eliminate the use of appropriated funds for operating expenses according to P.L. 105–134; No funds appropriated for Amtrak in this Act shall be used to pay for any wage, salary, or benefit increases that are a result of any agreement entered into after October 1, 1997; *Provided further*, That nothing in this Act shall affect Amtrak's legal requirements to maintain its current system of accounting under Generally Accepted Accounting Principles; *Provided further*, That no later than 30 days after the end of each quarter beginning with the first quarter in fiscal year 1999, Amtrak shall submit to the Amtrak Reform Council and the Senate Committee on Appropriations, and the Senate Committee on Commerce, Science, and Transportation, a reporting of specific expenditures for preventative maintenance, labor, and other operating expenses from amounts made available under this Act, and Amtrak's estimate of the amounts expected to be expended for such expenses for the remainder of the fiscal year.

AMENDMENT NO. 3329

(Purpose: To clarify Delaware River Port Authority to toll collection authority)

At the appropriate place in the bill, insert the following:

SEC. . Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 921), and section 3 of the act of July 17, 1952 (66 Stat. 571, chapter 922), are each amended in the proviso—

(1) by striking "That" and all that follows through "the collection of" and inserting "That the commission may collect" ; and

(2) by striking ",shall cease" and all that follows through the period at the end and inserting a period.

Mr. SHELBY. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. We agree to the amendments.

Mr. SHELBY. The amendments have been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 3328 and 3329) were agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DELAWARE RIVER, PENNSYLVANIA ITS DEPLOYMENT PROJECT

Mr. SPECTER. Mr. President, I have sought recognition to comment on the inclusion in the bill of $4 million at my request for the deployment of an intelligent transportation system project across the Delaware River. I sought these funds at the request of the Delaware River Port Authority, which is implementing electronic toll and traffic management systems for the Ben Franklin, Walt Whitman, Commodore Barry, and Betsy Ross Bridges in the Pennsylvania-New Jersey-Delaware region, which are operated and maintained by the Authority and serve thousands of drivers each day, including substantial commercial traffic.

I believe that it is critical that we do all that is possible to alleviate traffic congestion on these important river crossings, for the sake of improving the quality of life of area residents and others who drive on the bridges and to reduce air pollution in Philadelphia and its suburbs.

I thank the Chairman for including funds for deployment of an ITS system over the Delaware River, which will benefit both Pennsylvania and New Jersey.

Mr. SHELBY. I am familiar with the Delaware River project discussed by my colleague from Pennsylvania and would note that the Delaware River Port Authority project is particularly well-suited for consideration by the Federal Highway Administration for funding under this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3330 THROUGH 3335 AND 3323, AS MODIFIED, EN BLOC

Mr. SHELBY. Mr. President, on behalf of myself and Senator LAUTENBERG, I send—and I will name them—a number of amendments to the desk that have been agreed to.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments numbered 3330 through 3335 and 3323, as modified.

Mr. SHELBY. I ask unanimous consent that the Senate consider these amendments en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Among these amendments is an amendment on behalf of the Presiding Officer, Mr. FRIST, an amendment on behalf of Senator ABRAHAM, an amendment on behalf of Senator LEVIN, an amendment on behalf of Senators LAUTENBERG and KERRY of Massachusetts, an amendment on behalf of Senators BOND, KOHL and JOHNSON, an amendment on behalf of Senator DURBIN, and an amendment on behalf of Senator BURNS.

The PRESIDING OFFICER. Is there further debate on the amendments?

Mr. LAUTENBERG. No. We support the amendments and urge their adoption.

Mr. SHELBY. I urge the amendments be adopted en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

Without objection, the amendments are agreed to.

The amendments (Nos. 3330 through 3335 and 3323) were agreed to, en bloc, as follows:

AMENDMENT NO. 3330

On page 22 of the bill, in line 1, strike "State of Michigan," and insert: "Oakland County, MI,".

On page 89 of the bill, in line 24, before the figure "2,700,000" insert the following: $200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives;".

On page 92 of the bill, after line 25, insert the following:

SEC. . Section 1212(m) of Public Law 105–178 is amended (1) in the subsection heading, by inserting ", Idaho and West Virginia" after "Minnesota"; and (2) by inserting "or the States of Idaho or West Virginia" after "Minnesota".

In amendment No. 3324, in line 10, strike "determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska" and insert the following: "study rural access issues in Alaska".

AMENDMENT NO. 3331

On page 30, after line 11, before the period insert the following: *Provided further;* That of the funds made available under Sec. 5308, up to $10 million may be used for the projects that include payments for the incremental costs of biodiesel fuels: *Provided further;* That such incremental costs shall be limited to the cost difference between the cost of alternative fuels and their petroleum-based alternatives."

AMENDMENT NO. 3332

(Purpose: To prohibit smoking on scheduled domestic and foreign airline flight segments taking off from or landing in the United States)

At the appropriate place, insert the following:

SEC. . PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 of title 49, United States Code, is amended to read as follows:

"§ 41706. Prohibitions against smoking on scheduled flights

"(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on an after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) LIMITATION ON APPLICABILITY.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft. If a foreign government objects to the application of subsection (b) on the basis that it is an extraterritorial application of the laws of the United States, the Secretary is authorized to waive the application of subsection (b) to a foreign air carrier licensed by that foreign government. The Secretary of Transportation shall identify and enforce an alternative smoking prohibition in lieu of subsection (b) that has been negotiated by the Secretary and the objecting foreign government through a bilateral negotiation process.

"(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

AMENDMENT NO. 3333

At the appropriate place, insert the following:

SEC. . HAZARDOUS MATERIALS.

In the case of a state that, as of the date of enactment of this Act, has in force and effect State hazardous material transportation laws that are inconsistent with federal hazardous material transportation laws with respect to intrastate transportation of agricultural production materials for transportation from agricultural retailer to farm, farm to farm, and from farm to agricultural retailer, within a 100-mile air radius, such inconsistent laws may remain in force and effect for fiscal year 1999 only.

AMENDMENT NO. 3334

On page 79 of the bill, in line 21 before the period, insert: "*Provided further,* That the Secretary, acting through the Administrator of the Federal Aviation Administration, shall by January 1, 1999, take such actions as may be necessary to ensure that each air carrier (as that term is defined in section 40102 of title 49 U.S.C.) prominently displays on every passenger ticket sold by any means or mechanism a statement that reflects the national average per passenger general fund subsidy based on the fiscal year 1997 general fund appropriation from the Federal Government to the Federal Aviation Administration: *Provided further,* That the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall take such actions as may be necessary to ensure the placement of signs, on each Federal-aid highway (as that term is defined in section 101 of title 23, U.S.C.) that states that, during fiscal year 1997, the Federal Government provided a general fund appropriation at a level verified by the Department of Transportation, for the subsidy of State and local highway construction and maintenance.

AMENDMENT NO. 3335

(Purpose: To require the National Transportation Safety Board to reimburse the State of New York and local counties in New York for certain costs associated with the crash of TWA Flight 800)

At the appropriate place in title III, insert the following:

SEC. 3 . REIMBURSEMENT FOR SALARIES AND EXPENSES.

The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 1999, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.

AMENDMENT NO. 3323, AS MODIFIED

(Purpose: To require the Secretary of Transportation to ensure that there is sufficient signage directing visitors to cemeteries of the National Cemetery System, and for other purposes)

At the appropriate place in title III, insert the following:

SEC. 3 . SIGNAGE ON HIGHWAYS WITH RESPECT TO THE NATIONAL CEMETERY SYSTEM.

(a) DEFINITIONS.—In this section:

(1) FEDERAL-AID HIGHWAY.—The term "Federal aid highway" has the meaning given that term in section 101 of title 23, United States Code.

(2) NATIONAL CEMETERY SYSTEM.—The term "National Cemetery System" means the National Cemetery System, which is managed by the Secretary of Veterans Affairs.

(3) STATE.—The term "State" has the meaning given that term in section 101 of title 23, United States Code.

(b) FEDERAL-AID HIGHWAYS.—The Secretary of Transportation may encourage States to take such action as may be necessary to ensure that, for each cemetery of the National Cemetery System that is located in the proximity of any Federal-aid highway, there is sufficient and appropriate signage along that highway to direct visitors to that cemetery.

(c) STATE HIGHWAYS.—Nothing in subsection (b) is intended to affect the provision of signage by a State along a State highway to direct visitors to a cemetery of the National Cemetery System.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I know of no further amendments to the bill.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SHELBY. Mr. President, I ask unanimous consent that the yeas and nays be ordered on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SHELBY. I ask unanimous consent that the vote occur on passage at 9:15 a.m. on Friday, and that paragraph 4 of rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. In light of this agreement, there will be no further votes tonight. The next vote is scheduled for 9:15 a.m. Friday morning.

Mr. President, I ask unanimous consent that when the Senate completes action on S. 2307, the fiscal year 1999 transportation appropriations bill, that the bill not be engrossed and be held at the desk.

I further ask that when the Senate receives the House of Representatives companion measure, the Senate immediately proceed to its consideration; that all after the enacting clause be stricken and the text of S. 2307, as passed, be inserted in lieu thereof; that the House bill, as amended, be read for a third time and passed, the motion to reconsider the vote be laid upon the table, that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate, and that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I further ask unanimous consent that when the Senate passes the House companion measure, as amended, the passage of S. 2307 be vitiated and the bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR TIM HUTCHINSON RECEIVES GOLDEN GAVEL AWARD

Mr. LOTT. Mr. President, yesterday, Senator HUTCHINSON presided his 100th hour of this Congress and, therefore, is the latest recipient of the Senate's Golden Gavel Award.

Senator HUTCHINSON and his scheduling staff have consistently adjusted their schedule to assist whenever presiding difficulties have occurred. For these honorable efforts and for the Senator's continued commitment to his presiding duties, we extend our thanks and congratulations.

CORRECTION OF THE RECORD

Mr. BYRD. Mr. President, in my speech of July 16, 1998, titled "Anniversary of the Great Compromise," on page 15645, in the first column thereof, the word "unilateral" in the second line of the second full paragraph should be "unicameral." "Unicameral," instead of "unilateral."

I ask unanimous consent the permanent RECORD show the correction.

The PRESIDING OFFICER. Without objection, it is so ordered.

KIDS AND SEX

Mr. BYRD. Mr. President, I rise today to express my shock and utter amazement regarding the cover story in the June 15 issue of Time magazine. It is entitled "Everything your kids already know about sex."

Now, I know that any octogenarian like myself is going to be immediately viewed as a dinosaur and a prude on a subject such as this, but I tell you that this article should alarm every parent and shake up every community in America.

The piece opens up with an account of a 14-year-old couple, who walk into a Teen Center in Salt Lake City, Utah (of all places) and inquire about steps which they might take to heighten their arousal during sex. This is a 14-year-old couple, I remind Senators. It continues with example after example of youngsters as young as 9 years of age who are experienced sexually, and who have had multiple sexual partners before ever reaching the legal age of consent. Here we are talking about youngsters as young as 9 years of age. Many of these sexually new-age babies (and that's what they are, babies) claim that they get all the information they need to be proficient in the sexual world through such prime time TV shows as "Dawson Creek," which boasts of a character, Jen, who loses her virginity at 12, while drunk, or another favorite show, "Buffy the Vampire Slayer", in which Angel, a male vampire, "turned bad" after having sex with the 17-year-old Buffy.

What, in the name of common sense, I ask, is going on in this Nation? Why are we letting our kids watch this morally degrading, thoroughly demeaning, junk on the airwaves? Why in heaven's name don't the purveyors of such trash feel any sense of responsibility toward the youth of our nation?

Have the parents of these kids just given up trying to guide and protect them and teach them some sense of moral responsibility about their own bodies? I am afraid I have no answers, only legions of questions about what sort of a society is going to evolve from all of this unhealthy glorification of sex.

I know this much. We have got to find a way to inject some measure of spirituality into our culture, some sort of reverence for something besides erotica, and we have got to find some kind of counterpoint to the cheap, amoral, directionless, thoroughly disgusting popular mores which are blasted daily at our kids over the airwaves.

I believe one thing we could do in this Congress is to find an acceptable way to return prayer to our schools and to encourage religious values in the life of this nation.

A lot of people who believe this have been driven into a closet. They won't say these things probably because they will be viewed as old fuddy-duddies and as being behind the times and old-fashioned and all that. I know of no other course which might provide a strong counterpoint to the hedonistic viewpoint which so dominates everyday American life.

All of our poor children face the prospect of growing up, do they not, with no appreciation of anything but the seamy side of life and no understanding of the spiritual values that so enrich and refine human existence and have played such a vital and important and prominent part in the history of our country, history of our Nation since its beginning?

Does no one worry about the steady diet of crass perversion we are feeding to our youngsters? Surely the American people expect us to address the moral bankruptcy that is eating away at common decency in this Nation. We have spent weeks publicly gnashing our teeth about our children's health. We hear these speeches all the time here about our children's health, and rightly so. Rightly so. And the evils of smoking, and again rightly so. We should. But what about their mental health? What about their spiritual health? I hear little said on these subjects. What about the sexually transmitted diseases which such casual sexual behavior fosters? I tell you, I am worried, and I believe we need to come to grips with the ugly reality of a society that is sliding further into decadence and decay right before our very eyes.

On February 6, of last year, I introduced a constitutional amendment that could foster voluntary prayer in our schools and in public assemblies. I believe that it may do so without doing violence to the prerogatives of those who, as is their right, do not wish to pray. The amendment is simple, and I read it: "Nothing in this Constitution, or amendments thereto, shall be construed to prohibit or require voluntary prayer in public schools, or to prohibit or require voluntary prayer at public school extracurricular activities."

I hope that the Judiciary Committee of the Senate—and I urge the Judiciary Committee of the Senate—will at least hold hearings on this matter. I am sure they could find some time on the calendar to hold hearings on this important subject, if not this year, certainly next year.

We have reached a point of crisis in our land, and to continue to ignore the mounting evidence is blatantly irresponsible on the part of those of us who claim to be leaders.

I know that there are concerns about the first amendment, and I hesitate to offer an amendment that would, in effect, amend the first amendment in some respect, but I am worried a great deal more about the destruction of our Nation. As far as I am concerned, if something about the first amendment needed to be modified or changed to save this very Nation, then I am willing to at least discuss it and debate it and make a determination on whether we should. I do not view the first amendment as being absolutely sacrosanct. I am becoming very concerned about the trend that we see happening in this country and about the direction in which the Nation is going and in considerable measure because of some of the interpretations of the Constitution, some of the interpretations of the first amendment that we have seen emanating from our courts.

I urge all Members of the Senate and all parents to read the Time magazine piece and wake up and smell the coffee. The alarm bells are ringing all over America, and we have got to come to grips with what is happening and try to answer the call.

Now, I will not be around on this globe many more years perhaps, but I do have children and I have grandchildren. Incidentally, I have a grandson who acquired his Ph.D. in physics yesterday at the University of Virginia. And he has a brother just 3 years older than himself who secured his Ph.D. in physics from the University of Virginia 3 years ago. So these are outstanding examples of the fine young people we have in this country, wholesome young people. They are not all bad, by any means. Most of them are not. But we do not often enough hear about the good things our young people are doing. They are in the laboratories. They are in the libraries. They are studying, trying to get ahead, and we are not as aware of what they are doing as we are of those who make mistakes, and we all make mistakes, but of those who perhaps are not doing as well.

I am concerned about the future of the Nation. I am concerned for my own posterity's sake, as I say. I do not have the answers. A blind man can see that something bad is happening to our society. One does not have to travel far to find out what is causing a large part of it. One has only to go to the living room and turn on that tube and watch for a day the junk that has been programmed. They will see from what source many of our problems are emanating.

I ask unanimous consent that the article entitled "Where'd You Learn That?" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Time Magazine]

WHERE'D YOU LEARN THAT?—AMERICAN KIDS ARE IN THE MIDST OF THEIR OWN SEXUAL REVOLUTION, ONE LEAVING MANY PARENTS FEELING CONFUSED AND VIRTUALLY POWERLESS

(By Ron Stodghill II)

The cute little couple looked as if they should be sauntering through Great Adventure or waiting in line for tokens at the local arcade. Instead, the 14-year-olds walked purposefully into the Teen Center in suburban Salt Lake City, Utah. They didn't mince words about their reason for stopping in. For quite some time, usually after school and on weekends, the boy and girl had tried to heighten their arousal during sex. Flustered yet determined, the pair wanted advice on the necessary steps that might lead them to a more fulfilling orgasm. His face showing all the desperation of a lost tourist, the boy spoke for both of them when he asked frankly, "How do we get to the G-spot?"

Whoa. Teen Center nurse Patti Towle admits she was taken aback by the inquiry. She couldn't exactly provide a road map. Even more, the destination was a bit scandalous for a couple of ninth-graders in the heart of Mormon country. But these kids had clearly already gone further sexually than many adults, so Towle didn't waste time preaching the gospel of abstinence. She gave her young adventurers some reading material on the subject, including the classic women's health book Our Bodies, Ourselves, to help bring them closer in bed. She also brought up the question of whether a G-spot even exists. As her visitors were leaving. Towle offered them more freebies: "I sent them out the door with a billion condoms."

G-spots. Orgasms. Condoms. We all know kids say and do the darndest things, but how they have changed! One teacher recalls a 10-year-old raising his hand to ask her to define oral sex. He was quickly followed by an 8-year-old girl behind him who asked, "Oh, yeah, and what's anal sex?" These are the easy questions. Ronda Sheared, who teaches sex education in Pinellas County, Fla., was asked by middle school students about the second kweif, which the kids say is the noise a vagina makes during or after sex. "And how do you keep it from making this noise?"

There is more troubling behavior in Denver. School officials were forced to institute a sexual-harassment policy owing to a sharp rise in lewd language, groping, pinching and bra-snapping incidents among sixth-, seventh- and eighth-graders. Sex among kids in Pensacola, Fla., became so pervasive that students of a private Christian junior high school are now asked to sign cards vowing not to have sex until they marry. But the cards don't mean anything, says a 14-year-old boy at the school. "It's broken promises."

It's easy enough to blame everything on television and entertainment, even the news. At a Denver middle school, boys rationalize their actions this way: "If the President can do it, why can't we?" White House sex scandals are one thing, but how can anyone avoid Viagra and virility? Or public discussions of sexually transmitted diseases like AIDS and herpes? Young girls have lip-synched often enough to Alanis Morissette's big hit of a couple of years ago, You Oughta Know, to have found the sex nestled in the lyric. But it's more than just movies and television and news. Adolescent curiosity about sex is fed by a pandemic openness about it—in the school-yard, on the bus, at home when no adult is watching. Just eavesdrop at the mall one afternoon, and you'll hear enough pubescent sexcapades to pen the next few episodes of Dawson's Creek, the most explicit show on teen sexuality, on the WB network. Parents, always the last to keep up, are now almost totally pre-empted. Chris (not his real name), 13, says his parents talked to him about sex when he was 12 but he had been indoctrinated earlier by a 17-year-old cousin.

In any case, he gets his full share of information from the tube. "You name the show, and I've heard about it. Jerry Springer, MTV, Dawson's Creek, HBO After Midnight . . ." Stephanie (not her real name), 16, of North Lauderdale, Fla., who first had sex when she was 14, claims to have slept with five boyfriends and is considered a sex expert by her friends. She says, "You can learn a lot about sex from cable. It's all mad-sex stuff." She sees nothing to condemn. "If you're feeling steamy and hot, there's only one thing you want to do. As long as you're using a condom, what's wrong with it? Kids have hormones too."

In these steamy times, it is becoming largely irrelevant whether adults approve of kids' sowing their oats—or knowing so much about the technicalities of the dissemination. American adolescents are in the midst of their own kind of sexual revolution—one that has left many parents feeling confused, frightened and almost powerless. Parents can search all they want for common ground with today's kids, trying to draw parallels between contemporary carnal knowledge and an earlier generation's free-love crusades, but the two movements are quite different. A desire to break out of the old-fashioned strictures fueled the '60s movement, and its participants made sexual freedom a kind of new religion. That sort of reverence has been replaced by a more consumerist attitude. In a 1972 cover story, TIME declared, "Teenagers generally are woefully ignorant about sex." Ignorance is no longer the rule. As a weary junior high counselor in Salt Lake City puts it, "Teens today are almost nonchalant about sex. It's like we've been to the moon too many times."

The good news about their precocious knowledge of the mechanics of sex is that a growing number of teens know how to protect themselves, at least physically. But what about their emotional health and social behavior? That's a more troublesome picture. Many parents and teachers—as well as some thoughtful teenagers—worry about the desecration of love and the subversion of mature relationships. Says Debra Haffner, president of the Sexuality Information and Education Council of the United States: "We should not confuse kids' pseudo-sophistication about sexuality and their ability to use the language with their understanding of who they are as sexual young people or their ability to make good decisions."

One ugly side effect is a presumption among many adolescent boys that sex is an entitlement—an attitude that fosters a breakdown of respect for oneself and others. Says a seventh-grade girl: "The guy will ask you up front. If you turn him down, you're a bitch. But if you do it, you're a ho. The guys are after us all the time, in the halls, everywhere. You scream, 'Don't touch me!" but it doesn't do any good." A Rhode Island Rape Center study of 1,700 sixth- and ninth-graders found 65% boys and 57% of girls believing it acceptable for a male to force a female to have sex if they've been dating for six months.

Parents who are aware of this cultural revolution seem mostly torn between two approaches: preaching abstinence or suggesting prophylactics—and thus condoning sex. Says Cory Hollis, 37, a father of three in the Salt Lake City area: "I don't want to see my teenage son ruin his life. But if he's going to do it, I told him that I'd go out and get him the condoms myself." Most parents seem too squeamish to get into the subtleties of instilling sexual ethics. Nor are schools up to the job of moralizing. Kids say they accept their teachers' admonitions to have safe sex but tune out other stuff. "The personal-development classes are a joke," says Sarah, 16, of Pensacola. "Even the teacher looks uncomfortable. There is no way anybody is going to ask a serious question." Says Shana, a 13-year-old from Denver: "A lot of it is old and boring. They'll talk about not having sex before marriage, but no one listens. I use that class for study hall."

Shana says she is glad "sex isn't so taboo now, I mean with all the teenage pregnancies." But she also says that "it's creepy and kind of scary that it seems to be happening so early, and all this talk about it." She adds, "Girls are jumping too quickly. They figure if they can fall in love in a month, then they can have sex in a month too." When she tried discouraging a classmate from having sex for the first time, the friend turned to her and said, "My God, Shana. It's just sex."

Three powerful forces have shaped today's child prodigies: a prosperous information age that increasingly promotes proudcts and entertains audiences by titillation; aggressive public-policy initiatives that loudly preach sexual responsibility, further desensitizing kids to the subject; and the decline of two-parent households, which leaves adolescents with little supervision. Thus kids are not only bombarded with messages about sex—many of them contradictory—but also have more private time to engage in it than did previous generations. Today more than half of the females and three-quarters of the males ages 15 to 19 have experienced sexual intercourse, according to the Commission on Adolescent Sexual Health. And while the average age at first intercourse has come down only a year since 1970 (currently it's 17 for girls and 16 for boys), speed is of the essence for the new generation. Says Haffner: "If kids today are going to do more than kiss, they tend to move very quickly toward sexual intercourse."

The remarkable—and in ways lamentable—product of youthful promiscuity and higher sexual IQ is the degree to which kids learn to navigate the complex hypersexual world that reaches our seductively to them at every turn. One of the most positive results: the incidence of sexually transmitted diseases and of teen age pregnancy is declining. Over the past few years, kids have managed to chip away at the teenage birthrate, which in 1991 peaked at 62.1 births per 1,000 females. Since then the birthrate has dropped 12%, to 54.7. Surveys suggest that as many as two-thirds of teenagers now use condoms, a proportion that is three times as high as reported in the 1970s. "We're clearly starting to make progress," says Dr. John Santelli, a physician with the Centers for Disease Control and Prevention's division of adolescent and school health. "And the key statistics bear that out." Even if they've had sex, many kinds are learning to put off having more till later; they are also making condom use during intercourse nonnegotiable; and, remarkably, the fleeting pleasures of lust may even be wising up some of them to a greater appreciation of love.

For better or worse, sex-filled television helps shape young opinion. In Chicago, Ryan, an 11-year-old girl, intently watches a scene from one of her favorite TV dramas, *Dawson's Creek*. She listens as the character Jen, who lost her virginity at 12 while drunk, confesses to her new love, Dawson, "Sex doesn't equal happiness. I can't apologize for my past." Ryan is quick to defend Jen. "I think she was young, but if I were Dawson, I would believe she had changed. She acts totally different now." But Ryan is shocked by an episode of her other favorite show, Buffy the Vampire Slayer, in which Angel, a male vampire, "turned bad" after having sex with the 17-year-old Buffy. "That kinda annoyed me," says Ryan. "What would have happened if she had had a baby? Her whole life would have been thrown out the window." As for the fallen Angel: "I am so mad! I'm going to take all my pictures of him down now."

Pressed by critics and lobbies, television has begun to include more realistic story lines about sex and its possible consequences. TV writers and producers are turning to groups like the Kaiser Family Foundation, an independent health-policy think tank, for help in adding more depth and accuracy to stories involving sex. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen pregnancy to coming to terms with a gay high school athlete. Says Matt James, a Kaiser senior vice president: "We're trying to work with them to improve the public-health content of their shows."

And then there's real-life television. MTV's Loveline, an hour-long Q.-and-A. show featuring sex guru Drew Pinsky (see accompanying story), in drawing raves among teens for its informative sexual content. Pinsky seems to be almost idolized by some youths. "Dr. Drew has some excellent advice," says Keri, an eighth-grader in Denver. "It's not just sex, it's real life. Society makes you say you've got to look at shows like Baywatch, but I'm sick of blond bimbos. They're so fake. Screenwriters ought to get a life."

With so much talk of sex in the air, the extinction of the hapless, sexually naive kid seems an inevitability. Indeed, kids today as young as seven to 10 are picking up the first details of sex even in Saturday-morning cartoons. Brett, a 14-year-old in Denver, says it doesn't matter to him whether his parents chat with him about sex or not because he gets so much from TV. Whenever he's curious about something sexual, he channel-surfs his way to certainty. "If you watch TV, they've got everything you want to know," he says. "That's how I learned to kiss, when I was eight. And the girl told me, 'Oh, you sure know how to do it.'"

Even if kids don't watch certain television shows, they know the programs exist and are bedazzled by the forbidden. From schoolyard word of mouth, eight-year-old Jeff in Chicago has heard all about the foul-mouthed kids in the raunchily plotted South Park, and even though he has never seen the show, he can describe certain episodes in detail. (He is also familiar with the AIDS theme of the musical Rent because he's heard the CD over and over.) Argentina, 16, in Detroit, says, "TV makes sex look like this big game." Her friend Michael, 17, adds, 'They make sex look like Monopoly or something. You have to do it in order to get to the next level."

Child experts say that by the time many kids hit adolescence, they have reached a point where they aren't particularly obsessed with sex but have grown to accept the notion that solid courtships—or at least strong physical attractions—potentially lead to sexual intercourse. Instead of denying it, they get an early start preparing for it—and playing and perceiving the roles prescribed for them. In Nashville, 10-year-old Brantley whispers about a classmate, "There's this girl I know, she's nine years old, and she already shaves her legs and plucks her eyebrows, and I've heard she's had sex. She even has bigger boobs than my mom!"

The playacting can eventually lead to discipline problems at school. Alan Skriloff, assistant superintendent of personnel and curriculum for New Jersey's North Brunswick school system, notes that there has been an increase in mock-sexual behavior in buses carrying students to school. He insists there have been no incidents of sexual assault but, he says, "we've deal with kids simulating sexual intercourse and simulating masturbation. It's very disturbing to the other children and to the parents, obviously." Though Skriloff says that girls are often the initiators of such conduct, in most school districts the aggressors are usually boys.

Nan Stein, a senior researcher at the Wesley College Center for Research on Women, believes sexual violence and harassment is on the rise in schools, and she says, "It's happening between kids who are dating or want to be dating or used to date." Linda Osmundson, executive director of the Center Against Spouse Abuse in St. Petersburg, Fla., notes that "it seems to be coming down to younger and younger girls who feel that if they don't pair up with these guys, they'll have no position in their lives. They are pressured into lots of sexual activity." In this process of socialization, "no" is becoming less and less an option.

In such a world, schools focus on teaching scientific realism rather than virginity. Sex-Ed teachers tread lightly on the moral questions of sexual intimacy while going heavy on the risk of pregnancy or a sexually transmitted disease. Indeed, health educators in some school districts complain that teaching abstinence to kids today is getting to be a futile exercise. Using less final terms like "postpone" or "delay" helps draw some kids in, but semantics often isn't the problem. In a Florida survey, the state found that 75% of kids had experienced sexual intercourse by the time they reached 12th grade, with some 20% of the kids having had six or more sexual partners. Rick Colonno, father of a 16-year-old son and 14-year-old daughter in Arvada, Colo., views sex ed in schools as a necessary evil to fill the void that exists in many homes. Still, he's bothered by what he sees as a subliminal endorsement of sex by authorities. "What they're doing," he says, "is preparing you for sex and then saying, 'But don't have it.'"

With breathtaking pragmatism, kids look for ways to pursue their sex life while avoiding pregnancy or disease. Rhonda Sheared, the Florida sex-ed teacher, says a growing number of kids are asking questions about oral and anal sex because they've discovered that it allows them to be sexually active without risking pregnancy. As part of the Pinellas County program, students in middle and high school write questions anonymously, and, as Sheared says, "they're always looking for the loophole."

A verbatim sampling of some questions:

"Can you get AIDS from fingering a girl if you have no cuts? Through your fingernails?"

"Can you get AIDS from '69'?"

"If you shave your vagina or penis, can that get rid of crabs?"

"If yellowish stuff comes out of a girl, does it mean you have herpes, or can it just happen if your period is due, along with abdominal pains?"

"When sperm hits the air, does it die or stay alive for 10 days?"

Ideally, most kids say, they would prefer their parents do the tutoring, but they realize that's unlikely. For years psychologists and sociologists have warned about a new generation gap, one created not so much by different morals and social outlooks as by career-driven parents, the economic necessity of two incomes leaving parents little time for talks with their children. Recent studies indicate that many teens think parents are the most accurate source of information and would like to talk to them more about sex and sexual ethics but can't get their attention long enough. Shana sees the conundrum this way: "Parents haven't set boundaries, but they are expecting them."

Yet some parents are working harder to counsel their kids on sex. Cathy Wolf, 29, of North Wales, Pa., says she grew up learning about sex largely from her friends and from reading controversial books. Open-minded and proactive, she says she has returned to a book she once sought out for advice, Judy Blume's novel Are You There God? It's Me, Margaret, and is reading it to her two boys, 8 and 11. The novel discusses the awkwardness of adolescence, including sexual stirrings. "That book was forbidden to me as a kid," Wolf says. "I'm hoping to give them a different perspective about sex, to expose them to this kind of subject matter before they find out about it themselves." Movies and television are a prod and a challenge to Wolf. In Grease, which is rated PG and was recently re-released, the character Rizzo "says something about 'sloppy seconds,' you know, the fact that a guy wouldn't want to do it with a girl who had just done it with another guy. There's also another point where they talk about condoms. Both Jacob and Joel wanted an explanation, so I provided it for them."

Most kids, though, lament that their parents aren't much help at all on sexual matters. They either avoid the subject, miss the mark by starting the discussion too long before or after the sexual encounter, or just plain stonewall them. "I was nine when I asked my mother the Big Question," says Michael, in Detroit. "I'll never forget. She took out her driver's license and pointed to the line about male or female. 'That is sex,' she said." Laurel, a 17-year-old in Murfreesboro, Tenn., wishes her parents had taken more time with her to shed light on the subject. When she was six and her sister was nine, "my mom sat us down, and we had the sex talk," Laurel says. "But when I was 10, we moved in with my dad, and he never talked about it. He would leave the room if a commercial for a feminine product came on TV." And when her sister finally had sex, at 16, even her mother's vaunted openness crumbled. "She talked to my mom about it and ended up feeling like a whore because even though my mom always said we could talk to her about anything, she didn't want to hear that her daughter had slept with a boy."

Part of the problem for many adults is that they aren't quite sure how they feel about teenage sex. A third of adults think adolescent sexual activity is wrong, while a majority of adults think it's O.K. and, under certain conditions, normal, healthy behavior, according to the Alan Guttmacher Institute, a nonprofit, reproductive-health research group. In one breath, parents say they perceive it as a public-health issue and want more information about sexual behavior and its consequences, easier access to contraceptives and more material in the media about responsible human and sexual interaction. And in the next breath, they claim it's a moral issue to be resolved through preaching abstinence and the virtues of virginity and getting the trash off TV. "You start out talking about condoms in this country, and you end up fighting about the future of the American family," say Sarah Brown, director of the Campaign Against Teen Pregnancy. "Teens just end up frozen like a deer in headlights."

Not all kids are happy with television's usurping the role of village griot. Many say they've become bored by—and even sent—sexual themes that seem pointless and even a distraction from the information or entertainment they're seeking. "It's like everywhere," says Ryan, a 13-year-old seventh-grader in Denver, "even in *Skateboarding* [magazine]. It's become so normal it doesn't even affect you. On TV, out of nowhere, they'll begin talking about masturbation." Another Ryan, 13, in the eighth grade at the same school, agrees: "There's sex in the cartoons and messed-up people on the talk shows—'My lover sleeping with my best friend,' I can remember the jumping-condom ads. There's just too much of it all."

Many kids are torn between living up to a moral code espoused by their church and parents and trying to stay true to the swirling laissez-faire. Experience is making many sadder but wiser. The shame, anger or even indifference stirred by early sex an lead to prolonged abstinence. Chandra, a 17-year-old in Detroit, says she had sex with a boyfriend of two years for the first time at 15 despite her mother's constant pleas against it. She says she wishes she had heeded her mother's advice "One day I just decided to do it," she says. "Afterward, I was kind of mad that I let it happen. And I was sad because I knew my mother wouldn't have approved." Chandra stopped dating the boy more than a year ago and hasn't had sex since. "It would have to be someone I really cared about," she says. "I've had sex before, but I'm not a slut."

With little guidance from grownups, teens have had to discover for themselves that the ubiquitous sexual messages must be tempered with caution and responsibility. It is quite clear, even to the most sexually experienced youngsters, just how dangerous a little information can be. Stephanie in North Lauderdale, who lost her virginity two years ago, watches with concern as her seven-year-old sister moves beyond fuzzy thoughts of romance inspired by *Cinderella or Aladdin* into sexual curiosity. "She's always talking about pee-pees, she sees somebody on TV kissing and hugging or something, and she says, 'Oh, they had sex,' I think she's going to find out about this stuff before I did." She pauses. "We don't tell my sister anything," she says, "but she's not a naive child."

Mr. BYRD. I yield the floor.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 22, 1998, the federal debt stood at $5,536,743,281,758.09 (Five trillion, five hundred thirty-six billion, seven hundred forty-three million, two hundred eighty-one thousand, seven hundred fifty-eight dollars and nine cents).

One year ago, July 22, 1997, the federal debt stood at $5,366,067,000,000 (Five trillion, three hundred sixty-six billion, sixty-seven million).

Five years ago, July 22, 1993, the federal debt stood at $4,340,981,000,000 (Four trillion, three hundred forty billion, nine hundred eighty-one million).

Ten years ago, July 22, 1988, the federal debt stood at $2,552,070,000,000 (Two trillion, five hundred fifty-two billion, seventy million) which reflects a debt increase of nearly $3 trillion—$2,984,673,281,758.09 (Two trillion, nine hundred eighty-four billion, six hundred seventy-three million, two hundred eighty-one thousand, seven hundred fifty-eight dollars and nine cents) during the past 10 years.

RECOGNITION OF NEWT HEISLEY

Mr. CAMPBELL. Mr. President, I begin my statement today describing a powerful and emotional sight that moves us to the core of our faith and beliefs about America and about those who have served in the Armed Forces of our nation.

Many of us have visited one or more of the military academies that train our future military leaders. These academies have varied missions and yet all of them share in the critical task of developing leaders for their particular service and our country. On the grounds of each academy is a chapel, a spectacular place that at once identifies itself as a place of worship.

In each chapel, a place has been reserved for the Prisoners of War and the Missing in Action from their particular branch of service. A pew has been set aside and marked by a candle, a powerful, symbolic reminder that not all have returned from battle. This hallowed place has been set aside so that all POWs and MIAs are remembered with the dignity and honor they deserve. It is a moving and emotional moment to pause at this reserved pew, to be encouraged by the burning candle, to recall the valor and sacrifice of those soldiers, sailors or pilots, and to be inspired today by what they have done.

Back in 1970, a wife of a soldier missing in action made a simple request to have a flag designed for a small group of families whose loved ones were prisoners or missing in action in Southeast Asia. As a member of the National League of Families she felt the organization needed a symbol. This symbol, a black and white flag, with a silhouette of a bowed head set against a guard tower and a single strand of barb wire, was designed by Newt Heisley.

Congress has officially recognized the National League of Families POW/MIA flag. This flag has become a powerful symbol to all Americans that we have not forgotten—and will not forget. Since its creation, the flag has flown over numerous state and federal buildings, and has even been adopted by similar organizations in Kuwait, Chechnya, Bosnia, and other countries.

Newt Heisley made the sketch of this symbol over a couple of days in a New Jersey advertising studio, never imagining the impact the design he created almost 27 years ago would have. Mr. Heisley used the inspiration of his ill son returning from Marine training at Quantico, Virginia for the silhouette. Otherwise the flag was just a quick sketch that wasn't even supposed to be black and white. Mr. Heisley planned on adding colors but the black and white motif remained.

Mr. Heisley, first realized how popular the symbol had become when he moved to Colorado Springs in 1972. Only two years after he made the design he was touring the Air Force Academy when he saw the flag on display at the visitors center. Today, the flag is a national symbol that is seen on everything from ball caps to bumper stickers.

A veteran of World War II, Mr. Heisley knows of the importance of his design. We must never forget those who gave their lives for our country. Mr. Heisley never felt the need to profit from the POW/MIA flag design. The image was never copyrighted and today is used by many companies and organizations. Mr. Heisley was simply glad to create a symbol that honors veterans and the sacrifices they made for our country and freedom.

Mr. President, the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action. In 20th Century wars alone, more than 147,000 Americans were captured and became Prisoners of War; of that number more than 15,000 died while in captivity. When we add to this number those who are still missing in action, we realize the tremendous importance of their presence through the POW/MIA flag. The POW/MIA flag is a forceful reminder that we care not only for them, but also for their families who personally carry with them the burden of sacrifice. We want them to know that they do not stand alone, that we stand with them and beside them, and remember the loyalty and devotion of those who served.

As a veteran who served in Korea, I personally know that the remembrance of another's sacrifice in battle is one of the highest and most noble acts we can offer. Newt Heisley has inspired this remembrance and honor and I thank him, personally, for this tremendous symbol that shall endure forever.

MESSAGES FROM THE HOUSE

At 3:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1260. An act to amend the Securities Act of 1933 and Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

For consideration of the House bill (except section 464), and Senate amendment (except sections 484 and 799C), and modifications committed to conference: Mr. GOODLING, Mr. MCKEON, Mr. PETRI, Mr. GRAHAM, Mr. SOUDER, Mr. PETERSON of Pennsylvania, Mr. CLAY, Mr. KILDEE, Mr. MARTINEZ, and Mr. ANDREWS.

For consideration of section 464 of the House bill, and sections 484 and 799 C of the Senate amendment, and modifications committed to conference: Mr. GOODLING, Mr. TALENT, Mr. SHAW, Mr. CAMP, AND Mr. LEVIN.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3616) to authorize appropriations for fiscal 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on National Security, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. SPENCE, Mr. STUMP, Mr. HUNTER, Mr. KASICH, Mr. BATEMAN, Mr. HANSEN, Mr. WELDON of Pennsylvania, Mr. HEFLEY, Mr. SAXTON, Mr. BUYER, Mrs. FOWLER, Mr. MCHUGH, Mr. WATTS of Oklahoma, Mr. THORNBERRY, Mr. CHAMBLISS, Mr. JONES, Mr. PAPPAS, Mr. RILEY, Mr. SKELTON, Mr. SISISKY, Mr. SPRATT, Mr. ORTIZ, Mr. PICKETT, Mr. EVANS, Mr. TAYLOR of Mississippi, Mr. ABERCROMBIE, Mr. MEEHAN, Ms. HARMAN, Mr. MCHALE, Mr. KENNEDY of Rhode Island, Mr. ALLEN, Mr. SNYDER, and Mr. MALONEY of Connecticut.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mr. GOSS, Mr. LEWIS of California, and Mr. DICKS.

As additional conferees from the Committee on Banking and Financial Services, for consideration of section 1064 of the Senate amendment: Mr. LEACH, Mr. CASTLE, and Mr. LAFALCE.

As additional conferees from the Committee on Commerce, for consideration of sections 601, 3136, 3151, 3154, 3201, 3401, and 3403–3407 of the House bill, and sections 321, 601, 1062, 3133, 3140, 3142, 3144, 3201, and title XXXVIII of the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. DAN SCHAEFER of Colorado, and Mr. DINGELL; provided, that Mr. OXLEY is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 321 of the Senate amendment; provided further, that Mr. BILIRAKIS is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 601 of the House bill, and section 601 of the Senate amendment; provided further, that Mr. TAUZIN is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 1062 and title XXXVIII of the Senate amendment.

As additional conferees from the Committee on Education and the Workforce, for consideration of sections 361, 364, 551, and 3151 of the House bill, and sections 522, 643, and 1055 of the Senate amendment, and modifications committed to conference: Mr. PETRI, Mr. RIGGS, and Mr. ROEMER.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of sections 368, 729, 1025, 1042, and 1101–1106 of the House bill, and sections 346, 623, 707, 805, 806, 813, 814, 815, 816, 1101–1105, 3142, 3144, 3145, 3161–3172 and 3510 of the Senate amendment, and modifications committed to conference: Mr. BURTON of Indiana, Mr. MICA, and Mr. WAXMAN; provided, that Mr. HORN is appointed in lieu of Mr. MICA for consideration of section 368 of the House bill, and sections 346, 623, 707, 805, 806, 813, 814, 815, and 816 of the Senate amendment.

As additional conferees from the Committee on International Relations, for consideration of sections 233, 1021, 1043, 1044, 1201, 1204, 1205, 1201, 1211, 1213, 1216, and title XIII of the House bill, and sections 326, 332, 1013, 1041, 1042, 1074, 1084, 3506, 3601, 3602, and 3901–3904 of the Senate amendment, and modifications committed to conference: Mr. GILMAN, Mr. BEREUTER, and Mr. HAMILTON.

As additional conferees from the Committee on International Relations, for consideration of sections 1207, 1208, 1209, and 1212 of the House bill, and modifications committed to conference: Mr. GILMAN, Mr. BEREUER, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. HAMILTON, Mr. GEJDENSON, and Mr. LANTOS.

As additional conferees from the Committee on the Judiciary, for consideration of sections 1045 and 2812 of the House bill, and section 1077 of the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. BRYANT and Mr. CONYERS.

As additional conferees from the Committee on Resources, for consideration of sections 601, 2812, and 3404–3407 of the House bill, and sections 601, 2828, and title XXIX of the Senate amendment, and modifications committed to conference: Mr. YOUNG of Alaska, Mr. TAUZIN, and Mr. MILLER of California.

As additional conferees from the Committee on Science, for consideration of sections 3135 and 3140 of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. CALVERT, and Mr. BROWN of California.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of sections 552, 601, 1411, and 143 of the House bill, and sections 323, 601, 604, and 1080 of the Senate amendment, and modifications committed to conference: Mr. SHUSTER, Mr. BOEHLERT, and Mr. CLEMENT.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 556 and 1046 of the House bill, and sections 618, 619, 644, and 1082 of the Senate amendment, and modifications committed to conference: Mr. SMITH of New Jersey, Mr. BILIRAKIS, and Mr. RODRIGUEZ.

As additional conferees from the Committee on Ways and Means, for consideration of the XXXVII and XXXVIII of the Senate amendment, and modifications committed to conference: Mr. CRANE, Mr. THOMAS of California, and Mr. MATSUI.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6126. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the Authority's report on third quarter obligations and expenditures of non-appropriated funds for fiscal year 1998; to the Committee on Governmental Affairs.

EC–6127. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Indiana Regulatory Program" (No. IN–130–FOR) received on July 21, 1998; to the Committee on Energy and Natural Resources.

EC–6128. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, certification of a proposed Manufacturing License Agreement with the United Kingdom for the production of machine gun conversion kits (DTC 17–98) received on July 21, 1998; to the Committee on Foreign Relations.

EC–6129. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, certification of a proposed Manufacturing License Agreement with Taiwan involving the transfer of aircraft engines to the Czech Republic (DTC 1–98) received on July 21, 1998; to the Committee on Foreign Relations.

EC–6130. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, the report of a rule entitled "Revision of Patent Fees for Fiscal Year 1999" (RIN0651–AA96) received on July 20, 1998; to the Committee on the Judiciary.

EC–6131. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Posting of Signs and Written Notification to Purchasers of Handguns" (RIN1512–AB68) received on July 21, 1998; to the Committee on the Judiciary.

EC–6132. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule regarding investment advisers with principal offices and places of business in Colorado or Iowa (RIN3235–AH22) received on July 20, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6133. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of two rules regarding the National Flood Insurance Program (Docket FEMA–7689, RIN3067–AC85) received on July 21, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6134. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's mid-year Monetary Policy Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–6135. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property" (Rev. Rul. 98–36) received on July 20, 1998; to the Committee on Finance.

EC–6136. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Treatment of Loans With Below-Market Interest Rates" (Rev. Rul. 98–34) received on July 20, 1998; to the Committee on Finance.

EC–6137. A communication from the Chief of Staff of the Office of the Commissioner of Social Security, transmitting, pursuant to law, the report of a rule regarding referral of cases for quality review (RIN0960–AE53) received on July 15, 1998; to the Committee on Finance.

EC–6138. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Capsaicin; Exemption from the Requirement of a Tolerance" (FRL5799–7) received on July 16, 1998; to the Committee on Environment and Public Works.

EC–6139. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers" (FRL6112–7) received on July 16, 1998; to the Committee on Environment and Public Works.

EC–6140. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebuconazole; Extension of Tolerances for Emergency Exemptions" (FRL6015–9) received on July 16, 1998; to the Committee on Environment and Public Works.

EC–6141. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Kentucky: Adoption of General Conformity Regulations" (FRL6130–3) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6142. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding clean air reasonably available control technology requirements in Kentucky (FRL6126–1) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6143. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the Prevention of Significant Deterioration of air quality in Kentucky (FRL6125–8) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6144. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans and Redesignation of the South Coast Air Basin in California to Attainment for Nitrogen Dioxide" (FRL6127–1) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6145. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approval Numbers Under the Paperwork Reduction Act: Technical Correction" (FRL6125–1) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6146. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding disapproval of the State Implementation Plan for Arizona's Phoenix PM–10 Moderate Area (FRL6131–6) received on July 21, 1998; to the Committee on Environment and Public Works.

EC–6147. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Public Availability of Information: Electronic FOIA Amendment" (RIN2105–AC69) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6148. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Model 328–100 Series Airplanes" (Docket 98–NM–133–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6149. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes" (Docket 97–CE–92–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6150. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A320 and Model A321 Series Airplanes" (Docket 94–NM–94–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6151. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A320–111 and –211 Series Airplanes" (Docket 97–NM–160–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6152. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes" (Docket 97–NM–02–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6153. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes" (Docket 96–NM–230–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6154. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes" (Docket 98–NM–149–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6155. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model SAAB SF340A and SAAB SF340B Series Airplanes" (Docket 98–NM–117–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6156. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class D and Establishment of Class E Airspace; Yuma MCAS-Yuma International Airport, AZ; Correction" (Docket 98–AWP–14) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6157. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Ukiah, CA" (Docket 98–AWP–11) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6158. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Porterville, CA" (Docket 98–AWP–2) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6159. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29282) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6160. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29281) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6161. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29280) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6162. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes" (Docket 98–NM–209–AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6163. A communication from the Director of the United States Arms Control and Disarmament Agency, transmitting, an Executive Summary and Annexes to the U.S. Arms Control and Disarmament Agency's 1997 Annual Report; to the Committee on Foreign Relations.

EC–6164. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Eastern Pacific; Pacific Coast Groundfish Fishery; Management Measures for Nontrawl Sablefish" (RIN0648–AJ27) received on July 22, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs: Special Report entitled "'Slamming'—The Authorized Switching of Long-Distance Telephone Service" (Rept. No. 105–259).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1699: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Billie-B-II* (Rept. No. 105–260).

S. 1731: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Falls Point* (Rept. No. 105–261).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

S. 1732: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Vesterhaven* (Rept. No. 105–262).

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted on July 22, 1998:

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Nikki Rush Tinsley, of Maryland, to be Inspector General, Environmental Protection Agency.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following executive reports of committees were submitted on July 23, 1998:

By Mr. HELMS, from the Committee on Foreign Relations:

Richard Nelson Swett, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Arthur Louis Schechter, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

FEDERAL CAMPAIGN CONTRIBUTION REPORT

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee Richard Nelson Swett.

Post: Ambassador to Denmark.

Contributions, amount, date, and donee:

Self: Dick Swett, $100.00, 5/21/94, Verge for Congress.

Spouse: Katrina Swett, $200.00, 1/11/91, Keefe for Congress; $50.00, 7/28/91, N.H. Democratic Party.

Children: Chelsea Swett, $1.50, 6/27/90, Swett for Congress; $2.00, 3/31/92, Swett for Congress; Sebastian Swett, $1.25, 8/20/90, Swett for Congress; $5.00, 5/01/92, Swett for Congress. Keaton Swett, None. Chanteclaire Swett, None. Kismet Swett, None. Atticus Swett, None. Sunday Swett, None.

Parents: Ann Swett, $200.00, 6/29/90, Swett for Congress; $100.00, 2/07/96, NH Democratic Party; $25.00, 5/09/96, DCCC; $20.00, 5/14/96, National Dem. Committee; $1,000.00, 6/29/96, Swett for Senate; $25.00, 7/17/96, DCCC; $50.00, 9/07/96; Keefe for Congress; $1,000.00, 9/17/96, Swett for Senate; $20.00, 10/1/96, Dem. National Committee. Phil Swett, $100.00, 6/29/90, Swett for Congress; $100.00, 10/31/91, Swett for Congress; $200.00, 10/13/92, Swett for Congress; $100.00, 11/10/93, Swett for Congress; $200.00, 3/18/94, Swett for Congress.

Grandparents: Henry Parkhurst, None. Elizabeth Parkhurst, None. Floyd Swett, None. Wilemina Swett, None.

Brothers and spouses: Jay Swett, None. Philip Swett Jr., None. Theresa Swett, $200.00, 10/18/96, Swett for Senate.

Sisters and spouses: Gail Swett Yeo, $100.00, 9/26/94, Swett for Congress; $100.00, 10/15/96, Swett for Senate. Jonathan Yeo, $100.00, 10/15/96, Swett for Senate. Barbara Swett Burt, $300.00, 10/11/96, Swett for Senate, $30.00, 11/03/94, Friends of Tom Andrews, $31.00, 4/08/96, Maine Democratic Party. Richard Burt, None.

Dick Swett for Congress Committee Contributions as follows: $15.00, 3/22/90, Grafton Democrats; $175.00, 10/12/90, Cheshire County Democrats; $1,000.00, 5/01/91, New Hampshire Democratic Party; $2,500.00, 9/06/91, New Hampshire Democratic Party*; $100.00, 9/12/91, Salem Democrats; $100.00, 9/12/91, Merrimack County Democrats; $45.00, 1/9/92, Belknap County Democrats; $1,000.00, 2/14/92, New Hampshire Democratic Party; $100.00, 5/06/92, Coos County Democratic Committee; $250.00, 6/15/92, New Hampshire Democratic Party; $50.00, 8/17/92, New Hampshire Democratic Party; $50.00, 9/1/92, New Hampshire Democratic Party; $200.00, 9/05/92, Salem Democrats; $150.00, 9/24/92, New Hampshire Democratic Party; $6,000.00, 10/2/92, New Hampshire Democratic Party*; $150.00, 10/26/92, New Hampshire Democratic Party*; $1,000.00, 10/29/92, Preston for Congress; $5,000.00, 12/22/92, Democratic Cong. Campaign Comm.; $1,500.00, 3/19/93, New Hampshire Democratic Party; $1,800.00, 7/2/93, New Hampshire Democratic Party*; $200.00, 8/3/93, Hillsborough Democratic Party; $200.00, 8/7/93, Manchester Democratic Committee; $2,000.00, 8/27/93, New Hampshire Democratic Party*; $2,500.00, 10/14/93, New Hampshire Democratic Party*; $500.00, 10/21/93, Berlin Democratic Committee; $2,000.00, 1/11/94, New Hampshire Democratic Party; $2,500.00, 2/4/94, Democratic Cong. Campaign Comm.; $500.00, 3/14/94, Nashua Presidential Host Account; $150.00, 3/17/94, Merrimack County Democrats; $5,000.00, 5/4/94, New Hampshire Democratic Party*; $2,000.00, 8/8/94, Democratic Cong. Campaign Comm.; $6,000.00, 8/19/94, New Hampshire Democratic Party*; $7,700.00, 8/31/94, New Hampshire Democratic Party*; $100.00, 9/1/94, Hillsborough County Democratic Comm.; $5,000.00, 11/3/94, New Hampshire Democratic Party*; $4,000.00, 11/4/94, New Hampshire Democratic Party*.

Swett for Senate Committee Contributions as follows: $1,000.00, 3/16/95, New Hampshire Democratic Party; $100.00, 4/25/95, Democratic Committee of Hopkinton; $100.00, 8/14/95, Belknap County Democrats; $95.00, 9/6/95, Laconia City Democratic Committee; $105.00, 9/21/95, Democratic City Committee; $100.00, 1/17/96, Cheshire County Democrats; $750.00, 1/24/96, New Hampshire Democratic Party; $40.00, 3/20/96, Merrimack County Democrats; $50.00, 3/29/96, Carroll County Democrats; $25.00, 4/12/96, Cheshire County Democrats; $75.00, 5/14/96, New Hampshire Democratic Party; $30.00, 8/1/96, Concord City Democrats; $100.00, 9/13/96, Stafford County Democratic Committee; $18,000.00, 11/26/96, New Hampshire Democratic Party*; $15,000.00, 3/06/97, New Hampshire Democratic Party*; $500.00, 6/12/97, Archi Pac; $1,000.00, 1/2/98, Jane Frederick for Congress.

*These contributions were Transfers of surplus funds 2USC SEC 439.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Arthur Louis Schechter.

Post: Ambassador to the Bahamas.

Contributions, amount, date, and donee:

1. Self: See Attached.

2. Spouse: Joyce Proler Schechter, See Attached.

3. Children and spouses names: Leslie Rose Schechter Karpas and Hedley Karpas, See Attached; Jennifer Paige Schechter Rosen and Alan Rosen, See Attached.

4. Parents names: Helen and Morris Schechter, deceased.

5. Grandparents names: Miriam and Solomon Schechter, deceased.

6. Brothers and spouses names: Adolph Joe Schechter and wife Joyce, See Attached. Dr. Robert Samuel Schechter and wife Mary Ethel, None.

7. Sisters and spouses names: None.

National political contributions

[Arthur L. Schechter]

1/93–12/93:	
Robb for Senate	$1,000
DSCC	11,000
Bob Krueger	2,000
Jim Mattox	1,000
Gene Green	1,000
Sheila Jackson Lee	1,000
Kerrey for U.S. Senate	250
Martin Frost Campaign	250
Wilson Committee (primary)	250
Sam Gejdenson Re-election	500
Jeff Bingaman Campaign	500
1/94–12/94:	
DNC—(transferred to non-fed)	10,000
Ken Bentsen	1,000
Lloyd Doggett	1,000
Lloyd Doggett	1,000
Sheila Jackson Lee	1,000
Paul Colbert (primary)	1,000
DSCC	6,000
DSCC (transferred to non-fed)	5,000
Kennedy for Senate	1,000
DNC (Non Federal)	25,000
Hyatt for Senate	1,000
Lautenberg Committee	500
Friends of Bob Carr	250
Mike Synar for Congress	500
Citizens for Senator Wofford	500
Sam Coppersmith for U.S. Senate	250
Sam Gejdenson Re-election Comm.	250
Wilson Committee (general)	200
Gene Green Congressional	500
Effective Government Comm.	250
1/95–12/95:	
DNC (non-federal)	25,000
Tom Daschle	1,000
DNC	10,000
DNC (transferred to non-fed)	10,000
DNC (non-federal)	5,000
Ken Bentsen (primary)	1,000
Ken Bentsen (general)	1,000
John Odam	1,000
DCCC	5,000
Lloyd Doggett (primary)	1,000
Lloyd Doggett (general)	1,000
Clinton/Gore '96 Primary	1,000
Gene Green	1,000
DSCC	5,000
People for Wilhelm	1,000
Citizens for Harkin	250
1/96–12/96:	
Martin Frost	1,000
DNC (transferred to non-fed)	20,000
Tom Daschle (general)	1,000
Nick Lampson (general)	1,000
DNC Non-Federal	30,000
Effective Government	1,000
DSCC	6,000
Lefty Morris	1,000
DSCC	1,000
John Bryant	1,000
Ken Bentsen	1,000
Jim Chapman	1,000
Tim Johnson for S. Dakota	500
Sam Gejdenson	500
Eddie Bernice Johnson	250
1/97–6/97:	
DNC	10,000
DSCC	10,000
John Breaux	1,000
DCCC (non-federal)	1,000
Texas Democratic Party	1,000
Rodriquez for U.S. Congress	300
Mary Moore for Senate	250
7/97–Present	0
[Joyce P. Schechter]	
1/93–12/93:	
Jim Mattox	$1,000
Bob Krueger	1,000
Bob Krueger (run-off)	1,000
1/94–12/94:	
Lloyd Doggett	1,000
Lloyd Doggett	1,000

National political contributions—Continued

Sheila Jackson Lee (primary) ..	1,000
Paul Colbert (primary)	1,000
Ken Bentsen	1,000
1/95–12/95:	
Ken Bentsen	1,000
Clinton/Gore '96 Primary	1,000
1/96–12/96:	
Effective Government	1,000
DNC	5,000
Tom Daschle	1,000
Emily's List	1,000
John Bryant	1,000
Friends of Carl Levin	250
7/97–12/97:	
Fritz Hollings for Senate	1,000
1/98–Present:	
Bob Kerrey for Senate	1,000
John Kerry Campaign	1,000
Senator Chris Dodd Campaign ..	500

[Leslie Rose Schechter Karpas]

1/93–12/93:	
Bob Krueger	1,000
1/94–12/94:	
Paul Colbert (primary)	1,000
Jim Mattox (primary)	1,000
Carrin Patman	1,000
Sheila Jackson Lee (general)	500
Ken Bentsen (general)	500
1/95–12/95:	
Clinton/Gore '96	1,000
1/96–12/96:	
Gene Green	1,000
Jim Chapman	2,000
Ken Bentsen	1,000
Nick Lampson for Congress	500
7/97–12/97	-0-
1/98–Present:	
Dick Gephardt Campaign	1,000

[Hedley Karpas]

1/95–12/95:	
Clinton/Gore '96 Primary	1,000
1/96–Present	-0-

[Jennifer Paige Schechter Rosen]

1/94–12/94:	
Jim Chapman	1,000
Ken Bentsen	1,000
Martin Frost	1,000
Fisher for Senate	1,000
Paul Colbert	1,000
Jim Mattox	1,000
Sheila Jackson Lee	500
Coleman for Congress	250
Gene Green Congressional	500
1/95–12/95:	
Sheila Jackson Lee (primary) ..	1,000
Lefty Morris	1,000
Clinton/Gore '96 Primary	1,000
1/96–12/96:	
Sheila Jackson Lee	1,000
Victor Morales	1,000
Martin Frost	1,000
Gene Green	1,000
John Bryant	1,000
Nick Lampson	1,000
Friends of Tom Strickland	500
John Wertheim for Congress	250
1/97–Present	-0-

[Alan M. Rosen]

1/95–12/95:	
Clinton/Gore '96 Primary	1,000
1/96–12/96:	
Nick Lampson for Congress	100
DNC	300
1/97–Present	-0-

[Adolph Joseph Schechter & Joyce Schechter]

1/96–12/96:	
Lefty Morris for Congress	100
1/97–Present	-0-

[Dr. Robert Schechter & Mary Ethel Schechter]

None

PART B—FINANCIAL INFORMATION AMENDED ANSWER TO NUMBER 6

6. Political Contributions—List all financial contributions of $1,000 or more per annum made by you, your spouse or other members of your immediate family to any local, state or national party committee, to any individual candidate or to any multi-candidate committee within the last five years.

Answer: In order to update this answer from the previous files of June 5, 1997, and to correct any inadvertent oversights, I am filing the attached amendment.

Members of my immediate family are as follows: my wife, Joyce Proler Schechter; daughters—Leslie Rose Schechter Karpas and husband, Hedley Karpas, and Jennifer Paige Schechter Rosen and husband, Alan M. Rosen; and my brothers—Adolph Joe Schechter and wife, Joyce, and Dr. Robert S. Schechter and wife, Mary Ethel.

Both my parents and grandparents are deceased.

Political contributions within the last five years are attached.

*Any corrections are indicated by asterisk (*) and bold type.

Political Contributions

[Arthur L. Schechter]

6/92–12/92:	
National:	
DNC.	$10,000
DNC (transferred to non-fed)	10,000
Feinstein for Senate	1,000
Texas Unity 92	5,000
State:	
Garry Mauro	1,000
Sue Schechter	3,000
Ronnie Harrison	1,000
Ann Richards 1,000	
Local:	
Gaynelle Jones (Judge)	1,000
Scott Link (Judge)	1,000
Judge Rose Spector	1,000
Judge John Ackerman	1,000
Katie Kennedy for Judge	1,000
1/93–12/93	
National:	
Robb for Senate	1,000
DSCC	11,000
Bob Krueger	2,000
Jim Mattox	1,000
Gene Green	1,000
Sheila Jackson Lee	1,000
State:	
Texas Democratic Party	5,000
Bob Bullock	1,000
Garry Mauro	5,000
Craig Eiland	1,000
Ann Richards	25,000
Lloyd Doggett	5,000
Local:	
Harris County Democratic	1,000
David Mincberg	2,000
Rene Hass	5,000
Ed Cogburn	1,000
Susan Sousson	1,000
Judge West	1,000
Peavy	1,150
Eric Andell	1,000
Leta Parks	1,000
Mickey Farrow	1,000
Bob Lanier	5,000
1/94–12/94	
National:	
DNC—(transferred to non-fed)	10,000
Ken Bentsen	1,000
Lloyd Doggett	1,000
Lloyd Doggett	1,000
Sheila Jackson Lee	1,000
Paul Colbert (primary)	1,000
DSCC	6,000
DSCC (transferred to non-fed)	5,000
Kennedy for Senate	1,000
DNC (non-federal)	25,000
Hyatt for Senate	1,000

Political Contributions—Continued

State:	
Bob Bullock	3,500
Garry Mauro	8,500
Martha Whitehead	1,000
Craig Eiland	1,000
Mike Martin	6,000
Ann Richards	26,000
Local:	
Elinor Tinsely	1,000
Patrice Barron for Judge	2,000
Lupe Salinas for Judge	1,000
Jack Lee for Judge	1,000
Rene Haas for Judge	1,000
Michael O'Connor for Judge ..	2,500
Frank Carmona for Judge	1,000
Alice Oliver-Parrott for Judge	2,500
Helen Cassidy for Judge	2,000
Ed Cogburn for Judge	1,000
Jimmy Carroll for Judge	2,000
JohnKirtley for Judge	1,500
1/95–12/95	
National:	
DNC (non-federal)	25,000
Tom Daschle (general)	1,000
DNC	10,000
DNC (transferred to non-fed)	10,000
DNC (non-federal)	5,000
Ken Bentsen (primary)	1,000
Ken Bentsen (general)	1,000
John Odam	1,000
DCCC	5,000
Lloyd Doggett (primary)	1,000
Lloyd Doggett (general)	1,000
Clinton/Gore '96 Primary	1,000
Gene Green	1,000
DSCC	5,000
People for Wilhelm	1,000
State:	
Garry Mauro	1,000
21st Century Democrats	20,000
John Whitmire	2,000
Local:	
David Ballard	1,000
Judson Robinson	1,000
Harris County Dem. Pty.	5,000
Norma Venso	1,000
David Garner	1,000
1/96–12/96	
National:	
Martin Frost	1,000
DNC (transferred to non-fed)	20,000
Tom Daschle (general)	1,000
Nick Lampson (general)	1,000
DNC (non-federal)	30,000
Effective Government	1,000
DSCC	6,000
Lefty Morris	1,000
DSCC	1,000
John Bryant	1,000
* Ken Bentsen	1,000
*Jim Chapman	1,000
State:	
21st Century Democrats	33,000
Garry Mauro	3,000
Bob Bullock	1,500
Texas Senate Dem. Comm.	1,000
Local:	
David Garner	2,000
Larry Edrozo	1,000
1/97–6/97	
National:	
DNC	10,000
DSCC	10,000
John Breaux	1,000
DCCC (non-federal)	1,000
Texas Democratic Party	1,000
State:	
21st Century Democrats	10,000
7/97 to present	-0-

[Joyce P. Schechter]

6/92–12/92	
National:	
Carol Moseley Braun	1,000

Political Contributions—Continued

Dianne Feinstein	1,000
1/93–12/93	
National:	
Jim Mattox	1,000
Bob Krueger	1,000
Bob Krueger (run-off)	1,000
State:	
Texas Democratic Party	3,000
Paul Colbert	1,000
1/94–12/94	
National:	
*Lloyd Doggett	2,000
Sheila Jackson Lee (primary)	1,000
Paul Colbert (primary)	1,000
Ken Bentsen	1,000
1/95–12/95	
National:	
Ken Bentsen	1,000
Clinton/Gore '96 Primary	1,000
1/96–12/96	
National:	
Effective Government	1,000
DNC	5,000
Tom Daschle	1,000
Emily's List	1,000
John Bryant	1,000
7/97 to 12/97	
Local:	
Lee Brown for Mayor	3,000
Sylvia Garcia for Comptroller	1,000
Sue Schechter Campaign	2,000
National:	
*Fritz Hollings for Senate	1,000
1/98 to Present	
National:	
Bob Kerrey for Senate	1,000
John Kerry Campaign	1,000
Senator Dodd Campaign	500
State:	
John Sharp for Lt. Governor	500
[Leslie Rose Schechter Karpas]	
1/93–12/93	
National:	
Bob Krueger	1,000
1/94–12/94	
National:	
Paul Colbert (primary)	1,000
Jim Mattox (primary)	1,000
Carrin Patman	1,000
1/95–12/95	
National:	
Clinton/Gore '96	1,000
1/96–12/96	
National:	
Gene Green	1,000
Jim Chapman	2,000
*Ken Bentsen	1,000
*7/97 to 12/97	0
1/98 to Present	
National:	
Dick Gephardt Campaign	1,000
[Hedley Karpas]	
1/95–12/95	
National:	
Clinton/Gore '96 Primary	1,000
*1/96 to Present	0
[Jennifer Paige Schechter Rosen]	
1/94–12/94	
National:	
Jim Chapman	1,000
Ken Bentsen	1,000
Martin Frost	1,000
Fisher for Senate	1,000
Paul Colbert	1,000
Jim Mattox	1,000
1/95–12/95	
National:	
Sheila Jackson Lee (primary)	1,000
Lefty Morris	1,000
Clinton/Gore '96 Primary	1,000
1/96–12/96	
National:	
Sheila Jackson Lee	1,000
Victor Morales	1,000
Martin Frost	1,000
Gene Green	1,000
John Bryant	1,000
Nick Lampson	1,000
*1/97 to Present	

James Howard Holmes, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Latvia.

Nominee: James Howard Holmes.

Post: Ambassador to the Republic of Latvia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, father, deceased, mother: none.
5. Grandparents names, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

Steven Robert Mann, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkmenistan.

Nominee Steven Robert Mann

Post Turkmenistan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, $50.00, 11/94, Robb for Senate campaign.
2. Spouse, Janice M. Soreth, none.
3. Children and spouses, names, Natalia, David, none.
4. Parents names, John Mann (stepfather), deceased; Elizabeth Mann, deceased; Robert Snyderman (father) deceased.
5. Grandparents names, William and Ethel Bodensieck, deceased; John and Anna Mann, deceased; Snyderman grandparents, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Elizabeth and Peter Simoes, none.

John Bruce Craig, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

Nominee: John B. Craig.

Post: Ambassador, Sultanate of Oman.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. to the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee; .

1. Self, none.
2. Spouse, Gerre Lee J. Craig, none.
3. Children and spouses names, Jason N. Craig, none.
4. Parents names, Margaret F. Craig, (deceased), Owen J. Craig, none.
5. Grandparents names, Paris and Minerva Engle Fridy, decreased; O.J. Gertrude Beutler Craig, decreased.
6. Brothers and spouses names, Charles and Suzanne Craig, none.
7. Sisters and spouses names, none.

Elizabeth Davenport McKune, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Nominee: Elizabeth McKune.

Post: State of Qatar.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee;

1. Self, $100, July 1996 Presidential Campaign, Democratic National Committee.
2. Spouse, none, Democratic National Committee
3. Children and spouses names, N/A.
4. Parents names, Clarence Davenport, $50, July 1996 Presidential Campaign, '';Democratic National Committee names, Yolande Davenport, $100, July 1996 Presidential Campaign, ''; Democratic National Committee Yolanda Davenport, $12.60 Democrats 2000, '';Democratic National Committee
5. Grandparents names, all deceased.
6. Brothers and spouses, names Stephen and Mary Davenport, none. Richard and Tina Davenport, none.
7. Sisters and spouses, names, none.

David Michael Satterfield, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: David M. Satterfield.

Post: Ambassador to Lebanon.

Contributions, Amount, Date, and Donee:

1. Self, None.
2. Spouse; None.
3. Children and spouses names, Victoria Satterfield, none, Alexander Satterfield, none.
4. Parents names, Betty G. Kemp, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Nancy Goldstein, none, Barry Goldstein, none.

Melissa Foelsch Wells, of Connecticut, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Melissa Wells.

Post: Estonia.

Contributions, Amount, Date, and Donee.

1. Self, none.
2. Spouse, Alfred W. Wells, none.
3. Children and spouses names, Gregory C. Wells, Christopher S. (wife Fatima Wells,) none.
4. Parents names, Miliza Korjus and Kuno Foelsch, all deceased.
5. Grandparents, names, all deceased.
6. Brothers and spouses names, Richard Foelsch, and Ernest Foelsch, none.
7. Sisters and spouses names, none.

Richard E. Hecklinger, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Richard E. Hecklinger.

Post: Bangkok.

Contributions, Amount, Date, and Donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, Dorothy K. Hecklinger, none, Clarence F. Hecklinger (deceased).
5. Grandparents names, all deceased.
6. Brothers and spouses names, Fred and Margaret Hecklinger, none.
7. Sisters and spouses names, none.

Theodore H. Kattouf, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Theodore H. Kattouf.

Post: United Arab Emirates.

Contributions, Amount, Date, and Donee.

1. Self, Theodore H. Kattouf, none.
2. Spouse, Jeannie M. Kattouf, none.
3. Children and spouses, Jennifer Morningstar, none, Jack Morningstar, none, Jonathan Kattouf, none, Paul Kattouf, none, Michael Kattouf, none.
4. Parents, Habab Kattouf, deceased, Victoria Kattouf, none.
5. Grandparents, all deceased.
6. Brothers and spouses, George Kattouf, none, Melanie (Noel) Kattouf, none, Greg Kattouf, none.
7. Sisters and spouses, Sylvia Hanna, none, Nicholas Hanna, none.

Bert T. Edwards, of Maryland, to be Chief Financial Officer, Department of State.

David G. Carpenter, of Virginia, to be an Assistant Secretary of State.

David G. Carpenter, of Virginia, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service.

Charles F. Kartman, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Envoy for the Korean Peace Talks.

William B. Milam, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

Nominee: William B. Milam.

Post Ambassador to Pakistan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self, none.
2. Spouse (separated), none.
3. Children and spouses names, Erika L. Milam, none.
4. Parents names, Burl V. Miliam deceased 1963; Alice V. Milam (nee Pierce), deceased 1977.
5. Grandparents names, William A. Pierce, deceased 1951; Martha Ellen, Ellen (Cowls), deceased 1940; Alfred Miliam, deceased 1938; Grace (Eads) Milam, deceased ca. 1946.
6. Brothers and spouses names, Robert D. Milam, none; Joyce N. Milam, none; Carlin R. Milam, none; and Howard P. Milam, none; Doris N. Milan, none.
7. Sisters and spouses names, no sisters.

Mary Beth West, of the District of Columbia, a Career Member of the Senior Executive Service, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for Oceans, Fisheries and Space.

Jonathan H. Spalter, of the District of Columbia, to be an Associate Director of the United States Information Agency.

Hugh Q. Parmer, of Texas, to be an Assistant Administrator of the Agency for International Development.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Madam President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in the RECORDS of June 18, 1998 and July 15, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS, of June 18, 1998 and July 15, 1998, at the end of the Senate proceedings.)

In the Foreign Service nomination beginning Homi Jamshed, and ending Joseph E. Zadrozny, Jr., which nominations were received by the Senate and appeared in the RECORD of June 18, 1998.

In the Foreign Service nominations beginning Robert James Bigart, Jr., and ending Carol J. Urban, which nominations were received by the Senate and appeared in the RECORD of July 15, 1998.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DORGAN:

S. 2345. A bill to amend section 3681 of title 18, United States Code, relating to the special forfeiture of collateral profits of a crime; to the Committee on the Judiciary.

By Mr. ALLARD (for himself, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. MACK, Mr. SHELBY, and Mr. GRAMS):

S. 2346. A bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes; to the Committee on Finance.

By Mr. HARKIN:

S. 2347. A bill to provide for a coordinated effort to combat methamphetamine abuse, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BURNS:

S. 2348. A bill to amend the Communications Act of 1934 to reduce telephone rates, provide advanced telecommunications services to schools, libraries, and certain helath care facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN:

S. 2349. A bill to authorize appropriations for the hazardous materials transportation program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2350. A bill to clarify the application of toll restrictions to Delaware River Port Authority bridges; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COVERDELL (for himself, Mr. CRAIG, and Mr. ENZI):

S. Con. Res. 109. A concurrent resolution expressing the sense of the Congress that executive departments and agencies must maintain the division of governmental responsibilities between the national government and the States that was intended by the framers of the Constitution, and must ensure that the principles of federalism established by the framers guide the executive departments and agencies in the formulation and implementation of policies; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN:

S. 2345. A bill to amend section 2681 of title 18, United States Code, relating to the special forfeiture of collateral profits of a crime; to the Committee on the Judiciary.

FEDERAL SON OF SAM LEGISLATION

Mr. DORGAN. Mr. President, today, I am introducing a bill to correct problems with the Federal "Son of Sam" law, as those problems were perceived by the United States Supreme Court. The New York statute analyzed by the Supreme Court, as well as the Federal statute which I seek to amend, forfeited the proceeds from any expressive work of a criminal, and dedicated those proceeds to the victims of the perpetrator's crime. Because of constitutional deficiencies cited by the Court, the Federal statute has never been applied, and without changes, it is highly unlikely that it ever will be. Without this bill, criminals can become wealthy from the fruits of their crimes, while victims and their families are exploited.

The bill I now introduce attempts to correct constitutional deficiencies cited by the Supreme Court in striking down New York's Son of Sam law. In its decision striking down New York's law, the Court found the statute to be both over inclusive and under inclusive: Over inclusive because the statute included all expressive works, no matter how tangentially related to the crime; under inclusive because the statute only included expressive works, not other forms of property.

To correct the deficiencies perceived by the Court, this bill changes significantly the concepts of the Federal statute. Because the Court criticized the statute for singling out speech, this bill is all encompassing: It includes various types of property related to the crime from which a criminal might profit. Because the Court criticized the statute for being over inclusive, including the proceeds from all works, no matter how remotely connected to the crime, this bill limits the property to be forfeited to the enhanced value of property attributable to the offense. Because the Court found fault with the statute for not requiring a conviction, this bill requires a conviction.

The bill also attempts to take advantage of the long legal history of forfeiture. Pirate ships and their contents were once forfeited to the government. More recent case law addresses the concept of forfeiting any property used in the commission of drug related crimes, or proceeds from those crimes. Hopefully, courts interpreting this statute will look to this legal history and find it binding or persuasive.

The bill utilizes the Commerce Clause authority of Congress to forfeit property associated with State crimes. This means that if funds are transferred through banking channels, if UPS or FedEx are used, if the airwaves are utilized, or if the telephone is used to transfer the property, to transfer funds, or to make a profit, the property can be forfeited. In State cases, this bill allows the State attorney general to proceed first. We do not seek to preempt State law, only to see that there is a law in place which will ensure that criminals do not profit at the expense of their victims and the families of victims.

One last improvement which this bill makes over the former statutes: The old statute included only crimes which resulted in physical harm to another; this bill includes other crimes. Examples of crimes probably not included under the old statute, but included here are terrorizing, kidnaping, bank robbery, and embezzlement.

Mr. President, our Federal statute, enacted to ensure that criminals not profit at the expense of their victims and victim's families, is not used today because it is perceived to be unconstitutional. I believe victims of crime deserve quick action on this bill, drafted to ensure that they are not the source of profits to those who committed crimes against them. I ask for your support.

By Mr. ALLARD (for himself, Mr. D'Amato, Mr. Faircloth, Mr. Hagel, Mr. Enzi, Mr. Bennett, Mr. Mack, Mr. Shelby, and Mr. Grams):

S. 2346. A bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes; to the Committee on Finance.

THE SMALL BUSINESS AND FINANCIAL INSTITUTIONS TAX RELIEF ACT OF 1998

• Mr. ALLARD. Mr. President, today I am pleased to introduce legislation that will expand and improve Subchapter S of the Internal Revenue Code. I am joined in this effort by Senators D'Amato, Faircloth, Hagel, Enzi, Bennett, Mack, Shelby, and Grams.

The Subchapter S provisions of the Internal Revenue Code reflect the desire of Congress to eliminate the double tax burden on small business corporations. Pursuant to that desire, Subchapter S has been liberalized a number of times, most recently in 1996. This legislation contains several provisions that will make the Subchapter S election more widely available to small businesses in all sectors. It also contains several provisions of particular benefit to community banks that may be contemplating a conversion to Subchapter S. Financial institutions were first made eligible for the Subchapter S election in 1996. This legislation builds on and clarifies the Subchapter S provisions applicable to financial institutions.

Mr. President, as Congress considers credit union legislation and financial modernization legislation, it is important that we explore ways in which we can ensure that the tax and regulatory burden on our community bankers remains reasonable. This legislation is reflective of that desire.

Mr. President, I ask unanimous consent that the text of the bill and the attached explanation of the provisions of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business and Financial Institutions Tax Relief Act of 1998".

SEC. 2. EXPANSION OF S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS.

(a) In General.—Section 1361(c)(2)(A) of the Internal Revenue Code of 1986 (relating to certain trusts permitted as shareholders) is amended by inserting after clause (v) the following:

"(vi) A trust described in section 408(a)."

(b) Treatment as Shareholder.—Section 1361(c)(2)(B) of the Internal Revenue Code of 1986 (relating to treatment as shareholders) is amended by adding at the end the following:

"(vi) In the case of a trust described in clause (vi) of subparagraph (A), the individual for whose benefit the trust was created shall be treated as a shareholder."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 3. EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.

(a) In General.—Section 1362(d)(3)(C) of the Internal Revenue Code of 1986 (relating to passive investment income defined) is amended by adding at the end the following:

"(v) Exception for bank investment securities income.—In the case of a bank (as defined in section 581), the term 'passive investment income' shall not include interest on investment securities held by a bank."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 4. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 150.

(a) In General.—Section 1361(b)(1)(A) of the Internal Revenue Code of 1986 (defining small business corporation) is amended by striking "75" and inserting "150".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 5. TREATMENT OF DIRECTOR QUALIFYING STOCK.

(a) In General.—Section 1361(c) of the Internal Revenue Code of 1986 (relating to special rules for applying subsection (b)) is amended by adding at the end the following:

"(7) Director qualifying stock.—

"(A) In general.—For purposes of subsection (b)(1)(D), director qualifying stock shall not be treated as a second class of stock.

"(B) Director qualifying stock defined.—For purposes of this paragraph, the term 'director qualifying stock' means any stock held by any director of a bank (as defined in section 581) as mandated by banking regulatory requirements."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 6. BAD DEBT CHARGE OFFS IN YEARS AFTER ELECTION YEAR TREATED AS ITEMS OF BUILT IN LOSS.

The Secretary of the Treasury shall modify Regulation 1.1374-4(f) for taxable years beginning after December 31, 1998, with respect to bad debt deductions under section 166 of the Internal Revenue Code of 1986 by allowing such deductions to be properly taken into account throughout the recognition period (as defined in section 1374(d)(7) of such Code).

SEC. 7. INCLUSION OF BANKS IN 3-YEAR S CORPORATION RULE FOR CORPORATE PREFERENCE ITEMS.

(a) IN GENERAL.—Section 1363(b) of the Internal Revenue Code of 1986 (relating to computation of corporation's taxable income) is amended by adding at the end the following new flush sentence:

"Paragraph (4) shall apply to any bank whether such bank is an S corporation or a qualified subchapter S subsidiary."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SMALL BUSINESS AND FINANCIAL INSTITUTIONS TAX RELIEF ACT OF 1998—LEGISLATION TO EXPAND AND IMPROVE SUBCHAPTER S

Subchapter S of the Internal Revenue Code was first enacted in 1958 to reduce the tax burden on small business corporations. The Subchapter S provisions have been liberalized a number of times over the last two decades, most significantly in 1982, and again in 1996. This liberalization reflects a desire on the part of Congress to relieve the tax burden on small business. S corporations do not pay corporate level income taxes, earnings are passed through to the shareholder level where income taxes are paid, thus eliminating the double taxation of corporations. By contrast, Subchapter C corporations pay corporate level income taxes on earnings, and shareholders pay income taxes again on those same earnings when they are passed through as dividends.

This proposed S corporation improvement legislation would be helpful to many small businesses, but a number of its provisions are particularly applicable to banks.

Congress made S corporation status available to small banks for the first time in the 1996 "Small Business Job Protection Act" but many small banks are having trouble qualifying under the current rules. The proposed legislation:

Increases the number of S corporation eligible shareholders from 75 to 150.

Permits S corporation shares to be held as Individual Retirement Accounts (IRAs).

S corporations are restricted in the amount of passive investment income they may generate. This bill makes clear that any interest on investments maintained by a bank for liquidity and safety and soundness purposes shall not be "passive" income.

S corporations may only have one class of stock. This bill provides that any stock that bank directors must hold under banking regulations shall not be a disqualifying second class of stock.

Banks that are converting to S corporations must recapture any accumulated bad debt reserve. This bill permits banks to deduct bad debt charge offs over the same number of years that the accumulated bad debt reserve must be recaptured.

S corporations that convert from C corporations are denied certain interest deductions (preference items) for up to three years following the conversion, at the end of three years the deductions are allowed. The bill clarifies that this Three Year S Corporation Rule for certain interest deduction preference items applies to S corporation banks, thereby providing equitable treatment for S corporation banks.●

By Mr. HARKIN:

S. 2347. A bill to provide for a coordinated effort to combat methamphetamine abuse, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1998

● Mr. HARKIN. Mr. President, methamphetamine is fast becoming the leading illegal addictive drug in this nation. From quiet suburbs, to city streets, to the corn rows of Iowa, meth is destroying thousands of lives every year. A majority of those lives, unfortunately, are our children's.

Methamphetamine is now commonly referred to as Iowa's illegal drug of choice. This drug is reaching epidemic proportions as it sweeps from the west coast, ravages through the Midwest, and is now beginning to reach the east. The trail of destruction of human life as a result of methamphetamine addiction is running across America from coast to coast. To illustrate the violence it elicits in people, methamphetamine is cited as a contributing factor in 80 percent of domestic violence cases in Iowa and a leading factor in a majority of violent crimes.

In 1996, I was proud to be an original cosponsor of the Methamphetamine Control Act which has done some good. However, in talking to local law enforcement and concerned citizens across Iowa, it is obvious that the methamphetamine problem has exploded beyond anything we envisioned in 1996.

The number of meth arrests, court cases, and confiscation of labs continues to escalate. In the Midwest alone, the number of clandestine meth labs confiscated and destroyed for 1998 is on pace to triple the number confiscated and destroyed in 1997. The cost of clean-up for each lab ranges from $5,000 to $90,000. This cost is being absorbed by communities who are not prepared, or experienced with the dangers of drug trafficking.

Additionally, these clandestine meth labs create an enormous amount of hazardous waste. For every 1 pound of methamphetamine produced, there are 5 to 6 pounds of hazardous waste as a by-product. This waste is highly toxic and often seeps into the ground where eventually it ends up in our drinking water supply.

The dangers posed to law enforcement officers also are greatly increased by these labs. Many peddlers of meth are now what they call "kitchen" labs. Meth pushers are now simply using mobile homes or even pick-up trucks to produce their drugs. Combining many volatile chemicals in an uncontrolled environment, meth labs are time bombs to police officers and communities everywhere.

Mr. President, today I am introducing the Comprehensive Methamphetamine Control Act of 1998. My legislation takes a comprehensive, common sense approach in battling this growing epidemic. It calls for an increase in resources to law enforcement working through the High Intensity Drug Trafficking Area (HIDTA) program and establishes swift and certain penalties for those producing and peddling meth.

Also, my legislation expands school and community-based prevention efforts at the local level—targeting those areas that need it the most. Finally, this proposal calls on the National Institute on Drug Abuse to find exactly what makes methamphetamine so very addictive—especially to our young people—and the best methods for beating the addiction.

Mr. President, I believe that we have a window of opportunity as a nation to take a stand right now to defeat this scourge. Everyday, meth infiltrates our city streets and suburbs, leading more and more people down a path of personal destruction. Families are being devastated and communities are fighting an uphill battle against this powerful drug. The time is now to make a stand to protect our communities and schools by passing this legislation.

I ask unanimous consent that the bill and a summary of the legislation be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Methamphetamine Abuse Reduction Act".

SEC. 2. EXPANDING METHAMPHETAMINE ABUSE PREVENTION EFFORTS.

Section 515 of the Public Health Service Act (42 U.S.C. 290bb-21) is amended by adding at the end the following:

"(e) PREVENTION OF METHAMPHETAMINE ABUSE AND ADDICTION.—

"(1) GRANTS.—The Director of the Center for Substance Abuse Prevention (referred to in this section as the 'Director') may make grants to and enter into contracts and cooperative agreements with public and non-profit private entities to enable such entities—

"(A) to carry out school-based programs concerning the dangers of methamphetamine abuse and addiction, using methods that are effective and evidence-based; and

"(B) to carry out community-based methamphetamine abuse and addiction prevention programs that are effective and evidence-based.

"(2) USE OF FUNDS.—Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering methamphetamine prevention programs in accordance with paragraph (3).

"(3) PREVENTION PROGRAMS AND ACTIVITIES.—

"(A) IN GENERAL.—Amounts provided under this subsection may be used—

"(i) to carry out school-based programs that are focused on those districts with high or increasing rates of methamphetamine abuse and addiction and targeted at populations which are most at risk to start methamphetamine abuse;

"(ii) to carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for methamphetamine abuse and addiction;

"(iii) to assist local government entities to conduct appropriate methamphetamine prevention activities;

"(iv) to train and educate State and local law enforcement officials on the signs of methamphetamine abuse and addiction and the options for treatment and prevention;

"(v) for planning, administration, and educational activities related to the prevention of methamphetamine abuse and addiction;

"(vi) for the monitoring and evaluation of methamphetamine prevention activities, and reporting and disseminating resulting information to the public; and

"(vii) for targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(B) Priority.—The Director shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

"(4) Analyses and evaluation.—

"(A) In general.—Not less than $500,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Director, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective prevention programs for methamphetamine abuse and addiction and the development of appropriate strategies for disseminating information about and implementing these programs.

"(B) Annual reports.—The Director shall submit to the Committee on Labor and Human Resources and Committee on Appropriations of the Senate and the Committee on Commerce and Committee on Appropriations of the House of Representatives, an annual report with the results of the analyses and evaluation under subparagraph (A).

"(5) Authorization of appropriations.—There is authorized to be appropriated to carry out paragraph (1), $20,000,000 for fiscal year 1999, and such sums as may be necessary for each succeeding fiscal year.".

SEC. 3. EXPANDING CRIMINAL PENALTIES AND LAW ENFORCEMENT FUNDING.

(a) Swift and Certain Punishment of Methamphetamine Laboratory Operators.—

(1) Federal sentencing guidelines.—

(A) In general.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate Federal sentencing guidelines or amend existing Federal sentencing guidelines for any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture amphetamine or methamphetamine in violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.) in accordance with this paragraph.

(B) Requirements.—In carrying out this paragraph, the United States Sentencing Commission shall, with respect to each offense described in subparagraph (A)—

(i) increase the base offense level for the offense—

(I) by not less than 3 offense levels above the applicable level in effect on the date of enactment of this Act; or

(II) if the resulting base offense level after an increase under subclause (II) would be less than level 27, to not less than level 27; or

(ii) if the offense created a substantial risk of danger to the health and safety of another person (including any Federal, State, or local law enforcement officer lawfully present at the location of the offense, increase the base offense level for the offense—

(I) by not less than 6 offense levels above the applicable level in effect on the date of enactment of this Act; or

(II) if the resulting base offense level after an increase under clause (i) would be less than level 30, to not less than level 30.

(C) Emergency authority to sentencing commission.—The United States Sentencing Commission shall promulgate the guidelines or amendments provided for under this paragraph as soon as practicable after the date of enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.

(2) Effective date.—The amendments made pursuant to this subsection shall apply with respect to any offense occurring on or after the date that is 60 days after the date of enactment of this Act.

(b) Increased Resources For Law Enforcement.—There are authorized to be appropriated to the Office of National Drug Control Policy to combat the trafficking of methamphetamine in areas designated by the Director of National Drug Control Policy as high intensity drug trafficking areas—

(1) $25,000,000 for fiscal year 1999; and

(2) such sums as may be necessary for each of fiscal years 2000 through 2004.

SEC. 4. TREATMENT OF METHAMPHETAMINE ABUSE.

Section 507 of the Public Health Service Act (42 U.S.C. 290bb) is amended by adding at the end the following:

"(d) Treatment of Methamphetamine Abuse and Addiction.—

"(1) Grants.—The Director of the Center for Substance Abuse Treatment (referred to in this section as the 'Director') may make grants to and enter into contracts and cooperative agreements with public and non-profit private entities for the purpose of expanding activities for the treatment of methamphetamine abuse and addiction.

"(2) Use of funds.—Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering methamphetamine treatment programs in accordance with paragraph (3).

"(3) Treatment programs and activities.—

"(A) In general.—Amounts provided under this subsection may be used for—

"(i) evidence-based programs designed to assist individuals to quit their use of methamphetamine and remain drug-free;

"(ii) training in recognizing methamphetamine abuse and addiction for health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(iii) training in methamphetamine treatment methods for health plans, health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(iv) planning, administration, and educational activities related to the treatment of methamphetamine abuse and addiction;

"(v) the monitoring and evaluation of methamphetamine treatment activities, and reporting and disseminating resulting information to health professionals and the public;

"(vi) targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies; and

"(vii) coordination with the Center for Mental Health Services on the connection between methamphetamine abuse and addiction and mental illness.

"(B) Priority.—The Director shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

"(4) Analyses and evaluation.—

"(A) In general.—Not more than $1,000,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Director, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective treatments for methamphetamine abuse and addiction and the development of appropriate strategies for disseminating information about and implementing treatment services.

"(B) Annual report.—The Director shall submit to the Committee on Labor and Human Resources and Committee on Appropriations of the Senate and the Committee on Commerce and Committee on Appropriations of the House or Representatives, an annual report with the results of the analyses and evaluation conducted under subparagraph (A).

"(5) Authorization of appropriations.—There is authorized to be appropriated to carry out paragraph (1), $40,000,000 for fiscal year 1999, and such sums as may be necessary for each succeeding fiscal year.".

SEC. 5. EXPANDING METHAMPHETAMINE RESEARCH.

Section 464N of the Public Health Service Act (42 U.S.C. 285o-2) is amended by adding at the end the following:

"(c) Methamphetamine Research.—

"(1) Grants.—The Director of the Institute may make grants to expand interdisciplinary research relating to methamphetamine abuse and addiction and other biomedical, behavioral and social issues related to methamphetamine abuse and addiction.

"(2) Use of funds.—Amounts made available under a grant under paragraph (1) may be used to conduct interdisciplinary research on methamphetamine abuse and addiction, including research on—

"(A) the effects of methamphetamine abuse on the human body;

"(B) the addictive nature of methamphetamine and how such effects differ with respect to different individuals;

"(C) the connection between methamphetamine abuse and mental illness;

"(D) the identification and evaluation of the most effective methods of prevention of methamphetamine abuse and addiction;

"(E) the identification and development of the most effective methods of treatment of methamphetamine addiction, including pharmacological treatments;

"(F) risk factors for methamphetamine abuse;

"(G) effects of methamphetamine abuse and addiction on pregnant women and their fetuses;

"(H) cultural, social, behavioral, neurological and psychological reasons that individuals abuse methamphetamine, or refrain from abusing methamphetamine.

"(3) Research results.—The Director shall promptly disseminate research results under this subsection to Federal, State and local entities involved in combating methamphetamine abuse and addiction.

"(4) Authorization of appropriations.—There is authorized to be appropriated to carry out paragraph (1), $16,000,000 for fiscal year 1999, and such sums as may be necessary for each succeeding fiscal year.".

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1998—HIGHLIGHTS

Increased Resources for Law Enforcement. Two years ago, Senator HARKIN and other members of the Iowa Congressional delegation worked to provide Iowa law enforcement with enhanced support to fight the rise in methamphetamine abuse. Iowa (along with Missouri, Kansas, and Nebraska) was designated as a High Intensity Drug Trafficking Area (HIDTA). As a HIDTA, Iowa law enforcement has received funding to increase the number of federal prosecutors and state and local police available to crack down on meth. This legislation would expand HIDTA funding to combat methamphetamine abuse from $8 million to $25 million, allowing law enforcement officials to significantly expand their efforts and make our communities safer.

Swift and Certain Punishment of Meth Lab Operators. Federal, state and local law enforcement officials have been working hard to prosecute those found to be making methamphetamine. However, because of the great number of cases in Iowa and other states and the inflexibility of current laws, there are often long delays in prosecution. Therefore, this legislation includes a recommendation by the Midwest HIDTA to provide for swifter and more certain punishment of these offenders. It would direct the U.S. Sentencing Commission to increase the penalties for those convicted of manufacturing, attempting to manufacture or conspiracy to manufacture methamphetamine. It would also increase jail time for meth lab cases where the offense created a substantial danger to the health and safety to others, including law enforcement personnel.

Stepping Up Community-Based Prevention Efforts. Critical to any successful comprehensive effort to combat methamphetamine is a strong school and community-based prevention program. This legislation authorizes an additional $20 million to fund expanding school and community-based prevention efforts at the state and local level. Funds are to be targeted to rural and other areas, like Iowa, that are experiencing high or rapid increases in methamphetamine abuse. Funds would be used for education of children, parents, local law enforcement, businesses and others about the dangers of methamphetamine and on how to identify likely users and producers of the drug.

Expanded Treatment to Fight Meth Addiction. Also critical to a successful effort to combat methamphetamine abuse is a well-designed, adequately funded treatment program for those who become addicted to the drug. Once again, funds would be targeted to rural and other areas, like Iowa, that are experiencing high or rapid increases in methamphetamine abuse. Funds would be used to develop and evaluate effective treatment methods for methamphetamine abusers, to train health professionals about effective treatment methods and to help individuals quit their use of the drug. The bill would encourage targeted pilot programs to develop new and innovative treatment methods.

Expanded Research to Develop Improved Prevention and Treatment Strategies. While there are a number of local programs and strategies that are working to combat meth, additional research is needed to develop improved approaches. Our legislation calls on the National Institute on Drug Abuse (NIDA) to fund research to identify and evaluate the most effective methods of treatment and prevention, as well as the biomedical, neurological and physiological causes and effects of methamphetamine abuse and addiction. In addition, NIDA would be required to promptly disseminate their research results to Federal, State and local organizations involved in combating meth abuse.•

By Mr. MCCAIN:

S. 2349. A bill to authorize appropriations for the hazardous materials transportation program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION ACT OF 1998

• Mr. MCCAIN. Mr. President, today I am introducing the Hazardous Materials Transportation Reauthorization Act of 1998. This legislation is identical to the reauthorizing provisions approved by the Senate earlier this year under Subtitle B of Title III of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1998.

Mr. President, the Commerce Committee spent considerable time and effort developing and debating the safety provisions that were incorporated into the ISTEA reauthorization bill, ultimately entitled the Transportation Equity Act for the 21st Century—TEA—21 (P.L. 105–178). Once in conference with our House counterparts, we were faced with many difficult decisions and compromises. The one area that we did not reach agreement regarded the provisions associated with the Hazardous Materials Transportation programs administered by the Research and Special Programs Administration (RSPA) of the Department of Transportation.

Since the House had not acted to reauthorize this program in its version of ISTEA reauthorizing legislation, we found ourselves unable to reach agreement on including it in the conference report. Therefore, the Senate must again take action to reauthorize the Hazardous Materials Transportation Act.

Mr. President, I want to stress that this bill I am introducing today is identical to the hazardous materials reauthorization the Senate passed earlier this year. The legislation proposing reauthorizes funding for programs that ensure the safe transportation of hazardous materials. It also includes a number of provisions requested by the Administration that are intended to strengthen and improve the hazardous materials transportation program. And again Mr. President, I will reiterate, this bill is identical to the proposal passed by the Senate on March 12, 1998.

Mr. President, it is very important for the Congress to complete its work and reauthorize all of our nation's critical transportation safety programs. Therefore, I will be seeking to move this legislation through the Commerce, Science, and Transportation Committee in the very near future.•

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2350. A bill to clarify the application of toll restrictions to Delaware River Port Authority bridges; to the Committee on the Judiciary.

DELAWARE RIVER PORT AUTHORITY COMPACT CLARIFICATION

• Mr. SPECTER. Mr. President, I introduce noncontroversial legislation which is essential to the ability of the Delaware River Port Authority to raise funds in the bond markets. Specifically, this bill clarifies that the 1987 law which repealed the thirty-year limit on bridge toll collection set by the General Bridge Act of 1946 also applies to the Delaware River Port Authority's bridges in Southeastern Pennsylvania and Southern New Jersey. It is arguable that this legislation is not necessary and that a court would construe the 1987 law in the Port Authority's favor. However, to assure certainty for the financial markets and entities considering purchasing bonds issued by the Port Authority, I believe it is worthwhile for Congress to adopt legislation making this technical clarification.

By way of background, for many years, federal regulations governed the collection of tolls on bridges throughout the nation. Then, in the 1987 highway bill, congress repealed section 506 of the 1946 General Bridge Act which imposed a 30-year time limit on the collection of tolls. The bridges owned and operated by the Delaware River Port Authority, however, are governed by a 1952 public law by which Congress ratified the Pennsylvania-New Jersey compact establishing the Port Authority. Section 3 of that public law provided that the Port Authority's bridges were expressly exempt from the 30-year limit of the General Bridge Act and were instead subject to a 50-year limit on the collection of tolls.

A strong case could be made that any existing statutory limit on the Port Authority was implicitly repealed by the 1987 highway bill because the limit in the 1952 compact legislation was drafted as an exception to a law that is no longer in effect (i.e., Section 506 of the General Bridge Act of 1946). However, since the 1952 Port Authority provision has not been technically repealed, I am proposing legislation to correct this oversight.

The legislative history of the Section 3 of the Port Authority compact legislation also suggests that the 50-year toll-collection limit should no longer apply. Instead of having a lesser restriction than the 30-year limit, as was intended by Congress, if the 50-year limit were enforced, the Port Authority would be subject to a more stringent limitation on toll collection than all other American bridges. Accordingly, I believe that my legislation is consistent with the intent behind the 1987 highway law to deregulate the collection of tolls nationwide.

The Port Authority is authorized to pledge its revenue, including that from tolls, to secure debts. To obtain financing for future economic development and to preserve the bridges it owns and operates, the Port Authority must have a guaranteed revenue stream. Although a court very likely would rule that the fifty-year limit on toll collection was implicitly repealed by the Highway Act of 1987, without direct legislation to that effect, the Port Authority's bond counsel suggests it will be unable to borrow in the financial markets.

The importance of ensuring this borrowing ability is reflected in the Port Authority's essential role in the economic development of Southeastern Pennsylvania and Southern New Jersey. The Port Authority owns and operates the Benjamin Franklin, Betsy Ross, Commodore Barry, and Walt Whitman bridges as well as the mass transit PATCO High Speed Line. The Port Authority is involved in port unification through another of its subsidiaries, the Port of Philadelphia and Camden. Finally, the Port Authority has been instrumental in regional development and the commercial revitalization of the Philadelphia-Camden waterfront. Its programs include the addition of public attractions at Penns Landing and the Camden Aquarium as well as low-interest loans to expand Philadelphia's American Street Enterprise Zone.

Given the importance of revitalizing the Delaware River region, I urge my colleagues to support this legislation.●

ADDITIONAL COSPONSORS

S. 397

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 397, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 852

At the request of Mr. LOTT, the names of the Senator from Pennsylvania [Mr. SANTORUM] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the "Death on the High Seas Act" to aviation accidents.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1459

At the request of Mr. GRASSLEY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1734

At the request of Mrs. HUTCHISON, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1924

At the request of Mr. MACK, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2017

At the request of Mr. D'AMATO, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2110

At the request of Mr. BIDEN, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2213

At the request of Mr. FRIST, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 2222

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 2222, a bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program.

S. 2259

At the request of Mr. MURKOWSKI, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2259, a bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program.

S. 2265

At the request of Mr. TORRICELLI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2265, a bill to amend the Social Security Act to waive the 24-month waiting period for medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), to provide medicare coverage of drugs used for treatment of ALS, and to amend the Public Health Service Act to increase Federal funding for research on ALS.

S. 2267

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2267, a bill to amend the Internal Revenue Code of 1986 to grant relief to participants in multiemployer plans from certain section 415 limits on defined benefit pension plans.

S. 2291

At the request of Mr. GRAMS, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 2291, a bill to amend title 17, United States Code, to prevent the misappropriation of collections of information.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2323

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2323, a bill to amend title XVIII of the Social Security Act to preserve access to home health services under the medicare program.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 103, A concurrent resolution expressing the sense of the Congress in support of the recommendations of the International

Commission of Jurists on Tibet and on United States policy with regard to Tibet.

SENATE RESOLUTION 193

At the request of Mr. REID, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of Senate Resolution 199, a resolution designating the last week of April of each calendar year as "National Youth Fitness Week."

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as "National Inhalant Abuse Awareness Day."

AMENDMENT NO. 3013

At the request of Mr. CAMPBELL the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of amendment No. 3013 intended to be proposed to S. 1112, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

AMENDMENT NO. 3266

At the request of Mr. KYL the names of the Senator from Indiana [Mr. COATS], the Senator from Wyoming [Mr. ENZI], the Senator from Missouri [Mr. BOND], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of amendment No. 3266 proposed to S. 2260, an original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

SENATE CONCURRENT RESOLUTION 109—EXPRESSING THE SENSE OF CONGRESS RELATIVE TO EXECUTIVE DEPARTMENTS AND AGENCIES, NATIONAL POLICIES, AND FEDERALISM

Mr. COVERDELL (for himself, Mr. CRAIG, and Mr. ENZI) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 109

Whereas federalism is rooted in the knowledge that our political liberties are best assured by limiting the size and scope of the national government;

Whereas the people of the States created the national government when they delegated to it those enumerated governmental powers relating to matters beyond the competence of the individual States;

Whereas all other sovereign powers, save those expressly prohibited the States by the Constitution, are reserved to the States or to the people as the tenth amendment to the Constitution requires;

Whereas the people of the States are free, subject only to restrictions in the Constitution itself or in constitutionally authorized Act of Congress, to define the moral, political, and legal character of their lives;

Whereas in most areas of governmental concern, the States uniquely possess the constitutional authority, resources, and the competence to discern the sentiments of the people and to govern accordingly;

Whereas the nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires;

Whereas acts of the national government, whether executive, legislative, or judicial in nature, that exceed the enumerated powers of that government under the Constitution violate the principle of federalism established by the framers;

Whereas policies of the national government should recognize the responsibility of, and should encourage opportunities for, individuals, families, neighborhoods, local governments, and private associations to achieve their personal, social, and economic objectives through cooperative effort; and

Whereas in the absence of clear constitutional or statutory authority, the presumption of sovereignty should rest with the individual States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That executive departments and agencies should adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have federalism implications:

(1) There should be strict adherence to constitutional principles. Executive departments and agencies should closely examine the constitutional and statutory authority supporting any Federal action that would limit the policymaking discretion of the States, and should carefully assess the necessity for such action. To the extent practicable, the States should be consulted before any such action is implemented.

(2) Federal action limiting the policymaking discretion of the States should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.

(3) It is important to recognize the distinction between problems of national scope (which may justify Federal action) and problems that are merely common to the States (which will not justify Federal action because individual States, acting individually or together, can effectively manage such issues).

(4) Constitutional authority for Federal action is clear and certain only when authority for the action may be found in a specific provision of the Constitution, when there is no provision in the Constitution prohibiting Federal action, and when the action does not encroach upon authority reserved to the States.

(5) With respect to national policies administered by the States, the national government should grant the States the maximum administrative discretion possible. Intrusive Federal oversight of State administration is neither necessary nor desirable.

(6) When undertaking to formulate and implement policies that have federalism implications, executive departments and agencies should—

(A) encourage States to develop their own policies to achieve program objectives and to work with appropriate officials in other States;

(B) refrain, to the maximum extent possible, from establishing uniform, national standards for programs and, when possible, defer to the States to establish standards; and

(C) when national standards are required, consult with appropriate officials and organizations representing the States in developing those standards.

(7) The following special requirements for preemption of State law should be observed:

(A) To the extent permitted by law, executive departments and agencies should construe, in regulations and otherwise, a Federal statute to preempt a State law only when the statute contains an express preemption provision, when there is some other firm and palpable evidence compelling the conclusion that the Congress intended preemption of State law, or when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute.

(B) If a Federal statute does not preempt State law, executive departments and agencies should construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the statute expressly authorizes issuance of preemptive regulations or when there is some other firm and palpable evidence compelling the conclusion that the Congress intended to delegate to the department or agency the authority to issue regulations preempting State law.

(C) Any regulatory preemption of State law should be restricted to the minimum level necessary to achieve the objectives of the statute pursuant to which the regulations are promulgated.

(D) When an executive department or agency foresees the possibility of a conflict between State law and federally protected interests within its area of regulatory responsibility, the department or agency should consult, to the extent practicable, with appropriate officials and organizations representing the States in an effort to avoid such a conflict.

(E) When an executive department or agency proposes to act through adjudication or rulemaking to preempt State law, the department or agency should provide all affected States notice and an opportunity for appropriate participation in the proceedings.

Mr. COVERDELL. Mr. President, I rise today to speak on a concurrent resolution I have submitted, the subject of which is important not only to my constituents, but to anyone who stands by the Constitution of the United States. Ironically, while in England last May President Clinton, with little fanfare or media attention, issued Executive Order (EO) 13083. EO 13083 in both its letter and intent seeks to give executive departments and agencies greater preemptive authority over State and local law in the administration of Executive Branch policies. Ultimately this action is an attempt by the President to promote an agenda by circumventing Congress while subverting the Constitution and the principles of a limited federal government that the Framers were so careful to express in writing this document.

Mr. President, as members of Congress we have each taken an oath to uphold the Constitution. The President has done the same. And as we all know, the Constitution is our nation's most important document. It establishes the way our government works; it establishes the freedoms American citizens enjoy; and it provides for protections of those freedoms.

The Framers understood that individual freedom and centralized power are incompatible. Thus they set out not only to decentralize our federal government, but also to balance the power held at the national level with the power held by individual states. The Tenth Amendment to the Constitution explicitly expresses this intent. It states "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." I believe that sentence is perfectly clear, yet our Federal Government continues to grow in size and scope. All three branches of the government are to blame.

Is this a reason, however, to allow continued federal infringement into state matters? Must we not at some point ask ourselves where we draw the line? I believe we must if we hope to preserve the meaning of the Constitution.

EO 13083 sacrifice states rights and Constitutional principles to empower further the Federal Government. It does so by broadly defining "matters of national or multi-state scope that justify Federal action." These loosely defined "matters" include any matter of concern that is not confined by a single state's boundaries; any matter involving a "need for national standards;" any matter in which "decentralization increases the costs of government;" any matter in which "States would be reluctant to impose necessary regulations because of fears that regulated business activity will relocate to other states;" and any matter related to "Federally owned or managed property or natural resources, trust obligation or international organizations." Such ambiguous terms give this Administration tremendous leeway to implement policies through executive order that might meet resistance in Congress—policies that deserve full consideration by Congress before becoming law. Indeed, a number of recent newspaper articles demonstrate the President's desires to move an agenda without Congressional approval. The President's EO would allow circumvention of Congress while trampling the Tenth Amendment. Mr. President, we should be wary of this.

This is why I submit today a concurrent resolution expressing the sense of Congress that the intent of the Framers must guide federal executive departments and agencies when carrying out policies with federalism implications. Through this concurrent resolution Congress would reaffirm the principles of federalism the Framers used in writing the Constitution and express its sense regarding the criteria federal agencies should use in formulating and implementing policies that have federalism implications. Mr. President, I find it difficult when one looks at this resolution in a constitutional context, which is the context in which we must evaluate this issue, to disagree with its findings and the criteria it establishes. I believe this Congress must make a statement on where it stands with the Executive Branch's attempts to encroach, through executive order, on states rights. This resolution is an opportunity for Congress to do so.

Mr. President, I ask through this resolution that each of us reaffirm the pledges we made when we first entered office. I ask that we recognize the importance of local and state governments, their abilities to solve their problems on their own terms and the powers given the states by the Constitution. I ask that we honor the Framers' intent to limit the power of the Federal government.

A number of organizations representing elected officials in all levels of local government have voiced objections to EO 13083. These include the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors, the National League of Cities and the International City/County Management Association. These groups are opposed to this order not only because of its content but because no official from state or local government was consulted in the drafting of the order. Mr. President, I submit for the Record a July 16, 1998, Washington Post article that describes the frustration these groups have with the Administration's lack of consultation. I find it strange that the Administration did not consult with the very groups this Executive Order would most affect.

This is not a political issue. This resolution seeks to address an executive action that strikes at the very foundation of our government and of our Constitutional values. The means by which the Clinton Administration hopes to achieve its objectives are an affront to the Constitution, the Congress, and the American people at large. It is the intent of this Executive Order issued by the President to subvert the will of Congress and the will of the people through executive decree. I cannot imagine this is how the Framers intended our Federal democracy to work and I urge Congress to remind the executive branch that it is more important to return to the principles established in our Constitution than to continue the trend of increasing federal authority.

Mr. President, I ask unanimous consent that the Los Angeles Times article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Sat., July 4, 1998]

Clinton To Bypass Congress in Blitz of Executive Orders

(By Elizabeth Shogren)

Policy: President will use strategy to move his domestic agenda past GOP resistance. He starts today with announcement of warning labels for unpasteurized juices

Washington.—Frustrated by a GOP—controlled Congress that lately has rebuffed him on almost every front, President Clinton plans a blitz of executive orders during the next few weeks, part of a White House strategy to make progress on Clinton's domestic agenda with or without congressional help.

His first unilateral strike will come today. According to a draft of Clinton's weekly radio address obtained by The Times, he plans to announce a few federal regulation requiring warning labels on containers of fruit and vegetable juices that have not been pasteurized. Congress has not fully funded Clinton's $101-million food safety initiative, which among other things would pay for inspectors to ensure that tainted foods from other countries do not reach American consumers.

After that initiative, Clinton will take executive actions later in the week that are intended to improve health care and cut juvenile crime, according to a senior White House official. While not far-reaching, Clinton's proposals are intended to make gradual progress on largely popular social reforms until Republicans in Congress start to cooperate—or lose power after the November elections.

"He's ready to work with Congress if they will work with him. But if they choose partisanship, he will choose progress," said Rahm Emanuel, senior policy advisor to the president. The power to issue executive orders originally was intended to give presidents rule-making authority over the executive branch. But many have used it instead for sweeping public policy decisions.

Fresh from what aides view as a triumphant trip to China, Clinton is reportedly eager to exercise his executive powers to the hilt.

"He always comes back from these trips with a big head of steam, and this trip has been especially remarkable," said Paul Begala, another senior advisor. "This president has a very strong sense of the powers of the presidency, and is willing to use all of them."

Mindful of the recent Supreme Court decision striking down the line-item veto authority Clinton won last term, the president also hopes his executive-order offensive will pressure Congress to enact his legislative priorities, Emanuel said. "I am doing what I can to protect our families from contaminated food," Clinton says in the draft of today's radio address. "But Congress must do its part."

The latest series of executive orders is illustrative of a president who has used his unilateral authority more robustly and frequently than most of his predecessors.

Just last month, after the Senate rejected sweeping anti-smoking legislation, Clinton announced a survey on what cigarette brands teenagers smoke—in hopes of shaming the tobacco companies into getting serious about cutting teen smoking.

On the same day, eager to make health care fixes that Congress has not, he announced new coverage under the Medicare health insurance program for the elderly and charged federal agencies with signing up millions more poor children for Medicaid.

Some in Congress have argued that Clinton's use of executive authority has gone too far, and several outside critics agree. "Clinton is pushing the envelope," says David Schoenbrod, a professor at New York Law School who is an expert in the field. "He's consistently trying to take more power than Congress gives him.".

With most of his executive orders, no matter how incremental, Clinton hopes to prod Congress to pass more ambitious versions. For instance, last year he extended broader family leave provisions for federal employees while pushing Congress to pass legislation to provide similar opportunities for all other workers.

Clinton forewarned the country about his zeal for exercising executive powers in his 1992 acceptance speech at the Democratic National Convention, saying: "President Bush: If you won't use your power to help people, step aside, I will." Of course, other presidents have used executive authority to meet their policy goals. Abraham Lincoln used it to declare the slaves free. Franklin D. Roosevelt used it to help set up the New Deal. Harry S. Truman used it to integrate the armed forces. But Clinton has rewritten the manual on how to use executive powers with gusto, some professors and analysts argue. His formula includes pressing the limits of his regulatory authority, signing executive orders and using other unilateral means to obtain his policy priorities when Congress fails to embrace them.

Clearly, the growing antagonism between the president and Congress makes it likely that Clinton will continue to govern by fiat.

"It depends on the political environment whether presidents push their limits or not," said Marci Hamilton, professor of constitutional law at Cardozo Law School in New York. "Clinton has more incentive to do it because he's stuck with a Congress that is not politically aligned with him." This is all the more true this year, since Congress feels empowered to ignore the president as a result of the legal crisis he faces because of independent counsel Kenneth W. Starr's investigation.

"This president has extraordinary lameduck status," Hamilton added. "There is very little incentive for Congress to go along with him. A president who has a strong working relationship and looks powerful to Congress is less likely to push the limits." But analysts charge that Congress continues to create the problem by ceding so much authority to the president. In one recent example, Congress directed the Federal Communications Commission to subsidize the wiring of schools, libraries and rural health care facilities for high-speed Internet access, but did not provide the money to do so. Now it blames the FCC for passing on costs to telephone companies, which are in turn passing on costs to consumers.

"The bottom line is the Congress gave the administration power to do this. But they'd like to have it both ways," said Jeremy Taylor, "They want to say: 'I voted for universal Internet service, but I did not vote for a tax hike to pay for it.' It's this lack of responsibility on the part of Congress that has transformed American politics."

AMENDMENTS SUBMITTED

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

NICKLES (AND OTHERS) AMENDMENT NO. 3272

Mr. NICKLES (for himself, Mr. INHOFE, and Mr. SESSIONS) proposed an amendment to the bill (S. 2260) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. COMPENSATION OF ATTORNEYS.

(a) CONTROLLED SUBSTANCES ACT.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed by that attorney during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the action is to be prosecuted receives for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

"(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation may not be granted for any calendar month in an amount that exceeds the maximum amount specified in clause (i).".

(b) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(d)(3) of title 18, United States Code, is amended—

(1) by striking "Payment" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), payment"; and

(2) by adding at the end the following:

"(B) MAXIMUM PAYMENTS.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).".

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3273

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert:

Notwithstanding any rights already conferred under the Trademark Act, Section 2 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes," approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052(b)), is amended in subsection (b) by inserting "or of any federally recognized Indian tribe," after "State or municipality,".

DEWINE (AND LEAHY) AMENDMENT NO. 3274

Mr. GREGG (for Mr. DEWINE for himself and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Local Government Law Enforcement Block Grant Act of 1998".

(b) DEFINITIONS.—In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

(2) JUVENILE.—The term "juvenile" means an individual who is 17 years of age or younger.

(3) LAW ENFORCEMENT EXPENDITURES.—The term "law enforcement expenditures" means the current operation expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported to the Bureau of the Census.

(4) PART 1 VIOLENT CRIMES.—The term "part 1 violent crimes" means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

(5) PAYMENT PERIOD.—The term "payment period" means each 1-year period beginning on October 1 of any year in which a grant under this Act is awarded.

(6) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as 1 State and that, for purposes of section 5(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

(7) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a general purpose unit of local government, as determined by the Secretary of Commerce for general statistical purposes, including a parish sheriff in the State of Louisiana;

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaska Native village that carries out substantial governmental duties and powers; and

(C) the Commonwealth of Puerto Rico, in addition to being considered a State, for the purposes set forth in section 2(a)(2).

SEC. 2. PAYMENTS TO LOCAL GOVERNMENTS.

(a) PAYMENT AND USE.—

(1) PAYMENT.—The Director shall pay to each unit of local government that qualifies for a payment under this Act an amount equal to the sum of any amounts allocated to such unit under this Act for each payment period. The Director shall pay such amount from amounts appropriated to carry out this Act.

(2) USE.—Amounts paid to a unit of local government under this section shall be used by the unit for reducing crime and improving

public safety, including but not limited to, 1 or more of the following purposes:

(A)(i) Hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel.

(ii) Paying overtime to presently employed law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel.

(iii) Procuring equipment, technology, and other material directly related to basic law enforcement functions.

(B) Enhancing security measures—

(i) in and around schools; and

(ii) in and around any other facility or location that is considered by the unit of local government to have a special risk for incidents of crime.

(C) Establishing crime prevention programs that may, though not exclusively, involve law enforcement officials and that are intended to discourage, disrupt, or interfere with the commission of criminal activity, including neighborhood watch and citizen patrol programs, sexual assault and domestic violence programs, and programs intended to prevent juvenile crime.

(D) Establishing or supporting drug courts.

(E) Establishing early intervention and prevention programs for juveniles to reduce or eliminate crime.

(F) Enhancing the adjudication process of cases involving violent offenders, including the adjudication process of cases involving violent juvenile offenders.

(G) Enhancing programs under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

(H) Establishing cooperative task forces between adjoining units of local government to work cooperatively to prevent and combat criminal activity, particularly criminal activity that is exacerbated by drug or gang-related involvement.

(I) Establishing a multijurisdictional task force, particularly in rural areas, composed of law enforcement officials representing units of local government, that works with Federal law enforcement officials to prevent and control crime.

(J) Establishing or supporting programs designed to collect, record, retain, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, DNA tests, and ballistics tests.

(3) Definitions.—In this subsection—

(A) the term "violent offender" means a person charged with committing a part I violent crime; and

(B) the term "drug courts" means a program that involves—

(i) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

(ii) the integrated administration of other sanctions and services, which shall include—

(I) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

(II) substance abuse treatment for each participant;

(III) probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

(IV) programmatic, offender management, and aftercare services such as relapse prevention, vocational job training, job placement, and housing placement.

(b) Prohibited Uses.—Notwithstanding any other provision of this Act, a unit of local government may not expend any of the funds provided under this Act to purchase, lease, rent, or otherwise acquire—

(1) tanks or armored personnel carriers;

(2) fixed wing aircraft;

(3) limousines;

(4) real estate;

(5) yachts;

(6) consultants; or

(7) vehicles not primarily used for law enforcement;

unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of funds for such purposes essential to the maintenance of public safety and good order in such unit of local government. With regard to paragraph (2), such circumstances shall be deemed to exist with respect to a unit of local government in a rural State, as defined in section 1501 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb), upon certification by the chief law enforcement officer of the unit of local government that the unit of local government is experiencing an increase in production or cultivation of a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), and that the fixed wing aircraft will be used in the detection, disruption, or abatement of such production or cultivation.

(c) Timing of Payments.—The Director shall pay each unit of local government that has submitted an application under this Act not later than the later of—

(1) 90 days after the date that the amount is available; or

(2) the first day of the payment period if the unit of local government has provided the Director with the assurances required by section 4(c).

(d) Adjustments.—

(1) In general.—Subject to paragraph (2), the Director shall adjust a payment under this Act to a unit of local government to the extent that a prior payment to the unit of local government was more or less than the amount required to be paid.

(2) Considerations.—The Director may increase or decrease under this subsection a payment to a unit of local government only if the Director determines the need for the increase or decrease, or if the unit requests the increase or decrease, not later than 1 year after the end of the payment period for which a payment was made.

(e) Reservation for Adjustment.—The Director may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of local government in a State if the Director considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of local government in the State.

(f) Repayment of Unexpended Amounts.—

(1) Repayment required.—A unit of local government shall repay to the Director, by not later than 27 months after receipt of funds from the Director, any amount that is—

(A) paid to the unit from amounts appropriated under the authority of this section; and

(B) not expended by the unit within 2 years after receipt of such funds from the Director.

(2) Penalty for failure to repay.—If the amount required to be repaid is not repaid, the Director shall reduce payment in future payment periods accordingly.

(3) Deposit of amounts repaid.—Amounts received by the Director as repayments under this subsection shall be deposited in a designated fund for future payments to units of local government. Any amounts remaining in such designated fund after 5 years following the date of enactment of this Act shall be applied to the Federal deficit or, if there is no Federal deficit, to reducing the Federal debt.

(g) Nonsupplanting Requirement.—Funds made available under this Act to units of local government shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of funds made available under this Act, be made available from State or local sources.

(h) Matching Funds.—The Federal share of a grant received under this Act may not exceed 90 percent of the costs of a program or proposal funded under this Act. No funds provided under this Act may be used as matching funds for any other Federal grant program.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization of Appropriations.—There are authorized to be appropriated to carry out this Act $750,000,000 for each of fiscal years 1998 through 2003.

(b) Oversight Accountability and Administration.—Not more than 3 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1998 through 2003 shall be available to the Attorney General for studying the overall effectiveness and efficiency of the provisions of this Act, and assuring compliance with the provisions of this Act and for administrative costs to carry out the purposes of this Act. From the amount described in the preceding sentence, the Bureau of Justice Assistance shall receive such sums as may be necessary for the actual costs of administration and monitoring. The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients. Such sums are to remain available until expended.

(c) Funding Source.—Appropriations for activities authorized in this Act may be made from the Violent Crime Reduction Trust Fund.

(d) Technology Assistance.—Of the amount appropriated under subsection (a) for each of fiscal years 1998 through 2003, the Attorney General shall reserve—

(1) 3 percent for use by the Bureau of Justice Statistics for information and identification technology, including the Integrated Automated Fingerprint Identification System (IAFIS), DNA, and ballistics systems; and

(2) 3 percent for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement.

(e) Availability.—The amounts appropriated under subsection (a) shall remain available until expended.

SEC. 4. QUALIFICATION FOR PAYMENT.

(a) In General.—The Director shall issue regulations establishing procedures under which a unit of local government is required to provide notice to the Director regarding the proposed use of funds made available under this Act.

(b) Program Review.—The Director shall establish a process for the ongoing evaluation of projects developed with funds made available under this Act.

(c) General Requirements for Qualification.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit of local government submits an application to the Director and establishes, to the satisfaction of the Director, that—

(1) the unit of local government has established a local advisory board that—

(A) includes, but is not limited to, a representative from—

(i) the local police department or local sheriff's department;

(ii) the local prosecutor's office;

(iii) the local court system;

(iv) the local public school system; and

(v) a local nonprofit, educational, religious, or community group active in crime prevention or drug use prevention or treatment;

(B) has reviewed the application; and

(C) is designated to make nonbinding recommendations to the unit of local government for the use of funds received under this Act;

(2) the chief executive officer of the State has had not less than 20 days to review and comment on the application prior to submission to the Director;

(3)(A) the unit of local government will establish a trust fund in which the government will deposit all payments received under this Act; and

(B) the unit of local government will use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the unit of local government;

(4) the unit of local government will expend the payments received in accordance with the laws and procedures that are applicable to the expenditure of revenues of the unit of local government;

(5) the unit of local government will use accounting, audit, and fiscal procedures that conform to guidelines, which shall be prescribed by the Director after consultation with the Comptroller General of the United States and as applicable, amounts received under this Act shall be audited in compliance with the Single Audit Act of 1984;

(6) after reasonable notice from the Director or the Comptroller General of the United States to the unit of local government, the unit of local government will make available to the Director and the Comptroller General of the United States, with the right to inspect, records that the Director reasonably requires to review compliance with this Act or that the Comptroller General of the United States reasonably requires to review compliance and operation;

(7) a designated official of the unit of local government shall make reports the Director reasonably requires, in addition to the annual reports required under this Act;

(8) the unit of local government will spend the funds made available under this Act only for the purposes set forth in section 2(a)(2);

(9) the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service if such unit uses funds received under this Act to increase the number of law enforcement officers as described under section 2(a)(2)(A);

(10) the unit of local government—

(A) has an adequate process to assess the impact of any enhancement of a school security measure that is undertaken under section 2(a)(2)(B), or any crime prevention programs that are established under subparagraphs (C) and (E) of section 2(a)(2), on the incidence of crime in the geographic area where the enhancement is undertaken or the program is established;

(B) will conduct such an assessment with respect to each such enhancement or program; and

(C) will submit an annual written assessment report to the Director; and

(11) the unit of local government has established procedures to give members of the Armed Forces who, on or after October 1, 1990, were or are selected for involuntary separation (as described in section 1141 of title 10, United States Code), approved for separation under section 1174a or 1175 of such title, or retired pursuant to the authority provided under section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 10 U.S.C. 1293 note), a suitable preference in the employment of persons as additional law enforcement officers or support personnel using funds made available under this Act. The nature and extent of such employment preference shall be jointly established by the Attorney General and the Secretary of Defense. To the extent practicable, the Director shall endeavor to inform members who were separated between October 1, 1990, and the date of enactment of this Act of their eligibility for the employment preference.

(d) SANCTIONS FOR NONCOMPLIANCE.—

(1) IN GENERAL.—If the Director determines that a unit of local government has not complied substantially with the requirements or regulations prescribed under subsections (a) and (c), the Director shall notify the unit of local government that if the unit of local government does not take corrective action within 60 days of such notice, the Director will withhold additional payments to the unit of local government for the current and future payment periods until the Director is satisfied that the unit of local government—

(A) has taken the appropriate corrective action; and

(B) will comply with the requirements and regulations prescribed under subsections (a) and (c).

(2) NOTICE.—Before giving notice under paragraph (1), the Director shall give the chief executive officer of the unit of local government reasonable notice and an opportunity for comment.

(e) MAINTENANCE OF EFFORT REQUIREMENT.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit's expenditures on law enforcement services (as reported by the Bureau of the Census) for the fiscal year preceding the fiscal year in which the payment period occurs were not less than 90 percent of the unit's expenditures on such services for the second fiscal year preceding the fiscal year in which the payment period occurs.

SEC. 5. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) STATE SET-ASIDE.—

(1) IN GENERAL.—Of the total amounts appropriated for this Act for each payment period, the Director shall allocate for units of local government in each State an amount that bears the same ratio to such total as the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

(2) MINIMUM REQUIREMENT.—Each State shall receive not less than 0.5 percent of the total amounts appropriated under section 3 under this subsection for each payment period.

(3) PROPORTIONAL REDUCTION.—If amounts available to carry out paragraph (2) for any payment period are insufficient to pay in full the total payment that any State is otherwise eligible to receive under paragraph (1) for such period, then the Director shall reduce payments under paragraph (1) for such payment period to the extent of such insufficiency. Reductions under the preceding sentence shall be allocated among the States (other than States whose payment is determined under paragraph (2)) in the same proportions as amounts would be allocated under paragraph (1) without regard to paragraph (2).

(b) LOCAL DISTRIBUTION.—

(1) IN GENERAL.—From the amount reserved for each State under subsection (a), the Director shall allocate among units of local government an amount that bears the same ratio to the aggregate amount of such funds as

(A) the product of—

(i) two-thirds; multiplied by

(ii) the ratio of the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, to the sum of such violent crime in all units of local government in the State; and

(B) the product of—

(i) one-third; multiplied by

(ii) the ratio of the law enforcement expenditure, for such unit of local government for the most recent year for which such data are available, to such expenditures for all units of local government in the State.

(2) EXPENDITURES.—The allocation any unit of local government shall receive under paragraph (1) for a payment period shall not exceed 100 percent of law enforcement expenditures of the unit for such payment period.

(3) REALLOCATION.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (2) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

(4) LOCAL GOVERNMENTS WITH ALLOCATIONS OF LESS THAN $10,000.—If under paragraph (1) a unit of local government is allotted less than $10,000 for the payment period, the amount allotted shall be transferred to the chief executive officer of the State who shall distribute such funds among State police departments that provide law enforcement services to units of local government and units of local government whose allotment is less than such amount in a manner that reduces crime and improves public safety.

(5) SPECIAL RULE.—If a unit of local government in the State has been annexed since the date of the collection of the data used by the Director in making allocations pursuant to this section, the Director shall pay the amount that would have been allocated to such unit of local government to the unit of local government that annexed it.

(c) GRANTS TO INDIAN TRIBES.—Notwithstanding subsections (a) and (b), of the amount appropriated under section 3(a) in each of fiscal years 1998 through 2003, the Attorney General shall reserve 0.3 percent for grants to Indian tribal governments performing law enforcement functions, to be used for the purposes described in section 2. To be eligible to receive a grant with amounts set aside under this subsection, an Indian tribal government shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(d) UNAVAILABILITY AND INACCURACY OF INFORMATION.—

(1) DATA FOR STATES.—For purposes of this section, if data regarding part 1 violent

crimes in any State for the 3 most recent calendar years is unavailable, insufficient, or substantially inaccurate, the Director shall utilize the best available comparable data regarding the number of violent crimes for such years for such State for the purposes of allocation of any funds under this Act.

(2) POSSIBLE INACCURACY OF DATA FOR UNITS OF LOCAL GOVERNMENT.—In addition to the provisions of paragraph (1), if the Director believes that the reported rate of part 1 violent crimes or legal expenditure information for a unit of local government is insufficient or inaccurate, the Director shall—

(A) investigate the methodology used by such unit to determine the accuracy of the submitted data; and

(B) when necessary, use the best available comparable data regarding the number of violent crimes or legal expenditure information for such years for such unit of local government.

SEC. 6. UTILIZATION OF PRIVATE SECTOR.

Funds or a portion of funds allocated under this Act may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 2(a)(2).

SEC. 7. PUBLIC PARTICIPATION.

(a) IN GENERAL.—A unit of local government expending payments under this Act shall hold not less than 1 public hearing on the proposed use of the payment from the Director in relation to its entire budget.

(b) VIEWS.—At the hearing, persons shall be given an opportunity to provide written and oral views to the unit of local government authority responsible for enacting the budget.

(c) TIME AND PLACE.—The unit of local government shall hold the hearing at a time and place that allows and encourages public attendance and participation.

SEC. 8. ADMINISTRATIVE PROVISIONS.

The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782 et seq.), shall apply to this Act and for purposes of this section any reference in such provisions to title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) shall be deemed to be a reference to this Act.

KERREY (AND HAGEL) AMENDMENT NO. 3275

Mr. KERREY (for himself and Mr. HAGEL) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, after line 11, insert the following:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

KERRY (AND OTHERS) AMENDMENT NO. 3276

Mr. KERRY (for himself, Mr. MCCAIN, Mr. KERREY, and Mr. HAGEL) proposed an amendment to the bill, S. 2260, supra; as follows:

Beginning on page 96, strike line 23 and all that follows through line 12 on page 100 and insert the following:

SEC. 405. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

GREGG (AND HOLLINGS) AMENDMENTS NOS. 3277–3279

Mr. GREGG (for himself and Mr. HOLLINGS) proposed three amendments to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3277

TITLE V—INDEPENDENT AGENCIES

FEDERAL COMMUNICATIONS COMMISSION

On page 105, at the end of line 22, insert the following: "*Provided further*, That any two stations of that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video provider (including off-air, cable and satellite distribution)."

AMENDMENT NO. 3278

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available for this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

AMENDMENT NO. 3279

At the end of the bill insert the following new title:

TITLE—

SECTION 1. SHORT TITLE.

This title may be cited as the "National Whale Conservation Fund Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socioeconomic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SEC. 3. NATIONAL WHALE CONSERVATION FUND.

Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

"(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

"(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

"(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

"(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

"(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

"(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1)—

"(I) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section; or

"(II) any amount (or portion thereof) received by the Secretary as a settlement or award for damages in a civil action or other legal proceeding relating to damage of natural resources.

"(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

"(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

"(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

"(B) most warrant, and are most likely to benefit from, research managment, or educational activities that may be funded with amounts made available from the fund.

"(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.".

LIEBERMAN (AND OTHERS) AMENDMENT NO. 3280

Mr. LIEBERMAN (for himself, Mr. Thomas, Mr. Graham, Mr. Lugar, Mr. Bingaman, Mr. Mack, Mr. Durbin, Mr. Inhofe, Mr. Kohl, Mr. Reid, Mr. Breaux, Mr. Brownback, Mr. Craig, and Mr. Smith of Oregon) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6___. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION.

(a) Findings.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will contract by 1.5 percent in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive price pressures on United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.

(11) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States gross domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 11,500,000,000,000 yen in government spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) The American people and the countries of East and Southeast Asia are looking for a demonstration of Japanese leadership and close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking

reform, market deregulation, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of the new Prime Minister of Japan and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

BUMPERS AMENDMENT NO. 3281

Mr. GREGG (for Mr. Bumpers) proposed an amendment the bill, S. 2260, supra; as follows:

At the appropriate place add the following:

SEC. .

(a) Add the following at the end of 8 U.S.C. 1153(b)(5)(C):

(iv) Definition

(A) As used in this subsection the term 'capital' means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a period that payback exceeds 2 months.

(B) Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioner's sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry, prior to approval of conditional lawful permanent resident status.

(b) This section shall not apply to any application filed prior to July 23, 1998.

FEINSTEIN AMENDMENT NO. 3282

Mrs. FEINSTEIN proposed an amendment to amendment No. 3258 proposed by Mr. Smith of Oregon to the bill, S. 2260, supra; as follows:

On page 20, line 19, after the period, insert:

Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2–A visas that they may sponsor at the discretion of the Secretary of Labor.

KENNEDY AMENDMENT NO. 3283

Mr. KENNEDY proposed an amendment to amendment No. 3258 proposed by Mr. Smith of Oregon to the bill, S. 2260, supra; as follows:

At the end of the amendment add the following:

SEC. . PRESIDENTIAL AUTHORITY.

In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles:

Where the procedures for using the program are simple and the least burdensome for growers;

Which assures an adequate labor supply for growers in a predictable and timely manner;

That provides a clear and meaningful first preference for U.S. farm workers and a means for mitigating against the development of a structural dependency on foreign workers in an area or crop;

Which avoids the transfer of costs and risks from businesses to low wage workers;

That encourages longer periods of employment for legal U.S. workers; and

Which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

GREGG (AND HOLLINGS) AMENDMENT NO. 3284

Mr. GREGG (for himself and Mr. Hollings) proposed an amendment to the bill, S. 2260, supra; as follows:

TITLE I—DEPARTMENT OF JUSTICE

On page 2, line 24, insert "forfeited" after the first comma.

On page 45, line 17, insert "13" and insert "286".

On page 5 of the Bill, on lines 8 and 9, strike the following: "National Consortium for First Responders", and insert the following: "National Domestic Preparedness Consortium".

On page 27 of the Bill, on line 10, after the words "unit of local government", insert the words "at the parish level".

On page 29 of the Bill, on line 13 after "Tribal Courts Initiative", insert the following:

", including $400,000 for the establishment of a Sioux Nation Tribal, Supreme Court"

On page 51 of the Bill, after line 9, insert the following:

SEC. 121. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking "or";

(2) in subsection (g)(3), by striking "minimally sufficient" and inserting "State sexual offender"; and

(3) by amending subsection (i) to read as follows:

"(i) Penalty.—A person who is—

"(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

"(2) required to register under a sexual offender registration program in the person's State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

"(3) described in section 4042 (c)(4) of title 18, United States Code and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

"(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law No. 105–119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second of subsequent offense under this subsection, be imprisoned for not more than 10 years.".

On page 51 of the Bill, after line 9, insert the following:

Sec. 123. (a) In General.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

"(b) Training Sessions.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a residential training center. The Director may approve training conducted in not more than 3 separate sessions.".

(b) Conforming Amendment.—Section 200108 (c) of the Police Corps Act (42 U.S.C. 14097 (c)) is amended by striking "16 weeks of".

(c) Reauthorization.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking "$20,000" and all that follows before the period and inserting "$50,000,000 for fiscal year 1999, $70,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $90,000,000 for fiscal year 2002".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

On page 66, line 5, strike the proviso "*Provided further*, That $587,922,000 shall be made available for the Procurement, acquisition and construction account in fiscal year 1999:" and insert in lieu thereof "*Provided further*, That of the $10,500,000 available for the estuarine research reserve system, $2,000,000 shall be made available for the Office of response and restoration and $1,160,000 shall be made available for Navigation services, mapping and charting: *Provided further*, That of funds made available for the National Marine Fisheries Service information collection and analyses, $400,000 shall be made available to continue Atlantic Herring and Mackerel studies: *Provided further*, That of the $8,500,000 provided for the interstate fisheries commissions, $7,000,000 shall be provided to the Atlantic States Marine Fisheries Commission for the Atlantic Coastal Cooperative Fisheries Management Act, $750,000 shall be provided for the Atlantic Coastal Cooperative Statistics Program, and the remainder shall be provided to each of the three interstate fisheries commissions (including the ASMFC): *Provided further*, That within the Procurement, Acquisition and Construction account that $3,000,000 shall be made available for the National Estuarine Research Reserve construction * * * and $5,000,000 shall be made available for Great Bay land acquisition."

On page 72, line 15, after "(3)(L)", replace the brackets with parentheses around the phrase "as identified by the Governor" and on line 16, before the period add a quotation mark.

TITLE V—INDEPENDENT AGENCIES

SMALL BUSINESS ADMINISTRATION

On page 116, line 17, change "1998" to "1999" and "1999" to "2000".

On page 117, line 6, strike "to this appropriation and used for necessary expenses of the agency" and insert in lieu thereof "to and merged with the appropriations for salaries and expenses:"

On page 117, line 12, strike "20 (n)(2)(B)" and insert in lieu thereof "20(d)(1)(B)(ii)".

MOSELEY-BRAUN AMENDMENT NO. 3285

Mr. GREGG (for Ms. Moseley-Braun) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. INTERNET PREDATOR PREVENTION.

(a) Prohibition and Penalties.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"§2261. Publication of identifying information relating to a minor for criminal sexual purposes

"(a) Definition of Identifying Information Relating to a Minor.—In this section, the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

"(b) PROHIBITION AND PENALTIES.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"2261. Publication of identifying information relating to a minor for criminal sexual purposes.".

DODD AMENDMENT NO. 3286

Mr. GREGG (for Mr. DODD) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) REQUIREMENT.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) OBLIGATIONS OF INTERNET ACCESS PROVIDERS.—

"(1) IN GENERAL.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

"(2) DEFINITIONS.—As used in this subsection:

"(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

"(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.".

"(C) SCREENING SOFTWARE.—The term 'screening software' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

SPECTER (AND OTHERS) AMENDMENT NO. 3287

Mr. GREGG (for Mr. SPECTER for himself, Mr. SANTORUM, and Mr. DURBIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert:

SEC. . TRANSFER OF COUNTY.

(a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Philadelphia, and Schuylkill" and inserting "and Philadelphia"; and

(2) in subsection (b) by inserting "Schuylkill," after "Potter,".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

BYRD AMENDMENT NO. 3288

Mr. GREGG (for Mr. BYRD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. ___. REPORT ON KOREAN STEEL SUBSIDIES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the "Trade Representative") shall report to Congress on the Trade Representative's analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative's contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative's contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) STATUS OF INVESTIGATION.—The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

MURKOWSKI (AND STEVENS) AMENDMENT NO. 3289

Mr. GREGG (for Mr. MURKOWSKI for himself and Mr. STEVENS) proposed an amendment to the bill, S. 2260, supra; as follows:

On Page 135, between lines 11 and 12, insert the following:

SEC. 620. Notwithstanding any other provision of law, no funds appropriated or otherwise made available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GMDSS).

KYL AMENDMENTS NOS. 3290-3291

Mr. GREGG (for Mr. KYL) proposed two amendments to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3290

At the appropriate place, insert the following:

SEC. ___. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

"(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.—"; and

(2) in paragraph (4)—

(A) by inserting "(A)" after "(4)";

(B) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009-201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995."; and

(C) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321-165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.".

AMENDMENT NO. 3291

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) DELAYED COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) RECOUPMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) for the processing of machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such combined border crossing cards and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been required to be replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 116(b)(2) of this Act), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

GRAHAM AMENDMENT NO. 3292

Mr. GREGG (for Mr. GRAHAM) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) The purpose of this section is to protect the national security interests of the United States while studying the appropriate level of resources to improve the issuance of visas to legitimate foreign travelers.

(b) Congress recognizes the importance of maintaining quality service by consular officers in the processing of applications for nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(c) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(1) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(2) the adequacy of service to international tourism;

(3) the adequacy of computer and technical support to consular posts; and

(4) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(d)(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to Congress setting forth—

(A) the results of the study conducted under subsection (c); and

(B) the steps the Secretary has taken to implement timeliness standards.

(2) Beginning one year after the date of submission of the report required by paragraph (1), and annually thereafter, the Secretary of State shall submit a report to Congress describing the implementation of timeliness standards during the preceding year.

(e) In this section—

(1) the term "nonimmigrant visas" means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) the term "timeliness standards" means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

LOTT AMENDMENT NO. 3293

Mr. GREGG (for Mr. LOTT) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 86, line 8, insert the following after the colon:

Provided further, That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons;

At the end to title VII, insert the following:

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

(RESCISSION)

Of the total amount of appropriations provided in Acts enacted before this Act for the Interparliamentary Union, $400,000 is rescinded.

BIDEN AMENDMENT NO. 3294

Mr. GREGG (for Mr. BIDEN) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 96, strike lines 3 through 16.

At the appropriate place in the bill, insert the following:

SEC. ____. (a) SHORT TITLE.—This Act may be cited as the "American Competitiveness Act".

(b) REFERENCES IN ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or a repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(c) Congress makes the following findings:

(1) American companies today are engaged in fierce competition in global markets.

(2) Companies across America are faced with severe high skill labor shortages that threaten their competitiveness.

(3) The National Software Alliance, a consortium of concerned government, industry, and academic leaders that includes the United States Army, Navy, and Air Force, has concluded that "The supply of computer science graduates is far short of the number needed by industry.". The Alliance concludes that the current severe understaffing could lead to inflation and lower productivity.

(4) The Department of Labor projects that the United States economy will produce more than 130,000 information technology jobs in each of the next 10 years, for a total of more than 1,300,000.

(5) Between 1986 and 1995, the number of bachelor's degrees awarded in computer science declined by 42 percent. Therefore, any short-term increases in enrollment may only return the United States to the 1986 level of graduates and take several years to produce these additional graduates.

(6) A study conducted by Virginia Tech for the Information Technology Association of America estimates that there are more than 340,000 unfilled positions for highly skilled information technology workers in American companies.

(7) The Hudson Institute estimates that the unaddressed shortage of skilled workers throughout the United States economy will result in a 5-percent drop in the growth rate of GDP. That translates into approximately $200,000,000,000 in lost output, nearly $1,000 for every American.

(8) It is necessary to deal with the current situation with both short-term and long-term measures.

(9) In fiscal year 1997, United States companies and universities reached the cap of 65,000 on H–1B temporary visas a month before the end of the fiscal year. In fiscal year 1998 the cap is expected to be reached as early as May if Congress takes no action. And it will be hit earlier each year until backlogs develop of such a magnitude as to prevent United States companies and researchers from having any timely access to skilled foreign-born professionals.

(10) It is vital that more American young people be encouraged and equipped to enter technical fields, such as mathematics, engineering, and computer science.

(11) If American companies cannot find home-grown talent, and if they cannot bring talent to this country, a large number are likely to move key operations overseas, sending those and related American jobs with them.

(12) Inaction in these areas will carry significant consequences for the future of American competitiveness around the world and will seriously undermine efforts to create and keep jobs in the United States.

(d) ESTABLISHMENT OF H1–C NONIMMIGRANT CATEGORY.—

(1) IN GENERAL.—Section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended—

(A) by inserting "and other than services described in clause (c)" after "subparagraph (O) or (P)"; and

(B) by inserting after "section 212(n)(1)" the following: ", or (c) who is coming temporarily to the United States to perform labor as a health care worker, other than a physician, in a specialty occupation described in section 214(i)(1), who meets the requirements of the occupation specified in section 214(i)(2), who qualifies for the exemption from the grounds of inadmissibility described in section 212(a)(5)(C), and with respect to whom the Attorney General certifies that the intending employer has filed with the Attorney General an application under section 212(n)(1).".

(2) CONFORMING AMENDMENTS.—

(A) Section 212(n)(1) is amended by inserting "or (c)" after "section 101(a)(15)(H)(i)(b)" each place it appears.

(B) Section 214(i) is amended by inserting "or (c)" after "section 101(a)(15)(H)(i)(b)" each place it appears.

(3) TRANSITION RULE.—Any petition filed prior to the date of enactment of this Act, for issuance of a visa under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act on behalf of an alien described in the amendment made by paragraph (1)(B) shall, on and after that date, be treated as a petition filed under section 101(a)(15)(H)(i)(c) of that Act, as added by paragraph (1).

(e) ANNUAL CEILINGS FOR H1–B AND H1–C WORKERS.—

(1) AMENDMENT OF THE INA.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended to read as follows:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year—

"(A) under section 101(a)(15)(H)(i)(b)—

"(i) for each of fiscal years 1992 through 1997, and for any other fiscal year for which this subsection does not specify a higher ceiling, may not exceed 65,000,

"(ii) for fiscal year 1998, may not exceed 95,000,

"(iii) for fiscal year 1999, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, and

"(iv) for fiscal year 2000, and each applicable fiscal year thereafter through fiscal year 2002, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, plus the number of unused visas under subparagraph (C) for the fiscal year preceding the applicable fiscal year;

"(B) under section 101(a)(15)(H)(ii)(b), beginning with fiscal year 1992, may not exceed 66,000; or

"(C) under section 101(a)(15)(H)(i)(c), beginning with fiscal year 1999, may not exceed 10,000.

For purposes of determining the ceiling under subparagraph (A) (iii) and (iv), not more than 20,000 of the unused visas under subparagraph (B) may be taken into account for any fiscal year.".

(2) TRANSITION PROCEDURES.—Any visa issued or nonimmigrant status otherwise accorded to any alien under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act pursuant to a petition filed during fiscal year 1998 but approved on or after October 1, 1998, shall be counted against the applicable ceiling in section 214(g)(1) of that Act for fiscal year 1998 (as amended by paragraph (1) of this subsection), except that, in the case where counting the visa or the other granting of status would cause the applicable ceiling for fiscal year 1998 to be exceeded, the visa or grant of status shall be counted against the applicable ceiling for fiscal year 1999.

(f) DEGREES IN MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING.—Subpart 4 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) is amended in section 415A(b) (20 U.S.C. 1070c(b)), by adding at the end the following new paragraph:

"(3) MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING SCHOLARSHIPS.—It shall be a permissible use of the funds made available to a State under this section for the State to establish a scholarship program for eligible students who demonstrate financial need and who seek to enter a program of study leading to a degree in mathematics, computer science, or engineering.".

(g) INCREASED PENALTIES FOR VIOLATIONS OF H1–B OR H1–C PROGRAM.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) by striking "a failure to meet" and all that follows through "an application—" and inserting "a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application—"; and

(2) in clause (i), by striking "$1,000" and inserting "$5,000".

(h) SPOT INSPECTIONS DURING PROBATIONARY PERIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

"(D) The Secretary of Labor may, on a case-by-case basis, subject an employer to random inspections for a period of up to five years beginning on the date that such employer is found by the Secretary of Labor to have engaged in a willful failure to meet a condition of subparagraph (A), or a misrepresentation of material fact in an application.".

(i) LAYOFF PROTECTION FOR UNITED STATES WORKERS.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (b), is further amended by adding at the end the following:

"(F)(i) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application, in the course of which the employer has replaced a United States worker with a nonimmigrant described in section 101(a)(15)(H)(i) (b) or (c) within the 6-month period prior to, or within 90 days following, the filing of the application—

"(I) the Secretary shall notify the Attorney General of such finding, and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $25,000 per violation) as the Secretary determines to be appropriate; and

"(II) the Attorney General shall not approve petitions filed with respect to the employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

"(ii) For purposes of this subparagraph:

"(I) The term 'replace' means the employment of the nonimmigrant at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

"(II) The term 'laid off', with respect to an individual, means the individual's loss of employment other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant, contract, or other agreement. The term 'laid off' does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at the equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(III) The term 'United States worker' means—

"(aa) a citizen or national of the United States;

"(bb) an alien who is lawfully admitted for permanent residence; or

"(cc) an alien authorized to be employed by this Act or by the Attorney General.".

(j) PROHIBITION OF USE OF H–1B VISAS BY EMPLOYERS ASSISTING IN INDIA'S NUCLEAR WEAPONS PROGRAM.—Section 214(c) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) The Attorney General shall not approve a petition under section 101(a)(15)(H)(i)(b) for any employer that has knowledge or reasonable cause to know that the employer is providing material assistance for the development of nuclear weapons in India or any other country.".

(k) EXPEDITED REVIEWS AND DECISIONS.—Section 214(c)(2)(C) (8 U.S.C. 1184(c)(2)(C)) is amended by inserting "or section 101(a)(15)(H)(i)(b)" after "section 101(a)(15)(L)".

(l) DETERMINATIONS ON LABOR CONDITION APPLICATIONS TO BE MADE BY ATTORNEY GENERAL.—

(1) IN GENERAL.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by striking "with respect to whom" and all that follows through "with the Secretary" and inserting "with respect to whom the Attorney General determines that the intending employer has filed with the Attorney General".

(2) CONFORMING AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)(1)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking "Secretary of Labor" and inserting "Attorney General";

(ii) in the sixth and eighth sentences, by inserting "of Labor" after "Secretary" each place it appears;

(iii) in the ninth sentence, by striking "Secretary of Labor" and inserting "Attorney General";

(iv) by amending the tenth sentence to read as follows: "Unless the Attorney General finds that the application is incomplete or obviously inaccurate, the Attorney General shall provide the certification described in section 101(a)(15)(H)(i)(b) and adjudicate the nonimmigrant visa petition."; and

(v) by inserting in full measure margin after subparagraph (D) the following new sentence: "Such application shall be filed with the employer's petition for a nonimmigrant visa for the alien, and the Attorney General shall transmit a copy of such application to the Secretary of Labor."; and

(B) in the first sentence of paragraph (2)(A), by striking "Secretary" and inserting "Secretary of Labor".

(3) COSTS.—Any additional spending made necessary by reason of the enactment of the amendments made by this subsection shall be effective only to the extent and in the amounts provided in an appropriations Act.

(m) PREVAILING WAGE CONSIDERATIONS.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following new subsection:

"(i)(1) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of section 212(n)(1)(A)(i)(II) and section 212(a)(5)(A) in the case of an employee of—

"(A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, or

"(B) a nonprofit or Federal research institute or agency,

the prevailing wage level shall only take into account employees at such institutions, entities, and agencies in the area of employment.

"(2) With respect to a professional athlete (as defined in section 212(a)(5)(A)(iii)(II)) when the job opportunity is covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and be considered the prevailing wage.

"(3) To determine the prevailing wage, employers may use either government or nongovernment published surveys, including industry, region, or statewide wage surveys, to determine the prevailing wage, which shall be considered correct and valid if the survey was conducted in accordance with generally accepted industry standards and the employer has maintained a copy of the survey information.".

(n) POSTING REQUIREMENT.—Section 212(n)(1)(C)(ii) (8 U.S.C. 1182(n)(1)(C)(ii)) is amended to read as follows:

"(ii) if there is no such bargaining representative, has provided notice of filing in the occupational classification through such methods as physical posting in a conspicuous location, or electronic posting through an internal job bank, or electronic notification available to employees in the occupational classification.".

(o) Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following:

"(3) Using data from petitions for visas issued under section 101(a)(15)(H)(i)(b), the Attorney General shall annually submit the following reports to Congress:

"(A) Quarterly reports on the numbers of aliens who were provided nonimmigrant status under section 101(a)(15)(H)(i)(b) during the previous quarter and who were subject to the numerical ceiling for the fiscal year established under section 214(g)(1).

"(B) Annual reports on the occupations and compensation of aliens provided nonimmigrant status under such section during the previous fiscal year.".

(p) STUDY.—The National Science Foundation shall oversee a study involving the participation of individuals representing a variety of points of view, including representatives from academia, government, business, and other appropriate organizations, to assess the labor market needs for workers with high technology skills during the 10-year period beginning on the date of enactment of this Act. The study shall focus on the following issues:

(1) The future training and education needs of the high-technology sector over that 10-year period, including projected job growth for high-technology issues.

(2) Future training and education needs of United States students to ensure that their skills, at various levels, are matched to the needs of the high technology and information technology sector over that 10-year period.

(3) An analysis of progress made by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer, and engineering since 1998.

(4) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(5) The following additional issues:

(A) The need by the high-technology sector for foreign workers with specific skills.

(B) The potential benefits gained by the universities, employers, and economy of the United States from the entry of skilled professionals in the fields of science and engineering.

(C) The extent to which globalization has increased since 1998.

(D) The needs of the high-technology sector to localize United States products and services for export purposes in light of the increasing globalization of the United States and world economy.

(E) An examination of the amount and trend of high technology work that is outsourced from the United States to foreign countries.

(q) REPORT.—Not later than October 1, 2000, the National Science Foundation shall submit a report containing the results of the study described in subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate.

(r) AVAILABILITY OF FUNDS.—Funds available to the National Science Foundation shall be made available to carry out this section.

(s) SPECIAL RULES.—Section 202(a) (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

"(5) RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

"(A) EMPLOYMENT-BASED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION IF ADDITIONAL VISAS AVAILABLE.—If the total number of visas available under paragraph (1), (2), (3), (4), or (5) of section 203(b) for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

"(B) LIMITING FALL ACROSS FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(b) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(b) consistent with subsection (e) (determined without regard to this paragraph), in applying subsection (e) all visas shall be deemed to have been required for the classes of aliens specified in section 203(b).".

(t) CONFORMING AMENDMENTS.—

(1) Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is amended by striking "paragraphs (3) and (4)" and inserting "paragraphs (3), (4), and (5)".

(2) Section 202(e)(3) (8 U.S.C. 1152(e)(3)) is amended by striking "the proportion of the visa numbers" and inserting "except as provided in subsection (a)(5), the proportion of the visa numbers".

(u) ONE-TIME PROTECTION UNDER PER COUNTRY CEILING.—Notwithstanding section 214(g)(4) of the Immigration and Nationality Act, any alien who—

(1) as of the date of enactment of this Act is a nonimmigrant described in section 101(a)(15)(H)(i) of that Act;

(2) is the beneficiary of a petition filed under section 204(a) for a preference status under paragraph (1), (2), or (3) of section 203(b); and

(3) would be subject to the per country limitations applicable to immigrants under those paragraphs but for this subsection,

may apply for and the Attorney General may grant an extension of such nonimmigrant status until the alien's application for adjustment of status has been processed and a decision made thereon.

(v) Section 212 (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(p) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities, as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) or other nonprofit entity and is made for services conducted for the benefit of that institution or entity.".

(w) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking "or" at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

"(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

"(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

"(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.".

(x) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)(i)", and

(2) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)".

(y) Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting ", or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph" after "a material fact in an application"; and

(2) by adding at the end the following new subparagraph:

"(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

"(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

"(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.".

(z) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

(2) by adding at the end the following new subsection:

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(aa) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

(bb) IN GENERAL.—Subject to subsection (dd), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of Labor shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(cc) GRANTS.—Subject to subsection (dd), the Secretary of Labor shall award grants to carry out the programs to—

(1) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law; or

(2) regional consortia of councils or entities described in paragraph (1).

(dd) LIMITATION.—The Secretary of Labor shall establish programs under subsection (bb), including awarding grants to carry out such programs under subsection (cc), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

KOHL AMENDMENT NO. 3295

Mr. GREGG (for Mr. KOHL) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES

SEC. ___. (a) AUTHORITY TO CONDUCT BACKGROUND CHECKS.—

(1) IN GENERAL.—A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) SUBMISSION OF REQUESTS.—A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) SEARCH AND EXCHANGE OF RECORDS.—Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) USE OF INFORMATION.—Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section to cover the cost of conducting the search and providing the records.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) CRIMINAL PENALTY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) IMMUNITY FROM LIABILITY.—A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term "home health care agency" means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term "nursing facility" means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.

GORTON (AND OTHERS) AMENDMENT NO. 3296

Mr. GREGG (for Mr. GORTON for himself, Mr. HATCH, Mrs. MURRAY, Mr. SESSIONS, Mr. ABRAHAM, Mr. KYL, and Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with, any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff. *Provided, however*, that this section shall not: (1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to 15 U.S.C. sections 6201-6212, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

LANDRIEU AMENDMENT NO. 3297

Mr. GREGG (for Ms. LANDRIEU) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. EXCEPTION TO GROUNDS OF REMOVAL.

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

"(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 201(b)(2)(A)(i) as an orphan described in section 101(b)(1)(F)," unless that alien has knowingly declined U.S. citizenship.

D'AMATO AMENDMENT NO. 3298

Mr. GREGG (for Mr. D'AMATO) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. 1___. PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS.

Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal, State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

BINGAMAN AMENDMENT NO. 3299

Mr. GREGG (for Mr. BINGAMAN) proposed an amendment to the bill, S. 2260, supra; as follows:

In the appropriate place, insert the following: "*Provided further*, That the Border Patrol is authorized to continue helicopter procurement while developing a report on the cost and capabilities of a mixed fleet of manned and unmanned aerial vehicles, helicopters, and fixed-winged aircraft."

REED AMENDMENT NO. 3300

Mr. GREGG (for Mr. REED) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALS OF LIBERIA.

(a) CONTINUATION OF STATUS.—Notwithstanding any other provision of law, any alien described in subsection (b) who, as of the date of enactment of this Act, is registered for temporary protected status in the United States under section 244(c)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(A)(iv)), or any predecessor law, order, or regulation, shall be entitled to maintain that status through September 30, 1999.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is a national of Liberia or an alien who has no nationality and who last habitually resided in Liberia.

LEAHY AMENDMENT NO. 3301

Mr. GREGG (for Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM.

(a) ADJUSTMENT OF STATUS

(1) EXEMPTION FROM NUMERICAL LIMITATIONS.—The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(2) LIMITATION ON FEES.—

(A) IN GENERAL.—Any alien described in subsection (b) who applies for adjustment of status to that of an alien lawfully admitted for permanent residence under section 209(b) of that Act shall not be required to pay any fee for employment authorization or for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or adjustment of status.

(B) EFFECTIVE DATE.—This paragraph shall apply to applications for employment authorization or adjustment of status filed before, on, or after the date of enactment of this Act.

(b) COVERED ALIENS.—An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

HATCH AMENDMENT NO. 3302

Mr. GREGG (for Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 9, beginning on line 15, strike "Attorneys." and insert the following: "Attorneys: *Provided further*, That of the total amount appropriated, not to exceed $3,000,000 shall remain available to hire additional assistant U.S. Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area of the United States) which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended."

KERREY AMENDMENT NO. 3303

Mr. GREGG (for Mr. KERREY for himself, Mr. DORGAN, Mr. ROCKEFELLER, Mr. JEFFORDS, Ms. SNOWE, Mr. WELLSTONE, and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under "DEPARTMENT OF COMMERCE" is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under "DEPARTMENT OF COMMERCE" except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION" and under the heading "INFORMATION INFRASTRUCTURE GRANTS".

(B) Amounts appropriated under any heading under "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY".

(C) Amounts appropriated under any heading under "NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION".

(c)(1) Notwithstanding any other provision of this Act, the second proviso under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

MOSELEY-BRAUN AMENDMENT NO. 3304

Mr. GREGG (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. AGRICULTURAL EXPORT CONTROLS.

The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

"SEC. 208. AGRICULTURAL CONTROLS.

"(a) IN GENERAL.—

"(1) REPORT TO CONGRESS.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

"(2) APPLICATION OF PARAGRAPH (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

"(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

"(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

"(b) Joint Resolution.—

"(1) In general.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on ________.', with the blank space being filled with the appropriate date.

"(2) Introduction.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) Referral.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

"(4) Discharge of committee.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) Consideration in senate and house of representatives.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(6) Passage by 1 house.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(c) Computation of Time.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.".

HUTCHISON AMENDMENT NO. 3305

Mr. GREGG (for Mrs. Hutchison) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 101, line 17, insert after the period "*Provided*, That of this amount, $1,400,000 shall be available for Student Incentive Payments."

DORGAN (AND CONRAD) AMENDMENT NO. 3306

Mr. GREGG (for Mr. Dorgan for himself and Mr. Conrad) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. ___. INVESTIGATION OF PRACTICES OF CANADIAN WHEAT BOARD.

(a) In General.—Notwithstanding any other provision of law, not less than 4 of the new employees authorized in fiscal years 1998 and 1999 for the Office of the United States Trade Representative shall work on investigating pricing practices of the Canadian Wheat Board and determining whether the United States spring wheat, barley, or durum wheat industries have suffered injury as a result of those practices.

(b) Scope of Investigation.—The purpose of the investigation described in subsection (a) shall be to determine whether the practices of the Canadian Wheat Board constitute violations of the antidumping or countervailing duty provisions of title VII of the Tariff Act of 1930 or the provisions of title II or III of the Trade Act of 1974. The investigation shall include—

(1) a determination as to whether the United States durum wheat industry, spring wheat industry, or barley industry is being materially injured or is threatened with material injury as a result of the practices of the Canadian Wheat Board;

(2) a determination as to whether the acts, policies, or practices of the Canadian Wheat Board—

(A) violate, or are inconsistent with, the provisions of, or otherwise deny benefits to the United States under, any trade agreement, or

(B) are unjustifiable or burden or restrict United States commerce;

(3) a review of home market price and cost of acquisition of Canadian grain;

(4) a determination as to whether Canadian grain is being imported into the United States in sufficient quantities to be a substantial cause of serious injury or threat of serious injury to the United States spring wheat, barley, or durum wheat industries; and

(5) a determination as to whether there is harmonization in the requirements for cross-border transportation of grain between Canada and the United States.

(c) Action Based On Results of the Investigation.—

(1) In general.—If, based on the investigation conducted pursuant to this section, there is an affirmative determination under subsection (b) with respect to any act, policy, or practice of the Canadian Wheat Board, appropriate action shall be initiated under title VII of the Tariff Act of 1930, or title II or III of the Trade Act of 1974.

(2) Correction of harmonization problems.—If, based on the investigation conducted pursuant to this section, there is a determination that there is no harmonization for cross-border grain transportation between Canada and the United States, the United States Trade Representative shall report to Congress regarding what action should be taken in order to harmonize cross-border transportation requirements.

(d) Report.—Not later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) Definition of Grain.—For purposes of this section, the terms "Canadian grain" and "grain" include spring wheat, durum wheat, and barley.

TORRICELLI AMENDMENT NO. 3307

Mr. GREGG (for Mr. Torricelli) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

Sec. 620. (a) In General.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

"(c) FM Translator Stations.—(1) It may be the policy of the Commission, in any case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a community in such county) that has a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

"(A) authority for the origination of unlimited local programming through the station on a primary basis but only if the licensee abides in such programming by all rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations; and

"(B) authority to operate the station (either omindirectionally or directionally, with facilities equivalent to those of a station operating with maximum effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if—

"(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

"(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference as required by rules and regulations of the Commission applicable to full service FM stations; and

"(iii) the station complies with any other rules, regulations, and policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

"(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)—

"(A) may accept or receive any amount of theoretical interference from any full service FM station;

"(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

"(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

"(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

"(E) may utilize a directional antennae in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

"(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

"(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

"(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under clause (i).".

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows:

"SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.".

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) or (B) of section 331(c)(1) of the Communications Act of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision not to renew the license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license not to be renewed.

ABRAHAM (AND LEVIN) AMENDMENT NO. 3308

Mr. GREGG (for Mr. ABRAHAM for himself and Mr. LEVIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

BROWNBACK (AND INHOFE) AMENDMENT NO. 3309

Mr. GREGG (for Mr. BROWNBACK for himself and Mr. INHOFE) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 62, lines 3 through 16, strike "That if the standard build-out" and all that follows through "covered by those costs." and insert the following: "That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving, furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.".

HATCH AMENDMENT NO. 3310

Mr. GREGG (for Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, line 9, add a new section 121: SEC. 121. For fiscal year 1999 and thereafter, for any report which is required or authorized by this act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns mattes within the jurisdiction of the Committee on the Judiciary of the Senate of of the House of Representatives, a copy of such report shall be submitted to the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently as the report is submitted to the Committee on Appropriations of the Senate or of the House of Representatives."

BIDEN (AND OTHERS) AMENDMENT NO. 3311

Mr. GREGG (for Mr. BIDEN for himself, Mr. ABRAHAM, Mr. KENNEDY, Mr. WELLSTONE, and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

At the end of the bill, add the following:

TITLE ___—VAWA RESTORATION ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the "VAWA Restoration Act".

SEC. ___02. REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL:—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by inserting "of an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" after "The status";

(2) in subsection (a), by adding at the end the following: "An alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) who files for adjustment of status under this subsection shall pay a $1,000 fee, subject to the provisions of section 245(k).";

(3) in subsection (c)(2), by striking "201(b) or a special" and inserting "201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special";

(4) in subsection (c)(4), by striking "201(b))" and inserting "201(b) or an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))";

(5) in subsection (c)(5), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))" after "an alien"; and

(6) in subsection (c)(8), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)" after "any alien".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for adjustment of status pending on or after the date of the enactment of this title.

SEC. ___03. REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—

(1) SPECIAL RULE FOR CALCULATING CONTINUOUS PERIOD FOR BATTERED SPOUSE OR CHILD.—Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

"(1) TERMINATION OF CONTINUOUS PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(B) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.".

(2) EXEMPTION FROM ANNUAL LIMITATION ON CANCELLATION OF REMOVAL FOR BATTERED SPOUSE OR CHILD.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

"(C) Aliens whose removal is canceled under subsection (b)(2).".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—

(1) IN GENERAL.—Subparagraph (C) of section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(A) by amending the subparagraph heading to read as follows:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—"; and

(B) in clause (i)—

(i) by striking "or" at the end of subclause (IV);

(ii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iii) by adding at the end the following:

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).".

(2) Effective date.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. ___04. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) Removal Proceedings.—

(1) In general.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

"(iv) Special rule for battered spouses and children.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen."

(2) Effective date.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) Deportation Proceedings.—

(1) In general.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) Applicability.—Paragraph (1) shall apply to motions filed by aliens who—

(A) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.); or

(ii) section ___03 of this title.

DURBIN (AND OTHERS) AMENDMENT NO. 3312

Mr. GREGG (for Mr. Durbin for himself, Ms. Collins, Mr. Reid, Mr. Kohl, Mr. Harkin, Mr. Cleland, Ms. Mikulski, and Mr. Jeffords) proposed an amendment to the bill, S. 2260, supra; as follows:

On page ___, after line ___, insert the following:

Sec. ___. (a) In General.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting ", including older women" after "combat violent crimes against women"; and

(ii) by inserting ", including older women" before the period; and

(B) in subsection (b)—

(i) in the matter before subparagraph (A), by inserting ", including older women" after "against women";

(ii) in paragraph (6), by striking "and' after the semicolon;

(iii) in paragraph (7), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(8) developing, through the oversight of the State administrator, a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.";

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1), by inserting "and elder domestic abuse experts" after "victim services programs"; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—

(A) in paragraph (7), by striking "and' after the semicolon;

(B) in paragraph (8), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(9) the term 'elder' has the same meaning as the term 'older individual' in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

"(10) the term 'domestic abuse' means an act or threat of violence, not including an act of self-defense, committed by—

"(A) a current or former spouse of the victim;

"(B) a person related by blood or marriage to the victim;

"(C) a person who is cohabitating with or has cohabitated with the victim;

"(D) a person with whom the victim shares a child in common;

"(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

"(F) a person similarly situated to a spouse of the victim, or by any other person;

if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.".

(b) Effective Date.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

BROWNBACK AMENDMENT NO. 3313

Mr. GREGG (for Mr. Brownback) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 72, between lines 16 and 17, insert the following:

Sec. 209. (a) In General.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) Membership of joint board.—

"(A) In General.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

"(i) 3 shall be members of the Federal Communications Commission;

"(ii) 1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

"(iii) 5 shall be State utility commissioners nominated by the national organization of State utility commissions, with at least 2 such commissioners being commissioners of commissions of rural States.

"(B) Co-chairmen.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the 5 members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the cochairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

"(C) Rural state defined.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.".

(b) FCC To Adopt Procedures Promptly.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

(c) Reconstituted Joint Board To Consider Universal Service.—The Federal-State Joint Board established under section 254(a)(1) of the Communications Act of 1934 (47 U.S.C. 254(a)(1)) shall not take action on the Commission's Order and Order on Reconsideration adopted July 13, 1998, (CC Docket No. 96-45; FCC 98–160) relating to universal service until—

(1) the Commission has adopted rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)); and

(2) the co-chairman of the Joint Board have been chosen under that section.

TORRICELLI AMENDMENT NO. 3314

Mr. GREGG (for Mr. Torricelli) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2 . NONPOINT POLLUTION CONTROL.

(a) In General.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

LAUTENBERG (AND TORRICELLI) AMENDMENT NO. 3315

Mr. GREGG (for Mr. LAUTENBERG for himself and Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 34, line 20, insert the following: strike "65,960,000" and insert "66,960,000".

On page 34, line 19, insert the following: strike "$119,960,000" and insert "$120,960,000".

FEINGOLD AMENDMENT NO. 3316

Mr. GREGG (for Mr. FEINGOLD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. CHILD EXPLOITATION SENTENCING ENHANCEMENT.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and

familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

STEVENS AMENDMENT NO. 3317

Mr. GREGG (for Mr. STEVENS) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 128, line 9, strike "(1)";

On page 129, line 3, strike "(2)" and insert in lieu therof "(b)"; on line 6, strike "paragraph (1)" and insert in lieu thereof "subsection (a)"; on line 14, strike "(3)" and insert in lieu therof "(c)"; strike "subsection" and insert in lieu thereof "section".

On page 129, strike all of the subsection "(b)" beginning on line 18 to the end of the subsection on page 130.

LAUTENBERG (AND TORRICELLI) AMENDMENT NO. 3318

Mr. GREGG (for Mr. LAUTENBERG for himself and Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 9, line 15, strike the period and insert the following: ": *Provided further*, That $2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which $1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania and $800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.".

GRAMS (AND HELMS) AMENDMENTS NOS. 3319–3321

Mr. GREGG (for Mr. GRAMS for himself and Mr. HELMS) proposed three amendments to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3319

On page 100, between lines 18 and 19, insert the following:

SEC. 407. Before any additional disbursement of funds may be made pursuant to the sixth proviso under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (as contained in Public Law 105–119)—

(1) the Secretary of State shall, in lieu of the certification required under such sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the reform budget of $2,533,000,000 for the biennium 1998–1999; and

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.

AMENDMENT NO. 3320

At the appropriate place in Title IV, insert the following new sections:

SEC. . BAN ON EXTRADITION OR TRANSFER OF U.S. CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) None of the funds appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term "International Criminal Court" means the court established by agreement concluded in Rome on July 17, 1998.

AMENDMENT NO. 3321

On page 100, between lines 18 and 19, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998, or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization that is used to provide support to the International Criminal Court described in paragraph (1),

unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

DURBIN AMENDMENT NO. 3322

Mr. GREGG (for Mr. DURBIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the end of the bill, add the following:

TITLE —NURSING RELIEF FOR DISADVANTAGED AREAS

SEC. ___1. SHORT TITLE.

This title may be cited as the "Nursing Relief for Disadvantaged Areas Act of 1998".

SEC. ___2. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS DURING 4-YEAR PERIOD.

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "; or" at the end and inserting the following: ", or (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or".

(b) REQUIREMENTS.—Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

"(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(c), with respect to alien who is coming to the United States to perform nursing services for a facility, are that the alien—

"(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

"(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

"(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

"(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(c), with respect to a facility for which an alien will perform services, is an attestation as to the following:

"(i) The facility meets all the requirements of paragraph (6).

"(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

"(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

"(iv) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

"(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

"(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(c), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to the registered nurses employed at the facility through posting in conspicuous locations.

"(vii) The facility will not, at any time, employ a number of aliens issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c) that exceeds 33 percent of the total number of registered nurses employed by the facility.

"(viii) The facility will not, with respect to any alien issued a visa or otherwise provided non-immigrant status under section 101(a)(15)(H)(i)(c)—

"(I) authorize the alien to perform nursing services at any worksite other than a worksite controlled by the facility; or

"(II) transfer the place of employment of the alien from one worksite to another.

Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of the Health Professional Shortage Area Nursing Relief Act of 1998. A copy of the attestation shall be provided, within 30 days of the date of filing, to registered nurses employed at the facility on the date of the filing.

"(B) For purposes of subparagraph (A)(iv), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

"(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

"(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

"(iv) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv). Subparagraph (A)(iv)'s requirement shall be satisfied by a facility taking any of the steps listed in this subparagraph.

"(C) Subject to subparagraph (E), an attestation under subparagraph (A)—

"(i) shall expire on the date that is the later of—

"(I) the end of the one-year period beginning of the date of its filing with the Secretary of Labor; or

"(II) the end of the period of admission under section 101(a)(15)(H)(i)(c) of the last alien with respect to whose admission it was applied (in accordance with clause (ii)); and

"(ii) shall apply to petitions filed during the one-year period beginning on the date of its filing with the Secretary of Labor if the facility states in each such petition that it continues to comply with the conditions in the attestation.

"(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

"(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(c) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

"(ii) The Secretary of Labor shall establish a process, including reasonable time limits, for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to. Subject to the time limits established under this clause, this subparagraph shall apply regardless of whether an attestation is expired or unexpired at the time a complaint is filed.

"(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

"(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such an administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

"(v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing that, a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties under this subsection, but not exceeding $250.

"(ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

"(iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

"(3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

"(4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of petitions granted under section 101(a)(15)(H)(i)(c) for each State in each fiscal year shall not exceed the following:

"(A) For States with populations of less than 9,000,000 based upon the 1990 decennial census of population, 25 petitions.

"(B) For States with populations of 9,000,000 or more, based upon the 1990 decennial census of population, 50 petitions.

"(C) If the total number of visas available under this paragraph for a calendar quarter exceeds the number of qualified nonimmigrants who may be issued such visas, the visas made available under this paragraph shall be issued without regard to the numerical limitations under subparagraphs (A) and (B) of this paragraph during the remainder of the calendar quarter.

"(5) A facility that has filed a petition under section 101(a)(15)(H)(I)(c) to employ a nonimmigrant to perform nursing services for the facility—

"(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

"(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

"(C) shall not interfere with the right of the nonimmigrant to join or organize a union.

"(6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term 'facility' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements:

"(A) As of March 31, 1997, the hospital was located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

"(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

"(i) the hospital has not less than 190 licensed acute care beds;

"(ii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital's acute care inpatient days for such period; and

"(iii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital's acute care inpatient days for such period.".

(c) REPEALER.—Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and Human Services) and the Attorney General shall promulgate final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the 4-year period beginning on the date that interim or final regulation are first promulgated under subsection (d).

SEC. 3. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE.

Not later than the last day of the 4-year period described in section 2(e), the Secretary of Health and Human Services and the

Secretary of Labor shall jointly submit to Congress recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6) of the Immigration and Nationality Act (as amended by section ___2(b)) on nonimmigrant registered nurses by providing for a permanent solution to the shortage of registered nurses who are United States citizens or aliens lawfully admitted for permanent residence.

(2) A method of enforcing the requirements imposed on facilities under sections 101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended by section ___2) that would be more effective than the process described in section 212(m)(2)(E) of such Act (as so amended).

FRIST AMENDMENT NO. 3323

Mr. GREGG (for Mr. FRIST) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3___. SIGNAGE ON HIGHWAYS WITH RESPECT TO THE NATIONAL CEMETERY SYSTEM.

(a) DEFINITIONS.—In this section:

(1) FEDERAL-AID HIGHWAY.—The term "Federal aid highway" has the meaning given that term in section 101 of title 23, United States Code.

(2) NATIONAL CEMETERY SYSTEM.—The term "National Cemetery System" means the National Cemetery System, which is managed by the Secretary of Veterans Affairs.

(3) STATE.—The term "State" has the meaning given that term in section 101 of title 23, United States Code.

(b) FEDERAL-AID HIGHWAYS.—The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall take such action as may be necessary to ensure that, for each cemetery of the National Cemetery System that is located in the proximity of any Federal-aid highway, there is sufficient and appropriate signage along that highway to direct visitors to that cemetery.

(c) STATE HIGHWAYS.—Nothing in subsection (b) is intended to affect the provision of signage by a State along a State highway to direct visitors to a cemetery of the National Cemetery System.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SHELBY (AND LAUTENBERG) AMENDMENT NO. 3324

Mr. SHELBY (for himself and Mr. LAUTENBERG) proposed an amendment to the bill (S. 2307) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows;

On page 19 of the bill in line 2, strike ": *Provided*, That $3,000,000 shall be transferred to the Appalachian Regional Commission".

On page 26 of the bill, line 15, insert the following before the period: "*Provided further*, That of the funds provided under this heading, $5,000,000 shall be made available for grants authorized under title 49 United States Code section 22301".

On page 20 of the bill, in line 17, after the colon, insert: "*Provided further*, That within the $20,000,000 made available for refuge roads in fiscal year 1999 by section 204 of title 23, United States Code, as amended, $700,000 shall be made available to the U.S. Army Corps of Engineers to determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska and $1,500,000 shall be made available for improvements to the Crooked Creek access road in the Charles M. Russell National Wildlife Refuge, Montana:".

On page 28 of the bill, amend the figure in line 5 to read "7,500,000".

On page 44 of the bill, insert at the beginning of line 1 the following: "New York City NY Midtown west ferry terminal".

On page 51 of the bill, insert after line 19 the following: "Whittier, AK intermodal facility and pedestrian overpass".

On pages 86 and 87 of the bill, strike all of section 336 (lines 16–24 and lines 1–10).

On page 88 of the bill, in line 18, after the semicolon insert the following:

(3) in subsection (d), by inserting "(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1))" after "subsection (b)(3)(B)(i) of this section"; and.

And on page 88 of the bill, in line 19, amend the "(3)" subsection number to read "(4)".

On page 90 of the bill, in line 1, after the semicolon insert the following: "$3,500,000 is provided for the Providence-Boston commuter rail project;".

On page 92 of the bill, after line 25, insert the following:

SEC. 351. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking "Pirate Cove" and inserting "Pirates' Cove and 4-lane connector to Mississippi Highway 468".

On page 78 of the bill, strike lines 8–15, and insert the following:

SEC. 322. None of the funds in this or any other Act may be used to compel, direct or require agencies of the Department of Transportation in their own construction contract awards, or recipients of financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

INTERNATIONAL MONETARY FUND APPROPRIATIONS ACT OF 1998

MURKOWSKI AMENDMENT NO. 3325

Mr. MURKOWSKI proposed an amendment to the bill (S. 2334) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes; as follows:

SECTION 1. ENVIRONMENTAL POLICY AND PROCEDURES.

(a) IN GENERAL.—Section 11(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-5(a)) is amended—

(1) in paragraph (2), by striking the period and inserting the following: ", except that the Board of Directors may not withhold financing from a project under this subsection if the government of any other G–7 country is providing (or has indicated approval to provide) financing of the project."; and

(2) by adding at the end the following new paragraph:

"(3) G–7.—For purposes of this subsection, the term 'G–7' means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, and Italy, established in September, 1985, to facilitate economic cooperation among the seven major non-Communist economic powers.".

(b) DEVELOPMENT OF CONSISTENT ENVIRONMENTAL POLICY.—

(1) IN GENERAL.—It is the sense of Congress that—

(A) consistent with the objectives of section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A)), the Export-Import Bank should seek to reach an international agreement with the export financing agencies of other G–7 countries regarding environmental policies and procedures for the financing of projects; and

(B) such agreement should be subject to Congressional approval.

(2) G–7.—For purposes of this subsection, the term "G–7" means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, and Italy, established in September, 1985, to facilitate economic cooperation among the seven major non-Communist economic powers.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

McCONNELL AMENDMENT NO. 3326

Mr. McCONNELL proposed an amendment to the bill, S. 2307, supra; as follows:

On page 92, after line 25, add the following:

SEC. 3___. JUDICIAL REVIEW OF CONSTITUTIONAL CLAIMS.

(a) EXPEDITED CONSIDERATION.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any claim challenging the constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 113), whether on its face or as applied.

(b) APPEAL TO SUPREME COURT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim described in subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

(2) DEADLINES FOR APPEAL.—

(A) NOTICE OF APPEAL.—Any appeal under paragraph (1) shall be taken by a notice of appeal filed within 10 calendar days after the date on which the order of the district court is entered.

(B) JURISDICTIONAL STATEMENT.—The jurisdictional statement shall be filed within 30 calendar days after the date on which the order of the district court is entered.

(3) STAYS.—No stay of an order described in paragraph (1) shall be issued by a single Justice of the Supreme Court.

(c) APPLICABILITY.—Subsections (a) and (b) shall apply with respect to any claim filed after June 9, 1998, but before June 10, 1999.

DEWINE (AND OTHERS) AMENDMENT NO. 3327

Mr. DEWINE (for himself, Mr. COVERDELL, Mr. GRAHAM, Mr. BOND, Mr. GRASSLEY, and Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2307, supra; as follows:

Beginning on page 8 of the bill, in line 17 after the colon insert: *Provided further*, That not less than $2,000,000 shall be available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola.

On page 5 of the bill, in line 4, strike "$165,215,000" and insert "$158,468,000".

On page 9 of the bill, in line 2, strike "$388,693,000" and insert "$426,173,000".

On page 9 of the bill, in line 4, strike "$215,473,000" and insert "$234,553,000".

On page 9 of the bill, in line 7, strike "$46,131,000" and insert "$55,131,000".

On page 9 of the bill, in line 9, strike "$35,389,000" and insert "$44,789,000".

On page 77 of the bill, in line 15, strike "$10,500,000" and insert "$17,247,000".

McCAIN AMENDMENT NO. 3328

Mr. SHELBY (for Mr. McCAIN) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert:

Sec. . The change in definition for Amtrak capital expenses shall not affect the legal characteristics of capital and operating expenditures for purposes of Amtrak's requirement to eliminate the use of appropriated funds for operating expenses according to P.L. 105–134. No funds appropriated for Amtrak in this Act shall be used to pay for any wage, salary, or benefit increases that are a result of any agreement entered into after October 1, 1997; *Provided further*, That nothing in this Act shall affect Amtrak's legal requirements to maintain its current system of accounting under Generally Accepted Accounting Principles; *Provided further*, That no later than 30 days after the end of each quarter beginning with the first quarter in fiscal year 1999, Amtrak shall submit to the Amtrak Reform Council and the Senate Committee on Appropriations, and the Senate Committee on Commerce, Science, and Transportation, a reporting of specific expenditures for preventative maintenance, labor, and other operating expenses from amounts made available under this Act, and Amtrak's estimate of the amounts expected to be expended for such expenses for the remainder of the fiscal year.

SPECTER (AND SANTORUM) AMENDMENT NO. 3329

Mr. SHELBY (for Mr. SPECTER for himself and Mr. SANTORUM) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place in the bill, insert the following:

Sec. . Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 921), and section 3 of the Act of July 17, 1952 (66 State. 571, chapter 922), are each amended in the proviso—

(1) by striking "That" and all that follows through "the collection of" and inserting "That the commission may collect"; and

(2) by striking ", shall cease" and all that follows through the period at the end and inserting a period.

On page 22 of the bill, in line 1, strike "State of Michigan," and insert: "Oakland County, MI,".

On page 89 of the bill, in line 24, before the figure "2,700,000" insert the following "$200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives;".

On page 92 of the bill, after line 25, insert the following:

Sec. . Section 1212(m) of Public Law 105–178 is amended (1) in the subsection heading by inserting ", Idaho and West Virginia" after "Minnesota"; and (2) by inserting "or the States of Idaho or West Virginia" after "Minnesota".

In amendment No. 3324, in line 10, strike "determine the feasibility or providing reliable access connecting King Cove and Cold Bay, Alaska" and insert the following: "study rural access issues in Alaska".

SHELBY (AND LAUTENBERG) AMENDMENT NO. 3330

Mr. SHELBY (for himself and Mr. LAUTENBERG) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 22 of the bill, in line 1, strike "State of Michigan", and insert: "Oakland County, MI,".

On page 89 of the bill, in line 24, before the figure "2,700,000" insert the following: "$200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives;".

On page 92 of the bill, after line 25, insert the following:

Sec. ___ . Section 1212(m) of Public Law 105–178 is amended (1) in the subsection heading, by inserting ", Idaho and West Virginia" after "Minnesota"; and (2) by inserting "or the States of Idaho or West Virginia" after "Minnesota".

In amendment No. 3324, in line 10, strike "determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska" and insert the following: "study rural access issues in Alaska".

JOHNSON (AND OTHERS) AMENDMENT NO. 3331

Mr. SHELBY (for Mr. JOHNSON, for himself, Mr. KOHL, and Mr. BOND) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 30, after line 11, before the period insert the following: *Provided further*, That, of the funds made available under Sec. 5308, up to $10 million may be used for the projects that include payments for the incremental costs of biodiesel fuels: *Provided further*, That incremental costs shall be limited to the cost difference between the cost of alternative fuels and their petroleum-based alternatives".

DURBIN (AND LAUTENBERG) AMENDMENT NO. 3332

Mr. SHELBY (for Mr. DURBIN for himself and Mr. LAUTENBERG) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) In General.—Section 41706 of title 49, United States Code, is amended to read as follows:

"§41706. Prohibitions against smoking on scheduled flights

"(a) Smoking Prohibition in Intrastate and Interstate Air Transportation.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) Smoking Prohibition in Foreign Air Transportation.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) Limitation on Applicability.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft. If a foreign government objects to the application of subsection (b) on the basis that it is an extraterritorial application of the laws of the United States, the Secretary is authorized to waive the application of subsection (b) to a foreign air carrier licensed by that foreign government. The Secretary of Transportation shall identify and enforce an alternative smoking prohibition in lieu of subsection (b) that has been negotiated by the Secretary and the objecting foreign government through a bilateral negotiation process.

"(d) Regulations.—The Secretary shall prescribe regulations necessary to carry out this section.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

BURNS AMENDMENT NO. 3333

Mr. SHELBY (for Mr. BURNS) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert the following:

SEC. . HAZARDOUS MATERIALS.

In the case of a state that, as of the date of enactment of this Act, has in force and effect State hazardous material transportation laws that are inconsistent with federal hazardous material transportation laws with respect to intrastate transportation of agricultural production materials for transportation from agricultural retailer to farm, farm to farm, and from farm to agricultural retailer, within a 100-mile air radius, such inconsistent laws may remain in force and effect for fiscal year 1999 only.

LAUTENBERG (AND KERRY) AMENDMENT NO. 3334

Mr. SHELBY (for Mr. LAUTENBERG, for himself and Mr. KERRY) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 79 of the bill, in line 21 before the period, insert: "*Provided further*, That the Secretary, acting through the Administrator of the Federal Aviation Administration, shall by January 1, 1999, take such actions as may be necessary to ensure that each air carrier (as that term is defined in section 40102 of title 49 U.S.C.) prominently displays on every passenger ticket sold by any means or mechanism a statement that reflects the national average per passenger general fund subsidy based on the fiscal year 1997 general fund appropriation from the Federal Government to the Federal Aviation Administration; Provided further that the Secretary of Transportation, acting through the administrator of the Federal Highway Administration, shall take such actions as may be necessary to ensure the placement of signs, on each Federal-aid highway (as that term is defined in section 101 of title 23, U.S.C.) that states that, during fiscal year 1997, the Federal Government provided a general fund appropriation at a level verified by the Department of Transportation, for the subsidy of State and local highway construction and maintenance".

D'AMATO AMENDMENT NO. 3335

Mr. SHELBY (for Mr. D'AMATO) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3 . REIMBURSEMENT FOR SALARIES AND EXPENSES.

The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 1999, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, July 29, 1998, at 9:30 a.m. to conduct a Business Meeting to consider the following pending business of the Committee: S. 1905, A Bill to Compensate the Cheyenne River Sioux Tribe, and for Other Purposes; S. 391, To Provide for the Distribution of Certain Judgment Funds to the Mississippi Sioux Tribe of Indians, and for Other Purposes; and S. 1770, To Elevate the Position of the Director of the Indian Health Service to Assistant Secretary for Health and Human Services. The Business Meeting will be held in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 202/224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 23, 1998, at 3:00 p.m. in open session, to consider the nominations of Patrick T. Henry, to be Assistant Secretary of the Army for Manpower, Reserve Affairs; Carolyn H. Becraft, to be Assistant Secretary of the Navy for Manpower & Reserve Affairs; and Ruby Butler Demesme to be Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations & Environment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 23, 1998, at 9:30 am on S. 2238—Mohammad Ali Boxing Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 23, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 2109, a bill to provide for an exchange of lands located near Gustavas, Alaska, and for other purposes; S. 2257, a bill to reauthorize the National Historic Preservation Act; S. 2276, a bill to amend the National Trails Systems Act to designate El Camino Real de los Tejas as a National Historic Trail; S. 2273, a bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana; S. 2284, a bill to establish the Minutemen Missile National Historic Site in the State of South Dakota, and for other purposes; and H.R. 1522, a bill to extend the authorization for the National Historic Preservation Fund, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to continue markup of S. 2131, the Water Resources Development Act, Thursday, July 23, 10:45 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 2:30 pm to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 4:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 9:30 a.m. in room 216 of the Senate Hart Office Building to hold a hearing on: "Competition and Innovation in the Digital Age; Beyond the Browser Wars."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing of Presidential Nominees Ida Castro and Paul Igasaki to be Members of the Equal Employment Opportunity Commission during the session of the Senate on Thursday, July 23, 1998, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. GREGG. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on July 23, 1998 at 9:30 a.m. for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing on FEMA reform Thursday, July 23 at 9:00 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 10:00 am to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee to meet on Thursday, July 23, 1998, at 9:30 a.m. for a hearing entitled "Cramming: An Emerging Telephone Billing Fraud."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESENTATION AND RECREATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 23, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 2109, a bill to provide for an exchange of lands located near Gustavas, Alaska, and for other purposes; S. 2257, a bill to reauthorize the National Historic Preservation Act; S. 2276, a bill to amend the National Trails Systems Act to designate El Camino Real de los Tejas as a National Historic Trail; S. 2272, a bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana; S. 2284, a bill to establish the Minutemen Missile National Historic Site in the State of South Dakota, and for other purposes; and, H.R. 1522, a bill to extend the authorization for the National Historic Preservation Fund, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATE CONCURRENT RESOLUTION 105

• Mr. ABRAHAM. Mr. President, I rise to co-sponsor S. Con. Res. 105, a resolution which I hope will bring justice to the many suffering people of the former Yugoslavia. For over a decade now Serbian leader Slobodan Milosevic has executed his policies of hatred, policies which have led to oppression and murder. And I am sorry to say that Milosevic's brutal assaults against the people of Bosnia and Croatia have gone unpunished.

Milosevic now seeks to extend his reign of terror over greater Serbia. His efforts already have destroyed the peace, security, and very lives of the people of Kosovo. He has turned Kosovo, once an independent state within Yugoslavia, into a virtual prison for non-Serbs. He has driven Kosovo's native Albanians, who have lived in the Balkans longer than any other ethnic group and who comprise 90 percent of the region's population, to flee the area out of fear for their lives and the lives of their families.

Mr. President, I believe it is important for us to keep in mind that, while the United States continues to offer peaceful and diplomatic support to the victims of Milosevic's campaign of terror, Serbian leaders continue their heinous policies. I am convinced that we must send a strong signal to Milosevic and his cronies in order to stop the violence and oppression they are inflicting on the people of Kosovo.

Mr. President, I believe that we in the United States, the birthplace and homeland of freedom, have a responsibility to bring Milosevic and his fellow perpetrators to the Hague and make them answer for their crimes. It grieves me that so many people in the Balkans have suffered from Milosevic's policies of racial cleansing. I hope that a trial will end the suffering of countless civilians in Kosovo. I also hope that Milosevic's trial will send a message to other dictators that crimes against humanity will not be tolerated by the world community.

I urge my colleagues to support this important legislation.•

CONTEMPORARY AMERICAN THEATER FESTIVAL AND THE TOWN HALL MEETING ON THE PERFORMING ARTS AND RACE

• Mr. ROCKEFELLER. Mr. President, in June 1997, President Clinton announced his Initiative on Race, One America in the 21st Century. His Initiative was created to encourage all Americans to work together in understanding and dealing with our racial differences. In the course of the past year, President Clinton has traveled around the country hosting several events to pursue these goals and foster a national dialogue on the subject. I am proud to tell you that West Virginia not only listened to President Clinton's announcement but answered his call to join him in taking action on this important effort.

The Contemporary American Theater Festival (CATF), located in Shepherdstown, West Virginia, commissioned a play on Asian racism entitled Carry the Tiger to the Mountain, and Governor Cecil Underwood formed his own Initiative on Race, One West Virginia. Together, they planned a Town Hall Meeting on the Performing Arts and Race which was held this past weekend in Shepherdstown and will be broadcast by West Virginia Public Television this coming Thursday and Sunday.

Over 300 people attended the afternoon performance of Tiger and the Town Hall Meeting which followed and was narrated by Kwame Holman, of The Newshour with Jim Lehrer. The panelists for the event included choreographer Garth Fagan, who recently won a Tony Award for The Lion King; Angelo Oh, a member of the President's Advisory Board on Race; Molly Smith, the Artistic Director of Arena Stage; George Takei, a theater and television actor from Star Trek; Helen Zia, contributing editor to Ms. Magazine; Christian McBride, a jazz artist and composer; Abel Lopez, president of Non-Traditional Casting Project; Dr. Simon Perry, a faculty member from Marshall University; and Liz Lerman, artistic director of Dance Exchange. The audience included local community members of various backgrounds, West Virginia NAACP activists, and over 100 members of the Organization of Chinese Americans. This impressive list of panelists and audience gathered in this small town and produced a level of dialogue on the arts and race to further enhance President Clinton's vision for One America.

The afternoon discussion brought forth many ideas and questions in regard to the arts and race. The panelists discussed the role of the performing arts in society, how the depiction of minorities as stereotypes can further intensify racial misunderstandings, and how if we as a society would think of culture more than race, then perhaps we could succeed more. As George Takei mentioned, the performing arts are "a forum for understanding and communication." Yet so much depends on who does the articulating and who has access to the art being presented. In its most truthful essence, the arts can allow "cultures to touch each other," as Molly Smith of Arena Stage pointed out. And if we can "touch each other" or understand each other, then we can begin easing the tensions that separate us.

These are but a few of the ideas discussed in Shepherdstown at the Town Hall Meeting, but you can see the wealth of communication that transpired on the subject in just a few short hours. Imagine if a community in every state hosted a similar event to foster and promote honesty and understanding of our racial differences.

I am very proud of my fellow West Virginians' efforts and success in answering President Clinton's challenge to work towards living as One America in the 21st Century. And I congratulate Ed Herendeen, the producing director of CATF, and Cherylene Lee, the playwright of this commissioned work, for bringing Carry the Tiger to the Mountain to West Virginia for its world premier season. CATF is dedicated to promoting live, provocative theater that challenges us to think about issues in our society, and once again it has achieved that goal.•

TRIBUTE TO ALAN SHEPARD: NEW HAMPSHIRE NATIVE AND FIRST AMERICAN TO FLY IN SPACE

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Alan Shepard, the first American to fly in space, and a native of Derry, New Hampshire. On Tuesday, this American hero fell victim to leukemia at the age of 74, and leaves behind his widow, Louise, two daughters and six grandchildren.

As the first American to fly in space, Alan Shepard was a pioneer for manned space exploration as we know it. On May 5, 1961, at a time when the American space program was marked by many failures and setbacks, Shepard courageously made a 15-minute suborbital flight, spending five of those minutes in space, and forever distinguishing himself as an American hero. Shepard was also one of the seven original Mercury astronauts, NASA's first space pioneers.

On January 31, 1971, Shepard returned to space for his second and last flight as the commander of Apollo 14. This trip allowed Shepard to become the fifth of only twelve Americans ever to walk on the moon, and the only man to hit golf balls playfully on the lunar surface.

In addition to his space endeavors, Shepard headed NASA's astronaut office in the years between his two flights, and he began investing in banks, oil wells, quarter horses and real estate. Shepard was also a Navy test pilot, sacrificing a great deal for the future of his country. He retired from the space agency and from the Navy as a rear admiral in 1974, in pursuit of many and varied interests.

Alan Shepard was known for his determination and ready wit. He never backed down from a challenge, and was characterized as the most eager to be picked from among three astronauts who were finalists for the historic first flight. These traits are exactly what make Alan Shepard nothing short of a hero in American history. Without his willingness to make sacrifices for the good of his country, the United States of America never could have achieved such glorious accomplishments in its space programs. He was a modest explorer, a man of integrity, a modern role model and one for ages to come. The bravery of this man gave Americans the confidence to continue pursuing the space program, in spite of the enormous challenges that were in sight.

Alan Shepard will be missed dearly across the nation, and especially in Derry, New Hampshire, the town of his birth. His motivation and dedication to the American space program and the American people serve to encourage all to welcome challenges and follow dreams to whatever heights they may soar. Let us mark the passing of this great leader not with sadness, but with gratitude and deep appreciation for being such a valiant American.•

TRIBUTE TO CHARLES L. FOX, BUSINESS & MILITARY LEADER, PATRIOT AND SERVANT OF THE UNITED STATES OF AMERICA

• Mr. SMITH of New Hampshire. Mr. President, it is with a great deal of personal pleasure that I recognize the major accomplishments of an individual who dedicated his career to serving the interests of our country by strengthening our national security for more than 30 years.

On August 31, 1998, Mr. Charles L. Fox will retire as Senior Vice President, Congressional Relations for the Raytheon Company. Under Chuck's leadership and dedication, Raytheon has contributed tremendously to the effectiveness of our national security.

Mr. Fox has headed Raytheon's Congressional Relations Office since May 1995. In this capacity he was responsible for ensuring that issues and programs of interest to Raytheon in supporting national security requirements were communicated to members and staff of Congress in an effective manner. Mr. President, I can tell you, I know of no one more professional than Mr. Fox. In all his dealings with the Congress, he was a true professional, dedicated to ensuring national security interests, and the security of our country were always well served.

Prior to joining Raytheon, Chuck served a distinguished career of more than twenty seven years in the United States Air Force, retiring as a Colonel. He served in a variety of staff, operations and command positions around the world. He served as both a base and wing commander, as well as the Chief of Staff of the Pacific Air Forces. In the two years prior to his retirement from the Air Force, Mr. Fox was the Deputy Director of Legislative Liaison for the Secretary of the Air Force in the Pentagon. He was responsible for managing all Congressional actions for the Secretary of the Air Force and the Air Force Chief of Staff, and supervised a staff of 90 personnel.

Mr. Fox holds a Bachelor of Arts degree from Seattle University with a major in Political Science. He received a Master of Arts degree in International Relations from the University of Washington.

Chuck and his wife Marilyn will reside in Charleston, South Carolina. Mr. Fox has two married daughters, Rachel and Sarah.

Mr. President, fellow colleagues, please join me in paying tribute to the exemplary accomplishments of Mr. Charles L. Fox, for a lifetime of achievements as a business and military leader, patriot and servant of the United States of America.•

RETIREMENT OF MR. CLARK BURRUS

• Ms. MOSELEY-BRAUN. Mr. President, I would like to take a few moments to honor Mr. Clark Burrus, a distinguished professional and a citizen par excellence. Mr. Burrus has recently announced his retirement from First Chicago Capital Markets, Inc. Although it was with great sadness that I heard of Mr. Burrus' retirement, this milestone provides an opportune moment to praise him for his long record of achievements. He has served Chicago and our nation in so many different ways that it is almost impossible to enumerate them all.

Mr. Burrus was born in Chicago and attended Englewood High School on the city's South side. Following high school, Mr. Burrus matriculated at Texas State University where he excelled in both academics and athletics. After his studies at Texas State University, Mr. Burrus returned to his hometown and continued his education at Roosevelt University, where he received both a Masters Degree in Public Administration and a Bachelor of Science Degree in Accounting.

Clark Burrus began his five decades of service to the City of Chicago during the administration of Mayor Martin Kenelley, and continued to serve under Mayors Richard J. Daley, Michael Bilandic and Jane Byrne. The hard work and dedication of Mr. Burrus were recognized when the late Mayor Richard J. Daley named him City Comptroller in 1973. As City Comptroller, Mr. Burrus was the Chief Fiscal Officer of the city and supervised the Department of Finance. Under his able guidance, the status of city-issued bonds climbed to its first Double-A rating. Mr. Burrus is also credited with engineering the low-interest rate mortgage revenue bond program of Chicago, the first such program in the United States.

In 1979, Mr. Burrus left public life and joined the First Bank of Chicago as a Senior Vice President in the Asset and Liability Management Department. Almost twenty years later, Mr. Burrus has risen to the position of Vice Chairman of First Chicago Capital Markets, Inc., a subsidiary of First Chicago NBD Corporation. Mr. Burrus also serves as the head of the Public Banking Department. The departments under the supervision of Mr. Burrus provide critical commercial banking services to a wide array of fields, including health care, higher education, governmental and cultural institutional markets.

Although he left public life in 1979, Mr. Burrus's commitment to the welfare of his hometown and fellow citizens did not end. Mr. Burrus has since served as Chairman of the Board of the Chicago Transit Authority and of its Deferred Compensation Committee. Additionally, Mr. Burrus was a board member of the Regional Transportation Authority, a member of its Strategic Planning Committee, and a member of the Chairman's Coordinating Committee. Recently, Mr. Burrus was appointed to the Cook County Deferred Compensation Committee. He is also a current member and past chairman of the Chicago Transit Authority's Pension Board of Trustees, and has served as a trustee of five other public pension funds. In addition, Mr. Burrus presently serves on a remarkable twenty eight boards and commissions. I never cease to be amazed at how well Clark Burrus is able to perform so many professional and civic duties simultaneously.

Mr. President, the civic service and public achievements of Mr. Clark Burrus are of breathtaking dimensions. Indeed, they serve as an enduring testament of his passionate commitment to the betterment of his community. As Mr. Burrus retires to private life, he leaves behind a record of excellence that will long be appreciated, and is model of service for all Americans to follow. I wish him Godspeed and hope that his years of retirement will be as enriching as his years of public service.•

CONGRATULATING KATRINA RUIZ AND MARCO CAKNESELLA

• Mr. MACK. Mr. President, I rise today to recognize and congratulate Katrina Ruiz and Marco Caknesella of Miami, Florida. Katrina and Marco were selected as national finalists in the 1998 Do the Write Thing Challenge Program sponsored by the National Campaign to Stop Violence. The National Campaign to Stop Violence is a coalition of businesses and nonprofit organizations who have joined together in an effort to work with young people to end youth violence in America.

Katrina, Marco and hundreds of other middle school students in Miami took part in the Do the Write Thing Challenge Program this year. The Do the Write Thing Challenge Program asks middle school students in 12 cities across the United States to provide a written commitment to reducing violence in their lives by submitting a written answer to the question "What can I do about the violence in my life?"

It is always a pleasure to hear about programs, like the Do the Write Thing Challenge Program, which encourage young people to begin to think about the ways that they, as individuals, can have an impact upon the problems which confront their community. I am confident that Katrina, Marco and the thousands of other young people across the nation who participated in the program will set a positive example for their peers as they fulfill their written commitment to reduce violence in their own lives.

I commend Katrina Ruiz and Marco Caknesella for their selection for this high honor and wish them all the best for their continued success.•

IMPORTANCE OF ACCURATE ECONOMIC STATISTICS

• Mr. DOMENICI. Mr. President, I want to discuss a very important issue today that often does not get the attention that it deserves—the need for accurate economic statistics.

Policymakers rely on statistics to guide them in their decision-making process. For instance, the Federal Reserve sets interest rates based on the reported level of economic activity and inflation; Congress and the Administration craft multi-year budget proposals using an economic baseline that is built upon current data; we examine the effectiveness of different tax and fiscal reforms by their effect on measured savings rates.

In all cases, we take for granted that these building block statistics give us a reliable portrayal of current economic conditions. We seldom consider just how difficult it is to construct them nor realize that it is getting harder to do so as our economy continues to evolve.

We can no longer hope to measure overall economic activity by counting how many widgets roll off an assembly line. We have to put a value on financial and high-tech services. Increasingly, we will also need to be tracking internet commerce. It is imperative that our data collection methods keep pace with our rapidly changing economy. Our statistical agencies employ exceptionally talented people who are working hard to ensure that this happens.

In the last several years, one can point to many notable data enhancements from our statistical agencies. For instance, BLS has worked hard to improve the accuracy of the Consumer Price Index; BEA has implemented "chain-type" measures for GDP which provide a more up to date reading of the economy.

Despite such progress, more needs to be done. Growth is booming in the service sector, where we have the least amount of source data. We need to increase our coverage of this important part of our economy. It is imperative that we do so immediately, because there are already signs that our statistics are lagging behind the economy's advances. There has been a growing discrepancy between economic activity measured on a product basis and an income basis. In recent years, Gross Domestic Product (GDP) has been growing 0.5 percentage points slower than Gross Domestic Income on an annual basis. In theory, these two items should grow at the same rate since they are technically measuring the same thing.

Economists speculate that GDP growth is being understated because much of our recent economic growth has been concentrated in the hard to measure service sector. While a 0.5 percentage point difference in GDP growth might not seem like a lot, it has an enormous effect on our budget projections. Over a five year period, this difference could yield up to a cumulative $140 billion swing in our surplus estimates. Indeed, many believe that an understatement of GDP is a major reason why CBO, OMB and major private economic forecasters have been underestimating revenues as of late.

Thus, if we want to ensure that we have more accurate budget forecasts going forward, we should be directing our energies at improving the accuracy of the data used to build these forecasts. The Bureau of Economic Analysis (BEA) which compiles the GDP series has laid out an ambitious agenda to make just such improvements to its data collection procedures. Amongst other things, they are seeking to step up their coverage of the information sector in order to ensure that comprehensive data is available for the computer industry.

This is just part of their initiative to improve the GDP accounts. In order to do so, they have requested an additional $4.5 million. While this money is hard to come by given our tight budget caps, I think it is fair to say that this investment might have one of the highest rates of return within this bill. Indeed, in recent testimony to the JEC, Federal Reserve Chairman Greenspan said that statistics are "one of the areas where I believe the payoff is of sufficiently large magnitude where very small amounts of money can have very large potential rewards."

I hope that we take heed of Chairman Greenspan's words and that we will be able to find the funds to allow our statistical agencies to improve their data collection processes. I believe that this is the most effective way to improve the accuracy of our budget forecasts and enhance the countless other policy decisions yet to be made.•

TRIBUTE TO THOMAS ESTES

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the life and accomplishments of Thomas Clifford Estes, of New Ipswich, New Hampshire, who recently passed away at the age of 66.

The family of Tom Estes can take comfort and pride in the way that he lived his life. Born on November 28, 1931, to the late Bedford and Emily Estes of New York, Tom graduated from Erasmus Hall High School and later studied at RCA Institute.

Following his father's distinguished example in serving this country in the armed forces. Tom joined the United States Navy in 1951, shortly after the outbreak of the Korean War. For three of his four years of active duty, Tom served on the U.S.S. *Tarawa*, a Navy aircraft carrier that entered the Asian war zone. He earned a number of Navy awards, including the Korean Service Medal, the United Nations Service Medal, the China Service Medal, the National Defense Service Medal, the Good Conduct Medal and the Navy Occupation Service Medal.

Tom's service to the nation was commendable, not just during the Korean War, but throughout his thirty-two years of Federal civil service. He began his career as a quality assurance engineer for the United States military in Florida and later moved to Dallas, Texas, before settling in New Hampshire in 1967. Upon his retirement, Tom was recognized by the Defense Logistics Agency for his contributions.

Tom was admired for his integrity, dedication to his community and positive demeanor. He remained a devoted husband to his wife, Mary, throughout almost thirty-five years of marriage and helped care for his disabled sister for many years. An accomplished chess player, Tom also enjoyed baseball and studied the law. He and his wife ran a small, twenty-acre farm in New Ipswich for many years. He was a man who cared about the needs of others and his community, whose sense of humor, cheery smile and knack for storytelling will be missed by all who knew him.

Tom will be buried with military honors at Arlington National Cemetery on Monday, August 3, 1998. I extend my deepest sympathies to his wife, Mary, his daughter, Evelyn, his sons Thomas and Peter, and his sister, Nancy. It is my great pleasure to pay tribute to this special American in the official RECORD of the annals of Congress.•

TRIBUTE TO THE BLODGETT OVEN COMPANY IN HONOR OF THEIR ONE HUNDRED AND FIFTIETH ANNIVERSARY

• Mr. JEFFORDS. Mr. President, July 25, 1998, is a great day for Vermont as we celebrate the sesquicentennial anniversary of the Blodgett Oven Company. On behalf of all Vermonters, I want to wish the company a very happy anniversary.

For one hundred and fifty years, the Blodgett Oven Company has been a commercial cooking products manufacturer in Burlington, Vermont. Their products are renowned for their reliability and quality. Throughout the world, Blodgett ovens, broilers, steamers, and fryers are depended upon by the food service industry. Chefs know that they can trust the Blodgett name to deliver efficient, technologically advanced machinery. Within Chittenden County, the Blodgett Oven Company plays an important role, stimulating the local economy by providing hundreds of jobs to area residents.

Mr. President, the Blodgett Oven Company is one of the most successful businesses in the state of Vermont. Their innovative products are well-known and, among their clientele, the company is regarded very highly. This tribute recognizes the achievements of the Blodgett Oven Company and, equally as important, the workers who contribute to the company's success.•

40TH OBSERVANCE OF CAPTIVE NATIONS WEEK

• Mr. DOMENICI. Mr. President, this year's Captive Nations celebration is dedicated to the "Memory of the Over 100 Million Victims of Communism."

Behind the Iron Curtain millions were killed and millions more were victimized by the societal and political structures that coerced conformity and attempted to dictate thought in these authoritarian states.

The term victim in this context conjures up SS troops and gas chambers, the purges under Stalin, Hungary in 1956, and the Prague Spring. Countless tragedies are recounted in the stories of those who fought for freedom and died at the hands of a racist regime bent on genocide or in confrontation with a relentless and overpowering Red Army.

Fascism lasted for 12 years in Germany.

Stalinism lasted twice as long in the Soviet Union.

An estimated 6 million perished in Nazi concentration and work camps during World War II.

Between 30 and 60 million perished through the work of Stalin's secret police from torture and execution.

There were, however, many more who persisted and became victims for their beliefs but remained clear in their conscience. The yoke of oppression could not smote their passion. That is the essence of the "Power of the Powerless," according to Vaclav Havel, dissident, writer, and political prisoner who is now President of the Czech Republic.

The ideas contained in the "Power of the Powerless" is what I would like to convey to you on this occasion, because of its lesson in today's world where Captive Nations are few and the powerless seized the power, because it belonged to them all along.

In 1978, Havel wrote:

> A specter is haunting Eastern Europe: the specter of what in the West is called "dissent." This specter has not appeared out of thin air. It is the natural and inevitable consequence of the present historical phase of the system it is haunting. It was born at a time when the system, for a thousand reasons, can no longer base itself on the unadulterated, brutal, and arbitrary application of power, eliminating all expressions of nonconformity. What is more, the system has become so ossified politically that there is practically no way for such nonconformity to be implemented within its official structures.

The system was exemplified by the greengrocer whose store displays the slogan: "Workers of the world, unite!"

Due to semantics, the greengrocer is indifferent to the slogan.

His obedience is verbalized in a manner that does not degrade his humanity so much as the truth. "I am afraid and therefore unquestioningly obedient."

Ten years later, the system collapsed in the wake of dissent. The Berlin Wall fell in response to the pressure of East Germans voting with their feet, and within a year a microcosm of the former World Order vanished. Glasnost and Perestroika shook the ossified foundation of the Party and its dogma to its core, and the Soviet Union collapsed, allowing for self-determination and the birth of democracy in many formerly Captive Nations.

It was the Power of the Powerless, the greengrocer's humanity, that eventually brought the system to its knees. Any political system is comprised of the individuals within it, and these individuals, victims or conformists, possess the power of conferring legitimacy to the system.

In the former Captive Nations legitimacy waned when the victims refused to perpetuate the lie.

When the gap between ideology and daily reality could no longer be bridged by pat slogans and prescribed ritual, the system's foundation crumbled.

By accepting the rules of the game, individuals became players. But their refusal to abide by the rules frayed the tightly woven fabric of falsity upon which the system was based.

Rejection of the system is encapsulated in the following description:

> One day something in the greengrocer snaps and he stops putting up the slogans merely to ingratiate himself. He stops voting in elections he knows are a farce. He begins to say what he really thinks at political meetings. And he even finds the strength in himself to express solidarity with those whom his conscience commands him to support. In this revolt the greengrocer steps out of living within the lie. He rejects the ritual and breaks the rules of the game. He discovers once more his suppressed identity and dignity. He gives his freedom a concrete significance. His revolt is an attempt to live within the truth.

In his expression of his identity and human dignity, the greengrocer becomes the victim.

He is purged from the system and punished. His actions are a reminder that an alternate truth exists, thus, he is a threat.

He has done more than express his dissent, he has illuminated the lie that comprise his surroundings.

His power is augmented in its juxtaposition to the facade.

It was the many who expressed their identity in those Captive Nations who tarnished the ideological veneer that was to bridge the gap between truth and falsity. They were victimized, often murdered, for their unwillingness or incapacity to abide by the rules and forfeit their dignity.

Legitimacy is the glue that holds the system together. Legitimacy must be conferred by the individuals in the system. Without the power of individuals the system must utilize force, coercion and fear to maintain control. The days of an authoritarian state are always numbered, and democracy is the only legitimate social order. It is for this reason, I believe, that in time the remaining Captive Nations—Cuba, China, North Korea—also will join the community of democratic states. The ideological battle is over, and the system with the only solid basis for its legitimacy—its citizens—won.

In memory of the millions who perished under authoritarian regimes, it is only right for us to recognize their sacrifice. They rejected the facade and refused to perpetuate or propagate the lie. Their sacrifice is also a sobering reminder of our privilege.

It is also appropriate and important to recognize the victims who survived and are witness to the crimes of history. In commemoration of those who perished, it is all the more potent to recognize those who were victims and survived. Today we can applaud those who would not be victimized, the individuals who refused to be swayed by untruths and promises of power. They are the ones that I would like to remember today. The ones who fought tyranny and prevailed have offered the greatest gift to those who tried and failed. They serve as a reminder to those around them that living a lie is worse than living in fear. And in the Captive Nations they were many in 1989 and thereafter.●

CLIFFORD J. GROH

● Mr. MURKOWSKI. Mr. President, a good friend of the State of Alaska passed away on Sunday evening, Clifford Groh. He was a well-respected member of the Anchorage community and a leader in the Republican Party. He was educated in New York and New Mexico before settling in Alaska. He served his country in the Navy and plied his trade as a lawyer. Cliff served our state as a member of the Alaska Constitutional Research Committee, Chairman of the Anchorage Charter Commission, the Anchorage City Council, the Borough Assembly, and also as a State Senator. In 1967 he was appointed Honorary Chief by the Alaska Federation of Natives and in 1972, he was voted Outstanding Legislator of the Year by the Eagleton Institute of Politics at Rutgers University. Cliff served as our State Party National Committeeman from 1976–78 and General Counsel from 1978 to 1990. President Bush appointed Cliff to the Arctic Reserach Commission. In 1977, I had the pleasure of presenting him with the Republican Party of Alaska's Life Service Award. He is survived by his wife, Lucy and their three children.

Mr. President, we share the family's grief at their great loss and take solace in the fact that this talented, highly respected man will live on in the memory of all who had the pleasure to know him.●

TRIBUTE TO THE DEVONSHIRE MEMORIAL CHURCH OF HARRISBURG

● Mr. SANTORUM. Mr. President, I rise today to pay tribute to the youth group from Devonshire Memorial Church in Harrisburg, Pennsylvania. On Sunday, July 26 ten students from the church will travel to Manning, South Carolina to assist in the rebuilding of the Macedonian Baptist Church which the Ku Klux Klan destroyed by fire in 1996. The young people will also be working to renovate homes of church members that suffered damage due to the fire.

The teenagers, who raised their own support for the trip through things such as church-wide dinners and fund-raising letters, will join approximately 250 other young people from across the nation to work on painting, hanging drywall, repairing roofs and caulking windows.

Church burnings are a violent act of hatred against the free exercise of religious faith. Arson, which has destroyed many southern African American churches, has also destroyed our dignity and our humanity. By dedicating their time and effort to rebuilding the walls of a church burned by hatred and bigotry, these young men and women are tearing down the walls of violence and racism and restoring faith to the Christian community.

Mr. President, I ask my colleagues to join me in commending the young men and women of Devonshire Memorial Church for their dedication to restoring a church and a community, as well as the ideals of freedom in this country.●

AMENDMENT NO. 3294, AS MODIFIED, TO S. 2260

Mr. SHELBY. Mr. President, on behalf of Senator HOLLINGS, I ask unanimous consent that amendment No. 3294, previously agreed to, be modified with the language now at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3294), as modified, is as follows:

On page 96, strike lines 3 through 16.

AFRICAN ELEPHANT CONSERVATION REAUTHORIZATION ACT OF 1998

Mr. SHELBY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 39, Calendar No. 435.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 39) to reauthorize the African Elephant Conservation Act.

The Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, I am pleased that the Senate is considering H.R. 39, the African Elephant Conservation Reauthorization Act. The bill was introduced by Congressmen YOUNG on January 7, 1997, favorably reported by the House Resources Committee on April 21, 1997, passed by the House the same day, and referred to the Committee on Environment and Public Works. Senator JEFFORDS introduced a companion bill, S. 627, on April 22, 1997. The Committee held a hearing on both bills on November 4, 1997, and favorably reported them on May 21, 1998. Today we take up the House passed bill to expedite Congressional action on this important legislation.

The bill reauthorizes the African Elephant Conservation Act for four years, through 2002, at the current authorization level of $5 million annually. The current law was enacted in 1989, in response to a sharp decline in many populations of African elephants due primarily to poaching for ivory. Population estimates vary widely across its range, but the total population is estimated to have declined by as much as 50 percent, from 1.3 million elephants in the late 1970's, to less than 700,000 in 1987. The species continues to decline, with a population of about 540,000 elephants in 1996.

The Act established a process for implementing strict ivory import controls, and established a dedicated fund for cooperative conservation projects in African countries. The Act has been tremendously effective in assisting in conservation efforts worldwide. Under the authority of the Act, President Bush established a moratorium on all ivory imports into the United States, which served as the impetus for the worldwide ban on trade in elephant parts and products, approved by the Parties to the Convention on Trade in Endangered Species of Fauna and Flora (CITES) one year later.

Through the Act, the Fish and Wildlife Service has funded 60 projects in 19 countries since 1990. The law has generated approximately $22 million for elephant conservation programs, of which $6.8 million has been provided by the U.S. Government, with $15.8 million from other sources. Indeed, the success of this law has led to similar laws for Asian elephants, rhinos and tigers.

Again, I am pleased that the Senate is considering this legislation, and I hope that the President will sign it into law soon. Thank you, Mr. President. I yield the floor.

Mr. SHELBY. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 39) was considered read the third time and passed.

EXPRESSING DEEPEST CONDOLENCES TO THE STATE AND PEOPLE OF FLORIDA FOR LOSSES SUFFERED AS A RESULT OF WILD LAND FIRES

Mr. SHELBY. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H. Con. Res. 298 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

H. Con. Res. 298, expressing deepest condolences to the State and people of Florida for the losses suffered as a result of the wild land fires occurring in June and July 1998, expressing support to the State and people of Florida as they overcome the effects of the fires, and commending the heroic efforts of firefighters from across the Nation in battling the fires.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MACK. Mr. President, I rise today to again address the ongoing situation in my home state of Florida. As I mentioned earlier this month on the Senate floor, devastating wildfires have ravaged Florida, imp;acting all of our 67 counties since May 24, 1998. Since this crisis began, more than 2,000 separate fires to date have been identified and more than 500,000 acres have been burned.

The massive campaign which has been undertaken to contain these fires is encouraging. Firefighters from across the country have been part of this effort. On behalf of the state of Florida and its people, I would like to thank all of the states, communities, and families that have committed resources to these efforts.

Today, I join with the Florida Congressional delegation in support of H. Con. Res. 298. This resolution expresses our condolences to the people of the state of Florida who have suffered throughout this ordeal; and commends the important and heroic efforts of the firefighters, as well as the numerous federal, state, and community entities aiding in the struggle to contain and extinguish the fires.

I appreciate the work of my Senate colleagues who have enabled us to bring this resolution to the floor quickly. I hope this swift action by Congress will help bring attention to the continuing efforts of government and community leaders, and will help lift the spirits of those closely engaged in this battle. I thank the chair and I yield the floor.

Mr. GRAHAM. Mr. President, I rise today in strong support of H. Con. Res. 298, expressing our deepest condolences and support to the State and people of Florida for the losses they have suffered as a result of wild land fires that occurred throughout June and July of this year.

Many of my colleagues will remember that Andrew roared ashore in the middle of the night and vented its fury on the people of South Florida. The storm severely disrupted the lives of thousands of families. This August, Floridians will remember Hurricane Andrew with another natural disaster on their minds. Since May 24, a deadly combination of intense heat and prolonged drought sparked more than 2,200 forest fires in Florida's 67 counties.

Even for a state that is experienced in dealing with natural disasters, these fires have been spawned during what may be one of the worst years in Florida meteorological history. In late January and early February—in the midst of our state's dry season—several Northern Florida counties were deluged by massive floods. Not long after, parts of Central Florida were devastated by thunderstorms and tornadoes that are more typical in the summer months.

The fire crisis is the latest example of our state's climactic reversal of fortune in 1998. Florida's hot summer temperatures are typically accompanied by afternoon thunderstorms and tropical weather. This year's heat and drought, and the lush undergrowth and foliage that sprung up in the wake of Florida's unusually wet winter, combined to fuel the fires that have put the state under a cloud of smoke and chased nearly 112,000 residents from their homes—7,040 of them into emergency shelters.

Florida has sustained almost $300 million in private damage, and state and local governments have spent over $100 million in responding to the fires. In a step never before taken in Florida's long history with violent weather, every one of the 45,000 residents of Flagler County—a coastal area between Jacksonville and Daytona Beach—had to be evacuated from their homes over the Independence Day weekend.

Mr. President, Mother Nature has once again subjected Florida to unprecedented weather conditions. But with the memories of Andrew's aftermath still fresh in our minds, we know that the national response to our pleas for help is anything but unprecedented—and are moved by the immediacy of Americans' heartfelt offers of assistance.

In response to this crisis, Americans from 44 states are fighting side-by-side with Floridians to prevent these fires from endangering families and engulfing even more homes, businesses, and roads. For example, U.S. Marines, National Guardsmen, and National Weather Service meteorologists from all over the country have converged on Florida.

California, Oregon, and South Dakota—states whose residents are not strangers to violent weather and natural disasters—sent nearly 1300 fire fighting personnel to Florida. North Carolina, a state that is even more heavily forested than my own, sent 47 fire trucks and 169 firefighters to Florida. Pennsylvania, which lost more than 2,200 citizens in less than ten minutes during the catastrophic Johnstown flood of 1889, has contributed 89 volunteers to combat this natural disaster in 1998. In fact, so many states have donated equipment that two-thirds of all the firefighting helicopters in the United States are now working in Florida.

Mr. President, I have lived in Florida for more than sixty-one years. In that time, I have never observed wildfires as widespread and unmanageable as those that have plagued our state for the last forty-four days. On behalf of 14 million Floridians, I offer my deepest thanks to the thousands of Americans who have voluntarily left their homes and risked their lives so that our state's fire victims might not lose theirs. They are true heroes, and all of us who proudly call Florida our home are forever in their debt.

I am pleased to announce that the Herculean efforts of these brave firefighters were not in vain. Floridians who were forced from their homes have now returned, and almost all of the fires have been brought under control. Mr. President, I urge my colleagues in the Senate to support H. Con. Res. 298 to pay tribute to the citizens of Florida and those from around the nation who came to our assistance.

Mr. SHELBY. I ask unanimous consent the concurrent resolution be agreed to, that the preamble be agreed to, the motion to reconsider be laid upon the table, and statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 298) was agreed to.

The preamble was agreed to.

ORDERS FOR FRIDAY, JULY 24, 1998

Mr. SHELBY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m. on Friday, July 24. I further ask that when the Senate reconvenes on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to the vote on passage of the transportation appropriations bill as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I further ask consent that following disposition of the transportation bill, the Senate proceed to the consideration of H.R. 1151, the credit union bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SHELBY. For the information of all Senators, tomorrow, at 9:15 a.m., the Senate will vote on passage of the transportation appropriations bill. Following that vote, the Senate will begin consideration of the credit union legislation. The leader has announced that any votes ordered with respect to the credit union bill or any other legislative or executive items will be postponed, to occur on Monday, July 27, at a time to be determined by the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. SHELBY. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:14 p.m., adjourned until Friday, July 24, 1998, at 9:15 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, July 23, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. EMERSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 23, 1998.

I hereby designate the Honorable JO ANN EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In addition to all we must know to do our work, all the facts, background, consequences, and magnitude of our action or inaction, we pray, gracious God, that we will also be blessed by the gift of wisdom. We pray that we will know discernment in our thoughts and sound judgment in our decisions as we weigh the worthiness and merit of what we do. We realize that facts and events gain meaning and power when they are blended with prudence and insight. As the scripture tells us, so teach us to number our days that we may get a heart of wisdom. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Washington (Ms. DUNN) come forward and lead the House in the Pledge of Allegiance.

Ms. DUNN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take 10 one-minutes from each side.

THE WORLD TRADE ORGANIZATION AND AMERICAN SOVEREIGNTY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, we will soon be debating an amendment which will define what powers the World Trade Organization will have over the ability of the American people, through their elected representatives, to determine our own fate, to make our own laws, to decide our own policies.

Should we sacrifice our sovereignty, our domestic interest in order to satisfy an international tribunal? I think not and I hope that our colleagues will agree. The WTO is selectively challenging our local, State and Federal laws, saying that they are infringements on free trade. No U.S. laws or regulations are safe from the reaches of the World Trade Organization. Even at risk are sanctions laws such as the ones passed by New York City and the States of California and New Jersey which protect Nazi Holocaust victims who had their assets stolen by Swiss banks. The Swiss have already said they want a WTO ruling on such sanctions. Is nothing sacred from the clutches of the WTO? Apparently not.

So along with the gentleman from Ohio (Mr. KUCINICH), the gentleman from Vermont (Mr. SANDERS), the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Florida (Mr. STEARNS), we will be offering an amendment to state that diplomacy does not mean surrender.

REPUBLICAN MANAGED CARE REFORM DOES NOT MEASURE UP

(Mr. STUPAK asked and was given permission to address the House for 1 minute.)

Mr. STUPAK. Madam Speaker, tomorrow we are scheduled to begin the debate on the Patients' Bill of Rights. I ask the American people to look at both plans, the Democratic plan and the Republican plan. As you do, you will see point by point the Democratic Patients' Bill of Rights bill is far superior in reform that will guarantee that doctors and patients and not insurance executives will decide your medical future. The right to have protection for women after mastectomies and reconstructive surgery is in the Democratic bill, not in the Republican bill. Democrats provide for a choice of doctor within a plan, access to specialty care, and direct access to OB-GYN for women. These are all parts lacking in the Republican plan.

To enforce your choice, and it is your choice and your access to your doctor, the Democrats allow enforcement in State courts if you are injured by your HMO plan. Why do you need that protection? Because in this country, two groups have immunity. They are HMOs and foreign diplomats. You pay for health insurance. You have the right to demand quality health insurance. Support the Democratic HMO Patients' Bill of Rights.

TRIBUTE TO MARGARET BARNETT

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, Mrs. Margaret Barnett has a distinction no other woman in Illinois has. She was the first female high school band director in Illinois. Mrs. Barnett studied piano and received her Bachelor's Degree from Shurtleff College in 1930. She played trombone with the St. Louis Symphony Orchestra and earned a Master of Arts Degree from Washington University in St. Louis, Missouri.

In addition, Mrs. Barnett studied clarinet at the Western Military Academy. Fortunately, Mrs. Barnett did not keep all her musical talent to herself. She taught every child the proper techniques on his or her instrument, leading her bands at Alhambra High School and Bethalto High School to win many contests and awards.

However, music was not the only subject Mrs. Barnett could teach. She taught English, mathematics and Latin at both Alhambra and Bethalto High Schools. She even served as librarian and assistant to the superintendent at Bethalto. Earlier in her career in 1932 she was Vice President of the Illinois State Teachers Association.

I applaud Mrs. Barnett for her dedication to teaching young people. She is definitely a pioneer and an inspiration for women in high school band positions. Most importantly, Mrs. Barnett is a role model for all teachers to follow.

RESULTS OF MANAGED CARE REFORM

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute.)

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Ms. SANCHEZ. Madam Speaker, I rise today to share with my colleagues the success of a forum I hosted in my district on managed care reform. Since I came to Congress, I have listened closely to the managed care reform debate. I have also read the newspapers, I have seen the polls, and I have heard the horror stories.

This past weekend I did what every Member of this Congress should do, I heard from my communities. I learned that my communities do want reform and do want some type of Patients' Bill of Rights. They want Congress to initiate reform and to keep the interest of the patients in mind.

My constituents believe that HMOs are the future of health care, but they want to make sure that care is put above profits. Any bill that we pass is going to affect each one of these people, millions of Americans and thousands of Orange County residents.

Now, we may have to take some votes this week on the managed care bill offered by the Republicans. Let me tell you, they are not very happy about that bill. But before you decide to vote for any bill, I want to encourage my colleagues to host similar forums in their districts. By listening to your constituents, you will learn what changes are really needed. It is time that we give our constituents a voice before their choice is taken away.

2000 CENSUS

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Madam Speaker, today on the House floor we plan to debate the Commerce, State and Justice appropriations bill. Funding for the constitutionally mandated census in the year 2000 is an issue that the American people will soon be hearing a lot more about.

First let me remind my Democratic colleagues of a provision in the U.S. Constitution that they routinely ignore in their discussions of the census. Because I know that Democrats are not in the habit of carrying around the Constitution with them, I will make their life easier by quoting Article I, Section 2 from the document to which you swore an oath:

> The actual enumeration shall be made within 3 years after the first meeting of the Congress of the United States, and within every subsequent term of 10 years, in such manner as they shall by law direct.

Now, despite the liberal Democrat habit of finding things in the Constitution, there is no getting around the words that are there for all to see. "Actual enumeration" no matter how you slice it means exactly what it says. Congress shall by law direct an actual count, not an approximate guess, poll or sample. Period.

DEMOCRATIC PATIENTS' BILL OF RIGHTS VERSUS REPUBLICAN INSURERS' BILL OF RIGHTS

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, this week we will be voting on a Patients' Bill of Rights, something that all our constituents want. The Republican plan as put forth in the House does not do anything, does not protect people, and I think it is time to take a look at the difference between the Democratic plan and the Republican plan.

The Republican plan fails to protect every American in a private insurance plan. Their plan only applies to 50 million people and leaves everyone else out in the cold. The Democratic Patients' Bill of Rights protects at least 140 million people, every American who is covered by a private insurance plan.

The Republican plan does not return health care decisions to health care professionals and their patients. The Democratic Patients' Bill of Rights does. The Republican plan does not guarantee patients the right to see a specialist when they need to do so. The Democratic Patients' Bill of Rights does. The Republican plan does not allow for access to OB-GYN for all women or emergency room coverage for all patients. The Democratic Patients' Bill of Rights does. The Republican plan does not hold insurance companies responsible for their actions denying patients the care they need. The Democratic Patients' Bill of Rights does.

When you stack the two up, Madam Speaker, there is no comparison. The Democratic Patients' Bill of Rights protects the American people, guarantees access to health care, and guarantees that this coverage will be there for all Americans. The Republican plan is just a public relations gimmick and a sham.

VOTE TO OVERRIDE VETO OF BAN ON PARTIAL-BIRTH ABORTION

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, today is the day that the House will vote to override the veto of the partial-birth abortion ban. I want to illustrate here why President Clinton's position is the extremist position. This is a baby that could be born. But let me show you what happens. The doctor reaches in and turns this baby around so that the baby is born breech first. The head is still within the birth canal. Then at this time, the doctor inserts scissors into the back of the neck of the baby and then puts a suction tube in to suck out the brains of a live baby. Do you think this baby does not have pain and feel pain? This is a baby that could be delivered as a live baby boy or girl.

We need to vote to override this veto of the partial-birth abortion ban which is a horrific procedure in America.

SUPPORT THE DEMOCRATIC PATIENTS' BILL OF RIGHTS

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Madam Speaker, I rise today to remind my colleagues about the real priorities of managed care reform. A woman from the Sacramento community I represent has waged a 4-year battle with her former employer and its self-insured ERISA plan. This woman is in court because her firm denied her care for her 7-year-old son born with a spinal cord injury facing many of the same challenges as actor Christopher Reeves. The law that shields employers who self-insure from accepting responsibility for denied medical services leaves this family with no health care for their son. When the plan started to refuse coverage, this woman had to choose between a job she was good at and enjoyed and the well-being of her child. So she quit her job to give her child nursing care 24 hours a day. But without this income, the family was forced into bankruptcy and lost its business.

While this case has dragged on in the courts, the brave little boy at the center of this tragedy has learned to walk and ride a bike. But his medical needs are still not being met. This debate is about helping hard-working families like this one get the best health care possible for their families. Nothing more, nothing less. To obtain this we need to support the Patients' Bill of Rights and oppose the unenforceable Republican plan.

MANAGED CARE REFORM

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Madam Speaker, it is much easier to be a liberal than to be a conservative. Just consider for a moment what has been said by our colleagues on the other side during the debate on managed care over the past 2 weeks. The pattern here, you can see on almost every public policy issue. First, declare a crisis. Really? Although we know there are problems with legitimate managed care, the polls show 90 percent of the people with this care are satisfied. Second, propose a solution that will make the problem worse, thus giving the Democrats more opportunity to declare a crisis. The solution for the other side is always the same, more mandates, more lawyers, and, let us not forget, more government. This will raise the price, making health care less affordable than it was before. The final step is to deny that their proposal will do anything of the sort. Then in a few years when the problem is even worse, they will declare their outrage again, just as they are doing now.

☐ 1015

MANAGED CARE REFORM

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Madam Speaker, last week a very good friend of mine went to the hospital to have a malignant tumor removed from his bladder. It was extensive surgery. It was outpatient surgery. He was sent home 5 hours after the surgery with a catheter and a bag at his waist line. This is outrageous. Later in the week, he did get a fever from an infection.

We cannot let this happen to the people in our country. We must have real patient reform. We have to protect the patients in our health care system. Do not vote today for a faux reform, or tomorrow, faux Republican reform. We need the Dingell-Ganske bill. We need to let doctors and patients decide when to send a cancer patient home from the hospital after extensive surgery.

PARTIAL BIRTH ABORTION BAN

(Mr. RYUN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN. Madam Speaker, no civilized society should condone or even tolerate a heinous procedure such as partial birth abortion. Congress will again pass a ban on partial birth abortion and this time the President should sign the ban.

By his past veto, the President has demonstrated that he is out of step with 85 percent of the American people who support an end to this heinous procedure. With this in mind, I want to tell you about a miracle baby girl named Sarah.

Sarah appeared last year on CBS's "Mysteries and Miracles." When she was only four inches long, Sarah was taken briefly from her mother's womb to remove a growing tumor.

Sarah's heart stopped beating during the surgery, and the surgeon performed CPR for 20 minutes to revive her. In July of 1996, Sarah was delivered by C-section and is now a healthy toddler.

Unfortunately, even as lives like Sarah's are being saved by scientific breakthroughs, others are being extinguished through abortion. The care Sarah received from her surgeons provides a stark contrast to the treatment her mother might legally have chosen: a partial birth abortion.

MANAGED CARE REFORM

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Madam Speaker, everyone is talking about patients' rights. It is simple to talk about wanting patients to have rights and access to care. It is another thing, however, to provide for that in legislation.

There are two contending bills. Let me go through them. Access to enforcement in State courts: The Democratic bill, yes; the Republican bill, no. Protection for women after mastectomy: Democratic bill, yes; Republican bill, no. Choice of doctors within the plan: Democratic bill, yes; Republican bill, no. Access to specialty care: Democratic bill, yes; Republican bill, no. Direct access to OB/GYNs: Democratic bill, yes; Republican bill, no.

There are other provisions that I will not be able to cover in this 1 minute. But as we hear this debate and people talk about patients' rights, hold them to the criteria of not just talking about patients' rights, but ensuring patients' rights.

VETO OF EDUCATION SAVINGS ACCOUNT BILL

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, once again, the counterfeit logic of the Democrats and this President have put the children of America at risk.

I am not talking about the sale of classified military technology to China. I am talking about the President's veto of the Education Savings Account bill. Put aside for the moment that this bill would have allowed parents to save for the future education of their children. The bill he just vetoed would have given schools greater leeway to expel and discipline students who bring guns or other weapons to school.

The bill he vetoed would have permitted school officials to implement safety measures to protect innocent children. How many times have we all heard the President state that safety at schools was one of his top priorities?

Madam Speaker, we can no longer sit idly by while the violence in schools continues to rise. Congress must override his veto and pass legislation that will enable our schools to develop local policies that end school violence.

Parents, teachers, and especially students all across America should not have to wait one more hour, one more day, or one more week for safer schools. Our children should be working on their education, not worrying about their safety.

I urge the President to reconsider and retract his veto and start protecting our children.

MANAGED CARE REFORM

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, make no mistake, the differences between the Democrats' Patients' Bill of Rights and the Republican HMO proposal are major. The Republican bill excludes key provisions that are essential for consumer protection and includes provisions that would reduce current consumer protections.

The Republican HMO plan seeks to give the appearance of reform without the reality. Among other gaps, the Republican plan still leaves medical decisions in the hands of insurance company accountants instead of doctors. It does not limit HMOs' and insurance companies' use of improper financial incentives to limit needed care. It allows drive-through mastectomies and fails to contain a requirement for coverage for reconstructive surgery after mastectomy. It does not give access to specialty care where needed.

The Republican bill does not guarantee patients access to needed drugs or clinical trials. And most important, the Republican bill provides no effective mechanism to hold plans accountable when plan abuse kills or injures someone.

Democrats will insist on a bill that contains guarantees that are a significant gain for health care consumers. The Republican plan is basically a sham.

CENSUS DEBATE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, should we count or should we take a poll? The census debate boils down to that difficult question.

The Democrats say, why should the Constitution stand in the way of rigging the numbers the way we want? After all, the Democrats are either unaware of Article I, section 2 of the Constitution that states in clear language that Congress shall direct that a census be conducted using an actual enumeration, or they simply wish to ignore it.

Either way, it is troubling that one party is willing to go so far to trample on the Constitution just for political purposes.

Most Americans do not have a Ph.D. in English or in American constitutional history. But most Americans do believe that sampling, guessing, or taking a poll does not qualify as actual enumeration, also believe the Constitution actually means what it says.

They are pretty tired of liberal Democrats inventing out of whole cloth things that are in the Constitution, no matter how many liberal experts in Washington tell us otherwise.

HMO REFORM

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Madam Speaker, Americans are frustrated with their managed care plans. It is no wonder; HMO horror stories abound. Every day we hear stories of people being denied care, doctors being forbidden from discussing treatment options, and patients unable to get justice when things go wrong.

Americans want a few simple things from their HMOs. In an emergency, they want care without having to worry about whether all necessary treatments will be covered. They want the right to visit the specialist who can address their health problems and the right to get prescription drugs they need.

They want accountability from HMOs and insurance companies when they are injured by abusive practices. They want absolute privacy in their medical records and protection from discrimination on the basis of their genetic information.

Unfortunately, we have not been given the opportunity to have any hearings or a markup on these issues, and, therefore, I encourage my colleagues to carefully consider the great need for legislation that will guarantee patient protection and put the emphasis on managing care rather than managing costs. I urge us to settle for nothing less.

We have a historic opportunity to end these horror stories. Let us not waste this opportunity on half-baked attempts at reform. Let us take this chance to guarantee the protections that Americans want and need in their health care plans.

VETO OF EDUCATION SAVINGS ACCOUNT BILL WAS WRONG

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Madam Speaker, the President's late night, quiet veto this week of Education Savings Accounts—timed in order to miss the evening news—means that those that produced generations of education failure have dodged the bullet again.

The other side should explain to America why encouraging parents to save for their children's education is a bad thing. Oh, they are long on heartwarming rhetoric about their care and compassion for "the children" and for "education;" but when it comes to education reform legislation that threatens the special interests that gave us these failing schools in the first place, they are woefully short on action.

They send their own kids to private schools, but then they tell working parents who want to save for their children's education "no."

Madam Speaker, Republicans in Congress are not content to simply talk about "the children," we will fight for children, and for the world-class education they deserve. We will continue the fight for working parents who want to be able to save for their children's education through Education Saving Accounts.

VIGILANCE OF BROWN TREE SNAKE NEEDED IN HAWAII

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Madam Speaker, I rise this morning to express my support for provisions in the Interior Appropriations bill we are debating today for the funding of the Brown Tree Snake control efforts.

The consequences of the Brown Tree Snake becoming established on any of the Hawaiian Islands would be devastating. We have only to look at Guam to understand the potential extinction of many species will, not might, result from the introduction of the snake to Hawaii.

Guam now experiences an instance of more than 12,000 of these snakes per square mile. Entire species have disappeared from Guam since World War II when the snake was accidently brought to the island, most probably abroad military aircraft which had visited areas of the South Pacific in the snake's natural habitat.

The Interior Appropriation bill contains $2.1 million for prevention, education, and inspection programs, an increase of $500,000 over last year. We need to step up our vigilance in Hawaii against this invasive species which has brought wildlife ruin elsewhere.

The scientific community has not yet developed an effective eradication method. Although I hope we can soon understand how to control and eliminate the snake, until that time, the only action we can and must take is preventing its introduction into Hawaii.

I am very pleased that the Committee on Appropriations has recommended an increase, and I look forward to working with my colleagues in achieving the highest funding level to achieve our goals.

PATIENT PROTECTION ACT

(Ms. DUNN asked and was given permission to address the House for 1 minute.)

Ms. DUNN. Madam Speaker, I rise today in support of the Patient Protection Act, the Republican plan to provide greater accessibility, affordability, and accountability in our Nation's health care system.

This plan will make a real difference in the lives of America's working women for a lot of reasons. Small businesses in this country are increasingly dominated by women who are looking to make their mark in a growing economy. Unfortunately, right now the cost of health care makes it very tough for them to purchase health care for themselves and their families.

That is why the Republican plan makes the cost of health care for small businesses 100 percent deductible, and it allows small businesses to band together to purchase health care at the same discounted rates that are currently enjoyed by big business.

These sensible reforms, combined with our plans giving a woman's right to choose an OB/GYN as her prime caregiver, are essential to improving access to health care for the many women in this country who are helping to drive this Nation's economy. They stand in stark contrast to the Democrat bill which does nothing to make health care more affordable or accessible to American women.

I urge my colleagues to support the Patient Protection Act when it comes to the floor tomorrow.

MANAGED CARE REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, as a cancer survivor, I can tell you that when you are diagnosed with a deadly illness you come face to face with your own mortality. While you are wondering whether you are going to live or you are going to die, you should not have to worry that 2,000 miles away an HMO accountant is making the decisions about what kind of treatment that they are going to provide or what kind of drugs can be provided for your illness. These are the kinds of decisions that ought to be made by doctors and patients, period.

The Democrats do have a managed care reform proposal that would ensure the critical health care decisions are made by doctors and patients and not HMO bureaucrats. Yet, the Republican proposals would not provide access to specialty care for cancer patients, provide the necessary needed drugs, prohibit drive-through mastectomies. They have no direct access to OB/GYNs. The last straw is they have no access to State courts if your HMO plan injures you.

What they do allow is for those company accountants to continue to value its HMO healthy profits over the healthy patients that are in this country. Let us return medical decisions back to doctors and patients. Let us pass the Democratic Patients' Bill of Rights.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–158)

Mr. CANADY of Florida. Madam Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Ms. EMERSON). The Clerk will report the motion.

The Clerk read as follows:

> Mr. CANADY of Florida moves to discharge the Committee on the Judiciary from the further consideration of the president's veto of the bill H.R. 1122.

(For veto message, see proceedings of the House of October 21, 1997 at page 22336.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. CANADY) is recognized for 1 hour.

Mr. CANADY of Florida. Madam Speaker, I yield the customary 30 minutes to the gentleman from Virginia (Mr. SCOTT), pending which I yield myself such time as I may consume.

□ 1030

Madam Speaker, today for a second time the House considers a presidential veto of bipartisan legislation banning partial-birth abortion. In the last Congress, although the House overrode President Clinton's veto of the Partial-Birth Abortion Ban Act of 1995, the veto was sustained in the other body. Shortly after the current Congress convened, new legislation to ban partial-birth abortion was introduced. In due course, the Partial-Birth Abortion Ban Act of 1997 was passed by both Houses. President Clinton's veto of that legislation is before the House today.

Just 2 weeks ago, the Members of this House and the American people received a stark reminder about the reality of partial-birth abortion. We read in press reports of a tiny baby in Phoenix, Arizona, who was almost killed by a partial-birth abortion. The baby girl survived with a fractured skull and deep lacerations on her face. She survived only because the abortionist stopped the procedure when it became obvious that she was at 9 months and not 5½ months, as had originally been thought. The abortionist stopped, but we know, nevertheless, that partial-birth abortions are performed from the fifth month through the ninth month of pregnancy, and that a baby feels excruciating pain during a partial-birth abortion at any stage of pregnancy. Miraculously, in this case, a little girl who was marked for destruction is alive today and a Texas couple have come forward to adopt her.

Of course, we know that surviving an attempted partial-birth abortion is very much the exception. Tragically, most of the babies singled out for partial-birth abortion have their lives brutally snatched away, just within inches from being fully born.

Now, despite the campaign of deception waged by the abortion industry to cover up the facts about partial-birth abortion, we know that this gruesome procedure is performed thousands of times a year. We know that in the overwhelming majority of cases, it is performed on the healthy mother, mothers of healthy babies.

We know that the abortion industry that claimed that partial-birth abortion is a rare procedure used only in extreme cases was a lie all along. We know this because the facts are undeniable and because representatives of the abortion industry have themselves ultimately admitted that the industry have been lying all along.

With their campaign of deception exposed, with the lies revealed in the full light of day, what do the advocates of partial-birth abortion say now?

They say that partial-birth abortion is necessary to protect the health of women. They say that partial-birth abortion must be preserved as an option for abortionists to use. They say that it is a necessary medical procedure. These claims, like all their other claims about partial-birth abortion, are false, untrue from start to finish.

When we hear the claims of the defenders of partial-birth abortion, I ask the Members of the House to consider what partial-birth abortion is. Look at what this brutal procedure actually involves. This is partial-birth abortion:

Guided by ultrasound, the abortionist grabs the live baby's leg with forceps. Look at this procedure.

The baby's leg in the next step is pulled out into the birth canal.

The abortionist then delivers the living baby's entire body, except for the head, which is deliberately kept lodged just within the uterus.

Then, in the final step of this horrible procedure, the abortionist jams scissors into the baby's skull. The scissors are opened to enlarge the hole.

Then, after the baby has been killed, the scissors are removed and a suction catheter is inserted. The child's brains are sucked out, causing the skull to collapse, and the delivery of the dead child is completed. This is the final step. This is what we see at the conclusion of every partial-birth abortion.

Now, I have described this procedure many times. I wince every time I describe it. It is a horrible thing to describe; it is a horrible thing to contemplate. And to the Members of this House who support partial-birth abortion, I would appeal to them, I would appeal to them to look at what is happening whenever a partial-birth abortion is performed.

Now, let me ask my colleagues, how is this horrific procedure calculated to protect the health of the mother? That claim simply makes no sense. It is absurd to claim that killing a partially-delivered child in the birth canal is necessary to protect the mother's health. How does this death blow delivered by the scissors into the tiny baby's skull help preserve the health of the mother?

Madam Speaker, listen, listen to what Dr. Pamela Smith, Director of Medical Education, Department of Obstetrics and Gynecology at Mt. Sinai Hospital says, and I quote her:

> There are absolutely no obstetrical situations encountered which require a partially delivered human fetus to be destroyed to preserve the health of the mother.

Listen to Dr. Nancy Romer, a practicing high-risk obstetrician-gynecologist who is also a professor of medicine. Dr. Romer says this:

> People deserve to know that partial-birth abortion is never medically indicated, whether to save the health of a woman or to preserve her future fertility.

I would appeal to my colleagues to also listen to the American Medical Association on this issue, which, despite its strong support for abortion rights, has supported this legislation to ban partial-birth abortion. The American Medical Association itself recognizes that partial-birth abortion is not a legitimate medical procedure.

The health argument used by President Clinton and the other defenders of partial-birth abortion is nothing more than a pretense. It is a cloak for the extremist position that abortion for any reason at any stage of pregnancy, and using any procedure imaginable should receive the absolute protection of the law of the land.

I would appeal to my colleagues to reject this extremist position, listen to the voice of reason, cut through all the lies and deception, base your vote on the truth, think of the babies who are subjected to this horrible practice. If my colleagues do so, they will vote to override the President's veto.

This House should, once again, reject the President's extremist position in support of partial-birth abortion, and move forward to override his veto of the Partial-Birth Abortion Ban Act.

Madam Speaker, I reserve the balance of my time.

Mr. SCOTT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the motion before us is to discharge the Committee on the Judiciary from further consideration of the bill. Madam Speaker, the Committee on the Judiciary has not considered the bill at all. It was referred to the Committee on the Judiciary several months ago. The thing that the Committee on the Judiciary really ought to consider, for example, is: is the bill constitutional or not?

This bill is not about whether or not a decision on abortion should be made; the question is which procedure ought to be used, and there are cases, a long line of cases that say directly that we cannot intervene and make the decision for the physician and the mother as to which procedure ought to be used. The Committee on the Judiciary ought to consider those decisions.

We have been asked now to discharge them from further consideration of the bill. Madam Chairman, the Roe versus Wade decision, the Casey versus Planned Parenthood and other cases have shown that we cannot intervene in this decision.

We have heard the description of a case in Arizona. This bill would not have an effect on that because the decision for the abortion is made and then one decides on the procedure. If one cannot use this procedure, then one would use another procedure. The decision for the abortion is a separate decision.

We ought to oppose the motion to discharge, and instead, require the Committee on the Judiciary to do its job, determine whether or not the bill is constitutional, which the supporters in committee last time it was considered acknowledged that it was not constitutional. We ought to fashion a constitutional bill, and there are many alternatives that we could have brought to the floor rather than this bill.

Madam Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Madam Speaker, I rise today in support of the motion to override the President's veto. As a mother and a grandmother of 7, this is an especially heartbreaking issue.

My colleagues have just seen the graphic details. Suffice it to say, partial-birth abortion is a horrific way to end the life of a tiny 9-month-old baby. It has no place in a civilized society.

This should not be a divisive issue. We are talking about killing, killing healthy babies. These are babies that have long been able to survive outside their mother's womb.

Madam Speaker, most Americans are really shocked when they learn that this procedure is legal. It is closer to infanticide than to abortion. For most of us, this is a no-brainer. Today when the vote is called, we will see many pro-choice Members of Congress vote against the President's veto. Madam Speaker, after all, accidental gun deaths are a really big problem in this country, yes, but every year, far more children are killed by partial birth abortions than are killed in accidental shootings.

By overriding the President's veto, we are going to stand up for the thousands of newborn children, those children who do not have a say in our political process. If we fail to do so, I fear that the House will condone infanticide in the name of preserving abortion rights.

The choice is easy. Let us override the President's veto.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Madam Speaker, this bill, the subject of this debate, targets the most vulnerable women—women who want to be mothers, but who have found that something has gone terribly wrong with their health or with the fetus. None of us support late-term abortions for no reason, and yet supporters of this bill would have us believe that women come to this terrible and tragic decision arbitrarily. They talk of procedures and ignore the tragedy impacting the lives of real people, real families, women who want to be mothers.

So I urge my colleagues to sustain the President's veto today, and then go back and write a bill that matches the rhetoric that we hear but that takes into consideration the health and life of the mother, because that is consistent with Roe versus Wade, which certainly allows the States to act to ban third-term abortion.

The procedures that we have discussed here are rare and they should be so. Only when no alternative exists should they be used, but to ban them without further recourse is callous in and of itself.

Madam Speaker, I urge my colleagues not to target women and families when a pregnancy has turned to crisis and becomes a tragedy. I think we should let a woman, her doctor, her family make this terrible choice. This is not the role of government. I hope we will sustain the President's courageous decision to veto this bill, and if we fail, I know the Senate will.

This is a terribly complex area in which to legislate. I fear we have made this more of a political debate and over looked the kind of in-depth analysis of the real situation that people caught in this terrible tragedy face.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Madam Speaker, I rise today to strongly urge my colleagues to vote to ban partial birth abortions. This is a moral blind spot that this Nation can no longer allow. It is gruesome, it is barbaric, and it is brutal. We have the opportunity today to ban this procedure with our vote to override the President's veto.

Killing a baby as it is being born is simply an act of brutality. Our Constitution protects us from cruel and unusual punishment; I submit that partial-birth abortion is both.

Now, last week I joined with some of my colleagues on both sides to provide the option of contraception in order to try to find ways to prevent unwanted pregnancies that too often result in abortion. Today I encourage my colleagues, women and men, Democrats and Republicans, pro-life and pro-choice Members, to come together and ban this procedure today.

□ 1045

I urge support for this. I would encourage my colleagues to come together today and ban this procedure. Not just today, not just for tomorrow, but well into the future.

Join together, as we did last week with the strong support of both sides of the aisle, to try to do what we think is right. It is not oftentimes when we consider budgets and pot holes and hydrogen and space programs that we vote on life itself. This is one of those votes. I encourage bipartisan support for our position.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Madam Speaker, I am strongly opposed to late-term abortions. In fact, in 1987, as a member of the Texas Senate, I helped pass a law that is law today that is saving babies from late-term abortions.

But, Madam Speaker, there is a huge difference between the bill that we passed that is law today in Texas, that is working, and the bill that was designed for maximum political sound bite impact that we are voting on today.

The first difference, in Texas our goal was to save babies. That is why we outlawed all late-term abortion procedures. This bill, if Members look at it carefully beyond the 30-second sound bite and TV ad appeal of it, this bill still allows abortions to occur in America on the 29th day of the eighth month of pregnancy.

The sponsor of this bill just a moment ago said we should be honest in this debate. Let the proponents of this bill be honest to the American people in saying that this bill, this bill will allow abortions in America at the eighth month, 29th day. We did not think that was right in Texas, and that is why we wrote the law differently. I think the supporters of this bill ought to discuss that point. That is one reason, frankly, I think this bill should go back to committee for further consideration, rather than political debate here today.

Second difference. In Texas, because we wanted to save babies and not make a political point, on a bipartisan basis we crafted a bill that would meet constitutional guidelines. This bill is clearly unconstitutional, one of the reasons the President vetoed it under the guidelines of Roe versus Wade and as has been established by Federal judges and courts across this country from one State to another.

The third difference between the Texas law today and the bill we are debating today is in Texas we trusted women to make responsible choices in very rare tragic pregnancies. This bill does not trust women to make those responsible choices.

Specifically, the Texas law said in those rare cases where a woman's health was seriously at risk or her fertility at risk, the incredibly difficult emotional decision about how to preserve the mother's ability to have children in the future should be a decision made by that woman and her doctor and her God, and not by politicians in Austin, Texas, or in Washington, D.C.

Madam Speaker, in my personal opinion, if there is one frivolous late-term abortion using any procedure anywhere in America, that is one too many and we ought to stop it. But this bill does not do that. What this bill does is potentially, according to the American College of Obstetricians and Gynecologists, the experts in this field, this bill what it is really going to do is risk women's health and their ability to have children.

Madam Speaker, we ought to send this bill back to committee and make a bill that works, not a bill that makes sound bites.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Madam Speaker, I thank the gentleman from Florida (Mr. CANADY) for yielding me this time.

Madam Speaker, I wanted to address a point by the previous speaker about the fact that the Texas law preserves the right of a woman to more children; that is a higher choice than right to the life of a matured child yet in its mother's womb.

The fact we need to remember is that that baby who is being killed and delivered by the partial-birth abortion will not only not have a choice for its own fertility in the future, it will not even have a life, and that is what this bill is about, preserving life.

Now, we preserve all kinds of things in this Nation, including things that may need to be utilized. But preserving life is our number one criteria and our duty as lawmakers.

I rise in strong support of H.R. 1122, the Partial-birth Abortion Ban Act. Last year, apologists for this abominable practice raised a fog of mendacity over the whole issue, but yet that today, that fog of mendacity has been pierced. There is greater understanding.

Let the truth be known that thousands, thousands of partial-birth abortions are performed every year on mature children that are yet unborn.

On June 30, for instance, of just this year, 1998, an Arizona abortionist stopped a partial-birth abortion right after he began it. The baby's skull was crushed and the baby was born with a crushed skull and facial lacerations. That was carried in the national news, this very disturbing news. But thank goodness that that doctor realized at that very critical moment that was a living being. That was a child, and that he was going to end that child's life.

Even that doctor and everyone else can clearly see that this issue, Madam Speaker, that partial-birth abortion is murder. This procedure is medieval, and so is the logic of those who advocate and apologize for it. This debate is not about when life begins, for the infants targeted by this procedure are mature babies.

Madam Speaker, as lawmakers, we do have our first responsibility to preserve life and preserve life of the most vulnerable kind, babies yet unborn in the mother's womb.

Mr. SCOTT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, very briefly I would state that the bill does not prevent a single abortion. In fact, if this bill passes, women who have abortions may have to undergo sterilization and not be able to have children in the future, because this bill does not have a health exception.

Madam Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Madam Speaker, this is one of the most painful debates that this House has to face, but it does not compare with the decision facing parents, a medical decision that few have had to confront.

For some families, the only hope of retaining a woman's ability to have children is at stake in this Congress. It has been a tenet of privacy and citizenship in the United States that the doctor-patient relationship is sacrosanct. And yet for the first time in the history of this Republic, over 200 years, this Congress is trying to outlaw a medical procedure and to determine whether it should be used or not.

What is next? Last week the gentlewoman from Connecticut (Mrs. JOHNSON) in what I thought was a very poignant moment, when some were trying to outlaw contraceptives said, "Is there no limit to where this Congress will go to insert itself into the most private decisions that human beings have to make?"

Perhaps we can go further. Perhaps the next procedure we will outlaw here will be hysterectomy during childbearing years. I submit that some of the people in this House think that should be outlawed.

But most importantly, I want to ask my colleagues and the American public to consider this issue: When confronted with a medical decision that could break a woman's heart and destroy her future chances to be a mother, who would she prefer to consult? Would she in that circumstance want to talk to her doctor, her family, or her spiritual advisor or, as Congress has determined, would she be just as satisfied to talk to her Member of Congress?

Madam Speaker, I submit that we are no way qualified to make this decision and that on behalf of the parents who are confronted with this awful determination to be made, I pray we will not override this veto.

Mr. CANADY of Florida. Madam Speaker, I would inquire concerning the amount of time remaining on each side.

The SPEAKER pro tempore (Ms. EMERSON). The gentleman from Florida (Mr. CANADY) has 16½ minutes remaining, and the gentleman from Virginia (Mr. SCOTT) has 20½ minutes remaining.

Mr. CANADY of Florida. Madam Speaker, I reserve the balance of my time.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Speaker, I rise today to urge my colleagues to vote against this ill-conceived and mean-spirited effort to override the President's veto of H.R. 1122.

Let us consider what we have learned since the House last considered this so-called partial-birth abortion ban. Six of the nine States that have passed these laws using language from the Federal bill have had their laws enjoined by the courts. Moreover, 18 respected judges from a range of ideological viewpoints across the country have found that H.R. 1122 is so vague and overreaching that it could prevent legal abortions throughout pregnancy.

Make no mistake about it, preventing legal abortions is exactly what the proponents of this bill intended. Their goal is not ultimately to ban a specific medical procedure, but it is ultimately to outlaw abortion altogether.

Members should not just take my word for it, but should listen to the words of the Federal judges from across the political spectrum and across the country. Iowa District Judge Robert W. Pratt held that the partial-birth abortion law is, "unconstitutionally vague and unduly burdensome on a woman's constitutional right to an abortion."

Illinois Judge Charles P. Kocoras held that, "The statute, as written, has the potential effect of banning the most common and safest abortion procedures."

U.S. District Judge Richard Kopf of Nebraska said, "A criminal law, especially one banning protected constitutional freedoms like abortion, that fails to give wordings or that allows arbitrary prosecution is 'void for vagueness.' Nebraska's partial-birth abortion ban is the epitome of such a law."

Now, the esteemed gentleman from Indiana (Mr. ROEMER) said that he was glad, and I am glad too, that last week he voted to allow the free use of contraception. No one likes abortion. I abhor abortion. But abortion is what we need from time to time when pregnancies go tragically awry. In the meantime, we need contraception.

Regrettably, almost 200 of our colleagues did not agree with the gentleman from Indiana, and they in fact would ban four of the five approved forms of contraception in this country.

That is what this agenda item is about. This agenda item is not about saving healthy babies. This agenda item is about ultimately banning not only abortion, but a woman's right to birth control so that she can choose the direction of her own body.

Madam Speaker, if this was such a critical problem in this country right now, why did we wait since October 1997 to override the President's veto? We could have saved, according to my colleagues on that side of the aisle, hundreds of healthy babies. No, this is not a critical health problem in this country. This is a political issue for the 1998 elections.

Mr. CANADY of Florida. Madam Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, 25 years after Roe v. Wade, I believe it is time for a serious reality check and a compassion check as well.

Supreme Court imposed abortion-on-demand in America has claimed the lives of more than 36 million boys and girls and, although grossly underreported, has resulted in death, injury, and emotional trauma to women.

It is time to come to grips with the truth and to ask the question why we seem to care so little about a whole generation of babies lost.

Abortion methods, Madam Speaker, are violence against children. Abortion methods dismember and chemically poison kids. There is absolutely nothing compassionate about dousing a baby with superconcentrated salt water or lethal injections into the baby's beating heart, or hacking the baby to pieces with surgical knives.

□ 1100

Why do so many of us live in denial concerning this pernicious violence against children?

Today, Planned Parenthood and the rest of the abortion lobby is asking the House to sustain a misguided veto so as to permit and empower abortionists to continue to murder children as they are being born. To legally sanction such an execution begs the question: Is there nothing the Congress or President will not embrace under the banner of "choice"? Are the lives of little girls and boys so cheap?

Madam Speaker, earlier this month a 6-pound baby girl, "Baby Phoenix" as she is now called, was born with a skull fracture and lacerations on her face after an abortionist, Dr. John Biskind, unsuccessfully attempted to perform a partial-birth abortion on her 17-year-old mother. "Baby Phoenix" is the first known survivor of this brutal procedure.

It has taken years, and the deaths of thousands of children and at least two women, who he left to bleed to death, but Dr. Biskind now will not be allowed to continue his murderous ways. This week the State medical board voted to suspend his license. The irony is that it is not the deaths he caused that brought the board's disfavor, but the fact that a baby whom he was trying to kill actually survived and was delivered alive.

Madam Speaker, some on this floor, and in Dear Colleagues that have been sent out, suggest that the Hoyer-Greenwood proposal somehow will prohibit all late-term abortions. Nothing, I would say, is further from the truth.

Lest any of us be deceived, the Hoyer-Greenwood bill places no restriction whatever on late term abortions. While it is not on the floor today but it is being referred to in this debate as an alternative, the plain meaning of the language places no restriction whatsoever, not even symbolic limitations, on partial-birth abortions performed before an individual baby can be proven to be viable; that is, definitely able to survive if born prematurely. The vast majority of partial-birth abortions are performed in the 5th and 6th months of pregnancy, when the baby's lung development is not quite sufficient or barely sufficient to allow independent survival.

Second, even after the baby is demonstratively viable, the Hoyer-Greenwood bill would permit abortion by partial-birth abortion or any other method, if in the medical judgment of the attending physician, that is to say the abortionist, that the abortion is necessary to avert serious adverse health consequences to the woman.

In a March 12, 1997 press conference in the House Radio-TV gallery, which was tape-recorded, my good friend and colleague, the gentleman from Maryland (Mr. HOYER), was asked directly what the word health means in his proposal. The gentleman responded. "It does include mental health. Yes, it does."

He then went on to explain that mental health would include psychological trauma. Thus, unless my colleagues believe that it should be permissible to kill a baby, even during the final 3 months of pregnancy, a premature infant, for reasons of mental health or psychological trauma, they should not support H.R. 1032. And if my colleagues believe that it should not be permissible to pull a living baby feet first into the birth canal, puncture her skull and remove her brain in the 5th and 6th months, please vote to override the President's veto. Support the motion to override the President's misguided veto.

Mr. SCOTT. Madam Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Madam Speaker, I thank the gentleman for yielding me this time and stand to oppose the motion to discharge.

The previous speaker, my colleague from New Jersey, said it is time for a reality check and a compassion check. I think that is quite true. Let us start with the reality check.

My friend from New Jersey just described abortion in horrific, horrible terms, as if that is what abortion is all about. In fact, it was just last week that the gentleman from New Jersey stood at this podium and could not tell us whether the birth control pill was abortion. In fact, he told us the IUD is abortion. The reality check is, and I will turn to this chart, the reality check is that this is when abortions occur in America: Overwhelmingly early in pregnancy.

Now, let us have a compassion check. Who could vote against this bill after it has been described in such horrific terms? I am going to vote against this bill, and I will match my compassion ratings with anyone. Most of my career, before I went into politics, was as a social worker. I worked with handicapped children. I worked with abused children. I held them in my arms. I rescued them from danger. I loved them and I cared about them. I love and I care about my children. I love babies. That is not what this is about.

This bill is based on a fraud, and the fraud is that this procedure is used frequently late in pregnancies. As this chart shows, 99 percent of all of the abortions in America occur prior to the 20th week of gestation; the overwhelming majority, 89 percent, prior to 12 weeks; 99½ percent of the abortions in America occur before the 22nd week; and 99.94 percent of abortions in America occur before the 24th week.

The reason Americans are confused about this bill is because people have intentionally tried to confuse them with the notion that somehow women in their 7th, 8th and 9th month of pregnancies are having abortions. And they are not, except for the most extraordinary, extraordinary medical reasons, and reasons that require compassion from all of us.

Now, to put to an end this debate about whether somehow in America women are getting late-term abortions after the 6th month for frivolous reasons, the gentleman from Maryland (Mr. STENY HOYER) and I offered a substitute to this bill which would have banned this procedure and all procedures beyond viability, beyond the 24th week, except for the most extraordinary cases, where the health of the mother or the life of the mother is at risk.

What saddens me is that we, my friends, my colleagues, are not spending our time on the floor of this body trying to prevent 99 percent of the abortions, trying to prevent unintended pregnancy, which we could do in so many ways in which we could agree: Using birth control, using education, helping define mentors for young ladies in situations where they do not have proper guidance in their lives, so they are not the victims of sexual predators way beyond their age engaging them in inappropriate sexual activities and impregnating them.

This is where America's work needs to be done. It does not need to be done out beyond 99.94 percent of the abortions in America. Because, in fact, those abortions are rare and done for the most extraordinary reasons and, again, reasons that require our compassion.

Mr. CANADY of Florida. Madam Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Madam Speaker, I appreciate the gentleman yielding.

Is it not true that the bill the gentleman has sponsored would give the abortionist unfettered discretion to determine when an abortion would be performed during the third trimester or post viability? Because the gentleman has an exception in there that says that the abortion can be performed if in the medical judgment of the attending physician, that is the abortionist, the abortionist believes it is necessary. Is that not in the gentleman's bill?

Mr. GREENWOOD. Madam Speaker, it certainly is. It certainly is. And I know that the gentleman knows the facts, because he is a student of them, but anyone who knows the facts knows that that is not a loophole through which hundreds or dozens or scores of women would proceed.

The fact of the matter is that under Roe versus Wade today doctors have the opportunity to allow late-term abortions for medical reasons. And the facts show indisputably that this is an exception that is not abused. We cannot find an abortionist in this country who will do a late-term abortion for frivolous reasons.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Madam Speaker, this is amazing to me. This is a vote about common decency. This is a procedure that is gruesome, it is inhuman, and it is unnecessary. The gentleman from Pennsylvania, I just answer him when he says it is rarely used, that even Everett Koop said, and I quote, "In no way can I twist my mind to see that partial birth and then destruction of the unborn child before the head is born is a medical necessity for the mother." The President has turned his back on millions of Americans who are sickened by this procedure.

To the gentleman from Pennsylvania, who said that this is a rare procedure, and then tried to cover things up with statistics, I would say that, in fact, in New Jersey alone 1,500 babies were killed with this procedure and are killed every year.

Now, we do not like to hear the details about this procedure. We do not like to talk about such things in public or in private. But, Madam Speaker, we must talk about them. The implications that we face if we do not are too far-reaching. The media rarely describes partial-birth abortion. They and some of my colleagues here today will politely call it a certain late-term procedure. Well, I submit to my colleagues that there is nothing polite about this procedure. Certainly the aborted baby, whose life is snuffed out in such a violent way, does not think that this is a polite procedure.

Madam Speaker, human life is precious. When we allow human life to be so coldly and violently taken in the manner of the partial-birth abortion, we are all diminished as a society. So I urge my colleagues to think before they vote. This is a conscience vote. Is this the kind of procedure that my colleagues would be proud to tell their children that they supported? Is this the kind of violence that they would be comfortable in defending when it comes time to meet their maker?

This is a real gut-wrenching conscience vote. Vote to override the President's veto.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER)

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding me this time, and if the gentleman would stay in the well, I would ask my friend from Texas, I understand what he has said, and I agree with his proposition of the American public's view. I ask him this. He talks about a procedure. Is there a procedure that he believes is preferable?

Mr. DELAY. Madam Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Madam Speaker, there is no procedure that is preferable in killing a baby that is about to be born naturally, no. I do not believe in a procedure that will kill a baby. I ask the gentleman back——

Mr. HOYER. Reclaiming my time.

Mr. DELAY. At what time is it appropriate to kill a baby?

Mr. HOYER. Reclaiming my time.

Mr. DELAY. What time? The gentleman ought to answer that.

Mr. HOYER. The court clearly has said that in terms of the Constitution there is a right of a woman and her doctor to make that decision and to terminate the pregnancy.

My question, and rather than yell at one another, rather than accuse one another of awful things, I want to find out what we are talking about. It is my premise that the gentleman does not believe there is any procedure, at any time, that is less than objectionable. Am I correct in that premise?

Mr. DELAY. I think the gentleman's question is grammatically in error.

Mr. HOYER. I would ask the gentleman to not quibble with me. I would ask the gentleman not to quibble with me; I am not trying to quibble with him. I am trying really to get to the heart of what I think is a difficult issue for the American public and for everyone on the floor.

Mr. DELAY. Well, ask the question. If the gentleman would ask the question in a manner someone can understand it, I will be glad to answer it.

Mr. HOYER. All right. Does the gentleman believe there is any procedure acceptable to terminate a pregnancy at any time?

Mr. DELAY. No, I do not.

Mr. HOYER. Reclaiming my time.

Mr. DELAY. Unless it is for the life of a mother and a decision must be made between the baby and the life of the mother. Then that decision should be made. But, no, I do not believe that at any time an unborn child should be murdered just for convenience. No.

Mr. HOYER. Reclaiming my time, I understand what the gentleman said. In the case of the life of the mother, which the gentleman indicates he believes is an exception, what procedure would he advocate? What procedure to terminate the pregnancy would the gentleman advocate?

Mr. DELAY. We do not have to use this procedure.

Mr. HOYER. No, I understand that. Which procedure would the gentleman advocate?

Mr. DELAY. I would like to answer the gentleman's question. Doctor after doctor, including C. Everett Koop, who was the surgeon general, says that there is no reason whatsoever, even for the life of a mother, that this particular procedure must be used, where a baby is nearly born and then they suck the brains out of its head before it is fully born.

Mr. HOYER. Reclaiming my time, I know the gentleman wants to make this debate as gruesome as he can. I understand that. I ask the gentleman again: In the instance in which the gentleman says is acceptable, saving the life of the mother, what procedure would the gentleman think is preferable?

Mr. DELAY. And if the gentleman will yield, I will tell the gentleman that this is a gruesome procedure for the baby that it is being performed on.

Mr. HOYER. I understand.

Mr. DELAY. I am once again answering the gentleman that many doctors have already said and written extensively that this particular procedure does not have to be used.

□ 1115

Mr. HOYER. Madam Speaker, reclaiming my time, the gentleman does not either have an answer to my question or does not want to answer it. My presumption is that because he has no alternative, is there a procedure which he would believe was appropriate to save the life of the mother and, if so, what is that procedure.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Virginia (Mr. SCOTT) has 9½ minutes remaining, and the gentleman from Florida (Mr. CANADY) has 10½ minutes remaining.

Mr. CANADY of Florida. Madam Speaker, I yield 4 minutes to the gentlewoman from Washington (Mrs. LINDA SMITH).

Mrs. LINDA SMITH of Washington. Madam Speaker, first I would like to read and then submit for the RECORD the American Medical Association letter endorsing this bill and saying that it is an unnecessary procedure.

I think it is real revealing because the American Medical Association rarely or never interjects and makes illegal an abortion procedure, but they have made an exception in this case. I am going to read this short letter because it says a lot and it blows away a lot of the smoke about how this bill works.

It says, "The Partial Birth Abortion Ban Act of 1997," as amended, that we support this. Then it goes on to say, "Although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined," and listen, "not medically indicated." Otherwise, not medically necessary. "H.R. 1122 now meets both those tests.

"Our support of this legislation is based on three specific principles. First, the bill would allow a legitimate exception where the life of the mother was endangered, thereby preserving the physician's judgment to take any medically necessary steps to save the life of the mother. Second, the bill would clearly define the prohibited procedure so that it is clear on the face of the legislation what act is to be banned.

"Finally, the bill would give any accused physician the right to have his or her conduct reviewed by the State Medical Board before a criminal trial commenced. In this manner, the bill would provide a formal role for valuable medical peer determination in any enforcement proceeding.

"The AMA believes that with these changes, physicians will be on notice as to the exact nature of the prohibited conduct."

Then in quotes, they have made it very clear, and I have the quotes and we can submit them, that they do not believe that partial birth abortion is ever needed.

I want to talk about this procedure briefly because sometimes we forget what it is; and it is not pretty, but we are talking about lives and we are talking about law to protect vulnerable women and vulnerable babies.

The procedure takes 3 days, my colleagues. They start by dilating the cervix. They use procedures that soften so that they can eventually find a way to make an opening large enough to pull the baby through. They turn the baby so it is actually breeched opposite the way a baby would be born.

Often in that procedure they will wrap the baby with the cord, and sometimes the baby strangles. If not, they do deliver the baby in all cases. And right after the little feet come out and the little bottom and then they get the shoulders out, right before the head comes out, they hold the baby.

Now, talking to nurses, this is very difficult because the natural process is for the baby to come out and breathe. They hold the baby because they know if that little nose comes out and the mouth the baby will breathe. If the baby breathes, under the law, it is alive. But if the baby does not breathe, it is not considered a person. So this is what we are talking about. The average cost is $1,200 to $1,600. And it has become an industry.

Now, we have got some pretty interesting cases where women have gone and they have actually been hurt and died in partial birth abortions. But I want to talk about one, Louann Herron. And this is reported and it just came out, and it is very unfortunate because she was in the middle of a divorce.

She went to an abortion clinic, where they make a lot of money. In fact, a lot of times the doctors are not there, they have the procedure done by someone else. I think it is very important that we understand that this is not for the baby or the woman. I urge my colleagues to vote against the President.

Madam Speaker, I include the following articles for the RECORD:

[From the Arizona Republic, July 14, 1998]

PATIENT "DIDN'T HAVE TO DIE"

SHE WAS LEFT TO BLEED 3 HOURS AFTER ABORTION, EX-STAFFERS SAY

(By Heather Ratcliffe, Susie Steckner and Jodie Snyder

Louann Herron lay bleeding from a punctured uterus for more than three hours as a medical assistant at the A–Z Women's Center begged her supervisor to call 911, three former employees of the abortion clinic say.

By the time the supervisor paged Herron's doctor to get permission to call paramedics, it was too late.

Herron died hours after an abortion performed by Dr. John Biskind, the same doctor who delivered a full-term baby at the clinic June 30 after misdiagnosing the fetal age by 13 weeks. Biskind and center officials on Monday refused to comment on the case, which has prompted a police investigation.

Herron's encounter with A–Z Women's Center began in a similar fashion. But it became a saga of disappointment, deception and death, according to three former employees who told their stories to The Arizona Republic.

According to the former employees, Herron, 32, was in the process of being divorced when she visited the center April 7 with a friend for an abortion.

An employee—fairly new to the clinic—performed an ultrasound examination indicating that Herron was 23 weeks and a few days pregnant.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 1997.
Hon. RICK SANTORUM,
U.S. Senate, Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR SANTORUM: The American Medical Association (AMA) is writing to support HR 1122, "The Partial Birth Abortion Ban Act of 1997," as amended. Although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined and not medically indicated. HR 1122 now meets both those tests.

Our support of this legislation is based on three specific principles. First, the bill would allow a legitimate exception where the life of the mother was endangered, thereby preserving the physician's judgment to take any medically necessary steps to save the life of the mother. Second, the bill would clearly define the prohibited procedure so that it is clear on the face of the legislation what act is to be banned. Finally, the bill would give any accused physician the right to have his or her conduct reviewed by the State Medical Board before a criminal trial commenced. In this manner, the bill would provide a formal role for valuable medical peer determination in any enforcement proceeding.

The AMA believes that with these changes, physicians will be on notice as to the exact nature of the prohibited conduct.

Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine.

Sincerely,

P. JOHN. SEWARD, MD.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Madam Speaker, first of all, if we are going to take the AMA's word for this, then we ought to pass the Parker bill or the Patients' Bill of rights because the AMA endorses that. And if we are going to take Mr. Koop's word, then we ought to have a real tobacco bill in the House. But, obviously, the Republican majority wants to play fast and loose on whose advice they want to take and when they want to take it.

I do not think any of us support this particular procedure. But why do we not look at what 40 other states, including my State of Texas, are doing. I have heard a lot of my colleagues, most from the other side, for the last 4 years talk about how the States are the laboratories of government, where we ought to be seeing what they are doing. But I guess that is only when it is convenient or when the States agree with us; and otherwise, if they do not, we are going to tell them what to do. That is what this bill does. But worse, this bill is about politics.

Now, last week we had a vote on taking away abortion rights. Let me read what one of my colleagues said. "I want this to be a campaign issue. This is going to be great," he said, adding that his colleagues who oppose abortion restrictions will face fierce questions in their districts. "They better be prepared to defend themselves because we are going to have the grassroots out there talking about it."

That is what this is about. It is not about the women who need the health services so they can bear more children. My good friend and colleague the gentleman from Texas (Mr. DELAY) said, "where is the common decency?"

Well, how is it for common decency when we tell a woman that she is going to lose the ability to bear more children if she cannot have a certain type of procedure? What is decent about that? Not a single thing. This is politics, pure and simple, and it is about as indecent as this House can get.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. CHRISTENSEN).

Mr. CHRISTENSEN. Madam Speaker, I thank the gentleman for yielding.

Yesterday I had the opportunity to manage the debate on the MFN Normal Trade Relations bill. A number of my pro-choice friends and colleagues over on this side were with me on that losing battle of 166 votes.

But a number of those same people that were crying out for human rights in China, fighting for the forced abortions in China, talking about the issues of the Chinese women, are now on the same side of allowing this partial birth abortion bill to go forth.

Well, what about the human rights in America? What about the human rights of the unborn children? What about the human rights of Baby Phoenix and the thousands and thousands of little children who are murdered each year? What about the human rights for those that have no say?

If we are going to stand with the Chinese women and the forced abortions, we should stand together to make sure that the children have a voice in this, the Baby Phoenixes of the world, the Baby Phoenixes of America.

Vote to override this partial birth abortion veto. Do what is right.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Madam Speaker, I thank my colleague for yielding.

Madam Speaker, I rise in opposition to reconsidering this bill, and I urge my colleagues to join me in sustaining the President's veto.

We all agree that healthy women with healthy fetuses should not have post-viability abortions. But the authors of this bill do nothing to address this issue. Instead by focusing on medical procedures, the Republican leadership's partial birth abortion ban fails to fully address abortions performed post-viability and overreaches by banning abortions pre-viability.

The Republican leadership has refused to bring up a bipartisan bill that accomplishes, in fact, what their bill only achieves in nasty rhetoric.

H.R. 1032, which was introduced by the gentleman from Maryland (Mr. HOYER) and the gentleman from Pennsylvania (Mr. GREENWOOD) at the beginning of the 105th session, would ban all late-term abortions unless it was necessary to save the life of the mother or to avert serious adverse health consequences.

Unfortunately, the House leadership has presented us with the singular option of voting on H.R. 1122, which is believed by many to be unconstitutional.

Despite the fact that a modified ban would pass in the House, despite the fact that the President has said that he would sign the modified ban, this body has not even been given the opportunity to consider the Hoyer-Greenwood bill.

The House leadership is clearly not interested in passing legislation that would set public policy on the issue of late-term abortion. Instead, they have tried to depict pro-choice Members as radical and out of step with the values of mainstream America.

Further, in this debate today, unfortunately, they have chosen to demonize women and to accuse doctors of medical malfeasance.

I and other supporters of the Hoyer-Greenwood bill are pro-choice and are willing to vote for a ban on late-term abortions provided that there are health and life exceptions.

If the House leadership truly wants to reduce the number of late-term abortions performed, they would bring H.R. 1032, the Hoyer-Greenwood bill, to the floor and allow the House to debate a bill that would actually accomplish something.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Madam Speaker, I rise in support of the motion to discharge, because we must override the President's veto of a ban on this horrendous practice of partial birth abortions.

It is an outrage that in this civilized modern society we still allow for this procedure to occur despite the mountain of evidence indicating that it is unnecessary and that it has, as the ultimate consequence of its completion, the killing of a partially delivered baby who cannot defend him or herself against the unscrupulous abortion industry.

It is important to remind our colleagues what this gruesome procedure involves. It consists of partially delivering the life baby's feet first, with only the head inside the mother's womb, and then stabbing the child at the base of the skull, a child that is already able to live outside the mother's womb.

The American Medical Association said about partial birth abortion, "the partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians."

The AMA "could not find any identified circumstances in which the procedure was the only safe and effective abortion method."

Even abortion practitioners, like Martin Haskell, reported to the American Medical News, "most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent of partial birth abortions are performed for genetic reasons. And the other 80 percent are purely elective."

Madam Speaker, Americans cannot stand idly by while this tragic procedure is performed. Many doctors have stated that this horrid practice can severely damage a woman's health. And let us not forget, it kills an innocent human life.

Let us overturn the veto.

Mr. SCOTT. Madam Speaker, could you advise us as to the time remaining on both sides, please?

The SPEAKER pro tempore. The gentleman from Virginia (Mr. SCOTT) has 5½ minutes remaining, and the gentleman from Florida (Mr. CANADY) has 3½ minutes remaining.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding.

I rise today, my colleagues, not so much to speak on the veto override, although the bill in question, I believe sincerely, will not in fact stop any abortion. This is about a procedure, not about abortion. The issue should not be about a procedure. I want to make it clear, I am opposed to late-term abortions by any procedure.

I rise today to call Members' attention to legislation which has been referenced before that has as its intent stopping all late-term abortions by whatever procedure.

I asked the gentleman from Texas (Mr. DELAY) was there an alternative procedure he thought preferable. He would not answer that question. Nor will anybody on this floor. Not one. Because there is no alternative procedure that proponents believe is a preferable procedure.

□ 1130

The fact is I think most of us are against what the gentlewoman from Florida talked about, elective late-term abortions. I am absolutely opposed to that, unequivocally opposed to elective late-term abortions.

Do I make exceptions in my bill? Yes. As the gentleman from Texas intoned, for the life of the mother. There is not a Member, I think, on this floor who would not vote for that exception. Not one. Then, yes, we go on to say for serious adverse health consequences to the mother, a wrenching, difficult decision for a doctor and a patient to make.

But I am opposed and believe that any ethical doctor would oppose elective late-term abortions by whatever procedure. And if they do not, the medical association ought to take them to task and our bill would impose a very significant penalty on so doing.

Whether this bill today passes or fails, I would ask the Committee on the Judiciary and ask the gentleman from Florida to report this bill to the floor. Let us debate. Let us go on record as 41 States in America have gone on record and say, we are opposed as public policy to late-term, elective abortions. Period. No ifs, ands or buts, no this procedure is not good but that procedure is okay. Not deal with procedures. Deal with substance. Deal with saying that we should not have these abortions late-term for elective reasons.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Madam Speaker, a minute is not nearly enough time to address the horrors of partial-birth abortion. But I trust that during the course of this debate the truth will come through and this body will do the right thing, the decent thing and vote to override the President's unconscionable veto of the partial-birth abortion ban. This ought to be simple. You should not kill babies.

Partial-birth abortion is infanticide. It is the termination of the life of a living baby just seconds before it takes its first breath outside the womb. The procedure is violent, it is gruesome, it is undeniably wrong. It is the killing of a baby as it is being born.

This morning's vote is among the most important we will ever make. It is one that will long be remembered. I would urge my colleagues to say "no" to the abortion President and "no" to the most militant leaders of the abortion lobby and vote to protect the lives of helpless, defenseless little babies.

Madam Speaker, let us vote today to defend those little babies who cannot defend themselves.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Madam Speaker, could I ask the gentleman from Ohio (Mr. CHABOT), if he does not like partial-birth, what will he be willing to accept to save the life of the mother if he does not like this measure?

Mr. CHABOT. Madam Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. CHABOT. Under the proposal we have——

Mr. CONYERS. Just answer me.

Mr. CHABOT. We would accept this procedure if the mother's life is at risk.

Mr. CONYERS. Oh, you do accept it?

Mr. CHABOT. I think everybody would accept when you have a balance between the mother's life and the child's life. That is not the issue.

Mr. CONYERS. Then why are you opposing this?

Mr. CHABOT. It is wrong to kill babies, as simple as that.

Mr. CONYERS. Just a moment. No lectures. Just answer the question. What about serious health risk, like sterility?

Mr. CHABOT. If the gentleman will yield further, I think the gentleman is aware of when you talk about health risk.

Mr. CONYERS. Just answer me.

Mr. CHABOT. If somebody feels bad about themselves, that is enough to allow the procedure.

Mr. CONYERS. What do you think about serious health risk, namely, fertility? What is the answer? I yield to the gentleman from Ohio.

Mr. CHABOT. Madam Speaker, I think the gentleman from Michigan is aware that if you allow an exception for health reasons, it can mean if a psychiatrist thinks that somebody is going to feel better about themselves.

Mr. CONYERS. We are talking about serious physical health. Yes or no.

Mr. CHABOT. That is not what your bill says. The bottom line is we are trying to save babies. You are always saying, Let us do this for the children, let us do that for the children. Let us pass this veto override to save the children. This will really save children.

Mr. CONYERS. What about all the other procedures that you allow that we are not doing this that we are doing to partial-birth? What about them?

Mr. CHABOT. The bottom line is the folks that are on our side here want to save kids. We want to save children.

Mr. CONYERS. I am talking about you.

Mr. CHABOT. While they are being born. I think we ought to join together and try to save those babies that would otherwise be born.

Mr. CONYERS. You are against protective procedure and all these other procedures. We will talk later about this.

Mr. CHABOT. I thank the gentleman for yielding.

Mr. CONYERS. It was a pleasure.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN. Madam Speaker, our civilized society must not allow President Clinton's preference for partial-birth abortions to continue. I not only speak for my fellow Kansans but also for the preborn children throughout this country whose lives are taken by this gruesome procedure.

Recently a doctor performing a partial-birth abortion realized in the middle of the procedure that he had misjudged the baby's age. She was actually only three weeks away from being in full term. Thankfully the doctor was able to stop the abortion and successfully deliver the baby. That is a happy ending.

However, the tragedy of partial-birth abortion is that any preborn baby in the third trimester has a good chance of survival. Only the abortionist's scalpel prevents that baby from having its first breath. Can we seriously allow a few inches to distinguish between a baby and a blob of tissue?

Members of Congress as well as the AMA have not found a single circumstance where partial-birth abortion was the only safe and effective abortion method. It is just not there.

The truth is this procedure poses a greater risk to the mother's health than a full-term delivery. For the health of women, for the lives of our children, and for the future of America, we must put an end to this ghastly procedure.

Mr. SCOTT. Madam Speaker, I yield myself the balance of my time. As has been pointed out in the debate, Madam Speaker, this bill will not stop any abortion. It will just require an alternative procedure to be used. We have had no answer to the question of what that alternative should be. What we should do is defeat the motion to discharge the committee from further consideration of the bill, require the Committee on the Judiciary to in fact consider the bill and the fact that it is unconstitutional and consider alternatives like the Hoyer-Greenwood bill that would prevent the maximum number of abortions consistent with the Supreme Court decisions. I would hope that we would defeat the motion and have the Committee on the Judiciary report a constitutional bill.

Mr. CANADY of Florida. Madam Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. HALL).

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Ohio is recognized for 1½ minutes.

Mr. HALL of Ohio. Madam Speaker, I rise as an original cosponsor of this most important act, and I support this motion to override the President's veto.

Abortion, except to save the mother's life, is wrong. However, this particular procedure is doubly wrong. It requires a partial delivery and involves pain to the baby.

Madam Speaker, we have heard the medical details of these abortions from others. I believe that a compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capital punishment. We have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

Many years ago, surgery was performed on newborns with the thought that they did not feel pain. Now, we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells. Pain is inflicted to the fetus with this procedure.

Madam Speaker, I do not want to discuss this bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I could not stand here and honestly debate this subject with a clear conscience if I did not spend a good portion of my time on improving hunger conditions and trying to help children and their families achieve a just life after they are born.

Enough is enough. One thing this Congress ought to do this year is stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this.

Please vote to override the President's veto.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. CANADY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Without objection, votes on the motion to instruct and on a motion to authorize closed meetings of conferees on the national defense authorization will be taken immediately following the 15-minute vote on the motion to discharge, and the vote on closing meetings will be conducted as a 5-minute vote.

There was no objection.

The vote was taken by electronic device, and there were—yeas 295, nays 131, not voting 8, as follows:

[Roll No. 321]

YEAS—295

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NAYS—131

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gilman
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kennedy (MA)
Kennelly
Kilpatrick
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—8

Condit
Ford
Gonzalez
Green
Markey
Serrano
Smith (TX)
Young (FL)

□ 1202

Mr. BARRETT of Wisconsin changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HINCHEY. Madam Speaker, I inadvertently erred this morning when voting to discharge H.R. 1122 from the Judicary Committee. On rollcall No. 321, please let the record show that I meant to vote "no."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 716

Mr. FORBES. Madam Speaker I ask unanimous consent that my name be removed as a cosponsor of H.R. 716.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 3616, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The SPEAKER pro tempore. The unfinished business is the vote on the motion to instruct conferees offered by the gentleman from Missouri (Mr. SKELTON).

The Clerk will rereport the motion.

The Clerk read as follows:

Mr. SKELTON moves that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the Senate amendment to the bill, H.R. 3616, be instructed to insist upon the authorization levels provided in title II of the House bill for Theater Missile Defense programs and for space-based lasers.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Missouri (Mr. SKELTON) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 424, nays 0, answered "present" 1, not voting 9, as follows:

[Roll No. 322]

YEAS—424

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

ANSWERED "PRESENT"—1

McKinney

NOT VOTING—9

Abercrombie
Ford
Gonzalez
Green
Leach
Markey
Murtha
Serrano
Young (FL)

□ 1221

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. COBLE. Madam Speaker, I offer a motion.

The SPEAKER pro tempore (Mrs. EMERSON). The Clerk will report the motion.

The Clerk read as follows:

Mr. SPENCE moves, pursuant to clause 6(a) of House Rule XXVIII, that conference committee meetings on the bill H.R. 3616 be closed to the public at such times as classified national security information is under consideration, provided, however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. SPENCE).

On this motion, pursuant to clause 6 of rule XXVIII, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 412, nays 5, not voting 17, as follows:

[Roll No. 323]

YEAS—412

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther

Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Yates
Young (AK)

NAYS—5

Conyers
DeFazio
Furse
Stark
Woolsey

NOT VOTING—17

Blunt
Buyer
Cooksey
Fawell
Ford
Gonzalez
Green
Hansen
Hunter
Lazio
Markey
Murtha
Pelosi
Sanford
Serrano
Stump
Young (FL)

□ 1230

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3905

Mr. RAHALL. Madam Speaker, I ask unanimous consent to remove my name as cosponsor of the bill, H.R. 3905.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–158)

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message of the President on the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

The question is, will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding.

The gentleman from Florida (Mr. CANADY) is recognized for 1 hour.

Mr. CANADY of Florida. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Virginia (Mr. SCOTT).

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, we now come before the House again on a subject that has been debated many times. The advantage that we have today is that the American public now knows this subject.

The American public knows that there is no truth in the statement that there is a need for this procedure at any time, at any place, in any way.

How do I know that? I have delivered well over 3,000 babies. I have handled every major known complication of pregnancy. This debate in the past has been about untruth. It has been about a desire to preserve an option of not fulfilling one's responsibility to a child. We have already heard today mischaracterizations and facts that do not exist. Those are called untruths about this procedure.

It is my hope that we can come together as a Nation and understand that partial-birth abortion is murder. Nothing short, nothing less. There is never an instance in which a woman would have to have a partial-birth abortion versus some other means of saving her life and caring for her infant. That is something that people should keep in mind as we debate this issue.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the gentleman from Virginia (Mr. SCOTT) for yielding me this time.

Madam Speaker, I wish we could discuss this very serious issue with a bowl full of truth and not one of jelly beans.

When a woman is faced with this type of painful circumstance, it is one that she should face without government interference. Frankly, I think the American people do not want Democrats playing God, and the Republicans certainly should not play God.

This is a very serious issue, and if the Republican Majority was so concerned about the loss of lives of babies, when the President vetoed this legislation in October of 1997, we could have swiftly moved to committee and looked at opportunities in order to save the mother's life and to protect the mother's health.

But, Madam Speaker, it is July 1998, just a few months from election, and they wish to play with the lives of women. We have 200 million citizens, over 51 percent of them women. I would imagine that 3,000 babies pale to how many babies have been delivered.

Madam Speaker, as a mother, I love children and I want to see the wonderful birth of children continue and the loving families to nurture them. But how many have listened to the pain that I have listened to? We have had women come and testify saying that they wanted nothing more than to have a healthy baby and to have an opportunity to give birth in years to come. Their doctor insisted, because of the health and the life of the mother to be able to be viable for birth again, that this procedure was a necessary procedure.

Yet, the Republicans want to tell us that they override the President's veto today so they can stand on the right side of the issue. This legislation will deny the physician, the woman's God, and her family to determine any type of procedure. No procedure will be allowed.

Let me tell my colleagues the bare facts. Last year 19 States banned so-called partial-birth abortion. Seventeen were challenged and the challenge was upheld. Those bans are no longer because reasonable people realize this is not something mothers go lightly into.

I saw the pain in these women's faces. I saw the desire to be mothers and to nurture. I saw the loss of fathers who wanted to be able to have a child.

Madam Speaker, I simply say to the Republicans, this is no time to play any games. When we have a child with fatal abnormalities, if my colleagues have ever looked at that living thing and saw that it could not live at all, that is a painful and wrenching decision that is required to be made again by our Heavenly Father, of whom we believe in, and the physician, and the family.

So I would ask that this override not take place, because I stand with those who want life and the opportunity for life.

Mr. CANADY of Florida. Madam Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, I just want to clarify three misstatements of fact that were just made. Number one, the ban on partial-birth abortion never puts a woman's fertility at risk. That is number one.

Number two, this bill does allow in the instance of the life of a mother, if it is at risk, a partial-birth abortion to be done. We do not think that is ever the case, and I know that as a physician never to be the case, but we allow that under the law.

Finally, if a child has a terminal defect, what could be better than having it be born and loved rather than killing it?

Mr. SCOTT. Madam Speaker, I yield 30 seconds to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Madam Speaker, there is only one question that the people of America need to ask themselves in this debate. Only one. That is: "Do you want a physician in your doctor's office making this decision with you, or do you want a politician?"

Madam Speaker, I am not a physician. I am a politician. I will not make this decision for the women and families of this country, and no other politician should make that decision for them.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Madam Speaker, I am a mother myself and married to a physician. There is very little that any of the previous speakers can tell me about abortions and about pregnancies and about life that I do not already know.

One thing I do know is our Constitution guarantees us the right to life, liberty, and the pursuit of happiness. The most fundamental of those things is life.

In our State laws in many States, the sanctity of unborn life is already regarded as a right. Let me tell my colleagues how. Criminally, if a woman is assaulted and loses her child, the person who assaulted her can be charged with manslaughter, can be charged with murder. Even if the mother survives, that child, that unborn child, has a right to live.

If someone negligently kills the father of an unborn child, the mother or a guardian can sue on behalf of that unborn child for negligence. So in the civil courts, we recognize that unborn children have a right to live.

And to think of delivering a child up to its head and then removing the brain from that child that is viable and that can live out of the womb. There is a home in America where that child could be loved and wanted. To deliver a child that could live and kill it is absolutely a mortal sin. It is a legal wrong. It is against everything that we stand for in this country.

Madam Speaker, I urge my colleagues to vote to override the President's veto.

Mr. SCOTT. Madam Speaker, I yield myself 15 seconds.

Madam Speaker, I want to place in the RECORD the words of the American College of Obstetricians and Gynecologists, who said that the intact D&E may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only a doctor in consultation with the patient should make that decision.

Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Madam Speaker, what I have heard thus far, it seems as though we are trying to make the victims of a tragic situation the culprits. For as a man, as a husband, as a father, and as having the opportunity of talking to many of the women that had to undergo this tragic circumstance, one would think that from the other side that these women went through this willingly and they went through this as a mechanism to get rid of a child.

They went through it because of no other alternative, because of serious health results that would have happened had they delivered this child, or because of bad chromosomes, malfunctions with reference to a child.

I dare say that most, not most, 95 percent of the women that have to undergo this unfortunate circumstance, this never leaves them. How do I know? Just look at a woman who may have lost a child, for she wanted to have that child, and I can just testify to the fact that just a few months ago, my wife and I lost a child and my wife had to undergo a special procedure for her health to get the child out of the womb.

My wife still has not recovered from that, for she had no other alternative because the doctor said that if the fetus stayed in any longer, she could have some serious health ramifications.

So this is not a procedure that one does out of convenience, this is what one does out of kindness, out of respect for this woman. Without her, I would be nothing and there would be no chance to have another child.

Mr. CANADY of Florida. Madam Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, let us clarify for the American public, the vast majority of all partial birth abortions that have been performed in this country have been for the elective termination of a late pregnancy, not associated with fetal malformations, not associated with a malformation or an inconsequence of reproduction, but associated with elective termination of viable children.

Mr. SCOTT. Madam Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Madam Speaker, this is a hard issue for many, but I urge all of us to keep several things in mind. First, Roe versus Wade sets up a careful framework: Abortions in the third trimester of pregnancy are strictly limited.

No one here is talking about changing or expanding that framework.

Second, late-term abortions are tragic. We are talking about wanted pregnancies that go terribly wrong.

Third, as our colleague, the gentlewoman from Oregon (Ms. FURSE) said, doctors, not Congress, should choose the procedure to be used in the tragic event that a late-term abortion is necessary.

Fourth, in my view, the President showed great courage in vetoing that bill and I think we should uphold his veto because, as the mother of four wanted children, the product of fortunately healthy pregnancies, I would have wanted the choice in the event that I learned late in my pregnancy that my fetus was so grossly deformed that it would not live beyond a few hours after birth, even if that, and that my reproductive health was at risk. I would have wanted that choice, and I do want' that choice, under constitutional guarantees, for every woman in this country.

Mr. CANADY of Florida. Madam Speaker, I yield one minute to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Madam Speaker, I rise in strong support of overriding the President's veto of partial birth abortion. We could talk about the abstract issue but we have a very narrow piece of legislation here that prevents the art and the notion of partial birth abortion, which is, for the sake of argument, almost delivering a child to birth and killing it.

We are not talking about a piece of chalk or a chair or a clock. We are talking about an innocent young child, a child that will never experience the joy of life, the power of laughter, all great accomplishments that any parent would want in a child.

Is it not amazing that in this country, where double parking your car or jaywalking is against the law that we can allow unfettered a partial delivery of a baby and killing it?

Madam Speaker, I urge every Member of Congress and every American to explore their conscience and override the President's veto.

□ 1245

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Madam Speaker, there truly is no rest for the weary, and I tell my colleagues the women of this country are weary. They are just plain tired of the constant stream of attacks on their health decisions launched by the Republican leadership in this House. Today's assault on women is an especially dangerous attack because it is part of a bigger conspiracy which puts politics first and women's health last.

I rise in opposition today, Madam Speaker, because this veto override is dangerous. It does not safeguard the health of women in this country, and that is what this bill should be about, not about whether the government or Members of Congress are allowed to poke their nose into the middle of decisions best made between a woman, her family, and her doctor.

First, my colleagues, the gentleman from Oklahoma (Mr. COBURN), tells us late-term abortion is never necessary. Then, after hearing the compelling story of our colleague, the gentleman from New York (Mr. MEEKS), he tells us that it is sometimes necessary. It is that "sometimes" that makes it the reason that the American College of Obstetricians and Gynecologists, the American Nurses Association, and the American Medical Women's Association are strongly opposed to this legislation. It is because sometimes that is the right decision to be made between the mother, the family, and their doctor.

It continues to amaze me, Madam Speaker, that Members of this House have so little faith in women, the very people who bear and raise the children of this country, that they would deny them access to life-saving procedures out of an outrageous notion that pregnant women would elect to abort a child in the late term of that pregnancy.

Mr. GOODLATTE. Madam Speaker, I yield 45 seconds to the gentleman from Oklahoma (Mr. COBURN) to respond.

Mr. COBURN. Madam Speaker, what we are talking about is infanticide. We have seen the debate as something other than that. There is nothing in this bill that denies any woman access to quality care or life-threatening care or reproductive care. I understand that is the debate we are using to say that we believe any baby at any time ought to be able to be terminated. But there is no difference between this procedure and infanticide.

As to the question of Roe versus Wade, the Supreme Court said they did not know when life began. Well, the fact is, as we determine death in this country as an absence of brain waves and an absence of heartbeat, and at 41 days post last menstrual period, every fetus, female and male, have a heartbeat and a brain wave.

Mr. SCOTT. Madam Speaker, I yield 30 seconds to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. If the gentleman from Oklahoma would answer a question, I would appreciate it.

My question is does the gentleman consider the story that the gentleman from New York (Mr. MEEKS) was telling us about his wife and his lost baby infanticide?

Mr. COBURN. Madam Speaker, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentleman from Oklahoma.

Mr. COBURN. No, I did not say that. I said the partial-birth procedure is a question of infanticide. There are lots of mistakes of reproduction. Never is it necessary to use the partial-birth abortion method to solve that problem.

Mr. GOODLATTE. Madam Speaker, I yield 1 minute to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Madam Speaker, I thank the gentleman for yielding me this time.

The question today before us is not only the question of life or death for thousands of partially born children in our country, but it is also a question of who we are as a people.

What kind of people are we? What kind of people are we when we are so unwilling to defend the smallest, most helpless and vulnerable among us? Partial-birth abortion is a sick, gruesome procedure. It is a violation of the most basic of human rights. It is a violation of the right to the gift of life.

We shudder when we see brutality in warring nations, we shudder when he hear stories of genocide and ethnic cleansing, we shudder when we see pain and torture and death around the world. But do we shudder when we consider the reality of partial-birth abortion? Do we shudder to think that here in the United States this is a legal procedure?

The President has acted out of a cold disregard for human life. His veto is a shameful act and it is unacceptable.

Mr. SCOTT. Madam Speaker, I yield 3½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Madam Speaker, I rise to oppose this attack on the fundamental rights of American women. Members of this House have tried time and again to limit the right to choose. They have imposed restrictions on Federal employees, on those who receive Medicaid, on women in the military, on women in prison, and on women under the age of 18. But they do not stop there. We saw last week their efforts to limit access even to birth control. We even saw them argue that the birth control pill is a form of abortion.

Their agenda is quite clear. Despite the fact that the Supreme Court has upheld the fundamental right of choice, it is their stated agenda not only to outlaw abortions by any means, but to limit access to birth control for millions of American women. That is why this vote today is so critical. It is an attempt to subvert the rulings of the Supreme Court and to implement phase I of their plan to eliminate the right to choice and to the availability of contraceptives.

When we debated this bill a year ago we argued that it was unconstitutional and could not be enforced. Time has proven us right. In 17 States courts have enjoined so-called partial-birth abortion bans as unconstitutional because they are vague, they fail to provide physicians adequate notice as to what is prohibited, they provide no exception whatsoever to preserve a woman's health, and only a dangerously inadequate exception to preserve a woman's life. Six of these unconstitutional State laws have virtually identical language to the bill before us today.

The bill is fundamentally flawed for another reason. It is based on the principle that politicians, not doctors, ought to make medical judgments about what procedures are appropriate. I would urge every pro-choice Member who may be inclined to vote for this bill to carefully consider exactly why they are pro choice.

If Members are pro choice because they believe it is a woman's decision, not the government's, about whether or not to have an abortion, then they should vote against this bill. If my colleagues believe that sometimes abortions are necessary to protect the health or life of a woman, then they should vote against this bill. If they believe that doctors should not be denied the option of using a medical procedure as they deem appropriate, then they must reject this bill. If they believe in the fundamental principles of Roe v. Wade, they must not support this bill, which severely restricts a woman's rights to choose.

Make no mistake, this bill is not about one particular procedure, it is about the fundamental right to choice. I urge my colleagues to defend a woman's right to choose and to reject this dangerous bill.

Let me close by quoting a letter of a woman from New York City who faced a tragic situation involving a fetus with a severely deformed heart and who would have been affected by this bill had it already become law. She writes, and I quote,

> You must hear our voices before you vote on this misguided bill, as well as the voices of other mothers and fathers who weep over their empty cribs. We are not bad people. We are extremely unfortunate, suffering families trying to cope with personal tragedies. Please don't deepen our wounds by taking away our choices. Please vote against H.R. 1122.

It could not be said better. Who are we to tell women in such tragic situations what to do? Women should make these choices, not politicians.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE), a member of the Committee on the Judiciary.

Mr. GOODLATTE. Madam Speaker, every year this heinous procedure is performed thousands of times on healthy babies with healthy mothers, usually in the 5th and 6th months of pregnancy. For these tiny children, the difference between a painful death and full protection of the law is literally four inches. Four inches; the difference between death and life.

Congress has expressed the will of the overwhelming number of Americans who want to outlaw this inhumane procedure. The people have spoken, but the President has refused to listen. He has ignored the conscience of the American people, who plainly see that this is nothing more than a painful, cruel and unnecessary act.

Madam Speaker, this is the people's body. Although the President will not listen to the American people, we will. I urge my colleagues to override the President's shameful veto.

Mr. SCOTT. Madam Speaker, I yield ??½ minute to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Madam Speaker, I thank gentleman from Virginia for yielding me this time.

I have been sitting here listening to this, and then I know tomorrow that I have to take some votes on managed care because we are very concerned about insurance companies who are going to and have been making decisions on people's health care.

Today, the question that I have to ask, and which just really bothers me, is today my colleagues want me to vote to allow Congress to make a decision on my medical care and not a doctor. But tomorrow they are going to tell me that a doctor should be making my decision and not the insurance company. Somewhere something is wrong in this place.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Madam Speaker, abortion is the most violent form of death known to mankind. It is violence against children and it is violence against women. When will liberals begin to truly seek protection for American women?

Listen to this statement by Dr. Camilla Hersh, member of the Physicians' Ad Hoc Coalition for Truth, which details the violence of a partial-birth abortion.

> Consider the grave danger involved in a partial-birth abortion. A woman's cervix is forcibly dilated over several days. This risks creating an incompetent cervix, a leading cause of subsequent premature delivery. It also risks serious infection, a major cause for subsequent infertility. Partial-birth abortion is a partially blind procedure, done by feel, thereby risking scissor injury to the mother's uterus and laceration of the cervix or lower uterine segment. Either the scissors or bony shards of the baby's perforated and disrupted skull bones can roughly rip into the large blood vessels which supply the lower part of the lush pregnant uterus, resulting in immediate and massive bleeding.

Let us stop kidding ourselves. Partial-birth abortion is violence. Let us override the President's veto.

☐ 1300

Mr. SCOTT. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I have joined several of my colleagues in supporting a bill that will actually prohibit all late-term abortions, consistent with the Constitution. We have heard that bill described. It is consistent with the law. And if we want to prohibit as many abortions as possible, we ought to consider that bill.

We have heard suggestions that some physicians think that the partial birth abortion ban is appropriate. Other physicians think that it ought to be an option for physicians. That decision ought to be left to the physicians.

This bill will not prohibit any abortions. It will just relegate some women to procedures which their physician thinks may kill, maim, or sterilize them. And that is why this bill ought to be opposed.

Mr. CANADY of Florida. Madam Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, the statement that this will not eliminate any abortions is not a correct statement. The vast majority of partial birth abortions are elective abortions. Elective. That means somebody who is pregnant who does not want to be pregnant. It has nothing to do with the quality of life of the child. It has to do with the choice to kill a baby at any stage. So this is about eliminating abortions in this method.

Number two, end this procedure. Everyone who practices medicine realizes this is a terrible procedure. This is not medicine. This is death.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to my colleague, the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Madam Speaker, I rise in support of the veto override.

I would like to address an issue that has been brought up repeatedly by the other side that most of these partial birth abortions, or a substantial portion of them, are done for medical necessity.

There has only been one study published on this procedure. It was the original report that appeared in the American Medical News by the originators of this grisly procedure, Drs. Haskell and McMann; and they described about 100 cases. Eighty-five percent were purely elective abortions.

So these were elective terminations of pregnancy of a healthy infant. So they are killing a healthy infant this way. Of the 15 percent that were for medical defects, the majority of them were for cleft palate and cleft lip. So to come here and to propose this disingenuous canard that we need this procedure in the face of those kinds of facts to me is totally unacceptable.

I encourage all of my colleagues to vote in support of this veto override.

Mr. SCOTT. Madam Speaker, I yield myself 30 seconds.

Will the gentleman from Florida (Mr. WELDON) respond to a question? If we cannot use this procedure, what procedure would be used?

Mr. WELDON of Florida. Madam Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Florida.

Mr. WELDON of Florida. The alternative procedures, in my opinion, are just as gruesome and grisly. And I have actually seen some of them.

In my opinion, late terminations of pregnancy should be illegal. The bill which the gentleman is talking about I am sure includes the provision that all liberals who are pro-abortion want, which is a provision to protect the health of the mother. And that has been defined to include mental health. And the vast majority of women who want to get an abortion claim it for that reason, it is for their mental health that they want to terminate an unborn baby.

Mr. SCOTT. Madam Speaker, I yield myself an additional 30 seconds.

Madam Speaker, I would say the provision in the Hoyer-Greenwood bill that allows an exception for the health of the mother is there because the Supreme Court says it has to be there. Otherwise, the bill is unconstitutional.

If we pass a bill without that provision, it will be thrown out, just like most of the similar bills that have been passed by states have been thrown out.

Mr. WELDON of Florida. Madam Speaker, if the gentleman would continue to yield, I disagree, as do many people in the United States, with the decision of the Supreme Court on this issue.

Mr. SCOTT. Madam Speaker, I yield myself 10 additional seconds.

That is why the bill is unconstitutional. My colleague just disagrees with the constitutional interpretation of the Supreme Court. We are going to pass an unconstitutional bill.

Mr. CANADY of Florida. Madam Speaker, I yield myself 15 seconds to respond on this constitutional issue.

The Supreme Court, in Roe versus Wade, with which I disagree, talked about the status of the unborn child. In this bill, we are dealing with the status of a partially delivered child, and that is a matter that is entirely different. It is excluded from the scope of Roe versus Wade.

Madam Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, I understand and respect those who disagree with my opinion on this procedure. They have my respect. I disagree with them. But I wanted to describe an alternative to this. There is not a fetal malformation that this is required for. ACOG says that. Their words are "may." It is not "must."

I want to tell my colleagues about patients that I have delivered who have had these tremendous malformations of their children. And I want my colleagues to decide, is it easier to kill a baby four-fifths of the way out of the mother and lie to her about the real consequences of the procedure, or is it better to encourage her to carry her baby to term even though it is not going to live and give her the opportunity and the husband, the mother and her husband and the father, an opportunity to hold and to love and to care for part of us?

I want to tell my colleagues about Jakey. Jakey had a courageous mom and dad. Jakey was a patient of mine. Jakey did not have all of his brain. His mother and father could have chosen to go to Kansas or lots of other places and have a termination. But what they chose was life. Maybe a very short life, but they chose life.

They chose 4½ hours of life for Jakey. They chose 4½ hours where they could hold what God had given them and say, we will deal with this. We will not run away from it. We will not put it out as a convenience. We will deal with the fact that life sometimes brings us things other than perfect and we will face that.

Partial birth abortion, whether it is for an elective procedure or for a fetal malformation, ducks the very value of life that all of us, whether we are pro-choice or pro-life, know we have to have as a society that is going to continue.

And to deny the truth, and that is what this whole argument is about, the truth that we can do it some other way that serves us as a human race in a much far better way that teaches our children to value life rather than to throw life away, we do a disservice to our Constitution, we do a disservice to the human race.

That is what I would ask my colleagues to think about. They may not be the most convenient ways to handle the problem. They may not be the fastest ways to solve the problem. But they are by far the best way to solve the problem.

Mr. SCOTT. Madam Speaker, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. There is not much quarrel that we can have with anyone who advocates life. There is not a mother on the floor of the House or human being who would advocate against life.

What the doctor fails to realize is that what we are arguing for is the right of the woman, with her special relationship, her God, and her medical professional to make the decision.

It is interesting that we would discuss life in this context, when many of those who stand on the floor of the House would support the death penalty. We have to be consistent in life.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Madam Speaker, I know many have heard about the news and it will be or has been discussed today about the abortionist in Arizona who delivered the little girl and later discovered that he had misguessed the child's age. And rather than 23 gestational weeks old, the little girl had reached the age of about 36 weeks on June 30, when her 17-year-old mother subjected herself and her baby to a planned partial birth abortion at an AZ Women's Center in Phoenix.

This is not the first time this abortionist had this happen to him. He is currently being sued because one of his patients bled to death following an abortion in 1996. But the story of this latest mishap, which came to light just this past week and received wide coverage across the country, is just one more reason why we need to ban this procedure, which is a cruel form of infanticide, pure and simple.

Abortionists across the country knowingly commit partial birth abortions on babies as young as 20 gestational weeks, and they will continue to kill these babies and endanger the lives if we do not act today to override President Clinton's veto of the Partial Birth Abortion Act.

A baby delivered prematurely between 23 and 24 weeks would have a one-in-three chance of survival in a neonatal unit if delivered under normal circumstances and certainly would not feel the excruciating pain of a partial birth abortion.

So the question we will vote on today is quite simply whether we oppose allowing a fetus to suffer excruciating pain or whether we support life.

I am proud to stand here today with those who oppose infanticide and support life.

Mr. CANADY of Florida. Madam Speaker, may I inquire of the Chair concerning the amount of time remaining?

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Florida (Mr. CANADY) has 15 minutes remaining, and the gentleman have Virginia (Mr. SCOTT) has 14 minutes remaining.

Mr. CANADY of Florida. Madam Speaker, I reserve the balance of my time for the purpose of closing.

Mr. SCOTT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the gentleman from Oklahoma (Mr. COBURN) suggested that we disagree with his decision. I do not agree or disagree with his decision. What I disagree with is Congress making the medical decision.

This bill will not prohibit a single abortion. There will be alternatives which were not described other than they are just as gruesome as this, and those alternatives would be used.

The bill, without the health exception, puts us in a situation where we will either allow the woman, if the bill does not pass, might have a choice of having a procedure that will not sterilize her by using this procedure. If this bill passes, the only alternative may require her sterilization. I do not think we ought to be making that choice for her that one procedure is more preferable than the one that might sterilize her.

Finally, Madam Speaker, this bill is unconstitutional, and everybody knows it. People have indicated they disagree with Roe v. Wade. The bill is unconstitutional. If we want to prohibit late-term abortions, we ought to pass the Hoyer-Greenwood bill.

Madam Speaker, I yield the balance of my time to the gentlewoman from New York (Mrs. LOWEY).

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. LOWEY) is recognized for 13 minutes.

Mrs. LOWEY. Madam Speaker, I thank the gentleman for yielding.

I rise in strong opposition to the bill. Because this legislation, my colleagues, puts the lives and health of women at risk and it tramples on the constitutional right of every woman in this Nation.

Unfortunately, the GOP leadership has been waging war on abortion rights since taking over this House in 1994. This is the 93rd vote on reproductive rights in less than 4 years. 93 times. The goal is clear, ban every abortion procedure by procedure, month after month.

Madam Speaker, we have a different vision.

Mr. SCOTT. Madam Speaker, will the gentlewoman suspend for just a minute?

I understand that, prior to the close, they will ask for a Call of the House; and I think it would be appropriate for both closing speakers to be heard, and at this time I would suspend for the motion.

CALL OF THE HOUSE

Mr. CANADY of Florida. Madam Speaker, I move a call of the House.

The SPEAKER pro tempore. Does the gentlewoman from New York (Mrs. LOWEY) yield for that purpose?

Mrs. LOWEY. Madam Speaker, I yield for that purpose.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 324]

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)

Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fazio
Filner
Foley
Forbes
Fossella
Fox
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Petri
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

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The SPEAKER pro tempore (Mrs. EMERSON). On this rollcall, 400 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–158)

Mr. SCOTT. Madam Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Madam Speaker, I rise against the bill.

Madam Speaker I rise against this bill.

This is the first time that Congress has attempted to criminalize a medical procedure—a rare procedure used to save a woman's life and save her reproductive future.

That's what it was for Kim Koster, who lives in Iowa. In November 1996, she became pregnant. In February, she faced heartbreaking news: Their baby had anencephaly—no brain. Kim says, "our world came crashing down around us." Thankfully, the D and E procedure was available, and Kim's fertility remained intact.

In March of this year, Kim became pregnant, and just last week, she learned that—again—she has another baby with no brain. Nineteen states, including Iowa, have blocked these state laws, ruling that they are unconstitutional, vague, and overly broad. Thankfully, Kim was able to have the abortion she needed.

Unfortunately, this federal bill prevents women like Kim Koster from receiving necessary, safe medical care in rare cases when a much wanted pregnancy has gone tragically wrong. When a woman seeks medical care, she wants the best care her doctor can provide.

Congress has no place in their decisions. And Congress has no place politicizing family tragedies. Apparently, the supporters of this bill feel it is more important to save a doomed fetus than the life of the mother and her ability to have children in the future.

I urge a "no" vote on this override vote.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. LOWEY) has 12 minutes remaining.

Mrs. LOWEY. Madam Speaker, I thank the gentleman for yielding to me.

Madam Speaker, I rise in strong opposition to this bill. This legislation puts the lives and health of women at risk, and it tramples on the constitutional rights of every woman in this Nation.

The GOP leadership, unfortunately, has been waging war on abortion rights since taking over this House in 1994. This is the 93rd vote on reproductive rights in less than 4 years; 93 times. The goal is clear: ban every abortion procedure by procedure, month by month.

Madam Speaker, we have a different vision. We want to reduce the number of abortions, not by making them illegal, but by empowering women to make healthy choices about their own reproductive health care.

Last week, we had a crucial vote in this House on a measure that will help reduce the number of abortions in the United States. That initiative will ensure that Federal employee health plans cover prescription contraceptives. It passed because the American people are tired of these polarizing debates. They want common sense solutions to preventing unintended pregnancy and reducing the number of abortions. Increased access to contraceptive coverage is one such approach; the bill before us, frankly, is not.

My good friend, the gentleman from Florida (Mr. CANADY), and we have worked together on many issues. However, my contraceptive coverage amendment, in my judgment, will prevent more abortions in a week than this bill ever will. It will do so by improving women's health, not by endangering it.

I am only sorry that the gentleman from Florida could not join us last week in supporting contraceptive coverage because that is the way that we will really reduce unintended pregnancies and prevent abortions.

So let us work together. Let us reduce the number of abortions. But, instead, we are, once again, considering this divisive issue. In fact, this is the sixth time this bill has come before the House. Each of those times, we tried to offer an amendment to the bill to protect the health of the mother, and each time the Republican leadership blocked us. We offered to sit down with the Republican leadership, craft a health exception that we could all accept. The Republican leadership refused.

The President will sign this bill if it protects the health of the mother, but the Republican leadership will not even give us a chance to make this change. Let me repeat, the President will sign this bill if it contains an exception to protect the health of the mother, but the GOP leadership refuses to put one in. So the Republicans, unfortunately, would rather debate this issue again and again and again rather than send the President a bill that he could sign.

Madam Speaker, this bill is not about reducing abortions. It is about defeating Democrats. This is election-year politics, plain and simple. But do not take my word for it. Leading GOP strategist Ralph Reed called this "a winning gold-plated issue." A winning gold-plated issue. Is that not unfortunate that that is why we are here today.

I heard reference in the debate before to liberals. In fact, two of my colleagues, my good friends, refer to people who oppose this ban as liberals. I just want to tell my colleagues, as a woman, that when you are there making this very difficult decision, and we have seen these women come to my offices to discuss the decision that they had to make to preserve their future fertility, they were not making this decision with their family, with their physician, with the member of their clergy, as a Democrat, as a Republican, as a conservative or a liberal. They were making this decision as a woman in distress who had to make a very, very difficult decision.

I think it is time for us to stop playing politics with the lives and health of American women. We must ensure that women have access to abortion if their lives and health are endangered.

So I ask my colleagues on the other side of the aisle, whose health would you sacrifice? Which one of us? Which of our daughters is expendable? The health of every woman in this Nation is precious. Each of us, mothers, wives, daughters, is irreplaceable.

Women like Tammy Watts, Claudia Addes, Maureen Britel, these women testified before Congress that this procedure protected their lives and health. These women desperately wanted to have children. They had purchased baby clothes. They had picked out names. They did not abort because of a headache. How demeaning to a woman to even consider that that is an option. They did not abort because their prom dresses did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

So who in this chamber will stand in the operating room and limit their options? Who, at this agonizing moment, will decide? Who will make that difficult decision, the Congress of the United States or the woman, families, physicians, and members of the clergy of America?

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The courts have been very clear on this point. Bans like this one have been passed in 28 states. Court challenges have been initiated in 20. In 18 state courts, there have been partially or fully enjoined bans on constitutional grounds. The courts have found that these laws ban most safe and common abortion procedures used throughout pregnancy. Courts have found that the bans are vague, they fail to protect the health of the mother and they are unconstitutional. The legislation before us is also clearly unconstitutional.

I want to conclude by stating that we believe strongly in the right to choose, but we also recognize that rights confer responsibilities as well. No woman terminates a pregnancy casually. No woman makes this decision lightly.

Madam Speaker, we have to trust the women of America to exercise this right thoughtfully, deliberately, judiciously, and we must empower them to do so responsibly. We must trust the women of America, not the government. We have to trust the women of America to make this very, very personal choice.

Madam Speaker, I urge my colleagues to say no. Put your faith in the women of America, not in this Congress, to make this very, very personal decision.

Madam Speaker, I yield back the balance of my time.

Mr. CANADY of Florida. Madam Speaker, I yield the balance of my time to the gentleman from Illinois (Mr. HYDE), Chairman of the Committee on the Judiciary.

The SPEAKER pro tempore. The gentleman from Illinois is recognized for 15 minutes.

Mr. HYDE. Madam Speaker, first of all, I want to thank the chairman for allocating so much time to me. I hope and pray I do not use it all. I know I express the feelings of everyone in the chamber that I do not use it all.

I also want to say at the outset that I will not yield, and I would appreciate the courtesy of not being interrupted, because I do not choose to yield.

I also want to briefly respond to my good friend, the gentlewoman from New York (Mrs. LOWEY). I do not know any one I admire more than she. This is a soul-wrenching issue. Your passion, your commitment, is respected on my side, and certainly by me, and all I ask is that you respect our passion and our commitment, because people of goodwill can be on both sides of this issue.

That is the wonder and the beauty of this debate, that we are here today talking about the most fundamental issues, life and death, health versus a life. That is the problem. You are trading apples and oranges, or chickens and horses. A life and health.

To me if you put those on the scale, life weighs heavier. Health has been defined by the Supreme Court almost amorphously. It is a state of well-being. Roe v. Wade and the other case, Doe v. Bolton, they defined health for us in the most poetic way, a state of well-being.

So the problem is, if health is an exception and the abortionist defines what is an impairment of health, I would suggest that the little unborn ought to have an Independent Counsel, because there is a conflict of interest there between the abortionist finding that a woman's health will be impaired. So it is not a simple question.

Demeaning to women? Over half the children that are aborted are women. I do not want to demean women; my God, no. I was married for 45 years. I have had a mother, a sister, a daughter. I never would want to demean women. But I do not want to trivialize the unborn either.

Now, I go through life trying to offend as few people as possible, and I do not always succeed. I may offend some people today, because I want to talk about slavery. I am keenly aware that there are some people who resent bitterly any discussion of slavery or the Holocaust, emphasizing the uniqueness, the singularity of those two realities that are part of our human history, and saying that nothing can compare to them in evil, and I agree.

I think slavery is absolutely unique in its horror and in its evil, and I think the Holocaust similarly is unique. But there are lessons to be learned. History is nothing if it does not teach us something. I analogize, I do not compare; I look for the common thread in slavery, the Holocaust and abortion, and, to me, the common thread is dehumanizing people. I intend to make that point, because I think we have to learn from history, so that at least in this context, past will not be prologue.

So I would like to tell you about a recent movie I saw called Amistad, named after a Spanish sailing ship used in the African slave trade in 1839, where some 39 survivors of the mutiny find themselves in a legal battle before the United States Supreme Court. It is based on a true story, and they are represented by an elderly, infirm John Quincy Adams, played magnificently by Anthony Hopkins.

Adams' summation to the Supreme Court struck me as remarkably appropriate to the issue before us today. Adams tells the justices that this is the most important case ever to come before the court because it concerns the very nature of man. Of course, that was the central issue in debating the legitimacy, the morality of slavery, namely, the humanity of the slave. Is the slave a chattel, mere property, to be bought and sold? Or is he or she a human being with human rights?

We here today make the same argument, that that little, almost-born baby, whose tiny arms and legs are flailing, whose little chest harbors a beating heart, is a human being, with human rights, even if his or her human life can be snuffed out by the plunge of the abortionist's surgical scissors into the back of her tiny neck.

Yes, partial birth abortion concerns the very nature of man.

Later Adams stands near a framed copy of the Declaration of Independence and he asks the question that we who support preborn life have been asking for years. Looking at the Declaration, he says, "What of this annoying document? This Declaration of Independence? What of its conceits, all men created equal, inalienable rights, life, liberty and so on. What on earth are we to do with this?"

He then says he has a modest suggestion, and he takes a copy of the Declaration and tears it up.

A tall, impressive man, Cinque, exuding strength, is the leader of the slaves, and he has told John Quincy Adams that in his tribe in Sierra Leone, the Mende, when they encounter a hopeless situation, they call on their ancestors.

Adams tells the court this belief, that if they summon the spirits of their ancestors, their wisdom and strength will come to their aid. He then points to Cinque and speaks of his ancestors, from the beginning of time, and tells the court that this man, Cinque, is the whole reason his ancestors have ever existed at all.

When you think about it, each of us has ancestors that go back to the beginning of time, and we, here now, are the whole reason they ever existed. We are their progeny, we are their culmination. And just think of what our ancestors had to endure through the long and bloody centuries, the Four Horsemen of the Apocalypse, conquest, slaughter, famine and death, wars and plagues, natural disasters. And they survived it all, so that we might be born here and now, to debate the issue of partial-birth abortion.

So we have this little infant, arms flailing, legs squirming, little heart pounding away, and, with the plunge of the abortionist's surgical scissors, in a painful and cruel instant, that ancestral odyssey through the centuries is extinguished.

Think of Whittier's great lines:

> Of all the sad words of tongue or pen,
> The saddest are these;
> "It might have been."

Loneliness. We all know something about loneliness. It is one of life's most mournful experiences. We have all been lonely, and it teaches us how much we humans need each other.

What a special loneliness it must be for that little almost-born baby to be surrounded by people who want to kill him. I stand in awe of anyone who could perform, much less participate in, such a grisly inhuman act. It must take a heart of stone and a soul of ice.

A vote against this motion to override is to legitimize thousands of acts of appalling cruelty, not to an animal, a creature of the sea or of the forest, but a fellow human being who has the misfortune to be temporarily unwanted. You have this chance today to put an end to the process of unspeakable destructive cruelty, unworthy of a civilized society.

Our beloved America is becoming "The Killing Fields." One state has accepted euthanasia, so the elderly can be killed legally, and the abortion culture has resulted in 35 million abortions since Roe v. Wade in 1973. Kill them in the womb, and now, with partial birth abortion, kill them out of the womb, but keep killing them.

Those whose real agenda is to keep all types of abortion legal, at any stage, for any reason, have built their case on one lie after another. There is no polite way to say this. Deceptive? Misinformation? If one wants to be intellectually honest, you have to call a lie what it is.

First they claim this procedure did not exist. When a paper written by the doctor who invented it surfaced, they changed their story, asserting it was only used when a woman's life was in danger. But then the same doctor admitted that 80 percent of his partial-birth abortions were elective.

Then they lied about anesthesia. Planned Parenthood told us the baby does not feel any pain. The anesthesia given to the mother transfers itself in the womb to the baby, and the baby does not feel any pain.

The anesthesiologists went off the wall, because that frightened women into thinking their babies are at risk if they get anesthesia, and the anesthesiologists came in and testified that was a falsehood, and they shot this down in a hurry.

The Executive Director of the National Abortion Federation admitted on Nightline, and these are his words, that he had "lied through his teeth" about this procedure, thousands of them are performed on healthy little babies, and he was distressed at the loss of credibility the abortion cause was suffering because of the lies.

Former Surgeon General C. Everett Koop reacted to the President's veto with this statement: "I believe that Mr. Clinton was misled by his medical advisors on what is fact and what is fiction. Such a procedure can not truthfully be called 'medically necessary' for either mother or the baby."

Gee, the administration listens to Dr. Koop on tobacco. I wish they would listen to him on partial-birth abortion.

For over two centuries of our national history, we have struggled to create a society of inclusion. We keep widening the circle for those for whom we are responsible, the aged, the infirm, the poor. Slaves were freed, women were enfranchised; civil rights and voting rights acts were passed; our public spaces were made accessible to the handicapped; Social Security for the elderly, all in the name of widening the circle of inclusion and protection.

This great trajectory in our national history has been shattered by Roe v. Wade and its progeny. By denying an entire class of human beings the welcome and the protection of our laws, we have betrayed what is best in our tradition. We have also put at risk every life which some day someone might find inconvenient.

Madam Speaker, we cannot repair the damage to our culture done by Roe v. Wade. We cannot undo the injustice done to 35 million tiny babies who have been exterminated because seven Justices, strip mining the Constitution, found a right to abortion that no one had ever seen for 200 years.

□ 1400

We cannot unring the bell, we cannot undo that injustice, but we can stop the barbaric butchery of partial-birth abortion. We betray our own humanity if we do not.

Matthew 25 is often read at Catholic funeral masses. It is a lovely passage. "I was hungry and you fed me; I was naked and you clothed me; I was a stranger and you took me in."

That is what I ask for here today. Welcome the little stranger. Vote to override.

Mr. CONYERS. Madam Speaker, pursuant to general leave I request the following remarks be inserted in the CONGRESSIONAL RECORD during consideration of the bill H.R. 1122.

Imagine that you—or your wife—or your daughter, learned when she is seven months pregnant that the fetus had a lethal neurological disorder and all of its vital organs were atrophying. After consulting with specialists and being told that the pregnancy is seriously jeopardizing the mother's health, and possibly her life, you are told that an intact D&E procedure has the best chance of preserving the mother's health and her ability to become pregnant again.

Or imagine that the mother is 32 weeks pregnant when she learns that the baby has no brain. The fetus has no chance of survival. The mother is diabetic, so a Cesarian section and induced labor are more dangerous to her health and reproductive capacity than an intact D&E procedure.

Would you want 435 politicians to tell you—or your wife—or your daughter, the type of medical procedure she could use in this painful situation? Should Congress be able to determine whether a woman will lose her capacity to reproduce and bear children? Well that is precisely the situation that Coreen Costello and Vicki Stella were in. And if we adopt this bill, we will be telling many, many other women that Washington knows best when it comes to terminating pregnancies that have resulted in tragic circumstances.

Women's lives and health must be protected. This bill is unconstitutional, because it contains no exception providing for the physical health of the mother. And that is why we should vote against it. Roe v. Wade, and its progeny, clearly hold that a woman's right to protect her life and health, in the context of reproductive choice, trumps the government, as big brother, in its desire to regulate.

Courts across the country have continued to reaffirm Roe's holding that, "subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." Roe, 410 U.S. at 164–65, 93 S. Ct. At 732. Without such an exception, this legislation could jeopardize women's health.

Of course, the Republican leadership has little interest in developing a credible and serious constitutional proposal that could be signed into law. Instead, they prefer a "wedge" issue that can divide the American people. That's why they wouldn't make a single amendment concerning health in order.

But H.R. 1122 has no health exception, and we are led to believe that the reason is because its authors have determined that under no possible condition is a mother's health—no matter how serious—to be equated with the potential life of a fetus. To them, the partial birth abortion ban is merely a means of preventing any and all abortions, even where the mother's health is in jeopardy.

We must make abortion less necessary, not more difficult. But the reality is, this bill will do absolutely nothing to reduce the number of abortions performed in this country. Zero. It will only criminalize physicians for pursuing the safest alternative in dealing with a very painful, difficult, and terrifying circumstance when a pregnancy has gone bad, and the mother's physical health is in jeopardy. And it will encourage states to attempt to outlaw abortion at any and every stage.

It is this effort that is becoming a trend among anti-choice proponents across the country. One need only look to the case of Wisconsin, where for a few days no woman was able to obtain an abortion, in order to see the true breadth of this ban. In mid-May, an anti-choice judge refused to grant a temporary injunction against the state's "Partial Birth Abortion Ban." Upon learning of this decision, abortion providers in Wisconsin refused to provide any abortion for fear of prosecution under this broad ban. Fortunately, the Seventh Circuit Court overruled the judge and the health of Wisconsin women is once again protected.

It is clear that H.R. 1122 is unconstitutional. State versions of partial birth abortion bans, have been blocked or limited by eighteen federal and state courts. Many of these cases involve laws modeled after H.R. 1122. Based on these decisions, it is clear that H.R. 1122 is unconstitutional.

As of July 9, 1998, 28 states have enacted legislation banning so-called "partial birth abortion" or other abortion procedures. Court challenges regarding these laws have been initiated thus far in 20 states. In 18 of those, courts have partially or fully enjoined the laws. In 7 of those 18, courts have permanently enjoined the laws.

Only three courts have not enjoined state "partial birth abortion bans" when they have looked at the statutes. However, in Alabama, which is one of the three states, the court has not ruled on the merits, but the Alabama Attorney General has directed the state's district attorneys to enforce the statute only after viability. The Alabama court did not rule on the merits of the case at this time, because the court was very unclear about the meaning of various terms in the statute, such as the meaning of a "partial birth abortion." As a result, the court will not issue a final ruling, pending further explanation about the meaning of the statute from the Alabama Supreme Court *Summit Medical Associates* v. *James*, 984 F. Supp. 1404 (M.D. Ala. 1998). This decision is further evidence that courts are having a hard time interpreting the unconstitutionally vague language of so called "partial birth abortion bans."

And in Virginia, a single Circuit Judge for the U.S. Court of Appeals for the Fourth Circuit granted a stay of a preliminary injunction issued by the district court, allowing the law to go into effect. (Richmond Medical Center for *Women* v. *Gilmore*, No. 98–1930 (4th Cir. June 30, 1998) (Luttig, Cir. Judge). This makes Virginia the only state where a Court has gone against the grain and overturned a preliminary injunction against a ban.

But in the majority of cases, there is no question that courts have overwhelmingly come to the conclusion that so called "partial-birth abortion" statutes are patently unconstitutional. Some of the language from these cases is especially illustrative. For instance, a federal district judge in Arizona held that Arizona's statute, which was modeled on H.R. 1122, "unconstitutionally burdens a woman's right to terminate a nonviable fetus, and that the Act is void for vagueness in that it does not sufficiently define the conduct which is attempts to proscribe." *Planned Parenthood of Southern Arizona* v. Woods, 982. F. Supp. 1396 (D. Ariz. 1997).

In Iowa, a court held that the statute that was modeled after H.R. 1122 was unconstitutional because it "likely infringes on the constitutional rights of women . . . the protection of constitutional rights clearly outweighs any interest the state may have in promoting the interests of the fetus with a statute that is unconstitutional." *Planned Parenthood* v. *Miller* and *Niebyl* v. *Miller*, Civ. No. 4–98–CV–90149, 1998 U.S. Dist. LEXIS 9851 (D.S.D. Iowa, June 26, 1998).

In addition, most of the medical and legal experts who have reviewed the legislation note that it is extremely vague and broad and as a result, may outlaw abortion procedures at ANY stage of pregnancy. In fact, in my home state of Michigan, on July 31, 1997, federal District Court Judge Gerald Rosen struck down Michigan's "partial-birth" abortion ban, finding that the definition of "partial-birth" was so vague that doctors lacked notice as to what abortion procedures were banned. *Evans* v. *Kelley*, 977 F. Supp. 1282 (E.D. Mich. July 31, 1997). Moreover, the court found that the state law unduly burdened women's ability to obtain an abortion, in violation of the undue burden analysis established in the Supreme Court's landmark case of *Casey* v. *Planned Parenthood*, where the Court held that at least pre-viability, states may not place an undue burden on the right of women to choose to end a pregnancy. *Planned Parenthood* v. *Casey*, 50 U.S. 833 (1992). The judge noted that "the Michigan Legislature rejected every attempt to narrow and more specifically define the sweep of its statute, and as a result, produced a law clearly violative of Supreme Court precedent." It is clear that this bill violates that well established constitutional law long-settled by Roe. An Arizona court also found the same thing.

This purposeful vagueness can only be interpreted as an effort to outlaw other abortion and obstetric techniques as well. As recently as February 12, 1998, a District Court in Illinois found, "The Partial Birth Abortion Ban Act is unconstitutionally vague in that it fails to give fair notice of the conduct that is prohibited." *Hope Clinic et al.* v. *Ryan*, No. 97C8702 (N.D. Ill. 1998).

Let's take the politicians out of this intensely personal issue. When it comes to a women's life or health, Washington doesn't always know best.

Mr. LEVIN. Madam Speaker, I do not favor late term abortions. I believe they should only be permitted to preserve the life of the mother or to prevent serious consequences to her health. Unfortunately, the bill we are considering today, like the similar bill I opposed last year, does not protect a woman's life or serious risk to her health.

I support legislation, H.R. 1032, the Late Term Abortion Restriction Act, which would ban all late term abortions, whether "partial birth" or by other procedures, except in cases where in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.

I believe such a prohibition on late term abortion would pass scrutiny by the courts and be held constitutional by the Supreme Court which has ruled that during the period known as "post viability" states may limit abortions, except in cases where the mother's life or health are at serious risk.

The positive solution to this very difficult issue is not to continue considering the same legislation, but to allow the Late Term Abortion Restriction Act to be considered on the floor of the House.

Mr. PACKARD. Madam Speaker, I rise today in support of efforts to overturn the President's veto of H.R. 1122, the Partial Birth Abortion Ban, which the President vetoed last October.

Madam Speaker, I have always believed that any abortion is a tragedy. The fact that abortions are so prevalent in America today is a clear indication of how poor a job we are doing at teaching the importance and value of human life. It's hard for me to comprehend how a person could come to such a decision, given the thousands of parents who are desperate to adopt healthy babies.

While I understand that there are those with differing opinions on this sensitive issue, it remains impossible for me to understand how anyone can defend the practice known as partial birth abortion. Partial birth abortion is one of the most abhorrent procedures I have ever heard of. It is barbaric and has absolutely no place in a civilized society.

Most Americans agree that partial birth abortions are unjustified. In fact, several of our pro-choice colleagues have even drawn the line when it comes to allowing this to continue. Even the American Medical Association has endorsed our efforts to ban partial birth abortions. Madam Speaker, the President is simply out of touch with the great majority of Americans on this issue. I am hopeful that my colleagues will join me in overriding the President's veto of H.R. 1122, and end this horrible practice forever.

Mr. LEWIS of Kentucky. Madam Speaker, my colleagues and I come to this floor everyday to debate a wide range of legislation in anticipation that what we do will indeed help to improve the lives of our fellow citizens and hopefully strengthen this great democracy of ours. While we will always face tremendous social and economic challenges, there is no greater threat to our nation than the disregard we hold for our unborn children. Sadly, our President and many members of this body continue to defend the indefensible practice of partial birth abortion. Abortion at all stages is indeed a tragedy and has served to cheapen the value of life in this country and throughout the world. As long as this nation condones the legalized killing of millions of preborn babies, we will continue to struggle with its consequences, including the senseless acts of violence committed by our youth. The defenders of partial-birth abortions wish to perpetuate the evil myth that this procedure must be available to protect the health of a mother in rare occasions.

Fortunately, the truth now shines on this dreadful practice. The President and his advisors can choose to rationalize their defense of partial birth abortions, but we need to look no further than to our medical professionals who have spoken out against this outrageous procedure. To quote our former Surgeon General C. Everett Koop and the Physicians' Ad Hoc Coalition for Truth, "partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both."

Madam Speaker, I am heartened by the House's action today to stand firm for the sanctity of life in its decision to override the President's veto of the Partial-Birth Abortion Ban Act. It is my fervent hope that the Senate will respond in kind and support this noble effort.

Mr. KOLBE. Madam Speaker, over the past several months, Congress and the American people have endured a wrenching debate concerning the issue of "partial-birth" abortions. Like most Americans, I do not support abortion on demand. In fact, I am opposed to any late term abortion by whatever method, unless it is performed to save the life of the woman or to avert serious adverse consequences to her health.

The Congressional debate has centered, thus far, around legislation introduced by Congressman CHARLES CANADY, H.R. 1122, the Partial Birth Abortion Act of 1997. This bill would federalize the regulation of abortion, a matter historically left to the discretion of the states. And, for the first time in medical history, it would ban a specific procedure, known medically as a dilation and extraction (D&X). I could not support this legislation when it came to the floor of the House of Representatives earlier because of its uncompromising language banning this specific late term abortion method even in a case where a pregnancy goes tragically wrong and the woman's health is placed in serious peril.

Recognizing the need for some answers in a debate that has generated more heat than light, I joined my colleagues, Congressman JIM GREENWOOD and STENY HOYER, as a cosponsor of a bill which would prohibit all late-term abortions, regardless of the method used to terminate the abortion. This bill, H.R. 1032, the Late-Term Abortion Restriction Act, applies to all abortions performed after "viability", defined as that time when a fetus is able to survive outside the womb. The bill provides an exception only in cases where it is necessary to save the life of the woman or to avert serious adverse consequences to her health.

Unlike H.R. 1122, I believe this legislation correctly puts the emphasis on when abortions are performed, not how they are performed. It does not try to put Congress in the inappropriate role of determining the correctness of one particular medical procedure. Instead, this bill makes it clear that throughout the course of a pregnancy, prior to viability, medical decisions regarding a woman's personal care and treatment must lie with the patient, her physician, and her family—not lawmakers in Washington.

H.R. 1032, which I support, would prohibit all post viability abortions even if the woman suddenly decided she no longer wanted the child or was emotionally unable to care for a child. I cannot and I will not justify a late term abortion in these instances. However, when an abortion is medically necessary, I want every woman to have available to her the procedure that is the safest.

Today, we are here to vote to override the President's veto of H.R. 1122, the Partial Birth Abortion Ban Act; however, I will not vote to override that veto since H.R. 1122 does not include an exception for situations where the mother's health or life is in danger. I will continue, however, to work to pass legislation to ban all late term abortions while protecting the life of the mother.

Ms. PELOSI. Madam Speaker, I rise today in strong opposition to the override of H.R. 1122, the "late term" abortion ban and I ask my colleagues to sustain the President's veto.

Madam Speaker, this bill has been vetoed twice by the President because it fails to protect a woman's health and fertility. Once again, conservative Members of this body are encroaching on a very private, personal matter by infringing on a woman's constitutionally protected right to make a personal decision regarding her personal health.

Madam Speaker, the issue isn't about how many women undergo this procedure, but how many women have no other alternative but this procedure to save their life and reproductive health.

This bill challenges the Roe versus Wade decision to protect a woman's right to choose. It supersedes safeguards in the Constitution which protect a woman's right to terminate a pregnancy of a viable fetus if an abortion is necessary to protect the life or health of the mother. The Roe decisions says that a state may "regulate, and even proscribe, abortion" except when a woman's life or health is threatened. Mr. Speaker, the authors of this legislation failed to incorporate the need to protect a mother's health into this legislation.

The terms of this bill are so loose that 18 courts have struck down or severely limited enforcement of the "late term" abortion ban. Respected judges from around the county have rule that the definition in the ban is both vague and overly broad which has resulted in the ban of some of the most safe and common abortion procedures used throughout pregnancy. An undue burden is placed on a woman's right to choose and on a doctor's ability to practice safe medicine.

All of these restrictions on abortion will only make abortions more dangerous. Let us protect not only the privacy and personal choice between a woman and her doctor, but also the rights outlined in the Supreme Court's decision, Roe versus Wade.

I ask my colleagues to support and maintain the right of a doctor to determine which is the safest and most appropriate medical procedure based on a woman's individual circumstance within the protection of Roe versus Wade.

Madam Speaker, Congress has no business coming between a woman and her doctor. When making a medical decision, doctors should not be faced with the threat of imprisonment for having to perform a procedure to save a mother's life or protect her reproductive health. The tragedy behind this unfortunate situation is that most women who undergo this difficult procedure desperately want a successful pregnancy. Listen to the women who have been faced with this tragic situation.

Recently, I learned of a sad story about Kim and Barrett Koster of Iowa who enthusiastically awaited the birth of their son. In addition to Kim being diabetic which makes healing more difficult, the couple was faced with the devastating diagnosis that their son would be born without a brain stem. The dilation and extraction method was their only option. Kim and Barrett and their failed pregnancy are a perfect example of the need for access to safe medical procedures.

Madam Speaker, let us refrain from legislating the work of a medical professional and refrain from jeopardizing the lives of mothers. I urge my colleagues to vote to sustain this veto.

Mr. MORAN of Virginia. Madam Speaker, in debating the ban on partial birth abortion we have heard several different versions of the facts regarding the number of partial birth abortion procedures performed each year. Similar debate has focused on whether or not the procedure is performed on healthy fetuses of healthy mothers.

According to the Centers for Disease Control latest statistics, 1.3% of the abortions performed in 1994 were performed after the 21st week of gestation. According to the Alan Gutmacher Institute only .4% (5,070) of legal abortions were performed after the 24th week of gestation, the point at which most physicians agree viability begins. These facts tell us that late term abortion is not common. No statistics are available for the number of partial birth abortion procedures performed but it doesn't matter. The fact is, if this procedure is performed after viability on healthy fetuses in healthy mothers it is too many and we should stop it and the Supreme Court has told us that we may stop it after viability except in certain circumstances.

I have been committed throughout my career in Congress to protecting the reproductive health and rights of women. But the partial birth abortion procedure should not be protected as a reproductive right. It is an extremist procedure created by anti-choice extremists to destroy the credibility of moderate pro-choice activists. It is not protected by the Supreme Court in Roe versus Wade or in Casey versus Planned Parenthood and it should not be protected by Congress. This procedure is performed after fetal viability on the healthy babies of healthy mothers and it should be stopped.

I will continue to fight hard for women's reproductive freedoms; freedoms that are guaranteed to us in the Constitution and restated by the Supreme Court. But I cannot condone this procedure. I support a vote override of the President's veto and I urge my colleagues to do the same.

Mr. BARCIA. Madam Speaker, here we go again. We are voting on the Partial Birth Abortion Ban Act although a majority of the American people clearly do not support this gruesome procedure. We should not be here debating whether or not this procedure should or should not be legal. Clearly, this procedure should be illegal and 28 states have passed laws making this so.

We should not be here again debating this issue. Instead, we should be supporting efforts to decrease abortions, such as abstinence, which has worked very well in Michigan. I am proud to say that Michigan's abortion rate decreased by 2.3 percent. Although this is a good trend, sadly people who choose abortion in 1997 ended 29,528 babies' lives.

Instead, we should be supporting the medical miracles that are taking place. One of my newest constituents was a candidate for a partial birth abortion. Instead, after only 20 weeks in his mother's womb, he underwent surgery to save his life. The doctors performed an amazing surgery and my constituent was born, a little early, but is a healthy little boy.

I urge my colleagues here, in the House, and in the other body, to override the veto and save the lives of those innocent children who have not yet witnessed this cynical world where we take the miracle of life for granted.

Mr. CANADY of Florida. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, the vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 296, nays 132, not voting 7, as follows:

[Roll No. 325]

YEAS—296

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NAYS—132

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gilman
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kennedy (MA)
Kennelly
Kilpatrick
Kolbe
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (NY)
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Brady (PA)
Ford
Gonzalez
Lewis (GA)
Markey
Serrano
Young (FL)

☐ 1422

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

APPOINTMENT OF CONFEREES ON H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. PACKARD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, with the Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California? The Chair hears none, and without objection appoints the following conferees: Messrs. PACKARD, PORTER, HOBSON, WICKER, KINGSTON, PARKER TIAHRT, WAMP, LIVINGSTON, HEFNER, OLVER, EDWARDS, CRAMER, DICKS and OBEY.

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 504 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4193.

☐ 1425

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4193) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. LATOURETTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, July 22, 1998, the bill had been read through page 123, line 16.

Pursuant to the order of the House of that day, no further amendment to the bill is in order.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 2 offered by the gentleman from Oregon (Mr. DEFAZIO), the amendment offered by the gentleman from Washington (Mr. MCDERMOTT), the amendment offered by the gentleman from New York (Mr. HINCHEY), amendment No. 16 offered by the gentleman from California (Mr. MILLER), and the amendment offered by the gentleman from New Jersey (Mr. PAPPAS).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. DEFAZIO

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. DEFAZIO: Page 107, beginning at line 19, strike section 338 (and redesignate the subsequent sections accordingly).

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 81, noes 341, not voting 12, as follows:

[Roll No. 326]

AYES—81

Abercrombie
Barcia
Bass
Blagojevich
Bono
Boswell
Brown (CA)
Camp
Capps
Carson
Chabot
Chenoweth
Conyers
Crapo
Cummings
Davis (IL)
DeFazio
Deutsch
Emerson
Engel
Etheridge
Evans
Filner
Furse
Gutierrez
Harman
Hayworth
Hefner
Herger
Hill
Hoekstra
Hooley
Horn
Hostettler
Hulshof
Jackson (IL)
Jenkins
Klug
Kucinich
Lipinski
Maloney (NY)
Manzullo
McHale
McIntosh
McIntyre
McKinney
Menendez
Metcalf
Mink
Mollohan
Moran (KS)
Nadler
Owens
Pallone
Pascrell
Paul
Peterson (MN)
Pitts
Rahall
Rogan
Rothman
Royce
Rush
Salmon
Sanders
Scarborough
Schumer
Shadegg
Shaw
Slaughter
Smith, Linda
Snyder
Stearns
Strickland
Sununu
Thune
Torres
Velazquez
Wexler
White
Wise

NOES—341

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Cardin
Castle
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Deal
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
English
Ensign
Eshoo
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Ryun
Sabo
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—12

Brady (PA)
Davis (VA)
Ford
Gonzalez
Hunter
Lewis (GA)
Markey
Serrano
Solomon
Towns
Watt (NC)
Young (FL)

☐ 1444

Ms. WOOLSEY, Mr. HILLEARY and Mr. WAXMAN changed their vote from "aye" to "no."

Ms. MCKINNEY and Messrs. BARCIA, METCALF, ROTHMAN, and NADLER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 504, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. MCDERMOTT

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Washington (Mr. MCDERMOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McDERMOTT:

Page 118, beginning at line 8, strike section 333 (and redesignate the subsequent sections accordingly.)

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 202, noes 221, not voting 11, as follows:

[Roll No. 327]

AYES—202

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Nussle
Oxley
Packard
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—11

Brady (PA)
Ford
Gonzalez
Kaptur
Lewis (GA)
Markey
Norwood
Scarborough
Serrano
Weller
Young (FL)

□ 1453

Mr. ENSIGN changed his vote from "aye" to "no."

Mr. EDWARDS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HINCHEY

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. HINCHEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment Offered by Mr. HINCHEY:

Page 106, beginning at line 16, strike section 327 (and redesignate the subsequent sections accordingly.)

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 176, noes 249, not voting 9, as follows:

[Roll No. 328]

AYES—176

Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Bilbray
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Chabot
Clayton
Conyers
Costello
Coyne
Cummings
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dixon
Doggett
Dooley
Doyle
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fawell
Fazio
Filner
Forbes
Fossella
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Hinojosa
Hobson
Holden
Hooley
Hoyer
Hulshof
Jackson (IL)
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Menendez
Miller (CA)
Minge
Mink
Moakley
Morella
Nadler
Neal
Neumann
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Pastor
Pelosi
Petri
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Roukema
Roybal-Allard
Sabo
Sanchez
Sanders
Sawyer
Schumer
Sensenbrenner
Shays
Sherman
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Strickland
Tauscher
Tierney
Torres
Towns
Upton
Velazquez
Vento
Walsh
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—249

Abercrombie
Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla

Bono
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (IL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fattah
Foley
Fowler
Fox
Frank (MA)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kilpatrick
Kim
King (NY)
Kingston
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Rush
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stokes
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Visclosky
Wamp
Waters
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—9

Blagojevich
Brady (PA)
Ford
Gonzalez
Lewis (GA)
Markey
Rothman
Serrano
Young (FL)

☐ 1502

Ms. ROYBAL-ALLARD changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 16 OFFERED BY MR. MILLER OF CALIFORNIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. MILLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

> Amendment No. 16 offered by Mr. MILLER of California:
>
> At the end of the bill, insert after the last section (preceding the short title) the following new section:
>
> SEC. . None of the funds made available in this Act may be used to construct any road in the Tongass National Forest.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 237, answered "present" 1, not voting 10, as follows:

[Roll No. 329]

AYES—186

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chabot
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Petri
Pomeroy
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Sensenbrenner
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOES—237

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Mica
Miller (FL)
Mollohan
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Paxon
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)

ANSWERED "PRESENT"—1

Franks (NJ)

NOT VOTING—10

Brady (PA)
Doolittle
Ford
Gonzalez
Lewis (GA)
Markey
McIntosh
Parker
Serrano
Young (FL)

☐ 1509

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DOOLITTLE. Mr. Chairman, on rollcall No. 329, I was unavoidably detained in a discussion with the Speaker concerning a matter of utmost importance to my constituents. Had I been present, I would have voted "no" on this rollcall.

AMENDMENT OFFERED BY MR. PAPPAS

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. PAPPAS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PAPPAS:

Insert after the final section the following:

SEC. . The amounts otherwise provided by this Act are revised by increasing the amount for "LAND ACQUISITION AND STATE ASSISTANCE" under the heading "NATIONAL PARK SERVICE" (to provide funds for the State assistance program) and reducing the amount for "GRANTS AND ADMINISTRATION" under the heading "NATIONAL ENDOWMENT FOR THE ARTS", by $50,000,000.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 139, noes 285, not voting 10, as follows:

[Roll No. 330]

AYES—139

Aderholt
Archer
Armey
Bachus
Barr
Barrett (NE)
Bartlett
Barton
Bilirakis
Bliley
Blunt
Boehner
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Doolittle
Dreier
Duncan
Ehrlich
Emerson
Ensign
Everett
Fossella
Gallegly
Gekas
Goodling
Goss
Graham
Gutknecht
Hall (TX)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
King (NY)
Kingston
Knollenberg
Latham
Linder
Livingston
Manzullo
McCollum
McIntosh
Metcalf
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Packard
Pappas
Paul
Paxon
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Riggs
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Sununu
Talent
Tanner
Taylor (MS)
Thomas
Tiahrt
Turner
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)

NOES—285

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Capps
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Condit
Cook
Costello
Coyne
Cramer
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Shaw
Shays
Sherman
Sisisky
Skaggs
Skeen
Slaughter
Smith (OR)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stump
Stupak
Tauscher
Tauzin
Thompson
Thornberry
Thune
Thurman
Tierney
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Wexler
Weygand
Whitfield
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Brady (PA)
Conyers
Ford
Gonzales
Lewis (GA)
Markey
Parker
Serrano
Taylor (NC)
Young (FL)

□ 1517

Mr. BROWN of Ohio changed his vote from "aye" to "no."

Messrs. KASICH, SCARBOROUGH and SANFORD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ETHERIDGE. Mr. Chairman, I rise today in support of the necessary level of $98 million in funding for the National Endowment for the Arts (NEA).

As an advocate of quality educational opportunities for all our children, it is my belief that adequate funding of the Arts is important to providing a well rounded education. If you have seen a play, visited a museum, read a book of poetry or short stories, chances are you have participated in an event made possible through the NEA. Learning is a lifelong journey, and learning the arts begins early. It is nourished through quality programs in schools, homes and the communities, and continues to the very end of our days.

The NEA costs each American about 36 cents per year, less than one-hundredth of 1% of the federal budget. Its mission is designed to foster the excellence, diversity and vitality of the arts in the US, and to broaden public access to the arts. The NEA makes the Arts accessible to more Americans, promotes Arts education, and forges partnerships with local, state, regional, and federal arts organizations. Millions of children, regardless of their economic background, now receive formal arts education in local public school systems, helping to improve their overall academic performance. In North Carolina, the NEA has supported many wonderful projects of great cultural and educational value to the citizens of my great State including the American Dance Festival and the North Carolina Symphony Society.

Mr. Chairman, as we approach the 21st Century, we need to be sure that we provide every necessary tool to encourage creativity in our children. Exposure to the Arts provides access to the rich history of the past and the key to the future. We must continue to support this effort and ensure funding for this important agency.

Mr. THOMPSON. Mr. Chairman, I rise today in support of H.R. 4193—Department of the Interior and Related Agencies Appropriations Bill, 1999. This bill appropriates $40,812,000 in funding for the Historic Preservation Fund which is an essential element in the preservation and restoration of historic buildings and structures at Historically Black Colleges and Universities (HBCUs). These buildings will be ranked and receive funding in accordance to actual need.

The National Park Service has ranked twelve HBCUs that are considered to have the most endangered historic sites. Those HBCUs, in order of rank are:

1. Allen University (SC)
2. Tougalo College (MS)
3. Knoxville University (TN)
4. Fisk University (TN)
5. Claflin University (SC)
6. Talladega College (AL)
7. Rust College (MS)
8. Stillman College (AL)
9. Concordia College (AL)
10. Miles College (AL)
11. Voorhees College (SC)
12. Selma College (AL)

The preservation and restoration of the historical sites at the campuses of Rust College and Tougaloo College, both located in Mississippi, have been a personal endeavor of mine for many years. These institutions have historically educated African-Americans and other disadvantaged populations of this country as well as produced a large percentage of our nation's minority doctors, lawyers, educators and other professionals.

HBCUs also address and intervene in issues of violence, hopelessness, poverty, and illiteracy through research, community service and other projects. I, myself, am a graduate of an HBCU, Tougaloo College, which has notably been the site of many significant events in America's history. Consequently, I have seen first hand the need for safe, sanitary, and appropriate facilities and acknowledge the insufficient endowments for the restoration and maintenance of buildings at HBCUs.

All of the many HBCUs will continue to make valuable and much needed contributions to all of our citizens with the continued investments and support from federal agencies and departments through the passage of this bill.

The CHAIRMAN. No further amendments being in order, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LATOURETTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4193) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 504, he reported the bill, as amended pursuant to that rule, back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OBEY. Mr. Speaker, in its present form, I certainly am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. OBEY moves to recommit the bill, H.R. 4193, to the Appropriations Committee with instructions to report the same back to the House forthwith with the following amendment:
>
> At the end of the bill add the following new section:
>
> SEC. . Notwithstanding any other provision of law, none of the funds made available in this Act (and especially no funds for the National Endowment for the Arts) shall be made available unless Sidney R. Yates stands for election to the 106th Congress from the 9th District of Illinois.

Mr. REGULA. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. The gentleman from Ohio reserves a point of order.

The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, since the day I came here, SID YATES, more than anyone else, has been associated with this bill year after year. I think it is safe to say that, without SID YATES' leadership, there would be no funding for the arts and humanities in this bill.

On the environmental front, in dealing with public lands, no one can question that SID YATES has, indeed, been Mr. Public Interest on those issues. In so many fields, he has set the highest example of what public service is supposed to be all about. He has been fighting for justice. He has been fighting for humanity and decency in the actions that our government takes both at home and abroad. In defense of the individual against both government and corporate power, SID has had no peer.

He has graced this institution and honored this country with his service here. He has enriched the lives of each and every one of us who have served with him. He is indeed the Gentleman from Illinois.

I want to say to the House the greatest debate that I ever saw in this place never took place in this Chamber. It took place in the full Committee on Appropriations, a debate of titans between SID YATES and Eddie Boland on the SST many years ago.

I remember SID opening up that debate with a magnificent attack on the committee position. Eddie Boland responded with an incredibly able and eloquent defense of the committee position. With each speaker, we knew that the other could not possibly top what had just been said; and, yet, they continued to do so for well over an hour.

At the end of that debate—and this is the only time I have ever seen this in all of the years I have served here—the committee stood and gave each of them a standing ovation. In my view, that is what the gentleman from Illinois deserves right now.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. REGULA) is recognized for 5 minutes.

Mr. REGULA. Mr. Speaker, I yield to the gentleman from Louisiana (Mr. LIVINGSTON), the chairman of the full committee.

Mr. LIVINGSTON. Mr. Speaker, I have served in the Congress for the last 21 years. I have served on the Committee on Appropriations since 1980 and have been involved in lots of controversial, sometimes partisan, sometimes not altogether clear debates about one issue or another.

But when one thinks in terms of the orderliness of this House, of the decorum, of the presentation of cogent incisive arguments, the ability to present those arguments without rancor and without excessive partisanship, one has to think of SID YATES.

SID has been a gentleman for as long as I have known him and for a lot longer than that. He has been an outstanding Member of this Congress. I dare say, except for one short, brief time that he stepped down and ran for Senate and then came back 2 years later, he is currently the longest-serving Member of Congress. He is also one of the most exemplary and one of those with whom I am proudest to serve. We wish you well, SID.

Mr. REGULA. Mr. Speaker, I yield to the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me. I might address my comments to the gentleman from Illinois (Mr. YATES). Every summer of my life since 1985, I have found myself in a contest with the gentleman from Illinois (Mr. YATES). We have never been in anything other than rigorous disagreement on the subject at hand.

But in all those summers and in all those contests, while I cannot recall Mr. YATES ever did a kind thing to me, he was never unkind in the manner in which we dealt with one another. He was a gentleman. He was considerate.

On occasions, he even gave me advice, perhaps what might have been good advice, like "young man, you talk too much," but he was kind even when making that point.

Now I find myself realizing that, in the next summer I come to, I will not have my opportunity for the continuing contest with the distinguished gentleman from Illinois (Mr. YATES). If I may, let me say, I will miss you, but I will enjoy my summer or two. Thank you, and I hope you do the same.

Mr. REGULA. Mr. Speaker, before I make the final comments, I also want to mention that this will be the last time working on the Interior bill for the gentleman from Pennsylvania (Mr. MCDADE), one of our really cherished

Members, one that we all care a lot about and all respect. Where is he at?

Also, a last time for a rather recent vintage member of our committee, but a very thoughtful Member and one that I have treasured, the representative from Colorado (Mr. DAVID SKAGGS).

☐ 1530

Mr. Speaker, let me say about SID, we have said a lot. Words cannot describe him. He is fair, he is a gentleman, he is thoughtful and he is a person of absolute integrity. He has a wonderful helpmate, his wife, Addie, and I want to mention her because she has been very much a part of SID's life.

I want to thank you, SID. I enjoy symphonies a lot more than I did when I started on the committee 24 years ago.

We wish you well.

Mr. Speaker, I withdraw my point of order.

Mr. OBEY. Mr. Speaker, I most reluctantly withdraw my motion to recommit.

The SPEAKER pro tempore. The question is on passage of the bill.

Pursuant to clause 7, rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 245, nays 181, not voting 8, as follows:

[Roll No. 331]

YEAS—245

Abercrombie
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Ewing
Farr
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Rogan
Rogers
Ros-Lehtinen
Roukema
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Strickland
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Traficant
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Yates
Young (AK)

NAYS—181

Ackerman
Aderholt
Allen
Andrews
Baldacci
Barcia
Barr
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Christensen
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crane
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Everett
Fattah
Fazio
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hefley
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hostettler
Hunter
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Riley
Rivers
Rodriguez
Roemer
Rohrabacher
Rothman
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Sensenbrenner
Slaughter
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Stump
Stupak
Tanner
Tauscher
Thompson
Thurman
Tiahrt
Tierney
Torres
Towns
Turner
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—8

Brady (PA)
Brady (TX)
Ford
Gonzalez
Lewis (GA)
Markey
Serrano
Young (FL)

☐ 1548

Mr. STRICKLAND changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BRADY of Texas. Mr. Speaker, on rollcall No. 331, I was unavoidably detained. Had I been present, I would have voted "yes."

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on further consideration of the bill H.R. 4194, and that I be permitted to include tables, charts and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 501 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4194.

☐ 1549

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4194), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, with Mr. COMBEST in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, July 17, 1998, the bill was open for amendment from page 52, line 3, to page 65, line 16.

Are there further amendments to this portion of the bill?

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

On page 59, before the period on line 12, insert:

: *Provided further*, That any limitation on funds for the Environmental Protection Agency or the Council on Environmental Quality in this Act shall not apply to conducting educational outreach or informational seminars.

Mr. OBEY. Mr. Chairman, what this amendment does is to supersede language in the report on page 59 which states that the Environmental Protection Agency and the Council on Environmental Quality are thus directed to refrain from conducting educational outreach for informational seminars on policies underlying the Kyoto Protocol until or unless the protocol is ratified by the Senate. This amendment would allow such educational outreach and informational seminars to proceed.

I think most people would agree that there is considerable difference of opinion concerning the Kyoto Protocol and global warming and climate change. I think most would also agree that the only possible way to reach an understanding or potential compromise on such an emotionally charged issue is if there is a full and free exchange of information and ideas.

Having said that, though, there is truth in the statement in the committee report that there can be a fine line between education and advocacy on an issue. Assuming adoption of the amendment, I would still encourage the EPA and the CEQ to pay close attention to the line between education and advocacy and stay on the right side of that line.

Now, as to what the amendment does not do, it does not change any of the statutory language in the bill regarding Kyoto. The limitation on page 58 of the bill still prohibits the use of funds to develop, propose or issue rules or regulations or decrees or orders for the purpose of implementation or in contemplation of the implementation of the Kyoto Protocol. I am not fully satisfied with that language because I think it in fact may block some activities that it should not block, but I recognize that there should be no imposition of rules or regulations or decrees until and unless the Kyoto Protocol is actually ratified.

Regardless of the outcome of the Kyoto Protocol, we all need to know much more about the issues of potential global warming and climate change. In order to have an informed public policy debate, the Congress should be encouraging, rather than stifling, education and outreach and informational dissemination activities.

This amendment does exactly that. It takes no position on the merits of Kyoto; it just allows for the educational process and the free flow of information to continue. I think that any objective person would recognize that there is nothing wrong with that, and I would urge adoption of the amendment.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly rise to oppose the amendment of the gentleman from Wisconsin (Mr. OBEY). I appreciate very much how much he has put into the efforts to come to an agreement on this issue. I am concerned how the EPA will interpret his language. Whether or not the gentleman's amendment is approved today, I look forward to working with him and others to find common ground and clarify the intent of the language.

The Member from Wisconsin is bringing up the issue of preserving an open debate on environmental issues. Although he and I may disagree on how we get there, we both agree on the policy of an open and public debate. My work to make sure we do not implement the Kyoto Protocol until we implement ratification specifically was to ensure that we do have the debate, that we do have the debate, as the U.S. Constitution requires, in the U.S. Senate with its advice and consent.

Since coming to Congress I have supported an open and public debate concerning environmental issues, including the issue of climate change, clean air, clean water, Superfund, environmental justice, and other important environmental issues. I will continue to work to make sure the EPA does not implement environmental policies through the back door, through regulatory tactics, especially when it does not have the legal authority to proceed forward.

There have been some who have claimed the language in this bill concerning the Kyoto Protocol would stifle the debate on climate change. As far as my personal goals on this issue, nothing could be further from the truth. I have been working to ensure that the Kyoto Protocol is not implemented until Senate ratification, as required by the U.S. Constitution. This gives us the open debate this issue so richly deserves.

Let us be clear. The language included in this bill does not do anything to interfere with valuable research, existing programs, or ongoing initiatives designed to carry out the United States' voluntary commitments under the 1992 Climate Change Convention.

And, education is another function conducted by the EPA. However, it should educate using balanced information without advocacy. The taxpayers deserve a balanced presentation of information. This is especially true when the EPA conducts educational outreach on climate change. I want to caution my colleagues. There is a very fine line between education and advocacy.

The EPA should never use taxpayer dollars to advocate their own agenda when it is not the official policy of the United States of America.

The EPA must be allowed to serve its primary purpose: To ensure that we have a clean, safe and healthy environment. We may have differing views on how to accomplish this goal, but we must be able to air those differences in the light of day. I will continue to work with my colleagues and fight for open debate on these important issues. I would challenge the EPA to join me in accomplishing this rather modest goal.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Obey amendment and in support of the language that has been put in this bill by the gentleman from Michigan (Mr. KNOLLENBERG). This entire effort is designed to protect the rights of the American people against an anti-American effort resulting from the Kyoto Treaty that has been proposed before the United States Senate. Thank goodness that the American people have risen up and said we do not want this treaty to be passed and the Senate has actually listened to the American people.

It is anti-American because it imposes a lot of strict, costly penalties on Americans, while allowing many countries, many Third World countries to continue to pollute our environment at will. Frankly, I am mind-boggled as to how the administration could look at this as a positive thing for our people, and then after the people have said no, we do not want this to be implemented because it will cost us money and jobs, to then try to implement this through the back door, trying to go through the EPA to implement some of the rules and regulations, even though we do not want them.

This is a classic maneuver that the administration has used in recent years, and when the Congress and the people say no to something, they find agencies that are currently in existence to try to implement rules and regulations and circumvent the will of the United States Congress and the American people.

So I commend my colleague from Michigan (Mr. KNOLLENBERG) for inserting this language to prohibit this back-door effort at costing the American people money and jobs to implement this anti-American treaty.

□ 1600

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, over the last several months, I have participated in more than 20 hours of discussion during five hearings on the global warming issue. I am well aware of the impacts which the Kyoto Protocol may have on this country, but I am also aware of the possible consequences of global climate change.

When we look at this weather map from CNN of July 20, 1998, we can start to see the dimensions of the problem where we have had some of the most unusual weather in this country that people have experienced ever.

All across this country, people are aware as they are sweating at home how different the weather is this year than any other year. And as scientists have looked at it, they have seen that indeed this weather has been unusually severe this summer.

We have had fires in Florida, floods in the Midwest, tornadoes destroying entire communities. And we look back at the temperature, last Wednesday the high temperature was 117 degrees in Phoenix. Today marks the 17th day in a row the temperatures are over 100 in Dallas.

Does anyone remember last winter? Not even a snowflake fell here in Washington. From January to June, average temperatures were the warmest on record. Temperatures in 1997 were the highest on record, and in 1998, so far it is even warmer.

Scientists predict that even more severe storms and unusual weather patterns will occur if we continue to pour greenhouse gases into the atmosphere.

I want to repeat: Scientists predict that more severe storms and unusual weather patterns will occur if we continue to pour greenhouse gases into the atmosphere, and we are no doubt seeing evidence of this right now.

Let us look again at some of the headlines. 1998, "Twister Death Toll Already 121." That is from USA Today last month. Chicago Tribune, "Tornado's Fury Nearly Wipes Town Off Map." June 17, San Antonio Texas Express, "Heat Melts Sections of I–35 in Laredo." From Greensboro, the Greensboro News and Record, July 9, 1998, "Drought, Fires Ravage State Economies."

When we look at just the news, what we have is evidence of rapid breaking warming trends. The 1990s have been the warmest years, according to scientists. It is not a political statement. The 1990s have been the warmest years in six centuries. 1997 is the warmest year ever recorded. This June, or this past June has been the hottest June since recordkeeping began over a century ago. July is on track to beat these records.

This is a statement from the National Oceanic and Atmospheric Administration. These are not politicians debating issues. These are scientists who have experience records that cannot be contested.

But for the moment let us set all of that aside. The American people know that the climate is changing. The American people can tell us that it is hotter than ever in some parts of this country; that the weather has been crazier in some parts of this country. People know this. And yet there are those who would not let the government of the United States even study why this is happening in relationship to global warming.

Language in the VA–HUD bill does not allow contemplation of implementation of the Kyoto Treaty. It does not allow the relevant agencies to prepare to develop rules or regulations. Basic public education on the science and implications of climate change would be prohibited under the language of this bill. This language puts a gag order on the relevant agencies and stifles informed debate on global warming, which is why the amendment offered by the gentleman from Wisconsin (Mr. OBEY) is relevant.

This practice of not letting the public know the debate, this surely is not the way, this cannot be the way to assure the future of this planet. We have to prepare for all possible eventualities in order to protect the planet for future generations. We cannot be here in this Congress just for ourselves. We have to remember the next generation, and the next generation, and the next generation. It is very clear that global warming is a fact of life and it is hurting this country and the world.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree, as the gentleman from Wisconsin (Mr. OBEY) has already said, that no rules, no regulations that relate directly to the implementation of the Kyoto Protocols should be done in any direct way prior to the ratification of that treaty. But all his amendment does is make certain that all activities that are presently authorized by law in various other places will not be stopped on the basis of their having some implication for or some imagined implication for the Kyoto Protocols at some time.

Climate change and global warming are terms that we have heard a lot about recently. We know that there has been an enormous change in the ozone layer, a huge gap in the ozone layer that has left the whole continent of Australia in a position where they have to move heavily clothed, or at least they are advised to do so, because there is not that protection against radiation that has been with this planet for all of human existence.

Mr. Chairman, we also know, as the gentleman from Ohio (Mr. KUCINICH) pointed out, that some of the hottest summers in the last six centuries have occurred. My figure might be slightly different, but I think at least six of the 10 hottest years in this century have been within this decade. This is a trend that is going on as we speak.

National Geographic Magazine, in its last edition, had an article about extensive research by glaciologists in Antarctica where they have now looked through the record of previous ice ages and seen that the whole west Antarctic ice shelf is in danger of collapsing, which could end up in a very short period of time, in a matter of decades at most, raising the water table in this world, the water level in this world by feet. Not just inches, but feet.

So I think that the Obey amendment gives us the best chance. We cannot be in this position of only operating on the basis of what will get us through the next election. We have to think that even though our final exams in this body come every 2 years, we have got to think in terms of what is going to be happening 10 years and 20 years and 30 years down the road.

The Kyoto Protocols, from my point of view, clearly have flaws in them. They are too weak in many ways. They do not make certain that economic growth in emerging economies in the Third World is done with careful attention to how that energy is being used.

Were we to use energy in just one more nation, the Nation of China, at the same rate per capita that we are using, in the same way that our great economy uses energy, if we do not make the changes that will allow us to use energy much more efficiently, to produce much less in the way of greenhouse gases, if China were to produce and use energy in the same manner per capita as we do, we would have no chance, no chance whatsoever of turning this global warming around and getting control of it and stopping the rate at which human activity has affected the normal climate changes that this planet has gone through over a long period of time.

So, I would hope very much that the amendment offered by the gentleman from Wisconsin (Mr. OBEY) would be adopted so that we make certain that we do not, in our "know-nothingism" here, that we do not end up refusing to take what precautions, to add whatever research, to do those activities already allowed by law so that we can use energy in a much more efficient manner. I do not believe the Kyoto Protocols are anti-American in any way whatsoever. They may be flawed but they are certainly not anti-American. They are pro-planet.

I hope the Obey amendment will be adopted.

Mrs. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to respond a little bit about the issue of whether or not this is, in fact, the warmest June ever on record. According to Dr. John Christy of the Earth System Science Laboratory at the University of Alabama in Huntsville, who raised questions after hearing reports by the Associated Press and the National Public Radio last month, Dr. Christy researched the local records just, for example, at the Alabama State University climatology office and found that there were 6 years, 1914, 1921, 1936, 1943, 1952 and 1953, with warmer Junes than 1998, all of which were in many previous decades prior to this.

He also went on to tell us that the National Weather Service in Birmingham, Alabama, admitted that its State data only went back to the year 1958. So consequently, it is real hard to understand how the National Weather Service could possibly be speculating that this would be, in fact, the hottest June when its measures did not go back prior to that.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is interesting to note that we are discussing global warming. The Obey amendment addresses an important question, and that is whether or not EPA should be lobbying and should be pushing a treaty that has not been ratified by the United States Senate. I think that to allow EPA to do certain intelligence informational services that do not violate the laws against lobbying makes good sense, but I think to allow them to go further makes very poor sense.

I want to commend the author of the language in the Committee Report and the bill for having done this. I do not know whether there is going to be global warming or not, and I do not know anything about climatology. I would, however, observe that I have been studying this question for a long time. I probably know about as much as anybody else in this Chamber who does not know anything about it either.

I would observe that I was over at Kyoto, and over there nobody knew anything about it at all either. Some of the scientists who came forward to talk about global warming just a few years ago were predicting a new age of glaciation in which the world was going to get colder. I guess they found that it is more profitable to be on the side of global warming. That appears to be the more popular view.

I think that we ought to look at this from the standpoint, first of all, of the Constitution, of our proper responsibilities to see what the real situation happens to be. The real situation is that until the Kyoto agreement is ratified, it does not mean anything.

It also ought to be observed that the Senate of the United States has told this administration, by a vote of 95 to nothing, that they are not going to ratify. By the way, that is bipartisan because there was nobody who voted against it; everybody voted for it. They made it very plain they are not going to ratify it until it is very clear that that particular treaty affects everybody and that the United States is not going to be the only nation in the world which is compelled to cut back as much as 30 percent on our use of energy, to sign a treaty which is going to bind nobody else the same way it binds us.

The Europeans say, well, we are going to be bound and the British are going to get out in some neat devices because they have gone to North Sea natural gas. The Germans are going to point out how they do not have to comply very much because they have the fine situation where they have taken over and closed a bunch of old, inefficient fuel systems.

The Soviet Union says, we will not be bound. Most of the former Soviet bloc countries say we will not be bound and we will not sign. Nobody in Africa and the developing countries will be signing, and they will not be bound.

It is interesting to note that India, which is a massive emitter of CO–2, is not going to be bound.

It is also interesting to note that our friends in China have told me, in a discussion I had with our delegates, that they will never be bound; they are always going to be a developing country.

So that leaves Uncle Sap, the United States, which proposes to be bound by a treaty which is going to cause enormous economic hardship.

This is not going to be ratified by the Senate. We can just bet our bottom dollar on that particular point.

□ 1615

So, first of all, there should be lobbying by EPA in favor of this. The Obey amendment makes splendid good sense, and I would hope that everybody here who is interested in the well-being of their constituents and the continued economic development of the United States would take that same view.

But the hard fact of the matter is that EPA ought not and the administration ought not and the other agencies of the Federal Government ought not be able to move forward to implement a treaty that the Senate of the United States is not going to ratify, because 95-to-0 they found it is not in the interest of the people of the United States or the economic and other welfare of the people of this country.

So I would urge this body to cease a debate which is without significance in the proceeding before us, about global warming, which has not yet been proven, and about adoption of a treaty, which is not going to be adopted, and simply adopt the Obey amendment, see to it that we curtail lobbying and other activities, including implementing by regulatory or statutory action a treaty which is, A, not in the interest of the United States and, B, which is not ratified and not going to be ratified.

That is the voice of good sense, and I hope that my colleagues will listen to it, not because it is me saying it, but simply because if my colleagues reflect on the interest of their country they will come to that conclusion. I urge adoption of the Obey amendment.

Mr. MCINTOSH. Mr. Chairman, I move to strike the requisite number of words, and in reluctant opposition, because I have a great deal of respect for the previous speaker, the gentleman from Michigan (Mr. DINGELL), and his work on this issue.

As I understand it, the Obey amendment would say educational activities would be allowed but advocacy activities would not. And perhaps I could even end up supporting this amendment. What I am concerned about, though, and was hoping to perhaps inquire of the gentleman from Wisconsin (Mr. OBEY) on some of the boundary lines between those two concepts.

For example, in my home State, in Indiana, there was a conference held in the last month at which every single one of the speakers spoke about the urgent need to do something to end the problem of global warming and urged support for the Kyoto Protocol. So there were no speakers providing an analysis of the cost, no speakers providing an alternative view of some of the science.

I wanted to ask the gentleman, if he would be so kind, how much leeway is there in the concept of educational activities versus activities that would be advocacy?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. McINTOSH. I yield to the gentleman from Wisconsin.

Mr. OBEY. Frankly, there is, in the human situation, always a lot of leeway. The Congress does not have the ability to serve as a nanny in dealing with every agency of government who might get out of hand to do something illegitimate.

The language of this amendment is pretty clear. The agency is expected to provide education, not advocacy. I would think that any time that the agency engages in an activity which goes beyond the line of the objective of providing information, I would think that people on the side of the issue who think that they have been skewered by it would bring it to the attention of the Congress, and I would think the Congress would react accordingly.

I am not in the business of censorship, and I cannot be in the business of defining ahead of time whether some idiot in some agency is going to do something which they are not supposed to do under the law. All I can say is that the language is quite clear. My comments in explaining the amendment are quite clear. And if the agency goes across the line into advocacy, it does so at its peril.

Mr. McINTOSH. Reclaiming my time, I hope the gentleman would agree with me, if it were an educational program such as the one in Indianapolis, where all of the speakers were advocates for the treaty, that that would cross the line and now we are establishing a standard that says they have to at least have some balance.

Mr. OBEY. If the gentleman will continue to yield, I do not want to comment on a conference that I was not in attendance at. I do not know whether the gentleman's characterization of that meeting in Indianapolis is accurate or not. I assume it is, but I do not know that to be the case. And so I simply am reluctant to provide an adjective describing anything that I do not know anything about.

Mr. McINTOSH. Mr. Chairman, I appreciate the gentleman's comments, and reclaiming my time, the concern that I have, and it is with reluctance, because I think the Obey amendment has drawn an appropriate line; where educational activities would be okay, advocacy is not, rulemaking is not; and all of the other activities that are prohibited in the Knollenberg amendment would continue to be prohibited.

But I am worried that Vice President GORE has sent a signal to the agencies that regardless of whether Kyoto is implemented or not, he and the President expect them to move forward in addressing this problem. And I think we have to correct for that, and we have with the Knollenberg amendment, by saying, no, they cannot use taxpayer funds to advocate for the adoption of Kyoto; they cannot use taxpayer funds to regulate, to implement Kyoto.

So I guess I am very strongly in support of the Knollenberg language. I appreciate the work that the gentleman from Wisconsin has done to try to clarify that mere educational activities would be allowed. It is with some reluctance that I think we need to be more specific so we do not cross over into that line of advocacy.

Mr. OBEY. Mr. Chairman, if the gentleman will yield once again, I would simply note that nothing in this amendment would change the underlying law which prohibits Federal agencies from lobbying for or against legislation pending before Congress, and I assume that applies to indirect as well as direct lobbying.

Mr. TIERNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been having this discussion with the gentleman from Indiana (Mr. McINTOSH) in committee now for quite some time, and I rise in support of the Obey amendment. During the past 4 months, in the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs of the Committee on Government Reform and Oversight, we have had at least five hearings. And what some have deemed to be the Clinton administration's back door of implementation of the Kyoto Protocol, we have been exposed and seen all kinds of frightening figures and numbers and portraits of devastating scenarios played out by a wide variety of witnesses on the possible effect the protocol would have on our economy and our jobs.

Let me assure this body, as we have assured the gentleman from Indiana and his committee, we have no intention of trying to implement the Kyoto Protocols before they have been thoroughly researched, thoroughly explained and thoroughly voted in the Senate. This amendment by the gentleman from Wisconsin (Mr. OBEY) makes this clear. But it is not sensible to prohibit the government agencies, that should be doing research, that should be educating themselves and the public, from doing that.

As a result of the hearings in that subcommittee, two things have become clear: One is that some of my colleagues are under the mistaken impression, I think, that they are, in fact, Members of the other body and it is going to be this group that actually ratifies the Kyoto Protocol. And aside from that overly generous interpretation of their role, they are also convinced that the protocol is going to be ratified tomorrow.

I think we all know that nothing could be further from the truth. We all understand the Kyoto Protocol is not going to be ratified tomorrow. We all understand that there are serious issues and concerns with its content and its intent, and that we need to explore that thoroughly and that nothing should be done to implement that protocol until the Senate, if ever, should ratify it and move forward.

But the language contained in the committee report for this bill prohibits the use of the funding from being used to develop, propose, or issue rules, regulations, decrees, orders for the purpose of implementation or in contemplation of implementation of the Kyoto Protocol. The report directs the Environmental Protection Agency to refrain from conducting any educational programs that promote policies that could be used to meet the emissions requirement called for in the protocol.

Mr. Chairman, I hope we all can agree that that is overly broad and potentially dangerous. Legitimate noncontroversial practices exist, or should exist, to improve energy efficiency and reduce emissions and pollution worldwide. We should all be committed to these goals. I am concerned, however, Mr. Chairman, that this language would thwart those efforts.

Reliable estimates show that the annual global market for energy efficient products and services is now about $80 billion, and that amount is expected to increase to $125 billion by the year 2015. This new technology is rapidly becoming one of our country's most effective generators of business, since small businesses can reap the benefits of available research and development assistance, such as the energy efficiency program supported by the Climate Change Technology Initiative and the Partnership for the New Generation of Vehicles.

That said, Mr. Chairman, access to advice and information on these programs and energy efficient products and services is imperative to create more small business and generate more jobs, which is something we should all be working to accomplish. Here is the catch, however, Mr. Chairman. The catch is some of these programs may also reduce greenhouse gases. And we all know that reduction of greenhouse gases was a part of the Kyoto Protocol's direction. But the language in the bill forbids the EPA from conducting any educational informational programs which small businesses rely on to take advantage of energy efficient technologies.

How can some of our colleagues reconcile this disparity? How can we tell our small businesses that we have founded these programs to help them utilize and benefit from energy efficient technologies, but we are not going to give them the information on how to expedite those efforts through outreach and educational programs because they happen to also promote Kyoto Protocol policies?

The Obey amendment would clarify this disparity and allow the EPA to continue the educational outreach and informational seminars that are already authorized by law. But it should not allow any funding to be used solely for the purpose of implementing the Kyoto Protocol, and I think it does not do that. This will allow small businesses and other entities to continue to benefit from the advice and information on energy efficiency, which will help them expand and grow in the long run.

Adoption of the amendment is imperative if we are to assure that the current EPA programs that have benefitted the economy and the environment are not jeopardized merely because they may also reduce greenhouse gases.

I urge all my colleagues to support the Obey amendment.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. TIERNEY. I yield to the gentleman from California.

Mr. LEWIS of California. I appreciate my colleague yielding, Mr. Chairman, and I asked for the yield simply because I agree very much with the gentleman's statement. I was inclined to accept this amendment in the initial stages, but because some of our colleagues are concerned about what the language actually means, there is reservation.

Nonetheless, I do intend to vote for this amendment and I would urge my colleagues to support it.

Mr. TIERNEY. Reclaiming my time, I thank the gentleman very much.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me be very frank about this issue. I happen to believe that there is a severe problem with global warming. I am no scientist, but I think that there is a significant problem. I do not know what the correct measures are to deal with that problem.

I think that the most serious environmental problem we face in the long term is probably climate change due to greenhouse gases, and if that trend is sustained, there is no question that our conifer forests, within a few generations, will no longer be in this country. They will be residing in Canada. And there is no question that if the trend continues the grain belt of today will turn into the dust belt of tomorrow.

The Kyoto conference was meant to try to discuss what the world ought to do about that. In my mind, the product that came out of Kyoto was flawed. And because it does not deal with what China and other major Third World polluters contribute to the problem, I have great doubts that that protocol will be ratified until it is changed. That does not mean that we do not have an obligation to avoid extreme reactions in the meantime.

I think when it comes to gagging the ability of the agency to even conduct educational seminars to provide not advocacy but explanation of the underlying issues, I think that is not only a right of the agency, I think they would be negligent if they did not. And I think that a Congress that did not allow them to do so would be in craven supplication to special interests in this country. So that is why I offered this amendment.

Those of my colleagues who know me know I often quote from my friend Archie the cockroach. Archie was a poet who died and came back to life in the body of a cockroach. He lived in a newspaperman's office. He would often write little messages which would appear in the newspaper the next day. He would dive from the carriage of the typewriter onto the keys and type his little messages and they would appear the next day.

□ 1630

He wrote something which is I think appropriate to this entire debate. This is what he said: "America is a paradise of timberland and stream, but it is threatened because of the greed and money lust of a thousand little kings who slash the timber all to hell and will not be controlled and change the climate and steal the rainfall from posterity."

Now that really is what this issue is all about. My amendment does not seek to allow the agency to lobby anyone. In fact, I would be offended if the agency did, because I do think that Kyoto Conference needs substantial repair before it is considered for modification.

But this Congress, which pretends it is interested in freedom of speech, when it protects the ability of big business or big labor to contribute hundreds of thousands of dollars, indeed millions of dollars in independent expenditures to congressional campaigns, when they pretend that they are protecting freedom of speech because they will not put reasonable restrictions on the ability of special interests to buy this House, for them to then pretend that somehow it is legitimate to say that an agency charged with the responsibility of dealing with the environment cannot even provide educational material and activities to its public, I think that is going a real stretch. That is why I have offered this amendment, and any rational view of that amendment would require its adoption.

Mr. STOKES. Mr. Chairman, reclaiming my time, I support the Obey amendment and I urge my colleagues to support it.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Obey amendment. But more important than that, I would like to make a small contribution to the better understanding of global warming.

I have been involved in this question of global warming, believe it or not, for the last 20 years. I attended some of the first conferences amongst the scientists who thought that there were signs of global warming. They were looking, of course, at the rising percentage of CO–2 in the atmosphere, and other similar indicators which has been measured for over 100 years, and they were trying to correlate those indicators with global temperature variations.

Now, this is not an easy thing to do, and anyone who tells us that there is absolute evidence that global warming is an established fact is probably misinformed or deliberately trying to deceive us. There have been occasions within the past few hundred years in which, because of other factors than human intervention, there was actually global cooling. There was a "little ice age" just a few hundred years ago, and we could conceivably have another "little ice age" in the future.

But most scientists accept the fact that we are in a situation where human intervention in the climate of the globe is causing some increases, and they want to understand those increases. If it is possible to quantify the changes, scientists want to do so. If it is possible to have some effect on the changes they obviously would like to do so.

Nobody can exactly predict the effects of global warming. It may be that the U.S. Wheat Belt will move to Canada, and the Canadians will be tremendously benefited. It may be that the wheat production of central Asia, for example, and the former Russian Republic of Georgia, will move to Siberia. The Georgians may not want to move to Siberia, but the wheat production might remain the same. This is a very delicate and difficult problem to analyze, and I do not like to see us trying to do that on the floor of the House, because we probably will not succeed.

What I do want to see us do is to better understand this problem, and take prudent steps to do whatever we can reasonably do to solve the problem. Now, one prudent step we can reasonably take is to be more efficient in our use of energy. It makes our industry more competitive and more productive when we do that. It also slightly decreases the chance of global warming, the impact of global warming, if it is due to the inefficiencies of our industrial system. Generally speaking, the large production of CO–2 reflects inefficiency in the industrial system. So there are prudent things that we ought to be doing.

Now, I feel that we should not be trying to implement the Kyoto Protocols if we have not signed them. I agree with what has been said on both sides with regard to such implementation. I think it would be highly imprudent to so curtail the agencies of the Government that they could not inform the public as to the facts of matters within their jurisdiction. If we move in that direction, we will soon be reaching the point where we will say do not do any more research on global warming, do not try to understand what is actually happening, even though, as I say, we have been doing such research for the last 20 years.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding.

I think he heard my comments earlier that the chair is going to support this amendment. But I must say that I do have some understanding of the reservations by some on both sides of the aisle, I assume because this is an agency that has a tendency to have a preestablished notion as to the way the world works and as a result they go about trying to make sure that everybody understands that they are right. And that is not exactly the way science works. So that is the reservation.

Mr. BROWN of California. Mr. Chairman, I presume that the gentleman from California (Mr. LEWIS) is trying to hint to me so that I should not beat this subject to death so we can move on with his bill. But I am very deeply concerned that we progress in terms of understanding, even if we do not always in terms of legislation.

Mr. DOGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that Vice President Gore has demonstrated significant and important leadership on this topic that has far-reaching consequences for our generation, for future generations, for us not just as Americans but as citizens of this one planet.

As I have listened to some of this debate, I have become convinced that perhaps this very debate and some of the comments that have been made during it make the strongest case for the Obey amendment that we really do need much more education.

The Obey amendment is indeed a modest step forward. It does allow for some flexibility, and I would hope that it allows for more than just more talking on this subject. We do need to begin to start looking at some solutions to this problem, not just to talk about how severe the problem is but to actually begin to do something about it.

Where I come from down in Texas, it is at this very moment sizzling in the shade. We got our typical Texas August about the beginning of May this year, and it has stayed that way. Many regions in our State have had triple-digit temperatures now for almost 3 weeks in a row. Eighty people have already died from the heat just in the State of Texas. And we have a lot of other folks down there that are concerned that our fields will burn, they are already burning; that our cedar breaks will catch fire, just like the ones over in Florida. And we have, of course, also felt more than most other parts of the country the severe impact of looking out at the sky at noon and not being unable to see the sun or anything else because of all the smoke that has filtered up as the rain forests of Mexico have burnt in some of the driest conditions that that area has ever faced.

Meanwhile, the scientific data is mounting that at least a significant contributing factor is changing climatic conditions or global warming, and that the planet is getting hotter by the year.

What a very strange time for this Congress, as these conditions exist, to be enacting what would essentially be the "Mandatory Ignorance of Global Warming Act of 1998." The language, as originally proposed, seemed to tell the folks that are involved in environmental protection for this country, "do not even think about global warming," a little like those parking signs we see "do not even think about parking here."

Well, the subject seems to be, do not even think about global warming or anything we can do about it. It goes far beyond the language necessary to have the very legitimate debate over the precise effect and cause of global warming that the gentleman from California just referred to.

Rather, the approach of this language, as originally proposed here on the floor of the Congress, seems more consistent with redesignating our national bird from the eagle to the ostrich. Because they really are proposing to bury our heads in the sand, as the thermometer keeps counting for a rise in temperature, instead of trying to look at solutions to this problem.

I have been interested to hear people suggest that we need to focus only on America and complain about these other countries that are not participating? Unfortunately, some of the same people who have tried to obstruct in every way how this country deals with the global warming challenge went over to China and to other countries and urged those countries not to participate on this entire problem.

So it is a little bit of a conflict that they say they want to deal with this whole global warming issue in a constructive way that everyone ought to be a part of the solution, as indeed every country should be a part of the solution, and yet at the same time they were trying to twist arms and influence opinion makers abroad to keep them out of a global solution with reference to this whole matter.

I do not believe that we have to wait until the glaciers melt or until the fields and the forests are burnt or until more and more people have skin cancer to begin to study and look for solutions to deal with this global warming challenge. There are many responsible corporations who feel that way, too. And without Government involvement to any significant extent, they are already out there working to try to find a way to reduce greenhouse gases.

I believe we ought to provide them incentives, that we ought to encourage their activities to address this challenge, that recognizes that while we have 4 percent of the world's people, we are producing 25 percent of the greenhouse gases in this entire planet. I believe we have some responsibility not just to be a world follower but to be a world leader. To be a world leader, we, at a minimum, need to continue to focus on educating our own people, on educating the world about the challenge and not following the path of "know-nothing-ism" that was originally proposed in this bill.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DOGGETT) has expired.

(By unanimous consent, Mr. DOGGETT was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would ask the gentleman, does he think we might get more votes for this amendment if we move this debate from the air-conditioned Chamber today to the steps of the Capitol?

Mr. DOGGETT. Reclaiming my time, well, we finally in the last couple of days have here in Washington the kind of weather that started out in Texas and much of this country back in May, the kind that leaves people sweltering. And while we cannot say every bit of that is the result of global warming, we do not have to wait for Alaska to have the kind of weather that we are having out here on the lawn at the front of the Capitol today or the kind that has disturbed the people of the South for the last several months before we begin to address this problem.

So I am pleased that my colleague, at least through this amendment, will allow a little education perhaps to the Members of this body and certainly the American people about the gravity of this problem. But I would hope that eventually, perhaps as we work through the process on this bill, that some of the other restrictions that have been placed in this particular appropriations act bill would also be altered, because we need the greatest flexibility to look at this problem and provide the leadership to resolve it.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

The amendment before us is one that everyone ought to support. It is common sense. The gentleman from Wisconsin (Mr. OBEY) is saying that, whatever limitations we place on the Environmental Protection Agency or the Council for Environmental Quality, we should not say to them they cannot conduct educational outreach or informational seminars.

Can my colleagues imagine, in the face of a global warming potential threat, we would say to the agencies that run our environmental policies, they cannot hold informational seminars, they cannot have educational outreach? That is absurd. That is absolutely absurd to have that kind of restriction. Yet that restriction is in the bill that is before us. And the gentleman from Wisconsin (Mr. OBEY) is trying to reach that part of the bill.

But the bill before us is even more extreme than just that, because the bill before us would stop the Environmental Protection Agency and the CEQ from looking at how to deal with the problem or developing some proposals.

□ 1645

What those who supported the language known as the Knollenberg provisions say they were trying to do was that they were trying to stop the administration and any of these agencies from trying to implement a treaty on global warming until that treaty has been ratified, as is required, under the Constitution by the Senate of the United States. I accept that. No one is disputing that they should not implement a treaty that has not been ratified. But to say they cannot hold educational outreach, informational seminars or develop proposals is like telling them, "Don't think about this issue. Put your head in the sand. Don't even think about this issue. We don't want you to do anything until we ratify the treaties, if we ever ratify a treaty."

If that treaty came up, and I do not think it will be proposed in its present form, but let us say the administration has worked out a treaty on global warming, this is a threat to our planet, many nations must be involved in stopping this threat, and they wanted then to get ratification of an agreement. The first question any reasonable Senator would ask is, "How do you plan to implement this? What ideas do you have for dealing with the problem of greenhouse gases that cause global warming?" And if we do not change this bill, the EPA and the CEQ, the agencies that deal with these problems for the United States Government, could not even be thinking about how to implement any kind of treaty or strategies that we might want to undertake.

The Obey amendment is one that everybody ought to vote for, but it is not enough. We have got to strike the rest of the language in this appropriations bill that stops any kind of thinking through a strategy, developing a way to deal with greenhouse gases and the climate change problem. I think everybody will support this Obey amendment. Maybe a few people will vote against it. But do not feel that in adopting this amendment we have solved the problems that this legislation that is before us has created, because we must go further.

The gentleman from Pennsylvania (Mr. GREENWOOD) is going to offer an amendment shortly. That amendment would be to untie the hands of the Federal agencies when they look at the global climate issues. As I understand his amendment, he will also agree not to allow any implementation, implementation or putting into effect any proposals until there is ratification of a treaty. But he would at least allow the agencies to think through the appropriate strategies.

I support the Obey amendment. I will support the Greenwood amendment. I think we need to strike out of these funding bills language that stops government from enforcing the laws on the books and developing strategies for a problem that none of us thought about maybe 5 years ago but are starting to worry about when we hear leading scientists in the country tell us that global warming is not some theory, it is a reality that we must take seriously.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KNOLLENBERG. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 198, not voting 10, as follows:

[Roll No. 332]

AYES—226

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bilbray
Bilirakis
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rivers
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Shaw
Shays
Sherman
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snyder
Solomon
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Upton
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
Wise
Woolsey
Wynn

NOES—198

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Fawell
Foley
Fowler
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Knollenberg
LaHood
Largent
Latham
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Radanovich
Redmond
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Wamp
Watkins
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—10

Brady (PA)
Ford
Gonzalez
Hyde
Lewis (GA)
Markey
Serrano
Velazquez
Yates
Young (FL)

□ 1711

Messrs. PAPPAS, HERGER, and Mr. INGLIS of South Carolina, changed their vote from "aye" to "no."

Messrs. MILLER of Florida, GANSKE, COSTELLO, GALLEGLY, VISCLOSKY, McHUGH, KOLBE, and FOX of Pennsylvania changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word and probably for an extended period of time will do so.

Mr. Chairman, by way of informing the Members, it looks as though we will have at least an hour or so before we have a vote, just so that those who are here and wondering how quickly we will vote will be informed of that.

Mr. Chairman, I wanted the Members to know that, before we continue work on the specifics of the Fiscal Year 1999 VA-HUD and Independent Agencies Appropriations bill, I want to take just a few moments to recognize the outstanding work of my good friend and the man who will always, in my mind's eye, be my chairman, Congressman LOUIS STOKES.

As most of my colleagues know, this will be the last VA-HUD bill the gentleman from Ohio (Mr. STOKES) and I will have the privilege of working on together. After 30 years in Congress and over 28 years on the Committee on Appropriations, LOUIS has decided to pursue other interests.

LOU STOKES clearly exemplifies everything that is good about the Congress of the United States and, indeed, everything that is great about this wonderful country in which we live.

From his early days growing up in public housing through his days of college and law school to his work as an attorney on some of the most important legal issues of our time to his service in the Congress which began in January of 1969, LOU has served with courage, with honor, with dignity, and with compassion.

He has represented his district with the finest tradition of service. I must tell my colleagues that my life has been enriched because of the friendship I have shared with LOU STOKES and his wonderful wife, Jay, for this fine American has made all the difference for me in working in this House.

☐ 1715

I, for one, will miss LOU STOKES, but I dare say that this institution will miss him even more.

Mr. Chairman, I would be happy to yield to my colleague, the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

Let me say that people come and go, and they either add or subtract from the places in which they work, but now and then somebody comes to this place who does his work, learns his craft, who demonstrates total dedication and produces service that, indeed, is worthy to be remembered.

LOU STOKES has many achievements. He served as chairman of the Committee on Standards of Official Conduct, he served as chairman of the Assassinations Committee, after the assassinations of Martin Luther King and Robert Kennedy; he served as chair of the Committee on Intelligence, he served on the Iran Contra Committee, he served as subcommittee chairman of this subcommittee, and, I think his most valuable service has come on a subcommittee on which he has never been chair, and that is the Subcommittee on Labor, Health and Education. It is there that I think the gentleman did the most to demonstrate that he has never forgotten his humble beginnings, unlike many other people that we often see in this society.

I referred to my good friend Archie the Cockroach once earlier today, and I would simply refer to him again. There is a piece in this book that I think sums up LOU STOKES' service to this House. It says:

> The lordly ones, the haughty ones, with supercilious heads held high;
> The up stage stiff pretentious ones, miss much that meets my humbler eye;
> Not that I meddle perk or pry, but I'm too small to feel great pride;
> And as the pompous world goes by, I see things from the under side.

I think LOU's entire career here demonstrates he understands that. He understands there are millions of people in this country who are stuck with seeing life from the other side, and in a city of 1,200 suits, LOU has never forgotten the people who wear work clothes.

I think that he has also demonstrated an interest far beyond just the interest of the poor. In a me-first era, he has remembered the answer to the question of Cain: "Am I my brother's keeper?" must very often be yes.

So I think in almost every way I can think of LOU STOKES' service here is a daily affirmation of the Judeo-Christian ethic which underlies our society. I want to say on behalf of all of the people in this country who need champions in Congress, even if they never know that they have them, I want to thank LOU STOKES on behalf of each and every one of them and on behalf of every Member in this House for the way in which he has graced this House with his years of service.

Mr. CLAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me first of all thank the gentleman from California (Mr. LEWIS) for providing this opportunity to pay tribute to our colleague on this occasion. Perhaps the best and most succinct summary of who and what LOUIS STOKES is about can be found in a statement appearing in a Cleveland newspaper 10 years ago when Mr. STOKES was celebrating his two decades in elective office. That article stated, "This 20-year milestone in the United States Congress gives us pause to reflect on LOU STOKES, the man, a legend in the making, as he continues to make his mark in history. He improves the quality of our lives by example and effort."

Mr. Chairman, I want to acknowledge the friendship between Mr. STOKES and his wife Jay and my wife Carol that goes back 30 years. We came to this Congress on the same day 30 years ago, along with Shirley Chisholm, and the three of us, who joined with six other African American Members, really made history that day, because that made nine of us in the Congress, and that was the most black Members of Congress that had served together at one time in history.

STOKES said to me shortly after that that because this was historic, that perhaps we ought to band together to really make a difference. As a result of his talking with myself and us talking with others of the nine, we formed the Congressional Black Caucus. And in this 30-year period, that caucus has made a difference. But LOU STOKES has definitely made a difference, and, as a result of that difference, all of us are proud today and all of us are better off.

STOKES has made a big difference. He has put his staff, his imprimatur, on landmark legislation, which altered and affects the lives in dramatic ways to millions of citizens that have benefitted by that legislation.

STOKES' 30-year career in Congress is the most compelling evidence, Mr. Speaker, available of why we should not have term limits. Only a few, in fact, only 120 Members of this body in 200 years, have served 30 years or better. So STOKES is in a distinct, unique class of people. In fact, in the 200-year history of this Congress, only 10,000 Members have served in this body. So it is an honor for him to be in that elite group of 115 distinguished individuals.

I do not think that anybody ought to limit the number of years that a person can serve here if his constituents want that person to represent them.

Mr. STOKES, as I said earlier, has become a legend, as it was predicted. He has contributed in a most meaningful way to enhance the image and importance of this institution. Those contributions have been exceptional, singular, uncommon, as has been related by the ranking member of this committee. STOKES has been the author of numerous education programs, including the TRIO program.

Mr. Chairman, in conclusion, let me say the term "power" is frequently used loosely and without knowledge of its real significance. Seldom do the users of the expression bother to contemplate that all sources of power are limited inasmuch as they are to some degree dependent on other sources of power. But for LOU STOKES, some sources are more real, more independent, and more indispensable than others. He has often said that the two most devastating kinds of power are economic and political, asserting that if you have one, you are respected, if you have both, you are feared, but if you have neither, you are exploited.

STOKES comprehends the theory of power and its imposing function. He has successfully exercised his power on the House Committee on Appropriations to achieve a degree of equitable balance between the have's and the have not's, and I am proud to say that I am counted amongst his friends.

Perhaps the best and most succinct summary of who and what LOU STOKES is about can be found in a statement celebrating his two decades in elective office. It stated:

> This twenty-year milestone in the United States Congress gives us pause to reflect on

Lou Stokes, the man, a legend in the making. As he continues to make his mark in history, he improves the quality of our lives by example and effort.

The one person who has stood next to the Congressman in this noble endeavor for considerably more than this 30 year stretch, is his lovely charming and understanding wife, Jay Stokes. She has been the pillar of strength behind his uncharted excursion into the field of law and untiring venture into the weightiness of politics. She has raised their four children—Shelly, Chuck, Angie, and Lori—and managed to do it with style and grace.

STOKES BROKE GROUP IN THE LEGAL FIELD BEFORE CONGRESS

In overcoming his impoverished beginnings, STOKES went on to excel in the Congress and in the legal field. He is held in high esteem by his associates in both professions. Before election to Congress, he was a celebrated practicing attorney in Cleveland, once arguing before the Supreme Court the landmark "stop and frisk" case of Terry vs. Ohio which is taught in every law school in the country.

STOKES AND THE USE OF POWER

The term "power" is frequently used loosely and without knowledge of its real significance. Seldom do users of the expression bother to contemplate that all sources of power are limited inasmuch as they are to some degree dependent upon sources of power. But for LOU STOKES, some sources are more real, more independent, and more indispensable than others. He has often said that the two most devastating kinds of power are economic and political, asserting that "if you have one, you are respected; if you have both, you are feared; but, if you have neither, you are exploited."

STOKES comprehends the theory of power and its imposing function. He has successfully exercised his power on the House Appropriations Committee to achieve a degree of equitable balance between the "haves" and the "have-nots".

STOKES' CONTRIBUTION TO EDUCATION

While STOKES has vigorously pursued an agenda that respects and appreciates the vital needs of the nation, he has not ignored the critical problems hampering the growth and prosperity of the black community. He has implemented new ideas and promoted a new direction in the areas of legislation dealing with the education of the African-American population.

STOKES has used his position on the Appropriations Committee to increase funding for Head Start, Safe and Drug Free Schools, Teacher Training and Vocational Education. Recognizing the critical need to prepare students for a highly technological world, he secured federal funds to support and strengthen math and science programs.

STOKES' SUPPORT FOR BLACK COLLEGES AND UNIVERSITIES

STOKES has manifested critical leadership in prodding the House Appropriations Committee to expand its funding for Historically Black Colleges and Universities (HBCUs). Through his role as a seasoned member of the committee, he has used his authority with decisiveness in protecting financial securing of these institutions which are vitally important to higher education of the African American populace.

STOKES INFLUENCES FUNDING FOR HEALTH CARE

Congressman STOKES is a respected champion on the health care front. He has utilized his assignment on the House Appropriations Committee to sponsor critical health care issues. As a result of his strong leadership, funding for diabetes, cancer, heart disease, and AIDS has significantly increased.

Since 1977, STOKES has chaired the Congressional Black Caucus Health Braintrust. This policy-making body has been effective in helping to define and to shape the nation's health agenda. Under STOKES' leadership, the CBC braintrust has fought for improved health care delivery for minorities and under-served populations; enhanced education and outreach activities; and increased minority representation in the health professions, including biomedical research.

STOKES has been instrumental in promoting community health interests, increasing minority manpower in health care professions, and providing federal funds for the enhancement of programs at medical schools.

STOKES RECOGNITION FOR LEADERSHIP

Congressional leadership has bestowed superb accolades on STOKES by having named him to prominent and prestigious positions of heady responsibility. He was appointed by Speaker Thomas P. "Tip" O'Neill on March 8, 1977 to chair the committee investigating the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr.

Speaker "Tip" O'Neill also named him to chair the House Committee on Standards of Official Conduct (Ethics Committee). And in February 1983, STOKES named by Speaker Jim Wright to chair the Select Committee on Intelligence.

STOKES' VISION IN FORMING CBC

The founding of the Congressional Black Caucus is demonstrative of the vision shown by STOKES almost immediately upon his arrival to Congress. He wasted no time seeking to establish a forum for articulating the concerns of Black Americans. He, along with several others, decided that becuase of the nearly equal ideological division in the House between liberal and conservatives—Democrats and Northern Republicans allied against Conservative Republicans and Southern Democrats—the nine black members of the House of Representatives comprised a voting block sufficient to constitute the balance of power.

Members of the CBC were determined to seize the moment, to confront racial injustice, to fight for economic equity and to raise other issues long ignored and too little debated. STOKES gave extraordinary leadership in the formative days of the movement and was elected the second chairman of the Caucus in 1972.

STOKES CHAIRED HEARINGS ON THE ASSASSINATIONS OF PRESIDENT JOHN F. KENNEDY AND DR. MARTIN LUTHER KING

STOKES' objectivity is demonstrated by his leadership of the assassinations committee. The Committee identified four main issues to be investigated:

1. Who was or were the assassin(s) of President John F. Kennedy and Dr. Martin Luther King, Jr.?
2. Did the assassin(s) have any aid or assistance either before or after the assassinations?
3. Did the agencies and departments of the U.S. Government adequately perform their duties and functions in protecting the two slain leaders?
4. Given the evidence the committee uncovered, is the amendment of existing legislation appropriate?

STOKES oversaw the 18-month investigation which ended in December 1978 with twenty-seven volumes of hearings and a final report containing recommendations for administrative and legislative reform. He performed admirably and impressively at the nationally televised committee hearings.

A DOWN TO EARTH SIDE OF LOUIS STOKES

Although STOKES is a very serious minded person, there is a lighter, more common side to the legislator. In addition to having a keen sense of humor, he often gets involved in humorous situations. One such instance occurred one night when he, Jay, Carol and I were dining at a Thai restaurant in Maryland. After carefully perusing a menu that was not familiar to any of us, we all ordered something different. When STOKES had consumed about half of his order, he observed that the meal did not seem like the one he had ordered. Complaining to the waiter, he was told that he was correct. The waiter said that they were all out of the meal STOKES had ordered and this one was a replacement.

Mr. RANGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to join in thanking the gentleman from California (Mr. LEWIS) for displaying his friendship and giving us an opportunity to share in that in talking about our colleague, LOUIS STOKES.

Mr. Chairman, I came just two years after Mr. STOKES came to the Congress, but I think all of us when we first arrive here, we think that anyone that was here before us just knows everything about everything, and it does not take too long after being here to find out that they do not know.

LOU STOKES was an exception to that resume, as related to me, because he continued to be a senior in terms of compassion, in terms of class, in terms of intellect, in terms of working so hard each and every night to help so many people, that even though it was only 2 years in terms of leadership, it was decades, because he came from a family that has known so little, and yet was given such great opportunities, and instead of just enjoying it, he and his late brother Carl have given back so much to Cleveland and to this great country, and, therefore, in their way to the world.

When I hear so many people say that America cannot afford a public school system or cannot afford to subsidize, giving assistance to people, or anyone has to really do it on their own or let the private sector work its will, I said how great that is for those who have. But how much more great it is to see the compassion that a country would have to have two kids living in public housing from a family who had nothing except knowing pain and poverty, to be able to see one to become the first African American mayor of a great city, and see the other to reach the heights, to achieve the leadership, the accolades, that LOU STOKES has in this United States Congress.

It was not just God's will, it just wasn't hard work, it was someone really giving his family a hand in public housing. It was having public schools there where hard working people would know that whatever they were denied, at least the kids would be given an opportunity. And, yes, in a country that denied so much to so many people just because of their color, there came the GI Bill when the Federal Government said it doesn't really make any difference what color you are, we will give you a chance to reach the height of your potential. And to know that we never would have had an educated Carl Stokes, we never would have had an educated LOU STOKES, unless those in the Congress that preceded us were saying why not help all Americans, because you have no idea as to the great resources and jewels that we have. And this is not that unusual when there are so many people who have given so much, but never have been given the chance that LOUIS had to give back.

LOU STOKES, you have been an example for people, white or black, Jew or gentile, in this great country of ours, because no matter what the subject is, you bring a sense of class that makes us all feel proud to be politicians, to be legislators, and to be Americans. And you leave a legacy for all of us, those like me who respond sometimes in anger, to restrain if not just because it is the right thing to do, but because we owe it to the dignity of this great House to do it.

We are going to miss you, LOU STOKES, but you have set standards for all of us to follow on both sides of the aisle. Even though you only came here 2 years before I did, to me you are a giant and you remain one.

□ 1730

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to congratulate the distinguished gentleman from Ohio (Mr. STOKES), not only for his work on this bill, but for his achievements throughout an outstanding and successful career in Congress.

LOU STOKES has served the public for many, many years, and in this Congress for 30 years. He is a lawyer, he is a veteran of the United States Army, he is a lecturer, he is a writer, he has been a chairman of many committees and a ranking member of many committees.

He has served when in the majority as chairman of the Select Committee on Assassinations, the Committee on Standards of Official Conduct, the Committee on Intelligence, and chairman of the subcommittee of this particular bill. He served, as fate has dealt him, in the minority as well. In whatever capacity he has served, he has served honorably, with good humor, and with great trust for his fellow Members of his subcommittee or his committee, and in a bipartisan fashion.

LOU is an honorable man. He has left his mark on the committees in which he has served because he has done the hard work that was necessary to do honor to this institution. In his retirement, while he leaves a void in our own committee and in this Congress, we hope that his family will gain what we lose: A gentle, solid, comfortable presence.

Over the years I have heard the term "soul" used, and I guess many would attribute their own meaning to the word. I guess if I had to give one concept to that term, I think I would attribute it to a person who enjoys life and loves his fellow human beings.

LOU, I just want to tell you that from my very distant view, the one that has become closer over the years that I have had the honor and the pleasure to know and to work with you, you have a lot of soul.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

I rise with my colleagues at this very special moment to pay tribute to the dean of the Ohio delegation, always to me our good friend Congressman LOUIS STOKES. For myself personally, and I know for every single other member of the Ohio delegation, from our great buckeye State, when we came to Congress, LOU STOKES was here. He has always been here. For us as Members, for our State, to imagine Ohio without LOU STOKES is to imagine an Ohio with a piece of its heart missing. And this particular moment of tribute is one of those moments in Congress that each of us who has had the pleasure of working and knowing this man will not forget.

Others have detailed the congressional service of our good friend, LOU STOKES, but perhaps it is important to remember that when he was elected to the Committee on Appropriations he was the first African-American ever to serve on this very, very important committee of cardinals rising to be a cardinal in his own right.

I think as a woman having had to overcome some of the barriers in my own life, I can somewhat identify, but certainly not completely, with what that must have felt like. I think what has always amazed me about LOU STOKES is what a gentleman he has been. I think the kind of elegance with which he carries himself, the kind of elegance that causes his grandchildren to really smile at him with open eyes, is a quality that all of us truly admire and wish that we had ourselves.

I think if we look at all of the programs over which he has had jurisdiction within the Committee on Appropriations itself, whether it was the National Institutes of Health and the types of studies that are done there to recognize the types of illnesses that afflict all segments of our population, or whether we are talking about who should go on to college and who has the opportunity to become all they can be, or if we are talking about in fact the history of the U.S. military and the complete renovation of sections of Arlington Cemetery, long before the movie glory ever came out, LOU STOKES was there.

Certainly, the people of Cleveland have every right to be proud that two of their sons helped change the history of this country.

Now, LOU and I share a great affection for our families, and particularly our mothers, and I guess my one regret in knowing LOU is I never got to know his mother and Carl's mother. Because what a mother she must have been to raise those two boys in the shadow of inner city Cleveland. He took us by the housing project one day when we were touring Cleveland on a brownfields tour, and to imagine that that household, that home would have brought this man to Congress at the time that he came, the time that he came. The wounds in America of race will not heal over in my lifetime, but I know that I have met someone who has helped heal those wounds for our country.

As I have said in other venues and I will say here for the record, I think one of the memories that I will have of LOU that I never expected to have, came from one of our quiet subcommittee meetings one day in this particular committee, Veterans, HUD, NASA, NSF, EPA, when we were listening to the witnesses from Arlington Cemetery who were bringing in the books, the ledgers of those who had served our country and were buried in Arlington, and they brought in these dusty volumes.

I remember opening them up, and I was sitting next to Chairman STOKES at that time, and he opened up to one of the pages and we began to read, and we looked in such-and-such a section and at this particular plot, at who was buried. And the ledger read, no name, no name, no name. Those who had fought in the Civil War who for all of history had remained unnamed simply because they were people of color. Through his efforts, in fact, that section of Arlington has now been restored and we have recently witnessed a major statue unveiling in this city and all kinds of national programs and so forth, but LOU STOKES was there at the head of the queue long before the rest of the country was.

I know that we in Ohio who have a history of trying to remember the underground railroad know that through his efforts here as we begin to save that history and enshrine that history for all time, the 21st century will in fact be different from the 20th and the 19th, and so as just one buckeye and one member of this great Congress, I want to say to my good friend, LOU STOKES of Cleveland, thank you. Thank you on behalf of this Congress; thank you on behalf of the people of the State of Ohio that you have done proud here. Thank you on behalf of your mother and your brother for serving our country when you could have done so many other things with the gifts that life has given you. It has been an honor to serve with you. You have taught me much. You will always be the Congressman from the great City of Cleveland.

Mr. WICKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is work to be done tonight and we will get to it, but I think it is important that we take the time tonight to honor LOU STOKES. I speak as a junior member of the Committee on Appropriations, and I speak tonight symbolically from the other side of the aisle to pay tribute to LOU STOKES and the wonderful way that he has worked with members of the majority and minority parties in this House and the great example he has set, and to say that it has been a genuine pleasure to serve on the Appropriations Committee with LOU STOKES.

I have served on two subcommittees with Mr. STOKES, Labor-HHS and VA-HUD, and I have heard tributes at the subcommittee level, at the full committee level, and I have listened with interest and with admiration and with agreement. I have heard him called by many descriptions, Mr. Chairman, and I subscribe to them all: Mentor, role model, a worthy adversary from time to time, a champion for his State and for his district, and a champion in every sense of the word, a classic, and a friend.

But, Mr. Chairman, where I come from, one of the most supreme compliments that can be paid to a man is to call him a southern gentleman, and in thinking about this I spoke with Mr. STOKES' other colleague (Mr. KUCINICH), also from Cleveland, and we decided that if one looks at the map just right, LOU STOKES comes from southern Cuyahoga County, and he indeed qualifies as a southern gentleman.

As a matter of fact, the gentlemanly conduct of LOU STOKES embodies those qualities that are universally admired, and that I have admired so much during the two terms that I have served with him on subcommittees. LOU STOKES never raises his voice. He never rails at individuals. He is effective. He gets the job done, and he has gotten the job done for his point of view, but always a gentleman in every sense of the word.

Henry Wadsworth Longfellow said, "Lives of great men all remind us we can make our lives sublime, and departing, leave behind us footprints on the sands of time."

Well, LOU, you are departing this House, but I do not necessarily think you are departing the scene, and I certainly hope not. I have a feeling that there is much more service to this country, to society and to your fellow man, although I do hope perhaps you have a chance to spend a little more time with your family. I salute the gentleman from Ohio. I admire him. LOU, I wish you the best of luck, and Godspeed in your next endeavors.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first I would like to pay special thanks to the chairman of our committee, the very distinguished and gracious gentleman from California (Mr. LEWIS), for making available this time here tonight to pay special tribute to another very fine member of this institution.

Mr. Chairman, I rise to pay special tribute to the gentleman from Ohio, the ranking member of our subcommittee, its former chairman, and a true pillar in this House.

As other speakers have noted, this is the final VA-HUD bill that Mr. STOKES will help bring to this body. That saddens us all, because when LOU STOKES retires at the end of the 105th Congress, after three decades of faithful service to the people of the Cleveland area, this institution will lose one of its most passionate and principled representatives.

LOU STOKES is a man of keen intelligence and solid integrity who has blazed many new trails and risen to key leadership positions in this House. As chairman of the Congressional Black Caucus he dedicated himself to advancing policy issues critical to minority communities. As chairman of the House Select Committee on Assassinations he completed historic investigations into the deaths of President Kennedy and Dr. King. As chairman of the Committee on Standards of Official Conduct he handled the most delicate of cases with unfailing fairness. As chairman of the Committee on Intelligence, he helped shape policies vital to our national security. And as chairman and now ranking member of our VA-HUD subcommittee, he has exhibited a deep understanding of complex issues and has been extremely responsive to the interests and concerns of each department, each agency, each subcommittee member, each member of this House, and each constituency group within our jurisdiction. Clearly, LOU STOKES has been given a diverse group of special assignments.

But there is a common thread, Mr. Chairman. They all serve as a measure of the trust and respect, real respect in which he is held by the Members of this body. He is held in equally high regard at home. The people of Cleveland feel a deep gratitude for LOU STOKES' lifetime of service. They know that he has always fought for their best interests with great energy, skill, and far more often than not, success.

On a personal level, Mr. Chairman, I am deeply grateful to have had the opportunity to work with LOU STOKES over the years.

□ 1745

In doing so, it has been my honor to carry on a family tradition. My father and LOU served together for many years in this House, and my father has always held him in the highest esteem. So do I.

I deeply appreciate the counsel, support, and friendship that he has accorded me. LOU STOKES is a bright, skilled legislator, a hard-working representative, a great friend, and along with his lovely wife Jay, a proud parent and grandparent.

In his words and deeds he is a complement, a tribute to this House and he will be missed, while at the same time his influence on this institution will be indelible.

Best wishes to you and Jay, LOU, as you leave this House for other adventures.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I may have the distinction of knowing LOU STOKES longer than any other Member of the Congress, one that I am proud of. I am closely connected to his family, and he mine. Detroit and Cleveland have always had a great interrelationship.

So, I have had the privilege of knowing the family. Jay and his late brother Carl, and his two daughters, a judge and a TV anchor. He is now a grandfather, of course. And then, of course, his son, Chuck Stokes and Trudy are telecommunications and media people in Detroit.

One of my worst recurring nightmares is that his son might choose to run for Congress in Detroit instead of Cleveland, where he ought to have run. I should not say that I have stopped having them, because he still there and I am still there.

LOU, this is a moment of joy and sadness for all of us. I remember the first day LOU got to the House and he made me feel real good. Not because I campaigned for him, which was not necessary at all, but because he told me the first bill he introduced was the Martin Luther King, Jr. holiday bill. Then he said, "Do you think it has a chance of really passing?" And 15 years later we found out that it did.

LOU, I thank you for your steadfastness across the years. It has been a very pleasant friendship. We have worked together on any number of activities. But to me, the issues that you have raised in connection with health, with the minority health issues, have always stuck with me more than any of the outstanding things that have you done. You have pioneered the whole notion of us understanding that there was a different dimension of health needs for those who were not affluent or able to buy insurance.

The work that you did with the African-American medical universities should be lauded for many minutes more than I am just briefly referring to them. They all know what you have done. On those medical campuses, you were able to see they got the much-needed financing and support and resources and also building activity as well, so that they could continue to put African-American medical graduates into the general population.

Then let us not forget the work you did on the committees that investigated the assassination of Dr. Martin Luther King and John F. Kennedy. That was incredibly sensitive, controversial work and your role there as the only African-American on those committees was very, very important to me.

Mr. Chairman, it should also be mentioned that LOU STOKES chaired the Committee on Standards of Official Conduct for a number of years, and did a great job. He was also Chairman of the Permanent Select Committee on Intelligence. And so I have been pleased to enjoy this close relationship with you and Jay, the family. I hope and know that it will continue.

Finally, if nobody has said it, Attorney LOU STOKES is one of the few Members that have argued before the United States Supreme Court in the very landmark civil liberties case of Terry and Ohio.

So, Mr. Chairman, we are losing a gifted, talented Member, a brother, and a person who understands government. And I am sure from whatever position he chooses to move to, he will continue to send forth the lessons that he has learned, the principles that he has believed, fought for, and worked so hard over a period of 30 years throughout the land.

LOU, we love you and we will miss you.

Mr. BOEHLERT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I played a little word association game and when I said "gentleman," the first person who came to mind in this Chamber was LOU STOKES. When I thought about "class," and how I would define class, I thought about LOU STOKES.

When I considered the concern that has been expressed in this Chamber by all of us about civility and the need we had to go to a special retreat in Hershey, Pennsylvania, I thought to myself, we did not need to go to Hershey, Pennsylvania, to learn about civility. All we had to do is watch LOU STOKES in action.

Then when I think about the humdrum life we all have. Washington, district, back and forth on the plane, traveling so much. So little time to really get involved in getting to know better some of our colleagues, which is a real shortcoming of this institution because it is made up of some of the finest people we will find any place in the world, Republicans, Democrats, liberals or conservatives. But we are all just scrambling to run back home and make that next meeting.

I said to myself, we are disadvantaged in many respects, but I have been very fortunate because very early in my career I got to know LOU STOKES and I got to appreciate all that he represents.

George Bernard Shaw said, "Some men see things as they are and ask why. I dream things that never were and ask why not." That reminds me of LOU STOKES. Because health care, education, the environment, things that really matter for all of us, he has provided leadership in.

Then I think about my own family, my personal family. My youngest daughter, Brooke, 4 years ago moved to Cleveland. I said to the distinguished gentleman from Cleveland, "Sort of help me out, will you?" And boy, he has been magnificent, always there to help to make her transition from upstate New York to Cleveland, Ohio, something very special.

She lived in his district and guess what? She supported LOU STOKES, because she said, "This guy is a guy who transcends political parties, a guy who is extra special."

I am just so mindful of the fact that this institution and this Nation are the better for the service of LOUIS STOKES. And I personally am enriched by the friendship that I have enjoyed with this great and distinguished American. We wish you well, LOU, and we will continue to rely on you for sound counsel.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a distinguished moment in my life, in that I have the opportunity to stand on the floor of the House of Representatives and give acclaim to a very distinguished gentleman. More acclaim because he is an African-American whose forefathers helped to work this country.

I am proud today. I am a member of the Subcommittee on VA, HUD and Independent Agencies Appropriations. I know firsthand the kind of work that LOU STOKES does. He is a multidimensional man. It is hard to describe this man, because he has done everything, he has accomplished whatever he tried. He is a distinguished lawyer; has gone before the Supreme Court and won a landmark civil rights bill; has been over ethics; has been over all of the things that we see people aspiring for here in this Congress. LOU STOKES has achieved it.

Mr. Chairman, he still is a humble man. He still is a man who is kind and thoughtful. He still is a man who wants to do the right thing for everyone.

African-Americans throughout this country are doubly proud of this man. They know him throughout this country not only for his work in health care, but I am sure that the life extension of African Americans in this country, he has shortened many of the diseases that have killed minorities in the past. He has extended the life span of minorities because he took a focus and saw health as being an important facet of African-Americans because they were dying, they were not being tested in clinical trials, they were not educating their doctors.

LOU STOKES took a handle on this. He still is the most humble man in this Congress. He is outstanding as far as the Nation's veterans are concerned. He is a scientist. He wants to see science advanced, technology and space, ethics, intelligence.

Many people in this Congress may not be keenly aware of this multidimensional man, but today we stand to let the world know that LOU STOKES is a cut above, a cut above most Congresspersons in that he has accomplished more and will do much more, even when he leaves this Congress.

It saddens me to see him leave because he has been a flagship for all of us. He is a flagship of this Congress, not only for the Members of the Congressional Black Caucus, but for everyone who would aspire to be a good statesperson. LOU STOKES has been that flagship.

He has authored many things that help disadvantaged people, both black and white. He has paved the way for thousands of poor people, disadvantaged and minority young people, to pursue careers in the health professions. Doctors, nurses, clinical researchers, these young people would not have had the opportunity if it were not for LOU STOKES.

He is from Cleveland, Ohio, but his influence has spread not only in this country, but throughout the world. He has opened up access. He has accommodated people who could not reach there themselves. This man has raised the consciousness of this Congress since he has been here. The level of understanding of this Congress has been raised by LOU STOKES. He has done things for America's most vulnerable citizens, those that do not have lobbyists here, those who do not have a voice here.

LOU STOKES has been that voice. Many times he has been the only voice, Mr. Chairman, the only one with the courage and the attunement to reach across the aisle or to reach to the southern gentleman or to reach to the northern liberals. He has reached across all of those people and he has touched their hearts and he has sensitized them to the needs not only of the urban poor but the disadvantaged and the poor throughout this country.

Many of us on the House Committee on Appropriations look to LOU for guidance. We look to him, I especially do, when I am about to do something rash, I look to LOU because LOU has that attunement, he can say, "Well, now, Carrie, this can be done, but this is the way it has to be done," and it is extremely important to me, Mr. Chairman, and to other Members of this House.

□ 1800

He is what I call a crossover Congressperson, who works with the needs of both black and white in the Congress. Diversity is important to him. He has teamed up with our young white-haired leader of the Veterans and VA-HUD subcommittee. He teamed up with Mr. LEWIS. I am sure he taught him a lot, because the two of them go hand-in-hand. They are just like Mutt and Jeff, because they work closely together. And I am very serious when I say to my colleagues that Mr. LEWIS' attunement, I am sure some of it came from LOU STOKES. And that, to me, means a lot.

And LOU STOKES didn't do it by rabble-rousing. He didn't do it by Bogarting. He did it because he is a statesman. He is a diplomat. He does not cringe or step back from anybody, but because of this intellectual prowess, he has been able to go in places that many others cannot.

As chairman of the Congressional Black Caucus Health Braintrust, he struck the consciousness of America with respect to the need to address the disparities in minority health care, from AIDS, to diabetes, to cancer, to lupus, to smoking-related illnesses. The list goes on and on, Mr. Chairman.

As a result of Mr. STOKES' efforts, Mr. Clinton, our President, included in the budget this year so many things. He sent to Congress an $80 million fund for the race initiative on health. You know who stimulated that? Do you know who was the prime mover in that? LOU STOKES. To begin with, he has effectively closed this gap.

LOU, you took the path that is less traveled, and you did it with grace, you did it with dignity, you did it with intellect, and now you leave the underground railroad to us.

I have heard you talk about your mother. You addressed people over in HUD one day. These were people who were trying to understand the needs. LOU, you gave to the world the best you had and the best has come back to you.

Mr. FRELINGHUYSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we all have a frame of reference for LOU STOKES, and nobody could have a frame of reference as wonderful as Mrs. CARRIE MEEK'S frame of reference.

When I was in high school and college the Stokes family, and particularly the Stokes brothers, came to my attention as political and civil rights leaders. But only on the television and in the newspapers did I get to know the Stokes family. Quite honestly, I never knew that I would have the privilege of serving with one of those Stokes brothers as a Member of Congress.

What an opportunity it has been for me to serve with a remarkable man, someone who, indeed, is a role model for everyone, black or white, rich or poor, an historical figure of the greatest note. And as he said the other day, as was true with Mr. MOLLOHAN and Mr. WALSH, my father had an opportunity to serve with you in the late 1960s and early 1970s. I have been very lucky to have that privilege as the second generation of my family to serve with you.

Thank you for your friendship and for your assistance on the VA-HUD committee.

Mr. KUCINICH. Mr. Chairman, I move to strike the last word.

This is a bittersweet moment for me, because as someone who is relatively new to this Congress, I have had the pleasure of knowing LOU STOKES for 30 years, but this is the first time I have had a chance to serve with him in the Congress. And I have to tell you, LOU, that I am so grateful that I have had this opportunity, even though I have only been here for a term with you.

LOU STOKES has shown that America's progress as a Nation is measured not by what we do for the strong, but what we do for the weak; not by what we do for the the haves, but what we do for the have-nots. LOU STOKES has shown that America's progress as a Nation is measured in how we as a Nation have stood up for the rights of minorities, how we have met the test.

And throughout his career, we know that LOU STOKES has met the test in fighting for voting rights, civil rights, education rights, and housing rights. LOU, in doing that, you have helped lift up not only minorities, but you have helped to lift up majorities as well because you, LOU STOKES, have ennobled this Congress and this Nation with your public spirited consciousness, with your fight for the right, with your style and with your grace.

I am so fortunate to call you my friend and to be able to call you my colleague. LOU STOKES helped me get elected mayor of Cleveland 21 years ago and gave me the opportunity to follow in the footsteps of his dear brother, also my dear friend, Carl. And together you and I, LOU, were able to prove that in the big cities, and it has to be true in State and Federal Government as well, political power can, should and must be shared. It is essential in a democracy that political power be shared with minorities.

Rudyard Kipling once wrote about someone who could walk with kings and never lose the common touch. We see in LOU STOKES' career that he has had that ability. People in Cleveland just love him. All across our city people are looking for ways to honor his career, and all across our city, people who are aware of this moment, understand why Members of Congress from East to West, from North to South are standing up to sing LOU STOKES' praises because we know LOU STOKES in Cleveland, and we love LOU STOKES because of what he has done for our city and what he has done for our country.

You know, LOU, there is a test that a lot of us from the inner city make not only of public officials but everybody we meet, and it is a test that is a spiritual test, and we have often heard it. It goes something like this: When I was hungry, did you feed me? LOU STOKES has stood up for hungry people in this country. When I was naked, did you clothe me? LOU STOKES has stood up for the dispossessed in this country. When I was homeless, did you shelter me? LOU STOKES has stood up for people when they needed housing. We love you, LOU STOKES, for the work that you have done for our people.

Somewhere in Cleveland today, you can bet on this, not only in Cleveland but in cities across this country, there will be a child living in adverse circumstance, maybe not even having a home. Maybe they are just sitting on a stoop marking the time, wondering if things are ever going to get better in their life, because things are pretty tough right now. Now, that person in America today could be black, could be brown, could be yellow, could be white. And when he or she is sitting there and feeling low, feeling down, wondering what is going to come and if things could ever get better with their life, they could think about two young African American children who were born in poverty, who lived in public housing, who, through the grace of God and a mother who worked for them, were able to move through the ranks, come to power, reach the pinnacle, make American history, and they always remembered where they came from.

Children of America, look to LOU STOKES. Look to Carl Stokes. Historically, those are two of the greatest people in American history, and they are people who you can be proud to call Americans and we can be proud to call friends.

God bless you, LOU STOKES. I love you and I am glad to be here to say this to the American people.

Ms. CARSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, and to my colleagues gathered here together as a part of the 105th Congress, it gives me a great deal of pleasure and pride and admiration to stand here in tribute to the honorable LOUIS STOKES from the State, from the Buckeye State of Ohio. And Congressman STOKES, my predecessor, Congressman Andrew Jacobs, sends his love.

And he told me to remind you of the time you and him both had a date with the Supremes. Something like that. You would remember that. I hope your wives understand that you all were out with the Supremes, or perhaps where you were. But he said that was a night that he would always remember. I think it was because of LOU STOKES and not because of the Supremes, but we will understand.

I knew the honorable LOU STOKES prior to the time that I became a Member of Congress. LOU STOKES' good works has, like it was said, has been able to shine from sea to shining sea. I have been a long admirer of the Stokes family; Mayor Carl Stokes, Congressman LOUIS STOKES, in particular. He reminded me of a poet in his hard work for the people across this Nation and in instilling pride and hope; that for every drop of rain that falls a flower grows and somewhere in the darkest night a candle glows. And LOUIS STOKES was certainly that candle that glowed in the very darkest night for so many people who were reaching out for help across this country.

Throughout his life and career, he has courageously confronted very tough circumstances and assignments. He served in the segregated army during World War II, and earned a law degree when few, if any, law firms would consider hiring a man of LOUIS STOKES' complexion.

He challenged Congressional district minds in Ohio, becoming the first African American Member of Congress elected from his State and the first African American Member to serve on the House Committee on Appropriations. He skillfully served in numerous leadership roles in the House, including chairman of the Select Committee on the Presidential Assassination, the Committee on Standards of Official Conduct, the Permanent Select Committee on Intelligence, the VA-HUD subcommittee, and the Committee on Appropriations.

Mr. Chairman, the honorable LOU STOKES is widely admired throughout our Nation and our world, and certainly after his retirement the work that he has done for this country will endure. I admire, I appreciate, I am a beneficiary of his outstanding public service. And he reminds me of the psalmist that said that he shall be like a tree that is planted by the river's water that brings forth fruit in his season. And even though I know that Mr. STOKES' season has not ended, that all of the beautiful fruit that he has borne throughout his public service will continue to endure for many years to come.

I stand here in a great deal of humility, Congressman STOKES, to say thank you for all that you have done.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the last word.

The first thing I want to do is thank the people of Cleveland for sending LOU STOKES here. I watched LOU STOKES many years before I had the opportunity to come here.

When I came, I left the Texas Senate, where we had battles through debate. But LOU STOKES has taught me that that is not necessarily the way to get things done, and he has taught me that without ever saying a word to me on that issue. I simply had to watch him and that taught me.

When you go before the committee where LOU STOKES is, it is the most wonderful experience because of his partner, Congressman LEWIS, so kind and respectful, that even when you don't get what you go for, you can't even get angry because they have been so nice.

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But LOU STOKES has been steadfast. He has taken care of the very basics for every American. When it comes to housing, when it comes to education, when it comes to health care, there has never been a time when he has not had his finger right on the mark.

Everyone in those areas throughout this country, notwithstanding their heritage or background or race, know LOUIS STOKES for those areas. There are very few Americans that cannot be very grateful for the many things that he has done. The veterans know about LOUIS STOKES and health care. And of course, every poor person and every African-American knows that LOUIS STOKES has spoken up for all of the persons who have not; and LOUIS has done it with class, dignity, integrity.

Within our Congressional Black Caucus, we have a little private joke when we talk about the romance between the gentlewoman from Florida (Mrs. MEEK) and LOUIS STOKES. She got there before I did because she was on the same committee with him. We are going to miss that. We are going to miss you, LOUIS.

There is no replacement for him. There is not a single Member of this body who could tell us about any harsh word that LOUIS STOKES has ever spoken. There is not a Member of this body who could tell us that he ever disrespected them. I do not think there is even a Member of this body, even when he could not deliver on that committee, who would tell us that he has ever hurt their feelings.

It is only once in a lifetime that we have such a giant in a body like this. I am grateful for the opportunity to have served with him after admiring him for so many years. And for a committee that pleases so few people, they have some of the greatest leaders, people that are kind and respectful, smiles on their faces. And I have a feeling that LOUIS STOKES helps to influence all of it.

We are grateful for you, LOUIS. We thank you. We love you.

Mr. DIXON. Mr. Chairman, I move to strike the last word.

LOU, first of all, I would like to thank you for your advice and counsel over the 20 years in which I have served in this House. In listening to the testimony today and the tribute to you, I recognize over those 20 years that you have provided that service and courtesy and friendship to many Members of this House on both sides of the aisle.

I am reminded, LOU, of Lorraine Hansbury's writing when she said that "life has little else to offer except for confrontation with the problem to be resolved." And you and your brother Carl have been confronting and resolving problems for folks of this country for many, many years.

I cannot add much to what all of the Members have said about your fine service to this institution, whether it be on the Intelligence Committee or the House Ethics Committee. But I would like to single out something that I have noticed over the years that other Members have not addressed today, and that is your development of minority staff in this House.

Many Members of this House benefit from fine staff because you first gave them the opportunity, and there are people in government who received their first opportunities, men and women and minorities, because LOU STOKES gave them that first opportunity, and probably that will be one of your largest legacies.

I know that as you move on that you will continue the legacy of confronting and resolving problems because you are a man who lives a full life. And I firmly believe, as I think you do, that that is what life is really about.

You will be missed in this House. I know that we will all continue to have your friendship. This institution is better because you served here, and you can be assured that you will never be forgotten here.

Mrs. CLAYTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, next year the Chicago Bulls may be without their superstar, Michael Jordan. If so, that will be an irreplaceable loss. In the next Congress, we will be without our superstar, my friend, our colleague LOUIS STOKES. That will indeed be an irreplaceable loss.

We know the story of John Henry, the steel-driving man. He built the railroad with his bare hands. When all others and all else failed, John Henry performed. LOUIS STOKES is a modern-day John Henry. He has helped to build this institution, the Congress of the United States, with his bare hands. He has not used fancy gimmicks, high technology, nor futuristic gadgetry. LOUIS STOKES is not that kind of person.

Mr. Chairman, he has helped build this institution with good old-fashioned statesmanship, unblemished credibility, impeccable integrity, honest dealing, and a deep commitment to public service. While we lament the loss of LOU, we rejoice at the gain for his family, his lovely wife, his wonderful children and grandchildren, all of which grew up within the Congress and who he loves dearly.

This son of Cleveland has always been up to the challenge and prepared for the task. But most importantly, when all else failed, when the machines did not work and the mountain would not move, we could always count on LOU. LOUIS STOKES is a steel-driving man.

Born of humble means, throughout his life, LOU refused to accept mediocrity. He had hopes and dreams. He had goals. He had a vision. He dared to be different and determined to make a difference in this society. These qualities carried him through college, through law school, and these qualities compose him today.

But LOU will quickly tell us that, while motivation may have come from within, inspiration from his mother indeed was his mainstay. I am always moved by the account of how his mother struggled to provide a life for him and his brother, yet through the struggling, she never failed to push him forward, to urge him on, to make him believe in himself and what he could be and become. And he has done his mother proud. He has done us proud.

In more than two decades in Congress, LOUIS STOKES has distinguished himself, making his mark in many places, leaving his permanent imprint in the sands of time.

Tirelessly, he has been a role model for role models and a champion for all. Here he has been more than a Member of Congress. He has been the pulse of what is right, the heartbeat of the downtrodden, the standard bearer of ordinary citizens, the last line of defense for those in need of housing, the first line of defense for the homeless, the lifeblood for seniors and young people and women and the disenfranchised, the conscience of us all.

He has been especially vigilant in the area of health care, particularly in the minority community. When AIDS confounded most of us, there was one of us who confronted it. When disproportionate Federal spending in health care frustrated many of us, there was one among us who stood firm and strong.

When the disparity in mortality rates between majority and minority perplexed all of us, there was one of us who met the matter head on.

History, we are told, is a chronological record of significant events. A significant event is an event that is momentous, profound, pivotal, an event that has made the difference in the course of our lives.

I can tell my colleagues, LOUIS STOKES has been all of that. He has been momentous. He has been profound. And, indeed, he has made a difference in the lives of us who have served with him, a difference in the lives of America. He has made history.

He leaves us now not to quit but to fight another fight, to write another chapter, maybe another book or two, to run another race. We know, as the writer reminds us, the best books have yet been written, the best races have yet been run.

Yes, the Chicago Bulls will never be the same without Michael Jordan. And I can tell my colleagues, this Congress will certainly not be the same without superstar Congressman LOUIS STOKES.

I am proud to serve with you.

Ms. MILLENDER-McDONALD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I stand, too, with my colleagues to say farewell to a giant. I never dreamt that I would be working with such a man, a man whom he has said came from humble beginnings and has stayed humble in spite of becoming a giant.

We recognize that LOU STOKES has soared in terms of an extraordinary attorney, in terms of an extraordinary congressman, in terms of an extraordinary husband and father. LOU STOKES followed in his mother's footsteps. He ensured that his children would be educated. And now he has children who have made marks throughout this country in great ways. But then he did not stop there. LOU STOKES made sure that children of this country got the very best, and he saw to that through legislation.

When I came to this House, I came knowing that I would get the advice and the strength of this great man. He showed me how I could introduce legislation that would help my constituents in terms of AIDS, in terms of bone-marrow transplants, in terms of the myriad of diseases that perplex our communities. LOUIS STOKES helped me to recognize how I could move through committees and still be humble in my presentations and yet reach a level of success.

LOUIS STOKES, the man who has been at the Supreme Court in cases that were landmark cases. This is a giant, Mr. Chairman, one whom not only the Congressional Black Caucus has recognized, but by virtue of those who have been on this floor have recognized.

He has touched many hearts and many souls. He has shown us how to be a statesman, a gentleman's gentleman. I am just all the better because I served with him, and I thank him for all of the advice that he has given me.

I thank you for being part of this great body, being a great man. Thank you so much.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank our friend and colleague, Congressman JERRY LEWIS, for asking for this time so that we may join in a tribute to this very special person who has provided such a high standard of leadership to this House for more than 28 years, a great American, founding member and leader of the Congressional Black Caucus and chair of the Health Braintrust which he established, Congressman LOUIS STOKES.

As a physician, I had the privilege of nominating Congressman STOKES for the Dr. Nathan Davis Award of the American Medical Association. I am pleased to report that the AMA demonstrated its great astuteness and insight in accepting this nomination and naming him as the 1998 recipient of this prestigious and well-deserved award.

Although he has already received our highest honor in 1994, I also look forward to being present on August 1 in New Orleans, when the National Medical Association, of which I am a member, again honors Congressman STOKES for his years of exemplary service and unwavering commitment to this country.

For all his work, his service on the VA–HUD Appropriations Subcommittee, for the Underground Railroad, and especially to me for his service on the Pepper Economics, the Labor-Health-Human Services-Education Subcommittee, and the Health Braintrust of the Congressional Black Caucus, he will leave a significant, far-reaching and enduring legacy when he retires at the end of the 105th Congress, a legacy of legislation and programs which have served to elevate the level and the standard of health and health care not only for people of color but all Americans.

And, so, I am pleased to stand here to thank you, Congressman STOKES, for many reasons. As a newer Member, I want to thank you for your stellar example and unselfish willingness to teach and to guide as I and others assumed our places in this great body. I thank you for your work on VA/HUD and especially for your contribution to our veterans. I thank you for your legacy of decency, compassion, candor, integrity, and fairness.

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I thank you especially on behalf of minority physicians, the poor and people of color everywhere, for you certainly leave us the beneficiaries of all that you have done to further health care in this Nation. And lastly I thank you on behalf of my own constituents, the people of the United States Virgin Islands, for all that you have done for us, for this Congress, and for this country.

We pray that God will continue to richly bless you and your family. Certainly your years of service which I know will not end here will not be in vain.

Ms. KILPATRICK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the gentleman from California (Mr. LEWIS) for allowing us to pay homage to our colleague. It is important that I come on the floor today, Mr. STOKES, to say to you, when I think of LOU STOKES, I think of bravery, of selflessness, of honesty, of character, of fight. A distinguished gentleman, a legislator extraordinaire and a man of principle and strength. It is important, LOU, that as you have heard and sat through this hour and a half that you know as you leave here, though you physically will leave here, what you have taught each of us in your integrity and strength will live.

As someone said before me, this body will be a better body because LOU STOKES put 30 years here. I watched you as I served in the Michigan legislature for 18 years. You certainly for me provided the insight and the intelligence that I needed to be a strong legislator, to speak up and to speak out, and to really represent those who sent us here.

Mr. Chairman, I want you to know as I know your son Chuck and as he serves in our Detroit community, both he and Trudy, that we see LOU STOKES in them, that in them and as we grow our children, all that we would want is that they too represent the intelligent and serve their God. Mr. STOKES, I am here to tell you that your son in Detroit does just that. And that as you leave this body, Mr. STOKES, health care, our veterans, our housing and those things that you fought for for nearly 30 years, we will continue the battle.

So go on, Mr. Chairman. Your wife deserves it, and certainly your grandchildren deserve it. And from the bottom of my heart, just know that as a new legislator to this body, I will carry the Lou Stokes spirit as I serve. God bless you.

Ms. LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is really with a deep sense of honor that I join with my colleagues today to pay tribute to an exceptional man, a leader who has really been more than an example. Congressman STOKES has been a mentor and a guiding force not only to me but also to other congressional Members, to African-Americans and to America at large. A policy reformist, a health and education advocate. But he has really been a teacher. He has set the standard for quality in leadership. Mr. STOKES, as we have heard over the last couple of hours, has made an indelible mark on this institution. Throughout the years he has stood as a superior example for social advocates and activists. In the heat of the civil rights movement, he triumphed as the first African-American from the State of Ohio to be elected to Congress.

When I was here as a staff member for my predecessor, this goes back to 1975, LOU, you were then during those years appointed to the House Select Committee on Assassinations where you served as chair and disclosed valuable information about the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr. LOU STOKES always sought the truth. I marveled at how he handled and chaired that committee. His invaluable influence guided many of us to stand up for underrepresented Americans, young and old, poor, black, white, yellow and red. His work has torn down barriers to health care and has saved lives. Congressman STOKES opened doors that would have been closed and expanded access that otherwise would have been denied. He is really what Dr. Martin Luther King called a drum major for justice. He was a trailblazer of the Congressional Black Caucus's reform efforts to reform health care. His Underground Railroad Network Freedom Act, an act to establish a memorial for African-American slaves, finally bringing them the honor that is long overdue, is historic.

Last weekend I had the privilege to visit Seneca Falls and Rochester, New York with Congresswoman LOUISE SLAUGHTER. This is an area where many stops were on this underground railroad. LOU, I just want to thank you for your vision and your hard work. We all have got to ensure that this important history is preserved. Without your leadership, this institution would not be the same.

Congressman STOKES leaves a rich legacy that will bring lasting change which has made a tremendous difference in the lives of all Americans. Today I just stand here to say thank you, LOU STOKES, thank you on behalf of the 9th Congressional District. I want to thank you for your tireless service, for your mentoring, for your guidance, for your feedback, for all of your assistance that you have provided to me as a new Member of Congress.

Great challenges are ahead for all of us. But the ground that you have laid really provides a firm foundation from which we can meet those challenges. I wish you the best. I am confident that this next chapter of your life is going to be extremely exciting. God bless you.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word. I do want to be here today. I was in my office, Congressman STOKES, and busy with paperwork, but I said, oh, this paperwork can wait. And so I rushed here hopefully to arrive in time to say a few things from the heart about LOU STOKES.

We all know this famous quote. If it has been repeated to this body earlier in the discussion, I apologize; but it bears repeating, because it applies so well to our colleague, LOUIS STOKES, and we have all been expressing these same sentiments. It is the famous quote by one of your Democratic predecessors, Senator Hubert Humphrey of Minnesota: "The moral test of government is how the government treats those who are in the dawn of life, the children; and those who are in the twilight of life, the elderly." That clearly depicts what LOU STOKES' life has been all about. You have contributed to that moral standard of government, Congressman. We are going to miss you terribly.

I must say that I did not have the privilege of working on the committee with LOU STOKES, but when I was ranking member on the Housing subcommittee, I knew that any of the good things we wanted to do in housing, we had to depend upon LOU STOKES' good word and courage and foresight to be able to implement those programs and translate them from legislation into real action in real communities. I am sorry I could not work with you more directly, LOU, but I certainly was one of your admirers and one who appreciated everything you did in the housing area. But I want to repeat to you something that I think is more overshadowing of all that we do on a day-to-day basis, and, that is, how we as a Congress address the real needs of the American people and the manner in which we do it and the moral standards that we adhere to when we do it.

I will repeat to you something that I just heard recently, not from a constituent of mine but someone I know from the Northeast who is a small businessman, has a construction company, and I have known him for many years, and his wife has a realty business. They are good, strong Republicans, LOU. But you would like them. This gentleman said to me recently when I asked him, over the fourth of July recess, "Well, what message should I take back to those inside-the-Beltway types down in Washington?" Without any hesitation, this conservative Republican said to me, "Well, Congresswoman, would you please go back and tell them that we should get rid of the bitter partisanship and return civility to our national government and the way we are conducting the people's business and deal with the issues that count for the American people." But when I saw you here today and these accolades and these testimonials, being given to you, LOU, I thought that is exactly what this man meant. LOU STOKES is the kind of person that this businessman was talking about. LOU always stood on principles—you always have, LOU—and you have exemplified these qualities of civility and democracy and demonstrating your respect for everyone.

LOU, we need more people like you. We are going to miss you terribly. But I hope that in everyone's mind, the image of LOU STOKES as that kind of moral being who added stature to the business of government will be remembered. We will try to follow in your footsteps. God bless you and best wishes to you always, and to your family.

Ms. WATERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I come to the floor today and take this opportunity to join with my colleagues in paying tribute to an unusual human being. I am delighted to be a part of this tribute, because long before I came to the Congress of the United States of America, I knew who LOU STOKES was. But, of course, most African-Americans in this country not only knew who LOU STOKES was, they knew about LOU STOKES and Carl Stokes. Because LOU STOKES and his brother Carl were pioneers. They were in the forefront of African-Americans getting elected to important and high offices. Most of us who watched them from afar aspired to be like them. They let it be known that they were prepared to work hard, to do what was necessary to provide leadership to this Nation. And so they helped to pave the way for us. We have watched and we have appreciated his work for many years.

He was a friend of my husband's long before I met my husband in Cleveland. My husband played for the Cleveland Browns. My husband as a football player had to have mentors and those that he looked up to. And, of course, it was LOU and Carl. They were the shining examples not only of what those who wanted to be elected officials would like to be but for all of the young men in America who were aspiring to realize their full potential. It was the LOU and the Carl Stokes of the world who helped them to understand what they could be, and what they should be.

And so I want you to know, when I came to the Congress of the United States, I came with full knowledge and appreciation for LOU STOKES. And as chair of the Congressional Black Caucus, I stepped into this role and this position behind many great individuals. LOU STOKES was one of those. He took over the chairmanship of the Caucus in 1972, and he served in 1972, 1973 and 1974 following the resignation of Mr. Diggs. And he set the tone. And he helped to make the rules. This was after he had helped to found the Congressional Black Caucus. They set the tone, they made the rules, and they determined where it was going to go, and what we should do, those of us coming behind them.

And so in my work today, I have to ask myself almost on a daily basis, what would LOU STOKES do in this case, in this situation.

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What must I do to follow in that tradition? How must I make decisions that will make him proud of me and my work? So I have to look at what he has done.

Let me just say for the Congressional Black Caucus, we look to him for guidance all the time. When we are going down the wrong path, we will get a visit in the Congressional Black Caucus from LOU STOKES, and he will quietly join in the discussion, and he will tell us what he thinks. No one has anything else to say after LOU has spoken. When LOU speaks, the world listens.

We know that when he takes time to give us his guidance that we should take it, and we do. I have a real appreciation for that, because this is a man who is not only a great family man, who has the kind of marriage and family that is a guide to what we should all try and do, he and his wife are a team.

When you see them together, you know right away that Jay and LOU STOKES have profound respect for each other, and they work together, not only in the guidance of their family, but carrying out much of the work of the Caucus and the spouses and this Congress.

This man, whose wife is his soul mate and his teammate have four wonderful, accomplished children and, I think, about seven grandchildren. They are truly a very strong family. I thank him for providing that picture for America so that they can see that, not all politicians, perhaps, are able to carry out this great family life, but there are some who do it and do it well. Not only is he a family man, but he is a public policy maker extraordinaire.

He really has helped to write the book about what a legislator should do and be. Yes, he has paid attention to African-Americans in this country. Yes, he understood that he was on the cutting edge of work that must be done to help give recognition to and to legislate for people who had not been legislated for in the history of the Nation.

Congressman LOUIS STOKES authored the Disadvantaged and Minority Health Improvement Act that has paved the way for thousands of poor disadvantaged and minority young people to pursue careers in the health professions. He established the Minority Access to Research Careers Program, the Minority Biomedical Research Support Program, the Office of Research on Minority Health and other offices of minority health at various Federal agencies.

He has done all of this while he certainly has been in the mainstream legislating for all of America, working with both sides of the aisle. He is a fine example of oftentimes what people say you cannot do.

He has paid attention to African-Americans in this country. At the same time, he has not been locked into legislating for any one aspect. He works better with JERRY LEWIS than other Republicans do. They work together so well, it is like watching band leaders as they plan and plot and strategize and try to respond to the requests of their Members.

I do not know how well JERRY LEWIS does for Republicans when he is working on their behalf, but I know what LOU STOKES does for us. I cannot go into detail because I do not really want you to know how much we get from that committee, but we do quite well, and that is because of LOU STOKES. He has never turned anybody down. If you go to him with a problem, he is going to work on it, and he is going to help to solve it.

This giant of a man, great family man, this great public policy maker is one of the greatest humanitarians you will ever meet any time, any place, anywhere. He cares about individuals. He cares about human beings. He wants to know what more can be done for the homeless and those who are without.

So I come today to join in the chorus. I am glad the chairman gaveled because I could talk all day about LOU STOKES, and I would do it unless the chairman told me I could not do it any longer because there is a lot to be said about him.

Mr. HEFNER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take 5 minutes, but I have long admired LOU STOKES. I remember many, many years ago when I was in grade school and I read about LOU STOKES. And he has been in public life when he had to struggle to get elected. It was a real struggle for LOU to do the things that he wanted to do.

I have got to tell you there is an old saying down home where I come from, when we lived out in the country, and if you had a chance to get away for a weekend or go somewhere, there was always a neighbor around that you would look to and you would say I want to get them and come in and look after my things. And LOU STOKES is the kind of a guy that I would trust to come in and keep my house key and do up and look after my things. He is that kind of a man.

I cannot say enough good things about LOU STOKES. His legacy will live long after he has gone to retirement. A very dear friend of mine in North Carolina, he has passed on now, and he always said in closing his statements, and I will say this to LOU, LOU, I hope you live as long as you want and never want as long as you live. Thank you so much.

Mr. MEEKS of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to say thank you to a man who is a living legend, a man who is a gentleman, a man who is a hero, not only an African-American hero, but a true American hero. For surely I do not believe that I would be standing here today in this august body as a Member of the United States House of Representatives if it was not for the trailblazing work of Carl and LOUIS STOKES.

I remember, while in high school, maybe it was junior high school, when

Carl and LOUIS STOKES began to run for office in the City of Cleveland. As a young boy, I would scratch my head and say, why can we not do that in New York? That was the beginning of me having an opportunity to admire, look up to, having an idol, and having a hero and a role model in LOUIS STOKES.

I can recall attending the great Howard University School of Law; and while in evidence class, my professor was talking about the landmark case of Terry versus Ohio, and said, did you know that there is a man that works over in the Capitol that was one of the attorneys on this landmark case? That was LOUIS STOKES.

I can recall attending my first Congressional Black Caucus weekend and sitting in the seat and watching Mr. STOKES move about and being in awe. Little did I know that, at that time, that I would be having the pleasure and the opportunity of saying that I served, though ever so briefly, with LOUIS STOKES.

I recall when Willie Mays was traded to the New York Mets, there was a rookie on the team at that time. In the newspapers, they were asking the rookie, when he took his first step at the plate, was he nervous? How did he feel? All he said was, I did not even think about stepping up to the plate. I just remember sitting next to Willie Mays.

Well, I can say that my first experience here, and being next to this giant of a man in LOUIS STOKES, I shall always remember for the rest of my life. But to have that privilege to be able to tell my children and my grandchildren, and, hopefully, they can tell their children, that their great grandfather had the opportunity to serve with an individual who changed the course of history in America is an opportunity that I could not pass.

I thank God for that opportunity. I thank God for the legend, for the man who epitomizes what a legislator should be, who talks the talk, walks the walk, and the main thing is gets results.

My predecessor, I asked him before I came, I said, you have been successful, and many people have said that I have big shoes to fill. How were you able to accomplish such things? He said, "Well, LOUIS STOKES." He said, "Take advantage of all that you can while he is there."

The biggest loss to the House of Representatives that we will have is losing LOUIS STOKES. I say to my hero, may God continue to bless you. Keep walking on. I am so thankful I have had the opportunity to serve with you.

Mr. SAWYER. Mr. Chairman I move to strike the last word.

Mr. Chairman, it is easy to forget in the span of 30 years what 1968 was like. It was an extraordinary time in America. It was a time of great difficulty and great promise.

In Cleveland, Ohio, the great promise was the light that was lighted by the Stokes brothers. We have heard much said about that. It is a light that has been a beacon that has stretched across this great Nation.

But I would like to illuminate 1968 from a different point of view. 1968, the year that LOU STOKES was elected to Congress, the year that his brother served in his first year as mayor of Cleveland was, indeed, a troubled time.

In some ways, it was more difficult than even some of the problems that we face today. That is not to minimize the problems that we face, but that was the year that I began to teach at Cleveland Central Junior High School across the street from the oldest public housing project in the United States, not far from where Louis and Carl Stokes grew up and established their roots and blossomed into the kind of leaders that they became.

But on that November morning in 1968, following the election of LOUIS STOKES to the United States Congress, in the first classes that I taught at Cleveland Central, the kids came into that class filled with conversation about what this meant in their lives. It was a vague sense, it was an unformed sense, but it was brightened by the hope and aspirations that were giving new meaning and new life in even perhaps the most troubled year that this Nation had endured since the Second World War. It was a vision of hope.

We have heard a great deal said today about the enormity of the model that LOUIS STOKES established for children, adults, people all across this Nation in very large ways. But just let me say to my colleagues that those 600 kids that I had the privilege of teaching across the street from that housing project and who came in that classroom that next morning and said, you know, he is from our neighborhood, the opportunities that have been given to them as a product of the model that LOUIS STOKES has represented is more than that.

It is not only the model and the example, it is the real world opportunity, not only to run for office but, as we have heard, to undertake careers unthought of before, careers in law, in medicine, in research, in science, and industry. But just as important, careers as policemen and as firemen and working in places that they might a generation before never have had the opportunity to work.

That is not just a model. That is day-in and day-out effort to live in places of decency and cleanliness, to grow up in cities that are safe, to have access to what we speak frequently of as the finest health care delivery system in the world, it means little if you do not have access to it.

It has meant a time in which we have seen the life-span of Americans increase 10 years in the last 30 and even more than that for African-Americans. That is a contribution of enormous effort that saw its light bloom in the eyes of hundreds of kids across the City of Cleveland as they came back to school that morning the first Wednesday after the first Tuesday after the first Monday in November of 1968.

Their lives have been changed in ways large and small, and they will change the lives of others in ways that will spread throughout a Nation. It has been because of the work of LOU STOKES and the example that he has set for so many others. It has been a privilege to serve with him, and we look forward to his guidance for years to come.

□ 1900

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know LOU STOKES well enough to know that by now he is very uncomfortable, and I am not going to take five minutes making him more uncomfortable, because the more amazing things we say about him, the more uncomfortable Lou will become, and I can see him squirming in his seat now with discomfort.

I met this man, and I am sure LOU does not remember this, before I came to Congress, in Charlotte, North Carolina, when he was visiting with friends there and visiting his daughter, who was an anchor person in Charlotte. Neither LOU nor I had any expectation that I would ever be a member of Congress. I remember going away that evening after having met him saying, "That is a really nice guy." I was not a colleague then. He did not even know me. And I think it is that quality that people pick up on that says something about LOU STOKES.

It is easy to be nice to people that you know and respect as your equal, that you are colleagues with, but it takes a special person, a humble person, to respect and be nice to everybody, and I have yet to ever see LOU STOKES not be nice to anybody.

It is that quality that I think I respect and love about LOU STOKES and that I will always remember, and that is a personal feeling that I have about it. That aspect of it I cannot ever get away from. Aside from all of the wonderful things he has accomplished, I just know that this man is humble enough and respects the views and respects other people enough to always be nice to them. I just want to tell him how much I have enjoyed his friendship and being in the same body with him.

I will yield back, so as not to continue to make him more uncomfortable.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to join the chorus of statements about our colleague and friend, LOU STOKES. It is clear that this is not an ordinary member of Congress, when you see the number of people coming in to speak today.

I just want to say from my own memories, for people who are interested in the struggle for justice in America, in the second year of high school we learned who LOU STOKES was. Again, with great names like Mo Udall and others, he served in Congress. Like many of the people here, I never expected to have the privilege of serving with him.

I think my friend is correct, he is a little uncomfortable in this position and the time we are taking, but I would think that everyone recognizes the 30 year contribution, not just being here, but the contribution you have made to this government, to this country and its people, is well deserving of the praise. I am just privileged to have spent the last 18 years here serving with you. Like many others, I have admired your ability to fight hard, stay civil and stay committed to the things you believe in.

Thank you very much.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am also very pleased to rise in this tribute to my good and long time friend and colleague, Congressman LOU STOKES, who has really been an inspiration to me personally and such a hero to many people throughout this country, including myself.

At a time when public cynicism about elected officials runs rampant, Congressman STOKES has been the embodiment of all that is good and positive about public service. During a political year marked by bitterness and animosity, LOU STOKES has remained a model of decorum, diligence, dignity and passionate commitment to the task of improving the quality of life for millions of Americans.

He has been there to fight the good fight on behalf of better housing, access to quality health care, a cleaner environment, the protection of benefits for veterans and for senior citizens, those who are the most vulnerable among us.

Even before my election to Congress, I had the pleasure of getting to know Congressman STOKES and his late brother, Carl, who served as Mayor of Cleveland and later Ambassador to the Seychelles.

As you know, it was Congressman STOKES who managed that election in the late sixties, and it was his skill and Carl's ability that made that election successful, the first major city in the eastern part of the United States to elect an African American mayor, at a time when there was a tremendous amount of civil unrest. In my City of Newark, in 1967, there was a rebellion and 28 people were killed. So it was a time of great tenseness. But it took a combination of a LOU STOKES managing and a Carl Stokes, descendants of slaves, out opposing a descendant of a former president, if my facts are correct.

So Mr. STOKES has done so much. My brother Bill, who is now a New Jersey assemblyman, and I were fortunate to form a friendship and working relationship with LOU and Carl, and we certainly were deeply saddened by Carl's passing in 1996.

Congressman STOKES has been a true friend, going the extra mile, and never asking for anything in return. When I decided to run for the prestigious and awesome position of Chair of the Congressional Black Caucus in 1993 to serve in the 104th Congress, I went to Congressman STOKES and said I was interested and sought his approval. He simply gave me advice and encouraged me to move forward. He said, "It is going to be a tough election, but, more importantly, if you are successful, it is going to be a tough position, and if you are not ready for it, don't seek it." I assured him I was ready, and, once I was elected, I always looked to Mr. STOKES for guidance.

Recently on an occasion I had the privilege just several months ago for Mr. STOKES to visit my district. He was kind enough to accept an invitation to be a guest speaker at an event in my honor. Mr. STOKES is very punctual, and he got to my city about an hour early. I had to rush and speed up to meet him at the airport. We decided, since we were early, we had a few moments, and stopped by a local eatery in my district called Mrs. Dee's.

Well, I go there often, but I never get the excitement that I got when Congressman STOKES came in. Even people in my district who did not know who I was ran up, and I said gee, I guess I am moving up in my recognition factor. And they all rushed right by me to grab Congressman STOKES and said, "We are so happy to see you." I looked around, and the place went by me to just shake the hand of Congressman STOKES. That is the type of person he is. We were so honored, because he is a man of humble beginnings.

Recently many of you may know he received an award for being one of the most prestigious "graduates," I guess we could say, from public housing, and that was a great honor, to be recognized in this country as a person who really looked out for the little guy, for those struggling on a daily basis to hold their lives together, to provide for their children.

When I walk through my district, I see visible reminders of what LOU STOKES has produced during his years in Congress. As a senior member of the House Committee on Appropriations, Congressman STOKES' door was always open. When I sought his assistance for initiatives of importance to my constituents, because of his efforts, we have been able to make improvements in housing, to restore a public park known as Weequahic Park, to help abandoned infants and children stricken with HIV, to train students for health and science-related work at a site called Science Park, to take a rundown and economically distressed area and turn it into a revitalized waterfront, and now we have a world class performing arts center.

Congressman STOKES has been a tireless crusader for what is right and just. He has made an enormous contribution to the field of health care, notably minority health issues, which have been shortchanged for so many years.

Mr. Speaker, we will surely miss our friend LOU STOKES and Jay, his wonderful wife, but we know that he will continue to use his talents and to voice his concerns long after he leaves this institution. We wish him well as he enters the next phase of his life, and we thank him for all he has done for this institution and for his country.

When this CONGRESSIONAL RECORD is printed tonight, when I receive my copy tomorrow, I am going to have copies sent to my local libraries, and we are going to have copies made to distribute to students in my district who feel shut out, who feel that they cannot make it. I am going to ask teachers to use this CONGRESSIONAL RECORD as a teaching tool, so that they can understand how many great African American persons are still amongst us.

Mr. RUSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise this evening because I have LOU STOKES on my mind and LOU STOKES in my heart. I never met a man who exudes the kind of quiet leadership, the kind of quiet power, who has ever exuded the kind of excellence that LOU STOKES exudes on a day-to-day basis.

LOU STOKES' quiet leadership has endured throughout his tenure in this body. We have heard other Members talk about his soft-spokeness, but even with that soft-spoken voice, his message has resounded beyond the halls of this Congress.

When he speaks, his views contain a depth of knowledge and understanding and compassion that is unsurpassed. LOU STOKES has been an unwavering knight fighting on behalf of the underserved, those who have no voice, those who are outcast in this society. He has used a sword of public consciousness to slay the dragon of indifference. No matter what the issue is, whether it is housing, health care, civil rights, he has always remained at the roundtable of courage.

LOU STOKES, Mr. Chairman, is an individual that you cannot help but love and respect.

Mr. Chairman, I believe that God almighty ordains us, calls us to different types of ministries, and I believe that God has called LOU STOKES to the ministry of public service. I know that LOU STOKES has answered that call, because

I know that people who right now feel as though they have no friend at all in government, who feel as the government does not represent them, does not care about them, I know that they all feel a certain affinity and love and respect for LOU STOKES, because LOU STOKES goes against the grain.

☐ 1915

He stands up and represents those who are disheartened, those who are dispossessed, those who are outcasts. I have such a profound respect for LOU STOKES, Mr. Chairman, that I cannot even express it in words. I have such a love for this man, for his quiet strength, for his example.

Mr. Chairman, he is like still water that runs deep. He is a man who has compassion and understanding. He serves as an example for us all, Mr. Chairman, and for all of those young men, poor young men who feel a certain hostility toward the world because the world has not shown any love and compassion to them. LOU STOKES serves as an example for those who are suffering in public housing projects throughout this Nation today; for those individuals who are hungry as we speak; for those individuals who find themselves in the most humble of existences. He serves as a solid example for us all.

Mr. Chairman, I just want to take a moment to inform Members about a young man, 22-years-old, who decided at an early age that he was going to fight for change in America, a man who decided that after serving in the army for 4 years, that indeed, he was going to put on a new uniform, a uniform fighting for those who were being discriminated against and fighting for those who were victims of prejudice and biases. This young man joined an organization, Mr. Chairman, and it was a very controversial organization, and indeed, this organization stood for defending itself against one of the many issues that confronted people, police brutality, in the City of Chicago. This was in late 1969.

There was an altercation with members of the Chicago police department. Two members of this organization were killed and 7 members were wounded. Young people 17, 18, 19, 20, 21, 22, 23 years old who found themselves in this organization felt as though the world had turned upside down, the world had turned on them. The law enforcement agencies of this country had aimed their mass weaponry at these individuals. They did not know which way to turn, looking at the military might of the law enforcement agencies of this Nation. After Fred Hampton and Mark Clark were killed, chaos reigned, fear reigned.

Mr. Chairman, at a certain moment in time in Chicago, Illinois on the West Side, LOU STOKES led a contingency of black Congressmen into Chicago to find out what was going on, to expose the injustices that existed at that time, and, Mr. Chairman, I say to my colleagues today that his courage in leading that group of Congressmen into Chicago deflected the bullets that were aimed at those members of that organization. I say to my colleagues, Mr. Chairman, that right now there are only 2 members of that delegation that serve in the Congress today: The gentleman from Missouri (Mr. CLAY) and the gentleman from Cleveland (Mr. STOKES).

This 22-year-old young man who found himself as a member of that organization at that time, the Black Panther Party, now finds himself as a colleague of LOU STOKES in the United States Congress. And I know, Mr. Chairman, that my road would not have led here if LOU STOKES had not taken a moment out of his busy life to visit the West Side of Chicago to find out for himself what was going on. That if, indeed, he had not armed himself with the shield of public consciousness and with a shield of public opinion to deflect those bullets, then I would not be here today.

Mr. Chairman, since I have become a member of this Congress, and in my life I have led a pretty full life, I have seen all types of individuals who call themselves leaders, who want people to follow them wherever they may lead. But Mr. Chairman, I say to my colleagues, there is only one endearing kind of leadership, there is only one quality that means so much that people will follow, and that is the quality that LOU STOKES has.

Indeed, Mr. Chairman, he is a quiet warrior, but a very, very effective warrior. He is not a flash in the pan, he is a person who endures. His example will be a beacon light for all of those who follow; his example will be a beacon light for all young men in America who want to rise above their conditions and become and assume the mantle of greatness.

Mr. JACKSON of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just about a week or so ago I told Congressman STOKES that I had been preparing remarks for this occasion. The truth of the matter is, Mr. STOKES, I really do not want to say goodbye, and that is the honest to God truth.

On the day that Congressman STOKES was born, February 23, 1925, there was no African-American representation in the United States Congress. In fact, there had not been for a quarter of a century since January 1 of 1901, when George White of South Carolina said that, "One day, Phoenix-like, we will be back." There had been 22 African-Americans that had served in Congress between 1870 and 1901, the first Congressional Black Caucus, but we did not return until Oscar DePriest, a Republican from Illinois, won the election in November of 1928. LOUIS STOKES at that time was 4 years old.

Forty years later, LOUIS STOKES was elected to the United States Congress on his first bid for public office, the first and only African-American ever elected to Congress from the Buckeye, or as the politics were known 130 years ago, the butternut State of Ohio. I am the 91st African-American ever elected to Congress. Congressman STOKES was elected to the 91st Congress and has served 15 consecutive terms 30 years since then. I was 3 years old when he came to this institution.

For perspective, there are been 11,544 Americans to serve in Congress, and only 103 African-Americans have ever had the privilege of serving in the Congress and in the Senate. Of the 103 African-Americans who have served in Congress, LOU STOKES, Mr. STOKES, is a world historical figure.

As a founding member of the second and current Congressional Black Caucus and as the Chairman of the CBC's Brain Trust on Health, he is the leading African for addressing health care needs in African-American communities. To his leadership on the special Committee on Intelligence, investigating the possible conspiratorial deaths of Martin Luther King, Jr. and President John F. Kennedy, to his current role as the third ranking minority member on the Committee on Appropriations, to the ranking minority members of the Subcommittee on Veterans Affairs, Housing and Urban Development and Independent Agencies, to his 11th ranking seniority among all Members of Congress, to his ninth ranking membership amongst all Democrats, to the recent passage on June 9, 1998 of H.R. 1635, the National Underground Railroad Network to Freedom Act, he has been a good man and an effective legislator.

With elections every 2 years for 435 Members of this body, some Members come and go having never left their mark or impacting the lives of their constituents. But as a result of his 10 tours in this body, our young people can grow up with greater expectations and brighter futures, with more health care options, with better affordable housing options and more equal educational opportunities.

I am here today to say thank you to LOU STOKES, thank you because there have been in his 30 years no letdowns, no scandals, no public embarrassment, no funny money, nothing that has shamed us. Nothing that is associated with the name "Mr. LOU STOKES" that brings a lack of dignity to those of us who long so hard for the opportunity to serve. So, I cannot honor Mr. STOKES enough.

When I first came to Congress all of my colleagues said, please call me by my first name because we are colleagues now. Chairman LEWIS says, call me JERRY and RAY LAHOOD says, call me RAY, and ROEMER says, call me TIM, and others want to be called by their first name. But I always called Chairman STOKES Mr. STOKES. Why? Because I cannot thank him enough for all of the health care that he has fought for, for all of the options that he has fought to open up America for more people; I cannot thank him for every affordable housing fight that he participated in. I cannot thank him for every dollar that he appropriated for historically black colleges. I cannot thank him enough for all that he has done for so many families, for people that do not even know his name, I cannot say thank you enough. So the only way that I have honored Mr. STOKES is by calling him Mr. STOKES.

Mr. OBEY. Mr. Chairman, I think everyone here has enjoyed the comments that we have heard about our colleague, LOU. As my colleagues know, we have a lot of business yet tonight. There is no desire on the part of anyone to prevent anyone from speaking, but in order to avoid some time problems, I think it would be useful if we could get an agreement.

I asked LOU if he thought it would be appropriate so that we do not unfairly shut this off, and yet can move on with our business, to ask unanimous consent that this continue for another 10 minutes with the time being divided equally among those who still would like to make comments, and then we can move on to a call of the House so that LOU can respond to all of these comments when we have a full House, and then we could move on with the rest of the evening.

Mr. Chairman, I asked the gentleman from California (Mr. LEWIS) if this meets with his approval, and it does.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBEY. Mr. Chairman, could I ask the Chair to ascertain how many speakers remain so that we can divide the time?

The CHAIRMAN. The Chair would request that all individuals wishing to speak so notify. Apparently 5, the Chair would state to the gentleman from Wisconsin.

Mr. OBEY. Five people, all right.

Mr. Chairman, let me explain to my colleagues. All we need is to know how many people want to speak and then we will divide the time equally so that everyone gets a fair shot at it.

The CHAIRMAN. The responsibility of counting has been left to the gentleman from Wisconsin.

Mr. OBEY. Well, I see 140.

The CHAIRMAN. The gentleman from Wisconsin is recognized for 10 minutes.

Mr. OBEY. Mr. Chairman, I will get a list and I will yield to everyone 1 minute.

Could I start by yielding 1 minute to the gentleman from Louisiana (Mr. JEFFERSON).

□ 1930

Mr. JEFFERSON. Mr. Chairman, I wanted to say something to the gentleman from Ohio (Mr. STOKES) tonight. I will not have time enough to say all that I want to say, but it is time enough to bring an end, someone had to, a merciful end, to this line of tributes to the gentleman.

LOU, I want to say what has struck me most about you is your capability for love for all of your colleagues, for the institutions that has served us all so well, the Congressional Black Caucus and the many other institutions here, and for the institution of Congress itself. That you have a great and enduring sense of humor. You and I find time to laugh on this floor all the time, and you have proven you can have fun and get something done and that while we have serious business to conduct, we do not have to take ourselves too seriously.

You have been deeply concerned about affecting the lives of other people. Your work has actually done that. The children who have lived in public housing over the years, and who live there now, people who are aspiring to get a house for the first time with the help of your committee, and the veterans who have given so much to their country are benefiting from what you have done. Long after you are gone, not generally from this place but from this Earth, there will be folks whose lives have grown out of your life. You have made a difference from that respect.

LOU, you are the best example of a Congressman that I have encountered in this body and I hope that in some small way I could be an example for others as you have been to all of us.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, as Mr. STOKES well knows, there is not one of us that did not want to come to the floor and share with him his life, his life history and his eloquence.

Mr. STOKES, you were elected to this Congress in 1968, the year of the assassination of Dr. Martin Luther King and Bobby Kennedy. You also rose to the highest heights of arguing in the United States Supreme Court; you eloquently made the argument that just because of the color of your skin, you should not be stopped along the streets and highways and byways of this Nation without any rhyme or reason. The Supreme Court agreed with you.

I thank you for who you are. You know, I claimed you long ago as a mentor. When I came to the Select Committee on Assassinations, it was your kindly demeanor that encouraged me as a young committee staff attorney to become involved in public service. You have no shame of being an African-American. I think the fact that we come here and say you are the first of this and the first of that, there is no shame because you have led the way.

On behalf of black institutions like Texas Southern University and other such colleges around the Nation, we thank you for being the father of traditionally black colleges. And all of America thanks you for helping the least of our brothers and sisters, whether they are in Appalachia or Cleveland or Houston or Los Angeles or New York. You made sure they were housed, you made sure they were fed, and you made sure they had good medical care.

To your wife, Jay, and the family, I say we love you and we believe that this Nation's fabric will be woven with your legacy.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I simply want to echo the sentiments that have already been expressed by all of my colleagues, that LOU STOKES has no peer when it comes to service, dedication, and generosity.

We have already heard of all of his accolades. I guess Kipling must have been thinking about him when he penned those words that said, "If you can walk with kings and not lose the common touch, if all men matters with you, but none too much." And finally LOU, "If you can feel the unforgiven moment with 60 seconds worth of distance run, yours will be the world and all that is in it. And what is more, you are a man, my son."

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. OBEY) for yielding me this time.

Mr. Chairman, although I have only had the privilege of serving with Mr. STOKES for the past 11 years, our families go way back. And so it is a personal as well as congressional privilege to rise and pay homage to him.

Since the time has been shortened, I will have to associate myself with the remarks of our colleagues who have gone before and just to say that the STOKES name is legendary in my family. My brother, Thomas D'Alesandro, III, served with Carl Stokes as mayors in the late 1960s and 1970s, those difficult urban years. Carl Stokes was one of the first black mayors of a big American city, mayor of Cleveland.

And LOU STOKES, there are some people who are just born with a special grace and those of us who are fortunate to work with them know who they are. Every day that we come to work we learn from you. Every day that we come to work we are inspired by your fight for people with AIDS in the minority community, your fight for economic and social justice, the lessons you teach us on how to resolve conflict in a gracious manner.

I always say that the greatest tribute to Mrs. Stokes, your mother, is the wonderful public life and private lives of Carl and LOU STOKES. Carl went on to be ambassador to the Seychelles. And now my daughter is a friend of young Carl Stokes in California, so the tradition goes on.

Mr. STOKES, you will be sorely missed. It was a privilege to call you colleague.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. STOKES, I think you know a lot about somebody by the company they keep and by the family and the service that they have provided to this country. You come from such a distinguished family of service. Your brother Carl Stokes and you have been the epitome of a public servant.

I remember going before the Committee on Appropriations not too long ago as a freshman and testifying on Closeup and TRIO. It was a long day. You had heard probably 10 or 11 hours of testimony, but when somebody testified about helping kids and the underprivileged, you perked up. You asked all kinds of questions and you said, "We have to support those programs." That was the example that LOU STOKES showed to me.

You have also always stood up for the economically disenfranchised, for the emotionally discouraged, and you have lived Bobby Kennedy's slogan: When one of us prospers, we all prosper. When one of us fail so do we all.

You have ensured so much prospering on the part of the underprivileged and tried to ensure so little failure. We all thank you and salute you.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Mr. Chairman, I am happy to join my colleagues in expressing my views and my feelings about LOU STOKES.

LOU STOKES is a very interesting person. He has the ability to persuade. I remember some years ago when I was chair of the Congressional Black Caucus that a group in Cleveland had invited me to speak. I indicated to them on the phone that I could not do it. I sent them a later indicating that I could not do it, and then I had my staff to tell them that I could not do it. And all the sudden I am walking and LOU stopped me and put a hand on my shoulder and said I would like very much for you to go and address the group in Cleveland. And I said, "LOU, I would be delighted to go and address the group in Cleveland. But I have a problem. I have already sent them a letter." And he said, "I am sure you could straighten that out."

Mr. Chairman, I must admit I sent them a letter saying it was a mistake, I would be coming. I want people to know that LOU STOKES is very interesting in a lot of ways.

Also, another thing I would like to comment about the gentleman, being around this body here now for 16 years and watching Members, LOU is special in another way. When you ask Lou for help, he does not do like a lot of Members in this body, call a press conference on you. LOU is not the kind of person that when you ask for help he calls a press conference, and then when he indicates he is going to help you he calls a big process conference. And then if he does it, he calls a real big one.

He is not like that. LOU STOKES is the kind of guy that very quietly will do whatever he can do to make life better for you as a Member and your constituents.

Lou, we will miss you in this body. In all the years that I have been here I cannot think of a finer Member than LOU STOKES. What a man. What a man. We will miss you.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I have been in and out of the Chambers for the last several hours waiting for an opportunity to come in and say a few words. This has really been unprecedented to see so many Members want to come forward to pay tribute to our colleague. One minute is inadequate but so would 5 minutes be inadequate to say the kinds of things that LOU STOKES deserves to hear.

Different Members leave different imprints for their service. Few Members can match the difference that LOU STOKES has made in this country and in this institution.

First of all, as a colleague, he has always been helpful to people. His integrity, his intelligence, his dedication to public service stand out and he will always be an inspiration to all of us. He has made a great difference to people not just in his district but all around the country when it comes to questions like housing and education and health care and environmental questions. I think that it is important for us to pay tribute to him.

I want to take this moment to thank him for his friendship. He will always serve to me as a model for what a legislator ought to be.

Mr. OBEY. Mr. Chairman, I yield one minute to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Chairman, I would like to briefly pay tribute to one of my heroes, too. Mr. STOKES is just a tremendous, tremendous person. Earlier this year I spoke, following MAXINE WATERS and Congressman STOKES, to a group here in the Capitol, and as I explained to the people, following MAXINE WATERS and LOU STOKES, you are the two people in this Capitol that are unique. One could heat this place up faster than anybody and the other could cool this place down faster than anybody. Those are both valuable tools and they are wonderful tools to have.

He is a man I have tremendous respect for, just tremendous respect, because he is a kind person and he treats people with respect. He treats issues with integrity and that to me is the most important thing a person can bring to this Chamber.

So when you go home tonight, LOU, I want you to think about Sally Fields when she accepted that Oscar and you can say, you do not have to say it here but you can say it there, you can say they really liked me because, LOU, we really like you.

Mr. OBEY. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I would simply say I know that this has taken a long time tonight and I know that it has made some people nervous who want to get on with the business of the House. All I would say is with all of the matters that come before this House that divide us, I think it is good and crucial that from time to time we have moments of grace like this which make this place in the end a much better place for all of us to work in.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to pay tribute to a great friend and a valued colleague. LOUIS STOKES has been a trailblazer and, indeed, he blazed the trail for me and many others who have struggled against racism, prejudice and economic injustice. Since 1968, Congressman STOKES has dedicated himself to fighting for economic and social justice for all Americans, regardless of race, creed, color or gender. While he has been a steadfast champion for the rights and welfare of his constituents in Cleveland, he has been no less dedicated in his pursuit of equality and fairness for all of America's—and the world's—disenfranchised, downtrodden and persecuted people. I looked to the example of Congressman STOKES' service in Congress as a guide during my service in the Texas House and Senate before I came to Congress. I took heart from his determination and perseverance in the face of long odds during my struggles to advocate for the poor and dispossessed. As an African-American, I owe Congressman STOKES a particular debt of gratitude.

LOUIS STOKES exemplifies the finest qualities of leadership, dedication to public service and compassion for his fellow men and women. He has served with distinction in the House, including his chairmanship of the VA–HUD Subcommittee on the Appropriations Committee for 2 years beginning with the 103rd Congress and two stints as Chairman of the Ethics Committee during his 30 years in the House. Congressman STOKES stands as a living symbol of the American dream, rising from humble beginnings to the halls of Congress, the legislative body for the most powerful country in the world. It is noteworthy, that Congressman STOKES has never forgotten where he began, that he has remained committed and loyal to the community that nurtured him in his youth.

Since my election to Congress in 1992, I have turned to LOUIS STOKES for advice and counsel, for guidance on how to increase my effectiveness as a representative of my constituents. Congressman STOKES has always been unfailingly helpful and generous with his time and support. Congressman STOKES possess an amazing ability to bring clarity to debates, to cut to the heart of the issue that is being debated. He possesses an equally special talent for offering fair and equitable solutions to problems that seemingly are intractable. His knowledge, wisdom and leadership will be sorely missed in Congress by Democrats and Republicans.

In considering the sadness of Congressman LOUIS STOKES' retirement from Congress, there is only one bright spot. The Stokes family, who unselfishly surrendered husband, father and grandfather because of the demands of public service, will now have the opportunity to reclaim his time. It is my hope that, while he will be no stranger to Washington, that he will take a well-deserved rest and enjoy the luxury of having quality time to spend with his family. In closing Mr. Chairman, I thank Congressman STOKES for his leadership and friendship over the years, and I wish him all the best for the future.

Mr. PORTMAN. Mr. Chairman, today I rise to pay tribute to my friend and colleague from Ohio, the Honorable LOUIS STOKES, and to honor him for the many accomplishments of his distinguished career. It has been an honor to serve with him in the United States Congress.

I had the pleasure of working closely with LOU STOKES and his dedicated staff on the Underground Railroad legislation. This legislation will create the first link of sites connected to the Underground Railroad, many of which are in danger of being lost. During our three years of hard work on this bill, I had the benefit of his guidance and counsel. LOU was willing to make this effort a completely bipartisan one. His commitment to the passage of the legislation never wavered, and President Clinton signed the bill this week.

LOU's accomplishments are numerous. He successfully argued a landmark case before the U.S. Supreme Court. He served as Chairman of the House Committee on Standards of Official Conduct, Chairman of the House Permanent Select Committee on Intelligence, and Chairman of the House Select Committee on Assassinations. Most importantly, he met the needs of his constituents as only a true public servant could do. I have seen firsthand the enormous respect LOU has both at home and nationwide. All of us in Congress will greatly miss him.

Mr. THOMPSON. Mr. Chairman, as we debate the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999, I rise to pay tribute to Representative LOUIS STOKES for his twenty years of dedicated work on the subcommittee responsible for much of the work on this bill each year. Representative STOKES has always been a stout defender of the progressive and innovative efforts included in this legislation which seek to provide more Americans with the opportunity to fulfill their dreams.

Representative STOKES' career on the Appropriations Committee and the Subcommittee on the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations has left a mark forever on this House, and most importantly, on the lives of countless American families. I wish him luck and Godspeed in his well-earned retirement.

Mr. GILMAN. Mr. Chairman, I rise to join my colleagues to pay tribute to a Member of this body who will soon be leaving us but who will long be remembered.

LOU STOKES first came to Congress in 1969. In many ways, America was a different nation and this chamber was a different body back then. The concept that all Americans, regardless of race, creed, color or background had an equal place at the national banquet table was still new to many in our society. While our nation had theoretically believed that "all men are created equal", in reality it was only eight years since we elected our first non-Protestant President, and the number of Afro-American Members of Congress, or for that matter, women, could be counted on one hand. LOU STOKES' first election to Congress came only two years after the election of the first Black to the Senate since reconstruction.

LOU STOKES was in so many ways a pioneer and a trail blazer who by word and example inspired a generation of leaders who have come after him.

While I have admired LOU in many ways, I most value his active, enthusiastic participation in our U.S. Congress-Korean National Assembly Student Intern Exchange Program. He is the only one of my colleagues to have participated in this program since I initiated it in 1984. He encouraged young people from his own district to apply, and also welcomed Korean students to his own offices with open arms. LOU did this because he always believed in universal brotherhood. He contended that prejudice and bigotry are eradicated by knowledge and understanding, and he was a true champion of standing up for these beliefs.

Although LOU has compiled an enviable record in this chamber, many of us believe he takes the greatest pride in the success of his daughter, Lori, who used to be a news reporter on ABC and is now one of the most respected of all commentators on CNN. The fair, balanced, and intelligent presentation of the news which has become the hallmark which has made her the talk of the nation reflects the values her father placed upon her.

To LOU, to his wife Jeanette Francis, and to all four of their children, we extend our best wishes for many happy, healthy, and productive years ahead and we assure you all that this great Member of Congress will long be missed.

Mr. LEWIS of California. Mr. Chairman, as I remind myself of that wonderful sign on a great building in Sacramento, California, "bringing us men to match our mountains," I ask unanimous consent for a call of the Committee.

The CHAIRMAN. Without objection, a call of the Committee is ordered.

There was no objection.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 333]

Abercrombie
Aderholt
Andrews
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Borski
Boswell
Boyd
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chenoweth
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Everett
Ewing
Farr
Fazio
Filner
Foley
Forbes
Fossella
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Oberstar
Obey
Olver
Oxley
Packard
Pallone
Pappas
Pastor
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Rush
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer

Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Wicker
Wilson
Wolf
Woolsey
Wynn

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The CHAIRMAN. On this rollcall, 352 Members have recorded their presence by electronic device, a quorum is present, and the Committee will resume its business.

Mr. LEWIS of California. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Without objection, the gentleman from California (Mr. LEWIS) is recognized for 5 minutes.

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I ask for this time simply by way of saying that we have just been through one of the more phenomenal experiences I have ever experienced in the Congress, where spontaneously this body reflected upon their own reactions to one of our colleagues in a way that can only be the greatest of tributes to LOU STOKES and his family.

Mr. Chairman, for all the time I have been in the Congress, it has been my privilege to work with, get to know well, and now have as one of my finest friends—LOUIS STOKES. When I first met him, I knew immediately of the pride with which he looked to the work of his brother, Carl, in his great mayorship that really set a tone for the country.

Over the years, he has talked about others and the contributions they have made. Seldom, seldom could you even get a hint that he had any idea of the impact that he has had upon this body and upon the country.

So, it is my privilege at this time to yield to my colleague, the gentleman from Ohio, LOUIS STOKES.

Mr. STOKES. I want to thank my distinguished chairman of the subcommittee, the gentleman from California (Mr. LEWIS) for yielding to me. But more than that, I want to thank him for providing for me today the greatest day that I have ever experienced in the House of Representatives.

JERRY, you and I have had a very special friendship and a very special relationship as colleagues. I have enjoyed working with you. You are someone for whom I have great respect and admiration not only for your hard and tireless work efforts in this House but because you are bright and because you are caring and you are sensitive, you are trustworthy, and you are loyal.

You have been my friend. My wife Jay and I had the privilege of enjoying the friendship of both you and your lovely and charming wife Arlene, and it is something that I would cherish for all of my life.

Along with you, I want to thank the distinguished ranking member of the Committee on Appropriations, DAVE OBEY, with whom I have served now almost 30 years, and on some committees we sat right next to each other for many, many years, worked together on many projects.

I have known a lot of people in the House over 30 years. There is none for whom I have greater respect and admiration and none whom I consider more of a legislative giant than the gentleman from Wisconsin.

DAVE, I want you to know that I have enjoyed your friendship, I have appreciated it, I admire you for everything you stand for, and I appreciate all that you have represented to me and to your colleagues in this country. It has been a great honor serving also with you.

To BOB LIVINGSTON, our "big chairman," as we refer to on the Committee on Appropriations, I want you to know, Mr. Chairman, that you and I, too, have had an excellent working relationship over the years. I served under 6 chairmen of the Committee on Appropriations over the 30 years. Twenty-eight years I have served on that committee. You have been an excellent chairman. You have not only been a friend to me, you have been someone who has always been courteous and fair and considerate. And all of us in this body have great respect and admiration for all that you stand for, not only this body but in this country, and I thank you for the privilege of serving with you.

To each of my colleagues who have spoken here this afternoon in what has been to me the greatest experience of my career, in the 30 years that I have served here, I have never seen the type of tribute that was accorded me this afternoon.

I have been touched and moved in a way that I would never forget. Your words today will linger on in my heart for the rest of my life. It will help embellish the enriching experience I have had of serving here with those of you whom I consider to be the finest people in the world.

I have oftentimes, sitting on the floor or standing in this well, pinched myself and asked if I was really here on the floor of the House of Representatives. I was not destined to be here. I was not one who was destined to ever serve in the House of Representatives.

As you have heard this afternoon from many of the speakers, I was born in Cleveland, Ohio, born in a family where a young woman and a young man fell in love and got married and had two children. Then, when I was 3 years of age, my brother was a year old, our father died.

So my mother was left a young widow who had only an 8th grade education. She had come from the South looking for a little better life for herself other than working in the cotton fields in Georgia. And here was a lady with only an 8th grade education with two young boys, one 3 and one a year old, to try and raise.

So she did the best thing she could do. She became a domestic worker. She went out in the heights in the suburban areas around Cleveland, in the areas that I now represent in the United States Congress, the rich, wealthy, white people's homes, where she scrubbed their floors, served their dinners, took care of their children, washed their clothes, cleaned their windows for $8 a day and bus fare. And she found that she could not raise those two boys on $8 a day and bus fare, so she also went on welfare.

But during that period of time, she used to speak to both Carl and I and tell us to "grow up to be somebody." She used to tell us to "get an education." Her greatest dream was that those two boys would some day get a high school diploma. She knew that she could not send us to college. But in her dream, she wanted to see us both get a high school diploma. Because she had great faith in this country and she believed if these two black boys in Cleveland could just get a high school diploma that they could be somebody.

And she used to always say to us, "get something in your head so you do not have to work with your hands like I have worked with my hands all of my life." And I never really understood what my mother was talking about until one night she was very ill and I heard her in the bedroom moaning with pain and I went into the room and I sat down by the bed, and she was in such great pain that I reached out and grabbed both of her hands to try to give her some solace, some comfort.

□ 2015

When I felt those hard, calloused hands from scrubbing people's floors, I began for the first time to understand what she meant when she said, "Get something in your head so you don't have to work with your hands like I have worked with my hands all of my life."

I went on to get my high school diploma and was drafted into service in World War II. My brother Carl dropped out of school at 16. Carl quit school, went out to Republic Steel to get a job, sweeping floors. Shortly after I was drafted, he too was drafted into the service.

When I came out of service, I realized that I needed an education, I wanted an education. Fortunately some people in the United States Congress whom I never saw, whom I never knew, had the vision to provide something called the GI Bill of Rights. And so I took advantage of that.

I went home one night and told my mother that I was going to go to college and she said, "Well, what would you do?" And I said, "I get $95 a month and I'm going to go to Western Reserve University full-time." She said, "You can't do that. You have to go to work." She said, "I've spent all these years just trying to get you and your brother a high school diploma. I need you now to help me."

She was right. And so I went and got a job. And I went to college nights. I worked a job all day and went to college nights. I went on from there to law school. I went to law school, worked a job all day, went to law school five nights a week, sat in law class from 6 to 10 every night and studied all weekends in the library.

Carl when he came out at 21 years of age went back to East Tech High School because he saw I was going on to college. He went back to high school at 21, got his diploma, followed me then into college. Much of the rest is history. He went on to become the first black Democrat to ever be elected to the Ohio legislature, then became the first black mayor of any major American city. He served two terms. He went on to New York, he became an award-winning Emmy TV anchorman. He came back to Cleveland, went back in the practice of law, got elected to a judgeship, and then President Clinton appointed him as the United States ambassador to the Seychelles.

I on the other hand spent 14 years practicing law as a criminal trial lawyer. I had the opportunity to participate in three cases in the United States Supreme Court and, as you have heard on the floor today, argued Terry v. Ohio which has become a landmark case in criminal constitutional law.

In this body, I was given some very historic assignments: The privilege of chairing the Ethics Committee twice where we handled Abscam cases. We handled the sex and drug cases involving Members of Congress and the pages. The last case we handled was that of Geraldine Ferraro when she was running for the vice presidency of the United States. I was given the privilege of chairing the Assassinations Committee investigating the assassinations of two of the greatest men, two of the greatest Americans who ever lived, President John F. Kennedy and Dr. Martin Luther King. I was given the privilege of being the first African-American to chair the Intelligence Committee of the House. The only African-American that served on the Iran-Contra committee. I was a part of the team sent to Grenada to investigate the invasion by the United States of that tiny island Grenada.

And so I have had a great and wonderful and historic career here. This is why on so many occasions I have pinched myself to ask that this man, brought up in the housing projects of Cleveland, my mother scrubbing floors, winds up standing in the well of the United States Congress.

Today as I say farewell to the House, having had the privilege of working on my last VA-HUD bill, I can only say to all of you that I am proud that I am an American. No matter what gripes we have, this is the greatest country in the world. The story I have recited to you today of the Stokes brothers could only happen in America. Only in America, Mr. Chairman. Only in America.

Mr. LEWIS of California. Mr. Chairman, I proudly yield back the balance of my time that LOUIS STOKES and I had together.

The CHAIRMAN. The bill is open to amendment from page 52, line 3 to page 65, line 16.

Mr. GREENWOOD. Mr. Chairman, I move to strike the last word.

As many Members know, I have submitted an amendment that would amend the language in the bill submitted by the gentleman from Michigan (Mr. KNOLLENBERG). The gentleman from Michigan's language makes it clear that no funds appropriated to the Environmental Protection Agency could be used in the implementation or contemplation of implementation of the Kyoto protocol.

In discussion with the advocates for this language on both sides of the aisle, the gentleman from New York (Mr. BOEHLERT), the gentleman from California (Mr. WAXMAN) and others, I have decided, Mr. Chairman, not to offer my amendment, but I would like to take this time to address the House as to why it is that I thought it was important to offer this amendment in the first place.

The issue of the Environmental Protection Agency's activities with regard to greenhouse gases has created suspicion on both sides of the argument. Suspicion on the part of industry that the Environmental Protection Agency would take a backdoor approach to implementing Kyoto. That is a legitimate concern. In fact, the United States Congress, namely, the Senate, has not given the authority to the Environmental Protection Agency to implement Kyoto and it should not do that without the proper authorization. On the other hand, Mr. Chairman, the environmental advocates in this country are concerned and have a deep suspicion on the other side, and that is that the Knollenberg language would not be used simply to prevent EPA from implementing Kyoto but in fact would stand in the way of the Environmental Protection Agency's legitimate role in studying greenhouse gases and modeling CO_2 throughout the atmosphere and implementing voluntary reductions and promoting technology that would reduce carbon dioxide and in fact regulating other pollutants such as mercury in a way that has the least impact on the emissions of carbon dioxide.

Why is this important, Mr. Chairman? Why is it so important that we ensure that the Environmental Protection Agency is not stripped of these powers? Mr. Chairman, regardless of where one stands on the issues of climate change, there are certain facts that are absolutely beyond scientific dispute. One of them is that we are carbon-loading the atmosphere. We have been carbon-loading the atmosphere since the dawn of the Industrial Age. The percentage of carbon dioxide in our atmosphere is now 20 percent over what it was before the Industrial Age began. The biosphere in fact consumes carbon dioxide and turns it into oxygen. Some of my colleagues and others have said, "Well, that is the harmless and natural state of the planet." Well, it is except to the extent that the human race in burning fossil fuels, coal, oil, gas, wood at an increasing and dizzying pace over the last 100 years has increased the carbon dioxide emissions into the atmosphere far more than they can be consumed by the biosphere, and the trends are known that this will get worse until we humans learn to build societies that can meet the needs of our people without unbalancing that thin and precious and delicate layer of the atmosphere that allows us to live in this thin band of temperatures in which humans and other life on this planet can live.

Mr. Chairman, we have to lead the world in research on global change, climate change. We have to lead the world in research on greenhouse gases. We cannot shrink from that. We cannot be in denial regardless of the interests that would have us do that. Some of my colleagues in the earlier debate this morning talked as if it were clear that we are experiencing global warming today. We cannot prove that, Mr. Chairman. We do not know that. What we do know is that this planet and its life is far, far too precious for us to be cavalier about this issue. Our children certainly will live in a world affected by what we do in our generation, in our time with regard to greenhouse gases.

Mr. Chairman, I will not offer this amendment this evening, but those of us who care passionately about this issue will watch the effects of the Knollenberg language. If the Knollenberg language does what its advocates purport it to do, and, that is, to simply prevent the implementation of Kyoto in ways that are unauthorized, then that will be fine and we will move on from there. But if this language, Mr. Chairman, is used to subvert EPA's legitimate role in studying carbon dioxide and other greenhouse gases, then we will be back here next year and we will fight and we will not withdraw amendments because we stand firm on the proposition that the Environmental Protection Agency must lead this Nation in the study of this phenomenon.

□ 2030

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GREENWOOD) has expired.

(On request of Mr. WAXMAN, and by unanimous consent, Mr. GREENWOOD was allowed to proceed for 5 additional minutes.)

Mr. GREENWOOD. Mr. Chairman, I am happy to yield to my colleague, the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I want to identify with the outstanding statement of my colleague from Pennsylvania who has been a leader in this area.

Mr. Chairman, I rise in strong support of the intent of the Greenwood amendment. While my colleague will not formally offer the amendment, it's important to understand precisely what is at stake in this critical debate.

This debate is not about the Kyoto Protocol. The Kyoto Protocol could not—and should not—be ratified in its current form, and no one should behave as if the treaty has been ratified. On that there is total agreement.

The problem is this: the fact that Kyoto is not acceptable right now doesn't mean that climate change is not a potential threat. It doesn't mean that we know everything we need to about greenhouse gas emissions. It doesn't mean that we shouldn't be encouraging actions that would reduce greenhouse gas emissions.

So how do we strike a balance? How do we ensure that Kyoto is not implemented while still allowing sensible research and planning and thinking about greenhouse gas emissions to go forward? The answer is: we strike a balance by supporting the Greenwood approach.

The Knollenberg language is a classic case of overreaching. In their zeal to prevent "back door implementation" of Kyoto, the Knollenberg backers have come up with a provision that is so broad that it would, in effect, prevent informed debate and sensible information gathering related to climate change. The report language accompanying the provision makes this intent clear by explicitly directing EPA to stop discussing "policy underlying" Kyoto.

What kinds of positive activities would the Knollenberg language stop? It would stop efforts to find out more about who is emitting greenhouse gases and about how those might be controlled. It would stop intelligent planning under which EPA would ensure that controlling other pollutants did not make greenhouse gas emissions worse. It would stop efforts to develop some programs to encourage industry to reduce emissions voluntarily. It would stop planning the other body has requested to help determine the costs of complying with Kyoto. I could go on and on.

Does it make sense to stop such defensible activities? What are the Knollenberg supporters so afraid of? It seems that they believe that any new information about climate change will weaken their case.

And remember, it's not as if Congress is powerless to influence policy absent the Knollenberg language. If the Administration did something foolish, such as try to declare carbon dioxide a criteria pollutant under the Clean Air Act, Congress has ample means to block such action without the Knollenberg rider.

So it comes down to this: regardless of how you feel about Kyoto, regardless of whether you can imagine some policy you might want to block, you need to support for Greenwood—that is, unless you disagree with the vast majority of scientists and believe that there is no chance at all that climate change is a threat.

Support for Greenwood is not necessarily support for Kyoto. Greenwood does not give the Administration carte blanche. Greenwood wishes to allow open, informed debate on climate change to continue. It represents the sensible middle ground. It has earned my colleagues' support.

Mr. GREENWOOD. Mr. Chairman, I yield to the gentleman from California (Mr. WAXMAN) if he wishes to comment.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding to me. I want to commend him on his statement. I think the gentleman's amendment is one that should be passed by the House, but I respect the fact that we are going to let the process move forward on this legislation.

I think 50 years from now, people would look back at the appropriations bill with dismay if it were to stay in its present form, because, as I read the bill that came out of committee, the Environmental Protection Agency and the Council on Environmental Quality would be restricted from educating and conducting outreach and holding informational seminars on policies underlying the protocol relating to the Kyoto Conference. And not only that, it would be prevented from thinking through and developing proposals to deal with the global climate questions.

The amendment we just adopted a while ago offered by the gentleman from Wisconsin (Mr. OBEY) would have struck, did in fact strike the most egregious parts of the committee's recommendation to us. I would hope that, as this bill moves forward, there will be other approaches that will assure those who are anxious about this matter that the treaty, if there is one, will not be implemented until it is ratified. We do not implement laws that have not been passed, and we do not allow executive branch agencies to adopt regulations to enforce treaties that have not been ratified.

I think it is a mistaken notion for fear that that treaty would be implemented in any way to stop EPA and the CEQ from going forward and thinking about strategies and developing plans.

So I want to identify myself with your comments and to express the fact that we made a step in the right direction with the Obey amendment. I think we need to go much further on this issue when the bill moves into conference.

As I understand it, the Senate has a different approach. Even Senator BYRD has a different approach than what is in this legislation. I would think it would be doing a disservice to the American people if we stopped everybody from looking at this problem because the problem is not going to go away.

Mr. CAMP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the chairman of the subcommittee in a colloquy, but first I would like to thank the chairman for all of his hard work on a complicated and important appropriations bill which funds the Department of Veterans, Housing and Urban Development, and independent agencies. I would also like to commend his staff who have so diligently worked with me on an important issue concerning my district.

Mr. Chairman, I understand that the report language to H.R. 4194 indicates that the EPA should take no action which will utilize dredging as a remediation tool until a joint EPA-National Academy of Sciences study has been completed and analyzed. This study is needed to help determine in what situations dredging is an appropriate method of remediation.

The EPA has recently signed an action memo to begin a dredging project of the Pine River in St. Louis, Michigan, in my district. St. Louis badly needs EPA action, which includes dredging, to save this important river.

It is the gentleman's understanding that the language in the report is not intended to prevent dredging in the case of the Pine River project and that he will work to address this issue further in conference?

Mr. Chairman, I would yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Chairman, first, let me express my appreciation for the gentleman's cooperation and the work that we have been able to do together on this matter. Yes, it is my understanding, as you have outlined. As we move to conference, I would be happy to work with the gentleman to address the issue further.

Mr. CAMP. Mr. Chairman, I thank the gentleman from California for his commitment to our Nation's environmental resources and again for his hard work on this bill.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN:

Page 59, after line 12, insert:

Any limitation on funds in this Act for the Environmental Protection Agency or the Council on Environmental Quality shall not apply to:

(1) regulatory determinations for mercury emissions from utilities;

(2) utilizing dredging as a remediation tool;

(3) implementation of the Food Quality Protection Act;

(4) implementation of the Regional Haze Program; or

(5) cleanup requirements for facilities licensed by the Nuclear Regulatory Commission;

where such activities are authorized by law.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, since the beginning of 1995, the House has produced a steady stream of assaults on the environment. Bills have been introduced to repeal the Clean Air Act, simply repeal it. Riders have been snuck in to must pass legislation, particularly appropriations bills, to cripple protection of endangered species, exempt oil refineries from air pollution laws, and block the Environmental Protection Agency from regulating arsenic levels in our drinking water.

Earlier this year, I had thought that the House would finally halt its war on our environment. I had hoped that the sneak attacks on the environment would cease, and I would hope that we would reject the antienvironment extremism that is so out of touch with American values.

Unfortunately, it seems that, once again, our environment is being attacked. As in years passed, the VA-HUD appropriations bill contains antienvironmental riders in both the bill and the report accompanying this legislation which would hinder our efforts to protect the environment under existing successful programs.

Specifically, there is language that would prevent the cleanup of PCB-contaminated sediments, stall implementation of our pesticide safety laws, prevent adequate cleanup of old nuclear facilities, interfere with efforts to control air pollution in our national parks, and block controls of dangerous mercury air pollution.

These riders do not belong in this legislation. This is a bill to fund the EPA and other agencies. They do not belong in this bill, and they are all an affront to every person who cares about the quality of the air we breathe and the water we drink.

My amendment would prevent a rollback of our important and popular environmental programs. It would strip out the environmental riders attached to this legislation. In effect, it would halt this attack on our environment.

One of the provisions of the bill and the report accompanying the bill prevents EPA from regulating emissions of mercury pollution. This provision is extremely damaging, not only to our environment, but to people's health.

Mercury is a known toxic pollutant of special concern to pregnant women. Important studies have been released this year on the massive mercury air pollution caused by emissions from power plants. Yet, despite these substantial threats for mercury, the report contains language which could block any regulatory determinations regarding mercury air emissions for years.

The report accompanying this bill also contains language which would block the cleanup of PCB-contaminated sediments. PCBs are known to cause cancer and contaminate large areas of the Hudson and Housatonic Rivers of the Northeast and a large area off the coast of California.

Many experts have called for removing this contamination through dredging, but the report language would prevent EPA from requiring any dredging, leaving the local communities contaminated.

There is also language that would make it hard for EPA to ensure that pesticides do not exceed safe levels in our food. In 1996, just 2 years ago, Congress unanimously passed legislation to make sure that all food is safe from pesticides that might harm infants and children.

We must allow this law to be implemented, not impede its implementation as the report would do. The goal of my amendment is simple. It would eliminate those and other objectionable antienvironmental riders.

Some of my colleagues urged me not to address global warming issues in this amendment, and I have modified my amendment so as not to address global warming. I believe it is essential to remove those extreme restrictions on the administration's ability to deal with global warming, but in deference to my colleagues, the global warming riders are not being addressed in this amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 3 additional minutes.)

Mr. WAXMAN. Mr. Chairman, the Knollenberg provisions are not affected in any way by this amendment. The riders my amendment addresses are contained in the report on this bill. Technically because these directives are report language, they are not binding on the agencies, but that is only technical.

It is, however, important to realize that they are a message to the agencies to not go forward with enforcing existing laws. That is why it is important to eliminate them in order to clarify that they should not affect the agencies in any way.

Mr. Chairman, Congress should be working to solve our environmental problems, not working so secretly to include antienvironmental provisions in appropriations bills at the request of many big polluters. Let us not roll back our environmental laws with these antienvironmental riders.

I urge all Members to support this amendment and give us a clean VA-HUD appropriations bill.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, very reluctantly I rise in opposition to this amendment by my colleague the gentleman from California (Mr. WAXMAN). As many of you know, HENRY WAXMAN and I have worked on a number of issues in the past that relate to the environment, and we have done things like sponsoring alternative fuels for clean air purposes. The gentleman knows of my work in connection with the clean air amendments in California.

But having said that, let me say that this amendment, together with some of the advertisements distributed by what can only be either misinformed or very extreme environmentalists within that community, is nothing less than a bizarre attempt to create controversy where none should exist at all.

To label the committee's direction to the EPA, direction that is contained solely within the report accompanying the bill, as somehow being a rider is about the furthest stretch of imagination that I can fathom. These folks are really scraping the bottom of the barrel if their primary objections would somehow raise report language to the level of statutory law.

But let me take just a few moments to specifically address some of the concerns raised in the Waxman amendment. With respect to mercury, the committee report directs the agency to, first, complete an ongoing Federal-State study on mercury transport in Lake Superior; secondly, complete another ongoing study on fish consumption and mercury ingestion; and, thirdly, enter into a final study agreement with the National Academy of Sciences in order to prepare recommendations on the appropriate level of a mercury exposure reference dose.

Mr. Chairman, these are not new issues. The committee is merely attempting to push the EPA to finish its research before issuing regulations.

With respect to utilizing dredging as a remediation tool for contaminated sediments, the committee last year asked EPA to contract with the NAS to conduct a thorough study of this method which was requested to be completed by April of 1999.

In part, this study was requested because EPA itself stated in a 1996 report that the preferred means of controlling sediment contamination risk is through national recovery. Subsequently, the committee has become aware of what may be a reversal of this policy. It occurred to us that maybe we should let the NAS report shed some light on this matter before we allow EPA to stir up billions of cubic yards of contaminated sediments.

Regarding directions of the committee relative to the Food Quality Protection Act and the Regional Haze Program, the language merely suggests that the agency should follow both its spirit and the letter of the law in implementing these programs. The Regional Haze Program is a case in point.

The Clean Air Act sets up a regime for the States to develop visibility transport commissions in order to research and monitor visibility impairment. The law also requires EPA to report to Congress on visibility improvements achieved through implementation of other sections of the Clean Air Act.

These and other provisions of the law have been ignored by the agency, and the committee's language merely directs the EPA to get itself back on a firm statutory footing.

☐ 2045

Finally, the committee's direction with respect to cleanup requirements for facilities licensed by the Nuclear Regulatory Commission would do nothing more than tell EPA to maintain the status quo with respect to regulatory oversight of nuclear facility clean up.

The Congress has given the authority to the NRC, not to the EPA. Not surprisingly, the EPA is trying to further enlarge its domain by claiming jurisdiction where they do not now have any. If the Congress in its wisdom wishes to give such authority to EPA, so be it. In the meantime, however, this body should not allow the Waxman amendment to circumvent the law and permit his favorite government agency to grow even larger.

Mr. Chairman, these and other directions of the committee as contained in the report accompanying H.R. 4194 are intended to put the EPA back on a path of following the law. None of these directions reinterpret the law in any way. None of these directions put a political or partisan spin on what EPA is expected to do. But, for the life of me, Mr. Chairman, I cannot understand why anybody in this body would want the EPA to ignore the laws that Congress has passed. For the life of me, I cannot understand why anyone would want this agency to enlarge its domain through its interpretation of what the law means. Yet that is exactly what my colleague from California by way of this amendment would allow to happen.

I strongly urge that the gentleman withdraw his amendment, and, if not, that it be soundly defeated.

Mr. MCINTOSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first let me point out that one of the items mentioned here, the regional haze regulations, are in fact one of the areas where we are concerned that EPA may be preceding to implement a global warming policy without that Kyoto Protocol being ratified by the Senate. We have not definitively heard back from the agency on that because they have not yet complied with our request for information on the oversight hearing, but it is an area of great concern to us.

Let me also say, harking back to the amendment by the gentleman from Pennsylvania (Mr. GREENWOOD), which he withdrew, I appreciate his doing that. I will include my statement to be put into the Record following the discussion of that subject, including a list of all of the countries and whether or not they are covered by the treaty and the study and the state-by-state breakout of the economic costs.

Mr. Chairman, I would at this point yield to one of my colleagues, the gentleman from Pennsylvania (Mr. PETERSON) the balance of my time for his remarks on that subject.

Mr. PETERSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. MCINTOSH. I yield to the gentleman from Pennsylvania.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, it has been interesting tonight as we have heard the discussion here about a number of issues dealing with EPA, an agency that I find sometimes more troubling than the IRS. They have one of the most important jobs in this country. But if you ask your local communities, you ask your state agencies, you ask anyone who deals with them, they are one of the most difficult.

One of the issues that was shared here a short time ago was that the Knollenberg language was going to prevent the EPA from doing their job. This administration asked in this year's budget for $6.3 billion on the Kyoto treaty and global warming. Now, they claim they do not want to implement, but many Members have said they are going to implement and they have done many things that would start that process.

$6.3 billion is almost equal to the EPA budget. I guess that is beyond my imagination, that a government would ask for $6.3 billion to market a theory, "global warming."

When this issue started, I asked one of the top climatologists in America, who was having lunch with me downstairs, if there was global warming, because I wanted his opinion. Without any doubt he just looked at me and said, "There is no evidence, and I have been in this business all my life."

I want to share with you that climate researchers do not agree whether the earth will become warmer during the coming century. Seventeen thousand scientists have recently signed a petition stating that man-caused climate change does not exist, 17,000.

The petition states, in part, "we urge the United States Government to reject the global warming agreement and other similar proposals. The proposed limits on greenhouse gasses would harm the environment, hinder the advance of science and technology, and damage the health and welfare of mankind."

"There is no convincing scientific evidence that human release of greenhouse gasses is causing or will cause catastrophic heating of the Earth's climate. Moreover, there is substantial scientific evidence that increases in atmospheric carbon dioxide produces some beneficial effects upon the natural plant and animal environment of the earth."

One of the reasons for such certainty and optimism about the future of these 17,000 scientists is that both written and oral history informs us that between 900 AD and 1300 AD, the Earth warmed by some 4 to 7 degrees, 4 to 7 degrees Fahrenheit, almost exactly what the current computer models now predict for the coming century.

Did this warm period produce the catastrophe being sold to us by alarmists? It did not. The warming created one of the most favorable periods in human history. Crops were plentiful, death rates diminished, and trade and industry expanded, while art and architecture flourished. There was less hunger, as food production surged because winters were milder and growing seasons longer. Southern England developed the wine industry, and Viking settlers pastured cattle in Greenland on what is today frozen tundra. Soon after 1400, however, the good weather ended and the world dropped into what is called the Little Ice Age.

Recently Dr. Sallie Baliunas, an astrophysicist with Harvard-Smithsonian Center for Astrophysics and one of the Nation's leading experts on global climate change, believes we may be nearing the end of a solar warming cycle, and that there is a strong possibility that the Earth will start cooling off in the early part of the 21st Century.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. MCINTOSH) has expired.

Mr. MCINTOSH. Mr. Chairman, I ask unanimous consent to proceed for two additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. WAXMAN. Mr. Chairman, reserving the right to object, I do so only for the purpose of informing the gentleman that this amendment contains nothing on global warming. That was discussed as a possibility in this amendment, but, as I announced in my opening remarks, we withdrew that particular section from the amendment. So we are not dealing with the global warming question.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. McINTOSH. I yield to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, it says we may be nearing the end of a global solar warming cycle, and that there is a strong possibility that the Earth will start cooling off in the early part of the 21st Century.

Still none of the global warming computer models, the foundations for nearly all the claims that warming is the result of man-made greenhouse gasses, account for solar variability, and none adequately account for the interaction between the oceans and the atmosphere, or the addition of a large portion of the very warm South Pacific to the worldwide grid of temperature reporting stations in the past half century. Also, satellites and weather balloons that have been tracking temperatures for the last 20 years show a slight cooling.

I would like to conclude my comments by saying we have 16 agencies being funded by the EPA to propose and sell the global warming advocacy. The Greenwood amendment, which was before us a little while ago, in my view, I was very pleased that he withdrew that, because it really cleverly destroyed the well-crafted Knollenberg language that was so vital.

The interesting thing I would like to say, in conclusion, the Kyoto treaty is so flawed, if all of the countries that have agreed to bring it to their governments for approval follow it to the hilt, the developing countries, the 132 which are the growth areas of the world will more than make up for the savings. There will be no change.

It seems pretty flawed for Americans to take it in the neck and let the developing world steal our jobs. There are many who feel that as many as 1 million American jobs will move to Third World countries, where there will be no controls, where there will be no penalty paid, and our American workers will take it in the neck.

It is an ill-conceived treaty. I think it is time to send someone to the next treaty, besides AL GORE, to negotiate a treaty that is a fair to American workers.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that my colleague, my friend from Pennsylvania who preceded me, points out by example the reason we should not have the type of language in this bill. In fact, I know it is a time-honored tradition of the Committee on Appropriations to try and micro-manage and administer the specifics of many laws, but the fact is, when I voted for these laws, that is what I meant. I meant that I wanted our Superfund dollars used to clean up the problems.

This bill prevents the use of the brownfields dollars to clean up. I wanted the mercury out of our air. That is what I wanted the EPA to do. This particular provision stops the EPA from implementing the removal of mercury and of necessary standards for utilities. I wanted the PCBs that are lining our lakes and waters and riverways cleaned up so that it was not in our waters and riverways. This particular provision in the bill before us micro-manages the EPA and says you cannot do that particular dredging.

When I voted for the Food Quality Protection Act, I wanted the pesticides out of our food, as did almost every other Member. And I do not want some staff member or other groups that are there making a contrary decision in appropriations report language, I want the EPA, the scientists and the other professionals, to set those pesticide standards so that I am not eating such pesticides, and so do the people I represent.

When we voted for the Clean Air Act, we wanted to in fact be able to see the Grand Canyon and the other vistas that are on our American landscape; not putting this off and postponing it and frustrating the implementation of these laws.

Finally, of course, we do want our radioactive waste materials cleaned up. For my part, I think the Nuclear Regulatory Commission needs a challenge to the type of job they have done in the past, and I think the EPA is pursuing this. I do not want to strip them of some responsibility with regards to radioactive wastes.

So I hope my colleagues will look at this, and recognize the importance of letting the administrators and others that are supposed to administer and implement our laws do their job, and not be frustrated and hamstrung and limited by these inappropriate type of second-guessing that is going on here, and often I think with the type of scientific analysis I heard here on greenhouse gasses preceding me.

That is not the type of effort, that type of guessing, that type of unusual theories that seem to abound, that I want guiding and implementing our laws. I want the EPA and the administration, and they are held accountable, incidentally, by courts and by results and regulations and open hearings. Once that process gets done, which is sometimes very, very long lengthy, takes a long time, I do not want the Committee on Appropriations coming back and pulling the rug out from under them and then frustrating the implementation of the laws.

That is what is happening in this instance, and that is why we need to vote up the Waxman amendment or defeat this bill.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very, very strong support of the Waxman amendment. I do so because passage of this amendment is critical to moving forward on a number of important environmental issues, including a matter close to the hearts of many New Yorkers, cleaning up the Hudson River.

Among the many egregious legislative riders tucked into this bill is a provision which would delay cleaning up PCB contamination in the Hudson River, as well as the Housatonic River in Massachusetts and Connecticut. Thanks to 30 years of PCB discharges, the upper Hudson River has the distinction of being one of the Nation's largest Superfund sites. Not surprisingly, the upper Hudson River has also been designated as one of the most endangered rivers in the United States by North America's leading river conservation organization, American Rivers.

□ 2100

PCB contamination in the Hudson has taken a huge toll on the River's economic recreational and environmental resources. Fish caught throughout 200 miles of the river are contaminated at unsafe levels. As a result, the river's commercial fishery industry, valued at more than $40 million annually in 1976, has been almost completely closed down.

In addition, PCBs from the upper Hudson are responsible for about half of the sediment PCB contamination in New York Harbor. This contamination greatly increases the cost of dredging the harbor, which is so critical to the economic vitality of the New York metropolitan region.

Most troubling is the threat to public health posed by PCBs. These chemicals have long been regulated as human carcinogens, and scientific evidence continues to mount about PCBs' impact on disease resistance, reproduction and cognitive development. For example, studies of PCBs in the Great Lakes region have shown startling effects on the birth weights, cognitive abilities and emotional stability of children exposed in utero.

The EPA has spent years examining the Hudson's PCB contamination in order to develop an appropriate cleanup plan. This process is already years behind schedule, and that is bad enough. We certainly do not need more delay, but that is just what this bill will do, and that is why I urge support of the Waxman amendment, so that the long awaited cleanup of the Hudson can move forward.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentlewoman for yielding, for I know that she is very, very seriously concerned about the questions that she has raised, especially about the Hudson. I think the gentlewoman also knows that EPA has not spent years figuring out whether dredging is the best way to solve that problem.

We are just suggesting, not in statutory language, in report language, that EPA follow the direction of the Congress and the law. Report language, as the gentlewoman knows, is not law. It is just trying to get their attention, because they have been off track on this issue and on many other issues for too long now.

So I urge the gentlewoman to actually look at our report language.

Mrs. LOWEY. Mr. Chairman, reclaiming my time, I would just like to say to the Chairman, having worked on this issue since the 1970s when there were many, many different heads of EPA, I am aware of the complexity of this issue.

There have been serious debates on whether dredging or remediation or covering the PCBs is the best method to move forward. However, as I understand it, the report was completed last year, reading from a letter from the current head of the Environmental Protection Agency, Ms. Browner, and there are areas, such as in the Housatonic, smaller areas, where they could move forward on the dredging.

However, there is concern, and I would appreciate any further elaboration, that this language does hold up that process. Because of the complexities of a river such as the Hudson, they are still determining which is the best method, and I believe that study will not be completed until the year 2000.

Mr. LEWIS of California. Mr. Chairman, if the gentlewoman will continue to yield, I certainly would not want to interrupt the process here, but I think the gentlewoman knows that the National Academy of Sciences report is not due until April of 1999, and, indeed, this is report language that simply puts the needle where it ought to be applied, to this agency that tends to want to do its own thing, almost regardless of what the law says or what Congress says.

Mr. WAXMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I would like to inform the gentleman from California (Mr. LEWIS) that the National Academy of Sciences last year issued an authoritative report on cleanup strategies for contamination.

The CHAIRMAN. The time of the gentlewoman from New York (Mrs. LOWEY) has expired.

(On request of Mr. WAXMAN, and by unanimous consent, Mrs. LOWEY was allowed to proceed for 1 additional minute.)

Mrs. LOWEY. Mr. Chairman, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, just last year the National Academy of Sciences issued this authoritative report on cleanup strategies for contaminated sediments. So this is just simply, they say, a provision in the bill asking for a study.

Well, they are asking for another study and they are telling EPA, do not do anything, after all these years of studying, after all the years of working on this problem with the National Academy of Sciences telling us that there are strategies that we ought to be using to protect people from PCBs. For God's sake, that is what causes cancer, and they want to stop indefinitely the EPA from acting until another study and another study and another study. It is a dilatory tactic.

Mrs. LOWEY. Mr. Chairman, reclaiming my time, I would like to remind my colleagues that I began working on this issue when I was at the Department of State in the 1970s. EPA has delayed this and delayed this decision. We are concerned. As I said, the decision has been delayed and delayed because of the complexity of the issue.

As I understand it, the decision has just been delayed 18 months again, will not be completed, and the decision will not be made until after the year 2000. There is great concern from Carol Browner that this language would then delay it even further.

So for many of us who are concerned about this issue, who respect the complexity of the decision, we feel after this report has been filed, it is time to move forward, based on the scientific evidence and make an appropriate decision.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentlewoman yielding. The question really is by way of comment. The gentlewoman knows that there will be huge amounts of material if dredging is the way we solve this problem. As of this moment I do not believe EPA can tell us what they are going to do with that material. Maybe we are going to create another huge Superfund site, that they can have another area of activity to broaden their responsibilities. But, indeed, all we are doing is by way of report language, no weight of law, per se, nudging this agency to get back on track.

The CHAIRMAN. The time of the gentlewoman from New York (Mrs. LOWEY) has expired.

(By unanimous consent, Mrs. LOWEY was allowed to proceed for 1 additional minute.)

Mrs. LOWEY. Mr. Chairman, I would just like again to say to my distinguished chairman that we understand the complexity of the Hudson. It has already been delayed an additional 18 months, after many years of delay, but it is my understanding from Carol Browner that there are areas, such as the Housatonic, which could move forward, could be an important demonstration, so we can make an appropriate decision as to what to do with the Hudson, understanding the complexities, and this report language would just delay further.

Mr. LEWIS of California. Mr. Chairman, if the gentlewoman would yield further, in the Housatonic, I believe they are planning to dredge 12 miles of the river. I have no idea what they are going to do with that dredging material. But, in the meantime, it is amazing to me that my colleague from California would raise the statutory level, when the report language is simply trying to urge this agency to get back on track and follow the laws we have outlined.

Mr. WAXMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, this language does limit the agency. I do not think it is binding, but they feel a limitation when the committee that is appropriating their money to stay in existence tells them not to do anything until you get another study, and this additional study would keep them from doing things like putting a cap on settlement of PCBs.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

I oppose the Waxman amendment.

Mr. Chairman, I just wanted to take a couple of seconds, as I was unable to be here when this House paid tribute to the gentleman from Ohio (Mr. STOKES).

This last month I heard four of the greatest speeches of my life: The speeches of the gentlewoman from Connecticut (Mrs. JOHNSON); the gentleman from Indiana (Mr. HAMILTON); the gentleman from Illinois (Mr. HYDE) today; and certainly the gentleman from Ohio (Mr. STOKES).

Cleveland would not have transformed itself into the great city it is without Mr. STOKES, who never got the credit for that politically. Without LOU STOKES, Cleveland would not be the city it is.

Mr. Chairman, we will be through our committee finding a building to name to pay tribute to our great distinguished leader from Ohio, and I would ask all of my colleagues to cosponsor that when the building is selected.

Today I heard one of the finest speeches I have ever heard from the gentleman from Ohio (Mr. STOKES), and we are very proud of him.

With that, I oppose the Waxman amendment. I think the Environmental Protection Agency has got into a little too much all over our country, and I think there is a balance between jobs and protection, and sometimes we have been a little zealous.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support of the Waxman amendment. This is the amendment that would allow the agencies covered by this bill to continue to carry out the laws of the land, as is their constitutional responsibility.

What we see in this legislation, whether it is in legislative language or whether it is report language, is we see a continuation of an assault by the Republican Party of the environmental laws of this country, the very basic, basic fundamental laws of this country, clean air and clean water.

They tried it once in a frontal assault in 1995. They were turned back by the minority in the Congress, and they were turned back by the American public. Since that time they have been having tree planting days, they have recognized the African elephant, they have tried to recognize the Year of the Ocean, and they have had Tropical Rain Forest Week, all of which was to suggest that they were environmentalists.

They have issued instructions to the Republican majority to plant trees, invite the press, try to show up at environmental events, to give themselves a "green" look. But when it comes to the hard ball legislation, they are right back at it.

In this bill, what they seek to do is to keep the Environmental Protection Agency of the United States of America from doing its job. What is its job? It is to protect the American public from the polluters who would pollute our waterways, our lakes and our streams, our recreational areas; it is to protect the American public from the polluters who would pollute our air as it moves across all jurisdictions. It is a national problem. Emissions in one area cause cancer and in another area cause asthma and in another area cause children to have serious health disruptions.

That is what its job is, is to protect Americans. It is the Environmental Protection Agency. It is to make sure that in fact Americans have the ability to have a quality of life that they think that they are entitled to. Maybe the Republicans do not support the Environmental Protection Agency, but over 80 percent of the American public supports the Environmental Protection Agency, because they know that it is all that stands between them and the corporate greed of the polluters, the same polluters who have polluted our streams and polluted our water, the huge corporate farms that pollute the waters of the central valley or the waters of the Midwest now as they run huge hog operations, the same polluters who dump into the Chesapeake Bay. They were not turned back by voluntary action.

San Francisco Bay was cleaned up and is being cleaned up because of the EPA. The Chesapeake Bay is being cleaned up because of the EPA. The Great Lakes are being cleaned up because of the EPA. The air today is cleaner in California than it was 20 years ago because of the EPA.

Now they want to strip that. Why? Because we have a very effective and tough administrator. They have dragged her up here time and again in front of numerous committees to beat up on her, and most of them do not have enough comprehension of the subject matter to ask a question. But they are going to continue to do it. It is a little disingenuous, unless one just showed up in Congress in the last week or two to say, well, this is just report language.

No, this is not just report language, this is a means by which, in a few months from now, if EPA does not do what they want to do, they will drag them up in front of the committees; they will accuse them of not carrying out the will of the Congress; they will beat up on the administrator; they will beat up on the regional people; they will tell them they are exceeding their authority. Why? Because they are trying to get to the Election Day, when they think they can take over the presidency and get rid of EPA. So they want to delay all of these projects, the cleanup of the Hudson River, the brownfields, the cleanup of the Superfund sites, the mercury emission standards, and all of the rest of it. They are trying to delay that. Why? Because their corporate clients want them to delay that, because they think they will get a better shake after the next presidential election.

This is fundamental politics. This is about our environment. This is about whether our children have a safe home, a safe environment and a safe school, because nobody volunteered to clean it up. They had to be taken to court and they had to have regulations issued, and that has been the 30-year history of this agency. It is what has made America better, it is what has made our schools safe, it is what has given our children the chance to have a decent neighborhood and to breath clean air, to reclaim the rivers that when I came to Congress were on fire, rivers we could not touch. When I came to Congress, they told us, "Don't touch the Potomac River." Today people water ski and they have crew races. That is because of the EPA.

Now, the oil companies do not like it, and the chemical companies do not like it, and the mining companies do not like it, and the big farmers do not like it. Who gives a damn? The American people like it. The American people like it, because they can see the tangible benefits.

So let us not pretend that this amendment somehow is only report language, that this is just an innocent effort.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER of California) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would caution the Member against the use of profanity.

Mr. MILLER of California. I thank the Chairman.

Mr. Chairman, this is not an innocent effort. This is going around through the back door, because politically they are afraid to go through the front door because they were turned back by the American people. When the American people understood what the Republicans meant by regulatory reform, they overwhelmingly rejected it and it was abandoned.

The American people know a good deal when they see it, and the Environmental Protection Agency is a very, very good deal for the American public.

□ 2115

It is a very, very good deal for the health of the American public, and it is a very, very good deal for the health of the American environment.

Mr. CALVERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. CALVERT. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman from California (Mr. CALVERT) yielding to me. I asked him to yield to respond in part to the comments made by the gentleman from California (Mr. MILLER).

Mr. Chairman, I must say that my colleague knows very well of my involvement, my personal involvement, in environmental matters over the years I have been involved in public affairs. I wrote the law that created the toughest air quality management district in the country that others are trying to replicate—the South Coast Air Quality Management District. To suggest that we are not concerned about air and about these other matters, to say the least, extremism.

I further object to the gentleman from California suggesting that we would design these report language items in order to bring people before our committee and beat them over the head or otherwise. I do not know how the gentleman ran his committee when he was Chair, but we do not bring people in to beat them over the head.

We are in the business of responsibly developing public policy direction here, and to have that kind of frontal attack is not helpful, acceptable, or appreciated by this Member.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Waxman amendment and I thank the gentleman from California (Mr. WAXMAN) for offering this amendment and allowing me to speak on this amendment and doing what he has done on his committee, to protect our environment.

This amendment would eliminate controversial anti-environmental riders that threaten the public health and safety of citizens from my State of Connecticut and from States across this Nation.

This amendment would override language that interferes with agency actions to protect our environment and clean up hazardous waste materials in our rivers and in contaminated industrial sites known as brownfields.

The Waxman amendment is particularly important in my home State of Connecticut, because it will allow the dredging of the Housatonic River to clean the riverbed that has been contaminated with PCBs. The Connecticut Department of Environmental Protection and the Environmental Protection Agency have both stated that the prohibition on the use of dredging as a means to clean up the river pose a serious threat to the ability to take the next actions to control immediate threats to public health.

Exposure to PCBs is dangerous and poses health risks to intellectual functions, the nervous system, the immune and reproductive system. We in Connecticut know that the Housatonic is unacceptably polluted. It is unconscionable for the House to tie the hands of the EPA in an effort to clean up contaminated sites like our river and others like it across the country.

I am also pleased that the Waxman amendment would allow the EPA to issue regulatory determinations for mercury emissions. Mercury is highly toxic and exposure can cause serious neurological damage. It is critical that we permit EPA to take steps to control mercury emission into the air and into the water.

According to the Toxic Action Center, there is a mercury advisory for every single lake in the State of Connecticut. We need to control the release of mercury. These regulations are an important step toward cleaner air, cleaner water, a cleaner environment. I thank Mr. WAXMAN for offering this amendment this evening.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in earnest support of the amendment offered by the gentleman from California (Mr. WAXMAN) because it would remove dangerous anti-environmental riders from this piece of legislation, as well as other aspects of the bill which would be very dangerous to the environment and very dangerous to public health.

There is report language, as has been discussed already, in the bill which directs EPA to take no action which will utilize dredging as a remediation tool until a referenced National Academy of Sciences study has been completed and distributed and analyzed by all interested parties. That is an issue which will bring about very substantial delay in the remediation of many places that contain PCBs and other contaminants.

The effect of this would prevent the EPA from dredging the Housatonic River of PCBs and will prevent the EPA from dredging the Hudson River of PCBs. And what will the effect of that be? The language in the report appears to be intended to promote indefinite delay. It does not tell the EPA to halt action until the NAS report is out; it orders delay until "all interested parties" have had time to analyze it.

The interested parties certainly include the polluters. In the case of PCBs in the Housatonic and the Hudson, that is the General Electric Company. General Electric favors a cheaper answer. GE analyzes every move EPA makes at great length. How much time will this financially interested party require to "analyze" this report? A long, long time I am sure.

What is at stake here? First, human health. PCBs are a known carcinogen in animals and a probable carcinogen in humans. They are also suspected of being a serious endocrine disrupter and of being responsible for other serious health problems.

New Yorkers have been strongly advised to limit their intake of local fish for this reason, and EPA has just announced additional funding to educate people about the dangers of locally caught fish. The contamination damages the fish and other wildlife in and around the river.

New Yorkers want the PCBs cleaned up. They do not want our river to be an experiment used by the General Electric Company, or anybody else, for their particular chemistry work.

The report language uses an earlier EPA survey of how to deal with contaminated sediments as the basis for the committee's direction. It implies that EPA's own science has concluded that the GE so-called "natural recovery" method is the best way. It should be clear that EPA does not agree with this interpretation of the study.

EPA points out that there are different kinds of PCBs, different kinds of deposits, different kinds of rivers, and there is no one solution that applies to all. EPA has been studying the Hudson River situation, reassessing it for years, and many of us have been unhappy with the repeated delays because of EPA's own painstakingly slow review.

We do not want further delays, and we certainly do not want the public health and the river's health left hanging while all interested parties are given more time to think about it.

Just today, new information has come out which reveal that the PCB deposits in the upper river of the Hudson are moving out. Forty percent of those deposits are moving out from where they are located, and 75 percent of those deposits that are moving out are becoming involved in the water column.

This information just out today tells us very clearly why all aquatic life in the Hudson River is now infected with PCBs. The PCBs in the Hudson River are ubiquitous. They are affecting every form of aquatic life. And we know how dangerous and damaging PCBs are. They cause cancer in animals. They are a probable carcinogen in humans. They cause abortions and they cause nerve disorders and endocrine disorders in human beings.

Mr. Chairman, this is a very serious problem. The delay that is contained in this legislation only prolongs the period where these PCBs will remain in the river, remain in the aquatic life, contaminate the estuary and the river basin itself, and become involved with people's lives and be damaging to public health.

That is why the Waxman amendment must be passed, because it deals forthrightly and directly with this problem and would remove this report language from the legislation.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from New York (Mr. HINCHEY), and several others, have focused in on the Hudson River where I happen to live. I have lived there for 40 years. I have raised my family there and my six grandchildren and my five children.

We drink the Hudson River water, and we have done quite well drinking that Hudson River water. Not only does my family drink that Hudson River water, but it is the auxiliary emergency supply for 8 million people in a place called New York City, which is 200 miles downstream from where I live.

About 40 miles upstream are cities like Poughkeepsie, Hyde Park and Red Hook and Rhinebeck and Hudson and all the way up to where I live. And we take our drinking water directly out of the Hudson River.

It is approved by the Environmental Protection Agency. It is approved by the New York State Health Department and the New York State Environmental Conservation Department, two of the toughest regulatory agencies in America. They are so tough, that they even take precedent over the regulatory EPA. Think about that.

I hear a lot of arguments about why these PCBs ought to be dredged.

First of all, I represent the twentieth largest dairy producing district in America.

Mr. Chairman, I know you represent a few cows, too. We represent a lot of corn growers and we represent a lot of apple growers. We live in the Rust Belt. From New York City to Albany, New York, is the old Rust Belt. We have lost all of our jobs. They have all moved either to Maquilladora out in Mexico or they have moved overseas to China. We had that debate yesterday.

I have constituents who now are in their forties and fifties, I mentioned this yesterday, and they worked all their life at manufacturing and now the manufacturing jobs are gone. They do not want to move out of the beautiful Hudson Valley. That is where they live. That is where their kids grew up. That is where their grandchildren are, but they cannot find jobs.

So what do they do now? Some of those people that were now making $40,000 a year, they now work for McDonalds and maybe they take home $15,000 a year on that job but they carry a second job and maybe they make an extra $10,000 there, and that is about it. They have lost half of their earning capacity.

Why would JERRY SOLOMON stand up here and argue against dredging PCBs? Well, first of all, back in the early seventies and I was a town mayor and then a county supervisor and a State legislator and now a Congressman, and I have been there where the General Electric Company used to put PCB-laden water into the Hudson River.

You know why they did it and how they did it? They did it with a permit from the Federal Government and they did it with a permit from the New York State Environmental Conservation Department. They were forced to do that because before that they were using, in making capacitors, they were using a formula that created fire hazards and something had to be done about it. It was dangerous. So they switched at the request of the Federal Government and the State government.

It was all legal, whatever they were doing, maybe you want to call it polluting but they were putting PCB-laden water into the river.

All of a sudden, one of the public utilities, like you have in your community, decided they wanted to remove a dam just below these factories and the Federal Government and the State government gave them permission to remove this dam. Well, this dam had been there for 100 years. Guess what was behind that dam? You cannot believe what was behind the dam. All of the stuff that had come down from all of the papermaking industries, and that is the only jobs practically we have left now, but all of the chemicals used had piled up behind this dam and some of the PCBs but, sure enough, when they were given permission to remove the dam all of this stuff began to flow downstream for awhile.

Most of it just went on downstream 200 miles and went out into the Atlantic Ocean and that was the end of it, but the bit that did not were 40 hot spots which are stretched over about a 40 mile area and those 40 hot spots have been silted over now for 30 years.

So what my good friend, the gentleman from New York (Mr. HINCHEY) and others are talking about happened 30 years ago. You would think that this happened just yesterday or last year or the year before. It happened 30 years ago. Those hot spots are silted over.

Now, why could we not just go in there and dredge those hot spots out? Let me tell you what would happen. We all know when we take a glass of water and we put some sand in it and then we take a spoon and stir up the sand, what happens? The whole glass of water has got sand all through it.

From New York City to Albany, we have a 34-foot deep water channel.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLOMON) has expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 5 additional minutes.)

Mr. SOLOMON. Mr. Chairman, we have a 34-foot deep water channel, as I was saying. It has to be dredged every year because the Hudson River, different from where I live because the Hudson River is only an inch wide where I start, when you get down to New York City it is a mile wide or more, but Hudson River has to be dredged. It has a sandy bottom. So we can get our oil barges up and we can get our feed grain barges and we can get our food supplies up the Hudson River by barge, we have to keep it open. So the Army Corps of Engineers every year comes in and dredges a portion of this 150-mile long 34-foot deep water channel.

If we were to go ahead and dredge the PCBs, which are laying there dormant, buried and will not surface unless there is some major, major flood that has not taken place in 100 years, they will lay dormant.

□ 2130

But if we go in and dredge them, what happens? And this is what the scientists will tell us. And this is what the National Academy of Sciences is going to tell us in about 4 or 5 more months. If we dredge the PCBs upstream, it raises the level of PCBs all along the 200 mile long corridor. Then we have to dredge the channel every year.

Now, presently, when we dredge that channel, and my colleagues have seen a dredge barge come up and they throw the sand on the lower banks of a river and then it is above water level, just above water level, and that dredging material volatilizes, gets into the air, goes into the corn and the apples and the crops that are grown along there, and there is no problem. But when we raise the level of PCBs downstream, not only do we begin to affect the water supplies, which are healthy now and there is no problem from any of these regulatory agencies about it, about the drinking water, now where are we going to put these dredge materials? If we throw it on those lower banks and it volatilizes, we are then putting PCBs over a 200-mile long stretch.

Now, what do we do? We either do not dredge the Hudson River or we encapsulate these dredgings about every 30 or 25 miles along the river all the way up to where I live. Now, 57 municipalities representing about 700,000 people have come out with resolutions saying please do not dredge this Hudson River. Please do not do this. The New York State Farm Bureau, and the New York State Department of Agriculture have all come out and said do not dredge the Hudson River until we know for sure that there is not a better way.

The better way is contained in this report language, which is not law, as the gentleman from California (Mr. JERRY LEWIS) has said. The report language simply says, and I would just say to my good friend, the gentleman from New York (Mr. HINCHEY) and others, where were they last year when this language was ordered in the report? Not a word was raised on this floor about asking for this study that will be completed in about another 8 months. Not one word was raised on this floor.

Let me briefly just read the actual language so we all understand what we are voting on here. The language says, "The committee is aware of EPA's draft National Sediment Quality Survey issued in July of 1996 in which the agency concluded," listen to this, "the agency concluded, among other things, that the preferred means of controlling sedimentation contamination risk to human health and the environment is through natural recovery." Natural recovery.

"Despite this," this is continuing with the language, "Despite this conclusion, however, dredging is currently being considered as a remedial tool, even though the impact of such an invasive approach is often unknown. Last year the committee directed the agency to enter into an arrangement with the National Academy of Sciences to conduct a review which evaluates the availability, effectiveness, cost and effects of technologies for the remediation of sediments contained in these kinds of things."

Then it goes on and it says, "In light of this, the committee directs the agency to take no action which will utilize dredging as a remedial tool until this study has been completed and distributed and analyzed by interested parties, including Congress."

Now, let me tell my colleagues something. My colleagues have heard about 700,000 people that are opposed to this and all these municipalities. Who wants this dredging to take place? I can tell my colleagues who it is. It is a very, very small group, and we can count them on our fingers and toes, of some extreme environmentalists down in Westchester County or someplace down there who really want to upset the lives of all of these farmers that I represent up river. That is who is for this. Nobody else is for it. So all we are asking, in other words, all I am asking, is that we wait until April of 1999.

Now, Mrs. Browner has already agreed to do this. She has agreed with me, with a quid pro quo and with others, with the New York State Farm Bureau, that we will wait until the year 2001.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLOMON) has again expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

Mr. HINCHEY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. HINCHEY. With regard to the report language, the gentleman knows full well that there was an earlier attempt to put that specific same language in the ISTEA bill. This House passed that bill. We were successful in getting this language, this anti-dredging, anti-environment, pro-pollution language out of the ISTEA bill over in the Senate.

That having been done, now some people are coming back here putting this anti-environment——

Mr. SOLOMON. I will just have to reclaim my time.

Mr. HINCHEY. Pro-pollution language——

Mr. SOLOMON. I ask for regular order.

Mr. HINCHEY. Into this bill.

Mr. SOLOMON. The gentlemen are out of order.

The CHAIRMAN. The gentlemen will suspend.

Mr. SOLOMON. I have reclaimed my time.

The CHAIRMAN. Both gentlemen will suspend.

Mr. SOLOMON. The gentleman knows better than that.

The CHAIRMAN. The gentlemen from New York will suspend. The gentleman from New York (Mr. SOLOMON) reclaims his time and may proceed.

Mr. SOLOMON. Mr. Chairman, as I was about to say, Helen Browner and the EPA have entered into a quid pro quo where they will wait until the year 2001, until we know exactly what the results are, and then they will take some action.

Now, the only problem is we have these environmentalists that are stirring things up, they are trying to stir up the Hudson River, but they are stirring things up and now they are trying to get her to change her mind. So that is why we ought to defeat this amendment.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. LEWIS of California. I would like to say to the gentleman, Mr. Chairman, that the time he has used has been very valuable to the debate. It was a very articulate presentation of the real world, where the gentleman lives and, frankly, it is helpful to the discussion and a very positive contribution.

Mr. SOLOMON. Mr. Chairman, I invited all my colleagues to come up to my district and have a drink of water. They will love it.

Mr. BALDACCI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am here today in support of my colleagues from Maine and California and everywhere in between who are trying to ensure that the Environmental Protection Agency has the ability to make the regulatory determinations for mercury emissions from utilities.

The committee report contains language that limits the ability of the EPA to issue rules on mercury emissions. We are working to make sure that such restrictions do not apply to activities authorized by law.

I would like to emphasize a few points. The health risks of mercury are proven and they are significant. They are threatening society's most vulnerable: Pregnant women and young children.

Mercury has spread and accumulated far throughout the United States. Officials in a total of 39 States have warned their citizens about the danger of consuming fish caught in streams, rivers, ponds and lakes. The fish contain levels of mercury that trigger the warnings. In about a dozen States every single body of water is posted with a health advisory.

Earlier this year the EPA released a report to Congress in which it identified mercury emissions as a hazardous air pollutant of greatest concern for public health, and EPA's scientists offer additional monitoring of emissions from power plants.

The provisions in this bill and language in the report would prevent the EPA from even gathering that data; that information that is needed to better gauge the scope of the problem.

Last spring the Maine legislature passed and the governor signed landmark legislation that would slash emissions of mercury from in-State sources. We are taking care of our own. The people of the State of Maine are looking upwind to see what steps are being taken in the regions that produce the emissions.

Last month the governors of New England and the premiers of Eastern Canada called for, and I quote, "The virtual elimination of discharges of mercury from human activity into the environment."

One of the key components of their action plan was the recommendation for more research, more analysis and strategic monitoring. They saw the need to identify and to quantify sources of mercury deposition. They want to monitor deposition patterns and to develop ways of measuring and tracking progress.

The report would prevent the EPA from providing assistance in the cross-border effort. The report would prevent the EPA from taking the steps that are essential to protect the health of young children and women of child-bearing age.

Mr. Chairman, I urge the adoption of the amendment.

Mr. FARR of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it appears from this discussion that the only thing that Congress fears is fear itself. We are afraid of existing law because the existing law is feared by special interests. We fear the cleanup of licensed nuclear facilities. We fear the cleanup of the air in Yosemite and the Grand Canyon, the hazy air. We fear the pesticide manufacturers, who oppose the implementation of the Food Quality Protection Act. We fear, as we have heard, New York and New England industries who oppose the dredging as a remediation tool. We fear the utilities, who oppose the regulatory determinations for mercury emissions. Most of all, we seem to fear our very own Environmental Protection Agency and the Council of Environmental Quality.

My colleagues, this fear can be conquered. It is very simple. It only requires that we vote in favor of the Waxman amendment.

Mr. DOGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for anyone who sacked out back in 1995 and pulled kind of a mini Rip Van Winkle and just woke up this week, we are right where they left off when it comes to clean air and clean water, because the same anti-environmental spirit that dominated this Congress back in 1995 is alive and well tonight.

Now, most Americans remember 1995. They remember not the words of Democrats, perhaps, but the words uttered at that very microphone by one of the top three members of the Republican House leadership, who stood there and said of the chief environmental law enforcement agency in this land, his words were "It is the Gestapo of America. It has its claw holds in the backs of Americans."

That is the philosophy of the House Republicans. It has not changed. The attitude is still there. The philosophy is still there. The effort is still there. But they have become a little more subtle in their tactics, and that is what this Waxman amendment is all about, the subtlety of those tactics.

The American people want clean air. They want their children to have clean water to drink, they do not want it full of mercury or PCBs. They want their children to have a healthy environment. So, unable to come to this floor and legislate directly on these issues, these Republicans come and do it indirectly by legislating on an appropriations bill; and, in some cases, even more subtly, afraid to legislate in the appropriations bill, they just write a command into the committee report.

I have enjoyed the Republican responses to our concerns: "Oh, don't worry. We just wrote it in the report. It doesn't really make any difference." Well, they were not writing it in the report to just fill white pages with black ink. There was a purpose in writing it in the report. These are the folks that write the budgets for the people that enforce our Nation's clean air and clean water laws.

What do my colleagues think those people think when they get a command from the people that write those laws, that also happen to write their budget, that sets their salary, that sets their travel, that sets all the support money that they have to enforce the laws of this land for clean air and clean water? They do not just view it as an idle thought. They view it as a command.

That is why even this more subtle tactic of sticking it in the report is very, very important. When we look through these riders we find the same Republican Party that talks about less government and less red tape, trying to tie up the chief environmental law enforcement agency in this country and prevent it from doing its duty of enforcing the law of the land.

Let us look at the specifics. The requirement that the EPA, though authorized under existing law to reduce the dangerous levels of mercury into the air, they want to force the EPA to study that some more. Mercury has been responsible for killing fish in 50,000 different bodies of water across this land. It can have life-threatening effects, and yet they say that the Environmental Protection Agency cannot make any regulatory determination; that they must study and study some more.

The same thing with reference to the food supply for infants and children. The only study they really want there is to study how to exempt more food providers from those rules.

Let me tell my colleagues about these studies. They are being urged by the same group of people that when they heard from the Surgeon General in 1964 that tobacco causes lung cancer and emphysema, they are the same folks that are still studying it today, and not wanting to do anything about it on the floor of this Congress.

□ 2145

They are going to study it until time eternal rather than taking effective action to do something to protect our clean air and our clean water.

Then the other excuse that was advanced this evening was the suggestion that if we dealt with haze, the kind of haze we hear about down on the Rio Grande River or the kind of haze that sometimes lingers over the Grand Canyon, spoiling that wonderful vista, that if we dealt with haze in the air, that that might be because, and they do not have all the documents they contended, that might be some way that they are actually going to do something about global warming. Heaven forbid.

The very thought that the ostrich would take its head out of the sand, getting hotter all the time, and actually do something about global warming before the glaciers melt and the forests and the farms are burnt up. What a horrible thought that is that they might actually do something.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DOGGETT) has expired.

(By unanimous consent, Mr. DOGGETT was allowed to proceed for 2 additional minutes.)

Mr. DOGGETT. Mr. Chairman, so eager are they to thwart even the possibility that someone might study this growing danger of global warming, of the greenhouse effect, of the fact that a lot of this planet is warming up, much warmer than this debate I must say, and the threat that that poses to the health and safety of the future of all the people on this world, so eager are they to prevent even a study that they have come in and tried to limit a study of haze that relates to the ability to see the great national wonders in our national parks and forests across this land.

That is the same extreme position that led one of the Republican leaders to talk about our environmental law enforcers and to denigrate them as the gestapo of America.

Then there is the issue of PCBs in our water. It was only a few decades ago that one of our Nation's leaders was said to have commented about the Housatonic. There is no tonic quite like the Housatonic. Well, I do not think he had in mind a river that was full of PCBs. The EPA is talking about trying to do something about it. There is a fear that they might actually go ahead and do something about it.

All this talk about things just being report language, when is it that we are going to see in a report that we want the Environmental Protection Agency to do a more vigorous job of enforcing our laws, cleaning up our water, cleaning up our air, protecting our natural resources so they will be there for our children in future generations?

That is the kind of report language I would like to see in this report instead of tying the hands and crippling the efforts of this agency to do its job. That is what is going to happen when we adopt the Waxman answer and reject this extremist agenda.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment of the gentleman. This amendment would override several provisions of the VA-HUD report, and I would like to speak to two of them.

First, the amendment of the gentleman would roll back a much needed report on mercury emissions, language that will direct EPA to complete the scientific research it needs to make informed regulatory decisions.

EPA recently settled a mercury-related lawsuit brought by the National Resources Defense Council. In that settlement, it promised to decide by November 15 of this year whether more stringent controls on mercury emissions are needed.

What is the problem with that settlement? The problem is that there are large gaps in our scientific knowledge about mercury. Most scientists agree that a certain amount of mercury is safe to ingest. However, EPA and the other government agencies do not agree, do not have a common understanding about what the levels are.

So it is perfectly reasonable, it seems, to ask EPA to step back and work toward some inner-agency agreement before issuing mercury regulations that, in all likelihood, will be more stringent than necessary and which has real job consequences.

Therefore, this VA-HUD language would simply require EPA to work with federal agencies, like the Food and Drug Administration, the Agency for Toxic Substances and Disease Registry, and the National Academy of Sciences. Together these agencies will, under this language, complete several ongoing studies on mercury transport and safe levels of mercury ingesting, giving EPA the sound science needed to reach common sense, informed regulatory determinations.

Mr. Chairman, secondly, in addition, I would like to comment on the regional haze provision of the amendment offered by the gentleman from California. I am a bit unclear if this portion of his amendment would have the effect which he intends. But recently many States raised concerns about EPA's regional haze implementation schedule.

It appeared as though EPA was going to use its regional haze program to accomplish what it had agreed not to do under the new particulate matter implementation schedule. However, these concerns were addressed in the recently enacted ISTEA reauthorization.

Language in that legislation linked the PM 2.5 implementation schedule to EPA's regional haze program, and the effect is to prevent EPA from taking any action to implement the regional haze program before it implements the 2.5 standard.

Nothing in the VA-HUD report can change that or does. It is for this reason that I do not understand the purpose of this portion of the amendment of the gentleman. The language in the VA-HUD provisions only does one thing, direct money for EPA to establish up to eight regional visibility transport commissions, VTCs.

The organization of these VTCs will fully engage the States and the program, and this fulfills the Clean Air Act provisions that give the States the lead roll in addressing regional haze.

To date most States have not been able to take part in these. Only one has been established. The Grand Canyon VTC was formed in 1990 as a model and a model that, for whatever reason, has not been duplicated. The language in the VA-HUD report would do nothing more than correct this.

For these reasons, with regard to these two provisions of the gentleman's amendment, I urge my colleagues to oppose the Waxman amendment.

Mr. PRICE of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the gentleman from California (Mr. WAXMAN) for the careful work he has done on this amendment and for his effort to ensure that activities authorized by law to protect the environment and the public health are not compromised.

In that spirit, I would like to ask the gentleman to enter into a colloquy to clarify the effect of his amendment on report language regarding the Food Quality Protection Act.

As the more dangerous pesticide uses are eliminated under the Food Quality Protection Act, as they should be, it will become very important for farmers to have new, safer substitutes to continue growing high-quality crops.

Short-term emergency exemptions, such are allowed under current law, will in some cases be necessary where no viable new alternatives are available. The report language directs the EPA to devote sufficient resources to increase the pace of registration decisions and emergency exemptions.

Would your amendment affect the committee's direction in this area?

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PRICE of North Carolina. I yield to the gentleman from California.

Mr. WAXMAN. It is not the intention of this amendment to slow down EPA's implementation of the Food Quality Protection Act in any way. Registration of new, safer pesticides and issuance of emergency exemptions are important to agency functions, just as tolerance reassessment is.

My amendment would address the concern that report language accompanying this bill could be construed to reprioritize implementation of the Food Quality Protection Act away from public health protection and undermine the new statutory safety standards established by the FQPA.

Mr. PRICE of North Carolina. Mr. Chairman, reclaiming my time, the report also directs the EPA to issue regulations governing emergency exemption tolerances which were statutorily required by August 3, 1997.

I assume that your amendment would not affect this language.

Mr. WAXMAN. The gentleman from North Carolina is correct. This rule is long overdue and should be issued immediately. Nothing in my amendment would prohibit the EPA from implementing any statutory requirement under the Food Quality Protection Act.

Mr. PRICE of North Carolina. The report instructs the EPA to review and issue emergency exemption tolerances in a manner which minimizes resource demands. Would the intent of your amendment affect this language?

Mr. WAXMAN. No, it would not. Obviously, for emergency exemptions to be effective they must be issued in a timely manner. Nothing in my amendment would undermine that goal.

I am aware that there is disagreement among stakeholders on what EPA's priorities should be in the implementation of this law. It is my hope and expectation that the Tolerance Reassessment Advisory Committee, convened at the request of Vice President Gore, will help to bring consensus to implementation of our pesticide laws.

Mr. PRICE of North Carolina. Finally, I would like to ask, as the report instructs the EPA to ensure the use of reliable data in calculating exposure to pesticide residues and to clearly explain the legal and scientific basis for its policies, would the intent of your amendment affect this directive?

Mr. WAXMAN. The gentleman is correct that EPA should clearly explain how it is reaching its decisions. I am aware that EPA is currently developing guidance to help in this regard, and my amendment would not interfere with this process.

I also agree that EPA should use reliable data when available. However, sometimes reliable data is unavailable and EPA must make reasonable assumptions in order to not ignore legitimate public health concerns. When these assumptions are not dictated by the statute, the agency has greater discretion.

I hope that the EPA's guidance will help clarify issues regarding what information is required and how and when assumptions are used so that all stakeholders can understand how the law will be implemented.

Additionally, I expect the agency will fully consider any data brought to them.

Mr. PRICE of North Carolina. Mr. Chairman, I thank the gentleman for taking the time to clarify the intent of his amendment on these points.

The Food Quality Protection Act is an important tool for improving the safety of our food. We should work to implement it in a timely manner. At the same time, we must make sure that farmers continue to have the tools which allow them to make a living, producing safe, high-quality food.

Mr. WAXMAN. I thank the gentleman from North Carolina and commend him for his leadership on this issue.

There has been recent misinformation on this issue, and I congratulate the gentleman for working towards a consensus approach.

Mr. PRICE of North Carolina. Mr. Chairman, I yield now to the gentlewoman from North Carolina (Mrs. CLAYTON), who also has expressed concerns about these matters.

Mrs. CLAYTON. Mr. Chairman, I want to first thank my colleague from North Carolina in bringing this colloquy to clarify some of the misconceptions about the inability for farmers to proceed in getting the protection they need under the Food Quality Protection Act. I think this means that we can have both an environment that is safe but also for the opportunity for farmers to move forward.

I thank the gentleman from North Carolina (Mr. PRICE) and I thank the gentleman from California (Mr. WAXMAN) for his response and clarifying the record that this is not an anti-farmers provision.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not sure that I wanted to become engaged in this debate. But I do have some concerns about the Food Quality Protection Act; and since we have been discussing that in a very enlightening way, I thought that I would proceed with the remarks which I had prepared.

I am speaking as a member of the Committee on Agriculture and one who has been involved in working on pesticides for about the last 25 years. I thought that I was finally witnessing some substantive progress with the passage of the Food Quality Protection Act in the 104th Congress. I should have known it was too good to be true.

The committee report language appears to place pesticide decisions into two categories: the "please-go-faster" category includes registering new products and granting emergency exemptions.

I note that reregistration decisions are not included in this category, even though we have been promising the public and the farming community for over 26 years that all pesticides on the market today would be reviewed to ensure that they meet contemporary health and safety standards. We have yet to keep that promise.

In the "please-go-slow-if-you-go-at-all" category includes the implementation of the science policies and new methodologies required to fulfill the mandate that Congress gave the agencies 2 years ago to take account of the special needs of infants and children. And we have had some serious public furor over that, as some of my colleagues who may remember the Alar controversy with regard to apples will recall; consider cumulative pathways of pesticide exposure; and to address groups of chemicals which have a common mode of action.

All of these, after all, might lead to further restricting pesticide use or to the agency making a decision to cancel the older, riskier products that have been on the market for decades and whose continued presence acts as a disincentive for farmers and consumers to use newer and safer products.

□ 2200

I recognize a period of transition is inevitable with the passage of any new law. The need for a transition should not become an excuse for paralysis in decision-making at the agency. Many decisions the agency needs to make are long overdue and should not be deferred indefinitely while we develop perfect scientific information or a consensus of all interested groups. The days of politically safe and scientifically perfect decisions will never arrive. I can guarantee you that.

The Administration and the Congress promised the public a science-based food safety law that would ensure that safe pesticide products would be used in our homes, workplaces and to grow our food. We said we could accomplish this without hampering our farmers' ability to grow the products we all need and enjoy. The colloquy that we just heard a few minutes ago confirms that. We should not be so afraid of change that we cannot make good on these promises and move ahead to further improve the safety of our food supply and the health of our environment. We should not get caught in the trap that has immobilized progress on this issue for the last quarter century.

I urge Members to vote for the Waxman amendment.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. LEWIS of California. One of the needs for this report language is that it would appear as though the agency is cherry-picking the way it will interpret the very law that your committee wrote, and it is a comprehensive bill. Remember, Mr. BROWN, that this is the same agency that has a hand in the problems in our own territory like the Delhi ever-loving sand fly and the San Bernardino kangaroo rat. The EPA needs some direction. That is all this report language does.

Mr. BROWN of California. Let me say to my good friend from my neighboring congressional district that I am well aware of the defects in the way the EPA operates. I have no objections to giving them some direction. I do not wish, however, to withdraw the direction that we may have already given them in which they are not fulfilling at the present time.

I think that this is the whole intent of the Waxman amendment. I cannot perceive why it should even be controversial. I do not object to the directions coming from the Committee on Appropriations except modestly when they intrude on the prerogatives of the authorizing committee, but I even overlook that once in a while when I feel that the goal is worthwhile. But I think in this case, we may have gone too far in an effort to prevent the agency from doing the job that we have told it we want them to do.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from California (Mr. WAXMAN). I had planned today to offer my own amendment to nullify one of the antienvironmental riders attached to the VA-HUD appropriations bill but instead my language will be included in this amendment and I want to thank the gentleman from California for his support and leadership on this matter.

This bill includes detrimental report language that would seriously and unnecessarily delay the EPA's efforts to address the risk of exposure to mercury contamination from utility emissions. Let me be perfectly clear. The effect of the language is to say that EPA can issue no regulations with respect to utility emissions for 3 years. That is the effect of this language. It is significant, and that is why those on the other side are fighting so hard to keep it in.

Mercury is a naturally occurring element that has built up to dangerous levels in the environment due to releases from coal-fired power plants, waste incinerators and other types of manufacturing plants.

After mercury is released into the air, it can travel great distances. It eventually settles in water, and, unlike other pollutants, it accumulates in the aquatic food chain and becomes more, not less, toxic over time in the tissue of fish. There in its most toxic form, methyl mercury, it contaminates humans who eat the fish.

The health risks related to mercury exposure are significant. The most vulnerable to mercury contamination are pregnant and nursing women and young children. Mercury poisoning can result in severe neurological damage to developing fetuses. Older children and adults can see effects such as paralysis, numbness in extremities and kidney disease.

In my home State of Maine, loons hold a special place in our hearts, but U.S. Fish and Wildlife studies have shown that loons in Maine have the highest level of mercury recorded in this country, far higher than in States to the west.

The 1990 Clean Air Act did not address mercury utility emissions but it did require the EPA to report to Congress on the impacts, sources and control strategies for mercury. That long-awaited report, and, I would say, delayed report finally was delivered to Congress this past September. Here it is. This is the executive summary of that EPA report to Congress. The whole report is huge.

Here is another report. The States are acting on their own. The northeastern States together with the maritime provincial governors have gotten together and done a study of mercury. We have studies. We have got plenty of studies on mercury. What we need now is for EPA not to fall behind but to keep up with our State departments of environmental protection.

Now, those reports conclude that there are serious health risks involved with mercury exposure and that contamination is on the rise.

We have heard statements tonight about the big, bad Federal agency, the EPA. Take a look at this chart. Thirty-nine States have water body advisories related to mercury contamination. Thirty-nine States. I ask those on the other side, take a good look at this map. Chances are your State is one of those States that has a mercury water body advisory. This is not the EPA. This is your State Department of Environmental Protection, the biologists. To those that oppose the Waxman amendment, what I say is what are you going to tell your States, what are you going to tell your State biologists, what are you going to tell the mothers and children in your States who are at risk of mercury contamination, and frankly many of them do not know that. Are you going to tell them that, well, we ought to do nothing for 3 years?

I do not think that is an acceptable approach. These reports conclude that coal-fired power plants emit more mercury into the air than any other source. Estimates are that they release 52 tons of mercury every year, one-third of the annual emissions.

Now, what we are asking is for EPA to go to the utilities and gather information about utility emissions. We do not want to stop that. We want that to continue because the public has a right to know. They have got a right to know this information.

Right now EPA is finalizing its information request to utilities. We know the problem. We know the sources. And accurate monitoring data by the EPA is necessary. We need to know. The report language would require several studies to address what are claimed to be current gaps in the scientific understanding of mercury. But the studies that we are waiting for, that those on the other side want to wait for, are not expected to be completed until 2002.

The CHAIRMAN. The time of the gentleman from Maine (Mr. ALLEN) has expired.

(By unanimous consent, Mr. ALLEN was allowed to proceed for 1 additional minute.)

Mr. ALLEN. Mr. Chairman, waiting for duplicate studies before we act will only achieve further delay in the agency's efforts to address the risk from mercury exposure.

We know there is a link between mercury emissions from power plants and the contamination in our Nation's lakes, rivers and streams. It is in our neighborhoods. It is affecting our children. We do not need additional reports to tell us that. I urge my colleagues to protect the public's right to know and support the Waxman amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding. I want to commend the gentleman for his leadership on this issue. I know he had a similar amendment which we have incorporated into our amendment. It is important that we deal with this issue. I was pleased by the assurances from the gentleman from California (Mr. LEWIS) that these report language provisions do not have any binding impact on the agencies. But I fear that when we ask them to do another report after they have already done so much, as the gentleman so eloquently pointed out, that it may be intimidating on them to go forward. I think that is a reason why we need to adopt this amendment.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from California (Mr. WAXMAN) is right. Report language does state that the EPA not issue any regulatory determination for mercury emissions from utilities until more studies are done.

But studies have already been done. It is a fact that coal-burning utilities emit mercury from their smokestacks. It is a fact that mercury gets deposited in our soil and water. It is a fact that mercury accumulates in fish. It is a fact that mercury works its way up the food chain to people. Coal-fired utilities emit 52 tons of mercury each year nationwide.

Mercury contamination is a serious problem in Ohio. The National Wildlife Federation has determined that coal-burning utilities are responsible for 55 percent of the State's total mercury emissions. These utilities are responsible for more than 9,000 pounds per year of mercury released into the air. The Ohio Department of Health has issued a statewide fishing advisory for every river, lake and stream in Ohio due to mercury contamination in Ohio's waterways. Ohio affects New York, Pennsylvania, Maine, Vermont, New Hampshire, Massachusetts, and Canada as well with mercury contamination. These emissions are damaging our quality of life, the areas where we live, where we work and where we play.

Yet the committee language will prevent the EPA from acting now. We cannot accept and we do not have to accept the logic that jobs depend on pollution because everyone knows that in the next millennium we can have both jobs and a clean environment and that pollution represents wasted resources.

Mr. Chairman, one of the most disconcerting aspects of the environmental debate is that it demonstrates a kind of thinking that man has disconnected himself from his natural environment. We speak of the air as if it is out there. We speak of water as if it is a wet abstraction. We speak of global warming as if the globe is somewhere other than that upon which we stand, where we live.

Human life depends on the life of the planet. Our children's life depends on the life of the planet. A famous Indian chieftain once said, I think it was Chief Seattle, "The Earth does not belong to us, we belong to the Earth."

The Earth and the environment which contains it are the fundamental preconditions of life. Now, if you believe that life is sacred, and I do, then you believe that it is a seamless web. That if life is sacred, the Earth is sacred. If life is sacred, the air is sacred. If life is sacred, water is sacred. If life is sacred, the globe is sacred and all who live upon it are sacred.

Now, this is not a mere rhetorical or philosophical proposition. This is not about the intricacies of environmental politics. This is a spiritual imperative. Without a place for us to work out our fate, there is no physical life for us to do the work of the spirit. This is a matter of life. The God on which our Nation trusts is the same God whose work is all creation. Creation is the work of God and if we are created in God's image, then we ought to have more respect for God's creation. The mere possibility, the mere hint that greenhouse gases may be changing our global climate, that PCBs are contaminating our waters, that mercury is poisoning people should cause Members of this House to leap to the defense of our common home. It is time to reconcile with the Earth, it is time for us to remember where we came from, and to remember that all life is precious and that life depends on us.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am somewhat taken aback by the distinguished chairman's belittling of the importance or impact of the report language here. I have to think that if he really believed that, that that language was so weak, that he ought to be supporting this amendment and we could have saved a great deal of time this evening and he could have sent a letter or two letters or a series of letters to EPA on this point with at least equal effect.

□ 2215

In fact, he does not believe that. He knows that this is more important language, and that is why we are having this debate.

But I think what we have got, then, is something that I will characterize as ghost riders. The appropriations process that we have before us is haunted by these ghost riders. We passed the bill last night and voted on several of them today, and it attempts to remove several of these ghost riders from that bill and those were unsuccessful.

Here we have a series of these antienvironmental ghost riders on today's bill that threaten the public's health and safety. This is a simple strategy that every American can read. The strategy is to tie the hands of the EPA and prevent them from performing the duties that they were statutorily charged with carrying out. The American people sent us here to serve them. The people who sent us here both expect and deserve more.

Now we have rivers that are not safe to swim in. The fish from those rivers are not safe to eat. The river banks are not safe for children to play along. I think it is clear that we need an Environmental Protection Agency that is armed with all of its tools.

The majority in this House wants to suspend river cleanup and pretend that PCBs and DDT will simply go away on their own. They are not going to go away on their own. Polychlorobiphenyls are among the most stable compounds, chemical compounds that we know. Their solubility in water is extremely low so they get caught up in the sediments.

They are not going to stay under the sediments when the rivers' oxbows move. By the normal action of the river, those sediments turn over, those PCBs or DDT. DDT and PCB are similar really only in the fact that they are both heavily polyalginated, and that is really their only similarity other than the fact that they are both proven carcinogenic compounds.

The kind of normal action of the river continually releases that material into the environment again time after time and keeps the rivers unclean. However, the PCBs, when ingested by human beings or by fish, they go into the fatty tissues; and that is the route by which they become carcinogenic.

Our rivers should be available to the owners of the banks of those rivers, if we have any concern for private ownership, for them to use. They should be available for vacationing families. They should not be closed with ominous "keep out" signs with skulls and crossbones that say "do not eat the fish."

There is an implication here that dredging is not a tried and proven method. It has been used. It has been a steady part in 23 of the 25 Superfund cleanups involving PCBs or DDT, either one of them, in river sediments. It is a remedial dredging procedure that has been used again and again successfully. There is no question about its having been used and it being tried.

The National Academy of Sciences presented a study entitled "Contaminated Sediments in Ports and Waterways, Cleanup Strategies and Technologies." Doing another study when they have already done that in the way they have is basically unnecessary. It is dilatory. It ends up leaving us in a position where we may not be able to reach a conclusion here at all.

My district is the Housatonic River. The Housatonic River, when PCBs run down that river, goes on into Connecticut and affects the districts from several Members of the State of Connecticut.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. OLVER) has expired.

(By unanimous consent, Mr. OLVER was allowed to proceed for 2 additional minutes.)

Mr. OLVER. Mr. Chairman, as I was saying, that river is completely outside the area that is represented by the gentleman from New York, the chairman of the Committee on Rules.

The people in our area and the people in Connecticut and the governmental authorities in both Massachusetts and Connecticut are deeply concerned about making certain that this process is not slowed down, that it goes forward.

All the Environmental Protection Agencies in those States and the law enforcement agencies in those States are agreed upon that. We can argue about the merits of a do-nothing Congress in the case of these ghost riders. I suspect that the American people would be very much served and very happy if we did exactly nothing in relation to such items that have been attached to the report language of the bill. But at least then the Congress would be doing no harm. Surely, to do no harm ought to be the goal for every one of us.

But American people at least in my area surely do want the EPA to do its job. So we should adopt and support the Waxman amendment in order to eliminate these ghost riders from this bill.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, obviously, to oppose the amendment and with some concern because I do not wish to discuss the amendment. We have had a lot of time to consider this amendment and several others in this bill. I do wish that we could conclude our debate and bring it to a close, because I think it is a very important bill that should be concluded tonight, and we can go on to other business.

I cannot for the life of me understand why we are dragging out the debate as long as we are. But since we are dragging it out, it has given me an opportunity I do not often get; that is, to read the New York Times. I mean, I come from New Orleans. We have the Times-Picayune. Then when I am in Washington, sometimes I read the Washington Times and even the Washington Post. I venture forth and sometimes I read the Wall Street Journal going all the way up to New York.

I picked up the first copy of the New York Times I have seen in months, perhaps even years. I am sitting over there waiting for this debate to be over with. For the life of me, when is it going to be over? It is no reflection on the author of the amendment. He means well. And all the opponents, they mean well. And good grief, we just keep debating it.

So I am reading this lead editorial. It says "The Firestorm Cometh," Mr. Chairman. I would like to take an opportunity to read it.

> Charles Labella, who has been leading the Justice Department's campaign finance investigation, has now advised Attorney General Janet Reno that under both the mandatory and discretionary provisions of the Independent Counsel Act she must appoint an outside prosecutor to take over his inquiry. The other important figure in this investigation, Federal Bureau of Investigation Director Louis Freeh, has already recommended an independent counsel. Ms. Reno can give her usual runaround about being hard-headed, but she cannot hide from the meaning of this development.
>
> The two people in the American Government who know most about this case, the lead prosecutor and the top investigator, are convinced that the trail of potentially illegal money leads so clearly toward the White House that Ms. Reno cannot, under Federal law, be allowed to supervise the investigation of her own boss. When it comes to campaign law, this is the most serious moment since Watergate.
>
> These are not the judgments of rebel subordinates or hot-headed junior staff members. Freeh, a former Federal judge, has been, if anything, too loyal to Ms. Reno during the nine long months that she has ignored his advice. Labella was hand-picked by Ms. Reno on the basis of his experience and skill to run this investigation. Either she has to come forward and make the impossible argument that they are incompetent or bow to the law's requirements.

I got to this last paragraph, and I had to stop. I said, is this the New York Times? Certainly it is the Washington Times or maybe the Times-Picayune. But I checked the headline. No, it is the New York Times, right out of New York City. It is the lead editorial.

This is the last paragraph. It says,

> Ms. Reno may grumble about leaks of supposedly confidential advice, but the fact is that the American people need to know that the two top law enforcement officers believe the Attorney General is derelict.

The New York Times.

> Moreover, Freeh and Labella are right to separate themselves from Ms. Reno, because if her attempt to protect Presidential fundraising from investigation continues, it will go down as a black mark against Justice every bit as historic as J. Edgar Hoover's privacy abuses. "Firestorm" is an overused word in Congress, but if Ms. Reno does not make the appointment, the Republican Senate leadership ought to ignite one, today.

I think the gentleman's amendment ought to be rejected, but this is something to consider.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words, and I will not use the 5 minutes.

Mr. Chairman, I thought I had to be in the Senate to listen to an old-fashioned filibuster, but at least the gentleman from Louisiana gave me the opportunity to witness one for the first time. So I appreciate that.

Let me just say that I hope that the Republican leadership understands from this debate tonight that Democrats will not stand by and let the Republican assault on the environment through these various riders continue.

I was very happy to see so much debate on the issue of the riders, because I think it shows that we, as Democrats, intend to draw the line on these various appropriations bills, and that is why we support the Waxman amendment tonight.

I am just going to mention two brief things. First, with regard to the provision prohibiting the EPA from taking any action to remove contaminated sediments from rivers, lakes, and streams, I just wanted to point out that there are numerous sites in the United States that are on the national priority list of Superfunds and that might be listed on the Superfund site list in the future that could require the removal of contaminated sediments.

Since 1984, the EPA has included the remedial dredging of 23 of 25 Superfund decisions at sites with PCB-contaminated sediments. To prohibit or delay the EPA's ability to use dredging at these sites is to greatly increase the risks for America's citizens or serious health impacts and even greater environmental degradation than has already occurred from these sites.

So we have to pass this Waxman amendment, otherwise we are going to have even more problems with our Superfund sites.

Secondly, with regard to a rider that would delay an already prolonged process from reducing mercury emissions from electric utilities, just last Thursday, I spoke at a press conference to launch the release of a report that addresses mercury emissions from utilities.

My colleagues have talked about this because of the concern that this type of pollution from utilities causes to the environment, and I just wanted to say that, as States and eventually the Federal government move towards a more competitive electricity utility market, addressing mercury and these kind of emissions in a uniform and equitable and prompt matter is going to become increasingly important.

We simply have to recognize that this rider will make it only more difficult to address mercury pollution in the context of electricity deregulation.

So I just want to say, Mr. Chairman, I urge my colleagues to support this critical Waxman amendment, to protect the environment and America's taxpayers. This really is a serious issue. Although some on the other side think that we can just as easily read the telephone book, the fact of the matter is that this is important for us. I am very proud to see that so many of us on the Democratic side stood up tonight and pointed out that this continued assault on the environment will not continue to take place in this House as long as we are around here and able to express ourselves.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I rise in strong support of the amendment offered by Mr. WAXMAN of California. This amendment would eliminate controversial, anti-environmental riders attached to the bill at the last minute. This amendment would override language which interferes with agency actions to protect the environment and public health authorized by existing statutory authority. Specifically, the amendment would override provisions in this bill which would significantly delay efforts to clean the PCB contaminated Housatonic River in my home state of Connecticut. The Connecticut Department of Environmental Protection has contacted me in opposition of these provisions and the Environmental Protection Agency has indicated that these provisions pose a serious threat to their ability to take actions necessary to control immediate threats to public health.

PCB contamination poses threats to the health of individuals who come in contact with PCB contaminated soils, sediments, and wildlife. Exposure to PCB is carcinogenic, and poses health risks to intellectual functions, the nervous system, the immune system, and the reproductive system. The amendment would also correct language which would delay the cleanup of sites contaminated with mercury, exposure to which can cause serious neurological damage.

We must act immediately to clean up these contaminated sites and reduce the possibility of exposure to these dangerous chemicals. This amendment is supported by the National Environmental Trust, the National Resources Defense Council, the Public Interest Research Group and the Sierra Club, and several other environmental groups. I urge my colleagues to support this important amendment and protect our children from exposure to environmental hazards.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 243, not voting 16, as follows:

[Roll No. 334]

AYES—176

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bilbray
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Edwards
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Forbes
Fox
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Green
Greenwood
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Porter
Poshard
Price (NC)
Ramstad
Rangel
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schumer
Scott
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stokes
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Woolsey
Wynn

NOES—243

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Wilson
Wise
Wolf

NOT VOTING—16

Brady (PA)
Conyers
Ford
Gonzalez
Hall (OH)
Lewis (GA)
Markey
Moakley
Serrano
Shuster
Smith (OR)
Stark
Whitfield
Yates
Young (AK)
Young (FL)

☐ 2248

Messrs. WISE, REDMOND and REYES changed their vote from "aye" to "no."

Mr. SHERMAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CONYERS. Mr. Chairman, I was at the White House and missed three rollcall votes.

On rollcall vote No. 330, I was unavoidably detained. Had I been present, I would have voted "no."

On rollcall vote No. 333, I was unavoidably detained. Had I been present, I would have voted "present."

On rollcall vote No. 334, I was unavoidable detained. Had I been present, I would have voted "aye."

The CHAIRMAN. Are there further amendments to this section of the bill?

Mr. DAVIS of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to bring to the attention of the distinguished gentleman from California (Chairman LEWIS) a problem with the Environmental Protection Agency. Since early this year, I have been working with the EPA on a support contract for the Superfund reportable quantities on oil spill programs.

These discussions focus primarily on the issue of bundling non-Remedial Action Contractor (RAC) restricted work with a RAC-restricted work in a single competitive procurement and limiting competition to non-RAC firms only.

Mr. Chairman, as the gentleman from California knows, a constituent company of mine located in Fairfax has been performing a scope of work for EPA that is deemed highly necessary in this program. The contracting vehicle is due to expire. Rather than conducting a new competition, EPA has arbitrarily and without justification decided to include this work under a restricted contracting vehicle, for which my constituent and every other RAC-restricted contractor would be precluded from competing as a Remedial Action Contractor. This violates Federal competition in contracting rules and is clearly unfair.

Mr. Chairman, I have attempted to resolve this matter by working with EPA, but in a letter to my office dated June 16, 1998, EPA reasserted its position to exclude RAC contractors from competing for bundled Superfund work.

I rise today to seek the assurance of the gentleman from California that if EPA does not move expeditiously to resolve this important matter prior to conference, that he will work with me in the context to reach a resolution.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Virginia (Mr. DAVIS). In May, I joined the gentleman in sending a letter to EPA attempting to resolve this important issue. I am disappointed in the response we have received and hope that the gentleman from California (Chairman LEWIS) will work with us in conference, should congressional action be necessary.

Mr. DAVIS of Virginia. Mr. Chairman, reclaiming my time, I thank the gentleman from Virginia (Mr. MORAN), my friend, and would ask if the gentleman from California (Chairman LEWIS) can help us in this endeavor.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman from Virginia (Mr. DAVIS) and would like to offer my assurance that should EPA not work to resolve this issue prior to conference, that I will work with the gentleman on language addressing this issue at that time.

Mr. EWING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of engaging the gentleman from California (Mr. LEWIS), chairman of the Subcommittee on VA, HUD, and Independent Agencies Appropriations, in a colloquy.

Mr. Chairman, in 1995, in a bipartisan effort, the Edible Oil Regulatory Reform Act, Public Law 104–55, was signed into law. This law required the Federal Government to differentiate between edible oils and other oils, such as petroleum, when issuing or enforcing any regulation relating to the transportation, discharge, emission or disposal of oils under Federal law.

Unfortunately, the EPA has yet to provide for differentiation treatment of these oils, despite common sense industry proposals for bringing the agency's rules into compliance with the Edible Oil Regulatory Reform Act.

The animal fats and vegetable oil industry has been working with the Congress and the Federal Government on this issue for more than 6 years. The Congress expressed its will when it passed the legislation in the 104th Congress.

It is time to bring this issue to conclusion and stop the bureaucratic red tape. The Senate has included an amendment to the EPA appropriations that requires the EPA to promulgate a rule by March 31, 1999, that will bring this issue to closure and provide for a regulation that is in compliance with the law that this body passed by unanimous consent in 1995.

The House Committee on Appropriations has included report language also calling for closure to this issue by March 31, 1999.

I would urge the Members to include the Senate language in the final version of this legislation as it makes its way out of conference. I hope the Members would agree that the EPA should move forward with common sense and balanced regulations on these nontoxic edible animal fats and vegetable oils.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I thank my colleague, the gentleman from Illinois, for bringing this matter to our attention. I certainly agree that the EPA should move forward in this matter and we will work closely with our Senate counterparts in conference to see that the Agency does so.

Mr. NEUMANN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage our distinguished chairman of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations, in a colloquy.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I would be happy to join in a colloquy with the gentleman from Wisconsin.

Mr. NEUMANN. Mr. Chairman, as you know, I am a former home builder and very familiar with the role of home mortgages in the country. We have about 23,000 mortgage brokers that originate half of all home mortgages throughout the country. These are small businessmen and women who provide a convenient and valuable service to both wholesale lenders and home buyers.

Sometime the lender pays the mortgage broker for their services which allows lower upfront costs to the home buyer. These payments are known as lender paid mortgage broker fees or yield spread premiums.

Confusion has arisen over the legality of lender paid broker fees. Nearly everybody agrees that Federal law does not make lender paid mortgage broker fees automatically illegal. Yet, HUD has difficulty in fully clarifying this point.

Although the bill does not help HUD clarify this issue, I know the gentleman shares my concern and I appreciate his efforts during the committee markup.

Is it the Chairman's intention to address the lender paid mortgage broker fees in the conference committee?

Mr. LEWIS of California. Mr. Chairman, first, let me say to my colleague, who is a member of the subcommittee, that I absolutely do intend to continue working with the gentleman. The gentleman's effort to make sure that we are on target in connection with this issue has been very, very helpful. We want to provide clarity on the legality of lender paid mortgage broker fees and will do so in the conference report. Between now and then, I know the gentleman will make sure that I pay attention.

Mr. NEUMANN. Mr. Chairman, I appreciate your assistance.

Mr. ENGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to enter into a colloquy with my good friend, the gentleman from California (Mr. LEWIS), the chairman of the Subcommittee on VA, HUD and Independent Agencies, to discuss a matter of concern that impacts my district, the 17th District of New York, and is also a matter of national concern.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I would be pleased to enter into a colloquy with the gentleman from New York.

□ 2300

My sense-of-the-Congress amendment supports expanding the ability of States and localities to recommend alternative methods to filtration for meeting EPA water standards, by applying to the Federal Government the filtration avoidance based on information, technology, or evidence not available prior to an EPA determination that the State or locality had to adopt filtration. Under my proposal, if the EPA determines that the States or localities' alternatives do not comply with Federal standards, the EPA can still reject the State alternatives.

I do not believe my amendment is controversial, and I have received support from the gentleman from Texas (Mr. BARTON) and a number of Members from both sides of the aisle who have gone on record in their willingness to work with me in a bipartisan manner on this important issue.

I hope that I can work with the gentleman from California (Mr. LEWIS), the gentleman from Virginia (Mr. BLILEY), and the EPA as we go to conference and over the next year to resolve this very important issue.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I would like to thank the gentleman from New York for his work on this important issue. The committee encourages EPA, States, and localities to work together in finding better solutions to protect our environment.

I would encourage EPA to work together with the gentleman and the Committee on Commerce over the next year in resolving the problems facing the gentleman's district and the Nation. Presently, the Committee on Commerce is considering the proposal, and I will work with that committee and the gentleman from New York as we move toward conference and over the next year.

Mr. ENGEL. Mr. Chairman, I thank the chairman for his encouraging words and look forward to working with him and the gentleman from Virginia and the EPA over the next year to find a way to afford my community and others even greater flexibility in their efforts to offer Americans the cleanest water possible.

Mr. Chairman, with the gentleman from California's reassurances at this time, I will not offer my amendment.

Mr. BALDACCI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank the gentleman from California (Mr. LEWIS), the chairman, and the gentleman from Ohio (Mr. STOKES), the ranking member, for engaging in this colloquy with me and with the gentleman from Maine (Mr. ALLEN). I appreciate their work on this very important legislation.

We rise to discuss the Veterans Equitable Resource Allocation, or VERA system. My colleague from Maine and I have been confronting a very difficult situation in our State of Maine, which is part of Veterans Integrated Service Network, or VISN, 1. Under the VERA system, VISN 1 has lost funding in the past, and is expected to lose additional funding this year. We are concerned about the level of care that our veterans are receiving.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the Togus, Maine VA Medical Center has been recognized in the past as a center of excellence. Now, however, the Maine delegation is hearing continual complaints from Veterans that they are having to wait longer for appointments; that they are being asked to travel out of Maine to receive services; and that their doctors do not have time enough to spend with them. I am concerned that VISN 1 is not receiving adequate resources under the VERA system to serve Maine's Veterans.

Mr. BALDACCI. Mr. Chairman, this is not a new concern. Last year the House VA–HUD conference report requested a GAO study of how the VERA system affects the VISNs. We had expected this report to be concluded by this point so we could have the information before voting on another appropriations bill. It is now my understanding that the report has been significantly delayed and is not yet available.

I would ask the chairman and ranking member when are we expecting the GAO report to be issued?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, it is our understanding that the GAO intends to issue its report by September 1 of this year.

Mr. ALLEN. Mr. Chairman, if the gentleman will continue to yield, my colleague and I expect that the information to be concluded in the GAO report may assist the subcommittee and all Members in examining the reallocations that are underway. It would have been our wish, and I suspect the wish of the chairman and the ranking member, to have this information in hand before considering this legislation. At a minimum, we hope that it will be given careful consideration during conference.

Mr. BALDACCI. Mr. Chairman, to ensure that this year's appropriation bill provides adequate resources to every VISN to provide every veteran with the quality health care to which he or she is entitled, I would ask the chairman and ranking member to assure the body that as this legislation goes to conference that they will do all they can to ensure the recommendations of the GAO are taken into consideration.

Mr. LEWIS of California. Speaking for myself, I tell the gentlemen from Maine that we will carefully examine the GAO report and will take the GAO's recommendations in due consideration as we go through the conference.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from Ohio.

Mr. STOKES. Also speaking for myself, I similarly assure the gentlemen from Maine that I will carefully examine the VERA allocations and the GAO's recommendations. Providing quality health care to all of our Nation's veterans must be our highest priority.

Mr. BALDACCI. Mr. Chairman, I thank the chairman and the ranking member for their commitment to the veterans of this country.

Ms. HOOLEY of Oregon. Mr. Chairman, I move to strike the last word.

I rise to engage the distinguished chair from California in a colloquy. I want to highlight the merits of an innovative approach to water-management related plant research and wastewater system management that has been initiated by a terrific project called the Oregon Garden Project in Silverton, Oregon. It has national implications and is a national model.

By publicly showcasing how wetland functions as a natural water filtration system, and demonstrating unique water conservation techniques within a world class garden, the project provides an outstanding public education opportunity.

The garden, a $16 million construction project, is being funded by $8 million in private dollars and contributions from a partnership of State, Federal and local government. In fiscal year 1999, I am requesting a final $1 million to be provided within the EPA account for completion of construction, complementing the $2 million already federally invested.

The Oregon Garden holds a great deal of promise for teaching the public and developers about the critical role wetlands play in habitat and ecosystem management. While developed wetlands will never be able to replace preservation of existing wetlands, the reality is that wetlands must be restored and created. Developers must know how they function to accommodate runoff from community growth. The Oregon Garden will also serve as an educational site for horticulture, wetland management, and wastewater processing.

The nursery industry in the State of Oregon is the fastest growing industry in our State. It holds great potential for job development. We feel like the more than $9 million that have already been invested in this project makes us an excellent partner.

I recognize the chairman cannot grant every request, but I wonder if the chairman would work with the other body in the conference and try to find funding for the Oregon Garden.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Ms. HOOLEY of Oregon. I yield to the gentleman from California.

Mr. LEWIS of California. The gentlewoman probably does not know this, but my first grandchild, being born some years ago, the kids named her Katelyn Rose, and since that time I have been in the gardening business. So I want the gentlewoman to know that not only do I appreciate her making this effort, we will try to do everything we can to move the item along and we will be glad to be cooperative with her.

Ms. HOOLEY of Oregon. Mr. Chairman, I thank the gentleman very much.

Mr. HORN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank my colleague from California [Mr. LEWIS], the chairman of the VA-HUD appropriations subcommittee, for the time and hard work which he and the gentleman from Ohio (Mr. STOKES) have rendered in bringing this legislation before the House. I want to raise an issue related to a component of the bill before us today, the Federal Emergency Management Agency [FEMA].

On July 6, residents of my district and five adjacent districts in Los Angeles County came under a mandate to purchase flood insurance through the National Flood Insurance Program administered by FEMA, the Federal Emergency Management Agency. This has caused a spirited debate within the region as to the necessity for this insurance and the accuracy of the maps of the Los Angeles County Drainage Area, which includes the Los Angeles River, the Rio Hondo River, and the San Gabriel River. Those maps simply are not accurate, and yet one has to purchase insurance based on those maps.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. HORN. I yield to the gentleman from California.

Mr. LEWIS of California. Is it not correct that the city of Lakewood, California, paid for a new survey and found that almost 5,000 homes and businesses were mistakenly included in the floodplain and, thus, would have been required to purchase insurance when it was, in fact, not required?

Mr. HORN. That is true, and 5,000 structure were exempted.

Lakewood did this at no small cost based on its limited budget. The city undertook the survey to ensure that the revised insurance rate maps were as accurate as possible. And as I say, there were many inaccuracies.

It strikes me as unfair that the Federal Government has placed this insurance mandate upon 500,000 constituents from six congressional districts. But FEMA has not made the proper flood plain insurance maps as accurate as possible.

□ 2310

James Lee Witt, the director of FEMA, has been very helpful over the years and I commend him for his willingness to work with us on the many issues related to this new mandate.

However, Mr. Chairman, I feel that before the Government acts, it should make a good-faith effort to use the best information that is available, particularly when good citizens—and many of these citizens are in a lower-economic category—must pay out of their pockets for any mistakes the Government might make.

For this reason, I would like to ask the distinguished chairman if funding could be made available to ensure that new maps would be prepared more accurately and reflect the true areas which might be impacted by the 100-year flood event.

I would hope that the flood insurance now being imposed would also have a moratorium placed on it until the maps of the flood plain prove to be accurate.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. HORN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, my colleague is raising a very, very important point; and this issue is one that has been around for a while and yet it needs some serious oversight and review. It is a problem that I would like to continue to explore with my colleagues, especially the gentleman from California (Mr. HORN) and I appreciate his bringing this to our attention further.

Mr. HORN. Reclaiming my time, I would hope that something could happen in conference or in another way.

Mr. LEWIS of California. If I know the gentleman from California (Mr. HORN), he will see that we try.

Mr. STEARNS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak about my amendment and engage in a colloquy with the gentleman from California (Mr. LEWIS).

As the gentleman is undoubtedly aware, the American Heritage Rivers Initiative was established by an executive order and has not gone through the entire committee process. It has not received any Congressional authorization. It has not received any appropriation, and it has not received sufficient oversight by the committee of jurisdiction.

A number of Members, including myself, are very concerned about this American Heritage Rivers Initiative program primarily because it has not been authorized by Congress. So I rise today to ensure that the Congressional intent is not to be misconstrued by the Council on Environmental Quality, or CEQ.

The CEQ should not rely on the Committee on Appropriations VA-HUD Appropriations report language to fund the American Heritage Rivers Initiative, and I am just asking the chairman, the gentleman from California (Mr. LEWIS), if that is his understanding.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I am very well aware of your concerns; and if you recall, I shared them with the administration on several instances during the past year. It is not my intent that the report language be a base for funding.

Mr. STEARNS. Reclaiming my time, I appreciate the concern of the chairman because, as it points out, the committee states that the Council on Environmental Quality should "strike a balance when allocating resources so as to adequately fund Congressional priorities as well as the administration's priorities such as the American Heritage Rivers Initiative."

So primarily I was concerned that CEQ would construe that statement through the House committee report that it spoke for the entire House. So I appreciate the statement of the chairman on this.

Mr. Chairman, do you acknowledge this as a program that has really not been approved by Congress?

Mr. LEWIS of California. I do not only acknowledge but state flatly that this is an unauthorized program, and I want my colleague to know that I intend to make certain when we go to conference that both the House and Senate are very clear on this matter.

Mr. STEARNS. Mr. Chairman, reclaiming my time, I appreciate the concern of the gentleman and I appreciate what he just spoke, the endorsement.

The language as is written could be construed, but I think my colleague has made it clear tonight, that if a program is not authorized by Congress, and this report language does not do that.

As the chairman is aware, the federal involvement in local land issues has been a rocky history lately.

At this point I include for the RECORD, Mr. Chairman, the following body of my remarks, which gives this rocky history without belaboring it here on the House floor:

By way of background, on April 13, 1998, a US District Court Judge ruled that the National Park Service had the authority to block the construction of a proposed St. Croix River

Bridge connecting Stillwater, Minnesota, with Houlton, Wisconsin. Minnesota and Wisconsin spent $14 million on bridge design and purchase of required right-of-way. This construction block was allowed despite Department of Transportation approval of the project. Why was the project halted? Because the St. Croix River is designated as a Wild and Scenic River, under the Wild and Scenic Rivers Act of 1968. This Act was the basis for the National Park Service's Authority.

The decision turned on the interpretation of the project as a "water resource project" by the National Park Service. This gave the National Park Service authority over the project, even though apparent Congressional intent was to prevent any bridge over a designated river to be considered a "water resource project" under the Wild and Scenic Rivers Act.

In the case of the American Heritage Rivers Initiative, as Congress was not involved in the creation of the program, courts would have no Congressional history as guidance should disputes arise.

If the Wild and Scenic Rivers Program is any indication, we have reason to be concerned about increased federal involvement in our local affairs. It is still unclear exactly what American Heritage Rivers designation means.

Already, we are seeing that the policy on this Initiative is far from clear. I wrote to the CEQ over a month ago to request clarification on what a kind of an exemption a Congressman whose District was opted out could expect to receive. I still have received no response from the CEQ.

Does the Chairman agree that the CEQ should not use VA/HUD appropriation funds to operate the American Heritage Rivers Initiative without Congressional approval?

Mr. LEWIS. Yes, I do. I will work with concerned members of this body to make sure that we prevent the CEQ from operating the American Heritage Rivers initiative with public money without Congressional approval.

Mr. STEARNS. Given Mr. LEWIS' agreement to resolve this situation, I would like to withdraw my amendment to prevent the CEQ from using VA–HUD Appropriation funds to administer the American Heritage Rivers Initiative. I look forward to working with the Chairman and ensuring that the CEQ does not use federal funds to operate the American Heritage Rivers Initiative without Congressional approval.

I would like to thank the gentleman for his continued leadership on this issue.

Mr. Chairman, let me conclude by saying, does the chairman agree that the CEQ should not use VA–HUD appropriation funds to operate the American Heritage Rivers Initiative without Congressional approval?

Mr. LEWIS of California. That is the strong position of the chairman.

Mr. STEARNS. Mr. Chairman, I appreciate the comments of the gentleman from California (Mr. LEWIS) here and I look forward to working with him in ensuring that the CEQ does not use federal funds to operate the American Heritage Rivers Initiative without Congressional approval, and I thank the gentleman for his continued leadership.

Mr. LEWIS of California. I appreciate very much the colloquy and agree with the gentleman.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am glad that the gentleman from Florida (Mr. STEARNS) did not offer this amendment. Let me say that the American Heritage Rivers Initiative has garnished more support in northeast and central Florida than any other issue in recent history.

Why? Because this involves one of our Nation's most important resources, the St. Johns River. This initiative was announced by President Clinton in his 1997 State of the Union address. But it was pursued by local and State leaders. This is the only way a river can be a part of this program, through local efforts. So this initiative is a perfect example of the partnership that we should support, not eliminate.

In Florida, we value our natural resources. The local elected officials throughout the Third Congressional District, both Republicans and Democrats, put all of their efforts into getting the American Heritage Rivers designated for the St. Johns.

Our river has been recommended for the list of 10, and I stand here to let my colleagues know that the Stearns amendment or the comments of the gentleman from Florida (Mr. STEARNS) do not reflect the sentiments of Florida.

I am glad that he did not offer the amendment, and I urge all my colleagues to support the environment and support restoring our Nation's rivers, which we all treasure in our community.

Mr. VENTO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wanted to point out that I have two amendments, amendments No. 10 and 11, both of which would have restored nearly $30 million to successfully yet consistently underfunded FEMA emergency food and shelter program with an offset for various other accounts.

This emergency food and shelter program is a unique program that partners the Federal Government with some of the largest national charity organizations down to the local level. These charities work in partnership with FEMA. They do great work, Mr. Chairman. Second Harvest reported 8 million children, 3.5 million seniors were served in 1997.

I would point out that this amendment and initiative was supported by various groups, including the American Red Cross, Catholic Charities, the United Way, Council of Jewish Federations, and many others. I have been supported by many Members on this, not the least of which is my colleague and friend the gentleman from New York (Mr. WALSH), who I yield to at this point to make a statement and to enter into a colloquy with the gentleman from California (Mr. LEWIS).

□ 2320

Mr. WALSH. I thank the gentleman for yielding. I would otherwise have risen in strong support of the gentleman's amendment. But what we have decided is we will have a colloquy to discuss this. If the gentleman from California would join us, I would like to ask a question.

Mr. Chairman, as the gentleman from California is aware, the Emergency Food and Shelter Program is a model program that acts as a vast safety net for homeless and hungry individuals nationwide. I know that the gentleman has been supportive of this program and has indicated a willingness to see what can be done to provide additional resources for this program.

Would the gentleman agree that the Emergency Food and Shelter Program is an effective, well-run program and that it has become increasingly difficult to accommodate all the requests from charitable organizations for emergency food assistance?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. LEWIS of California. I concur with the gentleman from New York that the Emergency Food and Shelter Program is a well-administered, effective program. The program is a model of public-private partnership with local boards distributing funds quickly and efficiently to the neediest areas of the country with minimal but accountable reporting. I also recognize that there are growing requests for emergency assistance from charitable organizations that have made it increasingly difficult to meet all the requests for food assistance.

Mr. WALSH. Mr. Chairman, in the event that additional resources become available when the House conference with the Senate begins on this bill, will the gentleman work with us to see if some additional funds may be made available for this effective, vitally needed program?

Mr. LEWIS of California. I appreciate the gentleman's continued interest in this program. Let me assure the gentleman from New York and the gentleman from Minnesota and others with an interest in supporting the Emergency Food and Shelter Program that to the degree that additional resources become available when we go to conference on this bill, I will continue to work together with these gentlemen to see if additional resources can be found for this important program.

Mr. WALSH. I thank the gentleman.

Mr. VENTO. Mr. Chairman, I, under the circumstances, will not offer the amendment. I would just point out that these are effective programs that very often the benefits go directly to people. There has been very little in increase that has been provided for these programs over the last 4 or 5 years. I think that they are due an increase especially because the local groups that are in fact operating these programs are operating on overload and much need help. I appreciate the gentleman's willingness to work with us and therefore will not be offering the amendments and will withdraw them.

The Emergency Food and Shelter program is a unique program that partners the Federal Government and some of the largest national charity organizations down to the local level. The charities that work in partnership with the FEMA program are continually on overload. Demand for food and shelter is rising and the funding level of EFS has not kept pace with the need. Second Harvest has reported to us that 8 million children, 3.5 million senior citizens, and millions of the working poor people sought emergency food assistance in 1997. The U.S. Conference of Mayors has reported that 86 percent of cities cite an increase in food demand and that some 19 percent of the requests for food have gone unmet.

Given this additional funding, the Emergency Food and Shelter program through its partners, can help these citizens in need. The EFS program has had an outstanding record of fast allocation of funds to the neediest areas in our country. The Emergency Food and Shelter Program provides just that, food and shelter or emergency housing assistance, to hundreds of thousands of families, with 97 percent of the funds going directly for food and shelter services.

The offset for this bill is coming from a program that has received a $268 million increase over FY 1998 funding, while the EFS program has not received an increase of even $1 million since 1990 and in fact, it was cut by $30 million in FY 1995.

The effort to increase funds for this program is supported by a solid group of organizations deeply concerned about the increased demand for emergency food and shelter. Groups like the American Red Cross, Catholic Charities, the United Way, Council of Jewish Federations, Food Research and Action Center, the National Council of Churches, Bread for the World, National Alliance to End Homelessness, National Law Center on Homelessness and Poverty, National Low Income Housing Coalition, Second Harvest, and many others. This effort is deserving of other members support as well.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word. I move to do this in order to recognize the statesmanship of the gentleman from California (Mr. ROHRABACHER) who has put his 5-minute speech in the RECORD. I will put my 10-minute speech in the RECORD, also.

Mr. Chairman, a mere 10 minutes is not enough to praise the gentleman from California (Mr. LEWIS) and the gentleman from Ohio (Mr. STOKES) for the way in which they have conducted themselves.

I do want to take a minute for a very brief colloquy with the gentleman from California with regard to FEMA if he is willing to do so.

I want to commend the gentleman from California (Mr. LEWIS) for directing the Federal Emergency Management Agency in last year's bill to submit a report assessing the need for additional Federal disaster response training capabilities.

It is my understanding that FEMA acknowledged the need for an expanded program to meet the increased demand for training of emergency personnel. Therefore, I would like to inquire as to the gentleman's intent regarding the development of an additional FEMA training facility. Is it the gentleman's intention to encourage FEMA to take a more thorough look at this option?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. LEWIS of California. First let me say I very much appreciate my colleague from California raising this question. I very much appreciate not only his interest but our mutual interest in this subject, the item having to do this with this colloquy about having FEMA establish an additional disaster procedures training center in or near the territory that we represent. It is absolutely my intention to see that this project is given additional consideration and to work closely with the gentleman toward that end.

Mr. BROWN of California. I thank the gentleman for his response.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word to enter into a colloquy with both the gentleman from California (Mr. LEWIS) and the gentleman from Ohio (Mr. STOKES).

Mr. Chairman, I would like to thank the gentleman from California and the gentleman from Ohio for engaging me in this very important colloquy. The State of Texas, along with my district in Houston, faces a grave heat crisis. This current disaster has resulted in hundreds of dead cattle, wasted crops and diminished water sources throughout Texas. Worse yet, there are reports of people dying in Houston as a result of the torrid heat. Sadly, it appears that our elderly are the greatest at risk. Over 2.5 million Texans are at least 60 years old, 14 percent of the overall population. Additionally, my district includes many low-income Houstonians living in homes without air conditioning. According to reports from FEMA after convening many Federal agencies including the National Weather Service, this crisis will persist into the winter.

Mr. Chairman, I urge us to examine how FEMA can address and provide relief for this crisis across the Nation. I believe that the Federal Government should work concurrently with Houston and the Texas State government to rectify the situation.

I would like to clarify several points. One, the State of Texas experiencing this heat crisis, which is an act of nature, can receive help from the Federal Emergency Management Agency. Number two, FEMA could act to assist by the request of local officials through their State government. FEMA is not precluded from using the proper appropriated funds for the easing of this heat crisis in Texas and other States. And FEMA will not be precluded from consulting with local officials in helping to develop a format for outreach teams to visit Houston neighborhoods and determine the extent of the crisis and need.

FEMA may find solutions in funding to provide cooling equipment, alternative sources of water, educational forums for citizens to learn how to counter the harmful effects of the heat and other forms of relief. Today the President has astutely recognized our current plight and has provided $100 million in relief to the 11 States plagued most by the unrelenting heat which includes Texas. FEMA's expertise in fighting the devastating effects of a national disaster will be an important component to the President's newly announced assistance.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from California.

Mr. LEWIS of California. I would like to thank the gentlewoman from Texas for bringing this very important matter to the VA-HUD appropriation subcommittee's attention. I agree that the present heat crisis threatens both the lives and livelihoods of a great many of our citizens. FEMA has pledged to reduce loss of life and property and has promised to protect our Nation's critical infrastructure from all types of hazards. We will do everything within our power to work with you until a viable solution is available for everyone. I want the gentlewoman to know that it is my intention to work very closely with her and with FEMA on this matter.

Mr. STOKES. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Ohio.

Mr. STOKES. I thank the distinguished gentlewoman from Texas for yielding to me. I would say to her that I must concur with the chairman. I too thank her for bringing this serious item to our attention. FEMA is a Federal agency with more than 2,600 full-time employees. FEMA often works in partnership with other organizations, including State and local emergency management agencies. We would encourage FEMA to work with Houston and Texas authorities to bring a quick end to the current problem in hoping to bring relief to this current devastating heat.

Ms. JACKSON-LEE of Texas. I thank both the gentleman from California and the gentleman from Ohio. I thank them for their concern and their willingness to help. I bring this serious matter to the attention of the VA-HUD appropriations subcommittee and the whole House because we must be concerned about how we will protect our citizens from this deadly and unusual heat. Texas, especially its elderly citizens, deserves our help. I urge Congress to endeavor to resolve this severe situation with FEMA's assistance. I thank them very much for their cooperation.

□ 2330

Mr. HINCHEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just a few moments ago, several of our colleagues engaged in a colloquy with regard to the subject of the Veterans Administration and the implementation of the Veterans Equitable Resource Allocation System.

From the course of that colloquy, they drew the attention of the House to the impact of the implementation of this system on the funding for the veterans services, particularly veterans health care services in the State of Maine and elsewhere in New England.

I intend at the appropriate time of the consideration of H.R. 4194 to offer an amendment which would prescribe that none of the funds available in the act may be used by the Department of Veterans Affairs to implement or administer the Veterans Equitable Resource Allocation System.

The reason that I will do that is because there is nothing equitable in the administration of this system by the Veterans Administration. In fact, it is having a profound negative effect on the quality of health care in many of our veterans health care institutions across the country, resulting in the deterioration of the health care of veterans and their health and even the loss of life in many instances.

Mr. Chairman, I would like at this time to draw to the attention of the House to the impact of these proposed cuts in veterans health care funding in various sectors of the country which will take place shortly unless we intervene and make it impossible for the Veterans Administration to implement this program.

They are as follows: For network number 1, Boston, serving Maine, New Hampshire, Vermont, Rhode Island, and Massachusetts, the cut there will be $38.8 million. For Albany, serving upstate New York, the cut there will be $12 million. For New York City, serving lower New York, Newark, and New Jersey, the cut there will be $48 million. For Pittsburgh, Pennsylvania, serving Pennsylvania, Delaware, and part of West Virginia, the cut there will be $3 million. That is network number 4.

For network number 6, headquartered in Durham, serving North Carolina and part of West Virginia and Virginia, the cut there will be $1 million. For network number 9, headquartered in Nashville, serving Tennessee, part of West Virginia, and Kentucky, the cut there will be $12 million. For network number 12, headquartered in Chicago, serving part of Illinois, Michigan, and Wisconsin, the cut there will be $28 million.

For network 15, headquartered in Kansas City, serving Kansas, Missouri, and part of Illinois, the cut there will be $20 million. For network 17, headquartered in Dallas, serving Texas, except for Houston, the cut there will be $10.5 million. For network 19, headquartered in Denver, serving Colorado, Wyoming, Utah, and Montana, the cut there will be $13 million. In network 22, Long Beach, serving California, lower California and Nevada, the cut there will be $23 million.

Mr. Chairman, I will offer at the appropriate time an amendment to strike this provision from H.R. 4194, which will result from these cuts taking place. I wanted at this moment to take this opportunity to bring to the attention of the Members of the House the impact of these cuts.

Mr. Chairman, I yield to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, what the gentleman is proposing is to roll back VERA, which was passed last year, which made an allocation on funds based upon population. As the gentleman knows, there has been many, many years with the population, particularly the veterans who have been moving to the Sun Belt. As the gentleman knows, lots of hospitals have given back money that they could not even use. So the VERA allocation was worked out in the Senate and the House after strong long deliberations.

Mr. HINCHEY. Mr. Chairman, reclaiming my time, I would like to respond to the gentleman because he raises a very important point. The gentleman suggests that the Veterans Administration has even required funds to be returned from certain Veterans Administration hospitals. This is absolutely true. In fact, $20 million was returned from veterans hospitals in southeastern New York.

At the time that that $20 million was forced to be returned by the Veterans Administration, alleging that it was excess money, enormous profound problems were taking place at the Castle Point Veterans Hospital and the Montrose Veterans Hospital.

The CHAIRMAN. The time of the gentleman from New York (Mr. HINCHEY) has expired.

(By unanimous consent, Mr. HINCHEY was allowed to proceed for 2 additional minutes.)

Mr. HINCHEY. Mr. Chairman, I will not go into detail at this moment about the profound health care affects except to say that many veterans lost their lives as a result of the return of this money. That is substantiated by a report which was done by the Inspector General of the VA itself.

So while this Veterans Resource Allocation Program is going forward, it is causing veterans to suffer unjustly and unfairly and unreasonably and is also resulting in the loss of life of veterans in these hospitals.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if the gentleman from New York will rise, I do want to join in his statement and make a very strong statement of my own on behalf of New Jersey, which he did reference in his statement. But it is true throughout the Northeast and really in different locations across the country. Believe me, this should not be a regional fight.

But may I ask the gentleman, is he withdrawing his amendment in deference to the colloquy that was conducted?

Mr. Chairman, I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I did not hear the question.

Mrs. ROUKEMA. Mr. Chairman, there are a couple of questions here. We did not hear the gentleman's introduction. But I had come here with the intention of joining in his amendment and supporting his amendment. However, did the gentleman indicate on the face of the colloquy that was conducted that he is not presenting the amendment?

Mr. HINCHEY. Mr. Chairman, If the gentlewoman will yield, I thank the gentlewoman for the question, and I appreciate the opportunity to, once again, make it clear that, at the appropriate moment in the consideration of this legislation, I intend to offer this amendment.

Mrs. ROUKEMA. That was my understanding. But the question had been raised on this side. I certainly would look forward to that, because this should not be a regional issue. Clearly, the issue has been distorted here in terms of the certifiable health needs of the veterans in our region.

Mr. HINCHEY. Mr. Chairman, the gentlewoman is absolutely correct. That is my understanding. This is a very serious matter. We believe that, at this particular moment, this is the proper way to address it.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I would suggest to all the parties involved that, if there is going to be an amendment later, we could discuss this later instead of talking about it now.

Mrs. ROUKEMA. That is certainly correct. And I wanted to clarify the point.

The CHAIRMAN. If there are no further amendments to this section of the bill, the Clerk will read.

The Clerk read as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and

Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $5,026,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,675,000: *Provided*, That, notwithstanding any other provision of law, no funds other than those appropriated under this heading shall be used for or by the Council on Environmental Quality and Office of Environmental Quality: *Provided further*, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $34,666,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $307,745,000, and, notwithstanding 42 U.S.C. 5203, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $1,355,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $440,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles as authorized by 31 U.S.C. 1343; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $171,138,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the Inspector General Act of 1978, as amended, $4,930,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $231,674,000: *Provided*, That for purposes of pre-disaster mitigation pursuant to 42 U.S.C. 5131(b) and (c) and 42 U.S.C. 5196(e) and (i), $30,000,000 of the funds made available under this heading shall be available until expended for project grants. The U.S. Fire Administration is to conduct a pilot project to be completed within 15 months from the date of enactment of this Act, to promote the installation and maintenance of smoke detectors in the localities of highest risk for residential fires. The U.S. Fire Administration shall transmit the results of its pilot project to the Consumer Product Safety Commission and to the Committe on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

RADIOLOGICAL EMERGENCY PREPAREDNESS FUND

There is hereby established in the Treasury a Radiological Emergency Preparedness Fund, which shall be available under the Atomic Energy Act of 1954, as amended, and Executive Order 12657, for offsite radiological emergency planning, preparedness, and response. Beginning in fiscal year 1999 and thereafter, the Director of the Federal Emergency Management Agency (FEMA) shall promulgate through rulemaking fees to be assessed and collected, applicable to persons subject to FEMA's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this paragraph during fiscal year 1999 shall not be less than 100 percent of the amounts anticipated by FEMA necessary for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the Fund as offsetting collections and will become available for authorized purposes on October 1, 1999, and remain available until expended.

For necessary expenses of the Fund for fiscal year 1999, $12,849,000, to remain available until expended.

EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended, $100,000,000: *Provided*, That total administrative costs shall not exceed three and one-half percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, as amended, not to exceed $22,685,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $78,464,000 for flood mitigation, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2000. In fiscal year 1999, no funds in excess of: (1) $47,000,000 for operating expenses; (2) $343,989,000 for agents' commissions and taxes; and (3) $60,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 1999, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,619,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1999 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,309,000,000, to remain available until September 30, 2000.

□ 2340

AMENDMENT NO. 5 OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. ROEMER:

Page 72, line 15, strike "$5,309,000,000" and insert "$3,709,000,000".

Mr. ROEMER. Mr. Chairman, I rise to offer an amendment with my friend, the gentleman from Michigan (Mr. CAMP), to cancel the funding for the International Space Station. While I have the deepest respect for my chairman, the gentleman from California (Mr. LEWIS), and my dear friend, the gentleman from Ohio (Mr. STOKES), who has received so many accurate tributes tonight, I deeply disagree with them on the funding for this Space Station.

Now, while the facts continue to pile up for, I think, our side to cancel this Space Station, the votes continue to go down, but I hope that my colleagues will pay attention to the debate tonight and to three reasons why I think we should cancel this Space Station.

Mr. Chairman, I hope that my colleagues will be patient at the late hour of this evening. I have three arguments to cancel the Space Station: The Space Station of the past, the Space Station of the present, and the Space Station of the future.

First of all, the past. When the International Space Station was first devised by then-president Ronald Reagan, President Reagan said that the cost of the Space Station would be about $8 billion, would house eight astronauts and do eight scientific missions. It would be completed in 1992.

Mr. Chairman, today, in 1998, the International Space Station, according to the General Accounting Office study, the total cost of maintaining, of research and development, of protecting the International Space Station, has gone from $8 billion to $98 billion.

Now, one might say, $98 billion for eight missions, that is not too bad. Well, of the eight missions, staging is gone; transportation, no, we cannot do that anymore; manufacturing facility, we cannot do that anymore either; assembly facility, storage facility, we cannot do any of those. But for $98 billion, I have a bargain for you. We can do some research.

$8 billion for eight scientific missions has gone now to $98 billion and one scientific mission. That is the General Accounting Office. That is not Tim Roemer, that is not the opponents, that is a bipartisan study. That is the Space Station of the past.

The Space Station of the present: Mr. Golden, who I deeply respect running NASA now, has appointed an outside accounting of what the Space Station is going to cost us in the future.

I was delighted to see our chairman, the gentleman from Louisiana (Mr. Livingston), he has read the New York Times, he said for the first time in a few months. Those of us who are reading the New York Times and the Post and our daily papers have also discovered that the Russians need a $22 billion IMF package. Yet they are our key partner in putting the Space Station together. They cannot come through with funding the Space Station. They need $22 billion from the IMF.

Who is going to pay for the Russian participation? You got it. The taxpayer. The taxpayer is going to pay.

Mr. Chairman, the Space Station of the present, according to the Jay Chabrow report, appointed by Mr. Golden, if everything goes perfectly now with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion bailout package, they are not going to be able to pay for their fair share. The costs do not cover the likelihood of losing a launch vehicle, they do not include delays, they do not include what this report, the Jay Chabrow report, indicates that will be somewhere between a $130 million and $250 million cost per month, per month, from now into the future.

So that is the Space Station of the past and the Space Station of the present. What about the Space Station of the future?

The CHAIRMAN. The time of the gentleman from Indiana (Mr. Roemer) has expired.

(By unanimous consent, Mr. Roemer was allowed to proceed for 3 additional minutes.)

Mr. ROEMER. Mr. Chairman, the Space Station of the future, what we have in this bill, and we have agreed to a balanced budget, we have in this bill zero funding of AmeriCorps, yet full funding for the Space Station. The President asked for 100,000 Section 8 vouchers for the poorest of the poor in our communities. We could not even pass an amendment to get vouchers for 35,000 of those poor people. And $80 million is cut for community development block grants from the 1998 level, again for the poorest of the poor, the people who have not benefitted from the economic bull market. That is the Space Station of the future, taking money away from other valuable programs.

☐ 2350

The past, going from $8 billion to $98 billion. The present, Chabrow saying $120 million to $250 million cost overruns per month. The future, not funding other important programs.

In conclusion, let me quote from Shakespeare in the Merchant of Venice. He said, "They are sick that surfeit with too much, as those that starve with nothing." "They are sick that surfeit with too much, as those that starve with nothing."

Mr. Chairman, the choice is easy. Do we continue to pour 10 and 20 and 30 billion dollars into a science program that we can admit has not been successful? And do we starve with nothing the people that have not benefited from this economy? The people that did not invest in this stock market? The people that are not in the winner's circle in this economy? The people that are not getting Section 8 vouchers? The Community Development Block Grants that are not going to our inner cities?

Mr. Chairman, we are a great country because we are a good country, and we will only continue to be great if we are good. Let us be good and fair in the allocation of our resources. Let us be good and fair in the allocation of those resources to the most vulnerable people in our society.

The gentleman from Ohio (Mr. Stokes) talked so eloquently about a GI program that helped his family, and about temporary welfare. What about AmeriCorps to help our people get to college? What about Community Development Block Grants to help our inner cities? What about justice and fairness? Let us make some of these tough decisions to be just, fair, and right to all Americans.

Mr. Chairman, I urge my colleagues to please support the bipartisan Roemer-Camp amendment.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would first like to inquire of the gentleman from Indiana (Mr. Roemer), we have had this debate on a number of occasions, as the gentleman knows. If people do appear restless, it is not just the hour, but it is we have heard the argument so many times.

Mr. Chairman, I would inquire of the gentleman whether he is in a mood to consider some time limitation on this amendment.

Mr. ROEMER. Mr. Chairman, if the gentleman from California (Mr. Lewis) would yield, let me say to the distinguished gentleman that I have not been able to control the time that has been allocated to this bill all day.

Mr. LEWIS of California. Mr. Chairman, reclaiming my time, I can tell that the gentleman is not interested.

Mr. ROEMER. Well, we may not have very many speakers, Mr. Chairman, and we may not need a time agreement. I am sure after the gentleman from Michigan (Mr. Camp) speaks, we may not have very many more.

Mr. LEWIS of California. Mr. Chairman, again reclaiming my time, let me say that we have had this discussion on many an occasion. The last time we had a vote on this same proposal, admittedly that vote was on the authorization bill, the vote was 305 to 112 in favor of maintaining the station.

The important point here is that I think my colleagues recognize that one of the reasons that this bill is so difficult, and that the gentleman from Ohio (Mr. Stokes) and I work so hard to provide some balance in this bill, is because we have got a variety and mix of important Federal responsibilities within this package.

The question of VA medical care is a very, very critical part of this bill. Our housing programs are a very important part of the bill. EPA is. But also NASA's work happens to be a part of our bill. And for someone to suggest that one way or another we are going to juxtapose our vital work in space versus housing programs is not only not fair, it is a reflection of a lack of understanding of the significance of the work of this subcommittee.

There is not any doubt that Space Station is fundamental to our future work in space. And, indeed, if we find ourselves at one point or another faltering on Station, then NASA, in my judgment, will all but disappear from being the agency that we now consider it to be. Its budget will shrink dramatically and our role in space will be radically impacted.

I think it is important for my colleagues, those who are especially mindful today of the role and importance of the United States human space flight program, I think it is important for them to focus upon the sad news that we received yesterday of the death of Alan Shepard, the first American in space.

On May 5, 1961, Alan Shepard was launched into space aboard a converted missile which had an imperfect success record in a capsule that had never been tested with a human occupant, with many, many questions about what the impact of space flight would be on human beings. It was this Nation's first step in human space flight.

Alan Shepard was welcomed back from his brief 15-minute suborbital flight 115 miles into the Florida sky and 302 miles downrange, and as a true American hero he was welcomed back. He was awarded the Congressional Medal of Honor for space, two NASA Distinguished Service Medals, Exceptional Service Medal and numerous other medals and awards.

His death is a great loss to the Nation and I join with all of those who mourn his passing and celebrate his life, but indeed there is little question that America is most interested and supportive of man's role in space. Fundamental to that role in space is the work that we are about Space Station.

Indeed, to step back from that at this point in time would really be a great disservice, not just to our country but to the world's interest as well as our future in space.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from California for yielding. Let me associate myself with his remarks. Voting down the Roemer amendment is essential if NASA is to stay alive. We have spent $22 billion already on the Space Station. There are several hundred thousand pounds of materials that are set and ready to go for launch. We should put those in orbit. We should not put them in a museum.

I have a rather lengthy statement in support of the Space Station and against the Roemer amendment, which I will not give due to the lateness of the hour.

Today, Representative ROEMER is offering an amendment to cancel the International Space Station. While he has offered the amendment before because he felt this was a poor investment of taxpayer money, he is the unexpected beneficiary today of the fact that the Space Station has run into difficulty.

Nevertheless, this amendment asks Congress to turn our backs on a commitment the United States made to 15 other countries investing billions on their contributions to the International Space Station. This would have us throw away some $22 billion the American taxpayers have already spent building the hardware for the International Space Station. Most of that hardware already exists. Several hundred thousands of pounds are being processed for launch into space at Kennedy Space Center right now. The Station's opponents would have us forego all of the scientific benefits that are going to flow from this unique research laboratory. Finally, it would turn us away from our future in the human exploration and development of space. That is not the vision of a space program that most of us have. It is not the space program that the American people want, and it is not the space program we should pass on to future generations.

The responsible thing to do for the International Space Station is to offer solutions to the program's problems, which this body did last year in passing a two-year NASA authorization. That bill contained a decision-tree that would prevent these problems from continuing and offered commercialization options that would reduce the obligations the taxpayers face while preserving the scientific research they deserve.

Since the President has declined to suggest a solution of his own to the problems created by Russia's involvement in the program or to enforce his own budget caps, Congress must hold the Administration's feet to the fire.

The Senate has proposed one option of isolating the International Space Station in its own appropriations account in order to end the financial shell games that the Administration has been playing for the last few years.

While this is an important step, we also need to hold the President to his promises. H.R. 4194 does just that, providing all of the funding for the International Space Station that the President originally promised us he would need. But, in holding the President to his original promise that the Station would cost no more than $2.1 billion a year, this bill reflects a lack of confidence in NASA's justification for program increases in the absence of meaningful reforms necessary to prevent further schedule slips and cost overruns.

The decision to fund the International Space Station at $2.1 billion despite the Administration's $2.27 billion request reflects the reality that NASA's budget numbers for this program have no credibility. In recent years, NASA has a track record of revising their estimates just a few weeks after Congress funds the Station at their requested levels. I don't think anyone should be surprised that this budget strategy has worn thin. NASA has $400 to $500 million of carryover in the Space Station program which should satisfy any budget shortfall.

Members who vote against the amendment offered by the gentleman from Indiana will vote to provide an adequate level of funding while sending a message that NASA must get its fiscal house in order.

In closing, Mr. Chairman, I feel the underlying bill continues our commitment to the human exploration of space while responsibly addressing the program management's flaws. I urge my colleagues to support human space exploration, our international commitments, and those who have dedicated themselves to get this research laboratory off the drawing board and into space.

Mr. LEWIS of California. Mr. Chairman, reclaiming my time, I would announce to Members that because there is no time agreement, this will be the last debate this evening and there will be no more votes.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OBEY. Mr. Chairman, I did not hear what the gentleman from California said and I am not certain what he meant by what he said.

The CHAIRMAN. The gentleman stated that the debate on this subject would be the last debate tonight and there would be no more rollcall votes tonight.

Mr. OBEY. Does that mean that the gentleman intends to finish the debate on this amendment tonight?

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I do intend to finish the debate on this amendment this evening. We will roll that vote. We will not go any further than the NASA section this evening and so essentially this will be the end of the debate.

Mr. OBEY. Mr. Chairman, could I ask, has that arrangement been cleared with our leadership?

Mr. LEWIS of California. I believe that is correct. I have been instructed that is correct.

Mr. OBEY. That the debate will continue on this amendment until it is finished tonight, but no more amendments?

Mr. LEWIS of California. No more amendments, that is correct, and no votes. In other words, the vote will be rolled until tomorrow.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I did not intend to speak on this amendment but, frankly, we have had a good day filled with a lot of congeniality and camaraderie, but one of the observations made by the subcommittee chairman frankly got my dander up a little bit.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I did not mean to do that, I want the gentleman to know.

Mr. OBEY. I simply want to suggest that I do not think that the juxtaposition that the gentleman from Indiana laid out between spending in space and spending here on the planet is at all illegitimate, as the gentleman seemed to suggest.

□ 2400

I remember being thrilled when Alan Shepard went into space, and I am still thrilled by the prospect of space exploration. But times have changed and budgets have changed. When Alan Shepard went in space, we were meeting our obligations to house people on the ground, we were meeting our obligations to our environment, we were meeting our obligations to the poorest among us. We still had national standards for the treatment of persons who were not in the winner's circle. Today, we have none of those.

It just seems to me that when we see that this system has been redesigned seven times, when we see that the cost has exploded, when we see that this Congress is apparently willing to kill the low-income heating assistance program to keep houses warm for four million people on the face of the Earth, then I feel no guilt whatsoever in suggesting that we ought to shut down that fancy house in the sky for eight people.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I do appreciate where my colleague is coming from. We have had this discussion a number of times on the floor, as the gentleman knows. And the gentleman certainly knows that our committee is doing everything we can to adequately fund those programs.

But having said that, within this specific category the entire administration is supporting our position regarding this.

Mr. OBEY. Reclaiming my time, Mr. Chairman, that, to me, frankly, is irrelevant. The fact is that none of these discussions have taken place on this floor since the gentleman reported out on his side of the aisle the labor, health, education and social services bill, which guts services to the most defenseless and vulnerable people in this society. And we need in that context to debate the issue that the gentleman from Indiana is trying to debate tonight.

When we are willing to kill 500,000 summer jobs for kids who started out in life just like the gentleman from Ohio (Mr. Lou Stokes), then I apologize not one whit for suggesting that the money that is being spent on the Space Station, for now, perhaps, ought to be spent down here on the ground.

When the gentleman indicates that he is willing to cut, to absolutely wipe out reading and math help for 520,000 kids in our society, then I make no apology for saying perhaps the Space Station ought to take the back seat.

When the gentleman is going to kill safe haven after-school centers for 400,000 kids on the ground, then I make no apology for trying to take on or to raise the question of whether the spending in space ought to be cut back.

We talk about making tough choices here. Oh, yes, we are really tough if we are willing to take on the kids, if we are willing to take on the poorest people in this society with no lobbies. But, boy, I do not see anybody very tough when it comes to taking on the contractors who are behind this, or behind the C-130s, or behind the F-22s, or any of the other hardware that produces the glitz and produces the campaign contributions. Not many campaign contributions for supporting help to low-income kids.

And I think that is why we will have a quite different outcome on these votes. And I could not help but say that after I heard the direction that this debate was taking.

Mr. CAMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Roemer-Camp amendment. Last year I stood on this floor and urged my colleagues to vote down additional funds for the International Space Station, and at that time the launch of the first module was scheduled for November and the total cost of the project was estimated to be $94 billion. Well, guess what? The module was never launched and now the cost overruns estimate this project at $98 billion.

Last year the Congress decided to stick with the Space Station. I now ask my colleagues when is enough enough? Will we vote to end funding when the costs pass $110 billion, $120 billion, $150 billion? How high do we have to go before we say no more?

Many of the original uses for the $8 billion Space Station, as were so ably pointed out by my colleague, the gentleman from Indiana (Mr. Roemer), have now been superseded by other NASA projects and missions and other technological advances. Now the Space Station is simply a floating lemon that will cost 24 times its weight in pure gold. This is a project plagued with delays, cost overruns and unfulfilled promises. The Russian assurances have fallen short and the American taxpayer has been left picking up the tab.

The other day I listened to two renowned scientists argue this $98 billion black hole is not necessary and is actually hurting the sciences. In fact, the presidents of 10 different scientific societies have called the Space Station, and I quote, "A project of little scientific or technical merit that threatens valuable space-related projects and drains the scientific vitality of nations." The $80 billion not yet spent on the Space Station could provide an enormous benefit to earth-based research.

I am not advocating we stop exploring space. In fact, I support space exploration. But we must recognize the costs of this project far exceed the benefits. Last year NASA captivated the world when it successfully landed the Pathfinder on Mars at a cost of $267 million, a mere fraction of the cost of the Space Station. Let us not forget that while space is infinite, the American taxpayers' deep pockets are not.

We must get serious about what the core functions of the Federal Government are. We continue to pay over $350 billion of interest on the debt year after year. And while children have been amazed by the promises of space exploration and the excitement it generates, I am concerned with the debt each of these children will inherit. Congress should invest the $80 billion in those children's future, not in a flying lemon.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the persistence of the gentleman from Indiana and the gentleman from Michigan. The Space Station was being debated when I first got here. And one of the major arguments for it was that we had to do it before the Russians did. I would recommend that people go back to the Congressional Record. This started out as something we had to do to frustrate the Russians. We now have to do it to help the Russians. The justification has flipped on its head, but the thrust goes forward.

The gentleman from California does do, in my judgment, a very good job within the constraints that he has. We want to lessen his constraints. I do not know how many Members of this body have told veterans how much they regret having cut the smoking benefit. I daresay that a great majority of the Members of this House have said to the veterans, "I am very sorry, but the constraints made me do it." This is the very appropriations account where we could reinstate that veterans health benefit for smoking simply by reducing this particular item.

So the gentleman says, well, we do not understand how the Committee on Appropriations works. We do. We have rules, and the rules say the allocation goes to this particular subcommittee and they decide among NASA and EPA and HUD and the Department of Veterans Affairs. Members have a right to say that they want to continue with the Space Station. I do not think Members have the intellectual or moral right to say to veterans that they are very sorry that they could not fund their health benefit if they vote to go forward with the Space Station. That is the kind of choice we are making. Or to say to people, we wish we could clean up more Superfund sites, or house more people who are hurting.

The other thing I must say. We sometimes get into rhetorical excess. The worst things I have ever heard about NASA sometimes comes from its defenders, because people come to the floor and say if we kill the manned Space Station we are killing NASA. What an unfair denigration of the important scientific work of NASA. The gentleman from Michigan just mentioned the Mars Pathfinder. That was not dependent on the Space Station. Indeed, those other things are competitors with the Space Station.

The gentleman from California correctly mentioned Alan Shepard, one of our great heroes. And we all lament the fact that he died. We care a lot about human life.

□ 0010

When we put human beings into the situation, we greatly increase the cost because of our concern for human life. There are times when human participation is scientifically very important.

The justification for the amount of money being spent to put those people up in space in a Space Station is not scientific. It is psychological. It is political. Go back and look at what the arguments used to be.

No one has argued to me and I have never seen any group of reputable scientists not directly involved in this project say that if the Federal Government were to make available to scientists this amount of money, that is how they would choose to use it.

Of course there is some worth to it. It is not money wasted. The question is not whether it has got any value at all but whether this is the single best use of that money. And no one thinks there is a scientific justification. As I said, this started out with a political justification and a military justification.

I am sorry I did not have time to go back into old CONGRESSIONAL RECORDS of 10 years ago, when we were being told we had to do this as a matter of national security, we had to do it because if we did not do it the Russians would do it. Now it has become a part of the foreign aid program.

The general point is very clear, as the gentleman from Indiana (Mr. ROEMER) has made clear, the money has been spent. The gentleman from Wisconsin said we already spent $22 billion. I assume what he was doing was submitting for us an illustration in the dictionary of idioms.

The gentleman from Wisconsin wanted to illustrate the meaning of saying "throwing good money after bad." Because the argument that having spent $22 billion on a project that was originally supposed to cost 8, we should now spend another 70, has a logic which defies me.

I do not understand why having already spent three times as much we were told we should, we should go on so we spend 12 times as much. We are in a very constrained situation. There is no case to be made that this is the best use of the money.

I hope the amendment is adopted. If the amendment is adopted, we would have more money to use for housing, for the Environmental Protection Agency, for restoring the smoking health benefit for veterans, and to enhance the scientific mission of NASA. Because the great bulk of the money could go back to NASA.

The gentleman from Indiana (Mr. ROEMER) has made an excellent case. Does anyone think if we had been told at the outset that this is what the Space Station would cost and what it would give us that we would have voted for it? The answer is no. It is not too late to ask for the correct information.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened with interest to the gentleman from Massachusetts (Mr. FRANK) try to set a comparison about how we spend money in the Government. And I want to commend the chairman, also a member of the Committee on Appropriations, not the subcommittee, but the whole committee, and I appreciate the chairman and the subcommittee allocating the funds appropriately in a very tough budget climate.

I would just say to my colleagues, what is it worth to cure cancer, that is what we are talking about, or helping cure diabetes, or helping cure paralyses? There is a great body of scientific research going on through NASA that is planned for the International Space Station to cure these diseases, to grow cells and try to see what impact microgravity or near-zero gravity has so that we can employ that kind of technology and research and information and bring it here on earth and replicate it and cure disease.

So I think I make the argument very forcefully that I think we are going to do perhaps more to help people in the years ahead through the International Space Station through medical research. It has got a tremendous potential to help people in need. And there is nothing that has a greater need in our society than health care for our people and in combating disease.

I was in Huntsville and went to the Marshall Space Center just about 2 or 3 weeks ago and had a wonderful opportunity to see what is going on there. And I can say to my friends from firsthand experience, and I do not know if the gentleman from Indiana (Mr. ROEMER) or the gentleman from Michigan (Mr. CAMP) or others have gone there, but if they have not, I suggest they do to get a sense of what is being planned.

They can see the American portion of the Space Station built. It is being built now in a very high-tech environment, in a high-energy environment I might say. Certainly, Boeing is the contractor and has an interest in this, which has an interest in my state. Well, that is fine. But I tell my colleagues, the morale of the people working on the Space Station is extremely high. They have great hope and great interest in the good things that will come of this Space Station.

So I would just say to my friends and my colleagues, I think this has great, great future value, this whole Space Station concept and all the medical research. Just from a medical research standpoint, I think there is tremendous potential in the disease areas that I mentioned earlier, cancer, diabetes, microgravity and paralysis. I mean, there is a tremendous potential here that we should not overlook and be short-sighted about.

So I urge rejection respectfully of the Roemer-Camp amendment because I really think this is something we have to do in order to meet the future needs of our country and pay attention to the future and certainly the health future of this great Nation and the world.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Roemer-Camp bipartisan amendment. And to my colleague from California, the subcommittee chairman that I respect so very much, I think we should know that maybe the reason this discussion is ongoing from year to year to year is that each year we are trying to make it clearer to those who are voting here on the House floor that our investment, that of the United States, and Russia's investment is going deeper and deeper in the hole and, in turn, it is negatively affecting our very own domestic budget. And those of us that keep talking about this do it for a purpose. I mean, bad money after good money does not make sense when we have such tight budgets.

I oppose further funding for the Space Station because I believe it is wasteful. It is wasteful spending that drains resources from our Nation's most urgent needs. This project, I believe, is an unwise investment for our Nation, not only fiscally but also scientifically.

To date, the Space Station has experienced cost overruns resulting in billions of dollars that our taxpayers are paying, and it comes out in bills to them. Even worse, Russia's inability to pay its fair share of the project is extremely troubling to me. This is an international project. I mean, it is supposed to be. I think that is one of the things we should be deciding, is it or is it not an international project.

Also, supporters of the Space Station say we can learn many things from microgravity research. We just heard that. Well, with $1.6 billion savings from this amendment, we could offer college education, including tuition, fees and books to 500,000, a half a million, students who could not otherwise afford college right here on earth.

With $1.6 billion, we could provide prenatal care to pregnant women who do not have access to routine health care right here on earth. With $1.6 billion, we could expand the WIC program so that all eligible pregnant and nursing mothers can get the food supplements; and we would still have money left over.

Supporters of the Space Station make claims that research in space will advance health research. Well, with $1.6 billion, we could fully fund the National Heart, Lung and Blood institutes right here on earth.

With limited funds available for programs right here on earth, we must focus our resources on our Nation's most urgent needs in order to ensure a bright future for our children.

Let us not send our tax dollars out in space on a project that is clearly lost in space when we have needs not met right here on earth. Let us cancel the Space Station. Do it now. Stop wasting money. Vote yes on the Roemer-Camp amendment.

☐ 0020

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the requisite number of words. I rise in strong opposition to the Roemer amendment. In this era, more than at any other time in history, our future depends on our staying on the cutting edge of the knowledge frontier. That is why in this budget and other parts of the budget we have this year and we have other years increased our investment in NIH, in the National Institutes of Health. That is why we struggled to get more and more money in the National Institutes of Science. That is why we support R&D tax credits, to help companies invest the amount into research and development that they need to be on the cutting edge of product development. If you are not on the edge of science, if you are not out there pressing the frontiers of knowledge now, in this era of extraordinary, fast-paced change, our children will not have the economic opportunity we would hope for them nor the opportunity to improve the quality of their lives that we have had.

Investing in the Space Station is part of keeping America at the cutting edge of the knowledge frontier. That will have enormous dividends for people here and now. Our work on the Space Station is leading to developments that could more than make up for our Federal investment. For example, the U.S. is currently using space-based research to gain a better understanding of combustion, which accounts for nearly 85 percent of the world's energy production and is a leading cause of the world's atmospheric pollution. Consider that U.S. fuel consumption is approximately $300 billion a year. If microgravity combustion research helps make our energy use more efficient, even if we only use 1 percent less fuel, we will save more than $3 billion a year and reduce industrial pollution at the same time. The kind of research that can go on in space is the kind of research that cannot go on elsewhere and can have enormous dividends both in freeing up resources and in attacking some of our most serious problems. But it is not just what we can do when we get there. It is what we are doing in the process of going there. And, yes, it has been more expensive than we thought because we have never done it before. It has taken longer than we thought, because no one has ever done before what we are trying to do in building this Space Station. But we are learning an enormous amount along the way. What we are learning is strengthening our manufacturing base and our capabilities in many, many ways.

To build a Space Station, you have to build product, parts, components to a 30-year life standard. You cannot run down to the hardware store and get something to repair it if it does not work in space. You cannot run back down to Earth and get a fix-it quick. When we work to build a Space Station, we are building to 30-year life standards and that has never been done and has extraordinary implications for manufacturing and other areas. It has led to the development of increased productivity through integrating design and manufacturing in frankly truly revolutionary ways.

When I go through the plants in my district that are building parts for the Space Station and see the developments that have come out of this demand for 30-year life, it is awesome. It is going to have enormous implications as the years go by for the quality of products like automobiles, for their safety, for their strength, for so on and so forth. When I go into companies in my district that design and produce for the Space Station, I am struck by the extraordinary challenge of keeping a clean environment, clean air, clean water within a tight capsule for months and years at a time. Think what that has already done for the science of cleansing air, for managing liquids. It is extraordinary what we have already learned just in trying to invent to the standard that the Space Station challenge puts upon us.

And so along with the Space Station commitment goes the development of many, many thousands of high-paying jobs, 500 high-paying, high-tech jobs just in the companies in Connecticut. These are the very kinds of jobs that not only can do this job but keep America at the cutting edge. I urge Members to be far-sighted and oppose this amendment.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. This amendment would end U.S. participation in the international Space Station program. Once again as we do year in and year out, we find ourselves debating whether or not to continue U.S. leadership in this vital space initiative. Opponents of this program ask you to focus on cost. But any cost analysis must also involve a benefit analysis. The benefits to be gained from research and technological leadership reverberate far beyond space exploration and will be shared by all Americans.

The international space station will serve as a research laboratory for present day advances in medicine. Information gained will lead to enhanced drug design and better treatment of diseases.

Technology developed for the space station will also lead to advances in numerous fields, including environmental systems, communications, and computer technology. Micro technologies and robotic systems developed for the space station are just two areas where businesses are already reaping benefits. More gains will follow.

New technologies will allow for the expansion of existing businesses and the creation of new businesses. Advances gained through NASA programs have been, and will continue to be, an important source of commercial development.

Just as the race to the Moon propelled the United States to the world leadership role in science and technology in the second half of the 20th century, the space station will guarantee the United States remains the leader far into the 21st century.

While the full participation of our partners remains a concern, NASA has taken concrete steps to plan for any contingency. NASA is proactively addressing these problems—establishing the Russian program assurance budget to provide contingency planning funds, and initiating development of an interim control module should the Russian service module be delayed.

With the first components of the space station planned for launch in the next several months, now is not the time to retreat from our commitments.

I urge my colleagues to oppose this amendment and continue support for our Nation's space program.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I associate myself with the remarks of the gentleman from West Virginia, and simply say that for each dollar that we invest in the space program we receive up to nine in return in new products, technologies and processes on Earth.

I have the greatest respect for the gentleman from Indiana (Mr. ROEMER), but let me say to you that the numbers are somewhat skewed. The gentleman from Indiana knows and we know that the original 1984 estimate of $8 billion for the Space Station was development cost. In 1993, NASA estimated that a redesigned international Space Station would cost $17 billion. The $17 billion include research and operating expenses, along with hardware development. The $98 billion figure includes costs such as $43 billion for the space shuttle flights and $13 billion for 10 years of operating expenses. The real cost for the international Space Station is $21 billion.

Frankly, Mr. Chairman, I would simply say we cannot afford to get rid of the Space Station. Our Russian friends and our copartners around the world are committed to saving the Space Station. The Space Station provides us in the show and tell with an array of opportunities, air conditioning, advanced materials for airplanes and many others. I oppose the amendment because I believe we cannot look back, and in tribute to Alan Shepard we must look to the future. I think all Americans would want us to do that.

Mr. Chairman, I rise against the amendment offered by Representative ROEMER, and in support of our efforts in space.

The persons who support this amendment argue that they can no longer afford to invest in the International Space Station. I believe, on the other hand, that this space station is an opportunity that we cannot afford to pass up.

NASA has a proven track record. The science experiments that have been performed have led to spinoffs that not only make our lives more convenient, but also improve our health and well-being. For each dollar that we invest in space programs, we receive up to nine in return in new products, technologies, and processes here on Earth. Fellow colleagues, we owe it to our constituents to make sure that the International Space Station becomes a reality.

I want to remind you all, the materials research that has been done by NASA in space has been invaluable to us. With the help of the International Space Station, we can only expect more breakthroughs and innovations for manufacturers, businesses, and consumers.

I would like to give you an example of how research in space is helping our materials research on Earth today. If you look around, you will notice a plethora of metal items. Metals like steel and aluminum are often cast directly into the shapes that you see, and even more likely, the metal started out as a liquid, way back at the beginning of its manufacturing life.

If you were in the business of making things out of metal, like casting an engine block for a car or the circuitry for a microchip, you would want to know some very important things—for instance, how durable will the metal be? Or how long will it take to make this product?

For manufacturers, knowing these things is extremely beneficial, because it affects the cost and the quality of their products. To answer these questions, scientists must rely on the science of micro-physics, or the study of microstructure, which helps predict the behavior of materials at the molecular level.

Because gravity affects the way that things solidify, gravity also affects the formation of microstructure. This makes it very difficult for engineers and scientists to predict what will happen when you begin the manufacturing process. In other words, it is simply too difficult to make any predictions about what gravity will do to the formation of the microstructures, unless you know what will happen when there is no gravity to complicate matters.

Experiments conducted on the Space Shuttle by Professor Martha Glicksman have helped materials scientists and engineers take significant strides toward the goal of being able to predict how microstructures will develop during the manufacturing process.

As a benefit of these experiments in space, scientists have obtained the highest quality information every produced on the development and evolution of dendrites, a basic building block of microstructures. This research has produced a benchmark against which theories and computer simulations that predict microstructures can be rigorously tested.

This information would not be available to us today without the help of NASA, and its programs in space. The International Space Station will undoubtedly produce similar breakthroughs, especially in light of the fact that these experiments will be conducted over a much longer period of time than those done on the space shuttle.

By funding the International Space Station, we make an investment that is bound to pay off. I urge you all to vote against this amendment, and for our future.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding. I specifically wanted to respond to the gentlewoman from Texas as well. I appreciate both of your participation in this.

The gentlewoman from Texas mentioned very briefly the international partnership that is involved here. We have not discussed that very much this evening, and I think certainly we should. The fact that our international partners in the European space agency are being so cooperative, the fact that we do have an ongoing relationship with Russia in spite of their economic difficulties in which they are putting the money that they are obligated to in the pipeline. The reality that this is now a world Space Station that provides our future hope for man's work in space, that has so much potential in terms of economic and medical and other kinds of breakthroughs, is a very important item, and I appreciate very much both of you participating in it.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Roemer amendment and I encourage all my colleagues to vote "no." We have been engaging in this debate for many, many years and it is true that each year more and more Members vote against killing the Space Station and in support of continuing this project. The reason I believe is obvious. This project has a tremendous potential to yield incredible benefits to mankind. Balancing the budget is a very, very noble task and it is certainly something that is important to our children. Indeed, it is a very good thing for us to do that. But I can tell you from my experience of talking to kids in my district, while they recognize balancing the budget is good and fixing Medicare is good and cleaning up the environment is good and even improving education is good, nothing excites them more than telling them and teaching them about our space program and the Space Station and its potential.

□ 0030

Indeed, I have talked to teachers all over this country, and they all invariably tell me, teachers of math and science, that there is nothing that motivates their kids and their class more than the Space Station and talking about the manned space program.

Here to my left is a diagram of the Space Station when it will be fully assembled and complete. I am very happy that the chairman of the committee spoke about the international partners involved with this. We have the Europeans who have spent over $6 billion; the Japanese, $4 billion; the Canadians, $1 billion.

This project is on the verge of being a huge success. We have no idea of the potential spin-off benefits to mankind.

Indeed, I spoke on the floor of this House 1 month ago about a product that is a spin-off of our space program called Quick Boost that has the potential to improve the efficiency of air conditioning units all over this country and has the potential to save energy costs equivalent to the entire cost of our manned space flight program from its very beginnings, from the beginning of the Mercury Program to this date.

I encourage all of my colleagues to, again, resoundingly reject the Roemer amendment and vote "no" on the Roemer amendment.

Mr. Chairman, I yield to my very good friend and colleague, the gentleman from the great State of Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Chairman, I thank my friend, the gentleman from Florida for yielding. I want to associate myself with his remarks. I, too, rise in opposition to the Roemer amendment.

This is a first for us. We have debated this amendment many, many times before. We have had a fair fight. But never have we debated it in the wee hours of the morning like this and under these circumstances.

But my colleague, the gentleman from Florida, makes excellent points about our international partners. By the end of this year, NASA and the international partners will have built over half a million pounds of flight hardware. The first two elements of the Space Station will be in orbit. It is too late to turn our back on this project now. If we turn our back on this project, we are turning our back on human space flight; and we cannot do that either.

Make no mistake about it, the type of medical research that we have been talking about here tonight, we cannot do that unless we go up there in space on a permanently manned orbiting laboratory. This has been in design. We spent millions and billions of dollars on this, and we cannot turn our back on it.

I also want to congratulate the chairman of the committee and ranking member of the committee. They have had to make some tough choices. They have had to engage in a tough balancing act, but they have done it. I thank them for it. We in Alabama are proud of them for having done it.

I say let us get off of NASA's back. We have made them dot I's. We have made them cross T's. We held the NASA employees hostage. It is time for us to move forward. Oppose the Roemer amendment.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Florida. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding to me.

I want to just say to my colleagues as well as all who might be interested to this discussion, no one has made the contribution that the gentleman from Florida has regarding this effort. His consistent and intensive focus upon the future that we have in space and the work that involves the Station itself is very much appreciated, and he has made a very significant difference in the effectiveness, not just in our discussion, but also the rapidity of which we are moving forward in this program.

Mr. WELDON of Florida. Mr. Chairman, I want to add one more thing. I have gone into the Space Station processing facility of Kennedy Space Center, and I have gone into the first elements. I want to tell my colleagues that the people who are working on this program are excited and ready. The kids are excited to see this program flying in the sky. The potential benefits that can accrue to mankind are huge. They are not even imaginable.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Roemer amendment. I do so reluctantly because I have always been a supporter of the space program, and I believe that we have a bright future for manned exploration in space.

But I think that it simply does not make sense to continue with this project at this time on several bases. First, I want to associate myself with the remarks of the gentleman from Wisconsin (Mr. OBEY) in terms of the priorities within this budget now in terms of our social programs here at home.

Second, however, let us talk about the space program. I fear we are repeating a mistake we made in the 1970s and 1980s. Santayana defined a fanatic as one who redoubles his efforts when he has forgotten his purposes. I think that characterizes the Space Station.

We are told that the Space Station is now justified for manned space exploration. But we do not have a program for manned space exploration. If we had made a national goal of re-exploring the moon, of going back to the moon and starting to exploit its natural resources, of having a manned program for Martian exploration, I might support such a program; and then the Space Station would make sense as part of it.

But every justification for the space program that I have seen, save one, can equally or better be done without the expenditure and the Space Station. That one is research on the long-term physiological effects of manned space flight. For that, we will need a Space Station. But we do not need that until we make the commitment to manned space flight to Mars, and then we should do that.

This program is eating up NASA's budget. We saw the same thing with the space shuttle. Why are we launching satellites on Chinese rockets? Forget the controversy for the moment of the President and President Bush and Reagan about the waivers, but why do our industries want to launch satellites on Chinese rockets? Because they are cheaper, $200 million to launch cheaper. Why?

Why did the United States not develop cheap space rockets, cheap launching? Because everything in that budget was devoted to the space shuttle in the 1970s and 1980s, a dead end.

Our space rockets today are still based on the Atlas and Titan ICBMs in the 1960s. The Titan IV is our biggest launcher based on the ICBM. The Titan first launched in 1960 or 1961. Why? Because we had no money to develop cheaper commercially viable space launching vehicles because all our money was going into the shuttle.

We should be spending money now, more money on the scientific exploration of space, on more basic research that will have the spin-offs and the benefits for medical science. We should be spending more money on programs like the X-33 to reduce the cost per pound of going into orbit.

Once we have reduced that cost by a factor of 10 or 100, then we can look again at a Space Station, because then the cost of developing a Space Station will be much less because it will not cost that much to get the material into orbit. That ought to be our priority.

This Space Station is too little and too early. It is too little because why are we spending $100 billion for an eight-person capacity Space Station when the Mir Space Station held six people. It is too early because it should be done once we have the capacity because of the X-33 research, perhaps 10 years from now, to launch the components into space cheaply.

If the United States were pursuing a properly targeted space program, we would now have a crash program to develop cheap launch vehicles so that the Hugheses and Lorals and General Dynamics of our country would want to launch their satellites on our rockets because they are cheaper and more efficient, and we would not have to worry about the security with the Chinese.

We are paying for the mistakes of the 1970s and 1980s, and now we are going to repeat that mistake on a larger scale. The space shuttle, as beautiful as it is, was a blind alley because what did it get us that we did not have? It did not reduce the cost of poundage into orbit which was the promise. It diverted us from the proper courses we are to make.

At this point, we are to be spending some of this money on low-income housing units, some of this money on school, some of this money on low-income heating. We ought to be spending more of the money on cheaper, more efficient rockets, for current satellite launchers. We ought to be spending more of the money on developing the capability of launching large payloads into space at a much lower unit cost so that it makes sense for our commercial private sector to get more heavily involved with less subsidy.

Finally, let me say this is distorting our relationship with our foreign friends.

Mr. KIND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Roemer-Camp amendment to end this black hole of fiscal irresponsibility known as the International Space Station, but I do so very sadly. Mr. Chairman, I do commend the gentleman from Indiana (Mr. ROEMER) and the gentleman from Michigan (Mr. CAMP) for the courage that they are showing by offering this amendment.

□ 0040

I would venture to guess if this issue was polled in the general and abstract around the country, there would be overwhelming support for the continuation of funding for the International Space Station. But I would also venture to guess if the American people knew the facts as far as the funding and cost overruns, a program that started off at $8 billion now estimated by the GAO this year to be around $100 billion, a 1,200 percent increase, people across the county would be saying, "let's pull back and take another look at this and see if this is the right direction we need to go in."

As a representative of western Wisconsin, Mr. Chairman, who produced some outstanding astronauts for our national space program, Deke Slayton, one of the original Mercury astronauts hails from a small town in western Wisconsin, and current astronaut Mark Lee, a space shuttle astronaut who will be going up into space early next year, I am a strong supporter of space exploration and our national space program, a strong supporter of the NASA budget, and in fact, of the next fiscal year.

Of the $15 billion in that budget, $13.5 billion is fine. It is the $1.5 billion that adds to the continuation of the International Space Station that I have a problem with. Because the space program is really what America is all about. It brings about the best in America and what we are.

Who will forget, those of you living, the moment when Yuri Gugarin of Russia was the first person to be launched into space, and the shock waves that reverberated around the country that, my goodness, we are falling behind the Soviet Union in space exploration? But, 20 days later, Alan Shepard, sitting on that Mercury Redstone rocket with courage that only he could know whether or not it was going to blow up underneath him, was the first American that was sent into outer space. And then 20 days after that, where a young president by the name of John F. Kennedy challenged our Nation to send a man to the moon and safely return him to earth.

It has brought out the best in America and what we stand for, and the hopes and dreams of not only adults, but of children, realizing the importance of science and math. Alan Shepard was a childhood hero of mine. I had Freedom VII on my dresser growing up as a kid in the 1960's. Our heartfelt condolences go out to his family tonight. He was a great American hero.

Perhaps this country would be better served if more pictures of astronauts were to grace the magazine covers today, rather than the Hollywood stars and sports heroes that seem to dominate popular culture today. Who would forget Apollo XIII and those dreaded bone chilling words, "Houston, we have a problem," and the fact that after the explosion and the machine that filtered the carbon dioxide from the capsule went under, the Director of Space Operations got all the scientists and engineers together and gave them the material that the capsule had and said, You have one hour to come up with a device that will filter the carbon dioxide out of the capsule so the astronauts can breath and we can get them home safely. As he concluded and was walking out, then he turned and said, "Failure is not an option." It was not. They came up with a device and were able to save the astronauts and return them safely.

It was one of my great honors just a few weeks ago to be able to present Commander Jim Lovell in western Wisconsin at a space show the Outstanding Wisconsin Aviator because he came from Milwaukee, Wisconsin.

The space program is a wonderful program, Mr. Chairman, there is no question about it. But what has to be questioned is the tremendous cost overrun that the American taxpayers are facing today in order to perpetuate a space program that, by and large throughout the scientific community, has limited value.

You are hard pressed to find any scientist in the entire country who will come out in support of the space program who is not already on the NASA budget. I think that sends a very strong message about the lunacy of continuing to throw good money after bad in this venture.

I think it is time that we step back, we take a deep breath, and realize what is happening with a program that is 1,200 percent over budget. And where is the end, and what is going to be the scientific value? What cannot be accomplished scientifically on the space shuttle today that can be on the space station? These are the things that we have to question. That is why we are having the debate at a quarter to one here in Washington, D.C. tonight.

In an era when we are trying to tighten our belts, to bring fiscal responsibility to this place and hopefully reduce the $5.5 trillion national debt, a 1,200 percent over-budget program is wrong. I ask my colleagues to support the amendment.

Mr. LAMPSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, why on Earth do we spend money in space?

Mr. Chairman, when a young President, John Kennedy, described his vision in 1961 of landing a man on the moon, he encountered also many skeptics. Some said it could not be done. Some said it would cost too much money. But when I watched Neil Armstrong take his first step on to the moon eight years later, I knew the naysayers were wrong, and so did my high school students, who huddled around the television set with me that unforgettable day. I saw the gleam in their eyes that inspired them to become our future engineers and future scientists.

So why on earth do we spend money in space? So our kids will have a dream to dream. Space exploration has evolved over the last 30 years to more than just romantic notions of collecting moon rocks and taking pictures of other planets in our solar system. Scientific studies conducted in space have led to thousands, if not hundreds of thousands of practical applications here on earth, as this graph here illustrates.

In fact, financing research projects in space is one of the best investments our Nation can make. For each tax dollar we spend in space, we get a $9 return here on earth in new products, in new technologies, in new improvements for millions of people around the world.

It would take too long to recount the many advances in agriculture, business and medicine that are a direct result of manned space exploration. Instead, let me tell you about some real people who have already benefitted from the discoveries made in space for the last three decades.

Let me start with someone in the district of the gentleman from Indiana (Mr. ROEMER). Weather satellite storm prediction systems and long-range weather forecasts developed during space missions helped Brent Graybill, the director of the Elkhart County, Indiana, Office of Emergency Management, to warn residents of hazardous flash floods and dangerous tornados before they destroy people's homes and take their lives, a direct result of manned space exploration.

And in the hometown of the gentleman from Michigan (Mr. CAMP), Midland, Michigan, the fire chief there, Dan Hargarten, he uses protective clothing made possible due to space research to help protect his crew from harm as they battle destructive fires, and technological advances in breathing apparatus are studied in space and will allow 68 brave Michigan fire fighters, all volunteers, to battle Florida's fire storms without losing their lives, another direct result of manned space exploration.

And in the district of the gentleman from New York (Mr. SOLOMON), the "After Breast Cancer" support group meets every Monday evening to share their experiences fighting breast cancer. Well, many cancer survivors are living longer, fuller lives, thanks to early detection of cancer cells made possible by CAT scan technology. You guessed it, a direct result of manned space exploration.

So why on earth should we spend money in space? Because we owe it to the millions of Americans who could benefit from future medical advances to continue funding, rather than gutting the International Space Station.

NASA researchers are making great strides in, for example, neurobiology, that could help my sister, Mary Jo, and countless others who are confined to wheel chairs regain their mobility.

Mr. Chairman, there are those who feel that we do not need men and women, as you have heard, in space, and that they could be replaced by robots. Of course, there are also those who say the same thing about Congress. So why on earth do we spend money in space? For the sake of my sister, and your children's children; because every dollar we spend on a space program yields $9 in returns here on earth; and because that young President said, when he stood in Houston, Texas, on September 12, 1962, This country of the United States was not built by those who waited and rested and wished to look behind them. This country was conquered by those who moved forward, and so will space.

I urge Members to vote "no" on the Roemer amendment.

□ 0050

Mr. BARRETT of Wisconsin. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, earlier this evening in this debate, one of the proponents of the Space Station described the benefits of the Space Station as indescribable. I could not agree more. And the reason they are indescribable is because they do not exist.

We have listened now for 14 years about the benefits of the Space Station, about the potential, and that same speaker made reference to the potential of the Space Station several times during his speech.

But the time comes, Mr. Chairman, when we have to move from the potential to the reality. We have heard so much about waiting for the Space Station, waiting for the Space Station, and all the benefits that are going to come from it. It reminds me of the play "Waiting for Godot," where we keep waiting and waiting and waiting and it never comes.

The Space Station never comes and the benefits never come. We have heard time and time again how the Space Station is going to help our international relationship with Russia. That this is going to improve our relations with Russia. Of course, it started out a decade and a half ago we were going to build the Space Station to ward off Russia. Things have changed, and now we are going to cement our relationship with Russia.

Have we seen that happen? No, we have seen more problems with Russia and their inability to finance their share and that has basically set back our relationship more than improved it.

We have been told that there is going to be tremendous job growth, and I agree. Frankly, if I were a representative from one of the districts, as we have seen tonight, that benefit economically from the Space Station, my colleagues can bet I would get up here and talk about the benefits. Because if we are spending $98 billion and even 10 percent of that were coming to my district, if I had $10 billion, I do not care what it would be. I would be talking about the economic benefits of the Space Station.

But if the Space Station is merely a jobs program, then we should call it a jobs program and we should spread the benefits throughout this country.

But the fact of the matter is 85 percent of the jobs are located in three States. So we have a tremendous influx of great economic resources into those three states, but does it benefit the country? I do not think it does.

But the one that kills me, the argument that kills me, and I have heard it time and time again, is how the Space Station is literally the greatest thing since sliced bread. In the 6 years I have been here, the Space Station was going to cure cancer, was going to cure Parkinson's disease, was going to cure Alzheimer's disease. Tonight we hear it is going to improve air conditioning.

Mr. Chairman, I hear these over and over again, and as I am listening to the debate the thought came back to me, the same thought I had last year, and it reminds me of the story of the emperor with no clothes, because we parade this huge monstrosity, this huge economic black hole in front of Congress and we dress it up and say it is going to cure cancer. And then we dress it up and say it is going to cure Parkinson's disease. And then it is going to cure AIDS. At some point somebody has got to get up and say the emperor has no clothes. It does not solve these problems.

Mr. Chairman, we have heard people who are proponents of the Space Station say that those of us who are opposed to it are opposed to a manned space program. That is the furthest thing from the truth. Every single speaker has talked about the joy that we have experienced because of the great steps forward as a result of the NASA manned space program. But to say that one is opposed to the Space Station means that they are opposed to sending money into space needlessly and that is a key distinction.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. BARRETT of Wisconsin. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I think that that is an important point to clarify, because personally I am for NASA and I am for the other $11 billion that we spend every year.

I would recommend to the viewers out there at 1 o'clock in the morning who are tuned into this TV station to pick up the August issue of the National Geographic and to see the wonderful pictures of what Pathfinder did for $267 million. Did it on budget, on time, with a third of the bureaucracy that NASA has done with other projects at the Jet Propulsion Laboratory in California. Did a wonderful job and excited the Nation.

We had children all across the Nation glued to the TV, as I was glued to the TV in 1968 to watch Neal Armstrong take a step on the moon. These programs can work and we should support them. And I agree with the gentleman from Wisconsin, there are very good programs going on in NASA, but not the Space Station.

Mr. BARRETT of Wisconsin. Mr. Chairman, reclaiming my time, finally I want to compliment the gentleman from Indiana (Mr. ROEMER) and the gentleman from Michigan (Mr. CAMP) because they have been leaders in the wilderness on this issue. It is not easy to get before this Congress when there are vast resources put into promoting this program.

But it takes people I think to have the determination, like the gentleman from Indiana and the gentleman from Michigan, to continue this fight. And we may not win tonight, but sooner or later the American people are going to see that this is money that is being shipped into outer space.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me add my compliments for the role that the gentleman from Indiana (Mr. ROEMER) has played over the years in voicing his objections to the Space Station. He showed great understanding and knowledge of the space program, great tenacity.

Mr. Chairman, the system is such that he may well end up being chairman of the Subcommittee on Space and Aeronautics in the fairly near future, and he may have an opportunity to directly exercise the kind of control over the Space Station that he is trying to do with this amendment.

I do not agree with his position, and so I rise in opposition to his amendment. I would like to point out that the space program has never been judged in terms of its immediate, measurable benefits. Several mentions have been made of Alan Shepard's flight back in 1962, and of President Kennedy's announcement of the Apollo program shortly after that.

There is no way on earth we can justify the Apollo program on economic grounds. It was a one-time effort. It was a crash effort. It was done out of fear that the Russians, who had already excelled in several things, they had launched the first satellite, they had launched the first man, and it was the fear in America that we had irreparably lost our technological leadership of the world. That led the President to announce that we would send a man to the moon.

We created the Apollo program. The huge Saturn rockets, we have never used them again. We have lost the plans to them. We would not know how to build another one of them. What remains is in some museum somewhere. And after we had successfully completed the program, then we sat back and said what will we do next?

It took us a little while to decide maybe we should go for a space transportation system instead of a grandiose plan like that. The budget of NASA at that time during the 1960s was three times what it is today. It has gone down steadily since that period of time, and I regret that. I frequently mention that NASA is going downhill more than I would like.

There was no economic benefit from that. It was merely a psychological benefit restoring the confidence of America in their ability to cope with Russia and the rest of the world.

Now, that is not quite the situation with the Space Station. Incidentally, the Space Station did not develop as a program to beat the Russians, as the gentleman from Massachusetts (Mr. FRANK) mentioned earlier. The Russians already had a Space Station when we decided that we were going to build a Space Station.

We recognized that if we had any intention of human role in space, that it had to be based upon the ability to create structures in space and to live in those structures and to make use of those structures in zero or relatively zero gravity for the purpose of determining the sustainability of life in space and conducting research that would be beneficial in space.

We did not even bring back a bag of rocks from the moon that we could look to and say this is the economic benefit we have reached. The Russians sent an unmanned probe to the moon, picked up a bag of rocks, and brought them back. We subsequently gathered a few, but they were not nearly as many as the Russians and so they outdid us on the one economic benefit, collecting rocks. And there was no gold or diamonds in the rocks anyway.

But what we have been almost unconsciously doing is voicing the aspiration of the human race to move beyond the bounds of earth into a new environment that is universal. This is something that attracts a huge amount of people. We cannot quantify it. We cannot measure the economic benefit. It is a matter of satisfying the demands of the human spirit; the same thing in a different sense that drove us to send the Apollo program and land the first humans on the moon.

Incidentally, those who know the Shepard story well recognize that he had one first. He was not the first man on the moon. He was the first man to hit a golf ball on the moon.

☐ 0100

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(On request of Mr. LEWIS of California, and by unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I wanted to express my deep appreciation for not just the gentleman's commentary this evening but for the long history of his being supportive of these programs and understanding them perhaps better than anybody else in the House.

The reality is that Space Station is not just a toy out in space. I have heard several of our colleagues this evening talk about how they support NASA, they support our probe in space, support our work in space. And yet the reality is that if man is going to be in space, we need to learn many of these things that we are learning by this process.

It is not just a question of health, things that we learn from people being in zero gravity, et cetera. It is building things in space. Having men and women work in space. Indeed, if NASA is going to carry forward that Horizon project that is the dream of our people, that new horizon, it will not be done without an effective Space Station.

The gentleman's work has been extremely helpful, and I wanted him to know I appreciate him.

Mr. BROWN of California. And I want the gentleman to know I appreciate his continued support and that of his colleagues on the Committee on Appropriations.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

Here are some facts on the Space Station. Significant development progress has been made on the International Space Station. Seventy-five percent of the development milestones have been completed. The first two elements of the Space Station are ready and being prepared for launch. Over 400,000 pounds of flight hardware have been built. By the end of 1998, NASA and its international partners will have built over a half million pounds of flight hardware. And the first two elements of the Space Station will be in orbit.

The return of U.S. astronaut Andy Thomas marks the successful conclusion of the Shuttle-Mir program. Ten rendezvous and nine docking missions, and over 950 days of U.S. astronaut experience aboard the Mir has given the United States invaluable experience in long-term space operations which has prepared NASA to more effectively conduct permanent operations aboard the International Space Station.

Space shuttle crews assigned to the first three assembly flights of the International Space Station have already been selected and begun training. The Space Station assembly crews have already been selected. The first four crews to live and work aboard the Space Station have been selected and are actively training in Russia, the United States, Europe, and Canada.

The International Space Station Research Plan has been adopted and published and selection is underway for what will eventually be 900 principal investigators conducting research aboard the Space Station. NASA remains fully committed to meet Space Station research requirements, and has included full funding for enhanced research capabilities in the budget of the program.

The Research Plan outlines the use of the world class International Space Station laboratories. Space Station capacity for data transfer has been significantly updated from the original plan.

November 20th, 1998 is the revised launch date for the U.S.-owned Russian-built control module. It will followed on December 3, 1998 by the launch of Unity, the U.S. node. Launch of the Russian Service Module is scheduled for April 1999. Assembly will be complete in January 2004.

The Russian-built service module is 95 percent complete and has been shipped for final outfitting and testing. As a hedge against Russian Service Module delays, NASA has modified the Russian-built control module and is developing a U.S. Interim control module in the event additional Service Module delays are encountered.

Although the recently issued report of the Cost Assessment and Validation Task Force, headed by Jay Chabrow, has concluded that technical and schedule risk could force total International Space Station costs to reach $24.7 billion, NASA has not revised its existing estimate of $21.3 billion.

NASA continues to evaluate other contingency plans to address possible further Russian funding delays and is refining those plans for implementation, if needed.

Now, Mr. Chairman, the Space Station, despite its difficulties is the greatest peaceful international scientific endeavor in the history of the world. The Space Station is a platform for international peace. It is a platform for international science. It is a platform for national and international economic growth. It is a platform for future generations.

Children sense it. In my own district I saw JOHN GLENN speak to a school full of elementary children, and they stood transfixed as he talked about his flight, as he talked about outerspace, as he talked about where America was going for the future, because they saw it as their future as well.

The Space Station is a platform for future human achievement. It will help us grow the economy of the future, to improve the quality of life for all people. Twenty-nine years ago the United States became the first Nation to land an astronaut on the moon. Now, what if Congress had told John Kennedy, when he set out to make a lunar landing a national goal, what if Congress had said, "No, you can't. It is impractical. It is wasteful." Twenty-nine years ago the people of the United States stood transfixed as we saw Neil Armstrong take one small step for man, one giant step for mankind.

One mission after another, the space program has kept advancing America's frontiers. Advancing our dreams. Now, the poet Browning once wrote, "But a man's reach should exceed his grasp or what is a heaven for." The Alan Shepards, the Gus Grissoms, the John Glenns, the Buzz Aldrins, the Christa McAuliffes all represent the courage, the vision of this great country.

America is a practical Nation. We understand cost benefits, and there have been practical benefits, as has been pointed out, $9 returned for every $1 spent in the space program. But America, too, is a Nation about a ceaseless quest for achievement.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KUCINICH) has expired.

(By unanimous consent, Mr. KUCINICH was allowed to proceed for 1 additional minute.)

Mr. KUCINICH. Mr. Chairman, the stars which emblazon our flag, which ring this chamber and which surround that eagle that looks down on us every day, those stars could also represent the stars that we reach for.

Our future as a Nation is certainly about what we do on this earth, but it is also about the sky above. It is also about the human heart exploring the unknown. Americans know this. That is why they support the space program, and that is why they are hoping this Congress is going to support the International Space Station.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take my whole 5 minutes, but I want to thank my colleague from Ohio and all the speakers this evening, because I think what they are talking about is what really America is about. And I want to thank my colleague from Wisconsin, who is here and said if he had part of this in his district, that he would be for it.

Well, I do represent the Houston area, but I do not represent part of the NASA area. In fact, my joke is when somebody in my district gets a job at the Space Station, or NASA, in Clear Lake, they actually move to the district of the gentleman from Texas (Mr. LAMPSON) or the district of the gentleman from Texas (Mr. DELAY). They are not in my district, because they move closer to their jobs.

I rise in opposition to the Roemer amendment because it strikes the funding for the International Space Station. The International Space Station represents the future of space exploration for our country. It represents a high-tech lab whose innovations will have countless applications in the daily lives of Americans. Whether we live in one of those districts that have the module being built or not, it represents an era of international cooperation that everyone will benefit from.

We heard tonight the talk about how the Russians may not be able to do their part. It is not just the Russians, it is lots of other countries, our neighbors in Canada and Japan and in Europe.

To date, the International Space Station has been a model of international cooperation and responsible management. If Congress does undermine the funding for the Space Station with an unexpected reduction, it will represent a major reversal in the commitment made to the program's stability over the past few years and it will be a betrayal of our entire international partners.

The International Space Station is well on its way to assembly, with the first of the hardware elements already in the final stages of preparation for launch in November of this year, just 5 months away.

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Critics have said the cost for the life cycle of the space station has dramatically risen, when in fact the cost for the life cycle of the space station has actually gone up only by 2 percent in the past 3 years.

Mr. Chairman, this debate is more about not necessarily the space station. I watched one of our astronauts, Dr. Ellen Ochoa, visit middle schools in my district. It is an inner-city district in Houston, predominantly minority children in those districts. I watched Dr. Ochoa captivate those students with her talk of being in space and what she is planning to do.

That is what we are talking about, the future of our country, the future of those middle school children. Whether they are white, black, Hispanic, or whatever their nationality, space is their goal, and that is why I think it is so important and that is why I think tomorrow hopefully, when the House votes, we will vote again resoundingly to defeat the Roemer amendment.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have in my hands a 5-minute speech praising the gentleman from California (Mr. LEWIS) who has done a terrific job this year in cooperating with the authorizers. We have had such a good relationship that I wanted to praise him in this speech. I also in this 5-minute speech talk about the NASA budget, but instead I will include this in the RECORD.

Mr. Chairman, today the Appropriations Committee has brought before the House a bill which, a bill which, among other things, funds our nation's civilian space agency, NASA, for fiscal year 1999.

As chairman of the authorizing subcommittee for NASA, I think it's fair to say that there has not always been perfect agreement between the authorizers and appropriators on the priorities for NASA's budget.

But this year I cannot say enough to praise the FY99 NASA appropriation in H.R. 4194 that my good friend from California Mr. LEWIS and my friend from Ohio, Mr. STOKES, have brought to the floor today.

Many of the top priorities of the Science Committee, as expressed in H.R. 1275, the bipartisan Civilian Space Authorization Act which this House passed last year, have been honored and emphasized in H.R. 4194. Let me just mention a few:

First, the Committee has sent a clear message to NASA that there is a limit to how much money we can spend on the International Space Station. I think the cut of $170 million from the ISS budget in this bill, made possible due to predicted carryover funding of $400–500 million from FY98, is the best argument against the proposed amendment by my colleague Mr. ROEMER of Indiana. The Appropriations Committee's report language on the ISS program shows that they have now joined with Chairman SENSENBRENNER, Mr. BROWN, and the rest of the authorizers in imposing standards on this Administration's performance on the Space Station. Together we are saying that the White House must fix the broken policy of its partnership with Russia, and that NASA must fix its financial and technical management of the program.

Second, the report on H.R. 4194 endorses the idea that greater commercial participation in the Station and Space Shuttle programs can both reduce and help defray many of the cost overruns in the Space Station program, and for this I am personally grateful to Chairman LEWIS.

Third, the report specifically tracks with H.R. 1275 in directing that NASA's Life and Microgravity Science office manage Space Station research, instead of the Station program office. The scientists who will use our national laboratory in space should manage their research funding, not the engineers that are building the lab.

Next, the report provides additional funding for two important science and technology projects in NASA. H.R. 4194 increases by $20 million NASA's planned $5 million funding level for Space Solar Power research, and provides an additional $1.6 million for the Near Earth Asteroid Tracking program.

Finally, the Committee's report provides an increase of $30 million for the program that NASA Administrator Dan Goldin declared was his top priority for additional funding above the President's request. This money is for Future–X, a program of additional experimental launch vehicles to carry on the progress we are making with the X–33 and X–34 projects. Mr. Chairman, reducing the high cost of space transportation has been my top space priority since I joined the Congress and the Space subcommittee in 1989. By providing full funding for the X–33 and X–34 programs, and this funding increase for the Future–X program, we are taking steps to ensuring that there will be a continuing stream of improved technologies to both our commercial space industry and to our military. I am particularly gratified that the Committee directs that half of the Future–X budget is to be spent in cooperation with the Air Force's military spaceplane program. This honors the President's Space Transportation Policy and Administrator Goldin's testimony to my subcommittee that NASA would develop new space transportation technologies for and in cooperation with the Air Force.

I must admit that there is one small item in the Committee report which gives me some pause, and that is the $10 million for Liquid Flyback Booster studies. Over the past year or so I have found that the Liquid Flyback Booster concept is not so much an upgrade of the Space Shuttle as it is a stalking horse for a mission to send astronauts to Mars. Well, this Congress has no intention of approving the hundreds of billions it could cost to send astronauts to Mars. Nor, would we want to spend taxpayer dollars to prolong a NASA-owned and-operated Space Shuttle if there are lower cost commercial alternatives, including a privatized Shuttle system. Finally, I would point out that the Launch Services Purchase Act of 1990 proscribes NASA from building and owning any additional launch systems, and this report language on Liquid Flyback Boosters would seem to go in that direction. I would hope that in conference the Chairman of the Subcommittee might work to specify that any funding for studies of Liquid Flyback Boosters could come from the $20 million NASA has requested for Space Transportation Architecture Studies, and not from critical technology efforts like X–33 and Future–X.

But let me once again state my strong support for the rest of the NASA appropriation. In summary, H.R. 4194 sends the Senate and the Administration a unified, two-part message from the House Authorizers and Appropriators. We both support Mr. Goldin's emphasis on scientific research, his interest in space commercialization, and his leadership on space transportation technology. But we are also united in saying that the Space Station program must be fixed, and fixed now.

Mr. BENTSEN. Mr. Chairman, I rise in strong opposition to the Roemer-Camp amendment to eliminate funding for NASA's International Space Station.

Some have argued that it would be fiscally prudent to eliminate the space station. Nothing could be further from the truth. In fact, it would be terribly imprudent to kill the program. We have already invested more than $20 billion in the space station. Our 12 international partners have spent more than $5 billion. Two hundred tons of hardware has been built and first element launch is less than six months away. To eliminate the program now, after so much has been invested and so much work has been done, would be the height of irresponsibility by allowing our investment to be wasted.

The International Space Station is a worthwhile investment in exploration and science, an investment in jobs and economic growth, and most of all, an investment in improving life for all of us here on earth. The space program and experiments conducted on the space shuttle have made remarkable contributions to medical research and the study of life on earth. The space station is the next logical step: a permanent orbiting laboratory. Let me highlight some of the station's potential for contributing to medical advancements, for example:

Space station researchers will use the low-gravity environment of the space station to expand our understanding of cell culture, which could revolutionize treatment for joint diseases and injuries;

The space station will provide a unique environment for research on the growth of protein crystals, which aids in determining the structure and function of proteins. Crystals grown in space are far superior than those on earth. Such information will greatly enhance drug design and research into cancer, diabetes, emphysema, parasitic infections, and immune systems disorders;

The almost complete absence of gravity on the space station will allow new insights into human health and disease prevention and treatment—including heart, lung, and kidney function, cardiovascular disease, bone calcium loss, and immune system function;

I share my good friend from Indiana's concern that continued Russian participation in this project needs to be carefully examined. The economic difficulties Russia is currently experiencing have caused several unfortunate delays in their delivery of certain space station components and this needs to be scrutinized. We need a backup plan to move forward without the Russians if necessary. But this partnership deserves every chance to succeed because of the experience and expertise the Russians bring to the table and the foreign policy benefits of continuing this partnership.

Mr. Speaker, the International Space Station is vital to continued human manned presence in space and I would urge the defeat of this amendment.

The CHAIRMAN (Mr. COMBEST). The question is on the amendment offered of the gentleman from Indiana (Mr. ROEMER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 501, further proceedings on the amendment offered by the gentleman from Indiana (Mr. ROEMER) will be postponed.

Mr. WELLER. Mr. Chairman, I would like to offer my support for the FY99 VA–HUD Appropriations bill.

A project in the VA–HUD bill, called TARP, is very important to not only the people of the 11th congressional district of Illinois, but the entire Chicago Metropolitan Area. This bill contains $6.5 million for the Environmental Protection Agency (EPA) in fiscal year 1999 to go toward construction of the Calumet System of TARP—the segment that directly affects my constituents.

During the summer of 1996, floods plagued the South Suburbs of Chicago. Frequent flooding in the Chicago area causes disruptions in major expressways; and rainwater and raw sewage back up into the basements of over 500,000 homes and contaminate local drinking water supplies.

As you know, TARP is an intricate system of underground tunnels, pumping stations and storage reservoirs used to control flooding and combined sewage pollution in the Chicago Metropolitan Area. It is important to note that TARP will remove four times the amount of pollution as the City of Boston's projected removal—for approximately the same cost. To date, 93 miles of control tunnels have been completed, or are under construction, and 16 miles of tunnels have yet to be completed. To the projects' merit, the completed segments of TARP have helped to eliminate 86 percent of the combined sewage pollution in a 325 square mile area.

While we tend to think of this project as a critical flood protection measure, the truth is that the water protection is just as important. Since TARP has come on-line, we have seen a striking improvement in the quality of our waterways, bringing fish—and commerce—back to our rivers. Probably the biggest protections TARP brings is the return of our drinking water supply, Lake Michigan, to good health. By protecting Lake Michigan from raw sewage, TARP provides assurance that our water supply and that our children will be protected.

I believe that Chicago and the South Suburbs cannot afford any more delays in completing this project. In fact, the flooding that occurred this winter filled the TARP system to capacity and forced the release of 4.2 billion gallons of combined rainwater and sewage into Lake Michigan. This must be prevented.

Home and business owners are suffering, our drinking water supply is at risk, flood insurance premiums are increasing while property values are decreasing. The annual damages sustained by the flooding exceed $150 million. If this project were finished these damages could be eliminated, not to mention the disaster relief funds that will be saved. Let me point out that TARP was judged by the EPA twice as the most cost-effective plan to meet the enforceable provisions of the Clean Water Act. The South Suburbs have built a strong base of local support for this vital project. That is why it is essential that we receive the fiscal year 1999 funding to continue construction of TARP.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 4194 and would like to thank the distinguished gentleman from California and Chairman of the Appropriations Subcommittee on VA, HUD, and Independent Agencies [Mr. JERRY LEWIS] and the distinguished gentleman from Ohio and Ranking Member of the Subcommittee [Mr. LOUIS STOKES] for their hard work on this bill.

Once again, Appropriations Committee has completed the tough task of allocating limited resources for many deserving programs. As a Member of the House Banking Committee, the committee with jurisdiction over Federal housing programs, this Member is very interested in how funds are appropriated in this area.

Although there are numerous deserving programs included in this funding bill, this Member would like to mention four specific items.

First, this Member would like to commend the Appropriations Committee for increasing the Federal Housing Administration (FHA) mortgage limits under the Department of Housing and Urban Development (HUD). Prior to this appropriation bill, the floor limit for an FHA mortgage was 38 percent of the Federal Home Loan Mortgage Corporation Act also knows as Freddie Mac which was $86,317. H.R. 4194 raises the FHA limit to 48 percent of the Freddie Mac conforming home loan limit which is $109,032.

This Member had an amendment drafted which he will not now offer which would have increased the FHA mortgage limit floor. This Member believes that due to increasing new home construction costs especially in rural areas, it has become very difficult to build a new home for $86,317. For this reason, this Member commends and supports the increase to $109,032.

Second, this Member would also like to applaud the Appropriations Committee on adopting the Obey amendment to the FHA mortgage limits. This Member would like to thank the distinguished gentleman from Wisconsin [Mr. OBEY] on successfully introducing an amendment which would redefine the word "area" for the purposes of the metropolitan statistical area. This amendment would in effect allow the median single family house price for an area to be equal to the median single family house price of the county within the area that has the highest such median price. This provision is a step in the right direction in consideration of new home construction costs and in its effect on FHA mortgage limits.

Third, this bill provides $6.0 million, a $1 million increase from the FY 1998 budget, for the Section 184 Indian Housing Loan Guarantee Program which is administered by HUD. According to the Committee Report, this appropriation will be leveraged into at least $36.9 million in loan guarantees. The Section 184 Indian Housing Loan Guarantee program authored by this Member, has already proven to be an excellent program that now is providing privately financed homes through a guarantee program for Indian families who were otherwise unable to secure conventional financing because of the trust status of Indian reservation land.

Fourth, appropriators should be applauded for including $4.7 billion for the Community Development Block Grant (CDBG). This Member would also like to commend enthusiastically the appropriators for decreasing the amount of set-asides within the CDBG from $479 million in FY 1998 to $167 million in FY 1999 for the use of some such funds were not devoted to the most appropriate areas. This Member has testified at the subcommittee level that the expenditure of the maximum amount of CDBG funds should be left to the allocation of the state and eligible local governments as compared to selected set-aside programs.

Mr. Chairman, this Member rises in support of H.R. 4194 and urges his colleagues to support this measure.

Mr. Chairman, I rise today in opposition to the final passage of H.R. 4194, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999. I object because this bill fails to include any funding for the Americorps or other initiatives administered by the Corporation for National Service which are funded annually in this legislation. When coupled with the reduction of more than $5 million in funding for the Volunteers in Service to America (VISTA) program and the freeze in spending for the National Senior Volunteer Corps recommended in the Appropriations Committee's Report on the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act for Fiscal Year 1999, the attack on the highly successful programs administered by the Corporation for National Service included in this bill will decimate opportunities to improve the lives of every American through strong community service initiatives.

Over the years I have met countless activists as well as ordinary American citizens in the Second Congressional District who take heroic steps on a daily basis towards improving their community and their own lives. As a result, the Second Congressional District and my home state of Mississippi have made substantial progress in improving the standard of living for many of their residents. However, both the Second Congressional District and Mississippi still contain some of the poorest areas in the nation.

We must recognize that Mississippi's economic status can never be permanently improved by either ignoring the current state of affairs or by simply writing a check. For too long policy makers here in Washington and elsewhere have followed one of these two courses of action. There have been rare exceptions—initiatives to provide not just economic assistance, but also the inspiration for people to join with their neighbors in the effort to improve their community. As every hardworking American knows, no one labors so well as when he feels that others are willing to stand there beside him and suffer through the task at hand. The Americorps, which is administered by the Corporation for National Service and normally funded in this bill, is perhaps the best example of a program which provides a tangible, uplifting presence in the numerous communities where it is active.

There are more than five hundred Americorps volunteers in Mississippi today who have partnered with community leaders to provide hands-on assistance in improving access to everything from child care to literacy instruction. Most importantly, the Americorps volunteers' stirring example has inspired thousands of Mississippians to enter community service as well. Today there are more than 29,000 people of all ages and backgrounds who are helping to solve problems and build stronger communities in the 48 projects across Mississippi which are sponsored by the Americorps and other Corporation for National Services initiatives.

Many of my colleagues on the other side of the aisle—including some of my friends from Mississippi—will say the Corporation for National Service and the Americorps program are wasteful or too bureaucratic. Yet I do not think any of us could find another initiative funded by the federal or state governments today which encourages 29,000 people to serve their nation and their community for a total cost of less than $7 million.

Nonetheless, many former critics have finally started to see the positive benefits of the Corporation for National Service's work. Governor Kirk Fordice of Mississippi, widely regarded as one of the most conservative governors in the nation, made the following statement in support of the Corporation for National Service's efforts while visiting with Learn and Serve America students at the regional service-learning conference in Biloxi, Mississippi:

> As you know from your first hand volunteerism, service-learning offers the opportunity for today's young people and tomorrow's leaders to learn, while addressing local needs. Your hands-on experiences reinforce what you are learning in the classroom, promoting civic responsibility and showing that citizens working together are a powerful force.

After the Americorps was created in 1993, it quickly adopted the straightforward motto of "Getting Things Done." In the opinion of both myself and thousands of residents of the Second Congressional District who have benefited from this program, the Americorps truly has been "Getting Things Done For Mississippi." For those who might doubt the effectiveness or importance of the Corporation for National Service and its Americorps program, the following is a complete list of all the active projects supported by the Corporation for National Service in Mississippi. Instead of making speeches in the marble halls of Washington about bureaucracy, inefficiency, disorganization or a host of other mistaken descriptions of the Americorps and the activities of the Corporation for National Service, I encourage any of my skeptical colleagues to visit these communities and talk with the beneficiaries of its work.

80 AmeriCorps Volunteers participate in the Delta Service Corps University Center for Community in Cleveland;

40 AmeriCorps Volunteers participate in the Delta Reads Partnerships at Delta State University in Cleveland;

6 AmeriCorps Volunteers participate in the Mid-South Delta LISC AmeriCorps in Greenville;

20 AmeriCorps Volunteers participate in the Mississippi Action for Community Education in Greenville;

4 AmeriCorps Volunteers participate in the Harrison County Human Resources Agency in Gulfport;

2 AmeriCorps Volunteers participate in the South Mississippi Family/Child Center in Gulfport;

3 AmeriCorps Volunteers participate in the Desoto County Literacy Council Inc. in Hernando;

100 AmeriCorps Volunteers participate in the Volunteer Assistant Teachers Train to Become Teachers in Jackson;

30 AmeriCorps Volunteers participate in the AmeriCorps Assist Program in Jackson;

30 AmeriCorps Volunteers participate in the Campus Link in Jackson;

34 AmeriCorps Volunteers participate in the Campus Link in Jackson;

30 AmeriCorps Volunteers participate in the Metro Jackson Service Coalition in Jackson;

16 AmeriCorps Volunteers participate in the Partners in Readiness in Jackson;

2 AmeriCorps Volunteers participate in the Big Brothers/Big Sisters of the Tri-County Area in Jackson;

6 AmeriCorps Volunteers participate in the Governor's Office of Literacy in Jackson;

9 AmeriCorps Volunteers participate in the Mississippi Association of Cooperatives in Jackson;

3 AmeriCorps Volunteers participate in the West Jackson Community Development Corporation in Jackson;

7 AmeriCorps Volunteers participate in the St. Andrew's Mission, Inc. in McComb;

39 AmeriCorps Volunteers participate in the Teach for America Mississippi Delta in Oxford;

24 AmeriCorps Volunteers participate in the InterACT in Oxford;

20 AmeriCorps Volunteers participate in the Literacy for Lee County: Young Readers Today in Tupelo;

6 AmeriCorps Volunteers participate in the We Care Community Services, Inc. in Vicksburg;

5 AmeriCorps Volunteers participate in the Yazoo Community Action, Inc. in Yazoo City;

10 Learn and Service America Volunteers participate in the Biloxi School District in Biloxi;

250 Learn and Service America Volunteers participate in Rust College in Holy Springs;

6 Learn and Service America Volunteers participate in the Jackson School District in Jackson;

700 Learn and Service America Volunteers participate in the Mississippi Department of Education statewide;

1,500 Learn and Service America Volunteers participate in the Mississippi Commission for Volunteer Service statewide;

425 National Senior Service Corps Volunteers participate in the Hancock County RSVP in Bay St. Louis;

364 National Senior Service Corps Volunteers participate in the Hancock County Volunteer Program in Clarksdale;

315 National Senior Service Corps Volunteers participate in the Lowndes County RSVP in Columbus;

114 National Senior Service Corps Volunteers participate in the Jones County FGP in Ellisville;

388 National Senior Service Corps Volunteers participate in the Harrison County RSVP in Gulfport;

43 National Senior Service Corps Volunteers participate in the SCP of Harrison County in Gulfport;

72 National Senior Service Corps Volunteers participate in the SCP of Sunflower and Bolivar Counties in Indianola;

285 National Senior Service Corps Volunteers participate in the Capital Areas RSVP in Jackson;

212 National Senior Service Corps Volunteers participate in the Attala County RSVP in Kosciusko;

314 National Senior Service Corps Volunteers participate in the Laurel-Jones County RSVP in Laurel;

186 National Senior Service Corps Volunteers participate in the Simpson County RSVP in Mendenhall;

57 National Senior Service Corps Volunteers participate in the FGP Lauderdale County in Meridan;

519 National Senior Service Corps Volunteers participate in the RSVP Meridan/Lauderdale County in Meridan;

400 National Senior Service Corps Volunteers participate in the RSVP Adams County in Natchez;

84 National Senior Service Corps Volunteers participate in the Lafayette County FGP in Oxford;

280 National Senior Service Corps Volunteers participate in the Lafayette County RSVP in Oxford;

30 National Senior Service Corps Volunteers participate in the MDHS Jackson County SCP in Pascagoula;

370 National Senior Service Corps Volunteers participate in the Lee and Calhoun Counties RSVP in Tupelo;

79 National Senior Service Corps Volunteers participate in the Hinds/Rankin FGP in Whitified.

Mr. Chairman, the people who participant in the programs I have just mentioned want to see genuine change in their community and are willing to take action to bring about results. What better values could any of—Democrats or Republican—want to sponsor?

I urge Members to oppose this bill; we should not be forced for yet another year to rely on the Conference Committee to restore funding for the Americorps and the Corporation for National Service. Let us support the Americorps and Corporation for National Service's volunteers across the nation so they can continue "Getting Things done" in their community.

Mr. ENSIGN. Mr. Chairman, I rise today to voice concern about what I consider an inappropriate use of Community Development Block Grant funding.

Late last year, it was revealed that the Reno-Sparks Indian Colony had decided to use $450,000 of the funding they received from the Indian Community Development Block Grant program for the explicit purpose of constructing a "smoke shop" in Verdi, Nevada. Regardless of one's position on tobacco use or taxes, it seems clear to me that at a time when there is so much debate surrounding the issue of teen smoking, the tobacco industry, and tobacco vendors, taxpayer dollars should not be spent on the construction of smoke shops in our communities.

It is my understanding that the goals of the Community Development Block Grant Program are to provide financial resources to communities for public facilities and planning activities which have a direct, positive impact on the health and safety of that community's residents. Everyone knows that smoking is hazardous to one's health and can cause lung cancer. Smoking causes fully one sixth of all deaths in the United States each year—more than alcohol, all illicit drugs, AIDS, guns, automobiles, and all forms of air pollution COMBINED. With this in mind, how can we possibly allow money intended to be used for the betterment of communities to be used instead for the construction of smoke shops. I would like an explanation from HUD as to how this fits into the statute governing the Community Development Block Grant program.

Native American communities have a right to profit from business ventures but I don't think the federal government should assume the role of helping smoke shops compete with independent small business ventures such as shops and convenience stores which also rely on tobacco sales.

Mr. Chairman, this grant came to my attention only recently and has caused concern for private small businesses and citizens in Verdi, Nevada. It was my desire to introduce an amendment today to recapture these federal dollars before they are spent, but I understand how carefully this bill has been crafted and do not wish to threaten the delicate balance you have achieved.

It is my sincere hope that the Department of Housing and Urban Development will ensure that taxpayer funds are expended in a manner consistent with the national concern on youth tobacco use. There are many ways to ensure that Native Americans are able to develop profitable businesses capable of providing the resources necessary for tribal needs without taxpayer-funded tobacco smoke shops.

Mr. LEWIS of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SOLOMON) having assumed the chair, Mr. Combest, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4250, PATIENT PROTECTION ACT OF 1998

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–643) on the resolution (H.Res. 509) providing for consideration of the bill (H.R. 4250) to provide new patient protections under group health plans, which was referred to the House CALENDAR and ordered to be printed.

PERSONAL EXPLANATION

Mr. GREEN. Mr. Speaker, during rollcall votes 319 through 322, last night and today, I was in my district on official business. Had I been present, I would have voted "no" on rollcall 319; "yes" on rollcall 320; "no" on rollcall 321; and "yes" on rollcall 322.

COMMUNICATION FROM HON. PETER T. KING, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable PETER T. KING, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 14, 1998.

Hon. NEWT GINGRICH,
Speaker of the House,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,

PETER T. KING,
Member of Congress.

COMMUNICATION FROM HON. CAROLYN McCARTHY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable CAROLYN MCCARTHY, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 15, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,

CAROLYN MCCARTHY,
Member of Congress.

COMMUNICATION FROM HON. GARY L. ACKERMAN, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable GARY L. ACKERMAN, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 16, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,

GARY L. ACKERMAN,
Member of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today after 4 p.m., on account of personal business.

Mr. FORD (at the request of Mr. GEPHARDT) for today, on account of personal business.

Mr. MARKEY (at the request of Mr. GEPHARDT) for today and Friday, July 24, on account of a death in the family.

Mr. BRADY (at the request of Mr. GEPHARDT) for today after 1:15 p.m., on account of official business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. WICKER, for 5 minutes, on July 24.

Mr. WELDON of Pennsylvania, for 5 minutes, on today.

Mr. COLLINS, for 5 minutes, on July 24.

Ms. ROS-LEHTINEN, for 5 minutes each day, on July 28, 29, and 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HASTERT and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $4,235.00.

EXTENSION OF REMARKS

(The following Members (at the request of Mr. KUCINICH) and to include extraneous material:)

Mr. MARKEY.
Mr. KIND.
Ms. DELAURO.
Mr. KUCINICH.
Mr. CONYERS.
Mr. KENNEDY of Rhode Island.
Mr. POSHARD.
Mr. BARCIA.
Ms. LEE.
Mr. DINGELL.
Mr. SANDERS.
Mr. GORDON.
Mr. LEVIN.
Mr. STARK.
Mr. NEAL.
Mr. LAFALCE.
Mr. POMEROY.
Mr. FILNER.
Mr. THOMPSON.
Mr. ROEMER.
Mr. ALLEN.

(The following Members (at the request of Mr. GOSS) and to include extraneous material:)

Mr. RADANOVICH.
Mr. SENSENBRENNER.
Mr. METCALF.
Mr. GANSKE.
Mr. SHAW.
Mr. WATTS of Oklahoma.
Mr. GILMAN.

ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 16 minutes a.m.), the House adjourned until today, Friday, July 24, 1998, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10188. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Pseudomonas Fluorescens Strain PRA-25; Temporary Exemption From the Requirement of a Tolerance [OPP-300681; FRL-6016-7] (RIN: 2070-AB78) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10189. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Myclobutanil; Extension of Tolerance for Emergency Exemptions [OPP-300682; FRL-6016-8] (RIN: 2070-AB78) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10190. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Fipronil; Pesticide Tolerance [OPP-300612; FRL-5768-3] (RIN: 2070-AB78) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10191. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality [FRL-6123-4] received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10192. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Agricultural Trade Act of 1978 to allow the Commodity Credit Corporation to use unobligated funds for the Export Enhancement Program for certain purposes; to the Committee on Agriculture.

10193. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification that the Commander of F.E. Warren Air Force Base (AFB), Wyoming has conducted a cost comparison to reduce the cost of operating base supply functions, pursuant to 10 U.S.C. 2304 nt.; to the Committee on National Security.

10194. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Issue and Cancellation of Federal Reserve Bank Capital Stock [Regulation I; Docket No. R-0966] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10195. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Membership of State Banking Institutions in the Federal Reserve System; Miscellaneous Interpretations [Regulation H; Docket No. R-0964] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10196. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Security Procedures [Regulation P; Docket No. R-0965] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10197. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to authorize the provision of grants in homeownership zones; to the Committee on Banking and Financial Services.

10198. A letter from the Acting Director, Office of Management and Budget, transmitting a report to Congress on direct spending or receipts legislation within seven days of enactment; to the Committee on the Budget.

10199. A letter from the Assistant Secretary of Labor for OSHA, Department of Labor, transmitting the Department's final rule—Standards Improvement (Miscellaneous Changes) For General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic [29 CFR Parts 1910 and 1926] received July 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10200. A letter from the Assistant Secretary for Occupational Safety and Health, Department of Labor, transmitting the Department's final rule— Occupational Exposure to Asbestos (RIN: 1218–AB25) received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10201. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Department of Health and Human Services, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 90F–0142] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10202. A letter from the Acting Director, Regulations Policy and Management Staff, Office of Policy, Department of Health and Human Services, transmitting the Department's final rule—Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers [Docket No. 97F–0305] received July 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10203. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Maintenance Plan Revisions; Ohio [OH 114–1A; FRL–6123–1] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10204. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards [FRL–6123–3] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10205. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Missouri [MO 050–1050; FRL–6124–7] received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10206. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Final Authorization of State Hazardous Waste Management Program Revisions [FRL–6119–9] received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10207. A letter from the Secretary, Federal Trade Commission, transmitting the Department's final rule—Trade Regulation Rule Relating To Power Output Claims For Amplifiers Utilized In Home Entertainment Products [16 CFR Part 432] received July 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10208. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rules and Regulations Under the Textile Fiber Products Identification Act [16 CFR Part 303] received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10209. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Interpretation of Section 206(3) of the Investment Advisers Act of 1940 [Release No. IA–1732] received July 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10210. A letter from the Director, Defense Security Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Spain for defense articles and services (Transmittal No. 98–51), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

10211. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–87–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

10212. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–58–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

10213. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective July 5, 1998, the danger pay allowance for the Great Lakes Region of Africa has been eliminated, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

10214. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective July 5, 1998, the danger pay allowance for Kinshasa has been eliminated, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

10215. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting copies of the original report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

10216. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Certification of the Water and Sewer Authority's Fiscal Year 1998 Revenue Estimate," pursuant to D.C. Code section 47—117(d); to the Committee on Government Reform and Oversight.

10217. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Procurement List; Addition—received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

10218. A letter from the Acting Comptroller General, Comptroller General of the United States, transmitting the GAO's monthly listing of new investigations, audits, and evaluations; to the Committee on Government Reform and Oversight.

10219. A letter from the Assistant Secretary, Policy, Management and Budget and Chief Financial Officer, Department of the Interior, transmitting the report on Accountability for 1997; to the Committee on Government Reform and Oversight.

10220. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the Annual Management Report of the Federal Deposit Insurance Corportation's 1997 CFOA Report, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform and Oversight.

10221. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Revisions to the Freedom of Information Act Regulations [No. 98–26] (RIN: 3069–AA71) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

10222. A letter from the Acting Director, Office of Management and Budget, Office of Management and Budget Chief Financial Officers, transmitting the annual report on its 1998 Federal Financial Management Status Report and governmentwide 5-year financial management plan, pursuant to Public Law 101—576, section 301(a) (104 Stat. 2849); to the Committee on Government Reform and Oversight.

10223. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to make the Federal personnel system less encumbered by unnecessary restrictions and paperwork, and for other purposes; to the Committee on Government Reform and Oversight.

10224. A letter from the Secretary of Veterans Affairs, transmitting the semiannual report on activities of the Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

10225. A letter from the Secretary, SMITHsonian Institution, transmitting the semiannual report of the SMITHsonian Institution for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

10226. A letter from the Librarian of Congress, transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1997, pursuant to 2 U.S.C. 139; to the Committee on House Oversight.

10227. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

10228. A letter from the Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, transmitting the Bureau's final rule—Implementation of Public Law 104–208, Omnibus Consolidated Appropriations Act of 1997 (96R–034P) [T.D. ATF–401; Ref: Notice No. 862] (RIN: 1512–AB64) received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10229. A letter from the General Counsel, National Science Foundation, transmitting the Foundation's final rule—Antarctic Conservation Act of 1978, Civil Monetary Penalties [45 CFR Part 672] received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10230. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D Airspace; San Antonio, Kelly AFB, TX [Airspace Docket No. 98–ASW–35] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10231. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Theodore, AL [Airspace Docket No. 98–ASW–39] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10232. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Cameron, LA [Airspace Docket No. 98–ASW–37] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10233. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Pascagoula, MS [Airspace Docket No. 98–ASW–38] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10234. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Refugio, TX [Airspace Docket No. 98–ASW–34] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10235. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 98–NM–93–AD; Amendment 39–10644; AD 98–14–11] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10236. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes [Docket No. 98–NM–132–AD; Amendment 39–10646; AD 98–14–13] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10237. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 98–NM–123–AD; Amendment 39–10645; AD 98–14–12] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10238. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D Airspace, San Diego, North Island NAS, CA [Airspace Docket No. 98–AWP–14] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10239. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class E Airspace; Spofford, TX [Airspace Docket No. 98–ASW–21] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10240. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Turbopropeller-Powered McDonnell Douglas Model DC–3 and DC–3C Series Airplanes [Docket No. 97–NM–72–AD; Amendment 39–10647; AD 98–14–14] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10241. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes, and Model F27 Mark 050 Series Airplanes [Docket No. 97–NM–139–AD; amendment 39–10648; AD 98–14–15] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10242. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–400, 757, 767, and 777 Series Airplanes Equipped with AlliedSignal RIA–35B Instrument Landing System Receivers [Docket No. 98–NM–155–AD; Amendment 39–10643; AD 98–14–10] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10243. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Morgan City, LA [Airspace Docket No. 98–ASW–36] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10244. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Johnson City, TX [Airspace Docket No. 98–ASW–33] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10245. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 98–NM–145–AD; Amendment 39–10650; AD 98–14–17] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10246. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Model 767 Series Airplanes [Docket No. 98–NM–95–AD; Amendment 39–10448; AD 98–07–26] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10247. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Dragon Boat Races, Inner Harbor, Baltimore, Maryland [CGD 05–98–047] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10248. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Virgina is for Lovers Cup Unlimited Hydroplane Races, Willoughby Bay, Norfolk, Virginia [CGD 05–98–045] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10249. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Parker International Waterski Marathon [CGD11–98–001] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10250. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Baptiste Collette Bayou Channel, Mile 11.5, Left Descending Bank, Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA 98–009] (RIN: 2115–AA97) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10251. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation: Swim Buzzards Bay Day, New Bedford, MA [CGD01–96–015] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10252. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia [CGD 05–98–046] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10253. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Beaufort Channel, Beufort, North Carolina [CGD05–97–080] (RIN: 2115–AE47) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10254. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area; Ohio River, Mile 461.0–462.0, Cincinnati, OH [CGD08–98–038] (RIN: 2115–AE84) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10255. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation; Winter Harbor Lobster Boat Race, Winter Harbor, ME [CGD01–96–008] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10256. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Metric Equivalents [Docket PS–153; Amdt. 191–14; 192–85; 193–16; 194–3; 195–63.] (RIN: 2137–AC98) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10257. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection [Docket No. RSPA–97–2362; Amdt. 195–62] (RIN: 2137—AD06) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10258. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; World Series of Power Boat Racing on Mission Bay (formerly known as Thunderboat Regatta) [CGD11–98–009] (RIN: 2115–AE46) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10259. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area: Copper Canyon, Lake Havasu, Colorado River [CGD11–97–010] (RIN: 2115–AE84) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10260. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 Series Airplanes [Docket No. 98–NM–31–AD; Amendment 39–10649; AD 98–14–16] (RIN: 2120–AA64) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10261. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A, Olympus 593 Series Turbojet Engines [Docket No. 98–ANE–13–AD; Amendment 39–10653; AD 98–15–02]

(RIN: 2120–AA64) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10262. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines [Docket No. 97–ANE–04; Amendmetn 39–10652; AD 97–25–10 R1] (RIN: 2120–AA64) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10263. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines [Docket No. 98–ANE–17–AD; Amendment 39–10654; AD 98–15–03] (RIN: 2120–AA64) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10264. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—HUBZone Empowerment Contracting Program [13 CFR Parts 121, 125, and 126] received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10265. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule— Veterans Education: Suspension and Discontinuance of Payments (RIN: 2900–AF85) received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

10266. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule— Schedule for Rating Disabilities: Cold injuries (RIN: 2900–AI46) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

10267. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rule—Administrative Review Process; Identification and Referral of Cases for Quality Review Under the Appeals Council's Authority to Review Cases on Its Own Motion (RIN: 0960–AE53) received July 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10268. A letter from the Executive Director, Assassination Records Review Board, transmitting official notification that it will cease its operations as of September 30, 1998, pursuant to 44 U.S.C.; jointly to the Committees on the Judiciary, Rules, House Oversight, and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LIVINGSTON: Committee on Appropriations. Report on the Revised Suballocation of Budget Totals for Fiscal Year 1999 (Rept. 105–642). Referred to the Committee on the Whole House on the State of the Union.

[Filed July 24 (legislative day, July 23), 1998]

Mr. GOSS: Committee on Rules. House Resolution 509. Resolution providing for consideration of the bill (H.R. 4250) to provide new patient protections under group health plans. (Rept. 105–643). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. CHRISTIAN-GREEN:

H.R. 4313. A bill to amend the Revised Organic Act of the Virgin Islands to provide that the number of members on the legislature of the Virgin Islands and the number of such members constituting a quorum shall be determined by the laws of the Virgin Islands; to the Committee on Resources.

By Mr. SHAW (for himself, Mr. Stark, Mrs. Johnson of Connecticut, Mr. Matsui, Mr. Ramstad, Mrs. Kennelly of Connecticut, Mr. Hayworth, Mr. Levin, Mr. Weller, Mr. McDermott, Mr. Skeen, Mr. Kleczka, Mr. Portman, Mr. Lewis of Georgia, Mrs. Thurman, Mr. Cardin, and Mr. Neal of Massachusetts):

H.R. 4314. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes; to the Committee on Ways and Means.

By Mr. BOSWELL:

H.R. 4315. A bill to provide for a coordinated effort to combat methamphetamine abuse, and for other purposes; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 4316. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 4317. A bill to provide for a pilot program for the use of optical memory cards under the Medicare and Medicaid Programs; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia:

H.R. 4318. A bill to repeal Executive Order 11478; to the Committee on the Judiciary.

By Mr. BEREUTER:

H.R. 4319. A bill to properly balance the wind and water erosion criteria and the wildlife suitability criteria to be used in the 16th sighnup of land in the conservation reserve program; to the Committee on Agriculture.

By Mr. HANSEN:

H.R. 4320. A bill to adjust the boundaries of the Wasatch-Cache National Forest and Mount Naomi Wilderness in the State of Utah to correct a faulty land survey and to provide for the conveyance of the land that was subject to the faulty survey; to the Committee on Resources.

By Mr. LEACH (for himself, Mr. Lazio of New York, Mr. Castle, Mr. LaFalce, Mr. Hinchey, and Mr. Vento):

H.R. 4321. A bill to protect consumers and financial institutions by preventing personal financial information from being obtained from financial institutions under false pretenses; to the Committee on Banking and Financial Services.

By Mr. OBERSTAR (for himself, Mr. Leach, Mr. Kind of Wisconsin, Mr. Gutknecht, Mr. Evans, Mr. Gephardt, Mr. Vento, Mr. Talent, Mr. Boswell, Mr. Hulshof, Mr. Minge, Mr. Shimkus, Mr. Luther, Mr. Petri, Mr. Lipinski, Mr. Klug, and Mr. Sabo):

H.R. 4322. A bill to amend the Water Resources Development Act of 1986 concerning management of the upper Mississippi River system, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ROMERO-BARCELO (for himself, Ms. Christian-Green, Mr. Underwood, Mr. Lazio of New York, Mr. Pallone, Mr. Deutsch, Mr. Brown of Ohio, Mr. Rush, Mr. Thompson, Mr. Clyburn, Ms. Millender-McDonald, Mrs. Meek of Florida, Mr. Towns, Ms. Furse, Mr. Hilliard, Ms. Kilpatrick, Ms. Eddie Bernice Johnson of Texas, Ms. McKinney, Mr. Payne, Mr. Jackson, Ms. Jackson-Lee, Mr. Hastings of Florida, Mr. Clay, Mr. Bishop, Mr. Stokes, Mr. Davis of Illinois, Ms. Norton, Ms. Waters, Mr. Fazio of California, Ms. Lee, Mr. Meeks of New York, and Mr. Engel):

H.R. 4323. A bill to amend titles XIX and XXI of the Social Security Act to give States the option of providing medical assistance to certain legal immigrant children and to increase allotments to territories under the State Children's Health Insurance Program; to the Committee on Commerce.

By Mr. TAUZIN (for himself, Mr. Weller, Mr. Hulshof, Mr. Cox of California, Mr. Rogan, Mr. Shimkus, Mr. Sununu, Mr. Goss, Mr. Whitfield, Mr. Smith of Michigan, and Mr. Lewis of Kentucky):

H.R. 4324. A bill to amend the Communications Act of 1934 to reduce telephone rates, provide advanced telecommunications services to schools, libraries, and certain health care facilities, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 4325. A bill to advance the self-determined management, use, and control of allotted and fractionated trust lands by Indian people; to promote the consolidation of fractionated land interests into viable economic units by the removal of regulatory barriers; and to create and enhance the necessary programs and processes for this purpose; to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Virginia (for himself and Ms. Norton):

H. Con. Res. 305. Concurrent resolution authorizing the use of the Capitol grounds for the American Luge Association Races; to the Committee on Transportation and Infrastructure.

By Mr. BONILLA:

H. Con. Res. 306. Concurrent resolution expressing the sense of Congress that the Government of Costa Rica should take steps to protect the lives of property owners in Costa

Rica, and for other purposes; to the Committee on International Relations.

By Mr. MARKEY:

H. Con. Res. 307. Concurrent resolution expressing the sense of Congress regarding the nuclear weapons stockpile; to the Committee on National Security.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

375. The SPEAKER presented a memorial of the House of Representatives of the State of Maine, relative to H.P. 1568 requesting the President of the United States and the United States Congress to remove the financial assistance necessary to grow the tobacco crop; to the Committee on Agriculture.

376. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Concurrent Resolution No. 60 memorializing Congress to develop a national energy policy to address the needs of federal, state, and local executive and legislative branch agencies and officials for data and information necessary for them to cope with and plan for the declining production of oil and gas in older fields and in the shallow waters surrounding the United States and the increasing pressures of foreign competition on production and oil and gas refining; to the Committee on Commerce.

377. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Concurrent Resolution No. 123 memorializing the United States Congress and United States Postal Service to take such actions as are necessary to have other options in lieu of relocation considered for the downtown post office in Arcadia, Louisiana; to the Committee on Government Reform and Oversight.

378. Also, a memorial of the House of Representatives of the State of Maine, relative to H.P. 1660 memorializing the important civil rights protections extended by the Fair Housing Amendments Act of 1988 must be preserved; to the Committee on the Judiciary.

379. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 37 memorializing the Congress of the United States to strongly support the House Joint Resolution 78, the Religious Freedom Amendment to the Constitution, and to submit the same to the states for ratification; to the Committee on the Judiciary.

380. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Concurrent Resolution No. 20 memorializing the Congress of the United States to adopt Senate Joint Resolution 40 and give the flag of our nation lawful protection from willful destruction and desecration; to the Committee on the Judiciary.

381. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Concurrent Resolution No. 101 urging the governor of Louisiana and the governors and legislatures of other states to also communicate to the United States Congress that the business meal is a legitimate expense which must be restored to one hundred percent deductibility; to the Committee on Ways and Means.

382. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 13 memorializing the Congress of the United States to enact H.R. 334, the "Fair Indian Gaming Act," into law; jointly to the Committees on Resources and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 619: Mrs. Capps and Mr. Bereuter.

H.R. 1032: Mr. Gilman and Ms. Roybal-Allard.

H.R. 1061: Mr. McCollum and Mr. Tierney.

H.R. 1126: Mr. Davis of Florida, Mr. Riley, Mr. Bass, and Mr. Weygand.

H.R. 1202: Mrs. Capps and Mr. Bereuter.

H.R. 1231: Mrs. Meek of Florida.

H.R. 1321: Mr. Frost.

H.R. 1571: Mr. Waxman.

H.R. 1748: Mrs. Capps.

H.R. 1975: Ms. Lee.

H.R. 1995: Mr. Canady of Florida.

H.R. 2072: Mr. Bonilla, Mr. Moran of Kansas, and Ms. Granger.

H.R. 2348: Mr. Riggs.

H.R. 2349: Mr. Riggs.

H.R. 2524: Ms. Christian-Green and Mr. Coyne.

H.R. 2661: Mr. Hobson and Mr. Lucas of Oklahoma.

H.R. 2695: Mr. Engel.

H.R. 2701: Mr. Hilliard.

H.R. 2721: Mr. Lucas of Oklahoma and Mr. Doolitte.

H.R. 2821: Mr. Lewis of Kentucky, Mr. Porter, and Mr. Deutsch.

H.R. 2908: Mr. Evans and Mr. Hilleary.

H.R. 3248: Mr. Miller of Florida.

H.R. 3259: Mr. Coyne.

H.R. 3410: Mr. Upton.

H.R. 3503: Mr. Deutsch, Mrs. Mink of Hawaii, and Ms. Christian-Green.

H.R. 3553: Mr. Lantos, Mr. Abercrombie, Mr. Fattah, Mr. Nadler, Mr. Ackerman, Mr. Jackson of Illinois, Mr. Evans, Mr. Lipinski, Mr. Costello, Mr. Kennedy of Massachusetts, Mr. Gephardt, Mr. Meehan, Mr. Barrett of Wisconsin, Mr. Lewis of Georgia, Ms. Christian-Green, Mrs. Mink of Hawaii, Mr. Green, Mr. Kennedy of Rhode Island, Mr. Kucinich, Mrs. Tauscher, Mr. Dooley of California, Mr. Farr of California, Ms. Lofgren, Mr. Meeks of New York, Mr. Cummings, Mr. Conyers, Ms. Furse, Ms. Kilpatrick, Mr. Poshard, and Mr. Manton.

H.R. 3622: Mr. Reyes, Mr. LaFalce, Ms. Carson, Mr. Abercrombie, and Ms. Brown of Florida.

H.R. 3690: Mr. Cramer.

H.R. 3702: Mr. Sandlin.

H.R. 3795: Ms. Rivers.

H.R. 3844: Mr. Hastert.

H.R. 3888: Mr. Duncan.

H.R. 3900: Mr. Hilliard.

H.R. 3915: Mr. Sabo and Mr. Payne.

H.R. 3949: Mr. Weldon of Florida, Mr. Sununu, and Mr. Spence.

H.R. 4019: Mr. Sensenbrenner, Mr. Coyne, and Mr. Wolf.

H.R. 4027: Mrs. Mink of Hawaii and Mr. English of Pennsylvania.

H.R. 4028: Mrs. Thurman, Mr. Lampson, Ms. Furse, Mr. Manzullo, Ms. Hooley of Oregon, Mr. Brown of Ohio, Mr. Poshard, and Mr. Jefferson.

H.R. 4031: Mr. Kildee, Mr. Bonior, and Mr. McDermott.

H.R. 4040: Mr. Inglis of South Carolina and Mr. Spratt.

H.R. 4041: Mr. Inglis of South Carolina and Mr. Spratt.

H.R. 4042: Mr. Inglis of South Carolina and Mr. Spratt.

H.R. 4043: Mr. Inglis of South Carolina and Mr. Spratt.

H.R. 4073: Mr. Poshard, Mr. Luther, Ms. Eddie Bernice Johnson of Texas, Ms. Furse, Mr. McHale, Mr. Gutierrez, and Mr. Towns.

H.R. 4086: Mr. Jefferson, Ms. Lofgren, Mr. McGovern, and Ms. Stabenow.

H.R. 4127: Mrs. Morella and Mr. McIntosh.

H.R. 4131: Mr. Moran of Virginia.

H.R. 4136: Mr. Rogers.

H.R. 4151: Mr. Rothman.

H.R. 4196: Mr. Hayworth.

H.R. 4197: Mr. Hill and Mr. Hayworth.

H.R. 4228: Mr. Christensen and Mr. Coburn.

H.R. 4235: Ms. Christian-Green.

H.R. 4248: Mr. English of Pennsylvania, Mr. Luther, and Mr. Calvert.

H.R. 4258: Mr. Linder and Mr. DeLay.

H.R. 4283: Mr. Yates, Mr. Portman, Mr. Markey, Mr. McGovern, Ms. Hooley of Oregon, Mr. Barrett of Wisconsin, Mr. Bonior, and Mr. Campbell.

H.R. 4285: Mr. McCollum.

H.R. 4293: Mr. McNulty and Mr. Faleomavaega.

H.R. 4301: Mrs. Thurman.

H.R. 4309: Mr. Gilman, Mr. Bonior, and Mr. Owens.

H.J. Res. 123: Mr. Roemer.

H. Con. Res. 249: Mr. Owens.

H. Con. Res. 299: Mr. Kingston, Mr. Spence, Mr. Duncan, and Mr. Traficant.

H. Res. 321: Mr. Owens.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 716: Mr. Forbes.

H.R. 3905: Mr. Rahall.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4194

Offered By: Mr. Hilleary

Amendment No. 32: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. ____. The amounts otherwise provided by this Act are revised by reducing the amount made available for "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—Community Planning and Development—housing opportunities for persons with aids", and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—Departmental Administration—grants for construction of state extended care facilities", by $21,000,000.

H.R. 4250

Offered By: Mr. Dingell

Amendment No. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Patients' Bill of Rights Act of 1998".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEALTH INSURANCE BILL OF RIGHTS

Subtitle A—Access to Care

Sec. 101. Access to emergency care.

Sec. 102. Offering of choice of coverage options under group health plans.

Sec. 103. Choice of providers.
Sec. 104. Access to specialty care.
Sec. 105. Continuity of care.
Sec. 106. Coverage for individuals participating in approved clinical trials.
Sec. 107. Access to needed prescription drugs.
Sec. 108. Adequacy of provider network.
Sec. 109. Nondiscrimination in delivery of services.

Subtitle B—Quality Assurance

Sec. 111. Internal quality assurance program.
Sec. 112. Collection of standardized data.
Sec. 113. Process for selection of providers.
Sec. 114. Drug utilization program.
Sec. 115. Standards for utilization review activities.
Sec. 116. Health Care Quality Advisory Board.

Subtitle C—Patient Information

Sec. 121. Patient information.
Sec. 122. Protection of patient confidentiality.
Sec. 123. Health insurance ombudsmen.

Subtitle D—Grievance and Appeals Procedures

Sec. 131. Establishment of grievance process.
Sec. 132. Internal appeals of adverse determinations.
Sec. 133. External appeals of adverse determinations.

Subtitle E—Protecting the Doctor-Patient Relationship

Sec. 141. Prohibition of interference with certain medical communications.
Sec. 142. Prohibition against transfer of indemnification or improper incentive arrangements.
Sec. 143. Additional rules regarding participation of health care professionals.
Sec. 144. Protection for patient advocacy.

Subtitle F—Promoting Good Medical Practice

Sec. 151. Promoting good medical practice.
Sec. 152. Standards relating to benefits for certain breast cancer treatment.
Sec. 153. Standards relating to benefits for reconstructive breast surgery.

Subtitle G—Definitions

Sec. 191. Definitions.
Sec. 192. Preemption; State flexibility; construction.
Sec. 193. Regulations.

TITLE II—APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. ERISA preemption not to apply to certain actions involving health insurance policyholders.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

Sec. 401. Amendments to the Internal Revenue Code of 1986.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.

TITLE VI—REVENUE PROVISIONS

Sec. 601. Estate tax technical correction.
Sec. 602. Treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts.

TITLE I—HEALTH INSURANCE BILL OF RIGHTS

Subtitle A—Access to Care

SEC. 101. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider—

(i) the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider, and

(ii) the plan or issuer pays an amount that is not less than the amount paid to a participating health care provider for the same services; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) if the services are maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection.

SEC. 102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.

(a) REQUIREMENT.—

(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage through more than one health insurance issuer; or

(B) two or more coverage options that differ significantly with respect to the use of participating health care providers or the networks of such providers that are used.

(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term "point-of-service coverage" means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) CONSTRUCTION.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) NO REQUIREMENT FOR GUARANTEED AVAILABILITY.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health

Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

SEC. 103. CHOICE OF PROVIDERS.

(a) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. 104. ACCESS TO SPECIALTY CARE.

(a) OBSTETRICAL AND GYNECOLOGICAL CARE.—

(1) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating physician as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) SPECIALTY CARE.—

(1) SPECIALTY CARE FOR COVERED SERVICES.—

(A) IN GENERAL.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) SPECIALIST DEFINED.—For purposes of this subsection, the term "specialist" means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term "special condition" means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

SEC. 105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided

within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. 106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage.

(b) Treatment of Certain Providers.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. 109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) Application to Delivery of Services.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) Construction.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage.

Subtitle B—Quality Assurance

SEC. 111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) Requirement.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) Program Requirements.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) Administration.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) Written plan.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) Systematic review.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) Quality criteria.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) System for reporting.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) Data analysis.—The program provides, using data that include the data collected under section 112, for an analysis of the plan's or issuer's performance on quality measures.

(7) Drug utilization review.—The program provides for a drug utilization review program in accordance with section 114.

(c) Deeming.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least as stringent as those required for a quality improvement program under subsection (b).

(d) Variation Permitted.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 112. COLLECTION OF STANDARDIZED DATA.

(a) In General.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) Minimum Uniform Data Set.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(c) Availability.—A summary of the data collected under subsection (a) shall be disclosed under section 121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) Variation Permitted.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 113. PROCESS FOR SELECTION OF PROVIDERS.

(a) In General.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) Verification of Background.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) Restriction.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) Nondiscrimination Based on Licensure.—

(1) In general.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) Construction.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) General Nondiscrimination.—

(1) In general.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) Rules.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. 114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section 111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

SEC. 115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) Compliance With Requirements.—

(1) In general.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) Use of outside agents.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the

plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) Utilization review defined.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) Written Policies and Criteria.—

(1) Written policies.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) Use of written criteria.—

(A) In general.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section 111(b)(4)(B).

(B) Continuing use of standards in retrospective review.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) Conduct of Program Activities.—

(1) Administration by health care professionals.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term "health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) Use of qualified, independent personnel.—

(A) In general.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) Peer review of sample of adverse clinical determinations.—Such a program shall provide that clinical peers (as defined in section 191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) Prohibition of contingent compensation arrangements.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) Prohibition of conflicts.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) Accessibility of review.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) Limits on frequency.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) Limitation on information requests.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(6) Review of preliminary utilization review decision.—Under such program a participant, beneficiary, or enrollee or any provider acting on behalf of such an individual with the individual's consent, who is dissatisfied with a preliminary utilization review decision has the opportunity to discuss the decision with, and have such decision reviewed by, the medical director of the plan or issuer involved (or the director's designee) who has the authority to reverse the decision.

(d) Deadline for Determinations.—

(1) Prior authorization services.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) Continued care.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) Previously provided services.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) Reference to special rules for emergency services, maintenance care, and post-stabilization care.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 101, respectively.

(e) Notice of Adverse Determinations.—

(1) In general.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) Specification of any additional information.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. 116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) Establishment.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) Number and Appointment.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) Duties.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section 112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) Report.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL CONSULTATION.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) CONTINUATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

Subtitle C—Patient Information

SEC. 121. PATIENT INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) QUALITY ASSURANCE.—A summary description of the data on quality collected under section 112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section 112(b)(4).

(10) SUMMARY OF PROVIDER FINANCIAL INCENTIVES.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 115, including under any drug formulary program under section 107.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) CONFIDENTIALITY POLICIES AND PROCEDURES.—A description of the policies and procedures established to carry out section 122.

(6) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(7) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) FORM OF DISCLOSURE.—

(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) Updating participating provider information.—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

(e) Construction.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. 122. PROTECTION OF PATIENT CONFIDENTIALITY.

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

SEC. 123. HEALTH INSURANCE OMBUDSMEN.

(a) In General.—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) Federal Role.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) Construction.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

Subtitle D—Grievance and Appeals Procedures

SEC. 131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) Establishment of Grievance System.—

(1) In general.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) Scope.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this title.

(b) Grievance System.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section 111(a) of all grievances and appeals relating to quality of care.

SEC. 132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) Right of Appeal.—

(1) In general.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section 133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section 121(b)(8).

(2) Appealable decision defined.—In this section, the term "appealable decision" means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for, a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section 101.

(C) Failure to provide a choice of provider under section 103.

(D) Failure to provide qualified health care providers under section 103.

(E) Failure to provide access to specialty and other care under section 104.

(F) Failure to provide continuation of care under section 105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section 106.

(H) Failure to provide access to needed drugs under section 107(a)(3) or 107(b).

(I) Discrimination in delivery of services in violation of section 109.

(J) An adverse determination under a utilization review program under section 115.

(K) The imposition of a limitation that is prohibited under section 151.

(b) Internal Appeal Process.—

(1) In general.—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, enrollee, or provider acting on behalf of such an individual with the individual's consent, who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal appeal process. The appeal may be communicated orally.

(2) Conduct of review.—

(A) In general.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) Availability and participation of clinical peers.—The individuals conducting such review shall include one or more clinical peers (as defined in section 191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) Deadline.—

(A) In general.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) Extension.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) Notice.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(c) Expedited Review Process.—

(1) In general.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function.

(2) Process.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the appeal if the request for an expedited appeal is submitted under subparagraph (A) by a physician and the request indicates that the situation described in paragraph (1) exists.

(d) DIRECT USE OF FURTHER APPEALS.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—For purposes of this section, the term "externally appealable decision" means an appealable decision (as defined in section 132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) EXHAUSTION OF INTERNAL APPEALS PROCESS.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section 132, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) RESTRICTIONS ON QUALIFIED EXTERNAL APPEAL ENTITY.—

(i) BY STATE FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) BY FEDERAL GOVERNMENT FOR GROUP HEALTH PLANS.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) LIMITATION ON PLAN OR ISSUER SELECTION.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR PROCESS; DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination.

(B) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer, an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the States has not established an adequate certification and recertification process, by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this title shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

Subtitle E—Protecting the Doctor-Patient Relationship

SEC. 141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group

health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) Nullification.—Any contract provision or agreement described in paragraph (1) shall be null and void.

(b) Rules of Construction.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) Medical Communication Defined.—In this section:

(1) In general.—The term "medical communication" means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) Misrepresentation.—The term "medical communication" does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. 142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) Prohibition of Transfer of Indemnification.—

(1) In general.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) Nullification.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) Prohibition of Improper Physician Incentive Plans.—

(1) In general.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) Application.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. 143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) Procedures.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) Consultation in Medical Policies.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

SEC. 144. PROTECTION FOR PATIENT ADVOCACY.

(a) Protection for Use of Utilization Review and Grievance Process.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) Protection for Quality Advocacy by Health Care Professionals.—

(1) In general.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) Good faith action.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established or the purpose of addressing quality concerns before making the disclosure.

(3) Exception and special rule.—

(A) General exception.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) Notice of internal procedures.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) Internal procedure exception.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) Additional considerations.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) Notice.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle F—Promoting Good Medical Practice

SEC. 151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term "manner or setting" means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital, Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term "medically necessary or appropriate" means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. 152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING MASTECTOMY OR LYMPH NODE DISSECTION.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

(A) except as provided in paragraph (2)—

(i) restrict benefits for any hospital length of stay in connection with a mastectomy for the treatment of breast cancer to less than 48 hours, or

(ii) restrict benefits for any hospital length of stay in connection with a lymph node dissection for the treatment of breast cancer to less than 24 hours, or

(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the woman involved prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by the attending provider in consultation with the woman or in a case involving a partial mastectomy without lymph node dissection.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

SEC. 153. STANDARDS RELATING TO BENEFITS FOR RECONSTRUCTIVE BREAST SURGERY.

(a) REQUIREMENTS FOR RECONSTRUCTIVE BREAST SURGERY.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for breast surgery in connection with a mastectomy shall provide coverage for reconstructive breast surgery resulting from the mastectomy. Such coverage shall include coverage for all stages of reconstructive breast surgery performed on a nondiseased breast to establish symmetry with the diseased when reconstruction on the diseased breast is performed and coverage of prostheses and complications of mastectomy including lymphedema.

(2) RECONSTRUCTIVE BREAST SURGERY DEFINED.—In this section, the term "reconstructive breast surgery" means surgery performed as a result of a mastectomy to reestablish symmetry between two breasts, and includes augmentation mammoplasty, reduction mammoplasty, and mastopexy.

(3) MASTECTOMY DEFINED.—In this section, the term "mastectomy" means the surgical removal of all or part of a breast.

(b) PROHIBITIONS.—

(1) DENIAL OF COVERAGE BASED ON COSMETIC SURGERY.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny coverage described in subsection (a)(1) on the basis that the coverage is for cosmetic surgery.

(2) APPLICATION OF SIMILAR PROHIBITIONS.—Paragraphs (2) through (5) of section 152

shall apply under this section in the same manner as they apply with respect to section 152.

(c) Rules of Construction.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary to undergo reconstructive breast surgery.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for mastectomies.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for reconstructive breast surgery under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion may not be greater than such coinsurance or cost-sharing that is otherwise applicable with respect to benefits for mastectomies.

(e) Level and Type of Reimbursements.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(f) Exception for Health Insurance Coverage in Certain States.—

(1) In general.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage and that requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section.

(2) Construction.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

Subtitle G—Definitions

SEC. 191. DEFINITIONS.

(a) Incorporation of General Definitions.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) Secretary.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this title under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) Additional Definitions.—For purposes of this title:

(1) Applicable authority.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) Clinical peer.—The term "clinical peer" means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) Health care provider.—The term "health care provider" includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) Nonparticipating.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) Participating.—The term "participating" mean, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. 192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) Continued Applicability of State Law With Respect to Health Insurance Issuers.—

(1) In general.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) Continued preemption with respect to group health plans.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) Rules of Construction.—Except as provided in sections 152 and 153, nothing in this title shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) Definitions.—For purposes of this section:

(1) State law.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) State.—The term "State" includes, a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

SEC. 193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

TITLE II—APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) In General.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT PROTECTION STANDARDS.

"(a) In General.—Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 1998, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) Notice.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.".

(b) Conforming Amendment.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting "(other than section 2706)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

"SEC. 2752. PATIENT PROTECTION STANDARDS.

"(a) In General.—Each health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 1998 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) Notice.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.".

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) In General.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 713. PATIENT PROTECTION STANDARDS.

"(a) In General.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) Plan Satisfaction of Certain Requirements.—

"(1) Satisfaction of certain requirements through insurance.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Patients' Bill of Rights Act of 1998 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 101 (relating to access to emergency care).

"(B) Section 102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

"(C) Section 103 (relating to choice of providers).

"(D) Section 104 (relating to access to specialty care).

"(E) Section 105(a)(1) (relating to continuity in case of termination of provider contract) and section 105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(F) Section 106 (relating to coverage for individuals participating in approved clinical trials.)

"(G) Section 107 (relating to access to needed prescription drugs).

"(H) Section 108 (relating to adequacy of provider network).

"(I) Subtitle B (relating to quality assurance).

"(J) Section 143 (relating to additional rules regarding participation of health care professionals).

"(K) Section 152 (relating to standards relating to benefits for certain breast cancer treatment).

"(L) Section 153 (relating to standards relating to benefits for reconstructive breast surgery).

"(2) Information.—With respect to information required to be provided or made available under section 121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) Grievance and internal appeals.—With respect to the grievance system and internal appeals process required to be established under sections 131 and 132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

"(4) External appeals.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) Application to prohibitions.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 109 (relating to nondiscrimination in delivery of services).

"(B) Section 141 (relating to prohibition of interference with certain medical communications).

"(C) Section 142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

"(D) Section 144 (relating to prohibition on retaliation).

"(E) Section 151 (relating to promoting good medical practice).

"(6) Construction.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(7) Application to certain prohibitions against retaliation.—With respect to compliance with the requirements of section 144(b)(1) of the Patients' Bill of Rights Act of 1998, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

"(c) Enforcement of Certain Requirements.—

"(1) Complaints.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 144(b)(1) of the Patients' Bill of Rights Act of 1998 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

"(2) Investigation.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

"(d) Conforming Regulations.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.".

(b) Satisfaction of ERISA Claims Procedure Requirement.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "Sec. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle D (and section 115) of title I of the Patients' Bill of Rights Act of 1998 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) Conforming Amendments.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 713".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Patient protection standards.".

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 144(b))" after "part 7".

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) In General.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

"(e) Preemption Not To Apply to Certain Actions Arising Out of Provision of Health Benefits.—

"(1) In general.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

"(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

"(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(2) Exception for employers and other plan sponsors.—

"(A) In general.—Subject to subparagraph (B), paragraph (1) does not authorize—

"(i) any cause of action against an employer or other plan sponsor maintaining the group health plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

"(B) Special rule.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

"(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

"(ii) the exercise by such employer or other plan sponsor (or employee) of such authority resulted in personal injury or wrongful death.

"(3) Construction.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient freedom of choice."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 1999 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking "this subtitle (and the amendments made by this subtitle and section 401)" and inserting "the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, chapter 100 of the Internal Revenue Code of 1986, and title I of the Patients' Bill of Rights Act of 1998".

TITLE VI—REVENUE PROVISIONS

SEC. 601. ESTATE TAX TECHNICAL CORRECTION.

(a) IN GENERAL.—Paragraph (2) of section 2001(c) of the Internal Revenue Code of 1986 is amended by striking "$10,000,000" and all that follows and inserting "$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) (determined without regard to section 2057(a)(3)) and $359,200."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Taxpayer Relief Act of 1997.

SEC. 602. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

"(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.".

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking "subsection (a)" and inserting "this section".

(2) Paragraph (1) of section 334(b) of such Code is amended by striking "section 332(a)" and inserting "section 332".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998.

H.R. 4250

OFFERED BY: MR. EVANS

AMENDMENT NO. 3: At the end of the bill add the following new title:

TITLE VII—VETERANS' ACCESS TO EMERGENCY MEDICAL CARE

SEC. 7001. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.

(a) CONTRACT CARE.—Section 1703(a)(3) of title 38, United States Code, is amended by inserting "who is enrolled under section 1705 of this title or who is" after "health of a veteran".

(b) DEFINITION OF MEDICAL SERVICES.—Section 1701(6) of such title is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) emergency care, or reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title.".

(c) REIMBURSEMENT OF EXPENSES FOR EMERGENCY CARE.—Section 1728(a)(2) of such title is amended—

(1) by striking out "or" before "(D)"; and

(2) by inserting before the semicolon at the end the following: ", or (E) for any medical emergency which poses a serious threat to the life or health of a veteran enrolled under section 1705 of this title".

SEC. 7002. EFFECTIVE DATE.

The amendments made by section 7001 shall apply with respect to care or services provided on or after the date of the enactment of this Act.

H.R. 4276

OFFERED BY: MR. BASS

AMENDMENT NO. 10: Page 25, line 24, after the dollar amount, insert the following: "(increased by $19,500,000)".

Page 26, line 2, after the dollar amount, insert the following: "(increased by $4,500,000)".

Page 51, line 9, after the dollar amount, insert the following: "(decreased by $43,000,000)".

Page 51, line 10, after the dollar amount, insert the following: "(decreased by $43,000,000)".

H.R. 4276

OFFERED BY: MR. HUTCHINSON

AMENDMENT NO. 11: Strike title VIII.

H.R. 4276

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 12: Page 11, line 14, insert "(increased by $2,200,000)" after "$6,699,000".

Page 26, line 17, insert "(decreased by $2,200,000)" after "$2,371,400,000".

Page 28, line 2, insert "(decreased by $2,200,000)" after "$420,000,000".

H.R. 4276

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 13: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds made available in this Act may be used for the filing of a complaint, or any motion seeking declaratory or injunctive relief pursuant thereto, that challenges any State, local, or tribal law on the grounds that the law is inconsistent with an international commercial agreement, including any trade or investment agreement.

H.R. 4276

OFFERED BY: MRS. MINK OF HAWAII

AMENDMENT NO. 14: Page 12, line 9, insert "(reduced by $2,260,000)" after the 1st dollar figure.

Page 21, line 18 insert "(reduced by $1,260,000)" after the 1st dollar figure.

Page 94, line 16, insert "(increased by $2,260,000)" after the 1st dollar figure.

H.R. 4276

OFFERED BY: MR. ROYCE

AMENDMENT NO. 15: Page 51, line 9, insert "(reduced by $180,200,000)" after "$180,200,000".

Page 51, line 10, insert "(reduced by $43,000,000)" after "$43,000,000".

Page 51, line 12, insert "(reduced by $500,000)" after "$500,000".

H.R. 4276

OFFERED BY: MR. SANDERS

AMENDMENT NO. 16: Page 102, line 3 insert "(increased by $4,000,000)" after the dollar amount.

Page 100, line 13 insert "(decreased by $4,000,000)" after the dollar amount.

H.R. 4276

OFFERED BY: MR. SANDERS

AMENDMENT NO. 17: Page 102, line 3 insert "(increased by $4,000,000)" after the dollar amount.

Page 40, line 8 insert "(decreased by $4,000,000)" after the dollar amount.

H.R. 4276

OFFERED BY: MR. STEARNS

AMENDMENT NO. 18: Page 78, line 19, after "$475,000,000," insert "(decreased by $415,000,000)".

EXTENSIONS OF REMARKS

INTRODUCTION OF NUCLEAR WEAPONS CUSTODIANSHIP RESOLUTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. MARKEY. Mr. Speaker, today I am introducing a resolution to express the Sense of Congress regarding the proper direction of U.S. efforts to maintain the safety and reliability of the nuclear weapons stockpile in the post-Cold War era.

Currently, the Department of Energy's Stockpile Stewardship squanders billions of dollars on facilities to research and design new warheads, and continue nuclear weapons development as if the Cold War had never ended. In doing so, it bolsters nuclear weapons aspirations of other nations who follow our lead, and puts our real security at risk. It is time to stop this wasteful approach and develop a custodianship program more adequately suited to modern needs. The resolution I am introducing today urges DOE to crease its ill-advised stockpile stewardship program and develop a program that is less costly, less provocative, and less likely to spend billions on facilities with little relevance to the safety of the arsenal.

Many experts have suggested that there are alternatives to the Department of Energy's current stockpile stewardship program that can maintain the U.S. nuclear arsenal at a significantly lower cost. None of these alternatives have been seriously considered by DOE. In reality, many of the projects funded under this program are nothing more than a jobs program for nuclear scientists, but a jobs program with serious non-proliferation consequences. Other nations already look to our massive investment into nuclear weapons research and use it to justify their expanding nuclear programs.

To promote the kind of curatorship of the arsenal that is really needed with the end of the Cold War, I am today introducing a resolution which expresses support for a program that protects our national security without being a guise for new weapons programs that will further undermine the already unsteady international nuclear non-proliferation regime. This resolution expresses the Sense of Congress that the nuclear weapons stockpile can be maintained with a program that is far smaller, less expensive, and which does not require the facilities or experiments that are likely to be used for warhead design or development. In addition, the resolution urges the Secretary of Energy to direct the Department of Energy program for custodianship of the nuclear weapons arsenal towards less costly and less provocative methods and to cease the current stockpile stewardship plans of the Departments.

It is my hope that this resolution will serve as a useful vehicle for educating the Congress and the public about the nature of the current stockpile stewardship program and promoting a more informed debate and consideration of less destabilizing and costly alternatives. I urge my colleagues to join in cosponsoring this important resolution.

HAPPY 100TH ANNIVERSARY, ST. VALENTINE'S PARISH—BEAVER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. BARCIA. Mr. Speaker, the stability of one's church is a source of strength for many people. The members of St. Valentine's Parish—Beaver, located in Beaver Township, Michigan, this weekend are celebrating their centennial of being a positive influence in the community.

Prior to 1888, Catholic pioneers who came to Kawkawlin, Michigan, had to travel ten to fifteen miles to St. Joseph Church in Auburn. Father Szulak, a Jesuit missionary from Detroit, began offering monthly services in 1888 at the home of John Nowak. On St. Valentine's Day that year, Bartholomew Zboralski donated five acres of land which were used for a school where church services were also held. Students were taught in both English and Polish. The first teacher at the school was Miss Cecilia Warczynski. Bishop Henry Richter of Detroit then asked Rev. Joseph Lewandowski, the administrator of St. Stanislaus Parish, and his assistant, Father Bieniawski, to attend to the needs of the people of this area. This action resulted in the formal establishment of St. Valentine's Parish—Beaver, 100 years ago.

Since the first official act at St. Valentine's—a baptism on February 14, 1898, the first marriage of John Rozek and Mary Grzegorczyk on September 27, 1898, and the first funeral of Victor Milkowski with burial in the church cemetery in the spring of 1898, this institution has been of great importance to the community.

A new church was built in 1909 during the pastorship of Father John Kaplanowski. The first baptism at the new facility took place on February 4. Lucy Tomczak was baptized just three days after her birth. The first funeral was for Anna Hyrek, who died on August 24 at the age of three. The first wedding was November 22, joining Anthony Solinski and Helen Kukla.

In 1947, Father Joseph Kaminski began the efforts to construct a new school. This modern four room school was completed in the fall of 1948, and is celebrating its own fiftieth anniversary this year as well. Sister Mary Angelica served as the first Principal. A new convent was built in 1959, and with its completion, more room was also available for the expanding needs of the school.

The church has had its own tragic events. A fire in the early 1920's destroyed the altar, which was replaced at a cost of $600. And then on February 22, 1991, the church was hit by a truck, and suffered extensive damage. Repairs this time cost $571,411. Religious celebrations again returned to the parish center until a replacement facility was completed in 1993. In an ironic fashion, while Father Kaminski had celebrated the first mass in the church in 1908, the last mass celebrated before the accident was for the repose of his soul.

Father Richard Ratajczak, the current pastor, is originally from St. Valentine's Parish, having had the good fortune to live through much of its wonderful history. Father Ratajczak also celebrated his 40th anniversary as a priest last month.

Mr. Speaker, St. Valentine's Parish—Beaver has been a wonderful influence for the past 100 years. I urge you and all of our colleagues to join me in wishing the parish many more blessed years to come.

CONGRATULATIONS TO CENTRAL UNION ELEMENTARY SCHOOL

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Central Union Elementary School. Central Elementary has been honored as a California Distinguished School. The faculty and students of Central Union Elementary exemplify excellence with exceptional student achievement.

Central Union is located in the outskirts of Lemoore, in Kings County. Central Union's heterogeneous groupings, extensive use of active learning projects, and popular extra-curricular programs take full advantage of richly diverse population and provide the students with opportunities to learn and play with children from different cultural, ethnic, linguistic, religious, and socio-economic backgrounds.

Central Union Elementary has over 308 diverse students in grades K–8. The student body is composed of 29% Native American, 4% African American, 28% Hispanic, and 39% White students. Central Union Elementary's motto: "Together, We Achieve" shows a tradition of support for, and pride in, their excellent educational program. Evidence of Central Union's history of quality education is seen in the large participation by parents in school events, traditional celebrations, and programs. 90% of the parents attended their recent parent-teacher conferences; 85% of the parents attended the programs and visited classrooms during Open House and Back to School Night last year.

Central Union Elementary places emphasis on student results. The school's educational strategies and practices are consistent with this goal. Their content and student performance standards aligned with and are as rigorous as the "Draft Interim Content and Performance Standards." Central Union Elementary has a safe, clean, friendly, orderly, and supportive environment for children. Parents are involved in their children's education and collaborate with staff members to ensure achievement. Parent volunteer records document that over 3,337 hours were volunteered to assist students, programs and special events last year. Volunteer activities included collaborating with staff members in planning and evaluating programs in a shared decision making process, serving as chairs or members of committees, such as safe schools team, SSC, advisories, and supervising field trips, serving at the snack bar, correcting reports, and publishing newsletters.

Mr. Speaker, it is with great honor that I congratulate Central Union Elementary, a California Distinguished School. The students and faculty of this school exemplify a care for the community and a dedication to hard work. I ask my colleagues to join me in wishing Central Union Elementary many more years of success.

KEN STARR SHOULD REPORT: CASE CLOSED

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. LaFALCE. Mr. Speaker, I commend to the attention of our colleagues the following editorial on Independent Counsel Kenneth Starr's investigation which appeared this month in the three "Greater Niagara Newspapers" published in my district in Western New York: The Niagara Gazette (Niagara Falls); The Union Sun & Journal (Lockport); and The Journal-Register (Medina). Among other things, the editorial faults Kenneth Starr for his failure to submit an interim report to Congress, as required by law. If, after three years and $40 million, Mr. Starr has been unable to find any substantial and credible information about possible crimes by the president, the editorial concludes, "Starr's report should start and end with the phrase, 'Case closed.'"

The editorial follows:

Write a Closing Chapter

What has Special Prosecutor Kenneth Starr been up to lately in his $40 million quest to nail President Clinton on charges of being a Democrat? You won't find out from him. The special prosecutor won't deliver an interim report on his publicly funded wild goose chase.

Spokesman Charles Bakaly said Starr will report to Congress only if and when he has "substantial and credible information about possible crimes by the president." It may be a cold day in hell before that happens. Any claim Starr had on credibility expired about three years and $30 million ago.

The obligation to file such a report is written right into the independent counsel law under which Starr was appointed. But there's no time element in the requirement. Oops, it looks as if Starr is riding that loophole into the sunset. His method of choice for reporting apparently is well-orchestrated leaks to the media.

Starr began his quest for a crime to pin on Clinton by investigating "Whitewater," a series of Arkansas land deals the president and Mrs. Clinton were involved in. He found no evidence of criminal wrongdoing by the Clintons.

Attorney General Janet Reno helped Starr turn his attention and the taxpayers' money to an inquiry into the president's relationship with former White House intern Monica Lewinsky. Our question is, does the public need or want to know anything about the president's private affairs or lack thereof? We say no. It's Hillary Rodham Clinton's call on whether to investigate such matters, and questions about marital fidelity are best handled by private, not public investigators.

It's long past time for the American public to refuse to pay for Starr's attack dogs to nip at Clinton's heels. The special prosecutor role has become an excuse to find some dirt on a president the opposition political party wishes hadn't been elected. Get over it.

If there's no substantial and credible information by now, Starr's report should start and end with the phrase, "Case closed."

IN RECOGNITION OF PAUL E. GOULDING

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, in last month's Financial Executive magazine a featured interview with Paul E. Goulding, a management consultant to businesses large and small, focused on procurement of Federal contracts. Mr. Goulding, who is a constituent of mine and an expert in procurement issues, has had broad experience in the field of government contracting in a long distinguished career that includes senior executive positions in Federal service as well as the private sector.

As an Administrative Assistant to Senator Claiborne Pell, he worked closely with Rhode Island businesses, advising and assisting them in obtaining Federal contracts. While Deputy and Acting Administrator of the General Services Administration in 1979 and 1980, he developed an 8 point program to cut operating costs at GSA. And as a Professional Staff member of the Senate Committee on Rules and Administration, he conducted the first comprehensive study of the Senate's major operations, including how to improve its procurement procedures.

Mr. Goulding has, in fact, played active roles as advocate, administrator, and advisor in the government procurement process. First, as a congressional staff member in assisting the business community in our state of Rhode Island. Secondly, as head of the largest nondefense agency buying goods and services for the government. Lastly, as a consultant to major international corporations as well as to small businesses.

Mr. Speaker, I respectfully submit this interview to be included in the RECORD as part of my remarks. Mr. Goulding has offered some worthwhile and common sense advice for companies who are seeking to do business with the Federal government:

[From FEI News, May/June 1998]

Q&A: Making Uncle Sam Your Customer

Financial Executive recently interviewed Paul E. Goulding, a Washington, D.C.-based consultant and expert in the arcane art of government procurement.

Q: Your firm has helped clients obtain more than $30 billion in government contracts during the last 10 years, companies like AT&T and Hewlett Packard. Do large companies have a big advantage when it comes to selling to Uncle Sam?

PEG: While you might assume they would, my experience indicates that isn't the case. For instance, some big companies get involved in bidding on major contracts and find they are lost because their marketing people, who want to make the sale, are saying one thing while their government relations people have an entirely different view of what should be submitted in the bid.

A dilemma for top management?

PEG: Exactly. Some small niche companies, on the other hand, know exactly what their market is and how best to sell to it. Each case is different and there is no cookie-cutter formula. I keep an open mind and try to evaluate each situation as I see it.

Although small and medium-sized firms frequently need more help steering through the process, they are often more successful than larger companies because they tend to be more flexible and less bureaucratic when faced with complex challenges.

Why should firms of any size bother to do business with the U.S. government given all the red tape involved?

PEG: When I hear that question, I tell the story of the businessman who buys a hardware store after moving to a small town. He asks his new employees who the biggest hardware customer in town is. He is surprised to learn that the customer isn't doing business with his store. When the owner asks why not, his employees say the customer is difficult to do business with and requires that a lot of forms be filled out. I point out that same customer is probably very wealthy, doesn't bounce his checks and usually does repeat business when satisfied. That's the type of customer the federal government can be.

Just how big a customer is the U.S. government?

PEG: The U.S. government buys goods and services valued at over $200 billion. That makes Uncle Sam the biggest customer in the world. And it's not just the dollar figure that's large, but the number of individual acquisitions. According to the GSA Procurement Data Center, over 20 million individual contract actions are processed every year.

Now that we're in a global economy and even small businesses are entering the overseas export market, and given all the problems in dealing with tariffs, quotas, foreign currency exchange, international letters of credit and shipping, it doesn't make sense for U.S. companies to fail to maximize their U.S. government business, which is right on their doorstep.

What would you advise firms that want to do business with the government?

PEG: It will require an investment of time, money and resources. Starting a relationship with the government is very similar to a company entering a new market overseas. The company has to make a commitment to the market. Sometimes companies will ask me why they can't just go after one contract and see how they do. Well, that system is just about as effective as the guy who goes to the race track and bets on one race to see if he's going to win that day.

Like any start-up marketing effort, the company has to be willing to allocate manpower and resources to help develop their government business.

What would you advise a company that already does some business with the government?

PEG: I would first ask what percentage of the domestic U.S. market the firm services. If you answer 10 percent, then I would ask what percentage of the government market for your product you control. If the answer is 5 percent, then at the very least you need to double your government sales.

What else do you tell a new client looking to grab government business?

PEG: I explain how often doing business with the government is the reverse of doing business in the private sector. Before you can make a government sale, in many instances you must do considerable research to find out how the government buys your product or service, who buys it, where they buy it and, often overlooked, when they buy it. Also, the government sometimes changes the rules or methods by which it procures goods and services.

If you take the time and trouble to learn the system, you can figure it out.

Why do companies turn to consultants like yourself to help them?

PEG: The principal reason is that it's more efficient. It is less time consuming and, in the final analysis, less expensive to involve qualified people on your team.

Is doing business in Washington different from doing business in, say, Cleveland?

PEG: It certainly is. It's important for corporate leaders to make a commitment of time and effort to learn the business practices here, which are often different from those in the private sector. At the same time, a similar commitment has to be made to develop long-term political and social relationships with the leading players on Capitol Hill and in the bureaucracy. Success in Washington absolutely requires both.

THANK YOU TO PATTON LANE FOR SERVICE ON MY STAFF

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. GORDON. Mr. Speaker, at the end of this month, Mr. Joe Patton Lane III will leave my office to enter the School of Law at Roger Williams University in Rhode Island.

Patton has been a loyal and effective member of my congressional staff for the past three years. However, I have known Patton for over a decade. As a college student, he assisted with my re-election campaigns. My then-campaign manager made the statement, "Come election time, I wish I had fifteen Patton Lanes working for me!"

In a congressional personal staff office, there are thousands of demands made on hundreds of issues. Success in this environment requires attention to detail and conscientiousness. These are Patton's strengths. He has been a hard-working, dedicated employee.

Patton is part of a rare breed, one of which should be required in each congressional office. A native of Carthage, Tennessee, he knows every town, every zip code, and most of the elected officials in Middle Tennessee. He is well-regarded by his co-workers and is recognized as someone who willingly undertakes any assignment without complaint.

Patton is from a long line of attorneys recognized in the state of Tennessee for their competence and ability. With his commitment to public service and his abilities, I am confident he will do well in his new endeavor.

It has been a pleasure to have Patton serve in my office and I join my staff in wishing him the best of fortune in his new undertaking.

TRIBUTE TO THE LATE CARL HENRY SMITH, SR.

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. BARCIA. Mr. Speaker, our nation's history is filled with stories of individuals who loved their nation, worked for their communities, led lives of professional accomplishment, and did all of this while remembering the importance of their families, offering love, support and a strong example for their children and grandchildren. I am proud to be able to relay another impressive life story to our colleagues: that of Carl Henry Smith, Sr., of Bay City, Michigan, who would have celebrated his 100th birthday on July 9.

Carl Henry Smith, Sr., was born in to Peter and Molly Smith on July 9, 1898. He was their fifth child. The family worked hard on their farm, and that spirit of hard work stayed with Carl throughout his life. He graduated at the top of his class at Western High School in 1915, and then enlisted in the Michigan National Guard. His military service included time with the Second Michigan Ambulance Company during difficulties with Mexico at El Paso, Texas, and then saw his unit federalized into the United States Army in 1917. He served in France during World War I, and lost his left arm on August 29, 1918, at Soissions Juvigney. For his courage and bravery in caring for the wounded even though seriously injured himself, he was awarded the French Croix de Guerre with Silver Star and the Purple Heart. He met his eventual first wife, Jane, who was a Red Cross worker at Walter Reed Hospital here in Washington. She passed away in 1945.

After the military, he attended the University of Michigan, earning his law degree and being elected to the Board of Editorial Assistance for the Law Review. He was a member of the last graduating class of Lane Hall, Michigan Law School, before going on to service as the Bay City assistant prosecuting attorney, the Bay City prosecuting attorney, Probate Judge of Bay County, and Circuit Judge of Bay County. He continued his education, earning his doctorate of laws in 1950. He also served as the 15th President of the State Bar of Michigan—a post later earned by his son Carl H. Smith, Jr.

Carl Henry Smith supported his fellow veterans, being the only State Commander of the American Legion elected without opposition, unanimously, on the first ballot. He was a member of the First Presbyterian Church, the Elks, the Red Cross, and a Trustee of Alma College. He was also a prominent member of the Bay County Republican Party.

He remarried in 1957, but then himself died from a stroke in 1961. His wife Caryl Jane Smith currently lives in Rochester Hills, Michigan. His sons Richard and Carl, Jr., and his daughter Elisabeth and their families live in Bay City. His grandson, Dr. Peter D. Smith, is the individual who brought Carl Henry Smith to my attention, telling me that his grandfather was his "best friend" and taught him the "spirit of family."

Mr. Speaker, when we want to know of the importance of family, let us think of individuals like Carl Henry Smith, Sr., who earned so much love that his family wants to celebrate what would have been his centennial by reminding us of what this great man did. If only there were more people like him.

CONGRATULATIONS TO GETTYSBURG ELEMENTARY SCHOOL

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thrusday, July 23, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Clovis Unified's Gettysburg Elementary School for being nominated as a "California Distinguished School" and for achieving the "Clovis Distinguished School Award." Gettysburg Elementary has educated students with great success over the years and has served as a tremendous catalyst to the community. The faculty and students of Gettysburg Elementary exemplify excellence in student achievement and are very deserving of this recognition.

Gettysburg Elementary School is located 10 miles east of Fresno in the heart of the San Joaquin Valley. The school has a student population of 691 students in Kindergarten through grade Six. The school has students who range from the middle to lower-middle class socio-economically, with actively involved parents that provide the critical link between the school and home.

The foundation of Gettysburg Elementary School lies within the concept of being a community-centered school. Gettysburg enjoys an unusually high degree of volunteering and support from community based businesses. In the 1997–98 school year approximately 275 parents volunteered their time as classroom helpers and in the library. In a combined effort with teachers, students, parents and the community Gettysburg was recognized as a National Exemplary Safe and Drug Free School.

Gettysburg prepares all students for the challenges of the 21st century by developing confidence and skills in critical thinking through participation in a wide range of goal oriented experiences. Gettysburg School's Administration concept of education is to nurture the whole child and is emphasized through focusing on development of each child's mind, body, and spirit. Each student participates with both parents and teachers in the "Goal Sharing Programs," where they set both academic and behavioral goals. As a result, Gettysburg Elementary School was elected as a model program by Phi Delta Kappa and received the "Award for Value and Character Education."

In the 1997–98 school year, the students achieved superior academic scores in reading, language, and mathematics on the California Assessment Tests. Gettysburg maintained an average daily attendance of 99.78% last school year.

Mr. Speaker, I rise today to congratulate Clovis Unified School District's Gettysburg Elementary School for being nominated as a "California Distinguished School." I applaud both the school and the community for their commitment to their children's lives. I ask my colleagues to join me in wishing Gettysburg Elementary School many years of success.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4193) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes:

Mr. BLUMENAUER. Mr. Chairman, last night the House voted on Mr. PARKER of Mississippi's amendment No. 18 to strike certain provisions of the Interior Appropriations bill, H.R. 4193. These provisions direct the Indian Health Service to allocate contract support costs funding on a pro rata basis to all tribal contractors. I voted against that amendment in error. Removal of this provision is vitally important to the Tribes in my district and throughout the Northwest which are working to identify thoughtful, participatory solutions to an inadequate system of health care provision. I wish the record to reflect my support for the Parker amendment and the tribal self-determination it encourages.

ZLAN, LTD. DEVELOPS MAJOR ADVANCEMENT IN ELECTRICAL FIRE SAFETY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. HALL of Texas. Mr. Speaker, one of the new high-tech firms in my district, Zlan, Ltd. of Wylie, TX, has come up with an affordable solution to a major cause of the loss of life and property in this country: electrical fires. Each year thousands of people die or are seriously injured and billions of dollars of property is destroyed because of electrical fires. I am told that Zlan's technology, properly installed in the home, can improve electrical fire safety by as much as one-hundred fold, dramatically reducing electrical fires.

This is not a new problem. As early as 1978, the House Interstate and Foreign Commerce Committee's Oversight and Investigations Subcommittee found that ". . . often the dangerous malfunctions of these systems, which may lead to fire, takes place behind the walls of one's home over a period of time and finally fire erupts without warning. . . . (I)t is essential that industry and government work together to find a solution to this problem."

In 1994 the Consumer Product Safety Commission (CPSC) asked Underwriters Laboratories (UL) to identify new technology products for reducing residential electrical fires. George A. Spencer, who is Zlan's founder and CEO, invented an electronic circuit breaker and has spent many years developing and improving this technology. Zlan, Ltd. began demonstrating prototypes of its Digitally Enhanced Circuit Breaker®, to the CPSC and UL. CPSC has indicated substantial interest in this technology.

Last spring Spencer and the Zlan team presented to the CPSC staff an update of their electronic circuit breaker technology designed to detect arcing faults. Key features include:

Microprocessor controller for state of the art technology.

Arc detection to analyze low and high current problems in wiring.

False trip protection for routine power surges, i.e., motor start-ups, etc.

Auto self-test plus manual test capability.

LED status light for performance assurance and fault identification.

Serial Port options for remote monitoring, test and remote trip capability.

Zlan's Load Center Monitor works with the Digitally Enhanced Circuit Breakers to provide audible and visual indicators of faults, store performance data, identify causes of electrical malfunctions as well as communication capabilities to monitor electrical systems.

Zlan has entered into an agreement with STMicroelectronics, Inc. (ST) to manufacture a custom chip-set using Zlan's Arc Fault Interrupter (AFCI) technology that will provide a low cost solution to the circuit breakers manufacturers. Most homes can be upgraded to the new AFCI circuit breaker at a cost estimated to be as low as $800.

This major advancement in electrical fire safety is expected to be on the market in time to meet new electrical building codes now being drafted.

Innovative use of new technology to improve flawed and dated technology has always been the hallmark of American ingenuity. I am extraordinarily pleased that the creative minds at Zlan have chosen to locate and build their business in my district to advance a promising technology that can save lives and give families the opportunity to make their homes safer places to live.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

SPEECH OF

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1998

Mr. BALLENGER. Mr. Speaker, once again, legislation to overturn our current trade relations with the People's Republic of China has reached the House floor. This annual exercise divides our nation over our relationship with the most populous nation in the world. The only thing which has changed is the terminology. We now refer to Most Favored Nation (MFN) trading status as simply Normal Trade Relations (NTR), a more accurate description of this annual trade vote.

I will reluctantly vote against the resolution, Disapproving the Extension of Nondiscriminatory Treatment to the Products of the People's Republic of China (H.J. Res. 121), before us toady. I do recognize China's deplorable record on human rights and our moral obligation to speak out for the weak and voiceless in China. However, in reaching my decision, I again asked myself these questions, "In the long run, will revoking China's trade status be good or harmful to the Chinese and the American people, and will it improve human rights in China?" I must conclude that revoking China's trade status would be counterproductive to these objectives.

As I have stated previously, the U.S. can do more to advance the cause of human rights and foster religious, economic and political freedom if we continue to engage the Chinese in economic cooperation. Social freedom—like freedom of religion—are a direct result of economic liberalization. If we remove all of China's trade privileges, we are not only isolating that country, but we are losing any opportunity to improve the human condition there.

Terminating normal trade relations with China will hurt the American worker and consumer as well. From 1991 to 1997, U.S. exports to China rose 71% from $7.5 billion to $12.8 billion. In addition, exports of U.S. goods and services to China and Hong Kong support an estimated 450,000 American jobs. From an agricultural perspective, the American Farm Bureau has called China "the most important growth market for U.S. agriculture in the twenty-first century." The United States Department of Agriculture estimates that China could account for one-third of future growth in u.S. farm exports in the years ahead.

Despite my position on NTR with China, I remain concerned about allegations that the Clinton White House violated existing campaign finance laws by accepting illegal foreign contributions from China. In return, the Clinton administration sacrificed American national security by allowing the Loral Space and Communications Ltd. and another U.S. company to provide China's space industry with specific technological expertise, strengthening its nuclear and missile capabilities. I believe the Congress has an obligation to look into these critical charges, and I support all efforts to continue House and Senate investigations.

In conclusion, if we choose to cut off our ties with China, we end up harming those who need our help the most—the Chinese people. Just as important, we hurt American workers, farmers and businesses which would export to china, now and in the future. I urge my colleagues to vote down H.J. Res. 121.

IN HONOR OF PUERTO RICO ON ITS CONSTITUTION DAY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor the citizens of Puerto Rico on Constitution Day, July 24, 1998. The people of Puerto Rico established the Constitution of the Commonwealth of Puerto Rico for the very same reasons our forefathers wrote the Constitution of the United States of America, to establish themselves as a democracy.

The Puerto Rican Constitution ensures basic welfare and human rights for the people, ensconces the idea of a government which reflects the will of the people, and pays tribute and loyalty to the Constitution of the United States of America.

The Puerto Rican culture is a distinctly unique culture. By pledging allegiance to the Constitution of the United States of America, the people of Puerto Rico celebrate shared beliefs and the co-existence of both cultures. By ratifying their own Constitution, the people of Puerto Rico retain and honor their original heritage while expressing the desire to pursue democracy and happiness for themselves.

Mr. Speaker, I would like to recognize the following individuals for their contributions to the Greater Cleveland community. Dr. Milagros Acevedo Cruz, Michelle Melendez, Mario Ortiz, David Plata, Raquel Santiago, Lydia Esparra, Orlando Salinas, Ana Garcia, Yolanda Perdomo, and Jundy Caraballo. I hope that my fellow colleagues will join me in honoring these individuals and praising the Puerto Rican people as they celebrate Constitution Day.

IN RECOGNITION OF KATHLEEN S. BLACKMAR

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to bring to your attention the recognition of a Warren post office employee who was recently recognized as the Federal Employee of the Year in Rhode Island. Kathleen S. Blackmar was honored at the 27th annual awards ceremony held at the BankBoston Operations Center in East Providence by the Federal Executive Council of Rhode Island. She was nominated for the award by Warren postmaster Erick B. Lawson.

Kathy has become known as a very valuable asset to the Warren post office. In her job as custodian, she is responsible for making building repairs, performing janitorial duties, and assisting customers with lost or broken post office box keys. Her fellow workers share the belief that she has a work ethic that cannot be identified by level of job title. She has educated herself about boiler repair and diagnosis and she makes minor repairs to the office's fleet of vehicles. On top of this, Ms. Blackmar maintains and landscapes the grounds and clears snow. She readily has given her time to serve as coordinator for the Combined Federal Campaign, the annual drive for the contribution to community organizations. She has also coordinated the post office's Toys for Tots campaign and the annual "Christmas Wish List."

I am proud to recognize Kathleen Blackmar as an outstanding individual and to commend her for her contribution to public service.

30TH ANNIVERSARY OF LOCKPORT HIGH SCHOOL 100-MILE RELAY RECORD

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. LAFALCE. Mr. Speaker, I would like to call to the attention of our colleagues the 30th anniversary of an extraordinary high school track and field record that still stands today. In June, 1968, eight members of Lockport Senior High School in Lockport, New York ran the 100-mile relay in a time of seven hours, 27 minutes and 53.6 seconds. This mark beat the previous New York State record by a full nine minutes. It is also an astonishing 26 minutes 36.5 seconds faster than the existing world record as listed in the Guinness Book of Records. And that so-called world record involved 100 runners—not eight.

Members of the record-setting relay team, led by Coach John Chew, were Jim Rycyna, Charlie Quagliano, Bob Brown, Brian Brooks, Jeff Helshoff, Frank Pfeil, George Bickford, and Jeff Watkins. Each of these student-athletes ran 12½ miles in spurts of 110 yards, 220 yards, and 440 yards. The overall average time was less than four minutes and 30 seconds per mile.

Mr. Speaker, the State of New York recently passed a resolution congratulating the 1968 Lockport High School relay team, and the Mayor of Lockport issued a proclamation commending their achievement. I too am pleased to recognize these eight men on the occasion of the 30th anniversary of their 100-mile relay record, and ask all Members to join me in congratulating them as they reunite this month to celebrate their tremendous athletic performance.

OUR WAR ON DRUGS BEST WEAPON: GOOD PERSONNEL—HELP, DON'T HINDER, OUR CUSTOMS EMPLOYEES

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. FILNER. Mr. Speaker, this morning, I had the honor and privilege to speak to the National Treasury Employees Union and other national law enforcement groups. I outlined the successes that Customs employees have had in our War on Drugs and spoke of my opposition to H.R. 3809, which would undermine that success.

In my own district, Robert Hood, a Customs inspector, is considered one of the "Best of the West" in Operation Brass Ring, a concerted effort to increase drug seizures among all agencies policing the border. From February through June of this year, Robert lead the San Diego region in drug interdiction, seizing more than 8,745 pounds of marijuana and 11 pounds of methamphetamine. Robert Hood is joined by other heroes—in the San Diego Customs area, the valiant men and women policing the border have been responsible for nearly tripling the amount of cocaine and methamphetamine seized, while the number of seizures of marijuana have nearly doubled.

In just the past six months, Customs personnel have made an incredible impact on the amount of drugs getting to our streets and into our children's pockets! That is why the Fraternal Order of Police, the National Association of Police Organizations, and the Border Patrol Council, among others, join me in opposing H.R. 3809 and asking those who support it, "What could you be thinking?"

The bill undermines the partnership that has flourished between Customs personnel and their managers in the successful drug interdiction efforts. it would restrict employees' rights to have significant input on safety issues—and it would cut their pay. How does cutting Custom's employees' pay for working their regular night shifts help to bolster our War on Drugs? I simply don't understand it.

I support the provisions in H.R. 3809 that boost 1999 funding for Customs, and I urge the Senate and the President to also support an increase in Customs funding, while rejecting the provisions that cut Customs personnel negotiating rights and their hazard pay for essential nighttime shifts.

H.R. 3809 gives us tools to fight the War on Drugs, but puts those who will use the tools in straightjackets. We will lose the War on Drugs and waste taxpayers' money if we spend money on expensive, cutting-edge equipment at the same time we undermine employee morale and labor standards.

Listen to the partners in the War on Drugs—police officers know they cannot win the war if Customs efforts to keep drugs from entering the country are thwarted. I support the front-line soldiers in the War on Drugs—our Customs personnel—and urge support only for legislation that enhances, rather than detracts, from their good work.

IN HONOR OF DR. MARGARET STORTZ AND REV. VICTOR POSTOLAKI, MINISTERS OF THE FIRST CHURCH OF RELIGIOUS SCIENCE

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Ms. LEE. Mr. Speaker, it is with honor that I share with you the accomplishments and religious commitment of Dr. Margaret Stortz and Rev. Victor Postolaki, who will be honored by the First Church Religious Science on Sunday, July 26 in Oakland, California.

Dr. Stortz will be stepping down as senior minister after 14 years and Rev. Postolaki, as assistant minister after 12 years of service. As ministers each has provided guidance and support to its congregants and the residents of Oakland and the East Bay.

As leaders of First Church, they encouraged community outreach on an economic level and have generated monies to assist the survivors of the 1989 Loma Prieta Earthquake, the Oakland Firestorm. Their fund-raising efforts such as the "Love Project" in conjunction with Allen Temple Baptist Church assisted in the rebuilding of the Black churches burned in the south, the North Dakota Flood, and the Mexico Earthquake. They have, through the church volunteer programs, arrange for the creation and distribution of grocery baskets and food vouchers for numerous economically disadvantaged families and organizations servicing this constituency.

They worked with Bay Area Ministries to make Oakland a better community for all its residents. Both were concerned about youth and were actively involved in programs that educated our children specially the teen empowering program serving the East Bay.

Dr. Stortz served as Assistant Minister in 1981 and as the senior minister since 1984. In 1983, she was elected President of the Northern California United Church of Religious Science. Over the years Dr. Stortz held numerous offices within the United Church of Religious Science organization as member of the International Board of Trustees and the President of the United Church of Religious Science.

Besides her ministerial duties she is an author and has an extensive list of works. Her written works include Start Living Every Day of Your Life, How to Enjoy Life and Flight into Life. She has produced *Seven Spiritual Laws of Success* based on Deepak Chopra's Book of the *You Prosper, We Prosper*—a 10-day prosperity meditation series, and *Here's to Your Health*—a 10-day health meditation series. She has written articles for the *Oakland Tribune* regarding the local clergy. Dr. Stortz served as a member of the Oakland Police and Clergy Together, and trained numerous assistant ministers.

Rev. Postolaki, originally from Romania, prior to coming to First Church, served the Santa Rosa Church, both as a Practitioner and as an Assistant Minister. In 1986 he became the assistant minister at First Church of Religious Science, Oakland. He conducted weekly circles of Prayer and headed the Pastoral Care.

Rev. Postolaki has brought his spiritual strength, his creativity, and his artistic talents to First Church. He created unique banners reflecting the world's religious beliefs and "The Season for Non-Violence" banner honoring the anniversaries of the deaths of Mahatma Gandhi and Dr. Martin Luther King, Jr.

Dr. Stortz and Rev. Postolaki have been pillars whose commitment has established First Church as a fifty-year-old Oakland spiritual institution.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

SPEECH OF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes:

Mr. KUCINICH. Mr. Chairman, I rise in opposition to the amendment by Mr. PAXTON to the bill being discussed on campaign finance reform. This amendment would require labor unions to report all financial activities under current labor laws by categories, such as organizing activities and strike activities and political activities. The amendment further requires that reports be posted on the Internet.

These provisions single out unions for special treatment. They would impose expensive, burdensome regulations upon the organizations that represent working people. Companies are not subject to such treatment. This would further tilt the political playing field towards corporations and against working families.

The amendment imposes a substantial accounting burden on union members. It is the responsibility of the Department of Labor to determine the appropriate level of accounting that is needed to fulfill the requirements of American labor laws. This measure amounts to harassment and discrimination against labor unions.

Also, Mr. Chairman, this amendment is clearly a "poison pill." It is part of a continuing effort to load up the major, bipartisan campaign finance reform proposal with provisions that will drive away certain categories of supporters. The attempt is NOT to further campaign finance reform for the good of the American people. The purpose is to obstruct the process. I therefore urge my colleagues to defeat this destructive amendment.

FUNDING OF THE NEA AND CENSORSHIP

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SANDERS. Mr. Speaker, I would like to have printed in the RECORD statements by high school students from my home State of Vermont, who were speaking at my recent town meeting on issues facing young people today.

FUNDING OF THE NEA AND CENSORSHIP

(By Daniel Luzer)

There has been a great deal of controversy lately about the National Endowment for the Arts. The Supreme Court is expected to rule in July in the case of National Endowment for the Arts versus Finley to decide if the federal law requiring the head of the Endowment to consider general standards of decency and respect for the diverse beliefs and views of the American public when considering whether or not to award a grant. In Congress last month, Senator John Ashcroft, together with Senator Jesse Helms, attempted, in an appropriations bill, to kill the endowment program entirely.

From the beginning, the National Endowment for the Arts has been a controversial program. Certainly the endowment is a valuable program. Before 1965, when the endowment was instituted, the arts were, to a great extent, still on the fringes of society and accessible only to the cultural elite. Since then, the arts have expanded greatly, and are now accessible to the masses and have thus begun to educate the majority, which was the point.

In the words of Maryanne Peters, the President of the Board of Directors of the National Campaign for Freedom of Expression, "In creating the NEA, Congress recognized that the arts are integral to fostering imaginative thinking in our culture." In the 33 years which the National Endowment for the Arts has existed, the role of art in our culture has greatly increased. One of the main contributions that the Endowment has made to our culture is to expand the American art world from a largely market-driven world to a system which allows artists to explore and to expose communities to new creative fields, without having to worry about how to purchase materials, or even purchase food.

It is important to remember, though, that money from the National Endowment for the Arts is a prize, bestowed upon artists whose work is either exceptionally good or greatly needed in a given community. Artists who receive money from the Endowment are singled out for the content of the work. Organizations like National Campaign for Freedom of Expression would like us to believe that the law requiring the head of the Endowment to consider standards of decency when awarding grants amounts to a violation of the rights to free speech.

This line of reasoning is flawed, however, in that The First Amendment to the Constitution states that "Congress shall make no law restricting freedom of speech." The fact of the matter is that the above-mentioned law is not a law restricting freedom of speech. The National Endowment for the Arts is not an organization which punishes artists for poor quality work; it is an organization which awards prizes to artists of first quality.

The law simply requires potential grantgivers to consider decency with respect to art. The law does not restrict the freedom to speak in any way, since no artist is restricted from anything; they will simply find it slightly more difficult to receive federal money for offensive work, which seems a logical and acceptable state for an artist to be in. So the law is not unconstitutional.

That being said, the other issue that artists and artists' groups have brought up is the law's potentially harmful vagueness, which could lead to arbitrary and dangerous selection and rejection of an artist's work, which is absurd in a federal program, where standards are needed in order to determine an artistic piece's relevance in relation to the policies and purpose of the National Endowment for the Arts.

This is certainly a legitimate concern, and one which needs to be addressed in order for the National Endowment for the Arts to continue to function in a manner that benefits society. What the National Endowment for the Arts needs to continue in a way that benefits America are clearer laws and a stricter codification of the grant system. In this way, artists can be granted money based on whether and where their work is needed. If a given community was seriously lacking in, say, quality theater, then playwrights could be sent, with NEA grants, to the said community.

To a certain extent, the National Endowment for the Arts already works in this manner. However, greater clarity on this issue would lead to a better relationship between the art and political communities, which would decrease artists' frustration and improve the quality of the overall art program in the United States.

This plan does, to a certain extent, lead to discrimination against certain forms of art. While that is unfortunate, there is no way that the United States government could ever equally support all forms of art. But that was never the purpose of the National Endowment for the Arts. Another objection that could be raised for this plan for greater codification of the endowments program is that placing restrictions would adversely affect the quality of art. While that is a legitimate concern, as the arts are an expression of emotion, it is important to realize that, in order for the arts to flourish, they do not need to be unrestricted. Some the greatest works of art were created under severe restrictions. The entire Renaissance, which for example, produced such masterpieces as Michelangelo's Sistine Chapel, Donatello's Madonna and Child, and Dante's Divine Comedy, was funded in large part by the Florentine banking families, not to mention the Vatican.

An additional argument against the idea of greater codification for the National Endowment for the Arts might be that the organization would therefore not be supporting the artistic community at all, since the award of grants would be based on the need for certain artists, rather than absolute support for artistic expression. One needs to realize, however, that the purpose of the National Endowment for the Arts should not be to encourage artistic expression among the artistic community. That would exist whether the National Endowment for the Arts does or not.

The purpose for the NEA ought to be to support the viewers of art, extending their horizon so as to foster the greater artistic understanding of the nation as a whole, not to support the ever-expanding imagination of the elite artistic community.

STATEMENT BY DAN WELCH REGARDING VERMONT EDUCATION STANDARDS

My name is Dan Welch, and two years ago—well, last year, second semester, I was given the opportunity to work with the Vermont Institute for Math, Science and Technology on developing a handbook for understanding the Vermont framework of standards that is in place in our education system right now. And I found, through visiting other schools and talking to college-level people, that the Vermont frameworks are not understood by anyone, and they are the basis for our entire education system for the next decade.

I think that putting standards into education is asking a lot of students for a lot of things, especially the standards as high as these, and my concern is that, when students see standards for the first time, which won't be for a couple years, they are going to choke.

I come from CVU, which is a school where you have to do a standard-based project to graduate, and when this project first started off—the number was 88 percent of kids, three years ago, failed to meet the standards on their first time around. Had there not been a second chance to meet that standard, had it been like an exam for their final in the course, 88 percent of those kids, of a class of 200, would have stayed back and joined the class behind them.

Putting standards into schools is a good thing, to level the playing field and say, well, everyone's getting their education based around this one concept or these ideas. But putting it into such pass-fail stringencies and saying that they are a standard is going far beyond what should be done. And the setup for Vermont's framework of standards is based on a program that was started in Essex, I believe, and they want to work like a rubric for point systems, where it is not necessarily pass-fail.

The Vermont framework for standards is an excellent idea, it is a little vague in the English area, but I would like to see programs like it going up nationwide, because it would really make a difference in the education system as soon as it is fully implemented.

My biggest concern is that, once it is implemented, at what point do students find out about the standards that are expected to be met? I found out my junior year. I would have liked to have known my freshman year, and maybe earlier. This is one of the issues I brought up when I was working with VISMT on rewriting the handbook for understanding the standards, is that the students should know what is expected of them from day one, and the handbooks that I was given should be made available to everyone from, probably, 7th grade, or earlier, on. And parents should be kept informed of what the standards are from the time their child enters the school system until long after, because they should continue their role as an active member of the community to know what is being expected of their local students and how they can get involved to change that.

STATEMENT BY RHYS MARSH REGARDING ACT 60/FEDERAL EDUCATION FUNDING

Act 60 is one of the most controversial and monumental bills to pass the Vermont legislature in recent years. It comes in response to a 1996 decision by the Vermont Supreme Court which declared Vermont's system of education funding illegal according to the Vermont constitution.

The main purpose of Act 60 is therefore to equalize public school funding opportunities in the State of Vermont. Act 60 accomplishes this by introducing a statewide property tax of $1.10 per $100 of property value, which funds block grants of approximately $5,000 per student for each local school district.

As all but 13 of Vermont's 252 towns are currently spending more than the $5,000 block grant per student, towns are given the option of raising additional money for their schools through a local property tax. Under Act 60, the distribution of moneys raised through local taxes has been equalized as well. A tax increase of one cent per $100 of property value in Vernon, which has a fair market property value of about $9 million would obviously not yield as much money as a one cent increase would in Stowe, which has a fair market property value of $769 million. Because of this discrepancy, so-called gold towns such as Stowe and Stratton must give some of their money raised through local taxes to the state. This has the effect of making a one cent tax increase in Stowe produce as much money for the school system as a one cent tax increase would produce in Vernon.

Opponents of the bill say Act 60 has put an unfair tax burden on the more wealthy towns, as they must now share their property tax dollars with other, poorer towns. Some also complain that less affluent families who own property in gold towns will be hurt by the tax increase those towns are likely to face.

However, Act 60 has, in reality, only given all Vermont students equal chance for education funding, regardless of geographical location. Before Act 60 was passed, property taxes varied immensely within the State of Vermont. For example, Stratton provided lavish funds to its schools with a tax rate of only 42 cents per $100. However, in Standard, a grueling tax rate of $4.39 per $100 was necessary to provide adequate school funding. This means that property valued at $100,000 in Stratton would be taxed only $420, while, in Standard, the same property would be taxed $4,390. Under Act 60, both properties will be taxed $1,100, unless their towns decide to spend more than the $5,000 per pupil block grants the state provides.

This means that the property-rich towns will now get the same bang for the buck as property-poor towns. Even if the gold towns continue to fund their schools at the current high levels, the property taxes will not increase the levels any greater than the rates some towns currently pay to send moderate moneys to their schools.

In addition, families with incomes of less than $75,000 have been protected from the possible tax increases associated with Act 60, by capping their property taxes at between 3 and 5 percent of the household income. Act 60 has provided an effective and equitable solution to the problems of Vermont's property taxes and education funding.

However, the property tax is still a regressive tax, and there are still enough inequalities in the state and local taxes within the nation. While there is no stipulation in the Federal Constitution that requires equal education funding from state to state, increased equalized federal aid to states could help to ease the downfalls of the property tax and the funding inequities nationally.

Therefore, I believe the Federal Government should write new legislation based on the ideas behind Act 60 and increase the contributions to public education. This would help to distribute the wealth of the United States more homogeneously and improve school quality, especially in the nation's poorer school districts. It also would move more of the tax burden on Americans from the regressive and volatile local property tax to the progressive income tax of the Federal Government.

Act 60 has done wonders for Vermont. The United States of America could utilize the benefits of legislation similar to Act 60 on a national level, to reduce our reliance on regressive taxes and provide more equal funding for our nation's schools.

Thank you.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 17, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes:

Mr. POMEROY. Mr. Chairman, I rise in opposition to the Lazio Amendment to the VA–HUD Appropriations bill. While I supported H.R. 2, the housing reform bill when it was brought to the floor last year, I do not believe the appropriations bill before us in an appropriate vehicle to move the bill forward. I am supportive of reforming our public housing, however, reform needs to take place in the proper forum.

Attaching a complicated bill like H.R. 2 to an appropriations bill has the potential to delay critical funding for our nation's veterans, housing for low income families and other vital programs. Conference negotiations on the bill could even be delayed to the point of another government shutdown. After witnessing the negative effects of the government shutdown in 1995, we must ensure that we never face that situation again.

I have concerns about the provision in H.R. 2 dealing with the untested home rule provision. The home rule provision would essentially eliminate the role of housing authorities in any decision affecting Section 8 and public housing programs by turning the administration of these programs over to local governments. This and other modifications to public housing need to be thought through carefully. Unfortunately, an appropriations bill does not provide for that type of comprehensive consideration.

TRIBUTE TO FOCUS: HOPE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. DINGELL. Mr. Speaker, I rise today to recognize an organization that is near and dear to my heart. They are celebrating their 30th anniversary this year and on July 25, 1998, they will celebrate another triumph over adversity as they cut the ribbon to re-open their resource center which was badly damaged last year by a tornado. This civil and human rights organization was created by my beloved friends Father William T. Cunningham (1930–1997) and Ms. Eleanor M. Josaitis, and since Father Cunningham's passing, Ms. Josaitis has valiantly continued their work assisting those in need in our community.

Its name is Focus: HOPE, and it unites our multi-cultural community with common efforts to overcome injustice and build racial harmony. This organization is an important part of our great city of Detroit promoting social justice and practical solutions to the problems that plague our inner-cities like: hunger, economic disparity, inadequate education, and racial divisiveness. Focus: Hope combats these problems with technical training, educational and corporate partnerships, and food programs. These are not handouts but a helping hand to give people the tools and means to rejoin society.

This wonderful organization came into being as a result of the riots of 1967 which caused such turmoil in our community. Out of all this Focus: Hope was created like the Phoenix rising from the ashes to turn a city that was ravaged by civil disturbance and racism into a city that has so much to offer for everyone who lives within its borders—a city I am proud to call home.

Focus: Hope's food program helps feed and provide nutrition to pregnant women, postpartum mothers, children from infancy to six and senior citizens 60 years and older. It pays particular attention to at-risk mothers by providing free food, nutritional education and food demonstrations on how to prepare various dishes for the mother and her baby with the monthly food they receive.

Academic skills and job training are an important aspect of Focus: Hope's mission. Fast Track and First Step are two successful programs which help people get back on their feet and learn to advance into good paying technical jobs. First Step works to upgrade the math, communications and computer skills of trainees so that they may enroll in Fast Track or the Machinist Training Institute. Fast Track focuses on academic skills and the disciplines of high school to give folks the tools they need to pursue further technical training or higher educational pursuits.

Mr. Speaker, I would like to close by reading Focus:Hope's mission statement that describes so well what they have done, do and will continue to do hopefully for many more years to come.

"Recognizing the dignity and beauty of every person, we pledge intelligent and practical action to overcome racism, poverty and injustice, and to build a metropolitan community where all people may live in freedom, harmony, trust and affection. Black and white, yellow, brown and red from Detroit and its suburbs of every economic status, national origin and religious persuasion we join in this covenant."

Mr. Speaker, I ask that all my colleagues join me in paying tribute to this wonderful organization which gives people a second chance and also, gave the city of Detroit a second chance.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

SPEECH OF

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1998

Ms. DELAURO. Mr. Speaker, in the 104th Congress, I voted to pass the Private Securities Litigation Reform Act, which was signed into law. The purpose of the law was to reduce the number of frivolous lawsuits brought against companies or stock brokers for fraud.

The bill was aimed at stopping lawsuits by investors in high tech companies that didn't make as much money as expected. These lawsuits are so commonplace, that sometimes clients are even brought into the suit after the suit is filed by a legal representative.

High-tech companies, of which there are many in Connecticut, have volatile stocks and are particularly susceptible to such suits. These companies are often forced to settle with investors to avoid court costs.

Now we need to further refine the law for litigants who try to skirt the law by suing in state instead of federal court. We need one standard for all fifty states. I am pleased to offer my support for the Securities Litigation Uniform Standards Act, and I urge my colleagues to support this measure and close a frivolous lawsuit loophole.

THE PATIENT PROTECTION ACT OF 1998

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. Mr. Speaker, I submit for the RECORD, a section-by-section analysis of H.R. 4250 the Patient Protection Act for my colleagues to review.

THE PATIENT PROTECTION ACT OF 1998

Section 1. Short Title And Table of Contents. This section provides for the short title, "Patient Protection Act of 1998" and a table of contents.

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subtitle A—Patient Protections

Section 1001. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric and Gynecological Care, and Pediatric Care.

Subsection (a). In General. This subsection amends subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 by adding a new Section 713, which follows.

Section 713. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric And Gynecological Care, Pediatric Care.

Subsection (a). Patient Access to Unrestricted Medical Advice. This subsection states that a group health plan or health insurance issuer may not prohibit or restrict health care professionals under contract from advising participants or beneficiaries about their health status or treatment, even if benefits for such care or treatment are not covered by the plan or health insurance. Health care professional is defined as a physician (section 1861(r) of the Social Security Act) or other health care professional whose services are provided under the group health plan. This includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

Subsection (b). Patient Access to Emergency Medical Care. This subsection prohibits group health plans or health insurance issuers from requiring beneficiaries to get preauthorization before seeking emergency medical services and requires them to cover emergency medical screening examinations obtained at any emergency medical care facility, whether in or outside a plan's network of affiliated providers, if a prudent layperson with an average knowledge of health and medicine would judge the examination necessary in order to determine whether emergency medical care is needed. The plan or issuer must provide additional emergency medical services to the extent a prudent emergency medical professional determines necessary to avoid the consequences described in section 503(b)(8)(I) of ERISA as amended by this Act. These requirements apply to the extent the group health plan or health insurance issuer covers emergency medical care benefits (as defined in section 503(b)(8)(I) of ERISA as amended by this Act), except for items or services specifically excluded; and to items or services within the capability of the emergency facility, including routinely available ancillary services. This subsection does not prevent a group health plan or issuer from imposing any form of cost-sharing for emergency medical services so long as the cost-sharing is uniformly applied.

Subsection (c). Patient Access to Obstetric and Gynecological Care. If the group health plan or health insurance issuer covers routine gynecological or obstetric care by a participating physician specializing in such care, and the participant's designated primary care provider is not such a specialist, authorization or referral by a primary care provider must not be required for routine gynecological or obstetric care. Ordering of other similar routine gynecological or obstetric care by such a participating specialist is treated as authorized by the primary care provider. Plan requirements relating to medical necessity or appropriateness for obstetric and gynecological care will be allowed.

Subsection (d). Patient Access to Pediatric Care. This subsection states that if the group health plan or health insurance issuer covers routine pediatric care, and requires the designation of a primary care provider, the parent or guardian of any plan beneficiary under 18 years of age may designate a participating physician who specializes in pediatrics, if available, as the primary care provider. Plan requirements relating to medical necessity or appropriateness for pediatric care will be allowed.

Subsection (e). Treatment of Multiple Coverage Options. This subsection requires plans that have two or more coverage options to provide patient access to obstetric and gynecological care and pediatric care as defined in subsections (c) and (d) under each option.

Subsection (b). Conforming Amendment. This subsection simply amends the table of contents of the Employee Retirement Income Security Act of 1974.

Section 1002. Effective Date and Related Rules.

Subsection (a). In General. This subsection states that the amendments made by Subtitle A will apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of the Act. The Secretary is also required to issue all necessary regulations before the effective date.

Subsection (b). Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle A, no enforcement action shall be taken against a plan or issuer for violating a requirement imposed by the amendments before implementing regulations are issued.

Subsection (c). Special Rule for Collective Bargaining Agreements. If a group health plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsections (b), (c), and (d) of section 713 of ERISA as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement relating to the plan, or January 1, 2001, whichever is later. Any amendment in the plan made solely to conform to requirements of this subtitle must not be treated as a termination of the collective bargaining agreement.

Subsection (d). Assuring Coordination. This subsection requires the Secretary of Labor, the Secretary of the Treasury, and the Secretary of Health and Human Services to execute an interagency memorandum of understanding to ensure that regulations, rulings, and interpretations on the same matter over which two or more such Secretaries have responsibility are administered so as to have the same effect at all times, and that enforcement policies are coordinated to assign priorities and avoid duplication.

Subsection (e). Treatment of Religious Nonmedical Providers. Among other things, this section clarifies that nothing in this Act shall be construed to prevent a group health plan or health insurance issuer offering coverage in connection with a group health plan from include as covered providers religious nonmedical providers.

Subtitle B—Patient Access to Information

Section 1101. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Health Care Providers, And Quality of Medical Care.

Subsection (a). In General. This subsection amends Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 by (1) redesignating section 111 as section 112; and (2) inserting after section 110 the following new Section 111.

Section 111. Disclosure by Group Health Plans.

Subsection (a). Disclosure Requirement. This subsection requires the administrator of each group health plan to ensure that the summary plan descriptions required under ERISA section 102 contain the information described in subsections (b),(c),(d), and (e)(2)(A). Each health insurance issuer connected with a group health plan is also required to provide the necessary information to the administrator or to plan participants and beneficiaries on a timely basis.

Subsection (b). Plan Benefits. The information required under subsection (a) includes a description of : (A) covered benefits categorized by the types of items and services and the types of health care professionals providing the items and services; (B) plan coverage for emergency medical care, the extent of access to urgent care centers, and definitions of terminology referring to emergency medical care; (C) plan benefits for preventive services; (D) any use or application of a drug formulary, including a summary of the process for determining the formulary; (E) and COBRA benefits available under the plan.

Information must also be provided on any limitations, exclusions, or restrictions on covered benefits, including: (A) benefits specifically excluded from coverage, categorized by types of items and services; (B) whether coverage for medical care can be limited or excluded based on utilization review or preauthorization requirements; (C) any lifetime, annual, or other period limitations on coverage, categorized by types of benefits; (D) any limitations or exclusions for custodial care; (E) experimental treatment or technology; or (F) failure to meet the plan's requirements for medical appropriateness or necessity; (G) coverage of second or subsequent opinions; (H) whether referral from a primary care provider is required for specialty care; (I) if continuity of care may be affected by the departure by the health care professional from a defined set of providers; restrictions on coverage of emergency services; and (J) any financial responsibility of participants or beneficiaries for emergency services.

Subsection (c). Participant's Financial Responsibilities. The summary plan description must also explain the participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and whether this may vary if the health care provider is not one of a defined set of providers.

Subsection (d). Dispute Resolution Procedures. The summary plan description must describe the process for dispute resolution adopted by the plan pursuant to section 503(b) of ERISA as amended by this Act. This must explain the procedures and time frames for coverage decisions and internal and external review.

Subsection (e). Information Available on Request. Upon written request, a group health plan or health insurance issuer offering coverage in connection with a group health plan must provide access to plan benefit information in electronic form. This information, in electronic format, must include, in addition to information required by section 104(b)(4) of ERISA, the latest summary plan description, summary of material modifications, and the actual plan provisions with available benefits. This is required no more than once a year, and a reasonable charge is permitted which may be subject to a maximum amount set by the Secretary. Requirements may also be met by making the information generally available on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

A summary description of the types of information available on request must be included in the summary plan description made available to participants and beneficiaries.

In addition to information described above, a group or health plan issuer must provide to participants or beneficiaries upon request information on: (i) any network characteristics with detailed lists of primary care providers and specialists and their geographic locations; (ii) any special disease management programs or programs for persons with disabilities, whether these programs are voluntary and if benefits would differ significantly for participants in care management; (iii) whether a specific drug or biological is included in the plan's formulary and procedures for waiver requests; (iv) the procedures and medically-based criteria used in an adverse coverage decision if the determination relates to medical necessity, an experimental treatment or technology; (v) the basis on which any preauthorization and utilization review requirement has resulted in an adverse coverage decision; (vi) the accreditation and licensing status of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licensing authority; (vii) the latest information on enrollee satisfaction maintained by the plan or health insurance issuer; (viii) the latest information, if any, on quality performance maintained by the plan or health insurance issuer; and (ix) information about the frequency and outcome of external review decisions requested by enrollees of the plan or health insurance issuer.

Upon request, any health care professional treating a participant or beneficiary under a group health plan must provide to the participant or beneficiary a description of his or her professional qualifications, privileges, experience and general description of the method of compensation for medical care according to categories that may be specified by the Secretary.

In addition, upon request, any health care facility from which a participant or beneficiary has sought treatment under a group health plan must provide to the participant or beneficiary a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status, if any, with standard-setting organizations.

Subsection (f). Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll. Upon written request, and in connection with a period of enrollment, the group health plan and health insurance issuer must make the summary plan description available for any coverage option in which the participant or prospective participant is eligible to enroll and any information described in clauses (i),(ii),(iii),(vi),(vii), and (viii) of subsection (e)(2)(B).

Subsection (g). Advance Notice of Changes in Drug Formularies. The plan must inform participants not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary used by the plan in the treatment of a chronic illness or disease.

Subsection (h). Definitions.—For purposes of this section: the term "group health plan" has the meaning under section 503(b)(6); the term "medical care" has the meaning under section 733(a)(2); the term "health insurance coverage" has the meaning under section 733(b)(1) and the term "health insurance issuer" has the meaning under section 733(b)(2).

Subsection (b). Conforming Amendments. This section makes miscellaneous conforming amendments to ERISA.

Section 1102. Effective Date and Related Rules.

Subsection (a). In General. Amendments made by Subtitle B—Patient Access to Information will apply to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The subsection also requires the Secretary to issue all necessary regulations before that date.

Subsection (b). Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle B, no enforcement actions shall be taken against a plan or issuer for violating a requirement imposed by the amendments before final regulations are issued.

Subsection (c). Assuring Coordination. This subsection requires the Secretary of Labor, the Secretary of the Treasury, and the Secretary of Health and Human Services to execute an interagency memorandum of understanding to ensure that regulations, rulings, and interpretations on the same matter over which two or more such Secretaries have responsibility are administered so as to have the same effect at all times, and that enforcement policies are coordinated to assign priorities and avoid duplication

Subtitle C—New Procedures and Access to Courts for Grievances Arising Under Group Health Plans

Section 1201. Special Rules for Group Health Plans.

Subsection (a). Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended by adding at the end the following new subsections:

Subsection (b). Special Rules for Group Health Plans.

(1) Coverage Determinations. Every group health plan must provide notice in writing to a participant of any adverse coverage decision with respect to requested benefits under the plan. The notice sets forth the specific reasons for the coverage decision and must be written in a manner that can be understood by the participant. The notice must inform the participant or beneficiary of their ability to file a written request for review of the initial coverage decision (i.e. internal appeal) within 180 days after receipt of the notice. A notice must also be sent to the participant or beneficiary's medical care provider if the provider initiated the claim or seeks reimbursement from the plan. A full and fair de novo review of the decision must be made by an appropriate named fiduciary who did not make the initial decision. Group health plans must also meet the additional requirements of this subsection.

(2) Time Limits for Making Initial Coverage Decisions for Benefits and Completing Internal Appeals.

(A) Time Limits for Deciding Requests for Benefit Payments, Requests for Advance Determination of Coverage, and Requests for Required Determination of Medical Necessity.

(i) Initial Coverage Decisions. If a request for benefit payments, a request for advance determination of coverage, or a request for required determination of medical necessity is submitted to a group health plan in a reasonable form under the plan, the plan must issue in writing an initial coverage decision within 30 days of the filing completion date. Failure of the plan to issue a coverage decision will be treated as an adverse coverage decision, thus allowing for an internal appeal.

(ii) Internal Review of Initial Denials. Upon written request, a review by an appropriate named fiduciary (who pursuant to paragraph (3) must be a physician) must be issued within 30 days of the review filing date and must include a written decision affirming, reversing, or modifying the initial coverage decision setting forth the grounds for the decision. The decision is treated as the final decision of the plan except in the case of an adverse coverage decision with respect to which the participant elects an external review as described below. Failure of the plan to issue a coverage decision will be treated as an adverse coverage decision, thus allowing for an external review.

(B) Time Limits for Making Coverage Decisions Relating to Urgent and Emergency Medical Care and for Completing Internal Appeals.

(i) Initial Coverage Decisions. In general, for any request for expedited advance determination of coverage, a group health plan must issue in writing an initial coverage decision within 10 days in cases involving urgent medical care or within 72 hours in cases involving emergency medical care. Failure of the plan to issue a coverage decision will be treated as an adverse coverage decision, thus allowing for an internal appeal.

(ii) Internal Review of Initial Denials. Upon written request, a review by an appropriate named fiduciary (who pursuant to paragraph (3) must be a physician) must be issued within 10 days for urgent medical care and 72 hours for emergency medical care and must include a written decision affirming, reversing, or modifying the initial coverage decision and setting forth the grounds for the decision. The decision is treated as the final decision of the plan except in the case of an adverse coverage decision with respect to which the participant elects an external review as described below. Failure of the plan to issue a coverage decision will be treated as an adverse coverage decision, thus allowing for an external review.

(3) Physicians Must Review Initial Coverage Decisions Involving Medical Appropriateness or Necessity or Experimental Treatment. If an initial coverage decision is based on a determination that a particular item or service is excluded from coverage under the terms of the plan because the provision of such item or service does not meet the plan's requirements for medical appropriateness or necessity or would constitute experimental treatment or technology, the internal review shall be conducted by a physician who did not make the initial denial.

(4) Participant Election of External Review by Independent Medical Expert and Reconsideration of Initial Review Decision.

(A) General Requirements for External Review. The external review requirements described in (B), (C), and (D) apply in the case of (1) any failure to timely issue a coverage decision under an internal review, or (2) the internal review decision is based on a determination that a particular item or service is excluded from coverage under the terms of the plan because it does not meet the plan's requirements for medical appropriateness or necessity or would constitute experimental treatment or technology.

(B) Limits on Allowable Advance Payments. The external review in connection with an adverse coverage decision is available subject to any requirement of the plan (unless waived by the plan for financial or other reasons) for payment in advance by the participant or beneficiary seeking review of an amount equal to $25, or if greater 10 percent of the cost of the medical care involved up to a maximum of $100. No payment may be required of a participant enrolled in a plan pursuant to a program under Medicaid (Title XIX of the Social Security Act) or under a State Childrens' Health Insurance Program (Title XXVI of such Act). The payment is to be refunded if the recommendation under external review is to modify or reverse the internal review decision.

(C) Reconsideration of Initial Review Decision. If an internal appeal results in an adverse coverage decision, a participant or beneficiary can make a request in writing within 30 days for an external review and reconsideration of the initial review decision denying coverage. The plan must provide for a procedure under which one or more independent medical experts selected under the plan will review the coverage decision to determine whether the decision was in accordance with the terms of the plan and Title I. The record for review (including a specification of the terms of the plan and other criteria serving as the basis for the initial review decision denying coverage) will be presented to such expert(s) who must maintain such record in a manner to ensure confidentiality. The expert(s) will then report in writing to the plan their recommendation as to whether the coverage decision should be affirmed, modified, or reversed. An explanation of the grounds (including the clinical basis) for the recommendation must be included. A physician selected under the plan, who did not make the initial internal review decision, must then reconsider the decision denying coverage to determine whether the decision was in accordance with the terms of the plan and Title I and must issue a written decision affirming, modifying, or reversing the decision, taking into account the recommendation of the external review medical expert(s). The decision must set forth the grounds for the decision.

(D) Time Limits for Reconsideration. The review must be completed within 72 hours for emergency medical care, within 10 days for urgent medical care or within 25 days in other cases. The decision affirming, reversing, or modifying the initial review decision of the plan denying coverage is the final decision of the plan. Failure to issue a written decision will be treated as a final decision affirming the initial review decision of the plan, thus allowing for court review.

(E) Independent Medical Expert.

(i) In General. The term 'independent medical expert' means a medical professional who is a physician (or if appropriate another medical professional) who has appropriate credentials (including licensing in the applicable medical field) and has attained recognized expertise in the applicable medical field. Under the selection procedures in clause (ii), the expert must also meet strict rules of independence as described below.

(ii) Selection of Medical Experts. To ensure independence of the recommendation with respect to a particular external review, a plan must have procedures that follow one of the following means of selecting independent medical expert(s). Under the first option, the independent expert must be selected by an independent intermediary by means of a method that ensures that the identity of the expert is not disclosed and the identity of the plan, issuer and patient is not disclosed to the expert. Under the second option, the independent expert must be selected by an independent and appropriately credentialed panel of physicians established by a fully accredited teaching hospital. Under the third option, the independent expert must be selected by an independent peer review organization as described in section 1152(1)(A) of the Social Security Act. Under the fourth option, the independent expert must be selected by an independent external review organization accredited by a private standard-setting organization recognized by the Secretary. The independent expert may also be selected, under a plan, by an intermediary or otherwise that sufficiently ensures the expert's independence as prescribed under regulations issued pursuant to negotiated rulemaking. Nothing in this section shall be construed to require that the external review be conducted by a governmental entity.

(iii) Independence Requirements. A professional or entity meets the independence requirements if they are not affiliated with any related party, if they are not receiving any compensation in connection with the external review that is contingent on any decision rendered by the professional, if the plan and the issuer have no recourse against the professional in connection with the recommendation under external review, and if the professional or entity does not otherwise have a conflict of interest with a related party.

(iv) Related Party. The term 'related party' means the plan or any health insurance issuer offering health insurance coverage in connection with the plan (or any officer, director, or management employee of such plan or issuer), the physician or other medical care provider that provided the medical care involved in the coverage decision, the institution at which the medical care involved in the coverage decision is provided, the manufacturer of any drug or other item that was included in the medical care involved in the coverage decision, or any other party determined to have a substantial interest in the coverage decision .

(v) Affiliated. The term 'affiliated' means, in connection with any entity, having a familial, financial, or professional relationship with, or interest in, such entity.

(F) Inapplicability with Respect to Items and Services Specifically Excluded from Coverage. An adverse coverage decision that is based on a determination that an item or service is excluded from coverage under the terms of the plan shall not be subject to external review, unless the determination is found in the decision to be based solely on the fact that the item or service does not meet the plan's requirements for medical appropriateness or necessity, or would constitute experimental treatment or technology.

(5) Permitted Alternatives to Required Internal Review.

(A) In General. A group health plan will not fail to meet the requirements relating to the review of initial coverage decisions for benefits, if in lieu of the procedures relating to review, the aggrieved participant or beneficiary elects an alternative dispute resolution procedure or the plan provides for an alternative dispute resolution procedure pursuant to a collective bargaining agreement. The time limits of the alternative dispute resolution procedure are not to exceed the time limits otherwise applicable. In any case in which such an alternative dispute resolution procedure is voluntarily elected by the aggrieved participant or beneficiary, the plan may require or allow the participant or beneficiary to waive review of the coverage decision, to waive further review of the coverage decision, and to elect an alternative means of external review.

(B) Additional Requirements. The dispute resolution must allow for adequate presentation by the aggrieved participant or beneficiary of scientific and medical evidence supporting the participant's or beneficiary's position.

(6) Permitted Alternatives to Required External Review. A group health plan does not fail to meet the external review requirements if the participant or beneficiary elects to utilize a procedure which is generally available under the plan, the plan agrees in advance to abide by the recommendation of the independent medical expert(s), and the participant or beneficiary waives in advance any right to further review of the final decision.

(7) Special Rule for Access to Specialty Care. In the case of a request by a physician for advance determination of coverage of a specialist's services, if those services are otherwise provided under the plan, then the initial coverage decision shall be issued within the specialty decision period (72 hours). The term 'specialist' means with respect to a condition, a physician who has a high level of expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to treat the condition.

(8) Group Health Plan Defined. The term 'group health plan' has the meaning provided in section 733(a).

(9) Other Definitions.

(A) Request for Benefit Payments. The term 'request for benefit payments' means a request, for payment of benefits by a group health plan for medical care, which is made by or on behalf of a participant or beneficiary after the medical care has been provided.

(B) Required Determination Of Medical Necessity. The term 'required determination of medical necessity' means a determination that the proposed medical care meets the plan's requirements for medical appropriateness or necessity (which may be subject to exceptions under the plan for fraud or misrepresentation), irrespective of whether the proposed medical care otherwise meets other terms and conditions of coverage, but only if the determination does not constitute an advance determination of coverage.

(C) Advance Determination of Coverage. The term 'advance determination of coverage' means a determination that the proposed medical care meets, under the facts and circumstances at the time of the determination, the plan's terms and conditions of coverage (which may be subject to exceptions under the plan for fraud or misrepresentation).

(D) Request for Advance Determination of Coverage. The term 'request for advance determination of coverage' means a request for an advance determination of coverage of medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

(E) Request for Expedited Advance Determination of Coverage. The term 'request for expedited advance determination of coverage' means a request for advance determination of coverage, in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

(F) Request for Required Determination of Medical Necessity. The term 'request for required determination of medical necessity' means a request for a required determination of medical necessity for medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

(G) Request for Expedited Required Determination of Medical Necessity. The term 'request for expedited required determination of medical necessity' means a request for required determination of medical necessity in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

(H) Urgent Medical Care. The term 'urgent medical care' means medical care in any case in which an appropriate physician has certified in writing that failure to provide the participant or beneficiary with such medical care within 45 days can reasonably be expected to result in either the imminent death of the participant or beneficiary, or the immediate, serious, and irreversible deterioration of the health of the participant or beneficiary which will significantly increase the likelihood of death, or irreparable harm.

(I) Emergency Medical Care. The term 'emergency medical care' means medical care in any case in which an appropriate physician has certified in writing that failure to immediately provide the care to the participant or beneficiary could reasonably be expected to result in placing the health of such participant or beneficiary (or, with respect to a participant or beneficiary who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part, or that immediate provision of the care is necessary because the participant or beneficiary has made or is at serious risk of making an attempt to harm himself or herself or another individual.

(J) Initial Decision Period. The term 'initial decision period' means a period of 30 days. In general, the calendar days specified in the various decision and review periods may be extended pursuant to regulations prescribed by the Secretary.

(K) Internal Review Period. The term 'internal review period' means a period of 30 days.

(L) Urgent Decision Period. The term 'urgent review period' means a period of 10 days.

(M) Emergency Decision Period. The term 'emergency review period' means a period of 72 hours.

(N) Specialty Decision Period. The term 'specialty decision period' means a period of 72 hours.

(O) Reconsideration Period. The term 'reconsideration period' means a period of 25 days. In cases involving urgent medical care, this term means the urgent decision period (generally, 10 days). In cases involving emergency medical care, this term means the emergency decision period (generally, 72 hours).

(P) Filing Completion Date. The term 'filing completion date' means, in connection with a group health plan, the date as of which the plan is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make an initial coverage decision.

(Q) Review Filing Date. The term 'review filing date' means the date as of which the appropriate named fiduciary (or the independent medical expert(s)) is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make a decision to affirm, modify, or reverse a coverage decision.

(R) Medical Care. The term 'medical care' has the meaning provided such term by section 733(a)(2).

(S) Health Insurance Coverage. The term 'health insurance coverage' has the meaning by section 733(b)(1).

(T) Health Insurance Issuer. The term 'health insurance issuer' has the meaning provided by section 733(b)(2).

(U) Written or in Writing.

(i) In General. A request or decision shall be deemed to be 'written' or 'in writing' if the request or decision is presented in a generally recognized printable or electronic format.

(ii) Medical Appropriateness or Experimental Treatment Determinations. In the case of a request for advance determination of coverage, a request for expedited advance determination of coverage, a request for required determination of medical necessity, or a request for expedited required determination of medical necessity, if the decision is conveyed to the provider of medical care or to the participant or beneficiary by means of telephonic or other electronic communications, that decision will be treated as a written decision.

Subsection (b). Civil Penalties. Section 502(c) of ERISA (29 U.S.C. 1132(c)) is amended to insert a new paragraph (6):

(6)(A). If a benefit under a group health plan is not timely provided to a participant or beneficiary pursuant to a plan's final decision, which did not follow the terms of the plan or Title I and the final decision under the plan is contrary to the recommendation made under the external review, then any person acting in the capacity of a fiduciary who takes an action (or fails to take an action) in violation of the plan or title I may, in the court's discretion, be liable to the aggrieved participant or beneficiary for a civil penalty in the amount of up to $500 a day (or up to $1,000 in the case of a bad faith violation) from the date on which the recommendation was made to the plan until the date the failure to provide benefits is corrected, up to a total amount not to exceed $250,000.

(6)(B). If a person acting in the capacity of a fiduciary took or failed to take action that resulted in an adverse coverage decision violating the terms of the plan or Title I, upon a court finding in favor of the plaintiff, if this occurred in connection with the action described in (A) or under section (b)(4), then the court is to issue an order requiring the defendant to cease and desist from the alleged action or failure to act, and to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(6)(C). (i) The Secretary may assess a civil penalty against a person acting in the capacity of a fiduciary of one or more group health plans for any pattern or practice of repeated adverse coverage decisions that violates the terms of the plan(s) or Title I. A penalty must be paid upon proof by clear and convincing evidence of such pattern or practice.

(ii) A penalty shall be in an amount not to exceed the lesser of 5 percent of the aggregate value of benefits shown by the Secretary to have not been provided or unlawfully delayed, or $100,000.

(iii) Any person acting in the capacity of a fiduciary of a group health plan(s) who has engaged in any such pattern or practice, upon the petition of the Secretary, may be removed by the court from that position and from any other involvement, and may be precluded from returning to any such position or involvement for a period determined by the court.

Subsection (c). Expedited Court Review. Section 502 of ERISA (29 U.S.C. 1132) is amended by adding the following new paragraph (b)(4):

(4) In a case in which it is demonstrated to the court by means of a certification by an appropriate physician that exhaustion of administrative remedies is not reasonably attainable under the facts and circumstances without undue risk of irreparable harm to the health of a participant or beneficiary, a civil action may be brought by the participant or beneficiary to obtain appropriate equitable relief.

Subsection (d). Standard of Review Unaffected. The standard of review under section 502 ERISA shall continue on and after the date of the enactment to be the standard of review applicable immediately prior to enactment.

Subsection (e). Concurrent Jurisdiction. State courts have concurrent jurisdiction in actions arising under new sections 502(b)(4) and (a)(1)(A) for relief under subsection (c)(6).

Section 1202. Effective Date.

Subsection (a). In General. The amendments made by this subtitle shall apply to grievances arising in plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act.

Subsection (b). Limitation on Enforcement Actions. No enforcement action shall be taken against a group health plan or health insurance issuer before the date that final regulations are issued, if the plan or issuer has sought to comply in good faith with such requirement.

Subsection (c). Collective Bargaining Agreements. Any amendments made to a plan solely to conform to requirements added by this subtitle shall not be treated as a termination of a collective bargaining agreement.

Nothing in the amendments made by this Subtitle C shall be construed to affect whether or the extent to which the provisions of Title I of the Employee Retirement Income Security Act of 1974 supersede State laws. It is intended that the addition of more explicit internal review and external review provisions under section 503 of ERISA and the additional remedies under 502 of ERISA not expand or contract existing law as to whether or the extent to which ERISA supersedes state law. The ERISA section 514 clause has not been changed in this connection and, therefore, whether ERISA does or does not preempt any particular state statute is left unchanged. Accordingly, this section is not intended to affect the outcome of any matters pending in court as to the extent or scope of such ERISA preemption of state laws.

Subtitle D—Affordable Health Coverage for Employees of Small Businesses

Section 1301. This Subtitle may be cited as the "Small Business Affordable Health Coverage Act of 1998".

Section 1302. Rules Governing Association Health Plans

Subsection (a). Rules governing regulation of association health plans This subsection adds a new Part 8 (Rules Governing Regulation of Association Health Plans) to Title I of ERISA, as follows:

Section 801. Association Health Plans. The term "association health plan" means a "group health plan" (which is defined in ERISA as added by the Health Insurance Portability and Accountability Act or HIPAA; under HIPAA such group health plans are subject to all of the portability, preexisting condition, nondiscrimination, special enrollment, renewability and other provisions of ERISA Part 7)—

(1) under which at least one option of fully-insured "health insurance coverage" offered by a health insurance issuer is made available to plan participants and beneficiaries, and

(2) whose sponsor of the plan meets the following conditions:

The sponsor of an Association Health Plan (AHP) must be organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for at least annual meetings, as a trade association, an industry association (including a rural electric or rural telephone cooperative), a professional association, or a chamber of commerce (or similar business association, including a similar organization that operates on a cooperative basis within the meaning of section 1381 of the IRC), for substantial purposes other than that of obtaining or providing medical care. Also, the applicant must demonstrate that the sponsor is established as a permanent entity, has the active support of its members, and collects dues from its members without conditioning such on the basis of the health status or claims experience of plan participants or beneficiaries or on the basis of the member's participation in a group health plan.

In addition to the associations described above, certain other entities are eligible to seek certification as AHPs. These include franchise networks and multiemployer plans. Section 812 also makes eligible certain church plans voluntarily electing to come under the fiduciary, reporting, and actuarial standards contained in the subsection.

Section 802. Certification of Association Health Plans. This section establishes a procedure for the certification of Association Health Plans by the applicable authority (a state authority or, if a state does not elect to become the applicable authority, the Secretary). The applicable authority shall grant certification only if such certification is administratively feasible, not adverse to the interests of the individuals covered under it, and protective of the rights and benefits of the individuals covered under the plan. In essence, this procedure has the same effect as requiring the provision in ERISA section 514(b)(6)(B) under current law to be implemented so as to enable association health plans to operate. A "class certification" procedure is established to speed the approval of plans which offer only fully-insured health insurance coverage. An AHP that is certified must also meet the applicable requirements of Part 8 as described below.

Section 803. Requirements Relating to Sponsors and Boards of Trustees. This section establishes additional eligibility requirements for AHPs. Applicants must demonstrate that the arrangement's sponsor has been in existence for a continuous period of at least 3 years for substantial purposes other than providing coverage under a group health plan.

Subsection (b) also requires that the plan be operated, pursuant to a trust agreement, by a "board of trustees" which has complete fiscal control and which is responsible for all operations of the plan. The board of trustees must develop rules of operation and financial control based on a three-year plan of operation which is adequate to carry out the terms of the plan and to meet all applicable requirements of the certification and Title I of ERISA. The board of trustees must consist of individuals who are owners, officers, directors or employees of the employers who participate in the plan.

Section 804. Participation and Coverage Requirements. This section prohibits discrimination against eligible employers and employees by requiring that all employers who are association members be eligible for participation under the terms of the plan, that benefit options be actively marketed to all eligible members, and that eligible individuals of such participating employers not be excluded from enrolling in the plan because of health status. The legislation will not affect the individual health insurance market adversely inasmuch as the bill requires that no participating employer may exclude an employee from enrollment under an AHP by purchasing an individual policy of health insurance coverage for such person based on their health status.

Section 805. Other Requirements Relating to Plan Documents, Contribution Rates, and Benefit Options. This section requires an association health plan to meet the following requirements: (1) its governing instruments must provide that the board of trustees serves as the named fiduciary and plan administrator, that the sponsor serves as plan sponsor, and that the reserve requirements of section 806 are met; (2) the contribution rates for any particular small employer must be nondiscriminatory— they cannot be based on the claims experience of the particular employer or on the type of business or industry in which the employer is engaged (any variation in a state must be limited to that permitted under state small group rating laws), (3) the plan has at least 1,000 participants and beneficiaries if the plan does not consist solely of fully-insured health insurance coverage, and (4) the plan meets such other requirements as may be set forth in regulations.

The rules also stipulate that association health plans must be allowed to design benefit options. Specifically, no provision of state law shall preclude an AHP or health insurance issuer from exercising its discretion in designing the items and services of medical care to be included as health insurance coverage under the plan, except to the extent that such law (1) prohibits the exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to the matters governed by section 711 (relating to maternal and newborn hospitalization) and section 712 (relating to mental health coverage).

In addition, no provision of law shall be construed to preclude an AHP or health insurance issuer from setting contribution rates based on the experience under the plan to the extent such rates are nondiscriminatory as described above.

Section 806. Maintenance of Reserves and Provisions for Solvency for Plans Providing Health Benefits in Addition to Health Insurance Coverage. This section requires AHPs offering benefit options that do not consist solely of fully-insured health insurance coverage to establish and maintain reserves sufficient for unearned contributions, benefit liabilities incurred but not yet satisfied and for which risk of loss has not been transferred, expected administrative costs, any other obligations and a margin for error recommended by the plan's qualified actuary. In addition, each plan must secure coverage from a state licensed insurer consisting of (1) aggregate stop-loss insurance with an attachment point not greater than 125% of expected gross claims, (2) specific stop-loss insurance with an attachment point, as recommended by the plan's qualified actuary, up to $200,000, and (3) to prevent insolvency, indemnification insurance for any claims which a plan is unable to satisfy by reason of a mandatory termination described under section 809(b). The plan must maintain minimum surplus in the amount of $2,000,000 reduced to not less than $500,000 based on the level of the stop-loss coverage maintained by the plan. The applicable authority may provide additional requirements relating to reserves and excess/stop loss insurance. To ensure that indemnification insurance will be available to pay all claims in the event of the termination of a plan, AHPs must make annual payments to an AHP fund which would guarantee that indemnification insurance is always available to pay such claims.

Section 807. Requirements for Application and Related Requirements. This section sets forth additional criteria which association health plans must meet to qualify for certification. The applicable authority shall grant certification to a plan only if: (1) a complete application has been filed, accompanied by the filing fee of $5,000; and (2) all other terms of the certification are met (including financial, actuarial, reporting, participation, and such other requirements as may be specified as a condition of the certification).

The application must include the following: (1) identifying information about the arrangement and the states in which it will operate; (2) evidence that the bonding requirements will be met; (3) copies of all plan documents and agreements with service providers; (4) a funding report indicating that the reserve requirements of 806 will be met, that contribution rates will be adequate to cover obligations, and that a qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards the applicable authority considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the applicable authority. Certified association health plans must notify the applicable authority of any material changes in this information at any time, must file annual reports with the applicable authority, and must engage a qualified actuary.

Section 808. Notice Requirements for Voluntary Termination. This section requires that, except as provided in section 809, an AHP may terminate only if the board of trustees provides 60 days advance written notice to participants and beneficiaries and submits to the applicable authority a plan providing for timely payment of all benefit obligations.

Section 809. Corrective Actions and Mandatory Termination. This section requires an AHP which offers benefit options which are not fully-insured to continue to meet the reserve requirements under section 806 even if its exemption is no longer in effect. The board of trustees of such an AHP must quarterly determine whether the reserve requirements of section 806 are being met and, if they are not, must, in consultation with the qualified actuary, develop a plan to ensure compliance and report such information to the applicable authority. In any case where an AHP notifies the applicable authority that it has failed to meet the reserve requirements and corrective action has not restored compliance, and the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements applicable to such AHPs, the applicable authority may direct the board to terminate the arrangement.

Section 810. Trusteeship of Insolvent Association Health Plans Providing Health Benefits in Addition to Health Insurance Coverage. Whenever an association health plan is unable to provide benefits when due or is otherwise in a financially hazardous condition, the Secretary is to give notice to the plan and participants and apply to the appropriate court to act as a trustee to administer the plan for the duration of the insolvency.

Section 811. State Assessment Authority. A state may impose a nondiscriminatory tax on an association health plan described in section 806(a)(2), with respect to operations in the state commenced after the date of the enactment, if the rate does not exceed the rate of similar premium or contribution taxes on health maintenance organizations and other insurers.

Section 812. Special Rules for Church Plans. This section permits church plans providing medical care to voluntarily elect to apply to the Department of Labor for certification. In order to receive an exemption from state insurance law, an electing church plan would be subject to the requirements of section 810 providing for compliance with fiduciary standards (exclusive purpose and prudence rules); claims procedures; annual certification by a qualified actuary that the plan maintains reserves, capital, insurance or other financial arrangements adequate to enable the plan to meet all of its financial obligations on a timely basis; and annual statements certifying plan compliance with the above.

Section 813. Definitions and Rule of Construction. This section defines the following terms: group health plan, medical care, health insurance coverage, health insurance issuer, health status-related factor, individual market, participating employer, qualified actuary and applicable state authority. The terms are consistent with those added to ERISA by the Health Insurance Portability and Accountability Act. In addition, the terms "employer" and "employee" include self-employed individuals and partners for purposes of the application of Part 8 and the provisions of Title I as applicable to association health plans.

Subsection (b). Conforming Amendments. This subsection contains (1) conforming changes to the definition of "plan sponsor" to include the sponsor of an AHP; (2) conforming changes to the Title I exception for church plans electing association health plan status; and (3) as described below, conforming changes to the section 514 preemption rules to reflect the policy changes under Part 8 with respect to association health plans. First, paragraph (6) of section 514(b) is made inapplicable with respect to any state law in the case of a certified AHP. Secondly, a new subsection 514(d) (current subsection (d) is redesignated as (e)) clarifies the ability of health insurance issuers to offer health insurance coverage under AHPs and clarifies the ability of any health insurance issuer to offer health insurance coverage of the same policy type as offered in connection with a particular AHP to eligible employers, regardless of whether such employers choose or do not choose to become members of the particular association. Health insurance coverage policy forms filed and approved in a particular state in connection with an insurer's offering under an association health plan are deemed to be approved in any other state in which such coverage is offered when the insurer provides a complete filing in the same form and manner to the authority in the other state. Also, this section removes the current restriction on state regulation of self-insured multiple employer welfare arrangements providing medical care (which do not elect to meet the certification requirements for AHPs) under section 514(b)(6)(A)(ii) by eliminating the requirement that such state laws otherwise "be consistent with the provisions of ERISA Title I." Other than as described above, the preemptive provisions of section 514 continue to apply as under current law, including their application with respect to self-insured plans and direct contracting with providers under such plans.

Section 1303. Clarification of Treatment of Single Employer Arrangements. This section clarifies the treatment of certain single employer arrangements under the section of ERISA that defines a multiple employer welfare arrangement (section 3(40)). The treatment of a single employer plan as being excluded from the definition of such an arrangement is clarified by defining the minimum interest required for two or more entities to be in "common control" as a percentage which cannot be required to be greater than 25%. Also a plan would be considered a single employer plan if less than 25% of the covered employees are employed by other participating employers.

Section 1304. Clarification of Treatment of Certain Collectively Bargained Arrangements. This section clarifies the conditions under which multiemployer and other collectively-bargained arrangements are exempted from the definition of a multiple employer welfare arrangement, and thus exempt from state law. This is intended to address the problem of "bogus unions" and other illegitimate health insurance operators. The provision amends the definition of such an arrangement to exclude a plan or arrangement which is established or maintained under or pursuant to a collective bargaining arrangement (as described in the National Labor Relations Act, the Railway Labor Act, and similar state public employee relations laws). (Current law requires the Secretary to "find" that a collective bargaining agreement exists, but no such finding has ever been issued). It then specifies additional conditions which must be met for such a plan to be a statutorily excluded collectively bargained arrangement and thus not a multiple employer welfare arrangement. These include:

(1) The plan cannot utilize the services of any licensed insurance agent or broker to solicit or enroll employers or pay a commission or other form of compensation to certain persons that is related to the volume or number of employers or individuals solicited or enrolled in the plan.

(2) A maximum 15 percent rule applies to the number of covered individuals in the plan who are not employees (or their beneficiaries) within a bargaining unit covered by any of the collective bargaining agreements with a participating employer or who are not present or former employees (or their beneficiaries) of sponsoring employee organizations or employers who are or were a party to any of the collective bargaining agreements.

(3) The employee organization or other entity sponsoring the plan or arrangement must certify annually to the Secretary the plan has met the previous requirements.

(4) If the plan or arrangement is not fully insured, it must be a multiemployer plan meeting specific requirements of the Labor Management Relations Act (i.e., the requirement for joint labor-management trusteeship under section 302(c)(5)(B)).

(5) If the plan or arrangement is not in effect as of the date of enactment, the employee organization or other entity sponsoring the plan or arrangement must have existed for at least 3 years or have been affiliated with another employee organization in existence for at least 3 years, or demonstrate to the Secretary that certain of the above requirements have been met.

Section 1305. Enforcement Provisions Relating to Association Health Plans. This section amends ERISA to establish enforcement provisions relating to association health plans and multiple employer welfare arrangements: (1) willful misrepresentation that an entity is an exempted AHP or collectively-bargained arrangement may result in criminal penalties; (2) the section provides for cease activity orders for arrangements found to be neither licensed, registered, or otherwise approved under State insurance law, or operating in accordance with the terms of a certification granted by the applicable authority under part 8; and (3) the section provides for the responsibility of the named fiduciary or board of trustees of an AHP to comply with the required claims procedure under ERISA.

Section 1306. Cooperation between Federal and State Authorities. This section amends section 506 of ERISA (relating to coordination and responsibility of agencies enforcing ERISA and related laws) to specify State responsibility with respect to Association Health Plans. In general, a state would be the applicable authority under Part 8 to the extent the state enters into an agreement with the Secretary for delegation to the state of some or all of the authority under Title I to certify AHPs and to enforce the provisions applicable to certified AHPs. The Secretary would be the applicable authority if a state did not assume such authority.

Section 1307. Effective Date; Transitional Rules. In general, the amendments made by the Act are effective January 1, 2000. Sections 3 and 4 are effective upon date of enactment. The provisions of section 801(a)(2) relating to health insurance coverage do not apply to group health plans existing on April 1, 1997 if they do not provide fully-insured health insurance coverage, but later qualify for certification. In certain cases existing state licensed plans would be eligible to become certified.

Pilot Program for Self-Insured Association Health Plans. During a 5-year pilot program period, association health plans may offer self-insured benefit options only if they consist of the following: (A) plans which offer such coverage on the date of enactment, (B) the sponsor of the plan does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or (C) plans whose eligible participating employers represent one or more trades, businesses, industries, which have been indicated as having average or above-average health insurance risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, and other demonstrated means, including (but not limited to) the following: agriculture; automobile dealerships; barbering and cosmetology; child care; construction; dance, theatrical, and orchestra productions; disinfecting and pest control; eating and drinking establishments; fishing; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; sanitary services; transportation (local and freight); and warehousing.

TITLE II—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Subtitle A—Patient Protections and Point of Service Coverage Requirements.

Section 2001. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, and pediatric care.

Subsection (a). In General. This section amends subpart 2 of part A of title XXVII of the Public Health Service Act by adding a new Section 2706, which follows.

Section 2706. Patient Access to Unrestricted Medical Advice, Emergency Medical

Care, Obstetric And Gynecological Care, Pediatric Care.

Subsection (a). Patient Access to Unrestricted Medical Advice. This subsection states that a group health plan or health insurance issuer may not prohibit or restrict health care professionals under contract from advising participants or beneficiaries about their health status or treatment, even if benefits for such care or treatment are not covered by the plan or health insurance. Health care professional is defined as a physician (section 1861(r) of the Social Security Act) or other health care professional whose services are provided under the group health plan. This includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

Subsection (b). Patient Access to Emergency Medical Care. This subsection prohibits group health plans or health insurance issuers from requiring beneficiaries to get preauthorization before seeking emergency medical services and requires them to cover emergency medical screening examinations obtained at any emergency medical care facility, whether in or outside a plan's network of affiliated providers, if a prudent layperson with an average knowledge of health and medicine would judge the examination necessary in order to determine whether emergency medical care is needed. The plan or issuer must provide additional emergency medical services to the extent a prudent emergency medical professional determines necessary to avoid the consequences described in section 503(b)(8)(I) of ERISA as amended by this Act. These requirements apply to the extent the group health plan or health insurance issuer covers emergency medical care benefits (as defined in section 503(b)(8)(I) of ERISA as amended by this Act), except for items or services specifically excluded; and to items or services within the capability of the emergency facility, including routinely available ancillary services. This subsection does not prevent a group health plan or issuer from imposing any form of cost-sharing for emergency medical services so long as the cost-sharing is uniformly applied.

Subsection (c). Patient Access to Obstetric and Gynecological Care. If the group health plan or health insurance issuer covers routine gynecological or obstetric care by a participating physician specializing in such care, and the participant's designated primary care provider is not such a specialist, authorization or referral by a primary care provider must not be required for routine gynecological or obstetric care. Ordering of other similar routine gynecological or obstetric care by such a participating specialist is treated as authorized by the primary care provider. Plan requirements relating to medical necessity or appropriateness for obstetric and gynecological care will be allowed.

Subsection (d). Patient Access to Pediatric Care. This subsection states that if the group health plan or health insurance issuer covers routine pediatric care, and requires the designation of a primary care provider, the parent or guardian of any plan beneficiary under 18 years of age may designate a participating physician who specializes in pediatrics, if available, as the primary care provider. Plan requirements relating to medical necessity or appropriateness for pediatric care will be allowed.

Subsection (e). Treatment of Multiple Coverage Options. This subsection requires plans that have two or more coverage options to provide patient access to obstetric and gynecological care and pediatric care as defined in subsections (c) and (d) under each option.

Subsection (b). Effective Date and Related Rules.

In General. This subsection states that the amendments made by Subtitle A will apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of the Act. The Secretary is also required to issue all necessary regulations before the effective date.

Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle A, no enforcement action shall be taken against a plan or issuer for violating a requirement imposed by the amendments before implementing regulations are issued.

Special Rule for Collective Bargaining Agreements. If a group health plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsections (b), (c), and (d)of section 713 of ERISA as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement relating to the plan, or January 1, 2001, which ever is later. Any amendment in the plan made solely to conform to requirements of this subtitle must not be treated as a termination of the collective bargaining agreement.

Application to group health plans and health insurance issuers. As under current law, the application of Subpart 2, as amended by this section, applies with respect to group health plans that are nonfederal governmental plans and with respect to health insurance coverage offered by health insurance issuers in connection with all group health plans (private and governmental).

Section 2002. Requiring Health Maintenance Organizations to Offer Option of Point-of-Service Coverage.

Subsection (a). In General. This section amends Title XXVII of the Public Health Service Act by inserting after section 2713 the following new section:

Section 2714. Requiring Offering of Option of Point-of-Service Coverage.

Subsection (a). Requirement to Offer Coverage Option to Certain Employers. Except as provided in subsection (c), any health insurance issuer which (1) is a health maintenance organization (as defined in section 2791(b)(3)), and (2) which provides for coverage of services of one or more classes of health care professionals which are furnished exclusively through closed panels of health care professionals, shall make available to the plan sponsor in connection with such plan, a coverage option which provides for coverage of such services which are furnished through such class (or classes) of health care professionals regardless of whether or not the professionals are members of such panel.

Subsection (b). Requirement to Offer Supplemental Coverage to Participants in Certain Cases. If a health insurance issuer makes available a coverage option under and described in subsection (a) to a plan sponsor of a group health plan and the sponsor declines to contract for such coverage option, then the issuer must make available in the individual insurance market to each participant in the group health plan optional separate supplemental health insurance coverage in the individual health insurance market which consists of services identical to those provided under such coverage provided through the closed panel under the group health plan but are furnished exclusively by health care professionals who are not members of such a closed panel. Exceptions are provided in subsection (c).

Subsection (c). Exceptions.

(1) Offering of non-panel option. Subsections (a) and (b) shall not apply with respect to a group health plan if the plan offers a coverage option that provides coverage for services that may be furnished by a class or classes of health care professionals who are not in a closed panel. This paragraph shall be applied separately to distinguishable groups of employees under the plan.

(2) Availability of coverage through a HealthMart. Subsections (a) and (b) shall not apply to a group health plan if the health insurance coverage under the plan is made available through a HealthMart (as defined in section 2801) and if any health insurance coverage made available through the HealthMart provides for coverage of the services of any class of health care professionals other than through a closed panel of professionals.

(3)Relicensure exemption.—Subsections (a) and (b) shall not apply to a health maintenance organization in a State in any case in which—

(A) the organization demonstrates to the applicable authority that the organization has made a good faith effort to obtain (but has failed to obtain) a contract between the organization and any other health insurance issuer providing for the coverage option or supplemental coverage described in subsection (a) or (b), as the case may be, within the applicable service area of the organization, and

(B) the State requires the organization to receive or qualify for a separate license, as an indemnity insurer or otherwise, in order to offer such coverage option or supplemental coverage, respectively.

The applicable authority may require that the organization demonstrate that it meets the requirements of the previous sentence no more frequently that once every two years.

(4) Increased costs.—Subsections (a) and (b) shall not apply to a health maintenance organization if the organization demonstrates to the applicable authority, in accordance with generally accepted actuarial practice, that, on either a prospective or retroactive basis, the premium for the coverage option or supplemental coverage required to be made available under such respective subsection exceeds by more than 1 percent the premium for the coverage consisting of services which are furnished through a closed panel of health care professionals in the class or classes involved. The applicable authority may require that the organization demonstrate such an increase no more frequently that once every two years. This paragraph shall be applied on an average per enrollee or similar basis.

(5)Collective bargaining agreements.—Subsections (a) and (b) shall not apply in connection with a group health plan if the plan is established or maintained pursuant to one or more collective bargaining agreements.

Subsection (d). Definitions. For purposes of this section, the following definitions apply:

Coverage through closed panel. Health insurance coverage for a class of health care professionals shall be treated as provided through a closed panel of such professionals only if such coverage consists of coverage of items or services consisting of professionals services which are reimbursed for or provided only within a limited network of such professionals.

Health care professional. The term 'health care professional' has the meaning given such term in section 2706(a)(2).

Subsection (b). Effective Date. This subsection states that the amendment made by subsection (a) applies to coverage offered on or after January 1 of the second calendar year following the date of enactment of this Act.

Subtitle B—Patient Access to Information

Section 2101. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Health Care Providers, And Quality of Medical Care.

Subsection (a). In General. This subsection amends subpart 2 of part A of title XXVII of the Public Health Service Act (as amended by subtitle A of this title) by adding the following new Section 2707.

Section 2707. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Health Care Providers, and Quality of Medical Care.

Subsection (a). Disclosure Requirement. This subsection requires the administrator of each group health plan to ensure that the summary plan descriptions required under ERISA section 102 contain the information described in subsections (b),(c),(d), and (e)(2)(A). Each health insurance issuer connected with a group health plan is also required to provide the necessary information to the administrator or to plan participants and beneficiaries on a timely basis.

Subsection (b). Plan Benefits. The information required under subsection (a) includes a description of : (A) covered benefits categorized by the types of items and services and the types of health care professionals providing the items and services; (B) plan coverage for emergency medical care, the extent of access to urgent care centers, and definitions of terminology referring to emergency medical care; (C) plan benefits for preventive services; (D) any use or application of a drug formulary, including a summary of the process for determining the formulary; (E) and COBRA benefits available under the plan.Information must also be provided on any limitations, exclusions, or restrictions on covered benefits, including: (A) benefits specifically excluded from coverage, categorized by types of items and services; (B) whether coverage for medical care can be limited or excluded based on utilization review or preauthorization requirements; (C) any lifetime, annual, or other period limitations on coverage, categorized by types of benefits; (D) any limitations or exclusions for custodial care; (E) experimental treatment or technology; or (F) failure to meet the plan's requirements for medical appropriateness or necessity; (G) coverage of second or subsequent opinions; (H) whether referral from a primary care provider is required for specialty care; (I) if continuity of care may be affected by the departure by the health care professional from a defined set of providers; restrictions on coverage of emergency services; and (J) any financial responsibility of participants or beneficiaries for emergency services.

Subsection (c). Participant's Financial Responsibilities. The summary plan description must also explain the participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and whether this may vary if the health care provider is not one of a defined set of providers.

Subsection (d). Dispute Resolution Procedures. The summary plan description must describe the process for dispute resolution adopted by the plan pursuant to section 503(b) of ERISA as amended by this Act. This must explain the procedures and time frames for coverage decisions and internal and external review.

Subsection (e). Information Available on Request. Upon written request, a group health plan or health insurance issuer offering coverage in connection with a group health plan must provide access to plan benefit information in electronic form. This information, in electronic format, must include, in addition to information required by section 104(b)(4) of ERISA, the latest summary plan description, summary of material modifications, and the actual plan provisions with available benefits. This is required no more than once a year, and a reasonable charge is permitted which may be subject to a maximum amount set by the Secretary. Requirements may also be met by making the information generally available on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries. A summary description of the types of information available on request must be included in the summary plan description made available to participants and beneficiaries.

In addition to information described above, a group or health plan issuer must provide to participants or beneficiaries upon request information on: (i) any network characteristics with detailed lists of primary care providers and specialists and their geographic locations; (ii) any special disease management programs or programs for persons with disabilities, whether these programs are voluntary and if benefits would differ significantly for participants in care management; (iii) whether a specific drug or biological is included in the plan's formulary and procedures for waiver requests; (iv) the procedures and medically-based criteria used in an adverse coverage decision if the determination relates to medical necessity, an experimental treatment or technology; (v) the basis on which any preauthorization and utilization review requirement has resulted in an adverse coverage decision; (vi) the accreditation and licensing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licensing authority; (vii) the latest information on enrollee satisfaction maintained by the plan or health insurance issuer; (viii) the latest information on quality performance maintained by the plan or health insurance issuer; and (ix) information about the frequency and outcome of external review decisions requested by enrollees of the plan or health insurance issuer.

Upon request, any health care professional treating a participant or beneficiary under a group health plan must provide to the participant or beneficiary a description of his or her professional qualifications, privileges, experience and general description of the method of compensation for medical care according to categories that may be specified by the Secretary.

In addition, upon request, any health care facility from which a participant or beneficiary has sought treatment under a group health plan must provide to the participant or beneficiary a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status, if any, with standard-setting organizations.

Subsection (f). Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll. Upon written request, and in connection with a period of enrollment, the group health plan and health insurance issuer must make the summary plan description available for any coverage option in which the participant or prospective participant is eligible to enroll and any information described in clauses (i),(ii),(iii),(vi),(vii), and (viii) of subsection (e)(2)(B).

Subsection (g). Advance Notice of Changes in Drug Formularies. This subsection requires the plan to inform participants not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary used by the plan in the treatment of a chronic illness or disease.

Section 2102. Effective Date.

Subsection (a). In General. Amendments made by Subtitle B—Patient Access to Information will apply to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The subsection also requires the Secretary to issue all necessary regulations before that date. As under current law, the application of Subpart 2, as amended by this section, applies with respect to group health plans that are nonfederal governmental plans and with respect to health insurance coverage offered in connection with all group health plans (private and governmental).

Subsection (b). Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle B, no enforcement actions shall be taken against a plan or issuer for violating a requirement imposed by the amendments before final regulations are issued.

Subtitle C—HealthMarts

Section 2201. Short Title of Subtitle. The short title of this subtitle is the "Health Care Consumer Empowerment Act of 1998."

Section 2202. Expansion of Consumer Choice through HealthMarts.

Subsection (a). In General. This section amends the Public Health Service Act by adding the following new title:

TITLE XXVIII— HEALTHMARTS

Section 2801. Definition of HealthMart.

Subsection (a). In General. This subsection defines the "HealthMart" as a legal entity that meets several requirements specified in the Act. In short, the HealthMart is an organization that offers health benefits within a defined geographic area (or areas), provides administrative services to purchasers, and disseminates and files information. Requirements are described below.

(1) Organization. The HealthMart is a private, nonprofit organization operated under the direction of a board of directors. The board is composed of representatives from: small employers, employees of small employers, health care providers (which may be physicians, other health care professionals, health care facilities, or any combination thereof), and entities that underwrite or administer health benefits coverage (such as insurance companies, health maintenance organizations, and licensed provider-sponsored organizations). There must be at least 2 board members from each group and there must be the same number from each group.

(2) Offering health benefits coverage. The HealthMart, in conjunction with health insurance issuers that offer health benefits

coverage through the HealthMart, must make available health benefits coverage at rates (including employer's and employee's share) that are established by the health insurance issuer on a policy or product specific basis and that may vary only as permissible under State law. A HealthMart is deemed to be a group health plan for purposes of applying section 702 of the Employee Retirement Income Security Act of 1974, section 2702 of this Act, and section 9802(b) of the Internal Revenue Code of 1986. (These provisions limit variation of required premiums for health benefits coverage, for similarly situated individuals, on the basis of health status-related factors.)

Nondiscrimination in coverage offered. The HealthMart may not offer health benefits coverage to an eligible employee in a geographic area (as specified in (3) below) unless the same coverage is offered to all such employees in the same geographic area. Section 2711(a)(1)(B) of this Act limits denial of enrollment of certain eligible individuals under health benefits coverage in the small group market. Nothing in this title shall be construed as requiring or permitting a health insurance issuer to provide coverage outside the service area of the issuer, as approved under State law.

No financial underwriting. The HealthMart provides health benefits coverage only through contracts with health insurance issuers and does not assume insurance risk with respect to such coverage.

Minimum coverage. Requires the HealthMart to maintain at least 10 purchasers and 100 members by the end of the first year of its operation and thereafter.

(3) Geographic areas. Requires the HealthMart to specify the geographic area (or areas) in which it makes available health benefits coverage offered by health insurance issuers to small employers. Such an area must encompass at least one entire county or equivalent area. In the case of a HealthMart that serves more than one State, such geographic areas may be areas that include portions of two or more contiguous States. Allows the establishment and operation of more than one HealthMart in a geographic area. Does not limit the number of HealthMarts that may operate in any area.

(4) Provision of administrative services to purchasers. The HealthMart provides administrative services for purchasers. Such services may include accounting, billing, enrollment information, and employee coverage status reports. Nothing in this subsection should be construed as preventing a HealthMart from serving as an administrative service organization to any entity.

(5) Dissemination of information. Requires the HealthMart to collect and disseminate (or arrange for the collection and dissemination of) consumer-oriented information on the scope, cost, and enrollee satisfaction of all coverage options offered through the HealthMart to its members and eligible individuals, in a manner defined by the Health Mart as appropriate to the type of coverage offered. To the extent practicable, this must include consumer-oriented information on provider performance, locations and hours of operation of providers, outcomes, and similar matters. Allows the dissemination of this information or other information by the HealthMart or by health insurance issuers through electronic or other means.

(6) Filing information. Requires the HealthMart to file information that demonstrates the HealthMart's compliance with the applicable requirements of this title with the applicable Federal authority; or in accordance with rules established under section 2803(a), to file with a State such information as the State may require to demonstrate such compliance.

Subsection (b). Health Benefits Coverage Requirements. This subsection specifies consumer protection requirements, an alternative process for approval of health benefits coverage in case of discrimination or delay, examples of types of coverage, and wellness bonuses for health promotion.

(1) Compliance with consumer protection requirements. Requires that any health benefits coverage offered through a HealthMart must be underwritten by a health insurance issuer that is licensed (or otherwise regulated) under State law, meets all applicable State standards relating to consumer protection (subject to section 2802(a)), and offers the coverage under a contract with the HealthMart. Subject to the provisions of (2) below, health benefit coverage offered through HealthMarts must be approved or otherwise permitted to be offered under State law. Finally, HealthMarts must provide full portability of creditable coverage for individuals who remain members of the same HealthMart notwithstanding that they change the employer through which they are members (in accordance with the provisions of the parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and titles XXII and XXVII of this Act), so long as both employers are purchasers in the HealthMart.

(2) Alternative process for approval of health benefits coverage in case of discrimination or delay. The requirement that health benefit coverage offered through HealthMarts be approved or otherwise permitted to be offered under State law does not apply to a policy or product of health benefits coverage offered in a State if the health insurance issuer seeking to offer such policy or product files an application to waive such requirement with the applicable Federal authority, and the authority determines, based on the application and other evidence presented to the authority, that:

—either (or both) of the grounds (described next) for approval of the application has been met; and

—the coverage meets the applicable State standards (other than those that have been preempted under section 2802).

Grounds. The grounds described above are:

—the State has failed to complete action on the policy or product (or rates for the policy or product) within 90 days of the date of the State's receipt of a substantially complete application. (No period before the date of the enactment of this section shall be included in determining such 90-day period.)

—the State has discriminatorily denied an application if:

(1) the standards or review process imposed by the State as a condition of approval of the policy or product imposes either any material requirements, procedures, or standards to such policy or product that are not generally applicable to other policies and products offered or any requirements that are preempted under section 2802; or

(2) the State requires the issuer, as a condition of approval of the policy or product, to offer any policy or product other than such policy or product.

Enforcement. In the case of a waiver granted to an issuer with respect to a State, the Secretary may enter into an agreement with the State under which the State agrees to provide for monitoring and enforcement activities with respect to compliance of such an issuer and its health insurance coverage with the applicable State standards described above (and in (A)(ii) of subsection (b)). Requires that such monitoring and enforcement be conducted by the State in the same manner as the State enforces such standards with respect to other health insurance issuers and plans, without discrimination based on the type of issuer to which the standards apply. Requires that such an agreement must specify or establish mechanisms by which compliance activities are undertaken, while not lengthening the time required to review and process applications for waivers.

(3) Examples of types of coverage. The health benefits coverage made available through a HealthMart may include, but is not limited to, any of the following (if it meets the other applicable requirements of this title): coverage through a health maintenance organization, coverage in connection with a preferred provider organization, coverage in connection with a licensed provider-sponsored organization, indemnity coverage through an insurance company, coverage offered in connection with a contribution into a medical savings account or flexible spending account, coverage that includes a point-of-service option, coverage offered in conjunction with community health centers (as defined in section 330B(e) of the PHS Act, as amended by this bill) or any combination of such types of coverage.

(4) Wellness bonuses for health promotion. Requires that nothing in this title be construed as precluding a health insurance issuer offering health benefits coverage through a HealthMart from establishing premium discounts or rebates for members or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention so long as such programs are agreed to in advance by the HealthMart and comply with all other provisions of this title and do not discriminate among similarly situated members.

Subsection (c). Purchasers, Membership, Health Insurance Issuers.

(1) Purchasers. Subject to the provisions of this title, a HealthMart must permit any small employer to contract with the HealthMart for the purchase of health benefits coverage for its employees and dependents of those employees and may not vary conditions of eligibility (including premium rates and membership fees) of a small employer to be a purchaser.

Role of Associations, brokers, and licensed health insurance agents. Nothing in this section should be construed as preventing an association, broker, licensed health insurance agent, or other entity from assisting or representing a HealthMart or small employers from entering into appropriate arrangements to carry out this title.

Period of Contract. The HealthMart may not require a contract between a HealthMart and a purchaser to be effective for a period of longer than 12 months. (However, this should not be construed as preventing such a contract from being extended for additional 12-month periods or preventing the purchaser from voluntarily electing a contract period of longer than 12 months.)

Exclusive nature of contract. Such a contract must provide that the purchaser agrees not to obtain or sponsor health benefits coverage, on behalf of any eligible employees (and their dependents), other than through the HealthMart. (However, this does not apply to an eligible individual who resides in an area for which no coverage is offered by any health insurance issuer through the HealthMart.)

(2) Members. Under rules established to carry out this title, with respect to a small employer that has a purchaser contract with a HealthMart, individuals who are employees of the employer may enroll for health benefits coverage (including coverage for dependents of such enrolling employees) offered by a health insurance issuer through the HealthMart.

Nondiscrimination in enrollment. A HealthMart may not deny enrollment as a member to an individual who is an employee (or dependent of such an employee) eligible to be so enrolled based on health status-related factors, except as may be permitted consistent with section 2742(b).

Annual open enrollment period . Requires the HealthMart to provide for an annual open enrollment period of 30 days during which members may change the coverage option in which they are enrolled.

Rules of eligibility . The HealthMart may establish rules of employee eligibility for enrollment and reenrollment of members during the annual open enrollment period (see above). Such rules must be applied consistently to all purchasers and members within the HealthMart and shall not be based in any manner on health status-related factors and may not conflict with sections 2701 and 2702 of this Act.

(3) Health insurance issuer.

Premium collection. Requires that the contract between a HealthMart and a health insurance issuer provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the HealthMart, for the payment of the premiums collected by the HealthMart (or the issuer) for such coverage (less a pre-determined administrative charge negotiated by the HealthMart and the issuer) to the issuer.

Scope of service area. Nothing in this title should be construed as requiring the service area of a health insurance issuer with respect to health insurance coverage to cover the entire geographic area served by a HealthMart.

Availability of coverage options. A HealthMart must enter into contracts with one or more health insurance issuers in a manner that assures that at least 2 health insurance coverage options are made available in the geographic area specified under section (a)(3)(A) of this bill.

Subsection (d). Prevention of Conflicts of Interest.

For boards of directors. Provides that a member of a board of directors of a HealthMart may not serve as an employee or paid consultant to the HealthMart, but may receive reasonable reimbursement for travel expenses for purposes of attending meetings of the board or its committees.

For boards of directors or employees. An individual is not eligible to serve in a paid or unpaid capacity on the board of directors of a HealthMart, or as an employee of the HealthMart, if the individual is employed by, represents in any capacity, owns, or controls any ownership interest in a organization from whom the HealthMart receives contribution, grants, or other funds not connected with a contract for coverage through the HealthMart.

Employment and employee representatives. Requires that an individual who is serving on a board of directors of a HealthMart must not be employed by or affiliated with a health insurance issuer or be licensed as or employed by or affiliated with a health care provider. In the previous sentence, the term "affiliated" does not include membership in a health benefits plan or obtaining health benefits coverage offered by a health insurance issuer.

Subsection (e). Construction.

Network of Affiliated HealthMarts. Provides that nothing in this section should be construed as preventing one or more HealthMarts serving different areas (whether or not contiguous) from providing for some or all of the following (through a single administrative organization or otherwise):

(1) Coordinating the offering of the same or similar health benefits coverage in different areas served by the different HealthMarts;

(2) Providing for crediting of deductibles and other cost-sharing for individuals who are provided health benefits coverage through the HealthMarts (or affiliated HealthMarts) and who continue to receive such coverage through the same health insurance issuer after (a) a change of employers through which the coverage is provided, or (b) a change in place of employment to an area not served by the previous HealthMart.

Permitting HealthMarts to adjust distributions among issuers to reflect relative risk of enrollees. Does not preclude a HealthMart from providing for adjustments in amounts distributed among the health insurance issuers offering health benefits coverage through the HealthMart based on factors such as the relative health care risk of members enrolled under the coverage offered by the different issuers.

Uniform minimum participation and contribution rules. Does not preclude a HealthMart from establishing minimum participation and contribution rules (described in section 2711(e)(1)) for small employers that apply to become purchasers in the HealthMart, so long as such rules are applied uniformly for all health insurance issuers.

Section 2802. Application of Certain Laws and Requirements.

Subsection (a). Authority of States. Provides that nothing in this section should be construed as preempting State laws relating to the following:

—The regulation of underwriters of health coverage, including licensure and solvency requirements;

—The application of premium taxes and required payments for guaranty funds or for contributions to high-risk pools;

—The application of fair marketing requirements and other consumer protections (other than those specifically relating to an item described in subsection (a));

—The application of requirements relating to the adjustment of rates for health insurance coverage.

Subsection (b). Treatment of Benefit and Grouping Requirements. Provides that State laws are superseded and shall not apply to health benefits coverage made available through a HealthMart, insofar as they relate to any of the following:

—benefit requirements for health benefits coverage offered through a HealthMart, including (but not limited to) requirements relating to coverage of specific providers, specific services or conditions, or the amount, duration, or scope of benefits, but not including requirements to the extent required to implement title XXVII of the PHS Act or other Federal law and to the extent the requirement prohibits an exclusion of a specific disease from such coverage;

—requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for such coverage;—any other requirements (including limitations on compensation arrangements) that, directly or indirectly, preclude (or have the effect of precluding) the offering of such coverage through a HealthMart, if the HealthMart meets the requirements of this title.

Any State law or regulation relating to the composition or organization of a HealthMart is preempted to the extent the law or regulation is inconsistent with the provisions of this title.

Subsection (c). Application of ERISA Fiduciary and Disclosure Requirements. The board of directors of a HealthMart is deemed to be a plan administrator for purposes of applying parts 1 and 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974. The HealthMart shall be treated as such a plan and the enrollees shall be treated as participants and beneficiaries for purposes of applying such provisions pursuant to this subsection.

Subsection (d). Application of ERISA Renewability Protection.—A HealthMart is deemed to be a group health plan that is a multiple employer welfare arrangement for purposes of applying section 703 of the Employee Retirement Income Security Act of 1974.

Subsection (e). Application of Rules for Network Plans and Financial Capacity. The provisions of subsections (c) and (d) of section 2711 of ERISA apply to health benefits coverage offered by a health insurance issuer through a HealthMart.

Subsection (f). Construction Relating to Offering Requirement. Nothing in section 2711(a) of this Act (relating to guaranteed issuance) or section 703 of the Employee Retirement Income Security Act of 1974 (relating to guaranteed renewal) shall be construed as permitting the offering outside the HealthMart of health benefits coverage that is only made available through a HealthMart under this section because of the application of subsection (b).

Subsection (g). Application to Guaranteed Renewability Requirements in Case of Discontinuation of an Issuer. For purposes of applying section 2712 in the case of health insurance coverage offered by a health insurance issuer through a HealthMart, if the contract between the HealthMart and the issuer is terminated and the HealthMart continues to make available any health insurance coverage after the date of such termination, the following rules apply:

Renewability. The HealthMart shall fulfill the obligation under such section of the issuer renewing and continuing in force coverage by offering purchasers (and members and their dependents) all available health benefits coverage that would otherwise be available to similarly-situated purchasers and members from the remaining participating health insurance issuers in the same manner as would be required of issuers under section 2712(c).

Application of association rules. The HealthMart shall be considered an association for purposes of applying section 2712(e).

Subsection (h). Construction in Relation to Certain Other Laws. Nothing in this title shall be construed as modifying or affecting the applicability to HealthMarts or health benefits coverage offered by a health insurance issuer through a HealthMart of parts 6 (relating to continuation of coverage under group health plans) and 7 (relating to group health plan portability, access, and renewability) of subtitle B of title I of the Employee Retirement Income Security Act of 1974 or titles XXII (relating to requirements for certain group health plans for certain state and local employees) and XXVII (regarding requirements relating to health insurance coverage) of this Act.

Section 2803. Administration.

Subsection (a).

In General. Provides that the applicable federal authority must administer this title through the division established under subsection (b) of this section, and is authorized to issue such regulations as may be required to carry out this title. These regulations shall be subject to Congressional review under the provisions of chapter 8 of title 5, United States Code. Provides that the applicable Federal authority must incorporate the process of >deemed file and use' with respect to the information filed under section 2801(a)(6)(A) of this title and shall determine whether information filed by a HealthMart demonstrates compliance with the applicable requirements of this title. Such authority shall exercise its authority under this title in a manner that fosters and promotes the development of HealthMarts in order to improve access to health care coverage and services.

Subsection (b). Administration Through Health Care Marketplace Division. Provides that the applicable federal authority carry out its duties under this title through a separate Health Care Marketplace Division, the sole duty of which (including the staff of which) shall be to administer this title. In addition to other responsibilities provided under this title, such Division is responsible for: oversight of the operations of HealthMarts under this title, and the periodic submission of reports to Congress on the performance of HealthMarts under this title under subsection (c), below.

Subsection (c). Periodic Reports. Requires that the applicable Federal authority submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the applicable Federal authority to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. Such authority may provide for the production of such reports through one or more contracts with appropriate private entities.

Section 2804. Definitions. Provides the following definitions for purposes of this title:

Applicable Federal authority. The term 'applicable Federal authority' means the Secretary of Health and Human Services.

Eligible employee or individual. The term 'eligible' means, with respect to an employee or other individual and a HealthMart, an employee or individual who is eligible under section 2801(c)(2), as provided in this Act, to enroll or be enrolled in health benefits coverage offered through the HealthMart.

Employer, employee, dependent. Except as the applicable Federal authority may otherwise provide, the terms "employer", "employee", and "dependent", as applied to health insurance coverage offered by a health insurance issuer licensed (or otherwise regulated) in a State, shall have the meanings applied to such terms with respect to such coverage under the laws of the State relating to such coverage and such an issuer.

Health benefits coverage. The term 'health benefits coverage' has the meaning given the term group health insurance coverage in section 2791(b)(4) of the PHS Act.

Health insurance issuer. The term 'health insurance issuer' has the meaning given the term in section 2791(b)(2).

Health status-related factor. The term 'health status-related factor' has the meaning given the term in section 2791(d)(9) of the PHS Act.

HealthMart. The term 'HealthMart' is defined above in section 2801(a)

Member. The term 'member" means, with resrect to a HealthMart, an individual enrolled for health benefits coverage through the HealthMart under section 2801(c)(2).

Purchaser. The term 'purchaser' means, with respect to a HealthMart, a small employer that has contracted under section 2801(c)(1)(A) with the HealthMart for the purchase of health benefits coverage.

Small employer. The term 'small employer' has the meaning given such term in section 2791(e)(4).

Subsection (b). Effective Date. In general, the amendment made by subsection (a) shall take effect on January 1, 2000. The Secretary of Health and Human Services shall issue all regulations necessary to carry out the amendment made by subsection (a) before January 1, 2000.

Subtitle D—Community Health Organizations

Section 2301. Promotion of Provision of Insurance by Community Health Organizations. This section amends subpart I of part D of title III of the Public Health Service Act by authorizing the waiver of state licensure requirements by community health organizations. It adds the following new section 330B.

Section 330B. Waiver of state licensure requirement for community health organizations in certain cases.

Subsection (a). In General. A community health organization may offer health insurance coverage in a state in which it is not licensed if the organization files an application for waiver of the licensure requirement with the Secretary of Health and Human Services by November 1, 2003, and the Secretary determines that the grounds for approval of the application have been met. The grounds for approval of a waiver include: (1) the state failed to complete action on a licensing application within 90 days of the state's receipt of the application; (2) the waiver application denied by the state is discriminatory in that the standards or review process used by the state imposed requirements, procedures, or standards (other than solvency requirements) that are not generally applicable to other entities engaged in substantially similar business; or (3) the waiver application denied by the state is based on the organizations' failure to meet applicable state solvency requirements and such requirements are not the same as those established by the Secretary. A waiver granted under this subsection: is effective only in the state for which it is granted; is effective for a 36-month period and may be renewed for up to 36 additional months; may be continued on condition that the organization complies with state consumer protection and quality standards; and preempts state law. The Secretary is required to grant or deny a waiver application within 60 days after a substantially complete application is filed. The Secretary is required to report to the House Committee on Commerce and the Senate Committee on Labor and Human Resources, by December 31, 2002, on whether the waiver process should be continued after December 31, 2003.

Subsection (b). Assumption of full financial risk. The community health organization, in order to qualify for a waiver, must assume full financial risk on a prospective basis for the provision of covered health care services. The organization may obtain insurance or make other arrangements for: (1) the costs of providing services, the aggregate value of which exceeds such aggregate level as the Secretary specifies from time to time; (2) providing services other than through the organization because medical necessity required their provision before they could be secured through the organization; and (3) not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 105 percent of its income for such fiscal year. The organization may also make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions, to assume all or part of the financial risk on a prospective basis for the provision of health services.

Subsection (c). Certification of provision against risk of insolvency for unlicensed CHOs. Each community health organization that is not licensed by a state and which has an approved waiver application must meet the standards established by the Secretary relating to financial solvency and capital adequacy. The Secretary is required to establish a certification process for organizations to meet the solvency standards.

Subsection (d). Establishment of solvency standards for community health organizations. The Secretary is required to establish on an expedited basis, using a negotiated rulemaking process and through the Health Resources and Services Administration, standards relating to financial solvency and capital adequacy for entities to meet in order to obtain an approved waiver. The Secretary, in establishing such standards, must consult with interested organizations, including the National Association of Insurance Commissioners, the Academy of Actuaries, and organizations representing federally qualified health centers. The Secretary must take into account the following factors for such standards: (1) the delivery system assets of an organization; (2) alternative means of protecting against insolvency; and (3) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations. The standards must include provisions to prevent enrollees from being held liable to any person or entity for the organization's debts in the event of the organization's insolvency.

The Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of Medicare beneficiaries, and other interested parties, must: (1) publish a notice in the Federal Register of the rulemaking process within 45 days of enactment of this Act; (2) establish a target date for publication of the rule of April 1, 1999; (3) allow 15 days, instead of 30 days, for a comment period; and (4) appoint a negotiated rulemaking committee not later than 30 days after the comment period and nominate a facilitator not later than ten days after appointment of the committee. The Secretary must provide for publication of a rule and terminate the process if, by January 1, 1999, the committee reports that it is unlikely that it will reach consensus within one month of the target date. If the committee is not terminated, then it must report a proposed rule not later than one month before the target date of publication. The Secretary must publish a rule not later than the target date of publication that will be effective on an interim basis and include at least a 60-day public comment period. The Secretary must provide for consideration of comments and republish such rule not later than one year after the target date.

Subsection (e). Definitions. A community health organization is an organization that is a federally-qualified health center or is controlled by one or more federally-qualified health centers. A federally-qualified health center is as defined under Medicaid law and generally is a health center that meet statutory requirements but does not receive grant funding. "Health insurance coverage" has the meaning given in section 2701 (b) (1) of the Public Health Service Act. "Control" means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of the organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Patient Protections

Section 3001. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric and Gynecological Care, Pediatric Care. Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

Section 9813. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric And Gynecological Care, Pediatric Care.

Subsection (a). Patient Access to Unrestricted Medical Advice. This subsection states that a group health plan may not prohibit or restrict health care professionals under contract from advising participants or beneficiaries about their health status or treatment, even if benefits for such care or treatment are not covered by the plan. Health care professional is defined as a physician (section 1861(r) of the Social Security Act) or other health care professional whose services are provided under the group health plan. This includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

Subsection (b). Patient Access to Emergency Medical Care. This subsection prohibits group health plans or health insurance issuers from requiring beneficiaries to get preauthorization before seeking emergency medical services and requires them to cover emergency medical screening examinations obtained at any emergency medical care facility, whether in or outside a plan's network of affiliated providers, if a prudent layperson with an average knowledge of health and medicine would judge the examination necessary in order to determine whether emergency medical care is needed. The plan or issuer must provide additional emergency medical services to the extent a prudent emergency medical professional determines necessary to avoid the consequences described in section 503(b)(8)(I) of ERISA as amended by this Act. These requirements apply to the extent the group health plan or health insurance issuer covers emergency medical care benefits (as defined in section 503(b)(8)(I) of ERISA as amended by this Act), except for items or services specifically excluded; and to items or services within the capability of the emergency facility, including routinely available ancillary services. This subsection does not prevent a group health plan or issuer from imposing any form of cost-sharing for emergency medical services so long as the cost-sharing is uniformly applied.

Subsection (c). Patient Access to Obstetric and Gynecological Care. If the group health plan or health insurance issuer covers routine gynecological or obstetric care by a participating physician specializing in such care, and the participant's designated primary care provider is not such a specialist, authorization or referral by a primary care provider must not be required for routine gynecological or obstetric care. Ordering of other similar routine gynecological or obstetric care by such a participating specialist is treated as authorized by the primary care provider. Plan requirements relating to medical necessity or appropriateness for obstetric and gynecological care will be allowed.

Subsection (d). Patient Access to Pediatric Care. This subsection states that if the group health plan or health insurance issuer covers routine pediatric care, and requires the designation of a primary care provider, the parent or guardian of any plan beneficiary under 18 years of age may designate a participating physician who specializes in pediatrics, if available, as the primary care provider. Plan requirements relating to medical necessity or appropriateness for pediatric care will be allowed.

Subsection (e). Treatment of Multiple Coverage Options. This subsection requires plans that have two or more coverage options to provide patient access to obstetric and gynecological care and pediatric care as defined in subsections (c) and (d) under each option.

Subsection (b). Clerical Amendment. This subsection adds a clerical amendment to the table of sections.

Section 3002. Effective Date and Related Rules.

Subsection (a). In General. This subsection states that the amendments made by Subtitle A will apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of the Act. The Secretary is also required to issue all necessary regulations before the effective date.

Subsection (b). Limitation on Enforcement Actions. No penalty shall be imposed on any failure to comply with any requirement imposed by the amendments made by section 3101 to the extent such failure occurs before the date of issuance of regulations issued in connection with such requirement if the plan has sought to comply in good faith with such requirement.

Subsection (c). Special Rule for Collective Bargaining Agreements. If a group health plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsections (b), (c), and (d)of section 9813 of the Internal Revenue Code of 1986 (as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement relating to the plan, or January 1, 2001, which ever is later. Any amendment in the plan made solely to conform to requirements of this subtitle must not be treated as a termination of the collective bargaining agreement.

Subtitle B—Patient Access to Information

Section 3101. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Health Care Providers, And Quality of Medical Care.Subsection (a). In General. This subsection amends subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) by adding the following new Section 9814.

Section 9814. Disclosure by Group Health Plans.

Subsection (a). Disclosure Requirement. This subsection requires the administrator of each group health plan to ensure that the summary plan descriptions required under ERISA section 102 contain the information described in subsections (b), (c), (d), and (e)(2)(A).

Each health insurance issuer connected with a group health plan is also required to provide the necessary information to the administrator or to plan participants and beneficiaries on a timely basis.

Subsection (b). Plan Benefits. The information required under subsection (a) includes a description of: (A) covered benefits categorized by the types of items and services and the types of health care professionals providing the items and services; (B) plan coverage for emergency medical care, the extent of access to urgent care centers, and definitions of terminology referring to emergency medical care; (C) plan benefits for preventive services; (D) any use or application of a drug formulary, including a summary of the process for determining the formulary; (E) and COBRA benefits available under the plan.

Information must also be provided on any limitations, exclusions, or restrictions on covered benefits, including: (A) benefits specifically excluded from coverage, categorized by types of items and services; (B) whether coverage for medical care can be limited or excluded based on utilization review or preauthorization requirements; (C) any lifetime, annual, or other period limitations on coverage, categorized by types of benefits; (D) any limitations or exclusions for custodial care; (E) experimental treatment or technology; or (F) failure to meet the plan's requirements for medical appropriateness or necessity; (G) coverage of second or subsequent opinions; (H) whether referral from a primary care provider is required for specialty care; (I) if continuity of care may be affected by the departure by the health care professional from a defined set of providers; restrictions on coverage of emergency services; and (J) any financial responsibility of participants or beneficiaries for emergency services.

Subsection (c). Participant's Financial Responsibilities. The summary plan description must also explain the participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and whether this may vary if the health care provider is not one of a defined set of providers.

Subsection (d). Dispute Resolution Procedures. The summary plan description must describe the process for dispute resolution adopted by the plan pursuant to section 503(b) of ERISA as amended by this Act. This must explain the procedures and time frames for coverage decisions and internal and external review.

Subsection (e). Information Available on Request. Upon written request, a group health plan offering coverage in connection with a group health plan must provide access to plan benefit information in electronic form. This information, in electronic format, must include, in addition to information required by section 104(b)(4) of ERISA, the latest summary plan description, summary of material modifications, and the actual plan provisions with available benefits. This is required no more than once a year, and a reasonable charge is permitted which may be subject to a maximum amount set by the Secretary. Requirements may also be met by making the information generally available on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.A summary description of the types of information available on request must be included in the summary plan description made available to participants and beneficiaries.

In addition to information described above, a group or health plan issuer must provide to participants or beneficiaries upon request information on: (i) any network characteristics with detailed lists of primary care providers and specialists and their geographic locations; (ii) any special disease management programs or programs for persons with disabilities, whether these programs are voluntary and if benefits would differ significantly for participants in care management; (iii) whether a specific drug or biological is included in the plan's formulary and procedures for waiver requests; (iv) the procedures and medically-based criteria used in an adverse coverage decision if the determination relates to medical necessity, an experimental treatment or technology; (v) the basis on which any preauthorization and utilization review requirement has resulted in an adverse coverage decision; (vi) the accreditation and licensing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licencing authority; (vii) the latest information, if any, on enrollee satisfaction maintained by the plan; (viii) the latest information on quality performance maintained by the plan; and (ix) information about the frequency and outcome of external review decisions requested by enrollees of the plan or health insurance issuer.

Upon request, any health care professional treating a participant or beneficiary under a group health plan must provide to the participant or beneficiary a description of his or her professional qualifications, privileges, experience and general description of the method of compensation for medical care according to categories that may be specified by the Secretary.

In addition, upon request, any health care facility from which a participant or beneficiary has sought treatment under a group health plan must provide to the participant or beneficiary a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status, if any, with standard-setting organizations.

Subsection (f). Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll. Upon written request, and in connection with a period of enrollment, the group health plan must make the summary plan description available for any coverage option in which the participant or prospective participant is eligible to enroll and any information described in clauses (i),(ii),(iii),(vi),(vii), and (viii) of subsection (e)(2)(B).

Subsection (g). Advance Notice of Changes in Drug Formularies. Plans must inform participants not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary used by the plan in the treatment of a chronic illness or disease.

Subsection (b). Clerical Amendment. This subsection amends the table of sections.

Section 3102. Effective Date.

Subsection (a). In General. Amendments made by Subtitle B—Patient Access to Information will apply to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The subsection also requires the Secretary to issue all necessary regulations before that date.

Subsection (b). Limitation on Enforcement Actions. If the group health plan has sought to comply in good faith with the amendments of Subtitle B, no enforcement actions shall be taken against a plan or issuer for violating a requirement imposed by the amendments before final regulations are issued.

Subtitle C—Medical Savings Accounts

Section 3201. Expansion of Availability of Medical Savings Accounts (MSAs)

Subsection (a). Repeal of Limitations on Number of Medical Savings Accounts. The current limitation on the number of taxpayers that may have MSAs and the rules for applying this limitation are repealed.

Subsection (b). All Employers May Offer MSAs. The legislation removes the current restriction that only small employers may offer MSAs.

Subsection (c). Increase in Amount of Deduction Allowed for Contributions to MSAs. The legislation allows monthly contributions of up to 1/12th the annual deductible for the taxpayer's coverage under the high deductible plan. The current percentage limitations are repealed.

Subsection (d). Both Employers and Employees May Contribute to MSAs. The legislation allows both employers and employees to contribute to an MSA. Currently, if an employer makes a contribution the employee may not contribute.

Subsection (e). Reduction in Permitted Deductibles under High Deductible Health Plans. The legislation lowers the allowable deductible for high deductible plans from $1,500 to $1,000 in the case of single coverage and $3,000 to $2,000 in the case of family coverage. It also postpones from 1998 to 1999 the first year for which cost-of-living adjustments are applied to the minimum allowable deductible, the maximum allowable deductible, and the maximum out-of-pocket requirements.

Subsection (f). MSAs May Be Offered under Cafeteria Plans. The current restriction against funding MSAs through cafeteria plans is repealed.

Subsection (g). Special Rules for Certain Federal Annuitants. Individuals receiving immediate Federal annuities may also have MSAs.

Subsection (h). Effective Date. The amendments made by this section apply to taxable years ending after the date of enactment of this legislation.

Section 3202. Exception from Insurance Limitation in Case of Medical Savings Accounts (MSAs).

Subsection (a). Insurance Offered by Community Health Centers. Qualified medical expenses (with respect to an account holder) includes coverage under insurance offered by a community health center if the coverage consists solely of required primary health benefits provided on a capitated basis. This exception applies only to individuals who in the taxable year involved have income that is less than 200% of the official poverty line. The exception applies only to the first 15,000 individuals enrolled in this insurance in a taxable year.

Subsection (b). Reports on Enrollment. Centers offering insurance coverage to individuals with MSAs shall provide reports as may be required by the Secretary of Health and Human Services and the Secretary of the Treasury to carry out the restriction on the number of individuals to whom the exception applies.

Section 3203. Sense of the House of Representatives. This section expresses the Sense of the House of Representatives that patients are best served when they are empowered to make informed choices about their own health care. The same is true regarding an individual's choice of health insurance. A system that gives people the power to choose the coverage that best meets their needs, combined with insurance market reforms, offers great promise of increased choices and greater access to health insurance for Americans.

Subtitle D—Revenue Offsets

See attached Joint Committee on Taxation Report No. JCX-56-98.

TITLE IV—HEALTH CARE LAWSUIT REFORM

Subtitle A—General Provisions

Section 4001. Federal Reform of Health Care Liability Actions. Title IV provides for Federal reform of health care liability actions.

Subsection (a). Applicability. This subsection specifies that reform provisions apply to any health care liability action brought in any State or Federal court. The provisions do not apply to any action for damages arising from a vaccine-related injury or death to the extent that the provisions of the National Vaccine Injury Compensation Program apply. The provisions also do not apply to actions under the Employment Retirement Income Security Act.

Subsection (b). Preemption. This subsection specifies that the provisions preempt State law to the extent State law provisions are inconsistent with the new requirements. However, they do not preempt State law to the extent State law provisions are more stringent.

Subsection (c). Effect on Sovereign Immunity and Choice of Law or Venue. This subsection provides that the new provisions do not waive or affect the defense of sovereign immunity asserted by any State or the U.S., affect the applicability of the Foreign Sovereign Immunities Act of 1976, preempt State choice-of -law rules with respect to claims brought by a foreign nation or citizen, or affect the right of any court to transfer venue.

Subsection (d). Amount in Controversy. This subsection specifies that in the case of any action under which the new provisions apply, and which is brought in federal court, the amount of economic damages, punitive damages, and attorneys fees or costs, are not included in the determination of whether the amount in controversy exceeds the minimum limit.

Subsection (e). Federal Court Jurisdiction Not Established on Federal Question Grounds. This subsection specifies that nothing in the new provisions is to be construed as establishing any new jurisdiction in the federal courts over health care liability actions.

Section 4002. Definitions. This section defines a number of terms.

Actual damages means damages awarded to pay for economic loss.

Alternative dispute resolution system or ADR means a system established under federal or state law that provides for resolution of health care liability claims other than through liability actions.

Claimant means any person who brings a health care liability action and any person on whose behalf the action is brought.

Clear and convincing evidence is that measure or degree of proof that produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations. It is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

Collateral source payments means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant as a result of injury or wrongful death pursuant to various laws, insurance policies, contracts, or other programs.

Drug has the meaning given the term under the Federal Food, Drug and Cosmetic Act.

Economic loss means any pecuniary loss resulting from injury to the extent recovery for such loss is allowed under state law. The term includes loss of earnings or other employment benefits, medical expense loss, replacement service loss, loss due to death, burial costs, and loss of business or employment opportunities.

Harm means any legally cognizable wrong or injury for which punitive damages may be imposed.

Health benefit plan means any of the following that provides benefits with respect to health care services: a hospital or medical expense incurred policy or certificate; a hospital or medical service plan contract; a health maintenance subscriber contract; or a Medicare+Choice plan offered under Medicare.

Health care liability action means a civil action brought in a state or federal court in which the claimant alleges a claim based on the provision of (or the failure to provide or pay for) health care services or the use of a medical product. The action may be brought against: a health care provider; an entity which is obligated to pay for health benefits under any health benefit plan (including persons or entities acting under a contract or arrangements); or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product. The term applies regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

Health care liability claim means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

Health care provider means any person that is engaged in the delivery of health care services in a state and is required by the state to be licensed or certified in order to engage in the delivery of services in the state.

Health care service means any service eligible for payment under a health benefit plan, including services related to the delivery or administration of such service.

Medical device has the meaning given the term under the Federal Food, Drug and Cosmetic Act.

Non-economic damages means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

Person means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including governmental entity.

Product seller means a person who (in the course of a business conducted for that purpose) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing a product in the stream of commerce. The term also includes a person who installs, repairs, or maintains the harm-causing aspect of a product. The term does not include: (i) a seller or lessor of real property; (ii) a provider of professional services in any case where the sale or use of a product is incidental to the furnishing of judgment, skill, or services; or (iii) any person who acts only in a financial capacity with respect to sale of the product or who leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

Punitive damages means damages awarded against any person to punish or deter such person or others from engaging in similar behavior in the future. The term does not include damages awarded to compensate for actual injury suffered.

State includes the 50 states, the District of Columbia, and all territories and possessions of the U.S.

Section 4003. Effective Date. The section specifies that the provisions of title IV of the bill apply to any health care liability action brought in any State or Federal court, and any health care liability claim subject to an ADR system, that is initiated on or after the date of enactment. Any health care liability claim or action arising from an injury occurring prior to enactment would be governed by the statute of limitations in effect at the time the injury occurred.

Subtitle B—Uniform Standards for Health Care Liability Actions

Section 4011. Statute of Limitations. This section establishes a uniform statute of limitations. Actions may not be brought more than two years after the injury is discovered or reasonably should be discovered. In no event may the action be brought more than five years after the date of the alleged injury.

Section 4012. Calculation and Payment of Damages

Subsection (a) Treatment of Non-Economic Damages. This subsection limits non-economic damages for losses resulting from an injury to $250,000. The limit applies regardless of the number of persons against whom the health care liability action is brought or the number of actions brought. The limitation does not apply to an action for damages based solely on intentional denial of medical treatment (necessary to preserve a patient's life that the patient is otherwise qualified to receive), against the wishes of the patient (or if the patient is incompetent, against the wishes of the patient's guardian), on the basis of the patient's present or predicted age, disability, degree of medical dependency or quality of life.

The subsection specifies that, if after enactment, a state enacts a law which prescribes the amount of non-economic damages that may be awarded, the state limit will apply. Similarly, if after enactment, a state limits the amount of recovery in a health care liability action, but doesn't delineate between economic and non-economic damages, the state limit will apply.

The subsection specifies that a defendant is only liable for the amount of non-economic damages attributable to that defendant's proportionate share of the fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all cases, the liability of a defendant for non-economic damages is several and not joint. A separate judgment is to be rendered against each defendant for the amount allocated to such defendant.

Subsection (b) Treatment of Punitive Damages. The subsection permits the award of punitive damages (to the extent allowed under State law) only if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct that was either specifically intended to cause harm or that manifested a conscious flagrant indifference to the rights or safety of others.

The subsection applies to any health care liability action brought in any federal or state court on any theory where punitive damages are sought. It does not create a cause of action for punitive damages. Further, it does not preempt or supersede any State or Federal law to the extent that such law would further limit punitive damage awards.

The subsection permits either party to request a separate proceeding (bifurcation) on the issue of whether punitive damages should be awarded and in what amount. If a separate proceeding is requested, evidence related only to the claim of punitive damages (as determined under state law) is inadmissible in any proceeding to determine whether actual damages should be awarded.

The subsection generally prohibits the award of punitive damages against a manufacturer or product seller of a drug or medical device. The prohibition applies in a case where the drug or device, or the adequacy of its packaging or labeling, was subject to pre-market approval by the Food and Drug Administration (FDA) and had received such pre-market approval. The prohibition also applies where the drug is generally recognized as safe and effective according to conditions established by the FDA. The prohibition against punitive damage awards does not apply in any case where the defendant, before or after pre-market approval of the drug or device, intentionally and wrongfully withheld information or made misrepresentations to the FDA or to the Secretary (with respect to biological products) that is material and relevant to the harm suffered by the claimant. The prohibition against damage awards also does not apply if the defendant made an illegal payment to an FDA official or employee for the purpose of securing or maintaining approval of the drug or device.

The subsection provides that a manufacturer or product seller shall not be held liable for punitive damages related to adequacy of required tamper resistant packaging unless the packaging or labeling was found by clear and convincing evidence to be substantially out of compliance with the regulations.

Subsection (c) Periodic Payments for Future Losses. The subsection permits periodic (rather than lump sum) payment in any case in which damages awarded for future economic and non-economic loss exceeds $50,000. The judgment of a court awarding periodic payments may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of payments. The provision does not preclude a single lump sum settlement

Subsection (d) Treatment of Collateral Source Payments. The subsection permits a defendant to introduce evidence of collateral source payments. If such evidence is introduced, the claimant may introduce evidence of any amount paid or reasonably likely to be paid to secure the right to such collateral source payments. No provider of collateral source payments is permitted to recover any amount against the claimant or against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care liability action. This subsection applies to actions that are settled as well as actions that are resolved by a fact finder.

Section 4013. Alternative Dispute Resolution. The subsection requires that any system used to resolve health care liability actions or claims must include provisions consistent with those specified in the bill relating to statute of limitations, non-economic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments.

Section 4014. Reporting on Fraud and Abuse Enforcement Activities. This subsection requires the General Accounting Office to:

(1) monitor the compliance of the Department of Justice and all United States Attorneys-with the guideline entitled "Guidance on the Use of the False Claims Act in Civil Health Care Matters" issued by the Department on June 3, 1998, including any revisions to that guideline; and

(2) monitor the compliance of the Office of the Inspector General of the Department of Health and Human Services with the protocols and guidelines entitled "National Project Protocols—Best Practice Guidelines" issued by the Inspector General on June 3, 1998, including any revisions to such protocols and guidelines; and

(3) submit a report on such compliance to the Committee on the Judiciary, the Committee on Commerce, and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate not later than February 1, 1999, and every year thereafter for a period of four years ending February 1, 2002.

TITLE V—CONFIDENTIALITY OF HEALTH INFORMATION

Section 5001. Confidentiality of Protected Health Information.

Subsection (a). In General. The section amends Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) by adding the following text:

Part D—Confidentiality of Protected Health InformationInspection and Copying of Protected Health Information

Section 1181. Inspection And Copying of Protected Health Information.

Subsection (a). In General. The section generally authorizes, subject to the succeeding provisions of the section, a health care provider, health plan employer, health or life insurer, or educational institution to make available to a requesting individual (or a health care provider designated by the individual) his or her protected health information for inspection and copying.

Subsection(b). Access Through Originating Provider. Protected health information created by an originating provider and subsequently received by another health care provider or health plan as part of treatment or payment activities shall be made available for inspection and copying as provided in this section through the originating provider, rather than the receiving health care provider or health plan, unless the originating provider does not maintain the information.

Subsection (c). Investigational Information. Health information created as part of the requesting individual's participation in a clinical trial monitored by an institutional review board established pursuant to federal regulations adopted under the Public Health Service Act (42 U.S.C. 300v-1(b)) and Common Rule notice (56 Fed. Reg. 28003) shall be provided in response to a subsection (a) request only to the extent and in a manner consistent with such regulations.

Subsection (d). Other Exceptions. Unless ordered by a court of competent jurisdiction, the recipient of a subsection 1181(a) request is not required to grant the request if disclosure could reasonably be expected to endanger the life or physical safety, or cause substantial harm to any individual, or if the information has been compiled principally in anticipation of or for use in a civil, criminal, or administrative action or proceeding.

Subsection (e). Denial of Request For Inspection or Copying. If the recipient of a subsection 1181(a) request denies the request, the requesting individual shall be informed in writing of the reasons for the denial, the availability of procedures for further review of the denial, and the individual's right to file a concise statement setting forth the request.

Subsection (f). Statement Regarding Request. If a requesting individual has filed a concise statement pursuant to subsection 1181(e), any subsequent disclosure of that individual's protected health information shall include a notation concerning the statement and may include a concise statement of the reasons for the denial of the request for inspection and copying.

Subsection (g). Procedures. A health care provider, health plan employer, health or life insurer, or educational institution providing access to protected health information for inspection or copying under this section, may prescribe appropriate procedures and may require a requesting individual to pay reasonable costs associated with such inspection and copying.

Subsection (h). Inspection and Copying of Segregable Portion. A health care provider, health plan employer, health or life insurer, or educational institution receiving a subsection 1181(a) request shall permit the inspection and copying of any segregable portion of a record after the deletion of any portion that is not required to be disclosed under this section.

Subsection (i). Deadline. A health care provider, health plan employer, health or life insurer, or educational institution shall comply with or deny a subsection 1181(a) request not later than 30 days after the date of receiving such request.

Subsection (j). Rules Governing Agents. An agent of a health care provider, health plan employer, health or life insurer, or educational institution shall not be required to provide for the inspection and copying of protected health information, except where the information is retained by the agent and the agent has been asked by the health care provider, health plan employer, health or life insurer, or educational institution to fulfill the requirements of this section.

Section 1182. Supplementation of Protected Health Information.

Subsection (a). In General. Subject to subsection 1182(b), not later than 45 days after receiving a written request from an individual to amend his or her protected health information by adding a concise written statement, a health care provider, health plan employer, health or life insurer, or educational institution shall make the requested amendment, inform the individual of the amendment action, and make reasonable efforts to inform recipients of the unamended health information during the previous year of the addition of a supplement.

Subsection (b). Refusal to Amend. If a health care provider, health plan employer, health or life insurer, or educational institution refuses to make a requested subsection 1182(a) amendment, the requesting individual shall be informed of the reasons for the refusal, any procedures for further review of the refusal, and the individual's right to file a concise statement setting forth the requested amendment, and the individual's reasons for disagreeing with the refusal.

Subsection (c). Statement of Disagreement. If a requesting individual has filed a concise statement pursuant to subsection 1182(b), any subsequent disclosure of the disputed portion of the information shall include a notation concerning the statement and may include a concise statement of the reasons for the denial of the amendment request.

Subsection (d). Rules Governing Agents. An agent of a health care provider, health plan employer, health or life insurer, or educational institution shall not be required to make amendments to individually identifiable health information, except where the information is retained by the agent and the agent has been asked by the health care provider, health plan employer, health or life insurer, or educational institution to fulfill the requirements of this section.

Subsection (e). Duplicative Requests For Amendments. If a health care provider, health plan employer, health or life insurer, or educational institution receives a duplicative request for an amendment of health information and a statement of disagreement with respect to the request that has been filed, the requesting individual shall be informed of such filing and there shall be no further requirement to carry out the procedures under this section.

Subsection (f). Rule of Construction. This section shall not be construed to permit an individual to modify statements in his or her record that document the factual observations of another individual or state the results of diagnostic tests, or to permit an individual to amend his or her record as to the type, duration, or quality of treatment the individual believes he or she should have been provided.

Section 1183. Notice of Confidentiality Practices.

Subsection (a). Preparation of Written Notice. A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution shall post or provide, in writing and in a clear and conspicuous manner, notice of their protected health information confidentiality practices. Such notice shall include a description of an individual's rights with respect to protected health information, the intended uses and disclosures of such information, the procedures established for the exercise of an individual's rights with respect to such information, and the procedures established for obtaining copies of the notice.

Subsection (b). Model Notice. The Secretary of Health and Human Services, after notice and opportunity for public comment, and based on the advice of the National Committee on Vital and Health Statistics, shall develop and disseminate, not later than 6 months after the date of the enactment of the Accessibility, Affordability, and Accountability Patient Protection Act of 1998, model notices of confidentiality practices for use under this section. Use of a model notice developed by the Secretary shall serve as a complete defense in any civil action to an allegation that a violation of this section has occurred.

Section 1184. Establishment of Safeguards.

Subsection (a). In General. A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution shall establish, maintain, and enforce reasonable and appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of protected health information created, received, obtained, maintained, used, transmitted, or disposed of by them.

Subsection (b). Factors to Be Considered. A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution subject to subsection 1184(a) shall consider the following factors in establishing safeguards under such subsection: the need for protected health information; the categories of personnel who will have access to such information; the feasibility of limiting access to individual identifiers; the appropriateness of the policy or procedure to the person and the medium in which protected health information is stored and transmitted; and the value of audit trails in computerized records.

Subsection (c). Relationship to Part C Requirement. Any safeguard established under this section shall be consistent with the requirement in section 1173(d)(2).

Subsection (d). Conversion to Nonidentifiable Health Information. A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution subject to subsection 1184(a) shall, to the extent practicable and consistent with the purpose for which protected health information is maintained, convert such information into nonidentifiable health information.

Section 1185. Availability of Protected Health Information For Purposes of Health Care Operations

Subsection (a). Disclosure. The bill allows any person who maintains protected health information to disclose the information to a health care provider or a health plan in order to permit the provider or plan to conduct health care operations.

Subsection (b). Use. A health care provider or a health plan that maintains protected health information may use it to conduct health care operations.

Subsection (c). Limitation on Sale or Barter. Notwithstanding subsection (b), this subsection prohibits health care providers or health plans from selling or bartering protected health information as part of conducting health care operations.

Section 1186. Relationship to Other Laws.

Subsection (a). State Law. Part D, as established by the bill, preempts State law provisions that; (A) would be preempted as inconsistent with this title under the Supremacy Clause of the U.S. Constitution; (B) relate to authorization for the use or disclosure of protected health information for health care operations, or nonidentifiable health information; or (C) relate to the inspection, copying, or amendment of protected health information by the information-subject, to the notice of confidentiality practices, or to the establishment of safeguards for protected health information. Nothing in this part shall be construed to preempt or modify State privileges. There are exceptions to federal preemption for the following purposes of protected health information: (A) confidentiality of medical records maintained by a licensed mental health professional; (B) provision of health care or disclosure of information about a minor; (C) condition-specific limitations on disclosure as identified by the Secretary as posing a public health threat; (D) use or disclosure of information for use in public health reporting; (E) situations where the individual is unconscious, incompetent, or otherwise incapable of deciding whether to authorize disclosure of protected health information; or, (F) situations where the individual has a valid and applicable power of attorney.

Subsection (b). Federal Law. Part D shall not be construed to preempt, modify, or repeal any provision of Federal law relating to protected health information, or relating to an individual's access to protected health information or health care services. This part shall not be construed to preempt or modify Federal privileges.

Section 1187. Civil Penalties.

Subsection (a). Violation. A person determined by the Secretary to have substantially and materially failed to comply with this part shall be subject to, in addition to any other penalties that may be imposed: (1) in the case of a violation related to section 1181 or 1182, a civil penalty up to $500 for each violation but not more than $5,000 for all violations of an identical requirement or prohibition during a calendar year; (2) for violations of sections 1183, 1184, or 1185, to a civil penalty not more than $10,000 for each violation, but not to exceed $50,000 for all violations of an identical requirement or prohibition during the calendar year; or (3) in a case where the Secretary finds that violations occur with such frequency as to constitute a general business practice, to a civil penalty of not more than $100,000.

Subsection (b). Procedures For Imposition of Penalties. Section 1128A, other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil or monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A.

Section 1188. Definitions. The bill defines the following terms:

Agent means a person, including a contractor, who represents and acts for another under the contract or relation of an agency, or whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between the principle and a third person.

Disclose means to release, transfer, provide access to, or otherwise divulge protected health information to any person other than an individual who is the subject of such information.

Educational institution means an institution or place accredited or licensed for purposes of providing for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges united under one corporate organization or government.

Employer means the definition used under ERISA, except that such term is required to include only employers of two or more employees.

Health care means: (a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, including appropriate assistance with disease or symptom management and maintenance, counseling, services or procedures with respect to the physical or mental condition of an individual or affecting the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs, or any other tissue; or (b) any sale or dispensing, pursuant to a prescription or medical order, of a drug, device, equipment, or other health care related item to an individual, or for the use of an individual.

Health care operations means services, provided directly by or on behalf of a health plan or health care provider or by its agent, for any of the following purposes: (a) coordinating health care, including health care management of the individual through risk assessment, case management, and disease management; (b) conducting quality assessment and improvement activities, including outcomes evaluation, clinical guideline development and improvement, and health promotion; (c) carrying out utilization review activities, including precertification and preauthorization of services, and health plan rating activities, including underwriting and experience rating; or (d) conducting or arranging for auditing services.

Health care provider means a person, who with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of (a) a person who is licensed, certified, registered, or otherwise authorized by federal or state law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession; (b) a federal, state, employer-sponsored or any other privately-sponsored program that directly provides items or services that constitute health care to beneficiaries; or (c) an officer or employee of a person described in subparagraphs (a) or (b).

Health or life insurer means a health insurance issuer, as defined in section 9805(b)(2) of the Internal Revenue Code of 1986, or a life insurance company, as defined in section 816 of such Code.

Health plan means any health insurance plan, including any hospital or medical service plan, dental or other health service plan, health maintenance organization plan, plan offered by a provider-sponsored organization (as defined in section 1855(d) of the Social Security Act, the Medicare+Choice program), or other program providing or arranging for the provision of health benefits.

Health researcher means a person (or officer, employee, or agent of a person) who is engaged in systematic investigation, including research development, testing, data analysis, and evaluation, designed to develop or contribute to generalizable knowledge relating to basic biomedical processes, health, health care, health care delivery, or health care cost.

Nonidentifiable health information means protected health information from which personal identifiers that reveal the identity of the individual who is the subject of such information or provide direct means of identifying the individual (such as name, address, and social security number) have been removed, encrypted, or replaced with a code, so that the identity of the individual is not evident without (in the case of encrypted or coded information) the use of a key.

Originating provider means, when used with respect to protected health information, the health care provider who takes an action that initiates the treatment episode to which that information relates, such as prescribing a drug, ordering a diagnostic test, or admitting an individual to a health care facility. A hospital or nursing facility is the originating provider with respect to protected health information created or received as part of inpatient or outpatient treatment provided in the hospital or facility.

Payment activities means (a) activities undertaken (i) by, or on behalf of, a health plan to determine its responsibility for coverage under the plan; or (ii) by a health care provider to obtain payment for items or services provided to an individual, provided under a health plan, or provided based on a determination by the health plan or responsibility for coverage under the plan; and (b) includes the following activities: (i) billing, claims management, medical data processing, other administrative services, and actual payment; (ii) determinations of coverage or adjudication of health benefit or subrogation claims; or (iii) review of health care services with respect to coverage under a health plan or justification of charges.

Person means a natural person; a government or governmental subdivision, agency, or authority; a company, corporation, estate, firm, trust, partnership, association, joint venture, society, or joint stock company; or any other legal entity.

Protected health information when used with respect to an individual who is the subject of information, means any information (including genetic information) that identifies the individual, whether oral or recorded in any form or medium, and that (a) is created or received by a health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, or educational institution; (b) relates to the past, present, or future physical or mental health or condition of an individual (including individual cells and their components); (c) is derived from the provision of health care to an individual or payment for the provision of health care to an individual; and (d) is not nonidentifiable health information.

State includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

Treatment means the provision of health care by a health care provider.

Writing means writing either in a paper-based, computer-based, or electronic form, including electronic signatures.

Subsection (b). Enforcement of Provisions Through Conditions of Participation. This subsection amends section 1842(h) of the Social Security Act to permit the Secretary to refuse to enter into an agreement with a physician or supplier, or to terminate or refuse to renew an agreement, if the physician or supplier is found to have violated the confidentiality of protected health information as established by the bill. This subsection also amends sections 1852(h), 1866(a)(1), and 1876(k)(4) of the Social Security Act to require that Medicare+Choice organizations, Medicare providers, and Health Maintenance Organizations with risk-sharing contracts under Medicare comply with the confidentiality of protected health information provisions established by the bill.

Subsection (c). Conforming Amendments. This subsection provides conforming amendments modifying the title heading of Title XI of the Social Security Act to read as follows: "Title XI — General Provisions, Peer Review, Administrative Simplification, and Confidentiality of Protected Health Information". This subsection also amends section 306(k)(5) of the Public Health Service Act to require the National Committee on Vital and Health Statistics to study the issues relating to section 1184 of the bill regarding the establishment of safeguards to protect health information. The National Committee is required to report the results of the study to the Congress by not later than one year after enactment of the bill.

Subsection (d). Effective Date. This subsection provides an effective date for the provisions of this section that is one year after enactment of the bill, with some exceptions; (1) the provisions in subsection (c)(2), the study on safeguards required of the National Committee on Vital and Health Statistics, and (2) section 1183(b) related to the development of a model notice of confidentiality practices.

Section 5002. Study and Report on Effect of State Law on Health-Related Research. The bill requires that one year after enactment of the bill, the Comptroller General of the U.S. prepare and submit to the Congress a report containing the results of a study on the effect of state laws on health-related research that is subject to review by an institutional review board or institutional review committee with respect to the protection of human subjects.

Section 5003. Study and Report on State Law on Protected Health Information.

Subsection (a). In General. The bill requires that not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Congress a report containing the results of a study that (1) compiles State laws on the confidentiality of protected health information (as defined in section 1188 of the Social Security Act, as added by section 5001 of this Act); and (2) analyzing the effect of such laws on the provision of health care and securing payment for such care.

Subsection (b). Modification of Deadline. Section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) is amended by striking "36 months after the date of the enactment of this Act," (August 1999), and inserting "6 months after the date on which the Comptroller General of the United States submits to the Congress a report under section 5003(a) of the Patient Protection Act of 1998."

Section 5004. Protection for Certain Information Developed to Reduce Mortality or Morbidity or for Improving Patient Care and Safety

Subsection (a). Protection of Certain Information. Health care response information shall be exempt from any disclosure requirement in connection with a civil or administrative proceeding to the same extent as information developed by a health care provider with respect to any of the following: (1) peer review; (2) utilization review; (3) quality management or improvement; (4) quality control; (5) risk management; (6) internal review for purposes of reducing mortality, morbidity, or for improving patient care or safety.

Subsection (b). No Waiver of Protection Through Interaction with Accrediting Body. The protection of health care response information from disclosure shall not be deemed to be modified or in any way waived by the development or transfer of such information to an accrediting body.

Section 5005. Effective Date for Standards Governing Unique Health Identifiers for Individuals. Amends Section 1174 of the Social Security Act (42 U.S.C. 1320d-3) to preclude the Secretary of Health and Human Services from promulgating or adopting a final standard to be effective under section 1173(b) of the Social Security Act providing for a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard or containing provisions consistent with the standard.

SENATE—*Friday, July 24, 1998*

The Senate met at 9:15 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today we have a guest Chaplain, the Reverend Dr. Richard Foth, Falls Church, VA. We are pleased to have you with us.

PRAYER

The guest Chaplain, the Reverend Dr. Richard Foth, Falls Church, VA, offered the following prayer:

Gracious Father, we come to You on this warm summer morning absolutely dependent on Your wisdom and Your grace. We know that our friends in the Senate have the people of this great Nation on their hearts. And, although they may not, in their own wisdom, know what is best in every instance for each citizen, You do.

So, we ask You to help this deliberative body of chosen and able men and women to keep pursuing matters of State in fresh ways, that all the people of our great land who depend on them might be the better for it.

Our Senators come to this Chamber, pressured almost beyond belief by interests of every kind. Give them, we pray, the insight to be able to differentiate between what is good and what is best. And as they do, thank You for helping them manage their personal and family concerns, while trying to focus on the matters at hand.

As the heat of this late July day is reflected in the heat of debates driven by deadline, let cool heads prevail. And, as the important task of monetary appropriations is considered, we take a moment to remember that You, too, have appropriated something for each of us: Your love and Your grace. In that Name above all names, we thank You for these things. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. ALLARD. Mr. President, good morning.

SCHEDULE

Mr. ALLARD. Mr. President, this morning, the Senate will immediately proceed to a rollcall vote on passage of the transportation appropriations bill. Following that vote, the Senate will begin consideration of H.R. 1151, the credit union legislation. Any votes ordered today with respect to the credit union bill, or any other legislative or executive items, will be postponed, to occur on Monday, July 27, at a time to be determined by the two leaders. As always, Members will be notified when Monday's voting schedule becomes available.

I thank my colleagues for their attention. I yield the floor.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the Department of Transportation appropriations bill, S. 2307, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2307) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Mr. LAUTENBERG. Mr. President, the Senate's Transportation Appropriations bill for fiscal year 1999 which the Senate will approve today is of vital importance to the state of New Jersey. As the most densely populated state in the nation, efficient and effective transportation is critical to the economic well being of my state, as well as to the quality of life of its residents.

The Senate's transportation appropriations bill provides over $900 million in transportation investments to my state. In addition, New Jersey will receive tremendous benefits from investments in Amtrak services, in the William J. Hughes FAA Technical Center in Pomona, in the U.S. Coast Guard training center in Cape May, the Coast Guard air station in Pomona, and in the airports in our state, particularly Newark International Airport. This investment provides good paying jobs in the short-term, and in the long-term, it will create and maintain the infrastructure that New Jersey needs to attract and keep a strong workforce. Ultimately, these investments will serve to reduce congestion, improve air quality, and enhance New Jerseyans' quality of life.

Mr. President, I would like to highlight some of the important provisions in the Senate's bill which I was able to secure for the Garden State.

Transit is an intricate part of Northern New Jersey's transportation plan. The single largest component of New Jersey's mass transit initiatives is the Urban Core. I was pleased to secure $70 million that will go toward additional design and construction of the Hudson-Bergen Light Rail link. This rail line will reduce congestion and increase mobility, and will spur economic development in the communities along the Hudson County waterfront and into Bergen County. It will improve air quality, and provide needed construction, operation and maintenance jobs.

In addition, the $12 million that is provided for the Newark-Elizabeth Rail Link is the first significant infusion of federal dollars that will seriously initiate this project. This mass transit project will first link Broad Street Station to Penn Station in Newark, extending past Newark International Airport, through the City of Elizabeth and into Union County. Also part of Urban Core, the Newark-Elizabeth Rail Link is an integral part of the "Circle of Mobility" that will serve to reduce congestion, improve air quality, and enhance New Jerseyans' quality of life. To date I have secured over $600 million for Urban Core projects.

In addition to the Urban Core and transit formula assistance, the bill makes a number of bus and bus facility projects eligible for federal assistance. Among those are the Market Street bus maintenance facility in Paterson, New Jersey Transit jitney shuttle buses, Newark, Morris and Essex Station access and buses, the South Amboy regional intermodal transportation initiative and New Jersey Transit clean fuel buses.

The bill also allocates $4 million to the National Transit Institute at Rutgers University, of which $1 million will go toward mass transit workplace safety training.

Mr. President, I strongly believe that Amtrak is a critical component of our nation's transportation system, particularly in New Jersey and throughout the Northeast corridor. It provides safe and effective transportation to millions of customers every year, reducing congestion on our roads and in our skies. If Amtrak were not operating, there would be 18,000 cars a day on New Jersey's already dense highways. This is untenable for my state. Despite many difficulties, I am pleased that the Senate bill provides $555 million for Amtrak's national rail operations. This funding is in addition to the $2.2 billion in capital funding provided by the Amtrak Reform and Accountability Act of 1997. This investment will allow Amtrak to continue its operations for another year and further enable it to reach its goal of self-sufficiency by 2002.

Mr. President, the bill also includes a general provision concerning a High Occupancy Vehicle lane along I-287 in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

New Jersey. The provision would allow the state to remove the HOV restrictions without being required to reimburse the federal government for construction costs. A few years ago, I secured $140 million for the HOV lane in an appropriations bill at the request of the state. Now operational, the HOV lane is clearly not working, as only 72 cars an hour are using the lane, significantly less than the 600 cars expected. Currently, a state can appeal to the federal government to decommission an HOV lane without having to pay back the funds if it successfully makes the case that it is not "in the public interest." Since the I–287 lane was directed by statute, the federal government does not have the authority to approve a state's appeal. The general provision allows New Jersey to appeal to the Federal Highway Administration that the lane is not in the public interest, and if the Secretary concurs, the state will not have to pay back the $140 million. No one is more committed to cleaner air, energy conservation, and innovations to cut traffic congestion than I. HOV lanes have worked in certain settings and I support them where they are successful. But, in New Jersey, it may be that our traffic patterns, work schedules and other issues make it difficult for the I–287 HOV lane to work. This provision removes a significant financial hurdle if the HOV lane is proven to be a failed lane.

Mr. President, to make roads in New Jersey as productive as possible, the Senate bill includes $6 million for intelligent transportation system initiatives in New Jersey. These funds will go to advance projects already underway and managed by TRANSCOM, a consortium of 14 state and local agencies in the NY/NJ/CN metropolitan area. TRANSCOM is responsible for developing and coordinating the region's traffic management and incident detection system through the deployment of significant investments in intelligent transportation systems. Over half of the congestion on the region's roadways is due to traffic incidents and it is TRANSCOM's mission to improve inter-agency response to such incidents.

Mr. President, transportation is the lifeblood of New Jersey and aviation is in the center of it. I am pleased to cite a number of provisions in this bill that improve upon the state's aviation system. First, the bill includes $11 million for the redesign of national air space, of which $3 million will be used to focus the FAA's efforts of redesigning the airspace in the New Jersey/New York metropolitan area. This funding will kick-off the redesign process, which will hopefully alleviate congestion and improve aircraft operations in the region's already dense and complex airspace, leading to fewer delays and reduced air noise levels. I was also pleased to secure $100,000 for a "technical assistance grant" for a community group to retain the services of an expert to ensure that citizens are represented and included during the FAA's redesign effort.

I was also pleased to secure funding that will greatly improve operations at Newark International Airport. The bill provides $2 million to begin work on installing state-of-the-art radar upgrades and runway-monitoring improvements that will reduce delays and enhance safety at the airport. Moreover, the bill includes report language that recognizes the cooperative effort among the FAA, the Port Authority of New York/New Jersey, and airport users to make Newark Airport among the best in the country. The language directs the FAA to report quarterly on the progress of the cooperative working group and outlines the various equipment and initiatives that are priorities for the airport.

The bill also includes report language expressing concern about staffing and equipment needs at New Jersey/New York area towers, the New York TRACON and the New York Air Traffic Control Center. This language will serve to direct the FAA to do all it can to improve the safety and efficiency of these facilities. And, the bill includes a provision directing the FAA to ensure that the air traffic controllers serving all the major FAA facilities in the region—air traffic control towers, the New York TRACON and the New York Center—are compensated equally. The FAA's proposed reclassification scheme would create a pay gap that does not recognize the equity of the work performed at the facilities and will force the experienced controllers serving the towers to go to the Center and the TRACON. The language prevents this from happening.

Moreover, the bill fully funds the Hughes Technical Center in Pomona. The Technical Center is the world's premier aviation testing and development center, with state-of-the-art facilities and an impressive workforce. The bill provides funding to continue the good work at the Tech Center.

Mr. President, I strongly supported funding for the Office of Pipeline Safety, and I am pleased that the bill provides $32.7 million for pipeline safety programs, with $1 million set aside for One-Call programs. These programs require anyone who is going to dig—contractors, utilities, for example—to find out the exact location of pipelines before they break ground. We in New Jersey know all too well the damage that a pipeline accident can have on victims of pipeline eruptions, and particularly to the community. Four years ago, around midnight, on March 24, 1994, a major natural gas pipeline ruptured in Edison, New Jersey, a densely populated, urban environment. This rupture caused a deafening boom, awakening residents of the Durham Woods apartment complex and changing their lives forever. The explosion was caused by third party damage, something a strong one-call program would address. Thus, the bill includes language emphasizing the importance of One-Call programs in preventing accidents. Two-thirds of all pipeline accidents are caused by people who dig without knowing of the locations of pipelines.

Mr. President, the bill also provides $2 million for the Biomechanics Consortium, of which the University of Medicine and Dentistry of New Jersey (UMDNJ) is a member. These institutions study the effects of motor vehicle crash injuries on adults and children, resulting in the deployment of more effective life-saving safety devices. These life-saving funds are extremely important and I am pleased that the bill funds this program.

Mr. President, the Coast Guard has an important presence in our state and I am pleased that it is well funded. In addition to the assistance provided to the air station in Pomona and the training center in Cape May, the bill fully funds the Coast Guard's Container Inspection Program (CIP) at $3.6 million. The CIP addresses environmental and safety problems posed by improper transport of containerized hazardous materials into U.S. ports. I established this program in 1994 to address the environmental and safety problems posed by improper transport of containerized hazardous materials into U.S. ports. This was highlighted by the 1992 Santa Clara casualty, in which several containers of highly toxic arsenic trioxide were lost overboard off the New Jersey coast, posing a substantial threat to the marine environment and its resources. Following this, the Coast Guard conducted intensive, targeted inspections and discovered wanton and widespread violations of container handling and packaging regulations. This program serves to prevent such casualties and protect the marine environment.

Mr. President, having better, more efficient transit systems, roads, airports and all other transportation systems will improve the quality of life for thousands of residents and visitors to New Jersey on a daily basis. I am glad that as Ranking Minority Member of this Transportation Appropriations Subcommittee I was able to secure this funding, as well as the bill and report language for New Jersey. I appreciate the generosity shown by the Chairman of the Subcommittee, Senator RICHARD SHELBY, who has been most cooperative and helpful throughout the process. His work will serve all New Jerseyans and the nation well.

Mrs. MURRAY. Mr. President, I rise today to extend my strong support for S. 2307, the Department of Transportation's Appropriations Bill for FY 1999. This funding comes at a critical time for our nation and in particular, Washington state.

Mr. President, as I fly home each weekend, I join thousands of other commuters in the Puget Sound Region immersed in daily and agonizing gridlock. Our State Department of Transportation is working furiously to construct HOV lanes, park and rides and additional interchanges. I applaud our State Secretary Sid Morrison for his innovative thinking and leadership during this time of enormous growth.

Our region's economic boom has brought many advantages, however, its impact on mobility in the region has been dramatic and continually frustrates motorists. This bill will provide much needed relief for our Puget Sound Region and for infrastructure improvements throughout Washington state. I am most pleased that I was able to work with the committee to secure $60 million for the Puget Sound's Regional Transit Authority, known as Sound Move. This will include $47 million for commuter rail between Seattle and Tacoma and $13 million to begin light rail construction.

Additionally, I want to express my support for the committee's work in funding the Elliot Bay Water Taxi, the Columbia River Marine Fire and Safety Association, ITS systems near Spokane's SR 395, airport improvements at Everett's Paine Field, Boeing Field and the Pullman Airport. These projects are vital to our region's multi-modal planning. The linking of car, bus, bike, ferry, plane, train and pedestrian has become the framework of every infrastructure decision.

I wanted to personally thank Chairman SHELBY and our Ranking Member, Senator LAUTENBERG for their dedicated work. Their combined efforts and leadership on our subcommittee have produced enormous results that will be felt by generations to come. I am pleased to see our commitment to Amtrak, the Coast Guard, FAA and the National Highway Traffic Safety Administration. I am committed to helping this bill remain in conference and urge my colleagues to support this important legislation.

Our work today is wonderful news for the millions of Americans sitting right now in parking lots which were once called highways.

Ms. MOSELEY-BRAUN. Mr. President, this legislation includes critical funding for our nation's airports, roads, mass transit systems, and other transportation. I want to particularly thank the managers of the bill for including funding for Amtrak, and for a number of key projects important to Illinois, including funding for Metra, Metro Link, and the Chicago Transit Authority.

I am disappointed that the legislation includes an amendment, added last night, that provides for expedited review of court challenges to the DBE program. I hope that the conferees on this bill will see fit to drop this ill-advised and unnecessary intrusion into hundreds years of judicial process.

FEDERAL LANDS HIGHWAY PROGRAM (HIGHWAY 323)

Mr. BURNS. Mr. President, I would like to clarify the Committee's intent regarding the directive to the Secretary to make funds available for Highway 323 in Southeastern Montana.

Under the Federal Lands Highway Program, the Secretary is to make funds available to conduct the environmental review, design and, to the extent possible, right-of-way acquisition for the future phased construction to a paved secondary road standard for 50.4 miles along Highway 323 between the communities of Alzada, Montana and Ekalaka, Montana.

This additional language needs to be recognized in order to discourage duplication of work that has already been completed.

Mr. SHELBY. I agree with the Senator of Montana.

FEDERAL LANDS HIGHWAY PROGRAM (HIGHWAY 93)

Mr. BURNS. Mr. President, I would like to clarify the Committee's intent on a couple of different issues in the Transportation Appropriations bill. Under the Federal Lands Highway Program account, two separate highway issues are addressed. I would like to ensure the Secretary is aware of the importance of both of these highway issues.

The first, is in Northeastern Montana. Highway 93 is the primary route from Interstate 90 to the Flathead Valley and Glacier National Park. This area is growing in recreational popularity. This beautiful valley is home to Flathead Lake. Located between Kalispell and Polson, this is the largest freshwater lake west of the Mississippi.

Glacier National Park receives numerous visitors by air and train. But the most popular means to reach the park is by Highway 93.

Big Mountain recreational ski area is located to the north of the Valley. This resort area is a year-round attraction for outdoor enthusaiasts—many of whom drive to the area by way of Highway 93.

I often travel this highway to visit my constituents on the Salish and Kootenai Indian reservation as well as my constituents in Kalispell, and Northwest Montana. Recently on this highway, I noticed I was literally traveling in bumper to bumper traffic. This is not a common phenomenon in Montana but the increased summer traffic in this area has many of the local users concerned about their safety and the safety of their passengers.

For nearly thirty years, Montana's American Legion has taken on the responsibility to remind drivers of the dangers of highway travel by placing a white cross along the roadside. The roadside along Highway 93 is littered with these white crosses.

As a result of the public outcry to help reduce the number of accidents on this highway, I, on behalf of the Montana Department of Transportation, would like to ask the Committee to direct the Secretary to authorize and release all funds designated for the four-lane expansion of Highway 93. I would also like to ask the Committee to direct the Secretary to withdraw the Federal Highway Administration's record of decision requiring resolution at the State, local and tribal levels.

Mr. SHELBY. I understand the concern expressed by my colleague from Montana. It is the intent of the Committee that the Secretary should act as we have encouraged him to and I will work with you in conference to clarify that.

The PRESIDENT pro tempore. Under the previous order, the question is, Shall the bill, S. 2307, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Montana (Mr. BURNS), the Senator from Wyoming (Mr. ENZI), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. KEMPTHORNE), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BURNS) would vote "yes."

Mr. FORD. I announce that the Senator from California (Mrs. BOXER) and the Senator from Arkansas (Mr. BUMPERS) are necessarily absent.

The PRESIDING OFFICER (Mr. ALLARD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—90

Abraham
Akaka
Allard
Ashcroft
Baucus
Biden
Bingaman
Bond
Breaux
Brownback
Bryan
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas

Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—1

Kyl

NOT VOTING—9

Bennett
Boxer
Bumpers
Burns
Enzi
Helms
Kempthorne
McCain
Stevens

The bill (S. 2307), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. GRAMS). Under the previous order, the Chair appoints the following Senators to serve as conferees on the transportation appropriations bill.

The Presiding Officer appointed Mr. SHELBY, Mr. DOMENICI, Mr. SPECTER, Mr. BOND, Mr. GORTON, Mr. BENNETT, Mr. FAIRCLOTH, Mr. STEVENS, Mr. LAUTENBERG, Mr. BYRD, Ms. MIKULSKI, Mr. REID of Nevada, Mr. KOHL, Mrs. MURRAY, and Mr. INOUYE conferees on the part of the Senate.

CREDIT UNION MEMBERSHIP ACCESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 1151, which the clerk will report.

A bill (H.R. 1151) to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Credit Union Membership Access Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—CREDIT UNION MEMBERSHIP

Sec. 101. Fields of membership.
Sec. 102. Criteria for approval of expansion of membership of multiple common-bond credit unions.
Sec. 103. Geographical guidelines for community credit unions.

TITLE II—REGULATION OF CREDIT UNIONS

Sec. 201. Financial statement and audit requirements.
Sec. 202. Conversion of insured credit unions.
Sec. 203. Limitation on member business loans.
Sec. 204. Serving persons of modest means within the field of membership of credit unions.
Sec. 205. National Credit Union Administration Board membership.
Sec. 206. Report and congressional review requirement for certain regulations.

TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS

Sec. 301. Prompt corrective action.
Sec. 302. National credit union share insurance fund equity ratio, available assets ratio, and standby premium charge.
Sec. 303. Access to liquidity.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Study and report on differing regulatory treatment.
Sec. 402. Review of regulations and paperwork reduction.
Sec. 403. Treasury report on reduced taxation and viability of small banks.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The American credit union movement began as a cooperative effort to serve the productive and provident credit needs of individuals of modest means.

(2) Credit unions continue to fulfill this public purpose, and current members and membership groups should not face divestiture from the financial services institution of their choice as a result of recent court action.

(3) To promote thrift and credit extension, a meaningful affinity and bond among members, manifested by a commonality of routine interaction, shared and related work experiences, interests, or activities, or the maintenance of an otherwise well-understood sense of cohesion or identity is essential to the fulfillment of the public mission of credit unions.

(4) Credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member-owned, democratically operated, not-for-profit organizations generally managed by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means.

(5) Improved credit union safety and soundness provisions will enhance the public benefit that citizens receive from these cooperative financial services institutions.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Administration" means the National Credit Union Administration;

(2) the term "Board" means the National Credit Union Administration Board;

(3) the term "Federal banking agencies" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(4) the terms "insured credit union" and "State-chartered insured credit union" have the same meanings as in section 101 of the Federal Credit Union Act; and

(5) the term "Secretary" means the Secretary of the Treasury.

TITLE I—CREDIT UNION MEMBERSHIP

SEC. 101. FIELDS OF MEMBERSHIP.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended—

(1) in the first sentence—

(A) by striking "Federal credit union membership shall consist of" and inserting "(a) IN GENERAL.—Subject to subsection (b), Federal credit union membership shall consist of"; and

(B) by striking ", except that" and all that follows through "rural district"; and

(2) by adding at the end the following new subsections:

"(b) MEMBERSHIP FIELD.—Subject to the other provisions of this section, the membership of any Federal credit union shall be limited to the membership described in 1 of the following categories:

"(1) SINGLE COMMON-BOND CREDIT UNION.—1 group that has a common bond of occupation or association.

"(2) MULTIPLE COMMON-BOND CREDIT UNION.—More than 1 group—

"(A) each of which has (within the group) a common bond of occupation or association; and

"(B) the number of members of each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph) does not exceed any numerical limitation applicable under subsection (d).

"(3) COMMUNITY CREDIT UNION.—Persons or organizations within a well-defined local community, neighborhood, or rural district.

"(c) EXCEPTIONS.—

"(1) GRANDFATHERED MEMBERS AND GROUPS.—

"(A) IN GENERAL.—Notwithstanding subsection (b)—

"(i) any person or organization that is a member of any Federal credit union as of the date of enactment of the Credit Union Membership Access Act may remain a member of the credit union after that date of enactment; and

"(ii) a member of any group whose members constituted a portion of the membership of any Federal credit union as of that date of enactment shall continue to be eligible to become a member of that credit union, by virtue of membership in that group, after that date of enactment.

"(B) SUCCESSORS.—If the common bond of any group referred to in subparagraph (A) is defined by any particular organization or business entity, subparagraph (A) shall continue to apply with respect to any successor to the organization or entity.

"(2) EXCEPTION FOR UNDERSERVED AREAS.—Notwithstanding subsection (b), in the case of a Federal credit union, the field of membership category of which is described in subsection (b)(2), the Board may allow the membership of the credit union to include any person or organization within a local community, neighborhood, or rural district if—

"(A) the Board determines that the local community, neighborhood, or rural district—

"(i) meets the requirements of paragraph (3) and subparagraphs (A) and (B) of paragraph (4) of section 233(b) of the Bank Enterprise Act of 1991, and such additional requirements as the Board may impose; and

"(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), by other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

"(B) the credit union establishes and maintains an office or facility in the local community, neighborhood, or rural district at which credit union services are available.

"(d) MULTIPLE COMMON-BOND CREDIT UNION GROUP REQUIREMENTS.—

"(1) NUMERICAL LIMITATION.—Except as provided in paragraph (2), only a group with fewer than 3,000 members shall be eligible to be included in the field of membership category of a credit union described in subsection (b)(2).

"(2) EXCEPTIONS.—In the case of any Federal credit union, the field of membership category of which is described in subsection (b)(2), the numerical limitation in paragraph (1) of this subsection shall not apply with respect to—

"(A) any group that the Board determines, in writing and in accordance with the guidelines and regulations issued under paragraph (3), could not feasibly or reasonably establish a new single common-bond credit union, the field of membership category of which is described in subsection (b)(1) because—

"(i) the group lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

"(ii) the group does not meet the criteria that the Board has determined to be important for the likelihood of success in establishing and managing a new credit union, including demographic characteristics such as geographical location of members, diversity of ages and income levels, and other factors that may affect the financial viability and stability of a credit union; or

"(iii) the group would be unlikely to operate a safe and sound credit union;

"(B) any group transferred from another credit union—

"(i) in connection with a merger or consolidation recommended by the Board or any appropriate State credit union supervisor based on safety and soundness concerns with respect to that other credit union; or

"(ii) by the Board in the Board's capacity as conservator or liquidating agent with respect to that other credit union; or

"(C) any group transferred in connection with a voluntary merger, having received conditional approval by the Administration of the merger application prior to October 25, 1996, but not having consummated the merger prior to October 25, 1996, if the merger is consummated not later than 180 days after the date of enactment of the Credit Union Membership Access Act.

"(3) REGULATIONS AND GUIDELINES.—The Board shall issue guidelines or regulations, after notice and opportunity for comment, setting forth the criteria that the Board will apply in determining under this subsection whether or not an additional group may be included within the field of membership category of an existing credit union described in subsection (b)(2).

"(e) ADDITIONAL MEMBERSHIP ELIGIBILITY PROVISIONS.—

"(1) MEMBERSHIP ELIGIBILITY LIMITED TO IMMEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No individual shall be eligible for membership in a credit union on the basis of the relationship of the individual to another person who is eligible for membership in the credit union, unless the individual is a member of the immediate family or household (as those terms are defined by the Board, by regulation) of the other person.

"(2) RETENTION OF MEMBERSHIP.—Except as provided in section 118, once a person becomes a member of a credit union in accordance with this title, that person or organization may remain a member of that credit union until the person or organization chooses to withdraw from the membership of the credit union.".

SEC. 102. CRITERIA FOR APPROVAL OF EXPANSION OF MEMBERSHIP OF MULTIPLE COMMON-BOND CREDIT UNIONS.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by adding at the end the following new subsection:

"(f) CRITERIA FOR APPROVAL OF EXPANSION OF MULTIPLE COMMON-BOND CREDIT UNIONS.—

"(1) IN GENERAL.—The Board shall—

"(A) encourage the formation of separately chartered credit unions instead of approving an application to include an additional group within the field of membership of an existing credit union whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union; and

"(B) if the formation of a separate credit union by the group is not practicable or consistent with the standards referred to in subparagraph (A), require the inclusion of the group in the field of membership of a credit union that is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

"(2) APPROVAL CRITERIA.—The Board may not approve any application by a Federal credit union, the field of membership category of which is described in subsection (b)(2) to include any additional group within the field of membership of the credit union (or an application by a Federal credit union described in subsection (b)(1) to include an additional group and become a credit union described in subsection (b)(2)), unless the Board determines, in writing, that—

"(A) the credit union has not engaged in any unsafe or unsound practice (as defined in section 206(b)) that is material during the 1-year period preceding the date of filing of the application;

"(B) the credit union is adequately capitalized;

"(C) the credit union has the administrative capability to serve the proposed membership group and the financial resources to meet the need for additional staff and assets to serve the new membership group;

"(D) pursuant to the most recent evaluation of the credit union under section 215, the credit union is satisfactorily providing affordable credit union services to all individuals of modest means within the field of membership of the credit union;

"(E) any potential harm that the expansion of the field of membership of the credit union may have on any other insured credit union and its members is clearly outweighed in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included in the field of membership; and

"(F) the credit union has met such additional requirements as the Board may prescribe, by regulation.".

SEC. 103. GEOGRAPHICAL GUIDELINES FOR COMMUNITY CREDIT UNIONS.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by adding at the end the following new subsection:

"(g) REGULATIONS REQUIRED FOR COMMUNITY CREDIT UNIONS.—

"(1) DEFINITION OF WELL-DEFINED LOCAL COMMUNITY, NEIGHBORHOOD, OR RURAL DISTRICT.—The Board shall prescribe, by regulation, a definition for the term 'well-defined local community, neighborhood, or rural district' for purposes of—

"(A) making any determination with regard to the field of membership of a credit union described in subsection (b)(3); and

"(B) establishing the criteria applicable with respect to any such determination.

"(2) SCOPE OF APPLICATION.—The definition prescribed by the Board under paragraph (1) shall apply with respect to any application to form a new credit union, or to alter or expand the field of membership of an existing credit union, that is filed with the Board after the date of enactment of the Credit Union Membership Access Act.".

TITLE II—REGULATION OF CREDIT UNIONS

SEC. 201. FINANCIAL STATEMENT AND AUDIT REQUIREMENTS.

(a) IN GENERAL.—Section 202(a)(6) of the Federal Credit Union Act (12 U.S.C. 1782(a)(6)) is amended by adding at the end the following new subparagraphs:

"(C) ACCOUNTING PRINCIPLES.—

"(i) IN GENERAL.—Accounting principles applicable to reports or statements required to be filed with the Board by each insured credit union shall be uniform and consistent with generally accepted accounting principles.

"(ii) BOARD DETERMINATION.—If the Board determines that the application of any generally accepted accounting principle to any insured credit union is not appropriate, the Board may prescribe an accounting principle for application to the credit union that is no less stringent than generally accepted accounting principles.

"(iii) DE MINIMUS EXCEPTION.—This subparagraph shall not apply to any insured credit union, the total assets of which are less than $10,000,000, unless prescribed by the Board or an appropriate State credit union supervisor.

"(D) LARGE CREDIT UNION AUDIT REQUIREMENT.—

"(i) IN GENERAL.—Each insured credit union having total assets of $500,000,000 or more shall have an annual independent audit of the financial statements of the credit union, performed in accordance with generally accepted auditing standards by an independent certified public accountant or public accountant licensed by the appropriate State or jurisdiction to perform those services.

"(ii) VOLUNTARY AUDITS.—If a Federal credit union that is not required to conduct an audit under clause (i), and that has total assets of more than $10,000,000 conducts such an audit for any purpose, using an independent auditor who is compensated for his or her audit services with respect to that audit, the audit shall be performed consistent with the accountancy laws of the appropriate State or jurisdiction, including licensing requirements.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 202(a)(6)(B) of the Federal Credit Union Act (12 U.S.C. 1782(a)(6)(B)) is amended by striking "subparagraph (A)" and inserting "subparagraph (A) or (D)".

SEC. 202. CONVERSION OF INSURED CREDIT UNIONS.

Section 205(b) of the Federal Credit Union Act (12 U.S.C. 1785(b)) is amended—

(1) in paragraph (1), by striking "Except with the prior written approval of the Board, no insured credit union shall" and inserting "Except as provided in paragraph (2), no insured credit union shall, without the prior approval of the Board";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), an insured credit union may convert to a mutual savings bank or savings association (if the savings association is in mutual form), as those terms are defined in section 3 of the Federal Deposit Insurance Act, without the prior approval of the Board, subject to the requirements and procedures set forth in the laws and regulations governing mutual savings banks and savings associations.

"(B) CONVERSION PROPOSAL.—A proposal for a conversion described in subparagraph (A) shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on that date or by written ballot to be filed on or before that date), by a majority of the directors of the insured credit union. Approval of the proposal for conversion shall be by the affirmative vote of a majority of the members of the insured credit union who vote on the proposal.

"(C) NOTICE OF PROPOSAL TO MEMBERS.—An insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) shall submit notice to each of its members who is eligible to vote on the matter of its intent to convert—

"(i) 90 days before the date of the member vote on the conversion;

"(ii) 60 days before the date of the member vote on the conversion; and

"(iii) 30 days before the date of the member vote on the conversion.

"(D) NOTICE OF PROPOSAL TO BOARD.—The Board may require an insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) to

submit a notice to the Board of its intent to convert during the 90-day period preceding the date of the completion of the conversion.

"(E) INAPPLICABILITY OF ACT UPON CONVERSION.—Upon completion of a conversion described in subparagraph (A), the credit union shall no longer be subject to any of the provisions of this Act.

"(F) LIMIT ON COMPENSATION OF OFFICIALS.—

"(i) IN GENERAL.—No director or senior management official of an insured credit union may receive any economic benefit in connection with a conversion of the credit union as described in subparagraph (A), other than—

"(I) director fees; and

"(II) compensation and other benefits paid to directors or senior management officials of the converted institution in the ordinary course of business.

"(ii) SENIOR MANAGEMENT OFFICIAL.—For purposes of this subparagraph, the term 'senior management official' means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by the appropriate Federal banking agency pursuant to section 32(f) of the Federal Deposit Insurance Act).

"(G) CONSISTENT RULES.—

"(i) IN GENERAL.—Not later than 6 months after the date of enactment of the Credit Union Membership Access Act, the Administration shall promulgate final rules applicable to charter conversions described in this paragraph that are consistent with rules promulgated by other financial regulators, including the Office of Thrift Supervision and the Office of the Comptroller of the Currency. The rules required by this clause shall provide that charter conversion by an insured credit union shall be subject to regulation that is no more or less restrictive than that applicable to charter conversions by other financial institutions.

"(ii) OVERSIGHT OF MEMBER VOTE.—The member vote concerning charter conversion under this paragraph shall be administered by the Administration, and shall be verified by the Federal or State regulatory agency that would have jurisdiction over the institution after the conversion. If either the Administration or that regulatory agency disapproves of the methods by which the member vote was taken or procedures applicable to the member vote, the member vote shall be taken again, as directed by the Administration or the agency.".

SEC. 203. LIMITATION ON MEMBER BUSINESS LOANS.

The Federal Credit Union Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 107 the following new section:

"SEC. 107A. LIMITATION ON MEMBER BUSINESS LOANS.

"(a) IN GENERAL.—On and after the date of enactment of this section, no insured credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the lesser of—

"(1) 1.75 times the actual net worth of the credit union; or

"(2) 1.75 times the minimum net worth required under section 216(c)(1)(A) for a credit union to be well capitalized.

"(b) EXCEPTIONS.—Subsection (a) does not apply in the case of—

"(1) an insured credit union chartered for the purpose of making, or that has a history of primarily making, member business loans to its members, as determined by the Board; or

"(2) an insured credit union that—

"(A) serves predominantly low-income members, as defined by the Board; or

"(B) is a community development financial institution, as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'member business loan'—

"(A) means any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose; and

"(B) does not include an extension of credit—

"(i) that is fully secured by a lien on a 1- to 4-family dwelling that is the primary residence of a member;

"(ii) that is fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;

"(iii) that is described in subparagraph (A), if it was made to a borrower or an associated member that has a total of all such extensions of credit in an amount equal to less than $50,000;

"(iv) the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, any agency of the Federal Government or of a State, or any political subdivision thereof; or

"(v) that is granted by a corporate credit union (as that term is defined by the Board) to another credit union.

"(2) the term 'net worth'—

"(A) with respect to any insured credit union, means the credit union's retained earnings balance, as determined under generally accepted accounting principles; and

"(B) with respect to a credit union that serves predominantly low-income members, as defined by the Board, includes secondary capital accounts that are—

"(i) uninsured; and

"(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund; and

"(3) the term 'associated member' means any member having a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

"(d) EFFECT ON EXISTING LOANS.—An insured credit union that has, on the date of enactment of this section, a total amount of outstanding member business loans that exceeds the amount permitted under subsection (a) shall, not later than 3 years after that date of enactment, reduce the total amount of outstanding member business loans to an amount that is not greater than the amount permitted under subsection (a).".

SEC. 204. SERVING PERSONS OF MODEST MEANS WITHIN THE FIELD OF MEMBERSHIP OF CREDIT UNIONS.

(a) IN GENERAL.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

"SEC. 215. SERVING PERSONS OF MODEST MEANS WITHIN THE FIELD OF MEMBERSHIP OF CREDIT UNIONS.

"(a) CONTINUING AND AFFIRMATIVE OBLIGATION.—The purpose of this section is to reaffirm that insured credit unions have a continuing and affirmative obligation to meet the financial services needs of persons of modest means, consistent with safe and sound operation.

"(b) EVALUATION BY THE BOARD.—The Board shall, before the end of the 12-month period beginning on the date of enactment of the Credit Union Membership Access Act—

"(1) prescribe criteria for periodically reviewing the record of each insured credit union in providing affordable credit union services to all individuals of modest means (including low- and moderate-income individuals) within the field of membership of the credit union; and

"(2) provide for making the results of the reviews publicly available.

"(c) ADDITIONAL CRITERIA FOR COMMUNITY CREDIT UNIONS REQUIRED.—The Board shall, by regulation—

"(1) prescribe additional criteria for annually evaluating the record of any insured credit union that is organized to serve a well-defined local community, neighborhood, or rural district in meeting the credit needs and credit union service needs of the entire field of membership of the credit union; and

"(2) prescribe procedures for remedying the failure of any insured credit union described in paragraph (1) to meet the criteria established pursuant to paragraph (1), including the disapproval of any application by the credit union to expand the field of membership of the credit union.

"(d) EMPHASIS ON PERFORMANCE, NOT PAPERWORK.—In evaluating any insured credit union under this section, the Board—

"(1) shall focus on the actual performance of the insured credit union; and

"(2) may not impose burdensome paperwork or recordkeeping requirements.".

(b) ANNUAL REPORTS.—With respect to each of the first 5 years that begin after the date of enactment of this Act, the Board shall include in the annual report to the Congress under section 102(d) of the Federal Credit Union Act, a report on the progress of the Board in implementing section 215 of that Act (as added by subsection (a) of this section).

SEC. 205. NATIONAL CREDIT UNION ADMINISTRATION BOARD MEMBERSHIP.

Section 102(b) of the Federal Credit Union Act (12 U.S.C. 1752a(b)) is amended—

(1) by striking "(b) The Board" and inserting "(b) MEMBERSHIP AND APPOINTMENT OF BOARD.—

"(1) IN GENERAL.—The Board"; and

(2) by adding at the end the following new paragraph:

"(2) APPOINTMENT CRITERIA.—

"(A) EXPERIENCE IN FINANCIAL SERVICES.—In considering appointments to the Board under paragraph (1), the President shall give consideration to individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services regulation, or financial policy, are especially qualified to serve on the Board.

"(B) LIMIT ON APPOINTMENT OF CREDIT UNION OFFICERS.—Not more than 1 member of the Board may be appointed to the Board from among individuals who, at the time of the appointment, are, or have recently been, involved with any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.".

SEC. 206. REPORT AND CONGRESSIONAL REVIEW REQUIREMENT FOR CERTAIN REGULATIONS.

A regulation prescribed by the Board shall be treated as a major rule for purposes of chapter 8 of title 5, United States Code, if the regulation defines, or amends the definition of—

(1) the term "immediate family or household" for purposes of section 109(e)(1) of the Federal Credit Union Act (as added by section 101 of this Act); or

(2) the term "well-defined local community, neighborhood, or rural district" for purposes of section 109(g) of the Federal Credit Union Act (as added by section 103 of this Act).

TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS

SEC. 301. PROMPT CORRECTIVE ACTION.

(a) IN GENERAL.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

"SEC. 216. PROMPT CORRECTIVE ACTION.

"(a) RESOLVING PROBLEMS TO PROTECT FUND.—

"(1) PURPOSE.—The purpose of this section is to resolve the problems of insured credit unions at the least possible long-term loss to the Fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—The Board shall carry out the purpose of this

section by taking prompt corrective action to resolve the problems of insured credit unions.

“(b) Regulations Required.—

“(1) Insured credit unions.—

“(A) In general.—The Board shall, by regulation, prescribe a system of prompt corrective action for insured credit unions that is—

“(i) consistent with this section; and

“(ii) comparable to section 38 of the Federal Deposit Insurance Act.

“(B) Cooperative character of credit unions.—The Board shall design the system required under subparagraph (A) to take into account that credit unions are not-for-profit cooperatives that—

“(i) do not issue capital stock;

“(ii) must rely on retained earnings to build net worth; and

“(iii) have boards of directors that consist primarily of volunteers.

“(2) New credit unions.—

“(A) In general.—In addition to regulations under paragraph (1), the Board shall, by regulation, prescribe a system of prompt corrective action that shall apply to new credit unions in lieu of this section and the regulations prescribed under paragraph (1).

“(B) Criteria for alternative system.—The Board shall design the system prescribed under subparagraph (A)—

“(i) to carry out the purpose of this section;

“(ii) to recognize that credit unions (as cooperatives that do not issue capital stock) initially have no net worth, and give new credit unions reasonable time to accumulate net worth;

“(iii) to create adequate incentives for new credit unions to become adequately capitalized by the time that they either—

“(I) have been in operation for more than 10 years; or

“(II) have more than $10,000,000 in total assets;

“(iv) to impose appropriate restrictions and requirements on new credit unions that do not make sufficient progress toward becoming adequately capitalized; and

“(v) to prevent evasion of the purpose of this section.

“(c) Net Worth Categories.—

“(1) In general.—For purposes of this section the following definitions shall apply:

“(A) Well capitalized.—An insured credit union is ‘well capitalized’ if—

“(i) it has a net worth ratio of not less than 7 percent; and

“(ii) it meets any applicable risk-based net worth requirement under subsection (d).

“(B) Adequately capitalized.—An insured credit union is ‘adequately capitalized’ if—

“(i) it has a net worth ratio of not less than 6 percent; and

“(ii) it meets any applicable risk-based net worth requirement under subsection (d).

“(C) Undercapitalized.—An insured credit union is ‘undercapitalized’ if—

“(i) it has a net worth ratio of less than 6 percent; or

“(ii) it fails to meet any applicable risk-based net worth requirement under subsection (d).

“(D) Significantly undercapitalized.—An insured credit union is ‘significantly undercapitalized’—

“(i) if it has a net worth ratio of less than 4 percent; or

“(ii) if—

“(I) it has a net worth ratio of less than 5 percent; and

“(II) it—

“(aa) fails to submit an acceptable net worth restoration plan within the time allowed under subsection (f); or

“(bb) materially fails to implement a net worth restoration plan accepted by the Board.

“(E) Critically undercapitalized.—An insured credit union is ‘critically undercapitalized’ if it has a net worth ratio of less than 2 percent (or such higher net worth ratio, not to exceed 3 percent, as the Board may specify by regulation).

“(2) Adjusting net worth levels.—

“(A) In general.—If, for purposes of section 38(c) of the Federal Deposit Insurance Act, the Federal banking agencies increase or decrease the required minimum level for the leverage limit (as those terms are used in that section 38), the Board may, by regulation, and subject to subparagraph (B) of this paragraph, correspondingly increase or decrease 1 or more of the net worth ratios specified in subparagraphs (A) through (D) of paragraph (1) of this subsection in an amount that is equal to not more than the difference between the required minimum level most recently established by the Federal banking agencies and 4 percent of total assets (with respect to institutions regulated by those agencies).

“(B) Determinations required.—The Board may increase or decrease net worth ratios under subparagraph (A) only if the Board—

“(i) determines, in consultation with the Federal banking agencies, that the reason for the increase or decrease in the required minimum level for the leverage limit also justifies the adjustment in net worth ratios; and

“(ii) determines that the resulting net worth ratios are sufficient to carry out the purpose of this section.

“(C) Transition period required.—If the Board increases any net worth ratio under this paragraph, the Board shall give insured credit unions a reasonable period of time to meet the increased ratio.

“(d) Risk-Based Net Worth Requirement for Complex Credit Unions.—

“(1) In general.—The regulations required under subsection (b)(1) shall include a risk-based net worth requirement for insured credit unions that are complex, as defined by the Board based on the portfolios of assets and liabilities of credit unions.

“(2) Standard.—The Board shall design the risk-based net worth requirement to take account of any material risks against which the net worth ratio required for an insured credit union to be adequately capitalized may not provide adequate protection.

“(e) Earnings-Retention Requirement Applicable to Credit Unions That Are Not Well Capitalized.—

“(1) In general.—An insured credit union that is not well capitalized shall annually set aside as net worth an amount equal to not less than 0.4 percent of its total assets.

“(2) Board’s authority to decrease earnings-retention requirement.—

“(A) In general.—The Board may, by order, decrease the 0.4 percent requirement in paragraph (1) with respect to a credit union to the extent that the Board determines that the decrease—

“(i) is necessary to avoid a significant redemption of shares; and

“(ii) would further the purpose of this section.

“(B) Periodic review required.—The Board shall periodically review any order issued under subparagraph (A).

“(f) Net Worth Restoration Plan Required.—

“(1) In general.—Each insured credit union that is undercapitalized shall submit an acceptable net worth restoration plan to the Board within the time allowed under this subsection.

“(2) Assistance to small credit unions.—The Board (or the staff of the Board) shall, upon timely request by an insured credit union with total assets of less than $10,000,000, and subject to such regulations or guidelines as the Board may prescribe, assist that credit union in preparing a net worth restoration plan.

“(3) Deadlines for submission and review of plans.—The Board shall, by regulation, establish deadlines for submission of net worth restoration plans under this subsection that—

“(A) provide insured credit unions with reasonable time to submit net worth restoration plans; and

“(B) require the Board to act on net worth restoration plans expeditiously.

“(4) Failure to submit acceptable plan within time allowed.—

“(A) Failure to submit any plan.—If an insured credit union fails to submit a net worth restoration plan within the time allowed under paragraph (3), the Board shall—

“(i) promptly notify the credit union of that failure; and

“(ii) give the credit union a reasonable opportunity to submit a net worth restoration plan.

“(B) Submission of unacceptable plan.—If an insured credit union submits a net worth restoration plan within the time allowed under paragraph (3) and the Board determines that the plan is not acceptable, the Board shall—

“(i) promptly notify the credit union of why the plan is not acceptable; and

“(ii) give the credit union a reasonable opportunity to submit a revised plan.

“(5) Accepting plan.—The Board may accept a net worth restoration plan only if the Board determines that the plan is based on realistic assumptions and is likely to succeed in restoring the net worth of the credit union.

“(g) Restrictions on Undercapitalized Credit Unions.—

“(1) Restriction on asset growth.—An insured credit union that is undercapitalized shall not generally permit its average total assets to increase, unless—

“(A) the Board has accepted the net worth restoration plan of the credit union for that action;

“(B) any increase in total assets is consistent with the net worth restoration plan; and

“(C) the net worth ratio of the credit union increases at a rate that is consistent with the net worth restoration plan.

“(2) Restriction on member business loans.—Notwithstanding section 107A(a), an insured credit union that is undercapitalized may not make any increase in the total amount of member business loans (as defined in section 107A(c)) outstanding at that credit union at any one time, until such time as the credit union becomes adequately capitalized.

“(h) More Stringent Treatment Based on Other Supervisory Criteria.—With respect to the exercise of authority by the Board under regulations comparable to section 38(g) of the Federal Deposit Insurance Act—

“(1) the Board may not reclassify an insured credit union into a lower net worth category, or treat an insured credit union as if it were in a lower net worth category, for reasons not pertaining to the safety and soundness of that credit union; and

“(2) the Board may not delegate its authority to reclassify an insured credit union into a lower net worth category or to treat an insured credit union as if it were in a lower net worth category.

“(i) Action Required Regarding Critically Undercapitalized Credit Unions.—

“(1) In general.—The Board shall, not later than 90 days after the date on which an insured credit union becomes critically undercapitalized—

“(A) appoint a conservator or liquidating agent for the credit union; or

“(B) take such other action as the Board determines would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

"(2) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by the Board under paragraph (1)(B) to take any action with respect to an insured credit union in lieu of appointing a conservator or liquidating agent shall cease to be effective not later than the end of the 180-day period beginning on the date on which the determination is made, and a conservator or liquidating agent shall be appointed for that credit union under paragraph (1)(A), unless the Board makes a new determination under paragraph (1)(B) before the end of the effective period of the prior determination.

"(3) APPOINTMENT OF LIQUIDATING AGENT REQUIRED IF OTHER ACTION FAILS TO RESTORE NET WORTH.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Board shall appoint a liquidating agent for an insured credit union if the credit union is critically undercapitalized on average during the calendar quarter beginning 18 months after the date on which the credit union became critically undercapitalized.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the Board may continue to take such other action as the Board determines to be appropriate in lieu of appointment of a liquidating agent if—

"(i) the Board determines that—

"(I) the insured credit union has been in substantial compliance with an approved net worth restoration plan that requires consistent improvement in the net worth of the credit union since the date of the approval of the plan; and

"(II) the insured credit union has positive net income or has an upward trend in earnings that the Board projects as sustainable; and

"(ii) the Board certifies that the credit union is viable and not expected to fail.

"(4) NONDELEGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Board may not delegate the authority of the Board under this subsection.

"(B) EXCEPTION.—The Board may delegate the authority of the Board under this subsection with respect to an insured credit union that has less than $5,000,000 in total assets, if the Board permits the credit union to appeal any adverse action to the Board.

"(j) REVIEW REQUIRED WHEN FUND INCURS MATERIAL LOSS.—For purposes of determining whether the Fund has incurred a material loss with respect to an insured credit union (such that the inspector general of the Board must make a report), a loss is material if it exceeds the sum of—

"(1) $10,000,000; and

"(2) an amount equal to 10 percent of the total assets of the credit union at the time at which the Board initiated assistance under section 208 or was appointed liquidating agent.

"(k) APPEALS PROCESS.—Material supervisory determinations, including decisions to require prompt corrective action, made pursuant to this section by Administration officials other than the Board may be appealed to the Board pursuant to the independent appellate process required by section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (or, if the Board so specifies, pursuant to separate procedures prescribed by regulation).

"(l) CONSULTATION AND COOPERATION WITH STATE CREDIT UNION SUPERVISORS.—

"(1) IN GENERAL.—In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.

"(2) EVALUATING NET WORTH RESTORATION PLAN.—In evaluating any net worth restoration plan submitted by a State-chartered insured credit union, the Board shall seek the views of the State official having jurisdiction over the credit union.

"(3) DECIDING WHETHER TO APPOINT CONSERVATOR OR LIQUIDATING AGENT.—With respect to any decision by the Board on whether to appoint a conservator or liquidating agent for a State-chartered insured credit union—

"(A) the Board shall—

"(i) seek the views of the State official having jurisdiction over the credit union; and

"(ii) give that official an opportunity to take the proposed action;

"(B) the Board shall, upon timely request of an official referred to in subparagraph (A), promptly provide the official with—

"(i) a written statement of the reasons for the proposed action; and

"(ii) reasonable time to respond to that statement;

"(C) if the official referred to in subparagraph (A) makes a timely written response that disagrees with the proposed action and gives reasons for that disagreement, the Board shall not appoint a conservator or liquidating agent for the credit union, unless the Board, after considering the views of the official, has determined that—

"(i) the Fund faces a significant risk of loss with respect to the credit union if a conservator or liquidating agent is not appointed; and

"(ii) the appointment is necessary to reduce—

"(I) the risk that the Fund would incur a loss with respect to the credit union; or

(II) any loss that the Fund is expected to incur with respect to the credit union; and

"(D) the Board may not delegate any determination under subparagraph (C).

"(m) CORPORATE CREDIT UNIONS EXEMPTED.—This section does not apply to any insured credit union that—

"(1) operates primarily for the purpose of serving credit unions; and

"(2) permits individuals to be members of the credit union only to the extent that applicable law requires that such persons own shares.

"(n) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of the Board or a State to take action in addition to (but not in derogation of) that required under this section.

"(o) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) FEDERAL BANKING AGENCY.—The term 'Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(2) NET WORTH.—The term 'net worth'—

"(A) with respect to any insured credit union, means retained earnings balance of the credit union, as determined under generally accepted accounting principles; and

"(B) with respect to a low-income credit union, includes secondary capital accounts that are—

"(i) uninsured; and

"(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund.

"(3) NET WORTH RATIO.—The term 'net worth ratio' means, with respect to a credit union, the ratio of the net worth of the credit union to the total assets of the credit union.

"(4) NEW CREDIT UNION.—The term 'new credit union' means an insured credit union that—

"(A) has been in operation for less than 10 years; and

"(B) has not more than $10,000,000 in total assets.".

(b) CONSERVATORSHIP AND LIQUIDATION AMENDMENTS TO FACILITATE PROMPT CORRECTIVE ACTION.—

(1) CONSERVATORSHIP.—Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (D), by striking "or" at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following new subparagraphs:

"(F) the credit union is significantly undercapitalized, as defined in section 216, and has no reasonable prospect of becoming adequately capitalized, as defined in section 216; or

"(G) the credit union is critically undercapitalized, as defined in section 216."; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "In the case" and inserting "Except as provided in subparagraph (C), in the case"; and

(ii) by adding at the end the following new subparagraph:

"(C) In the case of a State-chartered insured credit union, the authority conferred by subparagraphs (F) and (G) of paragraph (1) may not be exercised unless the Board has complied with section 216(l).".

(2) LIQUIDATION.—Section 207(a) of the Federal Credit Union Act (12 U.S.C. 1787(a)) is amended—

(A) in paragraph (1)(A), by striking "himself" and inserting "itself"; and

(B) by adding at the end the following new paragraph:

"(3) LIQUIDATION TO FACILITATE PROMPT CORRECTIVE ACTION.—The Board may close any credit union for liquidation, and appoint itself or another (including, in the case of a State-chartered insured credit union, the State official having jurisdiction over the credit union) as liquidating agent of that credit union, if—

"(A) the Board determines that—

"(i) the credit union is significantly undercapitalized, as defined in section 216, and has no reasonable prospect of becoming adequately capitalized, as defined in section 216; or

"(ii) the credit union is critically undercapitalized, as defined in section 216; and

"(B) in the case of a State-chartered insured credit union, the Board has complied with section 216(l).".

(c) CONSULTATION REQUIRED.—In developing regulations to implement section 216 of the Federal Credit Union Act (as added by subsection (a) of this section), the Board shall consult with the Secretary, the Federal banking agencies, and the State officials having jurisdiction over State-chartered insured credit unions.

(d) DEADLINES FOR REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Board shall—

(A) publish in the Federal Register proposed regulations to implement section 216 of the Federal Credit Union Act (as added by subsection (a) of this section) not later than 270 days after the date of enactment of this Act; and

(B) promulgate final regulations to implement that section 216 not later than 18 months after the date of enactment of this Act.

(2) RISK-BASED NET WORTH REQUIREMENT.—

(A) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Board shall publish in the Federal Register an advance notice of proposed rulemaking, as required by section 216(d) of the Federal Credit Union Act, as added by this Act.

(B) FINAL REGULATIONS.—The Board shall promulgate final regulations, as required by that section 216(d) not later than 2 years after the date of enactment of this Act.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 216 of the Federal Credit Union Act (as added by this section) shall become effective 2 years after the date of enactment of this Act.

(2) RISK-BASED NET WORTH REQUIREMENT.—Section 216(d) of the Federal Credit Union Act (as added by this section) shall become effective on January 1, 2001.

(f) REPORT TO CONGRESS REQUIRED.—When the Board publishes proposed regulations pursuant to subsection (d)(1)(A), or promulgates final regulations pursuant to subsection (d)(1)(B), the Board shall submit to the Congress a report that specifically explains—

(1) how the regulations carry out section 216(b)(1)(B) of the Federal Credit Union Act (as added by this section), relating to the cooperative character of credit unions; and

(2) how the regulations differ from section 38 of the Federal Deposit Insurance Act, and the reasons for those differences.

(g) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO ENFORCEMENT OF PROMPT CORRECTIVE ACTION.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended—

(A) in paragraph (1), by inserting "or section 216" after "this section" each place it appears; and

(B) in paragraph (2)(A)(ii), by inserting ", or any final order under section 216" before the semicolon.

(2) CONFORMING AMENDMENT REGARDING APPOINTMENT OF STATE CREDIT UNION SUPERVISOR AS CONSERVATOR.—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended by inserting "or another (including, in the case of a State-chartered insured credit union, the State official having jurisdiction over the credit union)" after "appoint itself".

(3) AMENDMENT REPEALING SUPERSEDED PROVISION.—Section 116 of the Federal Credit Union Act (12 U.S.C. 1762) is repealed.

SEC. 302. NATIONAL CREDIT UNION SHARE INSURANCE FUND EQUITY RATIO, AVAILABLE ASSETS RATIO, AND STANDBY PREMIUM CHARGE.

(a) IN GENERAL.—Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) CERTIFIED STATEMENT.—

"(1) STATEMENT REQUIRED.—

"(A) IN GENERAL.—For each calendar year, in the case of an insured credit union with total assets of not more than $50,000,000, and for each semi-annual period in the case of an insured credit union with total assets of $50,000,000 or more, an insured credit union shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the relevant period and both the amount of its deposit or adjustment of deposit and the amount of the insurance charge due to the Fund for that period, both as computed under subsection (c).

"(B) EXCEPTION FOR NEWLY INSURED CREDIT UNION.—Subparagraph (A) shall not apply with respect to a credit union that became insured during the reporting period.

"(2) FORM.—The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.

"(3) CERTIFICATION.—The president of the credit union or any officer designated by the board of directors shall certify, with respect to each statement required to be filed with the Board pursuant to this subsection, that to the best of his or her knowledge and belief the statement is true, correct, complete, and in accordance with this title and the regulations issued under this title.";

(2) in subsection (c)(1)(A), by striking clause (iii) and inserting the following:

"(iii) PERIODIC ADJUSTMENT.—The amount of each insured credit union's deposit shall be adjusted as follows, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares:

"(I) annually, in the case of an insured credit union with total assets of not more than $50,000,000; and

"(II) semi-annually, in the case of an insured credit union with total assets of $50,000,000 or more.";

(3) in subsection (c), by striking paragraphs (2) and (3) and inserting the following:

"(2) INSURANCE PREMIUM CHARGES.—

"(A) IN GENERAL.—Each insured credit union shall, at such times as the Board prescribes (but not more than twice in any calendar year), pay to the Fund a premium charge for insurance in an amount stated as a percentage of insured shares (which shall be the same for all insured credit unions).

"(B) RELATION OF PREMIUM CHARGE TO EQUITY RATIO OF FUND.—The Board may assess a premium charge only if—

"(i) the Fund's equity ratio is less than 1.3 percent; and

"(ii) the premium charge does not exceed the amount necessary to restore the equity ratio to 1.3 percent.

"(C) PREMIUM CHARGE REQUIRED IF EQUITY RATIO FALLS BELOW 1.2 PERCENT.—If the Fund's equity ratio is less than 1.2 percent, the Board shall, subject to subparagraph (B), assess a premium charge in such an amount as the Board determines to be necessary to restore the equity ratio to, and maintain that ratio at, 1.2 percent.

"(3) DISTRIBUTIONS FROM FUND REQUIRED.—

"(A) IN GENERAL.—The Board shall effect a pro rata distribution to insured credit unions after each calendar year if, as of the end of that calendar year—

"(i) any loans to the Fund from the Federal Government, and any interest on those loans, have been repaid;

"(ii) the Fund's equity ratio exceeds the normal operating level; and

"(iii) the Fund's available assets ratio exceeds 1.0 percent.

"(B) AMOUNT OF DISTRIBUTION.—The Board shall distribute under subparagraph (A) the maximum possible amount that—

"(i) does not reduce the Fund's equity ratio below the normal operating level; and

"(ii) does not reduce the Fund's available assets ratio below 1.0 percent.

"(C) CALCULATION BASED ON CERTIFIED STATEMENTS.—In calculating the Fund's equity ratio and available assets ratio for purposes of this paragraph, the Board shall determine the aggregate amount of the insured shares in all insured credit unions from insured credit unions certified statements under subsection (b) for the final reporting period of the calendar year referred to in subparagraph (A).";

(4) in subsection (c), by adding at the end the following new paragraph:

"(4) TIMELINESS AND ACCURACY OF DATA.—In calculating the available assets ratio and equity ratio of the Fund, the Board shall use the most current and accurate data reasonably available."; and

(5) by striking subsection (h) and inserting the following:

"(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) AVAILABLE ASSETS RATIO.—The term 'available assets ratio', when applied to the Fund, means the ratio of—

"(A) the amount determined by subtracting—

"(i) direct liabilities of the Fund and contingent liabilities for which no provision for losses has been made, from

"(ii) the sum of cash and the market value of unencumbered investments authorized under section 203(c), to

"(B) the aggregate amount of the insured shares in all insured credit unions.

"(2) EQUITY RATIO.—The term 'equity ratio', when applied to the Fund, means the ratio of—

"(A) the amount of Fund capitalization, including insured credit unions' 1 percent capitalization deposits and the retained earnings balance of the Fund (net of direct liabilities of the Fund and contingent liabilities for which no provision for losses has been made); to

"(B) the aggregate amount of the insured shares in all insured credit unions.

"(3) INSURED SHARES.—The term 'insured shares', when applied to this section, includes share, share draft, share certificate, and other similar accounts as determined by the Board, but does not include amounts exceeding the insured account limit set forth in section 207(c)(1).

"(4) NORMAL OPERATING LEVEL.—The term 'normal operating level', when applied to the Fund, means an equity ratio specified by the Board, which shall be not less than 1.2 percent and not more than 1.5 percent.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1 of the first calendar year beginning more than 180 days after the date of enactment of this Act.

SEC. 303. ACCESS TO LIQUIDITY.

Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsections:

"(f) ACCESS TO LIQUIDITY.—The Board shall—

"(1) periodically assess the potential liquidity needs of each insured credit union, and the options that the credit union has available for meeting those needs; and

"(2) periodically assess the potential liquidity needs of insured credit unions as a group, and the options that insured credit unions have available for meeting those needs.

"(g) SHARING INFORMATION WITH FEDERAL RESERVE BANKS.—The Board shall, for the purpose of facilitating insured credit unions' access to liquidity, make available to the Federal reserve banks (subject to appropriate assurances of confidentiality) information relevant to making advances to such credit unions, including the Board's reports of examination.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. STUDY AND REPORT ON DIFFERING REGULATORY TREATMENT.

(a) STUDY.—The Secretary shall conduct a study of—

(1) the differences between credit unions and other federally insured financial institutions, including regulatory differences with respect to regulations enforced by the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Administration; and

(2) the potential effects of the application of Federal laws, including Federal tax laws, on credit unions in the same manner as those laws are applied to other federally insured financial institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study required by subsection (a).

SEC. 402. REVIEW OF REGULATIONS AND PAPERWORK REDUCTION.

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4803) is amended to read as follows:

"SEC. 303. REGULAR REVIEW OF REGULATIONS AND PAPERWORK REDUCTION.

"(a) REVIEW.—During the 1-year period following the date of enactment of the Credit Union Membership Access Act, each Federal banking agency and the National Credit Union Administration shall, to the maximum extent possible and consistent with the principles of safety and soundness, statutory law and policy, and the public interest—

"(1) conduct a review of the regulations and written policies of each such agency—

"(A) to streamline and modify those regulations and policies in order to improve efficiency, reduce unnecessary costs, and reduce the paperwork burden for insured depository institutions; and

"(B) to remove inconsistencies and outmoded and duplicative requirements; and

"(2) work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies.

"(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the Credit Union Membership Access Act, each agency referred to in subsection (a) shall submit a report to Congress detailing the progress of the agency in carrying out this section and making recommendations to the Congress on the need for statutory changes, if any, that would assist in the effort to reduce the paperwork burden for insured institutions.".

SEC. 403. TREASURY REPORT ON REDUCED TAXATION AND VIABILITY OF SMALL BANKS.

The Secretary shall, not later than 1 year after the date of enactment of this Act, submit a report to the Congress containing—

(1) recommendations for such legislative and administrative action as the Secretary deems appropriate, that would reduce and simplify the tax burden for—

(A) insured depository institutions having less than $1,000,000,000 in assets; and

(B) banks having total assets of not less than $1,000,000,000 nor more than $10,000,000,000; and

(2) any other recommendations that the Secretary deems appropriate that would preserve the viability and growth of small banking institutions in the United States.

PRIVILEGE OF THE FLOOR

Mr. SARBANES. Mr. President, I ask unanimous consent that Dean Shahinian of our committee be allowed on the floor of the Senate during consideration of this bill.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I ask unanimous consent that staff of the Committee on Banking, Housing, and Urban Affairs be permitted access to the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, today, we consider H.R. 1151, the Credit Union Membership Access Act, which is critical legislation. It is legislation necessary to preserve the ability of all Americans to join the credit union of their choice, and to ensure that 73 million Americans who are currently members of a credit union in no way have their membership status jeopardized.

Credit unions work, Mr. President. They work for working families, they work for the little guy. And in their hour of gravest need, it is time for Congress to work for them. I urge my colleagues to support this legislation as enthusiastically as our friends in the House did—by an overwhelming vote of 411–8. I am confident that we will act to preserve the rights of all Americans to join credit unions now and into the future.

Mr. President, this legislation was crafted in response to a Supreme Court ruling that was decided on a very narrow legal point, handed down on February 25 of this year. That ruling placed 20 million Americans in immediate jeopardy and tens of millions of others of being kicked out of the credit unions they belong to. Who are these Americans? They are small business employees and small business owners, low- and moderate-income earners, farmers, laborers, church members—the hard-working American men and women who have a right to affordable financial services as much as anyone else.

For decades, the American dream has been made a reality by credit unions. These cooperatives reach out to individuals, associations and communities who have had the door slammed in their faces by other financial institutions. Make no mistake about it, Mr. President, the economy, while strong today, the economy—such that people can get loans for a variety of reasons—may not always be that strong. I hope it is. But if history is any reminder of what may be in the future, there will be difficult times.

It has always been the credit union that has given to the little guy, the forgotten middle class—I don't mean little in terms of size and not as a pejorative, but indeed I am talking about the backbone of this country—the opportunity to look his or her neighbor in the eye, who knows that they are good and who knows they will work to pay back that loan, as opposed to somebody 2,000 miles away who doesn't even see that person, who gets an application, who views it in terms of what the income is or the fact that the person is out of work, or the fact that the person has a small farm and is running against tough times and says, no, and turns them down.

It has traditionally been the credit union neighbor, knowing a neighbor employee, working next to his co-employee, recognizing their needs, making that money available so they can send their kid to school. It is one of the great strengths of this country, and it gives us economic diversity, it gives people choice, and it provides competition.

There are those who do not like competition, who set up a whole series—almost a canard as to, "Oh, no; credit unions are a problem." They are a problem, because they give people affordable opportunities to borrow at the lowest rates, because they don't pay income taxes. Why? They are not paying dividends out to people. Where do those moneys go? Those moneys go so that additional loans are available to their members. I love it. I think it is great. I think it really is Americana at its best.

During good and prosperous times, we should not turn away and we should not create conditions that make it difficult, if not impossible, for them to serve the needs of our neighbors and our friends, and people in all of our communities.

Mr. President, it is not good enough to say, "I am going to vote for a credit union bill," and then attempt to fix a whole series of measures aimed at impeding the credit unions from doing their job. There are going to be some of my good friends and colleagues who are going to come here and say, "We want to make it possible for others in the financial services area to recognize that we love them and we care for them," et cetera.

There are going to be a number of amendments that are going to be put forth. Some of these amendments, and one in particular, one that would attempt to remove the Community Reinvestment Act from the obligation of community banks—if that is passed, that will spell a veto of this bill.

I am not suggesting to you we shouldn't help community banks. I want to help them. Indeed, our President who presides today has come forth. I want to commend the Senator from Colorado for some very creative, long overdue actions to help community banks in the most positive way by seeing to it that they do not have unfair tax burdens placed upon them, by seeing that they have the opportunity to expand their board of directors or their shareholders, the number of shareholders, without falling into another taxable area.

There are things we can do and should be doing. But we shouldn't be attempting to do them, in my opinion, on this bill because it clouds the issue of whether or not we are going to give credit unions the opportunity to continue to serve their people.

Let me suggest this. Our Senate bill goes much further than the House bill to ensure the safety and the soundness of credit unions through tougher, more detailed provisions requiring a system of prompt, corrective action for federally insured credit unions.

This is not a giveaway. This is not the same bill that came from the House. It is improved. It is tougher on them and fairer on them. We sat down and negotiated with them. We said to them that we are not going to place at risk the FDIC insurance for the American taxpayer. They agreed.

The system is be patterned after the prompt corrective action provisions of the Federal Deposit Insurance Act. This is a different bill from the one that comes from the House. It is aimed at protecting our taxpayers.

The Senate bill also includes for the first time capital requirements for all federally insured credit unions, including a risk-based capital requirement for complex credit unions. Together, these provisions represent the most significant legislative reform of credit union safety and soundness since 1970 when the National Credit Union insurance fund was created.

We have included the enhanced safety and soundness provisions upon the recommendation of the Treasury Department following an extensive Treasury Department study placed in legislation by our colleague, Senator BENNETT. These are basic, prudent approaches to successfully manage any financial institution that Congress has already applied to banks and thrifts. In the long run, it is the American taxpayer that we protect by assuring that credit unions reach and attain high levels of capital, or face restrictions with respect to their operations.

Credit unions, no matter how small or how large, need a sufficient capital buffer to handle unexpected downturns in the economy and subsequent losses. The capital requirements in this bill will see to it that those goals are achieved.

We all know how important prevention is, along with legislative oversight, when dealing with financial institutions. Credit unions are no different from other financial institutions when it comes to prevention and oversight.

There are those who will say you are going in and giving to the masses. No. We responded to their legitimate concerns that they can continue business. But we have tougher end requirements as it relates to sound operation and oversight and the ability to close those down who may not be meeting their obligations.

In 1991, the GAO issued an extensive study which detailed the recommendations for corporate credit union investments and capital ratios that were later adopted. These recommendations were also adopted by the NCUA.

The failure of Cap Corp. in 1995 raised specific concerns about the interest rate risk that corporate credit unions were taking. Our committee held hearings in early 1995 and later reported out a bill, S. 883. In 1997, NCUA issued a comprehensive revision of the rules governing corporate credit unions to address concerns arising from the failure of Cap Corp.

Mr. President, credit unions all over are now in solid shape, as concluded in the exhaustive study done by Treasury last year. The new safety and soundness provisions, as recommended by the Treasury Department, will further strengthen insured credit unions across the country and, in so doing, protect our taxpayers.

Our legislation also goes much further than the House in placing for the first time significant restrictions on member business loans. We are going to hear something about that. We are going to hear that we should restrict loans that credit unions can make. While the House bill simply puts a freeze on current regulations and requires a study, our bill places statutory limits on the amount of total business loans available for credit unions.

This is not a bill crafted to please all. This is a bill crafted to permit credit unions to do that which they do best—to make those loans, those personal loans to their members, and, yes, to meet the needs of the small businessmen.

In the Senate bill, the total amount of outstanding member business loans of a federally insured credit union cannot exceed 12.25 percent of the assets of the credit union. Credit unions that become undercapitalized—that is, less than 6 percent of their net worth—are prohibited from making new commercial loans that would result in an increase in the total amount of member business loans outstanding. Credit unions that presently exceed the member business loan limits will be given 3 years in which to come into compliance.

Mr. President, this is a pretty tough loan limitation, the first time. It is not in the House bill—never had any limitations on business loans. There are going to be some who genuinely feel that should be curtailed even further. I would suggest to go further would really do violence to the ability of almost 200 of the Nation's 1,500 credit unions that make these loans available today. It is unintended mischief that will take place if that legislation passes. I say "unintended," Mr. President. Notwithstanding unintended, the consequences will not be fair and will be disruptive.

These restrictions on business lending in our bill are real and they are meaningful, and together with the expanded safety and soundness provisions in title III of the bill, we will ensure that credit union business lending does not present any safety and soundness concerns. In a July 13 letter to the majority leader, Secretary Rubin has stated Treasury's position that the prompt corrective action in capital standard provisions in the bill represent an adequate response to any safety and soundness concerns about credit union business lending.

Furthermore, I have a copy of the statement of the administration policy dated July 22, 1998, which states that there is no safety and soundness basis for additional business loan requirements.

I ask unanimous consent that Secretary Rubin's letter and the Statement of the Administration Policy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC, July 13, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR TRENT: I appreciate your scheduling H.R. 1151, the Credit Union Membership Access Act, for Senate floor action beginning July 17. I am writing to urge expeditious Senate passage of the bill—as approved by the Banking Committee on April 30—without any extraneous amendments.

In revising the statute governing federal credit unions' field of membership, the bill would protect existing credit union members and membership groups, and remove uncertainty created by the Supreme Court's AT&T decision.

The bill's safety and soundness provisions would represent the most significant legislative reform of credit union safety and soundness safeguards since the creation of the National Credit Union Share Insurance Fund in 1970. The bill would institute capital standards for all federally insured credit unions, including a risk-based capital requirement for complex credit unions. It would create a system of prompt corrective action—specifically tailored to credit unions as not-for-profit, member-owned cooperatives. It would also take a series of steps to make the Share Insurance Fund even stronger and more resilient.

These reforms involve little cost or burden to credit unions today, yet they could pay enormous dividends in more difficult times.

The bill rightly reaffirms and reinforces credit unions' mission of serving persons of modest means. Section 204 would require periodic review of each federally insured credit union's record of meeting the needs of such persons within its field of membership. This requirement is flexible, tailored to credit unions, and will impose no unreasonable burden. It rests on the Congressionally mandated mission of credit unions and on the benefits of federal deposit insurance. Such deposit insurance gives credit union members ironclad assurance about the safety of their savings, and thus helps credit unions compete for deposits with larger, more widely known financial institutions (just as it helps community banks and thrifts). Section 204 is particularly appropriate in view of how the bill liberalizes the common bond requirement and thus facilitates credit unions' expansion beyond their core membership groups.

Finally, I would like to comment on the safety and soundness of credit unions' business lending. Credit unions may make business loans only to their members, and cannot make loans to business corporations. Under the National Credit Union Administration's regulations, each business loan must be fully secured with good-quality collateral, the borrower must be personally liable on the loan, and business loans to any one borrower generally cannot exceed 15 percent of the credit union's reserves. Credit unions' business loans have delinquency rates that are comparable to those on commercial loans made by community banks and thrifts, and charge-off (i.e., loss) rates that compare favorably with those of banks and thrifts. We believe that existing safeguards—together with such new statutory protections as the 6 percent capital requirement, the risk-based capital requirement for complex credit unions, and the system of prompt corrective action—represent an adequate response to safety and soundness concerns about credit unions' business lending.

We look forward to working with you and other Senators to secure expeditious passage of a clean bill.

Sincerely,

ROBERT E. RUBIN,
Secretary of the Treasury.

STATEMENT OF ADMINISTRATION POLICY

H.R. 1151—CREDIT UNION MEMBERSHIP ACCESS ACT

The Administration strongly supports Senate passage of H.R. 1151, as approved by the Senate Banking Committee, without extraneous or controversial amendments. The full Senate should reject amendments rejected at the Banking Committee mark-up, such as the amendment that would substantially weaken the Community Reinvestment Act by exempting certain banks from the Act's requirements. If H.R. 1151 were presented to the President with such an amendment, the Secretary of the Treasury would recommend that the President veto the bill.

The Senate Banking Committee version reflects a careful balancing of important goals: (1) protecting existing credit union members and membership groups; (2) removing uncertainty created by the Supreme Court's AT&T decision; (3) facilitating credit union expansion beyond core membership groups in appropriate circumstances, such as when necessary to meet the needs of underserved areas; (4) reforming credit union safety and soundness safeguards, by instituting capital standards and a risk-based capital requirement, as well as further strengthening the Share Insurance Fund; and (5) reaffirming and reinforcing credit unions' mission of serving persons of modest means. The Administration strongly opposes any efforts to upset this balance by stripping the bill of any of these important provisions.

Specifically, Section 204 would require periodic review of each Federally-insured credit union's record of meeting the needs of such persons within its membership. This requirement is flexible, tailored to credit unions, and will impose no unreasonable burden. It rests on the Congressionally mandated mission of credit unions and on the benefits of Federal deposit insurance. Inclusion of Section 204 is particularly important to keeping credit unions focused on their public mission in view of how the bill liberalizes the common bond requirement.

In addition, the Administration sees no safety and soundness basis for an amendment that would limit the ability of credit unions to make business loans to their members. Existing safeguards, coupled with the new capital and other reforms in the bill, are sufficient to protect against any safety and soundness risk from member business lending.

PAY-AS-YOU-GO-SCORING

H.R. 1151 would affect direct spending and receipts; therefore it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. The Administration's preliminary estimate is that H.R. 1151 would have a net budget cost of zero.

Mr. D'AMATO. We need to act expeditiously on this legislation. I am deeply grateful to the Senate majority leader for making this time available so that we can go forward. Make no mistake about it, without the ability to add new members and new groups, the credit union movement would be fatally injured.

I am convinced that we are going to move in a prompt way and that the legislation will pass by an overwhelming margin. Why? Because it is the right thing to do. It is the right thing to do for 73 million Americans who now belong to credit unions, for the 20 million Americans whose current credit union membership is threatened, and for the 675 million Americans and small businesses who may be shut out, prevented from joining a credit union in the future. I certainly urge my colleagues to support and expeditiously act on this important legislation.

Mr. President, before I yield the floor, I would be remiss if I did not thank my colleague, the ranking member of the Banking Committee, Senator SARBANES, the distinguished senior Senator from Maryland, for his outstanding contribution and leadership in helping to craft this legislation and to bring it to this point in a totally bipartisan fashion. We would not be here positioned to go forth on this legislation were it not for his outstanding leadership and that of a dedicated bipartisan staff, might I add, on the minority side. They have done an absolutely fabulous job in bringing us to this point.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. SARBANES. Mr. President, I ask unanimous consent that Patience Singleton and Loretta Garrison, staff members, be allowed privileges of the floor.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

Mr. SARBANES. Mr. President, first I want to thank my colleague, Chairman D'AMATO, for his kind words and to underscore the very effective leadership which the chairman has exercised in bringing this legislation to this point. This bill came out of the committee on a vote of 16 to 2. We had very strong support within the Senate Banking, Housing, and Urban Affairs Committee, and I have been pleased to be able to work closely with the chairman in trying to craft this legislation.

We had, as usual, outstanding contributions by members of the staff on both the Republican and the Democratic sides, and we are most appreciative to them for the many long hours they have put in on this legislation.

The time is now to straighten out the credit union challenge which was posed by the Supreme Court decision. This legislation passed the House of Representatives in the beginning of April by a vote of 411 to 8. The Senate Banking Committee, after holding two hearings on the issue, marked up the legislation on April 30 and reported it with amendments to the full Senate by a vote of 16 to 2. Since April 30, we have been looking for an opening on the Legislative Calendar in order to take the matter up in the Chamber, and the majority leader has provided this opening.

If I could have the attention of the majority leader, I would like to ask, it is my understanding the intention now is to do the opening statements—I know that Senator SHELBY and others have amendments—and begin debate on the amendments, continue that on Monday afternoon beginning at about 1 o'clock, and any votes that would transpire in relationship to the amendments which have been offered would occur beginning about 6 o'clock Monday evening?

Mr. LOTT. Mr. President, if the Senator will yield, we would have to begin those votes a little earlier than that, probably at 5:30. It would be partially driven by how many votes we have. If we just had one vote lined up, for instance, we could begin about 5:45. If we have two or three, we would have to begin at 5:30 in order to get the voting sequence completed by 6:30.

So that is what we are up against. We are trying to accommodate Senators coming in late and Senators who have to leave after 6:30. But the hope is that you would have two or three amendments ready to be voted on Monday afternoon beginning around 5:30, with the understanding that if we need to hold that first vote a little while for Senators coming in with a close plane connection, we would be prepared to do that, and then have the vote probably on the Shelby amendment and final passage Tuesday morning at 9:30.

I discussed that with Senator DASCHLE, and he and I worked on trying to accommodate Senators' schedules on all sides. I believe, if you could go ahead and get debate on all amendments today and Monday, then we could have one or two or three votes Monday afternoon, sometime between 5:30 and 6, probably not later than 5:45, and then the last two votes Tuesday morning.

Mr. SARBANES. As I understand it, some people will be scrambling to be here. I think if we didn't start before 5:45, or if we let that first vote run a little bit——

Mr. LOTT. A little bit, except Senators have to leave at 6:30, and I am one of them, and that is the schedule I am particularly interested in.

Mr. SARBANES. Of course, the Senator could make the beginning of the last vote and leave.

Mr. LOTT. As long as I am out of here at 6:30, everything will be fine.

Once again, I know we have had to work late, but we have made good progress on the appropriations bills. This is a good bill. But I still think the Senate should work during the day and be home with their families at night. That is a novel idea that I still advocate, so I am going to be with my wife eating supper Monday night at 7 o'clock. Good luck before then. But we will try to accommodate everybody, including my favorite lady in the world.

Mr. SARBANES. I just want to underscore the intention is, and we have every reasonable expectation that, we are going to be able to complete this bill finally by Tuesday morning and do a good deal of it by Monday evening.

In addition to the broad bipartisan support for this legislation in the Congress, it is strongly supported by the administration. Senator D'AMATO has already placed in the RECORD a letter that Secretary Rubin, our very able Secretary of the Treasury, sent to the majority leader and to the minority leader urging expeditious Senate passage of the bill without any extraneous amendments. Of course, the amendments are the important issue that we will be considering over the next few days.

President Clinton has personally indicated his support for this legislation, urging the Senate to pass the bill without weighing it down with extraneous and controversial amendments that would seriously jeopardize the legislation. H.R. 1151 is also supported by a very diverse range of groups in the community including the Consumer Federation of America, the Seniors Coalition, the National Farmers Union, National Educational Association, Americans for Tax Reform, the American Small Business Association, AFL–CIO, and the National Urban Coalition.

The broad support for this legislation suggests the important role credit unions play in our economy. Since the founding of the first credit union in the United States in 1909, almost a century ago, credit unions have served as a way for people of average means, without easy access to credit, to pool their savings in order to make loans to fellow credit union members at competitive interest rates.

Mr. President, the impetus for H.R. 1151 came from a Supreme Court decision earlier this year. In a 5 to 4 decision, the Court held that under the Federal Credit Union Act a federally chartered credit union may only have a single common bond of occupation. This overturned a policy of the National Credit Union Administration, the regulators of the credit unions, first adopted in 1982, which permitted multiple groups each having a separate common bond to be part of a single Federal credit union.

The consequence of that Supreme Court decision is to prohibit the formation of multiple group credit unions. Even if the lower courts, in implementing the Supreme Court decision, permit existing multiple group credit unions to stay in business and to accept members from their current groups, employees from the large majority of companies in the United States will find their future opportunities to become a member of a Federal credit union seriously constrained by the Supreme Court's decision.

The National Credit Union Administration generally does not permit groups with less than 500 employees to start a credit union because it is judged the group is not broad enough or numerous enough to support a credit union in a safe and sound manner. The only way for employees of these companies to join a credit union is if the companies affiliate with existing credit unions. So, if new multiple bond credit unions are prohibited, this will no longer be possible and millions of Americans may be denied the opportunity to join a credit union. This outcome is clearly undesirable, in my view, and is, of course, the basis for the broad bipartisan support for enacting this legislation.

This legislation would first grandfather existing multiple group credit unions and allow them to add members from their current groups. In addition, it would permit Federal credit unions to have multiple groups, each of which, after the first group, has a common bond of occupation or association and has less than 3,000 members. The bill would also give the National Credit Union Administration the power to authorize credit unions to add additional groups if it finds the groups cannot safely establish and operate a credit union on their own. The Credit Union Administration could also permit a Federal credit union to add a person or organization located in a local community, neighborhood, or rural district that it has determined is underserved by other depository institutions.

But, in order for a Federal credit union to accept additional membership groups, the NCUA would have to find that the credit union is adequately capitalized, has adequate managerial or financial resources, and has a satisfactory examination record. The legislation directs the Credit Union Administration to encourage the formation of separately chartered credit unions whenever practicable and consistent with safety and soundness.

In addition to addressing the membership issue, this legislation requires significant new safety and soundness standards for Federal credit unions. These new requirements are based on recommendations contained in a carefully prepared study of credit unions by the Treasury Department conducted at the direction of the Congress and submitted last year.

Earlier, in legislation, the Congress directed the Treasury Department to study credit unions and to submit a report to the Congress. A good deal of what is contained in this legislation reflects the outcome of that study.

The bill imposes, for the first time, statutory capital standards on Federal credit unions. The bill requires an insured credit union to have a net worth ratio of 7 percent to be "well capitalized" and 6 percent to be "adequately capitalized." A credit union with a net worth ratio of less than 6 percent would be "undercapitalized," at 4 percent it would be "significantly undercapitalized," and at 2 percent "critically undercapitalized." The legislation provides a system of prompt corrective action which requires the National Credit Union Administration to take a series of progressively more stringent measures if the credit union falls below the "adequately capitalized" level. Each insured credit union that is undercapitalized would be required to submit an acceptable net worth restoration plan to the NCUA. Until that plan is approved, the credit union generally would not be permitted to increase its average total assets. If an insured credit union becomes critically undercapitalized according to the standards I mentioned earlier, the NCUA would be required to liquidate the credit union, appoint a conservator, or take such other action as it determines could better achieve the purpose of protecting the credit union insurance fund.

I have taken a few moments to dwell on these provisions because I think they are quite important. They have generally not been involved in the debate that has led up to considering the measure on the floor, but I think Members need to appreciate the very important safety and soundness provisions contained in this legislation. This is a major step in ensuring financial stability in the credit union industry. It has led the Secretary of the Treasury, in the letter which he sent to the leadership, to make this statement. I just want to quote this paragraph from Secretary Rubin's letter:

> The bill's safety and soundness provisions would represent the most significant legislative reform of credit union safety and soundness safeguards since the creation of the National Credit Union Share Insurance Fund in 1970. The bill would institute capital standards for all federally insured credit unions, including a risk-based capital requirement for complex credit unions. It would create a system of prompt corrective action—specifically tailored to credit unions as not-for-profit, member-owned cooperative. It would also take a series of steps to make the Share Insurance Fund even stronger and more resilient.
>
> These reforms involve little cost or burden to credit unions today, yet they could pay enormous dividends in more difficult times.

We worked closely with the Treasury in considering the provisions that were in the legislation. I think this is a major step forward. I really commend this aspect of the legislation to my colleagues as they consider the overall bill.

Furthermore, this bill imposes, for the first time, a limit on commercial lending by credit unions. No such limit currently exists. The bill provides that a credit union would be generally limited in its member business loans to no more than the lesser of 1.75 times the minimum net worth required for well-capitalized credit unions—namely 7 percent—or 1.7 times its actual net worth. This would put a limit on member business loans for a well-capitalized credit union at approximately

12.25 percent of its total loans. Loans of less than $50,000 would be excluded—that is an operating practice currently—and we would continue to adhere to that.

Many credit unions are chartered for or have a history of making business loans to their members. Members of a specialized vocation—farmers, fishermen, taxi drivers and so forth—would not be subject to this limit.

Furthermore, this legislation imposes, for the first time, a modest but meaningful community obligation with respect to reinvestment in insured credit unions, which has been carefully tailored to the membership-based nature of credit unions. It would require the National Credit Union Administration to prescribe criteria for periodically reviewing the record of each insured credit union in providing affordable credit union services to all individuals of modest means, including low- and moderate-income individuals, within the field of membership of the credit union, and provide for making such results publicly available.

The bill also directs the National Credit Union Administration, in evaluating any insured credit union under this requirement, to focus on the actual performance of the credit union and not to impose burdensome paperwork or recordkeeping requirements. We think this is a modest but important step in paying attention to the needs of low- and moderate-income individuals, and thereby making access to credit more broadly available.

In conclusion, let me just say this is a very carefully developed and balanced piece of legislation. As I said, the committee held two extensive hearings on the matter. It worked very carefully over the provisions that have been included in the legislation and brought here before the Senate. This legislation seeks to make credit union membership accessible while strengthening the safety and soundness of federally insured credit unions and encourages them to meet the financial service needs of all of their members.

I strongly urge the support of this legislation by my colleagues. I strongly urge my colleagues to reject extraneous amendments that may be offered to the legislation that may complicate or jeopardize its enactment. We now need to move this legislation forward.

I think a very careful package has been put together here. The credit union movement supports the legislation as reported by the committee. The administration supports the legislation as reported by the committee. I respect, obviously, the motivation of my colleagues who intend to offer amendments, but I can only point out that those amendments would greatly complicate our efforts to move this legislation to final passage and signature into law by the President. I very much hope my colleagues can back the work that was done by the committee in bringing this matter to the Senate floor.

I, again, thank Chairman D'AMATO for his skillful work in developing the legislation to this point and bringing it to the floor of the Senate.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me add my voice to those who have congratulated Senator D'AMATO and Senator SARBANES for this bill. I believe we have put together a good bill. I think it is a dramatic improvement over the House bill. It does, for the first time, in an effective manner begin to look at capital requirements and safety and soundness, and, in doing so, it will dramatically improve the quality and regulation of credit unions all over the country. I think those who are part of the credit union movement want people to know that their deposits are safe, sound, insured, regulated and protected in the savers' interest.

Second, the bill, for the first time, begins to put appropriate limits on the amount of business loans that credit unions can make. There are those who believe, and I happen to be one of them, that credit unions were chartered to provide consumer credit to their members as part of a cooperative effort. A dramatic movement of credit unions into commercial lending would circumvent the whole intent of the credit union movement, and in my opinion, it would be a negative factor on the progress of the credit union movement. In this bill, we for the first time set limits on the amount of credit union assets that can go into commercial loans. That is a very positive step.

We deal with the common bond issue, and we settle once and for all the principle that every American ought to have the right to join a credit union—not any credit union—but join a credit union within an appropriate field of membership. it my view, and I believe that we achieve this with this bill, that it should be possible for every American citizen to find an appropriate field of membership by which he or she can associate with others, and have the opportunity to join a credit union and to affiliate with that credit union if they choose to do it.

Those are the positive things about this bill. I am a strong supporter of the bill. I intend to vote for this bill, but there is one provision in the bill to which I am very strongly opposed.

In this bill, for the first time ever, we begin to have the Federal Government direct credit unions as to how they will use their members' money. In this bill, for the first time ever, we begin the process of telling credit unions that the government is going to allocate some of a credit union's resources to promote a "public purpose," even though it may not be the purpose of credit union members. I believe that not only is this very bad and dangerous public policy, but I think the logic of it is totally inapplicable to credit unions and the credit union movement.

The name—it is a wonderful sounding name for a program that has nothing to do with any one word in the name—is Community Reinvestment Act. In this bill, for the first time ever, we apply in three different ways this Federal mandate and credit allocation to credit unions.

Let me explain why, despite all the arguments you can make on the merits or demerits of the Community Reinvestment Act, why it does not belong on this bill.

Credit unions are voluntary, private associations. They are nonprofit organizations. They are tax-exempt organizations. They represent a collective effort of members to pool their savings with a common objective. They pool their savings and they lend to each other, the members of the credit union. In doing so, they perform a cooperative credit function. In many cases, they provide credit that would not be available, certainly at rates that would not be available, in many cases, to the consumer.

They are not in the business of promoting any broad, general purposes, such as the general welfare of the country or the community. They are small, private associations that are organized for the purpose of promoting the welfare of their members. The whole purpose is to pool nickels, dimes and dollars to build a cash base that can be lent to members for things such as buying a new car or new truck, buying a new tractor.

The objective of the credit union is to promote the interest of credit union members. It is not a for-profit organization, and there is no logic to applying to it a provision of law where the Government adds an additional mandate that the credit unions should direct the money of those members to support some end other than the well-being of the people who put up the money in the first place.

Let me explain how this works, and I want to read you some language—in my mind, shocking language—that has been included in this bill in the House, and language that I believe should be removed.

In the bill, the House has set up this requirement for a Federal mandate and capital allocation that goes by the name of community reinvestment. I will talk in a moment as to why this provision has nothing to do with community or reinvestment.

This bill mandates that credit unions conform to this Federal capital allocation. Here is how it is defined, and here is basically how it works:

In three different places, we have a reference to it in the bill. The first way that the bill would measure whether a credit union is complying with this Federal mandate allocating their members' hard-earned money is on page 58 in new section 215. In subsection (b), it is set out that credit unions have to comply with this community reinvestment, and that in doing so, they will be regularly evaluated by the Federal Government, and their record will be looked at to see if the credit union is "providing"—I want you to remember, that is "ing"—". . . providing affordable credit union services to all individuals of modest means . . . within the field of membership of the credit union. . . ."

In other words, in this section, the Federal Government will evaluate whether or not this credit union, in making loans, in allocating the money of the people who have joined the credit union, is providing affordable services—and I don't know how you define "affordable." I think I know how you define "providing;" you test whether they are actually doing it, although I could imagine some very interesting and intrusive methods of testing that the regulators might conjure up. But the test of "providing" can be a very rigorous test, since the standard is not whether the credit union is offering its services, it is not whether they are trying to do it. They are required to do it. They are to be "providing"—you are evaluating whether they are ". . . providing affordable credit union services to all individuals of modest means . . . within the field of membership of the credit union."

You need to understand, field of membership and membership are two different things. A credit union considers itself successful if it is able to get about 20 percent of the people who could join that credit union to join it. So that in any field of membership, normally about 80 percent of the people in the field of membership who were invited to join the credit union, who were invited to put up their money, said "No, I don't want to join your credit union; I don't want to put my money into your credit union." But the first provision of this bill requires that the credit union, to comply with this law on Federally mandated capital allocation, must be ". . . providing affordable"—and where are these terms defined? Nowhere—"credit union services to all individuals of modest means . . . within the field of membership."

Now, I do not believe we ought to be forcing credit union members, who put up their own money, to provide services to people that had an opportunity to join the credit union but decided not to join it. I think that violates the whole spirit of the credit union movement because a credit union is a cooperative, and if you want credit union services, you join the credit union. You participate in putting up the capital and you apply for loans or services from the credit union.

The second evaluation has to do with community credit unions. And those are credit unions that serve an entire community. This second provision requires that credit unions are "meeting"—not trying to meet—and please note, the law does not say that you "offer" services, that you offer "affordable" services, whatever that means, to all people of modest means within your field of membership. The law requires that you "provide" it.

Now, the second reference is, that you are "meeting the credit needs and credit union service needs of the entire field of membership of the credit union." That is on page 59—"the entire field of membership. * * *"

So again, you are in a community. This little credit union is providing services to people in a town with 5,000 people; roughly 20 percent of those people have joined the credit union. But this law requires that they provide "affordable" services—whatever that means—to people who did not even join the credit union. How can that be right? Clearly, in my opinion, it cannot be right.

Now, the third case, very similar to the first, except the language gets even more grandiose. Imagine writing a Federal law where you can threaten the deposit insurance of a credit union and put it completely out of business. If it does not have Federal deposit insurance, it is not going to be able to operate. This law applies to both Federal credit unions and State credit unions, as long as they receive Federal deposit insurance.

Listen to this language. You have regulation to see if the credit union is "satisfactorily"—satisfactorily, mind you—"providing," "affordable"—I do not know how you define these terms. I have discussed "providing." The credit union is actually doing it. It is not "offering" services; it is "providing" them, services are being accepted and received, not just offered. "Satisfactorily" is an undefined term, satisfactory to whom? "Affordable" is undefined and undefinable —that the "credit union is satisfactorily providing affordable credit union services to all individuals of modest means within the field of membership of the credit union," whether or not they join the credit union in the first place.

Mr. President, this provision does not belong in this bill. This provision is piracy. This provision came about because we have a crisis in the credit union movement because of the court ruling, a crisis which requires congressional action. And what those in the House, who put this provision in the bill, have, in essence, said is, that in order to resolve your crisis, you have to pay tribute. And the tribute you have to pay is that we are writing a provision of law which says that every year you will be evaluated by a group of Federal bureaucrats who will determine whether you are satisfactorily providing affordable credit union services to people who are not even members of the credit union. And then they will publish their findings.

Now, what does this produce? What this produces is a situation where you literally—I am going to use some strong language here; and I mean every word of it—this produces a situation where literally you have professional protesters who extort resources from banks, and if this bill passes unchanged, they will be extorting resources from credit unions. Here is how it works. And I am going to give you some examples. And you are going to be shocked by these examples.

What happens is that periodically you have this evaluation that is made public, and whether or not the evaluation is satisfactory, you have a group of people who show up from various organizations to tell you how to use your resource for their benefit. ACORN is very active in this effort, and there are many other organizations, it is a growing industry—they show up at the bank and they say, "You're not meeting your CRA requirements. And here are some things we want you to do. And if you'll do these things, then we will say that you're meeting these requirements, and we will stop protesting for now."

It works like this. You have a bank who may have a perfect record on CRA requirements, but they want to merge with another bank. Even though they may have never had anything other than an exemplary rating, protesters can enter the process and challenge the merger on the grounds of community reinvestment and cost the banks millions of dollars because of the delays that their protests cause.

Now, let me give you two examples of where this has occurred.

The first I will refer to happened in 1989 in California. And let me say, Mr. President, it is hard to get banks to talk about this. I recently spoke to the CEO of a major Fortune 500 company, and I mentioned to him an effort I am supporting, an effort Senator SHELBY is undertaking to provide CRA relief for small community banks. When I mentioned CRA, he said, "It's extortion." If I called him up and asked, "Could I use your name?" how many people who are being extorted want their name used? They do not. They are afraid to have their name used. When a CEO of a Fortune 500 company in America is afraid to say his mind publicly, to expose extortion, something is wrong in America.

Now, let me give you my examples and offer my amendment, and then we will debate this again on Monday.

In 1989, California First Bank wanted to merge with Union Bank. But when they sought to merge, opposition was lodged under the CRA provisions of banking law, and in order for these protests to be withdrawn so that delays could be ended and the merger could go forward, here is what California First Bank agreed to: One, to increase purchases from women and minority-owned vendors to 20 percent of purchases within the next 5 years. Second, they agreed to give charitable contributions, cash grants, not loans, in the amount of 1.4 percent of income in 1989 and 1.5 percent of income in 1990.

Now, I do not know this, but if I were a U.S. attorney in that district, I would go look and see if they gave those contributions to the groups that protested the merger. That would be a very interesting inquiry.

Next, California First Bank committed that 60 percent of the employees placed in middle and senior management positions within the next 5 years would be minorities and women. And finally, they committed to appoint three minority and women directors.

That is what they had to do in order to get the right to merge with another bank. Now, listen to this next one.

Sumitomo Bank of California—now I do not know, but I guess that Sumitomo Bank is a Japanese affiliate. I think it is relevant because I want you to put yourself in this position. Let us assume that an Ohio bank had opened an affiliate in the Dominican Republic and that some government agency there had said that, "You are not meeting your CRA requirements." And then they published that, and then a group of people came to the bank and said, "We want you to do some things so that we then will tell the government that you are meeting these requirements." Let's see what the things were that our Government in effect forced this bank to do. Let me read to you what they did.

No. 1, $500 million was committed to CRA-related loans. No. 2, the bank committed to spend 2 percent of income on charity, nonprofit organizations, with two-thirds of the money going to inner-city development, this being cash, grant money. No. 3, the bank committed to appoint minority board members. No. 4, the bank agreed to appoint a paid five-member minority advisory board to consult with management. And, No. 5, the bank agreed to give 20 to 25 percent of outside contracts to minority-owned vendors.

Now if that happened to an Ohio bank operating in the Dominican Republic, what would you call it? I would call it extortion. That is what I would call it. I would call it extortion, or maybe even expropriation, a taking of private property.

Now, how does something like that happen? How it happens is that we let people write into law provisions like "satisfactorily providing affordable services," which no one can define, nobody knows what it means, and if you have to comply—a regulator that is willing to let protest groups file objections to banks merging, for example, by simply the ability to hold that merger up—they are able to extort resources.

Now, I could go on for quite a while and add to the list. For example, when Bank One wanted to merge with First Chicago. But what do you think happened when they filed that merger? What happened was, they had a group of protesters who showed up, who filed a boilerplate objection which could be drawn up in 15 minutes by any lawyer who deals in this area. I am sure the bank president said, "Well, we have an exemplary CRA record." The protestors said, "We have objected to your merger."

So weeks go by, time goes by, and this is the Woodstock Institute that objected in Chicago—I better be careful to get the name right—yes, in Chicago, the Woodstock Institute objected. So what happens in such cases? The bank ends up allocating the resources of its stockholders in order to eliminate the objection just to be able to move forward with its business.

Now, let me read a quote to just show the arrogance of these people who we are empowering under these laws. Forgive me if I get a little excited about it, but it is the kind of practice I hate worst. This comes from the proposed merger of NationsBank and Bank of America. They have received outstanding CRA grades, but in spite of their unprecedented $350 billion CRA packages of loans and services to inner cities, et cetera, CRA activists are raising protests against the merger. One of the activist leaders has said the following—remember, this is about banks that have exemplary CRA records, at least according to the Government regulators who regulate this activity. These banks have exemplary records. But here is what the protester said, "We will close down their branches and ensure they fail in California." That is what they said. "We will close down their branches and ensure they fail in California. This is going to be a street fight and we're prepared to engage in it."

Do you know what this reminds me of? This reminds me of a little immigrant storeowner. He and his wife and three children are running a little store, and these great big hoods come knock on his door. They come in and say, "Somebody could do you some harm. There might be people who could come and break in your store, steal your goods. They might beat you up; they might break your arm. But I will tell you what we will do. If you will pay us 5 percent of what you earn in this store, we will see that nobody comes and breaks your arm."

That is what this reminds me of. That is exactly what this reminds me of.

Now, I don't like the fact that it is going on. Some day I will get rid of it. Some day this is going to be gone. I intend to speak out on this for so long with such great passion that in good time Congress is ultimately going to rise up and stop this. That is not likely to happen here today, but some day it will happen.

What I don't want to do is, I don't want to start this business with credit unions. Now, I am sure that we are going to hear from someone who will say credit unions don't support this amendment. Well, the credit unions have been told, "You support the Gramm amendment, and maybe your bill won't get passed. You support this amendment, and maybe the President won't sign your bill. You support this amendment, and maybe it will mean endless delays." Now, that is like saying to someone sticking a gun to your temple, saying, "You feel good about things, don't you?"

We will vote on this amendment on Monday afternoon.

I don't want credit unions to have to be evaluated on whether or not they are providing satisfactory, affordable services to people who didn't even join the credit union.

AMENDMENT NO. 3336

(Purpose: To strike provisions requiring credit unions to use the funds of credit union members to serve persons not members of the credit union)

Mr. GRAMM. Mr. President, as a result of not wanting that to happen, I send this amendment to the desk to strike these provisions, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 3336.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 204 of the bill and renumber the sections accordingly, and beginning on page 45, line 24, strike all through page 46, line 4, and redesignate subparagraph (E) and (F) on page 46 as subparagraphs (D) and (E), respectively.

Mr. GRAMM. Mr. President, it is my understanding this will be the first vote we have on Monday. It is also my understanding that there will probably be an hour set aside so each side will have 30 minutes to debate the amendment. Rather than stay around today and debate it, I will use my 30 minutes on Monday.

I thank my colleagues for their indulgence. This is an important amendment. We ought not to add these onerous CRA provisions to credit unions, which are investor owned, which are set up as cooperatives to serve the people who are members.

Imagine, for example, in New York, where you have a credit union that was set up so cabdrivers could save their money and lend it to one another, and the loans, then, would be made to buy a Medallion so somebody could own their own cab.

Now, with CRA, the Federal Government comes in and says, "Hey, how many loans have you made to people who aren't members of your credit union who could have been—they are in your field of membership, but they didn't choose to join your credit union; how many Medallions have you helped them buy?"

So Joe Brown, who put money into the credit union for 15 years, finally gets to the point where he thinks he can buy his Medallion, but because of this provision, the credit union has to take Joe's money and lend it to somebody who never joined the credit union, never wanted to be in the credit union.

If you can defend that, good luck.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise to address the overall issue of the legislation before the Senate, H.R. 1151.

I want, first, to commend Chairman D'AMATO and the ranking member, Senator SARBANES, for their help in this legislation getting to the floor in a timely fashion.

I will not address the issue raised by my colleague from Texas. I know there are others who will want to talk about that at much greater length.

There is an underlying legitimate debate there about whether an industry that benefits from Federal insurance, Federal regulation assuring that industry's stability and long-term viability, should, in turn, have to commit itself to making investments back into its own community or not. That debate can go forward. But I want to talk briefly about the underlying bill.

As we all, I think, understand, following the Supreme Court's decision earlier this year, the credit union membership of some 20 million credit union members all across America has been in some jeopardy. There was initially legislation offered in the other body that was designed simply to overturn the Supreme Court decision. The other body chose not to do that. Nevertheless, they did reach a compromise bill that passed in April on an overwhelmingly vote of 411–8.

Following that debate, and passage of that legislation, the Senate Banking Committee took up our version of credit union legislation, with the understanding that prompt action was in fact needed. But again, rather than simply choosing to overturn the Supreme Court decision and rather than simply choosing to pass the legislation passed in the House, the Senate Banking Committee crafted its own version, strengthening significantly the language of that original H.R. 1151.

Now, there is a compromise involved here. Most Members in this body, and many Americans, are members of both credit unions and banks. It is important that they both be viable, strong contributors to our national economy. It has always been—and it is the nature of compromises—that some will go away not entirely satisfied, but, on the other hand, we can reach that balance that will allow both the banking and credit union industries to go forward in a fair and competitive fashion. That certainly, at least, is the goal of this legislation.

So in the course of crafting this bill, we were able to arrive at bipartisan agreements on the level of restraint on expansion of credit unions that ought to be put into legislative language. There are some who would rather have no restraint whatsoever; others would rather have much greater restraint on what definition of "common bond" is used. We did reach a level of restraint in our legislation that, for the first time, now exists. I think perhaps, most importantly, the Senate Banking Committee adopted the Treasury Department's recommendations on safety and soundness.

I think one of the greatest concerns all of us have had in this body is to make sure that if we are going to have an industry that is growing and prosperous, that it have underlying regulatory safety and soundness provisions that are really necessary for its long-term viability and for the confidence of the American consumers—not to mention the confidence the taxpayers ought to be able to have that they will not be called upon at some future time to bail out an industry that may have failed for lack of adequate safety and soundness provisions. I think one of the most important parts of the Senate response to the crisis that we have faced this year is stronger safety and soundness provisions and the adoption of the Treasury's recommendations.

The committee also took up the issue of restraint on commercial lending—or member business loans, as they are sometimes referred to—which now, for the first time, is in place. Again, there are those who would have much more severe restrictions and those who would have no restrictions and ask why any restrictions ought to exist over and above our safety and soundness standards. But this compromise was reached, and I think it is one that is supported by the credit union industry and is supported by the consumer groups as well. And the Senate committee chose to retain language on CRA—or "CRA-light" as it is sometimes referred to—that was instituted by the other body when they took up H.R. 1151.

Again, there are those who would like to see a much more rigorous, aggressive approach to CRA taken, and there are those who are simply philosophically disinclined to support any kind of CRA, even though this "light" version is simply a direction to the regulator of credit unions to come up with some assurance that, in fact, credit unions are investing in their local communities, which certainly has always been the case, although now there are larger credit unions with billions of dollars of capital, and some question is raised there. In any event, this is a provision that is accepted by the industry.

We need a strong banking industry and we need a strong credit union industry. They both have legitimate, important roles to play in the provision of credit across America. In my State of South Dakota, with some 700,000 citizens, almost 200,000 of them belong to credit unions. We have historically a long track record of utilization of cooperative ventures, whether it is our rural electric, telephone co-ops, or other agricultural cooperatives across the State. We have that long tradition, one that has contributed significantly to affording more options, a greater level of economic prosperity, to a great number of people across rural America.

Mr. President, I ask unanimous consent that a letter in support of this legislation from the National Farmers Union and a letter from the National Rural Electric Cooperative Association be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FARMERS UNION,
Washington, DC, June 23, 1998.

Re Credit Union Membership Access Act.

Hon. TIM JOHNSON,
Member of the U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSON: I am writing on behalf of the 300,000 members of the National Farmers Union (NFU) to urge you to support H.R. 1151, the Credit Union Membership Access Act, which will restore an open field of membership to credit unions. In addition, we urge you to oppose the Hagel-Bennett amendment which would make it more difficult for farmers and ranchers to obtain loans from their credit unions.

Farmers, ranchers, and rural citizens around the country are facing tough times right now due to low commodity prices. The Hagel-Bennett amendment would unnecessarily restrict credit unions from making loans to their members for business purposes, and will worsen the difficult situation farmers, ranchers and rural citizens now face.

During our 95th annual convention, NFU members affirmed their support for credit unions: "We are unalterably opposed to any proposal that seeks to curtail services by credit unions to their members under the false guise of regulatory reform or financial soundness. Such proposals are especially discriminatory against rural credit unions which provide agricultural credit services. We pledge our support to the credit union movement in its efforts to combat the anti-competitive regulatory tactics undertaken by other segments of the financial services industry."

We urge you to pass this important legislation, without adoption of the Hagel amendment.

Sincerely,

LELAND SWENSON,
President.

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION,
Arlington, VA, July 15, 1998.

Hon. TIM JOHNSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSON: On behalf of the over 30 million Americans who currently receive electricity from rural electric cooperatives, we strongly urge you to vote in favor of H.R. 1151, the Credit Union Membership Act, without any amendments.

It is vitally important that certainty be brought to the nation's credit unions and their members. For many Americans credit unions are their only source for affordable banking and credit services.

H.R. 1151 represents an excellent balance among the competing financial interests and deserves to be enacted before the August recess. The House passed this measure by an overwhelming majority of 411–8 and the Senate Banking Committee reported the bill out in a 16–2 vote.

H.R. 1151 has broad bipartisan and constituent support. Please pass this legislation.

Thank you for your consideration.

Sincerely,

GLENN ENGLISH,
Chief Executive Officer.

PRIVILEGE OF THE FLOOR

Mr. JOHNSON. Mr. President, I ask unanimous consent that Scott Swanjord, a staff member of mine, may have floor privileges during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, we have minimal time remaining in this 105th Congress. The schedule is full. We have virtually the entire budget still to do, and other key issues are facing us. Frankly, we cannot afford to have this legislation held up with vetoes, veto threats, with ongoing, never-ending negotiations. So I think it is very important that we move forward with this legislation.

A veto threat has been issued by the White House. If the CRA provisions are taken out—the "CRA-light" provisions—we will lose our bipartisanship, and it is a provision that is supported by the industry itself. It would appear to me that we need to move forward expeditiously with this legislation. We will be taking up bank regulatory relief legislation later on this coming week perhaps. There will be other vehicles in which to debate some of these extraneous matters dealing with the banking industry and, peripherally, the credit union industry. But I think it would be a mistake for us to be caught up in too many side issues on the underlying bill here.

There is an absolute urgency that we move this bill forward. If we do not, the membership of some 20 million Americans will, in fact, be in very real and very great jeopardy. So with the legislation that passed 411–8 in the House, passed the Senate Banking Committee by a 16–2 vote, it would be my hope that this coming week we could conclude debate on this bill, obviously, with the adequate consideration of well-intended amendments, hopefully limited in number, but then get this bill in its current form onto the President's desk for signature.

I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, something was said just a minute ago about the threat of a veto by the President. I have heard this a lot on different bills. But I know the process should work. Especially when you have a principle that you believe in and that you know is right, you should not step aside because someone intimates that they might veto it. That is part of the legislative process.

Mr. President, having said that, later in the debate—probably Monday when we get back—I will be offering an amendment to the bill dealing with the Community Reinvestment Act, or CRA. My proposed amendment would authorize a small bank exemption from the Government-mandated credit requirements of the Community Reinvestment Act, which Senator GRAMM from Texas so eloquently talked about earlier this morning. Community banks, as you well know, as a Senator and present Presiding Officer, by their very nature, serve the needs of their community.

They do not need a burdensome, government mandate to force them to allocate credit or originate profitable loans. Make no mistake about it. Community banks would not exist very long if they didn't take care of the whole community; and they do.

Since H.R. 1151 increases the competitive advantage credit unions have over banks, we feel this amendment is necessary to reduce the inequities in this area and allow our small community banks to better meet the needs of consumers.

Nine members of the Banking Committee sponsored a small bank exemption amendment to H.R. 1151 in the committee markup. The amendment resulted in a tie vote of nine to nine. The nine members of the committee that supported the amendment felt so strongly about the small bank exemption, that all nine members signed a statement of additional views to the committee report, which is unusual.

Let me say from the start, CRA is a tax on community banks, CRA raises the costs of inputs to banks by increasing their regulatory burden and compliance costs. In addition, CRA forces banks to make loans according to a federal quota, increasing the risks, and therefore the costs, of borrowing to consumers. Make no mistake about it, the Community Reinvestment Act raises the cost of borrowing through higher loan rates and punishes savers in the form of lower savings rates. Congress I believe should adopt policies that lowers the cost of borrowing, and my amendment would do that.

I would also point out that the federal government does not know the demand for loans any better than the local banker. CRA preempts the free market lending criteria of community banks and imposes the judgment of federal bureaucrats. CRA is government mandated credit allocation, the form of credit allocation that has proven disastrous most recently in east Asia. We have an opportunity to reduce the scope of government mandated credit allocation with this amendment, and I urge my colleagues to do so.

I want to revisit, and give a little history contextually.

HISTORY

When the Community Reinvestment Act was introduced in 1977, the bill's chief sponsor and chairman of the Banking Committee, William Proxmire stated:

> The authority to operate new deposit facilities is given away, free, to successful applicants even though the authority conveys a substantial economic benefit to the applicant. Those who obtain new deposit facilities receive a semi-exclusive franchise to do business in a particular geographic area. The Government limits the entry of other potential competitors into that area if such entry would unduly jeopardize existing financial institutions. The Government also restricts competition and the cost of money to the bank by limiting the rate of interest payable on savings deposits and prohibiting any interest on demand deposits.

Senator Proxmire later said:

> The regulators have thus conferred substantial economic benefits on private institutions without extracting any meaningful quid pro quo for the public.

REVIEW

The central premise on which Senator Proxmire bases his justification for "extracting any meaningful quid pro quo" may have existed in 1977, but absolutely does not exist today. Taken one at a time, each and every claim Senator Proxmire used to justify CRA in 1977 is no longer applicable today. Let us go through them one at a time:

Chartered institutions "receive a semi-exclusive franchise to do business in a particular geographic area."

Congress passed the Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994, which allowed one bank to acquire another bank in any other state, thus subjecting small community banks to the competition of acquisition hungry megabanks.

Senator Proxmire also said:

"Government limits the entry of other potential competitors."

That was in 1977.

Clearly this is not the case. The underlying bill, H.R. 1151 does not limit, but dramatically increases the entry of potential competitors.

The bill essentially says that credit unions can serve every group in a community—making them the same as community banks.

Senator Proxmire said in 1977 regarding CRA justification:

"Government also restricts competition and the cost of money to the bank by limiting the rate of interest payable on savings deposits and prohibiting any interest on demand deposits."

This is no longer true.

The Depository Institutions Deregulation and Monetary Control Act of 1980 phased out the interest rate ceilings on savings deposits and introduced Negotiable Orders of Withdrawals (NOW Accounts) that allowed the payment of interest on demand deposits to consumers.

PROXMIRE PREMISE NO LONGER EXISTS

Twenty-one years later, the "substantial economic benefit" to which Senator Proxmire refers no longer exists. Since the benefit no longer exists, neither should the Government mandate of credit allocation. Congress should lift this mandate off small community banks.

REGULATORY BURDEN

According to a recent Federal Reserve study, entitled, "The Cost of Banking Regulation: A Review of the Evidence," regulatory costs account for up to "13 percent of noninterest expenses" of banks. That is a lot of money. In addition, the study concluded that "(A)verage compliance costs for regulations are substantially greater for banks at low levels of output"—in other words, smaller banks—"than for banks at moderate or high levels of output"—or larger banks.

This regulatory burden is borne out in the efficiency rate of banks. As you can see by the chart, small banks are less efficient than large banks.

Banks with less than $250 million in assets have an efficiency ratio of 63 percent versus that of large banks over $250 million with an efficiency ratio of 60.5 percent. These inefficiencies translate into a lower return on equity for small banks. Large banks have a return on equity of 14.4 percent versus 11.3 percent for small banks. This means the average large bank has a return on equity 27 percent greater than small banks.

EXEMPTION OF BANK ASSETS

Contrary to what opponents of the amendment would have you believe, the small bank exemption would not "gut" CRA.

Banks with less than $250 million in assets account for less than 12 percent of bank assets nationwide. Thus, 88 percent of bank assets are concentrated in banks with over $250 million in assets and would still be subject to CRA, assuming that the Shelby amendment is adopted.

I have a chart that will help put that into perspective for my colleagues. Although there are 8,110 small banks below $250 million in assets, those banks account for only $593 billion in combined assets. That means small banks account for 11.7 percent of bank assets nationwide.

However, one bank—BankAmerica, the new bank resulting from the merger of NationsBank and BankAmerica—possesses assets of $570 billion or 11.3 percent of total bank assets. Thus, one financial giant holds assets nearly as big as that of all 8,110 small banks across America. That begs the question, why do we have to burden 8,110 small community banks that only account for such a small portion of CRA monies? The vast majority of bank assets are concentrated in the large, billion dollar megabanks that can more easily shoulder the burden.

SMALL BANKS SERVE COMMUNITIES

Small community banks have an excellent record of serving their communities. Since over half of all banks and thrifts below $250 million have only one or two branches, they really have no other place to go but to their community to do business. Of the 8,970 small banks and thrifts, only nine—.1 percent—received a "substantial noncompliance" CRA rating in 1997. In addition, small banks have a better record with regard to the most common type of community-based lending—real estate lending.

Banks under $250 million had a real estate lending to assets ratio of 37 percent in 1997 versus 23.9 percent for large banks over $250 million.

FAIR LENDING LAWS

The small bank exemption from CRA is not about discrimination. The following fair lending laws will still apply, including: The Fair Housing Act of 1968 which prohibits discrimination on the basis of race, color, religion, sex, national origin, familial status and handicap in all aspects of the housing industry; the Equal Credit Opportunity Act of 1974 which prohibits creditors from discrimination based on race, color, religion, national origin, sex, marital status, age, or receipt of public assistance; and the Home Mortgage Disclosure Act of 1975 which requires banks to keep current records of its mortgage lending activity.

Any assertion that small banks do not serve their communities rings hollow. Small banks must serve their communities if they want to survive. Any claim of discrimination also rings hollow given the fair lending laws that apply to all lenders.

CONCLUSION

In conclusion, Mr. President, the Community Reinvestment Act was introduced in 1977 by Senator Proxmire under the premise that banks receive a "substantial economic benefit." That benefit does not apply today as we enter the 21st century.

The small bank exemption from CRA would go a long way in helping reduce the costs and risks of mandated credit allocation. CRA is not only a bad law for banks, but it is also a bad law for consumers. CRA forces banks to underwrite risky loans because they find that preferable to being terrorized and vandalized by so-called community groups that extort money from banks. As a result, consumers around this country are being forced to subsidize this terrorist activity in the form of higher loan rates, lower savings rates and a lower return on equity.

Mr. President, I ask my colleagues to support this very important amendment on behalf of the small community banks around America but, more importantly, every bank customer who walks in to get a loan and is forced to subsidize this government mandated credit allocation.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. (Mr. GORTON). The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. SARBANES. Mr. President, will the Senator from Illinois yield me just 2 minutes without losing her right to the floor?

Ms. MOSELEY-BRAUN. Certainly.

Mr. SARBANES. Mr. President, before the Senator from Alabama leaves the floor—because this is going to turn into a very interesting debate, and I want to make clear the parameters of it, obviously—he sent out a letter quoting Senator Proxmire. I am sure he is a good former trial lawyer, and he would anticipate that we would go and read all of the Proxmire statement from which he was making selections which were reflected on the chart that he just showed us.

Now, from that Proxmire statement, the very one containing these selections which the Senator says is his rationale for supporting the Community Reinvestment Act, and from which the Senator allegedly shows that the rationale no longer applies—although I disagree with even that assertion—let me read to you. I will read the next sentence, which didn't appear on the Senator's chart, I regret to say.

Mr. SHELBY. If the Senator will yield——

Mr. SARBANES. Let me make the point, and then I would be happy to yield.

The next sentence said:

> The Government provides deposit insurance through the FDIC and the FSLIC with a financial backup from the U.S. Treasury.

"The Government provides deposit insurance through the FDIC and the FSLIC with a financial backup from the U.S. Treasury."

That wasn't quoted as a rationale why it is reasonable to expect financial institutions to look after the needs of their community—because they are getting a very important Government support in the deposit insurance.

Now, Senator Proxmire made the statement in 1977. To prove his statement, in the 1980s, and to underscore the meaningfulness of the public benefits provided to federally insured financial institutions during the S&L crisis, the GAO report says that "the direct and indirect cost to the United States taxpayers of resolving the savings and loan crisis, namely delivering on this insurance which is provided to them, was $132 billion—$132 billion—"and that does not include the interest expenses associated with financing the direct costs of the crisis which would drive the figure even higher."

So, please, with all respect to the former chairman of the Senate Banking Committee, if we are going to start doing selections out of his statements, certainly we should include what I regard as the most important single rationale that he put there:

> The Government provides deposit insurance through the FDIC and the FSLIC with a financial backup from the U.S. Treasury.

Now, that comes right out of the CONGRESSIONAL RECORD of January 24, 1977, which is what the Senator said in the letter he sent to Members he was quoting from. But, unfortunately, for the purposes of clarity in debate, that provision was not cited. Of course, that is the very provision that became applicable in the 1980s when we had the S&L crisis, and we delivered to the tune of $132 billion in order to honor the deposit insurance requirements. Obviously, without the deposit insurance requirements, you wouldn't have these industries. They are absolutely dependent on them to provide a basic level of financial stability and consumer confidence.

So I appreciate the Senator yielding, but I thought it was important to get that on the RECORD at this point, although we will bring it up again in the debate later on.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I thank the Senator from Maryland for shedding light on this debate, because I think it is very important that this debate be put in context and that the whole story be told. The truth is that this debate, reduced to its essentials, really does relate to a fundamental philosophical difference. Either you are for the politics of conflict and anger and "I got mine, too bad for you," or you understand and appreciate the value of a politics based on cooperation, on finding common ground, and in recognizing that, as Americans, we are all in this together.

The fact of the matter is, the CRA is not extortion, as, apparently, it was called on this floor this morning. It is a perfect example of coming up with a construct that allows financial service institutions to do good while doing well. I think it is very important for the listening public to understand that this gives money away to no one. These institutions are not giving away money. They are not losing money. They get back every cent. In fact, the loss ratio, to the extent that we have studies on this, the loss ratio for banks doing business under the Community Reinvestment Act is no different. Banks have done no more poorly while under CRA. The Community Reinvestment Act simply provides access to capital for underserved communities. There are those of us who think that is a good thing for America, that that helps everybody, that everybody benefits when we do not have whole sectors of our country, rural areas, inner-city areas—when we don't have whole sectors of our country cut off from capital flows.

I was going to rise in opposition specifically to the amendment by the Senator from Alabama to this credit union bill. But, really, my remarks have to be directed, I think, at both of the pending amendments, both the amendment of the Senator from Alabama, as well as the amendment of the Senator from Texas.

Before I speak specifically on the amendment, however, I think it is important to say what a strong supporter I am of the underlying bill, H.R. 1151. I commend and congratulate the Senator from New York as well as the Senator from Maryland for their very good work in resolving the issues that are reflected by the Credit Union Membership Access Act, which was reported out of our Banking Committee by a vote of 16 to 2. The fact is this, the underlying legislation, responds to a ruling by the U.S. Supreme Court that, frankly, terrified a number of people that they would lose their ability to participate in credit unions. Certainly this legislation will put an end to those fears.

I believe credit unions play such an important role in the panoply of financial institutions in our country precisely because we have to have ways to make certain that ordinary citizens will be able to access credit and capital, will have someone they can put a face on, who is in the neighborhood, who is part and parcel of the community. Those values, associated with financial institutions, is just as important for our country as making certain that our big banks and our big institutions can compete internationally. We have to do both. We have to have the focus and the attention paid to Main Street, to little towns and communities, to parents who want to send their kids to college, to somebody who wants to borrow for a car, somebody who wants to borrow for a house or whatever their immediate needs are. We have to have those kinds of opportunities in our system of financial institutions or financial services, as well as the big banks and the institutions capable of competing with the European and other industrialized nation's banks that can aggregate huge amounts of capital.

So I think making certain the credit unions are strong and secure and able to provide access to capital and credit for citizens is a very, very important thing, and, again, I strongly support the effort by the Senator from New York and the Senator from Maryland in hammering out the basis of H.R. 1151, and I support it.

Having said that, I want to talk specifically about the amendment of the Senator from Alabama as well as, more generally, about the conversation from the Senator from Texas. I sat here, frankly, when my blood wasn't boiling over some of the conversation—actually the Senator from Alabama has a more soothing tone so he doesn't get your blood up as much as might otherwise happen. But it occurred to me it was really important in this debate to tell the listening audience and the general public what actually is going on here, because so much information has been left out of the conversation so far.

In the first instance, it is important to understand what the Community Reinvestment Act is not. Let's start there. CRA is not "fair lending." It has nothing to do with race as a specific thing. It is not that. It has to do with geographic distribution of capital, so it relates to communities more than anything else, not so much to individuals. That is important to keep in mind as we talk about CRA, because this debate will continue into next week.

The second point I think is important to make, again in terms of what CRA is not, CRA is not a giveaway. Every penny comes back—or at least as much as to any other lending institution. It is about loans. It is not a mandated interest reduction. It is not requiring financial institutions go into social work. CRA is not charity.

As the Senator from Maryland pointed out, the taxpayers put up the money, really, for deposit insurance. We also have a tax exemption with regard, at least, to the credit unions. There are bankers, frankly, who are more than a little annoyed that credit unions have almost a 30 basis point advantage because of the tax exemption that they enjoy. But the tax exemption has been there precisely because we want to make certain that individuals, people in communities, have a chance to go into their neighborhood credit union or credit union associated with their job and borrow money for college or whatever. So there is a basis point advantage that the credit unions get.

The taxpayers, all of us, all Americans who pay taxes, help make that possible. That happens any time you create a tax exemption from something that ought otherwise be taxed. If we say we are going to tax everything from here to here, from A to D, but we are going to exempt this little part C to D and say, "Because you are doing something we like, we are not going to tax you for that," that tax exemption, then, has to be made up by everybody else, right? So it becomes what we sometimes call a tax expenditure.

When you take something out of A to D, that little part has to be made up if you have to get to D, and that is what happens if we provide for tax exemptions generally. Everybody chips in; everybody participates.

It should be for that reason, if nothing else, that we recognize that when you talk about policy like this, it really does matter, it really does come down to recognizing we are all in this together, that we all have an investment, that we all share in these policies, and that finding the place for cooperation and common ground makes a lot more sense for our country than, again, finding the points of conflict, of anger, and of "I got mine, too bad for you."

Another thing CRA is not, it does not have an explicit credit allocation criteria. There are no bureaucrats. This is another one of the old saws that just get people's blood boiling, "Oh boy, those nasty Federal bureaucrats telling us what to do." There are no bureaucrats telling the credit unions, the banks or anybody else, how to do their jobs. It is a results-oriented kind of legislation.

And, in fact, there are, since the 1995 amendments, simply three separate criteria: A lending test evaluates whether or not a bank has a record of meeting the credit needs of its local community. Boy, is that awful. Has the bank met the credit needs of its local community.

An investment test evaluates how well a bank satisfies the credit needs of its local neighborhoods through qualified community investments that benefit the assessment area. Another horrendous extortion we were hearing about a minute ago.

Finally, a service test that evaluates how well the needs of the community are being met by the bank's retail delivery systems.

All of these things go into defining what CRA is about. Again, it is no bureaucrat telling somebody on the front end how to do it, but it is assessing whether or not the decisions were made in the private sector in an appropriate way that would achieve results.

Another thing that CRA is not is sanctions. Again, this gets to the inflammatory language we heard on the floor about extortion and a gun to the head and all the rest of it. There are no sanctions for poor performance, no explicit sanctions.

What it does is, the regulators will take an institution's CRA ratings into account in making evaluations with regard to their attempts to expand or merge or otherwise change the way they do business. What you have here then is a modest attempt to provide the basis for community reinvestment, and even that is under attack, again, I think, by some shopworn and already, hopefully, discredited politics that I don't believe the American people care to hear anymore. It is fighting yesterday's battles all over, or, as Yogi Berra would say, "It's deja vu all over again."

The amendment of the Senator from Alabama seeks to exempt fully 86 percent of our Nation's banks—that is to say, those with under $250 million in assets—from the provisions of the Community Reinvestment Act. This is not the first time he has offered this amendment. In 1995, this very amendment was considered as part of a banking regulatory relief bill. At that time, the Community Reinvestment Act regulations were undergoing revision to make them less burdensome and more effective for banks and customers and consumers and communities. The amendment was unnecessary and counterproductive then. It is even more so now. In addition to failing to relate to anything having to do with the current reality, it fails to make the case that it will help effectuate the goals of the Community Reinvestment Act.

The attempt to describe the CRA as overly burdensome to banks is not true, has not been true, it is not true. Frankly, the banks themselves have stepped forward to tell us that they believe the CRA is a positive thing that allows them to do good and to do well.

Let me share for a moment some of the comments by members of the banking industry.

Alan Morris, commissioner of banks for the Commonwealth of Massachusetts, Division of Banks and Loan Agencies:

> I would like to dispel any myths which may still exist about CRA, myths which abound not only among some bankers but among many regulators and community groups. CRA makes good business sense. Of the many bank failures which occurred in Massachusetts over the last 3 years, I can assure you that not one is attributable to a bank making too many CRA loans. We tend to forget, after all, that sound loans to people in businesses in an institution's own local community is what CRA is all about. The false assumptions by some that low and moderate income persons are not deserving of or cannot use banking services is harmful to the communities, the institutions and the economy.

Again, this is something that affects us all. If we don't have capital flows going to all parts of our country, it is kind of like not having blood circulate to your feet. You can either get the blood circulating to your feet, or you can cut it off, or you can walk around in pain and misery. We can decide we are going to look at abandoned communities with boarded-up houses, with no jobs, where people cannot access capital and credit, or we can do something to get the blood pumping into those communities. And that is what the Community Reinvestment Act does.

Another banker talking about CRA:

> My message is simple: Community reinvestment in low and moderate income communities is good and profitable business.

Again, doing good and well at the same time.

Nora Brownell, senior vice president, corporate affairs, Meridian Bank Corporation:

> I want to reiterate the Community Reinvestment Act offers all of us an opportunity to address major economic development and service issues in our environment today.

The question becomes, What battle are we fighting here? What is going on? Why are we fighting a battle that doesn't exist? Why are we creating an ersatz crisis, or why are we coming up with an ersatz solution in search of a problem if the bankers don't think a problem exists, if the credit unions are happy with the bill as it is?

I point out the letter from the credit union—what is the quote—they are happy with the bill "as passed by committee." "As passed by committee" does not mean either the amendment by the Senator from Alabama or the amendment by the Senator from Texas.

If the credit unions like the bill as it is, if the bankers aren't upset with the Community Reinvestment Act, what then are we talking about and why are we talking about it? I submit to you, I say to my colleagues, that the reason we are talking about it is that some people like to energize conflict and anger as a part of their politics; that some people like to have people mad at each other, because when they get people mad at each other, then they can get their voters particularly angry and their supporters particularly annoyed, and out of that annoyance, they wind up getting political power. That is what I think all of this really comes down to.

I don't mean to be nasty, and I don't mean to be discourteous to any of my colleagues, but it is just stunning to me that we continue to have a debate about the burdensome nature of the Community Reinvestment Act when the banks themselves aren't complaining about it.

To say they are not complaining about it because they are scared, because there is a gun at their head, really—that then suggests they are not only not being burdened but they are too cowardly to talk about it. I don't think any of the people who run these institutions are afraid to speak up for their own interests, particularly bankers. This institution has never been known not to listen to bankers. If bankers wanted to complain about something, they could have brought it to the attention of this committee and this institution. They certainly have the power and clout and have never been too shy in other regards when they needed something—when they needed bailing out, when they needed support. This institution has been very responsive to bankers, and I suggest they have not been afraid to show their faces and complain about the Community Reinvestment Act.

Let's talk a little bit about the history of the CRA. The CRA was passed in 1977 to combat what was called the "redlining" of certain neighborhoods. Redlining refers to the practice of—in some instances, people actually found evidence where red lines were drawn on maps to indicate areas that were off limits for lending.

The goal of the CRA is to encourage banks to meet the credit needs of their entire communities, including low- and moderate-income areas—nothing more, nothing less. This obligation had its roots, frankly, in the Banking Act of 1935 which required banks to meet the convenience and needs of their communities, and that, of course, was reiterated in the Bank Holding Company Act of 1956 and, of course, the bank charters themselves.

CRA is not new, really, in that regard. There is precedence in other existing laws with regard to the intent of making certain that banking and that the access to capital and credit are evenly and equitably distributed throughout all communities.

The CRA does not require any banks to make bad loans. It only asks them to explore good loan possibilities in their entire market area. CRA opens new markets and allows banks, again, to do good while doing well.

Now, it is critical, again, to keep in mind what it is and what it is not. It is not an effort to treat banks as if they were arms of the Government. It does not set up banks and financial institutions as social service agencies. It is not about treating them as an equivalent of a Government grant. This is not giving money away to anybody. It is not a credit allocation. It is not forcing somebody to give credit to a particular group or particular community in a particular way. And it certainly is not about minorities.

I certainly hope that nobody gets away with demonizing the Community Reinvestment Act on the basis of race, or demonize it, frankly, on the basis that it is for inner-city communities because it is not. It is about communities all over the country, and particularly in rural communities. Actually, rural communities in some instances are more challenged than our inner-city and urban areas in terms of getting access to capital and credit.

It is especially important to preserve the CRA obligations for rural banks when often they are the only game in town for credit purposes. Several years ago, our Banking Committee held some CRA oversight hearings and we discovered cases of small banks in which the service area consisted of two towns, each with a population of about 10,000. The bank in that case was found to be in substantial noncompliance with CRA because its loan portfolio consisted of only 5 percent of the total assets of the bank.

Now, again, 5 percent—you say, how could that happen? You have a bank in a little town. Why would it give only 5 percent of its loans in the town? Well, in some instances the investments are in Treasuries and other things like that which wind up being more profitable for the bottom line, but it certainly does not serve the interests of the community. And that is not where banking laws—again, going back to 1935—that is not where the banking laws want to take us. Frankly, that does not in any way reflect or relate to or in any way show support back for the kind of support that taxpayers and citizens overall give to these financial institutions.

The last time the efforts were made to exempt small banks from the CRA—I am speaking specifically to the amendment by the Senator from Alabama—there was an article that appeared in the Madison Capital Times in Wisconsin. It is "Bank measure bad for farms." Referring to that amendment, the very same amendment, this article, "Bank measure bad for farms" presents the view of a concerned rural resident who was concerned about the unpainted barns and boarded-up rural businesses that she saw in her community.

I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD, as follows:

[From the Madison Capital Times, July 20, 1995]

BANK MEASURE BAD FOR FARMS

(By Margaret Krome)

Earlier this week I drove past unpainted barns and boarded up rural businesses on my way to a meeting. Like many city dwellers, I fretted about the health of farms I passed and small towns I drove through, but felt powerless to help.

However, we urbanites can protest policies that actively harm rural communities. One such proposal is before Congress right now. It would gut a major safeguard for money borrowers, the Community Reinvestment Act.

As in all communities, rural citizens need credit. When farmers, other small businesses, and rural citizens deposit their money in their local bank, they do so both to protect their funds and with the hope that when they want to start a new business or bring a new family member into their farm operation, the local bank will, in turn, lend them money.

But sometimes banks, and especially many rural banks, establish a very different pattern, where local lending takes a lower priority than making more assured investments, like federal government securities. Thus, such banks drain local resources outside of the very localities that support them, making it that much harder for local citizens to get credit.

The Community Reinvestment Act was passed in 1977 to make banks more responsive to the credit needs of the community they serve. The measure provides that before a bank can expand, be bought, merge with another, or make other changes in business structure, its record of community reinvestment is reviewed.

If community members voice dissatisfaction with how the bank has met local needs, or if the bank's local lending rate is consistently low, it triggers a regulatory yellow light. Before the bank's plans can proceed, it must respond to citizen concerns.

When M&I Bank proposed to buy out Valley Bank holdings in 1993, for example, citizens in southwestern Wisconsin held meetings to raise concerns about lending practices in that 10-county region. Without ever becoming a formal challenge, the process resulted in M&I's working with the community to increase agricultural and small businesses.

Despite such successes, now comes H.R. 1858, the "Financial Institution Regulatory Relief Act of 1995," to the rescue of oppressed bankers everywhere. In three simple swipes, it effectively eviscerates the CRA.

First, it removes a citizen's or community group's ability to challenge a bank's application for expansion based on its prior CRA performance.

Second, it outright exempts banks with less than $100 million in assets from CRA regulations, which especially hurts rural areas, where such banks are located. In fact, under H.R. 1858, CRA provisions would not apply in 34 of the state's 72 mostly rural counties.

Finally, and incredibly, it allows banks between $100 and $250 million in assets to "self-certify" their CRA compliance . . . as if any bank would ever be motivated to do otherwise.

The banking community's complaint that meeting CRA regulations is too costly is unconvincing, given record profits that Wisconsin banks have registered in recent years. Granted, CRA-related paperwork for some banks has been considerable at times, but after a 2-year regulatory reform process, even those problems were addressed in April with greatly lessened reporting requirements and a streamlined examination process for small banks.

The "reforms" in H.R. 1858 are not designed to relieve banks of onerous reporting requirements. They appear to be poorly disguised efforts to grant banks a carte blanche to invest local monies in whatever ways best suit their private profit-making interests.

There's nothing wrong with making a profit, but in rural areas, where often there's little competition among banks, it's wrong to revoke one of the few accountability measures citizens have.

Historically, banking officials hold all the cards during any local lending negotiation. The CRA shifts that power balance by giving citizens a forum to air concerns about a bank's pattern of lending.

If rural communities are to regain the vitality their citizens deserve, they need true help an meaningful solutions. Permitting banks free rein in the name of regulatory relief is not one of them.

Ms. MOSELEY-BRAUN. The author stated in the article:

As in all communities, rural citizens need credit. When farmers, other small businesses, and rural citizens deposit their money in their local bank, they do so both to protect their funds and with the hope that when they want to start a new business or bring a new family member into their farm operation, the local bank will, in turn, lend them money.

But sometimes banks, and especially many rural banks, establish a very different pattern, where local lending takes a lower priority than making more assured investments, like Federal Government securities. Thus, such banks drain local resources outside of the very localities that support them, making it that much harder for local citizens to get credit.

She goes on—by the way, I do not know how many people who are listening to me now got a chance to hear the earlier comments about the nasty Federal Government, but, again, here this lady is saying they are taking money out of home localities in rural communities and investing them in Federal Government securities.

She goes on to describe how the Community Reinvestment Act spurred one bank in particular to increase its commitment to agricultural and small businesses. And I quote. She says:

> . . . in rural areas, where often there is little competition among banks, it's wrong to revoke one of the few accountability measures citizens have.

Mr. President, I believe that she is exactly right. Even if banks under $250 million represent a small percentage of total banking assets, they still represent 100 percent of options for many small town residents.

To go back to the article, the author also writes:

> If rural communities are to regain the vitality their citizens deserve, they need true help and meaningful solutions. Permitting banks free rein in the name of regulatory relief is not one of them.

In addition to the article that I just mentioned, I would like, Mr. President, to have printed in the Record a letter. This letter, which I received yesterday, expresses strong opposition to the amendment by the Senator from Alabama.

It asserts that:

> Rural Americans need the tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve millions of Americans living in smaller low- and moderate-income communities.

This letter, by the way, is signed by 11 groups: The Center for Community Change, the Center for Rural Affairs, the Federation of Southern Cooperatives, the Housing Assistance Council, the Intertribal Agriculture Council, Iowa Citizens for Community Improvement, National Catholic Rural Life Conference, National Family Farm Coalition, National Farmers Union, National Rural Housing Coalition, and the Rural Coalition.

I ask unanimous consent that letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

July 23, 1998.

Dear Senator: On behalf of the undersigned organizations representing rural Americans, we are writing to express our strong opposition to legislative efforts to weaken the coverage of the Community Reinvestment Act (CRA). Our understanding is that Senator Shelby plans to offer an amendment to H.R. 1151, the credit union legislation, that is scheduled for floor action. In addition, Senator Gramm plans to offer an amendment that strikes provisions, in H.R. 1151 that would ensure that credit unions provide services to all individuals of modest means within their field of membership.

The Shelby amendment would exempt banks under $250 million in assets from CRA coverage. This affects over 85% of banks nationally. For citizens in Iowa, Kansas, Minnesota, Montana, Nebraska, and Oklahoma, 95% of the banks would be exempt.

Rural Americans need the tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve the millions of Americans living in smaller low and moderate-income communities. Unfortunately, small commercial banks do not automatically reinvest in their local communities. This is documented by national data on reinvestment trends and loan to asset ratios for banks across the country. 50% of small banks have a loan-to-deposit ratio below 70%, with 25% of these having levels less than 58%. The data for 1997 reveals that banks under $100 million in assets received 82% of the substantial non-compliance ratings.

We strongly urge you to oppose these amendments to H.R. 1151. The Shelby amendment ignores the important regulatory changes since 1995 that have significantly reduced the paperwork and reporting issues for small banks. The Gramm amendment will strike an important provision from the bill that for the first time would require credit unions to meet the financial services needs of their entire field of membership.

A vote against these amendments will help meet the credit demand of millions of family farmers, rural residents, and local businesses. Thank you for considering our concerns.

Sincerely,

Center for Community Change; Center for Rural Affairs; Federation of Southern Cooperatives; Housing Assistance Council; Intertribal Agriculture Council; Iowa Citizens for Community Improvement; National Catholic Rural Life Conference; National Family Farm Coalition; National Farmers Union; National Rural Housing Coalition; Rural Coalition.

Ms. MOSELEY-BRAUN. In addition, I have received many letters from community groups and other concerned citizens who oppose this amendment.

I must point out that, again, in 1995, when this amendment was proposed before, letters were sent in opposition by the Save CRA Coalition and others. Unlike many of the special interest groups around here in Washington, frankly, that group's name lets you know exactly what it stands for. The Save CRA Coalition was established to defeat the amendment of the Senator from Alabama when it was previously offered.

The letter they sent, opposing the weakening of the CRA, was signed by 2,181 State and local government organizations, for-profit businesses, community groups, unions, farm groups and faith-based organizations from every State in the country, the District of Columbia, Puerto Rico, and the Virgin Islands, by the way, including a number of organizations from Alabama and Texas.

Now, I am going to ask that the letter be printed in the Record also. I am not intending to filibuster, and I know that some of my colleagues are here on the floor wanting to speak, but there is a long, long list of organizations which are very, very recognizable that I hope my colleagues have a chance to take a look at to see the breadth and the level of opposition to the amendment by the Senator from Alabama and the opposition to weakening the CRA.

I hope that also every Member of the Senate will have occasion to at least review the names of the organizations in their own State with regard to opposition to this amendment. My own State, what, it is three pages—Illinois has page 9, page 10, and on to page 11. They are just names in a single space of organizations in opposition to that amendment. And I am sure if I were to take Missouri or Delaware or any of the other States, they would be an equally long list. I hope my colleagues will familiarize themselves—or New York—will familiarize themselves with the names of the organizations that, again, are against weakening the Community Reinvestment Act.

However, I ask unanimous consent that the letter itself be printed in the Record, but not the names of the organizations who signed the letter because that would take up too much space in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Save the CRA Coalition,
Washington, DC, September 7, 1995.

Hon. Alphonse D'Amato,
U.S. Senate, Washington, DC.

Dear Senator D'Amato: The following state and local governments organizations, for-profit businesses, community groups, unions, farms groups, and faith-based organizations oppose legislative changes in S. 650 and H.R. 1858 that weaken the Community Reinvestment Act (CRA). CRA ensures that creditworthy borrowers have access to the American system of commerical credit. It has given banks an incentive to discover profitable lending and investment opportunities in rural, suburban and urban communities. Congress does not need to revise this effective law.

Preservation of CRA is vital to the work of community developers and small business nationwide. CRA has been the catalyst for important local alliances among financial institutions, local businesses, nonprofits, and state and local governments. It has led to hundreds of thousands of modest-income families becoming first-time home owners, generated new capital for small businesses and small and mid-size family farms, and made financing available for local economic development projects. Additionally, CRA has spurred the creation of innovative mechanisms for providing credit such as revolving loan funds and consortia.

We recognize the value of making CRA a more performance-based system rather than a process of documentation, however federal regulators have addressed this issue. On April 19, 1995, the four bank regulatory agencies issued final rules making CRA compliance more effective. The process of revising these regulations covered two years of intense deliberation; public hearings involving hundreds of bankers, community groups and

> local officials; and nearly 14,000 written comments from banks and other organizations nationwide. We strongly believe that the regulations agreed to by the nation's financial regulators effectively address whatever weaknesses banks have complained about in CRA's administration and thereby bolster its successes.
>
> Proposed "regulatory relief" legislation (S. 650 and H.R. 1858) would stifle local community efforts by exempting an overwhelming majority of banks and allowing the rest to abandon their commitments to millions of Americans in low- and moderate-income communities. In addition to provisions that explicitly modify the Community Reinvestment Act, other provisions in this legislation deter community reinvestment efforts by abolishing constructive channels for community input in decisions regarding bank mergers and other corporate expansions, and eliminating critical data collection requirements that enable objective assessments of bank performance.
>
> Since its enactment in 1977, CRA has attracted more than $60 billion worth of investments in low- and moderate-income communities around the country, and stimulated local economies. Every dollar spent in community-based development circulates through the economy an estimated five times through vendors, suppliers, subcontractors and related workers.
>
> In light of the success of the CRA, we urge you to strike provisions within S. 650 and H.R. 1858 that weaken the CRA and to oppose any efforts to cripple this critical law.
>
> Sincerely,
>
> 2,181 Organizations.

Ms. MOSELEY-BRAUN. One of the reasons that CRA has such broad support is very simple. It does not force banks to make bad loans. It encourages them to examine unexplored markets in their service area, and it, again, allows a financial institution to do good while doing well simultaneously. They make money on these loans.

My favorite CRA story is about one banker who said that he hated the CRA, but he did not think it was burdensome. What he hated was the fact that other banks did it, too. Other banks were complying with CRA. He had discovered years ago—it was kind of a market rating situation—he discovered years ago that there were many cash-poor but credit-worthy customs out there. And he had previously been the only one issuing loans in certain low- and moderate-income areas in low- and moderate-income neighborhoods.

So now with CRA in place, he was forced to compete where he had once enjoyed a monopoly. And so he was annoyed, if you will, that his monopoly over the areas that had not had access to capital and credit, except via him—that that monopoly was now opened up because other institutions were beginning to engage in those communities, because and by virtue of the Community Reinvestment Act.

Again, he had learned a lesson that many bankers are now learning. Because of CRA, community reinvestment is the best way to do good while doing well simultaneously. And CRA is profitable for banks. In a survey conducted by the Federal Reserve Bank of Kansas, 98 percent of banks found that their CRA activities were profitable.

Many others agree with the Kansas City study. Most major banks, including NationsBank and Bank of America, have reiterated their commitment to the CRA. As I recall, when we last had a hearing in the Banking Committee, some bankers testified in favor of keeping CRA intact. In fact, I was delighted at a hearing we had of the Banking Committee. Secretary Rubin had previously come out in support of the CRA, but I actually put the question to Chairman Greenspan, who is acknowledged as the guru of financial everything, I guess, and Chairman Greenspan reiterated or spoke to his support of the CRA, which I was absolutely delighted about.

I will give an earlier statement of Chairman Greenspan:

> When conducted properly by banks which are knowledgeable about their local markets, CRA can be a safe, sound, and profitable business. CRA has prepared financial institutions to discover new markets that may have been underserved before.

I see a number of my colleagues standing and looking at me. I think this means I am talking too long. I don't mean to filibuster this issue. I just want to say I believe I have spoken to the issue. There are facts and figures I would like to share with my colleagues, but I know we will have another opportunity to do that because we will have this issue come up again on Monday.

Suffice it to say that expanding the Community Reinvestment Act to the credit unions, which apparently the Senator from Texas doesn't like very much, is not something which has the credit unions themselves riled up. They like the bill we passed out of committee. They don't want to have that amendment. They want to see us go forward with H.R. 1151.

With regard to the CRA-gutting attempt, taking out 85 percent of CRA activity that the Senator from Alabama would suggest, I submit that also is an amendment that the credit unions don't want to see on this bill because it is too important to them.

With regard to just an overall appeal to my colleagues, let me suggest that to find a solution like these two are suggesting in search of a problem does not do justice to the level of the cooperation that we have seen in this Congress, and particularly with this Banking Committee, that CRA gives us an opportunity to find common ground, to work together, and to work together for the good of our entire country. The alternative is an appeal to conflict and anger which I think is beneath the Senate. I hope my colleagues will join me in opposing both of these amendments.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I propound a unanimous consent request: That the pending Gramm amendment be temporarily set aside; I further ask that at 4:30 p.m. on Monday, July 27, the Senate resume consideration of the Gramm amendment, with 1 hour for debate equally divided prior to a motion to table; I further ask that the tabling vote occur at 5:30 p.m, with no second-degree amendments in order to the amendment prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I believe my colleague from Connecticut has a brief statement. I believe he has asked our other colleagues that he be recognized.

Mr. DODD. Let me thank my colleagues who are here, and I will keep these remarks brief. I thank my colleagues from Colorado, North Carolina, and Missouri.

Briefly, Mr. President, let me, first of all, extend my compliments to the distinguished chairman of the Banking Committee and the ranking member, Senator D'AMATO and Senator SARBANES, for their excellent leadership in bringing this bill on credit unions to the floor. This is a very, very important piece of legislation. I think most of my colleagues who have followed this debate hoped we wouldn't have had to come to the floor with a credit union bill. But as a result of Supreme Court decisions, we have been forced to act, and to act expeditiously in this Congress. In fact, as a result of a letter drafted by the chairman, several others, and myself, we have asked the court not to initiate their decision so that there would be time for us legislatively to respond to the Supreme Court decision.

This is not just any other bill we are bringing up that may or may not have some importance on the Legislative Calendar. It is critical that before this Congress adjourn this piece of legislation be considered and adopted and signed into law if we are going to provide the kind of relief that must be sought as a result of the AT&T credit union decision.

Again, my compliments to the leadership of Senator DOMENICI, Senator SARBANES, and other members of the Banking Committee, who voted 16–2, I think was the vote, that brought this bill to the floor of the U.S. Senate.

It is critically important. Why is it important? It is important because if we are going to see members of credit unions forced to leave their credit unions as a result of the AT&T credit union decision, the resulting loss of those members could cause a credit union to become insolvent. That is the problem here, and that in itself would create a drain on the taxpayer-backed deposit insurance fund.

So, it is very, very important we not allow those credit unions to run the risk of losing its membership as a result of that decision or our inability to act and then causing these credit unions to fail around the America. None of that will happen, obviously, if we move to adopt the legislation.

I point out that in the House, the other body, they adopted the legislation, I think, something like 411–8. It was overwhelmingly adopted. I am confident that will be the case here, as well. We will get a good, strong vote provided we don't get sidetracked on some side issues. Whether they have merit or not, there will certainly be other vehicles in the minds of some people, but the idea we would allow it to be attached to this, running the risk—you run the risk of having this credit union legislation collapse. If that does happen, then the resulting consequences of that collapse will have to be borne by those who try to take advantage of this vehicle to add extraneous matters. That is very, very clear to credit union members all across the country.

This is an opportunity for us to act on this bill. I have strong views about the amendment of our colleague from Alabama on CRA. I am opposed to what he wants to do. I know there are Members who strongly agree with what he wants to do. But also I will tell you that if you allow that provision to be added to this bill, you are going to cause this bill to fall. If that is the case, then the resulting consequences, I think, are terribly predictable.

I am not going to necessarily, today, engage in the debate on the Shelby amendment on the CRA, Community Reinvestment Act, except to say that I know in my State of Connecticut for the literally thousands of members of credit unions, the millions in the State of New York and California and elsewhere all across this country who are watching this debate, knowing if this bill falls because of a desire of some to come up with an amendment here that has some appeal, I think the transparency of the efforts will be quite obvious that, in fact, it is really not the issue of CRA.

There are those who, frankly, want to kill this bill, who don't like the credit union bill but don't really want to take it on directly and so will offer an extraneous amendment, hopefully, that might just narrowly get adopted, the bill collapses, and you have been able to sort of smuggle the destruction of this important piece of legislation through. It is extremely important that we deal with this bill in as clean a fashion as possible, no matter how appealing some of these amendments may be. So that is important.

The second question obviously we want to still address is whether or not we want the maximum possible number of Americans to have the choice of joining a credit union. I think people ought to be free to make that choice of joining a credit union. The overwhelming majority of credit unions provide affordable financial services to working families all across this country.

Let me draw one theme that has been raised during consideration of the bill—that is whether credit unions have lost their mission of serving middle-income Americans and families of modest means, which was written into the original act. The question surfaced because of a campaign of misinformation, in my view, prompted by some industries that compete with credit unions. During the Banking Committee hearing of these issues, back in March, one banking industry representative stated that "credit union membership had become so compromised that membership was being offered to members of wealthy country clubs." I am not making up this example. This one actually happened.

Needless to say, those who support credit unions were very upset about that allegation because it would run contrary to the thrust of what credit unions are supposed to do. We examined that allegation and it is was true, in fact, that there were wealthy country club memberships.

What they fail to tell you is that the people being solicited to join the credit union were the cooks, janitors, groundskeepers, and others. They weren't members of the country club, they worked at the country club. Yet, if you listened to the allegation, you assumed it was people who paid significant fees to join the club, rather than employees. That is the sort of misinformation that is going on to try to destroy this bill and this important credit union organization across the country.

The average credit union is still very small in size. It is limited by the number of people they serve. In my State of Connecticut—an affluent State, a strong middle class State—the average size of a credit union as an institution is $16 million in assets. In fact, if you take all the assets of all of my credit unions in Connecticut and total them up, they don't equal the assets of one of my 10 largest banks in the State of Connecticut. I know that is not true in every State, but in Connecticut, which is a fairly affluent State and has an aggressive, strong credit union organization, total assets of all of my credit union members don't equal the size of any one of the 10 largest banks.

In fact, assets of all the 11,392 federally insured credit unions was $327 billion, or less than the size of Chase Manhattan Bank or Citibank. The asset size of the 11,452 federally insured banks is $5.2 trillion, compared to $327 billion for all the credit unions. So the notion that somehow this is some great threat to commercial banking in this country, I think, is unwarranted, it is not credible at all. Small banks and thrifts are threatened in many ways in this country, but I suggest that they are much more threatened by aggressive banking giants like NationsBank than by any credit union. The loss of banking services in many communities that I visited has much more to do with aggressive takeovers and consolidations practiced by large national financial institutions or large regional institutions than it does competition from credit unions. That is the least of these smaller banks' and community banks' threats.

The facts show that while credit unions have experienced modest growth since the implementation of the multiple common bond, that growth is dwarfed by the growth in the banking industry.

Ultimately, the complaints of the bank and thrift industry boil down not so much to a loss of market share but to the fact that credit unions offer customers a pretty good deal. They offer customers higher interest rates on savings and checking, as well as lower interest rates on credit cards and certain kinds of loans; credit unions don't charge their customers a fee for every conceivable type of transaction. We have reached a point in the banking industry where seeking out a new fee income has replaced seeking out new loan business as the way to make profits.

Not only are banks generating $3 billion a year in ATM fees—a subject matter that the chairman of the committee cares deeply about—$3 billion a year in ATM fees in excess of their costs, but some banks even started charging customers for using a deposit slip at branches, or for having the temerity to actually call a live person—if you can ever find one—on the phone during normal business hours.

While the banks claim that credit unions offer a better deal because they don't pay taxes, that is also a fiction. Credit unions have no access to capital markets to raise funds; they keep the capital needed to stay in business only through retained earnings. That is vastly different from what the banks do. Moreover, the banks also don't acknowledge the many tax advantages they enjoy, such as being able to write off billions in taxes every year for loan losses that never occur, or for receiving a tax credit for any minimal premium they must pay toward maintaining taxpayer-guaranteed deposit insurance.

Credit unions are nonprofit organizations that put their earnings into both creating capital and keeping costs down for their customers, the actions that were precisely envisioned by Congress in establishing the Federal credit unions of 1934.

So, Mr. President, I think there is an important role that our credit unions play. There is good, healthy competition out there. Let me end where I began. That is, I urge my colleagues—those of you who truly care about allowing the Supreme Court decision to be dealt with legislatively—there is only one window where we are going to get a chance to do this. Even if you find yourself attracted to a standing-alone provision on the CRA issue—which I don't, but some do—even if you are slightly attracted to that amendment, by supporting that amendment you will bring down this bill, and then people are going to understand what happened here.

So I certainly endorse and support the comments of our colleague from Illinois, Senator CAROL MOSELEY-BRAUN, who speaks eloquently on the issue of the Community Reinvestment Act—the strength of it, how well it has worked, and how well it is working in reaching sectors of our society that have been too often in years past denied access to financial services in our country. I think it would be a mistake to jeopardize this credit union bill, which has come out of our committee with such a strong vote and such a strong vote in the other body.

I think on Monday we can certainly do a great deal to relieve the anxiety and fears of literally millions of people across the country who utilize credit unions for their financial security and their futures. They are going to be terribly disappointed in this body if we get involved in extraneous matters and bring this bill down. So over the weekend, I urge that members of credit unions across the country certainly let their Members of Congress know how important this bill is to them and how important it would be to keep off amendments that could destroy our ability to pass this legislation.

I thank my colleagues for their graciousness. I compliment the chairman and Senator SARBANES for their fine work on this bill.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in support of H.R. 1151. Credit unions have played an important role in our financial system. They have given a helping hand and a hand-up to millions of Americans whom it otherwise would not have been available to. Nearly 70 million Americans are members of credit unions. I consider myself a strong supporter of credit unions. We have over 195 in my State, including the second largest in the Nation. Over 2 million people in North Carolina are members of credit unions. I do not believe that we should limit their access to credit, and it is the principal reason I support the credit unions in this bill. We have to protect and preserve credit unions for the future.

Mr. President, this bill is not without controversy. This bill started out as a court case in my home State. The case went to the Supreme Court that began in North Carolina and was decided against the credit unions.

Now, there has been a lot of heated conversation about this legislation. Some of what has been said is correct, but a large part of it has been incorrect.

Very simply, this is what it would do. This legislation would allow multiple groups, each with their own common bond, to be part of one credit union. The Federal Credit Union Act of 1934 was unclear on this point. But beginning in 1982, the National Credit Union Administration has allowed groups to be part of a credit union. The real question is whether Congress will support the policy that has, in effect, been the law since then, since the 1980s. I have to conclude that the Congress will, but they are only going to do it with some limitations.

Essentially, this is why we have to change the law.

And let me say, the changing marketplace has changed the banking world too. Glass-Steagall—the bank law that separates banks and securities firms has almost no meaning in today's society. In fact, it is little adhered to.

Mr. President, the workplace has changed dramatically since 1934. The era of working for one company, with one occupation, with one skill—for all of one's life is gone. Technology and global markets have forever changed our way of life.

These changes mean that a one group credit union will have difficulty surviving in today's day and age.

Banks used to not have banks outside their own States, and primarily within their own community. Banks used to be able to sell insurance in only towns of 5,000 people. Now they are limited to the United States.

We need to update our bank laws as well—and I hope and anticipate that we can do that.

And I have not stood in the way of the bank regulators that have had to update our laws through executive action, rather than the Congress acting.

And I think the same view is reasonable with respect to credit unions.

But—as I said—there should be some limitations—and there are limitations in this bill.

Credit unions do not pay taxes. I am adamantly opposed to taxing credit unions.

The answer to this problem is not to impose taxes on credit unions. The answer is to reduce taxes for small banks. That is why Senator ALLARD and I introduced legislation yesterday to make tax law changes to help community banks.

We need to reduce regulation for small banks—that is why I will vote for Senator SHELBY's amendment to remove CRA for community banks.

We do not need to punish credit unions to help small banks—I think we should simply help small banks.

Let me also say this.

We have done a number of things to change and reform the credit union industry.

This bill is not without tough provisions for the credit union industry and some of them are pretty tough provisions.

We have limited commercial loans to be made by credit unions to 12 percent of their assets. Before now, there was no limit. And there was only a study in the House bill.

We have required the NCUA to charter separate credit unions where possible.

We have limited the use of geographic charter credit unions to a "defined" community—so that there cannot be abuses in the chartering of geographic credit unions.

Finally, we have imposed prompt corrective action on credit unions—and we have essentially established minimum net worth requirements for credit unions.

So there are many reforms to the industry that have not been discussed by the opponents of this bill.

Mr. President, let me just say again—this is an important bill to keep credit unions going into the future and into the 21st century.

If we don't pass this bill—it is uncertain if people can continue to join credit unions. And there is the possibility that persons could lose their right to be a member of a credit union. The district court has not yet decided how this case will be implemented.

It is simply wrong to suggest that if we don't pass this, that given benign neglect, it will probably go away. It will not. We have to pass this bill so that current members are assured of keeping their status.

Mr. President, I thank you and urge pass passage of the bill. But let me comment also on the two pending amendments.

First, I support Senator GRAMM's amendment.

It makes absolutely no sense to put CRA on credit unions. Credit unions are member organizations to begin with. The very nature of credit unions is to lend to their members. To put CRA on it is redundant, and ridiculous.

The provisions in the H.R. 1151 is redundant, as I said, and is, frankly, absurd. Anybody that has looked at it knows it.

I strongly support Senator GRAMM's amendment. We do not need CRA for credit unions. We need to reduce the burden for small banks. Every bank that I have talked to has a problem with the CRA. It is too subjective. There are too few definitive standards. Small banks spend an inordinate amount of their time and money complying with Federal law when their lending is almost totally local.

I support Senator SHELBY's amendment because CRA makes no sense for small banks. Small banks can't survive, if they don't lend in their community. That is what CRA says they need to do. But for a small bank, where else does it lend if it is not in its community?

That was the purpose of the CRA to begin with. It simply is not today viable. To take deposits and lend in a small community is what community banks do.

The Senator's amendment exempts 8,000 banks. But they account for only 11 percent of the assets of the industry. In fact, these 8,000-plus banks have roughly the same amount of assets as one of our North Carolina banks. It is not an unreasonable amendment. Small banks are shrinking, they are disappearing, and the more burden we put on them the less there will be.

Just as I don't think credit unions threaten big banks, I don't think exempting small banks from CRA is a threat to the CRA.

The Shelby amendment only exempts 11.7 percent of the assets of the banks of this country.

As I said, we have one bank in North Carolina with roughly the same amount of assets.

Mr. President, I thank you. I yield the floor.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I rise in support of H.R. 1151.

First, I want to begin by thanking Chairman D'AMATO for skillfully steering the Credit Union Membership Act through the Senate Banking Committee and onto the Senate floor.

It has been a pleasure to work with both him and his staff on this Senate Banking Committee. That also is speaking in behalf of my staff also. We have been very appreciative of their work in helping us with our issues and what you are doing for credit unions.

I am pleased to support this credit union bill in the Banking Committee, and I am pleased to continue to support it now.

I have always been a supporter of the credit union movement. The main reason I have been supportive is because I felt that any competition among financial institutions is vitally important. And, obviously, the credit unions provide the customer another choice out there; another way of meeting his banking and financial needs.

During my years in the Colorado State Senate I worked closely with the Colorado Credit Union League and the numerous credit unions and members that we have in Colorado.

I have been pleased to continue my work with the Colorado Credit Unions as a member of the Senate Banking Committee.

Mr. President, there are 185 credit unions in Colorado. There are 1,321,000 credit union members in Colorado.

And the credit unions hold nearly $7 billion in assets in Colorado.

Credit Unions play a vital role in our communities. They provide an opportunity for groups of people to join together and pool their assets.

Credit Unions are run by their members. Those members make loans and help each other to get ahead and build a prosperous life for their families and for their communities.

Let me turn to several provisions in the Credit Unions bill.

I am particularly supportive of the new capital requirements and the "prompt corrective action" requirements that we put in the bill during our deliberations in the Senate Banking Committee. That is because I feel so strongly that we need to work to make sure that our financial institutions remain safe and sound.

I have always felt that we were particularly blessed to be serving in the Senate particularly during a time when our economy is doing very well.

As much as I would like to hope that our economy continues to prosper, history has shown us that periodically there are fluctuations in our economy; there are good times and there are bad times. If we do not make good decisions today to assure safety and soundness, it is going to create problems in the future. So that is why I have been so pleased with the safety and soundness provisions that we have added to H.R. 1151. These provisions are vital to protect credit union members. We want the credit union members' movement to remain strong and well capitalized.

Let me turn to the issue of taxation. From the beginning of this debate, I have opposed the taxation of credit unions. They are collective organizations. They are not-for-profit businesses. They pool their assets. Their gains go back to the members as assets. They also go back to their members as interest, and that interest is taxable to the credit union members. As I said earlier, credit unions exist to help their members, and consequently I do not believe that credit unions should be taxed. I have been concerned with the tax and regulatory burden that remains on small financial institutions, whether they are banks or credit unions. Consequently, I will support elimination of the Community Reinvestment Act. I support lifting the CRA burden on small financial institutions, and I support reducing the tax burden on small banks.

I raised this issue during the Banking Committee's hearing last month on the proposed financial modernization legislation. We need to do something to make certain that our small community banks can remain viable. We do not want those banks to drown in the burden of regulation and taxation.

At the time of the hearing I had brought up a question about subchapter S corporations and independent banks, and, graciously, the chairman says, "You know, I think maybe you are on to something. We ought to continue to pursue that." Consequently, because of the strong support from the chairman in trying to give tax relief to small banks, I put together some legislation. This has all resulted because a small, independent banker from my State of Colorado decided to share with me some ideas he had about S corporations and how we could help small banks through the Tax Code.

So the chairman was very receptive to those concerns. He said, "Well, let's work on it." We worked on it. We have introduced some legislation that will be helpful to small bankers in Colorado and throughout the country.

It has become very clear that small banks do want something done with their subchapter S corporations. The subchapter S provisions of the Internal Revenue Code reflect the desire of Congress to eliminate the double tax burden on small business corporations.

Subchapter S has been liberalized a number of times, and most recently in 1996. Yesterday, I introduced legislation that will expand and improve subchapter S of the Internal Revenue Code, and this is S. 2346. I am joined in this effort by Senators D'AMATO, FAIRCLOTH, HAGEL, ENZI, BENNETT, MACK, SHELBY, and GRAMS. This legislation contains several provisions that will make the subchapter S election more widely available to small businesses in all sectors. It also contains several provisions of particular benefit to community banks that may be contemplating a conversion to the subchapter S.

Financial institutions were first made eligible for the subchapter S election in 1996. This legislation builds on and clarifies the subchapter S provisions applicable to financial institutions.

As Congress considers credit union legislation and financial modernization legislation, it is important that we explore ways in which we can ensure that the tax and regulatory burden on our community banks remains reasonable. This S corporation legislation is reflective of that desire, and we will now begin working with the Senate Finance Committee to see if we can get this legislation in a bill this year.

Section 403 of this credit union bill will require the Secretary of the Treasury to submit a study to Congress within 1 year that will make legislative recommendations on how Congress can reduce and simplify the tax burden on small banks. I hope the Treasury Department will be endorsing this S corporation legislation.

It seems to me that it is one of the better ways to reduce the tax burden on small banks. In the last several months, there has been considerable conflict between banks and credit unions. They both play a vital role in our communities. I hope that in the coming months we can produce legislation that will strengthen credit unions as well as community banks, and I support the bill.

I thank the members of the committee, particularly the chairman, for their support of H.R. 1151, and look forward to swift passage. I am particularly pleased to serve on this committee because of the cooperation and sincere desire in that committee to make sure that we have strong financial institutions and that we have competition out there, which I think is the real answer to a lot of our problems.

I yield the floor, Mr. President.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New York.

Mr. D'AMATO. Mr. President, let me just take a brief moment because I know the Senator from Missouri has been anxiously waiting to seek the floor.

I thank my colleague from Colorado, a member of our Banking Committee, as well as the Presiding Officer, for their support not only in this endeavor as it relates to the credit unions but for our overall legislative efforts. Indeed, I believe that Senator ALLARD has offered in a most constructive way an opportunity to begin to give to the small business entrepreneur, and in this case the small community bank, an opportunity to create meaningful competition, to allow retained earnings to be held to avoid double taxation, and to make a very positive impact on financial modernization that will lead to greater competition and in the long run will expand the economy and the tax base for individual small banks, and as a result, benefit all of our citizens. This effort is not only a worthwhile endeavor, it is one that all of us should seek to support, Republicans and Democrats alike.

Let me simply say this because I feel compelled to do so. I understand the frustrations of many of my colleagues as we debate the question of CRA and whether or not it should be a factor for small banks, whether it should be continued, or whether it should be modernized. Indeed, I think we should take a closer look at this issue, as Senator ALLARD has in terms of coming forth with his legislative proposal which addresses tax relief.

The CRA amendment regarding small banks is a broad brush, shotgun approach for those who would support the effort of dealing with this issue in the context of a very important legislative matter. It beclouds the issue. Addressing this important matter of CRA for small banks now does not help in attempting to see to it that we remove barriers from honest competition, barriers that maybe should be removed and that we should address. But, I repeat, to bring it up in this form with the limited time that we have this Session will be disruptive to the overall effort.

I ask all of my colleagues, my Republican colleagues in particular, and even those who have signed on and indicated support of the effort of the Senator from Alabama to help community banks, not to undertake it at this time. It actually distracts from the merits of their argument. It will prevent considering their concerns carefully and analyzing what can be done to ease these burdens, to assess if they really are burdensome and if so, in what way. So I am going to appeal to my colleagues—I appeal to them today; I will appeal to them on Monday—this is not the time to be going forward seeking relief that we will not have the opportunity to act on in any event. It will fracture our efforts on the credit union bill. It will at the least, the very least, bog down this effort. The House of Representatives will not accept the bill with this amendment. If they do accept it, then what will happen is that the bill will be a vetoed. Now what are we accomplishing? Why do we want to confuse whether or not we are really supporting credit unions with this attempt at dealing with another unrelated issue? That will only serve to hurt our efforts for credit unions.

This Senator intends to support the motion of Senator GRAMM of removing the CRA provisions from this credit union bill. But my gosh, if we are going to begin reaching far back through existing laws, without doing so in a meaningful way, then what I suggest what we are doing is purely mischief making. We want to be loved by all. We want to make everyone happy. I understand that. That is the nature of those in politics. But there comes a time when we have to take a stand and do what is right. Sometimes you can't have the adoration of all. Better to have the respect and to do what is right.

I will be urging that of my colleagues, and particularly those who have concerns about the application of CRA on the community banks. Let's do what is right.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to proceed 5 minutes as if in morning business to introduce a piece of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BOND pertaining to the introduction of S. 2354 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. D'AMATO. Mr. President, I think, as much as we will be returning on Monday to resume debate and consideration of the credit union legislation, which is so important, and which I believe will be adopted overwhelmingly, I urge any of my colleagues who might want to make statements that we will be available to receive those statements at this point. If not, it seems to me we will then be moving, at the request of the majority leader, to adjourn until Monday.

So I am going to suggest the absence of a quorum and hope if there are any of my colleagues who would like to make their statements now, opening statements or observations, that they would do so within the next 5 to 10 minutes.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I will be very brief. I know we, in effect, have concluded the debate today with respect to the credit union bill, but there were some comments made earlier about the CRA aspects of this legislation, and I want to put this in the RECORD.

First of all, let me make it very clear, the CRA that is being applied to the credit unions is not the Community Reinvestment Act. It is a provision drafted especially for the credit unions, and it is designed to ensure that they pay full attention to the field of membership. I think it is a reasonable provision. I hope it will stay in the bill.

I know that the Senator from Texas is trying to strike it, but, of course, he is against any CRA, any version of CRA anywhere and at any time. I disagree very strongly with that. We will have an extended debate on the effort to exclude some banks from CRA.

There is really a basic philosophical difference. We see the CRA as bringing people into the mainstream of economic life and involving them in our economic process. I have spoken to many bankers who support CRA. They think it has produced good results. Federal Reserve Chairman Greenspan has said:

> The essential purpose of the CRA is to try to encourage institutions who are not involved in areas where their own self-interest is involved, in doing so. If you are indicating to an institution that there is a forgone business opportunity in an area X or loan product Y, that is not credit allocation. That, indeed, is enhancing the market.

That is Chairman Greenspan.

It is being portrayed by its opponents as sort of a mandatory credit allocation. It certainly is not that. It is an effort to ensure a reasonable amount of money goes back into the community.

A number of banks have issued statements in support of CRA. They say it has increased their focus on their lending performance. In fact, the Bank of America said:

> Over the past several years, Bank of America, in partnership with community organizations, has developed CRA lending into a profitable mainstream business.

And that is really what we are trying to achieve—a profitable mainstream business." These institutions receive deposit insurance, and I earlier indicated the importance of that to the workings of the industry and the fact we had to produce hundreds of billions of dollars in the S&L crisis in order to deliver on that promise.

There was a problem with CRA over bookkeeping, recordkeeping, and so forth. Secretary Rubin led a major effort to revise the Federal regulations. This extended over a 12- to 18-month period. All groups were involved—the bankers, the community groups, academics, the administration. In effect, Members of the Congress were drawn into the process, and, in the end, very, very significant changes were made. As a consequence, I think many of the defects that earlier were argued against CRA were taken care of. Much of the regulatory overburden I think was removed.

The argument was made that these small banks hold only a fraction of the assets. The fact is that in 30 States, over 80 percent of the banks would be affected by the Shelby amendment. In other words, it would exclude 80 percent of the banks; in 6 States, over 95 percent; in 9 other States, over 90 percent; and the remainder, the other 15 States, over 80 percent.

Most of these are rural States, and there seems to be a perception that CRA benefits only the urban areas of our country. However, rural areas, no less than urban areas, are affected by it. We received a letter from a coalition of rural and farm groups, including the National Farmers Union, the National Family Farm Coalition, the National Rural Housing Coalition, and the Federation of Southern Cooperatives, in opposition to the small bank exemption for CRA.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 23, 1998.

DEAR SENATOR, On behalf of the undersigned organizations representing rural Americans, we are writing to express our strong opposition to legislative efforts to weaken the coverage of the Community Reinvestment Act (CRA). Our understanding is that Senator Shelby plans to offer an amendment to H.R. 1151, the credit union legislation, that is scheduled for floor action. In addition, Senator Gramm plans to offer an amendment that strikes provisions in H.R. 1151 that would ensure that credit unions provide services to all individuals of modest means within their field of membership.

The Shelby amendment would exempt banks under $250 million in assets from CRA coverage. This affects over 85% of banks nationally. For citizens in Iowa, Kansas, Minnesota, Montana, Nebraska, and Oklahoma, 95% of the banks would be exempt.

Rural Americans need the tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve the millions of Americans living in smaller low and moderate-income communities. Unfortunately, small commercial banks do not automatically reinvest in their local communities. This is documented by national data on reinvestment trends and loan to asset ratios for banks across the country. 50% of small banks have a loan-to-deposit ratio below 70%, with 25% of these having levels less than 58%. The data for 1997 reveals that banks under $100 million in assets received 82% of the substantial non-compliance ratings.

We strongly urge you to oppose these amendments to H.R. 1151. The Shelby amendment ignores the important regulatory changes since 1995 that have significantly reduced the paperwork and reporting issues for small banks. The Gramm amendment will strike an important provision from the bill that for the first time would require credit unions to meet the financial services needs of their entire field of membership.

A vote against these amendments will help meet the credit demand of millions of family farmers, rural residents, and local businesses. Thank you for considering our concerns.

Sincerely,

Center for Community Change, Center for Rural Affairs, Federation of Southern Cooperatives, Housing Assistance Council, Intertribal Agriculture Council, Iowa Citizens for Community Improvement, National Catholic Rural Life Conference, National Family Farm Coalition, National Farmers Union, National Rural Housing Coalition, Rural Coalition and the United methodist Church, General Board of Church and Society.

Mr. SARBANES. Mr. President, I will quote a portion of this letter:

> Rural Americans need the tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve the millions of Americans living in smaller low- or moderate-income communities. Unfortunately, small commercial banks do not automatically reinvest in their local communities.

It is a strong view that CRA has really brought investment back into the communities and that this has redounded to everyone's advantage, including—including—the advantage of the banks.

We think that CRA has been remarkably effective in encouraging both large and small banks to look closely at market opportunities in all of the areas which they serve and in building a better relationship between the banks and the community. The result has been billions of dollars in market-rate profitable loans in urban and rural communities that historically have had difficulty in gaining access to credit.

That is the basic, bottom-line message, and it is a very good message. It is a very good message for the country.

I very much hope that as my colleagues think through this issue, they will appreciate the benefits that flow from CRA and reject the Shelby amendment, which would exclude banks under $250 million in assets—which, as I indicated, are the overwhelming number of banks in the country—and reject the Gramm amendment which seeks to eliminate a modest provision in the credit union bill that would require the credit unions to take a look at how they are serving their field of membership in their community, a provision which, I might note, the credit unions have indicated they accept. In fact, their stated position to us is that they support this bill as reported from the committee.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I must say that in the areas in which my ranking member, friend and colleague, Senator SARBANES and I have worked on in the Banking Committee, we have shared rather similar positions on—well, just about 80 or 90 percent of the issues we have addressed, whether it be on housing issues or mass transportation issues or issues regarding financial services. Indeed, I almost reluctantly come to the conclusion that this is not the appropriate time to undertake expanding CRA activities by prescribing them for credit unions. And just as I have cautioned my colleagues and friends—most of them on the Republican side—that if we are to look at the benefits, and maybe some of the effects that are not beneficial which could be the unintended consequences of a well-intentioned law—and I have no doubt it is well-intentioned—it is my opinion, overall, that CRA has been beneficial in attempting to ensure that financial institutions that accept deposits from a particular area or community, direct some of those financial activities back into that community.

Now, let us not kid ourselves. I think we are disingenuous if we would suggest that all institutions are sure to meet both a financial and moral commitment and balance both. Some of these financial institutions have to be conscious of their stockholders and conscious of doing business in our very competitive society. And I think that we would be less than candid if we were not to recognize that there have been institutions over the years that have directed their investment activities with almost a singular purpose—to bring to the bottom line the greatest profits that they can possibly derive, without attempting to help a community, to derive an investment strategy or portfolio that would only give them the highest possible return.

I think it was as a result of looking at activities where communities and banks were gathering deposits from communities and giving little, if any, back and, indeed, engaged in the practice of redlining—and there have been studies, these practices are documented. The Federal Reserve Bank of

Boston conducted a study that documented redlining practices in Boston, Massachusetts. And that is unfortunate, it is an outrage. But those are the facts.

Consequently, Congress came forth and passed legislation—and it is the law of the land—that directs credit allocation to these areas that heretofore were not receiving it, whether they be the rural areas or whether they be in the inner cities. But let us not kid ourselves. Redlining was taking place, and it is, again, disingenuous for any of our colleagues to suggest that it was not.

Maybe we should provide an opportunity for some of the smaller institutions that have an exemplary record—and indeed I am very conscious of the statements made in the 1997 Federal Reserve report, that there were only nine—only nine out of the thousands of community banks that were cited for inadequate investment, not meeting the goals of CRA. That is a great, great record. Maybe we could find a solution where there is a less frequent accounting or reporting process that would ease the burden, particularly for institutions that have demonstrated that they do care, that they have a concern, and that they meet their social responsibility. That is why CRA came about—to see to it that it was not just to get the highest yield every time, because Congress said, "We insure these, and we think there should be some effort made at allocating credit, yes, in communities that might not otherwise be as attractive for investment purposes."

That is what we are talking about. That is how CRA came about. So while I am sympathetic to the unintended burdens that may have been created, I also am appreciative of the fact that there have been billions of dollars as a result of this program that have been invested in rural areas, in rural America, and in urban centers that may not have otherwise benefitted from investment. This practice has, in turn, created profits, jobs, opportunity and hope for Americans that otherwise wouldn't be.

Having said that, I am arguing on one side why we should not at this time be looking to simply wipe out CRA legislation affecting community banks. I am willing to discuss this matter, willing to hold hearings and willing to go forward and examine, What alternative solutions can ease burdens that may exist? But by the same token, regarding CRA-like implications for credit unions, I just believe it is wrong. We are talking about groups of people, cooperatives, who come together by their very nature.

When we look at this matter more closely—Monday, I intend to look at the profile of the credit union member. I have to tell you, they meet the description when we try to encourage making available moneys and resources and to see to it, whether it be the community banks or all the financial institutions, that they become involved. And that is why they have come together. Their very profile, absolutely in terms of demographics, in terms of per capita income, meets the needs that we have tried to establish overall through CRA.

I believe it is absolutely counterproductive to say to the very people of these cooperatives—nonprofit institutions, have moneys that go right back into that institution; it is their capital, not the individual who earns more, or takes out more, or a stockholder—that we then place this requirement on them when it has never been demonstrated to be necessary. Indeed a letter from the NCUA attests to that fact. I will just read part of this letter. It was written to Phil Bechtel, chief counsel for the Senate Banking Committee, June 1, 1998, signed by Robert Loftus, director of Public Congressional Affairs.

It says, "Our investigations have not produced any evidence"—any evidence—"that credit unions are guilty of redlining or other discriminatory practices."

Given that history, let us move forward—I support this legislation, but I believe that the Senator from Texas is right in moving to strike this provision. I also strongly believe that, to those of my colleagues who want to give regulatory relief to the small banks and community banks, as well intentioned as they are, their efforts will absolutely do nothing but delay, bring about more confusion, and the charges that in their attempt to do provide relief to small banks, what they are really doing is trying to defeat this legislation. I think whether it is an unintended consequence or not, that is exactly how it is going to be portrayed. And I will say on the floor to my colleagues: Recognize what you are doing, recognize that you want to be loved by all.

I think that the point can be made. I think we can fight for regulatory relief. There are times and places to do it. But this is not the time nor the place. If this was the last boat going out of town, then fine, we would do it. I think there are a couple other areas where I could suggest that my colleagues address this issue of relief for small banks, if they really want to see this legislation enacted. And it would be appropriate to undertake that, but not here, and not on this credit union bill.

I see the distinguished chairman of the Finance Committee is here, and I know he wants to speak to this bill.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I thank the distinguished Senator from New York for yielding to me. I congratulate him and his colleague, Senator SARBANES, for bringing this legislation before us.

I want to take this opportunity to restate my support for Delaware's credit unions. As we all know, months ago, a Supreme Court decision placed the viability and future of credit unions in limbo. For that reason, I am particularly pleased that the Senate will be voting next week on H.R. 1151, a bill to ensure credit unions will be able to add new member groups.

Mr. President, I support credit unions because I know how vital they are to the financial health of thousands of Delaware families and businesses. These nonprofit member-run institutions are unique. Their sole purpose is to provide financial services to their members at the best rates and under the most favorable conditions possible.

Savvy consumers know that credit unions are often a great option. Their ATM fees are reasonable or nonexistent; single-digit credit card interest rates are common at credit unions; and your child's first savings account won't face a monthly low-balance fee. I don't think I mentioned, I say to my distinguished Senator from New York, you can also set up a Roth IRA.

All Senators have undoubtedly heard from the thousands of credit union members in their States. Their message is one of self-sufficiency and of low-cost, low-fee consumer-based financial services. Credit unions are good for families, good for businesses, and they are good for Delaware.

H.R. 1115 is necessary for these valuable institutions to thrive.

Again, I want to thank the chairman of the Banking Committee and the ranking member for their role in bringing this legislation to this point. I look forward to voting for this legislation next Monday.

Mr. D'AMATO. Mr. President, let me thank the distinguished chairman of the Finance Committee for his help and his work. Indeed, he and his staff are working on important legislation with Senator ALLARD, and I believe the Presiding Officer and others have signed on to give some tax relief to the small community banks.

The Senator and his staff have been most cooperative in helping to move it forward. I hope we would even have an opportunity to do something this year.

Mr. ROBERTS. Mr. President, notwithstanding all the advice we have received from Senator SARBANES and Senator D'AMATO in regard to how world banks make their loans or don't, and what is in the minds of country bankers all throughout the Nation, and without CRA we simply wouldn't have ever made a loan in rural America, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I support H.R. 1151, the Credit Union Membership Access Act, but I strongly oppose the amendments being offered by Senator GRAMM and Senator SHELBY. Credit unions have a distinguished history of providing affordable financial services to America's low- and moderate-income communities. This legislation will help them continue to do that.

It is ironic that we are now debating the issue of whether banks and credit unions should serve low- and moderate-income communities and to reinvest in the communities in which they receive deposits. Massachusetts has 317 credit unions, at 1.7 million members. They have had community reinvestment obligations for many years, and they have done an excellent job of meeting needs of consumers at all income levels. Massachusetts credit unions are a model for the Nation. The vast majority of banks take their community reinvestment obligation seriously in meeting these obligations.

The Massachusetts Bankers Associations, whose member banks are doing excellent work in community reinvestment, does not support the Shelby amendment. Institutions which have received outstanding ratings, like Bank of Boston and Citizens Bank, are using the Community Reinvestment Act to provide profitable lines of business.

Senator SHELBY's amendment to eliminate the Community Reinvestment Act for 85 percent of the banks would eliminate an important source of affordable credit and financial services from low- and moderate-income families who are bankable. Massachusetts banks do not support this amendment, and I urge my colleagues to oppose it.

Senator GRAMM's amendment would say to credit unions who are being granted expanded power, they have no obligation to serve members of modest means. Both these amendments are bad policy.

In this period of sustained economic growth, it is vital that all families have the opportunity to obtain credit in order to buy a home, start a small business, or send a child to college. The Community Reinvestment Act has a long history of success. Since 1992, it has helped banks to extend over $800 billion in loans for housing, small businesses, economic development and local communities across the Nation.

As many have said, there is no capitalism without capital. We should oppose any effort to reduce access to credit which families need in order to buy a home, to start or expand a business, and send their children to college. The Community Reinvestment Act is not charity. It creates a positive obligation for banks to reinvest in communities from which they receive deposits. It is good business and it helps communities, businesses, and families nationwide; requiring similar investments by credit unions is good policy.

I urge my colleagues to pass this important piece of legislation and to oppose these two amendments. It hurts all those who want a better future for themselves and their families, and it hurts our inner cities and rural communities who are rebuilding. Most of all, they reverse 20 years of successful reimbursement in our neighborhoods, and it deserves to be defeated.

MORNING BUSINESS

Mr. D'AMATO. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask unanimous consent to be able to proceed for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask the Chair to let me know when I have 3 minutes remaining.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, since the Republican leadership plan on the Patients' Bill of Rights was introduced a week ago, we have been holding meetings and forums with doctors and nurses and patients to explore the critical issues that must be addressed if a Patients' Bill of Rights is to be worthy of the name.

In each case, the message has been the same. The problems created by HMOs and managed care are pervasive in our health system. Every doctor and patient knows that. Too often, managed care is mismanaged care. Every doctor and patient knows that medical decisions that should be made by doctors and patients are being made by insurance company accountants, and every doctor and patient knows that profits, not patients' care, have become the priority of too many health insurance companies.

And at each of the forums we have held, the message from doctors and nurses and patients has been the same: Pass the bipartisan Patients' Bill of Rights. Reject the Republican leadership plan; it leaves out too many critical protections and it leaves out too many patients. Even the protections it claims to offer are full of loopholes. It is a program to protect industry profits, not patients.

One of the most critical issues that needs to be addressed in legislation is the right of people with serious illnesses, like cancer, to get the high-quality specialty care they need. If the conventional treatments fail, they should have the opportunity to participate in clinical trials that offer them hope for improvement or a cure, and that can contribute to finding a better treatment for future patients. Our legislation provides for these rights; the Republican plan does not.

Yesterday, we heard from Dr. Casimir, a distinguished Texas oncologist. Dr. Casimir talked about some heartbreaking stories of cancer patients whose HMOs delay and deny access to specialty care, often until it is too late. She said that when she gets a patient whose cancer progressed substantially from the initial diagnosis to the time they are allowed to receive specialty care, she often flips to the front of the chart, and 9 times out of 10, the insurer is an HMO. Every centimeter a cancer grows can mean the difference between a good chance at life and the likelihood of death. Every centimeter represents potentially devastating and avoidable pain, suffering and sometimes the death of a patient. Dr. Casimir's message was clear: Pass the Patients' Bill of Rights so that more patients will not die needlessly.

Today, we heard from Dr. Bruce Chabner, a distinguished clinical oncologist and cancer researcher. This is what the doctor had to say:

> My name is Bruce Chabner and I am a medical oncologist and cancer researcher. I am here to support the Patients' Bill of Rights that would require HMOs and insurance companies to support clinical research. I would like to explain briefly the role of insurance coverage in research. Most of the costs in clinical research are associated with the cost of discovery. Laboratory experiments in the development of new treatments are supported by the Government grants, by industry, and by institutional commitments by hospitals and medical schools.
>
> These contributions provide the hundreds of millions of dollars that lead to new treatments and new hope to millions of our patients with cancer. However, the clinical treatment of these patients requires support for the routine care associated with these clinical trials. The only source of such support for routine care costs is health insurance and HMO contributions.
>
> This is the final step in proving that a new treatment or a new device actually works in people. Without this step, research is meaningless and has no impact on people, nor does it save lives. We are not asking the insurance companies and HMOs to support the vast effort to discover new treatments or to bring them to the clinics. We are not asking for support for the cost of analyzing data and support during the clinical trials. We are only asking them to continue support for the patients' care costs.
>
> I am sure that every Member of Congress who is faced with the awful dilemma of cancer would want this kind of continued support for their family members. The research provides the only hope our patients have of conquering this disease and the only hope our society has for curing cancer.

Now, I just want to mention this one more time, Mr. President. Under our Patients' Bill of Rights, we are guaranteeing the specialty care and clinical trials. For example, if your family or you were affected by cancer, you would not only be able to go to an oncologist, but you would be able to go to one of the great cancer centers that we have in this country to be able to get treatment. You would be able to get the specialty care that you need. If you believe you are being denied that particular care, you are able to go in to have an internal appeal and an external appeal, which must be responded to promptly. But you will get it; we guarantee it, under the Patients' Bill of Rights.

We guarantee that you will be able to participate in a clinical trial if it is medically necessary—if your doctor says it is medically necessary. Clinical trials can be the source of enormous hope for millions of Americans who are afflicted by cancer. There are 47,000 women who die each year from breast cancer, and there is extraordinary research that is taking place that offers great hope for millions of women.

Under this proposal, under the Patients' Bill of Rights, we are guaranteeing that if it is medically proven, you can get into a clinical trial. What kind of financial burden does this place on an HMO? Does it say to the HMO, well, you are going to have to pay all of these additional expenses? Absolutely not. The clinical trial is being paid for by the medical center; the clinical trial is being paid for by the pharmaceutical company; the clinical trial is being paid for by the financial strength of the particular clinical center.

The only thing that the HMO would have to pay for is routine services—do we understand that?—which they would otherwise be required to pay. Those that oppose this provision say, well, if you require that they get clinical trials, it is going to bankrupt the HMO. That is preposterous, that is wrong, that is deceptive, and that is a critical misinterpretation of our legislation.

As our distinguished clinical researchers pointed out today, once again, the kind of treatment that is necessary for these clinical trials is provided by the center, not by the patient or the HMO. The only requirements by the HMO would be routine care. Quite frankly, the HMO would be obligated to provide routine care in any event. So that does not adversely impact the HMO financially. Still, we have the reluctance and resistance to guarantee this in the Patients' Bill of Rights. I don't understand it. That is one of the reasons we ought to have a debate on this issue.

How many Members in this body know the allocation of expenditures on clinical trials? I doubt if there are 5 or 10. I cannot understand why any Member of the Senate is saying not do it if it is medically necessary, because the HMO is not going to be burdened with substantial additional costs. That isn't the way it works.

As I mentioned, 47,000 women die every single year. There are these clinical trials that are taking place in the great medical centers all over this country. And if a doctor says he believes, based upon the type of clinical trial and the kind of need that you are facing—to a woman that has been biopsied in her breast, and where a tumor is present—there is an opportunity and likelihood that you might survive, we believe that ought to be available. That is the best medical practice. Insurance companies were providing that protection for years before we had the HMOs. This wasn't even an issue for years and years, Mr. President. Now it is. And the principal reasons that the cancer oncologists and the cancer organizations support our proposal is because they see the fact that HMOs are denying this kind of treatment.

Mr. President, we had Ms. Stekley, who was the head of clinical research at the Lombardi Center out here in Washington, D.C. She said that 80 percent of their administrative time is spent arguing with the HMOs to let people into their clinical trials—not because they are profiting financially, but because they believe that they can help the people, from a health point of view—80 percent of their administrative time. This person was almost in tears saying, "Senator, we can help people survive, and it isn't going to cost the HMO any additional resources. Your proposal does the trick."

What is possibly wrong with having that particular inclusion in any protection for a Patients' Bill of Rights? I cannot understand it, Mr. President. I cannot believe that we don't have a full opportunity to debate this issue in this body on this one issue, and that we will not be successful. It is enormously important to do two things: One, to have a guarantee that you can have a specialist; and, two, if it is medically recommended, you can have a clinical trial based upon medical evidence. And if you do not, then you are going to get a speedy right of appeal. And you contrast that with the top researchers who testified just yesterday, how they look at their patients, and have seen the various tumors that have grown day by day, week by week, month by month, and seeing the chance of these women's survival declining dramatically—because of what? Because of two things.

The PRESIDING OFFICER. The Senator has 2 minutes 52 seconds.

Mr. KENNEDY. I thank the Chair.

For two things: Because they were late getting to a specialist, and because they were excluded from any opportunities for the clinical trials.

The HMOs thought they could handle it. The HMOs thought they had someone on their panel who could handle this particular kind of cancer, even though right down the street there was a major international center that specialized in this very program.

Under the Republican program, access to clinical trials is not guaranteed—it isn't even an appealable item. Even if it were, will the appeal be established by an independent group? No. It will be established by the HMO. They name the people whom this will be appealed to. Then, if that person is harmed with grievous bodily injury, or death, under our Republican program there is no remedy.

Mr. President, this is the kind of issue that we ought to have an opportunity to debate. We just took one provision today with regard especially to clinical trials. We had a few others. But the time has moved on and I will wait for another time.

I thank the Chair. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I have listened with great interest to the speech by Mr. KENNEDY, and I look forward to hearing him speak on further decisions on this subject.

And I wish to thank the distinguished Senator from Minnesota, Mr. GRAMS, who has stated that his speech today might last 40 minutes, and he was very considerate to ask me how long I would be speaking. And he suggested that I proceed with my remarks ahead of him, because he would want to speak for about 40 minutes. I think it is most gracious and considerate of the Senator, and I thank him. And his good deeds will be repaid in kind at some future date.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. KENNEDY. I, too, want to thank my friend and colleague from West Virginia, because the Senator heard that I wanted to address the Senate on this matter, which I considered of some importance, and was willing to accommodate my schedule as well, for which I am very grateful. It is typical of the great thoughtfulness that all of us have understood to be a part of the Senator from West Virginia but which we are reminded about so frequently. I thank the good Senator for his generosity and for his thoughtfulness.

Mr. BYRD. Mr. President, I thank my friend from Massachusetts. I am merely repaying a good deed that he did for me a week or so ago when he allowed me to go ahead of him. And by virtue of his doing so, when I completed my remarks and other Senators got recognition, Senator KENNEDY had to wait still longer. Well, I thank all Senators. And this is one of the things that makes it a joy to serve in this body.

Mr. President, what is the order?

The PRESIDING OFFICER. The general orders are that speeches are limited to 10 minutes.

Mr. BYRD. Mr. President, I may need a little longer than 10 minutes. I ask unanimous consent that I may speak not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I may not use that much time.

MIXED SIGNALS FROM THE PENTAGON

Mr. BYRD. Mr. President, one week ago today, a small ceremony took place in the Pentagon at which the three senior leaders of the United States Army unveiled a series of posters depicting each of the seven core values of the Army. They are noteworthy values—Loyalty, Duty, Respect, Selfless-Service, Honor, Integrity, Personal Courage. They send a strong message to the world about the values that shape America's fighting forces.

Three days later, Defense Department officials sent a very different message from the Pentagon regarding core values when they took the wraps off a proposal that would relax the military code of honor concerning adultery. According to the news accounts I have read, Secretary Cohen is expected to propose within the next few weeks a new approach to dealing with cases of adultery in the military that would limit prosecutions—limit prosecutions—and ease automatic penalties.

Mr. President, I respectfully ask, what on earth has gotten into the leadership of the Defense Department?

Each of our services is founded on a set of bedrock principles. I have just recited the Army's. For the U.S. Navy and Marine Corps, the core values are honor, courage, and commitment. The core values of the Air Force are integrity, service, and excellence.

These values form the moral guideposts for the men and women of America's armed forces.

Whether we are talking about the Army, Navy, Air Force, or Marines, we are talking about a group of exceptional individuals in whom we as a nation place extraordinary trust and from whom we exact exceptional standards of courage, leadership, and moral conduct.

These standards, demanding though they are, have served our nation well for more than two hundred years. They are the virtues that undergirded the American Revolution and helped General George Washington's Army endure the bitter winter at Valley Forge. They are the principles that elevated the American Civil War from a duel between states to a crusade that cemented the unity of a nation. They are the values that guided our troops to victory over the most evil power of the twentieth century—the forces of Adolph Hitler—during World War II.

Honor, Duty, Respect, Integrity, Courage and Commitment make up a noble list. This roster of virtues is one that our men and women in uniform have, from this nation's founding, embraced with pride.

I admire the dedication of our military forces. I admire their willingness to hold themselves to a higher standard. I believe that the core values they embody are as important as all the skills and training and equipment this nation can marshal in making America's armed forces mighty and powerful, the best in the world. That has always been the way with American military forces. We saw in World War II the most powerful, the mightiest armed force in the world, the best armies that ever walked the earth.

And so I ask again, what on earth has gotten into the leadership of the Department of Defense?

Mr. President, I am pleased to note that the Marine Corps has responded to the call to lower the bar on adultery with the equivalent of Brigadier General Anthony McAuliffe's response to the Germans' demand to surrender during the Battle of the Bulge. In a word, "Nuts!"

And so I salute the Marine Corps for taking that stand.

Let me just say that again. I think it needs to be said, and I hope that the Secretary of Defense will hear me.

I am pleased to note that the Marine Corps has responded to the call to lower the bar on adultery with the equivalent of Brigadier General Anthony McAuliffe's response to the Germans' demand to surrender during the Battle of the Bulge. In a word, "Nuts."

God bless the Marines. God bless the Marine Corps. And God bless that word "Nuts," because that is the response of the Marine Corps.

For a service whose motto, *Semper Fidelis*, means "Always Faithful," the Marine Corps' unwillingness to compromise its core values is commendable. I salute the Marine Corps. I hope that the leadership of the Army, Navy, and Air Force will follow suit. At a time when the reputation and the morale of the military have taken a serious battering as a result of the conduct of some of its leaders, I am frankly amazed that the Secretary of Defense would even entertain such an ill-conceived proposal.

The recent and highly publicized instances of adultery, sexual harassment, and rape within America's military have wounded the prestige of our armed services and have ruined individual lives, families, and careers. The uneven handling of several high profile cases—ranging from swift and harsh punishment meted out to enlisted personnel and junior officers to an apparent blind eye turned to the misconduct of certain high-ranking officers—has only exacerbated the problem and led to the perception of a double standard in the military.

I sympathize with the many problems facing our military leadership in today's volatile international environment. Resources are scarce, forces are stretched thin, and tensions are mounting in potential trouble spots around the world. But leadership requires the ability to set a good example and stand by one's principles, regardless of how difficult that may be. The solution to the moral and ethical turmoil threatening to engulf today's U.S. military forces is not to lower the standards to the level of the least common denominator. The solution is to restore and to apply the discipline and unique military code of conduct equally and across the board.

In this country, we have always looked up to the military for leadership and role models. What kind of a message does this proposal send to our young people, who are struggling to define their values in a society that increasingly seems to hold core values in contempt? How are parents supposed to explain this sea change in the military's moral code to their children? What is the Defense Department thinking? Why on earth is the Pentagon sending such mixed messages to the men and women in uniform? Even that nonsensical term "political correctness" does not require this.

If the Secretary of Defense is willing to entertain a proposal that would essentially treat adultery—conduct that inherently involves dishonor, lying, and cheating—with a wink and a nod, what comes next? Will it be okay to cheat on an exam at the military academies if the instructor is too tough? Will "little white lies" be acceptable to get out of unpleasant duties? Will the occasional dereliction of duty be overlooked as long as no one gets hurt? Will the Marines be asked to change their motto from "Always Faithful" to "Usually Faithful" or "Sometimes Faithful"? If so asked, I have a feeling the Marines will say "nuts."

The core values of America's military services are not there for window dressing. Taken together, they form the basis of a sacred trust. It is a trust that must extend to placing one's life in the hands of one's comrades. It is a trust that goes up the chain of command and down the chain of command and across the chain of command. It is trust that is absolute—there can be no shades of gray on the battlefield. There can be no shades of gray at the helm of the ship in the storm. There can be no shades of gray in the cockpit.

I hope that the Secretary of Defense will rethink this misguided proposal to weaken the rules governing adultery and fraternization in the military. The effect can only be to erode the time-honored military principles that have served our Nation throughout its history, in peacetime and in war. Our nation's military leadership, including the Secretary of Defense, who once served here as a very able Senator and respected colleague, must draw a line in the sand when it comes to the moral conduct of the armed services. The services must not be seduced into exchanging their code of conduct for a code of convenience.

Again, I salute the Marines for their unwillingness to compromise their standards, and I call on Secretary Cohen to reject this and any other proposal that would compromise the integrity of this nation's military forces.

Mr. President, I yield the floor, and I again thank my friend from Minnesota, Senator GRAMS, for his kindness and courtesy.

Mr. GRAMS. I thank the Senator.

Mr. President, I ask unanimous consent that I be allowed to speak for up to 45 minutes.

The PRESIDING OFFICER. Is there an objection? The Chair hears none, and it is so ordered.

Mr. GRAMS. Mr. President, I want to make three separate statements, one dealing with Social Security, looking at the background and the history of the program as we move toward possible debate on change and reforms. Also, a statement supporting Senator SHELBY on his amendment dealing with CRA and small banks. And also a brief statement on the Government Shutdown Prevention Act, which is aimed at trying to pass legislation that will prevent the Government from shutting down in the future even if Congress cannot reach an agreement on budget or appropriation matters.

SOCIAL SECURITY AND THE GENDER/RACE GAP

Mr. GRAMS. Mr. President, in my continuing series of statements on the troubled Social Security program, I have discussed the history of Social Security, the program's looming crisis, and the old-age insurance reform efforts undertaken by other nations.

Today, I want to discuss an aspect of Social Security that often gets distorted in the reform debates going on throughout this great nation.

It is the issue of how the current Social Security system puts women and minorities at a greater financial risk and disadvantage than other retirees face today.

We must address the questions of how these Americans will fare under any reform of the current system, so we can empower them with the ability to have a more secure retirement future than that which Social Security promises today.

First, it is essential to understand why these Americans were put at a disadvantage in a system supposedly established to help them. To do that, we must go back to the beginnings of the Social Security program.

When Social Security was first enacted in the 1930s, the discriminative elements were inherently built into the system. Professor Edward Berkowitz of George Washington University has done excellent research on this subject.

According to his studies, policy makers taking part in the first Social Security advisory council freely indulged in racial and sexual stereotypes. They made a widow's benefit equal to only three-quarters of the value of a single man's benefit.

Their rationale for the decision was, according to one member, that a "widow could look out for herself better than the man could."

Douglas Brown, the chairman of the advisory council, even suggested that a single woman could adjust to a lower budget "on account of the fact that she is used to doing her own housework whereas the single man has to go to a restaurant."

Another example of Social Security's inherently discriminative nature is that domestic workers were not covered by Social Security when the program was set up.

One early policy maker explained that it was difficult to collect contributions from the "colored woman . . . who goes from house to house for a day's work here and a day's work there."

Clearly, things were different then.

At that time, most women stayed home, and only 6 people out of 10 reached age 65.

Despite the fact that the Social Security program provided an opportunity to redistribute income from wealthier individuals to low-income retirees—an effort to help provide assistance to those less fortunate—the inequality of women and minorities was never adequately addressed.

In fact, the disparity has grown under the current Social Security system.

The profile of today's retiree is quite different than it was in the 1930s and continues to change.

More women today are working outside the home, less than half of America's working women receive pensions today, life expectancy is increasing, while minority populations continue to grow in number.

But our Social Security system has failed to make the needed adjustments. As a result, financial gender and racial gaps are growing larger for those retired or nearing retirement. Women and minorities are suffering under the current Social Security system.

For women and minorities, average income continues to remain low. This means there is less money available to personally save for one's own retirement.

Furthermore, payroll taxes have increased 36 times over the last 27 years, forcing families to squeeze more out of less take-home pay.

According to the Heritage Foundation, today's payroll taxes consume as much of the family budget as do costs for housing, and nearly three times more than annual health care.

So it is not surprising that growing numbers of women and minorities are becoming increasingly dependent upon their Social Security checks. If we are going to successfully raise their quality of life once they reach retirement age, we must begin to look outside the proverbial box today.

Mr. President, I would like to begin by focusing on women, since they are disproportionately dependent upon Social Security. There are a number of factors that create this reliance.

While we can rally around the idea that our Social Security system is supposedly "gender neutral," issues such as income levels, years out of the workforce, and marital status all impact a woman's retirement security.

At the forefront of the issue is the fact that women tend to outlive men, just as they have been doing for the past 500 years. With today's retirees beginning to collect benefits at age 65, it is not unlikely for a woman to spend nearly one-fourth of her life on Social Security.

And because women statistically receive lower benefits than men, typically have fewer saving, and are less likely to have a pension, it means they are forced to live longer on less.

We are finding that a retirement security system that was termed a success in the past threatens future female retirees the most.

Over the past few decades, women have made great progress in the workplace.

Today, there are more women working at higher-paying jobs. But according to the General Accounting Office, the labor force participation rate for women aged 25 to 34 remains at 75 percent, and only four-fifths that of men.

Further complicating the issue is that when women do work, 25 percent work part-time. There are a variety of reasons for this, including the fact that women are more likely to take time off for family reasons.

However, it leads to fewer opportunities for benefit coverage—including pensions—and lower earnings, and ultimately, less reserve money to save for themselves and their future.

Today, the average female retiree earns approximately $621 per month, compared to her male counterpart at $810 per month.

The formula used to calculate benefits for women, as well as men, assumes the highest 35 years of earnings. Today, nearly 75 percent of women earn $25,000 or less. For those years an individual is out of work—for instance, taking time off to raise a family or care for an ailing loved one—the salary is counted as "zero."

In addition, any length of time less than 35 years of working count as "zero" earnings. As a result, the median number of years with "zero" earnings for workers turning 62 in 1993 was

15 years for women, compared to only 4 years for men.

This means nearly half the years being considered in the benefit formula for women are counted as "zero" earnings years and the average salary for earning years is $25,000 or less.

Currently, there are some advocating the benefits formula be raised to 38 years.

While the number of working women continues to grow, the Social Security Administration's own projections reveal that only 30 percent of female retirees in 2020 will have 38 years of earnings—compared to about 60 percent of their male counterparts.

This is extremely detrimental to unmarried women who either divorced before 10 years of marriage or never married, because their benefit calculations are exclusively dependent upon their own earnings calculations.

And currently, the poverty rate for elderly divorced, separated, or never-married women is the highest of any group—nearly 30 percent.

But marriage in and of itself doesn't always improve a woman's situation.

In fact, 64 percent of all elderly women living in poverty are widows. This is because when a spouse dies, the widow's benefits are reduced by up to one-half. Meanwhile, statistics show that to live alone, a widow requires at least 75 percent of what it costs as a couple.

Furthermore, if a widow has yet to reach age 65 when a spouse dies, and has no dependent children, she is not entitled to any survivor benefits. Thus, without private savings, the benefit reduction leaves most widows financially unprepared for retirement.

Let me share with you the real story of two women. Susan of Colorado made an annual income of $20,000, and she paid the 12.4 percent payroll tax into the Social Security system from each of her paychecks while raising kids, sending them to schools, and seeing them married.

But when Susan died at age 64, she left nothing from Social Security for her children.

Joan of New York, a 46-year-old homemaker, never worked outside the home after being married, and instead chose to raise her children.

Her husband was self-employed, and paid a 15.3 percent payroll tax into the Social Security and Medicare programs. When Joan's husband died of a heart attack at age 49, all she received from Social Security was $200 for his funeral.

Since she has no skills to help her find a job, no savings, and gets no help from Social Security despite the thousands and thousands of dollars her family poured into the system, Joan is now helpless and suffering from depression.

I then ask if the system is so harmful to women, why are there so many out there arguing against change? How can we sit back and hold women hostage to a program for nostalgia's sake?

I would argue we cannot, and it is our job to ensure that every woman has an opportunity to live out her golden years in financial security. And I agree we must dispel the "myths" that threaten efforts to improve women's retirement security.

One fact-based "myth" is that because women may feel less confident about their retirement security, we will be unable to change it for the better.

First and foremost, it is critical to ensure that current and future beneficiaries remain unaffected by any change to the Social Security program if they choose to stay with the traditional system. We made a covenant with our older Americans and have a responsibility to protect them from any uncertainty during the transition from a pay-as-you-go system to a future funded one.

But we also have a responsibility to future beneficiaries to clearly notify them that without dramatic change to the system, they will not receive adequate benefits from Social Security.

They are more likely to see reductions in alternative means of savings as a result of the economic impact of the system going bankrupt. Because women are living longer than men, they are most likely to experience the hardship longer.

As Members of Congress, we owe it to women to preserve and improve their retirement security.

The next fact-based "myth" is that because women are less likely to take financial risks, their earnings may be less than their male counterparts under a market-based system.

It is true, statistically, that women have historically invested more conservatively than men. Furthermore, women may have less invested in outside accounts than men.

But it is interesting to note that according to the National Association of Investors Corporation, all-women investment clubs earn higher returns than all-men clubs do. Who says women cannot make financial decisions?

Even under the most conservative investment strategies, such as super-safe U.S. Treasury Bonds, women fare better than they would under the current system.

According to a recent Cato Institute study, if women retiring in 1981 were provided the opportunity to invest their savings in personal retirement accounts with earnings sharing, the average single woman could expect to receive 57.9 percent more in retirement benefits and the average female divorcee could expect 67.2 percent more.

The average widow could expect 96.5 percent more, nearly double the benefits than under Social Security. The average wife could expect to receive 207.5 percent more than under the existing Social Security program.

While the National Center for Women and Retirement Research has found women may feel less confident about making financial decisions, there is no reason to believe women lack the skills to understand the challenges and long-term benefits of investments. Pension experts agree that education is a critical factor in helping individuals make better investment choices, and the GAO has found evidence that investor education can help to alleviate the problem.

So even though some advocates of the status quo argue men may fare "better" than women under a market-based system, I believe they are missing the point that both would fare better than they do under the current system. It appears as though some would prefer "equality" in misery than the potential for some "inequality" at a much higher standard of living for all. Furthermore, there is nothing to show that women retirees could not fare better than men, even though, statistically, they are not doing so now under the current system.

One of the most troubling fact-based myths is that the current system protects women from running out of benefits before they die more than a personal retirement account would. The premise is that since women live longer than men do, they will need benefits longer. Under the current system, retirees are promised benefits until death, even though on average, they exhaust their contributions within the first five years of retirement. In a system of personal retirement accounts, benefits would be based upon one's own contributions, the age at which one retires, and the performance of their account.

It is true that women, again, tend to outlive men. And yes, it is true that an independent study found women are more likely than men to spend a lump sum distribution from a defined contribution plan. However, that should not imply that women could not be trusted with a private savings account. In fact, that same study showed women are equally as likely as men to rollover lump sums from a defined benefit plan into an IRA, or to save and invest the money. We must also remember these studies are based upon the current situation, where these men and women anticipate uninterrupted benefits from Social Security.

In the future, however, if the current system remains unchanged, a maximum of 75 percent of the current benefit level will be available to retirees. In other words, future retirees could expect to lose 25 percent of retirement benefits. Once the IOU's that now make up the Social Security trust fund begin being cashed in, the economy will suffer, employment rates may suffer, taxes may need to be raised, and the ability for an individual to prepare for the reduction in Social Security benefits will be significantly reduced.

Mr. President, I would say to those arguing for the status quo that urging women to hold out for some future promise of benefits that are not likely to be there is folly. And in fact, holding out will likely leave women increasingly dependent upon their benefits at the same time those benefits are being reduced.

But as I mentioned earlier, women are not the only individuals being misled by some in the debate. Race continues to be an important factor in determining the retirement security for some Americans. Retirement studies similar to those that focus on women have looked at minority workers, and I would like to briefly touch on the Hispanic and African-American populations.

By all accounts, the Hispanic population is relatively youthful. However, as the Social Security system approaches insolvency and the rate of return on these workers' investments declines, Hispanics will be forced to bear a disproportionate share of that growing financial burden. The Census Bureau estimates that by the year 2050, Hispanics will make up nearly 25 percent of the work force, compared with only 11 percent last year. This will come at the same time tax rates, if the system stays the same, will need to be increased to cover the bankrupt trust fund. Some have estimated that the tax rate increase would have to be nearly 40 percent by then to cover benefit expenses—40 percent first for Social Security expenses. Such a tax burden promises to severely hamper the ability of young Hispanics to save for themselves.

But what do all those numbers mean? The Heritage Foundation did a model of a Hispanic community. They assumed 50,000 people lived there—all families of four made up of dual- income 30-year olds with two kids. By forcing these families to throw their payroll taxes into the Social Security system, the analysts estimated the community, as a whole, lost $12.8 billion in 1997 dollars over what it could have earned had they invested in a conservative portfolio. This small minority community, in effect, lost nearly half—this is just this small community—lost nearly half what the federal government spends on food stamps or education for this entire Nation!

But if an Hispanic couple from that community were able to take the dollars they would be required to pay into the current Social Security system and instead invest them in a portfolio, the outcome would have been remarkably different. Under the current system, the couple could expect about $420,000 in exchange for a lifetime of contributions. But with a conservative portfolio comprised of 50 percent U.S. Treasury Bonds and 50 percent blue chip equities, that same couple could nearly double their benefit to $767,000 in today's dollars. Treasury Bonds alone would yield over $100,000 more in benefits. That means this family would have enough to convert their benefit to an annuity paying out exactly what Social Security promised and still have more than $200,000 left over for any expenses—long-term health care or even just passing along to their children—something impossible under today's Social Security system.

The findings within the African-American community are similarly stunning. Like single Hispanic males, single African-American males have a lower life expectancy and are especially disadvantaged by the current Social Security system. Although the system aims to transfer funds to low-income individuals, these minorities are particularly hard hit.

According to the Heritage Foundation, a low-income, African-American male born after 1959 can expect to receive less than 88 cents back on every dollar he contributes to the Social Security trust fund. This translates into a lifetime cash loss of some $13,377—a loss these individuals can hardly afford Not a gain on their investment, but an actual loss on their investment. If we allowed that same male to invest his Social Security taxes in T-bonds, he would receive a post-tax increase in his lifetime income of nearly $80,000.

African-American women are similarly disadvantaged by the current system. Enabling a 21-year-old single mother to invest her payroll taxes into low-risk/low-yield government bonds, rather than the Social Security system, would more than double her rate of return. That means this woman could expect to get back $93,000 more, after taxes, than she would under the current system. And with a little risk, the numbers could even more than double.

Mr. President, many solutions have been proposed to stave off the impending Social Security trust fund crisis: raising retirement ages, increasing payroll taxes, decreasing benefits—the list goes on. But we cannot forget that those choices will only exacerbate a problem that is already becoming progressively worse. Such proposals put at greatest risk those the system was aimed to help the most.

When our Founding Fathers created this great Nation, they declared each American had the right to life, liberty, and the pursuit of happiness. If we continue on our present track with the current Social Security system, we are truly undermining those principles. Sentencing women and minorities to a retirement life of poverty is unfair. The threat of raising payroll taxes by nearly 40 percent to fund a bankrupt retirement system threatens to steal away our children's liberty. And turning our backs on the reforms we have the power to undertake—reforms that will truly revive our ailing system—steals away every American's right to pursue happiness. Mr. President, rather than scaring women and minorities away from the options we have before us, let us give them the freedom that comes with personal retirement choices, the peace of mind that retirement security provides, and the ability to lead a better life in retirement than the one they are being promised today.

CREDIT UNION MEMBERSHIP ACCESS ACT

Mr. GRAMS. Mr. President, I want to talk a little bit, as I mentioned earlier, on an amendment offered by Senator SHELBY dealing with the CRA.

I take a few moments today to rise in support of the amendment offered by the Senator from Alabama and urge my colleagues to support it as well.

Senator SHELBY's leadership on this issue is well-established and he should be commended for his perseverance, even in the face of fierce opposition by some of his colleagues and the Clinton administration.

Mr. President, this amendment is a simple and appropriate step to removing an inappropriate and unnecessary burden from our Nation's small banks and thrifts. The amendment exempts small banks and thrifts, under $250 million in assets, from the grasp of the Community Reinvestment Act, or CRA.

I am sure that some of my colleagues may come to the floor and argue that the Federal banking regulators have taken steps to remove the burdens from banks, and thus, this amendment is unnecessary. Although I commend the regulators for easing the burden of CRA, this contention does justify the appropriateness of the underlying arguement that government-mandated credit allocation is inappropriate. As we have seen most recently in Asia, when the government mandates that the private markets allocate their resources in set ways—capital in this case—the results can be disasterous.

I think there are three arguments which must be considered regarding Senator SHELBY's amendment.

The first is, What was the justification for enactment of CRA in the first place? The Community Reinvestment Act was enacted in 1977 in response to rumors of redlining in the banking industry. The debate at that time shows that supporters felt there were three factors justifying enactment, and they are: first, that banks enjoy a semi-exclusive franchise—due in part to interstate banking restrictions and activity restrictions on competitors such as thrifts and credit unions; two, that the government limits competition within the banking sector by limiting interstate banking and limiting the acitivities of competitors such as credit unions and thrifts; and, third, that the Government restricts the cost of money to banks through interest rate caps on savings accounts and a prohibition on paying interest on demand deposits. If these three points, as the record shows, truly were the justification for imposing CRA on banks, the authors would certainly have to reconsider their action in light of the current environment facing banks.

Banks no longer enjoy the limited competition they did in 1977. The Reigel-Neal Interstate Banking and Branching Efficiency Act of 1994 opened the doors to interstate banking, thus providing competition not only among banks within a state but with banks across the country as well. Also, the bill we are considering today will throw open the doors of competition to another set of competitors—credit unions—which will be able to add any group of individuals they choose, limited only by its size. Also, these two examples I have just explained do not take into account all of the non-bank financial services which have evolved and expanded since 1977—including money market accounts, mutual funds, and deposit-like insurance products.

Banks also no longer enjoy protection against set costs which had been imposed through interest rate controls. The 1980 Depository Institutions Deregulation and Monetary Control Act of 1980 appropriately removed these price controls which inhibited competition.

The second argument which must be considered when we discuss the Shelby amendment is the claim that the amendment will exempt 88% of the banks from coverage under the CRA. Although this percentage seems staggering—and may sway someone who feels that CRA is okay in some instances—a closer look reveals that opponents of the amendment are using sleight of hand to give the impression that this amendment will have a deeper impact than it truly will. Although it may be true that 88% of banks are exempted, in terms of the number that really counts—that is, assets—the impact that this exemption will have is overstated. That is because less than 12% of bank assets are exempted.

The approximately 8,100 banks exempted have $593 billion in assets, but that accounts for only 11.7% of bank assets in this country. These assets are only one-half-of-one percent, or $3 billion, more than the combined assets of the soon-to-be-completed Bank of America—NationsBank merger. In other words, one bank in the country will soon have close to the same number of assets as the 8,100 banks which would be exempted under this amendment. When you realize that the overall impact of this amendment on the CRA is so small, you must question why it is being contested with such vigor.

The third contention which must be contemplated in considering this amendment is whether it will have a negative impact on preventing discrimination. To listen to the critics of the amendment, one would believe that the amendment gives banks a "get out of jail free" card when it comes to discrimination.

However, you must understand that this amendment in no way restricts the enforcement of the Fair Housing Act, the Equal Credit Opportunity Act, or the Home Mortgage Disclosure Act. These acts, designed to prevent discrimination, will remain unfettered in detering inappropriate practices of financial institutions. The amendment in no way weakens laws designed to protect individuals; instead, it removes the inappropriate policy of dictating where banks must operate.

Mr. President, I realize that some in the credit union movement are concerned that adoption of the Shelby amendment may endanger swift enactment of this legislation. However, after contemplating the points raised, I do not understand how the President could consider vetoing a bill based on this appropriate and narrow relief and I do not understand how any of my colleagues can argue the doom and gloom scenarios they are painting about this amendment.

So, again, Senator SHELBY should be commended for his leadership and his amendment should be adopted, insisted on in conference, and signed into law by the President.

GOVERNMENT SHUTDOWN PREVENTION ACT

Mr. GRAMS. Mr. President, I rise today to express my deep disappointment and frustration about the Senate's inaction to consider and pass the Government Shutdown Act.

Mr. President, this week I sought to offer S. 547, the Government Shutdown Prevention Act, as an amendment to the Legislative Branch Appropriations. This amendment, originally sponsored by Senator McCAIN, would create an automatic procedure for a CR at the end of each fiscal year. The essence of the amendment is that we cannot and will not allow a Government shutdown, we will not allow disruption of the services we rely on from the Government, and we will simplify and facilitate the process of passing a continuing resolution.

What issue is more relevant to the legislative branch than acting responsibly to keep the Government in business? This amendment would have ended the annual battle we have each year on what is included in a CR and at what level of spending. It would end the last-minute mischief of adding new pork and new spending into a CR because everybody wants to avoid a shutdown. So you are blackmailed into doing something you do not want to do.

Unfortunately, I was unable to offer this amendment due to germaneness concerns and lack of leadership support.

In May of 1997, during the debate on the Supplemental Appropriation bill—this was covering the flood disasters that occurred in Minnesota and the Dakotas of that year, and others around the country—Senators McCAIN and HUTCHISON offered this amendment, but later withdrew it based on a commitment made by both Senate majority and minority leaders that the Government Shutdown Prevention Act would be allowed to be considered as a separate measure in the near future. The leaders specifically promised a full debate on the legislation with one relevant amendment for each leader.

Mr. President, I would remind my colleagues of the word of the Minority Leader at a news conference he held back on June 11, 1997. I am quoting here from a transcript of the news conference:

> Senator ROD GRAMS sent a letter to all leadership yesterday which offers a very simple, yet I think extraordinarily acceptable solution: strip out the legislation that is the source of the controversy.

So back again to why the President vetoed the emergency supplemental, it was because of this very part.

The minority leader went on to say:

> Have an up or down vote on the census, have an up or down vote on the CR, have an up or down vote on the disaster bill. I cannot think of anything more simple than that. I think it is the right thing to do. I have indicated to Senator LOTT this morning that I think it is the right thing to do.

In a news conference the following day, the Minority Leader repeated his support again:

> We would be willing to set a time certain for each of the pieces of legislation, very short time limits for debate ended. I think it is an excellent proposal, and I am hopeful that that is ultimately what we agree to.

Mr. President, that was indeed what we ultimately agreed to.

It has been over a year now since that debate ended. The Senate never had an opportunity to consider this as a separate measure, so I have chosen to again raise this as a non-controversial measure that will force the Congress to act responsibly to avoid a government shutdown, and also for those who made those promises to live up to their word.

During last year's debate, some of my colleagues argued that since a budget agreement was reached between the White House and Congress, there was no need for this amendment anymore. I argued at the time that the budget agreement made the amendment even more crucial for a responsible government. And here we are again, with just a few weeks left in this session to consider 10 appropriations bills and all 13 conference reports.

My major concerns were, and still are, that the many economic assumptions and spending priorities within the budget agreement make our budget and appropriation process uncertain. The current budget disagreements have again clearly proved my point.

Mr. President, as you know, during this year's budget debate, some members are calling for more spending for their favorite programs. Others, like myself, prefer larger tax cuts and larger spending reductions. As a result, the House and the Senate have approved a budget resolution with significantly different tax and spending priorities. Those differences have prevented us from completing the budget resolution conference report, which is long overdue in accordance with our budgetary rules. It is possible that Congress may not be able to produce a budget this year at all, or finish the regular appropriations legislation before the fiscal year ends on September 30 of 1998.

What would this mean, Mr. President? This means the American people will have once again been held hostage to a government shutdown simply because Congress and the White House, or the House and the Senate, do not agree on tax cuts and spending priorities, or seek to slow down the appropriations process by offering controversial or non-germane amendments.

In 1995, we witnessed the longest federal government shutdown in history, which caused financial damages and inconvenience to millions of Americans simply because of disagreements between the Congress and the President in our budget process.

That was a very costly shutdown. The shutdown disrupted the lives of hundreds of thousands of Americans. Some retirees and veterans could not promptly receive their social services, such as Medicare benefits. Families could not obtain passports, or visit national parks and museums. Millions of dollars were lost to small business owners and local communities. Federal employees were furloughed with a fear of not getting paid, although they were—at again, a loss to the taxpayer. Even our troops stationed overseas were affected by the shutdown. The interruption caused immeasurable financial damage to the American people and to this country, bottom line.

The most serious damage done by the 27-day shutdown was that it shook the American people's confidence in their government and in their elected officials. Even today, we have not yet undone this damage. We need to restore the public's faith in its leaders by showing that we have learned from our mistakes. Passage of this good-government contingency plan will send a clear message to the American people that we will no longer allow them to be held hostage in budget disputes between Congress and the White House or among ourselves.

We all have different philosophies and policies on budget priorities, and of course we will not always agree. But there are essential functions and services of the federal government we must continue regardless of our differences in budget priorities.

More often, without a good-government contingency plan, the continuing resolution has become impossible as we argue over funding levels and whether pork project "A" or pork project "B" deserves our support. Debate on program funding is not based on merits but on political leverage. As a result, billions of the taxpayers' hard-earned dollars are wasted in this process.

The virtue of this amendment is that it would allow us to debate issues about our spending policy and the merits of budget priorities while we continue to keep essential government functions operating. The American people will no longer be held hostage to a government shutdown. So, as I said earlier, there are still plenty of uncertainties involved in our budget and appropriations process, particularly this year. If we continue on our current course and the government again shuts down as it did three years ago, it will be another devastating blow to the American people, from senior citizens to disaster victims.

We must ensure that a good-government contingency plan is in place to keep the government up and running in the event that a budget agreement is not reached.

Mr. President, this good-government contingency plan is sound policy, I believe it is wise policy, and it is responsible policy. With a dwindling number of legislative days left in this Congress, I strongly believe that it is vitally important to immediately consider and pass this overdue measure to end the annual shutdown battle we face every year. This should be non-controversial legislation we can all support. I therefore strongly urge the Senate leadership to bring this legislation up for a full debate and vote as earlier agreed.

Is there any time remaining?

The PRESIDING OFFICER. The Senator has 7 minutes and 19 seconds remaining.

Mr. GRAMS. Mr. President, I yield back my remaining time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Senator from Tennessee is recognized.

PATIENTS' BILL OF RIGHTS

Mr. FRIST. Mr. President, I rise today to speak on the Patients' Bill of Rights, a bill that was introduced last week by my colleague from Oklahoma, Senator DON NICKLES, and members of the Senate Republican Task Force on Health Care Quality, our distinguished majority leader, TRENT LOTT, with a total of 47 cosponsors.

I am really quite pleased with this particular bill. I have had the opportunity to work on the task force because it is a product of months and months of very thoughtful discussion, vigorous debate among ourselves. I think, as most people know, on the task force were some of our most conservative members and some of our most moderate members within our caucus. It really is a consensus proposal to improve health care quality. As a practicing physician, I am absolutely convinced that health care is delivered best when that relationship between the doctor and the patient is given the very highest priority. My goal in this debate, the debate that we will have over the coming weeks, is to do everything possible to empower patients and doctors to be that focal point, to be that place where ultimately the quality of care is decided.

Much of the debate will center around who is practicing medicine today. Is it bureaucrats in Washington? Is it bureaucrats in health maintenance organizations? Is it bureaucrats in the U.S. Congress? Ultimately, I think that we can address this issue, if in coming together in a bipartisan way with a reasonable, timely voice, with a reasonable thought, come back to that central premise that the doctor and the patient or the nurse and the patient, at the level where that really very intimate interaction is carried out, where one's problems are professed and treatment plans and diagnoses are generated, if we keep coming back to that as being the central focus of the Patients' Bill of Rights in everything that we do over the next several weeks, we will be doing a great service to the public, to all Americans.

Now, our proposal that has been put forth is grounded on a Patients' Bill of Rights. It offers a number of protections for individuals, for patients, for potential patients, and that is No. 1, by guaranteeing full access to information as to what is in one's health plan.

If you ask your typical Tennessean or American, you say, what really does your plan cover and what does it not cover, most of us, including me, throw up our hands and say, "I don't know." If you, going back to my own field, develop a cardiomyopathy and a sick heart, it deteriorates over time and you need a heart transplant, does your plan, I could ask any of my colleagues, cover heart transplants? And they will probably say, "I don't know. I understand it is very expensive. I also understand it could save my life. But I don't know the answer to that question."

We need to guarantee full access to everybody. Whether it is a health maintenance organization, a managed care plan, any type of plan, we need to guarantee that patient full access to that information. We do that in our bill.

Secondly, we do need to make sure that patients receive the necessary emergency care, and it really does boil down to the fact that if a so-called prudent lay person, meaning somebody with average intelligence, common sense, develops chest pain, they don't know whether it is indigestion or a massive heart attack. They go to the emergency room. They should be able to walk into that emergency room and be taken care of without fear that coverage will be denied for that particular service. We address that right up front. We allow patients to keep their doctor during a pregnancy or extended illness even if their doctor for some reason leaves a plan or is terminated from a plan, so-called continuity of care. We allow individual patients direct access to that pediatrician without having to go through a gatekeeper or to that obstetrician or gynecologist without having to go through a gatekeeper first.

The great fear I think that all of us in America have today, and I think it is the fear that, again, drives much of the debate, is that our health plan will not be there for us if we get sick. If my young 11-year-old son develops a heart murmur, a virus, will there be somebody there to help him? Will that health plan respond to those needs? Or will my HMO deny me seeing the doctor who I feel is the very best person to take care of my son, who I know and people have told me is a better doctor. Will I be denied the opportunity to see that doctor by my health plan?

Many people fear that they will be denied the benefits they have even paid for and that they have been promised. Others are absolutely convinced today that their health plan cares much more about cost, cares much more about profits, cares much more about the bottom line than about quality. And that is because of the focus on cost and saving money.

We in this body talk about how we have to slow the cost of health care, we have to reduce health expenditures because of all of those pressures. HMOs have been allowed to go too far. They have not been held accountable. Our bill takes that focus and puts it right on quality, on quality. I say that because you can list 10 rights, and you can list 400 mandates, and you can say we have licked the problem. Unless you come back to focusing on quality, you have made yourself feel good. We have responded to the public sentiment of let's bash the HMOs, but you have done nothing for that next generation, nothing for the overall health care system unless you come back to those two principles: The doctor-patient, the primacy of that doctor-patient interaction, No. 1, and, No. 2, focus on quality.

Therefore, you will see in the bills that are before us—and there are basically two bills, one from each side of the aisle, although I hope that both sides will end up to some degree through debate coming to a bipartisan agreement, but the bills are very different, and I think that is where the debate is going to have to play out because every day you are exposed on this floor and through press conferences to "Let's kill the HMOs, capture that sentiment, put these mandates on the people and we fix the system."

What we have to do as a body is figure out really how to fix the system with the help of the American people, recognize that our health care system is changing and changing dynamically, and what we define as quality is changing dynamically. And thus whatever we do we cannot establish a system through well-intended mandates which rigidify this system and destroy the dynamism that is inherent in the public marketplace, in the private marketplace, in private industry, in Government-run programs today which recognize that quality is a new science, it is an evolving science, it is dynamic, it is energetic, everyday breakthroughs are made on how we determine quality. So let's be very careful and make sure that we, through well-intended mandates, don't come and box in this dynamism which is so important to the future of health care delivery.

Our bill focuses on quality. Now, any physician today—and I am a physician. I have worked with managed care before coming to the Senate—any physician will tell you that managed care—and we use the word "HMOs" and everybody needs to recognize that managed care is a broad spectrum of entities. But a physician will tell you, anybody who has worked with an HMO, HMOs have gone too far. Not all of them. HMOs too often control the whole issue of what service is covered and what is not, regardless of what that physician may feel is in the best interest of the patient. And that same physician will very quickly tell you that what coverage you are allowed to give that patient ultimately defines the care and the outcome of that patient.

Therefore, I don't blame my fellow physicians coming forward and saying, listen, I am being held accountable for decisions that I am not even allowed to make, whether it is coverage or admission to a hospital or the number of days in a hospital. I am not making that decision, yet I am held accountable.

Well, our bill hits this inequity head on. Basically, it says it is not fair. That is inequitable. You, physician, you should not be held accountable. The HMO should be held accountable.

We need to fix the system. The critical measure of this bill that we have put forward is to hold the health plans accountable for the coverage decisions they make and to take the whole essence and the power of denial of care out of the hands of the HMOs and place it in the hands of the way we fix the system—a strong appeals process internally and a strong external appeals process where decisions can be made by medical experts—yes, physicians—medical experts independent of the plan.

Our bill requires that health plans make coverage determinations rapidly, quickly, not weeks later or months later or years later. We put some time specifically, actually in the bill; we say it must be made sometime but definitely not later than 72 hours after the request. We want to protect patients, before harm occurs, by setting up a process that is not present in many—I don't know whether to say most or not—but it is simply not present in many of the HMOs today. But it is a process for patients and their families to get an immediate answer over what is covered and what is not covered and, if there is a disagreement, resolution right then and there, not a year later or 5 years later or 2 years later, after whatever potential for harm may occur.

Furthermore, we require health plans to provide quick internal grievance, as well as these independent, external, appeals processes in areas where there might be some question, like: Is a particular procedure or use of a device investigational or experimental? The whole point is, we need to hold the plans accountable. And we do it by fixing the system.

Our bill provides protections for patients who rely on health plans that States do not. This will be another issue, but our bill basically says that there are a group of people who are unprotected today. Yes, the purpose of our bill, and where we see the Federal responsibility as being, is to protect the unprotected, the people who, by law, are not being protected by an entity. That is the group that we focus on. We fix the system where it is broken, without this whole issue—which has really captured the attention of the press and really taken focus away from the quality issue, which is the really important issue—this issue about lining the pockets of trial lawyers in the process of the bills that are discussed today.

We do demand that all 125 million Americans have this strong internal appeals process, grievance process, as well as external appeals process. We want the questions answered up front, when it really matters, and not years later by a trial lawyer.

Our bill guarantees patients the right to access their own medical information. It gives them the right to make modifications and to amend their medical information if they find something that is incorrect. In addition, we require health plans to inform you of the plan's practices with regard to confidentiality of medical information, with regard to privacy of your medical record. We require health plans to establish safeguards to protect that confidentiality, to protect that privacy, to protect that security of your health information.

As you can tell, I just believe the heart of the problem that we have today with HMOs is that they focus too much on cost, on the bottom line, without anybody coming in and demanding that they look at quality—quality. Our bill, more than any other bill, focuses on this issue of quality.

Some believe that quality can be legislated today. It is a subtle issue, but it is a point that I have a real obligation to make because I have been so intimately involved. That is, the science of quality and understanding what quality is today in health care is a relatively young science. It is a science that is maybe 10 years old. I think you can crystallize that by asking yourself, What is quality today? How did I choose my doctor? Did I choose my doctor because I knew that he was a better doctor than the doctor across town? If you feel your doctor is pretty good, step back and ask yourself, Do I really know he is a good doctor? Or is he just a nice guy? Does he just answer the telephone when I call? What are the standards that we, as a society, have to compare one doctor to another doctor? We are entrusting our lives to them for a heart transplant or heart surgery. How do we judge them? The information is not there. The answer is: We don't have the answer.

Therefore, we as a body have to be very careful before we come in and mandate what quality is, because we don't know what quality is. We are learning about it, but it is an evolving science. It is something we are learning about on an ongoing basis. It is important because one approach mandates quality, the other says let's support and figure out what quality is. That is the Federal responsibility: Let's pull together the private entities, the public entities; let's take advantage of state-of-the-art information systems; let's coordinate this information and determine what quality is and then disseminate that information out so we can educate people broadly so they can answer that very basic question, "Do I have a good doctor or do I not have a good doctor?" Or, "Is that plan a good plan for me and that one a bad plan for me?"

Mandating data collection: Right now, there are plans being proposed on both sides in the House and Senate that just say let's collect more data, let's have all information from a health plan—demographics and age and gender and outcome and results and patient satisfaction surveys—let's just collect all that data and send it to the Secretary of Health and Human Services. It sounds pretty good, if we knew what it meant, if it didn't mean that a doctor is going to have to sit down and talk to a patient and then go take a piece of paper and fill out a 20-point questionnaire and then give it to a bureaucrat, whom he has had to go out and hire to sit in his office to compile it for a health care plan that has another whole system, to send it to the Secretary of Health and Human Services, who gets this data from millions and millions of doctor-patient interactions. And what are we going to do with it? Let's invest in the science of figuring out what we do with it before we mandate the collection.

Our legislation promotes quality improvement by supporting research, to give patients and physicians better and more useful information to judge quality. Our Patients' Bill of Rights establishes an agency. We call it the Agency for Health Care Quality Research, AHQR. I hate to use those initials, but by the time this debate is finished, I hope everybody in America knows what AHQR is. Its purpose is to foster overall improvement in health care quality through supporting pertinent health sciences research, then disseminating that information through public and private partnerships—pretty simple, pretty straightforward. I believe it is the fundamental problem we have today with managed care, with HMOs, with focusing on dollars, with focusing on the bottom line, because nobody is focusing on quality.

Some of my colleagues will come forward and say, "You mean as a Republican you want to create a whole new Federal bureaucracy and agency?" The answer is no. We don't do it very well, I think, in Washington. But when we go in one direction, I think it is important to build on the past, and we have done just that. The agency that we propose is built on the platform of a current agency which I feel is doing a very good job. But we take that agency, called the Agency for Health Care Policy and Research, we refocus the agency on quality, because quality is the issue today. It may have been "cost" 5 years ago, but it is "quality" today. Then we enhance that agency to become the hub and the driving force of all of the many quality efforts that are going on in Federal programs today.

There are many different agencies all across this country, Federal agencies, that do focus on health care. They all have—not all of them, but many of them have programs and a little subdivision devoted to quality. Our Agency for Health Care Quality Research will help coordinate all of those many very positive efforts. We will focus on not just HMO quality, where so much of the debate and anger is, but we will focus on quality on the managed care setting, the urban setting, the rural setting, the setting of the solo private practitioner. This agency will have, as its mission, improving quality, and the disseminating of that information to everybody in health care today.

Thus, if we agree that this fundamental issue on our debate is that HMOs have, to some extent—I don't want to sort of categorize them because I don't think that is fair—but if the debate is that HMOs have ignored quality because of an almost obsession with cost, then let's hit the problem; let's go after how we, as a nation, can improve quality and what is our Federal responsibility. If we are talking about a Patients' Bill of Rights, the ones that we have in our bill are very, very important. But I think the most basic right for a patient is that right to quality health care. That is what our bill, like no other bill, addresses.

This particular agency has a role that is not to mandate. It is not to mandate a national definition of "quality," but, rather, it is to support the science that is necessary to provide information to patients so they will know whether or not they are receiving good quality of care, to provide information to physicians so they can compare what they are doing to the next physician and modify their behavior, so they will know what good quality is and modify their behavior so they can deliver better care to all of their patients, information to enable employers and individuals to become wise purchasers or wise shoppers of health care based not on cost, or not on cost alone, but on cost and quality.

The agency will stimulate public-private partnerships to advance and share what we learn about quality. Quality just means different things to different people. It is constantly being refined. As I said, it is just a few years old as a science; therefore, in collaboration with the private sector, the agency will conduct and will coordinate health science research that really will accelerate our understanding of what quality means to clinicians and to patients, how to measure that quality and how to use this information to improve your own health and your own quality of life.

This agency will have as a major purpose and objective the sharing of this information. We have medical advances that are made daily. We see them in the newspaper; we see them on the news each night when we go home. In truth, many of these discoveries do not make it out into the general practice of medicine for too long. We need to do a better job in narrowing the gap between what we know and what we do, and this agency will accomplish that.

We need to get the science that we know is good science quicker to the American people by sharing this information among public entities and private entities, and this effective dissemination will be a major purpose of the agency.

In addition, the agency will develop evidence rating systems to know what a good doctor is, what a good plan is, whether or not the treatment that has been recommended for your diabetes is an effective treatment.

This agency will play a vital role in facilitating innovative inpatient care in this whole area of new technologies and assessment of new technologies. As chairman of the Science, Technology, and Space Subcommittee of the Commerce Committee and the Public Health and Safety Subcommittee of the Labor Committee, we held hearings and people came before us again and again about new technologies and the confusing methodologies that our Federal Government has set up, that each agency has set up, hoops through which they need to travel before that new technology is disseminated or shared with the American people.

The agency that we are setting up will establish a consistent methodology with coordination across Federal agencies so that people will know what guidelines they must follow in a consistent way to have technologies evaluated and then appropriately disseminated.

In its mission to promote and facilitate quality and quality development, this particular agency will have a focus on improved information-based computer systems which are so necessary for quality scoring and which will facilitate informed decisionmaking by providers, by physicians, by nurses, and by patients. The agency will aggressively support the development of these state-of-the-art information systems for health care quality which then can be shared both by the public and the private sector. The setting is important. Again, as I mentioned previously, so much of the discussion today, as we talk about bills of rights, is focused just on health maintenance organizations.

I think it is important for our colleagues to realize that our bill goes beyond just health maintenance organizations and looks at quality in all different settings. Quality improvement applies to the care that is given in that solo private practitioner's office in the managed care setting or at the health maintenance organization. This agency will understand that part of its mission will be to specifically address quality in rural areas in underserved areas, using such technologies as telemedicine and other long-distance-type technologies.

Our bill addresses the fact that patients do want to know if they are receiving good care, but compared to what? Statistically accurate, sample-based national surveys will efficiently provide reliable and affordable data without the other approach, which is excessively mandated, overly intrusive, potentially destructive mandatory reporting requirements, which as I have described previously, in the long run take away time from that doctor-patient interaction.

You simply do not need to have a doctor, after every patient interaction, fill out a questionnaire at every visit and then send that information to Washington. It can be a waste of physician time, taking time away from the patient, and will ultimately drive up what patients have to pay for the care they receive. Our approach is very different.

As I mentioned, they are sample-based national surveys. We expand the current Medical Expenditure Panel Survey to require that outcomes be measured and reported to Congress so that as a nation—as a nation—we can better determine the state of quality and the cost of quality in our Nation's health care.

The role of the Agency for Health Care Policy and Research is not to mandate national standards of clinical practice. Definitions and measures of quality, as I said, are an evolving science, a science that is critically important to our ability to make educated, informed decisions.

Another aspect of our bill that is important for our colleagues to understand is a part of the bill—because it is a very important part of the bill—is the strong focus on women's health issues. As a nation, it is time that we focus on diseases and health issues that are faced by women. In our bill we specifically emphasize women's health research and prevention activities at the National Institutes of Health and at the Centers for Disease Control and Prevention. The goal is to support the critical role that our public health agencies—the NIH and the CDC—play in providing a broad spectrum of activities to improve women's health. That includes research, screening, prevention, treatment, and education.

Among others, these provisions in women's health promote basic and clinical research for the aging process in women, for osteoporosis, for breast cancer, Paget's disease, for ovarian cancer. We expand our research efforts in the important area of cardiovascular disease. Many people—in fact, I am sure many of our colleagues—do not realize that the No. 1 killer, cause of death for U.S. women is cardiovascular disease. We need to expand our research efforts there. We do that in our bill.

Our bill reauthorizes the National Breast and Cervical Cancer Screening Program which provides crucial screening services for breast and cervical cancers to underserved women. Our bill supports data collection through the National Center for Health Statistics and National Program of Cancer Registries, which are the leading sources of national data on the health status of women. Support of these valuable programs will help ensure scientific progress in our fight against these diseases and will lessen the burden of these diseases on millions of women and their families.

Another component of our bill which is not in any bill currently before the U.S. Senate except for ours—which is not a part of the Patients' Bill of Rights in the House of Representatives—it is a part of the bill, again, which I feel demonstrates that this piece of legislation is forward thinking; it fulfills our responsibility, I believe, of looking ahead and seeing what obvious challenges there are, challenges that could potentially disrupt the delivery of health care in this country—that is our responsibility—and to respond, and to respond now, before they become potentially debilitating, have a debilitating effect on health care in this country.

This provision is one—and it is a right—it is one of the Bill of Rights, and it is a right that every woman and every man and every child should be free from the fear that an insurance plan or an HMO will discriminate against them because of a positive genetic test.

The human genome project, a 15-year, very successful project, initiated by our Federal Government, being carried out in a wonderfully unique public-private partnership, by the year 2005, we will have defined over 3 billion bits of genetic information called DNA which comprise the human genome which explains in large part our genetic makeup—3 billion bits of information defined over this very successful program.

We have learned tremendous scientific progress, but it has introduced the fact that once we link these genes to diseases and conditions—and we see it happening almost every day; there was an article in the Washington Post just yesterday about linking several genes with Alzheimer's disease and the onset or when Alzheimer's disease comes being linked to these genes.

Again, tremendous science, yet it strikes right at the heart of this fear that the information in some way will not be used to help you but will be used to hurt you, that access to that information and the result of whether or not you have that gene will be used by an HMO or an insurance company to deny you coverage, to increase your premium, to use against you that fear in not getting a test, a potentially beneficial test. If you had a test which, with 80 percent predictability, said you were going to have breast cancer, wouldn't you want to know the result of that test? I would, because it means I might get a mammogram once a year instead of once every 2 years, or I might do a breast exam once a week instead of once a month, because we know the earlier diagnosis of best cancer, earlier detection, means earlier treatment, and earlier treatment means cure instead of delay, which means, many times, it cannot be cured.

The promise of that test will be defeated unless we act, and we act today, to eliminate the fear of genetic discrimination based on genetic tests which are coming online at a rapid pace. Our ability to predict what diseases individuals may be at risk for in the future has caused grave concern that this powerful information—information that affects every one of us in the room; we all have this genetic information; we all carry it in our genes—the fear that that information might be used against you.

I am really troubled when the Tennessee Breast Cancer Coalition tells me that genetic counselors right now are facing women every day who are afraid to even have these genetic tests performed. Women are avoiding genetic testing due to concerns that they will lose their insurance coverage even though that genetic test might be saving them. We must prohibit discrimination in health insurance against healthy individuals and their families based on genetic information.

Think about it—3 billion of these little bits of information on a single human genome; we all carry genetic mutations that may place us at risk in the future for some disease, even if we are healthy today. Therefore, each of us is at potential risk for discrimination.

If I receive a genetic test that shows I am at risk for cancer, diabetes, or heart disease, should this predictive information be used against me or my family? The answer is no. That is a right. We address that right in our bill. I think it an important point because it shows our bill is forward looking, looking to the future, not a set of rigid mandates based on what we think we know about quality today, but we look to the future.

I want to commend the Senator from Maine, Senator SNOWE, whose original bill provided the framework and really the sound principles upon which this legislation is based. She has supported our task force effort and worked with us in a step-by-step way to craft this legislation. I also would like to mention Senator JEFFORDS, who had the foresight to include these provisions, since we are talking about basic rights.

Our bill very specifically prohibits health insurers from requiring collection of the results of these predictive genetic tests. It prohibits them from using that information, if they do have it, to deny coverage. And it prohibits insurers from using that information, if they do have it, to adjust rates or to increase rates.

Preventing genetic discrimination does have enormous implications that I will continue to come back to, and that is improving quality. It improves the quality of care to an individual patient. But also, if one is afraid to have the results of a genetic test released to somebody outside or participate in a large protocol, investigational protocol, that means that research overall into what these tests mean and how they might be beneficial will be slowed down, thus affecting the quality of health care for all Americans.

Lastly, our bill enhances access and choice of health insurance coverage in a number of ways which we will debate on the floor, areas that increase access to and affordability of health care of several areas, that include provisions which I am very excited about, and that is to allow the self-employed individuals, for the first time, to fully conduct their health care expenses. It only makes sense. We have really been punishing self-employed individuals, not giving them the same tax treatment that somebody has if they are working for a large company. It doesn't make sense. What we want to do is level that playing field and allow these self-employed individuals to fully deduct their health care expenses, just like people who work for large companies. It addresses access, because it means that these self-employed individuals are more likely to go out and enter the insurance market.

Our bill provides greater flexibility to employees who use the so-called flexible spending accounts to pay for health care. Our bill gives individuals the opportunity to have control over the health care decisions and costs through medical savings accounts. Medical savings accounts allow a patient to access the physician of their choice and to choose the medical treatment that they want if they choose that option.

As you can tell, our bill contains a lot. The reason that I wanted this afternoon to outline our bill is to make sure that our colleagues spend the next several days looking very carefully at the differences between the two bills that are before us, because the approach is very, very different. Both bills are well intended. I will say that I am very hopeful that we can pass a bill, a strong Bill of Rights. But that Bill of Rights needs to include a right to quality health care for all Americans. Our approach is very, very different. The intentions, I believe, of both bills are the same.

I am hopeful that we can engage in this debate without too much in the way of rhetoric. There is a lot of rhetoric that has been thrown on the floor here and in press conferences, but I hope we can come back and say this is an important issue. It is not one, really, to play politics with. It is not one to defer to another Congress or to filibuster or to make a part of the next elections. It is the sort of issues that we, as trustees to the American people, have an obligation to address and to address in this Congress.

Our Patients' Bill of Rights offers all Americans quality improvement based on the foundation of strong science. Our Patients' Bill of Rights offers all Americans patient protection, to access the care they need from the doctor they choose. Our Patient Bill of Rights offers all Americans trust in that doctor-patient relationship, that central point through which I believe quality needs to be defined and health care delivered. We reinstate that trust. Our Patient's Bill of Rights offers all Americans access to more affordable health insurance coverage. Our bill does represent a forward-looking approach to provide for continuous improvement in health care quality, and it meets our goal of assuring that the doctor and the patient define quality—not HMOs, not bureaucrats, not trial attorneys, and not the U.S. Congress.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

VETO OF COVERDELL LEGISLATION AND RELEASE OF HOUSE EDUCATION AND THE WORKFORCE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS REPORT

Mr. GORTON. Mr. President, our self-proclaimed "Education President" has just seen fit to veto the most significant bipartisan education legislation passed by the 105th Congress—the Education Savings and School Excellence Act. As many Americans know, this legislation's main feature is to allow families to establish education savings accounts in which parents can invest $2,000 a year and allow that money to grow tax free. Parents can use the money to pay for school expenses including tutoring, computers, school fees and private school tuition.

Why has the President seen fit to veto this legislation? Well, he has received a great deal of pressure from those who believe that we should not increase the control parents have over the education of their children.

In addition to providing tax-free education savings accounts for families, this legislation includes provisions that would: authorize a literacy program to improve the reading skills of America's youth; allow Federal funding for education reform projects that provide same gender schools and classrooms; allow States to make awards to public schools that demonstrate a high level of academic achievement; and allow states to test teachers and provide merit pay programs.

With the recent news that 60 percent of prospective teachers in Massachuesetts taking a basic certification test were unable to pass, it is unfortunate that the President's veto will not allow States like Massachusetts to help current and prospective teachers reach their full potential, as well as reward those who perform in a superior manner. I signed a letter to the President along with 42 other senators asking that he sign the education savings account legislation and pointing out this very feature. Unfortunately, our plea fell on deaf ears.

Mr. President, I have worked diligently to fashion, over the past year a return to our parents, teachers, principals, superintendents and school board members control over the education of their children. The Federal Government has too much influence and misuses too many resources that would be better spent in classrooms across America.

As a member of the Senate Budget Committee Education Task Force, I found that no one in the Federal Government even knows exactly how many education programs are overseen by the Federal Government. Although the Department of Education annually publishes a "Digest of Education Statistics," the most recent version of which is over 500 pages in length, there is no mention of how many education programs are administered by Federal agencies.

I have, however, heard testimony from the General Accounting Office about the duplication of Federal education programs. In January of this year Dr. Carlotta Joyner of the GAO appeared before the Senate Budget Committee Education Task Force and presented us with a graphic that highlights the web of Federal education programs in only three areas of education: at-risk and delinquent youth, early childhood programs, and teacher training programs. Dr. Joyner explained to us that 15 Federal departments and agencies administer 127 at-risk and delinquent youth programs, 11 Federal departments and agencies administer more than 90 early childhood programs, and 9 Federal departments and agencies administer 86 teacher training programs.

It is no wonder that more and more, States and local school districts are suffocated by a tidal wave of papers, forms and programs, each of which no doubt began with good intentions. The net result of this tidal wave, however, is precisely what makes it difficult to set priorities in each of the states and school districts across the country to determine that which will best serve their students.

As I have stated previously, the only reason I can discern that the President would veto this legislation is that he believes that schools will be improved through more control from Washington, D.C. Unlike the President, however, I believe our best hope for improving the education of our children is to put the American people in charge of their local schools.

I also believe it is appropriate at this time to give my colleagues in the Senate some good news on the education front. Last Friday, the House Education and Workforce Subcommittee on Oversight and Investigations adopted a report entitled "Education at a Crossroads: What Works and What's Wasted in Education Today" by a vote of 5-2. This report is a result of two-and-a-half years of work by that subcommittee and the dedication of it's chairman, Congressman HOEKSTRA. The report is more than 70 pages long and I will not touch on all the issues it discusses, but I do want to point out some of the conclusions the subcommittee reached.

The report's conclusion states in part:

> . . . the central theme of what we learned is that the federal government cannot consistently and effectively replicate success stories throughout the nation in the form of federal programs. Instead, federal education dollars should support effective State and local initiatives, ensuring that neither impedes local innovation and control, nor diverts dollars from the classroom through burdensome regulations and overhead.

The report goes on to give specific steps for Congress to take to improve education in America. The report advocates increasing the ability of States and local communities to waive federal education regulations, reducing the tax burden on families, passing tax-free education savings account legislation, improving federal support for charter schools, and otherwise encouraging more parental choice in education.

I have long been an advocate of many of the suggestions outlined in this report. I hope that my colleagues in the Senate will take the time to review the report Congressman HOEKSTRA's subcommittee has prepared and consider where they stand on these issues. It is long past time for both parties in Congress to stop simply giving lip service to the idea of local control of education, and to put our money where our mouths are.

Finally, I want to remind my colleagues that although I have introduced and passed twice in the last year an amendment that would allow States and local school districts increased control over the education of their children. Because of the insistence of Democrats in the Senate, the President, and even some Members of my own party this legislation has not yet survived a conference committee. Although I have not yet been successful in passing this legislation into law to give States and local communities the relief they deserve and need to improve education in America, I will again in the near future propose legislation that moves us toward this goal. Whether through block grants or some other means, I am committed to the belief that real education reform will not take place through ". . . guidance from above . . .", but from parents and educators in communities across this land as they are empowered to direct the education of their children.

Mr. President, I note also present on the floor is Senator FRIST, the chairman of the Senate Budget Committee task force on education, whose work is of equal importance to that of Congressman HOEKSTRA's and whose report I also commend to the Members of this body. He is our great expert on health care, but he is also a major leader in education reform in the U.S. Senate, and we all owe him a great debt of gratitude.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, July 23, 1998, the federal debt stood at $5,537,084,024,142.92 (Five trillion, five hundred thirty-seven billion, eighty-four million, twenty-four thousand, one hundred forty-two dollars and ninety-two cents).

One year ago, July 23, 1997, the federal debt stood at $5,367,623,000,000 (Five trillion, three hundred sixty-seven billion, six hundred twenty-three million).

Five years ago, July 23, 1993, the federal debt stood at $4,342,543,000,000 (Four trillion, three hundred forty-two billion, five hundred forty-three million).

Twenty-five years ago, July 23, 1973, the federal debt stood at $455,892,000,000 (Four hundred fifty-five billion, eight hundred ninety-two million) which reflects a debt increase of more than $5 trillion—$5,081,192,024,142.92 (Five trillion, eighty-one billion, one hundred ninety-two million, twenty-four thousand, one hundred forty-two dollars and ninety-two cents) during the past 25 years.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-6165. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding measures to expedite resolution of certain common carrier formal complaint proceedings (Docket 96-154) received on July 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6166. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Pauls Valley, Ratliff City, and Sulphur, Oklahoma, Abilene, Bowie, Highland Village, Mt. Pleasant and Overton, Texas)" (Docket 97-84) received on July 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6167. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Administration's annual report for 1997; to the Committee on Energy and Natural Resources.

EC-6168. A communication from the Chairman of the Appraisal Subcommittee, Federal

Financial Institutions Examination Council, transmitting, pursuant to law, the Subcommittee's annual report; to the Committee on Banking, Housing, and Urban Affairs.

EC–6169. A communication from the Secretary of Defense, transmitting, notice of military retirements; to the Committee on Armed Services.

EC–6170. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, certification that full-up live-fire test and evaluation of the Department of the Navy's CH–60 Fleet Combat Support Helicopter would be unreasonably expensive and impractical; to the Committee on Armed Services.

EC–6171. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Limes and Avocados Grown in Florida; Relaxation of Container Dimension, Weight, and Marking Requirements" (Docket FV98–911–2) received on July 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6172. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Tomatoes from France, Morocco and Western Sahara, Chile, and Spain" (Docket 97–016–2) received on July 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6173. A communication from the Administrator of the Rural Housing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Guaranteed Rural Rental Housing Program" (RIN0575–AC14) received on July 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6174. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation entitled "The State Meat and Poultry Inspection Assistance Act"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6175. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–383 adopted by the Council on June 2, 1998; to the Committee on Governmental Affairs.

EC–6176. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–384 adopted by the Council on June 2, 1998; to the Committee on Governmental Affairs.

EC–6177. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–385 adopted by the Council on June 2, 1998; to the Committee on Governmental Affairs.

EC–6178. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–386 adopted by the Council on June 2, 1998; to the Committee on Governmental Affairs.

EC–6179. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–393 adopted by the Council on June 2, 1998; to the Committee on Governmental Affairs.

EC–6180. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–398 adopted by the Council on June 2, 1998; to the Committee on Governmental Affairs.

EC–6181. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–402 adopted by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6182. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–404 adopted by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6183. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–405 adopted by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6184. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–407 adopted by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6185. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the discharge of pollutants from organic pesticide manufacture (FRL6126–6) received on July 22, 1998; to the Committee on Environment and Public Works.

EC–6186. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Michigan: Withdrawal of Direct Final Rule" (FRL6128–6) received on July 22, 1998; to the Committee on Environment and Public Works.

EC–6187. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plan; Indiana" (FRL6129–7) received on July 22, 1998; to the Committee on Environment and Public Works.

EC–6188. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: South Carolina" (FRL6129–9) received on July 22, 1998; to the Committee on Environment and Public Works.

EC–6189. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding approval of Minnesota landfill gas emissions control plans (FRL6128–8) received on July 22, 1998; to the Committee on Environment and Public Works.

EC–6190. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Extension of Operating Permits Program; Interim Approval Expiration Dates" (FRL6128–9) received on July 22, 1998; to the Committee on Environment and Public Works.

EC–6191. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Reconsideration of Petition Criteria and Incorporation of Montreal Protocol Decisions" (FRL6129–2) received on July 22, 1998; to the Committee on Environment and Public Works.

EC–6192. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Respiratory Protection and Controls to Restrict Internal Exposures" (RIN3150–AF81) received on July 22, 1998; to the Committee on Environment and Public Works.

EC–6193. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations; Clarifying Amendments and Corrections" (RIN3150–AE07) received on July 22, 1998; to the Committee on Environment and Public Works.

EC–6194. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule that identifies certain rulings that are no longer considered determinative (Rev. Ru. 98–37) received on July 23, 1998; to the Committee on Finance.

EC–6195. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Surface Coal Mining and Reclamation Operations Under the Federal Land Program; State-Federal Cooperative Agreements; Montana" received on July 23, 1998; to the Committee on Energy and Natural Resources.

EC–6196. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Fresh Bartlett Pears Grown in Oregon and Washington; Decreased Assessment Rate" (Docket FV98–931–1 IFR) received on July 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6197. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule regarding funding priorities for the National Institute on Disability and Rehabilitation Research received on July 23, 1998; to the Committee on Labor and Human Resources.

EC–6198. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Priorities List for Uncontrolled Hazardous Waste Sites" (FRL6130–9) received on July 23, 1998; to the Committee on Environment and Public Works.

EC–6199. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Canton, Normal, and Heyworth, Illinois)" (Docket 96–225) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6200. A communication from the Associate Managing Director for Performance

Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Gurdon, Arkansas)" (Docket 98–40) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6201. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Johnstown and Altamount, New York)" (Docket 98–31) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6202. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Walla Walla and Pullman, Washington, and Hermiston, Oregon)" (Docket 97–246) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6203. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Horseshoe Beach and Otter Creek, Florida)" (Docket 97–239) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6204. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Salmon, Idaho)" (Docket 98–51) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6205. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of the Commission's Rules Concerning Maritime Communications" (Docket 92–257) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6206. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Federal-State Board on Universal Service" (Docket 96–45) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6207. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Shenandoah, Virginia)" (Docket 98–30) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6208. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Point Arena, California)" (Docket 97–236) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6209. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Fowler, Indiana)" (Docket 98–38) received on July 23, 1998; to the Committee on Commerce, Science, and Transportation.

REPORT OF COMMITTEE

The following report of committee was submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with amendments:

S. 1883. A bill to direct the Secretary of the Interior to convey the Marion National Fish Hatchery and the Claude Harris National Aquacultural Research Center to the State of Alabama, and for other purposes (Rept. No. 105–263).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BIDEN:

S. 2351. A bill to direct the Secretary of the Interior to make corrections to a map relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself, Mr. ASHCROFT, and Mr. BURNS):

S. 2352. A bill to protect the privacy rights of patients; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. KENNEDY, Mr. LAUTENBERG, Mr. MOYNIHAN, Mr. CLELAND, Mr. GRAMS, Mr. SARBANES, Mr. LEVIN, and Mr. DEWINE):

S. 2353. A bill to redesignate the legal public holiday of "Washington's Birthday" as "Presidents' Day" in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. HOLLINGS, Mr. FAIRCLOTH, Mr. COCHRAN, and Mr. BENNETT):

S. 2354. A bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2355. A bill to prevent truancy and daytime juvenile crime; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND (for himself, Mr. HOLLINGS, Mr. FAIRCLOTH, Mr. COCHRAN, and Mr. BENNETT):

S. 2354. A bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes; to the Committee on Finance.

MEDICAL HOME HEALTH BENEFICIARY PROTECTION ACT OF 1998

Mr. BOND. Mr. President, I rise today to introduce the "Medicare Home Health Beneficiary Protection Act of 1998" on behalf of myself, Mr. HOLLINGS, Mr. FAIRCLOTH, and Mr. COCHRAN.

I have long believed that home care is the key to fulfilling the desire of virtually all seniors and those with disabilities to remain independent and within the comfort of their own homes. Home care is also often the only source of care for many disabled individuals and frail elderly, especially those living in underserved rural and urban areas of our country.

Today, however, home health care is facing a crisis.

In an effort to reduce Medicare home health expenditures and fraud and abuse, the Balanced Budget Act of 1997 replaces cost-based reimbursement for home health services with a Prospective Payment System (PPS), effective October 1, 1999. In the meantime, Congress, at the recommendation of the Health Care Financing Administration (HCFA), imposed an Interim Payment System (IPS), or new per beneficiary caps on home health agencies.

There is no question that transitioning home health into a PPS is needed to ensure that all home health providers are cost-effective in the deliverance of services. But is also quite clear that the current IPS, coupled with HCFA's interpretation of the surety bond statute, is threatening access to these invaluable services throughout our nation. Quite simply, the IPS is fatally flawed and works tremendous injustice and hardship.

In my home State of Missouri, reputable home health agencies provide high quality care to over 124,000 seniors and disabled are facing a crisis. I support making the deliverance of services more efficient and rooting out bad actors in the Medicare home health program, but I am deeply concerned about a punitive IPS which is driving scrupulous, quality providers out of business. In Missouri alone, over 35 home health agencies have shut their doors since enactment of the BBA of 1997. Nationwide, over 1000 home health providers have closed or stopped accepting Medicare patients.

In St. Louis, the two largest, freestanding home health providers closed their doors this year—leaving hundreds of elderly and disabled patients searching for a new provider. The Visiting Nurse Association of St. Louis which served the St. Louis area for 87 years eliminated all of their Medicare home health services as of May, forcing over 600 patients to find a new source of care.

It is imperative that Congress act now to impose a moratorium on the IPS. My bill not only accomplishes this equitable goal, but it also puts pressure on HCFA to move expeditiously towards the establishment of PPS for home care.

I have written a letter to Secretary Shalala outlining the concerns and outlining the serious situation and I have asked she move expeditiously on this.

A study conducted by The George Washington University Medical Center, Center for Health Policy Research, entitled "Medicare Home Health Services: An Analysis of the Implications of the Balanced Budget Act of 1997 for Access and Quality", confirms why Congress must take expedited action in removing the IPS.

Summarizing, the study concluded that:

The home care population represents an increasingly sicker population requiring more acute management of chronic illness and higher intensity acute care;

The BBA's reductions in Medicare home health coverage and financing can be expected to affect the sickest and highest cost patients and punish the very agencies that specialize in the provision of care to this population;

The most severe effects of the interim payment system fall on the sickest patients living in states with the lowest utilization patterns;

The BBA's interim payment system will shift costs to other payers (notably Medicaid) while rewarding inefficient agencies who care for relatively healthier patients; and

The interim payment system will make it more difficult to design and implement the permanent prospective payment system scheduled to become effective in FY 2000.

To those, I might add, Mr. President, when you take a look at cost when you force people out of home health care if they are Medicare-eligible beneficiaries, you are going to wind up putting them in institutions where the cost will be significantly greater and the benefits to the individuals served and to the communities will be far less.

This is false economy and it is causing a real crisis in communities throughout our country. So not only are beneficiaries and providers of home health alerting us to the devastation of this system, but outside experts are also telling us why we must revisit this issue.

Reducing Medicare's growth rate is a worthy and much needed goal; however, doing it in such a way that threatens access to critical home health services is downright unconscionable. Truly reforming Medicare means more than simply ratcheting down payments to providers and services to beneficiaries. While this approach is the short-term solution, it has serious consequences for many vulnerable patients and honest providers.

Mr. President, I want to conclude my remarks by recognizing the efforts of my distinguished colleague from Iowa and Chairman of the Senate Committee on Aging, Senator CHUCK GRASSLEY, who first highlighted the devastating impact of the IPS and HCFA's surety bond rule on Medicare beneficiaries and home health providers. I thank him for his dedication and leadership and look forward to working with him to rectify this problem.

I ask unanimous consent that letters from the National Easter Seal Society and the National Council of Senior Citizens as well as my letter to Secretary Shalala dated July 24, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL EASTER SEAL SOCIETY,
OFFICE OF PUBLIC AFFAIRS,
Washington, DC, July 23, 1998.

Hon. CHRISTOPHER BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: Easter Seals is pleased to support your legislation to place a moratorium on the Medicare interim payment system (IPS) for home health agencies and the automatic payment reductions slated for 1999. These Balanced Budget Act (BBA) measures threaten access to essential home health services for Medicare beneficiaries, particularly those with significant disabilities and chronic conditions. They represent flawed approaches to reducing Medicare spending that will have a devastating impact on beneficiaries and families, and force high-quality providers, including Easter Seals, from the Medicare program.

Easter Seals is dedicated to assisting people with disabilities to live with equality, dignity, and independence. Each year, Easter Seals serves more than one million persons through a nationwide network of 106 affiliated organizations that offer a wide range of home and community-based services, including medical and vocational rehabilitation, early intervention and special education services, assistive technology, housing, and camping and recreation services. Easter Seals provides quality care, including home health care, to thousands of Medicare beneficiaries annually. A significant percentage of these beneficiaries have catastrophic, chronic, and/or medically complex conditions. It is these individuals that will suffer most under BBA.

Easter Seals' supports a transition to prospective payment in home health that is responsible, cost-effective, and consistent with high quality care. Payment methodologies should reflect the varying, legitimate service needs of medicare beneficiaries.

Easter Seals greatly appreciates your efforts to halt implementation of IPS by the Health Care Financing Administration until such time that an appropriate prospective payment system can be adopted. Easter Seals also opposes the sweeping reduction of payment for home health services, that may take effect in 1999, as a flawed strategy that will cause undue harm to beneficiaries and service providers. These BBA provisions undermine appropriate, quality home and community services for Medicare beneficiaries and drive away efficient and caring providers, such as Easter Seals, that serve them. Thank you very much for your leadership with this important legislative initiative.

Sincerely,

RANDALL L. RUTTA,
Vice President,
Government Relations.

NATIONAL COUNCIL OF
SENIOR CITIZENS,
Silver Spring, MD, July 23, 1998.

Hon. CHRISTOPHER BOND,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR BOND: The National Council of Senior Citizens applauds your leadership and commitment to addressing the very serious problems that the new Medicare interim payment system (IPS) poses for disabled and elderly individuals in need of home care.

As you so well know, home care patients are among America's most vulnerable citizens. They tend to be people who are sick, frail, lower income, and who depend upon this care for their very existence and dignity.

The interim payment system has threatened to take away this vital lifeline. Our Board has taken a position that IPS must be reconsidered on an urgent basis. We urge you to introduce legislation to impose an immediate and retroactive moratorium on IPS. Only in this way can Congress bring about a speedy solution to this pressing problem.

Thank you again for your vision and leadership. America's Medicare beneficiaries are looking to you and the Congress for a remedy to this devastating system.

Sincerely,

STEVE PROTULIS,
Executive Director.

U.S. SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, DC, July 24, 1998.

Hon. DONNA E. SHALALA,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR MADAM SECRETARY: It has become clear that the Health Care Financing Administration's (HCFA) implementation of the home health Interim Payment System (IPS) and the surety bond requirements is having a devastating impact on thousands of conscientious and cost-effective home health agencies and the Medicare home health beneficiaries, especially the most medically complex patients.

As you know, the Senate Committee on Small Business held a hearing on July 15 to give home health providers, HCFA, and others the opportunity to examine these issues and explore possible solutions. Nine witnesses, including representatives of small freestanding home health agencies, testified about the crippling effect HCFA's rules are having on reputable small agencies and their ability to provide high-quality care to their patients.

I remain extremely disappointed that HCFA turned down the Committee's invitation to attend this important hearing. Unfortunately, HCFA's decision not to testify was interpreted as indifference to the impact its actions are having on small home health providers and patients. This decision was characterized by members of our Committee as "reckless, arrogant, and disgraceful."

It is imperative that the Department of HHS and HCFA work with Congress to enact an immediate moratorium on the IPS, until, home health moves into a prospective payment system, to stop the unjustified closure of scrupulous home health agencies and further loss of beneficiary access to home care services. The IPS is fatally flawed and does not comport with what Congress intended. Rather than reduce the rate of growth of the Medicare home health benefit, as we were led to believe would be the result, the IPS is causing a precipitous decline from last year's reimbursement, leading to serious dislocation all over the country.

Hundreds of home care providers are literally on the brink of closure. Many have already closed, leaving the sickest patients searching for new home health care providers. I am aware of at least one state where the IPS-related closure of a home health agency has led to the loss of all home health services for many rural patients.

Imposing a moratorium on the IPS would give Congress an opportunity to work with the Department of HHS and HCFA, Medicare consumers, and the home health industry to develop a solution to this critical situation, which must be solved by the end of the 105th Congress. This crisis requires your immediate attention.

As you are aware, our July 15 hearing also focused on HCFA's regulations to implement the surety bond requirements in the Balanced Budget Act of 1997. The recent suspension of the deadline for compliance with these regulations narrowly averted a further crisis in home health care. It was the intent of Congress that the home health surety bond requirement act as a guarantee against fraud by home health agencies. HCFA took this reasonable tool intended to curb home health fraud and, as implemented, turned it into an unworkable, punitive vehicle for the collection of routine overpayment. HCFA's distortion of Congressional intent has now forced the agency to suspend its flawed bond regulations. Pending further rulemakng, HCFA should withdraw its surety regulations and immediately release all existing bonds from potential liability for recovery of overpayments.

I urge HCFA to work with Congress, home health providers, and the surety bond industry in developing new surety bond regulations in full compliance with the Administrative Procedures Act and the Regulatory Flexibility Act as amended in 1996. There must not be a repetition of the chaotic situation which caused Congress to intervene in the surety bond crisis in the first place.

Your prompt reply is appreciated.

Sincerely,

CHRISTOPHER S. BOND,
Chairman.

By Mr. BINGAMAN:

S. 2355. A bill to prevent truancy and daytime juvenile crime; to the Committee on Labor and Human Resources.

TRUANCY PREVENTION AND JUVENILE CRIME REDUCTION ACT OF 1998

Mr. BINGAMAN. Mr. President, I rise today to introduce the Truancy Prevention and Juvenile Crime Reduction Act of 1998. In doing so, I would like to discuss the importance of this measure and how I believe the issue of truancy, as it relates to juvenile crime, has long been neglected.

More people are realizing that truancy often is the first sign of trouble in the life of a young person. It is the first indication that a young person may be on a sad track to a life of crime, drugs, and other serious problems.

Of course, in most every case, it is an early indication that a young person has no interest in school and inevitably will drop out. This is especially sad because many truants and eventual dropouts are two and a half times more likely than high school graduates to be on welfare and twice as likely to be unemployed or to be paid at the lower end of the wage scale.

Truancy is the top-ranking characteristic of criminals—more common than such factors as coming from a single-parent family and being abused as a child. High rates of truancy directly are linked to high daytime crime rates, including violence, burglary and vandalism. As much as 44 percent of violent juvenile crime takes place during school hours, and as much as 75 percent of children ages 13 to 16 who are arrested and prosecuted for crimes are truants. It is startling to know that some cities report as many as 70 percent of daily student absences are unexcused, and the total number of absences in a single city can reach 4,000.

Moreover, society pays a very heavy social and economic price due to truancy. Only 34 percent of inmates have completed high school education, and we all are well aware of the staggering costs associated with incarcerating an individual. Sadly, as many as 17 percent of youth under the age of 18 that enter adult prisons have not completed eighth grade, 75 percent have not completed 10th grade.

Put in graphic economic terms, it is estimated that truants and high school drop outs cost the nation $240 billion in lost earnings and foregoing taxes over their lifetimes, and the cost of associated crime control is staggering and perhaps immeasurable.

In most cases the parents may not be aware their child is truant, and we have to do a better job of notifying them when a child is not in school. Most studies indicate that when parents, schools, law enforcement and community leaders all work together to prevent truancy, to intervene at its early stages, and to create meaningful accountability, we can increase school attendance and reduce daytime crime rates.

Because truancy is usually an indicator of later delinquency and criminal behavior, we have one of the best opportunities to identify the kids that are on track to later problems and to intervene before the problems get too serious. The unfortunate truth, however, is that is addressing juvenile crime, we have not focused enough attention on this specific issue, and although prevention programs can work, there is a lack of targeted federal funding for effective truancy prevention.

The Departments of Justice and Education both have recognized truancy prevention as a key reducing juvenile crime. The Departments jointly have issued a series of reports called "Youth out of the Education Mainstream," that shine a positive spotlight on various proven comprehensive, collaborative truancy models from around the country.

Once such program is the Daytime Curfew Program in Roswell, New Mexico, and the Truancy Intervention Project in Fulton County, Georgia, administered by Judge Glenda Hatchett. Another successful program included in this Act is the Grade Court, which is Farmington, New Mexico, administered by Judge Paul Onuska. All of these programs integrate parental involvements with schools, law enforcement, judiciary, and other community stakeholders in a collaborative effort to reduce truancy and juvenile crime.

This Act authorizes $25 million per year targeted at building upon integral partnerships between local government, schools, law enforcement, and the courts. Without a doubt, $25 million is a very small price to pay when you consider the dividends we expect when young people stay in school and out of trouble.

In general, this Act provides incentives for partnerships between schools and local government, including local law enforcement to build parental involvement in situations where they may be useful and parental responsibility when necessary. The Act also provides incentives for these partnerships to develop meaningful penalties for young people and even their parents when truancy has become a chronic problem, and to allow schools the means to develop in-school alternatives to suspension and expulsion for chronic truants. This Act also will give schools the resources to acquire the technological tools to notify parents automatically in the event of an unexcused absence.

The Act is endorsed by the Youth Law Center, the Children's Defense Fund, and the National Network for Youth, which has more than 500 community youth-serving organizations and personnel nationwide all committed to helping keep our young people on track and keeping our communities peaceful. I thank these organizations for their assistance and know this Act will be enthusiastically received by many more important organizations. I urge my Senate colleagues to support the bill for passage this year.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truancy Prevention and Juvenile Crime Reduction Act of 1998".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Truancy is the first sign of trouble—the first indicator that a young person is giving up and losing his or her way.

(2) Many students who become truant eventually drop out of school, and high school drop outs are two and a half times more likely to be on welfare than high school graduates; twice as likely to be unemployed, or if employed, earn lower salaries.

(3) Truancy is the top-ranking characteristic of criminals—more common than such factors as coming from single-parent families and being abused as children.

(4) High rates of truancy are linked to high daytime burglary rates and high vandalism.

(5) As much as 44 percent of violent juvenile crime takes place during school hours.

(6) As many as 75 percent of children ages 13–16 who are arrested and prosecuted for crimes are truants.

(7) Some cities report as many as 70 percent of daily student absences are unexcused, and the total number of absences in a single city can reach 4,000 per day.

(8) Society pays a significant social and economic cost due to truancy: only 34 percent of inmates have completed high school education; 17 percent of youth under age 18 entering adult prisons have not completed grade school (8th grade or less), 25 percent completed 10th grade, and 2 percent completed high school.

(9) Truants and later high school drop outs cost the Nation $240 billion in lost earnings and foregone taxes over their lifetimes, and the cost of crime control is staggering.

(10) In many instances, parents are unaware a child is truant.

(11) Effective truancy prevention, early intervention, and accountability programs can improve school attendance and reduce daytime crime rates.

(12) There is a lack of targeted funding for effective truancy prevention programs in current law.

SEC. 3. GRANTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PARTNERSHIP.—The term "eligible partnership" means a partnership between 1 or more qualified units of local government and 1 or more local educational agencies.

(2) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(3) QUALIFIED UNIT OF LOCAL GOVERNMENT.—The term "qualified unit of local government" means a unit of local government that has in effect, as of the date on which the eligible partnership submits an application for a grant under this section, a statute or regulation that meets the requirements of paragraphs (12), (13), (14), and (15) of section 223(a) of the Juvenile Justice and Delinquency and Prevention Act of 1974 (42 U.S.C. 5633(a)).

(4) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, or any Indian tribe.

(b) GRANT AUTHORITY.—The Attorney General, in consultation with the Secretary of Education, shall make grants in accordance with this section on a competitive basis to eligible partnerships to reduce truancy and the incidence of daytime juvenile crime.

(c) MAXIMUM AMOUNT; ALLOCATION; RENEWAL.—

(1) MAXIMUM AMOUNT.—The total amount awarded to an eligible partnership under this section in any fiscal year shall not exceed $100,000.

(2) ALLOCATION.—Not less than 25 percent of each grant awarded to an eligible partnership under this section shall be allocated for use by the local educational agency or agencies participating in the partnership.

(3) RENEWAL.—A grant awarded under this section for a fiscal year may be renewed for an additional period of not more than 2 fiscal years.

(d) USE OF FUNDS.—

(1) IN GENERAL.—Grant amounts made available under this section may be used by an eligible partnership to comprehensively address truancy through the use of—

(A) parental involvement in prevention activities, including meaningful incentives for parental responsibility;

(B) sanctions, including community service and drivers' license suspension for students who are habitually truant;

(C) parental accountability, including fines, teacher-aid duty, community service;

(D) in-school truancy prevention programs, including alternative education and in-school suspension;

(E) involvement of the local law enforcement, social services, judicial, business, and religious communities, and nonprofit organizations;

(F) technology, including automated telephone notice to parents and computerized attendance system; or

(G) elimination of 40-day count and other unintended incentives to allow students to be truant after a certain time of school year.

(2) MODEL PROGRAMS.—In carrying out this section, the Attorney General may give priority to funding programs that attempt to replicate 1 or more of the following model programs:

(A) The Truancy Intervention Project of the Fulton County, Georgia, Juvenile Court.

(B) The TABS (Truancy Abatement and Burglary Suppression) program of Milwaukee, Wisconsin.

(C) The Roswell Daytime Curfew Program of Roswell, New Mexico.

(D) The Stop, Cite and Return Program of Rohnert Park, California.

(E) The Stay in School Program of New Haven, Connecticut.

(F) The Atlantic County Project Helping Hand of Atlantic County, New Jersey.

(G) The THRIVE (Truancy Habits Reduced Increasing Valuable Education) initiative of Oklahoma City, Oklahoma.

(H) The Norfolk, Virginia project using computer software and data collection.

(I) The Community Service Early Intervention Program of Marion, Ohio.

(J) The Truancy Reduction Program of Bakersfield, California.

(K) The Grade Court program of Farmington, New Mexico.

(L) Any other model program that the Attorney General determines to be appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 1999, 2000, and 2001.

ADDITIONAL COSPONSORS

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1647

At the request of Mr. BAUCUS, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1759

At the request of Mr. HATCH, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1924

At the request of Mr. MACK, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2180

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2217

At the request of Mr. FRIST, the names of the Senator from Nebraska (Mr. KERRY), and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2348

At the request of Mr. BURNS, the name of the Senator from New York

(Mr. D'AMATO) was added as a cosponsor of S. 2348, a bill to amend the Communications Act of 1934 to reduce telephone rates, provide advanced telecommunications services to schools, libraries, and certain helath care facilities, and for other purposes.

SENATE CONCURRENT RESOLUTION 109

At the request of Mr. COVERDELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of Senate Concurrent Resolution 109, a concurrent resolution expressing the sense of the Congress that executive departments and agencies must maintain the division of governmental responsibilities between the national government and the States that was intended by the framers of the Constitution, and must ensure that the principles of federalism established by the framers guide the executive departments and agencies in the formulation and implementation of policies.

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of Senate Resolution 199, a resolution designating the last week of April of each calendar year as "National Youth Fitness Week."

AMENDMENT NO. 3013

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of amendment No. 3013 intended to be proposed to S. 1112, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

AMENDMENTS SUBMITTED

CREDIT UNION MEMBERSHIP ACCESS ACT

GRAMM (AND ENZI) AMENDMENT NO. 3336

Mr. GRAMM (for himself and Mr. ENZI) proposed an amendment to the bill (H.R. 1151) to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions; as follows:

Strike section 204 of the bill and renumber the sections accordingly, and beginning on page 45, line 24, strike all through page 46, line 4, and redesignate subparagraphs (E) and (F) on page 46 as subparagraphs (D) and (E), respectively.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Tuesday, July 28, 1998, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is Substance Abuse: The Science of Addiction and Options for Treatment. For further information, please call the committee, 202/224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that an executive session of the Senate Committee on Labor and Human Resources will be held on Wednesday, July 29, 1998, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The committee will consider S. 1380, Charter Schools Expansion Act and S. 2213, the Education Flexibility Amendments of 1998. For further information please call the committee, 202/224–5375.

ADDITIONAL STATEMENTS

THE PASSING OF BUCK MICKEL

• Mr. HOLLINGS. Mr. President, as the Senate conducts its business today, South Carolina mourns the passing of one of its greatest citizens. Buck Mickel, a man who stands as a giant in the history of the Carolina Upstate, passed away Thursday morning, July 23. One of the greatest pleasures of my life has been my long friendship with Buck. I count it a privilege to have known him and to have learned from his example.

Every moment of Buck's 72 years was spent in dynamic enterprise and productive activity. He was a tireless dynamo, a man whose vigor and energy was rivaled only by his bold ideas, humanitarian impulses, and sincere humility. No simple description of Buck does justice to the scope of his activities or the importance of his full life to the lives of everyone who lives in the Upstate.

Buck was a savvy businessman. When he took the reins of Daniel Construction Company in the early 1960s, he steered it from its position as a successful, regional business to a thriving, global company. By the time he retired from active management of the company in 1987, he had expanded Daniel Construction's business, taken it public in 1969, and merged it with Fluor Corporation in 1977 to create today's construction and engineering giant, Fluor Daniel Corporation. In the meantime, he created thousands of jobs for South Carolinians and other Americans and helped lead the way in the creation of overseas operations for U.S. companies.

In fact, after Buck "retired" (any use of this word in connection with Buck Mickel must be taken with more than a grain of salt) in 1987, he continued to travel the world to help groom young Fluor managers for eventual leadership within the company.

Leadership was the theme of Buck Mickel's extraordinary life. His sense of duty and responsibility, with the recognition that he was a natural-born leader if ever there was one, informed every aspect of Buck's life.

Buck's prodigious achievements as a businessman and his famed savvy qualify him as a great success on their own. Les McCraw, who succeeded Buck as head of Fluor, summed up Buck's position in his field. "To say that he was a giant in the construction industry is a gross understatement," Mr. McCraw said. "He clearly was one of the all-time leaders in that industry and had been for 40 years."

But Buck's friends know his greatest passion was not commerce. He was consumed by a desire to enrich and expand the economic and cultural life of South Carolina, and he devoted every waking minute to those twin tasks. Robert Royall, South Carolina's Secretary of Commerce, said Buck "loved South Carolina as much as anyone I have ever known and contributed more to developing the state than anyone in my lifetime. . . . He was constantly thinking about ways to help the state."

Buck stayed in regular contact with almost everyone in public life in South Carolina. I spoke to him just last week, and as always, he was spinning ideas about how to help the state. In fact, Mr. President, the universal reaction among public figures in South Carolina since Buck's death has been disbelief. It's just hard to believe that a man so vital, so full of ideas and concern for others, could pass from among us. It may take awhile for us to realize the full import of his death, but when we do, I believe Buck's death will hit us as hard as any in our state's history.

Highest on the list of Buck's achievements is the revitalization of downtown Greenville, SC, and the tremendous development of the region's economy. As the Greenville News wrote, Buck "put his imprint on virtually every civic project in Greenville for almost half a century." Buck was instrumental to Greenville's building its Peace Center for the Performing Arts, which has won national acclaim as a venue for the live arts; restoring numerous dilapidated buildings in Greenville proper; luring important businesses back to the downtown area; and raising funds for a new sports arena. These developments have transformed Greenville in a way impossible to imagine if you haven't lived there, Mr. President.

Of course, Buck's beneficence and energy were by no means limited to Greenville. He helped attract Michelin, BMW, and other international businesses to the state. Buck supported secondary education—his support helped make the Governor's School for the Arts possible—and higher education. He and his wife, Minor, were active with Furman, Clemson, and

Wofford Universities, as well as with the University of South Carolina. Buck rose from humble origins and relied on a scholarship to Georgia Tech University, so he knew the importance not only of education but of financial support for those in need of aid. He and his wife gave generously of their time and money to South Carolina colleges and endowed many scholarships.

Buck Mickel's life has touched almost every life in my state. Because Buck was so humble and modest, most of those he helped do not even realize the debt they owe him. With Buck Mickel's passing, South Carolina has lost one of its greatest civic and business leaders. Quite honestly, Mr. President, I don't know how we will replace him.●

HONORING TRACIE MITCHELL

● Mr. SMITH of Oregon. Mr. President, in 1995, when I was privileged to serve as President of the Oregon State Senate, I was invited by State Representative Margaret Carter to tour Portland Community College, which was located in her district, in the heart of Oregon's largest city. As I represented a rural Eastern Oregon district, I looked upon this tour as a valuable learning opportunity. And what I learned was that PCC was offering a lifeline for many economically disadvantaged students who were seeking to build a better future for themselves and their family.

I was so impressed with the work of PCC, that when I was elected to the United States Senate, I approached PCC with the idea of each year giving one of their students the opportunity to serve as an intern in my Washington, D.C. office.

The student selected to serve as the first PCC intern was Tracie Mitchell, whose final day in my office is today. I just want to take a minute to salute Tracie, not only for her outstanding work in my office, but also for the outstanding accomplishments at home and in her career. Through the programs at PCC, Tracie, a mother of two wonderful children—Ruben and Shea, earned a degree in Microelectronics, and has gained employment at Tektronix, one of Oregon's outstanding high tech companies.

I know that Tracie is anxious to return to her children, her job, and her classes at PCC, and I thank her for her service to my office and to all Oregonians. If she has learned as much from her internship as my office as learned from her, then I know this summer has been a very rewarding experience.●

ORDERS FOR MONDAY, JULY 27, 1998

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday, July 27, and I further ask that when the Senate reconvenes on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate begin a period of morning business until 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I further ask unanimous consent that following morning business the Senate resume consideration of H.R. 1151, the credit union bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, when the Senate reconvenes Monday, there will be a period for morning business until 1 p.m. Following morning business, the Senate will resume consideration of the credit union bill. Several amendments are expected to be offered and debated. It is expected that Senator HAGEL will be on the floor ready to offer his amendment regarding credit union loans at 1 p.m. on Monday. It is also hoped that the debate could conclude by 2 p.m. on the Hagel amendment, and Senator MACK will then be recognized at approximately 2:40 p.m. for a 20-minute statement. Senator SHELBY is expected to offer his amendment regarding the CRA at 3:30 p.m., and we hope to conclude that debate by 4:30 when Senator GRAMM's amendment recurs under a previous consent. Therefore, additional votes, other than the previously ordered 5:30 p.m. vote, can be expected.

ADJOURNMENT UNTIL MONDAY, JULY 27, 1998

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:30 p.m., adjourned until Monday, July 27, 1998, at 12 noon.

HOUSE OF REPRESENTATIVES—*Friday, July 24, 1998*

The House met at 9 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

When all is said and done, O God, we are aware and appreciative of all Your gifts to us and to all people. We have been blessed in ways that have been greater than our deserving. Your grace has touched our lives with love and compassion and mercy. O gracious God, from whom all blessings flow, we ask Your benediction on us and those about us that in all things Your hand will sustain us and Your mercy will be without end. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. SOLOMON) come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 39. An act to reauthorize the African Elephant Conservation Act.

H. Con. Res. 298. concurrent resolution expressing deepest condolences to the State and people of Florida for the losses suffered as a result of the wild land fires occurring in June and July 1998, expressing support to the State and people of Florida as they overcome the effects of the fires, and commending the heroic efforts of firefighters from across the Nation in battling the fires.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain one-minutes after legislative business.

PATIENT PROTECTION ACT OF 1998

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 509 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 509

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4250) to provide new patient protections under group health plans. The bill shall be considered as read for amendment. The amendments printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by Representative Hastert of Illinois and a Member opposed to the bill; (2) the further amendment printed in the Congressional Record and numbered 2 pursuant to clause 6 of rule XXIII, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, I am going to depart from normal custom and yield the first minute of this to the distinguished gentleman from New York (Mr. LAZIO) for a matter of colleague comity.

(Mr. LAZIO of New York asked and was given permission to speak out of order.)

HONORING THE HONORABLE ROB PORTMAN

Mr. LAZIO of New York. I want to thank the gentleman from Florida (Mr. GOSS) and the gentleman from New York (Mr. SOLOMON) for their courtesy.

Mr. Speaker, I rise to honor my pal and colleague, the gentleman from Ohio, Mr. ROB PORTMAN. He is one of the most accomplished people in this Congress. He stood up for America's taxpayers and was the driving force behind the landmark IRS reform bill signed into law this week. He authored the National Underground Railroad Act signed into law this week. By preserving underground railroad sites, America celebrates the journey of slaves from bondage to freedom.

The gentleman from Ohio is the congressional leader in the war against drugs. His Drug-Free Communities Act, signed into law, will give us peace of mind when our children are away from home. His pro-business mandates legislation is the law of this House and his pro-environment tropical rain forest legislation should be signed into law next week.

In an era when bipartisanship is essential for legislative success, Rob Portman is the even-headed leader we need. He is balanced and principled, substantive, competent, intelligent. He is a man of integrity, of modesty and of great character.

The gentleman form Ohio, Mr. ROB PORTMAN, gets the job done for families in Cincinnati, in Ohio, and throughout America.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to announce that the rules do not allow Members to wear badges when they are addressing the House. The Chair will enforce this rule throughout the debate today.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a structured rule that allows timely consideration of this very, very important legislation on health care. In yesterday's Rules meeting, which actually went on for quite a while, the minority requested that the Dingell substitute be made in order and we indeed have obliged them in this rule. It provides for 1 hour of debate on the Patient Protection Act to be equally divided between the gentleman from Illinois (Mr. HASTERT) and an opponent, and 1 hour of debate on the Dingell substitute. These are two very different approaches to providing better health care for more Americans and I am sure that we will have quite a vigorous debate on the merits of each today. Finally, the rule provides for one motion to recommit with or without instructions. In effect, giving the minority two bites at the apple. I certainly feel this is a fair rule.

Mr. Speaker, today we will move to restore true patient power. The Patient Protection Act is the only bill that restores commonsense patient protections to Americans while also extending affordable coverage to the 41 million Americans who currently lack it and cannot get health care coverage. One clear difference between the two approaches is the fact that the Kennedy-Dingell Patients' Bill of Rights

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

makes no effort to secure affordable health insurance for the 40-plus million Americans who have none currently. In fact, when asked what the Kennedy-Dingell bill does for uninsured Americans, the minority leader in the other body reportedly summed it up in two words, and I quote, "Not much." Instead of turning our backs on the uninsured, our bill attacks their problem head-on. We know that over 75 percent of uninsured Americans are in a family where the primary caregiver works for a small business. This is especially true in southwest Florida, which I represent, where mom and pop shops cannot afford to provide their employees with health insurance. The Patient Protection Act allows small businesses to pool their resources and the achieve economies of scale needed to offer quality, affordable health insurance to their employees. If it is good enough for the Microsofts and the IBMs and the GMs of the world, should it not be good enough for the little guys, too? We take care of that.

As with any major proposal, there comes a certain level of misinformation and this effort is no exception. Many of my friends on the other side of the aisle have confused a patient's bill of rights with a trial lawyer's right to bill. Under our bill, patients would still have the right to sue their HMO for malpractice and that includes punitive damages. I wonder how many times I am going to be saying that in the next few months. Under our bill, patients would still have the right to sue their HMO for malpractice, and that includes punitive damages. I think we are going to be hearing some debate on that subject today. If the HMO runs the wrong tests on you or they happen to cut off the wrong foot, you will have recourse through the courts, of course. That is essential and that is protected. But as we studied the problem and talked to people, the folks who were being denied care in what we call coverage disputes, we thought we could do better than settling for, or encouraging even more litigation. I do not know many people who have gotten much good medical attention in a courtroom. We came to the conclusion that we have an innovative solution that assures patients get the care they need, up front, when they need it, at a place they need it, from a doctor, from a real medical person. Our expedited internal and external appeals process means that if your HMO denies your experimental treatment, or your treatment, you will be able to have a doctor, independent of the HMO, review that decision. Of course if you are unsatisfied at the end of that process, you can take the offending HMO to court. However, unlike the current law, the judge will have the flexibility to serve a fine up to $250,000 against the HMO plan. This is not available under current law and it is a healthy and reasonable constraint on HMO abuse. I know it has already got their attention.

We have provided commonsense patient protections in this package. Women will have direct access to their OB-GYN. Kids will get to see a pediatrician without any red tape or having to get permission from a government official. And, most importantly, doctors will have no restrictions on the recommendations they give their patients. No gag rule. These are positive steps to improve the doctor-patient relationship, not a retreat into more nonsensical and, I would say, very expensive bureaucracy that other approaches take.

Mr. Speaker, as a member of Chairman HASTERT's working group, I can assure you that we have worked hard and I think we have come up with a pretty good package that provides real protections without returning us to the days of double-digit inflation. I encourage my friends on both sides of the aisle to ignore the demagogues and focus on the pro-patient, pro-small business, pro-family provisions in our health care bill. I believe they will find it is worth reading.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no doubt that the American public wants managed care reform. Today we have the opportunity to respond. At long last after months and months of denying that a problem exists, the Republican majority has agreed to let the House vote on a bill that seeks to provide a response to the concerns of millions of Americans. While what we have before us today is two bills, one written behind closed doors by the Republican leadership and supported by the insurance industry, there really is only one bill which meets the critical test of addressing the concerns of our constituents. That bill is a bipartisan proposal supported by doctors, nurses and consumers.

Mr. Speaker, there are two bills before us today, but if we listen carefully to what our constituents have been saying, there is little doubt how we should vote. Only the bipartisan bill sponsored by the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL) really offers working families what they have been asking for. The bipartisan Ganske-Dingell Patients' Bill of Rights assures working families access to necessary medical care and will return health care decision-making to patients and their doctors. The bipartisan bill will give patients real remedies for real problems. The Ganske-Dingell Patients' Bill of Rights will reform a system that is badly in need of repair.

My Republican colleagues will say today that the bipartisan bill is nothing more than big government. They will say the bipartisan bill is nothing more than a lawyers full employment act. Well, if that is the case, Mr. Speaker, why then is the Ganske-Dingell substitute supported by the American Medical Association, an organization not normally known to support big government or trial lawyers? Why then is it supported by the American Nurses Association, an organization representing those health care givers closest to the patient? Why then, Mr. Speaker, is it supported by consumer groups and opposed by insurance companies? The arguments my Republican colleagues will make against the Ganske-Dingell bill are just plain bogus and no one should be fooled. Ganske-Dingell offers real reform, not just election year posturing.

That we are even able to consider and debate Ganske-Dingell today is testimony to the power of the call of the American people. For far too long, my Republican colleagues have denied that there is a problem, but the voices of working families who have been demanding that the Congress respond to their real concerns has been heard.

□ 0915

In their efforts to deny the House the opportunity to respond to those concerns, the Republican leadership had us guessing until 12:30 a.m. this morning whether they were even going to give the bipartisan substitute a place at the table. I suspect that only after it became clear that the rule might not pass without the Ganske-Dingell amendment made in order that the Republican leadership relented and agreed to make the substitute in order.

Mr. Speaker, every Member in this House needs to recognize that the bipartisan substitute offers American working families something more than election year rhetoric. Ganske-Dingell is a good bill and deserves the support of every Member of this body. To do less is to do disservice to our constituents. I urge Members to do the right thing and to support Ganske-Dingell.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield as much time as he may consume to the distinguished gentleman from Glens Falls, New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I was not going to speak this morning. We spoke enough yesterday and last night into the wee hours. But I just want to make sure that all the Members on both sides of the aisle know, as the gentleman from Florida (Mr. GOSS) has just outlined, that this is a negotiated fair rule that was approved by the Democrat minority.

The Dingell substitute is made in order with ample time for debate so that this House has its choice, and that is the way that it should be. I just want to point out that we are going to be somewhat repetitive here, because what is going to be said now in this next hour on the rule could have not been wasted if we had had unanimous consent.

The gentleman from Michigan (Mr. DINGELL) last night agreed to unanimous consent to bring this bill on the floor without taking this extra hour of time on the rule. That means that Members could have gone back home. It is difficult in these last 3 or 4 weeks now before we recess for the August break, and taking up the rule today is going to add another hour and a half. It is too bad that the Democratic minority objected to us offering a unanimous consent to bring this bill on the floor, and I just wanted Members to know that.

But I hope that they will come over and vote for the rule, vote for the bill, and we will at least will have made some great progress in patients' rights.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman from New York was bemoaning the fact that we could not bring this measure up under unanimous consent but, rather, that we would have an hour's debate on the rule. This may be the most important piece of legislation we will consider this year. Certainly it is reasonable to have an hour debate on the rule on this matter.

The other side was so anxious to bring this up quickly early this morning and out of the line of fire without public attention. It is clearly appropriate to have an hour's debate on the rule.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I thank my colleague and friend, the gentleman from Texas, and a Member of the Committee on Rules for allowing me to speak this morning.

I rise, not in opposition to the rule, but in opposition to the process where we have gotten to today, Mr. Speaker. Managed care reform is not about politics; it is about people.

We have a responsibility to guarantee the American people top quality health care. We have a responsibility to protect our children from negligent medical decisions made by insurance companies.

The Republican proposal that we will be debating today is simply profit over people. The only people in our country who are guaranteed immunity from their decisions are foreign diplomats and HMO officials.

We cannot really have a Patients' Bill of Rights without access to specialists, a timely internal and external appeals process, point of service options, choice for our patients, accountability of that decision matter, and open communication between the patient and a provider; in other words, no gag rule.

Can we honestly say that the system will protect patients without an enforcement mechanism, without an accountability? There is no responsibility.

The Republican bill that will be voted on today never enjoyed a public hearing. It was drafted behind closed doors. In fact, I serve on the committee that would have been helping draft this bill, and we did have hearings over the last few months, but this bill never had a public hearing.

We did not see it until late last night. Do my colleagues know why? Because, one, it does not end gag rules. It does not define severe pain as a reason a constituent of mine can go to the emergency room. It also does not actually provide for the point of service option that we want, the choice for that patient. That is easily bypassed by the HMO decision makers.

The Republican bill also will decide what medically necessary is. My concern is we are not giving the patient and that physician or that provider the decision making that the Democratic bill provides; and that is why, later on today, we hopefully will pass the Dingell-Ganske bill.

Mr. Speaker, I include the following for the RECORD:

ISSUES OF CONCERN IN THE HASTERT TASK FORCE BILL

Does not end gag rules

While the bill claims to end gag rules, the statutory language creates a loophole that guts the protection. Under the Balanced Budget Act, Medicare and Medicaid plans cannot "prohibit or otherwise restrict" medical communications. The GOP bill only refers to prohibitions. So a plan could "allow" medical communications, but only after the doctor first complies with certain restrictions (such as calling the plan first and delivering the advice in pig latin). The deletion of the words "or restrict" render this protection hollow. This also creates the possibility for lawsuits over whether something is a restriction or a prohibition.

Does not define/include "severe pain" as a reason to get "emergency medical care

The access to emergency care language in Medicare and Medicaid contains a specific definition of what a prudent layperson would think required immediate treatment: "a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—(1) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, (2) serious impairment to bodily functions, or (3) serious dysfunction of any bodily organ or part."

By contrast, the GOP bill does not include "severe pain" as a condition that health plans must cover in the emergency room. The deletion is significant. For example, the American Heart Association advises that anyone experiencing crushing chest pain should go to the ER immediately, as that is a warning sign of a possible heart attack.

Under H.R. 4250, a health plan can refuse to pay the ER bills of a man who went to the emergency room with crushing chest pain but whose EKG came out negative. That might be only a temporary result; he might have a heart attack when the plan gives him a bill for the ER services!

Allows the plan to decide what is "medically necessary"

At its heart, the debate over HMO reform is really about ensuring that health care decisions are made by doctors and patients, not by HMO business executives. H.R. 4250, however, does not fulfill that promise. Under the disclosure section, plans must inform participants of whether care may be excluded because "of a failure to meet the plan's requirements for medical appropriateness. . . ." In other words, it is not the doctor and patient who decide what is medically necessary; it is the plan which retains that capability.

During Commerce Committee testimony two years ago, Dr. Linda Penno, a former HMO medical reviewer, described this as a plan's 'smart-bomb' capability. By retaining the power to define what is and what is not medically necessary, the plan is able to take control of health care decisionmaking.

This is also relevant to the external appeals provisions of the Hastert Task Force Bill. The review is limited to whether the plan followed its own definition of medical necessity or whether or not a treatment is experimental.

Point of service provision is easily by-passed

The most powerful argument in the health care debate is the right to choose your own doctor. The GOP bill attempts to respond to this by including a point of service provision for closed panel HMOs (allowing patients to see providers outside the network). H.R. 4250, however, contains loopholes that effectively gut the provision. Employers would not have to offer employees point of service coverage if they could prove that this will cause premiums to rise just 1%—even if all of the added costs would be borne by employees who chose this option! And this "proof" could be prospective—meaning a company would not have to offer a single employee a POS option to determine its actual effect on premiums.

I am concerned that it will be easy for employers to "prove" that premiums will increase 1%. For example, one study by opponents of this legislation suggested that managed care reform legislation would increase premiums between 3 and 90%. While CBO's very low estimate of 4% should put those wild allegations to bed, they show how easy it is to prospectively make a doom and gloom forecast with a straight face. Combine that with the fact that insurance premiums are expected to take a big jump this year, and it is not hard to see how health plans will be able to use the 1% threshold to avoid offering their employees a choice of health care providers.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I want to thank the Committee on Rules for bringing a fair rule to the floor. I intend to support it. I encourage all my colleagues to support the rule.

Mr. Speaker, think about how far we have come in the last 6 months. Six months ago, we would have never had this debate on the abuses in managed care. Today we are going to have that debate.

Let me briefly outline some of the arguments you will hear today so you can evaluate the competing proposals. Here is a sample of key protections which are not included in the Hastert task force bill, but are included in the substitute plan that I will offer:

The Ganske-Dingell substitute provides patients with access to clinical trials. The Hastert bill does not.

The Ganske-Dingell substitute allows doctors to override drug formularies when medically necessary. The Hastert bill does not.

The Ganske substitute provides for ongoing access to specialists for chronic conditions. The Hastert bill does not.

The Ganske substitute prevents plans from giving doctors financial incentives to deny care. The Hastert bill does not.

The Ganske substitute has hospital stay protection for mastectomy patients. The Hastert bill does not.

The Ganske substitute provides choice for doctors within the plan. The Hastert bill does not.

The Ganske substitute has a provision for guaranteeing continuity of care when providers leave the network. The Hastert bill does not.

The Ganske substitute requires plans to collect quality data or to maintain quality improvement programs. The Hastert plan does not.

There are other significant provisions in the Hastert bill that are of significant concern. The Hastert bill allows a plan to decide what is medically necessary. The Hastert bill requires enrollees to spend their own money to secure an independent review.

Finally, I would draw your attention to the HealthMart and MEWA, Multiply Employee Working Association, provisions which could make it more difficult for States to fund high-risk pools and other programs to help keep health insurance affordable. I am glad to support the rule. I look forward to the debate today.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding to me. I am going to oppose this bill today and I am going to oppose the rule here today, because we are going to have 2 hours, basically, to debate this bill.

I think it shows the insensitivity of this rule, insensitivity to basic rights that every American demands, and insensitivity to a basic understanding to health care in this Nation.

We as parents, we all know the world stops when a child falls ill. As sons and daughters, we want the best for our parents when they need health care. As husbands and wives and brothers and sisters, when a family member is stricken, we insist that nothing comes between that patient and their health care. We want the best possible treatment. Unfortunately, the Hastert bill does not provide it.

That is what health insurance is supposed to be about. We pay for it, we have it, and we want it when we need it. The doctors, the nurses, the hospitals, the emergency room, the medicine, we want whatever it takes to get our child, our parents back healthy again. That is how it used to be.

But in the last years, millions of Americans have moved into managed care plans, and something got in the way. Priorities were shifted from patients to profits. Emergency room crises were compromised by boardroom considerations. Professionals in white lab coats start taking orders, not from doctors, but insurance bureaucrats. The delivery of top-notch health care became less important; and the bottom line, profit.

When we take a look at the bill today, we will see that the Democratic bill, the Ganske-Dingell bill is the only one that will get the job done for us when we pay for health care and we demand quality care.

The Democratic bill is designed to provide medical coverage. Medical professions will be back in control of medical decisions. Emergency care in an emergency, no questions asked, underneath the Democratic plan. Expedited appeals process to approve the care we deserve before it is too late. Access to a specialist when you need it.

I hope we will defeat this rule and put some time into the Democratic plan.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would note to the gentleman who just spoke that we have tried very hard to accommodate all the schedules. It is a busy time of year. But surely our plan is more sensitive for the debate of this important issue than the discharge petition that they have provided for.

Mr. Speaker, I am very pleased to yield such time as he may consume to the distinguished gentleman from Illinois (Mr. HASTERT), the leader of the Speaker's task force on health care.

Mr. HASTERT. Mr. Speaker, today is an important day for American families. Today we will take a step forward to strengthen the Nation's health care system. Today we will debate and vote upon the House Republican-sponsored Patient Protection Act.

Our legislation is the only proposal on the table that truly protects patients and guarantees choices without the heavy hand of big government. Specifically, our bill guarantees patients have increased access to affordable health care they need when they need it most by holding insurance companies accountable.

How? Our proposal guarantees the unprecedented expedited review process internally and externally. We want patients to receive the care they need first rather than be thrown into a long, drawn-out legal process controlled by lawyers after harm or death has occurred. Patients should be treated in hospital rooms, not courtrooms.

Besides true accountability, our plan has another major advantage over other proposals in this Congress. The Patient Protection Act is the only bill which will help cover the 42 million uninsured working Americans.

We create new initiatives to guarantee more access to affordable health care choices. Association Health Care Plans, HealthMarts, Community Health Organizations, and Expanded Medical Savings Account help employees and employers work together to provide the coverage that best meet their need.

As a matter of fact, just this week at a news conference, the Senate minority leader TOM DASCHLE was asked, "What does the Democrat plan do for the uninsured?" His response, "Not much." At least he was truthful.

I hope my colleagues on the other side of the aisle today are just as forthright and resist the temptation to distort the facts about what is in the House Republican plan. We truly believe that high quality health care depends upon the patient-doctor relationship.

Personally, I believe that doctors owe their patients the benefit of their education, the benefit of their experience, and the benefit of their good judgment. Medical decisions should be decided by doctors, not by insurance company bureaucrats.

We prevent health plans from gagging doctors for explaining the full range of treatment options available no matter what the cost, no matter if the other options are covered by the plan or not. We also ensure patients have ready access to emergency room care and prohibit their health plan from arbitrarily refusing to pay for it. We guarantee that women and children have direct access to their doctors without having first going to the insurance company gatekeeper.

Our proposal will also empower patients and doctors through information. It creates new access to plan coverage information while also protecting individual patient records from abuse through new confidentiality requirements.

□ 0930

Access to affordable health care is a fundamental patient protection. Without affordability, you cannot have accessibility, nor, for that matter, health care coverage at all. As you can see, we are protecting patients and guaranteeing choices, without the heavy hand of big government.

Mr. Speaker, we must have a comprehensive approach to meeting America's health care needs. Our Patient Protection Act is the only proposal before Congress that increases accessibility, affordability and accountability in our health care system. I urge my colleagues to support this rule so we can deliver the health care reform that Americans need.

Mr. FROST. Mr. Speaker, I yield three minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I do want to first thank the gentleman from Michigan (Mr. DINGELL) and the gentleman from Iowa (Mr. GANSKE) and the members of the Democratic Health Care Task Force and all those who worked very hard to make sure that this substitute came up today. The discharge petition effort, which I think has over 190 Members, and other efforts to appear before the Committee on Rules finally brought fruit, I think, and made it possible for us to bring the substitute up today, and that hard work, I believe, paid off.

In my view, there is nothing more important in the managed care debate than giving patients the right to hold their HMO accountable when they are denied the care they need. Any legislation that fails to give patients that renders the protections within it absolutely meaningless. The Patient's Bill of Rights includes an enforcement mechanism which ensures patients will finally get that right. Our bill repeals the ERISA exemption, the 1974 law which shields HMOs from being sued if they deny people needed care.

The other bill we are considering today, the Republican bill, does nothing to hold HMOs accountable for their actions. If not only leaves ERISA essentially intact, it actually exacerbates the problem. Its external appeals process only applies to people whose insurance comes under ERISA. Individuals in the private insurance market are left without any external recourse when they are denied care. What is even worse is that those who are fortunate enough to be covered by ERISA are subject to the HMO's definition of "medical necessity."

The Republican bill allows HMOs, and not doctors and patients, to define "medical necessity." This provision, of course, flies in the face of the whole idea of managed care debate, that medical necessity should be the determinant of whether or not a patient needs care and not cost considerations. It all but guarantees that insurance company bureaucrats will continue to make medical decisions and people will continue to be denied care because of it.

I also want to dispel a myth that my Republican colleagues have been working overtime to spread. The Patients' Bill of Rights does not create any new Federal legislation. Repealing the ERISA exemption would simply allow patients to go back to their states, where individuals would normally bring suit. In other words, the Patients' Bill of Rights does not create a new Federal remedy. Its approach is essentially states' rights by repealing a Federal preemption.

Another piece of propaganda the Republicans have been actively spreading is the charge that the Patients' Bill of Rights provides for employers to be sued for medical malpractice. This is patently false. In fact, the Patients' Bill of Rights specifically excludes employers from liability. Any employer can only be held liable if they intervene in a medical decision that leads to injury or death.

Mr. Speaker, President Clinton recently said that "a right without a remedy is not a right," referring to HMOs. If you want good patient protections, and, just as importantly, enforcement of those protections, vote "yes" on the Patients' Bill of Rights and vote "no" on the Republican bill.

Mr. GOSS. Mr. Speaker, I yield two minutes to the distinguished gentleman from Kentucky (Mr. BUNNING).

Mr. BUNNING. Mr. Speaker, I rise in strong support of the rule and the Patient Protection Act. This bill is a well-crafted piece of legislation which addresses many of the problems facing our Nation's rapidly changing health care system.

What the bill does makes it worth supporting. It strengthens health care plan accountability by providing a system of reviews and appeals, to make sure that Americans who have health insurance get the care they need when they need it; it guarantees patients' choice by ensuring a point of service option, so that patients have the freedom to see the provider of their choice; it expands the availability and affordability of health insurance for millions of Americans through the creation of HealthMarts and Association Health Plans, by creating Community Health Center networks, and by expanding Medical Savings Accounts; it guarantees the right of patients to emergency room service; it guarantees the right of women to have direct access to their OB-GYN; it guarantees parents the right to direct access to pediatricians for their children.

These are much-needed improvements, and they are the one big reason to support the Patient Protection Act, the things it does.

But there is another reason to support the Patient Protection Act, and that is what it does not do. It does not load down the health care system with a new layer of bureaucracy; it does not guarantee an explosion of unnecessary costs and costly litigation, it puts people into care, and not into courtrooms; and it would not increase the cost of health care dramatically, like the Patients' Bill of Rights would do.

Mr. Speaker, it is a very good piece of legislation because of what it does, and even because of what it does not do.

I urge my colleagues to support the Patient Protection Act.

Mr. FROST. Mr. Speaker, I yield two minutes to the gentlewoman from the Virgin Islands (Ms. CHRISTIAN-GREEN).

Ms. CHRISTIAN-GREEN. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I rise in support of the Ganske-Dingell bill. As a physician who has practiced medicine for more than 20 years, I know well many of the troubling aspects of the industry, particularly as they affect minorities. That is why I rise today to support the Ganske-Dingell bill and to bring to this body's attention and to the attention of the American people an issue which might not be discussed today, the discrimination of African-American physicians and patients by managed care plans.

Because minority physicians often serve poorer, sicker and are often solo practitioners and not a part of a group that makes a tidy profit each year, we do not make attractive candidates for inclusion into managed care plans.

Similarly, because minority patients are often uninsured and receive medical assistance from programs such as Medicare and Medicaid, they are also not attractive sources of revenue to such plans as well. As we seek to reform the managed care industry, we must not forget the concerns of minorities in this effort and their struggle to have their health care needs addressed.

My friends in the majority must stop playing politics with the lives of the American public and pass the Patients' Bill of Rights. The people who put us here and depend on us have asked us for and deserve a better health care delivery system. The Ganske-Dingell bill does that. I urge its passage. Let us put the "care" back in health care.

Mr. FROST. Mr. Speaker, I yield three minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, before coming to this Congress, I worked each day in a much different place, in a courtroom, as a judge on the highest court in Texas. I was called a justice, as were my colleagues, and asked to do justice. And yet, time after time, I found my hands and those of my colleagues tied by a Federal law.

We saw victims of injustice, who had suffered not only some grievous loss in terms of an illness or an injury, but the same families who suffered abuse at the hands of insurance companies, and, because of a law that was passed in this National capital, we were powerless to do anything about it.

Recently the State of Texas became the first state to pass a new law to try to hold these managed care companies accountable for what they were doing. And, wouldn't you know it, the same insurance companies that used to come into my court went into another court to try to block this new state accountability law.

Today that same group of health care companies finds willing allies over here from the Republican leadership to help them continue to do the very same thing. They are folks who would deny help to the infirm. What is happening here is much like a firefighter, who sometimes builds a small fire in order to stop a much larger fire. There is a fire of outrage burning across this country, as one family after another suffers abuse and limitation of care at the hands of managed care companies.

So the Republican leadership has come forward today in a very contrived fashion. They tried to provide the least amount of reform possible and still call it "patients rights," while doing essentially nothing to untie the hands of judges all across this country to provide a remedy.

Mr. Speaker, they say that what they are about is providing help to patients and not getting lawyers in the process. But, you know, that is false under their whole procedure. They keep lawyers involved in the process. They keep them involved only for the insurance company, not for the victim of the insurance company's abuse. They say that it is okay to have the lawyers that write the loopholes, that counsel the insurance companies to interfere with some clerk, who never had any health care experience, in the best recommendations of a physician or other health care provider to help that physician's patient get well. But Republicans would deny any enforcement, any accountability, for that insurance company.

They say they are opposed to getting juries involved in this process, and that is also false. They simply leave the only jury as not a jury of one's peers, but an insurance company, that acts as judge, jury and, in too many cases, executioner when it comes to providing health care. We would remedy that through the Dingell proposal, not through some election year sop.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in support of the Ganske-Dingell bill and truly relish this debate. I truly wish we had more time for it.

Today we are going to vote on a Republican sham HMO reform bill which actually leaves patients with less rights than they have under current law.

Let me give you an example. The GOP bill will repeal state laws that keep HMOs from giving out your private medical records. Under this Republican proposal, your employer could call for your medical records and your HMO could release your personal medical records without your permission.

But the worst thing about this political charade is that the Republican bill does not address the one problem that millions of Americans have asked us to fix, that doctors and patients should make medical decisions, not insurance company bean counters.

Under the GOP bill, HMOs will continue to define what is medical necessity and accountants will continue to decide what medical care Americans ought to receive. And if some HMO bureaucrat with no medical training makes a mistake that injures or kills you or a member of your family, you have no legal recourse. The GOP bill says, too bad, and tough luck.

This is a sham bill, and that is why the American Medical Association and dozens of other medical groups oppose it, and why the HMO companies support it. It has no protections and no enforcement mechanism. That is why the President has said he will veto it.

Let us pass real reform for the American people in this country. That is what they want, that is what they need. Pass the Democratic Patients' Bill of Rights. It is the way that we need to address the serious issue of getting back the decisionmaking between doctors and patients, and out of the hands of the HMOs.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, regrettably, the last speaker has been victimized by misinformation in the paper, in the Washington Post this morning, as have other Members. When we get to the debate we will explain that much of what was presented was incorrect.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. TALENT), a member of the special task force.

□ 0945

Mr. TALENT. Mr. Speaker, I thank the gentleman for yielding me this time.

I am very pleased to rise in strong support of the Patient Protection Act because it is the only bill on the House floor today that will provide health care coverage to millions of people, hard-working Americans who currently do not have it. It is the only bill that will ensure that Americans who have health care coverage get the coverage their physician recommends when they need it, before they get sick, and it is the only bill that does what it does without big government and big bureaucracy.

First, access to the uninsured. Mr. Speaker, there are 42 million Americans today who do not have health care coverage. Most of them work for small employers who, because of the high administrative costs and the low buying power with small pools, cannot afford to provide them health insurance. If they worked for IBM, they would have access to a variety of different options.

So what our bill does is allows those small employers to pool together and get the buying power of a pool. It will cover millions of people with good, private sector health insurance and provide many more choices to millions of those who currently only have one choice or two.

What does the Dingell bill do? What does it do for the uninsured? Well, according to a cosponsor from the other body, not much. In fact, the "not-much" plan is worse than not much, because according to the CBO, it will drive costs up to the point that 1.6 million people who now have health insurance will be thrown off the health insurance rolls.

Our bill also ensures that people will get the care they need when they need it, and does it without big government. It provides swift, certain, low-cost access for somebody whose physician has recommended care whose plan has turned it down to get that decision reversed. First internal review has to be before a physician, not a health care professional, not a nurse. That is a difference from the Dingell bill.

Second, automatic appeal has a right to an external review before physicians. The Dingell bill does not have that. We get people in the treatment rooms, not waste billions of dollars that should be spent on health care in the courtrooms.

Mr. Speaker, all of us who have dealt with this issue have dealt with the stories about people who have needed coverage and have had it denied by their managed care plans. Those are not just horror stories, they are horrible stories. Tales of human misery, of pain, of loss of babies, loss of limbs; that should not happen. Under our bill and only under our bill those stories would not have happened and will not happen in the future.

That is what this debate today is about, that is what this bill is about. It should not be about politics, it should not be about an issue for November; it should be about helping the people to get the care that they need when their physician recommends it. That is why I rise in strong support of the Patient Protection Act.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, it is ironic that I stand here and know so well that every taxpaying American has paid for much of the research that persons now are denied the result of.

I wish this was not such a partisan area, because we are dealing with the most basic need and right of the American people, and that is health care. No insurance company has the right to only insure young, healthy people.

I have heard all kinds of rhetoric about the bureaucracy. The bureaucracy rests with the insurance companies who are doing everything they can to deny care so that health care premiums can be used as cash cows. That is most unfortunate. Can we imagine someone who goes to an emergency room, very ill, very confused and frightened, and then be told they have to wait to get permission to take care of them. That is where we are today.

I do not understand, frankly, how we can become so committed to an industry, the insurance industry, that we forget that we are here to protect people.

Mr. Speaker, I rise against this rule because I do not want it to continue to gag physicians who have been educated and trained to take care of patients. I do not want to support a system that only makes money for the insurance companies. It has been never intended that health care services be cash cows for insurance companies.

This is a terrible rule. I hope we all understand that the people are crying out for help. They do not mean help the insurance companies. They want help themselves.

We owe it to the American people to offer them this protection. We have failed to do it with this Republican plan, and I rise against this rule and ask everyone to vote against it until we can produce a decent plan.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume to say to the gentlewoman that I hope she will be relieved to find when she reads our bill that we have, in fact, removed the gag order.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in support of the rule. Under the circumstances, the rule is very fair. It offers an opportunity for our side to vote for the Patient Protection Act as well as a vote for the opposition. I think that is quite fair, so I strongly support the rule.

I would like to call to the attention of my colleagues one particular part of our bill that I think is very important and addresses a problem I see as being very serious.

In 1996, the Kennedy-Kassebaum bill allowed for a national identifier and a national data bank to control all our medical records at a national level. This is very dangerous. In a bill that is called the Patient Protection Act, obviously the best thing we can do is protect patient privacy. If we do not, we interfere with the doctor-patient relationship, and this is a disaster.

This whole concept of a national identifier—the administration is already working to establish this—is dangerous and we must do whatever is possible to stop it.

I compliment the authors of this bill to prohibit this national medical data bank.

Mr. FROST. Mr. Speaker, I would inquire about the time remaining.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas has 11 minutes remaining and the gentleman from Florida has 10 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, I support the rule; I also support the Democrat substitute, and if it fails, I will support the Republican bill. Both bills are better than the current system, and the need for reform is greater than Democrat and Republican posturing.

Doctors should make decisions on our health care, not businessmen. Patients should be able to choose the doctor they want. Insurance companies and business managers without medical degrees should not be delivering our health care system.

Mr. Speaker, I say to my colleagues, this current system is not managed care; this system in America is managed cost. Dollars are all they see, not pain, not disease, not people, not children, not cancer, not cures; they see dollars.

The Congress of the United States is appropriately making necessary changes today, and these business people have to understand that the American people want a doctor, not an accountant, when they have a gall bladder problem, I say to my colleagues. And hospitals should not be throwing them out because of dollar concerns; it should be predicated on sound medical practice.

It is a shame when Congress has to intervene, but America has gone from the Hippocratic oath to hypocrisy in a managed cost health care system.

I will support whatever survives; it is better than the animal that still lives.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Speaker, I am glad to be a part of this debate. In my previous life I was part of the Kentucky General Assembly, and while they were altruistic legislators that created the disaster that we had in Kentucky, the fact is that that is exactly what they created, a terrible disaster.

We had what would be proposed today by the Democrats in the term of health care reform, and what it created were enormously escalating prices, prices that escalated so fast that we tried to intervene by capping the prices of our insurance premiums. What did that do? It chased 45 out of 47 of the insurance companies that were selling insurance in Kentucky right out of the State.

So what did our consumers in Kentucky get left with? They got left with higher prices for insurance, they got left with higher copayments, and they got left with fewer choices.

I am so proud to be here today, to be part of an effort to give the American people what they really want. What do they want? They want essential medical services. They want them to be affordable, both the insurance and the copayments, and they want more choices. We are taking a giant step in that direction today.

What we are doing is helping make sure that medical money stays in medicine. The American people resent the fact that they pay for their insurance, that their employer contributes to their insurance, and they make copayments, and a tremendous amount of that money gets diverted to lawyers, to court costs, to liability costs and to administrative costs.

We need to make sure that all the money we spend in medicine, understanding that there is a finite amount of money that gets spent on good health delivery, for patients when they need it.

We need to make sure that we do not create a bill that has so many mandates in it that we begin to say to the American people, you are going to pay more and more because we know what you need and want, not you. I thank the task force for creating this opportunity.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank my friend from Texas for yielding me this time.

Mr. Speaker, this is one of the most important issues that we are going to deal with in this Congress, how we provide patients protection in the health care system of this country. I am outraged, and I hope my colleagues are outraged, by the process that we are using in considering this legislation.

There have been no hearings on the Republican bill. It did not go through any of the committees of jurisdiction for the purpose of markup or to try to get the drafting done correctly, and no wonder that this bill is drafted so poorly. My Republican colleagues did not get it right. It is not going to do what they are advertising.

Let me just give one example. H.R. 815, which I introduced many, many months ago, deals with access to emergency care. We have 240 cosponsors of that legislation that adopts the prudent layperson standard so that an HMO has to reimburse a patient who should go to an emergency room. We passed it last year for Medicare and Medicaid, and yet the Republican bill does not get it right. It does not include pain. So if one has severe pain and reasonably should go to an emergency room, one's HMO can deny coverage. That is wrong. Even the HMOs acknowledge that pain is a reason to go to an emergency room. But my Republican colleagues did not put it in their bill and they did not allow a correction to be made. That is wrong.

Let me give another example. My Republican colleagues brag about an external appeal process, that they are giving the patients the right to take an appeal, but what they are not saying is they did not get that right. The decision is not binding on the HMO. It is not independent. The HMO gets to select the people that serve on the panel.

My Republican colleagues did not get it right.

There is legislation that has been filed that deals with external appeal, but my Republican colleagues did not bother taking it through the committees so that we could have that debate.

I urge my colleagues to adopt the bipartisan bill, which is our only chance today to provide meaningful patient protection.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Maryland (Mr. CARDIN), my friend, who is indeed my close friend. I did not get it exactly right in describing our bill as the debate will show, but that is why we have the debate.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER).

□ 1000

Mr. BOEHNER. Mr. Speaker, in just 3 years this Congress has delivered the first balanced budget in a generation, the first tax cuts from Washington in 16 years, and real reforms that are improving the lives of many who are on welfare today as they are able to move from welfare to work.

Today we are going to move in a bipartisan fashion to continue to add to our record of success and an opportunity to help the American people.

As I travel around my district, I have had many conversations with my constituents who are concerned about access to good-quality health care. As much as they want access, they are also concerned about making sure that it is affordable.

As I look at the two pieces of legislation that we are going to debate today, it is clear to me that the bill brought to us by the task force, headed by the gentleman from Illinois (Mr. DENNIS HASTERT), is a bill that does that. It empowers consumers, not lawyers. It makes sure that health care continues to be affordable and accessible for all Americans.

I think, in the end, that is what people want. They do not want to go to court. They want to be able to go to the doctor. They want to be able to get the treatments they need. And I think the empowerment that we see in our piece of legislation is exactly that.

The other bill that we will be debating, the proposal by the gentleman from Michigan, in fact creates an awful lot of big government, an awful lot of access to lawsuits and to lawyers and to courts, driving up the cost of health care. My greatest concern about the proposal from the gentleman from Michigan is that, by opening up employers to the lawsuit abuse that could occur, many employers in America are going to say we are not going to be providing health care coverage to our employees anymore.

I know myself, as a small employer, I would not continue to offer health care to my employees if I am subject to being sued by doctors, who may be on solid ground, maybe not. I am going to give them a voucher and let them go fight for their own.

I do not think that is what the American people want. They want reasonable access, reasonable cost to good-quality care.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding me this time.

When a child has a disease that can be cured, should the decision of whether to provide needed treatment be made by a doctor and the child's parents or by bureaucrats who are counting dollars and cents?

When a wife or mother has had a mastectomy and the procedure has not yet worn off, should she be forced to leave the hospital because of a rigid routine for saving dollars rather than saving lives?

When a husband and a father is unable to get prior approval from the insurance who he is paying for an emergency, should he be required to pay that medical bill himself?

When a grandfather is stricken with a life-threatening stroke, should the person transporting him be required to pass a hospital that is closest to him to go to one that is further away because a narrow-thinking person is more interested in saving dollars than, again, in saving lives?

H.R. 3605, which is the Patients' Bill of Rights, the Democrat substitute, indeed speaks to a number of basic rights that all of these patients that I just described should have and not have to suffer. The Republican bill, H.R. 4250, does not.

Many of the patient rights that we are talking about indeed does mean that a patient should have a right to sue. A patient should have a right to indeed hold us accountable for our liabilities and our rights. The patient should have a right to choose their doctor. A patient should have a right to choose other professionals that they desire.

H.R. 3605 does provide open communication. Although those on the other side say the gag clause is in there, I cannot find it. So I urge my colleagues to support the Patients' Bill of Rights, the Democratic substitute.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON), my colleague.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

As a physician who still practices medicine, I rise in strong support of this rule. I have worked in managed-care settings and I have worked in fee-for-service settings. The important issue here is can we, in Washington, pass legislation that will help restore the doctor-patient relationship and, importantly, help restore quality health care within managed-care networks?

Now, my good friends on the Democrat side of the aisle have their bill; we have our bill. We are going to have a very interesting debate here this morning. I think the important issue, which speaks of how much better our Republican bill is, is the fact our bill is the bill that is not going to drive up costs, where the Democrat bill will; and, importantly, our bill is going to enable people who are uninsured to have access to health care and help them to more easily afford health care.

I would encourage all my colleagues to support this rule. Listen to the debate during general debate and the debate on the amendments and, in the end, I believe our bill is going to pass. Our bill is the better bill for restoring quality, for restoring the doctor-patient relationship, for reducing cost and giving the uninsured better access to health care.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, it has been suggested that the Republican bill is better, a better protection for patients. I submit to my colleagues that the Republican bill is worse protection for patients than exists in current law in most of our States.

I come from Texas. The Texas legislature passed patient protection legislation in 1977, fully intending that all HMOs be covered by the protections of State law.

The Republicans submit a bill today that would control patient protections at the Federal level. It would set out a set of rules that are far inferior to those in the Democratic alternative.

On the Republican bill, if the HMO denied coverage, the only remedy would be to go, if an individual is in a self-insured plan, to Federal Court. And when that individual gets there, they will not have a remedy.

In 1971, Phyllis Cannon was diagnosed with leukemia. She appealed to her HMO for a bone marrow transplant. The HMO refused. For over 40 days the HMO refused coverage. About a month after that, she died.

The court ruled that, under ERISA, she had no recovery. Under the Republican bill today, she would be entitled, her estate, to $20,000, a small price for a life, the denial of treatment. Under the Republican bill, the penalty is $500 a day. A much cheaper alternative for an HMO than providing the treatment that should have been provided to Phyllis Cannon.

I submit to my colleagues that every Member of this House needs to look at what their State has done to protect patients, because a vote for the Republican bill is rolling back the protections that most of our States have already provided for patients under the law. In every place in this country, protecting patients enrolled in HMOs has been a bipartisan effort. Only in Washington is patient protection partisan.

Mr. GOSS. Mr. Speaker, may I ask for an accounting of the times again?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida (Mr. GOSS) has 6 minutes remaining and the gentleman from Texas (Mr. FROST) has 3 minutes remaining.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE), who is also a member of the task force as well as a member of leadership.

Ms. PRYCE of Ohio. Mr. Speaker, I thank my friend for yielding me this time, and I rise in strong support of this rule. And as a member of the working group on health care quality, I first want to thank our chairman, the gentleman from Illinois (Mr. DENNY HASTERT), for his patience and expertise and many hours of hard work that got us here today.

Mr. Speaker, the Patient Protection Act is the only managed care reform bill that goes beyond patient protection to address the issues of access and affordability of health care. Not only does this bill ban gag rules, provide emergency room access, and guaranty a choice of provider, it increases the number of people with insurance. It does that by helping small employers purchase affordable health benefits for their employees.

Now, it is nice to talk about quality. We all want the best health care we can get. But A-plus care does not help if we cannot afford to buy it. The Democrat proposal would price many, many people out of the market. We all know that more requirements, regulations, and government is not going to make insurance any cheaper. Rest assured, more government largess is just what we will get with the Democrat health bill.

Now, liability has become the rallying cry for the opponents of the Patient Protection Act. And the health care working group discussed this issue at length and came to some very rational conclusions. As a former judge, I think the solution we provide meets every legitimate goal of liability reform. The bottom line is that Americans pay a pretty sum for their health insurance and they expect it to cover the health care that they need when they need it. That is the crux of this debate.

Patients do not want bureaucrats denying their access to care; and when a claim is denied, patients want a quick remedy that relies on the opinion of a medical professional. But my Democratic colleagues would tell these dissatisfied patients that they must hire a lawyer and they send them off to court.

Mr. Speaker, what the Democrats fail to understand is that patients do not want a lawyer, a court date and expensive litigation. They want a doctor, a diagnosis, and treatment their doctor tells them that they need.

The Republican bill will get them that care by guaranteeing patient access to expedited review by independent medical experts. The Republican plan keeps patients out of court and in the health care system, and it requires the health plans to provide the coverage that they are promised.

The expedited appeals process in the Patient Protection Act gives patients the leverage they need to quickly get the care they deserve without going to court and waiting through years and years of litigation. I urge my colleagues to support patients, not lawyers' paychecks, and vote for this rule and the Republican Patient Protection Act.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is the real face of health care in America: A young boy who had a difficult birth and developed cerebral palsy. And at age 14 months the bureaucrats from the HMOs, the ones who are there just to ensure that those who need care do not get care, denied this young boy speech therapy and other kinds of therapies that he needed to have a better life.

Americans know the real deal. They understand what it means as they travel around this summer on vacation and something tragic happens and they go to an emergency room away from their State and that emergency room, because the HMO says they cannot come in, sends them away. They understand when a little one falls from a tree playing in the back yard and has pain; and the emergency room, because of the HMO, says no because all they have is pain as evidence of their injury and the HMO says pain is not enough.

I would say to my colleagues, Mr. Speaker, the real Bill of Rights is that of the Democrats, and that is what we need to support today. It is bipartisan, it is for real, it will the right health care coverage and the American people know the real thing.

Mr. FROST. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, the gentlewoman from Ohio (Ms. PRYCE) said what the Democrats know. Let me tell my colleagues what the Democrats know. When people commit wrongs, they do not want to be held accountable, and the Republicans are making sure that is true.

I rise today in opposition to H.R. 4250, the bill that my friends on the other side of the aisle claim reforms managed care. The previous speaker, the chairman of their conference, said what the Republican Congress had brought as it pertains to a balanced budget. We will argue that some other time. The fact is, this Congress has not brought hardly anything to the American public.

□ 1015

It is the do-nothing Congress.

This bill is on the floor today because a discharge petition was signed by the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL) and about 190 others of us, and says, we want a health care reform bill on this floor. That is the reason it is here and the only reason we are here today.

I rise in strong support of the substitute offered by the gentleman from Iowa (Mr. GANSKE), a Republican and a doctor, and the gentleman from Michigan (Mr. DINGELL), the former Chairman of the Committee on Commerce, now Ranking Member, and the next Chairman of the Committee on Commerce.

The Republicans have chosen to support H.R. 4250, the so-called "Patient Protection Act." They bring this bill to the floor today with no hearings, no mark-ups, and no CBO estimate. In other words, they were so panicked by the discharge petition, that they brought it to the floor without the regular process.

Mr. Speaker, the American public wants access to health care. The American public wants decisions made by their doctors and by themselves, not by, as all of us have said, insurance companies. They are right. But the American public will not be fooled as to which alternative gives them protection, as to which bill gives them access, and as to which bill allows them to hold accountable those who undercut their health care protection.

My colleagues, I ask you to support the Democratic substitute, the Republican substitute, supported by Members on the other side of the aisle, the Ganske-Dingell substitute, supported by Members on the other side of the aisle, which does in fact do what everybody says they want to do.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this debate has been on the rule. Very clearly, we have not heard much concern about the rule, with some question about sensitivity by one speaker. But I do believe we have got a better process here than a discharge petition. And I think we will have a fair, longer, more extensive, complete, and deliberative debate at a result of this rule. And I do urge that everybody support it. I honestly do not think it is controversial in any way.

What we are doing today is responding to the call of all American people for improvements in our health care system but particularly for those who have no health care insurance. We are not responding to the interests of any special groups or any special parties.

And there are plenty of those who are asking for special attention. I think we have responded to America, to the people of America, who need health care.

We are doing this in the same spirit that we resolved the job lock and portability problems, the preexisting condition problems. We are doing this in same way that made the trust fund whole in Medicare. We are addressing the problems in our country in health care and we are doing it responsibly.

There has been a lot said and there will be a lot more said, and there clearly is much misinformation. I even read some misinformation in the Washington Post this morning, which has obviously misled some of the speakers who have addressed this during this rule.

It is very clear that we have made a good bill, and it is very clear that not everybody understands it yet. It is also very clear that the Patient Protection Act does not have any big brother in it. There is no big brother in our bill. In fact, we put a halt to the big brother ID system that has been recently discussed and that so many Americans find extremely distasteful and an invasion of their privacy.

I think that many portions of the legislation that we have, as virtually everybody knows that is tuned into this, have already been through appropriate committees and they have been I think well put together and much debated.

I think the critical point probably is that what we have done in this bill is cut into the 42 million Americans, that big pool of people who do not have health care insurance, and given them the opportunity to get it.

The bill on the other side, the Dingell-Kennedy bill, adds, according to CBO, to the pool of Americans who will not have health care insurance. That is simply unacceptable. Accessibility to health care insurance is critical.

I want to close on a note that many will recognize. My wife and I experienced something this year that every parent dreads, a seriously sick youngster coming in and asking for health care and the plan that that child was under could not perform. I personally got involved with why and what went wrong.

So when I speak to my colleagues to say that I think we have a fix in the patient protection care, I speak to them as a parent, not as a legislator. I assure my colleagues, I would not be supporting this legislation if I did not think my sick youngster would be better off under this plan.

I urge support of this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 279, nays 143, not voting 12, as follows:

[Roll No. 335]

YEAS—279

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Chabot
Chambliss
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (VA)
Deal
DeGette
Delahunt
DeLay
Diaz-Balart
Dickey
Dingell
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Manton
Manzullo
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf

NAYS—143

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Bonior
Borski
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Castle
Clay
Clyburn
Condit
Conyers
Costello
Coyne
Davis (FL)
Davis (IL)
DeFazio
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Furse
Gejdenson
Gephardt
Green
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoyer
Istook
Jackson (IL)
John
Johnson (WI)
Johnson, E.B.
Kaptur
Kennedy (RI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lowey
Luther
Maloney (CT)
Maloney (NY)
Martinez
Matsui
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Minge
Mink
Moakley
Nadler
Neal
Oberstar
Olver
Owens
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Woolsey
Wynn

NOT VOTING—12

Chenoweth
Doolittle
Ford
Gonzalez
Gutierrez
Herger
Jefferson
Markey
Torres
Yates
Young (AK)
Young (FL)

□ 1040

Mr. RANGEL and Mr. MENENDEZ changed their vote from "yea" to "nay."

Ms. LOFGREN, Mrs. MCCARTHY of New York, Mr. BILIRAKIS and Mr. CRAMER changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HASTERT. Mr. Speaker, pursuant to House Resolution 509, I call up the bill (H.R. 4250) to provide new patient protections under group health plans, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. KOLBE). The bill is considered read for amendment.

The text of H.R. 4250 is as follows:

H.R. 4250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—The Act may be cited as the "Patient Protection Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subtitle A—Patient Protections.

Sec. 1001. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, and pediatric care.
Sec. 1002. Effective date and related rules.

Subtitle B—Patient Access to Information

Sec. 1101. Patient access to information regarding plan coverage, managed care procedures, health care providers, and quality of medical care.
Sec. 1102. Effective date.

Subtitle C—New Procedures and Access to Courts for Grievances Arising under Group Health Plans

Sec. 1201. Special rules for group health plans.
Sec. 1202. Effective date.

Subtitle D—Affordable Health Coverage for Employees of Small Businesses

Sec. 1301. Short title of subtitle.
Sec. 1302. Rules governing association health plans.

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Special rules for church plans.
"Sec. 813. Definitions and rules of construction.
Sec. 1303. Clarification of treatment of single employer arrangements.
Sec. 1304. Clarification of treatment of certain collectively bargained arrangements.
Sec. 1305. Enforcement provisions relating to association health plans.
Sec. 1306. Cooperation between Federal and State authorities.
Sec. 1307. Effective date and transitional and other rules.

TITLE II—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

Subtitle A—Patient Protections and Point of Service Coverage Requirements

Sec. 2001. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care.
Sec. 2002. Requiring health maintenance organizations to offer option of point-of-service coverage.

Subtitle B—Patient Access to Information

Sec. 2101. Patient access to information regarding plan coverage, managed care procedures, health care providers, and quality of medical care.
Sec. 2102. Reporting on fraud and abuse enforcement activities.
Sec. 2103. Effective date.

Subtitle C—HealthMarts

Sec. 2201. Short title of subtitle.
Sec. 2202. Expansion of consumer choice through HealthMarts.

"TITLE XXVIII—HEALTHMARTS

"Sec. 2801. Definition of HealthMart.
"Sec. 2802. Application of certain laws and requirements.
"Sec. 2803. Administration.
"Sec. 2804. Definitions.

SUBTITLE D—COMMUNITY HEALTH ORGANIZATIONS

Sec. 2301. Promotion of provision of insurance by community health organizations.

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Patient Protections

Sec. 3001. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care.
Sec. 3002. Effective date and related rules.

Subtitle B—Patient Access to Information

Sec. 3101. Patient access to information regarding plan coverage, managed care procedures, health care providers, and quality of medical care.
Sec. 3102. Reporting on fraud and abuse enforcement activities.
Sec. 3103. Effective date.

Subtitle C—Medical Savings Accounts

Sec. 3201. Expansion of availability of medical savings accounts.
Sec. 3202. Exception from insurance limitation in case of medical savings accounts.

TITLE IV—HEALTH CARE LAWSUIT REFORM

Subtitle A—General Provisions

Sec. 4001. Federal reform of health care liability actions.
Sec. 4002. Definitions.
Sec. 4003. Effective date.

Subtitle B—Uniform Standards for Health Care Liability Actions

Sec. 4011. Statute of limitations.
Sec. 4012. Calculation and payment of damages.
Sec. 4013. Alternative dispute resolution.

TITLE V—CONFIDENTIALITY OF HEALTH INFORMATION

Sec. 5001. Confidentiality of protected health information.

"PART D—CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION

"Sec. 1181. Inspection and copying of protected health information.
"Sec. 1182. Supplementation of protected health information.
"Sec. 1183. Notice of confidentiality practices.
"Sec. 1184. Establishment of safeguards.
"Sec. 1185. Availability of protected health information for purposes of health care operations.
"Sec. 1186. Relationship to other laws.
"Sec. 1187. Civil penalties.
"Sec. 1188. Definitions.
Sec. 5002. Study and report on effect of State law on health-related research.
Sec. 5003. Study and report on State law on protected health information.
Sec. 5004. Protection for certain information developed to reduce mortality or morbidity or for improving patient care and safety.

TITLE VI—MEDICAL SAVINGS ACCOUNTS FOR FEDERAL EMPLOYEES

Sec. 6001. Medical savings accounts for Federal employees.
Sec. 6002. Effective date.

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subtitle A—Patient Protections

SEC. 1001. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, AND PEDIATRIC CARE.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended further by adding at the end the following new sections:

"SEC. 713. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

"(a) PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE.—

"(1) IN GENERAL.—In the case of any health care professional acting within the lawful scope of practice in the course of carrying out a contractual employment arrangement or other direct contractual arrangement between such professional and a group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan, the plan or issuer with which such contractual employment arrangement or other direct contractual arrangement is maintained by the professional may not impose on such professional under such arrangement any prohibition with respect to advice, provided to a participant or beneficiary under the plan who is a patient, about the health status of the participant or beneficiary or the medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether benefits for such care or treatment are provided under the plan or health insurance coverage offered in connection with the plan.

"(2) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the group health plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech–language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse–midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

“(b) Patient Access to Emergency Medical Care.—

“(1) In general.—To the extent that the group health plan (or health insurance issuer offering health insurance coverage in connection with the plan) provides for any benefits consisting of emergency medical care (as defined in section 503(b)(9)(I)), except for items or services specifically excluded—

“(A) the plan or issuer shall provide benefits, without requiring preauthorization, for appropriate emergency medical screening examinations (within the capability of the emergency facility, including ancillary services routinely available to the emergency facility) to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary in order to determine whether emergency medical care (as so defined) is required, and

“(B) the plan or issuer shall provide benefits for additional emergency medical services following an emergency medical screening examination (if determined necessary under subparagraph (A)) to the extent that a prudent emergency medical professional would determine such additional emergency services to be necessary to avoid the consequences described in section 503(b)(9)(I).

“(2) Uniform cost-sharing required.—Nothing in this subsection shall be construed as preventing a group health plan or issuer from imposing any form of cost-sharing applicable to any participant or beneficiary (including coinsurance, copayments, deductibles, and any other charges) in relation to benefits described in paragraph (1), if such form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in section 503(b)(9)(I)) provided to such similarly situated participants and beneficiaries under the plan.

“(c) Patient Access to Obstetric and Gynecological Care.

“(1) In general.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan)—

“(A) provides benefits under the terms of the plan consisting of—

“(i) routine gynecological care (such as preventive women's health examinations), or

“(ii) routine obstetric care (such as routine pregnancy-related services),

provided by a participating physician who specializes in such care (or provides benefits consisting of payment for such care), and

“(B) the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider,

if the primary care provider designated by such a participant or beneficiary is not such a physician, then the plan (or issuer) shall meet the requirements of paragraph (2).

“(2) Requirements.—A group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) meets the requirements of this paragraph, in connection with benefits described in paragraph (1) consisting of care described in clause (i) or (ii) of paragraph (1)(A) (or consisting of payment therefor), if the plan (or issuer)—

“(A) does not require authorization or a referral by the primary care provider in order to obtain such benefits, and

“(B) treats the ordering of other routine care of the same type, by the participating physician providing the care described in clause (i) or (ii) of paragraph (1)(A), as the authorization of the primary care provider with respect to such care.

“(3) Construction.—Nothing in paragraph (2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered.

“(d) Patient Access to Pediatric Care.—

“(1) In general.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides benefits consisting of routine pediatric care provided by a participating physician who specializes in pediatrics (or consisting of payment for such care) and the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, the plan (or issuer) shall provide that such a participating physician may be designated, if available, by a parent or guardian of any beneficiary under the plan is who under 18 years of age, as the primary care provider with respect to any such benefits.

“(2) Construction.—Nothing in paragraph (1) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care.

“(e) Treatment of Multiple Coverage Options.—In the case of a plan providing benefits under two or more coverage options, the requirements of subsections (c) and (d) shall apply separately with respect to each coverage option.”.

(b) Conforming Amendment.—The table of contents in section 1 of such Act is amended by adding at the end of the items relating to subpart B of part 7 of subtitle B of title I of such Act the following new item:

“Sec. 713. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, and pediatric care.”.

SEC. 1002. EFFECTIVE DATE AND RELATED RULES.

(a) In General.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act, except that the Secretary of Labor may issue regulations before such date under such amendments. The Secretary shall first issue regulations necessary to carry out the amendments made by this section before the effective date thereof.

(b) Limitation on Enforcement Actions.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(c) Special Rule for Collective Bargaining Agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the provisions of subsections (b), (c), and (d) of section 713 of the Employee Retirement Income Security Act of 1974 (as added by this subtitle) shall not apply with respect to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2001.

For purposes of this subsection, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subtitle shall not be treated as a termination of such collective bargaining agreement.

(d) Assuring Coordination.—The Secretary of Labor, the Secretary of the Treasury, and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under the provisions of this subtitle, section 2101, and subtitle A of title III (and the amendments made thereby) are administered so as to have the same effect at all times, and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(e) Treatment of Religious Nonmedical Providers.—

(1) In general.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage in connection with group health plans, to include as providers religious nonmedical providers,

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers,

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers,

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals from decisions denying or limiting coverage for care by religious nonmedical providers, or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider, or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other data otherwise required, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) Religious nonmedical provider.—For purposes of this subsection, the term “religious nonmedical provider” means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

Subtitle B—Patient Access to Information

SEC. 1101. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

(a) In General.—Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(1) by redesignating section 111 as section 112; and

(2) by inserting after section 110 the following new section:

"DISCLOSURE BY GROUP HEALTH PLANS

"Sec. 111. (a) Disclosure Requirement.—

"(1) Group health plans.—The administrator of each group health plan shall take such actions as are necessary to ensure that the summary plan description of the plan required under section 102 (or each summary plan description in any case in which different summary plan descriptions are appropriate under part 1 for different options of coverage) contains, among any information otherwise required under this part, the information required under subsections (b), (c), (d), and (e)(2)(A).

"(2) Health insurance issuers.—Each health insurance issuer offering health insurance coverage in connection with a group health plan shall provide the administrator on a timely basis with the information necessary to enable the administrator to comply with the requirements of paragraph (1). To the extent that any such issuer provides on a timely basis to plan participants and beneficiaries information otherwise required under this part to be included in the summary plan description, the requirements of sections 101(a)(1) and 104(b) shall be deemed satisfied in the case of such plan with respect to such information.

"(b) Plan Benefits.—The information required under subsection (a) includes the following:

"(1) Covered items and services.—

"(A) Categorization of included benefits.—A description of covered benefits, categorized by—

"(i) types of items and services (including any special disease management program), and

"(ii) types of health care professionals providing such items and services.

"(B) Emergency medical care.—A description of the extent to which the plan covers emergency medical care (including the extent to which the plan provides for access to urgent care centers), and any definitions provided under the plan for the relevant plan terminology referring to such care.

"(C) Preventative services.—A description of the extent to which the plan provides benefits for preventative services.

"(D) Drug formularies.—A description of the extent to which covered benefits are determined by the use or application of a drug formulary and a summary of the process for determining what is included in such formulary.

"(E) COBRA continuation coverage.—A description of the benefits available under the plan pursuant to part 6.

"(2) Limitations, exclusions, and restrictions on covered benefits.—

"(A) Categorization of excluded benefits.—A description of benefits specifically excluded from coverage, categorized by types of items and services.

"(B) Utilization review and preauthorization requirements.—Whether coverage for medical care is limited or excluded on the basis of utilization review or preauthorization requirements.

"(C) Lifetime, annual, or other period limitations.—A description of the circumstances under which, and the extent to which, coverage is subject to lifetime, annual, or other period limitations, categorized by types of benefits.

"(D) Custodial care.—A description of the circumstances under which, and the extent to which, the coverage of benefits for custodial care is limited or excluded, and a statement of the definition used by the plan for custodial care.

"(E) Experimental treatments.—Whether coverage for any medical care is limited or excluded because it constitutes experimental treatment or technology, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(F) Medical appropriateness or necessity.—Whether coverage for medical care may be limited or excluded by reason of a failure to meet the plan's requirements for medical appropriateness or necessity, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(G) Second or subsequent opinions.—A description of the circumstances under which, and the extent to which, coverage for second or subsequent opinions is limited or excluded.

"(H) Specialty care.—A description of the circumstances under which, and the extent to which, coverage of benefits for specialty care is conditioned on referral from a primary care provider.

"(I) Continuity of care.—A description of the circumstances under which, and the extent to which, coverage of items and services provided by any health care professional is limited or excluded by reason of the departure by the professional from any defined set of providers.

"(J) Restrictions on coverage of emergency services.—A description of the circumstances under which, and the extent to which, the plan, in covering emergency medical care furnished to a participant or beneficiary of the plan imposes any financial responsibility described in subsection (c) on participants or beneficiaries or limits or conditions benefits for such care subject to any other term or condition of such plan.

"(c) Participant's Financial Responsibilities.—The information required under subsection (a) includes an explanation of—

"(1) a participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and any other charges, and

"(2) the circumstances under which, and the extent to which, the participant's financial responsibility described in paragraph (1) may vary, including any distinctions based on whether a health care provider from whom covered benefits are obtained is included in a defined set of providers.

"(d) Dispute Resolution Procedures.—The information required under subsection (a) includes a description of the processes adopted by the plan pursuant to section 503(b), including—

"(1) descriptions thereof relating specifically to—

"(A) coverage decisions,

"(B) internal review of coverage decisions, and

"(C) any external review of coverage decisions, and

"(2) the procedures and time frames applicable to each step of the processes referred to in subparagraphs (A), (B), and (C) of paragraph (1).

"(e) Information Available on Request.—

"(1) Access to plan benefit information in electronic form.—

"(A) In general.—In addition to the information required to be provided under section 104(b)(4), a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall, upon written request (made not more frequently than annually), make available to participants and beneficiaries, in a generally recognized electronic format, the following information:

"(i) the latest summary plan description, including the latest summary of material modifications; and

"(ii) the actual plan provisions setting forth the benefits available under the plan

to the extent such information relates to the coverage options under the plan available to the participant or beneficiary. A reasonable charge may be made to cover the cost of providing such information in such generally recognized electronic format. The Secretary may by regulation prescribe a maximum amount which will constitute a reasonable charge under the preceding sentence.

"(B) Alternative access.—The requirements of this paragraph may be met by making such information generally available (rather than upon request) on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

"(2) Additional information to be provided on request.—

"(A) Inclusion in summary plan description of summary of additional information.—The information required under subsection (a) includes a summary description of the types of information required by this subsection to be made available to participants and beneficiaries on request.

"(B) Information required from plans and issuers on request.—In addition to information required to be included in summary plan descriptions under this subsection, a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide the following information to a participant or beneficiary on request:

"(i) Network characteristics.—If the plan (or issuer) utilizes a defined set of providers under contract with the plan (or issuer), a detailed list of the names of such providers and their geographic location, set forth separately with respect to primary care providers and with respect to specialists.

"(ii) Care management information.—A description of the circumstances under which, and the extent to which, the plan has special disease management programs or programs for persons with disabilities, indicating whether these programs are voluntary or mandatory and whether a significant benefit differential results from participation in such programs.

"(iii) Inclusion of drugs and biologicals in formularies.—A statement of whether a specific drug or biological is included in a formulary used to determine benefits under the plan and a description of the procedures for considering requests for any patient-specific waivers.

"(iv) Procedures for determining exclusions based on medical necessity or experimental treatments.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision based on a determination relating to medical necessity or an experimental treatment or technology, a description of the procedures and medically-based criteria used in such decision.

"(v) PREAUTHORIZATION AND UTILIZATION REVIEW PROCEDURES.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision, a description of the basis on which any preauthorization requirement or any utilization review requirement has resulted in such decision.

"(vi) ACCREDITATION STATUS OF HEALTH INSURANCE ISSUERS AND SERVICE PROVIDERS.—A description of the accreditation and licencing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licencing authority.

"(vii) MEASURES OF ENROLLEE SATISFACTION.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to enrollee satisfaction.

"(viii) QUALITY PERFORMANCE MEASURES.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to quality of performance of the delivery of medical care with respect to coverage options offered under the plan and of health care professionals and facilities providing medical care under the plan.

"(C) INFORMATION REQUIRED FROM HEALTH CARE PROFESSIONALS ON REQUEST.—Any health care professional treating a participant or beneficiary under a group health plan shall provide to the participant or beneficiary, on request, a description of his or her professional qualifications (including board certification status, licensing status, and accreditation status, if any), privileges, and experience and a general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which such professional is compensated in connection with the provision of such medical care.

"(D) INFORMATION REQUIRED FROM HEALTH CARE FACILITIES ON REQUEST.—Any health care facility from which a participant or beneficiary has sought treatment under a group health plan shall provide to the participant or beneficiary, on request, a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status (if any) assigned to the facility by standard-setting organizations.

"(f) ACCESS TO INFORMATION RELEVANT TO THE COVERAGE OPTIONS UNDER WHICH THE PARTICIPANT OR BENEFICIARY IS ELIGIBLE TO ENROLL.—In addition to information otherwise required to be made available under this section, a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall, upon written request (made not more frequently than annually), make available to a participant in connection with a period of enrollment the summary plan description for any coverage option under the plan under which the participant is eligible to enroll and any information described in clauses (i), (ii), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

"(g) ADVANCE NOTICE OF CHANGES IN DRUG FORMULARIES.—Not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary under the plan that is used in the treatment of a chronic illness or disease, the plan shall take such actions as are necessary to reasonably ensure that plan participants are informed of such exclusion. The requirements of this subsection may be satisfied—

"(1) by inclusion of information in publications broadly distributed by plan sponsors, employers, or employee organizations,

"(2) by electronic means of communication (including the Internet or proprietary computer networks in a format which is readily accessible to participants),

"(3) by timely informing participants who, under an ongoing program maintained under the plan, have submitted their names for such notification, or

"(4) by any other reasonable means of timely informing plan participants.

"(h) DEFINITIONS.—For purposes of this section—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided such term under section 503(b)(6).

"(2) MEDICAL CARE.—The term 'medical care' has the meaning provided such term under section 733(a)(2).

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided such term under section 733(b)(1).

"(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided such term under section 733(b)(2).".

(b) CONFORMING AMENDMENTS.—

(1) Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended—

(A) by striking "section 733(a)(1)" each place it appears and inserting "section 503(b)(6)"; and

(B) by inserting before the period at the end the following: "; and, in the case of a group health plan (as defined in section 111(h)(1)), the information required to be included under section 111(a)".

(2) The table of contents in section 1 of such Act is amended by striking the item relating to section 111 and inserting the following new items:

"Sec. 111. Disclosure by group health plans.
"Sec. 112. Repeal and effective date.".

SEC. 1102. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall first issue all regulations necessary to carry out the amendments made by this subtitle before such date.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(c) ASSURING COORDINATION.—The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under the provisions of this subtitle, subtitle B of title II, and subtitle B of title III (and the amendments made thereby) are administered so as to have the same effect at all times, and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

Subtitle C—New Procedures and Access to Courts for Grievances Arising Under Group Health Plans

SEC. 1201. SPECIAL RULES FOR GROUP HEALTH PLANS.

(a) IN GENERAL.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 503.";

(2) by inserting "(other than a group health plan)" after "employee benefit plan"; and

(3) by adding at the end the following new subsection:

"(b) SPECIAL RULES FOR GROUP HEALTH PLANS.—

"(1) COVERAGE DETERMINATIONS.—Every group health plan shall—

"(A) provide adequate notice in writing in accordance with this subsection to any participant or beneficiary of any adverse coverage decision with respect to benefits of such participant or beneficiary under the plan, setting forth the specific reasons for such coverage decision and any rights of review provided under the plan, written in a manner calculated to be understood by the participant,

"(B) provide such notice in writing also to any treating medical care provider of such participant or beneficiary, if such provider has claimed reimbursement for any item or service involved in such coverage decision, or if a claim submitted by the provider initiated the proceedings leading to such decision,

"(C) afford a reasonable opportunity to any participant or beneficiary who is in receipt of the notice of such adverse coverage decision, and who files a written request for review of the initial coverage decision within 180 days after receipt of the notice of the initial decision, for a full and fair de novo review of the decision by an appropriate named fiduciary who did not make the initial decision, and

"(D) meet the additional requirements of this subsection.

"(2) TIME LIMITS FOR MAKING INITIAL COVERAGE DECISIONS FOR BENEFITS AND COMPLETING INTERNAL APPEALS.—

"(A) TIME LIMITS FOR DECIDING REQUESTS FOR BENEFIT PAYMENTS, REQUESTS FOR ADVANCE DETERMINATION OF COVERAGE, AND REQUESTS FOR REQUIRED DETERMINATION OF MEDICAL NECESSITY.—Except as provided in subparagraph (B)—

"(i) INITIAL DECISIONS.—If a request for benefit payments, a request for advance determination of coverage, or a request for required determination of medical necessity is submitted to a group health plan in such reasonable form as may be required under the plan, the plan shall issue in writing an initial coverage decision on the request before the end of the initial decision period under paragraph (9)(J) following the filing completion date. Failure to issue a coverage decision on such a request before the end of the period required under this clause shall be treated as an adverse coverage decision for purposes of internal review under clause (ii).

"(ii) INTERNAL REVIEWS OF INITIAL DENIALS.—Upon the written request of a participant or beneficiary for review of an initial adverse coverage decision under clause (i), a review by an appropriate named fiduciary (subject to paragraph (3)) of the initial coverage decision shall be completed, including issuance by the plan of a written decision affirming, reversing, or modifying the initial coverage decision, setting forth the grounds for such decision, before the end of the internal review period following the review filing date. Such decision shall be treated as the final decision of the plan, subject to any applicable reconsideration under paragraph (4). Failure to issue before the end of such period such a written decision requested under this clause shall be treated as a final decision affirming the initial coverage decision, subject to any applicable reconsideration under paragraph (4).

"(B) TIME LIMITS FOR MAKING COVERAGE DECISIONS RELATING TO URGENT AND EMERGENCY MEDICAL CARE AND FOR COMPLETING INTERNAL APPEALS.—

"(i) INITIAL DECISIONS.—A group health plan shall issue in writing an initial coverage decision on any request for expedited advance determination of coverage or for expedited required determination of medical necessity submitted, in such reasonable form as may be required under the plan—

"(I) before the end of the urgent decision period under paragraph (9)(L), in cases involving urgent medical care but not involving emergency medical care, or

"(II) before the end of the emergency decision period under paragraph (9)(M), in cases involving emergency medical care,

following the filing completion date. Failure to approve or deny such a request before the end of the applicable decision period shall be treated as a denial of the request for purposes of internal review under clause (ii).

"(ii) INTERNAL REVIEWS OF INITIAL DENIALS.—Upon the written request of a participant or beneficiary for review of an initial adverse coverage decision under clause (i), a review by an appropriate named fiduciary (subject to paragraph (3)) of the initial coverage decision shall be completed, including issuance by the plan of a written decision affirming, reversing, or modifying the initial converge decision, setting forth the grounds for the decision—

"(I) before the end of the urgent decision period under paragraph (9)(L), in cases involving urgent medical care but not involving emergency medical care, or

"(II) before the end of the emergency decision period under paragraph (9)(M), in cases involving emergency medical care,

following the review filing date. Such decision shall be treated as the final decision of the plan, subject to any applicable reconsideration under paragraph (4). Failure to issue before the end of the applicable decision period such a written decision requested under this clause shall be treated as a final decision affirming the initial coverage decision, subject to any applicable reconsideration under paragraph (4).

"(3) PHYSICIANS MUST REVIEW INITIAL COVERAGE DECISIONS INVOLVING MEDICAL APPROPRIATENESS OR NECESSITY OR EXPERIMENTAL TREATMENT.—If an initial coverage decision under paragraph (2)(A)(i) or (2)(B)(i) is based on a determination that provision of a particular item or service is excluded from coverage under the terms of the plan because the provision of such item or service does not meet the plan's requirements for medical appropriateness or necessity or would constitute experimental treatment or technology, the review under paragraph (2)(A)(ii) or (2)(B)(ii), to the extent that it relates to medical appropriateness or necessity or to experimental treatment or technology, shall be conducted by a physician who is selected to serve as an appropriate named fiduciary under the plan and who did not make the initial denial.

"(4) ELECTIVE EXTERNAL REVIEW BY INDEPENDENT MEDICAL EXPERT AND RECONSIDERATION OF INITIAL REVIEW DECISION.—

"(A) IN GENERAL.—The requirements of subparagraphs (B), (C) and (D) shall apply—

"(i) in the case of any failure to timely issue a coverage decision upon internal review which is deemed to be an adverse coverage decision under paragraph (2)(A)(ii) or (2)(B)(ii) (thereby failing to constitute a coverage decision for which specific reasons have been set forth as required under paragraph (1)(A)), and

"(ii) in the case of any adverse coverage decision which is not reversed upon a review conducted pursuant to paragraph (1)(C) (including any review pursuant to paragraph (2)(A)(ii) or (2)(B)(ii)), if such coverage decision is based on a determination that provision of a particular item or service is excluded from coverage under the terms of the plan because the provision of such item or service—

"(I) does not meet the plan's requirements for medical appropriateness or necessity; or

"(II) would constitute experimental treatment or technology.

"(B) LIMITS ON ALLOWABLE ADVANCE PAYMENTS.—The review under this paragraph in connection with an adverse coverage decision shall be available subject to any requirement of the plan (unless waived by the plan for financial or other reasons) for payment in advance to the plan by the participant or beneficiary seeking review of an amount not to exceed the greater of—

"(i) the lesser of $100 or 10 percent of the cost of the medical care involved in the decision, or

"(ii) $25,

with each such dollar amount subject to compounded annual adjustments in the same manner and to the same extent as apply under section 215(i) of the Social Security Act, except that, for any calendar year, such amount as so adjusted shall be deemed, solely for such calendar year, to be equal to such amount rounded to the nearest $10. No such payment may be required in the case of any participant or beneficiary whose enrollment under the plan is paid for, in whole or in part, under a State plan under title XIX or XXI of the Social Security Act. Any such advance payment shall be subject to reimbursement if the recommendation of the independent medical expert or experts under subparagraph (C)(iii) is to reverse or modify the coverage decision.

"(C) RECONSIDERATION OF INITIAL REVIEW DECISION.—In any case in which a participant or beneficiary who has received an adverse decision of the plan upon initial review of the coverage decision and who has not commenced review of the initial coverage decision under section 502 makes a request in writing, within 30 days after the date of such review decision, for reconsideration of such review decision, the terms of the plan shall provide for a procedure for such reconsideration under which—

"(i) one or more independent medical experts will be selected in accordance with subparagraph (E) to review the coverage decision described in subparagraph (A) to determine whether such decision was in accordance with the terms of the plan and this title,

"(ii) the record for review (including a specification of the terms of the plan and other criteria serving as the basis for the initial review decision) will be presented to such expert or experts and maintained in a manner which will ensure confidentiality of such record,

"(iii) such expert or experts will report in writing to the plan their recommendation, based on the determination made under clause (i), as to whether such coverage decision should be affirmed, modified, or reversed, setting forth the grounds (including the clinical basis) for the recommendation, and

"(iv) a physician who did not make the initial review decision will reconsider the initial review decision to determine whether such decision was in accordance with the terms of the plan and this title and will issue a written decision affirming, modifying, or reversing the initial review decision, taking into account any recommendations reported to the plan pursuant to clause (iii), and setting forth the grounds for the decision.

"(D) TIME LIMITS FOR RECONSIDERATION.—Any review under this paragraph shall be completed before the end of the reconsideration period (as defined in paragraph (9)(O)) following the review filing date in connection with such review. The decision under this paragraph affirming, reversing, or modifying the initial review decision of the plan shall be the final decision of the plan. Failure to issue a written decision before the end of the reconsideration period in any reconsideration requested under this paragraph shall be treated as a final decision affirming the initial review decision of the plan.

"(E) INDEPENDENT MEDICAL EXPERTS.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'independent medical expert' means, in connection with any coverage decision by a group health plan, a professional—

"(I) who is a physician or, if appropriate, another medical professional,

"(II) who has appropriate credentials and has attained recognized expertise in the applicable medical field,

"(III) who was not involved in the initial decision or any earlier review thereof, and

"(IV) who is selected in accordance with clause (ii) and meets the requirements of clause (iii).

"(ii) SELECTION OF MEDICAL EXPERTS.—An independent medical expert is selected in accordance with this clause if—

"(I) the expert is selected by an intermediary which itself meets the requirements of clause (iii), by means of a method which ensures that the identity of the expert is not disclosed to the plan, any health insurance issuer offering health insurance coverage to the aggrieved participant or beneficiary in connection with the plan, and the aggrieved participant or beneficiary under the plan, and the identities of the plan, the issuer, and the aggrieved participant or beneficiary are not disclosed to the expert,

"(II) the expert is selected, by an appropriately credentialed panel of physicians meeting the requirements of clause (iii) established by a fully accredited teaching hospital meeting such requirements,

"(III) the expert is selected by an organization described in section 1152(1)(A) of the Social Security Act which meets the requirements of clause (iii),

"(IV) the expert is selected by an external review organization which meets the requirements of clause (iii) and is accredited by a private standard-setting organization meeting such requirements and recognized as such by the Secretary, or

"(V) the expert is selected, by an intermediary or otherwise, in a manner that is, under regulations issued pursuant to negotiated rulemaking, sufficient to ensure the expert's independence,

and the method of selection is devised to reasonably ensure that the expert selected meets the independence requirements of clause (iii).

"(iii) Independence requirements.—An independent medical expert or another entity described in clause (ii) meets the independence requirements of this clause if—

"(I) the expert or entity is not affiliated with any related party,

"(II) any compensation received by such expert or entity in connection with the external review is reasonable and not contingent on any decision rendered by the expert or entity,

"(III) under the terms of the plan and any health insurance coverage offered in connection with the plan, the plan and the issuer (if any) have no recourse against the expert or entity in connection with the external review, and

"(IV) the expert or entity does not otherwise have a conflict of interest with a related party as determined under any regulations which the Secretary may prescribe.

"(iv) Related party.—For purposes of clause (ii)(I), the term 'related party' means—

"(I) the plan or any health insurance issuer offering health insurance coverage in connection with the plan (or any officer, director, or management employee of such plan or issuer),

"(II) the physician or other medical care provider that provided the medical care involved in the coverage decision,

"(III) the institution at which the medical care involved in the coverage decision is provided,

"(IV) the manufacturer of any drug or other item that was included in the medical care involved in the coverage decision, or

"(V) any other party determined under any regulations which the Secretary may prescribe to have a substantial interest in the coverage decision .

"(v) Affiliated.—For purposes of clause (iii)(I), the term 'affiliated' means, in connection with any entity, having a familial, financial, or professional relationship with, or interest in, such entity.

"(F) Inapplicability with respect to items and services specifically excluded from coverage.—An adverse coverage decision based on a determination that an item or service is excluded from coverage under the terms of the plan shall not be subject to review under this paragraph, unless such determination is found in such decision to be based solely on the fact that the item or service—

"(i) does not meet the plan's requirements for medical appropriateness or necessity, or

"(ii) would constitute experimental treatment or technology (as defined under the plan).

"(5) Permitted alternatives to required internal review.—

"(A) In general.—A group health plan shall not be treated as failing to meet the requirements under paragraphs (2)(A)(ii) and (2)(B)(ii) relating to review of initial coverage decisions for benefits, if—

"(i) in lieu of the procedures relating to review under paragraphs (2)(A)(ii) and (2)(B)(ii) and in accordance with such regulations (if any) as may be prescribed by the Secretary—

"(I) the aggrieved participant or beneficiary elects in the request for the review an alternative dispute resolution procedure which is available under the plan with respect to similarly situated participants and beneficiaries, or

"(II) in the case of any such plan or portion thereof which is established and maintained pursuant to a bona fide collective bargaining agreement, the plan provides for a procedure by which such disputes are resolved by means of any alternative dispute resolution procedure,

"(ii) the time limits not exceeding the time limits otherwise applicable under paragraphs (2)(A)(ii) and (2)(B)(ii) are incorporated in such alternative dispute resolution procedure,

"(iii) any applicable requirement for review by a physician under paragraph (3), unless waived by the participant or beneficiary (in a manner consistent with such regulations as the Secretary may prescribe to ensure equitable procedures), is incorporated in such alternative dispute resolution procedure, and

"(iv) the plan meets the additional requirements of subparagraph (B).

In any case in which a procedure described in subclause (I) or (II) of clause (i) is utilized and an alternative dispute resolution procedure is voluntarily elected by the aggrieved participant or beneficiary, the plan may require or allow (in a manner consistent with such regulations as the Secretary may prescribe to ensure equitable procedures) the aggrieved participant or beneficiary to waive review of the coverage decision under paragraph (3), to waive further review of the coverage decision under paragraph (4) or section 502, and to elect an alternative means of external review (other than review under paragraph (4)).

"(B) Additional requirements.—The requirements of this subparagraph are met if the means of resolution of dispute allow for adequate presentation by the aggrieved participant or beneficiary of scientific and medical evidence supporting the position of such participant or beneficiary.

"(6) Permitted alternatives to required external review.—A group health plan shall not be treated as failing to meet the requirements of this subsection in connection with review of coverage decisions under paragraph (4) if the aggrieved participant or beneficiary elects to utilize a procedure in connection with such review which is made generally available under the plan (in a manner consistent with such regulations as the Secretary may prescribe to ensure equitable procedures) under which—

"(A) the plan agrees in advance of the recommendations of the independent medical expert or experts under paragraph (4)(C)(iii) to render a final decision in accordance with such recommendations, and

"(B) the participant or beneficiary waives in advance any right to review of the final decision under section 502.

"(7) Special rule for access to specialty care.—In the case of a request for advance determination of coverage consisting of a request by a physician for a determination of coverage of the services of a specialist with respect to any condition, if coverage of the services of such specialist for such condition is otherwise provided under the plan, the initial coverage decision referred to in subparagraph (A)(i) or (B)(i) of paragraph (2) shall be issued within the specialty decision period. For purposes of this paragraph, the term 'specialist' means, with respect to a condition, a physician who has a high level of expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to treat the condition.

"(8) Group health plan defined.—For purposes of this section—

"(A) In general.—The term 'group health plan' shall have the meaning provided in section 733(a).

"(B) Treatment of partnerships.—The provisions of paragraphs (1), (2), and (3) of section 732(d) shall apply.

"(9) Other definitions.—For purposes of this subsection—

"(A) Request for benefit payments.—The term 'request for benefit payments' means a request, for payment of benefits by a group health plan for medical care, which is made by or on behalf of a participant or beneficiary after such medical care has been provided.

"(B) Required determination of medical necessity.—The term 'required determination of medical necessity' means a determination required under a group health plan solely that proposed medical care meets, under the facts and circumstances at the time of the determination, the plan's requirements for medical appropriateness or necessity (which may be subject to exceptions under the plan for fraud or misrepresentation), irrespective of whether the proposed medical care otherwise meets other terms and conditions of coverage, but only if such determination does not constitute an advance determination of coverage (as defined in subparagraph (C)).

"(C) Advance determination of coverage.—The term 'advance determination of coverage' means a determination under a group health plan that proposed medical care meets, under the facts and circumstances at the time of the determination, the plan's terms and conditions of coverage (which may be subject to exceptions under the plan for fraud or misrepresentation).

"(D) Request for advance determination of coverage.—The term 'request for advance determination of coverage' means a request for an advance determination of coverage of medical care which is made by or on behalf of a participant or beneficiary before such medical care is provided.

"(E) Request for expedited advance determination of coverage.—The term 'request for expedited advance determination of coverage' means a request for advance determination of coverage, in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

"(F) Request for required determination of medical necessity.—The term 'request for required determination of medical necessity' means a request for a required determination of medical necessity for medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

"(G) Request for expedited required determination of medical necessity.—The term 'request for expedited required determination of medical necessity' means a request for required determination of medical necessity in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

"(H) Urgent medical care.—The term 'urgent medical care' means medical care in any case in which an appropriate physician has certified in writing (or as otherwise provided in regulations of the Secretary) that failure to provide the participant or beneficiary with such medical care within 45 days can reasonably be expected to result in either—

“(i) the imminent death of the participant or beneficiary, or

“(ii) the immediate, serious, and irreversible deterioration of the health of the participant or beneficiary which will significantly increase the likelihood of death of, or irreparable harm to, the participant or beneficiary.

“(I) EMERGENCY MEDICAL CARE.—The term ‘emergency medical care’ means medical care in any case in which an appropriate physician has certified in writing (or as otherwise provided in regulations of the Secretary)—

“(i) that failure to immediately provide the care to the participant or beneficiary could reasonably be expected to result in—

“(I) placing the health of such participant or beneficiary (or, with respect to such a participant or beneficiary who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

“(II) serious impairment to bodily functions, or

“(III) serious dysfunction of any bodily organ or part,

or

“(ii) that immediate provision of the care is necessary because the participant or beneficiary has made or is at serious risk of making an attempt to harm himself or herself or another individual.

“(J) INITIAL DECISION PERIOD.—The term ‘initial decision period’ means a period of 30 days, or such longer period as may be prescribed in regulations of the Secretary.

“(K) INTERNAL REVIEW PERIOD.—The term ‘internal review period’ means a period of 30 days, or such longer period as may be prescribed in regulations of the Secretary.

“(L) URGENT DECISION PERIOD.—The term ‘urgent decision period’ means a period of 10 days, or such longer period as may be prescribed in regulations of the Secretary.

“(M) EMERGENCY DECISION PERIOD.—The term ‘emergency decision period’ means a period of 72 hours, or such longer period as may be prescribed in regulations of the Secretary.

“(N) SPECIALTY DECISION PERIOD.—The term ‘specialty decision period’ means a period of 72 hours, or such longer period as may be prescribed in regulations of the Secretary.

“(O) RECONSIDERATION PERIOD.—The term ‘reconsideration period’ means a period of 25 days, or such longer period as may be prescribed in regulations of the Secretary, except that—

“(i) in the case of a decision involving urgent medical care, such term means the urgent decision period, and

“(ii) in the case of a decision involving emergency medical care, such term means the emergency decision period.

“(P) FILING COMPLETION DATE.—The term ‘filing completion date’ means, in connection with a group health plan, the date as of which the plan is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make an initial coverage decision.

“(Q) REVIEW FILING DATE.—The term ‘review filing date’ means, in connection with a group health plan, the date as of which the appropriate named fiduciary (or the independent medical expert or experts in the case of a review under paragraph (4)) is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make a decision to affirm, modify, or reverse a coverage decision.

“(R) MEDICAL CARE.—The term ‘medical care’ has the meaning provided such term by section 733(a)(2).

“(S) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ has the meaning provided such term by section 733(b)(1).

“(T) HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ has the meaning provided such term by section 733(b)(2).

“(U) WRITTEN OR IN WRITING.—

“(i) IN GENERAL.—A request or decision shall be deemed to be ‘written’ or ‘in writing’ if such request or decision is presented in a generally recognized printable or electronic format. The Secretary may by regulation provide for presentation of information otherwise required to be in written form in such other forms as may be appropriate under the circumstances.

“(ii) MEDICAL APPROPRIATENESS OR EXPERIMENTAL TREATMENT DETERMINATIONS.—For purposes of this subparagraph, in the case of a request for advance determination of coverage, a request for expedited advance determination of coverage, a request for required determination of medical necessity, or a request for expedited required determination of medical necessity, if the decision on such request is conveyed to the provider of medical care or to the participant or beneficiary by means of telephonic or other electronic communications, such decision shall be treated as a written decision.”.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

“(6)(A)(i) In any case in which—

“(I) a benefit under a group health plan (as defined in section 503(b)(8)) is not timely provided to a participant or beneficiary pursuant to a final decision of the plan which was not in accordance with the terms of the plan or this title, and

“(II) such final decision of the plan is contrary to a recommendation described in section 503(b)(4)(C)(iii),

any person acting in the capacity of a fiduciary of such plan so as to cause such failure may, in the court’s discretion, be liable to the aggrieved participant or beneficiary for a civil penalty.

“(ii) Such civil penalty shall be in the amount of up to $250 a day from the date on which the recommendation was made to the plan until the date the failure to provide benefits is corrected, up to a total amount not to exceed $100,000.

“(B) In any action commenced under subsection (a) by a participant or beneficiary with respect to a group health plan (as defined in section 503(b)(8)) in which the plaintiff alleges that a person, in the capacity of a fiduciary and in violation of the terms of the plan or this title, has taken an action resulting in an adverse coverage decision in violation of the terms of the plan, or has failed to take an action for which such person is responsible under the plan and which is necessary under the plan for a favorable coverage decision, upon finding in favor of the plaintiff, if such action was commenced after a final decision of the plan upon review which included a review under section 503(b)(4) or such action was commenced under subsection (b)(4) of this section, the court shall cause to be served on the defendant an order requiring the defendant—

“(i) to cease and desist from the alleged action or failure to act, and

“(ii) to pay to the plaintiff a reasonable attorney’s fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

The remedies provided under this subparagraph shall be in addition to remedies otherwise provided under this section.

“(C)(i) The Secretary may assess a civil penalty against a person acting in the capacity of a fiduciary of one or more group health plans (as defined in section 503(b)(8)) for—

“(I) any pattern or practice of repeated adverse coverage decisions in violation of the terms of the plan or plans or this title, or

“(II) any pattern or practice of repeated violations of the requirements of section 503 with respect to such plan or plans.

Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice.

“(ii) Such penalty shall be in an amount not to exceed the lesser of—

“(I) 5 percent of the aggregate value of benefits shown by the Secretary to have not been provided, or unlawfully delayed in violation of section 503, under such pattern or practice, or

“(II) $100,000.

“(iii) Any person acting in the capacity of a fiduciary of a group health plan or plans who has engaged in any such pattern or practice with respect to such plans, upon the petition of the Secretary, may be removed by the court from that position, and from any other involvement, with respect to such plan or plans, and may be precluded from returning to any such position or involvement for a period determined by the court.”.

(2) CONFORMING AMENDMENT.—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking “(6)” and inserting “(7)”.

(c) EXPEDITED COURT REVIEW.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(1) in subsection (a)(8), by striking “or” at the end;

(2) in subsection (a)(9), by striking the period and inserting “; or”;

(3) by adding at the end of subsection (a) the following new paragraph:

“(10) by a participant or beneficiary for appropriate relief under subsection (b)(4).”.

(4) by adding at the end of subsection (b) the following new paragraph:

“(4) In any case in which exhaustion of administrative remedies in accordance with paragraph (2)(A)(ii) or (2)(B)(ii) of section 503(b) otherwise necessary for an action for relief under paragraph (1)(B) or (3) of subsection (a) has not been obtained and it is demonstrated to the court by means of certification by an appropriate physician that such exhaustion is not reasonably attainable under the facts and circumstances without undue risk of irreparable harm to the health of the participant or beneficiary, a civil action may be brought by a participant or beneficiary to obtain appropriate equitable relief. Any determinations made under paragraph (2)(A)(ii) or (2)(B)(ii) of section 503(b) made while an action under this paragraph is pending shall be given due consideration by the court in any such action.”.

(d) STANDARD OF REVIEW UNAFFECTED.—The standard of review under section 502 of the Employee Retirement Income Security Act of 1974 (as amended by this section) shall continue on and after the date of the enactment of this Act to be the standard of review which was applicable under such section as of immediately before such date.

(e) CONCURRENT JURISDICTION.—Section 502(e)(1) of such Act (29 U.S.C. 1132(e)(1)) is amended—

(1) in the first sentence, by striking "under subsection (a)(1)(B) of this section" and inserting "under subsection (a)(1)(A) for relief under subsection (c)(6), under subsection (a)(1)(B), and under subsection (b)(4)"; and

(2) in the last sentence, by striking "of actions under paragraphs (1)(B) and (7) of subsection (a) of this section" and inserting "of actions under paragraph (1)(A) of subsection (a) for relief under subsection (c)(6) and of actions under paragraphs (1)(B) and (7) of subsection (a) and paragraph (4) of subsection (b)".

SEC. 1202. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle shall apply with respect to grievances arising in plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall first issue all regulations necessary to carry out the amendments made by this subtitle before such date.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(c) COLLECTIVE BARGAINING AGREEMENTS.—Any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subtitle shall not be treated as a termination of such collective bargaining agreement.

Subtitle D—Affordable Health Coverage for Employees of Small Businesses

SEC. 1301. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Small Business Affordable Health Coverage Act of 1998".

SEC. 1302. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"SEC. 801. ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan—

"(1) whose sponsor is (or is deemed under this part to be) described in subsection (b), and

"(2) under which at least one option of health insurance coverage offered by a health insurance issuer (which may include, among other options, managed care options, point of service options, and preferred provider options) is provided to participants and beneficiaries, unless, for any plan year, such coverage remains unavailable to the plan despite good faith efforts exercised by the plan to secure such coverage.

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a trade association, an industry association (including a rural electric cooperative association or a rural telephone cooperative association), a professional association, or a chamber of commerce (or similar business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care,

"(2) is established as a permanent entity which receives the active support of its members and collects from its members on a periodic basis dues or payments necessary to maintain eligibility for membership in the sponsor, and

"(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1) and (2) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—The applicable authority shall prescribe by regulation a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

"(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), the applicable authority shall certify an association health plan as meeting the requirements of this part only if the applicable authority is satisfied that—

"(1) such certification—

"(A) is administratively feasible,

"(B) is not adverse to the interests of the individuals covered under the plan, and

"(C) is protective of the rights and benefits of the individuals covered under the plan, and

"(2) the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

"(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of association health plans under this part, including requirements relating to commencement of new benefit options by plans which do not consist of health insurance coverage.

"(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if—

"(1) the sponsor (together with its immediate predecessor, if any) has met (or is deemed under this part to have met) for a continuous period of not less than 3 years ending with the date of the application for certification under this part, the requirements of paragraphs (1) and (2) of section 801(b), and

"(2) the sponsor meets (or is deemed under this part to meet) the requirements of section 801(b)(3).

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(B) LIMITATION.—

"(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

"(C) SOLE AUTHORITY.—The board has sole authority to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

"(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

"(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b), and

"(2) the requirements of section 804(a)(1) shall be deemed met.

"(d) Certain Collectively Bargained Plans.—

"(1) In general.—In the case of a group health plan described in paragraph (2)—

"(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met,

"(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met, and

"(C) the requirements of section 804 shall be deemed met.

"(2) Requirements.—A group health plan is described in this paragraph if—

"(A) the plan is a multiemployer plan, or

"(B) the plan is in existence on April 1, 1997, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) Covered Employers and Individuals.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

"(1) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer, and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers, or

"(B) the beneficiaries of individuals described in subparagraph (A).

"(b) Coverage of Previously Uninsured Employees.—

"(1) In general.—Subject to paragraph (2), the requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no affiliated member of the sponsor may be offered coverage under the plan as a participating employer, unless—

"(A) the affiliated member was an affiliated member on the date of certification under this part, or

"(B) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

"(2) Limitation.—The requirements of this subsection shall apply only in the case of plans which were in existence on the date of the enactment of the Small Business Affordable Health Coverage Act of 1998.

"(c) Individual Market Unaffected.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(d) Prohibition of Discrimination Against Employers and Employees Eligible to Participate.—The requirements of this subsection are met with respect to an association health plan if—

"(1) under the terms of the plan, no employer meeting the preceding requirements of this section is excluded as a participating employer, unless participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met with respect to the excluded employer,

"(2) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan, and

"(3) applicable benefit options under the plan are actively marketed to all eligible participating employers.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) In General.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

"(1) Contents of governing instruments.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)), and

"(C) incorporates the requirements of section 806.

"(2) Contribution rates must be nondiscriminatory.—

"(A) The contribution rates for any participating small employer do not vary on the basis of the claims experience of such employer and do not vary on the basis of the type of business or industry in which such employer is engaged.

"(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from

"(i) setting contribution rates based on the claims experience of the plan, or

"(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market,

subject to the requirements of section 702(b) relating to contribution rates.

"(3) Floor for number of covered individuals with respect to certain plans.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

"(4) Marketing requirements.—

"(A) In general.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

"(B) State-licensed insurance agents.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

"(5) Regulatory requirements.—Such other requirements as the applicable authority may prescribe by regulation as necessary to carry out the purposes of this part.

"(b) Ability of Association Health Plans to Design Benefit Options.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) In General.—The requirements of this section are met with respect to an association health plan if—

"(1) the benefits under the plan consist solely of health insurance coverage, or

"(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

"(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

"(i) a reserve sufficient for unearned contributions,

"(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities,

"(iii) a reserve sufficient for any other obligations of the plan, and

"(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan, and

"(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

"(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary (but not more than $200,000). The applicable authority may by regulation provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

"(b) Minimum Surplus in Addition to Claims Reserves.—The requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to $2,000,000, reduced in accordance with a scale, prescribed in regulations of the applicable authority to an amount not less than $500,000, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

"(c) Additional Requirements.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any such plan or any class of such plans.

"(d) Adjustments for Excess/Stop Loss Insurance.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

"(e) Alternative Means of Compliance.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

"(f) Measures to Ensure Continued Payment of Benefits by Certain Plans in Distress.—

"(1) Payments by certain plans to association health plan fund.—

"(A) In general.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

"(B) Penalties for failure to make payments.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

"(C) Continued duty of the Secretary.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

"(2) Payments by Secretary to continue excess stop/loss insurance coverage and indemnification insurance coverage for certain plans.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be, (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2), or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

"(3) Association health plan fund.—

"(A) In general.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B), and earnings on investments of amounts of the Fund under subparagraph (B).

"(B) Investment.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"(g) Excess/Stop Loss Insurance.—For purposes of this section—

"(1) Aggregate excess/stop loss insurance.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

"(A) under which an insurer (meeting such minimum standards as may be prescribed in regulations of the applicable authority) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract,

"(B) which is guaranteed renewable, and

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

"(2) Specific excess/stop loss insurance.—The term 'specific excess/stop loss insurance' means , in connection with an association health plan, a contract—

"(A) under which an insurer (meeting such minimum standards as may be prescribed in regulations of the applicable authority) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual,

"(B) which is guaranteed renewable, and

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

"(h) Indemnification Insurance.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

"(1) under which an insurer (meeting such minimum standards as may be prescribed in regulations of the applicable authority) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination),

"(2) which is guaranteed renewable and noncancellable for any reason (except as may be provided in regulations of the applicable authority), and

"(3) which allows for payment of premiums by any third party on behalf of the insured plan.

"(i) Reserves.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as may be prescribed in regulations of the applicable authority.

"(j) Regulations Prescribed under Negotiated Rulemaking.—The regulations under this section shall be prescribed under negotiated rulemaking in accordance with subchapter III of chapter 5 of title 5, United States Code, except that, in establishing the negotiated rulemaking committee for purposes of such rulemaking, the applicable authority shall include among persons invited to membership on the committee at least one of each of the following:

"(1) a representative of the National Association of Insurance Commissioners,

"(2) a representative of the American Academy of Actuaries,

"(3) a representative of the State governments, or their interests,

"(4) a representative of existing self-insured arrangements, or their interests,

"(5) a representative of associations of the type referred to in section 801(b)(1), or their interests, and

"(6) a representative of multiemployer plans that are group health plans, or their interests.

"SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

"(a) Filing Fee.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

"(b) Information To Be Included in Application for Certification.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form prescribed in regulations of the applicable authority, at least the following information:

"(1) IDENTIFYING INFORMATION.—The names and addresses of—

"(A) the sponsor, and

"(B) the members of the board of trustees of the plan.

"(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

"(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

"(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

"(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

"(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe.

"(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

"(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

"(E) OTHER INFORMATION.—Any other information which may be prescribed in regulations of the applicable authority as necessary to carry out the purposes of this part.

"(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

"(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed in regulations of the applicable authority. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

"(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority).

"(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

"(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date,

"(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated, and

"(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed in regulations of the applicable authority.

"SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

"(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

"(b) MANDATORY TERMINATION.—In any case in which—

"(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements, and

"(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

"SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition as defined in regulations of such Secretary, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

"(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

"(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan,

"(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee,

"(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations of the Secretary, and applicable provisions of law,

"(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan,

"(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship,

"(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan,

"(7) to issue, publish, or file such notices, statements, and reports as may be required under regulations of the Secretary or by any order of the court,

"(8) to terminate the plan (or provide for its termination accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship,

"(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options, and

"(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

"(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

"(1) the sponsor and plan administrator,

"(2) each participant,

"(3) each participating employer, and

"(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

"(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

"(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

"(f) JURISDICTION OF COURT.—

"(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

"(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

"(g) PERSONNEL.—In accordance with regulations of the Secretary, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

"SEC. 811. STATE ASSESSMENT AUTHORITY.

"(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Affordable Health Coverage Act of 1998.

"(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

"(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals,

"(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan,

"(3) such tax is otherwise nondiscriminatory, and

"(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

"SEC. 812. SPECIAL RULES FOR CHURCH PLANS.

"(a) ELECTION FOR CHURCH PLANS.—Notwithstanding section 4(b)(2), if a church, a convention or association of churches, or an organization described in section 3(33)(C)(i) maintains a church plan which is a group health plan (as defined in section 733(a)(1)), and such church, convention, association, or organization makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulation prescribe), then the provisions of this section shall apply to such plan, with respect to benefits provided under such plan consisting of medical care, as if section 4(b)(2) did not contain an exclusion for church plans. Nothing in this subsection shall be construed to render any other section of this title applicable to church plans, except to the extent that such other section is incorporated by reference in this section.

"(b) EFFECT OF ELECTION.—

"(1) PREEMPTION OF STATE INSURANCE LAWS REGULATING COVERED CHURCH PLANS.—Subject to paragraphs (2) and (3), this section shall supersede any and all State laws which regulate insurance insofar as they may now or hereafter regulate church plans to which this section applies or trusts established under such church plans.

"(2) GENERAL STATE INSURANCE REGULATION UNAFFECTED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (3), nothing in this section shall be construed to exempt or relieve any person from any provision of State law which regulates insurance.

"(B) CHURCH PLANS NOT TO BE DEEMED INSURANCE COMPANIES OR INSURERS.—Neither a church plan to which this section applies, nor any trust established under such a church plan, shall be deemed to be an insurance company or other insurer or to be engaged in the business of insurance for purposes of any State law purporting to regulate insurance companies or insurance contracts.

"(3) PREEMPTION OF CERTAIN STATE LAWS RELATING TO PREMIUM RATE REGULATION AND BENEFIT MANDATES.—The provisions of subsections (a)(2)(B) and (b) of section 805 shall apply with respect to a church plan to which this section applies in the same manner and to the same extent as such provisions apply with respect to association health plans.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) STATE LAW.—The term 'State law' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

"(B) STATE.—The term 'State' includes a State, any political subdivision thereof, or any agency or instrumentality of either, which purports to regulate, directly or indirectly, the terms and conditions of church plans covered by this section.

"(c) REQUIREMENTS FOR COVERED CHURCH PLANS.—

"(1) FIDUCIARY RULES AND EXCLUSIVE PURPOSE.—A fiduciary shall discharge his duties with respect to a church plan to which this section applies—

"(A) for the exclusive purpose of:

"(i) providing benefits to participants and their beneficiaries; and

"(ii) defraying reasonable expenses of administering the plan;

"(B) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

"(C) in accordance with the documents and instruments governing the plan.

The requirements of this paragraph shall not be treated as not satisfied solely because the plan assets are commingled with other church assets, to the extent that such plan assets are separately accounted for.

"(2) Claims procedure.—In accordance with regulations of the Secretary, every church plan to which this section applies shall—

"(A) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant;

"(B) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate fiduciary of the decision denying the claim; and

"(C) provide a written statement to each participant describing the procedures established pursuant to this paragraph.

"(3) Annual statements.—In accordance with regulations of the Secretary, every church plan to which this section applies shall file with the Secretary an annual statement—

"(A) stating the names and addresses of the plan and of the church, convention, or association maintaining the plan (and its principal place of business);

"(B) certifying that it is a church plan to which this section applies and that it complies with the requirements of paragraphs (1) and (2);

"(C) identifying the States in which participants and beneficiaries under the plan are or likely will be located during the 1-year period covered by the statement; and

"(D) containing a copy of a statement of actuarial opinion signed by a qualified actuary that the plan maintains capital, reserves, insurance, other financial arrangements, or any combination thereof adequate to enable the plan to fully meet all of its financial obligations on a timely basis.

"(4) Disclosure.—At the time that the annual statement is filed by a church plan with the Secretary pursuant to paragraph (3), a copy of such statement shall be made available by the Secretary to the State insurance commissioner (or similar official) of any State. The name of each church plan and sponsoring organization filing an annual statement in compliance with paragraph (3) shall be published annually in the Federal Register.

"(c) Enforcement.—The Secretary may enforce the provisions of this section in a manner consistent with section 502, to the extent applicable with respect to actions under section 502(a)(5), and with section 3(33)(D), except that, other than for the purpose of seeking a temporary restraining order, a civil action may be brought with respect to the plan's failure to meet any requirement of this section only if the plan fails to correct its failure within the correction period described in section 3(33)(D). The other provisions of part 5 (except sections 501(a), 503, 512, 514, and 515) shall apply with respect to the enforcement and administration of this section.

"(d) Definitions and Other Rules.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this section, any term used in this section which is defined in any provision of this title shall have the definition provided such term by such provision.

"(2) Seminary students.—Seminary students who are enrolled in an institution of higher learning described in section 3(33)(C)(iv) and who are treated as participants under the terms of a church plan to which this section applies shall be deemed to be employees as defined in section 3(6) if the number of such students constitutes an insignificant portion of the total number of individuals who are treated as participants under the terms of the plan.

"SEC. 813. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) Definitions.—For purposes of this part—

"(1) Group health plan.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

"(2) Medical care.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(3) Health insurance coverage.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

"(4) Health insurance issuer.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(5) Applicable authority.—

"(A) In general.—Except as provided in subparagraph (B), the term 'applicable authority,' means, in connection with an association health plan—

"(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan, or

"(ii) if there if no State referred to in clause (i), the Secretary.

"(B) Exceptions.—

"(i) Joint authorities.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

"(ii) Regulatory authorities.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

"(6) Health status-related factor.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

"(7) Individual market.—

"(A) In general.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) Treatment of very small groups.—

"(i) In general.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) State exception.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) Participating employer.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(9) Applicable state authority.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(10) Qualified actuary.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation.

"(11) Affiliated member.—The term 'affiliated member' means, in connection with a sponsor, a person eligible to be a member of the sponsor or, in the case of a sponsor with member associations, a person who is a member, or is eligible to be a member, of a member association.

"(12) Large employer.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(13) Small employer.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

"(b) Rules of Construction.—

"(1) Employers and employees.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(A) in the case of a partnership, the term 'employer' (as defined in section (3)(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section (3)(6)) includes any partner in relation to the partnership, and

"(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(2) Plans, funds, and programs treated as employee welfare benefit plans.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.".

(b) Conforming Amendments to Preemption Rules.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

"(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

"(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

"(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

"(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

"(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.".

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking "and" at the end;

(B) in clause (ii), by inserting "and which does not provide medical care (within the meaning of section 733(a)(2))," after "arrangement,", and by striking "title." and inserting "title, and"; and

(C) by adding at the end the following new clause:

"(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.".

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking "Nothing" and inserting "(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following new paragraph:

"(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Patient Protection Act of 1998 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.".

(c) Plan Sponsor.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of an association health plan under part 8.".

(d) Disclosure of Solvency Protections Related to Self-Insured and Fully Insured Options Under Association Health Plans.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: "An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.".

(e) Savings Clause.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(f) Clerical Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"Part 8—Rules Governing Association Health Plans

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Special rules for church plans.
"Sec. 813. Definitions and rules of construction.".

SEC. 1303. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement;" after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,".

SEC. 1304. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) In General.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),".

(b) Limitations.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

"(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

"(II) pay a commission or any other type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations of the Secretary), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

"(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are identified to the plan or arrangement and who are neither—

"(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

"(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment);

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Small Business Affordable Health Coverage Act of 1998 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

"(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary that the plan or other arrangement meets the requirements of clauses (i) and (ii).

"(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

"(ii)(I) the plan or arrangement is a multiemployer plan; and

"(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

"(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) the plan or arrangement is in effect as of the date of the enactment of the Small Business Affordable Health Coverage Act of 1998, or

"(ii) the employee organization or other entity sponsoring the plan or arrangement—

"(I) has been in existence for at least 3 years or is affiliated with another employee organization which has been in existence for at least 3 years, or

"(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.".

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: "Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).".

SEC. 1305. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an association health plan which has been certified under part 8;

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

"(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met;

shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.".

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

"(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

"(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

"(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

"(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.".

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) (as amended by title I) is amended by adding at the end the following new subsection:

"(c) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 1306. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) RESPONSIBILITY OF STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8,

"(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8, or

"(C) any combination of the Secretary's authority authorized to be delegated under subparagraphs (A) and (B).

"(2) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(3) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular association health plan, as the State to which all authority has been delegated pursuant to such agreements in connection with such plan. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.".

SEC. 1307. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by sections 1302, 1305, and 1306 shall take effect on January 1, 2000. The amendments made by sections 1303 and 1304 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this Act before January 1, 2000.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 1302) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on April 1, 1997, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at

least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 813(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this Act)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act,

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement,

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote, and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement,

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement,

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan," "medical care," and "participating employer" shall have the meanings provided in section 813 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "association health plan" shall be deemed a reference to an arrangement referred to in this subsection.

(d) PILOT PROGRAM FOR SELF-INSURED ASSOCIATION HEALTH PLANS.—

(1) IN GENERAL.—During the pilot program period, association health plans which offer benefit options which do not consist of health insurance coverage may be certified under part 8 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 only if such plans consist of the following:

(A) plans which offered such coverage on the date of the enactment of this Act,

(B) plans under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

(C) plans whose eligible participating employers represent one or more trades or businesses, or one or more industries, which have been indicated as having average or above-average health insurance risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, and other means demonstrated by such plans in accordance with regulations which the Secretary shall prescribe, including (but not limited to) the following: agriculture; automobile dealerships; barbering and cosmetology; child care; construction; dance, theatrical, and orchestra productions; disinfecting and pest control; eating and drinking establishments; fishing; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; sanitary services; transportation (local and freight); and warehousing.

(2) PILOT PROGRAM PERIOD.—For purposes of this subsection, the term "pilot program period" means the 5-year period beginning on January 1, 1999.

TITLE II—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

Subtitle A—Patient Protections and Point of Service Coverage Requirements

SEC. 2001. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

"(a) PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE.—

"(1) IN GENERAL.—In the case of any health care professional acting within the lawful scope of practice in the course of carrying out a contractual employment arrangement or other direct contractual arrangement between such professional and a group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan, the plan or issuer with which such contractual employment arrangement or other direct contractual arrangement is maintained by the professional may not impose on such professional under such arrangement any prohibition with respect to advice, provided to a participant or beneficiary under the plan who is a patient, about the health status of the participant or beneficiary or the medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether benefits for such care or treatment are provided under the plan or health insurance coverage offered in connection with the plan.

"(2) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the group health plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech–language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse–midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(b) PATIENT ACCESS TO EMERGENCY MEDICAL CARE.—

"(1) IN GENERAL.—To the extent that the group health plan (or health insurance issuer offering health insurance coverage in connection with the plan) provides for any benefits consisting of emergency medical care (as defined in section 503(b)(9)(I) of the Employee Retirement Income Security Act of 1974), except for items or services specifically excluded—

"(A) the plan or issuer shall provide benefits, without requiring preauthorization, for appropriate emergency medical screening examinations (within the capability of the emergency facility, including ancillary services routinely available to the emergency facility) to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary in order to determine whether emergency medical care (as so defined) is required, and

"(B) the plan or issuer shall provide benefits for additional emergency medical services following an emergency medical screening examination (if determined necessary under subparagraph (A)) to the extent that a prudent emergency medical professional would determine such additional emergency services to be necessary to avoid the consequences described in section 503(b)(9)(I) of such Act.

"(2) UNIFORM COST-SHARING REQUIRED.—Nothing in this subsection shall be construed as preventing a group health plan or issuer from imposing any form of cost-sharing applicable to any participant or beneficiary (including coinsurance, copayments, deductibles, and any other charges) in relation to benefits described in paragraph (1), if such form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in section 503(b)(9)(I) of the Employee Retirement Income Security Act of 1974) provided to such similarly situated participants and beneficiaries under the plan.

"(c) PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

"(1) IN GENERAL.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan)—

"(A) provides benefits under the terms of the plan consisting of—

"(i) routine gynecological care (such as preventive women's health examinations), or

"(ii) routine obstetric care (such as routine pregnancy-related services),

provided by a participating physician who specializes in such care (or provides benefits consisting of payment for such care), and

"(B) the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider,

if the primary care provider designated by such a participant or beneficiary is not such a physician, then the plan (or issuer) shall meet the requirements of paragraph (2).

"(2) REQUIREMENTS.—A group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) meets the requirements of this paragraph, in connection with benefits described in paragraph (1) consisting of care described in clause (i) or (ii) of paragraph (1)(A) (or consisting of payment therefor), if the plan (or issuer)—

"(A) does not require authorization or a referral by the primary care provider in order to obtain such benefits, and

"(B) treats the ordering of other routine care of the same type, by the participating physician providing the care described in clause (i) or (ii) of paragraph (1)(A), as the authorization of the primary care provider with respect to such care.

"(3) CONSTRUCTION.—Nothing in paragraph (2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered.

"(d) Patient Access to Pediatric Care.—

"(1) In general.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides benefits consisting of routine pediatric care provided by a participating physician who specializes in pediatrics (or consisting of payment for such care) and the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, the plan (or issuer) shall provide that such a participating physician may be designated, if available, by a parent or guardian of any beneficiary under the plan is who under 18 years of age, as the primary care provider with respect to any such benefits.

"(2) Construction.—Nothing in paragraph (1) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care.

"(e) Treatment of Multiple Coverage Options.—In the case of a plan providing benefits under two or more coverage options, the requirements of subsections (c) and (d) shall apply separately with respect to each coverage option.".

(c) Effective date and related rules.—

(1) In general.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act, except that the Secretary of Health and Human Services may issue regulations before such date under such amendments. The Secretary shall first issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

(2) Limitation on enforcement actions.—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(3) Special rule for collective bargaining agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply with respect to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2001.

For purposes of this paragraph, any plan amendments made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 2002. REQUIRING HEALTH MAINTENANCE ORGANIZATIONS TO OFFER OPTION OF POINT-OF-SERVICE COVERAGE.

(a) In General.—Title XXVII of the Public Health Service Act is amended by inserting after section 2713 the following new section:

"SEC. 2714. REQUIRING OFFERING OF OPTION OF POINT-OF-SERVICE COVERAGE.

"(a) Requirement to Offer Coverage Option to Certain Employers.—Except as provided in subsection (c), any health insurance issuer which—

"(1) is a health maintenance organization (as defined in section 2791(b)(3)), and

"(2) which provides for coverage of services of one or more classes of health care professionals under health insurance coverage offered in connection with a group health plan only if such services are furnished exclusively through health care professionals within such class or classes who are members of a closed panel of health care professionals,

the issuer shall make available to the plan sponsor in connection with such a plan a coverage option which provides for coverage of such services which are furnished through such class (or classes) of health care professionals regardless of whether or not the professionals are members of such panel.

"(b) Requirement to Offer Supplemental Coverage to Participants in Certain Cases.—Except as provided in subsection (c), if a health insurance issuer makes available a coverage option under and described in subsection (a) to a plan sponsor of a group health plan and the sponsor declines to contract for such coverage option, then the issuer shall make available in the individual insurance market to each participant in the group health plan optional separate supplemental health insurance coverage in the individual health insurance market which consists of services identical to those provided under such coverage provided through the closed panel under the group health plan but are furnished exclusively by health care professionals who are not members of such a closed panel.

"(c) Exceptions.—

"(1) Offering of non-panel option.—Subsections (a) and (b) shall not apply with respect to a group health plan if the plan offers a coverage option that provides coverage for services that may be furnished by a class or classes of health care professionals who are not in a closed panel. This paragraph shall be applied separately to distinguishable groups of employees under the plan.

"(2) Availability of coverage through healthmart.—Subsections (a) and (b) shall not apply to a group health plan if the health insurance coverage under the plan is made available through a HealthMart (as defined in section 2801) and if any health insurance coverage made available through the HealthMart provides for coverage of the services of any class of health care professionals other than through a closed panel of professionals.

"(3) Relicensure exemption.—Subsections (a) and (b) shall not apply to a health maintenance organization in a State in any case in which—

"(A) the organization demonstrates to the applicable authority that the organization has made a good faith effort to obtain (but has failed to obtain) a contract between the organization and any other health insurance issuer providing for the coverage option or supplemental coverage described in subsection (a) or (b), as the case may be, within the applicable service area of the organization, and

"(B) the State requires the organization to receive or qualify for a separate license, as an indemnity insurer or otherwise, in order to offer such coverage option or supplemental coverage, respectively.

The applicable authority may require that the organization demonstrate that it meets the requirements of the previous sentence no more frequently that once every two years.

"(4) Increased costs.—Subsections (a) and (b) shall not apply to a health maintenance organization if the organization demonstrates to the applicable authority, in accordance with generally accepted actuarial practice, that, on either a prospective or retroactive basis, the premium for the coverage option or supplemental coverage required to be made available under such respective subsection exceeds by more than 1 percent the premium for the coverage consisting of services which are furnished through a closed panel of health care professionals in the class or classes involved. The applicable authority may require that the organization demonstrate such an increase no more frequently that once every two years. This paragraph shall be applied on an average per enrollee or similar basis.

"(5) Collective bargaining agreements.—Subsections (a) and (b) shall not apply in connection with a group health plan if the plan is established or maintained pursuant to one or more collective bargaining agreements.

"(d) Definitions.—For purposes of this section:

"(1) Coverage through closed panel.—Health insurance coverage for a class of health care professionals shall be treated as provided through a closed panel of such professionals only if such coverage consists of coverage of items or services consisting of professionals services which are reimbursed for or provided only within a limited network of such professionals.

"(2) Health care professional.—The term 'health care professional' has the meaning given such term in section 2706(a)(2).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to coverage offered on or after January 1 of the second calendar year following the date of the enactment of this Act.

Subtitle B—Patient Access to Information

SEC. 2101. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

(a) In General.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as amended by subtitle A of this title) is amended further by adding at the end the following new section:

"SEC. 2707. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

"(a) Disclosure Requirement.—Each health insurance issuer offering health insurance coverage in connection with a group health plan shall provide the administrator of such plan on a timely basis with the information necessary to enable the administrator to include in the summary plan description of the plan required under section 102 of the Employee Retirement Income Security Act of 1974 (or each summary plan description in any case in which different summary plan descriptions are appropriate under part 1 of subtitle B of title I of such Act for different options of coverage) the information required under subsections (b), (c), (d), and (e)(2)(A). To the extent that any such issuer provides such information on a timely basis to plan participants and beneficiaries, the requirements of this subsection shall be deemed satisfied in the case of such plan with respect to such information.

"(b) Plan Benefits.—The information required under subsection (a) includes the following:

"(1) Covered items and services.—

"(A) Categorization of included benefits.—A description of covered benefits, categorized by—

"(i) types of items and services (including any special disease management program), and

"(ii) types of health care professionals providing such items and services.

"(B) Emergency medical care.—A description of the extent to which the coverage includes emergency medical care (including the extent to which the coverage provides for access to urgent care centers), and any definitions provided under in connection with such coverage for the relevant coverage terminology referring to such care.

"(C) Preventative services.—A description of the extent to which the coverage includes benefits for preventative services.

"(D) Drug formularies.—A description of the extent to which covered benefits are determined by the use or application of a drug formulary and a summary of the process for determining what is included in such formulary.

"(E) COBRA continuation coverage.—A description of the benefits available under the coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(2) Limitations, exclusions, and restrictions on covered benefits.—

"(A) Categorization of excluded benefits.—A description of benefits specifically excluded from coverage, categorized by types of items and services.

"(B) Utilization review and preauthorization requirements.—Whether coverage for medical care is limited or excluded on the basis of utilization review or preauthorization requirements.

"(C) Lifetime, annual, or other period limitations.—A description of the circumstances under which, and the extent to which, coverage is subject to lifetime, annual, or other period limitations, categorized by types of benefits.

"(D) Custodial care.—A description of the circumstances under which, and the extent to which, the coverage of benefits for custodial care is limited or excluded, and a statement of the definition used in connection with such coverage for custodial care.

"(E) Experimental treatments.—Whether coverage for any medical care is limited or excluded because it constitutes experimental treatment or technology, and any definitions provided in connection with such coverage for the relevant plan terminology referring to such limited or excluded care.

"(F) Medical appropriateness or necessity.—Whether coverage for medical care may be limited or excluded by reason of a failure to meet the plan's requirements for medical appropriateness or necessity, and any definitions provided in connection with such coverage for the relevant coverage terminology referring to such limited or excluded care.

"(G) Second or subsequent opinions.—A description of the circumstances under which, and the extent to which, coverage for second or subsequent opinions is limited or excluded.

"(H) Specialty care.—A description of the circumstances under which, and the extent to which, coverage of benefits for specialty care is conditioned on referral from a primary care provider.

"(I) Continuity of care.—A description of the circumstances under which, and the extent to which, coverage of items and services provided by any health care professional is limited or excluded by reason of the departure by the professional from any defined set of providers.

"(J) Restrictions on coverage of emergency services.—A description of the circumstances under which, and the extent to which, the coverage, in including emergency medical care furnished to a participant or beneficiary of the plan imposes any financial responsibility described in subsection (c) on participants or beneficiaries or limits or conditions benefits for such care subject to any other term or condition of such coverage.

"(c) Participant's Financial Responsibilities.—The information required under subsection (a) includes an explanation of—

"(1) a participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and any other charges, and

"(2) the circumstances under which, and the extent to which, the participant's financial responsibility described in paragraph (1) may vary, including any distinctions based on whether a health care provider from whom covered benefits are obtained is included in a defined set of providers.

"(d) Dispute Resolution Procedures.—The information required under subsection (a) includes a description of the processes adopted in connection with such coverage pursuant to section 503(b) of the Employee Retirement Income Security Act of 1974, including—

"(1) descriptions thereof relating specifically to—

"(A) coverage decisions,

"(B) internal review of coverage decisions, and

"(C) any external review of coverage decisions, and

"(2) the procedures and time frames applicable to each step of the processes referred to in subparagraphs (A), (B), and (C) of paragraph (1).

"(e) Information Available on Request.—

"(1) Access to plan benefit information in electronic form.—

"(A) In general.—A group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall, upon written request (made not more frequently than annually), make available to participants and beneficiaries, in a generally recognized electronic format, the following information:

"(i) the latest summary plan description, including the latest summary of material modifications, and

"(ii) the actual plan provisions setting forth the benefits available under the plan,

to the extent such information relates to the coverage options under the plan available to the participant or beneficiary. A reasonable charge may be made to cover the cost of providing such information in such generally recognized electronic format. The Secretary may by regulation prescribe a maximum amount which will constitute a reasonable charge under the preceding sentence.

"(B) Alternative access.—The requirements of this paragraph may be met by making such information generally available (rather than upon request) on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

"(2) Additional information to be provided on request.—

"(A) Inclusion in summary plan description of summary of additional information.—The information required under subsection (a) includes a summary description of the types of information required by this subsection to be made available to participants and beneficiaries on request.

"(B) Information required from plans and issuers on request.—In addition to information required to be included in summary plan descriptions under this subsection, a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide the following information to a participant or beneficiary on request:

"(i) Network characteristics.—If the plan (or issuer) utilizes a defined set of providers under contract with the plan (or issuer), a detailed list of the names of such providers and their geographic location, set forth separately with respect to primary care providers and with respect to specialists.

"(ii) Care management information.—A description of the circumstances under which, and the extent to which, the plan has special disease management programs or programs for persons with disabilities, indicating whether these programs are voluntary or mandatory and whether a significant benefit differential results from participation in such programs.

"(iii) Inclusion of drugs and biologicals in formularies.—A statement of whether a specific drug or biological is included in a formulary used to determine benefits under the plan and a description of the procedures for considering requests for any patient-specific waivers.

"(iv) Procedures for determining exclusions based on medical necessity or experimental treatments.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision based on a determination relating to medical necessity or an experimental treatment or technology, a description of the procedures and medically-based criteria used in such decision.

"(v) Preauthorization and utilization review procedures.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision, a description of the basis on which any preauthorization requirement or any utilization review requirement has resulted in such decision.

"(vi) Accreditation status of health insurance issuers and service providers.—A description of the accreditation and licencing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licencing authority.

"(vii) Measures of enrollee satisfaction.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to enrollee satisfaction.

"(viii) Quality performance measures.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to quality of performance of the delivery of medical care with respect to coverage options offered under the plan and of health care professionals and facilities providing medical care under the plan.

"(C) Information required from health care professionals on request.—Any health care professional treating a participant or beneficiary under a group health plan shall provide to the participant or beneficiary, on request, a description of his or her professional qualifications (including board certification status, licensing status, and accreditation status, if any), privileges, and experience and a general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which such professional is compensated in connection with the provision of such medical care.

"(D) INFORMATION REQUIRED FROM HEALTH CARE FACILITIES ON REQUEST.—Any health care facility from which a participant or beneficiary has sought treatment under a group health plan shall provide to the participant or beneficiary, on request, a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status (if any) assigned to the facility by standard-setting organizations.

"(f) ACCESS TO INFORMATION RELEVANT TO THE COVERAGE OPTIONS UNDER WHICH THE PARTICIPANT OR BENEFICIARY IS ELIGIBLE TO ENROLL.—In addition to information otherwise required to be made available under this section, a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall, upon written request (made not more frequently than annually), make available to a participant in connection with a period of enrollment the summary plan description for any coverage option under the plan under which the participant is eligible to enroll and any information described in clauses (i), (ii), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

"(g) ADVANCE NOTICE OF CHANGES IN DRUG FORMULARIES.—Not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary under the plan that is used in the treatment of a chronic illness or disease, the plan shall take such actions as are necessary to reasonably ensure that plan participants are informed of such exclusion. The requirements of this subsection may be satisfied—

"(1) by inclusion of information in publications broadly distributed by plan sponsors, employers, or employee organizations,

"(2) by electronic means of communication (including the Internet or proprietary computer networks in a format which is readily accessible to participants),

"(3) by timely informing participants who, under an ongoing program maintained under the plan, have submitted their names for such notification, or

"(4) by any other reasonable means of timely informing plan participants.".

SEC. 2102. REPORTING ON FRAUD AND ABUSE ENFORCEMENT ACTIVITIES.

The General Accounting Office shall—

(1) monitor—

(A) the compliance of the Department of Justice and all United States Attorneys–with the guideline entitled "Guidance on the Use of the False Claims Act in Civil Health Care Matters" issued by the Department on June 3, 1998, including any revisions to such guideline, and

(B) the compliance of the Office of the Inspector General of the Department of Health and Human Services with the protocols and guidelines entitled "National Project Protocols—Best Practice Guidelines" issued by the Inspector General on June 3, 1998, including any revisions to such protocols and guidelines, and

(2) submit a report on such compliance to the Committee on Commerce of the House of Representatives not later than February 1, 1999, and every year thereafter for a period of four years ending February 1, 2002.

SEC. 2103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall first issue all regulations necessary to carry out the amendments made by this subtitle before such date.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

Subtitle C—HealthMarts

SEC. 2201. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Health Care Consumer Empowerment Act of 1998".

SEC. 2202. EXPANSION OF CONSUMER CHOICE THROUGH HEALTHMARTS.

The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXVIII—HEALTHMARTS

"SEC. 2801. DEFINITION OF HEALTHMART.

"(a) IN GENERAL.—For purposes of this title, the term 'HealthMart' means a legal entity that meets the following requirements:'

"(1) ORGANIZATION.—The HealthMart is a nonprofit organization operated under the direction of a board of directors which is composed of representatives of not fewer than 2 and in equal numbers from each of the following:

"(A) Small employers.

"(B) Employees of small employers.

"(C) Health care providers, which may be physicians, other health care professionals, health care facilities, or any combination thereof.

"(D) Entities, such as insurance companies, health maintenance organizations, and licensed provider-sponsored organizations, that underwrite or administer health benefits coverage.

"(2) OFFERING HEALTH BENEFITS COVERAGE.—

"(A) IN GENERAL.—The HealthMart, in conjunction with those health insurance issuers that offer health benefits coverage through the HealthMart, makes available health benefits coverage in the manner described in subsection (b) to all small employers and eligible employees in the manner described in subsection (c)(2) at rates (including employer's and employee's share) that are established by the health insurance issuer on a policy or product specific basis and that may vary only as permissible under State law. A HealthMart is deemed to be a group health plan for purposes of applying section 702 of the Employee Retirement Income Security Act of 1974, section 2702 of this Act, and section 9802(b) of the Internal Revenue Code of 1986 (which limit variation among similarly situated individuals of required premiums for health benefits coverage on the basis of health status-related factors).

"(B) NONDISCRIMINATION IN COVERAGE OFFERED.—

"(i) IN GENERAL.—Subject to clause (ii), the HealthMart may not offer health benefits coverage to an eligible employee in a geographic area (as specified under paragraph (3)(A)) unless the same coverage is offered to all such employees in the same geographic area. Section 2711(a)(1)(B) of this Act limits denial of enrollment of certain eligible individuals under health benefits coverage in the small group market.

"(ii) CONSTRUCTION.—Nothing in this title shall be construed as requiring or permitting a health insurance issuer to provide coverage outside the service area of the issuer, as approved under State law.

"(C) NO FINANCIAL UNDERWRITING.—The HealthMart provides health benefits coverage only through contracts with health insurance issuers and does not assume insurance risk with respect to such coverage.

(D) MINIMUM COVERAGE.—By the end of the first year of its operation and thereafter, the HealthMart maintains not fewer than 10 purchasers and 100 members.

"(3) GEOGRAPHIC AREAS.—

"(A) SPECIFICATION OF GEOGRAPHIC AREAS.—The HealthMart shall specify the geographic area (or areas) in which it makes available health benefits coverage offered by health insurance issuers to small employers. Such an area shall encompass at least one entire county or equivalent area.

"(B) MULTISTATE AREAS.—In the case of a HealthMart that serves more than one State, such geographic areas may be areas that include portions of two or more contiguous States.

"(C) MULTIPLE HEALTHMARTS PERMITTED IN SINGLE GEOGRAPHIC AREA.—Nothing in this title shall be construed as preventing the establishment and operation of more than one HealthMart in a geographic area or as limiting the number of HealthMarts that may operate in any area.

"(4) PROVISION OF ADMINISTRATIVE SERVICES TO PURCHASERS.—

"(A) IN GENERAL.—The HealthMart provides administrative services for purchasers. Such services may include accounting, billing, enrollment information, and employee coverage status reports.

"(B) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a HealthMart from serving as an administrative service organization to any entity.

"(5) DISSEMINATION OF INFORMATION.—The HealthMart collects and disseminates (or arranges for the collection and dissemination of) consumer-oriented information on the scope, cost, and enrollee satisfaction of all coverage options offered through the HealthMart to its members and eligible individuals. Such information shall be defined by the HealthMart and shall be in a manner appropriate to the type of coverage offered. To the extent practicable, such information shall include information on provider performance, locations and hours of operation of providers, outcomes, and similar matters. Nothing in this section shall be construed as preventing the dissemination of such information or other information by the HealthMart or by health insurance issuers through electronic or other means.

"(6) FILING INFORMATION.—The HealthMart—

"(A) files with the applicable Federal authority information that demonstrates the HealthMart's compliance with the applicable requirements of this title; or

"(B) in accordance with rules established under section 2803(a), files with a State such information as the State may require to demonstrate such compliance.

"(b) HEALTH BENEFITS COVERAGE REQUIREMENTS.—

"(1) COMPLIANCE WITH CONSUMER PROTECTION REQUIREMENTS.—Any health benefits coverage offered through a HealthMart shall—

"(A) be underwritten by a health insurance issuer that—

"(i) is licensed (or otherwise regulated) under State law (or is a community health organization that is offering health insurance coverage pursuant to section 330B(a)), "(ii) meets all applicable State standards relating to consumer protection, subject to section 2802(b), and

"(iii) offers the coverage under a contract with the HealthMart;

"(B) subject to paragraph (2), be approved or otherwise permitted to be offered under State law; and

"(C) provide full portability of creditable coverage for individuals who remain members of the same HealthMart notwithstanding that they change the employer through which they are members in accordance with the provisions of the parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and titles XXII and XXVII of this Act, so long as both employers are purchasers in the HealthMart.

"(2) ALTERNATIVE PROCESS FOR APPROVAL OF HEALTH BENEFITS COVERAGE IN CASE OF DISCRIMINATION OR DELAY.—

"(A) IN GENERAL.—The requirement of paragraph (1)(B) shall not apply to a policy or product of health benefits coverage offered in a State if the health insurance issuer seeking to offer such policy or product files an application to waive such requirement with the applicable Federal authority, and the authority determines, based on the application and other evidence presented to the authority, that—

"(i) either (or both) of the grounds described in subparagraph (B) for approval of the application has been met; and

"(ii) the coverage meets the applicable State standards (other than those that have been preempted under section 2802).

"(B) GROUNDS.—The grounds described in this subparagraph with respect to a policy or product of health benefits coverage are as follows:

"(i) FAILURE TO ACT ON POLICY, PRODUCT, OR RATE APPLICATION ON A TIMELY BASIS.—The State has failed to complete action on the policy or product (or rates for the policy or product) within 90 days of the date of the State's receipt of a substantially complete application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

"(ii) DENIAL OF APPLICATION BASED ON DISCRIMINATORY TREATMENT.—The State has denied such an application and—

"(I) the standards or review process imposed by the State as a condition of approval of the policy or product imposes either any material requirements, procedures, or standards to such policy or product that are not generally applicable to other policies and products offered or any requirements that are preempted under section 2802; or

"(II) the State requires the issuer, as a condition of approval of the policy or product, to offer any policy or product other than such policy or product.

"(C) ENFORCEMENT.—In the case of a waiver granted under subparagraph (A) to an issuer with respect to a State, the Secretary may enter into an agreement with the State under which the State agrees to provide for monitoring and enforcement activities with respect to compliance of such an issuer and its health insurance coverage with the applicable State standards described in subparagraph (A)(ii). Such monitoring and enforcement shall be conducted by the State in the same manner as the State enforces such standards with respect to other health insurance issuers and plans, without discrimination based on the type of issuer to which the standards apply. Such an agreement shall specify or establish mechanisms by which compliance activities are undertaken, while not lengthening the time required to review and process applications for waivers under subparagraph (A).

"(3) EXAMPLES OF TYPES OF COVERAGE.—The health benefits coverage made available through a HealthMart may include, but is not limited to, any of the following if it meets the other applicable requirements of this title:

"(A) Coverage through a health maintenance organization.

"(B) Coverage in connection with a preferred provider organization.

"(C) Coverage in connection with a licensed provider-sponsored organization.

"(D) Indemnity coverage through an insurance company.

"(E) Coverage offered in connection with a contribution into a medical savings account or flexible spending account.

"(F) Coverage that includes a point-of-service option.

"(G) Coverage offered by a community health organization (as defined in section 330B(e)).

"(H) Any combination of such types of coverage.

"(4) WELLNESS BONUSES FOR HEALTH PROMOTION.—Nothing in this title shall be construed as precluding a health insurance issuer offering health benefits coverage through a HealthMart from establishing premium discounts or rebates for members or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention so long as such programs are agreed to in advance by the HealthMart and comply with all other provisions of this title and do not discriminate among similarly situated members.

"(c) PURCHASERS; MEMBERS; HEALTH INSURANCE ISSUERS.—

"(1) PURCHASERS.—

"(A) IN GENERAL.—Subject to the provisions of this title, a HealthMart shall permit any small employer to contract with the HealthMart for the purchase of health benefits coverage for its employees and dependents of those employees and may not vary conditions of eligibility (including premium rates and membership fees) of a small employer to be a purchaser.

"(B) ROLE OF ASSOCIATIONS, BROKERS, AND LICENSED HEALTH INSURANCE AGENTS.—Nothing in this section shall be construed as preventing an association, broker, licensed health insurance agent, or other entity from assisting or representing a HealthMart or small employers from entering into appropriate arrangements to carry out this title.

"(C) PERIOD OF CONTRACT.—The HealthMart may not require a contract under subparagraph (A) between a HealthMart and a purchaser to be effective for a period of longer than 12 months. The previous sentence shall not be construed as preventing such a contract from being extended for additional 12-month periods or preventing the purchaser from voluntarily electing a contract period of longer than 12 months.

"(D) EXCLUSIVE NATURE OF CONTRACT.—Such a contract shall provide that the purchaser agrees not to obtain or sponsor health benefits coverage, on behalf of any eligible employees (and their dependents), other than through the HealthMart. The previous sentence shall not apply to an eligible individual who resides in an area for which no coverage is offered by any health insurance issuer through the HealthMart.

"(2) MEMBERS.—

"(A) IN GENERAL.—Under rules established to carry out this title, with respect to a small employer that has a purchaser contract with a HealthMart, individuals who are employees of the employer may enroll for health benefits coverage (including coverage for dependents of such enrolling employees) offered by a health insurance issuer through the HealthMart.

"(B) NONDISCRIMINATION IN ENROLLMENT.—A HealthMart may not deny enrollment as a member to an individual who is an employee (or dependent of such an employee) eligible to be so enrolled based on health status-related factors, except as may be permitted consistent with section 2742(b).

"(C) ANNUAL OPEN ENROLLMENT PERIOD.—In the case of members enrolled in health benefits coverage offered by a health insurance issuer through a HealthMart, subject to subparagraph (D), the HealthMart shall provide for an annual open enrollment period of 30 days during which such members may change the coverage option in which the members are enrolled.

"(D) RULES OF ELIGIBILITY.—Nothing in this paragraph shall preclude a HealthMart from establishing rules of employee eligibility for enrollment and reenrollment of members during the annual open enrollment period under subparagraph (C). Such rules shall be applied consistently to all purchasers and members within the HealthMart and shall not be based in any manner on health status-related factors and may not conflict with sections 2701 and 2702 of this Act.

"(3) HEALTH INSURANCE ISSUERS.—

"(A) PREMIUM COLLECTION.—The contract between a HealthMart and a health insurance issuer shall provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the HealthMart, for the payment of the premiums collected by the HealthMart (or the issuer) for such coverage (less a pre-determined administrative charge negotiated by the HealthMart and the issuer) to the issuer.

"(B) SCOPE OF SERVICE AREA.—Nothing in this title shall be construed as requiring the service area of a health insurance issuer with respect to health insurance coverage to cover the entire geographic area served by a HealthMart.

"(C) AVAILABILITY OF COVERAGE OPTIONS.—A HealthMart shall enter into contracts with one or more health insurance issuers in a manner that assures that at least 2 health insurance coverage options are made available in the geographic area specified under subsection (a)(3)(A).

"(d) PREVENTION OF CONFLICTS OF INTEREST.—

"(1) FOR BOARDS OF DIRECTORS.—A member of a board of directors of a HealthMart may not serve as an employee or paid consultant to the HealthMart, but may receive reasonable reimbursement for travel expenses for purposes of attending meetings of the board or committees thereof.

"(2) FOR BOARDS OF DIRECTORS OR EMPLOYEES.—An individual is not eligible to serve in a paid or unpaid capacity on the board of directors of a HealthMart or as an employee of the HealthMart, if the individual is employed by, represents in any capacity, owns, or controls any ownership interest in a organization from whom the HealthMart receives contributions, grants, or other funds not connected with a contract for coverage through the HealthMart.

"(3) EMPLOYMENT AND EMPLOYEE REPRESENTATIVES.—

"(A) IN GENERAL.—An individual who is serving on a board of directors of a HealthMart as a representative described in subparagraph (A) or (B) of section 2801(a)(1) shall not be employed by or affiliated with a health insurance issuer or be licensed as or employed by or affiliated with a health care provider.

"(B) CONSTRUCTION.—For purposes of subparagraph (A), the term "affiliated" does not include membership in a health benefits plan or the obtaining of health benefits coverage offered by a health insurance issuer.

"(e) CONSTRUCTION.—

"(1) NETWORK OF AFFILIATED HEALTHMARTS.—Nothing in this section shall be construed as preventing one or more HealthMarts serving different areas (whether or not contiguous) from providing for some or all of the following (through a single administrative organization or otherwise):

"(A) Coordinating the offering of the same or similar health benefits coverage in different areas served by the different HealthMarts.

"(B) Providing for crediting of deductibles and other cost-sharing for individuals who are provided health benefits coverage through the HealthMarts (or affiliated HealthMarts) after—

"(i) a change of employers through which the coverage is provided, or

"(ii) a change in place of employment to an area not served by the previous HealthMart.

"(2) PERMITTING HEALTHMARTS TO ADJUST DISTRIBUTIONS AMONG ISSUERS TO REFLECT RELATIVE RISK OF ENROLLEES.—Nothing in this section shall be construed as precluding a HealthMart from providing for adjustments in amounts distributed among the health insurance issuers offering health benefits coverage through the HealthMart based on factors such as the relative health care risk of members enrolled under the coverage offered by the different issuers.

"(3) APPLICATION OF UNIFORM MINIMUM PARTICIPATION AND CONTRIBUTION RULES.—Nothing in this section shall be construed as precluding a HealthMart from establishing minimum participation and contribution rules (described in section 2711(e)(1)) for small employers that apply to become purchasers in the HealthMart, so long as such rules are applied uniformly for all health insurance issuers.

"SEC. 2802. APPLICATION OF CERTAIN LAWS AND REQUIREMENTS.

"(a) AUTHORITY OF STATES.—Nothing in this section shall be construed as preempting State laws relating to the following:

"(1) The regulation of underwriters of health coverage, including licensure and solvency requirements.

"(2) The application of premium taxes and required payments for guaranty funds or for contributions to high-risk pools.

"(3) The application of fair marketing requirements and other consumer protections (other than those specifically relating to an item described in subsection (b)).

"(4) The application of requirements relating to the adjustment of rates for health insurance coverage.

"(b) TREATMENT OF BENEFIT AND GROUPING REQUIREMENTS.—State laws insofar as they relate to any of the following are superseded and shall not apply to health benefits coverage made available through a HealthMart:

"(1) Benefit requirements for health benefits coverage offered through a HealthMart, including (but not limited to) requirements relating to coverage of specific providers, specific services or conditions, or the amount, duration, or scope of benefits, but not including requirements to the extent required to implement title XXVII or other Federal law and to the extent the requirement prohibits an exclusion of a specific disease from such coverage.

"(2) Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for such coverage to the extent such requirements impede the establishment and operation of HealthMarts pursuant to this title.

"(3) Any other requirements (including limitations on compensation arrangements) that, directly or indirectly, preclude (or have the effect of precluding) the offering of such coverage through a HealthMart, if the HealthMart meets the requirements of this title.

Any State law or regulation relating to the composition or organization of a HealthMart is preempted to the extent the law or regulation is inconsistent with the provisions of this title.

"(c) APPLICATION OF ERISA FIDUCIARY AND DISCLOSURE REQUIREMENTS.—The board of directors of a HealthMart is deemed to be a plan administrator of an employee welfare benefit plan which is a group health plan for purposes of applying parts 1 and 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and those provisions of part 5 of such subtitle which are applicable to enforcement of such parts 1 and 4, and the HealthMart shall be treated as such a plan and the enrollees shall be treated as participants and beneficiaries for purposes of applying such provisions pursuant to this subsection.

"(d) APPLICATION OF ERISA RENEWABILITY PROTECTION.—A HealthMart is deemed to be group health plan that is a multiple employer welfare arrangement for purposes of applying section 703 of the Employee Retirement Income Security Act of 1974.

"(e) APPLICATION OF RULES FOR NETWORK PLANS AND FINANCIAL CAPACITY.—The provisions of subsections (c) and (d) of section 2711 apply to health benefits coverage offered by a health insurance issuer through a HealthMart.

"(f) CONSTRUCTION RELATING TO OFFERING REQUIREMENT.—Nothing in section 2711(a) of this Act or 703 of the Employee Retirement Income Security Act of 1974 shall be construed as permitting the offering outside the HealthMart of health benefits coverage that is only made available through a HealthMart under this section because of the application of subsection (b).

"(g) APPLICATION TO GUARANTEED RENEWABILITY REQUIREMENTS IN CASE OF DISCONTINUATION OF AN ISSUER.—For purposes of applying section 2712 in the case of health insurance coverage offered by a health insurance issuer through a HealthMart, if the contract between the HealthMart and the issuer is terminated and the HealthMart continues to make available any health insurance coverage after the date of such termination, the following rules apply:

"(1) RENEWABILITY.—The HealthMart shall fulfill the obligation under such section of the issuer renewing and continuing in force coverage by offering purchasers (and members and their dependents) all available health benefits coverage that would otherwise be available to similarly-situated purchasers and members from the remaining participating health insurance issuers in the same manner as would be required of issuers under section 2712(c).

"(2) APPLICATION OF ASSOCIATION RULES.—The HealthMart shall be considered an association for purposes of applying section 2712(e).

"(h) CONSTRUCTION IN RELATION TO CERTAIN OTHER LAWS.—Nothing in this title shall be construed as modifying or affecting the applicability to HealthMarts or health benefits coverage offered by a health insurance issuer through a HealthMart of parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 or titles XXII and XXVII of this Act.

"SEC. 2803. ADMINISTRATION.

"(a) IN GENERAL.—The applicable Federal authority shall administer this title through the division established under subsection (b) and is authorized to issue such regulations as may be required to carry out this title. Such regulations shall be subject to Congressional review under the provisions of chapter 8 of title 5, United States Code. The applicable Federal authority shall incorporate the process of 'deemed file and use' with respect to the information filed under section 2801(a)(6)(A) and shall determine whether information filed by a HealthMart demonstrates compliance with the applicable requirements of this title. Such authority shall exercise its authority under this title in a manner that fosters and promotes the development of HealthMarts in order to improve access to health care coverage and services.

"(b) ADMINISTRATION THROUGH HEALTH CARE MARKETPLACE DIVISION.—

"(1) IN GENERAL.—The applicable Federal authority shall carry out its duties under this title through a separate Health Care Marketplace Division, the sole duty of which (including the staff of which) shall be to administer this title.

"(2) ADDITIONAL DUTIES.—In addition to other responsibilities provided under this title, such Division is responsible for—

"(A) oversight of the operations of HealthMarts under this title; and

"(B) the periodic submittal to Congress of reports on the performance of HealthMarts under this title under subsection (c).

"(c) PERIODIC REPORTS.—The applicable Federal authority shall submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the applicable Federal authority to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. Such authority may provide for the production of such reports through one or more contracts with appropriate private entities.

"SEC. 2804. DEFINITIONS.

"For purposes of this title:

"(1) APPLICABLE FEDERAL AUTHORITY.—The term 'applicable Federal authority' means the Secretary of Health and Human Services.

"(2) ELIGIBLE EMPLOYEE OR INDIVIDUAL.—The term 'eligible' means, with respect to an employee or other individual and a HealthMart, an employee or individual who is eligible under section 2801(c)(2) to enroll or be enrolled in health benefits coverage offered through the HealthMart.

"(3) EMPLOYER; EMPLOYEE; DEPENDENT.—Except as the applicable Federal authority may otherwise provide, the terms 'employer', 'employee', and 'dependent', as applied to health insurance coverage offered by a health insurance issuer licensed (or otherwise regulated) in a State, shall have the meanings applied to such terms with respect to such coverage under the laws of the State relating to such coverage and such an issuer.

"(4) HEALTH BENEFITS COVERAGE.—The term 'health benefits coverage' has the meaning given the term group health insurance coverage in section 2791(b)(4).

"(5) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2) and includes a community health organization that is offering coverage pursuant to section 330B(a).

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning given such term in section 2791(d)(9).

''(7) HEALTHMART.—The term 'HealthMart' is defined in section 2801(a).

''(8) MEMBER.—The term 'member''means, with respect to a HealthMart, an individual enrolled for health benefits coverage through the HealthMart under section 2801(c)(2).

''(9) PURCHASER.—The term 'purchaser' means, with respect to a HealthMart, a small employer that has contracted under section 2801(c)(1)(A) with the HealthMart for the purchase of health benefits coverage.

''(10) SMALL EMPLOYER.—The term 'small employer' has the meaning given such term for purposes of title XXVII.''.

Subtitle D—Community Health Organizations

SEC. 2301. PROMOTION OF PROVISION OF INSURANCE BY COMMUNITY HEALTH ORGANIZATIONS.

(a) WAIVER OF STATE LICENSURE REQUIREMENT FOR COMMUNITY HEALTH ORGANIZATIONS IN CERTAIN CASES.—Subpart I of part D of title III of the Public Health Service Act is amended by adding at the end the following new section:

''WAIVER OF STATE LICENSURE REQUIREMENT FOR COMMUNITY HEALTH ORGANIZATIONS IN CERTAIN CASES

''SEC. 330B. (a) WAIVER AUTHORIZED.—

''(1) IN GENERAL.—A community health organization may offer health insurance coverage in a State notwithstanding that it is not licensed in such a State to offer such coverage if—

''(A) the organization files an application for waiver of the licensure requirement with the Secretary of Health and Human Services (in this section referred to as the 'Secretary') by not later than November 1, 2003, and

''(B) the Secretary determines, based on the application and other evidence presented to the Secretary, that any of the grounds for approval of the application described in subparagraph (A), (B), or (C) of paragraph (2) has been met.

''(2) GROUNDS FOR APPROVAL OF WAIVER.—

''(A) FAILURE TO ACT ON LICENSURE APPLICATION ON A TIMELY BASIS.—The ground for approval of such a waiver application described in this subparagraph is that the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of a substantially complete application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

''(B) DENIAL OF APPLICATION BASED ON DISCRIMINATORY TREATMENT.—The ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application and the standards or review process imposed by the State as a condition of approval of the license or as the basis for such denial by the State imposes any material requirements, procedures, or standards (other than solvency requirements) to such organizations that are not generally applicable to other entities engaged in a substantially similar business.

''(C) DENIAL OF APPLICATION BASED ON APPLICATION OF SOLVENCY REQUIREMENTS.—With respect to waiver applications filed on or after the date of publication of solvency standards established by the Secretary under subsection (d), the ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application based (in whole or in part) on the organization's failure to meet applicable State solvency requirements and such requirements are not the same as the solvency standards established by the Secretary. For purposes of this subparagraph, the term solvency requirements means requirements relating to solvency and other matters covered under the standards established by the Secretary under subsection (d).

''(3) TREATMENT OF WAIVER.—In the case of a waiver granted under this subsection for a community health organization with respect to a State—

''(A) LIMITATION TO STATE.—The waiver shall be effective only with respect to that State and does not apply to any other State.

''(B) LIMITATION TO 36-MONTH PERIOD.—The waiver shall be effective only for a 36-month period but may be renewed for up to 36 additional months if the Secretary determines that such an extension is appropriate.

''(C) CONDITIONED ON COMPLIANCE WITH CONSUMER PROTECTION AND QUALITY STANDARDS.—The continuation of the waiver is conditioned upon the organization's compliance with the requirements described in paragraph (5).

''(D) PREEMPTION OF STATE LAW.—Any provisions of law of that State which relate to the licensing of the organization and which prohibit the organization from providing health insurance coverage shall be superseded.

''(4) PROMPT ACTION ON APPLICATION.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete waiver application has been filed. Nothing in this section shall be construed as preventing an organization which has had such a waiver application denied from submitting a subsequent waiver application.

''(5) APPLICATION AND ENFORCEMENT OF STATE CONSUMER PROTECTION AND QUALITY STANDARDS.—A waiver granted under this subsection to an organization with respect to licensing under State law is conditioned upon the organization's compliance with all consumer protection and quality standards insofar as such standards—

''(A) would apply in the State to the community health organization if it were licensed as an entity offering health insurance coverage under State law; and

''(B) are generally applicable to other risk-bearing managed care organizations and plans in the State.

''(6) REPORT.—By not later than December 31, 2002, the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report regarding whether the waiver process under this subsection should be continued after December 31, 2003.

''(b) ASSUMPTION OF FULL FINANCIAL RISK.—To qualify for a waiver under subsection (a), the community health organization shall assume full financial risk on a prospective basis for the provision of covered health care services, except that the organization—

''(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds such aggregate level as the Secretary specifies from time to time;

''(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization;

''(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 105 percent of its income for such fiscal year; and

''(4) may make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of health services by the physicians or other health professionals or through the institutions.

''(c) CERTIFICATION OF PROVISION AGAINST RISK OF INSOLVENCY FOR UNLICENSED CHOs.—

''(1) IN GENERAL.—Each community health organization that is not licensed by a State and for which a waiver application has been approved under subsection (a)(1), shall meet standards established by the Secretary under subsection (d) relating to the financial solvency and capital adequacy of the organization.

''(2) CERTIFICATION PROCESS FOR SOLVENCY STANDARDS FOR CHOS.—The Secretary shall establish a process for the receipt and approval of applications of a community health organization described in paragraph (1) for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such a certification application not later than 60 days after the date the application has been received.

''(d) ESTABLISHMENT OF SOLVENCY STANDARDS FOR COMMUNITY HEALTH ORGANIZATIONS.—

''(1) IN GENERAL.—The Secretary shall establish, on an expedited basis and by rule pursuant to section 553 of title 5, United States Code and through the Health Resources and Services Administration, standards described in subsection (c)(1) (relating to financial solvency and capital adequacy) that entities must meet to obtain a waiver under subsection (a)(2)(C). In establishing such standards, the Secretary shall consult with interested organizations, including the National Association of Insurance Commissioners, the Academy of Actuaries, and organizations representing Federally qualified health centers.

''(2) FACTORS TO CONSIDER FOR SOLVENCY STANDARDS.—In establishing solvency standards for community health organizations under paragraph (1), the Secretary shall take into account—

''(A) the delivery system assets of such an organization and ability of such an organization to provide services to enrollees;

''(B) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care; and

''(C) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations.

''(3) ENROLLEE PROTECTION AGAINST INSOLVENCY.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the organization's debts in the event of the organization's insolvency.

''(4) DEADLINE.—Such standards shall be promulgated in a manner so they are first effective by not later than April 1, 1999.

"(e) Definitions.—In this section:

"(1) Community health organization.—The term 'community health organization ' means an organization that is a Federally-qualified health center or is controlled by one or more Federally-qualified health centers.

"(2) Federally-qualified health center.—The term 'Federally-qualified health center' has the meaning given such term in section 1905(l)(2)(B) of the Social Security Act.

"(3) Health insurance coverage.—The term 'health insurance coverage' has the meaning given such term in section 2791(b)(1).

"(4) Control.—The term 'control' means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of the organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.".

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Patient Protections

SEC. 3001. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

(a) In General.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

"SEC. 9813. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

"(a) Patient Access to Unrestricted Medical Advice.—

"(1) In general.—In the case of any health care professional acting within the lawful scope of practice in the course of carrying out a contractual employment arrangement or other direct contractual arrangement between such professional and a group health plan, the plan with which such contractual employment arrangement or other direct contractual arrangement is maintained by the professional may not impose on such professional under such arrangement any prohibition with respect to advice, provided to a participant or beneficiary under the plan who is a patient, about the health status of the participant or beneficiary or the medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether benefits for such care or treatment are provided under the plan.

"(2) Health care professional defined.—For purposes of this subsection, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the group health plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech–language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse–midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(b) Patient Access to Emergency Medical Care.—

"(1) In general.—To the extent that the group health plan provides for any benefits consisting of emergency medical care (as defined in section 503(b)(9)(I) of the Employee Retirement Income Security Act of 1974), except for items or services specifically excluded—

"(A) the plan shall provide benefits, without requiring preauthorization, for appropriate emergency medical screening examinations (within the capability of the emergency facility, including ancillary services routinely available to the emergency facility) to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary in order to determine whether emergency medical care (as so defined) is required, and

"(B) the plan shall provide benefits for additional emergency medical services following an emergency medical screening examination (if determined necessary under subparagraph (A)) to the extent that a prudent emergency medical professional would determine such additional emergency services to be necessary to avoid the consequences described in clause (i) of section 503(b)(9)(I) of such Act.

"(2) Uniform cost-sharing required.—Nothing in this subsection shall be construed as preventing a group health plan from imposing any form of cost-sharing applicable to any participant or beneficiary (including coinsurance, copayments, deductibles, and any other charges) in relation to benefits described in paragraph (1), if such form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in section 503(b)(9)(I) of the Employee Retirement Income Security Act of 1974) provided to such similarly situated participants and beneficiaries under the plan.

"(c) Patient Access to Obstetric and Gynecological Care.

"(1) In general.—In any case in which a group health plan—

"(A) provides benefits under the terms of the plan consisting of—

"(i) routine gynecological care (such as preventive women's health examinations), or

"(ii) routine obstetric care (such as routine pregnancy-related services),

provided by a participating physician who specializes in such care (or provides benefits consisting of payment for such care), and

"(B) the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider,

if the primary care provider designated by such a participant or beneficiary is not such a physician, then the plan shall meet the requirements of paragraph (2).

"(2) Requirements.—A group health plan meets the requirements of this paragraph, in connection with benefits described in paragraph (1) consisting of care described in clause (i) or (ii) of paragraph (1)(A) (or consisting of payment therefor), if the plan—

"(A) does not require authorization or a referral by the primary care provider in order to obtain such benefits, and

"(B) treats the ordering of other routine care of the same type, by the participating physician providing the care described in clause (i) or (ii) of paragraph (1)(A), as the authorization of the primary care provider with respect to such care.

"(3) Construction.—Nothing in paragraph (2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered.

"(d) Patient Access to Pediatric Care.—

"(1) In general.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides benefits consisting of routine pediatric care provided by a participating physician who specializes in pediatrics (or consisting of payment for such care) and the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, the plan (or issuer) shall provide that such a participating physician may be designated, if available, by a parent or guardian of any beneficiary under the plan is who under 18 years of age, as the primary care provider with respect to any such benefits.

"(2) Construction.—Nothing in paragraph (1) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care.

"(e) Treatment of Multiple Coverage Options.—In the case of a plan providing benefits under two or more coverage options, the requirements of subsections (c) and (d) shall apply separately with respect to each coverage option.".

(b) Clerical Amendment.—The table of sections of such subchapter of such chapter is amended by adding at the end the following new item:

"Sec. 9813. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care."

SEC. 3002. EFFECTIVE DATE AND RELATED RULES.

(a) In General.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act, except that the Secretary of the Treasury may issue regulations before such date under such amendments. The Secretary shall first issue regulations necessary to carry out the amendments made by this section before the effective date thereof.

(b) Limitation on Penalty for Certain Failures.—No penalty shall be imposed on any failure to comply with any requirement imposed by the amendments made by section 3101 to the extent such failure occurs before the date of issuance of regulations issued in connection with such requirement if the plan has sought to comply in good faith with such requirement.

(c) Special Rule for Collective Bargaining Agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the provisions of subsections (b), (c), and (d) of section 9813 of the Internal Revenue Code of 1986 (as added by this subtitle) shall not apply with respect to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2001.

For purposes of this subsection, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subtitle shall not be treated as a termination of such collective bargaining agreement.

Subtitle B—Patient Access to Information

SEC. 3101. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

(a) In General.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

"SEC. 9814. DISCLOSURE BY GROUP HEALTH PLANS.

"(a) Disclosure Requirement.—The administrator of each group health plan shall take such actions as are necessary to ensure that the summary plan description of the plan required under section 102 of Employee Retirement Income Security Act of 1974 (or each summary plan description in any case in which different summary plan descriptions are appropriate under part 1 of subtitle B of title I of such Act for different options of coverage) contains the information required under subsections (b), (c), (d), and (e)(2)(A). To the extent that any health insurance issuer offering health insurance coverage in connection with such plan provides such information on a timely basis to plan participants and beneficiaries, the requirements of this subsection shall be deemed satisfied in the case of such plan with respect to such information.

"(b) Plan Benefits.—The information required under subsection (a) includes the following:

"(1) Covered items and services.—

"(A) Categorization of included benefits.—A description of covered benefits, categorized by—

"(i) types of items and services (including any special disease management program), and

"(ii) types of health care professionals providing such items and services.

"(B) Emergency medical care.—A description of the extent to which the plan covers emergency medical care (including the extent to which the plan provides for access to urgent care centers), and any definitions provided under the plan for the relevant plan terminology referring to such care.

"(C) Preventative services.—A description of the extent to which the plan provides benefits for preventative services.

"(D) Drug formularies.—A description of the extent to which covered benefits are determined by the use or application of a drug formulary and a summary of the process for determining what is included in such formulary.

"(E) COBRA continuation coverage.—A description of the requirements under section 4980B.

"(2) Limitations, exclusions, and restrictions on covered benefits.—

"(A) Categorization of excluded benefits.—A description of benefits specifically excluded from coverage, categorized by types of items and services.

"(B) Utilization review and preauthorization requirements.—Whether coverage for medical care is limited or excluded on the basis of utilization review or preauthorization requirements.

"(C) Lifetime, annual, or other period limitations.—A description of the circumstances under which, and the extent to which, coverage is subject to lifetime, annual, or other period limitations, categorized by types of benefits.

"(D) Custodial care.—A description of the circumstances under which, and the extent to which, the coverage of benefits for custodial care is limited or excluded, and a statement of the definition used by the plan for custodial care.

"(E) Experimental treatments.—Whether coverage for any medical care is limited or excluded because it constitutes experimental treatment or technology, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(F) Medical appropriateness or necessity.—Whether coverage for medical care may be limited or excluded by reason of a failure to meet the plan's requirements for medical appropriateness or necessity, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(G) Second or subsequent opinions.—A description of the circumstances under which, and the extent to which, coverage for second or subsequent opinions is limited or excluded.

"(H) Specialty care.—A description of the circumstances under which, and the extent to which, coverage of benefits for specialty care is conditioned on referral from a primary care provider.

"(I) Continuity of care.—A description of the circumstances under which, and the extent to which, coverage of items and services provided by any health care professional is limited or excluded by reason of the departure by the professional from any defined set of providers.

"(J) Restrictions on coverage of emergency services.—A description of the circumstances under which, and the extent to which, the plan, in covering emergency medical care furnished to a participant or beneficiary of the plan imposes any financial responsibility described in subsection (c) on participants or beneficiaries or limits or conditions benefits for such care subject to any other term or condition of such plan.

"(c) Participant's Financial Responsibilities.—The information required under subsection (a) includes an explanation of—

"(1) a participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and any other charges, and

"(2) the circumstances under which, and the extent to which, the participant's financial responsibility described in paragraph (1) may vary, including any distinctions based on whether a health care provider from whom covered benefits are obtained is included in a defined set of providers.

"(d) Dispute Resolution Procedures.—The information required under subsection (a) includes a description of the processes adopted by the plan pursuant to section 503(b) of Employee Retirement Income Security Act of 1974, including—

"(1) descriptions thereof relating specifically to—

"(A) coverage decisions,

"(B) internal review of coverage decisions, and

"(C) any external review of coverage decisions, and

"(2) the procedures and time frames applicable to each step of the processes referred to in subparagraphs (A), (B), and (C) of paragraph (1).

"(e) Information Available on Request.—

"(1) Access to plan benefit information in electronic form.—

"(A) In general.—A group health plan shall, upon written request (made not more frequently than annually), make available to participants and beneficiaries, in a generally recognized electronic format, the following information:

"(i) the latest summary plan description, including the latest summary of material modifications; and

"(ii) the actual plan provisions setting forth the benefits available under the plan

to the extent such information relates to the coverage options under the plan available to the participant or beneficiary. A reasonable charge may be made to cover the cost of providing such information in such generally recognized electronic format. The Secretary may by regulation prescribe a maximum amount which will constitute a reasonable charge under the preceding sentence.

"(B) Alternative access.—The requirements of this paragraph may be met by making such information generally available (rather than upon request) on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

"(2) Additional information to be provided on request.—

"(A) Inclusion in summary plan description of summary of additional information.—The information required under subsection (a) includes a summary description of the types of information required by this subsection to be made available to participants and beneficiaries on request.

"(B) Information required from plans on request.—In addition to information required to be included in summary plan descriptions under this subsection, a group health plan shall provide the following information to a participant or beneficiary on request:

"(i) Network characteristics.—If the plan (or a health insurance issuer offering health insurance coverage in connection with the plan) utilizes a defined set of providers under contract with the plan (or issuer), a detailed list of the names of such providers and their geographic location, set forth separately with respect to primary care providers and with respect to specialists.

"(ii) Care management information.—A description of the circumstances under which, and the extent to which, the plan has special disease management programs or programs for persons with disabilities, indicating whether these programs are voluntary or mandatory and whether a significant benefit differential results from participation in such programs.

"(iii) Inclusion of drugs and biologicals in formularies.—A statement of whether a specific drug or biological is included in a formulary used to determine benefits under the plan and a description of the procedures for considering requests for any patient-specific waivers.

"(iv) Procedures for determining exclusions based on medical necessity or experimental treatments.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision based on a determination relating to medical necessity or an experimental treatment or technology, a description of the procedures and medically-based criteria used in such decision.

"(v) Preauthorization and utilization review procedures.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision, a description of the basis on which any preauthorization requirement or any utilization review requirement has resulted in such decision.

"(vi) Accreditation status of health insurance issuers and service providers.—A description of the accreditation and licencing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licencing authority.

"(vii) MEASURES OF ENROLLEE SATISFACTION.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to enrollee satisfaction.

"(viii) QUALITY PERFORMANCE MEASURES.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to quality of performance of the delivery of medical care with respect to coverage options offered under the plan and of health care professionals and facilities providing medical care under the plan.

"(C) INFORMATION REQUIRED FROM HEALTH CARE PROFESSIONALS ON REQUEST.—Any health care professional treating a participant or beneficiary under a group health plan shall provide to the participant or beneficiary, on request, a description of his or her professional qualifications (including board certification status, licensing status, and accreditation status, if any), privileges, and experience and a general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which such professional is compensated in connection with the provision of such medical care.

"(D) INFORMATION REQUIRED FROM HEALTH CARE FACILITIES ON REQUEST.—Any health care facility from which a participant or beneficiary has sought treatment under a group health plan shall provide to the participant or beneficiary, on request, a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status (if any) assigned to the facility by standard-setting organizations.

"(f) ACCESS TO INFORMATION RELEVANT TO THE COVERAGE OPTIONS UNDER WHICH THE PARTICIPANT OR BENEFICIARY IS ELIGIBLE TO ENROLL.—In addition to information otherwise required to be made available under this section, a group health plan shall, upon written request (made not more frequently than annually), make available to a participant in connection with a period of enrollment the summary plan description for any coverage option under the plan under which the participant is eligible to enroll and any information described in clauses (i), (ii), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

"(g) ADVANCE NOTICE OF CHANGES IN DRUG FORMULARIES.—Not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary under the plan that is used in the treatment of a chronic illness or disease, the plan shall take such actions as are necessary to reasonably ensure that plan participants are informed of such exclusion. The requirements of this subsection may be satisfied—

"(1) by inclusion of information in publications broadly distributed by plan sponsors, employers, or employee organizations,

"(2) by electronic means of communication (including the Internet or proprietary computer networks in a format which is readily accessible to participants),

"(3) by timely informing participants who, under an ongoing program maintained under the plan, have submitted their names for such notification, or

"(4) by any other reasonable means of timely informing plan participants.".

(b) CLERICAL AMENDMENT.—The table of sections of such subchapter of such chapter is amended by adding at the end the following new item:

"Sec. 9814. Disclosure by group health plans."

SEC. 3102. REPORTING ON FRAUD AND ABUSE ENFORCEMENT ACTIVITIES.

The General Accounting Office shall—

(1) monitor—

(A) the compliance of the Department of Justice and all United States Attorneys–with the guideline entitled "Guidance on the Use of the False Claims Act in Civil Health Care Matters" issued by the Department on June 3, 1998, including any revisions to that guideline, and

(B) the compliance of the Office of the Inspector General of the Department of Health and Human Services with the protocols and guidelines entitled "National Project Protocols—Best Practice Guidelines" issued by the Inspector General on June 3, 1998, including any revisions to such protocols and guidelines, and

(2) submit a report on such compliance to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate not later than February 1, 1999, and every year thereafter for a period of four years ending February 1, 2002.

SEC. 3103. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary of the Treasury or the Secretary's delegate shall first issue all regulations necessary to carry out the amendments made by this subtitle before such date.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan has sought to comply in good faith with such requirement.

Subtitle C—Medical Savings Accounts

SEC. 3201. EXPANSION OF AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) REPEAL OF LIMITATIONS ON NUMBER OF MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (D).

(b) ALL EMPLOYERS MAY OFFER MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Subclause (I) of section 220(c)(1)(A)(iii) of such Code (defining eligible individual) is amended by striking "and such employer is a small employer".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (C).

(B) Subsection (c) of section 220 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(c) INCREASE IN AMOUNT OF DEDUCTION ALLOWED FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Paragraph (2) of section 220(b) of such Code is amended to read as follows:

"(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to 1/12 of the annual deductible (as of the first day of such month) of the taxpayer's coverage under the high deductible health plan."

(2) CONFORMING AMENDMENT.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking "75 percent of".

(d) BOTH EMPLOYERS AND EMPLOYEES MAY CONTRIBUTE TO MEDICAL SAVINGS ACCOUNTS.—Paragraph (5) of section 220(b) of such Code is amended to read as follows:

"(5) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—The limitation which would (but for this paragraph) apply under this subsection to the taxpayer for any taxable year shall be reduced (but not below zero) by the amount which would (but for section 106(b)) be includible in the taxpayer's gross income for such taxable year."

(e) REDUCTION OF PERMITTED DEDUCTIBLES UNDER HIGH DEDUCTIBLE HEALTH PLANS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking "$1,500" and inserting "$1,000", and

(B) by striking "$3,000" and inserting "$2,000".

(2) CONFORMING AMENDMENT.—Subsection (g) of section 220 of such Code is amended—

(A) by striking "1998" and inserting "1999", and

(B) by striking "1997" and inserting "1998".

(f) MEDICAL SAVINGS ACCOUNTS MAY BE OFFERED UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by striking "106(b),".

(g) INDIVIDUALS RECEIVING IMMEDIATE FEDERAL ANNUITIES ELIGIBLE FOR MEDICAL SAVINGS ACCOUNTS.—Paragraph (1) of section 220(c) of such Code (defining eligible individual), as amended by subsections (a) and (b), is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULES FOR INDIVIDUALS RECEIVING IMMEDIATE FEDERAL ANNUITIES.—

"(i) IN GENERAL.—Subparagraph (A)(iii) and subsection (b)(4) shall not apply for any month to an individual—

"(I) who, as of the 1st day of such month, is enrolled in a high deductible health plan under chapter 89 of title 5, United States Code, and

"(II) who is entitled to receive for such month any amount by reason of being an annuitant (as defined in section 8901(3) of such title 5).

"(ii) SPECIAL RULE FOR SPOUSE OF ANNUITANT.—In the case of the spouse of an individual described in clause (i) who is not also described in clause (i), subsection (b)(4) shall not apply to such spouse if such individual and spouse have family coverage under the same plan described in clause (i)(I)."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 3202. EXCEPTION FROM INSURANCE LIMITATION IN CASE OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 220(d)(2)(B) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

"(iii) INSURANCE OFFERED BY COMMUNITY HEALTH CENTERS.—

"(I) IN GENERAL.—Subject to clauses (II) and (III), clause (i) shall not apply to any expense for coverage under insurance offered by a health center (as defined in section 330(a)(1) of the Public Health Service Act) if the coverage consists solely of coverage for required primary health benefits (as defined in section 330(b)(1)(A) of such Act) provided on a capitated basis.

"(II) INCOME LIMITATION.—Subclause (I) shall only apply to expenses for coverage of an individual who, in the taxable year involved, has income that is less than 200 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(III) LIMITATION ON NUMBER OF CONTRACTS.—For a taxable year ending in a calendar year, subclause (I) shall apply only to expenses for coverage for the first 15,000 individuals enrolled in insurance described in such subclause in the year.".

(b) REPORTS ON ENROLLMENT.—Section 330(j)(3) of the Public Health Service Act (42 U.S.C. 254c(j)(3)) is amended—

(1) by striking "and" at the end of subparagraph (K),

(2) by striking the period at the end of subparagraph (L) and inserting "; and", and

(3) by inserting after subparagraph (L) the following new subparagraph:

"(M) if the center offers insurance coverage to an individual with a medical savings account under subclause (I) of section 220(d)(2)(B)(iii), the center shall provide such reports in such time and manner as may be required by the Secretary and the Secretary of the Treasury in order to carry out subclause (III) of such section.".

TITLE IV—HEALTH CARE LAWSUIT REFORM

Subtitle A—General Provisions

SEC. 4001. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) APPLICABILITY.—This title shall apply with respect to any health care liability action brought in any State or Federal court, except that this title shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) PREEMPTION.—This title shall preempt any State law to the extent such law is inconsistent with the limitations contained in this title. This title shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this title or otherwise imposes greater restrictions than those provided in this title.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) AMOUNT IN CONTROVERSY.—In an action to which this title applies and which is brought under section 1332 of title 28, United States Code, the amount of non-economic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 4002. DEFINITIONS.

As used in this title:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DRUG.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract, or

(D) a Medicare+Choice plan (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal court against—

(A) a health care provider,

(B) an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or

(C) the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product,

in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or contribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term "health care service" means any service eligible for payment under a health benefit plan, including services related to the delivery or administration of such service.

(14) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) NON-ECONOMIC DAMAGES.—The term "non-economic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) PRODUCT SELLER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "product seller" means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce, or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) EXCLUSION.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 4003. EFFECTIVE DATE.

This title will apply to—

(1) any health care liability action brought in a Federal or State court, and

(2) any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this title, except that any health care liability claim or action arising from an injury occurring before the date of enactment of this title shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

Subtitle B—Uniform Standards for Health Care Liability Actions

SEC. 4011. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 4012. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NON-ECONOMIC DAMAGES.—

(1) LIMITATION ON NON-ECONOMIC DAMAGES.—The total amount of non-economic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury. The limitation under this paragraph shall not apply to an action for damages based solely on intentional denial of medical treatment necessary to preserve a patient's life that the patient is otherwise qualified to receive, against the wishes of a patient, or if the patient is incompetent, against the wishes of the patient's guardian, on the basis of the patient's present or predicated age, disability, degree of medical dependency, or quality of life.

(2) LIMIT.—If, after the date of the enactment of this Act, a State enacts a law which prescribes the amount of non-economic damages which may be awarded in a health care liability action which is different from the amount prescribed by section 4012(a)(1), the State amount shall apply in lieu of the amount prescribed by such section. If, after the date of the enactment of this Act, a State enacts a law which limits the amount of recovery in a health care liability action without delineating between economic and non-economic damages, the State amount shall apply in lieu of the amount prescribed by such section.

(3) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of non-economic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for non-economic damages shall be several and not joint and a separate judgment shall be rendered against each defendant for the amount allocated to such defendant.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) APPLICABILITY.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(3) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(4) DRUGS AND DEVICES.—

(A) IN GENERAL.—

(i) PUNITIVE DAMAGES.—Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) APPLICATION.—Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) PACKAGING.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and non-economic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are likely to occur, as such payments are determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care liability action.

(3) APPLICATION TO SETTLEMENTS.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 4013. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, non-economic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are consistent with the provisions relating to such matters in this title.

TITLE V—CONFIDENTIALITY OF HEALTH INFORMATION

SEC. 5001. CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"PART D—CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION

"INSPECTION AND COPYING OF PROTECTED HEALTH INFORMATION

"SEC. 1181. (a) IN GENERAL.—Subject to the succeeding provisions of this section, upon the request of an individual who is the subject of protected health information, a person who is a health care provider, health plan, employer, health or life insurer, or educational institution shall make available to the individual (or, in the discretion of the person, to a health care provider designated by the individual), for inspection and copying, protected health information concerning the individual that the person maintains, including records created under section 1182.

"(b) Access Through Originating Provider.—Protected health information that is created by an originating provider, and subsequently received by another health care provider or a health plan as part of treatment or payment activities, shall be made available for inspection and copying as provided in this section through the originating provider, rather than the receiving health care provider or health plan, unless the originating provider does not maintain the information.

"(c) Investigational Information.—With respect to protected health information that was created as part of the requesting individual's participation in a clinical trial monitored by an institutional review board established to review health research with respect to potential risks to human subjects pursuant to Federal regulations adopted under section 1802(b) of the Public Health Service Act (42 U.S.C. 300v–1(b)) and the notice (informally referred to as the 'Common Rule') promulgated in the Federal Register at 56 Fed. Reg. 28003), a request under subsection (a) shall be granted only to the extent and in a manner consistent with such regulations.

"(d) Other Exceptions.—Unless ordered by a court of competent jurisdiction, a person to whom a request under subsection (a) is made is not required to grant the request, if—

"(1) the person determines that the disclosure of the information could reasonably be expected to endanger the life or physical safety of, or cause substantial harm to, any individual; or

"(2) the information is compiled principally—

"(A) in anticipation of a civil, criminal, or administrative action or proceeding; or

"(B) for use in such action or proceeding.

"(e) Denial of Request for Inspection or Copying.—If a person to whom a request under subsection (a) is made denies a request for inspection or copying pursuant to this section, the person shall inform the individual making the request, in writing, of—

"(1) the reasons for the denial of the request;

"(2) the availability of procedures for further review of the denial; and

"(3) the individual's right to file with the person a concise statement setting forth the request.

"(f) Statement Regarding Request.—If an individual has filed with a person a statement under subsection (e)(3) with respect to protected health information, the person, in any subsequent disclosure of the information—

"(1) shall include a notation concerning the individual's statement; and

"(2) may include a concise statement of the reasons for denying the request for inspection or copying.

"(g) Procedures.—A person providing access to protected health information for inspection or copying under this section may set forth appropriate procedures to be followed for such inspection or copying and may require an individual to pay reasonable costs associated with such inspection or copying.

"(h) Inspection and Copying of Segregable Portion.—A person to whom a request under subsection (a) is made shall permit the inspection and copying of any reasonably segregable portion of a record after deletion of any portion that the person is not required to disclose under this section.

"(i) Deadline.—A person described in subsection (a) shall comply with or deny, in accordance with this section, a request for inspection or copying of protected health information under this section not later than 30 days after the date on which the person receives the request.

"(j) Rules Governing Agents.—An agent of a person described in subsection (a) shall not be required to provide for the inspection and copying of protected health information, except where—

"(1) the protected health information is retained by the agent; and

"(2) the agent has been asked by the person to fulfill the requirements of this section.

"SUPPLEMENTATION OF PROTECTED HEALTH INFORMATION

"Sec. 1182. (a) In General.—Subject to subsection (b), not later than 45 days after the date on which a person who is a health care provider, health plan, employer, health or life insurer, or educational institution receives, from an individual who is a subject of protected health information that is maintained by the person, a request in writing to amend the information by adding a concise written supplement to it, the person—

"(1) shall make the amendment requested;

"(2) shall inform the individual of the amendment that has been made; and

"(3) shall make reasonable efforts to inform any person who is identified by the individual, who is not an officer, employer, or agent of the person receiving the request, and to whom the unamended portion of the information was disclosed during the preceding year, by sending a notice to the person's last known address that an amendment, consisting of the addition of a supplement, has been made to the protected health information of the individual.

"(b) Refusal to Amend.—If a person described in subsection (a) refuses to make an amendment requested by an individual under such subsection, the person shall inform the individual, in writing, of—

"(1) the reasons for the refusal to make the amendment;

"(2) any procedures for further review of the refusal; and

"(3) the individual's right to file with the person a concise statement setting forth the requested amendment and the individual's reasons for disagreeing with the refusal.

"(c) Statement of Disagreement.—If an individual has filed a statement of disagreement with a person under subsection (b)(3), the person, in any subsequent disclosure of the disputed portion of the information—

"(1) shall include a notation that such individual has filed a statement of disagreement; and

"(2) may include a concise statement of the reasons for not making the requested amendment.

"(d) Rules Governing Agents.—The agent of a person described in subsection (a) shall not be required to make amendments to individually identifiable health information, except where—

"(1) the information is retained by the agent; and

"(2) the agent has been asked by such person to fulfill the requirements of this section.

"(e) Duplicative Requests for Amendments.—If a person described in subsection (a) receives a duplicative request for an amendment of information as provided for in such subsection and a statement of disagreement with respect to the request has been filed pursuant to subsection (c), the person shall inform the individual of such filing and shall not be required to carry out the procedures under this section.

"(f) Rule of Construction.—This section shall not be construed—

"(1) to permit an individual to modify statements in his or her record that document the factual observations of another individual or state the results of diagnostic tests; or

"(2) to permit an individual to amend his or her record as to the type, duration, or quality of treatment the individual believes he or she should have been provided.

"NOTICE OF CONFIDENTIALITY PRACTICES

"Sec. 1183. (a) Preparation of Written Notice.—A person who is a health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution shall post or provide, in writing and in a clear and conspicuous manner, notice of the person's protected health information confidentiality practices. The notice shall include—

"(1) a description of an individual's rights with respect to protected health information;

"(2) the intended uses and disclosures of protected health information;

"(3) the procedures established by the person for the exercise of an individual's rights with respect to protected health information; and

"(4) the procedures established by the person for obtaining copies of the notice.

"(b) Model Notice.—The Secretary, after notice and opportunity for public comment, and based on the advice of the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)), shall develop and disseminate, not later than 6 months after the date of the enactment of the Patient Protection Act of 1998, model notices of confidentiality practices, for use under this section. Use of a model notice developed by the Secretary shall serve as a complete defense in any civil action to an allegation that a violation of this section has occurred.

"ESTABLISHMENT OF SAFEGUARDS

"Sec. 1184. (a) In General.—A person who is a health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution shall establish, maintain, and enforce reasonable and appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of protected health information created, received, obtained, maintained, used, transmitted, or disposed of by the person.

"(b) Factors To Be Considered.—A person subject to subsection (a) shall consider the following factors in establishing safeguards under such subsection:

"(1) The need for protected health information.

"(2) The categories of personnel who will have access to protected health information.

"(3) The feasibility of limiting access to individual identifiers.

"(4) The appropriateness of the policy or procedure to the person, and to the medium in which protected health information is stored and transmitted.

"(5) The value of audit trails in computerized records.

"(c) Relationship to Part C Requirement.—Any safeguard established under this section shall be consistent with the requirement in section 1173(d)(2).

"(d) Conversion to Nonidentifiable Health Information.—A person subject to subsection (a) shall, to the extent practicable and consistent with the purpose for which protected health information is maintained, convert such information into nonidentifiable health information.

"AVAILABILITY OF PROTECTED HEALTH INFORMATION FOR PURPOSES OF HEALTH CARE OPERATIONS

"Sec. 1185. Disclosure.—Any person who maintains protected health information may disclose the information to a health care provider or a health plan for the purpose of permitting the provider or plan to conduct health care operations.

"(b) Use.—A health care provider or a health plan that maintains protected health information may use it for the purposes described in subsection (a).

"RELATIONSHIP TO OTHER LAWS

"Sec. 1186. (a) State Law.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the provisions of this part shall preempt a provision of State law to the extent that such provision—

"(A) otherwise would be preempted as inconsistent with this part under article VI of the Constitution of the United States;

"(B) relates to authorization for the use or disclosure of—

"(i) protected health information for health care operations; or

"(ii) nonidentifiable health information; or

"(C) relates to any of the following:

"(i) Inspection or copying of protected health information by a person who is a subject of the information.

"(ii) Amendment of protected health information by a person who is a subject of the information.

"(iii) Notice of confidentiality practices with respect to protected health information.

"(iv) Establishment of safeguards for protected health information.

"(2) Exceptions.—Nothing in this part shall be construed to preempt or modify a provision of State law to the extent that such provision relates to protected health information and—

"(A) the confidentiality of the records maintained by a licensed mental health professional;

"(B) the provision of health care to a minor, or the disclosure of information about a minor to a parent or guardian of the minor;

"(C) condition-specific limitations on disclosure;

"(D) the use or disclosure of information for use in legally authorized—

"(i) disease or injury reporting;

"(ii) public health surveillance, investigation, or intervention;

"(iii) vital statistics reporting, such as reporting of birth or death information;

"(iv) reporting of abuse or neglect information;

"(v) reporting of information concerning a communicable disease status; or

"(vi) reporting concerning the safety or effectiveness of a biological product regulated under section 351 of the Public Health Service Act (42 U.S.C. 262) or a drug or device regulated under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

"(E) the disclosure to a person by a health care provider of information about an individual, in any case in which the provider has determined—

"(i) in the provider's reasonable medical judgment, that the individual is unconscious, incompetent, or otherwise incapable of deciding whether to authorize disclosure of the protected health information; and

"(ii) in the provider's reasonable judgment, that the person is a spouse, relative, guardian, or close friend of the individual's; or

"(F) the use of information by, or the disclosure of information to, a person holding a valid and applicable power of attorney that includes the authority to make health care decisions on behalf of an individual who is a subject of the information.

"(3) Privileges.—Nothing in this part shall be construed to preempt or modify a provision of State law to the extent that such provision relates to a privilege of a witness or other person in a court of that State.

"(b) Federal Law.—Nothing in this part shall be construed to preempt, modify, or repeal a provision of any other Federal law relating to protected health information or relating to an individual's access to protected health information or health care services. Nothing in this part shall be construed to preempt, modify, or repeal a provision of Federal law to the extent that such provision relates to a privilege of a witness or other person in a court of the United States.

"CIVIL PENALTIES

"Sec. 1187. (a) Violation.—A person who the Secretary determines has substantially and materially failed to comply with this part shall be subject, in addition to any other penalties that may be prescribed by law—

"(1) in a case in which the violation relates to section 1181 or 1182, to a civil penalty of not more than $500 for each such violation but not to exceed $5,000 in the aggregate for all violations of an identical requirement or prohibition during a calendar year;

"(2) in the case in which the violation relates to section 1183 or 1184, to a civil penalty of not more than $10,000 for each such violation, but not to exceed $50,000 in the aggregate for all violations of an identical requirement or prohibition during a calendar year; or

"(3) in a case in which the Secretary finds that such violations have occurred with such frequency as to constitute a general business practice, to a civil penalty of not more than $100,000.

"(b) Procedures for Imposition of Penalties.—Section 1128A, other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil or monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A.

"DEFINITIONS

"Sec. 1188. As used in this part:

"(1) Agent.—The term 'agent' means a person, including a contractor, who represents and acts for another under the contract or relation of agency, or whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between the principal and a third person.

"(2) Condition-specific limitations on disclosure.—The term 'condition-specific limitations on disclosure' means State laws that prohibit the disclosure of protected health information relating to a health condition or disease that has been identified by the Secretary as posing a public health threat.

"(3) Disclose.—The term 'disclose' means to release, transfer, provide access to, or otherwise divulge protected health information to any person other than an individual who is the subject of such information.

"(4) Educational institution.—The term 'educational institution' means an institution or place accredited or licensed for purposes of providing for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges united under one corporate organization or government.

"(5) Employer.—The term 'employer' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

"(6) Health care.—The term 'health care' means—

"(A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, including appropriate assistance with disease or symptom management and maintenance, counseling, service, or procedure—

"(i) with respect to the physical or mental condition of an individual; or

"(ii) affecting the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs, or any other tissue; or

"(B) any sale or dispensing, pursuant to a prescription or medical order, of a drug, device, equipment, or other health care-related item to an individual, or for the use of an individual.

"(7) Health care operations.—The term 'health care operations' means services, provided directly by or on behalf of a health plan or health care provider or by its agent, for any of the following purposes:

"(A) Coordinating health care, including health care management of the individual through risk assessment, case management, and disease management.

"(B) Conducting quality assessment and improvement activities, including outcomes evaluation, clinical guideline development and improvement, and health promotion.

"(C) Carrying out utilization review activities, including precertification and preauthorization of services, and health plan rating activities, including underwriting and experience rating.

"(D) Conducting or arranging for auditing services.

"(8) Health care provider.—The term 'health care provider' means a person, who with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

"(A) a person who is licensed, certified, registered, or otherwise authorized by Federal or State law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession;

"(B) a Federal, State, or employer-sponsored or any other privately-sponsored program that directly provides items or services that constitute health care to beneficiaries; or

"(C) an officer or employee of a person described in subparagraph (A) or (B).

"(9) Health or life insurer.—The term 'health or life insurer' means a health insurance issuer, as defined in section 9832(b)(2) of the Internal Revenue Code of 1986, or a life insurance company, as defined in section 816 of such Code.

"(10) Health plan.—The term 'health plan' means any health insurance plan, including any hospital or medical service plan, dental or other health service plan, health maintenance organization plan, plan offered by a provider-sponsored organization (as defined in section 1855(d)), or other program providing or arranging for the provision of health benefits.

"(11) HEALTH RESEARCHER.—The term 'health researcher' means a person (or an officer, employee, or agent of a person) who is engaged in systematic investigation, including research development, testing, data analysis, and evaluation, designed to develop or contribute to generalizable knowledge relating to basic biomedical processes, health, health care, health care delivery, or health care cost.

"(12) NONIDENTIFIABLE HEALTH INFORMATION.—The term 'nonidentifiable health information' means protected health information from which personal identifiers that reveal the identity of the individual who is the subject of such information or provide a direct means of identifying the individual (such as name, address, and social security number) have been removed, encrypted, or replaced with a code, such that the identity of the individual is not evident without (in the case of encrypted or coded information) use of a key.

"(13) ORIGINATING PROVIDER.—The term 'originating provider', when used with respect to protected health information, means the health care provider who takes an action that initiates the treatment episode to which that information relates, such as prescribing a drug, ordering a diagnostic test, or admitting an individual to a health care facility. A hospital or nursing facility is the originating provider with respect to protected health information created or received as part of inpatient or outpatient treatment provided in the hospital or facility.

"(14) PAYMENT ACTIVITIES.—The term 'payment activities' means—

"(A) activities undertaken—

"(i) by, or on behalf of, a health plan to determine its responsibility for coverage under the plan; or

"(ii) by a health care provider to obtain payment for items or services provided to an individual, provided under a health plan, or provided based on a determination by the health plan of responsibility for coverage under the plan; and

"(B) includes the following activities, when performed in a manner consistent with subparagraph (A):

"(i) Billing, claims management, medical data processing, other administrative services, and actual payment.

"(ii) Determinations of coverage or adjudication of health benefit or subrogation claims.

"(iii) Review of health care services with respect to coverage under a health plan or justification of charges.

"(15) PERSON.—The term 'person' means—

"(A) a natural person;

"(B) a government or governmental subdivision, agency, or authority;

"(C) a company, corporation, estate, firm, trust, partnership, association, joint venture, society, or joint stock company; or

"(D) any other legal entity.

"(16) PROTECTED HEALTH INFORMATION.—The term 'protected health information', when used with respect to an individual who is a subject of information means any information (including genetic information) that identifies the individual, whether oral or recorded in any form or medium, and that—

"(A) is created or received by a health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, or educational institution;

"(B) relates to the past, present, or future physical or mental health or condition of an individual (including individual cells and their components);

"(C) is derived from—

"(i) the provision of health care to an individual; or

"(ii) payment for the provision of health care to an individual; and

"(D) is not nonidentifiable health information.

"(17) STATE.—The term 'State' includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"(18) TREATMENT.—The term 'treatment' means the provision of health care by a health care provider.

"(19) WRITING.—The term 'writing' means writing either in a paper-based, computer-based, or electronic form, including electronic signatures.".

(b) ENFORCEMENT OF PROVISIONS THROUGH CONDITIONS ON PARTICIPATION.—

(1) PARTICIPATING PHYSICIANS AND SUPPLIERS.—Section 1842(h) of the Social Security Act (42 U.S.C. 1395u(h)) is amended by adding at the end the following:

"(9) The Secretary may refuse to enter into an agreement with a physician or supplier under this subsection, or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been found to have violated a provision of part D of title XI.".

(2) MEDICARE+CHOICE ORGANIZATIONS.—Section 1852(h) of the Social Security Act (42 U.S.C. 1395w–22(h)) is amended—

(A) in the matter preceding paragraph (1), by striking "procedures—" and inserting "procedures, consistent with sections 1181 through 1185—"; and

(B) in paragraph (1), by striking "privacy of any individually identifiable enrollee information;" and inserting "confidentiality of protected health information concerning enrollees;".

(3) MEDICARE PROVIDERS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by inserting a semicolon at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting "; and"; and

(C) by inserting immediately after subparagraph (S) the following new subparagraph:

"(T) to comply with sections 1181 through 1184.".

(4) HEALTH MAINTENANCE ORGANIZATIONS WITH RISK-SHARING CONTRACTS.—Section 1876(k)(4) of the Social Security Act (42 U.S.C. 1395mm(k)(4)) of the Social Security Act is amended by adding at the end the following:

"(E) The confidentiality and accuracy procedure requirements under section 1852(h).".

(c) CONFORMING AMENDMENTS.—

(1) TITLE HEADING.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by striking the title heading and inserting the following:

"TITLE XI—GENERAL PROVISIONS, PEER REVIEW, ADMINISTRATIVE SIMPLIFICATION, AND CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION".

(2) NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS.—Section 306(k)(5) of the Public Health Service Act (42 U.S.C. 242(k)(5)) is amended—

(A) in subparagraphs (A)(viii) and (D), by striking "part C" and inserting "parts C and D";

(B) in subparagraph (C), by striking "and" at the end;

(C) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(E) shall study the issues relating to section 1184 of the Social Security Act (as added by the Patient Protection Act of 1998), and, not later than 1 year after the date of the enactment of the Patient Protection Act of 1998, shall report to the Congress on such section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act, except that subsection (c)(2), and section 1183(b) of the Social Security Act (as added by subsection (a)), shall take effect on the date of the enactment of this Act.

SEC. 5002. STUDY AND REPORT ON EFFECT OF STATE LAW ON HEALTH-RELATED RESEARCH.

Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Congress a report containing the results of a study on the effect of State laws on health-related research subject to review by an institutional review board or institutional review committee with respect to the protection of human subjects.

SEC. 5003. STUDY AND REPORT ON STATE LAW ON PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Congress a report containing the results of a study—

(1) compiling State laws on the confidentiality of protected health information (as defined in section 1188 of the Social Security Act, as added by section 5001 of this Act); and

(2) analyzing the effect of such laws on the provision of health care and securing payment for such care.

(b) MODIFICATION OF DEADLINE.—Section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033) is amended by striking "36 months after the date of the enactment of this Act," and inserting "6 months after the date on which the Comptroller General of the United States submits to the Congress a report under section 5003(a) of the Patient Protection Act of 1998,".

SEC. 5004. PROTECTION FOR CERTAIN INFORMATION DEVELOPED TO REDUCE MORTALITY OR MORBIDITY OR FOR IMPROVING PATIENT CARE AND SAFETY.

(a) PROTECTION OF CERTAIN INFORMATION.—Notwithstanding any other provision of Federal or State law, health care response information shall be exempt from any disclosure requirement (regardless of whether the requirement relates to subpoenas, discovery, introduction of evidence, testimony, or any other form of disclosure), in connection with a civil or administrative proceeding under Federal or State law, to the same extent as information developed by a health care provider with respect to any of the following:

(1) Peer review.

(2) Utilization review.

(3) Quality management or improvement.

(4) Quality control.

(5) Risk management.

(6) Internal review for purposes of reducing mortality, morbidity, or for improving patient care or safety.

(b) NO WAIVER OF PROTECTION THROUGH INTERACTION WITH ACCREDITING BODY.—Notwithstanding any other provision of Federal or State law, the protection of health care response information from disclosure provided under subsection (a) shall not be deemed to be modified or in any way waived by—

(1) the development of such information in connection with a request or requirement of an accrediting body; or

(2) the transfer of such information to an accrediting body.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "accrediting body" means a national, not-for-profit organization that—

(A) accredits health care providers; and

(B) is recognized as an accrediting body by statute or by a Federal or State agency that regulates health care providers.

(2) The term "health care provider" has the meaning given such term in section 1188 of the Social Security Act (as added by section 5001 of this Act).

(3) The term "health care response information" means information (including any data, report, record, memorandum, analysis, statement, or other communication) developed by, or on behalf of, a health care provider in response to a serious, adverse, patient-related event—

(A) during the course of analyzing or studying the event and its causes; and

(B) for purposes of—

(i) reducing mortality or morbidity; or

(ii) improving patient care or safety (including the provider's notification to an accrediting body and the provider's plans of action in response to such event).

(5) The term "State" has the meaning given such term in section 1188 of the Social Security Act (as added by section 5001 of this Act).

TITLE VI—MEDICAL SAVINGS ACCOUNTS FOR FEDERAL EMPLOYEES

SEC. 6001. MEDICAL SAVINGS ACCOUNTS FOR FEDERAL EMPLOYEES.

(a) MEDICAL SAVINGS ACCOUNTS.—

(1) CONTRIBUTIONS.—Title 5, United States Code, is amended by redesignating section 8906a as section 8906c and by inserting after section 8906 the following:

"§ 8906a. Government contributions to medical savings accounts

"(a) An employee or annuitant enrolled in a high deductible health plan is entitled, in addition to the Government contribution under section 8906(b) toward the subscription charge for such plan, to have a Government contribution made, in accordance with succeeding provisions of this section, to a medical savings account of such employee or annuitant.

"(b)(1) The biweekly Government contribution under this section shall, in the case of any such employee or annuitant, be equal to the amount by which—

"(A) the biweekly equivalent of the maximum Government contribution for the contract year involved (as defined by paragraph (2)), exceeds (if at all)

"(B) the amount of the biweekly Government contribution payable on such employee's or annuitant's behalf under section 8906(b) for the period involved.

"(2) For purposes of this section, the term 'maximum Government contribution' means, with respect to a contract year, the maximum Government contribution that could be made for health benefits for an employee or annuitant for such contract year, as determined under section 8906(b) (disregarding paragraph (2) thereof)).

"(3) Notwithstanding any other provision of this section, no contribution under this section shall be payable to any medical savings account of an employee or annuitant for any period—

"(A) if, as of the first day of the month before the month in which such period commences, such employee or annuitant (or the spouse of such employee or annuitant, if coverage is for self and family) is entitled to benefits under part A of title XVIII of the Social Security Act;

"(B) to the extent that such contribution, when added to previous contributions made under this section for that same year with respect to such employee or annuitant, would cause the total to exceed—

"(i) the highest annual limit deductible permitted under clause (i) or (ii) of section 220(c)(2)(A) of the Internal Revenue Code of 1986, as appropriate (determined taking into account any changes in coverage that may occur), for the calendar year in which such period commences; or

"(ii) such lower amount (relative to the limitation that would otherwise apply under clause (i)) as the employee or annuitant may specify in accordance with regulations of the Office, including an election not to receive contributions under this section for a year or the remainder of a year; or

"(C) for which any information (or documentation) under subsection (d) that is needed in order to make such contribution has not been timely submitted.

"(4) Notwithstanding any other provision of this section, no contribution under this section shall be payable to any medical savings account of an employee for any period in a contract year unless that employee was enrolled in a health benefits plan under this chapter as an employee for not less than—

"(A) the 1 year of service immediately before the start of such contract year, or

"(B) the full period or periods of service between the last day of the first period, as prescribed by regulations of the Office of Personnel Management, in which he is eligible to enroll in the plan and the day before the start of such contract year,

whichever is shorter.

"(5) The Office shall provide for the conversion of biweekly rates of contributions specified by paragraph (1) to rates for employees and annuitants whose pay or annuity is provided on other than a biweekly basis, and for this purpose may provide for the adjustment of the converted rate to the nearest cent.

"(c) A Government contribution under this section—

"(1) shall be made at the same time that, and the same frequency with which, Government contributions under section 8906(b) are made for the benefit of the employee or annuitant involved; and

"(2) shall be payable from the same appropriation, fund, account, or other source as would any Government contributions under section 8906(b) with respect to the employee or annuitant involved.

"(d) The Office shall by regulation prescribe the time, form, and manner in which an employee or annuitant shall submit any information (and supporting documentation) necessary to identify any medical savings account to which contributions under this section are requested to be made.

"(e) Nothing in this section shall be considered to entitle an employee or annuitant to any Government contribution under this section with respect to any period for which such employee or annuitant is ineligible for a Government contribution under section 8906(b).

"§ 8906b. Individual contributions to medical savings accounts

"(a) Upon the written request of an employee or annuitant enrolled in a high deductible health plan, there shall be withheld from the pay or annuity of such employee or annuitant and contributed to the medical savings account identified by such employee or annuitant in accordance with applicable regulations under subsection (c) such amount as the employee or annuitant may specify.

"(b) Notwithstanding subsection (a), no withholding under this section may be made from the pay or annuity of an employee or annuitant for any period—

"(1) if, or to the extent that, a Government contribution for such period under section 8906a would not be allowable by reason of subparagraph (A) or (B)(i) of subsection (b)(3) thereof;

"(2) for which any information (or documentation) that is needed in order to make such contribution has not been timely submitted; or

"(3) if the employee or annuitant submits a request for termination of withholdings, beginning on or after the effective date of the request and before the end of the year.

"(c) The Office of Personnel Management shall prescribe any regulations necessary to carry out this section, including provisions relating to the time, form, and manner in which any request for withholdings under this section may be made, changed, or terminated.".

(2) RULES OF CONSTRUCTION.—Nothing in this section or in any amendment made by this section shall be considered—

(A) to permit or require that any contributions to a medical savings account (whether by the Government or through withholdings from pay or annuity) be paid into the Employees Health Benefits Fund; or

(B) to affect any authority under section 1005(f) of title 39, United States Code, to vary, add to, or substitute for any provision of chapter 89 of title 5, United States Code, as amended by this section.

(3) CONFORMING AMENDMENTS.—

(A) The table of sections at the beginning of chapter 89 of title 5, United States Code, is amended by striking the item relating to section 8906a and inserting the following:

"8906a. Government contributions to medical savings accounts.
"8906b. Individual contributions to medical savings accounts.
"8906c. Temporary employees.".

(B) Section 8913(b)(4) of title 5, United States Code, is amended by striking "8906a(a)" and inserting "8906c(a)".

(b) INFORMATIONAL REQUIREMENTS.—Section 8907 of title 5, United States Code, is amended by adding at the end the following:

"(c) In addition to any information otherwise required under this section, the Office shall make available to all employees and annuitants eligible to enroll in a high deductible health plan, information relating to—

"(1) the conditions under which Government contributions under section 8906a shall be made to a medical savings account;

"(2) the amount of any Government contributions under section 8906a to which an employee or annuitant may be entitled (or how such amount may be ascertained);

"(3) the conditions under which contributions to a medical savings account may be made under section 8906b through withholdings from pay or annuity; and

"(4) any other matter the Office considers appropriate in connection with medical savings accounts.".

(c) High Deductible Health Plan and Medical Savings Account Defined.—Section 8901 of title 5, United States Code, is amended—

(1) in paragraph (10) by striking "and" after the semicolon;

(2) in paragraph (11) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(12) the term 'high deductible health plan' means a plan described by section 8903(5) or section 8903a(d); and

"(13) the term 'medical savings account' has the meaning given such term by section 220(d) of the Internal Revenue Code of 1986.".

(d) Authority To Contract for High Deductible Health Plans.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

"(p)(1) The Office shall contract under this chapter for a high deductible health plan with any qualified carrier that offers such a plan and, as of the date of enactment of the Federal Employees Health Care Freedom of Choice Act, offers a health benefits plan under this chapter.

"(2) The Office may contract under this chapter for a high deductible health plan with any qualified carrier that offers such a plan, but does not, as of the date of enactment of the Federal Employees Health Care Freedom of Choice Act, offer a health benefits plan under this chapter.".

(e) Description of High Deductible Health Plans and Benefits To Be Provided Thereunder.—

(1) In general.—Section 8903 of title 5, United States Code, is amended by adding at the end the following:

"(5) High deductible health plans.—(A) One or more plans described by paragraph (1), (2), (3), or (4), which—

"(i) are high deductible health plans (as defined by section 220(c)(2) of the Internal Revenue Code of 1986); and

"(ii) provide benefits of the types referred to by section 8904(a)(5).

"(B) Nothing in this section shall be considered—

"(i) to prevent a carrier from simultaneously offering a plan described by subparagraph (A) and a plan described by paragraph (1) or (2); or

"(ii) to require that a high deductible health plan offer two levels of benefits.".

(2) Types of benefits.—Section 8904(a) of title 5, United States Code, is amended by inserting after paragraph (4) the following:

"(5) High deductible health plans.—Benefits of the types named under paragraph (1) or (2) of this subsection or both.".

(3) Conforming amendments.—

(A) Section 8903a of title 5, United States Code, is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

"(d) The plans under this section may include one or more plans, otherwise allowable under this section, that satisfy the requirements of clauses (i) and (ii) of section 8903(5)(A).".

(B) Section 8909(d) of title 5, United States Code, is amended by striking "8903a(d)" and inserting "8903a(e)".

(4) References.—Section 8903 of title 5, United States Code, is amended by adding after paragraph (5) (as added by paragraph (1) of this subsection) as a flush left sentence, the following:

"The Office shall prescribe regulations in accordance with which the requirements of section 8902(c), 8902(n), 8909(e), and any other provision of this chapter that applies with respect to a plan described by paragraph (1), (2), (3), or (4) of this section shall apply with respect to the corresponding plan under paragraph (5) of this section. Similar regulations shall be prescribed with respect to any plan under section 8903a(d).".

SEC. 6002. EFFECTIVE DATE.

The amendments made by this title shall apply with respect to contract years beginning on or after January 1, 2000. The Office of Personnel Management shall take appropriate measures to ensure that coverage under a high deductible health plan under chapter 89 of title 5, United States Code (as amended by this section) shall be available as of the beginning of the first contract year described in the preceding sentence.

The SPEAKER pro tempore. Pursuant to House Resolution 509, the amendments printed in House Report 105–643 are adopted.

The text of H.R. 4250, as amended pursuant to House Resolution 509, is as follows:

H.R. 4250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—The Act may be cited as the "Patient Protection Act of 1998".

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subtitle A—Patient Protections.

Sec. 1001. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, and pediatric care.
Sec. 1002. Effective date and related rules.

Subtitle B—Patient Access to Information

Sec. 1101. Patient access to information regarding plan coverage, managed care procedures, health care providers, and quality of medical care.
Sec. 1102. Effective date.

Subtitle C—New Procedures and Access to Courts for Grievances Arising under Group Health Plans

Sec. 1201. Special rules for group health plans.
Sec. 1202. Effective date.

Subtitle D—Affordable Health Coverage for Employees of Small Businesses

Sec. 1301. Short title of subtitle.
Sec. 1302. Rules governing association health plans.

"Part 8—Rules Governing Association Health Plans

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Special rules for church plans.
"Sec. 813. Definitions and rules of construction.
Sec. 1303. Clarification of treatment of single employer arrangements.
Sec. 1304. Clarification of treatment of certain collectively bargained arrangements.
Sec. 1305. Enforcement provisions relating to association health plans.
Sec. 1306. Cooperation between Federal and State authorities.
Sec. 1307. Effective date and transitional and other rules.

TITLE II—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

Subtitle A—Patient Protections and Point of Service Coverage Requirements

Sec. 2001. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care.
Sec. 2002. Requiring health maintenance organizations to offer option of point-of-service coverage.

Subtitle B—Patient Access to Information

Sec. 2101. Patient access to information regarding plan coverage, managed care procedures, health care providers, and quality of medical care.
Sec. 2102. Effective date.

Subtitle C—HealthMarts

Sec. 2201. Short title of subtitle.
Sec. 2202. Expansion of consumer choice through HealthMarts.

"TITLE XXVIII—HEALTHMARTS

"Sec. 2801. Definition of HealthMart.
"Sec. 2802. Application of certain laws and requirements.
"Sec. 2803. Administration.
"Sec. 2804. Definitions.

Subtitle D—Community Health Organizations

Sec. 2301. Promotion of provision of insurance by community health organizations.

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Patient Protections

Sec. 3001. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care.
Sec. 3002. Effective date and related rules.

Subtitle B—Patient Access to Information

Sec. 3101. Patient access to information regarding plan coverage, managed care procedures, health care providers, and quality of medical care.
Sec. 3102. Effective date.

Subtitle C—Medical Savings Accounts

Sec. 3201. Expansion of availability of medical savings accounts.
Sec. 3202. Exception from insurance limitation in case of medical savings accounts.

Sec. 3203. Sense of the House of Representatives.

Subtitle D—Revenue Offsets

Sec. 3301. Clarification of definition of specified liability loss.
Sec. 3302. Property subject to a liability treated in same manner as assumption of liability.
Sec. 3303. Limitation on required accrual of amounts received for performance of certain personal services.
Sec. 3304. Returns relating to cancellations of indebtedness by organizations lending money.
Sec. 3305. Clarifications and expansion of mathematical error assessment procedures.
Sec. 3306. Inclusion of rotavirus gastroenteritis as a taxable vaccine.

TITLE IV—HEALTH CARE LAWSUIT REFORM

Subtitle A—General Provisions

Sec. 4001. Federal reform of health care liability actions.
Sec. 4002. Definitions.
Sec. 4003. Effective date.

Subtitle B—Uniform Standards for Health Care Liability Actions

Sec. 4011. Statute of limitations.
Sec. 4012. Calculation and payment of damages.
Sec. 4013. Alternative dispute resolution.
Sec. 4014. Reporting on fraud and abuse enforcement activities.

TITLE V—CONFIDENTIALITY OF HEALTH INFORMATION

Sec. 5001. Confidentiality of protected health information.

"PART D—CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION

"Sec. 1181. Inspection and copying of protected health information.
"Sec. 1182. Supplementation of protected health information.
"Sec. 1183. Notice of confidentiality practices.
"Sec. 1184. Establishment of safeguards.
"Sec. 1185. Availability of protected health information for purposes of health care operations.
"Sec. 1186. Relationship to other laws.
"Sec. 1187. Civil penalties.
"Sec. 1188. Definitions.
Sec. 5002. Study and report on effect of State law on health-related research.
Sec. 5003. Study and report on State law on protected health information.
Sec. 5004. Protection for certain information developed to reduce mortality or morbidity or for improving patient care and safety.
Sec. 5005. Effective date for standards governing unique health identifiers for individuals.

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subtitle A—Patient Protections

SEC. 1001. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, AND PEDIATRIC CARE.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended further by adding at the end the following new section:

"SEC. 713. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

"(a) PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE.—

"(1) IN GENERAL.—In the case of any health care professional acting within the lawful scope of practice in the course of carrying out a contractual employment arrangement or other direct contractual arrangement between such professional and a group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan, the plan or issuer with which such contractual employment arrangement or other direct contractual arrangement is maintained by the professional may not impose on such professional under such arrangement any prohibition or restriction with respect to advice, provided to a participant or beneficiary under the plan who is a patient, about the health status of the participant or beneficiary or the medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether benefits for such care or treatment are provided under the plan or health insurance coverage offered in connection with the plan.

"(2) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the group health plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech–language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse–midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(b) PATIENT ACCESS TO EMERGENCY MEDICAL CARE.—

"(1) IN GENERAL.—To the extent that the group health plan (or health insurance issuer offering health insurance coverage in connection with the plan) provides for any benefits consisting of emergency medical care (as defined in section 503(b)(9)(I)), except for items or services specifically excluded—

"(A) the plan or issuer shall provide benefits, without requiring preauthorization and without regard to otherwise applicable network limitations, for appropriate emergency medical screening examinations (within the capability of the emergency facility, including ancillary services routinely available to the emergency facility) to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary in order to determine whether emergency medical care (as so defined) is required, and

"(B) the plan or issuer shall provide benefits for additional emergency medical services following an emergency medical screening examination (if determined necessary under subparagraph (A)) to the extent that a prudent emergency medical professional would determine such additional emergency services to be necessary to avoid the consequences described in section 503(b)(9)(I).

"(2) UNIFORM COST-SHARING REQUIRED.—Nothing in this subsection shall be construed as preventing a group health plan or issuer from imposing any form of cost-sharing applicable to any participant or beneficiary (including coinsurance, copayments, deductibles, and any other charges) in relation to benefits described in paragraph (1), if such form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in section 503(b)(9)(I)) provided to such similarly situated participants and beneficiaries under the plan.

"(c) PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

"(1) IN GENERAL.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan)—

"(A) provides benefits under the terms of the plan consisting of—

"(i) routine gynecological care (such as preventive women's health examinations), or

"(ii) routine obstetric care (such as routine pregnancy-related services),

provided by a participating physician who specializes in such care (or provides benefits consisting of payment for such care), and

"(B) the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider,

if the primary care provider designated by such a participant or beneficiary is not such a physician, then the plan (or issuer) shall meet the requirements of paragraph (2).

"(2) REQUIREMENTS.—A group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) meets the requirements of this paragraph, in connection with benefits described in paragraph (1) consisting of care described in clause (i) or (ii) of paragraph (1)(A) (or consisting of payment therefor), if the plan (or issuer)—

"(A) does not require authorization or a referral by the primary care provider in order to obtain such benefits, and

"(B) treats the ordering of other routine care of the same type, by the participating physician providing the care described in clause (i) or (ii) of paragraph (1)(A), as the authorization of the primary care provider with respect to such care.

"(3) CONSTRUCTION.—Nothing in paragraph (2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered.

"(d) PATIENT ACCESS TO PEDIATRIC CARE.—

"(1) IN GENERAL.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides benefits consisting of routine pediatric care provided by a participating physician who specializes in pediatrics (or consisting of payment for such care) and the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, the plan (or issuer) shall provide that such a participating physician may be designated, if available, by a parent or guardian of any beneficiary under the plan is who under 18 years of age, as the primary care provider with respect to any such benefits.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care.

"(e) TREATMENT OF MULTIPLE COVERAGE OPTIONS.—In the case of a plan providing benefits under two or more coverage options, the requirements of subsections (c) and (d) shall apply separately with respect to each coverage option.".

(b) Conforming Amendment.—The table of contents in section 1 of such Act is amended by adding at the end of the items relating to subpart B of part 7 of subtitle B of title I of such Act the following new item:

"Sec. 713. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, and pediatric care.".

SEC. 1002. EFFECTIVE DATE AND RELATED RULES.

(a) In General.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act, except that the Secretary of Labor may issue regulations before such date under such amendments. The Secretary shall first issue regulations necessary to carry out the amendments made by this section before the effective date thereof.

(b) Limitation on Enforcement Actions.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(c) Special Rule for Collective Bargaining Agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the provisions of subsections (b), (c), and (d) of section 713 of the Employee Retirement Income Security Act of 1974 (as added by this subtitle) shall not apply with respect to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2001.

For purposes of this subsection, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subtitle shall not be treated as a termination of such collective bargaining agreement.

(d) Assuring Coordination.—The Secretary of Labor, the Secretary of the Treasury, and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under the provisions of this subtitle, section 2101, and subtitle A of title III (and the amendments made thereby) are administered so as to have the same effect at all times, and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(e) Treatment of Religious Nonmedical Providers.—

(1) In general.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage in connection with group health plans, to include as providers religious nonmedical providers,

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers,

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers,

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals from decisions denying or limiting coverage for care by religious nonmedical providers, or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider, or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other data otherwise required, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) Religious nonmedical provider.—For purposes of this subsection, the term "religious nonmedical provider" means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

Subtitle B—Patient Access to Information

SEC. 1101. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

(a) In General.—Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(1) by redesignating section 111 as section 112; and

(2) by inserting after section 110 the following new section:

"DISCLOSURE BY GROUP HEALTH PLANS

"Sec. 111. (a) Disclosure Requirement.—

"(1) Group health plans.—The administrator of each group health plan shall take such actions as are necessary to ensure that the summary plan description of the plan required under section 102 (or each summary plan description in any case in which different summary plan descriptions are appropriate under part 1 for different options of coverage) contains, among any information otherwise required under this part, the information required under subsections (b), (c), (d), and (e)(2)(A).

"(2) Health insurance issuers.—Each health insurance issuer offering health insurance coverage in connection with a group health plan shall provide the administrator on a timely basis with the information necessary to enable the administrator to comply with the requirements of paragraph (1). To the extent that any such issuer provides on a timely basis to plan participants and beneficiaries information otherwise required under this part to be included in the summary plan description, the requirements of sections 101(a)(1) and 104(b) shall be deemed satisfied in the case of such plan with respect to such information.

"(b) Plan Benefits.—The information required under subsection (a) includes the following:

"(1) Covered items and services.—

"(A) Categorization of included benefits.—A description of covered benefits, categorized by—

"(i) types of items and services (including any special disease management program), and

"(ii) types of health care professionals providing such items and services.

"(B) Emergency medical care.—A description of the extent to which the plan covers emergency medical care (including the extent to which the plan provides for access to urgent care centers), and any definitions provided under the plan for the relevant plan terminology referring to such care.

"(C) Preventative services.—A description of the extent to which the plan provides benefits for preventative services.

"(D) Drug formularies.—A description of the extent to which covered benefits are determined by the use or application of a drug formulary and a summary of the process for determining what is included in such formulary.

"(E) COBRA continuation coverage.—A description of the benefits available under the plan pursuant to part 6.

"(2) Limitations, exclusions, and restrictions on covered benefits.—

"(A) Categorization of excluded benefits.—A description of benefits specifically excluded from coverage, categorized by types of items and services.

"(B) Utilization review and preauthorization requirements.—Whether coverage for medical care is limited or excluded on the basis of utilization review or preauthorization requirements.

"(C) Lifetime, annual, or other period limitations.—A description of the circumstances under which, and the extent to which, coverage is subject to lifetime, annual, or other period limitations, categorized by types of benefits.

"(D) Custodial care.—A description of the circumstances under which, and the extent to which, the coverage of benefits for custodial care is limited or excluded, and a statement of the definition used by the plan for custodial care.

"(E) Experimental treatments.—Whether coverage for any medical care is limited or excluded because it constitutes experimental treatment or technology, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(F) Medical appropriateness or necessity.—Whether coverage for medical care may be limited or excluded by reason of a failure to meet the plan's requirements for medical appropriateness or necessity, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(G) Second or subsequent opinions.—A description of the circumstances under which, and the extent to which, coverage for second or subsequent opinions is limited or excluded.

"(H) Specialty care.—A description of the circumstances under which, and the extent to which, coverage of benefits for specialty care is conditioned on referral from a primary care provider.

"(I) Continuity of care.—A description of the circumstances under which, and the extent to which, coverage of items and services provided by any health care professional is limited or excluded by reason of the departure by the professional from any defined set of providers.

"(J) Restrictions on coverage of emergency services.—A description of the circumstances under which, and the extent to which, the plan, in covering emergency medical care furnished to a participant or beneficiary of the plan imposes any financial responsibility described in subsection (c) on participants or beneficiaries or limits or conditions benefits for such care subject to any other term or condition of such plan.

"(c) PARTICIPANT'S FINANCIAL RESPONSIBILITIES.—The information required under subsection (a) includes an explanation of—

"(1) a participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and any other charges, and

"(2) the circumstances under which, and the extent to which, the participant's financial responsibility described in paragraph (1) may vary, including any distinctions based on whether a health care provider from whom covered benefits are obtained is included in a defined set of providers.

"(d) DISPUTE RESOLUTION PROCEDURES.—The information required under subsection (a) includes a description of the processes adopted by the plan pursuant to section 503(b), including—

"(1) descriptions thereof relating specifically to—

"(A) coverage decisions,

"(B) internal review of coverage decisions, and

"(C) any external review of coverage decisions, and

"(2) the procedures and time frames applicable to each step of the processes referred to in subparagraphs (A), (B), and (C) of paragraph (1).

"(e) INFORMATION AVAILABLE ON REQUEST.—

"(1) ACCESS TO PLAN BENEFIT INFORMATION IN ELECTRONIC FORM.—

"(A) IN GENERAL.—In addition to the information required to be provided under section 104(b)(4), a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall, upon written request (made not more frequently than annually), make available to participants and beneficiaries, in a generally recognized electronic format, the following information:

"(i) the latest summary plan description, including the latest summary of material modifications; and

"(ii) the actual plan provisions setting forth the benefits available under the plan

to the extent such information relates to the coverage options under the plan available to the participant or beneficiary. A reasonable charge may be made to cover the cost of providing such information in such generally recognized electronic format. The Secretary may by regulation prescribe a maximum amount which will constitute a reasonable charge under the preceding sentence.

"(B) ALTERNATIVE ACCESS.—The requirements of this paragraph may be met by making such information generally available (rather than upon request) on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

"(2) ADDITIONAL INFORMATION TO BE PROVIDED ON REQUEST.—

"(A) INCLUSION IN SUMMARY PLAN DESCRIPTION OF SUMMARY OF ADDITIONAL INFORMATION.—The information required under subsection (a) includes a summary description of the types of information required by this subsection to be made available to participants and beneficiaries on request.

"(B) INFORMATION REQUIRED FROM PLANS AND ISSUERS ON REQUEST.—In addition to information required to be included in summary plan descriptions under this subsection, a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide the following information to a participant or beneficiary on request:

"(i) NETWORK CHARACTERISTICS.—If the plan (or issuer) utilizes a defined set of providers under contract with the plan (or issuer), a detailed list of the names of such providers and their geographic location, set forth separately with respect to primary care providers and with respect to specialists.

"(ii) CARE MANAGEMENT INFORMATION.—A description of the circumstances under which, and the extent to which, the plan has special disease management programs or programs for persons with disabilities, indicating whether these programs are voluntary or mandatory and whether a significant benefit differential results from participation in such programs.

"(iii) INCLUSION OF DRUGS AND BIOLOGICALS IN FORMULARIES.—A statement of whether a specific drug or biological is included in a formulary used to determine benefits under the plan and a description of the procedures for considering requests for any patient-specific waivers.

"(iv) PROCEDURES FOR DETERMINING EXCLUSIONS BASED ON MEDICAL NECESSITY OR EXPERIMENTAL TREATMENTS.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision based on a determination relating to medical necessity or an experimental treatment or technology, a description of the procedures and medically-based criteria used in such decision.

"(v) PREAUTHORIZATION AND UTILIZATION REVIEW PROCEDURES.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision, a description of the basis on which any preauthorization requirement or any utilization review requirement has resulted in such decision.

"(vi) ACCREDITATION STATUS OF HEALTH INSURANCE ISSUERS AND SERVICE PROVIDERS.—A description of the accreditation and licencing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licencing authority.

"(vii) MEASURES OF ENROLLEE SATISFACTION.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to enrollee satisfaction.

"(viii) QUALITY PERFORMANCE MEASURES.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to quality of performance of the delivery of medical care with respect to coverage options offered under the plan and of health care professionals and facilities providing medical care under the plan.

"(ix) INFORMATION RELATING TO EXTERNAL REVIEWS.—The number of external reviews under section 503(b)(4) that have been completed during the prior plan year and the number of such reviews in which the recommendation reported under section 503(b)(4)(C)(iii) includes a recommendation for modification or reversal of an internal review decision under the plan.

"(C) INFORMATION REQUIRED FROM HEALTH CARE PROFESSIONALS ON REQUEST.—Any health care professional treating a participant or beneficiary under a group health plan shall provide to the participant or beneficiary, on request, a description of his or her professional qualifications (including board certification status, licensing status, and accreditation status, if any), privileges, and experience and a general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which such professional is compensated in connection with the provision of such medical care.

"(D) INFORMATION REQUIRED FROM HEALTH CARE FACILITIES ON REQUEST.—Any health care facility from which a participant or beneficiary has sought treatment under a group health plan shall provide to the participant or beneficiary, on request, a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status (if any) assigned to the facility by standard-setting organizations.

"(f) ACCESS TO INFORMATION RELEVANT TO THE COVERAGE OPTIONS UNDER WHICH THE PARTICIPANT OR BENEFICIARY IS ELIGIBLE TO ENROLL.—In addition to information otherwise required to be made available under this section, a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall, upon written request (made not more frequently than annually), make available to a participant (and an employee who, under the terms of the plan, is eligible for coverage, but not enrolled) in connection with a period of enrollment the summary plan description for any coverage option under the plan under which the participant is eligible to enroll and any information described in clauses (i), (ii), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

"(g) ADVANCE NOTICE OF CHANGES IN DRUG FORMULARIES.—Not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary under the plan that is used in the treatment of a chronic illness or disease, the plan shall take such actions as are necessary to reasonably ensure that plan participants are informed of such exclusion. The requirements of this subsection may be satisfied—

"(1) by inclusion of information in publications broadly distributed by plan sponsors, employers, or employee organizations,

"(2) by electronic means of communication (including the Internet or proprietary computer networks in a format which is readily accessible to participants),

"(3) by timely informing participants who, under an ongoing program maintained under the plan, have submitted their names for such notification, or

"(4) by any other reasonable means of timely informing plan participants.

"(h) DEFINITIONS.—For purposes of this section—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided such term under section 503(b)(6).

"(2) MEDICAL CARE.—The term 'medical care' has the meaning provided such term under section 733(a)(2).

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided such term under section 733(b)(1).

"(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided such term under section 733(b)(2).".

(b) CONFORMING AMENDMENTS.—

(1) Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended—

(A) by striking "section 733(a)(1)" each place it appears and inserting "section 503(b)(6)"; and

(B) by inserting before the period at the end the following: "; and, in the case of a group health plan (as defined in section 111(h)(1)), the information required to be included under section 111(a)".

(2) The table of contents in section 1 of such Act is amended by striking the item relating to section 111 and inserting the following new items:

"Sec. 111. Disclosure by group health plans.
"Sec. 112. Repeal and effective date.".

SEC. 1102. EFFECTIVE DATE AND RELATED RULES.

(a) In General.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall first issue all regulations necessary to carry out the amendments made by this subtitle before such date.

(b) Limitation on Enforcement Actions.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(c) Assuring Coordination.—The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under the provisions of this subtitle, subtitle B of title II, and subtitle B of title III (and the amendments made thereby) are administered so as to have the same effect at all times, and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

Subtitle C—New Procedures and Access to Courts for Grievances Arising Under Group Health Plans

SEC. 1201. SPECIAL RULES FOR GROUP HEALTH PLANS.

(a) In General.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by inserting "(a) In General.—" after "Sec. 503.";

(2) by inserting "(other than a group health plan)" after "employee benefit plan"; and

(3) by adding at the end the following new subsection:

"(b) Special Rules for Group Health Plans.—

"(1) Coverage determinations.—Every group health plan shall—

"(A) provide adequate notice in writing in accordance with this subsection to any participant or beneficiary of any adverse coverage decision with respect to benefits of such participant or beneficiary under the plan, setting forth the specific reasons for such coverage decision and any rights of review provided under the plan, written in a manner calculated to be understood by the participant,

"(B) provide such notice in writing also to any treating medical care provider of such participant or beneficiary, if such provider has claimed reimbursement for any item or service involved in such coverage decision, or if a claim submitted by the provider initiated the proceedings leading to such decision,

"(C) afford a reasonable opportunity to any participant or beneficiary who is in receipt of the notice of such adverse coverage decision, and who files a written request for review of the initial coverage decision within 180 days after receipt of the notice of the initial decision, for a full and fair de novo review of the decision by an appropriate named fiduciary who did not make the initial decision, and

"(D) meet the additional requirements of this subsection.

"(2) Time limits for making initial coverage decisions for benefits and completing internal appeals.—

"(A) Time limits for deciding requests for benefit payments, requests for advance determination of coverage, and requests for required determination of medical necessity.—Except as provided in subparagraph (B)—

"(i) Initial decisions.—If a request for benefit payments, a request for advance determination of coverage, or a request for required determination of medical necessity is submitted to a group health plan in such reasonable form as may be required under the plan, the plan shall issue in writing an initial coverage decision on the request before the end of the initial decision period under paragraph (9)(J) following the filing completion date. Failure to issue a coverage decision on such a request before the end of the period required under this clause shall be treated as an adverse coverage decision for purposes of internal review under clause (ii).

"(ii) Internal reviews of initial denials.—Upon the written request of a participant or beneficiary for review of an initial adverse coverage decision under clause (i), a review by an appropriate named fiduciary (subject to paragraph (3)) of the initial coverage decision shall be completed, including issuance by the plan of a written decision affirming, reversing, or modifying the initial coverage decision, setting forth the grounds for such decision, before the end of the internal review period following the review filing date. Such decision shall be treated as the final decision of the plan, subject to any applicable reconsideration under paragraph (4). Failure to issue before the end of such period such a written decision requested under this clause shall be treated as a final decision affirming the initial coverage decision, subject to any applicable reconsideration under paragraph (4).

"(B) Time limits for making coverage decisions relating to urgent and emergency medical care and for completing internal appeals.—

"(i) Initial decisions.—A group health plan shall issue in writing an initial coverage decision on any request for expedited advance determination of coverage or for expedited required determination of medical necessity submitted, in such reasonable form as may be required under the plan—

"(I) before the end of the urgent decision period under paragraph (9)(L), in cases involving urgent medical care but not involving emergency medical care, or

"(II) before the end of the emergency decision period under paragraph (9)(M), in cases involving emergency medical care,

following the filing completion date. Failure to approve or deny such a request before the end of the applicable decision period shall be treated as a denial of the request for purposes of internal review under clause (ii).

"(ii) Internal reviews of initial denials.—Upon the written request of a participant or beneficiary for review of an initial adverse coverage decision under clause (i), a review by an appropriate named fiduciary (subject to paragraph (3)) of the initial coverage decision shall be completed, including issuance by the plan of a written decision affirming, reversing, or modifying the initial converge decision, setting forth the grounds for the decision—

"(I) before the end of the urgent decision period under paragraph (9)(L), in cases involving urgent medical care but not involving emergency medical care, or

"(II) before the end of the emergency decision period under paragraph (9)(M), in cases involving emergency medical care,

following the review filing date. Such decision shall be treated as the final decision of the plan, subject to any applicable reconsideration under paragraph (4). Failure to issue before the end of the applicable decision period such a written decision requested under this clause shall be treated as a final decision affirming the initial coverage decision, subject to any applicable reconsideration under paragraph (4).

"(3) Physicians must review initial coverage decisions involving medical appropriateness or necessity or experimental treatment.—If an initial coverage decision under paragraph (2)(A)(i) or (2)(B)(i) is based on a determination that provision of a particular item or service is excluded from coverage under the terms of the plan because the provision of such item or service does not meet the plan's requirements for medical appropriateness or necessity or would constitute experimental treatment or technology, the review under paragraph (2)(A)(ii) or (2)(B)(ii), to the extent that it relates to medical appropriateness or necessity or to experimental treatment or technology, shall be conducted by a physician who is selected to serve as an appropriate named fiduciary under the plan and who did not make the initial denial.

"(4) Elective external review by independent medical expert and reconsideration of initial review decision.—

"(A) In general.—The requirements of subparagraphs (B), (C) and (D) shall apply—

"(i) in the case of any failure to timely issue a coverage decision upon internal review which is deemed to be an adverse coverage decision under paragraph (2)(A)(ii) or (2)(B)(ii) (thereby failing to constitute a coverage decision for which specific reasons have been set forth as required under paragraph (1)(A)), and

"(ii) in the case of any adverse coverage decision which is not reversed upon a review conducted pursuant to paragraph (1)(C) (including any review pursuant to paragraph (2)(A)(ii) or (2)(B)(ii)), if such coverage decision is based on a determination that provision of a particular item or service is excluded from coverage under the terms of the plan because the provision of such item or service—

"(I) does not meet the plan's requirements for medical appropriateness or necessity, or

"(II) would constitute experimental treatment or technology.

"(B) Limits on allowable advance payments.—The review under this paragraph in connection with an adverse coverage decision shall be available subject to any requirement of the plan (unless waived by the plan for financial or other reasons) for payment in advance to the plan by the participant or beneficiary seeking review of an amount not to exceed the greater of—

"(i) the lesser of $100 or 10 percent of the cost of the medical care involved in the decision, or

"(ii) $25,

with each such dollar amount subject to compounded annual adjustments in the same manner and to the same extent as apply under section 215(i) of the Social Security Act, except that, for any calendar year, such amount as so adjusted shall be deemed, solely for such calendar year, to be equal to such amount rounded to the nearest $10. No such payment may be required in the case of any participant or beneficiary whose enrollment under the plan is paid for, in whole or in part, under a State plan under title XIX or XXI of the Social Security Act. Any such advance payment shall be subject to reimbursement if the recommendation of the independent medical expert or experts under subparagraph (C)(iii) is to reverse or modify the coverage decision.

"(C) RECONSIDERATION OF INITIAL REVIEW DECISION.—In any case in which a participant or beneficiary who has received an adverse decision of the plan upon initial review of the coverage decision and who has not commenced review of the initial coverage decision under section 502 makes a request in writing, within 30 days after the date of such review decision, for reconsideration of such review decision, the terms of the plan shall provide for a procedure for such reconsideration under which—

"(i) one or more independent medical experts will be selected in accordance with subparagraph (E) to review the coverage decision described in subparagraph (A) to determine whether such decision was in accordance with the terms of the plan and this title,

"(ii) the record for review (including a specification of the terms of the plan and other criteria serving as the basis for the initial review decision) will be presented to such expert or experts and maintained in a manner which will ensure confidentiality of such record,

"(iii) such expert or experts will report in writing to the plan their recommendation, based on the determination made under clause (i), as to whether such coverage decision should be affirmed, modified, or reversed, setting forth the grounds (including the clinical basis) for the recommendation, and

"(iv) a physician who did not make the initial review decision will reconsider the initial review decision to determine whether such decision was in accordance with the terms of the plan and this title and will issue a written decision affirming, modifying, or reversing the initial review decision, taking into account any recommendations reported to the plan pursuant to clause (iii), and setting forth the grounds for the decision.

"(D) TIME LIMITS FOR RECONSIDERATION.—Any review under this paragraph shall be completed before the end of the reconsideration period (as defined in paragraph (9)(O)) following the review filing date in connection with such review. The decision under this paragraph affirming, reversing, or modifying the initial review decision of the plan shall be the final decision of the plan. Failure to issue a written decision before the end of the reconsideration period in any reconsideration requested under this paragraph shall be treated as a final decision affirming the initial review decision of the plan.

"(E) INDEPENDENT MEDICAL EXPERTS.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'independent medical expert' means, in connection with any coverage decision by a group health plan, a professional—

"(I) who is a physician or, if appropriate, another medical professional,

"(II) who has appropriate credentials and has attained recognized expertise in the applicable medical field,

"(III) who was not involved in the initial decision or any earlier review thereof, and

"(IV) who is selected in accordance with clause (ii) and meets the requirements of clause (iii).

"(ii) SELECTION OF MEDICAL EXPERTS.—An independent medical expert is selected in accordance with this clause if—

"(I) the expert is selected by an intermediary which itself meets the requirements of clause (iii), by means of a method which ensures that the identity of the expert is not disclosed to the plan, any health insurance issuer offering health insurance coverage to the aggrieved participant or beneficiary in connection with the plan, and the aggrieved participant or beneficiary under the plan, and the identities of the plan, the issuer, and the aggrieved participant or beneficiary are not disclosed to the expert,

"(II) the expert is selected, by an appropriately credentialed panel of physicians meeting the requirements of clause (iii) established by a fully accredited teaching hospital meeting such requirements,

"(III) the expert is selected by an organization described in section 1152(1)(A) of the Social Security Act which meets the requirements of clause (iii),

"(IV) the expert is selected by an external review organization which meets the requirements of clause (iii) and is accredited by a private standard-setting organization meeting such requirements and recognized as such by the Secretary, or

"(V) the expert is selected, by an intermediary or otherwise, in a manner that is, under regulations issued pursuant to negotiated rulemaking, sufficient to ensure the expert's independence,

and the method of selection is devised to reasonably ensure that the expert selected meets the independence requirements of clause (iii).

"(iii) INDEPENDENCE REQUIREMENTS.—An independent medical expert or another entity described in clause (ii) meets the independence requirements of this clause if—

"(I) the expert or entity is not affiliated with any related party,

"(II) any compensation received by such expert or entity in connection with the external review is reasonable and not contingent on any decision rendered by the expert or entity,

"(III) under the terms of the plan and any health insurance coverage offered in connection with the plan, the plan and the issuer (if any) have no recourse against the expert or entity in connection with the external review, and

"(IV) the expert or entity does not otherwise have a conflict of interest with a related party as determined under any regulations which the Secretary may prescribe.

"(iv) RELATED PARTY.—For purposes of clause (ii)(I), the term 'related party' means—

"(I) the plan or any health insurance issuer offering health insurance coverage in connection with the plan (or any officer, director, or management employee of such plan or issuer),

"(II) the physician or other medical care provider that provided the medical care involved in the coverage decision,

"(III) the institution at which the medical care involved in the coverage decision is provided,

"(IV) the manufacturer of any drug or other item that was included in the medical care involved in the coverage decision, or

"(V) any other party determined under any regulations which the Secretary may prescribe to have a substantial interest in the coverage decision .

"(v) AFFILIATED.—For purposes of clause (iii)(I), the term 'affiliated' means, in connection with any entity, having a familial, financial, or professional relationship with, or interest in, such entity.

"(F) INAPPLICABILITY WITH RESPECT TO ITEMS AND SERVICES SPECIFICALLY EXCLUDED FROM COVERAGE.—An adverse coverage decision based on a determination that an item or service is excluded from coverage under the terms of the plan shall not be subject to review under this paragraph, unless such determination is found in such decision to be based solely on the fact that the item or service—

"(i) does not meet the plan's requirements for medical appropriateness or necessity, or

"(ii) would constitute experimental treatment or technology (as defined under the plan).

"(5) PERMITTED ALTERNATIVES TO REQUIRED INTERNAL REVIEW.—

"(A) IN GENERAL.—A group health plan shall not be treated as failing to meet the requirements under paragraphs (2)(A)(ii) and (2)(B)(ii) relating to review of initial coverage decisions for benefits, if—

"(i) in lieu of the procedures relating to review under paragraphs (2)(A)(ii) and (2)(B)(ii) and in accordance with such regulations (if any) as may be prescribed by the Secretary—

"(I) the aggrieved participant or beneficiary elects in the request for the review an alternative dispute resolution procedure which is available under the plan with respect to similarly situated participants and beneficiaries, or

"(II) in the case of any such plan or portion thereof which is established and maintained pursuant to a bona fide collective bargaining agreement, the plan provides for a procedure by which such disputes are resolved by means of any alternative dispute resolution procedure,

"(ii) the time limits not exceeding the time limits otherwise applicable under paragraphs (2)(A)(ii) and (2)(B)(ii) are incorporated in such alternative dispute resolution procedure,

"(iii) any applicable requirement for review by a physician under paragraph (3), unless waived by the participant or beneficiary (in a manner consistent with such regulations as the Secretary may prescribe to ensure equitable procedures), is incorporated in such alternative dispute resolution procedure, and

"(iv) the plan meets the additional requirements of subparagraph (B).

In any case in which a procedure described in subclause (I) or (II) of clause (i) is utilized and an alternative dispute resolution procedure is voluntarily elected by the aggrieved participant or beneficiary, the plan may require or allow (in a manner consistent with such regulations as the Secretary may prescribe to ensure equitable procedures) the aggrieved participant or beneficiary to waive review of the coverage decision under paragraph (3), to waive further review of the coverage decision under paragraph (4) or section 502, and to elect an alternative means of external review (other than review under paragraph (4)).

"(B) ADDITIONAL REQUIREMENTS.—The requirements of this subparagraph are met if the means of resolution of dispute allow for adequate presentation by the aggrieved participant or beneficiary of scientific and medical evidence supporting the position of such participant or beneficiary.

"(6) PERMITTED ALTERNATIVES TO REQUIRED EXTERNAL REVIEW.—A group health plan shall not be treated as failing to meet the requirements of this subsection in connection with review of coverage decisions under paragraph (4) if the aggrieved participant or beneficiary elects to utilize a procedure in connection with such review which is made generally available under the plan (in a manner consistent with such regulations as the Secretary may prescribe to ensure equitable procedures) under which—

"(A) the plan agrees in advance of the recommendations of the independent medical expert or experts under paragraph (4)(C)(iii) to render a final decision in accordance with such recommendations, and

"(B) the participant or beneficiary waives in advance any right to review of the final decision under section 502.

"(7) SPECIAL RULE FOR ACCESS TO SPECIALTY CARE.—In the case of a request for advance determination of coverage consisting of a request by a physician for a determination of coverage of the services of a specialist with respect to any condition, if coverage of the services of such specialist for such condition is otherwise provided under the plan, the initial coverage decision referred to in subparagraph (A)(i) or (B)(i) of paragraph (2) shall be issued within the specialty decision period. For purposes of this paragraph, the term 'specialist' means, with respect to a condition, a physician who has a high level of expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to treat the condition.

"(8) GROUP HEALTH PLAN DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'group health plan' shall have the meaning provided in section 733(a).

"(B) TREATMENT OF PARTNERSHIPS.—The provisions of paragraphs (1), (2), and (3) of section 732(d) shall apply.

"(9) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) REQUEST FOR BENEFIT PAYMENTS.—The term 'request for benefit payments' means a request, for payment of benefits by a group health plan for medical care, which is made by or on behalf of a participant or beneficiary after such medical care has been provided.

"(B) REQUIRED DETERMINATION OF MEDICAL NECESSITY.—The term 'required determination of medical necessity' means a determination required under a group health plan solely that proposed medical care meets, under the facts and circumstances at the time of the determination, the plan's requirements for medical appropriateness or necessity (which may be subject to exceptions under the plan for fraud or misrepresentation), irrespective of whether the proposed medical care otherwise meets other terms and conditions of coverage, but only if such determination does not constitute an advance determination of coverage (as defined in subparagraph (C)).

"(C) ADVANCE DETERMINATION OF COVERAGE.—The term 'advance determination of coverage' means a determination under a group health plan that proposed medical care meets, under the facts and circumstances at the time of the determination, the plan's terms and conditions of coverage (which may be subject to exceptions under the plan for fraud or misrepresentation).

"(D) REQUEST FOR ADVANCE DETERMINATION OF COVERAGE.—The term 'request for advance determination of coverage' means a request for an advance determination of coverage of medical care which is made by or on behalf of a participant or beneficiary before such medical care is provided.

"(E) REQUEST FOR EXPEDITED ADVANCE DETERMINATION OF COVERAGE.—The term 'request for expedited advance determination of coverage' means a request for advance determination of coverage, in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

"(F) REQUEST FOR REQUIRED DETERMINATION OF MEDICAL NECESSITY.—The term 'request for required determination of medical necessity' means a request for a required determination of medical necessity for medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

"(G) REQUEST FOR EXPEDITED REQUIRED DETERMINATION OF MEDICAL NECESSITY.—The term 'request for expedited required determination of medical necessity' means a request for required determination of medical necessity in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

"(H) URGENT MEDICAL CARE.—The term 'urgent medical care' means medical care in any case in which an appropriate physician has certified in writing (or as otherwise provided in regulations of the Secretary) that failure to provide the participant or beneficiary with such medical care within 45 days can reasonably be expected to result in either—

"(i) the imminent death of the participant or beneficiary, or

"(ii) the immediate, serious, and irreversible deterioration of the health of the participant or beneficiary which will significantly increase the likelihood of death of, or irreparable harm to, the participant or beneficiary.

"(I) EMERGENCY MEDICAL CARE.—The term 'emergency medical care' means medical care in any case in which an appropriate physician has certified in writing (or as otherwise provided in regulations of the Secretary)—

"(i) that failure to immediately provide the care to the participant or beneficiary could reasonably be expected to result in—

"(I) placing the health of such participant or beneficiary (or, with respect to such a participant or beneficiary who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(II) serious impairment to bodily functions, or

"(III) serious dysfunction of any bodily organ or part,

or

"(ii) that immediate provision of the care is necessary because the participant or beneficiary has made or is at serious risk of making an attempt to harm himself or herself or another individual.

"(J) INITIAL DECISION PERIOD.—The term 'initial decision period' means a period of 30 days, or such longer period as may be prescribed in regulations of the Secretary.

"(K) INTERNAL REVIEW PERIOD.—The term 'internal review period' means a period of 30 days, or such longer period as may be prescribed in regulations of the Secretary.

"(L) URGENT DECISION PERIOD.—The term 'urgent decision period' means a period of 10 days, or such longer period as may be prescribed in regulations of the Secretary.

"(M) EMERGENCY DECISION PERIOD.—The term 'emergency decision period' means a period of 72 hours, or such longer period as may be prescribed in regulations of the Secretary.

"(N) SPECIALTY DECISION PERIOD.—The term 'specialty decision period' means a period of 72 hours, or such longer period as may be prescribed in regulations of the Secretary.

"(O) RECONSIDERATION PERIOD.—The term 'reconsideration period' means a period of 25 days, or such longer period as may be prescribed in regulations of the Secretary, except that—

"(i) in the case of a decision involving urgent medical care, such term means the urgent decision period, and

"(ii) in the case of a decision involving emergency medical care, such term means the emergency decision period.

"(P) FILING COMPLETION DATE.—The term 'filing completion date' means, in connection with a group health plan, the date as of which the plan is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make an initial coverage decision.

"(Q) REVIEW FILING DATE.—The term 'review filing date' means, in connection with a group health plan, the date as of which the appropriate named fiduciary (or the independent medical expert or experts in the case of a review under paragraph (4)) is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make a decision to affirm, modify, or reverse a coverage decision.

"(R) MEDICAL CARE.—The term 'medical care' has the meaning provided such term by section 733(a)(2).

"(S) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided such term by section 733(b)(1).

"(T) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided such term by section 733(b)(2).

"(U) WRITTEN OR IN WRITING.—

"(i) IN GENERAL.—A request or decision shall be deemed to be 'written' or 'in writing' if such request or decision is presented in a generally recognized printable or electronic format. The Secretary may by regulation provide for presentation of information otherwise required to be in written form in such other forms as may be appropriate under the circumstances.

"(ii) MEDICAL APPROPRIATENESS OR EXPERIMENTAL TREATMENT DETERMINATIONS.—For purposes of this subparagraph, in the case of a request for advance determination of coverage, a request for expedited advance determination of coverage, a request for required determination of medical necessity, or a request for expedited required determination of medical necessity, if the decision on such request is conveyed to the provider of medical care or to the participant or beneficiary by means of telephonic or other electronic communications, such decision shall be treated as a written decision.".

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) In any case in which—

"(I) a benefit under a group health plan (as defined in section 503(b)(8)) is not timely provided to a participant or beneficiary pursuant to a final decision of the plan which was not in accordance with the terms of the plan or this title, and

"(II) such final decision of the plan is contrary to a recommendation described in section 503(b)(4)(C)(iii),

any person acting in the capacity of a fiduciary of such plan so as to cause such failure may, in the court's discretion, be liable to the aggrieved participant or beneficiary for a civil penalty.

"(ii) Such civil penalty shall be in the amount of up to $500 a day (or up to $1,000 a day in case of a bad faith failure) from the date on which the recommendation was made to the plan until the date the failure to provide benefits is corrected, up to a total amount not to exceed $250,000.

"(B) In any action commenced under subsection (a) by a participant or beneficiary with respect to a group health plan (as defined in section 503(b)(8)) in which the plaintiff alleges that a person, in the capacity of a fiduciary and in violation of the terms of the plan or this title, has taken an action resulting in an adverse coverage decision in violation of the terms of the plan, or has failed to take an action for which such person is responsible under the plan and which is necessary under the plan for a favorable coverage decision, upon finding in favor of the plaintiff, if such action was commenced after a final decision of the plan upon review which included a review under section 503(b)(4) or such action was commenced under subsection (b)(4) of this section, the court shall cause to be served on the defendant an order requiring the defendant—

"(i) to cease and desist from the alleged action or failure to act, and

"(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

The remedies provided under this subparagraph shall be in addition to remedies otherwise provided under this section.

"(C)(i) The Secretary may assess a civil penalty against a person acting in the capacity of a fiduciary of one or more group health plans (as defined in section 503(b)(8)) for—

"(I) any pattern or practice of repeated adverse coverage decisions in violation of the terms of the plan or plans or this title, or

"(II) any pattern or practice of repeated violations of the requirements of section 503 with respect to such plan or plans.

Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice.

"(ii) Such penalty shall be in an amount not to exceed the lesser of—

"(I) 5 percent of the aggregate value of benefits shown by the Secretary to have not been provided, or unlawfully delayed in violation of section 503, under such pattern or practice, or

"(II) $100,000.

"(iii) Any person acting in the capacity of a fiduciary of a group health plan or plans who has engaged in any such pattern or practice with respect to such plans, upon the petition of the Secretary, may be removed by the court from that position, and from any other involvement, with respect to such plan or plans, and may be precluded from returning to any such position or involvement for a period determined by the court.".

(2) Conforming amendment.—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking ", or (6)" and inserting ", (6), or (7)".

(c) Expedited Court Review.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(1) in subsection (a)(8), by striking "or" at the end;

(2) in subsection (a)(9), by striking the period and inserting "; or";

(3) by adding at the end of subsection (a) the following new paragraph:

"(10) by a participant or beneficiary for appropriate relief under subsection (b)(4).".

(4) by adding at the end of subsection (b) the following new paragraph:

"(4) In any case in which exhaustion of administrative remedies in accordance with paragraph (2)(A)(ii) or (2)(B)(ii) of section 503(b) otherwise necessary for an action for relief under paragraph (1)(B) or (3) of subsection (a) has not been obtained and it is demonstrated to the court by means of certification by an appropriate physician that such exhaustion is not reasonably attainable under the facts and circumstances without undue risk of irreparable harm to the health of the participant or beneficiary, a civil action may be brought by a participant or beneficiary to obtain appropriate equitable relief. Any determinations made under paragraph (2)(A)(ii) or (2)(B)(ii) of section 503(b) made while an action under this paragraph is pending shall be given due consideration by the court in any such action.".

(d) Standard of Review Unaffected.—The standard of review under section 502 of the Employee Retirement Income Security Act of 1974 (as amended by this section) shall continue on and after the date of the enactment of this Act to be the standard of review which was applicable under such section as of immediately before such date.

(e) Concurrent Jurisdiction.—Section 502(e)(1) of such Act (29 U.S.C. 1132(e)(1)) is amended—

(1) in the first sentence, by striking "under subsection (a)(1)(B) of this section" and inserting "under subsection (a)(1)(A) for relief under subsection (c)(6), under subsection (a)(1)(B), and under subsection (b)(4)"; and

(2) in the last sentence, by striking "of actions under paragraphs (1)(B) and (7) of subsection (a) of this section" and inserting "of actions under paragraph (1)(A) of subsection (a) for relief under subsection (c)(6) and of actions under paragraphs (1)(B) and (7) of subsection (a) and paragraph (4) of subsection (b)".

SEC. 1202. EFFECTIVE DATE.

(a) In General.—The amendments made by this subtitle shall apply with respect to grievances arising in plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall first issue all regulations necessary to carry out the amendments made by this subtitle before such date.

(b) Limitation on Enforcement Actions.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(c) Collective Bargaining Agreements.—Any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subtitle shall not be treated as a termination of such collective bargaining agreement.

Subtitle D—Affordable Health Coverage for Employees of Small Businesses

SEC. 1301. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Small Business Affordable Health Coverage Act of 1998".

SEC. 1302. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) In General.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"Part 8—Rules Governing Association Health Plans

"SEC. 801. ASSOCIATION HEALTH PLANS.

"(a) In General.—For purposes of this part, the term 'association health plan' means a group health plan—

"(1) whose sponsor is (or is deemed under this part to be) described in subsection (b), and

"(2) under which at least one option of health insurance coverage offered by a health insurance issuer (which may include, among other options, managed care options, point of service options, and preferred provider options) is provided to participants and beneficiaries, unless, for any plan year, such coverage remains unavailable to the plan despite good faith efforts exercised by the plan to secure such coverage.

"(b) Sponsorship.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a trade association, an industry association (including a rural electric cooperative association or a rural telephone cooperative association), a professional association, or a chamber of commerce (or similar business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care,

"(2) is established as a permanent entity which receives the active support of its members and collects from its members on a periodic basis dues or payments necessary to maintain eligibility for membership in the sponsor, and

"(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1) and (2) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

"(a) In General.—The applicable authority shall prescribe by regulation a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

"(b) Standards.—Under the procedure prescribed pursuant to subsection (a), the applicable authority shall certify an association health plan as meeting the requirements of this part only if the applicable authority is satisfied that—

"(1) such certification—

"(A) is administratively feasible,

"(B) is not adverse to the interests of the individuals covered under the plan, and

"(C) is protective of the rights and benefits of the individuals covered under the plan, and

"(2) the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

"(c) Requirements Applicable to Certified Plans.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(d) Requirements for Continued Certification.—The applicable authority may provide by regulation for continued certification of association health plans under this part, including requirements relating to commencement of new benefit options by plans which do not consist of health insurance coverage.

"(e) Class Certification for Fully Insured Plans.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) Sponsor.—The requirements of this subsection are met with respect to an association health plan if—

"(1) the sponsor (together with its immediate predecessor, if any) has met (or is deemed under this part to have met) for a continuous period of not less than 3 years ending with the date of the application for certification under this part, the requirements of paragraphs (1) and (2) of section 801(b), and

"(2) the sponsor meets (or is deemed under this part to meet) the requirements of section 801(b)(3).

"(b) Board of Trustees.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

"(1) Fiscal control.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) Rules of operation and financial controls.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) Rules governing relationship to participating employers and to contractors.—

"(A) In general.—Except as provided in subparagraph (B), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(B) Limitation.—

"(i) General rule.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(ii) Limited exception for providers of services solely on behalf of the sponsor.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(iii) Treatment of providers of medical care.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

"(C) Sole authority.—The board has sole authority to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

"(c) Treatment of Franchise Networks.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

"(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b), and

"(2) the requirements of section 804(a)(1) shall be deemed met.

"(d) Certain Collectively Bargained Plans.—

"(1) In general.—In the case of a group health plan described in paragraph (2)—

"(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met,

"(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met, and

"(C) the requirements of section 804 shall be deemed met.

"(2) Requirements.—A group health plan is described in this paragraph if—

"(A) the plan is a multiemployer plan, or

"(B) the plan is in existence on April 1, 1997, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) Covered Employers and Individuals.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

"(1) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer, and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers, or

"(B) the beneficiaries of individuals described in subparagraph (A).

"(b) Coverage of Previously Uninsured Employees.—

"(1) In general.—Subject to paragraph (2), the requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no affiliated member of the sponsor may be offered coverage under the plan as a participating employer, unless—

"(A) the affiliated member was an affiliated member on the date of certification under this part, or

"(B) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

"(2) Limitation.—The requirements of this subsection shall apply only in the case of plans which were in existence on the date of the enactment of the Small Business Affordable Health Coverage Act of 1998.

"(c) Individual Market Unaffected.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(d) Prohibition of Discrimination Against Employers and Employees Eligible to Participate.—The requirements of this subsection are met with respect to an association health plan if—

"(1) under the terms of the plan, no employer meeting the preceding requirements of this section is excluded as a participating employer, unless participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met with respect to the excluded employer,

"(2) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan, and

"(3) applicable benefit options under the plan are actively marketed to all eligible participating employers.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) In General.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

"(1) Contents of governing instruments.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)), and

"(C) incorporates the requirements of section 806.

"(2) Contribution rates must be nondiscriminatory.—

"(A) The contribution rates for any participating small employer do not vary on the basis of the claims experience of such employer and do not vary on the basis of the type of business or industry in which such employer is engaged.

"(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from

"(i) setting contribution rates based on the claims experience of the plan, or

"(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market, subject to the requirements of section 702(b) relating to contribution rates.

"(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

"(4) MARKETING REQUIREMENTS.—

"(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

"(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

"(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority may prescribe by regulation as necessary to carry out the purposes of this part.

"(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

"(1) the benefits under the plan consist solely of health insurance coverage, or

"(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

"(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

"(i) a reserve sufficient for unearned contributions,

"(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities,

"(iii) a reserve sufficient for any other obligations of the plan, and

"(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan, and

"(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

"(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary (but not more than $200,000). The applicable authority may by regulation provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

"(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—The requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to $2,000,000, reduced in accordance with a scale, prescribed in regulations of the applicable authority to an amount not less than $500,000, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

"(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any such plan or any class of such plans.

"(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

"(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

"(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

"(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

"(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

"(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

"(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

"(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS STOP/LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be, (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2), or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

"(3) ASSOCIATION HEALTH PLAN FUND.—

"(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B), and earnings on investments of amounts of the Fund under subparagraph (B).

"(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

"(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

"(A) under which an insurer (meeting such minimum standards as may be prescribed in regulations of the applicable authority) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract,

"(B) which is guaranteed renewable, and

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

"(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term 'specific excess/stop loss insurance' means , in connection with an association health plan, a contract—

"(A) under which an insurer (meeting such minimum standards as may be prescribed in regulations of the applicable authority) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual,

"(B) which is guaranteed renewable, and

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

"(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

"(1) under which an insurer (meeting such minimum standards as may be prescribed in regulations of the applicable authority) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination),

"(2) which is guaranteed renewable and noncancellable for any reason (except as may be provided in regulations of the applicable authority), and

"(3) which allows for payment of premiums by any third party on behalf of the insured plan.

"(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as may be prescribed in regulations of the applicable authority.

"(j) REGULATIONS PRESCRIBED UNDER NEGOTIATED RULEMAKING.—The regulations under this section shall be prescribed under negotiated rulemaking in accordance with subchapter III of chapter 5 of title 5, United States Code, except that, in establishing the negotiated rulemaking committee for purposes of such rulemaking, the applicable authority shall include among persons invited to membership on the committee at least one of each of the following:

"(1) a representative of the National Association of Insurance Commissioners,

"(2) a representative of the American Academy of Actuaries,

"(3) a representative of the State governments, or their interests,

"(4) a representative of existing self-insured arrangements, or their interests,

"(5) a representative of associations of the type referred to in section 801(b)(1), or their interests, and

"(6) a representative of multiemployer plans that are group health plans, or their interests.

"SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

"(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

"(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form prescribed in regulations of the applicable authority, at least the following information:

"(1) IDENTIFYING INFORMATION.—The names and addresses of—

"(A) the sponsor, and

"(B) the members of the board of trustees of the plan.

"(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

"(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

"(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

"(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

"(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe.

"(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

"(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

"(E) OTHER INFORMATION.—Any other information which may be prescribed in regulations of the applicable authority as necessary to carry out the purposes of this part.

"(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

"(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed in regulations of the applicable authority. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

"(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority).

"(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

"(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date,

"(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated, and

"(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed in regulations of the applicable authority.

"SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

"(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

"(b) MANDATORY TERMINATION.—In any case in which—

"(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements, and

"(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

"SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition as defined in regulations of such Secretary, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

"(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

"(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan,

"(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee,

"(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations of the Secretary, and applicable provisions of law,

"(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan,

"(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship,

"(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan,

"(7) to issue, publish, or file such notices, statements, and reports as may be required under regulations of the Secretary or by any order of the court,

"(8) to terminate the plan (or provide for its termination accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship,

"(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options, and

"(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

"(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

"(1) the sponsor and plan administrator,

"(2) each participant,

"(3) each participating employer, and

"(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

"(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

"(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

"(f) JURISDICTION OF COURT.—

"(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

"(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

"(g) PERSONNEL.—In accordance with regulations of the Secretary, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

"SEC. 811. STATE ASSESSMENT AUTHORITY.

"(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Affordable Health Coverage Act of 1998.

“(b) Contribution Tax.—For purposes of this section, the term ‘contribution tax’ imposed by a State on an association health plan means any tax imposed by such State if—

“(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals,

“(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan,

“(3) such tax is otherwise nondiscriminatory, and

“(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

“SEC. 812. SPECIAL RULES FOR CHURCH PLANS.

“(a) Election for Church Plans.—Notwithstanding section 4(b)(2), if a church, a convention or association of churches, or an organization described in section 3(33)(C)(i) maintains a church plan which is a group health plan (as defined in section 733(a)(1)), and such church, convention, association, or organization makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulation prescribe), then the provisions of this section shall apply to such plan, with respect to benefits provided under such plan consisting of medical care, as if section 4(b)(2) did not contain an exclusion for church plans. Nothing in this subsection shall be construed to render any other section of this title applicable to church plans, except to the extent that such other section is incorporated by reference in this section.

“(b) Effect of Election.—

“(1) Preemption of state insurance laws regulating covered church plans.—Subject to paragraphs (2) and (3), this section shall supersede any and all State laws which regulate insurance insofar as they may now or hereafter regulate church plans to which this section applies or trusts established under such church plans.

“(2) General state insurance regulation unaffected.—

“(A) In general.—Except as provided in subparagraph (B) and paragraph (3), nothing in this section shall be construed to exempt or relieve any person from any provision of State law which regulates insurance.

“(B) Church plans not to be deemed insurance companies or insurers.—Neither a church plan to which this section applies, nor any trust established under such a church plan, shall be deemed to be an insurance company or other insurer or to be engaged in the business of insurance for purposes of any State law purporting to regulate insurance companies or insurance contracts.

“(3) Preemption of certain state laws relating to premium rate regulation and benefit mandates.—The provisions of subsections (a)(2)(B) and (b) of section 805 shall apply with respect to a church plan to which this section applies in the same manner and to the same extent as such provisions apply with respect to association health plans.

“(4) Definitions.—For purposes of this subsection—

“(A) State law.—The term ‘State law’ includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

“(B) State.—The term ‘State’ includes a State, any political subdivision thereof, or any agency or instrumentality of either, which purports to regulate, directly or indirectly, the terms and conditions of church plans covered by this section.

“(c) Requirements for Covered Church Plans.—

“(1) Fiduciary rules and exclusive purpose.—A fiduciary shall discharge his duties with respect to a church plan to which this section applies—

“(A) for the exclusive purpose of:

“(i) providing benefits to participants and their beneficiaries; and

“(ii) defraying reasonable expenses of administering the plan;

“(B) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

“(C) in accordance with the documents and instruments governing the plan.

The requirements of this paragraph shall not be treated as not satisfied solely because the plan assets are commingled with other church assets, to the extent that such plan assets are separately accounted for.

“(2) Claims procedure.—In accordance with regulations of the Secretary, every church plan to which this section applies shall—

“(A) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant;

“(B) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate fiduciary of the decision denying the claim; and

“(C) provide a written statement to each participant describing the procedures established pursuant to this paragraph.

“(3) Annual statements.—In accordance with regulations of the Secretary, every church plan to which this section applies shall file with the Secretary an annual statement—

“(A) stating the names and addresses of the plan and of the church, convention, or association maintaining the plan (and its principal place of business);

“(B) certifying that it is a church plan to which this section applies and that it complies with the requirements of paragraphs (1) and (2);

“(C) identifying the States in which participants and beneficiaries under the plan are or likely will be located during the 1-year period covered by the statement; and

“(D) containing a copy of a statement of actuarial opinion signed by a qualified actuary that the plan maintains capital, reserves, insurance, other financial arrangements, or any combination thereof adequate to enable the plan to fully meet all of its financial obligations on a timely basis.

“(4) Disclosure.—At the time that the annual statement is filed by a church plan with the Secretary pursuant to paragraph (3), a copy of such statement shall be made available by the Secretary to the State insurance commissioner (or similar official) of any State. The name of each church plan and sponsoring organization filing an annual statement in compliance with paragraph (3) shall be published annually in the Federal Register.

“(c) Enforcement.—The Secretary may enforce the provisions of this section in a manner consistent with section 502, to the extent applicable with respect to actions under section 502(a)(5), and with section 3(33)(D), except that, other than for the purpose of seeking a temporary restraining order, a civil action may be brought with respect to the plan's failure to meet any requirement of this section only if the plan fails to correct its failure within the correction period described in section 3(33)(D). The other provisions of part 5 (except sections 501(a), 503, 512, 514, and 515) shall apply with respect to the enforcement and administration of this section.

“(d) Definitions and Other Rules.—For purposes of this section—

“(1) In general.—Except as otherwise provided in this section, any term used in this section which is defined in any provision of this title shall have the definition provided such term by such provision.

“(2) Seminary students.—Seminary students who are enrolled in an institution of higher learning described in section 3(33)(C)(iv) and who are treated as participants under the terms of a church plan to which this section applies shall be deemed to be employees as defined in section 3(6) if the number of such students constitutes an insignificant portion of the total number of individuals who are treated as participants under the terms of the plan.

“SEC. 813. DEFINITIONS AND RULES OF CONSTRUCTION.

“(a) Definitions.—For purposes of this part—

“(1) Group health plan.—The term ‘group health plan’ has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

“(2) Medical care.—The term ‘medical care’ has the meaning provided in section 733(a)(2).

“(3) Health insurance coverage.—The term ‘health insurance coverage’ has the meaning provided in section 733(b)(1).

“(4) Health insurance issuer.—The term ‘health insurance issuer’ has the meaning provided in section 733(b)(2).

“(5) Applicable authority.—

“(A) In general.—Except as provided in subparagraph (B), the term ‘applicable authority’ means, in connection with an association health plan—

“(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan, or

“(ii) if there if no State referred to in clause (i), the Secretary.

“(B) Exceptions.—

“(i) Joint authorities.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

"(ii) REGULATORY AUTHORITIES.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

"(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

"(7) INDIVIDUAL MARKET.—

"(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) TREATMENT OF VERY SMALL GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation.

"(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor, a person eligible to be a member of the sponsor or, in the case of a sponsor with member associations, a person who is a member, or is eligible to be a member, of a member association.

"(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

"(b) RULES OF CONSTRUCTION.—

"(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(A) in the case of a partnership, the term 'employer' (as defined in section (3)(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section (3)(6)) includes any partner in relation to the partnership, and

"(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

"(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

"(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

"(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

"(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

"(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.".

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking "and" at the end;

(B) in clause (ii), by inserting "and which does not provide medical care (within the meaning of section 733(a)(2))," after "arrangement,", and by striking "title." and inserting "title, and"; and

(C) by adding at the end the following new clause:

"(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.".

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking "Nothing" and inserting "(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following new paragraph:

"(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Patient Protection Act of 1998 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of an association health plan under part 8.".

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: "An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.".

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(f) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Special rules for church plans.
"Sec. 813. Definitions and rules of construction.".

SEC. 1303. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement;" after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,".

SEC. 1304. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),".

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

"(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

"(II) pay a commission or any other type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations of the Secretary), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

"(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are identified to the plan or arrangement and who are neither—

"(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

"(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment);

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Small Business Affordable Health Coverage Act of 1998 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

"(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary that the plan or other arrangement meets the requirements of clauses (i) and (ii).

"(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

"(ii)(I) the plan or arrangement is a multiemployer plan; and

"(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

"(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) the plan or arrangement is in effect as of the date of the enactment of the Small Business Affordable Health Coverage Act of 1998, or

"(ii) the employee organization or other entity sponsoring the plan or arrangement—

"(I) has been in existence for at least 3 years or is affiliated with another employee organization which has been in existence for at least 3 years, or

"(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.".

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: "Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).".

SEC. 1305. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an association health plan which has been certified under part 8;

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

"(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met;

shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.".

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

"(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

"(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

"(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

"(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.".

(c) Responsibility for Claims Procedure.—Section 503 of such Act (29 U.S.C. 1133) (as amended by title I) is amended by adding at the end the following new subsection:

"(c) Association Health Plans.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 1306. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) Responsibility of States With Respect to Association Health Plans.—

"(1) Agreements with states.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8,

"(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8, or

"(C) any combination of the Secretary's authority authorized to be delegated under subparagraphs (A) and (B).

"(2) Delegations.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(3) Recognition of primary domicile state.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular association health plan, as the State to which all authority has been delegated pursuant to such agreements in connection with such plan. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.".

SEC. 1307. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) Effective Date.—The amendments made by sections 1302, 1305, and 1306 shall take effect on January 1, 2000. The amendments made by sections 1303 and 1304 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle before January 1, 2000.

(b) Exception.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 1302) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on April 1, 1997, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) Treatment of Certain Existing Health Benefits Programs.—

(1) In general.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 813(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this Act)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act,

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement,

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote, and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement,

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement,

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) Definitions.—For purposes of this subsection, the terms "group health plan," "medical care," and "participating employer" shall have the meanings provided in section 813 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "association health plan" shall be deemed a reference to an arrangement referred to in this subsection.

(d) Pilot Program for Self-Insured Association Health Plans.—

(1) In general.—During the pilot program period, association health plans which offer benefit options which do not consist of health insurance coverage may be certified under part 8 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 only if such plans consist of the following:

(A) plans which offered such coverage on the date of the enactment of this Act,

(B) plans under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

(C) plans whose eligible participating employers represent one or more trades or businesses, or one or more industries, which have been indicated as having average or above-average health insurance risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, and other means demonstrated by such plans in accordance with regulations which the Secretary shall prescribe, including (but not limited to) the following: agriculture; automobile dealerships; barbering and cosmetology; child care; construction; dance, theatrical, and orchestra productions; disinfecting and pest control; eating and drinking establishments; fishing; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; sanitary services; transportation (local and freight); and warehousing.

(2) Pilot program period.—For purposes of this subsection, the term "pilot program period" means the 5-year period beginning on January 1, 1999.

TITLE II—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

Subtitle A—Patient Protections and Point of Service Coverage Requirements

SEC. 2001. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

(a) In General.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

"(a) Patient Access to Unrestricted Medical Advice.—

"(1) In general.—In the case of any health care professional acting within the lawful scope of practice in the course of carrying out a contractual employment arrangement or other direct contractual arrangement between such professional and a group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan, the plan or issuer with which such contractual employment arrangement or other direct contractual arrangement is maintained by the professional may not impose on such professional under such arrangement any prohibition or restriction with respect to advice, provided to a participant or beneficiary under the plan who is a patient, about the health status of the participant or beneficiary or the medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether benefits for such care or treatment are provided under the plan or health insurance coverage offered in connection with the plan.

"(2) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the group health plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(b) PATIENT ACCESS TO EMERGENCY MEDICAL CARE.—

"(1) IN GENERAL.—To the extent that the group health plan (or health insurance issuer offering health insurance coverage in connection with the plan) provides for any benefits consisting of emergency medical care (as defined in section 503(b)(9)(I) of the Employee Retirement Income Security Act of 1974), except for items or services specifically excluded—

"(A) the plan or issuer shall provide benefits, and without regard to otherwise applicable network limitations, without requiring preauthorization and without regard to otherwise applicable network limitations, for appropriate emergency medical screening examinations (within the capability of the emergency facility, including ancillary services routinely available to the emergency facility) to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary in order to determine whether emergency medical care (as so defined) is required, and

"(B) the plan or issuer shall provide benefits for additional emergency medical services following an emergency medical screening examination (if determined necessary under subparagraph (A)) to the extent that a prudent emergency medical professional would determine such additional emergency services to be necessary to avoid the consequences described in section 503(b)(9)(I) of such Act.

"(2) UNIFORM COST-SHARING REQUIRED.—Nothing in this subsection shall be construed as preventing a group health plan or issuer from imposing any form of cost-sharing applicable to any participant or beneficiary (including coinsurance, copayments, deductibles, and any other charges) in relation to benefits described in paragraph (1), if such form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in section 503(b)(9)(I) of the Employee Retirement Income Security Act of 1974) provided to such similarly situated participants and beneficiaries under the plan.

"(c) PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

"(1) IN GENERAL.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan)—

"(A) provides benefits under the terms of the plan consisting of—

"(i) routine gynecological care (such as preventive women's health examinations), or

"(ii) routine obstetric care (such as routine pregnancy-related services),

provided by a participating physician who specializes in such care (or provides benefits consisting of payment for such care), and

"(B) the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider,

if the primary care provider designated by such a participant or beneficiary is not such a physician, then the plan (or issuer) shall meet the requirements of paragraph (2).

"(2) REQUIREMENTS.—A group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) meets the requirements of this paragraph, in connection with benefits described in paragraph (1) consisting of care described in clause (i) or (ii) of paragraph (1)(A) (or consisting of payment therefor), if the plan (or issuer)—

"(A) does not require authorization or a referral by the primary care provider in order to obtain such benefits, and

"(B) treats the ordering of other routine care of the same type, by the participating physician providing the care described in clause (i) or (ii) of paragraph (1)(A), as the authorization of the primary care provider with respect to such care.

"(3) CONSTRUCTION.—Nothing in paragraph (2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered.

"(d) PATIENT ACCESS TO PEDIATRIC CARE.—

"(1) IN GENERAL.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides benefits consisting of routine pediatric care provided by a participating physician who specializes in pediatrics (or consisting of payment for such care) and the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, the plan (or issuer) shall provide that such a participating physician may be designated, if available, by a parent or guardian of any beneficiary under the plan is who under 18 years of age, as the primary care provider with respect to any such benefits.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care.

"(e) TREATMENT OF MULTIPLE COVERAGE OPTIONS.—In the case of a plan providing benefits under two or more coverage options, the requirements of subsections (c) and (d) shall apply separately with respect to each coverage option.".

(c) EFFECTIVE DATE AND RELATED RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act, except that the Secretary of Health and Human Services may issue regulations before such date under such amendments. The Secretary shall first issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

(2) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply with respect to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2001.

For purposes of this paragraph, any plan amendments made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 2002. REQUIRING HEALTH MAINTENANCE ORGANIZATIONS TO OFFER OPTION OF POINT-OF-SERVICE COVERAGE.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act is amended by inserting after section 2713 the following new section:

"SEC. 2714. REQUIRING OFFERING OF OPTION OF POINT-OF-SERVICE COVERAGE.

"(a) REQUIREMENT TO OFFER COVERAGE OPTION TO CERTAIN EMPLOYERS.—Except as provided in subsection (c), any health insurance issuer which—

"(1) is a health maintenance organization (as defined in section 2791(b)(3)), and

"(2) which provides for coverage of services of one or more classes of health care professionals under health insurance coverage offered in connection with a group health plan only if such services are furnished exclusively through health care professionals within such class or classes who are members of a closed panel of health care professionals,

the issuer shall make available to the plan sponsor in connection with such a plan a coverage option which provides for coverage of such services which are furnished through such class (or classes) of health care professionals regardless of whether or not the professionals are members of such panel.

"(b) REQUIREMENT TO OFFER SUPPLEMENTAL COVERAGE TO PARTICIPANTS IN CERTAIN CASES.—Except as provided in subsection (c), if a health insurance issuer makes available a coverage option under and described in subsection (a) to a plan sponsor of a group health plan and the sponsor declines to contract for such coverage option, then the issuer shall make available in the individual insurance market to each participant in the group health plan optional separate supplemental health insurance coverage in the individual health insurance market which consists of services identical to those provided under such coverage provided through the closed panel under the group health plan but are furnished exclusively by health care professionals who are not members of such a closed panel.

"(c) EXCEPTIONS.—

"(1) OFFERING OF NON-PANEL OPTION.—Subsections (a) and (b) shall not apply with respect to a group health plan if the plan offers a coverage option that provides coverage for services that may be furnished by a class or classes of health care professionals who are not in a closed panel. This paragraph shall be applied separately to distinguishable groups of employees under the plan.

"(2) AVAILABILITY OF COVERAGE THROUGH HEALTHMART.—Subsections (a) and (b) shall not apply to a group health plan if the health insurance coverage under the plan is made available through a HealthMart (as defined in section 2801) and if any health insurance coverage made available through the HealthMart provides for coverage of the services of any class of health care professionals other than through a closed panel of professionals.

"(3) RELICENSURE EXEMPTION.—Subsections (a) and (b) shall not apply to a health maintenance organization in a State in any case in which—

"(A) the organization demonstrates to the applicable authority that the organization has made a good faith effort to obtain (but has failed to obtain) a contract between the organization and any other health insurance issuer providing for the coverage option or supplemental coverage described in subsection (a) or (b), as the case may be, within the applicable service area of the organization, and

"(B) the State requires the organization to receive or qualify for a separate license, as an indemnity insurer or otherwise, in order to offer such coverage option or supplemental coverage, respectively.

The applicable authority may require that the organization demonstrate that it meets the requirements of the previous sentence no more frequently that once every two years.

"(4) INCREASED COSTS.—Subsections (a) and (b) shall not apply to a health maintenance organization if the organization demonstrates to the applicable authority, in accordance with generally accepted actuarial practice, that, on either a prospective or retroactive basis, the premium for the coverage option or supplemental coverage required to be made available under such respective subsection exceeds by more than 1 percent the premium for the coverage consisting of services which are furnished through a closed panel of health care professionals in the class or classes involved. The applicable authority may require that the organization demonstrate such an increase no more frequently that once every two years. This paragraph shall be applied on an average per enrollee or similar basis.

"(5) COLLECTIVE BARGAINING AGREEMENTS.—Subsections (a) and (b) shall not apply in connection with a group health plan if the plan is established or maintained pursuant to one or more collective bargaining agreements.

"(d) DEFINITIONS.—For purposes of this section:

"(1) COVERAGE THROUGH CLOSED PANEL.—Health insurance coverage for a class of health care professionals shall be treated as provided through a closed panel of such professionals only if such coverage consists of coverage of items or services consisting of professionals services which are reimbursed for or provided only within a limited network of such professionals.

"(2) HEALTH CARE PROFESSIONAL.—The term 'health care professional' has the meaning given such term in section 2706(a)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to coverage offered on or after January 1 of the second calendar year following the date of the enactment of this Act.

Subtitle B—Patient Access to Information

SEC. 2101. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as amended by subtitle A of this title) is amended further by adding at the end the following new section:

"SEC. 2707. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

"(a) DISCLOSURE REQUIREMENT.—Each health insurance issuer offering health insurance coverage in connection with a group health plan shall provide the administrator of such plan on a timely basis with the information necessary to enable the administrator to include in the summary plan description of the plan required under section 102 of the Employee Retirement Income Security Act of 1974 (or each summary plan description in any case in which different summary plan descriptions are appropriate under part 1 of subtitle B of title I of such Act for different options of coverage) the information required under subsections (b), (c), (d), and (e)(2)(A). To the extent that any such issuer provides such information on a timely basis to plan participants and beneficiaries, the requirements of this subsection shall be deemed satisfied in the case of such plan with respect to such information.

"(b) PLAN BENEFITS.—The information required under subsection (a) includes the following:

"(1) COVERED ITEMS AND SERVICES.—

"(A) CATEGORIZATION OF INCLUDED BENEFITS.—A description of covered benefits, categorized by—

"(i) types of items and services (including any special disease management program), and

"(ii) types of health care professionals providing such items and services.

"(B) EMERGENCY MEDICAL CARE.—A description of the extent to which the coverage includes emergency medical care (including the extent to which the coverage provides for access to urgent care centers), and any definitions provided under in connection with such coverage for the relevant coverage terminology referring to such care.

"(C) PREVENTATIVE SERVICES.—A description of the extent to which the coverage includes benefits for preventative services.

"(D) DRUG FORMULARIES.—A description of the extent to which covered benefits are determined by the use or application of a drug formulary and a summary of the process for determining what is included in such formulary.

"(E) COBRA CONTINUATION COVERAGE.—A description of the benefits available under the coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(2) LIMITATIONS, EXCLUSIONS, AND RESTRICTIONS ON COVERED BENEFITS.—

"(A) CATEGORIZATION OF EXCLUDED BENEFITS.—A description of benefits specifically excluded from coverage, categorized by types of items and services.

"(B) UTILIZATION REVIEW AND PREAUTHORIZATION REQUIREMENTS.—Whether coverage for medical care is limited or excluded on the basis of utilization review or preauthorization requirements.

"(C) LIFETIME, ANNUAL, OR OTHER PERIOD LIMITATIONS.—A description of the circumstances under which, and the extent to which, coverage is subject to lifetime, annual, or other period limitations, categorized by types of benefits.

"(D) CUSTODIAL CARE.—A description of the circumstances under which, and the extent to which, the coverage of benefits for custodial care is limited or excluded, and a statement of the definition used in connection with such coverage for custodial care.

"(E) EXPERIMENTAL TREATMENTS.—Whether coverage for any medical care is limited or excluded because it constitutes experimental treatment or technology, and any definitions provided in connection with such coverage for the relevant plan terminology referring to such limited or excluded care.

"(F) MEDICAL APPROPRIATENESS OR NECESSITY.—Whether coverage for medical care may be limited or excluded by reason of a failure to meet the plan's requirements for medical appropriateness or necessity, and any definitions provided in connection with such coverage for the relevant coverage terminology referring to such limited or excluded care.

"(G) SECOND OR SUBSEQUENT OPINIONS.—A description of the circumstances under which, and the extent to which, coverage for second or subsequent opinions is limited or excluded.

"(H) SPECIALTY CARE.—A description of the circumstances under which, and the extent to which, coverage of benefits for specialty care is conditioned on referral from a primary care provider.

"(I) CONTINUITY OF CARE.—A description of the circumstances under which, and the extent to which, coverage of items and services provided by any health care professional is limited or excluded by reason of the departure by the professional from any defined set of providers.

"(J) RESTRICTIONS ON COVERAGE OF EMERGENCY SERVICES.—A description of the circumstances under which, and the extent to which, the coverage, in including emergency medical care furnished to a participant or beneficiary of the plan imposes any financial responsibility described in subsection (c) on participants or beneficiaries or limits or conditions benefits for such care subject to any other term or condition of such coverage.

"(c) PARTICIPANT'S FINANCIAL RESPONSIBILITIES.—The information required under subsection (a) includes an explanation of—

"(1) a participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and any other charges, and

"(2) the circumstances under which, and the extent to which, the participant's financial responsibility described in paragraph (1) may vary, including any distinctions based on whether a health care provider from whom covered benefits are obtained is included in a defined set of providers.

"(d) DISPUTE RESOLUTION PROCEDURES.—The information required under subsection (a) includes a description of the processes adopted in connection with such coverage pursuant to section 503(b) of the Employee Retirement Income Security Act of 1974, including—

"(1) descriptions thereof relating specifically to—

"(A) coverage decisions,

"(B) internal review of coverage decisions, and

"(C) any external review of coverage decisions, and

"(2) the procedures and time frames applicable to each step of the processes referred to in subparagraphs (A), (B), and (C) of paragraph (1).

"(e) INFORMATION AVAILABLE ON REQUEST.—

"(1) ACCESS TO PLAN BENEFIT INFORMATION IN ELECTRONIC FORM.—

"(A) IN GENERAL.—A group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall, upon written request (made not more frequently than annually), make available to participants and beneficiaries, in a generally recognized electronic format, the following information:

"(i) the latest summary plan description, including the latest summary of material modifications, and

"(ii) the actual plan provisions setting forth the benefits available under the plan,

to the extent such information relates to the coverage options under the plan available to the participant or beneficiary. A reasonable charge may be made to cover the cost of providing such information in such generally recognized electronic format. The Secretary may by regulation prescribe a maximum amount which will constitute a reasonable charge under the preceding sentence.

"(B) ALTERNATIVE ACCESS.—The requirements of this paragraph may be met by making such information generally available (rather than upon request) on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

"(2) ADDITIONAL INFORMATION TO BE PROVIDED ON REQUEST.—

"(A) INCLUSION IN SUMMARY PLAN DESCRIPTION OF SUMMARY OF ADDITIONAL INFORMATION.—The information required under subsection (a) includes a summary description of the types of information required by this subsection to be made available to participants and beneficiaries on request.

"(B) INFORMATION REQUIRED FROM PLANS AND ISSUERS ON REQUEST.—In addition to information required to be included in summary plan descriptions under this subsection, a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide the following information to a participant or beneficiary on request:

"(i) NETWORK CHARACTERISTICS.—If the plan (or issuer) utilizes a defined set of providers under contract with the plan (or issuer), a detailed list of the names of such providers and their geographic location, set forth separately with respect to primary care providers and with respect to specialists.

"(ii) CARE MANAGEMENT INFORMATION.—A description of the circumstances under which, and the extent to which, the plan has special disease management programs or programs for persons with disabilities, indicating whether these programs are voluntary or mandatory and whether a significant benefit differential results from participation in such programs.

"(iii) INCLUSION OF DRUGS AND BIOLOGICALS IN FORMULARIES.—A statement of whether a specific drug or biological is included in a formulary used to determine benefits under the plan and a description of the procedures for considering requests for any patient-specific waivers.

"(iv) PROCEDURES FOR DETERMINING EXCLUSIONS BASED ON MEDICAL NECESSITY OR EXPERIMENTAL TREATMENTS.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision based on a determination relating to medical necessity or an experimental treatment or technology, a description of the procedures and medically-based criteria used in such decision.

"(v) PREAUTHORIZATION AND UTILIZATION REVIEW PROCEDURES.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision, a description of the basis on which any preauthorization requirement or any utilization review requirement has resulted in such decision.

"(vi) ACCREDITATION STATUS OF HEALTH INSURANCE ISSUERS AND SERVICE PROVIDERS.—A description of the accreditation and licencing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licencing authority.

"(vii) MEASURES OF ENROLLEE SATISFACTION.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to enrollee satisfaction.

"(viii) QUALITY PERFORMANCE MEASURES.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to quality of performance of the delivery of medical care with respect to coverage options offered under the plan and of health care professionals and facilities providing medical care under the plan.

"(ix) INFORMATION RELATING TO EXTERNAL REVIEWS.—The number of external reviews under section 503(b)(4) of the Employee Retirement Income Security Act of 1974 that have been completed during the prior plan year and the number of such reviews in which the recommendation reported under section 503(b)(4)(C)(iii) of such Act includes a recommendation for modification or reversal of an internal review decision under the plan.

"(C) INFORMATION REQUIRED FROM HEALTH CARE PROFESSIONALS ON REQUEST.—Any health care professional treating a participant or beneficiary under a group health plan shall provide to the participant or beneficiary, on request, a description of his or her professional qualifications (including board certification status, licensing status, and accreditation status, if any), privileges, and experience and a general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which such professional is compensated in connection with the provision of such medical care.

"(D) INFORMATION REQUIRED FROM HEALTH CARE FACILITIES ON REQUEST.—Any health care facility from which a participant or beneficiary has sought treatment under a group health plan shall provide to the participant or beneficiary, on request, a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status (if any) assigned to the facility by standard-setting organizations.

"(f) ACCESS TO INFORMATION RELEVANT TO THE COVERAGE OPTIONS UNDER WHICH THE PARTICIPANT OR BENEFICIARY IS ELIGIBLE TO ENROLL.—In addition to information otherwise required to be made available under this section, a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall, upon written request (made not more frequently than annually), make available to a participant and an employee who, under the terms of the plan, is eligible for coverage but not enrolled in connection with a period of enrollment the summary plan description for any coverage option under the plan under which the participant is eligible to enroll and any information described in clauses (i), (ii), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

"(g) ADVANCE NOTICE OF CHANGES IN DRUG FORMULARIES.—Not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary under the plan that is used in the treatment of a chronic illness or disease, the plan shall take such actions as are necessary to reasonably ensure that plan participants are informed of such exclusion. The requirements of this subsection may be satisfied—

"(1) by inclusion of information in publications broadly distributed by plan sponsors, employers, or employee organizations,

"(2) by electronic means of communication (including the Internet or proprietary computer networks in a format which is readily accessible to participants),

"(3) by timely informing participants who, under an ongoing program maintained under the plan, have submitted their names for such notification, or

"(4) by any other reasonable means of timely informing plan participants.".

SEC. 2102. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall first issue all regulations necessary to carry out the amendments made by this subtitle before such date.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

Subtitle C—HealthMarts

SEC. 2201. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Health Care Consumer Empowerment Act of 1998".

SEC. 2202. EXPANSION OF CONSUMER CHOICE THROUGH HEALTHMARTS.

(a) IN GENERAL.—The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXVIII—HEALTHMARTS

"SEC. 2801. DEFINITION OF HEALTHMART.

"(a) IN GENERAL.—For purposes of this title, the term 'HealthMart' means a legal entity that meets the following requirements:

"(1) ORGANIZATION.—The HealthMart is a nonprofit organization operated under the direction of a board of directors which is composed of representatives of not fewer than 2 and in equal numbers from each of the following:

"(A) Small employers.

"(B) Employees of small employers.

"(C) Health care providers, which may be physicians, other health care professionals, health care facilities, or any combination thereof.

"(D) Entities, such as insurance companies, health maintenance organizations, and licensed provider-sponsored organizations, that underwrite or administer health benefits coverage.

"(2) OFFERING HEALTH BENEFITS COVERAGE.—

“(A) In general.—The HealthMart, in conjunction with those health insurance issuers that offer health benefits coverage through the HealthMart, makes available health benefits coverage in the manner described in subsection (b) to all small employers and eligible employees in the manner described in subsection (c)(2) at rates (including employer's and employee's share) that are established by the health insurance issuer on a policy or product specific basis and that may vary only as permissible under State law. A HealthMart is deemed to be a group health plan for purposes of applying section 702 of the Employee Retirement Income Security Act of 1974, section 2702 of this Act, and section 9802(b) of the Internal Revenue Code of 1986 (which limit variation among similarly situated individuals of required premiums for health benefits coverage on the basis of health status-related factors).

“(B) Nondiscrimination in coverage offered.—

“(i) In general.—Subject to clause (ii), the HealthMart may not offer health benefits coverage to an eligible employee in a geographic area (as specified under paragraph (3)(A)) unless the same coverage is offered to all such employees in the same geographic area. Section 2711(a)(1)(B) of this Act limits denial of enrollment of certain eligible individuals under health benefits coverage in the small group market.

“(ii) Construction.—Nothing in this title shall be construed as requiring or permitting a health insurance issuer to provide coverage outside the service area of the issuer, as approved under State law.

“(C) No financial underwriting.—The HealthMart provides health benefits coverage only through contracts with health insurance issuers and does not assume insurance risk with respect to such coverage.

“(D) Minimum coverage.—By the end of the first year of its operation and thereafter, the HealthMart maintains not fewer than 10 purchasers and 100 members.

“(3) Geographic areas.—

“(A) Specification of geographic areas.—The HealthMart shall specify the geographic area (or areas) in which it makes available health benefits coverage offered by health insurance issuers to small employers. Such an area shall encompass at least one entire county or equivalent area.

“(B) Multistate areas.—In the case of a HealthMart that serves more than one State, such geographic areas may be areas that include portions of two or more contiguous States.

“(C) Multiple healthmarts permitted in single geographic area.—Nothing in this title shall be construed as preventing the establishment and operation of more than one HealthMart in a geographic area or as limiting the number of HealthMarts that may operate in any area.

“(4) Provision of administrative services to purchasers.—

“(A) In general.—The HealthMart provides administrative services for purchasers. Such services may include accounting, billing, enrollment information, and employee coverage status reports.

“(B) Construction.—Nothing in this subsection shall be construed as preventing a HealthMart from serving as an administrative service organization to any entity.

“(5) Dissemination of information.—The HealthMart collects and disseminates (or arranges for the collection and dissemination of) consumer-oriented information on the scope, cost, and enrollee satisfaction of all coverage options offered through the HealthMart to its members and eligible individuals. Such information shall be defined by the HealthMart and shall be in a manner appropriate to the type of coverage offered. To the extent practicable, such information shall include information on provider performance, locations and hours of operation of providers, outcomes, and similar matters. Nothing in this section shall be construed as preventing the dissemination of such information or other information by the HealthMart or by health insurance issuers through electronic or other means.

“(6) Filing information.—The HealthMart—

“(A) files with the applicable Federal authority information that demonstrates the HealthMart's compliance with the applicable requirements of this title; or

“(B) in accordance with rules established under section 2803(a), files with a State such information as the State may require to demonstrate such compliance.

“(b) Health Benefits Coverage Requirements.—

“(1) Compliance with consumer protection requirements.—Any health benefits coverage offered through a HealthMart shall—

“(A) be underwritten by a health insurance issuer that—

“(i) is licensed (or otherwise regulated) under State law (or is a community health organization that is offering health insurance coverage pursuant to section 330B(a)),

“(ii) meets all applicable State standards relating to consumer protection, subject to section 2802(b), and

“(iii) offers the coverage under a contract with the HealthMart;

“(B) subject to paragraph (2), be approved or otherwise permitted to be offered under State law; and

“(C) provide full portability of creditable coverage for individuals who remain members of the same HealthMart notwithstanding that they change the employer through which they are members in accordance with the provisions of the parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and titles XXII and XXVII of this Act, so long as both employers are purchasers in the HealthMart.

“(2) Alternative process for approval of health benefits coverage in case of discrimination or delay.—

“(A) In general.—The requirement of paragraph (1)(B) shall not apply to a policy or product of health benefits coverage offered in a State if the health insurance issuer seeking to offer such policy or product files an application to waive such requirement with the applicable Federal authority, and the authority determines, based on the application and other evidence presented to the authority, that—

“(i) either (or both) of the grounds described in subparagraph (B) for approval of the application has been met; and

“(ii) the coverage meets the applicable State standards (other than those that have been preempted under section 2802).

“(B) Grounds.—The grounds described in this subparagraph with respect to a policy or product of health benefits coverage are as follows:

“(i) Failure to act on policy, product, or rate application on a timely basis.—The State has failed to complete action on the policy or product (or rates for the policy or product) within 90 days of the date of the State's receipt of a substantially complete application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

“(ii) Denial of application based on discriminatory treatment.—The State has denied such an application and—

“(I) the standards or review process imposed by the State as a condition of approval of the policy or product imposes either any material requirements, procedures, or standards to such policy or product that are not generally applicable to other policies and products offered or any requirements that are preempted under section 2802; or

“(II) the State requires the issuer, as a condition of approval of the policy or product, to offer any policy or product other than such policy or product.

“(C) Enforcement.—In the case of a waiver granted under subparagraph (A) to an issuer with respect to a State, the Secretary may enter into an agreement with the State under which the State agrees to provide for monitoring and enforcement activities with respect to compliance of such an issuer and its health insurance coverage with the applicable State standards described in subparagraph (A)(ii). Such monitoring and enforcement shall be conducted by the State in the same manner as the State enforces such standards with respect to other health insurance issuers and plans, without discrimination based on the type of issuer to which the standards apply. Such an agreement shall specify or establish mechanisms by which compliance activities are undertaken, while not lengthening the time required to review and process applications for waivers under subparagraph (A).

“(3) Examples of types of coverage.—The health benefits coverage made available through a HealthMart may include, but is not limited to, any of the following if it meets the other applicable requirements of this title:

“(A) Coverage through a health maintenance organization.

“(B) Coverage in connection with a preferred provider organization.

“(C) Coverage in connection with a licensed provider-sponsored organization.

“(D) Indemnity coverage through an insurance company.

“(E) Coverage offered in connection with a contribution into a medical savings account or flexible spending account.

“(F) Coverage that includes a point-of-service option.

“(G) Coverage offered by a community health organization (as defined in section 330B(e)).

“(H) Any combination of such types of coverage.

“(4) Wellness bonuses for health promotion.—Nothing in this title shall be construed as precluding a health insurance issuer offering health benefits coverage through a HealthMart from establishing premium discounts or rebates for members or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention so long as such programs are agreed to in advance by the HealthMart and comply with all other provisions of this title and do not discriminate among similarly situated members.

“(c) Purchasers; Members; Health Insurance Issuers.—

“(1) Purchasers.—

“(A) In general.—Subject to the provisions of this title, a HealthMart shall permit any small employer to contract with the HealthMart for the purchase of health benefits coverage for its employees and dependents of those employees and may not vary conditions of eligibility (including premium rates and membership fees) of a small employer to be a purchaser.

"(B) Role of associations, brokers, and licensed health insurance agents.—Nothing in this section shall be construed as preventing an association, broker, licensed health insurance agent, or other entity from assisting or representing a HealthMart or small employers from entering into appropriate arrangements to carry out this title.

"(C) Period of contract.—The HealthMart may not require a contract under subparagraph (A) between a HealthMart and a purchaser to be effective for a period of longer than 12 months. The previous sentence shall not be construed as preventing such a contract from being extended for additional 12-month periods or preventing the purchaser from voluntarily electing a contract period of longer than 12 months.

"(D) Exclusive nature of contract.—Such a contract shall provide that the purchaser agrees not to obtain or sponsor health benefits coverage, on behalf of any eligible employees (and their dependents), other than through the HealthMart. The previous sentence shall not apply to an eligible individual who resides in an area for which no coverage is offered by any health insurance issuer through the HealthMart.

"(2) Members.—

"(A) In general.—Under rules established to carry out this title, with respect to a small employer that has a purchaser contract with a HealthMart, individuals who are employees of the employer may enroll for health benefits coverage (including coverage for dependents of such enrolling employees) offered by a health insurance issuer through the HealthMart.

"(B) Nondiscrimination in enrollment.—A HealthMart may not deny enrollment as a member to an individual who is an employee (or dependent of such an employee) eligible to be so enrolled based on health status-related factors, except as may be permitted consistent with section 2742(b).

"(C) Annual open enrollment period.—In the case of members enrolled in health benefits coverage offered by a health insurance issuer through a HealthMart, subject to subparagraph (D), the HealthMart shall provide for an annual open enrollment period of 30 days during which such members may change the coverage option in which the members are enrolled.

"(D) Rules of eligibility.—Nothing in this paragraph shall preclude a HealthMart from establishing rules of employee eligibility for enrollment and reenrollment of members during the annual open enrollment period under subparagraph (C). Such rules shall be applied consistently to all purchasers and members within the HealthMart and shall not be based in any manner on health status-related factors and may not conflict with sections 2701 and 2702 of this Act.

"(3) Health insurance issuers.—

"(A) Premium collection.—The contract between a HealthMart and a health insurance issuer shall provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the HealthMart, for the payment of the premiums collected by the HealthMart (or the issuer) for such coverage (less a pre-determined administrative charge negotiated by the HealthMart and the issuer) to the issuer.

"(B) Scope of service area.—Nothing in this title shall be construed as requiring the service area of a health insurance issuer with respect to health insurance coverage to cover the entire geographic area served by a HealthMart.

"(C) Availability of coverage options.—A HealthMart shall enter into contracts with one or more health insurance issuers in a manner that assures that at least 2 health insurance coverage options are made available in the geographic area specified under subsection (a)(3)(A).

"(d) Prevention of Conflicts of Interest.—

"(1) For boards of directors.—A member of a board of directors of a HealthMart may not serve as an employee or paid consultant to the HealthMart, but may receive reasonable reimbursement for travel expenses for purposes of attending meetings of the board or committees thereof.

"(2) For boards of directors or employees.—An individual is not eligible to serve in a paid or unpaid capacity on the board of directors of a HealthMart or as an employee of the HealthMart, if the individual is employed by, represents in any capacity, owns, or controls any ownership interest in a organization from whom the HealthMart receives contributions, grants, or other funds not connected with a contract for coverage through the HealthMart.

"(3) Employment and employee representatives.—

"(A) In general.—An individual who is serving on a board of directors of a HealthMart as a representative described in subparagraph (A) or (B) of section 2801(a)(1) shall not be employed by or affiliated with a health insurance issuer or be licensed as or employed by or affiliated with a health care provider.

"(B) Construction.—For purposes of subparagraph (A), the term "affiliated" does not include membership in a health benefits plan or the obtaining of health benefits coverage offered by a health insurance issuer.

"(e) Construction.—

"(1) Network of affiliated healthmarts.—Nothing in this section shall be construed as preventing one or more HealthMarts serving different areas (whether or not contiguous) from providing for some or all of the following (through a single administrative organization or otherwise):

"(A) Coordinating the offering of the same or similar health benefits coverage in different areas served by the different HealthMarts.

"(B) Providing for crediting of deductibles and other cost-sharing for individuals who are provided health benefits coverage through the HealthMarts (or affiliated HealthMarts) after—

"(i) a change of employers through which the coverage is provided, or

"(ii) a change in place of employment to an area not served by the previous HealthMart.

"(2) Permitting healthmarts to adjust distributions among issuers to reflect relative risk of enrollees.—Nothing in this section shall be construed as precluding a HealthMart from providing for adjustments in amounts distributed among the health insurance issuers offering health benefits coverage through the HealthMart based on factors such as the relative health care risk of members enrolled under the coverage offered by the different issuers.

"(3) Application of uniform minimum participation and contribution rules.—Nothing in this section shall be construed as precluding a HealthMart from establishing minimum participation and contribution rules (described in section 2711(e)(1)) for small employers that apply to become purchasers in the HealthMart, so long as such rules are applied uniformly for all health insurance issuers.

"SEC. 2802. APPLICATION OF CERTAIN LAWS AND REQUIREMENTS.

"(a) Authority of States.—Nothing in this section shall be construed as preempting State laws relating to the following:

"(1) The regulation of underwriters of health coverage, including licensure and solvency requirements.

"(2) The application of premium taxes and required payments for guaranty funds or for contributions to high-risk pools.

"(3) The application of fair marketing requirements and other consumer protections (other than those specifically relating to an item described in subsection (b)).

"(4) The application of requirements relating to the adjustment of rates for health insurance coverage.

"(b) Treatment of Benefit and Grouping Requirements.—State laws insofar as they relate to any of the following are superseded and shall not apply to health benefits coverage made available through a HealthMart:

"(1) Benefit requirements for health benefits coverage offered through a HealthMart, including (but not limited to) requirements relating to coverage of specific providers, specific services or conditions, or the amount, duration, or scope of benefits, but not including requirements to the extent required to implement title XXVII or other Federal law and to the extent the requirement prohibits an exclusion of a specific disease from such coverage.

"(2) Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for such coverage to the extent such requirements impede the establishment and operation of HealthMarts pursuant to this title.

"(3) Any other requirements (including limitations on compensation arrangements) that, directly or indirectly, preclude (or have the effect of precluding) the offering of such coverage through a HealthMart, if the HealthMart meets the requirements of this title.

Any State law or regulation relating to the composition or organization of a HealthMart is preempted to the extent the law or regulation is inconsistent with the provisions of this title.

"(c) Application of ERISA Fiduciary and Disclosure Requirements.—The board of directors of a HealthMart is deemed to be a plan administrator of an employee welfare benefit plan which is a group health plan for purposes of applying parts 1 and 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and those provisions of part 5 of such subtitle which are applicable to enforcement of such parts 1 and 4, and the HealthMart shall be treated as such a plan and the enrollees shall be treated as participants and beneficiaries for purposes of applying such provisions pursuant to this subsection.

"(d) Application of ERISA Renewability Protection.—A HealthMart is deemed to be group health plan that is a multiple employer welfare arrangement for purposes of applying section 703 of the Employee Retirement Income Security Act of 1974.

"(e) Application of Rules for Network Plans and Financial Capacity.—The provisions of subsections (c) and (d) of section 2711 apply to health benefits coverage offered by a health insurance issuer through a HealthMart.

"(f) Construction Relating to Offering Requirement.—Nothing in section 2711(a) of this Act or 703 of the Employee Retirement Income Security Act of 1974 shall be construed as permitting the offering outside the HealthMart of health benefits coverage that is only made available through a HealthMart under this section because of the application of subsection (b).

"(g) Application to Guaranteed Renewability Requirements in Case of Discontinuation of an Issuer.—For purposes of applying section 2712 in the case of health insurance coverage offered by a health insurance issuer through a HealthMart, if the contract between the HealthMart and the issuer is terminated and the HealthMart continues to make available any health insurance coverage after the date of such termination, the following rules apply:

"(1) Renewability.—The HealthMart shall fulfill the obligation under such section of the issuer renewing and continuing in force coverage by offering purchasers (and members and their dependents) all available health benefits coverage that would otherwise be available to similarly-situated purchasers and members from the remaining participating health insurance issuers in the same manner as would be required of issuers under section 2712(c).

"(2) Application of association rules.—The HealthMart shall be considered an association for purposes of applying section 2712(e).

"(h) Construction in Relation to Certain Other Laws.—Nothing in this title shall be construed as modifying or affecting the applicability to HealthMarts or health benefits coverage offered by a health insurance issuer through a HealthMart of parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 or titles XXII and XXVII of this Act.

"SEC. 2803. ADMINISTRATION.

"(a) In General.—The applicable Federal authority shall administer this title through the division established under subsection (b) and is authorized to issue such regulations as may be required to carry out this title. Such regulations shall be subject to Congressional review under the provisions of chapter 8 of title 5, United States Code. The applicable Federal authority shall incorporate the process of 'deemed file and use' with respect to the information filed under section 2801(a)(6)(A) and shall determine whether information filed by a HealthMart demonstrates compliance with the applicable requirements of this title. Such authority shall exercise its authority under this title in a manner that fosters and promotes the development of HealthMarts in order to improve access to health care coverage and services.

"(b) Administration Through Health Care Marketplace Division.—

"(1) In general.—The applicable Federal authority shall carry out its duties under this title through a separate Health Care Marketplace Division, the sole duty of which (including the staff of which) shall be to administer this title.

"(2) Additional duties.—In addition to other responsibilities provided under this title, such Division is responsible for—

"(A) oversight of the operations of HealthMarts under this title; and

"(B) the periodic submittal to Congress of reports on the performance of HealthMarts under this title under subsection (c).

"(c) Periodic Reports.—The applicable Federal authority shall submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the applicable Federal authority to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. Such authority may provide for the production of such reports through one or more contracts with appropriate private entities.

"SEC. 2804. DEFINITIONS.

"For purposes of this title:

"(1) Applicable Federal authority.—The term 'applicable Federal authority' means the Secretary of Health and Human Services.

"(2) Eligible employee or individual.—The term 'eligible' means, with respect to an employee or other individual and a HealthMart, an employee or individual who is eligible under section 2801(c)(2) to enroll or be enrolled in health benefits coverage offered through the HealthMart.

"(3) Employer; employee; dependent.—Except as the applicable Federal authority may otherwise provide, the terms 'employer', 'employee', and 'dependent', as applied to health insurance coverage offered by a health insurance issuer licensed (or otherwise regulated) in a State, shall have the meanings applied to such terms with respect to such coverage under the laws of the State relating to such coverage and such an issuer.

"(4) Health benefits coverage.—The term ' 'health benefits coverage' has the meaning given the term group health insurance coverage in section 2791(b)(4).

"(5) Health insurance issuer.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2) and includes a community health organization that is offering coverage pursuant to section 330B(a).

"(6) Health status-related factor.—The term 'health status-related factor' has the meaning given such term in section 2791(d)(9).

"(7) HealthMart.—The term 'HealthMart' is defined in section 2801(a).

"(8) Member.—The term 'member''means, with respect to a HealthMart, an individual enrolled for health benefits coverage through the HealthMart under section 2801(c)(2).

"(9) Purchaser.—The term 'purchaser' means, with respect to a HealthMart, a small employer that has contracted under section 2801(c)(1)(A) with the HealthMart for the purchase of health benefits coverage.

"(10) Small employer.—The term 'small employer' has the meaning given such term for purposes of title XXVII.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 2000. The Secretary of Health and Human Services shall first issue all regulations necessary to carry out such amendment before such date.

Subtitle D—Community Health Organizations

SEC. 2301. PROMOTION OF PROVISION OF INSURANCE BY COMMUNITY HEALTH ORGANIZATIONS.

(a) Waiver of State Licensure Requirement for Community Health Organizations in Certain Cases.—Subpart I of part D of title III of the Public Health Service Act is amended by adding at the end the following new section:

"WAIVER OF STATE LICENSURE REQUIREMENT FOR COMMUNITY HEALTH ORGANIZATIONS IN CERTAIN CASES

"Sec. 330B. (a) Waiver Authorized.—

"(1) In general.—A community health organization may offer health insurance coverage in a State notwithstanding that it is not licensed in such a State to offer such coverage if—

"(A) the organization files an application for waiver of the licensure requirement with the Secretary of Health and Human Services (in this section referred to as the 'Secretary') by not later than November 1, 2003, and

"(B) the Secretary determines, based on the application and other evidence presented to the Secretary, that any of the grounds for approval of the application described in subparagraph (A), (B), or (C) of paragraph (2) has been met.

"(2) Grounds for approval of waiver.—

"(A) Failure to act on licensure application on a timely basis.—The ground for approval of such a waiver application described in this subparagraph is that the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of a substantially complete application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

"(B) Denial of application based on discriminatory treatment.—The ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application and the standards or review process imposed by the State as a condition of approval of the license or as the basis for such denial by the State imposes any material requirements, procedures, or standards (other than solvency requirements) to such organizations that are not generally applicable to other entities engaged in a substantially similar business.

"(C) Denial of application based on application of solvency requirements.—With respect to waiver applications filed on or after the date of publication of solvency standards established by the Secretary under subsection (d), the ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application based (in whole or in part) on the organization's failure to meet applicable State solvency requirements and such requirements are not the same as the solvency standards established by the Secretary. For purposes of this subparagraph, the term solvency requirements means requirements relating to solvency and other matters covered under the standards established by the Secretary under subsection (d).

"(3) Treatment of waiver.—In the case of a waiver granted under this subsection for a community health organization with respect to a State—

"(A) Limitation to state.—The waiver shall be effective only with respect to that State and does not apply to any other State.

"(B) Limitation to 36-month period.—The waiver shall be effective only for a 36-month period but may be renewed for up to 36 additional months if the Secretary determines that such an extension is appropriate.

"(C) Conditioned on compliance with consumer protection and quality standards.—The continuation of the waiver is conditioned upon the organization's compliance with the requirements described in paragraph (5).

"(D) Preemption of state law.—Any provisions of law of that State which relate to the licensing of the organization and which prohibit the organization from providing health insurance coverage shall be superseded.

"(4) Prompt action on application.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete waiver application has been filed.

Nothing in this section shall be construed as preventing an organization which has had such a waiver application denied from submitting a subsequent waiver application.

"(5) Application and enforcement of state consumer protection and quality standards.—A waiver granted under this subsection to an organization with respect to licensing under State law is conditioned upon the organization's compliance with all consumer protection and quality standards insofar as such standards—

"(A) would apply in the State to the community health organization if it were licensed as an entity offering health insurance coverage under State law; and

"(B) are generally applicable to other risk-bearing managed care organizations and plans in the State.

"(6) Report.—By not later than December 31, 2002, the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report regarding whether the waiver process under this subsection should be continued after December 31, 2003.

"(b) Assumption of Full Financial Risk.—To qualify for a waiver under subsection (a), the community health organization shall assume full financial risk on a prospective basis for the provision of covered health care services, except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds such aggregate level as the Secretary specifies from time to time;

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization;

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 105 percent of its income for such fiscal year; and

"(4) may make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of health services by the physicians or other health professionals or through the institutions.

"(c) Certification of Provision against Risk of Insolvency for Unlicensed CHOs.—

"(1) In general.—Each community health organization that is not licensed by a State and for which a waiver application has been approved under subsection (a)(1), shall meet standards established by the Secretary under subsection (d) relating to the financial solvency and capital adequacy of the organization.

"(2) Certification process for solvency standards for CHOs.—The Secretary shall establish a process for the receipt and approval of applications of a community health organization described in paragraph (1) for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such a certification application not later than 60 days after the date the application has been received.

"(d) Establishment of Solvency Standards for Community Health Organizations.—

"(1) In general.—The Secretary shall establish, on an expedited basis and by rule pursuant to section 553 of title 5, United States Code and through the Health Resources and Services Administration, standards described in subsection (c)(1) (relating to financial solvency and capital adequacy) that entities must meet to obtain a waiver under subsection (a)(2)(C). In establishing such standards, the Secretary shall consult with interested organizations, including the National Association of Insurance Commissioners, the Academy of Actuaries, and organizations representing Federally qualified health centers.

"(2) Factors to consider for solvency standards.—In establishing solvency standards for community health organizations under paragraph (1), the Secretary shall take into account—

"(A) the delivery system assets of such an organization and ability of such an organization to provide services to enrollees;

"(B) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care; and

"(C) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations.

"(3) Enrollee protection against insolvency.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the organization's debts in the event of the organization's insolvency.

"(4) Deadline.—Such standards shall be promulgated in a manner so they are first effective by not later than April 1, 1999.

"(e) Definitions.—In this section:

"(1) Community health organization.—The term 'community health organization ' means an organization that is a Federally-qualified health center or is controlled by one or more Federally-qualified health centers.

"(2) Federally-qualified health center.—The term 'Federally-qualified health center' has the meaning given such term in section 1905(l)(2)(B) of the Social Security Act.

"(3) Health insurance coverage.—The term 'health insurance coverage' has the meaning given such term in section 2791(b)(1).

"(4) Control.—The term 'control' means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of the organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.".

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Patient Protections

SEC. 3001. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

(a) In General.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

"SEC. 9813. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE.

"(a) Patient Access to Unrestricted Medical Advice.—

"(1) In general.—In the case of any health care professional acting within the lawful scope of practice in the course of carrying out a contractual employment arrangement or other direct contractual arrangement between such professional and a group health plan, the plan with which such contractual employment arrangement or other direct contractual arrangement is maintained by the professional may not impose on such professional under such arrangement any prohibition or restriction with respect to advice, provided to a participant or beneficiary under the plan who is a patient, about the health status of the participant or beneficiary or the medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether benefits for such care or treatment are provided under the plan.

"(2) Health care professional defined.—For purposes of this subsection, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the group health plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(b) Patient Access to Emergency Medical Care.—

"(1) In general.—To the extent that the group health plan provides for any benefits consisting of emergency medical care (as defined in section 503(b)(9)(I) of the Employee Retirement Income Security Act of 1974), except for items or services specifically excluded—

"(A) the plan shall provide benefits, without requiring preauthorization and without regard to otherwise applicable network limitations, for appropriate emergency medical screening examinations (within the capability of the emergency facility, including ancillary services routinely available to the emergency facility) to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary in order to determine whether emergency medical care (as so defined) is required, and

"(B) the plan shall provide benefits for additional emergency medical services following an emergency medical screening examination (if determined necessary under subparagraph (A)) to the extent that a prudent emergency medical professional would determine such additional emergency services to be necessary to avoid the consequences described in clause (i) of section 503(b)(9)(I) of such Act.

"(2) Uniform cost-sharing required.—Nothing in this subsection shall be construed as preventing a group health plan from imposing any form of cost-sharing applicable to any participant or beneficiary (including coinsurance, copayments, deductibles, and any other charges) in relation to benefits described in paragraph (1), if such form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in section 503(b)(9)(I) of the Employee Retirement Income Security Act of 1974) provided to such similarly situated participants and beneficiaries under the plan.

"(c) Patient Access to Obstetric and Gynecological Care.

"(1) In general.—In any case in which a group health plan—

"(A) provides benefits under the terms of the plan consisting of—

"(i) routine gynecological care (such as preventive women's health examinations), or

"(ii) routine obstetric care (such as routine pregnancy-related services),

provided by a participating physician who specializes in such care (or provides benefits consisting of payment for such care), and

"(B) the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider,

if the primary care provider designated by such a participant or beneficiary is not such a physician, then the plan shall meet the requirements of paragraph (2).

"(2) Requirements.—A group health plan meets the requirements of this paragraph, in connection with benefits described in paragraph (1) consisting of care described in clause (i) or (ii) of paragraph (1)(A) (or consisting of payment therefor), if the plan—

"(A) does not require authorization or a referral by the primary care provider in order to obtain such benefits, and

"(B) treats the ordering of other routine care of the same type, by the participating physician providing the care described in clause (i) or (ii) of paragraph (1)(A), as the authorization of the primary care provider with respect to such care.

"(3) Construction.—Nothing in paragraph (2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered.

"(d) Patient Access to Pediatric Care.—

"(1) In general.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides benefits consisting of routine pediatric care provided by a participating physician who specializes in pediatrics (or consisting of payment for such care) and the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, the plan (or issuer) shall provide that such a participating physician may be designated, if available, by a parent or guardian of any beneficiary under the plan is who under 18 years of age, as the primary care provider with respect to any such benefits.

"(2) Construction.—Nothing in paragraph (1) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care.

"(e) Treatment of Multiple Coverage Options.—In the case of a plan providing benefits under two or more coverage options, the requirements of subsections (c) and (d) shall apply separately with respect to each coverage option.".

(b) Clerical Amendment.—The table of sections of such subchapter of such chapter is amended by adding at the end the following new item:

"Sec. 9813. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care."

SEC. 3002. EFFECTIVE DATE AND RELATED RULES.

(a) In General.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act, except that the Secretary of the Treasury may issue regulations before such date under such amendments. The Secretary shall first issue regulations necessary to carry out the amendments made by this section before the effective date thereof.

(b) Limitation on Penalty for Certain Failures.—No penalty shall be imposed on any failure to comply with any requirement imposed by the amendments made by section 3101 to the extent such failure occurs before the date of issuance of regulations issued in connection with such requirement if the plan has sought to comply in good faith with such requirement.

(c) Special Rule for Collective Bargaining Agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the provisions of subsections (b), (c), and (d) of section 9813 of the Internal Revenue Code of 1986 (as added by this subtitle) shall not apply with respect to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2001.

For purposes of this subsection, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subtitle shall not be treated as a termination of such collective bargaining agreement.

Subtitle B—Patient Access to Information

SEC. 3101. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

(a) In General.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

"SEC. 9814. DISCLOSURE BY GROUP HEALTH PLANS.

"(a) Disclosure Requirement.—The administrator of each group health plan shall take such actions as are necessary to ensure that the summary plan description of the plan required under section 102 of Employee Retirement Income Security Act of 1974 (or each summary plan description in any case in which different summary plan descriptions are appropriate under part 1 of subtitle B of title I of such Act for different options of coverage) contains the information required under subsections (b), (c), (d), and (e)(2)(A). To the extent that any health insurance issuer offering health insurance coverage in connection with such plan provides such information on a timely basis to plan participants and beneficiaries, the requirements of this subsection shall be deemed satisfied in the case of such plan with respect to such information.

"(b) Plan Benefits.—The information required under subsection (a) includes the following:

"(1) Covered items and services.—

"(A) Categorization of included benefits.—A description of covered benefits, categorized by—

"(i) types of items and services (including any special disease management program), and

"(ii) types of health care professionals providing such items and services.

"(B) Emergency medical care.—A description of the extent to which the plan covers emergency medical care (including the extent to which the plan provides for access to urgent care centers), and any definitions provided under the plan for the relevant plan terminology referring to such care.

"(C) Preventative services.—A description of the extent to which the plan provides benefits for preventative services.

"(D) Drug formularies.—A description of the extent to which covered benefits are determined by the use or application of a drug formulary and a summary of the process for determining what is included in such formulary.

"(E) COBRA continuation coverage.—A description of the requirements under section 4980B.

"(2) Limitations, exclusions, and restrictions on covered benefits.—

"(A) Categorization of excluded benefits.—A description of benefits specifically excluded from coverage, categorized by types of items and services.

"(B) Utilization review and preauthorization requirements.—Whether coverage for medical care is limited or excluded on the basis of utilization review or preauthorization requirements.

"(C) Lifetime, annual, or other period limitations.—A description of the circumstances under which, and the extent to which, coverage is subject to lifetime, annual, or other period limitations, categorized by types of benefits.

"(D) Custodial care.—A description of the circumstances under which, and the extent to which, the coverage of benefits for custodial care is limited or excluded, and a statement of the definition used by the plan for custodial care.

"(E) Experimental treatments.—Whether coverage for any medical care is limited or excluded because it constitutes experimental treatment or technology, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(F) Medical appropriateness or necessity.—Whether coverage for medical care may be limited or excluded by reason of a failure to meet the plan's requirements for medical appropriateness or necessity, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(G) Second or subsequent opinions.—A description of the circumstances under which, and the extent to which, coverage for second or subsequent opinions is limited or excluded.

"(H) Specialty care.—A description of the circumstances under which, and the extent to which, coverage of benefits for specialty care is conditioned on referral from a primary care provider.

"(I) Continuity of care.—A description of the circumstances under which, and the extent to which, coverage of items and services provided by any health care professional is limited or excluded by reason of the departure by the professional from any defined set of providers.

"(J) Restrictions on coverage of emergency services.—A description of the circumstances under which, and the extent to which, the plan, in covering emergency medical care furnished to a participant or beneficiary of the plan imposes any financial responsibility described in subsection (c) on participants or beneficiaries or limits or conditions benefits for such care subject to any other term or condition of such plan

"(c) Participant's Financial Responsibilities.—The information required under subsection (a) includes an explanation of—

"(1) a participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and any other charges, and

"(2) the circumstances under which, and the extent to which, the participant's financial responsibility described in paragraph (1) may vary, including any distinctions based on whether a health care provider from whom covered benefits are obtained is included in a defined set of providers.

"(d) Dispute Resolution Procedures.—The information required under subsection (a) includes a description of the processes adopted by the plan pursuant to section 503(b) of Employee Retirement Income Security Act of 1974, including—

"(1) descriptions thereof relating specifically to—

"(A) coverage decisions,

"(B) internal review of coverage decisions, and

"(C) any external review of coverage decisions, and

"(2) the procedures and time frames applicable to each step of the processes referred to in subparagraphs (A), (B), and (C) of paragraph (1).

"(e) Information Available on Request.—

"(1) Access to plan benefit information in electronic form.—

"(A) In general.—A group health plan shall, upon written request (made not more frequently than annually), make available to participants and beneficiaries, in a generally recognized electronic format, the following information:

"(i) the latest summary plan description, including the latest summary of material modifications; and

"(ii) the actual plan provisions setting forth the benefits available under the plan

to the extent such information relates to the coverage options under the plan available to the participant or beneficiary. A reasonable charge may be made to cover the cost of providing such information in such generally recognized electronic format. The Secretary may by regulation prescribe a maximum amount which will constitute a reasonable charge under the preceding sentence.

"(B) Alternative access.—The requirements of this paragraph may be met by making such information generally available (rather than upon request) on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

"(2) Additional information to be provided on request.—

"(A) Inclusion in summary plan description of summary of additional information.—The information required under subsection (a) includes a summary description of the types of information required by this subsection to be made available to participants and beneficiaries on request.

"(B) Information required from plans on request.—In addition to information required to be included in summary plan descriptions under this subsection, a group health plan shall provide the following information to a participant or beneficiary on request:

"(i) Network characteristics.—If the plan (or a health insurance issuer offering health insurance coverage in connection with the plan) utilizes a defined set of providers under contract with the plan (or issuer), a detailed list of the names of such providers and their geographic location, set forth separately with respect to primary care providers and with respect to specialists.

"(ii) Care management information.—A description of the circumstances under which, and the extent to which, the plan has special disease management programs or programs for persons with disabilities, indicating whether these programs are voluntary or mandatory and whether a significant benefit differential results from participation in such programs.

"(iii) Inclusion of drugs and biologicals in formularies.—A statement of whether a specific drug or biological is included in a formulary used to determine benefits under the plan and a description of the procedures for considering requests for any patient-specific waivers.

"(iv) Procedures for determining exclusions based on medical necessity or experimental treatments.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision based on a determination relating to medical necessity or an experimental treatment or technology, a description of the procedures and medically-based criteria used in such decision.

"(v) Preauthorization and utilization review procedures.—Upon receipt by the participant or beneficiary of any notification of an adverse coverage decision, a description of the basis on which any preauthorization requirement or any utilization review requirement has resulted in such decision.

"(vi) Accreditation status of health insurance issuers and service providers.—A description of the accreditation and licencing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licencing authority.

"(vii) Measures of enrollee satisfaction.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to enrollee satisfaction.

"(viii) Quality performance measures.—The latest information (if any) maintained by the plan, or by any health insurance issuer offering health insurance coverage in connection with the plan, relating to quality of performance of the delivery of medical care with respect to coverage options offered under the plan and of health care professionals and facilities providing medical care under the plan.

"(ix) Information relating to external reviews.—The number of external reviews under section 503(b)(4) of the Employee Retirement Income Security Act of 1974 that have been completed during the prior plan year and the number of such reviews in which the recommendation reported under section 503(b)(4)(C)(iii) of such Act includes a recommendation for modification or reversal of an internal review decision under the plan.

"(C) Information required from health care professionals on request.—Any health care professional treating a participant or beneficiary under a group health plan shall provide to the participant or beneficiary, on request, a description of his or her professional qualifications (including board certification status, licensing status, and accreditation status, if any), privileges, and experience and a general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which such professional is compensated in connection with the provision of such medical care.

"(D) Information required from health care facilities on request.—Any health care facility from which a participant or beneficiary has sought treatment under a group health plan shall provide to the participant or beneficiary, on request, a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status (if any) assigned to the facility by standard-setting organizations.

"(f) Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll.—In addition to information otherwise required to be made available under this section, a group health plan shall, upon written request (made not more frequently than annually), make available to a participant (and an employee who, under the terms of the plan, is eligible for coverage but not enrolled) in connection with a period of enrollment the summary plan description for any coverage option under the plan under which the participant is eligible to enroll and any information described in clauses (i), (ii), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

"(g) Advance Notice of Changes in Drug Formularies.—Not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary under the plan that is used in the treatment of a chronic illness or disease, the plan shall take such actions as are necessary to reasonably ensure that plan participants are informed of such exclusion. The requirements of this subsection may be satisfied—

"(1) by inclusion of information in publications broadly distributed by plan sponsors, employers, or employee organizations,

"(2) by electronic means of communication (including the Internet or proprietary computer networks in a format which is readily accessible to participants),

"(3) by timely informing participants who, under an ongoing program maintained under the plan, have submitted their names for such notification, or

"(4) by any other reasonable means of timely informing plan participants.".

(b) Clerical Amendment.—The table of sections of such subchapter of such chapter is amended by adding at the end the following new item:

"Sec. 9814. Disclosure by group health plans."

SEC. 3102. EFFECTIVE DATE.

(a) In General.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary of the Treasury or the Secretary's delegate shall first issue all regulations necessary to carry out the amendments made by this subtitle before such date.

(b) Limitation on Enforcement Actions.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan has sought to comply in good faith with such requirement.

Subtitle C—Medical Savings Accounts

SEC. 3201. EXPANSION OF AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) Repeal of Limitations on Number of Medical Savings Accounts.—

(1) In general.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(2) Conforming amendment.—Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (D).

(b) All Employers May Offer Medical Savings Accounts.—

(1) In general.—Subclause (I) of section 220(c)(1)(A)(iii) of such Code (defining eligible individual) is amended by striking "and such employer is a small employer".

(2) Conforming amendments.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (C).

(B) Subsection (c) of section 220 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(c) Increase in Amount of Deduction Allowed for Contributions to Medical Savings Accounts.—

(1) In general.—Paragraph (2) of section 220(b) of such Code is amended to read as follows:

"(2) Monthly limitation.—The monthly limitation for any month is the amount equal to $\frac{1}{12}$ of the annual deductible (as of the first day of such month) of the taxpayer's coverage under the high deductible health plan."

(2) Conforming amendment.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking "75 percent of".

(d) Both Employers and Employees May Contribute to Medical Savings Accounts.—Paragraph (5) of section 220(b) of such Code is amended to read as follows:

"(5) Coordination with exclusion for employer contributions.—The limitation which would (but for this paragraph) apply under this subsection to the taxpayer for any taxable year shall be reduced (but not below zero) by the amount which would (but for section 106(b)) be includible in the taxpayer's gross income for such taxable year."

(e) Reduction of Permitted Deductibles Under High Deductible Health Plans.—

(1) In general.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking "$1,500" and inserting "$1,000", and

(B) by striking "$3,000" and inserting "$2,000".

(2) Conforming amendment.—Subsection (g) of section 220 of such Code is amended—

(A) by striking "1998" and inserting "1999", and

(B) by striking "1997" and inserting "1998".

(f) Medical Savings Accounts May Be Offered Under Cafeteria Plans.—Subsection (f) of section 125 of such Code is amended by striking "106(b),".

(g) Individuals Receiving Immediate Federal Annuities Eligible for Medical Savings Accounts.—Paragraph (1) of section 220(c) of such Code (defining eligible individual), as amended by subsections (a) and (b), is amended by adding at the end the following new subparagraph:

"(C) Special rules for individuals receiving immediate federal annuities.—

"(i) In general.—Subparagraph (A)(iii) and subsection (b)(4) shall not apply for any month to an individual—

"(I) who, as of the 1st day of such month, is enrolled in a high deductible health plan under chapter 89 of title 5, United States Code, and

"(II) who is entitled to receive for such month any amount by reason of being an annuitant (as defined in section 8901(3) of such title 5).

"(ii) Special rule for spouse of annuitant.—In the case of the spouse of an individual described in clause (i) who is not also described in clause (i), subsection (b)(4) shall not apply to such spouse if such individual and spouse have family coverage under the same plan described in clause (i)(I)."

(h) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 3202. EXCEPTION FROM INSURANCE LIMITATION IN CASE OF MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Section 220(d)(2)(B) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

"(iii) Insurance offered by community health centers.—

"(I) In general.—Subject to clauses (II) and (III), clause (i) shall not apply to any expense for coverage under insurance offered by a health center (as defined in section 330(a)(1) of the Public Health Service Act) if the coverage consists solely of coverage for required primary health benefits (as defined in section 330(b)(1)(A) of such Act) provided on a capitated basis.

"(II) Income limitation.—Subclause (I) shall only apply to expenses for coverage of an individual who, in the taxable year involved, has income that is less than 200 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(III) Limitation on number of contracts.—For a taxable year ending in a calendar year, subclause (I) shall apply only to expenses for coverage for the first 15,000 individuals enrolled in insurance described in such subclause in the year.".

(b) Reports on Enrollment.—Section 330(j)(3) of the Public Health Service Act (42 U.S.C. 254c(j)(3)) is amended—

(1) by striking "and" at the end of subparagraph (K),

(2) by striking the period at the end of subparagraph (L) and inserting "; and", and

(3) by inserting after subparagraph (L) the following new subparagraph:

"(M) if the center offers insurance coverage to an individual with a medical savings account under subclause (I) of section 220(d)(2)(B)(iii), the center shall provide such reports in such time and manner as may be required by the Secretary and the Secretary of the Treasury in order to carry out subclause (III) of such section.".

SEC. 3203. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that patients are best served when they are empowered to make informed choices about their own health care. The same is true regarding an individual's choice of health insurance. A system that gives people the power to choose the coverage that best meets their needs, combined with insurance market reforms, offers great promise of increased choices and greater access to health insurance for Americans.

Subtitle D—Revenue Offsets

SEC. 3301. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) In General.—Subparagraph (B) of section 172(f)(1) of the Internal Revenue Code of 1986 (defining specified liability loss) is amended to read as follows:

"(B)(i) Any amount allowable as a deduction under this chapter (other than section 468(a)(1) or 468A(a)) which is in satisfaction of a liability under a Federal or State law requiring—

"(I) the reclamation of land,

"(II) the decommissioning of a nuclear power plant (or any unit thereof),

"(III) the dismantlement of a drilling platform,

"(IV) the remediation of environmental contamination, or

"(V) a payment under any workers compensation act (within the meaning of section 461(h)(2)(C)(i)).

"(ii) A liability shall be taken into account under this subparagraph only if—

"(I) the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year, and

"(II) the taxpayer used an accrual method of accounting throughout the period or periods during which such act (or failure to act) occurred."

(b) Effective Date.—The amendment made by this section shall apply to net operating losses arising in taxable years ending after the date of the enactment of this Act.

SEC. 3302. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) Repeal of Property Subject to a Liability Test.—

(1) Section 357.—Section 357(a) of the Internal Revenue Code of 1986 (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) Section 358.—Section 358(d)(1) of such Code (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) Section 368.—

(A) Section 368(a)(1)(C) of such Code is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) of such Code is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) Clarification of Assumption of Liability.—

(1) In general.—Section 357 of such Code is amended by adding at the end the following new subsections:

"(d) Determination of Amount of Liability Assumed.—

"(1) In general.—For purposes of this section, section 358(d), section 362(d), section 368(a)(1)(C), and section 368(a)(2)(B), except as provided in regulations—

"(A) a recourse liability (or portion thereof) shall be treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed to, and is expected to, satisfy such liability (or portion), whether or not the transferor has been relieved of such liability, and

"(B) a nonrecourse liability shall be treated as having been assumed by the transferee of any asset subject to such liability.

"(2) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 362(d). The Secretary may also prescribe regulations which provide that the manner in which a liability is treated as assumed under this subsection is applied, where appropriate, elsewhere in this title."

(2) Limitation on basis increase attributable to assumption of liability.—Section 362 of such Code is amended by adding at the end the following new subsection:

"(d) Limitation on Basis Increase Attributable to Assumption of Liability.—

"(1) In general.—In no event shall the basis of any property be increased under subsection (a) or (b) above fair market value (determined without regard to section 7701(g)) by reason of any gain recognized to the transferor as a result of the assumption of a liability.

"(2) Treatment of gain not subject to tax.—Except as provided in regulations, if—

"(A) gain is recognized to the transferor as a result of an assumption of a nonrecourse liability by a transferee which is also secured by assets not transferred to such transferee, and

"(B) no person is subject to tax under this title on such gain,

then, for purposes of determining basis under subsections (a) and (b), the amount of gain recognized by the transferor as a result of the assumption of the liability shall be determined as if the liability assumed by the transferee equaled such transferee's ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all of the assets subject to such liability."

(c) Application to Provisions Other Than Subchapter C.—

(1) Section 584.—Section 584(h)(3) of such Code is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) Assumed liabilities.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) Assumption.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply.".

(2) Section 1031.—The last sentence of section 1031(d) of such Code is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(d)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) Conforming Amendments.—

(1) Section 351(h)(1) of such Code is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 of such Code is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) of such Code is amended by striking "or acquired".

(4) Section 357(c)(1) of such Code is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) of such Code is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) of such Code is amended by striking "or acquisition (in the amount of the liability)".

(e) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 3303. LIMITATION ON REQUIRED ACCRUAL OF AMOUNTS RECEIVED FOR PERFORMANCE OF CERTAIN PERSONAL SERVICES.

(a) In General.—Paragraph (5) of section 448(d) of the Internal Revenue Code of 1986 (relating to special rule for services) is amended by inserting "in fields referred to in paragraph (2)(A)" after "services by such person".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1998.

(c) Coordination With Section 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(1) such change shall be treated as initiated by the taxpayer,

(2) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(3) the period for taking into account the adjustments under section 481 by reason of such change shall be 3 years.

SEC. 3304. RETURNS RELATING TO CANCELLATIONS OF INDEBTEDNESS BY ORGANIZATIONS LENDING MONEY.

(a) In General.—Paragraph (2) of section 6050P(c) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by inserting after subparagraph (C) the following new subparagraph:

"(D) any organization a significant trade or business of which is the lending of money."

(b) Effective Date.—The amendment made by subsection (a) shall apply to discharges of indebtedness after December 31, 1998.

SEC. 3305. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN Deemed Incorrect if Information on Return Differs With Agency Records.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

"A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN.".

(b) Expansion of Mathematical Error Procedures to Cases Where TIN Establishes Individual Not Eligible for Tax Credit.—Section 6213(g)(2) of such Code is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of the subparagraph (K) and inserting ", and", and by adding at the end the following new subparagraph:

"(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

"(i) such TIN is of an individual whose age affects the amount of the credit under such section, and

"(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual's age based on such TIN.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 3306. INCLUSION OF ROTAVIRUS GASTROENTERITIS AS A TAXABLE VACCINE.

(a) In General.—Section 4132(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

"(K) Any vaccine against rotavirus gastroenteritis.".

(b) Effective Date.—

(1) Sales.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

(2) Deliveries.—For purposes of paragraph (1), in the case of sales on or before the date of the enactment of this Act for which delivery is made after such date, the delivery date shall be considered the sale date.

TITLE IV—HEALTH CARE LAWSUIT REFORM

Subtitle A—General Provisions

SEC. 4001. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) Applicability.—This title shall apply with respect to any health care liability action brought in any State or Federal court, except that this title shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) Preemption.—This title shall preempt any State law to the extent such law is inconsistent with the limitations contained in this title. This title shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this title or otherwise imposes greater restrictions than those provided in this title.

(c) Effect on Sovereign Immunity and Choice of Law or Venue.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) Amount in Controversy.—In an action to which this title applies and which is brought under section 1332 of title 28, United States Code, the amount of non-economic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) Federal Court Jurisdiction Not Established on Federal Question Grounds.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 4002. DEFINITIONS.

As used in this title:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DRUG.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract, or

(D) a Medicare+Choice plan (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal court against—

(A) a health care provider,

(B) an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or

(C) the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product,

in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or contribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term "health care service" means any service eligible for payment under a health benefit plan, including services related to the delivery or administration of such service.

(14) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) NON-ECONOMIC DAMAGES.—The term "non-economic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) PRODUCT SELLER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "product seller" means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce, or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) EXCLUSION.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 4003. EFFECTIVE DATE.

This title will apply to—

(1) any health care liability action brought in a Federal or State court, and

(2) any health care liability claim subject to an alternative dispute resolution system,

that is initiated on or after the date of enactment of this title, except that any health care liability claim or action arising from an injury occurring before the date of enactment of this title shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

Subtitle B—Uniform Standards for Health Care Liability Actions

SEC. 4011. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 4012. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NON-ECONOMIC DAMAGES.—

(1) LIMITATION ON NON-ECONOMIC DAMAGES.—The total amount of non-economic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury. The limitation under this paragraph shall not apply to an action for damages based solely on intentional denial of medical treatment necessary to preserve a patient's life that the patient is otherwise qualified to receive, against the wishes of a patient, or if the patient is incompetent, against the wishes of the patient's guardian, on the basis of the patient's present or predicated age, disability, degree of medical dependency, or quality of life.

(2) LIMIT.—If, after the date of the enactment of this Act, a State enacts a law which prescribes the amount of non-economic damages which may be awarded in a health care liability action which is different from the amount prescribed by section 4012(a)(1), the State amount shall apply in lieu of the amount prescribed by such section. If, after the date of the enactment of this Act, a State enacts a law which limits the amount of recovery in a health care liability action without delineating between economic and non-economic damages, the State amount shall apply in lieu of the amount prescribed by such section.

(3) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of non-economic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for non-economic damages shall be several and not joint and a separate judgment shall be rendered against each defendant for the amount allocated to such defendant.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State

law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) Applicability.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(3) Bifurcation.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(4) Drugs and devices.—

(A) In general.—

(i) Punitive damages.—Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Application.—Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) Packaging.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) Periodic Payments for Future Losses.—

(1) General rule.—In any health care liability action in which the damages awarded for future economic and non-economic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are likely to occur, as such payments are determined by the court.

(2) Finality of judgment.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) Lump-sum settlements.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) Treatment of Collateral Source Payments.—

(1) Introduction into evidence.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) No subrogation.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care liability action.

(3) Application to settlements.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 4013. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are consistent with the provisions relating to such matters in this title.

SEC. 4014. REPORTING ON FRAUD AND ABUSE ENFORCEMENT ACTIVITIES.

The General Accounting Office shall—

(1) monitor—

(A) the compliance of the Department of Justice and all United States Attorneys with the guideline entitled "Guidance on the Use of the False Claims Act in Civil Health Care Matters" issued by the Department on June 3, 1998, including any revisions to that guideline, and

(B) the compliance of the Office of the Inspector General of the Department of Health and Human Services with the protocols and guidelines entitled "National Project Protocols—Best Practice Guidelines" issued by the Inspector General on June 3, 1998, including any revisions to such protocols and guidelines, and

(2) submit a report on such compliance to the Committee on Commerce, the Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate not later than February 1, 1999, and every year thereafter for a period of four years ending February 1, 2002.

TITLE V—CONFIDENTIALITY OF HEALTH INFORMATION

SEC. 5001. CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION.

(a) In General.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"Part D—Confidentiality of Protected Health Information

"INSPECTION AND COPYING OF PROTECTED HEALTH INFORMATION

"Sec. 1181. (a) In General.—Subject to the succeeding provisions of this section, upon the request of an individual who is the subject of protected health information, a person who is a health care provider, health plan, employer, health or life insurer, or educational institution shall make available to the individual (or, in the discretion of the person, to a health care provider designated by the individual), for inspection and copying, protected health information concerning the individual that the person maintains, including records created under section 1182.

"(b) Access Through Originating Provider.—Protected health information that is created by an originating provider, and subsequently received by another health care provider or a health plan as part of treatment or payment activities, shall be made available for inspection and copying as provided in this section through the originating provider, rather than the receiving health care provider or health plan, unless the originating provider does not maintain the information.

"(c) Investigational Information.—With respect to protected health information that was created as part of the requesting individual's participation in a clinical trial monitored by an institutional review board established to review health research with respect to potential risks to human subjects pursuant to Federal regulations adopted under section 1802(b) of the Public Health Service Act (42 U.S.C. 300v–1(b)) and the notice (informally referred to as the 'Common Rule') promulgated in the Federal Register at 56 Fed. Reg. 28003), a request under subsection (a) shall be granted only to the extent and in a manner consistent with such regulations.

"(d) Other Exceptions.—Unless ordered by a court of competent jurisdiction, a person to whom a request under subsection (a) is made is not required to grant the request, if—

"(1) the person determines that the disclosure of the information could reasonably be expected to endanger the life or physical safety of, or cause substantial harm to, any individual; or

"(2) the information is compiled principally—

"(A) in anticipation of a civil, criminal, or administrative action or proceeding; or

"(B) for use in such action or proceeding.

"(e) Denial of Request for Inspection or Copying.—If a person to whom a request under subsection (a) is made denies a request for inspection or copying pursuant to this section, the person shall inform the individual making the request, in writing, of—

"(1) the reasons for the denial of the request;

"(2) the availability of procedures for further review of the denial; and

"(3) the individual's right to file with the person a concise statement setting forth the request.

"(f) Statement Regarding Request.—If an individual has filed with a person a statement under subsection (e)(3) with respect to protected health information, the person, in any subsequent disclosure of the information—

"(1) shall include a notation concerning the individual's statement; and

"(2) may include a concise statement of the reasons for denying the request for inspection or copying.

"(g) Procedures.—A person providing access to protected health information for inspection or copying under this section may set forth appropriate procedures to be followed for such inspection or copying and may require an individual to pay reasonable costs associated with such inspection or copying.

"(h) Inspection and Copying of Segregable Portion.—A person to whom a request under subsection (a) is made shall permit the inspection and copying of any reasonably segregable portion of a record after deletion of any portion that the person is not required to disclose under this section.

"(i) Deadline.—A person described in subsection (a) shall comply with or deny, in accordance with this section, a request for inspection or copying of protected health information under this section not later than 30 days after the date on which the person receives the request.

"(j) Rules Governing Agents.—An agent of a person described in subsection (a) shall not be required to provide for the inspection and copying of protected health information, except where—

"(1) the protected health information is retained by the agent; and

"(2) the agent has been asked by the person to fulfill the requirements of this section.

"SUPPLEMENTATION OF PROTECTED HEALTH INFORMATION

"Sec. 1182. (a) In General.—Subject to subsection (b), not later than 45 days after the date on which a person who is a health care provider, health plan, employer, health or life insurer, or educational institution receives, from an individual who is a subject of protected health information that is maintained by the person, a request in writing to amend the information by adding a concise written supplement to it, the person—

"(1) shall make the amendment requested;

"(2) shall inform the individual of the amendment that has been made; and

"(3) shall make reasonable efforts to inform any person who is identified by the individual, who is not an officer, employer, or agent of the person receiving the request, and to whom the unamended portion of the information was disclosed during the preceding year, by sending a notice to the person's last known address that an amendment, consisting of the addition of a supplement, has been made to the protected health information of the individual.

"(b) Refusal to Amend.—If a person described in subsection (a) refuses to make an amendment requested by an individual under such subsection, the person shall inform the individual, in writing, of—

"(1) the reasons for the refusal to make the amendment;

"(2) any procedures for further review of the refusal; and

"(3) the individual's right to file with the person a concise statement setting forth the requested amendment and the individual's reasons for disagreeing with the refusal.

"(c) Statement of Disagreement.—If an individual has filed a statement of disagreement with a person under subsection (b)(3), the person, in any subsequent disclosure of the disputed portion of the information—

"(1) shall include a notation that such individual has filed a statement of disagreement; and

"(2) may include a concise statement of the reasons for not making the requested amendment.

"(d) Rules Governing Agents.—The agent of a person described in subsection (a) shall not be required to make amendments to individually identifiable health information, except where—

"(1) the information is retained by the agent; and

"(2) the agent has been asked by such person to fulfill the requirements of this section.

"(e) Duplicative Requests for Amendments.—If a person described in subsection (a) receives a duplicative request for an amendment of information as provided for in such subsection and a statement of disagreement with respect to the request has been filed pursuant to subsection (c), the person shall inform the individual of such filing and shall not be required to carry out the procedures under this section.

"(f) Rule of Construction.—This section shall not be construed—

"(1) to permit an individual to modify statements in his or her record that document the factual observations of another individual or state the results of diagnostic tests; or

"(2) to permit an individual to amend his or her record as to the type, duration, or quality of treatment the individual believes he or she should have been provided.

"NOTICE OF CONFIDENTIALITY PRACTICES

"Sec. 1183. (a) Preparation of Written Notice.—A person who is a health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution shall post or provide, in writing and in a clear and conspicuous manner, notice of the person's protected health information confidentiality practices. The notice shall include—

"(1) a description of an individual's rights with respect to protected health information;

"(2) the intended uses and disclosures of protected health information;

"(3) the procedures established by the person for the exercise of an individual's rights with respect to protected health information; and

"(4) the procedures established by the person for obtaining copies of the notice.

"(b) Model Notice.—The Secretary, after notice and opportunity for public comment, and based on the advice of the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)), shall develop and disseminate, not later than 6 months after the date of the enactment of the Patient Protection Act of 1998, model notices of confidentiality practices, for use under this section. Use of a model notice developed by the Secretary shall serve as a complete defense in any civil action to an allegation that a violation of this section has occurred.

"ESTABLISHMENT OF SAFEGUARDS

"Sec. 1184. (a) In General.—A person who is a health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution shall establish, maintain, and enforce reasonable and appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of protected health information created, received, obtained, maintained, used, transmitted, or disposed of by the person.

"(b) Factors To Be Considered.—A person subject to subsection (a) shall consider the following factors in establishing safeguards under such subsection:

"(1) The need for protected health information.

"(2) The categories of personnel who will have access to protected health information.

"(3) The feasibility of limiting access to individual identifiers.

"(4) The appropriateness of the policy or procedure to the person, and to the medium in which protected health information is stored and transmitted.

"(5) The value of audit trails in computerized records.

"(c) Relationship to Part C Requirement.—Any safeguard established under this section shall be consistent with the requirement in section 1173(d)(2).

"(d) Conversion to Nonidentifiable Health Information.—A person subject to subsection (a) shall, to the extent practicable and consistent with the purpose for which protected health information is maintained, convert such information into nonidentifiable health information.

"AVAILABILITY OF PROTECTED HEALTH INFORMATION FOR PURPOSES OF HEALTH CARE OPERATIONS

"Sec. 1185. (a) Disclosure.—Any person who maintains protected health information may disclose the information to a health care provider or a health plan for the purpose of permitting the provider or plan to conduct health care operations.

"(b) Use.—A health care provider or a health plan that maintains protected health information may use it for the purposes described in subsection (a).

"(c) Limitation on Sale or Barter.—Notwithstanding subsection (b), no health care provider or health plan may, as part of conducting health care operations, sell or barter protected health information.

"RELATIONSHIP TO OTHER LAWS

"Sec. 1186. (a) State Law.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the provisions of this part shall preempt a provision of State law to the extent that such provision—

"(A) otherwise would be preempted as inconsistent with this part under article VI of the Constitution of the United States;

"(B) relates to authorization for the use or disclosure of—

"(i) protected health information for health care operations; or

"(ii) nonidentifiable health information; or

"(C) relates to any of the following:

"(i) Inspection or copying of protected health information by a person who is a subject of the information.

"(ii) Amendment of protected health information by a person who is a subject of the information.

"(iii) Notice of confidentiality practices with respect to protected health information.

"(iv) Establishment of safeguards for protected health information.

"(2) Exceptions.—Nothing in this part shall be construed to preempt or modify a provision of State law to the extent that such provision relates to protected health information and—

"(A) the confidentiality of the records maintained by a licensed mental health professional;

"(B) the provision of health care to a minor, or the disclosure of information about a minor to a parent or guardian of the minor;

"(C) condition-specific limitations on disclosure;

"(D) the use or disclosure of information for use in legally authorized—

"(i) disease or injury reporting;

"(ii) public health surveillance, investigation, or intervention;

“(iii) vital statistics reporting, such as reporting of birth or death information;

“(iv) reporting of abuse or neglect information;

“(v) reporting of information concerning a communicable disease status; or

“(vi) reporting concerning the safety or effectiveness of a biological product regulated under section 351 of the Public Health Service Act (42 U.S.C. 262) or a drug or device regulated under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

“(E) the disclosure to a person by a health care provider of information about an individual, in any case in which the provider has determined—

“(i) in the provider's reasonable medical judgment, that the individual is unconscious, incompetent, or otherwise incapable of deciding whether to authorize disclosure of the protected health information; and

“(ii) in the provider's reasonable judgment, that the person is a spouse, relative, guardian, or close friend of the individual's; or

“(F) the use of information by, or the disclosure of information to, a person holding a valid and applicable power of attorney that includes the authority to make health care decisions on behalf of an individual who is a subject of the information.

“(3) PRIVILEGES.—Nothing in this part shall be construed to preempt or modify a provision of State law to the extent that such provision relates to a privilege of a witness or other person in a court of that State.

“(b) FEDERAL LAW.—Nothing in this part shall be construed to preempt, modify, or repeal a provision of any other Federal law relating to protected health information or relating to an individual's access to protected health information or health care services. Nothing in this part shall be construed to preempt, modify, or repeal a provision of Federal law to the extent that such provision relates to a privilege of a witness or other person in a court of the United States.

“CIVIL PENALTIES

“SEC. 1187. (a) VIOLATION.—A person who the Secretary determines has substantially and materially failed to comply with this part shall be subject, in addition to any other penalties that may be prescribed by law—

“(1) in a case in which the violation relates to section 1181 or 1182, to a civil penalty of not more than $500 for each such violation but not to exceed $5,000 in the aggregate for all violations of an identical requirement or prohibition during a calendar year;

“(2) in the case in which the violation relates to section 1183 or 1184, to a civil penalty of not more than $10,000 for each such violation, but not to exceed $50,000 in the aggregate for all violations of an identical requirement or prohibition during a calendar year; or

“(3) in a case in which the Secretary finds that such violations have occurred with such frequency as to constitute a general business practice, to a civil penalty of not more than $100,000.

“(b) PROCEDURES FOR IMPOSITION OF PENALTIES.—Section 1128A, other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil or monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A.

“DEFINITIONS

“SEC. 1188. As used in this part:

“(1) AGENT.—The term ‘agent’ means a person, including a contractor, who represents and acts for another under the contract or relation of agency, or whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between the principal and a third person.

“(2) CONDITION-SPECIFIC LIMITATIONS ON DISCLOSURE.—The term ‘condition-specific limitations on disclosure’ means State laws that prohibit the disclosure of protected health information relating to a health condition or disease that has been identified by the Secretary as posing a public health threat.

“(3) DISCLOSE.—The term ‘disclose’ means to release, transfer, provide access to, or otherwise divulge protected health information to any person other than an individual who is the subject of such information.

“(4) EDUCATIONAL INSTITUTION.—The term ‘educational institution’ means an institution or place accredited or licensed for purposes of providing for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges united under one corporate organization or government.

“(5) EMPLOYER.—The term ‘employer’ has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

“(6) HEALTH CARE.—The term ‘health care’ means—

“(A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, including appropriate assistance with disease or symptom management and maintenance, counseling, service, or procedure—

“(i) with respect to the physical or mental condition of an individual; or

“(ii) affecting the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs, or any other tissue; or

“(B) any sale or dispensing, pursuant to a prescription or medical order, of a drug, device, equipment, or other health care-related item to an individual, or for the use of an individual.

“(7) HEALTH CARE OPERATIONS.—The term ‘health care operations’ means services, provided directly by or on behalf of a health plan or health care provider or by its agent, for any of the following purposes:

“(A) Coordinating health care, including health care management of the individual through risk assessment, case management, and disease management.

“(B) Conducting quality assessment and improvement activities, including outcomes evaluation, clinical guideline development and improvement, and health promotion.

“(C) Carrying out utilization review activities, including precertification and preauthorization of services, and health plan rating activities, including underwriting and experience rating.

“(D) Conducting or arranging for auditing services.

“(8) HEALTH CARE PROVIDER.—The term ‘health care provider’ means a person, who with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

“(A) a person who is licensed, certified, registered, or otherwise authorized by Federal or State law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession;

“(B) a Federal, State, or employer-sponsored or any other privately-sponsored program that directly provides items or services that constitute health care to beneficiaries; or

“(C) an officer or employee of a person described in subparagraph (A) or (B).

“(9) HEALTH OR LIFE INSURER.—The term ‘health or life insurer’ means a health insurance issuer, as defined in section 9832(b)(2) of the Internal Revenue Code of 1986, or a life insurance company, as defined in section 816 of such Code.

“(10) HEALTH PLAN.—The term ‘health plan’ means any health insurance plan, including any hospital or medical service plan, dental or other health service plan, health maintenance organization plan, plan offered by a provider-sponsored organization (as defined in section 1855(d)), or other program providing or arranging for the provision of health benefits.

“(11) HEALTH RESEARCHER.—The term ‘health researcher’ means a person (or an officer, employee, or agent of a person) who is engaged in systematic investigation, including research development, testing, data analysis, and evaluation, designed to develop or contribute to generalizable knowledge relating to basic biomedical processes, health, health care, health care delivery, or health care cost.

“(12) NONIDENTIFIABLE HEALTH INFORMATION.—The term ‘nonidentifiable health information’ means protected health information from which personal identifiers that reveal the identity of the individual who is the subject of such information or provide a direct means of identifying the individual (such as name, address, and social security number) have been removed, encrypted, or replaced with a code, such that the identity of the individual is not evident without (in the case of encrypted or coded information) use of a key.

“(13) ORIGINATING PROVIDER.—The term ‘originating provider’, when used with respect to protected health information, means the health care provider who takes an action that initiates the treatment episode to which that information relates, such as prescribing a drug, ordering a diagnostic test, or admitting an individual to a health care facility. A hospital or nursing facility is the originating provider with respect to protected health information created or received as part of inpatient or outpatient treatment provided in the hospital or facility.

“(14) PAYMENT ACTIVITIES.—The term ‘payment activities’ means—

“(A) activities undertaken—

“(i) by, or on behalf of, a health plan to determine its responsibility for coverage under the plan; or

“(ii) by a health care provider to obtain payment for items or services provided to an individual, provided under a health plan, or provided based on a determination by the health plan of responsibility for coverage under the plan; and

“(B) includes the following activities, when performed in a manner consistent with subparagraph (A):

“(i) Billing, claims management, medical data processing, other administrative services, and actual payment.

“(ii) Determinations of coverage or adjudication of health benefit or subrogation claims.

“(iii) Review of health care services with respect to coverage under a health plan or justification of charges.

“(15) PERSON.—The term ‘person’ means—

“(A) a natural person;

“(B) a government or governmental subdivision, agency, or authority;

"(C) a company, corporation, estate, firm, trust, partnership, association, joint venture, society, or joint stock company; or

"(D) any other legal entity.

"(16) PROTECTED HEALTH INFORMATION.—The term 'protected health information', when used with respect to an individual who is a subject of information means any information (including genetic information) that identifies the individual, whether oral or recorded in any form or medium, and that—

"(A) is created or received by a health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, or educational institution;

"(B) relates to the past, present, or future physical or mental health or condition of an individual (including individual cells and their components);

"(C) is derived from—

"(i) the provision of health care to an individual; or

"(ii) payment for the provision of health care to an individual; and

"(D) is not nonidentifiable health information.

"(17) STATE.—The term 'State' includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"(18) TREATMENT.—The term 'treatment' means the provision of health care by a health care provider.

"(19) WRITING.—The term 'writing' means writing either in a paper-based, computer-based, or electronic form, including electronic signatures.".

(b) ENFORCEMENT OF PROVISIONS THROUGH CONDITIONS ON PARTICIPATION.—

(1) PARTICIPATING PHYSICIANS AND SUPPLIERS.—Section 1842(h) of the Social Security Act (42 U.S.C. 1395u(h)) is amended by adding at the end the following:

"(9) The Secretary may refuse to enter into an agreement with a physician or supplier under this subsection, or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been found to have violated a provision of part D of title XI.".

(2) MEDICARE+CHOICE ORGANIZATIONS.—Section 1852(h) of the Social Security Act (42 U.S.C. 1395w–22(h)) is amended—

(A) in the matter preceding paragraph (1), by striking "procedures—" and inserting "procedures, consistent with sections 1181 through 1185—"; and

(B) in paragraph (1), by striking "privacy of any individually identifiable enrollee information;" and inserting "confidentiality of protected health information concerning enrollees;".

(3) MEDICARE PROVIDERS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by inserting a semicolon at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting "; and"; and

(C) by inserting immediately after subparagraph (S) the following new subparagraph:

"(T) to comply with sections 1181 through 1184.".

(4) HEALTH MAINTENANCE ORGANIZATIONS WITH RISK-SHARING CONTRACTS.—Section 1876(k)(4) of the Social Security Act (42 U.S.C. 1395mm(k)(4)) of the Social Security Act is amended by adding at the end the following:

"(E) The confidentiality and accuracy procedure requirements under section 1852(h).".

(c) CONFORMING AMENDMENTS.—

(1) TITLE HEADING.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by striking the title heading and inserting the following:

"TITLE XI—GENERAL PROVISIONS, PEER REVIEW, ADMINISTRATIVE SIMPLIFICATION, AND CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION".

(2) NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS.—Section 306(k)(5) of the Public Health Service Act (42 U.S.C. 242(k)(5)) is amended—

(A) in subparagraphs (A)(viii) and (D), by striking "part C" and inserting "parts C and D";

(B) in subparagraph (C), by striking "and" at the end;

(C) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(E) shall study the issues relating to section 1184 of the Social Security Act (as added by the Patient Protection Act of 1998), and, not later than 1 year after the date of the enactment of the Patient Protection Act of 1998, shall report to the Congress on such section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act, except that subsection (c)(2), and section 1183(b) of the Social Security Act (as added by subsection (a)), shall take effect on the date of the enactment of this Act.

SEC. 5002. STUDY AND REPORT ON EFFECT OF STATE LAW ON HEALTH-RELATED RESEARCH.

Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Congress a report containing the results of a study on the effect of State laws on health-related research subject to review by an institutional review board or institutional review committee with respect to the protection of human subjects.

SEC. 5003. STUDY AND REPORT ON STATE LAW ON PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Congress a report containing the results of a study—

(1) compiling State laws on the confidentiality of protected health information (as defined in section 1188 of the Social Security Act, as added by section 5001 of this Act); and

(2) analyzing the effect of such laws on the provision of health care and securing payment for such care.

(b) MODIFICATION OF DEADLINE.—Section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033) is amended by striking "36 months after the date of the enactment of this Act," and inserting "6 months after the date on which the Comptroller General of the United States submits to the Congress a report under section 5003(a) of the Patient Protection Act of 1998,".

SEC. 5004. PROTECTION FOR CERTAIN INFORMATION DEVELOPED TO REDUCE MORTALITY OR MORBIDITY OR FOR IMPROVING PATIENT CARE AND SAFETY.

(a) PROTECTION OF CERTAIN INFORMATION.—Notwithstanding any other provision of Federal or State law, health care response information shall be exempt from any disclosure requirement (regardless of whether the requirement relates to subpoenas, discovery, introduction of evidence, testimony, or any other form of disclosure), in connection with a civil or administrative proceeding under Federal or State law, to the same extent as information developed by a health care provider with respect to any of the following:

(1) Peer review.

(2) Utilization review.

(3) Quality management or improvement.

(4) Quality control.

(5) Risk management.

(6) Internal review for purposes of reducing mortality, morbidity, or for improving patient care or safety.

(b) NO WAIVER OF PROTECTION THROUGH INTERACTION WITH ACCREDITING BODY.—Notwithstanding any other provision of Federal or State law, the protection of health care response information from disclosure provided under subsection (a) shall not be deemed to be modified or in any way waived by—

(1) the development of such information in connection with a request or requirement of an accrediting body; or

(2) the transfer of such information to an accrediting body.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "accrediting body" means a national, not-for-profit organization that—

(A) accredits health care providers; and

(B) is recognized as an accrediting body by statute or by a Federal or State agency that regulates health care providers.

(2) The term "health care provider" has the meaning given such term in section 1188 of the Social Security Act (as added by section 5001 of this Act).

(3) The term "health care response information" means information (including any data, report, record, memorandum, analysis, statement, or other communication) developed by, or on behalf of, a health care provider in response to a serious, adverse, patient-related event—

(A) during the course of analyzing or studying the event and its causes; and

(B) for purposes of—

(i) reducing mortality or morbidity; or

(ii) improving patient care or safety (including the provider's notification to an accrediting body and the provider's plans of action in response to such event).

(5) The term "State" has the meaning given such term in section 1188 of the Social Security Act (as added by section 5001 of this Act).

SEC. 5005. EFFECTIVE DATE FOR STANDARDS GOVERNING UNIQUE HEALTH IDENTIFIERS FOR INDIVIDUALS.

Section 1174 of the Social Security Act (42 U.S.C. 1320d–3) is amended by adding at the end the following:

"(c) UNIQUE HEALTH IDENTIFIERS.—Notwithstanding subsections (a) and (b), the Secretary may not promulgate or adopt a final standard under section 1173(b) providing for a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard or containing provisions consistent with the standard.".

The SPEAKER pro tempore. After 1 hour of debate on the bill, as amended, it shall be in order to consider the further amendment printed in the CONGRESSIONAL RECORD numbered 2, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Illinois (Mr. HASTERT) and the gentleman from Michigan (Mr. DINGELL) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Illinois (Mr. HASTERT).

□ 1045

Mr. HASTERT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING), the distinguished chairman of the Committee on Education and the Workforce.

Mr. GOODLING. Mr. Speaker, I rise today in support of H.R. 4250, the Patient Protection Act. This is truly a historic occasion which rivals the passage of ERISA in 1974. Thanks to ERISA, 150 million Americans are covered by employer-sponsored health care plans. Thanks to the gentleman from Illinois (Mr. FAWELL), most of the 4 million uninsured will have quality affordable health coverage available to them when we pass this legislation.

Increasingly, the American people tell us that they need common sense elements in health insurance reform, and that is what is in the Patient Protection Act, including basic protections such as guaranteed access to emergency medical care, doctors being able to speak freely with patients about their health care options without being gagged and ensuring that a patient can quickly obtain the benefits promised by their health care.

The Patient Protection Act will also provide health care accessibility to patients by requiring that patients have full access to plan information such as what benefits are covered, the participant's financial responsibility, and a complete description of the claims procedure and appeals process. Women and families with small children will be ensured direct access to key specialists such as OB/GYNs and pediatricians.

As I see it, however, our plan differs from other proposals in two key ways. First, we make sure that patients get the care they deserve in a timely manner before harm can occur. We get them into hospital rooms, not into courtrooms.

We take serious, comprehensive steps to expand availability and affordability of health insurance to American working families who have no health insurance. No other plan does this.

I have held a lot of town meetings in my district over the years, and not once has a constituent said to me, "I would really like to be able to sue my health plan." What they have said to me over and over again is "When are you going to do something about the high costs of health insurance?" Today, I am happy to say we are doing something about it.

Simply put, the Patient Protection Act will increase access to affordable health insurance for millions of Americans. It is amazing to me that all the other proposals ignore the 42 million uninsured Americans.

The gentleman from Illinois (Mr. FAWELL) has pushed this through our committee on two occasions to make sure that we do something about the uninsured. The problem of the uninsured, both children and adults, is the problem of small business lacking access to affordable health coverage.

Over 80 percent of the 82 million uninsured Americans live in families where someone is working, someone is employed usually by a small employer, or they are self-employed.

To address the affordability problem of the uninsured, the Association Health Plan proposals in the Patient Protection Act would give franchise networks, bona fide trades, business and professional associations, and organizations such as the Chamber of Commerce, and the National Federation of Independent Business the ability to form large group health plans within and across State lines.

Again, the best patient protection is access to affordable health care.

I would like to take a minute to go into a little more detail about some of the claims procedure provisions in the Patient Protection Act as they pertain to ERISA.

The provisions relating to internal review and external review claims procedures and remedies are contained in Subtitle C of Title I and will hold plans accountable and insure patients get the care they deserve in a timely manner.

The current claims procedures that apply to employee benefit plans under federal law are contained in ERISA Title I section 503. The exclusive remedies that apply to such plans are contained in Part 5 of that Act. With minor exception as provided in regulations, the procedures under 503 do not distinguish between group health plans (i.e. employee benefit plans providing medical care) and other plans, including pension plans and other employee welfare benefit plans. In general, plans may take up to 90 days to inform claimants of initial decisions and up to 60 days to inform them of decisions upon internal appeal. Generally, upon satisfaction of administrative remedies, claimants may proceed, pursuant to Part 5, to enforce their rights under the plan and the ERISA law in court. In general, remedies relating to adverse coverage decisions are limited to the payment of benefits as found to be provided under the terms of the plan and to such reasonable attorney's fees as may be provided in the discretion of the court. Certain other civil remedies may also apply.

Under Subtitle C of Title I the ERISA claims procedures are modernized to take into account the rules as they apply to the many diverse kinds of group health plans in today's evolving health care delivery system. Section 503 of ERISA is amended to require group health plans to provide written—and understandable—notice to a participant of any negative coverage decision on requested benefits under the plan within 30 days of the request. If the request is for urgent medical care, the plan must provide the notice within 10 days; for emergencies, the requirement is 72 hours. If the request is for a referral to a physician specialist, the coverage decision must be within 72 hours. This notice also must be sent to the participant's medical provider if the provider initiated the claim or seeks reimbursement from the plan. The participant must be informed in the notice that he or she may file a written request for review (i.e. internal appeal to an appropriate named fiduciary under the plan) of the coverage decision within 180 days after the notice is received. Internal reviews of coverage request denials involving medical necessity and experimental treatment or technology must be conducted by a physician who did not make the initial decision. The same time frames apply to internal review as to the initial coverage decision.

If the internal appeal results in a coverage denial, the participant may make a request within 30 days for an external review, which must be conducted by one or more independent medical experts (in general, a physician with expertise in the matters involved) selected in accordance with procedures that must be specified under the plan. The procedures of selection required under the plan allow for independent intermediaries to select the reviewing medical experts so as to ensure they meet the strict independence rules preventing conflict of interest. The external review must be completed within 25 days of the request. If the final decision under the plan by a physician, who did not make the earlier decision, is an adverse coverage decision, then the participant has recourse to the courts. Alternative dispute resolution procedures would be permitted, however they would have to conform to the requirements for physician review of medical necessity and with the external review procedures.

The remedies under section 502 of ERISA are improved to include civil penalties for fiduciaries who do not provide benefits in accordance with the recommendation of the external review medical expert. If after external review, a participant is denied coverage, a civil court may impose a penalty of up to $500 a day ($1,000 in the case of bad faith violations) starting on the date on which the recommendation was made. The total penalty may be up to $250,000. Also, fiduciaries in an expedited court action or who took or failed to take action that resulted in a denial of coverage after an external review would be liable in such court actions to pay attorney fees and other reasonable costs to the plaintiff—i.e., the patient. In the case of a pattern or practice of violation, the Secretary of Labor may, in a court proceeding, impose a penalty of up to $100,000. In cases in which a physician certifies to a court that the time needed to carry out administrative remedies and procedures for review of coverage denials would run the risk of causing irreparable harm to the health of the participant, the provisions under section 502 allow such participants to take civil action to obtain an injunction or other equitable relief.

This claims process will ensure patients get the care they deserve in a timely manner. It is one of many reasons the Patient Protection Act should be passed by Congress and signed into law.

Mr. DINGELL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, we face a clear choice today between two different approaches. The first, the Patients' Bill of Rights was written last year and revised in March. The other piece of legislation, the Republican leadership bill, was still being written after midnight last night.

The Patients' Bill of Rights has been scored by the CBO at a cost of $2 per month per patient, and we provided revenue offsets to ensure fiscal responsibility.

The leadership's bill was never even seen by the CBO and has not been read by the Members. Only minutes ago did we get a final score from CBO. Since it does nothing, it costs nothing. I think my colleagues should note, a bill that does nothing costs nothing.

The Patients' Bill of Rights guarantees real patient rights. It puts health back into the Health Maintenance Organization. The Republican leadership bill has the word HMO. In that bill, HMO stands for hide my opposition.

If our primary concern is health care for the American people, the choice is clear. The Patients' Bill of Rights puts medical decisions, especially the question of medical necessity into the hands of doctors and takes them away from insurance company bureaucrats who now are hurting the American public.

The Patients' Bill of Rights guarantees that we can see a medical specialist when we need one. The Patients' Bill of Rights says that, if you are a pregnant woman or cancer patient, you will continue to be able to see your doctor when you need continuity of care.

The Patients' Bill of Rights guarantees that we will be able to get the prescriptions that we need. The Patients' Bill of Rights holds health plans accountable when they have denied health care and when their decision kills or injures somebody.

The Patients' Bill of Rights protects the confidentiality of our medical records, and the Republican bill does not. The Republican bill even has one interesting thing. It goes so far as to repeal existing consumer protection laws that help patients. I want my colleagues to hear that.

Last of all, I want my colleagues to look at the roster of supporters of the Patients' Bill of Rights: AMA, all the health care specialists, the nurses, and all of the consumers and aging organizations. The American people want the Patients' Bill of Rights. If we want to serve them, we will vote for the Patients' Bill of Rights today.

I want to particularly single out my good friend and colleague, Dr. GANSKE for his leadership and courage on this issue. He is a man of integrity and stands up for what he believes in. He deserves great credit.

I also want to commend the work of the staff in the development of the Patients Bill of Rights.

Among our staff Bridgett Taylor, Amy Droskoski, and Bernadette Fernandez have worked tirelessly on the bill for many months.

Mr. HASTERT. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Virginia (Mr. BLILEY), chairman of the Committee on Commerce.

Mr. BLILEY. Mr. Speaker, when it comes to health care, patients and their doctors should be in the driver's seat. Right now, they are mere passengers. Fortunately, the Patient Protection Act of 1998 puts patients back at the wheel where they belong.

Our bill gives Americans the care they need when they need it. It protects patients without expanding big government, and it promises patients greater choice and the ability to stick with a favorite doctor.

The Patient Protection Act addresses a major flaw in our health care system, the lack of a real marketplace where patients can shop for the lowest cost and highest quality care.

Even Ron Pollack of Families U.S.A., a staunch supporter of President Clinton's efforts to nationalize health care agrees this is needed. He recently said, and I quote, "There is no true marketplace today to drive health care quality." He is right. Think about it.

When we buy a new car, we do not go to a bank, credit union, or GMAC first. We choose the car we want; then we arrange the financing. In other words, we, not the lender, choose what car to buy. We, not our employer, choose the financing.

Why can health care not work the same way? Why do health care choices have to be dictated by the terms of health insurance than by consumers' needs and preferences. Why must employers choose the health coverage that finances so many Americans' care?

HealthMarts answer these important questions in a way that puts patients first. HealthMarts are private, voluntary, and competitive health insurance supermarkets. They transfer choice within the employer-based health insurance market from small employers to employees.

HealthMarts give consumers the freedom to choose health coverage from a broad menu of options. Here is how they work: A small business joins a HealthMart because it offers lower cost coverage, makes more options available to employees, and does the administrative work.

Employees choose from among the HealthMart's coverage options. Each can choose a different plan and still benefit from group rates. Sound familiar? It should. It is the type of choice today that is available only to Members of Congress, our staffs, and other Federal employees.

This type of consumer choice is essential to the quality of health care coverage and services. After all, if all Americans had the freedom to choose their coverage, they would be able to get the highest quality care that best meets their needs. HealthMarts will achieve that critical objective.

The bottom line is this: By making quality as important in the selection of health coverage as cost, HealthMarts will move the Nation toward a true health care marketplace.

This new idea gives patients more choice and better quality health care. It puts them back in the driver's seat. It is yet another reason why the Patient Protection Act deserves our strong support.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. GANSKE) and note that he has been instrumental in bringing us to where we are today. I salute him for it and thank him on behalf of my colleagues.

Mr. GANSKE. Mr. Speaker, I rise in opposition to H.R. 4250 and in support of the Ganske-Dingell substitute. There is going to be a lot of debate today about the legal situation. I have been for legal reform. I have stood in this well arguing for medical malpractice reform. I voted for securities litigation reform, product liability reform.

I, as a physician, would never want Congress to pass a law that says physicians should be immune from their malpractice. Yet, that is a situation that we have with ERISA.

The problem with H.R. 4250 is it does not remove ERISA preemption for State causes of action. The Ganske-Dingell bill says that Federal law may not preempt State law, but we have a provision in there that protects the employer.

If the employer is not making the decision, if the HMO is making the decision, the employer is not subject to liability. That is a very important distinction. It is fair.

But let me just ask my colleagues something, it is very clear that HMOs have committed malpractice that has resulted in loss of life and limb. ERISA, through the interpretation of the courts, has extended that legal exemption to health plans. However, we have never had our personal fingerprints on that legal immunity and the problems with it.

If we vote for the GOP bill, we are going to be codifying, giving HMOs legal immunity. Would we do that for tobacco companies? I think not. Would we do that for companies that are making life and death decisions? I hope not.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I have no doubt that Members on both sides of the aisle want to focus on health care, but I personally feel that, in an election year, political pandering on both sides is not a benefit for the American public.

I look at the Democratic "Bill of Fights" that is going to drive up health care cost by letting trial lawyers take over. California is a leader in

HMOs, but I also see good, bad, and ugly in the HMOs in California. We are losing good doctors in California because of HMOs and managed health care.

□ 1100

But yet there are still some good ones, and we need to attend to that.

Whether the lawyers drive up costs or CEO's from HMOs rip off the system and drive up health care, both are bad, and that is why I say that neither one of these bills are good for the American consumer, and we need to help.

The gentleman from California (Mr. FAZIO) brought over a list of things that are preempted in state law. I do not want that. But, at the same time, I looked into it, and the unions right now are under ERISA. Your supporters are exempt under state law, the unions and large companies. We wanted the small businesses to be able to band together and have the same benefits for low health care costs.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I ask unanimous consent that my infirmity not be taken as support for the Republican bill, which is a cynical sham and should be defeated. I wish to announce my support for the Dingell bill.

Mr. Speaker, today's vote on managed care reform is a complete sham.

It wasn't long ago when the Republican leadership called on their friends in the health insurance industry "get off your butts and get off your wallets" to defeat real reform.

Today, they are here to put another nail in the coffin of real reform.

Their answer to managed care reform is the same as their answer to campaign finance reform and tobacco legislation: Make it look like they are doing something, but then work to kill it with the addition of divisive provisions.

H.R. 4250 flunks the fundamental test of real reform—it doesn't hold health plans accountable for their medical decision making. This bill precludes an injured patient or their family from suing a managed care plan that maims or kills them.

Under the Republican bill, health plans could continue to get away with cases like that of Mrs. Florence Corcoran, who lost her baby because of her health plan's refusal to follow her doctors' advice.

Today, if a doctor commits malpractice on a patient, the patient has the right to sue that doctor. If a hospital maims a patient, they are liable for their action. If a defective car causes a person's death, the car manufacturer is liable.

Why should we let managed care plans off the hook? What makes them worthy of legal immunity that we don't grant doctors and hospitals—or any other profession or industry?

In addition, the Gingrich managed care bill before us today includes a number of "poison pills" that Congress has rejected numerous times in the past.

Among the poison pills are:

Expansions of medical savings accounts to help the healthy and wealthy at a cost of billions to American taxpayers;

MEWA and HealthMart provisions that would destroy small group market reforms in the states, increase adverse selection and weaken state enforcement authority.

But the cherry on top of this sundae for the managed care industry is the permission this bill gives health plans to withhold even more access to care than they can under current law. This bill gives HMOs the right to define—each plan for itself—what the medically necessary care is that it will provide to its enrollees. Today, medically necessary care is defined by doctors and other medical experts as the best that science and human ability can deliver. But this bill says plans can decide what their version of medically necessary care is, and how much of it they will give you. It lets bureaucrats, not doctors, determine your health care.

Even those managed care reforms where there has been widespread agreement—such as access to emergency care—are botched in the Gingrich bill.

This bill does not provide the protections to the private sector that are enjoyed by Medicare and Medicaid beneficiaries today.

An emergency physician who testified earlier this week, Dr. Charlotte Yeh, got it right when she said that she thought the Republicans had performed some "unnecessary surgery on the prudent lay person standard to the point where it is hardly recognizable as the consumer protection we envisioned."

The Gingrich bill destroys medical record confidentiality. It would trample on Fourth Amendment rights by giving health plans and health providers the right to disclose your medical record to any entity—without your permission. Your medical record, with your name and full history, could wind up in the hands of a drug company's marketing department, a credit card company, a consultant working on a political campaign, a divorce lawyer, a newspaper.

The public deserves better from Congress than this shoddy piece of work.

This bill also allows plans to charge people up to $100 to get external appeals—and doesn't allow patients or doctors to present any evidence at that external appeal review. Talk about a sham!

This Republican bill is worse than doing nothing. If Members of Congress took the Hippocratic oath to do no harm, they would not be able to vote for this bill. Vote to defeat H.R. 4250.

I support the Ganske-Dingell substitute. It is a real bill, with real protections.

The Republican bill is a sham. It provides none of the major consumer protections that patients need.

The Republican bill actually does harm. It overrides hundreds and hundreds of State consumer protection laws, leaving people with less protection than they now have. It will drive up the cost of health insurance for most people. It makes your most private medical records available to every Tom, Dick, and Harry salesman. It spends billions on a new tax break for the wealthiest and healthiest in our society. It takes away your right for compensation for pain and suffering because of medical malpractice.

These harmful features are poison pills, designed to cause controversy and confusion in the Senate and to prevent a bill from passing. The Republican bill is another testament to the need for campaign finance reform: it is a bill designed to make their PAC contributors happy.

The Democratic substitute bill, on the other hand, is a real patient protection bill endorsed by the doctors, by the nurses, and all the consumer groups.

It will require that health plans provide you care that is based on the consensus of the latest, best quality of care. The Republican bill, on the other hand, lets each profit-making HMO define what they believe is adequate medical care: they will provide care based on what their accountants tell them—not their doctors.

The choice could not be clearer. We can pass the Republican sham bill today—or we can pass a real bill—the Democratic substitute.

Mr. DINGELL. Mr. Speaker, I yield two minutes to the gentleman from Missouri (Mr. CLAY) the ranking member on the Committee on Education and the Workforce.

Mr. CLAY. Mr. Speaker, I rise to oppose H.R. 4250. This bill is nothing more than a cynical propaganda effort promoted by the Republican leadership to convince the public that they are doing something about the abuse of HMOs. This bill is loaded with special interest provisions that do far more harm than good to consumers of health care.

The Republican bill includes a provision to establish Association Health Plans that would enable small businesses and self-employed individuals to band together and purchase health insurance coverage. The chairman of our Committee on Education and the Workforce has stated that the committee has approved this provision and so no one should be concerned about it. The fact is, the bill was reported over Democrat's vehement objections, because it is clear that the arrangements will do more harm than good.

The National Governors Association and the National Conference of State Legislators join with the National Association of Insurance Commissioners in stating that Association Health Plans would undermine positive state regulatory reforms already in place, would destroy important consumer protections, and would contribute to the collapse of small group health insurance in many states.

According to CBO, Association Health Plans would increase the risk of health plan failure and would disrupt the insurance market, because Federal regulatory standards would probably be less strict than the state standards that apply under current law. Association Health Plans would present state regulations covering such vital matters as sovereignty, mandated care and the policing of fraud and abuse.

Mr. Speaker, I urge my colleagues to reject H.R. 4250 and instead support

H.R. 3605, the bipartisan Patients' Bill of Rights act.

Mr. HASTERT. Mr. Speaker, I yield three minutes to the distinguished gentleman from Texas (Mr. ARCHER), the Chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, two principles have forever guided our Nation, individual freedom and liberty. As a democratic Nation whose strength derives from its people, we have achieved high degrees of each, unsurpassed by any nation in all history. It is no wonder that people around the globe want to come here and be called Americans. We are the envy of the world. Now, as we consider a plan to protect and strengthen a free people who worry about the health care needs of themselves and their families, we must do so with our guiding principles in mind.

Our Nation's health care system is the best in the world. Americans do not travel abroad to get health care, but visitors come here from all over the world, to the Mayo Clinic, to Mount Sinai, and, yes, to my own City of Houston to the Texas Medical Center Memorial, because we are the best.

The reason our health care system is the best is because it is based on capitalism, on choice and on individualism. That is why the one aspect of the bill before us today that gives me great pride is the expansion and the unfettered opportunity for Americans to choose medical savings accounts, free and unencumbered.

The source of America's frustrations with HMOs is the lack of control which both patients and doctors feel. There is always a third party making a decision. Patients want to be able to pick up the phone and get a quick appointment to see their doctor. Patients want to see the doctor of their choice for all their health needs.

Doctors want to take more time to be with their patients. Doctors want to treat their patients as they see fit, without interference from a third-party payer or an insurance company, and that is why we need medical savings accounts. With MSAs, patients, not insurance companies, control their choices. There are no gatekeepers, there are no middlemen, and there are no third-party payers, except in the case of a catastrophic event.

MSAs let patients and employers deposit money tax-free into accounts that patients control. Like an IRA for retirement needs, MSAs are IRAs for health care needs. When people control their own money, the general use of capitalism will come into play. It has in all things American; it will in health care too.

Our Nation's greatness is based on freedom and liberty. So, too, is our future. While I originally introduced this bill with a Democrat Congressman, Andy Jacobs, six years ago, I realize even more today that MSAs are and should be the future of health care.

I urge support of the bill.

Mr. DINGELL. Mr. Speaker, I yield two minutes to the distinguished gentleman from Texas (Mr. HALL).

Mr. HALL of Texas. Mr. Speaker, I would start by saying that my speech will probably fall on some closed minds, because many already have your minds made up. Many of you have decided or pledged to take a particular vote, or taken an oath to do it, or been whipped by either the Democrat or Republican Whip.

I speak though to those who do not have their feet set in concrete today, I think those that really and truly want the facts about this situation.

I did not speak on the rule. As a matter of fact, I voted for the rule. I think it is about as fair a rule as a majority will give a minority, so I had no problem with the rule. The rule was not good, but I think the worst is yet to come, and let me talk about a little of it.

It does not please me, by the way, to oppose the likes of the U.S. Chamber and the NFIB. I have had 100 percent with them for years and years, but I differ with them on this because I think they are wrong.

I think that ERISA is what this is all about. ERISA is what all these meetings have been about. ERISA is what the insurance companies can hide behind to escape liability, and it is not right, it is not fair, it is not just, and it should have been changed.

All the conferences that have been had over on this side, all the committee meetings, way into the night, last night, late, late, late, war gaming amendments, it is how can we compromise ERISA? That is what the whole thrust has been, how can we keep ERISA on the table for insurance companies to hide behind when they err, when they guess wrong?

I tell you, H.R. 4250 preempts states patient protections too. I think we need to know that. This bill will remove stronger patient protection bills in over 40 states. I think the facts are out on the sheet that show how your various states are affected.

Tonight we are going to finish this. We are going to go home, we are going to issue press releases carefully worded, but the hard cold fact is you are offending people when you leave ERISA in place as a hiding place for those that ought to be liable.

Mr. Speaker, as I close, I urge Members to vote against 4250.

Mr. DINGELL. Mr. Speaker, I yield two minutes to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I must tell my colleagues that I rise in reluctant opposition to this bill, and I am constrained to ask, not facetiously, is this as good as it gets? I am sorry, that is a facetious reference to the movie that we all say identified the backlash out there, and that backlash has promoted our party, both parties, to seek a solution. But I do not believe that this bill is as good as it should get.

I wanted to say that I recognize that there are a lot of benefits to the Republican task force bill, but we have to go beyond that.

Let me point out the issues that are of continuing concern to me. I do not believe we have the patients' access to clinical trials that they need. I do not believe there is expanded access to specialists in a meaningful way, and that is very important to me. I think that the external appeals process, as I read it, and, of course, we only got it really this morning, but as I read it, the appeals process is not even binding. This concerns me, because a right without enforcement is no right at all, as far as I can tell.

I do also want to get to the point of the ERISA question, the health plans. I want to particularly reference the fact that I believe that the gentleman from Iowa (Mr. GANSKE) in his analysis was absolutely correct, and I agree with him. I am concerned that this ERISA preemption as it is supplied to the Association Health Plans and the HealthMarts would be an expanded loophole to legitimate care, particularly for the small business community employees, and I am deeply concerned about that.

These potential loopholes would greatly diminish the quality of care and the medical protections in states such as New Jersey. This is a prime problem. We can have these association pools, we can do these small business pools, without expanding the ERISA preemption.

So I must reluctantly again say, bottom line, the question is whether or not patients will have better access to health care, and health care through the doctors and the professional health care providers, not bureaucrats.

INTRODUCTION

I rise in reluctant opposition to the bill placed before the House today. And I am constrained to ask: Is this "As good as it gets?" This is my own reference and its not facetious to the motion picture that made graphically clear to policymakers the backlash I long ago predicted against HMOs. This building backlash was the reason I introduced my own bill H.R. 1222, "The Quality Health Care and Consumer Protection Act" in 1996 to focus the debate.

Today I say that this bill is clear movement in the right direction. But it is not "as good as it should get."

We need to put health care decisions back in the hands of doctors and other health care professionals, and take them away from the managed care companies who are practicing "bottom line" medicine and "rationing" healthcare.

It is for this reason that I introduced legislation to ensure that managed-care networks provide high-quality, efficient care, not just low-case care that boosts profits. But at the same time my bill guards against unjustified health care costs.

CONCERNS WITH TODAY'S HURRIED PROCESS

But today I must decide between one of two proposals. Before I discuss the proposals I do want to raise a concern with the process.

The state of our nation's health care is an issue that should be debated through Committee discussions, through hearings, and through floor debate, instead of a limited up or down vote.

BENEFITS OF THE REPUBLICAN TASK FORCE BILL

The bill we have before us today is not altogether bad. There certainly are areas that could use significant improvement; however, the base bill does include information disclosure, internal and external appeals and grievances, a ban on gag clauses, and access to OB/GYNs and pediatricians. These are all moving in the right direction.

However, we are not yet there! Again, this is not "As Good As It Should Get!"

PROBLEMS WITH THE REPUBLICAN TASK FORCE BILL

This bill does not include a provision to provide patients access to clinical trials, expanded access to specialists, and physician involvement in the development of drug formularies.

This bill also has an external appeals process that is not even binding. This concerns me, because it is a right without enforcement. And a right with no enforcement is no right at all!

In addition I am concerned this legislation does not have a provision relating to provider incentive language to ensure that physicians and pharmacists are consulted in the development of drug formularies when medically necessary.

ASSOCIATION HEALTH PLANS AND HEALTHMARTS

I am also deeply concerned about expanding the ERISA pre-emption to even more businesses than those already able to escape State laws.

We must carefully weigh the benefits of allowing associations the protections of being covered by national laws with the benefits of allowing state laws to determine consumer protection. Association Health Plans and Healthmarts would both allow more people to escape the coverage of state laws. These are potential loopholes that would diminish necessary medical protections in states such as New Jersey.

Businesses have long argued that ERISA is necessary for companies that operate in more than one state because it avoids the onerous burden of complying with 50 different sets of regulations and offering 50 different sets of rules and coverage for their employees. This is a valid argument.

However, in today's market, this has led to loopholes where employers are able to avoid the protections fought for, and placed at the state level. I agree with Dr. GANSKE's analysis of how inadequate this provision is.

RIGHT TO SUE

I must also address the right to sue. While I understand the merits to this important right, I am also very concerned that this right would add tremendous costs and affect the quality of health care—doctors and HMOs and hospitals would be practicing defensive medicine—namely executing procedures and conducting tests merely to protect themselves against lawsuits. This concerns me, because this could lead to a reduction in the number of people able to afford health care.

CONCLUSION

The bottom line is whether patients will have better access to health care and whether doctors and health care professionals will be put back in charge instead of insurance company bureaucrats. We need to return the power over medical decisions to those with the medical training and expertise—the doctors and the nurses. This will restore the quality of care that has been our American tradition and leave the field of "bottom line medicine" practiced by bureaucrats and so-called "gatekeepers."

Mr. HASTERT. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I would like to just remind the gentlewoman from New Jersey that the people that we are bringing under the umbrella of new health care do not have health care today, part of the 40 million people who work for a living, who are out there that do not have health care. We are trying to expand and bring those people under the umbrella of health care.

Mr. Speaker, I yield two minutes to my colleague, the gentleman from Illinois (Mr. FAWELL), the distinguished chairman of the Subcommittee on Employer-Employee Relations, and certainly someone who has worked on this issue of bringing people under the umbrella of health care for a long time.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, right now there can be no patient's bill of rights for 43 million people, because they have no access to affordable health care, and we can change that in this legislation with Association Health Plans.

What do Association Health Plans do? By allowing small businesses to band together under multiple employer health plans, Association Health Plans simply allow the little guys, the small businesses, the self-employed, to have precisely what large employers have had for many years. Thus, small businesses can gain the economies of size, so they can do what, self-insure, and thereby they have the clout to bargain and to discount the price of health care in dealing with health care providers and in dealing with insurance companies.

□ 1115

Who are these association health plans? They are long-standing and respected, not-for-profit, professional business and trade and church associations which, like the large employers, they are not in the business of insurance, but that they will, like large employers, assume the responsibility of sponsoring self-insured and fully-insured plans for the members of their associations.

Examples of these associations, yes, include the National Chamber of Commerce and the NFIB, the National Restaurant Association, but also include the Agricultural Field Workers Association, who cannot get health insurance in the market. National Church Associations, National Farm Bureau, the Boys and Girls Clubs of America with 700 units, and they cannot get regular indemnity policies.

Why are the association health plans important? Because most of the 43 million people who do not have health insurance in America, including most of the uninsured children, are people who live in families with the breadwinners employed by small business or are self-employed. They have to simply go into the individual and small business market, and my colleagues know what happens when one goes into that individual and small business market. The insurance companies and the HMOs do not want to give up and have new competition.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to the bill before us and in support of the Dingell substitute.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FORBES), my distinguished friend.

Mr. FORBES. Mr. Speaker, I thank the gentleman for yielding me this time.

For an increasing number of years now Americans across this country have made it clear that they are dissatisfied with the manner in which some health maintenance organizations oversee the delivery of their health care services. In fact, just a few years ago the "hue and cry" got so loud that on this floor, this very floor, a bipartisan majority of Democrats and Republicans saw fit to pass legislation that corrected the practice of some insurance providers that forced women out of the hospital barely 24 hours after they gave birth.

Yes, the House and Senate together, along with the President, decided that it was wrong and we must mandate, yes, mandate a minimum hospital stay for women who give birth.

Well, unfortunately, that is not the sole example of some of the problems with the HMOs and that is why we are here today. Unfortunately, the Republican initiative, which I would have loved to have supported, does not adequately meet the needs that most Americans are calling for.

The Patients' Bill of Rights, in fact, is the best alternative to restoring common sense in the HMO equation. Only the Patients' Bill of Rights allows patients access to key clinical trials, those experimental, innovative and emergency processes that are the last resort for the severely ill. The Patients' Bill of Rights gives access to important drug therapies that a doctor may believe are important to restoring one's health and cost thousands of dollars and would otherwise mean literally life or death for the patient.

A gross omission in the Republican bill, I am afraid, is something even worse than the early release after giving birth, and that is the so-called omission of preventing drive-by mastectomies, the practice that too many HMOs use to force a woman who has undergone a mastectomy out of the hospital before she is physically able to resume normal activities.

Absent, too, and I believe it should be her right, that every woman who has undergone a mastectomy have the right to access to reconstructive surgery and not have it deemed cosmetic by an uncaring HMO.

Finally, the Patients' Bill of Rights is the only one that ends the special protections for HMOs under ERISA. HMOs should not be exempt from lawsuits if bad decisions lead to injury or death.

Mr. Speaker, I urge adoption of the Patients' Bill of Rights by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Iowa (Mr. GANSKE).

Mr. HASTERT. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Speaker, if one believes in the free market, if one believes in the power of individual choice, if one believes our private health care system is, in most respects, the best in the world and is worth preserving, then listen up.

I am going to tell my colleagues about the best part of the Patient Protection Act. It is the part of this bill that really empowers patients. It gives them the ability to choose their own doctors and hospitals. It gives them the economic power to deal effectively with the costs of their health care. It gives individuals the power to take advantage of preventive health care, if they choose. It even offers people the prospect of a sizable nest egg in their later years which they could use for long-term care expenses or retirement.

Mr. Speaker, this Patient Protection Act will finally make medical savings accounts available to everyone, and it removes the burdensome regulations that have prevented many individuals and small businesses from obtaining MSAs. This bill allows both small and large employers to make deductible contributions to an employee's MSA. It allows both employers and employees to make tax-favored contributions to a medical savings account.

Mr. Speaker, if we really want people to be able to take control of their health care choices, if we really want to make the doctor-patient relationship what it used to be and what it should be, if we really want to create a market with forces that can control health care costs, then we must be for the expansion of this valuable, free market tool: medical savings accounts. That alone should make my colleagues vote for this bill.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I rise in opposition to H.R. 4250 and in support of the Dingell-Ganske bill. The Republican bill is bad for small business, bad for America, and it is shameful. It is a fiscally-irresponsible sham that does nothing to address the real concerns of employers, employees and real people.

This legislation creates a new Federal Commission of Insurance at the Department of Labor, a Department that my Republican colleagues tried to do away with just 2 years ago. It authorizes the hiring of hundreds, perhaps thousands, of new employees at a new Federal Commission of Insurance.

What will this new Federal Commission do? Absolutely nothing. Because its powers are so limited by the Republican bill that its ability to remedy health plan wrongdoing is almost nil.

How much will this new Republican Federal Insurance Commission cost? No one knows, because we still have not seen a CBO score.

Let us see. A multimillion dollar new Federal bureaucracy, thousands of new employees with nothing to enforce, all at the American taxpayers' expense, release of medical records. Your competitors in business, your opponents in politics will have access to your medical records. Protection of insurance company profits, abuse of patients, no access to emergency care or specialists. My Republican colleagues should be ashamed.

Have my colleagues read this bill? My colleagues will be shocked. I urge my colleagues to vote down this irresponsible proposal. Vote for the Dingell-Ganske substitute. This Republican proposal is a useless drain on our Treasury and a threat to our balanced budget.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I rise in support of the Patient Protection Act. There have been numerous managed care reform proposals offered in Congress this year, and many share similar consumer protections.

The Patient Protection Act guarantees that patients can choose their own doctor, gain access to emergency care, communicate openly with health care providers, and independently appeal decisions made by managed care companies.

This bill also contains a number of pro-consumer provisions that the other proposals do not. This legislation increases patient access to affordable care by expanding health care coverage options for workers and their families, many who have no health care coverage at all now.

American families know that the most important patient protection is access to affordable care. Families should not be forced to choose between expensive health care coverage and putting food on the kitchen table.

This legislation will protect consumers from abuses in the managed care industry, while increasing access and affordability. That is why I support the Patient Protection Act.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, as the public listens to this debate, I am sure they will wind up confused, so I want to give 10 reasons why my colleagues should vote against the Hastert proposal and for the Ganske-Dingell bill. I borrowed these from the gentleman from Iowa (Mr. GANSKE) who is a Republican and a doctor. I am a Democrat and a doctor, and we agree.

He says, the substitute provides, that means the Democratic substitute, patients with access to clinical trials. The Hastert bill does not.

The substitute allows doctors to override drug formularies when medically necessary. The Hastert does not.

The substitute provides for ongoing access to specialists for chronic conditions. The Hastert bill does not.

The Ganske-Dingell substitute prevents plans from giving doctors financial incentives to deny care. The Hastert bill does not.

The substitute has hospital-stay protection for mastectomy patients. The Hastert bill does not.

The substitute provides choice of doctors within the plan. The Hastert bill does not.

The substitute has a provision guaranteeing continuity of care when providers leave the network. The Hastert bill does not.

The Ganske-Dingell plan requires plans to collect quality data and maintain a quality improvement program. The Hastert bill does not.

In addition, the Hastert bill allows the plan to decide what is medically necessary. If one has chest pain and one feels like one should go to an emergency room, one cannot decide whether that is medically necessary, one's plan will tell you if it was medically necessary. Maybe after you get to the hospital, they will say, well, it is just indigestion, so it is not medically necessary to go to an emergency room.

There are more reasons than I can get in in 10 minutes. This cynical process requires a "no" vote on Hastert and a "yes" vote on Ganske-Dingell.

Mr. HASTERT. Mr. Speaker, I yield myself 30 seconds.

I appreciate the gentleman from Washington, who is a doctor and certainly sees things from a different perspective, but I have to tell my colleagues he named 10 mandates that our bill does not have, 10 mandates. And he also talked about the Federal Government, the HCFA agency starting to lay out what one's health plan should do and what it should not do.

The gentleman from Washington has certainly been an advocate of big health care, government takeover of health care, and that is exactly what this plan is not, and I want the people in this country to know that. We think the decision on what one owes health care should be between the patient and the doctor, and that is exactly what this bill does.

Mr. Speaker, I yield 3 minutes and 15 seconds to the gentlewoman from Texas (Ms. GRANGER) for the purpose of a colloquy.

Ms. GRANGER. Mr. Speaker, I rise today in support of H.R. 4250, and I thank the gentleman from Illinois (Mr. HASTERT) and all of the members of the working group for their ability to listen and their desire to lead.

It has often been said that there is a time in the life of every problem when it is large enough to see and yet small enough to solve. The issue of health care reform is one we can see and solve, and our bill does that.

The Republican goal is to provide quality health care and peace of mind for every American. The Republican plan gives peace of mind when the nearest emergency room can mean the fastest care in the case of a heart attack. Our plan gives peace of mind for mothers because there is no barrier for care by a pediatrician. Our plan gives peace of mind for women because they can go directly to an OB-GYN for their health care. And our plan gives peace of mind for small businesses because they will have choices for their health plans through health marts and association health plans.

□ 1130

Overall, our bill gives HMOs accountability to their patients, not their profits. Our bill says that doctors, not bureaucrats, will be authorized to make medical decisions.

Our bill is the only bill that would provide affordable health care to millions of uninsured Americans. Even Senator DASCHLE agrees with us on that.

In short, our bill, the Patient Protection Act, will ensure that all Americans have access they deserve to the health care they need at a price they can afford.

Mr. Speaker, at this time I would like to engage the gentleman from Illinois (Chairman FAWELL) in a colloquy. Among the most important protections that this legislation affords to patients is the right to internal and external review of decisions made by HMOs. Those reviews will be made by qualified independent doctors.

My home State of Texas has a law that allows HMOs to be liable in court. There is some uncertainty as to whether or not and the extent to which this Texas law is preempted by the ERISA law. In fact, this is a question that is before the courts.

Mr. Speaker, I would like to engage in a colloquy with the gentleman from Illinois regarding the possible effects of this new legislation's internal and external review procedures on whether the ERISA law preempts the State statute.

As one of the authors of this legislation, the principal author of the internal and external review procedures, and one of the leading experts on ERISA, are these new procedures intended in any way to indicate congressional intent about whether the Texas State law is preempted by ERISA?

Mr. FAWELL. Mr. Speaker, if the gentlewoman from Texas (Ms. GRANGER) would yield, no, they are not. The more explicit internal and external review provisions under this new legislation do not and are not intended to expand or contract existing ERISA law.

Therefore, these new procedures do not and are not intended to affect whether or the extent to which ERISA does or does not preempt any particular State statute. These new procedures do not indicate congressional intent either way about whether Texas law is preempted by ERISA.

Ms. GRANGER. Mr. Speaker, reclaiming my time, are the legislation's more explicit internal and external review procedures intended to in any way affect the outcome of any matters pending in court examining the extent or scope of ERISA preemption of State laws?

Mr. FAWELL. Again, no, they are not. The legislation's more explicit internal and external review procedures under ERISA are not intended to expand or contract existing provisions of law. Therefore, it is not intended to have any impact on pending litigation examining the possible scope of ERISA preemption. Accordingly, this new legislation is not intended to and should not affect the outcome of the Texas legislation either way.

Ms. GRANGER. Mr. Speaker, I thank the gentleman from Illinois for this clarification.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from the Virgin Islands (Ms. CHRISTIAN-GREEN), a physician of family medicine who has good advice for my colleagues.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise to speak against H.R. 4250 and for the Patients' Bill of Rights. As has been pointed out over and over again by physicians and patients alike, what H.R. 4250, if passed, does is codify or write into law the very practices which time and time again have denied needed and appropriate medical care to us and our families.

On the issue of access to emergency care, the Ganske-Dingell bill assures that if patients reasonably think that they have an emergency illness, they can go to an emergency room and receive care that their plan will pay for. In the Republican bill, severe pain could not be used as a reason to access emergency care. That means if someone thinks they are having a heart attack, where often the only symptom is pain, they have to go to a phone and answer a laundry list of questions from some paper pusher maybe millions of miles away, before they can go to the hospital. And if it is not a typical pain, as often happens, that care would be denied.

If we pass H.R. 4250, severe pain, the most common symptom of a severe or serious medical condition, would not be a standard that a reasonable person could apply in going to an emergency room. Emergency care is just one more instance of where H.R. 4250 does not measure up to the demands of the American people.

The Ganske-Dingell bill is true managed care reform. It puts decisions back in the hands of the patient and their doctors and allows access to needed medical care. I urge its passage. Vote against H.R. 4250.

Mr. HASTERT. Mr. Speaker, what is the remaining time for both?

The SPEAKER pro tempore (Mr. KOLBE). The gentleman from Illinois (Mr. HASTERT) has 11½ minutes remaining, and the gentleman from Michigan (Mr. DINGELL) has 12½ minutes remaining.

Mr. HASTERT. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time and for his outstanding leadership on this issue.

Mr. Speaker, a mother of a 6-month-old child who was having trouble breathing called her HMO at 3:30 a.m. An HMO bureaucrat told the mother to go to the plan's network hospital 42 miles from her home. On the way to the hospital, the baby suffered cardiac arrest and later had both arms and legs amputated.

For the past 2 years, Democrats in Congress have been fighting to pass the Patients' Bill of Rights that could have protected this mother and child.

Last week, I met with a number of area residents in a restaurant in North Ridgeville who told story after story about coverage denied for emergency care and bureaucratic refusals of doctor-ordered tests to detect breast cancer.

But rather than protecting patients, the Republican leadership in Washington has introduced a proposal that protects millionaire insurance company executives.

A friend has diabetes or breast cancer. The Patients' Bill of Rights would guarantee access to a specialist. The insurance company Republican bill does not.

A grandfather experiences chest pains that may be a warning sign of a heart attack. The Patients' Bill of Rights would ensure he gets immediate attention at the nearest emergency room by requiring his HMO to cover this care. The insurance company Republican bill does not.

A child has been denied access to a pediatric specialist for asthma. The Patients' Bill of Rights would allow a parent to have access to an independent patient's appeal process. The insurance company Republican bill does not.

Under present law, the only people in America who enjoy complete immunity from lawsuits are HMOs and foreign diplomats. The Patients' Bill of Rights holds HMOs accountable in State court if they make a medical decision that harms the patient. The insurance company Republican bill does not.

Our bill provides real patient protections at a mere $2 per patient per month, according to the Republican-appointed Congressional Budget Office. Our bill is supported by the Cancer Society and the National Breast Cancer Coalition.

Mr. Speaker, I urge my colleagues to defeat the Republican insurance company bill. Pass the Patients' Bill of Rights.

Mr. HASTERT. Mr. Speaker, I yield 45 seconds to the gentleman from California (Mr. MCKEON)

Mr. MCKEON. Mr. Speaker, I rise in support of this historic legislation that addresses the problem of the rising number of Americans who cannot afford health insurance. For the first time, we will be able to extend health care options to the 42 million people in our country who remain uninsured, while the Democratic substitute ignores the problem.

We know that most people without health insurance have one thing in common: They cannot afford health care. They are either self-employed or they work in small businesses that cannot afford to pay for health benefits. This bill solves this problem.

The Patient Protection Act creates association health plans to combat high costs of health care in our country. This new and unique solution allows small businesses and those that are self-employed to join together under the umbrella of trade and professional organizations to buy health insurance for themselves and their employees. Consequently, small businesses will have access to the same kind of health care options that big corporations currently enjoy.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PALLONE), the chairman of our task force on this matter.

Mr. PALLONE. Mr. Speaker, I just wanted to mention, the Republicans keep talking about the number of uninsured in this country. I would point out that 4 years ago, when President Clinton tried to put forward a health care plan that would insure all Americans, they fought it vigorously. The fact that we have more Americans now without health insurance is their fault, because they would not allow the Clinton plan to come forward. So now the numbers of uninsured continue to grow.

Mr. Speaker, I just want to explain why the Democrats' bill is a vastly superior bill in terms of ensuring and expanding patients' access to physicians.

For example, the Patients' Bill of Rights ensures access to specialists. The Republican bill does not. Under the Democratic bill, if a patient has cancer, they could go directly to an oncologist. If their child has a specific problem, they could bring their child to whatever type of specialist their child might need. But under the Republican plan that child would still have to go to their primary physician for a referral, and there is no guarantee that they would get to see a specialist if they need one.

The differences between the two bills are more pronounced when it comes to seeing specialists outside of one's HMO. The Patients' Bill of Rights ensures that patients will be able to go outside their network, at no cost to them, if they need to see a specialist that their HMO does not have. Under the Republican bill, they are out of luck.

Another difference between the access each bill would provide is standing referrals. If a patient is fortunate enough to have an HMO that has the type of specialist they need when they get sick, under the Republican plan they still have to jump through hoops. The Republican plan does not allow patients who need care over a long period of time by a specialist to have standing referrals.

The Patients' Bill of Rights does not require patients to go back time and again to renew referrals. If a patient needs to see a specialist over a long period of time, they are guaranteed the right to see that doctor.

The Patients' Bill of Rights would also allow patients to designate that specialist as their primary care physician. Women could choose their OB/GYN as their primary physician. The Republican bill does not allow patients to designate their specialist as their primary care physician, nor their OB/GYN.

Another major difference is with the continuity of care issue. The Republican bill does not allow patients to continue to have the same doctor.

Mr. HASTERT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health and Environment of the Committee on Commerce.

Mr. BILIRAKIS. Mr. Speaker, I rise in favor of H.R. 4250. I am proud of this bill. Whereas the Democratic bill focuses on patient protections, our bill focuses on basically the same patient protections and additionally places great emphasis on expanding health coverage and access for the insured and the uninsured, but both are accomplished without imposing burdensome government mandates.

Guaranteeing access to quality health care must always be a top priority. What good, in fact, are patient protections if access is not there? We do this through the creation of Health Marts and by broadening the role of the community health centers, so that for those who live in medically underserved areas it will be simpler to receive critical services.

The proposal creates community health organizations, which are basically managed care plans controlled by community health centers. It encourages more competition to lower prices for health consumers. Community health centers will have more money because they will have more private-paying patients using their facilities. As a result, these health centers will be able to provide care to even more uninsured people.

Of course, the bill before us includes important new patient protections. For months, people across the country have told Congress that they want to choose their own doctors. We listened to our constituents, and I am proud to say that through our bill, patients will now be guaranteed their choice of medical providers, contrary to what some others on the other side have said, and be better able to understand their health care policies.

Mr. Speaker, is it a surprise in fact to anyone that the other party is attacking a Republican bill? I think not. But we have been able, I think, to accomplish and to do what they did not even attempt during their many years of control of the United States House of Representatives.

Mr. Speaker, I say to my colleagues: Help us pass a bill which will help people now.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, Democrats initiated the effort in this Congress to protect patients and their doctors from interference by insurance company bureaucrats. The Dingell-Ganske bill provides these protections and eliminates the complete exemption from accountability that many HMOs enjoy today under the Federal ERISA law.

The Republican bill, on the other hand, in an effort to preserve the insurance companies' shield of protection from accountability for their mistakes, creates a Federal bureaucracy in the Department of Labor and a complex appeals process diagramed here on this chart to my right. Look at this. An endless maze of bureaucratic nightmare created by the Republican bill.

In September of 1991, Phyllis Cannon was diagnosed with leukemia. On August 10 of 1992, her doctor sought approval from her HMO for a bone marrow treatment. Forty-three days later, her doctor pleaded for authorization and it was repeatedly denied.

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By the time the HMO finally agreed, it was too late for the treatment and Phyllis Cannon died.

Could she have gone through this maze under the Republican bill and done any better? I think not. And if she had made it through the maze under the Republican bill, after her death she would have been entitled to only $500 a day; under the Republican bill, a total recovery for her family of only $20,000.

Is this what we call protecting patients? I think not. Vote against the Republican bill, vote for the Ganske-Dingell bill and prevent this kind of endless bureaucratic interference with medical decisions from happening to the patients of this country.

Mr. HASTERT. Mr. Speaker, I yield 45 seconds to the gentleman from Oregon (Mr. SMITH).

Mr. SMITH of Oregon. Mr. Speaker, H.R. 4250 moves us in the right direction. One of the ways it does this is by allowing community health centers to establish community health organizations. These would be health plans sponsored by health centers and the doctors themselves to give people the extra choice in their health care.

I used to serve on one of these boards and I recently visited these facilities in Michigan. Patients get first-class treatment and these centers do a great job, and this bill will increase the chance that these small hospitals can survive by allowing them to have the community health organizations. These provisions are going to help create the competition needed to make more regulation from Washington, D.C. unnecessary.

Support this bill.

Mr. HASTERT. Mr. Speaker, what is the remaining time?

The SPEAKER pro tempore (Mr. KOLBE). The gentleman from Illinois (Mr. HASTERT) has 8 minutes remaining and the gentleman from Michigan (Mr. DINGELL) has 6½ minutes remaining.

Mr. HASTERT. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, we have included some special provisions in the Patient Protection Act that recognize the distinctive health care needs of patients, especially women and children. Medically, women are not just small men. Their bodies are different and their needs are different. And children are not little adults. They need specific and sometimes immediate care.

This bill provides women with direct access to their OB-GYN without preauthorization or referral by a primary care physician. It also lets parents get to a pediatrician directly.

As a former florist, I also know how costly it is to provide coverage to employees, and I know how frightening it is to an employee not to be sure that their health care will be there when they need it. And although the cost continues to skyrocket, my colleagues on the other side of the aisle continue to turn their backs on small businesses and the burden that these employers face.

The Patient Protection Act is the only proposal that addresses the growing health insurance crisis among the small business community, and the fact is the fastest growing segment of small business owners are businesswomen. These women-owned businesses are the businesses that we use every day: The woman who does our taxes, who cuts our hair, who runs the local day care center.

We have 8 million women-owned businesses that employ 18.5 million people, one out of every four U.S. workers, yet only 48 percent of the women-owned businesses with less than 25 employees can afford to offer health care insurance. We confront that problem by providing affordable health insurance to small businesses so they can provide peace of mind and security for their workers and their families.

I encourage each and every one of my colleagues to vote for this bill.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, I rise against the proposed bill by the majority, which does not address any of the major needs the people of America are asking for in this proposal.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. KLINK).

Mr. KLINK. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue.

Mr. Speaker, I am a pro-life Democrat, and that means, quite often, that the Democrats get mad at me because I am pro life, and the pro-life people get mad at me because I am a Democrat. But I can handle that.

I say that because whether someone gets to remain in a hospital when they need to, whether they get the drugs that their doctor wants, whether they can see that specialist that can save their life, to me, is a life or death matter.

I have a lot of problems today standing on the floor of the House and sitting on the floor of the House listening to this debate after we went through this partial-birth abortion debate yesterday. Because to me, this is life and death. And if National Right to Life does not score this vote today, something is wrong. If the Catholic Church does not score this, something is wrong.

We cannot be pro life at conception and then abandon people once they are born, when their life is on the line, when they are fighting to get medical care that they need to live, and that is exactly what this debate is all about.

Let us compare the two bills. The Democratic Patients' Bill of Rights leaves medical decisions in the hands of doctors and parents. The Republican bill leaves the decision still in the hands of insurance companies.

The Dingell-Ganske bill of rights gives everyone the right to see a specialist. The Republican bill does not.

The Patients' Bill of Rights gives everyone the right to a real external appeals process. The Republican insurance company bill allows the insurance companies to make individuals pay for their appeal. So first an individual pays their premium, then they are denied coverage, then they pay the insurance company for an appeal.

The Patients' Bill of Rights that I am supporting gives everyone the right to hold their insurers accountable. If they are denied something and someone dies, if they lose a limb, then the decision-maker must be responsible for that decision. The Republican bill, the Insurance Company Protection Act, does not hold the decision-makers in the insurance companies accountable.

That is the difference between these bills. It is ridiculous. The American public wants us to change it. The Republicans are here today refusing to do that. I say we must vote today to protect life. We must vote for the Ganske-Dingell bill. We must vote also pro choice. Give patients and their doctors the choice, not the insurance companies.

Support Ganske-Dingell.

Mr. HASTERT. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Speaker, I thank the gentleman for yielding me this time, and very quickly let me tell my colleagues my experience and what I bring to the debate, I believe.

Unlike most Republicans, I was a trial lawyer. I made my living trying to enforce the rights of people, and at one time I had the largest medical malpractice verdict in the State of South Carolina. And I can tell my colleagues, my client would rather have had good health care than the money.

I know what I am talking about. I have sued doctors who are medically negligent, and it takes years and it is no fun. The goal that I have today is to get people the treatment they need.

Let us talk about the lady who died of cancer. My mother died of cancer. Under this bill that I am supporting here, this is what would happen. An individual does not have to wait 43 days and get told no. The first thing that is a difference today is when a doctor calls up and says the patient needs cancer treatment, they are talking to a doctor, not a nurse. In their bill it can be a nurse. It does not have to be a doctor. So it is doctor-to-doctor. We require that now. No more clerks. The clerks are taken out of the mix and we replace it with a medical doctor.

I have lived in the real world, and sometimes doctors have an allegiance to the company and not to what is good for medicine. Under our bill, if it is an emergency situation, we take that case and send it to a panel of independent doctors who have no idea who the company is that is involved, has no idea the doctor who is treating the patient. They are just looking at the facts. Under our bill they have to give a decision in 6 days of whether or not the treatment is medically necessary. That lady will get the treatment.

If the patient is awarded at the independent review process, if there is a finding for the patient, our bill has a $500 per-day penalty that kicks in. An individual can go to court right after that, get attorney fees, get the full benefit plus $500 a day. And if the judge finds out the decision was made in bad faith to provide care, it is $1,000 a day, up to $250,000. This happens up front. And give me that any time, rather than a 4-year lawsuit.

If the HMO doctor says no, an individual can go get a lawyer, like myself, and go to court within 24 hours and get a temporary restraining order ordering the treatment be paid, by a judge in State or Federal court, and I can get my attorney fees. The lady does not die.

The penalties in this bill are to force people to make the right decision, not awards 4 years later. I will tell my colleagues about the $500 claim in the next part of this debate and how our bill is better.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I rise in strong opposition to 4250, and let me tell the American people why. Privacy, privacy, privacy. Under the Republican bill our medical records are not safe. Any hospital, HMO or pharmacy that keeps our medical records can disclose them without our consent.

Imagine suffering from depression, paying for prescriptions out of our own pocket to keep our condition private. Under the Republican plan, a pharmacy could disclose the use of these prescriptions to an employer. Imagine a health care bureaucrat reviewing someone's family's medical history without their knowledge. Even more frightening is the very real threat that our medical history could then be used against us to deny us employment or when we apply for a mortgage.

Anyone obtaining our medical records could distribute them to a divorce lawyer, to a newspaper or a political campaign. A business could investigate its employees to find out who has potential health problems. They could review our family's medical records to find out if any of our children were sick and how seriously they were, and the insurance company could then raise our premiums.

Wake up, America. Under the Republican plan the patient does not have to give their consent or be informed about the transfer of their medical records. This is an outrage of the highest order. This plan does not protect patients, it destroys the privacy that exists between doctors and patients. It should be called the Puncture of Privacy Act, and the American people should reject it and the Members of the House of Representatives should, too.

Vote for the Dingell-Ganske bill and reject H.R. 4250 on the grounds of privacy; if nothing else, on the grounds of privacy.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Speaker, I rise in opposition to the last-minute Republican sham before us today. This is not the first time Republicans have buckled to pressure from their insurance industry contributors. It is not the first time under Speaker Gingrich Republicans have tried to pull one over on the American people by crafting something that sounds good in a 30-second campaign ad but does nothing fundamental to fix the problem. This is perhaps, however, the most cruel farce the Republicans have brought to this body since they took control.

For those on the other side of the aisle, who have already written the press releases and started patting themselves on the back and scheduled the air time for those 30-second spots, I ask them to look inside their souls and admit that what they have brought forth today will not end families' tragedies and needless human suffering.

If we pass this bill today, those managed care plans that do not operate as honorably as others will still go on putting profits over patients. Only now the blood will be on our hands. Under this bill, a health plan could still unhook a critically ill patient from the intensive care monitors and transfer the patient to an in-plan hospital. A health insurance bureaucrat could still withhold life-saving cancer treatment until it is too late and face no responsibility for that human life.

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In my home State of California, State laws protecting patients who need prenatal care, well-child care, mammography screening, cervical cancer screening, diabetic supplies, and nine other benefits would be overridden by this law, preempted.

This bill is a sham. Support the Dingell-Ganske bill, which doctors and patients support.

The SPEAKER pro tempore (Mr. KOLBE). The gentleman from Michigan (Mr. DINGELL) has 1 minute remaining.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding.

What this people's House is doing today is the most cynical action I have seen them take in 7 years in Congress.

H.R. 4250, the so-called Patient Protection Act, is based on deception and a big lie. The only thing protected is the insurance industry. The best protection we could provide Americans would be to return decisions about their care to them and their doctors.

Instead, this bill drives the wedge between them and their doctor. The people of Massachusetts will be hurt by H.R. 4250 because it overrides patient protections already provided by State law. The mammography and cervical cancer screening for women, blood lead screening for children, bone marrow transplants for victims of leukemia, home health care for the aged, and a good many more are endangered under the Republican bill.

My constituents and the people of Massachusetts would be better off with no bill rather that 4250, the insurance industry protection act. But Massachusetts has a large insurance industry, and they will be happy with this Republican bill.

Support the Ganske-Dingell bill.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HASTERT) has 4 minutes remaining.

Mr. HASTERT. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. THOMAS), the distinguished chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, some of this debate has literally taken my breath away. If anyone listening to this debate wonders how in the world Republicans could get away with treating Americans the way we do, listening to the Democrats, I ask them to just look at the calendar. This is the pre-election warm-up.

Remember Medicare? Pre-election, Republicans were going to destroy Medicare. Well, the American people did not listen to them. We were returned as the majority. And as chairman of the Subcommittee on Health, we prepared a Medicare reform package that was passed in my subcommittee 11–0, no Democrats dissenting. Prior to the election, it would destroy Medicare. After the election, post-politics, everything is okay.

Today we are debating patient protections. Here we go again. It is pre-election time. Have things changed out there in America? Of course they have. In 1988, health care inflation was 18½ percent. Today it is less than 5 percent. Why? To a very good extent, just 5 years ago, in 1993, about a majority of Americans, about half, got their health care from managed care. Today, if they get it from their employer, it is about 85 percent.

So health care markets have changed. Have there been distortions? Yes, there have been distortions. Do there need to be corrections? Of course there need to be corrections. But when we unite egos and politics, we get some pretty ugly offspring.

There have been Members who have taken the well and virtually every word they spoke about the Republican plan is absolutely, totally false. This headline that says "the bill would allow sale of patient data" in today's Washington Post is totally, absolutely false.

If my colleagues will turn to the bill, on page 260, the language is clear. If we read on, it says, "Limitation on Sale or Barter. Notwithstanding subsection (c) which is a limit which guarantees that State law is not overridden," it says, "no health care provider or health plan may as part of conducting health care operations sell or barter protected health information," period.

What was said to be contained in the Republican bill is absolutely, totally false. What we heard from my colleagues was that they want "medical necessity" defined in law. Who defines "medical necessity" in law? Bureaucrats, Health Care Financing Administration. We get specific items, medical necessity. That is cookbook medicine.

Who do we have define "medical necessity," for example, in an emergency room? Quote, page 144: "A prudent emergency medical professional." It is the medical professional there looking at the patient and their problem that determines what needs to be done, not some book drawn up by bureaucrats that lists what is and what is not medically necessary.

It has been said that it does not say "pain." What this bill says is that "a prudent lay person who possesses an average knowledge of health and medicine would determine such examinations to be necessary." Not itemized; across the board.

I heard my colleague the gentlewoman from North Carolina (Mrs. CLAYTON) say she cannot find the gag rule. I will tell her page 141, section 2706, says, "patient access to unrestricted medical advice."

So please understand, it is a pre-election season. But let me tell my colleagues something else. The Congressional Budget Office has laid out the numbers on the plan. Their plan increases premiums. Our plan reduces premiums.

Under the Republican plan, CBO, "lower medical malpractice costs would reduce Federal direct spending for Medicare and Medicaid by $1.5 billion over 10 years."

We have heard them say ours is a sham and it drives prices up. It is simply not true. CBO says their plan will drive premiums up. CBO says our plan will drop premiums. Correct the marketplace and Federal costs. Vote "yes" on 4250.

Mr. DREIER. Mr. Speaker, I rise in support of H.R. 4520, the Patient Protection Act, because it upholds a patient's most fundamental right—the right to choose his/her own health care. As much as I believe that health insurance bureaucrats should not be able to decide what is best for patients, the federal government also should not be issuing onerous mandates and regulations that micromanage the care that patients receive. Instead, we should provide consumers with additional choices that may not be available from their employer-provided health care plan.

Many employees are frustrated because they are forced by their employer to join a health plan that does not offer the level of benefits or protections that they want. This occurs because the federal tax code prevents employees from making important decisions about their health care. Under a quirk in the federal tax code, employers receive a tax subsidy for providing health care to their employees, and since employers pay for the health care, there is an incentive to purchase a plan based on costs, not on level of benefits. To give employees the option to choose coverage with a higher level of benefits, the solution then is not to add another layer of mandates, but to alter the system so that employees can choose the health plan that is best for them.

To accomplish this goal, H.R. 4520 creates a system similar to the Federal Employees Health Benefits program known as HealthMarts which are private non-profit organizations that offer a variety of health benefits to small businesses and the self-insured. Employers pay a set fee to the HealthMart, and it provides a variety of health insurance options, including health maintenance organizations, paid provider organizations, and fee-for-service plans, to employees. With a HealthMart, the employee, not the employer, has the flexibility to choose the type of plan based on the level of benefits, protections and costs. HealthMarts eliminate the possibility that employees feel dissatisfied with the health coverage and empowers them to choose the best provider that meets their needs.

Unlike the Democrat substitute, H.R. 4520 actually addresses the 41 million Americans lacking access to affordable health insurance. Regrettably, many of these Americans are in families in which one member works in a job that does not provide health care coverage. Because they lack the purchasing power of large businesses, many small businesses often find the cost of providing coverage too prohibitive. H.R. 4520 gives small businesses and the self-insured the ability to bank together to obtain more affordable health care coverage. These Association Health Plans allow employers to join together through a trade association or their local Chamber of Commerce to broaden their risk pool and give them the same purchasing power as large corporations.

Mr. Speaker, H.R. 4520 provides an effective means to protect patients by offering them more choices. The Patient Protection Act restores accountability to health plans without raising premiums on the most vulnerable. It will also reduce the number of uninsured through innovative reforms and the creation of health care "supermarkets" so that the average American can have more available choices. I would like to commend my colleagues who served on the Working Group on Health Care Quality for their tremendous efforts in bringing forth this responsible legislation, and I urge support of this measure.

Mr. KOLBE. Mr. Speaker, I rise today in support of H.R. 4250, the Patient Protection Act. This bill lays an excellent foundation and contains many important pro-patient provisions. This bill adapts for the changing health care market without the unintended consequences of increased costs, increased bureaucracies and an explosion of lawsuits. This bill expands access to health care for millions of Americans, makes health care more affordable for working families and small businesses, and holds health insurance companies accountable for their decisions about your care.

First, the Patient Protection Act allows individual's access to the best type of health care based on their and their families' needs. Women would have direct access, without having to go through a gatekeeper, to an ob/gyn as their primary care physician. It would also allow families to utilize a pediatrician for the health care of their children without the interference of an insurance gatekeeper.

The Patient Protection Act also makes it easier for individuals to learn more about what their health care plan covers and discuss options with our doctors to determine the best form of treatment. This bill requires health plans to cover emergency room care for conditions which a prudent layperson would view as requiring emergency treatment.

Second, the Patient Protection Act will make health more affordable for individuals. Most people without health insurance can not afford to pay for health benefits. They usually work in small businesses or are self-employed, but cannot afford to purchase health care insurance. This bill will make it affordable for small business owners to provide their employees with health insurance coverage.

Through the creation HealthMarts, and Community Health Centers Organizations, Association Health Plans, and Medical Savings Accounts, small business will have the same access to health insurance as large business, therefore creating a more affordable health insurance market for workers. Workers that currently are caught between being too poor for Medicaid, but not cannot afford health insurance.

And third, the Patient Protection Act makes health plans accountable for the health care services that are provided. Through the creation of an expedited review process—both internally and externally—individuals will be able to receive the care they need first, rather than being thrown into a long, drawn-out legal process controlled by trial lawyers, with no resolution until long after they've been harmed or killed. This is the only bill that truly relies on getting patients treated first in hospital rooms, rather than in the courtroom.

Mr. Speaker, I am pleased to vote in support H.R. 4250, the Patient Protection Act, and urge my colleagues to join us in protecting patients and guaranteeing choices without the heavy-hand of big government and provide patients, especially the 42 million un-insured, with access to affordable health care, when they need it, where they need it, and with whom they need it.

Mr. MICA. Mr. Speaker, the question before us is whether we want to pay more and get less or correct some of the problems we have experienced with managed care.

It is true that the law and regulations have not kept up with changes in health care delivery.

It is also true that increasing costs are depriving millions of Americans affordable health care.

Unfortunately the Democrat plan will do three things we know will drive up costs. Their solution is more regulation, more bureaucracy, and more litigation.

In hearings I conducted on the President's fancy titled "Patients' Bill of Rights" for Federal employees, every administration official testified that his similar Executive Order would impose more paperwork at high cost without any benefit in coverage.

The Democrat plan proposes over 300 new mandates, thousands of new federal bureaucrats, and 59 new federal regulations.

The CBO estimates the Democrat plan will increase costs 4 percent. Add to that cost of living and they escalate health care premiums 7 percent per year.

The Democrat plan increases lawsuits which also increase health care costs. So what do you get? More costly regulation. More costly bureaucracy. More costly litigation.

I submit that's not what the patient, consumer or doctor ordered.

Mr. HILL. Mr. Speaker, recent polls show a growing desire on the part of Americans to address some concerns facing our health care system, including the number of uninsured working adults and dependents, the increased costs being passed to employees, and the lack of choice in health plans.

While Americans enjoy the best quality health care in the world, our system for delivering care often frustrates patients, providers and employers. Moreover, people are concerned that their health plan may not deliver the care they need when they are sick.

Today, we are addressing what the people want and deserve—a patients bill of rights. They do not want a trial lawyers right to work. H.R. 4250, the Patient Protection Act, which I am a cosponsor, will move ahead what I call the three A's—Accessibility, Affordability and Accountability.

The Patient Protection Act promotes accessibility by requiring basic protections to ensure high-quality health care coverage, promotes affordability by creating more choices and access to affordable health care coverage for all Americans, particularly the over 100,000 Montanans that are uninsured, and ensures accountability by holding insurance companies accountable so patients are guaranteed to receive high-quality care.

We achieve this by expanding the eligibility for medical savings accounts, allowing for the creation of new 'health marts' and permitting small employers to pool their risks with others, which will make health care become more affordable as well as more available.

The vast majority of the uninsured have one thing in common, they are either self-employed, work, or have a family member who works in a small business that cannot afford to pay for health benefits.

Furthermore, for those small businesses that are able to offer their employees coverage, often they can only afford to offer one coverage option. In Montana, I constantly hear concerns with the affordability of health care. The Congressional Budget Office estimates that premiums would increase and the number of uninsured Americans will actually increase by 1.4 million if H.R. 3605 became law.

The question is who are we trying to help—patients, employees. We should look at who is opposed to H.R. 3605:

NFIB, Small Business Survival Committee, US Chamber, National Association of Wholesalers-Distributors, National Restaurant Association, the Coalition for Patient Choice, Citizens for a Sound Economy, NAM, National Retail Association among others.

Who supports the H.R. 3605—Trial Lawyers.

We address the very real concern patients in managed care plans have that their health plan won't provide the benefits they are entitled to if they get sick. We should do this by empowering patients, not trial lawyers. I want patients to get the care they are entitled to when they need it, not allow their heirs to sue for some large settlement after they die. The other proposal that I touched on earlier seen to concentrate on courtrooms over hospital rooms and would only increase health care costs by taking money away from care and putting it into the pockets of attorneys.

The Patient Protection Act will build upon what's good about our private health care system—without big government or more bureaucracy. It will make health insurance more accessible, affordable and accountable, while giving patients more choices.

Mr. HOBSON. Mr. Speaker, I rise today in strong support of the House Republican Health Care Proposal, the Patient Protection Act. I believe this bill strikes a good balance between protecting patient rights without the heavy hand of big government. I am excited about many of the large protections in this bill, like giving patients a better and quicker appeal process when the HMO denies their claim, lifting any gag orders on physicians to ensure that patients are better informed, and providing greater access to specialists for women and children. I believe this bill addresses the frustrating problems that upset so many people about their HMOs.

As many of you know, Representative TOM SAWYER and I wrote the Administrative Simplification language in the Health Insurance Portability and Accountability Act—Kassebaum-Kennedy. Administrative Simplification will reduce paper work, speed the processing and payment of medical transactions, and let physicians spend less time on paper work so they can do what they do best: treat patients. In putting together this legislation some estimated that Medicare could save $60–90 billion per year if individual patients' financial records were kept from getting confused. Because of the confusion over individual Medicare financial records, the U.S. Department of Health and Human Services (HHS) which runs the Medicare program, often pays claims for beneficiaries that have outside supplemental insurance. After paying the claim, Medicare's only recourse to get its money back is to sue the insurance company, which it seldom does. The most obvious solution to this problem is a unique identifier for health care beneficiaries.

In these days of increased government scrutiny and tight federal budgets there are tremendous pressures on HHS to recover these funds. Quite frankly, with these pressures on HHS I was afraid that they would rush to get in place a one-size fits all solution that might compromise patient privacy. To ensure that the system was not run by the bureaucrats at HHS and to guarantee public input, Congress instructed the National Committee on Vital and Health Statistics, an independent research organization, to hold hearings to gather information from private and public sector organizations to develop recommendations on establishing a way to keep individual patients' financial records from getting confused with one another.

After the hearings, the Committee will write a report that will be published in the Federal Register. Moreover, an amendment I introduced to the Patient Protection Act will guarantee that Congress reviews and approves any suggestions made by the Secretary of HHS on individual health care identifiers before they are implemented. This provides a built-in guarantee that Congress and the public will have a chance to comment on, participate in the development of, and ultimately approve any unique health care identifier before it goes into effect. Once again, this process insures public input and oversight to prevent another "Big-Brother" bureaucratic solution.

However, Administrative Simplification is not complete without the Confidentiality Standards proposed in the Patient Protection Act. Section 264 of Kassebaum-Kennedy states that if Congress does not pass legislation concerning the confidentiality of patient records within 3 years after the act goes into effect, then the Secretary of HHS will adopt her own final regulations. As a result, Congress is on a very tight time frame to propose and pass confidentiality legislation.

The Medical Record Confidentiality provisions in the Patient Protection Act provide the necessary safeguards required in Kassebaum-Kennedy. It allows patients access to their medical records in order to view, copy, and amend by addition; requires providers, plans and employers to develop safeguards to protect confidentiality of medical information; requires providers, plans and employers to disclose their confidentiality policies to patients, enrollees and employers; encourages health researchers to use non-identifiable information by preempting state laws in this defined area; allows providers and plans to use information within their network for certain defined purposes, including outcomes evaluation, health promotion, and utilization review.

The Medical Record Confidentiality provisions in the Patient Protection Act guarantee accurate records and prevent unlawful use of one's medical records.

Mr. FAZIO of California. Mr. Speaker, I rise in opposition to this last minute Republican sham before us today. Mr. Speaker, this is not the first time the Republicans have buckled to pressure from their insurance industry contributors.

It is not the first time under Speaker GINGRICH, Republicans have tried to pull one over on the American people by crafting something that sounds good in a 30-second campaign ad, but does nothing—fundamental—to fix the problem.

But this is perhaps the most cruel farce the Republicans have brought to this body since they took control.

For those on the other side of the aisle who have already written the press releases patting yourselves on the back—and scheduled the air time for those 30-second spots—I say look inside your souls and admit that what you have brought forth today will not end families' tragedies and needless human suffering.

My colleagues, if you pass this bill today, those managed care plans that do not operate as honorably as others will still go on putting profits over patients. Only now, the blood will be on your hands.

Under this bill, a health plan could still unhook a critically ill patient from the intensive care monitors and transfer the patient to an "in-plan" hospital.

A health insurance bureaucrat could still withhold life-saving cancer treatment until it is too late—and face no responsibility for that human life.

In my home state of California, state laws protecting patients who need prenatal care, well child care, mammography screening, cervical cancer screening, and diabetic supplies and 9 other benefits—overriden—prempted by Fed law would be moot.

Put this bill to the test before you vote: Does it provide adequate access to medical specialists? No; Emergency services for severe chest pain? No; Proper care for women who have mastectomies? No; Patient recourse when needed care is denied? No.

Right down the line, the Republican bill is a failure and a cruel hoax.

If you pass this bill today, you will go on hearing the stories from your constituents who were denied care they paid for in their health plans.

If you fail to join Dr. GANSKE and Congressman DINGELL—you will guarantee that life or death decisions are made by health insurance bureaucrats, not doctors. Instead, you will be complicit in people's pain.

You are playing with people's lives here today. Don't choose a placebo over a real cure.

Vote NO on this last minute farce we have before us today. Support Dingell-Ganske which is supported by doctors and patients.

Mr. OXLEY. Mr. Speaker, I rise today in strong support of the Patient Protection Act. Since Republicans took control of Congress in 1995 we have worked diligently to pass health care reform legislation that gives Americans greater choices, makes health care more affordable, and improves the quality of the health care they receive. I believe this legislation adds to the long list of legislative accomplishments that Republicans have achieved in this arena.

Allow me to expand on some of these accomplishments. First, through passage of comprehensive Food and Drug Administration reform, the Republican Congress helped expedite the development and delivery of new healthcare technology. As a result of these reforms, which streamlined the FDA bureaucracy and cut government red tape, we will help save the lives of millions of Americans over the coming years.

Second, while many initially criticized our efforts at passing much needed Medicare reform, we succeeded in passing a bipartisan reform package designed to save this critical program until 2007 while establishing a bipartisan panel to consider options that will ensure Medicare's long-term financial health. This responsible package of reforms also included provisions to give Medicare beneficiaries greater choice, crack down on fraud and abuse, and grant beneficiaries new preventative health benefits. For the 34 million seniors that rely on Medicare for their health care needs I was pleased to support this valuable legislation.

Finally, any discussion of major health care accomplishments would not be complete without highlighting the 1996 Health Care Portability and Accountability Act. This legislation was a common-sense, market based solution to one of America's most difficult health care problems—namely the portability of health insurance. By guaranteeing that people can go from one employer to another without facing pre-existing condition restrictions or being denied coverage by a new employer's insurance plan this legislation ended the problem of job-lock by allowing workers to switch jobs without the fear of losing their insurance coverage.

Today, in our continuing efforts to strengthen the health care American's receive, we will consider legislation that address many of the concerns patients all over our country have with the health care marketplace. This legislation focuses on making health care more affordable for working families and small businesses, while holding insurance companies accountable for their decisions, and expanding access to health care for millions of Americans. I commend Congressman HASTERT for his fine work with the House Republican Working Group on Health Care Quality in bringing this legislation to the House floor. I am pleased with the outcome of the working group that I feel builds on and strengthens our previous accomplishments.

While many have advocated reforms that would significantly increase both costs and expand government bureaucracies, I support the Republican Task Force legislation because it protects patients and expands access to health care without damaging the free market health care system we enjoy today. Mr. Speaker I urge my fellow colleagues to support this much needed legislation that ensures that the health insurance Americans receive is accessible, affordable, and accountable without crippling the free market's ability to hold down health care prices.

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 4250, the Patient Protection Act. As managed care has continued to grow as the major system of health care delivery in this country, we are increasingly aware of incidents where patients have suffered serious injury or even death because an HMO or other managed care plans denied a treatment that was necessary to protect the patient. An emphasis on cost control over the quality of care has prevented health care professionals from acting in the best interest of the patient. While looking for ways to control the cost of health care, we must also ensure that people have access to quality health care services when the need it.

The legislation before us today attempts to make significant changes in the managed care industry. H.R. 4250 guarantees access to emergency room care by applying a "prudent layperson" standard of what constitutes an emergency, additionally, this bill will allow women direct access to their ob/gyn and children to their pediatrician. This access will prevent patients from having to be referred to these type of specialists by their primary provider.

This bill would also provide for an independent appeal process. If a patient is unhappy with the initial decision, he or she can ask for an independent internal review within 30 days of the decision. If that decision is unsatisfactory, they can appeal for an independent external review by an independent contracted physician. If after these two appeals, they are still unhappy, the patient can take the HMO to court and sue for damages up to $250,000.

The Patient Protection Act would require all insurance providers to provide detailed information to their customers including patients' responsibilities, the number of appeals made and granted as well as other plan information. This provision is intended to arm the consumer with all of the necessary information up front so that future appeals and litigation become unnecessary.

Although this bill provides a great number of HMO reform provisions, there are still a few items which need to be addressed and amended during the House-Senate conference. I urge the conferees to consider changes to this legislation which will provide greater patient protection and strengthen HMO liability.

Accordingly, I am pleased to support H.R. 4250, the Patient Protection Act.

Mr. UPTON. Mr. Speaker, I rise to express my strong support for the Patient Protection Act. Before I review the reasons that I support this legislation and will work hard for its enactment, I want to take this opportunity to single out two of my colleagues without whom this bill which will do so much to ensure quality of care would not be before us today. First, I want to thank CHARLIE NORWOOD, who saw early-on the need for strong patient protections. He introduced the Patient Access to Responsible Care Act and used this legislation as a vehicle to educate all of us to the need for reforms. Second, I want to express my deep regard for the leadership, patience, and effort that DENNY HASTERT has shown in the development of the Patient Protection Act, the legislation we are considering today. He had a Herculean task, and he did it with skill and grace.

I am proud to be counted as a cosponsor of the Patient Protection Act. This legislation will ensure that our nation's health care system is patient-centered, no profit-centered and that no one, no insurance clerk or green eyeshade worrying about a fat profit, stands between the patient and the physician when potentially life and death health care decisions are being made.

There are some who continue to argue that patient protection legislation is not needed—that the market will work over time to ensure patients have access to care when they need it and receive high quality care. That has not been my experience at all. Rarely a day goes by that I don't hear or read in my constituent mail of serious problems that individuals or their families are having with their managed care plans. Just yesterday, for example, I received a report of a Michigan woman who was experiencing severe pain from an ovarian cyst. She went to the nearest hospital, but her managed care plan would not cover her care at that facility. Instead, a plan clerk directed her to another, more distant facility. Unfortunately, that facility was affected by a massive power outage in the Detroit area and could not see her promptly. She requested permission to return to the first hospital, but was denied. By the time she was finally treated, she had a massive internal infection from the ruptured cyst. Her doctor said she was lucky to be alive.

We need to stop this rising drum-beat of stories of patients being denied appropriate care by their health plans, and the Patient Protection Act will do this. Had the Patient Protection Act been in place, for example, this woman could have sought and received care at the nearest emergency room rather than having to seek prior authorization and go to another, more distant facility.

Perhaps the single most important patient protection in this legislation is the right it will give patients to a timely review of plan determinations with which they disagree. Patients may seek an internal and then an independent external review, both of which must be conducted by physicians who are trained in the provision of the treatment under review. The patient may then go to court to enforce the ruling of the external review organization that a service should be provided or covered. If the court upholds the finding of the independent expert external reviewer, which is highly likely, the plan is subject to fines of $500 per day up to a total of $250,000.

I think the internal/external review appeal process in this legislation is actually more likely to hold plans' feet to the fire for their decisions and ensure appropriate access to care than would be the case if patients could simply go to court and sue their plans or employers. While the penalties leveled in state torts might be greater in some cases, such cases can drag on for years and the outcome is never certain for individuals. And the uncertain, uncapped liability exposure to which employers could be subject under the state court suit option could lead to employers terminating plans and add significantly to the number of individuals and families with no health care coverage.

In closing, I strongly urge my colleagues to join me in voting today for the Patient Protection Act. It ensures that our Nation's health care system is patient-centered, not profit-centered. It ensures that medical decisions are made by patients and their physicians with the well-being of the patient being the first consideration.

Mr. GEJDENSON. Mr. Speaker, for the past few months, my democratic colleagues and I have demanded that Republicans bring HMO reform to the floor. And now, what do we get. Barely 2 hours to debate a bill that was introduced just last week and has had no hearings, no mark-up, no public discussion of any kind.

The Republican bill will do little to fix the problems with the HMO system. The Republican bill does not allow direct access to specialty care. If you have heart disease, you must still go through a primary care doctor before seeing a cardiologist. If you have cancer, you must go through your primary care physician before you can see an oncologist. The Patient's Bill of Rights, which I support, guarantees patients access to specialists without going through a gatekeeper.

The Republican bill will not require HMOs to pay for emergency room visits if a patient has severe pain, but does not have a serious medical problem. Parents who take a child to the emergency room when they complain about pains will not know if their insurance company will cover the visit. This bill expects parents to be doctors and penalizes them for taking prudent steps. The Republican bill will not prohibit gag orders on doctors in group practice. It will not prevent plans from arbitrarily limiting medically-necessary services. It will not allow patients to sue HMOs for decisions that adversely affect them.

The Patient's Bill of Rights will fully address all of these problems. Access to medically needed care, including access to emergency rooms and specialists, is a fundamental element of the Patient's Bill of Rights. This bill will ban all gag rules on physicians. This bill will end the current practice of HMO's offering financial incentives to withhold necessary care. This bill will guarantee timely internal appeals, as well as an independent external appeals when plans deny care. Finally, the Patient's Bill of Rights holds plans legally accountable for decisions that lead to serious injury or death. People need real ways to hold HMOs responsible. In too many instances, courts are the only advocate that patients have in their battles with multi-billion dollar companies.

It is time for true HMO reform. We all know people who have been injured by HMOs. Just this week, a woman from my district got in touch with me and relayed what is probably an all too common occurance:

This Monday, she had a hysterectomy. On Tuesday, 24 hours later, her HMO wanted her out of the hospital even though she was feverish and had medical staples holding her abdomen together. Her doctor demanded that her HMO allow her to stay in the hospital at least one more day. Her HMO relented because of her fever but after the fever broke on Wednesday, she was forced out. She was sent home, still weak and groggy and not even close to recovery. How is she supposed to get well? This is not what she paid for when she paid her premium.

Republicans claim that their bill will stop this type of abuse, but it won't. Their bill has no guarantee that doctors, not HMOs will determine what amount of time is needed to recover from major surgery. The Patient's Bill of Rights will make sure that doctors and patients, not HMO plan administrators, decide when it's time to go home.

Under the Republican bill, what can patients and their families do when they are denied care? Other than jump through some hoops—not much! First, patients will have to prove during the internal appeal that their care is medically necessary. In the Republican bill, the definition of medically necessary is determined by the health plan—not by decades of medical experience, not by doctors there in the examination room with the patient. Then, if the internal appeals process doesn't work, the Republican bill will force patients to pay to have an independent review of their claim.

This is outrageous for two reasons. First, charging a fee is designed to discourage people from using this recourse. Second, HMOs will only be held accountable for failing to follow the provisions of their plan. As a result, as long as the HMO follows its own rules, patients receiving nothing from the external appeals provision even if their health is compromised.

In the Patient's Bill of Rights, the definition of medically necessary is uniform for all—a definition drafted by doctors, not HMOs. The Patient's Bill of Rights not only has internal and external appeals—both free of charge—but also sets up an Ombudsman program to assist consumers in understanding their health insurance options and filing appeals and grievances with their HMOs.

The Republicans also seem to think that it's a good thing that their bill will deny patients access to the court system when their care is denied. Somehow, Republicans believe that the health insurance industry, which makes $952 billion a year, needs protection from lawsuits. When one of your family members dies because an HMO denies access to care, the Republican bill gives you nowhere to turn. No other industry enjoys such a powerful, congressionally-mandated shield from liability for their actions. It's time to remove that protection for health plans and focus on granting more protections for patients.

If the bill in and of itself isn't bad enough, the proponents of this sham have added totally unrelated provisions which further threaten the quality of health care for all Americans. Once again, Republicans are threatening Medicare by expanding so-called Medical Savings Accounts. Remember these? They will allow healthy senior citizens to pull out of Medicare leaving it with only the poorest, sickest older Americans. This is bad medical policy and even worse fiscal policy. Other provisions preempt state laws and jeopardize patient privacy.

We must create a better system for everyone who gives or receives health care in this country. The Republican plan will do nothing to help our Nation's patients. For real reform, we must pass the Patient's Bill of Rights.

Mr. NUSSLE. Mr. Speaker, I rise today in support of the Patient Protection Act. I support this bill because it establishes Association Health Plans and Health Marts as new ways to provide health insurance to workers, many of whom work for small businesses which cannot currently afford to provide health insurance to their employees. Individuals who work for small businesses are the people most likely to be without health insurance. I also applaud the increased care options this bill provides for individuals dissatisfied with the choice of doctors provided by their health plan.

The national debate on health care has been focused almost exclusively on the care provided by HMOs. Providing appeals processes and other recourses for patients in HMOs are important and appropriate steps for Congress to take in order to ensure quality care. However, in all the talk over giving recourse and options to individuals with HMO coverage, both bills have overlooked the fact that the Patient Protection Act and the Kennedy-Dingell bill primarily address the fears and complaints of Americans who are fortunate enough to have real access to health care and a menu of health care options.

For many Iowans, access to health care doesn't mean the ability to see a specialist on demand. There are few specialists in Grundy Center, Iowa. People in Iowa's Second District have to load a family member into the car and drive miles and miles to the nearest doctor, clinic or emergency room. A patient bill of rights means little or nothing to people whose only choice of a hospital or clinic is 40 or 50 miles away. And miles mean minutes, which are crucial in the event of an emergency. Improving access to health care in Iowa means recruiting more doctors so that people will have shorter drives, and maybe a choice of where to go.

I am disappointed that neither proposal the House is considering today contains any initiatives to address the shortage of doctors in rural America. Twenty-five percent of the American population lives in rural areas. By the federal government's own count, almost 2,500 counties in our nation lack adequate medical care. Last year, Congress acted to make this shortage worse by creating a program to pay hospitals to train fewer doctors. What we need in Iowa are more doctors. The resources being spent to reduce the number of physicians would be better spent providing incentives to encourage doctors to locate in areas with inadequate access to health care.

The Patient Protection Act provides valuable protections and new health care options to many individuals, and I support those goals. However, I hope that today's vote on the Patient Protection Act is the beginning of the debate on improving access to health care and not the end. This debate is essential for people in Iowa's Second District and one in which I intend to participate vigorously.

Mr. CRANE. Mr. Speaker, today, this House has an opportunity to improve the health care system for millions of Americans. Like everyone, I want a health care system that is more accessible, more affordable and more accountable. With that goal in mind, I will cast my vote for H.R. 4250, the Patient Protection Act.

It is not a perfect piece of legislation and while there are provisions I think could be improved, there are also other provisions I have long supported. I am particularly pleased with the expansion of medical savings accounts, the creation of association health plans, medical malpractice reform and improving the patient appeals process without increasing the involvement of trial lawyers. In response to the concerns we have heard from our constituents, the bill prohibits gag rules, allows women direct access to gynecological and obstetrical care and allow parents to choose a pediatrician as their child's primary care provider without having to get a referral from a health plan.

This legislation will not only improve health care for the currently insured, we expect it to also make insurance more affordable to the 41 million uninsured Americans, including the 1.3 million uninsured in my state of Illinois.

As a member of the Ways and Means Health Subcommittee, I have taken an active interest in the many innovative ideas in health care. The Patient Protection Act represents the only choice for those of us who do not want a heavy-handed, big-government takover of our health care system. The American people overwhelmingly rejected that proposal and made it clear they want quick access to the best medical care in the world at an affordable price. The Patient Protection Act moves us in that direction and I would urge my colleagues to vote in support of it.

Ms. BROWN of Florida. Mr. Speaker, I represent the 3rd District of Florida. And, senior citizens in my district which ranges from Jacksonville to Orlando have suffered at the hands of HMO providers day-after-day. They are urged to sign up for health coverage plans, and these HMOs only give them cheap gifts and inadequate health coverage.

Because I have hosted numerous town hall meetings on health care for senior citizens, I have been able to hear their stories and provide assistance when their insurance providers have failed to deliver. An 81-year-old man, who after his HMO was sold had to replace his regular hypertension drug with a lower-cost one. Within days his blood pressure skyrocketed. He switched to an HMO that covered his drug, but then the new plan changed its coverage too. Unable to pay for the drug, he went on TV as a cry for help and a local physician with compassion gave him the medication for free. Health care is such a crucial part of our lives, I believe every effort should be made to protect senior citizens and the working poor. It is our responsibility to protect and pass legislation that will protect the rights of our constituents. More importantly, we are charged with ensuring that our nation has access to quality health care at an affordable cost. There is nothing more heart wrenching, than talking with someone who desperately needs medical care and their insurance company will not cover the life-saving medical treatment or reimburse patients for much needed medicine. In another case, a baby girl was diagnosed with a hole in her heart. Chances were good that she would need surgery to fix the defect if it did not close on its own. Her mother switched HMOs for better coverage; however, the new insurance company would not cover the procedure because her daughter's heart defect was a pre-existing condition. The HMO had a 2 year limit on pre-existing conditions and would not pay for the little girl's operation. Thanks to a special state program in Florida the little girl was able to receive care. We need to hold HMOs accountable for their actions and how they treat people. That is why, I urge my colleagues to oppose the Patient Protection Act (H.R. 4250) and support the Patient Bill of Rights (H.R. 3605). H.R. 3605 is the right choice, it puts patients before profits and medical decisions are given back to doctors and nurses. This bill also holds HMOs responsible for decisions when they withhold or limit care to patients.

The challenges of quality health care will require our nation to overcome the barriers of ever-increasing medical cost and recognize the needs of our nation. In a society where technology is progressing at the speed of light, why is it so difficult for us to make the right decision for the American people?

We need to treat quality health care as a right versus a luxury for a privileged few.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in opposition to H.R. 4250, the Patient Protection Act of 1998, because it falls short of addressing America's true health care issues. The essence of the health care debate is threefold: access to health care; patient protections; and patient rights. The Democratic substitute, the Patients' Bill of Rights, would address all three of these issues. This bill, the so called Patient Protection Act, does not.

First, Americans, despite being insured, are tired of having to fight every step of the way for care they are entitled to. Americans want access to care. The Patient Protection Act would not alleviate many of the existing barriers to care identified as priorities. For example:

The Patient Protection Act would not provide direct access to specialists. It does not guarantee women direct access to their OBGYN nor would it provide parents direct access to pediatricians for their children.

The Patient Protection Act would not insure a patient can continue to see the same doctor through a course of a treatment or a pregnancy if that doctor leaves the network.

The Patient Protection Act would not insure that a patient can get the prescription drug chosen by the physician, not the HMO.

The Patient Protection Act would not allow patients with ongoing conditions to have standing referrals to specialists.

The Patient Protection Act would not ensure that patients are allowed to see an outside specialist at no additional cost when specialists in their plan are unable to meet their needs.

The Patients Bill of Rights will provide all of these.

Second, patients should have the right to hold managed care administrators accountable for their decisions when it influences the care that is provided.

The Patient Protection Act does not hold managed care plans accountable when decisions to deny or delay care results in injury or death. It does not provide patients the right to sue HMOs when they are denied needed health care nor does it provide a true external independent appeals process. In fact, the Patient Protection Act reduces accountability by placing an arbitrary cap on medical malpractice awards.

In addition, the Patient Protection Act does not ensure that doctors and nurses can report quality problems without retaliation from HMO's, insurance companies and hospitals. The Patient Protection Act would not prevent health care professionals from being financially rewarded for limiting a patient's care. Patients deserve care from health care professionals who are not rewarded for providing less care.

The Patients' Bill of Rights would provide these protections and true accountability.

Finally, patients deserve basic health care protections. After preaching a mantra of returning power to the states since taking control of Congress four years ago, Republicans take a hypocritical u-turn and pre-empt carefully constructed state health care protections. The Patients' Protection Act will allow "Healthmarts" to pick and choose the services covered under the plan, ignoring state mandated minimum benefit requirements. It would also eliminate state regulations enacted to insure solvency and protect against fraud and abuse.

The Patients' Bill of Rights would not preempt state mandated care nor would it eliminate solvency and fraud and abuse protections.

In closing, Americans deserve health care from qualified physicians who are not influenced by health care plan administrators. Americans deserve the right to take their health plans to court if they are denied care. America wants real managed care reform. The Patient Protection Act is not real managed care reform. This is a facade and a sham designed to provide political cover for Republican leadership who have argued that managed care reform is not necessary.

Do not judge a bill by its title. The Republican Patient Protection Act is a facade. It's meager "protections" do not address the real issues we are faced with. The Patients' Bill of Rights on the other hand is a comprehensive and revolutionary bill providing substantive reform.

America understands the difficulties involved with obtaining health care. The Patients' Bill of Rights provides solutions. The Patient Protection Act creates more problems.

Mr. TURNER. Mr. Speaker, it has been suggested that the Republican bill provides better protection for patients. I submit to my colleagues that the Republican bill provides fewer protections for patients than exist in current law in most of our States.

I come from Texas. The Texas Legislature passed patient protection legislation in 1997, fully intending that all HMOs be covered by the protections of State law.

The Republicans submit a bill today that would control patient protections at the Federal level. It would set forth a series of rules that are far inferior to those in the Democratic alternative.

Under the Republic proposal, if the HMO denied coverage, the only remedy, if an individual was enrolled in a self-insured plan, would be to go to Federal Court. And once the individual gets there, he or she would have no genuine recourse.

In 1991, Phyllis Cannon was diagnosed with leukemia. She appealed to her HMO for a bone narrow transplant. The HMO refused. For over 40 days the HMO refused coverage. Due to a denial of medical treatment, about a month after that Ms. Cannon died.

The court ruled that under ERISA, she had no recovery. Under the Republican bill today, her estate would be entitled to $20,000—a small price for a life. Under the Republican bill, the penalty would be $500 per day. This represents a much cheaper alternative for an HMO than providing the treatment that should have been provided to Phyllis Cannon.

I submit to my colleagues that all Members of this House needs to look at what their State has done to protect patients because a vote for the Republican bill amounts to rolling back the protections that most of our State have already provided for patients under the law. In every place in this country, protecting patients enrolled in HMOs has been a bipartisan effort. Only in Washington is patient protection partisan.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 in the Nature of a Substitute Offered by Mr. DINGELL:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patients' Bill of Rights Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEALTH INSURANCE BILL OF RIGHTS

Subtitle A—Access to Care

Sec. 101. Access to emergency care.
Sec. 102. Offering of choice of coverage options under group health plans.
Sec. 103. Choice of providers.
Sec. 104. Access to specialty care.
Sec. 105. Continuity of care.
Sec. 106. Coverage for individuals participating in approved clinical trials.
Sec. 107. Access to needed prescription drugs.
Sec. 108. Adequacy of provider network.
Sec. 109. Nondiscrimination in delivery of services.

Subtitle B—Quality Assurance

Sec. 111. Internal quality assurance program.
Sec. 112. Collection of standardized data.
Sec. 113. Process for selection of providers.
Sec. 114. Drug utilization program.
Sec. 115. Standards for utilization review activities.
Sec. 116. Health Care Quality Advisory Board.

Subtitle C—Patient Information

Sec. 121. Patient information.
Sec. 122. Protection of patient confidentiality.
Sec. 123. Health insurance ombudsmen.

Subtitle D—Grievance and Appeals Procedures

Sec. 131. Establishment of grievance process.
Sec. 132. Internal appeals of adverse determinations.
Sec. 133. External appeals of adverse determinations.

Subtitle E—Protecting the Doctor-Patient Relationship

Sec. 141. Prohibition of interference with certain medical communications.
Sec. 142. Prohibition against transfer of indemnification or improper incentive arrangements.
Sec. 143. Additional rules regarding participation of health care professionals.
Sec. 144. Protection for patient advocacy.

Subtitle F—Promoting Good Medical Practice

Sec. 151. Promoting good medical practice.
Sec. 152. Standards relating to benefits for certain breast cancer treatment.
Sec. 153. Standards relating to benefits for reconstructive breast surgery.

Subtitle G—Definitions

Sec. 191. Definitions.
Sec. 192. Preemption; State flexibility; construction.
Sec. 193. Regulations.

TITLE II—APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. ERISA preemption not to apply to certain actions involving health insurance policyholders.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

Sec. 401. Amendments to the Internal Revenue Code of 1986.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.

TITLE VI—REVENUE PROVISIONS

Sec. 601. Estate tax technical correction.
Sec. 602. Treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts.

TITLE I—HEALTH INSURANCE BILL OF RIGHTS

Subtitle A—Access to Care

SEC. 101. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider—

(i) the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider, and

(ii) the plan or issuer pays an amount that is not less than the amount paid to a participating health care provider for the same services; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) Definitions.—In this section:

(A) Emergency medical condition based on prudent layperson standard.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) Emergency services.—The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) if the services are maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection.

SEC. 102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.

(a) Requirement.—

(1) Offering of point-of-service coverage option.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) Exception.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage through more than one health insurance issuer; or

(B) two or more coverage options that differ significantly with respect to the use of participating health care providers or the networks of such providers that are used.

(b) Point-of-Service Coverage Defined.—In this section, the term "point-of-service coverage" means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) Construction.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) No Requirement for Guaranteed Availability.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

SEC. 103. CHOICE OF PROVIDERS.

(a) Primary Care.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) Specialists.—

(1) In general.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) Limitation.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. 104. ACCESS TO SPECIALTY CARE.

(a) Obstetrical and Gynecological Care.—

(1) In general.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating physician as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) Construction.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) Specialty Care.—

(1) Specialty care for covered services.—

(A) In general.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) Specialist defined.—For purposes of this subsection, the term "specialist" means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) Care under referral.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) Referrals to participating providers.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term "special condition" means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

SEC. 105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. 106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage.

(b) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. 109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage.

Subtitle B—Quality Assurance

SEC. 111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section 112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program in accordance with section 114.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least as stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section 121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.—

(1) IN GENERAL.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.—

(1) IN GENERAL.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) RULES.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. 114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section 111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

SEC. 115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section 111(b)(4)(B).

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term "health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) PEER REVIEW OF SAMPLE OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers (as defined in section 191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(6) REVIEW OF PRELIMINARY UTILIZATION REVIEW DECISION.—Under such program a participant, beneficiary, or enrollee or any provider acting on behalf of such an individual with the individual's consent, who is dissatisfied with a preliminary utilization review decision has the opportunity to discuss the decision with, and have such decision reviewed by, the medical director of the plan or issuer involved (or the director's designee) who has the authority to reverse the decision.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 101, respectively.

(e) NOTICE OF ADVERSE DETERMINATIONS.—

(1) IN GENERAL.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. 116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) NUMBER AND APPOINTMENT.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) DUTIES.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section 112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) REPORT.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL CONSULTATION.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) CONTINUATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

Subtitle C—Patient Information

SEC. 121. PATIENT INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) Out-of-area coverage.—Out-of-area coverage provided by the plan or issuer.

(5) Emergency coverage.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) Percentage of premiums used for benefits (loss-ratios).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) Prior authorization rules.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) Grievance and appeals procedures.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) Quality assurance.—A summary description of the data on quality collected under section 112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section 112(b)(4).

(10) Summary of provider financial incentives.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) Information on issuer.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) Availability of information on request.—Notice that the information described in subsection (c) is available upon request.

(c) Information Made Available Upon Request.—The information described in this subsection is the following:

(1) Utilization review activities.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 115, including under any drug formulary program under section 107.

(2) Grievance and appeals information.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) Method of physician compensation.—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) Specific information on credentials of participating providers.—In the case of each participating provider, a description of the credentials of the provider.

(5) Confidentiality policies and procedures.—A description of the policies and procedures established to carry out section 122.

(6) Formulary restrictions.—A description of the nature of any drug formula restrictions.

(7) Participating provider list.—A list of current participating health care providers.

(d) Form of Disclosure.—

(1) Uniformity.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) Information into handbook.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) Updating participating provider information.—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

(e) Construction.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. 122. PROTECTION OF PATIENT CONFIDENTIALITY.

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

SEC. 123. HEALTH INSURANCE OMBUDSMEN.

(a) In General.—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) Federal Role.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) Construction.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

Subtitle D—Grievance and Appeals Procedures

SEC. 131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) Establishment of Grievance System.—

(1) In general.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) Scope.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this title.

(b) Grievance System.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section 111(a) of all grievances and appeals relating to quality of care.

SEC. 132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section 133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section 121(b)(8).

(2) APPEALABLE DECISION DEFINED.—In this section, the term "appealable decision" means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for, a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section 101.

(C) Failure to provide a choice of provider under section 103.

(D) Failure to provide qualified health care providers under section 103.

(E) Failure to provide access to specialty and other care under section 104.

(F) Failure to provide continuation of care under section 105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section 106.

(H) Failure to provide access to needed drugs under section 107(a)(3) or 107(b).

(I) Discrimination in delivery of services in violation of section 109.

(J) An adverse determination under a utilization review program under section 115.

(K) The imposition of a limitation that is prohibited under section 151.

(b) INTERNAL APPEAL PROCESS.—

(1) IN GENERAL.—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, enrollee, or provider acting on behalf of such an individual with the individual's consent, who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal appeal process. The appeal may be communicated orally.

(2) CONDUCT OF REVIEW.—

(A) IN GENERAL.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) AVAILABILITY AND PARTICIPATION OF CLINICAL PEERS.—The individuals conducting such review shall include one or more clinical peers (as defined in section 191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) DEADLINE.—

(A) IN GENERAL.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) EXTENSION.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) NOTICE.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function.

(2) PROCESS.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the appeal if the request for an expedited appeal is submitted under subparagraph (A) by a physician and the request indicates that the situation described in paragraph (1) exists.

(d) DIRECT USE OF FURTHER APPEALS.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—For purposes of this section, the term "externally appealable decision" means an appealable decision (as defined in section 132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) EXHAUSTION OF INTERNAL APPEALS PROCESS.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section 132, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) RESTRICTIONS ON QUALIFIED EXTERNAL APPEAL ENTITY.—

(i) BY STATE FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) BY FEDERAL GOVERNMENT FOR GROUP HEALTH PLANS.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) LIMITATION ON PLAN OR ISSUER SELECTION.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR PROCESS; DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination.

(B) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer, an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the States has not established an adequate certification and recertification process, by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this title shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

Subtitle E—Protecting the Doctor-Patient Relationship

SEC. 141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) NULLIFICATION.—Any contract provision or agreement described in paragraph (1) shall be null and void.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) MEDICAL COMMUNICATION DEFINED.—In this section:

(1) IN GENERAL.—The term "medical communication" means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term "medical communication" does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. 142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. 143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) PROCEDURES.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions,

including the presentation of information and views of the professional regarding such decision.

(b) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

SEC. 144. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established or the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle F—Promoting Good Medical Practice

SEC. 151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term "manner or setting" means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital, Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term "medically necessary or appropriate" means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. 152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING MASTECTOMY OR LYMPH NODE DISSECTION.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

(A) except as provided in paragraph (2)—

(i) restrict benefits for any hospital length of stay in connection with a mastectomy for the treatment of breast cancer to less than 48 hours, or

(ii) restrict benefits for any hospital length of stay in connection with a lymph node dissection for the treatment of breast cancer to less than 24 hours, or

(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the woman involved prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by the attending provider in consultation with the woman or in a case involving a partial mastectomy without lymph node dissection.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

SEC. 153. STANDARDS RELATING TO BENEFITS FOR RECONSTRUCTIVE BREAST SURGERY.

(a) REQUIREMENTS FOR RECONSTRUCTIVE BREAST SURGERY.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for breast surgery in connection with a mastectomy shall provide coverage for reconstructive breast surgery resulting from the mastectomy. Such coverage shall include coverage for all stages of reconstructive breast surgery performed on a nondiseased breast to establish symmetry with the diseased when reconstruction on the diseased breast is performed and coverage of prostheses and complications of mastectomy including lymphedema.

(2) RECONSTRUCTIVE BREAST SURGERY DEFINED.—In this section, the term "reconstructive breast surgery" means surgery performed as a result of a mastectomy to reestablish symmetry between two breasts, and includes augmentation mammoplasty, reduction mammoplasty, and mastopexy.

(3) MASTECTOMY DEFINED.—In this section, the term "mastectomy" means the surgical removal of all or part of a breast.

(b) PROHIBITIONS.—

(1) DENIAL OF COVERAGE BASED ON COSMETIC SURGERY.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny coverage described in subsection (a)(1) on the basis that the coverage is for cosmetic surgery.

(2) APPLICATION OF SIMILAR PROHIBITIONS.—Paragraphs (2) through (5) of section 152 shall apply under this section in the same manner as they apply with respect to section 152.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary to undergo reconstructive breast surgery.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for mastectomies.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for reconstructive breast surgery under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion may not be greater than such coinsurance or cost-sharing that is otherwise applicable with respect to benefits for mastectomies.

(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(f) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage and that requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

Subtitle G—Definitions

SEC. 191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this title under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term "clinical peer" means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term "health care provider" includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term "participating" mean, with respect to a health care provider that provides health care items and

services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. 192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) RULES OF CONSTRUCTION.—Except as provided in sections 152 and 153, nothing in this title shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

SEC. 193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

TITLE II—APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 1998, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting "(other than section 2706)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

"SEC. 2752. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 1998 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.".

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 713. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Patients' Bill of Rights Act of 1998 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 101 (relating to access to emergency care).

"(B) Section 102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

"(C) Section 103 (relating to choice of providers).

"(D) Section 104 (relating to access to specialty care).

"(E) Section 105(a)(1) (relating to continuity in case of termination of provider contract) and section 105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(F) Section 106 (relating to coverage for individuals participating in approved clinical trials.)

"(G) Section 107 (relating to access to needed prescription drugs).

"(H) Section 108 (relating to adequacy of provider network).

"(I) Subtitle B (relating to quality assurance).

"(J) Section 143 (relating to additional rules regarding participation of health care professionals).

"(K) Section 152 (relating to standards relating to benefits for certain breast cancer treatment).

"(L) Section 153 (relating to standards relating to benefits for reconstructive breast surgery).

"(2) INFORMATION.—With respect to information required to be provided or made available under section 121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections 131 and 132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

"(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 109 (relating to nondiscrimination in delivery of services).

"(B) Section 141 (relating to prohibition of interference with certain medical communications).

"(C) Section 142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

"(D) Section 144 (relating to prohibition on retaliation).

"(E) Section 151 (relating to promoting good medical practice).

"(6) Construction.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(7) Application to certain prohibitions against retaliation.—With respect to compliance with the requirements of section 144(b)(1) of the Patients' Bill of Rights Act of 1998, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

"(c) Enforcement of Certain Requirements.—

"(1) Complaints.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 144(b)(1) of the Patients' Bill of Rights Act of 1998 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

"(2) Investigation.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

"(d) Conforming Regulations.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.".

(b) Satisfaction of ERISA Claims Procedure Requirement.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "Sec. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle D (and section 115) of title I of the Patients' Bill of Rights Act of 1998 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) Conforming Amendments.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 713".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Patient protection standards.".

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 144(b))" after "part 7".

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) In General.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

"(e) Preemption Not To Apply to Certain Actions Arising Out of Provision of Health Benefits.—

"(1) In general.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

"(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

"(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(2) Exception for employers and other plan sponsors.—

"(A) In general.—Subject to subparagraph (B), paragraph (1) does not authorize—

"(i) any cause of action against an employer or other plan sponsor maintaining the group health plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

"(B) Special rule.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

"(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

"(ii) the exercise by such employer or other plan sponsor (or employee) of such authority resulted in personal injury or wrongful death.

"(3) Construction.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient freedom of choice."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) Group Health Coverage.—

(1) In general.—Subject to paragraph (2), the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 1999 (in this section referred to as the "general effective date").

(2) Treatment of collective bargaining agreements.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) Individual Health Insurance Coverage.—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking "this subtitle (and the amendments made by this subtitle and section 401)" and inserting "the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, chapter 100 of the Internal Revenue Code of 1986, and title I of the Patients' Bill of Rights Act of 1998".

TITLE VI—REVENUE PROVISIONS

SEC. 601. ESTATE TAX TECHNICAL CORRECTION.

(a) In General.—Paragraph (2) of section 2001(c) of the Internal Revenue Code of 1986 is amended by striking "$10,000,000" and all that follows and inserting "$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) (determined without regard to section 2057(a)(3)) and $359,200."

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Taxpayer Relief Act of 1997.

SEC. 602. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) In General.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

"(c) Deductible Liquidating Distributions of Regulated Investment Companies and Real Estate Investment Trusts.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.”.

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking “subsection (a)” and inserting “this section”.

(2) Paragraph (1) of section 334(b) of such Code is amended by striking “section 332(a)” and inserting “section 332”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998.

The SPEAKER pro tempore. Pursuant to House Resolution 509, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Illinois (Mr. HASTERT) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. GANSKE), my distinguished friend, for purposes of offering the amendment.

Mr. GANSKE. Mr. Speaker, I rise in support of the Ganske-Dingell substitute. This substitute is supported by Consumers Union, other consumer groups, about 170 health groups, both consumer groups and provider groups. It is supported by the AARP, it is supported by the AMA, the Nurses Association, and by the AFL–CIO. It has broad, widespread support, for a good reason.

Let me specifically address my friend LINDSEY GRAHAM's comments about the underlying Republican bill and how it relates to the substitute on liability. My friend LINDSEY GRAHAM is trying to improve the GOP bill.

Consider the family of Joyce Chiang. Her complaints of severe abdominal pain and requests for a referral to a specialist went unheeded. The delay prevented the timely discovery of a colon cancer that might have been cured. Instead, by the time she got the additional tests she requested, the cancer had perforated her bowel and no amount of surgery could save her.

Under the Hastert bill, Joyce Chiang's family could only collect $500 for every day the care was denied. But I would say that is hardly an effective remedy or deterrent, when it can cost health plans more to provide the needed care than it would potentially cost them in a subsequent legal action.

Mr. Speaker, I am not interested in granting tobacco companies legal protections for their conduct; and I cannot see how it serves our constituents to allow health plans who are making life-and-death decisions to hide from their consequences.

Republicans believe in personal responsibility, and this immunity that is preserved in the Hastert bill flies in the face of that. Health plans should be treated like any other industry and held accountable for their negligent actions.

Furthermore, the GOP bill does not get at a fundamental underlying problem, and that is that the HMOs can define what is medically necessary. Before our Committee on Commerce we had a medical reviewer describe how she had made decisions that resulted in the loss of life because she could manipulate the way the HMO defined “medically necessary.” Under the Ganske-Dingell bill, we address that problem. Their bill does not.

I strongly urge my Republican colleagues to vote for the best bill, the one that addresses the smart bomb of HMOs, the issue of what is defined as “medically necessary.”

Mr. HASTERT. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding.

I am a practicing physician. And I do not plan on staying in this body. I plan on returning in a few short years to my practice. And I think it is a wonderful thing that we are having this debate today. We both want to do what we can to restore the doctor-patient relationship. We both want to do what we can to return quality as number one in health care in the United States. They have their plan. We have ours.

Now, I believe that there is an important feature in our bill that makes our bill the better bill over their bill. But I want to address a few points made by my colleague the gentleman from Iowa (Mr. GANSKE).

I served on the task force that produced this bill, and one of the most important things that I was going after was timely access to specialists. And contrary to the claims that were made by him and the claims by others, we have important language in our bill that will require people in managed care entities to have timely access to specialists.

Here is the difference between their bill and our bill, and I will tell my colleagues about it. I was on a radio talk show last week where a lady called in and she was saying some bad things about her HMO and she said, “The other HMO I was in was just as bad. I had switched.” I said, “What do you mean, you switched from one HMO to another HMO? Are you in the FEHBP plan?” And she said, “Yes.” And I said, “Well, you know, I am in that, too; and there are some better plans that you could select. Why didn't you select one of those better coverage plans?” And do you know what she said to me? “Well, we cannot afford it. That is why I am in an HMO.”

Now, we are to be led to believe by our colleagues on the other side of the aisle that their bill which is going to place all these government mandates is not going to drive up costs for that lady?

Let me tell my colleagues something. Every month in my practice a clerk from my billing office brought a stack of charts of working people who were not able to pay their bills and I did what thousands of other physicians all across America do; I wrote off those bills, thousands of dollars every year. Why? Because those people had no health insurance.

Now we are led to believe by these folks that they here in Washington are going to make all these HMOs do all these wonderful things that are mandated in their bill and it is not going to drive up costs, it is not going to increase the number of uninsured?

Let me tell my colleagues something. We have a good bill here that is going to work very hard to restore quality and it is not going to drive up costs. Indeed, we believe the provisions in this bill, which allow small employers to pool, which has malpractice reform, is actually going to drive down costs. It is going to allow more people to get insurance.

We have, in my opinion, the better bill. And I can say that as somebody who is going to go back in a few short years to be working in the system.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight, Friday, July 24, 1998, to file a conference report on the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1999

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, July 24, 1998, to file a privileged report on a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Pursuant to the provisions of clause 8 of rule XXI, the Chair reserves all points of order on the bill.

□ 1215

PATIENT PROTECTION ACT OF 1998

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I want to thank the dean of the House the gentleman from Michigan (Mr. DINGELL) and my classmate the gentleman from Iowa (Mr. GANSKE) for the opportunity to address my support for the Patient Bill of Rights. I also want to thank the gentleman from Illinois (Mr. HASTERT) for doing what he thinks is the right thing.

Obviously there is a slight concern when you endorse a proposal that is labeled the Democratic bill when you are a Republican and vice versa. While I am saddened that this issue has a partisan spin to it, today I am driven to support the initiative that I believe gives the greatest protection and possibility of care for the people that I represent. That bill is Ganske-Dingell.

I want to direct my remarks to the liability provisions, however, relating to employer-provided health care plans. Being a lawyer, I like that profession as well as any other, but I am sensitive to the concerns of small business owners, many of whom administer their own plans, about the liability problem. Some of the calls our office has received have been driven from K Street, but many others have come from business owners who are operating on small margins and who want to do the right thing by their employees.

Last night, therefore, I read and I reread page 66 of the Ganske bill concerning liability, and it only reinforced my belief that employers have been needlessly frightened, similar, I am sad to say, to the shameful way seniors were frightened during the Medicare debates.

The only time that an employer is exposed to liability is when the employer makes discretionary medical decisions. Not a doctor, not a hospital, not a nurse, not an HMO. I cannot even think of one situation where an employer would want to make a medical decision, good, bad or otherwise.

Nevertheless, I would ask the sponsors of the bill to tighten the language of the employers' exception in conference. The one thing that I do know about my profession is that they have a unique ability to take words that seem to say one thing and then get a judge somewhere, usually an appointed one, to interpret them in another.

I urge passage of the substitute and would ask both parties to work diligently in conference to create a product that represents the best of both bills. I would ask that we not be about the business of creating campaign commercials here on the floor today but we be about the business of helping Americans of all ages receive the care that they need.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. DICKEY).

Mr. DICKEY. Mr. Speaker, I come here as a former small business owner and as a lawyer. When I first looked at this situation, I looked at it from the doctor's standpoint and I saw a tremendous need, dire circumstances that doctors are facing, even to the extent that we were going to lose doctors presently existing and applicants were not going to apply. And I rushed in with my philosophical approach to this and said, "We've got to help the doctors at all costs." What I found out was that "at all costs" meant the cure was going to be worse than the disease, that the small business owners were going to be killed by being put into courtrooms without any type of protection and in greater numbers.

So what I wanted to do was to try to look at the patients and say we need to get them in the treatment room and not in the courtroom. I have looked carefully at this and I can see that the Hastert bill is a perfect solution for this, or maybe not perfect but it is a perfect start. It is something we need to look at. If we do not do this, we are going to have patients who will not have choices because they won't have doctors, and that is serious.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, on behalf of the patients of the central coast of California and all across America, I rise to say that enough is enough. I have been an elected official for only four months but I have been a nurse for over 30 years. As a nurse I know firsthand the importance of accessible, quality, patient-centered care.

We must pass a bill which is more than a band-aid, which will ensure patients' rights and consumer protection against the abuses of HMOs. For common sense, comprehensive managed care reform, we must guarantee that critical decisions will remain in the hands of doctors and nurses, not insurance companies. We must guarantee access to specialists, so that people can really choose their own doctors. We must guarantee an end to financial incentives to limit medical care. We must guarantee emergency room care so people are not turned away from the hospital door. We must guarantee tough enforcement to hold insurance company bureaucrats responsible for their cost-cutting actions.

The American people deserve a bill with these guarantees, not a Republican bill, not a Democrat bill but a people's bill. The Ganske-Dingell proposal protects patients with the force of law. This bipartisan bill will allow people to choose their own doctor, end oppressive gag rules so patients can have access to all critical treatment options, and perhaps most importantly give patients legal recourse when insurance companies deny important medical coverage.

Basic patients' rights can mean the difference between life and death. If patients can sue their doctors for poor care, they should be able to sue the insurance bureaucrats who pull the strings and are behind these cost-cutting decisions.

As one of three nurses in Congress, it is my duty to speak out. The leadership bill has huge loopholes which do nothing to prohibit HMOs from denying care. Our health care system needs serious medicine, not a political placebo.

Mr. Speaker, we still have time to act. With 32 days left in Congress, if we do nothing else, we must guarantee real patients' rights for the American people. Let us pass comprehensive, bipartisan managed care reform today.

Mr. HASTERT. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD) who worked on the task force and certainly was the creator of a lot of the thoughtful positions that are included in our plan.

Mr. NORWOOD. Mr. Speaker, it seems to me that it has been years in my life till we get to this day. I have wanted this to happen a long time. I am saddened deeply by what I hear and see happening in this room today. I had hoped that all of us would recognize the importance of protecting human beings' lives, the importance of correcting the malfunctioned ERISA laws of 1974 and could come together and actually offer good patient protections that the people of this country so deserve. But I hear over and over again demagoguery, politicization, misrepresentation, total untruths, just simply getting it wrong and not telling it right, and I am saddened by that.

The Dingell-Ganske bill has good patient protections in it. I do not question that. I know that it does. It is imperfect, however. The Republican bill has excellent patient protections in it, though it, too, is also imperfect.

I want to speak to my friend from Texas who says, oh, all of a sudden the Democrats have realized we need to protect patients. We bring this up today because we are Democrats.

I would remind my friend from Texas that you are the same group that tried to put everybody in the country in managed care 4 years ago, with no thought to any particular patient protections. I have for at least two terms of Congress as a Republican tried to protect patients, and I am delighted that you have joined with us at this late date.

Mr. Speaker, I have spent the last year and a half calling for support to end the ERISA preemption of State medical malpractice law. I pled with the President to add ERISA liability to his advisory committee report in November 1997. He did not. I requested that the President call for ERISA liability reform in his State of the Union address in January of 1998. He did not. I argued day after day with the Republican Working Group to add ERISA liability reform to this bill. They would not. There is a reason for that. It is a big enough reason that we can end up this year with no law, no patient protections over this subject. As much as I am for it, I am for a law this year that will get as many patient protections as we possibly can meet. The task force met me more than halfway with a new proposal that I frankly like very much. It is about liability and it is about suing an HMO. If I could only have one of the two liability provisions, I believe today that I would take our own. I ask you to stop this politicization of this bill and let us work together and pass patient protections.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I rise today in strong support of the Ganske-Dingell Patients' Bill of Rights, and in equally strong opposition to the Hastert bill. Nothing in the Republican bill would have protected the rights of young Brice Randa from Colorado. Here is a picture of the Randa family, Allen and Jodi with their children Taylor on the left and Brice on the right. Brice died just two months after this picture was taken.

Brice was diagnosed with Lissencephaly, a terrible disease that made Brice's short life limited to breathing tubes, stomach wraps and motor seizures, a disease which eventually killed him. Although it was inevitable, Brice's death is heartbreaking for more than one reason. The tragedy lies in the fact that this family spent the few precious months they had with their son negotiating with the HMOs instead of taking care of their precious little boy. The 16 months the Randas had with Brice were consumed with lawyers filing paperwork and appealing decisions made by their HMO.

The Randas' doctor wrote the HMO begging, "The family is overwhelmed. We petition for 4 hours per day extra assistance," and the HMO denied this.

Under the Republican bill, a health plan can define medical necessity any way it wants, giving families like the Randas no protection from insurance company bureaucrats deciding what medical care is appropriate. Moreover, under the GOP's rules, if the Randas did want an external review of the decision denying the 4 hours a day of care for Brice, they would have to pony up $100 from their pocket just to have the case heard by somebody who would have to follow guidelines set by the very HMO that denied the care in the first place. And if Brice had needed emergency care, the HMO would have had 72 hours to consider an appeal of an emergency care decision. Frankly, this GOP scheme is worse than the status quo. It stabs at the heart of what the debate over HMO reform is really about. On the other hand, the Ganske-Dingell bill ensures that the medical profession will define medically necessary care.

Vote for our alternative. Vote "no" on the Hastert bill.

Mr. HASTERT. Mr. Speaker, I yield myself 10 seconds. I just want to remind the gentlewoman from Colorado that if it is emergency care, our patients are in the emergency room immediately, not 72 hours. She is wrong and she misrepresented the facts.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. I thank my colleague from Illinois and I thank the gentlewoman from Colorado, because she unintentionally demonstrates why we should oppose the Dingell bill and support the reasonable, rational, compassionate Patient Protection Act.

You see, Mr. Speaker, we are faced with a choice today. Do we support a true patient bill of rights, or do we support a lawyer's right to bill? I rise with colleagues from both sides of the aisle who say they do not want decisions made by bureaucrats, whether they are Washington bureaucrats or insurance company bureaucrats. Health care decisions should be made by physicians and health care professionals consulting with their patients. That is the element that we preserve, uphold and amplify in the Patient Protection Act. Sadly, endless litigation and lawsuit after lawsuit is provided for in the Dingell substitute. That is what we have to remember; true compassion, not courtroom drama.

□ 1230

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Speaker, I rise today in opposition to H.R. 2450, what the Republicans have called the Patient Protection Act, but is better termed the Republican Patient Election Year Posturing Act.

H.R. 4250 is full of hollow promises and empty protections. Republicans call this a managed care reform bill, but in reality it is far from it.

For starters, the Election Year Posturing Act does little to address the serious problems of our current health delivery system and does a lot to maintain the status quo.

Let me detail what the Republican bill does not provide. It does not put medical decisions back in the hands of doctors and, instead, keeps it in the hands of insurance company accountants and their executives, people who we call the bean counters.

It does not give patients access to specialty care where they need it. We heard from our Republican colleague the gentleman from Florida (Mr. WELDON), a doctor, previously indicating he was on a talk show, and a woman indicated she was in the same Federal health plan as all of us. He asked, "why did you not choose a different one to get the doctor of your choice?" She said to him, and hopefully I am quoting this right, she could not afford it.

So the bottom line is we cannot afford it. We get substandard care. I think that is wrong on the part of the Republicans. It does not give patients access to specialty care. It does not provide women undergoing a mastectomy from being pushed out of the hospitals just hours after surgery and does not require insurers to cover reconstruction surgery after mastectomy. It does not allow a woman to choose a gynecologist or other specialist as a primary care doctor.

Let me also indicate that we heard from a trial attorney Republican supporting the Republican bill. He indicated that if one is misdiagnosed and does not get subsequent needed treatment, we are going to give them $500 a day. Oh, well, we will give you $1,000 a day.

But if that is one's mother, and that misdiagnosis or lack of coverage and treatment, like a bone marrow transplant, or needed chemotherapy, is denied, it might be to the insurance company's advantage to give them the $1,000 a day versus having the right to sue the provider and the health care bean counter.

Mr. Speaker, I ask the Members to support the Dingell-Ganske bill.

Mr. HASTERT. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Speaker, I thank the gentleman for yielding to me.

For any lawyer out there, listen up close. The $500 a day is to ensure prompt payment. The bill ensures treatment. That is the whole point of this bill. If one has a medically urgent situation, one can go to court within minutes of being said no to and get a temporary restraining order ordering the treatment to be given.

Also, the physician and hospital can provide one the treatment and subrogate to one's interest and have an external review of the HMO decision within 6 days. That is when the $500 per day kicks in, to get them to pay.

During the initial waiting period, one is getting the treatment. That is the point. The $500 a day is to ensure payment. Under our bill, one gets treatment from day one, from minute one, because one has avenues to compel them to treat them.

But what about the $500 claim? As a lawyer, one comes in to my office with a $500 claim, no matter how meritorious it is, I am going to say that is very nice, but I have got to make a living and feed my family. I cannot chase $500.

Under the Democratic bill, if we have a small claim, we are not entitled to external review until the significant threshold is passed. Under the Republican bill, if they nickel and dime us for $100, $200, $500, and that is what happens every day. They nickel and dime us out there. We allow people to go to external appeal no matter how small the claim is if they put up from $25 to $100. The filing fee in South Carolina for tort actions is $35.

So they get an external appeals process and a small claim, then the $500 a day kicks in plus attorneys' fees, plus the benefit. I will take the case then, because I can get paid, and there is a $500 clock running for the small claims.

So HMOs will not nickel and dime people. That is where the abuse is at. And my colleagues do nothing about that. This really makes them honest. We get the treatment up front. The penalties are significant. We get people what they need, which is health care, not a jury award 4 years later when they are dead.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in support of the Ganske-Dingell bill and in opposition of the Republican bill.

For the last 2 years, I have been working on legislation to end the practice of drive-through mastectomies. The bill simply ensures that breast cancer patients are allowed 48 hours in the hospital to recover from this physically and emotionally devastating surgery. It does not seem like much to ask, and yet the Republican leadership has refused to schedule hearings on this important legislation.

The Democratic Patients' Bill of Rights ends the practice of drive-through mastectomies. The House Republican leadership bill ignores this problem. What is worse, their legislation will actually strip away existing State protections.

My State of Connecticut has led the fight to end outpatient mastectomies. The Connecticut legislature has already acted to outlaw this outrageous practice. But the Republican bill would repeal those hard-fought patient protections.

The Republican bill will not put medical decisions back in the hands of doctors and patients. It makes current problems worse. It eliminates consumer safeguards. In the case of breast cancer patients, this bill is a slap in the face.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentleman from Nevada (Mr. ENSIGN).

Mr. ENSIGN. Mr. Speaker, I rise in support of the Republican bill today for several reasons. First of all, we have to listen to the other side. These are the people who are now saying that they want the doctors to choose their health care and the type of choices in those health care plans. But these are the same people who 4 years ago or 5 years ago were saying, "Do you know what? We want everybody to be in nationalized health care, and we want bureaucrats to make those decisions." Look beneath the surface.

The Republican plan contains medical malpractice and medical savings accounts, two things that I strongly support. In the final bill, they probably will not be able to be included because the President has said he would veto the bill over those two provisions, unfortunately, because they would help bring costs down. But we could still have good patient protections in this bill if it is enacted even if we have to drop those provisions.

In the State of Nevada, we got together, Republicans and Democrats alike, and enacted patient protections similar to what are in the Patients' Bill of Rights that we have on the floor today. This was authored, by the way, by a Nevada Democrat State legislator. We ought to do the same thing here. Put common sense together; put party politics aside.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Speaker, the 161 million Americans in managed care today deserve to know that their health care comes first.

For 18 years, I have represented Hartford, Connecticut, the insurance capital of the world. So I know how managed care came into being. Health insurance premiums were rising at double-digit rates, 17 percent in 1988, 21 percent the following year, 17 percent again in 1990.

The industry responded to rein in the costs, and it worked. But it so often happens in reform, once a balance is reached, some people do not know when to stop. So now profits became the prize.

Yes, we have stable prices, but they have come at a terrible cost. That is what we are addressing today, the cost of our confidence that we will get the health care that we need, that we deserve, and that we pay for.

Specialist treatment, continuity of care, emergency room treatments are not options. They are not frills, as some managed care companies seem to believe. When patients are denied adequate care by arbitrary decision-makers, they must have recourse.

Mr. Speaker, we must put patients first again in this bill. H.R. 3605 offers real relief at modest cost, and I urge my colleagues to do this today.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Speaker, we all know that, in this fast-emerging change in health care that there have been abuses by HMOs, and we are proud to be here today to deal with those and to address those and make sure that there is the important level of care that every American deserves. We are going to deal with that today.

But we should not let this be an excuse for huge new Federal controls of the delivery of health care. That is what people that believe in a big bureaucracy dealing with health care support. We should not also make this an excuse to give the trial attorneys a huge new cut of our medical premiums. Medical money needs to go to medical care and not to trial attorneys.

I am proud that I am not on the trial attorneys' side and not on their team. It is no wonder that the team that is on their side is supporting this substitute here today.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Michigan (Mr. DINGELL) has 16½ minutes remaining. The gentleman from Illinois (Mr. HASTERT) has 17¾ minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, today I stand on behalf of Kathryn Carberry in my State of Rhode Island. She was released too quickly from the hospital because her insurance company denied her treatment for a breast operation that she had and continued treatment for that.

I also stand on behalf of Deborah Kushner's little boy who was nearly killed because her HMO denied treatment in an emergency room.

The Republican leadership have refused any committee debate with full and free testimony because they are afraid of these stories. Now they come up with a bill that is a product of the HMO industry itself.

We have waited for managed care reform, so why should we settle for the HMO's own plan. This bill leaves out so many crucial provisions, it is almost laughable. Where is the provision against drive-through mastectomies that could have saved Ms. Carberry's life. It is not in there. Where is the prudent layperson for Mrs. Kushner's son? It is not in there. Where is the provision to hold accountable these HMOs? It is not in there.

Every other product in this country can be held liable but managed care organizations. It is time we put a stop to managed care organizations who are practicing medicine without a medical license.

Mr. HASTERT. Mr. Speaker, I yield myself 5 seconds. I would just like to recommend to the gentleman from Rhode Island that he read the right bill.

Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. BALLENGER).

Mr. BALLENGER. Mr. Speaker, I support the Patient Protection Act.

While the bill is not perfect, it is an important step in ensuring access to health care insurance for many people who are currently without it.

As a small business officer of a company which self-insures its 200 employees, the unlimited liability of the Dingell bill is frightening. We insure all of our employees currently, but if big government Dingell bill were to become law, we would be forced to give our employees the money and let them buy their own insurance at, obviously, a higher cost. Many businesses would have to do the same.

The Dingell bill encourages patients to sue after a denial of coverage occurs rather than bringing a quick appeals process that would help the patient get coverage for care in a timely fashion.

Also, the Congressional Budget Office has estimated that the Dingell bill will increase the cost of health care and not make it more affordable. On behalf of the American people who need affordable care, oppose this substitute.

In the United States today, there are more than 42 million Americans without health insurance—many of whom are employed, or have a family member employed, by a small business that cannot afford to offer health care coverage for its employees.

The Patient Protection Act addresses the lack of coverage of these individuals in several ways, including the creation of association health plans which will be governed by uniform standards. These plans would allow small businesses, trade associations, labor unions and professional associations to pool together to obtain the same economies of scale, purchasing clout and administrative efficiencies, that employees of large employers benefit from. Association health plans will have the freedom and flexibility to design more affordable benefit options. This will allow small businesses to offer their workers access to the same benefit choices regardless of where they live. At the same time, these plans must meet strict new solvency standards to protect patients' interests and ensure that their benefits are paid.

I want to mention just very briefly that I appreciate that authors of this bill attempt to deal with the issue of confidentiality of medical information. It's a complicated issue, and one that has to be dealt with carefully. I do have some concerns with what is in the bill, in terms of its potential risk to employers and the lack of clarity, particularly with regard to two areas in my committee's jurisdiction, workers compensation and occupational safety and health. I hope that these are issues that we can address during the conference to ensure that the medical confidentiality provisions work well, and do not inadvertently create problems in these areas.

Accessible, affordable, quality health care is very important to all Americans. I have been contacted by many constituents who are demanding that we act in their interest. So, with their letters and concerns in mind, I support this important piece of legislation and urge my colleagues to do the same.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, for many months, a lot of Members have been working for this debate today. What is frustrating is the debate we have now.

I rise in support of the Dingell-Ganske amendment. But instead of a real debate and a committee process we have, the Republican leadership is forcing this weak fig leaf bill through which will do little to give the American people what they really need for their health insurance.

In fact, it will hurt State laws now in effect. In my home State of Texas, this Republican bill would override State law on mammogram screening, Alzheimer's treatment, and prostate cancer screening, and many more.

On page 187 of their bill, because some of us had a chance to skim their bill that was released last night, line 19 exempts these State protections. So maybe they ought to read their bill before they defend it.

I think it is ironic they talk about this being a trial lawyer bill, Mr. Speaker, and I ask unanimous consent to place in the RECORD a letter from the American Medical Association, who typically does not support the trial lawyers. It was sent to me yesterday, talking about the reasons that the Republican bill is so bad and the Dingell-Ganske amendment is so good.

The letter referred to is as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, July 23, 1998.

Hon. GENE GREEN,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GREEN: The American Medical Association (AMA) recognizes that changes may be offered to H.R. 4250, the House Republican "Patient Protection Act of 1998," when it is brought to the House floor, to begin to address some of the serious concerns with the legislation as introduced. We urge Members of Congress to take the time to fully explore whether any such amendments correct the problems outlined below. As you may know the AMA has carefully reviewed and lent its full support to H.R. 3605, the "Patients' Bill of Rights Act of 1998." We believe that H.R. 3605 provides comprehensive and meaningful patient protections that should be enacted before Congress adjourns this fall.

On behalf of the 300,000 physician members of the AMA and the millions of patients we serve, we strongly urge you to oppose H.R. 4250, as introduced, and to vote in favor of the Ganske-Dingell substitute (text of H.R. 3605). In our view, only H.R. 3605 would provide meaningful patient protections to address existing abuses in managed health care.

There are ten reasons to vote against H.R. 4250 and to vote for H.R. 3605.

Reason #10: "The Devil is in the Details"—Here are the facts.

H.R. 4250 claims to offer "similar" protections to those extended in H.R. 3605, but the legislative language of H.R. 4250, at nearly every turn, clearly favors health plans and insurance companies at the expense of patients. These problems are much more than just "technical drafting matters." In fact, Members of Congress have not had time to fully understand critical differences in the two bills since last Friday's introduction of the House Republican bill. By contrast, H.R. 3605 was drafted and introduced earlier this year, with ample time for public examination; its provisions ensure that patients would receive medically necessary covered services. H.R. 4250 would continue to allow insurance companies and health plans to put their financial bottom-line ahead of patient care.

Reason #9: H.R. 4250 would allow health insurance companies to decide what is medically necessary; H.R. 3605 would restore physician medical decision-making.

By retaining the power to define what is and what is not medically necessary, under H.R. 4250, health plans—not physicians—would continue to decide all patient health care decisions, Linda Peeno, MD, a former HMO medical director, described this retained control "as a health plan's smart bomb capability" in testimony before the House Commerce Committee. Consequently, the external appeals process proposed by H.R. 4250 would be of little or no value if the health plan were always allowed to define what is medically necessary or appropriate. By contrast, H.R. 3605, promotes good medical practice by specifically prohibiting health plans from practicing medicine by substituting their decisions for the patient-specific medical judgments of the treating physician.

Reason #8: The internal and external review process in H.R. 4250 does not require health plans to use physicians with the appropriate medical specialty training to review treatment denials. H.R. 3605 is clear that only "clinical peers"—physicians with similar specialty training will review other physicians' medical decisions.

As an example, only cancer specialists should review cancer treatment. Reviewers must have the right specialty training to decide life and death issues. Only H.R. 3605 would provide this critical patient protection.

Reason #7: H.R. 4250 would require patients to pay for the privilege of an external review of treatment denial; H.R. 3605 imposes no such fees on patients seeking to exercise their rights.

Patients should not have to pay to have a treatment denial reviewed.

Reason #6: H.R. 4250 does not contain several key physician choice provisions that are included in H.R. 3605.

H.R. 4250 does not include a provision found in H.R. 3605 that would allow a patient in the midst of serious illness or pregnancy to continue a relationship with a physician who leaves or is forced to leave a health plan network. The House Republican bill also does not provide patients with critical ongoing access to specialists for chronic conditions (such as asthma, diabetes, etc). H.R. 4250 also does not require plans to disclose to prospective enrollees the adequacy of the physician network to serve a given patient population. H.R. 2605 provides both access to necessary specialty care and disclosure of the plan's physician mix to patients.

Reason #5: H. R. 4250 would provide a huge loophole for plans to circumvent the point of service provisions.

Under the terms of H.R. 4250, employers would not have to offer employees point of service coverage if they could prove that the plan's premiums would increase by 1%. The AMA has always said that patients may choose to bear reasonable additional costs to obtain a point of service option that would ensure greater choice of physicians. This opt-out provision of H.R. 4250 could effectively "gut" the concept of a point of service option for many plan participants.

Reason #4: H.R. 4250 would delay the effective date of patient protections for up to two years after the date of enactment. H.R. 3605 would provide for nearly immediate implementation of most patient protections.

The evidence is overwhelming that patients need and are demanding protections now. The delayed effective date in H.R. 4250 is an opportunity for more legislative mischief by health plans seeking passage of "gutting" amendments before patient protections are actually offered to patients. H.R. 3605 would generally extend all patient protections soon after enactment.

Reason #3: H.R. 4250 does not adequately protect the broadest possible range of "medical communications," nor would it ensure all necessary emergency care. It even cuts back on the Balanced Budget Act's antigag clause/practices and prudent layperson provisions that cover Medicare patients.

On anti-gag practices, H.R. 4250 does not include the words "otherwise restrict" medical communications. The omission of these key words would allow health plans to continue to gag physicians. The "prudent layperson" provision for emergency services in H.R. 4250 does not include "severe pain" in the definition of what a reasonable person would think requires immediate treatment.

Reason #2: H.R. 4250 creates a new federal preemption of state patient protections laws for association health plans and would override many of the patient protections laws already enacted by some 43 states.

Association health plans would be exempt from state patient protection requirements. H.R. 4250 also lacks express language recognizing the authority of state legislators to regulate the health care delivery practices of such entities for state residents.

Reason #1: H.R. 4250 does not hold health plans properly accountable for making medical treatment decisions that result in patient injury or death.

The managed care liability issue is about basic fairness and holding health plans accountable for their conduct. No other industry in America enjoys the special legal protections currently extended to health plans. Members of Congress have spoken out against special legal protections for tobacco companies. Why should health plans continue to be given special liability protections? The AMA continues to lobby for tort reforms, but we have never advocated that patients should be denied adequate compensation for true medical negligence. The damages and penalties in H.R. 4250 fall far short of providing patients with proper compensation for preventable injuries and death.

Again, we urge you to vote for a House floor procedure rule that will allow a vote on H.R. 3605, and to vote for passage of H.R. 3605.

Respectfully,
E. RATCLIFFE ANDERSON, JR., MD.

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PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman will state it.

Mr. DINGELL. Mr. Speaker, who has the right to close debate on this bill?

The SPEAKER pro tempore. As stated on page 567 of the House Rules and Manual, the Chair will assume that the manager of a measure is representing the committee of jurisdiction, even where the measure called up is unreported.

House Resolution 509 specifically named Mr. HASTERT as the manager of this bill; Mr. HASTERT called up the measure; and Mr. HASTERT is a member of the committee having primary jurisdiction over the bill. As such, the gentleman from Illinois has the right to close.

Mr. HASTERT. Mr. Speaker, I yield three minutes to the gentleman from California (Mr. THOMAS), Chairman of the Subcommittee on Health Care of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, one of the things we have to make sure we do not do is revise history. I think it might be useful just to remember where the prudent layperson language in the Republican provision and in the Democrat provision came from. It came from the changes that were made in the Medicare program.

I think when you examine the gag rule provision, it is in the Democratic bill, it is in the Republican bill, it came from the Medicare revisions. If you recall, I said, prior to the election, the Democrats were accusing the Republicans of trying to destroy Medicare. After the election we sat down and put together a prudent package to preserve and protect Medicare. We included a number of provisions that were applicable only to Medicare because it was a bill dealing with Medicare. That was in 1997.

We then began in the Subcommittee on Health a series of hearings about the problems that were out in the current marketplace because of the distortion of the rapid movement to managed care. We began examining the Medicare changes to find what we could include in the package.

You have heard repeatedly that somehow the Republican plan was thrown together in a couple of days. That is pre-election rhetoric. It simply is not the truth.

We include significant patient protections; they include some patient protections.

We include the opportunity to get health care, make it more affordable, make it more accessible. Do not believe me, believe the Congressional Budget Office. They looked at their bill. They evaluated it. They priced it out. They said if the Democrat's bill were law, premiums would cost more. Health care costs would go up.

The Congressional Budget Office looked at our bill, they examined it, they priced it. The nonpartisan fiscal analyst said if the Republican bill became law, health care costs, premiums, would go down.

In addition to that, a provision that they had said is a poison pill, it would kill the bill, the medical malpractice provision that is in the Republican bill, it is not in the Democratic bill, that that measure alone, reforming medical malpractice, would save, directly save the Federal Government and the Medicare and Medicaid program, $1.5 billion a year over a 10 year period; $1.5 billion.

Where is that money going to come from? It is going to come from money that does not go to trial lawyers. Why do they call it a poison pill? Frankly, given the way their bill is structured, it is the trial lawyers who are going to be the main beneficiaries of those premiums going up. CBO says their plan increases premiums. CBO says our plan reduces premiums.

Yes, it is important to address the changes in the health care market today about patient protections. It is also important to make sure that health care is affordable for more Americans. Our plan does it; their's does not.

Mr. DINGELL. Mr. Speaker, I yield one minute to the distinguished gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, let me give you a real live example of the major differences between these two bills. Twenty-five years ago one of my constituents was diagnosed with multiple sclerosis. A battery of medications have been developed in recent years that can often slow the course this disease, but it is expensive. His doctor prescribed the medication, but then the HMO said, "You need another opinion."

The day after he went to that second doctor, he received a letter from the HMO stating no way would they pay for the drug. So my constituent called that second neurologist and he said he had not even spoken to the HMO.

Then the HMO said the reason my constituent was denied access to the drug was that he was at stage seven of MS, and there was no published research about the use of this drug on stage seven MS. So even though two doctors believed that he would benefit from the medication, they were overruled by the HMO.

Ganske-Dingell, the Patients' Bill of Rights Act, would help avoid situations like this. Vote for Ganske-Dingell.

Mr. HASTERT. Mr. Speaker, I yield three minutes to the gentlewoman from Connecticut (Mrs. JOHNSON) a member of the Subcommittee on Health of the Committee on Ways and Means, and distinguished for her work on health care for many, many years.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Illinois for yielding me time, who has done such an outstanding job in leading this task force and developing this bill.

This is indeed an historic day for the U.S. House of Representatives. We are going to pass legislation that forcefully protects patients' needs, puts physicians back in charge of medical decisions, holds insurance companies accountable for quality care and gives millions of uninsured Americans access to affordable health coverage. We have heard the many concerns of the American people and are acting to address them directly and realistically.

Key to the reforms in this bill is the strong internal and external appeals mechanism that guarantees physicians will control medical decisions. Both the internal and external appeals process, in both of those processes, the physician must review the decision. It is physician-controlled and physician-directed, both within the plan and in the independent external review process. This guarantees that physicians, not HMO bureaucrats, will control medical decisions.

Both the internal and external appeal decisions are governed by strict time frames within which decisions must be made. Patients will no longer be kept in limbo while bureaucrats delay. Rather, physicians will make timely decisions about lifesaving medical treatments. This will inject fairness and objectivity into our medical system.

Accountability is key to this legislation. I have worked with the bill's sponsors to insert an important provision that will force public accountability of the insurance companies on this very issue, because we will now report publicly the results of these appeals processes. In other words, if the plan denies a patient care and that decision is overturned on external appeal, people will know it. They can change plans. They will not buy that plan. The market will deliver a far more devastating verdict to that plan than the courts could over many years.

The external and internal appeals, because they are physician-controlled, they are patient-oriented, will bring timely decisions and access to specialty care, in the right way, to the people without raising costs, but improving quality of care.

Coupled together, the provisions in this bill are what we need to restore fairness and quality to our health care system. This is a good bill that not only provides the consumer protections the American people have been looking for, but it expands access to all those that are too often ignored, the uninsured in America, and prevents an increase in costs that would merely drive people out of the system.

I urge support of this legislation.

Mr. DINGELL. Mr. Speaker, I yield one minute to the distinguished gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from Michigan for yielding me this time and congratulate him on his leadership.

Mr. Speaker, we have a clear choice. If you want to provide protection for your constituents for full access to emergency care with symptoms with severe pain; if you want to provide your constituents with a choice of doctors within their HMOs, access to specialists like cancer specialists, women adequate care for mastectomies and the right for reconstructive surgery, that will provide continuing care if the HMO drops a doctor so you can continue to see that doctor until you get to a new doctor; if you want to provide your constituents with clinical trials and experimental treatment which may be the only way to save their life; if you want them to have the latest drugs that your doctor thinks are needed; if you want to make sure that an HMO has enough doctors and locations so your constituents can get to see the doctor; if you want to provide all these protections to your constituents, then you must vote for the Ganske-Dingell substitute, because the Republican bill does not provide those protections to your constituents and does not provide for adequate enforcement.

The choice is clear. I urge my colleagues to support the amendment.

Mr. HASTERT. Mr. Speaker, I would inquire as to the remaining time.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Illinois (Mr. HASTERT) has 10¾ minutes remaining and the gentleman from Michigan (Mr. DINGELL) has 12½ minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, today this House has a very basic decision to make: Are we going to pass effective and enforceable legislation to ensure a patient bill of rights for people in this country? Are we going to agree to the Ganske-Dingell proposal which is going to give people the rights they need to deal with arbitrary and unfair treatment by big insurance companies and HMOs? Or are we going to rush through a Republican leadership bill that is designed to do just one thing, fool people into thinking that something is being done to help them just long enough to get through the next election? Because that is exactly the issue before us.

Are we going to pass legislation that requires HMOs to have an adequate number and variety of health care providers so that people can get the services they need and are paying for? The Ganske-Dingell bill does that. The Republican leadership bill does not.

Are we going to be sure that people can get to a specialist if they need one? Ganske-Dingell says yes. The Republican bill does not.

Are we going to let insurance companies make the decisions about what medical patients need? Ganske-Dingell says decisions belong to the patients and their doctors. The Republican bill does not. That is why the doctors support the Ganske-Dingell legislation.

Today this House has a very basic decision to make: are we going to pass effective and enforceable legislation to ensure a patient bill of rights for people in this country?

Are we going to agree to the Ganske-Dingell proposal which is going to give people the rights they need to deal with arbitrary and unfair treatment by big insurance companies and HMO's?

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Are we going to be sure that people can get to a specialist if they need one? Ganske-Dingell says yes. The Republican bill does not.

Are we going to let insurance companies make the decisions about what medical care patients need? Ganske-Dingell says that decision belongs to the doctor and the patient. The Republican bill does not. It actually increases the power of insurance companies to decide what is medically necessary. Since when did insurance bureaucrats become qualified to be doctors?

Are we going to override the protections the States have enacted to assure people health benefits and give them some consumer protections? Ganske-Dingell builds on and strengthens them. The Republican leadership bill actually takes away the protections that are there.

And are we going to make sure that people have an effective way to enforce the rights we are giving them, or not? Ganske-Dingell says if you can't enforce it, you don't have it. The Republican leadership bill sneaks in language that makes sure the insurance companies decision about what is medically necessary is not going to be challenged.

We owe the American people legislation that works to protect their rights. We need to level the field between big insurance and their desire to profits, and patients who depend on their insurance and HMOs for their health care. We owe people a way to make sure they get the medical services they need from their HMO or any other health plan.

This debate should be about patients, not profits.

The Republican leadership bill is on this floor today only for one reason: after months of opposition and working hand in hand with big insurance to kill any patient bill of rights, they noticed the polls told them the American people were demanding action.

So Mr. GINGRICH and his allies have responded with a cynical bill that is designed to look like it's doing something when it is not.

They've made sure that this bill didn't get looked at by the Committees or the public. They've made sure that we vote on this before anyone has a chance to know what it really does.

They claimed to have privacy protections—but actually they made it OK to sell medical records. When they were caught, they changed it.

They claimed to make sure emergency care would be covered if a prudent person would think it was necessary. But they actually weakened the protections we already have in law for Medicare beneficiaries. They said severe pain wouldn't be a reason to go. They said the HMO could make you foot most of the bill if you didn't go to their facility. In other words, they gutted the protections.

Well they got caught again, so they changed it.

How many things are in this bill that haven't been found yet? It's a cynical way to deal with people's lives and health care.

Does anyone believe that a Republican leadership that has urged insurance companies to spend money to defeat these bills is actually going to write a good one? Does anyone believe that after they've fought it every step of the way, they've suddenly seen the light?

Let's adopt the bill that works. Let's adopt the bill that has been endorsed by the doctors and the nurses and the patients. Let's adopt the Ganske-Dingell bill.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, a question was asked a few seconds about whose side are we on.

The average CEO from an HMO makes $6 million a year. It goes up to $20 million a year. You are asking us whose side we are on?

A woman in my district recently summed up the problems with our current managed care system in a conversation with me. She asked if there was a way she could get into Medicare early because she thought she could receive better care under her Medicare than under her current health insurance program.

All across my State of New Jersey, patients are being denied their basic rights, and I think that is what this argument and debate is all about. New Jerseyans who benefit from some of the strongest patient protections in the country would lose under the original bill.

Benefits and services such as bone marrow transplants, diabetic supplies, mammogram and prostrate screenings and minimum maternity stays would all be in jeopardy for thousands of patients in our State. Let us do the right thing today.

Mr. HASTERT. Mr. Speaker, I yield 4½ minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, as we close down this debate and come toward the end of what, for me, has been a long time coming, I want you to know I am not only saddened by the debate but I am exhilarated by this debate also because it is with great pleasure I see each side of the aisle trying to outdo the other on patient protections, and Lord knows that has been a long time coming.

It is often asked of me why would a conservative Republican like myself, why would you be involved in something like this? Why would you want to deal with national standards? I think that is a reasonable question, and I think it is a fair question.

The answer is pretty clear. What I want to do is take health care out of the ERISA laws that should never have been put in the ERISA laws, that never was about health care but always about your pension plans, but we cannot do that.

□ 1300

But we cannot do that. The other option is to do nothing, and we all know that is wrong, and the other option then is to set some national standards, and that is where I am, and that is where we are in this debate today.

We have today one of the reasons I might mention that I am involved in this is that we have today the best medical care, best trained physicians, best technology in the world, but it does no good to have any of that if we are denied our care. We all can agree, I believe, on that.

I have been in Congress 3½ years. There is a lot I do not know, but I will tell my colleagues one thing I do know something about. I know something about treating patients. I have been doing that all of my adult life. In fact, I have been doing that longer than any of my colleagues have been in Congress, except maybe the gentleman from Michigan (Mr. DINGELL). Generally speaking, that is all I know, And I have in every sense since I have come to this town tried to say that there are serious problems out there that are occurring that we must address. Thank God we are. It is a contest of who is addressing them best, perhaps.

Mr. Speaker, I remember seeing patients back when there really was a doctor-patient relationship, back when there was a free market, before the 1973 HMO Act, before the 1974 ERISA Act. Things are not better today for patients. Maybe our skills are better, maybe our technology is better, but people have been denied the benefits that are in their plan. I thank my colleagues for joining with us, I thank them for joining with us to try to address that, and we are going in the end to address that, I believe, in a very correct manner.

One of the other reasons I have been so interested in this is that in 1994 I did not like Clinton care. Do my colleagues want to know why? Clinton care was a program to deny patients' choice of doctor and of hospital. It was a program that would deny them care and rationed care, and it was a program designed to use untrained and less trained people to take care of patients. Guess what? They won. That is exactly what we have today. The big difference is Mr. Clinton would have used Federal bureaucrats; today we use corporate bureaucrats. I promise my colleagues, a patient that has been denied care and their child has died does not care whether it was a corporate bureaucrat or whether it was a Federal bureaucrat.

Mr. Speaker, we have before us today, I say to my colleagues, two bills, and we are debating actively on who has done the best job. These bills are fighting to see who can protect patients most. I think that is wonderful.

Let me just simply close by saying that there are many things that are similar. There are many very good protections in the Republican bill, and I certainly do not oppose the liability part, except I am scared that it will kill the bill for this Congress and we will have no protections.

Vote against the motion to recommit, vote for this bill, and work with us to make it all better.

Mr. DINGELL. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. Mr. Speaker, I want to thank the gentleman for yielding me this time. I want to say that the American people are clamoring for real reform of HMOs. If we pretend to give them reform, if we offer a phoney solution, they will not be fooled. The Dingell-Ganske substitute will make a true difference to millions of families. Let us go the real way. Let us really help people and not just make it appear we are.

Let us support Dingell-Ganske and make a difference for the millions who are suffering under the yoke of unfair HMOs.

Mr. HASTERT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN), a member of our leadership.

Ms. DUNN. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise today to say to American families who are worried about their health care coverage, we understand your fears and your anxieties, and help is on the way.

H.R. 4250, the Republican plan to make health care more accessible and strengthen patient protection, is a sensible approach to the problems facing Americans, especially working women.

Mr. Speaker, 80 percent of all the health care decisions in this country today are made by women. As a result, women view health care as a consumer issue, not a political issue. That is why the Republican plan addresses the need to expand access to health care for those who cannot afford it, or are uninsured by their employers. H.R. 4250 makes some important reforms that will allow small businesses, an area of our economy increasingly dominated by women, to ban together to purchase health care coverage.

One of the biggest obstacles to health coverage for small business women and their employees is cost. By allowing these small businesses to join together and pool their resources, they will be able to purchase health care at the same discounted rates enjoyed now by big business.

In addition, our Patient Protection Act will give our Nation's women direct access to their OB–GYN. These physicians are extremely important to the lives of every woman and they should not be considered specialists. We should demand that the essential care that they give be accessible without having to jump through bureaucratic hoops.

The Republican plan will also help our Nation's mothers get easier access to pediatricians for the care of their children. Once again, the care given to our Nation's youth is critical to fostering a healthy childhood and it must be available without delay.

Whether it be expanding access to health care for America's small business women or ensuring that mothers and children have the care that they deserve when they need it, the Republican health care plan is right for our Nation's families.

Mr. Speaker, I urge my colleagues to support H.R. 4250 and help give families the peace of mind they so richly deserve.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman for the leadership he has shown on this issue.

Let me tell my colleagues a little bit about this issue. I look at these two bills and I see mirror images. The Hastert bill takes us a step backwards, at least in Oregon, in protecting patients, and the Ganske-Dingell bill moves that agenda forward.

I want to tell my colleagues how backwards this takes us. In Oregon, our State has already adopted model patient protections. Make no mistake: I would like to see us move forward on patient protection. This, in fact, moves Oregonians backwards. It repeals protections Oregonians already have been guaranteed by the State. Cervical cancer, mammogram screenings, minimum maternity care, mastectomy stays, breast reconstruction, alcoholism and drug abuse treatment, well child care.

In the last session of the Oregon legislature they worked in a bipartisan fashion, held extensive hearings, took the data and opinions of everyone concerned, and what they got was a model piece of legislation. They had hearings on it. What a contrast to this.

Please support the Ganske-Dingell bill.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Illinois (Mr. HASTERT) has 9 minutes remaining; the gentleman from Michigan (Mr. DINGELL) has 4 and a quarter minutes remaining.

Mr. HASTERT. Mr. Speaker, I yield 15 seconds to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, let us try to get this straight. The Federal law known as ERISA is what preempts State laws. It is not this bill; it is the ERISA law that preempts State laws.

Mr. DINGELL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding and for his tremendous leadership in providing access to quality health care for all Americans.

I rise in strong opposition to the Republican bill and in strong support of the Ganske-Dingell bill.

Mr. Speaker, I rise in strong support of the Patients' Bill of Rights, the substitute to the fatally flawed Republican HMO protection bill. The manner in which this legislation is being rushed through by the leadership should tell us clearly that they want to avoid real scrutiny, and given their bill, that is understandable.

With the health care system transforming around us, the most important decision we have to make in writing health care reform legislation is: What interests are we going to protect? Do we stand with patients trying to access quality care and needed specialty services? Or do we craft legislation which gives cover to the industry and considers patients second?

The Democratic Patients' Bill of Rights is true patient protection that will make a difference in the lives of every American.

The contrasts between the Republican and Democratic plan are many and stark. I want to focus on three issues which are very important to constituents in my district.

First, OB/GYN services are among the most personal, and important, health care services. This area of health care goes to the heart of the treasured doctor-patient relationship. When that relationship is full of trust and honesty, it can lead to better diagnosis, treatment, and comfort in the medical care setting.

The Democratic plan gives women direct access to OB/GYN services, without limitations that can stand in the way of receiving services, such as limits on the number of visits to the doctor. The Republican plan does not guarantee this coverage for all health insurance consumers.

Second, I am often approached by people in my district who depend on access to clinical trials. People with AIDS, breast cancer, and other health problems know that the cure for their diseases has not been found yet.

Their hope is their ability to participate with others in the search for medical answers. The Democratic plan promotes access to clinical trials that may provide people access to new, life-saving therapies. The Republican plan fails to do this.

Third, the Dingell-Ganske substitute, but not the Republican bill, permits individuals to sue the health plans under State law for personal injury or wrongful death.

We need health care legislation that puts patients, not HMOs, first. And we need enforcement mechanisms that make those protections real. The Republican plan falls far short on both counts. It is cover for the health industry and for Republicans, not tangible protection for consumers.

I urge my colleagues to support real protection for patients by voting for the Democratic substitute.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Rhode Island (Mr. WEYGAND).

Mr. WEYGAND. Mr. Speaker, I thank the gentleman for yielding me this time.

I was just very interested, being a former small business owner, when the gentleman just came up a little while ago and mentioned that this bill does not preclude many of the State requirements that the gentlewoman from Oregon (Ms. HOOLEY) just mentioned.

Let me tell my colleagues what this bill does. It shifts small businesses who, like myself, belong to an association health care plan. It took all of the care of my employees and puts it now into ERISA.

This is what it is going to do for those people in the State of Rhode Island. It is going to remove the requirement that there be a well child care program, mammography screening, minimum maternity stays, minimum mastectomy stays, breast cancer reconstruction, cervical cancer screening, diabetic supplies, alcoholism treatment, drug abuse treatment, home health care, off-label drug use, newborn sickle cell testing and blood lead screening, removes patient rights from small business owners and employees of small businesses. This bill does that. The Ganske-Dingell bill does not. Please support the Ganske-Dingell bill.

Mr. HASTERT. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time. I would like to engage in a colloquy with the gentleman from California (Mr. THOMAS), the chairman of the Subcommittee on Health from the Committee on Commerce.

It is my understanding that the gentleman, along with most of our Republican colleagues and leaders, would agree with me that the biggest problem with health care today is that the Tax Code encourages employers, and not individuals, to be the purchasers of health care. Indeed, employers have a tax incentive to offer health care benefits for their employees, and individuals do not have that same benefit, so they are discouraged from purchasing their own health care.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. SHADEGG. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I would inform the gentleman that the Subcommittee on Health is a subcommittee of the Committee on Ways and Means.

In looking at the Tax Code, we are very concerned about what has happened. Clearly, there are some advantages to managed care and HMOs in dealing with treating the patient, but I think it is fairly obvious that most employers turned to a controlled cost structure, as well. The employed had no ability to control the rising costs, 18½ percent a year in 1988. What they did was determine, I will take a health care that gives me a fixed dollar amount per employee.

Mr. SHADEGG. Mr. Speaker, I know the gentleman would agree with me that this legislation today, the Republican legislation before us today, takes important steps toward solving these problems, but that there is also agreement on the part of the gentleman and on the part of our Republican leadership that the best long-term solution would be to adopt reforms which make it possible, and indeed, encourage, individuals, whether they are employees of a company or the self-employed, or for that matter unemployed, to purchase their own health insurance without having to go through their employer and get the same tax advantage as their employer currently gets under the law.

Mr. THOMAS. Mr. Speaker, if the gentleman will continue to yield, I could not agree with the gentleman more. The current system is fatally flawed. What we are doing is simply working on the edges. The only way to fundamentally deal with the problems in our health insurance area is to empower consumers, empower them with the wherewithal to purchase the insurance, and just as importantly, empower them with the knowledge to make choices. They have neither of those in today's current system. It needs fundamental reform beginning with the Tax Code, and with the collection of data, to make those changes possible.

Mr. SHADEGG. Mr. Speaker, I understand there is a commitment on the part of the Members to move that as soon as possible.

Mr. THOMAS. Mr. Speaker, I would tell the gentleman that I have no interest in playing on the margin; I want to go to the heart of the problem and change it.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman very much.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HASTERT) has 2 minutes remaining and has the right to close; the gentleman from Michigan (Mr. DINGELL) has 8 minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I rise in strong support of the Ganske-Dingell bill and in opposition to the Republican bill.

The Democratic Patients' Bill of Rights takes health care decisions away from insurance company bureaucrats and gives them back to doctors and patients.

The Republican bill is a sham—it will actually turn the clock back on health care consumers and is another empty political promise from this GOP Congress.

The Republican bill covers too few people, provides too few patient protections and contains unnecessary and irrelevant provisions.

The Democratic bill:

First, returns health care decisions to health care professionals and their patients. The Republican bill does not.

Second, the Democratic plan guarantees patients the right to see a specialist when they need to do so. The Republican bill does not.

Third, the Democratic bill guarantees an end to financial incentives to limit medical care. The Republican bill does not.

Fourth, the Democratic bill guarantees tough enforcement that will hold insurance companies responsible for their actions. The Republican bill does not.

Fifth, the Democratic bill guarantees emergency care. The Republic bill does not.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. POSHARD).

Mr. POSHARD. Mr. Speaker, I rise in strong support of the Ganske-Dingell bill.

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Mr. DINGELL. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of the Ganske-Dingell bill that does not hurt Texas.

Mr. Speaker, thank you for the opportunity to speak on this important issue today. Mr. Speaker, I am deeply concerned that after spending the last full year blocking any type of adequate health care reform the legislation that is on the floor today is an unacceptable proposal to Americans' very real health care reform concerns. Once again, Mr. Speaker, the House Republican leadership has allowed the insurance industry and its powerful lobbyists to make the rules!

H.R. 4250 may give the appearance of reform, but there is no substance to this bill. There is no provision for specialty care, no provision for needed drugs and clinical trials, and no effective mechanism to hold plans responsible when plan abuse inevitably kills or injures someone.

Instead of protecting patients who desperately need help, the bill here on the floor protects the insurance industry! H.R. 4250 has serious and apparent flaws and I urge my colleagues to oppose this bill.

This bill does not provide enforceable guarantees to protect consumers from bureaucratic abuses. It does not allow patients to seek recourse for denial of care which may result in injury or death. In addition, the Republican bill which would be more aptly named as the Patient Propaganda Act, Insurance Industry Protection Act or the Profit Protection Act does not guarantee patients access to needed care outside of their managed care plan, does not guarantee the right of patients to see a specialist and does not guarantee access to all necessary prescription drugs. Unfortunately, this bill does nothing to prohibit or prevent HMOs from offering bonuses to doctors for denying necessary care. By contrast the Patients' Bill of Rights Act allows patients access to specialists, and protects the doctor-patient relationship.

The Democratic Patients' Bill of Rights, in contrast is supported by over 300 health related organizations including the Children's Defense Fund, the National Partnership for Women and Families, the National Association of Children's Hospitals, the American Medical Association, and the National Breast Cancer Association. In addition, the American Public Health Association who represents more than 50,000 public health professionals, believes that H.R. 4250 provides inadequate protection of personal health data and may lead to undesirable uses of private information.

H.R. 4250 will allow health insurance companies, not doctors to decide what is medically necessary. In testimony before the House Commerce Committee, Dr. Linda Peeno, a former HMO medical director described the control that health insurance companies would have over our health as "a health plan's smart bomb capability." External appeals will be of no value if the health plan itself is always allowed to decide and define what is medically necessary or appropriate. By contrast, our democratic bill specifically prohibits health plans from practicing medicine by substituting their decisions for the doctors.

And what about the gag rule? H.R. 4250 does not adequately protect the broadest possible range of "medical communications" and it would not ensure necessary emergency care! Because H.R. 4250 does not include the words "otherwise restrict" medical communications, because of this important omission, health plans can continue to silence physicians. Imagine, even with severe pain, there is no requirement for an insurance plan to allow treatment! In fact, this bill still does not deal with Americans' concerns with gag clauses, yet the bipartisan Ganske-Dingell bill extends the prohibition on gag clauses to subcontracts—in other words, assuring that health care professionals in all types of managed care will be protected and that patients will be protected.

Because we are about women's health concerns, the Dingell-Ganske bill prohibits drive-through mastectomies and requires coverage for reconstructive surgery after a mastectomy. H.R. 4250 does not even include anything close to this type of protection for women. As an advocate of women's rights, I am concerned that the Republican plan does not allow women to choose their obstetrician or gynecologist as a primary care physician, and it also does not allow a woman undergoing an active cause of treatment in her last trimester of pregnancy to continue with her doctor if her employer changes plans.

As a concerned parent and Chair of the Congressional Children's Caucus, I wonder about the children that would not receive adequate care under the Republican bill, in that it does not guarantee access to pediatric specialists.

I urge my colleagues to oppose the Republican plan. We must provide our country's citizens with adequate health care. Our President strongly endorses this plan, and as an article in the July 3, New York Times states, doctors and advocates for consumer groups prefer the Patients' Bill of Rights over the Republican plan, and the New York Times itself said that the Democratic bill seems to be far more prescriptive.

One of the letters I received recently is from a Texas woman, a senior citizen who has worked a lifetime in the medical profession. She told me that she had worked during an era when a doctor saved a gravely ill child—sutured bleeding patients—sat at the bedside of someone's dying loved one knowing there was nothing further he could do except to be there—and then see those same physicians feeling badly in accepting fresh garden vegetables or a dozen eggs with a pound of butter as a payment for his services.

She spoke of a time when doctors were able to act for the benefits of their patients alone, when insurance companies could not deny sick and dying patients their only hope for treatment and cure, based only on greed and profit. The Democratic Patients' Bill of Rights is the only plan guaranteeing that doctors and patients make medical decisions, not insurance bureaucrats!

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Pennsylvania (Mr. DOYLE).

Mr. DOYLE. Mr. Speaker, I urge my colleagues to vote for Dingell-Ganske.

Mr. Speaker, I rise to urge my colleagues to vote for real patient protection legislation, in the form of the Dingell-Ganske Patients' Bill of Rights.

The Dingell-Ganske bill is a bipartisan effort to put healthcare decisions back into the hands of doctors and nurses, not insurance companies. It would guarantee emergency care and access to specialists, and retain for doctors the right to speak freely with patients about their medical treatment.

Contrary to the claims of the insurance industry, these important patient protections can be guaranteed without radically increasing costs. We need to continue to get the news out about the recent Congressional Budget Office study, showing that the average policyholder will pay only an additional two dollars a month for these protections.

The Republican leadership bill would leave treatment decisions in the hands of the insurance companies and would not guarantee the right to see a specialist. This is not real reform at all.

I'm sorry to say that the Republican leadership bill still bears the faint aroma of something drafted by industry lobbyists behind closed doors. Even after last-minute changes last night, the Republican bill would still work to actually tear down existing patient protections. In my home state of Pennsylvania, and around the country, existing state patient protection laws would be preempted by this Republican leadership bill.

For example, H.R. 4250, the Republican leadership bill, would override Pennsylvania's medical records confidentiality law. There would be nothing to stop your health plan from sharing your medical information with other organizations, such as your employer. Should an employer have unfettered access, or any access at all, to every employee's health information? I don't think so. On this and a number of other issues, H.R. 4250 is more than just a sop to the issue of HMO reform, it's a bad bill, and we must vote to reject it.

Today, we have a choice between real reform, or a watered-down, half-hearted motion designed simply to provide political cover to the Republican party. I urge my colleagues on both sides of the aisle to support the bipartisan Patients' Bill of Rights. Thank you, and I yield the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time.

Mr. Speaker, when Republicans seek to avoid reform, they raise the specter of Big Government. Yet it is the Republican majority's lack of governmental intervention that has let the abuses take place over the years of their majority in the HMOs across the country. It is only when Democrats clamored for patient protection that they came forth with the fig leaf they produced today.

One mother in my district came to me because her child had been denied necessary rehabilitative treatment after surgery, and now that child will live with the damaging effects of this denial for the rest of his life. The Republicans' bill gives that family no relief, no enforcement mechanism. That is not family values.

Today HMOs have all of the protection and none of the responsibility. We want to give patients protection. We want to make sure HMOs are responsible for their actions. We want to preserve what is trusted by Americans, their relationship with their doctor. We want to give them those choices. We want to make sure that a doctor is making those decisions.

Mr. Speaker, that is why I join the gentleman from Iowa (Mr. GANSKE), a Republican, in supporting the Ganske-Dingell bill.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Speaker, I rise in support of the Ganske-Dingell substitute.

Mr. Speaker, I rise this morning as a cosponsor of the bipartisan Patients' Bill of Rights and a believer in the notion that doctors should make decisions about their patients' medical treatments, not insurance companies. Today's managed care plans are run by insurance industry bureaucrats whose first concern is the bottom line for insurance companies, not quality care for patients. These insurance industry bureaucrats seek to maximize profits for insurance companies by restricting treatment to patients and preventing doctors from providing proper care.

In addressing this situation, the bipartisan bill, which is the basis of the Dingell/Ganske substitute, offers its protections to patients, who need to know that their insurance companies are not interfering with their access to quality health care. This bill is dramatically different than the Republican bill which seeks only to protect the insurance industry.

Currently, 125 million Americans are enrolled through their employers in self-insured health plans, in which the insurance companies cannot be held liable for their decisions to restrict medical treatment, even if those decisions directly result in the death or maiming of the patient. The Congress should eliminate this legal protection for insurance companies, so that insurance companies can be held legally accountable for their decisions, just like everyone else. The bipartisan bill would offer Americans the legal protections of their individual states in holding insurance companies accountable for their decisions. The Republican bill on the other hand, would go the other way by restricting patients' legal rights and increasing the number of patients who are not protected by state malpractice laws from insurance companies.

Americans need to know that they have access to adequate internal and external appeals processes if their insurance company denies them coverage for a treatment. While the bipartisan bill provides for an external review that is truly independent and bases the definition of medical necessity on "generally accepted principles of professional medical practice," the Republican bill would allow the insurance company to determine what is considered medically necessary and who performs the external review.

Americans need to know that they have access to emergency care when it is necessary, and we should encourage people to go to the emergency room when they experience severe chest pain—a sign of a possible heart attack. But the Republican bill fails to guarantee payment for care in such cases, leaving the health of Americans at risk. That's why the President. of the American College of Emergency Physicians has said that the Republican bill "will not bring peace of mind to anyone seeking emergency care when they need it."

Americans need to know that their insurance companies are not restricting the range of treatments that their doctors are allowed to discuss, and are not offering financial incentives to doctors to limit patient care. While the bipartisan bill provides strong protections to patients in both of these circumstances, the Republican anti-gag provision is riddled with loopholes, and their bill doesn't even address the problem of financial incentives designed to limit care.

Americans need to know that they will have access to a specialist when it is needed and not become a victim of managed care bureaucrats. The bipartisan bill provides this protection to patients; the Republican bill does not.

With a set of consumer protections so weak as to be almost meaningless, the Republican bill is a cynical attempt to include erroneous provisions that have absolutely nothing to do with the problems of managed care such as provisions that would allow companies unrestricted access to your personal, confidential medical information and that would allow wealthy Americans to set up tax shelters through medical savings accounts.

Mr. Speaker, the American people deserve strong protections from the insurance bureaucrats who seek to do nothing more than maximize profits by restricting care. Please join me in voting for real protections for patients and against further protections for insurance companies, and vote for the bipartisan substitute and against the Republican bill.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, we need a real Patients' Bill of Rights. I know because I have heard from the people in my district.

A mother told me her daughter had a mastectomy. The mother begged, pleaded to keep her daughter in the hospital for just one night. She needed to be there, but the insurance company sent her home.

I have heard from a doctor, a doctor who had to fight the insurance company to get coverage to treat his cancer.

Mr. Speaker, too many patients are paying more and are getting less. Under the present system, too many patients are getting a raw deal. They need a fair deal. They need a good deal. They need a better deal.

The differences are clear. Democrats are concerned about protecting patients. Republicans are concerned with protecting big business and insurance companies. The system is broken. It needs help. It needs a doctor. The Republicans are only offering a Band-Aid.

We need a bill to let doctors make medical decisions. The Democratic bill makes sense. If we can choose who fixes our car when it is broken, then we should be able to choose who would care for us when we are sick.

If insurance companies want to tell us that we cannot see a doctor, that we cannot get treatment, then they must be held accountable. The doctors and nurses on Main Street should make the decisions about our health care, not the insurance company and wheelers and dealers on Wall Street.

The Democratic bill protects patients. The Republican bill does not. Mr. Speaker, we need a real patient's protection act and we need it now. Not tomorrow, not next week, not next year, but now.

Mr. Speaker, we should vote for a real patient protection bill and we need it now. Vote for the Ganske-Dingell bill.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Speaker, after ignoring the public outcry for months, the Republicans have rushed to the floor with a midnight deal that does nothing to end HMO abuses. We might as well call the Republican bill the Insurance Company Protection Act, because that is all it does. It does not protect patients.

These are the same insurance companies that have spent millions on TV ads to kill HMO reform and the same insurance companies that cut corners with people's lives. When insurance companies play doctor, and that is what they are doing, people get hurt, people die.

Under the Republican bill, many HMOs can still limit what doctors can tell their patients. Under the Republican bill, HMOs can still restrict patients' access to emergency rooms. If patients have a heart attack and the ambulance speeds to a hospital close by but outside their network, they can get stuck with a $4,000, $5,000, $6,000 emergency room bill. It is enough to give them another heart attack.

Under the Republican bill, patients have little access to specialists or freedom to choose their own doctor. Under the Republican bill, HMOs can release private medical records without the patient's permission.

Under the Republican bill, it even gives HMOs the authority to define "medical necessity." And if an HMO denies necessary medical care, the HMO cannot be sued for damages. That is not reform. That is reprehensible. But that is what the Republicans propose. They are telling our constituents: Take two aspirins and call us after the election.

The President has made it very clear, he will veto this sham reform. I urge my colleagues to stand firm today. Support the Dingell-Ganske bill for real HMO reform and patient protections.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in favor of the Dingell-Ganske bill.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. GEPHARDT) the minority leader, for purposes of concluding debate.

Mr. GEPHARDT. Mr. Speaker, the bill that the Republican leadership has brought to the floor is what happens when they bring a bill that they really do not believe in, when they bring a bill that is really designed to be political cover to address an area they really genuinely do not believe needs to be treated with legislation.

It is a fake. It is a fig leaf. It is a sham. It is a subterfuge. It is a charade. It is cosmetic. It is ineffective. And it will not work to solve the real problems and the real concerns that the American people have in this area.

If Republicans really believed in their bill and thought that it had merit, they would have had extensive hearings in the committee and allowed doctors and nurses, senior citizens and patients, consumers, health care company officials and others to come and testify and tell us in the Congress their feelings, pro and con, about the bill.

If they really believed in their bill and what it did, they would not have been writing it at midnight last night, changing it, trying to shove things into it to try to attract the last few votes on their side to be able to pass the bill. They would have proudly stood for their bill as an effective answer.

Mr. Speaker, I just ask Members today to ask themselves one simple question: Where are the doctors and nurses on this piece of legislation? Which piece of legislation do they support, the people who, on a daily basis, give their lives and their careers to help get people well?

Mr. Speaker, they are for the Patients' Bill of Rights, the patient protection act written by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Iowa (Mr. GANSKE). They are against this sham, this political fig leaf that has been put up on the other side.

Why is that the case? Let me give just three quick, simple reasons. First, the Republican bill does not guarantee that if our doctor says we need to see a specialist, that we will actually be able to see that specialist. Just imagine if a patient has cancer and their doctor says they need to see an oncologist. If the Republican bill passes, there will be no guarantee in the law that patient will be able to see that oncologist.

Secondly, the idea of what is medically necessary will still, under the Republican bill, be up to bureaucrats in insurance companies who have their eyes on the bottom line, the profit line, and not on what is good medical care.

Finally, no enforcement. No enforcement. This is a bill with rhetoric but without a remedy. What we need in this area is to be able to know that if the medical necessity is not observed, if the guarantee of the plan is not observed, that patients have some place to go to get a remedy.

What physicians say to me is, "I am accountable for my health care decisions every day, every minute of every day. But now we have some bureaucrat at the end of an 800-number who can make medical decisions that are just as important as my decisions, and they are not in any way accountable to anybody for the decisions they make." That is the heart of this bill, and that is why the Democratic bill is the only good bill before us today.

Let me end with this. Members are voting today on the rights and the ability of flesh and blood human beings in their district. Make no mistake about this, they care about this bill. This really counts in their lives. When Americans need the Bill of Rights, they need it.

Mr. Speaker, I sat with my son when he was sick in the hospital and talked to other parents of kids who had cancer and they would say, "My policy did not cover, my policy did not work on the treatment, the experimental treatment that my son or daughter needed." Let me tell my colleagues that when one is sitting in that hospital room and they have a loved one in front of them who is dying because they cannot get the treatment that they have paid for, they will want this Patients' Bill of Rights and they will want it now.

Mr. Speaker, I urge my colleagues to vote against this fig leaf. Vote for a good bill.

Mr. HASTERT. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I rise in support of the Republican alternative and against the Democrat, more regulatory, bureaucratic, and more litigious approach.

Mr. HASTERT. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I rise in favor of the Republican alternative.

Mr. HASTERT. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia (Mr. GINGRICH), Speaker of the House.

Mr. GINGRICH. Mr. Speaker, let me thank my colleagues and let me thank the gentleman from Illinois (Mr. HASTERT) and everyone who served on the Health Task Force for developing the Patients' Protection Act.

Let me remind everyone that this is not a new process for us. We founded the Health Reform Task Force in 1991. We developed a series of reforms which included Medical Savings Accounts, which included preventive care for diabetes, for prostate cancer, for colorectal cancer, for breast cancer.

We have moved a series of initiatives on child health. We moved a series of initiatives to expand access to health insurance for small business. And now we are back working in the same general direction which is really to do three things: To make sure that every citizen has access to health care; to make sure that it is the most modern and best health care in the world; and to lower its costs.

Let us be clear about the choices here. The Dingell bill is a well-meaning bill, if one is a trial lawyer.

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The Dingell bill is terrific for trial lawyers. The Dingell bill is about trial lawyer enrichment. We are better on every count. We save money. The Dingell bill costs money. So we make it easier to buy health insurance and expand the coverage. We have provisions so that more people can get covered by health insurance.

The Dingell bill will actually take a million and a half people out of health insurance and put them on the taxpayer. So they have less health insurance for fewer people at greater cost.

Our bill says if someone gets sick and they have a reasonable layman's standard, they go to the emergency room and they are automatically covered. It then says if that individual is not in an emergency situation, but that individual does not agree, they can get, within 72 hours, an internal review. And if they do not agree with that, they can get, within 72 hours, an external review. They do not have to go to a trial lawyer.

And the review, by the way, is done by appropriate medical professionals of comparable specialties. So medical people make medical choices in our bill. Trial lawyers make litigation choices in the Dingell bill.

This is not a complicated issue. This is an issue of the trial lawyers seeking to enrich themselves at the expense of everybody else in this country by having more lawsuits over a longer period of time and a more jammed courtroom. We have a proposal which says more patients have more rights by appealing against the HMO, appealing against the insurance company, and appealing directly to an independent council of medical professionals.

Now, let us say the medical professionals decide, yes, the patient deserves the coverage, and the HMO says we are not going to do it. At that point, under our plan, that individual goes to court with a presumption that the HMO is guilty. The judge is now looking at an independent medical panel having said, yes, the patient should get this treatment. So we give the American people better treatment, faster, with medical specialties, at lower cost.

But we do one thing that our good friends cannot stand: We do not make the trial lawyers richer. We also have malpractice reform, which is what every doctor has told us for 20 years they want.

So I would say the vote on Dingell is very simple: If we want better patient protection, vote "no". If we want lower cost, vote "no". If we want more people covered by health insurance, vote "no". If we want medical doctors making medical decisions, vote "no". But if Members really think they owe it to the trial lawyers to give them a new chance to get richer, vote "yes".

Mr. SERRANO. Mr. Speaker, I rise in strong support of H.R. 3605, the Dingell-Ganske Patients' Bill of Rights, and in equally strong opposition to H.R. 4250, the pale shadow of reform offered by the Republican leadership.

The American people have called on us to rein in the managed care companies that are putting profits ahead of people, denying and delaying care and causing real harm. We have heard from patients with terrible stories of injury and death caused by the decisions of arrogant, unfeeling insurance company bureaucrats intent on their corporate bottom line. We have heard from doctors who have been forced to beg for permission to treat their patients according to their professional judgment. We have heard from nurses who daily see and deal with the results of denial and delay. We have even heard from former HMO employees about what they had to do—until they couldn't stomach it any more—to keep their jobs.

While it is gratifying that Republican leaders have finally listened to the American people and scheduled floor debate on managed care reform, this is a holly exercise. Their useless bill, which is likely to pass, will be vetoed. We know that already. So this is not serious attempt to accomplish meaningful reform, it is an attempt to give Republican candidates cover on an issue that is critical to millions of Americans, to permit Republicans to claim they have done something about health care.

In stark contrast, the Dingell-Ganske bill would provide meaningful, enforceable patient protections and quality health care. It would let doctors and patients make medical decisions and end financial incentives to limit medical care. It would guarantee access to specialists outside the HMO, to emergency services, to the full range of prescription drugs, and to clinical trials. It would end excessive use of cost-cutting devices such as outpatient mastectomies and drive-by deliveries. Most important, it would be enforceable.

The Interreligious Health Care Working Group supports legislation that includes "patient access to information; choice of providers and plans; access to emergency services; participation in treatment decisions; respect and nondiscrimination; confidentiality of health information; and complaint and appeal procedures" as well as credible means of enforcing those rights. H.R. 3605 meets this standard. H.R. 4250 does not.

The Consumer Federation of America supports legislation that includes "holding managed care companies accountable; requiring an external grievance and appeals system; comprehensive information disclosure; quality assurance programs; and protection of the doctor-patient relationship in a manner that allows advocacy on behalf of patients and prohibits improper physician incentive plans." H.R. 3605 meets this standard. H.R. 4205 does not.

Similarly, the American Federation of Teachers, Families USA, the Lutheran Office for Governmental Affairs, Consumers Union, and others that have outlined principles for addressing problems in the managed care industry find H.R. 4250 sadly lacking in both protections and enforcement. They all support H.R. 3605.

The American Medical Association—the AMA, Mr. Speaker—lists 10 reasons to vote against the Republican leadership's bill and for the Patients' Bill of Rights. I won't list them all, but I should mention a couple of key issues. AMA Reason No. 9 is "H.R. 4250 would allow health insurance companies to decide what is medically necessary * * *" AMA Reasion No. 7 is "H.R. 4250 would require patients to pay for the privilege of an external review of treatment denial; H.R. 3605 imposes on such fees * * *" AMA Reason No. 4 is "H.R. 4250 would delay the effective date of patient protection for up to 2 years * * * H.R. 3605 would peovide for nearly immediate implementation * * *". Finally, and perhaps most importantly, AMA Reason No. 1 is "H.R. 4250 does not hold health plans properly accountable for making medical treatment decisions that result in patient injury or death."

Of course, Mr. Speaker, the Republican leadership doesn't stop at offending the American people by offering only a hollow promise of reform, it throws in posion pills that have been considered and rejected before. Exempting Association Health Plans (AHAs) and Multiple Employer Welfare Arrangements (MEWAs) from state law would deny millions of Americans coverage under many of the patient protection laws already enacted by 43 states. That includes my own state of New York, which has been a pioneer in establishing patient protections. Expanding the availability of medical savings accounts (MSAs) would give tax breaks to the healthy and wealthy while increasing costs of health insurance for the sicker and poorer.

It is obvious that this is a political exercise. The Republican leadership's bill was introduced only last week and has not been examined in a single hearing or subjected to amendment by any committee. It hasn't been scored by the Congressional Budget Office. As the AMA writes, "In fact, Members of Congress have not had time to fully understand critical differences in the two bills since last Friday's introduction of the House Republican bill". Not surprisingly, then, the bill has been a work in progress, subjected to numerous changes—changes that sound like improvements but are largely cosmetic—in attempts to attract enough votes to pass the bill without actually accomplishing anything that would annoy the Republicans' friends in the insurance industry.

I urge my colleagues to support meaningful, enforceable reform, not posturing. Support the Dingell-Ganske Patients' Bill of Rights and reject the Republican leadership's Managed Care Reform Lite.

Mr. TURNER. Mr. Speaker, Democrats initiated the effort in this Congress to protect patients and their doctors from interference by insurance company bureaucrats. The Dingell-Ganske bill provides these protections and eliminates the complete exemption from accountability that many HMOs enjoy today under the Federal ERISA law.

The Republican bill, on the other hand, is an effort to preserve the insurance companies' shield of protection from accountability for their mistakes. It creates a Federal bureaucracy in the Department of Labor and a complex appeals process diagrammed here on this chart to my right. Look at this. And endless maze of bureaucratic nightmare is created by the Republican bill.

Consider the example of Phyllis Cannon. In September of 1991, Ms. Cannon was diagnosed with leukemia. On August 10 of 1992, her doctor sought approval from her HMO for a bone marrow treatment. 43 days later, her doctor pleaded for authorization to treat her life-threatening condition and it was again denied. By the time the HMO finally agreed to authorize treatment, it was too late and Phyllis Cannon died.

Could she have gone through this maze under the Republican bill and done any better? I think not. And if she had made it through the maze under the Republican bill, after her death she would have been entitled to only $500 per day. Under the Republican bill, the total recovery for her family would have amounted to only $20,000.

Is this what we call protecting patients? Vote against this Republican bill. Vote for the Ganske-Dingell bill and prevent this kind of endless bureaucratic interference with medical decisions from happening to the patients of this country.

Mr. THOMPSON. Mr. Speaker, I rise today as the Representative from Mississippi's 2d Congressional District in support of H.R. 3605, the bipartisan Dingell-Ganske Patients' Bill of Rights. This bill guarantees that decisions will remain in the hands of doctors and nurses, not insurance companies; that people will have access to specialists; that there will be protection for women after mastectomy (minimum hospital stay); and the ability to hold plans accountable when abusive practices kills or injure patients.

I oppose the Republican HMO health care bill. Mr. Speaker, I am in support and committed to passing major managed care legislation. However, I do not support the Republican bill that covers too few people, provides limited patient protections, and contains unnecessary and irrelevant provisions. It undermines existing state consumer protections, leaves patients and small businesses with fewer protections than they already have. The Republican bill is being pushed through the House with almost no debate and virtually no amendments allowed in an attempt to stop the only real bipartisan managed care reform bill—the Dingell-Ganske Patients' Bill of Rights—from passing. Mr. Speaker, the Republicans are playing politics with the lives of Americans. Let's stop this ridiculous rhetoric and pass some meaningful legislation.

As I close, I would like to once again express my support for H.R. 3605 and thank Representative DINGELL and Representative GANSKE for their work in bringing this legislation forth to protect the interests of patients. I urge my colleagues to support this bill.

Mr. COYNE. Mr. Speaker, I rise in support of H.R. 3605, the bipartisan Patients' Bill of Rights. Today we have a tremendous opportunity to protect our constituents' right to receive quality health care.

More than half of all Americans are not offered a choice of health care providers by their employer. Under current law, many consumers have little recourse if their HMOs or insurance companies do not protect their most basic health care rights. I believe Congress must act to guarantee these rights.

I am proud to be an original cosponsor of the bipartisan Ganske-Dingell bill (H.R. 3605). It would ban "gag rules" and contracts in which doctors are paid less if they refer to needed specialists or suggest expensive treatment, guarantee access to specialty and emergency care, protected medical confidentiality, and give patients access to a free, timely appeals process if their HMOs deny them benefits. If patients are harmed by decisions made by their HMOs, they will be allowed to take the HMO to court and recover damages. H.R. 3605 also provides for speedy implementation. Americans need relief from badly managed care now, not 2 years from now.

On the other hand, H.R. 4250, the Republican alternative, is a step in the wrong direction. It actually weakens the protections patients have under current law. The association health plan proposal would increase the number of patients who are not allowed to sue their health plans if they are harmed or killed by decisions made by the plan. The bill also undermines current laws which protect medical confidentiality, allowing almost any insurance company official access to a wide range of personal medical records. By expanding medical savings accounts, they encourage wealthy, healthy people to "opt out" of the current health insurance coverage insurance system, increasing the price of health insurance for everyone else. Finally, the Republican bill would maintain the status quo in which insurance companies, not doctors, decide what is "medically necessary," and health plans can continue giving doctors financial incentives to deny necessary care.

I urge my colleagues to join me in supporting H.R. 3605, the Patients' Bill of Rights. We owe it to our constituents to use this opportunity to enact real reform.

Mr. BENTSEN. Mr. Speaker, I rise today to express my strong support for H.R. 3605, the bipartisan Patients' Bill of Rights, that is sponsored by Representatives DINGELL and GANSKE. Today, we will consider two different approaches to reform managed health care plans. I am a strong supporter and co-sponsor of H.R. 3605 because I believe that this bill provides essential consumer protections to all Americans. I urge my colleagues to reject the Republican leadership sponsored legislation, H.R. 4250, and vote for the real Patients' Bill of Rights.

Today, there are more than 160 million Americans enrolled in managed care plans, such as health maintenance organizations (HMOs). Of these enrollees, approximately 125 million Americans are enrolled in managed care health plans that are governed by federal law, the Employee Retirement and Insurance Security Act (ERISA). Under ERISA, these Americans cannot seek legal remedy if their health plans denies or delays access to care. In a time when many Americans believe that their health plans are arbitrarily denying care and services, the Dingell-Ganske substitute bill would ensure that health plans must provide an appeals process to their decisions. Under the Dingell-Ganske bill, patients would be guaranteed the right to seek both an internal and external appeals process with a deadline for decisions to be made. If both of these appeals are denied, consumers would have the right to hold their plans accountable for their decisions through a legal case in our court system. In my state of Texas, where a new law has recently been approved to provide this legal right for consumers under state-based health plans. This legislation would simply ensure that ERISA-based health plans are held accountable by consumers.

The Dingell-Ganske bill provides critical reforms that patients need. It guarantees that decisions will remain in the hands of doctors and nurses, not insurance companies. It guarantees access to specialists and ensures that doctors and nurses can talk freely with patients without interference from their health plans. The Dingell-Ganske bill also prohibits the use of financial incentives to limit medical care. The Dingell-Ganske bill also ensures that patients can seek care in emergency rooms without prior approval and when they are suffering severe pain.

I would like to highlight one main difference between these bills. The Dingell-Ganske substitute includes an important provision to ensure that all Americans can enroll in cutting-edge clinical trials if they need them. As the sponsor of legislation to ensure that Medicare beneficiaries can enroll in clinical trials, I believe we must guarantee this right to ensure that patients have access to the best, most-advanced care. As the Representative for the

Texas Medical Center, where many of these clinical trials are conducted, I believe that this guarantee must be included as any consumer-protection legislation. The Dingell-Ganske substitute would require managed care plans to pay for the routine costs associated with clinical trials. The Republican majority legislation does not include this critical provision.

Finally, I would like to highlight one other critical point about the Patients' Bill of Rights. I believe the Patients' Bill of Rights is a cost-effective, reasonable approach to provide uniform federal standards for managed care health plans. I believe that consumers are willing to pay for these protections. The Congressional Budget Office has estimated that the Patients' Bill of Rights would add a total of $2 per month for these protections. Let me repeat that, for $2 per month, patients can be guaranteed real protections. I believe that consumers believe that this small price is worth its guarantees to ensure that consumers receive the health care services they need and deserve.

I urge my colleagues to reject the Republican leadership bill and vote for the Patients' Bill of Rights.

Mr. COSTELLO. Mr. Speaker, I rise today in strong support of the Dingell Patients' Bill of Rights. The Republican plan tries to give the appearance of reform without actually doing so. The Republican plan does not limit HMOs' and insurance companies' use of improper financial incentives to limit needed care, does not give access to specialists, does not allow women to choose their obstetrician or gynecologist as a primary care doctor and what is most important, the Republican bill provides no effective mechanism to hold HMOs accountable when a patient is killed or injured.

The American people have waited long enough to be granted the ability to sue HMO's when a patient or family member is injured or killed due to the negligence of their health plan. They deserve the right to take legal action. HMO's should not be exempted from legal liability. Most industries in the U.S. today have responsibility to provide safe products and safe work places and can be subjected to legal recourse if they intentionally harm an individual. HMO's are no different; we must pass legislation to make them responsible for their actions!

The Republicans use of scare tactics claiming that the Democratic bill will escalate the cost of managed care plans is bogus. Last week, the Republicans' own Congressional Budget Office (CBO) released an analysis of the Patients' Bill of Rights discrediting Republican claims. The CBO estimates that the Democratic proposal costs only $2 more a month for patients with managed care plans. The CBO also estimates that the Democratic provision allowing patients to sue their health plans will increase premiums by just 1.2%. That is a small price to pay to make sure HMO's understand they will face legal liability.

The Democratic bill has been endorsed by the American Medical Association, American Nurses Association, American Cancer Society, and the American Trial Lawyers Association. It's time we hold health plans accountable for their actions and give the American public back their right to quality health care. I strongly urge my colleagues to support the Ganske-Dingell substitute.

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to speak in favor of H.R. 3605, the Dingell-Ganske Patients' Bill of Rights, of which I am a co-sponsor. I urge my colleagues on both sides of the aisle to join me in support of this bipartisan bill. This bill guarantees that medical decisions will be made by doctors and their patients, not by insurance companies. It ensures that doctors can inform patients of all of the treatment options available to them so that patients can make educated choices regarding their health care. It guarantees that a patient who goes to an emergency room with severe pain will be treated.

The Patients' Bill of Rights also extends important protections to women. This bill allows women direct access to obstetric and gynecological care, and it allows women to designate their own gynecologist as their primary care provider. This provision allows a woman to continue to be treated by a doctor with whom she has become comfortable and who knows her personal medical history.

Further, the Dingell-Ganske bill provides patient protection at an affordable price. The Congressional Budget Office has reported that most individuals would only pay about $2 more per month in premiums as a result of the Patients' Bill of Rights. The peace of mind and security that will result from this bill are well worth this small amount.

Last year, my home state of Missouri enacted legislation that ensure a patient's right to emergency room care, to choose a doctor, and to know about all of the options available to them for treatment, regardless of the cost. In addition, the Missouri law provides for well-child care, mammography screening, drug abuse and alcohol treatment, bone marrow transplants, and breast reconstruction.

With this legislation, Missouri took great strides to guarantee access to specialists and provide more rights for patients. If the Gingrich-Hastert bill is enacted, Missouri's law will be over-ridden, and the rights of the people of my state will be taken away. We must not let this happen. Instead, we should recognize successful efforts like Missouri's at the state level to guarantee patients basic rights and follow this lead by passing the Dingell-Ganske bill.

We must guarantee that insurance companies are held accountable for their actions when they deny patients the health care they need. We must guarantee that when patients need to go to the emergency room, they can go without worrying whether their insurance will allow them to be treated for their medical emergency. We must guarantee that doctors and not insurance companies are making the decisions about what is medically necessary for their patients.

In my district, at the Children's Mercy Hospital, social workers are fighting the current system to ensure that patients receive the care they need. For example, one little boy with an amputated arm needed a special kind of prosthesis. His insurance company deemed the special arm not medically necessary and refused to pay. The social worker at Children's Mercy was able to secure outside charitable funding for this little boy to get the arm he needed, but not all hospitals are able to provide this service, and frankly, they shouldn't have to.

Join with me in supporting H.R. 3605 and grant America's patients the basic medical rights they deserve.

Mr. OWENS. Mr. Speaker, I rise to oppose H.R. 4250, the Republican so-called Patient Protection Act and to voice my enthusiastic support for H.R. 3605, the Patients' Bill of Rights Act. H.R. 4250 was conceived in the back room of the Speaker's special 15-member Task Force on Health Care and unveiled just last week. Although the bill was referred to several committees, in a transparently desperate political maneuver, the Republican leadership has put the bill on a fast-track basis and side stepped the traditional deliberative process. I am pleased, however, that many of the provisions that are included in several Democratic bills, including my own bill (H.R. 1191, the Patient and Health Care Professional Protection Act), have been included in today's Patient Protection Act. Yet, this bill, H.R. 4250, falls disgracefully short on "protections" for patients and health care workers. The authors of H.R. 4250 took great care to ensure the protection of the owners of the commerce of health care—managed care companies. At a time when the health care industry is completely re-engineering itself and a record 160 million Americans have fallen susceptible to the cost-saving strategies characterized by too many managed care plans, we must not support this phony "Patients' Bill of Rights." We wish to note also that irrational Medicaid rate reductions by state Governors are also jeopardizing the health of patients.

Disappointingly, most of the new Federal protections in H.R. 4250, would cover merely 48 million Americans in self-insured, employer-sponsored health plans that fall under the purview of ERISA (the Employee Retirement Income Security Act of 1974). However, there are more than 160 million Americans who have private health insurance. Congress must act to ensure the protection of a broader range of health care consumers, including Medicaid recipients.

In addition, H.R. 4250 contains a bogus grievance mechanism for patients who my have disputes with their HMOs. Under the bill, a so-called internal and external appeals process would be established, Upon first glance, it appears that H.R. 4250 adequately provides for a fair process whereby patients can appeal any denials of care. However, upon a closer look at the bill language, it is clear that the so-called external process is not very independent of the HMO with whom the patient is in dispute. H.R. 4250 would stack the cards in favor of the HMO from the onset. An independent medical expert would be required to examine the dispute on the merits of whether or not the HMO followed its own rules. The independent medical expert would not be authorized to determine that the medical procedure is indeed, necessary. To add insult to injury, the bill would permit health plans to charge up to $100 to a patient who pursues the external appeals route.

Unlike the Democratic substitute (H.R. 3605 sponsored by Representatives DINGELL and GANSKE), H.R. 4250 would not allow patients to sue their health plans. (Currently ERISA does not permit patients in employer-sponsored plans to sue their health plans.) Republicans have demonized the right to sue as some kind of payoff to the trial lawyers of America. On the contrary, the right to sue is an appropriate remedy which allows for maximum enforcement against health plans, especially when great injury or death results from their cost-cutting decisions. Any true patient protection bill and patient advocacy language would arm the patient with this basic tool of American civil rights.

Moreover, H.R. 4250 contains no protection for the very individuals who are on the front lines of the health care delivery system—nurses, doctors, and other health care professionals. The bill does not have whistleblower protections for health care workers who are in the best position to witness and report patient safety concerns. The Service Employees International Union, the organization that represents the largest number of health care professionals in the country (1.3 million members) states, "In a recent national survey of health care professionals, nearly 1 out of 4 reported that 'employees are penalized for, or afraid to speak up about problems in their workplace'" Yet, H.R. 4250 ignores this fact by not protecting workers from discharge, demotion, or harassment when they decide to stand up for patient care.

It should be noted that my bill, H.R. 1191 which was originally introduced in the 104th Congress and reintroduced on March 20, 1997, addresses these issues and accomplishes the following: Provides strong whistleblower protection for nurses and doctors; ensures that managed care plans mandate that adequate staffing guidelines are implemented in every hospital across the country (This would stop the current practice of replacing registered nurses and licensed practical nurses with unlicensed aides.); mandates the compilation of public, uniform, national patient-outcome data collection and analysis; assures than no patient is denied care for non-medical reasons; establishes a Federal mechanism for the emergency investigation of egregious hospital cases involving death or life-threatening situations; and establishes well-funded, consumer-dominated, non-governmental genuine health care advocacy groups in each state.

Finally, H.R. 4250 would prematurely expand access to medical savings accounts (MSA). MSAs are tax-exempt savings accounts which may be used to pay for medical expenses. The Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) authorized a limited number of MSAs (750,000) under a demonstration program beginning on January 1, 1997. Many Members and consumer groups were vehemently opposed to the demonstration program, citing that MSAs work for those that are more healthy and more rich. The vast expansion of MSAs under H.R. 4250 is reckless and extreme given that the impact of the 1997 demonstration program has yet to be studied.

Health care is big business. Spending for health care totals approximately $1 trillion every year in the United States. Competition within the health care industry is fierce, and Congress has the unequivocal role in assuring that cutting costs and increasing one's profits are not priorities at the expense of patient care quality and safety. When I recently convened an extensive health care empowerment conference in my district, my constituents demanded reform. The 11th Congressional District Advisory Committee and the HMO Consumer Advisory Committee called for the formation of an "HMO Certification Council" to give a seal of approval to managed care plans. The conference participants stated their desire for greater access to doctors. The conference participants also called for the passage of state legislation that would hold managed care companies accountable and permit wronged patients to sue these companies. And when a group of nurses visited me two years ago and conducted a rally at the Capitol, they demanded protection for themselves and their colleagues and freedom to advocate on behalf of their patients. I urge my colleagues to carry out the will of the American people, and not the wishes of greedy American businesses. Vote "no" on H.R. 4250, and vote "yes" on H.R. 3605, the Democratic Dingell-Ganske substitute.

Mr. PAYNE. Mr. Speaker, I rise in support of the Patients' Bill of Rights, the Dingell-Ganske substitute. I do so because the substitute lives up to its name. Improving health care quality is what this debate is supposed to be about and that is what the Patients' Bill of Rights does.

This measure enjoys broad bipartisan support from the AFL–CIO to the American Medical Association. Unlike H.R. 4250, the Patients' Bill of Rights allows states to continue on their current course of expanding health care coverage to the uninsured and improving health care quality.

The bill ensures that treatment discussions stay between the doctor and their patient. It also requires that health plans have an adequate number and variety of health providers. This provision is especially important to me because African Americans and other minorities are consistently discriminated against in the treatment and provisions of care.

The Patients' Bill of Rights has critical safeguards to protect patients and providers from discrimination. Mr. Speaker, I urge my colleagues to protect the public health and support the Patients' Bill of Rights. Vote yes on the Dingell-Ganske substitute.

Mr. SANDLIN. Mr. Speaker, I rise in strong support of the Dingell-Ganske substitute and in opposition to H.R. 4250, the so-called Patient Protection Act. That bill does not protect patients. In fact, several provisions of their bill would harm patients. H.R. 4250 was rushed to the floor with no hearings, no markup, and not even so much as a CBO cost estimate until minutes ago.

One of the most critical differences in the two alternatives before us is who makes decisions. As we increase access to health care, we must not allow unqualified parties to make critical decisions about patient treatment. Patients need to feel confident that their doctors are giving them all necessary information and not restricting information because of requirements issued by a health insurance provider. Patients should make critical decisions about their health care with the advice of their doctor. These decisions should not be overridden or limited by insurance company bureaucrats. The Patients' Bill of Rights allows patients to make their critical care decisions.

As a strong supporter of local control, I support the Dingell-Ganske substitute because, unlike H.R. 4250, it will not override protections already enacted by the states. In my home state of Texas, the following protections would be overridden by H.R. 4250: well-child care; mammography screening; minimum maternity stays; breast reconstruction; diabetic supplies; prostate cancer screening; home health care; mental health care; alcoholism treatment; drug abuse treatment; Alzheimer's disease; formula for PKU; TMJ disorders; and bone mass measurement. The federal government should not be in the business of overriding state legislatures' decisions about consumer protections.

Recently, I received a letter from two Republican members of the Texas legislature who were instrumental in the passage of recent Texas laws that provide strong consumer protections. I quote from that letter:

> In 1995 managed care reform opponents called the patient protection act a billion-dollar health care tax, and in 1997 they claimed health care costs would skyrocket upwards of 30 percent. However, multiple independent studies, including an actuarial analysis by Milliman and Robertson, of Scott and White's HMO, show costs have increased by about 34 cents per member per month.
>
> H.R. 4250, the House GOP bill, would weaken Texas' independent review provisions. Apparently, H.R. 4250's independent review is not binding compared to the Texas law that requires managed care organizations to provide care deemed appropriate by the independent review organization.
>
> We also are concerned that H.R. 4250 weakens current Texas law regarding emergency care and gag clauses. As we understand it, the bill waters down Texas' prudent lay person by allowing a health plan to override the treatment decision by the emergency department physician. The gag clause provision does not protect health care providers from retaliation when they act as advocates for their patients.

One of the most important provisions of this legislation ensures that a new Texas law will not be overturned. That provision declares that the Employee Retirement Income Security Act of 1974 does not prevent a patient from suing his or her HMO in state court for personal injury or wrongful death damages. This provision makes insurance companies accountable for their actions. The laws in this country make every other industry accountable for their actions. If automobile manufacturers produce an inferior product that harms people, they are accountable for that damage. Doctors are accountable for the medical decisions they make that harm their patients. Why then are insurance companies not accountable for the decisions they make that harm the health of patients?

Allegations that the Dingell-Ganske substitute would make employers liable are simply not true. Clearly, employers cannot be held liable for the decisions of insurance companies and/or the decisions of others. The Dingell-Ganske substitute does not create a new right of action. It simply removes the provision of ERISA that protects insurance companies from being sued. It specifically states that employers cannot be held liable unless they exercise discretionary authority to make a decision on a claim for benefits covered under the plan. During the course of the last six months, I have met with many representatives of the business community. I have repeatedly asked them to bring me language that they believe would prevent employers from being sued and assured them that I would work with Mr. DINGELL and Mr. GANSKE to address their concerns. Not one of those people has taken me up on my offer. That is because there is no employer liability in the bill. Their answer instead is to oppose the entire bill and support H.R. 4250, and threaten Members who support Dingell-Ganske.

One of the most disturbing provisions of H.R. 4250 will severely undermine the patient's right to private medical records. This bill allows for the release and use of confidential health information without the patient's consent. Once that information is released, it can be sold without the patient's consent or knowledge. And once again, H.R. 4250 would preempt state laws that already have strong medical privacy protections. That's wrong and this Congress should not be subjecting the American people to such an outrageous position.

Mr. Speaker, I urge my colleagues to support the Dingell-Ganske substitute and oppose the disingenuous attempt by supporters of H.R. 4250 to pull the wool over the eyes of the American people.

Mr. MORAN of Virginia. Mr. Speaker, there must be certain provisions included in patients rights legislation in order to ensure true protections. For all health plans, there should be an outside review appeals mechanism. Patients should have the right to appeal adverse coverage decisions made by their health plans. Women should be able to choose their OBGYNs as their primary care physician, and chronically ill patients should not have to get referral from a primary care physician every time they need to see the specialist who treats their chronic illness. States should be able to protect consumers from breaches to consumer privacy. The Ganske-Dingell substitute provides these vital protections and more.

Although I have concerns about a provision in the bill which deals with the certification of class action law suits, I feel that the true protections the Ganske-Dingell substitute would provide are of greater benefit to health care consumers, our constituents, than my concerns could justify opposing the substitute. I am hopeful that the authors of this legislation would consider working to address these concerns in conference, but with the assurance of the patient protections guaranteed in the Ganske-Dingell substitute I am pleased to support its passage.

Ms. CHRISTIAN-GREEN. Mr. Speaker, as a physician, it is very important to me that we pass meaningful managed care reform, and that means passing the Ganske-Dingell bill.

Anyone who has heard me speak on health care issues has heard my concern about those Americans who are under or un-insured, because they are denied access to medical care.

Well Mr. Speaker, what the current managed care system has done is made a bad system worse.

Now even people who have insurance under managed care are being denied access to needed and appropriate medical care.

Mr. Speaker this has to change and the Ganske-Dingell bill—the Patients' Bill of Rights is the bill which will provide that access.

Further Mr. Speaker, if a health plan makes a decision about patient care and something goes wrong, it must be liable. To do anything less is patently unfair.

Mr. Speaker and colleagues, lets fix the mangled care system. Pass the Ganske-Dingell bipartisan bill.

Mr. CONYERS. Mr. Speaker, I rise today to oppose the Republican attack on the health care of millions of Americans. The Republican bill, which had no public hearings, no committee markup, and no CBO estimate of its costs is a slapdash, thrown together, cynical attempt to satisfy the American people's hunger for real managed care reform.

This Republican bill is a lie. It is titled the Patient Protection Act, but it has nothing to do with patient protection. This bill is all about protecting insurance companies from angry and injured patients who have been denied care because, in the view of their insurance company, their treatment was not "medically necessary." Why are the Republicans trying to keep insurance companies from being held accountable for their mistakes? No other industry has the right to the same immunity from suit that insurance companies have, and no other industry should have that immunity. The thousands of men, women, and children across this country who have been hurt by an insurance company decision are crying out for justice, and we as their representatives should provide them with a way to achieve that justice.

The Dingell bill provides them with this justice. This bill will ensure that the next time an insurance bureaucrat has to decide whether a child he has never seen needs life saving treatment, he will think twice, instead of denying the treatment out of hand.

We need to reform the insurance industry, and make insurance companies care about the health of the patients that they cover. Our bill does this. Don't vote for the Republican's cynical lie. I urge my colleagues to support the Dingell bill, and provide Americans with the health justice they need and deserve.

Ms. LEE. Mr. Speaker, I rise in strong support of H.R. 3605, The Patients' Bill of Rights. Today we see appalling, devastating problems with HMO's. Instead of concern for patients, too many HMO's focus on making money at the expense of quality health care. They have denied medical procedures that they decide "unnecessary", even though patients' lives may have depended on them. They have refused to pay for medical procedures for children with terrible deformities, calling the operations "cosmetic". They have even taken away a doctor's right to authorize crucial procedures, dangerously yielding the most important decision-making responsibilities to a bureaucrat in an office building 3,000 miles away.

The Patients' Bill of Rights is a comprehensive bill which makes certain that health care providers do what is in the best interests of their customers, not their profits. It guarantees basic rights for all patients, placing health, well-being, and safety above all else, and valuing the patient-doctor relationship. Among the most important aspects of the bill is that it allows doctors, not insurance companies, to make crucial decisions regarding the health of patients. Another important safeguard in the bill guarantees that individuals are covered for *all* emergency services. No one should have to worry about insurance coverage for life-saving emergency care.

Furthermore, and very significant, the Patients' Bill of Rights calls for internal and external appeals processes to adequately address patients' grievances. These processes are crucial because they ensure that insurance companies are held accountable for providing quality care to people, or required to pay the consequence.

In contrast, H.R. 4250, the Republican version of a healthcare bill, is a vague and inadequate measure that fails to address many of the vital problems in the healthcare industry. Failing to focus on the needs of patients, it favors the multibillion-dollar insurance industry. Under H.R. 4250, insurance companies will not be held accountable for decisions that cause injury to a patient. Crucial health decisions will continue to be made by the patient's insurance company rather than the doctor. The Republican plan does not put patients first, but rather, serves insurance companies' interests at the cost of quality health care.

Furthermore, whereas the Patients' Bill of Rights expands healthcare to include provisions for patients who are seriously ill or require the expertise of the specialist, such as victims of HIV and cancer, the Republican plan puts at risk even the most basic and necessary measures. In my home state of California, current benefits such as mammography and cervical cancer screening, prenatal care, and mental health care could be overridden by H.R. 4250. It is unthinkable to me that these essential, preventative measures are threatened in this legislation. This would be a drastic step backward in caring for our people, and a further example of cutting cost at the expense of patient care.

Mr. Speaker, I have heard some of my colleagues on the other side of the aisle connect our current U.S. health care system to capitalism, stating that capitalism produces excellence in health care. This misguided mentality is frightening to me. Capitalism affords excellent healthcare only to the select few who are able to pay the most for it, and leaves all others without. This principle of the profit-making, market system is a devastating policy for health care. Health care is not a luxury to be afforded to the highest bidder. Providing health care is not about striving to make the greatest amount of money.

Health care is a basic right that all Americans deserve, yet the United States is the only Western industrialized country that does not have a national health program. In a wealthy nation such as ours, it is incredible to me that there are so many who lack access to this fundamental necessity. The Republican plan will serve only to increase the rift between those who have access to health care and those who are left behind, neglected and trapped without adequate care.

I urge your opposition of H.R. 4250 and support of H.R. 3605, the Patients' Bill of Rights.

Mr. ALLEN. Mr. Speaker, I rise in support of the Ganske-Dingell substitute to H.R. 4250, the Republican HMO health care bill.

We have an opportunity in this Congress to enact real reform in our health care system.

Months ago, Democrats introduced the Patients' Bill of Rights Act to protect patients against HMO abuses. Now that we are a few months away from an election, the Republicans have decided that they need their own version of a managed care "reform" bill.

This republican bill is being rushed to the House floor without the benefit of even one public hearing or any committee mark-up. As of 1 a.m. this morning, this bill was still being drafted.

While the Republican leadership has been willing to spend more than a year and millions of dollars on committee investigations, they are not willing to allow even one hearing on legislation which could significantly affect Americans' lives.

Health care financing is in transition. Private and public purchasers of health care are turning to managed care.

The shift to managed care has raised concerns about the implications for health care quality. I believe that managed care must be more than managed cost.

Last month I held community health care forums in my district. This was an opportunity for my constituents to come and share their experiences. I wanted to hear from them about health care costs, quality and access for Maine children and families.

I did not hear the managed care horror stories to the extent that many of my colleagues have heard. Maine has been slow to move to managed care. People did, however, express their fears about this system.

I heard from a mother who works an extra job to pay for an indemnity health insurance policy for her daughter who has a severe disability. It was clear that purchasing this health plan was a financial hardship for this family. This mother was too fearful to move to a managed care plan which may be less expensive because it could limit the care that her daughter needs.

Others also shared their concerns about managed care. Could some of the same horror stories that they hear about on the national news happen to them?

My constituents are not alone in their fears about managed care. There is a crisis of confidence in American health care:

Eighty percent of all consumers believe that insurance plans often compromise the quality of care to save money.

The worst problems are often reported by those who need good care the most—those with chronic conditions who experienced an illness serious enough to require hospitalization. More than one half of this group reported problems with their health insurance.

36 percent said that their condition worsened as a result of the insurance problem.

35 percent said the problem led to an additional condition,

And 17 percent developed permanent disabilities. Problems ranged from delays in care to failure to refer to a specialist to problems with payment, billing, and coverage.

As I mentioned, Maine has not moved to managed care as rapidly as other areas. Furthermore, strong patient protections have been enacted at the state level. However, because of federal preemptions to state protections, at least 250,000 people in Maine are left unprotected. My constituents recognize that we need a national solution to a national problem.

The Republican legislation only applies to Americans in self insured plans. They ignore two-thirds of Americans with private health insurance. This means that Americans with individual policies, state and local government employees and people whose employers purchase coverage through an HMO or insurance policy are left unprotected. 113 million Americans are left out in the cold by the Republican bill.

The Republican bill is clearly designed for political cover rather than real patient protections. For example, the Republican bill does not:

Provide patients with access to clinical trials;

Permit doctors to prescribe prescription drugs that are not on an HMO's predetermined list;

Provide ongoing access to specialty care;

Protect health care workers who report quality problems;

Provide choice of doctors within a plan; or

Hold managed care plans accountable when a patient is injured by a plan's decision to withhold or limit care.

By contrast, the Patients' Bill of Rights Act does provide all of these protections.

In addition to empty promises, the Republican bill is laced with poison pills such as healthmarts and malpractice limits.

I plan to hold more community health care forums in my district during the August in district work period. It is my sincere hope that I will be able to assure my constituents that they do not need to fear the health care system in this country.

The American people have been clear. They want real protections. They do not want a watered down bill. They want the Ganske-Dingell substitute, the Patients' Bill of Rights Act.

Ms. KILPATRICK. Mr. Speaker, I rise today in strong, unequivocal and clear support of H.R. 3605, the Democratic Patient Protection Act, and oppose H.R. 4250, the Republican Politician Protection Act. The Republican Politician Protection Act provides too few patient protections, undermines existing state consumer protections, has not had a single hearing or mark-up, and contains unnecessary and irrelevant provisions. It is time that we, the Congress, stopped playing games with the health care of our constituents and get down to the real business of providing both doctors and patients with the protections that they need and deserve. I recently had a meeting with the Michigan State Medical Society, an organization made up of doctors in the State of Michigan, and they wholeheartedly endorse the Democratic Patient Protection Act, among more than 50 consumer protection, labor union, and health care organizations.

Let me take a minute to explain to you three key differences between the Democratic Patient Protection Act and the Republican Politician Protection Act:

The Republican Politician Protection Act allows medical insurance companies to give your confidential medical records to another agency—another insurance company, mortgage company, credit bureau, pharmacy, or health care bureaucrat—without your consent. This means that anyone—a person applying for a mortgage, someone looking to peer through your medical history before you start a job, a person looking for negative health information against a potential candidate for Congress—could have access to your medical records. The Democratic Patient Protection Act protects the confidentiality of your medical records. No one would be allowed to review or transfer your records without your express and written consent.

The Politician Protection Act usurps and supersedes state consumer protections. Mr. Speaker, before I was elected to this august body, I served for 18 years as a state legislator in the great State of Michigan. I abhorred and detested those rules, laws and regulations that superseded our rules, laws and regulations that were democratically arrived at and after many hearings, debate, and votes. Ostensibly, the Republican Party is one of respecting the rights of states to make the best decisions for themselves—or has posited themselves as such. The Republican Politician Protection Act would not allow states to decide for themselves the best consumer protections for their citizens. The Democratic Patient Protection Act does not usurp state law.

The Republican Politician Protection Act does not allow patients to sue their health insurance plans for wrongdoing. The Republican Politician protection act allows persons to sue for fiduciary damages, but not for pain and suffering or punitive damages. What does this mean? Well, it means that if your doctor in a managed care plan recommends that you have an additional mammogram, but the plan refuses to pay for it and the patient dies as a result, the family could sue for the cost of the mammogram. The Democratic Patient Protection Act will ensure that patients can sue for compensatory and punitive damages, and let a jury—the same juries who register to vote and send us to Congress—decide the merits of these issues.

Adoption of the Democratic Patient Protection Act would be only a first step toward solving our health care crisis. We still need to address the more than 4 million families, women, children and adults over the past decade who do not have any health insurance. Guess who is footing the bill when these uninsured women, children and adults show up at the hospitals of our nation? That's right, you and I. Access to quality health care, before catastrophic diseases attack, has been proven to prolong the length and quality of life of Americans. The challenge of serving those persons who do not have access to health care is one of the many unfinished tasks facing us as a Congress and as a nation as we consider the reform of our health care system.

If you think that you don't know someone who is medically underserved, think again. The usual person who is defined as "medically underserved" is poor, elderly, has no health care, and does not have access to primary care physicians. In our land of plenty, over 43 million people are medically underserved, and only 24 percent of those persons are served through community health centers. What happens to more than three quarters of these people who do not have access to health care is simply this: immunizations are not given, and babies fall ill to preventable diseases; elderly citizens do not get their high blood pressure or diabetes cared for, and end up in the hospital, or women do not get a life-saving mammogram. Not having any health care, in our land of plenty, is almost criminal.

Taxpayers want, and need, long-range solutions to the challenge of access to affordable, quality health care. Taxpayers deserve an investment of resources and commitment to the goal of health care for all. It is the job and duty of Congress to address this issue now. The doors of health care must remain open to protect the public health, prevent disease, improve our quality of life and save scarce taxpayer dollars. Congress can, and must, improve access to health care for all. The Democratic Patient Protection Act is a strong, aggressive step toward the much needed reform of our health insurance system, but it is only a first step. I urge all of my colleagues to reject the Republican Politician Protection Act and vote for the Democratic Patient Protection Act.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DINGELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 212, nays 217, not voting 6, as follows:

[Roll No. 336]

YEAS—212

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Fox
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NAYS—217

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—6

Ford
Gonzalez
Hinojosa
Markey
Yates
Young (FL)

☐ 1352

Messrs. WHITE and EHLERS changed their vote from "yea" to "nay."

Ms. BROWN of Florida, Mr. SCHUMER and Mr. BOYD changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, during rollcall vote No. 336, The Dingell Substitute to H.R. 4250, I was unavoidably detained. Had I been present, I would have voted "yes."

The SPEAKER pro tempore (Mr. KOLBE). Pursuant to House Resolution 509, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BERRY

Mr. BERRY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman from Arkansas opposed to the bill?

Mr. BERRY. Yes, Mr. Speaker, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BERRY moves to recommit the bill H.R. 4250 to the Committee on Ways and Means and to the Committee on Education and the Workforce with instructions to report back the same to the House forthwith with the following amendments to the portions of the same within their respective jurisdiction:

Page 38, beginning on line 9, strike "does not meet the plan's requirements for medical appropriateness or necessity" and insert "is not medically necessary and appropriate".

Page 39, beginning on line 16, strike "does not meet the plan's requirements for medical appropriateness or necessity" and insert "is not medically necessary and appropriate".

Page 48, beginning on line 17, strike "does not meet the plan's requirements for medical appropriateness or necessity" and insert "is not medically necessary and appropriate".

Page 53, beginning on line 17, strike "meets, under the facts and circumstances at the time of the determination, the plan's requirement for medical appropriateness or necessity" and insert "is, under the facts and circumstances at the time of the determination, medically necessary and appropriate".

Page 60, line 17, strike all that follows the first period.

Page 60, after line 17, insert the following new subparagraph:

"(V) MEDICAL NECESSITY AND APPROPRIATENESS.—The term 'medically necessary and appropriate' means, with respect to an item or service, an item or service determined by the treating physician (who furnishes items and services under a contract or other arrangement with the group health plan or with a health insurance issuer providing health insurance coverage in connection with such a plan), after consultation with a participant or beneficiary, to be required, according to generally accepted principles of good medical practice, for the diagnosis or direct care and treatment of an illness or injury of the participant or beneficiary.".

Page 227, strike line 1 and all that follows through page 233, line 3, and insert the following (and conform the table of contents accordingly):

Subtitle C—Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 3201. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in subparagraph (B) of section 162(l)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

In the case of taxable years beginning in calendar year:	The applicable percentage is:
1999, 2000, and 2001 ..	60 percent
2002	70 percent
2003 or thereafter ...	100 percent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1998.

Mr. BERRY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

Mr. HASTERT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will continue to read.

The Clerk continued reading the motion to recommit.

Mr. HASTERT. Mr. Speaker, I reserve all points of order.

The SPEAKER pro tempore. The gentleman reserves a point of order.

The gentleman from Arkansas (Mr. BERRY) is recognized for 5 minutes.

Mr. BERRY. Mr. Speaker, my motion makes the following two important changes: It strikes the Medical Savings Account provision from the Republican bill, saving billions of dollars a year.

The money saved in the MSA will be used to accelerate the health insurance deduction for the self-employed. This helps small businessmen by increasing the deduction for expenditures on health insurance to 60 percent in the next 3 years, 70 percent in the year 2002, and 100 percent thereafter.

The current deduction is 45 percent and will not increase to 100 percent until the year 2006.

It amends the Republican bill by putting the decision of "medical necessity" back in the hands of doctors. The new language allows for the doctor and the patient, not the insurance companies, to determine the proper care and treatment for the patient.

□ 1400

It also makes sure the care they receive is consistent with good medical practice, not insurance profits. The Republican version leaves this decision up to the insurance companies. The Republican bill would create a system where the insurance company would win every time. The deck is stacked against the patients before they even get in to see their doctor.

The bill would allow insurers to develop their own definitions and methods for determining medical necessity, which would make it virtually impossible for enrollees to challenge the plan's decision. A plan could define medical necessity to essentially be nothing more than the care defined under whatever treatment guidelines and utilization protocols the plan adopts, even if the guidelines and protocols are not backed up by any clinical evidence or good professional practice. Plans would always win under this scenario. The Republican bill would allow insurers to overturn physicians' treatment decisions on the basis of completely arbitrary standards that are not based on any credible medical evidence.

I do not think that that is the kind of care that we want for our families, our children, our parents or our friends. But that is just what this Republican bill would allow.

I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank the gentleman for yielding to me. I would observe that here we are discussing the fundamental difference between the two bills. If you want to provide protection for the doctor-patient relationship, vote for the motion to recommit, because the motion to recommit assures that it will be medical necessity decided by the doctor that determines the course of treatment of a patient of an HMO, not some curious, insurance-oriented approach which would be decided by the Republican plan.

One of my friends who is one of the outstanding physicians and surgeons in the 16th District called me to tell me about something that happened to him recently. He was made an examiner of medical claims. He was fired by the HMO. The reason was that he was making medical decisions, not insurance decisions. That is exactly the issue which is before us.

If you want the doctor to decide what you and your family and your constituents are going to receive in the way of medical care, vote for the motion to recommit. If you want to have an unelected, unaccountable health care bureaucrat appointed by a health insurance company or an HMO, then vote against it. And what you will be doing, you will be vesting in the HMO the power to make a medical decision instead of seeing to it that that medical decision is made by the doctor in concert with his patient. Medical necessity should be decided by a doctor who is trusted by the patient, not by an unknown voice on the telephone who is neither doctor nor accountable, a health care bureaucrat. That is the point of this amendment.

If you believe in the doctor-patient relationship and if you believe it is worth protecting, then vote "aye" on the motion to recommit. That is what is at stake, the doctor-patient relationship, and the doctor making a decision with regard to what constitutes medical necessity and what constitutes the need of the patient. To vote "no" on this motion to recommit is to assure that medical necessity is decided by an anonymous voice on the telephone belonging to no one with a relationship to the patient.

POINT OF ORDER

The SPEAKER pro tempore (Mr. KOLBE). Does the gentleman from Illinois insist on a point of order?

Mr. HASTERT. Mr. Speaker, I insist on a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. HASTERT. I yield to the gentleman from California (Mr. THOMAS).

The SPEAKER pro tempore. The Chair will recognize the gentleman from California (Mr. THOMAS) on the point of order.

Mr. THOMAS. Mr. Speaker, contained among the numerous provisions in the motion to recommit is striking the medical savings accounts. Notwithstanding the gentleman's representation that this will save billions of dollars a year, the Congressional Budget Office says that simply is not so. In fact, it will save less than $1 billion a year. That is the point on which the point of order turns, because the gentleman's addition of the acceleration of the self-employed deduction in fact scores more than $1 billion and therefore is subject to a 303 Congressional Budget Act point of order. It in fact increases the budget before the final budget is adopted in a given fiscal year. It applies clearly in this particular instance. A point of order, therefore, lies against the gentleman and I would urge the Chair to sustain the 303(a) Congressional Budget Act point of order.

The SPEAKER pro tempore. The gentleman from California has made a point of order.

Does the gentleman from Arkansas (Mr. BERRY) wish to be heard on the point of order?

Does the gentleman from Maryland (Mr. CARDIN) wish to be heard on the point of order?

Mr. CARDIN. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Maryland is recognized on the point of order.

Mr. CARDIN. If I understand the gentleman from California's point is that the striking of the medical savings account provision would not save as much money as accelerating the self-employed insurance deduction by 4 years.

Mr. Speaker, I would like to include in the RECORD a document that has been received from the Joint Committee on Taxation that shows that striking the medical savings account provision will save $4.1 billion, the self-employed health insurance deduction would cost $3.4 billion, for a net revenue savings to the treasury of $687 million.

The SPEAKER pro tempore. The gentleman from Maryland may insert the documents after the point of order but not during debate on the point of order.

Is there any other Member who wishes to be heard on the point of order?

Mr. CARDIN. Mr. Speaker, on that point, if I am correct, the point of order is being raised as it relates to having——

The SPEAKER pro tempore. That is correct. The Chair must rely on what is being said to the Chair and so insertion into the RECORD during the debate on the point of order is not in order at this time.

Mr. CARDIN. I would just quote into the RECORD the document from the Joint Committee on Taxation dated July 23, 1998, and would be glad to make it available to the Parliamentarian.

The SPEAKER pro tempore. Does any other Member wish to be heard?

Mr. THOMAS. Mr. Speaker, on the point just registered, this is the House and not the Senate. The Senate just read 10-year numbers, the House operates on 5-year numbers, and the point of order still stands.

Mr. CARDIN. Mr. Speaker, let me put into the RECORD the 5-year numbers. The 5-year numbers on striking the medical savings account provision would save $1.3 billion, the self-employed would cost $1.2 billion, for a net savings to the treasury of $56 million.

The SPEAKER pro tempore. Is there any other Member who wishes to be heard on the point of order? If not, the Chair is prepared to rule.

Mr. THOMAS. Mr. Speaker, the gentleman is reading from a document that I do not believe is current. Would he cite the number and the date?

Mr. CARDIN. If the gentleman would yield, it is dated July 23, 1998.

Mr. THOMAS. I tell the gentleman the numbers I just read come from a Joint Tax Committee publication July 24, 1998. But the gentleman is not bad being only one day behind.

Mr. CARDIN. Mr. Speaker, I have the July 25 numbers.

The SPEAKER pro tempore. Does the gentleman from Illinois insist upon his point of order?

Mr. HASTERT. Mr. Speaker, I insist on my point of order.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order? Is there anybody else who wishes to be heard on the point of order? If not, the Chair is prepared to rule.

The amendment proposed in the motion to recommit would strike one of the revenue provisions from the bill. The amendment also would insert an alternate revenue change. In this latter respect, the amendment "provides an increase or decrease in revenues" within the meaning of section 303 of the Budget Act.

Because this revenue change would occur during fiscal year 1999, a year for which a budget resolution has yet to be finalized, the amendment violates section 303(a)(2) of the Act.

The point of order is sustained.

Mr. CARDIN. Mr. Speaker, this is not the point raised in the objection by the Member. I do not know how the Chair can on its own use as a basis for an appeal that was not raised and we did not have a chance to argue the point on. That is blatantly against the rules of the House, and I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I move to table the appeal.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Texas (Mr. ARMEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ACKERMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 204, not voting 9, as follows:

[Roll No. 337]

AYES—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOES—204

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens

Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—9

Ford
Gillmor
Gonzalez
Johnson (CT)
Linder
Markey
Weldon (PA)
Yates
Young (FL)

☐ 1428

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO RECOMMIT OFFERED BY MR. BERRY

Mr. BERRY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. KOLBE). Is the gentleman still opposed to bill?

Mr. BERRY. Mr. Speaker, in its current form, I am.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BERRY moves to recommit the bill H.R. 4250 to the Committee on Education and the Workforce with instructions to report back the same to the House forthwith with the following amendments:

Page 38, beginning on line 9, strike "does not meet the plan's requirements for medical appropriateness or necessity" and insert "is not medically necessary and appropriate".

Page 39, beginning on line 16, strike "does not meet the plan's requirements for medical appropriateness or necessity" and insert "is not medically necessary and appropriate".

Page 48, beginning on line 17, strike "does not meet the plan's requirements for medical appropriateness or necessity" and insert "is not medically necessary and appropriate".

Page 53, beginning on line 17, strike "meets, under the facts and circumstances at the time of the determination, the plan's requirement for medical appropriateness or necessity" and insert "is, under the facts and circumstances at the time of the determination, medically necessary and appropriate".

Page 60, line 17, strike all that follows the first period.

Page 60, after line 17, insert the following new subparagraph:

"(V) MEDICAL NECESSITY AND APPROPRIATENESS.—The term 'medically necessary and appropriate' means, with respect to an item or service, an item or service determined by the treating physician (who furnishes items and services under a contract or other arrangement with the group health plan or with a health insurance issuer providing health insurance coverage in connection with such a plan), after consultation with a participant or beneficiary, to be required, according to generally accepted principles of good medical practice, for the diagnosis or direct care and treatment of an illness or injury of the participant or beneficiary.".

Mr. BERRY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

Mr. HASTERT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will continue reading the motion.

The Clerk continued reading the motion.

Mr. HASTERT. Mr. Speaker, I reserve a point of order against the motion.

The SPEAKER pro tempore. The gentleman from Arkansas (Mr. BERRY) is recognized for five minutes on his motion to recommit.

Mr. BERRY. Mr. Speaker, my motion to recommit is the same as the last motion, but deals solely with the definition of "medical necessity." The motion to recommit will allow the doctor to determine what care is medically necessary. The doctor, not the insurance company, not a Federal bureaucrat, not a state bureaucrat, but the doctor, the person who went to medical school for many years to learn how to take care of you, would make that decision.

The motion to recommit would make sure that the health care that they receive from their managed care company is consistent with good medical practice, not accounting profit principles.

The motion to recommit will make sure that the decisions insurance companies are making regarding what it is or is not to be provided are supported by credible medical evidence. The motion to recommit puts medical care where it belongs, in the hands of doctors, not in the hands of Republican special interest friends.

The SPEAKER pro tempore. Does the gentleman from Illinois (Mr. HASTERT) insist on his point of order?

Mr. HASTERT. Mr. Speaker, I withdraw my point of order.

The SPEAKER pro tempore. Does the gentleman from Illinois (Mr. HASTERT) wish to be heard on the motion to recommit?

Mr. HASTERT. I do.

The SPEAKER pro tempore. Is the gentleman opposed to the motion?

Mr. HASTERT. I am opposed to the motion.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HASTERT) is recognized for five minutes.

Mr. HASTERT. Mr. Speaker, I yield to the gentleman from Georgia (Mr. GINGRICH), the Speaker of the House.

Mr. GINGRICH. Mr. Speaker, let me recapture for everybody where we are at here, because I think you have to put in context this interesting and inventive motion to recommit.

First of all, under the Patient Protection Act that will come to final passage, anybody who has a practical layman's feeling that they need emergency care, has a presumption they need it, automatically, you walk in, you say "I have heart pain," or "I have a chest pain," and you are covered.

When you walk in, under the Patient Protection Act, a medical doctor on the site looking at the patient makes a decision, do you need further treatment? For example, if it turns out you over-ate and in fact need bicarbonate, you probably do not get an MRI. But if they think you have a severe heart problem or they think you might have cancer, you immediately have an opportunity for whatever emergency room treatment is necessary on a medical basis defined by the medical doctor.

If you find out you have a longer-term problem, under the Patient Protection Act, if you happen to belong to an HMO that does not agree you should be treated, you immediately have an appeal internally, and within 72 hours they have to say "yes," or "no, you should get this."

If you do not agree when they say no, you have an immediate external appeal to a medically appropriate group of specialists who fit the same topic, and they, within 72 hours, have to say yes, in fact you have pancreatic cancer, you deserve and need chemotherapy, period.

At that point, if the HMO is truly stupid, it can say they are not going to give it to you anyway, in which case you can go to court carrying with you the medical doctors who have already said you are right.

Now, that is what we do, notice at every stage; medical doctor, medical doctor, medical doctor.

But there is one hook, as I read this quite inventive proposal. I believe, and I am not a lawyer, I am just a historian, and for everybody who is grateful for a nonlawyer as Speaker, I understand it has been a rare event, but, anyway, as I understand this, from the brief few minutes we have had to look at it, this would in essence eliminate the concept of insurance coverage.

This would allow you, as worded, to walk in and have a doctor say, "You know, I know you never paid for this insurance, I know you are not covered for this at all, but I am now going to do the following 12 medically necessary things." A terrific idea. It bankrupts every insurance company in America, it eliminates the employer-based system, it guarantees you go to government health care, and, literally, I do not know why you guys wrote it this way, this has no meaning in the real world, except that you would be required to get everything open-ended as long as you found a doctor somewhere who said you should get it.

Now, this is in fact one of the nuttiest expansions of the right to charge for health care I have ever seen, and I am sure it is just because they got their earlier motion, which was clever and well-crafted, ruled out of order and they had to rush something to the floor.

I would encourage all of you, unless you want to bankrupt the whole country, just simply vote no. The details will come out later when they have a chance to rewrite it.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BERRY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 205, nays 221, not voting 9, as follows:

[Roll No. 338]

YEAS—205

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans

Farr
Fattah
Fazio
Filner
Forbes
Fox
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)

Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin

Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow

Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns

Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NAYS—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons

Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard

Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—9

Ford
Gonzalez
John

Klug
Linder
Markey

Meehan
Yates
Young (FL)

□ 1455

Mr. BLAGOJEVICH changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DINGELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 216, nays 210, not voting 9, as follows:

[Roll No. 339]

YEAS—216

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bono
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox

Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh

McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent

Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NAYS—210

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barr
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Chenoweth
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—9

Ford
Gonzalez
John
Klug
Linder
Markey
Rodriguez
Yates
Young (FL)

☐ 1512

Mr. PAUL changed his vote from "present" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE HONORABLE MICHAEL P. FORBES, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable MICHAEL P. FORBES, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 23, 1998.

Hon. NEWT GINGRICH,
Marietta, GA,

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,
MICHAEL P. FORBES,
Member of Congress.

LEGISLATIVE PROGRAM

(Mrs. KENNELLY of Connecticut asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY of Connecticut. Mr. Speaker, I ask for this time to inquire of the gentleman from California (Mr. THOMAS) about next week's schedule.

Mr. THOMAS. Mr. Speaker, will the gentlewoman yield?

Mrs. KENNELLY of Connecticut. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I am pleased to announce that we have concluded legislative business for this week. The House will next meet on Monday, July 27, at 10:30 a.m. for morning hour, and at 12 noon for legislative business. We do not expect any recorded votes before 5 p.m.

On Monday, July 27, we will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices this afternoon.

After suspensions, Mr. Speaker, the House will continue consideration of H.R. 2183, the Bipartisan Campaign Integrity Act of 1997. We hope to, as we did last Monday, make extensive progress on the Shays-Meehan amendment in the nature of a substitute on Monday, and we also hope to return to campaign finance again at some point during the week.

On Tuesday, July 28, and the balance of the week, the House will consider the following legislation: H.R. 629, the Texas Low-Level Radioactive Waste Conference Report. We will finish H.R. 4194, the Veterans Administration, HUD and Independent Agencies Appropriations; H.R. 4276, Commerce, Justice Appropriations Act; the Transportation Appropriations Act; H.J. Res. 120, a Vietnam Trade Resolution; and House Resolution 507, a Resolution Providing Special Investigative Authority for the Committee on Education and the Workforce.

☐ 1515

Mr. Speaker, Members should be prepared to work late next week on these appropriation bills. If we can do that, we hope to conclude legislative business for the week by 2 p.m. on Friday, July 31.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I wish to further ask of the gentleman, we have heard in some places that there might not be votes until after 7 o'clock on Monday. Is there any truth to that?

Mr. THOMAS. Mr. Speaker, I believe if Members are not participating in the legislation, they should have a relatively high comfort level that there would be no votes on Monday prior to 7 p.m.

Mrs. KENNELLY of Connecticut. I thank the gentleman very much. How late does the gentleman expect the last vote to be on Monday?

Mr. THOMAS. As we did last Monday night, we are hopeful, under the unanimous consent agreement on Shays-Meehan, that we could go as late as possible, to cover as many amendments as possible, so that the rest of the week would have enough time to move to a conclusion. It will be a decision made by the participants.

As the gentlewoman knows, they went very late last Monday. Our goal would be to go as late as we could, to cover as many of the amendments as we could, on Monday night, but it would be achieved under some mutual agreement.

Obviously, if they go extremely late, Members would expect that any votes that would be ordered would be rolled.

Mrs. KENNELLY of Connecticut. Is it still the intention of the leadership on the majority side to finish the Shays-Meehan bill by the August recess?

Mr. THOMAS. I would tell the gentlewoman that is why we are going to take a major chunk of time on Monday and, as I stated, reserve another piece of time, so that, in fact, the leadership's commitment that the Shays-Meehan amendment be concluded prior to the House's August break, that is our goal, that is our commitment, and we will meet it.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I thank the gentleman very much.

Mr. SKAGGS. Mr. Speaker, will the gentlewoman yield?

Mrs. KENNELLY of Connecticut. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, I thank the gentlewoman for yielding to me. I wanted to use this opportunity to advise colleagues of a social event for this body that will occur next Tuesday evening from 6 to 8 p.m. in the Cannon Caucus Room. It is our more or less regular summer House picnic for both Members and spouses and children.

So I hope since we will be in the middle of some appropriations work on

Tuesday, it will be a nice opportunity to get together on a bipartisan basis, get to know our colleagues and our families a little bit. Conveniently located over in the Cannon Caucus Room, very reasonably priced.

Members may contact either my office or the office of the gentleman from Illinois (Mr. LaHood) or the Members and Family Room to make reservations.

Mrs. KENNELLY of Connecticut. Mr. Speaker, reclaiming my time, I was asking about final passage on campaign finance reform, and the gentleman from California (Mr. Thomas) did mention Shays-Meehan. I realize he insinuated that that might be acted upon. What about final passage?

Mr. THOMAS. Well, if the gentlewoman will continue to yield, our commitment was to the Shays-Meehan, which had the most amendments attached to it. Obviously, once that is dispensed with, in terms of the amendments, that is the only amendment that we have under unanimous consent agreement. Our hope is that we will have reached a level of comity that we could move through the rest of those substitutes relatively quickly. But since we do not have a unanimous consent agreement on the amendments or the structure, it is extremely difficult to pin it down. But our goal is to complete it.

We now have a clear assignment on Shays-Meehan, and to the degree we can meet that next week, we will have a much better understanding of what we need to do to agree to finish it. Obviously, my personal commitment is to get it done before we leave in its entirety.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I thank the gentleman.

CONSIDERING MEMBER AS FIRST SPONSOR OF H.R. 1542

Mrs. BONO. Mr. Speaker, I ask unanimous consent that I may hereafter be considered as the first sponsor of H.R. 1542, a bill originally introduced by Representative Bono of California, for the purposes of adding cosponsors and requesting reprintings pursuant to clause 4 of rule XXII.

The SPEAKER pro tempore (Mr. Pease). Is there objection to the request of the gentlewoman from California?

There was no objection.

CONSIDERING MEMBER AS FIRST SPONSOR OF H.R. 2882

Mrs. BONO. Mr. Speaker, I ask unanimous consent that I may hereafter be considered as the first sponsor of H.R. 2882, a bill originally introduced by Representative Bono of California, for the purposes of adding cosponsors and requesting reprintings pursuant to clause 4 of rule XXII.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

ADJOURNMENT TO MONDAY, JULY 27, 1998

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10:30 a.m. on Monday next for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. FILNER. Mr. Speaker, on July 16 and July 17 last week I had to be in my Congressional District on official business and missed rollcall votes 288 through 296. Had I been present I would have voted in the following way:

Number 288, aye; number 289, no; number 290, aye; number 291, no; number 292, no; number 293, no; number 294, aye; number 295, aye; and number 296, no.

APPOINTMENT AS MEMBER OF NATIONAL BIPARTISAN COMMISSION ON FUTURE OF MEDICARE

The SPEAKER pro tempore. Pursuant to the provisions of section 4021(c) of Public Law 105–33, the Chair announces the Speaker's appointment of the following Member on the part of the House to the National Bipartisan Commission on the Future of Medicare to fill the existing vacancy thereon:

Mrs. Colleen Conway-Welch, Tennessee.

TRIBUTE TO ROBERT F. LANGFORD

(Mr. HINOJOSA asked and was given permission to address the House for 1 minute.)

Mr. HINOJOSA. Mr. Speaker, it is a great honor to stand before my colleagues today to pay homage to a man who has benefitted us all. Mr. Robert Langford, the senior vice president of production operations of Owens' Country Sausage has retired after 35 years of service.

Robert, a graduate of both Texas A&M University and Southern Methodist University was hired by Jerry Owens in 1963. Mr. Owens recognized Robert's talents and quickly promoted him to manager of engineering. In 1972, he became the general manager and was continually advanced through the ranks until he reached his present position, the senior vice president of production operations. Due in large part to his work and innovations, Robert led the Owens Corporation to gain the number one market share position in the Southwest, which it still enjoys to this day.

These accomplishments are quite impressive, yet they are only one aspect of Robert F. Langford's life. Robert also worked extensively with the Southwest Meat Association. He was the president of SMA from 1978 to 1980 and composed its bylaws and mission statement. But Robert was not content to merely serve the SMA. He wanted to serve his community as well. To realize this goal, Robert became one of the three founders of the Southwest Meat Association's Education Foundation as well as its chairman from 1982 to 1998. The Education Foundation provides scholarships to deserving students who display an interest and aptitude for a career in the meat industry. He believes education is a must.

Robert's commitment to promoting education in the community is shared by his wife Kathy, who dedicated 35 years of her life to teaching her young children. Kathy has zealously supported Robert every step of the way and she shares in all his numerous triumphs.

Robert F. Langford served his country in the United States Air Force as a fighter pilot for five years. He has served his community as the Chairman of the Fellowship of Deacons for Park Cities Baptist Church, and he has served us all by improving our quality of life through his work.

He has earned my admiration as a talented businessman and inventor. He has gained my respect as a dedicated family man and community leader. And he has won my friendship as a kindhearted and generous person.

I wish for Robert, his wife Kathy, and their children and grandchildren, all the blessings that are mine to give. From the bottom of my heart.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain further 1-minute requests.

TAX SURPLUS DOES NOT BELONG TO CONGRESS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the Democrats have known for a long time that a government that robs from Peter to pay Paul can always depend upon the support of Paul.

Our liberal colleagues want to rob the hard working taxpayers of America by taking their tax surplus and giving it to Washington bureaucrats.

Not so fast! That tax surplus does not belong to Congress, does not belong to the administration, and does not belong to the bureaucrats. Rather, it belongs to the taxpayers.

We must cut taxes so that families can take that much-needed vacation, spend some time with their kids, or even put some money aside for their education.

Now, recently, President Clinton labeled this idea of giving back the taxpayer some money the wrong course for America. Well, Mr. Speaker, the American people just are not going to accept the Democrats' liberal spin on this at this time.

The Republican Congress is determined to track down the mistakes of 60 years of liberals robbing from Peter to pay Paul. Republicans are determined to save the ship before it sinks from the weight and burdens of excess taxes.

Mr. Speaker, I yield back to the American public any much-needed tax break.

ATTORNEY GENERAL HAS NO CHOICE BUT TO APPOINT INDEPENDENT COUNSEL

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, yesterday the lead editorial in The New York Times came out strongly against the Attorney General and her continued refusal to admit to the obvious. The law requires that an independent counsel be named to investigate allegations of illegal campaign money from Communist China into the Democratic Party in the 1996 election.

FBI Director Louie Freeh has pleaded with the Attorney General to do so. And now Charles Labella, the person who was hand picked by Janet Reno to lead the investigation of these charges, has told the Attorney General that she simply has no choice.

The New York Times in this editorial states, "Ms. Reno can give her usual runaround about being hard-headed, but she cannot hide from the meaning of this development."

Ms. Reno has ignored the advice of the FBI Director and her own handpicked investigator for too long. She is a lot like the character in Hogan's Heroes, that great TV series, Sergeant Schultz. When Colonel Hogan would say something to him about nefarious affairs, Sergeant Schultz would say, "I know nothing, I see nothing, I hear nothing."

Ms. Reno, it is time to appoint an independent prosecutor for campaign finance.

REGARDING THE 2000 CENSUS

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I would like to respond to the errant comments of my colleagues, ill-informed colleagues on the other side of the aisle, regarding the year 2000 census.

Let me suggest that the very same Democrats who self-righteously assure us that the Commerce Department under President Clinton will be immune from politics, if given the opportunity to conduct the census by sampling, would be the very same people who would be screaming, "Don't play politics with the census", if a Republican President were trying to do the same thing.

In fact, there is not a single Democrat who would be supporting sampling if the sampling computer magic were not being conducted by the political appointees of the Commerce Department. And let us not forget that the administration that my colleagues suggest is a paragon of integrity is the same administration that used the IRS to smear Billy Dale and the White House travel office employees, the same administration that politicized the Immigration and Naturalization Service in 1996 to illegally approve citizenship for criminal aliens, and, of course, it is the same administration that has done such a good job regarding missile technology secrets from the Communist Chinese.

□ 1530

AMERICAN PEOPLE DESERVE AND EXPECT AN EXPLANATION

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, of all the scandals coming out of this White House, one scandal above all is perhaps the most disturbing. This scandal is more disturbing than the 900 FBI files on Republicans that somehow showed up in the White House; more disturbing than the use of private investigators to smear political opponents; more disturbing than the use of the IRS and the FBI to smear Billy Dale and the Travel Office employees; more disturbing than the allegations of perjury and obstruction of justice; and even more disturbing than the vast left-wing coverup of all of the above.

I am talking about the shocking revelation that the White House has helped the Communist Chinese Government with its missile program. We do not know if this administration gave a waver to Loral Corporation because the chairman, Bernard Schwartz, was the Democrat's top donor in 1996 or not. But whether this administration did it for the money or not, the scandal is still almost beyond comprehension.

At best, the administration inadvertently helped the Communist Chinese Government to develop its Long March missiles. The American people expect and deserve an explanation.

AMERICA NEEDS TO ADDRESS CRISIS IN AGRICULTURE

(Mr. THUNE asked and was given permission to address the House for 1 minute.)

Mr. THUNE. Mr. Speaker, agriculture in the northern plains is in great crisis. Farmers are having to sell below the cost of production. People across America need to understand that there is a close connection between a healthy agricultural economy and a strong America.

We need to address the crisis in agriculture, but we need to do it without the partisan carping that is coming out of the Democrats in Congress. The level of the rhetoric that is coming out of the Democratic leadership in the Congress is shameful.

We need to work together to solve the cash-flow problems in agriculture, to more aggressively open markets overseas, and to improve the crop insurance program. Farmers do not care whether the Democrats or the Republicans get the credit. They only know that they need to stay in business.

I challenge my colleagues on the other side of the aisle to work with us cooperatively to find solutions to the crisis in agriculture. Let us quit playing politics with agriculture's future. Let us work together.

IRANIANS TEST INTERMEDIATE RANGE BALLISTIC MISSILE

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, when just a couple of days ago the Iranians tested an intermediate range ballistic missile, one that has the range to strike Israel, our administration was once more embarrassed, because they had predicted a number of times that the Iranians could not achieve this capability until sometime late next year.

Well, the Iranians were a year ahead of schedule. Only one person predicted they would be able to do it much earlier in this body, and that was the gentleman from Pennsylvania (Mr. WELDON). He is working on a piece of missile defense legislation. The gentleman from New Jersey (Mr. SAXTON) is putting in legislation a number of us are cosponsoring which directs the President to conduct an emergency program to build a defense against the systems the Iranians are developing right now.

Mr. Speaker, now is the time for the President to act. With the same urgency with which our enemies are building the ballistic missiles, we must act with the same urgency to build defenses against those missiles.

TODAY UTAH CELEBRATES ITS PIONEER HERITAGE

(Mr. CANNON asked and was given permission to address the House for 1 minute.)

Mr. CANNON. Mr. Speaker, 151 years ago today, Brigham Young led the first Mormon pioneers into the valley of the Great Salt Lake.

The next spring, malnourished Mormon settlers began planting corn, beans, wheat, and potatoes. But as soon as they sprouted, the shoots were attacked by hordes of crickets.

Dr. Priddy Meeks recorded in his journal that "the crickets came so thick it made the earth black in places, and it did look like they would take away what little we had growing * * * and we a thousand miles away from supplies."

Out of desperation, men, women and children poured into the fields to scare the crickets away. They dug ditches around the field. They used fire. But it was all in vain.

Just as all seemed lost and starvation likely, help came from above in the form of thousands of seagulls. Eyewitness reports tell of the birds descending on the fields, gobbling up the crickets and sparing the precious crops.

Today, Utah celebrates its pioneer heritage. Many of the celebrations will center around Seagull Monument in downtown Salt Lake City, erected in honor of the event I have just described.

I encourage my colleagues to join me today in honoring the courageous spirit and the sacrifices of the Mormon pioneers.

A FOURTH INVESTIGATION OF THE INVESTIGATOR: D.C. BAR COUNSEL PROBES LEAKS BY INDEPENDENT COUNSEL STARR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan, Mr. CONYERS, is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, by my count, Independent Counsel Kenneth Starr is now the subject of four separate investigations into whether he and his staff improperly leaked confidential information to the media. The first is being conducted by Chief Judge Norma Holloway Johnson of the federal court in the District of Columbia. The second involves Attorney General Janet Reno's referral of the issue to the Justice Department's Office of Professional Responsibility. The third is being conducted by Mr. Starr himself in response to complaints lodged by the President's lawyers. And the fourth, as reported in the media today, is in the hands of the District of Columbia Bar Counsel.

Back in early February, the President's lawyer, Mr. Kendall, wrote the Independent Counsel that the "leaking by your office has reached an intolerable point." In response to that letter, the Independent Counsel struck an indignant tone. He called the letter from the President's lawyer "strange and inappropriate," and accused Mr. Kendall of elevating "mere suspicion to specific accusation without any facts other than the press's often-misleading attributions of sources."

The Independent Counsel's response to Mr. Kendall added that: "[i]n light of the unclear press attributions in some examples cited in your letter, I have undertaken an investigation to determine whether, despite my persistent admonitions, someone in this Office may be culpable. I have no factual basis—as you likewise do not have—even to suspect anyone at this juncture. I am undertaking this investigation with deep regret, because I know how demoralizing it is to a staff of highly professional and experienced federal prosecutors. You do an extreme disservice to these men and women—and to the legal profession and the public—by your unsupported charges."

Mr. Starr has never reported the results of his "investigation." But in light of his later admissions that he and his deputy, Mr. Bennett, routinely talk to the press on an off-the-record basis, I assume he did not have to look far to find the source of these leaks. Judge Johnson, the Attorney General, and now the District of Columbia Bar Counsel, have all treated this issue far more seriously than the Independent Counsel. In fact, media reports say that Judge Johnson has ordered Mr. Starr to show cause why he should not be held in contempt for his inappropriate release of information.

The Independent Counsel's indifference to this issue is very troubling. To date, Mr. Starr has defended his actions with the technical claim that rules regarding grand jury secrecy apply only after information is presented to a grand jury. I do not agree with that claim, and I do not believe that D.C. Circuit law allows the kind of off-the-record conversations that happened here. We will see whether Mr. Starr can survive the scrutiny of these outside investigators.

EXPANSION OF MEDICAL AND PATIENT RIGHTS FOR ALL AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, with all of the pandemonium that transpired just a few short minutes ago, I imagine that some of my colleagues might have gathered from the discourse that many of us do not come to the floor of the House with passion and concern and personal stories. And, so, I thought it was extremely important that we cleared the dust and put a face on the debate that we had today.

Sadly, we lost that debate, those of us who care about the expansion of medical rights and patient rights for all Americans. This morning as I rose, I was determined not to share my personal story, for the people send us to this Congress to stand and to represent their interests, but I do think it is important for the people to realize that we are human, too.

I have had a personal story and personal loss. For, recognizing that all of us care about our loved ones, I experienced the denial of service in the care of my father. So this is not a frivolous and baseless debate for me, but I thought it was more important to share with my colleagues the story of the Chiang family.

This young couple, with a husband and wife, left a position and the father was the sole breadwinner, and the mother was determined to keep a certain HMO so that her son could continue to go to that same pediatrician. They kept that HMO, and the son had the pediatrician, but the mother became ill.

She had constant pain in her stomach. She went to the HMO doctor, and continuously he said, "We will put you on a certain diet." But the pain became so debilitating she went back again because she thought it was something that had to do with her ability to give birth again.

She went back and further service was denied, until finally, some three months later, she was sent to a specialist and it was then determined that that mother, 34 years old, had colon cancer. And subsequent to that late determination, after the denial of service, that 34-year-old died.

Today I read to my colleagues a letter from Lula Somers, a senior citizen who has been in the medical profession for many, many years from Pasadena, Texas, the community that I come from. She said, "This letter is directed to you from a working senior citizen who has served a lifetime in the medical profession and who is deeply concerned about the direction we are heading. Dedicated healing physicians are having their once regarded highest standard of ethics and devotion be dictated to by people who have not the first clue of the onerous problem being cast upon innocent citizens."

She said she worked at a time when doctors saved a gravely ill child, sutured bleeding patients, sat at the bedside of someone dying, and maybe wound up with vegetables or eggs from someone's farm.

We may not be able to go to that, my colleagues, but the Patients' Bill of Rights the Democrats and bipartisan Republicans were supporting realizes that we must stand with the physicians and the providers of health care like nurses and nurses assistants and the patients.

The bill we pass today will hurt my State of Texas. It will probably hurt my colleagues. Texas already has provisions for well-child care, mammography screening, minimum maternity care, breast reconstruction, diabetes supplies, alcohol abuse treatment, drug abuse treatment. The bill we pass today will overcome all of that, supercede that. Mental health care and bone mass measurement. All of that Texas had. Now with this Federal bill that the Republicans will pass, we do not have it.

Just think for a moment if they have a heart attack and go straight to the nearest hospital but the hospital does not participate in their plan. The Republican bill will allow their plan to force them right out of the hospital. That is what we passed today.

If their plan denied them an X-ray for a broken arm because the plan did not think the X-rays were medically necessary, they could not appeal on the basis of merit. They can only appeal on the basis of what the plan says is a necessary medical condition. It takes away that decision of the physician and their pain and the need for service and puts it in the hands of some accountant in an office far, far away.

If they are a woman and they want direct access to their nurse midwife, their plan does not have to give it to them. They can only require them to see a physician. So many women want nurse midwives and have found that to be a comfortable way to give birth.

If they are terminally ill and their only hope is an approved clinical trial, the Republican bill would not allow it. So many of my constituents have said, "I beg of you to allow me to participate in a clinical trial. I will go anywhere, do anything to save my life or that of my loved one."

If they are about to deliver their baby at a hospital and their health plan drops their doctor, the Republican bill allows their plan to make them get a new doctor at the very time that they are in need. And if they are scheduled for a cancer operation and their health plan drops their doctor, under the Republican plan they have to find a new doctor.

My colleagues, what we did today was a travesty. I hope that we will be able to repair that and pass a bill, Mr. Speaker, that really responds to the life and the death of Mrs. Chiang.

UNIVERSITY OF MISSISSIPPI CONCERT SINGERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. WICKER) is recognized for 5 minutes.

Mr. WICKER. Mr. Speaker, I rise today to share with my colleagues the wonderful news that the University of Mississippi Concert Singers won top honors last week at the World Choral Competition in Rome, Italy.

The group from Ole Miss, led by Dr. Jerry Jordan, is the first American choir ever to have qualified for this exclusive international competition and, of course, the first to win the top prize. Today, they are considered the best amateur choir on the face of the Earth.

To reach the Super Bowl of choral competitions in Italy, groups from around the world first had to qualify for and then win 1 of 6 international events. On their way to the finals, the Ole Miss singers won the grand prize in May of 1997 in a competition in Bulgaria. Then last week, the group outperformed choirs from Sweden, Hungary, Estonia and Taiwan, all of which had won international choral events in past years.

The Ole Miss concert singers are no strangers to performing on the international stage. During Dr. Jordan's 18 years at Ole Miss, his choral groups have toured on nine occasions; they have participated in international competition three times; and, in 1994, earned their only other trip to the grand event.

The Collegiate Choir Program at the University of Mississippi is recognized among the best in the Nation. Dr. Jerry Jordan is one of the country's most accomplished directors. He has conducted the American Symphony Orchestra at Lincoln Center in New York and is a regular conductor at Carnegie Hall.

Dr. Jordan's leadership and the exceptional talents of these students produced an unprecedented result in Rome. The judges said the group performed an extremely difficult and diverse program and did so flawlessly. The 50-member group sang seven songs in five different languages over the span of its allotted 30-minute program.

Mr. Speaker, there are at least five alumni from the University of Mississippi in the House of Representatives. And at this point, I am pleased to yield 1 minute to the distinguished gentleman from Mississippi my colleague (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I thank the gentleman from Mississippi (Mr. WICKER) for yielding.

I rise with him to recognize the Mississippi Concert Singers and their accomplishment. They come from the University of Mississippi, the same place where the new director of the National Endowment for Humanities, Dr. William Ferris, the author of the Encyclopedia of Southern Culture.

In Mississippi, where we have the tradition of being the birthplace of blues, of rock and roll, and in my district, Meridian, the birthplace of country music with the grandfather of country music, Jimmy Rogers.

And today we celebrate our additional contribution to our State's culture and our Nation's culture to the world, the Mississippi Choral Singers, and the great achievement that they have won by being the first American choir to win this preeminent distinction and competition in Rome.

So I rise with the gentleman from Mississippi (Mr. WICKER) and to acknowledge and to appreciate this great accomplishment.

Mr. WICKER. Mr. Speaker, reclaiming my time, I thank my colleague for his remarks. And one final word, Mr. Speaker.

This outstanding group of performers from the University of Mississippi has earned an honor reserved for a select few. They have earned the right to be called the best in the world, and they have made all Americans proud. I salute them today.

☐ 1545

EXCHANGE OF SPECIAL ORDER TIME

Mr. LAMPSON. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from New York (Mr. ENGEL).

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Is there objection to the request of the gentleman from Texas?

There was no objection.

MISSING AND EXPLOITED CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LAMPSON) is recognized for 5 minutes.

Mr. LAMPSON. Mr. Speaker, as a father, one of my biggest fears over the years has been discovering perhaps that one of my daughters would be missing.

Sadly, last November, one of my constituents was living mine and every parent's nightmare when she frantically called the Texas City Texas Police Department after her ten year old daughter did not arrive home from school.

Recently, my district has been stricken with a stream of missing children. This issue has become my highest priority as well as that of the police departments in my area to try to put an end to this. The chief of police for Texas City, Texas, Jerry Purdon, last year visited the National Center for Missing and Exploited Children and underwent training on developing a program for responding to a missing child alert.

One of the key elements in the department's new program was the actual response time, which they felt had been a key factor in previous failures. In this Texas City case, the department was able to flood the area with both police and informed neighbors to search for any sign of the missing child.

Hours went by until a man appeared in the middle of the neighborhood with the missing girl, stating that he had found her under some stairs. She was immediately rushed to the hospital while the man was questioned by the police.

Suspicious from the start, they were able to obtain a full confession. This man, who knew the girl, picked her up from school and returned to his home with her and after sexually abusing her he admitted that he intended to kill her and dispose of the body. In his words, he was prevented from carrying out his plan because, quote, every time I looked out my front window I saw a police car and every time I looked out the back, I saw a neighbor who knew what was happening, unquote.

Thanks to the quick response and organization of Chief Purdon and his officers, that little girl was returned to her family. I stand here proud of their efforts and would like to applaud each and every one who helped save the little girl. It is with forceful reactions to crimes like this that we hope to end the disappearances of our children and prevent all parents from experiencing this nightmare.

TRIBUTE TO HORACE ELLIS JONES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. COLLINS) is recognized for 5 minutes.

Mr. COLLINS. Mr. Speaker, I rise to honor an individual, no not a Georgian by birth but is the essence of a Georgia gentleman.

Horace Ellis Jones is the grandfather of one of my legislative staff members. Today I pay tribute to Mr. Jones through the eyes of his grandson.

Born on February 7, 1916, in Spring City, Pennsylvania, to Russell and Mary Ellis Jones, Horace Ellis Jones spent his childhood days growing up in the suburbs of Philadelphia.

He was known for his wide grin smile and his charming demeanor. He was very active in the Boy Scouts, earning the distinction of an Eagle Scout.

After attending Spring City High School and Stanton Military Academy in Virginia, Mr. Jones decided on Duke University and became a true Blue Devil. A couple of days before he was to leave for Durham, Mr. Ellis dropped by a local cafe just outside of Pottstown, Pennsylvania, with friends.

As he entered, his eyes focused on Olive Hammer. One look at her put Ellis Jones in a spin. He immediately put money in the juke box and asked Olive to dance. The music has not stopped for 57 years.

After they were married in 1941, Mr. Jones worked with his father in automobile sales in Reading, Pennsylvania. Very soon after their marriage, like so many of our distinguished citizens at the time, he answered America's call to duty and served in the United States Army during World War II.

Lieutenant Jones was stationed at Newport News, Virginia, as a member of the Army Transportation Corps. From there, he returned home to Pennsylvania, began his work with his uncle in the family business, the Jones Motor Company.

For almost 30 years, he played an instrumental role in the success of the business, one that grew to be among the largest trucking companies east of the Mississippi River. Jones Motor boasted 59 terminals, almost 4,000 employees and more than 3,500 pieces of equipment. This was an amazing feat considering it all started with a single horse and wagon back in the 1800s.

Along the path of hard work, Ellis and Olive welcomed a new generation of Joneses, their children, Mary Ellis and Donald. In the mid-seventies, Jones and his brothers decided to sell the company and retire. Retirement lasted a brief 6 months, after which Mr. Jones entered the lucrative real estate business and became very active in many charitable organizations such as the American Hospital Association and the Pottstown Hospital Association.

During his spare time, he could continue to pursue the major nonfamily passion of his life, the game of golf. After picking up the first set of clubs at the age of 7, Mr. Jones' devotion to the sport culminated with his presidency of the Philadelphia Golf Association in the 1960s.

During that tenure, he worked to provide scholarships and opportunities for many hard working young people. He also served on countless boards of the United States Golf Association and as a member of many country clubs and golf societies throughout the world.

When he finally decided to slow down from all of this activity, Ellis and Ollie relocated to the State of Georgia. They chose the quiet coastal beauty of Sea Island, a spot that they had first visited in their honeymoon. The environment there was proven to be the ultimate spot to pursue new opportunities.

While preserving their already acquired interests, it also served as a meeting place for the entire Jones' family to congregate and forge new memories. With all of that said, to really know the tale of Ellis Jones is to realize that his greatest accomplishment continues to be his capacity as a person.

Amidst all of the challenges and successes of life, Mr. Jones always conducts himself in the highest degree of courtesy, generosity and integrity. He is concerned with the happiness and the well-being of others at every turn, as a leader, as a businessman, a father, a grandfather, a husband or a friend.

Recently, Mr. Jones has been battling the evils of cancer, a war he has been waging for some 7 years. It has been a difficult time for him and his loved ones, but through it all he has maintained his positive attitude built upon the love of his family.

Ellis Jones' life is nothing short of remarkable, an American dream come true that seems to guide the brush strokes of my Norman Rockwell painting. One need only look to his family and friends to see the reflection of his charmed life.

Mr. Speaker, I would like to extend my heartfelt best wishes to Mr. Jones as he watches today from Georgia, as well as members of the Jones family throughout the country.

In closing, I would like to read a piece Mr. Jones wrote just a few weeks ago. I think it is an appropriate testament to the life of this great man and is something from which we all can learn, and I quote: I have always believed that the game of life, like the game of golf, was the last gentleman's game and I have tried to play both as such, a gentleman. If I have been successful, it is because of my love from and my love for my wonderful wife, our blessed children and grandchildren and my many loyal and supportive friends. Looking back over the entire course, I can say in all honesty, what a game, what a life, what a lucky guy I have been, end of quote.

Mr. Speaker, our prayers are with Mr. Jones and his family and for the blessings all have received from the life of Horace Ellis Jones.

EXPORT OF AG PRODUCTS STIFLED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, you may have seen in the Washington Post, the Wall Street Journal, the New York Times and other newspapers, articles about the current farm crisis. The hard times in farm country are real and demand immediate attention.

The $5.5 billion package introduced by the chairman of the House Committee on Agriculture and the half billion dollars approved by the Senate are good starters.

Unfortunately, some folks cannot resist making a political football out of the misfortune of others. These folks say that the 1996 farm bill, which the President signed, is to blame for all the woes in farm country.

Mr. Speaker, I would have preferred to avoid the blame game, but if the goal of the Democrats is to place the blame they do not have to look very far. How about the congressional Democrats' unwilling less to pass fast track trade negotiating authority with their president? At least he used to say this was so critical to U.S. farmers and ranchers. When one-third of our farmers' cash receipts come from exports, how can congressional Democrats defend their opposition to fast track?

When EU subsidies in 1997 were at their highest level in this decade, at nearly $47 billion compared to $5.3 billion here in the United States, how can they oppose fast track?

When the start of the next World Trade talks are only 5 months away, why would Democrats oppose the President's request for fast track so that the United States can have a seat at the negotiating table in order to tear down these trade barriers?

The answer may be the Democrats are more interested in collecting big labor PAC checks for their reelections than protecting their own farmers.

Mr. Speaker, the fact is, fast track is not my only priority but it is one of our most important priorities. It is the priority also of most of the U.S. leading farm and ranch organizations.

It only makes sense. In 1996, when ag exports were at their all time high, $60 billion, farm income was up, but now that ag exports have dropped over the last 2 years by an estimated $5 billion, farm income is down.

How about trade sanctions? Over the past 60 years, Mr. Speaker, we have imposed approximately 120 different sanctions. Despite relatively peaceful times, guess which administration has imposed over half of these sanctions in just the past 6 years? You guessed it. This one.

This administration is willing to impose unilateral sanctions at the drop of a hat, and I am not sure what these sanctions have accomplished in the way of national security. What I do know is that it forecloses U.S. ag sales to millions of the world consumers. If we still want to place the blame, what has the administration been up to while ag exports have been precipitously dropping?

You would think they would be scrambling to sell ag commodities using the ag export enhancement tools authorized under that dreadful 1996 farm bill, but according to a recent General Accounting Office report, that is not true. The administration has used only 44 percent under the dairy export incentive programs to promote U.S. dairy exports. This is despite a mandate in the horrible farm bill that says that the DEIP program should be used to the maximum extent practical under GATT. Despite an annualized $5 billion authorization under the 1996 farm bill for the GSM export program to move our ag products, this administration has used only $3.2 billion and $2.9 billion in the 1996 and 1997 fiscal years respectively.

In other words, $3.9 billion in GSM export assistance went to waste while our ag exports have tumbled.

Guess how much of the 1.5 billion export enhancement program dollars authorized under the farm bill have actually been used by this administration? If you guessed only $7 million, you would be right.

Mr. Speaker, the President and congressional Democrats know that the success of the 1996 farm bill depends on favorable tax and regulatory policy, improved research and crop insurance and perhaps, most importantly, trade. The Democrats resisted and continue to resist tax relief for farmers or for anyone else, as far as that goes.

The administration is talking about a new EPA program with more regulations that could strangle many of my dairy, beef and pork producers who are already overregulated. The President held hostage ag research money until he got food stamp money for legal aliens. He also held hostage critical crop insurance money to fix funding problems that he created back in 1994.

□ 1600

When it comes to trade, the President and Congressional Democrats are AWOL.

Democrats also charged that Republicans somehow have taken away the safety net for farmers. As a former Democratic Chairman of the House Agriculture Committee, Mr. DE LA GARZA pointed out, over the last decade on the Democrat's watch, Congress has cut the agriculture farm bill by more than $60 billion.

Importantly, the Republican House budget resolution does not call for a single cut in support of U.S. farmers and ranchers.

Mr. Speaker, I could remind our Congressional Democrat friends that if we go back to supply management, for every acre we leave unplanted, Argentina will be happy to plant one.

Mr. Speaker, it is time to cut the rhetoric and work together. It is time to get the job done for American farmers. It is time to open our trade relations with our partners and get more export enhancement programs going so that we get more farm income to our farmers.

THE NEED FOR AN ASIAN STRATEGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. BEREUTER) is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, today this Member will introduce legislation that requires the administration to establish a $100 million assistance and food security initiative for Indonesia and Southeast Asia in fiscal year 1999. I would say it very much happens to compliment what the gentleman from Minnesota just said about coping with our own farm crisis or difficulties at the same time that we are reaching out to help for a food shortage problem which is expected to be severe this year in Indonesia.

This legislation, in the works for several weeks by this Member, is consistent with recent urgent proposals or suggestions by distinguished Indonesian experts in America, like Ambassador Paul Wolfowitz of the Brookings Institution, and the former Ambassador, Robert Zoellick, President and CEO of the Center for Strategic and International Studies, for a prompt Congressional response to the Asian financial crisis, and, more specifically, to Indonesia's current plight.

In an opinion piece published in the Washington Post on July 23, 1998, Mr. Zoellick, former Undersecretary of State during the Bush Administration, eloquently argues that now is a definitive moment in the lives of a generation of Asians, and that America's response to the current crisis could be as important as America's response to Europe 50 years ago.

Because Ambassador Zoellick makes the case for a coherent foreign policy strategy better than anyone so far, I would say, this Member would include excerpts from his op-ed piece entitled "An Asian Strategy." I would like to read two paragraphs from it at this point.

He says as follows: First, Congress should enact a major humanitarian package for Indonesia. The need is urgent. The combination of drought and economic collapse has not only impoverished half of the world's fourth-most populous country, but raised the real danger of famine. Indonesia's new president already is urging his 200 million citizens to fast twice a week to conserve supplies. All the talk of IMF packages and economic recovery will be only chatter until there is political stability in Indonesia, and there will be no stability if people cannot eat. Indeed, Indonesia's ethnic peace, even its very coherence as a Nation is at risk. And if Indonesia sinks further, the rest of Southeast Asia will bear the burden of its dead weight."

"America has a proud tradition of humanitarian relief for people in need; it also has farmers who would welcome a boost in prices. If Congress expands the administration's recently announced grain purchases into a full-fledged relief plan, it can draw in Japan, the European Union and even some private U.S. business people who have signaled a willingness to contribute. This initiative would send a powerful, symbolic and practical message about America's concern for the plight of average Asians, not just bankers and magnates."

That is what Mr. Zoellick has to say.

Mr. Speaker, now is not the time, I would say, for the United States to balk at its responsibilities as the world's only superpower. The United States fought a Cold War and spent hundreds of billions of dollars, perhaps trillions of dollars, to advance our ideology of global capitalism and democracy.

In Asia, capitalism was adopted with an enthusiasm that has proven so strong that authoritarian leaders found democracy following right behind. From Taiwan to the Republic of Korea and Indonesia, for example, our most important principles are being embraced and tested by people willing to put their lives on the line.

As Mr. Zoellick rightly states, we have an important choice to make that will affect an entire Asian generation's perception of us and what we stand for. We can tell hard working Indonesians that they can sell their products here, or we can close our markets. We can join the rest the world in providing humanitarian assistance, or we can turn our back. We can send our experts to help them rebuild their economy, or we can wait until it is too late. We can pool resources and share risk with the world's industrialized countries to the regional capital markets or we can let them dry up.

Mr. Speaker, the United States can pay now or it can pay later. If the U.S. Congress and the president agree to develop a proper response to the current crisis in Asia, the costs will be minimal and the rewards unfathomable. Can one put a price on democracy in Indonesia or stability in the Asia Pacific region? Or, we can wait and see how the troubled Asian economies do own their own without our assistance.

Perhaps they will recuperate in several years through excellent management and astute decision making. But what if they do not? What will be the costs if we do nothing and find the region still in crisis in five years? How much will it cost us to maintain our security umbrella in an insecure region? What will happen to the U.S. economy if the Asian Pacific region slips into depression? Most importantly, will Asians continue to look to the United States for leadership if they do nothing?

Mr. Speaker, I urge Members to cosponsor this new Indonesian assistance legislation, which will also be very important to our export base and to our entire economy and foreign policy.

A CHRONOLOGY OF IMPORTANT POLITICAL AND CULTURAL EVENTS IN PUERTO RICO (1493–1997)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SERRANO) is recognized for 60 minutes as the designee of the minority leader.

Mr. SERRANO. Mr. Speaker, I rise today to speak about a subject which is of great importance to many of us in my community, and certainly should be of great importance to all Americans.

Tomorrow we will observe, July 25, 1998, the 100th anniversary of the relationship between the United States and Puerto Rico. One hundred years ago, the United States troops, during the Spanish-American War, invaded Puerto Rico, and since then Puerto Rico for these 100 years has been a territory of the United States.

Tomorrow, throughout the 50 states and on the island of Puerto Rico, there will be different groups involved in different forms of observances or celebrations. Some will celebrate the day claiming that, in their belief, this relationship has been the best thing that ever happened to the Island of Puerto Rico. Others, on the other hand, will lament the relationship and feel that it has been totally unfair.

Some groups on one side, as I said, will claim that nothing has gone wrong for these 100 years, and some folks on the other side will say that nothing has gone right for these 100 years.

I believe that somewhere in between is the truth. But in order to really speak about this subject and how we got here and where we are and where all Americans should begin to deal with this issue, I think it is important to take just a couple of minutes to talk a little bit about the history of how we got here.

Puerto Rico, as so many of you may know, was discovered in 1493 by Christopher Columbus, and from then to 1898 it was a colony of Spain. In 1508, the first Governor in Puerto Rico was assigned, and his name was Juan Ponce de Leon, or, as he is better known within the 50 states, as Ponce de Leon.

The years went on, and Puerto Rico remained no better than a full colony of Spain. But by 1865, nearly 400 years later, there was already discussion between the Spanish government and the Island of Puerto Rico in terms of creating a new arrangement.

Therefore in 1865, a royal decree was issued convoking delegates from Cuba and Puerto Rico to Madrid to discuss possible reforms to the colonial regime. The Puerto Rican delegates go there and they speak about decentralizing the municipal government, having more powers as people, taking some of the powers from the Governor, who was appointed by Spain, and abolishing slavery. No accord is reached, and the delegates who speak out for such reforms are in fact persecuted. Meanwhile, back in New York, the Republican Society of Cuba and Puerto Rico is established to promote the cause of independence for both islands.

In 1895 the Puerto Rican section of the governing body of the Cuban Revolutionary Party is established in New York, and Puerto Ricans at that time adopt their own flag, which is the same as the Cuban flag, with the colors reversed. Jose Marti is the leader of the party, and it is right here within the 50 states, in New York, that the movement against Spain for independence for Puerto Rico comes into play.

However, something happens on the way to 1898. Spain, for whatever reason, begins to realize that times have to change, and so Spain begins to discuss the possibility of granting autonomy to the Island of Puerto Rico.

On February 9, 1898, Puerto Rico's autonomous government is inaugurated with a provisional cabinet. It provided a high degree of administrative autonomy for Puerto Rico, and, under the charter, the Island was governed by the local parliament, composed of two chambers and a Governor general. The chambers were the Administrative Council, which were elected, and a version of the House of Representatives, popularly elected.

These chambers had full legislative authority except over such matters that the Spanish government wanted to keep, and these folks were then allowed to go to Spain and represent the Puerto Rican community, the Island of Puerto Rico, in Spain.

It is interesting to note that in this agreement the people representing Puerto Rico in Spain had actually reached more autonomy and more powers than the current delegate from Puerto Rico enjoys as a Member of the U.S. Congress.

But that could not take place, because, in the meantime, on February 15, the sinking of the American ship the *Maine* provided an immediate reason for the Spanish-American war. During that war, elections are held in Puerto Rico and this government, which then will represent Puerto Rico in Spain with many more powers, is elected.

On July 25, after the defeat of the Spanish in Cuba, General Nelson Miles leads an American landing in Guanica on the southern coast of Puerto Rico. On October 18th of that year, San Juan surrenders, and a U.S. military government is established in Puerto Rico.

On December 10, the treaty of Paris is signed and the Spanish-American War ends, and Puerto Rico is given to the United States, the political and civil rights of its inhabitants to be determined by the U.S. Congress.

From then on, Puerto Rico and the United States for a couple of years try to figure out what that relationship will be. But through 1899, in a few years, a military government continues.

Nothing really changes until 1900, when a new act is passed here which ended the military administration and set up a civil government. Very little self-government, however, was granted. The President would appoint a Governor, the members of the upper legislative house in Puerto Rico, and the executive council, where no Puerto Rican was allowed to serve, and the judges of the Supreme Court. Only the House of Representatives on the island was wholly elected by the people in Puerto Rico, and then it was determined that Puerto Rico would have a commissioner who would serve in the House of Representatives with no voting status.

In 1904, Puerto Ricans at that time are not granted U.S. citizenship. They become in fact citizens of Puerto Rico. An argument, by the way, that continues to be dealt with today, because many people still wonder if in imposing American citizenship later, that Puerto Rican citizenship in fact was done away with. Everything then is run by the United States Congress.

□ 1615

In 1917, a very important day in the history, on March 2, the Jones Act comes into effect, and by it, Congress determines that all Puerto Ricans born in Puerto Rico will be American citizens. Since that date, everybody born on the island of Puerto Rico is an American citizen. The only difference and the most important difference, and perhaps the tragic difference, is that if you are born in Puerto Rico you are an American citizen and you move to any of the 50 States, you enjoy the same rights as any citizen within those 50 States, but if you remain on the island of Puerto Rico, still an American citizen, you do not enjoy the same rights as the other 50 States.

That puts into play then the question, what kind of American citizenship is it? Is it possible for us to actually have granted different kinds of American citizenship, one for those who live within the 50 States, and one for those who live outside? To this day, there are very bright people arguing that it is impossible to have granted 2 different kinds, but the effect is that there are 2 different kinds of citizenship, and they express themselves differently.

Nothing then really changes in Puerto Rico until 1950. What happens in those years is that a governor is appointed, and there are different situations that are created. But during that period of time, an independence movement grows, which continues to demand, as it did during the period with Spain, that Puerto Rico be liberated and in fact be given its independence.

That independence movement is persecuted heavily, to the point where its leader, Pedro Albizu Campos, is a man who is jailed for over 27 years for advocating for independence of Puerto Rico during that time. Also, there are incidents where violent acts are committed and force is used both by the government and by citizens.

At that time also a party grows, various parties grow in Puerto Rico, one of them being the Republican Party, a statehood party, an independence party, a party that wants to take the present status in the 1930s and 1940s and bring it to a new relationship, one that is not statehood or independence.

Finally in the early 1950s it is decided that Congress will offer the Puerto Rico community in Puerto Rico something called commonwealth status. Commonwealth allows for certain rights to be carried out on the island, but commonwealth still does not provide for the ability to vote for President, for the ability to vote for 6 or 7 Members of Congress as Puerto Rico would be entitled to, or for the ability to vote for 2 Senators. On the other hand, commonwealth also does not allow for Puerto Rico's independence. So I think we have to fully understand, and I think the problem that we face these days when we discuss this issue and as we celebrate, commemorate, observe or lament over the 100-year relationship, tomorrow, July 25, is the fact that such a large number of Americans, if not the vast majority, have no idea what the relationship is between the United States and Puerto Rico.

If one goes through any neighborhood in this country and you ask people, are you aware that all people who live on the island of Puerto Rico are citizens like you, you would be shocked to find a large number of people do not have the slightest idea. If you then ask them, do you know that Puerto Ricans served in our wars and participated in our wars and were drafted just like all other Americans when we had a draft, the answer would be no, I did not know that. If you then tell them that they were and that they are citizens and they still do not vote for President, that would shock anywhere, I would say, from 75, 80, 90 percent of the American people who are not aware of the relationship. I think what will happen tomorrow and throughout the rest of this year is more and more people will become aware of the relationship and become aware of the need to speak about where the future of that relationship should take us.

Now, let me digress for a second and just set myself up as an example of the uniqueness or the embarrassment of that relationship. I was born in Puerto Rico. I came to New York, as so many Puerto Ricans did, when I was a very young child. I studied in New York, I became involved in politics, I served in the State assembly; I then came here in 1990. I am a Member of Congress. One cannot really express better fulfillment of one's citizenship than what I have accomplished personally, yet my cousins who live on the island of Puerto Rico do not have the same rights I have, the difference being that I moved and they did not.

That is almost to suggest that if one stays in Texas or one stays in New York, one would have less rights than if one came to California. Well, I am sure there are probably some Californians who would like Texans and New Yorkers to have less rights, but that is just the way we behave in this country. The fact of life is that these folks are there with a totally different system of government overseeing them.

So the commonwealth came in and the commonwealth was set up basically to tell the United Nations, I believe, look, we are obeying the rules, we are doing what you wanted us to do; we do not have a situation that can create a problem for anybody. Puerto Rico is not a colony.

Now, in order to fully understand how people feel about the different status options, one has to understand that in the early 1950s there was a strong, and in the 1940s and 1930s, a strong nationalist movement, a movement that wanted independence for Puerto Rico, and that movement in history will speak to this more and more every day, was discredited, both by people here in Washington and people who lent themselves to that in Puerto Rico.

It was suggested somehow that if one wanted independence for Puerto Rico, one wanted the worst for the island, one was not a good American, one was not a good Puerto Rican, and that was the way people were treated. So many of its leadership was jailed. Within a democracy, Puerto Rico being an arm of the United States, if you will, is supposed to behave in a democratic fashion, and yet to the folks who supported independence, they were, many of them were just discredited and many of them were jailed.

In 1952, after the commonwealth issue came in, and by the way, the way commonwealth came in was the United States gave the people of Puerto Rico a choice: Commonwealth, yes or no. There has never been, and we should note this at this moment, there has never been a congressionally, federally sponsored vote on the island of Puerto Rico which has asked the people of Puerto Rico, do you support independence, do you support Statehood, or do you support remaining the way you are now, or making changes? There have been different kinds of votes to speak to that, but never the full question asked.

So in the early 1950s, the question was, do you want to become a commonwealth, or do you want to remain the kind of territory you are now? Yes or no. So, of course, most of the people voted yes to better the conditions, because as my friend from Guam, BOB UNDERWOOD has said at times, there are bad colonies and there are slightly better off colonies, and people at that time opted to become I guess a better off colony, but still did not have the rights of an independent nation or a State. They were allowed to pick their own Constitution, write their own Constitution. But get this: Anything in the Constitution had to be approved by the Federal Government, and Puerto Rico cannot pass any laws that will not be accepted by Congress. If so, then they just cannot continue to be as laws in Puerto Rico.

So for all of these 40 years, 50 years, Puerto Rico has been a commonwealth of the United States, and during that time, on many occasions, there have been attempts to solve the present status dilemma.

On July 23, 1967, based on the recommendation of the Commission on the Status of Puerto Rico, a plebiscite, an election was held, to determine which status Puerto Ricans want among commonwealth, Statehood or independence. Little more than 66 percent of all registered voters participated.

Now, for us in the States 66 percent is a large turnout, but Puerto Rico is a place where 85, 90 percent of the people vote, so when 66 percent turns out, it means there was kind of dissent on the issue on the ballot. The popular Democratic Party which defends commonwealth defended commonwealth in the campaign. A problem developed in the Republican Party which supported statehood with the old guard saying we will not participate and the younger guard saying we will, and then the Independence Party abstained from the election at all.

So basically we had half of the Statehood Party saying we will not participate, all of the independence movement saying, it is not a fair plebiscite, and only the Commonwealth Party participating, and the results indicated just that: Commonwealth received 60 percent of the vote, statehood nearly 39, and independence less than 1 percent.

The statehooders who participated in the plebiscite and went on and formed their own party, the new Progressive Party which got the governor reelected, and it was the first defeat for the Democratic Party in 28 years. By the way, just for clarification, the fact that they call themselves Popular Democrats has really nothing to do with the Democratic Party in this country, it is just a title.

In 1970, President Nixon said it is time to do something, let us talk about statehood or independence for Puerto Rico, but nothing happened. Again, in 1971 the same thing. In 1977, and every year since then there has been a discussion as to what the future of Puerto Rico will be. Then, finally, this year, for the first time in a long time, and a bill was passed here by one of our colleagues, sponsored by one of our colleagues on the Republican side, the gentleman from Alaska (Mr. YOUNG), which would allow the choice between the present commonwealth, statehood or independence.

The bill was supported and is supported by those who support statehood; it is supported by those who support independence; it is not supported by the Commonwealth Party, because they feel that in no way does it really speak to what they wish to be. What the bill does is speak to what we are, to what Puerto Rico is, to what the relationship is, and therein lies the problem.

The United States has spent, our country has spent a lot of time and a lot of energy basically suggesting to the world what democratic principles they should follow, and I think that there is not a single person listening or watching us that does not agree that we have a role to play in promoting democracy throughout the world.

I think the big question we have to ask ourselves, and especially the younger people in this country who will be around for a long, long time have to ask is, is it right for this country on one hand to preach democracy throughout the world and on the other hand hold for 100 years tomorrow a colony, a territory in the Caribbean. For the Puerto Rican community, the pain goes deeper. Before these 100 years which will be culminated tomorrow, we spent 405 years with Spain. That is 505 years of a colonial status, the longest running colony in the world.

Now, understand that our government, for the first time in passing the bill on the House floor, admitted in legislation, in writing that Puerto Rico, in fact, was a territory of the United States. For years we have been telling the U.N. that we were something else. No, Puerto Rico is a commonwealth that has a special understanding. Look, it is very simple. If you do not have the same rights other American citizens have, you can call it what you want, it is not a state, it is not an independent nation, it is a colony.

Why should this be important to all Americans? Why should all Americans be concerned with this issue? Well, because we have invaded Puerto Rico, Puerto Rico did not invade us, so we have to eventually come to a conclusion on this subject.

Secondly, one cannot have nearly 4 million, 3.8 American citizens living in Puerto Rico not enjoying the same rights that other Americans have.

□ 1630

So I think the time has come, and perhaps that is what this observance will begin tomorrow. For this Congress, for this Senate, for the American people, for the American media to become aware of the issue and begin to discuss the possibility of finding a solution.

For this Congressman, the solution is very simple. Either we take Puerto Rico in as the 51st State of the Union, or we grant them, work with them on attaining full independence.

I believe, unlike some of my colleagues and unlike some people on the island or in the Puerto Rican communities in the United States, I believe that the Puerto Rican people on the island are fully equipped, talented enough, and intelligent enough to be the 51st State of the Union. I also believe that those folks are talented enough, educated enough, to be a successful independent Nation.

What they should not continue to be is a people in limbo. And we should not continue to profess to be the safekeepers of democracy and democratic principles and allow that situation to exist.

On many occasions on this House Floor I mix, to the dismay of some of my colleagues, I relate the issues of Cuba and Puerto Rico. People say what is the relationship? Well, the relationship is very simple. We spend a lot of time and energy demanding, quote-unquote, democratic changes in Cuba. How will those democratic changes satisfy us? If they become the kind of changes which allow for people to vote and deal with the issues. That is what we claim.

Well, the same thing has to happen in Puerto Rico. And tomorrow as people observe, lament, or celebrate this relationship, I think it is important that we Americans take a step back and analyze what role, if any, we want to play in this issue.

I do not think, in all honesty, that the American educational system on this issue has done the job it should do. I know for a fact that not enough time is taken, not enough energy is expended, not enough resources, if any, are spent on dealing with this issue in our school system. To educate young people to the fact that we have this situation.

There are, of course, concerns. Most people in this Congress are concentrating on the issue of statehood and they will not move on the issue of Puerto Rico because they are dealing with the issue of statehood.

Mr. Speaker, I said a few seconds ago that the issue could be independence. It does not have to be statehood. Either way, it has to be solved and the problem is that too many people spend too much time determining what kind of a state Puerto Rico would be.

I have two things to say about that. One is if we do not want a state that looks and sounds and acts like Puerto Rico, independence is the solution. Just do that. But if we are now going to question Puerto Ricans to see what kind of good American citizens they would make, it might be 100 years too late. After all, not a single Puerto Rican was question on the issue of language when he was sent off to World War I, World War II, Korea, Vietnam, the Gulf War. That was never a question. Now that has become a question.

Do Puerto Ricans speak English? Should we have a state where the majority of the people do not speak English? I hate to tell my colleagues, but there are states in this country where a majority of people who do not speak English. They speak an English, but the English that they have been speaking for a while now has been badly put together.

We could easily suggest that the time for the relationship has come to a point where it is time that we solve it simply by taking an up-or-down vote, independence or statehood, and not play with anything in between, and I mean that.

This present status is neither here nor there, neither for us or for the people who live in Puerto Rico. It is an unfair status for us, because we should not have a colony in the Caribbean. And it is an unfair status for the people in Puerto Rico, because they should take their place in the world as a free Nation or take the place as a State of the Union.

And so I am hopeful, Mr. Speaker, that as we continue to deliberate on this issue, and as the news media covers the fact that tomorrow there will be everything, as I said, from laments to celebration, from joy to sadness, from demonstrations to joyous exuberant demonstrations that we will see on TV and in the newspapers. We will see pictures and video of people celebrating their citizenship and people questioning what kind of citizenship they have. We will see people in Puerto Rico and in the New York community and other Puerto Rican communities throughout the Nation showing glee at the fact that we have reached 100 years with the U.S., and we will also see people lamenting the fact that we have spent these 100 years in this kind of a condition.

Mr. Speaker, I think it is important for all Americans to try to reach a point. So I would hope that all Americans begin to speak to their representatives and to tell them that we have to solve this situation. I would hope that within the next few years, Puerto Rico and the United States can reach an agreement. An agreement to either bring it in as the 51st state, or to grant it independence. Nothing else is acceptable.

The present status is embarrassing to us. It is embarrassing to the Puerto Rican people. It is wrong. It is unfair.

I can think back, and I will close with this, Mr. Speaker. I can think back to my father and to my mother. They came to New York from Puerto Rico. He, with 2 years of school, and my mother with 6 years of school. They came in 1950, and they brought up my brother and me, my brother Eli and me.

They always told us to do everything that good families do. To work hard, obey the law, to study, and to be good citizens. But those two folks, as much lacking formal education as they were, were always very much aware of the fact that there was something wrong with the relationship and that they would always tell us that that relationship some day had to come to a conclusion.

They are no longer with me. They were not here on March 28, 1990, 38 years exactly to the date when they came from Puerto Rico, when I was elected to Congress and got sworn in. And, in fact, I held my swearing in. I asked then Speaker Foley to swear me in a day after I was supposed to, so that I could pay tribute to their arrival in New York and their fight to create a community and create a family and to celebrate my accomplishment in their honor.

They always told us that this had to be settled somehow. Tomorrow, as we commemorate the 100th year anniversary, I think it behooves the United States Congress to move ahead and create a better situation for itself and for Puerto Rico. To do anything else would be a shame. To do anything else would be an undemocratic act.

CONFERENCE REPORT ON H.R. 4059

Mr. PACKARD submitted the following conference report and statement on the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–647)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4059) "making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 1999, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $868,726,000, to remain available until September 30, 2003: Provided, That of this amount, not to exceed $64,269,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $604,593,000, to remain available until September 30, 2003: Provided, That of this amount, not to exceed $60,846,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $615,809,000, to remain available until September 30, 2003: Provided, That of this amount, not to exceed $38,092,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $553,114,000, to remain available until September 30, 2003: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided further, That of the amount appropriated, not to exceed $26,005,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

DEPARTMENT OF DEFENSE MILITARY UNACCOMPANIED HOUSING IMPROVEMENT FUND

(RESCISSION OF FUNDS)

Of the funds appropriated for "Department of Defense Military Unaccompanied Housing Improvement Fund" under Public Law 104–196, $5,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $142,403,000, to remain available until September 30, 2003.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $169,801,000, to remain available until September 30, 2003.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $102,119,000, to remain available until September 30, 2003.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $31,621,000, to remain available until September 30, 2003.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $34,371,000, to remain available until September 30, 2003.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in Military Construction Authorization Acts and section 2806 of title 10, United States Code, $154,000,000, to remain available until expended.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $135,290,000, to remain available until September 30, 2003; for Operation and Maintenance, and for debt payment, $1,094,697,000; in all $1,229,987,000.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $295,590,000, to remain available until September 30, 2003; for Operation and Maintenance, and for debt payment, $912,293,000; in all $1,207,883,000.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $280,965,000, to remain available until September 30, 2003; for Operation and Maintenance, and for debt payment, $783,204,000; in all $1,064,169,000.

FAMILY HOUSING, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $345,000, to remain available until September 30, 2003; for Operation and Maintenance, $36,899,000; in all $37,244,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, $2,000,000, to remain available until expended, as the sole source of funds for planning, administrative, and oversight costs incurred by the Housing Revitalization Support Office relating to military family housing initiatives undertaken pursuant to 10 U.S.C. 2883, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $427,164,000, to remain available until expended: Provided, That not more than $271,800,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $1,203,738,000, to remain available until expended: Provided, That not more than $426,036,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; or (2) purchases negotiated by the Attorney General or his designee; or (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Gulf, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: Provided, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: Provided further, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any *time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.*

(TRANSFER OF FUNDS)

SEC. 118. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Gulf to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

(TRANSFER OF FUNDS)

SEC. 123. Subject to thirty days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: Provided, That appropriations made available to the Fund shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

SEC. 124. None of the funds appropriated or made available by this Act may be obligated for Partnership for Peace Programs or to provide support for non-NATO countries.

SEC. 125. Payments received by the Secretary of the Navy pursuant to subsection (b)(1) of section 2842 of the National Defense Authorization Act, 1993 (Public Law 102–484) are appropriated and shall be available for the purpose authorized in subsection (d) of that section.

SEC. 126. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing, the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(c) In this section, the term "congressional defense committees" means the following:

(1) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the Senate.

(2) The Committee on National Security and the Military Construction Subcommittee, Committee on Appropriations of the House of Representatives.

(TRANSFER OF FUNDS)

SEC. 127. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 128. It is the sense of the Congress that the Secretary of the Army should name the "All American Parkway" at Fort Bragg, North Carolina, as the "W.G. 'Bill' Hefner All American Parkway".

This Act may be cited as the "Military Construction Appropriations Act, 1999".

And the Senate agree to the same.

RON PACKARD,
JOHN EDWARD PORTER,
DAVID L. HOBSON,
ROGER F. WICKER,
JACK KINGSTON,
MIKE PARKER,
TODD TIAHRT,
ZACH WAMP,
BOB LIVINGSTON,
W.G. (BILL) HEFNER,
JOHN W. OLVER,
CHET EDWARDS,
BUD CRAMER,
NORMAN DICKS,
DAVID OBEY,
Managers on the Part of the House.

CONRAD BURNS,
KAY BAILEY HUTCHISON,
LAUCH FAIRCLOTH,
LARRY E. CRAIG,
TED STEVENS,
PATTY MURRAY,
HARRY REID,
DANIEL K. INOUYE,
ROBERT C. BYRD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4059) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, submit the following joint statement to the House of Representatives and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill (S. 2160). The conference agreement includes a revised bill.

ITEMS OF GENERAL INTEREST

Matters Addressed by Only One Committee.—The language and allocations set forth in House Report 105–578 and Senate Report 105–213 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or the Senate have directed the submission of a report from the Department of Defense, such report is to be submitted to both House and Senate Committees on Appropriations.

Financial Management.—The conferees agree that general reductions included in the conference agreement are based on such factors as savings through favorable bids, reduced overhead costs, downsizing or cancellation due to force structure changes (if any), other administrative cost reduction initiatives, revised economic assumptions, and inflation re-estimates. The conferees direct that no project for which funds were previously appropriated, or for which funds are appropriated in this bill, may be cancelled as a result of general reductions included in the conference agreement.

The conference agreement includes reductions totaling $21,300,000 which result from re-estimation of inflation undertaken by the Office of Management and Budget as part of the mid-session review of the budget request. The conferees direct the Department to distribute these reductions proportionally against each project and activity in each account, as follows:

Reductions resulting from economic assumptions in OMB's mid-session review of the budget request

Account	*Amount*
Military Construction, Army	$2,000,000

Reductions resulting from economic assumptions in OMB's mid-session review of the budget request—Continued

Account	*Amount*
Military Construction, Navy	1,000,000
Military Construction, Air Force	1,000,000
Military Construction, Defense-wide	1,300,000
NATO Security Investment Program	1,000,000
Family Housing Operations, Army	3,000,000
Family Housing Construction, Navy	1,000,000
Family Housing Operations, Navy	3,000,000
Family Housing Construction, Air Force	1,000,000
Family Housing Operations, Air Force	2,000,000
Base Realignment and Closure, Part III	2,000,000
Base Realignment and Closure, Part IV	3,000,000
	$21,300,000

Real Property Maintenance: Reporting Requirement.—The conferees agree to the following general rules for repairing a facility under Operation and Maintenance account funding:

Components of the facility may be repaired by replacement, and such replacement can be up to current standards or codes.

Interior arrangements and restorations may be included as repair, but additions, new facilities, and functional conversions must be performed as military construction projects.

Such projects may be done concurrent with repair projects, as long as the final conjunctively funded project is a complete and usable facility.

The appropriate Service Secretary shall submit a 21-day notification prior to carrying out any repair project with an estimated cost in excess of $10,000,000.

MILITARY CONSTRUCTION, ARMY

The conference agreement appropriates $868,726,000 for Military Construction, Army, instead of $780,599,000 as proposed by the House, and $810,476,000 as proposed by the Senate. Within this amount, the conference agreement earmarks $64,269,000 for study, planning, design, architect and engineer services, and host nation support instead of $63,792,000 as proposed by the House and $67,269,000 as proposed by the Senate.

Kentucky—Fort Campbell: Sabre Heliport.—The conferees recognize the critical importance of the Sabre Heliport to military operations at Fort Campbell and understand that this facility needs essential renovations in order to operate both safely and efficiently. The U.S. Army Aeronautical Services Agency (USAASA) has issued a temporary waiver that allows the facility to continue normal operations until April 2001. Accordingly, the conferees direct the Secretary of the Army to report to the congressional defense committees not later than January 15, 1999, on their plan and timetable to make the necessary airfield improvements.

New York—Fort Drum: Consolidated Soldier/Family Support Center.—The conferees have deferred funding for this project, without prejudice, and the Army is encouraged to include this project in the budget request for fiscal year 2000.

Unspecified Minor Construction.—Within the increased funds appropriated above the budget request for Army, Unspecified Minor Construction, the Army is directed to provide the needed athletic facilities, such as ball fields and a running track, at Camp McGovern, Bosnia-Herzegovina.

MILITARY CONSTRUCTION, NAVY

The conference agreement appropriates $604,593,000 for Military Construction, Navy, instead of $570,643,000 as proposed by the House, and $565,030,000 as proposed by the Senate. Within this amount, the conference agreement earmarks $60,846,000 for study, planning, design, architect and engineer services instead of $60,346,000 as proposed by the House and $62,146,000 as proposed by the Senate.

Florida—Key West Naval Air Station: Compatible Use Easements.—The conferees direct the Navy to report on the need for continuation of existing compatible use easements which prevent construction of facilities on privately owned land in connection with the operation of the Key West Naval Air Station. This report is to be submitted within 30 days of enactment of this Act.

MILITARY CONSTRUCTION, AIR FORCE

The conference agreement appropriates $615,809,000 for Military Construction, Air Force, instead of $550,475,000 as proposed by the House, and $627,874,000 as proposed by the Senate. Within this amount, the conference agreement earmarks $38,092,000 for study, planning, design, architect and engineer services instead of $37,592,000 as proposed by the House and $39,522,000 as proposed by the Senate.

California—Beale AFB: Flightline Fire Station.—The conferees direct the Air Force to accelerate design and to include this project in the budget request for fiscal year 2000.

Kansas—McConnell AFB: KC–135 Squadron Operations/Aircraft Maintenance Unit #3.—The conferees direct the Air Force to accelerate design and to include this project in the budget request for fiscal year 2000.

-New York—Rome Labs: Consolidated Intelligence and Reconnaissance Laboratory.—The conferees direct the Air Force to accelerate the design of the Consolidated Intelligence and Reconnaissance Research Site at the Department's Rome Laboratory in New York and include this project in its fiscal year 2000 Military Construction budget request.

MILITARY CONSTRUCTION, DEFENSE-WIDE

The conference agreement appropriates $553,114,000 for Military Construction, Defense-wide, instead of $611,075,000 as proposed by the House, and $571,485,000 as proposed by the Senate. Within this amount, the conference agreement earmarks $26,005,000 for study, planning, design, architect and engineer services instead of $24,866,000 as proposed by the House and $25,066,000 as proposed by the Senate.

Chemical Demilitarization Program.—The conference agreement includes full funding of all requested projects related to the chemical demilitarization program, and also includes a general reduction of $50,500,000 against the entire program based on unobligated prior year funds, delays in obtaining the required environmental and construction permits, and possible delays in equipment delivery.

Energy Conservation Investment Program.—In future budget submissions, the conferees expect project-level information on the Energy Conservation Investment Program (ECIP) to be presented in tabular form, rather than in Form 1391 detail.

MILITARY UNACCOMPANIED HOUSING IMPROVEMENT FUND

Military Unaccompanied Housing Improvement Fund.— The conferees agree to rescind $5,000,000 from the Military Unaccompanied Housing Improvement Fund. The House and Senate bills had no similar provision. This rescinds the full unobligated balance of funds, due to the absence of any programmed or anticipated projects under this account.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

The conference agreement appropriates $142,403,000 for Military Construction, Army National Guard, instead of $70,338,000 as proposed by the House, and $124,599,000 as proposed by the Senate.

Iowa-Camp Dodge: Damaged and Destroyed Facilities.—The conferees direct the National Guard Bureau to report on tornado and wind damage sustained on June 29, 1998. This report is to be submitted within 30 days of enactment of this Act, and is to include an assessment of requirements for repair and replacement.

Montana—Fort Harrison: Sewer System.—The conferees agree to grant the Army National Guard reprogramming approval up to the amount of $1,200,000 to cover the Army National Guard's contribution for connecting the Fort Harrison complex to the city sewer system, subject to approval of the proposed source of funds.

Montana—Helena: Armed Forces Reserve Center.—The conferees direct that the total funding provided for this facility shall include the purchase and installation of prewired workstations and furnishings.

North Carolina—Fort Bragg: Military Education Facility.—The conferees recognize the importance of the Military Education Facility to the Army National Guard and direct the National Guard Bureau to begin the planning and design and site preparation for this National Guard facility. The conferees direct the Department to include this project in the Future Year Defense Plan (FYDP).

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

The conference agreement appropriates $169,801,000 for Military Construction, Air National Guard, instead of $97,701,000 as proposed by the House, and $163,161,000 as proposed by the Senate.

California—Moffett Federal Airfield: Composite Maintenance Hangar.—The conferees acknowledge the urgent and compelling need to replace the existing World War II facility at Moffett Federal Airfield and encourage the Department to include this project in the fiscal year 2000 budget request.

Georgia—Savannah IAP: Composite Support Complex.—The conferees direct the Air National Guard to include this project in the budget request for fiscal year 2000, as programmed in the Future Year Defense Plan submitted in support of the fiscal year 1999 budget.

MILITARY CONSTRUCTION, ARMY RESERVE

The conference agreement appropriates $102,119,000 for Military Construction, Army Reserve, instead of $71,894,000 as proposed by the House, and $114,349,000 as proposed by the Senate.

Utah—Salt Lake City: U.S. Army Reserve Center (Phase II).—The conferees agree to provide $5,076,000 as the second and final funding phase for a U.S. Army Reserve Center / Organizational Maintenance Shop / Direct Support-General Support Facilities / Equipment Concentration Site. Together with $12,714,000 appropriated in fiscal year 1998 as the first funding phase, this provides a total of $17,790,000 for this project.

MILITARY CONSTRUCTION, NAVAL RESERVE

The conference agreement appropriates $31,621,000 for Military Construction, Naval

Reserve, instead of $33,721,000 as proposed by the House, and $21,621,000 as proposed by the Senate.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

The conference agreement appropriates $34,371,000 for Military Construction, Air Force Reserve, instead of $35,371,000 as proposed by the House, and $22,835,000 as proposed by the Senate.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

The conference agreement appropriates $154,000,000 for the North Atlantic Treaty Organization Security Investment Program (NSIP), instead of $169,000,000 as proposed by the House, and $152,600,000 as proposed by the Senate.

North Atlantic Treaty Organization Security Investment Program Funds.—The conferees agree to a provision renumbered Section 124, proposed by the Senate, which prohibits the use of NSIP funds for any aspect of the Partnership for Peace Program or support to non-NATO countries. The President's budget request for fiscal year 1999 included $56,900,000 for the Department of Defense and an additional $80,000,000 of foreign military financing, administered by the Department of State, for the Partnership for Peace Program. The proposed funding level should provide sufficient resources for any expansion initiatives anticipated by the Administration.

FAMILY HOUSING—OVERVIEW

Reprogramming Criteria.—The reprogramming criteria that apply to military construction projects (25 percent of the funded amount or $2,000,000, whichever is less) also apply to new housing construction projects and to improvement projects over $2,000,000.

Family Housing Operation and Maintenance.—The conferees direct that the details of all expenditures from the Family Housing Operation and Maintenance accounts which exceed $20,000 per unit, per year for major maintenance and repair of non-general and flag officer quarters be included as part of the budget justification material.

Exclusion of Costs Associated with Environmental Hazard Remediation from Maintenance and Repair Limits.—The conferees revise the requirement for an after-the-fact notification for projects when the costs associated with environmental hazard remediation such as asbestos removal, radon abatement, lead-based paint removal or abatement, and any other legislated environmental hazard remediation cause the maintenance and repair thresholds of $20,000 for a military family housing unit, or $25,000 for a General or Flag Officer Quarter to be exceeded. The notification shall include work, scope, cost breakout and other details pertinent to the environmental hazard remediation and shall be reported on a semi-annual basis. An after-the-fact notification is acceptable provided that such remediation requirements could not be reasonably anticipated at the time of the budget submission. This exclusion applies to projects appropriated in this budget year, and also projects appropriated in prior years for which construction contracts have not been completed.

FAMILY HOUSING, ARMY

The conference agreement appropriates $135,290,000 for Construction, Family Housing, Army, instead of $82,840,000 as proposed by the House and $124,490,000 as proposed by the Senate.

The conferees direct that the following projects are to be accomplished within the increased amount provided for construction improvements:

Alaska-Fort Richardson (40 units)	$7,400,000
Kentucky-Fort Campbell (104 units)	8,800,000
New Mexico-White Sands Missile Range (36 units)	3,650,000

The conference agreement appropriates $1,094,697,000 for Operation and Maintenance, Family Housing, Army, instead of $1,097,697,000 as proposed by the House and $1,104,733,000 as proposed by the Senate.

The conference agreement appropriates a total of $1,229,987,000 for Family Housing, Army, instead of $1,180,537,000 as proposed by the House and $1,229,223,000 as proposed by the Senate.

FAMILY HOUSING, NAVY AND MARINE CORPS

The conference agreement appropriates $295,590,000 for Construction, Family Housing, Navy and Marine Corps, instead of $130,457,000 as proposed by the House and $286,590,000 as proposed by the Senate.

The conferees direct that the following projects are to be accomplished within the increased amount provided for construction improvements:

California—Camp Pendleton (171 units)	$10,000,000
Washington—Whidbey Island NAS (60 units)	5,800,000

The conference agreement appropriates $912,293,000 for Operation and Maintenance, Family Housing, Navy and Marine Corps, instead of $915,293,000 as proposed by the House and Senate.

The conference agreement appropriates a total of $1,207,883,000 for Family Housing, Navy and Marine Corps, instead of $1,045,750,000 as proposed by the House and $1,201,883,000 as proposed by the Senate.

Washington—Naval Station Puget Sound, Everett: Real Property Conveyance.—Section 125 of this Act provides an appropriation of $6,000,000 in proceeds from the sale of land and family housing units at Paine Field. This funding shall be used for the acquisition of land and/or housing units in the vicinity of, or for, Naval Station Everett as authorized in Section 2842 of Public Law 102-484.

FAMILY HOUSING, AIR FORCE

The conference agreement appropriates $280,965,000 for Construction, Family Housing, Air Force, instead of $207,880,000 as proposed by the House and $297,475,000 as proposed by the Senate.

The conferees direct that the following projects are to be accomplished within the increased amount provided for construction improvements:

Georgia—Moody AFB (68 units)	$5,220,000
North Carolina—Seymour Johnson AFB (70 units)	8,000,000
South Carolina—Charleston AFB (94 units)	9,110,000

The conference agreement appropriates $783,204,000 for Operation and Maintenance, Family Housing, Air Force, instead of $785,204,000 as proposed by the House and $789,995,000 as proposed by the Senate.

The conference agreement appropriates a total of $1,064,169,000 for Family Housing, Air Force, instead of $993,084,000 as proposed by the House and $1,087,470,000 as proposed by the Senate.

FAMILY HOUSING, DEFENSE-WIDE

The conference agreement appropriates $345,000 for Construction, Family Housing, Defense-wide, as proposed by the House and Senate.

The conference agreement appropriates $36,899,000 for Operation and Maintenance, Family Housing, Defense-wide, as proposed by the House and Senate.

The conference agreement appropriates a total of $37,244,000 for Family Housing, Defense-wide, as proposed by the House and Senate.–

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

The conference agreement appropriates $2,000,000 for the Department of Defense Family Housing Improvement Fund instead of $242,438,000 as proposed by the House and $7,000,000 as proposed by the Senate. The reduction from the level proposed by the House reflects full funding of construction projects and construction improvement projects in the traditional family housing accounts, rather than in the Family Housing Improvement Fund. Transfer authority is provided for the execution of any qualifying project under privatization authority which resides in the Fund.

The conferees note that the Housing Revitalization Support Office (HRSO) proposed to expend 90 percent of the $7,000,000 budget request for consultant support. Further, HRSO will expend $14,150,000 for consultant support for fiscal years 1996 through 1998, which represents 90 percent of all resources available for HRSO overhead. These expenditures for consultant services have not produced any contracts awarded under the 1996 privatization authorities. –

The conferees support the Department's privatization efforts, and recommend an appropriation of $2,000,000 based on available balances and excessive allocation for consultant services. –

The conferees continue to be concerned over the delay in execution of family housing construction projects for which funds have been appropriated, for possible privatization efforts. The new authorities were signed into law in February 1996, yet no new agreements have been finalized to build or renovate military family housing. Several projects are being considered, yet only one project, at Lackland AFB, is close to contract signing. The conferees strongly believe that the Department needs to use all available tools to address the family housing program in an optimum manner. This includes the traditional construction program, privatization, and adequate use of existing private sector housing. The conferees remind the Department that Congress approved the new privatization authorities as a pilot project, and that these authorities will expire on February 10, 2001. It was never the intent of the House and Senate Appropriations Committees for this program to become a substitute for the traditional housing construction program.

The conferees direct the Office of the Under Secretary of Defense for Acquisition and Technology to carefully review the planned privatization efforts and narrow the scope to a reasonable number of projects which may be executed prior to the expiration of the pilot project authority. The conferees expect to be notified on October 1, 1998, of a revised, scaled-back, reasonable plan for the privatization effort. In addition, the conferees anticipate that all prior year appropriated family housing construction projects which have been placed on hold will be released for construction at that time, unless specific justification is provided to Congress. Following the October 1st report, the Department is expected to report quarterly to the House and Senate Appropriations Committees on the status of all privatization efforts and the status of all family housing construction and construction improvement projects for which funds have been appropriated.

The conferees direct the Department to display all family housing construction and construction improvement projects which are anticipated for privatization as such in the fiscal year 2000 budget. This display should include a detailed plan of the time frame for execution of each privatization effort.–

In addition, the Secretary of Defense is directed to report to the House and Senate Committees on Appropriations by December 1, 1998, on an integrated family housing strategy for the Department of Defense. This strategy should focus on the maximum use of existing civilian housing, the use of enhanced housing referral services, coordination of housing allowances, and appropriate use of privatization and traditional construction options. In particular, this report should include a detailed plan for integrating the DOD offices which have responsibilities for the military's family housing program. Responsibility for privatization and for construction, operation and maintenance lies with the Under Secretary of Defense for Acquisition and Technology. Appropriations for military-owned and leased family housing are included in the Services' family housing accounts. Responsibility for housing allowances is under the Under Secretary for Defense for Personnel and Readiness, and housing allowances are included in the Services' military personnel accounts. The conferees are concerned that privatization shifts funding from military family housing construction, operations, and maintenance accounts to military personnel accounts to pay for increased housing allowances, which are used to pay rent to developers of privatized housing. The conferees believe that this is not being coordinated by the Department, nor is it being budgeted for adequately. The conferees believe that in order to have a truly integrated family housing policy, these functions need to be overseen by one office within the Department.–

The conferees request the Comptroller General to monitor the progress of the Department of Defense's and individual Services' implementation of the family housing privatization initiative. The monitoring of the program shall include, but not be limited to, obtaining information on the status of family housing projects, reviewing life-cycle costs analyses for projects, and determining whether the privatization initiative is being integrated and coordinated with the Department's other family housing programs. The conferees request that the Comptroller General keep the House and Senate Committees on Appropriations apprised of the progress and submit a report to the Congress no later than March 31, 2000.

HOMEOWNERS ASSISTANCE FUND, DEFENSE–

The conference agreement appropriates no funds for the Homeowners Assistance Fund, Defense instead of $7,500,000 as proposed by the House and $12,800,000 as proposed by the Senate. –

The conferees have included a new provision, Section 127, as proposed by the Senate, which allows the transfer of funds from the Base Realignment and Closure account into the Homeowners Assistance Fund, Defense. Any amounts transferred into the fund shall be available to pay for expenses associated with the program. Due to this transfer authority, the conferees believe a direct appropriation to this account for fiscal year 1999 is not necessary. The total estimated requirements for fiscal year 1999 are estimated at $109,735,000 and will be funded with transfer of appropriated funds, revenue from sales of acquired property and prior year unobligated balances. The Comptroller of the Department of Defense is to notify the House and Senate Subcommittees on Military Construction twenty-one days prior to the use of the transfer authority.

BASE REALIGNMENT AND CLOSURE—OVERVIEW–

Construction Projects: Administrative Provision.—The conferees agree that any transfer of funds which exceeds reprogramming thresholds for any construction project financed by any Base Realignment and Closure Account shall be subject to a 21-day notification to the Committees, and shall not be subject to reprogramming procedure.–

Construction Budget Data.—The conferees are concerned about the accuracy and reliability of the base realignment and closure (BRAC) construction budget data provided annually to the Congress. The Office of the Department of Defense Inspector General and the General Accounting Office recently found that the Services submitted BRAC military construction data in the fiscal years 1997 and 1998 military construction budgets based on overstated requirements and unsupported specifications and costs. They also found that the major commands of the Services did not effectively implement management control procedures established for the BRAC military construction planning, programming and budgeting process. This has resulted in overstated and invalid BRAC requirements and lack of supporting documentation. The conferees direct the Department to take the necessary corrective action to ensure that these deficiencies are corrected in the fiscal year 2000 budget submission.

Future Costs of Environmental Restoration.—The conferees direct the Department of Defense to submit a legislative proposal for the establishment of a Treasury account entitled "Base Realignment and Closure Environmental Restoration", rather than budgeting for future costs in the Operation and Maintenance accounts. The conferees direct that future costs for environmental restoration related to the four rounds of base closure conducted from 1988 through 1995 shall be programmed and budgeted in this new account.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

The conference agreement appropriates $427,164,000 for the Base Realignment and Closure Account, Part III instead of $433,464,000 as proposed by the House and Senate. Within the amount appropriated, the conference agreement earmarks $271,800,000 for environmental restoration, as proposed by the House and Senate.

Reprogramming Action.—The Committees have approved a reprogramming request which accelerated one construction project from fiscal year 1999 to fiscal year 1998, allowing the program to absorb a reduction of $4,300,000 from the budget request.

Revised Economic Assumptions.—As described earlier in this report, the conferees recommend a reduction of $2,000,000 from the budget request based on reestimation of inflation.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

The conference agreement appropriates $1,203,738,000 for the Base Realignment and Closure Account, Part IV instead of $1,297,240,000 as proposed by the House and Senate. Within the amount appropriated, the conference agreement earmarks $426,036,000 for environmental restoration, as proposed by the House and Senate.

Reprogramming Actions.—The Committees have approved reprogramming requests which accelerated four construction projects from fiscal year 1999 to fiscal year 1998, allowing the program to absorb a reduction of $28,802,000 from the budget request.

Revised Economic Assumptions.—As described earlier in this report, the conferees recommend a reduction of $3,000,000 from the budget request based on reestimation of inflation.

Unreported Proceeds.—The Services have collected $35,700,000 more in proceeds from land sales and leases at closing or realigning bases than reported in the fiscal year 1999 budget request. Statutes and Department of Defense guidance state that proceeds from the transfer, lease, or disposal of property due to the Base Realignment and Closure process shall be deposited into the Base Closure Accounts. The conferees understand that, because such proceeds were collected after the development of the budget, the Air Force did not report $21,000,000 worth of proceeds, the Army did not report $3,900,000, and the Navy did not report $10,800,000. The conferees direct the Services to deposit these proceeds into the Base Realignment and Closure Account, and have reduced the Base Realignment and Closure Account, Part IV fiscal year 1999 appropriation by $35,700,000 to reflect this action.

Funds Previously Withheld.—The conferees recommend a reduction of $26,000,000 to the Base Realignment and Closure Account, Part IV. This reduction is based on funds that were previously withheld from obligation based on an inflation rate that was lower than expected. At the time the fiscal year 1999 budget was submitted to Congress, these funds were withheld from obligation, but have subsequently been made available. Thus, the budget request is overstated by $26,000,000.

Kentucky—Louisville Naval Ordnance Station: Environmental Restoration.—The conferees urge the Navy to pursue the feasibility for use of bioremediation technologies (such as treatment by microbes and plants) for cleanup of sub-surface contamination of soils and groundwater, and to utilize such technologies if they are proven to be cost-effective.

GENERAL PROVISIONS

The conference agreement includes general provisions that were in both the House and Senate versions of the bill that were not amended.

The conference agreement includes Section 101, as proposed by the House, prohibiting the expenditure of funds for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceeded $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense, instead of similar language as proposed by the Senate.

The conference agreement includes Section 105, as proposed by the House, which makes a technical correction to the word "per centum", instead of language as proposed by the Senate.

The conference agreement includes Section 112 as proposed by the House, which makes a technical correction to the word "per centum", instead of language as proposed by the Senate.

The conference agreement includes Section 114, as proposed by the House, which makes a technical correction to the word "per centum", instead of language as proposed by the Senate.

The conference agreement includes a provision, Section 121, as proposed by the House, which prohibits the expenditure of funds except in compliance with the Buy American

Act. The Senate bill contained no similar provision.

The conference agreement includes a provision, Section 122, as proposed by the House, which states the Sense of the Congress notifying recipients of equipment or products authorized to be purchased with financial assistance provided in this Act to purchase American-made equipment and products. The Senate bill contained no similar provision.

The conference agreement includes a provision renumbered Section 123, as proposed by the Senate, permitting the transfer of funds from Family Housing, Construction accounts to the DOD Family Housing Improvement Fund, instead of language as proposed by the House.

The conference agreement includes a provision renumbered Section 124, as proposed by the Senate, stating that none of the funds appropriated or made available by this Act may be obligated for Partnership for Peace Programs or to provide support for non-NATO countries.

The conference agreement includes a provision renumbered Section 127, as proposed by the Senate, providing transfer authority from the Base Realignment and Closure (BRAC) accounts to the Homeowners Assistance Program (HAP). The House bill contained no similar provision.

The conference agreement includes a provision renumbered Section 128, as proposed by the House, stating that it is the sense of the Congress that the Secretary of the Army should name the "All American Parkway" at Fort Bragg, North Carolina, as the "W.G. "Bill" Hefner All American Parkway".

Those general provisions that were not included in the conference agreement follow:

The conference agreement deletes the Senate provision stating that the sole source of funds for planning, administrative, and oversight costs incurred by the Housing Revitalization Support Office must come from the DOD Family Housing Improvement Fund. This provision is included in the appropriations paragraph for the "Department of Defense Family Housing Improvement Fund" as proposed in the House bill.

The conference agreement deletes the Senate provision increasing the "Military Construction, Army National Guard" appropriation and decreasing the "Military Construction, Army Reserve" appropriation. The House bill contained no similar provision.

The conference agreement deletes the Senate provision increasing the "Military Construction, Navy" appropriation and the "Family Housing, Air Force" appropriation and decreasing the "Military Construction, Defense-wide" appropriation. The House bill contained no similar provision.

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ALABAMA		
ARMY		
ANNISTON ARMY DEPOT		
AMMUNITION CONTAINERIZATION COMPLEX	3,550	3,550
FORT RUCKER		
AVIATION WARFIGHTING SIMULATION CENTER	---	10,000
PROVOST MARSHAL/FIRE STATION COMPLEX	---	4,300
REDSTONE ARSENAL		
AIRFIELD OPERATIONS CENTER	---	1,550
MISSILE SOFTWARE ENGINEERING ANNEX (PHASE II)	13,600	13,600
AIR FORCE		
MAXWELL AFB		
FIRE TRAINING FACILITY	1,837	1,837
OFFICER TRAINING SCHOOL DINING FACILITY	4,796	4,796
OFFICER TRAINING SCHOOL STUDENT DORMITORIES	12,765	12,765
ARMY NATIONAL GUARD		
MONTGOMERY		
US PROPERTY AND FISCAL OFFICE	---	6,000
AIR FORCE RESERVE		
MAXWELL AFB		
CONSOLIDATED AIRCRAFT MAINTENANCE FACILITY	5,200	5,200
TOTAL, ALABAMA	41,748	63,598
ALASKA		
ARMY		
FORT WAINWRIGHT		
CENTRALIZED VEHICLE WASH FACILITY	---	3,100
WHOLE BARRACKS RENEWAL (PHASE I)	---	16,000
AIR FORCE		
EIELSON AFB		
CONSOLIDATED MUNITIONS FACILITY	4,352	4,352
DEFENSE-WIDE		
ELMENDORF AFB		
REPLACE HYDRANT FUEL SYSTEM (PHASE I)	19,500	19,500
AIR NATIONAL GUARD		
KULIS ANGB (ANCHORAGE)		
VEHICLE MAINTENANCE/FIRE STATION COMPLEX	---	10,400
TOTAL, ALASKA	23,852	53,352
ARIZONA		
NAVY		
FLAGSTAFF NAVAL OBSERVATORY		
OPTIC INTERFEROMETER SUPPORT FACILITY	990	990
YUMA MARINE CORPS AIR STATION		
BACHELOR ENLISTED QUARTERS	11,010	11,010
AIR FORCE		
LUKE AFB		
CONTROL TOWER	---	3,400
ARMY NATIONAL GUARD		
PAPAGO MILITARY RESERVATION (PHOENIX)		
COMBINED SUPPORT MAINTENANCE SHOP	10,640	10,640
AIR NATIONAL GUARD		
TUSCON INTERNATIONAL AIRPORT AGS		
COMPOSITE SUPPORT COMPLEX	---	7,500
TOTAL, ARIZONA	22,640	33,540
ARKANSAS		
ARMY		
PINE BLUFF ARSENAL		
AMMUNITION DEMILITARIZATION FACILITY (PHASE III)	16,500	---
AIR FORCE		
LITTLE ROCK AFB		
UPGRADE SEWAGE TREATMENT PLANT	---	1,500
DEFENSE-WIDE		
PINE BLUFF ARSENAL		
AMMUNITION DEMILITARIZATION FACILITY (PHASE III)	---	16,500
ARMY NATIONAL GUARD		
BENTON		
READINESS CENTER	---	1,988
TOTAL, ARKANSAS	16,500	19,988

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
CALIFORNIA		
ARMY		
FORT IRWIN		
CHILD DEVELOPMENT CENTER	---	5,100
EDUCATION CENTER	---	2,700
HELIPORT (PHASE III)	7,000	7,000
NAVY		
CAMP PENDLETON MARINE CORPS BASE		
BACHELOR ENLISTED QUARTERS	12,400	12,400
BACHELOR ENLISTED QUARTERS	15,840	15,840
FITNESS CENTER	---	5,010
HELICOPTER OUTLYING LANDING FIELD	---	7,180
CHINA LAKE NAVAL AIR WARFARE CENTER WEAPONS DIVISION		
MISSILE MAGAZINES	3,240	3,240
SURVIVABILITY LIVE FIRE COMPLEX	---	6,900
LEMOORE NAVAL AIR STATION		
AIRFRAMES FACILITY MODIFICATIONS	1,510	1,510
HANGAR RENOVATIONS	5,430	5,430
TRAINING FACILITY ADDITION	4,270	4,270
WEAPONS ASSEMBLY FACILITY IMPROVEMENTS	9,430	9,430
MIRAMAR MARINE CORPS AIR STATION		
BACHELOR ENLISTED QUARTERS	29,570	29,570
NAVAL FACILITY SAN CLEMENTE ISLAND		
BACHELOR ENLISTED QUARTERS	8,350	8,350
SAN DIEGO NAVAL SUBMARINE BASE		
SUBMARINE SUPPORT FACILITY	11,400	11,400
AIR FORCE		
EDWARDS AFB		
RENOVATE AIRCRAFT MAINTENANCE FACILITY	10,361	10,361
TRAVIS AFB		
CONTROL TOWER	---	4,250
VANDENBERG AFB		
ADD/ALTER MISSILE MAINTENANCE FACILITY	9,500	9,500
SPACE INITITAL QUALIFICATION TRAINING ACADEMIC FAC	9,209	9,209
DEFENSE-WIDE		
BEALE AFB		
ADD/ALTER PHYSIOLOGICAL SUPPORT FACILITY	3,500	3,500
CAMP PENDLETON MARINE CORPS BASE		
MEDICAL/DENTAL CLINIC REPLACEMENT (MARGARITA)	3,100	3,100
MEDICAL/DENTAL CLINIC REPLACEMENT (SAN MATEO)	3,200	3,200
EDWARDS AFB		
ADD/ALTER AEROSPACE MEDICAL CLINIC	6,000	6,000
NAVAL AMPHIBIOUS BASE, CORONADO		
SOF AMPHIBIOUS OPERATIONS FACILITY	3,600	3,600
SAN DIEGO NAVAL HOSPITAL		
WATER STORAGE TANK	1,350	1,350
TRAVIS AFB		
PATIENT MOVEMENT ITEMS/OPERATIONS AND DIST CENTER.	1,700	1,700
TOTAL, CALIFORNIA	159,960	191,100
COLORADO		
ARMY		
FORT CARSON		
RAILYARD EXPANSION (PHASE II)	---	23,000
AIR FORCE		
FALCON AFB		
OPERATIONAL SUPPORT FACILITY	9,601	9,601
US AIR FORCE ACADEMY (COLORADO SPRINGS)		
ADD/ALTER PREP SCHOOL BUILDINGS	4,413	4,413
ARMY RESERVE		
FORT CARSON		
ADD/ALTER ORGANIZATIONAL MAINTENANCE SHOP/ EQUIPMENT CONCENTRATION SITE	1,101	1,101
TOTAL, COLORADO	15,115	38,115
CONNECTICUT		
NAVY		
NSB NEW LONDON		
WATERFRONT IMPROVEMENTS	---	11,330
ARMY RESERVE		
WEST HARTFORD		
LAND ACQUISITION	1,491	1,491
TOTAL, CONNECTICUT	1,491	12,821

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
DELAWARE		
ARMY NATIONAL GUARD		
DAGSBORO		
READINESS CENTER	---	3,609
DISTRICT OF COLUMBIA		
NAVY		
COMMANDANT, NAVAL DISTRICT (WASHINGTON, DC)		
FITNESS CENTER	790	790
AIR FORCE		
BOLLING AFB		
HONOR GUARD TECHNICAL SCHOOL	2,948	2,948
TOTAL, DISTRICT OF COLUMBIA	3,738	3,738
FLORIDA		
ARMY		
MIAMI		
SOUTHCOM HEADQUARTERS AND LAND ACQUISITION	26,700	---
NAVY		
JACKSONVILLE NAVAL AIR STATION		
ADD/ALTER BUILDING #118	---	1,500
KEY WEST NAVAL AIR STATION		
CHILD DEVELOPMENT CENTER	3,730	3,730
MAYPORT NAVAL STATION		
AFLOAT TRAINING GROUP FACILITY	---	3,163
WHARF ELECTRICAL IMPROVEMENTS	---	3,000
WHITING FIELD NAVAL AIR STATION		
AIRFIELD ALTERATIONS	---	1,400
AIR FORCE		
EGLIN AFB		
DORMITORY	7,866	7,866
SANTA ROSA ISLAND TEST SITES	12,571	12,571
EGLIN AFB AUXILIARY FIELD 9 (HURLBURT FIELD)		
CONTROL TOWER	2,014	2,014
FIRE TRAINING FACILITY	1,823	1,823
MACDILL AFB		
DINING FACILITY	---	4,800
FIRE TRAINING FACILITY	2,494	2,494
KC-135 SIMULATOR FACILITY	2,514	2,514
TYNDALL AFB		
CONTROL TOWER	---	3,600
DEFENSE-WIDE		
DEF FUEL SUPPORT POINT JACKSONVILLE-MAYPORT ANNEX		
REPLACE FUEL TANKS	11,020	11,020
DEFENSE FUEL SUPPORT POINT JACKSONVILLE		
REPLACE FUEL TANKS	11,000	11,000
EGLIN AFB		
CENTRAL ENERGY PLANT (EGLIN HOSPITAL)	9,200	9,200
EGLIN AFB AUXILIARY FIELD 9 (HURLBURT FIELD)		
CLEAR WATER AIRCRAFT RINSE	2,400	2,400
EGLIN AFB AUXILIARY FIELD 3 (DUKE FIELD)		
ASSAULT STRIP RUNWAY	---	5,100
GENERAL PURPOSE AIRCRAFT MAINTENANCE SHOP	2,210	2,210
MACDILL AFB		
RENOVATE COMMAND AND CONTROL FACILITY	8,400	8,400
PENSACOLA NAVAL AIR STATION		
ADD/ALTER HOSPITAL/LIFE SAFETY UPGRADES	25,400	25,400
AIR FORCE RESERVE		
HOMESTEAD ARB		
DORMITORY RENOVATION	---	4,600
TOTAL, FLORIDA	129,342	129,805
GEORGIA		
ARMY		
FORT BENNING		
WHOLE BARRACKS COMPLEX RENEWAL	28,600	28,600
NAVY		
ALBANY MARINE CORPS LOGISTICS BASE		
CHILD DEVELOPMENT CENTER	---	2,800
KINGS BAY NAVAL SUBMARINE BASE		
MAGNETIC SILENCING FACILITY MODIFICATIONS	---	2,550

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR FORCE		
ROBINS AFB		
DEPOT PLANT SERVICES FACILITY	11,894	11,894
DEFENSE-WIDE		
MOODY AFB		
ALTER CENTRAL MEDICAL FACILITY/ADD DENTAL CLINIC	11,000	11,000
FORT STEWART		
MEDICAL/DENTAL CLINIC REPLACEMENT	10,400	10,400
AIR NATIONAL GUARD		
ROBINS AFB		
B1 WEAPONS RELEASE SYSTEMS/LOAD CREW TRAINING FAC.	3,250	3,250
NAVY RESERVE		
ATLANTA NAVAL AIR STATION		
HANGAR ADDITION	---	4,100
TOTAL, GEORGIA	65,144	74,594
HAWAII		
ARMY		
SCHOFIELD BARRACKS		
LAND ACQUISITION, KAHUKU TRAINING AREA	---	23,500
WHOLE BARRACKS COMPLEX RENEWAL	47,500	47,500
NAVY		
KANEOHE BAY MARINE CORPS AIR STATION		
BACHELOR ENLISTED QUARTERS	27,410	27,410
BACHELOR ENLISTED QUARTERS (PHASE I)	---	15,000
PEARL HARBOR NAVAL SUBMARINE BASE		
BACHELOR ENLISTED QUARTERS MODERNIZATION	8,060	8,060
PEARL HARBOR FLEET AND INDUSTRIAL SUPPLY CENTER		
CENTRAL RECEIVING FACILITY	9,730	9,730
PEARL HARBOR NAVAL STATION		
ELECTRICAL DISTRIBUTION SYSTEM UPGRADES	18,180	18,180
PEARL HARBOR NAVAL SHIPYARD		
ENGINEERING MANAGEMENT BUILDING	11,400	11,400
PEARL HARBOR NAVY PUBLIC WORKS CENTER		
SEWER OUTFALL EXTENSION	22,877	22,877
STEAM CONDENSATE RETURN SYSTEM	6,090	6,090
WAHIAWA NAVAL COMPUTER AND TELECOM AREA MASTER STATION (EASTERN PACIFIC)		
FIRE STATION	1,970	1,970
AIR FORCE		
HICKAM AFB		
REPAIR AIRFIELD PAVEMENT	5,890	5,890
AIR NATIONAL GUARD		
HICKAM AFB		
REPLACE BASE CIVIL ENG. MAINTENANCE FACILITY	---	5,100
TOTAL, HAWAII	159,107	202,707
IDAHO		
AIR FORCE		
MOUNTAIN HOME AFB		
B1-B CONVENTIONAL MUNITIONS SHOP	---	4,100
B1-B MUNITIONS STORAGE IGLOOS	---	1,500
DORMITORY	8,897	8,897
LAND ACQUISITION	1,000	1,000
RANGE IMPROVEMENTS	2,400	2,400
ARMY NATIONAL GUARD		
GOWEN FIELD (BOISE)		
ADD/ALTER READINESS CENTER	4,224	4,224
TOTAL, IDAHO	16,521	22,121
ILLINOIS		
ARMY		
ROCK ISLAND ARSENAL		
ELECTRICAL DISTRIBUTION SYSTEM	5,300	5,300
NAVY		
GREAT LAKES NAVAL TRAINING CENTER		
APPLIED INSTRUCTION BUILDING MODIFICATIONS	5,750	5,750
GAS TURBINE TRAINING FACILITY	7,410	7,410
SMALL ARMS RANGE	---	6,790

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
DEFENSE-WIDE		
GREAT LAKES NAVAL STATION		
HOSPITALMAN SCHOOL ADDITION	7,100	7,100
TOTAL, ILLINOIS	25,560	32,350
INDIANA		
ARMY		
CRANE ARMY AMMUNITION ACTIVITY		
AMMUNITION CONTAINERIZATION COMPLEX (PHASE II)	7,100	7,100
NEWPORT ARMY AMMUNITION PLANT		
AMMUNITION DEMILITARIZATION FACILITY (PHASE I)	27,500	---
AMMUNITION DEMILITARIZATION SUPPORT	2,000	---
NAVY		
CRANE NAVAL SURFACE WARFARE CENTER		
AIRBORNE ELECTRONIC WARFARE CENTER	---	11,110
DEFENSE-WIDE		
NEWPORT ARMY AMMUNITION PLANT		
AMMUNITION DEMILITARIZATION FACILITY (PHASE I)	---	27,500
AMMUNITION DEMILITARIZATION SUPPORT	---	2,000
AIR NATIONAL GUARD		
HULMAN REGIONAL AIRPORT (TERRE HAUTE)		
FUEL CELL CORROSION CONTROL AND FIRE STATION	---	6,000
TOTAL, INDIANA	36,600	53,710
IOWA		
ARMY NATIONAL GUARD		
CAMP DODGE		
FUEL DISPENSING FACILITY	737	737
AIR NATIONAL GUARD		
DES MOINES		
REPLACE SECURITY POLICE OPERATION FACILITY	---	4,000
SIOUX GATEWAY AIRPORT (SIOUX CITY)		
ADD/ALTER AIRCRAFT CORROSION CONTROL FACILITY	---	6,500
TOTAL, IOWA	737	11,237
KANSAS		
ARMY		
FORT LEAVENWORTH		
US DISCIPLINARY BARRACKS (PHASE II)	29,000	29,000
FORT RILEY		
WHOLE BARRACKS COMPLEX RENEWAL	---	16,500
AIR FORCE		
MCCONNELL AFB		
WATER STORAGE AND PUMPING FACILITY	---	4,450
AIR NATIONAL GUARD		
FORBES FIELD AGS (PAULINE)		
KC-135 MAINTENANCE HANGAR UPGRADE	---	9,800
MCCONNELL AFB		
ADD/ALTER AVIONICS SHOP	---	5,900
TOTAL, KANSAS	29,000	65,650
KENTUCKY		
ARMY		
BLUEGRASS ARMY DEPOT (RICHMOND)		
AMMUNITION CONTAINERIZATION COMPLEX	5,300	5,300
FORT CAMPBELL		
WHOLE BARRACKS COMPLEX RENEWAL	41,000	41,000
WHOLE BARRACKS COMPLEX RENEWAL (PHASE II)	---	7,000
FORT KNOX		
MULTI-PURPOSE DIGITAL TRAINING RANGE (PHASE I)	---	7,000
DEFENSE-WIDE		
FORT CAMPBELL		
AIRCRAFT MAINTENANCE HANGAR	15,000	15,000
ARMY NATIONAL GUARD		
WESTERN KENTUCKY TRAINING SITE (GREENVILLE)		
TRAINING COMPLEX (PHASES IV AND V)	5,435	5,435
AIR NATIONAL GUARD		
STANDIFORD FIELD, LOUISVILLE		
REPLACE COMPOSITE AERIAL PORT/AIRLIFT CONTROL ELEMENT FACILITY	---	4,100
TOTAL, KENTUCKY	66,735	84,835

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
LOUISIANA		
ARMY		
FORT POLK		
CONSOLIDATED RAIL COMPLEX	---	8,300
AIR FORCE		
BARKSDALE AFB		
PHYSICAL FITNESS CENTER	---	9,300
DEFENSE-WIDE		
BARKSDALE AFB		
ADD/ALTER MEDICAL CLINICS	3,450	3,450
NAVY RESERVE		
NEW ORLEANS NAVAL AIR STATION		
BACHELOR ENLISTED QUARTERS	---	9,520
ENGINE TEST CELL MODIFICATIONS	2,200	2,200
NEW ORLEANS NAVAL SUPPORT ACTIVITY		
GALLEY ADDITION	---	1,730
AIR FORCE RESERVE		
NEW ORLEANS NAVAL AIR STATION		
RENOVATE MAINTENANCE HANGAR #4	---	5,200
TOTAL, LOUISIANA	5,650	39,700
MARYLAND		
ARMY		
ABERDEEN PROVING GROUND		
AMMUNITION DEMILITARIZATION FACILITY (PHASE I)	26,500	---
AMMUNITION DEMILITARIZATION SUPPORT	1,850	---
FORT DETRICK		
PHYSICAL FITNESS TRAINING CENTER	3,550	3,550
FORT MEADE		
EMERGENCY SERVICES CENTER	---	5,300
NAVY		
INDIAN HEAD NAVAL SURFACE WARFARE CENTER DIVISION		
ANNEALING OVEN FACILITY	6,680	6,680
CONTINUOUS PROCESSING SCALE-UP FACILITY	---	6,590
U.S. NAVAL ACADEMY		
DEMOLISH NAVAL RADIO TRANSMITTER FACILITY TOWERS	---	4,300
AIR FORCE		
ANDREWS AFB		
CHILD DEVELOPMENT CENTER	4,448	4,448
DEFENSE-WIDE		
ABERDEEN PROVING GROUND		
AMMUNITION DEMILITARIZATION FACILITY (PHASE I)	---	26,500
AMMUNITION DEMILITARIZATION SUPPORT	---	1,850
FORT MEADE		
PERIMETER FENCE (WEST)	668	668
TOTAL, MARYLAND	43,696	59,886
MASSACHUSETTS		
AIR FORCE		
HANSCOM AFB		
RENOVATE ACQUISITION MANAGEMENT FACILITY	---	10,000
ARMY NATIONAL GUARD		
BARNES ANGB (WESTFIELD)		
ARMY AVIATION SUPPORT FACILITY	---	9,274
ARMY RESERVE		
FORT DEVENS		
RESERVE REGIONAL SUPPORT COMMAND HEADQUARTERS FAC.	3,335	3,335
NAVY RESERVE		
FORT DEVENS		
RESERVE CENTER RENOVATIONS	840	840
TOTAL, MASSACHUSETTS	4,175	23,449
MICHIGAN		
AIR NATIONAL GUARD		
ALPENA COUNTY REGIONAL AIRPORT (ALPENA)		
FIRE STATION	---	5,100
SANITARY SEWER SYSTEM	3,900	3,900
SELFRIDGE ANGB (MT CLEMENS)		
REPLACE CONTROL TOWER/RADAR APPROACH CONTROL CTR.	5,200	5,200
INFRASTRUCTURE UPGRADE	---	9,800

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ARMY RESERVE		
WALKER		
US ARMY RESERVE CENTER/ORGANIZATIONAL MAINT SHOP..	9,439	9,439
TOTAL, MICHIGAN	18,539	33,439
MINNESOTA		
ARMY NATIONAL GUARD		
CAMP RIPLEY		
MULTI-PURPOSE MACHINE GUN/SNIPER RANGE	1,023	1,023
NAVY RESERVE		
NAVAL RESERVE READINESS COMMAND (MINNEAPOLIS)		
ADMINISTRATIVE HEADQUARTERS BUILDING	3,630	3,630
AIR FORCE RESERVE		
MINNEAPOLIS-ST PAUL INTERNATIONAL AIRPORT		
CONSOLIDATED LODGING FACILITY (PHASE I)	---	3,236
TOTAL, MINNESOTA	4,653	7,889
MISSISSIPPI		
NAVY		
GULFPORT NAVAL CONSTRUCTION BATTALION CENTER		
BACHELOR ENLISTED QUARTERS REPLACEMENT	10,670	10,670
MERIDIAN NAVAL AIR STATION		
AIR OPERATIONS FACILITY	---	3,280
AIR FORCE		
COLUMBUS AFB		
BACHELOR OFFICERS QUARTERS	---	5,700
KEESLER AFB		
STUDENT DORMITORIES (2)	29,770	29,770
TRAINING SUPPORT FACILITY	5,756	5,756
DEFENSE-WIDE		
CAMP SHELBY		
REPLACE BULK FUEL FACILITY	5,300	5,300
KEESLER AFB		
BIOENVIRONMENTAL ENGINEERING FACILITY	700	700
STENNIS SPACE CENTER		
SOF OPERATIONS SUPPORT FACILITY	---	5,500
ARMY NATIONAL GUARD		
BROOKHAVEN		
REGIONAL TRAINING CENTER/OMS	---	5,247
TOTAL, MISSISSIPPI	52,196	71,923
MISSOURI		
ARMY		
FORT LEONARD WOOD		
ENGINEER QUALIFICATION RANGE	5,200	5,200
RECEPTION BARRACKS	---	23,000
AIR NATIONAL GUARD		
ROSECRANS MEMORIAL AIRPORT (ELWOOD)		
UPGRADE AIRCRAFT PARKING APRON (PHASE I)	---	9,600
TOTAL, MISSOURI	5,200	37,800
MONTANA		
AIR FORCE		
MALMSTROM AFB		
REPLACE DORMITORY	---	7,900
ARMY NATIONAL GUARD		
HELENA		
RESERVE CENTER	---	21,690
TOTAL, MONTANA	---	29,590
NEBRASKA		
AIR NATIONAL GUARD		
LINCOLN MUNICIPAL AIRPORT		
JOINT MEDICAL TRAINING FACILITY	---	3,350
NEVADA		
AIR FORCE		
INDIAN SPRINGS AUXILIARY AIR FIELD		
UNMANNED AERIAL VEHICLE LOGISTICS AND TRAINING FAC	3,965	3,965

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
UNMANNED AERIAL VEHICLE SQUADRON OPERATIONS/ AIRCRAFT MAINTENANCE UNIT	7,059	7,059
UNMANNED AERIAL VEHICLE COMMUNICATION MAINTENANCE FACILITY/INFRASTRUCTURE/UTILITIES	3,989	3,989
NELLIS AFB		
DORMITORY	6,378	6,378
ARMY NATIONAL GUARD		
CARSON CITY		
READINESS CENTER	---	5,860
TOTAL, NEVADA	21,391	27,251
NEW JERSEY		
ARMY		
FORT MONMOUTH		
SOFTWARE ENGINEERING CENTER ADDITION	---	7,600
PICATINNY ARSENAL		
PRECISION MUNITIONS FACILITY	---	8,400
AIR FORCE		
MCGUIRE AFB		
DINING FACILITY	6,044	6,044
ARMY RESERVE		
FORT DIX		
AMMUNITION SUPPLY POINT	---	8,731
TOTAL, NEW JERSEY	6,044	30,775
NEW MEXICO		
AIR FORCE		
HOLLOMAN AFB		
PHYSICAL FITNESS CENTER	---	11,100
KIRTLAND AFB		
NUCLEAR WEAPONS INTEGRATION FACILITY	---	6,800
FIRE TRAINING FACILITY	1,774	1,774
DEFENSE-WIDE		
HOLLOMAN AFB		
WAR READINESS MATERIAL WAREHOUSE	1,300	1,300
ARMY NATIONAL GUARD		
TAOS		
READINESS CENTER	---	3,300
TOTAL, NEW MEXICO	3,074	24,274
NEW YORK		
ARMY		
FORT DRUM		
AERIAL GUNNERY RANGE (PHASE II)	---	9,000
INDOOR FIRING RANGE	---	4,650
U S MILITARY ACADEMY (WEST POINT)		
CADET PHYSICAL DEVELOPMENT CENTER (PHASE I)	12,000	12,000
DEFENSE-WIDE		
U S MILITARY ACADEMY (WEST POINT)		
ELEMENTARY SCHOOL ADDITION/RENOVATION	2,840	2,840
AIR NATIONAL GUARD		
HANCOCK FIELD (SYRACUSE)		
UPGRADE PARKING APRON AND TAXIWAYS	---	9,500
ARMY RESERVE		
FORT WADSWORTH		
ADD/ALTER US ARMY RESERVE CENTER (PHASE I)	6,424	6,424
AIR FORCE RESERVE		
NIAGARA FALLS ARS		
CONSOLIDATED MAINTENANCE FACILITY	---	3,900
TOTAL, NEW YORK	21,264	48,314
NORTH CAROLINA		
ARMY		
FORT BRAGG		
BARRACKS UPGRADE	---	10,600
DEPLOYMENT STAGING COMPLEX	30,000	30,000
FORCE PROTECTION FACILITIES	---	8,300
WHOLE BARRACKS COMPLEX RENEWAL	47,000	47,000
NAVY		
CAMP LEJEUNE MARINE CORPS BASE		
FIRE STATION	1,830	1,830

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
INFRASTRUCTURE PHYSICAL SECURITY	12,770	12,770
CHERRY POINT MARINE CORPS AIR STATION		
AIRCRAFT FIRE AND RESCUE STATION ADDITION	1,620	1,620
CHILD DEVELOPMENT CENTER	4,420	4,420
AIR FORCE		
SEYMOUR JOHNSON AFB		
EDUCATION CENTER AND LIBRARY	---	6,100
DEFENSE-WIDE		
FORT BRAGG		
WAR READINESS MATERIAL WAREHOUSE	6,500	6,500
CAMP LEJEUNE MARINE CORPS BASE		
BREWSTER MIDDLE SCHOOL	16,900	16,900
POPE AFB		
HYDRANT FUEL SYSTEM	4,100	4,100
TOTAL, NORTH CAROLINA	125,140	150,140
NORTH DAKOTA		
AIR FORCE		
GRAND FORKS AFB		
ADD TO PHYSICAL FITNESS CENTER	---	8,800
FIRE TRAINING FACILITY	2,686	2,686
MINOT AFB		
TAXIWAY REPAIR	---	8,500
DEFENSE-WIDE		
GRAND FORKS AFB		
ADD/ALTER MEDICAL/DENTAL CLINIC	5,600	5,600
ARMY NATIONAL GUARD		
BISMARCK		
ARMY AVIATION SUPPORT FAC/READINESS CTR EXPANSION	6,240	6,240
AIR NATIONAL GUARD		
HECTOR FIELD (FARGO)		
ADD/ALTER BASE SUPPLY COMPLEX	---	3,650
REGIONAL FIRE TRAINING FACILITY	800	800
TOTAL, NORTH DAKOTA	15,326	36,276
OHIO		
AIR FORCE		
WRIGHT-PATTERSON AFB		
ACQUISITION MANAGEMENT COMPLEX (PHASE IV-A)	22,000	22,000
AIR NATIONAL GUARD		
SPRINGFIELD-BECKLEY MUNICIPAL AIRPORT		
BASE CIVIL ENGINEER/SECURITY FORCES COMPLEX	---	5,000
ARMY RESERVE		
GAHANNA		
US ARMY RESERVE CENTER PURCHASE	3,115	3,115
AIR FORCE RESERVE		
WRIGHT-PATTERSON AFB		
ALTER C-141C FLIGHT SIMULATION TRAINING FACILITY	---	1,600
TOTAL, OHIO	25,115	31,715
OKLAHOMA		
ARMY		
MCALESTER ARMY AMMUNITION PLANT		
AMMUNITION CONTAINERIZATION COMPLEX	10,800	10,800
FORT SILL		
TACTICAL EQUIPMENT SHOP (PHASE I)	13,800	13,800
WHOLE BARRACKS COMPLEX RENEWAL	20,500	20,500
AIR FORCE		
ALTUS AFB		
RAMP AND AIRFIELD LIGHTING	---	5,300
CONTROL TOWER	---	4,000
TINKER AFB		
COMBAT COMMUNICATIONS SQUADRON OPERATIONS FACILITY	5,085	5,085
SQUADRON OPERATION AND MOBILITY CENTER	---	10,800
DORMITORY	9,100	9,100
VANCE AFB		
ADD/ALTER PHYSICAL FITNESS CENTER	---	4,400
FIRE TRAINING FACILITY	1,823	1,823
DEFENSE-WIDE		
FORT SILL		
REPLACE FUEL STORAGE FACILITY	3,500	3,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD		
LEXINGTON		
ARMY AVIATION SUPPORT FACILITY EXPANSION	7,382	7,382
TOTAL, OKLAHOMA	71,990	96,490
OREGON		
ARMY		
UMATILLA ARMY DEPOT		
AMMUNITION DEMILITARIZATION FACILITY (PHASE IV)	50,950	---
DEFENSE-WIDE		
UMATILLA ARMY DEPOT		
AMMUNITION DEMILITARIZATION FACILITY (PHASE IV)	---	50,950
PENNSYLVANIA		
NAVY		
PHILADELPHIA NAVAL SURFACE WARFARE CENTER SHIP SYSTEMS ENGINEERING STATION		
INTEGRATED SHIP CONTROL AND DIAGNOSTIC FACILITY	---	2,410
NAVICP MECHANICSBURG		
CHILD DEVELOPMENT CENTER	---	1,600
NAVICP PHILADELPHIA		
CHILD DEVELOPMENT CENTER	---	1,550
DEFENSE-WIDE		
CARLISLE BARRACKS		
HEALTH CLINIC ADDITION	4,678	4,678
ARMY NATIONAL GUARD		
LATROBE		
READINESS CENTER	---	2,479
ARMY RESERVE		
OAKDALE		
99TH REGIONAL SUPPORT COMMAND (PHASE II)	---	19,512
TOTAL, PENNSYLVANIA	4,678	32,229
RHODE ISLAND		
NAVY		
NEWPORT NAVAL EDUCATION AND TRAINING CENTER		
BOILER PLANT MODIFICATIONS	5,630	5,630
NEWPORT NAVAL UNDERWATER SYSTEMS CENTER		
UNDERSEA WARFARE FACILITY	9,140	9,140
TOTAL, RHODE ISLAND	14,770	14,770
SOUTH CAROLINA		
NAVY		
BEAUFORT MARINE CORPS AIR STATION		
MISSILE MAGAZINES	1,770	1,770
CHARLESTON NAVAL WEAPONS STATION		
ORDNANCE RAILROAD REALIGNMENT	9,737	9,737
PARRIS ISLAND MARINE CORPS RECRUIT DEPOT		
FEMALE RECRUIT BARRACKS	---	8,030
WEAPONS BATTALION MESSHALL	7,960	7,960
AIR FORCE		
CHARLESTON AFB		
C-17 LIFE SUPPORT FACILITY	4,701	4,701
C-17 SQUADRON OPERATIONS/AIRCRAFT MAINT UNIT	7,639	7,639
C-17 SQUADRON OPERATIONS/AIRCRAFT MAINT UNIT	6,769	6,769
DINING FACILITY	5,221	5,221
AIR NATIONAL GUARD		
MCENTIRE AIR NATIONAL GUARD STATION (EASTOVER)		
ADD/ALTER AIRCRAFT MAINTENANCE COMPLEX	---	9,000
ARMY NATIONAL GUARD		
SPARTANBURG		
READINESS CENTER	---	5,260
TOTAL, SOUTH CAROLINA	43,797	66,087
SOUTH DAKOTA		
AIR FORCE		
ELLSWORTH AFB		
ADD/ALTER SQUADRON OPERATIONS FACILITY	---	6,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR NATIONAL GUARD		
JOE FOSS FIELD (SIOUX FALLS)		
VEHICLE MAINTENANCE AND AIRCRAFT SUPPORT EQUIPMENT COMPLEX	---	5,200
TOTAL, SOUTH DAKOTA	---	11,700
TENNESSEE		
AIR FORCE		
ARNOLD AFB		
TEST FACILITIES COOLING TOWER	---	11,600
AIR NATIONAL GUARD		
MCGHEE-TYSON AIR NATIONAL GUARD BASE (KNOXVILLE)		
RELOCATE AIRCRAFT PARKING APRON (PHASE I)	---	10,000
TOTAL, TENNESSEE	---	21,600
TEXAS		
ARMY		
FORT BLISS		
TACTICAL VEHICLE OVERPASS	---	4,100
FORT HOOD		
RAILHEAD FACILITY (PHASE I)	17,500	17,500
FORT SAM HOUSTON		
WHOLE BARRACKS COMPLEX RENEWAL	21,800	21,800
DINING FACILITY	---	5,500
NAVY		
INGLESIDE NAVAL STATION		
BACHELOR ENLISTED QUARTERS (PHASE IV)	---	12,200
AIR FORCE		
DYESS AFB		
B-1B MUNITIONS MAINTENANCE FACILITY	---	3,350
B-1B SUPPORT EQUIPMENT SHOP ADDITION	---	1,400
LACKLAND AFB		
DORMITORY	6,800	6,800
OPERATIONS FACILITY	8,130	8,130
LAUGHLIN AFB		
CONSOLIDATED BASE OPERATIONS FACILITY	---	3,815
CONTROL TOWER	---	3,500
RANDOLPH AFB		
BASE OPERATIONS FACILITY	3,166	3,166
GOODFELLOW AFB		
STUDENT DORMITORY	---	7,300
DEFENSE-WIDE		
FORT HOOD		
BLOOD DONOR CENTER	3,100	3,100
PRIMARY CARE CLINIC	11,000	11,000
NAVY RESERVE		
GALVESTON		
MARINE RESERVE TRAINING CENTER	4,090	4,090
TOTAL, TEXAS	75,586	116,751
UTAH		
ARMY		
TOOELE ARMY DEPOT		
AMMUNITION CONTAINERIZATION COMPLEX	3,900	3,900
AIR FORCE		
HILL AFB		
WAR READINESS ASSET WAREHOUSE	---	2,600
ARMY RESERVE		
SALT LAKE CITY		
US ARMY RESERVE CENTER/ORGANIZATIONAL MAINTENANCE SHOP/DIRECT SUPPORT - GENERAL SUPPORT/EQUIPMENT CONCENTRATION SITE	13,200	---
US ARMY RESERVE CENTER/ORGANIZATIONAL MAINTENANCE SHOP (PHASE II)	---	5,076
AIR FORCE RESERVE		
HILL AFB		
MUNITIONS HANDLING AND STORAGE FACILITY	---	1,900
TOTAL, UTAH	17,100	13,476

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
VERMONT		
AIR NATIONAL GUARD		
BURLINGTON INTERNATIONAL AIRPORT		
BASE SUPPLY COMPLEX	---	5,500
VIRGINIA		
ARMY		
CHARLOTTESVILLE		
NATIONAL GROUND INTELLIGENCE CENTER FACILITY	46,200	46,200
FORT EUSTIS		
PHYSICAL FITNESS CENTER	---	4,650
WHOLE BARRACKS COMPLEX RENEWAL	36,531	36,531
FORT MYER		
BARRACKS RENOVATION	---	6,200
NAVY		
DAHLGREN NAVAL SURFACE WARFARE CENTER		
WARFARE DEFENSES TECHNICAL FACILITY	---	10,550
WEAPONS SYSTEM DEVELOPMENT LABORATORY ADDITION	5,130	5,130
DAM NECK TACTICAL TRAINING GROUP (ATLANTIC)		
TRAINING BUILDING ADDITION	2,430	2,430
NORFOLK FLEET INDUSTRIAL SUPPLY CENTER		
FIRE STATION	1,770	1,770
NORFOLK FLEET TRAINING CENTER		
ENGINEERING TRAINING FAC ADDITION AND RENOVATION	5,700	5,700
NORFOLK NAVAL STATION		
BERTHING PIER (PHASE I)	32,030	32,030
NORFOLK NAVAL SHIPYARD (PORTSMOUTH)		
DREDGING	6,180	6,180
OCEANA NAVAL AIR STATION		
FITNESS CENTER	---	6,400
DEFENSE-WIDE		
CHEATHAM ANNEX		
FLEET HOSPITAL SUPPORT OFFICE - OPERATIONAL WAREHOUSE	9,400	9,400
FLEET HOSPITAL SUPPORT OFFICE - ADMINISTRATIVE OFFICE	1,900	1,900
DEFENSE SUPPLY CENTER (RICHMOND)		
CONVERT WAREHOUSE TO ADMINISTRATIVE SPACE	10,500	10,500
PORTSMOUTH NAVAL HOSPITAL		
HOSPITAL REPLACEMENT (PHASE X)	17,954	17,954
ARMY NATIONAL GUARD		
POWHATAN		
READINESS CENTER	2,435	2,435
ARMY RESERVE		
FORT BELVOIR		
US ARMY RESERVE CENTER/ORGANIZATIONAL MAINTENANCE SHOP/AREA MAINTENANCE SUPPORT ACTIVITY	10,314	10,314
FORT EUSTIS		
AVIATION SUPPORT FACILITY	11,618	11,618
NAVY RESERVE		
NORFOLK NAVAL AIR RESERVE CENTER		
HANGAR ALTERATIONS	1,660	1,660
TOTAL, VIRGINIA	201,752	229,552
WASHINGTON		
ARMY		
FORT LEWIS		
CENTRAL VEHICLE WASH FACILITY	4,650	4,650
CLOSE COMBAT TACTICAL TRAINER BUILDING	7,600	7,600
CONSOLIDATED FUEL FACILITY	3,950	3,950
TANK TRAIL EROSION MITIGATION (YAKIMA)	2,000	2,000
NAVY		
BREMERTON STRATEGIC WEAPONS FACILITY (PACIFIC)		
SECURITY FACILITY UPGRADES	2,750	2,750
PUGET SOUND NAVAL SHIPYARD (BREMERTON)		
COMMUNITY SUPPORT FACILITY	---	4,300
AIR FORCE		
FAIRCHILD AFB		
CONVERT NOSEDOCK TO WASHRACK FACILITY	---	3,700
KC-135 SQUADRON OPERATIONS/AIRCRAFT MAINT UNIT	7,620	7,620
SURVIVAL ACADEMIC TRAINING SUPPORT CENTER	---	3,900
MCCHORD AFB		
C-17 ADD/ALTER AIRCRAFT MAINTENANCE SHOP	2,321	2,321
C-17 ADD/ALTER SIMULATOR FACILITY	1,823	1,823

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
C-17 ADD/ALTER AEROSPACE GROUND EQUIPMENT MAINTENANCE FACILITY	2,110	2,110
C-17 ALTER COMPOSITE SHOP	1,630	1,630
C-17 ALTER MAINTENANCE HANGARS	6,427	6,427
C-17 FLIGHTLINE SUPPORT FACILITY	4,029	4,029
C-17 LIFE SUPPORT EQUIPMENT FACILITY	4,413	4,413
C-17 RAMP/HYDRANT FUELS SYSTEM	18,025	18,025
C-17 REPAIR BASE ROADS	2,224	2,224
C-17 SHORTFIELD ASSAULT STRIP	2,321	2,321
C-17 SQUADRON OPERATIONS/AIRCRAFT MAINTENANCE UNIT	6,524	6,524
DEFENSE-WIDE		
BANGOR NAVAL SUBMARINE BASE		
DISEASE VECTOR ECOLOGY AND CONTROL CENTER	5,700	5,700
BREMERTON NAVAL HOSPITAL		
ADD/ALTER HOSPITAL	28,000	28,000
MCCHORD AFB		
CLINIC/WAR READINESS MATERIAL WAREHSE REPLACEMENT.	20,000	20,000
AIR FORCE RESERVE		
MCCHORD AFB		
CONSOLIDATED MEDICAL TRAINING FACILITY	---	3,400
ARMY RESERVE		
FORT LAWTON (SEATTLE)		
US ARMY RESERVE CENTER	---	10,713
TOTAL, WASHINGTON	134,117	160,130
WEST VIRGINIA		
ARMY NATIONAL GUARD		
CAMP DAWSON (KINGWOOD)		
READINESS CENTER	4,465	---
REGIONAL TRAINING INSTITUTE	---	13,595
WISCONSIN		
AIR NATIONAL GUARD		
VOLK FIELD (CAMP DOUGLAS)		
UPGRADE RUNWAY AND TAXIWAY	9,600	9,600
ARMY RESERVE		
FORT MCCOY		
CRASH RESCUE STATION	1,850	1,850
MACHINE GUN RANGE	2,032	2,032
TOTAL, WISCONSIN	13,482	13,482
WYOMING		
ARMY NATIONAL GUARD		
CAMP GUERNSEY		
COMBINED SUPPORT MAINTENANCE SHOP	---	13,891
CONUS CLASSIFIED		
ARMY		
CLASSIFIED LOCATIONS		
CLASSIFIED PROJECT	4,600	4,600
BELGIUM		
ARMY		
BELGIUM		
CHILD DEVELOPMENT CENTER	6,300	6,300
GERMANY		
ARMY		
CONN BARRACKS (SCHWEINFURT)		
WHOLE BARRACKS COMPLEX RENEWAL	18,000	18,000
KITZINGEN FAMILY HOUSING (WUERZBURG)		
CHILD DEVELOPMENT CENTER	4,250	4,250
AIR FORCE		
SPANGDAHLEM AB		
CONSOLIDATED AIR CONTROL SQUADRON OPERATIONS FAC.	4,466	---
DORMITORY	9,501	9,501
TOTAL, GERMANY	36,217	31,751
GREECE		
NAVY		
SOUDA BAY CRETE NAVAL SUPPORT ACTIVITY		
BACHELOR ENLISTED QUARTERS	5,260	5,260

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
GUAM		
NAVY		
NAVAL ACTIVITIES (GUAM)		
SPECIAL WARFARE UNIT FACILITY	5,500	5,500
WATERFRONT CONSOLIDATION FACILITIES	4,810	4,810
DEFENSE-WIDE		
NAVAL ACTIVITIES (GUAM)		
ELEMENTARY SCHOOL ADDITION AND RENOVATION	8,600	8,600
HIGH SCHOOL ADDITION AND CONVERSION	4,500	4,500
TOTAL, GUAM	23,410	23,410
ITALY		
NAVY		
NAPLES NAVAL SUPPORT ACTIVITY		
PUBLIC WORKS FACILITY (CAPODICHINO)	18,270	18,270
DEFENSE-WIDE		
SIGONELLA NAVAL AIR STATION		
FLIGHT LINE DISPENSARY	5,300	5,300
TOTAL, ITALY	23,570	23,570
KOREA		
ARMY		
CAMP CASEY		
WHOLE BARRACKS COMPLEX RENEWAL	13,400	13,400
PHYSICAL FITNESS CENTER	---	8,000
CAMP CASTLE		
WHOLE BARRACKS COMPLEX RENEWAL	18,226	18,226
CAMP HUMPHREYS		
WHOLE BARRACKS COMPLEX RENEWAL	8,500	8,500
CAMP STANLEY		
WHOLE BARRACKS COMPLEX RENEWAL	5,800	5,800
AIR FORCE		
KUNSAN AB		
DORMITORY	5,958	5,958
OSAN AB		
DORMITORY	7,496	7,496
TOTAL, KOREA	59,380	67,380
KWAJALEIN		
ARMY		
KWAJALEIN ATOLL		
POWER PLANT (ROI NAMUR ISLAND) (PHASE I)	12,600	12,600
DEFENSE-WIDE		
MISSILE RANGE		
MULTI PURPOSE MISSILE TEST FACILITIES	4,600	---
TOTAL, KWAJALEIN	17,200	12,600
PORTUGAL		
DEFENSE-WIDE		
LAJES FIELD (AZORES)		
FUEL PUMPHOUSE AND TANKS	7,700	7,700
PUERTO RICO		
DEFENSE-WIDE		
FORT BUCHANAN		
ELEMENTARY SCHOOL	8,805	8,805
ROOSEVELT ROADS NAVAL STATION		
OPERATIONS FACILITY	9,600	9,600
TOTAL, PUERTO RICO	18,405	18,405
TURKEY		
AIR FORCE		
INCIRLIK AB		
CENTRAL SECURITY CONTROL FACILITY	2,949	2,949
UNITED KINGDOM		
NAVY		
ST MAWGAN JOINT MARITIME COMMUNICATION CENTER		
EDUATION CENTER ADDITION	2,010	2,010

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR FORCE		
RAF LAKENHEATH		
DORMITORIES (2)	15,838	15,838
RAF MILDENHALL		
DORMITORY	10,926	10,926
KC-135 SQUADRON OPERATIONS/AIRCRAFT MAINT UNIT	14,034	14,034
DEFENSE-WIDE		
RAF LAKENHEATH		
HOSPITAL ANNEX REPLACEMENT	10,800	10,800
TOTAL, UNITED KINGDOM	53,608	53,608
NATO		
NATO SECURITY INVESTMENT PROGRAM	185,000	155,000
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)	---	-1,000
TOTAL, NATO	185,000	154,000
WORLDWIDE UNSPECIFIED		
ARMY		
UNSPECIFIED WORLDWIDE LOCATIONS		
HOST NATION SUPPORT	20,450	20,450
PLANNING AND DESIGN	41,819	43,819
UNSPECIFIED MINOR CONSTRUCTION	10,000	12,500
GENERAL REDUCTION	---	-6,000
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)	---	-2,000
NAVY		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	58,346	60,846
UNSPECIFIED MINOR CONSTRUCTION	8,900	9,900
GENERAL REDUCTION	---	-5,000
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)	---	-1,000
AIR FORCE		
UNSPECIFIED WORLDWIDE LOCATIONS		
UNSPECIFIED MINOR CONSTRUCTION	7,135	8,135
PLANNING AND DESIGN	35,592	38,092
GENERAL REDUCTION	---	-11,000
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)	---	-1,000
DEFENSE-WIDE		
UNSPECIFIED WORLDWIDE LOCATIONS		
ENERGY CONSERVATION INVESTMENT PROGRAM	46,950	46,950
CONTINGENCY CONSTRUCTION	9,390	4,890
GENERAL REDUCTION	---	-12,000
GENERAL REDUCTION - CHEMICAL DEMILITARIZATION	---	-50,500
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)	---	-1,300
PLANNING AND DESIGN		
SPECIAL OPERATIONS COMMAND	1,450	4,150
DEF THREAT REDUCTION/TREATY COMPLIANCE AGENCY	100	100
BALLISTIC MISSILE DEFENSE ORGANIZATION	12,561	10,000
DOD DEPENDENT SCHOOLS	---	1,000
DEFENSE LEVEL ACTIVITIES	2,200	2,200
DEFENSE MEDICAL SUPPORT ACTIVITY	8,555	8,555
SUBTOTAL, PLANNING AND DESIGN	24,866	26,005
UNSPECIFIED MINOR CONSTRUCTION		
SPECIAL OPERATIONS COMMAND	4,200	1,500
DEFENSE FINANCE AND ACCOUNTING SERVICE	1,500	1,500
DEF THREAT REDUCTION/TREATY COMPLIANCE AGENCY	900	900
JOINT CHIEFS OF STAFF	3,595	3,595
DOD DEPENDENT SCHOOLS	999	999
DEFENSE MEDICAL SUPPORT ACTIVITY	1,900	1,900
DEFENSE MANPOWER AND PERSONNEL CENTER	15,000	15,000
DEFENSE LEVEL ACTIVITIES	3,000	3,000
SUBTOTAL, UNSPECIFIED MINOR CONSTRUCTION	31,094	28,394
DEPARTMENT OF DEFENSE MILITARY UNACCOMPANIED HOUSING IMPROVEMENT FUND		
RESCISSION (FISCAL YEAR 1997, P.L. 104-196)	---	-5,000
ARMY NATIONAL GUARD		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	4,548	9,048

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
UNSPECIFIED MINOR CONSTRUCTION	546	5,046
GENERAL REDUCTION	---	-2,000
AIR NATIONAL GUARD		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	8,549	8,549
UNSPECIFIED MINOR CONSTRUCTION	3,462	7,502
GENERAL REDUCTION	---	-4,000
ARMY RESERVE		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	7,368	7,368
NAVY RESERVE		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	1,974	2,974
UNSPECIFIED MINOR CONSTRUCTION	877	877
AIR FORCE RESERVE		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	2,432	2,432
UNSPECIFIED MINOR CONSTRUCTION	2,903	2,903
TOTAL, WORLDWIDE UNSPECIFIED	327,201	245,880
WORLDWIDE VARIOUS		
DEFENSE-WIDE		
VARIOUS LOCATIONS		
CONFORMING STORAGE FACILITIES	1,300	1,300
FAMILY HOUSING, ARMY		
ALABAMA		
REDSTONE ARSENAL (118 UNITS)	14,000	14,000
HAWAII		
SCHOFIELD BARRACKS (64 UNITS)	14,700	14,700
NORTH CAROLINA		
FORT BRAGG (170 UNITS)	19,800	19,800
TEXAS		
FORT HOOD (154 UNITS)	21,600	21,600
VIRGINIA		
FORT LEE (80 UNITS)	---	13,000
CONSTRUCTION IMPROVEMENTS	28,629	48,479
PLANNING AND DESIGN	6,350	6,350
GENERAL REDUCTION	-1,639	-2,639
SUBTOTAL, CONSTRUCTION	103,440	135,290
OPERATION AND MAINTENANCE		
INTEREST PAYMENTS	3	3
LEASING	202,155	202,155
MISCELLANEOUS ACCOUNT	415	415
MAINTENANCE OF REAL PROPERTY	467,914	467,914
UTILITIES ACCOUNT	250,407	250,407
SERVICES ACCOUNT	52,222	52,222
MANAGEMENT ACCOUNT	87,125	80,089
FURNISHINGS ACCOUNT	44,492	44,492
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)	---	-3,000
SUBTOTAL, OPERATION AND MAINTENANCE	1,104,733	1,094,697
TOTAL, FAMILY HOUSING, ARMY	1,208,173	1,229,987
FAMILY HOUSING, NAVY AND MARINE CORPS		
CALIFORNIA		
LEMOORE NAVAL AIR STATION (162 UNITS)	30,379	30,379
HAWAII		
PEARL HARBOR PUBLIC WORKS CENTER (150 UNITS)	29,125	29,125
CONSTRUCTION IMPROVEMENTS	211,991	227,791
PLANNING AND DESIGN	15,618	15,618
GENERAL REDUCTION	-6,323	-6,323

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW).....	---	-1,000
SUBTOTAL, CONSTRUCTION..........................	280,790	295,590
OPERATION AND MAINTENANCE		
MAINTENANCE OF REAL PROPERTY........................	414,967	414,967
LEASING...	135,079	135,079
MISCELLANEOUS ACCOUNT...............................	293	293
MANAGEMENT ACCOUNT..................................	82,331	82,331
FURNISHINGS ACCOUNT.................................	33,199	33,199
UTILITIES ACCOUNT...................................	184,519	184,519
SERVICES ACCOUNT....................................	64,829	64,829
MORTGAGE INSURANCE PREMIUMS.........................	76	76
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)...	---	-3,000
SUBTOTAL, OPERATION AND MAINTENANCE............	915,293	912,293
TOTAL, FAMILY HOUSING, NAVY AND MARINE CORPS....	1,196,083	1,207,883
FAMILY HOUSING, AIR FORCE		
ALABAMA		
MAXWELL AFB (143 UNITS).............................	16,300	16,300
ALASKA		
EIELSON AFB (46 UNITS)..............................	12,932	12,932
CALIFORNIA		
EDWARDS AFB (48 UNITS)..............................	12,580	12,580
VANDENBERG AFB (95 UNITS)...........................	18,499	18,499
DELAWARE		
DOVER AFB (55 UNITS)................................	8,998	8,998
FLORIDA		
MACDILL AFB (48 UNITS)..............................	7,609	7,609
PATRICK AFB (46 UNITS)..............................	9,692	9,692
TYNDALL AFB (122 UNITS).............................	14,500	14,500
MISSISSIPPI		
KEESLER AFB (52 UNITS)..............................	---	6,800
COLUMBUS AFB (52 UNITS).............................	---	6,800
MONTANA		
MALMSTROM AFB (50 UNITS)............................	---	10,000
NEBRASKA		
OFFUTT AFB (HOUSING MAINTENANCE FACILITY)...........	900	900
OFFUTT AFB (HOUSING OFFICE).........................	870	870
OFFUTT AFB (90 UNITS)...............................	12,212	12,212
NEVADA		
NELLIS AFB (28 UNITS)...............................	---	5,000
NEW MEXICO		
KIRTLAND AFB (37 UNITS).............................	6,400	6,400
OHIO		
WRIGHT-PATTERSON AFB (40 UNITS).....................	5,600	5,600
TEXAS		
DYESS AFB (64 UNITS)................................	9,415	9,415
SHEPPARD AFB (65 UNITS).............................	---	7,000
WASHINGTON		
FAIRCHILD AFB (HOUSING OFFICE/MAINTENANCE FACILITY).	1,692	1,692
FAIRCHILD AFB (14 UNITS)............................	2,300	2,300
CONSTRUCTION IMPROVEMENTS............................	81,778	104,108
PLANNING AND DESIGN..................................	11,342	11,342
GENERAL REDUCTION....................................	-7,584	-9,584
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW).....	---	-1,000
SUBTOTAL, CONSTRUCTION..........................	226,035	280,965
OPERATION AND MAINTENANCE		
MORTGAGE INSURANCE PREMIUMS.........................	32	32
MAINTENANCE OF REAL PROPERTY........................	388,659	388,659
MISCELLANEOUS ACCOUNT...............................	5,240	5,240
LEASING...	118,071	118,071
FURNISHINGS ACCOUNT.................................	37,218	36,427
UTILITIES ACCOUNT...................................	152,214	152,214
SERVICES ACCOUNT....................................	36,066	35,849

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
MANAGEMENT ACCOUNT	52,495	48,712
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)	---	-2,000
SUBTOTAL, OPERATION AND MAINTENANCE	789,995	783,204
TOTAL, FAMILY HOUSING, AIR FORCE	1,016,030	1,064,169
FAMILY HOUSING, DEFENSE-WIDE		
CONSTRUCTION IMPROVEMENTS (NSA) (MENWITH HILL, UNITED KINGDOM) (27 UNITS)	50	50
CONSTRUCTION IMPROVEMENTS (DLA) (RICHMOND, VA CARPORTS AND SHELTERS; LATHROP, CA FENCING)	295	295
SUBTOTAL, CONSTRUCTION	345	345
OPERATION AND MAINTENANCE		
FURNISHINGS ACCOUNT (NSA)	126	126
FURNISHINGS ACCOUNT (DIA)	2,153	2,153
FURNISHINGS ACCOUNT (DLA)	125	125
MANAGEMENT ACCOUNT (NSA)	70	70
MANAGEMENT ACCOUNT (DLA)	244	244
MISCELLANEOUS ACCOUNT (NSA)	735	735
SERVICES ACCOUNT (NSA)	355	355
SERVICES ACCOUNT (DLA)	51	51
UTILITIES ACCOUNT (NSA)	450	450
UTILITIES ACCOUNT (DLA)	424	424
LEASING (NSA)	12,292	12,292
LEASING (DIA)	18,847	18,847
MAINTENANCE OF REAL PROPERTY (NSA)	496	496
MAINTENANCE OF REAL PROPERTY (DLA)	531	531
SUBTOTAL, OPERATION AND MAINTENANCE	36,899	36,899
TOTAL, FAMILY HOUSING, DEFENSE-WIDE	37,244	37,244
DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND		
DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND	7,000	2,000
HOMEOWNERS ASSISTANCE FUND		
HOMEOWNERS ASSISTANCE FUND	12,800	---
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III		
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III	433,464	429,164
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)	---	-2,000
SUBTOTAL	433,464	427,164
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV		
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV	1,297,240	1,268,438
REVISED ECONOMIC ASSUMPTIONS (MID-SESSION REVIEW)	---	-3,000
INFLATION SAVINGS PREVIOUSLY WITHHELD	---	-26,000
UNREPORTED PROCEEDS	---	-35,700
SUBTOTAL	1,297,240	1,203,738
TOTAL, BASE REALIGNMENT AND CLOSURE	1,730,704	1,630,902
GENERAL PROVISIONS		
SECTION 125 (FAMILY HOUSING, PAINE FIELD, EVERETT, WA)	6,000	6,000
GRAND TOTAL	7,784,074	8,449,742

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1999 recommended by the Committee of Conference, with comparisons to the fiscal year 1998 amount, the 1999 budget estimates, and the House and Senate bills for 1999 follow:

New budget (obligational) authority, fiscal year 1998.	$9,208,468,000
Budget estimates of new (obligational) authority, fiscal year 1999	7,784,074,000
House bill, fiscal year 1999	8,234,074,000
Senate bill, fiscal year 1999	8,480,574,000
Conference agreement, fiscal year 1999	8,449,742,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1998	−758,726,000
Budget estimates of new (obligational) authority, fiscal year 1999	+665,668,000
House bill, fiscal year 1999	+215,668,000
Senate bill, fiscal year 1999	−30,832,000

RON PACKARD,
JOHN EDWARD PORTER,
DAVID L. HOBSON,
ROGER F. WICKER,
JACK KINGSTON,
MIKE PARKER,
TODD TIAHRT,
ZACH WAMP,
BOB LIVINGSTON,
W.G. (BILL) HEFNER,
JOHN W. OLVER,
CHET EDWARDS,
BUD CRAMER,
NORMAN DICKS,
DAVID OBEY,
Managers on the Part of the House.

CONRAD BURNS,
KAY BAILEY HUTCHISON,
LAUCH FAIRCLOTH,
LARRY E. CRAIG,
TED STEVENS,
PATTY MURRAY,
HARRY REID,
DANIEL K. INOUYE,
ROBERT C. BYRD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today, on account of illness in the family.

Mr. FORD (at the request of Mr. GEPHARDT) for today, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. SLAUGHTER, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. LAMPSON, for 5 minutes, today.

(The following Members (at the request of Mr. COLLINS) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. COLLINS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OBERSTAR, and to include extraneous material, notwithstanding the fact it exceeds two pages and is estimated by the Public Printer to cost $1,508.

(The following Members (at the request of Mr. FILNER) and to include extraneous material:)

Mr. KIND.
Mr. BARRETT of Wisconsin.
Mr. MARKEY.
Mr. HALL of Ohio.
Mr. POSHARD.
Mr. COSTELLO.
Mr. HAMILTON.
Mr. ROEMER.
Ms. NORTON.
Mrs. MEEK of Florida.
Mr. LIPINSKI.
Mr. CONYERS.
Mr. FORD.
Mr. SANDERS.
Ms. ESHOO.

(The following Members (at the request of Mr. COLLINS) and to include extraneous material:)

Mr. SMITH of Michigan.
Mr. SHAW.
Mr. GILMAN.
Mr. RADANOVICH.

ADJOURNMENT

Mr. SERRANO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 38 minutes p.m.), under its previous order, the House adjourned until Monday, July 27, 1998, at 10:30 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10269. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Pyripoxyfen (2-[1-methyl-2- (4-phenoxyp enoxy)ethoxy]pyridine; Pesticide Tolerance [OPP-300666; FRL-5794-6] (RIN: 2070-AB78) received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10270. A communication from the President of the United States, transmitting his request to make available appropriations of $100,000,000 in budget authority for the Department of Health and Human Services' Low Income Home Energy Assistance Program, pursuant to Public Law 105—78; (H. Doc. No. 105—289); to the Committee on Appropriations and ordered to be printed.

10271. A letter from the Assistant Secretary of the Army (Research, Development and Acquisition), Department of Army, transmitting notification of munitions disposal, pursuant to 50 U.S.C. 1512(4); to the Committee on National Security.

10272. A letter from the Assistant Secretary, Health Affairs, Department of Defense, transmitting a report on the Sharing Agreement Authorized Under Section 743 of the FY98 Defense Authorization Act Between The Secretary of the Air Force and Gerald Champion Memorial Hospital, pursuant to Public Law 105—85; to the Committee on National Security.

10273. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Security And Control Of Nuclear Explosives And Nuclear Weapons—received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

10274. A letter from the Acting Director, Office of Management and Budget, transmitting an account for contributions to defray costs of U.S.operations in Southwest Asia; to the Committee on National Security.

10275. A letter from the Secretary of Defense, transmitting a report to Congress entitled "Medical Tracking System for Members Deployed Overseas," pursuant to Pun. L. 105—85; to the Committee on National Security.

10276. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Department's final rule—Waiver of Rights and Claims Under the Age Discrimination Act (ADEA) [29 CFR Part 1625] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10277. A letter from the Secretary of Labor, transmitting a report entitled "Minimum Wage and Overtime Hours Report"; to the Committee on Education and the Workforce.

10278. A letter from the Secretary of Energy, transmitting the Department's report entitled, "Summary of Expenditures of Rebates from the Low-Level Radioactive Waste Surcharge Escrow Account for Calendar Year 1997," pursuant to 42 U.S.C. 2120e(d)(2)(E)(ii)(II); to the Committee on Commerce.

10279. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Worker Protection Management For DOE Federal And Contractor Employees—received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10280. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Priorities List for Uncontrolled Hazardous Waste Sites [FRL-6130-9] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10281. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—

Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Walla Walla and Pullman, Washington, and Hermiston, Oregon) [MM Docket No. 97-246; RM-9205; RM-9250] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10282. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Shenandoah, Virginia) [MM Docket No. 98-30; RM-9228] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10283. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Canton, Normal and Heyworth, Illinois) [MM Docket No. 96-225; RM-8894; RM-9004] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10284. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Federal-State Joint Board on Universal Service [CC Docket No. 96-45] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10285. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules Concerning Maritime Communications [PR Docket No. 92-257; RM-7956; RM-8031; RM-8352] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10286. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Point Arena, California) [MM Docket No. 97-236; RM-9186] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10287. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Horseshoe Beach and Otter Creek, Florida) [MM Docket No. 97-239; RM-9195; RM-9237] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10288. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Salmon, Idaho) [MM Docket No. 98-51; RM-9241] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10289. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Gurdon, Arkansas) [MM Docket No. 98-40] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10290. A letter from the Acting Secretary, Federal Trade Commission, transmitting the Commission's final rule—Amended Enforcement Policy Concerning Clear and Conspicuous Disclosure in Foreign Language Advertising and Sales Materials—received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10291. A letter from the Secretary of Health and Human Services, transmitting the fifteenth annual report to Congress of the Orphan Products Board (OPB), pursuant to 42 U.S.C. 236(e); to the Committee on Commerce.

10292. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Exemption for Investment Advisers Operating in Multiple States; Revisions to Rules Implementing Amendment s to the Investment Advisers Act of 1940; Investment Advisers with Principal Offices and Places of Business in Colorado or Iowa [Release No. IA-1733, File No. S7-28-97] (RIN: 3235-AH22) received July 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10293. A letter from the Secretary of Defense, transmitting second half FY 1997 semiannual report on Program Activities to Facilitate Weapons Destruction and Nonproliferation in the Former Soviet Union, pursuant to 22 U.S.C. 5956; to the Committee on International Relations.

10294. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-386, "Sex Offender Registration Temporary Amendment Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

10295. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-383, "School Transit Subsidy Act of 1978 Amendment Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

10296. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-385, "Abatement of Controlled Dangerous Substance Nuisances Temporary Amendment Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

10297. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 12-393, "Quick Payment Temporary Amendment Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

10298. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-405 "Windshield Wipers and Headlamp Regulation Amendment Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

10299. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-404 "Closing of a Public Alley in Square 185, S.O. 97-106, Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

10300. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-384, "Bishop Aimilianos Laloussis Park Designation Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

10301. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-407, "Closing of 8th, L, and M Streets, N.W., and the Closing of Public Alleys in Squares 400, 401, 402, 426, 425, and 424, S.O. 96-90, Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

10302. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-402 "Washington Convention Center Authority Financing Amendment Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

10303. A letter from the Director, Personnel and Family Readiness Division, Department of the Navy, transmitting the annual report of the Retirement Plan for Civilian Employees of the United States Marine Corps Morale, Welfare and Recreation Support Activity, and Miscellaneous Nonappropriated Fund Instrumentalities, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

10304. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations; and Uniform administrative requirements for grants and cooperative agreements to State and local governments [34 CFR Parts 74 and 80] received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

10305. A letter from the Acting Director, Office of Management and Budget, transmitting a copy of the report, "Agency Compliance with Title II of the Unfunded Mandates Reform Act of 1995," pursuant to 2 U.S.C. 1538; to the Committee on Government Reform and Oversight.

10306. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a report entitled "Federal Supervisors and Strategic Human Resources Management"; to the Committee on Government Reform and Oversight.

10307. A letter from the Secretary of Health and Human Services, transmitting a report on the Indian Lands Open Dump Cleanup Act of 1997; to the Committee on Resources.

10308. A letter from the Acting Secretary, Federal Trade Commission, transmitting the Commission's final rule—Organization, General Procedures, Rules of Practice for Adjudicative Proceedings [16 CFR Parts 0, 1, and 3] received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10309. A letter from the Attorney, National Council on Radiation Protection and Measurements, transmitting the 1997 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to Public Law 88—376, section 14(b) (78 Stat. 323); to the Committee on the Judiciary.

10310. A letter from the Executive Director, National Mining Hall of Fame and Museum, transmitting the Museum's 1997 audited financial statement and a copy of Form 990 which was filed with the Internal Revenue Service, pursuant to 36 U.S.C. 4111; to the Committee on the Judiciary.

10311. A letter from the Chief Counsel, Bureau of the Public Debt, transmitting the Department's final rule—Regulations Governing Book-Entry Treasury BONDS, Notes, and Bills; Determination Regarding State

Statutes; Georgia, Florida and Connecticut [Department of the Treasury Circular, Public Debt Series, No. 2-86] received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10312. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Child Support Enforcement Program Quarterly Wage and Unemployment Compensations Claims Reporting to the National Directory of New Hires (RIN: 0970–AB67) received June 31, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10313. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to provide for a more competitive electric power industry, and for other purposes; jointly to the Committees on Commerce and the Judiciary.

10314. A letter from the Secretary of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Medicare Coverage of and Payment for Bone Mass Measurements [HCFA–3004–IFC] (RIN: 0938–AI89) received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Commerce and Ways and Means.

10315. A letter from the Administrator, Agency for International Development, transmitting a quarterly update report on development assistance program allocations updated as of March 31, 1998, pursuant to 22 U.S.C. 2413(a); jointly to the Committees on International Relations and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk of printing and reference to the proper calendar, as follows:

Mr. SMITH of Texas: Committee on the Judiciary. S. 1304. An act for the relief of Belinda McGregor (Rept. 105–646).

Mr. PACKARD: Committee of Conference. Conference report on H.R. 4059. A bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–647). Ordered to be printed.

Mr. WOLF: Committee on Appropriations. H.R. 4328. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–648). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Education and the Workforce. H.R. 3254. A bill to amend the Individuals with Disabilities Education Act to clarify the requirements relating to reducing or withholding payments to States under that Act; with an amendment (Rept. 105–649). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under Clause 2 of rule XIII reports of committees were delivered to the Clerk of printing and reference to the proper calendar, as follows:

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 379. A bill for the relief of Larry Errol Pieterse (Rept. 105–644. Referred to the Committee of the Whole House.

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 2744. A bill for the relief of Chong Ho Kwak, (Rept. 105–645). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of Oregon:

H.R. 4326. A bill to transfer administrative jurisdiction over certain Federal lands located within or adjacent to the Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal lands in Oregon; to the Committee on Resources.

By Mr. SAXTON (for himself, Mr. HUNTER, Mr. GINGRICH, Mr. ARMEY, Mr. SPENCE, Mr. LIVINGSTON, Mr. WELDON of Pennsylvania, and Mrs. BONO):

H.R. 4327. A bill to direct the President to commence an emergency program to build and field as quickly as possible a theater missile defense system capable of defending against the type of ballistic missile that was flight tested by Iran on July 21, 1998; to the Committee on National Security.

By Mr. WOLF:

H.R. 4328. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

By Mr. CASTLE:

H.R. 4329. A bill to require the design of the obverse side of the $1 coin to depict the Statue of Liberty; to the Committee on Banking and Financial Services.

By Mr. COLLINS (for himself and Mr. TANNER):

H.R. 4330. A bill to amend the Internal Revenue Code of 1986 to allow capital gains treatment and an exception from the uniform capitalization rules for timber which is more than 4 years old when harvested; to the Committee on Ways and Means.

By Mr. HILL:

H.R. 4331. A bill to provide for the establishment of an interpretive center and museum at Fort Peck Dam, Montana, and to provide further protection for significant fossil remains in the vicinity of Fort Peck Dam; to the Committee on Transportation and Infrastructure.

By Mr. HULSHOF (for himself, Mr. MCCRERY, Mr. JEFFERSON, Mr. COLLINS, Mr. WELLER, Mr. CRANE, Mr. KLECZKA, Mr. BUNNING of Kentucky, Mr. SAM JOHNSON, Ms. DUNN of Washington, Mr. NUSSLE, Mr. CHRISTENSEN, Mr. WATKINS, Mr. BAKER, Mr. BACHUS, Mr. SESSIONS, Mrs. NORTHUP, and Ms. GRANGER):

H.R. 4332. A bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury; to the Committee on Ways and Means.

By Mrs. MALONEY of New York:

H.R. 4333. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage of annual mammograms and annual prostate cancer screening tests following the model established under the Medicare Program; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 4334. A bill to prohibit the construction of new facilities and structures within the boundaries of the George Washington Memorial Parkway along the Potomac River in Virginia between the Francis Scott Key Bridge and the Theodore Roosevelt Memorial Bridge; to the Committee on Resources.

By Mr. YOUNG of Alaska (for himself, Mr. HERGER, Mr. POMBO, Mr. NETHERCUTT, Mrs. CHENOWETH, Mr. SMITH of Oregon, and Mr. CRAPO):

H.R. 4335. A bill to transfer to the Secretary of the Interior the functions of the Secretary of Commerce and the National Marine Fisheries Service under the Endangered Species Act of 1973; to the Committee on Resources.

By Mr. BARR of Georgia:

H. Con. Res. 308. Concurrent resolution expressing the sense of the Congress with respect to the failure of Attorney General Janet Reno to seek application for an independent counsel to investigate a number of matters relating to the financing of campaigns in the 1996 Federal election, including the conduct of President Clinton and Vice President Gore; to the Committee on the Judiciary.

By Mr. PAYNE (for himself, Mr. BERMAN, Mr. GILMAN, Mr. SMITH of New Jersey, Mr. MENENDEZ, Mr. LANTOS, and Mr. HASTINGS of Florida):

H. Con. Res. 309. Concurrent resolution condemning the forced abduction of Ugandan children and their use as soldiers; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 59: Mr. WHITFIELD.

H.R. 303: Ms. DeLAURO.

H.R. 997: Mr. KOLBE.

H.R. 1126: Mr. SANDLIN, Mr. CRANE, and Ms. DUNN of Washington.

H.R. 1283: Ms. VELÁZQUEZ.

H.R. 1289: Ms. KAPTUR.

H.R. 1382: Ms. KAPTUR and Mr. KING of New York.

H.R. 1401: Mr. SANDERS.

H.R. 1450: Mr. STOKES.

H.R. 1773: Mr. WAMP.

H.R. 1995: Mr. FRANKS of New Jersey.

H.R. 2023: Mr. ROTHMAN.

H.R. 2409: Ms. KAPTUR and Mr. SOUDER.

H.R. 2456: Ms. WILSON.

H.R. 2602: Mr. LANTOS.

H.R. 2635: Ms. VELÁZQUEZ and Mr. UPTON.

H.R. 2754: Mr. SHERMAN and Ms. CHRISTIAN-GREEN.

H.R. 2951: Mr. HAYWORTH.

H.R. 3068: Ms. LEE.

H.R. 3081: Mrs. CLAYTON and Mr. MALONEY of Connecticut.

H.R. 3215: Mrs. THURMAN.

H.R. 3248: Mr. ENSIGN and Mr. COLLINS.

H.R. 3254: Mr. CAMPBELL, Mrs. BONO, Mr. ROYCE, and Mr. THOMAS.

H.R. 3290: Mrs. BONO.

H.R. 3320: Mr. FORBES, Mr. BISHOP, Ms. McKINNEY, and Mr. ADAM SMITH of Washington.

H.R. 3400: Mr. SHERMAN and Ms. CHRISTIAN-GREEN.

H.R. 3445: Mr. FALEOMAVAEGA.

H.R. 3567: Mr. METCALF.

H.R. 3572: Mr. LAMPSON.

H.R. 3610: Mr. GORDON and Mr. DEAL of Georgia.

H.R. 3629: Mr. SOUDER.

H.R. 3681: Mr. BACHUS.

H.R. 3734: Mr. PICKERING.

H.R. 3780: Mr. LEWIS of Georgia, Mr. ENSIGN, Mr. CALVERT, and Mr. CRANE.

H.R. 3783: Mr. BUYER, Ms. FURSE, Mr. FOLEY, and Mr. CHRISTENSEN.

H.R. 3876: Mr. THOMPSON, Mr. GORDON, Mr. CARDIN, Mr. EVANS, Ms. McKINNEY, Mr. LAMPSON, Mr. NADLER, and Mr. SHERMAN.

H.R. 3918: Mr. SERRANO, Mr. SCHUMER, and Mr. NADLER.

H.R. 3992: Mr. WELLER, Mr. BUNNING of Kentucky, Mr. GOODE, Mr. SESSIONS, Mr. TALENT, and Mr. BONILLA.

H.R. 3995: Mr. FRANK of Massachusetts, Mr. VENTO, and Ms. ROYBAL-ALLARD.

H.R. 4009: Mr. BOSWELL, Mr. CRAMER, Mr. BONIOR, Ms. FURSE, Mrs. CAPPS, and Ms. McCARTHY of Missouri.

H.R. 4025: Mrs. THURMAN.

H.R. 4028: Mr. TAYLOR of Mississippi, Mr. FILNER, and Ms. KAPTUR.

H.R. 4031: Mr. RUSH, Mr. WAXMAN, and Ms. FURSE.

H.R. 4071: Mr. OBERSTAR, Mr. STRICKLAND, and Mr. ADERHOLT.

H.R. 4078: Mr. McGOVERN, Mr. ABERCROMBIE, and Mr. FORD.

H.R. 4095: Mr. BONIOR, Mr. FALEOMAVAEGA, Mr. MENENDEZ, and Mr. BEREUTER.

H.R. 4121: Ms. LOFGREN, Mr. ENGLISH of Pennsylvania, Mrs. THURMAN, Mr. GREENWOOD, and Ms. SÁNCHEZ.

H.R. 4134: Mr. BALDACCI.

H.R. 4167: Mr. CHRISTENSEN.

H.R. 4188: Mr. BILIRAKIS.

H.R. 4204: Mr. McCOLLUM, Mr. NUSSLE, and Mr. BLUNT.

H.R. 4206: Mr. DINGELL, Ms. ROYBAL-ALLARD, Mr. TOWNS, Mr. SCHUMER, Mr. MARKEY, Ms. McKINNEY, Mrs. MORELLA, Mr. PALLONE, Mr. PAYNE, and Mr. MATSUI.

H.R. 4209: Mr. ENGEL.

H.R. 4211: Mr. EHLERS, Mr. HASTINGS of Florida, and Mr. ENGLISH of Pennsylvania.

H.R. 4213: Mr. FOLEY and Mr. RILEY.

H.R. 4224: Mr. LEWIS of Georgia, Mr. BAESLER, and Mr. BONIOR.

H.R. 4233: Mr. SABO, Mr. STARK, Mrs. CLAYTON, Ms. FURSE, Mrs. TAUSCHER, and Mr. FILNER.

H.R. 4250: Mr. BLUNT, Mr. KNOLLENBERG, and Mr. HILL.

H.R. 4258: Mr. CANNON and Mr. BURR of North Carolina.

H.R. 4265: Mr. NORWOOD, Mr. EDWARDS, Mr. HILL, Ms. GRANGER, and Mr. INGLIS of South Carolina.

H.R. 4275: Mr. ROGERS, Mr. HOUGHTON, Mrs. EMERSON, Mr. HINCHEY, Mr. WATTS of Oklahoma, Mr. NEY, Mr. CLYBURN, Mr. RAHALL, Mr. PETERSON of Minnesota, Mr. BALDACCI, Ms. DeLAURO, Mr. WISE, Mr. McGOVERN, Mr. SANDLIN, Mr. LAMPSON, Mr. BOSWELL, Mr. LIPINSKI, Mr. BORSKI, Mr. HOLDEN, Ms. NORTON, Mr. WALSH, Mr. BOUCHER, Mr. BUNNING of Kentucky, Mr. ADERHOLT, Mr. BOEHLERT, and Mr. WICKER.

H.R. 4281: Mr. GOODE.

H. Con. Res. 122: Mr. ABERCROMBIE, Mr. ENGEL, Mr. FORBES, Mr. HINCHEY, Ms. ROS-LEHTINEN, Mr. SPRATT, Mr. WAXMAN, and Mr. YATES.

H. Con. Res. 148: Mr. FRANKS of New Jersey.

H. Con. Res. 184: Mr. McGOVERN.

H. Con. Res. 185: Mr. UNDERWOOD, Mr. MARKEY, Mr. HOYER, Mr. OLVER, Mrs. MALONEY of New York, Mr. SABO, Mr. PITTS, and Mr. LAMPSON.

H. Con. Res. 203: Mr. PETRI.

H. Con. Res. 239: Ms. KILPATRICK.

H. Con. Res. 299: Mr. STUMP, Mr. CAMPBELL, and Mr. HASTINGS of Washington.

H. Con. Res. 303: Mr. HINCHEY.

H. Con. Res. 304: Mr. CARDIN, Mrs. KELLY, Mr. MILLER of California, and Mr. BONIOR.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

69. The SPEAKER presented a petition of Peter Strzelczyk, M.D., citizen of Katowise, Poland, relative to a demand for damages for the estate of his wife, Ewa Strzelczyk, resulting from the Cavalese, Italy tragedy; to the Committee on the Judiciary.

70. Also, a petition of Peter Strzelczyk, M.D., citizen of Katowise, Poland, relative to a demand for damages for the estate of his son, Filip Strzelczyk, resulting from the Cavalese, Italy tragedy; to the Committee on the Judiciary.

DISCHARGE PETITIONS

Under clause 3 of rule XXVII, the following discharge petition was filed:

Petition 7. July 20, 1998, by Mr. GANSKE on House Resolution 486, was signed by the following Members: Greg Ganske, John D. Dingell, Michael R. McNulty, John W. Olver, Sherrod Brown, Bob Filner, Alcee L. Hastings, Eddie Bernice Johnson, Lois Capps, Elijah E. Cummings, Jesse L. Jackson, Jr., Gregory W. Meeks, Barney Frank, Karen McCarthy, Lynn C. Woolsey, Anna G. Eshoo, Frank Mascara, David E. Skaggs, Ron Kind, Maurice D. Hinchey, Barbara Lee, Elizabeth Furse, Eva M. Clayton, Carrie P. Meek, Bill Pascrell, Jr., Max Sandlin, Chet Edwards, Nydia M. Velázquez, Robert E. Wise, Jr., Barbara B. Kennelly, Nick Lampson, Lloyd Doggett, Ruben Hinojosa, Steve R. Rothman, Dale E. Kildee, Jane Harman, Earl Blumenauer, Robert A. Borski, Thomas C. Sawyer, John F. Tierney, James P. McGovern, Robert A. Weygand, Bart Stupak, Lynn N. Rivers, Patsy T. Mink, Scotty Baesler, Albert Russell Wynn, Thomas J. Manton, Sidney R. Yates, Zoe Lofgren, Rosa L. DeLauro, Jim Turner, Ellen O. Tauscher, Loretta Sánchez, Vic Snyder, Marion Berry, Sanford D. Bishop, Jr., Karen L. Thurman, Debbie Stabenow, Jay W. Johnson, Howard L. Berman, Cynthia A. McKinney, Gene Green, Ken Bentsen, Darlene Hooley, Sheila Jackson-Lee, Steny H. Hoyer, Bart Gordon, John J. LaFalce, David E. Price, Jim Davis, Danny K. Davis, Robert E. Andrews, Jose E. Serrano, Brad Sherman, Melvin L. Watt, Julia Carson, Martin Olav Sabo, David E. Bonior, Ciro D. Rodriguez, Esteban Edward Torres, Vic Fazio, Bruce F. Vento, John M. Spratt, Jr., Diana DeGette, Charles E. Schumer, Calvin M. Dooley, Carolyn McCarthy, James E. Clyburn, Robert Menendez, Edward J. Markey, Thomas H. Allen, Nita M. Lowey, James P. Moran, Ron Klink, Jim McDermott, Jerrold Nadler, Bob Clement, Paul McHale, Robert E. (Bud) Cramer, Jr., Corrine Brown, George Miller, Sam Farr, Michael F. Doyle, Robert A. Brady, Xavier Becerra, Nick J. Rahall II, Norman D. Dicks, Frank Pallone, Jr., Gerald D. Kleczka, Sander M. Levin, Neil Abercrombie, Dennis J. Kucinich, George E. Brown, Jr., Leonard L. Boswell, Tom Lantos, Peter Deutsch, Jerry F. Costello, Maxine Waters, Nancy Pelosi, Chaka Fattah, Louise McIntosh Slaughter, John Elias Baldacci, Thomas M. Barrett, Carolyn C. Kilpatrick, Henry A. Waxman, William D. Delahunt, Patrick J. Kennedy, Robert Wexler, Paul E. Kanjorski, Tony P. Hall, Marcy Kaptur, John Conyers, Jr., Joseph P. Kennedy II, Eliot L. Engel, Sam Gejdenson, David R. Obey, Fortney Pete Stark, Lane Evans, Earl Pomeroy, Tim Holden, Ralph M. Hall, James H. Maloney, Bobby L. Rush, James A. Barcia, Ike Skelton, Peter A. DeFazio, Bernard Sanders, Luis V. Gutierrez, Robert T. Matsui, Donald M. Payne, Benjamin L. Cardin, Major R. Owens, Bill Luther, William J. Coyne, Silvestre Reyes, Carolyn B. Maloney, Ted Strickland, Charles W. Stenholm, Martin T. Meehan, W. G. (Bill) Hefner, William O. Lipinski, Richard A. Gephardt, Lucille Roybal-Allard, Glenn Poshard, John Lewis, Earl F. Hilliard, Martin Frost, Gary L. Ackerman, Edolphus Towns, Bennie G. Thompson, Juanita Millender-McDonald, Adam Smith, Rod R. Blagojevich, Charles B. Rangel, Solomon Ortiz, Lee H. Hamilton, Robert C. Scott, Louis Stokes, Christopher John, William J. Jefferson, John S. Tanner, Ed Pastor, Mike McIntyre, William (Bill) Clay, Rick Boucher, Julian C. Dixon, David Minge, Allen Boyd, and Collin C. Peterson.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. YATES on House Resolution 141: Earl Pomeroy and Frank Mascara.

Petition 6 by Mr. OBEY on House Resolution 473: Lee H. Hamilton, Ike Skelton, Neil Abercrombie and Darlene Hooley.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. SALMON

(To the Amendments Offered By: Mr. Hutchinson)

AMENDMENT NO. 173: Add at the end the following new title:

TITLE ___—POSTING NAMES OF CERTAIN AIR FORCE ONE PASSENGERS ON INTERNET

SEC. ___01. REQUIREMENT THAT NAMES OF PASSENGERS ON AIR FORCE ONE AND AIR FORCE TWO BE MADE AVAILABLE THROUGH THE INTERNET.

(a) IN GENERAL.—The President shall make available through the Internet the name of any non-Government person who is a passenger on an aircraft designated as Air Force One or Air Force Two not later than 30 days after the date that the person is a passenger on such aircraft.

(b) EXCEPTION.—Subsection (a) shall not apply in a case in which the President determines that compliance with such subsection would be contrary to the national security interests of the United States. In any such case, not later than 30 days after the date that the person whose name will not be made available through the Internet was a passenger on the aircraft, the President shall submit to the chairman and ranking member of the Permanent Select Committee on Intelligence of the House of Representatives and of the Select Committee on Intelligence of the Senate—

(1) the name of the person; and

(2) the justification for not making such name available through the Internet.

(c) Definition of Person.—As used in this Act, the term "non-Government person" means a person who is not an officer or employee of the United States, a member of the Armed Forces, or a Member of Congress.

H.R. 4194

Offered By: Mr. Coburn

Amendment No. 33: At the end of the bill, insert after the last section (preceding the short title) the following new sections:

Sec. . The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—Federal Housing Administration—FHA—Mutual Mortgage Insurance Program Account" for non-overhead administrative expenses necessary to carry out the Mutual Mortgage Insurance guarantee and direct loan program, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—Veterans Health Administration—Medical Care", by $199,999,999.

Sec. . The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—Federal Housing Administration—FHA—General and Special Risk Program Account" for non-overhead administrative expenses necessary to carry out the guaranteed and direct loan programs, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—Veterans Health Administration—Medical Care", by $103,999,999.

H.R. 4274

Offered By: Mr. Duncan

Amendment No. 1: Page 2, line 19, after "$150,572,000" insert "(decreased by $61,402,000)".

H.R. 4276

Offered By: Mr. Kolbe

Amendment No. 19: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE —ADDITIONAL GENERAL PROVISIONS

Sec. . None of the funds made available in this or any other Act may be used to implement, administer, or enforce Executive Order 13083 (titled "Federalism" and dated May 14, 1998).

H.R. 4276

Offered By: Mr. Kolbe

Amendment No. 20: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE —ADDITIONAL GENERAL PROVISIONS

Sec. . None of the funds made available in this Act may be used to implement, administer, or enforce Executive Order 13083 (titled "Federalism" and dated May 14, 1998).

H.R. 4276

Offered By: Mr. Sanders

Amendment No. 21: Page 101, line 21, insert "(increased by $4,000,000)" after the dollar amount.

Page 102, line 3, insert "(increased by $4,000,000)" after the dollar amount.

Page 100, line 13, insert "(decreased by $4,000,000)" after the dollar amount.

H.R. 4276

Offered By: Mr. Sanders

Amendment No. 22: Page 101, line 21, insert "(increased by $4,000,000)" after the dollar amount.

Page 102, line 3, insert "(increased by $4,000,000)" after the dollar amount.

Page 40, line 8, insert "(decreased by $4,000,000)" after the dollar amount.

EXTENSIONS OF REMARKS

TRIBUTE TO THE LATE ADMIRAL ALAN SHEPARD

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SENSENBRENNER. Mr. Speaker, we are saddened to learn of the passing of one of America's great pioneers, Rear Admiral Alan Shepard. Admiral Shepard leaves an enduring legacy of heroism, perseverance, and dedication to the exploration of space ad service to his country.

Admiral Shepard served as a Navy fighter pilot and test pilot before being selected as one of the first group of astronauts in 1959. As the commander of Freedom 7, Admiral Shepard became the first American to venture into space.

Following his historic flight, Admiral Shepard was told he would never fly into space again. But he would not be deterred. Ten years later, he commanded Apollo 14 and was the fifth American—the fifth person—to walk on the Moon.

Those who have worked with Admiral Shepard in both the formulation of space policy and oversight of America's space program came to appreciate his wise counsel and fine wit as he educated us on the complex issues involved. I am confident that his contributions to America's space program will not be forgotten by his countrymen.

Admiral Shepard also served his country outside of the cockpit. Following his retirement from NASA and the U.S. Navy in 1974, he brought his determination and leadership to down-to-Earth goals, becoming a successful businessman and raising money for college scholarships so young Americans could grow up to become scientists and engineers. He was on the Board of Directors for both the Houston School for Deaf Children and the National Space Institute.

This afternoon, Admiral Shepard's spacecraft, "Freedom 7" will arrive at the National Air and Space Museum where it will be on display in remembrance of not only his historic first flight into space, but of the lasting contributions of this great American to his country.

And now, Admiral Shepard has joined his fellow crewman of Apollo 14—the late Stuart Roosa—and we wish him fair winds and following seas, and offer our condolences to his wife Louise, and his daughters Laura, Alice and Julie.

A TRIBUTE TO ALYCE LIVINGSTON

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to my constituent and dear friend, Mrs. Alyce J. Livingston of Decatur, Illinois who has recently passed. She was a devoted citizen and my condolences and best wishes go to her family and all who will miss her.

Alyce was born on July 19, 1934 in Paducah, Kentucky. She was a dedicated student, and her scholastic excellence throughout her years at Lincoln High and West Kentucky Vocational School led her to my district during the 1950's, where she attended Millikin University.

Alyce recognized the importance of providing quality child care service to Decatur's next generation. As founder and director of the Tiny Tots Nursery, she inspired and shaped our young children. In addition, Alyce was also a lab technician for the A.E. Stanley Manufacturing Company, where she provided nearly thirty years of service.

As a faithful community leader, Alyce spent her time helping the city of Decatur and increasing momentum in the Civil Rights struggle. She was a long time member of the National Association for the Advancement of Colored People (NAACP), where she served as an advisor and member of the Joe Slaw Civil Rights Awards Committee. Her strong beliefs in equality fostered her persistent efforts to build unity in Decatur. Furthermore, Alyce was a Decatur Township Trustee who committed five years to the city and was a member of the St. Peter's African Methodist Episcopal Church. She is survived by her husband of 40 years, Mr. David C. Livingston, President of the Illinois NAACP, and her two sons, Malcolm and David.

Mr. Speaker, citizens such as Alyce Livingston exemplify the undying devotion critical to community involvement. I will miss her dedication, her persistence, and most of all, her friendship. Mr. Speaker, please join me in recognizing Mrs. Alyce J. Livingston whose dedication to her career, community, and her personal convictions had a profound impact on those who knew her, including myself. It has been an honor to have represented her in the United States Congress.

CONGRATULATING WILLIAM SCHIERBROCK

HON. GREG GANSKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. GANSKE. Mr. Speaker, I rise to speak of William Schierbrock of Council Bluffs, Iowa, who was honored on July 12, 1998 for his attainment of Eagle Scout.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in congratulating William Schierbrock for his commendable achievement. His parents Thomas and Jeanette Schierbrock can be proud of their son because it takes a great deal of tenacity and devotion to achieve such an illustrious ranking. This young man has a promising future ahead of him.

IN HONOR OF THE 50TH ANNIVERSARY OF THE STATE OF ISRAEL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the 50th Anniversary of the State of Israel. Over the course of its history, this democracy has built a thriving economic and political system and a unique culture, in spite of internal and external challenges and hardships. Today, Israel shares a common goal of advancing the cause of humanity, seeking a stable and genuine peace in the Middle East, and generously shares its collective gifts with the rest of the world.

Israel and the United States share a common background based on pioneering and a united people's determination for political independence. Both countries were built on democratic principles which have withstood the test of time, serving as beacons of freedom, hope and opportunity.

Although situated across an entire ocean, thousands of miles apart, Israel and the United States have many similarities. An open exchange of ideas has cultivated the special relationship between the two countries. Over its fifty years in existence, Israel has become a State that has achieved considerable advancements. In honor of the 50th Anniversary of the State of Israel's establishment, many organizations in the Cleveland area, such as the Jewish Community Federation of Cleveland, will host commemorative celebrations.

My fellow colleagues, please join me in recognizing this exciting and momentous occasion.

HONORING KAVANAGH'S FURNITURE FOR THEIR 125 YEARS OF BUSINESS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I am privileged today to have the opportunity to acknowledge and honor Kavanagh Furniture of Springfield, MA, for its 125th year of business.

In 1873, Mr. Dennis Nelen opened his establishment as a "wholesaler and retailer in elegant furniture, hair and husk mattresses" and before 1900 he partnered with Mr. William Kavanagh. Today, Kavanagh's is the largest

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

furniture store in Western Massachusetts and has three sister stores with a fourth on the way. It is Springfield's oldest family owned business still in existence and one of the oldest operating furniture stores in the entire United States.

In an era where retailers often sacrifice quality service for quantity sold, Kavanagh's has remained a testament to the beauty of the family business. in their establishment, quality service is a trait passed down through the generations. Mr. Jack Nelen, who became Kavanagh's president in 1965 and is the grandson of the original founder, began making deliveries for the store when he was just a teenager. The success of a family business can be measured, in part, by the duration of its existence. Kavanagh Furniture has survived and flourished through two world wars, the Great Depression, and several other fluctuations in the economy. They were also able to last during the recession of the early 90s even though furniture was considered a luxury by many. Perhaps more impressive has been Kavanagh's ability to survive the local "big chain" competition, while located in an area not supported by mega-mall traffic. In this regard, the Nelen family business can be considered a huge success and a strong example for other family businesses.

Only 1 out of 30,000 retail stores makes it to be 100 years old, and Kavanagh's has now reached its 125th year in the business. Not only has Kavanagh's created lasting personal success for its owners and employees, it has been an enormous asset to the community and neighborhood as well. Its list of civil activities and commitments includes being a catalyst for and taking part in fund raisers for The Children's Miracle Network, Shriner's Hospital, the Red Cross, and the United Way. Kavanagh's once even held a free picinc for over 2,500 city kids.

The Kavanagh Furniture store is an anchor for the community. It has taken care of its customers and has been rewarded with 125 years of business. I wish the Nelen family and all of the folks at Kavanagh's success in continuing a great tradition of excellent service to their customers and the community at large as they embark on the 21st century and another 125 years.

STRUCTURED SETTLEMENT PROTECTION ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SHAW. Mr. Speaker, today I rise along with my colleague Mr. STARK and a broad bipartisan group of our colleagues from the Ways and Means Committee to introduce the Structured Settlement Protection Act.

The Act addresses serious public policy concerns that are raised by transactions in which so-called factoring companies purchase recoveries under structured settlements from injured victims.

Recently there has been dramatic growth in these transactions in which injured victims are induced by factoring companies of sell off future structured settlement payments intended to cover ongoing living and medical needs in exchange for a sharply-discounted lump sum that then may be dissipated, placing the injured victim in the very predicament the structured settlement was intended to avoid.

As long-time supporters of structured settlements and the congressional policy underlying such settlements, we have grave concerns that these factoring transactions directly undermine the policy of the structured settlement tax rules. The Treasury Department shares these concerns.

Because the purchase of structured settlement payments by factoring companies so directly thwarts the congressional policy underlying the structured settlement tax rules and raises such serious concerns for structured settlements and injured victims, it is appropriate to deal with these concerns in the tax context.

Accordingly, we are proposing legislation to impose a substantial excise tax on the factoring company that purchases the structured settlement payments from the injured victim. The excise tax would be subject to an exception for genuine court-approved hardship cases to protect the limited instances of true hardship.

The following is a detailed discussion of the Bill's provisions.

BACKGROUND

In acting to address the concerns over factoring companies that purchase structured settlement payments from injured victims, the Treasury Department noted that: "Congress enacted favorable tax rules intended to encourage the use of structured settlements—and conditioned such tax treatment on the injured person's inability to accelerate, defer, increase or decrease the periodic payments—because recipients of structured settlements are less likely than recipients of lump sum awards to consume their awards too quickly and require public assistance." (U.S. Department of the Treasury, General Explanations of the Administration's Revenue Proposals (Feb. 1998), p. 122).

Treasury then observed that by enticing injured victims to sell off their future structured settlement payments in exchange for a heavily discounted lump sum that may then be dissipated: "*These 'factoring transactions' directly undermine the Congressional objective to create an incentive for injured persons to receive periodic payments as settlements of personal injury claims.*" (Id. at p. 122 [emphasis added].)

The Joint Tax Committee's analysis of the issue echoes these concerns: "Transfer of the payment stream under a structured settlement arrangement arguably subverts the purpose of the Code to promote structured settlements for injured persons. (Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS-4-98), (February 24, 1998), p. 223).

The Treasury Department in the Administration's FY 1999 Budget has proposed a 20-percent excise tax on factoring companies that purchase structured settlement payments from injured victims. Under the Administration's proposal, "any person purchasing (or otherwise acquiring for consideration) a structured settlement payment stream would be subject to a 20 percent excise tax on the purchase price, unless such purchase is pursuant to a court order finding that the extraordinary and unanticipated needs of he original recipient render such a transaction desirable." (Treasury General Explanation, at p. 122.) The proposal would apply to transfers of structured settlement payments made after date of enactment.

DESCRIPTION OF THE ACT

1. Stringent Excise Tax on Persons Who Acquire Structured Settlement Payments in Factoring Transactions.

In its analysis of the Administration's proposal, the Joint Tax Committee notes the potential concern that in some cases the imposition of a 20-percent excise tax may result in the factoring company passing the tax along by reducing even further the already-heavily discounted lump sum paid to the injured victim for his or her structured settlement payments. The Joint Committee notes that "[o]ne possible response to the concern relating to excessively discounted payments might be to raise the excise tax to a level that is certain to stop the transfers (perhaps 100 percent). . . ." (Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS-4-98) (February 4, 1998), p. 223).

Factoring company purchases of structured settlement payments so directly subvert the Congressional policy underlying structured settlements and raise such serious concerns for structured settlements and the injured victims that it is appropriate to impose on the factoring company a more stringent excise tax rate applied against the amount of the discount reflected in the factoring transaction (subject to a limited exception described below for genuine court-approved hardships).

Accordingly, the Act would impose on the factoring company that acquires structured settlement payments directly or indirectly from the injured victim an excise tax equal to 50 percent of the difference between (i) the total amount of the structured settlement payments purchased by the factoring company, and (ii) the heavily-discounted lump sum paid by the factoring company to the injured victim.

Similar to the stiff excise taxes imposed on prohibited transactions in the private foundation and pension contexts—which can range as high as 100 to 200 percent—this stringent excise tax is necessary to address the very serious public policy concerns raised by structured settlement factoring transactions.

Unlike the Administration's proposed tax imposed on the purchase price paid by the factoring company, the excise tax imposed on the factoring company under the Act would use a more stringent tax rate of 50 percent and would apply to the excess of the total amount of the structured settlement payments purchased by the factoring company over the heavily-discounted lump sum paid to the injured victim.

The excise tax under the Act would apply to the factoring of structured settlements in tort cases and in workers' compensation.

A structured settlement factoring transaction subject to the excise tax is broadly defined under the Act as a transfer of structured settlement payment rights (including portions of payments) made for consideration by means of sale, assignment, pledge, or other form of alienation or encumbrance for consideration.

2. Exception from Excise Tax for Genuine, Court-Approved Hardship

The stringent excise tax would be coupled with a limited exception for genuine, court-approved financial hardship situations.

Drawing upon the hardship standard enunciated in the Treasury proposal, the excise tax would apply to factoring companies in all structured settlement factoring transactions except those in which the transfer of structured settlement payment rights (1) is otherwise permissible under applicable Federal and State law and (2) is undertaken pursuant to the order of a court (or where applicable, an administrative authority) finding that "the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or his or her spouse or dependents render such a transfer appropriate."

The exception is intended to apply to the limited number of cases in which a genuinely "extraordinary, unanticipated, and imminent hardship" has actually arisen and been demonstrated to the satisfaction of a court (e.g., serious medical emergency for a family member). In addition, as a threshold matter, the transfer of structured settlement payment rights must be permissible under applicable law, including State law. The Act is not intended by way of the hardship exception to the excise tax or otherwise to override any Federal or State law prohibition or restriction on the transfer of the payment rights or to authorize factoring of payment rights that are not transferable under Federal or State law. For example, the States in general prohibit the factoring of workers' compensation benefits. In addition, the State laws often prohibit or directly restrict transfers of recoveries in various types of personal injury cases, such as wrongful death and medical malpractice.

The relevant court for purposes of the hardship exception would be the original court which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement. In the event that no action had been brought prior to the settlement, the relevant court would be that which would have had jurisdiction over the claim that is the subject of the structured settlement or which would have jurisdiction by reason of the residence of the structured settlement recipient. In those limited instances in which an administrative authority adjudicates, resolves, or otherwise has primary jurisdiction over the claim (e.g., the Vaccine Injury Compensation Trust Fund), the hardship matter would be the province of that applicable administrative authority.

3. Need to Protect Tax Treatment of Original Structured Settlement

In the limited instances of extraordinary and unanticipated hardship determined by court order to warrant relief under the hardship exception, adverse tax consequences should not be visited upon the other parties to the original structured settlement. In addition, despite the anti-assignment provisions included in the structured settlement agreements and the applicability of a stringent excise tax on the factoring company, there may be a limited number of non-hardship factoring transactions that still go forward. If the structured settlement tax rules under I.R.C. §§72, 130 and 461(h) had been satisfied at the time of the structured settlement, the original tax treatment of the other parties to the settlement—i.e., the settling defendant (and its liability insurer) and the Code section 130 assignee—should not be jeopardized by a third party transaction that occurs years later and likely unbeknownst to these other parties to the original settlement.

Accordingly, the Act would clarify that if the structured settlement tax rules under I.R.C. §§72, 130, and 461(h) had been satisfied at the time of the structured settlement, the section 130 exclusion of the assignee, and section 461(h) deduction of the settling defendant, and the Code section 72 status of the annuity being used to fund the periodic payments would remain undisturbed.

That is, the assignee's exclusion of income under Code section 130 arising from satisfaction of all of the section 130 qualified assignment rules at the time the structured settlement was entered into years earlier would not be challenged. Similarly, the settling defendant's deduction under Code section 461(h) of the amount paid to the assignee to assume the liability would not be challenged. Finally, the status under Code section 72 of the annuity being used to fund the periodic payments would remain undisturbed.

The Act provides the Secretary of the Treasury with regulatory authority to clarify the treatment of a structured settlement recipient who engages in a factoring transaction. This regulatory authority is provided to enable Treasury to address issues raised regarding the treatment of future periodic payments received by the structured settlement recipient where only a portion of the payments have been factored away, the treatment of the lump sum received in a factoring trànsaction qualifying for the hardship exception, and the treatment of the lump sum received in the non-hardship situation. It is intended that where the requirements of section 130 are satisfied at the time the structured settlement is entered into, the existence of the hardship exception to the excise tax under the Act shall not be construed as giving rise to any concern over constructive receipt of income of the injured victim at the time of the structured settlement.

4. Tax Information Reporting Obligations With Respect to a Structured Settlement Factoring Transaction

The Act would clarify the tax reporting obligations of the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs. The Act adopts a new section of the Code that is intended to govern the payor's tax reporting obligations in the event of a factoring transaction.

In the case of a court-approved transfer of structured settlement payments of which the person making the payments has actual notice and knowledge, the fact of the transfer and the identity of the acquirer clearly will be known. Accordingly, it is appropriate for the person making the structured settlement payments to make such return and to furnish such tax information statement to the new recipient of the payments as would be applicable under the annuity information reporting procedures of Code section 6041 (*e.g.*, Form 1099–R), because the payor will have the information necessary to make such return and to furnish such statement.

Despite the anti-assignment restrictions applicable to structured settlements and the applicability of a stringent excise tax, there may be a limited number of non-hardship factoring transactions that still go forward. In these instances, if the person making the structured settlement payments has actual notice and knowledge that a structured settlement factoring transaction has taken place, the payor would be obligated to make such return and to furnish such written statement to the payment recipient at such time, and in such manner and form, as the Secretary of the Treasury shall by regulations provide. In these instances the payor may have incomplete information regarding the factoring transaction, and hence a tailored reporting procedure under Treasury regulations is necessary.

The person making the structured settlement payments would not be subject to any tax reporting obligation if that person lacked such actual notice and knowledge of the factoring transaction.

Under the Act, the term "acquirer of the structured settlement payment rights" would be broadly defined to include an individual, trust, estate, partnership, company, or corporation.

The provision of section 3405 regarding withholding would not apply to the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs.

5. Effective Date

The provisions of the Act would be effective with respect to structured settlement factoring transactions occurring after the date of enactment of the Act.

NATIONAL WEATHER SERVICE—OVER 200 YEARS OF FORECASTING, WARNING, AND PROTECTING THE AMERICAN PEOPLE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. ROEMER. Mr. Speaker, I rise to bring to my colleagues' attention the outstanding work of the National Weather Service. Especially during this red-hot summer, we should acknowledge the tremendous work of the National Weather Service to observe, predict, forecast and warn the American people of weather events.

The National Weather Service, as part of the National Oceanic and Atmospheric Administration [NOAA] of the Department of Commerce, utilizes a wide variety of tools, from low-tech to state of the art technology to accurately predict and forecast what will happen in our skies today, tomorrow, and beyond.

It was suggested earlier today that the National Weather Service doesn't have sufficient records of past weather conditions to be able to put this summer's heat wave in proper historical perspective. I would like to remind my colleagues that the NOAA has the world's largest active archive of weather data. Not only can they tell you what the weather was in the 1950's, they can tell you what the temperature and conditions were during the early days of the republic.

How do we now that? The NOAA's National Climatic Data Center has Benjamin Franklin's handwritten observations of the heat and humidity of a Philadelphia summer over 200 years ago.

Not only does the NOAA have an incredible store of historical data, they are receiving 55 gigabytes of new weather information each day—the equivalent of 18 million pages a day.

Armed with this wealth of historical data, and constantly added to and refined with the incorporation of new satellite and computer information, the National Weather Service creates computer models. These models reflect the heritage of past weather systems, to accurately forecast tomorrow's weather. So when the National Weather Service says its going to be hot tomorrow in South Bend, or Dallas or St. Louis, you can count on it.

I commend the NOAA and the NWS on their outstanding work on behalf of the American people.

AMERICA FACES THREAT FROM A BALLISTIC MISSILE ATTACK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. GINGRICH. Mr. Speaker, as former Secretary of Defense Donald Rumsfeld pointed out earlier this week, America faces a very real and serious threat from a ballistic missile attack. The bipartisan Rumsfeld commission unanimously concluded that the threat is much greater and the warning time available to defend against that threat is much shorter than the Clinton administration has admitted. Finally, the commission expressed concern that the ability of our intelligence community to assess these threats is severely deteriorating. I believe that it is now more important than ever to renew our commitment to working to deploy a national missile defense system. I want to bring the following enlightened editorials by William Safire, Frank Gaffney, Jr., and Thomas Moore to the attention of my colleagues which echo the serious concerns expressed by Mr. Rumsfeld and his colleagues on the Commission.

[From the Washington Times; July 21, 1998]

ALARM BELL ON VULNERABILITY TO MISSILES

THE UNITED STATES MUST PROMPTLY BEGIN DEPLOYING DEFENSES AGAINST BALLISTIC MISSILE ATTACK

(By Frank Gaffney, Jr.)

The release last week of a long-awaited "second opinion" on the missile threat to the United States more than lived up to high expectations.

The blue-ribbon, bipartisan panel—chartered by Congress and ably led by former Defense Secretary Donald Rumsfeld—unanimously warned that "the U.S. might well have little or no warning before operational deployment" of ballistic missiles capable of delivering, for example, Iranian, Iraqi or North Korean weapons of mass destruction against American cities.

This finding stands in stark contrast to the pollyannish, and highly politicized, judgment rendered by the Clinton administration's 1995 National Intelligence Estimate (NIE) on the emerging danger posed by ballistic missiles. Incredibly, that NIE found there would be no threat from long-range ballistic missiles for at least 15 years.

Of course, in order to reach this preposterously sanguine conclusion, the Intelligence Community had to make three heroic assumptions:

(1) Neither Russia nor China—which have such long-range missiles in place today—would pose a danger.

(2) Neither of these nations would help any other state accelerate the acquisition of ballistic missile technology.

(3) And only the continental United States would be considered as targets, since Alaska and Hawaii would be within range of medium-range missiles from Korea.

The Rumsfeld Commission made short work of these assumptions. It noted that Russia and China are both undergoing unpredictable transitions and are actively spreading ballistic missile and other dangerous technologies. (The commission also confirms a recent finding of Sen. Thad Cochran's Governmental Affairs Subcommittee that the United States is itself an important, albeit unintentional, contributor to the hemorrhage of proliferation-sensitive equipment and know-how.)

Perhaps most importantly, Mr. Rumsfeld and his cohorts—including Dr. Berry Blechman, Dr. Richard Garwin and Gen. Lee Butler, individuals expected by the Democrats who appointed them to dissent from any sharp critique of the administration's NIE and, thereby, to neutralize the impact of the commission's findings—addressed themselves to the missile threat to all of the United States. They confirmed that Alaska and Hawaii are at risk in the near-term. The Rumsfeld commissioners went on, however, to point out that missiles now in the inventories of virtually every bad actor on the planet could be readily launched from tramp steamers or other vessels at the vast majority of the American population living within 100 miles of the nation's coastlines.

As columnist William Safire pointed out in the New York Times yesterday, this reality means the United States could be subjected to blackmail, with potentially profound diplomatic and strategic implications. He lays out three frighteningly plausible scenarios in which the use of North Korean, Iraqi or Chinese missiles are threatened to compel American accommodation.

Moreover, Mr. Safire makes explicit a conclusion the Rumsfeld Commission could only imply, given that its mandate was limited to addressing the missile threat, not what should be done in response to it: The United States must promptly begin deploying defenses against ballistic missile attack. Mr. Safire endorses an approach that will produce far more effective anti-missile protection, far faster and far more inexpensively than any other option—by adapting the Navy's AEGIS fleet air defense system to give it robust missile-killing capabilities.

The AEGIS option has been receiving increasing support in recent weeks. A classified study prepared by the Pentagon's Ballistic Missile Defense Organization that has just been released to Congress reportedly confirms the conclusions of an analysis prepared by another blue-ribbon commission sponsored a few years ago by the Heritage Foundation: Sea-based missile defenses are technically feasible and could contribute significantly to protecting the United States—all the United States—as well as America's forces and allies overseas against ballistic missile attack.

The inherent appeal from strategic, technical and fiscal points of view also prompted Jim Nicholson, the chairman of the Republican National Committee, to make prompt deployment of the AEGIS system the centerpiece of a dramatic pronouncement: In these pages on June 21, he invited "President Clinton, Vice President Al Gore and other Democrats to join [the GOP] and make safeguarding America [against ballistic missile attack] a bipartisan project. If they will not, the Republican Party is prepared to have this become a political issue."

The problem, as Mr. Safire has pointed out, is that a sea-based missile defense (and indeed, any other that would provide territorial protection of the United States) is inconsistent with the 1972 Anti-Ballistic Missile (ABM) Treaty. Worse yet, the nation would even be denied the ability to adapt the AEGIS system to make effective defenses against short-range missiles if new treaty arrangements negotiated by the Clinton administration and signed in New York last September are ratified.

The good news is that the Senate seems unlikely to go along with these agreements. This is particularly true in light of a new legal memorandum prepared for Heritage and providing analytical backup for the common-sense proposition that the ABM Treaty ceased to exist after the other party, the Soviet Union, ceased to exist. It is hard to believe any responsible Senator would want to adopt new treaty impediments to missile defenses in the grim strategic environment described by the Rumsfeld Commission.

The bad news is that the Clinton administration is proceeding with implementation of the September agreements even though they have yet to be submitted to the Senate for its advice and consent, to say nothing of their having been approved. In a May 1 memorandum, Defense Secretary William Cohen directed that "formal planning and preparation activities" to ensure compliance with these accords be undertaken using fiscal 1998 funds. As a practical matter, this means steps that would be non-compliant—for example, developing more capable Navy missile interceptors for the AEGIS system—will be strangled in the crib.

Taken all together, these developments make one thing perfectly clear: The United States will be defended against missile attack. The only question is: Will its defenses be put into place before they are needed, or after? The answer depends on leadership. With the warning given by the Rumsfeld report and the feasible, affordable defense offered by the AEGIS option, there is no excuse for not providing such leadership on a bipartisan basis. Failing that, the Republicans must not shrink from doing so as a "political issue."

[From the New York Times, July 20, 1998]

TEAM B VS. C.I.A.—RUMSFELD REPORT: IGNORE AT PERIL

(By William Safire)

WASHINGTON.—Imagine you are the next U.S. President and this crisis arises:

The starving army of North Korea launches an attack on South Korea, imperiling our 30,000 troops. You threaten massive air assault; Pyongyang counterthreatens to put a nuclear missile into Hawaii. You say that would cause you to obliterate North Korea; its undeterred leaders dare you to make the trade. Decide.

Or this crisis: Saddam Hussein invades Saudi Arabia. You warn of Desert Storm II; he says he has a weapon of mass destruction on a ship near the U.S. and is ready to sacrifice Baghdad if you are ready to lose New York. Decide.

Or this: China, not now a rogue state, goes into an internal convulsion and an irrational warlord attacks Taiwan. You threaten to intervene; within 10 minutes, ICBM's are targeted on all major U.S. cities. Decide.

Before you do, remember this: in 1998, the C.I.A. told your predecessor that it was highly unlikely that any rogue state "except possibly North Korea" would have a nuclear weapon capable of hitting any of the "contiguous 48 states" within 10 to 12 years. (That's some exception; apparently our strategic assessors are untroubled at the prospect of losing Pearl Harbor again.)

You have no missile defense in place. The C.I.A. assured your predecessor you would have five years' warning about other nations' weapons development before you would have to deploy a missile defense.

But the C.I.A. record of prediction is poor. President Bush was assured that Saddam would have no nuclear capability for the next 10 years; when we went in after he invaded Kuwait, however, we discovered Iraq to be less than a year away. And India, despite our expensive satellite surveillance, surprised us with its recent explosion.

Six months ago, Congress decided to get a second opinion about our vulnerability. Donald Rumsfeld, a former Defense Secretary, was named to lead a bipartisan Commission to Assess the Ballistic Threat to the United States. Its nine members are former high Government officials, military officers and scientists of unassailable credibility. Cleared for every national secret, these men with command experience had the advantage denied to compartmented C.I.A. analysts.

The unclassified summary of this "Team B's" 300-page report was released last week and is a shocker. The direct threat to our population, it concluded, "is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the intelligence community."

Not only are Iran and other terrorist states capable of producing a nuclear-tipped missile within five years of ordering it up; they are capable of skipping the testing and fine-tuning we have depended on as our cushion to get defenses up. That means, the commission concluded, the warning time the U.S. will have to develop and deploy a missile defense is near zero.

Let's set aside our preoccupation with executive privileges and hospital lawsuits long enough to consider the consequences of Team B's judgment. The United States no longer has the luxury of several years to put up a missile defense, as we complacently believe. If we do not decide now to deploy a rudimentary shield, we run the risk of Iran or North Korea or Libya building or buying the weapon that will enable it to get the drop on us.

Rumsfeld's commission was charged only with assessing the new threat and not about what we should do to meet the danger.

Nine serious men concluded unanimously that our intelligence agencies, on which we spend $27 billion a year, are egregiously misleading us. Smiling wanly, the Director of Central Intelligence, George Tenet, responded that "we need to keep challenging our assumptions."

Wrong; we need to defend ourselves from the likely prospect of surprise nuclear blackmail. A first step is Aegis, a naval theater defense (named after the goatskin shield of Zeus). But that requires this President to redefine a 1972 treaty with the Soviets that he thinks requires us to remain forever naked to all our potential enemies.

The crisis is not likely to occur as Clinton's sands run out. His successor will be the one to pay—in the coin of diplomatic paralysis caused by unconscionable unpreparedness—for this President's failure to heed Team B's timely warning in 1998

[From the Washington Times, July 20, 1998]

Every Rogue His Missile

The Commission to assess the Ballistic Missile Threat to the United States delivered its findings to Congress last week, and it would take more than nerves of steel not to find the Commission's report spine-chilling. According to the nine-member bipartisan Commission, the United States could be vulnerable to ballistic missile attack from any number of countries within the next five years. Needless to say, it is not the best boys on the block who look to build ballistic missiles; think North Korea, think Iran, and many other aspiring regional players. Swell, just swell.

But almost as chilling as the findings themselves is the fact that they are completely at odds with the National Intelligence Estimate (NIE) produced by the CIA just 3 years ago, a document that blithely predicted that this threat would surely not be a problem until 15 years down the road. (Or at least, not for the 48 contiguous states, leaving Alaska and Hawaii to fend for themselves.) Not only was the CIA estimate too optimistic to be believed, it was also blatantly political in the sense of providing arguments for the Clinton administration's opposition to a national ballistic missile defense.

At the time, an incredulous Republican Congress mandated a new study to be done, a "Team B" approach if you will, an alternative analysis. In January, the Commission, under the leadership of former Secretary of Defense Donald Rumsfeld, sat down with the mandate and the access over a six-month period to look at all the CIA's information and studies. Their conclusions were unanimous, and ought to convince any doubters that the urgent need is there to counter the growing threat from abroad before it is too late.

The language of the 30-page unclassified executive summary (the classified report delivered to the intelligence committees of Congress is five times as long) deserves to be quoted to underline the gravity of the situation:

"Concerted efforts by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the United States, its deployed forces and its friends and allies. These newer, developing threats in North Korea, Iran and Iraq are in addition to those already posed by Russia and China, nations with which we are not now in conflict but which remain in uncertain transitions. The newer ballistic missile-equipped nations' capabilities will not match those of U.S. systems for accuracy or reliability. However, they would be able to inflict major destruction on the U.S. within about five years of a decision to acquire such a capability (10 years in the case of Iraq). *During several of those years, the U.S. might not be aware that such a decision had been made.*" (Emphasis added.)

So, will the Rumsfeld Commission change minds in the White House? It should, but don't hold your breath. The Clinton administration is wedded not to real defense but to an unrealistic policy of arms control by international treaties, which often not only are not enforceable, but may exacerbate the problem. Every time a U.S. ambassador delivers a demarche to Russian or Chinese officials over some piece of proliferation business, we signal how American intelligence works—after which information tends to dry up.

Even more problematic is the fact that the administration is forging ahead with the revision of the Anti-Ballistic Missile (ABM) treaty, seeking implementation of this dubious document before the Senate has approved it, as noted by Thomas Moore of the Heritage Foundation on the opposite page. In fact, most of the administration's resistance to missile defense rests on the notion that this would violate the ABM treaty and offend the Russians, one of the four successor nations that inherited ballistic missiles from the Soviet Union, with which the original treaty was concluded in 1972. Touching as such solicitude for Russian sensitivities may be, it hardly takes into account the fact that Russia is one of the primary sources of proliferation when it comes to missile technology—and precisely one of the problems.

Enough is enough. We have in the Rumsfeld Commission report evidence aplenty that we are facing a serious national security threat. To continue to leave Americans vulnerable is unconscionable.

[From the Washington Times, July 20, 1998]

The Best Defense Is a Missile Defense

(By Thomas Moore)

On July 15 a Congressional commission headed by former Defense Secretary Donald Rumsfeld and composed of some of America's best strategic analysts released its report on the ballistic missile threat to the United States. Contrary to what the Clinton administration would have us believe, the bipartisan Rumsfeld Commission found that a hostile power could deploy long-range missiles capable of striking the United States with little or no warning. The proliferation of missile components or entire systems might equip a rogue regime with strategic missiles before the intelligence community could alert us in time to respond.

Of course, the best response to the development of such weapons is ballistic missile defense, but the Clinton administration has steadfastly opposed it. In 1995, to deflect criticism of its anti-missile defense posture, the administration tasked the intelligence community to answer skewed questions about the missile threat. These questions were clearly designed to produce an assessment favorable to the president's policies. The result was a National Intelligence Estimate (NIE) assessing the missile threat to the U.S. homeland as 15 years in the future—and incidentally, omitting Hawaii and Alaska from consideration. Garbage in, garbage out, as they say. It was this deeply flawed NIE that forced Congress to create the Rumsfeld Commission.

It should come as no surprise that the White House politicized U.S. intelligence in order to justify its neglect in defending the nation. In fact, President Clinton politicizes everything he touches. In the words of William Kristol, he and his minions subordinate all the purposes and instrumentalities of government to their selfish purposes. This is the real significance of the parade of scandals emanating from the White House. Perhaps the American people are willing to tolerate sexual misconduct in high office as long as the Dow Jones index continues to soar. But they cannot afford to tolerate official misconduct that jeopardizes their safety and survival.

Why does the Clinton administration continue to leave Americans defenseless against the world's deadliest weapons? The failure to counter missiles armed with hyperlethal weapons is incomprehensible, since we now have the technology to do the job, and at an affordable cost. But deliberate vulnerability is the administration's preferred policy. It is without precedent in human history—that a great military and economic power, faced with a dire and growing threat, and possessing the means to protect itself, intentionally chooses to remain vulnerable.

The primary obstacle to missile defense is the 1972 Anti-Ballistic Missile (ABM) treaty with the now defunct Soviet Union. This

Cold War relic prohibited each treaty partner from deploying a nationwide missile defense and placed other limits on testing and development, crippling the U.S. missile defense program from the very beginning. The fall of the USSR should have eliminated the ABM Treaty as an obstacle to missile defense. Yet arms control and foreign policy elites, clinging to their old dogmas like pagan priests, have kept the U.S. ensnared in the ABM treaty even though our treaty partner and the Cold War conditions that gave rise to it are long gone.

The Heritage Foundation recently commissioned a study by the Washington law firm of Hunton & Williams which concludes that the ABM treaty legally terminated with the end of the USSR and the resulting absence of a bona fide treaty partner. This conclusion is based on the relevant Constitutional law and international law, and has been vetted by the nation's top legal scholars.

However, the Clinton administration is no wedded to the ABM treaty that it is attempting to solve the problem of no legally valid successor by creating a new ABM treaty. An agreement signed last year in New York would convert the now defunct ABM treaty into a new, multi-lateral agreement with Russia, Ukraine, Belarus and Kazahstan. The administration's new ABM agreement would impose new restrictions on the most promising theater missile defenses as well.

Article II, Section 2 of the U.S. Constitution and other laws require that this new ABM treaty come before the Senate for its advice and consent. But the Clinton administration is quietly implementing it without the Senate's approval. This is official misconduct writ large. If allowed to get away with this breach of the Constitution and statute law, the White House would lock us into vulnerability to ballistic missiles for the foreseeable future. As in the suborning of U.S. intelligence, the White House shows a fundamental contempt for the legal and moral norms which have protected our liberty and security for 200 years and made our system of self-government the envy of the world.

Those who care about America's security and the rule of law must work to make sure the administration does not succeed in implementing the sweeping new restrictions of the New York accords as a mere executive agreement. Defense Secretary William Cohen has already issued guidance to the Pentagon for compliance with the New York "demarcation" agreements on theater missile defenses, systems which were not even covered in the original ABM Treaty. The body which implements the ABM Treaty, the Standing Consultative Commission (SCC), will meet again in Geneva in September. Unless blocked by Congress, that meeting will approve a periodic five-year renewal of the 1972 ABM Treaty and take further steps to harden the New York ABM agreement into a fait accompli. Compounding the offense, the American delegation of the SCC is led by a man who has never received Senate confirmation.

Congress must insist that the White House stop the illegal implementation of the New York ABM agreement and submit it for the Senate's advice and consent in a timely fashion, using all the tools at its disposal if necessary. For example, Congress should amend the relevant appropriations bill to prohibit any funds for ABM treaty-related activities of the SCC until the Senate has had the chance to approve the new ABM package. The Senate can take legislative "hostages," denying confirmation to administration appointees until the White House keeps its promise to submit the new agreements.

The unprecedented refusal of a U.S. president to perform the most important functions of his office—provide for the common defense and uphold the law—confronts the American people with a stark moral and political dilemma. If we are to have no say through our representatives in Congress over policies that put our lives in jeopardy, can we claim any longer to be self-governing citizens of a constitutional republic? The Rumsfeld Commission has sounded a clear warning about the threat of ballistic missiles. But this warning tell us something else—we can no longer cling to the illusion that the character of our leaders doesn't count. If our leaders won't fulfill their most important moral and political responsibilities, then we the people must held them accountable. The ancient Greeks believed that a man's character is his fate. The same may be said of nations.

POLITICAL VOTE AND A POLITICAL DEBATE ON A WOMAN'S RIGHT TO CHOOSE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. STARK. Mr. Speaker, I rise today to oppose the vote to override the President's veto of legislation passed by this Congress to criminalize a specific abortion procedure used in catastrophic pregnancies. Make no mistake about it, this is a political vote and a political debate—a debate fraught with inflammatory rhetoric and distorted facts.

The fact is, there is no medical procedure called a "partial birth abortion"—that's a name made up by opponents of choice to distort the issue. What we're talking about is a procedure used in late term catastrophic pregnancies, when the fetus has a horrible abnormality, or the pregnancy seriously threatens the mother's life or health.

The vote to override the President's veto of this bill is a blatant attempt to shelter the hypocrisy of the abortion debate—that the strongest opponents of the right to choose also oppose programs promoting comprehensive sex education and birth control, which actually reduce unintended pregnancies. Instead, anti-choice Members of Congress would make access to family planning options more difficult, more dangerous, more expensive, and more humiliating. A vote to override the President's veto would threaten doctors with fines and imprisonment, and prevents not one teen pregnancy.

Doctors, not politicians, must decide what medical treatments are the best for these patients. Doctors use this procedure when they believe it is the safest way to end a pregnancy and leave the woman with the best chance to have a healthy baby in the future. Congress should not second-guess their medical judgment.

I ask my colleagues in the majority, who often express their disdain at the federal government's involvement in their personal lives, to oppose the veto override. It doesn't get more personal than this.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

SPEECH OF

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Ms. HARMAN. Mr. Speaker, as an original cosponsor of H.R. 1689, this day has been a long time coming.

I first want to commend the chairmen and ranking members of the relevant committees, as well as my friend and colleague, ANNA ESHOO, for their leadership.

Mr. Speaker, in 1995, Congress enacted, over the President's veto, the Securities Litigation Reform Act. This act limits the opportunities to bring abusive and frivolous class action suits—suits which divert precious financial resources from leading-edge high technology companies. The act continues protections for investors against genuine fraud, as it should, but protects forward-looking statements made by companies issuing nationally-traded securities from strike suits.

With "strike" suits in Federal courts less likely to succeed, a new venue has been increasingly used—State courts. Such suits potentially have the same chilling effect as those previously brought in Federal court—until today.

The measure before us, the Securities Litigation Uniform Standards Act, sets forth clear and uniform standards for bringing securities class actions under State law and would generally proscribe bringing a private class action suit involving 50 or more parties except in Federal court.

Mr. Speaker, enactment of this measure should complete an important reform initiated in 1995. Securities litigation needed reform. The future of our Nation's competitive advantage in the world lies in our ability to develop products and services that are on the leading edge of technology and research. The business ventures which undertake such activities are among the fastest growing sectors of our economy. Indeed, in many places in our country, including California's 36th District, they are the pride of our economy.

But if these business ventures are saddled by the costs and distractions of unwarranted lawsuits, filed when stock prices fluctuate for reasons often beyond the control of business management, the consequences are to chill economic growth. Despite the absence of wrongdoing by managers, corporations are essentially forced to pay large sums to avoid even larger expenses associated with their legal defense. The ultimate loser, of course, is the individual long-term investor whose share value was diminished as a result of these suits.

Mr. Speaker, let me assure my colleagues that the reform measure before us continues to protect investors. It recognizes the important role the private litigation system has played in maintaining the integrity of our capital markets. Yet, at the same time, the bill recognizes that forum shopping cannot be a new pathway for enterprising parties to gain new profits. The rights of the aggrieved investor to seek justice and restitution is maintained, while the opportunity to manipulate procedures to the detriment of the company and legitimate investors is hopefully ended.

The Securities Litigation Uniform Standards Act is supported by the Securities and Exchange Commission and the administration and I urge its support.

THE GROWING U.S. TRADE DEFICIT WITH CHINA AND JAPAN

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today to speak about our rapidly growing trade deficit with China and Japan and to strongly urge the Administration to take stronger measures to lower foreign trade barriers to American goods and services.

China and Japan are this nation's largest deficit trading partners. In 1997, our respective trade deficits with China and Japan were $53 billion and $58.6 billion. That's a combined deficit of over $110 billion. Needless to say, but nevertheless an important issue to emphasize, the massive trade deficits with Japan and China costs us billions of dollars of exports and tens of thousands—even hundreds of thousands of jobs.

The Administration bears a large part of the blame by deferring to our deficit trading partners during negotiations instead of being more aggressive in promoting fair trade agreements that advance the interests of American workers. It's not as if the Administration does not have the tools to force foreign nations to open up their markets. They do. Section 301 of the Trade Act of 1974 comes to mind. It just seems to me that they lack the will and initiative. Do they even care about the great American middle class, or are they just pandering for political posturing?

I strongly believe with all of my heart that the Administration can do more to open up foreign markets, especially with our largest deficit trading partners: China and Japan. Section 301 is a powerful tool in our arsenal. Congress gave it to the executive branch, but this Administration has been extremely reluctant to use it. Since this Administration came into office in 1992, not once has a Section 301 investigation been initiated against China despite the overwhelming evidence of massive trade barriers to American products.

Back in 1991, the Bush Administration initiated a Section 301 case against China. We pushed, and China blinked. Since then, however, China has consistently failed to follow through with their obligations outlined in the agreement. It's time to pull out Section 301 again, because American jobs and American working families are at stake here. It's time to stop talking about the problem and time to start doing something about the problem.

TRIBUTE TO MINISTER O'LANDA DRAPER

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. FORD. Mr. Speaker. I rise today to honor the memory of international—acclaimed gospel music recording artist Minister O'landa Draper, whose recent death at the age of thirty-four has marked a tragic loss for the city of Memphis, Tennessee, the music industry, and humankind.

The growth and evolution of this twentieth century psalmist has its roots in the richest tradition of Memphis music. O'landa Draper's phenomenal musical talents were recognized by his mother, Marie Draper, and others early in his childhood. In order to prepare for what he knew to be his calling in life, O'landa studies at Overton Performing Arts High under the director of his mentor, Ms. Lula Hedgemon. It was here that he first directed and led a choir, a skill which he continued to develop at the University of Memphis, directing the University's Gospel Choir. At the age of twenty-two with these experiences, O'landa set out on his own and formed a twelve member gospel choir known as "O'landa Draper and the Associates."

From that point, O'landa Draper's reputation as an innovative arranger, composer, and musician catapulted him into the heights of the gospel music industry. Most notably, his demonstrative, energetic method of choir direction became a signature style which changed the face of the musical genre of contemporary Gospel.

"O'landa Draper and the Associates" played a significant role in the development of a creative revival of the gospel music industry. The heightened exposure and renewed appeal of gospel music attracted a new generation of fans. Minister Draper was a five-time Grammy nominee and a Dove, Vision, and Stellar award winner. A member of he Board of Governors for the National Academy of Recording Arts and Sciences, Minister Draper performed for Presidents Carter, Bush, and Clinton, and for the 1994 Grammy Awards show. Some of the most esteemed members of the gospel and secular music industries recorded and performed with Minister Draper because of his dynamism, excellence and creativity. With only six albums to their credit, "O'landa Draper and the Associates" has already set an international standard for gospel music choirs.

O'landa's is a message of love, that defined the invigorating life of this ordained Church of God in Christ minister. His efforts to reach out to the distressed communities of this nation were evidenced by his support for AIDS victims and teenage mothers. His humanitarianism shown brightly with his established scholarship fund and financial support of homeless shelters. His love of God illuminated the lives of many as he shared the beautiful precepts of faith and hope through the wondrous gift of song.

His voice has now joined the heavenly choir to sing before the throne of our God forever, in that place where trouble shall cease and joy shall have no end.

For his life and magnanimous contributions to the community, Mr. Speaker, I would ask you and my colleagues in the U.S. House of Representatives to join with me in honoring the memory of this champion of God's crusade Minister O'landa Draper.

INTRODUCTION OF THE ENDANGERED SPECIES CONSOLIDATION ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing the Endangered Species Consolidation Act which is a very simple, good government bill. This bill will reduce the number of federal agencies with direct responsibility for implementing and enforcing the Endangered Species Act.

The Endangered Species Act was originally enacted in 1973 to provide a federal program to insure that our plant and wildlife resources were protected from extinction. The Endangered Species Act or ESA as it is more commonly called, divides responsibility for its implementation and enforcement between two different federal agencies in two separate federal Departments. The Fish and Wildlife Service within the Department of the Interior is the primary federal agency with responsibility for enforcing the law. The 1997 budget for direct endangered species enforcement within the Fish and Wildlife Service is approximately $80 million. The Fish and Wildlife Service is responsible for listing and developing rules to protect all land based endangered or threatened species and all fresh water fish.

The National Marine Fisheries Service (NMFS), a division of the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce has responsibility to implement and enforce the Endangered Species Act when it involves fish in the oceans or which migrate to the oceans, as well as marine mammals and sea turtles. Their annual buget is approximately $20 million.

The Fish and Wildlife Service has approximately 800 employees assigned to protect endangered species, while the National Marine Fisheries Service has approximately 270 employees assigned to protect endangered species.

With the listing of various species of salmon which can migrate hundreds of miles inland to spawn, the jurisdictional reach of the National Marine Fisheries Service now overlaps that of the Fish and Wildlife Service. Many companies and individuals are being required to obtain permits for land based activities from both the Fish and Wildlife Service and the National Marine Fisheries Service for the same activities because of the presence of species that are under the regulation of both agencies. In addition, federal agencies that impact endangered species must conduct consultations with both the Fish and Wildlife Service and the National Marine Fisheries Service in many cases. For example, a timber company in Washington with land adjacent to a stream where salmon migrate and with spotted owl habitat will have to obtain a permit from both agencies to conduct its business.

Having two agencies with overlapping responsibility is a waste of taxpayer funding and takes away resources that can be spent directly on species recovery.

This bill would simply transfer authority for enforcement of the Endangered Species Act to the Fish and Wildlife Service. The National Marine Fisheries Service would continue to regulate all other fishing activities and fisheries management, as well as continuing to protect all marine mammals.

Under the ESA, all federal agencies are required to use their resources and authorities to protect endangered species. Whenever the actions of any federal agencies are likely to impact an endangered speices, that federal agency is required to enter into a consultation with the federal agency that has primary responsibility for endangered species—The Fish and Wildlife Service, except when the species is one under the jurisdiction of the National Marine Fisheries Service. In that case, the agency must consult with NMFS. This duplication of effort and overlapping of responsibility has become very burdensome, expensive, and time consuming, not just for private citizens but for federal agencies as well.

It is time for us to consolidate the ESA functions of these two agencies into one primary agency. This means that when the NMFS will conduct an activity that affects an endangered species, such as issuing fishing permits, it will also be required to consult with the Fish and Wildlife Service, to insure that its activities do not harm those species.

This bill will save time and money for everyone involved in protecting endangered species and most of all will give the taxpayers the most and best conservation for our taxpayer dollars.

H. CON. RESOLUTION ON UGANDA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BERMAN. Mr. Speaker, today, I join my colleague Mr. Payne in submitting this resolution condemning the forced abduction of children by the rebel Lord's Resistance Army (LRA) in Northern Uganda. The LRA, a bizarre Christian group supported by the fundamentalist Islamic government in Sudan, has kidnapped some 10,000 Ugandan children and forced them to fight as insurgents. Some of these children are as young as eight years old.

Captive children raid and loot villages and serve in the front lines against the Ugandan army. They are also forced to help kill other abducted children who try to escape. Young teenage girls suffer the additional horror of serving as "wives" to ranking rebel soldiers. If they resist, they are beaten, sometimes severely. Girls may be given to several men in the course of a year.

I am heartened that the children's plight is getting more international attention. In March, the U.N. Commission on Human Rights condemned "in the strongest terms" the abduction of children in Northern Uganda, and the First Lady addressed the issue in a speech while visiting the country. Much more needs to be done, however.

This resolution condemns the abduction of children by the LRA in northern Uganda and calls for the immediate release of all LRA child captives. It urges the recently-appointed U.N. Special Representative on Children and Armed Conflict to aggressively address the situation, and encourages the U.N. Committee on the Rights of the Child to investigate. The resolution also calls on the Al-Bashir Government in Sudan to stop supporting the LRA and asks President Clinton to provide more support to U.N. agencies and non-governmental organizations working to rehabilitate and reintegrate former child soldiers into society.

I am proud to be an original cosponsor of this important legislation and I urge all my colleagues to support it. Let us help end the nightmare for children in Northern Uganda.

MR. STARR: WAIVE REPORTERS' PRIVILEGE OF SILENCE AND ALLOW THEM TO TELL WHAT THEY KNOW

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. CONYERS. Mr. Speaker, Independent Counsel Kenneth Starr is now the subject of multiple investigations of whether he and his staff illegally leaked confidential information to the media. Those investigations include a contempt hearing to be held by Chief Judge Norma Holloway Johnson of the federal court in Washington, and inquiries by the Office of Professional Responsibility of the Justice Department, and the D.C. Bar Counsel. In addition, the Independent Counsel is supposed to be investigating himself.

Mr. Starr has already admitted that he and his chief deputy, Mr. Jackie Bennett, routinely talk to the media on an off-the-record basis regarding their investigation of the President. The Independent Counsel claims, however, that his discussions were legal because the rule of grand jury secrecy does not reach information until it is presented to a grand jury. That argument, in my view, is incorrect.

An important question in these leak investigations will be exactly what was said during meetings between the prosecutors and reporters. In order to have a full and complete record of what went on during those sessions, the Independent Counsel should publicly release the reporters from their vows of silence. After all, is it fair for the Independent Counsel to share confidential information with reporters, and then force them to cover-up possible misdeeds?

I fully respect a reporter's First Amendment right not to reveal a source. But the Independent Counsel can relieve the reporters from having to make a difficult decision to stand mute. Given the significance of issues involving the investigation of the President, Mr. Starr should allow the court and public to know what his media contacts have to say on this subject.

On more than one occasion, the Independent Counsel has called on the President to urge others to waive privileges and testify. The first was when he wrote to the White House Counsel, Mr. Ruff, asking that the President tell Susan McDougal to waive her Fifth Amendment rights and testify before the White water grand jury. Mr. Starr did that even though Ms. McDougal had her own lawyer to advise her, and publicly said that she would not listen to what the President said. In addition, the spokesman for the Independent Counsel, Mr. Bakaly, criticized the President for refusing to urge Ms. McDougal to give up her rights.

A second instance involved the Secret Service. In April of this year, after the Secret Service argued that its agents could not be compelled to testify about the President, Mr. Starr requested that the President waive any Secret Service privilege and order the agents to appear before the grand jury. Mr. Starr made that request even though the privilege was asserted by the Secret Service and not the President, and the Secret Service's director, Mr. Merletti, considered the matter to be one of great national significance.

The President was right when he refused the Independent Counsel's ill-considered requests. But I cannot see any public interest in Mr. Starr's refusal to waive the privilege that requires his media contacts to remain silent in the face of these leak investigations. The Independent Counsel has made clear that he views the invocation of privileges as a roadblock to the truth. How, in good conscience, can he take a different position simply because he has now become the focus of the investigation?

STATEMENT FROM SOME VERMONT HIGH SCHOOL STUDENTS

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. SANDERS. Mr. Speaker, I would like to have printed in the RECORD this statement by a high school student from my home state of Vermont, who was speaking at my recent town meeting on issues facing young people today. I insert this statement in the CONGRESSIONAL RECORD as I believe that the views of this young person will benefit my colleagues:

STATEMENT BY ERIK KENYON, MEGAN WILLEY, KELLY COOK AND JUSTIN STURGES REGARDING GAY-STRAIGHT ALLIANCE

ERIK KENYON: Thank you.

United Nations here from the Bellows Free Academy Gay-Straight Alliance. You have already heard about gay-straight alliances, so we are just going to tell you a bit today about the way our school works.

Like most places in Vermont, St. Albans—over that way—is fairly isolated. For the first two years of high school, I just didn't date anyone. It was something I had no real urge to do. I never thought, well, maybe I'm gay, because the word never came up at all, until I went off to the Vermont Youth Orchestra—which is really cool—I have to get a plug in here; we have a concert tomorrow by the way—which is where I met my first gay person, and that United Nations. "That makes sense. Why didn't I think of that?" This is how isolated St. Albans really is. And St. Albans is actually a big progressive for the State of Vermont, if that tells you anything.

And so, at the beginning of the year, some students got together, and we wanted to start something, and the gay-straight alliance is what we decided on, and here is Justin to tell you about that.

JUSTIN STURGES: When we began, it was a new thing, you know, no one had even thought about GSAs, and so we were met with a certain degree of resistance. There is a story that goes along with this. When we first went into our headmaster's office, there were three of us, Erik, myself and another guy, who couldn't be here. He asked us, Well, how many of you people are there? And that, right there, set the mood. He has gotten better, and I think that we are the reason, to an extent. It was this sense of newness, this sense of an unchartered area that no one had been to yet, and we broke that.

And we have been met with certain degree of resistance from several people, from people in the school, from outside influences, from adults, from the teachers.

Here is Kelly. Kelly is going to talk about an experience of her's.

KELLY COOK: Hi.

Yeah. I joined GSA about three weeks ago, I think. One time, I was walking up to a coffee house which we put on quite often. And a lot of people don't accept different people, like they call me a freak at my school. I'm like: Okay, whatever. I am just walking out with a whole bunch of people and suddenly these people come by with a truck and throw stones at me. That is the kind of stuff you have to get rid of.

And a lot of people just don't accept gay, bi, or different people at all, and I will hand it over to Erik.

ERIK KENYON: But we have been making success this year, and when we were starting out, there were some people all for us and supportive, and some people that were really against us. But most of the people were just sort of indifferent, and we won over most of them. And we have been working on the rest of them.

And a lot of the time this sort of change—well, the bills and all the policies help a great deal, but a lot of the times, it is that little things. Like an experience I had just last week, just in the cafeteria, and just bringing my tray up and dumping my garbage and all that, and behind me I could hear a chant of, "Queer, queer, queer," getting louder and louder. It started as a stage whisper, which is hard with microphones. But it was just—it is kind of commonplace.

So I just did my thing, put all my stuff away, and then walked over to the table where it was coming from—it was quite obvious—and just stood there and stared at them. And they were just like: Hi. What? They got really uncomfortable, you know.

So I didn't say a thing, just walked away out in the hall, did something or other. And I was really surprised, the boy at the table that was doing it, came that and apologized to me. He said, you know: "I'm sorry, I didn't mean it," and all that. And I was like: Okay, thanks. And he said, "No, really, I'm sorry. I was just trying to show off. It was stupid." And he shook my hand. That was just, like: Oh, wow. That was change, and this is how a lot of these changes happen.

And a lot of other things have come up through the course of the day, about things that people would like to get put into place. And we can speak for some of those, like the harassment policy, which doesn't get exercised enough. It doesn't get exercised, because it is really difficult to exercise, but through our group, we had have had, I think three people so far who have gone through the process and done the paperwork to file the complaint, and the harassment has stopped.

We also put on a number of coffee houses, just to read poetry and stuff. It is a nice, relaxed atmosphere. It was odd at the first one, we had 100 people, out of a student body of 1,000, so you get that kind of one in ten, ten percent, and that was kind of neat.

We also have a Web page, put together for the GSA in the state, to try to help us network. It is a start, but we could use a lot more.

And, Justin?

JUSTIN STURGES: What we see needs to happen—we are obviously here for a purpose—we see, for the advancement of such things as we have been doing, we find it necessary for teachers to be trained. That is the one thing that has been left out. You know, we have done what we can for the student population, and will continue to try to educate them, to get them to be more open to our organization and anyone who is different from what they may see.

We find it necessary for the teachers to be trained, because they are the source, to an extent, because they are there in the classroom with all the students, because they come into contact with every student in that school. And, sometimes, they let things slip that, perhaps, they shouldn't.

Outright Vermont, right here in Burlington, does do a program, and we have talked to them about it, but there were restrictions in our school because of the amount of assemblies we have had and the amount of inservice time that we have had, and we couldn't get anything off the ground. But support for that is the one thing we are rallying for currently, the one thing we see that needs to happen.

Congressman SANDERS: Thank you very much

STATEMENT BY CHRISTIE NOLD REGARDING CHILD LABOR

CHRISTIE NOLD: My name is Christie Nold. I am an eighth grade student at Shelburne Community School.

For the past several weeks, I have been researching the topic of child labor in the U.S. and throughout the world. This is a brief summary of my findings.

The problem: Around the world, there are 250 million underaged children in the work force. There are nearly 300,000 underaged workers in the United States. Working conditions include: Wages as low as $1.50 per day; sexual abuse; physical punishment; exposure to dangerous chemicals; and children chained to their machines.

Companies that utilize child labor include: GAP, Nike, J.C. Penny, Esprit, Disney and many others. For example, workers are paid 6 cents to produce a 101 Dalmations outfit that is sold in the U.S. for $20.

Progress in the fight against child labor: As awareness of this problem that has grown, there has been progress in the fight to end child labor. My research has uncovered that our own congressman, Congressman Sanders, has been the leading spokesman in the U.S. Congress against child labor, and specifically against Nike. His efforts are producing results. As recently as Tuesday May 12, Phillip Knight, the CEO of Nike, announced the following changes in his companies practices: They will raise the minimum age of its workers to 16 at its clothing factor, and 18 at its shoe factories; they will adopt U.S. standards or fresh air inside their factories; they will ask individual foundations and rights groups to monitor Nike plants worldwide; they will begin having on-site education programs at their factories.

Congratulations, Congressman Sanders. Your efforts are paying off.

There is still much work to be done, as the ultimate goal is to bring jobs back to the U.S. and pay American workers a living wage. The Foul Ball Campaign is another area where progress has been made. For years, the vast majority of soccer balls were made and stitched in Pakistan using child labor. FIFA, the governing body of soccer, has determined that it will not put its stamps on soccer balls made by child labor.

The Rugmark campaign has also made progress. Hand-made oriental rugs are commonly made by children who are chained to their machines and guarded by men with guns. The Rugmark label was created in 1997 to indicate rugs that were made without child labor. Now, when you purchase an Oriental rug, you can look for this label.

In conclusion, child labor continues to be one of the worst social and economical problems in the world today. The goal of our generation is to help eliminate this problem by: Becoming aware of companies that utilize child labor and take our business elsewhere; let the leaders of these companies know that we have a lot of consumer power, and will not purchase their products; support those who are leading the fight against child labor.

Thank you.

Congressman SANDERS: That was an excellently written and presented paper. That was really good.

STATEMENT BY AMANDA BEAN, REBECCA WEST, NOEL BAKER, JESSICA DAILEY, SARAH MCDONOUGH, NIKKI ERNO, LOUISE MARTINEK, STACEY ZAK, JODY JERNIGAN AND CELINA COGLAN REGARDING TEEN PREGNANCY/WELFARE REFORM

JESSICA DAILEY. Jessica.

I would like to speak about teens and the resources that we seem to be lacking. We found that there are very few resources for teens either who are pregnant, or who aren't but need help. There is the Lund Family Center, which is pretty much the only one of its kind in the area. And we need more help. There is really nowhere for us to go.

There is also a problem with people who aren't pregnant. They have no really good teen pregnancy prevention programs out there for people at high risk, and we feel there needs to be put more of an emphasis on prevention and giving education for that.

Congressman SANDERS. Other thoughts? We would like to hear from as many folks as possible. Please don't be shy. Who else? Just pass the mike along.

JESSICA DAILEY. Nikki wanted me to say something for her.

Congressman SANDERS. Sure.

JESSICA DAILEY. Also, the program called Spectrum for people who have had children who are in SRS custody who are over the age of 16. However, there are no programs like that for people under 16, and a lot of people are falling through the cracks. There needs to be programs out there for people who are under 16 who are in SRS custody towed.

AMANDA BEAN. I know I am in SRS custody, and I have a daughter. I am not 16, and therefore I can't go into the Spectrum program because of that fact, and I have been living at the Lund Family Center for a very long time. And there are no programs for me except Lund, which, to me, feels like I am staying there a long time, when other girls could be coming into my spot, which could be helping them, when I have already been helped, but, yet, I am not old enough to go into that program that they have.

NOEL BAKER. I think that the schools really need to support our decision. In my case, school told me to get my GED or my adult diploma, and I am not old enough to do that. And I really wanted to get my education and everything, and Lund is the only resource out there that I could go to get my schooling and to parent my son. I really do think that the support of school would really help us right now.

JODY JERNIGAN. My name is Jody, and I'm 14. And I just wanted to say, make the point really clear that there is not much out there for teens, and pregnant teens. Lund has been really helpful, but we need more out there. We need things for teens to do so they are not getting pregnant, and also things for teens to do that are pregnant or that do have children, because there is nothing out there.

LOUISE MARTINEK. I just wanted to say that I think day cares need to be given more money. Day care workers are like making nothing and our day care has no money to do anything.

JESSICA DAILEY. About day care, I am unable to have my child in the day care center at Lund because there aren't enough spots open. It was unreal trying to find a day care that would take subsidy. And even when they did, I am still having to pay extra, and it is very, very difficult. And a lot of the day cares that will accept full subsidy, workers are being paid so low that you are not really getting quality with your child care.

I think that something needs to be done about that, because, I mean, it is pretty bad when you walk into a day care and you have a bunch of kids, hardly any day care workers, and they are not paying attention to them. I have run into them a couple of times.

Congressman SANDERS. Other comments?

AMANDA BEAN. I was wondering about longer hours of day care, like not longer days, but being open longer. Most day cares are 5:00 or 6:00, and what about people who work until 9:00 or 10:00 at night and have to pay someone extra, and weekend day cares. I work on the weekends, and I have to pay somebody unreal amounts of money to babysit my kid, and there goes most of my money.

Congressman SANDERS. The issue that we are talking about obviously is a very personal and difficult issue. I very much applaud you all for coming up, and I thank you for doing that.

HONORING SGT. JOHN PETERSON

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mrs. ROUKEMA. Mr. Speaker, I rise to call attention of my Colleagues to a tragedy in my Congressional District earlier this month. Sgt. John Peterson, a loyal and dedicated Alpine, New Jersey, police officer was critically injured on the job. His case has brought an outpouring of sympathy from our community.

Sgt. Peterson was directing traffic around a Bell Atlantic cable-stringing crew on Hillside Avenue in Alpine about 1:30 p.m. July 2 when he was struck by a car. The car turned from Church Street onto Hillside, then increased in speed while ignoring Sgt. Peterson's orders to stop. The sergeant finally attempted to jump out of the way but was struck by the car and suffered broken bones in his nose, pelvis, chest and shoulders, among other injuries. He was flown by helicopter to Hackensack University Medical Center, where he was listed in critical but stable condition at last report. A 71-year-old Cresskill woman has been changed with failing to comply with the directions of a police officer.

Sgt. Peterson has patrolled the streets of Alpine for more than 25 years, becoming well-known among the residents of the affluent Bergen County borough. He, his wife, Marie, two adolescent children and one grandchild live in nearby Emerson. The couple also have two adult children. When word of the accident and severe injuries spread, the community was shocked. As a result, Alpine residents Ed and Sally Desser have begun a fund-raising campaign to help Sgt. Peterson and his family pay for medical expenses. A fundraising barbecue will be held at the Desser's home this weekend.

Mr. Speaker, we all know that police officers are among the most valued members of our communities. They work nights, weekends and holidays to protect us, our families and our property. Their work is hard and their pay modest. And every day they know they may be called on to put their lives on the line. Officers' spouses and children pray each day that they will return home from work safely—not a worry most of us have to face. In a small and relatively crime-free community such as Alpine, those worries seldom turn into real-life tragedy. But this terrible accident reminds us of the dangers a police officer faces every moment of every day—whether chasing drug dealers through a crime-ridden corner of a major city or directing traffic in a peaceful suburb.

I ask all the Members of the House to join me in offering their gratitude to the hard work and dedication of officers like Sgt. Peterson across our nation. Let us strive to keep Sgt. Peterson and his family in our thoughts and prayers.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BECERRA. Mr. Speaker, on July 15, I was unavoidably detained during roll call vote number 282, on final passage of H.R. 3267, a bill concerning the Salton Sea. Had I been present for the vote, I would have voted "no".

EXPRESSING CONDOLENCES TO THE STATE AND PEOPLE OF FLORIDA FOR LOSSES SUFFERED AS A RESULT OF WILD LAND FIRES

SPEECH OF

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mrs. MEEK of Florida. Mr. Speaker, I rise in strong support of House Concurrent Resolution 298. The people in the northeast and central regions of the state of Florida have experienced great hardship because of the destruction of nearly 500,000 acres of land and over $276,000,000 dollars in aggregate damages.

I would like to express my heartfelt sympathy to the people who have personally incurred loss, or who had family and friends who sustained losses due to the brush fires that damaged or destroyed nearly four hundred homes and businesses in Florida.

We must also recognize the firefighters, from forty-seven states across this nation who unselfishly worked around the clock in extreme heat to combat these fires.

At the same time, this incident underscores the need to prepare ourselves in advance for future catastrophes. I am hopeful that we can learn from our experiences in this matter and apply our knowledge to prevention.

With the victims and families of this disaster in mind, I strongly urge my colleagues in the U.S. House of Representatives to vote for House Concurrent Resolution 298.

TRIBUTE TO CAROLE PONCHETTI

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Fresno Businesswoman Carole Ponchetti, President and Chief Executive Officer of J.E. Ethridge Construction Inc., for her efforts and success in the business arena. Carole Ponchetti's climb and dedication to her current position in a traditionally male-dominated field has made her very deserving of this recognition.

Mrs. Ponchetti has clearly demonstrated a drive for success. She attended California State University, Fresno, earning her license as a Class B General Building Contractor. In 1971, Mrs. Ponchetti began her career with Ethridge, working as a secretary in a one-employee office. Steadily climbing the corporate ladder in the mid 1980's, Mrs. Ponchetti was a key figure in the renovations of the Fresno Bee and the Fresno Metropolitan Museum.

Mrs. Ponchetti has served the community in more ways than one. She is currently on the Chamber of Commerce Board of Directors, a board member of the San Joaquin Business Investment Group (a minority interest), and a member of the Fresno Business Council.

Mr. Speaker, it is with great honor that I pay tribute to Carole Ponchetti for her effort with J.E. Ethridge Construction Inc. Her commitment and unfailing dedication serve not only as a model for current heads of business, but also for women who wish to enter and succeed in the business field. I ask my colleagues to join me in wishing Carol Ponchetti many more years of success.

RECOGNIZING LARRY D. HAAB

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to my constituent, Mr. Larry D. Haab, who will be retiring from the Illinova Corporation, a power company in my congressional district. He has honorably served as Chairman, President and Chief Executive Officer, and will resign from the latter post this summer after more than 25 years of service. I wish him all the best during his retirement.

Larry attended Millikin University in my district and earned his bachelor of science degree in 1959. He recognized that commitment to his career and Illinova was essential in the business world. Larry established his career in the early 1970's when he was appointed manager of data processing at Illinova. His superior service to the company resulted in his promotion to vice president two years later, and reelection in the subsequent years until he achieved the presidency in 1989. By 1991, Larry had achieved the offices of Chairman and Chief Executive Officer. Larry recognized the potential of Illinova, and he wanted to expand it into larger and new markets. During his career, he helped in the growth of the corporation from a local utility to a nationwide business to an international operation.

In addition, Larry devotes his energy to serving on dozens of boards and councils with dynamic leadership and integrity. He understands the importance of being involved and committed to the Decatur community. From the Illinois Energy Association and the Millikin University Alumni Board to the Decatur County Economic Development Foundation, Larry has maintained active involvement with business and community issues. He is married to Ann Haab, and has two daughters and a son.

Mr. Speaker, please help me in recognizing Mr. Larry D. Haab for his dedication and commitment to Illinova and his community. As a member of the House Small Business Committee, it is a pleasure to witness businessmen such as Larry Haab succeed. I wish him the best during his retirement. He has been very successful with Illinova, and it has been a pleasure to represent him in the United States Congress.

EDUCATION FUNDING

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, just yesterday, I met with principals from schools in the 4th Congressional District of Colorado and I would ask my colleagues to consider the issues raised by these education professionals. Congress, they told me, has mounted bureaucratic obstacles which prevent them from putting federal education dollars to use for their students. The paperwork and bureaucratic red-tape associated with federal money are hurdles which prevent dollars from reaching the classroom.

Principal Betsy Dumph from the town of Hudson, Colorado, stated that small schools like hers simply do not have the money to hire professional grant writers to negotiate the extensive federal grant applications and are therefore at a competitive disadvantage to large districts when seeking federal grants. Another principal described how bureaucratic rules often keep her school ineligible for federal grants. The entire group expressed frustration with federal rules concerning special education which restrict them from removing dangerous students.

These principals aren't the only ones who feel this way. Teachers and parents in northern Colorado told the Committee on Education and the Workforce they share the same sentiments. Over 79% of respondents to an education survey in my district support sending the majority of all federal education funds directly to the classroom. Nearly 85% would support efforts to eliminate onerous federal mandates affecting education.

The objective of these Oversight hearings was to produce the Education at a Crossroads report to Congress. Based on witness testimony, the Subcommittee has made four recommendations—send dollars to the classroom not the education bureaucracy, strengthen local control, emphasize basic academics, and promote parental involvement. These suggestions came after two years of investigations and the testimony of 225 witnesses in 15 states including Colorado. The report was adopted by the Subcommittee on the 17th of July.

Before developing these recommendations, the Subcommittee made several observations: There are 760 federal education programs. An average of 48.6 million hours are spent doing paperwork. As little as 65 cents of every federal tax dollar makes it to the classroom. There are over 18,000 federal employees and full-time equivalents administering federal education programs.

There are disturbing national trends that Congress should address. For example, almost half of America's fourth-graders do not read at even a basic level. Half of all students from urban school districts fail to graduate on time, if at all. The average 1996 NAEP scores among 17-year-olds are lower than they were in 1984. American senior high students only outperformed two out of 21 nations in mathematics according to the Third International Mathematics and Science Study. Public higher education institutions spend one billion dollars on remedial education.

The answer to this situation is simple: Listen to educators, parents, and administrators and take their advice. For once, the government needs to support what works and take the suggestions of professionals who are making the grade and making a difference.

Mr. Speaker, the principals I met with, the letters, responses and phone calls I have received have pointed to the same thing. The findings in the Education at a Crossroads report come as no surprise because they simply state what people have been saying for some time—get rid of the red tape and put dollars in the classroom; trust teachers, local administrators and parents to make decisions about policy and budgeting rather than Washington bureaucrats in the Department of Education. It is time we listen.

JULIAN BREECE: ONE OF D.C.'S BRIGHT STARS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Ms. NORTON. Mr. Speaker, I rise today to recognize one of the bright stars of the District of Columbia, Julian O. Breece, Though only seventeen years old, Julian has compiled an exemplary academic record, extensive production and anchoring experience in local and national television, served as a Youth Ambassador to Israel, and participated in the Junior Statesmen summer school program. Now, I am proud to recognize his latest achievement: a $10,000 scholarship in the Arts and Humanities category of the Discover Card Youth Program. Julian joins a select group of only nine award recipients from around the nation, achievers who stand out personally and academically.

Julian Breece, like so many other D.C. students, is a gifted and talented young man. His 4.0 grade point average at Benjamin Banneker Academic Senior High School simply wasn't enough; Julian had to do more. He has worked with the D.C. Public Schools cable station, DC28, for two years, honing his skills as an anchor, writer and producer. Julian is a regular panelist on Black Entertainment Television's Teen Summit show, which airs nationally each week. I am proud that Julian uses his exceptional oratorical and communications skills to serve his community.

Julian's community service endeavors, awards and activities are simply too numerous to list here. From theater troupes to helping the homeless, from foreign affairs programs to science fairs, Julian Breece has made an important contribution to the life the District of Columbia. I have no doubt that he will continue to contribute to this city and this nation as he grows and matures, striving to promote cultural understanding and community awareness. My warmest congratulations to Julian on his latest award, and my regards to his parents, who have raised such a fine son!

ADDITION TO DEBATE ON HOUSE RESOLUTION 392

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. GILMAN. Mr. Speaker, I would like to include the letter of July 16 from Chairman BILL ARCHER and my reply of July 17 as part of the record of the proceedings on House Resolution 392, relating to the role of Japan in solving the economic crisis in Asia, that took place on the House floor on Monday, July 20:

COMMITTEE ON
INTERNATIONAL RELATIONS,
Washington, DC, July 17, 1998.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means,
House of Representatives.

DEAR BILL: Thank you for your letter about the consideration of H. Res. 392, relating to the role of Japan in solving the economic crisis in Asia.

I very much appreciate your willingness, in view of the urgency of this matter, to forego marking up the resolution in the Committee on Ways and Means.

After consultation with Chairman Bereuter and the minority, I am certainly prepared to bring H. Res. 392 to the floor as ordered reported by the Committee on International Relations on suspension without additional amendment. I also accept the other understandings set out in your letter.

I will be working with the Majority Leader to arrange for early consideration of the Resolution on the suspension calendar.

With best wishes,

Sincerely,

BENJAMIN A. GILMAN,
Chairman.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, July 16, 1998.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in reference to H. Res. 392, relating to Japan, which was reported to the House by the Committee on International Relations, as amended, on June 25, 1998. The resolution was sequentially referred to the Committee on Ways and Means until July 17, 1998, to address provisions within the Committee's jurisdiction.

On July 15, 1998, the Subcommittee on Trade of the Committee on Ways and Means held a hearing to review U.S.-Japan trade policy. This very productive hearing allowed the Subcommittee to address the necessity for Japanese implementation of broad structural reforms, including deregulation of its economy, reform of its banking system, improved transparency, and the opening of its distribution system to eliminate exclusionary business practices.

Accordingly, in order to expedite consideration of this important legislation, I do not believe that a markup by the Committee on Ways and Means will be necessary on H. Res. 392. However, this is being done only with your assurance that you will bring the resolution, as reported by the Committee on International Relations, to the House for a vote under suspension of the rules, with no additional amendment. In addition, this action by the Committee on Ways and Means with respect to H. Res. 392 is being done with the understanding that it does not in any way prejudice the Committee's jurisdictional prerogative on this measure or any other similar legislation, and it should not be considered as precedent for consideration of matters of jurisdictional interest to the Committee in the future.

I would appreciate your response to this letter, confirming this understanding with respect to H. Res. 392, and would ask that a copy of our exchange of letters on this matter be included in the record during floor consideration. Thank you for your cooperation and assistance on this matter.

With best personal regards,

BILL ARCHER,
Chairman.

TRIBUTE TO E.B. "SWEDE" ANTONELL, JOHN E. BOUDREAU, ROBERT F. BOWMAN, ROBERT L. STANFIELD AND HARVEY WILLIAMS FOR THEIR SERVICE TO THE CENTRAL SAN JOAQUIN VALLEY AGRICULTURAL COMMUNITY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to E.B. "Swede" Antonell, John E. Boudreau, Robert F. Bowman, Robert L. Stanfield and Harvey Williams for their service to the central San Joaquin Valley agricultural community. Each of these gentlemen has distinguished himself as a valued member of the agriculture-water industry.

Mr. E.B. "Swede" Antonell was born in Michigan and started his career as a chemist for U.S. Industrial Alcohol after studying chemistry at Stanford University. His service on the Southern San Joaquin Municipal Utility District Board of Directors dates back to the earliest days of water service from the Friant-Kern Canal.

Mr. Antonell came to Kern County in 1938 as a farmer and produce packer. He farmed citrus, potatoes, corn and cantaloupe. He saw that farmers in the Delano and McFarland areas were faced with the pumping of ground water to sustain their agriculture production and were depleting the subterranean water supply. Mr. Antonell decided to actively support the Friant water project, which would enable modern irrigation and use surface water to produce higher yielding crops. Mr. Antonell has been a longtime advocate for agriculture and water in the valley.

Long identified with water industry leadership in Kern County, Mr. Antonell represented the district as a Friant Water Users Authority director since the Authority's formation in October 1985. Beginning in January 1955, Mr. Antonell served as the director of the Delano-McFarland District of the Central Valley Project—Friant Division. Mr. Antonell also served as director of the Western Growers' Association, the California Potato Growers Association, the United Fresh Fruit and Vegetable Association, the Association of California Water Agencies Insurance Commission, and Governor Ronald Reagan's Citizens' Commission for Agriculture. On June 2, his 96th birthday, Mr. Antonell resigned and retired from the Southern San Joaquin Municipal Utility Board of Directors.

John E. Boudreau joined the Terra Bella Irrigation District in 1968. He has managed all administrative, engineering, operational and maintenance duties for the system which delivers water to agricultural and municipal users in this Tulare County community. Recently Mr. Boudreau has overseen a project of over $5 million that includes a municipal and industrial water treatment plant, a million gallon storage tank, pumping facilities and four miles of water lines.

Mr. Boudreau has managed the Friant Power Authority since its inception in 1979 and plans to continue in that role after his retirement from the irrigation district. He also manages the San Joaquin River Water Power Authority and has served on the Tulare County Grand Jury and as Chairman of the Tulare County Flood Control Commission. In Terra Bella, he has served as the past director of the Terra Bella Chamber of Commerce and the American Cancer Society. With the Association of California Water Agencies, he is the past chairman of the Thermal Electric Water Supply Committee and Manager-Engineers Section, as well as a former Executive Board member.

Mr. Boudreau earned his bachelor's degree in mechanical engineering at the University of Santa Clara. He served in the United States Army Reserve for eight years and achieved the rank of captain.

Robert F. Bowman completed six successful years as Chairman of the Board of the Friant Water Users Authority in January. His introduction to farming came 62 years ago when his parents moved to Kern County from Southern California and bought 40 acres near Buttonwillow. Mr. Bowman has farming interests in the Corcoran, Angiola and Tipton areas. His crops have included cotton, alfalfa, wheat, safflower and sugar beets.

Mr. Bowman has served on the Friant Water Users Authority board since 1988 and was vice chairman for two years. His other board service includes the Upper San Joaquin Water and Power Authority, Mid-Valley Water Authority, Central Valley Project Authority, Association of California Water Agencies, Central Valley Project Water Association and California Farm Water Coalition. He also chairs the Friant Water Users Political Action Committee. Mr. Bowman has distinguished himself as a fighter for Friant water and San Joaquin Valley water rights.

Robert Bowman is past chairman of the California Ag Council, which is made up of the state's major agricultural cooperatives. He has also served as director for both the Western Cotton Growers' Association and CalCot. Mr. Bowman is a 1950 graduate of Cal Poly—San Luis Obispo and served in World War II as an U.S. Army infantry lieutenant.

Robert L. Stanfield is retiring from a 35-year career with the Madera Irrigation District where he has been the district manager for the past 23 years. Mr. Stanfield's family has nearly 130 years of history in the Madera area.

After earning a degree in civil engineering from Chico State College, Robert Stanfield began his career working part time for the Madera Irrigation District (M.I.D.). He was then recruited to become an engineer for the district. After rising through the ranks he became M.I.D.'s general manager/chief engineer in 1975. He has also served as the manager of the Chowchilla-Madera Power Authority for M.I.D. and the Chowchilla Water District. A Madera Canal hydroelectric power plant was named in honor of Robert Stanfield in 1986. He has been involved with the Friant Power

Authority since its inception and the Upper San Joaquin River Water and Power Authority.

Mr. Stanfield is a Madera County Chamber of Commerce director and San Joaquin River Conservancy board member. He has chaired the Association of California Water Agencies and the Madera City Planning Commission. He also serves on the California Chamber of Commerce Water Resources Committee and the Friant Water Users Authority Advisory Committee.

Harvey Williams served for 26 years in a variety of positions with the U.S. Bureau of Reclamation and has managed the Shafter-Wasco Irrigation District for the last decade. Mr. Williams is from the state of Washington and earned a degree in agricultural engineering from Washington State College. He served two years in the U.S. Army Corps of Engineers in combat engineering.

In 1961, Harvey Williams joined the U.S. Bureau of Reclamation on its Columbia Basin Project in the Operation and Maintenance section of the newly built irrigation systems which brought farming to that region. In 1971, Mr. Williams transferred to Fresno as the Bureau's operations chief in the Friant Division of the Central Valley Project. He was appointed to the district manager's position in the Shafter-Wasco Irrigation District in Kern County on March 1, 1987. During his tenure with Shafter-Wasco, the district developed a major pumping plant and pipeline system that links the several regional water projects. This efficient system has increased and enhanced the overall water supply management and delivery to its customers. As a result, more than 40,000 acre feet of water has been banked in lieu of pumping valuable ground water.

Mr. Williams is a director of the Central Valley Project Water Association and serves on the Friant Water Users Authority Operation and Maintenance Committee. He also serves on the Kern County Water Advisory Committee, the Six District Ground Water Committee and is an associate director of the Pond-Wasco-Shafter Resource Conservation District.

Mr. Speaker, it is a great honor to pay tribute to these five gentlemen. Each of these distinguished citizens has dedicated his life to the agriculture and water industries of the San Joaquin Valley and to his community. I ask my colleagues to join me in congratulating these men for their distinguished service to the San Joaquin Valley.

IN MEMORY OF ALAN SHEPARD

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. ROEMER. Mr. Speaker, I rise to express my deep sorrow on the death of a true American pioneer and hero, Alan B. Shepard, Jr. As a member of the House Committee on Science and as a long-time fan of the Mercury program, I would like to acknowledge Alan Shepard's service and many contributions to the U.S. space program.

Alan Shepard was known for his determination, his wit and his courage. He was one of seven Mercury astronauts named by NASA in April 1959, and he holds the distinction of being the first American to travel in space. Alan has been characterized as the most eager to be chosen from among three Mercury astronauts who were selected to fly the famous first space flight—the Freedom 7 mission.

On that historic day, Alan Shepard—and the entire nation—waited anxiously for more than four hours as NASA worked feverishly to correct problems involving the launch vehicle's electrical system, the ground computer and the rocket's fuel pressure. This first flight in space, which lasted 15 minutes (five of those minutes in space) carried him to an altitude of 116 miles. Alan Shepard and the Freedom 7 mission marked the beginning of our journey into space.

Alan Shepard prophetically referred to this first space mission as "just the first baby step, aimed for bigger and better things." The success of Freedom 7 and the bravery of Alan Shepard resulted in tremendous enthusiasm and excitement about the U.S. space program and future prospects of space travel. Less than three weeks after Alan Shepard's flight, President Kennedy set forth the goal of landing on the moon by the end of the decade. Alan Shepard returned to space and was the fifth astronaut to walk on the Moon during the Apollo 14 Mission in February 1971.

Mr. Speaker, I remember the first space flights of the NASA's Mercury program, and I think we will always remember the lasting impression Alan Shepard made on us and on the rest of the world. We are grateful for Alan Shepard's service to our nation, his invaluable contributions to NASA and we will remember him as a shining star in our early spaceflight missions. Our thoughts and prayers are with his family.

RECOGNIZING CECILIA DUNBAR

HON. GLENN POSHARD

OF ILLINOIS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. POSHARD. Mr. Speaker, my colleague, Mr. COSTELLO, and I rise today to commend Mrs. Cecilia A. Dunbar, a distinguished student and leader in Marion, Illinois. She currently attends John A. Logan College in the 19th congressional district and is spearheading an effort to create a national day of recognition for higher education. We applaud and commend her efforts, and offer our support.

Cecilia has been focusing her energy toward devoting a day of recognition to higher education. She has worked diligently to encourage non-traditional students of four-year and community colleges the importance of education. Cecilia has not only experienced the achievement of receiving a higher education, she has also been an inspiration for many non-traditional students to attend college. After confronting many personal hurdles, Cecilia realized that she needed to exceed her high school level education and go back to school. John A. Logan College recognized her potential and gave her the opportunity to enroll as a student. From being the first John A. Logan student trustee to be reelected to improving student life through various student organizations such as being President of Phi Theta Kappa, Cecilia has proven herself to be an excellent asset to John A. Logan College and the higher education community.

As a result, Cecilia has been pushing for a national day of higher education recognition as a way to thank her colleagues, and her mentors at John A. Logan College as well as stress the importance of higher education to others who face unique circumstances such as herself. Cecilia's proclamation has been recognized by Illinois Governor Jim Edgar, and she is now in the process of having it recognized by additional governors through the National Governors Association. The first day of observance is September 16, 1998 which coincides with John A. Logan's birthday.

Mr. Speaker, it has been an honor to meet this inspiring student, and it is a pleasure to have her recognized for her various achievements. Higher education is essential for our citizens, and having people such as Cecilia recognizing the urgency of this opportunity is refreshing. Please help us in commending Mrs. Cecilia Dunbar for her persistent efforts in recognizing the importance of higher education.

CHILD NUTRITION AND WIC REAUTHORIZATION AMENDMENTS OF 1996

SPEECH OF

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mrs. ROUKEMA. Mr. Speaker, I am pleased that we are reauthorizing the WIC program here today.

The WIC program is a program that works, and in the longer-term, actually saves federal money. For every one-dollar used in the prenatal segment of the WIC program, Medicaid saves untold monies and gives healthy productive lives to these children and cannot be measured in dollars and cents.

WIC works. It reduces the instances of infant mortality, low birthweight, malnutrition and the myriad other problems of impoverished children. The WIC program also provides valuable health care counseling for expectant mothers for both mothers and children.

Within the past year, Time and Newsweek magazines have written feature articles on the importance of the years from birth to age three. These articles validate long-standing research based on up-to-date studies of prenatal and early childhood development. WIC funding is a big part of the future development of these infants.

We want all of our children to have a good start. Proper nutrition is essential for healthy growth, the ability to learn, and the chance for a future as a productive citizen.

This is a wise investment.

SALUTE TO THE "FALCONS"

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to recognize the efforts of some very special constituents, the Friends of Arrowhead Lodge and Conservators of Nature Society (the "FALCONS"). This group of dedicated volunteers worked to save an historic lodge and outbuildings and operated the facility as a successful visitors center on national forest land in the mountains of Colorado for several productive years.

The Arrowhead Lodge, located along the Poudre Canyon in Larimer County, Colorado, has a long and distinguished history. Through the years, church services, 4-H meetings, pancake suppers, dinners, socials and parties echoed from the walls of the Arrowhead Lodge. The Forest Service bought the lodge, but planned to tear down the buildings due to budget constraints several years later. Only the hard work and grass roots efforts of Mrs. Elyse Bliss saved the buildings from destruction. She was instrumental in the designation of the Arrowhead Lodge of the National Register of Historic places and in founding the non-profit FALCONS to see that it continued to play an important role in the local community and the state's booming tourism industry.

Mr. and Mrs. Bliss, in partnership with the Forest Service, operated the lodge for several years. They, along with the other dedicated volunteers, were always there to welcome weary travelers, curious tourists and local passers by with a friendly smile, hot coffee and a wealth of good information. Sadly, management decisions within the Forest Service forced the volunteers to abandon their efforts after years of successful operations.

The loss of the FALCONS is a great loss to the local community and the traveling public. I thank Mr. and Mrs. Bliss for their hard work and dedication and I thank all of the FALCONS for their efforts as well. Their plight has motivated me to investigate how to avoid such troubling consequences in the future. I plan to investigate how to encourage and facilitate, rather than discourage, the efforts of volunteers like the FALCONS. Good volunteer work creates an atmosphere of warmth and friendliness on federal properties. It personalizes visitors' experiences and adds to the wealth and identity of our natural heritage. Moreover, volunteers could save the taxpayers millions of dollars each year. Mr. Speaker, I fully support volunteer activities on federal lands, and again thank the FALCONS for their significant and lasting contribution to the community and to the public. I wish them well and encourage them to explore other ways to continue their good work.

TRIBUTE TO HUBERT H. HUMPHREY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to former Vice President Hubert H. Humphrey.

Fifty years ago this week, Harry S. Truman was nominated for the Presidential ticket at the Democratic convention in Philadelphia. Another profoundly memorable event occurred at that same convention in 1948; Hubert A. Humphrey, then the Mayor of Minneapolis and candidate for Senate from the State of Minnesota, delivered a speech on civil rights that is remembered today for its eloquence, its vision, and its idealism.

Many events across the country contributed to the advancement of civil rights during the past half century, including Rosa Parks' courageous refusal to sit in the back of the bus, the landmark Civil Rights and Voting Rights Acts, and dramatic acts of civil disobedience in the deep south. But it was Hubert Humphrey's principled challenge at the 1948 Democratic National Convention that catapulted civil rights to the top of the nation's agenda and launched what became a 16-year national dialogue on a race relations and racial injustice, culminating in the passage of the Voting Rights Act of 1965.

Hubert Humphrey's clarion call to conscience on that night 50 years ago rings as fresh and energizing today as it did then, when he challenged convention delegates and the nation to overturn social conventions and traditions that not only deprived a whole segment of the American public their rightful place in our economy and society, but even denied an honest, forthright discussion of race in America.

The galvanizing appeal of then-Mayor Humphrey both inspires and challenges us now today, as it did 50 years ago: "There are those who say to you—we are rushing this issue of civil rights. I say we are 172 years late. There are those who say—this issue of civil rights is an infringement on states' rights. The time has arrived for the Democratic Party to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights."

Those words jolted American politics like a lighting strike and stirred the nation's conscience to a national debate on civil rights policy. Although divided, the convention delegates ultimately voted to endorse a new and timely commitment to civil rights. The party's decision to take a strong stand on civil rights inspired citizens throughout the nation and gave new life, purpose and charisma to the civil rights movement.

Last month, the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota recognized the 50th anniversary of its namesake's landmark speech made by Hubert H. Humphrey at the 1948 Democratic Convention in Philadelphia. Journalist Bill Moyers, NAACP Chair Julian Bond, Author Richard Rodriguez, and former Mississippi Governor William Winter spoke on the legacy of the civil rights movement since 1948. I am pleased to share with my colleagues the personal remembrance that journalist Bill Moyers offered at the Institute's forum last month on Hubert Humphrey's influence on civil rights.

When Steve Sandell invited me to the Twin Cities for this occasion, I accepted on the spot.

Hubert Humphrey made a difference to my life. He was the friend who toasted me on my 30th birthday and the mentor who nurtured my political sentiments. Some of you will remember that it was Senator Humphrey who first proposed that young Americans be offered the chance to serve their country abroad in peace and not just in war. Newly arrived in Washington, I read his speeches on the subject and liberally borrowed from them for the speech I helped to write for Senator Lyndon B. Johnson during the campaign of 1960 when, at the University of Nebraska, he proposed what we called "a youth corps." Two weeks later, on the eve on the election, Senator John F. Kennedy called for the creation of the Peace Corps. This, too, was a speech that owed its spiritual lineage to Hubert Humphrey.

After the election I finagled my way on to the Peace Corps Task Force, where it was my privilege to work with Senator Humphrey on the legislation that turned the idea from rhetoric to reality. Somewhat later President Kennedy nominated me to be the Peace Corps' Deputy Director. The nomination ran into trouble on the Senate floor when Senator Frank Lausche of Ohio announced that "a 28-year-old boy recently out of college" was being given too much responsibility, too fast, at a salary far too high for someone so green behind the ears. Now, Senator Lausche was probably right about that (although I had informed him during the committee hearings that I was not a mere 28, I was 28 and a half!), but it didn't matter; he was no match for Hubert Humphrey, who rushed to the floor of the Senate not only to defend me but to champion the cause of youth in public service: "I know this man well," Senator Humphrey said of me. "I have spent countless hours with him on the Peace Corps legislation. He was in my office hour after hour working out the details the period of the hearings on the legislation and the markup on the legislation. If I know any one member of this Government, I know Bill Moyers" (Some of you who knew Hubert H. Humphrey knew there should have been a fourth "H" in his name—for hyperbole. But the hyperbole felt good to those on whom it was showered).

And then . . . Hubert Humphrey took off, his words rocketing across the Senate chamber: "Did not Pitt, the younger, as a rather young man, prove his competence as Prime Minister of Great Britain? He did not have to be 50, 60, or 65. He was in his twenties. I invite the attention of my colleagues to the fact that most of the great heroes of the Revolutionary War period . . . were in their twenties and early thirties . . . That many great men in history, from Alexander to Napoleon, achieved greatness when they were in their twenties . . . that the average age of the signers of our Declaration of Independent was 36. I do not wish to use any invidious comparisons, but I have seen people who have lived a long time who have not learned a great deal, and I have seen people who have lived only a short time who have learned a very great deal. I think we should judge persons, not by the calendar, but by their caliber, by the mind and heart and proven capacity . . . My good friend from Ohio said that when this nomination comes to the floor of the Senate he will be here to speak against [it]. . . just as surely, I say the Senator from Minnesota will be here to speak in favor of [it]."

He was, and he did. And I have been indebted to him ever since. I wish he knew my grandchildren are growing up in his state, and I wish he could see who is here tonight to commemorate one of the great acts of courage in politics, when the mayor of Minneapolis turned the course of American history.

It was the summer of 1948, July . . . three weeks after the Republicans triumphantly nominated Thomas E. Dewey and began measuring the White House for new drapes. The dispirited Democrats met in Philadelphia resigned to renominating their accidental president, Harry Truman. Truman had surprised many Americans earlier that year when he had demanded Congress pass a strong civil rights package, but now he and his advisers had change their tune. A strong civil rights plank in the party platform, they were convinced, would antagonize the South and destroy Truman's changes to reelection. The spectre of a bitter fight dividing the convention was all the more frightening to the Democrats since for the first time ever television cameras were making their debut on the convention floor and the deliberations would be carried out in broad daylight. So the party leaders decided to back away from a strong civil rights stand and offer instead an innocuous plank not likely to offend the South.

The mayor of Minneapolis disagreed. Hubert Humphrey was 37. After graduating magna cum laude from the University of Minnesota he and his young wife Muriel Buck—"Bucky", he called her—had gone to Louisiana for Humphrey to earn his master's degree. What they saw there of the "deplorable daily indignities" visited upon Southern blacks was significantly responsible for his long commitment to the politics of equal opportunity. He came back to Minneapolis to run for mayor . . . was defeated . . . ran a second time . . . and won. Under his leadership the city council established the country's first enforceable Municipal Fair Employment Practices Commission. He sent 600 volunteers walking door to door, to factories and businesses, schools and churches, to expose discrimination previously ignored. Their report, said Mayor Humphrey, was "a mirror that might get Minneapolis to look at itself." He saw to it that doors opened to blacks, Jews, and Indians. He suspended a policeman for calling a traffic violator "a dirty jew" and even established a human relations course for police officers at the University of Minnesota. What Humphrey preached about civil rights, he practiced. And what he practiced, he preached.

So he arrived at the Democratic Convention in Philadelphia fifty years ago with convictions born of experience. As a charismatic and articulate spokesman for the liberal wing of the party he was named to the platform committee, and when after a ferocious debate that very committee voted down a strong civil rights plank in favor of the weaker one supported by the White House, Humphrey agonized over what to do. Should he defy the party and carry the fight to a showdown on the convention floor? The pillars of his own party said no. "Who does this pip-squeak think he is?" asked one powerful Democrat. President Truman referred to him as one of those "crackpots" who couldn't possibly understand what would happen if the south left the party. It was a thorny dilemma.[1] If Humphrey forced the convention to amend the platform in favor of a stronger civil rights plank, the delegates might refuse, not only setting back the fledgling civil rights movement but making a laughing stock of Hubert Humphrey and spoiling his own race for the Senate later that same year. On the other hand, if he took the fight to the floor and won, the southern delegates might walk out and cost Harry Truman the Presidency.

As he wrote in his memoir: "In retrospect, the decision should have been easy. The plank was morally right and politically right. . . . [But] clearly, it would have grave repercussions on our lives; it could make me an outcast to many people; and it could even end my chances for a life of public service. I didn't want to split the party; I didn't want to ruin my career, to go from mayor to 'pip-squeak' to oblivion. But I did want to make the case for a clear-cut commitment to a strong civil rights program."

Years later he recalled the dilemma in a conversation with an old friend, who said to him, "That sounds like the politics of a nunnery—you'd rather have been right than been president." "Not at all," Humphrey shot back. "I'd rather be right and be president." Which might explain in part, said the friend, why he never was.

It sounds like so little now. Here's exactly what the plank said: "We call upon Congress to support our President in guaranteeing these basic and fundamental rights: (1) the right of full and equal political participation; (2) the right to equal opportunity of employment; (3) the right of security of person; and (4) the right of equal treatment in the service and defense of our nation."

It sounds like so little. All people, no matter what their skin color, he was saying, had the same right to vote, to work, to live safe from harm, to serve their country. But it's hard to remember now, half a century later, how radical those 50 words really were. In 1948 the South was still a different country. Below the Mason and Dixon line—or, as some blacks called it, the Smith and Wesson line—segregation of the races was rigorously upheld by law and custom, vigorously protected by violence if necessary. To most whites, this system was their "traditional way of life," and they defended it with a holy fervor. To most blacks, "tradition" meant terror, oppression, humiliation, and, sometimes, death.

Take a minute to revisit with me what life was like for black Americans in the late nineteen-forties, when Hubert Humphrey was facing the choice between dishonoring his conscience and becoming a pipsqueak. Every day, all over America but particularly in the South, black people were living lives of quiet desperation. The evidence was everywhere.

You see it in the numbers, the raw measurements of the quality of life for black people. Flip open the Census Bureau's volumes of historical statistics and look under any category for 1948 or thereabouts. Health, for instance. Black people died on average six or seven years earlier than whites. Nearly twice as many black babies as white babies died in their first year. And more than three times as many black mothers as white mothers died in childbirth.

Or take education. Young white adults had completed a median of just over twelve years of school, while blacks their age had not gotten much past eighth grade. Among black people seventy-five or older—those who had been born during or just after slavery times—fewer than half of them had even finished fourth grade.

Look at the standard of living. The median family income for whites was $3310, for blacks just over half that. Sixty percent of white agricultural workers were full owners of their farms and about a quarter were tenants, while for blacks, the numbers were almost exactly opposite; only a quarter of blacks owned their own farms, and 70% were tenants. You could go on and on.

You see it throughout the popular culture, full of cartoony creatures like Stepin Fetchit, Amos 'n' Andy, and Buckwheat, but you could look till your eyes ached for a single strong, admirable, human black character in a mainstream book or movie. There's a scene in one of the most beloved movies ever made, Casablanca, in which Bogart's lost love, the beautiful Ingrid Bergman, walks into Rick's Cafe and says to Claude Rains "The boy who's playing the piano—somewhere I've seen him . . ." She's referring, of course, to Dooley Wilson, who at nearly fifty was almost twice Bergman's age . . . but in those days, to white eyes, it was okay to call a black man a "boy".

You see it in a slim book written by Ray Sprigle, an adventurous reporter for the Pittsburgh Post-Gazette. With a shaven head and a deep Florida suntan he traveled through the south in 1948 posing as a black man to see what life was really like on the other side of the color line. Throughout his trip his black hosts told him horrific stories of indignities, humiliations, lynchings, and murders. While nothing untoward happened to Sprigle himself, it was because, as he put it, "I gave nobody a chance. That was part of my briefing; 'Don't jostle a white man. Don't, if you value your safety, brush a white woman on the sidewalk.' So I saw to it that I never got in the way of one of the master race. I almost wore out my cap, dragging it off my shaven skull whenever I addressed a white man. I 'sirred' everybody, right and left, black, white and in between. I took no chances. I was more than careful to be a 'good nigger.'"

You see it in the work of even such thoughtful observers as Willie Morris, who in his memoir of growing up in Mississippi during the '40s recalls his complicated and mysterious relationship with the black people of his town, a relationship that warped and scarred both black and white. As a small child, he says, he had learned the special vocabulary of racism: that "'keeping house like a nigger' was to keep it dirty and unswept. 'Behaving like a nigger' was to stay out at all hours and to have several wives or husbands. A 'nigger street' was unpaved and littered with garbage." He writes of casual cruelties like the time he hid in the bushes until a tiny black child walked by, then leaped out to kick and cuff the child. "My heart was beating furiously, in terror and a curious pleasure," he says frankly. "For a while I was happy with this act, and my head was strangely light and giddy. Then later, the more I thought about it coldly, I could hardly bear my secret shame." In the small town where I grew up in East Texas, there were high school kids—classmates of mine—who made a sport out of "nigger-knocking." Driving along a country road they would extend a broom handle out of the rear window at just the right moment and angle to deliver a stunning blow to an unsuspecting black pedestrian. Then they'd go celebrate over a few beers. While I never participated, it was my secret shame that I never tried to stop them.

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[1] My own recollections were rekindled by three books I highly recommend: Carl Solberg's biography of Humphrey; Robert Mann's "The Walls of Jericho" and Hubert Humphrey's own memoir, "The Education of a Public Man." I am indebted to them and to my colleague, Andie Tucher, for their contributions to this speech.

There was a study done in 1946 by the Social Science Institute at Fisk University, the black college in Nashville, about white attitudes toward black people. In interview after interview, average citizens throughout the south never talked of overt violence or flaming hatred—but their detached and imperturbable calm was in some ways even more grotesque than physical violence. Listen to their voices:

A woman teacher in Kentucky: "We have no problem of equality because they are in their native environment. If we permitted them to be equal they wouldn't respect us. We never have any riots because their interests are looked after by the white people."

A housewife in North Carolina: "They are as lovable as anyone in a lower order of life could be. . . . I had to go see an old sick woman yesterday. We feel toward them like we do about our pets. I have no horror of a black man. Why, some of them are the nicest old black niggers. They are better than a barrel of monkeys for amusement."

A businessman in North Carolina: "I have a feeling of aversion toward a rat or snake. They are harmless but I don't like them. I feel the same toward a nigger. I wouldn't kill one but there it is."

Or a mechanic in Georgia: "During the war I was stationed at a northern naval yard. The southern Negro was given the same privileges as white men. He was not used to it, and it ruined a good Negro. In the south he is treated as a nigger and is at home here. He knows his treatment is the best for him. . . . We have a good group around here. It's years and years since we've had a lynching. It's not necessary to lynch them. The sheriffs in this county take more care of the darky than the white man."

By now these words are probably making you twist and cringe in your seats. I have trouble forcing them out of my mouth. But these words, and others like them, were the coin of the realm in 1948. After more than two centuries of slavery and nearly another of Jim Crow segregation, black people were still struggling to realize their most basic rights as human beings, let alone as citizens. The framers of the Constitution made their notorious decision in 1787 that for census purposes each black American—nearly all of whom were, of course, slaves—would count as three-fifths of a person. In the minds of many white Southerners in 1948, that fraction still seemed about right.

Yet something was beginning to change, and the old ways were coming under tough new challenges. The steadfast but quiet resistance long practiced by many southern blacks was now being strengthened by a new development: thousands of black veterans were coming home from Europe and the Pacific.

These men had fought for their country—some had even fought for the right to fight for their country, not just to dig ditches and drive trucks and peel potatoes for their country. They had served in a segregated army that had accepted their labor and their sacrifice without accepting their humanity. Some of them had come home heroes, others had come home embittered, and many had also come home determined that things would be different now—that they had earned the respect of their fellow Americans and it was time they got it. And that started at the ballot box—a tool both practical and symbolic in the struggle to ensure their status as full citizens.

All over the South, where for decades blacks had been systematically harassed, intimidated, or overtaxed to keep them from voting, intense registration drives for the 1946 campaigns had swelled the rolls with first-time black voters. And the white supremacists were fighting back. Sometimes it was brute and random violence: in Mississippi a group of black veterans was dumped off a truck and beaten up. In Georgia two black men, one a veteran, were out driving with their wives when they were ambushed and shot by a mob of whites. The mob then shot the women, too, because they had witnessed the crime. In South Carolina, a black veteran returning home by bus after fifteen months in the South Pacific angered the driver with some minor act that struck the man as uppity. At the next stop the soldier was taken off the bus by the local chief of police and beaten so badly he went blind. Permanently. Under pressure from the NAACP, something unusual happened: the chief was put on trial. Then normalcy returned. The chief was acquitted, to the cheers of the courtroom.

But the demagogues also made deliberate efforts to stop the black vote—by whatever means necessary. In Georgia, Gene Talmadge ran for governor and won, on a frankly, even joyfully racist platform. "If I get a Negro vote it will be an accident," he declared, and his machine figured out ways to challenge and purge the rolls of most of them. The few brave black voters who went to the polls anyway often paid dearly for their rights; one, another veteran, the only black to vote in Taylor County, was shot and killed as he sat on his porch three days after primary, and a sign posted on a nearby black church boasted "The first nigger to vote will never vote again."

In Mississippi, Theodore Bilbo was reelected to the Senate with the help of a campaign of threats and violence that kept most black people home on Election Day. "The way to keep the nigger from the polls is to see him the night before," Bilbo was fond of saying. But this time black voters fought back and filed a complaint with the Senate. Nearly two hundred black Mississippians trekked to Jackson—and its segregated courtroom—to testify about the myriad pressures, both subtle and brutal, that had kept them from voting. But their eloquent testimony failed to convince the honorable members. Bilbo was exonerated by the majority of the committee members—despite (or perhaps because of) having used the word "nigger" seventy-nine times during his own testimony. It was a toxic word, a poisonous and deadly word. And it was still prevalent as a term of derision in the early 1960's. In August 1964, following the death of his father, the writer James Baldwin said on television: "My father is dead. And he had a terrible life. Because, at the bottom of his heart, he believed what people said of him. He believed he was a nigger."

So when Hubert Humphrey of Minnesota stood up at the Democratic convention in Philadelphia and urged the delegates to support his civil rights plank, he could have had no doubt how ferociously most southern delegates would oppose his words—and how desperately all southern citizens, white and black, really needed to hear them. It was a short speech and it took less than ten minutes to deliver—doubtless some kind of record for the man whose own wife reportedly once told him, "Hubert, you don't have to be interminable to be immortal."

Most of the time he couldn't help being interminable. Someone said that when God passed out the glands, Hubert took two helpings. He set records for the number of subjects he could approach simultaneously with an open mouth. One day, at a press conference in California, his first three answers to questions lasted, respectively, 14, 18, and 16 minutes. No one dared ask him a fourth question for fear of missing dinner!

But in Philadelphia in 1948, Hubert Humphrey delivered a short speech. And these not interminable words became immortal because they were right. He had agonized, he had weighed the odds as any politician must—remember he was a politician, and this was a time when the way to get ahead was not to go back on your party. But now he was listening to his conscience, not his party, and he was appealing to the best, instead of the basest, instincts of his country, and his words rolled through the convention hall like "a swelling wave."

"There are those who say to you—we are rushing this issue of civil rights. I say we are 172 years late. There are those who say—this issue of civil rights is an infringement on states rights. The time has arrived for the Democratic party to get out of the shadow of state's rights and walk forthrightly into the bright sunshine of human rights."

We know of course what happened when he finished. A mighty roar went up from the crowd. Delegates stood and whooped and shouted and whistled; a forty-piece band played in the aisles, and the tumult subsided only when Chairman Sam Rayburn ordered the lights dimmed throughout the hall. The platform committee was then overruled and Humphrey's plank voted in by a wide margin, and all of Mississippi's delegate and half of Alabama's stalked out in protest. The renegades later formed the Dixiecrat party on a platform calling for "the segregation of the races and the racial integrity of each race," and nominated Strom Thurmond for their candidate. "There's not enough troops in the Army to break down segregation and admit the Negro into our homes, our eating places, our swimming pools, and our theaters," Thurmond would declare on the campaign trail, and a majority of the voters in South Carolina, Mississippi, Alabama, and Louisiana agreed with him.

But Harry Truman didn't lose. The Minneapolis Star got it right the morning after the convention when it said Humphrey's speech "had lifted the Truman campaign out of the rut of just another political drive to a crusade." Harry Truman won—and the southern walkout to protest civil rights actually ended up helping the civil rights agenda. If a Democrat could go on to win the presidency anyway, even without the solid South behind him, then the segregationist stranglehold on the party was clearly weaker than advertised, and even the most timid politician could see that supporting civil rights might not be a political death sentence after all. Not bad work for the mayor from Minneapolis. The late Murray Kempton once said that "a political convention is just not a place from which you can come away with any trace of faith in human nature." This one was different, because Hubert Humphrey kept the faith. There were other forces at work of course. Just this week the Star Tribune said rightly that it would be misleading to suggest the democratic ship turned on a few eloquent phrases from a young upstart, or that the party had experienced a moral epiphany. Politics is rarely that simple or intentions that noble. There were other forces at work—the need of America during the Cold War to put its best face forward, the need for Democrats to consolidate their hold on the northern industrial states, those returning black veterans. But it would be equally wrong to underestimate what Hubert Humphrey did. An idea whose time has come can pass like the wind on the sea, rippling the surface without disturbing the depths, if there is no voice to incarnate and proclaim it. In a democracy a moral movement must have its political moment to crystalize and enter the bloodstream of the nation, so there can be no turning back. This was such a moment, and Humphrey its embodiment.

But nineteen forty-eight wasn't the end of the struggle, of course; it turned out to be just the beginning. Sixteen years later, in 1964, Lyndon Johnson, another accidental president, staked his reputation on getting a comprehensive Civil Rights bill passed into law. And Hubert Humphrey, now Senator Humphrey, was the man assigned the gargantuan challenge of shepherding the bill through Congress in the face of a resolute southern filibuster. Once again I was privileged to work with him. By now I had become President Johnson's policy assistant, and the Civil Rights Act of 1964 was our chief imperative.

By then the face of the segregated South had changed—somewhat. The landmark Supreme Court decision Brown vs. Board of Education had given legal aid and comfort to the long moral crusade to open the public schools to all races, while courageous activists were putting their own bodies on the line in determined efforts to desegregate the buses, the lunch counters, the beaches, the rest rooms, the swimming pools, and the universities of the South.

But all the court decisions and sit-ins in the world had not changed the determination of the diehard segregationists to defend their vision of the South "by any means necessary," and the few federal laws on the books were too weak to stop them. A lot of this story, while awful, is familiar; we may think we have a pretty good idea what was at stake when Hubert Humphrey made his second great stand for civil rights. We've all seen the photographs and the television images; we all know about the ugly mobs taunting the quiet black teenagers outside the schools and inside the Woolworths, we know about the beatings and attack dogs and fire hoses, we know about the murders. During Freedom Summer—the very same summer the Senate completed work on the civil rights bill—Mississippi endured 35 shootings, the bombing or burning of 65 homes and churches, the arrest of one thousand activists and the beating of eighty, and the killing of three volunteers with the active connivance of the Neshoba County sheriff's department, their bodies bulldozed into an earthen dam.

But we don't know as much about another, more silent tactic of white resistance that was just as oppressive, and in some ways maybe even more effective than the violence. I mean the spying, the smearing, the sabotage, the subversion, all carried out by order of the highest officials in states across the south.

We were reminded of the twisted depths of official segregation just this spring, when after decades of court battles Mississippi was ordered to open the secret files of something called the State Sovereignty Commission. This was an official government agency, bountifully funded with taxpayer money, lavished with almost unlimited police and investigative powers, and charged with upholding the separation of the races. Most of the southern states had similar agencies, but Mississippi had a well-deserved reputation as the worst of the bad.

I've seen some of those Sovereignty Commission files. I've read them. And I understand how a longtime activist in Jackson could recently tell a reporter I know, "These files betray the absolute paranoia and craziness of the government in those times. This was a police state."

The Commission devoted astonishing amounts of effort, time, and money to snooping into the private lives of any citizens who supported civil rights, who might be supporting civil rights, or whom they suspected of stepping over the color line in any way. It tracked down rumors that this northern volunteer had VD and that one was gay. It combed through letters to the editor in local and national newspapers, and wrote indignant personal replies to anyone who held a contrary opinion. It sent agents to a Joan Baez concert at a black college to count how many white people came, and posted people at NAACP meetings to write down the license numbers of every car in the parking lot. It stole lists of names from Freedom Summer activists and asked the House Un-American Activities Committee to check on them. It went through the trash at the Freedom Houses and paid undercover informants to report on leadership squabbles and whether the white women were fornicating with the black men.

The most incriminating documents were purged long ago, but buried deep in those files is still ample evidence of violence and brutality. I am haunted by the case of a black veteran named Clyde Kennard. When he insisted on applying to the local college, one that happened to be for whites only, he was framed on trumped-up charges of stealing chicken feed and sent to Parchman, the infamous prison farm, for seven years. While there he developed colon cancer and for months was denied treatment. Eventually, after prominent activists brought public pressure to bear on the governor, Kennard was released, but it was too late. In July 1963, a year before the passage of the Civil Rights Bill, Clyde Kennard died following surgery. He was 36 years old.

Reading these files you are struck not only by the brutality but by the banality of the evil. You find in them the story of a divorced mother of two who was investigated after the Commission heard a rumor that her third child was fathered by a black man. An agent arrived to interview witnesses, confront the man, and look at the child. "I had a weak feeling in the pit of my stomach," he reported; he and the sheriff "were not qualified to say it was a part Negro child, but we could say it was not 100 percent Caucasian." After that visit, the woman's two older boys were removed from her custody.

You can read about how a local legislator reported to the Commission that a married white woman had given birth to a baby girl with "a mulatto complexion, dark hair that has a tendency to 'kink,' dark hands, and light palms." A doctor and an investigator were immediately dispatched to examine the child, then shelled out $62 for blood tests to determine its paternity. The tests came back inconclusive but a couple of months later shots were fired at night into the family's home and a threatening letter signed by the KKK, referring to "your wife and Negro child," showed up on their doorstep. They moved out immediately.

It was crazy—and it was official. This was the rampant and unchecked abuse of state power turned against citizens of the United States of America. And this was the background music to Lyndon Johnson's 1964 Civil Rights bill, which called for the integration of public accommodations, authorized the attorney general to sue school districts and other segregated facilities, outlawed discrimination in employment, and further protected voting rights. When Hubert Humphrey accepted the assignment as floor manager for this bill, he knew how crucial as well as how difficult it would be to gather enough votes to end the southern filibuster; no one had ever managed to invoke cloture with a civil rights bill before. He also knew his own career was again on the line, since LBJ was using the assignment to test Humphrey's worth as his vice presidential candidate.

The filibuster began on March 9 and went on, it seemed, forever. But Humphrey was prepared and organized. A couple of times during those long months of debate I slipped into the gallery of the Senate to watch him lead the fight. The same deep fire of justice that burned in him at the 1948 convention, burned within him still. He was utterly determined. He had regular strategy meetings. He issued a daily newsletter. He enlisted one colleague to focus on each title of the bill. He schmoozed and bargained with and coaxed and charmed the key men whose support he needed. He persuaded the Republican Leader, Everett Dirksen, to retreat from at least 40 amendments that would have gutted the bill. He orchestrated the support of religious organizations until it seemed the corridors and galleries of Congress were overflowing with ministers, priests, and rabbis). "The secret of passing the bill," he said, "is the prayer groups." But the open secret was Hubert Humphrey. As Robert Mann reminds us in The Walls of Jericho," his good humor and boundless optimism prevented the debates from dissolving into personal recrimination. Once again he kept the faith. As he told his longtime supporters at the ADA after more than two months of frustration and delay, "Not too many Americans walked with us in 1948, but year after year the marching throng has grown. In the next few weeks the strongest civil rights bill ever enacted in our history will become the law of the land. It is not saying too much, I believe, to say that it will amount to a second Emancipation Proclamation. As it is enforced, it will free our Negro fellow-citizens of the shackles that have bound them for generations. As it is enforced, it will free us, of the white majority, of shackles of our own—for no man can be fully free while his fellow man lies in chains."

As we know, his skills and commitment paid off. Seventy-five days later, on June 10, the Senate finally voted for cloture with four votes to spare. A California senator, ravaged with cancer, was wheeled in to vote and could manage to vote yes only by pointing to his eye. After cloture ended the filibuster, the bill passed by a wide margin. On July 2 President Johnson signed it.

During all that time Hubert Humphrey broke only once—on the afternoon of June 17, two days before the historic vote. Summoned from the Senate floor to take an urgent call from Muriel, he learned their son Robert had been diagnosed with a malignant growth in his throat and must have immediate surgery. There in his office, Hubert Humphrey wept. As his son struggled for his life and the father's greatest legislative triumph was in sight, Hubert Humphrey realized how intermingled are the pleasure and pain of life.

We talked about this the last time I saw Hubert Humphrey. It was early in the summer of 1976. He came to our home on Long Island where I interviewed him for Public television. We talked about many things . . .

about his father who set such high standards for the boy he named Hubert Horatio; about his granddaughter Cindy (a little pixie, he called her); about waking up on the morning after he had lost to Richard Nixon by fewer than 511,000 votes out of 63 million cast; about the tyrannies of working for Lyndon Johnson (Said Humphrey of Johnson: "He often reminded me of my father-in-law and the way he used to treat chilblains. Grandpa Buck would get some chilblains and he said the best way to treat them was put your feet first in cold water, then in hot water. And sometimes [with LBJ] I'd feel myself in hot water, then I'd be over in cold water. I'd be the household hero for a week and then I'd be in the dog house.")

We talked about the necessity of compromise and the obligation to stand firm against the odds, and the difficulty of making the distinction. We talked about the life-threatening illness he had himself recently endured and what kept him going through the vicissitudes of life. Growing up out here on the great northern plains had made a difference, he said: "I used to think as a boy that in the Milky Way each star was a little place, a sort of light for somebody that had died. . . . I used to go pick up the milk—we didn't have milk delivery in those days—I'd go over to Dreyer's Dairy and pick up a gallon of milk—I can remember those cold, wintry nights and blue sky, and I'd look up and see that Milky Way and I'd think every time anybody died they got a star up there. And all the big stars were for the big people. You know, like Caesar or Lincoln. It was a childhood fantasy. But it was a comforting thing."

He was called "The Happy Warrior" because he loved politics and because of his natural ebullience and resiliency. I asked him: "Some people say you're too happy and that this is not a happy world." He replied: "Well, maybe I can make it a little more happy . . . I realize and sense the realities of the world in which we live. I'm not at all happy about what I see in the nuclear arms race . . . and the machinations of the Soviets or the Chinese . . . the misery that's in our cities. I'm aware of all that. But I do not believe that people will respond to do better if they are constantly approached by a negative attitude. People have to believe that they can do better. They've got to know that there's somebody that's with them that wants to help and work with them, and somebody that hasn't tossed in the towel. I don't believe in defeat, Bill."

He lost some elections in his long career, but Hubert Humphrey was never defeated. More than any man I know in politics, he gave me to believe that in time, justice comes . . . not because it is inherent in the universe but because somewhere, at some place, someone will make a stand, and do the right thing, and seizing the helm of history will turn the course of events.

So the next time you look up at the Milky Way, look past the big stars, beyond the brilliant lights so conspicuous they can't be missed . . . the Caesars and the Lincolns . . . and look instead for the constant star, a sure and steady light that burns from some deep inner core of energy . . . and remember how it got there and for whom it shines. He was one of your own.

THANKS FOR "RIGHT TO LIFE" SUPPORT

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. SHIMKUS. Mr. Speaker, today I rise for two purposes. First to honor three women who have dedicated their lives to the rights of the unborn, and secondly to thank the 296 Members of this body that voted yesterday to protect the right to life. Felicia Goeken, Mary F. Jones, and Christy Holt have served the Illinois Federation for Right to Life in countless ways, and it is women like these that made yesterday's vote to ban partial birth abortions possible. I have had the pleasure of knowing each of these women personally, and I have witnessed first hand their dedication, compassion, and leadership.

Tomorrow these women will be honored for their outstanding service and I wish them the utmost congratulations and thanks for their efforts. It is through the work of caring individuals like Felicia, Mary, and Christy, that the rights of the most vulnerable members of our society will be protected. I know the hard work these women have contributed to the fight, and on their behalf I am proud to say that a overwhelming majority of this Congress has finally proven its dedication to the unborn.

IN SUPPORT OF THE SHIPPING RELIEF FOR AGRICULTURE ACT, H.R. 4236

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. SMITH of Michigan. Mr. Speaker, I rise in support of the Shipping Relief for Agriculture Act, H.R. 4236. U.S. domestic maritime law is embodied in section 27 of the Merchant Marine Act, known as the Jones Act. The Jones Act requires that all cargo transported from one U.S. port to another (even via a foreign port) must travel on vessels built, owned, manned, and flagged in the United States. While initially sounding pro-American, the Jones Act has not protected the fleet. According to the U.S. Maritime Administration, there are only 119 deep-sea ships left in the domestic fleet (down from over 2,500 in 1945) and only three of these are dry bulk vessels.

Only two bulkers have been built in U.S. shipyards in the last 35 years. To contract for a new ship would cost an American operator over three times the international market rate before any type of export subsidy was applied. This practically assures no new bulkers will be built in this country. It is time that we stop fooling ourselves that a renaissance in U.S. shipbuilding is just around the corner.

Because of the Jones Act, U.S. agricultural producers today do not have access to domestic deep-sea transportation options available to their foreign competitors. There are no bulk carriers operating on either coast of the United States, in the Great Lakes, nor out to Guam, Alaska, Puerto Rico, or Hawaii. This puts American producers at a competitive disadvantage because foreign producers are able to ship their products to American markets at competitive international rates whereas U.S. producers are not.

American agricultural producers also need access to deep-sea transportation options because other modes of transportation are saturated. Last year's rail woes would have been averted if just 2% of domestic agricultural production could have traveled by ocean-going vessel. With an expected record harvest on the way, the bottlenecks and congestion of last year will in all likelihood be revisited. Burlington and Union Pacific have already notified agricultural shippers to expect delays. This raises rail rates to artificially high levels at a time when commodity prices are already depressed—directly impacting farm income.

The Shipping Relief for Agricultural Act will eliminate the U.S. build requirement for deep-water dry bulk vessels for the carriage of agricultural products, dry bulk cargo, and forest products. All vessels would still be required to obey all U.S. law, including environmental, safety, labor, and tax regulations. This bill brings more ships to the U.S. fleet, allows U.S. Agricultural shippers access to ships, and will also provide much needed jobs for the American Merchant Marine.

PERSONAL EXPLANATION

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Ms. MILLENDER-McDONALD. Mr. Speaker, on Friday, July 17, and Monday, July 20, 1998, I filed an official leave of absence and was not available to cast votes on either of those days. However, had I been present on Friday, July 17, I would have voted "aye" on rollcall vote 295, and "nay" on rollcall vote 296.

Had I been present on Monday, July 20, I would have voted "aye" on rollcall votes 297, 298, 299, 300, 301, 303, 304, 305, and "nay" on rollcall votes 302, 306, 307, 308.

TRIBUTE TO SUSAN GAIL YOACHUM

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Ms. ESHOO. Mr. Speaker, I rise today to honor Susan Gail Yoachum, a magnificent human being and extraordinary journalist of the San Francisco Bay Area who passed away on June 22, 1998. She was the devoted wife of Mike Carlson, the daughter of Betty and the late Charles G. Yoachum, and the sister and relative of Charles Yoachum and his family of Dallas.

Susan Yoachum was a star from the moment she was born in Dallas, Texas on May 12, 1955. Her passion for writing emerged early in her life as she became the National Spelling Champion in 1969. She pursued her talent at Southern Methodist University in Dallas, from which she graduated in 1975 with Bachelor of Arts degrees in journalism and political science.

She was a reporter for the Dallas Morning News, the Independent Journal in Marin County, the San Jose Mercury News, and the San Francisco Chronicle, covering some of the largest political stories of her era. Her talent for seeking out and delivering breaking stories went unmatched in political journalism. This talent was recognized in 1990, when she was part of a team that won a Pulitzer Prize for breaking news, and again in 1994, when she was honored as Journalist of the Year by the Northern California chapter of the Society of Professional Journalists. She earned a reputation amongst her peers and those about whom she wrote as a tenacious, witty, and sophisticated reporter, armed always with a penetrating question and a warm smile. Since 1990, she had covered national, state, and local politics for the San Francisco Chronicle, where she was promoted to Political Editor in 1994. As a popular political analyst, she was often a guest on TV and radio programs, from CNN's "Inside Politics" to a myriad of Bay Area radio shows.

In 1991, Susan Yoachum was diagnosed with metastatic breast cancer. During her seven-year struggle with breast cancer, she not only continued to produce brilliant work, but she also became a breast cancer activist. In an effort to raise awareness about this horrible disease, she frequently spoke to women's organizations, political groups, and fellow victims. In 1997, she courageously wrote about her own battle with cancer, announcing that after being in remission since 1992, her cancer had returned. She strove to humanize the statistic that 180,000 women get breast cancer every year, personalizing the cold facts with her own face.

Mr. Speaker, Susan Yoachum was an inspiration to us all. She educated us with her sharp journalistic talent, she personalized and publicized what breast cancer is about, she fought for a cure, and she made lasting contributions to our community and our country.

Mr. Speaker, I ask my colleagues to join me in paying tribute to a woman who lived a remarkable yet all too brief life. We extend our deepest sympathy to Mike Carlson and the entire Yoachum family. Susan Yoachum's life was an example of the strength of the human spirit, and because of her, hope lives on.

A SALUTE TO COLONEL JOSEPH A. HAIG (U.S. ARMY, RET.)

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BARRETT of Wisconsin. Mr. Speaker, today I am pleased to recognize a patriot and honorable American from Milwaukee, Wisconsin. As family and friends gather today to honor Colonel Joseph A. Haig on the occasion of his 100th birthday, I would like to take a moment to acknowledge Colonel Haig's long-time service to our country.

Joseph A. Haig was born in Milwaukee, Wisconsin on August 24, 1898, and enjoyed a typical turn of the century boyhood. In the summer of 1918, however, with the "war to end all wars" still raging in Europe, Joseph crossed the threshold into manhood, and joined the United States Army, as part of the Officers Candidate School. As one of the "60 day wonders", he received his commission when he was only twenty years old.

After the war, Joseph returned to civilian life, but remained active as a reservist. In 1923, he became a charter member of the Reserve Officers Association. Today, he is the sole surviving charter member.

In the summer of 1940, before the United States officially entered World War II, Joseph was called to active duty as a major. He was made the assistant commanding officer of the Recruit Reception Center at Fort Sheridan, Illinois. During the next three years, he processed nearly a quarter of a million draftees. In 1945, then Major Joseph Haig was assigned to a camp in Pennsylvania as deputy post commander. In that position, he had the pleasant duty of facilitating the discharge of about 400,000 men, until he was discharged from active duty.

Once again, the end of active duty did not mean the end of his military career. Now Colonel Joseph Haig continued on as a reservist and remained involved and prepared to serve his country, when needed, until his mandatory retirement forty years ago.

Colonel Haig still attends the annual Reserve Officers Association meetings. Ten years ago, when he was a mere 90 years old, Colonel Haig was honored at the Association's annual meeting, as hundreds of generals and admirals greeted him with a tremendous standing ovation.

Another source of pride for Colonel Haig is his family, which includes his children Janet, Douglas, and Jerry, along with 20 grandchildren and 22 great-grandchildren. Colonel Haig's sons share in their father's sense of service to country and have served in the military. Douglas is a retired Air Force colonel. Jerry is a retired Naval Lieutenant Commander. The Haig family's combined years of military service is a staggering 176 years.

I ask my colleagues in the House of Representatives to join me in extending my appreciation to Colonel Joseph A. Haig for his many years of service to the people of the United States and in offering a hearty congratulations on the occasion of his 100th birthday.

POLITICALLY DRIVEN MANAGED CARE REFORM DEBATE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. OBERSTAR. Mr. Speaker, I rise today to express my grave concern that the debate today on managed care reform has deteriorated into a politically-driven exercise to serve the narrow and partisan goals of the majority party.

Neither the Republican leadership bill nor the Dingell/Ganske substitute were subjected to the cleansing legislative process, in which the American people expect public hearings, open and full debate, a committee amendment process, and a meaningful opportunity to make specific changes to the legislation.

At each of these normal checkpoints of legislative procedure, the public and their elected representatives were denied the opportunity to participate fully in the legislative process, to offer and debate amendments and vote on them to produce a legislative output that hopefully reflects a solid consensus, or, at least, the end result of a democratic process.

Instead, we are engaged in a debate without the opportunity to make substantive and necessary changes to either piece of legislation through floor amendments, and we will be compelled to vote these competing measures either up or down without meaningful change.

Given the opportunity, I would have preferred that both bills be neutral on the issues of abortion and assisted suicide.

While there has been a good faith attempt in the Dingell/Ganske legislation to address these two matters, I strongly believe that the language on such issues must be so clear as to withstand judicial scutiny that health care plans are not required to provide assisted suicide or abortion services.

Given the opportunity, I would have offered the following language that would achieve this important objective:

Amend Section 108 and 109 of H.R. 3605 by adding the following new subsection (c):

"(c) Nothing in this Act shall be construed as requiring a group health plan or health insurance coverage to provide, pay for, refer for, or ensure the availability of or access to any benefit or service, including the use of facilities, related to an abortion or any item or service for which use of Federal funds is prohibited under the Assisted Suicide Funding Restriction Act of 1997. Nothing in the preceding sentence shall be construed as allowing a group health plan or health insurance converge to deny any benefit or service related to treatment for medical complications resulting from an abortion."

Amend Section 141 of H.R. 3605 by adding the following new subsection (b)(3):

"(b)(3) Nothing in this Act shall be construed to cause a group health plan or health insurance issuer to violate its ethical, moral or religious benefits."

I have been assured by the distinguished gentleman from Michigan, Mr. DINGELL, the Ranking Democrat of the Commerce Committee, that it is his intent that the legislative history should reflect that his legislation seeks to be neutral on these two issues.

With that statement of legislative intent, I plan to support the Dingell-Ganske substitute.

I want to make it clear on this point that I will seek inclusion of the legislative language that I have just referenced in any further managed care legislation that this Congress may consider.

CHILD NUTRITION AND WIC REAUTHORIZATION AMENDMENTS OF 1998

SPEECH OF

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today in strong support of H.R. 3874, the Child Nutrition and WIC Reauthorization Act. This bill gives our states more opportunity to fight against a problem that plagues our nation even in these prosperous times—child hunger.

This bill is linked to almost every issue we struggle with on this House floor. Every year, we discover stronger links between child nutrition and all the indicators of a child's future. Better nutrition means better learning, better test scores, better health, better discipline.

But child hunger is alive and well in America. I've traveled all over my home state of Massachusetts hearing about how and why children go without adequate nutrition. And I've heard about the safety net that keeps many of our kids from going hungry—healthy meals at school, after school, and at summer feeding sites.

We can protect our children from hunger. We can guarantee that every child has an opportunity to get good quality nutrition year round. This bill doesn't do everything I'd like, but it takes big steps in the right direction.

This bill would allow more of our states to experiment with universal free breakfast. In districts that have tried free breakfast—in Philadelphia, Baltimore, and parts of Minnesota—more kids are showing up for breakfast, kids are doing better in school, and kids are behaving better.

This bill allows more sites to participate in the summer feeding service, and makes it easier for the states to administer those programs. It allows more schools to use federal funds to serve meals at after-school programs. And it allows teenage children to get free after-school snacks in low-income communities.

Mr. Speaker, this bill not only provides more meals for more children, but it makes it easier for the states to use federal money in their own efforts to fight child hunger. I strongly urge my colleagues to support this bill.

WAXMAN AMENDMENT REMARKS

SPEECH OF

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SCHUMER. Mr. Chairman, I rise in support of the Waxman amendment.

The Hudson River is drowning and we need to throw it a life jacket.

It is time to put an end to Congress's interference in the cleaning up of our communities and eliminate the alarming language attached to the VA–HUD appropriations report that will suffocate public health and bulldoze environmental protections.

It is time to demand of our federal government that they not kowtow to big companies like General Electric, big companies who need to start taking responsibility for the deleterious effect their factories are having on our society.

The Hudson River is now contaminated with toxic PCBs—one of the most harmful pollutants known, in large part because General Electric and other companies allowed these dangerous poisons to seep into our waterways.

General Electric maintains that the PCBs are entombed under silt—that the river is cleaning itself. Today there is new evidence that the situation is worse than our worst nightmare. PCBs are escaping from the sediments in the Hudson River and are being carried downstream and settling in other parts of the river contaminating more and more fish and more and more people.

The New York regional administrator of the EPA stated today that "the fact that these PCBs are so rapidly reentering the river system is startling. Given what we know about the health risks of eating contaminated fish, this information is even more startling."

Based upon all of the evidence, the EPA is convinced, and so am I, that PCB contamination is a significant threat to public health and the environment.

How much more evidence do we need? How many more experts need to tell us that something needs to be done? How many more New Yorkers need to suffer from immediate and long-term health problems posed by toxic PCB pollution?

Mr. Chairman, we need to dredge the polluted waters of the Hudson and we need to do it now. New York City is built on islands surrounding water, water which cannot be utilized to its fullest potential because of the lethal levels of contaminants. We need to seize this moment and make a last ditch effort to clean up the Hudson River waterfront and make it the jewel it once was.

It is imperative that the Hudson not be sent down the river and New Yorkers not be forced to walk the plank.

Support the Waxman amendment. Eliminate these dangerous riders.

U.N. DUES ARE A LEGAL OBLIGATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. HAMILTON. Mr. Speaker, some observers have argued that we do not owe to the United Nations the dues we have been assessed by that organization. I would like to set the record straight.

I recently posed a series of questions to the Department of State regarding the nature of our international legal obligations to the United Nations. The reply I received to those questions indicates that while Congress can refuse to pay the bills we owe, that in no way relieves our responsibility to pay those bills.

I ask permission to include in the RECORD my correspondence with the Department of State on this subject, and encourage my colleagues to review it.

DEPARTMENT OF STATE,
Washington, DC, July 8, 1998.

Hon. LEE H. HAMILTON
House of Representatives

DEAR MR. HAMILTON: Thank you for your letter of May 15, raising several important questions regarding the character and extent of the obligations of the United States under international law to pay amounts assessed by the United Nations.

The Office of the Legal Adviser has prepared the enclosed document, which responds to your questions.

Please let us know if we can provide further information.

Sincerely,

BARBARA LARKIN,
Assistant Secretary,
Legislative Affairs.

Enclosure: As stated.

RESPONSE TO REPRESENTATIVE HAMILTON'S QUESTIONS REGARDING THE STATUS OF UNITED STATES DUES TO THE UNITED NATIONS

(1) On what basis does the United States owe money to the United Nations?

In what document does the obligation arise?

Does Article 17 of the United Nations Charter, which states "the expenses of the Organization shall be borne by the Members as apportioned by the General Assembly," impose a treaty obligation?

From a legal perspective, how does Congress' power of the purse under the Constitution square with any legal obligation to pay dues to the United Nations?

When a treaty and a law conflict, which prevails?

Does the power of Congress to withhold funds release it from treaty obligations to pay dues?

Does the lack of an enforcement mechanism on the part of the United Nations to compel payment nullify any legal U.S. obligation to pay dues to that institution?

Answer: The international legal obligation to pay such assessments arises under the United Nations Charter, a treaty made with the advice and consent of the Senate. The Charter is binding on the United States under international law. Article 17(2) of the Charter states that: "The expenses of the Organization *shall be borne by the Members* as apportioned by the General Assembly" (emphasis added). The consistent position of the United States has been that Article 17 creates an obligation under international law to pay amounts assessed by the United Nations. While any particular assessment is not itself a treaty, it is made pursuant to treaty (the Charter), and legal obligation to pay it derives from that treaty.

In the early 1960's, when the former Soviet Union, France and some other States refused to pay assessments for Congo and Mid-East peacekeeping operations, the United States insisted that they had an obligation to do so under international law. The United States at that time said that:

> The language of the provision [Article 17(2)] is mandatory: expenses "*shall* be borne." (Emphasis added.) Accordingly, the General Assembly's adoption and apportionment of the Organization's expenses create a binding international legal obligation on the part of States Members to pay their assessed shares.
>
> The history of the drafting of Article 17(2) demonstrates that it was the design of the authors of the Organization's constitution that the membership be legally bound to pay apportioned expenses.

Written Statement of the United States, at 193, *I.C.J. Pleadings, Certain Expenses of the United Nations (Article 17, paragraph 2, of the Chapter)* (1962). When the International Court of Justice gave an advisory opinion affirming the international legal obligation to pay such assessments in the *Certain Assessments* case, Congress passed a resolution expressing its satisfaction with the International Court of Justice's opinion, 22 U.S.C. 287k, and a resolution calling on the United Nations to take "immediate steps to give effect" to the Court's opinion. 22 U.S.C. 2871.

This has remained the consistent legal position of the United States and has been reaffirmed by successive administrations. For example, a 1978 published opinion of the State Department's Legal Adviser reiterated that Article 17(2) of the United Nations Charter imposes a legally binding obligation on Member States to pay the amount assessed to them by the General Assembly. Nash, *Digest of United States Practice in International Law 1979*, 225 (1979).

While nothing in the Constitution compels the Congress to refrain from passing a law inconsistent with an existing international legal obligation of the United States, U.S. courts when faced with a conflict have—as a matter of domestic law—applied the later-in-time rule. Thus, Congress can, as a matter of U.S. law, decline to appropriate amounts sufficient to pay United States assessments made pursuant to Article 17 of the Charter. However, such action by Congress does not relieve the United States of its responsibility under international law. Instead, the failure to pay renders the United States in breach of its international obligations.

Article 19 of the Charter establishes that, where a Member of the United Nations is two years in arrears in paying its financial contributions, it shall lose its vote in the General Assembly. The United Nations Secretariat determines when a State is two years in arrears such that this sanction applies. No vote of the General Assembly is involved. Indeed, the United States has insisted that Article 19 should operate automatically and without a vote or other implementing action by the General Assembly.

(2) A portion of the arrears owed by the United States to the United Nations result from "policy withholdings" by the executive branch, not legislatively mandated withholdings. In addition, the Administration has recognized, through seeking the creation of a "contested arrear" account, that we simply intend to "write off" some $400 million in arrears to the U.N.

Why does this portion of U.S. arrears not constitute a legal treaty obligation?

By what rationale do we argue that some arrears are legally binding and others are not?

Do past U.N. actions in suspending the requirement for payment of arrears by other countries provide a precedent for our arguments?

Answer: As your letter notes, the United States has not paid certain assessments because of differences with the United Nations regarding matters of policy. A significant amount of these non-payments reflects an ongoing dispute between the United States and the United Nations as to the specific amounts that the United States is to provide with respect to certain tax reimbursements. Other non-payments reflect policy differences regarding particular UN programs or actions. Some of these "policy withholdings" have been implemented by the Executive Branch. Others, such as the 25% ceiling on the amount the United States will pay for peacekeeping operations, arise under statute. Whatever their policy justification, these withholdings do not relieve the United States of its continuing international legal obligation to pay the amount assessed.

(3) What are the legal consequences of our failure to pay our arrears?

Who determines what the U.S. legal obligation is, the U.S. or the U.N.?

Answer: The only legal sanction for failure to pay arrears specified in the Charter is the loss of vote under Article 19, as previously mentioned. Some governments have urged that the United Nations adopt additional measures to sanction countries that are significantly in arrears, such as limitations on procurement or on recruitment of their nationals. The United States has opposed all of these proposals. Thus far, none has been adopted. However, sustained U.S. non-payment of its assessments has lead to growing criticism that the United States does not abide by international law.

COMMITTEE ON
INTERNATIONAL RELATIONS,
Washington, DC, May 15, 1998.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State, Department of State, Washington, DC.

DEAR MADAM SECRETARY: I want to ask clarification of the status of United States dues to the United Nations.

Some commentators have suggested increasingly that the United States may not be obligated legally to pay its assessed dues to the United Nations. The Administration has stressed that these dues are international legal treaty obligations of the United States. I would appreciate answers to the following questions, in hopes of clarifying discussion of this issue.

(1) On what legal basis does the United States owe money to the United Nations?

In what document does the obligation arise?

Does Article 17 of the United Nations Charter, which states "the expenses of the Organization shall be borne by the Members as apportioned by the General Assembly," impose a treaty obligation?

From a legal perspective, how does Congress' power of the purse under the Constitution square with any legal obligation to pay dues to the United Nations?

When a treaty and a law conflict, which prevails?

Does the power of Congress to withhold funds release it from treaty obligations to pay dues?

Does the lack of an enforcement mechanism on the part of the United Nations to compel payment nullify any legal U.S. obligation to pay dues to that institution?

(2) A portion of the arrears owed by the United States to the United Nations result from "policy withholdings" by the executive branch, not legislatively mandated withholdings. In addition, the Administration has recognized, through seeking the creation of a "contested arrear" account, that we simply intend to "write off" some $400 million in arrears to the U.N.

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Do past U.N. actions in suspending the requirement for payment of arrears by other countries provide a precedent for our arguments?

(3) What are the legal consequences of our failure to pay our arrears?

Who determines what the U.S. legal obligation is, the U.S. or the U.N.?

I appreciate your cooperation in providing answers to these questions.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

FAMINE IN SUDAN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. HALL of Ohio. Mr. Speaker, I rise today to let our colleagues know about the people in southern Sudan, who are dying of starvation by the tens of thousands. The prospects are especially dim for the million Sudanese who are facing deaths in the next three months.

I was in Sudan a few weeks ago, visiting people in the famine-stricken region and meeting with aid workers and government officials. Since then, one of the feeding centers I went to has been bombed, and a village—where I watched the United Nations' biggest humanitarian airlift in history in operation—has been attacked. The small amount of food captured was turned into a funeral pyre for the people who were too weak to run from the raiders. It was a small village, and I'm sure that some of the people I met were among those who either died or fled.

As all of us know who visit people in such situations, their faces stay with you long after their bodies surely have failed. The faces of Ethiopians I saw during that country's great famine inspired the humanitarian work that I am privileged to do. Since then I have seen others suffer similar fates. Many other Africans, Koreans, Bangladeshis, too many other countries' citizens. Many of them elderly people; many more of them children.

But for me, nothing had rivaled Ethiopia in the depth of its famine, until I saw the people of southern Sudan a few weeks ago. It was not my first trip to that country, so I know what is happening is extraordinary.

The feeling of slowly starving is unimaginable for most of us. Thankfully, so is the agony of watching our own children slide into the nightmare of famine. But the wrenching images of their fate confront us more and more in our media, and we all are diminished by the fact that this tragedy was not prevented.

The problems that have brought famine to 2.6 million Sudanese people are complex. Sudan's civil war has not merely split the nation into two groups; it has splintered it into many factions. The hatreds are racial and religious, and atrocities committed on all sides have deepened the divisions.

Some observers blame Sudan's problems on the National Islamic Front, which controls its government; but all parties to this conflict have blood on their hands. But blame won't save the people of southern Sudan—and time spent trying to parcel it out threatens to distract us. The only endeavor that can ease these innocent people's suffering is whatever can get relief to them immediately. Beyond that, our time would be best spent in pressing for a political settlement, so that this famine does not spill into next year.

The United States has led the international community in humanitarian aid to Sudan this year, I am proud to report. European nations, except for Great Britain, have lagged shamefully. And nations such as Japan and those in the Middle East—who have ample resources to share, and whose own security is threatened by turmoil in Sudan—have been downright niggardly. Our allies and others should do far more to respond to this crisis, and America's generosity gives us the moral authority to press them harder. We have contributed nearly half of the total raised so far by the United Nations, and an even greater share of the assistance delivered by Christian and other charities.

Of course, the percentages that well-fed nations use to track progress toward filling United Nations appeals mean little to people who are starving. In the end, what it means—that half of the appeal remains unmet, that the United Nations is struggling to get food to those in need—is that "stick people" who have walked for days to reach feeding centers are being turned away every day.

Two more facts are equally clear. First, a million more people are likely to die—as many as in Ethiopia's two-year famine. Second, our nation and our citizens can do far more. We have given generously, but the amount of food still needed is well within our capacity to provide.

The grain-purchase initiative that President Clinton announced last week may help some American farmers significantly, but it will be the difference between life and death for hundreds of thousands of people facing starvation and malnutrition. In Sudan, our donation will be welcome relief, because war has prevented planting throughout much of this fertile region and so food shortages will continue even after the fall harvest. But it will not save those facing starvation, because it will arrive too late.

The only aid that will make a difference to these people is food that can be purchased in the region, and the urgent immediate loan of additional cargo planes to Operation Lifeline Sudan, so that the United Nations can get the food to those in need. Our law permits such action, and the urgency of this crisis certainly warrants it.

In addition to aid, though, the people of Sudan sorely need peace. This is the second catastrophic famine to strike the same area this decade. We cannot let "donor fatigue" dampen our response to the plight of so many people, but neither can we ignore what observers have been saying for years: that humanitarian aid cannot be a substitute for a political solution to Sudan's war. We have a moral obligation to respond generously to the immediate needs, but we have an equal obligation to step up our efforts to help end the war that has caused—and sustained—this famine and the last one.

Frank Wolf and I, along with other Members who share our concern, have called on President Clinton to make peace in Sudan a higher priority. When the need for peace in Northern Ireland became acute, President Clinton sent one of our nation's leading negotiators. Former Senator George Mitchell traveled to that country 100 times to secure an agreement. In Bosnia, and again in Kosovo, Richard Holbrooke was dispatched. Former Secretary of State James Baker III is making superb progress in western Sahara's dispute.

But when it comes to black Africa, our "A Team" has remained on the bench. Those Americans who are involved are dedicated, but they do not move in the high-level circles where decisions are made that can make a difference in Sudan. Our allies in Kenya and Britain (the regional leader and the former colonial power, respectively) are doing their best to press for peace. But they lack the high-level American counterpart that could lend momentum to their work.

A few days ago, Sudan's government and rebels agreed to a cease-fire. This might help aid workers do their jobs—if they can get the food and medical supplies they need. But this first cease-fire in four years also dangles the possibility that this three-month truce could be extended into a lasting one, or allow confidence-building measures on which to base peace talks.

Next month, Sudan and its neighbors will return to peace negotiations. It is an opportunity we should not squander. Naming a well respected special envoy—someone with stature who can work with our allies toward peace, and who can inform policy making in our country—would let us seize that opportunity.

It would show that Sudan is on the priority track that the situation warrants. And it would uphold the commitment that President Clinton made on his historic trip to Africa earlier this year. He promised then that the United States would never again let atrocities like we saw in Rwanda go unanswered. Yet the slavery and butchery that happens every day in Sudan rival Rwanda's violence. And the number of people who already have died is three times the number of Rwandan dead.

Mr. Speaker, a peaceful Sudan could feed its own people—and much of Africa. It almost certainly would stop undermining the fragile progress of its many neighbors. Peace would allow Sudan to flourish without relying on terrorists and their client states for support. Most importantly, peace would cap Sudan's rising death toll, which already has passed the two million mark.

Mr. Speaker, it is in America's national interest to help provide such hope to Africa's largest nation, and especially to the 2.5 million people there who face starvation this year. We cannot afford to see Khartoum continue to be the "viper's nest of terrorists" that Secretary of State Albright has described. We should not consign ourselves to merely continuing to support Sudan's neighbors in their battles against it—until we exhaust the opportunities for peace. And we certainly cannot afford to feed Sudan and vast areas of Africa that Sudan's people could feed without U.S. aid if they were left in peace.

In have found that when Americans learn about what is happening in Sudan, they agree that helping to ease suffering there is in keeping with their own values. Christians in particular hear this call to help, because it was our missionaries brought our faith to the people of Sudan. We cannot turn our back on their suffering now, because it is in part inflicted on them because their religion differs from their fundamental Islamic enemies.

I have appreciated the kind offers of help that have been extended by our colleagues, Mr. Speaker, as well as the many concerned Americans who have contacted me. There are strong, responsible humanitarian organizations working to relieve suffering in Sudan, and some of the most heroic and dedicated aid workers I have ever met are on the job every day there.

I would like to close by listing these organizations, along with ways for people who share my concern can contact them to learn more about their good work: Adventist Development and Relief Agency; CARE; Catholic Relief Services; Christian Reformed World Relief Committee; Church World Service; Doctors Without Borders; Friends of the World Food Program; International Rescue Committee; Islamic African Relief Agency; Jesuit Refugee Services; Lutheran World Relief; Mercy Corps International; Norwegian People's Aid (c/o U.S. Committee for Refugees); Oxfam International; Oxfam U.S.A.; World Concern Development Organization; World Vision U.S.; U.S. Committee for UNICEF.

For additional information, those interested also can contact Interaction, the American Council for Voluntary International Action, at 202/667–8277.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

SPEECH OF

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1998

Mr. MARKEY. Mr. Speaker, pursuant to the gentleman from Virginia's unanimous consent request of July 21, 1998 that all Members be given 5 legislative days within which to revise and extend their remarks on H.R. 1689 and to insert extraneous material, I wish to take the opportunity to extend upon my earlier remarks regarding this legislation and to respond to some rather incredible—and I believe inaccurate—remarks made by some of my distinguished colleagues regarding this legislation.

As I have indicated, I oppose this bill. If this bill is to become law, however, it is imperative that we clarify what the scienter requirement will be under the national standards created by H.R. 1689. My colleague from California—Representative Cox—seems to believe that standard should not include recklessness. I strongly disagree.

The federal courts have long recognized that recklessness satisfies the scienter requirement of Section 10(b) and Rule 10b-5—the principal antifraud provisions of the federal securities laws. It is true, as some of my colleagues have noted, that in Ernst & Ernst v. Hochfelder, the Supreme Court left open the question of whether recklessness could satisfy the scienter requirement of Section 10(b) and Rule 10b-5. My colleague from California, however, omits to state that the Court explicitly recognized that "in certain areas of the law recklessness is considered to be a form of intentional conduct for purposes of imposing liability for some act." My colleague from California also neglects to state that since

Hochfelder was decided, every court of appeals that has considered the question — ten in number — has interpreted the text of Section 10(b) and Rule 10b–5 to impose liability for reckless misconduct.

And these courts had good reason to so hold. Recklessness is vital to protect investors and the integrity of the disclosure process. Without liability for reckless misstatements, injured investors would be able to recover only if they were able to prove that a defendant had intentionally lied. This would enable defendants who deliberately disregarded available information to avoid liability for investor losses, and would encourage corporate chieftains to bury their heads in the sand.

The recklessness standard promotes meaningful disclosure. Our securities laws are premised on disclosure. Issuers of securities must make full and fair disclosure of material facts to investors when offering their securities. If issuers of securities are liable for misstatements and omissions only when they consciously make false disclosures, they will have less incentive to conduct a probing inquiry into any potentially troublesome areas they discover in the course of preparing their disclosure documents. The recklessness standard helps ensure that disclosure is thorough and meaningful because it encourages issuers to know what is taking place in their own companies.

Finally, the recklessness standard helps bring deliberate securities violators to justice by preventing them from hiding behind evidentiary hurdles. Proving a defendant's actual knowledge of fraud in a securities case is often not possible. Defendants in securities fraud cases do not as a matter of course admit their fraudulent intent. Proving actual knowledge is particularly daunting when, as is often true in securities cases, the evidence relating to the defendant's state of mind is entirely circumstantial. As the U.S. Court of Appeals for the Second Circuit—one of the ten courts of appeals to have put their stamp of approval on recklessness—has noted: "Proof of a defendant's knowledge or intent will often be inferential . . . and cases thus of necessity [are] cast in terms of recklessness. To require in all types of 10b–5 cases that a factfinder must find a specific intent to deceive or defraud would for all intents and purposes disembowel the private cause of action under § 10(b)."

I do agree with my colleague from the state of California that the 1995 Private Securities Litigation Reform Act did not change the scienter requirement for liability. I am deeply troubled, however, by his attempt to attribute to the Reform Act Conference Committee—of which I was a member—an intention to raise the pleading standard beyond that of the Second Circuit—which, at the time of the Reform Act was the strictest pleading standard in the nation. That clearly was not my understanding nor my intent. Indeed, not only is my colleague attempting to revise history, he is doing so in a manner that would create an illogical result. Because the antifraud provisions allow liability for reckless misconduct, it follows that plaintiffs must be allowed to plead that the defendants acted recklessly. To say that defrauded investors can recover for reckless misconduct, but that they must plead something more than reckless misconduct defies logic.

Likewise, I must take strong exception to the suggestion of my colleague from California about the Conference Committee's intentions regarding a footnote in the Statement of Managers. That footnote, inserted at the last minute without my knowledge and without any discussion of the matter by the Members during the Conference Committee meetings, states that the Committee chose "not to include in the pleading standard certain language relating to motive, opportunity, or recklessness." Contrary to my colleague's statements, this footnote—and make no mistake about it, that's all it is, merely a footnote—does not mean that recklessness has been eliminated either as a basis for liability or as a pleading standard. Existence of this footnote in no way mandates that courts not follow the Second Circuit approach to pleading. The Conference Committee and the Congress that passed the Reform Act also chose not to expressly include conscious behavior in the pleading standard. Yet surely no one would suggest that in doing so, the Conference Committee and Congress intended to eliminate liability for conscious misconduct.

My colleague points to the fact that the President vetoed the bill because of his concerns that the conferees intended to adopt a pleading standard higher than the Second Circuit's. Members in both the House and the Senate following the veto made clear that we did no more than adopt the Second Circuit standard. In this regard, I strongly agree with my colleague from California, Congresswoman LOFGREN, who stated in the legislative history following President Clinton's veto: "The President says he supports the second circuit standard for pleading. So do I. That is what is included in this bill."

I would suggest that it is the gentleman from California, rather than myself and other opponents of this legislation, that are trying to rewrite history. I continue to feel that both the Reform Act of 1995 and the present legislation are bad for investors and bad for our financial markets. We do not need to compound the harm done by this legislation with revisionist histories that seek to surreptitiously eliminate liability for reckless behavior.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

SPEECH OF

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1998

Mr. ROEMER. Mr. Speaker, I rise in strong opposition to H.J. Res. 121, disapproving Most Favored Nation trading status with China. I rise in strong support of normal trade relations and continued constructive engagement with China. I support constructive engagement with China as a method of improving our critically important bilateral relationship and pursuing our foreign policy goals to advance human rights and religious freedom. While progress is at times slow and painful, talks and diplomacy are key aspects of this bilateral relationship.

Last year's trip by President Jiang Zemin to the United States to participate in the first U.S.-China Summit in a decade was the first step in achieving our goals through constructive engagement. President Clinton's highly successful trip to China last month demonstrated that constructive engagement is the most effective way to advance our national interests and promote our values. The United States is committed to improving human rights conditions in China, and I strongly believe human rights should remain a firm pillar of U.S. foreign policy.

Under our policy of constructive engagement, China has acted forthrightly to address our differences, including human rights, both privately and publicly, advancing American values and principles of freedom and democracy. Within the past year, Chinese authorities released numerous political dissidents including Wei Jingsheng and Wan Dan as well as religious leaders like Bishop Zhou. China also signed the United Nations Covenant on Economic and Social Rights and has pledged to sign the UN Covenant on Civil and Political Rights in the fall. This has resulted in meaningful improvements in the lives of millions of Chinese.

Despite official restrictions, the number of religious adherents in China is growing rapidly, with tens of thousands of churches, both registered and unregistered, and with tens of millions of worshipers. I am pleased that Presidents Clinton and Jiang agreed to continued exchanges among officials and religious leaders to improve our mutual understanding of the role of religion in each country. The Chinese government has hosted several delegations of U.S. and foreign religious leaders and the UN Working Group on Arbitrary Detention. These are positive steps and clearly demonstrate that China is working to expand cooperation with us. We must continue to press for more religious freedom in China. As Billy Graham has written, "Do not treat China as an adversary but as a friend." Revoking normal trade relations and disengaging China will not help its people achieve religious freedom or improved human rights conditions.

Our policy of constructive engagement has also helped expand cooperation with China in critical areas important to our national security: improving financial stability in Asia, preventing the spread of chemical and biological agents on ballistic missiles, combating international crime and drug trafficking, protecting the environment and expanding free trade. China's resistance to devaluing its currency is a prime example of China's efforts to work with the international community to help slow the financial crisis in Asia. This is how the United States benefits from constructive engagement with China.

It is also important to recognize that revoking normal trade relations could actually increase our $15.7 trade deficit. At this time, China represents the fastest growing market for U.S. exports and accounts for more than $150 million of exports from my State of Indiana alone. Since every other major trading partner extends normal trade relations to China, revoking this status would give our competitors in Europe and Asia a competitive edge in developing markets from the ground up, thereby placing at risk more than 400,000 high-paying U.S. jobs and billions of dollars worth of future exports. The best way to reduce our trade deficit with China is to use our trade laws to our advantage in order to tear down China's tariff barriers and to help U.S. exporters to compete in China's markets. We must continue to support policies consistent with fair and free trade.

Mr. Speaker, I am confident that constructive engagement with China will lead to more positive results, advancing our trade interests and foreign policy goals regarding improved religious freedom and human rights conditions. I strongly encourage my colleagues to support constructive engagement and vote against this resolution to disapprove normal trade relations.

STRUCTURED SETTLEMENT PROTECTION ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. SHAW. Mr. Speaker, today I rise along with my colleague Mr. STARK and a broad bipartisan group of our colleagues from the Ways and Means Committee to introduce the Structured Settlement Protection Act.

The Act addresses serious public policy concerns that are raised by transactions in which so-called factoring companies purchase recoveries under structured settlements from injured victims.

Recently there has been dramatic growth in these transactions in which injured victims are induced by factoring companies to sell off future structured settlement payments intended to cover ongoing living and medical needs in exchange for a sharply-discounted lump sum that then may be dissipated, placing the injured victim in the very predicament the structured settlement was intended to avoid.

As long-time supporters of structured settlements and the congressional policy underlying such settlements, we have grave concerns that these factoring transactions directly undermine the policy of the structured settlement tax rules. The Treasury Department shares these concerns.

Because the purchase of structured settlement payments by factoring companies so directly thwarts the congressional policy underlying the structured settlement tax rules and raises such serious concerns for structured settlements and injured victims, it is appropriate to deal with these concerns in the tax context.

Accordingly, we are proposing legislation to impose a substantial excise tax on the factoring company that purchases the structured settlement payments from the injured victim. The excise tax would be subject to an exception for genuine court-approved hardship cases to protect the limited instances of true hardship.

The following is a detailed discussion of the bill's provisions.

BACKGROUND

In acting to address the concerns over factoring companies that purchase structured settlement payments from injured victims the Treasury Department noted that: "Congress enacted favorable tax rules intended to encourage the use of structured settlements—and conditioned such tax treatment on the injured person's inability to accelerate, defer, increase or decrease the periodic payments—because recipients of structured settlements are less likely than recipients of lump sum awards to consume their awards too quickly and require public assistance." (U.S. Department of the Treasury, General Explanations of the Administration's Revenue Proposals (Feb. 1998), p. 122).

Treasury then observed that by enticing injured victims to sell off their future structured settlement payments in exchange for a heavily discounted lump sum that may then be dissipated: "These 'factoring transactions' directly undermine the Congressional objective to create an incentive for injured persons to receive periodic payments as settlements of personal injury claims." (*Id.*, at p. 122 [emphasis added].)

The Joint Tax Committee's analysis of the issue echoes these concerns: "Transfer of the payment stream under a structured settlement arrangement arguably subverts the purpose of the Code to promote structured settlements for injured persons. (Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS-4-98), (February 24, 1998), p. 223).

The Treasury Department in the Administration's FY 1999 Budget has proposed a 20-percent excise tax on factoring companies that purchase structured settlement payments from injured victims. Under the Administration's proposal, "any person purchasing (or otherwise acquiring for consideration) a structured settlement payment stream would be subject to a 20 percent excise tax on the purchase price, unless such purchase is pursuant to a court order finding that the extraordinary and unanticipated needs of the original recipient render such a transaction desirable." (Treasury General Explanation, at p. 122). The proposal would apply to transfers of structured settlement payments made after date of enactment.

DESCRIPTION OF THE ACT

1. STRINGENT EXCISE TAX ON PERSONS WHO ACQUIRE STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS

In its analysis of the Administration's proposal, the Joint Tax Committee notes the potential concern that in some cases the imposition of a 20-percent excise tax may result in the factoring company passing the tax along by reducing even further the already-heavily discounted lump sum paid to the injured victim for his or her structured settlement payments. The Joint Committee notes that "[o]ne possible response to the concern relating to excessively discounted payments might be to raise the excise tax to a level that is certain to stop the transfers (perhaps 100 percent). . . ." (Joint committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS-4-98) (February 4, 1998), p. 223).

Factoring company purchases of structured settlement payments so directly subvert the Congressional policy underlying structured settlement and raise such serious concerns for structured settlement and the injured victims that it is appropriate to impose on the factoring company a more stringent excise tax rate applied against the amount of the discount reflected in the factoring transaction (subject to a limited exception described below for genuine court-approved hardships).

Accordingly, the Act would impose on the factoring company that acquires structured settlement payments directly or indirectly from the injured victim an excise tax equal to 50 percent of the difference between (I) the total amount of the structured settlement payments purchased by the factoring company, and (ii) the heavily-discounted lump sum paid the by the factoring company to the injured victim.

Similar to the stiff excise taxes imposed on prohibited transactions in the private foundation and pension context—which can range as high as 100 to 200 percent—this stringent excise tax is necessary to address the very serious public policy concerns raised by structured settlement factoring transactions.

Unlike the Administration's proposed tax imposed on the purchase price paid by the factoring company, the excise tax imposed on the factoring company under the Act would use a more stringent tax rate of 50 percent and would apply to the excess of the total amount of the structured settlement payments purchased by the factoring company over the heavily-discounted lump sum paid to the injured victim.

The excise tax under the Act would apply to the factoring of structured settlements in tort cases and in workers' compensation.

A structured settlement factoring transaction subject to the excise tax is broadly defined under the Act as a transfer of structured settlement payment rights (including portions of payments) made for consideration by means of sale, assignment, pledge, or other form of alienation or encumbrance for consideration.

2. EXCEPTION FROM EXCISE TAX FOR GENUINE, COURT-APPROVED HARDSHIP

The stringent excise tax would be coupled with a limited exception for genuine, court-approved financial hardship situations. Drawing upon the hardship standard enunciated in the Treasury proposal, the excise tax would apply to factoring companies in all structured settlement factoring transactions except those in which the transfer of structured settlement payment rights (1) is otherwise permissible under applicable Federal and State law and (2) is undertaken pursuant to the order of a court (or where applicable, an administrative authority) finding that "the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or his or her spouse or dependents render such a transfer appropriate."

This exception is intended to apply to the limited number of cases in which a genuinely "extraordinary, unanticipated, and imminent hardship" has actually arisen and been demonstrated to the satisfaction of a court (e.g., serious medical emergency for a family member). In addition as a threshold matter the transfer of structured settlement payment rights must be permissible under applicable law including State law. The Act is not intended by way of the hardship exception to the excise tax or otherwise to override any Federal or State law prohibition or restriction on the transfer of the payment rights or to authorize factoring of payment rights that are not transferable under Federal or State law. For example, the States in general prohibit the factoring of workers' compensation benefits. In addition, the State laws often prohibit or directly restrict transfers of recoveries in various types of personal injury cases, such as wrongful death and medical malpractice.

The relevant court for purposes of the hardship exception would be the original court which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement. In the event that no action had been brought prior to the settlement, the relevant court would be that which would have had jurisdiction over the claim that is the subject of the structured settlement or which would have jurisdiction by reason of the residence of the structured settlement recipient. In those limited instances in which an administrative authority adjudicates, resolves, or otherwise has primary jurisdiction over the claim (e.g., the Vaccine Injury Compensation Trust Fund), the hardship matter would be the province of that applicable administrative authority.

3. NEED TO PROTECT TAX TREATMENT OF ORIGINAL STRUCTURED SETTLEMENT

In the limited instances of extraordinary and unanticipated hardship determined by court order to warrant relief under the hardship exception, adverse tax consequences should not be visited upon the other parties to the original structured settlement. In addition, despite the anti-assignment provisions included in the structured settlement agreements and the applicability of a stringent excise tax on the factoring company, there may be a limited number of non-hardship factoring transactions that still go forward. If the structured settlement tax rules under I.R.C. §§72, 130 and 461(h) has been satisfied at the time of the structured settlement, the original tax treatment of the other parties to the settlement—i.e., the settling defendant (and its liability insurer) and the Code section 130 assignee—should not be jeopardized by a third party transaction that occurs years later and likely unbeknownst to these other parties to the original settlement.

Accordingly, the Act would clarify that if the structured settlement tax rules under I.R.C. §§72, 130, and 461(h) had been satisfied at the time of the structured settlement, the section 130 exclusion of the assignee, the section 461(h) deduction of the settling defendant, and the Code section 72 status of the annuity being used to fund the periodic payments would remain undisturbed.

That is, the assignee's exclusion of income under Code section 130 arising from satisfaction of all of the section 130 qualified assignment rules at the time the structured settlement was entered into years earlier would not be challenged. Similarly, the settling defendant's deduction under Code section 461(h) of the amount paid to the assignee to assume the liability would not be challenged. Finally, the status under Code section 72 of the annuity being used to fund the periodic payments would remain undisturbed.

The Act provides the Secretary of the Treasury with regulatory authority to clarify the treatment of a structured settlement recipient who engages in a factoring transaction. This regulatory authority is provided to enable Treasury to address issues raised regarding the treatment of future periodic payments received by the structured settlement recipient where only a portion of the payments have been factored away, the treatment of the lump sum received in a factoring transaction qualifying for the hardship exception, and the treatment of the lump sum received in the non-hardship situation. It is intended that where the requirements of section 130 are satisfied at the time the structured settlement is entered into, the existence of the hardship exception to the excise tax under the Act shall not be construed as giving rise to any concern over constructive receipt of income by the injured victim at the time of the structured settlement.

4. TAX INFORMATION REPORTING OBLIGATIONS WITH RESPECT TO A STRUCTURED SETTLEMENT FACTORING TRANSACTION

The Act would clarify the tax reporting obligations of the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs. The Act adopts a new section of the Code that is intended to govern the payor's tax reporting obligations in the event of a factoring transaction.

In the case of a court-approved transfer of structured settlement payments of which the person making the payments has actual notice and knowledge, the fact of the transfer and the identity of the acquirer clearly will be known. Accordingly, it is appropriate for the person making the structured settlement payments to make such return and to furnish such tax information statement to the new recipient of the payments as would be applicable under the annuity information reporting procedures of Code section 6041 (e.g., Form 1099–R), because the payor will have the information necessary to make such return and to furnish such statement.

Despite the anti-assignment restrictions applicable to structured settlements and the applicability of a stringent excise tax, there may be a limited number of non-hardship factoring transactions that still go forward. In these instances, if the person making the structured settlement payments has actual notice and knowledge that a structured settlement factoring transaction has taken place, the payor would be obligated to make such return and to furnish such written statement to the payment recipient at such time, and in such manner and form, as the Secretary of the Treasury shall by regulations provide. In these instances, the payor may have incomplete information regarding the factoring transaction, and hence a tailored reporting procedure under Treasury regulations is necessary.

The person making the structured settlement payments would not be subject to any tax reporting obligation if that person lacked such actual notice and knowledge of the factoring transaction.

Under the Act, the term "acquirer of the structured settlement payment rights" would be broadly defined to include an individual, trust, estate, partnership, company, or corporation.

The provisions of section 3405 regarding withholding would not apply to the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs.

5. EFFECTIVE DATE

The provisions of the Act would be effective with respect to structured settlement factoring transactions occurring after the date of enactment of the Act.

ELECTIONS IN LEBANON

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. HAMILTON. Mr. Speaker, I would like to call my colleagues' attention to correspondence Congressman GILMAN and I had with the Department of State regarding the importance of the elections scheduled in Lebanon in 1998.

First, Lebanon had largely free and fair local elections this past May and June. For the first time in 35 years, Lebanon conducted municipal elections, signaling the existence of a vibrant democracy at the local level.

The State Department commends the Lebanese in their efforts to implement a democratic and constitutional process. It is hoped that these changes will bring about reforms in the current system and expand the basic rights of the Lebanese.

Second, presidential elections in Lebanon are scheduled for this fall. We hope they will follow the trend of the municipal elections and be another encouraging sign of the Lebanese Government's commitment to the will of its citizens. The United States should continue to support steps in Lebanon to further meaningful representation and solidify the country's democratic institutions and practices.

The correspondence between the State Department and Congressman GILMAN and myself, including a letter of May 13, 1998 and a State Department reply of July 21, 1998, concerning the elections in Lebanon follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, July 21, 1998.

Hon. LEE H. HAMILTON,
House of Representatives.

DEAR MR. HAMILTON: Thank you for your letter of May 13 to Secretary Albright concerning elections in Lebanon.

The municipal elections concluded on June 14. Thus far, Lebanese from all confessional groups have participated in great numbers—in some municipalities upwards of 75% of registered voters—reinforcing our belief that the Lebanese remain committed to the democratic ideals they share with us. That the polls have occurred with few disturbances speaks volumes about the greatly improved security situation in Lebanon and the control the government maintains in most areas of the country.

The Administration has been very active in encouraging free and fair elections in Lebanon. Since the Lebanese government first discussed holding these first municipal elections in 35 years, the Ambassador and Embassy in Beirut have encouraged the political leadership to demonstrate their commitment to democracy and hold the elections.

This is true for the presidential election as well, to take place in the fall. We have been forceful in asserting that the Lebanese should support democracy and constitutional processes. We would like to see a president who represents not only his confessional group but all Lebanese.

In President Clinton's National Day message to President Hrawi last November, he said: "In the past year, Lebanon has proceeded along the path towards reconstruction, reconciliation and support for democratic institutions and human rights. In the coming year, I anticipate these trends will continue as your country holds presidential and municipal elections."

In the May 21 State Department press briefing, Spokesman James Rubin said in response to a question: "With respect to Lebanon's first municipal elections in 35 years, we welcome these elections. The United States and Lebanon share democratic traditions, and we have long urged the Lebanese to uphold democracy and support their own constitutional processes. We anticipate that these elections will be free and fair, and we urge the participation of all Lebanese in these elections. It's an opportunity for all Lebanese to make their voices heard in this first opportunity for two generations of Lebanese to determine their local leadership."

Like you, Mr. Hamilton, we remain committed to the goals of Lebanon's full independence, sovereignty and territorial integrity. We look forward to the day when Lebanon, at peace with her neighbors and free of all foreign forces, resumes her traditional place in the community of nations. We hope that the strong showing of support for democracy on the part of all Lebanese will help make that possible.

We hope this has been of help. Please let us know if there is any further information we can provide.

Sincerely,

BARBARA LARKIN,
Assistant Secretary, Legislative Affairs.

COMMITTEE ON INTERNATIONAL RELATIONS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 13, 1998.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State, Department of State, Washington, DC.

DEAR MADAM SECRETARY: We write regarding United States policy toward Lebanon and important events that are meant to take place there.

First, we want to commend the Government of Lebanon for scheduling municipal elections, which we understand are to be held on four consecutive Sundays, beginning on May 24. Municipal elections have not been held in Lebanon for over thirty years. We hope that the United States will express publicly the great importance we attach to these elections and to their being held as scheduled.

Second, we write regarding the Presidential elections scheduled to be held in Lebanon this fall. As you recall, in 1995 the term of President Elian Hrawi, the current President, was extended for an additional three years. Syrian President Asad announced that extension on October 11, 1995 while on a trip to Cairo, after almost all of Lebanon's major politicians publicly opposed modifying the constitution to permit the President to serve more than one six-year term.

We have heard some reports that President Hrawi's term will again be extended an additional three years. We urge you to engage in quiet, advance diplomacy for the purpose of trying to preempt another subversion of Lebanon's constitution. We also believe that the United States should make clear publicly that we expect the Presidential elections to occur as scheduled.

We appreciate your consideration of these two issues regarding Lebanon.

With best regards,

Sincerely,

BENJAMIN A. GILMAN,
Chairman.
LEE H. HAMILTON,
Ranking Democratic Member.

SENATE—*Monday, July 27, 1998*

The Senate met at 12 noon, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, the Source of comfort and courage in times of grief, our hearts are at half-mast in honor of Capitol Police Officers Jacob Chestnut and John Gibson who were killed in the line of duty here in the Capitol last Friday afternoon. These officers are like members of our family. Their loss creates an empty place in our hearts. Now that place is filled with profound gratitude for them and their heroism. They lost their lives protecting all of us who work here and those who visit the Capitol. Greater love has no man than this, to give his life for his friends.

Dear Father, we can only imagine the wrenching grief of the families of these valorous men. Place around them Your arms of love, encouragement, and peace. Most of all, help them to know that, for believers in You, death is not an ending. Bullets cannot kill the soul. John and J.J. are alive in You.

Now we ask for one more thing. Make us more sensitive to the dangers our officers face daily. Help us to express our gratitude for what they do and for the great friends they are. In the name of Him who is the Resurrection and the Life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

THE CHAPLAIN'S PRAYER

Mr. LOTT. Mr. President, I want to extend our appreciation to the Chaplain for his prayer for these two fine Capitol policemen and friends that we have lost.

I would like to ask that we take another moment of silence to remember them, and to say our personal word of prayer for their family and friends.

(Moment of silence)

A TRAGEDY FOR THE NATION

Mr. LOTT. Mr. President, what happened in the Capitol last Friday afternoon was a tragedy for our Nation. But for all of us here it was something more. It was a death in the family.

We work here every day together, as Senators and as officers of the Senate, staff members, pages, policemen. We see them, and we pass them, over and over again. We talk to them. Some of them we get to know quite well.

I have had the occasion myself to develop a very personal relationship with the man that was my security detail when I was the whip in the House, a man named George Awkward. He did for me what John Gibson did for TOM DELAY as the whip in the House. We got to be very personal friends. He had pizza at night, when we would get home late, with my wife and with me and my children.

So I know how much these men and women put their lives on the line, and how much they mean to us on an individual basis, but also how far too often we walk past them; we take them for granted; we don't realize that they really are there for a very important purpose—protection of our constituents and of all of us and of this magnificent building in which we serve.

Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut were members of our congressional family. They died defending us.

They died defending this Capitol building, this temple of law, where armed violence is a sacrilege against our democratic institutions.

So much has been said in their praise, and yet we need to say more.

So much has been offered in their honor, but we still look for ways to express our admiration, our gratitude, and most of all, our sorrow.

We search for words to comfort their families, and it is not easy to find them. Some losses stay with us forever.

But far more important than our words and our condolences is the assurance of Scripture, that our Chaplain just gave—that "greater love than this has no man, than that he lay down his life for his frinds."

That is what the speaker of those words did, almost 2,000 years ago, and that is what officers Chestnut and Gibson did 3 days ago.

In fact, it is what they were ready to do every day of their career, every day when they left their homes and loved ones knowing that they could face a deadly peril in their daily routine.

We do not think often enough of the quiet bravery it takes for officers like those two—the men and women who come to work, here at the Capitol and in communities throughout the country, knowing that this might be the day they encounter mortal danger in the course of their duties.

In my own area of the country—the gulf coast of Mississippi—we recently lost a policeman in the line of duty in Long Beach, MS, and it made an indelible mark on that community and on our whole region.

Senators have already been informed that Officers Chestnut and Gibson will lie in state tomorrow in the great Rotunda of the Capitol.

This is an extraordinary honor that we are paying to them. In the past only Presidents, Supreme Court Justices, and generals like Pershing and MacArthur, former Senator Pepper, have lain in repose in the Rotunda. But I think it is appropriate that these two men, who gave their lives just down one flight of stairs defending that room always packed with constituents, would have this moment to be honored the way they deserve in that room.

There will be times throughout the day for Members and staff and the general public to pay their respects to these two men to say a prayer, to consider how much we owe these fallen colleagues and their families and all those like them throughout the country.

It is important to note that the public will be welcome in the Capitol during that time, and welcome to join us in our solemn tribute in the Rotunda, with the exception of only one hour in the afternoon where there will be a private opportunity for Members of Congress to observe and to pay our respects to these men.

It is most fitting that the public, our constituents from all over the country and all over the world, should be there with us, as they will be, for Officers Chestnut and Gibson and their colleagues were defending them, too.

I can understand the wish in some quarters to make the Capitol absolutely impregnable, or even to close it to the general public so that nothing like this could ever happen again. We will, of course, examine closely all of our security procedures again as we continue to do almost daily to see whether anything can be done to improve it. But we have to keep in mind that this Capitol is, more than any other edifice in the country, and certainly I believe in the world, the people's house.

When I walk out of my majority leader's office and take three steps, I am standing with constituents from all across America. They are there every day. Sometimes they seem surprised that they would see Senators and Congressman walking amongst them. But that is the way it should be. This building is accessible and it amazes our visitors, domestic and foreign, many of whom have had chance encounters with Members of Congress, the President's

Cabinet, in the halls, in the dining rooms, in the elevators. The reason the Capitol is so open is that our society is so open. We pride ourselves on that fact.

The people's access to their Capitol is the physical manifestation of democracy. It represents something rare and precious, something all Americans take for granted. It represents the bond between those in high office and those who put them there. It represents, in short, our freedom.

For that freedom, throughout our history, men and women have been willing to stand guard, to fight if necessary, and to die on many fields in many places in the world.

They have done all that to protect their homes, to shield their loved ones, and to preserve their Nation. Some of those brave individuals are memorialized in the Capitol itself in statues of bronze and marble. They stand among us, mute but strangely eloquent about the price of liberty.

Tomorrow, amid those grand statues of heroes past, we will honor two of our own to whom heroism was simply duty. For those two, for Officers Jacob Chestnut, affectionately known as J.J., and John Gibson, this open Capitol, with wide-eyed kids learning the Nation's history, with strangers from abroad awed by its grandeur, with Americans of all creeds and races and religions celebrating their common faith in God, and in one another, this Capitol itself will be their enduring monument.

SCHEDULE

Mr. LOTT. Mr. President, the Senate later on today will adopt an appropriate resolution. It will be a joint resolution, House and Senate. We will confer with the leaders of both bodies on both sides of the aisle as to the appropriate time to have that vote, and we are reviewing the language at this time.

In addition to that, we will resume consideration later on today of the credit union bill which was debated last Friday. I understand that Senator HAGEL will be present later on to offer his amendment regarding credit union loans. Senator SHELBY is tentatively scheduled to offer his amendment at about 3:30.

By previous consent, a rollcall vote with respect to the Gramm amendment will occur at approximately 5:30, or shortly thereafter, but not later than 5:45. It is also hoped that we will vote in relation to the Hagel amendment immediately following that vote, and therefore two stacked votes are expected at around 5:30 this afternoon, with the possibility of one other.

After the Senate completes consideration of the credit union bill, it will move to available appropriations bills. We have three or four that could be available this week. Health care legislation is on the agenda for the week, plus any conference reports that become available and any legislative or executive items, and we do expect, because of the cooperation we received on appropriations bills, we will be able to move a number of Executive Calendar nominations this week. This is the final week prior to our August recess period, when we will have an opportunity to go to our respective States, so I know our days and nights will be quite busy. It is necessary we do that to complete our work.

I thank all Senators in advance for their cooperation.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I have another engagement at this time, but sometime during the day I expect to make a statement on the death of Officer Chestnut and Officer Gibson, heroes of the Senate.

TRIBUTE TO OFFICERS JACOB CHESTNUT AND JOHN GIBSON

Mr. MACK. Mr. President, I rise today to honor John Gibson and Jacob "J.J." Chestnut, the officers who gave their lives Friday in the line of duty.

For Members of the Senate, I would remind them that John Gibson was one of the individuals who was a part of our security detail on our most recent retreat. Yesterday morning, after an early morning run, I stopped by the Capitol where people had placed flowers at the steps, and I talked with a young officer who told me how proud he was of J.J. and J.J. was the kind of person who, after 20 years of service in the military, took under his wing the new men and women who were coming into the Capitol Hill Police Force service and to help them on a personal basis, giving them tips about the kinds of things to which they needed to pay attention with their training, the kinds of things they ought to try to accomplish when they are dealing with our constituents when they come into the Capitol.

Many times, I am sure, we forget the difficulty of the duty that they have, on the one hand to be trained to the extent to react the way they reacted on Friday, unselfishly, putting themselves in harm's way so that others may survive, but at the same time having the responsibility of treating our constituents, our friends, our neighbors, when they come to the Capitol, with such graciousness. It is a really difficult job, and I just want to express to the members of the Capitol Hill Police Force, all of those who participate in providing security, our deep appreciation for what they do on a day-to-day basis. Each day we come to work, we pass these officers. As the majority leader said, some of them we know by name, others we have become friends with.

I particularly remember C.J. Martin over at the Delaware entrance in the Russell Building, how each morning we would discuss some very personal things about our lives, the kinds of common bonds, if you will, that we shared. And so, while I didn't know J.J. Chestnut and John Gibson to the degree that I have known other members of the police force here, I know that they were very special people. Again, listening to that young officer talk about how J.J. would stand at that door, erect in that military stance, with great pride, frankly, in the job that he performed, and the reaction that he had, again, with the people as they came in, we don't take what they do for granted, and we want them to know that we are concerned about them and we are concerned about their families.

I had the opportunity on Friday evening to visit the families of J.J. Chestnut and John Gibson and to express to them our deep concern and our love for them, wanting them to know that we cherish their fathers, their husbands, that they mean a great deal to us, that we will do what we can to comfort them, that we won't forget them, that we will remember the families.

While the officers are the ones who lost their lives, now it is a tough and difficult time for the families. Each one of us, I know, has had the experience of losing someone close to us and we can feel the pain of the tragedy that took place, and we want those families to know that we have not forgotten them and that we will do what we can over the years to see that they are not forgotten.

Friday, in talking with the young sons of "Gibson," as they refer to him, I can only imagine the hurt and pain that those boys 14 and 15 years old must be feeling. I say to all of us, regardless of the role that we play in the Senate or in the House, we are all one big family.

In a sense, there are many families within the family. There is the family of officers and the special grief that they must be experiencing today, as they are required to carry out their duties at a moment in which their minds and hearts must be focused on their lost officers and their families. So I ask everyone, if they would, during this day and the next several days, to pray for those families—for comfort, for love, and for hope.

Again, I can remember a particular time in which my younger brother passed away. I was so angry about his loss; people would come up to me and say, "CONNIE, time will take care, time will heal," and I was so angry I said, "I don't want it to be healed. I don't want time to take care of it. I am angry."

But I hope that the families, especially the children, will deal with those feelings inside, that they will share those thoughts to get them out so they don't carry around that hurt and that pain. We want them to know that we truly love them, that we will miss their fathers, their husbands, and we will try to make the Senate and House and the Capitol a place in which they can be proud.

I yield the floor.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of morning business for not to extend beyond the hour of 1 p.m.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, thank you very much.

TRIBUTE TO OFFICERS JOHN GIBSON AND J.J. CHESTNUT

Mr. KEMPTHORNE. Mr. President, for the past 5 years I have had the honor of sponsoring the resolution designating National Peace Officers Memorial Day. This year we added the names of 159 officers to the National Law Enforcement Officers Memorial. Since the inception of this memorial, 14,662 peace officers have been added to the wall.

Next year, two more names will now be added to the wall. These memorials and others around the Nation serve as proof that the individuals who serve this Nation, as our guardians of peace, do so at great personal risk. There are few communities in America that have not been touched by the senseless death of a peace officer by violent means.

This community of Capitol Hill has been touched by tragedy. On Friday, two of our own, Officers John Gibson and J.J. Chestnut, were felled by an assailant while they performed their duties.

America should know that for all the influence of this city and this place, this is, in some ways, like a small town. We know the people in this community as well as we know the people in our own communities back home. The employees who work here day to day become very familiar faces to those of us who are sent here temporarily by our States.

The Capitol Hill Police have a very special duty and a very special trust. They guard this place, this summit of freedom, this people's house, and keep it safe for the citizens of the world. The Capitol Hill Police perform this duty with an unwavering commitment to our safety. And they are willing, as Officers Gibson and Chestnut proved, to lay down their lives for all of our safety.

John Gibson, who I knew personally—a tremendous professional in every sense of the word. When I saw his photograph in the paper, the difference was every time that I would see John or have a word with him his face always had a smile.

J.J. Chestnut, who worked in one of the entrances to this great building, like so many of our officers, was perceived to be more than just a police officer to the wonderful citizens who come to this magnificent building. I think they sense that instead of just a police officer, they are being greeted by ambassadors in the people's house.

I believe that our Capitol Police Department exemplify the finest in America. I have never heard any statement that any of our police officers have been badge-heavy. I have simply heard great reviews of the professionals who carry the badge of the Capitol Police Department.

I know many of the Capitol Police officers personally. I have listened to stories about their families. I have seen photographs of their kids—just parent talking to parent who share a funny story or observation or simply a good word at the end of the day. But in the end, put most simply, they are here to take care of us.

As we near the end of this century, we are often impelled to observe this country is cynical. It is, I suppose, in the American character to question our condition and bemoan the things that are not now as we remember them to be. But in truth, the sacrifice of these men and their families are akin to the selfless ideal that has made this country great. The bravery and the commitment to community that these men possessed will be carried on by their families.

I have had the honor to meet with the families of slain officers from my home State. The strength and the perseverance that is exemplified by each of them is an inspiration to me.

My thoughts and prayers go out to these families and others who have been devastated by this type of senseless violence. There is no answer to the meaningless violence that occurs, but we must celebrate and memorialize the lives of the officers who serve and protect us.

To the Capitol Hill Police, I would like to simply say, I am sorry for your loss and for our loss because we are family here, to say how proud all of us are of you and to thank you for your service that you give to us each and every day, and to say to the families of Officer Gibson, Officer Chestnut: Your husband, your father, demonstrated service beyond self in the most dramatic way—by sacrificing their lives for our safety, for our freedom.

Our prayers are with John, with Officer Chestnut, with their families, and with the other officers who continue that tradition of being truly some of the finest anywhere in the Nation or the world. You are our friends, you are our guardians, so that we can do our duty here in the Nation's Capitol. God bless these two officers and God bless what they mean to all of us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, it has struck me often in my 10 years here in the Senate that one can look at the life we lead here in different ways. In one sense, in a sense that is most visible, we do the work of the country: We hold hearings, we meet with constituents, we legislate. This is the Congress of the United States.

But in another sense, it has struck me increasingly over the years I have been honored to be here that there is another level of experience in this Capitol, which is that we are, in our own way, a small town of our own. We are a community. Yes, we have the Members of Congress and we have all who serve in our offices so well. We have the officers of both Chambers and those who work to keep these Chambers going. But there is a broader community here that we are all part of. It is the people who keep the buildings in such good repair.

We have doctors, we have nurses, we have clergy people, we have representatives of the media who live in this community with us who cover us. We even have our own newspapers. And we have police officers. We are a small town in the way that life is lived in so many small towns across America. But we are very different from most any of those small towns in that hundreds of thousands of fellow Americans—indeed, people from all over the world—come and walk through this great citadel of democracy, this great symbol of freedom, peacefully and respectfully, coming through our community.

On Friday, as we all know, one madman disrupted the tranquility of our community and took two of our own, Special Agent John Gibson, Officer Jacob Chestnut. There is a sense of palpable sadness and grief in this Capitol today, a sense of mourning at the loss of these two officers, because they were members of our community. We saw them every day. We exchanged greetings with them. We deeply regret and in some ways, I am sure, feel anger at what happened on Friday to take these two fine men, these two heroes, from us.

As we mourn their loss, I do think it is important for us to remember the extraordinary and unique war that law enforcement officers play in this small town, our little community, the Capitol of the United States, which is similar to the part they play in every other community across America. Think of what happened in those few tragic, jolting moments on Friday afternoon when danger occurred and the sound of bullets resonated through the halls of the Capitol. Most everyone in the Capitol ran for cover, locked their office doors, jumped under tables and desks, got out of the way of danger. But the law enforcement officers, the Capitol Police throughout this Capitol, including these two fallen heroes, rushed to the danger. That is their job, to protect the rest of us. It is an extraordinary difference in a quiet, normal moment on a midsummer Friday afternoon. Suddenly, one madman pierces all of that, and every officer, every Capitol Police officer in our small town, rushes to the danger, rushes to their duty station. These two responded with instinctive but extraordinary, heroic impulses to stop this man, and ultimately did, and save so many lives through their heroism.

Mr. President, I mentioned this just to pay tribute in some small way to Special Agent Gibson and Officer Chestnut, but to remind us how much we owe these people in this small town of ours, and in every city and town across America, and why we ought not to just treat them with a warm hello but feel, as we do today, in some measure every day the gratitude we have to them and express that in the best way we can, which is not only as friends and fellow citizens of our communities, but when we have a chance, as employers, to treat them appropriately and according to the extraordinary responsibilities that they bear in a moment of crisis.

Mr. President, by coincidence this morning, I was reading from Jeremiah's Book of Lamentations and I read the commentary on Lamentations in which were cited the comments of an ancient rabbi who was interpreting the Psalms, David's Book of Psalms. In dealing with the sadness, the sense of gloom that is so at the heart of the Book of Lamentations, this sage of old, in commenting on Psalms, expressed a thought that is familiar to all religions, which is, "If I had not fallen, I could never have arisen. If I had not sat in darkness, I could never have seen the light of God."

So in this time of deep and heavy darkness for our community here on Capitol Hill, we pray with faith together and the faith that unites us in our community, unites us as faith has always united people in American communities, that Special Agent Gibson and Officer Chestnut are seeing the light of God, that they are being welcomed in the warm embrace of eternal life, greeted as the heroes that they are. We pray, also, that God will grant strength and comfort to their families, to their friends, to their fellow officers in the Capitol Police corps, and in some measure to all of us in this small town, Capitol Hill, who, today, mourn their loss.

I thank the Chair and I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Virginia is recognized.

Mr. ROBB. Mr. President, first, I ask unanimous consent the period for morning business be extended by an additional 15 minutes—I know there is at least one other colleague on the floor and there may be others—so that we might spend a moment in additional tribute to the two officers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB. Mr. President, I just want to add my voice to those who have already spoken and those who will.

Friday was a difficult day for all of us here as part of the family. That has been more eloquently described than I can describe it both today and elsewhere. Like many of the Members, I happened to be in my office less than 100 yards away from where the shooting took place. I was unaware of the shooting. I heard the sirens and I heard the helicopter when it approached to take the victims to the trauma center. At that point, I tuned in and observed what was happening.

There was a sense on the part of all of us that something very tragic had occurred to members of the family. It wasn't until the names were released that we knew which members of the family had been affected. I realized when the names were ultimately released and saw the pictures that Officer J.J. Chestnut was the person who had been on that post any number of times. Many of us who come and go from the Nation's Capitol late in the evening find that is one of the few doors that is open. So we get to know the people who are there, and they are always greeting us with a smile.

In truth, I didn't know that I knew or had a relationship with Special Agent Gibson until I found out from my wife and mother-in-law that during a recent visit he had accompanied them throughout a tour of the Capitol, and they had been very grateful for the professional courtesies and kindness that he had extended to them. I found out that he was a resident of Lake Ridge, VA. It just so happens that the other person who was wounded, Angela Dickerson, was a tourist and taking a family on a tour, also happens to be from Chantilly, VA. I noted that J.J. Chestnut was a Vietnam veteran and is going to be accorded full military honors when he is buried Friday in Arlington.

These were very, very special people. The initial feeling among many when we heard that there had been gunfire inside the Capitol was that somehow the security system had broken down. I was relieved and pleased, as I think all of our Members were, to know that in this case the system had actually worked, and it had worked superbly. The men who ultimately gave their lives had done so in precisely the way they were trained to protect the Capitol and all who serve in it. I think that is a testament to the professionalism of the Capitol Police and to all of the members of this extended family.

I didn't go out and talk to the media on Friday, but two down-State reporters came to my office, unsolicited, and I talked to them for a couple of minutes. One asked me, "What should we do?" I said, "I hope we don't do much of anything. We will take a look at the procedures, but we want to keep the people's house as open as we possibly can." I think this is a symbol of democracy, and these two men died in defending that symbol. But we want to be careful not to take the wrong actions.

What we can do, and what we ought to do, is remember to thank those who serve us—whose service we sometimes take for granted. On the way out of the Capitol later that evening, I stopped and thanked the Capitol Police officers who were still on duty. They were still doing their duties professionally, although they were grieving. I happened to go to an engagement that I had that evening and I was late coming back. It didn't conclude until almost midnight. I said, "I want to go back to the Capitol. The midnight shift will have come on now and they are going to take it pretty hard as well." I had a chance to quietly visit with some of the other members of the Capitol Police.

Many of us are trying to find a way to say to those men and women who serve so ably, and sometimes without the recognition that they deserve, that we are grieving with them, that we appreciate what they did, what they continue to do. I suggest to people who might not be a part of the extended family here in the Capitol that all of us feel that if you want to find a way to express your appreciation, stop your local policeman on the street and say "thank you" because they, too, are providing a kind of service that, in many cases, we end up taking for granted; yet, it is critically important. When the chips are down, these folks respond. And as my distinguished colleague from Connecticut noted a minute ago, when many seek cover, that is the time they put themselves directly in harm's way to ensure that access to our Nation's Capitol and the freedom to move about for all of us who benefit from their services goes uninterrupted.

With that, I will close. I just wanted to say to all of those who continue to serve: Thank you. We don't always remember to say that. To the families of J.J. Chestnut and John Gibson, in particular, we share your loss. You are in our thoughts and prayers, and to all who serve us in ways too numerous to count, we do appreciate what you have done for us and what you continue to do for us. We will continue to remember the extraordinary service and the ultimate sacrifice that was made by these two fine officers in defense of our Nation's Capitol.

With that, Mr. President, I yield the floor.

OUR HEARTS GO OUT TO THE FAMILIES OF THE SLAIN OFFICERS

Mrs. HUTCHISON. Mr. President, I just want to say that all of us in the Capitol have one overriding thought in our minds right now, and that is that our hearts go out to the families of the two officers who were slain in the line of duty last Friday.

All of us were in a different place. But I will never forget where I was when learning this tragic news. I had left the Capitol that morning and had returned home to Texas. I was just stunned. And when I learned that these officers had passed away after their injuries, I was heartsick, as all of us were.

There is no question that the Capitol Police are friends to all of us. When I came into the Capitol this morning and saw the black tape across their badges, it all hit. And I want to say there is not anyone here who has worked with these fine men and women who doesn't appreciate every day the job they do protecting all of us and every visitor to the Capitol.

GOD BLESS J.J. CHESTNUT AND JOHN GIBSON

Mr. SARBANES. Mr. President, I want to take just a moment to join those of my colleagues who have already spoken with respect to our profound shock at the death of Jacob "J.J." Chestnut and John Gibson, two Capitol Police officers who lost their lives in the line of duty on this past Friday, and to express my very heartfelt sympathies to their families.

J.J. Chestnut and John Gibson have been engaged over their working careers in the dedicated mission of protecting the lives of their fellow citizens, literally thousands of people who move in and out of the Capitol Building each day, those who work here, those who visit here, both our own citizens and from abroad.

As we all know, on Friday, the people's house, the U.S. Capitol, was violated by a gunman. Officer Chestnut and Special Agent Gibson put themselves on the line, as do all law enforcement officials, each and every day, both at work and, since they are committed to law enforcement, even when they are off work, literally all the time, in order to protect the physical well-being—indeed, to protect the freedoms that so many of us have taken for granted.

In its editorial today, Roll Call, which, of course, as we all know, is the newspaper devoted to reporting the activities on Capitol Hill, said this:

> Sometimes, given the comparative low level of violence around the Capitol complex and given that Capitol Police officers are usually seen cheerfully directing traffic and gently herding tourists, it's forgotten that ours—

Meaning the Capitol Police Force—

> is a real police force. We who live and work around the Capitol know—but others don't—that our police also fight crime in the neighborhood as well as watch the Capitol. But now all of America understands that the Capitol Police do not just stand guard, but also stand ready to be heroes. That knowledge was derived last week at heartrending cost.

We call them heroes today, and they truly are, but Officer Chestnut and Special Agent Gibson were also husbands, fathers, grandfathers—already heroes to their wives, to their children and grandchildren, to their other family members, and to their neighbors who respected them not only for their uniforms but for the laws they vowed to uphold and the lives they protected on a daily basis. It is these loving people they leave behind, having given of themselves to protect the lives of others and in defending one of the great symbols of this democratic Nation, perhaps the preeminent symbol of our democratic Nation—the United States Capitol.

Mr. President, may God bless J.J. Chestnut and John Gibson. They are true heroes, and I join with my colleagues in expressing my condolences to their family members.

DEEP SENSE OF SORROW

Mr. DODD. Mr. President, I join other colleagues of ours who today, and I hope tomorrow as well, will find time to express their deep sense of sorrow over the loss of two of our Capitol Hill police officers last Friday, as well as to express their sincere condolences to the families and friends of these two very fine officers, J.J. Chestnut and John Gibson.

The events of last Friday, July 24, certainly will leave an indelible mark on this community—this Capitol community, if you will—and our Nation. The tragic legacy of this incident will not only be the courage displayed opposing this senseless act of savagery but will also be the premature loss of these two fine, brave men.

J.J. Chestnut and John Gibson were not just courageous officers, they were fine human beings. They were friends of many here and in the House of Representatives. All of us in this Chamber cannot help but take this loss personally, because Officers Chestnut and Gibson worked every day to ensure the safety of each and every one of us in this Capitol Building. I think that every American should look into their hearts and thank these two men for their sacrifices, because they also worked to protect all of those who visit this great Capitol Building, this symbol of democracy, as well as the freedoms which the Capitol represents.

All Americans should give thanks and say a prayer for these two fine men and all of the men and women in uniform throughout our Nation who take that oath to ensure our safety every day. Our police officers are husbands, they are parents and friends, they are neighbors—in many ways, ordinary citizens just like the rest of us. But in one very important way, these individuals are quite extraordinary. Every day when they put on their uniforms, their work clothes, and they say goodbye to their families and go to work, they literally put their lives on the line so that we may enjoy the safety and the freedoms that too often, I think, we take for granted. We describe their actions as heroism, but they simply view them as their duty.

President John Kennedy once said:

> The courage of life is often a less dramatic spectacle than the courage of a final moment; but it is no less a magnificent mixture of triumph and tragedy. A man does what he must—in spite of the personal consequences, in spite of obstacles and dangers and pressures—and that is the basis of all morality.

While we will forever remember Officer Chestnut and Detective Gibson for their actions on July 24, they deserve our respect and admiration not only for the way they performed their duties on that day but for the way they and those who share a similar uniform carry themselves every day throughout their lives—always working in the service of others, with great courage and character.

It is important that we remember not only those who gave their lives but also express our gratitude to those who are left to carry on their mission.

Officers Chestnut and Gibson's colleagues must put these events behind them and carry on with their everyday lives and continue performing the services that are so important. We are all very grateful for the sacrifices they make every day and the commitment to their communities that these men and women display.

It has been ordered that their bodies will lie in state in the Capitol rotunda tomorrow, the same Capitol where they gave their lives in service to their country. This honor is usually reserved for our Nation's most prominent leaders, Presidents, Supreme Court Justices, and Generals. But I know all of us in this Chamber feel that this is an appropriate tribute to the two men whose commitment to their country and their community is surpassed by none.

J.J. Chestnut and John Gibson leave behind loving wives and children. I offer my heartfelt condolences to both families and their friends, and, on behalf of this body, I know I speak for all of our colleagues in saying they will long be remembered for their friendship and their courage.

TRIBUTE TO THE CAPITOL POLICE FORCE

Mr. BENNETT. Mr. President, I wish to make a personal comment about the tragedy that occurred in this building on Friday and add my voice to those that have been raised in tribute to the professionalism, the courage, and the compassion of the members of the Capitol Police Force.

I remember, when I first came to Washington as an intern in 1950 as a student from the university, the Capitol Police Force was affectionately referred to as the "campus cops." It was a patronage job, and people who served on the Capitol Police Force in those days were appointed by their Senators. Usually, they were law students who were going to school at George Washington University that taught the entire curriculum at night. So the Capitol Police could earn their way through law school by sitting at their various stations in the Capitol during the daytime and taking their classes at night. One of the more prominent attorneys in Salt Lake City got his law degree that way and said he did all of his studying at his desk as a Capitol policeman and commented, "If I had ever been called upon to draw my weapon, I wouldn't have known what to do. I would have been scared to death if anybody had ever confronted me in my position as a policeman."

That was the situation 40, 45 years ago. The professionalism of those who did draw their weapons and handled them expertly in the crisis that occurred last Friday demonstrates how far we have come and how great a debt those of us who labor here, hopefully doing the people's business, have to those who have produced that kind of professionalism and produced that kind of change from what we once had. It is a sad commentary that we need this kind of professional force and we don't have the kind of society that could get by with "campus cops" of the kind that were here that many years ago, but it is comforting to know, in the face of that need, we have people of the caliber that we do have serve us. I add my voice to those that have been raised in tribute to those who serve us in that capacity.

TRIBUTE TO OFFICERS CHESTNUT AND GIBSON

Mr. MURKOWSKI. Mr. President, I rise to pay tribute to the memory of the two Capitol Hill Police officers who gave their lives in the line of duty Friday afternoon.

Jacob J. Chestnut and John Gibson were dedicated officers whose deaths are mourned by all of us on Capitol Hill, and by many across America.

A sense of genuine grief grips us as we come to terms with the tragedy that unfolded in our midst on Friday. At the same time, we stand in awe of the heroism they and other officers displayed in ending a gunman's rampage and saving the lives of innocent citizens.

Jacob Chestnut and John Gibson were committed to the United States, having sworn to protect lawmakers, citizens, and the peace as Capitol Police Officers. While I did not have the honor of knowing them personally, I am truly grateful for their dedication and service—as well as the dedication and service of all who serve as police officers.

As a father of six and grandfather of eleven, I know how important family is. The loss of a son, father, husband, and friend is devastating. My thoughts and prayers and those of my wife Nancy are with those who knew and loved these two quiet heroes.

Officer Gibson has left behind his wife, Evelyn, and three children. While the loss of Officer Gibson as a father and husband is immeasurable, I know his memory will be a source of strength for his family.

Officer Chestnut is survived by his wife, Wen-Ling, and five children: Joseph Chestnut, William Chestnut, Janet Netherly, Janece Graham, and Karen Chestnut. Grief has surely stricken this family and the death of their cornerstone can never be as deeply felt by others, but Officer Chestnut died a hero, protecting his country as he had sworn to do both during his years in the Air Force and as a Capitol Police Officer.

Mrs. Chestnut, Mrs. Gibson—please accept our condolences are prayers. We are all indebted to both your husbands for their dedication and their selfless, heroic acts.

I yield the floor.

IN HONOR OF LIEUTENANT GENERAL DAVID McCLOUD

Mr. MURKOWSKI. Mr. President, I rise today to speak about another very tragic incident which took place this last weekend. Yesterday, Lieutenant General David J. McCloud, commander of all the military forces in Alaska, was killed when his YAK-54 stunt plane went down over Fort Richardson. Lewis Cathrow, of Alexandria, Virginia, was also killed in this tragic crash.

I had the pleasure of knowing David McCloud; although not nearly as well as I would have liked. He and his wife Anna came to Alaska this past December, when he took over as commander of the Alaskan command. As some of my colleagues may be aware, this post carries the distinction of being responsible for all of the more than 21,000 active duty and reserve personnel from all branches of the Army, Air Force, Navy, and National Guard in Alaska. But it also means that he is a key member of our community. And, Mr. President, this is how David should be remembered, as a member of our community.

David McCloud died doing what he loved—flying. Before he took the post in Alaska, he told me of his plan to purchase a stunt plane, and how he had flown virtually every type of plane in our Air Force fleet, including the B1-B bomber and most of the fighter models used by our Air Force during the last 30 years.

General McCloud will be sadly missed by many. My deepest condolences go out to his wife, Anna, and to his family and friends. They will be in my thoughts and prayers during this difficult time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there a further request for morning business?

If not, morning business is closed.

CREDIT UNION MEMBERSHIP ACCESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 1151, the Credit Union Membership Access Act, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 1151) to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gramm amendment No. 3336, to strike provisions requiring credit unions to use the funds of credit union members to serve persons not members of the credit union.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Nebraska is recognized.

AMENDMENT NO. 3337

(Purpose: To amend the bill with respect to limits on member business loans, the definition of a member business loan, and experience requirements for member business lending)

Mr. HAGEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. HAGEL], for himself, Mr. NICKLES, Mr. ROBERTS, Mr. HELMS, Mr. SHELBY, Mr. ENZI, and Mr. GRAMS, proposes an amendment numbered 3337.

Mr. HAGEL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, strike lines 12 through 21 and insert the following:

"(a) TOTAL AMOUNT PERMISSIBLE.—

"(1) IN GENERAL.—On and after the date of enactment of this section, no insured credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the minimum net worth required under section 216(c)(1)(A) for a credit union to be well capitalized.

On page 55, strike line 10, and insert the following:

"(c) EXPERIENCE REQUIREMENT FOR MEMBER BUSINESS LENDING.—Beginning 3 years after the date of enactment of this section, each employee or related person of an insured credit union shall have not less than 2 years of direct professional experience in the member business lending field before making or administering any member business loan on behalf of the insured credit union.

"(d) DEFINITIONS.—As used in this section—

On page 56, strike lines 1 through 5.

On page 56, line 6, strike "(iv)" and insert "(iii)".

On page 56, line 12, strike "(v)" and insert "(iv)".

Mr. HAGEL. Mr. President, I am offering this amendment today on behalf of myself, Senators BENNETT, NICKLES, ROBERTS, HELMS, SHELBY, ENZI, and GRAMS.

Before I address this amendment, I want to say that I am grateful, as all our members on the Banking Committee, for Chairman D'AMATO bringing this important piece of legislation up, focusing on it with some dispatch, getting it out of committee and onto the floor of the Senate. Also, I wish to thank the ranking member of the Banking Committee, Senator SARBANES, for his leadership as well.

As I suspect, both Chairman D'AMATO and Senator SARBANES are not going to agree with my amendment. Nevertheless, I am grateful that they have focused on this issue and provided the kind of leadership that is important on these financial service matters.

Mr. President, I support credit unions and the cost-efficient service they provide to their members.

Our amendment, which we are offering today, is not designed to hurt credit unions. To the contrary, our amendment is designed to keep credit unions strong, secure, and focused on their special role of serving consumers. It does that by preventing the unchecked expansion of credit unions into commercial lending. Currently, there are no limitations on how much commercial lending in which a credit union may engage.

Let me emphasize that our amendment does not prevent credit unions from making commercial loans.

Our amendment has essentially three main points:

First, we would lower the commercial lending cap contained in H.R. 1151 from 12.25 percent of a credit union's assets to 7 percent of a credit union's assets. This would establish for the first time a cap on commercial lending by credit unions. But the cap currently contained in H.R. 1151 is arbitrary, and because of an accounting loophole, is essentially meaningless.

We share with the authors of H.R. 1151 the belief that credit union commercial lending should be limited. But we also believe those limits should be relevant and be meaningful. The 12.25 percent of assets commercial lending cap now in H.R. 1151 is completely arbitrary. Our amendment's 7-percent cap is tied directly to the amount of capital that H.R. 1151 requires a "well-capitalized" credit union to keep in reserve.

Let me explain what this means.

Credit unions, like all other financial institutions, are required by their regulators to keep a certain amount of ready capital on hand as a cushion in case of hard times—a sort of "rainy day" fund. H.R. 1151 would, for the first time, establish a target amount of capital that a well-capitalized credit union should keep in reserve, and would prohibit credit unions from making commercial loans if they fall too far below that target. By tying commercial loans dollar for dollar to capital reserves, we strengthen the safety and soundness of credit unions that choose to engage in business lending. We must make sure that credit unions cannot risk more of their loan portfolio on commercial ventures than they have reserve capital ready to back up the loans if those loans go bad.

We protect the consumer. We protect the credit union members. Credit unions would have a 3-year grace period to comply with this cap.

Our amendment will help H.R. 1151 to better achieve its main purpose, which is described, by the way, in the Banking Committee report on H.R. 1151. This is the actual language coming out of the Senate Banking Committee. And I quote:

> . . . [to] ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, through an emphasis on consumer rather than business loans.

Second, our amendment would require that all of a credit union's commercial loans must count toward its cap.

Current National Credit Union Administration policy, which would be codified by H.R. 1151, excludes any commercial loans made to a single member that totals less than $50,000 from being counted as commercial loans.

Mr. President, you heard it right. That is right. Current regulations, which H.R. 1151 would codify, say that a commercial loan is not a commercial loan if it is less than $50,000.

With this loophole, there is no accurate, full, or honest accounting for commercial lending in credit unions. This makes no sense. No other financial institution enjoys this sort of charade and slight of hand. This loophole makes any commercial lending cap meaningless, because it permits an unlimited number of commercial loans so long as each of those loans is less than $50,000.

Our amendment would require truth in accounting—truth in accounting—for all commercial loans.

Third, our amendment codifies current NCUA policy that requires a credit union to use qualified personnel to administer commercial loans. Our language states that a commercial loan officer must have 2 years experience in his field. This is a commonsense provision that needs to be codified. For those smaller credit unions that feel this would be a new regulatory burden, there are three responses.

We are simply codifying current NCUA policy, and we provide a 3-year phase-in for compliance with this provision. The experience requirement will not force credit unions who make a few small commercial loans to hire a full-time staffer. The NCUA's general counsel has stated that this requirement could be met by hiring contract assistance on a case-by-case basis.

This is a very basic safety and soundness provision.

Let me be very clear about what our amendment does not do.

Our amendment does not—does not—restrict credit for farmers, small business owners, or low-income areas that rely on credit unions.

That's because H.R. 1151, as reported by the Banking Committee, already contains several generous exceptions to the commercial lending cap—and our amendment does nothing to change these important exceptions. The four exceptions are:

First, a credit union that is primarily engaged in business lending, which includes agricultural and small business lending, will not be subject to the commercial lending cap. That means those credit unions that qualify for this exemption can make agriculture or small business loans without any limits.

Second, a credit union that is chartered for the purpose of business lending will not be subject to the cap. This means an agriculture co-op credit union would be exempt from the cap.

Third, a credit union that serves predominantly low-income members will be exempt from the cap. This ensures that low-income areas, many of them located in urban areas, are not hurt by the new commercial lending restrictions.

Fourth, a credit union that is determined to be a "community development financial institution," as defined in existing banking law, will be exempt from the cap. This exception is intended to help low-income community development efforts across the Nation.

Mr. President, only 13 percent of the 11,400 credit unions across this country, including Federal- and State-chartered, have any commercial loans at all. That is according to the Credit Union National Association.

Our amendment has absolutely no effect on the other 87 percent of credit unions that choose not to make commercial loans.

And even of that 13 percent of credit unions that are in the commercial lending business, the vast majority will not be restricted by the 7 percent of assets cap that our amendment proposes. That is because commercial loans currently constitute only 1 percent of total credit union assets, according to the Credit Union National Association.

Why should credit unions be subject to a meaningful commercial lending cap? There are several answers to that question.

First, credit unions, as stated in the preamble of the Federal Credit Union Act of 1934, were created by Congress to make, and I quote from the preamble: "credit more available to people of small means." To achieve this goal, Congress exempted credit unions from paying Federal income taxes. Credit unions do not pay any Federal income taxes. When thrifts were exempt from income taxes before 1952, Congress prohibited them from making any commercial loans because of their tax-exempt status.

A second reason to have meaningful limits on commercial lending is to ensure fair competition—competition between small banks and credit unions in the commercial lending arena. Credit unions' tax exemption allows them to offer lower interest rates on loans and higher interest rates on savings accounts and certificates of deposit.

The third reason to have meaningful limits on commercial lending is to protect taxpayers by ensuring the safety and soundness of the credit union system. The Federal Government stands behind each credit union depositor, insuring deposits up to $100,000. If a serious financial crisis in the credit union system depleted the Credit Union Share Insurance Fund—which is Federal deposit insurance for credit unions—then the Federal Government would have to step in with taxpayer funds to protect depositors against loss.

I have several concerns about credit union safety and soundness:

First, unlike banks and thrifts, credit unions—as non-profit entities—cannot issue stock to replenish their capital reserves during hard times. That's a real weakness when a quick capital infusion is needed—such as during a time of defaults, such as during the 1980s when we all recall the tragedy of the S&Ls, when capital levels fell quickly and new capital was required immediately.

Second, we've seen commercial loans put credit unions in danger before. Rhode Island experienced a credit union crisis in 1991 that resulted in the failure of a State-chartered private deposit insurance fund. The crisis was, in part, caused by excessive and risky commercial lending. Thirteen of the State's credit unions were permanently closed, and the state sought Federal assistance to repay depositors.

Third, by their own admission, credit unions make loans to those who don't qualify for credit at banks.

This is their strength. This is the strength of a credit union, serving those who do not receive service at traditional financial institutions. However, this is also a very important area of concern, because this means credit unions are many times making very high risk loans to people whose credit history makes them ineligible for loans elsewhere.

Fourth, all banks and thrifts are required to abide by risk-based capital standards. This means they must set aside more capital, depending on how risky their loans are. Unfortunately, credit unions don't have risk-based capital standards today. Now, H.R. 1151 makes a weak, valiant but weak, attempt to address this issue by regulating capital standards for "complex credit unions," but that effort is neither clear nor meaningful. That is why our 7-percent-of-assets cap, which ties credit union commercial loans dollar for dollar to capital reserves, makes sense. This protects the credit union members whose money is at risk.

In summary, our amendment strengthens the safety and soundness of credit unions with open and honest accounting. It brings market fairness to the relationship between tax-exempt credit unions and tax-paying small community banks, and it refocuses the original intent of credit unions on consumer loans and services. I hope my colleagues will support this important amendment.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Utah is recognized.

Mr. BENNETT. I thank the Chair.

Mr. President, let me give you a little history as I see it with respect to this bill and why this amendment, in my view, makes sense.

We are here because the Supreme Court has ruled that the NCUA, the regulatory body dealing with credit unions, has been misapplying the law since 1982. The Supreme Court in response to lawsuits that were brought before it has ruled that credit unions have grown in violation of the law, or have engaged in actions that are a violation of the law since 1982.

Since those credit unions were following the dictates of the NCUA, their regulator, it would be unfair to penalize the credit unions; they were playing by the rules as they understood them. And when the rulemaker itself was the agency that was making a mistake, it is not fair to penalize the people who followed those rules. But we have to change the rules if they have been improperly applied, and that is what the result of the Supreme Court decision has presented us.

We have decided, as a Congress, that we are going to change the rules, that we are going to now codify that which has been done since 1982, and I think it is right and proper that we do so. I am in favor of doing that, however much that may disappoint the banks that were hoping that with the winning of this lawsuit they could turn the clock back to 1982. But we cannot. We must say that those who have appropriately opened accounts at credit unions will have those accounts protected, and that we will not turn the clock back that many years.

As we have done this, we have raised the maximum size of an employee group which is eligible to affiliate into a multiple common bond credit union from 500 to 3,000. That is a sixfold increase, and the 3,000 employee threshold encompasses 99 percent of all businesses in America. There are only 16 private companies in my entire State that employ more than 3,000 people. So this is a major step forward to support and encourage the credit union movement, and I believe it is the real heart of the bill that is before us, and I support this activity.

But in the process of dealing with the Supreme Court ruling and making the change about the maximum size of employee groups, the Banking Committee has taken a look at the credit union situation overall and has come to the conclusion, rightly in my view, that in order to protect the safety and soundness of credit unions, there should be a limit on the amount of commercial loans that credit unions make.

The only controversy that we have with respect to the amendment before us is not should there be such a limit but, rather, where should the limit be. As it came out of the committee, the limit was at 12.25 percent of assets, and I supported that. But I recognized that it needed to be looked at more carefully, and as I have looked at it more carefully, along with the other Senators who have cosponsored this amendment, I have come to the conclusion that the limit should be slightly less than the 12.25 that was in the bill from the committee. It should be at 7 percent, which is the amount set aside by regulation as to credit union capital.

Why the lower amount? Well, there are several reasons. One of them that Senator HAGEL has already addressed has to do with safety and soundness and the experience in other States, specifically Rhode Island that had some serious difficulties. We don't want a repeat of those difficulties, and a lower limit is a greater bulwark against those difficulties than the one which is higher.

I am interested that the telephone calls we get in our office as this amendment gets talked about out in the credit union world almost always follow the same dialog.

They say, "Why is Senator BENNETT proposing an amendment that the credit unions don't like? We thought he supported credit unions."

Then the member of my staff answering the call said, "Senator BENNETT is supporting an amendment that would put a limit on commercial loans."

Then the caller said, "But credit unions don't make commercial loans."

Which then puts us in the position to say, "If that in fact is true, why do you object to a limit?"

Most credit union people who talked to me believe that credit unions make loans only to individuals. And the credit unions that have come to see me from the State of Utah have all stressed the fact that commercial lending is a very small percentage of their business. Indeed, they say, "No, we do not go above 5 percent of our total capital involved in commercial loans."

And, to them I say, once again, "If you don't go above 5 percent, why would you object to a limit that is at 7 percent? You can continue to do exactly what you are doing under the Hagel amendment, with no difficulty."

Then, finally, one of them who was seized with a burst of candor cornered me when I was in the State this last time and said, "We want to grow our commercial loan business, and if you put in the 7 percent cap that you are talking about, we will hit that within a matter of months. We are growing very rapidly. We want the cap higher so we can grow beyond that level."

This gentleman—and I use the word "gentleman" appropriately, because he certainly was in the way he handled himself in our conversation—has, as his background, a career in commercial banking. He, for reasons good and sufficient unto himself, decided he was going to leave the bank that he had worked at most of his life and go to work for a credit union.

Naturally, the thing he wanted to do with his new employer is use his skills to the very best advantage. And since his whole history is in growing commercial loans at the bank for which he had worked, he decided he would now work to grow commercial loans in the credit union where he worked. And he has been very successful. The credit union portfolio of commercial loans under his direction is growing rapidly, growing rapidly to the point that, as I say, if you put a cap at the 7 percent we are talking about with this amendment, his credit union will hit that within a matter of months. And he said, "Can't you stick with the 12.25 percent that came out of the committee, because we will not hit that for maybe a year or so?"

So, as I said, the issue is not, should we have a cap; the issue is only where should it be. And, because he wants, naturally and properly, to see the amount of portfolio that he is overseeing grow to as big an amount as it possibly can, he wants the cap to be as high as it can. I am very sympathetic to him and, to be honest, I don't think there is a safety and soundness problem in his institution. I think he is properly trained as a banker, so that he can handle commercial loans in a credit union atmosphere and do very well.

But the public policy issue that we have to decide here on this floor is, do we want credit unions in that kind of business in a major way? The 12.25 percent limit in the bill that came out of the committee answers that question, "Yes." That is a fairly major involvement for credit unions. And we run the risk of having those who are not equipped with former commercial bankers, like the man who talked with me, going up to that limit and endangering the savings and the assets of their other members.

One of the aspects of the amendment that is before us to which credit union representatives object says that, if you are going to make commercial loans, you have to have someone in your organization who has at least 2 years of business lending experience—in other words, someone like the man who came to see me while I was back in Utah, who clearly had plenty of years' experience.

Again, I am interested that credit union representatives object to this requirement at the same time they insist they are not in the business of making commercial loans. You cannot have it both ways. If, indeed, you want to get in commercial lending in a big way, you ought to have the requirement that you have someone with experience in commercial lending in a big way. You can't say, "We want a higher limit for the amount of commercial lending we can do, but we want no requirement that we have anybody around who understands commercial lending." This is a recipe for the kind of thing that the Senator from Nebraska has described as already happening in some States.

So, I come back to the basic issue before us: What should be the proper public policy role of credit unions in the financial services mix? I believe credit unions have earned an honored place in that mix. I believe they have demonstrated for the last 60 years that they provide a vital function and that they should be encouraged to continue that vital function, and, indeed, in that function they should be encouraged to grow, and we should create a circumstance in which they can grow and prosper. I believe that this bill does that.

But the policy question is, Should we as a Congress, while fixing the problems created by the Supreme Court decision, at the same time encourage them to grow in a field where, by their own statements and admissions, they have not been in the past? Should we use this bill setting aside a Supreme Court decision as the vehicle to encourage new ventures on the part of credit unions that are ill equipped for those ventures? I think the answer is no, we should not. And, therefore, after studying the matter between markup and the full committee and the floor, I join with Senator HAGEL in saying the limit level should be lower rather than higher with respect to the amount of involvement credit unions should have in commercial lending.

I don't understand why they object to the lower level, because they themselves tell me, "We are not interested in commercial lending. That is not our bread and butter. That is not our area of expertise. That is not what we are doing."

And then I say, "Then why do you object if we put a situation in place that keeps you in your traditional area?"

Finally, I share this one last thought with you, Mr. President. With respect to how important this amendment is to credit unions, in the May 29 National Journal's Congress Daily, the NAFCU vice president, Pat Keefe, is quoted as saying, "From our point of view, this is not major."

Mr. Keefe was referring to an amendment that would have imposed tighter restrictions than the one we are talking about. I think he speaks for the vast majority of credit union members who have been in touch with my offices. This is not major for them. I think it is significant for the community banks. I think it is a responsible decision for us to take.

Let me make it clear, if we do not agree to this amendment, I will still support the bill, as I did in the committee, where it had a limit at 12.25 percent. Just because I think the 7 percent is more prudent does not mean that I think this is a deal killer. So, in that sense I guess I am signaling, "This is not major." But, to me, it is major because it is a demonstration of where the public policy ought to be with respect to the thrust and main direction of the credit union movement. They think it is not major. To me, it is. I hope we agree to this amendment.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I rise in strong opposition to the amendment submitted by the Senator from Nebraska.

I don't believe that the Senator intends to hurt the credit unions, but I think an unintended consequence of his amendment will impose some very real burdens, burdens on 4,000-plus credit unions, the small mom-and-pop credit unions, by including in that cap those loans that are made for $50,000 and under. And, indeed, they are made to the members who want to start businesses, who have an idea, and they believe, given sufficient capital, they can go out there and take an entrepreneurial idea, or maybe they have been working for someone and want to start that business with a small loan. Who better to know and judge than a fellow member? Indeed, it requires a burden as it relates to the kind of people who will now have to be utilized to make that loan. That is a burden. Are we now going to be getting in there, micromanaging the small, well-capitalized credit union with better than 7 percent, 8 percent, 9 percent? I think that this will have an unintended consequence. I know it will. I have heard from people inside credit unions. They have told me.

Now, Mr. President, people will ask, how do we get to 7 percent? And, by the way, how did we get to 12.25 percent? Those are interesting questions. Who determines where a credit union s business lending should or shouldn't stop? Let's start with the history of this provision.

There was no limitation, Mr. President, none whatsoever, prior to the markup. There wasn t any in H.R. 1151. We approached this in the best way we could. There were no risk-based standards. For the first time we set them up, and we say 7 percent for well-capitalized. That was never intended to be the criterion—to say, "Therefore, you can only make commercial loans up to 7 percent."

To take one application when we, for the first time in the history of the credit union movement, say, "Well-capitalized, 7 percent; adequate capital, 6 percent; and, by the way, if you go under that 6 percent, you can't make any commercial loans," I think that is a tremendous step, because we recognize we can't do business as usual. We want to protect the taxpayer, and that is exactly what we did.

We came up with 12.25 because we did not want to create chaos, and we wanted to give those who were involved in commercial loan activity an opportunity to disengage without creating a problem that would be difficult, if not impossible, to handle. By setting that, there will still be a significant number at 12.25 percent. There will be 85 institutions that make 5,400 loans for $250 million, and they will be given 3 years to comply with the cap. So we looked at institutions, and we looked at the numbers of members and we arrived at a number.

The amendment at the desk, in addition to creating a burden that is going to be very difficult for small credit unions to make in terms of who can and can't grant these business loans, it now picks up an additional number of institutions. Mr. President, 177 already exceed the cap. We are talking about well-capitalized institutions that are making loans, have been making loans, and don't have problems, and because we arbitrarily come to 7 percent—and I say "arbitrarily." There is no reason to suggest again that because we deem a bank to be well-capitalized at 7 percent, therefore, we should cap the whole industry at 7 percent. I don't understand it. We will now throw 8,700 of those loans, $360 million, and 177 institutions into an area where they have to begin to disengage to get under this arbitrary number. And it is arbitrary.

We worked with the credit unions for quite a while and with the administration in attempting to come to a number. They weren't happy about our imposing these standards, but we did because it was the right thing to do to protect the taxpayer.

Let me say this to you. Let's look at the totality of this. The unintended consequences of this are going to say, where we have some well-run institutions that are providing their members and their community with these loans and, obviously, there is a need for them, that we are going to preclude them and say, "Oh, no; just 7 percent."

Heretofore, we had no limit. I think really we can second-guess everybody and anything, and we can make an appeal to the community bankers: "We're your best friends, because look what we did." Do I really think that is what we should be engaging in? I hope not. Only 13 percent of all of the institutions—that is, 1,551 out of 11,000—make these loans.

Let me leave you with one last thought. If every institution were able to—and I am talking about every credit union, all 11,000, recognizing that only 13 percent make commercial loans—were to be engaged in business lending, the total would come to something under $40 billion nationwide by 11,000 institutions.

Come on, I say to my colleagues, let's be serious. What are we trying to do here? That would be approximately 3 percent of all the commercial loans, $1.1 trillion in commercial loans that are out there.

What are we doing? What are we saying? I think what we are doing is trying to say we are the friend of the community banker, and this is what we are going to do, we are going to be limiting these folks. Instead of saying we have limited, instead of saying this bill does now limit, this bill does have criteria which we never had before, we are going to one-up it, and that is not going to help.

You may say the credit unions will accept this. I have to tell you, we will go to conference, and little does one know what will take place when we get into that conference. I would like to avoid that. I would like to say we have done something that even the Secretary of the Treasury has supported in his letter to Majority Leader Lott.

Mr. President, I ask unanimous consent that this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of the Treasury,
Washington, DC, July 13, 1998.

Hon. Trent Lott,
Majority Leader, U.S. Senate,
Washington, DC.

Dear Trent: I appreciate your scheduling H.R. 1151, the Credit Union Membership Access Act, for Senate floor action beginning July 17. I am writing to urge expeditious Senate passage of the bill—as approved by the Banking Committee on April 30—without any extraneous amendments.

In revising the statute governing federal credit unions' field of membership, the bill would protect existing credit union members and membership groups, and remove uncertainty created by the Supreme Court's AT&T decision.

The bill's safety and soundness provisions would represent the most significant legislative reform of credit union safety and soundness safeguards since the creation of the National Credit Union Share Insurance Fund in 1970. The bill would institute capital standards for all federally insured credit unions, including a risk-based capital requirement for complex credit unions. It would create a system of prompt corrective action—specifically tailored to credit unions as not-for-profit, member-owned cooperatives. It would also take a series of steps to make the Share Insurance Fund even stronger and more resilient.

These reforms involve little cost or burden to credit unions today, yet they could pay enormous dividends in more difficult times.

The bill rightly reaffirms and reinforces credit unions' mission of serving persons of modest means. Section 204 would require periodic review of each federally insured credit union's record of meeting the needs of such persons within its field of membership. This requirement is flexible, tailored to credit unions, and will impose no unreasonable burden. It rests on the Congressionally mandated mission of credit unions and on the benefits of federal deposit insurance. Such deposit insurance gives credit union members ironclad assurance about the safety of their savings, and thus helps credit unions compete for deposits with larger, more widely known financial institutions (just as it helps community banks and thrifts). Section 204 is particularly appropriate in view of how the bill liberalizes the common bond requirement and thus facilitates credit unions' expansion beyond their core membership groups.

Finally, I would like to comment on the safety and soundness of credit unions' business lending. Credit unions may make business loans only to their members, and cannot make loans to business corporations. Under the National Credit Union Administration's regulations, each business loan must be fully secured with good-quality collateral, the borrower must be personally liable on the loan, and business loans to any one borrower generally cannot exceed 15 percent of the credit union's reserves. Credit unions' business loans have delinquency rates that are comparable to those on commercial loans made by community banks and thrifts, and charge-off (i.e., loss) rates that compare favorably with those of banks and thrifts. We believe that existing safeguards—together with such new statutory

> protections as the 6 percent capital requirement, the risk-based capital requirement for complex credit unions, and the system of prompt corrective action—represent an adequate response to safety and soundness concerns about credit unions' business lending.
>
> We look forward to working with you and other Senators to secure expeditious passage of a clean bill.
>
> Sincerely,
>
> ROBERT E. RUBIN.

Mr. D'AMATO. The letter is addressed to Senator LOTT, the majority leader, with copies sent to myself and Senator SARBANES, the ranking member. He concludes by saying:

> We believe that existing safeguards—together with such new statutory protections as the 6 percent capital requirement, risk-based capital requirement for complex credit unions, and the system of prompt corrective action—represent an adequate response to the safety and soundness concerns about credit unions' business lending.

Mr. President, I believe the 7 percent will constitute a very real and severe burden and hardship. As I mentioned, 85 credit unions already exceed the cap. It is mischief making. The unintended consequences will not improve the safety and soundness of credit union operations. That is just not the case.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I will be very brief, but I want to follow on the chairman in expressing my opposition to this amendment. The chairman just quoted from a letter from Secretary Rubin, but I would like to expand that quotation a bit. In his last paragraph, Secretary Rubin said:

> Finally, I would like to comment on the safety and soundness of credit unions' business lending.

So he addressed this very issue.

> Credit unions may make business loans only to their members, and cannot make loans to business corporations. Under the National Credit Union Administration's regulations, each business loan must be fully secured with good-quality collateral, the borrower must be personally liable on the loan, and business loans to any one borrower generally cannot exceed 15 percent of the credit union's reserves. Credit unions' business loans have delinquency rates that are comparable to those on commercial loans made by community banks and thrifts, and charge-off (i.e., loss) rates that compare favorably with those of banks and thrifts. We believe that existing safeguards—together with such new statutory protections as the 6 percent capital requirement, the risk-based capital requirement for complex credit unions, and the system of prompt corrective action—represent an adequate response to safety and soundness concerns about credit unions' business lending.

It is important to note, of course, that the Secretary is speaking with the benefit of an 18-month—actually, the distinguished Senator from Utah was the one who put the requirement in in the previous piece of legislation for the Treasury to undertake such a study. That study came in a few months ago and then was available to the Treasury, in terms of making recommendations as we address this legislation, and available, of course, to the Members of the Congress.

The Secretary pointed out in his letter:

> The bill's safety and soundness provisions would represent the most significant legislative reform of credit union safety and soundness safeguards since the creation of the National Credit Union Share Insurance Fund in 1970. The bill would institute capital standards for all federally insured credit unions, including a risk-based capital requirement for complex credit unions. It would create a system of prompt corrective action—specifically tailored to credit unions as not-for-profit, member-owned cooperatives. It would also take a series of steps to make the Share Insurance Fund even stronger and more resilient.
>
> These reforms involve little cost or burden to credit unions today, yet they could pay enormous dividends in more difficult times.

Mr. President, I think it is important to note that this legislation, as it came to us in the committee, had no limitations. And under the current law and regulations, there are no limitations. So what the committee is doing here is putting in a limitation where none had heretofore existed. So it is not as though the committee simply ignored the assertions that are now being made. The committee reached a decision and struck a balancing point. And that is what is reflected in the legislation.

But as I said, this does place statutory restrictions on member business loans for the first time. In fact, undercapitalized credit unions would not be permitted to increase their net commercial lending. In fact, the restrictions that are in this legislation are tighter than what now applies under the regulations of the National Credit Union Administration.

These loans can only be made to members, not to an outside business corporation. This is consistent with the credit union's mandate to provide services to members, not a broad array of customers, and in and of itself places a significant constraint on credit union commercial lending overall.

I understand the arguments that are being made. I think the committee reached a reasonable process. The $50,000-loan issue, I think, is an important one in terms of the requirements placed upon credit unions. In fact, it is the NCUA, under its regulations, that determines that the dollar amount of risk is very small, small enough that they have regulations that excluded loans less than $50,000 from being counted as a member business loan.

This is the current state of affairs. There are not all that many such loans. But for some credit unions, it is quite important in terms of their member activities. It also avoids the necessity of trying to separate out what is a commercial loan and what is a business loan.

If you buy a pickup truck and use it for business activities, does that then become a commercial loan? And how would the credit unions have to address those kinds of questions?

I say to my colleagues, recognizing the issue that is being raised by the amendment, I simply say that the committee was not oblivious to this issue. We tried to address it, I think, in a sensible and balanced and forthright way. That is why we have the limitations that are contained in the legislation that is before us.

I urge my colleagues not to alter those limitations and, therefore, to reject this amendment.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The distinguished Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I appreciate the comments made by the chairman and the ranking member of the committee. They underscore my earlier statement that the issue here is not, should we have a limit on commercial lending, but rather, where should it be and what should its terms be?

I agree with the Senator from Maryland that the committee did, indeed, address this; did come to the conclusion there should be some limits on commercial lending, and reached a compromise position that made it possible for us to unanimously report the bill with this limit in it.

Mr. SARBANES. Would the Senator yield for a moment?

Mr. BENNETT. Yes, I am happy to.

Mr. SARBANES. I want to make the observation that I think there are some of my colleagues who believe there should not be any limits.

Mr. BENNETT. I accept that correction.

Mr. SARBANES. The committee crossed that threshold, as it were, by its decision. And I would reflect that here. I do think there are some of our colleagues in this body that do not think there should be limits. They do not concede the point that the Senator is making.

Mr. BENNETT. I thank the Senator from Maryland. I think he is correct that there are some in the body who do not think there ought to be a limit.

If I could just make one comment, the reason there is no limit now is because the original drafters of the legislation creating credit unions never conceived there would be any commercial lending by credit unions. It reminds me a little of the old story, "Please Don't Eat the Daisies," where the kids said, "Well, you never told us not to." And the mother said, "It never occurred to me that you would, and therefore, I didn't give you those restrictions in the first place."

But now it has started. I think the committee has rightly and properly said, we want to keep credit unions focused in the area where they have traditionally been focused, providing the service they have traditionally provided. We are going to allow some commercial lending because they have gotten into that area.

But there is empirical evidence that credit unions can get in trouble with their commercial lending. We want to take advantage of that evidence and put a limit on it. So the question is, Should the limit be 12.25 percent? Should it be 7 percent? And should the $50,000 exemption continue?

I realize in responding to the Senator from Maryland that the $50,000 threshold does put some new unchartered territory on this issue. We do not have as much information as we would like. But I will share with the Senate the information that we do have.

During 1992 and 1993, the NCUA required credit unions to collect information on business loans under the threshold, which at that time was $25,000 rather than $50,000. I think it goes to the issue that the chairman raised about the burden that would be placed on credit unions to deal with this kind of requirement. There has been a period in our history when it was there. The NCUA used its authority to put that requirement in place.

During 1992, the only year for which we have complete information, total business loans both above and below the threshold were 1.62 percent of the total outstanding loans. In other words, once again, the credit unions were saying, by their actions, "We are not primarily involved in commercial lending." Of this 1.62 percent, loans above $25,000 constituted 1.42 percent, with loans under $25,000 constituting the remaining .20 percent.

I think this tells us that the terms of this amendment can be adhered to. I think we have some past experience that says this will not be a burden and particularly, again, this will not be a burden on the small credit unions who do not do this anyway. All we are really saying to them is we do not want you to do it, we do not want you to get into territory that could cause you difficulty.

The question has been raised, How about buying a pickup truck? Is that a business loan or a personal loan? In the hearings some of the credit union representatives said to me, "Senator, you have to understand, in a credit union every single commercial loan is backed by the personal guarantee of the individual members of the credit union." And I said—and I repeat here on the floor—"I have borrowed a lot of money in my lifetime. I borrowed it from commercial banks. I borrowed it for commercial reasons. And in every single instance, I have had to make a personal guarantee. In every single instance, the bank wanted my personal guarantee. Sometimes they wanted my wife's personal guarantee. Sometimes I had the feeling they wanted the promise of our first-born child if we didn't produce—even though this was a business loan—the repayment appropriately."

So the credit unions are not giving us anything specifically different when they say these are loans only made to members, and they have the members' personal guarantee. That is standard business practice everywhere across the board.

As I said before, for me, this is a public policy debate of, what is it we are trying to do in terms of shaping the direction of the financial services industry?

As I have said many times before, the financial services industry regulatory framework was created at a time when everybody knew where they were—credit unions were a very specific niche. They knew what they did. Commercial banks were a very specific niche. They knew what they did. The same is true of insurance companies and stockbrokers and savings and loans. Everybody had a clear understanding and nobody competed across those lines.

Today, the competition runs across lines everywhere—insurance companies hand out checkbooks. I told a story before when my father died, we notified the life insurance company of his death and awaited a check of the face value of his insurance policy. Instead, we got a checkbook with a notice saying, "This money has been deposited in this account as of the date of your husband's death"—it was addressed to my mother—"Here is a checkbook. You may write checks on that account and interest will accrue from the date of your husband's death." In other words, don't be in a big hurry to take your money away from the insurance company; use it as you would a checking account.

When I purchased some stocks in one situation and I wanted to redeem those stocks under the old regulatory pattern that I was familiar with, I had to go down to the broker and the broker would give me a check. "No, no, no, no, no," the broker says, "we will give you a checkbook and you can write checks up to the value of your margin account against the margin value of your stocks"—clearly crossing the lines between banks, brokers, and insurance companies and so on.

Now, we are beginning to say we have to create a new regulatory structure for the new reality of the financial services world. We recognize that everybody is in everybody else's business. All we are debating here on this floor is to what degree do we want credit unions to get out of their traditional business into the commercial lending business. I am not sure that says they should make no commercial loans. I think that is appropriate, particularly for the larger and more stable institutions to which the chairman has referred. But as a matter of policy, I think we are saying, I hope we are saying in this amendment, we want credit unions to stay where they have been traditionally.

If we say, "No, the credit unions should get into commercial lending in a big way," then at some point we are going to have to address the issue of taxation. We have not done that in this bill. We should not do that in this bill. It would not be appropriate in this bill. But as a public policy matter, if credit unions are going to get into commercial lending in a major way, the Congress is going to have to address the reality of the tax subsidy that they currently enjoy. I would just as soon avoid that question for awhile. I think keeping the credit unions in a more limited area of commercial lending will help us do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Let me address something here. Let's put this in perspective. For the first time, this committee has limited, limited severely—there were no limits before now—when you said you can't do more than 12¼ percent of your assets. If every institution were to do that—which they are not and no one says they are, not even the proponents of this legislation claim that they are going to be doing this—you still would amount to less than 3 percent of all of the commercial loans, if every credit union maximized its commercial loan potential, and they are not doing that. There is no effort to do so.

To come in and arbitrarily say, "No, no, now we will take a limit"—you place a limit of 12¼ percent—"but this is not good enough, so we will lower to 7. In addition, now we will take the small loans that 5,000 of these institutions make and we will require you to have a person with 2 years' business lending experience on staff to make even the smallest of loans."

I wonder if my friend knows that is one of the provisions in this amendment.

Now, let's take a look—you will hear that this lending cap is to "Save the taxpayer." That is hokum. If you took all of the "chargeoffs" on bad loans, it is .23 percent from commercial banks. And guess what? Credit unions are at .19 percent.

Again, we are for the first time imposing strict standards that credit unions never had before. Now my gosh, if we came with the same bill that the House put here, then I would be here to join my colleague in saying: "No, we need to make sure that they are well capitalized. No, we will not let banks that are not adequately capitalized and that are in trouble make loans. No, we are going to see to it that you have the kind of loan offices that commercial banks have."

Why do we want to weight this down? How many angels on the head of a pin?

That is the type of debate we are having. Should it be 7 percent? Well, why did we come up with 12¼? Because there would be some disruption, but credit unions could handle it. Now we want to go in and create a situation where you will have 177 credit unions that now make 8,700 loans, $360 million, and they will have to begin to disengage. Will some of the commercial banks like that? Sure, sure they will.

Let's understand what this will do. Some of the small bankers, you can go back and say, "Look what we did, we got them out of the business." That is what it comes down to. I just suggest, if the Senator's amendment is serious, why not go to 6 percent or 5 percent?

What about the tax issue? I have heard more mutterings about that. There is a genuine effort because people don't like the competition. In some cases they perceive it as unfair, and, indeed, where a small community bank is paying taxes and he is side by side with a local credit union that is every bit as large and they are doing a good job and they are not paying taxes, I understand and I feel for that person.

I am cosponsoring the legislation offered by our good friend from Colorado, Senator ALLARD, who has introduced a way to begin to help some of the banks. Maybe we have to look at other ways in which we can help community banks. But let's not unfairly go from where we had no cap whatever with a good-faith effort, working with the administration, working with the National Credit Union, working with the credit unions themselves. We came to 12¼ percent and somebody says, "No, we can do better; we will make it 7 percent." There is no rationale, no tie-in, to the amount of the commercial loans. If you had a staggering loss coming from commercial loans, I would say yes, do it. There is no evidence of it. The record does not support that. So why are we doing it?

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, may I respond to my friend and chairman. He made some good points, legitimate questions, as did the ranking member of the Senate Banking Committee.

Let me first assure my friend from New York what this amendment is about. It is not about mischief-making. It is not about burdening credit unions. It is about things like open, honest accounting. I just don't understand why anyone would reject or object to a clear understanding of what the commercial loan portfolio is for any credit union. Why would you object to taking any loan, a commercial loan, under $50,000, and putting it in an appropriate accounting category in a portfolio? It is not about burdening the accounting process. It is about open, honest accounting.

When my friend talks about burdening these small credit unions by forcing them to bring in professionals who have had a minimum of 2 years in commercial lending, you mention my amendment, did I understand my amendment. I understand it, I think, fairly well, and I will read you from what we say in here. We talk about the NCUA's general counsel position on this, as has stated that the requirement that we put in this amendment could be met by hiring contract assistants on a case-by-case basis. Now, this should be, like any financial institution, about solid accounting. I don't know of anybody who doesn't agree with that or who would not want that, so that the members of a credit union know exactly how large the commercial portfolio is of the credit union they belong to.

There are a couple of other things I want to address, including the issue of large credit unions who would have to scale back within a month or two, or would have to cash in their loans. I read, Mr. President, from the Banking Committee document here on page 10 of the report. It talks about the four exemptions; the four exemptions are pretty clear. You know about these: "Loans for such purposes as agriculture, self-employment, small business, large up-front investment, maintenance. . . ." And it goes on and on. These are all areas that are exempt from my amendment.

Let's also talk about what this bill is doing and what the House bill did in response to the Supreme Court decision. We now, in effect, have no common bond anymore at all. There is no common bond at all. Now, if there is no common bond left in the credit union policy philosophy—getting somewhat to what my colleague and friend from Utah has been talking about—then is it not appropriate to probe somewhat, saying, well, if we all want to live with the 1934, 1937 statute that says no taxes, but also no common bond, and no this, no that—I am not sure that is a very wise thing to do.

If we are going to have some changes—and markets change and the financial service industry is dynamic, as demands change, needs change, supply changes—then it is appropriate to focus on some of these areas I believe we have focused on. The chairman is right. His mark that came out of committee was much better, much more responsible, much more accountable than the House version. He is exactly right.

What Senator BENNETT and I and others are saying is that we need to continue to focus on some of these areas of great concern, because when you open up credit unions to where they are now going to be opened up, where there is absolutely no common bond, and then you say, well, you can go forward and lend commercially, yet, don't bother us with the facts, we are not going to count any commercial loan less than $50,000, and we really don't have a good accounting as to how much is in the commercial loan portfolio, then I am not sure how accountable and responsible that is.

So those are just a couple of items that I wanted to address. These are important issues. These are important questions. This is an important issue. With that, I appreciate an opportunity to further explain some of the dynamics of our amendment.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I will make just one comment on the statement of my friend, the chairman of the committee. I agree with him absolutely that there are no massive failures. We do have the one example that occurred in the State of Rhode Island, and it is reflected in the additional views of Senator REED of Rhode Island when he wrote, with respect to the bill that came out of the committee, that he was concerned that the cap adopted by the committee is higher than the level of commercial lending that credit unions are currently engaged in, and he is concerned that it might lead to a repeat of the problems they had in Rhode Island.

I agree completely with the Senator from New York that we do not face a crisis here. My support of the amendment stems from my conviction that the amendment would help us avoid a crisis in the future. The amendment would establish a cap that is above the level of activity that is currently going on, with the exception of a very few major credit unions who have 3 years in which to work things out. It would establish a cap above where things currently are, allowing people plenty of room to round off their present activity. But it would send the public policy message that says: We want credit unions to remain in their traditional niche in the financial services area. And it is for that reason that I have decided to support this amendment, because that is where I want credit unions to remain.

As I said earlier in my statement, all of the people who call me to talk about this bill insist that credit unions don't make commercial loans now. These are the members of the credit unions who are calling in who are unaware of the fact that their credit unions are making commercial loans. Therefore, I can't understand why they get upset when we say we are putting in a limit. It is not arbitrary in the sense that it is a limit above current levels; it is a limit above where people are currently operating and is simply sending the message that we don't want the current situation to change. That, after all, is the primary purpose of this bill.

Without this bill, the Supreme Court changes the current situation and changes it drastically. The bill is crafted to say: No, we don't want to change;

we want the present situation with respect to credit unions to be protected. Therefore, we are going to pass a bill that will change the law to protect where we are. Our amendment simply says, with respect to commercial lending and the levels of commercial lending, we will protect where we are.

Now, I recognize there are those who disagree. I recognize that the committee decided to put the cap at a slightly higher level than one that would protect where we are, that would allow some growth from where we are in commercial lending. I don't think the Republic will fall if we allow that growth to occur. But I do think that if the thrust of this legislation is to keep in place the current situation of credit unions, our amendment is the logical way to keep in place the current situation with respect to commercial loans.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I don't think it is altogether accurate to say that the current bill seeks only to keep in place the exact current situation. As the Treasury pointed out in a letter from Secretary Rubin to the leadership, "The bill's safety and soundness provisions would represent the most significant legislative reform of credit union safety and soundness safeguards since the creation of the National Credit Union Share Insurance Fund in 1970." So that, in effect, we made very substantial changes on the safety and soundness issue, and the Treasury Secretary later in his letter, when he was discussing the very issue of the safety and soundness of credit unions business lending, came back and made reference to these changes: ". . . the risk-based capital requirement for complex credit unions, and the system of prompt corrective action—represent an adequate response to safety and soundness concerns about credit unions' business lending."

So we did, in effect, make some significant changes on the safety and soundness issue. The Treasury has referenced those changes in analyzing the question of credit unions' business lending and thereby reached its conclusion that that did not pose a safety and soundness issue.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I agree with the Senator from Maryland that the bill does represent a significant step forward in the regulatory framework with credit unions. I think his clarifying remarks are correct and welcome.

The point I was making, which I think is still a valid one, is from the standpoint of the consumer, from the standpoint of the credit union member. The great angst on the part of credit union members, when the Supreme Court decision came down, was reflected in their visits with me repeatedly in my office. It was that: We are going to lose everything we have and you must pass this bill to protect what we have.

I heard that over and over again in town meetings throughout the State of Utah, and over and over from people who called. From the standpoint of the credit union member, they are pleading for legislation that says: Let us keep what we have. Do not allow this decision to take away from us that which we have come to enjoy and get benefit from.

My reference was to the reaction on the part of the consumer and the credit union member rather than on the part of the regulator.

I think what we have done in the committee does that and, at the same time, as the Senator from Maryland points out, creates some stability for the credit union situation that was not there prior to this act.

Mr. SARBANES. Mr. President, very briefly, if we were seeking to leave the consumer or the user of the credit union exactly in the posture in which they now find themselves prior to the Supreme Court decision, we would have no limitation on credit union business lending, because that was the existing state of affairs.

So in that sense, the problem of an issue was raised. There was an effort to respond to that problem. But if one is to use the argument that all we should do in this legislation is to return to the status quo—that that is the whole purpose of the legislation—then we have no limitation, because the status quo was without limitation.

Mr. BENNETT. Mr. President, the Senator is once again correct in terms of the regulatory situation that existed. I am talking about the market situation that existed, and our amendment would not change the market situation. It would not change the amount of commercial lending the credit unions are doing.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to speak on behalf of the Hagel amendment, because I, too, am very concerned about the safety and soundness of our nation's credit unions.

Mr. President, I was State treasurer of Texas and dealt with banks and certainly credit unions, as well as other kinds of financial institutions.

I think the banking system that we have, while it could use some improvement—and perhaps there is going to be legislation in the future that is going to have a few more areas of deregulation—nevertheless, I think the banking system that has niches for the different banking institutions and the balancing of those niches has served us well.

I think the credit unions have particularly been a breath of fresh air in our banking system, because they have been able to offer something that banks and savings and loan associations and other finance institutions have not been able to offer. They have had unique characteristics in that they have been member-owned and member-operated institutions.

Credit unions do not operate for profit and, therefore, do not pay taxes. Credit unions have limitations on their membership, generally based on affinity among the members. They rely on volunteer boards of directors that come from their membership. They have been able, because of the lack of taxes and because of this affinity, to give great services to their members. They have been able to offer mortgages, automobile loans, and personal loans that have been very favorable to their members. And they have served a terrific purpose.

I want credit unions to stay strong in order to continue giving these kinds of services to their members. We are expanding the types of membership they can have. It is certainly going to be a bigger arena. But, nevertheless, I don't think we should take that next step into allowing a risky commercial loan portfolio without the requisite reserves that are required by banks and which I think are important for safety and soundness.

The Hagel amendment limits commercial loan activity to 7 percent of assets. That is what the bill requires for the reserves for a well financed and strong credit union. We want to make sure that the deposits of credit union members are not put more at risk than the reserves that are required to be kept, particularly when you get into commercial lending, which is much more risky than the home mortgages and automobile loans and the personal loans that credit unions have made.

I remember what happened when Congress started trying to eliminate the differences among the financial institutions. And that is what caused the S&L crisis. We had S&Ls going into real estate lending without the requisite reserves. All of us paid a heavy price for that. I do not want to jeopardize the strength of our credit union.

I hope that when we pass this amendment, if we pass this amendment, it will provide for the strengthening of the credit union. I will support this bill. I think it is a wonderful bill in many respects, because it is going to give more people more access to credit unions. But I think we have to make sure, as we do it, that we protect the safety and soundness of the deposit of credit union members, as well as the credit union industry itself.

The last thing I want is to come back here at the end of my next term and have to look at a credit union crisis because we didn't take the very cautious step of requiring this same reserve requirement as the limit on commercial loans.

That is it in a nutshell.

I think the fact that Senator HAGEL's amendment matches the reserves with the amount of commercial loans that will be available is a very correct decision. It is the right thing to do. It will keep the safety and soundness of credit unions, and it will allow more people to have access to those commercial loans, as well as access to the credit unions in general. But mainly we want to make sure that everyone is protected and that we don't run into any trouble in the future.

I hope very much that we will pass this bill. I hope we will pass the Hagel amendment so that we have a win all the way around—giving more access to more people to join the credit union; giving more people access to the lower interest home mortgages, car loans, personal loans, but making sure that we protect those deposits so that the credit unions will be able to continue to give a little bit higher rate of interest to those that it is paying; and so that the deposits will be safe; so that the credit union itself will be safe; so that we will not have to face a financial crisis in the future that Congress would have to address with taxpayer dollars as we have seen with the S&L crisis.

I thank Senator HAGEL and the others for their leadership. I think this is a good, sound move. I hope we can pass this amendment and then pass the bill that will create bigger and better credit unions in our country.

Thank you, Mr. President.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me address something, because the more you get into this, you begin to learn.

Soundness and safety: It is an issue that we are all concerned about, because we have been here. We have gone through this. And we have seen some extraordinary situations, which cost the taxpayers. That is why the committee, the ranking member, and the Republicans and Democrats working together, said we have a structure for the first time of provisions that will address that—we have done that—risk-based capital, based upon soundly capitalized institutions—6 percent for some, and 7 percent for the others—and giving to the administration the ability to close these places down.

Now, look, when we start talking about commercial loans posing a problem historically and looking at where we are today, they haven't. That is a canard. Indeed, if we take a look and see what it constitutes in terms of their total portfolios, it is under 2 percent. All of their loans are under 2 percent without any limitation.

So let me suggest to you, I think when we come in and say we are going to limit business lending no matter what, we are saying to each credit union, those that do—forget about the thousands that don't—under no circumstances are you going to go up over 12.25. To say that safety and soundness is going to be protected because somehow we are limiting commercial loans, that doesn't square up with the facts. It just does not. If, indeed, the credit union commercial loan failure rate has been less than those same loans made by commercial banks, how can you say that limiting this activity will provide greater safety and soundness?

That is the record. The failure rate has been less from credit unions than it has from commercial banks in commercial lending, and they loan less, including the loans for under $50,000. And why are we opposed to counting those loans for less than $50,000? I will tell you why. Because you are going to keep honest people honest. Maybe I shouldn't say this because the guy who is the entrepreneur who wants that loan will come to his credit union. OK, they say it is a commercial loan, and you are going to begin getting into businesses or classifying whether it is personal or whether it is commercial. So they said, look, up to $50,000, we know the people; they are dealing within the institution. It is a member. We are not going to get into the business of classifying whether it is commercial or not. We are going to say, presumptively, any loan up to $50,000 gets an exemption. We don't go through this business of having to classify these loans then have staff making loans meet certain experience levels which this amendment does.

The present situation is that for making those business loans over $50,000, you must have 2 years of lending experience.

Now, why did the National Credit Union Administration do that? Because they recognized the need as credit unions got into loans of higher cost and more exposure. It is prudent to have somebody on staff who has that experience. That is why they did it.

Now the consequence of this amendment will be a burden where credit unions are going to have to hire loan officers to make small, commercial loans of $25,000, $20,000, $15,000, or $30,000. Do you really think that this isn't going to have an adverse impact on the small credit union that would have to do this? Heretofore, small business loans were on the basis of knowing that member, knowing that he or she has a good record, knowing that there is a good business investment opportunity.

Now, look, in addition to that, we have tightened those standards and said credit unions can't even make business loans unless they hit certain criteria of capital. We didn't have any capital standards before. Yet, I think when one says this is safety and soundness, it is not. The record doesn't indicate that.

What it is—and I respect those who say we want to limit their ability to develop this business and say under no circumstances will it be more than what your capital is—that is what it is doing. It is limiting the ability of credit unions to involve themselves in commercial lending.

I think including the $50,000 loans will be going too far. That is why the credit union people and people who represent small businesses urge that we not support this amendment because what it will do is make it harder to get loans. I have a letter from the Small Business Survival Committee. I am going to ask it be made a part of the record. The American Small Business Association similarly asked us not to restrict the availability of commercial credit any further.

Times are booming today, but they may not always be booming. Then where do people go? Now you can go to your local bank, and they seem to have plenty of money to go around. What happens when things tighten up? Then we are going to make it difficult, if not impossible, for people who would have had the ability, if necessary, to go to their credit unions and to get maybe that $25,000 small business loan.

I ask unanimous consent these two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SMALL BUSINESS
SURVIVAL COMMITTEE,
Washington, DC, July 20, 1998.

DEAR GOP SENATOR: The Small Business Survival Committee (SBSC) continues to strongly urge the Senate to fully support the Credit Union Membership Access Act, H.R. 1151. Every day, over a thousand Americans are turned away from credit union membership because of the Supreme Court ruling which nullified President Reagan's modification of the 1934 Federal Credit Union Act. A large proportion of these individuals are workers in small businesses who find themselves locked out by the outdated and arbitrary "common bond" requirement. It only makes sense that federal laws written in 1934 be reformed for our modern economy.

However, placing restrictions on "member business loans," as supported by the banking industry, only serves to impede the growth of the small business sector. SBSC will key vote any amendments on the Senate floor which further restrict access to capital through new regulations on member business loans. A vote for these restrictions is a vote against small business.

The banking industry has invested great quantities of its time and resources lobbying for more taxes and regulations on credit unions. Rather than lobbying to restrict what they traditionally do not do themselves (provide loans for small businesses), a more productive approach may be to advocate lifting arcane and unnecessary laws on themselves—particularly for the survival of small community banks.

In the area of member business loans, SBSC urges the Senate to emulate House language which studies the issue for a year to determine what, if any, action is needed. Inadvertently denying capital to plumbers, farmers, churches, and down-sized credit union members who wish to start a business are not the type of credit union reforms that should be advanced by a pro-small business, pro-family Congress.

SBSC urges the Senate to send the Credit Union Membership Access Act, as passed out of the Senate Banking Committee, to the President for signing without restrictive amendments. Thank you for taking SBSC's views into account.

Sincerely,

KAREN KERRIGAN,
President.

AMERICAN SMALL
BUSINESSES ASSOCIATION,
Washington, DC, April 28, 1998.

Hon. ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN D'AMATO: Protecting the rights of small businesses remains a fundamental priority of the American Small Business Association (ASBA). In this regard, on behalf of America's small businesses we ask for your support and immediate consideration of the Credit Union Membership Access Act.

Prompted by the February 1998, Supreme Court decision to limit the expansion of federal credit unions, the U.S. House of Representatives overwhelmingly approved (411–8) the Credit Union Membership Access Act (H.R. 1151) on April 1, 1998. If enacted by the Senate, this legislation would allow federal credit unions to derive their membership from a variety of occupations. This is essential to small business. These organizations count on the presence of multi-group credit unions to keep rates and loan fees affordable and competitive and to provide access to capital many would otherwise be without.

According to the Small Business Administration (SBA), small business employees constitute more than 52 percent of the private sector workforce. Generally defined as organizations having fewer than 500 people, SBA further reports that 99.7 percent of all businesses fall into this category. In fact, they represent the largest and fastest growing portion of the economy in the United States. Multiple-group credit unions ensure the availability of financial services to these organizations and to many low-income residents. They are member-owned, not-for-profit cooperatives which encourage savings and investment in those who might otherwise not consider it an option. Should the Senate not pass the Credit Union Membership Access Act, the Supreme Court ruling will immediately limit access for these individuals.

The Credit Union Membership Access Act is pro-consumer and pro-competition. It preserves the right to choose for millions of Americans and ensures that small businesses will have the ability to offer their employees the same benefits already available to those in the largest of corporations. On behalf of America's small businesses, we ask for your immediate consideration and support of this important legislation.

Sincerely,

BLAIR CHILDS,
Legislative Director.

Mr. D'AMATO. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I just want to again reiterate on the safety and soundness issue that the Department of the Treasury was charged by the Congress in the Economic Growth and Paperwork Reduction Act of 1996 to undertake a major study of credit unions, and the Department did that. This is the report from the Treasury Department which was submitted to us on December 11 of 1997. So they took some 15 months to do it.

In his letter to the leadership, Secretary Rubin underscored that the safety and soundness provisions in this bill, which in effect largely track what the Secretary recommended, were the most significant legislative reform of credit union safety and soundness safeguards since the creation of the National Credit Union Share Insurance Fund in 1970 and went on then to find that the business lending provisions posed no difficulty, that they represented an adequate response to safety and soundness concerns about credit unions' business lending.

I won't take a back seat to anyone in my concern about safety and soundness, but I think that has been addressed in this legislation. The Treasury, which did this extensive study and made these quite broad recommendations, took a look at the bill and has concluded that the bill represents a very major and significant legislative reform of credit union safety and soundness safeguards, and in light of those provisions that are in the bill thought that they were adequate to any concerns with respect to safety and soundness about credit unions' business lending.

We have the people who did this comprehensive study—they took 15 months—make their recommendations, some of which were quite significant. The committee responded to that, and in the light of what the committee has done, the Treasury has taken the official position that concerns about credit union business lending have been addressed adequately in this legislation.

Mr. ENZI. Mr. President, I rise in support of the amendment that is sponsored by the Senator from Nebraska. I support this amendment which would place limitations on the amount of commercial lending by credit unions. I am concerned that if the credit unions concentrate on commercial loans, they will lose their current individual customer focus. They may lose the special identity that separates them from banks and thrifts. I fear that if the special identity of the credit union is lost, Congress may feel the need to treat them identically to banks and thrifts. That could lead to levying taxes on credit unions.

Currently, credit unions are tax exempt because they are considered cooperatives. In order for a credit union to effectively serve its members, particularly in light of H.R. 1151, which has the potential to greatly increase the membership of the credit unions, it should concentrate on consumer lending. This will encourage it to maintain focus on its member owners. Money loaned to businesses isn't available for consumer lending, meaning that there will be fewer mortgages, car loans and other forms of consumer credit for the members.

I am particularly pleased that this amendment also includes the deletion of the exemption of a loan less than $50,000 from being defined as a member business loan. As an accountant, I am concerned about the consequences of not requiring full and complete disclosure of lending by credit unions. I place great emphasis and value on the accuracy of financial institutions' records. I have asked several credit unions how much commercial lending they engage in now, and none have been able to state precisely the amount because of this strange exemption that currently exists in the regulations. This causes me great concern, because the most stringent safety and soundness provisions are ineffective if accurate records and accurate recordkeeping practices do not exist. I feel it is of utmost importance to require that all member business loans be designated as such, not just those above $50,000. Markets and financial institutions perform best when there is transparency and accuracy of information. We have seen the consequences of that not being available.

The United States has become the model for financial markets, in part because of the transparent accounting methods that are required of financial institutions and publicly traded companies. I believe credit unions should also be obligated to be transparent in their loan activities. It is only common sense to delete this exemption for commercial loans less than $50,000. There is absolutely no reason for inaccurate accounting.

In conclusion, this amendment will require credit unions to remain focused on consumer lending. Credit unions were intended to serve the basic needs of families and individuals since the Federal Credit Union Act in the 1930s. This amendment will help credit unions remain unique institutions, setting them apart from other financial service providers.

I believe a vote for this amendment is a vote for credit union members. I yield the floor.

Mr. REED. Mr. President, I rise to express my views on credit union commercial lending, as well as my support for the motion to table the Hagel amendment.

Mr. President, I generally support the ability of credit unions to engage in commercial lending. Indeed, I am aware that for many members, credit union loans are the only available sources of capital for business investment. Also, when considering banking industry consolidation and the potentially adverse implications to small business lending, I believe that commercial lending by credit unions has an important role.

However, Mr. President, commercial lending can significantly increase the risk profile of credit unions. This is evidenced by recent National Credit Union Administration (NCUA) data which illustrates that the delinquency rate on credit union business loans—3.1 percent—is more than three times the delinquency rate on credit unions' overall loan portfolio—0.97 percent.

More importantly, in 1991, my home state of Rhode Island experienced a credit union crisis that resulted from the failure of a state-chartered private deposit insurance corporation. This crisis affected one in five citizens and was predicated in part on excessive and risky commercial lending by privately-insured credit unions. Indeed, 13 of the state's credit unions were permanently closed, and the state had to seek federal assistance to repay depositors.

In view of these facts, I was pleased that the Banking Committee adopted an amendment to limit commercial lending by credit unions to 12.25 percent of outstanding loans. However, Mr. President, as reflected in my additional views to the Committee Report to H.R. 1151, I do not think this cap goes far enough. Specifically, I have argued that the cap is inadequate because it is significantly higher than the level of commercial lending that credit unions are currently engaged in—0.75 percent of outstanding loans. I have also argued that because loans under $50,000 are counted toward the 12.25 percent cap, credit unions could engage in commercial lending to a much greater extent than the limit imposed in the bill.

In response to concerns over commercial lending, Senators HAGEL and BENNETT have introduced this amendment to limit commercial lending to seven percent of outstanding loans. In addition, the amendment would count loans under $50,000 toward the cap and codify NCUA requirements that loan officers have at least two years of commercial lending experience. I would like to commend Senators HAGEL and BENNETT for their recognition of this issue and their attempt to address commercial lending concerns.

However, I believe the Hagel amendment goes too far. My specific concern is that it both significantly reduces the commercial lending cap, while also eliminating the $50,000 exemption. Taken together, these provisions could impose undue burdens on credit unions with outstanding commercial loans.

Because loans under $50,000 are not considered "commercial" under current regulations, the NCUA does not keep data on these loans. As a result, we simply do not know what percentage of outstanding loans would be characterized as "commercial" under the Hagel amendment. Thus it is possible, and likely, that the percentage of commercial loans could increase dramatically if this amendment were passed, which could put many credit unions that would otherwise satisfy a seven percent cap in violation of the amendment, forcing them to withdraw from commercial lending.

As I indicated in our Committee's report, I believe the cap should bear a reasonable relationship to the amount of commercial lending that credit unions are currently engaged in. To the extent that the Hagel amendment creates uncertainty regarding existing commercial lending, we must be careful not to establish an overly-restrictive cap. While I expressed concerns about the $50,000 exemption in my additional views, those concerns were tied to the higher lending cap of 12.25 percent.

Mr. President, a preferred approach to the Hagel amendment would be to reduce the aggregate lending cap, while retaining the $50,000 exemption. This approach would eliminate the uncertainty associated with the Hagel amendment, while establishing a meaningful limit on the future expansion of commercial lending.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I rise today to speak on the pending legislation, H.R. 1151, the Credit Union Membership Access Act. My comments will be addressed to the overall bill as well as the individual amendments that have been offered or will be offered.

On May 11, 1933, during the 73rd Congress, the Federal Credit Union Act was introduced. I have an interesting connection to this legislation. The Federal Credit Union Act was introduced by Senator Morris Sheppard of Texas. Senator Sheppard was my grandfather. I happen to be standing at the desk that he used while he was in the Senate.

The impetus for Federal legislation was the fact that in 1933, commercial banks had little interest in consumer lending. Simply stated, the small borrower was not a desired customer of commercial banks 65 years ago. Additionally, America was a country comprised of very large employers. It made sense for these large groups of individuals with a common bond, to join together to form credit unions to meet their credit needs. So back in the 1930s, when credit unions were formed, credit union members were typically groups of city workers, postal employees, and employees of the telephone company.

Over the next 60 years, however, we saw the number of large companies decline, and today, most people work for very small companies. In fact, in my state of Florida, 99% of all businesses have less than 1000 employees. Additionally, 97% of all companies in Florida employ fewer than 100 people.

Since 1933, when my grandfather introduced the Federal Credit Union Act, the world has fundamentally changed. The credit unions of today are different from those of times past.

I might also add, so are commercial banks. Today, commercial banks aggressively try to entice individuals of all incomes to do business with their financial institutions. They have aggressively reached out to consumers. To make my point, all one has to do is look at the mail you receive and realize how many credit card applications you have received. There is an aggressive outreach on the part of commercial banks to be engaged in lending to the average consumer today.

The credit unions of today are different from those of times past.

Now there are multibillion-dollar credit unions that in many cases dwarf the size of thousands of commercial banks and thrifts. Some of these multibillion dollar credit unions have hundreds of employee groups and are located in multiple States. In many of these instances, these large credit unions cannot be differentiated from commercial banks—they offer home equity loans, have large credit card portfolios, loan money to small businesses, offer safe deposit boxes, and sell mutual funds. In fact, a credit union in Alaska even serves as a Federal Reserve depository.

Mr. President, Congress has always supported credit unions. I, too, strongly believe there is a role for credit unions. By trying to improve this bill, no one, including me, is attempting to eliminate the credit union charter.

Small, community based credit unions are vital to our communities because they provide individuals access to credit. Credit unions have played a very important role in extending credit to people who need financial help.

However, in spite of my support of the credit union charter, I remain troubled by several provisions in the Senate Banking Committee passed bill that is before us today. I must admit, the bill we are debating today is far better than the bill the Senate Banking Committee received from the House. With the addition of caps on commercial lending and by including the Department of Treasury's prompt corrective action language, we will be able to ensure the safety and soundness of the healthy Credit Union Share Insurance Fund. I am pleased with this progress, but much more progress must be made if I am to support this bill in the end.

My overriding apprehension about the pending legislation deals with the issue of fairness. Most credit unions pay their members higher interest rates on checking and savings accounts and offer lower interest rates on mortgages, student loans, and credit cards than most commercial banks. Credit unions on average, charge lower fees and require lower minimum deposits. There is one simple reason for this capacity of credit unions to pay higher rates and charge lower fees: they are exempt from federal income taxes. This is an unfair competitive advantage.

During the Senate Banking Committee's discussion on this bill, the committee adopted a provision that directs the Department of Treasury to conduct a study of the differences between credit unions and other federally insured depository institutions with respect to the enforcement of all financial laws and regulations. Treasury will also compare the impact of all Federal laws, including Federal tax laws, as they are applied to credit unions and other federally insured depository institutions. This study will identify the regulatory and tax advantages credit unions have over banks, and suggest ways Congress can address these differences. This study will be a start, but by no means will it level the playing field. Upon completion of the study, I hope the Senate will hold hearings on how to reduce the inequities which exist among federally insured depository institutions.

As I stated earlier, the Senate bill is far better than the House passed bill, but I still have some real concerns regarding provisions in the legislation. Specifically, my primary problem is the inclusion of language similar to the Community Reinvestment Act (CRA). Imposing the same onerous burdens on credit unions would help to level the playing field; however, I do not support the Community Reinvestment Act as it has evolved, and I oppose subjecting credit unions to these requirements. In fact, I would prefer to see the entire Community Reinvestment Act repealed.

Because of CRA, banks are now often forced to make unsound and risky loans in economically disadvantaged areas. If they do not make these high risk investments, they are accused of discrimination. I strongly believe that most of these allegations are false.

In contrast to banks, credit unions, by their nature, already lend to their members. It is ludicrous to impose CRA on credit unions.

Think about it for a moment. Credit unions were established for individuals with a common bond. It makes no sense whatsoever that the institution in which you are a member would turn around and discriminate against you. It just doesn't make sense.

In a letter to the National Credit Union Administration (NCUA), I asked several questions as to whether or not there have been any meritorious discrimination complaints against credit unions. In his response, the chairman stated there was no evidence of credit unions being guilty of discriminating against their members. Given the credit union chief regulator's response, I think it makes no sense to impose the burdens of CRA on credit unions.

Therefore, I encourage my colleagues to support the amendment of Senator PHIL GRAMM to delete these onerous provisions from the bill. What looks harmless today will quickly evolve to burdensome, costly, and unnecessary regulations in the future.

The same concern with CRA is also addressed by Senator SHELBY's amendment to exempt banks with less than $250 million in assets from the Community Reinvestment Act. I strongly support the amendment of Senator SHELBY now, just as I did in the Banking Committee's markup.

Be assured that exempting small banks from CRA is not about opening the door to allow them to discriminate. Not only is discrimination wrong, it is illegal. Fair lending laws like the Fair Housing Act, the Equal Credit Opportunity Act, and the Home Mortgage Disclosure Act are still the law of the land. I believe these laws protect the American people, and as I mentioned, laws such as CRA are an unnecessary burden on business.

My final concern with this legislation deals with the large increase in the number of commercial loans that credit unions are making. I support the Hagel-Bennett amendment because it accomplishes two things. First, it limits the amount credit unions can lend to their members for small commercial ventures, such as agriculture or small business start ups.

Again, the reason we are tightening commercial lending is not because we are trying to vent some distrust with respect to how credit unions make their loans.

But from my experience, having been in the business of commercial lending for almost 16 years, these are two very complicated and risky areas of lending.

As I say, I support the Hagel-Bennett amendment, because it accomplishes two things: Well-managed, well-capitalized credit unions can lend up to 7 percent of their capital; exempts from the 7 percent cap credit unions which were chartered for the purpose of commercial lending.

Second, the Hagel-Bennett amendment addresses the manner in which credit unions make commercial loans. Many credit union loan officers are not trained to evaluate commercial loans. The Hagel-Bennett amendment requires credit union employees who make or administer commercial loans to have at least 2 years of experience in the area of commercial lending. This provision is already part of the NCUA's regulations on member business loans, and the Hagel-Bennett amendment merely codifies this regulation.

Be aware that much of what I am saying is the result of my experience as a member of the Senate Banking Committee when the Resolution Trust Corporation was established to bail out the savings and loan industry. I believe that if we do not take precautions now, such as those outlined in the Hagel-Bennett amendment, we could be looking at significant losses and exposure to the taxpayers in the future.

In closing, I stress my support of the vital role credit unions play in today's financial services marketplace. Do not mistake my desire to improve this legislation with an agenda to end credit unions. I strongly feel that credit unions should exist. There are 268 credit unions in my State of Florida, with just under 3½ million members. My goal today is to ensure that every credit union is a viable, safe and sound institution, one unburdened by unnecessary regulatory requirements.

Mr. President, I cannot support H.R. 1151 in its present form. I hope that my colleagues will support both the Gramm and Hagel-Bennett amendments which ensure the safety and soundness of credit unions. I also urge my colleagues to support the Shelby amendment which will level the playing field between commercial banks and credit unions.

Thank you. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, on behalf of the majority leader and the minority leader, I ask unanimous consent that following the 5:30 p.m. vote, there be 2 minutes for debate to be equally divided on the Hagel amendment and that a vote then occur on the motion to table the amendment with no second-degree amendment in order prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I do not know how many Members would like to speak to this, but I would think, given the time situation that we have, that those Members on either side who would like to either speak on the bill or state their support or opposition to the amendment that is now pending, that they should attempt to do so. Because at 3:30, I believe, Senator SHELBY will be coming down to the floor in order to offer his amendment, and we will then lay aside this amendment for the purposes of discussing the amendment put forth by my colleague from Alabama. Then thereafter, from 4:30 to 5:30, Senator GRAMM of Texas is scheduled on the floor where we will then entertain the Gramm amendment, which will be the pending business and which will be the vote that we take up at 5:30. I believe at that point my colleague, the ranking member of the committee from Maryland, Senator SARBANES, will make a motion to table. And with that the votes will begin.

So my suggestion, to those colleagues who would like to be heard on this amendment or on the overall bill, is that they use this time to come to the floor within a half hour because I think the schedule will then begin to get somewhat crowded.

If no one is seeking recognition, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3338

(Purpose: To amend the bill with respect to exempting certain financial institutions from the Community Reinvestment Act of 1977)

Mr. SHELBY. Madam President, I send an amendment to the desk on behalf of myself and Senators GRAMM, MACK, FAIRCLOTH, GRAMS, ALLARD, ENZI, HAGEL, HELMS, NICKLES, MURKOWSKI, BROWNBACK, SESSIONS, INHOFE, COATS, and THOMAS.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. SHELBY), for himself, Mr. GRAMM, Mr. MACK, Mr. FAIRCLOTH, Mr. GRAMS, Mr. ALLARD, Mr. ENZI, Mr. HAGEL, Mr. HELMS, Mr. NICKLES, Mr. MURKOWSKI, Mr. BROWNBACK, Mr. SESSIONS, Mr. INHOFE, Mr. COATS, and Mr. THOMAS proposes an amendment numbered 3338.

Mr. SHELBY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, add the following new section:

SEC. 207. COMMUNITY REINVESTMENT ACT EXEMPTION.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 808. EXAMINATION EXEMPTION.

"(a) IN GENERAL.—A regulated financial institution shall not be subject to the examination requirements of this title or any regulations issued hereunder if the institution has aggregate assets of not more than $250,000,000.

"(b) ADJUSTMENTS.—The dollar amount referred to in subsection (a) shall be adjusted annually after December 31, 1998, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.".

Mr. SHELBY. Madam President, this amendment that I have offered this afternoon would authorize a small bank exemption in the Government-mandated credit requirements of the Community Reinvestment Act, known as CRA. Community banks by their very nature serve the needs of their communities. They do not need, I believe, a burdensome Government mandate to force them to allocate credit or to originate profitable loans.

Friday, I spoke in this Chamber about the regulatory burden of the CRA on small community banks in the United States. I cited then statistics that show small banks are less efficient than large institutions and suffer from excessive regulations.

My colleagues should know that the amendment I have just offered would exempt only 11.2 percent of bank assets nationwide. This is nearly the same amount of assets as one of the largest financial institutions in America, BankAmerica. Can you imagine that? All the small banks of America, with $250 million in deposits or assets or less, have 11.2 percent of the assets, and one bank, and probably several others, has a lot more than all of these banks put together.

I thought it might be helpful to hear from a small bank with less than $80 million in assets. They have written to me to complain about the regulatory burden of the CRA. This institution is probably typical of small community banks nationwide. And the institution officer asked to remain anonymous for obvious reasons, for they are worried about repercussions from overzealous Federal regulators or bureaucrats. I would feel the same way. But the CEO of the small bank in my State wrote as follows:

> As a local community bank, we willingly and proudly provide banking services to all segments of the population. However, the Community Reinvestment Act is overly burdensome, costly and makes it difficult for us to compete and to offer our customers the service they deserve. Presently, [I have] an employee in the bank who spends 35 percent of his time just making sure we are in compliance with the Community Reinvestment Act. These duties include: (1) Quarterly reports to the board of directors detailing the community activities of our officers and directors; (2) Plotting each loan on a map of the county; (3) Reviewing all loans on a weekly basis for the purpose of breaking down income levels by number and total dollar volume; (4) Reviewing all loan denials and approvals weekly for the purpose of ensuring compliance with CRA; (5) Providing an on-going self-assessment of the bank's CRA plan and performance.

I have dozens of letters similar to these, but the one from which I just read articulates the burden as well as any of them.

Opponents of our amendment suggest here that the CRA regulations have been reduced and are not burdensome. The CRA regulations may have been reduced, but the burden is still there. Bankers have to study hundreds of pages' worth of guidance manuals and attend seminars to assure CRA compliance. In fact, some banks have staff whose only job is to ensure CRA compliance. Of course, compliance costs with small bankers are not the only costs of the CRA. The very mandate of credit allocation increases the cost of banks in and of itself, and I would like to take a moment to explain here this afternoon why the Community Reinvestment Act is nothing more than a Government-mandated credit allocation, much like the mandated credit allocation in East Asia that has caused the currency crisis, among other things. The chart would show this.

What are the small bank performance standards? I will go through these. According to the Code of Federal Regulations, CFR, section 25.26, the "Performance criteria" for small banks depend on (i) bank's loan-to-deposit ratio; (ii) percentage of loans located in the bank's assessment area; (iii) bank's record of lending for borrowers of different income levels and businesses and farms of different sizes; (iv) geographic distribution of the bank's loans; (v) bank's record of taking action in response to written complaints about its performance in helping to meet credit needs in its assessment areas.

Mandate (i) judges all small banks around the country on their loan-to-deposit ratio. However, the loan-to-deposit ratio for one bank may not be appropriate for another bank. One banker told me his record of "community lending" was questioned by a Federal bank regulator based on a low loan-to-deposit ratio. The banker responded, "My bank is in the middle of a retirement community. There are not too many senior citizens applying for community development loans." How does the Federal Government know what the appropriate loan-to-deposit level is for Winfield, AL, or Lafayette, LA, or some other town in America?

Mandate (ii) judges all small banks around the country based on the loans made in a specific assessment area. Why should the Federal Government dictate to any business who his customers should or should not be? What if there is no loan demand in that area?

Mandate (iii) judges all small banks on their lending based on the "different income levels." The performance criteria in Section 25.26 never mentions credit worthiness or the consideration of risk. When the free market allocates capital and credit, risk is always the distinguishing factor—and it should be.

Mandate (iv) forces all small banks to lend not only in a specific assessment area, but under a geographic distribution established by the Federal Government. One banker told me the regulator was challenging his geographic distribution of lending and asked the banker why he had not made loans in a certain area. The banker responded, "I can't make any community loans there. Nobody wants to build in the middle of a lake." There was a large lake there, but the bureaucracy didn't know it or recognize it. The point is simple: Federal regulators do not know the small communities across America like the people that live there, and work there every day.

Mandate (v) judges a bank's record of responding to its customers. Businesses across America do this voluntarily without the Federal Government judging its performance. It is called customer service. The responsiveness of a business to its customer's needs is usually measured by the success of the business. In the free market, no business will stay in operation if it does not satisfy the needs of its customers.

The costs of Government-mandated credit allocation results in increased cost to consumers. First, CRA raises the costs of inputs to banks by forcing them to comply with the regulatory burden of CRA—we are entering the 21st century and bankers are still forced to stick pins in maps on the walls of the bank in order to indicate where loans are made. Second, making loans according to a Federal formula increases the risks, and therefore the costs, of borrowing to consumers.

The Federal Reserve Bank of Richmond published its 1994 Annual Report on "Neighborhoods and Banking" where it reported its findings on the costs of CRA. The report found:

> [T]he regulatory burden (of CRA) would fall on bank-dependent borrowers in the form of higher loan rates and on bank-dependent savers in the form of lower deposit rates. And to the extent that lending induced by the CRA regulations increases the risk exposure of the deposit insurance funds, taxpayers who ultimately back those funds bear some of the burden as well.

The Fed report goes on to say: "* * * CRA imposes a tax on banks * * *"

The costs and risks associated with CRA are ultimately shouldered by the consumer. We know that. There is no justification for Congress to articially increase the costs of borrowing to the consumer. By maintaining the status quo of CRA, Congress actually hampers investment and growth by increasing loan rates and lowering deposit rates. Congress should adopt policies that help reduce the cost of borrowing, that help reduce the regulatory burden. Congress should adopt a small bank exemption to the Community Reinvestment Act. That would, again, only exempt 11.2 percent of the assets in banks in America, but it would be a God save for the community banks all over America.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending amendment is the amendment offered by the Senator from Alabama, Senator SHELBY.

Mr. THOMAS. Madam President, I want to speak generally about credit unions and also on the amendment, if I may.

I wanted to talk about credit union legislation because it is one of the most important things we will be doing, certainly, this year. I have spent many hours meeting with Wyoming citizens on both sides of the credit union legislation. In fact, in the last year and a half, I have had 32 meetings relative to this bill. So there is a great deal of interest in it. It is the kind of involvement that we ought to have in public issues. It is democracy, certainly, at work.

I also have some kind of perspective to it, in that I helped organize a credit union, back when I was with the Wyoming Farm Bureau a number of years ago, a very small one designed to work with the employees there at the Farm Bureau.

I think, having worked with not only the Farm Bureau but the Rural Electric Association, I am aware of the value of cooperatives, the value of people being able to come together and do some things for themselves, the ability to tailor the services that are needed in a particular place to that particular need. Certainly, Wyoming is one of the smallest—indeed, it is the smallest State in the Union with regard to population. We do have different needs than occur in New York or occur in Pennsylvania. So as we talk about services and distribution of services, it makes a good deal of difference.

I also think credit unions have fitted themselves to these needs, as have community banks. They have fitted themselves, too. I believe there is an increasingly clear definition between some of the international banks and some of the community banks. It used to be everything was a bank was a bank was a bank. Now I think that has changed, and properly so. We need both kinds of banks.

Wyoming has 39 credit unions and about 145,000 members in Wyoming. That represents about a quarter of our State population. So it is a unique and needed service. The median asset level in Wyoming credit unions is only $6.9 million. The smallest credit union has assets of about a half million dollars; the largest, $86 million. So we do have a unique situation. Things happen on a smaller scale there, and we need to continue to have that opportunity to serve. The things that are debated here, in credit unions, the changes that have taken place, the reason for the lawsuit, has very little to do with the kinds of operations we have in our State.

I support the final passage of this bill. Perhaps the most important provision is to grandfather the millions of credit union members who were added to the multiple-group credit unions before the February 28 Supreme Court decision. As we know, these types of memberships were invalidated. No one wants to see the present credit union members lose their accounts, and this will ensure that they do not.

Another important provision is to enhance the supervisory oversight of federally chartered credit unions to make sure they are sounder, safer, and more efficient.

I think we would not be debating this legislation today if the regulatory authority, the National Credit Union Administration, had used its regulatory power to do more of those things to carry out the original intent of the Federal Credit Union Act of 1934. Arguably, the NCUA has been more of an advocate than a regulator. I think that has to change.

As with every other federally chartered organization or institution, Federal credit unions must serve within that niche that is prescribed for them by law. I have told my friends in the credit unions that there are certain advantages to the way they are structured, certain advantages go to them as being cooperatives and being member-owned. That is good, and I endorse that.

On the other hand, there have to be, then, some limitations to the kinds of things that they can do. I think commercial lending should not go unlimited. I support the amendment of the Senator from Nebraska which would allow for commercial lending, which they are seeking. I also support the Shelby amendment which exempts small community banks from the requirement of the Community Reinvestment Act. I hear all the time of the amount of the administrative and regulatory time spent in a very small bank; more time reporting than there is in lending.

So I hope that not only the banks, but the credit unions can get out from under that basic paperwork requirement. The expenses of meeting these costs, as the Senator from Alabama just indicated, are, of course, passed on to the owners and depositors.

I am supportive of the efforts to relieve those unnecessary mandates. That is what we ought to be doing whenever we can. I believe this is an appropriate place to do that.

Clearly, banks and credit unions have a proper, legitimate, rightful, and important place in our financial system. We simply need to define what those roles are.

Our challenge is to successfully address the Supreme Court's ruling in a way that will allow consumers access to credit and financial institutions, have fairness among them, and strengthen the regulatory and safety aspects of them. I believe this bill will do that.

I support the unique status of credit unions, and I believe the bill before us, with amendments, maps out an appropriate role for the future.

Madam President, I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I would like to address the Shelby amendment, which is before this body, and also make reference to the amendment offered by my good friend and colleague from Nebraska, Senator HAGEL.

I rise in opposition to the Shelby amendment. The Shelby amendment would exempt, as we all know now, banks of less than $250 million in assets from the requirements of the Community Reinvestment Act.

As I stated before when we were debating this issue on Friday, I disagree with the substance of this amendment, but before I turn to the substance, let me suggest what I know the chairman of the Banking Committee and the ranking member, Senator SARBANES, have said over and over again with regard to this amendment, and that is, to those who might be inclined to support this amendment, the adoption of this amendment will result in the collapse of the credit union bill. That is a fact. A vote for it will certainly achieve that result.

The amendment offered by Senator SHELBY goes outside the issues at play in the credit union bill and seeks, in a very controversial manner, to reduce the responsibilities of banks to their communities.

As a number of my colleagues have noted previously, the administration has already stated very emphatically that it will veto any legislation that has this CRA exemption contained within it. Let there be no mistake, a vote in favor of the Shelby amendment is a vote against the credit union legislation.

Let me briefly address a few of the issues that surround this amendment.

The supporters of this amendment make two seemingly powerful arguments in its favor. The first argument they make is that the CRA creates a regulatory burden so onerous that the imposition of it on community banks places them at a disadvantage versus the credit unions against whom the banks must compete.

The second argument offered by those who support this amendment is that this amendment, the Community Reinvestment Act itself, forces banks to make unprofitable loans and thus constitutes Government interference of the worst kind.

Neither of these amendments bears up against careful scrutiny.

First, with respect to regulatory burden, the bank regulators, under the leadership of the Comptroller of the Currency, significantly reduced the regulatory burden on banks when the new CRA enforcement rules went into effect on January 1, 1996.

At that time, the new rules received extensive breaks from bankers, large and small, as being workable. Richard Mount stated, on behalf of the Independent Bankers Association of America, which represents only small community banks:

> The new rules should alleviate the paperwork nightmare of CRA for community banks and allow them to concentrate on what they do best—reinvest in their communities.

Given the changes made in 1996, there is little reason to believe that a CRA exemption for small banks would result in reduced costs sufficient enough to make a difference in their competition with credit unions.

What is perhaps more important, Madam President, is the question of whether CRA actually is a means for the Government to engage in credit allocation and whether CRA forces banks to make unprofitable loans. Again, I do not think the facts bear out these statements.

Some have suggested that the Community Reinvestment Act was enacted in 1977 solely because banks enjoyed a protected advantage in communities, that CRA was the tradeoff for continuing those protective statutes. These people argued that with the advent of increased financial competition, and particularly with the passage by Congress of the Interstate Banking and Branching Act that ended the exclusive rights of banks to service particular communities, the basis for CRA no longer exists.

While those were important factors in the passage of CRA, the overriding concern, Madam President, was that the banking industry, which enjoyed then and enjoys today the benefit of taxpayer-backed deposit insurance, was using that benefit to make loans available only to affluent communities, and were allowing less affluent communities, from Appalachia to Bridgeport, CT, to wither on the vine.

The hearing record in 1977 clearly shows that by most surveys banks were returning only pennies in loans for every dollar of deposit that came from low- and moderate-income areas. The solution to that real and uncontested problem was that regulators take steps to ensure that banks serve their entire communities, not just select parts.

However, there is nothing in CRA that allows the regulators to have the banks waive basic fundamental underwriting practices. The regulators cannot permit the banks to jeopardize safety and soundness in order to demonstrate compliance with the act.

In other words, Madam President, CRA loans have to make money. They must make money. As bank regulators stated in their joint agency rule on CRA:

> The agencies firmly believe that institutions can and should expect lending and investments encouraged by CRA to be profitable. . . . As in other areas of bank and thrift operations, unsafe and unsound practices are viewed unfavorably.

Or as Mario Antoci, chairman of the American Savings said:

> Lending in the inner city has turned out to be the most profitable part of our business over the past few years.

Madam President, the Community Reinvestment Act has proven, I think, to be one of the most useful financial initiatives enacted by the Federal Government in a generation.

Community groups estimate that CRA has brought more than $1 trillion into underserved communities across our Nation from our small rural towns to our largest cities. It is done so in a manner that not only benefits the community in which the investment is made, but also allows the lending institution to expect the same profit that they would receive on other loans.

This is a law, Madam President, that works. And it is a law where benefits can be seen in every new home that gets built or new business that gets started in a neighborhood or town that used to be neglected by the banking industry prior to 1977.

If there are specific problems with the implementation of CRA, if there are certain activities that should be considered that are not considered, then the appropriate way to address those specific concerns is to work with the regulators to improve the way that the law is being administered.

But to exempt 86 percent of America's banks from a requirement to serve their entire community, while still extending them the benefit of deposit insurance which is backed by the dollars of everyone in that community, is simply wrongheaded in the approach to helping the banking industry.

At the end of the day, Madam President, the best thing that Congress can do to help community banks is to provide the means for all American communities to grow, thus expanding the demand for bank loans and products. CRA helps all of us achieve that goal and, therefore, I urge my colleagues to vote against this amendment.

Lastly, Madam President, I will come back to the point I made at the outset. I urge my colleagues to think about this: Even if the idea of CRA should be reworked and redone, even if you think it deserves a legislative approach, if it ends up being adopted on this credit union bill, it will bring down this piece of legislation. That would be a great disservice to the millions of people who are looking to this Chamber to follow what was done in the other Chamber, and that is to pass these reforms that are necessary for credit unions to succeed. For those reasons, Madam President, I urge that this body reject the Shelby amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I thank the Chair.

I rise to share some of my concerns regarding H.R. 1151, the Credit Union Membership Access Act.

First, let me state that I support the concept of H.R. 1151; that is, to prevent a current credit union member from being forced to disaffiliate, and also to allow a credit union an opportunity to reasonably expand its membership to help ensure the safety and soundness of the institution.

I will support passage of H.R. 1151. However, in light of the realization of the tax-exempt status that Congress affords credit unions, I think it would be irresponsible for this body to not fully debate a serious problem that exists with this legislation; and it is the Community Reinvestment Act requirements.

Madam President, we can talk about interpretation. We can talk about administering the act. But the realization is that the act calls for specific action by community banks. And the consequences of that are not only costly, but in some instances rather—well, they are rather amusing. Let us put it that way.

I know of one bank in Los Angeles with numerous branches throughout the city. And those banks are primarily located in areas of high concentration of Chinese residents, both from the mainland previously, or their families, and Taiwan. So a good portion of the banks' customers clearly are Chinese.

The Community Reinvestment Act mandates that these particular branches advertise in Hispanic areas of Los Angeles, advertise in areas where there are large concentrations of black residents, and move beyond, if you will, the traditional area that they serve with their branch system.

This particular institution has been cited as being in violation of the Community Reinvestment Act because it did not have a certain percentage of Hispanic depositors and borrowers. So they were forced to go out and advertise in those particular areas, which they did. They still did not generate any business.

If you go into this Chinese bank, so to speak, the tellers can speak English and Chinese. They are meeting, if you will, a minority service, but they are in violation, technically, of the Community Reinvestment Act.

I could go on and on with numerous examples, but here, clearly, is an example where the Community Reinvestment Act is out of sync with reality.

Community banks, for the most part, are small. Many of them are locally owned. Over half of the banks have only one or two branches. And they have excellent records of serving their communities because they are different than the money center banks. They are there to serve the community. They have to be there, and they have to do that or they would not survive. They have to serve the community.

It is interesting to note that of the 8,970 small community banks, there are only 9—only 9—that have a substantial noncompliance CRA rating. Let me repeat that. Of the 8,970 small community banks in America, only 9 have received a substantial noncompliance rating. In other words, almost 9,000 small banks must spend hundreds of millions of dollars to comply with a Federal mandate simply because a bare 9 community banks had records that the regulators in Washington, DC, deemed bad. Well, that makes no sense, Madam President. It is just totally unrealistic.

Because community banks by their very nature serve the needs of their community, community banks do not need a burdensome Government mandate to order them to do what they have already been doing a good job of for decades.

The difference is the large banks don't have a difficulty in meeting the CRA requirements. The large banks have personnel. They have resources and they can easily absorb the costs of these additional CRA mandates. The small banks don't have these resources. It is very difficult for them to absorb the high cost of the Community Reinvestment Act, and even the credit unions express concern over additional costs, additional Federal mandates.

How costly are the CRA requirements? Let's just take a look at this chart, because I think it shows adequately that this is a very meaningful cost. If we look at the chart, we see the financial burden of the CRAs to small community banks is costly, costly in both dollars as well as man-hours. If we look at compliance with the Community Reinvestment Act, what it costs the community banks—14.4 million employee hours; 6,900 full-time employees; $1,256 per $1 million in assets—the total cost of the CRA to community banks is over $1 billion a year.

One of the curious things about the manner in which this debate is going on, it is my understanding that Senator GRAMM has put in an amendment to exempt the credit unions from the CRA requirements. The CRA requirements are in the Banking Committee bill to exempt the credit unions from CRA requirements.

Senator SHELBY's amendment is simply to exempt small banks from the same CRA requirements. Now, is that not an equitable situation? I am surprised that the President has come down and suggested that if this passes, the Shelby amendment, it is grounds for vetoing the bill. What is the logic in that? What is the equity? What is the fairness? What we are trying to do here is to serve America's consumers. The way to do that is lower costs.

If it costs the small community banks $1 billion a year, that cost has to be passed on. What many in this body don't recognize is the difficulty that the small community bank has in meeting these requirements as compared to its competitor, whether a Bank of America or Citicorp or any of the major institutions. This is just another cost of doing business that they can assimilate. But the small country banker on the corner has a real problem with this in spite of what some of the debate has suggested here today.

The regulatory costs of the CRA impairs the ability of small banks to serve the needs to their local community. As this chart shows, it costs real money—$1 billion—to comply with the CRA. Banks must comply with the Truth in Lending Act. That requirement, which everyone supports, takes less than half the man-hours of the CRA and costs nearly half of what CRA costs. The banks must also meet the important Equal Credit Opportunity Act which prevents discrimination in lending, a worthy goal. Yet the cost of complying with the Equal Credit Opportunity Act is barely one-fifth of the onerous costs of the CRA.

I am a cosponsor of the Shelby amendment which exempts small banks, exempts small banks with $250 million in assets from CRA. Personally, I don't feel that goes far enough. I believe a $500 million threshold is a more appropriate figure.

Why is an exemption for small banks with $500 million in assets more appropriate? Well, there is a good reason. That is the threshold we established 12 years ago to distinguish small banks from large banks in the 1986 reform of the Tax Code. We recognized back then that the small banks, banks with less than $500 million, should be allowed a deduction for reserve for bad debts but denied a similar reserve deduction for large banks. It only makes sense to use a definition already so well established. Obviously, by the attitude prevailing here with regard to the equity, I am not going to pursue that, but I think that is an appropriate threshold as you look at where you cut off a small bank from a large bank.

I believe the Shelby amendment is a modest amendment that all of our colleagues should support. It is equitable. To have the threat of the White House come down, that they will veto this if it prevails, is absolutely unrealistic, and it is certainly unfair.

I think it is time we sent a message to the White House with regard to the merits of the debate on issues of equity and fairness. To suggest that the White House simply comes down with a threat—this Senator from Alaska is not buying. If there are any financial institutions in America that do not need to have a Federal community reinvestment mandate imposed upon them, it is America's small community bankers. They are not making loans in Indonesia. They are not making loans in South Korea. Their loans are in their communities. That is how they survive. Why exempt the credit unions and penalize small banks, small banks who pay taxes?

Make it fair. Make it equitable. Exempt both. That is the correct action that should be taken by this body. I hope there are enough Members who will stand up for what is right and equitable.

Mr. ENZI. Mr. President, I rise in support of the amendment sponsored by the senior Senator from Alabama.

The amendment, which authorizes an exemption for banks with less than $250 million in assets, would allow small banks to escape the burdensome, federal government mandate of the Community Reinvestment Act of 1977, commonly known as CRA. In 1977, Congress felt that the regulated and insured financial institutions should be required to demonstrate that their deposit facilities help meet the credit needs of the local communities in which they are chartered.

However, I have seen the CRA become a burdensome federal government mandate on private financial institutions resulting in nothing more than excessive paperwork requirements. Small community banks naturally serve the needs of their communities, otherwise they would not survive. In Wyoming, where many towns have only one or two banks and maybe a credit union, the financial institutions must reach out to everyone in the community in order to be successful.

We must also realize that several things have changed since the passage of the community Reinvestment Act became law in 1977. Until 1994, when Congress passed the Reigle-Neal Interstate Banking and Branching Efficiency Act, banks were not allowed to acquire another bank in another state. The Reigle-Neal Act forced small community banks to be more aggressive to meet the needs of their community in order to compete with outside banks, thus supplanting the need for the CRA.

Second, we now have less government intervention on the rate of interest payable on savings deposits and demand deposits. Before the Depository Institutions Deregulation and Monetary Control Act of 1980, there was a ceiling on the interest rates on savings deposits and a prohibition on the payment of interest on demand deposits to consumers. We do not have these restrictions now. These laws, passed after the Community Reinvestment Act of 1977, have promoted a healthy competition for deposits and credit, thus causing financial institutions to increasingly reach out to the communities they serve.

I believe it is prudent and right to exempt small banks from CRA requirements. They are the very institutions that comply every day with the Community Reinvestment Act just by the very nature of their business. And they are the institutions that are most burdened by the required paperwork because of their limited resources.

I urge my colleagues to support the amendment.

Mr. D'AMATO. Madam President, I have spoken to this issue before, so I am going to try to make my remarks very succinct. That is difficult for me, I realize that, but there are others waiting. The Senator from Kansas has been on the floor for 2 hours and the Senator from Massachusetts is waiting to speak also.

I share the concerns that my colleagues have raised regarding the fairness of what would appear to be overreaching in certain cases involving our community banks. I believe we need to have a full and thorough hearing to look at this question and examine it. Not just one hearing, but a comprehensive study and a series of hearings to see if we cannot advance the goals. Because I don't think there is anyone, anyone, who is opposed to the goals of ensuring that there is capital available in our rural areas and our small communities. Capital that might not otherwise be there were it not for CRA.

The question is, Is that capital being made available? How effective is CRA? Or has there been an unexpected consequence from the impact of the legislation and the compliance requirements? And has that consequence been so overwhelming as to keep the small banker from doing his job? Those are legitimate questions. We should review this important issue in its entirety and we should examine it.

But we should not offer an amendment now that would in any way make it impossible for this bill to go forward. That is exactly what would take place. There is no way, no way, that we could get sufficient votes nor would the administration enact legislation if the CRA provision was stripped out. I say "stripped out" because that is, indeed, what the amendment would do. The Shelby amendment would literally strip it out.

There is no way for evaluating if a bank had proven itself year after year and earned a relaxation in its examination schedule so it would be reviewed less frequently or even periodically. That is the kind of thoughtful consideration that we need to do.

This doesn't say, well, let's look at giving better tax treatment to the smaller community banks so that they can do their job. And, for example, Senator ALLARD has worked long and hard on developing a proposal that would do that. That is the kind of thing we have to do. But to come in here now and suggest that we simply strip out CRA for all community banks would be wrong.

And you can say that you favor credit unions, but if you vote for this amendment, what you are doing is taking a chance that credit unions will have irreparable damage done to them. So I am going to urge my colleagues to support the motion to table Senator SHELBY's legislative effort. As well intended as it may be, it should not be here.

Mr. HOLLINGS. Mr. President, I rise today in support of H.R. 1151, the Credit Union Membership Access Act. I have always supported federal credit unions because of their vital role in providing access to credit, particularly for consumers of moderate means. This bill would allow credit unions to continue to offer this outstanding level of service.

The Supreme Court's recent decision in the AT&T case cast a shadow of uncertainty over credit union membership. The decision threatens to disrupt the financial affairs of millions of hard-working families by forcing credit unions to limit future memberships and placing current memberships in jeopardy. This legislation responds to the Court's decision by clarifying the credit union field of membership. It protects existing credit union members and membership groups, while allowing appropriate expansion. In addition, it further protects consumers by ensuring the safety and soundness of credit unions through improved regulatory safeguards.

H.R. 1151, as reported by the Senate Banking Committee, is critical to consumers across the nation. Credit unions serve many families who have trouble obtaining credit elsewhere. In particular, credit unions are absolutely essential in the area of small consumer loans. For those in need of a loan to purchase a new car, put down a rent deposit, or buy a new washer and dryer, the local credit union is a valuable resource. In today's world of mega-mergers, credit unions continue to be there to provide affordable and personal financial services.

Both the House of Representatives and the Senate Banking Committee approved H.R. 1151 by overwhelming margins. These votes are evidence of the strong support behind this legislation. I urge my colleagues to support H.R. 1151 in a similar fashion.

AMENDMENT NO. 3336

The PRESIDING OFFICER. Under the previous order, the hour of 4:30 p.m. having arrived, the question recurs on amendment No. 3336 offered by the Senator from Texas, Mr. GRAMM. There will now be 1 hour of debate, divided in the usual form, prior to the motion to table the amendment.

Mr. D'AMATO. Madam President, I ask unanimous consent that 10 minutes of additional time be granted, and if the Senator from Texas would yield, we could take it out of our time. The Republicans would get 10 minutes equally divided. I see the Senator from Kansas who has been here 2 hours. Senator THURMOND has come to the floor and 2 other Members are here. If we can divide 10 minutes, 5 minutes on each side, I make that request.

Mr. KERRY. Madam President, reserving the right to object, would it be possible, I ask my colleague from New York, to work out an agreement where we might have a little more time on each side? Or I assume we are able to speak to either amendment during the time of the other amendment.

Several Senators addressed the Chair.

Mr. SARBANES. Madam President, as I understand it, we are now in a time-constrained period of 1 hour on the Gramm amendment, equally divided; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. Thirty minutes to Senator GRAMM and Senator D'AMATO, who supports Senator GRAMM, and 30 minutes on this side; is that correct?

The PRESIDING OFFICER. That is correct. The Senator from New York has a unanimous consent request that would seek to delay that period.

Mr. D'AMATO. I withdraw my request, Madam President. Let's start it from there.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The time is under the control of the Senator from Texas and the Senator from Maryland, under the previous order.

UNANIMOUS-CONSENT AGREEMENT

Mr. D'AMATO. Madam President, I ask unanimous consent that at 9:45 on Tuesday, the Senate resume consideration of the Shelby amendment, and there be 15 minutes of debate equally divided prior to a motion to table. I further ask consent that no amendments be in order prior to the vote. This has been cleared by both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I yield 6 minutes to the Senator from Massachusetts, Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 6 minutes.

Mr. KERRY. Madam President, thank you. I thank the Senator from Maryland.

AMENDMENT NO. 3338

Madam President, I want to speak just for a moment, if I may, with respect to the Shelby amendment. This amendment concerns me greatly and I think should concern all Senators who have invested the amount of time and energy in the past years to guarantee that we will provide adequate access to credit to those parts of America that have historically been very difficult to reach, difficult to provide jobs, and difficult for people to gain access to credit.

There is a fundamental reason that in 1977 Congress, in its wisdom, decided to pass the Community Reinvestment Act. All the Community Reinvestment Act asks is that banking institutions, demonstrate that they are making adequate efforts to try to provide credit to all of the people within their communities—that they are reinvesting in their communities. There is a reason that happened. It is very simple. They weren't doing it. Large financial institutions were growing, and were accepting deposits from people within a community, but the banks were not giving back to the people within that community. They were finding other places to invest for more lucrative, faster returns, safer returns, and the community suffered as a consequence of that. So you could have communities where you had rows of houses but they weren't homes. There is a distinction between a house and a home.

What we have learned is that, over the years, the almost $400 billion worth of investments that have been made back into communities have made homes out of what were just houses, have provided people the capacity to be able to improve their own lives, to create their own jobs, within the community. And that helps the community. In point of fact, it reduces taxes. It reduces the social burden on the rest of the people within those communities who have to pick up the slack if the larger financial institutions are not doing so.

What is astonishing about the Shelby amendment is that what it seeks to pass off as simply taking away those institutions with $250 million or less in assets is, in fact, an exemption for perhaps 85 percent of all the lending institutions in this country. The vast majority of the lending institutions in this country would be exempted from a requirement to show that they are involved in their community.

The fact is, I know this well, because as the ranking member of the Small Business Committee, we have spent a considerable amount of time trying to analyze access to credit for small businesses, which we know are over 95 percent of the businesses in the country and which provide a majority of the jobs in the country. These are some of the people who also benefit by virtue of the CRA.

The fact is that there is nothing that requires a lending institution to make a bad loan. In fact, those loans are specifically outlawed. They are specifically covered under the regulations. And the regulatory process requires the same standards of due diligence and the same standards of assuming credit. It simply requires them to make certain they are making some of those loans in the place where they do business.

The fact is that the CRA has been a remarkable catalyst, and those $400 billion have had a remarkable impact in the United States. Study after study shows that CRA portfolios perform well and that banks are profiting as a result.

It would be one thing if the banks came in here and said they were losing money, but they are not losing money, they are profiting as a result of the investments made under the CRA. That is precisely why banks are now starting to sell CRA loans on Wall Street—in order to raise more capital to make more CRA loans.

I might add that we have heard some complaints about the administrative burden of CRA on small banks. A number of years ago, Madam President, those complaints were made to our committee. They were made to the Small Business Committee and others. There have been a series of efforts within the banking community, and in fact a considerable amount of progress has been made to reduce the overlap of regulations and reduce the administrative burden of CRA.

I am told that there is a 30-percent reduction in the level of administrative effort to comply with CRA regulations. But all we are asking people to do is, in effect, report publicly on what they say they are going to do anyway. There are people who tell you: "We don't want to do this because it is a regulatory burden. But trust us; we are going to be out there in the community making these loans anyway."

If that is true, they are going to have all the records of the loans they are making. They are going to have all of the analyses of how this effects the community. They are going to have all of the analyses of those to whom they are lending.

The only additional requirement when you finish with all the folderol and hype is the requirement that they make it public and that they do it in a regular and orderly fashion.

But it's more than just the application of an economic model. CRA makes a difference in the lives of real people. In Massachusetts, there have been more than $1.6 billion in commitments made by financial institutions to assist low income neighborhoods. These funds have been invested in home ownership, affordable housing development, minority small business development, and new banking facilities and services. It's making a difference in Boston's inner city neighborhoods, from Roxbury and Jamaica Plain to the South End.

Stacy Andrus, from Jamaica Plain, Massachusetts, was a restauranteur struggling to make ends meet and retain her clientele in a competitive environment. She knew she had to be creative just to keep pace. Stacy began toasting chips out of pita bread to serve as finger food before the meals. Well, as you might expect, the pita chips soon became the most popular item on the menu. Like so many small business owners who know they've latched onto a great idea, Stacy wanted to expand her operation, to bring her concept to scale. But capital and credit are scarce in Jamaica Plain. Stacy couldn't find the help she needed until she started working with the Jamaica Plain Neighborhood Development Corporation. This corporation works within a network of small business assistance providers that use CRA programs at local banks to secure financing for small businesses. With their help, Stacy obtained a $60,000 loan from BankBoston. As a result, her small business has expanded rapidly: She has leased a production plant in Jamaica Plain; put former welfare recipients on the payroll; and 900 bags of chips are rolling off the assembly line every day. Thanks to CRA, Stacy Andrus has made her Pita chips the top-selling gourmet snack food in Boston and she has major airlines interested in serving her chips to first class customers. But without CRA, the community of Jamaica Plain would not receive the benefits from the economic development that these investment have generated.

CRA is also giving low-income communities a shot at home ownership, making the American Dream a reality for those who believed it was out of reach. Julie Orlando, a single mother of three, wanted to buy a home for her family in Leominster, Massachusetts. Julie's income, though, was less than 80 percent of the medial family income for the area. In the days before CRA, Julie wouldn't be considered a likely candidate to own a home. But because the Fidelity Cooperative Bank was involved in the CRA coalition, Julie was able to obtain a $72,000 mortgage with no points. The city of Leominster provided additional assistance to Julie and her family. Because the Fidelity Cooperative Bank participated in a CRA coalition, Julie and her two children can live the American Dream of owning their first home. That is exactly the type of assistance that the CRA was designed to provide. Let me tell you, Julie's success story is typical. It's indicative of the kind of progress we can make when we leverage market forces to work in disadvantaged communities.

Mr. President, I believe the Shelby amendment will roll back the advances being made in cities and rural areas around the country. To eliminate these regulations for more than 85 percent of banks in the United States and 75 percent of banks in Massachusetts will close the door of home ownership and small business growth for thousands of low-income neighborhoods across the country.

I believe that is the wrong direction for this country. The United States is experiencing economic growth that surpasses our wildest expectations. The stock market is pushing 9,000. Unemployment is low and we are, for the first time in fourteen years, starting to see growth in real wages. We have reason to be proud. We don't, however, have reason to rest on our laurels. In this time of prosperity, our job must be to expand the winner's circle, to empower every community to participate in this economic expansion. That means we must not allow any community to be denied access to credit and capital. Destroying the development of CRA will mean access denied for our inner cities and rural areas. It would dismantle one of the most effective methods for investment in our neighborhoods and set back hard-fought development in disadvantaged areas of this country. That is why I oppose the Shelby amendment and urge my colleagues to vote against it.

I hope colleagues will oppose the Shelby amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has 26 minutes remaining.

AMENDMENT NO. 3336

Mr. GRAMM. Madam President, we will vote at 5:30 on an amendment I have offered, an amendment that is supported by every Republican on the Banking Committee. This amendment would strike an unwise and, I believe, unfair provision that was put into this credit union bill in the House.

What I would like to try to do in a few moments is to explain what credit unions are and how they work. I would like to explain why this provision is unwise and unfair. I would like then to read for my colleagues the language of this provision to show, by the very words of the provision, how it is unworkable and how it is subject to tremendous variance in interpretation. Then, contrary to what others might say about a provision called "community reinvestment," I would like to give some real examples of abuses that are not of benefit to the community but rather to special interests.

Those are basically the points that I want to cover.

Credit unions are voluntary organizations. They are not for-profit organizations. They are organizations that were established under Federal law or State law, many during the Great Depression, whereby people of modest means pooled their savings and then, from that pool of savings, they made loans to others who had joined the pool, often making it possible for people to borrow money in small amounts that would not have been available through other, commercial sources. And in the process, credit unions brought credit literally to millions of American families of modest means.

Recognizing this in their charter, they, as other cooperatives that were born during the Great Depression, were granted tax exemption. They are totally voluntary organizations tied together by a common bond.

We have written a bill in the Senate and House because of a court ruling which jeopardizes the current status of credit unions.

In the House of Representatives, a provision was added to this bill to require for the first time ever in the history of this country that Federal credit unions, and not only Federal credit unions but State credit unions as well, be forced to make loans and grant services at subsidized rates to people who are not members of the credit union. This is following a principle that has been established with the Community Reinvestment Act for banks, and I want to argue that it does not fit the model of credit unions, and that it has certainly been abused in its use for banks.

I personally will vote for the Shelby amendment to exempt small banks from CRA, but my amendment deals with a different subject. We should not be imposing with Federal power a mandate that voluntary, nonprofit organizations, chartered for the sole purpose of promoting the private interests of their members and the cooperative interests of their members, provide services, loans and other services, to people who are not members of the credit union, people who had an opportunity to join but chose not to join. And might I point out, it generally costs nothing more than a deposit of five dollars to join a credit union, yet these people to be served under these mandates in the bill chose not to join.

Let me read the language. In three different instances this bill imposes these new Federal mandates. First of all, it imposes on credit unions "a continuing and affirmative obligation to meet the financial services needs of persons of modest means." It then requires that the Federal Government conduct a periodic review of the records of each insured credit union to see that each and every credit union is "providing affordable,"—and "affordable" is undefined and undefinable—"credit union services to all individuals of modest means within the field of membership of the credit union."

Let me remind my colleagues that not only does the bill mandate that the credit union be "providing," not offering to provide but actually providing, its services, meaning that they must be offered and accepted in order to meet the standard, but the bill mandates that the services and credit be "affordable," an undefined and undefinable term.

The bill then uses equally expansive terms to identify to whom these affordable services and loans are to be provided: "All individuals . . . within the field of membership of the credit union." That is far different from the number of people who chose to join a credit union. If a credit union represents a common bond of people who work for a company or people who live in a community, a credit union is very successful if 20 percent of the people who had the opportunity to join the credit union actually chose to do it.

If this House provision remains in the bill, we will be mandating that the hard-earned savings of credit union members be used to provide subsidized services to people who had an opportunity to join the credit union but who chose not to afford themselves that opportunity.

This provision also requires that the evaluation of the credit union made by the Federal examiners be made public.

With regard to community credit unions, the provision requires that the credit union meet the credit needs and credit union service needs of the entire field of membership, and that procedures for remedying a failure be established—again, for the first time ever in the history of this country requiring voluntary nonprofit organizations to grant subsidized services to people who are not members of those organizations.

And, finally, a third time the legislation mandates, and again in words that are undefinable, that the credit union, as a condition tied to its federal deposit insurance, insurance that it pays for out of its capital provided by its members in a self-financing system, must be satisfactorily providing affordable credit union services to all individuals of modest means within its field of membership—again, not people who joined the credit union. And, as before, the terms "satisfactorily" and "affordable" are undefined and totally undefinable.

What is this really about? I want to use, I am afraid, somewhat harsh language to describe what this is about, there are not any other terms which really describe it. We must begin by recognizing that we had to pass a bill to deal with a court decision with regard to credit unions. Then we are seeing a rider added to this bill, in essence an effort to hold this bill hostage, these CRA provisions that for the first time will force credit unions to use their resources for something other than promoting the well-being of their members. These so-called community reinvestment provisions are often abused and often can turn into something very different than the term "community reinvestment" would suggest.

I want to give you three examples of the kind of problems that are happening on a regular basis with regard to the application of CRA to banks. We do not want these things to happen to credit unions, and someday we are going to stop them from happening to banks. I would like to begin that soon.

The first has to do with California First Bank. California First Bank sought to merge in 1989 with Union Bank. When the merger was announced, protesters showed up and filed a protest under the Community Reinvestment Act opposing the merger of California First Bank and Union Bank. They met with the leadership of the California First Bank, and after delaying that merger, an agreement was entered into in return for removing the protest to the merger. California First Bank agreed to increase purchases from women and minority-owned vendors to 20 percent of total purchases. They agreed to make charitable contributions in the amount of 1.4 percent of net income in 1989 and 1.5 percent of net income in 1990. They made a commitment that 60 percent of employees placed in middle and senior management positions within 5 years would be minorities and women. And finally, they agreed, as a condition for the removal of this protest, that they would appoint three minority and women directors to the bank.

Sumitomo Bank in California is a bank that I do not know, but I assume it is an affiliate bank of the Japanese bank operating in California. I suspect that it has specialized in providing services, corresponding bank services to companies that do business in Japan and Japanese companies that do business in the United States. Sumitomo Bank had an action filed against them under the Community Reinvestment Act, and as a result of this filing, they were ultimately forced into the following agreement. And I would like to ask you, if this were a bank from one of our States that was operating in the Dominican Republic and a group of professional protesters came into the bank and protested its operations and demanded and received the following things, what would we call it?

This Japanese affiliate bank was required under this agreement to make $500 million of CRA-related loans over 10 years; to spend 2 percent of income on charitable or not-for-profit organizations, two-thirds of the money going to inner-city organizations; appoint minority board members to the bank; appoint a paid five-member minority advisory board to consult with management; and give 20 to 25 percent of outside contracts to minority-owned vendors.

I submit that, while it is a harsh word to say, if an American bank in the Dominican Republic had been forced to do these things, we would have called it extortion. Yet this is happening every year in America.

Let me give another example. When NationsBank and the Bank of America recently sought to merge, both banks had excellent CRA reports. They had been graded annually, and they had historically invested substantially in the inner-city areas that they served. Yet, despite the fact that both banks had excellent CRA reports, a group of professional protesters opposed the merger. Currently, they are endeavoring to hold up the merger, and one of the protesters was recently quoted as saying, "We will close down their branches and ensure they fail in California. This is going to be a street fight and we are prepared to engage in it."

Madam President, what has really happened to CRA provisions for banks is that we have literally set up a procedure whereby professional protesters lodge a complaint in the name of community reinvestment every time banks seek official approval of any action, and based on those complaints, in holding up that action, they are able to force companies to sign agreements to set quotas in purchasing, quotas in hiring, quotas in promotion, and they literally force the bank to donate money to organizations of which they themselves, on occasion, are part or beneficiaries.

I submit that community reinvestment, while the name is a wonderful name, and we all support it, has really turned into a system that is terribly abused. It has become virtually a system of legalized extortion whereby a small number of professional protesters are able to go into a bank and literally threaten that bank with the inability to do its business unless they are, in some form, in some fashion, paid off.

I think this is fundamentally wrong. It is very difficult to get banks to talk about it, obviously, because when people have been extorted, it is hard to get them to go public. But the plain truth is, I think if people look at what is happening to NationsBank and Bank of America, even though both of them have excellent records, and in the reports that are filed annually have consistently received high ratings, yet they are being shaken down by protesters who are trying to hold up their merger, asking for additional concessions.

When we look at what California First Bank and this Japanese affiliate were forced to do, in terms of payments of cash, in terms of hiring people to serve on "advisory boards," it reminds me of an immigrant merchant working with his family. This immigrant merchant is trying to eke out a living in a little store, when these big heavies walk into his store and say: You know, you need protection. You need somebody to make sure that somebody doesn't come in here and tear up your business or hurt you. And you give us 5 percent of what you earn and we will protect you.

I think it is fundamentally wrong, when we have established terms that are so undefined as "affordable," terms such as "satisfactorily providing affordable," so that we are literally allowing American business to be shaken down. I don't want this to happen to credit unions. I don't like the fact that it is happening to banks. I believe that we will ultimately fix this problem. I think we should.

Some people are going to say that the credit unions are not actively opposing the CRA mandates in the bill. The credit unions were told that if they opposed this provision in the bill that they might not get the bill, that it might be held up. So needless to say, I am not surprised under those circumstances that they have not come forward to say that they oppose these mandates.

But I believe these mandates should be stricken. I think that they have no role in the credit union bill. I think it is fundamentally wrong, to require that voluntary nonprofit organizations, established to provide cooperative financial services to people who voluntarily come together in a credit union—it is wrong to force them to take their money and their services and, in essence, give them to people who are not members of their credit union.

I think it is fundamentally wrong. Striking those mandates is what my amendment is about. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, how much time is left to the proponents of the measure?

The PRESIDING OFFICER. The proponents have 6 minutes 44 seconds; the opponents have 19 minutes 30 seconds.

Mr. D'AMATO. Madam President, I would like to take up to 5 minutes.

I support the Senator's efforts, the efforts of the Senator from Texas, Senator GRAMM. As strenuously as I have argued against the inclusion of legislation that would affect community banks and CRA, I do not believe this is the time for us to go forward and place the same CRA provisions, which are so controversial as they relate to community banks, on the backs of credit unions.

We want to see that credit unions are soundly run. We want to protect the taxpayers. We want to see that credit unions can do their business, and that business is to make the small loans that others traditionally are not willing to make. I am going to ask that a letter from the National Credit Union Association, written by Robert E. Loftus, Director, Public and Congressional Affairs be printed in the RECORD in a minute, but I want to read this part out, relating to inquiries we made as to what obligations the CRA portions of our bill would require. He says, "Our investigations have not produced any evidence that credit unions are guilty of redlining or other discriminatory practices."

Madam President, I ask unanimous consent the letter from Mr. Loftus dated June 1, 1998, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL CREDIT
UNION ADMINISTRATION,
Alexandria, VA, June 1, 1998.

Mr. PHIL BECHTEL, Chief Counsel,
Ms. MADELYN SIMMONS, Professional Staff Member,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR PHIL AND MADELYN: Thank you for your efforts in obtaining Banking Committee approval of H.R. 1151. NCUA greatly appreciates the work you and the Banking Committee staff put into crafting a compromise bill.

I am writing in response to your request that NCUA analyze the effects on credit unions of the community service requirement in section 204 of H.R. 1151. Of course, NCUA's ultimate disposition of this issue lies in the hands of the NCUA Board; these comments reflect only staff views and not the Board's position.

Consistent with the language of the bill, NCUA will strive to focus on performance and "not impose burdensome paperwork or recordkeeping requirements." Our goal will be, to the maximum extent possible, to rely on records credit unions already maintain in order to minimize the costs of evaluating service to low- and moderate-income members. We believe that this approach is appropriate, as our investigations have not produced any evidence that credit unions are guilty of redlining or other discriminatory practices.

If the final version of H.R. 1151 requires NCUA to implement a community service requirement, one possible approach might be that taken in a recent proposed regulation. A proposal before the NCUA Board in March (attached) would have required credit unions applying for a new or expanded community charter to document their plans to serve all segments of the community. We believe that the proposed regulation might provide a framework for implementation of section 204.

Implementation of section 204 will be a time-consuming and difficult process, as the Board will have to agree on the meaning of terms such as "periodically" and "criteria" after a public comment period which will run for several months. Staff expects that developing the community service regulation will be the most challenging part of implementing H.R. 1151. Although there will be some additional cost, until a regulation is in place, it will be impossible for staff to estimate the amount of the costs to the agency and credit unions.

Thank you again for your efforts on behalf of credit unions and their members. I assure you that the NCUA Board will implement the final version of the legislation with all due speed. If you have further questions, please feel free to contact me.

Sincerely,

ROBERT E. LOFTUS,
Director, Public and Congressional Affairs.

Mr. D'AMATO. Madam President, there is no evidence that people are not getting credit that they should be getting. This legislation is ill conceived, to place these burdens on these small credit unions and credit unions that are by their nature nonprofit and voluntary. I don't understand this. To paraphrase the statement that has been used often, "This is a solution in search of a problem." We don't even have a problem and we are coming up with a solution.

Let's look and see what the National Credit Union Administration says. These are the people who are going to draw the rules enforcing this vague open-ended legislation. Listen to what they say about implementing the legislation that imposes the CRA requirements:

> This will be a time-consuming and difficult process, as the Board will have to agree on the meanings of terms such as "periodically" and "criteria."

This legislation, as it is written, is ambiguous. This is not the time for my colleagues to be putting this kind of legislation into law. This proposed legislation is wrong. The letter from the National Credit Union Administration goes on and says:

> . . . after a public comment period which will run for several months. Staff expects that developing the community service regulation will be the most challenging part of implementing H.R. 1151.

My gosh, there you have the people who are going to administer these CRA provisions, as well-intentioned as they might be, saying that developing the community service regulation will be the most challenging part of implementing H.R. 1151. The National Credit Union Administration is saying that this is going to be the most difficult part of the law. Furthermore, there is no community service problem that is outstanding. I don't think we want to engage in this type of legislation.

Last but not least, let me say what we should be doing and what the administrator of the credit unions, the National Credit Union Administration, should be doing is concentrating on seeing to it that those few credit unions that may have trouble with their capital standards, et cetera, are subject to the prompt corrective action provisions in the bill so that the taxpayers are protected.

Let's protect the taxpayers, and let's see to it that credit unions do what they have done best, and that is to be available to the community that often has had difficulty getting credit. That is what this is about. That is what this legislation should be about.

As strongly as I am opposed to an attempt to strip out CRA from community banks, it is ill conceived to place these kinds of legislative prerogatives and requirements on credit unions that are not even adequately defined and that the National Credit Union Administration itself says will be the most difficult to undertake.

I yield the floor.

Mr. SARBANES. Madam President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland controls 19 minutes, 20 seconds, and the Senator from Texas controls 2 minutes, 29 seconds.

Mr. BYRD. Madam President, will the distinguished Senator from Maryland yield me just 15 seconds so that I might make a request?

Mr. SARBANES. Certainly, I yield to the Senator.

Mr. BYRD. I thank the Senator.

Madam President, I ask unanimous consent that upon the disposition of the two rollcall votes this afternoon, I be recognized to introduce a bill and to speak thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Chair.

Mr. SARBANES. Madam President, a lot has been said here this afternoon. I regret some of the rhetoric. I don't think it advances a rational discussion of the issue, to talk about extortion and piracy, I must say, because I think there are very important issues here with respect to CRA, and I want to cover both of them since a lot of the arguments that are used on the amendment pending before us which would remove from the bill a sort of modified version of CRA which would be placed on credit unions, which was in the bill as it came over to us from the House of Representatives—a lot of those arguments really relate to CRA as it applies to banks, and that application is being used to make an argument with respect to credit unions.

First of all, it had been asserted earlier that the rationale for CRA which Senator Proxmire advanced back at the time of its passage in 1977 has all eroded, but the fact of the matter is, when that argument was made, one of the major points that Senator Proxmire advanced for the application of CRA was omitted from the list of considerations; namely, that deposit insurance is available to these institutions and the importance of deposit insurance.

This was underscored, of course, because in the 1980s Federal insurance for the savings and loans cost us $132 billion, without counting the indirect costs that were incurred in interest payments in order to finance the direct payments which were necessary.

Many of those who are arguing against are against any CRA requirement for any federally insured financial institutions, and I think it is important to understand that. Of course, I come from a very different point of view.

The fact of the matter is that CRA does not require a bank to make subsidized loans. It doesn't require it to make uncreditworthy loans. It doesn't require it to lend to a particular individual. It is not an allocation of credit.

What it requires it to do is pay attention to its community so it can't simply take money out of the community and, in effect, not be in the posture of putting money back into the community, which is, of course, what the act says community reinvestment is.

Federal Reserve Chairman Alan Greenspan has pointed out:

> The essential purpose of the CRA is to try to encourage institutions who are not involved in areas where their own self-interest is involved in doing so. If you are indicating to an institution that there is a forgone business opportunity in area X or loan product Y, that is not credit allocation. That, indeed, is enhancing the market.

What this has enabled us to do is to draw into the mainstream of economic life communities that had previously been neglected. It has worked well, and there is every reason that it also should apply to the credit unions who, of course, also get the benefit of a Federal guarantee standing behind their insurance fund.

With respect to these sharp statements about how CRA has been used by community groups, let me quote on the record some of the statements that banks and bankers have said about it.

The Bank of America says:

> Over the past several years, Bank of America, in partnership with community organizations, has developed CRA lending into a profitable mainstream business * * *. We have taken what began as a compliance function and turned it into a business line that makes economic as well as social sense.
>
> We believe we have demonstrated over the past several years that when institutions develop CRA programs as a business tool, and provide lending products with flexible but prudent underwriting criteria, low-income lending can be safe, sound and profitable.

"* * * low-income lending can be safe, sound and profitable."

I ask unanimous consent that this public statement by Bank of America be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Bank of America Voices Support of CRA Reform

SAYS LOW-INCOME LENDING CAN BE "SAFE, SOUND, AND PROFITABLE"

SAN FRANCISCO, March 9, 1995.—Bank of America said today that it supports ongoing efforts to reform the Community Reinvestment Act by increasing its focus on lending performance.

"Over the past several years, Bank of America, in partnership with community organizations, has developed CRA lending into a profitable mainstream business," said BofA Executive Vice President Donald A. Mullane. "We have taken what began as a compliance function and turned it into a business line that makes economic as well as social sense.

"We believe we have demonstrated over the past several years that when institutions develop CRA programs as a business tool, and provide lending products with flexible but prudent underwriting criteria, low-income lending can be safe, sound and profitable."

The bank reported earlier this week that it provided $5.9 billion in CRA loans in the western U.S. during 1994.

"As we have said repeatedly during the public debate on the future of CRA, we believe it continues to play a valuable public policy role by promoting more innovative and widespread reinvestment activities by the financial services industry."

BofA made its comments in a letter to Rep. Marge Roukema, who chairs the House Banking Subcommittee on Financial Institutions and Consumer Credit. The subcommittee is holding hearings this week on the effectiveness of the CRA and on ongoing efforts by regulators to revise the 17-year-old law.

Mullane, as co-chair of the national Consumer Bankers Association's Community Reinvestment Committee, provided a written statement to Roukema's committee representing the national trade association's position on CRA reform. He said BofA's letter was written to clarify the bank's position as an individual institution.

"Our industry is not a monolith and there is a wide divergence of opinion regarding the effectiveness of the CRA," Mullane said. "We respect those differences and believe in a full and open dialogue on the future of this key banking regulation.

"But we want to be clear that Bank of America has been and continues to be a strong advocate of the CRA process, and we support current efforts by federal banking regulatory agencies to revise CRA regulations so that they focus more on actual lending performance than paperwork."

Regarding specific elements of CRA reform, Mullane said Bank of America:

Supports the collection of race and gender data on small business and consumer loan applications, as advocated by community organizations, but only if it is required of all small business lending providers, not just those institutions currently regulated by CRA. Banks provide only approximately 30 percent of small business loans in the country, Mullane said, and without full reporting by all providers, such data would give a distorted view of the small business lending market.

Supports a "safe harbor" provision protecting institutions with a CRA rating of "outstanding" from protests during mergers and acquisitions.

Believes that CRA should apply equally to all banks, regardless of size. CRA should also provide new market-based incentives to encourage nonbank financial service providers to engage in community development lending and investments.

Mr. SARBANES. Madam President, I ask unanimous consent that a letter from LaSalle Talman Bank in Chicago be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LASALLE TALMAN BANK,
Chicago, IL, March 3, 1995.

Hon. MARGE ROUKEMA,
House of Representatives, Chairwoman, House Subcommittee on Financial Institutions & Consumer Credit, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE ROUKEMA: Through our subsidiary, the LaSalle Talman Home Mortgage Corporation, we are the largest residential mortgage lender in both the Chicago metropolitan area and the state of Illinois.

Our orientation and focus of lending has been consistent with the mandates of the Community Reinvestment Act (CRA). In fact, it predates the actual introduction of the CRA in 1977. For the record, our institution was also providing voluntary mortgage disclosure data before the passage of the Home Mortgage Disclosure Act (HMDA).

CRA has proved to be a positive force here in Chicago. It has been the instrument that has provided millions of dollars in investment that has financed home purchase, rehabilitation and home improvement, and new construction in once underserved communities.

CRA is not bad business or "have to" business. CRA allows discretion and choice to the lender. It allows for reasoned negotiation and workable solutions. It has provided a forum where financial institutions, corporations, and community organizations can work in a spirit of cooperation to meet community credit needs.

Today we are disturbed by news coming from Washington, viz., that efforts are underway to repeal or undermine the Community Reinvestment Act.

There is a need to revise some aspects of the CRA, and recent hearings and rule changes were to do that. That has not happened. Changes are needed. Repeal is not!

Chicago, and indeed all of our nation's cities, need the positive force of CRA. Without CRA the prospects of a return to the terrible social turmoil and destructive results of pre-CRA days becomes a very real possibility.

I express my support for the continuance of the Community Reinvestment Act.

Sincerely,

THOMAS J. GOBBY,
Senior Vice President.

Mr. SARBANES. Madam President, this letter states:

> Through our subsidiary, LaSalle Talman Home Mortgage Corporation, we are the largest residential mortgage lender in both the Chicago metropolitan area and the state of Illinois.
>
> . . . CRA has proved to be a positive force here in Chicago. It has been the instrument that has provided millions of dollars in investment that has financed home purchase, rehabilitation and home improvement, and new construction in once underserved communities.
>
> CRA is not bad business or "have to" business. CRA allows discretion and choice to the lender. It allows for reasoned negotiation and workable solutions. It has provided a forum where financial institutions, corporations, and community organizations can work in a spirit of cooperation to meet community credit needs.

The objective is to meet these community credit needs. We have discovered now a path down which we can go and which, in the course of meeting the community needs, the financial institutions benefit and profit from it.

Reference was made to the Sumitomo Bank of California. I ask unanimous consent that a statement of Sumitomo released in March 1997 be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SUMITOMO BANK ANNOUNCES 1997 COMMUNITY OUTREACH PLAN

SAN FRANCISCO, March 6.—At a press conference today, Sumitomo Bank of California (Nasdaq: SUMI) announced its 1997 Community Outreach Plan. A full text of the Bank's statement, as provided by Tsuneo Onda, President and CEO, is provided below.

"In January of 1993, Sumitomo Bank of California announced its Ten-Year Community Reinvestment Act (CRA) Goals. At the time, it was widely praised by advocacy groups as the most comprehensive and largest commitment of its type.

"I am proud to announce that just four years into the plan, our Bank has made great progress. In terms of lending, the most significant of the goals, we have already made $349 million of CRA loans since 1993, just under seventy percent of our $500 million ten-year goal. This includes loans to low- to moderate-income home buyers, Small Business Administration loans, and loans in redevelopment and enterprise zones, among others. I believe that this is an outstanding accomplishment, especially in light of the fact that our Bank has actually declined in size over that period.

"Encouraged by our success to date, we have decided to reaffirm our commitment by expanding our original Goals. Based on our progress, we will strive to achieve our original $500 million CRA loan goal within six years, four years earlier than originally targeted. Not stopping there, we will double our 1993 goal, targeting a total of $1.0 billion in CRA loans over the original ten-year timeframe. In addition to the loan goal, we will expand our Community Advisory Board from five to ten members, and will aim for greater diversity in our use of vendors and in our philanthropic support of community organizations. Our goals are extremely challenging, but we feel they are consistent with our business plans and we will do our best to achieve them.

"Community outreach will be the key to achieving our goals, and that is why we have named our new plan the "1997 Community Outreach Plan." As a start, we are in the process of creating a new CRA unit, specifically dedicated to ensuring the achievement of our goals. This new unit will concentrate on identifying ways to expand and improve our involvement with a more diverse customer base, including those with whom we have not previously established business relationships.

"Perhaps our most important effort will be in the communities themselves. Our goals can best be achieved through a cooperative effort between our Bank and the people in the communities we serve. We believe that the establishment of working relationships with minority-owned financial institutions that are already doing business in these communities will be one important aspect of our outreach efforts. In that regard, we are presently developing a relationship with a African American-owned bank located in South Central Los Angeles. In addition, we have sought and received the support of a broad range of community groups. As we develop concrete projects with these groups, we will be making additional announcements.

"In closing, I believe that our 1997 Community Outreach Plan is a mutually beneficial plan that will greatly assist all the communities we serve, while helping our Bank achieve our own business goals."

Mr. SARBANES. Madam President, in this statement they reaffirm their CRA commitment and announce an expansion of their CRA goals. Sumitomo itself came in and said they were proud to announce that, just 4 years into the plan, the bank had made great progress. They then quote some figures of how they come close to meeting their various goals:

> Encouraged by our success to date, we have decided to reaffirm our commitment by expanding our original Goals. Based on our progress, we will strive to achieve our original . . . goal within six years, four years earlier than originally targeted. . . .

They doubled their goal. So they recognize that it was working, that it was mutually beneficial. They closed by saying this "will greatly assist all the communities we serve, while helping our Bank achieve our own business goals."

Recently The Enterprise Foundation, which of course was founded by Jim Rouse, one of the great visionaries, in my judgment, in our Nation with respect to community development, urban planning, affordable housing, they described in a publication "Community Reinvestment, Good Works, Good Business"—"Good Works, Good Business"—they cited programs in Florida, Missouri, Iowa, California, Nebraska, New York, Minnesota, and New Jersey as examples, cited the banks, the programs they were carrying out under CRA. And they went on to say:

> Many banks have discovered that community lending is good business. These banks would continue to meet their obligations regardless of federal requirements. But others need encouragement, and CRA has proven effective at providing this. CRA has helped banks discover new markets and profit opportunities that they otherwise might have overlooked.

We had all these complaints about paperwork, overregulation. The regulators undertook a major effort to slim that down, with great success. The various banking associations, after that was completed, appraised the process through which we had gone in order to simplify and streamline this process. So it is working. It is bringing in these communities. It is drawing people into the financial mainstream. And it seems to me a reasonable requirement.

Let me make just one final point, because the point is being asserted that, well, these banks that would be exempted under the amendment offered by Senator SHELBY hold a small portion of the assets of all banks nationally. But what you have to understand is that 85 percent of all banks in the country would be eliminated from the CRA by the Shelby amendment. In six States, over 95 percent of the banks fall into this category. In nine other States, over 90 percent of the banks fall into this category. There are 30 States in which 80 percent of the banks fall into this category.

Many are rural States. CRA is often perceived as benefiting the urban areas of our country. However, rural areas, no less than urban areas, benefit from CRA.

I ask unanimous consent to have printed in the RECORD a letter from a coalition of rural and farm groups in opposition to the Shelby amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

July 23, 1998.

DEAR SENATOR: On behalf of the undersigned organizations representing rural Americans, we are writing to express our strong opposition to legislative efforts to weaken the coverage of the Community Reinvestment Act (CRA). Our understanding is that Senator Shelby plans to offer an amendment to H.R. 1151, the credit union legislation, that is scheduled for floor action. In addition, Senator Gramm plans to offer an amendment that strikes provisions in H.R. 1151 that would ensure that credit unions provide services to all individuals of modest means within their field of membership.

The Shelby amendment would exempt banks under $250 million in assets from CRA coverage. This affects over 85% of banks nationally. For citizens in Iowa, Kansas, Minnesota, Montana, Nebraska, and Oklahoma, 95% of the banks would be exempt.

Rural Americans need the tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve the millions of Americans living in smaller low and moderate-income communities. Unfortunately, small commercial banks do not automatically reinvest in their local communities. This is documented to national data on reinvestment trends and loan to asset ratios for banks across the country. 50% of small banks have a loan-to-deposit ratio below 70%, with 25% of these having levels less than 58%. The data for 1997 reveals that banks under $100 million in assets received 82% of the substantial non-compliance ratings.

We strongly urge you to oppose these amendments to H.R. 1151. The Shelby amendment ignores the important regulatory changes since 1995 that have significantly reduced the paperwork and reporting issues for small banks. The Gramm amendment will strike an important provision from the bill that for the first time would require credit unions to meet the financial services needs of their entire field of membership.

A vote against these amendments will help meet the credit demand of millions of family farmers, rural residents, and local businesses. Thank you for considering our concerns.

Sincerely,

Center for Community Change; Center for Rural Affairs; Federation of Southern Cooperatives; Housing Assistance Council; Intertribal Agriculture Council; Iowa Citizens for Community Improvement; National Catholic Rural Life Conference; National Family Farm Coalition; National Farmers Union; National Rural Housing Coalition; Rural Coalition; United Methodist Church, General Board of Church and Society.

Mr. SARBANES. That letter says, in part:

> Rural Americans need tools of the Community Reinvestment Act to ensure accountability of their local lending institutions. It is needed to prevent rural banks from abandoning their commitment to serve the millions of Americans living in smaller low and moderate-income communities. Unfortunately, small commercial banks do not automatically reinvest in their local communities.

Madam President, I ask unanimous consent that a letter from more than 40 community groups with respect to CRA and with respect to both the Shelby and the Gramm amendment be printed in the RECORD as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VOTE AGAINST THE ANTI-COMMUNITY REINVESTMENT AMENDMENTS TO H.R. 1151

July 13, 1998.

DEAR SENATOR: The credit union bill (H.R. 1151) is currently scheduled for consideration by the full Senate this Friday (July 18). We understand that Sen. Shelby will offer an amendment that would have the effect of substantially curtailing coverage for banks under the Community Reinvestment Act (CRA). Additionally, Sen. Gramm is planning to offer another amendment to strike provisions in H.R. 1151 intended to ensure that credit unions serve persons of modest means within their fields of membership and consistent with safe and sound operation. We urge you to vote against both of these amendments.

CRA is a 1977 law that was enacted to combat the practice of redlining by taxpayer-backed federally insured banks and savings institutions. The Shelby amendment offered unsuccessfully in the Senate Banking Committee exempts banks with under $250 million in assets from all CRA requirements (more than 85% of all banks). Should this amendment be adopted, it would mean that the vast majority of insured depository lenders would be free to redline or otherwise discriminate with impunity against the residents of certain urban and rural geographies.

CRA is a law that works! Almost $400 billion is estimated to have been committed by banks for affordable housing, small business lending, and community development in under-served urban and rural communities since 1977. These commitments have opened up opportunities for modest income families, small firms and small family farmers to purchase a home, and start up and expand their businesses. CRA has helped to "jump start" the market in these under-served areas.

CRA has produced substantial benefits at no cost to the taxpayer. Former Federal Reserve Board Governor Lawrence Lindsey said that CRA accounts for billions of dollars being invested annually in low-income areas without employing a large bureaucracy. For these reasons, US News and World Report refers to CRA as an "ideal government initiative." Community reinvestment lending has helped to take the place of dwindling federal resources for community development.

The Shelby amendment is a solution in search of a problem. The recently adopted CRA regulations were specifically designed to streamline the examination process for small banks and thrifts. Under the revised rules, banks and thrifts with an asset size of less than $250 million are exempt from all reporting requirements and are no longer subject to process-based documentation requirements. Instead, examiners now look at a small bank's loan-to-deposit ratio, percentage of portfolio in local loans, distribution of loans across geographies and income levels, and responses to any complaints about its CRA performance. As a result, federal regulators report that they no longer receive complaints from small banks about the examination process for CRA.

Small banks have praised the new CRA regulations, adopted in 1995. The Independent Bankers Association of America (IBAA) "hailed the final interagency CRA rules . . . as a big step in regulatory burden reduction for community banks." The IBAA "[commended the regulators for instituting a meaningful, streamlined tiered examination system that recognizes the differences between community banks and their large regional and multinational brethren." (IBAA, press release, April 19, 1995).

"Small Banks Give Thumbs-Up To Streamlined CRA Exams." This headline from the February 1, 1996 American Banker reflects the positive experience that small banks have had since the new regulations have gone into effect. For example, the same article cites the experience of one small bank after its first CRA exam under the new rules. The bank's CRA officer said, "We are done with it, and it was definitely less burdensome. We only had one examiner . . . She got here on Wednesday at 1 p.m. and left the following day at noon . . . It was a lot less time consuming. They are not requiring a lot of documentation."

Please do not allow this important law to be weakened. We urge you to vote against the Shelby and Gramm anti-CRA amendments.

Association of Community Organizations for Reform Now (ACORN).
Alliance to End Childhood Lead Poisoning.
Americans for Democratic Action.
Center for Community Change.
Consumers Union.
Corporation for Enterprise Development.
Employment Support Center.
The Enterprise Foundation.
The Greenlining Institute.
Housing Assistance Council.
International Brotherhood of Teamsters.
Jesuit Conference.
Leadership Conference on Civil Rights.
Local Initiatives Support Corporation.
McAuley Institute.
National Association for Community Action Agencies (NACCA).
National Association for the Advancement of Colored People (NAACP).
National Community Capital Association.
National Community Reinvestment Coalition.
National Congress for Community Economic Development.
National Council of La Raza.
National Fair Housing Alliance.
National Family Farm Coalition.
National Housing Trust.
National League of Cities.
National Low Income Housing Coalition.
National Neighborhood Housing Network.
National Neighborhood Coalition.
National People's Action.
National Puerto Rican Coalition.
Neighborhood Housing Services of New York City, Inc.
NETWORK: A National Catholic Social Justice Lobby.
Organization for a New Equality (ONE).
Ralph Nader.
Seedco.
Southern California Association of Non-Profit Housing.
Surface Transportation Policy Project.
U.S. Conference of Mayors.
U.S. Public Interest Research Group (PIRG).
Union of Needletrades, Industrial & Textile Employees (UNITE).
United Auto Workers Union (UAW).
United Church of Christ, Office for Church in Society.
Woodstock Institute.

Mr. SARBANES. Madam President, let me just very quickly focus on the credit unions only. This debate has tended to overlap both areas. It is done by the proponents of the amendment and, of course, we have responded too, because, in part, your attitude is going to be affected by how you see CRA functioning and whether you perceive it as bringing beneficial impacts or whether you perceive it as being harmful or not. I submit there is strong evidence that it has brought significant beneficial impacts, and many of the studies have supported that.

What is being applied to the credit unions in this legislation is not the full CRA provision. But this does require the credit union regulator, the National Credit Union Administration, to review the record of each insured credit union in providing credit union services to all individuals of modest means within the field of membership of the credit union.

It would not require them to go outside of the field of membership. They could not be required to give a loan to someone who was not a member of the credit union because that is a requirement of credit unions in terms of their loan policy. But they would have to try to draw in, make an effort to draw in people who were within the field of membership. They would have to concern themselves with trying to bring both low- and moderate-income as well as the sort of very top of the line within their field of membership.

The NCUA has directed a focus on the actual performance of the credit union not to impose burdensome paperwork or record-keeping requirements. This provision included in the House bill that was sent to us has been crafted to respond to the situation of credit unions. It is an effort to encourage them to meet the financial service needs of all their members and to reach out to those in the field of membership who have not yet joined and gotten the benefit of the credit union's services.

It is really a modest proposal. It has been suggested that the credit unions are not fiercely opposing it because they have somehow or other been coerced into that position—that is certainly not my understanding—just as it has been suggested that we need to get people to talk to some of these bankers who favor the CRA.

We are told, "Well, now we have these people who are against it. We cannot identify them because if we identify them then they are going to get into a lot of trouble." Well, I have people I can identify who would tell you that CRA has worked, that it has made an important impact, that the financial institution has found it not to be a burden but has found it actually to be profitable, that it has developed a better relationship in terms of their service area in terms of providing needed financial services. In effect, we are gaining public benefits from it, from an industry which received very significant public benefits in the sense of the insurance, the backup to the insurance, the Federal Government guarantee, access to low-cost credit through the Federal Reserve window and the Federal Reserve payment system.

This is enabling us to make very significant progress. The estimates in terms of the money that has gone into previously neglected communities is in the hundreds of billions of dollars. This is an effort to make capitalism work in a broader expanse, both geographically and in terms of the individuals who then are drawn in to play a part in the system.

I know some harsh language has been quoted earlier by community groups. I do not begin to try to justify or excuse that harsh language, although I must say some pretty harsh language has been used here on the floor of the Senate which I also regret. But we ought to look at this as an opportunity. This is turning into a win-win situation. It enables us then to sort of say, look, this economic system can work for everybody.

Those of you who are sort of complaining that you are shut out of this economic system, we have found ways to make this system—to open it up so it works for everybody. The institutions make a profit. They do good. They do well by doing good. People who otherwise would be fighting the system are drawn into the system. They become a part of the workings of this, of our financial structure and, therefore, become able to make a contribution to our society.

It has brought enormous benefits in so many areas of the country. As I said, the Chicago Bank says, "It's a positive force here in Chicago. It has been the instrument that has provided millions of dollars in investment that has financed home purchases, rehabilitation, and home improvement and new construction in once underserved communities."

That is what we are trying to accomplish.

The Shelby amendment, of course, would eliminate all of that, take us back a significant step. The Gramm amendment would prevent the extension of this concept of serving the community to the credit unions. I oppose it and I very much hope my colleagues would oppose it as well.

The PRESIDING OFFICER. The Senator from Texas has 2½ minutes.

Mr. GRAMM. Madam President, I only have a limited amount of time. Let me be quick.

No one is against community investment. Everyone is for community investment, and virtually every financial institution in America engages in it, and engages in it as much as they can in terms of prudent investments.

Our colleague talks about financial institutions taking money out of the community and then the government, through CRA, making them put it back into the community. I want to remind my colleagues that credit unions do not take money out of the community. Credit unions are voluntary organizations which people can choose to join or not to join. They cannot take money away, because they can only loan their money to their own members.

Our colleague objects to talk about being forced to grant credit, at a subsidized rate, to people that are not members of the credit union. But in three different places in the bill it requires that credit unions are "satisfactorily," whatever that means, "providing affordable," whatever that means, credit to the entire field of membership. Not trying to do it, not offering to, but doing it, something that clearly is open to any kind of subjective evaluation by a regulator. In fact, Senator D'AMATO has read from the Federal agency that regulates credit unions, how burdensome this is going to be.

Two final points: Our colleague quotes someone from this Sumitomo Bank, about how happy they are. Well, I think you would be saying that, too, if in 1993 you had been forced, under the CRA, to give 2 percent of your income away, to appoint people to your board that you didn't choose to appoint, to set up an advisory board and pay them, the very people who are protesting your bank under CRA, make then now a part of your organization, and, finally, if had been forced to engage in quotas. So I am not surprised that this bank is saying how great everything is now. They don't want the same people back in their place of business.

Finally, I appreciate the fact that the Senator gave us the wonderful record of the Bank of America in California under CRA, but it doesn't seem to have done Bank of America any good. I quote a CRA protester who at this moment has lodged a complaint with this financial institution against its merger with NationsBank. Despite all their good work, he says, "We will close down their branches and assure they fail in California. This is going to be a street fight and we are prepared to engage in it."

What tyrant in history has not claimed that he was serving the public interest when he took private property—not one ever in the history of the world.

Mr. SARBANES. Madam President, I can't control the comments of the street protester, just like I can't control the comments of some of my colleagues on the Senate floor, since this is a free country with free speech.

Mr. GRAMM. I can protect private property, and that is why I am in the Senate.

Mr. SARBANES. Madam President, I move to table the Gramm amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Gramm amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI), and the Senator from Arizona (Mr. MCCAIN) necessarily absent.

I also announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

Mr. FORD. I announce that the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

I also announce that the Senator from Iowa (Mr. HARKIN) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 50, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—44

Akaka
Baucus
Biden
Bond
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Torricelli
Wellstone

NAYS—50

Abraham
Allard
Ashcroft
Bennett
Brownback
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—6

Bingaman
Domenici
Harkin
Helms
McCain
Wyden

The motion to lay on the table the amendment (No. 3336) was rejected.

Mr. GRAMM. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Madam President, we had considered doing the memorial resolution between these votes, but we decided, after discussion with Senator DASCHLE, the most appropriate thing would be to go to this next vote and then have the memorial resolution read.

I would like to ask Senators to remain in the Chamber and take their seats so that we can hear this memorial resolution. It is not that long, but it is very appropriate. I think the Senators will like to hear it. Perhaps at that point Senator DASCHLE, who was not able to speak this morning, will want to make a statement, and others, and then we will go on to other issues.

I also want to remind Senators that at 11:50 tomorrow morning, Senators are asked to assemble in the Chamber. We will recess at that time to go en bloc to the Rotunda to pass through and around the coffins of the officers that will be there in the Rotunda. We will be back then at about 12:15, and we will go forward with legislative business. Then again tomorrow afternoon, at approximately 2:30, we will go for the memorial services beginning at 3 o'clock with the President and the Vice President in the Rotunda.

I just wanted Senators to be aware of that. So we will have the resolution read. We would like to ask you to stay, if you can, immediately following this vote. This next vote will be the last recorded vote tonight, although we may try to move to an appropriations bill. This will be the last vote tonight. The next vote will be in the morning at 10 o'clock on the Shelby amendment, followed by final passage on the credit union issue.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, there is an order that has been entered which would allow me to speak immediately upon the disposition of the two rollcall votes. I would ask unanimous consent that that order be moved to the conclusion of the reading of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3337

The PRESIDING OFFICER. Under the previous order, the Hagel amendment is now before the Senate. There are 2 minutes equally divided.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. I thank the Chair.

Madam President, I am a supporter of credit unions. I have been a member of a credit union. I have been on the board of a credit union. I support the original charter for their original purpose. But if we are going to change the rules and allow tax-exempt credit unions to get more and more into commercial lending and have essentially unlimited access to new members, with the common bond being realistically eliminated, then additional safety and soundness measures are going to have to be required. My amendment strengthens the safety and soundness of credit unions with open and honest accounting. It brings some market fairness to the relationship between tax-exempt credit unions and tax-paying small community banks, and it refocuses on the original intent of credit unions—on consumer loans and services.

I encourage my colleagues to vote against tabling the Hagel-Bennett amendment. Vote no.

I thank the Chair.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I am moving to table this amendment because we have had for years no limitations on credit unions and their loans commercially. And, by the way, with all that with no limitations, only 1.3 percent were made for commercial purposes. Now we impose 12.25 percent. We limit them. And to say that we are not doing something when we place restrictions on them and you want to go further, I think this is wrong, it is ill conceived, and that is why I will move to table.

I yield the remainder of my time.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. The Secretary of the Treasury has written to the leadership after Treasury did a thorough study of credit unions. The Secretary says, "The bill's safety and soundness provisions would represent the most significant legislative reform of credit unions' safety and soundness since the creation of the share insurance fund." And then he specifically addresses business lending and says, "The provisions in this legislation represent an adequate response to safety and soundness concerns about credit unions' business lending."

The PRESIDING OFFICER. The time of the opponents has expired. The Senator from Nebraska has 7 seconds.

Mr. HAGEL. I yield my time back to my distinguished colleagues. They need some help with their argument.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. D'AMATO. I move to table.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Hagel amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

I also announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

Mr. FORD. I announce that the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

I also announce that the Senator from Iowa (Mr. HARKIN) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote "aye."

The PRESIDING OFFICER (Mr. ALLARD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 42, as follows:

{Rollcall Vote No. 237 Leg.}

YEAS—53

Abraham
Akaka
Baucus
Biden
Boxer
Breaux
Bryan
Bumpers
Burns
Campbell
Chafee
Cleland
Collins
Conrad
Coverdell
Craig
D'Amato
Dodd
Dorgan
Durbin
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Grassley
Hatch
Hollings
Inouye
Johnson
Kempthorne
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Roth
Sarbanes
Snowe
Specter
Stevens
Torricelli
Wellstone

NAYS—42

Allard
Ashcroft
Bennett
Bond
Brownback
Byrd
Coats
Cochran
Daschle
DeWine
Enzi
Frist
Graham
Gramm
Grams
Gregg
Hagel
Hutchinson
Hutchison
Inhofe
Jeffords
Kerrey
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Nickles
Robb
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Thomas
Thompson
Thurmond
Warner

NOT VOTING—5

Bingaman
Domenici
Harkin
Helms
Wyden

The motion to lay on the table the amendment (No. 3337) was agreed to.

Mr. D'AMATO. I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

HONORING THE MEMORY OF DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT OF THE UNITED STATES CAPITOL POLICE

Mr. LOTT. Mr. President, on behalf of myself, the Democratic leader, and the entire Senate membership, I send a Senate concurrent resolution to the desk regarding the fallen U.S. Capitol policemen. And I ask unanimous consent that the Senate proceed to its immediate consideration, and ask that the clerk read the resolution in its entirety.

The PRESIDING OFFICER. Without objection, the clerk will report and read the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 110) honoring the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police for their selfless acts of heroism at the United States Capitol on July 24, 1998.

Whereas the Capitol is the people's house, and, as such, it has always been and will remain open to the public;

Whereas millions of people visit the Capitol each year to observe and study the workings of the democratic process;

Whereas the Capitol is the most recognizable symbol of liberty and democracy throughout the world and those who guard the Capitol guard our freedom;

Whereas Private First Class Jacob "J.J." Chestnut and Detective John Michael Gibson sacrificed their lives to protect the lives of hundreds of tourists, staff, and Members of Congress;

Whereas if not for the quick and courageous action of those officers, many innocent people would likely have been injured or killed;

Whereas through their selfless acts, Detective Gibson and Private First Class Chestnut underscored the courage, honor, and dedication shown daily by every member of the United States Capitol Police and every law enforcement officer;

Whereas Private First Class Chestnut, a Vietnam veteran who spent 20 years in the Air Force, was an 18-year veteran of the Capitol Police, and was married to Wen Ling and had five children, Joseph, Janece, Janet, Karen and William;

Whereas Detective Gibson, assigned as Rep. Tom Delay's bodyguard for the last three years, was an 18-year veteran of the Capitol Police, and was married to Evelyn and had three children, Kristen, John and Daniel;

Whereas Private First Class Chestnut and Detective Gibson were the first United States Capitol Police officers ever killed in the line of duty;

Whereas Private First Class Chestnut and Detective Gibson, and all those who helped apprehend the gunman, assist the injured, and evacuate the building, are true heroes of democracy, and every American owes them a deep debt of gratitude: Now, therefore, be it

Resolved by the Senate, (the House of Representatives concurring), That—

(1) Congress hereby honors the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police for the selfless acts of heroism they displayed on July 24, 1998, in sacrificing their lives in the line of duty so that others might live; and

(2) when the Senate and the House of Representatives adjourn on this date, they shall do so out of respect to the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

The Senate proceeded to consider the concurrent resolution.

Mr. DASCHLE. Mr. President, I want to extend my deepest sympathy to the families of Officer J.J. Chestnut and Detective John Gibson, and to the many friends that they leave, particularly their brothers and sisters in arms, the members of the United States Capitol Police. Our hearts ache for them as they struggle with their staggering loss.

Like many Members of Congress, I was headed home Friday afternoon when Officer Chestnut and Detective Gibson were slain. I was in the airport in Minneapolis, changing planes, when I first learned of what had happened. I was shocked and sickened and saddened.

Throughout the airport, wherever there was a TV, people crowded around it to watch the news, and try to understand.

At home in South Dakota this past weekend, I spoke with countless people who told me how terribly sad they are about the deaths of these two brave men.

In that airport, in South Dakota and across our nation, Americans understand that Officer Chestnut and Detective Gibson sacrificed their lives to guard and protect something that is sacred to all of us.

This Capitol truly *is* "the people's house", a symbol of freedom and democracy, recognized the world over.

That is one of the reasons Officer Chestnut and Detective Gibson loved it so, and were so proud to work here.

It is difficult, unless you have worked here, to understand what a close-knit family the Capitol community is. We come to work every day, pass each other in the halls. We ask about each others' families, joke with each other.

And today, we try to comfort each other.

Whenever you suffer a death in the family, as we have in the Capitol Hill family, there is at first a sort of unreality about it.

That is especially true when the person is taken suddenly, or too young, as Officer Chestnut and Detective Gibson were.

But then, you come to where they should be and there is a hole in the world and you begin to understand that it's true.

Coming back to work today, we have all experienced that void.

Inside the Capitol, another officer stands where Officer Chestnut should be.

And the door over the House Majority Whip's office, where Detective Gibson was stationed, is draped in black bunting.

Everywhere, the voices are quieter than usual. Tears rim the eyes of many people. Outside, the flag over the Capitol flies mournfully at half-staff.

Below it, on the white marble steps, lay flowers and cards left by a grateful public to honor two fallen heroes.

Then, there is perhaps the saddest sight of all: the black bands stretched like a gash over the badges of the Capitol Police officers.

These are the inadequate tributes we pay to these two extraordinary men whose professionalism, courage and selfless dedication last Friday afternoon surely saved many innocent lives.

But the real tribute is not what is different about the Capitol today. The real tribute is what is the same.

The halls of "the people's house" are filled today—as they are every day—with vacationing families, school children, Scout troops and thousands of others who have come to see their government in action. They walk these majestic halls and marvel—as they do every day—at the beauty of this building, at its history and its openness.

That is the real tribute to Officer Chestnut and Detective Gibson.

Because they made us feel so safe, we may not have understood fully the risks they took each day when they put on their badges and came to work. But they understood.

They knowingly risked their lives because they loved this building and what it represents, and they wanted others to be able to see their government at work.

Among the bouquets on the steps outside is a handmade tribute: a collage of a silvery cross on black paper. Glued across the top of the collage is the headline from Saturday's newspaper. It reads "2 Slain Officers Remembered, Called Heroes."

Today, as we struggle to accept that loss, we offer our condolences and thanks to the men and women of the Capitol Police Department especially those who were at work last Friday afternoon and who reacted with such selfless professionalism as well as those who worked through the weekend so that "the people's house" could remain open to the people.

We can only imagine how awful these days are for you, and how difficult it must be for you to be here.

We are proud to work with you, and deeply grateful to you for your courage and dedication.

Above all, our thoughts and prayers are with the families and friends of Officer Chestnut and Detective Gibson. May God comfort them and ease their terrible anguish.

Tomorrow, we will put aside our normal schedule in order to pay our final respects to Jacob Joseph Chestnut and John Gibson.

Their bodies will lie in honor in the Rotunda, surrounded by statues of other American heroes. That is as it should be, for they truly are heroes. They gave their life for their country and, in doing so, saved the lives of countless others. We are in awe of their sacrifice, and we are grateful to them beyond words.

Ms. MIKULSKI. I also want to voice my sorrow and the sorrow of the people of Maryland following the tragic events on Friday, July 24.

And I rise in tribute to the heroic acts of Officer Jacob "J.J." Chestnut, from Ft. Washington in my home state of Maryland, and special agent John Gibson, of nearby Woodbridge, Virginia, who gave their lives to protect the U.S. Capitol and its residents, to protect this building that is the symbol of freedom and democracy the world over.

No words can adequately express my pain and outrage at the senseless killings that took place at 3:40 on Friday. No words can adequately comfort those who were emotionally and physically injured, nor relieve the pain of the families who lost loved ones. No words can erase the horror of the Weston family upon learning that their son may have committed this horrific act. And no words can adequately express the sorrow that millions of Americans feel today about this assault on our nation's heritage and democratic institutions.

However, words can be used to remember and applaud the lives and heroism of Officer Chestnut and Detective Gibson. And I want to add my voice to the call today to remember those brave men and commend all the Capitol Hill police officers who put their lives on the line to protect democracy. And I want to add my voice to the call to ensure that the People's House remains open to the people, while preserving the safety of those who work and visit this great institution.

Many of my colleagues know how indispensable and brave the Capitol Hill Police Officers are, but many other Americans learned of these brave troops just on Friday. Let me tell you what I think many people didn't really know until Friday: what a Capitol Hill Police Officer does and what makes them so special.

These men and women are some of the most unique officers in the country. First, they are excellent federal law-enforcement officials who protect members of Congress from crooks, terrorists, or anyone else who would want to harm us and they also protect all the people in the building, whether it's a foreign dignitary, like Mr. Mandela, or a girl-scout troop from Iowa. Second, they are also "Officer Friendly"—welcoming people and answering questions and many have taken special language training to help visitors from around the world. Third, many are also trained for other possible emergencies: to provide basic paramedic help in the case of an ill tourist, or to provide basic fire-fighting and help evacuate buildings in the case of fires.

These police are like our own "Cops on the Beat." Many of the officers are assigned a primary beat, which means they get to know particular members and our hours and our staffs; the regular delivery people; and others. They know who are the usual folks coming in and can then detect anyone who is strange, or who is acting strange. So, just like thousands of towns across the country, Capitol Hill has its own community policemen. They have a beat, they get to know us, and we get to know them.

And if you're on the beat, you get to know the officers on your beat. We talk about the Orioles. We talk about their families. There is always the proud dad. The one who's getting off early because his daughter is going to a prom and he's chaperoning. Or one who is the first in her family to get her college degree.

They also get to know us. We talk to them about our own families. I know when my own mother was ill and we thought she needed surgery, they volunteered to organize a blood drive if I needed it. They told me that I never had to worry, that if I needed extra people to come to Baltimore, they would. They just said, "Don't worry, Senator BARB, we'll be there for you."

Finally, so many of the Capitol Hill Police Officers are my Maryland constituents, just like J.J. Chestnut. So, I'd hear if the fishing was good down in Southern Maryland, or if the traffic was congested. Officer Chestnut was from Ft. Washington in Prince Georges County. It's close to the Potomac River, and it is where a lot of our officers live. Where they can have a wonderful family life, fish in the Potomac, or, as I've learned about Officer Chestnut, tend a wonderful vegetable garden. Officer Chestnut was always one of the stars—trained as an MP in the military, he'd been with the Capitol Police for eighteen years and was known for having a unique touch with tourists and constituents. We were very proud of him and that he was even nominated at one time for Capitol Police Officer of the Year.

And I know how proud we were of Detective Gibson as well. He was from just across the River in Virginia, and was also a star and a hero. From helping tourists to protecting dignitaries, Detective Gibson always made the safety of others his top priority. I know he was a true hero on Friday, when he stopped the gunman from entering further into the building.

The Capitol Hill Police Officers are our hi-touch, hi-tech community police officers and we are very, very proud of them. And we are profoundly grieved at the passing of two of that force's brightest lights, Officer Chestnut and Detective Gibson.

My heart and prayers go out to their families, as they cope with their overwhelming loss. And my heart goes out to the family of the suspect, Mr. Weston. From everything I've seen and heard, Mr. Weston was mentally ill. From interviews I've seen, the Weston family is a good family and his mom and dad are absolutely grief-stricken at the thought that their son could have done such a terrible, terrible act and our thoughts and prayers should be with them, as well today.

Mr. President, I know the entire Senate joins me in saying that this act was a horror and that no family, no nation should have to endure the pain we feel today. I know that we will honor them tomorrow in a service befitting heroes because, Madam President, they were heroes. Giving their lives so that others might be safe is the ultimate act of heroism. We know that Officer Chestnut and Detective Gibson are heroes for today and all eternity.

Madam President, I hope that as we respond, we are very careful to ensure that the public access continues to be granted here. We need to ensure that what they died for, which was defending not only the building, but what the building stands for, so that the public can always come see us doing our work while they so valiantly did their work. I thank the Chair and my colleague, the senior Senator, for yielding me this time.

I yield the floor.

Mr. WARNER. Mr. President, on Friday, two veteran Capitol Police Officers were killed in the line of duty during a tragic attack in the United States Capitol. Their sacrifice in performance of duty will forever be remembered in the halls of the United States Congress.

Tomorrow in the Rotunda of the Capitol, we will memorialize the bravery and sacrifice of these two officers—the first Capitol Police Officers to be killed in the line of duty.

Officer "J.J." Chestnut was 58 and the father of five children. He was a grandfather and a 20-year veteran of the United States Air Force with service in Vietnam. Officer Chestnut was a member of the Capitol Police Force for 18 years.

Special Agent John Gibson was 42 and the father of three children. He was an 18-year veteran of the Capitol Police Force who served as a Special Agent assigned to House Majority Whip, TOM DELAY for the last three years.

To the families of these men, we extend our deep and heartfelt sympathy during this very difficult time. The Capitol Hill community has lost two respected and brave defenders of democracy.

To the fellow officers of these fallen heroes, you have our unqualified support as daily you carry your duties to protect the halls of freedom. Your dedication and service to the Nation is deeply appreciated.

Indeed, all Americans are indebted to Officer Chestnut and Special Agent Gibson for their devotion to duty and their sacrifice in the defense of freedom.

Mr. President, as chairman of the Rules Committee, I also had the opportunity over the weekend to maintain close contact with those here under the direction of our distinguished majority leader and minority leader, notably the Sergeant at Arms and the chief of police. I wish to commend them in the manner in which they very quickly took charge of this tragic situation and, once again, reopened the people's house—that is what this magnificent structure is—so that the people from the United States, people from all over the world, can continue to come and share the magnificence of this edifice.

A great debt of gratitude is owed, of course, especially to these two officers and to their families. As I look into their eyes of the men and women who guard the Capitol, each day, I silently express my gratitude, for we couldn't have 32,000 visitors as we did the day before and probably in the day to come, who could walk through these magnificent halls with a sense of safety and confidence—we couldn't have that without the dedicated service of our Capitol Police. Nor could the business of the Congress itself take place without their taking a risk every minute of the day and night that this edifice is open for the people's business.

I also thank the medical department. They responded and were on the scene within less than 2 minutes. I went down to personally express my appreciation and their reply to me was, we are there, we did our duty like everyone else, and we are delighted to be a part of this team that functions to make this magnificent organization and this building serve the people of this country and, indeed, stands as a symbol to the whole free world.

I thank the Chair and I thank my distinguished colleague.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to join briefly in the comments that have been made. The heroism of the two slain officers will be a permanent memorial to the hundreds of others, the thousands, the tens of thousands of others here and across our land who daily put their lives at risk so we can live as free and secure people.

The greatest testimony that we could give to these two brave men would be to continue the practice of openness in this Capitol. Our democracy depends upon a very special relationship between the people and those who are fortunate enough to be their representatives. We must not break that bond. We must be prudent in our actions, but not closed in our demeanor toward the thousands of citizens who come here on a daily basis to observe their democracy.

So I join in the comments that have been made by our leaders and extend our heartfelt sympathy to those families who have been so tragically ruptured by this senseless act.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the nation was stunned as we learned of the tragic deaths of John Gibson and J.J. Chestnut, two veteran officers of the Capitol Police who lost their lives in the line of duty in the tragic and senseless shootings last Friday. The extraordinary dedication and heroism of these two courageous officers clearly prevented greater loss of life in the Capitol, and I join all Americans in mourning their deaths.

These brave men represented the very finest traditions of American law enforcement. They protected a building—the nation's Capitol—and in doing so they were also defending our democracy. Unless citizens can come freely into the Capitol building and meet with their elected Senators and Representatives, our democracy and our freedoms are greatly diminished. Special Agent Gibson and Officer Chestnut understood this, and with professionalism and dedication, they served Congress well and served the country well too.

It is fitting that these two brave men will lie in state tomorrow in the Capitol building where they gave their lives. They made the ultimate sacrifice to protect us, and we will forever owe them and their families a debt of deep gratitude.

Our thoughts and prayers go out especially to the Gibson and Chestnut families. My family too has suffered the sudden loss of loved ones, and I know that there is no greater tragedy, no greater sadness for a family.

Special Agent Gibson is a son of Massachusetts, and we were all especially proud of him. He loved his family, his country, his church, and his Capitol. Our hearts go out to his wife Lynn and his three children during this very difficult time of loss.

Officer Chestnut, too, was well known by anyone who entered the Document Room door. He was always friendly to everyone, and was a consummate professional in the conduct of his duties. I join Wendy and the rest of Officer Chestnut's family in mourning his loss.

We cannot help but be angry at the senseless act that led to the death of these two extraordinary officers. One minute, the Capitol building is full of the people's business—with debates and meetings and visitors from across the country in this great and open symbol of our free government. The next minute, the nation was shocked to learn the news that a man who had no business possessing a handgun had taken the lives of these officers in two brutal acts that shocked the conscience of Congress and the country.

In the days ahead, we will consider what steps may be taken to ensure a secure—and yet open—Capitol. I hope Congress will also consider further actions to keep guns out of the hands of those who so easily misuse them. As we saw on Friday, our failure to do so leads to tragedy far too often.

The Gibson and Chestnut families know that all of us in Congress embrace them at this sad time. The nation loves them. We are grateful for their extraordinary service, and saddened by their tragic sacrifice.

Mr. President, on Saturday, at Andrews Air Force Base, President Clinton spoke eloquently and movingly about the loss of these two brave officers. I ask unanimous consent that his remarks be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF PRESIDENT CLINTON, JULY 25, 1998

Good morning. The shooting at the United States Capitol yesterday was a moment of savagery at the front door of American civilization. Federal law enforcement agencies and the United States Attorneys' office are working closely with the D.C. Police and the Capitol Police to ensure that justice is pursued.

Meanwhile, I would ask all Americans to reflect for a moment on the human elements of yesterday's tragedy. The scripture says "greater love hath no man than this, that he lay down his life for his friends."

Officer Jacob "J.J." Chestnut and Detective John Gibson laid down their lives for their friends, their co-workers and their fellow citizens—those whom they were sworn to protect. In so doing, they saved many others from exposure to lethal violence.

Every day, a special breed of men and women pin on their badges, put on their uniforms, kiss their families good-bye, knowing full well they may be called on to lay down their lives. This year alone 79 other law enforcement officers have made the ultimate sacrifice. Every American should be grateful to them, for the freedom and the security they guard with their lives. And every American should stand up for them and stand against violence.

Officer Chestnut was a Vietnam veteran, a member of the Capitol Police for 18 years, just months away from retirement.

Detective Gibson was a deeply religious man, beloved by his co-workers and, being from Massachusetts, devoted to the Red Sox and the Bruins.

Both leave behind loving wives and children, the affection of neighbors, friends and co-workers, and the deep gratitude of those who are alive today because of their bravery.

In this one heartless act, there were many acts of heroism, by strangers who shielded children with their bodies, by officers who fanned across the Capitol, by Dr. Bill Frist, a renowned heart surgeon before his election to the Senate from Tennessee, who had just put down his gavel, when he rushed to tend the injured.

To all these and others, who stood for our common humanity, we extend the thanks of our nation.

To the families of Officer Chestnut and Detective Gibson, nothing we say can bring them back. But all Americans pray that the power of a loving God, and the comfort of family and friends, will with time ease your sorrow and swell your pride for loved ones and the sacrifice they made for their fellow citizens.

To Angela Dickerson, the young woman who was injured in the shooting, we extend our prayers and hope for your speedy recovery.

To every American who has been shaken by this violent act, to the millions of parents who have taken your children through those very same doors, I ask you to think about what our Capitol means. All around the world, that majestic marble building is the symbol of our democracy and the embodiment of our nation. We must keep it a place where people can freely and proudly walk the halls of their government. And we must never, ever take for granted the values for which it stands, or the price of preserving them.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been honored to serve here in the Senate for 22 years. I have to say that, to a person, our Capitol Hill Police are terrific human beings; to a person, they are dedicated to their jobs and they want to do the best they can. Frankly, without them, I think this place would not run anywhere near as well as it does. To a person, those of us who knew John Gibson and J.J. Chestnut have to say these are two of the finest who have ever served on Capitol Hill. These are people for whom everybody should have a sense of deep gratitude. They gave their lives as a last full measure of devotion so that many others might live.

It is a shame that we have people who violate the law and who may be emotionally disturbed and do things like this. And it is an absolute catastrophe and tragedy for the families of these two fine men. Our hearts go out to them. Elaine and I have them in our prayers, as I know other Members of Congress and Members of the Senate do as well. These were two fine men—always courteous, always looking out for not only the Members as they came in and out of those doors and in and out of the Capitol, but for every citizen who came to the People's House time after time—and millions of them do. Both of them had long tenures here and both served every day of those tenures with distinction.

Mr. President, I want to personally express my gratitude to these men for the sacrifice they have made, and to their families for the sacrifice that they have made. I am sure the families will be taken care of. I hope we will do some good for them and that they will realize how deeply we all feel about the sacrifice that these two brave men gave for us.

Mr. President, this is one of the great spots on this Earth. It is visited by millions of people. It means so much to those of us who serve in this building. We are vulnerable to people who are emotionally disturbed or who may be terrorists. We are vulnerable to people who are insensitive to the needs of those who serve here. On the other hand, every one of us feels it to be such a privilege to serve in these two great bodies, in this separate branch of government that means so much to the people. We could not serve very well, nor could we accomplish very much if it weren't for the sacrifices of all of our people here on Capitol Hill who work so hard—like John Gibson and J.J. Chestnut.

Again, Mr. President, I pray to our Father in Heaven that the families of these two heroes will be comforted and cared for. As a Nation, we are deeply grateful for their service. God bless those who remain that we all might keep in remembrance the sacrifice of these two fine men.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, this is a special moment in the history of this body. I wanted to be heard for a very brief moment on what happened in the last few days here in this building. I guess it is customary, when you work in a building for many years, to get used to it and not to be stirred by it, but not this building. For 16 years, it has been my honor to serve in the House and the Senate, and I can tell you that as I walk up to this building still in daylight, or in the middle of the night, it still has a special impact on me, as it does on so many Americans. There have been those who have come before us, and my colleague from West Virginia, who is a historian of this body, remembers, I'm sure, better than most that when President Lincoln was engaged in the Civil War, we were in the process of building the great white dome that we now see on the top of this Capitol Building.

People came to him, and said, "Mr. President, we can't continue this construction. We have a war to fight." He said, "No. We will continue this construction. We will build this dome during the war as a symbol of what this Nation will be after the war; that it will be united again; and that this building will be the symbol of that unity."

President Lincoln had it right. As you reflect on this building and what it means to so many of us, you have to also reflect on its history.

This is not the first act of violence in this building. It is not the first time that lives were lost, or that blood was shed.

The British invaded this building and came up the spiral staircase. During the Civil War, the Union troops who had been felled in battle were brought here and laid in the Rotunda in a hospital where they were treated. In the 1950s, a group of terrorists took control of the Chamber of the House for a few brief minutes, firing pistols on the floor and injuring people. In 1983, just outside this Chamber, there was a bomb that was detonated late at night. We have never discovered the cause of that bombing. And then, of course, the tragic incident which occurred last Friday involving one very troubled, disturbed individual who took two lives and injured another person.

I guess each of us who walk in the door of the Capitol each day take for granted the warm greeting and the smile from the Capitol Police, and forget that it is more than just a responsibility to greet. It is a responsibility to protect that brings them to this building. Like so many Senators, I came to take that for granted. You think it is always going to be safe and that they will never need to take the pistols from their holsters, or use them. And yet last Friday that all changed.

When I came to this building today and walked in the entrance and saw the Capitol policeman at his post, I looked at him in a different way, understanding that he was doing more than just his duty. He was protecting me and thousands of others who come to this building.

In behalf of John Gibson and Mr. Chestnut, J.J. Chestnut, my sympathies go out, on behalf of the people of Illinois and all of my friends and my staff, to their families. To think that they have left behind eight children who now should be cared for, and I hope all of us will join in that effort to make certain that that occurs—and that their family goes through this period of mourning understanding that they do not stand alone, that we stand with them shoulder to shoulder in gratitude for what they have given us. Because what they have given us is something we all hope to bring to this building—to bring more honor to this building, to the people who work here, and to the great tradition in history of the U.S. Capitol. We do it in our daily activities, in our speeches, in our conduct. What these men have done is to give their lives in the service to that great tradition and that great history.

There will be another time and another place when we will talk about how this tragedy might have been averted with better security measures, or better efforts in terms of the control of guns, or keeping guns out of the hands of those who should not have them. But let's save that debate for another day. Let us close this debate with fond memory of the contributions made by these two men, and with gratitude not only to them but to all of the men and women who protect our lives in law enforcement, and particularly those on the Capitol Hill Police Force.

Mr. THURMOND. Mr. President, I rise today to join my colleagues in expressing their shock, dismay, and most significantly, sorrow at the tragic events that unfolded not far from this chamber last Friday.

The killing of a police officer is always a disturbing event as a mortal attack on a law enforcement officer is also an attack on society at large. After all, it is those men and women who are sworn law enforcement officers who stand between the law abiding citizens of the United States and those elements within our society that seek to do harm. Being any sort of law enforcement officer is a thankless job fraught with danger, two facts that it is sometimes easy to forget.

The deaths of Capitol Police Officers Jacob Chestnut, known as J.J., and John Gibson not only remind us of just how dangerous a profession law enforcement is, but also of the admiration we have for those who protect us. What makes their deaths all the more disturbing is that they were attacked in the United States Capitol, a place that is more than an office building; it is a symbol of our Nation. What makes their deaths all the more saddening is that being of close interaction each of us has with Capitol Police Officers, we have come to think of these men and women as much more than simply protectors, we have come to view them as friends.

Since its founding in 1828, the United States Capitol Police and its officers have worked, largely in anonymity, to protect Members of Congress, their staffs, the Capitol, and all those who visit this magnificent building. They are a force that carries out its responsibilities professionally and effectively, and they manage to bring credible security and protection to one of the most publicly accessible places in the world. Last Friday, fate forced Officers Gibson and Chestnut to shed their anonymity in the most tragic and brutal of manners, but the manner in which they put duty and aiding others above personal safety is a credit to not only each of them, but to all the members of the United States Capitol Police. The members of the South Carolina Congressional Delegation feel a special sense of grief as "J.J." Chestnut was both a native of Myrtle Beach, South Carolina and a 20-year veteran of the United States Air Force who retired as a Master Sergeant

Many have likened Capitol Hill to a small town, as this is a place where people know each other, stop to talk, and where there is true sense of congeniality and hospitality. That spirit is certainly evident in the outpouring of grief, support, and sympathy we are seeing for these two slain officers. Sadly, no amount of expressed condolences or high praise will bring these two brave men back to their families and loved ones. I thin, however, that each of us hopes that these expressions will convey the high regard we hold for these two men, and our inexpressible gratitude that Officers Chestnut and Gibson were on duty. Their actions truly saved the day and they will no doubt forever be remembered as "heroes."

Mr. HOLLINGS. Mr. President, as with everyone in Congress and the nation, my thoughts today are with the victims of Friday's shooting and their families. And like many of my colleagues, I wish to pay tribute to the heroism of Capitol Police officers Jacob Chestnut and John Gibson and to mourn their passing.

This is a terrible time for the Congress and the nation. It reminds me, Mr. President, of having to write the families of dead comrades in World War II. How does one summarize the achievements and meaning of two lifetimes in a short letter or brief remarks? How does one do justice to men who gave the last full measure of devotion that others might live? Consoling the families of the dead and doing justice to the ultimate sacrifices and nobility of heroes is never easy. It is particularly hard in time of peace, when we take our safety and security for granted.

But even in peace time, Mr. President, unfathomable evil exists and threatens to shatter our security at any moment. Officers Chestnut and Gibson knew that the price of our safety here in the Capitol was their unceasing vigilance; and they showed us that even in peace time, the heroism of brave and selfless individuals like them often is all that enables us to live in freedom and work in safety. It is easy to forget this; but we must not forget, and Friday's events ensure that we will not forget. Officer Chestnut, a South Carolina native who served with distinction in the Air Force for many years, would not want us to forget. He knew the price of freedom, and he was willing to give his life for his fellow citizens.

Who knows how many lives officer Gibson saved by confronting the gunman, Russell Weston, outside the office of Representative TOM DELAY? Who knows how many tourists and staffers would have died were it not for the bravery and heroism not only of officers Gibson and Chestnut but of all the Capitol Police?

Friday's shootings were a reminder that all of us who live and work on Capitol Hill owe an unpayable debt to the Capitol Police. The brave men and women of that force put their lives on the line for us every time they put on a uniform. It is their job to stand between us and harm's way, and they perform it with unceasing devotion and consummate professionalism. We should all give thanks to God that we are protected by these officers. And we should realize that it is thanks to their zealous devotion to duty that we live in freedom from constant fear and danger.

For those of us who see the Capitol Police every day, it is easy to forget they are fathers and mothers, sons and daughters. Officers Chestnut and Gibson were not only exemplary guardians of the public safety—they also were dedicated and loving family men. Each leaves behind a wife and three children. These shattered homes are the legacy of one lunatic's senseless violence.

Jacob Chestnut and John Gibson's heroic deaths are all the more painful for the loss their families will forever feel. We whom they died to protect can only hope that the nobility of their sacrifice and the priceless ideal for which they gave their lives—not us, but freedom and democratic government—will be of some small comfort to their families.

I join with all Americans today in offering my deepest thanks to these men, my condolences to their families, and my promise that their sacrifice will not be forgotten.

Mr. CAMPBELL. Mr. President, today I pay tribute to two Capitol Police officers, two heroes, who last Friday gave their lives in the line of duty while serving their country, Detective

John Gibson and Officer Jacob Chestnut.

Last Friday's shocking and senseless violence in the halls of the U.S. Capitol both saddened our nation and took the lives of two of our finest. I would like to take a moment to share a few memories and thoughts about the two slain officers.

About a month ago, in late June, I had the chance to start a new friendship with a good man. I had the pleasure to get to know John Gibson, not just as a able and dedicated detective, but also as a gentleman and dedicated family man.

During our time together, I learned that we shared common values and a similar hobby. As a former deputy sheriff myself, it quickly became evident that Detective Gibson and I shared an understanding of the daily perils facing law enforcement officers.

Detective Gibson and I also discovered that we both shared the rather unique hobby of collecting police patches. In fact, just last month I sent him several police arm patches from Colorado to add to his collection as a small token of my appreciation for his dedicated service.

I understand that it was Detective John Gibson's final shot, his final act as a defender of the peace, that brought the gunman down and ended the violent rampage. The Detective's steadfast valor, while already having been shot several times, was the difference that saved many lives. We all owe him a deep debt of gratitude.

Officer Jacob Chestnut was posted at the Document Door entrance on the Capitol's East Front. Officers posted to this entrance are the first faces that many tourists see when they come to visit the Capitol. Officer Chestnut's post, which involves achieving a delicate balance between the ensuring safety of those who visit the Capitol while keeping the People's House as free and open as possible, requires a very special combination of hospitality, humor, patience and professionalism. To his credit, Officer Chestnut excelled in this endeavor.

If it had not been for the heroic actions of these two brave officers, this dangerous gunman would almost certainly have killed many more innocent people. The officer's ultimate sacrifice saved lives. I extend my deepest sympathies to the families of these two fallen heroes.

This building, the U.S. Capitol, is far more than just a building, it is a living monument to freedom and democracy. It is perhaps the only building on earth that simultaneously houses a healthy democracy at work, while standing as a tribute to freedom that attract millions of visitors from all over the U.S. and the entire world each year. The chambers, galleries and halls of our Capitol are full of statues, busts, paintings and displays that commemorate heroes and key events in our nation's history. The men and women honored under this magnificent dome have served their country in a wide variety of ways. Some have been great visionaries and statesmen. Some have been leaders in science or adventurers, like Colorado's son, astronaut Jack Swaggered whose statute stands in these halls. Each of these heroes has contributed and sacrificed in his or her own very real and personal way.

Some of these heroes have made the greatest sacrifice for their nation, giving their lives. Detective John Gibson and Officer Jacob Chestnut have joined this honored rank. They gave their lives for their nation while protecting our nation's Capitol, and it is fitting that they will lie in honor in the Capitol's Rotunda while a grateful nation pays its respects.

Not only is the Capitol the American people's house, it stands as a bright beacon of hope to all of the world's freedom loving people. While traveling this building's halls, I have been regularly awed by the comments of visitors from other countries as they comment in astonishment how open and free this building is. They state how they would never be allowed to walk so freely through the halls of their own capital buildings back home in their respective countries. This is an important part of what makes America great.

Whenever I have heard such sentiments, I am reminded of just how fortunate I am, and we all are, to be Americans. Our Capitol is the People's House, and it must remain open and accessible to all.

Thanks to the sacrifices of Detective John Gibson and Officer Jacob Chestnut, and the dedication and professionalism of the entire U.S. Capitol Police force, our nation's Capitol building is freely accessible and continues to serve as a beacon of freedom.

Mr. GLENN. Mr. President, today, we mourn the loss in our Capitol family of two brave men who gave their lives in service to our nation.

Last Friday, in a running gun battle, United States Capitol Police Officer Jacob J. Chestnut and Detective John M. Gibson were killed in the line of duty.

Mr. President, each of us who works in the Capitol feels a kinship to and a deep appreciation of the officers of the U.S. Capitol Police. We know that our lives are protected each and every day by the work that they do. In the twenty-four years that I have served Ohio as Senator, I have come to know many of the fine officers on the force. A former member of my staff is currently a member of the force and other staff members have officers among their immediate family members.

This highly trained and professional force polices our nation's Capitol and performs numerous law enforcement duties as they monitor the entrances of our buildings, ensure the safety of the millions of tourists who visit the Capitol each year, and provide a kind word and a watchful eye as we come and go. These officers go about their duties with dedication and great skill.

In a senseless, momentary act of violence, these fine officers gave their all. They gave their lives in the defense of all who visit and work here. Mr. President, we may never understand why such a tragedy occurred in our halls last Friday afternoon. Despite this lack of comprehension, we will always be certain that J. J. Chestnut and John Gibson fulfilled their responsibilities to our nation and will be remembered as heroes.

I think that it is a fitting tribute that these officers will lay in state in the Capitol tomorrow, an appropriate commendation for the selfless sacrifice that they gave in the performance of their duties. My wife, Annie, joins me in extending my deepest sympathy to the families of Officer Chestnut and Detective Gibson.

Mr. THOMPSON. Mr. President, I want to join my colleagues in expressing my sincere condolences to the families of the two Capitol Police officers who gave their lives last Friday defending the Capitol and all of us who work here, as well as the many Americans who come here from around the country to see their government in action.

Officers J.J. Chestnut and John Gibson are American heroes in the truest sense of the word. Their actions last week unquestionably prevented a terrible tragedy from becoming even more deadly. I know I speak for every member of Congress in expressing my respect and gratitude to them, their families, and their colleagues on the Capitol Police force.

At the first sign of trouble, Officers Chestnut and Gibson acted on instinct, doing what they were trained to do and saving lives in the process. When an event like this happens, I think many of us react according to instinct, and our instincts differ depending on the varying experiences we've had.

As most people know by now, my colleague from Tennessee, Senator FRIST, also acted on instinct when he heard the news of Friday's shootings. Upon returning to his office from speaking on the Senate floor and learning what had happened, Senator FRIST immediately called the Capitol physician's office to see if they needed assistance, and then rushed over to the scene of the shootings to lend a hand however he could. He assisted in treating one of the two fallen police officers, administered CPR, made sure that he made it safely to a waiting ambulance—and then went back inside to treat another of the victims. After restarting this second victim's heart, he rode with him to D.C. General Hospital to ensure that, if paramedics had to open up his chest on the way to the hospital, he would be there to provide assistance or do the procedure himself.

Mr. President, Senator FRIST's actions are both a reminder of the very different routes each of us took in coming to the United States Senate, and of the importance of preserving the diversity of backgrounds that we have in this body. His instinct as a heart surgeon and trauma specialist took over last Friday, and he rushed to the scene to provide whatever help he could—just as he's done hundreds of times before when patients were relying on him.

I want to take this opportunity to salute my colleague from Tennessee for his heroic actions last Friday, and for all of the other times he's provided medical assistance since coming to the Senate three and a half years ago. Many people will remember that a couple of years ago, one of our constituents, a man from Cleveland, Tennessee, had a heart attack in the Dirksen Building, just outside of Senator FRIST's office. Senator FRIST immediately came to the rescue, and saved this Tennessean's life. Now that's what I call constituent service.

Mr. President, the events of last Friday have affected all of us very deeply. We will not soon get over the memory of the tragedy that occurred inside "the people's house" or of the heroic sacrifice made by Officers Chestnut and Gibson. Again, I want to offer to their families and Capitol Police colleagues our sincere condolences and our deepest thanks.

Mr. MOYNIHAN. Mr. President, the U.S. Capitol Police—so ubiquitous, so steady, so utterly competent. We take them for granted. Yet every day they defend us, our families, our staff, millions of tourists, ready to lay down their lives. Last Friday, two of them did: Officer Jacob J. Chestnut and Detective John Gibson, each an 18-year veteran, each married, each with children. One in the prime of life; the other, a few short months from retirement. What a tragedy.

The fact of the matter is that what happened on Friday could happen at any instant. One never knows when. In the crucible of a gun battle, Chestnut, Gibson, and other Capitol Police officers performed their duty in the most exemplary fashion. Chestnut and Gibson made the ultimate sacrifice, laying down their lives to defend others. We can only speculate how many bystanders would have been killed, if not for their—and the other officers'—quick and appropriate actions.

To the wives and children, other family members, and friends and colleagues of Officer Chestnut and Detective Gibson, our words cannot assuage your grief. But perhaps there is some solace in knowing that these fine two men, killed in the line of duty, have died the most honorable deaths, defending the United States Congress and its most sacred building. They are heroes. Remember, as Pindar wrote, that "the bright gleam of noble deeds moves on with undying voice, ever unquenchable." And as you struggle to be brave in the days and weeks ahead, know that courage is marked not by the absence of fear, but rather by the presence of faith. May God be with you, and may God be with J.J. Chestnut and John Gibson.

Mrs. HUTCHISON. Mr. President, I join my colleagues and our fellow citizens all across this country in honoring the memories of Detective John Gibson and Private First Class Jacob Chestnut. These two fine law enforcement officers gave their lives in the line of duty during a tragedy on Friday, July 24, 1998, while guarding the United States Capitol. Our thoughts and prayers go out to the families of these two fine gentlemen.

The United States Capitol is recognized the world over as the symbol of American freedom and of the still revolutionary idea that citizens confer power upon those who serve us in government. That it could become the scene of so heinous an act as this cannot but shake us from the complacency by which we sometimes take this all for granted.

But on a beautiful summer day and with thousands of ordinary people in sight, Officers Chestnut and Gibson gave their lives as proof that everyday, in places as near as our Capitol and as far away as seven seas, men and women serve selflessly to protect the freedom that is the American birthright and the dream of millions around the globe.

I commend the United States Capitol Police, the D.C. Metropolitan Police, and the other law enforcement agencies that have performed so professionally throughout this difficult period. They are a continuing tribute to their fallen comrades, and I trust that they will be inspired to serve on in their memory.

Mr. CONRAD. Mr. President, I rise today to pay tribute to Jacob J. Chestnut and John M. Gibson, Capitol Police officers who were tragically killed in the line of duty on Friday.

Officers Chestnut and Gibson were decent and highly capable law enforcement professionals. On Friday, their selfless devotion to duty saved countless lives. Their deaths were not in vain.

The service of these Capitol Police officers will not be forgotten by the Congress. In particular, I will always remember the spirit and good humor brought to this job by J.J. Chestnut, whom I knew personally from years of working together here at the Capitol. This institution has known few, if any, who were more friendly and able protectors.

On this day of reflection, I think it is important to note that incidents such as occurred on Friday do not happen every day precisely because Gibson, Chestnut, and other Capitol Police officers have done their jobs so well. Even as they stood their ground and gave their lives, Gibson and Chestnut demonstrated that attacks on this building and the Members and staff who work here will simply not succeed.

Mr. President, everyday of their careers here on the Hill, Chestnut and Gibson provided a unique and important service to every American. By protecting the United States Congress, they made it possible for our Nation's legislature and our county's greatest public building to be open and accessible to the American people. American democracy could not function as it does in the sunlight of public scrutiny, engagement, and participation if not for the safety provided by Gibson and Chestnut. If for this reason alone, every American owes these officers—and everyone serving in the United States Capitol Police—a deep debt of gratitude.

It is difficult for those of us who knew these officers to let them go easily, but certainly nowhere as trying as this loss has been for their families. With our friends and colleagues here in the Senate and millions of Americans throughout our country, my wife Lucy and I will be sure to keep the families of Chestnut and Gibson in our thoughts and prayers. It is my understanding that a scholarship fund is being established in their honor, and I would urge every Member and staff member to contribute.

Mr. President, I think the most important message we can deliver here today is one of thanks. Officers John Gibson and Jacob Chestnut made the ultimate sacrifice: they laid down their lives so that others could live. For that, they deserve our unending gratitude and respect. Mr. President, I yield the floor.

Mr. D'AMATO. Mr. President, I rise today to take time out of our busy schedule to recognize the bravery and valor of U.S. Capitol Police Officers John M. Gibson and Jacob J. Chestnut. These two fine officers were killed in the line of duty while protecting our Nation's Capitol building and protecting those who pass through this great building. They died fulfilling their sworn duty to protect the public, and they did so in an exemplary way. They are heroes who saved many lives by their actions.

I remember a period of time after the World Trade Center bombing in New York in 1993 when law enforcement officials informed me of threats against my life. The Capitol Police quickly formed a detail for my protection. Officer Gibson was a member of this detail. I feel a personal loss. This man was willing to lay down his life for mine and, in fact, he did for others.

Tomorrow we will pay homage to their memory as they lay in honor beneath the majestic Rotunda in the very building in which they gave their lives to protect.

The thoughts and prayers of this great body, as well as that of the Nation, goes out to the families and friends of Officers Gibson and Chestnut.

Ms. MOSELEY-BRAUN. Mr. President, I would like to say a few words about the tragedy that occurred last Friday here in the Capitol. As all the world now knows, the heart of our democracy was invaded that day by a gunman who opened fire in an area crowded with tourists. Before the melee was over, two Capitol Police officers were dead and an innocent bystander was wounded.

Even before Friday's events, every Member of this Congress was well aware of how critical the Capitol Police are to the functioning of our democracy. We are here to do the people's business, but the sad fact is that there are those—both at home and abroad—who do not wish us well in our efforts. Instead of the free exchange of ideas central to the concept of democracy, some of those individuals would, if given the chance, express their views through bullets and explosives. The only thing that stands between those individuals and the daily practice of our democratic ideals is the Capitol Police. They are nothing less than the guardians of those ideals—for what meaning would such principles have if they could not be safely exercised?

On Friday, Officer John Gibson and Officer Jacob J. Chestnut sacrificed their lives defending those principles. An 18-year veteran of the force, Officer Chestnut was serving that day as the Capitol's first line of defense, manning the metal detector designed to keep instruments of violence out of these halls. When the gunman set off the alarm, Officer Chestnut immediately responded, but, tragically, was mortally wounded before he could stop the intruder. Officer Gibson, also an 18-year member of the force, performed several acts of bravery before his death, pushing a French tourist out of harm's way, hiding a congressional staff member under a desk, ensuring that Representative TOM DELAY and members of his staff were hidden from danger, and then helping to bring down the gunman in the battle that ultimately cost his life. Before he died, Officer Gibson singlehandedly kept the gunman out of Representative DELAY's office and, in so doing, saved the lives of both the Congressman and his staff.

Those of us who work here—the Senators, the Representatives, the staff members, the Capitol Police—have lost two members of our congressional family. But it is not only those who work and visit the Capitol who owe an unrepayable debt to those officers—every citizen of the United States is indebted to them. For Officers Chestnut and Gibson died defending an institution that is the very embodiment of all the democratic freedoms that we Americans hold dear.

Mr. President, our democracy does not exist in a vacuum; it functions in a very dangerous world. For that reason, a system of security has been established in the Capitol to try to insulate the Congress from those who would do it harm while guaranteeing that we remain accessible to the people we serve. On Friday, that system worked. This is "the people's house," and each year we welcome roughly four million people to it. That is precisely the way it should be. This Capitol—the greatest symbol of democracy of the greatest democratic republic the world has ever known, a building aptly described by President Clinton as "the front door of American civilization"—belongs to the people of the United States, and it must always be open to them. I do not oppose calls for tighter security, but I would take issue with any measure that would make it more difficult for the American people to visit "their house."

Mr. President, I am the daughter and sister of police officers. I know the terrible fear that every law enforcement officer's family endures—the fear that when their loved one departs for work, he or she may never return home. It is my good fortune that, throughout my life, I have never seen that fear materialize. Therefore, I cannot claim to have any concept of what the families of Officers Gibson and Chestnut are going through right now. Nevertheless, I want to express my heartfelt sorrow to them. Our prayers are with you and the entire nation will forever be grateful for the heroism and sacrifice that your loved ones made on our behalf.

Ms. SNOWE. Mr. President, I rise today to pay tribute to the two Capitol Police Officers who gave their lives to protect members of Congress, their staffs and visitors from throughout the world during last Friday's tragic shooting at the United States Capitol.

For those of us who work in the Capitol, Special Agent John Gibson and Officer Jacob Chestnut were among the people who are part of our daily lives. And over the twenty years I have served in Congress, I've been constantly impressed with their courteous manner and their friendliness and the way they know all of us by name, all the while maintaining the highest degree of professionalism in carrying out their solemn duties. They become extensions of our staffs, and they become our friends.

Sometimes, in the commotion of everyday life around here, it is easy to forget that each new day brings the potential for unknown dangers for these brave men and women. The fact is, those assigned to protect the sanctity and safety of the U.S. Capitol put themselves in harms way on a daily basis, and three days ago, two of them came to work in the morning never to return to the lives and families they loved.

It is difficult for us to understand how a day which began like so many other summer days here on Capitol Hill could so suddenly end in violence and terror. Here beneath this dome of marble and stone; here behind these historic walls; and here at the epicenter of the world's greatest democracy; we feel somehow that such heinous acts are simply too incongruous with our noble surroundings to be possible. And yet, history and reality tell us they are, in fact, all too possible.

It vividly brings back to me one such incident fifteen years ago, when I was in the House of Representatives. My future husband, Congressman Jock McKernan, and I were standing with others on the House floor when, right above us, two officers tackled a man brandishing a bomb in the House gallery. These two men unhesitatingly put the safety of the entire House chamber before their own, without questioning the danger they faced.

Such was the case last Friday—as certainly more would have been injured or killed had it not been for the willingness of Special Agent Gibson and Officer Chestnut to put their lives on the line. Their actions not only prevented what could have been an even greater catastrophe, but sent a message to those who would violate the people's house that they will never prevail.

During what I know is the most difficult of times for the families of Agent Gibson and Officer Chestnut, I hope it will be at least some measure of comfort for them to know that so many here and across America are keeping them in their thoughts and prayers. The entire nation shares in their sense of loss, and our hearts go out to the loved ones that these brave individuals have left behind.

I also want to extend my sympathies to all the men and women of the Capitol Police force. They have lost two of their finest—men whose actions under the most dire circumstances have brought tremendous credit to the Capitol Police. As members of the force go about their vital duties, I want them to know that they have our fullest support, trust, and appreciation for all they do to keep us safe.

Last Friday's shootings stunned the nation and affected us all in very personal ways. For those of us here on Capitol Hill, we lost two members of our family. And in Maine and throughout the country, people felt a sense of outrage that this symbol of freedom of democracy—the greatest public building in the country—would be stained with the mark of violence.

Today, let us as a country be grateful that people like Special Agent John Gibson and Officer Jacob Chestnut are willing to make the ultimate sacrifice so that this building will always remain the people's house. Let us mourn their loss, celebrate their lives, and never forget their courageous deeds on behalf of all the citizens of our great Nation.

Mr. KERRY. Mr. President, all of America mourns the loss of two brave Capitol Police Officers—John Gibson and Jacob Chestnut. We will never understand the senseless violence that took their lives, never be able to explain why two fine men who loved their families have been stolen away from their wives and children. But we know for certain that Special Agent Gibson and Officer Chestnut made the ultimate sacrifice in the line of duty.

It has become almost cliched to say that Congress is the "people's house." What many forgot, though, until last Friday, is that John Gibson and Jacob Chestnut were two very real people who kept the people's house safe for over a million visitors and thousands of staff members in the Capitol each year. Members of Congress know the Capitol police as men and women who come to work each day to protect us. We see them every morning and late into the night. We spend free moments in the hallways and off the Senate floor talking with them—talking about family, the score of last night's ball-game, the weather, and, of course, the prospects of getting home for the weekend. There is a special bond between us, those who are elected to serve here for a period of time and those who put on a uniform to serve in a different way. It is a bond of public service, a common purpose too often overlooked in the hustle and bustle of everyday life in Washington.

This remains a country where we allow the media spotlight and our collective imagination to transform our public figures into heroes. John Gibson and Jacob Chestnut require no exaggeration or rhetorical enlargement to be seen as something above and beyond the ordinary. They are—quite simply—and will be, forever—heroes.

John Gibson was a native of Massachusetts who, although he made his career here in Washington and his home in the suburbs of Northern Virginia, never left his allegiance to Massachusetts—or to the Boston Red Sox—behind. John Gibson cherished his Waltham accent and his deep roots in our state. He carried with him, everywhere, the values instilled in him in Waltham. He is remembered by those who knew him as the kind of husband and father who never went anywhere—not even on a routine errand to the corner store—without one of his children happily in tow. John Gibson served with total dedication to protect Representative TOM DELAY, and died because his commitment, when tested under fire, remained resolute. I want to extend my deepest condolences to John Gibson's family, to his wife and their three children, Kristen, John, and Daniel, and to the Moakley clan which is mourning John's loss. John Gibson became a part of Massachusett's biggest extended political family when he married JOE MOAKLEY's niece, Evelyn. Whether debating Boston College football or sharing Irish stories in the afternoon, John Gibson was a special friend to the dean of our congressional delegation. Even in his sadness, Congressman MOAKLEY knows that the young man from Waltham who joined the Capitol police force 18 years ago, served as a professional who took his sense of duty to heart.

Jacob Chestnut, too, died as he lived—giving selflessly of himself to help others. The tragedy on Friday made Jacob Chestnut a hero throughout the country, but, long before that, he was a hero to the community in Maryland where he made his home. Jacob Chestnut was the neighbor who always lent a helping hand to those who needed it, the good Samaritan who expected nothing in return and served his community because it was the right thing to do do. Long before he was a hero to his country, Jacob Chestnut was a role-model to his children and grandchildren.

One never knows how one will react under fire, how, when the shots ring out and the adrenaline flows—at the moment when duty calls—one will call upon the inner strength to react with bravery. It requires a degree of courage found in the deepest reserves of the human character. Every police officer in this country chooses to serve with the knowledge that the day may come when that commitment will be tested. John Gibson told a friend—just a week before he was struck down at the Capitol—that he hoped that if that moment came, if he was called upon to draw his gun and defend tourists or Members of Congress or a fellow officer, that he would rise to the occasion. It is a thought that accompanies every police officer through every step of what is at once a dangerous and vital career. History will record that when that moment came for John Gibson and Jacob Chestnut, they rose to the occasion, remembered their duty, and gave their lives selflessly to protect not just the people's house, but the people themselves who make that Capitol a home. For the families they left behind, for those among us privileged to work with them, and for all Americans, these two officers will forever be heroes.

Even as we pay tribute to these brave, fallen officers, we must remember that we are obligated to honor their memory with more than words alone. There is a temptation in this country to focus only on the extraordinary circumstances of these tragic deaths, to remember merely that John Gibson and Jacob Chestnut were fatally wounded in the "people's house." Too many commentators in the last few days have said—again and again—"can we believe that this type of violence could occur in our nation's capital?" The truth is—and police officers on the front lines know this better than we can imagine—violence does occur in the nation's capitol, and in our classrooms, and our tree-lined neighborhoods, and in homes across this country. To pay tribute to John Gibson and Jacob Chestnut—to truly honor them for their sacrifice—we must make clear our conviction as a nation that we will not tolerate any form of violence in this country. To remember John Gibson and Jacob Chestnut in a way that lifts us all up—in a way that creates a safer world for the eight children these fine men left behind—we must commit ourselves to safer neighborhoods, violence-free schools, and communities where the sound of our children's laughter—not the sound of gun shots—fills the air.

Mr. FAIRCLOTH. Mr. President, I rise to give my condolences to the slain officers and their families. Both of these brave men gave their lives to defend innocent visitors to our Nations Capital. Both gave their lives so that the Capitol can remain a free and open institution, visited by millions each year from this nation and nations of the world. But for their acts of bravery, we don't know how many others may have lost their lives. The entire Capitol Police Force deserves congratulations, because I know there where other officers that assisted in bringing the situation to a close. Further, I share the sentiments expressed by the Majority Leader that we do everything we can to insure that their families are well taken care of, I am sure that is what these two brave officers would have wanted most. On behalf of the citizens of North Carolina, we collectively express our deep sorrow about this tragedy and extend our heartfelt condolences to their families.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 110) was agreed to.

The preamble was agreed to.

AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL FOR A MEMORIAL SERVICE FOR DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT OF THE UNITED STATES CAPITOL POLICE

Mr. LOTT. Mr. President, I send a second concurrent resolution to the desk regarding the use of the Rotunda in memory of Detective Gibson and

Private First Class Chestnut and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 111) authorizing the use of the rotunda of the Capitol for a memorial service for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, and for other purposes.

The Senate proceeded to consider the concurrent resolution.

Mr. LOTT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 111) was agreed to.

The preamble was agreed to.

The concurrent resolution (S. Con. Res. 111), with its preamble, read as follows:

S. CON. RES. 111

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. AUTHORIZING USE OF ROTUNDA OF THE CAPITOL FOR MEMORIAL SERVICE FOR DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT.

The rotunda of the Capitol is authorized to be used for a memorial service and proceedings related thereto for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police on Tuesday, July 28, 1998, under the direction of the United States Capitol Police Board.

SEC. 2. PLACEMENT OF PLAQUE IN CAPITOL IN MEMORY OF DETECTIVE GIBSON AND PRIVATE FIRST CLASS CHESTNUT.

The Architect of the Capitol shall place a plaque in honor of the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police at an appropriate site in the United States Capitol, with the approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SEC. 3. PAYMENT OF FUNERAL EXPENSES FOR JOHN GIBSON AND JACOB JOSEPH CHESTNUT.

(a) IN GENERAL.—The Sergeant at Arms of the House of Representatives is authorized and directed to make such arrangements as may be necessary for funeral services for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, including payments for travel expenses of immediate family members, and for the attendance of Members of the House of Representatives at such services, including payments for expenses incurred by Members in attending such services.

(b) SOURCE AND MANNER OF MAKING PAYMENTS.—Any payment made under subsection (a) shall be made from the applicable accounts of the House of Representatives, using vouchers approved in a manner directed by the Committee on House Oversight.

SEC. 4. PAYMENT OF SURVIVOR'S GRATUITY TO WIDOWS OF JOHN GIBSON AND JACOB JOSEPH CHESTNUT.

(a) IN GENERAL.—In accordance with the first sentence of the last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" in the first section of the Legislative Branch Appropriation Act, 1955 (2 U.S.C. 125), the Chief Administrative Officer of the House of Representatives is authorized and directed to pay, from the applicable accounts of the House of Representatives—

(1) a gratuity to the widow of Detective John Michael Gibson of the United States Capitol Police in the amount of $51,866.00; and

(2) a gratuity to the widow of Private First Class Jacob Joseph Chestnut of the United States Capitol Police in the amount of $47,280.00.

(b) TREATMENT AS GIFT.—Each gratuity paid under subsection (a) shall be held to have been a gift.

SEC. 5. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF CAPITOL POLICE MEMORIAL FUND.

It is the sense of Congress that there should be established under law a United States Capitol Police Memorial Fund for the surviving spouse and children of members of the United States Capitol Police who are slain in the line of duty.

UNANIMOUS CONSENT AGREEMENT—H. CON. RES. 310 AND 311

Mr. LOTT. I ask unanimous consent that when the Senate receives H. Con. Res. 310 and 311, the resolutions be deemed agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I thank the Senators for their attention to these resolutions. I am pleased that we are going to have an appropriate memorial ceremony tomorrow to honor these two fallen policemen. They represent the very best of those that serve our country and work with us in the Senate, from our personal staffs, to the floor staff, to the officers of the Senate, to the policemen, the people throughout these Capitol buildings.

They certainly did their job last week, and the country and we owe them a personal debt of gratitude. As I said this morning when we opened the Chamber, we see them every day. And we get to know them personally. They are part of our family. And I have sensed today that every Senator and every person I have talked to has a sense of deep sympathy and sorrow for this event.

We will take every precaution to make sure that the Capitol is secure, but that it remains the people's body and the people have access to it. I also have asked Senator DASCHLE to join me in designating a Senator on both sides to make sure that in fact, the officers' families are appropriately cared for so that we can take a look at what benefits they are entitled to and what happens with their memorial fund. We will make a decision and we will report to the rest of the Senate about how to proceed in that area if there is a need for it.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

TRIBUTE TO SENATOR FRIST

Mr. DASCHLE. I also note that we all owe a debt of gratitude to the Senator from Tennessee, Senator FRIST, for seizing the moment in his responsibility, first as a physician, and second as a Senator, to come on to the scene as he did. He served us and those victims very, very well on behalf of, I know, the entire Senate. We thank him for that.

I yield the floor.

IMPLEMENTING THE ONE-CALL LAW

Mr. LOTT. Mr. President, today I want to advise my colleagues on the implementation of the one-call notification ("call-before-you-dig") law. This legislation, which was enacted into law as part of the Transportation Equity Act for the 21st Century (TEA 21), has taken almost three Congresses to complete. However, this Congress was able to accomplish the goal, thanks to bipartisan support and lots of cooperation among the affected entities: pipeline, telecommunications, cable and electric utility companies, state one-call systems and numerous others of good will.

Last week the Department of Transportation's Office of Pipeline Safety announced a public meeting will be held on August 25–26. The purpose of this meeting is to begin organizing a process to collect information on the suggested "best practices" in one-call notification. All affected parties—underground facility operators, excavation contractors, railroads, one-call centers, states and municipalities—should participate in this meeting which will be a joint government-industry effort to bring together the best information on one-call notification practices, techniques, technologies and enforcement processes. Information on these best practices would then be shared among the various state one-call programs, in order to improve performance. The ink is barely dry on the law, and already implementation rulemaking has begun. This is great because this is all about the public's safety.

This is enlightened federalism: the federal government working together with the states and the private sector to mutually decide how to protect our nation's vital underground infrastructure. The federal government does not dictate to state and local governments, nor does it try to fit private companies into some prescriptive regulatory scheme. That never works. Results come by working together.

I congratulate the Senate Appropriations Committee for including a modest but sufficient amount of support for implementing the one-call bill in the FY 1999 Transportation Appropriations bill. I hope the House appropriators will follow this lead and an agreement can be reached in conference for funding to be available in the coming fiscal year.

The one-call bill, which was enacted into law, provides that general revenues are to be used to improve our one-call systems. Realizing there is such a long list of beneficiaries from better one-call notification, this is only fair. I expect the appropriations process to reflect this principle of fairness and to fund this program from general revenues.

We have all seen the tragedies and near tragedies that can occur when accidents happen at underground facilities. These accidents are preventable, and this law provides the surest way to present these accidents. I urge all affected parties to join in participating in the August 25–26 meeting to begin the cooperative, responsible process envisioned in the one-call law.

Mr. President, I promised my good friend, former Senator Bill Bradley, when he left the Senate that his colleagues would continue the legislative effort to enact a one-call notification bill. This was accomplished this year. The terrible 1994 accident in Edison, New Jersey, showed Congress the kind of accident which must be prevented. Now a law has been enacted that can do the job. Let's continue to work together to carry it out.

PUERTO RICO STATUS LEGISLATION

Mr. GRAHAM. Mr. President, 100 years ago this past Saturday—July 25, 1898—U.S. Major General Nelson Miles and his troops arrived on Puerto Rico's shores to liberate the island from tyranny. On that historic occasion, he declared that the United States came "bearing the banner of freedom . . . the fostering arm of a nation of free people, whose greatest power is in justice and humanity to all those living within its fold."

One hundred years after those valiant actions and eloquent words, the nearly four million people of Puerto Rico—excuse me, the United States citizens of Puerto Rico—continue to wait for the fulfillment of that promise of justice and humanity. For the last century, they have been denied the most fundamental right of a free people: the right to choose their own political destiny.

Mr. President, enough is enough. In the last 100 years, Puerto Ricans have fought for freedom as part of the U.S. armed forces. Through their vibrant culture and tireless spirit, they have made invaluable and lasting contributions to American democracy. But they have never had a real opportunity to exercise that freedom fully or enjoy the complete benefits of living in that democracy. Congress must right that wrong in 1998.

Make no mistake: Puerto Ricans are ready for this opportunity. In its quest to gain the right of political self-determination, Puerto Rico has on three occasions held local plebiscites to express preferences for the political options of statehood, independence, or commonwealth. But since these votes were not sanctioned by Congress, they had little more than symbolic value.

In 1997 and 1998, the Puerto Rican Legislature passed resolutions asking Congress to provide Puerto Ricans with a real opportunity to determine their political future. But our loudest action on this request has been inaction.

It is high time that we move forward. The 105th Congress—and others before it—has held numerous hearings. The House of Representatives passed its version of Puerto Rico status legislation more than four months ago. The Senate Energy and Natural Resources Committee has thoroughly examined the many issues surrounding Puerto Rico's self-determination. We are fully educated. The only work that remains to be done are a committee mark-up and vote, Senate floor action, and a House-Senate Conference Committee.

Congressman CARLOS ROMERO-BARCELÓ, Puerto Rico's non-voting member of Congress, told the Energy and Natural Resources Committee that

> The unresolved dilemma of Puerto Rico's status is the single most important long term issue of concern to all Puerto Ricans. It permeates every aspect of our political and economic life and holds our future hostage.

Mr. President, the United States does not hold innocent hostages. It frees them, just as it did 100 years ago when General Miles and his troops waded ashore in Puerto Rico to rescue the residents of that beautiful island from tyranny.

In 1998, as the United States and Puerto Rico celebrate 100 years together, the U.S. Senate can decide to act as our colleagues in the House of Representatives have already done. I urge my colleagues not to make that decision by indecision. The 3.8 million United States citizens in Puerto Rico are counting on us to give new life to their long-frustrated dream of political self-determination. We must not let them down. One hundred years is far too long to wait.

REPORT OF A PROPOSED RESCISSION OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT—PM 148

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Energy and Natural Resources.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one proposed rescission of budgetary resources, totaling $5.2 million.

The proposed rescission affects programs of the Department of the Interior.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 24, 1998.*

MESSAGES FROM THE HOUSE

At 1:22 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4193. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 310. Authorizing the use of the rotunda of the Capitol for memorial service for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, and agrees to the conference of the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. PACKARD, Mr. PORTER, Mr. HOBSON, Mr. WICKER, Mr. KINGSTON, Mr. PARKER, Mr. TIAHRT, Mr. WAMP, Mr. LIVINGSTON, Mr. HEFNER, Mr. OLVER, Mr. EDWARDS, Mr. CRAMER, Mr. DICKS, and Mr. OBEY, as the managers of the conference on the part of the Senate.

The message also announced that the House of Representative, having proceeded to reconsider the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, the said bill passed, two-thirds of the House of Representatives agreeing to pass the same.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times, and placed on the calendar:

H.R. 4193. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-515. A resolution adopted by the Legislature of the State of Alaska; to the Committee on the Judiciary.

LEGISLATIVE RESOLVE NO. 72

Whereas federal courts have ordered a state or political subdivision of a state to levy or increase taxes; and

Whereas such an order violates fundamental principles of separation of powers under which the legislative branch is charged with the enactment of laws; and

Whereas such an order, coming from a federal court, severely undermines the independence of each of the states; be it

Resolved by the Alaska State Legislature, That the Congress of the United States is requested to prepare and present to the legislatures of all the states an amendment to the Constitution of the United States that would prohibit a federal court from ordering a state or political subdivision of a state to increase or impose taxes in substantially the following language:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes." and be it further

Resolved, That this resolution constitutes a continuing application in accordance with Article V, Constitution of the United States, and that the legislatures of all the states are invited to join with Alaska to secure ratification of the proposed amendment.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and to the governors and presiding officers of the houses of the legislatures of each of Alaska's sister states.

POM-516. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

LEGISLATIVE RESOLVE NO. 65

Whereas the University of Alaska is the oldest postsecondary school in the state and plays a vital role in educating Alaskans as well as students from around the world; and

Whereas the University of Alaska began as Alaska Agricultural and Mining College, a land grant college; and

Whereas the land grant system is one of the oldest and most respected forms of financing education in the United States; and

Whereas the land grant system provides grants of land to colleges and universities for facility location and, more importantly, provides a method for sustaining revenues to those colleges and universities; and

Whereas the University of Alaska received the smallest amount of land of any state that has a land grant college except Delaware; to date, the university has received only about 111,000 acres, less than one-third the acreage the university was originally promised; and

Whereas S. 660, sponsored by Senator Frank Murkowski, would grant to the University of Alaska 250,000 acres of federal land if the university agrees to relinquish to the federal government its extremely valuable inholdings in Denali National Park and Preserve and in other national parks, preserves, and refuges; and

Whereas S. 660 would grant to the University of Alaska an additional 250,000 acres of federal land if the states agrees to grant to the university 250,000 acres of state land; and

Whereas S. 660 will provide a stable revenue stream to the University of Alaska while protecting the state's unique parks, preserves, and refuges; and

Whereas reasonable amendments can be made to S. 600 relating to the transfer of federal lands in the Tongass National Forest and the National Petroleum Reserve-Alaska; be it

Resolved, That the Alaska State Legislature urges Senator Murkowski to continue working with representatives of the State of Alaska and the University of Alaska to consider amendments that will address the land grant deficiency of the University of Alaska and be in the best interest of the state; and be it further

Resolved, That the Alaska State Legislature respectfully urges the Congress of the United States to pass and the President to sign S. 660 as expeditiously as possible.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Trent Lott, Majority Leader of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Dick Armey, Majority Leader of the U.S. House of Representatives; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

POM-517. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

LEGISLATIVE RESOLVE NO. 62

Whereas the President of the United States has by Executive Order 13061 created the American Heritage Rivers initiative; and

Whereas the initiative allows a local river community to nominate its river for designation by the President as an American Heritage River; and

Whereas the initiative provides no meaningful protection of state or private property along designated rivers; and

Whereas the initiative creates a new layer of federal bureaucracy and engages 12 federal agencies in its implementation; be it

Resolved, that the Alaska State Legislature opposes any attempt by the federal government to further designate or label state property in Alaska or to further federalize public land in Alaska; and be it further

Resolved, That the Alaska State Legislature opposes the nomination or designation of any river in Alaska as an American Heritage River under the American Heritage Rivers initiative.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; Kathleen A. McGinty, Chair of the Council on Environment Quality; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

POM-518. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

LEGISLATIVE RESOLVE NO. 61

Whereas Representative Don Young has introduced H.R. 2924, which amends the Alaska Native Claims Settlement Act to allow additional land selections to be made under that Act by certain Alaska Natives who are Vietnam era veterans and by the Elim Native Corporation; and

Whereas H.R. 2924 will allow Alaska Native Vietnam era veterans who missed their opportunity to make selections of native allotments while in military service to the United States to make selections under the Alaska Native Claims Settlement Act; be it

Resolved, That the Alaska State Legislature supports the provisions of H.R. 2924 that amend the Alaska Native Claims Settlement Act to allow Alaska Native Vietnam era veterans who missed their opportunity to make selections to make native allotment selections.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative members of the Alaska delegation in Congress.

POM-519. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Commerce, Science, and Transportation.

LEGISLATIVE RESOLVE NO. 80

Whereas President Clinton has proposed in his Fiscal Year 1999 budget a fisheries management fee to fund the management and enforcement services of the National Oceanic and Atmospheric Administration; and

Whereas the proposed fisheries management fee would be derived from a tax of up to one percent on the ex-vessel value of all fish harvested by commercial fishermen; and

Whereas Alaska commercial fishermen would pay as much as $12,000,000 of the $20,000,000 in annual revenue the fisheries management fee is expected to generate from all fisheries nationwide; and

Whereas the proposed management fee would impose a unique burden on Alaska commercial fishermen who produce more fish than the rest of the United States combined; and

Whereas the proposed management fee would have a negative effect on the economic competitiveness of the Alaska seafood industry; and

Whereas the seafood industry is the largest source of private sector jobs in Alaska; and

Whereas commercial fishermen and seafood processors in Alaska are already burdened with a variety of taxes and user fees, including a raw fish tax, marine fuel tax, licensing fees, fishery landing tax, salmon enhancement tax, seafood marketing tax, and seafood marketing assessment; and

Whereas the total value in 1995 of the above-mentioned taxes and uses fees exceeded $68,000,000; be it

Resolved, That the Alaska State Legislature respectfully opposed the imposition of the proposed fisheries management fee; and be it further

Resolved, That the Alaska State Legislature respectfully urges the Governor and the Alaska delegation in Congress to oppose the proposed fisheries management fee and work to ensure the fee is not included in the Fiscal Year 1999 federal budget approved by the Congress.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice President of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Trent Lott, Majority Leader of the U.S. Senate; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

POM-520. a resolution adopted by the Common Council of the City of Madison, Wisconsin, relative to proposals which would grant tobacco companies immunity from lawsuits; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 890: A bill to dispose of certain Federal properties located in Dutch John, Utah, to assist the local government in the interim delivery of basic services to the Dutch John community, and for other purposes (Rept. No. 105–264).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 852: A bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles (Rept. No. 105–265).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 2319: A bill to authorize the use of receipts from the sale of migratory bird hunting and conservation stamps to promote additional stamp purchases (Rept. No. 105–266).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

H.R. 3824: A bill amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft (Rept. No. 105–267).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and an amended preamble:

S.J. Res. 54: A joint resolution finding the Government of Iraq in unacceptable and material breach of its international obligations.

By Mr. HATCH, from the Committee on the Judiciary: Report to accompany the bill (S. 1645) to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions (Rept. No. 105–268).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROBERTS (for himself, Mr. Enzi, Mr. Kerrey, Mr. Harkin, Mr. Lugar, Mr. Warner, and Mr. Johnson):

S. 2356. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ASHCROFT (for himself, Mr. Inhofe, and Mr. Kyl):

S. 2357. A bill requiring the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in addition to static economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee report, the other Committee have thirty days to report or be discharged.

By Mr. ROCKEFELLER (for himself, Mr. Byrd, Mr. Specter, Mr. Daschle, Mr. Cleland, Mr. Conrad, Mrs. Murray, Mr. Kerry, Mr. Dodd, Mr. Kohl, Ms. Mikulski, Mr. Hutchinson, Mr. Ford, Mr. Thurmond, Mr. Campbell, and Mr. Jeffords):

S. 2358. A bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes; to the Committee on Veterans Affairs.

By Mr. INHOFE (for himself, Mr. Faircloth, Mr. Lugar, Mr. Kerry, Mr. Baucus, Mr. Lautenberg, Mr. Wyden, Mr. Graham, Mr. Jeffords, and Mr. Domenici):

S. 2359. A bill to amend the National Environmental Education Act to extend the programs under the Act, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Mr. Frist):

S. 2360. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration for Fiscal Years 1999, 2000, and 2001, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INHOFE (for himself and Mr. Graham):

S. 2361. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize programs for predisaster mitigation, to streamline the administration of disaster relief, to control the Federal costs of disaster assistance, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself, Mr. Daschle, Mr. Abraham, Mr. Akaka, Mr. Allard, Mr. Ashcroft, Mr. Baucus, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Breaux, Mr. Brownback, Mr. Bryan, Mr. Bumpers, Mr. Burns, Mr. Byrd, Mr. Campbell, Mr. Chafee, Mr. Cleland, Mr. Coats, Mr. Cochran, Ms. Collins, Mr. Conrad, Mr. Coverdell, Mr. Craig, Mr. D'Amato, Mr. DeWine, Mr. Dodd, Mr. Domenici, Mr. Dorgan, Mr. Durbin, Mr. Enzi, Mr. Faircloth, Mr. Feingold, Mrs. Feinstein, Mr. Ford, Mr. Frist, Mr. Glenn, Mr. Gorton, Mr. Graham, Mr. Gramm, Mr. Grams, Mr. Grassley, Mr. Gregg, Mr. Hagel, Mr. Harkin, Mr. Hatch, Mr. Helms, Mr. Hollings, Mr. Hutchinson, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Jeffords, Mr. Johnson, Mr. Kempthorne, Mr. Kennedy, Mr. Kerrey, Mr. Kerry, Mr. Kohl, Mr. Kyl, Ms. Landrieu, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Lugar, Mr. Mack, Mr. McCain, Mr. McConnell, Ms. Mikulski, Ms. Moseley-Braun, Mr. Moynihan, Mr. Murkowski, Mrs. Murray, Mr. Nickles, Mr. Reed, Mr. Reid, Mr. Robb, Mr. Roberts, Mr. Rockefeller, Mr. Roth, Mr. Santorum, Mr. Sarbanes, Mr. Sessions, Mr. Shelby, Mr. Smith of New Hampshire, Mr. Smith of Oregon, Ms. Snowe, Mr. Specter, Mr. Stevens, Mr. Thomas, Mr. Thompson, Mr. Thurmond, Mr. Torricelli, Mr. Warner, Mr. Wellstone, and Mr. Wyden):

S. Con. Res. 110. A concurrent resolution honoring the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police for their selfless acts of heroism at the United States Capitol on July 24, 1998; considered and agreed to.

By Mr. LOTT (for himself, Mr. Daschle, Mr. Abraham, Mr. Akaka, Mr. Allard, Mr. Ashcroft, Mr. Baucus, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Breaux, Mr. Brownback, Mr. Bryan, Mr. Bumpers, Mr. Burns, Mr. Byrd, Mr. Campbell, Mr. Chafee, Mr. Cleland, Mr. Coats, Mr. Cochran, Ms. Collins, Mr. Conrad, Mr. Coverdell, Mr. Craig, Mr. D'Amato, Mr. DeWine, Mr. Dodd, Mr. Domenici, Mr. Dorgan, Mr. Durbin, Mr. Enzi, Mr. Faircloth, Mr. Feingold, Mrs. Feinstein, Mr. Ford, Mr. Frist, Mr. Glenn, Mr. Gorton, Mr. Graham, Mr. Gramm, Mr. Grams, Mr. Grassley, Mr. Gregg, Mr. Hagel, Mr. Harkin, Mr. Hatch, Mr. Helms, Mr. Hollings, Mr. Hutchinson, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Jeffords, Mr. Johnson, Mr. Kempthorne, Mr. Kennedy, Mr. Kerrey, Mr. Kerry, Mr. Kohl, Mr. Kyl, Ms. Landrieu, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Lugar, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN):

S. Con. Res. 111. A concurrent resolution authorizing the use of the rotunda of the Capitol for a memorial service for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, and for other purposes; considered and agreed to.

By Mr. WARNER (for himself, Mr. MOYNIHAN, and Mr. FORD):

S. Con. Res. 112. A concurrent resolution to authorize the printing of the eulogies of the Senate and the House of Representatives for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERTS (for himself, Mr. ENZI, Mr. KERREY, Mr. HARKIN, Mr. LUGAR, Mr. WARNER, and Mr. JOHNSON):

S. 2356. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL UNIFORMITY FOR FOOD ACT OF 1998

Mr. HARKIN. Mr. President, I am pleased to join Senator ROBERTS and several other Members in introducing this legislation designed to establish national rules regarding standards, labeling and notification requirements for foods.

The legislation recognizes the reality that we have a truly national system of food production, processing and distribution. Perhaps the most apparent reason for a national system of rules relating to regulation of foods involves the economic costs associated with complying with varying state requirements. The burden of satisfying a number of different, and perhaps conflicting, requirements throughout the country can be significant.

Another aspect of the matter, though, involves the benefits to consumers. Certainly, when it comes to labeling and notification, I believe that consumers are entitled to have plenty of information that will help them make sound purchasing decisions for their families. I believe there can come a point, however, when a multitude of varying labeling and notification requirements can confuse consumers and be counterproductive with respect to helping them make sound choices.

Accordingly, this bill would establish a framework for uniform national rules relating to food labeling, standards and notification requirements while recognizing the interest of the states in regulatory activities involving food. Under the bill, states would continue to have full authority in the area of food sanitation requirements. States could also petition for new national standards or exemption from established national standards and could take emergency action inconsistent with the national standards in the case of imminent hazards. States would continue to have full authority to establish and enforce standards relating to matters on which a national standard had not been set. In addition, the bill specifically identifies a number of types of labeling requirements as to which the states would continue to have full authority.

The bill being introduced today is a sound starting point for further discussion and study, and for hearings that I hope can be scheduled soon. I am sure that during this process issues and considerations will arise that will need to be addressed in the legislation. I look forward to working with the Senator from Kansas and other colleagues toward producing a final bill that will achieve broad support and be enacted.

By Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. SPECTER, Mr. DASCHLE, Mr. CLELAND, Mr. CONRAD, Mrs. MURRAY, Mr. KERRY, Mr. DODD, Mr. KOHL, Ms. MIKULSKI, Mr. HUTCHINSON, Mr. FORD, Mr. THURMOND, Mr. CAMPBELL, and Mr. JEFFORDS):

S. 2358. A bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf war, to extend and enhance certain health care authorities relating to such service, and for other purposes; to the Committee on Veterans' Affairs.

PERSIAN GULF VETERANS ACT OF 1998

Mr. BYRD. Mr. President, not too long ago, the Senate returned to work from celebrating the Fourth of July, Independence Day. By now, the flags that flew so gaily in front of our houses have long since been furled or folded, tucked away in dark closets until next year. The banners and bunting that adorned main streets throughout the country have been taken down, and the high school band's uniforms are again hanging in orderly rows to await September's football games. Our military veterans, cheered at Fourth of July parades as the legacy of those proud men who wrested our freedom from the hands of Redcoats, have again been put out of most people's minds until somber Veterans Day rolls around in November. But it is with the memory of Independence Day still fresh in my mind that I consider how well we as a nation treat the veterans who have protected our freedoms so well.

The Department of Veterans Affairs does a pretty good job of taking care of individual veterans, despite the fact that funding for veterans programs has been declining in real dollars for many years. But, like most bureaucracies, the VA does not always move nimbly and with great precision to identify big trends as quickly as one might like. In large part, that may be because the VA must depend on the even larger and more cumbersome Department of Defense to provide it with the background information on what happened to our veterans while they were on active duty that may require the ministrations of the VA after a conflict. In the case of the Persian Gulf War, the Department of Defense did not, by its own admission, do a very aggressive job early on in trying to get to the bottom of what happened in the Gulf. As a result, we have been engaged in a long and circular debate regarding the large numbers of sick Persian Gulf War veterans, and the trail that will lead us to the answers to what really happened in that theater of operations is growing colder by the day.

Mr. President, I have been working with the Committee on Veterans' Affairs on this issue, and I am pleased that Senator ROCKEFELLER, Senator SPECTER, and I have been able to draft a bill that will bring to a close a part of the debate that has been eroding the confidence of our soldiers in their government's support for them, and eroding the confidence of our veterans that their nation cares for them. I thank my colleague from West Virginia, Mr. ROCKEFELLER, for his courtesy in working with me, and I thank Senator SPECTER also for his cooperation. The encouragement and support offered by the Chronic Illness Research Foundation and the veterans service organizations, particularly the American Legion, the National Gulf War Resources Center, Vietnam Veterans of America, and the National Vietnam and Gulf War Veterans Coalition, have also been critical to this joint effort. That debate is the now 7-year-old argument over what really happened to our soldiers, sailors, and airmen during the Operation Desert Storm to make so many of them sick. As of March 31, 1998, there were 112,123 active and former military personnel on the Department of Defense and Department of Veterans Affairs' Persian Gulf Registries. That is a lot of sick people, and I understand that new registrants continue to sign on at a rate of 80 to 90 each week.

In the 7 years since the "hot" phase of that conflict ended, a fog of words has further obscured the fog of war that enveloped these military men and women in its fetid, inky grasp. Panel after panel has been convened, congressional committee after congressional committee has conducted hearings, report after report has been issued.

Mountains of paper have been created. Yet, substantial, concrete action to end this debate has not been taken, though many recommendations have been issued.

The President's own Advisory Committee on Gulf War Veterans' Illnesses warned in their October 1997 final report that the government's credibility was at stake and urged that a "permanent, statutory" program of benefits and health care for the sick Persian Gulf veterans be established. This bill that we have introduced today begins that important work. It ends the long argument about what happened in the Gulf and who might have been exposed to what, and focuses on the "now what?" phase. This bill establishes a mechanism for the National Academy of Sciences or some other comparable body to periodically review the scientific and medical literature to identify what specific illnesses or diseases might arise from exposure to all of those hazardous materials that were present in the Gulf or that can otherwise be associated with service in that theater of war. The experts provide the Secretary of Veterans Affairs with that list, and the Secretary reviews and establishes regulations to establish those illnesses and diseases as service connected for the purposes of providing medical care and other benefits to Gulf War veterans. The Secretary will also receive recommendations from the National Academy regarding further medical research needed to answer questions about illness and service in the Gulf. The Secretary, in conjunction with the Secretary of Defense and the Secretary of Health and Human Services, is requested to outline a program of medical research based on those recommendations and other information that may warrant further research.

In an effort to jump-start this review process, the bill contains a lengthy list of materials to which numerous government and expert scientific panels have suggested the Gulf veterans may have been exposed. This list was drawn from legislation, H.R. 4036, introduced in the House of Representatives by Representative CHRISTOPHER SHAYS and Representative BERNARD SANDERS of the Subcommittee on Human Resources of the House Committee on Government Reform and Oversight after 2 years of hearings and review. Their tireless efforts have been invaluable. This bill asks the National Academy to begin its review with that list, and to report within 6 months on its findings. Our concern is to expedite this process with as much speed as is prudent, given the long wait that these veterans have already faced.

Remember the chiaroscuro images of that conflict—the bright sand inked over with grimy, oily debris, the road dust sprayed down with oil, chemical alarms blaring, pesticides and insecticides liberally sprayed to keep disease-carrying insects at bay, and of men and women pumped full of last minute vaccines and ordered to take nerve agent pretreatment pills whenever the chemical alarms sounded. Top it all off with the image of man-made thunderclouds forming over the vast ammunition pit at Khamisiyah when U.S. troops destroyed tons of captured Iraqi shells, some unknown quantity of which was loaded with chemical mustard and nerve agents. It was a dirty, dirty war, concentrated over a fairly compact area filled with almost 700,000 U.S. troops. We can be fairly confident on the basis of many previous studies that all of these listed hazards and potential hazards were present in that theater of war, even though we will never be able to say which hazards each individual soldier, sailor, and airman was exposed to and at what dosage. But wounds created by chemicals maim just as readily, if not as visibly, as bullets.

This situation, and this legislation addressing it, are similar to the way that the terrible legacy of Agent Orange from the Vietnam War was finally, agonizingly, resolved. In that case, finally, Congress simply declared that we know that these herbicides were present in country in enormous quantities, but we do not know, and likely never will know, precisely who may have been exposed to them and in what dosage. Therefore, we will simply acknowledge that if you were there during the time that Agent Orange and the other similar herbicides were being used, you may well have been exposed, and if you come down with a disease or illness which can be plausibly linked to that exposure, we will assume that you may have gotten it as a result of that exposure and act accordingly.

It took a long time to get to that point, but it was the right thing to do, and it helped to restore the crisis in confidence that had shaken our servicemen and our veterans. The situation in the Gulf is hauntingly similar, a refrain from the same song. Almost 700,000 men and women were in the Gulf when the shooting started and operated in a fluid battlefield that included many potential hazards. Collection of data was not done or could not be done in a way that allows us to reconstruct every nuance of that situation 7 years later. Even veterans medical records are not as complete as we would now like them to be. So we find ourselves in a chicken soup of possibilities, debating endlessly about whether this pea or this carrot or this piece of meat was here or there in the soup at any point in time, when really all we know is that all the ingredients for a soup were in the pot. So, let us stop analyzing that broth at the expense of taking any further action and get on with turning it into a restorative and nourishing balm for our ailing veterans. This legislation does not presume exposure of every veteran to every possible hazard. Rather, it looks at these hazards and to the illnesses already being seen in the veteran population and determines what diseases and illnesses can be associated with that service or those hazards. If the veteran has that disease or illness, then it is presumed to have been as a result of his exposure to that hazard or hazards or to that service.

Vietnam veterans had to wait almost 20 years before their medical crisis was resolved, and is still being resolved. We must show that we as a Government can learn from that experience and push forward so that the veterans from the Persian Gulf War do not have to wait so long. I think it is possible to learn from history, and recent history provides the freshest lessons. If we do not act decisively now, these newest veterans will be one more year closer to reaching that sorry halfway hurdle. That is why I am proud to cosponsor this bill with Senator ROCKEFELLER and Senator SPECTER, the Persian Gulf War Veterans Act of 1998, to be considered by the Committee on Veterans' Affairs as it meets to address pending legislation. I hope that the Committee will receive it favorably, and that the Senate can move to address the needs of our nations newest conflict veterans and stem the crisis of confidence that the slow and often stumbling Government response to this health care dilemma has created in our servicemen and women, and in our veterans.

Mr. President, the men and women who go into combat for the rest of us deserve our lasting gratitude. They also deserve to have their wounded compatriots properly and aggressively taken care of and that is what President Lincoln meant when he said, "To take care of him who has borne the battle, and his widow and children" which the Department of Veterans Affairs has adopted as its motto. When we fail to do this, we undermine that covenant, and we put cold and daunting doubt in the hearts of those who might otherwise consider volunteering for that hard duty.

To those who are concerned, as I am, about readiness in our military, I say that this is the final element of all the recruiting, advertising, and patriotic appeals to join the military and serve the nation in uniform. This is the element that seals the deal—the commitment to care for our soldiers who are wounded in service. It must be there, and our men and women in uniform must be confident in its compassion and in its endurance, or no signing bonus will keep volunteers in the military. We took too long to follow through with our veterans from Vietnam, and we are in danger of making the same mistake with our veterans from the Persian Gulf:

> A man who is good enough to shed his blood for his country is good enough to be given a square deal afterwards. More than

> that no man is entitled to, and less than that no man shall have.

So said President Theodore Roosevelt on another Independence Day 95 years ago, on July 4, 1903, following the Spanish-American War. I believe that this Congress wants to, and will, live up to that sentiment.

Mr. ROCKEFELLER. Mr. President, along with Senator BYRD and Senator SPECTER, I am proud to introduce today the "Persian Gulf War Veterans Act of 1998." This bipartisan legislation establishes a clear framework for the compensation and health care needs of Gulf War veterans. This bill would create a permanent statutory authority for the compensation of ill Gulf War veterans. It builds upon the system of scientific review and determinations for presumptive compensation that currently exists for veterans exposed to Agent Orange during the Vietnam War and builds upon S. 1320, which I introduced last October.

The bill we introduce today is an even more comprehensive effort to address the needs of our Nation's Gulf War veterans. Senator BYRD's and Senator SPECTER's many contributions have served to make this an even stronger bill that will help to expedite the process of scientific review of possible wartime hazards and exposures that may have contributed to illnesses in our Gulf War veterans, which in turn expedites compensation to ill veterans. It will also help ensure health care for these men and women in the years to come, and improves the current program for evaluating the health of families of Gulf War veterans.

As Ranking Member of the Committee on Veterans' Affairs, I have witnessed firsthand the struggles of many of our Nation's Gulf War veterans. The Persian Gulf War will undoubtedly go down in history as one of our country's most decisive military victories. Despite our fears of potentially huge troop injuries and losses, the careful planning and strategy of our military leaders paid off. The ground war lasted only four days, and the casualties we experienced, while deeply regrettable, were fortunately few. But as with any war, the human costs of the Gulf War have been high, and the casualties have continued long after the battle was over.

Many of the men and women who served in the Gulf have suffered chronic, debilitating health problems. Unnecessarily compounding their pain has been their difficulty in getting the government they served to acknowledge their problems and provide the appropriate care and benefits they deserve. This legislation will go a long way to address some of these concerns. We can't wait the 20 years we waited after the Vietnam war to assess the effects of Agent Orange, or the 40 years we waited after World War II to concede the problems of radiation-exposed veterans. We must learn from the lessons of the past and act now. We have already waited too long.

For the past seven years, we have looked to the leaders of the Department of Defense and the Department of Veterans Affairs for a resolution of these difficult issues. While they have made some progress, I think we can all agree there is much more to be done. This legislation will require VA to enlist the National Academy of Sciences—an independent, nonprofit, scientific organization—to review and evaluate the research regarding links between illnesses and exposure to toxic agents and wartime hazards. Based on the findings of the NAS, VA will then determine whether a diagnosed or undiagnosed illness found to be associated with Gulf War service warrants a presumption of service connection for compensation purposes. This will provide an ongoing scientific basis and nonpolitical framework for the VA to use in compensating Persian Gulf War veterans.

Mr. President, I will now highlight some of the provisions contained in this legislation.

First, this legislation calls for the Secretary of the Department of Veterans Affairs to contract with the National Academy of Sciences (NAS) to provide a scientific basis for determining the association between illnesses and exposures to environmental or wartime hazards as a result of service in the Persian Gulf. The NAS will review the scientific literature to assess health exposures during the Gulf War and health problems among veterans, and report to Congress and the VA.

This bill tasks the NAS with first reviewing a list of likely exposures. Such a step will jump start their review and provide NAS with an initial blueprint to build upon. This is important because it will speed up the process of providing compensation to veterans, and our veterans should not have to wait any longer.

Second, this legislation authorizes VA to presume that diagnosed or undiagnosed illnesses that have a positive association with exposures to environmental or wartime hazards were incurred in or aggravated by service even if there was no evidence of the illness during service. Having that authority, VA will determine whether there is a sound medical and scientific basis to warrant a presumption of service connection for compensation for diagnosed or undiagnosed illnesses, based on NAS' report. Within 60 days of that determination, VA will publish proposed regulations to presumptively service connect these illnesses.

Third, this bill extends VA's authority to provide health care to Gulf War veterans through December 31, 2001. After the war, DoD and VA acknowledged that they couldn't define what health problems were affecting Persian Gulf War veterans. Nonetheless, we did not want to make these veterans wait for the science to catch up before we could provide health care and compensation for their service-related conditions. That is why, back in 1993, we provided Persian Gulf War veterans with priority health care at VA facilities for conditions related to their exposure to environmental hazards. Gulf War veterans' access to health care through VA must be continue to be ensured.

Fourth, this bill requires NAS to provide recommendations for additional research that should be conducted to better understand the possible adverse health effects of exposures to toxic agents or environmental or wartime hazards associated with Gulf War service. The VA, in conjunction with the Department of Defense (DoD) and the Department of Health and Human Services (HHS), will review and act upon the recommendations for additional research and future studies.

Fifth, this legislation tasks NAS with assessing potential treatment models for the chronic undiagnosed illnesses that have affected so many of our Gulf War veterans. They will make recommendations for additional studies to determine the most appropriate and scientifically sound treatments. VA and DoD will review this information and submit a report to Congress describing whether they will implement these treatment models and their rationale for their decisions.

In addition, this legislation calls for the establishment of a system to monitor the health status of Persian Gulf War veterans over time. VA, in collaboration with DoD, will develop a plan to establish and operate a computerized information data set to collect information on the illnesses and health problems of Gulf War veterans. This data base will also track health care utilization of veterans with chronic undiagnosed illnesses to better evaluate these veterans' health care needs. VA and DoD will submit this plan for review and comment by NAS. After this review, VA and DoD will implement the agreed-upon plan and provide annual reports to Congress on the health status of Persian Gulf War veterans.

Also, this legislation requires that VA, in consultation with DoD and HHS, carry out an ongoing outreach program to provide information to Gulf War veterans. This information will include health risks, if any, from exposures during service in the Gulf War theater of operations, and any additional services or benefits that are available.

This bill also extends and improves upon VA's Persian Gulf War Spouse and Children Evaluation Program to allow VA greater flexibility in the implementation of this important program and to allow for greater access for the families who seek medical evaluations.

Finally, this bill requires the Secretary of VA to enter into an agreement with the National Academy of Sciences to study the feasibility of establishing, as an independent entity, a National Center for the Study of Military Health. The proposed center would evaluate and monitor interagency coordination on issues relating to post-deployment health concerns of members of the Armed Forces. In addition, this center would evaluate the health care provided to members of the Armed Services both before and after their deployment on military operations. It could also monitor and direct government efforts to evaluate the health of servicemembers upon their return from military deployments, for purposes of ensuring the rapid identification of any trends in diseases or injuries that result from such operations. Finally, such an independent health center could also serve an important role in providing training of health care professionals in DoD and VA in the evaluation and treatment of post-conflict diseases and health conditions, including nonspecific and unexplained illnesses.

We will continue to retrace the steps and decisions that were made in deploying almost 697,000 men and women to the Persian Gulf in 1990. Hopefully, we will learn from the lessons of this war to prevent some of these same health problems in future deployments, where our troops will again face the threat of an ever changing and increasingly toxic combat environment. But we also must address what our ill Gulf War veterans need now. We need to provide a permanent statutory authority to compensate them. We need to be able to answer the questions of "How many veterans are ill?" and "Are our ill veterans getting sicker over time?"

Mr. President, this legislation targets these important issues. I ask my colleagues in the Senate to join Senator BYRD, Senator SPECTER, and me in supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Persian Gulf War Veterans Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SERVICE CONNECTION FOR GULF WAR ILLNESSES

Sec. 101. Presumption of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.
Sec. 102. Agreement with National Academy of Sciences.
Sec. 103. Monitoring of health status and health care of Persian Gulf War veterans.
Sec. 104. Reports on recommendations for additional scientific research.
Sec. 105. Outreach.
Sec. 106. Definitions.

TITLE II—EXTENSION AND ENHANCEMENT OF GULF WAR HEALTH CARE AUTHORITIES

Sec. 201. Extension of authority to provide health care for Persian Gulf War veterans.
Sec. 202. Extension and improvement of evaluation of health status of spouses and children of Persian Gulf War veterans.

TITLE III—MISCELLANEOUS

Sec. 301. Assessment of establishment of independent entity to evaluate post-conflict illnesses among members of the Armed Forces and health care provided by DoD and VA before and after deployment of such members.

TITLE I—SERVICE CONNECTION FOR GULF WAR ILLNESSES

SEC. 101. PRESUMPTION OF SERVICE CONNECTION FOR ILLNESSES ASSOCIATED WITH SERVICE IN THE PERSIAN GULF DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following:

"§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War

"(a)(1) For purposes of section 1110 of this title, and subject to section 1113 of this title, each illness, if any, described in paragraph (2) shall be considered to have been incurred in or aggravated by service referred to in that paragraph, notwithstanding that there is no record of evidence of such illness during the period of such service.

"(2) An illness referred to in paragraph (1) is any diagnosed or undiagnosed illness that—

"(A) the Secretary determines in regulations prescribed under this section to warrant a presumption of service connection by reason of having a positive association with exposure to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; and

"(B) becomes manifest within the period, if any, prescribed in such regulations in a veteran who served on active duty in that theater of operations during that war and by reason of such service was exposed to such agent, hazard, or medicine or vaccine.

"(3) For purposes of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has an illness described in paragraph (2) shall be presumed to have been exposed by reason of such service to the agent, hazard, or medicine or vaccine associated with the illness in the regulations prescribed under this section unless there is conclusive evidence to establish that the veteran was not exposed to the agent, hazard, or medicine or vaccine by reason of such service.

"(b)(1)(A) Whenever the Secretary makes a determination described in subparagraph (B), the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for the illness covered by that determination for purposes of this section.

"(B) A determination referred to in subparagraph (A) is a determination based on sound medical and scientific evidence that a positive association exists between—

"(i) the exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War; and

"(ii) the occurrence of a diagnosed or undiagnosed illness in humans or animals.

"(2)(A) In making determinations for purposes of paragraph (1), the Secretary shall take into account—

"(i) the reports submitted to the Secretary by the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998; and

"(ii) all other sound medical and scientific information and analyses available to the Secretary.

"(B) In evaluating any report, information, or analysis for purposes of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

"(3) An association between the occurrence of an illness in humans or animals and exposure to an agent, hazard, or medicine or vaccine shall be considered to be positive for purposes of this subsection if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

"(c)(1) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998, the Secretary shall determine whether or not a presumption of service connection is warranted for each illness, if any, covered by the report.

"(2) If the Secretary determines under this subsection that a presumption of service connection is warranted, the Secretary shall, not later than 60 days after making the determination, issue proposed regulations setting forth the Secretary's determination.

"(3)(A) If the Secretary determines under this subsection that a presumption of service connection is not warranted, the Secretary shall, not later than 60 days after making the determination, publish in the Federal Register a notice of the determination. The notice shall include an explanation of the scientific basis for the determination.

"(B) If an illness already presumed to be service connected under this section is subject to a determination under subparagraph (A), the Secretary shall, not later than 60 days after publication of the notice under that subparagraph, issue proposed regulations removing the presumption of service connection for the illness.

"(4) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

"(d) Whenever the presumption of service connection for an illness under this section is removed under subsection (c)—

"(1) a veteran who was awarded compensation for the illness on the basis of the presumption before the effective date of the removal of the presumption shall continue to be entitled to receive compensation on that basis; and

"(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the illness on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

"(e) Subsections (b) through (d) shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1117 the following new item:

"1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.".

(b) Conforming Amendments.—Section 1113 of title 38, United States Code, is amended—

(1) by striking out "or 1117" each place it appears and inserting in lieu thereof "1117, or 1118"; and

(2) in subsection (a), by striking out "or 1116" and inserting in lieu thereof ", 1116, or 1118".

(c) Compensation for Undiagnosed Gulf War Illnesses.—Section 1117 of title 38, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection for an undiagnosed illness (or combination of undiagnosed illnesses) previously established under this section is no longer warranted—

"(A) a veteran who was awarded compensation under this section for such illness (or combination of illnesses) on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

"(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

"(2) This subsection shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.".

SEC. 102. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.

(a) Purpose.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise, to review and evaluate the available scientific evidence regarding associations between illnesses and exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(b) Agreement.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities covered by this section and sections 103(a)(6) and 104(d). The Secretary shall seek to enter into the agreement not later than two months after the date of enactment of this Act.

(c) Identification of Agents and Illnesses.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall—

(A) identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War may have been exposed by reason of such service; and

(B) identify the illnesses (including diagnosed illnesses and undiagnosed illnesses) that are manifest in such members.

(2) In identifying illnesses under paragraph (1)(B), the Academy shall review and summarize the relevant scientific evidence regarding illnesses among the members described in paragraph (1)(A) and among other appropriate populations of individuals, including mortality, symptoms, and adverse reproductive health outcomes among such members and individuals.

(d) Initial Consideration of Specific Agents.—(1) In identifying under subsection (c) the agents, hazards, or preventive medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of the first report under subsection (i), the National Academy of Sciences shall consider, within the first six months after the date of enactment of this Act, the following:

(A) The following organophosphorous pesticides:

(i) Chlorpyrifos.

(ii) Diazinon.

(iii) Dichlorvos.

(iv) Malathion.

(B) The following carbamate pesticides:

(i) Proxpur.

(ii) Carbaryl.

(iii) Methomyl.

(C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis.

(D) The following chlorinated dydrocarbon and other pesticides and repellents:

(i) Lindane.

(ii) Pyrethrins.

(iii) Permethrins.

(iv) Rodenticides (bait).

(v) Repellent (DEET).

(E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms:

(i) Sarin.

(ii) Tabun.

(F) The following synthetic chemical compounds:

(i) Mustard agents at levels below those which cause immediate blistering.

(ii) Volatile organic compounds.

(iii) Hydrazine.

(iv) Red fuming nitric acid.

(v) Solvents.

(vi) Uranium.

(G) The following ionizing radiation:

(i) Depleted uranium.

(ii) Microwave radiation.

(iii) Radio frequency radiation.

(H) The following environmental particulates and pollutants:

(i) Hydrogen sulfide.

(ii) Oil fire byproducts.

(iii) Diesel heater fumes.

(iv) Sand micro-particles.

(I) Diseases endemic to the region (including the following):

(i) Leishmaniasis.

(ii) Sandfly fever.

(iii) Pathogenic escherechia coli.

(iv) Shigellosis.

(J) Time compressed administration of multiple live, 'attenuated', and toxoid vaccines.

(2) The consideration of agents, hazards, and medicines and vaccines under paragraph (1) shall not preclude the Academy from identifying other agents, hazards, or medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of any report under subsection (i).

(3) Not later than six months after the date of enactment of this Act, the National Academy of Science shall submit to the designated congressional committees a report specifying the agents, hazards, and medicines and vaccines considered under paragraph (1).

(e) Determinations of Associations Between Agents and Illnesses.—(1) For each agent, hazard, or medicine or vaccine and illness identified under subsection (c), the National Academy of Sciences shall determine, to the extent that available scientific data permit meaningful determinations—

(A) whether a statistical association exists between exposure to the agent, hazard, or medicine or vaccine and the illness, taking into account the strength of the scientific evidence and the appropriateness of the scientific methodology used to detect the association;

(B) the increased risk of the illness among human or animal populations exposed to the agent, hazard, or medicine or vaccine; and

(C) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agent, hazard, or medicine or vaccine and the illness.

(2) The Academy shall include in its reports under subsection (i) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

(f) Review of Potential Treatment Models for Certain Illnesses.—Under the agreement under subsection (b), the National Academy of Sciences shall separately review, for each chronic undiagnosed illness identified under subsection (c)(1)(B) and for any other chronic illness that the Academy determines to warrant such review, the available scientific data in order to identify empirically valid models of treatment for such illnesses which employ successful treatment modalities for populations with similar symptoms.

(g) Recommendations for Additional Scientific Studies.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall make any recommendations that it considers appropriate for additional scientific studies (including studies relating to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(2) In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

(h) Subsequent Reviews.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct on a periodic and ongoing basis additional reviews of the evidence and data relating to its activities under this section.

(2) As part of each review under this subsection, the Academy shall—

(A) conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) and the data referred to in subsections (e), (f), and (g) that became available since the last review of such evidence and data under this section; and

(B) make determinations under the subsections referred to in subparagraph (A) on the basis of the results of such review and all other reviews previously conducted for purposes of this section.

(i) Reports.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall submit to the committees and officials referred to in paragraph (5) periodic written reports regarding the Academy's activities under the agreement.

(2) The first report under paragraph (1) shall be submitted not later than 18 months after the date of enactment of this Act. That report shall include—

(A) the determinations and discussion referred to in subsection (e);

(B) the results of the review of models of treatment under subsection (f); and

(C) any recommendations of the Academy under subsection (g).

(3) Reports shall be submitted under this subsection at least once every two years, as measured from the date of the report under paragraph (2).

(4) In any report under this subsection (other than the report under paragraph (2)), the Academy may specify an absence of meaningful developments in the scientific or medical community with respect to the activities of the Academy under this section during the 2-year period ending on the date of such report.

(5) Reports under this subsection shall be submitted to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(j) Sunset.—This section shall cease to be effective 10 years after the last day of the fiscal year in which the National Academy of Sciences submits the first report under subsection (i).

(k) Alternative Contract Scientific Organization.—(1) If the Secretary is unable within the time period set forth in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for purposes of this section with another appropriate scientific organization that is not part of the Government, operates as a not-for-profit entity, and has expertise and objectivity comparable to that of the National Academy of Sciences.

(2) If the Secretary enters into an agreement with another organization under this subsection, any reference in this section, sections 103 and 104, and section 1118 of title 38, United States Code (as added by section 101), to the National Academy of Sciences shall be treated as a reference to such other organization.

SEC. 103. MONITORING OF HEALTH STATUS AND HEALTH CARE OF PERSIAN GULF WAR VETERANS.

(a) Information Data Base.—(1) The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense, develop a plan for the establishment and operation of a single computerized information data base for the collection, storage, and analysis of information on—

(A) the diagnosed illnesses and undiagnosed illnesses suffered by current and former members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War; and

(B) the health care utilization patterns of such members with—

(i) any chronic undiagnosed illnesses; and

(ii) any chronic illnesses for which the National Academy of Sciences has identified a valid model of treatment pursuant to its review under section 102(f).

(2) The plan shall provide for the commencement of the operation of the data base not later than 18 months after the date of enactment of this Act.

(3) The Secretary shall ensure in the plan that the data base provides the capability of monitoring and analyzing information on—

(A) the illnesses covered by paragraph (1)(A);

(B) the health care utilization patterns referred to in paragraph (1)(B); and

(C) the changes in health status of veterans covered by paragraph (1).

(4) In order to meet the requirement under paragraph (3), the plan shall ensure that the data base includes the following:

(A) Information in the Persian Gulf War Veterans Health Registry established under section 702 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note).

(B) Information in the Comprehensive Clinical Evaluation Program for Veterans established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 1074 note).

(C) Information derived from other examinations and treatment provided by Department of Veterans Affairs health care facilities to veterans who served in the Southwest Asia theater of operations during the Persian Gulf War.

(D) Information derived from other examinations and treatment provided by military health care facilities to current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war.

(E) Such other information as the Secretary of Veterans Affairs and the Secretary of Defense consider appropriate.

(5) Not later than one year after the date of enactment of this Act, the Secretary shall submit the plan developed under paragraph (1) to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(D) The National Academy of Sciences.

(6)(A) The agreement under section 102 shall require the evaluation of the plan developed under paragraph (1) by the National Academy of Sciences. The Academy shall complete the evaluation of the plan not later than 90 days after the date of its submittal to the Academy under paragraph (5).

(B) Upon completion of the evaluation, the Academy shall submit a report on the evaluation to the committees and individuals referred to in paragraph (5).

(7) Not later than 90 days after receipt of the report under paragraph (6), the Secretary shall—

(A) modify the plan in light of the evaluation of the Academy in the report; and

(B) commence implementation of the plan as so modified.

(b) Annual Report.—Not later than April 1 each year after the year in which operation of the data base under subsection (a) commences, the Secretary of Veterans Affairs and the Secretary of Defense shall jointly submit to the designated congressional committees a report containing—

(1) with respect to the data compiled under this section during the preceding year—

(A) an analysis of the data;

(B) a discussion of the types, incidences, and prevalence of the illnesses identified through such data;

(C) an explanation for the incidence and prevalence of such illnesses; and

(D) other reasonable explanations for the incidence and prevalence of such illnesses; and

(2) with respect to the most current information received under section 102(i) regarding treatment models reviewed under section 102(f)—

(A) an analysis of the information;

(B) the results of any consultation between such Secretaries regarding the implementation of such treatment models in the health care systems of the Department of Veterans Affairs and the Department of Defense; and

(C) in the event either such Secretary determines not to implement such treatment models, an explanation for such determination.

SEC. 104. REPORTS ON RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC RESEARCH.

(a) Reports.—Not later than 90 days after the date on which the Secretary of Veterans Affairs receives any recommendations from the National Academy of Sciences for additional scientific studies under section 102(g), the Secretary of Veterans Affairs, Secretary of Defense, and Secretary of Health and Human Services shall jointly submit to the designated congressional committees a report on such recommendations, including whether or not the Secretaries intend to carry out any recommended studies.

(b) Elements.—In each report under subsection (a), the Secretaries shall—

(1) set forth a plan for each study, if any, that the Secretaries intend to carry out; or

(2) in case of each study that the Secretaries intend not to carry out, set forth a justification for the intention not to carry out such study.

SEC. 105. OUTREACH.

(a) Outreach by Secretary of Veterans Affairs.—The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense and the Secretary of Health and Human Services, carry out an ongoing program to provide veterans who served in the Southwest Asia theater of operations during the Persian Gulf War the information described in subsection (c).

(b) Outreach by Secretary of Defense.—The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, carry out an ongoing program to provide current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war the information described in subsection (c).

(c) Covered Information.—Information under this subsection is information relating to—

(1) the health risks, if any, resulting from exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service; and

(2) any services or benefits available with respect to such health risks.

SEC. 106. DEFINITIONS.

In this title:

(1) The term "toxic agent, environmental or wartime hazard, or preventive medicine or vaccine associated with Gulf War service" means a biological, chemical, or other toxic

agent, environmental or wartime hazard, or preventive medicine or vaccine that is known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War, whether such association arises as a result of single, repeated, or sustained exposure and whether such association arises through exposure singularly or in combination.

(2) The term "designated congressional committees" means the following:

(A) The Committees on Veterans' Affairs and Armed Services of the Senate.

(B) The Committees on Veterans' Affairs and National Security of the House of Representatives.

(3) The term "Persian Gulf War" has the meaning given that term in section 101(33) of title 38, United States Code.

TITLE II—EXTENSION AND ENHANCEMENT OF GULF WAR HEALTH CARE AUTHORITIES

SEC. 201. EXTENSION OF AUTHORITY TO PROVIDE HEALTH CARE FOR PERSIAN GULF WAR VETERANS.

Section 1710(e)(3)(B) of title 38, United States Code, is amended by striking out "December 31, 1998" and inserting in lieu thereof "December 31, 2001".

SEC. 202. EXTENSION AND IMPROVEMENT OF EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) Extension.—Subsection (b) of section 107 of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 38 U.S.C. 1117 note) is amended by striking out "ending on December 31, 1998." and inserting in lieu thereof "ending on the earlier of—

"(1) the date of the completion of expenditure of funds available for the program under subsection (c); or

"(2) December 31, 2001.".

(b) Termination of Certain Testing and Evaluation Requirements.—Subsection (a) of that section is amended by striking out the flush matter following paragraph (3).

(c) Outreach.—Subsection (g) of that section is amended—

(1) by inserting "(1)" before "The Secretary";

(2) by redesignating paragraphs (1) and (2) of paragraph (1), as designated by paragraph (1) of this subsection, as subparagraphs (A) and (B) of that paragraph; and

(3) by adding at the end the following new paragraphs:

"(2) In addition to the outreach activities under paragraph (1), the Secretary shall also provide outreach with respect to the following:

"(A) The existence of the program under this section.

"(B) The purpose of the program.

"(C) The availability under the program of medical examinations and tests, and not medical treatment.

"(D) The findings of any published, peer-reviewed research with respect to any associations (or lack thereof) between the service of veterans in the Southwest Asia theater of operations and particular illnesses or disorders of their spouses or children.

"(3) Outreach under this subsection shall be provided any veteran who served as a member of the Armed Forces in the Southwest Asia theater of operations and who—

"(A) seeks health care or services at medical facilities of the Department of Veterans Affairs; or

"(B) is or seeks to be listed in the Persian Gulf War Veterans Registry.".

(d) Enhanced Flexibility in Examinations.—That section is further amended—

(1) by redesignating subsections (i) and (j) as subsections (k) and (*l*), respectively; and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) Enhanced Flexibility in Examinations.—In order to increase the number of diagnostic tests and medical examinations under the program under this section, the Secretary may—

"(1) reimburse the primary physicians of spouses and children covered by that subsection for the costs of conducting such tests or examinations, with such rates of reimbursement not to exceed the rates paid contract entities under subsection (d) for conducting tests or examinations under the program;

"(2) conduct such tests or examinations of spouses covered by that subsection in medical facilities of the Department; and

"(3) in the event travel is required in order to facilitate such tests or examinations by contract entities referred to in paragraph (1), reimburse the spouses and children concerned for the costs of such travel and of related lodging.".

(e) Enhanced Monitoring of Program.—That section is further amended by inserting after subsection (i), as amended by subsection (d) of this section, the following new subsection (j):

"(j) Enhanced Monitoring of Program.—In order to enhance monitoring of the program under this section, the Secretary shall provide for monthly reports to the Central Office of the Department on activities with respect to the program by elements of the Department and contract entities under subsection (d).".

TITLE III—MISCELLANEOUS

SEC. 301. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY DOD AND VA BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) Agreement for Assessment.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) Assessment.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) Report.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Veterans' Affairs and the Committee on Armed Services of the Senate.

(B) The Committee on Veterans' Affairs and the Committee on National Security of the House of Representatives.

Mr. SPECTER. Mr. President, I am very pleased to join my colleagues Senator BYRD and Senator ROCKEFELLER who have worked so carefully in crafting this legislation, the Persian Gulf War Veterans Act of 1998. Thus, I am pleased to be an original co-sponsor on this bill.

This is a major piece of legislation on behalf of a very important group of veterans. For too long, many Gulf War veterans unsuccessfully have sought promised assistance from our government for the troubling and unexplained health problems they have suffered since they returned home from the Gulf War conflict seven years ago. This bill will fill important gaps in the current health care services and compensation benefits actually being provided to these veterans. It will advance efforts to determine what happened to these veterans during their deployment that may have affected their current health. It also provides a mechanism for an independent scientific entity—the National Academy of Sciences—to identify on a scientific basis linkages between toxic substances to which Gulf War veterans were exposed during their deployment and the illnesses that many now suffer, and for the Secretary of Veterans Affairs to issue regulations based on the NAS's findings creating presumptions of service connection for health care and benefits purposes for Gulf War veterans.

This bill is the latest in a series of laws we have passed in recognition of the deep debt we owe those brave men and women who answered their country's call and put their lives on the line on behalf of us all during the Gulf War. Although that war ended quickly with relatively few immediate casualties, the long term impact of that deployment—which had as a daily reality the very real threat that Iraq would use chemical or biological weapons—was immense and unanticipated. The casualties now are those Gulf War veterans who, several years after the war, have a variety of symptoms and illnesses that fall into no set pattern but for which they still cannot get effective help from our government. This is, unfortunately, particularly true at the Department of Veterans Affairs, which has as its mission the care for and compensation of veterans who fall ill as a result of their military service, and is why this bill focuses on directing the VA to take steps to remedy the situation that many Gulf War veterans find themselves in. It is clear that many Gulf War veterans are suffering from very real physical problems, many of which are still-evolving and the cause of which remains unclear. Effective treatments in many cases have yet to be identified, and even where treatment could be helpful it is not yet uniformly provided to all Gulf War veterans who seek it. And, individuals who develop health problems after their service in the Gulf continue to encounter significant problems in obtaining adequate and timely compensation benefits.

It is true that the Department of Veterans Affairs has instituted programs and made efforts to treat Gulf War veterans. But clearly, the current realization of those efforts is not worthy of what these veterans—who have been identified as a high priority group by VA itself—deserve. As I travel through my home state of Pennsylvania, I hear over and over again the heartbreaking stories of ill Gulf War veterans and their families, who are understandably frightened about their future health prospects and are frustrated by their attempts to get timely and effective health care assistance and compensation benefits. This bill should help remove some of the barriers to obtaining these services from the VA. It should also help shift to the government the burden that in the past has too often fallen on the veteran to demonstrate that he or she is ill and why. It does this by establishing a structured means for seeking potential positive associations between troop exposures to one or more environmental hazards in the Gulf region and the unexplained illnesses that many now face every day. It compels VA to not just treat these ill veterans in isolation and on an ad hoc basis but to monitor their health status over time, and requires more research and outreach programs to make sure every potentially useful area of research into treatment as well as causation is pursued, and that Gulf War veterans know how to obtain the VA's services that are provided on their behalf. It also enhances VA's authority to implement the program for examinations of the spouses and children of these veterans under a program that we established some years ago but that VA has utterly failed to implement in a truly effective way.

This is another opportunity for us to learn from the past and not repeat the delays or mistakes that were made in helping the veterans of previous conflicts who have suffered long term, adverse health consequences as a result of their military service. America's Gulf War veterans deserve no less.

By Mr. INHOFE (for himself, Mr. FAIRCLOTH, Mr. LUGAR, Mr. KERRY, Mr. BAUCUS, Mr. LAUTENBERG, Mr. WYDEN, Mr. GRAHAM, Mr. JEFFORDS, and Mr. DOMENICI):

S. 2359. A bill to amend the National Environmental Education Act to extend the programs under the Act, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL ENVIRONMENTAL AMENDMENTS ACT OF 1998

• Mr. INHOFE. Mr. President, today I introduce legislation to reauthorize the National Environment Education Act. I am joined by my colleagues Senators FAIRCLOTH, LUGAR, KERRY, BAUCUS, LAUTENBERG, WYDEN, GRAHAM, JEFFORDS, and DOMENICI.

Over the last few years environmental education has been criticized for being one-sided and heavy-handed. People have accused environmental advocates of trying to brainwash children and of pushing an environmental agenda that is not supported by the facts or by science. They also accuse the Federal government of setting one curriculum standard and forcing all schools to subscribe to their views. This is not how these two environmental education programs have worked, and I have taken specific steps to ensure that they never work this way.

This legislation accomplishes two important functions. First, it cleans up the current law to make the programs run more efficiently. And second, it places two very important safeguards in the program to ensure its integrity in the future.

I have placed in this bill language to ensure that the EPA programs are "balanced and scientifically sound." It is important that environmental education is presented in an unbiased and balanced manner. The personal values and prejudices of the educators should not be instilled in our children. Instead we must teach them to think for themselves after they have been presented with all of the facts and information. Environmental ideas must be grounded in sound science and not emotional bias. While these programs have not been guilty of this in the past, this is an important safeguard to protect the future of environmental education.

Second, I have included language which prohibits any of the funds to be used for lobbying efforts. While these programs have not used the grant process to lobby the government, there are other programs which have been accused of this and this language will ensure that this program never becomes a vehicle for the executive branch to lobby Congress.

This is an important piece of legislation, and I hope both the Senate and the House can act quickly to reauthorize these programs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Environmental Education Amendments Act of 1998".

SEC. 2. OFFICE OF ENVIRONMENTAL EDUCATION.

Section 4 of the National Environmental Education Act (20 U.S.C. 5503) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by inserting after "support" the following: "balanced and scientifically sound";

(B) by striking paragraph (6);

(C) by redesignating paragraphs (7) through (13) as paragraphs (6) through (12), respectively; and

(D) in paragraph (12) (as so redesignated), by inserting before the period the following: "through the headquarters and the regional offices of the Agency"; and

(2) by striking subsection (c) and inserting the following:

"(c) STAFF.—The Office of Environmental Education shall—

"(1) include a headquarters staff of not more than 10 full-time equivalent employees; and

"(2) be supported by 1 full-time equivalent employee in each Agency regional office.

"(d) ACTIVITIES.—The Administrator may carry out the activities specified in subsection (b) directly or through awards of grants, cooperative agreements, or contracts.".

SEC. 3. ENVIRONMENTAL EDUCATION GRANTS.

Section 6 of the National Environmental Education Act (20 U.S.C. 5505) is amended—

(1) in the second sentence of subsection (i), by striking "25 percent" and inserting "15 percent"; and

(2) by adding at the end the following:

"(j) LOBBYING ACTIVITIES.—A grant under this section may not be used to support a lobbying activity (as described in the documents issued by the Office of Management and Budget and designated as OMB Circulars No. A–21 and No. A–122).

“(k) GUIDANCE REVIEW.—Before the Administrator issues any guidance to grant applicants, the guidance shall be reviewed and approved by the Science Advisory Board of the Agency.”.

SEC. 4. ENVIRONMENTAL INTERNSHIPS AND FELLOWSHIPS.

(a) IN GENERAL.—The National Environmental Education Act is amended—

(1) by striking section 7 (20 U.S.C. 5506); and

(2) by redesignating sections 8 through 11 (20 U.S.C. 5507 through 5510) as sections 7 through 10, respectively.

(b) CONFORMING AMENDMENTS.—The National Environmental Education Act is amended—

(1) in the table of contents in section 1(b) (20 U.S.C. prec. 5501)—

(A) by striking the item relating to section 7; and

(B) by redesignating the items relating to sections 8 through 11 as items relating to sections 7 through 10, respectively;

(2) in section 4(b) (20 U.S.C. 5503(b))—

(A) in paragraph (6) (as redesignated by section 2(1)(C)), by striking “section 8 of this Act” and inserting “section 7”; and

(B) in paragraph (7) (as so redesignated), by striking “section 9 of this Act” and inserting “section 8”;

(3) in section 6(c)(3) (20 U.S.C. 5505(c)(3)), by striking “section 9(d) of this Act” and inserting “section 8(d)”;

(4) in the matter preceding subsection (c)(3)(A) of section 9 (as redesignated by subsection (a)(2)), by striking “section 10(a) of this Act” and inserting “subsection (a)”; and

(5) in subsection (c)(2) of section 10 (as redesignated by subsection (a)(2)), by striking “section 10(d) of this Act” and inserting “section 9(d)”.

SEC. 5. NATIONAL EDUCATION AWARDS.

Section 7 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended to read as follows:

“SEC. 7. NATIONAL EDUCATION AWARDS.

“The Administrator may provide for awards to be known as the ‘President's Environmental Youth Awards’ to be given to young people in grades kindergarten through 12 for outstanding projects to promote local environmental awareness.”.

SEC. 6. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

Section 8 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended—

(1) in subsection (b)(2), by striking the first and second sentences and inserting the following: “The Advisory Council shall consist of not more than 11 members appointed by the Administrator after consultation with the Secretary. To the extent practicable, the Administrator shall appoint to the Advisory Council at least 1 representative from each of the following sectors: primary and secondary education; colleges and universities; not-for-profit organizations involved in environmental education; State departments of education and natural resources; business and industry; and senior Americans.”;

(2) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) MEMBERSHIP.—Membership on the Task Force shall be open to representatives of any Federal agency actively engaged in environmental education.”; and

(3) in subsection (d), by striking paragraph (1) and inserting the following:

“(1) BIENNIAL MEETINGS.—The Advisory Council shall hold a biennial meeting on timely issues regarding environmental education and issue a report and recommendations on the proceedings of the meeting.”.

SEC. 7. NATIONAL ENVIRONMENTAL LEARNING FOUNDATION.

(a) CHANGE IN NAME.—

(1) IN GENERAL.—The first sentence of subsection (a)(1)(A) of section 9 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended by striking “National Environmental Education and Training Foundation” and inserting “National Environmental Learning Foundation”.

(2) CONFORMING AMENDMENTS.—The National Environmental Education Act (20 U.S.C. 5501 et seq.) is amended—

(A) in the item relating to section 9 (as redesignated by section 4(b)(1)(B)) of the table of contents in section 1(b) (20 U.S.C. prec. 5501), by striking “National Environmental Education and Training Foundation” and inserting “National Environmental Learning Foundation”;

(B) in section 3 (20 U.S.C. 5502)—

(i) by striking paragraph (12) and inserting the following:

“(12) FOUNDATION.—‘Foundation’ means the National Environmental Learning Foundation” established by section 9; and”; and

(ii) in paragraph (13), by striking “National Environmental Education and Training Foundation” and inserting “National Environmental Learning Foundation”;

(C) in the heading of section 9 (as redesignated by section 4(a)(2)), by striking “**NATIONAL ENVIRONMENTAL EDUCATION AND TRAINING FOUNDATION**” and inserting “**NATIONAL ENVIRONMENTAL LEARNING FOUNDATION**”; and

(D) in subsection (c) of section 10 (as redesignated by section 4(a)(2)), by striking “National Environmental Education and Training Foundation” and inserting “National Environmental Learning Foundation”.

(b) BOARD OF DIRECTORS; NUMBER OF DIRECTORS.—The first sentence of subsection (b)(1)(A) of section 9 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended by striking “13” and inserting “19”.

(c) ACKNOWLEDGMENT OF DONATIONS.—Section 9(d) of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended by striking paragraph (3) and inserting the following:

“(3) ACKNOWLEDGMENT OF DONORS.—The Foundation may acknowledge receipt of donations by means of a listing of the names of donors in materials distributed by the Foundation, but any such acknowledgment—

“(A) shall not appear in educational material to be presented to students; and

“(B) shall not identify a donor by means of a logo, letterhead, or other corporate commercial symbol, slogan, or product.”.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the National Environmental Education Act (as redesignated by section 4(a)(2)) is amended by striking subsections (a) and (b) and inserting the following:

“(a) IN GENERAL.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this Act $10,000,000 for each of fiscal years 1999 through 2004.

“(b) LIMITATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), of the amounts appropriated under subsection (a) for a fiscal year—

“(A) not more than 25 percent may be used for the activities of the Office of Environmental Education;

“(B) not more than 25 percent may be used for the operation of the environmental education and training program;

“(C) not less than 40 percent shall be used for environmental education grants; and

“(D) 10 percent shall be used for the National Environmental Learning Foundation.

“(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under paragraph (1) for a fiscal year for the activities of the Office of Environmental Education, not more than 25 percent may be used for administrative expenses.

“(c) EXPENSE REPORT.—As soon as practicable after the end of each fiscal year, the Administrator shall submit to Congress a report stating in detail the items on which funds appropriated for the fiscal year were expended.”.

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall take effect as of the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.●

By Ms. SNOWE (for herself and Mr. FRIST):

S. 2360. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration for Fiscal Years 1999, 2000, and 2001, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT OF 1998

● Ms. SNOWE. Mr. President, today I am introducing the National Oceanic and Atmospheric Administration Authorization Act of 1998. This legislation authorizes appropriations for NOAA research, operations, and other activities, reforms the operation of NOAA's hydrographic activities, authorizes continuation of the NOAA Corps, requires the development of a revised NOAA fleet modernization plan, and makes administrative changes related to NOAA.

Mr. President, I consider NOAA to be one of the most important agencies of the Federal government. It manages and conserves living marine resources; explores, maps, and charts the ocean and its resources; describes, monitors, and predicts conditions in the atmosphere, ocean, and space environments; and issue whether forecasts and warnings, among other missions.

Certain specific NOAA activities are authorized through individual statutes such as the Coastal Zone Management Act, the Magnuson-Stevens Fishery Conservation and Management Act, the National Sea Grant College Program Act, and the Marine Protection, Research, and Sanctuaries Act. But many NOAA activities are conducted pursuant to longstanding general authorizations, and the specific details of these programs are determined administratively

Congress last enacted a general NOAA authorization in 1992 (Public Law 102-567). The National Oceanic and Atmospheric Administration Authorization Act of 1992 authorized funding for NOAA programs through FY 1993. As Chair of the Subcommittee on Oceans and Fisheries of the Commerce Committee, I think it is time for the Congress to pass an updated authorization for these NOAA programs.

My bill authorizes funding in various accounts in fiscal years 1999 through 2001 for the National Ocean Service, the National Weather Service, the National Environmental Satellite Data and Information Service, the Office of Ocean and Atmospheric Research, the National Marine Fisheries Service, Program Support, Facilities, and Fleet Maintenance and Planning.

Mr. President, the Congress should make a concerted effort to reauthorize NOAA's programs. This legislation will accomplish that objective and I would urge my colleagues to support it. •

By Mr. INHOFE (for himself and Mr. GRAHAM):

S. 2361. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize programs for predisaster mitigation, to streamline the administration of disaster relief, to control the Federal costs of disaster assistance, and for other purposes; to the Committee on Environment and Public Works.

THE DISASTER MITIGATION ACT OF 1998

• Mr. INHOFE. Mr. President, today I introduce legislation to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act. I am introducing this legislation as the chairman of the subcommittee with jurisdiction over FEMA, the Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee. I am joined today by my ranking member, Senator GRAHAM, who has worked closely with me in drafting this legislation. It is our intention to move swiftly through the committee process with the prospect of floor action this fall.

This bill has two main titles. The first authorizes the Predisaster Hazard Mitigation Program. This program helps communities plan for disasters before they strike which will reduce the post hazard costs associated with disasters. The second title provides a number of streamlining and cost reduction measures which will help bring into line the funds Congress ends up appropriating through supplemental budgets every time we have a major disaster.

I would like to spend a few minutes discussing two key provisions in the Predisaster Mitigation Program that I believe are very important. They relate to the Project Impact Program which was thoroughly discussed in our recent Subcommittee hearing.

Project Impact is an innovative program where FEMA is working with local communities to help them prepare for disasters. It began last year with seven pilots and was expanded this year to include one Project Impact community in every State.

Our Bill authorizes funding for the program for five years, with a sunset at the end of the five years. Based on the costs of the first 50 pilots, the funds authorized will pay for an additional 300 communities. I expect FEMA to work on how best to devolve this program to the local communities over the next five years. If this program is going to be successful then it must evolve into a State and locally run program.

Some may question why a sunset for a program like this is necessary, so let me explain. In the legislation we require the GAO to conduct a study of the program and report back to the Congress in three years. We also ask FEMA to report back on the success of the program. It is my intent that these reports make specific recommendations for the next phase of Project Impact. The House legislation only authorizes Project Impact for three years, I felt it was necessary to authorize the program for five years which will give Congress plenty of time to authorize the next phase of Project Impact.

This program cannot be another Federal bureaucratic program that continues to mushroom without clear direction and with escalating costs. At this point no one has enough experience to predict how this program should look in five years. As FEMA says, this is not just another big government program, and Congress should not treat it as one. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Disaster Mitigation Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PREDISASTER HAZARD MITIGATION

Sec. 101. Findings and purpose.
Sec. 102. State mitigation program.
Sec. 103. Disaster assistance plans.
Sec. 104. Predisaster hazard mitigation.
Sec. 105. Study regarding predisaster hazard mitigation.
Sec. 106. Interagency task force.
Sec. 107. Maximum contribution for mitigation costs.
Sec. 108. Conforming amendment.

TITLE II—STREAMLINING AND COST REDUCTION

Sec. 201. Management costs.
Sec. 202. Assistance to repair, restore, reconstruct, or replace damaged facilities.
Sec. 203. Federal assistance to individuals and households.
Sec. 204. Repeals.
Sec. 205. State administration of hazard mitigation assistance program.
Sec. 206. Streamlining of damaged facilities program.
Sec. 207. Study regarding cost reduction.
Sec. 208. Study regarding disaster insurance for public infrastructure.
Sec. 209. Study regarding declarations.

TITLE III—MISCELLANEOUS

Sec. 301. Technical correction of short title.
Sec. 302. Definition of State.

TITLE I—PREDISASTER HAZARD MITIGATION

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) greater emphasis needs to be placed on identifying and assessing the risks to States and local communities and implementing adequate measures to reduce losses from natural disasters and to ensure that critical facilities and public infrastructure will continue to function after a disaster;

(2) expenditures for post-disaster assistance are increasing without commensurate reduction in the likelihood of future losses from natural disasters;

(3) a high priority in the expenditure of Federal funds under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) should be to implement predisaster activities at the local level; and

(4) with a unified effort of economic incentives, awareness and education, technical assistance, and demonstrated Federal support, States and local communities will be able to increase their capabilities to—

(A) form effective community-based partnerships for mitigation purposes;

(B) implement effective natural disaster mitigation measures that reduce the risk of future damage, hardship, and suffering;

(C) ensure continued functioning of critical facilities and public infrastructure;

(D) leverage additional non-Federal resources into meeting disaster resistance goals; and

(E) make commitments to long-term disaster mitigation efforts for new and existing structures.

(b) PURPOSE.—The purpose of this title is to establish a predisaster hazard mitigation program that—

(1) reduces the loss of life and property, human suffering, economic disruption, and disaster assistance costs resulting from natural hazards; and

(2) provides a source of predisaster hazard mitigation funding that will assist States and local governments in implementing effective mitigation measures that are designed to ensure the continued functioning of critical facilities and public infrastructure after a natural disaster.

SEC. 102. STATE MITIGATION PROGRAM.

Section 201(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131(c)) is amended in the third sentence—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) set forth, with the ongoing cooperation of local governments and consistent with section 409, a comprehensive and detailed State program for mitigating emergencies and major disasters, including provisions for prioritizing mitigation measures.".

SEC. 103. DISASTER ASSISTANCE PLANS.

Section 201 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131) is amended by striking subsection (d) and inserting the following:

"(d) GRANTS FOR DISASTER ASSISTANCE AND HAZARD IDENTIFICATION.—The President may make grants for—

"(1) not to exceed 50 percent of the cost of improving, maintaining, and updating State disaster assistance plans, including, consistent with section 409, evaluation of natural hazards and development of the programs and actions required to mitigate natural hazards; and

"(2) not to exceed 50 percent of the cost of testing and application of emerging hazard identification technologies, such as improved floodplain mapping technologies that—

"(A) can be used by and in cooperation with State and local governments; and

"(B) the President determines will likely result in substantial cost savings as compared to current hazard identification methods.".

SEC. 104. PREDISASTER HAZARD MITIGATION.

(a) In General.—Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is amended by adding at the end the following:

"SEC. 203. PREDISASTER HAZARD MITIGATION.

"(a) Definition of Small Impoverished Community.—In this section, the term 'small impoverished community' means a community of 10,000 or fewer individuals who are economically disadvantaged, as determined by the State in which the community is located and based on criteria established by the President.

"(b) General Authority.—The President may establish a program to provide financial assistance to States, local governments, and other entities for the purpose of carrying out predisaster hazard mitigation activities that exhibit long-term, cost-effective benefits and substantially reduce the risk of future damage, hardship, or suffering from a major disaster.

"(c) Purpose of Assistance.—A State, local government, or other entity that receives financial assistance under this section shall use the assistance for funding activities that exhibit long-term, cost-effective benefits and substantially reduce the risk of future damage, hardship, or suffering from a major disaster.

"(d) Allocation of Funds.—Financial assistance made available to a State, including financial assistance made available to local governments of the State, under this section for a fiscal year shall—

"(1) be in an amount that is not less than the lesser of $500,000 or 1.0 percent of the total funds appropriated to carry out this section for the fiscal year;

"(2) be in an amount that does not exceed 15 percent of the total funds appropriated to carry out this section for the fiscal year; and

"(3) be provided for projects that meet the criteria specified in subsection (e).

"(e) Criteria.—Subject to subsections (d) and (f), in determining whether to provide assistance to a State, local government, or other entity under this section and the amount of the assistance, the President shall consider the following criteria:

"(1) The likelihood of a natural disaster increasing the risk of future damage to a community.

"(2) The clear identification of prioritized cost-effective mitigation activities that produce meaningful and definable outcomes.

"(3) If the State has submitted a mitigation program in cooperation with local governments under section 201(c)(3), the degree to which the activities identified under paragraph (2) are consistent with the State mitigation program.

"(4) The opportunity to fund activities that maximize net benefits to society.

"(5) The ability of the State, local government, or other entity to fund mitigation activities, with additional consideration for mitigation activities in small impoverished communities.

"(6) The level of interest by the private sector to enter into a partnership to promote mitigation.

"(7) Such other criteria as the President establishes in consultation and coordination with State and local governments.

"(f) State Nominations.—

"(1) In general.—

"(A) Recommendations by governor.—The Governor of each State may recommend to the President not fewer than 5 local governments or other entities to receive assistance under this section.

"(B) Submissions to president.—The recommendations shall be submitted to the President not later than January 1 of calendar year 1999 and each calendar year thereafter or such later date in the calendar year as the President may establish.

"(C) Criteria for recommendations.—In making the recommendations, each Governor shall consider the criteria specified in subsection (e).

"(2) Use.—

"(A) In general.—In providing assistance to local governments and other entities under this section, the President shall select from among the local governments and other entities recommended by the Governors under this subsection.

"(B) Selection of additional entities.—On the request of a local government, the President may select additional entities if the President determines that special circumstances justify the additional selection and the selection will meet the criteria specified in subsection (e).

"(3) Effect of failure to nominate.—If a Governor of a State fails to submit recommendations under this subsection in a timely manner, the President may select, subject to the criteria specified in subsection (e), any local governments or other entities of the State to receive assistance under this section.

"(g) Federal Share.—The Federal share of the cost of mitigation activities approved by the President for financial assistance under this section shall be—

"(1) except as provided in paragraph (2), up to 75 percent; and

"(2) in the case of mitigation activities in small impoverished communities, up to 90 percent.

"(h) Local Governments.—In carrying out this section, the President and States shall—

"(1) consult with local governments for the purpose of developing a list of appropriate activities for predisaster hazard mitigation funding; and

"(2) delegate to the local governments the decision to select specific activities from the list developed under paragraph (1).

"(i) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 1998 through 2002.

"(j) Authorization of Section 404 Funds.—In addition to amounts appropriated under subsection (i), the President, in consultation and coordination with State and local governments, may use to carry out this section funds that are appropriated to carry out section 404 for post-disaster mitigation activities that have not been obligated within 30 months after the disaster declaration on which the funding availability is based.

"(k) Termination of Effectiveness.—The authority provided by this section terminates effective October 1, 2003.".

(b) Report on Federal and State Administration.—Not later than 18 months after the date of enactment of this Act, the President, in consultation and coordination with State and local governments, shall submit to Congress a report evaluating efforts to implement this section and recommending a process for the future administration of the program, including—

(1) the appropriateness of transferring to State and local governments greater authority and responsibility for administering the assistance program authorized by section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a)); and

(2) consideration of private sector initiatives for predisaster mitigation to supplement the activities of the President and the Federal Emergency Management Agency.

SEC. 105. STUDY REGARDING PREDISASTER HAZARD MITIGATION.

(a) Study.—The Comptroller General of the United States shall conduct a study to—

(1) examine the effectiveness of the predisaster hazard mitigation program authorized by section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by section 104(a)), including a review of the goals and objectives of the program;

(2) determine if the expenditures under the program are warranted in terms of mitigation, disaster avoidance, and dollars saved; and

(3) develop recommendations concerning the appropriate selection of sites and activities conducted with respect to predisaster mitigation.

(b) Report.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

SEC. 106. INTERAGENCY TASK FORCE.

(a) In General.—The President shall establish an interagency task force for the purpose of coordinating the implementation of predisaster hazard mitigation programs administered by the Federal Government.

(b) Chairperson.—The Director of the Federal Emergency Management Agency shall serve as the chairperson of the task force.

(c) Membership.—The membership of the task force shall include representatives of State and local government organizations.

SEC. 107. MAXIMUM CONTRIBUTION FOR MITIGATION COSTS.

(a) In General.—Section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) is amended in the last sentence by striking "15 percent" and inserting "20 percent".

(b) Applicability.—The amendment made by subsection (a) shall apply to each major disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) after March 1, 1997.

SEC. 108. CONFORMING AMENDMENT.

Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is amended by striking the title heading and inserting the following:

"TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE".

TITLE II—STREAMLINING AND COST REDUCTION

SEC. 201. MANAGEMENT COSTS.

(a) In General.—Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5141 et seq.) is amended by adding at the end the following:

"SEC. 322. MANAGEMENT COSTS.

"(a) Definition of Management Cost.—In this section, the term 'management cost' includes any indirect cost, administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or emergency preparedness activity or measure.

"(b) Management Cost Rates.—Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall establish management cost rates for grantees and subgrantees that shall be used to determine contributions under this Act for management costs.

"(c) Review.—The President shall review the management cost rates established under subsection (a) not later than 3 years after the date of establishment of the rates and periodically thereafter.

"(d) Regulations.—The President shall promulgate a regulation to define appropriate costs to be included in management costs under this section.".

(b) Applicability.—Section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a)) shall apply as follows:

(1) In general.—Subsections (a), (b), and (d) of section 322 of that Act shall apply to each major disaster declared under that Act on or after the date of enactment of this Act. Until the date on which the President establishes the management cost rates under that subsection, section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(f)) shall be used for establishing the rates.

(2) Review; other expenses.—Section 322(c) of that Act shall apply to each major disaster declared under that Act on or after the date on which the President establishes the management cost rates under that section.

SEC. 202. ASSISTANCE TO REPAIR, RESTORE, RECONSTRUCT, OR REPLACE DAMAGED FACILITIES.

(a) Contributions and Federal Share.—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is amended by striking subsections (a) through (c) and inserting the following:

"(a) Contributions.—

"(1) In general.—The President may make contributions—

"(A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility that is damaged or destroyed by a major disaster and for management costs incurred by the government; and

"(B) to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for management costs incurred by the person.

"(2) Conditions for assistance to private nonprofit facilities.—The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if the owner or operator of the facility—

"(A) has applied for a disaster loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)); and

"(B)(i) has been determined to be ineligible for such a loan; or

"(ii) has obtained the maximum amount of such a loan for which the Small Business Administration determines that the facility is eligible.

"(b) Minimum Federal Share.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.

"(c) Large In-Lieu Contributions.—

"(1) For public facilities.—

"(A) In general.—In any case in which a State or local government determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 75 percent of the Federal share of the cost of repairing, restoring, reconstructing, or replacing the facility and of management costs, as estimated by the President.

"(B) Use of funds.—Funds made available to a State or local government under this paragraph may be used to repair, restore, or expand other eligible public facilities, to construct new facilities, or to fund hazard mitigation measures, that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

"(2) For private nonprofit facilities.—

"(A) In general.—In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection (a)(1)(B), a contribution in an amount equal to 75 percent of the Federal share of the cost of repairing, restoring, reconstructing, or replacing the facility and of management costs, as estimated by the President.

"(B) Use of funds.—Funds made available to a person under this paragraph may be used to repair, restore, or expand other eligible private nonprofit facilities owned or operated by the person, to construct new private nonprofit facilities to be owned or operated by the person, or to fund hazard mitigation measures, that the person determines to be necessary to meet a need for its services and functions in the area affected by the major disaster.

"(3) Modification of federal share to encourage use of funds for mitigation activities.—

"(A) In general.—Subject to subparagraph (B), the President shall modify the Federal share of the cost estimate provided in paragraphs (1) and (2) with respect to a large in-lieu contribution if the President determines that the large in-lieu contribution will be used for mitigation activities consistent with the State plan under section 201(c).

"(B) Limitation.—Under subparagraph (A), the Federal share for the purposes of paragraphs (1) and (2) shall not exceed 90 percent of the amount described in paragraph (1)(A) or (2)(A).".

(b) Eligible Cost.—

(1) In general.—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is amended by striking subsection (e) and inserting the following:

"(e) Eligible Cost.—

"(1) Determination.—

"(A) In general.—For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

"(i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and

"(ii) in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)).

"(B) Cost estimation procedures.—Subject to paragraph (2), the President shall use the cost estimation procedures developed under paragraph (3) to make the estimate under subparagraph (A).

"(2) Modification of eligible cost.—If the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is more than 120 percent or less than 80 percent of the cost estimated under paragraph (1), the President may determine that the eligible cost shall be the actual cost of the repair, restoration, reconstruction, or replacement.

"(3) Expert panel.—Not later than 18 months after the date of enactment of this paragraph, the President, acting through the Director of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry, to develop procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices.

"(4) Special rule.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act, except that paragraph (1) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as amended by paragraph (1)) shall take effect on the date on which the procedures developed under paragraph (3) of that section take effect.

(c) Associated Expenses.—

(1) In general.—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is amended by striking subsection (f).

(2) Other eligible costs.—Section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(e)) (as amended by subsection (b)) is amended by adding at the end the following:

"(5) Other eligible costs.—For purposes of this section, the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility includes the following:

"(A) Costs of national guard.—The cost of mobilizing and employing the National Guard for performance of eligible work.

"(B) Costs of prison labor.—The costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging.

"(C) Other labor costs.—Base and overtime wages for an applicant's employees and extra hires performing eligible work plus fringe benefits on the wages to the extent that the benefits were being paid before the major disaster.".

(3) Effective date.—The amendments made by this subsection shall—

(A) take effect on the date on which the President establishes management cost rates under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by section 201(a)); and

(B) apply only to a major disaster declared by the President under that Act on or after the date on which the President establishes the management cost rates.

SEC. 203. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

(a) In General.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended to read as follows:

"SEC. 408. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

"(a) General Authority.—In accordance with this section, the President, in consultation and coordination with the Governor of an affected State, may provide financial assistance, and, if necessary, direct services, to disaster victims who—

"(1) as a direct result of a major disaster have necessary expenses and serious needs; and

"(2) are unable to meet the necessary expenses and serious needs through other means, including insurance proceeds or loan assistance from the Small Business Administration.

"(b) Housing Assistance.—

"(1) Eligibility.—The President may provide financial or other assistance under this section to individuals and families to respond to the disaster-related housing needs of individuals and families who are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable as a result of damage caused by a major disaster.

"(2) Determination of appropriate types of assistance.—The President shall determine appropriate types of housing assistance to be provided to disaster victims under this section based on considerations of cost effectiveness, convenience to disaster victims, and such other factors as the President considers to be appropriate. One or more types of housing assistance may be made available, based on the suitability and availability of the types of assistance, to meet the needs of disaster victims in a particular disaster situation.

"(c) Types of Housing Assistance.—

"(1) Temporary housing.—

"(A) Financial assistance.—

"(i) In general.—The President may provide financial assistance under this section to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings.

"(ii) Amount.—The amount of assistance under clause (i) shall be based on the sum of—

"(I) the fair market rent for the accommodation being provided; and

"(II) the cost of any transportation, utility hookups, or unit installation not being directly provided by the President.

"(B) Direct assistance.—

"(i) In general.—The President may directly provide under this section housing units, acquired by purchase or lease, to individuals or households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).

"(ii) Period of assistance.—

"(I) In general.—Subject to subclause (II), the President may not provide direct assistance under clause (i) with respect to a major disaster after the expiration of the 18-month period beginning on the date of the declaration of the major disaster by the President.

"(II) Extension of period.—The President may extend the period under subclause (I) if the President determines that due to extraordinary circumstances an extension would be in the public interest.

"(iii) Collection of rental charges.—After the expiration of the 18-month period referred to in clause (ii), the President may charge fair market rent for the accommodation being provided.

"(2) Repairs.—

"(A) In general.—The President may provide financial assistance for the repair of owner-occupied primary residences, utilities, and residential infrastructure (such as private access routes) damaged by a major disaster to a habitable or functioning condition.

"(B) Emergency repairs.—To be eligible to receive assistance under subparagraph (A), a recipient shall not be required to demonstrate that the recipient is unable to meet the need for the assistance through other means, except insurance proceeds, if the assistance—

"(i) is used for emergency repairs to make a private primary residence habitable; and

"(ii) does not exceed $5,000, as adjusted annually to reflect changes in the Consumer Price Index as reported by the Bureau of Labor Statistics of the Department of Labor.

"(3) Permanent housing construction.—The President may provide financial assistance or direct assistance under this section to individuals or households to construct permanent housing in insular areas outside the continental United States and other remote locations in cases in which—

"(A) no alternative housing resources are available; and

"(B) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, or not cost effective.

"(d) Terms and Conditions Relating to Housing Assistance.—

"(1) Sites.—

"(A) In general.—Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—

"(i) is provided by the State or local government; and

"(ii) is complete with utilities provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

"(B) Sites provided by the President.—Readily fabricated dwellings may be located on sites provided by the President if the President determines that the sites would be more economical or accessible.

"(2) Disposal of units.—

"(A) Sale to occupants.—

"(i) In general.—Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the individual or household who is occupying the unit if the individual or household needs permanent housing.

"(ii) Sales price.—Sales of temporary housing units under clause (i) shall be accomplished at prices that are fair and equitable.

"(iii) Deposit of proceeds.—Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited into the appropriate Disaster Relief Fund account.

"(iv) Use of GSA services.—The President may use the services of the General Services Administration to accomplish a sale under clause (i).

"(B) Other methods of disposal.—

"(i) Sale.—If not disposed of under subparagraph (A), a temporary housing unit purchased by the President for the purpose of housing disaster victims may be resold.

"(ii) Disposal to governments and voluntary organizations.—A temporary housing unit described in clause (i) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, donation, or other making available, the State, other governmental agency, or voluntary organization agrees—

"(I) to comply with the nondiscrimination provisions of section 308; and

"(II) to obtain and maintain hazard and flood insurance on the housing unit.

"(e) Financial Assistance To Address Other Needs.—

"(1) Medical, dental, and funeral expenses.—The President, in consultation and coordination with the Governor of the affected State, may provide financial assistance under this section to an individual or household adversely affected by a major disaster to meet disaster-related medical, dental, and funeral expenses.

"(2) Personal property, transportation, and other expenses.—The President, in consultation and coordination with the Governor of the affected State, may provide financial assistance under this section to an individual or household described in paragraph (1) to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.

"(f) State Role.—The President shall provide for the substantial and ongoing involvement of the affected State in administering assistance under this section.

"(g) Maximum Amount of Assistance.—The maximum amount of financial assistance that an individual or household may receive under this section with respect to a single major disaster shall be $25,000, as adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.

"(h) Issuance of Regulations.—The President shall issue rules and regulations to carry out the program established by this section, including criteria, standards, and procedures for determining eligibility for assistance.".

(b) Conforming Amendment.—Section 502(a)(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192(a)(6)) is amended by striking "temporary housing".

(c) Repeal of Individual and Family Grant Programs.—Section 411 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5178) is repealed.

(d) Effective Date.—The amendments made by this section take effect 18 months after the date of enactment of this Act.

SEC. 204. REPEALS.

(a) Community Disaster Loans.—Section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184) is repealed.

(b) Simplified Procedure.—Section 422 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189) is repealed.

SEC. 205. STATE ADMINISTRATION OF HAZARD MITIGATION ASSISTANCE PROGRAM.

Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended by adding at the end the following:

"(c) Program Administration by States.—

"(1) In general.—A State desiring to administer the hazard mitigation assistance program established by this section with respect to hazard mitigation assistance in the State may submit to the President an application for the delegation of the authority.

"(2) CRITERIA.—The President, in consultation and coordination with States and local governments, shall establish criteria for the approval of applications submitted under paragraph (1). The criteria shall include, at a minimum—

"(A) the demonstrated ability of the State to manage the grant program under this section;

"(B) submission of the plan required under section 201(c); and

"(C) a demonstrated commitment to mitigation activities.

"(3) APPROVAL.—The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).

"(4) WITHDRAWAL OF APPROVAL.—If, after approving an application of a State submitted under paragraph (1), the President determines that the State is not administering the hazard mitigation assistance program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.

"(5) AUDITS.—The President shall provide for periodic audits of the hazard mitigation assistance programs administered by States under this subsection.".

SEC. 206. STREAMLINING OF DAMAGED FACILITIES PROGRAM.

(a) PILOT PROGRAM.—In consultation and coordination with States and local governments, the President shall conduct a pilot program for the purpose of streamlining the assistance program established by section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172).

(b) STATE PARTICIPATION.—

(1) CRITERIA.—The President, in consultation and coordination with States and local governments, may establish criteria to ensure the appropriate implementation of the pilot program under subsection (a).

(2) NUMBER OF STATES.—The President shall conduct the pilot program under subsection (a) in at least 2 States.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the President shall submit to Congress a report that describes the results of the pilot program conducted under subsection (a), including identifying any administrative or financial benefits.

SEC. 207. STUDY REGARDING COST REDUCTION.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to estimate the reduction in Federal disaster assistance that has resulted and is likely to result from the enactment of this Act

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

SEC. 208. STUDY REGARDING DISASTER INSURANCE FOR PUBLIC INFRASTRUCTURE.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine the current and future expected availability of disaster insurance for public infrastructure eligible for assistance under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

SEC. 209. STUDY REGARDING DECLARATIONS.

(a) STUDY.—The Comptroller General of the United States shall conduct an analytical study that—

(1) examines major disasters and emergencies that have been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) since January 1, 1974; and

(2) describes the criteria for making the declarations and how the criteria have changed over time.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

TITLE III—MISCELLANEOUS

SEC. 301. TECHNICAL CORRECTION OF SHORT TITLE.

The first section of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 note) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Robert T. Stafford Disaster Relief and Emergency Assistance Act'.".

SEC. 302. DEFINITION OF STATE.

Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended in each of paragraphs (3) and (4) by striking "the Northern" and all that follows through "Pacific Islands" and inserting "and the Commonwealth of the Northern Mariana Islands".•

• Mr. GRAHAM. Mr. President, today along with my distinguished colleague from Oklahoma, Senator INHOFE, I introduce the Disaster Mitigation Act of 1998, legislation that will refocus the energies of federal, state and local governments on disaster mitigation, and will shift our efforts to preventative—rather than responsive—actions as we ready the nation for future disasters.

Since the outset of this year, I have been working closely with Senator INHOFE to develop this bi-partisan legislation that will more comprehensively and efficiently address the threats we face from disasters of all types. The bill is composed of two titles: Title I seeks to reduce the impact of disasters by authorizing a "pre-disaster mitigation" program; Title II seeks to streamline the current disaster assistance programs to save administrative costs in addition to greatly simplifying these programs for the benefit of states, local communities, and individual disaster victims.

In addressing the challenges we face from the threat of disaster, I have found it very helpful to use a "doctor/patient" analogy to guide our efforts. First, we diagnosed the problem: over the last ten years, disasters have affected the nation with more frequency—and at a greater cost—than we have experienced in the past. In fact, over the last several years, the supplemental appropriations bills required to respond to disasters have been unusually large compared to the previous decade due to a series of unprecedented disasters including: Hurricanes Andrew and Iniki in 1992; the Midwest floods of 1993; the Northridge earthquake of 1994; and the Upper Midwest floods of 1997.

Second, we offered a prescription to address the problem: comprehensive pre-disaster mitigation. This bill will authorize a five-year pre-disaster mitigation program, funded at $35 million per year, to be administered by Federal Emergency Management Agency, or FEMA. The pre-disaster mitigation program will change the focus of our efforts, at all levels of government, to preventative—rather than responsive—actions in planning for disasters. Such a change in ideology is critical to reducing the short- and long-term costs of natural disasters. It will encourage both the public and the private sector, as well as individual citizens, to take responsibility for the threats they face by adopting the concept of disaster mitigation into their everyday lives. Just like energy conservation, recycling, and the widespread use of seat belts, disaster mitigation should become a concept that all citizens incorporate into their day-to-day lives.

Since 1993, under the leadership of Director James Lee Witt, FEMA has truly changed their way of doing business. In the past five years, FEMA has become more responsive to disaster victims and state and local governments, and has "reinvented" itself by choosing to focus its energy on mitigating, preparing for, responding to, and recovering from the effects of natural hazards. FEMA has already taken an important first step in advocating pre-disaster mitigation by establishing "Project Impact," their new mitigation initiative, in local communities throughout the nation. I am proud to say that Deerfield Beach, Florida, was the first community to be chosen as a participant in Project Impact. By authorizing the conduct of Project Impact for five years in the legislation, we are making a definitive endorsement of both the program and Director Witt's leadership, and we expect that the initiative will produce measurable results in reducing the costs of disaster in the future.

Mr. President, this legislation is the result of coordination and cooperation with FEMA, the National Association of Emergency Management, the National League of Cities, representatives of the private and voluntary sectors, and numerous other state and local governmental organizations. I wish to take this opportunity to thank all who provided important input into the development of this bill, and I am confident that our joint efforts have resulted in a truly comprehensive "diagnosis" of the problem, as well as a "prescription" to address it.

In his testimony before the Environment and Public Works Committee, Florida Director of Emergency Management Joe Myers called this legislation a "defining moment" in emergency management. I too believe that this legislation represents a historic change in the nation's efforts to prevent the effects of natural disasters. By taking proactive steps to implement mitigation now, we will reduce the damage, pain, and suffering from disaster that have become all too familiar. Mr. President, I urge my colleagues to support Senator INHOFE and myself by joining with us in our efforts to protect the citizens of the U.S. from disasters now and in the future.●

ADDITIONAL COSPONSORS

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 766

At the request of Ms. SNOWE, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1220

At the request of Mr. DODD, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1391

At the request of Mr. DODD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1391, a bill to authorize the President to permit the sale and export of food, medicines, and medical equipment to Cuba.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1759

At the request of Mr. HATCH, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Indiana (Mr. COATS) were added as cosponsors of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1868

At the request of Mr. LIEBERMAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 2017

At the request of Mr. D'AMATO, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2100

At the request of Mr. SPECTER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2100, a bill to amend the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses.

S. 2128

At the request of Mr. STEVENS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2179

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2179, a bill to amend the International Emergency Economic Powers Act to clarify the conditions under which export controls may be imposed on agricultural products.

S. 2196

At the request of Mr. GORTON, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2196, a bill to amend the Public Health Service Act to provide for establishment at the National Heart, Lung, and Blood Institute of a program regarding lifesaving interventions for individuals who experience cardiac arrest, and for other purposes.

S. 2235

At the request of Mr. CAMPBELL, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 2235, a bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

S. 2238

At the request of Mr. MCCAIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2238, a bill to reform unfair and anticompetitive practices in the professional boxing industry.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2319

At the request of Mr. CHAFEE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2319, a bill to authorize the use of receipts from the sale of migratory bird hunting and conservation stamps to promote additional stamp purchases.

S. 2323

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 2323, a bill to amend title XVIII of the Social Security Act to preserve access to home health services under the medicare program.

SENATE CONCURRENT RESOLUTION 110—HONORING THE MEMORY OF DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT OF THE UNITED STATES CAPITOL POLICE FOR THEIR SELFLESS ACT OF HEROISM AT THE UNITED STATES CAPITOL ON JULY 24, 1998

Mr. LOTT (for himself, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. CLELAND, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COVERDALL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENZI, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH OF OREGON, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 110

Whereas the Capitol is the people's house, and, as such, it has always been and will remain open to the public;

Whereas millions of people visit the Capitol each year to observe and study the workings of the democratic process;

Whereas the Capitol is the most recognizable symbol of liberty and democracy throughout the world and those who guard the Capitol guard our freedom;

Whereas Private First Class Jacob "J.J." Chestnut and Detective John Michael Gibson sacrificed their lives to protect the lives of hundreds of tourists, staff, and Members of Congress;

Whereas if not for the quick and courageous action of those officers, many innocent people would likely have been injured or killed;

Whereas through their selfless acts, Detective Gibson and Private First Class Chestnut underscored the courage, honor, and dedication shown daily by every member of the United States Capitol Police and every law enforcement officer;

Whereas Private First Class Chestnut, a Vietnam veteran who spent 20 years in the Air Force, was an 18-year veteran of the Capitol Police, and was married to Wen Ling and had five children, Joseph, Janece, Janet, Karen and William;

Whereas Detective Gibson, assigned as Rep. Tom DeLay's bodyguard for the last three years, was an 18-year veteran of the Capitol Police, and was married to Evelyn and had three children, Kristen, John and Daniel;

Whereas Private First Class Chestnut and Detective Gibson were the first United States Capitol Police officers ever killed in the line of duty;

Whereas Private First Class Chestnut and Detective Gibson, and all those who helped apprehend the gunman, assist the injured, and evacuate the building, are true heroes of democracy, and every American owes them a deep debt of gratitude: Now, therefore, be it

Resolved by the Senate, (the House of Representatives concurring), That—

(1) Congress hereby honors the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police for the selfless acts of heroism they displayed on July 24, 1998, in sacrificing their lives in the line of duty so that others might live; and

(2) when the Senate and the House of Representatives adjourn on this date they shall do so out of respect to the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

SENATE CONCURRENT RESOLUTION 111—AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL FOR A MEMORIAL SERVICE FOR DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT OF THE UNITED STATES CAPITOL POLICE

Mr. LOTT (for himself, Mr. Daschle, Mr. Abraham, Mr. Akaka, Mr. Allard, Mr. Ashcroft, Mr. Baucus, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Breaux, Mr. Brownback, Mr. Bryan, Mr. Bumpers, Mr. Burns, Mr. Byrd, Mr. Campbell, Mr. Chafee, Mr. Cleland, Mr. Coats, Mr. Cochran, Ms. Collins, Mr. Conrad, Mr. Coverdell, Mr. Craig, Mr. D'Amato, Mr. DeWine, Mr. Dodd, Mr. Domenici, Mr. Dorgan, Mr. Durbin, Mr. Enzi, Mr. Faircloth, Mr. Feingold, Mrs. Feinstein, Mr. Ford, Mr. Frist, Mr. Glenn, Mr. Gorton, Mr. Graham, Mr. Gramm, Mr. Grams, Mr. Grassley, Mr. Gregg, Mr. Hagel, Mr. Harkin, Mr. Hatch, Mr. Helms, Mr. Hollings, Mr. Hutchinson, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Jeffords, Mr. Johnson, Mr. Kempthorne, Mr. Kennedy, Mr. Kerrey, Mr. Kerry, Mr. Kohl, Mr. Kyl, Ms. Landrieu, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Lugar, Mr. Mack, Mr. McCain, Mr. McConnell, Ms. Mikulski, Ms. Moseley-Braun, Mr. Moynihan, Mr. Murkowski, Mrs. Murray, Mr. Nickles, Mr. Reed, Mr. Reid, Mr. Robb, Mr. Roberts, Mr. Rockefeller, Mr. Roth, Mr. Santorum, Mr. Sarbanes, Mr. Sessions, Mr. Shelby, Mr. Smith of New Hampshire, Mr. Smith of Oregon, Ms. Snowe, Mr. Specter, Mr. Stevens, Mr. Thomas, Mr. Thompson, Mr. Thurmond, Mr. Torricelli, Mr. Warner, Mr. Wellstone and Mr. Wyden) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 111

Resolved by the Senate, (the House of Representatives concurring),

SECTION 1, AUTHORIZING USE OF ROTUNDA OF THE CAPITOL FOR MEMORIAL SERVICE FOR DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT.

The rotunda of the Capitol is authorized to be used for a memorial service and proceedings related thereto for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police on Tuesday, July 28, 1998, under the direction of the United States Capitol Police Board.

SEC. 2. PLACEMENT OF PLAQUE IN CAPITOL IN MEMORY OF DETECTIVE GIBSON AND PRIVATE FIRST CLASS CHESTNUT.

The Architect of the Capitol shall place a plaque in honor of the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police at an appropriate site in the United States Capitol, with the approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SEC. 3. PAYMENT OF FUNERAL EXPENSES FOR JOHN GIBSON AND JACOB JOSEPH CHESTNUT.

(a) In General.—The Sergeant at Arms of the House of Representatives is authorized and directed to make such arrangements as may be necessary for funeral services for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, including payments for travel expenses of immediate family members, and for the attendance of Members of the House of Representatives at such services, including payments for expenses incurred by Members in attending such services.

(b) Source and Manner of Making Payments.—Any payment made under subsection (a) shall be made from the applicable accounts of the House of Representatives, using vouchers approved in a manner directed by the Committee on House Oversight.

SEC. 4. PAYMENT OF SURVIVOR'S GRATUITY TO WIDOWS OF JOHN GIBSON AND JACOB JOSEPH CHESTNUT.

(a) In General.—In accordance with the first sentence of the last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" in the first section of the Legislative Branch Appropriation Act, 1955 (2 U.S.C. 125), the Chief Administrative Officer of the House of Representatives is authorized and directed to pay, from the applicable accounts of the House of Representatives—

(1) a gratuity to the widow of Detective John Michael Gibson of the United States Capitol Police in the amount of $51,866.00; and

(2) a gratuity to the widow of Private First Class Jacob Joseph Chestnut of the United States Capitol Police in the amount of $47,280.00.

(b) Treatment as Gift.—Each gratuity paid under subsection (a) shall be held to have been a gift.

SEC. 5. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF CAPITOL POLICE MEMORIAL FUND.

It is the sense of Congress that there should be established under law a United States Capitol Police Memorial Fund for the surviving spouse and children of members of the United States Capitol Police who are slain in the line of duty.

SENATE CONCURRENT RESOLUTION 112—TO AUTHORIZE THE PRINTING OF EULOGIES OF THE SENATE AND HOUSE REPRESENTATIVES FOR DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT

By Mr. WARNER (for himself, Mr. Moynihan, and Mr. Ford) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 112

Resolved by the Senate (the House of Representatives concurring), That the eulogies for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, as expressed in the House of Representatives and the Senate together with the text of the memorial services, shall be printed as a tribute to Detective Gibson and Officer Chestnut, with illustrations and suitable binding. The document shall be prepared under the direction of the Joint Committee on Printing. There shall be printed 300 casebound copies; 50 to be delivered to each of the families of Detective Gibson and Officer Chestnut, and 200 for the use of the United States Capitol Police.

AMENDMENTS SUBMITTED

CREDIT UNION MEMBERSHIP ACCESS ACT

HAGEL (AND OTHERS) AMENDMENT NO. 3337

Mr. HAGEL (for himself, Mr. Bennett, Mr. Nickles, Mr. Roberts, Mr. Helms, Mr. Shelby, Mr. Enzi, and Mr. Grams) proposed an amendment to the bill (H.R. 1151) to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions; as follows:

On page 54, strike lines 12 through 21 and insert the following:

"(a) Total Amount Permissible.—

"(1) In general.—On and after the date of enactment of this section, no insured credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the minimum net worth required under section 216(c)(1)(A) for a credit union to be well capitalized.

On page 55, strike line 10, and insert the following:

"(c) Experience Requirement for Member Business Lending.—Beginning 3 years after the date of enactment of this section, each employee or related person of an insured credit union shall have not less than 2 years of direct professional experience in the member business lending field before making or administering any member business loan on behalf of the insured credit union.

"(d) Definitions.—As used in this section—

On page 56, strike lines 1 through 5.

On page 56, line 6, strike "(iv)" and insert "(iii)".

On page 56, line 12, strike "(v)" and insert "(iv)".

SHELBY (AND OTHERS) AMENDMENT NO. 3338

Mr. SHELBY (for himself, Mr. Gramm, Mr. Mack, Mr. Faircloth, Mr. Grams, Mr. Allard, Mr. Enzi, Mr. Hagel, Mr. Helms, Mr. Nickles, Mr. Murkowski, Mr. Brownback, Mr. Sessions, Mr. Inhofe, Mr. Coats, and Mr. Thomas) proposed an amendment to the bill, H.R. 1151, supra; as follows:

At the end of title II, add the following new section:

SEC. 207. COMMUNITY REINVESTMENT ACT EXEMPTION.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 808. EXAMINATION EXEMPTION.

"(a) In General.—A regulated financial institution shall not be subject to the examination requirements of this title or any regulations issued hereunder if the institution has aggregate assets of not more than $250,000,000.

"(b) Adjustments.—The dollar amount referred to in subsection (a) shall be adjusted annually after December 31, 1998, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Wednesday, July 29, 1998, at 9 a.m. in SR–328A. The purpose of this meeting will be to examine USDA consolidation and downsizing efforts.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, July 29, 1998, at 9:30 a.m. in room SR–301 Russell Senate Office Building, to receive testimony on S. 2288, the Wendell H. Ford Government Publications Act of 1998.

For further information concerning this hearing, please contact either Ed Edens at the Rules Committee on 4–6678, or Eric Peterson at the Joint Committee on Printing on 4–7774.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, July 29, 1998, at 2 p.m. to conduct a business meeting to consider the following pending business of the Committee: S. 1905, A Bill to Compensate the Cheyenne River Sioux Tribe, and for Other Purposes; H.R. 3069, A Bill to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council; S. 1770, To Elevate the Position of the Director of the Indian Health Service to Assistant Secretary for Health and Human Services; S. 391, To Provide for the Distribution of Certain Judgment Funds to the Mississippi Sioux Tribe of Indians, and for Other Purposes; and S. 1419, A Bill to deem the activities of the Miccosukee Tribe on the Tamiani Indian Reserve to be consistent with the purposes of the Everglades National Park, and for other purposes.

The business meeting will be held in room 485 of the Russell Senate Office Building. Those wishing additional information should contact the Committee on Indian Affairs at 202/224–2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON OVERSIGHT GOVERNMENT MANAGEMENT, RESTRUCTURING AND DISTRICT OF COLUMBIA

Mr. D'AMATO. Mr. President, I ask unanimous consent on behalf of the Government Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia to meet on Monday, July 27, 1998, at 3:00 p.m. for a hearing entitled "Keeping the Nation's Capital Safe."

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on July 27, 1998 at 1:00 p.m. to 5:00 p.m. in Hart 216 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO LIEUTENANT GENERAL FREDERICK E. VOLLRATH

• Mr. KEMPTHORNE. Mr. President, I rise today to honor Lieutenant General Frederick E. Vollrath upon his retirement from the United States Army. General Vollrath has served our great nation with honor and distinction for 35 years and his performance throughout his career has been characterized by the highest standards of professional ethics and commitment to soldiers.

General Vollrath's outstanding career began when he was commissioned a second lieutenant upon completion of the Reserve Officers' Training Corps and graduation from the University of Miami in 1963. During his military career, he completed the Adjutant General Officer Basic and Advanced Courses, the United States Army Command and General Staff College, the United States Army War College, the National Security Management.

His initial assignments include Adjutant General and Deputy Chief of Staff, 4th Infantry Division (Mechanized), Fort Carson, Colorado; Director of Personnel Service Support, Director of Enlisted Personnel Management, and Chief, Enlisted Assignment Division, 1st Personnel Command, U.S. Army Europe. He has also held a variety of important command and staff positions to include Deputy Chief of Staff, Personnel, U.S. Army Europe and Seventh Army; Director of Military Personnel Management, Office of the Deputy Chief of Staff for Personnel, Department of the Army; Director of Enlisted Personnel U.S. Total Army Personnel Command, Alexandria, Virginia; Commander, Personnel Information Systems Command; Chief of Staff and later Deputy Commander, 1st Personnel Command, U.S. Army Europe; Assistant Deputy Chief of Staff for Personnel, Headquarters, Department of the Army and culminating his career with his most recent duty as Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

General Vollrath's military awards and decorations include the Distinguished Service Medal, the Legion of Merit, the Bronze Star Medal, the Meritorious Service Medal and the Army Commendation Medal.

General Vollrath has truly made a difference to our Army and our Nation. He has always fought for what was right for the Army, it's soldiers, civilians and family members. He has established a solid reputation among his peers and superiors as the single driving force in ensuring the personnel community has stayed on the leading edge of sustaining the personnel readiness for the Total Army.

I would ask my colleagues to join me in wishing General Vollrath and his wife, Joy, all the best and thank them for 35 years of dedicated and unselfish service to our Nation. We wish them both a very fulfilling retirement.•

PATIENT PRIVACY RIGHTS ACT OF 1998

• Mr. LEAHY. Mr. President, on Friday, July 24, I introduced legislation along with Senators ASHCROFT, BURNS, and ABRAHAM to repeal the legal mandate for personal identification codes for each patient that would be part of a national medical records system.

Our legislation, S. 2352, the Patient Privacy Rights Act, would repeal the unique medical identifiers requirement of the Health Insurance Portability Law of 1996 (HIPAA). This law directs the U.S. Department of Health and Human Services to develop a system to use personal identifying codes as part of a system for electronically transmitting health information to aid implementation of the health insurance portability law. The unique health identifiers would be codes, numbers or other methods of uniquely identifying each patient that his or her doctors would be required to use throughout that person's lifetime. Hearings on the emerging system were launched in Chicago this week by the National Committee on Vital and Health Statistics.

I believe it is irresponsible to expose patients to this massive new erosion of their privacy. The impetus to computerize medical records for the sake of efficiency cannot be allowed to overrun our basic privacy. People deserve the assurance that their medical histories will not be the subject of public curiosity, commercial advantage or harmful disclosure. This computerization of medical information has raised the stakes in privacy protection. Congress created this threat. Now Congress needs to just say no to the idea of a cradle-to-grave medical dossier.

Health care computerization not only is inevitable, it can be a useful tool to improve health care. But trusting our medical records to this rapidly developing technology will only be supported by the American people if they are assured that their medical privacy is protected. Privacy is not the only victim here. Without privacy protections, many will be discouraged from seeking help or taking advantage of the access we are working so hard to protect in this very same law.

I ask that the text of the bill be printed in the RECORD.

The text of the bill follows:

S. 2352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patient Privacy Rights Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) individuals have a right to confidentiality with respect to their personal health information and records;

(2) with respect to information about medical care and health status, the traditional right of confidentiality is at risk;

(3) an erosion of the right of confidentiality will reduce the willingness of patients to confide in physicians and other practitioners, thus jeopardizing quality health care;

(4) fear that confidentiality is being compromised will deter individuals from seeking medical treatment and stifle technological or medical research and development; and

(5) advancing technology should not lead to a loss of personal privacy.

SEC. 3. PURPOSE.

It is the purpose of this Act—

(1) to repeal the implementation of a "standard unique health identifier for each individual" as required under section 1173(b) of the Social Security Act (42 U.S.C. 1320d-2(b)) as added by the amendment made by section 262(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191); and

(2) to guarantee that medical privacy protections are not undermined by federal law.

SEC. 4. REPEAL OF FEDERAL UNIQUE HEALTH IDENTIFIER.

Sections 1173(b) and 1177(a)(1) of the Social Security Act (42 U.S.C. 1320d-2(b); 42 U.S.C. 1320d-6(a)(1)) are repealed.•

DR. BOB LEFTWICH

• Mr. COVERDELL. Mr. President, I rise today to commend the exemplary efforts of Dr. Bob Leftwich, a school counselor in Ellijay, Georgia. Over the past years, Dr. Leftwich has worked with students in his area by talking to them about life and their futures. In his discussions, he has urged students to be the very best they can be and to make firm commitments to excellence.

Dr. Leftwich is a prime example of a hero in my book. He is a committed advocate for young people and the freedoms they can achieve through hard work and perseverance.

It is people like Bob, with the motivation he brings to our students, who will be remembered when these students are the leaders of our great nation. They will no doubt look back and remember the impact that this individual had on their lives. And hopefully they will follow his lead by getting involved with young people themselves.

Once again, Mr. President, I would like to thank Dr. Leftwich for his dedication to excellence. His work should serve as an encouragement to others to become more involved with the education of our nation's youth.•

HEAD START

• Mrs. MURRAY. Mr. President, the Head Start program has successfully served hundreds of thousands of children over the past 33 years. These are children who otherwise would have been left behind. Instead, they received an enriching opportunity to get prepared for elementary school.

It is critical that we allow local Head Start providers to continue to focus on their mission of serving families and children first. They serve our most vulnerable populations. We need to make sure that we do not saddle Head Start with the additional responsibilities that some members have proposed. Responsibilities such as determining paternity, or enforcing welfare laws by verifying TANF requirements, are duties which are within the realm and expertise of social workers and other professionals. Requiring Head Start to handle these burdensome responsibilities would take their time, energy and focus away from serving families and children first.

We are finding that the quality of instruction and programs at Head Start continues to improve. We must continue to improve quality. One major concern is the authority given to private companies in this bill. While for-profits are partners with many Head Start grantees, their profit-making goals are not wholly consistent with the mission of serving the public good.

Mr. President, in June, 1995, several respected researchers from Yale University and other universities issued a report comparing the quality and cost outcomes between for-profit and non-profit centers. The research shows that non-profit centers on average have more teachers with Associates of Arts in Early Childhood Education degrees than for-profit centers.

Futhermore, for-profit centers on average had lower quality scores but higher costs per child than non-profit centers. Also, for-profit centers make very little use of volunteers from the community. I fear that for-profits are not about quality and community.

Mr. President, presently under 50 percent of the eligible population is served by the Head Start program. It is important that Head Start continues to expand and serve a greater number of children. However, during these times of welfare reform, it is also necessary that Head Start provide full-day, full-year programs for working families. In order to achieve both goals, it is important that expansion occurs cautiously.

Overall, the bill allows flexibility and focuses on school readiness and should be supported. Head Start is one of the most important investments we can make in our children.•

TRIBUTE TO MR. EARL V. JONES, SR.

• Mr. SANTORUM. Mr. President, I rise today to recognize Earl V. Jones, Sr., from Pittsburgh, PA, on his efforts to promote world peace.

Mr. Jones started his grassroots movement, Peace on Earth, to teach children about peace and understanding. The project has since expanded to include a sister city in Russia, the Siberian industrial town of

Novokuznetak. Children in each of these cities write essays answering the question "What Can Each of Us Do for Peace on Earth?"

Essay winners receive medals fashioned from metal produced in Pittsburgh and from Novokuznetak. Among the honorary medal recipients are President Clinton and Russian President Boris Yeltsin. Mr. Jones believes children will have an added incentive to compete in the contest when they know that two Presidents have the same medals that they can win. Furthermore, Mr. Jones included a third set of medals in his gift to the presidents which he hopes will be carried into outer space. He explains, "If you're going to have peace on Earth, you better start up above and come down."

Mr. President, I commend Earl Jones for his tireless work on the Peace on Earth campaign. I ask my colleagues to join me in extending the Senate's best wishes for continued success to Mr. Jones and his worthwhile project.•

150TH ANNIVERSARY OF THE FIRST WOMEN'S RIGHTS CONVENTION

• Mr. MOYNIHAN. Mr. President, last week marked the 150th anniversary of one of the most important events in our history.

In July, 1848 a revolution was taking place in a small brick chapel in a village in upstate New York. The first Women's Rights Convention was held at the Wesleyan Chapel in Seneca Falls on July 19 and 20 of that year. There, a small group ratified the "Declaration of Sentiments," a document which may be considered the Magna Carta of the women's movement. The Declaration proclaimed that:

> All men and women are created equal: That they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness.

That was the first American political idea—that women are equal in civic rights with men. It did not come from Europe, or ancient Athens, or Rome. It came right from central New York.

In 1980, we established a Women's Rights Historic Park at Seneca Falls and Waterloo, commemorating this monumental convention. Former Senator Javits and I proposed a bill to create an historic park within Seneca Falls to commemorate the early beginnings of the women's movement and to recognize the important role Seneca Falls has played in the movement. The park consists of five sites: the 1840's Greek Revival home of Elizabeth Cady Stanton, organizer and leader of the women's rights movement; the Wesleyan Chapel, where the First Women's Rights Convention was held; Declaration Park with a 100 foot waterwall engraved with the Declaration of Sentiments and the names of the signers of Declaration; and the M'Clintock house, home of MaryAnn and Thomas M'Clintock, where the Declaration was drafted.

Mrs. Clinton visited a number of these sites as part of her "Save America's Treasures" tour. There she spoke to the meaning of the Women's Rights Convention and called for the work of these pioneers to continue into the next century.

I ask that the text of Mrs. Clinton's speech be printed in the RECORD.

The speech follows:

REMARKS OF FIRST LADY HILLARY RODHAM CLINTON

Thank you for gathering here in such numbers for this important celebration. I want to thank Governor Pataki and Congresswoman Slaughter and all the elected officials who are here with us today. I want to thank Mary Anne and here committee for helping to organize such a great celebration. I want to thank Bob Stanton and the entire Park Service staff for doing such an excellent job with the historic site. I want to thank our choirs. I thought the choirs really added; I want to thank our singers whom we've already heard from and will hear from because this is a celebration and we need to think about it in such terms.

But for a moment, I would like you to take your minds backs a hundred and fifty years. Imagine if you will that you are Charlotte Woodward, a nineteen-year-old glove maker working and living in Waterloo. Everyday you sit for hours sewing gloves together, working for small wages you cannot even keep, with no hope of going on in school or owning property, knowing that if you marry, your children and even the clothes on your body will belong to your husband.

But then one day in July, 1848, you hear about a women's right convention to be held in nearby Seneca Falls. It's a convention to discuss the social, civil, and religious conditions and rights of women. You run from house to house and you find other women who have heard the same news. Some are excited, others are amused or even shocked, and a few agree to come with you, for at least the first day.

When that day comes, July 19, 1848, you leave early in the morning in your horse-drawn wagon. You fear that no one else will come; and at first, the road is empty, except for you and your neighbors. But suddenly, as you reach a crossroads, you see a few more wagons and carriages, then more and more all going towards Wesleyan Chapel. Eventually you join the others to form one long procession on the road to equality.

Who were the others traveling that road to equality, traveling to that convention? Frederick Douglass, the former slave and great abolitionist, was on his way there and he described the participants as "few in numbers, moderate in resources, and very little known in the world. The most we had to connect us was a firm commitment that we were in the right and a firm faith that the right must ultimately prevail." In the wagons and carriages, on foot or horseback, were women like Rhoda Palmer. Seventy years later in 1918, at the age of one-hundred and two, she would cast her first ballot in a New York state election.

Also traveling down that road to equality was Susan Quinn, who at fifteen will become the youngest signer of the Declaration of Sentiments. Catharine F. Stebbins, a veteran of activism starting when she was only twelve going door to door collecting anti-slavery petitions. She also, by the way, kept an anti-tobacco pledge on the parlor table and asked all her young male friends to sign up. She was a woman truly ahead of her time, as all the participants were.

I often wonder, when reflecting back on the Seneca Falls Convention, who of us—men and women—would have left our homes, our families, our work to make that journey one hundred and fifty years ago. Think about the incredible courage it must have taken to join that procession. Ordinary men and women, mothers and fathers, sisters and brothers, husbands and wives, friends and neighbors. And just like those who have embarked on other journeys throughout American history, seeking freedom or escapings religious or political persecution, speaking out against slavery, working for labor rights. These men and women were motivated by dreams of better lives and more just societies.

At the end of the two-day convention, one hundred people, sixty-eight women and thirty-two men, signed the Declaration of Sentiments that you can now read on the wall at Wesleyan Chapel. Among the signers were some of the names we remember today: Elizabeth Cady Stanton and Lucretia Mott, Martha Wright and Frederick Douglass and young Charlotte Woodward. The "Seneca Falls 100," as I like to call them, shared the radical idea that America fell far short of her ideals stated in our founding documents, denying citizenship to women and slaves.

Elizabeth Cady Stanton, who is frequently credited with originating the idea for the Convention, knew that women were not only denied legal citizenship, but that society's cultural values and social structures conspired to assign women only one occupation and role, that of wife and mother. Of course, the reality was always far different. Women have always worked, and worked both in the home and outside the home for as long as history can record. And even though Stanton herself had a comfortable life and valued deeply her husband and seven children, she knew that she and all other women were not truly free if they could not keep wages they earned, divorce an abusive husband, own property, or vote for the political leaders who governed them. Stanton was inspired, along with the others who met, to rewrite our Declaration of Independence, and they boldly asserted, "We hold these truths to be self-evident that all men and women are created equal."

"All men and all women." It was the shout heard around the world, and if we listen, we can still hear its echoes today. We can hear it in the voices of women demanding their full civil and political rights anywhere in the world. I've heard such voices and their echoes from women, around the world, from Belfast to Bosnia to Beijing, as they work to change the conditions for women and girls and improve their lives and the lives of their families. We can even hear those echoes today in Seneca Falls. We come together this time not by carriage, but by car or plane, by train or foot, and yes, in my case, by bus. We come together not to hold a convention, but to celebrate those who met here one hundres and fifty years ago, to commemorate how far we have traveled since then, and to challenge ourselves to persevere on the journey that was begun all those many years ago.

We are, as one can see looking around this great crowd, men and women, old and young, different races, different backgrounds. We come to honor the past and imagine the future. That is the theme the President and I have chosen for the White House Millennium Council's efforts to remind and inspire Americans as we approach the year 2000. This is my last stop on the Millennium Council's tour to Save America's Treasures—those buildings, monuments, papers and sites—that define who we are as a nation. They include not only famous symbols like the Star Spangled Banner and not only great political leaders like George Washington's revolutionary headquarters, or creative inventors like Thomas Edison's invention factory, but they include also the women of America who wrote our nation's past and must write its future.

Women like the ones we honor here and, in fact, at the end of my tour yesterday, I learned that I was following literally in the footsteps of one of them, Lucretia Mott, who, on her way to Seneca Falls, stopped in Auburn to visit former slaves and went on to the Seneca Nations to meet with clan mothers, as I did.

Last evening, I visited the home of Mary Ann and Thomas M'Clintock in Waterloo, where the Declaration of Sentiments was drafted, and which the Park Service is planning to restore for visitors if the money needed can be raised. I certainly hope I can return here sometime in the next few years to visit that restoration.

Because we must tell and retell, learn and relearn, these women's stories, and we must make it our personal mission, in our everyday lives, to pass these stories on to our daughters and sons. Because we cannot—we must not—ever forget that the rights and opportunities that we enjoy as women today were not just bestowed upon us by some benevolent ruler. They were fought for, agonized over, marched for, jailed for and even died for by brave and persistent women and men who came before us.

Every time we buy or sell or inherit property in our own name—let us thank the pioneers who agitated to change the laws that made that possible.

Every time, every time we vote, let us thank the women and men of Seneca Falls, Susan B. Anthony and all the others, who tirelessly crossed our nation and withstood ridicule and the rest to bring about the 19th Amendment to the Constitution.

Every time we enter an occupation—a profession of our own choosing and receive a paycheck that reflect earnings equal to a male colleague, let us thank the signers and women like Kate Mullaney, who's house I visited yesterday, in Troy, New York.

Every time we elect a woman to office—let us thank ground breaking leaders like Jeannette Rankin and Margaret Chase Smith, Hattie Caraway, Louise Slaughter, Bella Abzug, Shirley Chisholm—all of whom proved that a woman's place is truly in the House, and in the Senate, and one day, in the White House, as well.

And every time we take another step forward for justice in this nation—let us thank extraordinary women like Harriet Tubman, whose home in Auburn I visited yesterday, and who escaped herself from slavery, and, then risked her life, time and again, to bring at least two hundred other slaves to freedom as well.

Harriet Tubman's rule for all of her underground railroad missions was to keep going. Once you started—no matter how scared you got, how dangerous it became—you were not allowed to turn back. That's a pretty good rule for life. It not only describes the women who gathered in Wesleyan Chapel in 1848, but it could serve as our own motto for today. We, too, cannot turn back. We, too, must keep going in our commitment to the dignity of every individual—to women's rights as human rights. We are on that road of the pioneers to Seneca Falls, they started down it 150 years ago. But now, we too, must keep going.

We may not face the criticism and derision they did. They understood that the Declaration of Sentiments would create no small amount of misconception, or misrepresentation and ridicule; they were called mannish women, old maids, fanatics, attacked personally by those who disagreed with them. One paper said, "These rights for women would bring a monstrous injury to all mankind." If it sounds familiar, it's the same thing that's always said when women keep going for true equality and justice.

Those who came here also understood that the convention and the Declaration were only first steps down the road. What matters most is what happens when everyone packs up and goes back to their families and communities. What matters is whether sentiment and resolutions, once made, are fulfilled or forgotten. The Seneca Falls one hundred pledged themselves to petition, and lit the pulpit and used every instrumentality within their power to affect their subjects. And they did. But they also knew they were not acting primarily for themselves. They knew they probably would not even see the changes they advocated in their own lifetime. In fact, only Charlotte Woodward lived long enough to see American women finally win the right to vote.

Those who signed that Declaration were doing it for the girls and women—for us—those of us in the twentieth century.

Elizabeth Cady Stanton wrote a letter to her daughters later in life enclosing a special gift and explaining why. "Dear Maggie and Hattie, this is my first speech," she wrote, "it contains all I knew at that time; I give this manuscript to my precious daughters in the hopes that they will finish the work that I have begun." And they have. Her daughter, Harriot Blatch, was the chief strategist of the suffrage movement in New York. Harriot's daughter, Nora Barney, was one of the first women to be a civil engineer. Nora's daughter, Rhoda Jenkins, became an architect. Rhoda's daughter, Colleen Jenkins-Sahlin is an elected official in Greenwich, Connecticut. And her daughter, Elizabeth is a thirteen-year-old, who wrote about the six generations of Stantons in a book called, 33 Things Every Girl Should Know.

So, far into the twentieth century, the work is still being done; the journey goes on. Now, some might say that the only purpose of this celebration is to honor the past, that the work begun here is finished in America, that young women no longer face legal obstacles to whatever education or employment choices they choose to pursue. And I certainly believe and hope all of you agree that we should, everyday, count our blessings as American women.

I know how much change I have seen in my own life. When I was growing up back in the fifties and sixties, there were still barriers that Mrs. Stanton would have recognized—scholarships I couldn't apply for, schools I couldn't go to, jobs I couldn't have—just because of my sex. Thanks to federal laws like the Civil Rights Act of 1964 and Title 9, and the Equal Pay Act, legal barriers to equality have fallen.

But if all we do is honor the past, then I believe we will miss the central point of the Declaration of Sentiments, which was, above all, a document about the future. The drafters of the Declaration imagined a different future for women and men, in a society based on equality and mutual respect. It falls to every generation to imagine the future, and it is our task to do so now.

We know that, just as the women 150 years ago knew, that what we imagine will be principally for our daughters and sons in the 21st century. Because the work of the Seneca Falls Convention is, just like the work of the nation itself, it's never finished, so long as there remain gaps between our ideals and reality. That is one of the great joys and beauties of the American experiment. We are always striving to build and move toward a more perfect union, that we on every occasion keep faith with our founding ideals, and translate them into reality. So what kind of future can we imagine together.

If we are to finish the work begun here—then no American should ever again face discrimination on the basis of gender, race or sexual orientation anywhere in our country.

If we are to finish the work begun here—then $0.76 in a woman's paycheck for every dollar in a man's is still not enough. Equal pay for equal work can once and for all be achieved.

If we are to finish the work begun here—then families need more help to balance their responsibilities at work and at home. In a letter to Susan B. Anthony, Elizabeth Cady Stanton writes, "Come here and I will do what I can to help you with your address, if you will hold the baby and make the pudding." Even then, women knew we had to have help with child care. All families should have access to safe, affordable, quality child care.

If we are to finish the work begun here—then women and children must be protected against what the Declaration called the "chastisement of women," namely domestic abuse and violence. We must take all steps necessary to end the scourge of violence against women and punish the perpetrator. And our country must join the rest of the world, as so eloquently Secretary Albright called for on Saturday night here in Seneca Falls, "Join the rest of the world and ratify the convention on the elimination of discrimination against women."

If we are to finish the work begun here—we must do more than talk about family values, we must adopt policies that truly value families—policies like a universal system of health care insurance that guarantees every American's access to affordable, quality health care. Policies like taking all steps necessary to keep guns out of the hands of children and criminals. Policies like doing all that is necessary at all levels of our society to ensure high quality public education for every boy or girl no matter where that child lives.

If we are to finish the work begun here—we must ensure that women and men who work full-time earn a wage that lifts them out of poverty and all workers who retire have financial security in their later years through guaranteed Social Security and pensions.

If we are to finish the work begun here—we must be vigilant against the messages of a media-driven consumer culture that convinces our sons and daughters that what brand of sneakers they wear or cosmetics they use is more important that what they think, feel, know, or do.

And if we are to finish the work begun here—we must, above all else, take seriously the power of the vote and use it to make our voices heard. What the champions of suffrage understood was that the vote is not just a symbol of our equality, but that it can be, if used, a guarantee of results. It is the way we express our political views. It is the way we hold our leaders and governments accountable. It is the way we bridge the gap between what we want our nation to be and what it is.

But when will the majority of women voters of our country exercise their most fundamental political right? Can you imagine what any of the Declaration signers would say if they learned how many women fail to vote in elections? They would be amazed and outraged. They would agree with a poster I saw in 1996. On it, there is a picture of a woman with a piece of tape covering her mouth and under it, it says, "Most politicians think women should be seen and not heard. In the last election, 54 million women agreed with them."

One hundred and fifty years ago, the women at Seneca Falls were silenced by someone else. Today, women, we silence ourselves. We have a choice. We have a voice. And if we are going to finish the work begun here we must exercise our right to vote in every election we are eligible to vote in.

Much of who women are and what women do today can be traced to the courage, vision, and dedication of the pioneers who came together at Seneca Falls. Now it is our responsibility to finish the work they began. Let's ask ourselves, at the 200th anniversary of Seneca Falls, will they say that today's gathering also was a catalyst for action? Will they say that businesses, labor, religious organizations, the media, foundations, educators, every citizen in our society came to see the unfinished struggle of today as their struggle?

Will they say that we joined across lines of race and class, that we raised up those too often pushed down, and ultimately found strength in each other's differences and resolved in our common cause? Will we, like the champions at Seneca Falls, recognize that men must play a central role in this fight? How can we ever forget the impassioned plea of Frederick Douglas, issued in our defense of the right to vote?

How can we ever forget that young legislator from Tennessee by the name of Harry Burns, who was the deciding vote in ratifying the 19th Amendment. He was planning on voting "no," but then he got a letter from his mother with a simple message. The letter said, "Be a good boy Harry and do the right thing." And he did! Tennessee became the last state to ratify, proving that you can never ever overestimate the power of one person to alter the course of history, or the power of a little motherly advice.

Will we look back and see that we have finally joined the rest of the advanced economies by creating systems of education, employment, child care and health care that support and strengthen families and give all women real choices in their lives.

At the 200th anniversary celebration, will they say that women today supported each other in the choices we make? Will we admit once and for all there is no single cookie cutter model for being a successful and fulfilled woman today, that we have so many choices? We can choose full-time motherhood or no family at all or like most of us, seek to strike a balance between our family and our work, always trying to do what is right in our lives. Will we leave our children a world where it is self-evident that all men and women, boys and girls are created equal? These are some of the questions we can ask ourselves.

Help us imagine a future that keeps faith with the sentiments expressed here in 1848. The future, like the past and the present, will not and cannot be perfect. Our daughters and granddaughters will face new challenges which we today cannot even imagine. But each of us can help prepare for that future by doing what we can to speak out for justice and equality for women's rights and human rights, to be on the right side of history, no matter the risk or cost, knowing that eventually the sentiments we express and the causes we advocate will succeed because they are rooted in the conviction that all people are entitled by their creator and by the promise of America to the freedom, rights, responsibilities, and opportunity of full citizenship. That is what I imagine for the future. I invite you to imagine with me and then to work together to make that future a reality.

Thank you all very much.●

TRIBUTE TO LIEUTENANT COLONEL STEVEN DOUGLAS JACQUES, USAF

● Mr. WARNER. Mr. President, I rise to recognize the dedication, public service, and patriotism of Lieutenant Colonel Steven Douglas Jacques, United States Air Force, on the occasion of his retirement after over twenty years' of faithful service to our nation. Colonel Jacques' strong commitment to excellence will leave a lasting impact on the vitality of our nation's Space and Intelligence capabilities, commanding the admiration and respect of his military and civilian colleagues.

The son of a retired Air Force Senior Master Sergeant, Steve received his commission through the Air Force Reserve Officer Training Corps program while attending Texas Tech. He was first assigned at the Space and Missiles Systems Organization (SAMSO), Los Angeles AFS, CA in 1977, where he served as financial manager for the Expendable Space Launch Vehicles Program.

In 1981, Steve was assigned to HQ Systems Command, Andrews AFB, MD, as Budget Officer for Space Programs. In 1983, he was transferred to Headquarters, United States Air Force, Pentagon, as the Program Element Monitor for the Expendable Launch Vehicles programs. During this time, the Department reversed its policy and determined that placing sole reliance on the Space Shuttle for access to space for military satellites presented an unacceptable national security risk. Consequently, new ELV programs were created, and Steve became the Air Force's first Titan IV "PEM."

Following his Pentagon tour, Steve was transferred back to Los Angeles AFB in 1985, where he was assigned as Deputy Program Control Director for Expendable Launch Vehicles. Months after Steve's arrival, the tragic loss of the Space Shuttle Challenger stimulated the nation's "Space Launch Recovery," in which the Defense Department determined its satellites would eventually be removed from the shuttle and placed back on ELVs for launch. Steve led the efforts in costing and packaging the $10 billion Space Launch Recovery, which was fully approved by the Department and the Congress.

In 1988, Steve returned to the Pentagon, serving in the Special Programs Division of the Directorate for Space Programs, Assistant Secretary of the Air Force for Acquisition. Following duty as Executive Officer to the Director of Space Programs, Steve was assigned to the Assistant Secretary of the Air Force for Legislative Liaison in 1991, where he served as the Air Force's liaison officer to the Congress for all Space Programs.

During the winter and spring of 1994, Steve attended the Defense Systems Management College at Fort Belvoir, Virginia, receiving his Level III certification in Program Management. Following school, Steve was assigned to the National Reconnaissance Office, where he first served as Director of Program Control for a classified program, and later as the SIGINT and Launch Comptroller. While serving as Comptroller, Steve played a formidable leadership role during the NRO's "forward funding" recovery.

In 1996, Steve began his final assignment in the Office of the Assistant Secretary of Defense for Legislative Affairs, where he served as Special Assistant for Space, Intelligence, and Special Programs. In this capacity, he represented the Secretary of Defense on a myriad of important and sensitive matters with the U.S. Congress, most notably the tragic Khobar Towers bombing in Saudi Arabia, legislation forming the National Imagery and Mapping Agency, and a number of highly classified issues.

Colonel Steve Jacques' military awards include the Defense Superior Service Medal, the Defense Meritorious Service Medal, the Air Force Meritorious Service Medal, and the Air Force Commendation Medal.

Mr. President, our nation, the Department of Defense, the United States Air Force, and Lieutenant Colonel Steve Jacques' family—his wife Debbie and daughters Tracy and Amy—can truly be proud of this outstanding officer's many accomplishments. While his honorable service will be genuinely missed in the Department of Defense, it gives me great pleasure to recognize Lieutenant Colonel Steve Jacques before my colleagues and wish him the best in his future endeavors.●

PRIVATE HEALTH INSURANCE: HCFA CAUTIOUS IN ENFORCING FEDERAL HIPAA STANDARDS IN STATES LACKING COMPARABLE LAWS

● Mr. JEFFORDS. Mr. President, today, I am releasing a new U.S. General Accounting Office (GAO) report entitled, "Private Health Insurance: HCFA Cautious in Enforcing Federal

HIPAA Standards in States Lacking Comparable Laws" (GAO/HEHS-98-217R). The GAO report warns that Federal involvement in the role traditionally reserved for the States may complicate oversight of private health insurance.

In 1945, Congress passed the McCarran-Ferguson Act, thereby endorsing the arrangement where States are responsible for the regulation of insurance. Federal regulation of health insurance in States establishes a new precedent. In light of current proposals that would establish additional Federal standards of health insurance, I believe we must carefully consider the appropriate role for Federal and State regulatory agencies in monitoring and enforcing compliance with insurance standards.

As the Chairman of the Committee on Labor and Human Resources, I have closely monitored the implementation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) since its enactment in the last Congress. HIPAA set new Federal standards for access, portability, and renewability for group health plans under the Employee Retirement Income Security Act of 1974 (ERISA) and for health insurance issuers which have traditionally been regulated by the States. Under the HIPAA framework, in the event that a State does not enact the new Federal standards for health insurance issuers, the Health Care Financing Administration (HCFA) is required to enforce the provisions.

As of June 30, 1998, officials in California, Rhode Island, and Missouri have voluntarily notified HCFA that they have failed to enact HIPAA standards in legislation. Two other States, Massachusetts and Michigan, are widely known to have not enacted conforming legislation, but the States have not notified HCFA, nor has HCFA initiated the formal process to determine if Federal regulation is necessary.

In the case of the five States where HIPAA standards have not been adopted, HCFA must assume several functions normally reserved for State insurance regulators. These duties include (1) responding to consumer inquiries and complaints; (2) providing guidance to carriers about HIPAA requirements; (3) obtaining and reviewing carriers' product literature and policies for compliance with HIPAA standards; (4) monitoring carrier marketing practices for compliance; and (5) imposing civil monetary penalties on carriers who fail to comply with HIPAA requirements.

HCFA officials have acknowledged that their agency has thus far taken a minimalist approach to regulating HIPAA, and they attribute the agency's limited involvement to a lack of experienced staff, as well as uncertainty about its actual regulatory authority. Originally assuming that States would adopt HIPAA legislation, HCFA reassigned only a small number of staff members to address enforcement issues. The reassigned staff generally came from other divisions and had no previous experience in private health insurance.

As of July, 1998, HCFA has authorized 40 full-time staff members to work on all HIPAA-related issues. HCFA officials acknowledge that these new staffers will likely focus on responding to consumer inquiries and complaints. Officials also have said that they will need additional staff to conduct any further enforcement activities. They are unable to state their precise staff needs, because they are inexperienced in the regulation of private health insurance and are uncertain of their long-term responsibility. At a Labor Committee oversight hearing in March, HCFA Commissioner Nancy-Ann Min DeParle testified that HCFA may require an additional range of enforcement tools, beyond the already-established civil monetary penalties.

Without formal notification of noncompliance from Massachusetts and Michigan, HCFA must undertake a determination process to establish the States' nonconformance, officially providing the authority for HCFA to become involved. HCFA officials have not yet undertaken this effort, which they characterize as cumbersome.

The GAO has found that HCFA's review of carriers' product literature and policy compliance would be restricted by the Paperwork Reduction Act. The Act establishes a process for approval of any collection information, defined as collecting information from 10 or more persons. HCFA would need to obtain approval from the Office of Management and Budget for anything other than obtaining information in response to specific consumer complaints. To fulfill its regulatory duties, HCFA would need OMB approval to collect information from all carriers on a regular basis, which most State insurance commissioners already do.

In California, Missouri, and Rhode Island, oversight of health benefits is divided between State insurance regulators and the Department of Labor. The addition of HCFA to the array of regulatory bodies may further fragment and complicate the regulation of private health insurance. This framework may lead to duplication, yet none of these agencies will have complete authority for regulating health insurance products. Ms. DeParle herself has stated that this would be a challenging "patchwork quilt of Federal and State enforcement."

One example is in Missouri, where the State's present small-group, guaranteed-issue requirement is applicable to groups of 3 to 25 individuals. HIPAA's small-group guaranteed-issue standard applies to policies sold to groups of 2 to 50 individuals. Therefore, in Missouri, HCFA has the responsibility for ensuring that carriers guarantee products to groups the size of 2 individuals, and groups the size of 26 to 50 individuals.

The legislative history of HIPAA makes clear that the Congress intended that the effect of this legislation would be that all States would come quickly into compliance with the stated Federal standards, eliminating the need for active regulation by HCFA. We are now confronted by the fact that in at least five States HCFA must initiate enforcement with respect to group to individual market coverage.

At a March 19, 1998, Labor Committee HIPAA oversight hearing, Don Moran of the Lewin Group testified: "The lesson I take from HIPAA is that, in the complex world of health benefits regulation, the Federal government cannot tidily insert itself as a policy-setter in a predominantly State-administered regulatory regime." In establishing minimum Federal standards for health insurance, we may have to develop alternative approaches to the HIPAA framework so as to encourage States to meet Federal standards and retain enforcement responsibilities.

Mr. President, the GAO report concludes that HCFA's regulatory role is likely to expand as it assumes enforcement responsibilities to ensure States' compliance with HIPAA. It is clear that HCFA's new regulatory responsibilities will increase the burden faced by health carriers and regulators, and will add to the confusion faced by consumers, who try to navigate through the intricate system of overlapping and duplicative regulatory jurisdiction.●

FEDERAL ACTIVITIES INVENTORY REFORM (FAIR) ACT

● Mr. THOMAS. Mr. President, I rise today to express my deep appreciation to the members of the Senate Governmental Affairs Committee, and the Committee's staff, for the time and effort they have dedicated to developing a consensus on my legislation to codify the 40+ year Federal policy on reliance on the private sector.

At the beginning of this Congress, I introduced S. 314, the "Freedom from Government Competition Act." This legislation was an attempt to establish in statute a workable process by which Federal agencies utilize the private sector for commercially available products and services. As we have learned from our research and from House and Senate hearings, as early as 1932 Congress first became aware of the fact that the Federal government was starting and carrying out activities that are commercial in nature, and that government performance of these activities resulted in unfair competition with the private sector. In 1954, a bill to address this issue passed the House and was reported by the Committee on Governmental Affairs of the Senate. At that time, the Eisenhower Administration indicated that it could resolve the issue administratively. Bureau of the Budget Bulletin 55-4 was issued and the Senate suspended action on the legislation. The budget document established a federal policy of reliance on the private sector. It noted that the free enterprise system was the strength of our economy and that the government should not compete with private business. Rather, the Bulletin said, the government should rely on the private sector for those good and services that could be obtained through ordinary business channels.

That policy is now found in OMB Circular A-76 and has been endorsed by every Administration, of both parties, since 1955. However, the degree of enthusiasm for implementation of the Circular has varied from one Administration to another. In fact, the issue of government competition has become so pervasive that all three sessions of the White House Conference on Small Business, held in 1980, 1986, and 1995, ranked this as one of the top problems facing America's small businesses. According to testimony we received, it is estimated that more than half a million Federal employees are engaged in activities that are commercial in nature.

However, the purpose of my legislation is not to bash Federal employees. I believe most are motivated by public service and are dedicated individuals. However, from a policy standpoint, I believe we have gone too far in defining the role of government and the private sector in our economy. Because A-76 is non-binding and discretionary on the part of agencies, too many commercial activities have been started and carried out in Federal agencies. Because A-76 is not statutory, Congress has failed to exercise its oversight responsibilities. Further, by leaving "make or buy" decisions to agency managers, there has been no means to assure that agencies "govern" or restrict themselves to inherently governmental activities, rather than produce goods and services that can otherwise be performed in and obtained from the private sector.

Among the problems we have seen with Circular A-76 is (1) agencies do not develop accurate inventories of activities (2) they do not conduct the reviews outlined in the Circular, (3) when reviews are conducted they drag out over extended periods of time and (4) the criteria for the reviews are not fair and equitable. These are complaints we heard from the private sector, government employees, and in some cases from both.

In the 1980's our former colleague Senator Warren Rudman first introduced the "Freedom from Government Competition Act" in the Senate. Later, Representative JOHN J. DUNCAN, JR. (R-TN) introduced similar legislation the House. I was a cosponsor of that bill when I served in the other body. Upon my election to the Senate in the 104th Congress, I introduced the companion to Rep. DUNCAN's bill in the Senate.

On Wednesday, July 15, 1998 the Senate Governmental Affairs Committee unanimously reported a version of S. 314 that is a result of many months of discussion among both the majority and minority on the committee, OMB, Federal employee unions and private sector organizations. The amendment in the nature of a substitute offered by Chairman FRED THOMPSON and approved by the Committee is a consensus and a compromise.

It is important to point out that the bill that I introduced in the 104th Congress was an attempt to codify the original 1955 policy that the government should rely on the private sector. After a hearing on that bill was convened by Senator STEVENS, during his tenure as Chairman of the Committee on Governmental Affairs, it became clear to me that it was necessary to add to the bill the concept of competition to determine whether government performance or private sector performance resulted in the best value to the American taxpayer. While S. 314 as introduced, and H.R. 716 introduced in the House, was still entitled the "Freedom from Government Competition Act", it in fact not only did not prevent government competition, but it mandated it. This was not a change that private sector organizations came to comfortably support. However, inasmuch as OMB Circular A-76 changed through the years from its original 1955 philosophical statement to its more recent iterations that required public-private competition, I revised my bill when introducing it last year to include such competitions, provided they in fact are conducted and that when conducted, they are fair and equitable comparisons carried out on a level playing field.

I would also hasten to add that the measure reported by the Senate Governmental Affairs Committee, which I hope will be promptly approved by the full Senate, is significantly different than S. 314 as introduced. While S. 314 as introduced was opposed by the Administration and by the Federal employee unions, the compromise measure reported from the committee is not opposed by these groups.

Mr. President, this is important legislation that I believe will truly result in a government that works better and costs less. Certainly government agency officials should have the ability to contract with the private sector for goods and services needed for the conduct of government activities. This bill will not inhibit ability. However, it should not be the practice of the government to carry on commercial activities for months, years, even decades without reviewing whether such activities can be carried out in a more cost effective or efficient manner by the private sector. I believe that the drive to reduce the size and scope of the federal government will be successful only when we force the government to do less and allow the private sector to do more.

During the course of our hearings, it became abundantly clear that there are certain activities that the Federal government has performed in-house which can and should be converted to the private sector. Areas such as architecture an engineering, surveying and mapping, laboratory testing, information technology, and laundry services have no place in government. These activities should be promptly transitioned to the private sector.

There are other activities in which a public-private competition should be conducted to determined which provider can deliver the best value to the taxpayer. This includes base and facility operation, campgrounds an auctioning.

There are several key provisions in the bill upon which I would like to comment. In particular, section 2(d) requires the head of an agency to review the activities on his or her list of commercial activities "within a reasonable time". OMB strongly opposed a legislative timetable for conducting these reviews. As a result of the compromise language on this matter, it will be incumbent on OMB to make certain these reviews are indeed conducted in a reasonable time frame. These reviews should be scheduled and completed within moths, not years. I will personally monitor progress on this matter, as will the Governmental Affairs Committee. I urge OMB to exercise strong oversight to assure timely implementation of this requirement by the agencies.

This provision also requires that agencies use a "competitive process" to select the source of goods or services. In my view, this term has the same meaning as "competitive procedures" as defined in Federal law (10 U.S.C. 2302(2) and 41 U.S.C. 259(b)). To the extent that a government agency competes for work under this section of the bill, the government agency will be treated as any other contractor or offeror in order to assure that the competition is conducted on a level playing field.

Another issue that I have been concerned about is the proliferation of Interservice Support Agreement's (ISSA's). Under the "FAIR" Act, consistent with the Economy Act (31 U.S.C. 1535), items on the commercial inventory that have not been reviewed may not be performed for another federal agency. In addition, any item on the inventory cannot be provided to state or local governments unless there is a certification, pursuant to the Intergovernmental Cooperation Act (31 U.S.C. 6505(a)).

Enactment of the "FAIR" Act is a major achievement because it codifies a process to assure government reliance on the private sector to the maximum extent feasible. Further, it will put some teeth into Executive Order 12615 by President Reagan, which is still on the books today.

Again, I thank the members of the Senate Government Affairs Committee and the Committee's staff, for all of the hard work necessary to forge this compromise. I look forward to working with them on thorough Congressional oversight on the implementation of this bill.•

A TRIBUTE TO THOMAS ESTES

• Mr. SMITH, of New Hampshire. Mr. President, I rise today to pay tribute to the life and accomplishments of Thomas Clifford Estes of New Ipswich, New Hampshire, who recently passed away at the age of 66.

The family of Tom Estes can take comfort and pride in the way that he lived his life. Born on November 28, 1931 to the late Bedford and Emily Estes of New York, Tom graduated from Erasmus Hall High School and later studied at RCA Institute.

Following his father's distinguished example in serving this country in the armed forces, Tom joined the United States Navy in 1951, shortly after the outbreak of the Korean War. For three of his four years of active duty, Tom served on the U.S.S. *Tarawa*, a Navy aircraft carrier that entered the Asian war zone. He earned a number of Navy awards, including the Korean Service Medal, the United Nations Service Medal, the China Service Medal, the National Defense Service Medal, the Good Conduct Medal and the Navy Occupation Service Medal.

Tom's service to the nation was commendable, not just during the Korean War, but throughout his thirty-two years of Federal civil service. He began his career as a quality assurance engineer for the United States military in Florida and later moved to Dallas, Texas, before settling in New Hampshire in 1967. Upon his retirement, Tom was recognized by the Defense Logistics Agency for his contributions.

Tom was admired for his integrity, dedication to his community and positive demeanor. He remained a devoted husband to his wife, Mary, throughout almost thirty-five years of marriage and helped care for his disabled sister for many years. An accomplished chess player, Tom also enjoyed baseball and studied the law. He and his wife ran a small, twenty-acre farm in New Ipswich for many years. He was a man who cared about the needs of others and his community, whose sense of humor, cheery smile and knack for storytelling will be missed by all who knew him.

Tom will be buried with military honors at Arlington National Cemetery on Monday, August 3, 1998. I extend my deepest sympathies to his wife, Mary, his daughter, Evelyn, his sons Thomas and Peter, and his sister, Nancy. It is my great pleasure to pay tribute to this special American in the official RECORD of the annals of Congress.•

THE EFFORTS OF THE WOMEN'S MOTORCYCLIST FOUNDATION, INC., TOWARDS THE CURE FOR BREAST CANCER

• Mr. D'AMATO. Mr. President, I rise today to commemorate The Women's Motorcyclist Foundation, Inc. for their continued efforts in the battle against breast cancer. The fight against breast cancer is one that everyone must join in together. Unfortunately, Mr. President, New York has one of the highest incidence rates of breast cancer in the country.

Breast cancer is the most common form of cancer in women with over 2.6 million living with it presently in the United States. The Women's Motorcyclist Foundation has taken an active role in trying to solve this problem by sponsoring a nation wide tour across 44 states and fifty major metropolitan areas in an event known as the Pony Express Tour.

The women cyclists began as a group to inspire other women to take up the avocation of and interest in the motorcycling industry. As the organization grew, the foundation decided to enlarge its perspective by voting in 1992 to use its collective passion for motorcycling as a vehicle to raise money for breast cancer research. It was further decided that the Susan G. Komen Breast Cancer Foundation would be the main recipient of the Foundation's efforts. The Komen Foundation is the largest private organization in the world whose sole aim is eradicating breast cancer.

The Women's Motorcyclist Foundation is comprised of a large number of national, international and independent clubs and associations. Each organization provides the particular activities, values, character and personality that works for its particular membership. Having always been a non-profit organization, it has recently evolved into a tax-exempt charitable organization. The Women's Motorcyclist Foundation is presently articulating its Mission Statement through activities to raise money for the Komen Foundation.

During the summer of 1993, the Foundation participated in the Women's Arctic Tour and raised $25,000 for the Komen Breast Cancer Foundation. Then, in 1996, these women raised 12 times that amount when they rode across the nation in the Pony Express Tour. The Pony Express Tour '98 has set a goal of $500,000 for the 500,000 lives that will be lost to this deadly disease in just this decade. The Women's Motorcyclist Foundation has also been recognized with two national awards. The American Motorcyclist Association and the Susan G. Komen Breast Cancer Foundation both honored them for their positive contributions and dedication to a cure.

The Women's Motorcyclist Foundation is to be commended for their dedication and desire to find a cure for this deadly disease. It is through their concentrated efforts that they provide both the money and awareness to American women in the fight against breast cancer. I am extremely proud of The Women's Motorcyclist Foundation's commitment and I encourage other organizations and associations throughout the country to search for innovative ways of not only providing funds for breast cancer research, but information and awareness to women of all ages so that we may be able to detect this cancer in its earliest stages.•

ORDER OF PROCEDURE

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I understand that Senator HATCH wishes to make the final motions and unanimous consent requests on behalf of the majority leader.

I yield to him for that purpose.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank my colleague so that we can do the necessary procedure before the closing remarks.

AUTHORITY TO PRINT EULOGIES FOR DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 112 submitted earlier today by Senators WARNER, MOYNIHAN, and FORD.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 112) authorizing the printing of the eulogies of the Senate and House of Representatives for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HATCH. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid on the table, and that any statements relating to the resolution appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 112) was agreed to.

The concurrent resolution is as follows:

S. CON. RES. 112

Resolved by the Senate (the House of Representatives concurring), That the eulogies for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, as expressed in the House of Representatives and the Senate together with the text of the memorial services, shall be printed as a tribute to Detective Gibson and Officer Chestnut, with illustrations and suitable binding. The document shall be prepared under the direction of the Joint Committee on Printing. There shall be printed 300 casebound copies; 50 to be delivered to each of the families of Detective Gibson and Officer Chestnut, and 200 for the use of the United States Capitol Police.

COMMUNITY OPPORTUNITIES, ACCOUNTABILITY, AND TRAINING AND EDUCATIONAL SERVICES ACT OF 1998

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 483, S. 2206.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 2206) to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Opportunities, Accountability, and Training and Educational Services Act of 1998" or the "Coats Human Services Reauthorization Act of 1998".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—HEAD START PROGRAMS

Sec. 101. Short title.
Sec. 102. References.
Sec. 103. Statement of purpose.
Sec. 104. Definitions.
Sec. 105. Financial assistance for Head Start programs.
Sec. 106. Authorization of appropriations.
Sec. 107. Allotment of funds.
Sec. 108. Designation of Head Start agencies.
Sec. 109. Quality standards.
Sec. 110. Powers and functions of Head Start agencies.
Sec. 111. Head Start transition.
Sec. 112. Submission of plans to Governors.
Sec. 113. Participation in Head Start programs.
Sec. 114. Early Head Start programs for families with infants and toddlers.
Sec. 115. Technical assistance and training.
Sec. 116. Staff qualifications and development.
Sec. 117. Research, demonstration, and evaluation.
Sec. 118. Repeal.

TITLE II—COMMUNITY SERVICES BLOCK GRANT PROGRAM

Sec. 201. Reauthorization.
Sec. 202. Conforming amendments.
Sec. 203. Repealers.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE

Sec. 301. Authorization.
Sec. 302. Definitions.
Sec. 303. Natural disasters and other emergencies.
Sec. 304. State allotments.
Sec. 305. Administration.
Sec. 306. Payments to States.
Sec. 307. Residential Energy Assistance Challenge option.
Sec. 308. Technical assistance, training, and compliance reviews.

TITLE IV—ASSETS FOR INDEPENDENCE

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Purposes.
Sec. 404. Definitions.
Sec. 405. Applications.
Sec. 406. Demonstration authority; annual grants.
Sec. 407. Reserve Fund.
Sec. 408. Eligibility for participation.
Sec. 409. Selection of individuals to participate.
Sec. 410. Deposits by qualified entities.
Sec. 411. Local control over demonstration projects.
Sec. 412. Annual progress reports.
Sec. 413. Sanctions.
Sec. 414. Evaluations.
Sec. 415. Treatment of funds.
Sec. 416. Authorization of appropriations.

TITLE I—HEAD START PROGRAMS

SEC. 101. SHORT TITLE.

This title may be cited as the "Head Start Amendments of 1998".

SEC. 102. REFERENCES.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Head Start Act (42 U.S.C. 9831 et seq.).

SEC. 103. STATEMENT OF PURPOSE.

The Head Start Act is amended by striking section 636 (42-U.S.C. 9831) and inserting the following:

"SEC. 636. STATEMENT OF PURPOSE.

"It is the purpose of this subchapter to promote school readiness by enhancing the social and cognitive development of low-income children through the provision, to low-income children and their families, of health, educational, nutritional, social, and other services that are determined to be necessary, based on family needs assessments.".

SEC. 104. DEFINITIONS.

Section 637 (42 U.S.C. 9832) is amended—

(1) by redesignating paragraphs (5) through (14) as paragraphs (7) through (16), respectively;

(2) by redesignating paragraph (3) as paragraph (6) and inserting such paragraph after paragraph (4);

(3) by striking paragraph (4) and inserting the following:

"(3) The term 'child with a disability' means—

"(A) a child with a disability, as defined in section 602(3) of the Individuals with Disabilities Education Act; and

"(B) an infant or toddler with a disability, as defined in section 632(5) of such Act.

"(4) The term 'delegate agency' means a public, private nonprofit, or for-profit organization or agency to which a grantee has delegated all or part of the responsibility of the grantee for operating a Head Start program.

"(5) The term 'family literacy services' means services that—

"(A) are provided to participants who receive the services on a voluntary basis;

"(B) are of sufficient intensity, and of sufficient duration, to make sustainable changes in a family (such as eliminating or reducing dependence on income-based public assistance); and

"(C) integrate each of—

"(i) interactive literacy activities between parents and their children;

"(ii) training for parents on being partners with their children in learning;

"(iii) parent literacy training, including training that contributes to economic self-sufficiency; and

"(iv) appropriate instruction for children of parents receiving the parent literacy training.";

(4) in paragraph (8) (as redesignated in paragraph (1)), by adding at the end the following: "Nothing in this paragraph shall be construed to require an agency to provide services to a child who has not reached the age of compulsory school attendance for more than the number of hours per day permitted by State law (including regulation) for the provision of services to such a child.";

(5) by striking paragraph (14) (as redesignated in paragraph (1)) and inserting the following:

"(14) The term 'migrant or seasonal Head Start program' means—

"(A) with respect to services for migrant farmworkers, a Head Start program that serves families who are engaged in agricultural labor and who have changed their residence from one geographic location to another in the preceding 2-year period: and

"(B) with respect to services for seasonal farmworkers, a Head Start program that serves families who are engaged primarily in seasonal agricultural labor and who have not changed their residence to another geographic location in the preceding 2-year period."; and

(6) by adding at the end the following:

"(17) The term 'reliable and replicable', used with respect to research, means an objective, valid, scientific study that—

"(A) includes a rigorously defined sample of subjects, that is sufficiently large and representative to support the general conclusions of the study;

"(B) relies on measurements that meet established standards of reliability and validity;

"(C) is subjected to peer review before the results of the study are published; and

"(D) discovers effective strategies for enhancing the development and skills of children.".

SEC. 105. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.

Section 638(1) (42 U.S.C. 9833(1)) is amended—

(1) by striking "aid the" and inserting "enable the"; and

(2) by striking the semicolon and inserting "and attain school readiness;".

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

Section 639 (42 U.S.C. 9834) is amended—

(1) in subsection (a), by striking "1995 through 1998" and inserting "1999 through 2003"; and

(2) in subsection (b), by striking all that follows "shall make available—" and inserting the following:

"(1) for each of fiscal years 1999 through 2003 to carry out activities authorized under section 642A, not more than $35,000,000 but not less than was made available for such activities for fiscal year 1998;

"(2) not more than $5,000,000 for each of fiscal years 1999 through 2003 to carry out impact studies under section 649(g); and

"(3) not more than $12,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000 through 2003, to carry out other research, demonstration, and evaluation activities, including longitudinal studies, under section 649.".

SEC. 107. ALLOTMENT OF FUNDS.

(a) ALLOTMENTS.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "handicapped children" and inserting "children with disabilities";

(ii) by striking "migrant Head Start programs" each place it appears and inserting "migrant or seasonal Head Start programs"; and

(iii) by striking "1994" and inserting "1998";

(B) in subparagraph (C), by striking "and" at the end;

(C) in subparagraph (D), by striking "related to the development and implementation of quality improvement plans under section 641A(d)(2)." and inserting "carried out under paragraph (1), (2), or (3) of section 641A(d) related to correcting deficiencies and conducting proceedings to terminate the designation of Head Start agencies; and";

(D) by inserting after subparagraph (D) the following:

"(E) payments for research, demonstration, and evaluation activities under section 649."; and

(E) by adding at the end the following: "In determining the need and demand for migrant and seasonal Head Start programs, and services provided through such programs, the Secretary shall consult with appropriate entities, including providers of services for seasonal and migrant Head Start programs. The Secretary shall, after taking into consideration the need and demand for migrant and seasonal Head Start programs, and such services, ensure that there is an adequate level of such services for the children of eligible migrant farmworkers before approving an increase in the allocation provided for children of eligible seasonal farmworkers. In carrying out this subchapter, the Secretary shall continue the administrative arrangement responsible for meeting the needs of migrant or seasonal farmworker and Indian children and shall assure that appropriate funding is provided to meet such needs.";

(2) in paragraph (3)—

(A) in subparagraph (B)—

(i) in clause (ii)—

(I) by striking "adequate qualified staff" and inserting "adequate numbers of qualified staff"; and

(II) by inserting "and children with disabilities" before ", when";

(ii) in clause (iv), by inserting before the period the following: ", and to encourage the staff to continually improve their skills and expertise by informing the staff of the availability of Federal and State incentive and loan forgiveness programs for professional development and by providing for preferences in the awarding of salary increases, in excess of cost-of-living allowances, to staff who obtain additional training or education related to their responsibilities as employees of a Head Start program or to advance their careers within the Head Start program";

(iii) in clause (vi), by striking the period and inserting ", and are physically accessible to children with disabilities and their parents.";

(iv) by redesignating clause (vii) as clause (viii); and

(v) by inserting after clause (vi) the following:

"(vii) Ensuring that such programs have qualified staff that can promote language skills and literacy growth of children and that can provide children with a variety of skills that have been identified, through research that is reliable and replicable, as predictive of later reading achievement.";

(B) in subparagraph (C)—

(i) in clause (i)(I)—

(I) by striking "of staff" and inserting "of classroom teachers and other staff"; and

(II) by striking "such staff" and inserting "qualified staff, including recruitment and retention pursuant to section 648A(a)";

(ii) by striking clause (ii) and inserting the following:

"(ii) To supplement amounts provided under paragraph (2)(C) to provide training to classroom teachers and other staff on proven techniques that promote—

"(I) language and literacy growth; and

"(II) the acquisition of the English language for non-English background children and families.";

(iii) in clause (v), by inserting "accessibility or" before "availability";

(iv) by redesignating clauses (iii), (iv), (v), and (vi) as clauses (iv), (v), (vi), and (iii), respectively; and

(v) by inserting clause (iii) (as redesignated in clause (iv) of this subparagraph) after clause (ii); and

(C) in subparagraph (D)(i)(II), by striking "migrant Head Start programs" and inserting "migrant or seasonal Head Start programs";

(3) in paragraph (4)(A), by striking "1981" and inserting "1998";

(4) in paragraph (5)—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (D)";

(B) in subparagraph (B), by inserting before the period the following: "and to encourage Head Start agencies to collaborate with entities involved in State and local planning processes (including the State lead agency administering the financial assistance received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) and the entities providing resource and referral services in the State) in order to better meet the needs of low-income children and families";

(C) in subparagraph (C)—

(i) in clause (i)(I), by inserting "the appropriate regional office of the Administration for Children and Families and" before "agencies";

(ii) in clause (iii), by striking "and" at the end;

(iii) in clause (iv)—

(I) by striking "education, and national service activities," and inserting "education, and community service activities,";

(II) by striking "and activities" and inserting "activities"; and

(III) by striking the period and inserting ", and services for homeless children; and"; and

(iv) by adding at the end the following:

"(v) include representatives of the State Head Start Association and local Head Start agencies in unified planning regarding early care and education services at both the State and local levels, including collaborative efforts to plan for the provision of full-working-day, full calendar year early care and education services for children.";

(D) by redesignating subparagraph (D) as subparagraph (F); and

(E) by inserting after subparagraph (C) the following:

"(D) Following the award of collaboration grants described in subparagraph (B), the Secretary shall provide, from the reserved sums, supplemental funding for collaboration grants—

"(i) to States that (in consultation with their State Head Start Associations) develop statewide, regional, or local unified plans for early childhood education and child care that include the participation of Head Start agencies; and

"(ii) to States that engage in other innovative collaborative initiatives, including plans for collaborative training and career development initiatives for child care, early childhood education, and Head Start service managers, providers, and staff.

"(E)(i) The Secretary shall—

"(I) review on an ongoing basis evidence of barriers to effective collaboration between Head Start programs and other Federal child care and early childhood education programs and resources;

"(II) develop initiatives, including providing additional training and technical assistance and making regulatory changes, in necessary cases, to eliminate barriers to the collaboration; and

"(III) develop a mechanism to resolve administrative and programmatic conflicts between such programs that would be a barrier to service providers, parents, or children related to the provision of unified services and the consolidation of funding for child care services.

"(ii) In the case of a collaborative activity funded under this subchapter and another provision of law providing for Federal child care or early childhood education, the use of equipment and nonconsumable supplies purchased with funds made available under this subchapter or such provision shall not be restricted to children enrolled or otherwise participating in the program carried out under that subchapter or provision, during a period in which the activity is predominantly funded under this subchapter or such provision."; and

(5) in paragraph (6)—

(A) by inserting "(A)" before "From"; and

(B) by striking "3 percent" and all that follows and inserting the following: "7.5 percent for fiscal year 1999, 8 percent for fiscal year 2000, 9 percent for fiscal year 2001, 10 percent for fiscal year 2002, and 10 percent for fiscal year 2003, of the amount appropriated pursuant to section 639(a), except as provided in subparagraph (B).

"(B)(i) For any fiscal year for which the Secretary determines that the amount appropriated under section 639(a) is not sufficient to permit the Secretary to reserve the portion described in subparagraph (A) without reducing the number of children served by Head Start programs or adversely affecting the quality of Head Start services, relative to the number of children served and the quality of the services during the preceding fiscal year, the Secretary may reduce the percentage of funds required to be reserved for the portion described in subparagraph (A) for the fiscal year for which the determination is made, but not below the percentage required to be so reserved for the preceding fiscal year.

"(ii) For any fiscal year for which the amount appropriated under section 639(a) is reduced to a level that requires a lower amount to be made available under this subchapter to Head Start agencies and entities described in section 645A, relative to the amount made available to the agencies and entities for the preceding fiscal year, adjusted as described in paragraph (3)(A)(ii), the Secretary shall proportionately reduce—

"(I) the amounts made available to the entities for programs carried out under section 645A; and

"(II) the amounts made available to Head Start agencies for Head Start programs.".

(b) CHILDREN WITH DISABILITIES.—Section 640(d) (42 U.S.C. 9835(d)) is amended—

(1) by striking "1982" and inserting "1999"; and

(2) by striking "(as defined in section 602(a) of the Individuals with Disabilities Education Act)".

(c) INCREASED APPROPRIATIONS.—Section 640(g) (42 U.S.C. 9835(g)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking the semicolon and inserting ", and the performance history of the applicant in providing services under other Federal programs (other than the program carried out under this subchapter);";

(B) in subparagraph (C), by striking "spoken);" and inserting "spoken, and organizations serving children with disabilities);";

(C) in subparagraph (D), by inserting before the semicolon the following: "and the extent to which, and manner in which, the applicant demonstrates the ability to collaborate and participate with other local community providers of child care or preschool services to provide full-working-day, full calendar year services";

(D) in subparagraph (E), by striking "program; and" and inserting "program or any other early childhood program;";

(E) in subparagraph (F), by striking the period and inserting "; and"; and

(F) by adding at the end the following:

"(G) the extent to which the applicant proposes to foster partnerships with other service providers in a manner that will enhance the resource capacity of the applicant."; and

(2) by adding at the end the following:

"(4) Notwithstanding subsection (a)(2), after taking into account the provisions of paragraph (1), the Secretary may allocate a portion of the remaining additional funds under subsection (a)(2)(A) for the purpose of increasing funds available for the activities described in such subsection.".

(d) MIGRANT OR SEASONAL HEAD START PROGRAMS.—Section 640(l) (42 U.S.C. 9835(l)) is amended—

(1) by striking "migrant Head Start programs" each place it appears and inserting "migrant or seasonal Head Start programs"; and

(2) by striking "migrant families" and inserting "migrant or seasonal farmworker families".

(e) CONFORMING AMENDMENT.—Section 644(f)(2) (42 U.S.C. 9839(f)(2)) is amended by striking "640(a)(3)(C)(v)" and inserting "640(a)(3)(C)(vi)".

SEC. 108. DESIGNATION OF HEAD START AGENCIES.

Section 641 (42 U.S.C. 9836) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting "or for-profit" after "nonprofit"; and

(B) in paragraph (2), by inserting "(in consultation with the chief executive officer of the State in which the community is located)" after "the Secretary";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "shall give priority" and inserting "shall, in consultation with the chief executive officer of the State, give priority";

(ii) by inserting "or for-profit" after "nonprofit"; and

(iii) by striking "unless the Secretary makes a finding" and all that follows and inserting the following: "unless the Secretary determines that the agency involved fails to meet program and financial management requirements, performance standards described in section 641A(a)(1), or other requirements established by the Secretary.";

(B) in paragraph (2), by striking "shall give priority" and inserting "shall, in consultation with the chief executive officer of the State, give priority"; and

(C) by aligning the margins of paragraphs (2) and (3) with the margins of paragraph (1);

(3) in subsection (d)—

(A) in the matter preceding paragraph (1), by inserting after the first sentence the following new sentence: "In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to any qualified agency that functioned as a delegate agency in the community and carried out a Head Start program that the Secretary determines has met or exceeded the performance standards and outcome-based performance measures described in section 641A.";

(B) in paragraph (4)(A), by inserting "(at home and in the center involved where practicable)" after "activities";

(C) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(D) by inserting after paragraph (6) the following:

"(7) the plan of such applicant to meet the needs of non-English background children and their families, including needs related to the acquisition of the English language;

"(8) the plan of such applicant to meet the needs of children with disabilities;";

(4) by striking subsection (e) and inserting the following:

"(e) If no agency in the community receives priority designation under subsection (c), and there is no qualified applicant in the community, the Secretary shall designate a qualified agency to carry out the Head Start program in the community on an interim basis until a qualified applicant from the community is so designated."; and

(5) by adding at the end the following:

"(g) If the Secretary determines that a nonprofit agency and a for-profit agency have submitted applications for designation of equivalent quality under subsection (d), the Secretary may give priority to the nonprofit agency.".

SEC. 109. QUALITY STANDARDS.

(a) QUALITY STANDARDS.—Section 641A(a) (42 U.S.C. 9836a(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting ", including minimum levels of overall accomplishment," after "regulation standards";

(B) in subparagraph (A), by striking "education,";

(C) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(D) by inserting after subparagraph (A) the following:

"(B)(i) education performance standards to ensure the school readiness of children participating in a Head Start program, on completion of the Head Start program and prior to entering school; and

"(ii) additional education performance standards to ensure that the children participating in the program, at a minimum—

"(I) develop phonemic, print, and numeracy awareness;

"(II) understand and use oral language to communicate needs, wants, and thoughts;

"(III) understand and use increasingly complex and varied vocabulary;

"(IV) develop and demonstrate an appreciation of books; and

"(V) in the case of non-English background children, progress toward acquisition of the English language.";

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2) (as redesignated in paragraph (3))—

(A) in subparagraph (B)(iii), by striking "child" and inserting "early childhood education and"; and

(B) in subparagraph (C)—

(i) in clause (i)—

(I) by striking "not later than 1 year after the date of enactment of this section,"; and

(II) by striking "section 651(b)" and all that follows and inserting "this subsection; and"; and

(ii) in subclause (ii), by striking "November 2, 1978" and inserting "the date of enactment of the Coats Human Services Reauthorization Act of 1998"; and

(5) in paragraph (3) (as redesignated in paragraph (3)), by striking "to an agency (referred to in this subchapter as the "delegate agency")" and inserting "to a delegate agency".

(b) PERFORMANCE MEASURES.—Section 641A(b) (42 U.S.C. 9836a(b)) is amended—

(1) in the subsection heading, by inserting "OUTCOME-BASED" before "PERFORMANCE";

(2) in paragraph (1)—

(A) by striking "Not later than 1 year after the date of enactment of this section, the" and inserting "The";

(B) by striking "child" and inserting "early childhood education and";

(C) by striking "(referred" and inserting ", and the impact of the services provided through the programs to children and their families (referred";

(D) by striking "performance measures" and inserting "outcome-based performance measures"; and

(E) by adding at the end the following: "The performance measures shall include the performance standards described in subsection (a)(1)(B)(ii)."; and

(3) in paragraph (2)—

(A) in the paragraph heading, by striking "DESIGN" and inserting "CHARACTERISTICS";

(B) in the matter preceding subparagraph (A), by striking "shall be designed—" and inserting "shall—";

(C) in subparagraph (A), by striking "to assess" and inserting "be used to assess the impact of";

(D) in subparagraph (B)—

(i) by striking "to"; and

(ii) by striking "and peer review" and inserting ", peer review, and program evaluation"; and

(E) in subparagraph (C), by inserting "be developed" before "for other".

(c) MONITORING.—Section 641A(c)(2) (42 U.S.C. 9836a(c)(2)) is amended—

(1) in subparagraph (B), by striking "; and" and inserting a semicolon;

(2) in subparagraph (C)—

(A) by inserting "(including children with disabilities)" after "eligible children"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(D) as part of the reviews of the programs, include a review and assessment of program effectiveness, as measured in accordance with the outcome-based performance measures developed pursuant to subsection (b) and with the performance standards established pursuant to subparagraphs (A) and (B) of subsection (a)(1).".

(d) TERMINATION.—Section 641A(d) (42 U.S.C. 9836a(d)) is amended—

(1) in paragraph (1)(B), to read as follows:

"(B) with respect to each identified deficiency, require the agency—

"(i) to correct the deficiency immediately, if the Secretary finds that the deficiency threatens the health or safety of staff or program participants or poses a threat to the integrity of Federal funds;

"(ii) to correct the deficiency not later than 90 days after the identification of the deficiency if the Secretary finds, in the discretion of the Secretary, that such a 90-day period is reasonable, in light of the nature and magnitude of the deficiency; or

"(iii) in the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and"; and

(2) in paragraph (2)(A), in the matter preceding clause (i), by striking "able to correct a deficiency immediately" and inserting "required to correct a deficiency immediately or during a 90-day period under clause (i) or (ii) of paragraph (1)(B)".

SEC. 110. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 (42 U.S.C. 9837) is amended—

(1) in subsection (a), by inserting "or for-profit" after "nonprofit";

(2) in subsection (c)—

(A) by inserting "and collaborate" after "coordinate"; and

(B) by striking "section 402(g) of the Social Security Act, and other" and inserting "the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), and other early childhood education and development"; and

(3) in subsection (d)—

(A) in paragraph (1)—

(i) by striking "shall carry out" and all that follows through "maintain" and inserting "shall take steps to ensure, to the maximum extent possible, that children maintain";

(ii) by striking "developmental" and inserting "developmental and educational"; and

(iii) by striking "to build" and inserting "build";

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(D) in subparagraph (A) of paragraph (4) (as redesignated in subparagraph (C)), by striking "the Head Start Transition Project Act (42 U.S.C. 9855 et seq.)" and inserting "section 642A".

SEC. 111. HEAD START TRANSITION.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 642 the following:

"SEC. 642A. HEAD START TRANSITION.

"Each Head Start agency shall take steps to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

"(1) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

"(2) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

"(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the developmental and other needs of individual children;

"(4) organizing and participating in joint transition-related training of school staff and Head Start staff;

"(5) developing and implementing a family outreach and support program in cooperation with entities carrying out parental involvement efforts under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); and

"(6) assisting families, administrators, and teachers in enhancing continuity in child development between Head Start services and elementary school classes.".

SEC. 112. SUBMISSION OF PLANS TO GOVERNORS.

The first sentence of section 643 (42 U.S.C. 9838) is amended—

(1) by striking "within 30 days" and inserting "within 45 days"; and

(2) by striking "so disapproved" and inserting "disapproved (for reasons other than failure of the program to comply with State health, safety, and child care laws, including regulations, applicable to comparable child care programs within the State)".

SEC. 113. PARTICIPATION IN HEAD START PROGRAMS.

(a) Regulations.—Section 645(a)(1) (42 U.S.C. 9840(a)(1)) is amended—

(1) in subparagraph (B), by striking "that programs" and inserting "that (i) programs"; and

(2) by striking the period at the end of subparagraph (B) and inserting the following: ", and (ii) a child who has been determined to meet the low-income criteria and who is participating in a Head Start program in a program year shall be considered to continue to meet the low-income criteria through the end of the succeeding program year. In determining, for purposes of this paragraph, whether a child who has applied for enrollment in a Head Start program meets the low-income criteria, an entity may consider evidence of family income during the 12 months preceding the month in which the application is submitted, or during the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of application.".

(b) Sliding Fee Scale.—Section 645(b) (42 U.S.C. 9840(b)) is amended by adding at the end the following: "A Head Start agency that provides a Head Start program with full-working-day services in collaboration with other agencies or entities may collect a family copayment to support extended day services if a copayment is required in conjunction with the collaborative. The copayment charged to families receiving services through the Head Start program shall not exceed the copayment charged to families with similar incomes and circumstances who are receiving the services through participation in a program carried out by another agency or entity.".

(c) Continuous Recruitment and Acceptance of Applications.—Section 645(c) (42 U.S.C. 9840(c)) is amended by adding at the end the following: "Each Head Start program operated in a community shall be permitted to recruit and accept applications for enrollment of children throughout the year.".

SEC. 114. EARLY HEAD START PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

Section 645A (42 U.S.C. 9840a) is amended—

(1) in the section heading, by inserting "**early head start**" before "**programs for**";

(2) in subsection (a)—

(A) by striking "for—" and all that follows through "programs providing" and inserting "for programs providing";

(B) by striking "; and" and inserting a period; and

(C) by striking paragraph (2);

(3) in subsection (b)(5), by inserting "(including programs for infants and toddlers with disabilities)" after "community";

(4) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)"; and

(B) in paragraph (2), by striking "3 (or under" and all that follows and inserting "3;";

(5) in subsection (d)—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2);

(6) by striking subsection (e);

(7) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively;

(8) in subsection (e) (as redesignated in paragraph (7))—

(A) in the subsection heading, by striking "Other"; and

(B) by striking "From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e)," and inserting "From the portion specified in section 640(a)(6),"; and

(9) by striking subsection (h) and inserting the following:

"(g) Monitoring, Training, Technical Assistance, and Evaluation.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the portion specified in section 640(a)(6) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.

"(h) Training and Technical Assistance Account.—

"(1) In general.—Of the amount made available to carry out this section for any fiscal year, not less than 5 percent and not more than 10 percent shall be reserved to fund a training and technical assistance account.

"(2) Activities.—Funds in the account may be used by the Secretary for purposes including—

"(A) making grants to, and entering into contracts with, organizations with specialized expertise relating to infants, toddlers, and families and the capacity needed to provide direction and support to a national training and technical assistance system, in order to provide such direction and support;

"(B) providing ongoing training and technical assistance for regional and program staff charged with monitoring and overseeing the administration of the program carried out under this section;

"(C) providing ongoing training and technical assistance for recipients of grants under subsection (a) and support and program planning and implementation assistance for new recipients of such grants; and

"(D) providing professional development and personnel enhancement activities, including the provision of funds to recipients of grants under subsection (a) for the recruitment and retention of qualified staff with an appropriate level of education and experience.".

SEC. 115. TECHNICAL ASSISTANCE AND TRAINING.

(a) Full-Working-Day, Full Calendar Year Services.—Section 648(b) (42 U.S.C. 9843(b)) is amended—

(1) in paragraph (1), by striking "; and" and inserting a semicolon;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) ensure the provision of technical assistance to assist Head Start agencies, entities carrying out other child care and early childhood programs, communities, and States in collaborative efforts to provide quality full-working-day, full calendar year services, including technical assistance related to identifying and assisting in resolving barriers to collaboration.".

(b) Allocating Resources.—Section 648(c) (42 U.S.C. 9843(c)) is amended—

(1) in paragraph (4)—

(A) by striking "developing" and inserting "developing and implementing"; and

(B) by striking "a longer day;" and inserting the following: "the day, and assist the agencies and programs in expediting the sharing of information about innovative models for providing full-working-day, full calendar year services for children;";

(2) in paragraph (7), by striking "; and" and inserting a semicolon;

(3) in paragraph (8), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(9) assist Head Start agencies in—

"(A) ensuring the school readiness of children; and

"(B) meeting the education performance standards described in this subchapter.".

(c) SERVICES.—Section 648(e) (42 U.S.C. 9843(e)) is amended by inserting "(including services to promote the acquisition of the English language)" after "non-English language background children".

SEC. 116. STAFF QUALIFICATIONS AND DEVELOPMENT.

Section 648A(a) (42 U.S.C. 9843a(a)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (B) through (D) as clauses (ii) through (iv), respectively;

(B) by striking "(A)" and inserting "(B)(i)"; and

(C) by inserting before subparagraph (B) (as redesignated in subparagraph (B) of this paragraph) the following:

"(A) demonstrated competency to perform functions that include—

"(i) planning and implementing learning experiences that advance the intellectual and physical development of children, including improving the readiness of children for school by developing their literacy and phonemic, print, and numeracy awareness, their understanding and use of oral language, their understanding and use of increasingly complex and varied vocabulary, their appreciation of books, and their problem solving abilities;

"(ii) establishing and maintaining a safe, healthy learning environment;

"(iii) supporting the social and emotional development of children; and

"(iv) encouraging the involvement of the families of the children in a Head Start program and supporting the development of relationships between children and their families; and"; and

(2) by striking paragraph (2) and inserting the following:

"(2) WAIVER.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (1)(B), for a Head Start agency that can demonstrate that the agency has unsuccessfully attempted to recruit an individual who has a credential, certificate, or degree described in paragraph (1)(B), with respect to an individual who—

"(A) is enrolled in a program that grants any such credential, certificate, or degree; and

"(B) will receive such credential, certificate, or degree under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.".

SEC. 117. RESEARCH, DEMONSTRATION, AND EVALUATION.

(a) COMPARATIVE STUDIES.—Section 649(d) (42 U.S.C. 9844(d)) is amended—

(1) in paragraph (6), by striking "; and" and inserting a semicolon;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) study the experiences of small, medium, and large States with Head Start programs in order to permit comparisons of children participating in the programs with eligible children who did not participate in the programs, which study—

"(A) may include the use of a data set that existed prior to the initiation of the study; and

"(B) shall compare the educational achievement, social adaptation, and health status of the participating children and the eligible nonparticipating children.

The Secretary shall ensure that an appropriate entity carries out a study described in paragraph (8), and prepares and submits to the appropriate committees of Congress a report containing the results of the study, not later than September 30, 2002.".

(b) NATIONAL RESEARCH.—Section 649 (42 U.S.C. 9844) is amended by adding at the end the following:

"(g) NATIONAL HEAD START IMPACT RESEARCH.—

"(1) EXPERT PANEL.—

"(A) IN GENERAL.—The Secretary shall appoint an independent panel consisting of experts in program evaluation and research, education, and early childhood programs—

"(i) to review, and make recommendations on, the design and plan for the research (whether conducted as a single assessment or as a series of assessments), described in paragraph (2), within 1 year after the date of enactment of the Coats Human Services Reauthorization Act of 1998;

"(ii) to maintain and advise the Secretary regarding the progress of the research; and

"(iii) to comment, if the panel so desires, on the interim and final research reports submitted under paragraph (7).

"(B) TRAVEL EXPENSES.—The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the panel.

"(2) GENERAL AUTHORITY.—After reviewing the recommendations of the expert panel, the Secretary shall enter into a grant, contract, or cooperative agreement with an organization to conduct independent research that provides a national analysis of the impact of Head Start programs. The Secretary shall ensure that the organization shall have expertise in program evaluation, and research, education, and early childhood programs.

"(3) DESIGNS AND TECHNIQUES.—The Secretary shall ensure that the research uses rigorous methodological designs and techniques (based on the recommendations of the expert panel), including longitudinal designs, control groups, nationally recognized standardized measures, and random selection and assignment, as appropriate. The Secretary may provide that the research shall be conducted as a single comprehensive assessment or as a group of coordinated assessments designed to provide, when taken together, a national analysis of the impact of Head Start programs.

"(4) PROGRAMS.—The Secretary shall ensure that the research focuses primarily on Head Start programs that operate in the 50 States, the Commonwealth of Puerto Rico, or the District of Columbia and that do not specifically target special populations.

"(5) ANALYSIS.—The Secretary shall ensure that the organization conducting the research—

"(A)(i) determines if, overall, the Head Start programs have impacts consistent with their primary goal of increasing the social competence of children, by increasing the everyday effectiveness of the children in dealing with their present environments and future responsibilities, and increasing their school readiness;

"(ii) considers whether the Head Start programs—

"(I) enhance the growth and development of children in cognitive, emotional, and physical health areas;

"(II) strengthen families as the primary nurturers of their children; and

"(III) ensure that children attain school readiness; and

"(iii) examines—

"(I) the impact of the Head Start programs on increasing access of children to such services as educational, health, and nutritional services, and linking children and families to needed community services; and

"(II) how receipt of services described in subclause (I) enriches the lives of children and families participating in Head Start programs;

"(B) examines the impact of Head Start programs on participants on the date the participants leave Head Start programs, at the end of kindergarten (in public or private school), and at the end of first grade (in public or private school), by examining a variety of factors, including educational achievement, referrals for special education or remedial course work, and absenteeism;

"(C) makes use of random selection from the population of all Head Start programs described in paragraph (4) in selecting programs for inclusion in the research; and

"(D) includes comparisons of individuals who participate in Head Start programs with control groups (including comparison groups) composed of—

"(i) individuals who participate in other public or private early childhood programs (such as public or private preschool programs and day care); and

"(ii) individuals who do not participate in any other early childhood program.

"(6) CONSIDERATION OF SOURCES OF VARIATION.—In designing the research, the Secretary shall, to the extent practicable, consider addressing possible sources of variation in impact of Head Start programs, including variations in impact related to such factors as—

"(A) Head Start program operations;

"(B) Head Start program quality;

"(C) the length of time a child attends a Head Start program;

"(D) the age of the child on entering the Head Start program;

"(E) the type of organization (such as a local educational agency or a community action agency) providing services for the Head Start program;

"(F) the number of hours and days of program operation of the Head Start program (such as whether the program is a full-working-day, full calendar year program, a part-day program, or a part-year program); and

"(G) other characteristics and features of the Head Start program (such as geographic location, location in an urban or a rural service area, or participant characteristics), as appropriate.

"(7) REPORTS.—

"(A) SUBMISSION OF INTERIM REPORTS.—The organization shall prepare and submit to the Secretary two interim reports on the research. The first interim report shall describe the design of the research, and the rationale for the design, including a description of how potential sources of variation in impact of Head Start programs have been considered in designing the research. The second interim report shall describe the status of the research and preliminary findings of the research, as appropriate.

"(B) SUBMISSION OF FINAL REPORT.—The organization shall prepare and submit to the Secretary a final report containing the findings of the research.

"(C) TRANSMITTAL OF REPORTS TO CONGRESS.—

"(i) IN GENERAL.—The Secretary shall transmit, to the committees described in clause (ii), the first interim report by September 30, 1999, the second interim report by September 30, 2001, and the final report by September 30, 2003.

"(ii) COMMITTEES.—The committees referred to in clause (i) are the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(8) DEFINITION.—In this subsection, the term 'impact', used with respect to a Head Start program, means a difference in an outcome for a

participant in the program that would not have occurred without the participation in the program.

"(h) QUALITY IMPROVEMENT STUDY.—

"(1) STUDY.—The Secretary shall conduct a study regarding the use and effects of use of the quality improvement funds made available under section 640(a)(3) of the Head Start Act (42 U.S.C. 9835(a)(3)) since fiscal year 1991.

"(2) REPORT.—The Secretary shall prepare and submit to Congress not later than September 2000 a report containing the results of the study, including—

"(A) the types of activities funded with the quality improvement funds;

"(B) the extent to which the use of the quality improvement funds has accomplished the goals of section 640(a)(3)(B);

"(C) the effect of use of the quality improvement funds on teacher training, salaries, benefits, recruitment, and retention; and

"(D) the effect of use of the quality improvement funds on the cognitive and social development of children receiving services under this subchapter.".

SEC. 118. REPEAL.

The Head Start Transition Project Act (42 U.S.C. 9855 et seq.) is repealed.

TITLE II—COMMUNITY SERVICES BLOCK GRANT PROGRAM

SEC. 201. REAUTHORIZATION.

The Community Services Block Grant Act (42 U.S.C. 9901 et seq.) is amended to read as follows:

"Subtitle B—Community Services Block Grant Program

"SEC. 671. SHORT TITLE.

"This subtitle may be cited as the 'Community Services Block Grant Act'.

"SEC. 672. PURPOSES AND GOALS.

"The purposes of this subtitle are—

"(1) to provide financial assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

"(2) to accomplish the goals described in paragraph (1) through—

"(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, and other assistance related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

"(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

"(C) the use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

"(D) the development and implementation of all programs designated to serve low-income communities and groups with the maximum feasible participation of residents of the communities and members of the groups served, so as to best stimulate and take full advantage of capabilities for self-advancement and assure that the programs are otherwise meaningful to the intended beneficiaries of the programs; and

"(E) the broadening of the resource base of programs directed to the elimination of poverty.

"SEC. 673. DEFINITIONS.

"In this subtitle:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity—

"(A) that is an eligible entity described in section 673(1) (as in effect on the day before the date of enactment of the Coats Human Services Reauthorization Act of 1998) as of the day before such date of enactment or is designated by the process described in section 676A (including an organization serving migrant or seasonal farmworkers that is so described or designated); and

"(B) that has a tripartite board or other mechanism described in subsection (a) or (b), as appropriate, of section 676B.

"(2) POVERTY LINE.—The term 'poverty line' means the official poverty line defined by the Office of Management and Budget based on Bureau of the Census data. The Secretary shall revise annually (or at any shorter interval the Secretary determines to be feasible and desirable) the poverty line, which shall be used as a criterion of eligibility in the community services block grant program established under this subtitle. The required revision shall be accomplished by multiplying the official poverty line by the percentage change in the Consumer Price Index for All Urban Consumers during the annual or other interval immediately preceding the time at which the revision is made. Whenever a State determines that it serves the objectives of the block grant program established under this subtitle, the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph.

"(3) PRIVATE, NONPROFIT ORGANIZATION.—The term 'private, nonprofit organization' includes a faith-based organization, to which the provisions of section 679 shall apply.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States.

"SEC. 674. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $625,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000 through 2003 to carry out the provisions of this subtitle (other than sections 681 and 682).

"(b) RESERVATIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, the Secretary shall reserve—

"(1) ½ of 1 percent for carrying out section 675A (relating to payments for territories);

"(2) not less than ½ of 1 percent and not more than 1 percent for activities authorized in section 678A (relating to training and technical assistance); and

"(3) 9 percent for carrying out section 680 (relating to discretionary activities).

"SEC. 675. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

"The Secretary is authorized to establish a community services block grant program and make grants through the program to States to ameliorate the causes of poverty in communities within the States.

"SEC. 675A. DISTRIBUTION TO TERRITORIES.

"(a) APPORTIONMENT.—The Secretary shall apportion the amount reserved under section 674(b)(1) for each fiscal year on the basis of need among Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States.

"(b) APPLICATION.—Each jurisdiction to which subsection (a) applies may receive a grant under this subtitle for the amount apportioned under subsection (a) on submitting to the Secretary, and obtaining approval of, an application, containing provisions that describe the programs for which assistance is sought under this subtitle, that is prepared in accordance with, and contains the information described in, section 676.

"SEC. 675B. ALLOTMENTS AND PAYMENTS TO STATES.

"(a) ALLOTMENTS IN GENERAL.—The Secretary shall, from the amount appropriated under section 674(a) for each fiscal year that remains after the Secretary makes the reservations required in section 674(b), allot to each State (subject to section 677) an amount that bears the same ratio to such remaining amount as the amount received by the State for fiscal year 1981 under section 221 of the Economic Opportunity Act of 1964 bore to the total amount received by all States for fiscal year 1981 under such section, except that no State shall receive less than ¼ of 1 percent of the amount appropriated under section 674(a) for such fiscal year.

"(b) ALLOTMENTS IN YEARS WITH GREATER AVAILABLE FUNDS.—

"(1) MINIMUM ALLOTMENTS.—Subject to paragraphs (2) and (3), if the amount appropriated under section 674(a) for a fiscal year that remains after the Secretary makes the reservations required in section 674(b) exceeds $345,000,000, the Secretary shall allot to each State not less than ½ of 1 percent of the amount appropriated under section 674(a) for such fiscal year.

"(2) MAINTENANCE OF FISCAL YEAR 1990 LEVELS.—Paragraph (1) shall not apply with respect to a fiscal year if the amount allotted under subsection (a) to any State for that year is less than the amount allotted under section 674(a)(1) (as in effect on September 30, 1989) to such State for fiscal year 1990.

"(3) MAXIMUM ALLOTMENTS.—The amount allotted under paragraph (1) to a State for a fiscal year shall be reduced, if necessary, so that the aggregate amount allotted to such State under such paragraph and subsection (a) does not exceed 140 percent of the aggregate amount allotted to such State under the corresponding provisions of this subtitle for the preceding fiscal year.

"(c) PAYMENTS.—The Secretary shall make grants to eligible States for the allotments described in subsections (a) and (b). The Secretary shall make payments for the grants in accordance with section 6503(a) of title 31, United States Code.

"(d) DEFINITION.—For purposes of this section, the term 'State' does not include Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

"SEC. 675C. USES OF FUNDS.

"(a) GRANTS TO ELIGIBLE ENTITIES AND OTHER ORGANIZATIONS.—

"(1) IN GENERAL.—Not less than 90 percent of the funds made available to a State under section 675A or 675B shall be used by the State to make grants for the purposes described in section 672 to eligible entities.

"(2) OBLIGATIONAL AUTHORITY.—Funds distributed to eligible entities through grants made in accordance with paragraph (1) for a fiscal year shall be available for obligation during that fiscal year and the succeeding fiscal year, in accordance with paragraph (3).

"(3) RECAPTURE AND REDISTRIBUTION OF UNOBLIGATED FUNDS.—

"(A) AMOUNT.—Beginning on October 1, 2000, a State may recapture and redistribute funds distributed to an eligible entity through a grant made under paragraph (1) that are unobligated at the end of a fiscal year if such unobligated funds exceed 20 percent of the amount so distributed to such eligible entity for such fiscal year.

''(B) REDISTRIBUTION.—In redistributing funds recaptured in accordance with this paragraph, States shall redistribute such funds to an eligible entity, or require the original recipient of the funds to redistribute the funds to a private, nonprofit organization, located within the community served by the original recipient of the funds, for activities consistent with the purposes of this subtitle.

''(b) OTHER ACTIVITIES.—

''(1) USE OF REMAINDER.—If a State uses less than 100 percent of payments from a grant under section 675A, or the State allotment under section 675B, to make grants under subsection (a), the State shall use the remainder of such payments (subject to paragraph (2)) for—

''(A) providing training and technical assistance to those entities in need of such training and assistance;

''(B) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities and other organizations funded under this subtitle, including detailing appropriate employees of State or local agencies to entities funded under this subtitle, to ensure increased access to services provided by such State or local agencies;

''(C) supporting statewide coordination and communication among eligible entities;

''(D) analyzing the distribution of funds made available under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need;

''(E) supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;

''(F) supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization; and

''(G) supporting other activities, consistent with the purposes of this subtitle.

''(2) ADMINISTRATIVE CAP.—No State may spend more than the greater of $55,000, or 5 percent, of the State allotment for administrative expenses, including monitoring activities. The cost of activities conducted under paragraph (1)(A) shall not be considered to be administrative expenses.

"SEC. 676. APPLICATION AND PLAN.

''(a) DESIGNATION OF LEAD AGENCY.—

''(1) DESIGNATION.—The chief executive officer of a State desiring to receive an allotment under this subtitle shall designate, in an application submitted to the Secretary under subsection (b), an appropriate State agency that complies with the requirements of paragraph (2) to act as a lead agency for purposes of carrying out State activities under this subtitle.

''(2) DUTIES.—The lead agency designated in accordance with paragraph (1) shall—

''(A) develop the State plan to be submitted to the Secretary under subsection (b);

''(B) in conjunction with the development of the State plan as required under subsection (b), hold at least one hearing in the State with sufficient time, and statewide distribution of notice of such hearing, to provide to the public an opportunity to comment on the proposed use and distribution of funds to be provided through the allotment for the period covered by the State plan; and

''(C) conduct reviews of eligible entities under section 678B.

''(3) LEGISLATIVE HEARING.—In order to be eligible to receive an allotment under this subtitle, the State shall hold at least one legislative hearing every 3 years in conjunction with the development of the State plan.

''(b) STATE APPLICATION AND PLAN.—Beginning with fiscal year 2000, to be eligible to receive an allotment under this subtitle, a State shall prepare and submit to the Secretary an application and State plan covering a period of not less than 1 fiscal year and not more than 2 fiscal years. The plan shall be submitted not later than 30 days prior to the beginning of the first fiscal year covered by the plan, and shall contain such information as the Secretary shall require, including—

''(1) an assurance that funds made available through the allotment will be used to support activities that are designed to assist low-income families and individuals, including homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals—

''(A) to remove obstacles and solve problems that block the achievement of self-sufficiency;

''(B) to secure and retain meaningful employment;

''(C) to attain an adequate education;

''(D) to make better use of available income;

''(E) to obtain and maintain adequate housing and a suitable living environment;

''(F) to obtain emergency assistance through loans, grants, or other means to meet immediate and urgent individual and family needs;

''(G) to achieve greater participation in the affairs of the community involved; and

''(H) to make more effective use of other programs related to the purposes of this subtitle (including State welfare reform efforts);

''(2) a description of how the State intends to use discretionary funds made available from the remainder of the allotment described in section 675C(b) in accordance with this subtitle, including a description of how the State will support innovative community and neighborhood-based initiatives related to the purposes of this subtitle;

''(3) based on information provided by eligible entities in the State, a description of—

''(A) the service delivery system, for services provided or coordinated with funds made available through the allotment, targeted to low-income individuals and families in communities within the State;

''(B) how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and followup consultations;

''(C) how funds made available through the allotment will be coordinated with other public and private resources; and

''(D) how the funds will be used to support innovative community and neighborhood-based initiatives related to the purposes of this subtitle;

''(4) an assurance that the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals;

''(5) an assurance that the State will coordinate, and establish linkages between, governmental and other social services programs to assure the effective delivery of such services to low-income individuals;

''(6) an assurance that the State will ensure coordination between antipoverty programs in each community, and ensure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to low-income home energy assistance) are conducted in such community;

''(7) an assurance that the State will permit and cooperate with Federal investigations undertaken in accordance with section 678D;

''(8) an assurance that any eligible entity that received funding in the previous fiscal year under this subtitle will not have its funding terminated under this subtitle, or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction, subject to review by the Secretary as provided in section 678C(b);

''(9) an assurance that the State will, to the maximum extent possible, coordinate programs with and form partnerships with other organizations serving low-income residents of the communities and members of the groups served by the State, including faith-based organizations, charitable groups, and community organizations;

''(10) an assurance that the State will require each eligible entity to establish procedures under which a low-income individual, community organization, or faith-based organization, or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the board (or other mechanism) of the eligible entity to petition for adequate representation;

''(11) an assurance that the State will secure from each eligible entity, as a condition to receipt of funding by the entity under this subtitle for a program, a community action plan (which shall be submitted to the Secretary, at the request of the Secretary, with the State plan) that includes a community-needs assessment for the community served, which may be coordinated with community-needs assessments conducted for other programs;

''(12) an assurance that the State and all eligible entities in the State will, not later than fiscal year 2002, participate in the Results Oriented Management and Accountability System, any other performance measure system established by the Secretary under section 678E(b), or an alternative system for measuring performance and results that meets the requirements of that section, and a description of outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization; and

''(13) information describing how the State will carry out the assurances described in this subsection.

''(c) DETERMINATIONS.—For purposes of making a determination in accordance with subsection (b)(8) with respect to—

''(1) a funding reduction, the term 'cause' includes—

''(A) a statewide redistribution of funds provided under this subtitle to respond to—

''(i) the results of the most recently available census or other appropriate data;

''(ii) the designation of a new eligible entity; or

''(iii) severe economic dislocation; or

''(B) the failure of an eligible entity to comply with the terms of an agreement to provide services under this subtitle; and

''(2) a termination, the term 'cause' includes the material failure of an eligible entity to comply with the terms of such an agreement and the State plan to provide services under this subtitle or the consistent failure of the entity to achieve performance measures as determined by the State.

''(d) PROCEDURES.—The Secretary may prescribe procedures relating to the implementation of this section only for the purpose of assessing the effectiveness of eligible entities in carrying out the purposes of this subtitle.

''(e) REVISIONS AND INSPECTION.—

''(1) REVISIONS.—The chief executive officer of each State may revise any plan prepared under this section and shall submit the revised plan to the Secretary.

''(2) PUBLIC INSPECTION.—Each plan or revised plan prepared under this section shall be made available for public inspection within the

State in such a manner as will facilitate review of, and comment on, the plan.

"(f) Fiscal Year 1999.—For fiscal year 2000, to be eligible to receive an allotment under this subtitle, a State shall prepare and submit to the Secretary an application and State plan in accordance with the provisions of this subtitle (as in effect on the day before the date of enactment of the Coats Human Services Reauthorization Act of 1998), rather than the provisions of subsections (a) through (c) relating to applications and plans.

"SEC. 676A. DESIGNATION AND REDESIGNATION OF ELIGIBLE ENTITIES IN UNSERVED AREAS.

"(a) Qualified Organization in or Near Area.—

"(1) In general.—If any geographic area of a State is not, or ceases to be, served by an eligible entity under this subtitle, and if the chief executive officer of the State decides to serve such area, the chief executive officer may solicit applications from, and designate as an eligible entity, one or more—

"(A) private nonprofit organizations geographically located in the unserved area that meet the requirements of this subtitle; or

"(B) private nonprofit organizations (which may include eligible entities) located in an area contiguous to or within reasonable proximity of the unserved area that are already providing related services in the unserved area.

"(2) Requirement.—In order to serve as the eligible entity for the area, an entity described in paragraph (1)(B) shall agree to add additional members to the board of the entity to ensure adequate representation—

"(A) in each of the three required categories described in subparagraphs (A), (B), and (C) of section 676B(a)(2), by members that reside in the community comprised by the unserved area; and

"(B) in the category described in section 676B(a)(2)(B), by members that reside in the neighborhood served.

"(b) Special Consideration.—In designating an eligible entity under subsection (a), the chief executive officer shall grant the designation to an organization of demonstrated effectiveness in meeting the goals and purposes of this subtitle and may give priority, in granting the designation, to local entities that are providing services in the unserved area, consistent with the needs identified by a community-needs assessment.

"(c) No Qualified Organization in or Near Area.—If no private, nonprofit organization is identified or determined to be qualified under subsection (a) to serve the unserved area as an eligible entity the chief executive officer may designate an appropriate political subdivision of the State to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a board or other mechanism as required in section 676B(b).

"SEC. 676B. TRIPARTITE BOARDS.

"(a) Private Nonprofit Entities.—

"(1) Board.—In order for a private, nonprofit entity to be considered to be an eligible entity for purposes of section 673(1), the entity shall administer the community services block grant program through a tripartite board described in paragraph (2) that fully participates in the development, planning, and implementation of the program to serve low-income communities.

"(2) Selection and composition of board.—The members of the board referred to in paragraph (1) shall be selected by the entity and the board shall be composed so as to assure that—

"(A) ⅓ of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of elected officials reasonably available and willing to serve on the board is less than ⅓ of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such ⅓ requirement;

"(B) not fewer than ⅓ of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served;

"(C) the remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served; and

"(D)(i) each member resides in the community; and

"(ii) each representative of low-income individuals and families selected to represent a specific neighborhood within a community under this paragraph resides in the neighborhood represented by the member.

"(b) Public Organizations.—In order for a public organization to be considered to be an eligible entity for purposes of section 673(1), the entity shall administer the community services block grant program through—

"(1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than ⅓ of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members—

"(A) are representative of low-income individuals and families in the neighborhood served;

"(B) reside in the neighborhood served; and

"(C) are able to participate actively in the development, planning, and implementation of programs funded under this subtitle; or

"(2) another mechanism specified by the State to assure decisionmaking and participation by low-income individuals in the development, planning, and implementation of programs funded under this subtitle.

"SEC. 677. PAYMENTS TO INDIAN TRIBES.

"(a) Reservation.—If, with respect to any State, the Secretary—

"(1) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subtitle be made directly to such tribe or organization; and

"(2) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this subtitle,

the Secretary shall reserve from amounts that would otherwise be allotted to such State under section 675B for the fiscal year the amount determined under subsection (b).

"(b) Determination of Reserved Amount.—The Secretary shall reserve for the purpose of subsection (a) from amounts that would otherwise be allotted to such State, not less than 100 percent of an amount that bears the same ratio to the State allotment for the fiscal year involved as the population of all eligible Indians for whom a determination has been made under subsection (a) bears to the population of all individuals eligible for assistance under this subtitle in such State.

"(c) Awards.—The sums reserved by the Secretary on the basis of a determination made under subsection (a) shall be made available by grant to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(d) Plan.—In order for an Indian tribe or tribal organization to be eligible for a grant award for a fiscal year under this section, the tribe or organization shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe by regulation.

"(e) Definitions.—In this section:

"(1) Indian tribe; tribal organization.—The terms 'Indian tribe' and 'tribal organization' mean a tribe, band, or other organized group recognized in the State in which the tribe, band, or group resides, or considered by the Secretary of the Interior, to be an Indian tribe or an Indian organization for any purpose.

"(2) Indian.—The term 'Indian' means a member of an Indian tribe or of a tribal organization.

"SEC. 678. OFFICE OF COMMUNITY SERVICES.

"(a) Office.—The Secretary shall carry out the functions of this subtitle through an Office of Community Services, which shall be established in the Department of Health and Human Services. The Office shall be headed by a Director.

"(b) Grants, Contracts, Cooperative Agreements.—The Secretary shall carry out functions of this subtitle through grants, contracts, or cooperative agreements.

"SEC. 678A. TRAINING AND TECHNICAL ASSISTANCE.

"(a) Activities.—The Secretary shall use the amounts reserved in section 674(b)(2) for training, technical assistance, planning, evaluation, and data collection activities related to programs carried out under this subtitle.

"(b) Process.—The process for determining the training and technical assistance to be carried out under this section shall—

"(1) ensure that the needs of eligible entities and programs relating to improving program quality, including financial management practices, are addressed to the maximum extent feasible; and

"(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the national and State networks of eligible entities.

"SEC. 678B. MONITORING OF ELIGIBLE ENTITIES.

"(a) In General.—In order to determine whether eligible entities meet the performance goals, administrative standards, financial management requirements, and other requirements of a State, the State shall conduct the following reviews of eligible entities:

"(1) A full onsite review of each such entity at least once during each 3-year period.

"(2) An onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives funds through the community services block grant program.

"(3) Followup reviews including prompt return visits to eligible entities, and their programs, that fail to meet the goals, standards, and requirements established by the State.

"(4) Other reviews as appropriate, including reviews of entities with programs that have had other Federal, State, or local grants (other than assistance provided under this subtitle) terminated for cause.

"(b) Requests.—The State may request training and technical assistance from the Secretary as needed to comply with the requirements of this section.

"SEC. 678C. CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.

"(a) Determination.—If the State determines, on the basis of a review pursuant to subsection 678B, that an eligible entity has had a failure described in section 676(c), the State shall—

"(1) inform the entity of the deficiency to be corrected;

"(2) require the entity to correct the deficiency;

"(3)(A) offer training and technical assistance, if appropriate, to help correct the deficiency, and prepare and submit to the Secretary a report describing the training and technical assistance offered; or

"(B) if the State determines that such training and technical assistance are not appropriate, prepare and submit to the Secretary a report stating the reasons for the determination;

"(4)(A) at the discretion of the State (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), allow the entity to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the State; and

"(B) not later than 30 days after receiving from an eligible entity a proposed quality improvement plan pursuant to subparagraph (A), either approve such proposed plan or specify the reasons why the proposed plan cannot be approved; and

"(5) after providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce the funding under this subtitle of the eligible entity unless the entity corrects the deficiency.

"(b) REVIEW.—A determination to terminate the designation or reduce the funding of an eligible entity is reviewable by the Secretary. The Secretary shall, upon request, review such a determination. The review shall be completed not later than 60 days after the determination to terminate the designation or reduce the funding. If the review is not completed within 60 days, the determination of the State shall become final at the end of the 60th day.

"SEC. 678D. FISCAL CONTROLS, AUDITS, AND WITHHOLDING.

"(a) FISCAL CONTROLS, PROCEDURES, AUDITS, AND INSPECTIONS.—

"(1) IN GENERAL.—A State that receives funds under this subtitle shall—

"(A) establish fiscal control and fund accounting procedures necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this subtitle, including procedures for monitoring the funds provided under this subtitle;

"(B) ensure that cost and accounting standards of the Office of Management and Budget apply to a recipient of funds under this subtitle;

"(C) prepare, at least every year (or in the case of a State with a 2-year State plan, every 2 years) in accordance with paragraph (2) an audit of the expenditures of the State of amounts received under this subtitle and amounts transferred to carry out the purposes of this subtitle; and

"(D) make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request for the items.

"(2) AUDITS.—Each audit required by subsection (a)(1)(C) shall be conducted by an entity independent of any agency administering activities or services carried out under this subtitle and shall be conducted in accordance with generally accepted accounting principles. Within 30 days after the completion of each such audit in a State, the chief executive officer of the State shall submit a copy of such audit to any eligible entity that was the subject of the audit at no charge, to the legislature of the State, and to the Secretary.

"(3) REPAYMENTS.—The State shall repay to the United States amounts found not to have been expended in accordance with this subtitle or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subtitle.

"(b) WITHHOLDING.—

"(1) IN GENERAL.—The Secretary shall, after providing adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State that does not utilize the State allotment in accordance with the provisions of this subtitle, including the assurances such State provided under section 676.

"(2) RESPONSE TO COMPLAINTS.—The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this subtitle, including the assurances provided by the State under section 676. For purposes of this paragraph, a complaint of a failure to meet any one of the assurances provided under section 676 that constitutes disregarding that assurance shall be considered to be a complaint of a serious nature.

"(3) INVESTIGATIONS.—Whenever the Secretary determines that there is a pattern of complaints of failures described in paragraph (2) from any State in any fiscal year, the Secretary shall conduct an investigation of the use of funds received under this subtitle by such State in order to ensure compliance with the provisions of this subtitle.

"SEC. 678E. ACCOUNTABILITY AND REPORTING REQUIREMENTS.

"(a) STATE ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) PERFORMANCE MEASUREMENT.—

"(A) IN GENERAL.—By October 1, 2001, each State that receives funds under this subtitle shall participate, and shall ensure that all eligible entities in the State participate, in a performance measurement system, which may be a performance measurement system established by the Secretary pursuant to subsection (b), or an alternative system that the Secretary is satisfied meets the requirements of subsection (b).

"(B) LOCAL AGENCIES.—The State may elect to have local agencies that are subcontractors of the eligible entities under this subtitle participate in the performance measurement system. If the State makes that election, references in this section to eligible entities shall be considered to include the local agencies.

"(2) ANNUAL REPORT.—Each State shall annually prepare and submit to the Secretary a report on the measured performance of the State and the eligible entities in the State. Prior to the participation of the State in the performance measurement system, the State shall include in the report any information collected by the State relating to such performance. Each State shall also include in the report an accounting of the expenditure of funds received by the State through the community services block grant program, including an accounting of funds spent on administrative costs by the State and the eligible entities, and funds spent by eligible entities on the direct delivery of local services, and shall include information on the number of and characteristics of clients served under this subtitle in the State, based on data collected from the eligible entities. The State shall also include in the report a summary describing the training and technical assistance offered by the State under section 678C(a)(3) during the year covered by the report.

"(b) SECRETARY'S ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) PERFORMANCE MEASUREMENT.—The Secretary, in collaboration with the States and with eligible entities throughout the Nation, shall establish one or more model performance measurement systems, which may be used by the States and by eligible entities to measure their performance in carrying out the requirements of this subtitle and in achieving the goals of community action plans. The Secretary shall provide technical assistance, including support for the enhancement of electronic data systems, to States and to eligible entities to enhance their capability to collect and report data for such a system and to aid in their participation in such a system.

"(2) REPORTING REQUIREMENTS.—At the end of each fiscal year beginning after September 30, 1999, the Secretary shall, directly or by grant or contract, prepare a report containing each of the following elements:

"(A) A summary of the planned use of funds by each State, and the eligible entities in the State, under the community services block grant program, as contained in each State plan submitted pursuant to section 676.

"(B) A description of how funds were actually spent by the State and eligible entities in the State, including a breakdown of funds spent on administrative costs and on the direct delivery of local services by eligible entities.

"(C) Information on the number of entities eligible for funds under this subtitle, the number of low-income persons served under this subtitle, and such demographic data on the low-income populations served by eligible entities as is determined by the Secretary to be feasible.

"(D) A comparison of the planned uses of funds for each State and the actual uses of the funds.

"(E) A summary of each State's performance results, and the results for the eligible entities, as collected and submitted by the States in accordance with subsection (a)(2).

"(F) Any additional information that the Secretary considers to be appropriate to carry out this subtitle, if the Secretary informs the States of the need for such additional information and allows a reasonable period of time for the States to collect and provide the information.

"(3) SUBMISSION.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the report described in paragraph (2), and any comments the Secretary may have with respect to such report. The report shall include definitions of direct, indirect, and administrative costs used by the Department of Health and Human Services for programs funded under this subtitle.

"(4) COSTS.—Of the funds reserved under section 674(b)(3), not more than $350,000 shall be available to carry out the reporting requirements contained in paragraph (2) and the provision of technical assistance described in paragraph (1).

"SEC. 678F. LIMITATIONS ON USE OF FUNDS.

"(a) CONSTRUCTION OF FACILITIES.—

"(1) LIMITATIONS.—Except as provided in paragraph (2), grants made under this subtitle (other than amounts reserved under section 674(b)(3)) may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subtitle, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

"(2) WAIVER.—The Secretary may waive the limitation contained in paragraph (1) upon a State request for such a waiver, if the Secretary finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subtitle.

"(b) POLITICAL ACTIVITIES.—

"(1) TREATMENT AS A STATE OR LOCAL AGENCY.—For purposes of chapter 15 of title 5, United States Code, any entity that assumes responsibility for planning, developing, and coordinating activities under this subtitle and receives assistance under this subtitle shall be deemed to be a State or local agency. For purposes of paragraphs (1) and (2) of section 1502(a) of such title, any entity receiving assistance under this subtitle shall be deemed to be a State or local agency.

"(2) PROHIBITIONS.—Programs assisted under this subtitle shall not be carried on in a manner

involving the use of program funds, the provision of services, or the employment or assignment of personnel, in a manner supporting or resulting in the identification of such programs with—

“(A) any partisan or nonpartisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office;

“(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

“(C) any voter registration activity.

“(3) RULES AND REGULATIONS.—The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this subsection, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

“(c) NONDISCRIMINATION.—

“(1) IN GENERAL.—No person shall, on the basis of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subtitle. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified individual with a disability as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) shall also apply to any such program or activity.

“(2) ACTION OF SECRETARY.—Whenever the Secretary determines that a State that has received a payment under this subtitle has failed to comply with paragraph (1) or an applicable regulation, the Secretary shall notify the chief executive officer of the State and shall request that the officer secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to—

“(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

“(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131), as may be applicable; or

“(C) take such other action as may be provided by law.

“(3) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to paragraph (2), or whenever the Attorney General has reason to believe that the State is engaged in a pattern or practice of discrimination in violation of the provisions of this subsection, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

“SEC. 679. OPERATIONAL RULE.

“(a) FAITH-BASED ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—For any program carried out by the Federal Government, or by a State or local government under this subtitle, the government shall consider, on the same basis as other nongovernmental organizations, faith-based organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a faith-based character.

“(c) FAITH-BASED CHARACTER AND INDEPENDENCE.—

“(1) IN GENERAL.—A faith-based organization that provides assistance under a program described in subsection (a) shall retain its faith-based character and control over the definition, development, practice, and expression of its faith-based beliefs.

“(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a faith-based organization—

“(A) to alter its form of internal governance, except (for purposes of administration of the community services block grant program) as provided in section 676B; or

“(B) to remove religious art, icons, scripture, or other symbols;

in order to be eligible to provide assistance under a program described in subsection (a).

“(3) TENETS AND TEACHINGS.—A faith-based organization that provides assistance under a program described in subsection (a) may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

“(c) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided through a grant or contract to a faith-based organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

“(d) FISCAL ACCOUNTABILITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), any faith-based organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

“(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

“(e) TREATMENT OF ELIGIBLE ENTITIES AND OTHER INTERMEDIATE ORGANIZATIONS.—If an eligible entity or other organization (referred to in this subsection as an ‘intermediate organization’), acting under a contract, or grant or other agreement, with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

“SEC. 680. DISCRETIONARY AUTHORITY OF THE SECRETARY.

“(a) GRANTS, CONTRACTS, ARRANGEMENTS, LOANS, AND GUARANTEES.—

“(1) IN GENERAL.—The Secretary shall, from funds reserved under section 674(b)(3), make grants, loans, or guarantees to States and public agencies and private, nonprofit organizations, or enter into contracts or jointly financed cooperative arrangements with States and public agencies and private, nonprofit organizations (and for-profit organizations, to the extent specified in paragraph (2)(E)) for each of the objectives described in paragraphs (2) through (4).

“(2) COMMUNITY ECONOMIC DEVELOPMENT.—

“(A) ECONOMIC DEVELOPMENT ACTIVITIES.—The Secretary shall make grants described in paragraph (1) on a competitive basis to private, nonprofit organizations that are community development corporations to enable the corporations to provide technical and financial assistance for economic development activities designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

“(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) after consultation with other relevant Federal officials.

“(C) GOVERNING BOARDS.—For a community development corporation to receive funds to carry out this paragraph, the corporation shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing, or managing low-income housing or community development projects.

“(D) GEOGRAPHIC DISTRIBUTION.—In making grants to carry out this paragraph, the Secretary shall take into consideration the geographic distribution of funding among States and the relative proportion of funding among rural and urban areas.

“(E) RESERVATION.—Of the amounts made available to carry out this paragraph, the Secretary may reserve not more than 1 percent for each fiscal year to make grants to private, nonprofit organizations, or to enter into contracts with private, nonprofit or for-profit organizations, to enable the organizations involved to provide technical assistance to aid community development corporations in developing or implementing activities funded to carry out this paragraph and to evaluate activities funded to carry out this paragraph.

“(3) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—The Secretary shall provide the assistance described in paragraph (1) for rural community development activities, which shall include providing—

“(A) grants to private, nonprofit corporations to enable the corporations to provide assistance concerning home repair to rural low-income families and concerning planning and developing low-income rural rental housing units; and

“(B) grants to multistate, regional, private, nonprofit organizations to enable the organizations to provide training and technical assistance to small, rural communities concerning meeting their community facility needs.

“(4) NEIGHBORHOOD INNOVATION PROJECTS.—The Secretary shall provide the assistance described in paragraph (1) for neighborhood innovation projects, which shall include providing grants to neighborhood-based private, nonprofit organizations to test or assist in the development of new approaches or methods that will aid in overcoming special problems identified by communities or neighborhoods or otherwise assist in furthering the purposes of this subtitle, and which may include providing assistance for projects that are designed to serve low-income individuals and families who are not being effectively served by other programs.

“(b) EVALUATION.—The Secretary shall require all activities receiving assistance under this section to be evaluated for their effectiveness. Funding for such evaluations shall be provided as a stated percentage of the assistance or through a separate grant awarded by the Secretary specifically for the purpose of evaluation of a particular activity or group of activities.

“(c) ANNUAL REPORT.—The Secretary shall compile an annual report containing a summary of the evaluations required in subsection (b) and a listing of all activities assisted under this section. The Secretary shall annually submit the report to the Chairperson of the Committee on Education and the Workforce of the House of Representatives and the Chairperson of the

Committee on Labor and Human Resources of the Senate.

"SEC. 681. COMMUNITY FOOD AND NUTRITION PROGRAMS.

"(a) GRANTS.—The Secretary may, through grants to public and private, nonprofit agencies, provide for community-based, local, statewide, and national programs—

"(1) to coordinate private and public food assistance resources, wherever the grant recipient involved determines such coordination to be inadequate, to better serve low-income populations;

"(2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate such programs in underserved or unserved areas; and

"(3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income individuals.

"(b) ALLOTMENTS AND DISTRIBUTION OF FUNDS.—

"(1) NOT TO EXCEED $6,000,000 IN APPROPRIATIONS.—Of the amount appropriated for a fiscal year to carry out this section (but not to exceed $6,000,000), the Secretary shall distribute funds for grants under subsection (a) as follows:

"(A) ALLOTMENTS.—From a portion equal to 60 percent of such amount (but not to exceed $3,600,000), the Secretary shall allot for grants to eligible agencies for statewide programs in each State the amount that bears the same ratio to such portion as the low-income and unemployed population of such State bears to the low-income and unemployed population of all the States.

"(B) COMPETITIVE GRANTS.—From a portion equal to 40 percent of such amount (but not to exceed $2,400,000), the Secretary shall make grants on a competitive basis to eligible agencies for local and statewide programs.

"(2) GREATER AVAILABLE APPROPRIATIONS.—Any amounts appropriated for a fiscal year to carry out this section in excess of $6,000,000 shall be allotted as follows:

"(A) ALLOTMENTS.—The Secretary shall use 40 percent of such excess to make allotments for grants under subsection (a) to eligible agencies for statewide programs in each State in an amount that bears the same ratio to 40 percent of such excess as the low-income and unemployed population of such State bears to the low-income and unemployed population of all the States.

"(B) COMPETITIVE GRANTS FOR LOCAL AND STATEWIDE PROGRAMS.—The Secretary shall use 40 percent of such excess to make grants under subsection (a) on a competitive basis to eligible agencies for local and statewide programs.

"(C) COMPETITIVE GRANTS FOR NATIONWIDE PROGRAMS.—The Secretary shall use the remaining 20 percent of such excess to make grants under subsection (a) on a competitive basis to eligible agencies for nationwide programs, including programs benefiting Indians as defined in section 677 and migrant or seasonal farmworkers.

"(3) ELIGIBILITY FOR ALLOTMENTS FOR STATEWIDE PROGRAMS.—To be eligible to receive an allotment under paragraph (1)(A) or (2)(A), an eligible agency shall demonstrate that the proposed program is statewide in scope and represents a comprehensive and coordinated effort to alleviate hunger within the State.

"(4) MINIMUM ALLOTMENTS FOR STATEWIDE PROGRAMS.—

"(A) IN GENERAL.—From the amounts allotted under paragraphs (1)(A) and (2)(A), the minimum total allotment for each State for each fiscal year shall be—

"(i) $15,000 if the total amount appropriated to carry out this section is not less than $7,000,000 but less than $10,000,000;

"(ii) $20,000 if the total amount appropriated to carry out this section is not less than $10,000,000 but less than $15,000,000; or

"(iii) $30,000 if the total amount appropriated to carry out this section is not less than $15,000,000.

"(B) DEFINITION.—In this paragraph, the term 'State' does not include Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Freely Associated States.

"(5) MAXIMUM GRANTS.—From funds made available under paragraphs (1)(B) and (2)(B) for any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $50,000. From funds made available under paragraph (2)(C) for any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $300,000.

"(c) REPORT.—For each fiscal year, the Secretary shall prepare and submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the grants made under this section. Such report shall include—

"(1) a list of grant recipients;

"(2) information on the amount of funding awarded to each grant recipient; and

"(3) a summary of the activities performed by the grant recipients with funding awarded under this section and a description of the manner in which such activities meet the objectives described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000 through 2003.

"SEC. 682. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make a grant to an eligible service provider to administer national or regional programs to provide instructional activities for low-income youth. In making such a grant, the Secretary shall give priority to eligible service providers that have a demonstrated ability to operate such a program.

"(b) PROGRAM REQUIREMENTS.—Any instructional activity carried out by an eligible service provider receiving a grant under this section shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) and shall include—

"(1) access to the facilities and resources of such an institution;

"(2) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(3) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(4) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)); and

"(5) enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and information on study practices, education for the prevention of drug and alcohol abuse, and information on health and nutrition, career opportunities, and family and job responsibilities.

"(c) ADVISORY COMMITTEE; PARTNERSHIPS.—The eligible service provider shall, in each community in which a program is funded under this section—

"(1) ensure that—

"(A) a community-based advisory committee is established, with representatives from local youth, family, and social service organizations, schools, entities providing park and recreation services, and other community-based organizations serving high-risk youth; or

"(B) an existing community-based advisory board, commission, or committee with similar membership is utilized to serve as the committee described in subparagraph (A); and

"(2) enter into formal partnerships with youth-serving organizations or other appropriate social service entities in order to link program participants with year-round services in their home communities that support and continue the objectives of this subtitle.

"(d) ELIGIBLE PROVIDERS.—A service provider that is a national private, nonprofit organization, a coalition of such organizations, or a private, nonprofit organization applying jointly with a business concern shall be eligible to apply for a grant under this section if—

"(1) the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

"(2) the applicant agrees to contribute an amount (in cash or in kind, fairly evaluated) of not less than 25 percent of the amount requested, for the program funded through the grant;

"(3) the applicant agrees to use no funds from a grant authorized under this section for administrative expenses; and

"(4) the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary for use of funds made available through the grant.

"(e) APPLICATIONS PROCESS.—To be eligible to receive a grant under this section, a service provider shall submit to the Secretary, for approval, an application at such time, in such manner, and containing such information as the Secretary may require.

"(f) PROMULGATION OF REGULATIONS OR PROGRAM GUIDELINES.—The Secretary shall promulgate regulations or program guidelines to ensure funds made available through a grant made under this section are used in accordance with the objectives of this subtitle.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each of fiscal years 1999 through 2003 for grants to carry out this section.

"SEC. 683. REFERENCES.

"Any reference in any provision of law to the poverty line set forth in section 624 or 625 of the Economic Opportunity Act of 1964 shall be construed to be a reference to the poverty line defined in section 673. Any reference in any provision of law to any community action agency designated under title II of the Economic Opportunity Act of 1964 shall be construed to be a reference to an entity eligible to receive funds under the community services block grant program.".

SEC. 202. CONFORMING AMENDMENTS.

(a) OLDER AMERICANS ACT OF 1965.—Section 306(a)(6)(E)(ii) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(E)(ii)) is amended by striking "section 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3))" and inserting "section 676B of the Community Services Block Grant Act".

(b) ANTI-DRUG ABUSE ACT OF 1988.—Section 3521(c)(2) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11841(c)(2)) is amended by striking ", such as activities authorized by section 681(a)(2)(F) of the Community Services Block Grant Act (42 U.S.C. section 9910(a)(2)(F)),".

SEC. 203. REPEALERS.

(a) COMMUNITY ECONOMIC DEVELOPMENT ACT OF 1981.—The Community Economic Development Act of 1981 (42 U.S.C. 9801 et seq.) is repealed.

(b) HUMAN SERVICES REAUTHORIZATION ACT OF 1986.—Sections 407 and 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C 9812a and 9910b) are repealed.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE

SEC. 301. AUTHORIZATION.

(a) IN GENERAL.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended—

(1) by striking "are authorized" and inserting "is authorized"; and

(2) by striking "fiscal years 1995 through 1999" and inserting "fiscal years 1999 through 2004".

(b) PROGRAM YEAR.—Section 2602(c) of such Act (42 U.S.C. 8621(c)) is amended to read as follows:

"(c) Amounts appropriated under this section for any fiscal year for programs and activities under this title shall be made available for obligation in the succeeding fiscal year.".

(c) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES.—Section 2602(d) of such Act (42 U.S.C. 8621(d)) is amended—

(1) by striking "(d)" and inserting "(d)(1)";

(2) by striking "are authorized" and inserting "is authorized";

(3) by striking "$50,000,000" and all that follows and inserting the following: "$30,000,000 for each of fiscal years 1999 through 2004, except as provided in paragraph (2)."; and

(4) by adding at the end the following:

"(2) For any of fiscal years 1999 through 2004 for which the amount appropriated under subsection (b) is not less than $1,400,000,000, there is authorized to be appropriated $50,000,000 to carry out section 2607A.".

(d) TECHNICAL AMENDMENTS.—Section 2602(e) of such Act (42 U.S.C. 8621(e)) is amended—

(1) by striking "are authorized" and inserting "is authorized"; and

(2) by striking "subsection (g)" and inserting "subsection (e) of such section".

SEC. 302. DEFINITIONS.

Section 2603(4) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622(4)) is amended—

(1) by striking "the term" and inserting "The term"; and

(2) by striking the semicolon and inserting a period.

SEC. 303. NATURAL DISASTERS AND OTHER EMERGENCIES.

Section 2603 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622) is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (8) through (11), respectively;

(2) by inserting before paragraph (8) (as redesignated in paragraph (1)) the following:

"(7) NATURAL DISASTER.—The term 'natural disaster' means a weather event (relating to cold or hot weather), flood, earthquake, tornado, hurricane, or ice storm, or an event meeting such other criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.";

(3) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(4) by inserting before paragraph (2) (as redesignated in paragraph (3)) the following:

"(1) EMERGENCY.—The term 'emergency' means—

"(A) a natural disaster;

"(B) a significant home energy supply shortage or disruption;

"(C) a significant increase in the cost of home energy, as determined by the Secretary;

"(D) a significant increase in home energy disconnections reported by a utility, a State regulatory agency, or another agency with necessary data;

"(E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the national program to provide supplemental security income carried out under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or the State temporary assistance for needy families program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), as determined by the head of the appropriate Federal agency;

"(F) a significant increase in unemployment, layoffs, or the number of households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

"(G) an event meeting such criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.".

SEC. 304. STATE ALLOTMENTS.

Section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623) is amended—

(1) in subsection (b)(1), by striking "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands." and inserting "the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States.";

(2) in subsection (c)(3)(B)(ii), by striking "application" and inserting "applications";

(3) by striking subsection (f);

(4) in subsection (g)—

(A) in the first sentence, by striking "(a) through (f)" and inserting "(a) through (d)"; and

(B) by striking the last two sentences and inserting the following: "In determining whether to make such an allotment to a State, the Secretary shall take into account the extent to which the State was affected by the natural disaster or other emergency involved, the availability to the State of other resources under the program carried out under this title or any other program, whether a Member of Congress has requested that the State receive the allotment, and such other factors as the Secretary may find to be relevant. Not later than 30 days after making the determination, but prior to releasing an allotted amount to a State, the Secretary shall notify Congress of the allotments made pursuant to this subsection."; and

(5) by redesignating subsection (g) as subsection (e).

SEC. 305. ADMINISTRATION.

Section 2605 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624) is amended—

(1) in subsection (b)—

(A) in paragraph (9)(A), by striking "and not transferred pursuant to section 2604(f) for use under another block grant";

(B) in paragraph (14), by striking "; and" and inserting a semicolon;

(C) in the matter following paragraph (14), by striking "The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection."; and

(D) in the matter following paragraph (16), by inserting before "The Secretary shall issue" the following: "The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection."; and

(2) in subsection (c)(1)—

(A) in subparagraph (B), by striking "States" and inserting "State"; and

(B) in subparagraph (G)(i), by striking "has" and inserting "had".

SEC. 306. PAYMENTS TO STATES.

Section 2607(b)(2)(B) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(b)(2)(B)) is amended—

(1) in the first sentence, by striking "and not transferred pursuant to section 2604(f)"; and

(2) in the second sentence, by striking "but not transferred by the State".

SEC. 307. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION.

(a) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the Residential Energy Assistance Challenge program described in section 2607B of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b).

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to Congress a report containing—

(1) the findings resulting from the evaluation described in subsection (a); and

(2) the State evaluations described in paragraphs (1) and (2) of subsection (b) of such section 2607B.

(c) INCENTIVE GRANTS.—Section 2607B(b)(1) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b(b)(1)) is amended by striking "For each of the fiscal years 1996 through 1999" and inserting "For each fiscal year".

(d) TECHNICAL AMENDMENTS.—Section 2607B of such Act (42 U.S.C. 8626b) is amended—

(1) in subsection (e)(2)—

(A) by redesignating subparagraphs (F) through (N) as subparagraphs (E) through (M), respectively; and

(B) in clause (i) of subparagraph (I) (as redesignated in subparagraph (A)), by striking "on" and inserting "of"; and

(2) by redesignating subsection (g) as subsection (f).

SEC. 308. TECHNICAL ASSISTANCE, TRAINING, AND COMPLIANCE REVIEWS.

(a) IN GENERAL.—Section 2609A(a) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8628a(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "$250,000" and inserting "$300,000"; and

(B) by striking "Secretary—" and inserting "Secretary to conduct onsite compliance reviews of programs supported under this title or—"; and

(2) in paragraph (2)—

(A) by inserting "or interagency agreements" after "cooperative arrangements"; and

(B) by inserting "(including Federal agencies)" after "public agencies".

(b) CONFORMING AMENDMENT.—The section heading of section 2609A of such Act (42 U.S.C. 8628a) is amended to read as follows:

"TECHNICAL ASSISTANCE, TRAINING, AND COMPLIANCE REVIEWS".

TITLE IV—ASSETS FOR INDEPENDENCE

SEC. 401. SHORT TITLE.

This title may be cited as the "Assets for Independence Act".

SEC. 402. FINDINGS.

Congress makes the following findings:

(1) Economic well-being does not come solely from income, spending, and consumption, but also requires savings, investment, and accumulation of assets because assets can improve economic independence and stability, connect individuals with a viable and hopeful future, stimulate development of human and other capital, and enhance the welfare of offspring.

(2) Fully 1/2 of all Americans have either no, negligible, or negative assets available for investment, just as the price of entry to the economic mainstream, the cost of a house, an adequate education, and starting a business, is increasing. Further, the household savings rate of the United States lags far behind other industrial nations, presenting a barrier to economic growth.

(3) In the current tight fiscal environment, the United States should invest existing resources in high-yield initiatives. There is reason to believe

that the financial returns, including increased income, tax revenue, and decreased welfare cash assistance, resulting from individual development accounts will far exceed the cost of investment in those accounts.

(4) Traditional public assistance programs concentrating on income and consumption have rarely been successful in promoting and supporting the transition to increased economic self-sufficiency. Income-based domestic policy should be complemented with asset-based policy because, while income-based policies ensure that consumption needs (including food, child care, rent, clothing, and health care) are met, asset-based policies provide the means to achieve greater independence and economic well-being.

SEC. 403. PURPOSES.

The purposes of this title are to provide for the establishment of demonstration projects designed to determine—

(1) the social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income;

(2) the extent to which an asset-based policy that promotes saving for postsecondary education, homeownership, and microenterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

(3) the extent to which an asset-based policy stabilizes and improves families and the community in which they live.

SEC. 404. DEFINITIONS.

In this title:

(1) APPLICABLE PERIOD.—The term "applicable period" means, with respect to amounts to be paid from a grant made for a project year, the calendar year immediately preceding the calendar year in which the grant is made.

(2) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means an individual who is selected to participate by a qualified entity under section 409.

(3) EMERGENCY WITHDRAWAL.—The term "emergency withdrawal" means a withdrawal by an eligible individual that—

(A) is a withdrawal of only those funds, or a portion of those funds, deposited by the individual in the individual development account of the individual;

(B) is permitted by a qualified entity on a case-by-case basis; and

(C) is made for—

(i) expenses for medical care or necessary to obtain medical care, for the individual or a spouse or dependent of the individual described in paragraph (8)(D);

(ii) payments necessary to prevent the eviction of the individual from the residence of the individual, or foreclosure on the mortgage for the principal residence of the individual, as defined in paragraph (8)(B); or

(iii) payments necessary to enable the individual to meet necessary living expenses following loss of employment.

(4) HOUSEHOLD.—The term "household" means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(5) INDIVIDUAL DEVELOPMENT ACCOUNT.—

(A) IN GENERAL.—The term "individual development account" means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust meets the following requirements:

(i) No contribution will be accepted unless it is in cash or by check.

(ii) The trustee is a federally insured financial institution, or a State insured financial institution if no federally insured financial institution is available.

(iii) The assets of the trust will be invested in accordance with the direction of the eligible individual after consultation with the qualified entity providing deposits for the individual under section 410.

(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(v) Except as provided in clause (vi), any amount in the trust which is attributable to a deposit provided under section 410 may be paid or distributed out of the trust only for the purpose of paying the qualified expenses of the eligible individual, or enabling the eligible individual to make an emergency withdrawal.

(vi) Any balance in the trust on the day after the date on which the individual for whose benefit the trust is established dies shall be distributed within 30 days of that date as directed by that individual to another individual development account established for the benefit of an eligible individual.

(B) CUSTODIAL ACCOUNTS.—For purposes of subparagraph (A), a custodial account shall be treated as a trust if the assets of the custodial account are held by a bank (as defined in section 408(n) of the Internal Revenue Code of 1986) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which such person will administer the custodial account will be consistent with the requirements of this title, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described in subparagraph (A). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of that custodial account shall be treated as the trustee thereof.

(6) PROJECT YEAR.—The term "project year" means, with respect to a demonstration project, any of the 4 consecutive 12-month periods beginning on the date the project is originally authorized to be conducted.

(7) QUALIFIED ENTITY.—

(A) IN GENERAL.—The term "qualified entity" means—

(i) one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

(ii) a State or local government agency, or a tribal government, submitting an application under section 405 jointly with an organization described in clause (i).

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing an organization described in subparagraph (A)(i) from collaborating with a financial institution or for-profit community development corporation to carry out the purposes of this title.

(8) QUALIFIED EXPENSES.—The term "qualified expenses" means one or more of the following, as provided by the qualified entity:

(A) POSTSECONDARY EDUCATIONAL EXPENSES.—Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution. In this subparagraph:

(i) POSTSECONDARY EDUCATIONAL EXPENSES.—The term "postsecondary educational expenses" means the following:

(I) TUITION AND FEES.—Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

(II) FEES, BOOKS, SUPPLIES, AND EQUIPMENT.—Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

(ii) ELIGIBLE EDUCATIONAL INSTITUTION.—The term "eligible educational institution" means the following:

(I) INSTITUTION OF HIGHER EDUCATION.—An institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of enactment of this title.

(II) POSTSECONDARY VOCATIONAL EDUCATION SCHOOL.—An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of enactment of this title.

(B) FIRST-HOME PURCHASE.—Qualified acquisition costs with respect to a principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. In this subparagraph:

(i) PRINCIPAL RESIDENCE.—The term "principal residence" means a principal residence, the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence.

(ii) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

(iii) QUALIFIED FIRST-TIME HOMEBUYER.—

(I) IN GENERAL.—The term "qualified first-time homebuyer" means an individual participating in the project (and, if married, the individual's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subparagraph applies.

(II) DATE OF ACQUISITION.—The term "date of acquisition" means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

(C) BUSINESS CAPITALIZATION.—Amounts paid from an individual development account directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses. In this subparagraph:

(i) QUALIFIED BUSINESS CAPITALIZATION EXPENSES.—The term "qualified business capitalization expenses" means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

(ii) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

(iii) QUALIFIED BUSINESS.—The term "qualified business" means any business that does not contravene any law or public policy (as determined by the Secretary).

(iv) QUALIFIED PLAN.—The term "qualified plan" means a business plan, or a plan to use a business asset purchased, which—

(I) is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

(II) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(III) may require the eligible individual to obtain the assistance of an experienced entrepreneurial adviser.

(D) TRANSFERS TO IDAS OF FAMILY MEMBERS.—Amounts paid from an individual development account directly into another such account established for the benefit of an eligible individual who is—

(i) the individual's spouse; or

(ii) any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

(9) QUALIFIED SAVINGS OF THE INDIVIDUAL FOR THE PERIOD.—The term "qualified savings of the individual for the period" means the aggregate of the amounts contributed by the individual to the individual development account of the individual during the period.

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(11) TRIBAL GOVERNMENT.—The term "tribal government" means a tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) or a Native Hawaiian organization, as defined in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

SEC. 405. APPLICATIONS.

(a) ANNOUNCEMENT OF DEMONSTRATION PROJECTS.—Not later than 3 months after the date of enactment of this title, the Secretary shall publicly announce the availability of funding under this title for demonstration projects and shall ensure that applications to conduct the demonstration projects are widely available to qualified entities.

(b) SUBMISSION.—Not later than 6 months after the date of enactment of this title, a qualified entity may submit to the Secretary an application to conduct a demonstration project under this title.

(c) CRITERIA.—In considering whether to approve an application to conduct a demonstration project under this title, the Secretary shall assess the following:

(1) SUFFICIENCY OF PROJECT.—The degree to which the project described in the application appears likely to aid project participants in achieving economic self-sufficiency through activities requiring qualified expenses. In making such assessment, the Secretary shall consider the overall quality of project activities in making any particular kind or combination of qualified expenses to be an essential feature of any project.

(2) ADMINISTRATIVE ABILITY.—The experience and ability of the applicant to responsibly administer the project.

(3) ABILITY TO ASSIST PARTICIPANTS.—The experience and ability of the applicant in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through the development of assets.

(4) COMMITMENT OF NON-FEDERAL FUNDS.—The aggregate amount of direct funds from non-Federal public sector and from private sources that are formally committed to the project as matching contributions.

(5) ADEQUACY OF PLAN FOR PROVIDING INFORMATION FOR EVALUATION.—The adequacy of the plan for providing information relevant to an evaluation of the project.

(6) OTHER FACTORS.—Such other factors relevant to the purposes of this title as the Secretary may specify.

(d) PREFERENCES.—In considering an application to conduct a demonstration project under this title, the Secretary shall give preference to an application that—

(1) demonstrates the willingness and ability to select individuals described in section 408 who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardian;

(2) provides a commitment of non-Federal funds with a proportionately greater amount of such funds committed by private sector sources; and

(3) targets such individuals residing within one or more relatively well-defined neighborhoods or communities (including rural communities) that experience high rates of poverty or unemployment.

(e) APPROVAL.—Not later than 9 months after the date of enactment of this title, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration projects under this title as the Secretary deems appropriate, taking into account the assessments required by subsections (c) and (d). The Secretary is encouraged to ensure that the applications that are approved involve a range of communities (both rural and urban) and diverse populations.

(f) CONTRACTS WITH NONPROFIT ENTITIES.—The Secretary may contract with an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code to carry out any responsibility of the Secretary under this section or section 412 if—

(1) such entity demonstrates the ability to carry out such responsibility; and

(2) the Secretary can demonstrate that such responsibility would not be carried out by the Secretary at a lower cost.

SEC. 406. DEMONSTRATION AUTHORITY; ANNUAL GRANTS.

(a) DEMONSTRATION AUTHORITY.—If the Secretary approves an application to conduct a demonstration project under this title, the Secretary shall, not later than 10 months after the date of enactment of this title, authorize the applicant to conduct the project for 4 project years in accordance with the approved application and the requirements of this title.

(b) GRANT AUTHORITY.—For each project year of a demonstration project conducted under this title, the Secretary may make a grant to the qualified entity authorized to conduct the project. In making such a grant, the Secretary shall make the grant on the first day of the project year in an amount not to exceed the lesser of—

(1) the aggregate amount of funds committed as matching contributions by non-Federal public or private sector sources; or

(2) $1,000,000.

SEC. 407. RESERVE FUND.

(a) ESTABLISHMENT.—A qualified entity under this title, other than a State or local government agency, or a tribal government, shall establish a Reserve Fund which shall be maintained in accordance with this section.

(b) AMOUNTS IN RESERVE FUND.—

(1) IN GENERAL.—As soon after receipt as is practicable, a qualified entity shall deposit in the Reserve Fund established under subsection (a)—

(A) all funds provided to the qualified entity by any public or private source in connection with the demonstration project; and

(B) the proceeds from any investment made under subsection (c)(2).

(2) UNIFORM ACCOUNTING REGULATIONS.—The Secretary shall prescribe regulations with respect to accounting for amounts in the Reserve Fund established under subsection (a).

(c) USE OF AMOUNTS IN THE RESERVE FUND.—

(1) IN GENERAL.—A qualified entity shall use the amounts in the Reserve Fund established under subsection (a) to—

(A) assist participants in the demonstration project in obtaining the skills (including economic literacy, budgeting, credit, and counseling) and information necessary to achieve economic self-sufficiency through activities requiring qualified expenses;

(B) provide deposits in accordance with section 410 for individuals selected by the qualified entity to participate in the demonstration project;

(C) administer the demonstration project; and

(D) provide the research organization evaluating the demonstration project under section 414 with such information with respect to the demonstration project as may be required for the evaluation.

(2) AUTHORITY TO INVEST FUNDS.—

(A) GUIDELINES.—The Secretary shall establish guidelines for investing amounts in the Reserve Fund established under subsection (a) in a manner that provides an appropriate balance between return, liquidity, and risk.

(B) INVESTMENT.—A qualified entity shall invest the amounts in its Reserve Fund that are not immediately needed to carry out the provisions of paragraph (1), in accordance with the guidelines established under subparagraph (A).

(3) LIMITATION ON USES.—Not more than 9.5 percent of the amounts provided to a qualified entity under section 406(b) shall be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1), of which not less than 2 percent of the amounts shall be used by the qualified entity for the purposes described in paragraph (1)(D). If two or more qualified entities are jointly administering a project, no qualified entity shall use more than its proportional share for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1).

(d) UNUSED FEDERAL GRANT FUNDS TRANSFERRED TO THE SECRETARY WHEN PROJECT TERMINATES.—Notwithstanding subsection (c), upon the termination of any demonstration project authorized under this section, the qualified entity conducting the project shall transfer to the Secretary an amount equal to—

(1) the amounts in its Reserve Fund at time of the termination; multiplied by

(2) a percentage equal to—

(A) the aggregate amount of grants made to the qualified entity under section 406(b); divided by

(B) the aggregate amount of all funds provided to the qualified entity by all sources to conduct the project.

SEC. 408. ELIGIBILITY FOR PARTICIPATION.

(a) IN GENERAL.—Any individual who is a member of a household that is eligible for assistance under the State temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or that meets each of the following requirements shall be eligible to participate in a demonstration project conducted under this title:

(1) INCOME TEST.—The adjusted gross income of the household does not exceed the earned income amount described in section 32 of the Internal Revenue Code of 1986 (taking into account the size of the household).

(2) NET WORTH TEST.—

(A) IN GENERAL.—The net worth of the household, as of the end of the calendar year preceding the determination of eligibility, does not exceed $10,000.

(B) DETERMINATION OF NET WORTH.—For purposes of subparagraph (A), the net worth of a household is the amount equal to—

(i) the aggregate market value of all assets that are owned in whole or in part by any member of the household; minus

(ii) the obligations or debts of any member of the household.

(C) EXCLUSIONS.—For purposes of determining the net worth of a household, a household's assets shall not be considered to include the primary dwelling unit and one motor vehicle owned by the household.

(b) INDIVIDUALS UNABLE TO COMPLETE THE PROJECT.—The Secretary shall establish such regulations as are necessary, including prohibiting future eligibility to participate in any other demonstration project conducted under this title, to ensure compliance with this title if an individual participating in the demonstration project moves from the community in which

the project is conducted or is otherwise unable to continue participating in that project.

SEC. 409. SELECTION OF INDIVIDUALS TO PARTICIPATE.

From among the individuals eligible to participate in a demonstration project conducted under this title, each qualified entity shall select the individuals—

(1) that the qualified entity deems to be best suited to participate; and

(2) to whom the qualified entity will provide deposits in accordance with section 410.

SEC. 410. DEPOSITS BY QUALIFIED ENTITIES.

(a) IN GENERAL.—Not less than once every 3 months during each project year, each qualified entity under this title shall deposit in the individual development account of each individual participating in the project, or into a parallel account maintained by the qualified entity—

(1) from the non-Federal funds described in section 405(c)(4), a matching contribution of not less than $0.50 and not more than $4 for every $1 of earned income (as defined in section 911(d)(2) of the Internal Revenue Code of 1986) deposited in the account by a project participant during that period;

(2) from the grant made under section 406(b), an amount equal to the matching contribution made under paragraph (1); and

(3) any interest that has accrued on amounts deposited under paragraph (1) or (2) on behalf of that individual into the individual development account of the individual or into a parallel account maintained by the qualified entity.

(b) LIMITATION ON DEPOSITS FOR AN INDIVIDUAL.—Not more than $2,000 from a grant made under section 406(b) shall be provided to any one individual over the course of the demonstration project.

(c) LIMITATION ON DEPOSITS FOR A HOUSEHOLD.—Not more than $4,000 from a grant made under section 406(b) shall be provided to any one household over the course of the demonstration project.

(d) WITHDRAWAL OF FUNDS.—The Secretary shall establish such guidelines as may be necessary to ensure that funds held in an individual development account are not withdrawn, except for one or more qualified expenses, or for an emergency withdrawal. Such guidelines shall include a requirement that a responsible official of the qualified entity conducting a project approve such withdrawal in writing. The guidelines shall provide that no individual may withdraw funds from an individual development account earlier than 6 months after the date on which the individual first deposits funds in the account.

(e) REIMBURSEMENT.—An individual shall reimburse an individual development account for any funds withdrawn from the account for an emergency withdrawal, not later than 12 months after the date of the withdrawal. If the individual fails to make the reimbursement, the qualified entity administering the account shall transfer the funds deposited into the account or a parallel account under section 410 to the Reserve Fund of the qualified entity, and use the funds to benefit other individuals participating in the demonstration project involved.

SEC. 411. LOCAL CONTROL OVER DEMONSTRATION PROJECTS.

A qualified entity under this title, other than a State or local government agency or a tribal government, shall, subject to the provisions of section 413, have sole authority over the administration of the project. The Secretary may prescribe only such regulations or guidelines with respect to demonstration projects conducted under this title as are necessary to ensure compliance with the approved applications and the requirements of this title.

SEC. 412. ANNUAL PROGRESS REPORTS.

(a) IN GENERAL.—Each qualified entity under this title shall prepare an annual report on the progress of the demonstration project. Each report shall include both program and participant information and shall specify for the period covered by the report the following information:

(1) The number of individuals making a deposit into an individual development account.

(2) The amounts in the Reserve Fund established with respect to the project.

(3) The amounts deposited in the individual development accounts.

(4) The amounts withdrawn from the individual development accounts and the purposes for which such amounts were withdrawn.

(5) The balances remaining in the individual development accounts.

(6) The savings account characteristics (such as threshold amounts and match rates) required to stimulate participation in the demonstration project, and how such characteristics vary among different populations or communities.

(7) What service configurations of the qualified entity (such as peer support, structured planning exercises, mentoring, and case management) increased the rate and consistency of participation in the demonstration project and how such configurations varied among different populations or communities.

(8) Such other information as the Secretary may require to evaluate the demonstration project.

(b) SUBMISSION OF REPORTS.—The qualified entity shall submit each report required to be prepared under subsection (a) to—

(1) the Secretary; and

(2) the Treasurer (or equivalent official) of the State in which the project is conducted, if the State or a local government or a tribal government committed funds to the demonstration project.

(c) TIMING.—The first report required by subsection (a) shall be submitted not later than 60 days after the end of the calendar year in which the Secretary authorized the qualified entity to conduct the demonstration project, and subsequent reports shall be submitted every 12 months thereafter, until the conclusion of the project.

SEC. 413. SANCTIONS.

(a) AUTHORITY TO TERMINATE DEMONSTRATION PROJECT.—If the Secretary determines that a qualified entity under this title is not operating the demonstration project in accordance with the entity's application or the requirements of this title (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such entity's authority to conduct the demonstration project.

(b) ACTIONS REQUIRED UPON TERMINATION.—If the Secretary terminates the authority to conduct a demonstration project, the Secretary—

(1) shall suspend the demonstration project;

(2) shall take control of the Reserve Fund established pursuant to section 407;

(3) shall make every effort to identify another qualified entity (or entities) willing and able to conduct the project in accordance with the approved application (or, as modified, if necessary to incorporate the recommendations) and the requirements of this title;

(4) shall, if the Secretary identifies an entity (or entities) described in paragraph (3)—

(A) authorize the entity (or entities) to conduct the project in accordance with the approved application (or, as modified, if necessary, to incorporate the recommendations) and the requirements of this title;

(B) transfer to the entity (or entities) control over the Reserve Fund established pursuant to section 407; and

(C) consider, for purposes of this title—

(i) such other entity (or entities) to be the qualified entity (or entities) originally authorized to conduct the demonstration project; and

(ii) the date of such authorization to be the date of the original authorization; and

(5) if, by the end of the 1-year period beginning on the date of the termination, the Secretary has not found a qualified entity (or entities) described in paragraph (3), shall—

(A) terminate the project; and

(B) from the amount remaining in the Reserve Fund established as part of the project, remit to each source that provided funds under section 405(c)(4) to the entity originally authorized to conduct the project, an amount that bears the same ratio to the amount so remaining as the amount provided by the source under section 405(c)(4) bears to the amount provided by all such sources under that section.

SEC. 414. EVALUATIONS.

(a) IN GENERAL.—Not later than 10 months after the date of enactment of this title, the Secretary shall enter into a contract with an independent research organization to evaluate, individually and as a group, all qualified entities and sources participating in the demonstration projects conducted under this title.

(b) FACTORS TO EVALUATE.—In evaluating any demonstration project conducted under this title, the research organization shall address the following factors:

(1) The effects of incentives and organizational or institutional support on savings behavior in the demonstration project.

(2) The savings rates of individuals in the demonstration project based on demographic characteristics including gender, age, family size, race or ethnic background, and income.

(3) The economic, civic, psychological, and social effects of asset accumulation, and how such effects vary among different populations or communities.

(4) The effects of individual development accounts on savings rates, homeownership, level of postsecondary education attained, and self-employment, and how such effects vary among different populations or communities.

(5) The potential financial returns to the Federal Government and to other public sector and private sector investors in individual development accounts over a 5-year and 10-year period of time.

(6) The lessons to be learned from the demonstration projects conducted under this title and if a permanent program of individual development accounts should be established.

(7) Such other factors as may be prescribed by the Secretary.

(c) METHODOLOGICAL REQUIREMENTS.—In evaluating any demonstration project conducted under this title, the research organization shall—

(1) for at least one site, use control groups to compare participants with nonparticipants;

(2) before, during, and after the project, obtain such quantitative data as are necessary to evaluate the project thoroughly; and

(3) develop a qualitative assessment, derived from sources such as in-depth interviews, of how asset accumulation affects individuals and families.

(d) REPORTS BY THE SECRETARY.—

(1) INTERIM REPORTS.—Not later than 90 days after the end of the calendar year in which the Secretary first authorizes a qualified entity to conduct a demonstration project under this title, and every 12 months thereafter until all demonstration projects conducted under this title are completed, the Secretary shall submit to Congress an interim report setting forth the results of the reports submitted pursuant to section 412(b).

(2) FINAL REPORTS.—Not later than 12 months after the conclusion of all demonstration projects conducted under this title, the Secretary shall submit to Congress a final report setting forth the results and findings of all reports and evaluations conducted pursuant to this title.

(e) EVALUATION EXPENSES.—The Secretary shall expend such sums as may be necessary, but not more than 2 percent of the amounts appropriated under section 416 for a fiscal year, to carry out the purposes of this section.

SEC. 415. TREATMENT OF FUNDS.

Of the funds deposited in individual development accounts for eligible individuals only the funds deposited by the individuals (including interest accruing on those funds) may be considered to be the income, assets, or resources of the individuals, for purposes of determining eligibility for, or the amount of assistance furnished under, any Federal or federally assisted program based on need.

SEC. 416. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title, $25,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003 to remain available until expended.

Mr. COATS. Mr. President, I am pleased to bring before the Senate, on behalf of the Committee on Labor and Human Resources, S. 2206, the Coats Human Services Reauthorization Act of 1998.

This legislation is truly the result of a significant bi-partisan effort. We have worked closely with members of the committee to make important changes in program focus and in our expectations for measurable outcomes.

Few federal programs engender the kind of positive feelings as do the programs we are discussing today: Head Start, the Community Services Block Grant, the Low Income Home Energy Assistance program, and a new program—close to my heart, the Assets for Independence Act.

These programs all have one important thing in common—they represent the federal government at its best, forging public and private partnerships to combat the effects of poverty, and unleashing the vast resources of one of our most important assets—the local community.

Whether in a Head Start classroom, a food bank, or a community action agency, the programs we are about to reauthorize provide a valuable link between families and the services and opportunities they need.

I have had the privilege of visiting a number of Head Start programs in my own state, and have found at each one a common thread—the commitment of staff and of parents to be there for their children. In Head Start centers across America, parents serve as volunteers, as teachers, as aides, in whatever capacity they are needed. Many have told me that thanks to Head Start, they have gone on to higher education. Thanks to Head Start, their children have hope for a future. I say that it is thanks to their commitment as parents that their children's hopes have been realized.

S. 2206 continues this legacy—and does so in a way that supports the family as a unit. Head Start is a program serving children in families. CSBG is a program serving families in communities. And Assets for Independence makes it possible for families to become fully self sufficient.

Before I briefly discuss the specifics issues addressed in the legislation I want to thank members of the Committee (Senator DODD, KENNEDY, JEFFORDS, DEWINE and MCCONNELL in particular) and of course their staffs for their commitment to this process being open and bi-partisan. I think the fruit of all of our efforts is in the bill we will vote on today. I also would also like Karen Spar from the Congressional Research Service who has been tireless in her efforts to provide support to my staff and Liz Aldridge-King from the Office of Legislative Counsel who worked virtually around the clock to get this bill out on time. Thank you to all who contributed to this effort.

Head Start is a program that has been identified as one with enormous potential in giving children an opportunity to realize their full potential; however, it has been a program which has experienced varying degrees of quality. With the 1994 reauthization, Congress and the Administration formed an important partnership to devise ways to make program quality a primary focus. Since the last reauthorization, the Head Start Bureau has offered technical assistance, resources, and support to Head Start programs that are committed to pursuing excellence—and terminated the grants of those programs that were experiencing significant program deficiencies. Close to 100 Head Start grantees have been terminated or have relinquished their grants since 1994.

S. 2206 takes further steps to ensure quality and to make sure that Head Start students attain the goal of school readiness by expanding the use of quality improvement funds to provide staff training related to the promotion of language skills and literacy growth of children and the acquisition of English for children from non-English-speaking backgrounds and by requiring the establishment of education performance standards to ensure school readiness and that children develop a minimum level of literacy awareness and understanding. Further, the Secretary is directed to develop outcome-based performance measures and to apply those measures to local grantees when evaluating program effectiveness. Under this scenario, consistent poor performers would be identified, offered technical assistance, and if they failed to correct the deficiency—terminated and their grant re-competed.

We have responded to concerns that Head Start programs be able to more fully respond to emerging needs of working families for full-day, full-year services by significantly enhancing the collaboration grant program in current law by requiring active collaboration between Head Start, the State liaison appointed by the Governor, and other early care and education programs within the State. We have attempted to eliminate barriers to effective collaboration and have instructed the Secretary to design an administrative structure whereby additional barriers that are identified can be addressed. Taken together, these provisions should make it much easier for States to include Head Start in unified planning regarding early care and education services at the state and local level.

To respond to the recent research on the importance of early brain development, we have included the President's request for an expansion of the Early Head Start program from 7.5 percent in FY 1999 to 10 percent in FY 2003. We have required the Secretary to set aside a portion of these funds to provide technical assistance to ensure the maintenance of program quality and given the Secretary the authority to reduce the set aside amounts, if necessary to avoid a reduction in regular Head Start services or quality.

To respond to the issue of improved teacher competence, we have added a new section to the section in the law pertaining to staff qualifications to ensure that each head start classroom has a teacher with demonstrated competency to perform certain functions. This was done in lieu of mandating additional degrees such as 2 or 4 year college degree which is not the norm for preschools in America, and which in fact, are not a good measure for teacher competence. Rather, we focus on specific demonstrated competencies which must first be achieved in order to qualify as a teacher.

During the last reauthorization in 1994 we required every Head Start classroom to have a teacher with at least Child Development Associate credential. With near accomplishment of that goal we wanted to make sure that waivers to this requirement would only be given in the most limited circumstance. Therefore we allow a 180-day waiver which will only be available where a Head Start agency could document that it had unsuccessfully attempted to recruit an individual with the required credential, certificate or degree. Such a waiver would be for an individual who is enrolled in a program that grants the appropriate credential, and who will receive the appropriate credential within 180 days of beginning employment as a Head Start teacher.

In response to concerns raised by the General Accounting Office and others about the lack of reliable research on Head Start which can be used to determine its effectiveness, we have authorized a national impact study of Head Start and also included, at the request of Senator DEWINE, several smaller comparative studies of children participating in head start with eligible children who did not participate in Head Start or other preschool programs. These studies should yield very valuable information about how this program is working, and whether Head

Start is, as we all hope and believe it is, making a difference.

Title II of S. 2206 authorizes the Community Services Block Grant. This program had not been updated since 1981 when CSBG came into existence as a block grant. Therefore, we have done a complete redraft of this program to bring it current and to make some very important changes to program structure and goals.

First, we have established some very specific program goals which include strengthening community capabilities for planning, coordinating and supporting innovative responses to community needs and conditions. CSBG is an excellent example of what can happen when Washington gets out of the way and allows local communities to design effective responses to local problems. Ninety percent of the funds provided under this act must be passed through by the State to local eligible entities which include a variety of public and non-profit organizations, community action agencies, and faith-based neighborhood organizations.

Second, we have established a mechanism for state monitoring of eligible entities to determine whether such entities meet performance goals, administrative standards, financial management requirements, and other requirements of the state. Each State will be required to participate in a performance measurement system, although they will be able to choose from a menu of priorities to reflect the current program they are instituting at the local level.

Third, we have grand fathered in all existing public CAPS but are requiring that any new public CAPS may come into existence only if there is no private, nonprofit organization identified or qualified to serve as the CSBG recipient. Like private nonprofit agencies, public CAPS would have to agree to administer their program through a local tripartite board and ensure adequate low income representation on it.

Fourth, with respect to the discretionary programs under CSBG, we have reauthorized the Community Economic Development program, the Rural Community Development program, National Youth Sports, and Community Food and Nutrition. We have created a new program called Neighborhood Innovation Projects for grants to neighborhood based, private non-profits to test or assist in the development of new approaches or methods of dealing with community problems. These grants may be used for a variety of purposes including gang interventions, addressing school violence, or any other purposes that are identified by the community as a problem resulting from poverty and consistent with the purposes of this CSBG.

Title III are reauthorizes the Low Income Home Energy Assistance Program at the current level of $2 billion for each of the fiscal years 1999 through 2004. The amount available for leveraging is reduced from $50,000,000 to $30,000,000 except in any year in which appropriations fall below $1.4 billion at which time the leveraging pot goes back to $50,000,000.

The most significant change in this program is the addition of a new section which clarifies the criteria by which LIHEAP funds can be released in an emergency or natural disaster. Currently, there is an arbitrary standard for determining an emergency or natural disaster, this language will rectify this problem by listing standards under which funds may be released which may include: significant home energy supply shortage or disruption; a significant increase in the cost of home energy, as determined by the secretary; a significant increase in home energy disconnections reported by a utility, a state regulatory agency, or another agency with necessary data; significant increase in participation in a public benefit program such as the food stamp program; a significant increase in unemployment or layoffs; or any other event meeting criteria as the secretary may determine to be appropriate.

This is an important addition, and I would like to thank Senators JEFFORDS and KENNEDY for their leadership in this matter.

Finally, Title IV establishes a five year demonstration program to determine the social, civic, psychological and economic effects that Individual Development Account (IDA) savings accounts can have on low income individuals and their families.

In some respects, IDAs are like IRAs for the working poor. They are dedicated savings accounts that can be used for purchasing a first home, post-secondary education, or capitalizing a business. These investments are associated with extremely high rates of return that have the potential to bring a new level of economic and personal security to families and communities.

The individual or family deposits whatever they can save (typically $5–$20 a month) in the account. The sponsoring organization "matches" that deposit with funds provided by local churches and service organizations, corporations, foundations, and state or local governments.

The intent of this demonstration program is to encourage participants to develop and reaffirm strong habits for saving money. To assist this, sponsor organizations will provide participating individuals and families intensive financial counseling and counseling to develop investment plans for education, home ownership, and entrepreneurship.

In addition, participating welfare and low-income families build assets whose high return on investment propels them into independence and stability. The community will also benefit from the significant return on an investment in IDAs: we can expect welfare rolls to be reduced; tax receipts to increase; employment to increase; and local enterprises and builders can expect increased business activity. Neighborhoods will be rejuvenated as new microenterprises and increased home renovation and building drive increased employment and community development.

In fact, it is estimated that an investment of $100 million in asset building through these individual accounts would generate :7,050 new businesses; 68,799 new jobs; $730 million in additional earnings; 12,000 new or rehabilitated homes; $287 million in savings and matching contributions and earnings on those accounts; 188 million in increased assets for low-income families 6,600 families removed from welfare rolls 12,000 youth graduates from vocational education and college programs; 20,000 adults obtaining high school, vocational, and college degrees.

IDAs are planned or now available on a small scale across the country, including Indiana, Illinois, Virginia, Oregon, and Iowa. The Assets for Independence Act has been developed after a review of numerous, similar, successful programs, and most notably one run by the Eastside Community Investments community development corporation in Indianapolis, Indiana. This provision incorporates a number of protections developed with their assistance and based on their experience.

Mr. President, taken together, I think we have an excellent package of programs designed to reauthorize programs which have been vital to many low-income individuals and communities. These programs are for the most part locally designed and controlled and offer unique opportunities for self-sufficiency and enhanced community involvement.

Mr. JEFFORDS. Mr. President, I am pleased the Senate has turned to consideration of the Community Opportunities, Accountability, Education and Training Services Act of 1998—the COATS Act—which reauthorizes the Human Services Act. This legislation, sponsored by Senator COATS, Senator DODD, myself, and Senator KENNEDY, was voted unanimously out of the Senate Labor and Human Resources Committee on June 24, 1998, and continues to have broad bipartisan support.

This bill includes the reauthorization of three of our most important programs providing services and assistance to the neediest of Americans: the Head Start program, the Community Services Block Grant, and the Low Income Home Energy Assistance Program. It also includes a new program, the Assets for Independence Act, to empower these citizens into achieving economic independence.

This legislation draws upon over thirty years of experience with these programs. While each of these programs is working—and working well—there are clearly some things that we can be doing better. So while this bill leaves present law largely intact, it does include some important changes to make these programs more accountable and more effective in carrying out the specific tasks that we have asked of them.

The Head Start Program has been instrumental in helping many children enter school ready to learn. It goes beyond child care, by providing medical, dental, and other services to children enrolled in the program. However, I believe that its major contribution has been to support parents in their role as the primary teacher for their children. Head Start is a comprehensive service program that has made a difference in the lives of so many children and their parents.

While most of us know the difference that Head Start has made in the lives of millions of children and their parents, it is important that we continue to ensure that the program is the very best it can be. This reauthorization includes a major evaluation and research initiative. I believe this research will help demonstrate the positive impact of high quality, comprehensive services for children and families. More importantly, this initiative can provide the American people with more information about how best to help prepare all of our children for the challenges that lie ahead in the next century.

We also have increased funding for the Infant and Toddler Head Start program. Although this program is relatively new, the emerging research on early brain development clearly indicates that tremendous benefits can be gained by supporting parents in their efforts to be good parents for their children. Few young parents have the family and community support networks that were once such an integral part of raising children. The Infant and Toddler program strives to re-create those networks in order to help mothers and fathers better meet the challenges of parenthood.

One of the more controversial changes in this year's reauthorization is the inclusion of for-profit providers as eligible grantees for Head Start. Yet, working with Senators KENNEDY and DODD, we were able to reach an acceptable compromise that makes clear exactly what is and is not allowed. Briefly, the legislation opens up the competitive process to another segment of child care and human service provider . However, it does not require the Secretary to award a grant to a non-profit entity. It does not lessen the requirements and standards that any Head Start program must meet. I do not believe that, by virtue of an organization's tax status, it is either more or less capable of providing the high quality of services which we require of all Head Start grantees. I am pleased that an agreement on this issue has been reached.

The second major program authorized under this legislation is the Community Services Block Grant. This program provides funding which enables States to work with their communities to reduce poverty. That's an easily defined goal, but getting there takes lots of work. Because it is locally-driven and community-based, the CSBG is used differently in every community—drawing upon available strengths and resources to meet the unique needs of each.

In Vermont, the CSBG serves communities all across our state, from Brattleboro to the Northeast Kingdom. Under the current formula, Vermont receives a little more than $2.6 million in CSBG funds. Whether it's using CSBG dollars to help the underprivileged learn new job skills or go back to school, or helping families become self-sufficient by teaching them how to search for affordable housing or simply work within a budget, I think countless families and communities in our State would agree that the initial investment has earned priceless returns. Communities are using those dollars to make a difference.

For this reason, I am pleased that we have made only minor adjustments in these programs, and that most of these changes make some necessary improvements that will allow us to better determine the effectiveness of CSBG programs. For example, this bill requires states to monitor their grantees to determine whether they are meeting performance goals, administrative standards, and financial management requirements. The bill also establishes state and federal accountability and reporting provisions, and requires grantees to participate in a performance measurement system. Presently, grantees may participate in this system, but are not required to do so. The changes in this bill mean that we will be able to better monitor the progress of programs and measure the effectiveness of the delivery of programs.

I want to point out, however, that I am aware that through a technical change that we were unable to remove at the last minute, this legislation contains language repealing the Community Economic Development program. This was brought to my attention, and to the attention of the Ranking Member, last Friday, and we have taken steps to remedy the situation. Our House colleagues have indicated their bill will not repeal this provision, and Senator COATS and I have pledged that we will remove the language repealing this program in conference. This is a matter that was due to a technical oversight only; it is certainly not the intention of the committee to end this program, and I am grateful for the assistance of Congressman BILL GOODLING and his staff in helping us resolve this matter satisfactorily.

I also want to mention that I know there was some concern about allowing faith-based organizations to participate as direct grantees in CSBG programs. I want to be clear that this bill does not allow faith-based organizations any priority in becoming grantees. It simply says that they may participate. If a faith-based organization receives a grant, it will still be expected to run quality programs and operate in the same way any other grantee would, including establishing a tripartite board to administer the programs. Further, there is language in this bill essentially grandfathering in existing community action agencies as eligible grantees, so there should not be a concern that current grantees will suddenly find themselves jockeying for funding. If they are delivering good services, they may continue to do so.

There was also some concern over including a new program, the Neighborhood Innovation Project, as an allowable activity under the discretionary account because it would mean less funds for the other programs authorized in the account. Let me explain why this is not the case—and, in fact, if Congressional appropriators follow the authorization carefully, there should be more funding for programs within this account.

Under current law, the discretionary account receives a set-aside of nine percent of the CSBG funds. Presently, the discretionary account only contains the community economic development programs and the rural community development programs as allowable expenditures. However, at appropriations time, the appropriators have been folding the National Youth Sports program (NYSP) and the Community Food and Nutrition Act (CFNP) into the nine percent set-aside. What the law actually says—and what this bill reinforces—is that the NYSP and the CFNP program are both worthwhile programs that should receive separately appropriated line-items; they should not be competing with the community economic development and rural community development initiatives to receive a part of that nine-percent set-aside. I hope the appropriators will follow the authorization and limit the programs funded through the nine-percent set-aside.

Under the new bill, we maintain the NYSP and CFNP as separate accounts that do not compete with programs in the discretionary account. I know this all sounds like maudlin bookkeeping, but what it means is that, even with the new Neighborhood Innovation Project included in the discretionary account, there are now only three programs among which the discretionary account can be divided, not four. That should mean funding can go a little bit further for these programs. Meanwhile, the NYSP and CNFP can receive their own separate streams of funding. That is clearly our intent.

While on the subject of the NYSP, let me just mention one change we made in the current program to ensure a more comprehensive delivery of services. What this legislation would do is link youth who participate in this five week summer program to community-based youth services that can serve their needs all year long.

The third major program reauthorized in this legislation is the Low Income Home Energy Assistance Program (LIHEAP), which, due to the forward-funded nature of the program, is authorized through 2004. The program provides assistance to 4.3 million low-income households to help families pay their heating and cooling bills. LIHEAP is a state block grant program that has faced more than its fair share of budget cuts. In fact, I am very dismayed that appropriators on the House side have voted to slash funding for the program.

Our bill reauthorizes the program at the $2 billion level and continues to authorize funds to be released on an emergency basis by the President. On that subject, we have included language that clarifies the criteria under which LIHEAP funds can be released during an emergency or natural disaster. Last winter, when much of Northern New England was devastated by a 100-year ice storm, 53 Senators unsuccessfully wrote to the President asking him to release LIHEAP emergency funds. Our bill includes language that will help states obtain funds when they face similar natural or economic disasters.

Finally, this bill authorizes a new, $25 million program known as the Assets for Independence Act. This new program builds upon the Individual Development Accounts that we allowed under welfare reform. The Assets for Independence Act would help qualified, poor individuals establish individual savings accounts that they can later use for post-secondary education, purchase of a first home, or business capitalization.

In Vermont, we are already operating a program very much like this under our welfare waiver. However, Vermont's program does not look exactly like what is in this bill, and I want to make it clear that Vermont, and any other state, may continue to operate existing IDA programs as they deem fit, using their existing resources. States do not have to make their program look like those established in this bill unless they specifically apply for the funding made available under this section. What is in this bill does not override any existing IDA program. Knowing this, I am pleased we were able to include this new section in the bill, as I know it has been a priority for Senator COATS, and I commend him for working with me to ensure that Vermont can continue to run its existing programs.

This legislation is the result of months of hard work, negotiation, and compromise. This is a very good bill that deserves the support of the Senate. It reinforces what works in these programs, and discards what does not. It continues the mission that we began many years ago of empowering communities to help their most vulnerable populations, and it does this in a responsible manner.

I am pleased with the bipartisan atmosphere that has surrounded this bill so far, and I look forward to finishing the reauthorization in the same manner. I want to thank Senator COATS for his excellent work on this important legislation. As always, it is a pleasure working with him, and I want to commend him for his hard work in crafting this compromise. Senator KENNEDY and Senator DODD were instrumental in drafting this bill and moving it through the committee, and each has left a definite mark on this legislation. I also appreciate the valuable input from Senators DEWINE and ASHCROFT in drafting some key provisions of the bill.

There are a number of staff who have worked very hard on this legislation who deserve recognition for their efforts. In particular, I want to thank Stephanie Monroe with Senator COATS—her effort was extraordinary; Suzanne Day, Jeanne Ireland and Jim Fenton with Senator DODD; Stephanie Robinson with Senator KENNEDY; and Geoff Brown, Kimberly Barnes-O'Connor and Brian Jones of my staff. In addition, I want to note the contributions of Vince Ventimiglia with Senator COATS on the IDA section; Aaron Grau with Senator DEWINE for his help with migrant and seasonal Head Start; Robin Bowen with Senator MCCONNELL for her assistance on the CED correction; and Denzel McGuire with Chairman GOODLING for her help in assuring a smooth debate with the House.

Again, Mr. President, I am proud of this legislation and of all the work that has gone into it. I look forward to working with our House colleagues to approve final legislation, with broad bipartisan support, before the 105th Congress adjourns for the year.

I yield the floor.

Mr. MCCONNELL. Mr. President, I want to thank Senator COATS and Senator JEFFORDS for their exemplary work on the Coats Act's reauthorization of Head Start, Community Services Block Grants, Low-Income Home Energy Assistance, and the new authorization for an Individual Development Account demonstration.

In particular, I appreciate their commitment to address a matter of serious concern to me regarding provisions that would unintentionally impact the Rural Development Loan Fund currently administered by the U.S. Department of Agriculture.

The Coats Act includes the repeal of section 407 of the Human Services Reauthorization Act of 1986 and the Community Economic Development Act. These statutory repeals were included to achieve a reasonable clarification of the statutory authority held by the U.S. Department of Health and Human Services. Upon further examination of these provisions after the committee mark-up, we discovered that this house-keeping action for HHS would eliminate provisions essential to the USDA's administration of the Rural Development Loan Fund, a lending program that has provided vital economic support to several communities in Kentucky.

I understand that during conference, Senators COATS and JEFFORDS have agreed to recede to the House position and drop the Coats Act provisions that repeal section 407 and CEDA.

Mr. COATS. That is correct. We were attempting to do a significant cleanup of a statute that has not been modified in any real way since 1981. We were informed that these programs were obsolete and had not received funding from the Department of Health and Human Services for some time. We therefore, as part of a package of technical corrects identified to bring the statute into conformity, repealed these two programs. Senator MCCONNELL was very helpful in bringing this error to our attention and we have given him our assurance that it will be corrected in Conference with the House.

Mr. MCCONNELL. I thank the Senator from Indiana for his commitment to resolve this issue, and greatly appreciate his understanding of the Rural Development Loan Fund's importance to Kentucky's efforts to spur economic growth in rural areas.

Mr. DODD. Mr. President, I am very pleased that today we take up the reauthorization of the the Community Opportunities, Accountability, Training and Educational Services (COATS) Act, which includes Head Start, LIHEAP and the Community Service Block Grant. This bill is sponsored by Chairman JEFFORDS, Senator KENNEDY, Senator COATS, and myself, and was reported unanimously by the Labor and Human Resources Committee a month ago. This strong record of bipartisan support is a clear statement of how we all view these crucial programs. But it is also a testament to the leadership of Senator COATS on this legislation. As a tribute, we on the Committee insisted on naming this important bill after him.

This bill is fundamentally about improving the reach of opportunity in America to all of our citizens.

Head Start will serve over 830,000 children and their families this year; nearly 6,000 in my home state of Connecticut. These families and their children will receive access to the nation's leading child development program. Head Start focuses on the needs of the whole child. Inherently, we know that a child cannot be successful if he or she has unidentified health needs, if his or her parents are not involved in their education, and if he or she is not well-nourished or well-rested. Head Start is the embodiment of those concerns and works each day to meet children's critical needs.

The bill before us today further strengthens the Head Start program: We continue the expansion of the Early Head Start program, increasing the set aside for this program to 10 percent in FY 2002. Anyone who has picked up a magazine or newspaper within the last year knows how vital the first three years of a child's life are to their development. This program, which we established in 1994, extends comprehensive, high-quality services to these young children and their parents, to make sure the most is made of this window of opportunity.

We have added new provisions to encourage collaboration within states and local communities as well as within individual Head Start programs to expand the services they offer to families to full-day and full-year services, where appropriate, and to leverage other child care dollars to improve quality and better meet family needs.

We emphasize the importance of school readiness and literacy preparation in Head Start. While I think this has always been a critical part of Head Start, this bill ensures that gains will continue to be made in this area.

Mr. President, this bill puts Head Start on strong footing as we approach the 21st Century. It is a framework within which Head Start can continue to grow to meet the needs of more children and their families. What is unfortunate is that we cannot guarantee more funding for Head Start—I think it is shameful that there are waiting lists for Head Start and that only 40 percent of eligible children are served by this program. And Early Head Start, which is admittedly a new program, serves just a tiny fraction of the infants and toddlers in need of these services.

The President has set a laudable goal to reach 1 million children by 2002. But I say we need to do more. We need a plan to serve 2 million children—all those eligible and in need of services—as soon as possible.

Some argue that meeting the goal of fully funding Head Start will be too costly. Yes, it will cost a great deal to get there. But my question is how much more will it cost not to get there?

Studies show us that children in quality early childhood development programs, such as Head Start, start school more ready to learn than their non-Head Start counterparts. They are more likely to keep up with their classmates, avoid placement in special education, and graduate from high school. They are also less likely to become teenage mothers and fathers, go on welfare, or become involved in violence or the criminal justice system.

How much does it cost when we don't see these benefits?

I know this is an issue for another place and another venue. But I am hopeful as we strengthen the program we can also strengthen our resolve to expand this successful program to more children and their families.

Mr. President, the bill before us also makes important changes to the Community Services Block Grant program. CSBG makes funds available to states and local communities to assist low-income individuals and help alleviate the causes of poverty. One thousand local service providers—mainly Community Action Agencies—use these federal funds to address the root causes of poverty within their communities. CSBG dollars are particularly powerful because local communities have substantial flexibility in determining where these dollars are best spent to meet their local circumstances.

I have had the pleasure of visiting Community Action Agencies in Connecticut many times. They are exciting, vibrant places at the very center of their communities—filled with adults taking literacy and job training courses, children at Head Start centers, seniors with housing or other concerns, and youths participating in programs or volunteering their time.

To see clearly how critical the CSBG program is to the nation's low income families, one only needs to look at the statistics. The CSBG program in 1995 served more than 11.5 million people, or one in three Americans living in poverty. Three-quarters of CSBG clients have incomes that fall below the federal poverty guideline.

This bill recognizes the fundamental strength of this program and makes modest changes to encourage broader participation by neighborhood groups. In addition, it improves the accountability of local programs.

This bill also reauthorizes the vitally important Low Income Home Energy Assistance Program, or LIHEAP. Nearly 4.2 million low-income households received LIHEAP assistance during FY1996, more than 70,000 households in Connecticut. One quarter of those assisted by LIHEAP funds are elderly. Another 25 percent are individuals with disabilities. I cannot overvalue the importance of this assistance—it is nearly as necessary as food and water to a low-income senior citizen or family with children seeking help to stay warm in the winter—or as we have seen recently in the Southwest—to stay cool during the summer.

This bill makes no fundamental changes to the LIHEAP program. I am very pleased we increase the authorization of the program to $2 billion, which recognizes the great need for this help. I wish House appropriators, who eliminated the program earlier this month, shared this commitment to meeting these most basic needs. We also put into place a system to more accurately and quickly designate natural disasters. Early disaster designation will allow for the more efficient distribution of the critically important emergency LIHEAP funds, aiding States devastated by a natural disaster.

This bill contains one new, important program—the Individual Development Accounts, based on a bill offered by Senator COATS and Senator HARKIN. Individual Development Accounts, or IDA's, are dedicated savings accounts for very low income families, similar in structure to IRA's, that can be used to pay for post-secondary education, buy a first home, or capitalize a business. This program is a welcome addition to the Human Services Act family. The Assets for Independence title will provide low-income individuals and families with new opportunities to move their families out of poverty through savings.

This is strong bill and it is a good bill. And I want to thank Senator COATS again for his committed leadership on this important bill.

Mr. KENNEDY. Mr. President, the Human Services Reauthorization Act before us today is landmark legislation and is backed by a broad bi-partisan coalition. It represents legislation at its best, with Members on both sides of the aisle working closely together and with the Administration to achieve better results for America's children.

I commend Senator JEFFORDS, Senator COATS, and Senator DODD for their leadership in making this bill a reality. Together we have produced legislation that preserves and enhances these needed family programs while addressing the concerns that have been raised. Our bipartisan goal is to take these worthwhile programs and make them even better.

The pending bill is an important step toward a more effective family policy. This legislation consolidates, reorganizes, and reauthorizes services for poor families and their children by investing in programs to strengthen families, promote child development, and build communities. In keeping with efforts to reinvent government, the Act promotes one-stop shopping by consolidating several existing categorical programs into more comprehensive and coordinated programs. It improves performance by developing outcome measures and monitoring progress, and it puts families first by promoting self-sufficiency. We have worked carefully to draft a bill that addresses the concerns of Senators on both sides of the aisle. I urge my colleagues to support this important bill, and I urge my colleagues in the House, both Democrat and Republican, to join together as we have to provide services to America's families.

TITLE I: HEAD START ACT OF 1998

Title I of the bill reauthorizes Head Start while making improvements in this strong and effective program. The 1994 Act significantly improved the quality and scope of Head Start services. The bill before us today recognizes these successes and builds on them.

Before we acted in 1994, the Carnegie Foundation had released a report which called for a greater national effort to support low-income children, particularly those under age 3 who are at the greatest risk. The period between birth and age three is critical to be a child's development. Synapses not formed in a child's brain period can never be formed later.

We responded to these findings by introducing the Early Head Start program to provide comprehensive services to families who qualify for Head Start and who have children under age 3. We introduced this program by phasing it in gradually over 4 years, and it is now providing crucial services to 40,000 of the nation's neediest infants and toddlers.

The present bill continues to gradually expand this vital program, in keeping with advice from experts on child development. Early Head Start will be expanded to twice its size by 2002, so that 80,000 children can receive these services. This expansion will still serve only 1 out of every 25 eligible babies and toddlers, but it will give us more knowledge and experience on how to help most at this crucial period in children's lives.

We have also added to Early Head Start a training and technical assistance fund which will enable the program to grow in quality. To maximize its effectiveness, it is important to ensure the highest possible quality. The set-aside in Head Start has helped to maintain and improve the quality of these services, and Early Head Start needs similar safeguards.

In 1994, we also made significant improvements to Head Start by implementing stringent quality standards. As a result, dozens of programs not meeting these standards were closed down, and many more were brought back to health and now serve as strong programs. Today, we build on these improvements by adding requirements that ensure that children with disabilities will receive services appropriate to their needs and that Head Start centers will be physically accessible to children and their families. We have also sought more research, so that we can continue to build on this program in the most effective ways possible in future years.

This legislation also includes three other priorities. It reauthorizes and amends the Community Services Block Grant and the Low Income Home Energy Assistance Program, and it creates demonstration projects to study the benefits of Individual Development Accounts.

TITLE II: COMMUNITY SERVICES BLOCK GRANT ACT OF 1998

This bill recognizes the strength of the Community Services Block Grant program and leaves it largely unchanged. I am proud to have been a supporter of the Community Action Agencies funded under the CSBG block grants as long as I have been in the Senate. Robert Kennedy, as a Senator, sponsored the original Community Development Corporation legislation that is now funded under these block grants. Community Action Programs were created to respond to the complex social problems that face low-income individuals, families, and communities. These community-based public-private partnerships are a central part of the low-income service delivery network. In reauthorizing the Community Service Block Grant, we are promoting self sufficiency, family stability, and community revitalization.

TITLE III: LIHEAP

This legislation also reauthorizes the Low-Income Home Energy Assistance Program through the year 2004. For over four million LIHEAP beneficiaries across the nation, including 112,000 in Massachusetts, this program has made a major difference in the lives of thousands of working families and elderly households. Last week in Texas, for example, LIHEAP funds were made available to help families suffering from the triple-digit temperatures.

LIHEAP does more than just keep households warm in the winter and cool in the summer. It is also a lynchpin for self-sufficiency.

Many working parents are concerned about the health of their families. Researchers at Boston City Hospital have found that higher utility bills during the coldest months force low-income families to spend less money on food—the so-called "heat or eat" effect.

Unfortunately, the House Appropriations Committee voted to eliminate funding for this important program. Unless this funding is restored—and I am confident that it will be in the Senate—it will be a very cold Winter for millions of LIHEAP recipients across the nation.

By reauthorizing LIHEAP, the Senate will be placing this program on a solid footing for the future. I am especially pleased that this legislation includes provisions that I sponsored with Senators JEFFORDS and Senator HARKIN to clarify the criteria for the President to release emergency LIHEAP funds, so that needed funds can help low-income families adversely affected by hot or cold weather, ice storms, floods, earthquakes, and other natural disasters get through the emergency. In addition, it will enable the release of emergency LIHEAP funds if there is a significant increase in unemployment or home energy disconnections.

TITLE IV: INDIVIDUAL DEVELOPMENT ACCOUNTS

Finally, this bill establishes Independent Development Account demonstration projects. This program will determine whether providing matching funds to poor individuals using savings accounts is an effective way to encourage them to save for their futures and develop self sufficiency. States and towns with such programs have seen impressive results. The demonstration projects in today's bill will enable us to see whether these programs can be effective nationwide.

This bipartisan bill puts families first. It is an excellent example of what happens when we work together in the interest of American families. This legislation will benefit millions of families living in poverty, and will bring immeasurable benefits to our society as a whole. I urge the Senate to approve it.

Mr. HATCH. Mr. President, I ask unanimous consent the committee substitute be agreed to, the bill be read a third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to S. 2206 appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was deemed read the third time.

The bill (S. 2206), as amended, was passed.

VETO MESSAGE—H.R. 1122

Mr. HATCH. Mr. President, I ask unanimous consent that the veto message to accompany H.R. 1122, the Partial-Birth Abortion Ban Act, be considered as read, printed in the RECORD, and spread in full upon the Journal.

The PRESIDING OFFICER. Without objection, it is so ordered.

The veto message is as follows:

To the House of Representatives:

I am returning herewith without my approval H.R. 1122, which would prohibit doctors from performing a certain kind of abortion. I am returning H.R. 1122 for exactly the same reasons I returned an earlier substantially identical version of this bill, H.R. 1833, last year. My veto message of April 10, 1996, fully explains my reasons for returning that bill and applies to H.R. 1122 as well. H.R. 1122 is a bill that is consistent neither with the Constitution nor sound public policy.

As I have stated on many occasions, I support the decision in *Roe* v. *Wade* protecting a woman's right to choose. Consistent with that decision, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, H.R. 1122 does not contain an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury.

I have asked the Congress repeatedly, for almost 2 years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe the Congress should work in a bipartisan manner to fashion such legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 10, 1997.*

Mr. HATCH. I further ask that the veto message be set aside, to be called up by the majority leader, after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, JULY 28, 1998

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, July 28. I further ask that when the Senate reconvenes on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of H.R. 1151, the Credit Union Membership Access Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I further ask that the Senate stand in recess from 11:55 a.m. until 12:15 p.m., and then again from 2:45 p.m. until 3:45 p.m. so that Members may attend the memorial services for the fallen Capitol Hill police officers.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HATCH. For the information of all Senators, when the Senate reconvenes on Tuesday at 9:45 a.m., there will be 15 minutes for closing remarks on the Shelby amendment to the credit union bill. At the conclusion of that debate, at approximately 10 a.m., the Senate will proceed to vote on or in relation to the amendment. Following that vote, it is hoped that the Senate will move quickly to pass the credit union bill.

After disposition of that legislation, the Senate may begin consideration of the Treasury-Postal appropriations bill. It is also possible during Tuesday's session for the Senate to begin consideration of health care legislation, other appropriations bills, any available conference reports, and any other executive or legislative items cleared for action.

The majority leader would like to remind Members that the Senate will recess from 11:50 a.m. until approximately 12:15 p.m., and then again from 2:45 p.m. until 3:45 p.m. so that Senators may attend the memorial services in the Rotunda for the fallen police officers.

ORDER FOR ADJOURNMENT

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of H. Con. Res. 310 in memory of the two fallen police officers following the remarks of the distinguished Senator from West Virginia, Senator BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I thank my colleague for allowing us to do that.

THE PRESIDING OFFICER. The Senator from West Virginia is recognized.

(The remarks of Mr. BYRD pertaining to the introduction of S. 2358 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD. Mr. President, I yield the floor, but before doing so, I thank the distinguished Presiding Officer, who has been so patient in doing his duty in the Chair.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned as a further mark of respect to the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut, until 9:45 a.m., Tuesday, July 28, 1998.

Thereupon, the Senate, at 7:23 p.m., adjourned until Tuesday, July 28, 1998, at 9:45 a.m.

HOUSE OF REPRESENTATIVES—*Monday, July 27, 1998*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. COBLE).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 27, 1998.

I hereby designate the Honorable HOWARD COBLE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 12 noon in lieu of morning hour debates.

Accordingly (at 10 o'clock and 31 minutes a.m.), the House stood in recess until 12 noon.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 12 noon.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Let us pray.

We gather together for prayer as we do every day when we ask for guidance and blessing for the day ahead.

But on this day, O God, we come with hearts that are saddened and with souls distressed with the knowledge that violence has been done to our community. As we gather for our prayer we come as people who have the honor of service in this special place, but today we mourn the loss of two of our colleagues who gave their lives so others would live.

From this time onward the names of Jacob Chestnut and John Gibson will be remembered with honor and dignity and praise and thanksgiving. O loving and eternal God, whose mercies are without end, we ask Your blessing upon the families of these men. Comfort them in their sorrow, strengthen them in their need, grant solace and peace in their hearts. You have promised, O God, that though we walk through the valley of the shadow of death, You are with us with Your grace and Your promise of eternal life.

We also remember in our prayer Angela Dickerson and offer our prayers for her recovery. May Your spirit be with her and her family and sustain them in the days ahead.

We pray, O loving God, that your strong hand will give a special blessing to those men and women who have devoted their lives to the protection of all of us who work in our Capitol, and also the many who visit this place. For all the police who serve with faithfulness and dedication and who mourn the loss of two of their own, we ask for Your healing presence. Be with them in their grief.

May your peace, O God, that passes all human understanding, be with all who mourn, now and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Maryland (Mr. HOYER) come forward and lead the House in the Pledge of Allegiance.

Mr. HOYER. Mr. Speaker, I would ask all Members and guests to join me in pledging allegiance to the flag, which stands for the principles for which Detective Gibson and Officer Chestnut have so recently given their lives.

Mr. HOYER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

AUTHORIZING USE OF ROTUNDA OF CAPITOL FOR MEMORIAL SERVICE FOR DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT OF UNITED STATES CAPITOL POLICE

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the concurrent resolution (H. Con. Res. 310) and I ask for its immediate consideration and adoption by the House.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read as follows:

H. CON. RES. 310

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZING USE OF ROTUNDA OF THE CAPITOL FOR MEMORIAL SERVICE FOR DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT.

The rotunda of the Capitol is authorized to be used for a memorial service and proceedings related thereto for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police on Tuesday, July 28, 1998, under the direction of the United States Capitol Police Board.

SEC. 2. PLACEMENT OF PLAQUE IN CAPITOL IN MEMORY OF DETECTIVE GIBSON AND PRIVATE FIRST CLASS CHESTNUT.

The Architect of the Capitol shall place a plaque in honor of the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police at an appropriate site in the United States Capitol, with the approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SEC. 3. PAYMENT OF FUNERAL EXPENSES FOR JOHN GIBSON AND JACOB JOSEPH CHESTNUT.

(a) IN GENERAL.—The Sergeant at Arms of the House of Representatives is authorized and directed to make such arrangements as may be necessary for funeral services for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, including payments for travel expenses of immediate family members, and for the attendance of Members of the House of Representatives at such services, including payments for expenses incurred by Members in attending such services.

(b) SOURCE AND MANNER OF MAKING PAYMENTS.—Any payment made under subsection (a) shall be made from the applicable accounts of the House of Representatives, using vouchers approved in a manner directed by the Committee on House Oversight.

SEC. 4. PAYMENT OF SURVIVOR'S GRATUITY TO WIDOWS OF JOHN GIBSON AND JACOB JOSEPH CHESTNUT.

(a) IN GENERAL.—In accordance with the first sentence of the last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" in the first section of the Legislative Branch Appropriation Act, 1955 (2 U.S.C. 125), the Chief Administrative Officer of the House of Representatives is authorized and directed to pay, from the applicable accounts of the House of Representatives—

(1) a gratuity to the widow of Detective John Michael Gibson of the United States Capitol Police in the amount of $51,866.00; and

(2) a gratuity to the widow of Private First Class Jacob Joseph Chestnut of the United States Capitol Police in the amount of $47,280.00.

(b) TREATMENT AS GIFT.—Each gratuity paid under subsection (a) shall be held to have been a gift.

SEC. 5. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF CAPITOL POLICE MEMORIAL FUND.

It is the sense of Congress that there should be established under law a United States Capitol Police Memorial Fund for the surviving spouse and children of members of the United States Capitol Police who are slain in the line of duty.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. HOYER. Mr. Speaker, reserving the right to object, obviously I will not object, but at this time I yield to the distinguished gentleman from Texas (Mr. DELAY), the majority whip, who lost a good and true friend, as all of us lost two good and true friends.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Maryland for yielding, and I appreciate the gentleman's expression of sympathy. The gentleman has always shown a true regard for the Capitol community and the people that work here, and particularly the Capitol Police that protect us. I appreciate the gentleman joining me in this resolution.

Mr. Speaker, this resolution will do several things. I want Members to understand that this is not the only resolution we will be doing today. Later on today, when Members come back and get into town, they will be able to express themselves when we will have another resolution honoring Detective Gibson and Officer Chestnut.

Mr. Speaker, this particular resolution establishes some very real principles. First of all, it authorizes the use of the Rotunda for a memorial service for Detective Gibson and Private First Class Chestnut. It also, for the first time that I know of, authorizes the placement of two plaques in honor of Detective Gibson and Officer Chestnut in the general area where they lost their lives, commemorating those two spots in the Capitol.

We also want to obviously pay for their funeral expenses. This resolution allows us to do that. We also want to make sure that their surviving widows are taken care of and make sure that they do not have any concerns about their future and the future of their children, and, therefore, we authorize one year's annual salary to be paid to the widow of Detective Gibson and to the widow of Officer Chestnut. We also establish a Capitol Police Memorial Fund that will be used for whatever the needs may be of the families of Detective Gibson and Officer Chestnut.

Later on today, as I said, we will consider a concurrent resolution that honors the memory of these two officers, of these two fine, fine gentlemen. Some, probably cynically, are already asking why we are using the Capitol Rotunda to honor these two brave men. After all, police officers are slain in the line of duty all over the country; why should these two particular men receive special treatment? Is it simply because they died defending Members of Congress and their staff?

Besides their personal bravery, these men died defending the Capitol of the United States of America, the symbol of freedom across this world. They are the first Capitol Police officers to die in the line of duty since the Capitol Police Department was created 170 years ago. They died saving lives. They died doing their job. They died being professionals and representing a fine, fine law enforcement group of officers that protect this Capitol and everybody in it, whether they be tourists, Americans, people from other nations or Members of Congress and their staffs.

I just feel that it is absolutely fitting, and I greatly appreciate the leaders of both the House and Senate in agreeing to use the Rotunda to pay tribute to these two officers. By paying tribute to their sacrifice, we all pay tribute to the sacrifices of law enforcement officers all across this country. What more fitting place to pay tribute to law enforcement officers than in the Rotunda of the building that is the symbol of freedom across the world?

John Gibson and J.J. Chestnut were members of this Capitol Hill community. One of the most gratifying things that I know the families have received, as well as me and my staff, who have had a very difficult weekend, is all the calls from all across the country honoring these two wonderful men as heroes. They are leaving behind many grieving friends and associates here in this Capitol Hill community.

I saw J.J. Chestnut every night when I left this building. He was always standing there by the document door. He was always grinning, and he was always giving me, in a very warm, openhearted way, a hearty, hearty, sincere, "Good night, Congressman. You take care of yourself." And every night I would respond with, "J.J., you be careful."

He was careful, but, unfortunately, not enough, and this shooter comes in and shoots him. But my enduring vision of J.J. will be of a professional officer who loved his job, loved his post, fought to keep his post, and he was dedicated to his duty in protecting the Nation's Capitol and everyone that was in it.

John Gibson was a member of my security detail, and, therefore, he was a member of my staff. But, as importantly, my wife and my daughter and I feel very strongly that he was a member of our family. John and I went everywhere together. We had many long talks about life, about family, about duty and about country.

John loved his detective badge. In fact, he would get in trouble for wearing it, but he wore it because he was so proud about the fact that he was a detective in the Capitol Police Corps, that he had made detective, that he was a man that believed in duty, and that he knew that it would be possible some day that he would have to throw his body in front of me or someone like me and my staff.

□ 1215

One never thinks that that is really going to happen, but it happened on Friday, and John did throw his body between my staff and a shooter, and he lost his life for it. The President said it so well, because it is in scripture, that "No greater gift is there than the gift of laying down your life for another," and John gave the ultimate gift.

He loved his country, John did. He loved sports. John Gibson was a solid man. He was a patriot. He exemplified everything that was good about America.

Both John Gibson and J.J. Chestnut are also members of another community, and that is the Nation's community of police officers. As such, their sacrifice represents the sacrifices of thousands of police officers across the Nation who do their duty to serve and protect the public, sometimes under great abuse, sometimes under great disregard, and many times people take them for granted. It all comes together when an incident like this happens and we realize how much we owe to police officers all across this country.

So I think by using the Rotunda to honor these fallen heroes we are honoring not only the specific acts of courage that have saved so many other Americans and we are not only honoring them because of the fact that this was their building and they were protecting it, we also honor them, all fallen law enforcement heroes who have died defending the American people from evil.

So my heart goes out to the families of John Gibson and J.J. Chestnut, and particularly those young kids that have lost a father. We have lost two wonderful heroes who have saved so many from harm. We have lost two heroes who were dedicated husbands and wonderful fathers, and I urge all my colleagues and the American people in general to pray for these families as they try to cope with this great loss.

Mr. Speaker, I will just add at the end, if people around this country want to donate to the memorial fund created by this resolution, they can send their contributions to the United States Capitol Police Memorial Fund, United States Capitol, Washington, D.C., 20515.

Let me also add, if the gentleman will further yield, something that really touched me just a while ago. One of the pages came up to me and handed me this, and I want to put it in the

RECORD, from the pages that serve here in the United States House of Representatives.

Mr. Speaker, the Pages would like to say that "We salute these two fallen heroes who gave their lives for ours. In the line of duty, these men stood strong and brave for their country. For that, we all owe a great debt of gratitude.

"We are all aware of their courageous sacrifice, and we hold these officers deep in our hearts. God bless their families, and God bless America."

Mr. Speaker, I appreciate the gentleman yielding, and I include for the RECORD the tribute by our Pages.

FROM THE PAGES OF THE U.S. HOUSE OF REPRESENTATIVES

We salute these two fallen heroes who gave their lives for ours. In the line of duty, these men stood strong and brave for their country. For that, we all owe a great debt of gratitude.

We are all aware of their courageous sacrifice, and we hold these officers deep in our hearts. God bless their families, and God bless America.

Mr. HOYER. Mr. Speaker, under my reservation, I sadly join the majority whip, whose comments are both personal but express as well the sentiments of his colleagues.

Over 14,622 law enforcement officers have lost their lives in the history of our country. The first one lost his life in 1794. Since that time, we have asked some of our fellow citizens to take upon themselves the responsibility and the risk of defending freedom here at home.

When I began the Pledge of Allegiance, I said that Officer Chestnut and Detective Gibson died defending the principles for which it stands. That was literally and figuratively true. Every morning those whom we ask to bear the responsibility of maintaining order in a civil society, without which we would not have freedom and justice and the rule of law, they put on their uniform or their plain clothes and they put on a badge, and most of them attach a gun to their hip or to their shoulder. They and their families know that daily they risk their lives. In this instance, of course, because no previous Capitol police officer has lost his or her life in a confrontation, that risk seemed remote.

Mr. Speaker, Friday, July 24 reminds us once again that the risk is always present for those we ask to defend this free society. The vagaries of life are such that there are those, either demented or angry or for whatever reasons, take onto themselves the opportunity to commit violence.

In this instance, Officer Chestnut, Detective Gibson and, indeed, the hundreds of Capitol police officers who responded to this crisis, gave their lives that many others might be safe and, more importantly, to indicate that the Capitol of the United States, Freedom's House, if you will, will, in fact, be accessible, but it will also be protected.

Our community on this Hill is a grief-stricken community, and it is a reflection of a country that shares that grief. I have had the opportunity of talking to family members of these officers. I and so many others on this floor know the personal grief that they are experiencing. They have lost a loved one. They have lost a friend. They have lost a dad or brother or an uncle or a friend and a neighbor. They have a very personal grief.

But our country has a collective grief, and it is appropriate that we honor these men, both as individual American heroes, but as well, as the majority whip has indicated, as two members of a group of some 700,000 Americans who daily leave their homes and take to their duties to defend America's principles, to defend Americans, to defend an orderly society.

These men and women of law enforcement, like those we ask to join the Armed Services and defend freedom abroad, are equally responsible for us being able to meet in this body in a society that honors the peaceful resolution of disputes. We are the land of the free because we are the home of the brave. This resolution honors two of those brave who ensure that this will be, in fact, the land of the free.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Texas?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 5 p.m.

Accordingly (at 12 o'clock and 25 minutes p.m.), the House stood in recess until approximately 5 p.m.

□ 1702

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ARMEY) at 5 o'clock and 2 minutes p.m.)

HONORING THE MEMORY OF DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT OF THE UNITED STATES CAPITOL POLICE FOR THEIR SELFLESS ACTS OF HEROISM AT THE UNITED STATES CAPITOL ON JULY 24, 1998

Mr. GINGRICH. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 311) honoring the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police for their selfless acts of heroism at the United States Capitol on July 24, 1998, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 311

Whereas the Capitol is the people's house, and, as such, it has always been and will remain open to the public;

Whereas millions of people visit the Capitol each year to observe and study the workings of the democratic process;

Whereas the Capitol is the most recognizable symbol of liberty and democracy throughout the world and those who guard the Capitol guard our freedom;

Whereas Private First Class Jacob "J.J." Chestnut and Detective John Michael Gibson sacrificed their lives to protect the lives of hundreds of tourists, staff, and Members of Congress;

Whereas if not for the quick and courageous action of those officers, many innocent people would likely have been injured or killed;

Whereas through their selfless acts, Detective Gibson and Private First Class Chestnut underscored the courage, honor, and dedication shown daily by every member of the United States Capitol Police and every law enforcement officer;

Whereas Private First Class Chestnut, a Vietnam veteran who spent 20 years in the Air Force, was an 18-year veteran of the Capitol Police, and was married to Wen Ling and had five children, Joseph, Janece, Janet, Karen and William;

Whereas Detective Gibson, assigned as Rep. Tom DeLay's bodyguard for the last three years, was an 18-year veteran of the Capitol Police, and was married to Evelyn and had three children, Kristen, John and Daniel;

Whereas Private First Class Chestnut and Detective Gibson were the first United States Capitol Police officers ever killed in the line of duty;

Whereas Private First Class Chestnut and Detective Gibson, and all those who helped apprehend the gunman, assist the injured, and evacuate the building, are true heroes of democracy, and every American owes them a deep debt of gratitude: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress hereby honors the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police for the selfless acts of heroism they displayed on July 24, 1998, in sacrificing their lives in the line of duty so that others might live; and

(2) when the House of Representatives adjourns on this date and when the Senate adjourns or recesses on this date, they shall do so out of respect to the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent that the concurrent resolution be debatable for 2 hours and 30 minutes, equally divided and controlled by myself or my designee and the minority leader or his designee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGRICH) is recognized for 1 hour and 15 minutes.

Mr. GINGRICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first thank everyone who rose to their duty or went beyond their duty in the last few days: the Capitol Police, the various emergency teams, the medical centers, the Washington Metropolitan Police, the Federal Bureau of Investigation, staffs here in the Congress, Members of the House and Senate.

An awful lot of people, including, let me say, the visitors to the Capitol, an awful lot of people responded in a human way to a human need. For myself, I particularly want to thank Senator CONNIE MACK, who voluntarily called and went around with me on Friday night to visit the family of officer J.J. Chestnut and the family of John Gibson, and also to visit the family of the visitor that had been injured, Angela Dickerson, and her family, who were visitors to the Capitol.

Because I think had every American been able to visit those families in this time of shock, of pain, of loss, and to have seen the courage, the dedication, the pride that the families felt, I think it was a very humbling experience. I know that for me and for them, it was enriched by Senator MACK taking the time to be with them, to express his concern on behalf of the entire Senate.

Let me also say that I have been very grateful to Senator LOTT for responding again and again, and for Senator DASCHLE, and to the minority leader, the gentleman from Missouri (Mr. GEPHARDT), and the majority leader, the gentleman from Texas (Mr. ARMEY), because together we have made a series of decisions that are without precedent, because frankly, this is an event without precedent.

In all the history of the United States, no one had ever been killed defending the Capitol. In all the history of the Capitol Police, never before had officers been killed in the line of duty.

I believe that it drove home to all of us, certainly to me and those Members I have talked to, to the staffs I have talked to, how real and how serious the process of security is, and how much we are a Capitol Hill family; that the larger family of freedom has within it a smaller family of individuals who work together every day.

In a few minutes, the majority whip, the gentleman from Texas (Mr. DELAY) will talk, and he will talk from the heart about Detective John Gibson. But I was very struck, both that Mrs. DeLay said to me when I called to chat with her that John Gibson had become like family because they are so close; and then when I went out to the hospital, Mrs. Gibson, Evelyn, said how proud John Gibson was to have worked with the gentleman from Texas (Mr. TOM DELAY), and how much he enjoyed his assignment; how close they had become.

To further drive home how much a family this is, I learned later that Evelyn Gibson is the niece of the gentleman from Massachusetts (Mr. JOE MOAKLEY), so it becomes an ever tighter and more human tying together of families.

Let me also thank President Clinton, who responded immediately with concern on Friday afternoon; who on Saturday helped the Nation come to grips with this tragedy; and who has been extraordinarily cooperative in making arrangements for Arlington Cemetery and in agreeing to be at the memorial service tomorrow.

When I talked with staff members, and I was with the various staff members who had been in the whip's office at the time that the Capitol was attacked, at the time that Detective Gibson gave his life saving their lives, I think anybody who talked with them and heard from those staff their feelings, their sense of the degree to which John Gibson rose to the occasion, the degree to which he immediately told them to protect themselves, told them to be safe, the degree to which he then literally placed his body between danger and innocent people, cannot help but be moved by this level of dedication.

If you had talked to the visitor who was standing next to Officer J.J. Chestnut when he was killed and you learned that, literally, Officer Chestnut was in the process of giving directions to the subway to help visitors to the Capitol, and then you learn that his partner was a few feet away because he was getting a wheelchair to help other visitors, it reminded you that they are both our protectors and our ambassadors, and how much they do to make this Capitol a better place, and how tragic their deaths are.

Let me also thank all of the visitors who Marianne and I saw on Saturday when we walked over to the Capitol. Because of their commitment, the visitors have said it is important not to let madmen or terrorists frighten us away from freedom; it is important to come to our House, the people's House, to our building, the people's building. Tourists were there as an act of patriotism, not just to visit in the normal sense but to deliberately go there the day after the shootings to say that they were going to show their solidarity, and I was moved to tears walking up the main steps and seeing a set of flowers that had already been there at 9:30 that morning, that had wrapped around it, "To our heroes who save our freedom." I think no person who has a heart could have passed those flowers without having tears come to their eyes, because they captured it.

These two men are genuine heroes. They did their job. The system worked but at terrible personal cost. We are safe because of their sacrifice.

It is totally appropriate that we have suspended any other business for today in honor of their memory. It is totally appropriate that for the first time in history, two officers will be lying in honor in the Rotunda tomorrow. It is totally appropriate that we recognize them both for what they have done here at the Capitol and for the reminder that safety and freedom come at a very human cost; that there are uniformed personnel in the police, in the Border Patrol, in the military, who even as I speak are putting their lives on the line in order that this civilization can continue.

I want to say to Officer Chestnut's family, to Wen Ling, his wife, to Joseph, Janece, Janet, Karen and William, that you can be very, very proud of your father. He served his country in the Air Force and he served his country in the Capitol Police. He was a man I saw every day, as did most Members of the leadership, because that was the door we went in and out of every day. He was always courteous. He was always firm. He was always disciplined. He always did his job. He will be very sadly missed, but your family can be proud that your father is a genuine hero.

Let me say to Detective John Gibson's family, to his wife Evelyn and to his three children, Kristen and John and Daniel, that Detective Gibson had made a real mark here. At one point he had helped me a number of years ago. Then he was assigned to help the whip, TOM DELAY. He was an active supporter of Heroes, which is a nationwide program which helps families of officers who are killed in the line of duty. He was a man dedicated to law enforcement and a man who for 18 years had served this Capitol and this country very well.

While you cannot replace him, I hope that your memory of him as a genuine hero is a memory that will bring you some warmth in these difficult times.

I think I speak for every Member of the House and Senate and for every staff person who works here in saying to these two families that our hearts go out to you; that we were proud to announce on Saturday the establishment of a memorial trust fund at the Capitol Police; that we believe that every citizen who wants to have an opportunity to participate should have that opportunity and that these families deserve an outpouring of concern and of affection because they have literally given the highest full dedication to their country that anyone can give.

□ 1715

We will continue to protect the Capitol and to protect freedom. We will not allow terrorists or madmen to block this from being the People's House and the People's building. We recognize with sadness and a clearer sense of duty just how vital the role is of the Capitol Police, and I believe every citizen who comes to this building will, for many years to come, recognize that the men and women who are protecting this building are truly doing a vital job if freedom is to survive.

Mr. Speaker, I now yield such time as he may consume to the distinguished gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, I greatly appreciate those words. I really want to thank the Speaker and the gentleman from Missouri (Mr. GEPHARDT), the minority leader; the gentleman from Michigan (Mr. BONIOR), the minority whip; the gentleman from Texas (Mr. ARMEY), the majority leader; and the majority leader in the Senate, Senator LOTT; and the minority leader of the Senate, Senator DASCHLE; for quickly understanding the import of what happened on Friday around 3:40 p.m. and how important it is to the Nation, as well as to the Capitol community, to honor these two heroes.

They understood the importance, understood how we needed to come together and figure out some way to honor them, and that is why they will lie in honor tomorrow in the Rotunda. That is why I greatly appreciate the President understanding how important this is to the Capitol community; and he just announced that, even though Detective Gibson is not a veteran, he will be allowed to be buried in Arlington Cemetery. I greatly appreciate that, and the families of Officer Chestnut and Detective Gibson greatly appreciate that.

A little housekeeping, I understand that even if we run out of time this evening, those Members that wish to speak, who could not speak tonight, will be able to speak in honor of these gentlemen tomorrow.

Mr. Speaker, we dedicate this resolution to honor the memory of Detective John Michael Gibson and Officer Jacob Joseph Chestnut. And tomorrow, as I have said, we must live our lives knowing that this country was a better place because of the dedication and the courage of these two men.

It is, after all, the lives of these two men that we celebrate today. Both were family men who loved their jobs and loved their country. Both gave their lives defending the United States, the Capitol, and the people who either worked here or visited here.

John Gibson was especially close to my staff and to me and my family, as everyone knows. And as I have said before, John was part of my family and in many ways he was and is our guardian angel.

There are so many stories to talk about John. I have said already probably anything and everything I could say, so I decided to take this time not for me to speak about John, but to allow my staff to speak about John. This is the day I asked my staff, anyone who wanted to say something about John, to put it in words; and if I may, I will take a little time so that people understand how important John Gibson and J.J. Chestnut were to our family.

Tony Rudy said that, "My fondest memory of John is when we used to rush to get the 4 o'clock mail and try to get the Boston Herald and the Boston Globe. We would talk UMass hoops and about the Bruins. He worked very hard to get TOM to understand and enjoy hockey."

John Russell said, "Officer Chestnut would scold me whenever I walked past him entering the building after I had a cigarette outside, and said it was his mission to get me to quit and be as healthy as he was."

Frank Maguire, "With both John and I being Irish Catholic with a Massachusetts heritage, we exchanged family stories about growing up and found many similarities that we could laugh about. I had described John to my wife as my vision of what a Catholic priest would be like who was allowed to marry and raise a family. I will never forget that mental image of John Gibson.

"He was from a bygone era, one where people actually stopped and took time to learn about you as a person and your family, before focusing on what function you were to perform in the office."

John Feehery said, "I remember feeling a real sense of security every time I saw Officer Chestnut. You could tell he took real pride in his work and who he was as a police officer."

Mary Ellen Wright, the dear girl that saw John shot, says, "When you remember John, remember that grin. His grin that could melt your heart or tell you that you had done wrong with just one look.

"When you remember John, remember that twinkle in his eye. It was often a twinkle of mystery and sometimes a mischievous twinkle, but always a twinkle of compassion, a twinkle of love.

"When you remember John, remember his honesty, his willingness to express his opinions, whether you agreed with him or not. Yes, that was John. He always spoke from his heart.

"When you remember John, remember his outstanding character, his commitment to his family, his commitment to his friends, to his work, and his overall commitment to excellence in all of his pursuits.

"When you remember John, consider yourself lucky to have crossed paths with such a fine man. Remember John with a smile. Cherish the precious moments, the precious memories, of which there are many. Everyone knows what a hero is, the many qualities that define such a unique person. John Gibson is not only a hero, but an angel. He was our angel on earth and is now our angel in heaven."

Lindsey Darrah, who was just 10 feet from John, her desk 10 feet from John, says, "Officer Chestnut, the watchdog. He was the officer that recognized us as staff, but regardless, made us show our IDs. He was the officer that was never quite convinced the silver tins were in fact filled with Popeye's Fried Chicken. Oftentimes, we would bring in five or six loads from the car. Yes, he not only made us open every single tin to see what was inside, but then he would make us put the chicken on the conveyor belt just to make sure it was really and truly that chicken from Popeye's. You can imagine that we were always highly annoyed with sweet Officer Chestnut, and I am sure he knew it. But he was just doing his job, and he would say so and we would all laugh every time."

Joe Connolly, who is the young man who sat just across the desk from John and who John, on hearing the shots being fired, knew that it was coming our way and told Joe to get under his desk. The shooter fell right beside Joe as John took him down. Joe says, "I just want people to realize how close everyone in our office really is. Most people may think, oh, he was just a cop. But it was definitely more than that, especially to me. He saved my immediate life, and I will never have a chance to personally thank him."

Autumn Hanna says, "I remember about a month after I started working here, I had to staff a large televised event with Mr. DELAY. I was incredibly nervous and John could tell. He walked into the hotel ballroom with me right behind Mr. DELAY, put his arm around me and whispered in my ear, 'Don't worry, I'll stay with you.'

"He stood right next to me throughout the evening and drove me home afterwards. His action that night reveals the dynamic of the relationship John had with all the Whip staff. He was our protector, a reassuring presence in the midst of the chaos and the confusion we encountered in our work days and nights here at the Capitol.

"He was that in his last moment. He gave his life in the midst of chaos and confusion. He gave his life protecting us, and I am still reassured by his presence. Our guardian is now in heaven instead of at the back door, but he will always be with us."

Deana Funderburk said, "Last year when I was working in the scheduling department of the Whip office, Mother Theresa visited the Capitol. Congressman DELAY, accompanied by John Gibson, went to the Joint Session in the Rotunda to welcome her. Before Congressman DELAY and John left the office, John asked me if I was going to be able to go. I unfortunately was not able to attend.

"The ceremony commenced and in remembrance of that momentous event, each person in attendance was given a pendant with an engraving of the Virgin Mary on it. After the welcoming ceremony was finished, John came up to my desk and held out his hand in a fist. He said that since I was not able to attend, he wanted me to have his special pendant.

"I cannot express how much that gesture meant to me, and how generous and kind a man he was. I still have that pendant which I will always treasure."

Pamela Mattox says, "In church yesterday, I looked at the crucifix and for the first time truly understood the sacrifice of giving up one's own life for others. That is what John Gibson did for all of us in the Whip office. We lived because he cared enough to protect us.

"But in reflection, every day he did more than that. His way of life exemplified the best of the Golden Rule, at worship, at home, at play, and at work.

"John Gibson was, in a most unassuming way, simply the best. We have lost someone precious and John is now with the Lord. He was very much needed by all of us and greatly loved. We thank you for allowing him to enlighten our lives and will forever miss him.

"John, thank you for making the world a far better place and leaving us with so many special memories."

Mr. Speaker, there are others on my staff who would like to say things, but maybe tomorrow we can put that in the RECORD. These are some of the things that my staff wanted to express about Officer Chestnut and Detective Gibson.

So, Mr. Speaker, this gives a sense of the kind of men they were and how tragic it is that they have been taken away from us. The entire Whip staff wants to send its condolences and prayers to the Gibson and Chestnut families and to the community, the Capitol community here. We all feel a great, great loss. We will always be grateful for their sacrifice.

Mr. Speaker, at a later date, hopefully we can come back and honor those Capitol Police that also were heroes and lived, those that were involved in the incident and did some very heroic things. They also deserve to be honored.

Mr. GEPHARDT. Mr. Speaker, first, I want to thank the Speaker of the House and the majority leader and the majority whip and all of the Members of the House who today with one voice bring this resolution in memory and to honor the memory of these two great officers, Officer Chestnut and Officer Gibson.

On Friday, at 3:40 or so in the afternoon, the family of the People's House was attacked by a deranged killer. We rise today in anguish and in real sorrow and devastation at the loss that occurred here in our House of Representatives and our Capitol.

□ 1730

But our loss is not nearly the loss that is felt by these dear families.

On Saturday, I had the opportunity to go to the House of Officer Gibson and to meet his wife and his children. Imagine putting yourself into the shoes of his wife who has lost her husband of many years without even so much as the opportunity to say goodbye. Imagine putting yourself into the shoes of a 13-year-old or a 15-year-old who adored your father and now he is gone. Their loss is unimaginable, unfathomable and impossible to understand.

I hugged his wife and told her how sorry all of us are and how much we loved them and cared for them. And I told them that even though they had lost their father, that in a real sense they now have 435 additional fathers and mothers, and that we will never, ever forget and we will never, ever let them down.

We will be there for them, for Officer Gibson's children and wife, Officer Chestnut's wife and children. I know that we will all be there to see that the injury that they have sustained, while it can never be taken back, while the loss can never be restored, that all of us together, functioning as a family, will be certain that they will not be injured further and, to the extent we can, we will love them forever.

Supreme Court Justice Brandeis, one of the greatest justices in our Nation's history, said that courage is the secret of liberty. That courage that Justice Brandeis was talking about is usually quiet and unheralded and unnoticed. But today we stand to recognize the public acts of courage of two brave human beings who literally gave their lives in their line of duty and so that others could live.

They lost their lives by the narrowest of margins. They could have been at another door. They could have been at another place. They could have been on another shift. But it is precisely that margin, measured out again and again on battlefields far, far from this place, on streets close to here, and last week only steps from where we stand, that marks out democracy from the darkness.

These two good men, strong and decent, rank in the legion of honor of those who died so that liberty may live on in the lives of others. They remind us of the lesson of all of our history, that the survival and success of a free society depends far less on grand speeches than on countless individual acts of duty and courage.

The ultimate sacrifice of J.J. Chestnut and John Gibson literally saved the lives of countless Members of our congressional family and countless numbers of visitors who pass through these halls. The scope of this tragedy could have been so much worse and touched so many more lives, had they not automatically responded so professionally and expertly to the horrible threat, the horrible violence which invaded this citadel of democracy.

The tragic and senseless event was a horrible reminder that our liberty and the liberty of all Americans faces a silent threat from the dark side of human nature. Those of us who spend so much of our lives in this public place often forget about the reality, the daily reality of this threat. But the men and women of the Capitol Police never forget. They are our guardians, not just of offices and officials, but of our city on the hill, the place that is the pride of our government and our country and the heart of our self-government. They allow the business of democracy to thrive, open to the citizens to whom it belongs.

We are here today to honor the fallen officers, but we also have to take this opportunity to salute the quiet courage of all the officers of the Capitol Police who come to work each day without notice, without heralding, without publicity, who get up and put their uniform on, pin their badge on and come into this place and face the threat of immediate death and violence. They are the salt of the earth. They are the reason our democracy can live, and they should be honored and they should be held up for all of our public to see and to notice today and always.

The members of the force believe in this great House. They are dedicated to working hard to protect the Members, the staff and, yes, the visitors who pass through here every day. And they do their job well, and they do it professionally. And they do it with courtesy.

As the Speaker said, Officer Chestnut was writing out directions for visitors to be able to get through the building. Another officer who was involved was also off getting a wheelchair. They have not just been guardians and policemen. They have been ambassadors of goodwill to the public which come to this building and want to understand what is happening here. Until a tragedy strikes, they never get the publicity or the attention they deserve for making this institution work and keeping it free and strong every day, every minute of every day and night.

Today we honor their sacrifice and their service to this Nation and to all of us.

I have the honor of being served also by a plainclothes officer, Ed Pence. Until Friday, I guess I never understood or was particularly conscious of the threat that he has faced every day over the last 9 years. I want to thank him. I want to thank his family. I want to thank all the officers and all of their families for their brave and dedicated service.

It is easy for us on the other side of the thin blue line to forget that law enforcement is the most dangerous job in our country, but it is a fact that our officers and especially their families are reminded of every day. So we pay tribute to these brave officers who gave their lives in defense of all of us and for our liberty. As we especially honor their families, we especially honor their families who will never be made whole no matter what we say or what we do in this place.

To those families we offer our prayers, we offer our gratitude. We cannot quench your sorrow. We can share it with you. We can stand in your shoes. We can imagine your hurt. We can imagine your anguish. We can pledge that you will be made whole, as best human beings can make you whole. We will never forget what your fathers did. They have made the ultimate sacrifice, and we will never forget it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BONIOR), the minority whip.

Mr. BONIOR. Mr. Speaker, I thank my leader and the Speaker and the distinguished gentleman from Texas (Mr. DELAY).

Today we come together to mourn two fallen heroes, John Gibson and Jacob Chestnut. They laid down their lives so that others might live and in defense of all this Capitol represents. Their heroism reminds us, once again, of the great sacrifices people have made so that our democracy might endure.

We honor their memories today, just as they honored our democracy with years of dedication, hard work and bravery.

Many people take for granted the fine work the Capitol Police do under extraordinary circumstances. Every day, as the Speaker and as the leader and as Mr. DELAY have said, they are responsible for protecting hundreds of Members of Congress, thousands of staff, tens of thousands of tourists who come to visit Capitol Hill. They deal with people from all walks of life, the young, the old, from just about every country on earth, people on vacation and those in a hurry, and they do it with efficiency, with friendliness, with courtesy and with professionalism. It is a difficult job but they do it with pride and dignity.

Few of us ever pause to ponder how much courage they summon every single day. We saw just how much courage on Friday and how quickly and how bravely they reacted to save the lives of those around them.

All of us owe them a tremendous debt of gratitude, and none of us will ever forget the sacrifice of John Gibson and Jacob Chestnut. Our hearts go out to their families, Jacob's wife, Wen, and their children, Joseph, Janece, Janet and Karen and William. And John's wife, Evelyn, and their children, Kristen, John and Daniel. Our thoughts and prayers are with you.

We have been touched by the tremendous outpouring of emotion from the American people, the flowers on the Capitol steps, the tears of sadness and the visitors who have returned to their Capitol in reverence and mourning. The heroism of these two officers has stirred the soul of our Nation.

To people all over the world, this Capitol is the home of freedom. John Gibson and Jacob Chestnut gave their lives protecting it and all that it represents. Nothing we say today can ease the grief or bring them back. But we can honor their memory, and we can recommit ourselves to the work of democracy for which they died.

On a personal note, I had, as the other leaders did, because we, as has been mentioned, we come and we leave by that door, and over the years I have gotten to know Jacob Chestnut. He was a wonderful man. He had a bearing that represented everything that was right about this institution. He exuded dignity. If there was a word that captured him, it was his enormous dignity, his bearing.

□ 1745

He was, as we have heard, always kind to those who came into this building; he smiled when proper, but always giving the signal to those who entered that they were entering the citadel of democracy. He was a sweet man, a very gentle man. Many a night when we would work late and I would come down and he would be the only one at the door and it was closed to the visitors, we had a chance to chat, especially when my wife Judy was still gathering things up in the office.

He was a Vietnam veteran, as the Speaker mentioned. He gave 20 years of service to his country. We shared experiences serving in the Air Force, he as a military police and I as a cook. You would have to know something about the cooks and .the military police to understand that relationship. But it was special.

He talked about his family, whom he loved enormously. He was a gardener, a good gardener who provided peppers and cucumbers and squash to the neighbors on a regular basis.

I was watching a clip on television the other night of a neighbor who talked so genuinely about him and what a wonderful, wonderful decent man he was. He was always volunteering to do work for his neighbors, mow their lawn, take care of things that needed to be taken care of in the neighborhood. He was described as the best husband and the best father you could think of. If you knew him, and I wish I knew him better, but leaving the Capitol each night for maybe 7, 8, or 9 years, you get to know someone and you engage in conversation, you knew that he, like John Gibson, had many friends, many friends.

I would like to just end with some words by Wallace Stegner. Wallace Stegner is a writer from the West, and he talked about friendship, and he said this:

> Friendship is a relationship that has no formal shape. There are no rules or obligations or bonds as in marriage or the family. It is held together by neither law nor property nor blood. There is no glue in it but mutual liking. It is therefore rare.

These two fine people were not only liked, they were loved by many, many people. We will miss them. We will miss their duty to their work, their love of their family, their love of this institution. We thank them for their service. They will remain forever in our hearts.

Mr. ARMEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HASTERT), the chief deputy whip.

Mr. HASTERT. I thank the gentleman from Texas, Mr. Speaker. I want to express my condolences and heartfelt sympathies to the families of our fallen heroes, J.J. Chestnut and John Gibson. I knew both these men and am proud to be able to call them friends.

I came to know J.J. Chestnut through his warm smile and his kind words and upbeat personality. Every afternoon and then later in the evening, he would greet me at his guard post and he would say, "Hello, Congressman HASTERT," and I would say, "Hello, Officer Chestnut," and for 4 years, we have developed a camaraderie, an understanding. I have a great deal of respect for him.

When we brought guests into the Capitol, my son and others, I would always make sure that I introduced them to Officer Chestnut. Because I thought that was the best that we could show of people who are here, who care about and are not always in the limelight, that care about this place, that care about the substance and the pride that this Capitol can show and the parts that many, many people play in keeping it a place of respect and honor. He was a professional certainly in every sense of the word.

As for John, our friendship grew over the many hours and particularly the late nights spent in the majority whip office. No matter the frantic pace or the pressure of the given moment, I always remember John as calm, yet focused, doing his job while we were counting votes or conducting whatever congressional business was going on at hand, and all the while John seemed to have a cheerful comment for the moment that would put folks at ease around him.

I always remember coming through that door, up until Friday afternoon, maybe six or eight or 10 times a day because that is kind of the way that I wind my way back from the floor, down the staircase and in that side door, and every time I would open the door, John would be there, he would look, he would check, see who it was, a cheerful hello, but he was always vigilant, always there, something that I took for granted.

It was also something that even when Officer Chestnut would come through there and the stature that he would have, you took it for granted. Those were people that were there, they were there to protect you, and sometimes in your mind, you never think about what could happen, or what might happen.

As many of you already know, this tragedy hits particularly close to home. As the chief deputy whip, I work out of that whip's office as do a few of my staff. In fact, my staff and my wife were waiting for me to return from the floor that day. I can absolutely and positively say that were it not for the valor of Officer Chestnut and certainly Special Agent John Gibson, the lives of people who are very close to me would have been in jeopardy. This tragedy could have been much worse. It certainly comes as no surprise that when duty called, Officer Chestnut and John Gibson answered. Unfortunately, they and their families now must pay the ultimate price. They died so others could live.

Our thoughts and prayers go out to Officer Chestnut's wife Wen and his children Joseph, Janece, Janet, Karen and William; and to John's wife Evelyn and their children Kristen, John and Daniel. As difficult as it is for the Chestnut and the Gibson families coping with this loss, I hope that they can take some comfort in knowing that their loved one's bravery protected thousands of others in the U.S. Capitol. I am not just talking about July 24 but each and every day that they put on the badge and went to work. Their actions are evidence that the system worked, even though a routine day turned terribly bad. For all Americans, we owe a debt of gratitude not only to officer J.J. Chestnut and Special Agent John Gibson and their families but to all those who proudly wear a uniform in order to defend democracy and fight for our freedom. We should honor them, we must remember them, and most of all we must thank them. They are heroes and they deserve our most appreciative respect.

I have to say, I think about the things that we are able to do in this place from time to time. As an elected Member who serves in this people's House, we have some outstanding times, some times when the light shines, you can accomplish something, that short span of time, in 5 or 10 or whatever, however many years a person has as the right or the privilege of serving in this House. There are some short times that we can do some very great things. We live for those times.

And then you think of the people who help make this place work. The time for Officer Chestnut and John Gibson came on July 24. Their short time to excel and do the bravest thing that they could for their country and the people who work here, for their families and for the ideal of democracy came in just a short period of time. When that challenge came, they excelled at that challenge. We could not ask them to do any more than they did.

So, with all our heads held high and respect for those gentlemen, I thank them, I thank their families, and we can even be proud of this institution.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I said earlier today that this was a sad and solemn occasion for us all. Obviously, it is. The discussions have led to that conclusion. Some knew these two brave men better than others. Let me suggest, however, all of us know their comrades in the defense of freedom and defense of our safety and the defense of civil order, without which democracy and freedom cannot flourish.

I see my very close friend on the floor, CURT WELDON from the State of Pennsylvania. He and I are honored to cochair the effort we know as the Fire Service Caucus. It honors men and women who respond to emergency, at time of crisis, not just to fire but to flood and to earthquake and to the cat in the tree, all types of emergencies that confront us.

As I sat here thinking of those who had spoken of these two brave officers, one who frankly was unable to make an immediate decision because the assailant did not give him that time, the other who had to make instantaneous decisions and responded in the best traditions, with the highest courage of men and women who serve in the police forces of our Nation. But as I thought further, each one of them made a decision that required courage and commitment to their fellow men and women in this country. That was a decision daily, as the minority leader has said, to get up, put on the uniform or their plainclothes gear and to put on a badge, a badge of honor, a badge of commitment, a badge indicating their courage in making that daily decision to defend civil order and democracy.

J.J. Chestnut was not given the opportunity by this assailant to make a decision of exactly how to respond. But J.J. Chestnut had already made that decision. He was at that door, he was at the perimeter, he was at risk voluntarily, placing himself in harm's way. That decision was a brave and honorable and courageous decision.

Detective John Gibson also had made a decision earlier that morning to be in harm's way. And when harm came, he was not found wanting. In fact, he was found to have the full measure of devotion and courage that he had pledged to give, not solely to TOM DELAY, not solely to the Congress of the United States, not solely to this building, this hallowed citadel of freedom and democracy, perceived by all the world to be the center of freedom and justice. He was there to defend that very idea, that torch of freedom.

Abraham Lincoln at Gettysburg indicated that we had all, as we have all come to honor those two men and their colleagues in the police forces of America, one of whom dies every other day in America, it is a real risk that they undertake, a knowledgeable risk that they undertake. Abraham Lincoln said it well, that we cannot dedicate, we cannot consecrate this field beyond that which those two brave men and their colleagues have done.

Mr. Speaker, I am proud to join my colleagues in honoring the memory of J.J. Chestnut and John Gibson and honoring their decision to show the kind of courage and commitment necessary to maintain our democracy, our freedom, our civil society.

□ 1800

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, it is my deep honor and privilege to rise today on behalf of the people I represent in the Eighth Congressional District of Washington State and myself and my family, and really on behalf of the Nation, to offer our deep gratitude for the heroism of J.J. Chestnut and John Gibson.

On Friday afternoon Officer Chestnut and Special Agent Gibson embodied all that it means to be an American hero. They were ordinary people who went to extraordinary lengths to protect and defend freedom not just for Members of the large congressional family, but also for all Americans. These two brave officers literally laid down their lives so that others could live, and for that dedication of courage we are eternally grateful.

Every day in the people's House we are surrounded by the protection of the United States Capitol Police. In serving our country, the men and women of the police force touch all of us who visit and work in the Capitol. They become our friends, they become our colleagues, and of course they are our protectors. J.J. Chestnut and John Gibson epitomize this dedication of service and commitment to all that we value as good in this world.

Mr. Speaker, I considered J.J. a friend, as did countless Members and staff. My office is very near where he stands, and we had shared a few words the night before he died as we Members left the Capitol very close to midnight, and we talked about how the next day would be a little easier, and we did not know that that would be his very last night. Nor did I know that the next afternoon, the first shot that I heard from behind my closed door was the shot that took J.J.'s life.

No words we utter here today can help the Chestnut and Gibson families begin to heal the wounds they suffer from, but I do want to say to each family that as they grieve and seek support from God above, a Nation mourns their loss, the congressional family grieves with them and we will never forget them.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I come to praise the two valiant officers who sacrificed their lives on Friday, to comfort their families and to thank the Capitol Police who daily live up to their reputation as one of the finest police departments in the country.

On Friday, Officer Jacob Chestnut and Detective John Gibson showed that the reputation of the Capitol Police for dedicated professionalism is fully earned and richly deserved. These two men were part of a police force that operates at once like a friendly small town police department and a crack security force. It is hard to pull that off, but they do it every day.

Officer Chestnut and Detective Gibson were devoted men who were part of a splendid force. In FY 1997 there were 286 reported crimes on the Capitol grounds, and the Capitol Police made arrests in 252 of them. What a record.

The Capitol Police patrol part of the Capitol Hill community as well. In the first 5 months of this year, these dedicated officers made 413 arrests in the community, up from 258 for the entire previous year.

Officer Chestnut and Detective Gibson did not expect to lose their lives, but they clearly were prepared to do so. They knew that they were part of a department that protects the highest-profile accessible building in the Nation. They knew that this duty put them in harm's way. They were prepared to pay the price for this temple of democracy and all who visit or work here, and tragically they did. There are no words that fit that price.

May the Chestnut family and the Gibson family know that our hearts go out to them and that Officer Chestnut and Detective Gibson have a place of honor among us no Member has ever attained.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, as my colleagues know, there are a lot of young people in this country who have sung many, many times the last line of our National Anthem, and I take the floor primarily to let the Chestnut and the Gibson family know that three of my Health Subcommittee staff better understand the last phrase of the Star Spangled Banner because they were one thin wall away from the jungle, and the separation between civilization and the jungle is sometimes one individual.

That occurred on Friday, and no amount of words that we can say here will illustrate more to the young people of this country the deeds that are necessary to indeed make sure that we are the land of the free. Ann Marie Lynch, Allison Giles, and Bill Walters were in a room, crouched in fear, with one person between them and the jungle, and they wanted me to come to the floor to thank the Gibson family and to recognize the heroics of J.J. Chestnut and John Gibson for making sure that they better understood in a moment of terror what sacrifice really means to keep us free.

Mr. Speaker, we all will continue to thank J.J. Chestnut and John Gibson, but what we have to remember is that it is not the word, it is the deed. When it was necessary, these two individuals paid the highest possible sacrifice that one individual can give another to keep them free: their lives. We will remember them and honor them.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from West Virginia (Mr. WISE).

Mr. WISE. Mr. Speaker, this building offers a great challenge, and that is it is a balance that has to be reached between where the people's elected representatives meet and where the people come to view their elected representatives and their Nation's heritage. Officer Chestnut and Detective Gibson met that test and kept that balance on Friday.

This is a sad and anguishing day. My wife, who has worked on this Hill longer than I have, I think, probably summed it up for me as we discussed this and thought about our thoughts and our prayers which were with the two families. She noted that two wives had lost their husbands as their husbands protected many other husbands and wives, and likewise children have lost their fathers as their fathers protected other children. There are thousands of children from each of our districts that come through these halls every day, and they owe their safety and protection to men and women like Officer Chestnut and Detective Gibson.

Mr. Speaker, there is no way you can cope with loss like this except you try to hang onto the memories. And to the families that we know have those strong memories I would just say this: that as you have their memories to hang onto, please know that there is a much larger family and community that have those memories and they are hanging onto them too, and that their fathers and husbands and loved ones, Officer Chestnut and Detective Gibson, those memories are strong in all of us, and they will live through that. And they live also through the democracy that is functioning through the visitors that are in the gallery today, through the people that are streaming through this Capitol, made safe by the sacrifice of Officers Chestnut and Gibson, whom we will remember.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Speaker, on this solemn occasion I would like to join my colleagues and the people of the 11th Congressional District of Virginia to pay special tribute to Special Agent John Gibson and Officer Jacob Chestnut who gave their lives on July 24 to keep our seat of democracy safe.

Special Agent Gibson was a resident of my congressional district. It is tragic that these brave men were cut down in the prime of their lives, but they will never be forgotten for the bravery that they displayed, the lives that they saved and the ultimate sacrifice that they made. Both men were dedicated 18-year veterans of the U.S. Capitol Police Force, and both were devoted to their families, and they will certainly be missed by everyone who knew them.

Special Agent Gibson was much more than a Capitol Police officer, however. He was a father, a husband, a sports fan who was beloved and respected in his community. He was Santa Claus at Christmas time. He was loving to his family, generous to his neighbors loyal to his job.

Special Agent Gibson will be remembered for all those things, but his enduring legacy will be heroism he displayed on that day. With his own life in danger, he acted quickly and selflessly to save others. He commanded the staff in the whip's office to hide while he faced the gunman alone, and he will be remembered as a great hero for sacrificing his own life to save the lives of others and for continuing to do his duty in the face of great peril. If Special Agent Gibson did not stop the gunman, this terrible tragedy would have spread and been even more severe.

Officer Chestnut was an avid vegetable gardener and shared his squash, his cucumbers and peppers with his friends and family. He was a Vietnam veteran and retired Air Force officer. Only two months before retirement, he planned to pursue his hobbies of fishing and golf. It is heartbreaking that his plans ended as abruptly and as brutally while guarding the interests of the Capitol. And he was known by his colleagues for his dedication as a police officer, for following the rules of his post.

I extend my sympathies to the family and friends that these heroes left behind, and I know that their wives and children will carry this loss with them forever but pray that they will be comforted by the gratitude of those that Special Agent Gibson and Officer Chestnut protected, and the families could be proud that these men defended the Nation's Capitol with bravery and honor.

A tragedy such as this reminds all of us of how fragile life can be. Even at the center of our Nation's democracy we cannot take our security for granted. We owe our freedom as Americans to our dedicated law enforcement officials and military service officers.

A tragedy such as this reminds all of us of how fragile life can be. Even at the center of our Nation's democracy we cannot take our security for granted. We owe our freedom as Americans to our dedicated law enforcement officials and our military service members. This fragility reminds us to be grateful of the many gifts and freedoms that we enjoy, many won really hard-fought. We are fortunate to have had Special Agent Gibson and Officer Chestnut on the Capitol Police Force who are well trained and loyal to their duties. When called upon to put their own safety and life above those they were sworn to protect, they did their job, no questions, no excuses. They did what they were trained to do. These men exemplified the best in law enforcement and the best in America. Their excellent work assures that Americans can visit this Capitol in peace and security. In death they will continue to serve as genuine heroes and role models for their colleagues and for all those who believe in the American dream.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I thank the whip for yielding this time to me.

I have to say that when I heard about this at the airport I was shocked, as we were leaving on Friday, at what had transpired here. I immediately called the Sergeant at Arms Office, who was in a leadership meeting, to get a briefing on the casualties and circumstances surrounding all of it and thinking that we had just been here a short while ago to have this tragedy occur.

My heart and prayers and sympathies go out to the families of John Gibson and Officer J.J. Chestnut, for they made the ultimate sacrifice to protect our freedoms and liberty and put their lives on the line, and their families will never be able to erase that burden and that void in their lives. And I appreciate our House leadership and the leadership of Congress and what they are going to do with all of us to make sure that as much as we can do we will do for these families and that we will never forget.

□ 1815

I want to commend all of the Capitol Police, and particularly the officers that all responded during that circumstance, from all over, because I heard from them as they all came here together to shoulder and support each other.

Sometimes we as Members take for granted their esteemed professionalism and the caliber of that service that they perform on a daily basis. But the Sergeant at Arms Office, the Metropolitan Police, and all of the services that huddled together, and how proud I was in the response and the timely information that was dispensed to the people as to what was taking place.

It was a very tragic moment in the people's House, but it was a moment in which people pulled together, and I know that will be something that will be an enduring quality as we all pull together on both sides of the aisle throughout America to stand there with these families as they have endured the ultimate sacrifice.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I thank the majority leader for yielding me time.

Mr. Speaker, the entire country was shocked and saddened to learn of the terrible tragedy that happened on Friday afternoon, when U.S. Capitol Police Special Agent John Gibson and Capitol Police Officer Jacob J. Chestnut were killed in the line of duty.

I want to express my condolences to the families of these two brave men. They were both true heroes. They gave their lives to protect the lives of the rest of us.

The Capitol is really like a campus in many respects; people all know each other, it is a small community. So when a tragedy like this hits, it affects all of us very deeply. There are no words that can adequately express the sorrow and the grief that we all feel as a community over this terrible loss.

My dad was a Philadelphia policeman for 20 years, and I know how difficult the job can be and the uncertainty that begins each day for the officer's family.

My hearts goes out to the families of Special Agent Gibson and Officer Chestnut, and all of the men and women of the Capitol Hill Police Department and all of the policemen around the country that give their lives. Our heart also goes out to Angela Dickerson, the young woman who was wounded during the shooting. We also recognize the trauma and the experience by so many others who were there on Friday afternoon. Our thoughts and prayers are with them all.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I find it such a privilege to rise today in this hallowed House of Representatives, the people's House.

I think when we left here Friday there were some harsh words exchanged between the caucuses, and we rise today to pay tribute to two men who may have done more to pull us together, to realize what this building is all about.

I bring condolences from the district that I represent, far away from here, the central coast of California. For those of us who work here every day, I think sometimes we take what we do in this building for granted.

Following the tragic shooting just 48 hours ago, Capitol Police Officer Jacob Chestnut and Special Agent John Gibson I think have given us all pause to think more seriously and more respectively of the job we do in this building, because this is the people's building and this is the people's House. Just look at the visitors that are outside this hall today, coming into the Capitol, paying tribute with flowers, notes and condolences.

Yes, the government must go on. It never stops. But sometimes in history it pauses for a moment, it pauses to pay tribute. Officer Chestnut and Special Agent Gibson gave their lives while standing their duty. For this building, its workers, and, more importantly, this Nation, we pause to honor them. Their lives were not lost in vain, because, for now, our Nation joins in mourning their loss. Perhaps today our democracy is a little bit stronger as each American reflects on the sacrifice these men gave.

Each of us knows the pain. We have all lost loved ones. We know how much Wen Ling Chestnut and her five children, Joseph, Janece, Janet, Karen and William, and Evelyn Gibson and her three children, Kristen, John and Daniel, feel the sudden emptiness of losing their husbands and fathers.

My district, this Nation, joins in their loss and in the mourning we will give tomorrow.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN), the distinguished chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I consider it an honor and a privilege to be able to join my colleagues in support of this resolution, H. Con. Res. 311, honoring two American heroes, our slain U.S. Capitol Police Officer Jacob "J.J." Chestnut and U.S. Capitol Police Special Agent, John M. Gibson. These two dedicated police officers gave their lives in the line of duty to protect our Capitol, its visitors and all of us in this body.

We join in extending our heartfelt prayers and condolences to the families of these two American heroes, our distinguished Capitol Police officers. J.J. Chestnut always had a ready smile and a friendly word for all of us. His warm personality and assistance will be sadly missed by all of us in the Congress and by the visitors to the Capitol.

John Gibson will long be remembered as a hero who gave his life in preventing further tragedy from occurring. I remember John's visits to my office with his partner, Bob Vitarelli, the husband of my staff member. His dedication as a police officer is vividly remembered.

Yes, the Capitol is the people's House, and it would be an outrage if all Americans could not feel safe in visiting our Capitol.

Let us bear in mind the statistics disclose that every other day, another man or woman is killed while serving as a law enforcement official, illustrating the incredible risk that these dedicated men and women of the police undertake to keep our Nation safe. It is hoped that our words and actions on this resolution in honoring Officer Chestnut and Special Agent Gibson will remind all Americans to recognize the importance of the work and action of the Capitol Police. They will long be remembered in our thoughts and prayers.

Let us reflect that their lives, like so many of our police officers across our Nation, are dedicated to protecting the rule of law and our free and democratic institutions. All of us who cherish these important values in institutions in America join in honoring these two dedicated, courageous officers for their ultimate sacrifice in helping to preserve our institutions and legacy just a few days ago in this very building. These officers, Chestnut and Gibson, symbolize the very best of our Nation.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today to pay tribute to Officer Jacob "J.J." Chestnut and Special Agent John M. Gibson of the United States Capitol Police Force. Officers Chestnut and Gibson made the ultimate sacrifice of giving their lives this past Friday in the protection of this building and this body.

July 24, 1998, will long be remembered as a dark day in the history of the United States Capitol. However, Mr. Speaker, I also feel that July 24 should be remembered as a day of pride for the United States Capitol Police Department. When the gunman entered the document door entrance Friday afternoon, he was detected immediately by Officer Chestnut and contained very quickly thereafter by Special Agent Gibson, avoiding possible injury to all but one of the many innocent visitors and staff in the area.

Because of their top-notch training and professionalism with which they carry out their duties each day, a much larger potential tragedy was averted. Their training and procedures worked, and last Friday's successful apprehension of a gunman, however tragic, is a testament to the skill and professionalism of the United States Capitol Police.

The loss of John Gibson and J.J. Chestnut is very difficult for all of us. They were not strangers protecting us and the millions of visitors to the Capitol each year; they were our friends. They were members of our community.

Capitol Police officers are people we see each day and warmly exchange a smile and a greeting with. Very rarely do we give acknowledgment to the fact that at any given moment, any one of these brave men and women are prepared to put their life on the line, to place their body in the way of a bullet to protect us, our staffs and the many visitors to the Capitol each day.

Mr. Speaker, the Members of the Capitol Police Force not only deserve our condolences today for the loss of two of their fellow officers, they also deserve our gratitude for their efforts in making our Capitol, a symbol of freedom throughout the world, a safe place to work and visit.

Mr. Speaker, as a former county sheriff and a 13-year member of the Fraternal Order of Police, I have a special appreciation for the sadness and difficulty experienced by the survivors of a fallen officer. John Gibson left behind a wife and three children. J.J. Chestnut is survived by a wife and five children. My thoughts and prayers are with the families of Officers Gibson and Chestnut in this most difficult and trying time.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Speaker, during the past 12 years I have had the honor of serving this institution, I have had the pleasure of working in a very close relationship with public safety officials throughout America and especially here on the Hill. In fact, working with our very capable Sergeant at Arms, Bill Livingood, and Chief of Police, Gary Abrecht, I have been able to see our officers not just in the tragedy of this past weekend, but responding to fires and EMS calls and calls for bomb threats in our buildings. In fact, just 3 years ago, the distinguished gentleman from Maryland and I called together, with the Sergeant at Arms and our Police Chief, almost 40 of our Capitol Hill Police officers to give them citations and thank them for protecting the lives of our staffers and Members in what could have been a very tragic situation in the Longworth Building.

Mr. Speaker, as we come here tonight to pay tribute to these very special people, there is really a message for our entire Nation. Mr. Speaker, that message is for all America: As we as a Nation, in our 200 years of existence, look out for heroes, we sometimes look to Hollywood or we look to our ball fields, our football fields and baseball fields, and we get frustrated because we cannot find them there.

Well, Mr. Speaker, this tragedy reminds us that our heroes are not in Hollywood, they are not on TV, they are not on our ball fields. They are in our neighborhoods. They are our law enforcement officials, our sheriffs, our fire officials, our EMS personnel, who every day risk their lives, and who, unfortunately, time and again, lose their lives, as these two brave heroes did last Friday.

I join with our colleagues today, Mr. Speaker, in recognizing that we celebrate the heroes of this institution, the heroes of our neighborhood, who we have lived with and worked with for the time we have spent working in this Nation's Capitol.

I rise to join with my colleagues in honoring the families and the memory of J.J. Chestnut and John Gibson, two real American heroes.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am deeply moved by the untimely deaths of these brave heroes, who have shown both valor and bravery in a time like this.

Officer J.J. Chestnut and Mr. John Gibson, a Special Agent, we honor them for caring about us. We honor them for caring about the American people. We honor them ourselves today for keeping us safe and sound.

I do respect with a great deal of respect the Capitol Police. To me they are an elite corps. We see them every day. They represent to us the best that is in America. Mr. Chestnut and Mr. Gibson showed us what real bravery is all about.

There is a saying that the measure of a man's life is not how he died, but how he lived, and these two men lived for our protection.

I am thinking about the words of Walt Whitman:

O Captain! My Captain! Our fearful trip is done,.
The ship has weather'd every rack, the prize we sought is won,
The port is near, the bells I hear, the people all exulting,
While follow eyes the steady keel, the vessel grim and daring;
But O heart! heart! heart!
O the bleeding drops of red,
Where on the deck my Captain lies,
Fallen cold and dead.

O Captain! my Captain! rise up and hear the bells;
Rise up—for you the flag is flung—for you the bugle trills,
For you bouquets and ribbon'd wreaths—for you the shores a-crowding,
For you they call, the swaying mass, their eager faces turning;
Here Captain! dear father!
This arm beneath your head!

It is some dream that on the deck,
You've fallen cold and dead.
My Captain does not answer, his lips are pale and still,
My father does not feel my arm, he has no pulse nor will,
The ship is anchor'd safe and sound, its voyage closed and done,
From fearful trip the victor ship comes in with object won;
Exult O shores, and ring O bells!
But I with mournful tread,
Walk the deck my Captain lies,
Fallen cold and dead.

☐ 1830

Goodbye to you, Mr. J.J. Chestnut; goodbye to you, Mr. Gibson. We will never forget your bravery and your valor.

Mr. ARMEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SOLOMON) the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time. I thank the minority leader and the two whips for offering this tribute to two fallen heroes, J.J. Chestnut and John Gibson, two great friends.

To these officers I would just like to personally thank both of you for the comfort that you and all of the other police officers give to all of us, but particularly my staff up in the Committee on Rules in the third floor gallery there that work the wee hours of the night so many times when there is not too much around to protect these loyal staff that work these late hours, except the police officers that are always, always on guard.

It just is so sad that we have to be here today, because no finer police officers ever, ever served this Capitol. My colleagues have all mentioned today about what great individual human beings they both were. We will never forget them as police officers, but more importantly, we will never forget them as friends.

Mr. Speaker, there is a stanza from a Memorial Day poem I think that really typifies the kind of heroes that we pay tribute to today. That poem goes something like this: "I am the unknown soldier, and maybe I died in vain, but if I were alive and my country called, I would do it all over again."

These are two individuals that I think personify that stanza, that poem.

I would just like to say to Officer Chestnut and Detective Gibson that you mean so much to all of us, but you did give that last full measure of devotion for your country and for the protection of just decent, innocent human beings, and you paid the ultimate price for it. You are truly heroes, and may God bless both of you.

To your families, we just can never, never, ever repay you for the sacrifices of these two heroes. But you must always know, please know, that you can always call on any one of us ever in the future if we can ever, ever be of any kind of service at all to any of you.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS), the distinguished chief deputy whip.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague for yielding me this time.

Mr. Speaker, I rise today to pay tribute to two American heroes, Officer Jacob "J.J." Chestnut, and Special Agent John Gibson. Mr. Speaker, this is a very sad day, for these two men, members of the Capitol Hill Police Force, gave their lives last Friday in defense of this, the people's House. They are heroes. They are patriots. They put their bodies on the line. They are the victims of a senseless act of violence. Our thoughts and prayers go out to the families of these two brave officers, and to all of the members of the Capitol Hill police family.

These young men and women who provide security for the Capitol, for the people's House, are like members of our own family. They are part of the Capitol Hill family. When we are here in session, we see them every day, sometimes many times a day. We mourn with the members of the Capitol Hill Police Force.

The men and women of the Capitol Hill Police Force put their lives on the line every day just as police officers in so many other cities and communities all across America. Today, Mr. Speaker, we pay tribute, we pay honor, to Officers Chestnut and Gibson, but we also say a prayer and give thanks for the safety of people serving in uniform everywhere.

Mr. Speaker, God bless John Gibson and Jacob Chestnut. We are forever in their debt. They will never, ever be forgotten.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. MCINNIS).

Mr. MCINNIS. Mr. Speaker, I thank the gentleman for yielding me this time.

Most people of America did not know Officer Gibson and they did not know Officer Chestnut, but they know what they did here, and now most people in America honor and respect and really know these officers.

Every 48 hours in this country somewhere we have a police officer who loses his life or her life in the line of duty. It is unfortunate that it takes a tragedy like this to move the word "hero" from the sports page back to the news page.

Many years ago, I lost a very, very close friend of mine whom I was with about an hour before his death. He was very young. And I remember at the service the story that I think we can relate here very easily, and I think it applies here.

His grandpa was an old cowboy. I live in the mountains of Colorado, and he was weathered, very seasoned, very wise. I was crying, I was very upset. And much like here, I think his comments rest. Those comments were, despite all of this tragedy, do not be too sad, because all that has really happened here is that Officer Gibson and Officer Chestnut have just saddled up their horses, they have ridden ahead on the trail, they have set up camp, and they have put the coffee on for us.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding me this time.

There are so many things that we all want to try to express at this difficult time. We all want to say "thank you" to Officer Chestnut and Special Agent Gibson. Thank you for your dedication to duty, your bravery, your courage, your heroism. We want to say to their families how very, very sorry we are for your awful loss. We want to honor you as we honor your husbands and your fathers.

We want to say to all Capitol Police that we are grateful for all you do to keep this Capitol safe for all who work and visit here. We offer sympathy to you for the loss of your brother officers.

This congressional community feels this tragedy so deeply. It was an assault on each of us who is privileged to serve here. We all are touched by the great sacrifice of these two good men who died for us.

This life is fragile; this democracy is fragile. These two great Americans helped so profoundly to protect these fragile and precious things. They gave, as Lincoln said, their last full measure of devotion. May they rest in peace and all the honor we can grant them held in God's generous grace.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I want to take this opportunity to express my very deepest sympathy to the wives, the children, and the families of Officer Gibson and Officer Chestnut. Their tragic deaths have a very special significance to me as a Member of Congress. These men gave their lives to protect me, other Members, staff, and visitors to our Nation's Capital.

I cannot think of any greater sacrifice than they gave. They gave up their lives to protect ours. With their deaths this Capitol building and this Congress will never be the same.

As chairman of the Subcommittee on Civil Service of the Committee on Government Reform and Oversight, I commend these great civil servants who have given the ultimate sacrifice for their fellow men. They acted with courage, they acted unhesitantly, with devotion to their job and their duty.

Together, we come this evening to honor the memory of Officers Chestnut and Gibson. I join my colleagues, their colleagues, our staff and the American people to say thank you to our fallen heroes.

We also now have a new appreciation for all our civil servants and all of our Capitol Police Officers who put their lives at risk each day. To each and every one of these dedicated civil servants we say, thank you. Thank you for a job well done.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to express my most heartfelt sympathy to the families of Officer Jacob Chestnut and Special Agent John Gibson. On behalf of my constituents and my family, my deepest gratitude for their service to our Nation. They died doing their jobs.

How many times have we told our constituents as we take them on tours, just ask one of the officers? How many times do we pass the officer coming in for a vote or going to a meeting, say hello, look at their eyes and pass them by, never knowing that in a moment they could be gone as a result of some violent act?

I, like many of my colleagues here, have spent a good part of my life working in the Capitol, first as congressional staff and now as a Member of this body, the people's House. It is easy for us to take for granted what a magnificent Capitol this is and what it symbolizes to the Nation and to the world and forget the price that has been paid throughout our history to preserve freedom and democracy. Last Friday afternoon, we were reminded all too sadly of that price.

Last Friday's violent assault was an attack not just on Members, congressional employees and visitors, but it was an assault on our Nation's most cherished values. Random violence permeated the very halls that give life and meaning to the practice of democracy. Our Nation owes a debt of gratitude to Officer Chestnut and Special Agent Gibson and to the brave men and women of the U.S. Capitol Police who risk their lives to protect this Capitol, the people who come here, and all that it represents every day.

Just as the two whom we mourn today, they put their lives on the line every day to protect our democracy and the rule of law from those who would change our laws or government through violence rather than civil debate and fair, open and legitimate elections. Just as importantly, they protect the Capitol so that all the world's citizens can watch the Congress and monitor the business of democracy.

How many times have we had visitors from other countries who say they cannot believe how open our Capitol is? It is because of those like Officer Chestnut and Special Agent Gibson and the fact that they gave their lives so democracy could live.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. DIAZ-BALART).

Mr. DIAZ-BALART. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today to add my voice to the salute by all of the American people and all of their representatives to the fallen heroes of the Capitol Police Force, Officer Jacob Joseph Chestnut and Detective John Michael Gibson.

How appropriate it is indeed that the bodies of Officer Chestnut and Detective Gibson will lie in honor in the Rotunda of the Capitol that they honored each day with their work, the Capitol whose many visitors and those of us who have the honor of working here, these officers risked their lives day in and day out to protect, and indeed, they gave their lives to protect.

□ 1845

It is not often, Mr. Speaker, that we have the honor of paying tribute to genuine heroes in our midst. It is with the most profound reverence and admiration that all of us in this Congress stand as one tonight to pay our respects to these fallen heroes, Officers J.J. Chestnut and John Gibson, and to stand in solidarity with their families, to whom we commit our endless friendship and for whom we offer our prayers.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO), the chief deputy whip.

Ms. DELAURO. Mr. Speaker, I join my colleagues tonight to pay tribute to Officer J.J. Chestnut and Special Agent Gibson for their bravery in last week's tragic shooting. Those of us who work in the United States Capitol know the dedication of all of the U.S. Capitol Police. We see them each and every day in the halls, by the doors, by the parking garages. They are our friends, and indeed, they are our protectors.

The U.S. Capitol is truly the people's House. It is among the most open and accessible in the world. The Capitol Police make that possible, while protecting the safety of those who work and who visit here. They do not just protect the visitors who come here every day, or the Members of the Congress, or our staffs. They protect the ideal of freedom that our Nation was founded upon.

We all know that if not for their bravery and swift reaction, many more innocent lives would have been lost. J.J. Chestnut and John Gibson truly made the ultimate sacrifice, and we will never forget them for what they have done.

My heart goes out to the Chestnut and Gibson families as they struggle to come to terms with this terrible loss. Words are often meaningless at this time, but I know that we all hope that they know that they are in our hearts and our prayers during this difficult time.

I also wanted to extend my sympathies to the entire U.S. Capitol Police Force, officers who have been carrying on their duties while carrying a huge burden of grief. We thank them for everything that they do. They are all heroes.

On a personal note, I would just like to say that several Members, including myself, were in the press gallery at the time of the incident. We were in the Capitol, and the Capitol Police came in to secure our safety and to escort us to safety. I say thank you to those officers who came in to secure our safety. I say thank you, and my family says thank you.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I appreciate very much the distinguished majority leader yielding me the time.

I think we all from time to time step back and wonder what is the view of the American people of this great Capitol and the work that is done in both bodies. Ofttimes the shrill voices displayed on C-Span dwell upon the negative, those things that divide us. Indeed, all too often we find ourselves in the well of the House exchanging dialogue that certainly is far from the picture that is being displayed at this moment.

Is it not a tragedy that we have a circumstance where two of our very, very finest have given their lives on behalf of the country, as well as for us, and that such a tragedy in a different way causes us to pause and recognize that we are a family; that we work together, and all of us have much more in common than we have in difference.

Indeed, the men and women who work in the Capitol, the Members of both bodies, come here in commitment to our country in a belief that by being here, we can make a difference in peoples' lives and strengthen our Nation. It is very, very important that we take away from this a lasting memory of this family that we all are a part of. Members of Congress, professional staff, police officers, support personnel, all of us are a part of a great American family.

Tomorrow John Gibson and J.J. Chestnut will be honored in a ceremony befitting the finest of America's fallen leaders. I must say that my last picture of John Gibson reminded me of this in a special way. I was coming back from the Permanent Select Committee on Intelligence, walking towards the House floor for a vote, walking past the office of the gentleman from Texas (Mr. DELAY), and John Gibson said, "How are you doing, Congressman," as he always does; a reminder that we are in this together.

Let us in the months ahead remember these two great heroes, and at the same time, have them remind us that our family is much, much more important than the differences we may have day in and day out.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, J.J. Chestnut and John Gibson worked among us on Capitol Hill every day helping tourists, providing directions, greeting visitors, and protecting our lives. Because they did their jobs so well, we hardly ever thought of the danger that always lies just below the surface of all law enforcement activities.

The tragic events of last Friday demonstrated to the Nation and the world the full peril of the law enforcement profession that is so often hidden from the public, but carried with quiet resolve by those responsible for our safety.

Officer Chestnut planned to retire in September, ending an 18-year career with the Capitol Hill Police Department. His ready smile was a constant greeting to Capitol visitors. His deep, warm, velvety voice that always made you smile; his warm, helping manner, was familiar to all of us. In fact, he was writing out directions for a tourist when the gunman entered the Capitol and shot him in the head. His last act was one of professional and selfless service.

Officer Gibson was from Massachusetts, and was married to the niece of our good friend and colleague, the gentleman from Massachusetts (Mr. JOE MOAKLEY). While detailed to the majority whip's office, he impressed everyone with his quiet dignity and dedication. His dedication led him to save many lives while bringing down the gunman, and in so doing, lay down his own life.

All who work in and visit the Capitol Hill complex owe a special debt of gratitude to these brave officers, but all Americans honor them today. In this citadel of democracy, the United States Capitol, whether we perform the tasks of government or celebrate our historical heritage, we walk freely. We can do so because of the dedication and skill of our Capitol Hill police officers. Officers Chestnut and Gibson performed their duties with excellence, and died in the noble exercise of their profession.

Today we mourn their deaths, sympathize with and pray for their families, and rededicate ourselves to reducing violence, punishing lawlessness, and celebrating the qualities of courage and sacrifice that stand as the ultimate testament to the lives of these two heroes.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, on behalf of the people of the Fourth Congressional District of Connecticut, my family, and staff, I want to express our love and admiration for "two heroes of democracy," as our Speaker described them, Detective John Gibson and Officer J.J. Chestnut, and to their dear families, John's wife, Evelyn, and his three children, Kristen, John, and Daniel; and Officer Chestnut's wife, Wen Ling, and his five children, Joseph, Janece, Janet, Karen, and William.

To them I say, your husband and father was required, as protector, to guard this place, and at the same time, as ambassador, to welcome with open arms the people to their House, all the people. John and JJ fulfilled both tasks with extraordinary distinction.

I thank them for protecting our majority whip, the gentleman from Texas (Mr. TOM DELAY), and his devoted staff, and for protecting all of us who serve here and all who visit here.

Behind the Speaker pro tempore is the American flag, with its 50 white stars embedded in a sea of blue and outlined by brilliant red and white stripes. As we look at our flag we could think of how those stars came into being. As we look at our flag we could think of the great history of our nation. If we were a veteran, we might think of our buddies who fought for this flag and never came home, and of their families who never got to talk or hug them again.

When I look at our flag and pledge allegiance to it when we begin each session, I will think of Detective John Michael Gibson and I will think of Officer Jacob Joseph Chestnut, and I will think of their families, with deep humility, gratitude and love.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to join my colleagues in expressing our sincerest condolences to the families of Officer Jacob J.J. Chestnut and to Detective William Gibson, and to the entire Capitol Hill Police Department.

As is the case with many people who are employed here on the Hill, Officer Chestnut was actually a constituent of mine. He was a kind man, a gentle man, a man who is beloved by his fellow officers. He was a man within months of retirement. The tragedy, obviously, was compounded.

Saturday, I had the occasion to visit with his family. I spoke with his son, and the pain he was experiencing was very obvious. I also had a great deal of admiration for the way the son stood tall in his father's spirit and greeted visitors and accepted their well wishes.

Today we all speak with a great deal of eloquence and admiration for our fallen heroes, but I often think of how sometimes, in fact, in our own sense of self-importance we did not even take the time to speak or to say hello or we rushed past because we are too busy with our concerns.

Sometimes when issues of compensation or work conditions arose, we were slow to respond. I am hopeful that as part of our gratitude and part of our expression of sentiments, we will recognize the role of the Capitol Police and acknowledge them in our actions as well as through our words.

In that vein, I would like to compliment and thank the leadership of both parties for joining in according these fallen heroes the high honor of lying in honor, and also in according their families the practical honor of seeing that their expenses are taken care of. I think it speaks well of the sense of this House.

Words are inadequate on occasions such as this. To the families, I commend the power of prayer. That is perhaps the greatest solace of all.

These men met the challenge in preserving the safety and the accessibility of this House, the People's House. They stand as true American heroes. May we never forget their sacrifice and may they rest in peace.

Mr. ARMY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. HORN).

Mr. HORN. Mr. Speaker I thank the majority leader for yielding time to me.

Mr. Speaker, last Friday's tragedy continues to haunt our Capitol Hill community and our Nation. For those of us who work every day under the protection provided by the Capitol Police, it is particularly disturbing and saddening. My condolences and prayers go out to the family members and the friends of Officer J.J. Chestnut and Special Agent John Gibson.

Without Officer Chestnut and Special Agent Gibson, more lives would have been lost on Friday afternoon. They are heroes in every sense of that word, and deserve our deepest gratitude for their ultimate sacrifice.

One can only wish that the heroism and the bravery of the Capitol Police Force could have been brought to our Nation's attention under less tragic circumstances. The Capitol Police officers are our friends and our colleagues. The protection of freedom is a goal that we share with them. They work to ensure that the Members of Congress can do their jobs without fear of intimidation or harm.

On a more personal note, I have the highest appreciation for the Capitol Police, for the assistance that they have provided to me and to my staff, with great skill, courtesy and professionalism.

Few of us are asked to risk our lives in the performance of our daily job duties. All of our Nation's law enforcement officers face that risk of death every day. Each day they leave their homes and their families to go to work, knowing that they might not return home. They accept the risk of death as the price of our freedom and the ability to live in a peaceful society. Because of their courageous selflessness, they do all of this without hesitation or complaint.

For elected Members, our support staff and the Capitol Police officers, Capitol Hill is our workplace and in many cases at least our part-time neighborhood. This tragedy hits close to home for all of us. We all have walked countless times in the area where the shootings occurred. We have taken our families, friends and constituents on tours that pass through that part of the Capitol. I had one of my staff with individuals there at that time and the police protected them.

The Capitol is the people's House. There is no more recognizable symbol of democracy than the dome and the flags flying over each wing, and it is the hallmark of democracy and the right of all Americans to come to Washington to meet their representatives, and Officer Chestnut and Special Agent Gibson have helped thousands of people over the last few years in every possible way. We must continue the openness of the symbols of democracy that they died to protect.

□ 1900

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KLINK).

Mr. KLINK. Mr. Speaker, I find myself here in the Chamber transfixed and moved by the statements of all of my colleagues today, and very proud that I have an opportunity to pay tribute to our two fallen friends.

In my previous career as a journalist, I was so proud of my friendships with police officers. I had been in that career only 3 years when, in 1972, two Penn Hills police officers were gunned down. They were shot to death in the parking lot of a shopping mall just east of Pittsburgh by, of all people, a suspected shoplifter.

I thought I would never see such a scene as that again, and I thought that I would never feel those feelings again, to see two keepers of the peace struck down suddenly, unexpectedly, needlessly; to think of the wives and the children and the community left behind as those officers made the ultimate sacrifice.

But here now we have this tragic shooting of two police officers here in the Nation's Capitol inside the Capitol building. It shows us again that that thin blue line that protects each and every one of us bleeds red, and that the hearts of those peacekeepers beat bravely, beat courageously on duty, and now they are silenced. They will beat no more. Except they will beat in our unending love for them, our memories of them, and our appreciation for the sacrifices that they made on our behalf.

Our sympathies and God's blessing on their families, and our prayers that their souls may know enduring peace for all eternity.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman from Texas (Mr. ARMEY), our majority leader, for yielding me this time.

Mr. Speaker, it is a person of astonishing character who takes up a profession of not merely public service but defense of the public. Those who preserve public safety and enforce our Nation's laws should be held in nothing but the highest regard. Each day brings uncertainty as their job places them between the public and potential threats to their well-being. Every law enforcement officer, these men and women who wear the blue uniform on the Federal, State, and local level, and every firefighter and every member of our Armed Services and emergency medical service personnel, has made a conscious decision to fulfill the highest level of public service, placing their lives on the line so that others may be safe.

Detective John Gibson and Officer J.J. Chestnut were among those individuals of astonishing character who worked each and every day in defense of liberty guarding our Capitol, its staff, its visitors, and the freedom for which it stands.

These officers are true heroes of democracy, and every American owes them a deep debt of gratitude. I believe that is one debt we will never be able to adequately repay. If not for their quick and courageous action, more civilians and officers could have been injured or killed. They gave their lives to protect hundreds of tourists, staff, and Members of Congress who visit and work in the People's House.

I believe that we need to remember their families, their friends, and our special prayers also go out to their fellow officers who have lost not only colleagues but friends, brothers, and family as well.

The tragic events of July 24 amounted to a senseless tragedy which we may never fully understand. But the action of Officers Chestnut and Gibson and all those who helped to apprehend the gunman, assist the injured, and evacuate the building, truly underscore the dedication, commitment, and astonishing character of these heroes of democracy.

John Michael Gibson and J.J. Chestnut, we will never forget you.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, Friday, July 24, 1998, will be remembered as a tragic chapter in the history of our Capitol. A lone gunman, Russell Weston, rushed into an east entrance of this building we call the "People's House" and in a few brief moments of terrifying exchange of gunfire, took the lives of United States Capitol Police Officers John Gibson and Jacob Chestnut.

These men had dedicated the last 18 years of their lives protecting the safety of the Members of Congress, our staffs, and our constituents who visit these halls by the hundreds of thousands each year.

On that fateful Friday, Officers Gibson and Chestnut made the ultimate sacrifice of their lives that others might live. No words can adequately praise their heroism or their courage, nor can we fully express our sorrow and sympathy to their families whose loss is so personal and difficult to understand.

This afternoon, as my wife Ginny and I joined with hundreds of Americans who have placed flowers on the east steps of the Capitol in expression of sympathy to the families of these two men, it seemed clear that all Americans are reaching out today to the families of these two brave Americans. Their commitment to duty and their unflinching willingness to make the ultimate sacrifice humbles each of us who were beneficiaries of their protections.

Mr. Speaker, our thoughts and prayers will continue to be with the Chestnut and Gibson families. May their sorrow be tempered in time by an ever-deepening pride that they died in service to our country that others might live.

The Scriptures say that there is no greater love than to lay down one's life for a friend. Our friends, John Gibson and J.J. Chestnut, loved their families, they loved their country, and they showed each of us what love really means. May God rest their souls and may we ever cherish their memory.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman from Texas (Mr. ARMEY) for yielding me this time.

Mr. Speaker, it is a little quieter today in Washington in thoughtful reference for Mr. Gibson and Mr. Chestnut. Our hearts collectively here in the Nation's Capitol reach out to the families of Mr. Gibson and Mr. Chestnut, to comfort as best we can their sorrow. These two brave men have not only saved our lives, but these two brave men have changed our lives and this place forever.

Their friendly presence and their warm smile will be with us as a Nation as we go to work, as we go to school, as we travel through the hallowed places of this country. We will feel the presence that Mr. Gibson and Mr. Chestnut have left.

A summer afternoon at a ball game, we will feel their friendly presence. During the gentle spring rain or a cold winter night, we will feel their warm smile. When we experience joy, they and their spirit will be with us. When we experience sorrow, these two men will be there as well.

Mr. Chestnut and Mr. Gibson, their lives were the essence of humility, commitment, compassion, faith, and love. They have set the mark for all of us to follow.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. MENENDEZ), chief deputy whip.

Mr. MENENDEZ. Mr. Speaker, I thank the distinguished gentleman from Michigan (Mr. BONIOR) for yielding me this time.

Mr. Speaker, we have gathered in these hallowed Chambers to pay tribute to two fallen heroes, Officer Jacob Chestnut and Special Agent John Gibson. When tragedy strikes, we are often left groping for answers. Over the past couple of days, we have all asked ourselves the same haunting questions: Why has this tragedy occurred? Why have people of such valor suddenly been taken from our lives? Why have these devoted husbands and fathers been taken from their families?

We may never have adequate answers to these questions, but we must work to ensure that they did not die in vain.

Mr. Speaker, that means that after paying our respects and mourning we must remember that it was a man not alone but with a gun who committed this tragedy. Ensuring that they did not die in vain means that we recommit ourselves to the freedom and values they sought to defend.

It can be said that they defended a Capitol, a building, a national landmark. It can be said that they defended those who work and visit here, and that would be true as well. But in my mind what they were really defending is our most precious gift as Americans, the freedom to come to the seat of our government, the most open and democratic of the entire world, and see it, speak to it, or even peacefully protest against it.

It is the job of the living to remember their sacrifice and to ensure that violence never wins over the principles this country was founded upon. Now and forever, the Capitol must remain a sanctuary for democracy and for the American people.

May God bless the families of Officer Chestnut and Special Agent Gibson. They are in our hearts, our thoughts, and in the prayers of the people of the 13th District of New Jersey.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PAPPAS).

Mr. PAPPAS. Mr. Speaker, I thank the gentleman from Texas (Mr. ARMEY) for yielding me this time.

Mr. Speaker, I join with my colleagues in expressing my deep sympathy to the families of Mr. Chestnut and Mr. Gibson. I had the opportunity to know each of them, and admired them. They are an example, Mr. Speaker, of all of the Capitol Hill Police who are here each day to protect me, to protect my staff, to protect the literally hundreds if not thousands of constituents from Central New Jersey that visit this building each year. And, in fact, this causes each of us to pause and to think of and hopefully express in various ways our deep debt of gratitude to all law enforcement officials.

This past weekend, being home, Friday night, Saturday, Sunday, interacting with the people of Central New Jersey, it was very moving to me to see how many people approached me to ask me about the tragedy. They asked me if I knew these two gentlemen, asked me what I thought. How moved they were. How saddened they were by this tragedy. And what a legacy that is to these two gentlemen, to the men and women that they have served with, and to all law enforcement officials across the country.

Yesterday morning in church, my pastor asked me to say a word about what took place. When I did, I was overcome, as so many of us have been, with emotion because that could have been me. I could have been somewhere else, could have been in the line of fire, and I was not, by the grace of God.

What these two gentlemen did in trying to preserve the peace, trying to preserve not just this edifice but to preserve and protect the people who work and visit here, is a tribute to them and to what they did so selflessly for all of us.

May God bless their memory.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SISISKY).

Mr. SISISKY. Mr. Speaker, I thank the gentleman from Michigan (Mr. BONIOR) for yielding me this time.

Mr. Speaker, there are no words to express my sorrow about the tragic deaths of Capitol Police Officers Jacob Chestnut and John Gibson.

That they died in the line of duty while serving their country and protecting this hallowed shrine of democracy can provide little solace to their families. For their families, the lives of loving husbands and fathers have been taken forever. There are no words, no sentiment that can make up this terrible loss to their wives and children.

I think it is safe to say that every Member of the Congress, every Senator, every staff member, every visitor has taken for granted the safety of this place and this building. That is no longer the case. And if we ever reach the point where our safety is ever once again taken for granted, it will be largely because their dedicated fellow officers do their duty like they always have and once more restore the sense of peace and protection to these hallowed halls.

The risks that are accepted by these officers on a daily basis, as well as the courage they are prepared to display, as did Officers Chestnut and Gibson last Friday, should be humbling to us all.

A Bible story about those who gave their lives for others says, and I quote, "They were beloved and pleasant in life and in death they were together; they were swifter than eagles, and they were strong as lions."

It is our responsibility to love and support their families, protect and defend their country, defend the institution for which they gave their lives, and honor their memory forever. But those who survive face the toughest challenge. And I want their families to know that all Americans are deeply grateful for their sacrifice for us and for this Nation.

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Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I would like to thank the majority leader for according the Members this time to pay tribute to two fallen heroes. I join my colleagues in reiterating what most are no doubt feeling today, that sadly our Nation has lost two American heroes.

When I first heard of the shooting last Friday and subsequently about the tragic deaths of Capitol Police Officers Chestnut and Gibson, I was reminded of a point I tried to make more than 5 months earlier during a speech in this very Chamber.

When I took to the floor last February, I paid tribute to the Capitol Police force and another selfless officer, David Lyon, who rescued the passenger of a car which are plunged into the Potomac River. I did not realize how apropos my words would be these many months later.

At that time I said, It is important to note that the Capitol Police force who man security around this building are of the finest caliber and quality. They do serve the public and the people of the United States of America in not only protecting our guests and visitors, which number in the millions on an annual basis, but also the property that we consider sacred, this Chamber and the monuments that surround this wonderful complex.

I added at that time, It is a very dangerous job. Oftentimes their families do not know whether in fact they will return safely because of the dangers of just doing their job.

Little did I know how prophetic these words would be. Let me join the rest of the Nation expressing my profound sadness at the loss of officers Chestnut and Gibson, who selflessly laid down their lives so that I and every other person who visits or works in this building could remain safe.

I offer my deepest condolences to their families, and I ask God to bless their children. Their daddy is not coming home anymore, but their daddy cared deeply about them. He cared for every man and woman in this building. They did their job proudly, and God bless them for that.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, I thank my friend from Michigan for yielding me the time.

As we look to the ceiling of this great historic Chamber in the direction of Officer Chestnut and Detective Gibson, we see inscribed on this great Chamber ceiling an eagle with the words E Pluribus Unum. From the many, one.

Today, I think it is from one to the many. From a detective and an officer, from their sacrifices, from their professionalism and expertise to the many families, the many Americans and the many freedoms that we enjoy in this great country.

On Friday, I, like many of my fellow colleagues, brought children to this Chamber, my 5-year-old and 4-year-old. My 4-year-old fell asleep in this Chamber in the front row.

It is because we feel, as Members of Congress, 435 of us, so secure with the professionalism of these officers and what we want our children to see up here with this great institution that we have this security. We thank the families of these officers.

From the people of this great country, 6 to 8 million people visit this historic Chamber and this great Capitol, they are thankful to these families and these two courageous officers.

And finally, Mr. Speaker, what price, what price can you put on freedom, freedom of speech, freedom of religion and the ability of legislators to get together to make laws and the people in these chambers to watch with sunshine, these officers, this Capitol Hill Police force, allows that to take place.

On behalf of our families, on behalf of our freedoms, on behalf of the American people, we thank the courage, the bravery, and the heroic acts of these two great men.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, we struggle in vain to find the right words to try and make sense of the senseless. In the final analysis, we realize that no words can compensate, no words can comfort, no words can change the reality of loss confronted by the families of John and J.J.

In the end, Mr. Speaker, we are left not with words but with examples. In the New Testament Book of James, the writer reminds us that words are one thing and actions are something else. In the midst of this tragedy, Mr. Speaker, we saw a devotion to duty that transcends the horror and mayhem of that hour of uncertainty, because J.J. and John reflexively answered their call to duty.

In the end, that remains the truth and reality, that as professionals, befitting their brothers and sisters who wear the badges of honor in this House, they understood the true meaning of public service, which is not restricted to those who hold public office but in fact includes all of those willing to stand and put their lives on the line for an idea and a notion greater than themselves.

Mr. Speaker, our Founders, in the Declaration of Independence, the first time we see in print those words, the United States of America, said in closing, we pledge our lives, our fortunes, our sacred honor.

So, too, did John and J.J. Rest in peace, job well done.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I wish that I could say the words that would assuage the grief of the families of Officers Gibson and Chestnut, but I cannot.

I wish I had the words to properly express how they have protected this democratic institution, but I cannot. I can only say a word of gratitude. It was Cicero, the great Roman orator, who once said that gratitude is the greatest of all virtues. So that is what we are here about this evening, expressing in our own way the gratitude of our Nation, of our people and of each other.

My first experience with police officers on Capitol Hill was when we first came in December 1976, and the police officer I asked, and I was dressed in blue jeans and a ratty old overcoat. My family, my wife Suzy and I, my three boys were in the Capitol to look around. I asked directions of one of the officers, and he called me by name. Yet I was not a Member of Congress. I thought then they were a special group, and they are. Quiet competence, knowledgeable, friendly.

On top of that we have examples of two who were quietly competent, knowledgeable and friendly, but also heroes.

I say to this body, Mr. Speaker, as well as to all across the country, that every one of the Capitol Police that serves us today is quietly competent, friendly and knowledgeable, but each one, Mr. Speaker, is also a potential hero.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FORBES).

Mr. FORBES. Mr. Speaker, on behalf of the people of the first district of New York, I join with all of our colleagues and our Capitol Hill family and, indeed, all Americans, as we mourn the loss of two brave heroes, Officer Chestnut and Detective Gibson.

To their loving wives and their precious children and, indeed, all of their family and friends, we extend our heartfelt sympathies and prayers. Officer Chestnut and Detective Gibson brightened our days. They watched out for us. They made us feel secure and, just as we come here today to mourn them, so, too, do we celebrate the kind of men what they were. They, like so many of their colleagues on the Capitol Hill Police force, are a special breed of courageous, devoted and conscientious protectors.

May the Lord continue to shine upon them his infinite love and mighty graces.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, on behalf of the people of the 35th congressional district and the people of the State of California, I, along with all of the members of the Congressional Black Caucus, join with the President and other Members of Congress and, of course, the citizens of this entire Nation in sending our heartfelt condolences to the families of slain Capitol Police Officer Jacob "J.J." Chestnut and Capitol Police Detective John M Gibson.

We, too, are pained by the tragic death of two very fine officers who lost their lives while serving and protecting those of us who work and visit the Nation's Capitol each day.

Officer Chestnut was shot while guarding the east entrance of the Capitol. Detective Gibson was shot twice while protecting majority whip TOM DELAY's leadership office. They were the first officers in our history slain while protecting the Capitol of the United States.

These officers, these husbands, these fathers served their country unselfishly before they lost their lives last Friday. Both were 18 year veterans of the Capitol Police. Yes, each was a father and each was indeed a husband. Officer Chestnut was married with 5 children. He also was a grandfather. Detective Gibson was married with 3 children.

We may never be able to make sense of why Russell Eugene Weston, who had a history of mental illness, barged into the Capitol, barged in on Friday to shoot innocent people.

We do know this, however: We know that Officer Chestnut and Detective Gibson are heroes. They made the ultimate sacrifice. They gave their lives so that others might live. For that, we are indeed eternally grateful.

In closing, Mr. Speaker, I would like to say to the Members of the House, please remember to take time to acknowledge all our officers and, really, all of the workers who protect and maintain the Capitol and the office buildings. Say hello to them. Ask them how they are doing. Treat them with respect on a daily basis. After all, their lives are at risk every day to protect us and the citizens of this country who visit their Capitol.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. QUINN).

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Mr. QUINN. Mr. Speaker, I thank the majority leader for yielding me the time this afternoon.

Mr. Speaker, I came over with prepared remarks to talk about the heroes that all of us have talked about this afternoon and will tonight and tomorrow. But after listening and thinking about these prepared remarks, Mr. Speaker, I have to go off topic to simply say that, in all the confusion on Friday, I went home, caught a flight back to Buffalo, New York. All of us went home. I talked to constituents, and I talked to my family, and I discussed with people back home in Buffalo how they were happy and glad that I was safe, that I made it home to be with my own family.

Mr. Speaker, it seems at times that we worry about all of our inconveniences and all of our own problems and all of our differences here at work each week, but not only did I return home to my family but I am back at it again today, here in the Nation's Capitol. Officer Chestnut and Special Agent Gibson are not.

At times, our inconveniences and our problems and our differences seem to be bigger than they should be. We only have to look at these two fine gentlemen to understand how unimportant our inconveniences and our problems and our differences really are.

So what do we do and where do we go from here after services tomorrow? I might suggest, Mr. Speaker, that the Members of the House return to work and put aside those differences and those inconveniences and those problems and we get to the people's work in the People's House, in this building, to do what is right for Americans, and we do it because we know that there are officers just like J.J. Chestnut and John Gibson who protect us and put their lives on the line every day who want us to do it that way.

On behalf of my own family and the people of the 30th Congressional District in New York, I pledge to do that in memory of J.J. Chestnut and John Gibson.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Speaker, it was written some years ago, "Greater love hath no man than this, that a man lay down his life for his friends."

Certainly I rise today in behalf of the 10th Congressional District, State of Indiana, and for those who wished they were in this place tonight to pay special tribute to two brave police officers who gave their lives to protect the safety of visitors, the Capitol staffers and Members of Congress and to ensure that all Americans can freely walk the halls of Congress.

Officer Chestnut and Special Agent Gibson are two of my heroes. I had the privilege of meeting both of the gentlemen when I would go in the second entrance over there and was always endeared by their sweet smiles, their professionalism and their attentiveness.

As we debate what could have happened and what did not happen, I do not believe that there is anything under God's sun that we could have done to have prevented that awesome tragedy of last Friday. Because certainly Officer Chestnut and Special Agent Gibson especially did all that he could in terms of even giving up his own life for the sake of others.

I would like to convey my heartfelt sympathy to the families of those valiant officers and to assure them that they are in our thoughts and prayers, not just after tomorrow but eternally, especially while we come in and out of the House of Representatives.

I would like to add that I come from a district where the violence has eclipsed, we are surpassing the numbers of violence that we incurred last year in terms of homicides. I would trust that, rather than to overreact to this situation, because there is certainly nothing that we can do to erase that horrible tragedy that occurred at the Capitol on last Friday, but I think we, as Members of Congress, now must lean on the poet who wrote, "Blessed are the peacemakers," and do everything that we can in our power to ensure safe and peaceful schools and neighborhoods and parks and workplaces.

Let us come to grips with the violence in our Nation to make sure that this type of tragedy that claimed Officer Chestnut and Special Agent Gibson is no longer a part of American life. We owe that to Officer Chestnut and Special Agent Gibson to do nothing less. And while we honor these two young men, let us remember that we have much work to do in terms of assuring the health and the safety of Americans everywhere.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. I thank the gentleman from Michigan for yielding me this time.

Mr. Speaker, the people of the 8th District of New Jersey join all Americans in pausing to think about their lives, cut short by a madman, J.J. Chestnut and John Gibson. They represented family, dedication, hope; and the Chestnut and Gibson families should know that we here will not forget. You can count on this Congress.

Second, this house of the people should not be turned into a barricaded camp in the name of providing more security to the Congress. I feel secure. And democracy is, also. We shall be vigilant.

Recently, Mr. Speaker, I had a group of students come here. They wanted to go, four or five of them, to a place, a remote place in this building where usually people do not go. So I took them down to the bowels of the Capitol. We stopped for a moment, and I said, "Do you know where we are? This is where part of the War of 1812 was fought. And at the time it was being fought here, they were trying to burn down the White House down the street."

They could not believe that, because we take a lot of those things for granted, do we not? When they came out of the building, they turned and looked at it differently than they looked at it when they went into this building.

Mr. Speaker, from now on, I will bring those groups to where Mr. Chestnut and his friend and our honored person John Gibson fell. Democracy is secure because of them. Democracy is better because of them. Yet these things happened outside of a war. God bless them, God bless their families, God bless America.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. I thank the minority whip for yielding time.

Mr. Speaker, when I was home over the weekend, several Vermonters asked me to make certain that I express on their behalf their sorrow at the tragic deaths of Capitol Police Officers John Gibson and Jacob Chestnut. I know that I speak for all the people of the State of Vermont as well as my wife Jane when I do just that.

Mr. Speaker, these two extraordinarily brave officers did the job that they were trained to do and that they pledged to do. When their moment of truth came on Friday, they did not shirk from their responsibilities, and they did what I think all of us hope that we have the courage and the strength to do when our moment of truth might come. They gave their lives protecting congressional staff, visitors and elected officials.

It is appropriate that we honor these men and their families because they not only protected and saved the lives of many individuals, but they helped assure that the People's House remains open to all Americans. If democracy means anything, it means that the people have the right to visit with their elected officials, to go to the meetings that are of importance to them, to make their opinions known. That is what democracy is about. It is terribly important that no deranged individual, no terrorist stops that process and closes the door. Our hearts go out to these brave officers. They are true American heroes.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, today we gather here to show our respect and honor for the two men who died Friday heroically in the line of duty. I knew both of them. They were both very fine men, family men. Their sacrifice needs to remind all of us how very much we owe to all policemen and law enforcement officers across this Nation who similarly put their lives on the line every single day for the public safety and to protect the freedom that so often we take for granted.

It is very sad that it takes something like this for us to express our appreciation to those people who protect us and look out for us every day, as we cross the street and the officers stop the traffic. There are so many things that we just take for granted. From the bottom of my heart, I thank them both, and their families as well.

Last Friday, I was in my office until late. I instructed my staff to lock the doors, because we did not know how many shooters were there. We did not know how many shooters were out there. We did not know what was happening. I instructed them to lock the door and call their families and tell their families they were okay. When I called my mother, she said that certainly she was grateful that I called and that she could go to bed and her life would go on as usual but that the families of the people who were shot and the person who shot them would be forever changed. I express my sincere condolences to all of them and thank them for the sacrifice that they have made for us.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, when I was sheriff, I had a deputy gunned down by the name of Sonny Litch. I want to commend the Democrat and Republican leaders of the House the way they have handled this tragedy, because transition to normalcy will be very difficult. On behalf of all the people of the 17th Congressional District of Ohio, I, too, want to join my colleagues in saluting and paying tribute to John Gibson and Jacob Chestnut.

There are words to describe them. They are policemen, D.C. Capitol Police that, for many years, they were looked at as country club policemen, and it took this stark reality. Ladies and gentlemen, the Capitol Police are of the highest standards. John Gibson and Jacob Chestnut have just raised the bar for all policemen in America. They prevented any loss of life on their appointed duties except their own.

But I want to tell and remind the Congress today, because I was to offer an amendment to an appropriation bill and I was asked to not do it this year, that the D.C. Capitol Police is paid less than the Uniformed Division of the Secret Service who perform the same duties. That is unbelievable to me. The suburbs are robbing us of our good young guys and women that qualify through the FBI scrutiny for background checks. We must change that. The Uniformed Division of the Secret Service is paid more.

I salute John Gibson and Jacob Chestnut. They have raised the bar and the standards for all policemen in our country.

Mr. ARMEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio (Mr. BOEHNER), our conference chairman.

Mr. BOEHNER. Mr. Speaker, the afternoon of Friday, July 24, seemed just like another busy Friday afternoon in our Nation's Capitol. The House had just concluded business for the week, Members were headed home, and my staff and I had huddled in the Capitol for a routine meeting to wrap things up for the week. What happened next was anything but routine; sad, tragic, heartbreaking. I do not think there is any description that quite does it justice.

Capitol Police Officers J.J. Chestnut and John Gibson gave their lives stopping a deranged gunman who tried to blast his way into the people's Capitol. Working only a few dozen steps down the hall from Majority Whip TOM DELAY's office, my staff and I heard the shots. Like millions of others shaken by this tragic event, we feel we owe these two fallen heroes an almost unimaginable debt. Officers Chestnut and Gibson made the ultimate sacrifice for our Nation in keeping the Capitol safe and accessible for about 22,000 people who come to our Capitol every day to have an opportunity for direct contact with their legislators. That kind of openness is unheard of in societies that place a lesser value on human freedom.

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It is an important feature of American democracy that Officers Chestnut and Gibson gave their lives in its defense.

Speaker NEWT GINGRICH spoke for all of us in recognizing their sacrifice and their grieving with the families when he said: "These two gentleman are genuine heroes. They literally every day, knowingly and voluntarily, put their lives on the line. They understood that to be free, somebody had to be willing to take this risk."

The tragedy was an awful reminder that freedom inevitably comes with a price, a price that these two officers were willing to pay.

And as the gentleman from California (Mr. THOMAS) said emotionally just minutes afterwards: Freedom is not free. There is always a cost, and today it cost the lives of two security officers sworn to protect the safety of the people's House.

Officers Chestnut and Gibson's mission was to keep the Capitol open and accessible to citizens while guarding against those who would bring violence to its sacred halls. Nobly and courageously they succeeded, and we must honor what they fought for by keeping the Capitol open and accessible and preserving the freedom they died valiantly to defend.

America will never forget the sacrifice that these two officers and other law enforcement personnel, what they do every day in protecting our Capitol and our society as a whole, and we pray that the grieving families of those two fallen heroes will find comfort in knowing that freedom will be their loved one's enduring legacy. They gave their lives to protect it for all of us, and we thank them from the bottom of our hearts, and may their souls rest in peace.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, with profound sadness and great pride, I remember Special Agent John Gibson and Officer Jacob Chestnut. To the families of these two heroes, we are incredibly grateful and fortunate to have had your fathers and your husbands protecting the people's House.

While at home this weekend, constituents expressed to me time and time again the trauma of these events and their profound respect for those two men and all of the men and women protecting the people's House. I offer my prayers to these two families from thousands of families throughout Florida, and, Mr. Speaker, I would like to close by reading one of my favorite scriptures:

"Let not your heart be troubled, ye believe in God, believe also in me.

"In my Father's house are many mansions; if it were not so, I would have told you. I go to prepare a place for you.

"And if I go and prepare a place for you, I will come again and receive you unto myself; that where I am, there ye may also be."

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I join with my colleagues in paying tribute to two individuals who have given to this country their last measure of true devotion: Jacob Chestnut and John Gibson. They reinforce for us the fact that America, my country t'is of thee, is the land of the common woman and the common man. It is composed of people who struggle each and every day to make ends meet, put food on the table, provide for their loved ones.

We often hear of the great leaders, star entertainers, athletes, musicians and others, but in a real sense history is made by ordinary people whose names are often unknown or forgotten. Mr. Gibson and Mr. Chestnut are indeed unsung heroes. They are part of a group of men and women who put their lives on the line each and every day. They are the people who have made America.

And so, Mr. Speaker, on behalf of the people of the Seventh District of Illinois, I humbly salute these two heroes and pray for their families as we pray for America and as we relook at the gun laws and mental health needs of our country.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the minority whip for yielding this time to me.

Mr. Speaker, on behalf of my family and on behalf of the people of the First Congressional District of New Jersey, I rise to offer my condolences and thanks to the families of Officer Chestnut and Detective Gibson. They have given us many gifts in their lives, a gift of courage, a gift of discipline, ultimately the gift of their very lives.

Let me also suggest that I believe they have given us a gift in death.

I have had the privilege of standing in this Chamber for eight years, and I have never once felt the feeling that I feel here this evening of a truly collective broken heart of those of us who stand on this floor and those who serve their country and us around these environs. Their deaths have served to remind us that we are not Republican and Democrat, or liberal and conservative, or northerner or southerner; we are men and women, people bonded by the human spirit. Today that spirit is bruised and broken, but as they have given to us in their lives, I believe they will give to us in their deaths and hereafter a spirit of unity and cooperation.

May God bless their families, and we thank them for their contribution.

Mr. ARMEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I would like to add my condolences to the families of the officers.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I thank the distinguished minority leader for yielding this time to me.

Mr. Speaker, on Friday, July 24, Capitol Hill witnessed a very tragic event. Two Capitol Hill Police officers were slain while serving in the line of duty. Capitol Hill Police Officer Jacob Chestnut and Special Agent John Gibson were fatally wounded by a lone gunman who attempted to shoot his way into the Capitol Building. Hundreds of tourists and hundreds of aids were undoubtedly saved from harm as these two police officers performed their duties.

The loss of these two men was profound. Following the tragedy, many people used the term "hero" to describe Officer Chestnut and Special Agent Gibson. Many others were stunned by the sudden twist of events and were at a loss for words. Instead, they paused for a quiet moment of remembrance in honor of these two members of the Capitol Hill Police Force. The brave men and women who serve on the Capitol Hill Police Force are charged with protecting Members of Congress, Capitol Hill employees and tourists from around the world who visit our Nation's Capitol.

Mr. Speaker, these brave men gave the ultimate sacrifice. We offer our condolences to their families.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, we all know why we are here and for whom the bells toll. When Jake Chestnut and John Gibson died, they died for all of us. And we live, we go on, we move freely about this Capitol because they did their duty, they did it without flinching, they did it at the price of their lives.

They died for us, but they really died for something more. They died to keep this Capitol a place the people can come to and leave feeling this is their Capitol, the seat of their government.

We pay a high price in dollars to keep this the most open Capitol in the world. On Friday we paid far more dearly. We lost the lives of two good men.

It was not my privilege to know Mr. Gibson. I did know Mr. Chestnut. I knew the first minute I saw him, indeed sitting outside our conference committee room and noticed his name tag, that he was from South Carolina. He was professional from head to toe. He had a polished bearing about him, polished by 20 years in the Air Force. But beneath that polished bearing was a warm-hearted man.

I know his family loved him because all of us who came in contact with him did. To their families we open our hearts. Officer Gibson died young, Officer Chestnut died before enjoying a well-earned retirement. But they raised the bar of duty, they left the country two shining examples of courage, and they helped make this Capitol the land of the free, the Capitol of the land of the free and the home of the brave.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Speaker, we gather to pay tribute tonight to the lives of the heroes who died on Friday, true heroes Officer J.J. Chestnut and Detective John Gibson.

Like many of my colleagues, on Friday I had a hearing, I had meetings, I went back and forth to the Capitol, but I did not think about my safety. I certainly did not think about the safety of the tourists because I know that the Capitol Police are here, brave men and women sworn to protect those who come to this building to visit and all of us who work in this building.

Tragically, I was right. Two of those individuals were on duty and were suddenly thrust into the most deadly of circumstances. That this building reopened on Saturday testifies to the awesome truth as they did their duty of protecting this building, they protected the liberty and freedom and democracy that it stands for.

We gather tonight to pay this tribute to these men, and we feel so strongly and so sadly about their deaths, but we stand here tonight, all of us gathered today, in sympathy to say that we will make sure that their memories are kept by keeping this building the way they wanted it, a place of peace, a place of hope, a place of democracy.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I am proud to join my colleagues from both sides of the aisle in paying tribute to these fallen heroes, Capital Police Officers Jacob Chestnut and John Gibson, and in extending my deepest condolences to their families.

As my colleague, the gentlewoman from Connecticut (Ms. DELAURO), mentioned a little while ago, several of us were upstairs briefing the media after the votes in the House on Friday when the shooting happened. Capitol Police officers immediately came up to the press gallery to secure the area and make sure that we were safe.

The death of these police officers hits me in a personal way because my father is a retired police officer. Every day that my father headed off to work, I knew that he was potentially putting himself in danger to keep our community safe. There was, of course, a sense of fear and concern for his safety that I felt, but I also felt a sense of pride. I knew he was doing an extremely important job, and I know that the men and women who serve here in this Capitol feel that same sense of pride and purpose.

For the families of Jacob Chestnut and John Gibson, I just hope that the sense of loss that they are experiencing will be alleviated somewhat by the tributes today, and, Mr. Speaker, I hope that their sadness will be mitigated by the private knowing that Officers Chestnut and Gibson gave their lives to protect the lives of others.

Mr. BONIOR. Mr. Speaker, I yield 45 seconds to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, this is a sad time. J.J. Chestnut and John Gibson will always be remembered by the families and friends and all of us that love them and respect them.

I grew up in a family where we had a lot of security around. My father was Governor of Tennessee in the 1950s and 1960s, and I have got a lot of appreciation for people that wear the uniform.

And to those men: You have helped us protect freedom in the world because there is no building on the face of the Earth that is more recognized than the U.S. Capitol.

Mr. Speaker, these two men put their life on the line for all of us. God bless Officer Chestnut and Officer Gibson.

Mr. BONIOR. Mr. Speaker, I yield 45 seconds to the gentleman from Rhode Island (Mr. WEYGAND).

Mr. WEYGAND. Mr. Speaker, I thank the minority whip for yielding this time to me.

It is times like this that we are reminded of the inadequacy of our language. How do we properly express our regret and sorrow to the wives of Officer J.J. Chestnut and Special Agent John Gibson at the loss of their husbands? How do we share with their children the appreciation we feel for the valor displayed by their fathers? How do we share with other officers of the Capitol Police Force our thanks and admiration at the bravery displayed by these two fine young men and their fellow officers, giving their lives so freely so that others would be saved?

Thank you?
I am sorry?
Bravery?
Courageous?
Hero?

All words pale in the face of the loss of a husband, a father, a colleague, a friend.

Mr. BONIOR. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I rise today to join my colleagues in honoring Special Agent John Gibson and Officer Jacob Chestnut. These two brave men gave their lives to save other Members, staff and tourists from the most vicious attack in recent memory. Special Agent Gibson and Officer Chestnut are truly American heroes and it is fitting that we honor their memory today.

As the country unites to offer the families of these fallen heroes our condolences and prayers, I cannot begin to express my sorrow. The United States Capitol is a great example of freedom our country enjoys. No other country allows its citizens as much access to its government as the United States of America. I know everyone in this body appreciates and understands the importance of this freedom, and we thank Special Agent Gibson and Officer Chestnut for protecting us, our families, our friends, and our freedom from the evil and hatred the attacker carried within himself.

The Book of John, Chapter 15, verse 13 states: Greater love has no man than this, that a man lay down his life for his friends. I believe this message has special meaning today and forever. As a father of two children, I cannot begin to understand the pain and heartache being felt by the Gibson and Chestnut families. I hope and pray that these deaths were not in vain, and we all join together to pray for them and their families.

Mr. Speaker, I join my colleagues in honoring the memories of these two brave men. Our nation owes them a debt of gratitude that can never be repaid. July 24, 1998 will be remembered as a day of heroes at the United States Capitol and we must never forget the ultimate sacrifice Jacob Chestnut and John Gibson made for their country.

Mr. BONIOR. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, without excessive repetition, I would like to join my colleagues in the House to pay tribute to Officer J.J. Chestnut and Detective John Gibson who gave their lives dutifully protecting this hallowed institution.

It is important that we all come together across party lines and across all other differences to pay homage to these two heroes. And as we pay tribute to the dead, let us also honor the other police and protective forces and other staff members whose reverence for this institution is no less than and sometimes even greater than the reverence of the elected members.

In paying tribute to our defenders, we reaffirm the fact that this House of Representatives and the democratic process, this government belongs to all of the people. We reaffirm the fact that we are the guardians of a sacred process that takes place within the walls of this Capitol. This democratic process cannot survive without institutional support. The process and the institution have become inseparable.

This is the great democratic process that guarantees our freedom and guides our progress. It is the process that inspired the bravery and the courage on the beaches of Normandy. It is the process that applauded and rewarded the returning World War II heroes with more than merely marches and medals; Congress, this institution passed the GI Bill that offered unprecedented educational opportunities to every veteran.

This is the process and the institution that followed the leadership of the assassinated President Abraham Lincoln and passed the 13th, 14th and 15th amendments. This is the process and institution that, while mourning the death of John F. Kennedy, accepted the wise and forceful guidance of President Lyndon Johnson in the passage of the Civil Rights Act and the Voting Rights Act.

This is a sacred place and a sacred process that must at all times be protected and defended. Officer Chestnut and Detective Gibson instinctively understood the nature of our mission. The workings of this institution are more complex than the wiring and gadgets of any nuclear submarine. The impact of the results of what we conclude here has more explosive power and long range consequences than any rocket ever fired at NASA.

To keep this institution relevant and capable of meeting the challenges of our rapidly changing and demanding world we need the elevator operators, the cleaning staff, the receptionists, the analysts, the secretaries, directors, chiefs of staff, coordinators, counsels, information specialists, administrative assistants; and yes, we need the detectives and the police; all are vitally necessary. A complicated world demands an intricate governmental infrastructure.

The democratic process within this infrastructure must be protected because the twin monsters of insanity and violent savagery are always scratching at the door. In the last fifty years, the bullets of assassins have dramatically altered history in America: President John F. Kennedy, Martin Luther King, Jr.; Robert Kennedy; and the almost murdered President Ronald Reagan.

Against the twin monsters of insanity and savagery we must do more than merely mourn the loss of our heroes. Most Americans can only grieve with the families of J.J. Chestnut and John Gibson. We, 535 Members of Congress, can do much more.

In paying tribute to these heroes, we Members of Congress should seek a solidarity across party lines and beyond the usual philosophical and ideological agendas. In defense of this great institution and to protect all vulnerable Americans, we must unite and act as one. Let this be a time of new reflections, new insight and new resolve to find ways to disarm the proliferating number of insane and savage assassins.

The second amendment was designed to make us safe from tyranny, to bolster our sense of security. No well regulated militia should allow the rampant and random distribution of firearms among the populace. In the name of our Capitol heroes, Officer J.J. Chestnut and Detective John Gibson; and for the sake of the families of all similar victims, let us resolve as powerful decision makers, as Members of Congress, to end the escalating terror of handguns in America.

Mr. BONIOR. Mr. Speaker, I yield our last minute to the distinguished chairman of our caucus, the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Speaker, I rise today with sadness in my heart to remember the two brave members of our Capitol Hill family who died in the line of duty last Friday. Officers Jacob Chestnut and John Gibson selflessly gave their lives protecting all of us and in the larger sense protecting our democracy. In the course of doing our daily business we may sometimes lose sight of the fact that the people who work on Capitol Hill share a special bond as Americans and as public servants.

□ 2000

It is what makes us a family. Like any family, we have our battles and our disagreements, but we also share in one another's joys and sorrows.

Over the course of long days that are filled with issues of national importance, we often get caught up in the weight of our obligations to the people that we serve. We may even become a little jaded. But a quick walk through this awesome Capitol building reminds us of why we are here, all of us, elected and unelected.

Every day thousands of tourists wander through these halls with us. They may watch some debate, they may peruse some of the historical displays placed throughout the buildings, or they may meet with their representatives. In short, they are literally taking part in this democratic experience.

Throughout that experience, it is the Capitol Hill Police who help us do our job while they help the American people participate in their democracy. We have the rare privilege to conduct the people's business peacefully and safely, thanks to the hard work and dedication of this Capitol Hill Police Force.

So as we lay these two courageous officers, these two loving family men to rest, we must remember that this Capitol Hill family is composed of a cross-section of hard working men and women brought together by a common interest in serving their country.

Thank you, Jacob Chestnut; thank you, John Gibson. God bless you both and your families.

Mr. BONIOR. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. EDWARDS), the deputy minority whip.

Mr. EDWARDS. Mr. Speaker, with heartfelt sympathy to the families of Officers Chestnut and Gibson, I express my gratitude to them and their families for serving our country.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. BONIOR) has expired.

The gentleman from Texas (Mr. ARMEY) has 2½ minutes remaining.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 311.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me begin by thanking all my colleagues for their contribution to this debate.

Mr. Speaker, in a few short minutes we will have a vote. I feel it is a great honor to end this debate, and I would like to close this debate by daring to be presumptuous. We have heard from so many Members of Congress about these two fine officers, these two genuine heroes, Detective Gibson and Officer Chestnut. But dare I, Mr. Speaker, presume to speak on behalf of their associates and colleagues, fellow officers in the Capitol Hill Police Force?

We would, first of all, realize that I am so little equipped to do that, Mr. Speaker; but they do not have access to this floor to speak on behalf of their colleagues, their friends, their fellow officers. In truth of fact, they knew these two men better than we. Officer Chestnut was for so many a mentor; Detective Gibson, so many times a friend to so many of the other officers.

But if they could speak here today, and if they could speak about Detective Gibson and Officer Chestnut, I think all of the men and women of the Capitol Police would say, Mr. and Mrs. America, know our fallen comrades; know them, for they are we, and we are them. We served together, and we serve you. Come to the People's House from all corners of our great land; come to America and visit this hall of freedom; come and see; and we will welcome you, we will aid you, we will assist you, we will give you courteous advice, we will give you a helping hand. If there is danger, we will shield you. If there is discomfort, we will aid you. We will help you in each and every way we can to know that in America, where democracy is constructed in this great hall of Congress, the people are welcome, for the people truly own this place where we work.

But then they would say, as you know Detective Gibson and as you know Officer Chestnut, know also that if you come here to disturb the peace, if you come here to trouble others, if you come here to trespass against freedoms or threaten the security of other people, you will be met with a well-trained and professional force, a force of disciplined officers of the law and a force of men and women who believe that Officer Chestnut and Detective Gibson, by, first, their friendly service to so many people, and, then, finally, their dedicated protection of the rights of all, the safety of all, the security of all, Detective Gibson and Officer Chestnut are exemplary of who we are. We love this place, we love this Nation, we love the people of this great land, and we love the men and women who serve here, and we will stand in service and protection for all who are on these properties.

I think they would finally close with God bless you; God bless you, Detective Gibson; God bless you, Officer Chestnut. Well done.

Mr. DINGELL. Mr. Speaker, it is with great shock and sadness that I stand here to speak about the deaths of two fine officers who were so brutally shot down only a few feet from this Chamber on Friday afternoon. These heroes put their own lives on the line to save thousands of Capitol employees and visitors.

My heart goes out to their families and their friends. I know that it must not be much consolation to know that they are heroes no longer with us when in reality we all would much rather have them with us, and because of them no tourists or workers died—if they hadn't been there it would have been much worse. Jacob Chestnut and John Gibson showed us that the Capitol is safely guarded and that it is safe for folks to walk, enjoy and learn about the "People's House."

This unexpected and sudden tragedy apparently was the result of a disturbed individual. Unfortunately there is no way to make sure that Americans will not be exposed to such risk. However, I feel better walking the Halls of Congress on Capitol Hill knowing that officers of this dedication and ability are there to protect me, my constituents and my staff. The Capitol Hill Police Force should be commended for the bravery and efforts in the way that this very difficult situation was handled. Let us hope it will never have to be repeated.

Ms. KILPATRICK. Mr. Speaker, on Friday, July 24, 1998, a Congress, a City, a Nation was shaken to its very foundation. The people's house, the U.S. Capitol Building, was violated when two of Capitol Hill's finest were killed in the line of duty: Officer Jacob J. Chestnut and Special Agent John Gibson. The ultimate and supreme sacrifices of these officers prevented the deaths of untold other constituents, citizens, and colleagues. Not only do we owe the memory of these men and their families our thanks, but we owe them our eternal gratitude. We must ensure that their memory will live on forever.

As a Member of the House Oversight committee, my colleagues and I have the duty to ensure that Congress remain accessible to all, and safe to ensure the democratic and timely debate of issues of the day. In our Committee rooms and offices, sometimes it is easy to forget the very difficult duty and burden that we place on the police officers of Capitol Hill everyday. Indeed, it is up to the officers of the Capitol Hill Police Department to carry out the orders and directions of the House Oversight Committee. These officers must allow our citizens to exercise their First Amendment right to freedom of speech, while ensuring that no ill will or harm befalls any individual person. The Capitol Hill Police Department has been doing a very difficult task extremely well for over 150 years. As a matter of fact, it is very easy to take for granted the safety and security of our Capitol, as many of my colleagues and I do everyday.

As a result of the recent horror and tragedy, it is important that we remember that the U.S. Capitol belongs to all who love democracy, freedom and justice. I am sure that the House Oversight Committee will begin in all due haste to review the security and safety of the U.S. Capitol and its environs, keeping in mind the openness and freedom that separates the United States of America from all other nations in the world.

Let us keep the families of Officer Chestnut and Special Agent Gibson in our prayers. While I did not know Officer Chestnut and Special Agent Gibson personally, I do know of the fine work of many, many other of the other officers of the U.S. Capitol Police. The Bible says that no woman or man has a greater love than to lay down her or his life for their friends. The Bible also orders us to love our neighbor as ourselves. In the wake of this senseless loss, it is my desire and hope that all of us, Members of Congress and citizens alike, learn to care for our fellow human beings in the manner in which Officer Chestnut and Special Agent Gibson loved not only their jobs, but their families, their fellow officers, and their country.

My prayers, as well as the prayers of the 15th Congressional District of Michigan, are with the families of these two fine men. You have made a difference in Congress: May they rest in peace.

Mr. STEARNS. Mr. Speaker, it is with great sadness that I add my voice in tribute to the two fallen officers who lost their lives in performing their duty last Friday. This tragedy has brought us all together in grief as we remember the dedication of these two fine men, Officers Jacob Chestnut and John Gibson. They are the first Capitol Hill Police Officers to be killed in the line of duty and we owe it to them and their fellow officers to work to ensure that they are the last.

However, we must also ensure that the public will continue to have access to the nation's Capitol for its historic significance and as the seat of the legislative branch of government. By not keeping this great building open to the some 23,000 people who visit it daily, we will be surrendering a part of our freedom and our heritage. Let me remind my colleagues that Officers Chestnut and Gibson died defending our freedom and our heritage.

These deaths show us not only just how fragile life is, but also the invaluable service provided by those who put their life on the line as law enforcement officers. Let us never forget the sacrifice of these officers and those of everyone killed doing their duty. These two families and the entire nation have lost two outstanding individuals. I join in praying for their families and I extend to them by deepest sympathies.

Mr. SENSENBRENNER. Mr. Speaker, I rise today to join my colleagues in paying tribute to Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police who lost their lives Friday, July 24, 1998 defending the United States Capitol, the tourists who visit it, and the Members and staff who serve there. It is thanks to their dedication to duty that an already tragic day did not result in additional loss of life. It is thanks to their heroism, and the heroism of their fellow United States Capitol Police Officers, that the People's House is and can remain open to the American people.

Today, flags fly at half staff over the United States Capitol to honor the fallen officers. Officer Chestnut, an 18 year veteran of the U.S. Capitol Police, had served in the U.S. Air Force. Detective Gibson was an 8 year veteran who was assigned to the dignitary protection division of the Capitol Police. Both officers leave behind a wife and children, as well as countless family and friends. At this very difficult time, it is my hope that they will find some solace in knowing that their loved ones died protecting America's hard-won freedom. Of this, they can be proud.

Friday's criminal act should not result in calls to close the Capitol and have Congress work away from the citizens it represents. Officer Chestnut and Detective Gibson gave their lives so the American people can visit their Capitol and see their Congress at work. The officers' sacrifice cannot have been made in vain.

My thoughts and prayers, along with those of every Member of this House, are with the fallen officers and their families at this difficult time. Detective Gibson and Officer Chestnut served their country well. The service and heroism they displayed is exemplary, and we will always be thankful for the sacrifice they made.

Mr. GEJDENSON. Mr. Speaker, I rise to join my colleagues in memorializing Capitol Police Detective John Gibson and Officer Jacob Chestnut. Officers Gibson and Chestnut made the supreme sacrifice to protect members of this body and our visitors. I extend my deepest condolence to their families and fellow officers.

As many other Members have said, the Capitol Police are a part of our family. We see them every day, we exchange pleasantries, we come to know them by name. Hundreds of thousands of visitors interact with them every year. However, many of us rarely stop to think that members of the Capitol Police force face the very same dangers as officers in our largest cities. Unfortunately, it takes a tragedy to bring that reality home.

The reality that the officers stationed throughout the complex can be confronted on any given day by an individual or group committed to harming Members and visitors. The reality that we live and work in a violent society—not in an isolated island. The reality that too many Americans believe that guns, rather than words, are the solution to their problems. The reality that not every one who visits the Capitol on a daily basis is here to experience how their government works.

Officer Chestnut and Detective Gibson understood the risks, they did not shrink from them. They acted as they were trained. As a result, they prevented one committed individual from inflicting much more damage. They have been called 'genuine American heroes.' Like millions of other Americans, I share this sentiment. However, they are heroes not only for laying down their lives to protect others. They are heroes because they acted to preserve the openness that makes the House of Representatives different from any other legislative body on the face of the earth. I believe the best tribute to these heroes is to ensure that the House remains as accessible to the American people as possible.

Mr. Speaker, Officer Chestnut and Detective Gibson represent the very best qualities of America—commitment to public service, selflessness and courage. I am saddened that a tragedy, rather than the work they did every day, brings us to the floor tonight.

Mr. KLECZKA. Mr. Speaker, I rise today to honor the memory and dedication of two of our finest public servants, officers Jacob Chestnut and John Gibson of the Capitol Police. These two men paid the ultimate sacrifice to see that the Capitol and its occupants could conduct the business of democracy in the light of day, in plain view of the people.

Mr. Speaker, I think it's important to remember these men as more than names on a plaque. John Gibson was an 18-year veteran who lived in Woodbridge, Virginia. He is married to the niece of one of our colleagues, Rep. JOSEPH MOAKLEY. Compounding the tragedy of the death of John Gibson is the loved ones he leaves behind, his three children—a 17-year-old daughter and two boys aged 15 and 14.

A story from the newspaper tells us more about John Gibson, the man. He was regarded as a handyman around the neighborhood. John once ordered gravel to build a patio behind his house—only he ordered too much. There stood a big load of gravel dumped at his house. So, John ended up supplying the neighborhood with gravel. He did what any of us would do. He was just a regular guy.

Jacob Chestnut—or "JJ" as his colleagues called him—was a 20-year Air Force veteran. He served in Vietnam. His neighbors knew him as a gardener who generously shared his latest crop of cucumbers or Chinese cabbage. Jacob Chestnut, who is survived by five children from his current and previous marriages, planned to retire soon and play golf and travel with his wife.

As presidents and national heroes are honored, so are Officers Chestnut and Gibson. They acted with the highest courage. They performed their duty selflessly and prevented possible serious injury to scores of others. Officers Chestnut and Gibson are a testament to our national values and have earned the distinction of being national heroes.

They, like other everyday heroes—the men and women of the Capitol Police force—conduct themselves with distinction so that we might do the business of the American people in the open and share with the public the workings of this wonderful institution and symbol of democracy.

Mr. Speaker, these two men have been taken from our congressional family. We have suffered a grievous loss. May the Lord bless officers Chestnut and Gibson and their families and protect those who put their lives on the line every day so that we may live free.

Mr. MCGOVERN. Mr. Speaker, I rise today to join my colleagues and the American people in paying tribute to two American heroes.

On Friday afternoon, Capitol Police Officers J.J. Chestnut and John Gibson laid down their lives in defense of this building, in defense of the Members of this House, in defense of the thousands of tourists and staff members who work and visit here, and in defense of this country.

J.J. Chestnut was a dedicated Capitol Police officer who came to work every day and did his job well. While I didn't know him personally—I was certainly very familiar with his face. Part of the ritual of being a Member of Congress is walking into this building and casting a vote. How many times have we walked past these officers? How often before Friday have we really stopped to think about the sacrifices they make?

I personally knew John Gibson as the husband of Congressman MOAKLEY's niece. I had the privilege of working for Cong. MOAKLEY for 13 years, and during that time I got to know John Gibson as a family man, as a Massachusetts native, and as a life-long Red Sox fan.

You know, a lot of people have remarked about John Gibson's "Boston accent," and how strange they thought it was. But I'll tell you, to me, listening to John talk served as a reminder of home.

Mr. Speaker, yesterday the Boston Red Sox beat the Toronto Blue Jays 6–3. I'd like to think that somewhere, John Gibson is looking at that box score and smiling.

I also want to say a few words of appreciation and admiration for the response of the entire Capitol Police force, who with professional efficiency and control, ensured that Members of Congress, congressional staff and tourists were safe and secure, either inside the Capitol or outside on the grounds as soon as the call went out that a gunman was loose in the Capitol Building.

I join the American people in mourning for these two brave men. I extend my sympathies to their families, friends and loved ones. And I express my respect for the Capitol Police force who work every day to ensure that the American people may safely visit and work within the nation's Capitol.

Mr. FROST. Mr. Speaker, on Friday afternoon, July 24, 1998, tragedy struck the Nation's Capitol. A lone gunman burst through an entrance of the Capitol building, fatally wounding two Capitol Police officers who saved the lives of so many through their own bravery.

Two of the finest members of our Capitol Hill family were shot and killed in the line of duty. Officer Chestnut and Special Agent Gibson gave their lives defending Congress and its visitors from a gunman who savagely discharged his weapon on anyone who stepped in his way. Officer Chestnut was the first to be shot as he vigilantly guarded his post. After the gunman shot and wounded a fleeing tourist, he crashed into Majority Whip DELAY's office, shooting and mortally wounding Special Agent Gibson.

The actions of this man were reprehensible, but they were also the actions of a very disturbed person. Officers Gibson and Chestnut displayed a heroism and bravery which we should all be proud and thankful for as Americans and members of the Capitol Hill family.

Officers Gibson and Chestnut gave their lives in order to save the lives of so many others who were in harm's way. My thoughts and prayers go out to both families as well as to the United States Capitol Police, as I am sure the past few days have been very trying times. It is a comforting feeling to know that we are all being guarded by such a competent, dedicated, and brave group of officers.

Mr. MANTON. Mr. Speaker, I rise to join my colleagues in commemorating our valiant Capitol Police Officers who gave their lives in the line of duty. Officer J.J. Chestnut and Special Agent John Gibson will have our undying gratitude and remembrance for making the greatest sacrifice in serving their country. Our prayers and best wishes go out to their family and friends.

Mr. Speaker, as a former New York City police officer, my sadness and pain at this senseless loss is difficult to put into words. Once you have worn the uniform, you become part of an extended family for the rest of your life. And, while you know firsthand the senseless violence that occurs all too often in our country today, you still feel very personally each and every loss of a member of that "thin blue line" that serves to protect every one of us.

Mr. Speaker, these slain officers were heroes in the truest sense of the word. Not because of unusual feats, but because they died simply as a result of doing the job we ask them to do. We all are indebted to Officer Chestnut and Special Agent Gibson for their sacrifice. We offer our sincerest condolences to their families. And, we all owe the members of the Capitol Police Force our respect and admiration for the work they do, each and every day.

In closing, I believe it was President Theodore Roosevelt, who wrote, "Death is always and under all circumstances a tragedy, for if it is not, then it means that life itself has become one."

Mr. Speaker, let us here today swear that the tragedy our extended congressional family experienced last Friday shall always remind us of the value of life; of the valiant work of our Capitol Police Force; and of the need to be vigilant against the pointless violence that, sadly, pervades our society.

Mrs. LOWEY. Mr. Speaker, I rise today to express my deep and sincere condolences to the families of Officer Jacob Chestnut and Special Agent John Gibson.

Those of us who are privileged to work on Capitol Hill feel as if we are part of a very large and extended family. Officer Chestnut and Special Agent Gibson were vital parts of that family.

If the Capitol Police did not perform their jobs so professionally, they would be better known. Unfortunately, in today's society, we seem to focus on the negative rather than on the positive. But the Capitol Police do an excellent job and so the American people are not familiar with these dedicated men and women who patrol the United States Capitol grounds day and night.

Our nation's Capitol, the most recognizable symbol of freedom and democracy in the world, is also one of the most accessible government buildings in the world. Visitors from across our nation and the globe marvel at the ease with which they can sit in the gallery and watch the inner workings of Congress. They walk in awe throughout this grand and historic building. Yet, it is the dedication and professionalism of the Capitol Police which makes this access to the Capitol possible.

A few months ago, there was a fire in the Longworth Building. The fire alarm didn't go off on every floor, so Capitol Police officers ran up and down the stairs going into each office to remove people from harm's way. A few officers suffered smoke inhalation as they risked themselves to do their duty.

Every summer we read about tourists overcome by the heat, collapsing on the Capitol grounds, only to receive swift and needed care from Capitol police.

Everyday we see the Capitol Police direct traffic to ease the morning and evening commute. We see them giving tourists directions and helping lost children find their parents.

They patrol our corridors and insure order and safety in our nation's most important public building.

When I think about the choice which Officers Chestnut and Gibson made to serve the public as police officers, I am reminded of what Thucydides once said, "the bravest are surely those who have the clearest vision of what is before them, glory and danger alike, and yet notwithstanding, go out and meet it."

As I offer my sympathy to the families of these two fallen heroes, I am also reminded of what the Bible says, "No greater love has a man, than he lay down his life for another."

Mr. DICKS. Mr. Speaker, this is a difficult and solemn time in the House of Representatives. It is a day in which our thoughts and prayers are with the families of the two heroic members of the Capitol Police force who lost their lives last Friday, Officers Jacob Chestnut and John Gibson. They were part of our family here in the House and all of us today are experiencing the emotions of a death in the family. These were well-liked and well-regarded men whose jobs it was to protect the institution of the House and the people who serve in it. And in protecting us, they sacrificed their lives to save the lives of many others working and visiting the Capitol building. Despite the many words expressed in the House and Senate today, there can be no tribute grand enough to express our true appreciation for the selfless actions of John Gibson and Jacob Chestnut. To their families, we owe a great debt of gratitude and we, as an institution, will never forget their placing their sense of duty above personal safety.

It is my hope, Mr. Speaker, that the Members of this body will focus on the important messages that flow from this tragic incident. First, I believe it is important that we recognize how capable and well-trained the members of the Capitol Police Force are. We see them everyday in many of their diverse roles, but when called upon to respond quickly to life-threatening situations, the force reacted swiftly and superbly, preventing an even more tragic result. As we seek to learn the lessons of this incident, it is abundantly clear that the people in charge of the mission of protecting this Congress are indeed quite capable and well-trained.

There may be security enhancements that can be accomplished to make this important public building even safer for the millions of visitors who come here each year. Certainly we must consider all the suggestions that flow from the thorough analysis of the shooting incident last week, including new physical protection measures and procedures that may guard against new and different threats here at the Capitol. Let me echo the sentiments of many of my colleagues here today, however, in expressing my personal hope that whatever security improvements may be implemented, they should preserve—to the greatest extent possible—this building's character as the "People's House," one which Americans from across the land can enter to view their representative government in action. Though we may be able to make the United States Capitol Building safer, I believe we should be careful to understand the actual and symbolic needs for access.

There is perhaps another message here, Mr. Speaker, relevant to this individual who crashed through the security station at the East Front of the Capitol last Friday. While all of the facts and motivations may not be clear to us at this early time, the interviews of his family convincingly demonstrate that Russell Eugene Weston was unstable, with a long history of mental illness. I believe that this incident calls into question the way in which potentially dangerous mentally-unstable individuals are ignored until they cause harm to themselves or to others, and certainly this must cause some re-evaluation. If we are too quick to release mentally-ill individuals like this from institutions, we must at the same time recognize that the result will be additional challenges for law enforcement—though hopefully never with such a tragic result as occurred last Friday.

So, Mr. Speaker, let me join all of my colleagues in bowing our heads in solemn memory of Jacob Chestnut and John Gibson today, and to remark that any honor we can bestow upon them will pale in relation to the sacrifice they have made for us.

Mr. COYNE. Mr. Speaker, I rise today to join my colleagues in mourning the deaths of Capitol Police officers John Gibson and Jacob Chestnut, and in recognizing the dangers and challenges that members of the Capitol Police force face every day.

The Capitol complex is a large, busy place in the middle of a busy metropolitan area. As the seat of democratic self-government in this country—and as a symbol of democracy around the world—the Capitol is an obvious target for terrorists, as well as distinguished or mentally unbalanced individuals. In fact, as others have observed in recent days, the Capitol building has been the target of violent acts several times before in this century.

Despite the obvious concern about security, Congress has consistently decided—quite correctly in my opinion—that a high priority should be placed on keeping the Capitol complex as open to visitors and observers as possible. Congress and the Capitol Police have to constantly weigh security concerns against the need for openness. The outcome is inevitably a delicate balance, but Congress has wisely decided to preserve the public's access to the Capitol.

The Capitol Police force has the difficult mission of maintaining security in the Capitol complex while allowing thousands of visitors into its buildings each day. The Capitol Police go on duty each day never knowing when they may be attacked or drawn into some deadly confrontation. Despite this risk and uncertainty, they provide courteous service to the thousands of people who visit the Capitol each day while protecting the Capitol, its occupants, and visitors.

This Nation has been fortunate in the relatively small number of violent attacks that have been made on the President, Congress, and our federal employees. But every so often, as in the bombing of the Murrah Office Building in Oklahoma City or the terrible events that took place here in the Capitol on Friday, a violent attack does take place.

A natural human response is to say how could this happen—why couldn't something have been done to prevent it? Sadly, such tragic events are inevitable in a free society. We can work to make such events more infrequent, but we can not eliminate them. As this sad event reminds us, the benefits of a free society come only at a high price. These two fine Capitol Police officers, who died in the line of duty, gave their lives to preserve that freedom. They also gave their lives to protect the lives of the hundreds of other people who were in the Capitol Building at the time the gunman opened fire. Their sacrifice will not go unnoticed.

On behalf of the people of Pennsylvania's 14th Congressional District, I extend my heartfelt sympathy and deepest condolences to the families of these two American heroes. And I want to express my gratitude and appreciation to the men and women of the Capitol Police force, who—like Officers John Gibson and Jacob Chestnut—carry out their duties day in and day out with courage, dedication, and skill.

Ms. LEE. Mr. Speaker, it is with a tremendous sense of loss and sadness that I rise today to express my sincere condolences to the families and friends of Detective John Gibson and Capitol Police Officer Jacob Chestnut, and to their colleagues in the Capitol Police.

I'd also like to offer my sincerest gratitude to all of our Capitol Hill security personnel, who each and every day risk their lives for us and whom we oftentimes take for granted. Thank you for your service, your commitment, and your valor.

Detective Gibson was truly an officer's officer: his work exemplified the truest meaning of service. He is remembered by colleagues, friends, and neighbors alike as someone who would do whatever he could to help, someone who made people feel safe.

Officer Chestnut was a stalwart of service and professionalism. He always exhibited genuine kindness and gentleness to all of us who were privileged to know him. My family and I remember his assistance during my swearing-in ceremony, his incredible kindness, his guidance, his tremendous warmth.

These two heroes gave their lives in the line of duty protecting their fellow citizens. They leave behind families, friends, co-workers, communities, and Americans who will never forget their commitment and their sacrifice. Their passing leaves a void that will never be filled. We join with the families to remember special times and, in doing so, Detective John Gibson and Officer Jacob Chestnut will have a permanent place in our hearts. May they rest in peace.

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today in support of H. Con. Res. 311 to honor the two Capitol Security officers, Jacob Chestnut and John Gibson, who gave their lives last Friday in service to our nation. I offer my deepest sympathy to their families.

I also honor all of the other law enforcement personnel throughout the nation who put their lives on the line each day for the safety of our nation's citizens.

The Capitol Police responded to this situation swiftly and effectively. They told the staffers and tourists what to do during the melee and comforted them afterwards. They shielded people and saved lives. I would like to extend a thank you to all of these officers.

I would like to share an editorial printed in the Kansas City Star on Monday, July 27, 1998. This editorial honors Officers Chestnut and Gibson, as well as the other dedicated security personnel across the country who are committed to protecting all of us.

The shooting deaths of two police officers in the U.S. Capitol are a tragic reminder that thousands of law enforcement and security personnel put their lives on the line every day so that the rest of society can go on about its business.

All too often their willingness to put themselves at risk is taken for granted. But as events inside the Capitol demonstrated last week, these brave men and women may be called upon at a moment's notice to protect hundreds of innocent people from harm.

One day something goes wrong—an alarm goes off, a suspicious figure rushes by, shots ring out in a hallway—and suddenly their years of training and experience, their sheer speed in determining what must be done and their courage in doing it, become absolutely critical.

Capitol Police Officers Jacob Chestnut and John Gibson, who sacrificed their lives in the line of duty on Friday, will be remembered by thousands of friends and colleagues in Washington and by millions of people across the country for their heroism.

Chestnut was shot while attempting to protect an entrance to the Capitol. Hearing shots, Gibson ordered the people around him to get down to protect themselves. He then confronted the gunman and was fatally wounded. But the dying officer fired on the gunman, saving government officials and tourists from harm.

It appears that the gunman was someone suffering from a mental illness that included bizarre delusions—someone who, fearing trouble with the government, traveled across the country to find that trouble.

But in the midst of Friday's crisis, Officers Chestnut and Gibson did not know who he was. These Capitol Police veterans simply knew that one of the central institutions of the U.S. government was under attack—and they found themselves on the front line of its defense. They did their duty without hesitation, and for that the entire nation honors them.

As the work week begins, many Americans will feel an extra measure of respect and appreciation for the many other police officers and security personnel who stand guard in government buildings and private offices around the country.

As the result of this tragedy, the already elaborate security system on Capitol Hill will be reviewed. Perhaps some changes will be made.

But as President Clinton and other officials have indicated, it would be a mistake to reject the commitment that has been made to keep the Capitol so accessible to the public.

Many other public places, after all,have been targeted by sick individuals and terrorists. Reasonable steps must be taken to discourage such violence. But we should not allow fear to dominate our lives, either at home or in our nation's capital city.

Given the visibility of the Capitol as a symbol of the government, and the thousands of people who move through it on a daily basis, the overall security record there appears solid; this was reported to be the first shooting in the building in decades.

Brave, dedicated people like Officers Chestnut and Gibson have been at the heart of that system. They will always play the critical role in protecting American institutions from confused individuals and those who wish our nation harm.

Mr. DAVIS of Illinois. Mr. Speaker, I join with my colleagues in paying tribute to two individuals who have given to this country their last measure of devotion, Jacob Chestnut and John Gibson. They reinforce for us the fact that America, "My country Tis of Thee," is the land of the common woman and the common man. It is composed of people who struggle each and every day to make ends meet, put food on the table and provide for their loved ones. We often hear of the great leaders, star entertainers, athletes, musicians and others. But in a real sense history is made by ordinary people whose names are often forgotten or unknown.

Mr. Gibson and Mr. Chestnut are indeed unsung heroes. They are part of a group of men and women who put their lives on the line each and every day. They are the people who have made America, and so, Mr. Speaker, on behalf of the people of the Seventh District of Illinois, I humbly salute these two heroes and pray for their families as we pray for America. And as we re-look at the gun laws and mental health needs of our country.

Mr. ROGERS. Mr. Speaker, I rise today in honor of Officer J.J. Chestnut and Special Agent John Gibson who were tragically slain in the line of duty this past Friday. Words do little to reveal the sense of gratitude we feel for their heroic actions or the sense of loss accompanied with their passing. Few of us could ever hope to equal the level of courage displayed by these individuals. My thoughts and prayers go out to their families and friends in this time of great sorrow.

While we mourn the loss of these two fine officers, we must also pay homage to all members of the Capitol Police Force. These brave men and women perform their duties with smiles and kind words, always standing at the ready to put themselves in harm's way if danger calls. Unfortunately on Friday, danger did call. Without regard for personal safety, they responded to the situation shielding Members, staff and visitors from harm, losing two of their own in the process. I thank them for their selflessness, their sense of duty and their courage. I extend to them my great sympathy on the loss of their comrades and my hope that such condolences are never again required.

Mr. HORN. Mr. Speaker, last Friday's tragedy continues to haunt our Capitol Hill community and our Nation. For those of us who work every day under the protection provided by the Capitol Police, it is particularly disturbing and saddening. My condolences and prayers go out to the family members and friends of Officers J.J. Chestnut and John Gibson. Without Officer Chestnut and Special Agent Gibson, more lives would have been lost on Friday. They are heroes in every sense of the word and deserve our deepest gratitude for their ultimate sacrifice.

One can only wish that the heroism and bravery of the Capitol Police force could have been brought to our Nation's attention under less tragic circumstances. The Capitol Police officers are our friends and colleagues. The protection of freedom is a goal we share with them. They work to ensure that Members of Congress can do their jobs without fear of intimidation or harm. On a more personal note, I have the highest appreciation for the Capitol Police for the assistance they have provided to me and my staff with great skill, courtesy, and professionalism.

Few of us are asked to risk our lives in the performance of our daily job duties. All of our Nation's law enforcement officers face that risk of death every day. Each day, they leave their homes and families to go to work, knowing that they might not return home. They accept the risk of death as the price of our freedom and our ability to live in a peaceful society. Because of their courageous selflessness, they do all of this without hesitation or complaint.

For elected Members, our support staff, and the Capitol Police officers, Capitol Hill is our workplace and, in many cases, at least our part-time neighborhood. This tragedy hits close to home for all of us. We all have walked countless times in the area where the shootings occurred. We have taken our families, friends, and constituents on tours that pass through that part of the Capitol, as have our staff members and interns. One of my staff members, Melissa Palaréa, was taking a group of constituents through that area as the shooting broke out. We feel fortunate that neither Melissa, nor the people she was escorting, were injured. We feel a heightened awareness of how quickly and unpredictably lives can be lost.

The Capitol is "the people's house." There is no more recognizable symbol of democracy than the dome and the flags flying in the wind over each wing—a signal that the House and the Senate are in session as we seek to represent our diverse society.

One of the hallmarks of our democracy is the right of all Americans to come to Washington, meet with their Representatives and Senators, and watch the proceedings of Congress in person. That spirit of open government was violated on Friday. As we mourn the loss of Officer Chestnut and Special Agent Gibson and help their families in every possible way, we must also continue the openness of the symbols of democracy they died to protect.

Mr. RAMSTAD. Mr. Speaker, this is a somber and solemn day for Congress and our Nation. Our Capitol Hill family has suffered great loss with the deaths of Officers Jacob "J.J." Chestnut and John Gibson. The entire country was both shaken by violence at our Capitol and inspired by the ultimate heroism of these two men.

Mr. Speaker, how can we adequately thank our heroes? How do we comfort their wives and children who suffered the ultimate loss?

I have no answers to those questions, Mr. Speaker. I only know that we owe two law enforcement heroes more than words can express. I hope everyone listening will pray tonight for the families and friends of these two brave fallen officers.

As Co-Chair of the House Law Enforcement Caucus, I know that senseless tragedies are not new. Since our nation's founding, nearly 15,000 police officers have been killed in the line of duty. Their names are etched in the walls of the National Law Enforcement Officers Memorial, just blocks from here. Sadly, we now know two new names that will be added to the wall next year.

In this Capitol, we are protected by nearly 1,300 sworn officers and security aides. Their presence is so steady and reassuring that at times people have forgotten to notice. And the Capitol Police are joined by hundreds of thousands of law enforcement officers across America, who get up each morning and put on their badge, committing to protect people whose names they may never know. They have taken an oath to die for us. They are all American heroes. I am humbled to call them both my protectors and my friends.

If the events of last week hold any lesson, it is this: we must never take these courageous men and women for granted. They deserve our thanks, every opportunity we get.

J.J. and John will be remembered for the way they died, and also for the way they lived. They make us want to be better people. The greatest tribute we can offer these men is to have the same single-minded focus on our jobs in this great building, the People's House.

Remembering how Officers Gibson and Chestnut worked together to protect the People's House, I hope we will work together in a bipartisan way to make our country a safer place for all.

I hope, too, that the legacy of Officers Chestnut and Gibson will be a Capitol that is open and accessible to the people to which it belongs. That is what they would have wanted. That is why they made the ultimate sacrifice.

Thank you, Mr. Speaker, and thank you, Officers Chestnut and Gibson. You will always be remembered in these halls, and especially in our hearts. You are true American heroes, and we will miss you.

Mr. ROTHMAN. Mr. Speaker, today I rise to mourn the loss of two members of our American and our Capitol families—Jacob Chestnut and John Gibson.

Their names are quickly becoming synonymous with the word "hero," and rightly so. These two men, and the entire Capitol Police force, daily summon the courage to stand in defense of lawmakers, staffers, tourists—every one of us—along with this bastion of American Democracy we call the United States Capitol.

Friday that dedication was put to the test. Jacob Chestnut and John Gibson did not waver. They laid down their lives in defense of this Capitol and all it represents in the hearts of every American.

Jacob and John, I only wish that you were here with us today, to hear how grateful our nation is to you both for protecting our democracy. We are grateful for your dedicated public service to our country, your valor, and your courage.

As Rollo May has said, "courage is not a virtue or value among other personal values. It is the foundation that underlies and gives reality to all other virtues and personal values." Your courage on Friday and throughout your careers is a symbol for all law enforcement officials, public officials, and every citizen to follow.

Mrs. Chestnut—Mrs. Gibson—my prayer and condolences go out to you and your families. And my prayers and gratitude go out to the entire Capitol Hill police force during this difficult time of grieving. God bless you and God bless every one of us.

Mr. SANFORD. Mr. Speaker, my father always taught me that there was no higher calling than to do your duty. In the words of Robert E. Lee, "Duty, there is the sublimist word in our language. Do your duty in all things . . . You cannot do more, you should never wish to do less."

A few great Americans have had the honor of lying in state in the Capitol Rotunda. They have ranged from President Abraham Lincoln to the unknown soldiers of the wars of this century. But few Americans have done their duty to their country better than the two officers we are honoring here.

These two Americans represent the best in our nation's values. They were both devoted family men, leaders in their churches and neighborhoods, and always ready with a kind word and a smile. I cannot regret more the sacrifice that gained them fame, but we cannot do better as examples to hold before our children.

I am honored that Officer Chestnut comes from Myrtle Beach, SC. He grew up among the palmetto trees and beaches, and some of his family remains there to this day. Officer Chestnut will never get to use the new golf clubs that his brother gave him for his retirement next month. However, his sacrifice, and that of Special Agent Gibson, will remain a legacy that his family can turn to for comfort in the years ahead.

Mr. Speaker, I would like to insert in the Record a copy of the editorial from this morning's Myrtle Beach Sun-News:

JACOB J. CHESTNUT, TRUE AMERICAN HERO

The death of a front-line hero in the cause of freedom and democracy crashes around us all the harder because it is supposed to be peacetime. The firing of bullets in the Capitol on Friday, apparently triggered by a shooter's unhinged response to a directive to get back in a metal detector queue, makes death more unexpected than on a war's battlefield, but no less tragic.

Such is it with Capitol Police Officer Jacob J. "J.J." Chestnut, who lived in Maryland with his family but who, according to his family, called Myrtle Beach home. Chestnut died in the line of duty, attempting to create at his Capitol post what precious little safety there can be in a democracy that prides itself on openness.

If this were a police state—God forbid!—Officer Chestnut might have had a chance to survive because there would not have been an entrance for the public to what is called "the people's house." But after 20 years in the Air Force and 18 in the Capitol Police, nearing a second retirement, Chestnut would not have stood for anything less than freedom of movement, within few guidelines.

This is a man who must have sincerely understood from its benefits what freedom is all about. He must have relished the ability to enjoy what the government has provided through its institutions and its lasting policies. This is a man who enjoyed his family, close to him in Maryland and Myrtle Beach, where he doted on kinship.

In praising Chestnut and Capitol Police Special Agent John Gibson, who also died in the shooter's fusillade, President Clinton argued, "I ask you to think about what our Capitol means . . . We must keep it a place where people can freely and proudly walk the halls of their government. And we must never, ever take for granted the values for which it stands or the price of preserving them."

Added Speaker Newt Gingrich, "No terrorist, no deranged person, no act of violence will block us from preserving our freedom and from keeping this building open."

Those are among the values for which Officer Chestnut died. He knew they were worth it. We sympathize with his family, but glory in his heroism. We here in Myrtle Beach must find a way to honor for all time the officer, this man.

Mr. PORTMAN. Mr. Speaker, while carrying out their duties, more than 150 police officers are killed every year—a rate of one death every 52 hours. And, every year, more than 65,000 police officers are assaulted and 23,000 injured.

On Friday, those statistics were brought close to home when, tragically, Officers J.J. Chestnut and John Gibson were killed in the line of duty. These brave men died protecting the lives of the Members of Congress, staff and those who were visiting the Capitol. Our thoughts and prayers are with the families of both officers, and with their friends and colleagues in the U.S. Capitol Police.

The Capitol is known around the world as the symbol of democracy. It has been called the "People's House"—a place where citizens can freely come to meet with their elected officials and watch democracy at work. Officers Chestnut and Gibson died protecting our right to have a free and open democratic form of government. All Americans, not just those who work in the Capitol, have suffered a loss.

In the area I represent, we are sadly familiar with the sacrifices that law enforcement officers make far too often. Last December, we lost two distinguished members of Cincinnati's police department—Officer Daniel Pope and Specialist Ronald Jeter—in a senseless act of violence. Just a month later, Officer Mike Partin of the Covington (KY) police department was killed while pursuing a suspect who was attempting to escape into Cincinnati.

Shortly after their deaths, I visited the National Law Enforcement Officers Memorial here in Washington to lay a wreath in their memory. The Memorial, which was dedicated in 1991, contains the names of more than 14,000 American police officers who have died in the line of duty since the first recorded police death in 1794.

There is a quote inscribed on the memorial that is a fitting tribute to Officers Gibson and Chestnut—and all law enforcement professionals who have given their lives in service to the public. It reads, "It is not how these officers died that made them heroes, it is now they lived."

These fallen U.S. Capitol Police officers—and their colleagues nationwide—deserve our respect and support for putting their lives on the line every day to protect the safety of all of us.

Mr. LANTOS. Mr. Speaker, I join my colleagues in paying deepest respect and highest tribute to Officers Jacob "J.J." Chestnut and John Gibson, who gave their lives last Friday afternoon in the tragic shootings just a few short steps from the House chamber.

Both of these fine officers—like the other men and women who serve as members of the Capitol Police force—are committed to preserving and protecting the security of those of us who serve as Members of Congress, our staff, and the public who have, and should continue to have, access to the U.S. Capitol building.

Mr. Speaker, last Saturday morning following the tragic death of these two brave men, President Clinton paid outstanding tribute to these fine police officers and made a powerful restatement of the importance of our Capitol building as a symbol of our nation's democratic government. As the President said, this "majestic marble building is the symbol of our democracy and the embodiment of our nation. We must keep it a place where people can freely and proudly walk the halls of their government. And we must never, ever take for granted the values for which it stands or the price of preserving them."

Mr. Speaker, I ask that the full text of President Clinton's remarks be placed in the Record.

[From the White House Briefing Room, July 25, 1998]

The President: Good morning. The shooting at the United States Capitol yesterday was a moment of savagery at the front door of American civilization. Federal law enforcement agencies and the United States Attorneys Office are working closely with the D.C. police and the Capitol police to ensure that justice is pursued.

Meanwhile, I would ask all Americans to reflect for a moment on the human elements of yesterday's tragedy. The scripture says, Greater love hath no man than this: that he lay down his life for his friends. Officer Jacob "J.J." Chestnut and Detective John Gibson laid down their lives for their friends, their co-workers, and their fellow citizens—those whom they were sworn to protect. In so doing, they saved many others from exposure to lethal violence.

Every day, a special breed of men and women pin on their badges, put on their uniforms, kiss their families good-bye, knowing full well they may be called on to lay down their lives. This year alone, 79 other law enforcement officers have made the ultimate sacrifice. Every American should be grateful to them for the freedom and the security they guard with their lives, and every American should stand up for them and stand against violence.

Officer Chestnut was a Vietnam veteran, a member of the Capitol Police for 18 years, just months away from retirement. Detective Gibson was a deeply religious man, beloved by his co-workers, and, being from Massachusetts, devoted to the Red Sox and the Bruins. Both leave behind loving wives and children, the affection of neighbors, friends, and co-workers, and the deep gratitute of those who are alive today because of their bravery.

In this one heartless act, there were many acts of heroism, by strangers who shielded children with their bodies, by officers who fanned across the Capitol, by Dr. Bill Frist, a renowned heart surgeon before his election to the Senate from Tennessee, who had just put down his gavel when he rushed to tend the injured. To all these and others who stood for our common humanity, we extend the thanks of our nation.

To the families of Officer Chestnut and Detective Gibson, nothing we say can bring them back. But all Americans pray that the power of a loving God and the comfort of family and friends will, with time, ease your sorrow and swell your pride for loved ones and the sacrifice they made for their fellow citizens. To Angela Dickerson, the young woman who was injured in the shooting, we extend our prayers and hope for your speedy recovery.

To every American who has been shaken by this violent act, to the millions of parents who have taken your children through those very same doors, I ask you to think about what our Capitol means. All around the world, that majestic marble building is the symbol of our democracy and the embodiment of our nation. We must keep it a place where people can freely and proudly walk the halls of their government. And we must never, ever take for granted the values for which it stands or the price of preserving them.

Thank you very much.

Mr. MARTINEZ. Mr. Speaker, last Friday, Capitol Police Officers John Gibson and Jacob Chestnut were tragically killed in the line of duty protecting Members of Congress, staff and tourists. Officers Gibson and Chestnut are heroes in every sense of the word. These brave, selfless men gave their lives protecting the very foundation of our democracy—the People's House.

Officers Chestnut and Gibson's heroism and sacrifice will not be forgotten by a grateful Nation. We are forever in their debt as individuals, as Members of Congress, and as an institution. It is a debt that can never be repaid but one that is now enshrined in the very fabric of our democracy and in the hallowed halls of Congress.

Since the shocking and bloody events of Friday, my thoughts and prayers have been with the families of John Gibson and Jacob Chestnut, and with Angela Dickerson, the young woman who was wounded during the shooting. While the loss of Officer Gibson and Officer Chestnut is deeply felt by their friends and coworkers in Congress, it is their wives and children who must now bear that terrible burden—the loss of a husband and a father. It is a sacrifice that no child should be asked to make. It is a sacrifice that no spouse should have to make.

So as we mourn the deaths of Detective John Gibson and Officer Jacob Chestnut, and pay tribute to their memory, let us pray for the well-being of their families. Let us remember the enormous sacrifice their wives and children have made in the name of freedom and democracy. And let us reflect upon the valor of the men and women of the U.S. Capital Police Force who make it possible for us to conduct the people's business free from harm's way.

God Bless Jacob Chestnut and John Gibson.

Mr. VISCLOSKY. Mr. Speaker, I rise today in honor of two true American heroes. Capitol Hill Police Officer Jacob J. Chestnut and Special Agent John M. Gibson sacrificed themselves in the line of duty, putting their country and their commitment to democracy over their very lives. These men trained for the possibility of confronting violence, and when it came time, both acted professionally, responsibly, and heroically. We can only offer our most heartfelt condolences and prayers to the families of these inspiring men.

Officer Chestnut was an 18-year veteran of the Capitol Hill police force, having spent twenty years as part of the U.S. Air Force before that. Officer Chestnut was a highly-trained professional, who spent the overwhelming majority of his life protecting others. Special Agent Gibson was similarly selfless, working long hours at the Capitol as part of the Dignitary Protection Detail, constantly protecting others by putting himself in harm's way.

Those of us who work on Capitol Hill are used to seeing armed officers on a regular basis. We smile and chat with the friendly Capitol Hill police, and appreciate their warmth as people, and the sense of community they lend to our sometimes insular environment. They answer questions and direct tourists, just as Officer Chestnut was doing during the exact moment his killer confronted him. We rarely contemplate the seriousness of their task.

However, protection is their ultimate goal. Not only were officers Chestnut and Gibson here to protect Members of Congress, visiting dignitaries, and the millions of tourists who visit the Capitol, they were here to protect our very system of government. The Capitol is one of the most open government buildings in the world, a fact that is directly attributable to the commitment of the Capitol Hill police. For instead of forcing us to make our Nation's capitol impregnable, closing the doors and letting only those with government business enter, the Capitol Police stand in the breech, using themselves as barriers, while allowing the "People's House" to truly belong to the people.

Neighbors and family of Officer Chestnut and Special Agent Gibson describe them as generous, giving, and kind. But they were also hard-working, authoritative, and took their jobs very seriously. Because even though their task was comprised partly of peopling our Capitol community with friendly faces and helping hands, they were also here to provide us with the very serious service of protection from violence. And, just as they excelled at working with the public, Officer Chestnut and Special Agent Gibson both proved that they excelled at the task of protecting us, our staffs, and the public from mortal danger. Quite simply, we owe them our lives. And we owe them our lives not only for their actions last Friday, but for their habitual actions—smiling, chatting, continuing the routine of security, all the while putting their lives at risk, every single day.

Mr. Speaker, these men are honored as heroes because they were called upon to make the supreme sacrifice, but they are also heroes because they were constantly prepared to make that sacrifice—for their families, for us, and for the country they believed in. Our words can not bring them back, but we can honor the men, and the values for which they risked, and sacrificed, their lives.

Mr. LIPINSKI. Mr. Speaker, I rise today to honor the two officers who lost lives saving others. The extraordinary acts of heroism demonstrated by Detective Gibson and Private First Class Chestnut of the Capitol Police are actions in which every American should be grateful for.

Friday's tragic incident took the lives of two dedicated men who proved through their actions that they exemplified the true meaning of duty, honor, and love of their country. Their actions were not only full of courage but they were able to put an end to the violence with true valor.

Tragic events are not longer something we hear about; they have now penetrated the halls of the people's building right in our very own back yard. The shots taken in the Capitol on Friday were not heard just inside the Capitol, they were heard around the world as a warning to all that violence can happen at any moment and anywhere.

Friday's horrifying violent act took the lives of two brave men who died protecting what they believed in. We will never again take the presence of the Capitol police for granted because knowing that they are there makes us all breathe a lot easier.

My condolences and heart felt prayers to the families, friends, and colleagues of officers Gibson and Chestnut. I ask Americans around our nation to reflect upon the incident and keep the victim's families in their thoughts and prayers. God bless the brave men and women around the world, and God Bless America.

Ms. ROS-LEHTINEN. Mr. Speaker, I want to take a moment to reflect on the tragedy that occurred this past Friday in the House. Two of our finest in uniform in the United States Capitol Police force, Officer Jacob Chestnut and Special Agent John Gibson, valiantly defended the hundreds of visitors, Members of Congress and their staffs who were milling about on that fateful Friday afternoon of July 24. Because they died, others lived.

I would like to quote a verse from the Bible which states "Greater love hath no man than this that a man lay down his life for his friends" John 15:13. Surely love, honor and duty were on the minds of these brave policemen as they stood to meet the challenge, never hesitating for a moment for their own safety.

Capitol Hill has lost outstanding policemen and two families have lost a beloved but Heaven has gained two angels with badges of honor. We look to the skies knowing that they continue to protect us. We will never forget them and what they did for us. We pray that God, in His infinite mercy, will be with the families in their grief; that he will grant them peace and strength to carry on. I send them my deepest condolences.

Mr. CUNNINGHAM. Mr. Speaker, I rise today to join my colleagues to honor the memories of two American heroes, U.S. Capitol Police Officers Jacob "J.J." Chestnut and John Gibson, who gave their lives last Friday so that others might live.

The U.S. Capitol Police are a unique law enforcement institution in America. They are charged with protecting members of the House and Senate, the Capitol itself, our congressional staffs, and the millions of tourists from around the world who visit this building. In performing this task, they are more than security personnel. They are ambassadors for our country, helping Americans find their way through the Capitol safely, answering questions, providing a helping hand. They help congressmen and staffs get to where they need to go. And over time, we get to know the Capitol Police well, by face if not always by name, so much so that they become like family to those of us who do the American people's work here as their elected representatives.

Officer Chestnut and Officer Gibson were family, Mr. Speaker. And as with the passing of any relative, near or distant, we feel sadness and a sense of loss. They died protecting people, and protecting a monument to represent government known by peoples around the world both free and oppressed.

The Bible says, "greater love hath no man than to lay down his life for his friends." Officers Chestnut and Gibson laid down their lives for us, and for the ideals of freedom and liberty that we hold dear. Our prayers are with their widows and their families. Our thanks are due to Chief Gary Abrecht and all of the U.S. Capitol Police, to House Sergeant at Arms Wilson Livingood and his staff, and to all of America's law enforcement officers, who have tragically lost two brave colleagues in the force.

And, Mr. Speaker, we should work to preserve the memory of these brave officers by continuing the work that they did for so many years: by keeping the Capitol open to the people. In doing so, we will remember the awful price that we have paid to obtain our freedom, the high price America must occasionally pay to keep it, and the terrible price that the

Chestnut and Gibson families paid for it on Friday, July 24, 1998.

Mr. MOAKLEY. Mr. Speaker, I am both personally honored and saddened to join those who have offered us an opportunity to express our feelings about Friday's senseless tragedy.

Last Friday afternoon, the People's House was in its normal, hectic state. Visitors, young and old reverently roamed the halls where their government resides. Mothers and fathers provided their children with historical information about the work that goes on within the United States Capitol. Representatives had just concluded their legislative business and were rushing to return to their districts. Staff were busy putting the finishing touches on their duties for the week. Members of the Capitol Hill Police force, both seen and unseen, stood proudly in protection of the Capitol complex and those within it. All and all, this was a very normal Friday afternoon in the nation's capital.

As we all know now, a lone, mentally disturbed individual had already made his plans to forcibly deliver horror, grief and anguish within our Capitol. This individual clearly had thoughts of causing chaos as he rushed his way past Officer Jacob (J.J.) Chestnut. Officer Chestnut was giving directions to the subway, as he had cheerfully done many times before. The gunman, without warning, drew his gun and shot Officer Chestnut, mortally wounding him. Officer Chestnut in this moment of turmoil stood gallantly at his post and died trying to save the lives of both friends and strangers. Officer Chestnut's actions were consistent with his training and with his personal values and beliefs. In life, Officer Chestnut lived an honorable life. At the moment of his death, Officer Chestnut became a genuine American hero.

A few doors away, Special Agent John Gibson was at his post. His duties were to protect the Majority Whip, Representative TOM DELAY. From his post, Special Agent Gibson, upon hearing gunfire, was ready to defend Representative DELAY, his staff and visitors from a mad man. He willingly stood tall in the face of imminent danger. In those frantic moments, Special Agent Gibson made a profound decision. By his actions, he refused to allow this gunman to hurt anyone under his protection. In the moment when Special Agent Gibson came face to face with evil incarnate, he vigilantly stood his ground. With just a few feet between them the gunman shot Special Agent Gibson. Despite his mortal wounds, Special Agent Gibson remained steadfast in his duties and brought this insane rampage to an end. In his sacrifice, Special Agent Gibson made certain that those whom he had sworn to defend would remain safe. In this moment, Special Agent Gibson instinctively and without hesitation became a genuine American hero.

At this time, when Americans look high and low in search of heroes, we can take some solace knowing that this search has ended. Officer Chestnut and Special Agent Gibson, through the selfless actions have become our newest American heroes. They paid an ultimate price so that all Americans could continue to wander the halls of the People's House. All Americans owe them their deepest admiration and their profound respect. Americans must be willing to stand together as an American family, to reach out to console their families, colleagues and friends. We must repay this debt, although we also know in our hearts and souls that this is impossible.

I recall the words of Senator Robert F. Kennedy, speaking in Indianapolis on April 4, 1968, shortly after the assassination of Dr. Martin Luther King. Kennedy addressed a crowd informing them of Dr. King's death. He concluded his remarks saying "Let us dedicate ourselves to what the Greeks wrote so many years ago: to tame the savageness of man and to make gentle the life of this world. Officer Chestnut and Special Agent Gibson willingly and bravely gave their lives in pursuit of this noble ideal.

Robert F. Kennedy concluded his remarks saying "Let us dedicate ourselves to that, and say a prayer for our country and for our people."

This tragedy is deeply personal. Special Agent Gibson was my niece Evelyn's husband. I am proud to have recommended him for employment with the Capitol Police. Throughout his career, I have watched him as he progressed from being a uniformed officer to that of Special Agent protecting the leaders of the House of Representatives. Even then, I knew John was special. One of the qualities I admired was his loyalty to his Boston roots. John followed all Boston sports teams, both collegiate and professional. Just a few weeks ago, he had stopped by to ask me to help him get a couple of tickets to an upcoming Notre Dame versus Boston College football game. He constantly sought out news from Boston hoping to keep his Massachusetts roots strong.

John was a religious man who sought strength and comfort from His Lord. As a family man, John excelled. He always made time for his wife and their three children. It comes as no surprise that John had earned the respect and admiration that John earned in both his personal and professional lives. From the Speaker of the House, the Majority Whip, his fellow officers, his neighbors and friends, I am humbled to learn of the high esteem in which they held John. I hope the kind words spoken about John will provide his family with some small measure of comfort in these dark times. I will always remember John as a kind, honest, devout, caring and giving human being.

In conclusion, I ask all Americans to join me in these difficult moments as we seek comfort, for their grieving families and for ourselves.

Mrs. CAPPS. Mr. Speaker, it is difficult to find the right words to express our sorrow at the tragedy that struck the Capitol on Friday afternoon.

Today we honor the memories of J.J. Chestnut and John Gibson, the Capitol Police officers who gave their lives protecting others. I join my colleagues in sending my heartfelt condolences to the family and friends of these heroic men. I pray that in this time of such sorrow, they will be comforted by their own warm memories. I also hope that the Chestnut and Gibson families will take solace in the knowledge that people all over the world share in their grief. Tomorrow, we will honor these men in an unprecedented fashion by paying our respects as they lie in state in the Capitol Rotunda.

Here on Capitol Hill, we have lost two beloved members of our community, indeed our family. Private First Class Chestnut and Detective Gibson loved their jobs, loved their Congress, and loved their country. They were fixtures at their posts, J.J. at the Document Door, and John walking with the Majority Whip. They were the ultimate professionals, and each day went out of their way to improve the quality of life on Capitol Hill. We will never forget them.

Mr. Speaker, the U.S. Capitol Police force has been thrust into the limelight under the most terrible circumstances. Anyone who works here or visits these grounds knows what great people these women and men are, yet they never seem to receive the credit they deserve. When my husband, Congressman Walter Capps, passed away last October, Capitol Police personnel were incredibly comforting and helpful to me, my family, and my staff. These acts of kindness and compassion will always remain close to my heart.

As we commend the Capitol Police, I want to pay particular tribute to two officers. Officer Douglas B. McMillan took quick and decisive action after his partner J.J. Chestnut was shot. And Capitol Police spokesman Sgt. Dan Nichols has labored around the clock since the shootings providing the press and the American people with timely and sensitively-delivered updates. We are all indebted to the service of these men as well.

Mr. Speaker, nothing we can say or do will bring J.J. Chestnut and John Gibson back to us. But for the sake of their families, their colleagues, and the American people, we must pause and give them the tributes they deserve. We honor their memories and celebrate their lives. And we pray that violence and murder never again befall the people's House.

Mr. ARMEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARMEY. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were— yeas 392, nays 0, not voting 43, as follows:

[Roll No. 340]

YEAS—392

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps

Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tierney
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)

NOT VOTING—43

Ackerman
Becerra
Bonilla
Cannon
Conyers
Cox
DeFazio
Gonzalez
Harman
Hastings (FL)
Kingston
Kolbe
Largent
Lewis (CA)
Lewis (GA)
Lipinski
Markey
McCarthy (MO)
McDade
Moakley
Murtha
Nadler
Pickett
Pomeroy
Poshard
Price (NC)
Riggs
Ros-Lehtinen
Roybal-Allard
Sanford
Schaefer, Dan
Shuster
Stark
Tauzin
Thompson
Tiahrt
Torres
Walsh
Waxman
Wexler
Whitfield
Yates
Young (FL)

□ 2027

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. McCARTHY of Missouri. Mr. Speaker, on rollcall No. 340, in support of H. Con. Res. 311, had I been present, I would have voted "aye."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 310. Concurrent resolution authorizing the use of the rotunda of the Capitol for a memorial service for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, and for other purposes.

The message also announced that the Senate passed a concurrent resolution of the following title, in which concurrence of the House is requested:

S. Con. Res. 112. Concurrent resolution to authorize the printing of the eulogies of the Senate and the House of Representatives for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that following adjournment tonight, Members are invited to attend a joint party conference caucus for a briefing here in the Chamber.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 27, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on July 27, 1998 at 4:13 p.m. and said to contain a message from the President whereby he reports of one proposed rescission of budget resources.

With warm regards,
ROBIN H. CARLE,
Clerk.

PROPOSED RESCISSION OF BUDGETARY AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-290)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one proposed rescission of budgetary resources, totaling $5.2 million.

The proposed rescission affects programs of the Department of the Interior.

WILLIAM J. CLINTON.

THE WHITE HOUSE, July 24, 1998.

□ 2030

PRINTING OF EULOGIES AND TEXT OF MEMORIAL SERVICES AS TRIBUTE TO DETECTIVE JOHN MICHAEL GIBSON AND PRIVATE FIRST CLASS JACOB JOSEPH CHESTNUT OF THE UNITED STATES CAPITOL POLICE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 112) to authorize the printing of the eulogies of the Senate and the House of Representatives for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 112

Resolved by the Senate (the House of Representatives concurring), That the eulogies for

Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, as expressed in the House of Representatives and the Senate together with the text of the memorial services, shall be printed as a tribute to Detective Gibson and Officer Chestnut, with illustrations and suitable binding. The document shall be prepared under the direction of the Joint Committee on Printing. There shall be printed 300 casebound copies; 50 to be delivered to each of the families of Detective Gibson and Officer Chestnut, and 200 for the use of the United States Capitol Police.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. LAHOOD. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KOLBE (at the request Mr. ARMEY) for today on account of official business.

Mr. YOUNG of Florida (at the request of Mr. ARMEY) for today and the balance of the week on account of medical reasons.

Mr. ACKERMAN (at the request of Mr. GEPHARDT) for today on account of medical reasons.

Mr. BECERRA (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. POMEROY (at the request of Mr. GEPHARDT) for today on account of airline cancellations.

Mr. THOMPSON (at the request of Mr. GEPHARDT) for today on account of offical business in the district.

Mr. YATES (at the request of Mr. GEPHARDT) for today on account of medical reasons.

Mr. STARK (at the request of Mr. GEPHARDT) for today on account on illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, today, for 5 minutes.

Ms. NORTON, today, for 5 minutes.

(The following Member (at the request of Mr. LAHOOD) to revise and extend his remarks and include extraneous material:)

Mr. JONES, on July 28, for 5 minutes.

EXTENSION OF REMARKS

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. KIND.

Mr. VISCLOSKY.

Mr. SANDERS.

Ms. JACKSON-LEE of Texas.

Mr. MORAN of Virginia.

Mrs. MCCARTHY of New York.

Mr. COYNE.

(The following Members (at the request of Mr. LAHOOD) and to include extraneous matter:)

Mr. BLILEY.

Mr. FOX of Pennsylvania.

Mr. HORN.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 39. An act to reauthorize the African Elephant Conservation Act.

ADJOURNMENT

Mr. LAHOOD. Mr. Speaker, pursuant to House Resolution 311, I move that the House do now adjourn in memory of the late Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

The motion was agreed to; accordingly (at 8 o'clock and 33 minutes p.m.), pursuant to House Concurrent Resolution 311, the House adjourned until tomorrow, Tuesday, July 28, 1998, at 10 a.m. in memory of the late Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10316. A letter from the Secretary of Defense, transmitting a plan on the advisability and feasibility of permitting nonappropriated fund instrumentalities (NAFIs) to enter into public-private partnerships to benefit Morale, Welfare and Recreation (MWR) programs, pursuant to Public Law 105–85; to the Committee on National Security.

10317. A letter from the Acting Chairman, Thrift Depositor Protection Oversight Board, transmitting the annual report of the Thrift Depositor Protection Oversight Board on the Resolution Funding Corporation for the calendar year 1997, pursuant to Public Law 101–73, section 511(a) (103 Stat. 404); to the Committee on Banking and Financial Services.

10318. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to provide financial assistance to States for family-centered and family-directed statewide systems of support for families of children with disabilities, and for other purposes; to the Committee on Education and the Workforce.

10319. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks [Regulations T and X] received July 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10320. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–398, "Whistleblower Reinforcement Act of 1998" received July 21, 1998, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

10321. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Irish Potatoes Grown in Colorado; Decreased Assessment Rate [Docket No. FV98–948–1 IFR] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10322. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Fresh Bartlett Pears Grown in Oregon and Washington; Decreased Assessment Rate [Docket No. FV98–931–1 IFR] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10323. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Surface Coal Mining and Reclamation Operations Under the Federal Lands Program; State-Federal Cooperative Agreements; Montana [30 CFR Part 926] received July 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10324. A letter from the Acting Secretary, Federal Trade Commission, transmitting the Commission's final rule—Premerger Notification; Reporting and Waiting Period Requirements [16 CFR Part 802] received June 25, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10325. A letter from the General Counsel, National Tropical Botanical Garden, transmitting the annual audit report of the National Tropical Botanical Garden, Calendar Year 1997, pursuant to Public Law 88–449, section 10(b) (78 Stat. 498); to the Committee on the Judiciary.

10326. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to extend the United States Department of Agriculture Personnel Management Demonstration Project; jointly to the Committees on Government Reform and Oversight and Agriculture.

10327. A letter from the Administrators of Federal Aviation Administration and National Aeronautics and Space Administration, transmitting a joint report to Congress on the progress being made under the Subsonic Noise Reduction Technology Program, Fiscal Year 1997, pursuant to 49 U.S.C. app. 1353 nt.; jointly to the Committees on Transportation and Infrastructure and Science.

10328. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation to provide for implementation by the United States of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and for other purposes; jointly to the Committees on International Relations, Ways and Means, the Judiciary, and Government Reform and Oversight.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BEREUTER:

H.R. 4336. A bill to establish an initiative for food and other assistance for individuals in Indonesia and Southeast Asia who are affected by the Asian financial crisis; to the Committee on International Relations.

By Mr. GILCHREST:

H.R. 4337. A bill to authorize the Secretary of the Interior to provide financial assistance to the State of Maryland for a pilot program to develop measures to eradicate or control nutria and restore marshland damaged by nutria; to the Committee on Resources.

By Mr. HUTCHINSON:

H.R. 4338. A bill to designate the United States courthouse building located at 402 North Walnut Street and Prospect Avenue in Harrison, Arkansas, as the "Judge J. Smith Henley Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. RAHALL (for himself, Mr. Wise, Mr. Cook, and Mr. Watts of Oklahoma):

H.R. 4339. A bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the Medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GINGRICH (for himself, Mr. Armey, Mr. DeLay, Mr. Hastert, Mr. Boehner, Ms. Dunn of Washington, Ms. Pryce of Ohio, Mr. Thomas, Mr. Gephardt, Mr. Bonior, Mr. Fazio of California, Mrs. Kennelly of Connecticut, Mr. Gejdenson, Mr. Davis of Virginia, and Mr. Wynn):

H. Con. Res. 310. Concurrent resolution authorizing the use of the rotunda of the Capitol for a memorial service for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, and for other purposes; to the Committee on House Oversight.

By Mr. GINGRICH (for himself, Mr. Armey, Mr. DeLay, Mr. Hastert, Mr. Boehner, Ms. Dunn of Washington, Ms. Pryce of Ohio, Mr. Thomas, Mr. Gephardt, Mr. Bonior, Mr. Fazio of California, Mrs. Kennelly of Connecticut, Mr. Gejdenson, Mr. Moakley, Mr. Davis of Virginia, and Mr. Wynn):

H. Con. Res. 311. Concurrent resolution honoring the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police for their selfless acts of heroism at the United States Capitol on July 24, 1998; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

383. The SPEAKER presented a memorial of the Senate of the State of California, relative to Senate Joint Resolution No. 26 memorializing the Congress of the United States to enact the Aircraft Repair Station Safety Act of 1997; to the Committee on Transportation and Infrastructure.

384. Also, a memorial of the Senate of the State of New Hampshire, relative to Senate Resolution 2 memorializing the federal government to take all necessary and appropriate action to ensure that Japan establishes and maintains an open and competitive market for U.S. exports; to the Committee on Ways and Means.

385. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 51 memorializing the President and the Congress of the United States to establish a program to offset or withhold federal tax refunds to satisfy legally enforceable, past due state income tax obligations; to the Committee on Ways and Means.

386. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Concurrent Resolution No. 60 memorializing the Congress of the United States to enact legislation to create a moratorium on new national, state, and local taxes on the Internet; jointly to the Committees on Ways and Means and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 164: Mr. Romero-Barceló, Mr. Pastor, Mrs. Thurman, Mr. Sawyer, Mr. King of New York, Mr. Kind of Wisconsin, and Mr. Edwards.

H.R. 218: Mr. Aderholt, Mr. Camp, Mr. Doyle, Mr. Crane, Mr. Ehrlich, Mr. Neumann, and Mr. Dickey.

H.R. 790: Mr. Thompson.

H.R. 979: Mr. Leach, Mr. Frelinghuysen, Ms. Brown of Florida, Mr. Foley, and Mr. Davis of Florida.

H.R. 1032: Mr. Luther.

H.R. 1401: Mr. Ewing.

H.R. 2020: Mr. Spence, Mr. LaHood, Mr. Crapo, and Mr. Evans.

H.R. 2397: Mr. Bentsen, Mr. Gejdenson, Mr. Martinez, Ms. Norton, Mr. Norwood, Mr. Livingston, Mr. McNulty, Mr. Bryant, Mr. Bonilla, and Ms. McCarthy of Missouri.

H.R. 2409: Ms. Pelosi.

H.R. 2733: Mr. McCrery, Mr. Payne, Mr. Serrano, Mr. Conyers, Mr. Ehrlich, and Mr. Wise.

H.R. 2821: Mr. Hostettler and Mr. Davis of Florida.

H.R. 2955: Mr. Sabo, Mr. Ortiz and Mr. Reyes.

H.R. 2995: Mr. Lewis of California and Mr. Hayworth.

H.R. 3559: Mr. Burton of Indiana, Mr. Jackson, Mr. Hamilton, Mr. LaTourette, Mr. Petri, and Mr. Blagojevich.

H.R. 3636: Mr. Rush and Ms. McCarthy of Missouri.

H.R. 3821: Mr. Hastert, Ms. Jackson-Lee, Mr. Bliley, Mr. Solomon, Mr. Hefley, Ms. Eddie Bernice Johnson of Texas, Mr. Cunningham, Mr. Bentsen, Mr. Linder, Mr. Bereuter, Mr. Pease, Mr. Scott, Mr. Davis of Virginia, Mr. Roemer, Mr. McCrery, Mr. Moran of Virginia, Mr. Walsh and Mr. Doolittle.

H.R. 3835: Mr. Lampson, Mr. Torres, Mr. Sandlin, Mr. Matsui, Mr. Hall of Texas, Mr. Cummings, Mr. Levin, Mr. Cooksey, Mr. Allen, Mr. Spence, Mr. Stokes, Mr. Edwards, Mr. Rothman, Mrs. Cubin, Ms. Carson, Ms. Furse, Mr. Pascrell, Mrs. Morella, Mr. Hefley, Mr. Strickland, and Mr. Bentsen.

H.R. 3855: Mr. Hutchinson, Mr. Lewis of Georgia, Mr. Quinn, Mr. Dingell, Mr. Strickland, and Ms. Kaptur.

H.R. 3965: Mrs. Thurman.

H.R. 3975: Mr. Foley.

H.R. 4019: Mr. English of Pennsylvania, Mr. McKeon, and Mrs. Emerson.

H.R. 4034: Mr. Hall of Texas.

H.R. 4035: Ms. Woolsey, Mrs. Mink of Hawaii, Mrs. Maloney of New York, Ms. Brown of Florida, Mr. Skaggs, Mr. Baesler, Mr. Goode, Mr. English of Pennsylvania, Mr. Rangel, Mr. Sherman, Mr. Bilbray, Mr. Cook, Mr. Davis of Illinois, Mr. Bob Schaffer, Mr. Frost, Mr. Bryant, Mr. Johnson of Wisconsin, Ms. Kaptur, Mr. Gibbons, Mr. Holden, Mrs. Linda Smith of Washington, Mr. Hastings of Florida, Mrs. Capps, and Ms. Kilpatrick.

H.R. 4036: Ms. Woolsey, Mrs. Mink of Hawaii, Mrs. Maloney of New York, Ms. Brown of Florida, Mr. Baesler, Mr. English of Pennsylvania, Mr. Rangel, Mr. Sherman, Ms. DeLauro, Mr. Bilbray, Mr. Cook, Mr. Davis of Illinois, Mr. Frost, Mr. Bryant, Mr. Johnson of Wisconsin, Ms. Kaptur, Mr. Gibbons, Mr. Holden, Mrs. Linda Smith of Washington, Mr. Hastings of Florida, and Ms. Kilpatrick.

H.R. 4062: Mrs. Roukema.

H.R. 4071: Mr. Hilliard and Mr. Boswell.

H.R. 4092: Mr. Frank of Massachusetts and Mr. Foley.

H.R. 4096: Mr. Fawell and Mrs. Northup.

H.R. 4196: Mr. McIntosh and Mr. Duncan.

H.R. 4213: Mr. Ehrlich.

H.R. 4220: Mr. Weldon of Pennsylvania.

H.R. 4224: Ms. Kilpatrick and Mr. Hilliard.

H.R. 4228: Mr. Calvert and Mr. Buyer.

H.R. 4283: Mr. Stupak, Mr. Wolf, Ms. Eddie Bernice Johnson of Texas, Mr. Oberstar, Mr. Davis of Virginia, and Ms. McCarthy of Missouri.

H.R. 4293: Mr. Meehan.

H.R. 4298: Mr. Kucinich and Mr. Bonilla.

H.J. Res. 123: Mr. Riley and Mr. Metcalf.

H. Con. Res. 213: Mr. Watkins.

H. Con. Res. 302: Mr. Kucinich and Ms. Stabenow.

H. Res. 460: Mr. Underwood, Ms. Kilpatrick, and Mr. Cummings.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4276

OFFERED BY: MR. HOLDEN

AMENDMENT NO. 23: Page 124, insert the following after line 2:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. (a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Philadelphia, and Schuylkill" and inserting "and Philadelphia"; and

(2) in subsection (b) by inserting "Schuylkill," after "Potter,".

(b)(1) This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) This section and the amendments made by this section shall not affect any action

commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

EXTENSIONS OF REMARKS

PATIENT PROTECTION ACT OF 1998

SPEECH OF

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. POSHARD. Mr. Speaker, I rise today to oppose H.R. 4250, the Republican Patient Protection Act. We have the opportunity to institute real change today, and to give the citizens of this country the peace of mind that comes with knowing that their health plan is working with them, not against them. In particular, we should act to protect and promote the interests of women's health. The Dingell/Ganske bill provides guarantees, the Republican bill offers HMO-controlled possibilities. I urge my colleagues to support the Democratic alternative, H.R. 3605, the Patient's Bill of Rights.

Only the Democratic Patients' Bill of Rights would require health plans to cover a hospital stay of at least 48 hours for women undergoing a mastectomy, and at least 24 hours for women having a lumpectomy with lymph node dissection. Furthermore, only the Democratic Patients' Bill of Rights would require health plans that provide coverage for mastectomies to also cover prostheses or reconstructive breast surgery. The Republican bill would not allow patients to continue seeing their physician if that physician leaves the plan or their employer changes plans. The Democratic legislation would allow patients to continue treatment with their current physician for 90 days, and longer for pregnant women. How can we tell a woman in the fourth month of her pregnancy that she has to find a new doctor if her current physician leaves her health plan? I ask you to consider the health of your wives, mothers, daughters, and sisters. I ask you to consider the health of your female constituents. Do you want health to be jeopardized or do you want to give them access to the health care they deserve?

Mr. Speaker, perhaps the most fundamental aspect of the patients' rights debate is that of the gag clause. Simply put, patients should have access to all necessary information concerning their health and medical options. The Republican bill makes this promise, but offers no protection for providers from retribution from their health plan when dispensing this critical knowledge. Without this safeguard, the gag clause is truly an empty promise. Only the Democratic Patients' Bill of Rights makes this guarantee, the Republican bill does not. For my colleagues who are concerned with women's health and the basic premises of HMO reform, I again urge you to vote for the Dingell/Ganske bill.

RECOGNIZING THE CHRISTIAN CHILDRENS FUND

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Mr. BLILEY. Mr. Speaker, I would like take an opportunity to identify an organization headquarted in Richmond, Virginia that has been extremely successful in bringing hope to the world's poor.

Christian Children's Fund (CCF) serves the needs of 2.5 million children in 31 countries throughout the world, including the United States. CCF began assisting children through the Moda Kane Project in Senegal in 1988. Since that time, they have provided over $199,000 of assistance to this project. Christian Children's Fund currently assists 654 families through the Moda Kane Project.

In 1988, the Moda Kane school had only 6 classrooms and very little educational activity to support the book work. Christian Children's Fund has added 7 classrooms, constructed a medical hut and employed a community health worker, provided teaching materials for the whole school, and provided school supplies for all Christian Children's Fund children.

This Christian Children's Fund project has had great impact on the school and community including:

The number of children who pass the primary school exam and earn their certificate for successful primary school completion has improved from 39% to 83%;

The number of children passing the secondary school entrance exam also increased;

The school headmaster has been recognized for his excellence; and

Families in the region are very interested in enrolling their children in the Moda Kane school.

The Moda Kane School has now become a focus of community development activity. In addition to classes for children, Christian Children's Fund has initiated a literacy program in the national language and a small loan program for women.

I salute CCF for the efforts they are making abroad and wish to identify them as being successful in their efforts to bring hope to a troubled world.

PATIENT PROTECTION ACT OF 1998

SPEECH OF

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mrs. NORTHUP. Mr. Speaker, our discussion on health care is extremely important, especially to residents in Kentucky. For the last few weeks, I have received calls and letters from patients stating that they want me to protect their rights to have health care—affordable health care. You see, Kentucky residents know what it is like to have very few choices in health care, to only have two insurers left in the state to offer health plans, and they know what it is like to have their health care premiums go through the roof. Well-meaning, but very poorly thought-out mandate-laden legislation on the state level created a monster they must face every day. We cannot have that happen nationwide.

Kentucky residents have told me they must have affordable health care. The Republican bill which passed the House last Friday, H.R. 4250, improves a patient's access to affordable health care and protects patients against abuses in the delivery of care. The bill allows employees to direct their health care benefits toward the coverage they deem most appropriate for themselves—if they want to have chiropractic care, they can choose a plan that offers these benefits. In addition, the bill makes Medical Savings Accounts a more attractive option, and permits individuals to participate in a Flexible Spending Account similar to the option currently provided to Kentucky state employees. The bill also would enable more small businesses to provide affordable health care coverage to their employees, an option which is not available right now.

Patients also deserve to know that they can get quality health care when they need it. That is why H.R. 4250 guarantees women direct access to OB/GYN care and allows parents to have direct access to pediatricians so that they can get the care they need as soon as necessary. The bill prohibits health plans from restricting physicians from giving advice to a patient about the best medical treatment for that patient and requires health plans to provide information about their plans to patients, and allows patients to inspect their medical records.

No one should argue with the fact that medical dollars should go strictly to medicine—not to administration of the plans and not to lawyers. Talking to my constituents, they have told me they want health care not court action. If their child is ill, they want them to see a doctor for care, not a lawyer. H.R. 4250 requires plans to provide written and understandable notice to patients of any negative coverage decision within 30 days (for emergencies or specialty care—72 hours); it allows patients to appeal a decision internally with a doctor who did not make the initial decision; and permits patients to request an external review within 30 days with one or more independent medical experts.

This bill is about protecting the rights of patients to have affordable quality health care. It is the right bill for the 42 million Americans who currently have no insurance, and it is the right bill for those who currently have health insurance. It will provide more opportunities,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

more choices, and more patient control over health care decisions. It is a bill for children, women and families in Kentucky and throughout our Nation.

TRIBUTE TO LOUIS STOKES

SPEECH OF

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. HALL of Ohio. Mr. Speaker, I rise to pay tribute to the dean of the Ohio delegation, my good friend Representative LOUIS STOKES. LOU has served his constituents in Cuyahoga County with enormous distinction for the past 30 years. When he retires after the November election, he will be sorely missed. It has been an honor for me to serve with him for the past two decades.

LOU has been a member of the Appropriations Committee for 28 years and was the Chairman and then Ranking Member of its Subcommittee on VA, HUD and Independent Agencies. He is a former Chairman of the House Committee on Standards of Official Conduct, the House Intelligence Committee, and the Special Committee which investigated the assassinations of President John F. Kennedy and the Reverend Dr. Martin Luther King, Jr. In all of these posts, he served with dedication, dignity and fairness.

LOU STOKES was the first African American elected to Congress from the State of Ohio. He was also the first African American to serve on the Appropriations Committee. He was one of the founders of the Congressional Black Caucus.

LOU has never forgotten his roots. Because he grew up in public housing, he knows that public housing need not breed despair and hopelessness. He served in the Army during World War II, and as a result has been a steadfast proponent in behalf of the interests of our Nation's veterans. He used the GI Bill to obtain a legal education and became a distinguished lawyer who argued and won a case before the United States Supreme Court.

In Congress, he has fought untiringly to provide legal protection for the poor through the Legal Services Corporation. He has sponsored landmark legislation in education such as the Federal TRIO programs for disadvantaged students, and in health to improve the delivery of health care services to minorities.

Just earlier this week, President Clinton signed into law a bill that LOU sponsored to establish the National Underground Railroad Network to Freedom within the National Park Service.

LOU comes from an illustrious family. His brother Carl was the first African-American mayor of Cleveland and he was Ambassador to the Seychelles. His daughter Angela is continuing the family tradition by being elected as a judge.

I shall miss LOU. I wish him, his wife Jay, his four children and his seven grandchildren the best of luck in the future.

CONGRESSIONAL RECOGNITION OF DON D. SYKORA

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to pay tribute to Mr. Don A. Sykora, whose contributions to the city of Houston and its citizens will not be forgotten. Mr. Sykor's personal dedication to Harris County spanned over 40 years, during which epoch he served as benefactor in both the business and civic sectors of society. Mr. Sykora's exemplary dedication and selflessness provide a beacon to which all should fervently strive.

Don Sykora was most notably known for his extensive tenure with the Houston Lighting and Power Company, which began in 1956. His service to the HL and P, and later Houston Industries, displayed his prowess as an executive, displaying incredible vision throughout his stay. An example of his ground breaking leadership came amidst the energy/oil crisis of the 1970's. As Vice President of Marketing for Houston Lighting and Power, Mr. Sykora passionately advocated the need for energy conservation long before environmentally conscious behavior became fashionable. It was this visionary guidance that garnered him the highest positions of authority within both organizations for which he worked. He ascended to the position of President both with the Houston Lighting and Power Company and at Houston Industries, in 1982 and 1983 respectively.

Mr. Don Sykora's contributions to Houston cannot be restricted to those in the business arena, for any time not spent at his executive positions, was dedicated to his family and community. Mr. Sykora's civic dedication to his environment ranged from his position on the Chamber of Commerce to his work with the Houston International Festival.

Don Sykora's tireless resolve and contributions to the improvement of his community for posterity, deserve the utmost praise and recognition. On behalf of the citizens of Harris county and the United States of America, I thank Don Sykora.

INTRODUCTION OF THE MEDICARE HOME HEALTH BENEFICIARY PROTECTION ACT OF 1998

HON. NICK RAHALL

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Mr. RAHALL. Mr. Speaker, I rise today to introduce the Medicare Home Health Beneficiary Protection Act of 1998, on behalf of myself, and Mr. MERRILL COOK of Utah, Mr. BOB WISE of West Virginia, and Mr. J.C. WATTS of Oklahoma.

Last November I introduced another bill linked to changes made in the way home health agencies would be reimbursed for services they provide to homebound seniors and other frail and disabled persons, in their homes, by the Medicare program.

The bill I introduced late last year is called the Medicare Venipuncture Fairness Act, H.R. 2912, and it seeks to restore a home health benefit known as venipuncture—the drawing of blood samples—to Medicare enrollees who were receiving this care provided by home health providers, in consultation with the patient's own physicians. This home benefit, so important to the stability of homebound patients, was terminated by the Balanced Budget Act of 1997. As a result, many former venipuncture patients have entered nursing homes, and hospitals, and some have died from having their health and well-being compromised because of the loss of this vital service.

Today, I find myself again trying to assist the home health agencies and their needy patients, by introducing a three year moratorium on the Interim Payment System—or IPS—also imposed on the industry under the BBA of 1997.

Under the BBA, the Health Care Financing Administration, or HCFA, was directed by Congress to replace cost-based reimbursement for home health services with Prospective Payment System (PPS), to become effective in October, 1999. This Interim Payment System (IPS) was imposed while HCFA prepares to implement the PPS late next year, imposing new per beneficiary caps on home health agencies. HCFA Administrator Nancy-Ann Min DeParle has recently stated that her agency cannot meet the PPS deadline of October 1999.

While there is no question of the importance of providing a transitioning procedure for home health benefits into a PPS, to ensure that all such agencies are cost-effective as they deliver services to the homebound, usually elderly, frail patients, it is our solemn duty to also protect eligible, elderly Medicare beneficiaries.

It is quite evident to me that the current IPS, coupled with HCFAs interpretation of the surety bond status, is gravely threatening access to these invaluable services throughout our nation. Quite simply, the IPS is fatally flawed.

While we all seek to drive out those who would deceive and defraud the elderly and the Medicare Program, by devious, fly-by-night home health providers, I am deeply concerned about a punitive IPS, which is now in effect, which is driving good, caring, quality providers out of business. Nationwide, over 1000 home health providers have closed or stopped accepting Medicare patients. There are few resources available to former patients except nursing facilities, which are much more expensive but which Medicare does not have to pay for, or emergency rooms at local hospitals if a beneficiary's health destabilizes—another expense that must be borne by Medicare.

Since last November I have sought intervention from the Secretary of Health and Human Services, the President, and among my colleagues, urging them to take action to stop the demonizing of home health providers by allowing HCFA to continue to misinterpret the intent of Congress, and to continue to impose more and more punitive measures upon the home health care industry.

Since last November I have sought to impress upon my colleagues, HHS and the White House, that HCFA is over-regulating these industries a majority of which are caring providers. Yet HCFA continues its arrogant disregard for Congressional intent, and our constituents—the elderly, the frail, the disabled—leaving them to find other sources of care as agency after agency is forced out of business.

Today, let me say again that fraud and abuse in the Medicare system must be ended—but it is also noteworthy that in its zeal to find criminals, HCFA appears to have written and enforced regulations that treat all providers as criminals or potential criminals.

It is time for Congress to now impose a moratorium on the IPS. My bill not only accomplishes this equitable goal, but it also puts pressure on HCFA to move expeditiously toward the establishment of PPS for home care.

A study conducted by the George Washington University Medical Center, Center for Health Policy Research, entitled "Medicare Home Health Services; An Analysis of the Implications of the BBA of 1997 for Access and Quality," confirms why Congress must take expedited action in removing the IPS.

Just briefly, the Study concluded that (1) the BBA's reductions in Medicare's Home Health coverage and financing can be expected to impact the sickest and highest cost patients, and punish the very agencies that specialize in the provision of care to this population; (2) the most severe effects of the IPS falls on the sickest patients living in states with the lowest utilization patterns (as is true in my State of West Virginia); and (3) the BBA's interim payment system will shift costs to other payers (notably Medicaid) while rewarding inefficient agencies who care for relatively healthier patients.

So it is not only beneficiaries and providers who are alerting a sleeping Congress to the devastation of this IPS system, but outside experts are also telling us that we must revisit this issue.

While the IPS approach is a short-term solution, it has serious consequences for many vulnerable patients and honest providers.

For that reason, last Friday, June 24, 1998, Senator CHRISTOPHER BOND introduced an identical bill to the one I and my colleagues introduce today. I salute him for quickly recognizing that the IPS is a serious—very serious—problem and for acting at once.

Mr. Speaker, ensuring that home health care agencies, both profit and not-for-profit, can continue operating as the high quality health care providers they are, will require the cooperation of Congress, the agencies themselves, HCFA, HHS and the White House.

But Congress has the power to fix the IPS problem, and it must take expedited action to do so. We truly must not stand by while thousands of home health agencies shut down. It seems to me to be in our best interest to maintain and support those who are not only specialist in caring for the aged, the infirm, the severely disabled, but to heap upon them the high praise they deserve and have earned for the work they do, both in the name of compassion and out of a sense of responsibility toward the home health care needs of senior citizens.

CELEBRATING THE 25TH ANNIVERSARY OF TURKEY RUN FARM PARK

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Mr. MORAN. Mr. Speaker, this year is the 25th anniversary of what has become one of the most unusual and successful experiments in the U.S. National Park System. It is a National Park that owes its existence to public-spirited entrepreneurism in a cooperative effort which demonstrates what can be accomplished by the determination, resourcefulness, and ingenuity of private citizens committed to a cause about which they care deeply. The Claude Moore Colonial Farm at Turkey Run flourishes today as an example of a public-private partnership between citizens and government that utilizes the best both have to offer.

The park was created in 1973 and was called Turkey Run Farm Park, and its purpose was to portray the home of a family of ordinary means in 1771—a counter-balance to the 18th century historic plantations of the more well-to-do. A citizen's group formed the non-profit Friends of Turkey Run Farm in 1981. The Friends negotiated a long-term lease with the Park Service, matched a $250,000 endowment gift from Dr. Claude Moore, and changed the name to the Claude Moore Colcnial Farm at Turkey Run. The group has successfully managed the Farm since 1981 as the first privately funded and operated Park in the National Park system.

The Farm has achieved national recognition for its innovative educational programming which reaches over 50,000 people a year, including thousands of students in the Washington area. The Farm provides a visual benchmark, against which the many changes that have occurred since the 1770s can be put into perspective, leading to a better understanding of where we were then, who we are now, and what we may become. "The farther back you look," Winston Churchill is reported to have said, "the further ahead you can see." The Farm's motto is similar: "AMERICA—To see where we are going, see where we've been!"

Well over half the Farm's total current income is generated from self-supporting programs. More than one-fourth of their revenue comes from fundraising events. Together these accounts for about 85 percent of their annual income, with endowment funds and grants making up the rest. In September 1995 the Farm suffered a devastating loss when their replica 18th century farmhouse was destroyed by fire. A massive fundraising effort was launched to rebuild it. That effort has now been successfully completed. The new farmhouse was finished and ready for visitors in April, a testimony to the level of interest and commitment elicited by the farm from its supporters.

Mr. Speaker, the Farm has remained open, against all the odds, because of the support of those who appreciate what it has given and continues to provide to the local community, the National Capitol region, and the Nation. It is a true public/private partnership which has grown stronger with the years, and as we celebrate the 25th birthday of the Claude Moore Colonial Farm at Turkey Run, we wish them many happy returns.

PATIENT PROTECTION ACT OF 1998

SPEECH OF

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. DEUTSCH. Mr. Speaker, H.R. 4250 is an ineffective attempt to solve the real problems and concerns of the American people. The legislation fails to achieve real managed care reform by allowing insurers to selectively choose specific geographic areas to limit enrollment. This approach will inevitably segment the market, removing the healthy from the general insurance pool and leaving the remainder with increasingly unaffordable premiums.

H.R. 4250 also fails to provide patients with information on benefits, cost-sharing, access to services, and grievance and appeals. It fails to provide an internal quality assurance program and fails to allow for an effective mechanism for accountability. In short, H.R. 4250 fails the American people.

The Republican leadership bill is simply a cosmetic approach toward enacting real patient protections. We must enact strong, common sense measures which include critical protections for all privately insured Americans. We must strengthen federal enforcement to ensure compliance, and increase access to affordable, high quality care. Again, H.R. 4250 fails the American people on each of these counts.

Mr. Speaker, only through bi-partisan consensus can we achieve meaningful reform. As Congress continues to work toward this goal, I look forward to supporting truly bi-partisan proposals that addresses patient concerns honestly and expands health care options for all Americans.

TRIBUTE TO J. CAMERON WADE

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I stand today to pay tribute to a constituent, Mr. J. Cameron Wade, better known as J.C. Wade of Irving, Texas who was awarded a long-awaited Bronze Star medal and restoration of rank for his valiant service to our country during World War II.

Mr. Wade and four other African-American veterans of WWII were finally recognized for their heroic participation in the U.S. Army fighting both the scourge of segregation and Adolf Hitler. On Thursday, July 23rd, 1998, Mr. Wade was officially recognized for his efforts to halt fascism and tyranny and protect freedom for the United States and the entire world.

Unfortunately, Mr. Wade's contribution to our country was overlooked for many years.

While history recorded the service of thousands of soldiers, Mr. Wade and other black servicemen were literally erased from those annals of history. Indeed, they fought, and some died alongside white soldiers until the war in Europe came to a close in May 1945.

However, Mr. Speaker, their work was neither acknowledged or rewarded. After their WWII service, they did not find a warm welcome or gracious thanks. Instead, African-American soldiers found an Army that returned to the practices of segregation. Because of the Army's return to segregation, those African-American soldiers were refused restoration of their rank status. These were soldiers like Mr. Wade, a sergeant who volunteered to be demoted to the status of private in order to fight on the battlefield for his country.

Mr. Speaker, even worse was the fact that soldiers like Mr. Wade found that their discharge petitions omitted their combat service. These warriors were truly forgotten. In addition, upon their leaving the service, no one bothered to inform them that the Bronze Stars were available to them for service in the combat infantry.

Mr. Speaker, we all agree that Mr. Wade and his colleagues were directly slighted and insulted. Their contributions were ignored, the Army refused to restore their rank and withheld information about the medals they deserve.

As Mr. Wade said about the Army, "When they enticed us to volunteer, they said that the units we were going into would be our permanent units when the war was over." However, this did not happen. Simply put, they were misled.

Mr. Speaker, Mr. Wade endured years of misinformation and dishonesty by his Army, by his Government. While it is late, it is fitting that last Thursday, the 50th anniversary of President Truman's order to integrate the military, Mr. Wade was finally awarded his Bronze Star and had his rank restored.

I would like to join our military in congratulating and honoring Mr. Wade. I join with a military that has changed for the better because individuals like Mr. Wade proved their worth and ability on the battlefield. Our servicemen and women of color can stand tall and move through their ranks because of people like Mr. Wade. We all offer him our thanks and gratitude. Most importantly, we all join our military in recognizing his being awarded the Bronze Star and being restored to the rank of sergeant.

REGARDING THE UNITED STATES-JAPAN INSURANCE AGREEMENT

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Mr. BISHOP. Mr. Speaker, I rise today to ask to insert into the RECORD the following Memorandum which the American Family Life Assurance Company ("AFLAC"), a Georgia company, has submitted to Ambassador Barshevsky, the United States Trade Representative.

The United States Trade Representative will be leading an interagency review process to consider her decision regarding a violation of the United States-Japan Insurance Agreement.

She has asked that submission be made to her office, and I think it appropriate to share with the House the AFLAC submission, which I know will be of interest to many both inside and outside the insurance industry.

MEMORANDUM

To: Interagency Task Force on Yasuda Fire & Marine's Activities in the Third Sector
From: Alan Wm. Wolff, Charles D. Lake II
Date: July 27, 1998
Re: Scope of Review and Copies of AFLAC's Submissions

Yasuda Fire & Marine Co., Ltd. has entered the third sector and has caused and is causing "radical change" in the business environment of the third sector. Therefore, in response to a request from the Office of the U.S. Trade Representative, we are pleased to submit on behalf of American Family Life Assurance Company of Columbus ("AFLAC") additional copies of our submissions regarding Yasuda Fire & Marine's activities in violation of the U.S.-Japan Insurance Agreement.

The interagency review of Yasuda Fire & Marine's activities should be conducted on the basis of the primary object and purpose of the U.S.-Japan Insurance Agreement, which is enhancing U.S. market access in Japan. The U.S.-Japan Insurance Agreement is designed to promote liberalization of the Japanese insurance market by preserving the third sector until the primary first and second sectors have been liberalized by the Government of Japan. To achieve this objective, the Japanese Government agreed to provide a "stand-still" in the third sector, until the primary first and second sectors have been liberalized.

"Stand-still" means that giant Japanese insurance companies such as Yasuda Fire & Marine are currently not permitted to enter the third sector (i.e., stand-alone cancer or medical market) or cause "radical change in the business environment" of the third sector. This commitment is premised on the fact that these giant Japanese companies have been the principal beneficiaries of the highly protected primary sector in Japan. The basic bargain struck under the agreement is that until companies like Yasuda are forced to face international competition in the primary sector, giant Japanese companies would not be allowed to penetrate the third sector. The U.S.-Japan Insurance Agreement is about one thing and one thing only, that is, access to the Japanese market for the sale of insurance.

It is essential that the interagency task force conduct its review of Yasuda Fire & Marine's activities in the third sector of the Japanese market by examining the evidence based on the object, purpose, and specific requirements of the agreement. A single, narrow focus on the question of whether CIGNA "controls" INA Himawari does not provide an appropriate basis for review of the available evidence and relevant issues. Yasuda Fire & Marine's activities in the third sector pose an unprecedented trade policy challenge to the United States with respect to its ability to enforce its trade agreements. It involves a clever scheme by a giant Japanese company to use its previously unsuccessful joint-venture partner both as a sword and shield to circumvent a trade agreement. Accordingly, we urge the interagency task force to consider the following facts:

Yasuda announced its agreement to buy majority ownership of INA Life, CIGNA's unsuccessful subsidiary, in August 1996.

Yasuda renamed the subsidiary INA Himawari ("Sunflower") to add the Yasuda corporate symbol to the name of the subsidiary to provide public identification of the entity as part of Yasuda.

Yasuda covered INA Himawari promotional materials in sunflowers to further establish in the public's mind that INA Himawari products were Yasuda policies.

Yasuda transferred 10,000 of its agents to INA Himawari to sell third sector products, and there is a potential for approximately 60,000 additional Yasuda agents to be transferred.

Yasuda has linked its proprietary computer sales systems, integrating its new "subsidiary" into its database, thus enabling the two companies to provide a seamless line of insurance products.

Yasuda represented to its agents that INA Himawari was in fact its subsidiary.

Yasuda's agents acting through INA Himawari targeted AFLAC's policy holders for replacement sales.

Yasuda used its keiretsu links to further extend policies into the third sector.

Yasuda cross-subsidized the sale of INA Himawari products by offering its agents special incentives rewarding aggressive sales of INA Himawari products.

Yasuda violated Japanese law in several regards in selling these policies in the third sector. Yasuda agents:

Offered rebates to new policy holders;

Misrepresented INA Himawari as a Yasuda subsidiary;

Conducted inappropriate product comparisons; and

Provided inappropriate information on AFLAC's cash surrender refund amounts.

Without agreeing to sell off their companies, change their corporate names and identities, take on platoons of outside managers, and disclose proprietary information, it is impossible for AFLAC or other foreign companies to enter into similar arrangements with other giant Japanese insurance companies. The transfer of Yasuda's agents to INA Himawari is the direct result of CIGNA's withdrawal from the life sector. It is impossible for other foreign companies dedicated to staying in the Japanese market to commit to such arrangements.

As Yasuda Fire & Marine's penetration of the third sector continues, foreign firms have been and are currently denied opportunities accorded to Yasuda and other giant Japanese insurance companies in the primary life and non-life sectors.

We further urge the interagency task force to consider among other things the following issues:

Are Yasuda Fire & Marine's activities in the third sector consistent with the object and purpose of the U.S.-Japan Insurance Agreement?

Has Yasuda Fire & Marine entered the third sector or has it caused or is it causing "radical change" in the business environment of the third sector?

Does participation in ownership by a U.S. entity in a joint-venture provide a blanket exemption for the Japanese partner from the agreement's provisions?

Has Yasuda Fire & Marine or INA Himawari engaged in activities designed to mislead agents and consumers into thinking that INA Himawari is Yasuda's subsidiary or a functional member of Yasuda keiretsu?

CIGNA is disinvesting from the Japanese market and seeking to increase its exit price by taking advantage of the U.S.-Japan Insurance Agreement. Are CIGNA's actions consistent with the U.S. objective to improve market access?

Does permitting Yasuda Fire & Marine to continue its activities in the third sector through INA Himawari promote U.S. market access to the Japanese insurance market?

When a prima facie case of a trade violation is presented, and a responding company has exclusive possession of certain relevant information, the burden of production should shift to that responding party. Further, if that responding party refuses to cooperate and provide the necessary information to conduct an impartial review, an adverse inference should be used against that party.

The interagency task force's decision should promote market access in Japan and discourage other Japanese companies from using their U.S. joint-venture partner to circumvent U.S.-Japan trade agreements.

CONGRESSIONAL RECOGNITION OF DON HORN

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to pay tribute to Don A. Horn, whose dedication to the labor movement and community of Houston deserve the utmost praise and admiration. From his extended tenure with the AFL–CIO in Harris County to the innumerable charity's and non-profit organizations he faithfully served, Mr. Horn's selfless resolve to improve his environment serves as an example to us all.

Mr. Horn is most notably recognized for his extended service on the Executive Board of the Harris County AFL–CIO, where he occupied the position of Secretary-Treasurer for over thirty years. During this epoch, Mr. Horn concurrently served on the Texas AFL–CIO Executive Board as a trustee for over a decade.

Mr. Horn's merit, however, cannot be constrained to his mere occupational accomplishments. In the community, Don selflessly served a myriad of underprivileged and needy individuals in a multitude of capacities. Mr. Horn's altruistic efforts ranged from his extended service on the Harris County Hospital Board to his efforts to increase electoral participation among under-represented minority groups. Mr. Horn also volunteered countless hours to the United Way, serving on its Houston Area Board for several years, as well as the local chapter of the Boy Scouts of America. Today, Mr. Horn remains an active member of the community, serving on the City of Houston's Ethics Committee.

I sincerely commend, and thank, Mr. Don Horn on behalf of the city of Houston and its people for his accomplishments, his dedication, and for his efforts to improve his community for posterity.

HONORING BOB VOGEL

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to salute an outstanding citizen of Pennsylvania's 13th Congressional District, Bob Vogel, on his selection as a member of the Abington Senior High School Hall of Fame.

Following his graduation in 1962, Bob went on to Princeton and then Yale Law School, following which he has had a distinguished career in business and law. He is currently Vice President and General Counsel of Rohm and Haas Company, whose world headquarters for research is in Spring House, Montgomery County.

Bob was nominated for this honor by his long-time friend, and mine, Ken Davis of Gladwyne, Montgomery County. Ken and Bob went through the Abington Township school system together, following which Ken served with distinction as Administrative Assistant to the late U.S. Senator from Pennsylvania, Hugh Scott. Ken then served as Director of Government Relations for Rohm and Haas Company. He now heads his own government relations consulting firm in Ardmore, Montgomery County, and is President of the Lower Merion Township Board of Commissioners.

I extend my heartiest congratulations to Bob Vogel on this memorable achievement.

PATIENT PROTECTION ACT OF 1998

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Mr. EVANS. Mr. Speaker, I urge my colleagues to defeat this rule.

Yesterday, I appeared before the Rules Committee. I urged the Committee to make in order an amendment I proposed to offer to H.R. 4250. My amendment would authorize the Secretary of Veterans Affairs to reimburse veterans enrolled in the veterans health care system for the cost of emergency care or services received in non-Department of Veterans Affairs facilities. My amendment is similar to H.R. 3702, the Veterans' Access to Emergency Health Care Act, which I introduced earlier this year.

Under the Evans amendment, veterans enrolled in the VA health care system would be reimbursed for the cost of emergency care they receive from a non-VA facility when there is a "serious threat to life or the health of a veteran."

The legislation we are considering today attempts to write into law certain basic health care protections, including emergency care protections, for millions of Americans not enrolled in the VA health care system. My amendment, which was blocked by the Rules Committee, would have afforded similar protections for the millions of American veterans who receive their health care from the VA.

Yesterday's action by the Rules Committee is a disservice to American veterans, and comes on the heels of another successful—but misguided—Republican effort to strip away compensation benefits from veterans who became addicted to tobacco while in the military. In the apparent view of the Republican leadership, veterans should have known better than to become addicted to nicotine while in the service, despite the obvious role played by our government and the tobacco companies to facilitate smoking by service members.

As yesterday's Rules Committee action suggests, veterans apparently should also have known better than to get sick and require emergency medical care outside a VA hospital.

This Congress has no conscience when it comes to issues of significance to our American veterans. Without my amendment, low-income, or service-connected disabled veterans who rely on VA for their health care needs would be provided no basic protections for emergency medical care. It's just not right, and it's a slap in the face to the men and women who have risked their lives in defense of our nation and the values we hold so dear.

I urge my colleagues to stand up for our veterans and vote against this rule.

FOREIGN AID

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1998

Mr. SANDERS. Mr. Speaker, I would like to have printed in the RECORD statements by high school students from my home state of Vermont, who were speaking at my recent town meeting on issues facing young people today. I am asking that you please insert these statements in the CONGRESSIONAL RECORD as I believe that the views of these young people will benefit my colleagues.

STATEMENT BY ANGELA DEBLASIO AND LYNNE CLOUGH REGARDING FOREIGN AID

ANGELA DEBLASIO. Foreign aid is an essential part of the United States' annual budget. This aid to less fortunate nations helps to alleviate famine and the effects of disasters. It promotes agricultural and industrial production. It also provides U.S. know-how for basic health, education and housing needs, while rewarding governments for embracing American ideals and interests.

Foreign aid is not just money. The United States aid program consists of development, economic, military and food assistance. Development assistance provides training and advice in all areas. Economic support contributes to the political stability and economic strength. Military aid provides grants and credits for the purchase of weapons, along with training and advice for the forces. Food aid is free or reduced-price agricultural products.

One of the great historical successes of American foreign aid was the Marshall Plan.

LYNNE CLOUGH. World War II left many scars in Western Europe and the United States. Secretary of State George Marshall proposed a plan that would not only help Western Europe overcome poverty and resist temptations of communism, but help Americans keep their jobs and offer more opportunities.

This plan became known as the Marshall Plan. We sent over tons of goods and money to Western Europe. Then, in turn, Western Europe bought our products, which gave Americans jobs. Giving U.S. aid prevented Western Europe from falling under the influence of communism and it gave us protection from the Soviet Union.

Aid to foreign countries has expanded over the past few years.

ANGELA DEBLASIO. For the past 37 years, Peace Corps volunteers have worked together with the people of Africa and other nations around the world. Today, Peace Corps volunteers contribute to grassroots development projects in education, business, the environment and health. They establish forest conservation plans and find alternatives to wood as a source of food.

Volunteers work to involve people in protecting endangered wildlife species and recycling projects. Peace Corps volunteers help individuals in developing nations to learn the skills necessary to help themselves.

The best example of how the United States gains from foreign aid is the country of Russia. The U.S. is currently giving aid to the Russians. The American taxpayers are definitely getting their money's worth. They are helping to bring banking experts, legal experts, business experts, and political scientists to the nation of Russia and create a free democratic society based on free enterprise. Also, American tax dollars are paying to help the nations of the former Soviet Union safely dismantle nuclear weapons once pointed at the United States. American aid is also helping to ensure that the nuclear materials do not fall into the hands of terrorists during these potentially dangerous times.

LYNNE CLOUGH. "Why spend our money on foreign aid?" That is a question many of us ask. As you just heard, foreign aid helps America prosper. Foreign aid is only one percent of our annual budget and is a very good investment. It provides security by aiding our allies and sets up good trading partners. Giving aid is also a way to deal with problems when they are small, and perhaps prevent future conflict.

STATEMENT BY NATALIE ROSS REGARDING STUDENT DRINKING AND DRIVING

NATALIE ROSS. Good afternoon. I will have to be quite honest with you: Many of the issues that I was going to speak about today have already been brought up with the student drinking and driving.

CONGRESSMAN SANDERS. That doesn't make them less important for you to bring them up.

NATALIE ROSS. Recently, as you can tell by today, we had many people who brought up many concerns about how advertisers influence us, and many different things—we were reminded of the tragedy up in Newport, which, unfortunately, claimed two of my very close friends.

I feel there is a message that we're sending to our youth that is not totally appropriate. It has been engraved in our brains for the longest time not to drink and drive, but I think that message is totally appropriate for adults who are of age, because they have the right to drink. But I think we are only fighting the battle halfway when we tell students not to drink and drive; I feel the message should be not to drink at all.

Many times students say, it is okay, you know, somebody will bail me out. For example, we had a community forum in St. Albans, and we have many parents who said, Sure, on prom night, I will sit at City Hall and wait for all the teenagers who are drinking, that are too, in their minds, drunk to drive home, and I will go and get them. But I feel they are sending the wrong message, because that is just saying: We will come and get you if you mess up. And I feel that there are too many times that people get off the hook too easily. And I'm not exactly sure what the answer is, but I just wanted to come today and express my concern about this.

STATEMENT BY NORA CONLON, MEGAN REARDON, BLAIR MARVIN, SHAWN BEIGEN, KATE HENRY AND PHILLIP MOORE REGARDING THE U.N. AND THE U.S.

NORA CONLON. A great deal of how successful the United Nations is depends on the attitudes of its member states. Americans have usually supported full U.S. cooperation with the U.N., but the level of support declined markedly beginning in the early 1970s, and remained relatively low during the 1980s. The U.S.'s stance during that period toward the United Nations was that of a reluctant participant.

The 1990s have witnessed a strong revival of American support for full U.S. cooperation with the United Nations Nations. This is because President Clinton's administration has expressed a great interest in the U.N., more so than its predecessors. The U.N. support that exists now from Americans is roughly equal to the strong support that existed in the 1960s. While American public support for the U.N. may be high, nevertheless the United States Government's opinion of the U.N.'s effectiveness is low.

This chart illustrates U.S. cooperation with the United Nations. The question asked was whether or not poll respondents agreed with the statement: Should the United States cooperate fully with the United Nations? The red line represents the percentage of those who are in support of full cooperation, while the black line represents those who oppose full cooperation with the United Nations. You can see that American support for the United Nations has increased considerably, and yet the U.S. Government has taken a far different stance towards the U.N.

KATE HENEY. The tension is between the U.S. and the U.N. is financial. By a contradiction of terms, the U.S. is both the greatest contributor and debtor of the 185 member countries of the U.N. The United States is responsible for 25 percent of U.N. expenditures, but despite a $60 billion surplus in our own budget, we are $1.3 billion behind in our payments to the peacekeeping budget of the U.N.

Legislative efforts have been made to pay up—and, actually, I have a question for you, Congressman, concerning this. On March 26th, the State Department authorization bill approved by voice vote an $819 million U.N. debt payment. This has been stalled since 1997, because the House of Representatives tried to include a provision holding that none of the money was to fund any family planning organization that performed abortions. President Clinton vows to veto any bill containing the abortion provision.

I believe that they have lost sight of the humanitarian issues and that the payment of international peacekeeping dues should not be prevented by conflicts within our own government. I was wondering what your position was on this.

CONGRESSMAN SANDERS. I will answer that question in a minute, Okay? I am happy to answer that, but let's let everybody make their statement.

BLAIR MARVIN. One of the reasons why the U.S. is withholding a payment of its debt is that our government has developed its own agenda for U.N. reform. The United States emphasis on reform is intended to stabilize the U.N. financially, making the organization more efficient. We wanted it to be more focused on key priorities and more accountable for its members.

Progress has begun in areas of greater budget discipline. The two key requirements in this is the lowering of the U.S.'s assessed share of the U.N. budget from 25 percent to 20 percent over a three-year period, along with the creation of a contested arrears account for debts disputed by the U.S.

One other area of reform is the U.S. commitment to the expansion the U.N. Security Council, which will strengthen its effectiveness and this will enhance representation throughout the world without detracting from its working efficiency. The U.S. wishes to grant permanent seats to Japan and accept three other seats from the developing nations from the regions of Africa, Asia and Latin America.

PHILLIP MOORE. The U.N. is a valuable asset for the U.S. foreign policy. On numerous occasions, the U.N. has given the United States a chance to gain international backing for issues important to American national interests—for instance, the Persian Gulf War. The U.N. Security Council provided for several measures which gave support for a multinational coalition force, which helped regain control of Kuwait from Iraq and also provided President Clinton with the authorization to form a multinational force to help reinstall the democratic government on Haiti.

The peacekeeping missions of the U.N. are also vital to American interests. Often, peacekeeping missions keep regional conflicts from growing into a wider crisis which may involve U.S. military intervention. For instance, on the island of Cyprus. The two NATO nations of Greece and Turkey have a conflict over the island of Cyprus. However, U.N. forces have kept the issue from growing into open conflict. And since the two nations are members of NATO, that could be a serious problem for the alliance. Humanitarian aid of the U.N. also benefits America as well, because it is in no one's interest to allow members of other countries to go on suffering.

By not paying our dues to the U.N., we are weakening our ability to play a larger role in the international community and ultimately hurt our own national interest and well-being.

MEGAN REARDON. We would like to leave you with a few suggestions on the U.N., because it is a tough topic. We propose you support the U.N. agencies on human rights and economic and social development; and pay our dues, which is an important one; support expansion of the Security Council with Germany and Japan; and support and gain support for collective peacekeeping.

CONGRESSMAN SANDERS. Thank you. Excellent.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. DAVID McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes:

Mr. MCINTOSH. Mr. Chairman, today, the House needs to retain the legislative restriction on new regulations in the VA–HUD bill to ensure that the Clinton-Gore Administration does not implement the Kyoto Protocol through the backdoor prior to Senate ratification of the treaty.

Retaining this language will ensure that the Administration will not circumvent through regulation the Senate's constitutional responsibility of advice and consent with respect to treaties.

In Kyoto, Vice President AL GORE already ignored the U.S. Senate's bi-partisan, unanimous resolution (the 95–0 Byrd-Hagel resolution) not to negotiate a treaty which either exempts developing countries or hurts the American economy.

In a series of hearings entitled "The Kyoto Protocol: Is the Clinton-Gore Administration Selling Out Americans?," my Subcommittee has heard from democratic and Republican State and local elected officials, businesses, labor, and consumers, that the Kyoto Protocol is a bad deal for America and will have dire consequences on Americans, including:

Huge job losses, up to 1.5 million according to the AFL–CIO and more according to other studies; Cecil Roberts, the President of the United Mine Workers, testified that the Administration should not proceed prior to Senate ratification; Ande Abbot representing the Boilermakers union, part of the AFL–CIO, agreed—no implementation prior to ratification.

Huge increase in the cost of living for American families ($2700 more per household for energy and other products);

Greatly diminished U.S. trade competitiveness;

Recently, a union machinist from my district testified before my Subcommittee that the Kyoto Protocol "is bad news for the American worker" and "we want jobs, not assistance."

AL GORE's Kyoto Protocol is a fundamentally flawed treaty, with unrealistic targets and timetables.

It commits the U.S. to reduce greenhouse gas emission by 7% below 1990 levels within the 2008–2012 period.

In real terms, this treaty mandates an unprecedented 41% reduction of fossil fuels use from business-as-usual.

AL GORE's Kyoto Protocol is unfair and unworkable.

It does not allow developing countries (like China, India, and Brazil), which will be emitting a majority of the world's greenhouse gas emissions by 2015, to opt in to the targets and timetables.

It allows the developing countries, which constitute a majority and which have no obligations to reduce emissions, to define the rules, procedures, and enforcement mechanisms of the treaty.

CEA Chair Janet Yellen testified that the economic impact would be "modest" if the U.S. was able to satisfy 85% of its Kyoto obligations by purchasing emission reduction credits from other countries. Other countries have refused to agree to such a trading system.

Amazingly, the White House has been unwilling to disclose to Congress information and analyses to justify the president's request for a huge increase in funding (+$6.3 billion) for its climate change agenda and to support fully its policy positions about this major initiative; as a consequence, Chairman BURTON has so far issued three subpoenas to obtain key documents and may be forced to issue more subpoenas and/or to go the next step by pursuing one or more contempt resolutions.

While AL GORE, in a recent press conference, claimed that Congress is imposing a gag order on global warming, it is the Administration that is imposing a gag order by withholding documents that would supposedly help to explain and justify its budget request. What is the Administration hiding and why are they hiding it?

Let's send a message to AL GORE that Congress is entitled to the information and documents we have requested since March and that the Clinton-Gore Administration cannot undermine Congress' Constitutional role through back-door implementation of the Kyoto Protocol prior to Senate ratification.

VOTE "NO" ON THE GREENWOOD AMENDMENT

A "NO" VOTE ON THE GREENWOOD AMENDMENT IS A NO VOTE ON THE KYOTO TREATY UNTIL IT IS RATIFIED BY THE SENATE

Let's make sure that the Clinton-Gore administration does not make an end-run around our constitutional process to implement the Kyoto Protocol.

Myth	Reality
Good Deal: The Administration says that the Kyoto Protocol will be good for America.	Bad Deal: The Kyoto Protocol is a bad deal for America. It violates the Byrd-Hagel Resolution (which passed the Senate pre-Kyoto by a 95–0 vote) because it only places restrictions on developed nations (exempting all developing countries entirely) and because it could result in serious harm to the U.S. economy. And, it would result in no net environmental gains.
Achievable Target and Timetable: The Administration says that it negotiated realistic and achievable U.S. targets and timeframes in the Kyoto Treaty.	Unachievable Target and Timetable: This agreement requires the U.S. to reduce its emissions of greenhouse gases by 7% below 1990 levels between the years 2008–2012. Even if America stopped operating every car, truck, boat, train, and airplane in this country, the energy savings would not be enough to meet the requirements of the Kyoto Protocol. In fact, Under Secretary of State Stuart Eizenstat testified that Congress should fund the President's requested $6.3 billion climate change budget increase in order to "place us further down the road so that we won't have to face the kind of drastic reductions that we would otherwise have to face."
Fair: The Administration says that it will obtain the "meaningful participation" of developing countries.	Grossly Unfair: The Kyoto Treaty exempts the vast majority of the international community from making reductions in their emissions of greenhouse gases. There are not even voluntary opt-in provisions for developing countries. At Kyoto, the China delegate announced his 3-no policy: No, we will not restrict our emissions; No, we will not promise to restrict our emissions in the future; No, we will not agree to a voluntarily opt-in clause in the treaty to reduce emissions. Recently, in Bonn, Germany, the G–77 nations and China adamantly opposed even including an agenda item on voluntary commitments by developing countries for Buenos Aires in November 1998.
International Emissions Trading a Panacea: The Administration says that the costs to American workers, consumers, and businesses will be "modest" because a significant portion of the U.S. emissions reductions requirements can be undertaken by other nations through international emissions trading. In fact, the Administration's estimates assume that the U.S. will satisfy 85% of its Kyoto obligation by purchasing credits from other countries which can reduce emissions more cheaply.	International Emissions Trading No Panacea: Developing countries and the European Union are firmly opposed to any unrestricted, global emissions trading system that allows any country to buy its way into compliance. Developing countries have stated that they will not commit to cap their emissions so that they can participate in emissions trading. In May 1998 President Clinton signed a G–8 Nation Communique committing the U.S. to "undertake domestically the steps necessary to reduce significantly greenhouse gas emissions," and, as the Kyoto Protocol says, to use trading simply to "supplement domestic actions."
Treaty Advances Technological Development: Based on a study performed by 5 Department of Energy national laboratories, the Administration claims that technologies can be developed and deployed between now and 2010 that could reduce emissions and energy consumption sufficient to meet our Kyoto Protocol target.	Treaty Threatens Technological Development: Even that 5-lab study indicates that it will require "luck" to achieve the necessary technological breakthroughs by 2010. At hearings before the Subcommittee on Regulatory Affairs, Dr. John McTague, VP, Ford Motor Company, testified that, contrary to the Administration's rosy predictions, deployment of new technology through the joint government/industry Partnership for a New Generation of Vehicles will not meet the U.S. Kyoto targets and timetable. He stated that the treaty's "rigid timetables threaten significant disruption to sound technological development." The treaty's short timeframe for compliance will divert limited resources into high-cost, less effective investments.
Full disclosure of information: The Administration claims that Council of Economic Advisers (CEA) Chair Janet Yellen's so-called "economic analysis" (without any backup tables) and its budget request provide sufficient information for Congress to act favorably. It has stated one conclusion after another about how the U.S. can meet its Kyoto Protocol commitment through technology development and international emissions trading.	Stonewalling on disclosure of information: The Administration has been unwilling to disclose to Congress information and analyses to justify its funding requests and its policy positions. As a result, the Government Reform and Oversight Committee was forced to issue 3 subpoenas in order to obtain documents and may even have to pursue contempt resolutions.

IMPACT OF THE KYOTO PROTOCOL BY STATE

[Source: 1998 WEFA data]

State	Number of jobs lost by 2010 under Kyoto Protocol	Unemployment rate in 2010		State tax revenue $ lost (in millions) by 2010 under Kyoto Protocol
		Without Kyoto Protocol	Under Kyoto Protocol	
Alabama	67,500	3.63	6.33	929
Alaska	4,300	7.20	8.51	239
Arizona	102,300	3.03	5.73	1,700
Arkansas	20,600	4.72	6.13	513
California	278,800	6.10	7.73	11,500
Colorado	47,400	3.75	5.32	2,000
Connecticut	28,100	5.48	6.97	1,800
Delaware	4,500	4.71	5.64	264
Florida	142,000	4.97	6.56	5,800
Georgia	80,000	3.92	5.48	2,700
Hawaii	9,700	6.55	8.15	329
Idaho	11,600	3.92	5.28	393
Illinois	190,700	3.38	6.06	5,200
Indiana	99,700	3.65	6.15	1,800
Iowa	21,600	5.07	6.29	785
Kansas	18,400	4.21	5.39	780
Kentucky	56,500	4.60	7.10	997
Louisiana	64,500	6.35	8.85	945
Maine	7,000	5.31	6.37	322
Maryland	33,300	4.71	5.92	2,000
Massachusetts	45,600	4.32	5.50	2,900
Michigan	96,500	3.80	5.54	3,400
Minnesota	46,900	3.45	4.93	1,800
Mississippi	28,600	5.86	7.94	423
Missouri	48,700	4.04	5.55	1,600
Montana	41,500	6.04	9.94	288
Nebraska	19,000	3.09	4.82	502
Nevada	27,300	4.64	6.48	1,000
New Hampshire	12,400	4.39	6.12	447
New Jersey	120,500	5.15	7.84	3,600
New Mexico	13,500	7.26	8.68	377
New York	140,000	6.24	7.76	7,100
North Carolina	107,200	3.95	6.14	2,500
North Dakota	3,600	2.78	3.66	173
Ohio	119,800	3.92	5.74	3,500
Oklahoma	26,600	3.83	5.41	753
Oregon	22,900	5.47	6.63	1,200
Pennsylvania	108,000	4.65	6.37	3,800
Rhode Island	3,400	4.57	5.27	260
South Carolina	32,500	5.48	6.99	815
South Dakota	7,200	3.23	4.81	191
Tennessee	39,500	5.41	6.61	1,500
Texas	124,600	5.21	6.32	6,000
Utah	12,700	3.09	3.89	713
Vermont	2,300	4.12	4.79	167
Virginia	34,600	4.23	5.06	2,300
Washington	47,700	5.35	6.76	2,400
West Virginia	19,400	4.87	7.09	319
Wisconsin	69,800	2.59	4.71	1,800
Wyoming	7,600	5.45	8.29	116
Total[1]	[2]2.4	5.43	6.95	[3]93.1

[1] The details do not add to totals because the totals, which are underestimated, are based on a national model.

[2] Million.

[3] Billion.

PARTIES WITH BINDING COMMITMENTS UNDER THE KYOTO PROTOCOL

Country	Percentage commitment
Australia	108
Austria	92
Belgium	92
Bulgaria	92
Canada	94
Croatia	95
Czech Republic	92
Denmark	92
Estonia	92
European Community	92
Finland	92
France	92
Germany	92
Greece	92
Hungary	94
Iceland	110
Ireland	92
Italy	92
Japan	94
Latvia	92
Liechtenstein	92
Lithuania	92
Luxembourg	92
Monaco	92
Netherlands	92
New Zealand	100
Norway	101
Poland	94
Portugal	92
Romania	92
Russian Federation	100
Slovakia	92
Slovenia	92
Spain	92
Sweden	92
Switzerland	92
Ukraine	100
United States of America	93
United Kingdom of Great Britain and Northern Ireland	92

PARTIES EXEMPT FROM BINDING COMMITMENTS UNDER THE KYOTO PROTOCOL

Albania, Algeria, Antigua & Barbuda, Argentina, Armenia, Azerbaijan.

Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Buikina Faso, Burundi.

Cambodia, Cameroon, Cape Verde, Central African Rep., Chad, Chile, China, Colombia, Comoros, Congo, Cook Island, Costa Rica, Cote d'Ivoire, Cuba, Cyprus.

Democratic Republic of the Congo, Democratic People's Republic of Korea, Djibouti, Dominica.

Ecuador, Egypt, El Salvador, Eritrea, Ethiopia.

Fiji.

Gabon, Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea Bissau, Guyana.

Haiti, Honduras.

India, Indonesia, Iran (Islamic Republic of), Israel.

Jamaica, Jordan.

Kazakhstan, Kenya, Kiribati, Kuwait.

Lao People's Democratic Republic, Lebanon, Lesotho.

Macedonia, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Moldova (Republic of), Mongolia, Morocco, Mozambique, Myanmar.

Namibia, Nauru, Nepal, Nicaragua, Nigeria, Niger, Nive.

Oman.

Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines.

Qatar.

Republic of Korea.

Saint Kitts & Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic.

Tajikistan, Thailand, Togo, Trinidad & Tobago, Tunisia, Turkmenistan, Tuvalu.

Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan.

Vanuatu, Venezuela, Viet Nam.

Yemen.

Zambia, Zimbabwe.

* * *

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 28, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 29

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold oversight hearings on the Department of Agriculture's progress in consolidating and downsizing its opearations.

SR–332

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR–253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Environment and Public Works

Business meeting, to consider pending calendar business.

SD–406

Judiciary

To hold hearings on S. 1554, to provide for relief from excessive punitive damage awards in cases involving primarily financial loss by establishing rules for proportionality between the amount of punitive damages and the amount of economic loss.

SD–226

Labor and Human Resources

Business meeting, to mark up S. 1380, Charter Schools Expansion Act, and S. 2213, Education Flexibility Amendments of 1998.

SD–430

Rules and Administration

To hold hearings on S. 2288, to provide for the reform and continuing legislative oversight of the production, procurement, dissemination, and permanent public access of the Government's publications.

SR–301

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to mark up S. 1405, to provide for improved monetary policy and regulatory reform in financial institution management and activities, to streamline financial regulatory agency actions, and to provide for improved consumer credit disclosure.

SD–538

Select on Intelligence

To hold closed hearings on intelligence matters

SH–219

2:00 p.m.

Finance

Social Security and Family Policy Subcommittee

To hold hearings on S. 1858, to provide individuals with disabilities with incentives to become economically self-sufficient.

SD–215

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine the satellite export licensing process.

SD–342

Judiciary

Immigration Subcommittee

To hold oversight hearings on enforcement activities of the Immigration and Naturalization Service, Department of Justice.

SD–226

Indian Affairs

Business meeting, to consider pending calendar business.

SR–485

2:30 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

JULY 30

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to review a recent concept release by the Commodity Futures Trading Commission on over-the-counter derivatives, and on related proposals by the Treasury Department, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission.

SD–106

Environment and Public Works

Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee

To hold oversight hearings on activities of the Nuclear Regulatory Commission.

SD–406

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings to examine international satellite reform.

SR–253

Judiciary

Business meeting, to consider pending calendar business.

SD–226

10:00 a.m.

Finance

To hold hearings to examine Medicare choice implementation.

SD–215

Governmental Affairs

To hold hearings to examine issues in preparation for the Year 2000 Census.

SD–342

Commission on Security and Cooperation in Europe

To hold joint hearings with the House Committee on International Relations

to examine issues relating to religious intolerance in Europe.
2172 Rayburn Building

1:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD–226

2:00 p.m.
Environment and Public Works
To hold hearings on the nominations of Romulo L. Diaz, Jr., of the District of Columbia, to be Assistant Administrator for Administration and Resources Management, and J. Charles Fox, of Maryland, to be Assistant Administrator for Water, both of the Environmental Protection Agency.
SD–406

JULY 31

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on pending nominations.
SR–332

9:30 a.m.
Special on SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM
To hold hearings to examine telecommunication issues with regard to the Year 2000 information problem.
SD–192

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on mandatory arbitration agreements in employment contracts in the securities industry.
SD–538

Judiciary
To hold hearings to examine issues with regard to physician assisted suicide.
SD–226

SEPTEMBER 2

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the impact of United States satellite technology transfer to China.
SR–253

SEPTEMBER 10

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings to examine international satellite reform.
SR–253

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

CANCELLATIONS

JULY 29

10:00 a.m.
Governmental Affairs
To hold hearings on S. 2161, to provide Government-wide accounting of regulatory costs and benefits, and S. 1675, to establish a Congressional Office of Regulatory Analysis.
SD–342

HOUSE OF REPRESENTATIVES—*Tuesday, July 28, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BURR of North Carolina).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 28, 1998.

I hereby designate the Honorable RICHARD BURR to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of the 23rd Psalm:

The Lord is my shepherd, I shall not want; He makes me to lie down in green pastures, He leads me beside the still waters; He restores my soul. He leads me in the paths of righteousness for His name's sake. Even though I walk through the valley of the shadow of death, I fear no evil; for Thou art with me; Thy rod and Thy staff, they comfort me. Thou preparest a table before me in the presence of my enemies; Thou annointest my head with oil, my cup overflows. Surely goodness and mercy shall follow me all the days of my life; and I will dwell in the house of the Lord for ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. EWING) come forward and lead the House in the Pledge of Allegiance.

Mr. EWING led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a bill of the following title, in which concurrence of the House is requested.

S. 2206. An act to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The chair would now entertain 1-minute requests and then 5-minute special orders until 11:30.

A SOLEMN TRIBUTE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, on this solemn day, I rise to join my colleagues in paying tribute, a special tribute, to the heroic actions of Officer Jacob J.J. Chestnut and Special Agent John Gibson. The quick and professional actions that cost them their lives undoubtedly saved the lives of many innocent people last Friday.

My thoughts and prayers, like all Americans, are with their families, friends and fellow officers. As always, the Capitol Police act in a very professional manner and work tirelessly to ensure our safety each and every day. While diligent agents of security, they are also the friendly ambassadors to the emergencies of visitors who come to visit this great building that symbolizes the freedom of our great Nation.

While we mourn the tragic deaths of these two men, and rightly so, more importantly we should thank God that two such men once lived.

As Members of Congress, we must all take the time out of our hectic schedules to stop and thank them for the daily sacrifices they make to protect the innocent visitors to our Capitol. Jacob Chestnut and John Gibson, thank you for your heroism and your sacrifice. May you rest in peace in God's arms.

MAY THEIR SACRIFICE NEVER BE FORGOTTEN

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I rise today to honor Officer John Gibson and Officer Jacob Chestnut. Last Friday, these two men willingly gave their lives to defend our Nation's Capitol and its citizens. Their courage and conviction to duty should be a lesson to all of us.

As family men, these two officers had much to live for, much to look forward to, yet day in and day out these two family men worked their jobs knowing that some day they may have to put their lives on the line.

When that day came, they met the challenge with the strength of many, and selflessly placed themselves in harm's way to protect so many others.

I and the people of the 15th District of Illinois greatly appreciate the fact that they gave their lives defending the People's House. Officers Chestnut and Gibson will be missed by all of us, and may their sacrifice never be forgotten.

IN TRIBUTE

(Mr. BURR of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURR of North Carolina. Mr. Speaker, today a saddened but grateful Nation pays tribute to two brave men, Jacob Chestnut and John Gibson, who gave their lives to protect the lives of others. There are some among us, even as I speak, who might not be here to celebrate the courage of these two men were it not for their actions in a moment of crisis.

Let us pay tribute as well to the Federal Law Enforcement Training Center located in Brunswick, Georgia, for the outstanding training of Federal law enforcement officials and the protection they provide.

The Capitol Police undergo intensive training at this state-of-the-art facility, and they learn not only the skills that will allow them to act decisively in the moments of danger but the professional attitudes and corporate culture that make all the difference in a job that serves all America.

The outstanding performance of Officers Chestnut and Gibson was no accident. The arduous training they received at the FLETC Training Center saved the lives of so many who are here today to say thank you and God bless you, Officer Chestnut and Officer Gibson.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN TRIBUTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. TRAFICANT) is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, the American people have come to learn something that the Congress has dramatically now started to realize. These are not country club jobs. The Capitol Police place their lives on the line like every other police department in the Nation.

My district, the 17th Congressional District of Ohio, joins with the Congress and the Nation in mourning the loss of Officer Chestnut and Detective Gibson.

The standards of the Capitol Police were always very high, but Officer Chestnut and Detective Gibson have now raised the bar several notches, and that bar of excellence is very high. We are all proud, and we all join in as the Nation mourns these two great policemen.

But I want to talk to the Members who may be watching this telecast in their offices; to the Speaker; to my good friend, the gentleman from Nevada (Mr. GIBBONS) in the back; and to all the staff here. The Uniformed Division of the Secret Service makes more money than the Capitol Police for basically the same service.

I take to the floor today as a former sheriff to say security needs of the Nation's Capitol and the Nation's buildings should be addressed. For all of the Members of Congress, on the tragic bombing of the Federal building in Oklahoma City, there was only one guard on duty for the three Federal buildings in Oklahoma City, and that guard was a contract guard, not a full-service, Federal-protective-service-system guard.

We now have to put ourselves in Congress under the microscope. Are we doing all we can? Have we gotten involved with budgetary numbers? I think the time to raise the level of compensation of the Capitol Police is at hand. It will cost $4 million a year to elevate them to parity with the Uniformed Division of the Secret Service.

Let me also say this to the Congress, it is good economics. Good economics I say to the gentleman from New York (Mr. WALSH). Because if we do not, we spend $50,000 to train our Capitol policemen, and Montgomery County, Fairfax County, Alexandria, they come in and hire after the scrutinization of the FBI background checks, and they recruit and take our young men and women, and they disrupt the flow of continuity. That must not happen.

H.R. 2828 should be now brought to the floor under the unanimous consent, and that is the tribute that should be paid to these two great policemen, Chestnut and Gibson.

They say words are hard to describe them. As a former sheriff, I would just like to use these words to describe them: They were policemen. Our police officers, the Capitol Police, are some of the best in the world.

The only deaths that occurred were to the officers of the Capitol Police. The people they were responsible for are all breathing. There is not a police department in the United States that could have reacted any better to a crisis of such volatility.

I say to the gentleman from New York (Mr. WALSH), I think H.R. 2828 should have been done. But I understand the legitimate concerns. I know Congress now is reviewing that whole matter. I think the most fitting tribute would be for the Congress of the United States to bring out H.R. 2828 under unanimous consent and take our Capitol Police into parity with the Uniformed Division of the Secret Service. They do the same job. By God, if the Uniformed Division of the Secret Service can do it any better, I would like someone to try and convince me of that.

To the families of Officers Chestnut and Gibson, your husbands, your fathers, they were really heroes. They were policemen for one of the finest law enforcement departments in the Nation, the Capitol Police that protects each and every one of us.

IN TRIBUTE

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, the tragic events of last Friday here in the Capitol have been felt across our entire Nation. Many of my colleagues have risen to praise and honor our two fallen Capitol Hill Police Officers, J.J. Chestnut and John Gibson, for their heroism on that fateful afternoon. I will simply state that I echo those sentiments.

I wish to add my own personal message of sympathy along with the people of New York State's 25th Congressional District in Central New York to the families of both officers. Words do not express, words cannot express the sadness that we all feel and the grief that we all feel for those innocent men and for their families.

□ 1015

This is an unwritten bond that exists here between and among all those who work on the Hill. We are a family; a large one, to be sure, but family in every way possible.

When one loses a member of one's family, it hurts deeply. When they are lost due to an act of violence, understanding that loss is even more painful and difficult. Now is the time to grieve, and we must be allowed to do so in private. In time, the healing will begin, but for this moment, we mourn our fallen friends.

God bless you, J.J.; God bless you, John.

GOD BLESS OUR FALLEN HEROES

(Mr. COOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOK. Mr. Speaker, I rise to pay a brief tribute to the officers who died Friday trying to preserve the safety and sanctity of this hallowed building. We will dissect Friday's events for months, looking for ways to make sure this tragedy never happens again. We should. This is necessary work.

But what sets these Capitol Police apart from the rest of us who do business in this building is their ability to act in a split second, to make decisions that can exact the highest possible price, without hesitation.

Friday reminded me that in the sea of people on Capitol Hill trained to analyze, debate and ponder, there is a small army of men and women trained to act immediately, decisively and heroically. Like John Gibson did. Like Jacob Chestnut did. These people lined up to pay tribute to these two courageous men underscores a fact I have sometimes forgotten: Without the work they do, we could not do the work we do.

I do not think I will ever forget that again. I may not remember to say thank you every single time I rush past an entrance carefully and cheerfully guarded by police, but I am resolved to do that as often as possible. And whether spoken every day or not, I think, for all of us here, the words "thank you" are in our hearts forever. Thank you.

RECESS

The SPEAKER pro tempore (Mr. BURR of North Carolina). Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 11:30 a.m.

Accordingly (at 10 o'clock and 17 minutes a.m.), the House stood in recess until approximately 11:30 a.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BURR of North Carolina) at 11 o'clock and 30 minutes a.m.

CALL OF THE HOUSE

Mr. CALVERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 341]

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLay
Deutsch
Diaz-Balart
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hayworth
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
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LaFalce
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Lewis (CA)
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Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McIntosh
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Miller (FL)
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Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
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Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
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Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
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Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wilson
Wise
Wolf
Woolsey
Wynn
Yates

□ 1155

The SPEAKER pro tempore (Mr. BURR of North Carolina). On this rollcall, 378 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members will proceed through the center doors to the Rotunda for the viewing of Detective John Gibson and Officer Jacob Chestnut.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess until approximately 1 p.m.

Accordingly (at 11 o'clock and 56 minutes a.m.) the House stood in recess until approximately 1 p.m.

□ 1300

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BURR of North Carolina) at 1 p.m.

IN TRIBUTE

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, John Curran in his speech "Upon the Right of Election" said, "Eternal vigilance is the price of liberty." Visiting the United States Capitol is one of this Nation's cherished liberties. As I have visited other capitals around the world, it is rare to see the flood of visitors that is found in our Nation's Capitol Building.

The vigilance of our Capitol Police to protect the freedom of access for visitors, as exemplified by the service of Jacob Chestnut and John Gibson, is a cornerstone of the sense of security felt by visitors to the Capitol. These two dedicated officers put the security and safety of their fellow citizens ahead of personal fear, and thanks to their vigilance, many lives were spared. Their dedication to duty stands as a shining example of the men and women who make the Capitol a shrine to be revered by thousands of visitors each day.

In the future, the continued accessibility of our Nation's Capitol to be shared without fear by millions will stand as a sacred testament to the bravery of Officers J.J. Chestnut and John Gibson. To the families of our two heroes, you can take pride in knowing that your husbands and your fathers stood for all that is good about America: bravery, love of fellow citizens, and devotion to duty. I along with millions of Americans join in extending our heartfelt sympathy to the loved ones of Jacob Chestnut and John Gibson.

GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of the tributes to the memory of the two slain police officers, John Michael Gibson and Jacob Joseph Chestnut.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

IN TRIBUTE

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I rise, as many of my colleagues have, to pay tribute to the two fallen Capitol Police officers Detective Gibson and Officer Chestnut that so valiantly have demonstrated, I think more than anything, the importance of their work and the meaning of this Capitol Building. These buildings are the citadel of free expression and the rule of law, our Nation's Capitol; but beyond the symbolism and those flags that are today flying at half mast and the buildings and other structures, and is the liberty and freedom and the ideas that live in the hearts and minds of this Nation's pulse.

These two individuals that have sacrificed their lives obviously symbolize and exemplify the real meaning of this Nation and the real sacrifice and contribution the essence of our common bond and the cost of freedom that we pledge to one another that has made up our Nation in the past, today, and, we pray, tomorrow the democracy that it is. We extend our sympathies to the families, but celebrate their lives because they made a real difference and mourn the the families losses today.

I know that the people I represent want to extend their sympathy and support for the families and a recognition of the important role that the Capitol Police play in safeguarding our Nation's Capitol.

IN TRIBUTE

(Mr. HILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILL. Mr. Speaker, there are only a handful of words that can describe the emotions that we are all feeling today. But for a moment, all Americans should reflect on the words which describe Friday's actions of J.J. Chestnut and John Gibson: heroism, sacrifice, honor, commitment, duty.

Much has been said, appropriately so, about their heroism and about their dedication to duty. Much has been said about the appreciation and respect we in the Capitol community extend to the family and friends of these brave men who have given us the ultimate sacrifice.

I was traveling back home to Montana at the time of the incident, returning to my home State to speak to Members of the Montana Police Protective Association. In turn, these representatives of Montana's entire law enforcement community have personally asked me to convey their deepest condolences to the families and the associates of Officer Chestnut and Detective Gibson. All Montanans are feeling the deepest sympathy over these events, and we reach out in prayer and in support and in compassion today.

IN TRIBUTE

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, it is truly a sad time for the United States Congress and for the American people. Today we mourn the tragic loss of Jacob Chestnut and John Gibson. We mourn for their families and the children they leave behind. And as we look back on their lives, let us also look forward. Let us look forward to the time when no individual needing mental health treatment falls through the cracks in our health care system. Let us look forward to the day when guns cannot find their way into our streets and our public areas.

Today we are united not just in our grief but in our respect, our admiration, and the utmost gratitude to these two officers. At this time of deep sorrow, words can never be enough to erase the pain we are feeling or to capture the full meaning of the selflessness and the bravery of John Michael Gibson and Jacob Joseph Chestnut. Words are not enough, but in our hearts and in our minds, their heroism will never be forgotten.

IN TRIBUTE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute.)

Mr. KINGSTON. Mr. Speaker, last Friday America's family room was invaded. I call the Rotunda in the United States Capitol America's family room, because this is where American tourists come and Americans come to see their government in action. The thin line between them, between safety and danger, safety and disaster, is the Capitol Hill Police.

Last Friday, Officers Jacob Chestnut and John Gibson made the ultimate sacrifice to protect the sanctity of America's living room. The system worked. They protected the tourists, they protected Members of Congress, they protected the staff, and they were able to protect everyone but, unfortunately, themselves.

Every day hundreds if not thousands of tourists and employees and Members of Congress walk by these brave men and women, and often we take them for granted, not necessarily in a negative sense, but you know they are there, you know they have got a job to do, and you are doing yours and you do not really think about it, but over time they become family. You know them by face, not necessarily every time by name. You know them, you like them, you exchange greetings and so forth.

Then suddenly something like this happens, and it divides their job from your job and how important their job is and how ultimately their job endangers their lives as it protects our lives. I salute these brave men, I pray for their family, and our hearts and prayers are with them.

A PART OF AMERICA DIED

(Mr. RAHALL asked and was given permission to address the House for 1 minute.)

Mr. RAHALL. Mr. Speaker, on Friday, July 24, 1998, just a brief time after the last vote of the day was cast, two seasoned Capitol Hill Police officers were gunned down in one of the entrances to the United States Capitol, the People's House. Hearts were broken, and a part of America died.

There is a poem, one that is very fitting for this occasion, about fallen heroes, entitled "A Part of America Died Today." Its author is unknown to me but I ask that it be printed in the RECORD at this point, and I will state it in tribute to Officer J.J. Chestnut and Special Agent John Gibson.

Somebody killed a policeman today, and a part of America died.
A piece of our country he swore to protect will be buried with him at his side.
The suspect who shot him will stand up in court,
with counsel demanding his rights,
while a widowed mother must comfort her kids
and spend alone many long nights.
The beat that he walked was a battlefield, too.
Just as if he had gone off to war.
The flag of our Nation does fly at half mast.
To his name, they will add a gold star.
Yes, somebody killed a policeman today.
A cop put his life on the line.
Now his ghost walks a beat on a dark city street,
and he stands at each new rookie's side.
He answered the call and gave us his all,
and part of America died.

Mr. Speaker, on behalf of myself, my staff and the people of the Third District of West Virginia, I extend our deep sympathy, our prayers and our thanks to the families of these two fallen heroes, Officer J.J. Chestnut and Special Agent John Gibson, placing them in the comforting arms of God, asking his blessings upon them.

Mr. Speaker, on Friday, July 24, 1998, just a brief time after the last vote of the day was cast, two seasoned Capitol Hill Police Officers were gunned down in one of the entrances to the United States Capitol—the People's House. Hearts were broken, and a part of America died.

Despite the chaos that ensued during and shortly after the first shots were fired, killing Officers J.J. Chestnut and John Gibson, both veterans of 18 years on the U.S. Capitol Police Force, it was with cool, deliberate bravery that they pursued and brought down the gunman, even as they themselves were dying. That they died to stop the gunman from getting more than a few feet inside the United States Capitol speaks eloquently of their training, their devotion to duty, their incredible courage, and their willingness to take full responsibility for the safety of others at the expense of their own lives.

These two officers saved countless lives last Friday, for had the gunman been able to breach the security of the United States Capitol by even a few more feet, more would surely have died. Both officers have died in the service of their country, keeping the Capitol secure, so that Members, their staff, and the hundreds of thousands of Americans visiting the "People's House" might live.

I do not want fear or unreason to take hold amidst cries to turn our Capitol into a fortress. There is talk of beefing up security in the aftermath—a review that would have taken place after any violent event in and around the Capitol. I assure you this will not pass us by, but will grow into something positive in the way of added security.

But we must carry on and let nothing stand in the way of the public's access to their Capitol or their representatives. To do otherwise would be to somehow diminish the supreme sacrifice made by these two brave officers. Instead, let us grieve along with the families, and offer them our strength and the comfort of our prayers to see them through the days ahead, by remembering the bravery of the men they lost—men who were husbands, fathers, grandfathers, sons, uncles, friends and above all, protectors of the public trust.

There is a Poem—one that is very fitting—about fallen heroes, entitled: "A Part of America Died Today," and its author is unknown to me. But I reprint it here in tribute to Officer J.J. Chestnut and Special Agent John Gibson:

Somebody killed a policeman today, and a part of America died.
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with counsel demanding his rights.
While a widowed mother must comfort her kids
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The beat that he walked was a battlefield, too.
Just as if he had gone off to war.
The flag of our nation does fly at half-mast.
To his name, they will add a a gold star.
Yes, somebody killed a policeman today.
A cop put his life on the line.
Now his ghost walks a beat on a dark city street,
and he stands at each new rookie's side.
He answered the call and gave us his all,
and a part of America died.

Mr. Speaker, on behalf of myself, my staff, and the people of the 3rd District of West Virginia, I extend our deep sympathy, our prayers, and our thanks to the families of these two fallen heroes, Officer J.J. Chestnut, and Special Agent John Gibson, placing them in the comforting arms of God, asking His blessings upon them.

IN TRIBUTE

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise to pay tribute to two heroes, Private First Class Jacob Joseph Chestnut and Detective John Michael Gibson of the U.S. Capitol Police, who sacrificed their lives not only for those of us in Congress and for the staff and for the tourists, but for all of the American people.

J.J. Chestnut guarded the main entrance. John Gibson was assigned to Majority Whip TOM DELAY. Both were veterans of the force, took their responsibilities seriously, so much so that in saving the lives of others, they lost their own.

We take this safety for granted. Who could ever imagine a shooting in the Nation's Capitol, the shrine of liberty and justice to all? Who could ever imagine the death of two officers because of that shooting?

We shall miss these men who guided us, who cheered us, who cared for us, who asked us about our families and we inquired about theirs, who shared their interests, always there, alert and responsive. We will miss them, yes, but they leave behind them their wives without husbands, their children without fathers, the Capitol Police without two colleagues.

We offer our condolences to Officer Chestnut's widow Wen Ling and his five children, Joseph, Janece, Janet, Karen and William; and to Detective Gibson's widow Evelyn and his three children, Kristen, John and Daniel. Those of us who are Americans, who are part of the Capitol Hill family, are in mourning over the senseless loss of these two fine men, all across Washington and across the Nation.

I want to close with a quote from Thornton Wilder who said, "There is the land of the living and the land of the dead, and the bridge is love, the only survival and the only meaning." This is the love that they leave behind and this is the love we give to them and to their families.

IN TRIBUTE

(Mr. CASTLE asked and was given permission to address the House for 1 minute.)

Mr. CASTLE. Mr. Speaker, on behalf of myself, my staff and the people of Delaware, I want to extend my deepest sympathy to the family and friends of Detective Gibson and Officer Chestnut. I also want Congressman DELAY and his staff as well as the visitors to the Capitol who witnessed this tragedy to know that they are in our thoughts today.

Detective Gibson and Officer Chestnut were heroes who gave their lives protecting the United States Capitol and those who work here and visit this great building. Words are not able to convey the thanks and respect we owe these two men.

I also want to pay tribute to the other Members of the Capitol Hill Police who responded to this terrible tragedy. They too are heroes. Fortunately, they did not have to pay the price that Officer Chestnut and Detective Gibson did, but their commitment to their duty and the safety of others was clearly demonstrated on that fateful day.

Mr. Speaker, I also want to thank the members of the Capitol Hill Police Force and our law enforcement officers across the Nation for the service they provide to the people of the United States. Unfortunately, I have attended services like this one today for fallen officers in Delaware. They are never easy but they do remind us of the absolute dedication that every law enforcement officer brings to the job and the very real risk they take every day.

Mr. Speaker, our thanks and prayers go to Officer Chestnut and Detective Gibson. We will always remember them. In their memory, we also thank all the men and women in law enforcement who share the commitment that these two heroes exemplified. Finally, I want to say to the families of John Gibson and J.J. Chestnut, thank you for giving us these two men. We are eternally grateful, and you will remain in our thoughts and prayers.

□ 1315

PROFOUND SYMPATHIES FROM NEW JERSEY'S 11TH DISTRICT

(Mr. FRELINGHUYSEN asked and was given permission to address the House for 1 minute.)

Mr. FRELINGHUYSEN. Mr. Speaker, in this hallowed Chamber we are often separated by differences in policy and politics, but today we stand together as a family, bound in honor of two men who will always be remembered in this Chamber and in this Nation as heroes.

While the horror of Friday's events will be blurred sadly by still other tragedies and the passage of time, the bravery and devotion to duty of Capitol Hill Police Officers John Gibson and Jacob Chestnut will become as lasting as the very democracy contained within these walls. We will not forget them.

This Capitol, the People's House, is honored by the service of each of our Capitol Police Officers, and to all of them today I offer praise and gratitude. By these two fallen heroes the People's House is venerated more so than the presence of any one of us here who have meant liberty, for Officers Gibson and Chestnut surrendered theirs in protection of ours.

To the Gibson and Chestnut families, on behalf of New Jersey's 11th Congressional District, my deepest, most profound sympathies go to them. They should know we share their grief and we also share their tremendous pride of these two men who have given their lives in the preservation of the sanctity of our Nation's Capitol.

PRAYERS FROM THE PEOPLE OF BROOKLYN AND STATEN ISLAND

(Mr. FOSSELLA asked and was given permission to address the House for 1 minute.)

Mr. FOSSELLA. Mr. Speaker, it is with a heavy heart that I come here today with my colleagues from both sides of the aisle to offer my condolences and prayers to the families of Officer Chestnut and Detective Gibson. Just on the way over here I was talking to some retired Capitol Hill Police, one of whom trained Detective Gibson. And I guess, in a nutshell, he said, "It could have been one of us," and I guess that really characterizes the mood around here these days: It could have been anybody. But it was two heroes who fell for their country, who fell protecting others without hesitation, without question.

And, Mr. Speaker, I would be remiss if I did not only offer my prayers from my family and the people of Brooklyn and Staten Island to those of the families of Mr. Chestnut and Mr. Gibson, if I did not mention that, right now, there is a young police officer back home in Staten Island who was shot in the head 2 days ago by a 17-year-old boy, this boy who had killed somebody at the age of 15. So I say that as an example in reflection of that dedication of the Capitol Hill Police and police officers around this country who stand in defense of freedom every single day to protect the innocent, to protect us. And while we pray for the families of Mr. Gibson and Mr. Chestnut, may we also pray for Mr. Carter and hope that he recovers and that in Staten Island we have him back protecting us as well.

PROFOUND CONDOLENCES FROM THE 4TH DISTRICT OF FLORIDA

(Mrs. FOWLER asked and was given permission to address the House for 1 minute.)

Mrs. FOWLER. Mr. Speaker, last Friday a terrible and devastating incident occurred here in the Capitol of our Nation. Inside this glistening white marble building one person changed the lives of two families forever and held a Nation captive as we prayed for the lives of two dedicated police officers who have protected us without as much as a second thought.

In our daily rush we may sometimes forget that the officers we see throughout the buildings are there ready to make the personal sacrifices their duty requires. Staff members sometimes feel frustrated if they are stopped by an officer as they give tours, and interns are sometimes flustered if asked for identification. It is so easy to forget that these officers are trying to protect us despite ourselves.

Winston Churchill once said: "We make a living by what we get, but we make a life by what we give."

The recent events bring their duty into clearer focus and force us to realize that, despite our occasional complacency, these officers must be prepared every day to face danger. Last Friday, in little more than a heartbeat, a delusional person was able to cowardly snuff out the life of a dedicated and professional officer. Jacob Chestnut was, however, much more than just a police officer. He was a good husband and father, and he was a caring member of his community and church.

Unfortunately, he was not alone. Officer John Gibson had three children and made time in his life for many others. He was the kind of person who was willing to dress up as Santa Claus to thrill children at Christmas. As a deputy whip to majority whip TOM DELAY, I came to know John Gibson as a man assigned to protect the majority whip. Many days I would go in the side entrance to the office, and Detective Gibson would be there with his reassuring presence and smile. We all came to know and care for Officer John Gibson.

Despite the tragic turn of events on Friday it is my personal belief that the police security worked. The intruder was stopped before he was able to roam freely throughout the U.S. Capitol Building killing innocent civilians. I am proud of Officers Gibson and Chestnut. I am also proud of all the other officers on duty that day for their quick and professional response in bringing down the alleged killer, helping their fallen comrades and managing the hundreds of people who were either working or touring in the Capitol.

I would also like to express my own profound condolences as well as those of the people of the 4th District of Florida to the families of Officer Jacob Chestnut and Officer John Gibson. May God bless them.

HOW CAN WE HELP?

(Mr. HOUGHTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Speaker, so many people have talked so eloquently about these two brave men that I am not going to try to do that. However, in less than an hour and a half we will be having this service in the Rotunda which the President, the Vice President, the members of the Cabinet and Senate and the House are going to be paying their final respects to these two courageous, courageous men. But I guess I ask myself how can we help? What goes on afterwards?

We have had 2 days of mourning. There will be other mournings that go on. But sooner or later those families are going to be on their own, and they are going to need our help, and I hope we can be of help to them whether it is through any contributions we can make to funds, whether it is some help to their children, whether it is in a variety of different ways. I think those are the times when we will be needed.

Also, I would like to feel that we can do what is needed to be done for the Capitol Police in terms of buttressing them and making sure that they have the proper protective equipment.

Another thing I think is that there are a great many people out there who were not in Washington but have the same types of functions, and these people need our protection and our help. I know in my communities and the district in which I live similar people are exposed daily to the type of dangers that these two brave officers were.

And also I think that there are a variety of people who are not in self service but are in service to this country, whether it is in the military or judiciary or a whole variety of things that really we should be aware of and sensitive to the conditions under which they work.

OFFICER J.J. CHESTNUT AND DETECTIVE JOHN GIBSON MADE A DIFFERENCE

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute.)

Mr. CUNNINGHAM. Mr. Speaker, President Ronald Reagan in his inaugural address talked about a man named Martin Treptoe. Martin Treptoe, like J.J. Chestnut, John Gibson, had not ever been heard of by America before that time, but Martin Treptoe was a baker. During World War I, when it was raging, he volunteered to go to the front. He became a message carrier. He got to the front, and three other message carriers had been killed, but yet Martin Treptoe volunteered again. And like the other three, they found Martin Treptoe dead about halfway to the front, and they found his message pouch, and I would like to quote from that pouch. It says:

"This is a very difficult war. I don't think I will survive. But I must treat every action as if that action determined the outcome of this conflict."

Both J.J. Chestnut and John Gibson treated every one of their actions as if the outcome made a difference for the Members of Congress and the safety of the public. We honor those two individuals today. May God bless.

TRIBUTE TO OFFICER J.J. CHESTNUT AND DETECTIVE JOHN GIBSON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in tribute to Officers J.J. Chestnut and John Gibson, and I hope something that has been said over these last 2 days will continue to help and comfort those who mourn.

President John F. Kennedy once remarked: "A man does what he must in spite of personal consequences, in spite of obstacles and dangers and pressures, and that is the basis of all human mortality." Officers J.J. Chestnut and John Gibson truly upheld this lofty standard.

And I also thank all other Capitol Hill Police Officers and all law enforcement officers throughout this Nation who protect us.

As responsible defenders of our country, these two slain officers protected our citizens from mortal danger, and it cost them their very lives. But they protected more than the people around them. Officers Chestnut and Gibson protected the very core of our American society and our belief in the preservation of life and democracy.

Today I would like to acknowledge the courage and dedication that Officers John Gibson and J.J. Chestnut exemplified this past Friday. Today I seek to honor the memories of these brave men who served their country with the utmost dignity.

On a personal note I want to offer a very personal thanks, for I was here in these very Chambers when the shootout started, and I know that their bravery served and saved so many others.

As I say goodbye to our fallen officers, I am reminded of the Psalm of David where it is written:

> Trust in the Lord, and do good, so you will dwell in the land and enjoy security. Take the light in the Lord, and He will give you the desires of your heart. Commit your way to the Lord. Trust in Him, and He will act. He will bring forth your vindication as the light and your right as the noon day.

Last Friday, Officers Chestnut and Gibson did do good, and I am certain that they will bask in the Lord's glory when they reach the heavens.

This event has brought the pall of sorrow across the expanse of our great Nation. We all grieve today for two heroes whose lives were prematurely ended. However, we are gratified that democracy and freedom still lives in these halls and in our Nation. We can find comfort knowing that Officers Chestnut and Gibson will glorify the heavens as their spirits ascend ever upward.

As written in Matthew 5:

> Blessed are the peacemakers, for they shall be called sons of God. Blessed are the pure of heart, for they shall see God.
>
> Blessed are those who are persecuted for righteousness' sake, for theirs is the kingdom of heaven.
>
> Blessed are you when men revile you and persecute you and utter all kinds of evil against you falsely on my account.
>
> Rejoice and be glad, for your reward is great in heaven, for so men persecuted the prophets who were before you.
>
> And blessed are those who mourn, for they shall be comforted.

In addition to these two brave officers, we must also thank the entire Capitol Police Force whose value was clearly evident during these trying hours this past Friday. The fast response of all of the Capitol's Officers diminished the severity of this heinous event. Not only did the Officers respond to the threat, but they also maintained a sense of calm that averted panic and comforted Congress Members, staff members and the members of the public touring the capital grounds.

I personally thank the police force for their mere presence comforts me when I step on these grounds, and I am comforted knowing that valiant officers like John Gibson and J.J. Chestnut watch over all of us.

It is so very important to remember Officer Chestnut. This honorable man was dutifully providing directions for a man and his son when he was gunned down from behind by a sick and confused perpetrator. It is cruel irony that Officer Chestnut was summarily executed as he performed an act of kindness. As we remember him we must not only remember his gallantry. It is likely that we would be grieving the loss of a far greater number of lives if he had not acted.

□ 1330

Officer Gibson's quick action protected, not only the lives of the majority whip and his staff, but it also protected the multitude of innocents who were touring the Capitol and its grounds. Who knows what carnage would have unfolded had Officer Gibson not brought an end to this violence.

I offer my utmost sympathy to the families. Officer Chestnut was the consummate family man. He shared precious moments with his wife and his children. He generously spent time with his father-in-law. He moved forward and helped all of those who wanted to help him. He helped and stood by his wife's side, and he savored the moments with his children and his grandchildren.

Detective Gibson was also a loving man, a good husband, and a father of three. Detective Gibson spent much time with his family. He took his children to their athletic events, played with the family dog, and gladly offered assistance to his neighbors.

The fact that Detective Gibson had planned to vacation with his family the moment he left work last Friday is a testament to his sense of family togetherness. That vacation on this Earth will never take place, but I know there are better days ahead.

Mr. Speaker, on behalf of myself, my family, the constituents of the 18th congressional district in Texas and my staff, I offer to those who mourn my greatest sympathy and love. And on behalf of all of us, I offer these words of comfort in Isaiah 40:31, "But they that wait upon the Lord shall renew their strength, they shall line up with wings as eagles. They shall run and not be weary, and they shall walk and not faint."

God bless the families of Officer J.J. Chestnut and Officer Gibson. God bless America.

Mr. Speaker, I rise in tribute to Officer J.J. Chestnut and John Gibson. I hope something that has been said over these days will help those who mourn.

President John F. Kennedy once remarked,

> A man does what he must—in spite of personal consequences, in spite of obstacles and dangers and pressures—and that is the basis of all human mortality.

Officers Jacob J. Chestnut and John Gibson truly upheld this lofty standard. I also thank all other Capitol Hill police and all other law enforcement officers who protect us. As responsible defenders of our country, these two slain officers protected our citizens from mortal danger, and it cost them their very lives. But they protected more than the people around them. Officers Chestnut and Gibson protected the very core of our American society, our belief in the preservation of life and democracy.

Today, I would like to acknowledge the courage and dedication that Officers John Gibson and J.J. Chestnut exemplified this past Friday. Today I seek to honor the memories of these brave men who served their country with the utmost dignity. On a personal note, I want to personally thank them because I was here in this chamber during the shootout and know that their bravery saved so may others.

As I say goodbye to our fallen officers, I am reminded of the Psalm of David where it is written:

> Trust in the Lord, and do good; so you will dwell in the land, and enjoy security. Take delight in the Lord, and he will give you the desires of your heart. Commit your way to the Lord; trust in him, and he will act. He will bring forth your vindication as the light, and your right as the noonday.

Last Friday, Officers Chestnut and Gibson did "do good," and I am certain that they will bask in the Lord's glory when they reach the heavens.

This event has brought the pall of sorrow across the expanse of our great Nation. We all grieve today for two heroes whose lives were prematurely ended. However we are gratified that democracy and freedom still live in these halls and in our Nation.

We can find comfort knowing that Officers Chestnut and Gibson will glorify the heavens as their spirits ascend ever upward. As written in Matthew 5:

> Blessed are the peacemakers, for they shall be called sons of God. (5:9)
>
> Blessed are the pure of heart, for they shall see God. (5:8)
>
> Blessed are those who are persecuted for righteousness' sake, for theirs is the kingdom of heaven (5:10)
>
> Blessed are you when men revile you and persecute you and utter all kinds of evil against you falsely on my account. (5:11)
>
> Rejoice and be glad, for your reward is great in heaven, for so men persecuted the prophets who were before you. (5:12)
>
> Blessed are those who mourn, for they shall be comforted. (5:4)

In addition to these two brave officers, we must also thank the entire Capitol police force whose value was clearly evident during those trying hours this past Friday. The fast response of all of the Capitol's officers diminished the severity of this heinous event. Not only did the officers respond to the threat, but they also maintained a sense of calm that averted panic and comforted Congress members, staff members, and the members of the public touring the Capitol grounds.

I personally thank the police force because their mere presence comforts me whenever I step inside the Capitol. I am comforted knowing that valiant officers like John Gibson and J.J. Chestnut watch over me.

This incident represented a rare event in our American history. Violent events in the Capitol, however, have occurred before. In February 1890, Charles E. Kincaid, Louisville Times correspondent, shot former representative William P. Taulbee on stairs leading from the House. Mr. Taulbee later died from his injuries. In December 1932, Marlin R.M. Kemmerer entered the House gallery and demanded time to address the House while brandishing a revolver.

Fortunately, Representative Melvin J. Haas persuaded the gunman to drop the weapon. In March 1954, five Congressmen were shot on the floor of the House by three Puerto Rican nationalists who were in the visitors' gallery. Until last Friday, the latest act of violence in the Capitol was the bombing of the second floor of the Capitol. Fortunately, no one was injured.

What makes this recent event more serious than past events is the sense of security and safety that was shattered by the gunman's weapon. Given the heightened security at the Capitol, I have to think that few of us expected to face the violent assault on the Capitol, much less the loss of two Capitol officers.

We must forever remember Officer Chestnut. This honorable man was dutifully providing directions for a man and his son when he was gunned down from behind by a sick and confused perpetrator. It is cruel irony that Officer Chestnut was summarily executed as he performed an act of kindness.

We forever remember Officer Gibson. Were it not for his gallantry, it is likely that we would be grieving the loss of a far greater number of lives. Officer Gibson's quick action protected not only the lives of the Majority Whip and his staff, but it also protected the multitude of innocents who were touring the Capitol and its grounds. Who knows what carnage would have unfolded had Officer Gibson not brought an end to the violence?

Authorizing the use of the Rotunda of the Capitol for the memorial services for these brave men is fitting because they truly are national heroes, and they deserve a hero's tribute. I am also honored that a plaque bearing the names of Officers Chestnut and Gibson will grace the walls of the Capitol, so we will forever remember their selfless acts of valor.

I offer my utmost sympathy to the families of our fallen heroes. Officer Chestnut was the consummate family man. He shared precious moments with his wife and his children, and he generously spent time with his father-in-law in the garden that the two maintained. Because of the terrible acts of one man, Officer Chestnut will not be able to enjoy his retirement by his wife's side, he will not be able to savor moments with his children and grandchildren, and he will not be able to till that garden he loved so dearly.

Detective Gibson was also a loving family man. A good husband and the father of three, Detective Gibson spent much time with his family. He took his children to their athletic events, played with the family dog, and gladly offered assistance to his neighbors. The fact that Detective Gibson had planned to vacation with his family the moment he left work last Friday is testament to his sense of family togetherness. Sadly, this vacation will never be taken, and Gibson's family will never again spend time with their beloved husband and father.

Mr. Speaker on behalf of myself, my family, the constituents of the 18th Congressional District in Texas and my staff, I offer my deepest sympathy and I leave you with the words of Isaiah 40:15, "Those that wait upon the Lord shall walk, run and not faint."

Given the loss felt by the families of our fallen officers, I feel that we must do what we can to provide assistance to these survivors. By paying for the funeral services, creating a survivor's gratuity to the widows of the two officers, and by urging the establishment of a Capitol Police Memorial Fund, we can acknowledge the courage of Officers Chestnut and Gibson in the best way possible, by helping their family members.

IN TRIBUTE

(Mr. WICKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WICKER. Mr. Speaker, I do not know if Detective John Gibson or Officer Jacob Chestnut ever met anyone from the 1st congressional district of Mississippi in the performances of their duties. But my constituents feel a kinship with these two slain heroes today.

They realize that these brave men gave their lives, not simply to defend hundreds of innocent people during last Friday's shootout but to protect and preserve 222 years of history and freedom symbolized by this majestic Capitol building.

The gunshots which rang out in these hallowed halls last week were heard around the Nation. E-mails and messages from my North Mississippi district reflect the same sorrow and shock other Members of Congress heard from the people they represent all across our great country this weekend.

This was not simply a shooting incident on a piece of fed property, it was an attack on the People's House, an attack on us all. This e-mail from constituents in Olive Branch, Mississippi is one example.

It reads, and I quote:

> Congressman Wicker, please express the heartfelt condolences of the people of Mississippi to the families and friends of the two slain Capitol policemen. They served and died honorably and in the best traditions of all those who placed their lives on the line for the citizens of this country. We trust they will be given the finest remembrance available in accord with the wishes of their families.

The American people join us today in honoring Officer Chestnut and Detective Gibson. We lift them up as the role models and dedicated servants they were, professionals who took seriously their obligation to defend and protect the foundation of our democracy.

It is fitting that we honor these two men as heroes and that we make sure their sacrifice is never forgotten. Beyond the words we utter on the House floor and in memorial services, a more lasting tribute to them is to ensure that we carry on the orderly functions of government inside this building that they died to preserve.

It is important that we send a message to all those who would tear at the fabric of our democracy that we will not be deterred from keeping open this historic building which stands as the most visible symbol of freedom in the world.

I share the sentiment echoed in this chamber that we stand united in reassuring our citizens that our free and open government represented so powerfully by all that goes on in the U.S. Capitol will not be disrupted by the actions of one disturbed individual.

Never again will we take for granted the job our law enforcement officers do in and around the Capitol. They come to work each day prepared to give their lives in service to our country.

Last week, for the first time in history, two of these brave officers made the ultimate sacrifice. They saved lives in the process. We share the grief their families feel because they were part of all of our families, and they will remain so.

Mr. Speaker, the people of the 1st congressional district of Mississippi join me in saluting the bravery and courage of Officer Chestnut and Detective Gibson.

IN TRIBUTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute and to express my sympathy and that of Michigan's 1st congressional district to the families of our two fallen officers of the Capitol Police Department, Detective John Michael Gibson and Officer Joseph Jacob Chestnut.

They are our officers because those of us who were and those of us who are in law enforcement know that Detective Gibson and Officer Chestnut are our fellow officers. When a law enforcement officer was injured or killed, each of us who have been there are injured in a personal way.

As an Escanaba City police officer and later as a Michigan State Police trooper, unfortunately, too often, I felt and I have witnessed the outrage, the mourning, the sadness like that that has been expressed here in the Nation's Capitol and all across this great country.

It happens all too often, Mr. Speaker. Every other day a law enforcement officer dies in the line of duty here in America, every other day. Today we salute Detective Gibson and Officer Chestnut. In response to their death, there has been calls for a visitor's center or to move the security perimeter farther away from the Capitol, farther to protect our brave law enforcement officers.

Mr. Speaker, I really wish it was that easy. I wish we could just pass a law that here in America we could say no more law enforcement officers would have to be killed or to be injured in the line of duty. But it just does not work that way Mr. Speaker.

If we ask Officer Chestnut or Detective Gibson, I am sure they would tell you that, in law enforcement officers, we rely on that personal contact with the public that we serve. We need that permanent contact to do our job. We need that contact.

You see, while Officer Chestnut probably really never had a chance, Detective Gibson knew what he had to do. He had to protect employees. He had to protect the visitors. He had to protect the Nation's Capitol.

He knew what the job demanded. They both understood their job. They had that sixth sense, that, even in the time of danger, they understood and they knew what had to be done.

Mr. Speaker, when I came here in 1993, I realized that law enforcement officers, not just here in the nation's Capitol but all across America, officers who knew how to do their job, officers who sacrificed their lives or maimed or injured each day to protect all of us, I realized when I got here they really had no voice in this House. They had no caucus in the Nation's Capitol.

What did the law enforcement officers ask? They ask for understanding of what they do. They ask for understanding of what their job entailed. So I and other Members in this Congress back in 1993 formed a Law Enforcement Caucus.

The bipartisan caucus promotes law enforcement ideas, promotes the needs of law enforcement officers and hopefully, hopefully we promote an understanding of their job, an understanding of the duty of what it is to be a law enforcement officer.

Those of us in law enforcement understand the dangers we face. We understand how a peaceful day is shattered by gunfire and tragedy each day in America. We know that, and we understand that.

So I hope that you understand that a visitor's center or maybe a larger perimeter cannot really protect law enforcement officers from doing their job or the dangers that is in their job. But we ask that, as they do their job, can we not give them our understanding that when our peace is shattered by death or injury they need to know that their children will be taken care of so they can go to college, get an education, fulfill their dreams.

We hope you understand that we need a Police Officer Bill of Rights, so you understand that law enforcement, all law enforcement officers, their needs and concerns can be addressed.

Officer Chestnut and Detective Gibson understood, and they did their job. I am not quite sure America understands their job. I am not quite sure this Congress understands. I am not quite sure America understands, but I know that Members of this Congress, the citizens of this great Nation and America, appreciates them. I am not so sure that we understand their job.

As I paid my respects in the Rotunda and witnessed the Honor Guard at the caskets give the slow hand salute, it reminded me of other officers like Sergeant Dennis Finch of Traverse City, Michigan, who was murdered ten weeks ago. It reminded me of some of the officers I served with. Michigan Police State Trooper Darryl Rantanen of the Gladstone Post was killed by a teenager who had stolen a car and he rammed the police car and it went off the road and slammed into a tree. Darryl Rantanen recruited me into the Michigan State Police.

It reminded me of Trooper Craig Scott of the Lansing Post. He was a good friend of mine. He was also a law client of mine. He stopped by my office, signed some papers went out on the expressway and was gunned down. I was a pall bearer. He was a friend. He is buried in Muskegon, Michigan.

There was Trooper Paul Hutchins of the Detroit Post, where I counseled him when I was an instructor at the State Police Training Academy.

Mr. Speaker, there are officers throughout this great Nation, and as the Capitol Police officers gave their slow hand salute, we salute all law enforcement officers, past and present. We salute their families. We say thank you. We pray for you. We thank you.

TRIBUTE TO TWO FALLEN HEROES

(Mr. WELDON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today in tribute to our two fallen heroes. I spoke on the floor last night discussing actions that we can take in light of this terrible tragedy. All of our colleagues have come together in discussing ways that we can assist the families of these two brave heroes.

As I mentioned last night, over the past 12 years I have been in this body I have had the pleasure of working with public safety leaders around America in both law enforcement, fire, EMS and life safety concerns. In fact, in this city I have had the pleasure of working closely with the Capitol Hill Police in a number of exercises and in a number of situations that I have been able to witness their activities.

We take our Capitol Police, as we do our law enforcement and public safety officials, for granted across this country. Just in the 12 years that I have been here, I have seen our Capitol Hill police respond to fires in the Cannon Building, the Longworth Building, again in the Longworth Building just a month ago; emergencies in this building, bomb threats, situations involving people who become ill or are struck with heart attacks or other situations. The Capitol Police are always there.

Mr. Speaker, it takes an event like this where we lose two lives to realize how valuable these people are day in and day out. In fact, 3 months ago my colleague, a good friend of mine, the gentleman from Maryland (Mr. HOYER) and I, after the fire in the Longworth Building, decided that we should take the time to recognize these brave heroes. So we went to Bill Livingood, the Sergeant at Arms and the chief, and we said, how about if we in the Congress recognize those people in your department who were taken to D.C. hospitals for smoke inhalation and for anxiety caused by their efforts in removing our constituents and ourselves and our staffs from the Longworth Building during that fire?

We assembled them all in a House hearing room in the Rayburn Building, and the gentleman from Maryland (Mr. HOYER) and I both spoke to them. At the end of the service, one of the officers said, this is the first time that the Congress has actually recognized what we do in a formal way.

Last night, Mr. Speaker, in our bipartisan caucus meeting here in this body I suggested, along with the gentleman from Maryland, that we establish a permanent Congressional Recognition Program for our Capitol Hill Police; not just to recognize these brave heroes when they pay the ultimate sacrifice but to make sure that we have a way of paying attention to what they do every day that we are in session.

I would say to America, in this time of national grief, in this time of tremendous outpourings of emotion and sympathy from all over the country, and having walked down the front steps you see police officers from across America coming to this city to pay their respects to our two heroes, I would say to America, let us use this opportunity, this low point in terms of our national morale, to renew ourselves in two ways: First of all, that is to make sure that the families of these two brave heroes never forget that we care, nor forget their loved ones. We are doing that.

The leadership on both sides of the aisle has put into place a memorial fund. We passed special legislation. We will do everything possible to make the lives of the siblings and the wives of these brave heroes comfortable for the rest of their lives, as much as we can, given the fact that they have lost their fathers and husbands.

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But I would say to America, there is something else we can do. Besides taking care of these two families, each of us in this country needs to reach down and understand. As I said last night, looking for role models in this country should not divert us toward Hollywood, should not divert us toward the movies or TV, should not even divert us to athletic competition, because the real role models, the real American heroes, if you will, are not in Hollywood. They are not on the ballfields. They are false heroes. The real heroes and the real role models are the men and women in our neighborhoods who serve as our law enforcement officials, our sheriffs, our paid and volunteer firefighters, our paramedics and EMS personnel, because not only do they do their job and work to save lives and property every day, as these two brave individuals did, but they also make our community strong.

Every American that wants to pay tribute to Officer J.J. Chestnut and Detective John Gibson should make it a personal, a personal challenge to reach out in their own communities, maybe establishing a Hero Scholarship Fund such as the Heroes Program in Washington; maybe establishing a support group, but getting involved locally with those public safety heroes in America who every day protect all of our lives.

We are doing that in Washington, and I would just ask this country to come together in this time of national sorrow and allow us to all more fully appreciate the public safety heroes and role models in America who truly are the best that America has to offer.

IN HONOR OF DETECTIVE JOHN M. GIBSON AND OFFICER J.J. CHESTNUT

The SPEAKER pro tempore (Mr. BURR of North Carolina). Under a previous order of the House, the gentleman from Maryland (Mr. CARDIN) is recognized for 5 minutes.

Mr. CARDIN. Mr. Speaker, as a representative of the people of the Third Congressional District of Maryland, I rise today to speak in honor of Detective John M. Gibson and Officer J.J. Chestnut of the Capitol Hill Police.

These last few days here on Capitol Hill have been somber ones and many of us have been given to thoughts of the abruptness of life; how one minute you can accept the greeting of an officer as you walk to work and the next you learn that you will never hear those words again, that he has been slain in a heroic stand to save your life and the lives of your coworkers and hundreds of strangers.

These are sad times, Mr. Speaker. Yet we should not, we cannot, allow the sadness to overwhelm the message of the lives of Officers Chestnut and Gibson. There is a message rooted in the ideas of democracy and duty. Democracy has a price. In a day and age when life for so many of us is so good, some of us may have forgotten that.

Tragically, the Chestnut and Gibson families know that the price for their father and husband was life itself. But it was their sense of duty, their commitment to protecting this building that stands for democracy and the people in it, that should force all of us to consider our own duty to democracy.

It is said that Robert E. Lee once wrote to his son, and I quote: "Duty, then, is the sublimest word of our language. Do your duty in all things. You cannot do more, you should never wish to do less."

I wish to offer my condolences to the Chestnut and Gibson families. I want to tell them that the lives of these great men and what they did for me, my colleagues, and all America last Friday will always be remembered and honored, but also remembered and honored for what it meant to the twin ideals of democracy and duty.

I want them to know that even if Officers Gibson and Chestnut had never heard these words from General Lee, they lived them, nonetheless. These two men could not have done more for me, and I hope to use their example to never wish to do less.

Mr. Speaker, I yield to my friend from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentleman from Maryland (Mr. CARDIN) for yielding to me.

Mr. Speaker, as the representative of the Third District of Virginia, I rise to add my voice to the chorus of supporters of families and friends of Special Agent John Gibson and Officer Jacob Chestnut in these painful hours.

"Senseless" is the word that keeps coming back to me as I think of the loss to the families and to our community of the lives and contributions of these two fine public servants. The only thing that was not senseless about the tragedy was their bravery and sense of duty in sacrificing their own lives to protect the lives of others and to keep the people's House open to the public.

Any loss of life as a result of tragedy is painful to the entire community, but when it comes as a result of a senseless tragedy such as this, we also feel anger, disgust and bewilderment over the loss of their lives and the suffering brought upon their families, friends, and our Nation as a result of a senseless act. No words are ever adequate under these circumstances. Yet I wish to join the long line of my colleagues in Congress to express my deep sorrow and sympathy to the families of these brave officers and to try to find a way to come to grips with this tragedy in our midst.

Mr. Speaker, I appreciate and honor the lives and contributions of Special Agent John Gibson and Officer J.J. Chestnut to this Congress and to this community and to our Nation.

TRIBUTE TO THE BRAVERY OF DETECTIVE JOHN GIBSON AND OFFICER J.J. CHESTNUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BARR) is recognized for 5 minutes.

Mr. BARR of Georgia. Mr. Speaker, last Friday, shots rang out in the Halls of this Capitol, and today we come together to remember two officers and the tragedy that has befallen all of us. Even in the midst of tragedy, we must reflect on the fact that these two men were defending this Capitol, the Capitol which is a symbol of freedom around the world. These two men not only gave their lives in the line of duty and in order to protect innocent citizens, but also to protect freedom.

Throughout the history of this Nation, there have been several demonstrations perpetrated on the walls of this Capitol in a way to scar the symbol of freedom. In each instance we have reached within us to find the strength to go on because we realize that which is so precious must continue.

Officers Gibson and Chestnut have made the ultimate sacrifice for us, and they would want us to continue on, to take up their post and to continue to preserve this Democratic institution. We as a nation owe it to them to do just that.

Although they are not here anymore with us, we remember them as the heroes they are. There is no way to fill the void they have left in their families. I can only say to the families of Officers Gibson and Chestnut, may not a month, not a week, not even a day go by that you and we do not forget that these two men will always be our heroes in the truest sense of the word.

As the light on top of the Capitol burns bright at night, may it be a constant reminder of our freedom and our fallen heroes. May that light always shine bright for the memories of Officers Gibson and Chestnut, because they paid the ultimate sacrifice to preserve the principles of this country and for which that light burns so bright.

We must continue to hear the sound of freedom that rang out Friday afternoon and every day here, not the sound of one cowardly, solitary enemy of freedom. Let freedom ring in our ears, and their memories in our hearts, as we stand here in the people's Chamber and as we also stand in the rotunda of the Capitol Building itself, which, in its majesty, fairly reaches up to the heavens, just as the souls of these two brave officers rose Friday to heaven to join our Lord God in eternal bliss.

In God they trust, and as the words raised in marble behind me state, In God We Trust, Now and Forever.

HONORING THE SACRIFICE OF OFFICER JACOB CHESTNUT AND DETECTIVE JOHN GIBSON

(Mr. DAVIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Florida. Mr. Speaker, the tragic loss of Officer Chestnut and Detective Gibson serve as a painful reminder that every day the men and women of the United States Capitol Police put their lives on the line, prepared to make the ultimate sacrifice. Officer Chestnut and Detective Gibson were called upon to make that sacrifice without any second thought. They simply did that to protect others.

So much of what is said and done in these Halls is a symbol for communities across the Nation. Sadly, the service and sacrifice of Officer Chestnut and Detective Gibson represent the 91 law enforcement officers who have given their lives just this year alone in the United States. Three of these slain officers served in the community I represent, the city of Tampa in Hillsborough County.

When we lost Police Detectives Randy Bell, Ricky Childers and Trooper James Brad Crooks, it dug a hole in our heart and took our breath away. That tragedy also brought our community closer together, and it deepened our respect and appreciation for the men and women who serve as law enforcement officers and their families as well.

Mr. Speaker, I would like to share a poem that brought comfort to our community at that time of tragedy. It was read at the funeral of the slain officers in Tampa. It is an anonymous poem, it is entitled, "Miss Me, But Let Me Go."

When I come to the end of the road
And the sun has set for me,
I want no rites in a gloom-filled room,
Why cry for a soul set free?

Miss me a little, but not too long
And not with your head bowed low.
Remember the love that was once shared,
Miss me, but let me go.

For this is a journey we all must take,
And each must go alone.
It's all part of the Master's plan,
A step on the road to home.

When you are lonely and sick of heart,
Go to the friends we know,
And bury your sorrows in good deeds.
Miss me, but let me go.

Mr. Speaker, our thoughts and prayers go out to the families of these courageous officers. May they rest in peace.

I yield to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, it is with a tremendous sense of loss and sadness that I rise today to express my sincere condolences to the families and friends of Detective John Gibson and Capitol Police Officer Jacob Chestnut and to their colleagues in the Capitol Police. I would also like to offer my sincerest gratitude to all of our Capitol Hill security personnel who each and every day risk their lives for us, and whom oftentimes we take for granted. Thank you for your service, your commitment and your valor.

Detective Gibson was truly an officer's officer. His work exemplified the truest meaning of service. He is remembered by colleagues, friends and neighbors alike as someone who would do whatever he could do to help, someone who always made people feel safe.

Officer Chestnut was a stalwart of service and professionalism. He always exhibited genuine kindness and gentleness to all of us who were privileged to know him. My family and I remember his assistance during my swearing-in ceremony, his incredible kindness, his guidance, his tremendous warmth.

These two heroes gave their lives in the line of duty in protecting their fellow citizens. They paid the supreme price so that others may live. They leave behind families, friends, coworkers, communities and Americans who will never forget their commitment and their sacrifice. Their passing leaves a void that will never be filled.

We join with the families to remember the special times, and in doing so, Detective John Gibson and Officer Jacob Chestnut will have a permanent place in our hearts. May they rest in peace.

HONORING THE BRAVERY OF DETECTIVE JOHN GIBSON AND OFFICER J.J. CHESTNUT

(Mr. SKEEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKEEN. Mr. Speaker, the Nation mourns the death of two Capitol law enforcement officers whose lives were taken in the tragic shooting incident last Friday during a busy time in our Nation's Capitol.

As we reflect on this sadness, I cannot help but think what could have happened if these two men had not been so courageous and sacrificed their own lives so that others may live, and for this we owe them a great deal of thanks and gratitude for protecting the lives of all who visit and work in the Nation's Capitol. Today we honor their memory and pay tribute to their heroic action.

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We offer our heartfelt sympathy to the families of Officers Chestnut and Gibson, to Mrs. Chestnut and Mrs. Gibson. We know your deep sense of loss. For that we pray, so that you may somehow feel comfort during this difficult time.

And to your children, we can only hope that your pain will heal in time by knowing that your father is a national hero, and will always be remembered as a courageous and honorable man who gave his life to protect others. May God bless you and may God bless America.

Let me say one other thing that was a gift from these gentlemen. They unified this House, this great Capitol, the two Houses, and we are unified throughout the United States in awe of this great gift that these two gentlemen have afforded us. We thank them from the bottom of our hearts, and will remember them always.

COMMENDING AND HONORING OFFICER JACOB J. CHESTNUT AND SPECIAL AGENT JOHN M. GIBSON

The SPEAKER pro tempore (Mr. BURR of North Carolina). Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, today I rise for the constituents of the 10th Congressional District of New Jersey in support of two great men who gave their lives on Friday to protect our Nation's Capitol and its visitors. I send my greatest condolences out to the families of Officer Jacob J. Chestnut and Special Agent John M. Gibson for their bravery and quick action last Friday.

It is the Capitol Hill Police Force that makes it possible for us to do our jobs every day. They also make it possible for all visitors to the Capitol to be able to experience the legislative process, the proceedings which taken here.

I would like to commend and honor those two great men today for their years of service and bravery while protecting everyone who comes to this Nation's Capitol. This tragedy has touched all of our lives, because it reminds us that no one is protected from violence and guns and people in need of mental care, even in the halls of Congress.

I have had the pleasure of getting to know many who serve on the Capitol Police Force, and I commend them, as always, for their sharp responses to situations, in addition to their friendly disposition. It has been an honor to have such men as Officer Chestnut and Special Agent Gibson, who protected us while we were in these hallowed halls.

I will forever be indebted to them for their commitment and protection, and for the safety of the public. They are true heroes, and their bravery is testimony to the best of what our country has to offer.

The Capitol Police officers who selflessly gave their lives are not the only ones who need to be remembered. There was also an innocent bystander who was injured by stray bullets as she escorted her family around the Capitol, Angela Dickerson. I want to send my deepest condolences to her and husband Steve, and their entire family.

Angela was the innocent victim of that random act of violence. I wish her the best of luck in her recovery. We are rooting for her quick and painless recovery, and Angela, we hope that you will come back again to join us in the Capitol, despite your unfortunate experience. This is the people's House, and it must remain just that, open to the people of this Nation.

Angela's experience remains us that no one is protected from random acts of violence. One of my interns, Teresa, was directly above the shooting after delivering a resolution to the floor, and she was lucky not to be directly at the scene. This has been a sad and emotional experience for all of us, whether we knew the victims or not.

Let me just say that prior to my time in Congress, I served as an elected official in municipal and county offices. On the local level, law enforcement, outside of education, is the largest expenditure of local budgets. Because of this, a lot of time is spent with law enforcement people, and we become more cognizant of their sacrifices, the long hours of the police officers, their time away from their families, the day-to-day danger, and their overall dedication of public service.

Let me conclude by saying that an old Negro spiritual said, Let the work that I have done speak for me. There was the age-old saying that, if you can help somebody along the way, then your living shall not be in vain. Officer Chestnut and Agent Gibson's work that they have done speaks for them, and certainly their living has not been in vain.

Mr. Speaker, I yield the balance of my time to the gentlewoman from Missouri (Ms. DANNER).

HONORING THE MEMORY OF JOHN GIBSON AND JACOB CHESTNUT

Ms. DANNER. Mr. Speaker, the Bible tells us, greater love hath no man than this, that a man lay down his life for his friends. I rise today to join my fellow Members of Congress to honor the memory of John Gibson and Jacob Chestnut, who died defending not only our lives but democracy itself.

These men were our friends, like so many Capitol Hill police officers who serve and protect us day after day, Congress after Congress, decade after decade. They do so with a quiet dedication and an obvious devotion. Whether helping a Member of Congress or any of the millions of visitors who come to Capitol Hill every year, Capitol Hill police play a vital role in assuring that American democracy works. They do so with thousands of acts of devotion and dedication to their duty. We know they may have to perform the ultimate act of devotion, but we also pray that they never do.

John Gibson and Jacob Chestnut made the supreme sacrifice, and we know they did so without hesitation. They were our friends, our protectors, and they laid down their lives, not only for us, but for the freedom that this institution represents.

CONDOLENCES TO THE FAMILIES OF OFFICER CHESTNUT AND SPECIAL AGENT GIBSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, as the Nation and the Capitol Hill family and, of course, the families of Special Agent Gibson and Officer Chestnut deal with this extraordinary tragedy, we, of course, extend our condolences to the immediate family members and their dear friends, including all of our friends here on Capitol Hill who have been so impacted by this.

One cannot help but think of what it is we can learn from this, and what it is that this has taught us. Of course, we have all, over the past few days, expressed greater appreciation for those men and women who are on the front line as Capitol Hill police officers than we have ever have.

I have always prided myself on being friendly and talking with them, but there have been more than a few occasions where I have been in a hurry and rushed by. Over the weekend and yesterday and today, of course, like all of my colleagues, we have stopped and taken a moment to express our appreciation. We all know how important gratitude is.

We also must remember, as we have just had the opportunity to walk by the two caskets in the great rotunda, and in about 45 minutes we will be moving into the Rotunda for this service, but we have to remember that this experience shows us the magnitude of man's humanity to man. We know it is, from this experience, our deeds that make us great, and while we have been talking, as we do so well here, we know that our words are important, but it is our deeds that will be remembered.

Mr. Speaker, these two men exemplify the simple, everyday greatness of self-sacrifice. I join in extending condolences to the Gibson and Chestnut families, and wish them God speed.

IN TRIBUTE TO OFFICER JACOB JOSEPH CHESTNUT AND DETECTIVE JOHN GIBSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, without excessive repetition, I would like to join my colleagues in the House to pay tribute to Officer Jacob Joseph Chestnut and Detective John Gibson, who gave their lives dutifully protecting this hallowed institution.

These two heroes were great points of light for all Americans. It is important that we all come together across party lines and across all other differences to pay homage to these two heroes. As we pay tribute to the dead, let us also honor the other police and protective forces and other staff members whose reverence for this institution is no less than and sometimes even greater than the reverence of elected members.

In paying tribute to our defenders, we reaffirm the fact that this House of Representatives and the democratic process, this government, belongs to all of the people. We reaffirm the fact that we are the guardians of a sacred process that takes place within the halls of this Capitol.

This democratic process cannot survive without institutional support. This process and the institution have become inseparable. This is the great democratic process that guarantees our freedom and guards our national progress.

It is the process that inspired the bravery and the courage on the beaches of Normandy. It is the same process that applauded and rewarded the returning World War II heroes with more than merely marches and medals.

This Congress, this institution, passed the G.I. Bill, that offered unprecedented educational opportunities to every veteran. This is the democratic process and the institution that followed the leadership of the assassinated President, Abraham Lincoln, and passed the 13th, 14th, and 15th amendments, ending slavery and guaranteeing equal treatment and the right to vote.

This is the process and the institution that, while mourning the death of John F. Kennedy, accepted the wise and forceful guidance of President Lyndon Johnson in the passage of the Civil Rights Act and the Voting Rights Act.

This is a sacred place and a sacred process. They must at all times be protected and defended. Officer Chestnut and Detective Gibson instinctively understood the nature of our mission. The workings of this institution are more complex than the wiring or gadgets of any nuclear submarine. The impact of the results of what we conclude here has more explosive power and long range consequences than any space rocket ever fired at NASA.

To keep this institution relevant and capable of meeting the challenges of our rapidly changing and demanding world, we need the elevator operators, the cleaning staff, the receptionists, the analysts, the secretaries, the directors, chiefs of staff, coordinators, counsel, information specialists, administrative assistants, and yes, we need the detectives and the police. All are vitally necessary. A complicated world demands an intricate governmental infrastructure.

The democratic process within this infrastructure must be protected because the twin monsters of insanity and violent savagery are always scratching out there at the door. In the last 50 years, the bullets of assassins have dramatically altered history in

America. Some victims were President John F Kennedy; Martin Luther King, Junior; Robert Kennedy; and the almost-murdered President Ronald Reagan.

Against the twin monsters of insanity and savagery, we must do more than merely mourn the loss of our heroes. Most Americans can only grieve with the families of J. J. Chestnut and John Gibson. We 435 Members of Congress can do much more.

In paying tributes to these heroes, we Members of Congress should seek a solidarity across party lines and beyond the usual philosophical and ideological agendas. In defense of this great institution and to protect all vulnerable Americans, we must unite and act as one. Let this be a time of new reflections, new insights, and new resolve to find ways to disarm the proliferating number of insane and savage assassins.

The second amendment was designed to make us safe from tyranny, to bolster our sense of security. No well-regulated militia should allow the rampant and random distribution of firearms among the populace.

In the name of our Capitol heroes, Officer Jacob Joseph Chestnut and Detective John Gibson, and for the sake of the families of all similar victims, let us resolve, as powerful decision-makers, as Members of Congress, let us resolve to end the escalating terror of handguns in America.

ON THE DEATHS OF OFFICER JACOB CHESTNUT AND DETECTIVE JOHN GIBSON

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, we gather today to honor two men in a way that has been reserved for Presidents and military heroes. Mr. Speaker, it is fitting that we would honor these two slain Capitol Police officers as only 26 other Americans have been recognized.

Jacob Chestnut and John Gibson were heroes. They chose to place themselves in harm's way every day they came to work. In that awful moment last Friday, they did not flinch from making the ultimate sacrifice to protect coworkers, friends, and even complete strangers.

They were more than just officers, though. They were husbands, fathers, and a grandfather. We grieve with their families, mourning their loss and ours. Jacob Chestnut and John Gibson were part of that thin blue line that runs through every community in America.

As we remember their heroism this week, let us not forget that their colleagues here at the Capitol and in law enforcement agencies throughout the Nation still stand ready to protect and search. Let us appreciate the contributions they make and the risks that they take each day when they put on that uniform.

As Ronald Reagan said, those who say we don't have heroes anymore, well, they just don't know where to look. We lost two of those heroes on Friday.

TRIBUTE TO THE SLAIN OFFICERS WHO DEFENDED THE U.S. CAPITOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BISHOP) is recognized for 5 minutes.

Mr. BISHOP. Mr. Speaker, I rise today to pay tribute to the slain officers who valiantly have defended the people's House last Friday, Special Agent John Gibson and Special Agent Jacob Chestnut.

Shakespeare wrote, "All the world is a stage, and all the men and women, merely players. Each has his entrance and his exit. One man in his time may play many parts."

So it was with Officer Chestnut and Detective Gibson. They, too, played many roles. They were sons, husbands, fathers, friends, coworkers. They were great men, great not because of the titles they carried, not because of the uniforms they wore. They were great not because of where they worked, nor because of who they worked with.

□ 1415

No, they were great because, measured by the true standard of greatness set by Jesus, that is, "he who is great among you shall be your servant and he who is greatest shall be servant unto all," they measured up.

They served us all. They stood by the door to protect us and thousands who visit this Capitol each day. Both literally and figuratively, they served us and America by giving their last full measure of devotion and to protect us and the House of Democracy.

Too often, those in exalted places of power overlook the nameless persons who serve and wait. Whether those who sweep the floors, hold the doors, service or drive the elevators, serve the food, cut the grass, or clean the toilets, they are too often overlooked. But they, too, are great, because they also serve.

We are grateful to God and to the families of Officers Gibson and Chestnut for allowing us in America to benefit from their service.

Yes, all the world is a stage and all the men and women merely players. Each has its entrance and his exit and these two in their time played many parts. For their service and their friendship, we are grateful.

Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I rise today with a sad heart to extend my condolences to the families, friends, and colleagues of officers J.J. Chestnut and John Gibson. I do this on behalf of my wife, Simone, and our family, my staff, and the constituents of the Sixth Congressional District of New York.

I have only been a Member of the Capitol community for about 5 months, and it has been a learning experience for me and my staff, as most us are new to Washington. One of the things that we have learned is that there is a strong sense of community here. Members and staff view each other as colleagues, and we view our staffs as part of our families.

The Capitol Police, in my opinion, are indeed an extension of that spirit of professional respect, friendship, and family. They protect Members, they protect our staffs, and they protect the many visitors that visit the Capitol every day. They risk their lives for us and for America. But we must ask ourselves, what is it that they are protecting?

I believe, as I am sure all Americans believe, that they are defending the crucible of freedom. It is the crucible of freedom that is on display every day in this building. The fact that Officers Chestnut and Gibson gave their lives defending this place will serve as a reminder to me what the words "duty" and "service" really mean. The senseless act of this past Friday truly define the words "defending the Constitution."

Yes, I still learn every day that I am here, as I had learned before I arrived here, that we cannot place a value on human life. But a person who is willing to give their life, make the ultimate sacrifice so that someone else might continue to live, is one who really understands life and its value.

Yes, as others have said, freedom is not free. And it is with a tremendous sacrifice that we are free in this country, a freedom that we all to often take for granted.

But I just pray that we all understand what sacrifice means after this tragedy. I again send my prayers to the families of these heroes. I know, and I want them to know, that they are not alone. This House, this Congress, and indeed America's prayers are supporting them.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4328, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–651) on the resolution (H. Res. 510) providing for consideration of the bill (H.R. 4328) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 629, TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–652) on the resolution (H. Res. 511) waiving points of order against the conference report to accompany the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact, which was referred to the House Calendar and ordered to be printed.

STAFF TRIBUTES TO DETECTIVE JOHN GIBSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. DELAY) is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, I probably will not take the entire 5 minutes, for those who are waiting to speak. I just wanted to add to last night, when I read into the RECORD some of my staff's memories of Detective John Gibson. Today I had a few more that my staff offers, and I wanted to read them into the RECORD as well.

From Jim Morrell,

> Working in the front office at the Whip Office for a year and a half, I had the opportunity to come to know John; the opportunity to know what an outstanding human being he truly was. When the nights got late with Congressman DeLay up in leadership meetings or on the House Floor, there would often be just a few of us left in the office. I can remember staying up there until 11:00 or 12:00 at night with John watching TV or talking about the latest events in the sports world. With John being a die-hard Red Sox fan and me being a die-hard Cubs fan, we often commiserated on the respective futility of our favorite baseball teams.
>
> I walked into the Whip's office last Friday, minutes before the tragic events unfolded. Although I came in the front door, I turned my head towards the back hallway before continuing on. There sat John at the back desk dutifully guarding his post.
>
> For the rest of my life, that image of John will stay with me. The image of a guardian, a defender, a protector. I can imagine John, even as shots were being fired, thinking, "There is no way you are going to harm the people in this office."
>
> Well, no one in our office was harmed, thanks to John. The hardest part of this tragedy is that I will never have the opportunity to thank John personally. In every sense of the word, he was a part of our office, a part of our family, and he will be sorely missed. God was very gracious to allow me to know John Gibson. I will always remember his life and will always remember his sacrifice.

From Shannon Graves, she says,

> John was my father, my uncle, my brother, my protective shield. For the year and a half that I sat in a desk right in front of him, I saw John from sunup to sundown. Gibson, as I would always call him, was always there with a cheery "good morning" and a smile throughout the day.
>
> He took on the role of a father to a very young female in the office. He was there to give you congratulations, give you that stern lecture that was needed, and if someone was ever bothering you he was there to make it go away.
>
> As we sat together, it became the competition of dueling TVs, always helping him with the Internet, e-mail, and loading the latest computer games for him, Doug, and Bob to play.
>
> I remember the day he was on detail for John Travolta. It was about 6:30 at night. He came running into the office asking me to grab any film that I might have. He would give no details, except to grab the film and follow him. I ran with him, and the next thing I know, I am handing the film over to John Travolta's photographer. It seems that she ran out of film and Travolta was going into a meeting with the Speaker. I spent the next hour up on the balcony and then was ushered over to have my picture taken.
>
> John was always watching out for everyone. He wanted to make sure that everyone benefited. He escorted Stephanie and myself to see Mother Theresa when she was leaving the Capitol. He was always right there for you. Now my Hill father is gone.

From Dani DeLay, my own daughter, who is now Dani Ferro,

> John always treated me like he was another father. Whenever I was in Washington, he always was looking out for me and watching me like a hawk.
>
> I liked to tease him and tell him I feel sorry for his own daughter. I was sure that, at age 17, he still had not let her go out on a date.
>
> I feel so safe knowing that now he will always be watching over me wherever I am.
>
> The last conversation John and I had, he told me how much me and my family meant to him and how much he loved us. John, I love you, too.

Mr. Speaker, I wanted to just thank all the Members for all the wonderful words they have said on this floor on behalf of J.J. Chestnut and John Gibson.

Mr. WAMP. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Speaker, I appreciate the gentleman from Texas (Mr. DELAY), the majority whip, yielding to me.

Mr. Speaker, I just want to make two points. One is this House has come together in an extraordinary way in the last 24 hours. Last night's meeting, a joint caucus and conference meeting between the Democrats and the Republicans, was this institution at its finest.

I think in the memory of these two outstanding men, we should all commit ourselves to love each other more, to be more civil, to hold this institution up in the way that they deserve. In memory of them, that we would, as a people, find some good in this and come together in an extraordinary and historic way.

Mr. Speaker, I also wanted to come today to this floor and recognize a great "Tennessee Volunteer," Senator BILL FRIST, whose second nature was to help; to put himself in an awkward position as a physician, though to always put that patient first, regardless of who that patient is.

A great Tennessean of whom we are all very proud, Senator FRIST came where he was needed most and gave of himself in an extraordinary way.

Mr. Speaker, I thank the gentleman from Texas (Mr. DELAY) and the Speaker and the minority leader for this House coming together for these two remarkable men.

IN HONOR OF OFFICER JACOB J. CHESTNUT AND DETECTIVE JOHN M. GIBSON WHO SACRIFICED THEIR LIVES IN THE LINE OF DUTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa (Mr. FALEOMAVAEGA) is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, like my colleagues before me, I rise to extend my heartfelt sympathies and deepest condolences to the families of Officers Jacob Chestnut and Detective John Gibson. We pay this special congressional tribute today in honor of these extraordinary and courageous Americans who sacrificed their lives so that the Members of this institution and the public could be protected from harm and from danger.

Mr. Speaker, sometimes we take it for granted that our Capitol Hill officers perform their duties day and night, faithfully, steadfastly, without complaint and with quiet dedication. At all times, they are willing to assist us and assist our constituents, going out of their way to be helpful and courteous. They serve this institution with dignity, with selflessness and, Mr. Speaker, as this tragedy as shown us, they serve this institution with great courage.

My colleagues in the House, for all I know, it could have been any one of us walking down that Capitol hallway last Friday afternoon, any one of us or any one of the thousands of more than 18,000 staff members and visitors who enter that hallway of the Capitol building every day. It could have been any one of us. The violence was that random.

Mr. Speaker, several members of Congress could have been hurt or killed last Friday. These brave officers, John Gibson and Jacob Chestnut, took the bullets instead. They took the bullets that recklessly endangered everyone in that hallway, including visitors who wanted very much to see America's greatest monument, a building that symbolizes freedom and democracy throughout the world.

In this moment when there was only time to act, we saw the true nature of both of these men. We saw their courage and saw their deeply selfless impulse to protect life and to protect the sacred space which is at the very heart of this democracy, the House of Representatives of the American people.

So while this tragedy has shocked all of us, Mr. Speaker, I would join my colleagues who have urged that it not result in undue restrictions of public access; restrictions that would change the very essence and character of the People's House.

Mr. Speaker, I would like to thank all the men and women in uniform, along with these two gentlemen, who perform their duties day and night to protect us and to protect all Americans who grace the people's House with their presence to witness the world's greatest democracy. We know that all of them are sworn to protect this institution, as were Officer Chestnut and Detective Gibson.

Mr. Speaker, words simply cannot express our great sorrow and the depth of gratitude. Mr. Speaker, in our Samoan tradition we say—(The gentleman from American Samoa spoke in Samoan)—"May your voyage be one of greatness and with great success."

Mr. Speaker, I yield the balance of my time to the gentlewoman from the Virgin Islands (Ms. CHRISTIAN-GREEN).

Ms. CHRISTIAN-GREEN. Mr. Speaker, I thank the gentleman from American Samoa (Mr. FALEOMAVAEGA) for yielding me this time.

Mr. Speaker, I rise to add my condolences, and that of my constituents in the U.S. Virgin Islands, to the family of our slain officers, as well as our respect, honor, and gratitude to these officers for their years of exemplary service and their supreme sacrifice.

We are all the beneficiaries of their service and bravery and that of their fellow officers who greet us daily, look after our welfare, protect us and our families and our constituents.

On a personal level, they help me find my way between meetings; they greet me as I arrive and leave. When necessary, they have seen to it that I have gotten home safely and have been helpful above and beyond the call of duty in many ways.

Officers Chestnut and Special Agent Gibson have served us and their country at the highest level of service. May the sorrow of their families be eased by the fact that so many share the burden of their loss.

□ 1430

May God bless them and us, and may our beloved officers rest in peace.

TO SAY THANK YOU TO OFFICER CHESTNUT AND SPECIAL AGENT GIBSON

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to say thanks to Capitol Police Officer Jacob Chestnut and Special Agent John Gibson for being there when we needed them the most.

I really shudder to think of how much worse this tragedy could have been if these two men had not been there to make the ultimate sacrifice at their posts.

Today, as we honor them, I want to take a moment to recognize the reassuring presence of the Capitol Police who guard their institution with their lives every day. Thank you.

As Friday's events so vividly demonstrated, without you, the exercise of democracy in this House, the People's House, would not be possible. You do a great service to your country. I ask for God's blessing to the family, to friends, to the other officers in this time of tragic loss.

DUTY, HONOR, COUNTRY

The SPEAKER pro tempore (Mr. BURR of North Carolina). Under a previous order of the House, the gentleman from California (Mr. CALVERT) is recognized for 5 minutes.

Mr. CALVERT. Mr. Speaker, Special Agent John Gibson, Officer Jacob "J.J." Chestnut, duty, honor, country.

Many Members of Congress have expressed our collective grief over the loss of Special Agent Gibson and Officer J.J. Chestnut, but it is worth repeating over and over again. Officers, law enforcement, fire personnel over the country every year lose their lives helping all of us, American citizens. We should express our grief today and remember them as they remembered us, helping us through difficult situations. Condolences to the family. God bless you all.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Speaker, I also add my voice to the chorus of sympathy being sung on this day of mourning here at the Capitol for the Chestnut and Gibson families. To them we give thanks in the memory of their fallen heroes. We pray that their grief will be comforted.

They died protecting freedom and protecting the lives of all of us here in the Capitol. They died as any U.S. soldier would have in any war. It is now just to remember how much we appreciate and admire their leadership and their service, and we send our deepest sympathies to the family as we proceed to the memorial service in the Rotunda.

I thank the gentleman from California for yielding to me.

Mr. CALVERT. Mr. Speaker, I thank the gentleman.

IN TRIBUTE TO JACOB JOSEPH CHESTNUT AND JOHN MICHAEL GIBSON

(Mrs. MINK of Hawaii asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Speaker, I join a mournful Nation to express my deepest sympathy to the families and loved ones of Officer Jacob Joseph Chestnut and Detective John Michael Gibson. These two brave and courageous officers gave their lives to the protection of Members of Congress, our staff and visitors who come to see the Capitol from all over the country.

On behalf of the people of the Second Congressional District of the State of Hawaii, I stand to pay tribute to the gallantry and bravery of these two men who lost their lives in the line of duty.

Many people from Hawaii visit the Capitol each year and have felt the assurance of safety provided by the dignified and diligent service of our Capitol Police. To learn that two of them died in the line of fire is shocking news everywhere in America.

I returned home to Hawaii the next day after the event to find that all of the people I saw received word of this terrible loss with a sense of personal loss. Everyone felt that their safety had been compromised with such an assault upon our House. The feeling of warmth and compassion for the families of the slain officers was deep and very moving.

As we reflect on these events, I realize how guilty we all are in taking for granted officers like Chestnut and Gibson who stand in the line of fire every day that they serve us here and in our home communities. I pray for their eternal peace and for the life and safety of every one of their colleagues who serve us here in the Nation's Capitol.

HONORING THE SACRIFICE OF JOHN MICHAEL GIBSON AND JACOB JOSEPH CHESTNUT

(Mr. MINGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINGE. Mr. Speaker, this last week of July, 1998, we honor Officers Gibson and Chestnut. We honor them for the ultimate sacrifice that they have made on behalf of this country and on behalf of this institution.

I join my many colleagues in all of their eloquent remarks. We certainly cannot be too eloquent to thank, compliment those officers and share with their families the bereavement of their loss.

On behalf of the people of the State of Minnesota, I wish to extend our condolences.

Finally, on behalf of the Members of this institution, I think it is fair to say that we recognize a renewed obligation to meet the challenges that we face with the same dedication that the officers who have given their lives met their obligation.

I share in the comments of my colleague, the gentleman from Tennessee (Mr. WAMP) in the desire to see this institution work on a collegial basis in the months and years to come.

Mr. GINGRICH. Mr. Speaker, the attached transcript is of my radio address to the nation on Saturday, July 25, 1998. During this address, I discussed the tragic attack at the Capitol and the courage of those officers who responded to this tragedy. The officers who were killed—and all those who helped apprehend the gunman, assist the injured and evacuate the building—are true heroes of democracy, and every American owes them a deep debt of gratitude. They gave their lives to protect the lives of hundreds of tourists, staff, and Members of Congress. If not for their quick and courageous action, many innocent people would likely have been injured or killed. I submit the transcript to the CONGRESSIONAL RECORD.

[Republican response to the President's Weekly Radio Address, July 25, 1998]

GINGRICH: Good morning. I'm Newt Gingrich, the Speaker of the United States House of Representatives.

And I want to report to you on the tragic attack on the United States Capitol, your Capitol, on the professionalism of the Capitol police, on the heroic actions of two fine policemen who sacrificed their lives in defense of the Capitol, and in their sacrifice, saved many innocent lives.

I also want to talk briefly about their families, the tragic loss they've suffered and the loss that the entire Capitol Hill family has suffered.

And finally I want to emphasize that this building is the keystone of freedom, that it is open to the people because it is the people's building. And that no terrorist, no deranged person, no act of violence will block us from preserving our freedom and from keeping this building open to people from all over the world, and to every American who wants to come and visit the center of their self government.

This is the people's building. Up to 23,000 people a day visit this Capitol, their Capitol, to see their government at work, to stand in the shrine of freedom and teach their children—and we have many, many school children who visit on a regular basis.

But those who hate or fear freedom, sometimes seek to attack this Capitol and those in it precisely because they symbolize America, self government, authority and the process of freedom.

The Capitol police protect the Capitol as the Secret Service protects the White House. Each day thousands of people enter the Capitol and are greeted by our protectors and our ambassadors to the world. The thin blue line of the Capitol police, both provide safety and provides information.

Yesterday, as officer J.J. Chestnut was advising a visitor how to get to the subway, a deranged man tried to force his way into the Capitol. He killed Officer Chestnut and wounded Angela Dickerson, a visitor to the Capitol.

J.J. Chestnut's partner, who was getting a wheelchair to help a visitor, returned the gunman's fire. As the gunman fled, he ran into Whip Tom Delay's office and there exchanged fire with Officer John Gibson.

Officer Gibson, at the sacrifice of his own life, saved the lives of dozens of innocent people in those offices, including Missy Jenkins, a member of my staff who said to me last night very emotionally, that—and she had even more trouble than I am saying this to you—that she really felt that Officer Gibson had died literally so she was alive.

Now, forgive me for my emotions, but these two men are genuine heroes. You see, they literally every day, knowingly and voluntarily, put their lives on the line. They understood that to be free, somebody had to be willing to take this risk.

In the case of J.J. Chestnut, a man who had served 20 years as an MP in the Air Force, his wife told me last night when I visited on behalf of the Congress and she said, that he was so proud to serve his country—seventeen years on the Capitol Police force, he was only two years away from retirement.

And I remember because that's the door I go in and out of every day, how often he would quietly but firmly insist that you go through the magnetometer, that you obey the rules, doing his job to protect this Capitol.

We should remember that Officer J.J. Chestnut is still here in the spirit with his wife, Gwenling. He has children—Joseph, Janice, Janet, Karen and William. And they remember. And I think each of you wants to join us in remembering this true hero.

In addition, Officer John Gibson had become a member of Tom DeLay's family. He had been assigned to protect the Majority Whip and Christina DeLay told me last night that they were so close. And Mrs. Gibson told me that he had enjoyed so much working in that close relationship, knowing that his job was to protect Tom DeLay and that he was doing something important for his country.

He responded immediately to the crisis. I was told by those in the room that he promptly told everyone to get down, close the doors, and he drew his gun as the gunman entered and they exchanged shots.

Officer Gibson's wife Evelyn and their three children Kristin, John and Daniel have a very large hole in their lives because their father, her husband, served his country.

And yet I hope of each of them will realize that he was a true hero, a hero in the deepest sense, a man who when confronted with danger, moved towards it to save others when he could have moved away.

As this was happening, the Capitol police were doing their job, responding immediately to the crisis, sealing off the perimeter, protecting the tourists, protecting the staffs and members who were around. A number of people responded and made it possible both to suppress the gunman and to save lives.

Dr. Eisell, the Capitol's attending physician and his staff, Dr. Bill Frist who is a Senator, had just finished presiding over the U.S. Senate went immediately to the scene and then went on to the emergency room.

The Washington D.C. Emergency Medical Service, including the D.C. Fire Department, MedStar at the Washington Hospital Center, the George Washington Hospital, the U.S. Park Police whose helicopter arrived to help save lives, the Federal Bureau of Investigation and the Washington Metropolitan Police Force, who promptly intervened in the investigation—again and again professional people did a professional job to make sure that your Capitol was safe and that the visitors and workers in it, were safe.

We can all be proud of them. But we can also do more.

We will be establishing a trust with the U.S. Capitol Police for the two families, and anyone who wishes to help—these are families who have sacrificed for their country and for freedom. And the U.S. Capitol Police Memorial Fund, which you can reach simply by writing U.S. Capitol Police Memorial Fund, Washington, D.C., will be there for those who want to join and help.

But we must do more. Each of us everyday, should recognize that many people are in uniform in this country—the police, the Capitol police, the Secret Service, your local police, your local sheriff's office, your state police, the Border Patrol, the United State military—people who get up every morning and risk death because they want you to be safe. And because they believe that they and their children should share the freedom and the security that America has provided for over 200 years. We're not going to back off.

I want to thank the president both for his call last night, for his concern, for his statement this morning, for his plan to visit the families—it will mean a great deal to them.

I want to thank each of you who has called. The tourists I saw out front who are here to visit, the people who have been calling in to C-Span, all the people back home who have called Marianne and me. It does mean a lot to the Capitol Hill family when the American family comes together.

Let me close by asking you to join me for just a moment in prayer.

Dear God, please watch out over the Chestnut family and the Gibson family. Help them in their time of grief. Help them to come to understand, to be comforted by the love and the thanks of many, many grateful people. Help them to remember the heroes who they sacrificed for their country.

Please take to your bosom, Officer J.J. Chestnut, and Officer John Gibson. Please watch over all of us and watch over all who defend and protect us and keep us safe.

Please help this country learn to live with its freedom. Please help those who are troubled learn to live peaceful with their problems. Please help each of us as we strive to do our duty and to reach out to each other in this American family.

Please forgive us our sins, and bless America and the American people. Amen.

Thank you for allowing me to share this with you.

Mr. GOSS. Mr. Speaker, on behalf of the people of southwest Florida, I would like to offer not only our deepest sympathy to the families of Officers Jacob Chestnut and John Gibson, but also our greatest admiration for the total professionalism and full sacrifice these men gave to protect the People's House and its visitors. Officer Chestnut and Officer Gibson truly understood exactly what the U.S. Capitol Building represents to the people of this country and to people everywhere. With honor and courage they stood their ground for the world to see.

Early one morning a while ago, as I neared the Capitol, I watched some visiting foreign tourists with tears of joy kiss the Capitol steps; to them this great building meant freedom and democracy. Now our friends, Jacob Chestnut and John Gibson, join so many other Americans paying unhesitatingly with their lives to defend us and our freedom.

And without question in this needless tragedy, they did save the lives of citizens, visitors, staff, and Members.

I also would like to thank and praise their fellow Capitol Police officers who dedicate their lives to defending our freedom. Their bravery and professionalism does not go unnoticed nor unappreciated. Their conduct in containing this tragedy and coping with its aftermath has been exemplary.

It really is "family" up here on Capitol Hill. We all have our own memories and associations of Officer J.J. Chestnut and Detective John Gibson. J.J. pulled weekend guard duty on occasion for the House Intelligence Committee and served those of us on that committee well and faithfully. John was true family to JOE MOAKLEY, our distinguished former chairman and current ranking member on the Rules Committee. He was also a regular feature in the workings of our whip chores as deputy whips under TOM DELAY.

Other Members had other contacts with these officers but we are all of one mind in knowing J.J. and John will be missed—that we are deepful grateful for their lives and fiercely proud of their work and that, above all, all our sympathy and love go out to their families in a way that seeks to share the burden of their losses.

Mr. KILDEE. Mr. Speaker, it is with great sadness that I rise today to pay tribute to two American heroes who have lived, worked, and now died in our midst. John Gibson and Jacob Chestnut epitomized the very finest in the tradition of public service and law enforcement.

Every day as we arrive at work and as we move about the Capitol Hill complex, we are greeted and protected by members of the Capitol Police force. They are not only our protectors, they are also an integral part of the Capitol Hill "family." We exchange stories of children and grandchildren, the news of the day, and the joys and pains of everyday life. They are our friends—indeed a part of our extended family.

It is easy to forget that their profession is a dangerous, life-threatening one. Seemingly endless hours of uneventful duty can be broken, without warning, by violent events.

Last Friday, Detective Gibson and Officer Chestnut answered the call to duty, and paid the ultimate sacrifice in performing their duty. Their presence and their actions saved countless lives of innocent people caught in the crossfire.

Mr. Speaker, it is completely right and fitting that we take this day to honor and remember the lives of John Gibson and Jacob Chestnut. They served their country with dignity, they performed their duty with integrity, and they gave their lives in the defense of our Capitol and our democracy. Our thoughts and prayers are with their families.

Mr. BARTLETT of Maryland. Mr. Speaker, it is with a heavy heart that I would like to pay tribute to Officers Jacob Joseph (J.J.) Chestnut and John Michael Gibson of the United States Capitol Police and extend my condolences to their families and colleagues. This is a solemn duty that I undertake on behalf of the hundreds of thousands of people who live in the sixth district of Maryland and elected me to represent them in the 105th Congress of the United States of America.

John Gibson and Jacob Chestnut were exemplary members of the thin blue line of the United States Capitol Police. The men and women in this law enforcement force protect and defend the most important symbol of our representative democracy, the magnificent Capitol building. Their joyful but anonymous and humble service touches and enriches the lives of thousands of their fellow Americans and visitors who work in or visit the Capitol on a daily basis. They serve and protect millions of us.

The excellence, quiet dignity, and anonymity that were the hallmarks of the careers of Officers Chestnut and Gibson was swept away in a matter of seconds by a violent attack. The fury may have been directed by madness, but it is clear that this deliberately deadly attack was unleashed upon the Capitol because this building is open to everyone and is the most central and sacred symbol of our democratically elected government. Moreover, it is clear that members of the Capitol Police were the special and first targets of this assault.

I don't believe as human beings we will ever be able to understand why it was the fate of Officers Gibson and Chestnut to be called upon to face the fire that was unleashed during those moments of utter chaos. Officers Chestnut and Gibson instantly stepped into that awful breach. Without hesitation, they swiftly ended that attack and protected the lives of hundreds of others by willingly sacrificing their own lives.

It is fitting and proper, I believe it is our duty to honor their bravery and the courage of their sacrifice. Words are inadequate to express how grateful we as a nation are today to John Gibson and Jacob Chestnut. I believe President Abraham Lincoln perhaps said it best when he honored the fallen heroes at Gettysburg for "offering the last full measure of devotion" to preserving and protecting the cause of freedom and "government of, by, and for the people." Words are inadequate to express the condolences we as a nation pay to the Gibson and Chestnut families and to the members of the Capitol Police on the loss of their loved ones. We cannot erase their grief. We can only offer this small tribute to comfort them.

As a living tribute to the memories of Jacob Chestnut and John Gibson, I hope the Capitol will continue to remain open and accessible under the unsurpassed protection of our thin blue line, the United States Capitol Police. Our democratically elected government was attacked, but the thin blue line was not breached. The line held. Our freedom and liberty have been secured once more by the terrible and brave sacrifice of two good men.

Mr. STARK. Mr. Speaker, this week, our Nation mourns the deaths of Capitol Hill policemen John Michael Gibson and J.J. Chestnut. In the aftermath of the shooting in the Capitol, as Members of Congress reflect on whether this event was avoidable, we must take responsibility for this and other acts of violence attributable to the mentally ill. The Capitol shooting was all too familiar an occurrence, a scene that has been played out in our schools, on our streets, our subways, and in homes throughout America.

The movement in the 1970's and 1980's to deinstitutionalize persons with mental disorders was not an unqualified success. It's time that we admit that closing the institutions did not negate the need for further care; the mentally ill still need consistent treatment and many of them are not getting it.

Two to three percent of the population experience severe mental disorders. Many more suffer from milder forms of mental illness. In almost every town, we see people on the street whose illness precludes them from working or connecting with other people in a meaningful way. Many of them could be helped with medication and therapy, but only if they had access to care.

We must provide that care. We can and must prevent future unnecessary violence so that other families do not have to endure what the Gibson and Chestnut families go through today.

Mr. BARRETT of Nebraska. Mr. Speaker, I sadly join my many colleagues who have taken the floor to mourn the loss of Detective John Gibson and Officer J.J. Chestnut. I want to extend my deepest sympathy to their families and my thanks and appreciation, and that of the people I represent in Nebraska, for the ultimate sacrifice they have suffered.

The men and women who serve on the United States Capitol Police force guard our Capitol. They protect the people who serve and work here and the millions of visitors each year from across the country and around the world. They stand guard for the principles on which the nation was founded and which make this Capitol building such an attraction and source of price. We pass them everyday as we enter and leave the Capitol and House and Senate office buildings, as we walk the hallways, and as we go about our business in our offices and committee rooms.

And until Friday, July 24, it had been all too easy to forget they came to work each day ready and willing to put their lives on the line for their job and their country. It will be a very, very long time before any of us again pass a Capitol Police officer and not remember John and J.J. and that they all put at risk their lives everyday.

Over the past two days, as Members have taken the floor to pay tribute to our two fallen heroes, there have been wonderful stories about both men. A story I'd like to share with my colleagues comes from one of my constituents, a farmer, from a town with a population of only 1,900 in the Nebraska Panhandle. The story speaks to how a dedicated man, who would be the first to say he was just doing his job, makes an impact and leaves behind a legacy.

Bob Busch, from Mitchell, Nebraska, first met Officer J.J. Chestnut in 1988. It was Bob's first trip to Washington, DC. Bob and a fellow Nebraskan were attending a meeting and reception in the Hart Senate Office Building. Neither of them had ever been inside the Capitol. On the way out of the reception, they asked how best to see the Capitol. They were told to go to a certain door at the Capitol and ask for Officer Chestnut.

At the door, Officer Chestnut answered their query and, even though it was late, offered to take them on a tour of the Capitol himself. That was the beginning of quite an evening—a complete behind-the-scenes tour of the Capitol—and a new friendship. Bob got to see things I'm not sure I've ever seen. Since that first tour in 1988, Bob has taken the time to seek out Officer Chestnut each time he's been in Washington. In 1995, he introduced his wife to J.J.

In addition to the tour, Bob and Officer Chestnut shared a love for this earth. Officer Chestnut was an avid gardener. Bob is a sugarbeet farmer. Bob recounted to me how Officer Chestnut was always interested in farming and how his operation was doing. Bob said Officer Chestnut had a real kinship with farmers. Bob called my office upon hearing that Officer Chestnut had lost his life in the line of duty. He said how much he admired Officer Chestnut, how personable he was, so tall and so proud, such a fine man who did his job.

Like all of us, Bob and his wife are grieving for Officer Chestnut and his family. And as we all know, there are countless stories similar to Bob's about both John and J.J. They touched many lives, and did so in a manner that can only make their families proud knowing that it is not just their Capitol Hill family grieving, but that they have the sympathy and gratitude of people across the nation.

Nothing can ease their pain or lessen their loss, but an excerpt from a poem has always given me comfort:

The sun goes down, but gentle warmth still lingers on the land,
The music stops, and yet it echoes on in sweet refrains,
And reminds us that for every joy that passes, something beautiful remains. May the memories that remain bring you comfort and keep your loved one close at heart.

Mr. EVERETT. Mr. Speaker, on behalf of the Second Congressional District of Alabama, we extend our heartfelt sympathies to the families of Special Agent John Gibson and First Sergeant Jacob Chestnut. The heroism that these two men displayed in protecting the people's House cannot be overstated. They gave the ultimate sacrifice on behalf of the freedom's we Americans enjoy in our free and open society. The following editorial ran in today's Montgomery Advertiser reminds us that freedom is not free.

Freedom Isn't Free

OFFICERS GAVE LIVES FOR PUBLIC

Two men gave their lives Friday to once again prove what U.S. history has shown time and again—freedom isn't free.

When a gunman opened fire at the U.S. Capitol, two Capitol police officers, Jacob Chestnut and John Gibson, were killed.

They died while protecting the occupants of the Capitol and the public, which is in itself a noble sacrifice. But they also died protecting the public's freedom of access to its government, something U.S. citizens may enjoy to a greater extent than citizens of any other nation.

That is an essential freedom in a democratic nation. We suspect Officers Chestnut and Gibson were well aware of that. It makes their sacrifice all the more noble.

These officers deserve all the praise and honor a grateful nation can bestow upon them. But we doubt that any would have pleased them more than the reopening of the U.S. Capitol to citizens on Saturday.

It is only common sense for government authorities to review security measures at the Capitol and to take whatever reasonable steps are necessary to close breaches in that security.

But care needs to be taken that nothing is done to significantly limit the public's access to "America's house." If authorities overreact and make it difficult for the public to gain ready access to the halls of Congress, it would amount to capitulation to whatever insanity prompted this despicable act.

There were a lot of heroes Friday. Among them was U.S. Sen. Bill Frist of Tennessee, a heart surgeon who helped treat the injured. There were scores of tales of adults—parents and strangers—who used their bodies to shield children. There was also the quiet dignity of Sgt. Dan Nichols, who noticeably struggled to hold his emotions in check while ably serving as spokesman for the Capitol police.

But at the head of the list of heroes are Officers Chestnut and Gibson. They, like so many others before them, paid the ultimate price of freedom.

Mr. HOEKSTRA. Mr. Speaker, last Friday, July 24, 1998, is a day that none of us will ever forget for many reasons, but mostly for the heroism displayed by Officer Jacob J. Chestnut and Special Agent John M. Gibson. Mere words cannot express our gratitude for their actions, our grief for their fates or our sorrow for their families.

To the families of Officer Chestnut and Special Agent Gibson, we offer our most heartfelt condolences and pray that God provides comfort and assurance to you in your time of need.

When the House of Representatives is in session, we enter this building many times a day. Usually, we offer a nod or an off-hand comment to the officers at the entrance and they respond in kind. Sometimes, we are in a rush or preoccupied and may not say anything. But it must be made clear that we appreciate the work these officers do.

So, to all of the officers of the Capitol Police force, all I can say is "Thank You." It's only a two-word phrase, but it means so much. You are not taken for granted. Our prayers are with you and for your continued safety.

Mr. GILLMOR. Mr. Speaker, I rise today to reiterate the special and heartfelt sentiments that many of my colleagues have been making during the past several days. Last Friday, July 24, 1998, United States Capitol Police Officers John Gibson and J.J. Chestnut payed the ultimate sacrifice defending our nation's Capitol. In a tragic moment, these two brave and courageous men gave their lives to defend and protect the safety and dignity of the United States Capitol.

Officer Chestnut and Detective Gibson, although slain in a tragic moment, embody the very spirit that is the United States Capitol Police Force. Officer Chestnut and Detective Gibson, without a second thought, put themselves in harms way to protect the lives of others. These men approached their jobs each day with the highest commitment, dedication, and honor. The brave men and their colleagues put their lives on the line each day knowing that the perils of danger may be just around the corner. But, without high praise or recognition, they do their jobs with incredible grace and extraordinary professionalism.

Although we, in the Capitol Hill family, have lost two close members, this institution and the freedom and democracy for which it stands will continue for those of us who work here and for the millions and millions of visitors who join us here each year. From the heroic efforts of Officer Chestnut and Detective Gibson, the world will continue to look to the United States and the United States Capitol as the true symbol of freedom, liberty, and perseverance.

Mr. Speaker, for myself and my family, my staff, and the people of the Fifth Congressional District of Ohio, I rise to pay this most honorable tribute to Detective John Gibson and Officer J.J. Chestnut. To their families, friends, and colleagues, please know that their legacy of unwavering loyalty and supreme dedication will forever live in the hearts and minds of those who pass through these halls. On behalf of a grateful nation, we are eternally indebted. Our hearts and prayers are with you. God Bless you.

Mr. COSTELLO. Mr. Speaker, I rise today to pay tribute to the two Capitol Police Officers who gave their lives in the line of duty. Officer Jacob (J.J.) Chestnut and Officer John Gibson died protecting the freedoms of our nation. For that we owe them a debt of gratitude. The tragedy that transpired last Friday has shaken this nation. We will continue to mourn the loss of these two fine officers.

Officers Gibson and Chestnut died heroes. Because of them no visitors to this institution lost their lives. Because of Officers Chestnut and Gibson this Capitol Building remains open and safe. Officers Gibson and Chestnut gave the ultimate sacrifice. They remind us that our freedom can come at a personal cost. Let us be clear, they did not die in vain. Officers Gibson and Chestnut will forever be remembered for bravely defending the Capitol.

As a former law enforcement officer, I am especially saddened when a fellow officer's life is taken in an act of violence. I would like to express my sincere condolences to the families of Officers Jake (J.J.) Chestnut and John Gibson. Officer Gibson and Officer Chestnut will be missed.

Mr. CLAY. Mr. Speaker, today is a sad day in the United States Capitol. The murder of two U.S. Capitol Policemen last Friday was a tragedy that words cannot convey. As legislators in the U.S. Congress, we are committed to making laws to protect the people and create a more peaceful society for all Americans. Today we gather in this Chamber to recognize the supreme sacrifice that those who are sworn to protect this institution may be called upon to make.

Officer Jacob Chestnut and Special Agent John Gibson are heroes who gave their lives to protect this institution. I join my colleagues in saluting these fallen officers—history will forever record the last acts of heroism to two of the Capitol's Finest.

My thoughts and prayers are with the families of Officer Chestnut and Agent Gibson. May time ease the burden of their loss and bring peace and understanding to all who have shared the sorrow of their untimely passing.

Mr. WEYGAND. Mr. Speaker, I rise today to join my colleagues in expressing my deepest sympathies to the families of Officer Jacob Chestnut and Special Agent John Gibson. I would like to also extend my sincere regrets to the members of the United States Capitol Police who have also lost two members of their family.

It is at times like this that we are reminded of the inadequacy of our language. How do we properly express our regret and sorrow to the wives of Officer Chestnut and Special Agent Gibson at the loss of their husbands? How do we share with their children the appreciation we feel for the valor displayed by their fathers? How do we share with the other officers of the Capitol Police our thanks and admiration at the bravery displayed by Officer Chestnut, Special Agent Gibson and their fellow officers for risking and giving their lives so others might live? Thank you, I'm sorry, brave, hero—all words that pale in the face of the loss of a husband, father, colleague, friend.

It has been said often in the last several days that freedom is not free. Since before the founding of our Nation, men and women have been willing to stand up and give their lives for their country and their countrymen. Often, this price has been paid on the fields of battle in distant places. We should not, however, diminish the price paid by these two men solely because they gave their lives here at home. The heroes of the past gave their lives in the defense of democracy. Special Agent Gibson and Officer Chestnut gave their lives in defense of democracy's house.

We are told that Officer Chestnut loved to work in his garden and share the fruits of his labor with his friends and colleagues here on the Hill. I know the struggles and rewards of gardening. The frustration when a promising spring becomes a parched summer. The satisfaction that comes with a plentiful harvest. We are also told that Special Agent Gibson was a Red Sox fan. Sooner or later every Sox fan comes to know the age-old frustration of a promising season that disappears as July becomes August. And sooner or later, every Sox fan learns to take satisfaction in the hope that the Sox will make it next year for sure.

Today, the Nation will have the opportunity to pay their respects and express their sorrow and thanks. As we move on, we must not forget these two officers and their families. We must also remember those members of our Capitol Police—our own thin blue line—and the thousands of men and women all over our Nation who are willing to place themselves between their fellow citizens and danger.

Mr. HOBSON. Mr. Speaker, I want to join my colleagues in expressing my deep grief over the tragic loss of Officer Jacob Chestnut and Officer John Gibson who were lost last Friday in the line of duty. I know that the men and women of Ohio's 7th Congressional District share our grief and I know their thoughts and prayers, as are mine, are with the families and friends of these two officers.

I honor the long service of these two officers who died bravely while protecting our Nation's Capitol. Law enforcement is one of the highest forms of public service, and today we are reminded of our deep debt to those individuals who daily risk their lives to protect the public's safety.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the Capitol Hill community and our country suffered a personal loss of two fine Capitol Police officers on Friday, July 24, 1998. On that afternoon, a lone gunman invaded the People's House and put many visitors, staffers and Members of Congress in danger and peril. If it were not for the sacrifices of Special Agent John Gibson and Officer Jacob "J.J." Chestnut, we would be mourning the passing of other human beings on this day.

On behalf of the constituents of the 30th Congressional District, I would like to extend my personal condolences to the families and friends of Detective Gibson and Officer Chestnut. While we take for granted the fact that such tragic incidents can happen to us, we must not take for granted the lives of those two Capitol Police officers who gave their lives so that we may live.

Mr. Speaker, the spirit and dedication of those officers will live on and truly embody what this place means. Our Capitol symbolizes service, duty and honor. Both the life and death of those officers were examples of those qualities. It is because of their duty and service, our work can go on. Indeed, it must. We cannot let an individual who is distrustful of our Government to allow our democracy to cease. Officers Gibson and Chestnut would not want our business to stop because of real or perceived threats to our system. Officers Gibson and Chestnut would not want us to cower and hide in fear of any group or individual who would seek to disrupt the proceedings of our Government in such violent methods.

One of the best tributes to those officers would be for all of us, staffers and Members, to be just as dedicated to service and duty as Officers Gibson and Chestnut were. I believe that this will be the finest remembrance that we can offer.

Mr. Speaker, after the brief moments of chaos and tragedy, I received many calls from worried family members and friends inquiring about my whereabouts and safety at that moment. If not for the service of Officers Gibson and Chestnut, and the entire Capitol Police Force, I may not have been in the arms of safety, telling my family and friends that I was safe. We literally owe our lives to our two fallen officers, our friends whose heroism protected many others from harm and possible death.

Mr. Speaker, along with my condolences, I offer the families and friends of Officers Gibson and Chestnut my prayers and ask that our Lord give them the strength to deal with such a terrible tragedy. Most importantly, I would like to give Officers Gibson and Chestnut my gratitude. It was once said that, "gratitude is the memory of the heart." Therefore, my heart goes to Officers Gibson and Chestnut with the utmost gratitude.

Mr. BILIRAKIS. Mr. Speaker, I rise today in support of the resolution agreed to yesterday to remember and honor the lives of two American heroes, Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police.

Officer Chestnut and Detective Gibson died in the line of duty last Friday while courageously protecting Members of Congress, congressional staff and visitors to the U.S. Capitol. Their heroic actions, and those of other U.S. Capitol Police officers, saved countless lives—including my Health Subcommittee staff, two interns in my office, and a family from my congressional district visiting Washington, D.C.

We cannot forget that the men and women of the U.S. Capitol Police put their lives on the line every day for us. They are dedicated professionals who protect our nation's foremost symbol of freedom and democracy. More important, they protect our lives, those of our staff, and the millions of tourists who visit the Capitol each year.

Detective Gibson and Officer Chestnut are heroes. Their selfless act of courage exemplifies the valor, dedication, and professionalism of the men and women who serve on the U.S. Capitol Police force. As the resolution before us so eloquently states, "those who guard the Capitol guard our freedom."

I extend my deepest sympathies to the families of these two guardians of freedom and all of the officers of the U.S. Capitol Police. Although words are little solace, I hope their families and colleagues will take comfort in the admiration and respect of a grateful nation for these fallen heroes. May they rest in peace.

Mr. ORTIZ. Mr. Speaker, as a former law enforcement officer, I understand the pain and difficulty associated with the continuation of lives without fathers and husbands, brothers and friends. As I was a sheriff before coming to Congress, I keep up my contacts with other law enforcement types, both here and back in Texas.

So I knew both officers who dies in the brief combat inside the doors of our Nation's Capitol, and my staff and I mourn their loss, along with their families, and their extended families here on Capitol Hill in the larger family of Congress.

I know this: There is nothing that either of these officers would have wanted more than to fulfill their mission and be hailed by the institution they served, as well as their country, as heroes for democracy. That is an honor of the highest order. Those of us who walk these hallways each day understand the perils we face at the end of the 20th century. There is no grand military conflict consuming the world today.

Yet the minds of some of our citizens are badly tormented, to the point that they believe they can only resolve that conflict by doing damage to their government. This man was not an enemy of the state * * * he was mentally disturbed. What was fundamentally different about him was that he carried a gun and apparently had no fear of being killed in an attempt to violate this sacred building.

We cannot protect this building, nor the people who work here, from the evil in the minds of individuals who are unafraid to die and have the nerve to rush a security checkpoint with a gun. This is a democracy in pursuit of life, liberty and happiness. If we lock off elected officials from those they govern, our democracy will come out of this tragedy a little weaker.

Democracy is not easy. It has never been easy. For those people who work for the Federal Government, this particular time in history is occasionally dangerous. We all know it. It was never more apparent than in 1995 when a fanatic blew up the Oklahoma City Federal building. It is part of our consciousness, but we know that if we let them dictate how we behave, the bad guys win.

I won't stand for that. My colleagues in this hallowed hall won't stand for that. Officers Jacob Chestnut and John Gibson didn't stand for that, and they laid down their lives as they were trained to do to protect the civilians who inhabited the building at the moment the gunfight broke out. They gave the last full measure of devotion to their country and to this institution they were sworn to protect.

My personal thanks today to the officers, and to their families, for standing firm on that thin blue line.

Mr. JENKINS. Mr. Speaker, I rise today to offer my deepest sympathy and condolences to the families of Jacob Chestnut and John Gibson, the two brave officers who sacrificed their lives to protect the lives of hundreds of others visiting this scared symbol of freedom. No words can begin to ease the pain and suffering that the Chestnut and Gibson families are feeling at this moment. I hope, however, that these grieving families can take some solace in the outpouring of love and support from grateful Members, staff, fellow police officers, and citizens from across this country.

The bravery and sacrifice exhibited by these offices are characteristics of the entire Capitol Hill Police Force. Far too often, all of us take their work in protecting these grounds for granted. We forget that in a moments notice someone intending to cause harm to others can disrupt the order and normalcy that many of us have come to expect as we work here. It is during this time that we depend on those brave men and women who work to ensure that the Capitol remains a safe haven for those working and visiting. Officer Chestnut and Detective Gibson did not let us down. At the first sign of trouble, both officers intervened and took the appropriate action. As a result of their selfless and heroic actions, I am confident that many were spared injury or death.

Mr. Speaker, it is highly appropriate to see these heroes be given the ultimate tribute of lying in honor in the Rotunda of the building where they served, protected, and perished. No one deserves this honor more than Officer Chestnut and Detective Gibson. May God bless each of them.

Mr. HALL of Ohio. Mr. Speaker, I rise today to pay tribute to Officer Jacob Chestnut and Detective John Gibson who valiantly gave their lives this past Friday, July 24, in the Capitol. If it were not for the courage and composure which they displayed in the face of mortal danger, more lives may have been lost. Officer Chestnut and Detective Gibson made the greatest sacrifice that a human can make in order to save the people that were working in or visiting the Capitol. We are forever in their debt and will not forget their bravery and valor.

Both Officer Chestnut and Detective Gibson were husbands and both were fathers. I know that these moments are difficult ones for their wives and children and that words are unlikely to ease their pain. They should know, however, that they are in my prayers and are in the hearts of all Members of this Congress and of all the American people. What these officers did will not be forgotten. They placed the lives of others above their own, and for that they are heroes. Officer Chestnut and Detective Gibson did not die in vain; they died honorably, saving the people that they had sworn to protect.

Friday's attack on the Capitol was a surprise and a shock that has left everyone shaken. It was a tragic incident without any known motivation. Though we may not be able to understand what prompted it we can ensure that the Capitol remains guarded by dedicated officers who make it a safe place in which to work and visit.

Mr. Speaker, it is with a heavy heart that I ask you and my colleagues to join me in paying tribute to Detective John Gibson and Officer Jacob Chestnut. They were good men who were loved dearly by their families and who were respected deeply by those who worked with them. They are true heroes whose courageous actions will always be remembered. Moreover, for those who knew them and interacted with them on a daily basis, their loss is deep. Detective Gibson and Officer Chestnut have moved us with their deeds. In protecting the lives of others, they gave their own.

Mr. SERRANO. Mr. Speaker, I rise both with grief and with pride in support of House Concurrent Resolution 311. Like all of my colleagues and, indeed, like all Ameicans, I am grieving over the tragic, violent deaths on Friday of two valiant U.S. Capitol Police Officers, Private First Class Jacob Joseph Chestnut and Detective John Michael Gibson. And I am proud of these two heroes, members of our Capitol Hill family, who made the paramount sacrifice by giving their lives to protect the Members, staff, and guests of this Congress.

Mr. Speaker, J.J. Chestnut and John Gibson were special men every day. They loved their families and their jobs. They were courteous and friendly, generous and professional. On Friday, they did what they had to do, what they were trained to do, and became heroes. Their deaths leave tremendous holes in the fabric of our lives.

These crimes were particularly alarming because they took place inside the Capitol building, the People's House, which is and must always remain open to the public, and where people expect to be safe. Witness after witness, tourist after tourist told the press that they had never imagined they would hear gunfire here.

But, Mr. Speaker, the heroism of J.J. Chestnut and John Gibson demonstrate that the Capitol is safe. It may not be challenged very often, but on this terrible Friday the security system worked. Two officers gave their lives and many others responded swiftly and capably to protect the public and apprehend the gunman, but only one visitor was wounded. Without our Capitol Police Officers' professionalism, readiness, and training, and their heroic responses to a terrible threat, the harm would undoubtedly have been much greater.

Finally, Mr. Speaker, I want to extend my condolences to the wives and children, other family members, neighbors, and friends of J.J. Chestnut and John Gibson and to assure them that we share their sorrow over their loss, and that they are in our thoughts and our prayers. They, too, are heroes, who every day sent their loved ones to work, never certain they would return. They, too, have paid an enormous price for the safety of Members, staff, and visitors to the Capitol.

Mr. Speaker, this resolution, like House Concurrent Resolution 310 passed yesterday, is necessary and appropriate, and I urge all my colleagues to support it.

Ms. PELOSI. Mr. Speaker, I rise today to honor the heroic courage displayed by Officer Jacob Chestnut and Special Agent John Gibson during Friday's violent episode that took place in our nation's Capitol.

These two brave men, in the ultimate act of selfless defense of others, put themselves in harm's way to protect the public, members and staff in the United States Capitol building. Through their heroic actions, they averted a potentially more tragic situation. These two men are a tribute and a testament to law enforcement officers everywhere who risk their lives daily to defend the citizens of this nation.

In light of this grave tragedy, let us not be swayed from keeping our nation's capitol open to the people. Let us also recognize this tragedy as a harsh reminder of the price we sometimes pay for freedom in our country. We are grateful for these men who, in the ultimate sacrifice, gave their lives in the defense of others. We are thankful for the law enforcement officers who risk their lives in the defense of freedom in our country and pay tribute to those who have lost their lives in the line of duty.

I offer our deepest gratitude to the officers who work day in and day out for the protection of the citizens of this nation and I offer my deepest sympathies to the families of these two heroes, Officer Chestnut and Special Agent Gibson, Our thoughts and prayers are with the Chestnut and Gibson families.

Mr. PACKARD. Mr. Speaker, I rise today with my fellow colleagues to honor both Detective John Gibson and Officer Jacob Chestnut, who selflessly gave their lives in the protection of this Capitol and all those who work and visit here.

Mr. Speaker, it's easy to overlook the efforts of those who protect and serve on these grounds. It's easy to overlook because they do their jobs with the greatest efficiency and professionalism every hour of every day, all year long. This past Friday, we were all reminded of just how important a part these brave men and women play in protecting this "House of the People."

Mr. Speaker, we were also reminded that there is often a price to pay for the freedom we enjoy in this great nation. Every day, thousands of men and women across this nation risk their lives to protect and to serve. Police, firefighters, military personnel—all have committed their lives to protecting others.

This past Friday, Detective Gibson and Officer Chestnut did more than protect Members of Congress, congressional staff and visiting tourists—these two men gave their lives to protect our very unique form of government. They gave their lives so this building could remain open, accessible and safe for all Americans to participate in their democracy.

Mr. Speaker, I ask that every American keep the families of Detective Gibson and Officer Chestnut in their daily prayers and thoughts. Both of these men are genuine heroes whose selfless and courageous deeds will not be soon forgotten.

I commend my colleagues who have joined in support of a resolution which authorizes the establishment of a fund to provide financial support to the families of these two men. I hope those that wish to help these families will do so by contacting the United States Capitol Police Memorial Fund, Washington, DC 20515.

Mr. GUTKNECHT. Mr. Speaker, we gather today to honor two men in a way that has been reserved for presidents and military heroes.

Mr. Speaker, it is fitting that we would honor the two slain Capitol Police officers as only 26 other Americans have been recognized. Jacob Chestnut and John Gibson were heroes. They chose to place themselves in harm's way every day they came to work. And in that awful moment last Friday, they did not flinch from making the ultimate sacrifice to protect co-workers, friends, and even complete strangers.

They were more than just officers, though. They were husbands, fathers, and a grandfather. We grieve with their families, mourning their loss and ours.

Jacob Chestnut and John Gibson were part of the "thin blue line" that runs through every community in America. As we remember their heroism this week, let us not forget that their colleagues—here at the Capitol and in law enforcement agencies throughout the nation—still stand ready to protect and to serve. And let us appreciate the contributions they make—and the risks they take—each day when they put on that uniform.

As Ronald Reagan said, "those who say we don't have heroes anymore just don't know where to look." We lost two of those heroes on Friday.

Mr. GOODLATTE. Mr. Speaker, I rise today to honor two men who gave their lives in defense of freedom—Officer J.J. Chestnut and Special Agent John Gibson. They will be deeply missed by all who had the great privilege of knowing them.

As one of my colleagues so eloquently stated, we are the land of the free because we are the home of the brave. Last Friday, our freedom was preserved by the bravery of Officers Chestnut and Gibson, when a deranged gunman tried to invade the People's House.

These two heroes were both dedicated family men. Officer Chestnut's wife, Wen Ling, and their children—Joseph, Janece, Janet, Karen, and William—and Officer Gibson's wife, Evelyn, and their children—Kristen, John, and Daniel—should know that their husbands, their fathers, each served his country with the utmost dedication and honor. They will not be forgotten.

The men and women of the Capitol Police are dedicated to preserving and protecting the People's House. They put their lives on the line for us—Members of Congress, our staffs, and each American who comes to visit our great Capitol—every day.

Through their selfless act of bravery, Officers Chestnut and Gibson saved the lives of countless Members, staff, and tourists who were working in and walking through the Capitol last Friday. We literally owe our lives to them.

I know that the House, Senate, and indeed the entire nation joins me in expressing our deepest sympathies and prayers for the families of Officer Chestnut and Special Agent Gibson. These two men are true American heroes.

ADJOURNMENT

Mr. GUTKNECHT. Mr. Speaker, in honor of the memory of John Michael Gibson and Jacob Joseph Chestnut, I move that the House do now adjourn.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GUTKNECHT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 0, answered "present" 1, not voting 41, as follows:

[Roll No. 342]

YEAS—392

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Coyne
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—1

Burton

NOT VOTING—41

Archer
Buyer
Cannon
Condit
Conyers
Cramer
Dicks
Evans
Furse
Gonzalez
Goodling
Granger
Greenwood
Hastings (FL)
Hefner
Hinojosa
Klink
Linder
Manton
Martinez
McIntyre
McKinney
Moakley
Murtha
Nadler
Poshard
Price (NC)
Rangel
Riggs
Scarborough
Schumer
Shuster
Slaughter
Smith (MI)
Smith (OR)
Stark
Towns
Watkins
Waxman
Young (AK)
Young (FL)

□ 1458

Mr. BERRY and Mr. LEWIS of California changed their vote from "nay" to "yea."

Mrs. CAPPS and Mr. GORDON changed their vote from "present" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Accordingly (at 2 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 29, 1998, at 10 a.m.

(Following adjournment of the House, the Speaker pro tempore announced that Members should proceed through the double doors to the memorial service.)

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HINOJOSA (at the request of Mr. GEPHARDT) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. TRAFICANT for 5 minutes today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. JACKSON-LEE for 5 minutes today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. STUPAK for 5 minutes today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. PAYNE, for 5 minutes today;
Mr. DREIER, for 5 minutes today;
Mr. OWENS, for 5 minutes today;
Mr. GUTKNECHT, for 5 minutes today;
Mr. BISHOP, for 5 minutes today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. DELAY for 5 minutes today.

Mr. FALEOMAVAEGA for 5 minutes today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CALVERT for 5 minutes today.

(The following Member (at the request of Mr. GUTKNECHT) to revise and extend his remarks and include extraneous material:)

Mr. LIVINGSTON, for 5 minutes, on July 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GUTKNECHT) and to include extraneous material:)

Mr. GINGRICH.
Mr. NEY.
Mr. KIND.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10329. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Importation of Tomatoes from France, Morocco and Western Sahara, Chile, and Spain [Docket No. 97–016–2] (RIN: 0579–AA88) received July 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10330. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting the Secretary's certification that the survivability and lethality testing of the Navy's CH–60 Fleet Combat Support Helicopter otherwise required by section 2366 would be unreasonably expensive and impractical, pursuant to 10 U.S.C. 2366(c)(1); to the Committee on National Security.

10331. A letter from the Director, Operation Test And Evaluation, Department of Defense, transmitting the Secretary's certification that the survivability and lethality testing of the DDG 51 Flight IIA otherwise required by section 2366 would be unreasonably expensive and impractical, pursuant to 10 U.S.C. 2366(c)(1); to the Committee on National Security.

10332. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting a report on the Air Force's study of the reengineering of the 38th Engineering and Installation Wing (38 EIW) for implementation in late FY 99 or FY00; to the Committee on National Security.

10333. A letter from the Acting Principal Deputy Under Secretary of Defense (Logistics), Department of Defense, transmitting a report entitled "Logistics Augmentation Program"; to the Committee on National Security.

10334. A letter from the Acting Comptroller of the Currency, transmitting the 1997 Annual Report of the Comptroller of the Currency, pursuant to 12 U.S.C. 14; to the Committee on Banking and Financial Services.

10335. A letter from the Administrator, Rural Housing Service, Department of Agriculture, transmitting the Department's final rule—Guaranteed Rural Rental Housing Program [7 CFR Part 3565] received July 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10336. A letter from the Secretary of the Treasury, transmitting the certification that supplementary resources are needed to forestall or cope with an impairment of the international monetary system and that the International Monetary Fund has fully explored other means of funding; to the Committee on Banking and Financial Services.

10337. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan; Indiana [IN75; FRL–6129–7] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10338. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants: South Carolina [SC–34–1–9816a: FRL–6129–9] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10339. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Minnesota; Control of Landfill Gas Emissions from Existing Municipal Solid Waste Landfills [MN51–01–7276a; FRL–6128–8] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10340. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Extension of Operating Permits Program Interim Approval Expiration Dates [FRL–6128–9] (RIN: 2060–AF70) received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10341. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Protection of Stratospheric Ozone: Reconsideration of Petition Criteria and Incorporation of Montreal Protocol Decisions [FRL–6129–2] (RIN: 2060–AG48) received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10342. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Kentucky: Adoption of General Conformity Regulations [KY–90–1–9735a: FRL–6130–3] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10343. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Commonwealth of Kentucky [KY–100–1–9814a; FRL–6126–1] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10344. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Commonwealth of Kentucky [KY–93–9821a; FRL–6125–8] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10345. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans and Redesignation of the South Coast Air Basin in California to Attainment for Nitrogen Dioxide [CA—189—0078 (a);#FRL–6127–1] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10346. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approval Numbers Under the Paperwork Reduction Act: Technical Correction [FRL—6125–1] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10347. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Promulgation of Federal Implementation Plan for Arizona—Phoenix PM–10 Moderate Area; Disapproval of State Implementation Plan for Arizona—Phoenix PM–10 Moderate Area [FRL–6129–4] (RIN: 2060–ZA02) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10348. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Michigan: Withdrawal of Direct Final Rule [MI67–01–7275; FRL–6128–6] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10349. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Pauls Valley, Ratliff City, and Sulphur, Oklahoma, Abilene, Bowie, Highland Village, Mount Pleasant, and Overton, Texas [MM Docket No. 97–84; RM–9021; RM–9095] received July 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10350. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to Be Followed When Formal Complaints are Filed Against Common Carriers [CC Docket No. 96–238] received July 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10351. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Adjustment of the Maximum Retrospective Deferred Premium (RIN: 3150–AG01) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10352. A letter from the Secretary of Energy, transmitting a report on the effect of the U.S./Russian Highly Enriched Uranium Agreement on domestic uranium mining, conversion, and enrichment industries through April 1998; to the Committee on Commerce.

10353. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Taiwan [DTC 1–98] received July 20, 1998, pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

10354. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with the United Kingdom [DTC 17–98] received July 21, 1998, pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

10355. A letter from the Secretary of the Interior, transmitting the 26th and 27th Annual Reports on the operation during water years 1996 and 1997 for the reservoirs along the Colorado River, pursuant to 43 U.S.C. 1544; to the Committee on Resources.

10356. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Texas Closure [I.D. 070298E] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10357. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on plans to establish a program to support the Iraqi democratic opposition; jointly to the Committees on International Relations and Appropriations.

10358. A letter from the Secretary of Health and Human Services, transmitting a report on Medicare coverage of lung volume reduction surgery (LVRS); jointly to the Committees on Commerce, Ways and Means, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COBLE: Committee on the Judiciary. H.R. 3891. A bill to amend the Trademark Act of 1946 to prohibit the unauthorized destruction, modification, or alteration of product identification codes, and for other purposes; with an amendment (Rept. 105–650). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 510. Resolution providing for consideration of the bill (H.R. 4328) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–651). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 511. Resolution waiving points of order against the conference report to accompany the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact (Rept. 105–652). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LoBIONDO:

H.R. 4340. A bill to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. BOB SCHAFFER:

H.R. 4341. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Sand Creek Massacre National Historic Site in the State of Colorado as a unit of the National Park System, and for other purposes; to the Committee on Resources.

By Mr. TRAFICANT:

H. Con. Res. 312. Concurrent resolution expressing the sense of the Congress regarding the right of the Albanian People of Kosova to self-determination and independence from the repressive, authoritarian, and barbaric Serbian regime of Slobodan Milosevic, and for other purposes; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of March 17, 1998]

H.R. 2951: Mr. ALLEN and Ms. SLAUGHTER.

[Submitted July 28, 1998]

H.R. 1134: Mr. DELAHUNT.

H.R. 1202: Mr. ADAM SMITH of Washington.

H.R. 1362: Ms. WILSON.

H.R. 1401: Ms. DANNER.

H.R. 2031: Mr. WYNN.

H.R. 2537: Mr. DOYLE.

H.R. 2613: Mr. ENGLISH of Pennsylvania.

H.R. 3411: Ms. WILSON, Mr. WELDON of Pennsylvania, and Mr. HILLIARD.

H.R. 3500: Mrs. KENNELLY of Connecticut.

H.R. 3506: Mr. COOKSEY, Mr. ARMEY, Mr. CLEMENT, Mr. BILIRAKIS, and Ms. WILSON.

H.R. 3652: Ms. JACKSON-LEE of Texas, Mr. WEXLER, and Mr. LAMPSON.

H.R. 3821: Mr. HYDE, Mr. GREEN, and Mr. DICKEY.

H.R. 3905: Mr. PASCRELL.

H.R. 3988: Mr. LEWIS of Georgia, Ms. LOFGREN, and Ms. KAPTUR.

H.R. 4028: Mr. MCCRERY, Mr. MALONEY of Connecticut, and Mr. MCGOVERN.

H.R. 4046: Mr. LEWIS of Georgia.

H.R. 4149: Mr. HILLIARD.

H.R. 4196: Mr. SESSIONS and Mr. CAMPBELL.

H.R. 4213: Mr. SAM JOHNSON of Texas.

H.R. 4220: Ms. CARSON.

H.R. 4257: Mr. KLINK.

H.R. 4281: Mr. FOLEY.

H.R. 4283: Mr. FARR of California, Mr. PAYNE, Mr. HILLIARD, and Mrs. MEEK of Florida.

H.R. 4285: Mrs. JOHNSON of Connecticut.

H. Con. Res. 239: Ms. LOFGREN.

H. Con. Res. 254: Mr. DOOLITTLE and Mrs. ROUKEMA.

H. Res. 218: Mr. SPRATT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4276

OFFERED BY: MR. GILCHREST

AMENDMENT NO. 24: Page 62, beginning at line 15, strike section 210.

H.R. 4276

OFFERED BY: MS. HOOLEY of Oregon

AMENDMENT NO. 25: Page 52, line 13, after the dollar amount insert "(increased by $2,300,000)".

Page 52, line 25, after the dollar amount insert "(increased by $2,300,000)".

Page 53, line 1, after the dollar amount insert "(increased by $2,300,000)".

Page 53, line 7, after the dollar amount insert "(increased by $2,300,000)".

Page 56, line 19, after the dollar amount insert "(reduced by $2,300,000)".

H.R. 4276

OFFERED BY: MR. SANDERS

AMENDMENT NO. 26: Page 101, line 21, insert "(increased by $4,000,000)" after the dollar amount.

Page 100, line 13, insert "(decreased by $4,000,000)" after the dollar amount.

H.R. 4276

OFFERED BY: MR. SANDERS

AMENDMENT NO. 27: Page 101, line 21, insert "(increased by $4,000,000)" after the dollar amount.

Page 40, line 8, insert "(decreased by $4,000,000)" after the dollar amount.

SENATE—*Tuesday, July 28, 1998*

The Senate met at 9:45 a.m., and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, whose mercies are new every morning, we praise You for Your faithfulness. We exalt You with a rendition of the words of that wonderful old hymn, "Great is Your faithfulness! Great is Your faithfulness! Morning by morning, new mercies we see; all we have needed Your hand has provided. Great is Your faithfulness, Lord, unto us!" As we begin this new day, we thank You for Your faithfulness to our Nation throughout history. And one of the ways You express that now is through the labors of the women and men of this Senate. May they experience fresh assurance of Your faithfulness that will renew their faithfulness to be God-centered, God-honoring, God-guided, God-empowered leaders.

In the quiet of this moment, we ask You to help us experience Your grace in the midst of the grief of this day. We ask You to be with us as we honor the memory of Officers Chestnut and Gibson. Especially, Lord, be with their families and with their fellow officers, that they may know that You are the Lord of life and eternity. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you very much, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, I remind all Senators that we will be recessing from 11:55 a.m. until 12:15 p.m. so that the Senate may proceed as a body to the Rotunda to pay our proper respects to the two fallen U.S. Capitol policemen and their families. The Senate will recess again today from 2:45 p.m. until 3:45 p.m. so Members may attend the memorial service for these two heroes.

With regard to the Senate's schedule this morning, the Senate will resume consideration of the credit union bill, with 15 minutes for debate remaining on the Shelby amendment regarding small business exemptions. At approximately 10 a.m; the Senate will proceed to vote on, or in relation to, the Shelby amendment. Following that vote, it is the hope that the Senate will move quickly to final passage of the credit union legislation.

For the remainder of today's session, the Senate may begin consideration of the Treasury appropriations bill, health care legislation, or other appropriations bills or conference reports as available and after consultation with the leadership on both sides of the aisle. Therefore, Members should expect votes throughout today's session and into the evening as the Senate attempts to complete its work prior to the August recess.

I want to emphasize something here, too. The plan has been we would spend Friday afternoon on the credit union bill, and we would have votes Monday afternoon late, and this morning we would vote on the Shelby amendment and go to passage. I understand the managers are not sure they are ready to do that, or other people are showing up with amendments. I discourage amendments. Senators had an opportunity Monday afternoon and Friday afternoon to offer amendments, and to show up now and say, "Oh, by the way, I have another amendment," I think, is not helpful in trying to get done what we agreed to and move our schedule along.

Let's have the final debate on the Shelby amendment and let's vote and move to passage of this legislation, and then go to an appropriations bill. I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the leadership time is reserved.

CREDIT UNION MEMBERSHIP ACCESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 1151, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1151) to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gramm amendment No. 3336, to strike provisions requiring credit unions to use the funds of credit union members to serve persons not members of the credit union. (By 44 yeas to 50 nays (Vote No. 236), Senate failed to table the amendment.

Shelby amendment No. 3338, with respect to exempting certain financial institutions from the Community Reinvestment Act of 1977.

AMENDMENT NO. 3338

The PRESIDING OFFICER. Under the previous order, there will now be 15 minutes equally divided prior to a motion to table Shelby amendment No. 3338.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. SHELBY. Mr. President, does this side have 7½ minutes and the other side 7½ minutes? That is my understanding.

The PRESIDING OFFICER. That is correct.

Mr. SHELBY. Mr. President, there has been a lot said about the amendment that we have offered to exempt small banks from the Community Reinvestment Act. A popular mantra is that if the small bank exemption amendment passes, President Clinton will veto the bill; therefore, the Senate should not take up this amendment. I have also been told this is not the time or the place to take up an amendment to CRA. But I believe, Mr. President, that such assertions are not valid.

H.R. 1151 essentially eliminates the common bond requirement, allowing credit unions to serve virtually any and every group now.

In addition, H.R. 1151 explicitly authorizes credit unions to perform commercial lending activities. In doing so, this Congress is overturning a historical Supreme Court decision and the law of the land for about 60 years. While expanding the role of credit unions, we continue to protect the tax exemption credit unions now enjoy.

Small community banks, Mr. President, however, serve the local community but have to compete with the higher cost of funds, a higher regulatory burden, and of course a considerable tax burden. While we increase the competitive advantage of small bank competitors in this bill, we do nothing to help small banks compete on a more level playing field.

So, Mr. President, for those who suggest that this is not the time or the place for this amendment to exempt the small banks of America from the CRA, I have to disagree. Credit unions are increasing their market share over community banks in small local markets with higher savings rates and lower lending rates, rates small banks cannot match thanks to the tax and regulatory burdens that constitute the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

competitive disadvantage here. The small bank exemption from the Community Reinvestment Act has everything to do with the competitive equity we are talking about—leveling the playing field between local community banks and credit unions.

The President, of course, has the right to veto a bill if he so chooses. That is the legislative process. We all know that. However, I do not believe the President would veto this bill if this amendment were part of it. The Senate Banking Committee worked very hard to draft a responsible bill, and, by and large, I think we did just that. Nevertheless, Mr. President, I believe H.R. 1151, the bill before us now, can be improved. And, to that extent, this is the time and this is the place to improve the bill.

Yesterday, the Senate failed to table Senator GRAMM's amendment to strike the community-reinvestment-like provisions on credit unions from the bill. I supported that. As a result, it appears the Senate has chosen to adopt Senator GRAMM's amendment to eliminate the expansion of regulatory burden and mandated credit allocation on to credit unions, which I think is good.

If the Senate votes to table the small bank exemption from CRA, the Senate will make a very hypocritical policy statement to the American people, I believe, saying, essentially, that we do not support the expansion of mandated credit allocation and regulatory burden on credit unions, but, Mr. President, on the other hand, we do support the mandated credit allocation and regulatory burden on small community banks. Now that is not what we call competitive equity.

I believe the worst part about this inconsistent policy is that consumers are the ones who bear the brunt of the cost of the Community Reinvestment Act. The CRA tax on banks only gets passed on to the consumer. While the intention, Mr. President, of the Community Reinvestment Act may have been to help consumers, in practice I believe it hurts them. CRA is bad for consumers. CRA is, I believe, bad public policy.

Contrary to what opponents of the amendment would have you believe, the small bank exemption would not gut CRA. Banks with less than $250 million in assets account for less than 12 percent of bank assets nationwide. This is a vote for small community banks in America. I think it is time to do it and the time is now.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. D'AMATO. Mr. President, let me say that I am deeply appreciative of the problem that my good friend, the senior Senator from Alabama, Senator SHELBY, expresses as it relates to community banks. I believe they do need help. Indeed, I think we have to give them some tax relief. I think we can and we should. That is why I have cosponsored the Small Business Financial Institution Tax Relief Act. I believe Senator SHELBY is also a cosponsor. And I believe the Presiding Officer is a cosponsor as well. There are other things we can do.

I think we have to examine CRA as it applies to those who have outstanding records year after year. Should they be subjected to the same compliance requirements or shouldn't there be some way to relieve them of the annual reporting process? Shouldn't there be more flexibility, if an institution has been exemplary for X number of years? Let us discuss that in a different arena and let us not put it on this bill. We can work towards a solution on this important issue and other relief for small banks so they can continue to compete and serve in communities that otherwise would be left without.

So I am sympathetic to the issue of CRA. But again, to put it on this bill, when the administration said clearly they will veto it, I say, will only undo all the effort put into preserving credit unions and making them safer and sounder. I urge restraint on the part of my colleagues, notwithstanding the fact that we need to do something to help that segment of our community which is so vital—the community bank.

Mr. REED. Mr. President, I rise in strong opposition to the Shelby amendment to create a small bank exception to the Community Reinvestment Act.

Mr. President, the Community Reinvestment Act requires financial institutions to meet the credit needs of local communities—including low and moderate income areas—consistent with safe and sound lending practices.

Unfortunately, many proponents of the Shelby amendment have argued that this obligation is tantamount to government mandated credit allocation. Nothing could be further from the truth. Neither the Act nor the regulations specify the number of loans, the type of loans, or the parties to CRA loans. To the contrary, CRA relies on market forces and private sector ingenuity to promote community development lending. This is evidenced by the tremendous flexibility that financial institutions have in satisfying CRA. For example, loans to nonprofits serving primarily low- and moderate-income housing needs; loans to financial intermediaries such as Community Development Financial Institutions; and loans to local, state, and tribal governments may qualify for CRA coverage. Moreover, loans to finance environmental clean-up or redevelop industrial sites in low- and moderate-income areas also qualify as CRA loans.

In addition to lending, CRA is satisfied through investments by financial institutions in organizations engaged in affordable housing rehabilitation, and facilities that promote community development such as child care centers, homeless centers, and soup kitchens. These all qualify for CRA coverage.

Even Federal Reserve Chairman Alan Greenspan has weighed in on this issue, arguing:

> The essential purpose of the CRA is to try to encourage institutions who are not involved in areas where their own self-interest in involved, in doing so. If you are indicating to an institution that there is a foregone business opportunity in an area X or loan product Y, that is not credit allocation. That, indeed, is enhancing the market.

As illustrated by these examples and Chairman Greenspan's comments, it is clear that CRA is a far cry from government mandated credit allocation. To be sure, CRA is predicated on two simple assumptions that should be shared by my colleagues on both sides of the aisle: (1) that a public charter for a bank or savings institution conveys numerous benefits, including deposit insurance, and it is fair for the public to ask something in return, and (2) government cannot and should not provide more than a limited part of the capital required for local housing and economic development needs; financial institutions in our free economic system must play the leading role.

In the words of former Comptroller of the Currency Eugene Ludwig, "CRA is in many respects a model statute. It requires no public subsidy, no private subsidy, and no massive Washington bureaucracy."

These simple concepts, which are the embodiment of CRA, are perhaps most responsible for the significant democratization of credit that we have seen over the last 20 years. Since its enactment in 1977, CRA has resulted in more than $397 billion in loan commitments for low- and moderate-income borrowers. In my state of Rhode Island, it has been estimated that CRA has resulted in over $61 million in commitments for community development lending since 1977.

Mr. President, I fear that the Shelby amendment will significantly undermine these advances. This amendment will exempt 86 percent of all banks from CRA, thereby doing irreparable harm to our communities that are in dire need of investment and opportunity. The adverse impact on community lending will be particularly severe in states such as Iowa, Kansas, Minnesota, Montana, Nebraska, and Oklahoma, where 95 percent of all banks are small and would be exempt from CRA. If communities in these states are not able to turn to their financial institutions for rural and community development lending, to whom will they turn?

Mr. President, this amendment is unnecessary. In response to concerns about regulatory burdens voiced by small banks, CRA was revised in 1995 to provide regulatory relief. The new regulations provide a streamlined examination process for independent banks and thrifts with assets under $250 million. In addition, under the new regulations, the smallest banks have been exempted from all reporting requirements, and are no longer subject to process-based documentation requirements. Moreover, the actual time spent in the smallest banks on CRA examinations has dropped by 30 percent.

Following promulgation of the revised CRA regulations, many small bankers were effusive in their praise of the reforms. For example, Richard Mount of the Independent Bankers Association of America, which represents small banks, indicated,

> We commend the regulators for instituting a meaningful, streamlined, tiered examination system that recognizes the differences between community banks and their large regional and multinational brethren. The new rules should eliminate the paperwork nightmare of CRA for community banks and allow them to concentrate on what they do best—reinvest in their communities.

Finally, Mr. President, this amendment will significantly weaken one of our most important tools in preventing lending discrimination. Perhaps because of its success, many have forgotten the embarrassing state of lending in many urban communities prior to CRA's enactment. In a Senate Banking Committee hearing in 1977, a study of six banks was presented which showed that these banks, which held $144 million in deposits from low-income and minority communities, returned an embarrassing one-half cent on the dollar in home loans. Throughout hearings on CRA, witnesses from around the country recounted similar stories of lending discrimination.

While certainly we have come a long way since 1977, lending discrimination, unfortunately, persists. In a study published earlier this year by the Fair Housing Council of Greater Washington, it was revealed that Washington area lenders discriminate against two out of five African American and Hispanic mortgage applicants. In one incident cited in the study, a Rockville lender advised a black tester that the lender did not make loans to first-time home buyers. The same lender later met with a white tester, also posing as a first-time home buyer, giving the tester an appointment and encouraging him to apply for a mortgage loan. Lending studies by other organizations reveal similar findings. These studies have shown that minority borrowers receive fewer bank loans even when their financial status is the same as or better than white borrowers.

By encouraging lenders to extend credit to all communities, CRA has been an important weapon in fighting lending discrimination. Because the Shelby amendment would exempt 86 percent of all banks from its coverage, lenders could find it easier to discriminate in the provision of credit.

Mr. President, I do not think we want to return to the dark days before CRA, where access to credit and investment in our urban and rural communities was limited for all the wrong reasons. Instead, with the movement of assets out of the banking system and with increasing industry consolidation, we should be seeking ways to expand community investment, not limit it. For this reason, I will strongly oppose the Shelby amendment, and I encourage my colleagues to do likewise.

Ms. COLLINS. Will the Senator from New York yield for a question?

Mr. D'AMATO. I am happy to yield.

Ms. COLLINS. The Senator from New York, the distinguished chairman of the committee, knows I am very sympathetic to the goals of the amendment offered by the Senator from Alabama. I am concerned about the burden that the CRA imposes on our small community banks. It is my understanding, however, based on the representations of the chairman and a letter from the administration, that if this amendment is adopted, it will lead to the veto of this legislation, which I strongly support.

So I find myself in a real quandary. I support the amendment of the Senator from Alabama, yet I strongly support the underlying bill and do not want to jeopardize it being signed into law.

Could the distinguished chairman give me assurances that he is willing to work with me, with the Senator from Alabama, and others who are concerned about easing this burden on our small banks?

Mr. D'AMATO. I not only give that assurance to you, but to all of my colleagues in the Senate and the House. I think we can do a better job ensuring that small community banks have the ability to compete. We will address some of the requirements that are placed upon them that preclude them from using chapter S corporations in the bill Senator ALLARD has introduced. And while we are at it, we will review some of the regulatory requirements for reporting as required by CRA and we will look for ways to diminish the burdens these requirements place on banks that have exemplary CRA records.

That would be the absolute priority of this Senator, starting now. We will begin with holding hearings, and from the information we gather, we will craft and seek the support of legislation. Certainly I think next year we will be able to come forth and pass, in both Houses, and get signed into law, the kind of relief that does not jeopardize the legitimate use of CRA but, by the same token, does not compromise those institutions that are doing a good job.

I believe my colleagues on the Democratic side would join with us in that effort, but not here, not now, without study and careful craftsmanship.

Again, I understand the need to make these reforms.

Ms. COLLINS. I thank the Senator very much for his assurances. This is a matter of great concern for me. I would very much like to vote for this amendment, but in view of the fact that the President has made it very clear he would veto the bill if it were included, I, unfortunately, am going to have to vote against the amendment.

I thank the Senator.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. Mr. President, when this debate on the Shelby amendment first began, my colleague from Alabama quoted the introductory statement made by former chairman William Proxmire when he introduced the CRA legislation. We pointed out at the time that we thought the Proxmire rationale still supported his original position.

I have received a letter from Senator Proxmire and he has asked me to read it into the RECORD. I will do that now.

> DEAR PAUL: I would appreciate your reading this letter into the Congressional Record at the appropriate time during the debate on the Credit Union bill.
>
> I am totally opposed to the Shelby amendment which would exempt small banks from the Community Reinvestment Act and take strong exception to the thrust of his "Dear Colleague" letter which quotes my remarks as the author of CRA and the Chairman of the Banking Committee at some length.
>
> Throughout my 32 year career in the Senate I championed the cause of the independent small banks of America. In my home state of Wisconsin they represented an important constituency. As Chairman of the Banking Committee from 1975–1980 and 1987–1989 and a member of the Committee from 1957–1989 no one fought harder to protect their interests.
>
> I count the enactment of CRA as one of the achievements of which I am most proud. I introduced CRA in 1977 because banks receive significant public benefits, such as federal deposit insurance and access to the Federal Reserve Board's discount window. In turn, banks have an obligation to help meet the credit needs of the localities they are chartered to serve. This obligation should apply to all banks, large and small alike, all of whom receive significant public benefits.
>
> I regret that the statement I made on the Senate floor in 1977 introducing the Community Reinvestment Act is being used to undermine the purpose for which I introduced the legislation.
>
> Sincerely,
>
> WILLIAM PROXMIRE, U.S.S.
> *(Retired—D–Wis.)*

That is Senator Proxmire's direct response to the effort to use his statement to, in effect, undermine support for the CRA.

Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 46 seconds remaining.

Mr. SARBANES. Mr. President, very quickly, let me just say to my colleagues that this legislation is not an allocation of credit. Larry Lindsey has said, and I quote him, former member of the Federal Reserve:

> Many [institutions] now recognize in an era of growing competition, CRA performance may be critical to an institution's ability to adjust to the new banking environment. CRA-related activities can help to develop new markets, potentially profitable business and improve a bank's public image.

Federal Reserve Chairman Alan Greenspan stated:

> The essential purpose of the CRA is to try to encourage institutions who are not involved in areas where their own self-interest is involved in doing so. If you are indicating to an institution that there is a foregone business opportunity in an area X or loan product Y, that is not credit allocation. That, indeed, is enhancing the market.

Let's continue to enhance the market by supporting CRA and rejecting this amendment.

The PRESIDING OFFICER. All time has expired. The Senator from Alabama has 2 minutes 12 seconds remaining.

Mr. SHELBY. I yield the remaining time to the distinguished Senator from Oklahoma, the assistant majority leader.

Mr. NICKLES. Mr. President, first, I compliment my colleague from Alabama for bringing this amendment because it is a really good, commonsense amendment.

I might mention to our colleagues, yesterday we voted to exempt credit unions from the Community Reinvestment Act. Most of us support that amendment. I supported that amendment. I mentioned to somebody that said I am not sure we should do that because banks have to comply, and I said we have the Shelby amendment that will at least exempt small banks.

Most of my banks in the State of Oklahoma are small banks. They don't need the Federal Government to tell them to invest in their community—they do it anyway. If you have a meeting with your bankers in your State, particularly your small bankers, they will tell you the Community Reinvestment Act is one of the most bureaucratic messes they deal with. They really don't have to have the Federal Government to tell them to invest in their own community. So now we are going to say we will exempt credit unions from the CRA, but we will not exempt small banks? That is not fair. That is not equitable.

Senator SHELBY's amendment would correct that for the small banks. I compliment him for doing it. I think now is the time to do it. We are going to create greater inequities between credit unions and banks; I don't think that is fair. So Senator SHELBY's amendment would at least provide relief for small banks. That is the right thing to do. It is the timely thing to do.

The fact that the President says he might veto—if we pass this by an overwhelming vote, and if we have the Shelby amendment, it would be passed overwhelmingly, it would be adopted by the House, and I think the President would see the wisdom of signing the bill as amended with the Shelby amendment.

I thank my colleague from Alabama.

Mr. D'AMATO. Mr. President, I understand my colleague, the Senator from Alabama, has yielded back the time.

The PRESIDING OFFICER (Mr. SANTORUM). All time has expired.

Mr. D'AMATO. I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Shelby amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

Mr. FORD. I announce that the Senator from Iowa (Mr. HARKIN) is absent due to a death in family.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote "aye."

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—59

Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cleland
Collins
Conrad
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Smith (OR)
Snowe
Specter
Stevens
Torricelli
Warner
Wellstone
Wyden

NAYS—39

Abraham
Allard
Ashcroft
Bennett
Brownback
Burns
Coats
Cochran
Coverdell
Craig
DeWine
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Sessions
Shelby
Smith (NH)
Thomas
Thompson
Thurmond

NOT VOTING—2

Harkin
Helms

The motion to lay on the table the amendment (No. 3338) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3336

The PRESIDING OFFICER. The question occurs on the Gramm amendment.

The Senator from Maryland.

Mr. SARBANES. Mr. President, we had a tabling motion on this yesterday. I am prepared to take it on a voice vote, but I understand there may be some colleagues either who didn't vote who weren't here to vote yesterday or others who may want a rollcall vote.

We can have a rollcall vote at this point on the Gramm amendment, as I understand it.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. President, I believe that vote was 59—what was the vote?

The PRESIDING OFFICER. The motion to table was defeated 44 to 50.

Mr. LOTT. If we could avoid a vote and go on to final passage, I wish we could do that.

Mr. President, I ask that we pass the Gramm amendment on a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object—I shall not object—I don't like to have voice votes by unanimous consent. I don't believe we should do that, but we can have a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the Gramm amendment.

The amendment (No. 3336) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3339

(Purpose: To amend the bill with respect to review of regulations and paperwork reductions, consultation with State supervisory agencies, and the field of membership exception for underserved areas, and to require a study by the Secretary of the Treasury of member business lending)

Mr. D'AMATO. Mr. President, I would like to send to the desk a managers' amendment that has been approved by both sides and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New York [Mr. D'AMATO], for himself and Mr. SARBANES, proposes an amendment numbered 3339.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, strike lines 6 through 11, and insert the following:

"(i) is an 'investment area', as defined in section 103(16) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(16)), and meets such additional requirements as the Board may impose; and

On page 54, line 8, insert "(a) IN GENERAL.—" before "The".

On page 57, between lines 16 and 17, insert the following:

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall conduct a study of member business lending by insured credit unions, including—

(A) an examination of member business lending over $500,000 and under $50,000, and a breakdown of the types and sizes of businesses that receive member business loans;

(B) a review of the effectiveness and enforcement of regulations applicable to insured credit union member business lending;

(C) whether member business lending by insured credit unions could affect the safety and soundness of insured credit unions or the National Credit Union Share Insurance Fund;

(D) the extent to which member business lending by insured credit unions helps to meet financial services needs of low- and moderate-income individuals within the field of membership of insured credit unions;

(E) whether insured credit unions that engage in member business lending have a competitive advantage over other insured depository institutions, and if any such advantage could affect the viability and profitability of such other insured depository institutions; and

(F) the effect of enactment of this Act on the number of insured credit unions involved in member business lending and the overall amount of commercial lending.

(2) NCUA COOPERATION.—The National Credit Union Administration shall, upon request, provide such information as the Secretary may require to conduct the study required under paragraph (1).

(3) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

On page 57, line 16, strike the quotation marks and the final period and insert the following:

"(e) CONSULTATION AND COOPERATION WITH STATE CREDIT UNION SUPERVISORS.—In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.".

On page 92, strike line 7 and all that follows through page 93, line 15, and insert the following:

SEC. 402. UPDATE ON REVIEW OF REGULATIONS AND PAPERWORK REDUCTIONS.

Not later than 1 year after the date of enactment of this Act, the Federal banking agencies shall submit a report to the Congress detailing their progress in carrying out section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, since their submission of the report dated September 23, 1996, as required by section 303(a)(4) of that Act.

Mr. D'AMATO. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3339) was agreed to.

Mr. ROBB. Mr. President, I rise today in support of H.R. 1151, the Credit Union Membership Access Act. I do so because I believe that the legislation is necessary to preserve membership opportunities in these financial cooperatives. Given the Supreme Court ruling limiting membership, it is both appropriate and necessary for Congress to pass this legislation to ensure that the requirements for membership in a specific credit union reflect current practices.

As my colleagues know, since 1982, credit unions have been able to take in new groups of members outside their original common bond provided that the additional groups brought in shared a common bond. Not only was this done for safety and soundness concerns, but it also has helped individuals maintain their credit union ties through base closings and other employment changes.

The bill before us today guarantees that no existing member will be forced to give up his or her ties to their current credit union as a result of the Supreme Court decision. It also allows credit unions to continue to attract new members who are part of an existing membership group as well as new groups provided that the new group has a common bond of occupation or association and has less than 3,000 members at the time they join the credit union. This effectively covers 98% of all businesses in America.

I for one have never quarreled with the need for credit unions to continue to attract new members. But with new opportunities come new responsibilities. If credit unions are to have all the rights of a for-profit financial institution, equity requires that they share in their responsibilities. For this reason, I voted to keep the community reinvestment responsibilities in the bill and I also voted to further limit commercial lending activities of credit unions, hoping thereby to keep them to their original focus of consumer lending. In my view, the continuation of their tax-exempt status is threatened by efforts to have credit unions undertake all the rights of a for-profit financial institution.

In conclusion, Mr. President, I want credit union members in the Commonwealth of Virginia to know that I am a strong supporter of their institutions and their rights of membership. As a credit union member myself, I will continue to preserve membership opportunities in these important institutions.

Mr. GRASSLEY. Mr. President, I would like to say a few words about the Community Reinvestment Act or "CRA" as it is commonly known. The CRA requires banks to extend loans and credit to low- and moderate-income Americans who reside in low-income areas.

Obviously, as we can tell by the tone of the debate in the Senate today, there are strong feelings about whether it's a good idea for the Federal Government to require that credit be extended to people of modest means since these people may not be good credit risks. I would like to focus on some of the comments of those who support the CRA. They claim that credit should be as widely available as possible. The supporters of the CRA argue that requiring banks to open up credit is good for low- and moderate-income people. It gives these people the opportunity to purchase a home, pay for college or better their lives in important ways.

On last Friday—July 24th—several Senators took to the floor to talk about the value of making credit as widely available as possible. For instance, Senator KENNEDY said "In this period of sustained economic growth, it is vital that all families have the opportunity to obtain credit in order to buy a home, start a small business or send a child to college." Senator KENNEDY went on to observe that "There is no capitalism without capital." These are strong words in favor of making credit widely available.

It will be interesting, Mr. President, to see if the supporters of the CRA take the same position when my bankruptcy reform bill comes to the Senate floor in September. There is a fringe element which opposes all bankruptcy reform who wish to derail this legislation, which passed the Judiciary Committee by a vote of 16 to 2. One part of the effort to stop bankruptcy reform involves criticizing banks which send out a lot of credit card solicitations. The argument is apparently that the banks have made too many risky loans and that Congress should restrict these lending practices. I've heard that bankruptcy reform which doesn't include such restrictions wouldn't be fair or balanced.

Mr. President, I find it interesting that many of those who support the CRA, which requires banks to make risky loans to low-income Americans, are also arguing that we should punish banks for issuing credit cards to low- and moderate-income Americans. It seems to me that the opponents of bankruptcy reform can't have it both ways. It's totally inconsistent to push banks to make risky loans to poorer Americans, as the CRA would have it, but then to oppose bankruptcy reform because banks have issued too many loans to poorer Americans.

I wanted to point out this striking contradiction today, Mr. President, while we're considering lending practices and the CRA and while the memory of the debate is fresh in our minds. I will return to this topic later, when the bankruptcy bill is on the floor.

Ms. MIKULSKI. Mr. President, I rise today to support the Credit Union Membership Access Act of 1998. This legislation will clearly define who is eligible to join a credit union. It will also provide important safeguards and reforms to keep our credit unions strong and to protect our constituents who use credit unions.

One of my priorities for Maryland is to maintain Maryland's robust economy. Credit unions offer an important alternative to consumers in the financial services market. Keeping financial services competitive and keeping fees down will help to keep Maryland's economy strong.

I am pleased that the Senate is finally taking up this legislation almost four months after it was passed overwhelmingly by the House. I am pleased because I know how important credit unions are for Maryland and the Nation. In fact, I helped to start a credit union at a church in Baltimore.

Credit unions are important because they provide good value and good service in a community setting. A setting where the person behind the counter knows your name not just your account number. In the current era of mega-mergers in the financial services industry, credit unions are needed more than ever.

Credit unions are a part of our communities. I have heard from many of my constituents in Maryland about this legislation. They have written letters, sent e-mail, and visited my office, all to express their support for their credit unions. I have heard from Marylanders who are members of credit unions from the Allegany County Teachers Credit Union in LaVale to the Douglas Memorial Credit Union in Baltimore to the Choptank Electric Cooperative Credit Union in Denton. They love their credit unions because they know their credit unions deliver.

I have also heard from members of the Maryland banking community about their concerns with this legislation. Although I can appreciate their reservations, I believe many of their concerns are addressed in this compromise legislation. However, on one significant point I disagree with them. Credit unions should not pay taxes because credit unions are non-profits. The credit union slogan is "not for profit, not for charity, but for service." I applaud that slogan and I stand with the credit unions today.

There are several provisions in this legislation that I feel deserve to be noted. Not only will this legislation allow small groups that share a common bond to join credit unions, but this legislation will improve credit unions by strengthening regulations to ensure safety and soundness of credit unions and to strengthen the credit union deposit insurance fund.

I also want to praise the "common sense" reforms that are included in this legislation, such as the use of Generally Accepted Accounting Principles in credit union reports filed with the National Credit Union Administration, Independent Audits of Credit Unions with more than $500 million in assets, and restrictions on the compensation packages of senior managers in credit unions that convert to for-profit banks.

Finally, Mr. President, I want to send my thanks to the 1.6 million credit union members in Maryland. I am proud of them and the work they do every day. I urge my colleagues to support this bill and to support their local credit unions.

Mr. CHAFEE. Mr. President, I would like to clarify a point that was raised on the floor yesterday concerning an unfortunate event that occurred in my home State of Rhode Island almost a decade ago: the failure of the Rhode Island Share Deposit Insurance Corporation (RISDIC). Some Senators have suggested that the failure of RISDIC was triggered by credit unions getting overly involved in business lending. That is not entirely accurate.

The credit unions did not trigger the RISDIC crisis. Instead, the collapse of the system can be traced to a substantial embezzlement from the Heritage Loan and Investment Corporation, a type of state-chartered bank. In fact, of all the credit unions that were closed in Rhode Island during that crisis, none was federally insured and none was either supervised or examined by federal regulators. Indeed, during that entire period of the so-called credit union crisis, those credit unions that were chartered, insured, supervised, and regulated by the federal government continued to perform flawlessly, despite the disastrous economic turmoil around them.

So I just want to say again that the RISDIC crisis was not caused by credit unions. Rather, the credit unions were the unfortunate victims of a crisis brought about by embezzlement from a bank.

Mr. TORRICELLI. Mr. President, today I rise in support of H.R. 1151. Credit unions have been, and remain, a vital component of our national banking system. At a time when credit unions serve more than 74 million people nationally, any initiative that would impede the ability of credit unions to provide services to their members, would seriously undermine the financial well-being of the public, and the fortitude of our financial industry. That is why today's action is so important to the future of the credit union industry.

Despite the claims by opponents of credit unions that state otherwise, credit unions are nonprofit entities that provide much needed opportunities for hard-working people. To millions of Americans, the low-interest loans that credit unions offer represent the opportunity to buy their first home, the chance to purchase a much needed automobile, the ability to send their children to college, or achieving the dream of starting their own business. For example, in my home State of New Jersey, there are over 315 credit unions that serve more than 1.1 million people.

Passage of this credit union legislation demonstrates a commitment by the U.S. Senate to millions of hardworking American families. Supporting credit unions means bolstering our economy and providing more financial opportunities to save and invest soundly.

Mr. President, I urge my colleagues to support credit unions by voting in favor of H.R. 1151.

Mrs. MURRAY. Mr. President, I rise to state my strong support for the Senate version of H.R. 1151. This legislation is important, bipartisan and should be adopted unanimously by my Senate colleagues. I commend the members of the Banking Committee, where I served for four years, for crafting this legislation and moving it to the floor for full Senate consideration.

I will vote for the Credit Union Membership Access Act. It is the right thing to do and the Senate is overdue in taking this action. This legislation clarifies credit union membership in a manner that protects consumers and the competitive financial services industry. In the Senate bill, existing credit union members are grand-fathered into their current credit unions and new common bond criteria are established for future growth in the credit union industry.

Mr. President, the credit union legislation is widely supported by consumer rights organizations including the Consumer Federation of America and the American Association of Retired Persons. Other key supporters of this legislation include the National Farmers Union, the National Rural Electric Cooperative Association, the National Association of Counties, the Fraternal Order of Police and the American Small Business Association. Perhaps most noteworthy to me is the strong support of my constituents for this legislation. Thousands and thousands of credit union members have contacted me, hundreds have visited my office with personal credit union anecdotes, and numerous others have approached me on my travels through Washington state. This issue has resonated with my constituents who value and want to preserve and protect credit unions and the services they provide.

Importantly, with the August recess approaching and the 105th Congress soon to adjourn, we still have time to get this legislation to President Clinton for his signature. That must be the Senate's objective today; to get this legislation to President Clinton so that we may address the field of membership situation created by last February's Supreme Court decision.

The Senate did make a number of important changes to the House passed bill. For example, the Senate version of credit union legislation includes new provisions to protect the soundness of credit unions, new capital standards and prompt corrective action for undercapitalized institutions, limitations on commercial lending, new accounting and auditing procedures, and community reinvestment requirements.

While I support the Senate Banking Committee's efforts to improve the House adopted bill, the field of membership issue is really what this bill is all about. The Senate should not lose sight of this objective and certainly, the Senate should not let additional issues imperil this bill. Therefore, I will vote against the amendments to this bill; some of which have been described as killer amendments, and others that will complicate final passage of this bill.

I urge prompt passage of the credit union legislation.

Mr. MCCAIN. Mr. President, as a strong supporter of the credit union industry, I rise to express my support for H.R. 1151, the Credit Union Membership Access Act, on which the Senate will vote today.

As my colleagues are aware, this bill was overwhelmingly passed in the House of Representatives by a vote of 411–8. I anticipate that the support for this bill in the Senate will reflect that of the House of Representatives, and will again pass with a notable bipartisan majority.

Mr. President, this issue came to the forefront when the Supreme Court agreed to hear the Credit Union's arguments for increasing the size of their base membership. While I understand the objections which the banks raised regarding the growth of credit unions, I have always believed that consumers should have the broadest range of choices in financial services.

I support the Credit Union Membership Access Act because I believe that members on both sides of the aisle have worked hard to ensure that this bill is fair and balanced and protects both the rights and securities of consumers.

Mr. KERRY. Mr. President, I would like to take this opportunity to offer my congratulations to Chairman D'AMATO and Democratic Ranking Member SARBANES for their fine work on the Credit Union Membership Access Act and for successfully completing this work on this important bill today. Working families in the United States, whether they live in urban or rural areas, deserve access to fairly priced credit and other financial services.

Credit unions have historically served as a way for people of average means, without easy access to affordable credit, to pool their savings to make credit available to themselves and their fellow credit union members at competitive interest rates. In 1934, the Federal Credit Union Act created the federal credit union charter. Today in Massachusetts, there are 317 Credit Unions serving approximately 1.7 million people.

Since 1934, credit unions have been helping both individuals and working families. They have helped launch and sustain small businesses. Some of them have played an important role in the development and revitalization of economically distressed communities.

Historic mergers, consolidations and acquisitions have taken place in the financial service industry in recent years. Consumers have less choice, not more. Simultaneously, the Supreme Court earlier this year decided a case pertaining to how widely credit unions may reach for membership. These factors have created a necessity for the Congress to consider carefully the role credit unions should play in the mix of financial institutions in our nation.

Federal credit unions have traditionally had "fields of membership" defined by "common bond" of association, occupation or geographic location. In 1982, the National Credit Union Administration developed regulations that allowed credit unions to be composed of multiple unrelated employer groups, each having its own distinct common bond of occupation. In February, the Supreme Court ruled that this NCUA regulation interpreted the law so broadly that it would be permissible to grant a charter to a conglomerate credit union whose members would include employees of every company in the United States. Without the passage of the Credit Union Membership Access Act, some credit unions could be forced to expel current members not affiliated with the original occupation group.

I believe that the members of all current multiple-group credit unions should be allowed to continue in the credit unions they have chosen. It is vital to maintain the current credit union model as a key piece of the financial services system and credit unions must be permitted to prospect for members sufficiently to maintain their viability. Dislocating approximately 10 million credit union members not affiliated with their credit union's original occupation group could potentially have serious effects on the safety and soundness of credit unions in Massachusetts, and across the nation.

This legislation establishes that separate groups having their own common bond of occupation or association that have less than 3,000 members are eligible to join an existing credit union. It assures that 10 million Americans have continued access to their credit union. It will allow another 25 million the right to join a credit union as a result of their employment within a certain company or organization. Finally, this act will help insure that 62 million Americans who own, operate or are employed by a small business will not be limited in their choice of financial institutions in the future.

The purpose of credit unions—and for the tax exemption they receive—is to facilitate loans and other services to low-income communities, individuals, and very small businesses. They were never intended to be simply alternative, tax-exempt commercial banks.

I have heard from a number of community banks in Massachusetts that believe credit unions which offer business loans have a substantial advantage over banks because of their tax exemption. Most credit unions are not involved in business lending and most of those who are focus on assisting very small businesses. However, some community banks believe that a small minority of credit unions that are involved in business lending has taken advantage of the current rules and expanded their product lines to the point that they are banks in all but name.

I am also concerned about the lack of available information on the details of credit union business lending. The National Credit Union Administration does not have accurate information on the size or types of business loans made by credit unions.

That is why I successfully included in this legislation an amendment requiring the Department of the Treasury to study the issue of credit union business lending. This study would include an overall examination of credit union member business lending including the amount of business lending more than $500,000 and less than $50,000, and a breakdown of what types of businesses and the size of businesses that receive loans. It would determine how much credit union business lending goes to low- and moderate-income areas and the extent to which credit union member business lending meets the financial services needs low- and moderate-income individuals. Finally, it would determine whether credit unions which engage in member business lending have an advantage over community banks and if those advantages affect the survival and profitability of community banks. I am grateful to Chairman D'AMATO and Democratic Ranking Member SARBANES for including this study in the credit union legislation.

I remain concerned as to how this legislation will affect the smaller community banks in Massachusetts and across the nation. That is why I worked to include in this legislation a study on legislative and administrative action to reduce and simplify the tax burden for community banks with less than one billion dollars in assets.

I strongly support the requirement that credit unions must hold seven percent of net worth in retained earnings to be considered well-capitalized. If a credit union is critically undercapitalized, this legislation allows the NCUA to appoint a conservator or liquidating agent to take action to avoid losses to the National Credit Share Insurance Fund. This will limit the use of taxpayer funds to assist insolvent credit unions, and insure the credit union system remains safe and sound. In addition, I heartily endorse the section of this legislation that requires prompt corrective action for credit unions facing financial difficulty.

I am disappointed that the provision to require the NCUA to evaluate annually the record of credit unions in meeting the credit needs of their local communities and low- and moderate-income individuals was taken out of the bill. I believe that this provision would have assisted credit unions in refocusing their energies toward those who need access to financial services the most. These are the people who credit unions were designed to serve.

While not perfect, this legislation will ensure that credit unions continue to offer needed financial services to underserved, low- and moderate-income working families. This is a worthwhile compromise that I believe is basically fair to both credit unions and banks, as well as their customers. I will join my colleagues in supporting this important legislation.

Mr. SARBANES. There is a special class of credit unions—known as community development credit unions—that bear special mention. Community development credit unions serve consumers, neighborhoods, and rural areas that are predominantly low-income. Because of their special mission and circumstances, some community development credit unions may have difficulty in generating capital.

On the deposit side, community development credit unions have high operating costs because they serve an extremely labor-intensive market of very low-balance depositors. The average depositor in a community development credit union has $1,462, which is one-third the $4,300 of the average depositor in non-low-income credit unions. Typically, as much as 40 percent to 60 percent of the community development credit unions' membership base consists of persons with less than $200 on deposit. Moreover, many of community development credit unions' very-low-balance depositors use the credit union solely for transactions—that is, they deposit checks and immediately withdraw virtually the entire balance.

On the lending side, community development credit union's business consists primarily of making small loans to borrowers with imperfect credit. The average loan balance per member at a community development credit union is $1,190 compared to $3,200 at all credit unions. Thus, community development credit union loans tend to have more credit risk and higher transaction costs (i.e., noninterest costs per dollar loaned) than loans made by other credit unions, thereby resulting in lower net returns. These lower net returns mean relatively lower income for the community development credit union, which makes capital accumulation more difficult.

The challenges community development credit unions face from credit risk and low returns are exacerbated because communities served by community development credit unions are especially vulnerable to economic downturns. Unemployment rates in such communities are typically two or three times the national average. Unemployment in low-income communities is slow to decline as the economy improves, and quick to worsen when the economy deteriorates.

Despite these challenges, most community development credit unions today are quite strong and have capital ratios similar to those of other credit unions. And the changes brought about by new capital requirements and prompt corrective action will ultimately strengthen all community development credit unions.

Does the Senator agree that this is a fair description of the challenges facing community development credit unions?

Mr. D'AMATO. Yes. I think that the Senator has set forth a good analysis of the challenges community development credit unions face.

Mr. SARBANES. The bill gives all credit unions two years before these provisions become effective. Because of their mission and the special characteristics that arise from that mission, some community development credit unions may have unique difficulties in becoming and remaining adequately capitalized. Accordingly, some community development credit unions may need more time than most other credit unions to build capital in order to comply with the legislation's new capital standards and prompt corrective action provisions. Does the Senator agree?

Mr. D'AMATO. Yes, it is possible that some community development credit unions may require added time to increase their capital.

Mr. SARBANES. So, the question arises: How may the NCUA deal with this issue while implementing the bill's safety and soundness provisions?

In my view, the NCUA should be mindful of community development credit unions' unique circumstances in applying the bill's prompt corrective action provisions. In addition, community development credit unions that demonstrate that they can build their capital over time to the required levels—as evidenced by an acceptable net worth restoration plan—should be given the full opportunity to do so.

Mr. D'AMATO. The Senator is correct. Community development credit unions must meet the bill's capital requirements like any other credit union. At the same time, there is a transition period, and the bill's prompt corrective action provisions give the NCUA sufficient flexibility to work with undercapitalized community development credit unions that have an acceptable plan for meeting the bill's capital requirements.

Mr. SARBANES. I thank the Senator.

Mr. BENNETT. Mr. President, I rise today to commend Senator D'AMATO, the Chairman of the Banking Committee, for his diligence in bringing this legislation dealing with credit unions to the floor in a timely manner. Although I have concerns with the commercial lending provisions in the legislation, I so support the underlying bill.

I do have one question, however for the Chairman of the Banking Committee relating to the community credit union provisions in the act. Specifically, I am concerned with the way that the National Credit Union Administration (NCUA) will design their regulations dealing with the size and scope of community credit unions. Although I had initially intended to offer an amendment limiting the size of a federally-chartered community credit union to three or four contiguous census tracts, after discussing the matter with the Chairman I decided that my amendment would be unnecessary.

Mr. D'AMATO. I commend the Senator from Utah for his interest in this issue and thank him for refraining from offering this amendment. The Senator is quite correct when he states that his amendment would be unnecessary. The Banking Committee was very careful and direct in its instructions to the NCUA in Section 103 of the legislation, where the UCUA is instructed to define a "well-defined local community, neighborhood, or rural district."

Additionally, in the Committee's report, language was inserted to make this point especially clear. The Committee intends for the NCUA to limit federally-chartered community credit unions to be subject to well-defined, local, geographic expansion limits.

Mr. BENNETT. I thank the Chairman for his clarification on this issue. As I said previously, I had intended to offer an amendment on this issue, but I am satisfied by the Committee's report and by the remarks of the Chairman that such an amendment would be redundant and unnecessary.

Mr. D'AMATO. Mr. President, I rise to make a few closing remarks on a job we are close to finishing—to preserve and protect the right of all Americans to join a credit union, now and into the future, and ensure that none of the 73 million Americans who are now members of credit unions have their membership status threatened in any way.

CREDIT UNIONS WORK FOR THE LITTLE GUY

People love their credit unions and why? Because credit unions take care of the little guy. This Senator is committed to not let these people down.

We must pass this legislation and have it enacted to preserve the right of Americans to be members of a credit union.

CREDIT UNIONS INVEST IN PEOPLE AND COMMUNITIES WHEN OTHERS WILL NOT

For decades, the American dream has been made a reality by credit unions. These cooperatives have reached out to individuals, associations and communities that have had the door slammed in their faces by other institutions. Tens of millions of hard working people have improved their quality of life and passed the benefits along to their families, but all of that could change if we don't act.

CREDIT UNIONS PROVIDE BASIC FINANCIAL SERVICES WITHOUT EXCESSIVE FEES

Mr. President, I know this is a very personal issue, a pocketbook issue, for the over 70 million current members. For example, many people may not be aware that—

Credit unions have had the highest customer service and satisfaction ranking of any depository institution for the past 14 years.

Credit unions offer more services at lower costs than most banks.

Credit union competition is a major force keeping bank service fees and loan rates lower, and interest on savings higher.

Why such amazing support for a financial institution? The answer is simple. Credit unions are for the little guy. Credit unions make a difference.

CREDIT UNIONS PUT CONSUMERS FIRST

To their customers, credit unions are far more than just a safe place to put away a few dollars for tomorrow. Making a deposit or withdrawal is more than just a business transaction.

A credit union has an atmosphere that says friendship and family. The elected leadership is made up of volunteers who actually listen. Tellers actually talk to their customers. With service like that, why wouldn't customers like going to their credit union? It's all about neighbors and fellow employees getting together, working together and investing together for everyone's benefit. Just ask any credit union member.

Mr. President, let me emphasize that those who support credit unions are not anti-bank. After all, many credit union members also have bank accounts. And it also deserves comment that—without any cost to the taxpayer—credit unions have weathered the serious economic downturns that have affected other financial providers. And that's something to be proud of.

Mr. President, the Senate should follow the House vote of 411 to 8 to act to save credit unions based on the principle that competition is beneficial. Without competition, interest rates paid to customers would be lower and loans and ATM fees would be more expensive. Congress should only act in ways that would increase competition between financial institutions.

CREDIT UNIONS CARE ABOUT HARD WORKING AMERICANS

As a matter of principle, it should also be the responsibility of Congress to put the consumer first. We should pass legislation that is all about what is best for individuals, small businesses, large businesses and anyone who needs the services of a financial institution. And that means no one—no one—should be thrown out of a credit union and then forced to do business with another financial institution against their will.

This Senator intends to make sure that does not happen.

Mr. President, hardworking families have a right to choices and opportunities. People with savings of less than $1,000—individuals who struggle each week to pay the mortgage, put food on the table, and put something away for the future—deserve the same financial choices and opportunities that other Americans enjoy. Credit unions are good for the consumer and good for the country.

Mr. President, credit unions work for working families.

Mr. President, again I urge my colleagues to support this legislation and vote to pass H.R. 1151, the Credit Union Membership Access Act as our colleagues did in the House with an overwhelming vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

Mr. FORD. I announce that the Senator from Iowa (Mr. HARKIN) is absent due to a death in family.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote "aye."

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—92

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hollings
Hutchinson
Hutchison
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—6

Coats
Hagel
Inhofe
Mack
Nickles
Roberts

NOT VOTING—2

Harkin
Helms

The bill (H.R. 1151), as amended, was passed.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I thank all of my colleagues, not only for the final vote on this important legislation, but for the manner in which an excellent debate was conducted. I very much appreciate Senator LOTT scheduling this important bill. But a special commendation is in order to a number of people, starting with the ranking member, my friend, Senator SARBANES. I thank him for his steadfast support in developing the opportunity for Members to be heard, and for Members to have their concerns listened to, and debated, resulting in final passage of the bill, notwithstanding some very contentious issues. I believe that the credit unions, not only of Maryland but of this country, have a demonstrated champion in Senator SARBANES.

The fact is that credit unions support the little guy. Historically, credit unions have invested in people and in communities when others would not—yes, when others would not.

Credit unions have provided the basic financial services without excessive fees, and they continue to do that. We need them in this day of consolidations and megamergers to be out there to service all communities, especially the small communities and, again, the little guy. I don't mean "little" in terms of size and stature, because they are the hard-working, middle-class Americans who are the backbone of this country. Indeed, they set a standard and they challenge, even when others don't like that challenge.

And likewise, there may be unfair burdens on some of the community banks, and we have to deal with that challenge. But you don't do it at the expense of an organization of the thousands and thousands of credit unions and the hundreds and hundreds of members who work in these credit unions on a voluntary basis, without pay, and in many cases, without any compensation. Yes, truly, America can be proud of our credit unions. Credit unions care about hard-working Americans.

None of this could have been possible without staff because I believe that we have had the best staff that anyone could have, both Republicans and Democrats, working to bring about substantial improvements over the legislation that came from the House—I mean substantial.

For the first time, we set rigorous standards to protect the taxpayers of the United States—that is right—to protect them. For the first time, we limit—and I think prudently so—commercial lending activities that credit unions can undertake while giving them the opportunity to continue doing so and to continue serving their communities. And again, I believe we applied limits to commercial lending in a prudent manner.

Mr. President, I take this opportunity to thank the hard-working staff, a bipartisan staff. I want to acknowledge Senator SARBANES' staff—Steve Harris and Marty Gruenberg and Dean Shahinian. And Phil Bechtel, Madelyn Simmons, Rachel Forward, and our staff director Howard Menell, I thank them for their hard work on this bill. They have done a unique job in working together, never allowing political differences to interfere with the people's work.

Let me say, Mr. President, that the House is to be applauded for moving so speedily on their legislation. I hope that they will accept the improvements that we have made without the necessity of going to conference. Representatives KANJORSKI and LATOURETTE took the lead on this bill in the House. I am hopeful they will view the Senate's well-considered modifications to the original bill as positive changes to enhance the safety and soundness of credit unions and expedite the enactment of this legislation.

I also commend Chairman LEACH and the House leadership in sending us H.R. 1151 as speedily as they did, because were we not to have gotten it in such a timely manner, we could never have completed the legislative changes that we have made part of the legislation.

Mr. President, again, I thank all of my colleagues for their outstanding work and for their cooperation, notwithstanding the differences that may have existed. We passed a good bill for working Americans.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Maryland.

Mr. SARBANES. Mr. President, first of all, I express my appreciation to the distinguished chairman for his very kind remarks about my efforts with respect to this legislation. But I really want to underscore the very skillful leadership which Chairman D'AMATO provided in helping to move the bill through the committee and then through the Senate on the Senate floor.

This was not a bill without significant controversy in it. I think the committee worked out a balanced package and preserved most of it on the Senate floor—I regret not all of it. But in any event, I think the legislation we now have passed is a reaffirmation for the credit union movement of their important role in serving consumers.

When the cooperative movement was established in the early part of the century, it was premised on the proposition that individuals coming together, "small people," would gain access to credit; that the credit union movement would remain concerned and dedicated to their needs and would provide them an opportunity to share in the American economy.

Credit unions, by and large, have done a good job of that over the years. And this legislation, I think, will enable them to continue to do a good job. It has important safety and soundness provisions in it, the consequence of a very comprehensive and thorough Treasury study on the basis of which the committee was able to incorporate into the legislation some very important safeguards.

But I say to the credit union movement: We worked very hard in the aftermath of the Supreme Court decision which, of course, cast a pall over the credit union movement. It really raised very severe questions as to what the future of the credit union movement would be. This legislation has answered that question.

But I think implicit on the part of the Congress, in answering that question, is that credit unions will redouble their efforts in terms of serving the purposes for which they were established.

Some have criticized the credit union movement. They say they are getting away from those purposes. I am frank to say I do not think that is generally true of the credit union movement. I think you can point to isolated exceptions. And I only raise the warning flag that to the extent those exist, they tarnish the image of the credit union movement in the eyes of many.

So with this legislation, which has given them a path to move forward, a firm and secure path to move forward, I look forward to the credit union movement reaffirming its basic and original purposes and look forward to continuing to try to work closely with them in achieving those objectives.

I, too, like the chairman, express my very deep appreciation to the staff on both sides, to Howard Menell and Phil Bechtel and Rachel Forward and Madelyn Simmons on the Republican side—we depend very heavily on our staff; they are extremely competent and dedicated; they were in here many nights, late into morning hours in order to help put this legislation together—and Steve Harris and Marty Gruenberg and Dean Shahinian and Mike Beresik on our side of the aisle.

We were able to work together in a cooperative and positive and constructive manner on this legislation. I always look forward to those opportunities with the chairman. It is not always possible. Usually when it is not possible, we set up a separate committee to deal with the issues and work within our own committee.

I close, again, by commending the chairman for a very skillful job in helping to move this legislation through the Senate.

Mr. President, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to proceed—I tell my colleagues I will be very brief—as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JOHN GIBSON AND JACOB CHESTNUT

Mr. LEAHY. Mr. President, much has been said on the Senate and the House floor about John Gibson and Jacob "J.J." Chestnut, two police officers on the Capitol Police Force. And much more will be said. I add my words of praise and appreciation to both of them.

I knew both these police officers. Officer Chestnut—J.J.—would see us come through the Senate at several different times, and he would tell me a member of my family has already gone through because he had seen them, or conversely, if they came through he would tell them where I was.

Detective Gibson traveled with many of us at different occasions. He even came to one, I believe, with the "Singing Senators" from the other side of the aisle. He was the man who at events where Senators would gather, would be there because he would recognize not only the Senators, but their spouses; would wave them on through, would greet them, would make them know they were among friends. We always knew we were.

Mr. President, I have been a Senator now for nearly 24 years. I walk into this building every day that we are in session, many when we are not. I have gotten to know many of the police officers, and so many others, the hundreds of people that make this body run, make this Capitol run.

This truly is a death in the family.

Even if I had not known the officers as I did, I would feel that way. But knowing them in some ways makes it even sadder, more poignant, more difficult.

I love the Senate and I love the symbol of democracy that our Capitol holds to the public. To see this terrible, terrible thing happen in something that means so much to all of us, it is almost impossible to describe my feelings.

My wife and I had flown to Vermont last Friday. We got to my office in Burlington and were there only a matter of minutes and heard the news. Much of the rest of the evening was a blur, just sitting in our farmhouse watching the news and not believing it.

Probably the greatest tribute to two brave police officers was the fact that this Capitol, this symbol of democracy not only to our own Nation of a quarter of a billion people but to the rest of the world, this Capitol was open almost immediately thereafter.

There is no way we could bring these officers back. It is a tragedy that will be felt by their spouses and their children, in one case, grandchildren, for the rest of their lives. No matter what we do as Members of the Senate or the House, we cannot bring them back to their families. We can only offer our profound sympathy to their families. It is a sympathy that is felt deeply by every single Member of the Congress, Republican or Democrat. It makes no difference whether they have been here a long time or a short time. Our hearts go out as human beings to the families of these officers.

What we have done in immediately reopening the Capitol, in saying to the public today they can walk in here at any time as they do in the galleries today, we are saying to those officers that your deaths were not in vain. Think, Mr. President, what a different country this would be if somehow this Capitol, this symbol of democracy, was closed down. Think what it would be like if the public, not only Americans but those visiting from around the world, think what it would be like if they could not come into this Capitol, as I did when I was a law student here in Washington or when I first came here with my parents as a teenager. If we could not be here, the public could not come in and see us debate great matters and tiny matters, they could not see that.

Mr. President, at the time of the breakup of the Soviet Union, I remember so many who came here and met with all of us and asked, "How does your democracy work," and they told me—I heard this over and over again—that they would see the picture of our Capitol when they came to Washington, that was the thing they recognized before anything else. They said they saw it sitting up here.

I have been coming to this Capitol Building as a Senator for 24 years. I feel a thrill every time I come up here. I hope I always will because I know it represents democracy. These two brave officers, just like the hundreds of other men and women who guard these Halls, they keep it open. Let's hope they always will. Let us hope that we always have the courage to do that. Then the lives that every one of us would pray we could bring to the family, those lives would not be lost in vain.

Like some others in this body, I had the privilege to serve in law enforcement for years before coming here. I know how all of us felt in law enforcement at that time if one of our own was cut down. I think if you have not served in law enforcement it is almost impossible to explain to the American public how other law enforcement officials feel when they lose one of their own. I know how the men and women in the police force here on Capitol Hill feel, but also how they feel all over the Nation. This is a loss. This is a family, a fraternity, a sorority. It is something that binds all law enforcement people together.

I am joined with every single person who works on Capitol Hill in an expression of appreciation to them and to everybody who responded—all the police officers responded, medical personnel responded. I will take just 1 minute more to express my personal appreciation to Senator BILL FRIST for what he did. I spoke with Senator FRIST yesterday and told him how much his actions meant to me, to my wife, who is a registered nurse. She knows when something like this happens, if you are a medical personnel, you respond. But he responded not only with his great skill as a cardiac surgeon, he responded when there was gunfire erupting only moments before and there might have been more, with no thought to his safety, but thinking of only those who may have been injured.

Mr. President, it is a sad day. Let us say also it is a proud day to our country because this symbol of democracy will not be closed down by the actions of one deranged American, any more than it was in the 1980s when the bomb went off outside this Chamber at night just minutes after we recessed. I remember so well the next morning, every single one of us was in our seats. We were here to show we wouldn't stay home. And we will be here today, as will the President and the Vice President, all of the House and Senate leadership, and the Members, to show nothing closes us down.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—H.R. 4250

Mr. CAMPBELL. Mr. President, I understand that H.R. 4250, the Patient Protections Act, has arrived from the House and is now at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4250) to provide new patient protections under group health plans.

Mr. CAMPBELL. I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

Mr. CAMPBELL. Mr. President, I now ask unanimous consent that the Senate now proceed to the consideration of S. 2312, the Treasury-Postal appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 2312) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill.

Mr. CAMPBELL. Mr. President, I am pleased to lay before the Senate the committee recommendation for the

Treasury Department, the Postal Service, the Executive Office of the President, and various independent agencies. The bill crafted by the Subcommittee on Treasury, Postal Service, and General Government contains a total of $29,923,547,000 in new budget authority.

Of that amount, $13,613,547,000 is in mandatory accounts, and $3,250,000,000 is provided for much-needed funding for all Federal agencies to address the year 2000, or Y2K, computer problem, contingent upon an emergency designation by the administration.

The committee recommendation is within the 302(b) allocations and strikes a delicate balance between congressional priorities, administrative initiatives, and agency needs. This would not have been possible without the hard work and cooperation from my friend and colleague, Senator KOHL, the subcommittee ranking member, and his staff. It was not easy to strike this balance while staying within our mutually agreed-upon fiscal constraints. As most of our colleagues are aware, approximately 80 percent of the accounts in this bill are for salaries and expenses, meeting those needs, and increasing our flexibility to fund new initiatives and congressional priorities.

The committee recommends a funding of $11,555,000,137 for title I for the Department of the Treasury. This is $176.653 million more than the fiscal year 1998 enacted level. The committee has again placed a priority on promoting the Treasury's law enforcement, ensuring that they can hire, train, and retrain the best of Federal law enforcement, while at the same time support efforts by State and local law enforcement.

There are some provisions of title I that I would like to highlight for colleagues. This bill includes $132 million for law enforcement initiatives through the violent crime reduction trust fund, known as the VCRTF; continuation and expansion of the Gang Resistance Education And Training Program, called the GREAT Program—to help our young people develop the skills to stay out of trouble; $27 million to continue and expand the Youth Crime Gun Interdiction Initiative—to allow Federal, State, and local law enforcement to stem the tide of illegal firearms trafficking to the youth of this country. It includes doubling a staff level for the Customs Service antichild pornography efforts; full funding for Southwest border technology enhancements and staffing; additional funding for the IRS for much-needed customer service initiatives.

In title II, the committee recommends an appropriation of $71.195 million for the U.S. Postal Service. Under the provisions of this bill, the Postal Service is required to provide free mailing for overseas voters and the blind, maintain 6-day delivery and rural delivery, as well as prohibited from consolidating or closing small and rural post offices.

Title III is the Executive Office of the President and funds appropriated to the President. The total recommendation for title III is $3,838,441,000. This includes the White House Office, the Office of Management and Budget, the Office of the National Drug Control Policy, the Federal drug control programs, and funding for the National Antidrug Media Campaign. Also included is the information technology system and related expenses account to deal with the year 2000 problems.

Of special note are: $13 million for the continuation of the technology transfer program under the drug czar's office—to allow State and local law enforcement to benefit from research and development; $175 million to continue the National Antidrug Media Campaign; continued funding for high-intensity drug trafficking areas, known as HIDTAs.

Title IV is independent agencies such as the Federal Election Commission, General Services Administration, and the National Archives, in addition to agencies involved in Federal employment, such as the Federal Labor Relations Authority, the Merit Systems Protection Board, the Office of Government Ethics, the Office of Personnel Management, and the Office of Special Counsel. The committee recommends $14,458,969,000 for this title.

Of particular interest to many of our colleagues is the funding level for the General Services Administration, which includes $500 million for new courthouse construction.

In order to stay within the 302(b) allocations, we were forced to make many difficult decisions regarding outlays. Although I know this is not unique to the Treasury and General Government Subcommittee, our outlays allocations forced us to make difficult choices, which we would not have otherwise made.

This bill deserves the support of the Senate. I believe I can honestly say that although not everybody got what they wanted, we did our best to accommodate all of our colleagues' requests. I must remind my colleagues that if you are considering any additional spending in this bill, it must be offset.

Finally, none of this would have been possible without the work and support of Senator KOHL. I particularly thank Barbara Retzlaff of his staff, who consistently brings her knowledge and expertise to this bill, and also our own staff, Pat Raymond, Tammy Perrin and Lula Edwards, who have worked so hard and so many evenings on this bill.

At this time, I yield the floor to my friend, Senator KOHL.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, before I get started, I express my deep sympathy to the families of Officers John Gibson and Jacob Chestnut. I also want to express my thanks to these brave heroes and to all the other law enforcement officers here in the Capitol and all over our great country who put their lives on the line every day to keep the rest of us safe. The two fallen officers are true heroes. They died protecting the Nation's most precious symbol of democracy and protecting the people who work here and who visit here. I hope their families take some comfort in the deep respect, gratitude, and pride all of us here feel for their acts of bravery.

Mr. President, I thank Senator CAMPBELL for his dedication to resolving many issues, large and small, on this Treasury and General Government appropriations bill.

Throughout this process, he has forged a cooperative relationship not only with me, but with all of the subcommittee members. Throughout his cooperative approach, we were able to work out a reasonable balance among the many programs and activities under the jurisdiction of this subcommittee. In addition, I want to acknowledge the very fine work of the chairman's staff, including Pat Raymond, Tammy Perrin, and Lula Edwards.

As Senator CAMPBELL mentioned, the Treasury and General Government appropriations bill continues and expands many investments in our future. Just for example, the Internal Revenue Service funding level is of critical importance. By passing the IRS restructuring legislation, Congress sent a clear message to the public and to the IRS that it is time for the IRS to provide American taxpayers with the kind of service they have a right to expect. In response, IRS is undertaking its most profound restructuring in more than 40 years. From business practices to organizational structure, the IRS of the future will act differently than the agency we know today.

This appropriations bill provides the IRS over $7.8 billion to continue basic operations while initiating these changes. These funds will launch the new customer service initiatives, the submission and processing of investments, and the compliance research systems requested by the administration. The funding level will let the IRS revamp its business practices so IRS staff can focus on understanding, solving, and preventing taxpayer problems.

To effectively update the Federal Government's computer system for the century date change, the committee added $3.2 billion to the Treasury and General Government appropriations bill. This work must be completed in the next 12 months, so money must reach all Federal agencies quickly. By including this emergency funding, the committee provides the Federal Government with the tools it needs to ensure that critical Government functions continue smoothly.

Law enforcement activities are another important part of this bill, and the committee has provided over $3 billion to continue and expand these programs. Included in this funding level is full funding for the GREAT Program, which provides local police departments the resources necessary to help children avoid the temptation of gangs or drugs; the Youth Crime Gun Interdiction Initiative, which traces illegal guns and establishes State and local links necessary to end gun trafficking and youth and gang-related violence; and the Customs' Child Pornography and Cyber Smuggling Program, which prevents illegal trafficking and distribution of child pornography both into and throughout the United States.

The Office of National Drug Control Policy's media campaign receives continued funding of $175 million in this bill. This is the second year of a 5-year program aimed at changing attitudes towards drugs. The committee hopes to see dramatic results from this investment—an investment that is four times greater than the funding provided for GREAT, Youth Gun Crime, and Child Pornography Prevention Programs combined.

Finally, I want to talk about the Federal Election Commission. This bill provides the FEC with $33.7 million. This is $2.8 million less than the funding provided by the House, and I hope we will bring the funding level up to the House figure. The need for this funding is clear. In congressional testimony earlier this year, FEC officials said they were forced to drop more than 100 cases because they did not have enough people to handle the caseload.

As you all know, Congress has not been able to agree on campaign finance reforms. But we all agree that the current law must be enforced. And that cannot happen without a fully funded FEC.

In an era of explosive spending on campaigns through innumerable avenues, both legal and illegal, we owe it to the American people to fully fund the only campaign watchdog we have.

Finally, we have tried to accommodate numerous requests for funds while remaining within the funding restrictions imposed by the subcommittee allocation. Although we are required to make substantial reductions in the President's request level, I believe that programmatic funding levels included in this bill are fiscally responsible and very reasonable.

I thank the Chair. I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the following individuals have floor privileges for the duration of the consideration of S. 2312, the Treasury, Postal Service, and General Government appropriations bill for fiscal year 1999: Ms. Tammy Perrin and Ms. Lula Edwards.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, before I send the first amendment to the desk, I would like to associate myself with the remarks made by Senator LEAHY, whom I found to be very poignant and very moving in his tribute to the two slain officers.

Today, Mr. President, is sad day indeed for the congressional family, because in just 30 minutes—in fact, a little less than that—we will all participate in a memorial for Detective John Gibson and Officer "J.J." Jacob Joseph Chestnut, who gave their lives in the line of duty this past Friday.

In fact, the Capitol Police patch which I wear today in memory and honor was given to me by Detective Gibson just a few weeks ago. As late as 2 weeks ago, he was kind enough to come out all the way to Dulles Airport when I had a delayed flight and get me here on time for a vote on Monday night.

I was a military policeman, Mr. President, and a deputy sheriff in my younger days. Like most former law enforcement officers, like Senator LEAHY was, perhaps the death of these two wonderful men touched us in a very special way, because for law enforcement people, when a law enforcement officer is killed, it is not like losing a stranger or a colleague, it is like losing a brother or a sister.

But our system of democracy mandates that our citizens, who own this building, have a right to enter it at any time. I think that is the way it should be. Most of us want to keep it that way, as Senator KOHL has alluded to.

Today, however, we debate the Treasury, Postal, and General Government appropriations bill. This bill, above any bill with which we have wrestled, determines the use of and restrictions on firearms. The framers of the Constitution, I believe, could never have foreseen the nuances that have come into play in modern America when we discuss our second amendment rights.

Mr. President, in this very saddened atmosphere in which we bring our bill to the floor, I suppose some of our colleagues may be tempted in the heat of the time to load this bill down with gun amendments. I, frankly, hope that does not happen. It may be the right issue. It may be the right place to talk about them. But this is not the right time. To use this bill as a vehicle for any rush to judgment with those amendments, or to use it as an anti-second amendment platform, I think would be inappropriate and unwise.

No one is more saddened at the loss of our two officer heroes than I am. But I would like to tell my colleagues who are watching these proceedings in their offices now that I intend to move to table any gun amendments that may be offered during this tragic time.

AMENDMENT NO. 3340

Mr. CAMPBELL. With that, Mr. President, I send the first amendment to the desk on behalf of Senator FAIRCLOTH, Senator KOHL, and myself.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Colorado [Mr. CAMPBELL], for himself, Mr. FAIRCLOTH, and Mr. KOHL, proposes an amendment numbered 3340.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Strike Section 639 on pages 96 and 97 in its entirety and insert in lieu thereof the following:
>
> "SEC. 639. For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1999 in the rates of basic pay for the statutory pay systems.".

Mr. CAMPBELL. Mr. President, in January of 1999 the rank-and-file Federal employees will automatically receive a salary adjustment based upon the employment cost index. Most people refer to this as the COLA. Some simply call it a pay raise.

Under current law, a similar adjustment is made to the salaries of senior-level Federal employees, Members of Congress, and Federal judges also. This adjustment is automatic under the provisions of the Ethics Reform Act of 1989, unless Congress takes an affirmative action to block the increase.

The bill before us today includes the language to prevent the automatic pay adjustment from going into effect in January for Members of Congress, Federal judges, and senior-level employees of the executive branch.

The text of the provision is slightly different from that which passed the House of Representatives and, therefore, makes it a conferenceable item.

This amendment which we offer today makes that provision identical to the House-passed version.

I am happy to yield to my colleague, Senator KOHL, if he has any statement on this.

Mr. KOHL. Mr. President, I agree with the comments of Senator CAMPBELL.

Mr. CAMPBELL. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 3340) was agreed to.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KOHL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3341 THROUGH 3346, EN BLOC

Mr. CAMPBELL. Mr. President, I send to the desk the managers' package of amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. CAMPBELL), proposes amendments numbered 3341 through 3346 en bloc.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments, en bloc, are as follows:

AMENDMENT NO. 3341

At the appropriate place at the end of title I, insert:

Sec. ___. Section 921(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "the explosive in a fixed shotgun shell" and insert "an explosive";

(2) in paragraph (7), by striking "the explosive in a fixed metallic cartridge" and inserting "an explosive"; and

(3) by striking paragraph (16) and inserting the following:

"(16) The term 'antique firearm'—

"(A) means any—

"(i) firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

"(ii) replica of any firearm described in clause (i), if such replica—

"(I) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

"(II) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade; and

"(iii) muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, that—

"(I) is designed to use black powder, or a black powder substitute; and

"(II) cannot use fixed ammunition; and

"(B) does not include any—

"(i) weapon that incorporates a firearm frame or receiver;

"(ii) firearm that is converted into a muzzle loading weapon; or

"(iii) muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.".

Mr. GRASSLEY. Mr. President, I wish to make a few comments on the muzzle loader amendment which we are considering.

The purpose of the amendment is to exempt certain muzzle loading weapons from regulation under the Gun Control Act (GCA), 18 U.S.C. Chapter 44. Under current law, "antique firearms" are exempted from the definition of "firearm" in section 921(a)(3) of the GCA and are, therefore, not subject to the interstate controls, licensing provisions, record keeping requirements, or restrictions on possession that apply to firearms. Thus, antique firearms can be sold interstate via mail-order, no records of their sale are kept, and they may be lawfully possessed by any U.S. citizen. The existing definition of "antique firearm" exempts firearms manufactured in or before 1898, replicas of such firearms that utilize matchlock, flintlock, percussion cap, or other primitive types of ignition systems including primers and battery cup primers and other replica firearms that utilize ammunition that is no longer available in commercial channels.

In recent years, there has been a strong increase in popularity in hunting and target shooting involving muzzle loading firearms which could not have been foreseen when the current law was written. As in any other sporting equipment, the technology was refined to provide safer and more reliable equipment, much like the compound bow evolved from the original long bow. Most states now offer a muzzle loading hunting season to improve deer herd management. There have been numerous technological improvements in muzzle loading weapons, including safer propellant, safety mechanism, projectiles, and ignition systems.

As is the case with the compound bow, many of the muzzle loading weapons now produced bear little physical resemblance to traditional antique firearms produced prior to 1898. Significantly, they all require the placing of a propellant down the barrel, pushing a bullet down the barrel on top of the powder, then placing an ignition system behind the powder just as all muzzle loaders have for more than 100 years. Since the BATF has determined that certain of these weapons are not "replicas" under the definition of "antique firearms", they are regulated as "firearms" under the GCA. The BATF has restricted only one inline muzzle loader, the Knight DISC rifle, which is produced in my home state of Iowa, even though Remington states that their muzzle loader is built from their 700 Centerfire.

The amendment would expand the definition of the term "antique firearm" to encompass these modern muzzle loading sporting firearms used by hunters, target shooters, and other sportsmen. The amendment would include within the definition of "antique firearm" a weapon that: (1) is a muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol; (2) is designed to use black powder or a black powder substitute; (3) uses any ignition system; (4) cannot use fixed ammunition; (5) does not use the serial numbered frame or receiver of a firearm; (6) has not been converted from a firearm; and (7) cannot be readily converted to fire fixed ammunition by replacing the barrel, bolt, or breechlock.

The language requiring that the antique firearm not use the frame or receiver of a serial numbered firearm, not be converted from a firearm, and cannot be readily converted to fire fixed ammunition is to prevent the conversion of modern firearms into percussion cap "antique firearms". BATF is concerned that, without this language, various single shot, bolt action, slide action and semi-automatic weapons, and even certain machine guns, could be converted into muzzle loading weapons and then converted back to fire conventional fixed ammunition merely by replacing the barrel or other components. The weapon could then be sold as an "antique firearm" without any GCA controls. Many components which alter the form and function of firearms are available to be easily converted from one form of firearm to another. However, there are no products currently in commercial trade which would convert a muzzle loader to a firearm or a firearm to a muzzle loader.

Since the amendment is limited to muzzle loading rifles, muzzle loading shotguns, and muzzle loading pistols, it would not allow grenade launchers, bazookas, machine guns, or anti-tank guns to be excluded from the regulation. Also, since this amendment will be adopted on the floor, there isn't any report language to assist courts and industry in interpreting the status of muzzle loaders. I hope my comments will serve this purpose.

AMENDMENT NO. 3342

(Purpose: to appropriately reflect the liquidation of debt)

At the appropriate place, strike and insert the following: Page 11, on line 23 strike "$2,854,000,000" and insert in lieu thereof "$3,317,690,000".

AMENDMENT NO. 3343

(Purpose: To provide for reform of the overtime pay of Federal firefighters, and for other purposes)

At the end of title VI add the following new section:

SEC. ___. FEDERAL FIREFIGHTERS OVERTIME PAY REFORM ACT OF 1998.

(a) In General.—Subchapter V of chapter 55 of title 5, United States Code, is amended—

(1) in section 5542 by adding at the end the following new subsection:

"(f) In applying subsection (a) of this section with respect to a firefighter who is subject to section 5545b—

"(1) such subsection shall be deemed to apply to hours of work officially ordered or approved in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computation, in excess of 53 hours in an administrative workweek; and

"(2) the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay under section 5545b (b)(1)(A) or (c)(1)(B), as applicable, and such overtime hourly rate of pay may not be less than such hourly rate of basic pay in applying the limitation on the overtime rate provided in paragraph (2) of such subsection (a)."; and

(2) by inserting after section 5545a the following new section:

"§ 5545b. Pay for firefighters

"(a) This section applies to an employee whose position is classified in the firefighter occupation in conformance with the GS–081 standard published by the Office of Personnel Management, and whose normal work schedule, as in effect throughout the year, consists of regular tours of duty which average at least 106 hours per biweekly pay period.

"(b)(1) If the regular tour of duty of a firefighter subject to this section generally consists of 24-hour shifts, rather than a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

"(A) paragraph (1) of such section shall be deemed to require that the annual rate be divided by 2756 to derive the hourly rate; and

"(B) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on the hourly rate under subparagraph (A);

"(2) For the purpose of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(A)) for all hours in such firefighter's regular tour of duty (including overtime hours).

"(c)(1) If the regular tour of duty of a firefighter subject to this section includes a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

"(A) the provisions of such section shall apply to the hours within the basic 40-hour workweek;

"(B) for hours outside the basic 40-hour workweek, such section shall be deemed to require that the hourly rate be derived by dividing the annual rate by 2756; and

"(C) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on subparagraphs (A) and (B), as each applies to the hours involved.

"(2) For purposes of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include—

"(A) an amount computed under paragraph (1)(A) for the hours within the basic 40-hour workweek; and

"(B) an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(B)) for all hours outside the basic 40-hour workweek that are within such firefighter's regular tour of duty (including overtime hours).

"(d)(1) A firefighter who is subject to this section shall receive overtime pay in accordance with section 5542, but shall not receive premium pay provided by other provisions of this subchapter.

"(2) For the purpose of applying section 7(k) of the Fair Labor Standards Act of 1938 to a firefighter who is subject to this section, no violation referred to in such section 7(k) shall be deemed to have occurred if the requirements of section 5542(a) are met, applying section 5542(a) as provided in subsection (f) of that section. The overtime hourly rate of pay for such firefighter shall in all cases be an amount equal to one and one-half times the firefighter's hourly rate of basic pay under subsection (b)(1)(A) or (c)(1)(B) of this section, as applicable.

"(3) The Office of Personnel Management may prescribe regulations, with respect to firefighters subject to this section, that would permit an agency to reduce or eliminate the variation in the amount of firefighters' biweekly pay caused by work scheduling cycles that result in varying hours in the regular tours of duty from pay period to pay period. Under such regulations, the pay that a firefighter would otherwise receive for regular tours of duty over the work scheduling cycle shall, to the extent practicable, remain unaffected.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5545a the following:

"5545b. Pay for firefighters.".

(c) TRAINING.—Section 4109 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (a)(1), a firefighter who is subject to section 5545b of this title shall be paid basic pay and overtime pay for the firefighter's regular tour of duty while attending agency sanctioned training.".

(d) INCLUSION IN BASIC PAY FOR FEDERAL RETIREMENT.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking "and" after subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (G);

(3) by inserting the following:

"(E) with respect to a criminal investigator, availability pay under section 5545a of this title;

"(F) pay as provided in section 5545b (b)(2) and (c)(2); and "; and

(4) by striking "subparagraphs (B), (C), (D), and (E)" and inserting "subparagraphs (B) through (G)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period which begins on or after the later of October 1, 1998, or the 180th day following the date of enactment of this section.

(f) REGULATIONS.—Under regulations prescribed by the Office of Personnel Management, a firefighter subject to section 5545b of title 5, United States Code, as added by this section, whose regular tours of duty average 60 hours or less per workweek and do not include a basic 40-hour workweek, shall, upon implementation of this section, be granted an increase in basic pay equal to 2 step-increases of the applicable General Schedule grade, and such increase shall not be an equivalent increase in pay. If such increase results in a change to a longer waiting period for the firefighter's next step increase, the firefighter shall be credited with an additional year of service for the purpose of such waiting period. If such increase results in a rate of basic pay which is above the maximum rate of the applicable grade, such resulting pay rate shall be treated as a retained rate of basic pay in accordance with section 5363 of title 5, United States Code.

(g) NO REDUCTION IN REGULAR PAY.—Under regulations prescribed by the Office of Personnel Management, the regular pay (over the established work scheduling cycle) of a firefighter subject to section 5545b of title 5, United States Code, as added by this section, shall not be reduced as a result of the implementation of this section.

AMENDMENT NO. 3344

(Purpose: To amend chapter 36 of title 39, United States Code, to provide for an annual report on international services of the Postal Service)

At the appropriate place at the end of title VI, insert the following:

SEC. ___. INTERNATIONAL MAIL REPORTING REQUIREMENT.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by adding after section 3662 the following:

"§ 3663. Annual report on international services

"(a) Not later than July 1 of each year, the Postal Rate Commission shall transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes accrued by the Postal Service in connection with mail matter conveyed between the United States and other countries for the previous fiscal year.

"(b) Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. Data shall be provided in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for the analysis of rates for domestic mail.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 39, United States Code, is amended by adding after the item relating to section 3662 the following:

"3663. Annual report on international services.".

AMENDMENT NO. 3345

(Purpose: To express the sense of the Senate on the use of random selection of returns for examination by the Internal Revenue Service)

At the appropriate place at the end of title I, insert the following:

SEC. ___. SENSE OF THE SENATE ON THE USE OF RANDOM SELECTION OF RETURNS FOR EXAMINATION BY THE INTERNAL REVENUE SERVICE.

(a) FINDINGS.—The Senate finds that—

(1) in 1995, the Internal Revenue Service indefinitely postponed the 1994 Taxpayer Compliance Measurement Program, a program of audits using random selection techniques (in this section referred to as "random audits");

(2) Congress, taxpayer groups, tax practitioners, and others criticized the program because of its cost to and burden on taxpayers;

(3) there is no law preventing the Internal Revenue Service from resuming its Taxpayer Compliance Measurement Program; and

(4) random audits may be overly burdensome on taxpayers, particularly low-income taxpayers.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Service should make it a top priority to ensure fairness to taxpayers when selecting returns for audit;

(2) the Senate does not approve of the use of random audits of the general population of taxpayers or tax returns; and

(3) the Internal Revenue Service should not conduct random audits of the general population of taxpayers or tax returns.

AMENDMENT NO. 3346

(Purpose: To make modifications to language in Title III)

At the appropriate place, strike and insert the following:

On Page 40, line 25, after the word "campaign," strike through Page 41, line 16 through "campaign," and insert in lieu thereof "(3) ONDCP, or any agent acting on its behalf, may not obligate any funds for the creative development of advertisements from for-profit organizations, not including out-of-pocket production costs and talent re-use payments, unless (a) the advertisements are intended to reach a minority, ethnic or other special audience that cannot be obtained on a pro bono basis within the time frames required by ONDCP's advertising and buying agencies, and (b) it receives prior approval from the Senate Committee on Appropriations, (4) ONDCP will secure corporate sponsorship equaling 40 percent of the appropriated amount in fiscal year 1999, the definition of which is a contribution that is not received as a result of leveraging funds to receive said sponsorship, corporate sponsorship equaling 60 percent of the appropriated amount in fiscal year 2000, corporate sponsorship equaling 80 percent of the appropriated amount in fiscal year 2001, corporate sponsorship equaling 100 percent of the appropriated amount in fiscal year 2002, and will report quarterly on its efforts to meet this goal, (5) ONDCP is mandated to use appropriated funds solely to fund the anti-drug media campaign to include only the purchase of media time and space, talent re-use payments, out-of-pocket advertising production costs, testing and evaluation of advertising, evaluation of the effectiveness of the media campaign, the negotiated fees for the winning bidder on the request for proposal recently issued by ONDCP, partnership with community, civic, and professional groups, and government organizations related to the media campaign, entertainment industry collaborations to fashion anti-drug messages in movies, television programming, and popular music, interactive (Internet and new) media projects/activities, public information (News Media Outreach), and corporate sponsorship/participation, (6) ONDCP shall not obligate funds provided for the national media campaign for fiscal year 1999 until ONDCP has submitted the evaluation and results of Phase I of the campaign to the Senate Committee on Appropriations, and may obligate up to 75 percent of these funds until ONDCP has submitted the evaluation and results of Phase I of the campaign to the Committees,"

Mr. CAMPBELL. Mr. President, the package of amendments I have sent to the desk have been agreed to by both sides.

This package includes the following items:

Language regarding antique firearms regulation and an exemption for muzzle loader firearms under the Gun Control Act;

A technical correction regarding the Federal Financing Bank in order to reflect the true amount of debt accumulated;

Senator SARBANES language reforming Federal firefighter overtime pay;

Senators COCHRAN and STEVENS language on the Postal Service providing an annual report regarding international postal services;

A sense-of-the-Senate from Senator COVERDELL regarding the IRS and random audits;

Finally, the last is language changes relating to the drug czar's office media campaign and the programmatic goals of this campaign.

I yield to Senator KOHL.

Mr. KOHL. Mr. President, these are very good amendments. I support the amendments fully.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that these amendments be agreed to en bloc and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3341 through 3346) were agreed to.

AMENDMENT NO. 3347

(Purpose: To insert an omitted funding total in Title IV)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. CAMPBELL), for himself, and Mr. KOHL, proposes an amendment 3347.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following: On page 45, line 21 after "U.S.C. 490(f)), the " insert "$508,752,000 to be deposited into the Fund. The".

Mr. CAMPBELL. Mr. President, this amendment makes a technical correction to title IV under the General Services Administration's Federal Buildings Fund to list the amount we are appropriating in this fund.

Mr. KOHL. Mr. President, I support this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3347) was agreed to.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 12:15 p.m.

Thereupon, at 11:54 a.m., the Senate recessed until 12:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SESSIONS).

The PRESIDING OFFICER. The pending business is the Treasury and General Government appropriations bill, fiscal year 1999.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL ACTIVITIES INVENTORY REFORM ACT

Mr. THOMAS. Mr. President, there are a number of things that many of us feel to be very important in terms of principles. One of them is federalism, of course—making the appropriate division between those things that are done in State government and those things that are done in local government, and the role of Federal Government. Another, it seems to me, is to do those things that can be done in the private sector, and that has, indeed, been the policy of this Government for a very long time.

I rise today to express my deep appreciation for the members of the Senate Governmental Affairs Committee and staff for their time and effort in developing a consensus on my legislation to codify this 40-year-old Federal principle that has been in place.

In the beginning of this Congress, I introduced S. 314, the Freedom from Government Competition Act. This legislation is an attempt to put in statute a workable process by which the Federal Government utilizes the private sector to do those things that are commercial in nature. This, indeed, has been the policy of the Government for a very long time. In fact, as early as 1932, Congress first became aware of the fact that the Federal Government was starting to carry out activities of a commercial nature and said that is not necessary and we should not do that.

In 1954, a bill to address the issue passed the House and was reported by the Committee on Governmental Affairs. At that time, the Eisenhower administration said that we would take care of it administratively. Therefore, Bureau of the Budget Bulletin 55-4 was issued, and there was no further action taken.

To make a relatively long story short, all the administrations since that time in one way or another have endorsed the idea of taking those things that could at least as well be done in the private sector as in the Government, allowing for some competition.

There is a circular now called A-76 which has been endorsed since 1955. Unfortunately, it hasn't been enforced. Unfortunately, when it is only a bulletin or Executive order, there is no real appeal process. What we are seeking to do is to put that concept into statute—it has now been approved by the committee in the Senate; it has been approved by the committee in the House—that would simply say to agencies, we want you to take an annual inventory of those kinds of things that you do, those that are commercial in nature. There ought to be a fair opportunity for the private sector to seek to compete in those areas.

Mr. President, we hope that that will come before the Senate and the House before this session is over; that it would, indeed, be put in statute, that concept that has been there for a very long time, the notion simply being that the taxpayers benefit from the cost, and whoever can do this the most efficiently, whether it be mapping, whether it be laboratory work, whether it be all kinds of things that are often and always done in the private sector, that can be done better and more efficiently there, will, indeed, be done there.

To reiterate, that policy is now found in OMB Circular A–76 and has been endorsed by every administration, of both parties, since 1955. However, the degree of enthusiasm for implementation of the circular has varied from one administration to another. In fact, the issue of government competition has become so pervasive that all three sessions of the White House Conference on Small Business, held in 1980, 1986 and 1995, ranked this as one of the top problems facing America's small businesses. According to testimony we received, it is estimated that more than half-a-million Federal employees are engaged in activities that are commercial in nature.

However, the purpose of my legislation is not to bash Federal employees. I believe most are motivated by public service and are dedicated individuals. However, from a policy standpoint, I believe we have gone too far in defining the role of government and the private sector in our economy. Because A–76 is nonbinding and discretionary on the part of agencies, too many commercial activities have been started and carried out in Federal agencies. Because A–76 is not statutory, Congress has failed to exercise its oversight responsibilities. Further, by leaving "make or buy" decisions to agency managers, there has been no means to assure that agencies "govern" or restrict themselves to inherently governmental activities, rather than produce goods and services that can otherwise be performed in and obtained from the private sector.

Among the problems we have seen with Circular A–76 is (1) agencies do not develop accurate inventories of activities (2) they do not conduct the reviews outlined in the Circular, (3) when reviews are conducted they drag out over extended periods of time and (4) the criteria for the reviews are not fair and equitable. These are complaints we heard from the private sector, government employees, and in some cases from both.

In the 1980's our former colleague Senator Warren Rudman first introduced the "Freedom from Government Competition Act" in the Senate. Later, Representative JOHN J. DUNCAN, Jr. (R–TN) introduced similar legislation in the House. I was a cosponsor of that bill when I served in the other body. Upon my election to the Senate in the 104th Congress, I introduced the companion to Representative DUNCAN's bill in the Senate.

On Wednesday, July 15, 1998 the Senate Governmental Affairs Committee unanimously reported a version of S. 314 that is a result of many months of discussions among both the majority and minority on the committee, OMB, Federal employee unions and private sector organizations. The amendment in the nature of a substitute offered by Chairman FRED THOMPSON and approved by the committee is a consensus and a compromise.

It is important to point out that the bill that I introduced in the 104th Congress was an attempt to codify the original 1955 policy that the government should rely on the private sector. After a hearing on that bill was convened by Senator STEVENS, during his tenure as chairman of the Committee on Governmental Affairs, it became clear to me that it was necessary to add to the bill the concept of competition to determine whether government performance or private sector performance resulted in the best value to the American taxpayer. While S. 314 as introduced, and H.R. 716 introduced in the House, was still entitled the "Freedom from Government Competition Act," it in fact not only did not prevent government competition, but it mandated it. This was not a change that private sector organizations came to comfortably support. However, inasmuch as OMB Circular A–76 changed through the years from its original 1955 philosophical statement to its more recent iterations that required public-private competition, I revised my bill when introducing it last year to include such competitions, provided they in fact are conducted and that when conducted, they are fair and equitable comparisons carried out on a level playing field.

I would also hasten to add that the measure reported by the Senate Governmental Affairs Committee, which I hope will be promptly approved by the full Senate, is significantly different than S. 314 as introduced. While S. 314 as introduced was opposed by the administration and by the Federal employee unions, the compromise measure reported from the committee is not opposed by these groups.

Mr. President, this is important legislation that I believe will truly result in a government that works better and costs less. Certainly government agency officials should have the ability to contract with the private sector for goods and services needed for the conduct of government activities. This bill will not inhibit ability. However, it should not be the practice of the government to carry on commercial activities for months, years, even decades without reviewing whether such activities can be carried out in a more cost effective or efficient manner by the private sector. I believe that the drive to reduce the size and scope of the Federal Government will be successful only when we force the government to do less and allow the private sector to do more.

During the course of our hearings, it became abundantly clear that there are certain activities that the Federal Government has performed in-house which can and should be converted to the private sector. Areas such as architecture, engineering, surveying and mapping, laboratory testing, information technology, and laundry services have no place in government. These activities should be promptly transitioned to the private sector.

There are other activities in which a public-private competition should be conducted to determine which provider can deliver the best value to the taxpayer. This includes base and facility operation, campgrounds, and auctioning.

There are several key provisions in the bill upon which I would like to comment. In particular, section 2(d) requires the head of an agency to review the activities on his or her list of commercial activities "within a reasonable time". OMB strongly opposed a legislative timetable for conducting these reviews. As a result of the compromise language on this matter, it will be incumbent on OMB to make certain these reviews are indeed conducted in a reasonable time frame. These reviews should be scheduled and completed within months, not years. I will personally monitor progress on this matter, as will the Governmental Affairs Committee. I urge OMB to exercise strong oversight to assure timely implementation of this requirement by the agencies.

This provision also requires that agencies use a "competitive process" to select the source of goods or services. In my view, this term has the same meaning as "competitive procedure" as defined in Federal law (10 U.S.C. 2302(2) and 41 U.S.C. 259(b)). To the extent that a Government agency competes for work under this section of the bill, the government agency will be treated as any other contractor or offeror in order to assure that the competition is conducted on a level playing field.

Another issue that I have been concerned about is the proliferation of Interservice Support Agreement's (ISSA's). Under the "FAIR" Act, consistent with the Economy Act (31 U.S.C. 1535), items on the commercial inventory that have not been reviewed may not be performed for another federal agency. In addition, any item on the inventory cannot be provided to State or local governments unless there is a certification, pursuant to the Intergovernmental Cooperation Act (31 U.S.C. 6505(a)).

Enactment of the "FAIR" Act is a major achievement because it codifies a process to assure government reliance on the private sector to the maximum extent feasible. Further, it will put some teeth into Executive Order 12615 issued by President Reagan, which is still on the books today.

Again, I thank the members of the Senate Governmental Affairs Committee and the committee's staff, for all of the hard work necessary to forge this compromise. I look forward to working with them on thorough congressional oversight on the implementation of this bill.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mrs. FEINSTEIN. Mr. President, following my remarks, it will be my intention to offer an amendment to close a gaping loophole in legislation which we passed 4 years ago to make the streets of this country safe. That specific legislation was legislation that prohibited the manufacture and sale of 19 commonly used assault weapons, semiautomatic assault weapons, that have been used to kill police, used by grievance killers, used by gangs, used by cartels, used by drive-by shooters.

The legislation also contained provisions that sought to eliminate the sale and transfer of the high-capacity clips and magazines that would hold more than 10 rounds of ammunition. And, in fact, today it is illegal in this country to domestically manufacture and sell a new clip, drum or strip that was made in this country, except to the military, police, or for nuclear power plant protection. It has become evident that though this legislation has been successful in reducing the criminal use of the 19 banned assault weapons, the provisions in this law aimed at reducing the availability of these large-capacity ammunition feeding devices have been rendered ineffective.

At the request of the distinguished Senator from Idaho, who was on the floor a moment ago, the 1994 law grandfathered existing high-capacity clips which were manufactured before the effective date of the ban to allow those clips which had a bill of lading on them to enter the country and to allow dealers to recover their expenses by selling off their existing stocks. The same thing existed for assault weapons themselves.

The President and Secretary of the Treasury closed this loophole through his executive decision which used the 1968 law, which said that any weapon imported into this country must meet a sporting use test. And 1.6 million of these semiautomatic assault weapons were essentially cut off from importation. The thrust of the legislation was to eliminate the supply over time —not to prohibit possession, but over time, because there are so many of these weapons and clips in this country now, to cut down on their supply.

I will never forget, because the distinguished Senator from Idaho did approach me on the floor—we were standing right down in the well; I remember it as clear as if it was yesterday, although it was almost 5 years ago—and indicated that he was concerned about weapons that had a bill of lading on them which had been manufactured pre-assault weapons ban and which were in the process of transit into this country.

My point, Mr. President, is that now, 4 or 5 years later, the existing supply of these clips surely has been used up. However, foreign clips have continued to pour into the United States.

From July 1996 to March 1998, the Bureau of Alcohol, Tobacco and Firearms approved 2,500,000 large-capacity clips for importation into this country.

Recently, that number has skyrocketed even further. In just the last 5 months, BATF has approved permits for 8.1 million large-capacity clips for importation into America. That represents a 314-percent increase in one-fourth of the time.

These clips have been approved to come through at least 20 different countries. It is difficult to know the place of manufacture, but they come through 20 different countries into this country.

I would like to just quickly go through the countries that they come through. And there are some interesting things. Austria, Belgium, Chile, Costa Rica, Czech Republic, Denmark, England—and clips manufactured somewhere abroad come through Great Britain; there are actually 250-round magazines—250-round magazines—for sale in this country and 177-round magazines for sale in this country—Germany, Greece, Hungary, Indonesia, Israel, Italy, Nicaragua, South Africa, Switzerland, Taiwan, and Zimbabwe.

So the total is 8.8 million in two years approved to come in.

Unfortunately, there is virtually no reliable method to determine the date of manufacture on the millions of clips that the BATF has estimated are in circulation now in the United States. The inability to determine the date of manufacture is particularly true regarding the foreign importation of large-capacity magazines because BATF has no ability to independently determine whether such clips imported into the country are legal or illegal. It has allowed the continued importation of clips represented to be manufactured before the assault weapons ban took place.

Let me show you how this happened. Here is a clip from Shotgun News, dated February 1998: "Banned semiautomatics, Bulgarian SLR 95. 1 free 40-rd magazine with each purchase."

Here is another one: "Quality replacements, 30 rounds, the choice of the Canadian military. Will not bend or rust, $8.99 a clip."

Here is where you see the impact of, now, the foreign rounds: "30-rd East German"—East German-made—"Ribbed back, AK-47 magazines, $7.99."

Here is one: An "AK magazine special," coming with the pouch, "including 4 Chinese AK-47 30-rd magazines with pouch, $27.50." It also includes "four East German AK-47, 20 rd magazines with a pouch, $29.95."

Now, my staff called a shotgun store and asked to buy some of these magazines. The only question he was asked, "Is it legal to buy this stuff where you are"—he was in Washington, DC, where it is not legal to own a gun, and he said, "I don t know, as far as I know it is," and they said, "We will send it to you."

My point is, you can get these big clips very easily—on the phone, by mail order. And because now the supply of the domestic clips is running out, most of the clips being sold in this country are of foreign manufacture. So we have two sets. We have the domestic manufacturers prohibited. We have the sale and transfer of new clips prohibited. And you have the grandfather clause creating this gigantic loophole which allows these big clips to continue to come into the country.

In April of this year, President Clinton and Treasury Secretary Rubin closed one loophole created by this grandfather clause by blocking further importation of modified semiautomatic assault weapons. About 30 of us sent him a letter. We pointed out there were 1.6 million of these which received approval that were coming in from all over the world. The Treasury Department looked at the 1968 law, which requires all imported weapons to meet a sporting test, and decided that they don't meet this sporting test, and therefore the Executive order is in place and this importation has been prohibited. The remaining loophole to close is this loophole for the big clips. The amendment that we will shortly offer will do just that.

So the change to the law that I have proposed is simple: It would bar further imports of large-capacity clips and magazines, just as U.S. domestic manufacturers have been stopped from producing these magazines. This amendment would not—I repeat, not—ban further domestic sales and possession of large-capacity clips which are already legally in the United States. There are tens of millions of these already.

Now, let's talk about who uses these high-capacity clips. I pointed out, coming through Great Britain, there were ammunition-feeding devices carrying 250 rounds. You can expel 250 rounds before you have to reload. Do hunters use them? Do marksmen use them? Do skeet shooters use them? Do Olympic team members use them?

Let's take hunters. The answer is no, hunters don't use them. Most States limit the magazine capacity allowed for hunting, usually eight rounds or less. Federal law clearly outlines the ammunition magazine size limits for bird shooting. Federal law does not allow the use of a shotgun that has a capacity of more than three shells—one in the chamber and two in the magazine—when hunting migratory game birds.

How about the Olympic team and other competitive shooters? No.

So who really uses these large-capacity clips? Let me read a list of events that have taken place fairly recently. July, 1998, earlier this month, Rio Hondo, TX, a killing spree leaves five dead, including two Border Patrol officers. In one day, 24-year-old Ernest Moore killed four people in what police called a planned situation. He killed two people and wounded another in a private residence. Police at the scene recovered an MK–70 assault rifle and a 30-round clip. Approximately 30 minutes later, Moore fired as many as 100 rounds at law enforcement officers from a .223-caliber assault rifle. Two Border Patrol agents were killed at the scene and a sheriff's deputy was wounded.

That is who uses these big clips.

June 17, Coeur d'Alene, ID: A State trooper ambushed by merciless assassin. State trooper Linda Huff was ambushed and killed by a man wielding a 9-millimeter pistol with a 15-round clip. Police were not immediately certain why 34-year-old Scott David Yeager bicycled to the police station and fired 17 rounds at Huff in the rear parking lot. Investigators say Yeager fired all 15 rounds from one 15-round clip, disposed of it, reloaded, and continued to fire.

In May of this year, Springfield, OR: A 50-round clip. High school student kills four, injures dozens. After killing his parents, went on a shooting spree at his high school—most of us are familiar with this. To carry out his fatal assault, he used a Ruger 10.22 hunting rifle, a Ruger .22 caliber handgun and a Glock model 19. Found attached to the rifle, a traditional hunting gun, was an empty 50-round clip and found on the student were four 30-round clips and two 20-round clips. During the attack, he fired from the rifle indiscriminately, and it was not until he emptied the 50-round clip that several of his classmates were able to tackle and subdue him.

In March of this year, Jonesboro, AR: 15-round clips. Two middle school students ambush classmates. Two students, age 11 and age 13, pulled the fire alarm in their school in order to draw their classmates outside. The boys lay in wait and ambushed the other students when they got outside. They fired 24 shots into the crowd, 15 of which came from a Universal carbine rifle with a 15-round clip. The shots from the rifle were fired as fast as the shooter could pull the trigger.

February of this year, New Orleans, LA: A 30-round clip. Police recover 30-round clip after chase. After a routine traffic stop, a man led police on a 3-mile chase during which he pointed a 9-millimeter assault pistol with a 30-round clip.

And then it goes on and on and on. Elmhurst, NY, 30-round clip. Indianapolis, 30-round clip; traffic stop pulls the weapon. Orange, CA, 30-round clip; disgruntled employee kills five with 30-round clip; five people were killed, and a police officer was seriously wounded when a disgruntled Caltrans employee began randomly firing from an AK–47S with a 30-round clip. Denver, CO, last November, police officer killed by SKS with a 30-round clip; Denver police officer Bruce VanderJagt was killed by a barrage of gunfire from an SKS assault rifle as he chased a burglary suspect; police later recovered the rifle and the 30-round clip. Magna, UT, police officers shot by SKS with 20-round clip.

It goes on and on and on. The point is, there are so many of these big clips available in this Nation that they become the ammunition-feeding device of choice for the grievance killer, the person going up against police, the gang that wants to engage in intimidation, drive-by shootings, the cartels—these are the weapons of choice, and the weapons of choice are useless if you don't have that big-round clip.

What are we seeing? Five months and 8.1 million of these receiving approval to come into this country because BATF could not assert when they were manufactured. BATF can't go to another country to check a factory supply. Therefore, an understanding that I have with the distinguished Senator from Idaho—and I am pleased he is on the floor now; these would apply to clips or weapons that had bills of lading attached to them—is clearly not the case today. Bills of lading that preexisted a 4-year-old piece of legislation now. The time has come to close this grandfather clause.

Now, a number of the tragedies that I have just indicated probably would have occurred without the availability of killer clips. Some are fond of saying, "Guns don't kill, people do." Yes, that is true. But I don't think ever before in the history of this Nation we have ever had a time when more weapons of destruction were falling into the hands of children.

The case that really struck me was a case in Memphis, TN, when a 5-year-old took a loaded weapon to school to kill a teacher who had given that youngster a "time out" the day before.

All we are trying to do is close the grandfather clause, say all of the clips that were in transit on the day we passed this legislation, 4 years ago, have been used up, and now is the time to close the loophole.

Interestingly enough, some have told me, and Members of this body have told me, "Well, we know people who like to use them plinking." They told me, "Yes, I like to use them plinking." Well, we are not taking away anybody's right to possess or to plink. There are plenty of clips around for plinking. What we are trying to do is stop what is now a massive flood of clips, even those that now carry 250 rounds in these magazines, from coming into this country.

I don't like to do this amendment, frankly, this day, because this is a solemn day and I don't like to mix the two. Unfortunately, the Treasury-Postal bill is on the floor at this time, and this is an opportunity to move the amendment.

I hope that those who know the intent of the grandfather clause to only affect those guns and clips that were in transit at the time of the enactment of the legislation—something that I agreed to because I thought it was fair—will agree to let this legislation go into place. It will not take a clip out of anyone's hands; it will not prohibit possession. Domestic manufacturers of ammunition feeding devices, today, cannot manufacture clips for general sale that are in excess of 10 bullets. We know they are not used in hunting, but we do know that in case after case they are used to kill police officers, they are used to kill employees, used by grievance killers, drive-by shooters, drug gangs, cartels, etc. The real question in my mind is: Do the rights of the majority outweigh the rights of those few who would like to plink, who would like to continue the flood of weapons coming into this country? There is no civilized, industrialized power on Earth in which there are more weapons or in which there are more of these big clips floating around.

The instant case that really jettisoned me into the assault weapons legislation was the 1994 case of Luigi Ferri, who had Tec-9 copycats and a 9 millimeter pistol. When he went into 101 California Street, this was his array of ammunition-feeding devices that he brought with him. He carried with him 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25—25 different ammunition feeding devices, with enough rounds that exceeded 500 rounds. I think it was actually over a thousand rounds of ammunition used to do his dastardly deed. Indeed, he left 8 people dead and about 14 people wounded. And no one could get to him to disarm him. In this case, I don't know whether these are domestic or foreign made clips.

The point I want to make is that the large number, the incredible fire power and the lack of sanity seemed to prevail.

AMENDMENT NO. 3351

(Purpose: To ban the importation of large capacity ammunition feeding devices)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3351.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104, between lines 21 and 22, insert the following:

SEC. 644. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) SHORT TITLE.—This section may be cited as the "Large Capacity Clip Ban of 1998".

(b) BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 922(w) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "(1) Except as provided in paragraph (2)" and inserting "(1)(A) Except as provided in subparagraph (B)";

(2) in paragraph (2), by striking "(2) Paragraph (1)" and inserting "(B) Subparagraph (A)";

(3) by inserting before paragraph (3) the following:

"(2) It shall be unlawful for any person to import a large capacity ammunition feeding device."; and

(4) in paragraph (4)—

(A) by striking "(1)" each place it appears and inserting "(1)(A)"; and

(B) by striking "(2)" and inserting "(1)(B)".

(c) CONFORMING AMENDMENT.—Section 921(a)(31) of title 18, United States Code, is amended by striking "manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994".

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I move to table the Feinstein amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Feinstein amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "aye."

Mr. FORD. I announce that the Senator from Iowa (Mr. HARKIN) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote "no."

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—54

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Burns
Campbell
Coats
Cochran
Collins
Coverdell
Craig
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Leahy
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Biden
Boxer
Bryan
Bumpers
Byrd
Chafee
Cleland
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—2

Harkin
Helms

The motion to lay on the table the amendment (No. 3351) was agreed to.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3352

(Purpose: To provide for greater access to child care services for Federal employees)

Mr. CAMPBELL. I send an amendment to the desk on behalf of Ms. LANDRIEU and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Ms. LANDRIEU, proposes an amendment numbered 3352.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title VI, insert the following:

SEC. ___. CHILD CARE SERVICES FOR FEDERAL EMPLOYEES.

(a) IN GENERAL.—An Executive agency which provides or proposes to provide child care services for Federal employees may use agency funds to provide child care, in a Federal or leased facility, or through contract, for civilian employees of such agency.

(b) AFFORDABILITY.—Amounts provided under subsection (a) with respect to any facility or contractor described in such subsection shall be applied to improve the affordability of child care for lower income Federal employees using or seeking to use the child care services offered by such facility or contractor.

(c) REGULATIONS.—The Office of Personnel Management and the General Services Administration shall, within 180 days after the date of enactment of this Act, issue regulations necessary to carry out this section.

(d) DEFINITION.—For purposes of this section, the term "Executive agency" has the meaning given such term by section 105 of title 5, United States Code, but does not include the General Accounting Office.

Mr. CAMPBELL. Mr. President, this is an amendment which has been cleared by both sides of the aisle. This amendment is about child care services for children of Federal employees, which allows agencies to provide child care at an affordable cost.

Mr. KOHL. Mr. President, we support this amendment fully.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3352) was agreed to.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote.

Mr. KOHL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, at this time, I yield time to Senator THOMPSON for the purpose of submitting an amendment.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I thank my distinguished friend from Colorado.

AMENDMENT NO. 3353

(Purpose: To require the addition of use of forced or indentured child labor to the list of grounds on which a potential contractor may be debarred or suspended from eligibility for award of a Federal Government contract)

Mr. THOMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] proposes an amendment numbered 3353.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 642 and insert in lieu thereof the following:

SEC. 642. The Federal Acquisition Regulation shall be revised, within 180 days after the date of enactment of this Act, to include the use of forced or indentured child labor in mining, production, or manufacturing as a cause on the lists of causes for debarment and suspension from contracting with executive agencies that are set forth in the regulation.

Mr. THOMPSON. Mr. President, this amendment addresses a certain provision in the Postal-Treasury appropriations bill at section 642. It is a section that deals with procurement policies. It is a section that deals with a problem of goods that are produced by child labor—a problem about which we are all sensitive. I do think that this provision should not be in this bill. I offer this amendment to amend the provision, leaving in the portion that addresses the child labor issue, but taking out certain portions that I believe are clearly unconstitutional and unneeded.

In the first place, Mr. President, this is an area of some complexity—the procurement laws and regulations of this country. It is an area that is within the jurisdiction of the Governmental Affairs Committee, of which I am chairman. Our committee has spent a good deal of time dealing with this issue. We have passed legislation over the last two Congresses that deal with our procurement policies in this country. We have passed the Federal Acquisition Streamlining Act of 1994—this is a provision that Senator GLENN sponsored—and we passed the Clinger-Cohen Act of 1996—all dealing, at least in part, with the problem of Government procurement, and procurement practices and policies. I think, as most people who deal with this realize, it is certainly a balancing act. There are considerations that have to be given to the contractors. There are considerations certainly that have to be given to the Government—what is fair.

We want to place reasonable requirements and restrictions with regard to the practices and policies that the Government uses when they go out and acquire goods and services, and so forth. Everyone comes in and gets a seat at the table, and we hash those things out. We have been doing that in a free and open debate for some time now.

We discover now that with regard to this provision, instead of it going through the regular process, instead of our having debate on the issue, and instead of us having a discussion on the issue, we find that it winds up being a substantive provision with regard to policies that apply across the board and winds up as a part of this appropriations bill. I do not believe that is a good way to legislate.

We hear a lot of times complaints about amendments on appropriations bills. But here we actually have a provision within the appropriations bill which, as I say, really substantively addresses an issue not only under the jurisdiction of the committee that has been wrestling with this problem for some time but without any really public discussion or debate.

What does this 642 require?

First of all, it requires that the Secretary of Labor publish a list of items that might have been produced by child labor—"might have been produced" by child labor. I am not sure whether or not there is another provision in the law that places a requirement on people based upon the determination that certain items might have had a certain origin, or anything of that nature. But be that as it may, there is nothing wrong with putting something on a list in and of itself.

Then the provision says that the Government may not require an item on that list unless the person or company providing the goods or services certify that it was not a product of child labor.

In other words, apparently the best the Government can do, or the requirement that the Government has, is simply to come up with whether or not an item might have been produced by child labor. But then the supplier of the goods has to certify, based on that list, that in fact it was not produced by child labor.

Then, 642 goes on to say that the contract may be terminated based upon violation of this provision and that the contractor may be disbarred.

So far, so good, although this is, I believe, very, very troublesome language that is used here. But so far, so good. You are debarring someone. You are terminating the contract, if there is any indication that child labor is used.

I must point out that this activity is already not only grounds for debarment but a crime. It is already a crime to place materials produced by child labor in interstate commerce, punishable by a $10,000 fine per child employee and 6 months imprisonment.

In addition, under 18 U.S.C. 1581, whoever holds or returns any person to a condition of peonage shall be fined not more than $5,000, or imprisoned not more than 5 years, or both.

As far as the criminal law is concerned, anyone who would be in a disbarment situation would be violating a very severe criminal law.

But, be that as it may, so we are duplicative. So what? What is the big problem with that?

The biggest problem with all of this is not what I have been discussing so far, although as we see troublesome language duplicative, it is already a criminal act in the Federal Acquisition Regulations. It already has cause for disbarment for the commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the responsibility of the Government contractor or subcontractor.

I can't think of anything that would be more indicative of a lack of business integrity than using child labor.

So not only do we have a criminal act prohibiting this activity, but we have a regulation now saying that you can disbar on the basis of this activity.

But, again, as I say, so far, so good, as far as I am concerned. So we are duplicative. So we use vague language.

The problem that is the major one in this particular section has to do with the provision that is on CB, a capital B, which says the following: That an acquisition contract has to include the following language:

A clause that obligates the contractor to cooperate fully and provide access for any official of the United States to the contractor's records, documents, persons, or premises, if requested by the official for the purpose of determining whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under this contract.

I believe this is clearly unconstitutional. I know the intent was good. We all have the same intent with regard to the end result here. But we have picked out a particular area—not drug dealing, not selling faulty parts for an airplane that crashes and kills our pilots, and not faulty parts that go on machines that kill our Armed Forces—all the terrible things that could happen.

We have picked out one and have given some Government officials, any Government official, total, unlimited access to the books, records, and persons of anyone whom they choose to exercise that with regard to.

There is a body of law, of course, with regard to unwarranted administrative searches. Under certain circumstances, warrantless administrative searches are permissible. But we have to keep in mind that under those circumstances, under the warrant clause of the Constitution, there is no probable cause requirement.

So these are dangerous things that the courts have said you have to be careful with, and you have to have certain requirements in the statute giving you the right to carry out these warrantless searches, if they are going to be constitutional.

First of all, the Government needs to have a substantial interest. I think that is covered here.

Second, the regulation of the business had to serve that interest. I am willing to concede that.

Third, statutory safeguards are needed to provide an adequate substitute for a warrant requirement.

We have a warrant requirement. Whether we are dealing with the most heinous criminal activity imaginable, we have generally been speaking about a warrant requirement, a due process requirement, under the Constitution. But the courts have said that if you do not have that, if you are going to carry out a warrantless administrative search, you have to have certain statutory safeguards.

They have discussed what they are. None of them is here, Mr. President.

First of all, there is total discretion with regard to the Government official as to which business he decides to check on that day, or which individual. There is no probable cause requirement, or no evidentiary requirement at all. He has total and complete discretion under this language to decide which business he wants to check on.

That is constitutionally suspect from the outset, according to the court cases.

Second, any official of the United States can do it.

I don't know if that includes me or not, or the staff. But any official of the United States, I guess from fire marshals to officials over at the Department of Energy, or whoever.

Third, there is no statutory procedure for challenging of the warrant at all. Some of the statutes say that if the concern refuses to consent to this kind of process, search and seizure, there is a statute, a civil provision, whereby it can be contested. That is not here.

Lastly, it is not just the premises that we are talking about here, but it has to do with all records and documents and persons apparently that are subject to this particular provision. It is a provision that has not been applied to and cannot constitutionally be applied to the most heinous criminal activities imaginable. And although these are certainly reprehensible activities we are dealing with, they cannot amend the Constitution of the United States with regard to all of the various things for which a person or a business can be debarred. Your imagination is the only limitation as to what those things might be. There could be some very, very terrible things, as I indicated, and this is one of them. But here we have selected this particular activity and placed a burden on the supplier of Government goods that, frankly, cannot withstand constitutional scrutiny.

The bill in section 642 has an exception, and it says that this section does not apply to a contract that is for the procurement of any product, article, material or supply containing a product that is mined, produced or manufactured in any foreign country or instrumentality if the foreign country or instrumentality is a party to the agreement on Government procurement annexed to the WTO agreement.

In other words, this provision that I have just been talking about does not apply to a foreign country if it is a party to the WTO agreement or a party to the North Atlantic Free Trade Agreement. As I understand this, if a country is a party to the WTO agreement or is a signatory or a party to NAFTA, they are not covered by this, and presumably goods coming from that country would not be covered by this, so a manufacturer in a country that is a part of NAFTA or WTO presumably would not be covered by this.

The United States of America is a party to NAFTA, but goods emanating from this country would not be covered by this. Now, I am not sure in practical terms how this would work out or what kind of problems this would present, but I do not see why companies of a foreign country should be exempted from this law when companies from this country are targeted by this law and are having these, what I believe are fairly clearly unconstitutional, requirements and burdens placed on them.

So the proper action would be to bring this language back to the Governmental Affairs Committee and consider it in the normal course of Senate business. But the fact remains that the language is pending before the Senate so we must deal with it.

So, Mr. President, I am offering an amendment which will give Federal agencies the ability to debar or suspend companies. And I repeat that. This will give, if there is any question—I don't think there is any question that they have the ability to do that now. It is against the Federal law, and it is provided for in the FAR. But in case there is any question about that, my amendment will give Federal agencies the ability to debar or suspend companies which use forced or indentured child labor, but in a way that is consistent with the current procurement system of the delicate balance that has been worked out which has specific regulatory history and due process requirements, and not in the vague way that this language addresses it.

Mr. President, I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from Wisconsin.

Mr. KOHL. Mr. President, I request that we defer action on this issue until Senator HARKIN, who has taken the lead on this issue, returns. He is away today in Minnesota at a funeral of his father-in-law. I understand he will be back tonight, but I cannot be certain of that. It seems to me, until he is back to respond to Senator THOMPSON's concerns, it would not be fair to take up this amendment. So I request that this amendment be laid aside at this time.

The PRESIDING OFFICER. Is there objection?

Mr. THOMPSON. If the Senator will yield, I have absolutely no objection. I was not aware of Senator HARKIN's situation, and I will certainly defer it until he can be here. I have no objection.

Mr. KOHL. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendment will be set aside.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. While we have a few moments, I thought I would describe a couple of sections of this bill. One that might be of interest to our colleagues deals with the vehicle program description.

This bill contains a significant amount of funding for the Treasury's law enforcement activities. Senator KOHL and myself are very strong supporters of Treasury's law enforcement efforts.

As our colleagues know, in our fiscal year 1998 bill, we included a request for GAO to do a study on the utilization of vehicles by Treasury's law enforcement bureaus. I have to tell you at the outset, this committee does all it can to ensure that the law enforcement agents within Treasury are well equipped to do their duties.

However, when I became chairman of the subcommittee, I noticed that all law enforcement bureaus in Treasury would put forth requests for new vehicles, stating that many of their vehicles "were well above GSA standards," which in this case means the speedometers said 100,000 miles or more on them.

Upon further discussion with the bureaus, it became apparent that agents have door-to-door use of their vehicles. The rationale here was, if the law enforcement officer is called for duty during their off-duty hours, they need to be able to reach the scene in a vehicle which is up to law enforcement standards.

Having been a former law enforcement officer myself, as I mentioned earlier in the day, I understand and support that rationale that agents must have a vehicle in case they are called to duty unexpectedly. But I do have some difficulty with the fact that it appears that all agents are getting cars which they use for home-to-work transportation, regardless of their position, regardless of the probability of being called while they are at home at all.

The GAO study told us that there is no consistent management of these vehicles, nor is there any determination of need based on how likely it is for one agent to be called to duty once at home. Many of our colleagues may not know this, but when the Government purchases a law enforcement vehicle, it is different from a vehicle that we drive on the highway. For example, it has to be especially equipped with a larger engine, sometimes the springs or shocks are reworked, and they certainly have special radios, and it is not uncommon for this special equipment to cost $10,000 or more per vehicle.

Therefore, when the vehicles are used for transportation to and from work, the useful life of the vehicle is certainly decreased, and the Government carries the burden of replacing the vehicles sooner than they had planned. Given our tighter budgets, I felt the Treasury needed to get a handle on how they manage this vehicle pool. This year alone, the Treasury requested approximately $30 million to acquire new vehicles. Currently, the bureau manages the usage terms of the vehicles and all the associated costs in a rather indiscriminate fashion. In Treasury's defense, we were pleased to see that they had requested $1 million in this year's budget for a vehicle tracking program, which we have funded.

What we did not fund was the acquisition of new vehicles beyond what the bureaus are already carrying in their budgets. However, I should make it clear that there is funding contained in each bureau's budget to cover the cost of replacing the oldest vehicles. So what we are really doing here is maintaining the current fleet while replacing the oldest, while not adding to the total number of vehicles in the fleet. The rationale here is that the Treasury needs to put this management system in place before we appropriate additional moneys to purchase even more new vehicles. I tell my colleagues, it is a very plain and simple, good Government provision. Senator KOHL and I support law enforcement agents within the Treasury, but I cannot imagine that each and every one of them will have a reasonable chance to be called for duty every night.

As an appropriator, I think it is my responsibility to ask questions about cost management, and we have told the agencies that we will hold them accountable for their costs. In this case, it is vehicle usage which directly impacts the life of the vehicle and ultimately the cost to the Government. During fiscal year 1998, the Department of the Treasury spent a great amount of money for vehicle-related expenses.

I believe this is a much-needed step, and I hope this new vehicle management program will improve Treasury's ability to accurately project vehicle replacement, maintenance, and need for new vehicles. In addition, I hope the Treasury's program will include the impact that portal-to-portal usage has on the maintenance or life of the vehicle. We are certainly looking forward to working with the Treasury to put this new system in place.

Mr. President, with that I yield the floor.

AMENDMENT NO. 3355

(Purpose: To extend certain prohibitions relating to undetectable firearms)

Mr. KOHL. Mr. President, I rise to offer an amendment to continue protecting our airports and our government buildings from terrorist threats. Our proposal would extend the already existing ban on undetectable firearms—guns that don't set off metal detectors—for five more years.

In 1988, we passed the Undetectable Firearms Act to bar the manufacture, sale, and possession of any firearm that is not detectable by metal detectors or the type of x-ray machines commonly used at airports. It passed unanimously in the Senate. It was endorsed by the NRA, and the NRA has no objection to this amendment being offered today.

At the time we passed this law, "plastic" or undetectable guns were not yet developed. But Congress was concerned that technology might make "plastic" guns possible. Ten years later, plastic guns are still not a problem. This law deserves some for that. In fact, on a few occasions, ATF has refused to approve guns intended for commercial distribution because the guns didn't have enough metal in them.

The Act, however, is scheduled to "sunset" this December. The sunset provision exists because in 1988 it was predicted that new technology would soon be able to detect non-metallic firearms. Unfortunately, technology has not developed so rapidly, so extension of this law appears to be warranted.

While the Department of Treasury has requested a permanent extension, we propose a five year extension. A five year extension allows us to study whether a permanent law is necessary, and whether non-detectable guns are really a possibility.

But an extension is appropriate, especially in light of recent events. Indeed, several years ago, it was reported that the columnist Jack Anderson sneaked a "plastic gun" past security into the Capitol. More recently, the New York Times reported that tiny guns made to look like "key chains" could get around metal detectors in Europe.

Mr. President, I send the amendment to the desk, and I ask for its immediate consideration. I ask for unanimous consent that it be accepted.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 3355.

Mr. KOHL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104, between lines 21 and 22, insert the following:

SEC. 644. EXTENSION OF SUNSET PROVISION.

Section 2(f)(2) of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) is amended by striking "(2)" and all that follows through "10 years" and inserting the following:

"(2) SUNSET.—Effective 15 years".

The PRESIDING OFFICER. Is there further debate?

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, this amendment is not new language, as Senator KOHL has alluded, because under current law, there was an original ban of 10 years. This simply extends that current language for another 5 years.

I have checked with the majority, and the people I have checked with so far are supportive of this amendment, but Senator HATCH has asked if we can lay this amendment aside for a few minutes because he would like to read it more carefully, if that is acceptable to Senator KOHL.

Mr. KOHL. That is acceptable.

The PRESIDING OFFICER. Without objection, the amendment will be set aside.

Mr. CAMPBELL. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 2:45 p.m. having arrived, the Senate will now stand in recess until the hour of 3:45 p.m.

Thereupon, the Senate, at 2:45 p.m., recessed until 3:46 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the order?

The PRESIDING OFFICER. The pending business is Senate bill 2312.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MAN'S LONGING FOR IMMORTALITY SHALL ACHIEVE ITS REALIZATION

Mr. BYRD. Mr. President, we have just returned from a most moving ceremony in the great Rotunda of the Capitol. The flag-draped coffins of Officer Chestnut and Officer Gibson, who died while doing their solemn duties protecting the public, the employees, and the members of the institution they served, rested imposingly on catafalques, mere yards from where these two brave men were brutally cut down by an armed assailant on last Friday. The sublime majesty of the great marble dome rising above us was somehow magnified by the solemn and eerie silence which was broken only by an occasional cough. The sense of loss was palpable. Sadness permeated the very air.

Such times as these cause all of us to ponder anew the fragile brevity and uncertainty of the human condition. Officer Chestnut was apparently writing directions for a tourist—doing a kind deed—when his life was suddenly ended. I am sure that when he arose and dressed for work on Friday morning he expected nothing more than an ordinary day, followed by a night at home with his family and the simple pleasures of a sunny weekend.

Officer Gibson, as he began his day, likewise, probably had no expectations of the bloody gun battle which would, in just hours, mean his death. It is at times like these, when we witness the anguish of families and friends trying to cope with the incomprehensible reality of brutal and sudden death, that some may wonder how a just God could allow such seemingly mindless violence and misery. In the face of such tragedies, some may even question the very existence of a Creator. We reach for answers that elude our grasp. Why do such things happen? What, after all, is the point of human existence? It seems that our faith is tested most severely when good men senselessly die.

Yet, the proof of a living Creator is in abundant evidence all around us. It is in the perfection and order of the natural world in which we live. It is in the beauty and endless variety of the millions of species which inhabit the planet. It is in the mystery and complexity of the human genetic code. It is in the intangible and unconquerable bravery of the human spirit. It is in the magnificence of the wonders which modern science daily unveils. And I, for one, find no disparity between scientific discovery and God's living word in the Holy Bible.

Genesis, the first book of the Bible, gives the account of all Creation, tells of the establishment of the family, the origin of sin, the giving of divine revelation, the development of the human race, and the inauguration of God's plan of redemption through its chosen people. Genesis takes the reader to the moment when the omnipotent Creator spoke into being the matchless wonders of Sun, Moon, and Stars, planets, galaxies, plants, and moving creatures, and man, whom He made in His image. It is the first book of the Pentateuch, which both Scripture and tradition attribute to Moses.

If a student expects to find in Genesis a scientific account of how the world came into existence, with all questions concerning primitive life answered in technical language familiar to the professor or student of science, he will be disappointed. Genesis is not an attempt to answer such questions. It deals with matters far beyond the realm of science. Yet, I have not personally read of any disagreement within the science community concerning the chronological order of the events of creation as set forth in the book of Genesis. Instead of disagreement, it has been my perception that there is agreement.

The opening sentence of the first chapter of Genesis states, "In the beginning God created the heaven and the earth." That is as far back in time as one can get—"in the beginning." And it could include a billion years or ten billion years or 500 billion years.

The second sentence of Genesis, Chapter 1, reads as follows: "And the earth was without form, and void; and darkness was upon the face of the deep." I doubt that any scientist would disagree with this.

According to the account in Genesis, God then divided the light from the darkness, and scientists agree that there could have been cosmic light before the Sun, Moon and Stars were created. The Creator then proceeded to divide the waters and to let the dry land appear. The dry land was called "earth," and the gathering together of the waters was called "seas."

The next step as related by Genesis was the bringing forth of grass, the herb yielding seed, and the fruit tree yielding fruit.

Then, according to Genesis, God said, "Let the waters bring forth abundantly the moving creatures that have life, and fowl that may fly above the earth in the open firmament of heaven.

"And God created great whales, and every living creature that moveth, which the waters brought forth abundantly, after their kind, and every winged fowl after his kind."

On the scientific side, facts from fossils, plus other data, have shown that mammals (animals with solid bones, warm blood, lungs that breathe air, and nourish their young with milk) form the final stage in a long series of development, which began with tiny sea-dwelling creatures. Scientists seem to think that an early type of fish was the ancestor of amphibians and thereafter evolved into mammal-like reptiles. The primitive amphibians also branched into creatures with wings and thus became birds and other fowl. Great changes occurred over time. Primitive true mammals, according to science, lived during the age of reptiles and these were the probable ancestors of the mammals alive today.

Returning, now, to the biblical account of Creation, by the conclusion of the "fifth day," God had said: "Let the earth bring forth the living creatures after his kind, cattle, and creeping thing, and beast of the earth after his kind," and, in the "sixth day," God said: "Let us make man in our image, after our likeness: and let them have dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth."

We have reached the "sixth day" in the biblical account. A day, in God's divine revelation to Moses, evidently meant a period of some undetermined length. In Psalm 90—a prayer of Moses—we are told: "Before the mountains were brought forth, or ever thou hadst formed the earth and the world, even from everlasting to everlasting, thou art God. . . . For a thousand years in thy sight are but as yesterday when it is past, and as a watch in the night."

Regardless of the length of the Creation "days", in the sixth, all preparations had been completed for the advent of man. "So God created man"—we are told—"in His own image, in the image of God created He him; male and female created He them."

On the seventh day, God rested from his work. Hence, both science and the Bible seem to agree, in broad terms, regarding the chronological order of the events of Creation.

The modern explanation of evolution dates from 1859, when Charles Darwin published the "Origin of Species." According to Darwin, members of each species compete with each other for a chance to live, as well as with members of different species. In this competition any helpful variation gives its owner an advantage over others in the species that are not so well adapted. Members with such variations, therefore, will win the struggle for existence. They will live and reproduce their kind, while forms not so well equipped will die. Darwin called this process natural selection; it is also referred to as "survival of the fittest."

According to a national poll that was published earlier this year, only 40% of the nation's scientists are said to believe in God. I was amazed that 60% of the scientists, according to the poll, share no belief in a Creator. Darwin, however, apparently did not share such disbelief. Some years ago, I read his "Origin of Species." In this brilliant work of a great British naturalist, I came across this incisive question, posed by Darwin himself: "Have we any right to assume that the Creator works by intellectual powers like those of man?"

What a pertinent question? I think we human beings are prone to forget that the Creator, as Darwin observed, may work by intellectual powers unlike those of man.

In comparing the eye of a human being to an optical instrument made by man, Darwin had this to say: "If we must compare the eye to an optical instrument, we ought in imagination to take a thick layer of transparent tissue, with spaces filled with fluid, and with a nerve sensitive to light beneath, and then suppose every part of this layer to be continually changing slowly in density, so as to separate into layers of different densities and thicknesses, placed at different distances from each other, and with the surfaces of each layer slowly changing in form. Further, we must suppose that there is a power, represented by natural selection or the survival of the fittest, always intently watching each slight alteration in the transparent layers; and carefully preserving each which, under varied circumstances, in any way or in any degree, tends to produce a distincter image. We must suppose each new state of the instrument to be multiplied by the million; each to be preserved until a better one is produced, and then the old ones to be all destroyed. In living bodies, variation will cause the slight alterations, generation will multiply them almost infinitely, and natural selection will pick out with unerring skill each improvement. Let this process go on for millions of years; and during each year on millions of individuals of many kinds"—this is the question that Darwin poses—"and may we not believe that a living optical instrument might best be formed as superior to one of glass, as the works of the Creator are to those of man?"

Thus, Darwin appears to acknowledge a Creator back of the Creation—a master mind back of the work. I suggest that the 60% of today's scientists today who, according to the poll, doubt the existence of a Creator, read what Darwin has to say in this regard, if they have not already done so, and if they have already done so, it may be valid for them to read Darwin's observation again.

Darwin's work is sprinkled throughout with conjecture, assumptions, presumptions, and, in some cases, just plain guess work. For example: the reader often finds such words and phrases as: "Has probably played a more important part", "there can be little doubt", "we may infer", "seems probable," "I have come to the conclusion," "it cannot be doubted," "I am fully convinced" —this is Darwin talking—"it must be assumed," "seems to have been," "appears to have played an important part in the origins of our breeds," "seems to have been the predominant power," "it is probable that they were once thus connected," "thus it is, as I believe," "bearing such facts in mind, it may be believed," "we may conclude," "seem to have been the chief agents in causing organs to become rudimentary," "is probably often aided," "is perhaps intelligible by the aid of the hypothesis of pangenesis, and apparently in no other way," "it may be," "every character, however slight, must be the result of some definite cause," "one chief cause seems to be," "some additional rudimentary structures might here have been adduced," "we have only to suppose that a former progenitor possessed the parts in question in a perfect state," "the more complex instincts seem to have originated independently of intelligence," "appears to have been gained," "such variations appear to arise from the same unknown causes," "it is not improbable," . . . and so on and so on.

Darwin, posing the question, "whether there exists a Creator and Ruler of the universe," responds. Listen to his response to his own question: "And this has been answered in the affirmative by the highest intellects that have ever lived."

Twelve years after the publishing of the "Origin of Species," Darwin published "The Descent of Man." In his second book, Darwin applied his theory of evolution to the human race. In Chapter IV, Darwin makes an interesting admission. Here is what he said:

> I now admit . . . that in the earlier editions of my "Origin of Species," I probably attributed too much to the action of natural selection or the survival of the fittest. I have altered the fifth edition of the Origin so as to confine my remarks to adaptive changes of structure. . . . I may be permitted to say as some excuse, that I had two distinct objects in view, firstly, to show that species had not been separately created, and secondly, that natural selection had been the chief agent of change, though largely aided by the inherited effects of habit, and slightly by the direct action of the surrounding conditions. . . . Hence, if I have erred in giving to natural selection great power, which I am far from admitting, or in having exaggerated its power, which is in itself probable, I have at least, as I hope, done good service in aiding to overthrow the dogma of separate creations.

Darwin was not alone in his effort. Since the earliest days of man's exploration of his universe, science and religion—when not simply ignoring each other—have often been at odds. Throughout the ages, it seems that the more man has learned about the physical nature of the universe and its creatures, the greater the gap between religion and science has become.

To many in the scientific community, the world has largely become divided between that which can be scientifically and mathematically explained away, and that for which the mathematical equation or scientific basis has not yet been discovered. The Creator has had no role. He has been left out. The fabulously intricate pattern of occurrences, which had to exist in order to account for the strictly scientific view of the creation of the universe, has been viewed as merely chance—a lucky shot!—with no connection to any sort of greater intelligence. How absurd!

Mr. President, I have in my pocket a gold watch and a golden chain. Watches are not in the habit of assembling themselves. There has to be a designer. There has to be a maker back of the watch, a creator back of the chain. There has to be a greater intelligence, a Creator.

On the other side, to many of those in the religious community, too tightly held religious doctrine has precluded all possibilities suggested by scientific investigation of the physical world.

Happily, however, scientists and men of the cloth both appear to be rejecting doctrinal absolutism and discovering some common ground.

Recent articles in Newsweek and U.S. News and World Report, point to a change in attitude among scientists and theologians. Rather than opposing one another, the study of science and the practice of religion may at last be able to enhance one another. Science may be recognizing that rules, or tangible events, or even the laws of physics may not always be entirely explainable. As we search for scientific truth we may also provoke a faith that instills in the previously cynical, a wonder for the unexplainable and a tacit admission that there must be a higher power.

In innumerable cases, science is apparently unearthing instances of perfection in the physical world which are so far beyond even the wildest imaginings of the human mind that chance could not account for them, and even nondevout scientists have tended to conclude that such minute miracles can only have been wrought by some form of divine design.

Newsweek, in its edition of July 20, said, "Physicists have stumbled upon signs that the cosmos is custom-made for life and consciousness. It turns out that if the constants of nature—unchanging numbers like the strength of gravity, the charge of an electron and the mass of a proton—were even the tiniest bit different, then atoms would not hold together, stars would not burn, and life would never have made an appearance." As Nobel-prize-winning Physicist and Christian Charles Townes put it, "somehow intelligence must have been involved in the laws of the universe." And, consider the words of Physicist-turned-priest John Polkinghorne, who said that the most fundamental component in the belief in God "is that there is a mind and a purpose behind the Universe."

Similarly, Newsweek and U.S. News and World Report relate the story of Allan Sandage, one of the world's most preeminent, respected, and accomplished astronomers, who spoke at a recent meeting of cosmologists gathered together to consider the theological implications of their work. Sandage, who reportedly admits to having been "almost a practicing atheist as a boy," has come to the conclusion through his work that Creation can only be explained as a "miracle". "It is my science that drove me to the conclusion that the world is much more complicated than can be explained by science. It is only through the supernatural that I can understand the mystery of existence."

I find it rather exhilarating that men like Sandage and Townes and Polkinghorne, who have devoted so much of their lives to questioning their universe in order to discover its secrets, have come to a conclusion that to me was answered long ago through simple, basic, unquestionable faith, and simple, common-sense reasoning.

There are those who will only ever be comfortable with a world of rules and measurements, in which events are quantifiable and reliable, and a "miracle" is defined only as that which has not yet been thoroughly dissected and concretely explained. There are also those who will always reject scientific theory if it seems in any way to challenge their religious doctrine.

But it seems to me that scientists such as Allan Sandage, who embrace both religion and science, can teach a valuable lesson to us all. A black-and-white science of stiff rules and blinders is fatally flawed. It is the scientist who looks to the heavens for divine intervention and is willing to admit that not all things are explainable, who has the greatest opportunity to achieve medical breakthroughs, uncover the mysteries of outer space and develop life-changing technologies. His is an intellect which is truly free, for he allows for all possibilities.

The two great disciplines of the world, science and religion, represent the ceaseless human probing for answers to the mysteries of life. They are, at their cores, nothing more than man's quest for truth.

As we search, may we never close our hearts to the abundant evidence of His love and his miracles all around us.

Even in the midst of great sorrow and profound tragedy, He is there and His love will prevail and will triumph. So my heart goes out today to the families of the two brave men whose lives and dedication we honored today in this magnificent Capitol, itself a symbol of man's belief in things which cannot be seen. And I hope that these loved ones will remember the words of hope from the Scriptures and the words of William Jennings Bryan:

> If the Father deigns to touch with divine power the cold and pulseless heart of the buried acorn, to make it burst forth from its prison walls, again the mighty oak, will He leave neglected in the Earth the soul of man, created in his own image.
>
> If He stoops to give to the rosebush whose withered blossoms float upon the autumn breeze, the sweet assurance of another springtime, will He refuse the words of hope to the sons of men when the frosts of winter come?
>
> If matter, mute and inanimate, though changed by the forces of Nature into a multitude of forms, can never be destroyed, will the imperial spirit of man suffer annihilation when it has paid a brief visit like a royal guest to this tenement of clay?
>
> No, I am sure that He who, notwithstanding His apparent prodigality, created nothing without a purpose, and wasted not a single atom in all His creation, has made provision for a future life in which man's universal longing for immortality will find its realization. I am as sure that we live again as I am sure that we live today.

With those words of William Jennings Bryan, Mr. President, I yield the floor.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3355

Mr. CAMPBELL. Mr. President, I ask unanimous consent the Senate now consider amendment No. 3355, offered by Senator KOHL, and that I be added as a cosponsor. I urge this amendment be adopted. There is support by both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 3355) was agreed to.

Mr. CAMPBELL. Mr. President, I yield time to Senator HUTCHINSON for the purpose of offering an amendment.

The PRESIDING OFFICER. The Senator from Arkansas.

TAX CODE SUNSET AMENDMENT

Mr. HUTCHINSON. Mr. President, shortly I will call up the Tax Code sunsetting amendment. I ask unanimous consent to add the following cosponsors: Senator BROWNBACK, Senator MCCAIN, Senator ABRAHAM, Senator INHOFE, Senator GRAMS, Senator SMITH of New Hampshire, Senator HELMS, Senator MURKOWSKI, Senator COATS, Senator SESSIONS, and Senator COVERDELL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I congratulate the Senator from Colorado for his leadership on this appropriations bill, his leadership on tax reform in this Congress, and his support for the provision sunsetting the Tax Code. The amendment I will be offering on behalf of myself and Senator BROWNBACK would sunset the entire Tax Code, December 31, 2002. I appreciate so much the Senator from Colorado in his cosponsorship of the original legislation that was introduced, and his support of this very, very important concept.

I also point out to my colleagues, with my appreciation, the various organizations that have endorsed the scrapping of the code, the sunsetting, the terminating of the existing Tax Code. The Americans for Hope, Growth and Opportunity, the National Taxpayers Union, the National Federation of Independent Business, the American Conservative Union, Americans for Tax Reform, and Citizens for a Sound Economy have all lent their support for what I think is an essential step for all of us who believe the existing Tax Code does not work for the American people, and that the first step in replacing it with something that is simpler and something that is more fair and something that is less of a burden upon the American people would be to set a date certain in which we terminate and sunset the existing Tax Code.

Congress recently took an important step to protect the American people from an overarching IRS. In the House, and in the Senate under the leadership of the distinguished Finance Committee chairman, Senator ROTH, Congress passed the Internal Revenue Service Restructuring and Reform Act. Under this legislation, the burden of proof has now been shifted to the IRS. A newly restructured IRS will now be overseen by an independent panel, and I commend the work of the Senate Finance Committee and Chairman ROTH for bringing this proposal to fruition.

But this legislation, which I firmly supported, must not be the end of protecting the American taxpayer. On April 2, 1998, the Senate expressed itself on the need for fundamental change in passing an amendment to the budget resolution, not only to restructure the IRS but also to terminate and sunset the Federal Tax Code by the end of 2001. We passed that sense-of-the-Senate resolution, and we have a list of all of those who voted for that sense-of-the-Senate resolution saying we should sunset, we should set a date certain, and we should terminate the existing Tax Code. I invite all my colleagues in the Senate to look at that list of those who voted, on both sides of the aisle, on a bipartisan basis, to sunset the Tax Code.

The House took a bold stride beyond this sense of the Senate in passing the Tax Code Termination Act on June 17, 1998.

Today, the Senate has the opportunity to do the same. The amendment I, along with Senator BROWNBACK and all of our cosponsors, have offered to the Treasury-Postal appropriations bill, that we will be calling up soon, would eliminate the Tax Code by December 31, 2002. Originally, way back last year, the original bill introduced would have sunset it back in the year 2000. Then there was an agreement among all the cosponsors to move that to December 31, 2001, to respond to those who said that is not enough time and the new Congress would not have enough time to enact comprehensive tax reform.

Now, in the spirit of being as responsible as possible, and responding to, I think, the misguided and flawed allegations of the administration concerning Tax Code termination, we have moved that date to December 31, 2002. That allows us 4½ years in order to write a new Tax Code. We say, in this amendment, that it should be in place July 4, prior to the sunset date.

I know the Department of the Treasury, Mr. Rubin, has sent a letter out. Everybody, I am sure, will have seen this letter opposing this amendment, saying the President is going to veto this appropriations bill if the amendment is attached. It is not the first time that those kinds of threats have been made. It is, if you will read the letter, based upon misguided and flawed assumptions, making all kinds of assumptions as to what might be enacted or what might not be enacted at the time of the sunset date.

So I believe what we are proposing is eminently responsible. So we need to join, I believe, the House of Representatives in passing this sunset date. It would allow the Social Security provisions, Medicare, and the Railroad Retirement Board to remain. But we would say the Congress, the President, the American people would replace the current Tax Code with a lean and honest system by no later than Independence Day, July 4, 2002.

For too long, the American people have suffered under the chains of the oppressive regime we call our Federal Tax Code. It is just not enough to reform the IRS when the more fundamental problem is the Tax Code that we ask them to enforce. Each year, Americans spend over 5.4 billion hours slaving away to comply with tax provisions, the equivalent amount of time it takes to produce all of the cars in this country, all of the trucks in this country, to manufacture all of the airplanes in this country for a year. That is how much time we ask the American people to spend just trying to comply with complicated, arcane, and inexplicable tax provisions. A humble family of four will spend the equivalent of 2 weeks just for Tax Code compliance.

Ironically, every year $13.7 billion of the money that taxpayers struggle to pay the Federal Government is spent enforcing tax laws, yet the IRS, the bureaucracy of 110,000 people in over 650 offices nationwide, provides misinformation one-fourth of the time taxpayers call to seek assistance.

Not too long ago, Money magazine did, as they do every year, an interesting study. They found this: 45, the number of professional tax preparers who came up with different answers when asked by Money magazine, in 1997, to fill out a hypothetical family's 1996 tax return. That was the April 1997 edition of Money magazine. They found that 45 professional tax preparers, with the same information, came up with different answers on a hypothetical family's tax return. I think that is powerful evidence that we have a Tax Code that even the professionals cannot understand.

They found also that the average hourly fee charged by professional tax preparers who came up with the 45 wrong answers is $81 an hour. That is what the American people are paying professional tax preparers who come up with the wrong answers time and time again.

Mr. President, 6.4 million—that is the number of taxpayers who visited IRS customer service centers seeking answers to their tax questions in 1996. Over 6 million, according to the General Accounting Office, actually went to the IRS customer service centers seeking answers.

Another figure, though, is 99 million, because it was 99 million taxpayers who called the IRS hotlines in 1996 seeking answers to questions about how they could comply with this complicated Tax Code; 99 million, one-fourth of them getting incorrect answers from the Internal Revenue Service.

The Tax Code is not a stagnant creature. This code has mutated from its original form into an 800,000-word, 7,500-page monster preying on the American taxpayer. We in Congress are culpable for this feeding frenzy, for even in our attempts of incremental reform, even in our attempts to help the American taxpayer, we have made the Tax Code more complex.

In 1997, Congress made serious attempts to ease the burdens of the American taxpayer. It was the first significant tax cut, I think, in 16 years. Yet, even in those efforts to provide tax relief, we unwittingly created new complications. I think everyone in this body would agree if we somehow could just start over and write a tax code, there is not one of us who would say, "Write the Tax Code the way we have it now," because it has been a creation of these incremental changes made by special interest groups who had enough power to get that change enacted into law.

We need to terminate, not complicate, the Tax Code. If you look at this chart, it says:

> The number of new sections in the Tax Code created by the 1997 Budget Act—

This was our Tax Relief Act—we created 285 new sections.

The number of changes in the Tax Code accompanying the 1997 tax cut, 824, and the number of pages needed by the Research Institute of America to explain the changes in the tax law of 1997 was 3,132 pages. It was a lawyer's dream and tax accountant's dream when we passed that Tax Relief Act.

While the American people were glad to receive some tax cuts —the $500-per-child tax cut, the change in the estate tax laws, change in the capital gains tax laws—the fact is, the great winners were the tax lawyers and the accountants—3,132 pages just to explain what we did in cutting taxes.

The American people have called for this termination, this comprehensive reform of our tax laws. A recent poll that was conducted by the Americans for Hope, Growth and Opportunity discovered several things. In asking the question, "Do you approve or disapprove of a new Federal law to abolish the current tax system and require that a new Federal tax system be approved by Congress by July 4, 2001, and that this new system should then take effect 6 months after that date?"

The response was 48.9 percent approved of that proposition, which we are going to be voting on, while only 24.1 percent disapproved. By a margin of 2 to 1, the American people are saying we ought to set a date certain. Six months prior to that date certain, we should have a new comprehensive fair tax system in place.

The poll went ahead: "Do you approve or disapprove of a new Federal law to abolish the current tax system and require that a new Federal tax system be approved by Congress July 4, 2002?"

Overwhelming support.

They asked this question: "If you knew that Congress passed a law to create a new Federal Tax Code with the following specific principles: apply one low tax rate to all Americans; provide tax relief for working Americans; protect the rights of taxpayers and reduce tax collection abuses; eliminate bias against savings and investment; promote economic growth and job creation; and not penalize marriage or families—do you believe it is possible that Congress could accomplish these goals?"

That was the question, and 57.3 percent of Americans answered yes, with 34.1 percent saying no, and 8.6 percent saying they did not know or refusing to answer.

That is really quite remarkable, because what that response tells us is that the American people still have faith that their elected representatives can and should replace the current tax system with a simpler, fairer system. They think we can do it.

Americans rapidly, though, I believe are reaching the level of outrage about this tax cut that would resemble even the kind of tax rebellion that occurred in the early days of this Republic in 1776. As an aside, I offer my own statistic. No official poll. No Gallup. No scientific sample. But I suggest this: That 100 percent of the people in this country and 100 Senators in this institution believe that an overhaul of the tax system is overdue and that it should occur.

Mr. President, in the Senate today, we have three options before us—and I can't find another—we have these three options confronting every Senator in this body: We can ignore the plight of the American taxpayer and do nothing. That is what we have done for far too long. We have done nothing. We have passed resolutions. We have passed sense of the Senates. We have made speeches, and we have debated. We have introduced bills, and we have even passed tax cuts that further complicated the Tax Code. But in the end, what we have really done about comprehensive tax reform is nothing.

Tonight we have that option before us. We can continue to do nothing. We can vote down this amendment to the Treasury-Postal appropriations bill, or we can move to table it when it is offered, and we can go down the path of defending the status quo. I suspect there will be a lot of my colleagues who will make that choice tonight.

Or we can implement incremental reforms and try our best to make repairs to a house built on shifting sand as we have almost every year for the last 12 years. In fact, one study found that since 1913, since the institution of the income tax, we have added about 100 pages to the Tax Code every year; on average, 100 pages are added to the Tax Code.

We can continue to do that. We can continue to make small incremental changes in this complicated Tax Code and hope that somehow we are able to repair this house that is built on shifting sand. I do not believe that is a viable option.

This is the third thing we can do: We can lay a solid foundation for a new house by voting for real reform, the termination of the current Tax Code. I believe the choice is clear.

Secretary Rubin, President Clinton and other critics of this proposal will say that sunsetting is reckless. I suggest that when the opponents of this rise to oppose this amendment, that is what we are going to hear: "This is a reckless proposal." We will hear it over and over.

They have characterized it as irresponsible, reckless, certain to cause uncertainty. The President wants to pretend that sunsetting provisions are somehow unusual, somehow irresponsible. They are neither. He would have us believe they create paralyzing uncertainty, and yet if you will look at the sunset provisions that we have in law, all major spending legislation is sunsetted. We recently debated legislation to replace both the Higher Education Act and the Intermodal Surface Transportation Efficiency Act, the ISTEA bill, both of which expired this year due to sunset provisions included in the original legislation. All major spending legislation contains sunsetting provisions. Sunsetting forces Congress to periodically review the merits, effectiveness and efficiency of the programs it creates. Only then can these programs be continued.

In testimony before Congress, Alan Greenspan expressed his support for the concept of sunsetting. He is the guru, many believe, of the unprecedented period of economic expansion, but he said he believed that everything in Government should face these sunset provisions.

The President has said he believes sunsetting will cause instability. I believe we are going to hear that. He imagines that the current tax system is somehow stable. The truth is, the current Tax Code is riddled with uncertainty. The only certainty in this system is that it will become more complex through incremental reform and that special interests will thread their way through these special loopholes.

To my colleagues who say this is going to create uncertainty, this is my response: If you believe that we need to get from where we are to a simpler, fairer tax system, there is no way, I suggest, to get from where we are to where we all want to be without some degree of uncertainty. You cannot replace this entire Tax Code, no matter how incremental you may do it, over a long period of time without there being certain uncertainties in markets or business planning or whatever.

But I suggest what Senator BROWNBACK and myself have proposed is the most rational way to get from where we are to comprehensive tax reform. Because we allow 4½ years, we set a date certain, we ensure that there are going to be proper oversight hearings by the Finance Committee, that all of the various proposals that have been submitted will have ample time for debate, and that the American people and the American business community will have adequate time to plan for the changes that will be enacted.

I would assume that those changes would be phased in over a period of years as well. But what we have proposed is eminently responsible, not going to create uncertainty, and is not reckless. It is only those who want to defend the status quo, I believe, who throw out those kinds of arguments.

I have a number of other points I would like to make, and perhaps as the debate goes on I will have an opportunity to do that. I know there are a number of others who are cosponsors of this legislation who will be wanting to seek recognition.

Senator WARNER has requested a period of time to discuss the Capitol security program and the new visitor center. I know that is something that is heavy on all of our minds today. And Senator BROWNBACK is certainly willing to postpone his comments.

At this point I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. We have several Senators who want to speak in opposition to this amendment who are not on the floor yet, but I ask unanimous consent that we lay the present amendment aside for the purpose of allowing Senator WARNER from Virginia to introduce another amendment.

The PRESIDING OFFICER. The amendment has not yet been offered.

AMENDMENT NO. 3356

(Purpose: To require the Administrator of General Services to acquire a lease for the Department of Transportation headquarters and to provide additional funding for security for the Capitol complex)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. CHAFEE, for himself, Mr. WARNER and Mr. BAUCUS, proposes an amendment numbered 3356.

Mr. CAMPBELL. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, strike lines 11 and 12.

On page 62, between lines 19 and 20, insert the following:

SEC. 4___. DEPARTMENT OF TRANSPORTATION HEADQUARTERS.

(a) IN GENERAL.—The Administrator of General Services, without further review or approval by any other office of the executive branch, shall—

(1) acquire an operating lease for the Department of Transportation headquarters; and

(2) commence procurement of the lease not later than November 1, 1998;

in accordance with the authorizing resolutions passed by the Committee on Environment and Public Works of the Senate on November 6, 1997, and the Committee on Transportation and Infrastructure of the House of Representatives on July 23, 1997.

(b) AUTHORIZATION TO REDUCE ANNUAL LEASE AMOUNTS.—In order to procure an operating lease, the Administrator of General Services shall reduce the annual lease amounts authorized by the resolutions to such extent as is necessary to effectuate an operating lease at the time at which the lease is executed.

SEC. 4___. SECURITY OF CAPITOL COMPLEX.

There is appropriated to the Architect of the Capitol for costs associated with the security of the Capitol complex $14,105,000.

Mr. CAMPBELL. Mr. President, this amendment deals with the Department of Transportation headquarters and redirects the funds for Capitol security. I know Senator WARNER would like to speak to this. I yield him time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished managers of the bill. I will speak to the amendment. I would suggest, however, as I am speaking, that the distinguished managers look at what possibly could be a rewrite of the bill; and then at such time, if you agree, we will substitute this for the one that is at the desk.

Mr. President, I wish to just speak briefly, as chairman of the Rules Committee, on behalf of the work that our committee has been doing since I have been privileged to take over the chairmanship.

We have been looking at, first, a program by which the security of the overall square here—we call it a square—both the building security and the outside security can be enhanced.

There is an ongoing—almost weekly—meeting on security at some level in this system. The Rules Committee has given the clearest instructions to the Architect of the Capitol, indeed, to the chief of the police, and others, to bring to the attention of the committee, and others, any new type of equipment or concept that can help improve the security of the Nation's Capitol. That has been done, and done very, very well.

On August 20 of last year—about a year ago—a plan was put forward entitled "United States Capitol Square Perimeter Security Plan." A hearing was held before my committee, the Rules Committee, on September 25, and the Rules Committee accepted the plan on November 4, 1997. It was a concept to upgrade the security on the exterior of the building.

Mr. President, I ask unanimous consent that an executive summary of that report be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

UNITED STATES CAPITOL SQUARE PERIMETER SECURITY—EXECUTIVE SUMMARY

This report was prepared by the Task Force appointed by the Capitol Police Board (CPB). The membership of the Task Force consists of representatives of the House and Senate Sergeants at Arms, the U.S. Capitol Police and the Architect of the Capitol. Technical support was provided by outside security and architectural consultants.

In light of recent incidents at other public and private facilities, the CPB charged the Task Force with developing options for improved perimeter security at Capitol Square. The options were to incorporate the best available technology, blend with the existing historic Frederick Law Olmsted landscape design and provide for an appropriate and cost effective coupling of these improvements with the security concepts and criteria employed in the design of the proposed U.S. Capitol Visitor Center (CVC).

Four preliminary schemes were developed for evaluation by the Task Force ranging from the simple replacement of the concrete sewer pipes and planters with bollards to an extensive perimeter fence concept that enclosed Capitol Square behind the appropriately designed security barrier.

Of the four schemes, one was chosen for development and forms the basis for the recommendations. The recommended scheme will work within the current constraints of the site and will also support the CVC concept when executed.

The recommended and preliminary schemes built upon the concepts developed in the late 1980's that came to be known as the "Whip's Plan" and expanded those concepts to incorporate the proposed CVC and improved security technology. The primary focus of the current effort is to enhance the deterrents, detection and response capabilities of security systems both existing and planned. In addition, support was also provided by the U.S. Secret Service and other law enforcement entities with overlapping jurisdictional concerns.

* * * * *

Standards for systems, hardware and physical barrier devices were developed as part of the process. These standards are included in the recommended scheme. The systems and other security methodologies used in the recommended scheme for Capitol Square have been organized in a manner that will enable them to be deployed consistently through the Capitol complex.

In that regard, a schematic design was also prepared that eliminates the unsightly concrete "Jersey' barriers, commonly used along highways, from around the Russell, Dirksen and Hart Senate Office Buildings and replaces them with landscaped roundabouts similar to those being proposed for the North and South Entrances of the U.S. Capitol Building. The designs for both Capitol Square and the exterior areas around the Senate Office Buildings are proposed with thoughtful landscape treatments consistent with existing architectural openness and aesthetics that typifies the Capitol complex today. This work is shown to test and expand the concepts on sites contiguous to Capitol Square.

* * * * *

Mr. WARNER. Mr. President, integral to that plan is a visitor center which, while it has been considered separately, it is to be tied in with the overall Capitol security plan.

Tomorrow, the Rules Committee will, hopefully, proceed with a markup of a redraft of a bill submitted by the distinguished majority leader, the minority leader, and myself several months ago. There are meetings going on right now with the Speaker, with the majority leader, and, indeed, their counterparts in the minority, to try to get some refinements to the concept which, hopefully, will be put into the markup tomorrow before the Rules Committee.

I am proud to say the Senate has been moving with steady, firm momentum on this whole concept of security—both external and internal—for some months now.

I ask unanimous consent that a letter to the distinguished Senator BEN NIGHTHORSE CAMPBELL from myself and others asking that this particular amendment reflect the change of the status of the funds which is in the amendment—it is in section 4, "Security Of Capitol Complex . . . is appropriated to the Architect of the Capitol for costs associated with the security of the Capitol complex $14,105,000."

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, July 27, 1998.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Subcommittee on Treasury, Postal Service, and General Government, Dirksen Senate Office Building, Washington, DC.

Hon. HERB KOHL,
Ranking Member, Subcommittee on Treasury, Postal Service, and General Government, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN CAMPBELL AND RANKING MEMBER KOHL: We write to request your assistance in resolving an important matter involving the U.S. Department of Transportation (DOT), its thousands of headquarters employees, and the taxpayers.

As you know, the Committee on Environment and Public Works, at the Administration's behest and the personal request of the Secretary of Transportation, has been working to authorize suitable housing arrangements for DOT headquarters. DOT currently occupies the Nassif Building, which has been under Federal lease for nearly 30 years. However, the building is inadequate for DOT needs and may pose health concerns for the 5,600 DOT employees who work at that location.

The lease on the Nassif Building expires in March of 2000, presenting the government with an opportunity to obtain new housing for DOT. Toward that end, on November 6, 1997, the Committee approved a resolution authorizing the General Services Administration (GSA) to enter into a long-term operating lease for a headquarters building, with the possibility of government ownership at a later point. The terms of the Committee's resolution were based on discussions with, and approved by, Administration officials.

Since that time, however, the Administration has changed its position and prefers a government owned building. Its FY99 budget request included $14.1 million for the design costs associated with the construction of a new government-owned building. This change has resulted in an eight month delay—a delay that has meant no relief for DOT employees, and is threatening to result in significantly higher interim lease payments by the government.

More importantly, while construction of a government-owned building may be a cost-effective solution to DOT's housing needs over the long term, we are concerned that such an option is not realistic in light of our limited budgetary resources. Frankly, we are skeptical that the $300 million necessary for construction of a government-owned building will be made available over the next few years, given the backlog for priority courthouse construction. Should the money become available, however, the Committee's resolution explicitly invites the Administration to return to request authority for government ownership. We have expressed these views in recent meetings and discussions with Administration officials from DOT, GSA, and the Office of Management and Budget (OMB).

Therefore, we believe that it is critical for GSA to move ahead immediately with the lease procurement. Toward that end, we would propose to work with you and your staff to include language in S. 2312 that would ensure that the Solicitation for Offers goes forward. Furthermore, in order to send a clear and unambiguous signal to the Administration to proceed expeditiously, we request that the current earmark of $14.1 million for design of a new DOT building be deleted. We consider this request to be of the utmost importance, as we wish to resolve this situation for the benefit of the Department, DOT employees, and the taxpayer.

We appreciate your consideration of our request. Attached is the text of our proposed amendment; we look forward to working with you toward a satisfactory resolution.

Sincerely,

Max Baucus, John Warner, Bob Graham, Daniel Moynihan, Joe Lieberman, James Inhofe, Craig Thomas, Kit Bond, Frank R. Lautenberg, John H. Chafee, Tim Hutchinson, Wayne Allard, Dirk Kempthorne, Barbara Boxer, Ron Wyden, Jeff Sessions, Bob Smith.

Mr. WARNER. The amendment is really twofold: one, to transfer those funds; and, secondly, to establish a procedure by which the other problem can be taken care of. I know right now the manager of the bill is comparing the two amendments.

I believe our distinguished chairman of the full committee, Senator CHAFEE, is here to speak to the DOT headquarters issue.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. It is incorporated in the amendment. It is my understanding that this amendment regarding the DOT building and the lease arrangement is acceptable by the managers. While I——

Mr. WARNER. That is correct. Could I finish my statement and then you address that?

Mr. CHAFEE. I have nothing further to say. If they are prepared to take that part, I am delighted.

Mr. WARNER. That is correct. I thank the chairman, and I appreciate his work.

The funds are transferred. As soon as we can reconcile some minor technical differences between the amendment at the desk and another copy, I say to our chairman, we will soon vote on that amendment. The letter I just had printed in the RECORD sets forth the chronology.

Now, the reason that we are transferring this money is that—I am speaking for myself, but I am very optimistic that under the leadership of Senators LOTT and DASCHLE, the Senate will come together in its concept for funding for the visitor center and its concept of how we can make some adjustments to the previous plan, and tomorrow in markup report out a bill which can then be considered by the full Senate and then eventually by the House.

But I would like to read a little background to show you the need for moving ahead. Yes, the tragic events of the last few days—and we have just completed what I regard as a magnificent —magnificent—tribute to the two fallen Capitol policemen, together with their families, the President of the United States, the Vice President of the United States, Senator LOTT, the Speaker, and Chief of Police Albrecht.

But we have been moving steadily on this program. Now we intend, hopefully, to go and take the next step and put a legislative proposal before the Senate; and then, hopefully, the House will act.

I will read from a CRS report, which I ask unanimous consent to have printed in the RECORD, dated July 16, 1998.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAPITOL HILL SECURITY: CAPABILITIES AND PLANNING

(From the Congressional Research Service)

SUMMARY

The U.S. Capitol is simultaneously a national shrine, tourist attraction, and working office building. Each of these functions imposes different security requirements. The Capitol Police Board, established by Congress to protect the Capitol complex, has responsibility to reconcile the needs of safety and openness. Acting under the direction of House and Senate oversight and appropriations committees, the board has recently instituted numerous enhancements to the Capitol security system. To further enhance security, Congress in April appropriated $20 million for a perimeter security plan encompassing Capitol Square, Senate office buildings, and adjacent grounds. Implementation of the plan is contingent upon approval by the appropriate congressional oversight committees. Still under consideration are proposals calling for a visitors' center beneath the east front plaza that would provide more effective remote screening of Capitol visitors, and a perimeter security plan for the Supreme Court.

INTRODUCTION

Seven to 10 million tourists visit the Capitol complex annually. In 1997, the Capitol hosted more than 2,000 American and foreign dignitaries, and was the site for nearly 300 scheduled demonstrations. In addition to lawmakers and their staff, a sizable number of journalists, lobbyists, and service personnel also work within the Capitol complex.

The challenge of achieving a secure environment for the Capitol complex, while still maintaining an atmosphere of openness, has become increasingly difficult in this century. Both the potential threats to the Capitol and the number of people using the area every day have grown dramatically. Incidents such as the 1993 bombing of the World Trade Center and the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City, as well as international confrontations like Desert Storm in 1991, have prompted increases in the level of security afforded the Capitol complex.

CURRENT SECURITY PROCEDURES

Role of the U.S. Capitol Police

The U.S. Capitol Police force, under the direction of the Capitol Police Board (which is composed of the Architect of the Capitol and the Sergeants at Arms of the House and Senate), is responsible for Capitol complex security. By law, the Capitol Police are responsible for the procurement, installation, and maintenance of security systems for the Capitol, House and Senate office buildings, and adjacent grounds, subject to the direction of the Committee on House Oversight, Senate Committee on Rules and Administration, and the House and Senate Committees on Appropriations. The Architect of the Capitol must approve any alteration to structural, mechanical, or architectural features of the Capitol complex buildings that is required for a security system. The House and Senate Appropriations Committees must approve funding for these programs.

In FY 1997, Congress appropriated $75.4 million for the Capitol Police Board, which included funding for the Capitol Police, and $3.25 million for the design and installation of new and expanded security systems. In addition, the Architect of the Capitol received $250,000 for "architectural and engineering services related to the design and installation" of those systems. For FY 1998, Congress appropriated $74 million for the Capitol Police Board, including funding for 1,255 Capitol Police positions.

Regular Security Procedures

The Capitol Police force is prepared to deal with a wide array of challenges, including armed intruders, bomb threats, and chemical and biological warfare. Metal detectors, X-ray machines, other state-of-the-art security and surveillance systems, and uniformed officers are located at the entrances of all 19 buildings comprising the Capitol Hill complex. Inside the Capitol, security cameras and motion detectors monitor the movement of people. Uniformed and plain-clothes officers are stationed in the House and Senate chambers, and throughout the building. All trucks making deliveries to the Capitol must first go to a central delivery site where the contents are unloaded and subjected to X-ray, weapons, and K-9 inspections before being delivered. K-9 units also perform random sweeps for explosives in adjacent streets and parking garages.

Specialized Units

The Capitol Police also have several specialized units to deal with particular types of security threats. Each of these units, except for the hazardous devices unit, works with other units on other assignments, including street patrols. The specialized units, which were created to address organizational concerns and assure appropriate responses to new kinds of perceived threats, include the: first responder unit, the first to arrive when there is an emergency; mountain bike unit, used for increased mobility across the Capitol grounds when a situation requires quick access to a site; containment and emergency response unit, used for counter-terrorism, hostage rescues, dignitary protection, and chemical/biological warfare situations; hostage negotiations unit, with primary responsibility for all hostage negotiations, frequently assisted by the containment and emergency response unit; civil disturbance unit, responsible for monitoring large demonstrations when the potential for significant public disturbances exists; and hazardous devices unit, acts as the bomb squad on Capitol Hill, conducts off-site explosives security for Members, maintains a K-9 explosives detection corps, and is slated to take over chemical/biological warfare response functions.

Enhanced Capabilities of the Capitol Police Force

In recent years, the Capitol Police force, with the concurrence of Congress and the Capitol Police Board, has enhanced its capabilities and professionalism by: increasing the training opportunities available to members of the force; creating a physical security division charged with the development and implementation of an integrated security plan for the entire Capitol complex; strengthening its ability to deter, interdict, and respond to acts of violence through partnership with other U.S. intelligence and security agencies; and developing a chemical/biological incident response capability. It has also created a working group to refine, document, and implement an emergency evacuation plan and critical-incident command operation.

PERIMETER SECURITY PLAN

Subsequent to the developments already described, the Senate Committee on Rules and Administration early in 1997 directed the Capitol Police Board to develop a perimeter security plan for the Capitol complex. For this purpose, the board organized a task force that included key staff from the offices of the Architect of the Capitol, the House and Senate Sergeants at Arms, and the Capitol Police, as well as nationally recognized architectural and security consultants. "The challenge," the Architect emphasized at subsequent hearings, was "to sensitively integrate a sophisticated security program into the historic landscape of the Capitol grounds and the fabric of the incomparable complex of buildings that grace Capitol Hill."

On September 25, 1997, the Architect unveiled the results of the effort, which the Capitol Police Board endorsed, at a Senate Rules Committee oversight hearing. The plan called for "improved security at all entrances to Capitol Square through the use of a combination of high impact vehicle barriers that are police activated at the most critical locations, or card activated at parking related areas." The primary elements of the plan were: (1) "a continuous string of security bollards similar to those designed for, and installed at, the White House;" (2) "new impact stone planters consistent with the Frederick Law Olmsted walls;" and (3) an "integration of electronic and other security systems at each entrance." The continuous security perimeter would be located largely within Olmsted's original walls, as designed by the acclaimed 19th century landscape architect.

A month later, the Rules Committee approved this plan, and also authorized the Architect to move forward immediately in developing perimeter security for the area immediately adjacent to the three Senate office buildings. On April 30, 1998, Congress approved $20 million for "the design, installation and maintenance of the Capitol Square perimeter security plan" as part of a FY 1998 supplemental appropriations bill, which was signed into law the following day. These funds include $4 million "for physical security measures associated with" the plan. Use of the remaining $16 million was discussed in documents provided to the Senate Rules Committee at the September 1997 hearings.

The Senate version, as initially reported, provided that funds for perimeter security of Senate office buildings be subject to review and approval by the Senate Appropriations and Rules and Administration Committees. Funds provided for perimeter security of the Capitol Square were subject to review and approval by the House and Senate Appropriations Committees, the Committee on House Oversight, the Speaker of the House, and Senate Rules Committee.

OTHER CURRENT SECURITY PROPOSALS

Proposed Capitol Visitors' Center

Still pending before Congress is a proposal to construct a visitors' center beneath the east front plaza of the Capitol. This proposal has implications for security enhancement because the center would serve as the primary entrance and exit for visitors, allowing the Capitol Police to screen them more effectively. At the same time the center would create space for several auditoriums, a cafeteria, educational exhibit facilities, restrooms, and a first-aid station. Planning for the visitors' center has been underway since 1991, when the Architect of the Capitol received approval to use previously appropriated security enhancement funds for the center's conceptual planning and design.

The design was completed in June 1991, and reviewed by the House and Senate Appropriations Committees and the Senate Committee on Rules and Administration. In December 1993, the Capitol Preservation Commission allocated $2.5 million to translate the concept into a formal design. The Architect entered into a contract with RTKL Associates Inc. to develop a design for the visitors' center, and in 1995, the Architect published a report reflecting RTKL's work.

H.R. 20 and S. 1508, introduced in 1997, "authorize the Architect of the Capitol, under the direction of the Capitol Preservation Commission, to plan, construct, equip, administer, and maintain a Capitol Visitor Center," and "reconstruct the East Plaza . . . to enhance its attractiveness, safety, and security." S. 1508 would delegate responsibility for the design, installation, and maintenance of the center's security systems to the Capitol Police Board, which would be required to conduct a study assessing "security cost savings and other benefits resulting from the construction and operation" of the center.

S. 1508 identifies a primary purpose of the center as the enhancement of Capitol security. When it was introduced, Senator John Warner, chairman of the Committee on Rules and Administration, emphasized that the "most compelling need for the Capitol Visitor Center is to add a major element of enhanced security for the entire Capitol building and environs." During May 1997 hearings on H.R. 20, members of the Police Board stressed that a visitors' center would enable the Capitol Police to regulate the number of people inside the building at a given time, allow them to be better prepared for an orderly evacuation in the event of an emergency, and strengthen the security of the Capitol while preserving free public access.

Both bills call for the establishment of a separate account in the Treasury to handle funds for the project. S. 1508 directs the Capitol Preservation Commission to "develop a detailed plan for financing the project at the lowest net cost to the Government." H.R. 20 directs the Architect of the Capitol to develop and submit a plan to the commission "that would enable construction of the project to be completed without the appropriation of funds to the Legislative Branch." The estimated cost of the proposed visitors' center is $125 million. Of this amount, the Commission has already raised $23 million.

Proposed Supreme Court Perimeter Security

A related proposal calls for the development of a perimeter security plan for the Supreme Court building and adjacent grounds. In FY 1997, Congress appropriated $150,000 for a preliminary study under the director of the Architect of the Capitol, which was completed by private consultants. In June 1998, Chief Justice William H. Rehnquist approved the schematic plan presented by the Architect and security consultants. The Court's FY 1999 budget request includes an additional $500,000 for "detailed design development and preparation of construction drawings" for this project that are "consistent with design schemes being implemented through the Capitol complex perimeter security." It is estimated that a Supreme Court perimeter security plan would cost approximately $5.1 million.

Mr. WARNER. From that report:

Seven to 10 million tourists visit the Capitol complex annually. In 1997, the Capitol hosted more than 2,000 American and foreign dignitaries, and was the site for nearly 300 scheduled demonstrations. In addition to lawmakers and their staff, a sizable number of journalists, lobbyists, and service personnel also work within the Capitol complex.

The challenge of achieving a secure environment for the Capitol complex, while still maintaining an atmosphere of openness, has become increasingly difficult in this century. Both the potential threats to the Capitol and the number of people using the area every day have grown dramatically. Incidents such as the 1993 bombing of the World Trade Center and the 1995 bombing of the Alfred P. Murrah Federal building in Oklahoma City, as well as international confrontations like Desert Storm in 1991, have prompted increases in the level of security afforded the Capitol complex.

This report talks about the legislative proposals. I refer to one of the last paragraphs.

S. 1508 [a bill that I drafted and put in with the distinguished majority and minority leaders several months ago] identifies the primary purpose of the center as the enhancement of Capitol security. When it was introduced, Senator John WARNER, chairman of the Committee on Rules Administration, emphasized that the "most compelling need for the Capitol Visitors Center is to add a major element of enhanced security for the entire Capitol building and environs."

"During May of 1997 hearings on H.R. 20, members of the Police Board stressed that a visitors' center would enable the Capitol Police to regulate the number of people inside the Capitol at a given time, allow them to be better prepared for orderly evacuation in the event of an emergency, and strengthen the security of the Capitol while preserving free public access."

We want to, in every way, maintain this, the people's building, and to provide for the greatest degree of access that we can possibly achieve, given the need for increased security measures. It is my fervent hope that in the years to come, not only 7 to 10 million, but even more Americans and visitors from abroad can come and see this structure and the symbol of freedom for which it stands.

Mr. President, I am having a portion of the report that was associated with the United States Capitol Square Perimeter Security Report be reworked by the Architect's office so it can be printed in the RECORD. I also hope before the day's conclusion to introduce a draft of a bill which would be taken up in markup tomorrow, but I am awaiting instructions from the majority and minority leader and, indeed, the Speaker's input, which I hope to get today.

I thank the Chair. I thank the manager of the bill. I yield the floor.

Mr. CAMPBELL. It is my understanding that the Warner amendment of technical changes is supported by both sides of the aisle. I urge its passage.

Mr. WARNER. May I ask the manager, have we had a chance to compare the two drafts, and is the draft at the desk to be amended at all?

It is the same? So the draft at the desk, then, is the same. I join with the manager in moving the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3356) was agreed to.

Mr. CAMPBELL. I move to reconsider the vote.

Mr. WARNER. I move to lay it on the table.

Mr. President, I wish to thank the distinguished Senator from Colorado and his distinguished partner, the other manager of the bill, for their cooperation in expediting this manner.

Mr. CAMPBELL. I now ask unanimous consent to return to the Hutchinson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

TAX CODE SUNSET AMENDMENT

Mr. BROWNBACK. Mr. President, I rise to make a few remarks regarding the Hutchinson amendment that is to be offered shortly regarding the Tax Code sunset bill or Tax Code Elimination Act that he has been working on. I have been working with him, along with a number of our other colleagues in the Senate, in considering this particular piece of legislation.

I congratulate the Senator from Arkansas on his work on pushing forward a sunsetting of the Tax Code and a sunsetting of the burden it places on the American families—not so much of the rates, even though I think those are too high; not so much as the level of taxation, which I think are too high as well; but the burden simply of such an oppressive, intrusive Tax Code.

I want to share a little bit with my Members here in the Senate about the nature of this Tax Code and some of the things that are happening within this Tax Code. I have a chart here that I think says quite a bit about where our Tax Code has evolved to. Look at the basic foundation. The Declaration of Independence, 1,300 words; the Bible, 773,000 words; the United States Tax Code, 2.8 million words and growing. And growing. That is just too much, too much of a burden.

I also want to share with my colleagues, this debate has been going on for a little bit of time, so we contacted the IRS and said could we have all of the forms that you send to the average American in asking them to fill out their taxes. We just want to see the forms that the average American gets, and we would like to have all of them.

It was interesting that the first thing they responded from the IRS headquarters is we don't have all of the forms. They said they couldn't get those, so they did send us about two-thirds of them. I would like to show Members, these are just the forms. This is not the law. These represent the regulations that explain what is taking place with the IRS code. These are just the forms that they send and the instructions that go with those forms. There are a lot of other documents that go along with these, as well. I hope I can get these stacked on the desk and the desk will hold it.

The burden on the back of this desk is the burden on the back of the public. This is not even all the forms. It represents two-thirds of the forms shipped out by the IRS to the average taxpayer, to businesses, saying these are the sort of things you have to fill out. Not only do you have to fill them out, you have to fill them out correctly. If you don't get them correct, you are subject to fines, penalties, possible imprisonment, from this horrendously complex Tax Code that many people—even with some advising from the Government—don't get the answer right.

If that doesn't define a burden, I don't know what does. What is even worse is that the Federal Government is not content merely in collecting taxes or making complex taxes. It wants to control behavior, as well. Some of those things it would put in the Tax Code are not even very good, either.

I want to give a great example of micromanagement by the Federal Government of people's daily lives in a negative fashion; that is, the marriage tax penalty. Most people are familiar with the marriage tax penalty, and that is a tax on people to be married, two-wage-earner families, to be married. They will pay more in taxes than two single people. Two single people who choose to live together would pay less in taxes than a married couple.

Now I think most people would say in this time of difficulty for families that that is a bad signal to send. We are going to tax marriage as a disincentive to marriage in the system. People say we didn't put it there as a disincentive. Well, it is a disincentive to marriage and it is built into the Tax Code and it is substantial. It is also preposterous.

Our society is built on the foundation of solid families. Creating disincentives to solid families is the wrong signal for us to send at this point in time in our Republic. It is the wrong signal to send at any time. Because of the marriage penalty and other inconsistencies in our Tax Code, I am convinced that this is a Tax Code that history will report as one of the most onerous burdens ever faced by the American public. Our amendment aims to make this code history and to require Congress and the President to put in place a new code, a fair and a simpler tax code, that has far less micromanagement from the Federal Government, and is far more oriented towards growth and toward the family.

Mr. President, I want another American century. I want it for my children. I want it for my children's children. And I want it for all Americans. I am convinced that with this type of a system, with this type of micromanagement out of Washington, we cannot have another American century. This code must be scrapped. We put plenty of time in place to come up with a new, better, simpler tax code that is more liberating to the families, that is more supportive to business, and is far more intelligible by the public.

As a matter of fact, I simply ask my colleagues that don't support this type of amendment, could we do any worse than the current Tax Code? Could we truly be any more complicated than the current taxation system? Could we be any more onerous and unintelligible than the current tax system if we sunset this and go to another? I ask that question as I travel around the State of Kansas, and I don't get many people that say it could get any worse. It has grown over the years and we have added and added and amended and amended. Americans are demanding tax reform and we have promised tax reform. It is now time to deliver on that promise to the American people. Some will argue that we have to be careful about any radical changes to our tax laws, and I agree. I believe that we must carefully weigh alternative plans, debate the macro and micro effects of each, and then arrive at a thoughtful and reasoned solution that is equitable and just. That is why we are putting this off 4½ years until we actually go to and require a new Tax Code. We're saying 4½ years of debate, but let's finally start the debate. We haven't even gotten started on it. We are saying let's start the debate, and let's set a time certain that we will have a new Tax Code that is fairer and simpler, and let's have a great national debate about it. The way we are going right now is, we are saying yes, it is a bad Tax Code, but we are not willing to do anything about it.

This amendment would simply say we are going to do something about this over the next 4½ years. We are going to pass a new Tax Code. We are sunsetting this one at a date certain, and let the great national debate begin. I think that is a just and equitable way to go, and it is not a radical way to go.

The bottom line is that the Tax Code we now have in place punishes good investment decisions and distorts the labor market, as well as our rates of national savings. It hurts the family and manipulates behavior by adding incentive to do one thing while punishing another, which frequently goes in the wrong direction.

Here is another quick example of an inadequacy in our Tax Code that is a harmful public signal. I don't know if you recall this; some people will. I mentioned this previously on the floor. If you are a chronic gambler, you can deduct your gambling losses. If you are a homeowner who made an unlikely investment and the value of your home declined, you have no recourse in the Tax Code because you cannot claim a deduction for capital loss. The question is, Why can somebody deduct a loss associated with a bad game of blackjack but not a loss associated with their primary residence in which they were the unfortunate victim rather than the willing participant? The code is full of inconsistencies like the one I mentioned—perhaps unintended—that people got into over a period of time.

I would like to think that what we could do now is start a reasoned and great debate about a simpler, fairer, better system that is far less about micromanagement and raising revenue for the Federal Government, and not about sending bad signals to the public. Some may disagree about how we would go about going to a different Tax Code, but this is precisely the issue upon which we must focus our debate. We must decide where we want the tax to be imposed, and we must understand the imposition of the tax on the health of the economy. However this debate takes shape, we must have as our goal a tax system that doesn't distort behavior and create deadweight loss. We must have as our goal a pro-growth, pro-family tax system. We should have as our model some kind of simpler and fairer and far more understandable code.

As I travel across Kansas, I ask a lot of people about whether or not they regularly, or even within the last month, have made a personal or business decision based upon the Tax Code. Virtually two-thirds say that, "Over the last month, I have made a business or a family decision based upon tax policy." That is not what we want to create. It is a system where everybody has to consult with the Tax Code before they make a business decision, where everybody has to consult the Tax Code before they make a family decision. Yet, that is the system that evolved to where we are today, to where it is micromanagement out of Washington.

I ask the public in Kansas, "Imagine if you had a system that, regardless of the business decision you made or the family decision you made, the tax results were the same. Would you like such a system?" They say, "Absolutely." Furthermore, they would have more economic growth, as they would put the money into a better economic decision taking place here, and they would not be penalized as a family member doing things that are the best for their families.

Let's begin the great national debate. Let's sunset this Tax Code and move to something new. Our bill will enable the debate to take place outside of the realm of some of the demagoguery because it does protect the important funding mechanisms for Social Security and Medicare. We set aside those chapters in the IRS Code; we don't touch those. I believe we have a commitment to ensure that we have a full, honest, and open debate. Our bill will give that opportunity to this Senate.

Finally, Mr. President, as we look forward to the new millennium and, hopefully, another American century, we will provide the American people with a renewed sense of the American dream, a renewed sense of what it means to be an American and what it means to live in America. We can't achieve that with this taxation system. It is time to sunset it, start the debate, and get to a better one.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, throughout my career, I have been a strong proponent of tax reform. I have made no bones about the fact that the tax burden borne by Americans is onerous and counter-productive to real economic growth, jobs, and opportunity. I have made it clear that we stand in need of tax reform—a tax code that is simple and fair, placing the needs and growth of our families and communities before the needs and growth of the Federal bureaucracy.

I am encouraged by the developing consensus for serious tax reform. As chairman of the Finance Committee, this is among my highest priorities. And I look forward to working closely with my colleagues toward building a promising new tax system that will open a world of possibilities as America moves into the 21st century.

At this time, however, I caution my colleagues to not let the momentum we are gathering overtake our constructive endeavors.

To sunset the current tax code without first structuring a better system would be something like quitting your job before first establishing where your new place of employment is going to be. While such a move may be satisfying and even exciting, when you have a mortgage, some personal debt, and a family depending on your income it is not only imprudent, but could result in devastating consequences.

Prudence, control, and careful planning—that's what our tax reform efforts require from us. Sunsetting the tax code without an alternative in place would create pandemonium in the marketplace.

What would it do to our credit rating? To our ability to meet current responsibilities? How would it be perceived internationally, among our economic partners, and in the global banking community? And how would it affect our families and business community? How do they plan? Where do Americans put their money for retirement, for pensions, for investment, for housing? What will happen to the home mortgage deduction? And how will that influence the real estate and homebuilding markets?

Today the Dow Jones industrial average is down because of recent corporate earning reports and developments in the investigation into the President. Can you imagine what will happen when news hits that the tax code is going to be sunset without a consensus or even a blueprint for a replacement?

If Congress votes to sunset the tax code and does not enact a replacement by December 31, 2002, what happens? We need a tax system—despite how much I would prefer it to be otherwise.

If there is no replacement by December 31, 2002—if Congress has not yet reached a consensus, if the decision—the best Congress can do—is to extend the tax code we have voted to sunset then that extension would, in effect, become the single largest tax increase in history!

I do no want to be party to that. I don't think any of my colleagues do.

To tear down the tax code before Americans know what will replace it is dangerous. We must work to change the current system. Toward this end, I pledge my every effort.

We must eliminate the current code's complexity. We must bring relief to those who are bearing a back-breaking load. We don't need to fiddle at the edges of the current code. We can change the code altogether. We can create an innovative and promising code for a new century. But we must do it in an organized and orderly way. To vote for this amendment is to pass the buck to future Congresses. We can go home and declare victory for taking a strong stand for tax reform, but then the issue will still have to be addressed, a consensus will still have to be developed, Americans will still need to be included in such an important effort.

I am sympathetic to this amendment. Emotionally, it appeals to me. But it is not right. It is not right analytically. It is not good public policy. And it, in fact, is not right Constitutionally. Only the House can originate a revenue measure. This vote would constitute a revenue measure, and—as such—would be subject to a blue slip. For these reasons, I encourage my colleagues to vote against this amendment and join me, and the many others who realize the importance of real tax reform, in working for a successful new code.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Minnesota.

Mr. GRAMS. Thank you very much.

Mr. President, I rise to strongly support Senator HUTCHINSON's amendment to terminate the tax code. I commend his leadership and his persistence in advocating what is real tax reform.

Mr. President, more than 200 years ago, our ancestors staged a tea party and revolted against their mother country to protest the imposition of unfair taxes. Today, taxes imposed by our own government are unfair by any standard. Had our ancestors faced a tax system as punitive as ours has become, they might very well have jumped into the harbor along with the tea.

Americans today are working harder but taking home less of their pay. Why? In excess of $1.7 trillion of their income is siphoned off to Uncle Sam each year. In 1997, total taxes—federal, state, and local—claiming a record 38.2 percent of a typical family's income.

Nearly 40 percent of everything the average family made went to support government.

Nearly 4 hours of every 8-hour working day are dedicated just to paying taxes. The total tax burden borne by the American taxpayer in 1998 is the highest in U.S. history.

We are being taxed at a higher level today than at any time in history, including World War II and other conflicts.

The tax code must be terminated because the earnings, spending, and savings of the American people are taxed over and over to squeeze more money out of their pockets to line the pockets of government. Income is taxed when it's first earned. The after-tax income is then subject to certain excise taxes when spent.

If this after-tax income is saved in a savings account or invested in a business, the interest and profits will be taxed again. If the corporation pays out its after-tax earnings as a dividend to the saver, or if the saver sells his investment, the savings is taxed a third time through a capital gains tax.

If the saver dies with some accumulated savings, these savings will be taxed a fourth time through estate and gift taxes. Even after death, one's tax liability lives on.

The tax code must be terminated because it has long been used as a tool for social engineering and income redistribution rather than sound economic policy.

Clearly, a system of graduated marginal rates violates the principle of fairness. In addition, special interest groups are often unfairly rewarded by politicians with special tax privileges.

We need to have a date certain when this Tax Code is going to end and that we can begin with something new. No matter what we have done recently to try to improve the IRS and the Tax Code, it is like putting lipstick on a pig. We can't make it pretty. We have to pull this code out by the roots, and we have to change it and replace it with something that is friendly and that is fair and taxpayer friendly.

We need something like this legislation to act as a stick of dynamite under the chairs of Congress to make them act, rather than procrastinating and saying, "We will do it next year, or maybe the year after, or the year after." The American taxpayers aren't going to wait that long.

The Tax Code must be terminated because it has become simply complicated. It is difficult for anyone to understand, as Senator BROWNBACK showed us with this huge stack of just the forms that we are having every year. The Tax Code has grown, as he showed us, from 14 pages when it was first enacted to more than 10,000 pages of Tax Code today, plus another 20 volumes of tax regulations, and then thousands of pages and instructions that go along with it. Even the IRS and tax professionals repeatedly make mistakes. IRS agents reportedly gave wrong answers to taxpayers at least half of the time. And the question is, How can anyone master all of the code? I don't blame the IRS or any of the good workers at the IRS. But it is Congress that has developed a Tax Code that is so complicated that even the experts in the field of the IRS can't guarantee that they are going to give the average taxpayer an answer that is right when they call and ask.

So, again, the tax code must be terminated because it's too expensive for the American people. The IRS employs over 102,000 agents to collect taxes, more agents than the FBI and the CIA combined. The taxpayers must pay more than $8 billion each year to operate the IRS.

Worse still, American families, small business owners, and corporations will spend at least another $225 billion just trying to comply with the Tax Code, money that could be better spent elsewhere. If they fail to comply due to innocent mistakes, the IRS penalties could actually ruin some lives.

The tax code must be terminated because the IRS has evolved into an arrogant, inefficient, intrusive, and abusive bureaucracy. IRS agents routinely use their enormous, coercive power to squeeze more money out of the taxpayers' pockets to meet the demands of ever-increasing government spending.

Rooted deeply within the system rests the core flaw of the tax system: policymakers care little about spending other people's money because the money isn't their own. Now is the time to reverse that thinking.

If you are going out tonight for supper and spend your own money, you might spend $50. But if you are going to go out for supper and you take my credit card, you might spend $500 on a night out. In Washington, much of that is what is happening.

With millions of our citizens demanding real tax reform, Congress must grasp this historic opportunity to deliver change—change that will forever repair the system, honor our great American heritage of individual choice and responsibility, and reflect true American values.

In sum, Mr. President, the current tax code is an unmerciful mess—but it doesn't need to be. We can and must replace it with a new system that is simpler, fairer, flatter, and friendlier—a better system that will lead this great country into the 21st century.

We will not have a better incentive to reform than an actual date to terminate the code. I urge my colleagues to support Senator HUTCHINSON's in this very, very important amendment.

Thank you, very much. I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I do want to say to the managers that I don't think we should have a lengthy debate this afternoon on this subject. It is one that I could see us spending hours or days on, because there is plenty to talk about. But we need to continue to make an effort to move our appropriations bills.

I know the distinguished chairman of the Subcommittee on Treasury and Postal Service, the Senator from Colorado, would like to do that. He and the ranking member from Wisconsin are working hard. But I want to give a few remarks briefly in support of this amendment. I have stayed away from doing that on amendments on appropriations bills because I have been discouraging amendments all along the line. But this is one I feel strongly about.

It is also very hard for me to rise in support of an amendment of this nature when the chairman of the Finance Committee is expressing his reservations. But it is totally understandable. He wants to make sure that when we do it, we do it right, and that we develop another tax system that we have thought about. He is doing what you would expect a cautious chairman to do. He takes a back seat to none of us when it comes to finding ways to make the Tax Code fairer and giving tax relief to the American people.

Having said that, I think we ought to do it. There is plenty of time here to think about what the alternative is going to be. Four and a half years—how long does it take? I will tell you how long it will take—forever, unless we make up our minds on behalf of the American people. With their support, we are going to make this happen. We are going to do it.

Others have pointed out what we are talking about. Here it is, Mr. President. This is the Internal Revenue Code.

The copy I have here is about 7,000 pages long in very small type. Frankly, that is absurd. This Tax Code contains the accumulation of 85 years of special interest provisions—your special interest, my special interest, somebody else's special interest, but it has become a hodgepodge. It is not understandable. It makes no sense. It is not simple. It is not fair. It is hopeless. We ought to start over and try to get it right and make it fairer and simpler.

It has become, quite frankly, a three-headed monster, and we have to cut off all three heads. We are working on two of those. One, you cut off the head of unfairness and try to provide some of the tax relief that really is needed by allowing families with children to keep more of their money, as we did last year; by moving to eliminate the death tax, as we started on last year; by hopefully getting started seriously phasing out as soon as possible the marriage penalty tax this year. We are doing some things that make it fairer and even a little simpler, and we will continue to do that. We should do some more of it this year and some more the next year. We should do some of it every year.

The second head is intimidation—the culture, the problems at IRS that we saw that have developed over the years since the last time we reformed the IRS Code way back in 1952. Well, this year we got it done. It took us almost a year, but we did get fundamental reform and restructuring done. That was the second head that we were able to chop off and deal with.

But the third one is to terminate this Tax Code, do it in a responsible way. It won't terminate until December 31, 2002. Plenty of time to decide.

When I go to my own State and I ask people: What do you think about the Tax Code? They react negatively. And I say: How many of you think we should eliminate it? Every hand, every hand goes up. Then you start saying, OK, what are we going to replace it with? We have got time to go to the people in Wisconsin and Colorado and ask their opinion.

Let's think this thing through. Let's do it right. But let's make it clear, let's make it undeniably clear we are going to do it. This is the way to do it.

Some people say, well, gee, unless you have a plan in place, you shouldn't do this. Well, in Michigan, the great State of Michigan, a big State, they eliminated the property tax without a replacement because they knew that the deadline would force their legislature to act on a replacement. And they did. Wisconsin—Wisconsin—created a deadline for abolishing its welfare system, and it drove the reforms that have worked in that State probably better than any other State, at least from what I understand.

This will guarantee that we get it done. I think we should pass the termination date, and I think we should make ourselves live by that date. We should move toward making decisions, and we should fundamentally reform our Tax Code. It is overdue. It is the third head of this monster that must be removed so that the American people can be free, free of the oppression that we have developed over these 85 years in this Tax Code.

I yield the floor, Mr. President.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I rise in support of this proposal by Senators HUTCHINSON and BROWNBACK, the proposal so eloquently supported by the majority leader, TRENT LOTT. He is exactly right, in my opinion.

I was at that first press conference when this proposal was announced. I believed in it then and I believe in it now. The Internal Revenue Code with 7,500 pages and over 800,000 words, has grown each year and continues to grow. We cannot ask the American people to read thousands of pages before they pay their taxes. We cannot ask them to pay hundreds and hundreds of dollars to have accountants do their tax returns, returns they used to be able to do themselves. It is simply not fair, and it is not right.

As I recall what a good tax is supposed to be, if there is a good tax, according to the textbooks, it is a tax that is understandable. It is a tax that is predictable in terms of revenue. I would say that is one thing our Tax Code does, it produces a very large but predictable supply of revenue. But a "good" tax is also supposed to be easy to collect and is supposed to be perceived as fair. I would say it is only in the predictability of revenue that our Tax Code acceptable. Otherwise, it is really on unacceptable terms that revenue is raised to fund this great Government.

A few months ago, last fall, DICK ARMEY and BILLY TAUZIN from the House of Representatives came to my hometown of Mobile, AL, to have a debate about the Tax Code. Mr. ARMEY is in favor of a flat tax, and Mr. TAUZIN, a consumption tax. The place was packed, standing room only. They announced it on the television and on Sunday night people came out from all over. They were fascinated and asked questions. They were energized by this debate. I am told that everywhere Mr. ARMEY and Mr. TAUZIN go people are there in record numbers; they are interested in this issue, and they care about it.

For days after the debate in Mobile, people came up to me, and this is the question they asked: JEFF, can we really do it? Is this something we can do? And my answer to them was: Absolutely, we can do it. There is no reason under this Sun that we cannot pass a simplified Tax Code. We must be able to say to the American people, the people who elected us, that we can produce a Tax Code that is simple, fair, easy to understand, and produces a steady revenue. And whether it is a flat tax or a consumption tax or some combination of both, we need to focus on this issue in Congress.

By passing a deadline, with 4 years to go, we will set a date that will force us to confront this issue and respond to the wishes of the American people. Having run for office just recently, in 1996, I know the American people are confident the Government is going to have money to run itself. I also know they want tax reductions. With the recent surpluses, they want more than they wanted just a few years ago. But what they really want is a Tax Code that is simple and fair, and we can give that to them. We need to make a commitment to that end. And if we do so, I believe that people in this country will appreciate it very much.

I favor this proposal. The American people are fed up. It will help make this country competitive because we will not have wasted all this time and effort collecting taxes. Instead, we will spend it developing new and improved products in our businesses and industries in America so that they can continue to be competitive in the world.

I appreciate this opportunity to speak. I salute Senators HUTCHINSON and BROWNBACK and all others who support this amendment, and I look forward to being a part of the reality of eliminating the Internal Revenue Code as we know it today.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I would like to speak in opposition to the Brownback amendment.

Sunsetting the Tax Code may sound catchy and attractive, but in truth it is simply wishful thinking until we have some concrete idea about its replacement.

Now, we all agree that the current code is too complex and too burdensome for the average taxpayer, and everyone agrees that we need a simpler and a fairer system. But we also know that some sort of tax structure is necessary to maintain the vital functions of our Government. The current Tax Code, however imperfect, allows us to sustain our national defense, provide aid to struggling farmers, make sure that those Social Security checks are delivered on time, and much, much more. Down the road, we may envision and hope for a more direct route to providing those resources than the current tax system, but until we find that alternate route, this debate should remain just that, a debate, an open dialog as to what system would best serve the American people. In addition, simply sunsetting the code would be a disaster for American business. We hear so much about the need for American corporations to make long-range business plans, and indeed that is true, they must. But how will that be possible if they don't know what Tax Code they will face after the current one sunsets? How many resources would companies waste trying to plan for all the possible new tax codes that we might enact 4 years from now?

Finally, sunsetting the Tax Code without any notion of how we might pay for it makes a mockery of the progress we have made in balancing the Federal books. We are all encouraged by the budget surplus and the strong economic forecasts, but we should not get ahead of ourselves and think that the good news warrants a swift departure from the tough decisions and fiscal discipline that brought us to this point.

So for these reasons I will support, when it is raised, a Budget Act point of order against the Brownback amendment. I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in opposition to this amendment, which eliminates the Tax Code without an alternative.

Mr. President, I heard it said that we ought to "pull it out by its roots," get rid of it now. Well, I would hate to go to a dentist with a toothache and have the dentist say, "You know what, we are going to look at this tooth. First, we will pull it out by its roots, and then we will look at it."

That is what is being proposed here, Mr. President. This amendment would get rid of the Tax Code, but without any indication of what would replace it. Instead, we could be left without any revenues to operate the government. We could be left with no revenue to support our military and protect our country. With no revenue to buy the weapons systems we need for the future to advance our country technologically.

Mr. President, this amendment will create tremendous uncertainty in the business community. They're not going to know when they can make investments and when they cannot. For example, they will not know whether the R&D tax credit will be available. That is an important part of the code. But businesses will not know whether it will remain available if this amendment is enacted.

Mr. President, I ran a big company that now employs 31,000 people. I started this company with two other guys, poor people from New Jersey. We built the company by planning ahead and making investments, often because we knew that there were tax benefits that we could count on. But if this amendment is approved, other entrepreneurs will not be able to make similar plans.

What the distinguished Senator from Kansas is saying is, "Wait, before you do any investing, let's get rid of the Tax Code. Wander where you want through the jungle for a couple of years, and that will make the Congress respond."

I don't understand it, I must tell you. Sometimes I think I work in a different place from some of my colleagues, because the references are to "them."

"They will never get it done unless we pull it out by its roots."

"They will never get it done unless we make the pain excruciating."

"Fear of shutting down Government, fear of being unable to operate, that will make them move."

Who is the "them" and who is the "they"? Who is the "we" and who is the "us"? We are all in this together for the American people.

Look at the economy. I hear about this oppressive Tax Code and the number of pages, and "Compare it to the Holy Bible."

"Holy cow," that is what I say, "holy cow." What are we going to do? Are we going to weigh these things? Do we want to buy a scale here and say if it weighs less than a certain number of grams, pounds, ounces, it is OK? But if it weighs over that, overboard?

Go to the business community and ask them what they think about throwing it all away. They will tell you that we would only be punishing ourselves.

Mr. President, I agree that the Tax Code is too complicated and too cumbersome. But the way to solve that is to offer something positive. It is to offer a real alternative.

I also would point out, Mr. President, that eliminating the whole tax code could undermine much of the progress we have made in recent years. We have gone from a deficit of $290 billion six years ago, to a surplus that is now projected to be $60 billion. And for the next decade, we will have $1.5 trillion to pay down our debt.

But this amendment would reverse this progress. It says that we want to play political games. That is what this is about. This is almost becoming a national sport here. It is not football, baseball or basketball, it is politics.

We are going to take away the revenue code. Do you know what? You are not going to feel it, Mr. Citizen. Everything is going to be hunky-dory. And do not worry if the FDA can no longer approve new drugs. And do not worry if the National Cancer Institute can no longer do the research needed to help defeat breast cancer or prostate cancer or to help the newborn grow up healthy—no. No. We are going to fix the revenue code. But you are not going to have to pay any price. You know, Mr. and Mrs. America, you know there are free lunches all over this place. You don't have to pay for anything.

Listen, no one here likes taxing people who work hard for their money. The President certainly doesn't. He says: Provide tax relief for families who send their children to child care so that they can go out and work. Provide relief to support education, so that we can have the best educated society on this Earth. That is where we want to give tax relief—to ensure that our children can get a good education.

That is especially important in our age of technology in the new millennium.

Mr. President, I come out of the technology business. I am, immodestly, called, "a member of the Hall of Fame of Information Processing." My company was one of the earliest in the computer business, and we learned that technology is the way to the future. We helped start an industry called the computing industry. It is different than the computer industry. The computer industry is the hardware. The computing industry is all else. It is programs. It is engineering. It is all those things. It is an industry that is dramatically improving efficiency in so many ways.

Mr. President, from my experience in the business community, I know the problems that would be created if we simply rushed out and eliminated the entire tax code without a replacement. It would be a serious mistake.

Yes, the Tax Code ought to be simpler. Yes, people ought to pay less. But you don't get something for nothing in life. You don't get it in a country club, you don't get it in a schoolroom, and you don't get it in the United States of America.

We have seen what happens with those countries where they have codes that say you don't have to pay—communism. You don't have to pay. They produced a society in Russia that is almost flat broke, dispirited, broken down, can't produce a product. We say let the free market operate, and let the Tax Code reflect what the objectives are; to build a society, to invest in this society, to give people a chance to get an education, to know that when they are 65 years old that Social Security is going to be there and its purchasing power is protected.

What a remarkable thing we are witnessing today, and how in a few words here we like to disparage it. "It don't work. It ain't good. Get rid of it."

Here we produced surpluses when deficits were the rule. And we want, now, led by the President of the United States, to shore up Social Security so somewhere in the 2070s—it is pretty obvious I won't be running by then; I might, though—we want to make sure Social Security is there for our children, for our grandchildren.

That is what we are doing now, and it is all part of a fiscal plan. You can't throw out the revenues without throwing out the expenses. I am sure the Senator from Kansas would say, "Of course."

Well, what expenses? The expenses for the military, the expenses for research, the expenses for development, the expenses for education, the expenses for clean air, the expenses for operating our national parks, the expenses for leaving a legacy for our children, that tell them there are still fish in the oceans, fish in the streams, so that they have something to look forward to.

No; the mission is destroy first and then decide what you are going to do next. I spent 3 years in the Army, and I never had that. We always knew what the mission was before we started out on it.

Mr. President, I am a member of the Budget Committee. I am the senior Democrat on the Budget Committee, and I expect that a point of order will be raised against this amendment because it violates the budget rules. I hope that our colleagues respond appropriately.

I respect those who differ with me, but I will tell you this: If a company I was investing in decided that they couldn't figure out what the revenues were going to be and they wanted to operate and just go ahead and see what happens, make all kinds of investments, I would get out of there in a hurry. There is not a company in America who will make big investments if they do not know what the tax treatment is going to be.

I am going to yield the floor, but I hope my colleagues are going to join me in standing up for what is right for America and do things in an orderly fashion.

I have heard the plea made so many times: Why can't we operate like a business? Why can't we operate like families do? We want to do just that. We want to operate just like a business that plans its actions, lays it out on a piece of paper and says, "This is going to be our revenues, this is going to be our expenses, and this is where we want to be 5 and 10 years from now."

Instead, we now have a proposal that says, "What we can do, ladies and gentlemen, and the board of directors and the president of the company, is we are going to ask you to hold your breath, we are going to make the investment anyway and take the chance it is going to come out right."

Fire that guy.

I yield the floor and hope that my colleagues will assess the threat that this reckless proposal poses to our Government, our Nation, and our economy.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, in accord with the majority leader's request that we move expeditiously, I will keep my remarks very brief. I want to read one statement from the American Conservative Union, a letter sent to all my colleagues, the last paragraph:

> We are pleased to support your legislation, and will watch closely for a clean up-or-down vote on the bill with a view to including it in our upcoming annual rating of the Congress.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN CONSERVATIVE UNION,
Alexandria, VA, July 20, 1998.

Hon. TIM HUTCHINSON,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR HUTCHINSON: On behalf of the nearly one million members and supporters of the American Conservative Union, I commend you for your introduction of S. 1673, the Tax Code Termination Act.

The purpose of the legislation is simple: by abolishing the current tax code by a date certain, the legislation would force a national debate on what kind of tax structure best fits our nation's needs, while meeting the reform criteria of being lower, flatter, and fairer. If enacted, the bill would force just such a debate into the center of the 2000 federal elections, at both the presidential and congressional level.

Such a debate is a necessary prerequisite for thoughtful action to revise the code appropriately. A president elected after such a debate will be able to lay claim to a mandate; the Congress chosen in those elections will have to respect that.

Some critics have suggested that the timeframe mandated in the bill is too restrictive—that it doesn't allow the 107th Congress enough time to reasonably hold hearings, draft, revise, markup, amend, and then pass on the floor a total rewrite of our tax code.

We believe the contrary to be true. With a termination date set for December 31, 2002, and a call for a new tax code to be in place by July 1, 2002, we believe there will be plenty enough time for the 107th Congress to consider and pass appropriate legislation.

We are pleased to support your legislation, and will watch closely for a clean up-or-down vote on the bill—with a view to including it in our upcoming annual rating of the Congress.

Yours sincerely,

DAVID A. KEENE,
Chairman.

Mr. HUTCHINSON. Mr. President, also, I have a letter from the National Federation of Independent Business in which they "strongly urge your support of the Hutchinson-Brownback amendment. It is time to step forward and let the American people know that their elected leaders have the courage to change a system which is anti-work, anti-saving and anti-family. Now is the time to take action."

I ask unanimous consent that this letter from the NFIB be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
July 23, 1998.

Hon. TIM HUTCHINSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUTCHINSON: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I urge you to support the "Tax Code Termination" amendment that will be offered by Senators Hutchinson and Brownback to S. 2312, the Treasury-Postal Service Appropriations bill.

The Hutchinson-Brownback amendment is a tremendous step forward in the effort to abolish the current complex and abusive tax code and replace it with a fairer, simpler code for all Americans. The amendment would sunset the Tax Code after December 31, 2002, but not until Congress acts prior to that date by adopting a new, fairer system with a low rate by July 4, 2002. Similar legislation recently passed the House of Representatives on June 17, 1998. Passage of this amendment would bring Congress one step closer to allowing the American people, those who suffer the most at the hands of an unjust tax system, to decide what system is fair and simple.

The IRS Income Tax Code is beyond repair, imposing excessive compliance costs on small businesses nationwide. Yet, legislation to overhaul the Code has stalled in Congress. The purpose of sunsetting the current code on a date certain is to force Congress to get serious about fixing our tax system. Small employers understand that a new plan must be ready for implementation before the old code is put to rest. But, as indicated by the 750,000 petitions they have signed and presented to Congress, small business owners want Congress to get started on scrapping the seven-million word that causes them so much time, money and grief.

I strongly urge your support of the Hutchinson-Brownback amendment. It is time to step forward and let the American people know that their elected leaders have the courage to change a system that is anti-work, anti-saving and anti-family. Now is the time to take action.

DAN DANNER,
Vice President,
Federal Governmental Relations.

Mr. HUTCHINSON. Mr. President, like Senator LOTT, our majority leader, I am most reluctant to offer this amendment in opposition to the sentiments of the chairman of the Finance Committee. Likewise, I have the utmost respect for my colleagues on the other side of the aisle. I want to respond to a couple of things they said, my colleague from Wisconsin and my colleague from New Jersey, who, to me, when they talk about this proposal being something radical, what I hear in response is the politics of fear.

They say, "Well, we're not going to have a code, we're not going to have a Tax Code." And then, "We are not going to have the FDA, we're not going to have FAA, we're not going to have roads, we're not going to have Social Security."

By the way, Social Security is omitted entirely from this bill. It is not even a factor. But we hear the politics of fear—the sky is falling.

Let me assure my colleagues, there is nothing as certain as the Sun rising in the morning but that this Senate will have a Tax Code come 2002. I assure you that this Senate and this House will not allow this Government to go without revenue.

My goodness, if you love this Tax Code so much and you like the loopholes and you like the deductions and you like the exemptions and you like the exclusions so much, then you can propose that we reenact this Tax Code in total just like it is, and there you go. You go back and defend that before the American people because that, I say to my colleagues, is exactly what this debate is all about: Do you defend the status quo, or do you want change?

Senator ROTH—and I love this man. I respect him like my father, and I think he has done marvelous work in so many areas in the IRS. But I pose only this question to him and to all others who disagree with this amendment: How long? The fear that we are not going to have it enacted—here is the time line: 4½ years of national debate, and if we can't get it done in 4½ years, then we can reenact this wonderful Tax Code that those on the other side or those who oppose this would like to defend. Four and a half years of national debate. Long enough—long enough—to wait for tax reform.

July 1998, that is where we are now. Come November, we will have a congressional election; November 2000, we will have a Presidential election; July 4, 2002, we suggest in this amendment that we should have a new code approved; November 2002, more congressional elections before we finally reach December 31, 2002, the sunset date.

I suggest that is long enough. Let's give the American people what they are demanding, and that is a Tax Code that is fairer and simpler and friendlier.

AMENDMENT NO. 3249

(Purpose: To terminate the Internal Revenue Code of 1986)

Mr. HUTCHINSON. Mr. President, with that, I call up an amendment I have at the desk, No. 3249, the Tax Code sunset amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON], for himself, Mr. BROWNBACK, Mr. MCCAIN, Mr. ABRAHAM, Mr. INHOFE, Mr. GRAMS, Mr. SMITH of New Hampshire, Mr. HELMS, Mr. MURKOWSKI, Mr. COATS, Mr. SESSIONS and Mr. COVERDELL, proposes an amendment numbered 3249.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. ___. TERMINATION OF INTERNAL REVENUE CODE OF 1986; NEW FEDERAL TAX SYSTEM.

(a) TERMINATION.—

(1) IN GENERAL.—No tax shall be imposed by the Internal Revenue Code of 1986—

(A) for any taxable year beginning after December 31, 2002, and

(B) in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2002.

(2) EXCEPTION.—Paragraph (1) shall not apply to taxes imposed by—

(A) chapter 2 of such Code (relating to tax on self-employment income),

(B) chapter 21 of such Code (relating to Federal Insurance Contributions Act), and

(C) chapter 22 of such Code (relating to Railroad Retirement Tax Act).

(b) NEW FEDERAL TAX SYSTEM.—

(1) STRUCTURE.—The Congress hereby declares that any new Federal tax system should be a simple and fair system that—

(A) applies a low rate to all Americans,

(B) provides tax relief for working Americans,

(C) protects the rights of taxpayers and reduces tax collection abuses,

(D) eliminates the bias against savings and investment,

(E) promotes economic growth and job creation, and

(F) does not penalize marriage or families.

(2) TIMING OF IMPLEMENTATION.—In order to ensure an easy transition and effective implementation, the Congress hereby declares that any new Federal tax system should be approved by Congress in its final form not later than July 4, 2002.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me make a few comments about the amendment that has just been offered to the Senate.

The sponsor of the amendment asked the question: How long? How long, he asks, will it take to get rid of the current Tax Code?

The answer to that is simply a long, long time, if the Senator who offers this amendment, and others, suggest to us that we should, for example, have a national sales tax of 30 percent or more. If the folks who have gotten rid of this Tax Code have implemented a 30 percent national sales tax—and, yes, that is what would be required to be implemented to replace it—if you buy a house, they will say, "Yes, that house is $120,000, but then there is a 30 percent sales tax on top of that." A fellow named William Gale from the Brookings Institution wrote a policy brief on this: "Don't Buy the Sales Tax."

The reason I am discussing this is, the Senator does not tell us with what he would replace the Tax Code. He simply says, "Let's get rid of the current Tax Code."

There is plenty wrong with the current Tax Code. Count me among those who would like to change the things that are wrong, but count me among those who ask the question of the Senator who offers this amendment, What do you propose to replace it with?

My understanding is, the Senator who offers this amendment at one point was a cosponsor of a sense-of-the-Senate resolution calling for a national sales tax. My understanding is, he took his name off of that bill. Am I mistaken about that? Did the Senator add his name?

Mr. HUTCHINSON. Will the Senator yield?

Mr. DORGAN. I will be pleased to yield, of course.

Mr. HUTCHINSON. No, I have never—I have never—endorsed or signed on to any measure, and to suggest that I favor a 30 percent national sales tax or any form of sales tax is absolutely a misrepresentation and a mischaracterization of my position.

Mr. DORGAN. Let me reclaim my time.

I appreciated the Senator's response. My understanding was—and we can determine this—but my understanding was that early in this Congress, the Senator added his name as a cosponsor to a resolution here in the Senate calling for a national sales tax. My understanding is he subsequently withdrew his name from that, but we can discuss that, I guess, with respect to the people who have the records.

My point is this, Mr. Gale, who writes about the sales tax down at the Brookings Institution, says that if you had a national sales tax and are going to include all of the things that you need to include to make up the revenue, that you have to have a sales tax of 30 percent or more.

The only reason I am raising this question is, What do you intend to replace the current Tax Code with? A value-added tax? A national sales tax? Or any one of a half dozen other iterations? I do not know.

Then I ask the following question: With whatever you replace the current tax with, do you intend to provide for a deduction for home mortgage interest paid by someone who has just purchased a home and is banking in the coming years on being able to deduct that home mortgage interest? Is that part of some future plan or not?

Does one intend, for example, to provide for a deduction for health insurance costs? Our current tax program in this country largely provides for that as a business deduction. I am told that if that deduction is eliminated, studies show that anywhere from 6 to 14 million more Americans will no longer have health insurance coverage.

Or what about charitable giving? Would what is proposed to replace this with—whatever that is; we don't know what that is—would it provide for a deduction for charitable giving? Some 1.4 million tax-exempt organizations worry about that. At least one study suggests that perhaps charitable giving could be reduced by some $33 billion.

So I ask the question, What does one propose to replace this with? I say to my friend from Arkansas, I certainly do not mean to misrepresent your record. I had been told that the Senator had at one point added his name to a sales tax resolution. It is not my intention to misrepresent that. If that is not the case, then I do not intend to assert that.

But whatever the case is about the Senator from Arkansas and what he harbors to replace this tax with, whatever that is, at some point someone is going to have to say, "By the way, here is what I feel this should be replaced with. And here is how it is going to affect you."

So I ask the Senator from Arkansas, since he is proposing that we eliminate the current Tax Code by a certain date, could he tell us—and I would be glad to yield for an answer—could he tell us what he proposes to replace it with?

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I respond to the Senator, the whole point in having the sunset date is to force us into a national debate to decide the very question he poses. If I might continue, to argue the debate on what the pros and cons are on a sales tax, flat tax, I would just say, you can't do worse than what we have.

If you reach that point that you want to reenact this code, this amendment allows you to do that. I suggest that we can and we must do much better. And it would be putting the cart before the horse to say, "This is what we must do." What we need to do is set the date forcing us to reach that consensus on what should replace the current code.

Mr. DORGAN. Mr. President, let me ask a more specific question.

I think the Senator said: I don't know what we should replace this with. I think that was the answer. Let me ask a more specific question. If, in fact, one of the alternatives would be a national sales tax—and certainly that is one of the alternatives—and if it would require about a 30-percent tax rate, as it would according to studies, would the Senator believe that that is an inappropriate replacement for the current Tax Code?

Mr. HUTCHINSON. I, first of all, do not know to which study the Senator is referring. There are many studies on the various rates of a flat and sales tax. But what I would suggest is that the principles laid down in the bill that I introduced and in the amendment that we are debating would be violated by any type of a 30-percent aggressive sales tax. Obviously, that would be something that I think would be totally unacceptable.

But to throw up these fears: "We're going to lose a home mortgage deduction" and "We're going to lose a charitable deduction," that is the politics of fear. That is what prevents us from moving forward to real and comprehensive tax reform, in my opinion.

Mr. DORGAN. I think what the Senator is saying, in response to my question, however, is he does not know what he would replace the Tax Code with. He does not know how it would affect the American people, does not know its impact on the economy. That represents a fear by a lot of people. For example, it represents a fear by the group of folks who represent the largest corporations in this country who work on the tax policies for—I could read the list of corporations, but it is virtually a who's who—Hewlett Packard, BellSouth, Alcan Aluminum, so on and so forth. Here is what they say. Listen to what they say:

> We're writing to express the institute's serious concern about proposals to sunset the IRS Code on a designated date without specifying a replacement tax system. In our view, these proposals reflect either a misapprehension of the importance of certainty and predictability to business enterprises and individuals or a disregard for the consequences of terminating the tax system. They illustrate the folly of making tax policy by sound bite, and it ought to be rejected.

I know these are the folks who run America's businesses who say we need some certainty and predictability. They are not against reform. That is not what they are saying. But they are saying that they need to understand what it is you want to do.

You want to sunset the Tax Code on the one hand, and then I ask the question, "But what do you want to do on the other hand?" You say that just as the Sun sets in the evening, it is going to come up in the morning. That is true. Just as you sunset the Tax Code now, you are going to replace it with something. That is true. The question is, With what? And you do not have an answer.

So is it reasonable for us to ask the question, Is part of the answer a national sales tax or not? If it is not, let us decide it is not. Is part of it a value-added tax or not? If it is not, let us say it is not. If it is, let us decide who it impacts and how it impacts in the American economy.

Mr. HUTCHINSON. If the Senator would yield?

Mr. DORGAN. I would be happy to yield.

Mr. HUTCHINSON. I think it would be very, very foolish of us to try to have a national debate on tax reform on the floor of the Senate tonight, for us to decide we are going to take a sales tax off the table, we are going to take VAT off the table, we are going to take a flat tax off the table, and we are going to take a modified or hybrid of it, and we are going to decide this evening.

That is the whole point, I say to my colleague. The whole point that we need a deadline is to move us to reach the consensus on what is the best way. I suspect we will end up keeping a home mortgage deduction and the charitable deduction. But we need that national debate. The only way we are going to force that national debate is to focus—most Americans are exactly where I am. They are not sure what would be the best replacement. But they sure know this: What we have needs to be replaced.

So let us take one step at a time.

Mr. DORGAN. Reclaiming my time, I do understand what the Senator is saying. Let us force a solution. But he does not have a logical solution. Let us tell the person on A Street or B Street or 10th Street or 12th Street that we want to get rid of the current Tax Code—but he has no idea how he wants to replace it.

There is a very big difference between those who would tax someone's income at 14 percent and those who would impose a national sales tax at 30 percent and those who would impose a value-added tax at 17 percent. There is a very big difference in how it impacts people.

The Senator wants to suggest, "Gee, this is some innocent little proposal of mine. Let's just get rid of the entire Tax Code" which, by the way, violates the Budget Act. And he knows that. "Let's get rid of the entire Tax Code and leave for some future debate the ability to cogitate the kind of Tax Code we might consider for tomorrow."

Count me as among those who want to make changes in our Tax Code. I mean, do not count me as part of the target that the Senator was aiming at when he was talking about all of these "they, they, they" and "fear, fear, fear." Just count me as part of the group who says, "Yes, let's make some changes in our Tax Code."

But also count me as part of a group who believes that if you are going to propose something to force solutions, you ought to have some notion in hand about what those solutions ought to be and how much is necessary to be collected in our revenue system in this country to pay for the needed social services?

We build roads to go to market because we do not want to each build a road separately. That would not make much sense. We build schools together so we can send our kids to public schools. We do not need each of us to have a school in our own home. So we do things together. We provide for common defense. We have a Pentagon. We pay the men and women of the military to provide for the common defense of this country. That costs money. We, therefore, must raise that money. And the question is, How?

We have an income tax system that isn't a very good system. You will not find disagreement here about that. But you will find profound disagreement about a proposal that says, let us simply scrap the current tax system with no notion in mind about what you might replace it with. Precisely for this reason, I have watched some people trot around this Capitol Building, and on a good day they even gallop and canter, alive and interested in their notion about how the Tax Code ought to be changed. Some of them very much want to go to a national sales tax and the Senator knows that.

They want to go to a national sales tax. That will have a substantial impact on a lot of families; some good, some bad. Some of them want to go to a value-added tax . Some of them want to go to other forms of taxation. All of them will have significant consequences.

But the Senator from Arkansas says let's not debate the ideas, consequences or the solutions. He says let's debate some mechanism to force the problem, which also probably violates the Budget Act. I don't understand that. I guess we will have a vote up or down on a proposal that sunsets the entire Tax Code, with the author telling me that he doesn't know what it ought to be replaced with and that we ought to just figure out some way to get from here to there by some protracted debate.

I don't think that is a particularly good way to legislate. I think the Senator from Delaware, the chairman of the Senate Finance Committee, a man for whom the Senator from Arkansas has great affection, as he says, as do I, I think he has it exactly right. This is not a good way to make tax policy. There would be an opportunity for the Senator from Arkansas to bring to the floor his best idea about exactly how the Tax Code ought to be changed. He can do that at 7 o'clock tonight; the best idea he has or anybody has about how to change the Tax Code in this country. And then let people gnaw on it, chew on it and see what they think, and have a vote on it. But that is not what he and some others choose to do. They choose to bring some shapeless package to sunset the current Tax Code, and to replace it with nothing except some hope in the future that someone will do something to provide the revenue in some undescribed way.

Again I don't believe that is a good way to legislate. Neither does the chairman of the Senate Finance Committee, a Republican. Neither does the National Association of Manufacturers. Neither does the Tax Executive Institute, and many others.

Mr. GRAMS. Will the Senator yield?

Mr. DORGAN. I am happy to yield for a question.

Mr. GRAMS. I heard you say if this code were eliminated and replaced with a possible national sales tax, it could take up to 30 percent of a sales tax to replace what the Government has taken.

Now, does that mean hidden behind all the hidden taxes, that somehow the Government now is taking from the average taxpayer, the average worker in this country, 30 percent of their income just to support the Federal Government?

Mr. DORGAN. The Senator obviously misunderstood what I said. I was responding to a policy brief prepared by William Gale at the Brookings Institution that says "Don't Buy the Sales Tax."

I have yielded. Let me have the floor.

I was talking about comparing the income tax to the sales tax. As the Senator would know, I think there is a substantially different base. Dr. Gale talked about this. I would like the opportunity to send it to the Senator's office for his perusal.

On page 4 of the 10-page report documenting a study he had done, he says a 30-percent tax rate would be needed on the more familiar tax-exclusive approach on a national sales tax. He is one of the preeminent authorities on this issue in the country. I have met with him, talked to him, and enjoyed his work a great deal. I think he has done a lot of good work on the question, What would a national sales tax have to be? What would it look like? Who would it impact?

One of the things I find most interesting, whether it is on the sales tax or the VAT tax, is that those in both the House and the Senate with specific tax plans to replace the current Tax Code always come up a couple hundred billion short in revenue.

What they say is, I want to sunset the current Tax Code, and here is my substitute for it, and my substitute is a couple hundred billion dollars short. They won't say that, but that is the way they are evaluated when done fairly. Count me in on that. Gee, if you don't have to come up with something that responds to the same revenue base, we now have to meet the needs we have, then, gosh, maybe we should come up with something that raises only 50 percent of the revenue. Or how about 10 percent of the revenue. That is a wonderful way to do business.

I see the people walking around with plans that would, A, increase the Federal deficit substantially; and B, impose substantial dislocations on a lot of folks and raise questions about whether you would have the opportunity to deduct your home mortgage interest or deduct your gifts to charities. Some of them, incidentally, say to people, we have decided to have a new form of taxation.

I bet the Senator doesn't support another proposed new form of taxation, though. We will divide Americans into two groups: One group that works, and they get their money by going to work every day, and we will tax them because we have decided to tax work just like the current income tax does; and one who gets their money from investments, and we will exempt them. Tax work; zero tax on investments.

I think that is the sort of thing that would be interesting to debate on the floor of the Senate. The quicker we get to that debate the better. Those who offer this amendment say we don't want to have that debate; we want to simply sunset the Tax Code, and we don't want to debate the sweet by-and-by. We don't want to debate the prospect of what we might propose. Just asking the Senator from Arkansas what he proposes, it occurs to me at this point we don't have a proposal. All we have is a suggestion, get rid of the current Tax Code and maybe tomorrow, maybe the day after tomorrow, we will come up with an idea so you can then debate that on the floor of the Senate.

I have taken enough time. I hope when a point of order is made, as I expect it will be made because this does violate the Budget Act, that a good number of Members of the Senate will agree with the National Association of Manufacturers, Tax Executive Institute, with the chairman of the Finance Committee and others who say if we are going to sunset the Tax Code, first propose exactly to the American people what we would replace it with so they would have some knowledge and some certainty about what this debate is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I appreciate the issue that is up before the Senate, and I have the deepest respect for the author of this amendment, Senator HUTCHINSON.

I must say, however, that this is a very bad amendment. It is a profoundly bad amendment. It is a sound bite amendment. It is a feel good amendment, and if it were passed, I guarantee it would have profound adverse consequences upon our Nation.

Why do I say that? I say it because there is a reason why the Tax Code is the way it is. We have to raise revenue somehow, obviously, to pay our bills. But the reason the tax code has gotten so complicated is because the American people over the years have come to Congress—to Members of the House and the Senate—and have said "here are some tax provisions we would like." Members of Congress, by and large, don't lead. That may be news to some of us, but by and large, Members of the Senate don't lead. We tend to follow the American people. I'm not saying this is bad. We should follow our employers, the people we work for—the people who elect us. And it is the American people who, by and large, ask us to do the various things we have in our Tax Code.

The home mortgage deduction has been mentioned many times because it is such a good example of what I mean. While it makes the code more complicated, there were very good reasons it was enacted and has continued over the years. There are a whole host of other reasons why the code has the reputation it has. We are an extremely large, extremely complicated country. More so than I think any one of us here realizes. There are so many different people in our country pursuing so many different economic opportunities, so many different business combinations. Our nation is even more complex as our economy becomes more global, and we develop more opportunities overseas. And various people in our country or its businesses have come to Congress and said these are some of the things that we would like because we think they will help the economy. That is why our code is the way it is.

There is no doubt about the fact that the code is complicated. It is excessively complicated. We know that. We hear from our constituents all the time that it is much too complicated. But I think it is important to remind ourselves that there is a reason why, to date, we don't have a flat tax, why we don't have a value-added tax, why we don't have a national sales tax. It is because the American people have not decided which, if any, of the alternatives they want.

Mr. DASCHLE. Will the Senator yield?

Mr. BAUCUS. I would love to yield to my good friend from South Dakota.

Mr. DASCHLE. Mr. President, I appreciate the Senator for yielding. A number of Senators are attempting to determine their schedules for the evening, and I would like to propound a unanimous consent request, if I could.

I ask unanimous consent that the Senator from Montana have 15 minutes complete, including the comments he has already made, and that the Senator from South Dakota have 5 minutes, and that the Senator from Maine have 5 minutes, and that following the allocation of that time, a vote be taken on this particular amendment and the motion to waive be made at that time.

The PRESIDING OFFICER (Mr. BROWNBACK). Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. I thank the Senator.

Mr. BAUCUS. Mr. President, the second problem with this amendment I would like to mention is that it begs the question of what our current Tax Code is going to be replaced with.

I must say there is something to the old adage that the grass is always greener on the other side of the fence. It is part of human nature to think that something else is always necessarily better than what we have. That somehow a sales tax, or a value-added tax, or a flat tax is necessarily going to be better than the current code. We all know, if we stop to reflect a little bit, that sometimes you get what you ask for and you don't like it because it didn't turn out the way you expected it to be. So all of us who, in my judgment—and I must say this sounds a little harsh—are being pandered to with this amendment and are listening and are somewhat tempted to believe in this amendment, should ask ourselves, realistically, how does life really work? When people promise something great on down the road, is it usually nearly as great as it is promised to be? Or to make the same point a little differently, if we are going to accomplish something that is good, generally it is through hard work and through rolling up sleeves and dealing with the difficult details. Not demagoging, pandering, or playing to the grandstand or to the crowd. That is basically how we get something done that makes sense.

If this amendment is adopted, it is going to cause deep uncertainty in America. We are proud in our country of the economic growth of the last 4 or 5 years—low inflation, low interest rates, generally low unemployment rates, high economic growth rates, and the stock market has generally done well, although not so well in the last week or so. But if this amendment passes, just think of all the people and all the institutions that are not going to be able to plan very well for the future and all of the uncertainty this is going to create. The list goes on forever.

You can begin with business. Business has all kinds of tax provisions. We can argue over the merits of these provisions, but they are part of current law and businesses include them in their planning. Let's take the business expense deduction that business now has. Are we going to keep the deduction for ordinary, necessary business expenses, or not? If you are a business person, you want to be able to deduct your costs. Businesses aren't going to know if they are going to be able to deduct those costs anymore. They don't know what the next law is going to be. What about the farm provisions? They won't know what the deductions are going to be for depreciation. They will have no idea. So what is a business to do?

Let's take an individual with a home mortgage interest deduction, which has been mentioned many times. What does this amendment do to the real estate market, to home builders, carpenters, and electricians? What does it do to people who depend on homes or are building or buying new homes? They don't know if the mortgage deduction is going to be there in a new tax system. You say it might be. That is what the sponsors say, but they don't know that. Nobody could say with any certainty whether any single tax provision will exist in a new system.

Then let's think a little bit about retirement. We have 401(k)s. What about this new Roth IRA we passed last year? A lot of Americans are worried about their retirement security. They are worried enough about Social Security. They want to be able to invest in IRAs and 401(k)s to save some money so they can have a comfortable retirement. This amendment says, no, we might not have those tax deferred savings plans anymore; they might be gone. So what is a person today to do? Should he or she invest in a Roth IRA or something else, independent of the code? Maybe real estate. But we have already pointed out that real estate might be in jeopardy because of what we might be doing here. Maybe they can invest in gold. But we also don't know what the commodity markets are going to be as a consequence of this amendment.

This amendment causes such uncertainty. Let's take the President's budget—whoever the President is after the year 2000. He or she doesn't know what kind of a budget to propose to Congress, doesn't know how much revenue is going to be raised. Not only do we not know the provisions and how we will raise revenue, we have no idea how much total revenue we are going to raise—none, zero, nullity, no idea. How is a President to propose a budget to Congress under those circumstances? How is Congress to pass a budget resolution under those circumstances? How is the Appropriations Committee going to know how much money to spend? They won't know.

This is a kind of Russian roulette; it is a gun at your head. OK, imagine this amendment is law and we are getting close to the deadline in 2002. Yet we still don't have agreement on what to replace the current code with. The proponents say this amendment will force the Congress to act. But there is an old saying that "haste makes waste." All too often we in Congress pass something very quickly that we haven't thought about very much when we are under the gun, and we don't fully understand the consequences of what we have passed.

I see the Senator from Maine sitting over there. I ask the Senator from Maine, what is she going to be thinking when the years have gone by, and here it is 2002 and, despite our best efforts, we haven't enacted a replacement code yet? We have a choice—are we going to pass an amendment to extend the deadline another year, another 2 years, another 3 years? Doesn't that cause even more uncertainty?

Or say we are not going to extend the deadline, instead we are going to push something through at the last moment. It ends up a hodge-podge of proposals. Something like a value-added tax, with a little bit of sales tax mixed in maybe. What will its impact be on the American people? Nobody knows. I guarantee that the Senator from Maine is not going to know and the Senator from Montana is not going to know. That is probably what would happen.

There is something else we haven't talked about—Y2K, the computer bug problem. We are very nervous in this country, and around the world, about what is going to happen on January 1, 2000. Are the computers going to work or not? I think it is a little foolhardy right now to start to contemplate tax sunsetting in the year 2002 when we don't know what is going to happen in the year 2000.

I must say, Mr. President, this is a sound-bite amendment. This is a feel-good amendment. I have bent over backwards to try to see the merits of this amendment; believe me, I have. I tell you that I am disappointed, frankly, that an amendment like this is on the floor of the Senate and apparently is being taken seriously—because if this were to pass, it would cause just tremendous uncertainty in this country. Americans' incomes would fall. America would be laughed at by countries overseas. That might be a little strong, but they will certainly wonder what the United States of America is doing; no country would do something like this. Mr. President, I very strongly urge that this amendment be defeated.

Let's talk about kids for a minute and HOPE scholarships. What is going to happen to them? I don't say this as a scare tactic at all. I am saying to the Senator from Arkansas that these are real concerns of real people that I have mentioned. Say the Senator from Arkansas is a student, and there is no income in his family, and he really depends upon a HOPE scholarship to go to college. He wonders, gee, is it going to be there or not?

To take a more definite provision, say he is going to buy a home, but he doesn't know whether to buy a home or not. That is a real question, Senator. It is not a scare tactic; it is a real question—if he or she doesn't know if there is going to be a home mortgage interest deduction or not, it is hard to tell whether he can afford to buy a home at all. Say you are a homebuilder. Are you going to build homes? How many, and at what price ranges? Those are real concerns of real people.

Let's talk for a moment about what this does to American companies. Let's just look at fringe benefits, as one example. Employers generally are allowed a deduction for fringe benefits, whether it is health benefits or retirement benefits. What is going to be in the labor contract when a labor union wants to negotiate a labor contract? Negotiators won't know because they won't know what the Tax Code is going to be. They won't know what to negotiate. The better solution, obviously, is to address these real issues more calmly. I think that is what we need here—something that is rational, that is collective, that is out in the public spotlight, out of the hothouse of Washington, DC, politics. And that is what is driving this right now—Washington, DC, politics.

I am really mystified as to why this amendment came before us, and why it is being taken seriously.

Mr. President, I yield the floor.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Ms. COLLINS. Mr. President, I am proud to rise in support of the amendment offered by the Senator from Arkansas.

I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, we must replace this country's Byzantine and loophole-ridden Tax Code. How can anyone stand on the floor of this Senate and defend it? Just look at our current Tax Code. It has been estimated that it takes Americans 5.4 billion hours to do their taxes. Our Tax Code currently consists of nearly 3 million words backed up by nearly 10 million words of regulations. It is impossible to understand, which is why it cost taxpayers an astounding $150 billion a year to comply with.

Our Tax Code is riddled with loopholes that benefit special interests at the expense of the general interest. Special interests have filled the code with countless loopholes, poorly constructed tax writeoffs, and expensive subsidies that benefit a few at the expense of the many.

Mr. President, our Tax Code is not like a fine wine that gets better with age. It is more like a woolen sweater in a closet full of moths. It acquires more and more holes all of the time, and after a while, you just can't keep on mending it. You have to throw it out.

We want to write a new Tax Code that will provide all Americans with a simpler, fairer Tax Code, a Tax Code that they deserve. And we want to do it by Independence Day 2002.

Mr. President, I have been in the Senate about a year and a half now. If there is one thing I have learned, it is that the Senate never takes action—that the Congress never acts unless there is a deadline. The Senator from Montana knows that better than most people. Does he really think that we would have acted to reauthorize ISTEA, the transportation bill that he worked so hard on with the Senator from Rhode Island without a deadline, without the existing law expiring unless we act?

We are in a deadline situation right now as we rush to complete work before the August recess. We all know what happens towards the end of the fiscal year as we rush to complete work on the funding business to keep our Government open. The fact is, Mr. President, that this Congress will not act to do the necessary step of reforming our Tax Code without a deadline.

It is not irresponsible to allow 4½ years for this task to be undertaken. We are not prejudging the results. We are not saying that the result has to be a national tax or some other possibility. What we are saying is that America deserves a Tax Code that we can be proud of. And the only way we are going to accomplish that goal is if we set a deadline.

Mr. President, the Tax Code is not going to expire overnight. We are not proposing sunsetting it tomorrow, or next month, or even next year. What we have laid out is over a 4-year period an adequate amount of time to carefully and responsibly craft an alternative of which America can be proud.

Mr. President, I am pleased to be a cosponsor of this important legislation.

No one—let me repeat that—no one is going to allow our current Tax Code to expire without a responsible alternative in place. But if we are going to restore public confidence in Government, we must start by ending the current Tax Code as we know it, and by crafting a well-thought-out and responsible alternative.

Mr. President, I am pleased to be a cosponsor, and I urge my colleagues to support this very worthwhile initiative. I commend the Senator from Arkansas and the Senator in the Chair for their work in this area.

Thank you. I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I share the sentiment of the Senator from Montana. This is a profoundly bad piece of public policy that should never have appeared on the floor of this body in the first place.

The question is not whether we are for tax reform or not tax reform. There is no such strawman to knock down.

The question is not only where will we go at the end of 4½ years, for which the sponsors and supporters of this amendment seem to have utterly no answer, but what happens in the intervening years?

The answer has been clearly laid out by the business community of this country, which is overwhelmingly opposed to this legislation, and by the thoughtful analysts, who also are overwhelmingly opposed to this legislation. What happens during the intervening 4½ years of debate as we struggle with whatever might come next is that business cannot make an investment in a knowing fashion—whether it is concern about capital gains, or depreciation tables, investment deductions, whether it is individual citizens with their home mortgage, whether it is questions about research and development tax credits, whether it is questions about the future of pension law. The uncertainty will freeze the American economy in a way that will assuredly slow down economic growth, lead to lost income, and lead to deficit spending once again.

Mr. President, there is a good reason why the business community and responsible business groups all across this country have so vigorously opposed this legislation. They recognize this amendment for the bumper sticker sloganeering that, frankly, it is.

There was a time early on in this debate when supporters of this legislation noted that they felt this is a absolute political winner, an opportunity to beat up on the Tax Code, which has no real supporters, and on the IRS besides, without having to be accountable, at least in the course of this election, for the ultimate results of this legislation.

An interesting thing happened in the meantime, however. Some poll work was done by the Republican National Committee showing that a majority of voters in America already recognize this as a reckless move—reckless. That is the finding of the American public which already understands the political nature of what we have here—a bumper sticker to abolish the Tax Code. It sounds good, if you are at the coffee shop. We are not at the coffee shop. We are Members of the U.S. Senate. And it is our responsibility to chart the economic welfare of this Nation into the next century in a responsible fashion that continues our economic growth in the coming years and which recognizes that business needs certainty.

We can talk about tax reform, and we will do tax reform. I invite additional debate on that issue. But to simply abolish a Tax Code with no utter idea of what comes next in the meantime, during which American business is left to fend for itself figuring out how to invest billions and billions of dollars, is a sure recipe for disaster.

I have a sense that this amendment is not intended to pass. The reason we are here is not to make public policy. The reason, frankly, we are here debating this issue is because there are some who want a slogan for the coming election in November.

I think that is regrettable. I think the American people deserve better than that. Our economy needs better than that.

I think this is irresponsible legislation.

I see a colleague of ours on the floor, Senator KOHL of Wisconsin. I see others who have significant business success in their own careers. I have to wonder whether Senator LAUTENBERG of New Jersey, who spoke against this amendment, who created a massively successful business enterprise in his home State of New Jersey, whether he could possibly have gotten off the ground in his business with the kind of uncertainty that would, in fact, be created by this legislation.

Mr. President, the question is not tax reform, or not tax reform. We all agree, I believe, that we need tax reform, and we need to push in that direction. But this is sloganeering. This is pandering. This is sham reform. The American public deserves better than this.

It also violates the Budget Act. I need not remind my colleagues that it is the Budget Act that is responsible for bringing us 5 years in succession of declining budgets. Budget deficits, which were $292 billion a year, are now a budget surplus because we abided by the Budget Act.

Now, to violate that and to set up a recipe for the destruction of our economy is utter irresponsibility. We deserve better than that. The American public deserves better than that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSON. It is not going to pass. It is going to produce 30-second television spots, no doubt, in November. But that is the reason the American public has become so incredibly cynical about the American political process.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSON. This deserves to die here in the Chamber tonight.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I raise a point of order that the pending amendment violates section 202(b) of House Concurrent Resolution 67, the concurrent resolution on the budget for fiscal year 1996.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

MOTION TO WAIVE BUDGET ACT

Mr. HUTCHINSON. I move to waive the Budget Act for consideration of the Hutchinson-Brownback amendment and ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "aye."

Mr. FORD. I announce that the Senator from Iowa (Mr. HARKIN) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote "no."

The PRESIDING OFFICER (Mr. ALLARD). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 49, nays 49, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—49

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Coats
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth

Frist
Gorton
Gramm
Grams
Gregg
Hatch
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell

Moseley-Braun
Murkowski
Nickles
Reid
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Thompson
Thurmond
Warner

NAYS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan

Bumpers
Byrd
Chafee
Cleland
Cochran
Conrad
Daschle

Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn

Graham
Grassley
Hagel
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl

Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murray
Reed
Robb

Roberts
Rockefeller
Roth
Sarbanes
Stevens
Torricelli
Wellstone
Wyden

NOT VOTING—2

Harkin
Helms

The PRESIDING OFFICER. On this vote, the yeas are 49 and the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, will the Senator from Colorado yield for a unanimous consent request?

Mr. CAMPBELL. I yield to the Senator from Nevada.

CHANGE OF VOTE

Mr. REID. Mr. President, on the last vote, I was recorded as "no." It will not change the outcome of the vote if I am recorded as "aye." I would like the RECORD to reflect my having voted "aye."

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

CAPITOL VISITOR CENTER LEGISLATION

Mr. WARNER. Mr. President, earlier this afternoon I indicated on the Senate Floor that the Senate Committee on Rules and Administration may hold a markup on Capitol Visitor Center legislation tomorrow morning. After consultation with the Senate Leadership, I have decided to postpone the markup until the House has an opportunity to review our proposal.

MORNING BUSINESS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR JOHN WARNER FOR HIS RECYCLING LEADERSHIP

Mr. LOTT. Mr. President, I rise today to express my sincere appreciation to Senator WARNER for his unique and untiring dedication to increasing recycling in America.

Each of us has heard from our constituents about the importance of recycling and how current law is hindering efforts to improve the environment through a viable recycling industry. Through his dedicated efforts, Senator WARNER has made sure that recycling equity has not been overlooked as the Senate addresses the many conflicting and contentious environmental issues our Nation faces. In the 103d, 104th and 105th Congresses, Senator WARNER forced the debate over Superfund to recognize how recycling benefits America's environment and economy. I look forward to working with the senior Senator from Virginia and my Senate colleagues on both sides of the aisle to address the issue of recycling equity before the end of this Congress.

I hope my colleagues will join me in expressing appreciation to Senator JOHN WARNER for his leadership on this matter. He deserves our gratitude for his understanding, dedication and commitment to the cause of recycling equity.

TRIBUTE TO OFFICERS JOHN GIBSON AND JACOB CHESTNUT

Mr. ROTH. Mr. President, I rise to express my profound respect and appreciation for Officers John Gibson and Jacob Chestnut, two men whose lives were tragically cut short on Friday as they stood watch in the Capitol—a building that is, as we have constantly been reminded this weekend, "the People's House." Officer Chestnut was 58—a loving husband, a veteran of Vietnam, the father of five children, and the grandfather of another five.

Officer Gibson was 42—a bright young man, full of energy and good works, who had dedicated his life to protecting others. Like Officer Chestnut, he, too, was a loving husband and the father of three.

Today, both men are gone. We mourn their loss and express our deepest condolences to their families. We acknowledge that we will never fully understand what would motivate such a heinous act of violence against the innocent in a building that is the icon of Democracy, but we know that in stopping such brutality—in saving the lives of how many tourists, staff members and Congressmen we will never know—the names of John Gibson and Jacob Chestnut are etched forever in the pantheon of heroes.

All who are indebted to them—myself included—will from this day forward speak their names in reverence. Their courage will inspire those who will hear told the tale of their sacrifices. While their children, their grandchildren and great grandchildren will stand tall—living legacies of extraordinary men.

In expressing our gratitude to these brave officers, we also acknowledge the skill, professionalism and dedication of the other 1,250 members of the United States Capitol Police force. They are among the most highly trained and well-respected law enforcement officers in the world.

Members of Congress, congressional staff, tourists, and all those who come and go through these buildings are blessed to have these men and women on the ramparts. Our hearts are with them as well, as they mourn the loss of their two distinguished colleagues and friends.

It is never easy, Mr. President, to weather a tragedy of this kind. There is little, if anything, that can be done to console loved ones and to reassure the children of men whose lives were lost that the principles and sense of duty for which their fathers stood are the very virtues which sustain life's goodness. But in time, they will be assured.

They will come to discover—as we all discover—that such principles are eternal: service, selflessness, sacrifice. Their meanings resonate beyond mortality. And we come to acknowledge the simple truth written more than 2,000 years ago: Greater love hath no man than that he lay down his life for a friend.

TRIBUTE TO OFFICER CHESTNUT, OFFICER GIBSON AND THE CAPITOL POLICE

Mr. WELLSTONE. Mr. President, I guess what I will say on the floor of the Senate, in part, is an effort to speak to the families of Officer Chestnut and Officer Gibson, but I guess it is also an effort on my part not only to speak to their families, but also to speak to the Capitol Hill Police.

Early Monday morning, Sheila, my wife, and I were walking from our apartment, which is near the Hart Senate Office Building, over to the doctor's office. Usually that takes about 7 minutes. It took about 40 minutes because of all of the officers who we ran into and all of the embraces, the hugs and the tears, just the embrace of real pain that people feel.

I want to say—I don't really have any words—this is a very, very sad day in Washington, DC, but I want to say to all of the Capitol Hill Police that all of us in the Senate—but I am now speaking for myself as a Senator from Minnesota—want you to know of our love and our support. We want Officer Chestnut and Officer Gibson's families to know that their husbands and fathers, sons, brothers were so courageous. I wish personally that there is something I can do to change everything. I wish that none of this had happened. It is horrifying. It seems senseless.

They were two wonderful men. I only knew them to say hello. I know the Capitol Police much better on the Senate side. It never should have happened, but these men deserve all of our praise. Their families deserve all of our love and support.

Especially as a U.S. Senator, I say to the other police officers—I guess that is mainly the one thing I want to do today—I want them to know how much I appreciate what they do. I want them to know how sorry I am that this happened. I want them to know that I hope and pray it will never happen again. And I want all of my colleagues to know, Democrats and Republicans alike, that I think today we are all together. Everybody can feel this, everybody can understand this, and I think probably the best thing we can do in memory of two very brave police officers is to understand how precious each day is, understand how precious people are, understand how important life is, appreciate the people who help us and go out of our way to make sure we live our lives in the most honest way possible.

To the Capitol Hill Police, thank you for some of you being really great friends to Sheila and me. I know how much pain you are in, but please know that you have our support.

REMEMBER THE FALLEN HEROES

Mr. BAUCUS. Mr. President, last week's deadly violence in the Halls of the United States Capitol touched the conscience of a nation. From coast to coast, Americans gathered to talk about the shootings. The coverage has dominated television, has dominated our newspapers, as well it should. There has been much discussion about who the assailant was, where he was born, where he lived, what might have caused him to do this dreadful deed.

I must say, Mr. President, with deep regret, that this assailant spent a part of his life in my home State of Montana. We in Montana are even more grieved, even more touched, and find this tragedy even more tragic than others in the Nation—if that is possible.

This man was not from Montana. We pride ourselves that those of us from our State have a great sense of honor, pride, duty, sense of family, sense of community. This person, unfortunately, spent some time in our State before he perpetrated this dreadful, violent, evil act.

We are deeply grieved. We are very deeply sorry. I am speaking for the people of my State of Montana.

Mr. President, there has been some conversation, too, about why things like this happen. Did somehow the system allow a person like this with some mental illness to fall between the cracks? The system we have for treating mental illness, was it somehow not adequate?

Frankly, I believe that the system is inadequate. That is, there are many people who are homeless. We are not properly treating people who are mentally disturbed, some of whom are paranoid schizophrenic. They are not receiving medication. They are not being properly treated, because our system is not paying enough attention to people who have this illness. I think if we do not remedy the situation, we will have continued troubles on our hands. I hope we do remedy it very quickly.

Remember more than anything else the real heroes here. The real heroes are the officers who were shot performing their duty. Talking about the assailant and talking about how we correct the system is meaningless—because the real lesson here is the lesson of Jacob Chestnut and John Gibson.

All of us here personally know many of the Capitol Police. We live with them. We see them daily. We talk with them. They talk with us. We know many by their first names. We know something about them personally.

Tony, for example. Tony D'Ambrosio was a plainclothes detective, first a uniformed policeman, on Capitol Hill for many years. It wasn't too many years ago I received several death threats—regrettably, in my home State of Montana. Tony came out to Montana with me and we ran a marathon together. I got to know Tony quite well and have the highest regard for him.

There is Steven out there. Many know Steven. Steven stands by the door to the entrance of the Senate. We talk with him, we joke with him. He is part of our family.

Then there is Henry. Henry Turner. Henry Turner is a policeman originally from Alabama, who is also stationed out here at the front door. I often talk to Henry about legislation on the floor. "This is a good bill to vote for," or "This is not a good amendment to vote for." Henry would know more about the legislation before the Senate than a lot of Senators, on occasion. A great man to talk to. Very wise. A very wise, very thoughtful man from Alabama.

The same is obviously true for John and for Jacob. I did not personally know them nearly as well as I know other Capitol Police, but they are men, they are fathers, they are parents. They have family just like all of us do, all of us in the Senate, all of us in the country. We are all bound together by the community of brotherhood, the community of sisterhood, the community of family. We are all together.

Many people have said it in many, many ways, and I want to share my deepest sympathy for them, John and Jacob, for their families, and I want them to know that we all are with them. We are now and we will always be.

HEROISM IN THE PERFORMANCE OF DUTY

Mr. BIDEN. Mr. President, it is with some reluctance that I rise this afternoon to speak of the tragic occurrence, where two fine officers were gunned down here in the Capitol. The reason I say it is with reluctance is because, like many of us in this Chamber, I know from personal experience that when a wife or husband or son or daughter is taken from a family as a consequence of a totally unexpected violent event, that there is little that anyone can say or do, no matter how well intended we may be, that can in any way ease the pain of the family members who survive—the children, the spouses, parents.

So I debated with myself today whether or not to say anything at all. Much has been said about the heroism displayed in the performance of duty, and much more will be said about the lives that these two men, in giving theirs, probably saved. All that need be said, but none of that in any way is likely to produce any sense of relief on the part of the children of the officers, on the part of their spouses, on the part of their families. As a matter of fact, it is likely to produce, initially, a sense of anger; a feeling of "Why my father?" a feeling of "Why did it have to be my husband?"

So, in a few moments each of us in our own ways will, as we attend the memorial service, demonstrate our high regard for and pay respects to the families as well as the deceased officers. But I also note one other thing from personal experience. Notwithstanding the fact nothing that we say today can ease that horrible void that seems to occupy the chest of the family members who can't fathom why this occurred to their father or to their husband—nothing we do will make them feel any better today—but, as time goes on, they will find a sense of comfort knowing that so many people held their father, their spouse, in such high regard. It will not occur for months, but it will occur. It will occur. And when it does, it will at that time help ease, ever so slightly, that sense of loss. The pain will never go away. The sense of loss will never be completely abated. But it will become easier to live with. So, as I said, although a lot of us in this Chamber know from similar experiences the feeling, it is hard when you are going through it to know one other thing that occurs and that is that time, time will not erase the pain, but time will make it livable.

At this moment, I expect, family members feel that nothing—nothing—nothing that will happen to them from this point on will make life as worth living as it has been for them. But, again from personal experiences, all of us know, who have gone through similar things, that the time will come when the memory of J.J. or John, the memory of their father or husband, will bring a smile to their lips rather than a tear to their eyes. My only prayer, on behalf of my wife Jill and me—we talked a lot about this morning before I came down—my prayer for the family members is that moment will come sooner than later. It will come. It will come. But that it will come sooner than later.

We ask a lot of those who serve this Nation. But few of us, few of us ever have to give what these two officers gave. Even fewer family members have to live with the sacrifice they have made, the void that is created and the pain that will endure for some time, like the families of the two fallen officers. So, again, I have no illusions that my words, as inadequate as they are, or the words of any of us, will at this moment give much comfort. But in time, in time I hope they will find some refuge in what has been said, in the outpouring of respect, the outpouring of emotion, the outpouring of just simple, plain gratitude on the part of the staff, the Senators, and all Americans for what these two men did.

They did their duty. They did their duty. And, in doing so, they clearly saved the lives of other innocent people. That is no comfort now, but it will, in time, be some comfort.

Let me close by saying, once again, in time the pain will ease. In time, when they think of their father, when they think of their husband, they will, in fact, smile rather than cry. All that we can hope is that time will come sooner than later.

I yield the floor.

TRIBUTE TO OFFICERS JOHN GIBSON AND JACOB CHESTNUT

Mr. HAGEL. Mr. President, I rise this afternoon to add my tribute and honor to our fallen comrades and colleagues, Officers Chestnut and Gibson, whose bodies lie in state in the Capitol Rotunda just down the hall, where Members of the House and Senate paid tribute this morning.

I am not nearly eloquent enough to express the feelings, certainly, that all of us have about what these two men did mean to us, what all of our officers, protectors, men and women who guard over us and our population that visits this great and magnificent Capitol, this Capitol that represents free men and women, this Capitol that represents the best hope for mankind, mean to us.

What I would like to offer is a saying that I have found comforting over the years and I believe applies very much to our fallen heroes. And that saying goes like this—that man is a success who has lived well, laughed often, and loved much; who has gained the respect of men and the love of children, who leaves the world better than he found it, whether through an improved poppy, a perfect poem or a rescued soul, who never failed to appreciate the beauty of nature, and always gave the best he had. Officers Chestnut and Gibson gave the best they had and the America they leave behind is a better place.

Mr. President, I thank the Chair. I yield the floor.

TRIBUTE TO SLAIN CAPITOL POLICE OFFICERS

Mr. ABRAHAM. Mr. President, I rise to express my deep regret over the deaths of the two capitol police officers slain in the line of duty last Friday. Officers John Gibson and Jacob Chestnut were family men; each was married with three children. They also were dedicated professionals and, as shown by their final acts, heroes.

Officer Chestnut confronted the lone gunman whose weapon set off the metal detector at the "document door" entrance to the main Capitol building. Officer Chestnut was fulfilling his duty to protect the people's building and the thousands upon thousands of Americans who visit their building, from violence. He paid for his dedication with his life.

The gunman mortally wounded Officer Chestnut, then went into the building, firing his weapon and finding his way to the office of the distinguished Majority Whip, Congressman TOM DELAY. Congressman DELAY and his staff were in mortal danger from this gunman. I know that every one of them thanks God for the acts of Officer Gibson, whose bravery and perseverance brought down the gunman at the office door, even as Officer Gibson himself lay mortally wounded.

Each of us who serves in the United States Senate depends on the bravery and dedication of men and women like Officers Gibson and Chestnut. Every day they put their lives on the line to protect the safety and well-being of Members of Congress and the public. Many of us have become friends with particular officers over the months and years we have served in this body, and that is only right. But it certainly doesn't make it any easier when we have to say goodbye to two such dedicated public servants and members of our Capitol Hill family.

My condolences go out to the families of these brave men. It is my hope that they will derive comfort from the knowledge that Officers Gibson and Chestnut died protecting people from a mad gunman, sacrificing themselves for the greater good—a greater good to which they had devoted their careers and their lives.

HONORING JACOB J. CHESTNUT AND JOHN M. GIBSON

Mr. LEVIN. Mr. President, I rise to join the people across our Nation paying tribute to the heroic actions of Officer Jacob J. Chestnut and Detective John M. Gibson. These two men, who were killed during a senseless act of violence last Friday, gave their lives in order to protect the American people and their Capitol. They died fulfilling their sworn duty to protect the men and women who work in the Capitol compound and the multitudes of visitors who tour each day. The loss of J. J. Chestnut and John Gibson is like a death in the family. However, despite the great loss that will feel, our thoughts and prayers are first with their families, who will bear the greatest burden of this tragic event. We hope that they may find some solace in knowing that the Nation joins them in their grief.

These fallen protectors were true heroes. They faced gunfire and death in the line of duty. It is fitting that we are able to pay our final respects to them today in the very place where they worked and gave their lives. The Capitol Police serve with pride, efficiency and good humor. They handle the enormous task of allowing the multitude of people who visit our Capitol, the symbol of freedom and democracy the world over, access to it without a feeling of having to cross a barricade. This openness and accessibility have a heavy price, as we mourn the loss of these brave men.

Today, J. J. Chestnut and John Gibson are being given an extraordinary honor by the Congress when their caskets are placed in the Capitol rotunda. It is an honor that has been bestowed upon very few of our Nation's exemplary public servants and one which is entirely fitting for J. J. Chestnut and John Gibson. They were public servants in the most fundamental sense. Their sense of duty and service were unmatched, and as we mourn the deaths of these two outstanding men we can also feel a sense of pride in the great sacrifice they made in the defense of democracy, our Capitol, and its visitors.

Mr. President, I know my Senate colleagues and Americans everywhere join in honoring these two fallen heroes: Jacob J. Chestnut and John M. Gibson.

IN MEMORY OF OFFICER GIBSON AND OFFICER CHESTNUT

Mr. ALLARD. Mr. President, today, in a place where President's have laid, Officers J.J. Chestnut and Detective John Gibson lay in state under the Capitol Dome, the very symbol of freedom and democracy that they died to protect.

On Friday, July 24th, Mr. Gibson and Mr. Chestnut laid down their lives for the people visiting their Capitol, for our staffs, and for us. These two brave men are true public servants. Their actions protected American lives and our cradle of freedom, the Capitol.

Even though I never had the opportunity to meet Mr. Gibson and Mr. Chestnut, I do know many like them. They are both husbands, fathers—Mr. Gibson has 3 children, and Mr. Chestnut has 5, and J.J. Chestnut is a grandfather. I also know them from the friendships that I and my wife Joan have formed with the committed and selfless Capitol Hill Police. I want to thank them for their service to me, my family, my staff, and every visitor that enters this Capitol.

Mine, my wife's, and my staff's hearts go out to the families of these two loved family men and the Capitol Hill Police for their two fallen respected colleagues. They are heroes. While no words can ever express the sorrow felt, our prayers go out to their families, friends, and the Capitol Hill Police.

Thank you Officer John Gibson and Officer J.J. Chestnut for your service to all of us and to this country. God bless their memory and their families.

TRIBUTE TO FALLEN HEROES—J.J. CHESTNUT AND JOHN GIBSON

Mr. CLELAND. Mr. President, I rise today to honor two fallen heroes—U.S. Capitol Police Officer J.J. Chestnut and U.S. Capitol Police Special Agent John Gibson—who gave their lives to protect us. When I say "us," I do not refer only to members of Congress, to the tourists who visited the Capitol last Friday, or to staff members working that afternoon, I refer to all Americans. J.J. Chestnut and John Gibson gave their lives to protect our house, the people's house, and our freedom.

J.J. Chestnut, 58, joined the Capitol Police force in 1980, following 20 years of service in the United States Air Force. He earned numerous commendations and awards for both his military and police service, including a Vietnam Service Medal, the Bronze Star for Meritorious military service and countless letters of appreciation from citizens and staff for assistance provided and attention to duty. Officer Chestnut is survived by his wife, Wen Ling, and five children.

John Gibson, 42, also joined the Capitol Police force in 1980, and also earned numerous commendations. In 1988, Gibson was commended for going to the aid of a citizen, and saving their life by administering CPR. Special Agent Gibson is survived by his wife, Evelyn, and three children.

It is horribly ironic to me that one of the fallen officers, J.J. Chestnut, was a Vietnam Veteran who survived combat only to fall at the hand of a fellow American. As a veteran he served his country so that we could all have our freedom, a freedom which the gunman who walked into the United States Capitol last Friday and opened fire, did not understand, did not honor and certainly did not respect.

In 1862, Nathaniel Hawthorne wrote: "It is natural enough to suppose that the center and heart of America is the Capitol." He stated that the Capitol's combination of dignity, harmony, and utility made it a fit embodiment of the highest traits of our nation. A year later, Sculptor Thomas Crawford's 19½ foot, 7½ ton Statue of Freedom was lifted and placed atop the Capitol Dome.

Nearly every President since Andrew Jackson has been inaugurated on its steps. The Capitol has hosted a cast of American legends, as great Senators and great members of the House have presided and debated in each of two houses over the years, including John Calhoun, Daniel Webster, Henry Clay, Robert Lafollette, George Norris, Richard Russell, John F. Kennedy, Sam Rayburn, Carl Vinson, ROBERT BYRD.

The Capitol has also been home to so many milestones in American history.

The Capitol was where the Civil Rights Act was passed in 1964, and where women were granted the right to vote. It was where war was declared after the invasion of Pearl Harbor following upon the famous "Day of Infamy" speech. It was where the Social Security Act was enacted, and where legislation was passed to limit child labor.

More than anything, our Capitol has stood as a symbol of our democracy, of our liberty, and of our freedom since President George Washington laid the cornerstone for the building in 1793.

Let us not let the actions of the gunman last Friday threaten our freedom, or our belief in our democracy. Instead, let us focus on the heroic actions of officers J.J. Chestnut and John Gibson, who last week gave the ultimate sacrifice for their country.

I am reminded of a passage from Thucydides' "Funeral Oration of Pericles":

> So they gave their bodies to the commonwealth and received, each for his own memory, praise that will never die, and with it the grandest of all sepulchers, not that in which their mortal bones are laid, but a home in the minds of men, where their glory remains fresh to stir to speech or action as the occasion comes by. For the whole earth is the sepulcher of famous men; and their story is not graven only on stone over their native earth, but lives on far away, without visible symbol, woven into the stuff of other men's lives. For you now it remains to rival what they have done and, knowing the secret of freedom a brave heart, not idly to stand aside from the enemy's onset.

We have a lot to learn from the selfless bravery and public service displayed by these two men. Our thoughts and prayers are with their families and friends at this difficult time. God bless.

THE MURDERS OF U.S. CAPITOL POLICE OFFICERS JACOB CHESTNUT AND JOHN GIBSON

Mrs. **FEINSTEIN.** Mr. President, my heart goes out to the families of the two officers slain in Friday's brutal shooting. These two men will be forever known for their bravery, courage and heroism in laying down their lives to protect all of us who pass through the halls of the United States Capitol.

The Capitol police officers, Jacob Chestnut and John Gibson, made the ultimate sacrifice that any person can give in laying down their lives so that others would be spared. Their actions demonstrated the highest form of bravery, selflessness, and professionalism.

We must all remember that the price of democracy is indeed, a high one. At times, the openness of our government is sometimes challenged by events like those that took place this past Friday. But even though our democracy sometimes seems fragile when challenged by senseless violence, we must all do our part to ensure that this type of violence never happens again. I am confident we will take those steps as a nation.

I had just landed in Colorado when I learned what had happened in the Capitol building. When my plane arrived, I received an emergency call from my office informing me of the tragic events. In an instant, my mind fell back to November 28th, 1978 when in City Hall in San Francisco the double assassination of Mayor George Moscone and Supervisor Harvey Milk took place. I knew the terrible anguish—even anger—that accompanies events like this one.

This event also shows the depth to which America's infatuation with weapons can lead to tragedy. Not only do we now see youngsters shooting other youngsters, but also the unthinkable slayings in what should be one of the safest places in our nation, the United States Capitol. In this very difficult time, I am proud to say that Officers Jacob Chestnut and John Gibson will always be remembered as American heroes.

RECOGNITION OF SACRIFICES OF JACOB J. CHESTNUT AND JOHN M. GIBSON

Mrs. **MURRAY.** Mr. President, I rise humbly to pay tribute to Officers Jacob Chestnut and Special Agent John Gibson—and all of their fellow Capitol Police officers and law enforcement officers across the nation and world.

As I filed past the bodies of our slain officers in the rotunda this morning, I was overwhelmed by the sacrifice they made to protect us, our families and fellow citizens. So many times, we take law enforcement for granted because we see them every day monitoring entrances, patrolling the Capitol, just being there. And, thankfully, we don't often see events like the tragedy that occurred on Friday.

But events like those on Friday do happen. They happen every day across this great nation. Law enforcement officers sacrifice their lives so we can live more safely and freely. Every time that happens, I remember the commitment they have made and I thank them.

When such madness strikes at our nation's symbol of democracy, it should remind us even more that freedom comes at a price. Our citizens and people of all lands are welcome to visit our capitol and participate in the democracy that they help sustain. They can watch Members of Congress undertake the people's business from the galleries above the two house chambers. They can visit us in our offices. They can visit sacred monuments and historic sites.

Just last Wednesday, at a coffee I held for visiting constituents from Washington State, one tourist exclaimed how impressed she was with the accessibility of the Capitol, with the openness of the process and the ability to meet and see her Senator and Representatives. I agreed that we have a wonderful system and I praised her for taking advantage of that openness and participating in our great democracy.

But we have defenders of this democracy and openness. Those men and women are our police officers who try to find that perfect balance of an open society and a safe society. Sometimes that balance means lives are sacrificed to protect those noble goals.

My thoughts and prayers are with the families of Officer Chestnut and Special Agent Gibson. This is such a tragedy. As I have read about their lives and families and commitment to their communities, their sacrifice was made even more real. They are true heroes.

So, I thank them and I thank the Capitol Police. I honor their service. I will use this tragedy to make sure I remember the tremendous commitment our law enforcement officers have made to us: To keep us as safe and when we are in danger, to lay down their lives for us.

TRIBUTE TO SLAIN OFFICERS CHESTNUT AND GIBSON

Mr. **SANTORUM.** Mr. President, I rise today to recognize and mourn the passing of two cherished members of our Capitol Hill community, Officer J.J. Chestnut and Officer John Gibson, slain Friday in the line of duty.

As we mourn their deaths and pay tribute to them, perhaps we should recall the particular, even paradoxical, quality of who they were and what they did: They stood among us, as members of this community, but they also stood apart.

As many have noted since their deaths, both officers were familiar to those of us who work in the Capitol. They stood guard in these halls—and so they stood, literally, among us. And their lives resembled many of our own lives; they were husbands, fathers, sons, and brothers. They took pleasure from their families and pride in their work. If but for the sad events on Friday, they might have continued to live as so many of us do: simply but decently, content to be known and loved mostly by those closest to them.

But they stood guard in these halls—and so they also stood apart. They belong to that small but remarkable group of people whose profession requires the willing forfeiture not just of their time and talent but, if necessary, of their very lives. Unlike most of us, their daily work was to offer their life in the place of another's. More dramatically and compellingly than most of us, they embodied the qualities that sustain our democracy: selflessness and courage. In this, they stood guard over our democratic tradition.

As individuals and citizens, we are defined not only by who we stand with, but by when we choose to stand apart. I am honored that these men stood among us everyday and grateful that, when the critical moment came, they also freely chose to stand apart. In tribute, in these halls they guarded, we stand as one and grieve their deaths.

TRIBUTE TO U.S. CAPITOL POLICE OFFICERS JACOB CHESTNUT AND JOHN GIBSON

Mr. JOHNSON. Mr. President, I rise to pay tribute to Capitol Police Officers Jacob Chestnut and John Gibson who sacrificed their lives last Friday safeguarding our nation's Capitol, Members of Congress, our staffs and the thousands of Americans who were visiting the Capitol on that tragic day.

We are privileged to work in these hallowed buildings that are central to the greatest democracy in the world. We are equally privileged that Officers Chestnut and Gibson and their colleagues are willing to risk their lives to defend us from harm and keep democracy alive.

Capitol Police Officers protect more than 7 million visitors who come to our Nation's Capitol every year. Often, they are the first to welcome these visitors to our Capitol. I thank all the officers who secure our grounds and dedicate their lives to our safety.

Officers Chestnut and Gibson and their families are in our thoughts and our prayers, but we also should remember to pray for the safety of hundreds of other men and women who protect us everyday as we do the business of the American people. This tragedy should remind all of us that our democracy and our nation's security are ultimately dependent upon the courage and commitment of individuals such as Jacob Chestnut and John Gibson.

TRIBUTE TO U.S. CAPITOL POLICE OFFICERS JOHN GIBSON AND JACOB CHESTNUT

Mr. FRIST. Mr. President, honoring those who die in the service of others is a practice as old as life itself. From ancient times to the present day, those who survive pay tribute to those who have fallen with songs and symbols, flowers and ceremonies.

And it is a good thing, for it is at times like these that words often fail us. Few memorial addresses have outlived those who uttered them—not because of the inadequacy of the speakers, but because of the inadequacy of words themselves. To quote General James A. Garfield, who spoke at the first memorial at Arlington National Cemetery—where Officers Gibson and Chestnut will be buried later this week—"If silence is ever golden, it must be here beside the graves of men whose lives were more significant than speech, and whose death was a poem the music of which can never be sung."

John Gibson and Jacob Chestnut were such men, as their countless friends and associates have testified, and so I add my small tribute to the hundreds that have already been offered in the hope that it may, in some small way, console the hearts of those they leave behind.

Mr. President, long after these men are laid to their final rest, the memory of their warmth and their many kindnesses, their lives and their heroic sacrifice will live on in the hearts and minds of all of us—indeed, of all who visit the soaring symbol of freedom and democracy they died to defend. From this day forward it will stand, like a silent sentry, guarding the memory of their valor and courage.

May the Almighty God who watches over all of us, comfort and strengthen their wives and children in the days ahead, and may He protect all who place themselves in harm's way so that we may enjoy the blessings and benefits of freedom.

Mr. President, I thank the Chair and yield the floor.

HONORING THE EMBERSONS ON THEIR 60TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Glen and Vera Emberson, who on July 9, 1998, celebrated their 60th wedding anniversary. Many things have changed in the 60 years this couple has been married, but the values principles, and commitment this marriage demonstrates are timeless. As Mr. and Mrs. Emberson celebrate their 60th year together with family and friends, it will be apparent that the lasting legacy of this marriage will be the time, energy, and resources invested in their children, community, and church, including their service as devoted missionaries. My wife, Janet, and I look forward to the day we can celebrate a similar milestone.

The Emberson's exemplify the highest commitment to the relentless dedication and sacrifice. Their commitment to the principles and values of their marriage deserves to be saluted and recognized.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on July 27, 1998, during the adjournment of the Senate received a message from the House of Representatives announcing that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 311. Concurrent resolution honoring the memory of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police for their selfless acts of heroism at the United States Capitol on July 24, 1998.

MESSAGES FROM THE HOUSE

At 10:09 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4250. An act to provide new patient protections under group health plans.

The message also announced that pursuant to the provisions of section 4021(c) of Public Law 105–33, the Speaker appoints the following member of the part of the House to the National Bipartisan Commission on the Future of Medicare to fill the existing vacancy thereon: Mrs. Colleen Conway-Welch of Tennessee.

ENROLLED BILL SIGNED

The message also announced the Speaker has signed the following enrolled bill:

H.R. 39, An act to reauthorize the African Elephant Conservation Act.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

At 5:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following concurrent resolution, without amendment:

S. Con. Res. 112. Concurrent resolution to authorize the printing of the eulogies of the Senate and the House of Representatives for Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 4250. An act to provide new patient protections under group health plans.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6210. A communication from the Deputy General Counsel of the Small Business Administration, transmitting, pursuant to law, the report of a rule "Business Development/Small Disadvantaged Business Status Determinations" received on July 25, 1998; to the Committee on Small Business.

EC–6211. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Contractor Insurance/Pension Reviews" (Case 97–D012) received on July 23, 1998; to the Committee on Armed Services.

EC–6212. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Policy on Audits of RUS Borrowers" (RIN0572–AA93) received on July 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6213. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Helium Contracts" (RIN1004–AD24) received on July 23, 1998; to the Committee on Energy and Natural Resources.

EC–6214. A communication from the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Adjustment of the Maximum Retrospective Deferred Premium" (RIN3150–AG01) received on July 23, 1998; to the Committee on Environment and Public Works.

EC–6215. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Secondary Direct Food Additives Permitted in Food for Human Consumption (Chlorine Dioxide)" (Docket 94F–0040) received on July 23, 1998; to the Committee on Labor and Human Resources.

EC–6216. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Oral Dosage Form New Animal Drugs; Ivermectin Liquid" received on July 23, 1998; to the Committee on Labor and Human Resources.

EC–6217. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "New Animal Drugs For Use In Animal Feeds; Bacitracin Methylene Disalicylate, Decoquinate and Roxarsone" received on July 23, 1998; to the Committee on Labor and Human Resources.

EC–6218. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Secretary's Report on Management Decisions on the Office of Inspector General Audit Recommendations for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–6219. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Fiscal Year 1997 Annual Report on Advisory Neighborhood Commissions"; to the Committee on Governmental Affairs.

EC–6220. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a report of additions to the Committee's Procurement List dated July 20, 1998; to the Committee on Governmental Affairs.

EC–6221. A communication from the Secretary of Defense, transmitting, notice of military retirements; to the Committee on Armed Services.

EC–6222. A communication from the Deputy Director of the Russia-NIS Program Office, International Trade Administration, transmitting, pursuant to law, the report of a rule entitled "Cooperative Agreement Program for American Business Centers in Russia and the New Independent States" (Docket 980716181–8181–01) received on July 23, 1998; to the Committee on Foreign Relations.

EC–6223. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the marketing and authorization of radio frequency devices (Docket 94–45) received on July 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6224. A communication from the Deputy General Counsel of the Small Business Administration, transmitting, pursuant to law, the report of a rule regarding a change of terminology in the Small Business Investment Companies regulations received on July 23, 1998; to the Committee on Small Business.

EC–6225. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice of the allocation of emergency funds to eleven States under the Low-Income Home Energy Assistance Act; to the Committee on Labor and Human Resources.

EC–6226. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report entitled "Presidential Report on the Physicians Comparability Allowance"; to the Committee on Governmental Affairs.

EC–6227. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report on drug and alcohol abuse prevention, treatment and rehabilitation programs and services for Federal civilian employees for fiscal year 1996; to the Committee on Governmental Affairs.

EC–6228. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding Colorado landfill gas emissions (FRL6131–7) received on July 24, 1998; to the Committee on Environment and Public Works.

EC–6229. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Pan-American Highway Macro-Economic, Pre-Feasibility Study"; to the Committee on Environment and Public Works.

EC–6230. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled "Computation of the Differential Earnings Rate and the Recomputed Differential Earnings Rate" (Rev. Rul. 98–38) received on July 24, 1998; to the Committee on Finance.

EC–6231. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the effectiveness and appropriateness of current mechanisms for surveying and certifying skilled nursing facilities; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Government Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 314: A bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes (Rept. No. 105–269).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 2244: A bill to amend the Fish and Wildlife Act of 1956 to promote volunteer programs and community partnerships for the benefit of national wildlife refugees, and for other purposes (Rept. No. 105–270).

By Mr. STEVENS, from the Committee on Appropriations: Special Report entitled "Further Revised Allocation To Subcommittees Of Budget Totals from the Concurrent Resolution for Fiscal Year 1998" (Rept. No. 105–271).

By Mr. STEVENS, from the Committee on Appropriations: Special Report entitled "Further Revised Allocation To Subcommittees Of Budget Totals for Fiscal Year 1999" (Rept. No. 105–272).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1856: A bill to amend the Fish and Wildlife Act of 1956 to direct the Secretary of the Interior to conduct a volunteer pilot project at one national wildlife refuge in each United States Fish and Wildlife Service region, and for other purposes.

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, without amendment:

S. 2112: A bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer.

By Mr. LOTT (for Mr. HELMS), from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with a preamble:

S. Con. Res. 103: A concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Carolyn H. Becraft, of Virginia, to be an Assistant Secretary of the Navy.

Ruby Butler DeMesme, of Virginia, to be an Assistant Secretary of the Air Force.

Patrick T. Henry, of Virginia, to be an Assistant Secretary of the Army.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10 U.S.C., section 12203:

To be brigadier general

Col. George W. Keefe, 3692

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10 U.S.C., section 12203:

To be major general

Brig. Gen. Richard C. Cosgrave, 5678

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. Roger G. DeKok, 6795

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John W. Handy, 5379

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Nicholas B. Kehoe III, 3315

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Maxwell C. Bailey, 0835

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Phillip J. Ford, 8359

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Ronald C. Marcotte, 7848

The following named officer for appointment in the United States Air Force as Chief, National Guard Bureau, and for appointment to the grade indicated under title 10, U.S.C., section 10502:

To be lieutenant general

Maj. Gen. Russell C. Davis, 2021

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Richard S. Colt, 4147

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Keith B. Alexander, 9763
Dorian T. Anderson, 0294
Eldon A. Bargewell, 6135
David W. Barno, 9794
William H. Brandenburg, 9945
John M. Brown, III, 0258
Peter W. Chiarelli, 6598
Claude V. Christianson, 1982
Edward L. Dyer, 5307
William F. Engel, 8868
Barbara G. Fast, 1763
Stephen J. Ferrell, 9691
Thomas R. Goedkoop, 5449
Dennis E. Hardy, 6357
Steven R. Hawkins, 7697
John W. Holly, 6285
David H. Huntoon, Jr., 1919
Peter T. Madsen, 8165
Jesus A. Mangual, 6552
Thomas G. Miller, 3543
Robert W. Mixon, Jr., 6735
Virgil L. Packett, II, 9367
Donald D. Parker, 6333
Elbert N. Perkins, 0786
Joseph F. Peterson, 2747
David H. Petraeus, 1960
Marilyn A. Quagliotti, 8480
Maynard S. Rhoades, 6348
Velma L. Richardson, 6426
Michael D. Rochelle, 4381
Joe G. Taylor, Jr., 0884
Nathaniel R. Thompson, III, 5240
Alan W. Thrasher, 6690
James D. Thurman, 8182
Thomas R. Turner, II, 7116
John M. Urias, 6022
Michael A. Vane, 9890
Lloyd T. Waterman, 2903

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert F. Foley, 9574

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Dale R. Barber, 8409

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Robert T. Dail, 5056

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C. section 12203:

To be brigadier general

Col. Robert A. Cocroft, 7353

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Leon J. LaPorte, 0933

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James M. Link, 6041

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Edmund C. Zysk, 6065

To be brigadier general

Col. William J. Davies, 1673
Col. James P. Combs, 0758

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. John N. Abrams, 5774

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. David H. Ohle, 2815

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Paul J. Glazar, 2517
Brig. Gen. John R. Groves, Jr., 2716
Brig. Gen. David T. Hartley, 1609
Brig. Gen. Lloyd E. Krase, 3636
Brig. Gen. Bennett C. Landreneau, 0645
Brig. Gen. Benny M. Paulino, 5606
Brig. Gen. Jean A. Romney, 1872
Brig. Gen. Allen E. Tackett, 5032

To be brigadier general

Col. Richard W. Averitt, 7139
Col. Daniel P. Coffey, 4196
Col. Howard A. Dillon, Jr., 1659
Col. Barry A. Griffin, 8148
Col. Larry D. Haub, 3445
Col. Robert J. Hayes, 7789
Col. Lawrence F. Lafrenz, 4984
Col. Victor C. Langford III, 4215
Col. Thomas P. Mancino, 3133
Col. Dennis C. Merrill, 5790
Col. Walter A. Paulson, 4766
Col. Robley S. Rigdon, 7740
Col. Kenneth B. Robinson, 8162
Col. Roy M. Umbarger, 9266
Col. Jimmy R. Watson, 5571
Col. Paul H. Wieck, 5055

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Emilio Diaz-Colon, 2517

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward G. Anderson III, 2536

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Thomas A. Schwartz, 0711

JUDGE ADVOCATE GENERAL CORPS

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624(c):

To be brigadier general

Col. Thomas J. Romig, 9070

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Bruce W. Pieratt, 4901

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Peter A.C. Long, 9560

The following named officer for appointment as Chief of Chaplains and for appointment to the grade indicated under title 10, U.S.C., section 5142:

To be rear admiral

Rear Adm. (lh) Anderson B. Holderby, Jr., 9991

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Michael E. Finley, 8251
Capt. Gwilym H. Jenkins, Jr., 0193
Capt. James A. Johnson, 6264

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. James F. Amerault, 0491

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Michael L. Cowan, 2470

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Joseph S. Mobley, 1731

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Edward Moore, Jr., 0064

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. John W. Craine, Jr., 9037

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Herbert A. Browne, Jr., II, 4815

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 18 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the CONGRESSIONAL RECORD of May 22, June 15, July 7, and July 17, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 22, 1998, June 15, 1998, July 7, 1998, and July 17, 1998, at the end of the Senate proceedings.)

In the Army nominations beginning Johan K Ahn, and ending Clorinda K Zawacki, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998

In the Navy nominations beginning Mark T Ackerman, and ending Mary J Zurey, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998

In the Air Force nominations beginning Albert K Aimar, and ending Jerry L Wilper, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998

In the Army nomination of Angela D. Meggs, which was received by the Senate and appeared in the Congressional Record of June 15, 1998

In the Marine Corps nomination of Michael J. Colburn, which was received by the Senate and appeared in the Congressional Record of June 15, 1998

In the Marine Corps nominations beginning Reginald H Baker, and ending James J Witkowski, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998

In the Navy nominations beginning David Abernathy, and ending Michael B Witham, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998

In the Navy nominations beginning Sanders W Anderson, and ending Paul R Zambito, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998

In the Navy nominations beginning John S. Andrews, and ending William M. Steele, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998

In the Air Force nominations beginning Hedy C. Pinkerton, and ending Philip M. Shue, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998

In the Air Force nominations beginning John J Abbatiello, and ending Michel P Zumwalt, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998

In the Army nominations beginning Kevin C Abbott, and ending Mark G Ziemba, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998

In the Army nominations beginning Celethia M * Abner, and ending Shanda M * Zugner, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998

In the Navy nominations beginning Paul S. Webb, and ending Wesley P. Ritchie, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998

In the Navy nomination of Kevin J. Bedford, which was received by the Senate and appeared in the Congressional Record of July 7, 1998

In the Army nominations beginning Robert D. Branson, and ending William B. Walton, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 1998

In the Army nominations beginning Mark A Acker, and ending X4578, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 1998

In the Navy nominations beginning Douglas J. Mcaneny, and ending Richard A. Mohler, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 1998

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2362. A bill to extend the temporary duty suspension on certain textured rolled glass sheets; to the Committee on Finance.

By Mr. BROWNBACK:

S. 2363. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kyrgyzstan; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. WARNER, Ms. SNOWE, Mr. KEMPTHORNE, Mr. LIEBERMAN, Mr. MOYNIHAN, Mr. REID, Mrs. BOXER, Mr. LUGAR, Mr. HOLLINGS, Ms. COLLINS, and Ms. MIKULSKI):

S. 2364. A bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965; to the Committee on Environment and Public Works.

By Mr. BURNS:

S. 2365. A bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON (for himself, Mr. INHOFE, Mr. BAUCUS, Mr. CONRAD, Mr. BRYAN, Mr. KERRY, Mr. BUMPERS, Ms. SNOWE, Mrs. BOXER, Mr. DASCHLE, Mr. BURNS, and Mr. INOUYE):

S. 2366. A bill to amend the Internal Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 shall be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

By Mr. DODD:

S. 2367. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel AMICI; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 258. A resolution to authorize testimony and representation of Senate employee in State of Tennessee v. Ronald W. Byrd; considered and agreed to.

By Mr. CAMPBELL:

S. Con. Res. 113. A concurrent resolution to rename the Document Door of the Capitol as the Chestnut-Gibson Memorial Door; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2362. A bill to extend the temporary duty suspension on certain textured rolled glass sheets; to the committee on finance.

DUTY SUSPENSION LEGISLATION

• Mr. THURMOND. Mr. President, today I introduce, along with Senator HOLLINGS, a bill which will suspend the duty imposed on certain textured rolled glass sheets. Currently, this glass is not manufactured in the United States nor is a substitute readily available. Therefore, suspending the duty on this item would not adversely affect domestic industries.

I hope the Senate will consider this measure expeditiously.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEXTURED ROLLED GLASS SHEETS.

Subheading 9902.70.03 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/98" and insert "12/31/2001".●

● Mr. HOLLINGS. Mr. President, today, I, along with Senator THURMOND, introduce duty suspension legislation designed to continue the importation of certain rolled glass into the United States duty free. This product is not manufactured in the United States. Upon importation, the rolled glass will be further manufactured in a facility at Fountain Inn, South Carolina.

I believe that this duty suspension will assist with employment in South Carolina. This facility manufactures glass-ceramic cooktops for the North American appliance industry. Continuation of this duty suspension will allow for the most efficient manufacture of this high end product in South Carolina.●

By Mr. BURNS:

S. 2365. A bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INTERNATIONAL SATELLITE COMMUNICATIONS REFORM ACT OF 1998

Mr. BURNS. Mr. President, I rise today to introduce the "International Satellite Communications Reform Act of 1998," a bill to update our nation's policies regarding the provision of international satellite services.

During the final days of the First Session of the 105th Congress, I announced that I would engage in an effort to eliminate outdated regulations and foster competition in the global satellite market. Since that time, I have met with industry representatives and officials from the Administration, and my office has conducted a series of open briefings intended to fully educate Members and their staff on the competing interests and opposing views surrounding this complicated debate. The "International Satellite Communications Reform Act of 1998" represents the culmination of a great deal of hard work, and I would like to thank the Members and staff, industry representatives, and Administration officials who worked with me to develop a consensus bill for their efforts. It is my intention to hold a hearing on this legislation when the Senate returns in early September.

Currently, the satellite policies of the United States are based upon the Communications Satellite Act of 1962, a bill drafted in the midst of the Cold War, when the United States was engaged in the "Space Race" with the Soviet Union. At that time, America wanted to demonstrate to the rest of the world its commitment to the peaceful uses of outer space and to bring the benefits of space technology to all the people of the world.

In that effort, we have succeeded magnificently. The 1962 Act led to the formation of Comsat Corporation, and then later of INTELSAT, which today provides global connectivity from the United States to virtually every point on the globe. The 1962 Act has paid the United States enormous dividends, to the point where the policy framework established by Congress in 1962 has been eclipsed by the success of these ventures, and by the development of healthy marketplace competition.

The "International Satellite Communications Reform Act of 1998" is designed to establish a new policy framework for international satellite communications for the 21st Century. It is designed to build on the success of the 1962 Act in a manner that preserves the benefits of that Act, while unleashing the power of private enterprise to provide new and innovative services to the people of the world.

The "International Satellite Communications Reform Act of 1998" will help to bring about the privatization of INTELSAT and Inmarsat, so that market forces may shape the services and prices available to American consumers. This bill is also designed to open foreign markets to competition—but to do so in a way that does not harm consumers nor reduce the number of competitors in the marketplace. It requires that all satellite service providers be subject to the same regulatory requirements while preserving lifeline services to those countries that do not generate enough revenues to entice the entrepreneurs to offer service. This will ensure that universal service and global connectivity will always be available to U.S. consumers.

Achieving the goal of drafting a thoughtful, balanced bill was not easy. I have worked with my colleagues on the Commerce Committee to draft a bill that is fair in its approach, consistent with our international obligations, and which maintains universal service. At the same time the bill relies upon free enterprise, market forces, and competition.

In my view, the "International Satellite Communications Reform Act of 1998" builds upon the successes of the 1962 Act, while recognizing that satellite technology has been successfully commercialized and that the old policy framework is no longer appropriate.

I hope that my colleagues will join me in cosponsoring this legislation, in which I have tried to balance competing policy objectives. I look forward to continuing to work with my colleagues to enact this legislation, and update our international satellite policy for the 21st Century.

By Mr. JOHNSON (for himself, Mr. INHOFE, Mr. BAUCUS, Mr. CONRAD, Mr. BRYAN, Mr. KERRY, Mr. BUMPERS, Ms. SNOWE, Mrs. BOXER, Mr. DASCHLE, Mr. BURNS, and Mr. INOUYE):

S. 2366. A bill to amend the Internal Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 shall be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

LOW INCOME HOUSING TAX CREDIT EQUITABLE ACCESS FOR INDIAN TRIBES

Mr. JOHNSON. Mr. President, I rise today to introduce legislation which will correct an unintended oversight in the federal administration of Native American housing programs, allowing Indian tribes to once again access Low-Income Housing Tax Credits (LIHTCs) for housing development in some of this nation's most under-served communities. Joining me as original cosponsors of this bill are Senators INHOFE, BAUCUS, CONRAD, BRYAN, KERRY, BUMPERS, SNOWE, BOXER, DASCHLE, BURNS and INOUYE.

In the 104th Congress, the Native American Housing Assistance and Self Determination Act (NAHASDA) was signed into law, separating Indian housing from public housing and providing block grants to tribes and their tribally designated housing authorities. Prior to passage of NAHASDA, Indian tribes receiving HOME block grant funds were able to use those funds to leverage the Low Income Housing Tax Credits distributed by states on a competitive basis. Unfortunately, unlike HOME funds, block grants to tribes under the new NAHASDA are defined as federal funds and cannot be used for accessing LIHTCs.

The fact that tribes cannot use their new block grant funds to access a program (LIHTC) which they formerly could access is an unintended consequence of taking Indian Housing out of Public Housing at HUD and setting up the otherwise productive and much needed NAHASDA system. The legislation I am introducing today is limited in scope and redefines NAHASDA funds, restoring tribal eligibility for the LIHTC by putting NAHASDA funds on the same footing as HOME funds. With this technical correction, there would be no change to the LIHTC programs—tribes would compete for LIHTCs with all other entities at the state level, just as they did prior to NAHASDA.

This technical corrections legislation is a minor but much needed fix to a valuable program that will restore equity to housing development across the country. The South Dakota Housing Development Authority has enthusiastically endorsed this legislation out of concern for equitable treatment of every resident of our state and to reinforce the proven success of the LIHTC program for housing development in rural and lower income communities.

I have joined many of my colleagues in past efforts to preserve and increase the Low Income Housing Tax Credit program which benefits every state, and I ask my colleagues to recognize the importance of maintaining fairness in access to this program emphasized through this legislation and encourage my colleagues to support passage of this vital legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN NATIVE AMERICAN HOUSING ASSISTANCE DISREGARDED IN DETERMINING WHETHER BUILDING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 42(i)(2) of the Internal Revenue Code of 1986 (relating to determination of whether building is federally subsidized) is amended—

(1) by inserting "OR NATIVE AMERICAN HOUSING ASSISTANCE" after "HOME ASSISTANCE" in the subparagraph heading, and

(2) by inserting "or the Native American Housing Assistance and Self-Determination Act of 1996 (as in effect on October 1, 1997)" after "this subparagraph)" in clause (i).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act.

By Mr. DODD:

S. 2367. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Amici*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL "AMICI"

Mr. DODD. Mr. President, today I introduce legislation to waive the 1920 Merchant Marine Act, commonly known as the Jones Act, to allow Coastal Cruisers, LLC to operate the 1983 Singapore-built vessel *Amici*.

Coastal Cruisers, LLC is a family-owned business in Branford, Connecticut that wishes to offer charters of Long Island Sound, Block Island Sound, and the Thimble Islands, among other destinations in the United States. The *Amici* is equipped to carry only up to six people and, therefore, does not pose any threat to larger U.S. shipping interests.

Prior to the *Amici*'s purchase, the owners secured counsel to purchase the vessel and to establish the corporation Coastal Cruisers, LLC. They were aware that the vessel was foreign-built, although they had no knowledge of the Jones Act's restrictions on foreign-built vessels sailing between U.S. ports. Much to the owners' dismay, they were informed by the Coast Guard that their services would be in violation of the Jones Act only after they had applied for a vessel documentation.

Coastal Cruisers, LLC clearly presented its intentions to use the boat for cruising purposes to several parties involved in its acquisition, including the insurance company from which it was purchased and the seller, who himself is a captain with an unrestricted operating license. These parties failed to inform Coastal Cruisers, LLC about the Jones Act and the restrictions it would face in its endeavor. Coastal Cruisers, LLC never willfully intended to violate the Jones Act, a law about which it possessed no knowledge. Based upon these facts, Mr. President, I believe a waiver should be granted.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel AMICI, United States official number 658055.

ADDITIONAL COSPONSORS

S. 375

At the request of Mr. MCCAIN, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 1822

At the request of Mr. HUTCHINSON, his name was added as a cosponsor of S. 1822, a bill to amend title 38, United States Code, to authorize provision of care to veterans treated with nasopharyngeal radium irradiation.

S. 1924

At the request of Mr. MACK, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 1994

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1994, a bill to assist States in providing individuals a credit against State income taxes or a comparable benefit for contributions to charitable organizations working to prevent or reduce poverty and to protect and encourage donations to charitable organizations.

S. 1995

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1995, a bill to amend the Internal Revenue Code of 1986 to allow the designation of renewal communities, and for other purposes.

S. 1996

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1996, a bill to provide flexibility to certain local educational agencies that develop voluntary public and private parental choice programs under title VI of the Elementary and Secondary Education Act of 1965.

S. 2035

At the request of Mr. BAUCUS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2035, a bill to amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, and for other purposes.

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 2035, supra.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2154

At the request of Mrs. BOXER, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2154, a bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants.

S. 2209

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2209, a bill to reduce class size in the early grades and to provide for teacher quality improvement.

S. 2217

At the request of Mr. FRIST, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2256

At the request of Mr. KERRY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2256, a bill to provide an authorized strength for commissioned officers of the National Oceanic and Atmospheric Administration Corps, and for other purposes.

S. 2259

At the request of Mr. MURKOWSKI, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 2259, A bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program.

S. 2296

At the request of Mr. MACK, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2296, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income.

S. 2330

At the request of Mr. NICKLES, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2330, a bill to improve the access and choice of patients to quality, affordable health care.

S. 2337

At the request of Mr. SMITH, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2337, a bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes.

S. 2352

At the request of Mr. LEAHY, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2352, a bill to protect the privacy rights of patients.

S. 2354

At the request of Mr. BOND, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2354, a bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

S. 2358

At the request of Mr. ROCKEFELLER, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Minnesota (Mr. WELLSTONE), the Senator from Illinois (Mr. DURBIN), the Senator from Delaware (Mr. BIDEN), and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2358, a bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

SENATE CONCURRENT RESOLUTION 109

At the request of Mr. COVERDELL, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Concurrent Resolution 109, a concurrent resolution expressing the sense of the Congress that executive departments and agencies must maintain the division of governmental responsibilities between the national government and the States that was intended by the framers of the Constitution, and must ensure that the principles of federalism established by the framers guide the executive departments and agencies in the formulation and implementation of policies.

SENATE RESOLUTION 210

At the request of Mr. WARNER, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of Senate Resolution 210, a resolution designating the week of June 22, 1998 through June 28, 1998 as "National Mosquito Control Awareness Week".

AMENDMENT NO. 3249

At the request of Mr. HUTCHINSON the names of the Senator from Michigan (Mr. ABRAHAM), the Senator from Kansas (Mr. BROWNBACK), the Senator from Arizona (Mr. MCCAIN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Minnesota (Mr. GRAMS), the Senator from New Hampshire (Mr. SMITH), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Indiana (Mr. COATS), the Senator from Alabama (Mr. SESSIONS), the Senator from Georgia (Mr. COVERDELL), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of Amendment No. 3249 proposed to S. 2312, an original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

SENATE CONCURRENT RESOLUTION 113—TO RENAME THE DOCUMENT DOOR OF THE CAPITAL AS THE CHESTNUT-GIBSON MEMORIAL DOOR

Mr. CAMBPELL submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 113

Whereas on Friday, July 24, 1998, a lone gunman entered the United States Capitol building through the door known as the Document Door, located on the first floor of the East Front;

Whereas while the gunman's intentions are not yet fully known, nor may ever be known, it is clear that he would have killed many more innocent people if Officers Chestnut and Gibson had not ended his violent rampage;

Whereas Officer Jacob Chestnut was the first Capitol Police officer to confront the gunman just inside the Document Door and lost his life as a result;

Whereas Detective John Gibson was the next officer to confront the gunman and also lost his life in the ensuing shootout;

Whereas the last shot fired by Detective Gibson, his final act as an officer of the law, finally brought down the gunman and ended his deadly rampage;

Whereas this was the first time members of the Capitol Police have been killed in the line of duty in the 170-year history of the police force;

Whereas the Capitol Police represent true dedication and professionalism in their duties to keep the Capitol Building, the Library of Congress, and the Senate and House of Representatives office buildings safe for all who enter them;

Whereas the Capitol shines as a beacon of freedom and democracy all around the world;

Whereas keeping the sacred halls of the Capitol, known as the People's House, accessible for all the people of the United States and the world is a true testament of Congress and of our Nation's dedication to upholding the virtues of freedom;

Whereas the door where this tragic incident took place is known as the Document Door; and

Whereas it is fitting and appropriate that the Document Door be renamed as the Chestnut-Gibson Memorial Door in honor of Officer Jacob Chestnut and Detective John Gibson: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Document Door located on the first floor of the East Front is renamed as the Chestnut-Gibson Memorial Door in honor of Officer Jacob Joseph Chestnut and Detective John Michael Gibson.

Mr. CAMPBELL. Mr. President, today I submit a Senate concurrent resolution to rename the Document Door as the Chestnut-Gibson Memorial Door. I feel that it is only fitting that this door be named in honor of the two brave Capitol Police Officers, Detective John Gibson and Officer Jacob Chestnut, who just last Friday, gave their lives in the line of duty while serving their country.

Last Friday's shocking and senseless violence in the halls of the U.S. Capitol both saddened our nation and took the lives of two of our finest.

Officer Jacob Chestnut was posted at the Document Door entrance on the Capitol's East Front. Officers posted to this entrance are the first faces that many tourists see when they come to visit the Capitol. Officer Chestnut's post, which involves achieving a delicate balance between the ensuring safety of those who visit the Capitol while keeping the People's House as free and open as possible, requires a very special combination of hospitality, humor, patience and professionalism. To his credit, Officer Chestnut excelled in this endeavor.

Detective John Gibson was the second Capitol Police Officer to engage the gunman. I understand that it was Detective John Gibson's last shot, his final act of a defender of the peace, that brought the gunman down and ended the violent rampage. The Detective's steadfast valor, while already having been shot several times, was the difference that saved many lives. We all owe him a deep debt of gratitude.

If it had not been for the heroic actions of these two brave officers, this dangerous gunman would almost certainly have killed many more innocent people. The two officer's ultimate sacrifice saved many lives.

This building, the U.S. Capitol, is far more than just a building, it is a living monument to freedom and democracy. It is perhaps the only building on earth that simultaneously houses a healthy democracy at work, while standing as a tribute to freedom that attracts millions of visitors from all over the U.S. and the entire world each year. The chambers, galleries and halls of our Capitol are full of statues, busts, paintings and displays that commemorate heroes and key events in our nation's history. The men and women honored under this magnificent dome have served their country in a wide variety of ways. Some have been great visionaries and statesmen. Some have been leaders in science or adventurers, like Colorado's son, astronaut Jack Swigert whose statue stands in these halls. Each of these heroes has contributed and sacrificed in his or her own very real and personal way.

Some of these heroes have made the greatest sacrifice for their nation, giving their lives. Detective John Gibson and Officer Jacob Chestnut have joined this honored rank. They gave their lives for their nation while protecting our nation's Capitol, and it is fitting that they will lie in honor today in the Capitol's Rotunda while a grateful nation pays its respects.

Not only is the Capitol the American people's house, it stands as a bright beacon of hope to all of the world's freedom loving people. While traveling this building's halls, I have been regularly awed by the comments of visitors from other countries about how open and free this building is. They state how they would never be allowed to walk so freely through the halls of their own capital buildings back home in their respective countries. This is an important part of what makes America great.

Whenever I have heard such sentiments, I am reminded of just how fortunate I am, and we all are, to be Americans. Our Capitol is the People's House, and it must remain open and accessible to all.

Thanks to the sacrifices of Detective John Gibson and Officer Jacob Chestnut, and the dedication and professionalism of the entire U.S. Capitol Police force, our nation's Capitol building is freely accessible and continues to serve as a beacon of freedom.

For these reasons I feel that it is only fitting that the Document Door be renamed in honor of the two brave Capitol Police Officers, Detective John Gibson and Officer Jacob Chestnut, who gave their lives so that the Capitol building could remain the People's House and open to all.

SENATE RESOLUTION 258—TO AUTHORIZE TESTIMONY AND REPRESENTATION OF A SENATE EMPLOYEE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 258

Whereas, in the case of *State of Tennessee* v. *Ronald W. Byrd*, Case No. S 113068, pending in the Court of General Sessions for Sullivan County, Tennessee, testimony has been requested from Kathy Tipton, an employee in the office of Senator Fred Thompson.

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Kathy Tipton is authorized to testify in the case of *State of Tennessee* v. *Ronald W. Byrd*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Kathy Tipton in connection with the testimony authorized in section one of this resolution.

AMENDMENTS SUBMITTED

CREDIT UNION MEMBERSHIP ACCESS ACT

D'AMATO (AND SARBANES) AMENDMENT NO. 3339

Mr. D'AMATO (for himself and Mr. SARBANES) proposed an amendment to the bill (H.R. 1151) to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions; as follows:

On page 40, strike lines 6 through 11, and insert the following:

"(i) is an 'investment area', as defined in section 103(16) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(16)), and meets such additional requirements as the Board may impose; and

On page 54, line 8, insert "(a) IN GENERAL.—" before "The".

On page 57, between lines 16 and 17, insert the following:

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall conduct a study of member business lending by insured credit unions, including—

(A) an examination of member business lending over $500,000 and under $50,000, and a breakdown of the types and sizes of businesses that receive member business loans;

(B) a review of the effectiveness and enforcement of regulations applicable to insured credit union member business lending;

(C) whether member business lending by insured credit unions could affect the safety and soundness of insured credit unions or the National Credit Union Share Insurance Fund;

(D) the extent to which member business lending by insured credit unions helps to meet financial services needs of low- and moderate-income individuals within the field of membership of insured credit unions;

(E) whether insured credit unions that engage in member business lending have a competitive advantage over other insured depository institutions, and if any such advantage could affect the viability and profitability of such other insured depository institutions; and

(F) the effect of enactment of this Act on the number of insured credit unions involved in member business lending and the overall amount of commercial lending.

(2) NCUA COOPERATION.—The National Credit Union Administration shall, upon request, provide such information as the Secretary may require to conduct the study required under paragraph (1).

(3) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

On page 57, line 16, strike the quotation marks and the final period and insert the following:

"(e) CONSULTATION AND COOPERATION WITH STATE CREDIT UNION SUPERVISORS.—In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.".

On page 92, strike line 7 and all that follows through page 93, line 15, and insert the following:

SEC. 402. UPDATE ON REVIEW OF REGULATIONS AND PAPERWORK REDUCTIONS.

Not later than 1 year after the date of enactment of this Act, the Federal banking agencies shall submit a report to the Congress detailing their progress in carrying out section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, since their submission of the report dated September 23, 1996, as required by section 303(a)(4) of that Act.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

CAMPBELL (AND OTHERS) AMENDMENT NO. 3340

Mr. CAMPBELL (for himself, Mr. FAIRCLOTH, and Mr. KOHL) proposed an amendment to the bill (S. 2312) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes; as follows:

Strike Section 639 on pages 96 and 97 in its entirety and insert in lieu thereof the following:

"SEC. 639. For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1999 in the rates of basic pay for the statutory pay systems.".

GRASSLEY AMENDMENT NO. 3341

Mr. CAMPBELL (for Mr. GRASSLEY) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place at the end of Title I, insert:

SEC. ___. Section 921(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "the explosive in a fixed shotgun shell" and insert "an explosive";

(2) in paragraph (7), by striking "the explosive in a fixed metallic cartridge" and inserting "an explosive"; and

(3) by striking paragraph (16) and inserting the following:

"(16) The term 'antique firearm'—

"(A) means any—

"(i) firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

"(ii) replica of any firearm described in clause (i), if such replica—

"(I) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

"(II) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade; and

"(iii) muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, that—

"(I) is designed to use black powder, or a black powder substitute; and

"(II) cannot use fixed ammunition; and

"(B) does not include any—

"(i) weapon that incorporates a firearm frame or receiver;

"(ii) firearm that is converted into a muzzle loading weapon; or

"(iii) muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.".

CAMPBELL (AND KOHL) AMENDMENT NO. 3342

Mr. CAMPBELL (for himself and Mr. KOHL) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, strike and insert the following:

Page 11, on line 23 strike "$2,854,000,000" and insert in lieu thereof "$3,317,690,000".

SARBANES AMENDMENT NO. 3343

Mr. CAMPBELL (for Mr. SARBANES) proposed an amendment to the bill, S. 2312, supra; as follows:

At the end of title VI add the following new section:

SEC. ___. FEDERAL FIREFIGHTERS OVERTIME PAY REFORM ACT OF 1998.

(a) IN GENERAL.—Subchapter V of chapter 55 of title 5, United States Code, is amended—

(1) in section 5542 by adding at the end the following new subsection:

"(f) In applying subsection (a) of this section with respect to a firefighter who is subject to section 5545b—

"(1) such subsection shall be deemed to apply to hours of work officially ordered or approved in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computation, in excess of 53 hours in an administrative workweek; and

"(2) the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay under section 5545b (b)(1)(A) or (c)(1)(B), as applicable, and such overtime hourly rate of pay may not be less than such hourly rate of basic pay in applying the limitation on the overtime rate provided in paragraph (2) of such subsection (a)."; and

(2) by inserting after section 5545a the following new section:

"§ 5545b. Pay for firefighters

"(a) This section applies to an employee whose position is classified in the firefighter occupation in conformance with the GS-081 standard published by the Office of Personnel Management, and whose normal work schedule, as in effect throughout the year, consists of regular tours of duty which average at least 106 hours per biweekly pay period.

"(b)(1) If the regular tour of duty of a firefighter subject to this section generally consists of 24-hour shifts, rather than a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

"(A) paragraph (1) of such section shall be deemed to require that the annual rate be divided by 2756 to derive the hourly rate; and

"(B) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on the hourly rate under subparagraph (A);

"(2) For the purpose of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(A)) for all hours in such firefighter's regular tour of duty (including overtime hours).

"(c)(1) If the regular tour of duty of a firefighter subject to this section includes a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

"(A) the provisions of such section shall apply to the hours within the basic 40-hour workweek;

"(B) for hours outside the basic 40-hour workweek, such section shall be deemed to require that the hourly rate be derived by dividing the annual rate by 2756; and

"(C) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on subparagraphs (A) and (B), as each applies to the hours involved.

"(2) For purposes of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include—

"(A) an amount computed under paragraph (1)(A) for the hours within the basic 40-hour workweek; and

"(B) an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(B)) for all hours outside the basic 40-hour workweek that are within such firefighter's regular tour of duty (including overtime hours).

"(d)(1) A firefighter who is subject to this section shall receive overtime pay in accordance with section 5542, but shall not receive premium pay provided by other provisions of this subchapter.

"(2) For the purpose of applying section 7(k) of the Fair Labor Standards Act of 1938 to a firefighter who is subject to this section, no violation referred to in such section 7(k) shall be deemed to have occurred if the requirements of section 5542(a) are met, applying section 5542(a) as provided in subsection (f) of that section. The overtime hourly rate of pay for such firefighter shall in all cases be an amount equal to one and one-half times the firefighter's hourly rate of basic pay under subsection (b)(1)(A) or (c)(1)(B) of this section, as applicable.

"(3) The Office of Personnel Management may prescribe regulations, with respect to firefighters subject to this section, that would permit an agency to reduce or eliminate the variation in the amount of firefighters' biweekly pay caused by work scheduling cycles that result in varying hours in the regular tours of duty from pay period to pay period. Under such regulations, the pay that a firefighter would otherwise receive for regular tours of duty over the work scheduling cycle shall, to the extent practicable, remain unaffected.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5545a the following:

"5545b. Pay for firefighters.".

(c) TRAINING.—Section 4109 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (a)(1), a firefighter who is subject to section 5545b of this title shall be paid basic pay and overtime pay for the firefighter's regular tour of duty while attending agency sanctioned training.".

(d) INCLUSION IN BASIC PAY FOR FEDERAL RETIREMENT.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking "and" after subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (G);

(3) by inserting the following:

"(E) with respect to a criminal investigator, availability pay under section 5545a of this title;

"(F) pay as provided in section 5545b (b)(2) and (c)(2); and "; and

(4) by striking "subparagraphs (B), (C), (D), and (E)" and inserting "subparagraphs (B) through (G)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period which begins on or after the later of October 1, 1998, or the 180th day following the date of enactment of this section.

(f) REGULATIONS.—Under regulations prescribed by the Office of Personnel Management, a firefighter subject to section 5545b of title 5, United States Code, as added by this section, whose regular tours of duty average 60 hours or less per workweek and do not include a basic 40-hour workweek, shall, upon implementation of this section, be granted an increase in basic pay equal to 2 step-increases of the applicable General Schedule grade, and such increase shall not be an equivalent increase in pay. If such increase results in a change to a longer waiting period for the firefighter's next step increase, the firefighter shall be credited with an additional year of service for the purpose of such waiting period. If such increase results in a rate of basic pay which is above the maximum rate of the applicabie grade, such resulting pay rate shall be treated as a retained rate of basic pay in accordance with section 5363 of title 5, United States Code.

(g) NO REDUCTION IN REGULAR PAY.—Under regulations prescribed by the Office of Personnel Management, the regular pay (over the established work scheduling cycle) of a firefighter subject to section 5545b of title 5, United States Code, as added by this section, shall not be reduced as a result of the implementation of this section.

COCHRAN AMENDMENT NO. 3344

Mr. CAMPBELL (for Mr. COCHRAN) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place at the end of Title VI, insert the following:

SEC. ___. INTERNATIONAL MAIL REPORTING REQUIREMENT.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by adding after section 3662 the following:

"§ 3663. Annual report on international services

"(a) Not later than July 1 of each year, the Postal Rate Commission shall transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes accrued by the Postal Service in connection with mail matter conveyed between the United States and other countries for the previous fiscal year.

"(b) Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. Data shall be provided in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for the analysis of rates for domestic mail.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 39, United States Code, is amended by adding after the item relating to section 3662 the following:

"3663. Annual report on international services.".

COVERDELL AMENDMENT NO. 3345

Mr. CAMPBELL (for Mr. COVERDELL) proposed an amendemnt to the bill, S. 2312, supra; as follows:

At the appropriate place at the end of Title I insert the following:

SEC. ___. SENSE OF THE SENATE ON THE USE OF RANDOM SELECTION OF RETURNS FOR EXAMINATION BY THE INTERNAL REVENUE SERVICE.

(a) FINDINGS.—The Senate finds that—

(1) in 1995, the Internal Revenue Service indefinitely postponed the 1994 Taxpayer Compliance Measurement Program, a program of audits using random selection techniques (in this section referred to as "random audits");

(2) Congress, taxpayer groups, tax practitioners, and others criticized the program because of its cost to and burden on taxpayers;

(3) there is no law preventing the Internal Revenue Service from resuming its Taxpayer Compliance Measurement Program; and

(4) random audits may be overly burdensome on taxpayers, particularly low-income taxpayers.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Service should make it a top priority to ensure fairness to taxpayers when selecting returns for audit;

(2) the Senate does not approve of the use of random audits of the general population of taxpayers or tax returns; and

(3) the Internal Revenue Service should not conduct random audits of the general population of taxpayers or tax returns.

CAMPBELL (AND KOHL) AMENDMENTS NOS. 3346–3347

Mr. CAMPBELL (for himself and Mr. KOHL) proposed two amendments to the bill, S. 2312, supra; as follows:

AMENDMENT NO. 3346

At the appropriate place, strike and insert the following:

On page 40, line 25, after the word "campaign," strike through page 41, line 16 through "campaign," and insert in lieu thereof "(3) ONDCP, or any agent acting on its behalf, may not obligate any funds for the creative development of advertisements from for-profit organizations, not including out-of-pocket production costs and talent re-use payments, unless (a) the advertisements are intended to reach a minority, ethnic or other special audience that cannot be obtained on a pro bono basis within the time frames required by ONDCP's advertising and buying agencies, and (b) it receives prior approval from the Senate Committee on Appropriations, (4) ONDCP will secure corporate sponsorship equaling 40 percent of the appropriated amount in fiscal year 1999, the definition of which is a contribution that is not received as a result of leveraging funds to receive said sponsorship, corporate sponsorship equaling 60 percent of the appropriated amount in fiscal year 2000, corporate sponsorship equaling 80 percent of the appropriated amount in fiscal year 2001, corporate sponsorship equaling 100 percent of the appropriated amount in fiscal year 2002, and will report quarterly on its efforts to meet this goal, (5) ONDCP is mandated to use appropriated funds solely to fund the anti-drug media campaign to include only the purchase of media time and space, talent re-use payments, out-of-pocket advertising production costs, testing and evaluation of advertising, evaluation of the effectiveness of the media campaign, the negotiated fees for the winning bidder on the request for proposal recently issued by ONDCP, partnership with community, civic, and professional groups, and government organizations related to the media campaign, entertainment industry collaborations to fashion anti-drug messages in movies, television programming, and popular music, interactive (Internet and new) media projects/activities, public information (News Media Outreach), and corporate sponsorship/participation, (6) ONDCP shall not obligate funds provided for the national media campaign for fiscal year 1999 until ONDCP has submitted the evaluation and results of Phase I of the campaign to the Senate Committee on Appropriations, and may obligate up to 75 percent of these funds until ONDCP has submitted the evaluation and results of Phase II of the campaign to the Committee,"

AMENDMENT NO. 3347

At the appropriate place, insert the following:

On page 45, line 21 after "U.S.C. 490(f)), the" insert "$508,752,000 to be deposited into the Fund. The".

BAUCUS (AND OTHERS) AMENDMENT NO. 3348

(Ordered to lie on the table.)

Mr. BAUCUS (for himself, Mr. JEFFORDS, Mr. CONRAD, and Mr. ALLARD) submitted an amendment intended to be proposed by them to the bill, S. 2312, supra; as follows:

At the appropriate place, add the following:

SEC. ___. POST OFFICE RELOCATIONS, CLOSINGS, AND CONSOLIDATIONS.

(a) SHORT TITLE.—This section may be cited as the "Community and Postal Participation Act of 1998".

(b) GUIDELINES FOR RELOCATION, CLOSING, OR CONSOLIDATION OF POST OFFICES.—Section 404 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Before making a determination under subsection (a)(3) as to the necessity for the relocation, closing, or consolidation of any post office, the Postal Service shall provide adequate notice to persons served by that post office of the intention of the Postal Service to relocate, close, or consolidate that post office not later than 60 days before the proposed date of that relocation, closing, or consolidation.

"(2)(A) The notification under paragraph (1) shall be in writing, hand delivered or delivered by mail to persons served by that post office, and published in 1 or more newspapers of general circulation within the zip codes served by that post office.

"(B) The notification under paragraph (1) shall include—

"(i) an identification of the relocation, closing, or consolidation of the post office involved;

"(ii) a summary of the reasons for the relocation, closing, or consolidation; and

"(iii) the proposed date for the relocation, closing, or consolidation.

"(3) Any person served by the post office that is the subject of a notification under paragraph (1) may offer an alternative relocation, consolidation, or closing proposal during the 60-day period beginning on the date on which the notice is provided under paragraph (1).

"(4)(A) At the end of the period specified in paragraph (3), the Postal Service shall make a determination under subsection (a)(3). Before making a final determination, the Postal Service shall conduct a hearing, and persons served by the post office that is the subject of a notice under paragraph (1) may present oral or written testimony with respect to the relocation, closing, or consolidation of the post office.

"(B) In making a determination as to whether or not to relocate, close, or consolidate a post office, the Postal Service shall consider—

"(i) the extent to which the post office is part of a core downtown business area;

"(ii) any potential effect of the relocation, closing, or consolidation on the community served by the post office;

"(iii) whether the community served by the post office opposes a relocation, closing, or consolidation;

"(iv) any potential effect of the relocation, closing, or consolidation on employees of the Postal Service employed at the post office;

"(v) whether the relocation, closing, or consolidation of the post office is consistent with the policy of the Government under section 101(b) that requires the Postal Service to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns in which post offices are not self-sustaining;

"(vi) the quantified long-term economic saving to the Postal Service resulting from the relocation, closing, or consolidation;

"(vii) whether postal officials engaged in negotiations with persons served by the post office concerning the proposed relocation, closing, or consolidation;

"(viii) whether management of the post office contributed to a desire to relocate;

"(ix)(I) the adequacy of the existing post office; and

"(II) whether all reasonable alternatives to relocation, closing, or consolidation have been explored; and

"(x) any other factor that the Postal Service determines to be necessary for making a determination whether to relocate, close, or consolidate that post office.

"(5)(A) Any determination of the Postal Service to relocate, close, or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (4).

"(B) The Postal Service shall respond to all of the alternative proposals described in paragraph (3) in a consolidated report that includes—

"(i) the determination and findings under subparagraph (A); and

"(ii) each alternative proposal and a response by the Postal Service.

"(C) The Postal Service shall make available to the public a copy of the report prepared under subparagraph (B) at the post office that is the subject of the report.

"(6)(A) The Postal Service shall take no action to relocate, close, or consolidate a post office until the applicable date described in subparagraph (B).

"(B) The applicable date specified in this subparagraph is—

"(i) if no appeal is made under paragraph (7), the end of the 60-day period specified in that paragraph; or

"(ii) if an appeal is made under paragraph (7), the date on which a determination is made by the Commission under paragraph (7)(A), but not later than 120 days after the date on which the appeal is made.

"(7)(A) A determination of the Postal Service to relocate, close, or consolidate any post office may be appealed by any person served by that post office to the Postal Rate Commission during the 60-day period beginning on the date on which the report is made available under paragraph (5). The Commission shall review the determination on the basis of the record before the Postal Service in the making of the determination. The Commission shall make a determination based on that review not later than 120 days after appeal is made under this paragraph.

"(B) The Commission shall set aside any determination, findings, and conclusions of the Postal Service that the Commission finds to be—

"(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(ii) without observance of procedure required by law; or

"(iii) unsupported by substantial evidence on the record.

"(C) The Commission may affirm the determination of the Postal Service that is the subject of an appeal under subparagraph (A) or order that the entire matter that is the subject of that appeal be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal.

"(D) The provisions of sections 556 and 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

"(E) A determination made by the Commission shall not be subject to judicial review.

"(8) In any case in which a community has in effect procedures to address the relocation, closing, or consolidation of buildings in the community, and the public participation requirements of those procedures are more stringent than those provided in this subsection, the Postal Service shall apply those procedures to the relocation, consolidation, or closing of a post office in that community in lieu of applying the procedures established in this subsection.

"(9) In making a determination to relocate, close, or consolidate any post office, the Postal Service shall comply with any applicable zoning, planning, or land use laws (including building codes and other related laws of State or local public entities, including any zoning authority with jurisdiction over the area in which the post office is located).

"(10) The relocation, closing, or consolidation of any post office under this subsection shall be conducted in accordance with section 110 of the National Historic Preservation Act (16 U.S.C. 470h–2).".

(c) Policy Statement.—Section 101(g) of title 39, United States Code, is amended by adding at the end the following: "In addition to taking into consideration the matters referred to in the preceding sentence, with respect to the creation of any new postal facility, the Postal Service shall consider the potential effects of that facility on the community to be served by that facility and the service provided by any facility in operation at the time that a determination is made whether to plan or build that facility.".

JEFFORDS AMENDMENT NO. 3349

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. FEDERAL CONTRACTOR RETIREMENT BENEFITS.

Not later than May 1, 1999, the Office of Personnel Management shall conduct a study and submit a report to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Economic and Educational Opportunities of the House of Representatives on the type and amounts of retirement and pension benefits provided to employees of business entities that contract with the Federal Government for the provision of services.

BAUCUS (AND OTHERS) AMENDMENT NO. 3350

(Ordered to lie on the table.)

Mr. BAUCUS (for himself, Mr. Jeffords, Mr. Allard, and Mr. Conrad) submitted an amendment intended to be proposed to by them to the bill, S. 2312, supra; as follows:

At the appropriate place, add the following:

SEC. ___. POST OFFICE RELOCATIONS, CLOSINGS, AND CONSOLIDATIONS.

(a) Short Title.—This section may be cited as the "Community and Postal Participation Act of 1998".

(b) Guidelines for Relocation, Closing, or Consolidation of Post Offices.—Section 404 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Before making a determination under subsection (a)(3) as to the necessity for the relocation, closing, or consolidation of any post office, the Postal Service shall provide adequate notice to persons served by that post office of the intention of the Postal Service to relocate, close, or consolidate that post office not later than 60 days before the proposed date of that relocation, closing, or consolidation.

"(2)(A) The notification under paragraph (1) shall be in writing, hand delivered or delivered by mail to persons served by that post office, and published in 1 or more newspapers of general circulation within the zip codes served by that post office.

"(B) The notification under paragraph (1) shall include—

"(i) an identification of the relocation, closing, or consolidation of the post office involved;

"(ii) a summary of the reasons for the relocation, closing, or consolidation; and

"(iii) the proposed date for the relocation, closing, or consolidation.

"(3) Any person served by the post office that is the subject of a notification under paragraph (1) may offer an alternative relocation, consolidation, or closing proposal during the 60-day period beginning on the date on which the notice is provided under paragraph (1).

"(4)(A) At the end of the period specified in paragraph (3), the Postal Service shall make a determination under subsection (a)(3). Before making a final determination, the Postal Service shall conduct a hearing, and persons served by the post office that is the subject of a notice under paragraph (1) may present oral or written testimony with respect to the relocation, closing, or consolidation of the post office.

"(B) In making a determination as to whether or not to relocate, close, or consolidate a post office, the Postal Service shall consider—

"(i) the extent to which the post office is part of a core downtown business area;

"(ii) any potential effect of the relocation, closing, or consolidation on the community served by the post office;

"(iii) whether the community served by the post office opposes a relocation, closing, or consolidation;

"(iv) any potential effect of the relocation, closing, or consolidation on employees of the Postal Service employed at the post office;

"(v) whether the relocation, closing, or consolidation of the post office is consistent with the policy of the Government under section 101(b) that requires the Postal Service to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns in which post offices are not self-sustaining;

"(vi) the quantified long-term economic saving to the Postal Service resulting from the relocation, closing, or consolidation;

"(vii) whether postal officials engaged in negotiations with persons served by the post office concerning the proposed relocation, closing, or consolidation;

"(viii) whether management of the post office contributed to a desire to relocate;

"(ix)(I) the adequacy of the existing post office; and

"(II) whether all reasonable alternatives to relocation, closing, or consolidation have been explored; and

"(x) any other factor that the Postal Service determines to be necessary for making a determination whether to relocate, close, or consolidate that post office.

"(5)(A) Any determination of the Postal Service to relocate, close, or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (4).

"(B) The Postal Service shall respond to all of the alternative proposals described in paragraph (3) in a consolidated report that includes—

"(i) the determination and findings under subparagraph (A); and

"(ii) each alternative proposal and a response by the Postal Service.

"(C) The Postal Service shall make available to the public a copy of the report prepared under subparagraph (B) at the post office that is the subject of the report.

"(6)(A) The Postal Service shall take no action to relocate, close, or consolidate a post office until the applicable date described in subparagraph (B).

"(B) The applicable date specified in this subparagraph is—

"(i) if no appeal is made under paragraph (7), the end of the 60-day period specified in that paragraph; or

"(ii) if an appeal is made under paragraph (7), the date on which a determination is made by the Commission under paragraph (7)(A), but not later than 120 days after the date on which the appeal is made.

"(7)(A) A determination of the Postal Service to relocate, close, or consolidate any post office may be appealed by any person served by that post office to the Postal Rate Commission during the 60-day period beginning on the date on which the report is made available under paragraph (5). The Commission shall review the determination on the basis of the record before the Postal Service in the making of the determination. The Commission shall make a determination based on that review not later than 120 days after appeal is made under this paragraph.

"(B) The Commission shall set aside any determination, findings, and conclusions of the Postal Service that the Commission finds to be—

"(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(ii) without observance of procedure required by law; or

"(iii) unsupported by substantial evidence on the record.

"(C) The Commission may affirm the determination of the Postal Service that is the subject of an appeal under subparagraph (A) or order that the entire matter that is the subject of that appeal be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal.

"(D) The provisions of sections 556 and 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

"(E) A determination made by the Commission shall not be subject to judicial review.

"(8) In any case in which a community has in effect procedures to address the relocation, closing, or consolidation of buildings in the community, and the public participation requirements of those procedures are more stringent than those provided in this subsection, the Postal Service shall apply those procedures to the relocation, consolidation, or closing of a post office in that community in lieu of applying the procedures established in this subsection.

"(9) In making a determination to relocate, close, or consolidate any post office, the Postal Service shall comply with any applicable zoning, planning, or land use laws (including building codes and other related laws of State or local public entities, including any zoning authority with jurisdiction over the area in which the post office is located).

"(10) The relocation, closing, or consolidation of any post office under this subsection shall be conducted in accordance with section 110 of the National Historic Preservation Act (16 U.S.C. 470h–2).".

(c) Policy Statement.—Section 101(g) of title 39, United States Code, is amended by adding at the end the following: "In addition to taking into consideration the matters referred to in the preceding sentence, with respect to the creation of any new postal facility, the Postal Service shall consider the potential effects of that facility on the community to be served by that facility and the service provided by any facility in operation at the time that a determination is made whether to plan or build that facility.".

FEINSTEIN AMENDMENT NO. 3351

Mrs. FEINSTEIN proposed an amendment to the bill, S. 2312, supra; as follows:

On page 104, between lines 21 and 22, insert the following:

SEC. 644. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) Short Title.—This section may be cited as the "Large Capacity Clip Ban of 1998".

(b) Ban on Importing Large Capacity Ammunition Feeding Devices.—Section 922(w) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "(1) Except as provided in paragraph (2)" and inserting "(1)(A) Except as provided in subparagraph (B)";

(2) in paragraph (2), by striking "(2) Paragraph (1)" and inserting "(B) Subparagraph (A)";

(3) by inserting before paragraph (3) the following:

"(2) It shall be unlawful for any person to import a large capacity ammunition feeding device."; and

(4) in paragraph (4)—

(A) by striking "(1)" each place it appears and inserting "(1)(A)"; and

(B) by striking "(2)" and inserting "(1)(B)".

(c) Conforming Amendment.—Section 921(a)(31) of title 18, United States Code, is amended by striking "manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994".

LANDRIEU AMENDMENT NO. 3352

Mr. CAMPBELL (for Ms. LANDRIEU) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in title VI, insert the following:

SEC. ___. CHILD CARE SERVICES FOR FEDERAL EMPLOYEES.

(a) In General.—An Executive agency which provides or proposes to provide child care services for Federal employees may use agency funds to provide child care, in a Federal or leased facility, or through contract, for civilian employees of such agency.

(b) Affordability.—Amounts provided under subsection (a) with respect to any facility or contractor described in such subsection shall be applied to improve the affordability of child care for lower income Federal employees using or seeking to use the child care services offered by such facility or contractor.

(c) Regulations.—The Office of Personnel Management and the General Services Administration shall, within 180 days after the date of enactment of this Act, issue regulations necessary to carry out this section.

(d) Definition.—For purposes of this section, the term "Executive agency" has the meaning given such term by section 105 of title 5, United States Code, but does not include the General Accounting Office.

THOMPSON AMENDMENT NO. 3353

Mr. THOMPSON proposed an amendment to the bill, S. 2312, supra; as follows:

Strike out section 642 and insert in lieu thereof the following:

Sec. 642. The Federal Acquisition Regulation shall be revised, within 180 days after the date of enactment of this Act, to include the use of forced or indentured child labor in mining, production, or manufacturing as a cause on the lists of causes for debarment and suspension from contracting with executive agencies that are set forth in the regulation.

DEWINE (AND OTHERS) AMENDMENT NO. 3354

(Ordered to lie on the table.)

Mr. DEWINE (for himself, Mr. BROWNBACK, and Mr. SANTORUM) submitted an amendment intended to be proposed by them to the bill, S. 2312, supra; as follows:

At the end of title VI, add the following:

SEC. ___. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. ___. The provision of section ___ shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

KOHL (AND CAMPBELL) AMENDMENT NO. 3355

Mr. KOHL (for himself and Mr. CAMPBELL) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 104, between lines 21 and 22, insert the following:

SEC. 644. EXTENSION OF SUNSET PROVISION.

Section 2(f)(2) of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) is amended by striking "(2)" and all that follows through "10 years" and inserting the following:

"(2) SUNSET.—Effective 15 years".

CHAFEE (AND OTHERS) AMENDMENT NO. 3356

Mr. CAMPBELL (for Mr. CHAFEE for himself, Mr. WARNER, and Mr. BAUCUS) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 47, strike lines 11 and 12.

On page 62, between lines 19 and 20, insert the following:

SEC. 4___. DEPARTMENT OF TRANSPORTATION HEADQUARTERS.

(a) IN GENERAL.—The Administrator of General Services, without further review or approval by any other office of the executive branch, shall—

(1) acquire an operating lease for the Department of Transportation headquarters; and

(2) commence procurement of the lease not later than November 1, 1998;

in accordance with the authorizing resolutions passed by the Committee on Environment and Public Works of the Senate on November 6, 1997, and the Committee on Transportation and Infrastructure of the House of Representatives on July 23, 1997.

(b) AUTHORIZATION TO REDUCE ANNUAL LEASE AMOUNTS.—In order to procure an operating lease, the Administrator of General Services shall reduce the annual lease amounts authorized by the resolutions to such extent as is necessary to effectuate an operating lease at the time at which the lease is executed.

SEC. 4___. SECURITY OF CAPITOL COMPLEX.

There is appropriated to the Architect of the Capitol for costs associated with the security of the Capitol complex $14,105,000.

THOMPSON AMENDMENT NO. 3357

(Ordered to lie on the table.)

Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill, S. 2312, supra; as follows:

Strike section 625 and insert the following:

SEC. 625. (a) IN GENERAL.—Beginning in calendar year 2000, and every 2 calendar years thereafter, the Director of the Office of Management and Budget shall prepare and submit to Congress, with the budget submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

(1) an estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of Federal rules and paperwork, to the extent feasible—

(A) in the aggregate;

(B) by agency and agency program; and

(C) by major rule;

(2) an analysis of impacts of Federal regulation on State, local, and tribal government, small business, wages, and economic growth; and

(3) recommendations for reform.

(b) NOTICE.—The Director of the Office of Management and Budget shall provide public notice and an opportunity to comment on the statement and report under subsection (a) before the statement and report are submitted to Congress.

(c) GUIDELINES.—To implement this section, the Director of the Office of Management and Budget shall issue guidelines to agencies to standardize—

(1) measures of costs and benefits; and

(2) the format of accounting statements.

(d) PEER REVIEW.—The Director of the Office of Management and Budget shall provide for independent and external peer review of the guidelines and each accounting statement and associated report under this section. Such peer review shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

GRASSLEY (AND OTHERS) AMENDMENT NO. 3358

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself, Mr. D'AMATO, Mr. SESSIONS, Mr. STEVENS, and Mr. GRAMS) submitted an amendment intended to be proposed by them to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) DEFINITIONS.—In this section—

(1) the term "crime of violence" has the meaning given that term in section 16 of title 18, United States Code; and

(2) the term "law enforcement officer" means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5, United States Code; and any special agent in the Diplomatic Security Service of the Department of State.

(b) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, a law enforcement officer shall be construed to be acting within the scope of his or her office or employment, if the officer takes any reasonable action, including the use of force, that is determined by the officer to be necessary to—

(1) protect an individual in the presence of the officer from a crime of violence;

(2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer a crime of violence.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Thursday, July 30, 1998 at 9:00 a.m. in SD-106. The purpose of this meeting will be to review a recent concept release by CFTC on over-the-counter derivatives and related legislation proposed by the Treasury Department, the Board of Governors of the Federal Reserve System and the SEC.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 28, 1998, to conduct an oversight hearing on mandatory arbitration agreements in employment contracts in the securities industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 28, 1998, at 9:30 a.m. on the nominations of Ritajean Butterworth and Diane Blair to be members of the Corporation for Public Broadcasting and Kelley Coyner to be administrator of the Research and Special Programs Administration of the Department of Transportation and immediately following a full committee hearing on cable rates.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 28, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the March 31, 1998 Government Accounting Office report on the Forest Service: Review of the Alaska Region's Operating Costs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Tuesday, July 28, 1998 beginning at 10:00 a.m. in room SH-215, to conduct a markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Substance Abuse: the Science of Addiction and Options for Treatment during the session of the Senate on Tuesday, July 28, 1998, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. D'AMATO. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on pending legislation.

The markup will be held at 4:15 p.m., on Tuesday, July 28, 1998 in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on July 28, 1998 at 10:00 a.m. to 1:00 p.m. in Hart 216 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WEST VIRGINIA ENERGY EXPRESS PROJECT

• Mr. ROCKEFELLER. Mr. President, it is with great pride that I rise today to recognize the Energy Express Americorps for their contributions to local West Virginia communities. In 1994, several studies demonstrated conclusively that many low-income children were not receiving proper nourishment and we all understand how this hurts a child's healthy development. Further research has suggested that not only did low-income students lack proper nutrition, but they also faced academic set backs while their more fortunate classmates made academic gains during summer recess. Inspired by such disturbing statistics, West Virginia Americorps created Energy Express, a unique program, which offers six-week summer program for low-income, elementary children to promote reading skills, to create strong partnerships with mentors, and to provide nutritious meals. Energy Express is an innovative Americorps program that helps low-income children with a healthy, safe environment, and promotes reading skills in a community environment.

Energy Express formed an effective partnership with the existing Summer Feeding Program that provides nutritious meals and education to promote proper eating habits. The Energy Express summer camps go beyond the call of duty to simply prepare and provide; they create a family-style atmosphere where the children learn how to make decisions, engage in conversation, assume responsibility, and cooperate with one another and others..

The mission of Energy Express also goes beyond just child nutrition to promote further education. Recognizing the need to increase reading skills and to encourage retention of lessons from school, Americorps provides four hours of tutorial time that always remains fun. Weekly themes of "myself," "family," "friends," "home place," "community," and "ideal world" guide the mentors and children in their work. The curriculum includes creating books, performing stories, reading both silently and out loud, and immersing the children in creative art activities, all of which are pertinent to a designated theme. At the end of each week, the child is able to take home a book relevant to the theme to keep in his or her personal library.

The design of Energy Express organizes six to eight children per one college student mentor. These mentors serve as tremendous role models for maturity, educational development and also as wonderful community volunteers committed to West Virginia. Each mentor receives an extensive eight week training program led by onsite educators who teach them positive feedback, how to productively discipline and the basic fundamentals of tutoring. Through preliminary visits and weekly contact concerning their child's progress, the mentor reaches out to the parents in ways which encourage involvement and support.

The program's growth in the past four years characterizes one of its successes. In 1994, Energy Express reached two counties, 85 students and 13 college mentors. This summer the program reaches 38 counties, 68 sites, 2721 students, 425 Americorps college mentors and approximately 25 Americorps VISTA Summer Associates. In 1997, Energy Express received national recognition as it won the Joint Council of Extension Professionals Award for Excellence in Teamwork and the Council of State Governments Innovations Award. Energy Express also serves as a national model for many other states attempting to duplicate such programs.

Most important, however, is the success of the children. In 1997, studies indicated that many of the students not only retained previous knowledge, but gained one month in word identification and three months in comprehension. 124,990 nutritious meals were served and the children received 12,930 books to add to their personal library. Many states as well as other communities in West Virginia hope to duplicate these same results. Their hands are somewhat tied by the lack of needed funds available. Each site costs approximately $25,000, but the rewards passed on to the children, communities and mentors are immeasurable in return.

Energy Express demonstrates the incredible work and success of Americorps. The commitment of its volunteers not only helps the community, but also provides growth for the volunteers themselves. My experience as a VISTA worker gave me a similar experience, and I continue my dedication to our Mountain State. I see that today's volunteers show that same dedication, and I extend my sincere gratitude to all of them. These persons have committed themselves fully to public service, both as volunteers and employees. It is through their hard work that the people of West Virginia benefit from the world's myriad opportunities.•

TRIBUTE TO THE DEVONSHIRE MEMORIAL CHURCH OF HARRISBURG

• Mr. SANTORUM. Mr. President, I rise today to pay tribute to the youth group from Devonshire Memorial Church in Harrisburg, Pennsylvania. On Sunday, July 26 ten students from the church traveled to Manning, South Carolina to assist in the rebuilding of the Macedonian Baptist Church which the Ku Klux Klan destroyed by fire in 1996. The young people worked to renovate homes of church members that suffered damage due to the fire.

The teenagers, who raised their own support for the trip through things such as church-wide dinners and fundraising letters, joined approximately 250 other young people from across the nation to work on painting, hanging drywall, repairing roofs and caulking windows.

Church burnings are a violent act of hatred against the free exercise of religious faith. Arson, which has destroyed many southern African American churches, has also destroyed our dignity and our humanity. By dedicating their time and effort to rebuilding the walls of a church burned by hatred and bigotry, these young men and women are tearing down the walls of violence and racism and restoring faith to the Christian community.

Mr. President, I ask my colleagues to join me in commending the young men and women of Devonshire Memorial Church for their dedication to restoring a church and a community, as well as the ideals of freedom in this country.•

NEED FOR HMO REFORM

• Mr. DORGAN. Mr. President, our health care system is in a state of crisis—a crisis of confidence. Many Americans no longer believe that their insurance companies can provide them with the access to care or quality of service they need.

Today I continue our series of stories describing how some managed care plans seem to have put cost saving before life-saving. The experience of Clara Davis is just one more example of the pressing need for Congress to act now to protect the rights of patients.

Clara Davis is a retired grocer from Bolivar, Tennessee. In 1995, her doctor placed her on the prescription drug Prilosec to control a bleeding ulcer. But her health provider changed from a traditional fee-for-service plan to an HMO, and they told her she would no longer be covered for that medication. The HMO would only cover cimetidine, the generic equivalent of Tagamet, a different prescription drug.

Clara's doctor fought vigorously to keep her on Prilosec, which had greatly improved her condition, but to no avail. While on the generic alternative, Clara's ulcer worsened. At one point, her doctor removed her from that medication and began giving her office samples of Prilosec whenever possible. But it wasn't enough.

The ulcer would not go away and required surgery. Thirty-five percent of Clara's stomach was removed. During recovery, she suffered a stroke that left her partially paralyzed on her left side.

What happened to Clara Davis should not happen in America. HMOs should not dictate which medications a patient should receive when their doctors say otherwise. Patients should not have to face surgery when a simple switch in medication can remedy the situation.

Whatever we do will not alleviate the stress that Clara Davis has endured. But we can ensure that a doctor's decision will not be overruled by an HMO bent on saving money. All medications are not the same, and health-care providers should be able to say what is most effective to treat their patients.

Mr. President, we must take up and pass meaningful patient protections now. Experiences like Clara's can be prevented if we enact legislation such as our Patients' Bill of Rights which protects the doctor-patient relationship from interference by HMOs. Insurers should have to make available to patients all information on which drugs the insurer will be willing to cover, the possible interactions of those drugs, and the procedures available for appealing an HMO's coverage decisions.•

CHANGES TO THE APPROPRIATIONS COMMITTEE ALLOCATION

• Mr. DOMENICI. Mr. President, section 314(b)(3) of the Congressional Budget Act, as amended, requires the Chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect an amount of budget authority provided that is the dollar equivalent of the Special Drawing Rights with respect to: (1) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); and (2) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow).

Section 314(b)(4) of the Congressional Budget Act, as amended, also requires the Chairman of the Senate Budget Committee to adjust the allocation for the Appropriations Committee to reflect additional new budget authority and outlays for arrearages for international organizations, international peacekeeping, and multilateral development banks.

I hereby submit a revision to the budget authority aggregates for fiscal year 1998 contained in section 101 of H. Con. Res. 84.

The revision follows:

	Budget authority
Current aggregates	1,385,230,000,000
Adjustments	+18,172,000,000
Revised aggregates	1,403,402,000,000

Mr. DOMENICI. I hereby submit revisions to the 1998 Senate Appropriations Committee allocation, pursuant to section 302 of the Congressional Budget Act.

The revision follows:

	Budget authority	Outlays
Current allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	249,867,000,000	283,293,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total	801,679,000,000	832,433,000,000
Adjustment:		
Defense discretionary		
Nondefense discretionary	+18,172,000,000	
Violent crime reduction fund		
Mandatory		
Total	+18,172,000,000	
Revised allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	268,039,000,000	283,293,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total	819,851,000,000	832,433,000,000

Mr. DOMENICI. I hereby submit revisions to the 1999 Senate Appropriations Committee allocation, pursuant to section 302 of the Congressional Budget Act.

The revision follows:

	Budget authority	Outlays
Current allocation:		
Defense discretionary	271,570,000,000	266,635,000,000
Nondefense discretionary	255,209,000,000	265,020,000,000
Violent crime reduction fund	5,800,000,000	4,953,000,000
Highways		21,885,000,000
Mass transit		4,401,000,000
Mandatory	299,159,000,000	291,731,000,000
Total	831,738,000,000	854,625,000,000
Adjustments:		
Defense discretionary		
Nondefense discretionary		+17,000,000
Violent crime reduction fund		
Highways		
Mass transit		
Mandatory		
Total		+17,000,000
Revised allocation:		
Defense discretionary	271,570,000,000	266,635,000,000
Nondefense discretionary	255,209,000,000	265,037,000,000
Violent crime reduction fund	5,800,000,000	4,953,000,000
Highways		21,885,000,000
Mass transit		4,401,000,000
Mandatory	299,159,000,000	291,731,000,000
Total	831,738,000,000	854,642,000,000•

THE OLD GRANGE RESTAURANT

• Mr. TORRICELLI. Mr. President, I rise today in recognition of the "Old Grange" Restaurant, which has recently been placed on the New Jersey Register of Historic Places. The Old Grange, which is part of Historic Cold Spring Village, has been honored by the New Jersey Department of Environmental Protection through inclusion in the Register as one of New Jersey's Cultural treasures. It is a pleasure for me to be able to note this historical designation and to celebrate the Old Grange.

The Old Grange is located in the Cold Spring section of Lower Township. Grange #132 was organized in the late 1800's with a charter membership of thirty-two people. Also known as the Patrons of Husbandry, the Grange is America's oldest farm organization and the only rural fraternity in the world. During the early 20th century, the Old Grange was the site of many Township of Lower activities, serving as a school, voting area, and meeting hall, in addition to supporting projects and programs relating to the Grange Association. By 1970, Cold Spring Grange #132 was no longer able to maintain a membership base to support the organization. In 1973 it became the first building in the complex later known as Historic Cold Spring Village, the 19th century open-air living museum located adjacent to the Grange. Since 1981, visitors to the Village have enjoyed the grand meals offered by the Old Grange Restaurant, and the memory of Cold Spring Grange #132 has been kept alive.

The preservation of one's history is important to creating a sense of personal responsibility for one's community. All those who have worked to preserve the Old Grange and the Historic Cold Spring Village should be celebrated for embodying this concept and successfully instilling it in others. It is a pleasure to know that the rich and diverse cultural heritage of Cape May County is alive and well at the Village.

I am proud to recognize the Old Grange Restaurant as a historic site, and I am pleased that the State of New Jersey has made this designation.•

ANNIVERSARY OF AMERICANS WITH DISABILITY ACT

• Mr. McCAIN. Mr. President, as many of my colleagues know, this week is the 8th anniversary of the enactment of the Americans with Disabilities Act. I would like to take a moment to remember this pivotal moment in the history of our nation's disabled community.

As one of the principal sponsors of the Americans with Disabilities Act (ADA), I am proud of the array of opportunities which have been opened by this law for millions of our citizens with disabilities, setting a standard of inclusion for the world. In the eight years since the ADA was enacted, our nation has become more accessible for people with a broad array of disabilities, who now have greater opportunities than ever before. This law has empowered millions of disabled Americans with both the confidence and the tools necessary to live an independent and fulfilling life.

We must continue working together to ensure that the laudable goals of the ADA are achieved efficiently, equitably, and amicably. Continuing fair and reasonable implementation of this essential law will ensure that all people with disabilities have the opportunity to achieve their full potential. I look forward to a day when all Americans are rewarded for their abilities, not punished for their disabilities, and when Americans with disabilities face no barriers to achieving their highest goals.

While some problems have occurred during the implementation of the ADA, most Americans have responded positively and creatively to this important, but sometimes complicated law. I remain committed to working with both public and private entities in their efforts to implement the ADA as intended at its creation.

It is my firm belief that the ADA has helped demystify the world of disabilities and break down many barriers which have traditionally existed for the disabled. It has educated our nation and the world about the capabilities of all disabled individuals and achieved major transformations in society. I remain supportive of the achievements of the ADA and all that it has done for our nation over the past eight years, and I look forward to a future free of obstacles for all Americans.•

TRIBUTE TO NEWARK ACADEMY

• Mr. LAUTENBERG. Mr. President, I rise to recognize one of the few schools operating in America today dating from the pre-Revolutionary war days. The Newark Academy in Livingston, New Jersey, is celebrating its 225th anniversary this year, and deserves great recognition for its dedication to excellence in education since its formation in 1773.

For students who prove to have strong academic ability, the school offers a traditional college preparatory program and over 50 interscholastic athletic teams. With a commitment to diversity, the Newark Academy represents 15 countries, 85 communities, and since 1964 has been fully co-educational.

The Academy's motto, translated as "toward enlightenment," is apparent throughout the workings of the school. With 548 students between the 6th and 12th grades, this day school launches many youngsters on a path towards enlightenment, adulthood and higher education.

The Newark Academy's ability to grow and adapt to our changing educational needs, complexity of our society and the ever advancing world of technology has contributed to the strength of the Academy and established it as an example for other educational institutions to follow. I congratulate the administration, faculty and students of Newark Academy for the school's superior performance and wish them the best in the years to come.•

OPENING OF THE TOBACCO MARKETS IN SOUTH CAROLINA

• Mr. HOLLINGS. Mr. President, I rise today to discuss the opening of the 1998 tobacco marketing season in my home state of South Carolina.

According to the U.S. Department of Agriculture, the United States is one of the world's leading producers of tobacco. It is second only to China in total tobacco production. Tobacco is the seventh largest U.S. crop, with over 130,000 tobacco farms in the United States.

In South Carolina, tobacco is the top cash crop, worth about $200 million annually. It also generates over $1 billion in economic activity for my state. Tobacco production is responsible for more than 40,000 jobs on over 2,000 farms and continues to account for about one-fourth of all crops and around 13 percent of total crop and livestock agriculture in South Carolina.

It has been a hard year for tobacco farmers in my state. In June 1997, farmers found out about a settlement between the State Attorneys General and five tobacco companies. This settlement created insecurity in these farmers' lives, as well as in their communities, as they tried to prepare for the upcoming tobacco season. After learning of their exclusion from any type of compensation in this settlement, their quotas were cut by 16 percent from the previous year. This means the farmers' income will decrease by 16 percent in the next marketing year.

While the Senate debated comprehensive tobacco legislation, the tobacco companies acknowledged to tobacco farmers that they had made a mistake in not including them in their original settlement negotiations. These companies promised farmers they would be included in any future negotiations. Now we hear the State Attorneys General and the companies are again negotiating a settlement, and once again the farmers have been excluded.

In recent years, we have seen a rise in tobacco imports, as domestic purchases by companies have declined. This has had a direct effect on the economy of my state. Many of the rural towns in South Carolina have grown up around producing tobacco, and decreased demand for domestic tobacco has affected them greatly. I hope these companies see the need to purchase more domestic tobacco and decrease the amount of tobacco they import. It is imperative for these rural communities' economic stability that domestic tobacco purchases rise.

I also want to take this time to recognize a man who will begin his 50th season of auctioning tobacco. Kelly Ritter started auctioning tobacco in 1948, when times were a lot different. Back then tobacco was not seen as it is now, but rather as a way of life in the developing communities of South Carolina. Technology may have advanced in tobacco production over the last fifty years, and markets may have gone up and down, but it is a relief that there is still a constant in the production of tobacco—Kelly Ritter.

Mr. President, in conclusion I want to wish the tobacco farmers and warehousemen in South Carolina the best of luck this year. I wish that I could be down in South Carolina for this festive occasion of opening day, but duty calls. Although I can't be there physically, they all know that I'm there in spirit. And as hard as I have worked in the past for them, they can expect me to work even harder to ensure farmers and their communities remain economically sound.•

KIDS VOTING USA

• Mr. McCAIN. Mr. President, I would like to take this time to recognize an organization which began in 1988 with three Arizona businessmen on a fishing trip to Costa Rica. While there, they learned that regular voter turnout in that country was routinely 90 percent. They credit this to the Costa Rican tradition of having children accompany their parents to the polls. They observed first-hand the success this small country had achieved by instilling in children at an early age the importance of voting in a democracy.

The three Arizona businessmen took this idea back to the United States with them and began "Kids Voting

USA". Today, this nonprofit, nonpartisan, grassroots organization is active in 40 states plus the District of Columbia, and includes 5 million students, 200,000 teachers, and 6,000 schools, and is growing fast.

With voter turnout declining each year, this organization recognizes the need to educate our youth and instill in them respect for the right and the duty to vote. "Kids Voting USA" enables students to accompany their parent or guardian to local polling sites to cast a ballot similar to the official ballot. Although not a part of the official results, the students' vote are registered at schools and by the media.

Mr. President, this year, Kids Voting Day is September 29th. I would like to recognize "Kids Voting USA" and commend them for all they have done to promote the future of democracy by educating and involving youth in the American election process.•

IN HONOR OF MICHAEL QUEENAN

• Mr. KERRY. Mr. President, for nearly three years I have had the privilege to know Michael Queenan, who has served in my office as a Legislative Correspondent, and is leaving the extended KERRY family this month to attend law school. I like to say that Michael Queenan was the best Christmas present my colleague from Massachusetts Rep. ED MARKEY ever sent to my office. Three years ago I was searching for a bright young person to bring new energy to our staff. We interviewed a long list of prospective candidates and, although many were terrific, the right staffer just did not turn up. One day, late in December, some of our staff members were struggling to fit the office Christmas tree into its stand in the front office. Almost out of nowhere appeared a young man, an intern from Rep. MARKEY'S office, dropping off a letter to be signed. After a minute or two, this intern had taken off his coat, rolled up his sleeves, and was at work trimming our office Christmas tree. We quickly found out that this young man was a recent graduate of Clark University and a native of Winchester, Massachusetts. His name was Michael Queenan. In just a few days he was done with his internship for Rep. MARKEY—and he was the newest member of our staff! From the first day he walked into our office in the Russell Building—even before he was hired—Michael demonstrated a willingness to pitch in and contribute on any project, large or small. He brought a tremendous work ethic and energy to his duties, first as a Staff Assistant tirelessly working on the front phones and later as a Legislative Correspondent. After he joined our legislative staff, Michael Queenan also discovered a genuine passion for the most vital issues facing working families today. He spent hours researching legislation, responding to constituent concerns, and pouring his energies into the lengthy and at times tedious legislative process. Mike was hard at work over the last two years, assisting our Legislative Assistants, on issues ranging from raising the minimum wage to making health care affordable, college opportunity accessible to eradicating the A.I.D.S epidemic. In his own way—quietly, persistently—Michael contributed to the passage of legislation that made life better for the people of Massachusetts and for working people around the country.

Michael Queenan, however, was always more than just a policy staffer. He was a presence in our office. As the director of our intern program and the manager of our softball team, Michael Queenan established himself as an enthusiastic leader on our staff. As a former intern, he made it a personal goal for every one of our interns to have a positive experience, to learn from their observations of the Senate at work, and to glean from their time in our office the value of hard work. Michael also brought to our office his fierce competitiveness on the softball field, earning the nickname "Wheels" for his speed and tenacity on the basepaths. Michael might well have earned that title for the hours he spent in my 1982 Dodge convertible, accompanying me to events around Washington.

Mr. President, I wish Michael well as he leaves my office to attend law school this summer. I will always be grateful for the hard work and long hours he dedicated to his job in my office, and I will be equally grateful for his friendship, one that will continue long after Michael moves back to Massachusetts. I know that I join his parents, Fran Holland and Dick Queenan, in expressing my pride at what Michael has accomplished, and great hopes and warmest wishes for the bright future ahead of him.•

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

(The text of the bill (S. 2307), as passed by the Senate on Friday, July 24, 1998, is as follows:)

S. 2307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Immediate Office of the Secretary

For necessary expenses of the Immediate Office of the Secretary, $1,768,600: *Provided*, That notwithstanding any other provision of law, there may be credited to this appropriation up to $1,000,000 in funds received from user fees.

Immediate Office of the Deputy Secretary

For necessary expenses of the Immediate Office of the Deputy Secretary, $554,700.

Office of the General Counsel

For necessary expenses of the Office of the General Counsel, $8,645,000.

Office of the Assistant Secretary for Policy

For necessary expenses of the Office of the Assistant Secretary for Policy, $2,479,500.

Office of the Assistant Secretary for Aviation and International Affairs

For necessary expenses of the Office of the Assistant Secretary for Aviation and International Affairs, $6,686,300: *Provided further*, That none of the funds appropriated in this Act or otherwise made available may be used to maintain custody of airline tariffs that are already available for public and departmental access at no cost; to secure them against detection, alteration, or tampering; and open to inspection by the Department.

Office of the Assistant Secretary for Budget and Programs

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $5,687,800, including not to exceed $40,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine.

Office of the Assistant Secretary for Governmental Affairs

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $1,600,000.

Office of the Assistant Secretary for Administration

For necessary expenses of the Office of the Assistant Secretary for Administration, $19,570,200.

Office of Public Affairs

For necessary expenses of the Office of Public Affairs, $1,656,600.

Executive Secretariat

For necessary expenses of the Executive Secretariat, $1,088,500.

Board of Contract Appeals

For necessary expenses of the Board of Contract Appeals, $460,000.

Office of Small and Disadvantaged Business Utilization

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $1,000,000.

Office of Intelligence and Security

For necessary expenses of the Office of Intelligence and Security, $935,000.

Office of the Chief Information Officer

For necessary expenses of the Office of the Chief Information Officer, $4,652,700.

Office of Intermodalism

For necessary expenses of the Office of Intermodalism, $1,000,000.

Office of Civil Rights

For necessary expenses of the Office of Civil Rights, $5,562,000.

Transportation Planning, Research, and Development

For necessary expenses for conducting transportation planning, research, systems development, and development activities, to remain available until expended, $8,328,400.

Transportation Administrative Service Center

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed

$158,468,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of direct loans, $1,500,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $13,775,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $2,900,000, of which $2,635,000 shall remain available until September 30, 2000: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

AMTRAK REFORM COUNCIL

For necessary expenses of the Amtrak Reform Council authorized under section 203 of Public Law 105–134, $450,000, to remain available until September 30, 2000: *Provided*, That none of the funds provided under this heading shall be for payments to outside consultants: *Provided further*, That the duties of the Amtrak Reform Council described in section 203(g)(1) of Public Law 105–134 shall include the identification of Amtrak routes which are candidates for closure or realignment, based on performance rankings developed by Amtrak which incorporate information on each route's fully allocated costs and ridership on core intercity passenger service, and which assume, for purposes of closure or realignment candidate identification, that federal subsidies for Amtrak will decline over the 4-year period from fiscal year 1999 to fiscal year 2002: *Provided further*, That these closure or realignment recommendations shall be included in the Amtrak Reform Council's annual report to the Congress required by section 203(h) of Public Law 105–134.

COAST GUARD

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,761,603,000, of which $300,000,000 shall be available for national security-related activities and of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That the number of aircraft on hand at any one time shall not exceed 212, exclusive of aircraft and parts stored to meet future attrition: *Provided further*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further*, That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839: *Provided further*, That up to $615,000 in user fees collected pursuant to section 1111 of Public Law 104–324 shall be credited to this appropriation as offsetting collections in fiscal year 1998: *Provided further*, That the Secretary may transfer funds to this account, from Federal Aviation Administration "Operations", not to exceed $60,000,000 in total for the fiscal year, fifteen days after written notification to the House and Senate Committees on Appropriations, solely for the purpose of providing additional funds for drug interdiction activities: *Provided further*, That not less than $2,000,000 shall be available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola: *Provided further*, That none of the funds in this Act shall be available for the Coast Guard to plan, finalize, or implement any regulation that would promulgate new maritime user fees not specifically authorized by law after the date of enactment of this Act.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $426,173,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $234,553,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2003; $55,131,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2001; $44,789,000 shall be available for other equipment, to remain available until September 30, 2001; $43,250,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2001; and $48,450,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 2000: *Provided*, That funds received from the sale of HU–25 aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity: *Provided further*, That the Commandant may dispose of surplus real property by sale or lease and the proceeds shall be credited to this appropriation, of which not more than $1,000,000 shall be credited as offsetting collections to this account, to be available for the purposes of this account: *Provided further*, That the amount herein appropriated from the General Fund shall be reduced by such amount: *Provided further*, That any proceeds from the sale or lease of Coast Guard surplus real property in excess of $1,000,000 shall be retained and remain available until expended, but shall not be available for obligation until October 1, 1999: *Provided further*, That the Secretary, with funds made available under this heading, acting through the Commandant, may enter into a long-term Use Agreement with the City of Homer for dedicated pier space on the Homer dock necessary to support Coast Guard vessels when such vessels call on Homer, Alaska.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $21,000,000, to remain available until expended.

ALTERATION OF BRIDGES

(HIGHWAY TRUST FUND)

For necessary expenses for alteration or removal of obstructive bridges, $20,000,000, to be derived from the highway account of the highway trust fund, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55); $684,000,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $67,000,000: *Provided*, That no more than $20,000,000 of funds made available under this heading may be transferred to Coast Guard "Operating expenses" or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $17,461,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities and the operation (including leasing) and maintenance of aircraft, and carrying out the provisions of subchapter I of chapter 471 of title 49, United States Code, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104–264, $5,538,259,000, of which $2,158,930,135 shall be derived from the Airport and Airway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the Federal Aviation Administration to plan, finalize, or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That of the funds appropriated under this heading, $6,000,000 shall be for the contract tower cost-sharing program: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That the Secretary may transfer funds to this account, from Coast Guard "Operating expenses", not to exceed $60,000,000 in total for the fiscal year, fifteen days after written notification to the House and Senate Committees on Appropriations, solely for the purpose of providing additional funds for air traffic control operations and maintenance to enhance aviation safety and security: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, $2,044,683,269, to remain available until September 30, 2001: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That notwithstanding the Prompt Payment Act or any other provision of law, the Secretary of the Treasury may not make payments from this account in excess of $1,516,000,000 in fiscal year 1999, except for payments for salaries and benefits: *Provided further*, That no action may be brought in any court of law for delay of payment pursuant to the preceding proviso: *Provided further*, That no funds may be transferred out of this account in fiscal year 1999: *Provided further*, That any obligation of funds that results in an expenditure in excess of $1,736,000,000 in fiscal year 1999 shall be deemed to be an obligation in violation of section 1341 of title 31 of the United States Code: *Provided further*, That the Secretary shall submit monthly reports to the House and Senate Committees on Appropriations to ensure compliance with the preceding provisos and such reports shall include an analysis of cumulative obligations and expenditures from October 1, 1998, through the first day of the month in which the report is due and specific actions taken by the Secretary to ensure that the outlays in fiscal year 1999 resulting from the use of funds in this account shall not exceed $1,736,000,000: *Provided further*, That no funds shall be available for the Wide Area Augmentation System until notification by the Secretary that outlays in fiscal year 1999 resulting from the use of funds in this account shall not exceed $1,736,000,000: *Provided further*, That no funds shall be available for the Wide Area Augmentation System until certification to the House of Representatives Committee on Appropriations and the Senate Committee on Appropriations by the Secretary of Transportation and the Administrator of the FAA that the Wide Area Augmentation System will provide a sole means of navigation for aviation users, the Wide Area Augmentation System continuity problems will be solved without additional facilities or funding, and the cost/benefit ratio of the Wide Area Augmentation System exceeds the cost/benefit ratio of other landing and navigational aid programs: *Provided further*, That no funds shall be available for the Wide Area Augmentation System until the Department of Transportation Inspector General validates and concurs in the certification of the Secretary and the Administrator to the House of Representatives Committee on Appropriations and the Senate Committee on Appropriations.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $173,627,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2001: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and for noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations, $1,600,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $2,100,000,000 in fiscal year 1999 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 47117(h) of title 49, United States Code: *Provided further*, That discretionary funds available for noise planning and mitigation shall not exceed $225,000,000 and discretionary funds available for the military airport program shall not exceed $26,000,000: *Provided further*, That up to $100,000,000 shall be available for the procurement of explosive detection systems.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

None of the funds in this Act shall be available for activities under this heading during fiscal year 1999.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration not to exceed $320,413,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

For carrying out the provisions of section 1069(y) of Public Law 102–240, relating to construction of, and improvements to, corridors of the Appalachian Development Highway System, $200,000,000 to remain available until expended.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $25,511,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1999: *Provided*, That, notwithstanding any other provision of law, within the $25,511,000,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than $200,000,000 shall be available for the implementation or execution of programs for Intelligent Transportation Systems (Sections 5204, 5205, 5206, 5207, 5208, and 5209 of Public Law 105–178) for fiscal year 1999; not more than $178,150,000 shall be available for the implementation or execution of programs for transportation research (Sections 502, 503, 504, 506, 507, and 508 of title 23, United States Code, as amended; section 5505 of title 49, United States Code, as amended; and section 5112 of Public Law 105–178) for fiscal year 1999; not more than $38,000,000 shall be available for the implementation or execution of programs for Ferry Boat and Ferry Terminal Facility Program (Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) as amended)) for fiscal year 1999; not more than $15,000,000 shall be available for the implementation or execution of programs for the Magnetic Levitation Transportation Technology Deployment Program (Section 1218 of Public Law 105–178) for fiscal year 1999; not more than $31,000,000 shall be available for the implementation or execution of programs for the Bureau of Transportation Statistics (Section 111 of title 49, United States Code) for fiscal year 1999: *Provided further*, That within the $20,000,000 made available for refuge roads in fiscal year 1999 by section 204 of title 23, United States Code, as amended, $700,000 shall be made available to the United States Army Corps of Engineers to study rural access issues in Alaska, and $1,500,000 shall be made available for improvements to the Crooked Creek access road in the Charles M. Russell National Wildlife Refuge, Montana: *Provided further*, That notwithstanding any other provision of law, within the $25,511,000,000 obligation limitation, $5,000,000 of the amounts made available as contract authority under section 1221(e) of the Transportation Equity Act for the 21st Century (Public Law 105–178) shall be made available to carry out section 5113 of that Act: *Provided further*, That notwithstanding any other provision of law, within the $200,000,000 obligation limitation on Intelligent Transportation Systems, not less than the following sums shall be made available for Intelligent Transportation System projects in the specified areas:

Atlanta, GA, $4,000,000
Brandon, VT, $750,000
Buffalo, NY, $1,750,000
Columbus, OH, $2,000,000
Corpus Christi, TX, $900,000
Delaware River, PA, $4,000,000
Huntington Beach, CA, $1,000,000
Inglewood, CA, $1,000,000
Jackson, MS, $4,000,000
Kansas City, MO, $1,000,000
Mobile, AL, $5,000,000
Monroe County, NY, $1,000,000
Montgomery, AL, $2,500,000
Nashville, TN, $1,000,000
New York/Long Island, NY, $5,000,000
Oakland County, MI, $2,000,000
Onondaga County, NY, $1,000,000
Raleigh-Wake County, NC, $4,000,000
Spokane, WA, $900,000
St. Louis, MO, $1,500,000
State of Alaska, $3,000,000
State of Idaho, $1,000,000
State of Maryland, $2,000,000
State of Missouri ITS project, $1,000,000
State of Montana, $2,000,000
State of Nevada, $1,150,000
State of New Jersey, $6,000,000
State of New Mexico, $2,000,000
State of North Dakota, $1,450,000
State of Pennsylvania, $4,000,000
State of Texas, $2,000,000
State of Utah, $7,200,000
State of Washington, $3,000,000
State of Wisconsin, $3,000,000
Westchester and Putnam Counties, NY, $1,000,000.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $24,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, $100,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $100,000,000 for "Motor Carrier Safety Grants".

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary, to be derived from the Highway Trust Fund, $87,400,000 for traffic and highway safety under chapter 301 of title 49, U.S.C., and part C of subtitle VI of title 49, U.S.C., of which $58,558,000 shall remain available until September 30, 2001; $2,000,000 for chapter 303 of title 49, U.S.C., to remain available until September 30, 2001: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, $72,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1999, are in excess of $72,000,000 for programs authorized under 23 U.S.C. 403.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411 to remain available until expended, $200,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1999, are in excess of $200,000,000 for programs authorized under 23 U.S.C. 402, 405, 410, and 411 of which $150,000,000 shall be for "Highway Safety Programs" under 23 U.S.C. 402, $10,000,000 shall be for "Occupant Protection Incentive Grants" under 23 U.S.C. 405, $35,000,000 shall be for "Alcohol-Impaired Driving Countermeasures Grants" under 23 U.S.C. 410, $5,000,000 shall be for the "State Highway Safety Data Grants" under 23 U.S.C. 411: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That not to exceed $5,434,000 of the funds made available for Highway Safety Programs under 23 U.S.C. 402 shall be available to NHTSA for administering "Highway Safety Programs": *Provided further*, That not to exceed $500,000 of the funds made available for section 410 "Alcohol-Impaired Driving Countermeasures Grants" shall be available for technical assistance to the States.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $21,020,000, of which $1,389,000 shall remain available until expended: *Provided*, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further*, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation: *Provided further*, That of the funds provided under this heading, $5,000,000 shall be made available for grants authorized under title 49, United States Code, section 22301.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $61,876,000, of which $3,825,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated under this heading are available for the reimbursement of out-of-state travel and per diem costs incurred by employees of State governments directly supporting the Federal railroad safety program, including regulatory development and compliance-related activities.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $25,760,000, to remain available until expended: *Provided*, That the Secretary of Transportation is authorized to sell aluminum reaction rail, power rail base, and other related materials located at the Transportation Technology Center, near Pueblo, Colorado, and shall credit the receipts from such sale to this account, notwithstanding 31 U.S.C. 3302, to remain available until expended.

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 United States Code sections 26101 and 26102, $28,494,000, to remain available until expended: *Provided*, That funds under this heading may be made available for grants to States for high-speed rail corridor design, feasibility studies, environmental analyses, and track and signal improvements.

ALASKA RAILROAD REHABILITATION

To enable the Secretary of Transportation to make grants to the Alaska Railroad, $10,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations.

RHODE ISLAND RAIL DEVELOPMENT

For the costs associated with construction of a third track on the Northeast Corridor between Davisville and Central Falls, Rhode Island, with sufficient clearance to accommodate double stack freight cars, $7,500,000 to be matched by the State of Rhode Island or its designee on a dollar for dollar basis and to remain available until expended: *Provided*, That as a condition of accepting such funds, the Providence and Worcester (P&W) Railroad shall enter into an agreement with the Secretary to reimburse Amtrak and/or the Federal Railroad Administration, on a dollar for dollar basis, up to the first $28,000,000 in damages resulting from the legal action initiated by the P&W Railroad under its existing contracts with Amtrak relating to the provision of vertical clearances between Davisville and Central Falls in excess of those required for present freight operations.

Capital Grants to the National Railroad Passenger Corporation

For necessary expenses of capital improvements of the National Railroad Passenger Corporation, $555,000,000; of which not less than $200,000,000, to remain available until September 30, 2001, shall be for Northeast Corridor improvements authorized by chapter 249 of title 49, United States Code, and 49 U.S.C. 24104(a); and of which no more than $355,000,000, to become available on October 1, 1998 and remain available until expended, shall be for capital grants authorized by 49 U.S.C. 24104(a): *Provided further*, That the term "capital improvements" includes projects for—(A)(i) acquisition, construction, supervision, or inspection, of a facility or equipment, for use in intercity rail transportation; (ii) expenses incidental to the acquisition or construction (including designing, engineering, location survey, mapping, acquiring rights of way, associated pre-revenue startup costs, and environmental mitigation), payments for rail trackage rights, Intelligent Transportation Systems; (B) rehabilitating rolling stock; (C) remanufacturing rolling stock; (D) overhauling rolling stock; and (E) preventive maintenance: *Provided further*, That the Secretary shall not obligate more than $222,000,000 prior to September 30, 1999.

FEDERAL TRANSIT ADMINISTRATION

Administrative Expenses

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $10,800,000: *Provided*, That no more than $54,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, $1,000,000 shall be transferred to the Department of Transportation Inspector General for costs associated with the audit and review of new fixed guideway systems projects of national significance or that experience extensive changes in financial scope or system design.

Formula Grants

For necessary expenses to carry out 49 United States Code 5307, 5308, 5310, 5311, and 5327, $570,000,000: *Provided*, That no more than $2,850,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds made available under section 5308, up to $10,000,000 may be used for the projects that include payments for the incremental costs of biodiesel fuels: *Provided further*, That such incremental costs shall be limited to the cost difference between the cost of alternative fuels and their petroleum-based alternatives.

University Transportation Research

For necessary expenses to carry out 49 United States Code 5505, $1,200,000: *Provided*, That no more than $6,000,000 of budget authority shall be available for these purposes.

Transit Planning and Research

For necessary expenses to carry out 49 United States Code 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $19,800,000: *Provided*, That no more than $98,000,000 of budget authority shall be available for these purposes: *Provided further*, That $5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)); $4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315); $8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)); $43,841,600 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305); $9,158,400 is available for state planning (49 U.S.C. 5313(b)); and $27,500,000 is available for the national planning and research program (49 U.S.C. 5314): *Provided further*, That of the total budget authority made available for the national planning and research program, the Federal Transit Administration shall provide the following amounts to the projects listed below:

Santa Barbara Electric Transportation Institute and San Diego Clean Fuel Ferry program, $1,000,000;

City of Branson, MO congestion study, $450,000;

1999 Special Olympics World Summer Games planning and assistance, $1,500,000;

Skagit County, WA North Sound connecting communities project, Skagit County Council of Governments, $50,000;

2002 Winter Olympics security training and assistance, $1,000,000;

Desert air quality comprehensive analysis, Las Vegas, NV, $500,000;

Vegetation control on rail rights-of-way survey, $250,000;

Zinc-air battery bus technology demonstration, $1,000,000;

Virtual transit enterprise distributed information technology demonstration, $1,400,000;

North Orange-South Seminole County, FL fixed guideway ITS application, $750,000;

Galveston, TX fixed guideway ITS activities, $750,000;

Washoe County, NV transit technology, $1,250,000;

Massachusetts Bay Transit Authority advanced electric transit buses and related infrastructure, $1,500,000;

Palm Springs, CA fuel cell buses, $1,000,000;

Gloucester, MA intermodal technology center, $1,500,000; and

Southeastern Pennsylvania Transit Authority advanced propulsion control system, $2,000,000.

Trust Fund Share of Expenses

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5303 through 5308, 5310 through 5315, 5317(b), 5322, 5327 and 5334, $2,446,200,000, to remain available until expended and to be derived from the Mass Transit Account of the Highway Trust Fund: *Provided*, That $2,280,000,000 shall be paid to the Federal Transit Administration's formula grants account: *Provided further*, That $78,200,000 shall be paid to the Federal Transit Administration's transit planning and research account: *Provided further*, That $43,200,000 shall be paid to the Federal Transit Administration's administrative expenses account: *Provided further*, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: *Provided further*, That $40,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program.

Capital Investment Grants

For necessary expenses to carry out 49 United States Code 5308, 5309, 5318, and 5327, $451,400,000: *Provided*, That no more than $2,257,000,000 of budget authority shall be available for these purposes: *Provided further*, That there shall be available for fixed guideway modernization, $902,800,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $451,400,000; and there shall be available for new fixed guideway systems $902,800,000: *Provided further*, That, within the total funds provided for buses and bus-related facilities to carry out 49 U.S.C. section 5309, the following projects shall be considered eligible for these funds: *Provided further*, That the Administrator of the Federal Transit Administration shall, not later than 60 days after the enactment of this Act, individually submit to the congressional transit appropriations and authorization committees the recommended grant funding levels for the respective projects from the following projects here listed:

AC Transit electric bus program, CA

Albany, NY paratransit buses and facilities

Albuquerque, NM buses and bus facilities

Alexandria, VA King Street Station access

Alexandria, VA bus maintenance facility

Allegheny County, PA buses and intermodal station

Altoona, PA Metro Transit Authority buses

Altoona, PA pedestrian crossover

Altoona, PA Metro Transit Authority Logan Valley Mall suburban transfer center

Anacortes, WA ferry terminal information system

Anchorage, AK Ship Creek intermodal facility

Arkansas statewide bus needs

Armstrong County-Mid County, PA bus facilities and buses

Atlanta, GA MARTA buses

Austin, TX Capital Metro bus replacement

Babylon, NY intermodal center

Beaver County, PA transit facility

Bellingham, WA Whatcom Transit Authority bus maintenance facility

Berlin, NH Tri-County Community Action transit garage

Birmingham, AL intermodal facility

Birmingham-Jefferson County, AL buses

Boston, MA Logan Airport intermodal buses

Boston, MA Charles Street/MA General Hospital "T" Station Rehabilitation

Boston, MA South Station intermodal center connection link

Boulder/Denver, CO RTD buses

Bradford County, PA Endless Mountain Transportation Authority buses

Brattleboro, VT Union Station multimodal center

Brazos, TX Transit Authority buses and facilities

Bremerton, WA Sinclair's Landing, multimodal center

Brockton, MA intermodal transportation center

Brookhaven Town, NY elderly and disabled buses and vans

Brooklyn-Staten Island, NY mobility enhancement buses

Broome County, NY buses and fare collection equipment

Broward County, FL buses
Buffalo, NY Crossroads intermodal station
Buffalo, NY Auditorium intermodal center
Burlington, VT ferry terminal improvements
Burlington, VT multimodal center
Butte, MT bus replacements
California I–5 corridor intermodal transit centers
Cambria County, PA bus facilities and buses
Carroll County, NH transportation alliance buses
Cedar Rapids, IA Ground Transportation Center
Centre Area, PA Transportation Authority buses
Chambersburg, PA Transit Authority buses and intermodal center
Chelan, WA Chelan-Douglas multimodal center
Chester County, PA Paoli transportation center
Clark County, NV RTC CNG fueling facility
Clark County, NV Regional Transportation Commission buses
Cleveland, OH Triskett Garage bus maintenance facility
Clinton, WA ferry terminal
Colorado statewide buses
Columbia, SC bus replacement
Concord Area Transit, NH buses
Corpus Christi, TX transit authority buses and facilities
Crawford Area, PA buses
Culver City, CA CityBus buses
Dade County, FL Metro-Dade Transit Agency replacement buses
Dallas, TX Dallas Area Rapid Transit buses
Davis, CA Unitrans transit maintenance facility
Davis/Sacramento CA hydrogen bus technology validation
Dayton, OH multimodal transportation center
Daytona, FL intermodal center
Deerfield Valley, VT Transit Authority
Demonstration of universal electric transportation subsystems (DUETS), bus system, NM
Denver, CO Stapleton intermodal center
Des Moines, IA intermodal facility
Dothan, AL Wiregrass Transit Authority demand response shuttle vehicles and transit facility
Duluth, MN Transit Authority community circulation vehicles
Duluth, MN Transit Authority intelligent transportation systems
Duluth, MN Transit Authority transit hub
Dutchess County, NY Loop System buses
East Hampton, NY elderly and disabled buses and vans
El Paso, TX Sun Metro demand response, maintenance, and terminal facility
Erie, PA Metropolitan Transit Authority buses
Essex and Middlesex Counties, MA buses
Eugene, OR Lane Transit District buses
Everett, WA multimodal transportation center
Fairbanks, AK intermodal rail/bus transfer facility
Fayette County, PA intermodal facilities and buses
Fayetteville, AR University of Arkansas Transit System buses
Folsom, CA Railroad block project
Fort Ord, CA multi-modal transportation center
Fort Dodge, IA Intermodal Facility
Fort Worth, TX buses
Frankford, PA Septa transportation center
Galveston, TX alternative fuel buses
Gary, IN Transit Consortium buses
Georgetown University fuel cell bus development and manufacturing
Gloucester, MA intermodal transportation center
Grand Forks, Fargo, Bismarck-Mandan and Minot, ND buses
Grant County, WA buses and vans
Greater Laconia, NH Transit Agency buses
Greensboro, NC Transit Authority buses and vans
Greensboro, NC multimodal center
Harrison County, MS multimodal center/hybrid electric shuttle buses
Harrisonburg, VA buses
Hartford, CT transportation access project
Healdsburg, CA intermodal facility
Honolulu, HI bus facility and buses
Hot Springs, AR transportation depot and plaza
Humboldt, CA intermodal facility
Huntington Beach, CA senior center shuttle buses
Huntington, WV intermodal facility
Huntsville, AL intermodal space centers—East and West
Hyannis, MA intermodal transportation center
Illinois statewide buses and bus-related equipment
Indianapolis, IN buses
Iowa/Illinois Transit Consortium bus safety and security
Iowa statewide bus request
Ithaca, NY TCAT bus technology improvements
Jackson, MS buses and facilities
Jacksonville, FL Transit Authority buses and mini transit center
Jasper, AL buses
Johnson County, KS bus maintenance/operations facility
Kansas City, MO Union Station redevelopment
Kansas City, MO two-way radios; farebox system; facility repair
Keene, NH HCS Community Care buses and equipment
King County/Kingdome, WA pedestrian bridges
King County, WA Metro transit transfer facilities
Lackawanna County, PA Transit System buses
Lake Tahoe, CA intermodal terminal
Lake Tahoe, CA alternative fuels station
Lake Tahoe, CA coordinated transit system
Lakeland, FL Citrus Connection transit vehicles/equipment
Lane County, OR bus rapid transit
Lansing, MI CATA bus technology improvements
Las Cruces, NM buses, facilities and park and ride
Las Vegas, NV RTC South Resort Corridor transit center
Las Vegas, NV Citizen Area Transit System
Lebanon, NH Advance Transit buses
Lee County, AL buses
Little Rock, AR Central Arkansas Transit buses
Little Rock, AR New Harbor Inlet intermodal center
Livermore-Ardmore Valley, CA automatic vehicle locator program
Long Beach, NY central bus facility
Long Island, NY CNG transit vehicles and facilities
Long Island, NY bus replacement
Los Angeles County, CA Foothills transit buses
Los Angeles County, CA Metropolitan Transportation Authority bus replacement
Los Angeles, CA Foothills transit bus maintenance facility
Los Angeles, CA San Fernando Valley smart shuttle buses
Los Angeles, CA Union Station Gateway intermodal transit center
Los Angeles, CA municipal transit operators consortium
Louisiana statewide bus request
Louisville, Kentucky University of Louisville and River City buses
Lynchburg, VA buses
Market Street, NJ bus maintenance facility
Maryland statewide bus facilities and buses
Massachusetts Bay Transportation Authority statewide bus replacement
Mercer County, PA buses
Miami Beach, FL electric shuttle service
Miami-Dade, FL buses
Michigan statewide buses
Milwaukee, WI train station improvements
Milwaukee County, WI buses
Mineola/Hicksville, NY LIRR intermodal centers
Minnesota Metro transit buses
Minnesota I–35 corridor transit stations
Missouri statewide bus and bus facilities
Mobile, AL bus replacement
Mobile, AL intermodal facilities
Modesto, CA bus maintenance facility
Monroe County, PA Transportation Authority buses
Monroe, LA maintenance facility
Monterey, CA Monterey-Salinas buses
Montgomery, AL Union Station intermodal center and buses
Morongo Basin, CA Transit Authority bus facility
Mount Vernon, WA multimodal center
New Bedford/Fall River, MA mobile access to health care
New Hampshire statewide transit systems
New Haven, CT bus facility
New Jersey statewide buses and bus facilities
New Jersey Transit jitney shuttle buses
New Mexico statewide buses and bus facilities including northern New Mexico park and ride
New Orleans, LA RTA maintenance facility
New Rochelle, NY intermodal center
New York City, CNG buses and refueling station
New York City, NY Midtown west ferry terminal
New York, NY West 72nd St. intermodal station
Newark, NJ Morris and Essex Station access and buses
Niagara Frontier Transportation Authority Hublink, NY
North Carolina statewide buses and bus facilities
North Dakota statewide buses and bus-related facilities
North Slope Borough, AK buses
Northern Kentucky Area Development District senior citizen buses
Northstar Corridor, MN intermodal facilities and buses
Norwich, CT buses
Oak Park, IL Marion Street multimodal transit center
OATS Transit, MO
Ogden, UT Intermodal Center
Ohio statewide buses and bus facilities
Oklahoma statewide bus facilities and buses
Olympia, WA bus replacement

Olympic Peninsula, WA International Gateway transportation center
Omnitrans, CA replacement buses
Oneida County, NY Union Station intermodal facility
Oneida County, NY buses and equipment
Orlando, FL Lynx buses and bus facilities
Orlando, FL Downtown intermodal facility
Pee Dee, SC Regional Transportation Authority
Pennsylvania statewide request for small communities
Perris, CA bus maintenance facility
Phenix City, AL express transit system
Philadelphia, PA Market Street bus maintenance facility
Philadelphia, PA Frankford transportation center
Philadelphia, PA SEPTA ADA bus acquisition
Philadelphia, PA 30th Street intermodal station
Philadelphia, PA regional transportation system for elderly and disabled
Phoenix, AZ alternatively fueled buses
Pittsfield, MA intermodal center
Portland, OR Tri-Met buses
Potomac and Rappahannock, VA Trans Commission buses
Poughkeepsie, NY intermodal facility
Pritchard, AL bus transfer facility
Providence, RI buses and bus maintenance facility
Rankin County, MI Intermodal Connector
Reading, PA BARTA intermodal transportation facility
Red Rose, PA transit bus terminal
Reno, NV RTC transit passenger and facility security improvements
Rensselear, NY intermodal facility
Rhode Island Public Transit Authority buses
Rialto, CA Metrolink depot
Richland, WA Ben Franklin Transit maintenance, operation, and administration facility
Richmond, VA Main Street station
Richmond, VA GRTC bus maintenance facility
Riverhead, NY elderly and disabled buses and vans
Riverside, CA Transit Agency buses, facilities and ITS applications
Roanoke, VA buses
Robinson, PA Towne Center intermodal facility
Rochester-Genessee, NY CNG buses
Rochester, NY Rochester central bus facility
Rogue Valley, OR transit district bus purchase
Rome, NY intermodal center
Rural Texas bus replacement
Sacramento, CA intermodal station
Sacramento, CA CNG buses
Salem, OR area mass transit buses
San Francisco, CA Islais Creek maintenance facility
San Joaquin, CA buses and facilities
San Juan, Puerto Rico intermodal access
Santa Clara, CA Valley Transportation Authority buses
Santa Clarita, CA facilities and buses
Santa Cruz, CA bus facility
Santa Rosa/Cotati, CA intermodal transportation facilities
Savannah, GA Chatham buses and bus facilities
Savannah, GA downtown multimodal center
Seattle RTA buses
Seattle, WA intermodal transportation terminal
Seward, AK intermodal facility
Shelter Island, NY elderly and disabled buses and vans
Sinclair Landing transit facility, WA
Sioux Falls, SD buses
Sioux City, IA park and ride bus facility
Smithtown, NY elderly and disabled buses and vans
Solano Links, CA intercity transit consortium
Solano County, CA automated vehicle locator
Somerset County, PA bus facilities and buses
Sonoma County, CA intermodal center
South Amboy, NJ regional intermodal transportation initiative
South Bend, IN urban intermodal transportation facility
South Carolina statewide Virtual Transit Enterprise
South Dakota computerized bus dispatch system, radios, money boxes, and lift replacements
South Dakota statewide bus facilities and buses
Southampton, NY elderly and disabled buses and vans
Southeast Missouri transportation services
Southold, NY elderly and disabled buses and vans
Spartanburg, SC intermodal facility
Springfield, MA Union Station
Springfield/Branson, MO bus terminal
St. Louis, MO Bi-state intermodal center
St. Louis, MO Care-Cab
St. Louis, MO Bi-State development agency bus replacement
Suffolk County, NY elderly and disabled buses and vans
Syracuse, NY CNG buses and facilities
Tacoma, WA Tacoma Dome station
Tampa, FL Hartline buses
Tampa, FL Ybor intermodal station (Hillsborough Area Regional Transit Authority)
Tennessee statewide bus and facility replacement
Texas statewide small urban and rural buses
Tompkins County, NY new technology project
Towamencin Township, PA intermodal bus transportation center
Tucson, AZ alternatively fueled buses
Tuscaloosa, AL intermodal center
Ukiah, CA transportation center
Ulster County, NY bus garage and equipment
University of North Alabama, pedestrian walkways
Utah Olympics park and ride lots
Utah Olympics intermodal transportation centers
Utah Hybrid electric vehicle bus purchase
Utah Transit Authority/Park City Transit, UT buses
Utah Transit Authority, UT intermodal facilities
Utica and Rome, NY bus facilities and buses
Utica, NY Union Station
Vancouver, WA C-Tran Seventh Street transit center expansion
Vancouver, WA I–5 park and ride lots
Vermont statewide bus needs
Volusia County, FL bus systems integrated fleet operations system
Washington County, PA intermodal facilities
Washington, Community Transit bus replacement
Washington statewide bus
Washington RTA buses
Washington, D.C. intermodal transportation center
Washoe County, NV transit improvements
Waterbury, CT bus facility
Waukesha, WI downtown transit center
West Virginia statewide intermodal facility and buses
Westchester County, NY DOT articulated buses
Westchester County, NY Bee-Line transit system shuttle buses and fareboxes
Westfield, MA intermodal center
Westmoreland County, PA intermodal facility
Whittier, AK intermodal facility and pedistrian overpass
Wilkes-Barre, PA intermodal facility
Williamsport, PA bus facility
Wilsonville, OR buses and bus shelters
Windsor, CA intermodal facility
Wisconsin statewide bus facilities and buses
Woodland Hills, CA Warner Center transportation hub
Worcester, MA Union Station intermodal transportation center
Yonkers, NY intermodal facility
Yosemite area, CA regional transportation strategies:

Provided further, That, the funds provided for new fixed guideway systems shall be made available as follows:

$10,400,000 for Alaska and/or Hawaii ferry projects;

$2,500,000 for the Albuquerque/Santa Fe regional multimodal transportation project;

$10,000,000 for the Albuquerque light rail project;

$55,000,000 for the Atlanta MARTA North Springs project;

$2,000,000 for the Austin Capital metro project;

$1,000,000 for the Baltimore central downtown transit alternatives major investment study;

$2,000,000 for the Baltimore light rail double-track project;

$37,600,000 for the BART San Francisco Airport and San Jose Tasman West extensions projects;

$1,000,000 for the Birmingham, AL light rail project feasibility study;

$1,000,000 for the Boston North-South rail link project;

$53,983,000 for the Boston-South Boston Piers MOS–2 project;

$1,500,000 for the Boston urban ring project;

$4,000,000 for the Burlington-Essex, Vermont commuter rail project;

$3,000,000 for the Charleston, SC monobeam rail project;

$3,000,000 for the Charlotte, NC North-South corridor transitway project;

$19,000,000 for Chicago Metra commuter rail extensions and upgrades;

$4,000,000 for the Chicago Transit Authority Ravenswood and Douglas branch lines projects;

$3,600,000 for the Cincinnati Northeast/Northern Kentucky rail line project;

$1,000,000 for the Cleveland Berea Red Line MIS;

$4,000,000 for the Cleveland Euclid corridor improvement project;

$500,000 for the Colorado-North Front Range corridor feasibility study;

$20,500,000 for the Dallas DART North Central light rail extension project;

$40,000,000 for the Denver Southwest Corridor project;

$1,000,000 for the Denver Southeast Corridor multimodal corridor project;

$10,000,000 for the Fort Lauderdale, FL Tri-County commuter rail project;

$12,000,000 for the Fort Worth, TX Railtran project;

$1,000,000 for the Galveston, Texas rail trolley system extension project;

$2,000,000 for the Harrisburg, PA capitol area transit/corridor one project;

$1,000,000 for the Hartford, CT light rail project;

$1,000,000 for a major investment analysis of Honolulu transit alternatives;

$59,670,000 for the Houston Metro Regional Bus plan project;

$1,000,000 for a Jacksonville, FL light rail and bus corridors study;

$1,500,000 for the Johnson County, KS I–35 commuter rail project;

$500,000 for the Kansas City, MO commuter rail study;

$1,000,000 for the Kenosha-Racine-Milwaukee, WI commuter rail project;

$250,000 for the King County, WA Elliott Bay water taxi;

$2,000,000 for the Knoxville, TN transit program project;

$2,000,000 for the Largo, MD Metro Blue Line extension project;

$4,000,000 for the Las Vegas resort corridor fixed guideway system project;

$40,000,000 for the LIRR East Side access project, New York;

$4,000,000 for the Little Rock, AR Arkansas River rail project;

$30,000,000 for the Los Angeles MOS–3 project, of which $24,000,000 shall be made available from funds provided in Public Law 105–66 under this head for this project: *Provided further*, That such sum shall be available to the grantee without restriction;

$17,000,000 for MARC commuter rail improvements;

$2,200,000 for the Memphis Medical Center rail extension project;

$3,000,000 for the Miami Metrorail Palmetto extension project;

$4,000,000 for the Miami Metro-Dade Transit east-west corridor project;

$8,000,000 for the Miami-North corridor transitway to Broward County project;

$4,500,000 for the Morgantown, WV fixed guideway modernization project;

$2,500,000 for the Nashville regional commuter rail project;

$70,000,000 for the New Jersey urban core Hudson-Bergen LRT project;

$12,000,000 for the New Jersey urban core Newark-Elizabeth rail link project;

$1,000,000 for the New London, CT waterfront access project;

$12,000,000 for the New York City, Kennedy class ferryboat replacement project;

$2,000,000 for the Niagara Frontier Transportation Authority light rail car rebuild project;

$6,000,000 for the Northern Indiana South Shore commuter rail project;

$20,000,000 for the Orlando Lynx light rail project;

$500,000 for the Philadelphia to Pittsburgh high-speed magnetic levitation project;

$6,500,000 for the Philadelphia-Reading SEPTA Schuylkill Valley Metro project;

$1,000,000 for the Philadelphia SEPTA Cross County Metro project;

$5,000,000 for the Pittsburgh Allegheny County Stage II light rail project;

$5,000,000 for the Pittsburgh Airborne Shuttle System project;

$1,000,000 for the Pittsburgh North Shore central business district transit options major investment study;

$26,700,000 for the Portland Westside and South-North light rail projects;

$13,000,000 for the Puget Sound RTA Link light rail project;

$47,000,000 for the Puget Sound RTA Sounder commuter rail project;

$14,000,000 for the Raleigh-Durham-Chapel Hill Triangle Transit project;

$23,480,000 for the Sacramento south corridor LRT project;

$70,000,000 for the Salt Lake City South LRT project: *Provided further*, That the non-governmental share for these funds and for funds made available for this project under Public Law 105–66, shall be determined in accordance with section 3030(c)(2)(B)(ii) of the Transportation Equity Act for the 21st Century, as amended (Public Law 105–178);

$8,000,000 for the Salt Lake City/Airport to University (West-East) light rail project: *Provided further*, That the non-governmental share for these funds shall be determined in accordance with Section 3030(c)(2)(B)(ii) of the Transportation Equity Act for the 21st Century, as amended (Public Law 105–178);

$1,000,000 for the San Diego Mission Valley and Mid-Coast Corridors;

$19,967,000 for the San Juan Tren Urbano;

$2,000,000 for the Santa Fe rail link project;

$250,000 for the Sioux City micro rail trolley system;

$1,000,000 for the South DeKalb-Lindbergh Corridor LRT project;

$200,000 for the Southeast Michigan commuter rail viability study;

$10,000,000 for the St. George Ferry, NY terminal project;

$35,000,000 for the St. Louis Metro link/St. Clair County LRT extension project;

$500,000 for the St. Louis-Jefferson City-Kansas City, MO commuter rail project;

$1,000,000 for the Stamford, CT fixed guideway connector;

$1,000,000 for the Tampa Bay regional rail project; and

$15,000,000 for the Whitehall ferry terminal project.

Mass Transit Capital Fund

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(b) administered by the Federal Transit Administration, $1,805,600,000, to be derived from the Highway Trust Fund and to remain available until expended.

Discretionary Grants

(HIGHWAY TRUST FUND, MASS TRANSIT ACCOUNT)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized in Public Law 102–240 under 49 U.S.C. 5338(b)(1), $392,000,000 are rescinded.

Job Access and Reverse Commute Grants

For necessary expenses to carry out Section 3037 of the Federal Transit Act of 1998, $10,000,000: *Provided*, That no more than $50,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the amounts appropriated under this head, not more than $10,000,000 shall be used for grants for reverse commute projects.

Washington Metropolitan Area Transit Authority

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184 and Public Law 101–551, $50,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

Operations and Maintenance

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $11,496,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Research and Special Programs

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $29,000,000, of which $574,000 shall be derived from the Pipeline Safety Fund, and of which $3,460,000 shall remain available until September 30, 2001: *Provided*, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

Pipeline Safety

(PIPELINE SAFETY FUND)

(OILSPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $32,500,000, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2001; and of which $29,000,000 shall be derived from the Pipeline Safety Fund, of which $16,919,000 shall remain available until September 30, 2001: *Provided*, That in addition to amounts made available for the Pipeline Safety Fund, $1,000,000 shall be available for grants to States for the development and establishment of one-call notification systems and shall be derived from amounts previously collected under 49 U.S.C. 60301, and that an additional $659,000 in amounts previously collected under 49 U.S.C. 60301 is available to conduct general functions of the pipeline safety program.

Emergency Preparedness Grants

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2001: *Provided*, That not more than $11,000,000 shall be made available for obligation in fiscal year 1999 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): *Provided further*, That no such funds shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

Salaries and Expenses

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $42,720,000.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $13,853,000: *Provided*, That $2,000,000 in fees collected in fiscal year 1999 by the Surface Transportation Board pursuant to 31 U.S.C. 9701 shall be made available to this appropriation in fiscal year 1999: *Provided further*, That any fees received in excess of $2,000,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $3,847,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $53,473,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

EMERGENCY FUND

For necessary expenses, not otherwise provided for, of the National Transportation Safety Board for accident investigations, and for oversight and provision of services to families of victims of transportation disasters, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $1,000,000, to remain available until expended.

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 1999 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available: (1) except as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents; and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 305. None of the funds in this Act shall be available for salaries and expenses of more than 91 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. The Secretary of Transportation may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 and related legislation: *Provided*, That the authority provided in this section may be exercised without regard to section 3324 of title 31, United States Code.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1999, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, and amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics.

(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) for section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and $2,000,000,000 for such fiscal year under section 105 of the Transportation Efficiency Act for the 21st Century (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United State Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid Highways shall not apply to obligations (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under section 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of enactment of the Transportation Efficiency Act for the 21st Century; and (8) under section 105 of title 23, United States Code (but, only in an amount equal to $639,000,000 for such fiscal year).

(c) Redistribution of Unused Obligation Authority.—Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144, of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Efficiency Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1943–1945).

(d) Applicability of Obligation Limitations to Transportation Research Programs.—The obligation limitation shall apply to transportation research programs carried out under chapters 3 and 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) Redistribution of Certain Authorized Funds.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds (1) that are authorized to be appropriated for such fiscal year for Federal-aid highway programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and chapter 4 of title 23, United States Code, and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) Special Rule.—Obligation limitation distributed for a fiscal year under subsection (a)(4) for a section set forth in subsection (a)(4) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

Sec. 311. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

Sec. 312. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

Sec. 313. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

Sec. 314. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant. The FAA shall accept such equipment, which shall thereafter be operated and maintained by the FAA in accordance with agency criteria.

Sec. 315. None of the funds in this Act shall be available to award a multiyear contract for production end items that: (1) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any one year of the contract; or (2) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the Government's liability; or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: *Provided*, That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

Sec. 316. Section 218 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking "the south Alaskan border" and inserting "Haines" in lieu thereof;

(B) in the third sentence by striking "highway" and inserting "highway or the Alaska Marine Highway System" in lieu thereof;

(C) in the fourth sentence by striking "any other fiscal year thereafter" and inserting "any other fiscal year thereafter, including any portion of any other fiscal year thereafter, prior to the date of the enactment of the Transportation Equity Act for the 21st Century" in lieu thereof;

(D) in the fifth sentence by striking "construction of such highways until an agreement" and inserting "construction of the portion of such highways that are in Canada until an agreement" in lieu thereof; and

(2) in subsection (b) by inserting "in Canada" after "undertaken".

Sec. 317. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, capital investment grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2001 and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

Sec. 318. Notwithstanding any other provision of law, any funds appropriated before October 1, 1998, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

Sec. 319. None of the funds in this Act may be used to compensate in excess of 350 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 1999.

Sec. 320. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $17,247,000, which limits fiscal year 1999 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $165,215,000: *Provided*, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center.

Sec. 321. Funds received by the Federal Highway Administration and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Limitation on Administrative Expenses" account and to the Federal Railroad Administration's "Railroad Safety" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

Sec. 322. None of the funds in this or any other Act may be used to compel, direct, or require agencies of the Department of Transportation in their own construction contract awards, or recipients of financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

Sec. 323. None of the funds made available in this Act may be used for the purpose of promulgating or enforcing any regulation that has the practical effect of (a) requiring more than one attendant during unloading of liquefied compressed gases, or (b) preventing the attendant from monitoring the customer's liquefied compressed gas storage tank during unloading.

Sec. 324. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall not be subject to the obligation limitation for Federal-aid highways and highway safety construction.

Sec. 325. None of the funds made available in this or any other Act may be used for grants to the National Railroad Passenger Corporation: *Provided*, That this provision shall not apply upon the public disclosure by Amtrak of its national average per passenger loss during the previous fiscal year for which a full fiscal year's data is available: *Provided further*, That Amtrak shall determine the national average per passenger loss by using revenues and fully allocated expenses of core intercity passenger rail service and such determination shall be verified by the United States General Accounting Office: *Provided further*, That the national average per passenger loss figure for each year shall be prominently displayed on every passenger ticket sold by any means or mechanism along with a specific reference to the American taxpayers' support for Amtrak: *Provided further*, That the Secretary, acting through the Administrator of the Federal Aviation Administration, shall by January 1, 1999, take such actions as may be necessary to ensure that each air carrier (as that term is defined in section 40102 of title 49 U.S.C.) prominently displays on every passenger ticket sold by any means or mechanism a statement that reflects the national average per passenger general fund subsidy based on the fiscal year 1997 general fund appropriation from the Federal Government to the

Federal Aviation Administration: *Provided further*, That the Secretary of Transportation, acting through the administrator of the Federal Highway Administration, shall take such actions as may be necessary to ensure the placement of signs, on each Federal-aid highway (as that term is defined in section 101 of title 23, U.S.C.) that states that, during fiscal year 1997, the Federal Government provided a general fund appropriation at a level verified by the Department of Transportation, for the subsidy of State and local highway construction and maintenance.

SEC. 326. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation: *Provided*, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 327. Not to exceed $1,000,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 328. BULK FUEL STORAGE TANKS. (a) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the remainder of the balance in the Trans-Alaska Pipeline Liability Fund that is transferred and deposited into the Oil Spill Liability Trust Fund under section 8102(a)(2)(B)(ii) of the Oil Pollution Act of 1990 (43 U.S.C. 1653 note) after June 16, 1998 shall be used in accordance with this section.

(b) USE OF INTEREST ONLY.—The interest produced from the investment of the Trans-Alaska Pipeline Liability Fund balance that is transferred and deposited into the Oil Spill Liability Trust Fund under section 8102(a)(2)(B)(ii) of the Oil Pollution Act of 1990 (43 U.S.C. 1653 note) after June 16, 1998 shall be transferred annually by the National Pollution Funds Center to the Denali Commission for a program, to be developed in consultation with the Coast Guard, to repair or replace bulk fuel storage tanks in Alaska which are not in compliance with federal law, including the Oil Pollution Act of 1990, or State law.

(c) TAPS PAYMENT TO ALASKA DEDICATED TO BULK FUEL STORAGE TANK REPAIR AND REPLACEMENT.—Section 8102(a)(2)(B)(i) of Public Law 101-380 (43 U.S.C. 1653 note) is amended by inserting immediately before the semicolon, ", which shall be used to repair and replace bulk fuel storage tanks in Alaska so that such tanks comply with this Act and with other applicable federal and state laws".

SEC. 329. No funds other than those appropriated to the Surface Transportation Board or fees collected by the Board shall be used for conducting the activities of the Board.

SEC. 330. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a-10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 331. Notwithstanding any other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities.

SEC. 332. Notwithstanding 49 U.S.C. 41742, no essential air service shall be provided to communities in the 48 contiguous States that are located fewer than 70 highway miles from the nearest large and medium hub airport, or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than 210 miles from the nearest large or medium hub airport.

SEC. 333. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 1999.

SEC. 334. LAND CONVEYANCE, COAST GUARD STATION OCRACOKE, NORTH CAROLINA. (a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey, without consideration, to the State of North Carolina (in this section referred to as the "State"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, in Ocracoke, North Carolina, consisting of such portion of the Coast Guard Station Ocracoke, North Carolina, as the Secretary considers appropriate for purposes of the conveyance.

(b) CONDITIONS.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the State accept the property to be conveyed under that subsection subject to such easements or rights of way in favor of the United States as the Secretary considers to be appropriate for—

(A) utilities;

(B) access to and from the property;

(C) the use of the boat launching ramp on the property; and

(D) the use of pier space on the property by search and rescue assets.

(2) That the State maintain the property in a manner so as to preserve the usefulness of the easements or rights of way referred to in paragraph (1).

(3) That the State utilize the property for transportation, education, environmental, or other public purposes.

(c) REVERSION.—(1) If the Secretary determines at any time that the property conveyed under subsection (a) is not to be used in accordance with subsection (b), all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Upon reversion under paragraph (1), the property shall be under the administrative jurisdiction of the Administrator of General Services.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a), and any easements or rights of way granted under subsection (b)(1), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the conveyance under subsection (a), and any easements or rights of way granted under subsection (b)(1), as the Secretary considers appropriate to protect the interests of the United States.

SEC. 335. Notwithstanding any other provisions of law, funds appropriated in this or any other Act intended for highway demonstration projects, railroad-highway crossings demonstration projects or railroad relocation projects in Augusta, Georgia are available for implementation of a project consisting of modifications and additions to streets, railroads, and related improvements in the vicinity of the grade crossing of the CSX railroad and 15th Street in Augusta, Georgia.

SEC. 336. Notwithstanding any other provision of law, no approval from the Secretary (other than review of the project final design) shall be required to construct additional entrances and exits between exits 57 and 58 for a pilot project to demonstrate a streamlined process for project implementation on Interstate 495 in Suffolk County, New York provided such entrances and exits are designed, constructed or otherwise authorized by the responsible state transportation agency through the appropriate state environmental process.

SEC. 337. Notwithstanding and other provision of law, the Secretary of Transportation shall enter into agreements with the New York State Department of Transportation that would allow automotive service stations or other commercial establishments for serving motor vehicle users to be sited and constructed in the vicinity of exit 51 and either exits 66, 67, or 68 of the Long Island Expressway (Interstate 495) in Suffolk County.

SEC. 338. (a) IN GENERAL.—Section 30113 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting "or passenger motor vehicles from a bumper standard prescribed under chapter 325 of this title," after "a motor vehicle safety standard prescribed under this chapter"; and

(B) in paragraph (3)(A), by inserting "or chapter 325 of this title (as applicable)" after "this chapter";

(2) in subsection (c)(1), by inserting ", or a bumper standard prescribed under chapter 325 of this title," after "motor vehicle safety standard prescribed under this chapter";

(3) in subsection (d), by inserting "(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1))" after "subsection (b)(3)(B)(i) of this section"; and

(4) in subsection (h), by inserting "or bumper standard prescribed under chapter 325 of this title" after "each motor vehicle safety standard prescribed under this chapter".

(b) Conforming Amendments.—

(1) Section 32502(c) of title 49, United States Code, is amended—

(A) in the matter preceding paragraph (1), by striking "any part of a standard" and inserting "all or any part of a standard";

(B) in paragraph (1), by striking "or" at the end;

(C) in paragraph (2), by striking the period and inserting "; or"; and

(D) by adding at the end the following:

"(3) a passenger motor vehicle for which an application for an exemption under section 30013(b) of this title has been filed in accordance with the requirements of that section.".

(2) Section 32506(a) of title 49, United States Code, is amended by inserting "and section 32502 of this title" after "Except as provided in this section".

Sec. 339. Of the funds made available under this Act for capital investment grants, $20,000,000 is provided for the Norfolk-Virginia Beach Corridor project; $1,500,000 is provided for the Massachusetts North Shore Corridor project; $5,000,000 is provided for the San Diego Mission Valley and Mid-Coast Corridor projects; $3,300,000 is provided for the Hartford, CT light rail project; $200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives; $2,700,000 is provided for the Stamford, CT fixed guideway connector; $3,500,000 is provided for the Providence-Boston commuter rail project; and $500,000 is provided for the Old Saybrook-Hartford rail extension project.

Sec. 340. (a) Limitation on Funds Used to Enforce Regulations Regarding Animal Fats and Vegetable Oils.—None of the funds made available by this Act or subsequent Acts may be used by the Coast Guard to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104–55) or the amendments made by that Act, that does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act, or the amendments made by that Act) differences in (1) physical, chemical, biological and other relevant properties; and (2) environmental effects.

(B) Deadline for Promulgation of Regulations.—Not later than March 31, 1999, the Secretary of Transportation shall issue regulations amending 33 C.F.R. 154 to comply with the requirements of Public Law 104–55.

Sec. 341. Amendment to Subsection 1110(a) of Public Law 96–487, 95 Stat. 2464.—Amend Subsection 1110(a) of Public Law 96–487, 95 Stat. 2565 as follows: strike "airplanes" and insert in lieu thereof "aircraft".

Sec. 342. Notwithstanding any other provision of law, funds made available under section 1503 of Public Law 105–178 may be used to support a direct loan of $85,000,000 to the city of Reno, Nevada for the Reno Transportation Corridor project, including the grade separation of at-grade rail lines and cross streets with a primarily below-grade corridor.

Sec. 343. Within the $25,511,000,000 obligation limitation on the federal-aid highway program, funds allocated or authorized from the highway trust fund, in Public Law 105–178 for Miller Highway in New York City, New York shall be made available to the State of New York subject to the State and local planning and environmental review process.

Sec. 344. Notwithstanding any provision of law, the Secretary of Transportation is hereby authorized to waive repayment of any Federal-aid highway funds expended on the construction of high occupancy vehicle lanes or auxiliary lanes on I–287 in the State of New Jersey. Such waiver shall not be granted by the Secretary until such time as the Secretary is assured by the State of New Jersey that removal of the high occupancy vehicle restrictions on I–287 is in the public interest.

Sec. 345. Modification of Substitute Project in Wisconsin. Section 1211 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(o) Modification of Substitute Project in Wisconsin.—Section 1045(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (as amended by subsection (n) of this section) is amended in paragraph (2)—

"(1) by inserting 'after consultation with appropriate local government officials,' after 'Wisconsin,'; and

"(2) by striking 'shall' and inserting 'may'.".

Sec. 346. Discretionary grants funds for bus and bus-related facilities made available under Public Law 105–66 and its accompanying conference report for the Virtual Transit Enterprise project may be used to fund any aspect of the Virtual Transit Enterprise integration of information project in South Carolina.

Sec. 347. Section 3021 of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended—

(1) in subsection (a), by inserting "or the State of Vermont" after "the State of Oklahoma"; and

(2) in subsection (b)(2)(A), by inserting "and the State of Vermont" after "within the State of Oklahoma".

Sec. 348. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking "Pirate Cove" and inserting "Pirates' Cove and 4-lane connector to Mississippi Highway 468".

Sec. 349. Judicial Review of Constitutional Claims. (a) Expedited Consideration.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any claim challenging the constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 113), whether on its face or as applied.

(b) Appeal to Supreme Court.—

(1) In general.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim described in subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

(2) Deadlines for appeal.—

(A) Notice of appeal.—Any appeal under paragraph (1) shall be taken by a notice of appeal filed within 10 calendar days after the date on which the order of the district court is entered.

(B) Jurisdictional statement.—The jurisdictional statement shall be filed within 30 calendar days after the date on which the order of the district court is entered.

(3) Stays.—No stay of an order described in paragraph (1) shall be issued by a single Justice of the Supreme Court.

(c) Applicability.—Subsections (a) and (b) shall apply with respect to any claim filed after June 9, 1998, but before June 10, 1999.

Sec. 350. The change in definition for Amtrak capital expenses shall not affect the legal characteristics of capital and operating expenditures for purposes of Amtrak's requirement to eliminate the use of appropriated funds for operating expenses according to Public Law 105–134. No funds appropriated for Amtrak in this Act shall be used to pay for any wage, salary, or benefit increases that are a result of any agreement entered into after October 1, 1997: *Provided*, That nothing in this Act shall affect Amtrak's legal requirements to maintain its current system of accounting under Generally Accepted Accounting Principles: *Provided further*, That no later than 30 days after the end of each quarter beginning with the first quarter in fiscal year 1999, Amtrak shall submit to the Amtrak Reform Council and the Senate Committee on Appropriations, and the Senate Committee on Commerce, Science, and Transportation, a reporting of specific expenditures for preventative maintenance, labor, and other operating expenses from amounts made available under this Act, and Amtrak's estimate of the amounts expected to be expended for such expenses for the remainder of the fiscal year.

Sec. 351. Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 921), and section 3 of the Act of July 17, 1952 (66 Stat. 571, chapter 922), are each amended in the proviso—

(1) by striking "That" and all that follows through "the collection of" and inserting "That the commission may collect"; and

(2) by striking ", shall cease" and all that follows through the period at the end and inserting a period.

Sec. 352. Section 1212(m) of Public Law 105–178 is amended— (1) in the subsection heading, by inserting ", Idaho and West Virginia" after "Minnesota"; and (2) by inserting "or the States of Idaho or West Virginia" after "Minnesota".

Sec. 353. Prohibitions Against Smoking on Scheduled Flights. (a) In General.—Section 41706 of title 49, United States Code, is amended to read as follows:

"§41706. Prohibitions against smoking on scheduled flights

"(a) Smoking Prohibition in Intrastate and Interstate Air Transportation.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) Smoking Prohibition in Foreign Air Transportation.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) Limitation on Applicability.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft. If a foreign government objects to the application of subsection (b) on the basis that it is an extraterritorial application of the laws of the United States, the

Secretary is authorized to waive the application of subsection (b) to a foreign air carrier licensed by that foreign government. The Secretary of Transportation shall identify and enforce an alternative smoking prohibition in lieu of subsection (b) that has been negotiated by the Secretary and the objecting foreign government through a bilateral negotiation process.

"(d) Regulations.—The Secretary shall prescribe regulations necessary to carry out this section.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 60th day following the date of enactment of this Act.

Sec. 354. Hazardous Materials. In the case of a State that, as of the date of enactment of this Act, has in force and effect State hazardous material transportation laws that are inconsistent with Federal hazardous material transportation laws with respect to intrastate transportation of agricultural production materials for transportation from agricultural retailer to farm, farm to farm, and from farm to agricultural retailer, within a 100-mile air radius, such inconsistent laws may remain in force and effect for fiscal year 1999 only.

Sec. 355. Reimbursement for Salaries and Expenses. The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 1999, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.

Sec. 356. Signage on Highways With Respect to the National Cemetery System.

(a) Definitions.—In this section:

(1) Federal-aid highway.—The term "Federal aid highway" has the meaning given that term in section 101 of title 23, United States Code.

(2) National cemetery system.—The term "National Cemetery System" means the National Cemetery System, which is managed by the Secretary of Veterans Affairs.

(3) State.—The term "State" has the meaning given that term in section 101 of title 23, United States Code.

(b) Federal-aid Highways.—The Secretary of Transportation may encourage States to take such action as may be necessary to ensure that, for each cemetery of the National Cemetery System that is located in the proximity of any Federal-aid highway, there is sufficient and appropriate signage along that highway to direct visitors to that cemetery.

(c) State Highways.—Nothing in subsection (b) is intended to affect the provision of signage by a State along a State highway to direct visitors to a cemetery of the National Cemetery System.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1999".

AUTHORIZING TESTIMONY AND REPRESENTATION OF SENATE EMPLOYEE

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 258, submitted earlier today by Senators Lott and Daschle.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 258) to authorize testimony and representation of Senate employee in State of Tennessee v. Ronald W. Byrd.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a request for testimony in a criminal trespass action pending in the Court of General Sessions for Sullivan County, Tennessee. The case involves an incident at Senator Fred Thompson's Blountville office in which an individual refused to leave the premises and was arrested by public safety personnel for trespassing. The State is seeking testimony from the Senator's caseworker who has knowledge of these events.

This resolution would authorize the caseworker to testify, except where a privilege should be asserted, with representation by the Senate Legal Counsel.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement of explanation appear at the appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 258) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 258

Whereas, in the case of *State of Tennessee* v. *Ronald W. Byrd*, Case No. S 113068, pending in the Court of General Sessions for Sullivan County, Tennessee, testimony has been requested from Kathy Tipton, an employee in the office of Senator Fred Thompson;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Kathy Tipton is authorized to testify in the case of *State of Tennessee* v. *Ronald W. Byrd*, except concerning matters for which a privilege should be asserted.

Sec. 2. The Senate Legal Counsel is authorized to represent Kathy Tipton in connection with the testimony authorized in section one of this resolution.

ORDERS FOR WEDNESDAY, JULY 29, 1998

Mr. CAMPBELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, July 29. I further ask unanimous consent that when the Senate reconvenes on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 2312, the Treasury-Postal appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I further ask unanimous consent that after the clerk reports the bill, Senator Ashcroft be recognized to offer an amendment regarding the marriage penalty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I further ask unanimous consent that the Senate stand in recess on Wednesday from 12:30 p.m. to 2:15 p.m. to allow the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Reserving the right to object, Mr. President, I ask the chairman if he is stating which amendments can be offered and no others.

Mr. CAMPBELL. No.

Mr. DOMENICI. I thank the chairman.

PROGRAM

Mr. CAMPBELL. Mr. President, for the information of all Senators, when the Senate reconvenes on Wednesday, Senator Ashcroft will be recognized to offer his marriage penalty amendment. It is hoped that following approximately 2 hours of debate on the amendment, the Senate will vote on a motion to table the Ashcroft amendment. Following that vote, it is hoped that Members will come to the floor to offer and debate remaining amendments to the Treasury bill.

Upon disposition of the Treasury appropriations bill, the Senate may begin consideration of the foreign operations appropriations bill, health care reform, any other appropriations bills or conference reports as available and any other legislative or executive items cleared for action. Therefore, Members should expect a late night session with votes on Wednesday, as the Senate attempts to complete its work prior to the August recess.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CAMPBELL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:58 p.m., adjourned until Wednesday, July 29, 1998, at 9:30 a.m.

EXTENSIONS OF REMARKS

PARTIAL-BIRTH ABORTION BAN ACT OF 1997—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-158)

SPEECH OF

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. EDWARDS. Mr. Speaker, I am strongly opposed to late term abortions. In fact, in 1987, as a Texas State Senator, I helped pass a bill that prohibited the late term abortions. That bill is still law today in Texas.

But, there are major differences between the Texas law and this bill today.

First, in Texas, we outlawed all procedures—this bill still allows late term abortions.

Second, in Texas, our law was written to meet constitutional requirements. This bill is unconstitutional—as federal judges have ruled across America, this bill clearly oversteps the constitutional guidelines established in Roe versus Wade. The Texas law wasn't written to maximize political sound bites, it was written to save babies' lives.

Third, in Texas, we trusted women to make responsible choices—this bill does not. Specifically, the Texas law said that in rare, tragic cases where the serious health of a woman is at risk, the difficult decision of terminating a pregnancy should be made by a woman and her doctor, not by politicians in Washington, DC.

In my opinion, if there is one frivolous late term abortion anywhere in America, that is one too many. It should be stopped. But, when a mother's life or health is at risk in rare cases, in those cases, government has no right to tell a woman what to do.

This bill would force a woman to put her health or fertility at risk, even when her baby has zero chance of survival after childbirth. To me, it is cruel and mean-spirited to tell a woman that she must risk her ability to have children in the future when she is about to face the tragedy of delivering a child that is doomed to die.

To the Republican men who refused to make changes in this bill to address this tragic problem I would say—what right do you have to tell a woman that she should risk her fertility—risk her ability to enjoy the joy of having a child—because you were more interested in political sound bites than in the rights of a woman?

Let us be clear. This bill could jeopardize a woman's future fertility even when her present baby is a troubled pregnancy and has no chance of survival. This bill would force a woman's doctor to end her pregnancy with riskier procedures, and that is why the American College of Obstetricians and Gynecologists opposes this bill.

Mr. Speaker, I want to say that I know this veto will be overridden for two reasons today.

First, many members believe that life begins at conception.

Second, many other members privately recognize that there are serious flaws in this bill, but they know that the Republican authors have written this for maximum impact in 30-second TV ads.

To those who genuinely believe for religious reasons that life begins at conception, and not only want to pass this bill, but have said that they want to restrict a woman's access to contraceptives—to you I say that I respect your religious views, but I question your right to force your religious views on others. Last week, you accused women and mothers who use contraceptives of being abortionists. Today, you are willing to risk women's fertility in rare, tragic cases of troubled pregnancies.

Finally, the sad thing about this debate today is that if some of its sponsors had been more interested in stopping late term abortions than in having a sound bite campaign issue, we could have passed a similar bill three years ago that would be saving lives today

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Wednesday, July 29, 1998*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, whose love casts out fear, You are our refuge and strength, a very present help in times of trouble. We come to You for the replenishment of our souls. Grant us a profound experience of Your concern for each of us, as if there were only one of us, and yet, for all of us as we work together. Break down the walls we build around our souls. So often, we hold You at arm's length, usually when we need You the most. Make our souls Your home. Fill us with the security and serenity we need to face the challenges of this day. Bless the women and men of this Senate. Grip them with the conviction that their labors today are sacred and that they will be given supernatural strength, vision, and guidance. Thank You in advance for a truly productive day. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Colorado, is recognized.

SCHEDULE

Mr. CAMPBELL. Mr. President, this morning the Senate will resume consideration of the Treasury-Postal appropriations bill. Senator ASHCROFT will be immediately recognized to offer his marriage penalty amendment. It is expected a motion to table the Ashcroft amendment will be offered after a reasonable amount of debate time. Following that vote, it is hoped that Members will come to the floor to offer and debate remaining amendments on the Treasury bill.

Upon disposition of the Treasury appropriations bill, the Senate may begin consideration of the foreign operations appropriations bill, health care reform, any other appropriations bills or conference reports as available, and any other legislative or executive items cleared for action. Therefore, Members should expect a late night session, with votes throughout the day, as the Senate attempts to complete its work prior to the August recess.

Finally, the leader would like to remind Members that the Senate will recess today from 12:30 until 2:15 to allow the weekly party caucuses to meet.

I thank the President and yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the leadership time is reserved.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2312, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2312) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Thompson amendment No. 3353, to require the addition of use of forced or indentured child labor to the list of grounds on which a potential contractor may be debarred or suspended from eligibility for award of a Federal Government contract.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri, Mr. ASHCROFT, is recognized to offer an amendment regarding the marriage penalty.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, in collaborating with my colleague, the Senator from Kansas, I have agreed with him that he would offer the amendment on the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 3359

(Purpose: To amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals)

Mr. BROWNBACK. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for himself, Mr. ASHCROFT, Mr. INHOFE, Mr. GRAMS, Mr. SMITH of New Hampshire and Mrs. HUTCHISON, proposes an amendment numbered 3359.

Mr. BROWNBACK. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. ___. COMBINED RETURN TO WHICH UNMARRIED RATES APPLY.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

"(a) GENERAL RULE.—A husband and wife may make a combined return of income taxes under subtitle A under which—

"(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

"(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

"(b) DETERMINATION OF TAXABLE INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the taxable income for each spouse shall be one-half of the taxable income computed as if the spouses were filing a joint return.

"(2) NONITEMIZERS.—For purposes of paragraph (1), if an election is made not to itemize deductions for any taxable year, the basic standard deduction shall be equal to the amount which is twice the basic standard deduction under section 63(c)(2)(C) for the taxable year.

"(c) TREATMENT OF CREDITS.—Credits shall be determined (and applied against the joint liability of the couple for tax) as if the spouses had filed a joint return.

"(d) TREATMENT AS JOINT RETURN.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section."

(b) UNMARRIED RATE MADE APPLICABLE.—So much of subsection (c) of section 1 of such Code as precedes the table is amended to read as follows:

"(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6013 the following:

"Sec. 6013A. Combined return with separate rates.

(d) BUDGET DIRECTIVE.—The members of the conference on the congressional budget resolution for fiscal year 1999 shall provide in

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the conference report sufficient spending reductions to offset the reduced revenues received by the United States Treasury resulting from the amendments made by this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. BROWNBACK. Mr. President, the amendment we have offered would eliminate the marriage penalty, and that is an item of discussion we want to discuss this morning—the Senator from Missouri and myself. A number of people have been involved in this discussion. The Senator from Texas, Senator HUTCHISON, has been one of the leading proponents of this particular issue of doing away with the marriage penalty.

Our amendment to eliminate the marriage penalty, which is being cosponsored by Senator ASHCROFT, Senator INHOFE, Senator GRAMS, would reinstate income splitting and provide married couples who currently labor under the onerous burden of our Tax Code with much needed relief.

Our amendment doubles the standard deduction for married couples. It is a very simple amendment. It doubles the standard deduction for married couples.

Currently, the single standard deduction is $4,150, while the marriage standard deduction is only $6,900. Our amendment would raise the standard deduction for all married couples to $8,300, precisely double what it currently is for single people.

That is just the heart and soul—that is the guts of what this is about. We are trying to make the field the same for married couples as it is for singles. We think this will send a powerful signal to the institution of marriage that is central to family involvement in this country and saying that if you get married, we are not going to tax you more than if you are single living together.

That is the simple statement here. You ask people across the country, Is this a good thing to do? And they clearly say, yes. It makes no sense that right now we tax married couples, tax two-wage-earner families more than we do single individuals. This much needed amendment would provide hard-working American families with the tax relief they deserve but have not gotten from this Congress.

Over the past month, the Senate has considered several spending bills, bills which increase the size of Government and which call upon the taxpayers to yield even more of their personal income to the Federal Government.

As many of my colleagues know, during consideration of the budget resolution, I, along with several of my colleagues, Senator ASHCROFT, Senator HUTCHISON, Senator INHOFE, Senator SMITH, Senator GRAMS, called for larger tax cuts to be considered this year. Unfortunately, it appears with only a little amount of time left in this session that we are running out of time.

We have to put this issue forward now. We need to give the American taxpayers relief. We ought to have the integrity to keep our promises to the American people by eliminating the marriage penalty this session. The Senate leader has been very supportive of this effort. This is his top priority as well, to eliminate the marriage penalty. The American people sent us to Congress to lower taxes and to cut Government spending. And this Congress has gotten some of that done, but not enough. Clearly, we need to keep moving forward on tax cuts. Let us get our work done now and let us get it done for the American people.

Unfortunately, because we have failed to get a resolution that calls for elimination of the marriage penalty, I am offering this amendment, along with five of my colleagues, in order to give the taxpayers the relief they deserve.

Mr. President, at the appropriate time I will be calling for the yeas and nays. I just want to make a point about what this amendment does. We currently have in our Tax Code that if you have a two-wage-earner family, and their combined income is between $22,000 and $70,000, you have what is called effectively a marriage penalty. You pay more tax if you exist in this category—a two-wage-earner family between $22,000 and $70,000—you pay more tax than if the two people would just live together. It is called the marriage penalty. It amounts to about $150 billion over a 5-year time period that we are taxing people.

I have letters here, testimonials of people who said, "You know what? We were thinking about getting married, and then we couldn't because of the tax structure that was penalizing us for getting married."

Listen to this gentleman. He is from Columbus, OH, a gentleman by the name of Thomas, who I will leave out his last name.

> Thank you so much for addressing this issue. I am engaged to be married and my fiance and I have discussed the fact that we will be penalized financially. We have postponed the date of our marriage in order to save up and have a "running start" in part because of this nasty, unfair tax structure.

There are two economists in this country who every year get divorced at the end of the year so that they can file separately and then are married the first part of the next year and then use the money to have a celebration with. Is that the sort of tax policy that we should have in America that encourages that type of situation to take place?

This is a lady from Alberton, MT:

> My husband and I both work. We are 50 and 55 years old. This is a second marriage for both of us. We delayed our marriage for a number of years because of the tax consequences, and lived together. I caused a great deal of stress and lots of anguish amongst our family as this was not the way we were raised. We finally took the tax hit—

Listen to that—

> We finally took the tax hit and married to make my family happy. This marriage penalty is awful!

That is from Alberton, MT, that that couple writes.

Is that the sort of thing we want to encourage our couples to be a part of or to have that sort of difficulty? I just don't think so.

This one from Iowa: "I think the marriage penalty is an outrage, yet another way the government stops us from being moral citizens." Can you believe that? They are writing, it "stops us from being moral citizens."

"I really hope this bill passes. I'm taxed enough as it is. I don't mind paying taxes, but enough is enough." That is Joe from Des Moines, IA, writing that.

This from Wichita, KS, my home State: "I appreciate you helping me and millions of other Americans." And I should mention, this affects 21 million American families—21 million American families—many of them just getting started as family members. "I appreciate your helping me and millions of other Americans who are struggling to keep their families together. I work full time for county government. My wife is a stay at home mom who works. I have four children and it is a challenge to pay the bills but we still do it. It would help us if the government helped us and killed the marriage penalty. A fair tax system would certainly be helpful to us."

They go on and on. I have pages of people who are writing in about the marriage penalty and the impact that it has had upon them. Listen to this from Union, KY: "Before we set a wedding date, I calculated the tax implications. Since we each earned in the low $30,000s, the Federal marriage penalty [was how this gentleman cited it] was over $3,000. What a wonderful gift from the IRS." Are those the sort of gifts we want to send?

This is from Indiana: "I can't tell you how disgusted we both are over this tax issue. If we get married, not only would I forfeit my $900 refund check, we would be writing a check to the IRS for $2,800. Darrell and I would very much like to be married and I must say it break our hearts to find out we can't afford it." Can't afford to get married, thanks to the marriage penalty.

From Ohio: "I'm engaged to be married and my fiance and I have discussed the fact that we will be penalized financially."

Here is from Baltimore, MD: "I am a 23-year-old, a marriage penalty victim for 4 years now. I'm a union electrician who works hard to put food on the table to take care of my family." Then he asks a simple question: "Why is the government punishing me just because I'm married?"

That is a simple question that Senator ASHCROFT from Missouri and I and a number of other people ask who want to do away with this most onerous, wrongheaded, bad signal of a tax. That is the marriage penalty. That is why we are putting this bill forward here today, to deal with this particular situation. It is time we do it.

I want to address one other topic on this before allowing other Senators to speak, because I know a number want to address this particular issue; that is, whether or not we can pay for this issue. Let me say simply we can pay for this issue and wall off all the payments coming to Social Security that are in surplus for Social Security. You are going to hear a number of people attacking from the other side, saying we cannot do this because it will take from Social Security. Then they try to pit Social Security against marriage. It is a false choice.

We can preserve the entire flow of resources going to Social Security, the entire payroll tax, and do this marriage penalty lifting, which ought to be done for a positive signal and for the working families of this country.

CBO last week said we had $520 billion surplus they projected over the next 5 years—$520 billion. We are talking, with this particular marriage penalty, just over $151 billion. So about $1.5 out of $5. Any surplus that is coming into Social Security we wall off and we say that should go to Social Security, and we can do it. Do not listen to the other side saying we are taking from Social Security to deal with the marriage penalty. We are not. We don't have to do it that way. We are not doing it that way. I do not support doing it that way.

We support keeping Social Security safe and sound, and any flow of resources into Social Security stays in there. We should create a real trust fund and actually put the resources there. We can and we should. I believe we must, for the foundational institution of this democracy, the family, and particularly the marriage, do this repealing of this marriage penalty that penalizes two-wage-earner families making between $22,000 and $70,000. Many of those are newlywed, starting a family, with young children involved. This involves 21 million American families. It is time we do away with this terrible tax penalty.

At a later date, I will respond to some of the accusations I think will probably be coming from the other side. The Senator from Missouri, Senator ASHCROFT, has been a key champion of this particular issue, as I have noted, and a number of other people have as well, including Senator HUTCHISON of Texas, and I know they want to speak on this particular issue.

I yield to the Senator from Missouri on this particular amendment.

Mr. ASHCROFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I ask unanimous consent the following be the only amendments in order, other than the pending amendment to the pending legislation, subject to relevant second-degree amendments. The list has about 56 amendments on it, and with Senator KOHL's approval, I will submit the list rather than going through the reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

Campbell—Relevant.
Lott—Relevant.
Lott—Relevant.
Faircloth—Sense of the Senate breast cancer stamp.
Faircloth—Exchange stabilization.
DeWine—Abortion Federal health plans.
DeWine—Customs drug interdiction.
B. Smith—Employee benefit programs.
Mack—Immigration.
KB Hutchison—SEHBP.
Jeffords—Postal location.
Ashcroft—Marriage tax.
Brownback—2nd degree to Ashcroft.
McConnell—Relevant.
Domenici—Fed. law enforcement training center.
Coverdell—Fed. Law Enforcement training center.
Abraham—Family impact statement.
Jeffords—Fed. contractor retirement report.
Stevens—Duty free stores.
Stevens—Relevant.
Mack—GSA land conveyance.
Jeffords—Child care.
Thompson—Federal regulatory programs.
Hatch—Relevant.
Gramm—Relevant.
Managers package.
Lott—Relevant.
Lott—Relevant.
Lott—Relevant.
Baucus—Post office locations.
Bingaman—Relevant.
Bingaman—HIDTA.
Bingaman—Relevant.
Byrd—Relevant.
Byrd—Relevant.
Cleland—FEC—independent litigation authority.
Cleland—FEC—7th member.
Cleland—FEC—fully fund.
Conrad—High intensity drug trafficking.
Daschle—Relevant.
Daschle—Relevant.
Daschle—Internal Revenue Code.
Daschle—Internal Revenue Code.
Daschle—Internal Revenue Code.
Dorgan—Canadian grain.
Dorgan—Advisory cmte intergovernmental relations.
Feingold—Relevant.
Feingold—Relevant.
Feingold—Relevant.
Glenn—$2.8 million FEC—offset GSA.
Graham—Haiti.
Graham—HIDTA.
Graham—Counter drug funding.
Harkin—Environmental preferably products.
Harkin—Drug control.
Kohl—Managers amendment.
Kohl—Relevant.
Kohl—Relevant.
Kerrey—Sense of the Senate: Priority on payroll tax cuts.
Lautenberg—Sense of Congress.
Reid—Contraceptives.
Wellstone—P.O. designation.
Wellstone—Relevant.
Wellstone—Relevant.
Wellstone—Relevant.

Mr. CAMPBELL. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I rise to support this amendment, the Brownback-Ashcroft amendment, to eliminate the marriage penalty in the Tax Code. I do so with a sense of enthusiasm.

As I have had the opportunity to engage citizens in my home State of Missouri, or whether I am in some other location, I have found, and I do find on a regular basis, that people understand that the most important component of this culture is not its Government in Washington, DC. It is not even the governments that we find in the State capitals of the United States. The best and most important component of governing America is to be found in families. As a matter of fact, I had the privilege of saying on this floor several weeks ago that if moms and dads in America can do their job, governing America will be easy. But if moms and dads in America can't do their job, governing America will be impossible.

I think this is an understanding that we share and is shared from Boston to Brooklyn to Bozeman. It doesn't matter what town you are in, people understand that the future, the success, the survival of this Republic in the next century is probably more related to whether or not we have successful families than any other single component of what happens in this society. Sure, it is important what we do in Congress. Sure, it is important what happens on Wall Street. But what happens on Main Street and on Elm Street and in the subdivisions of America where families exist, where families work to transmit values from one generation to the next, in an institution which has long been revered and always will be revered, an institution which shapes the character of our culture—that is what is truly important.

As I rise to support this amendment that would eliminate the attack on the family that is leveled by our Tax Code, I do so with a sense that this elimination is long overdue. If we really want to be successful in the future—and I think that is the business of government, helping create an environment in which individuals can succeed and in which institutions can succeed—there are lots of reasons to think we are here. But I think we simply want to build a setting in which we have the right conditions for people to flourish, for people to grow, for people to reach the maximum of the potential that God has placed within them. If we are going to do that, we need to do things that encourage structures like the family, instead of attack structures like the family.

The marriage penalty attack is really not just on the family, but it attacks the core institution of the family. A marriage is what a family is built around. It is built on the durable, lasting, legally sanctioned, and enforced commitment of individuals to be together and to help each other as long as they live. There aren't very many things that work that way in our culture. There are a few things they claim to have lifetime guarantees on, and the like. But I don't think there are any institutions that are quite as lasting and helpful, which really strengthen our culture as effectively as families do.

You can get products that say they are guaranteed for life. I was amused by the fellow who said he was running a parachute company. Somebody asked, "Are they any good?" He said, "We guarantee them for life." I don't know if we would be particularly impressed with that. But the family is focused on and built on marriage, which is designed to be a lasting, durable relationship, sanctioned by law. I think we should do what we can to foster it, since it is most likely to be the thing that provides the basis for our success. This isn't something new, as a matter of fact, in our culture.

America hasn't been great because we had great government or because we had great business; we have had greatness in America because of the hearts of the people. Alexis de Tocqueville, about 160 years ago, came here from France to try to assess what is it about this country that makes it dynamic, that makes this country something that is catching the eye of the entire world. He wrote back—and I have to paraphrase—that he didn't find the greatness of America in the Halls of Congress, but he found it in the homes of the people. He didn't find it in politics; he found it in pulpits. He was really saying that the greatness of America is something that is resident in the values and character of America. He focused on the fact that what happens down beneath the big, overarching concerns of Government, found in the institution that is singularly identified as the most important institution in our culture—the family.

So it is no wonder that people raise their eyebrows when they finally learn what is happening to the family as a result of the Tax Code. I support this effort to eliminate the penalty that the Tax Code imposes on people when they get married. I commend the Senator from Kansas for his outstanding recounting and relating the individual details of the couple from Montana and another couple from Indiana, and different people around the country, who have written to say, for goodness' sake, stop penalizing us and making it impossible for us to really make the kind of marriage that we want to have, making Government attack marriage through the Tax Code.

Frankly, American policy should reflect the principles of the American people. It is time, instead of our policy attacking the principles, to reinforce the principles. One principle is that we don't want to say to people: Don't get married. We don't want to say that we will make it more expensive to get married, we will fine you or penalize you. We want to say: Look, we think marriage is a good thing, and we understand that the values that are transmitted in marriages, the character that is formed there, is the basis for societal success, not only in this but the next century. We want to encourage it.

So it is time for us to get out our eraser, if you will, and to return America to a tax policy that does not discriminate against marriage. I say "return" America, because we haven't always had a discriminatory policy against marriage. But the marriage penalty began to creep into our tax law a couple of decades ago. Its onerous, negative impact on this most important institution is really a scar on the body politic, and it is a wound that we can ill afford to allow to deepen. We must close this wound and restore this culture to the kind of health that has made America great.

Last April, a group of like-minded Senators and I, including the good Senator from Kansas, Senator BROWNBACK, and others, stated our intention to oppose the Senate's budget resolution, unless meaningful tax cuts were added. We have noted that the United States of America is now charging people to live here more than we have ever charged people to live here before—the highest tax rates in history. Our Government is charging more. We are taking more of people's money for Government, leaving less of people's money for themselves and their families than ever before in the history of the country.

For some, I guess, who like Government and prefer not to make their own decisions about how they live and want to have a bureaucrat buy for them what is to be purchased in the less than efficient system known as "Government," that might be OK. But to me, I am shocked. Why in the world should we be paying the highest taxes in history when we are not at war? As a matter of fact, the highest taxes have not even gone to support defense. I think a number of us are a little bit alarmed about the condition of the Nation's defense. We have slashed the defense budget. We have curtailed it immeasurably to the point where I am not sure we are ready to prepare ourselves. We have skyrocketed other bureaucratic spending in Government. While we have slashed the spending of the defense establishment, we have also slashed the capacity of families to spend their own money. So we are rocking along at the highest tax rates in history, and it is peacetime.

So last April, a group of us said we were not going to vote for a budget from this Senate, unless we put meaningful potentials for tax relief in that budget. We were promised that eliminating the marriage penalty would be the Senate's top priority for 1998. The leadership of the Senate promised us we would not only have an opportunity to try to reduce taxes substantially and significantly—not the $30 billion gesture over 5 years—incidentally, $30 billion over 5 years would buy about one cup of coffee per month per person, if you left a little tip. That is really not tax relief.

So here we are; today is July 29 and there are only 31 legislative days left in the session. Yet, we are not any closer to giving the American people tax cuts than we were 3 months ago. I have led the mini revolt against the budget in order to get real potentials for tax relief on the table. I believe it is time for us to say we need real tax relief, and the marriage penalty would be the brightest and best opportunity to provide tax relief that not only reduces taxes, but it would begin to align the policy of the United States with the principles of the American people. Of course, that embracing principle that everybody understands is the need for strong families.

Now, to add insult to injury—I don't know whether it is an insult or not—but the Congressional Budget Office came out with new numbers on the projected Government surplus. Here the Senate had agreed that we would do $30 billion, maybe, in tax cuts. The Congressional Budget Office just announced in the last 10 days that the projected surplus is over $520 billion. Wait a second—$30 billion to let the people have, which they earned, and we were going to take the other $490 billion and spend it, in spite of the fact that we were already taxing people at the highest rates in history. I wonder about that.

So we have come forward today. I thank Senator BROWNBACK and Senator HUTCHISON for sponsoring this kind of legislation. I am honored to be a person who is helping organize this approach to say we need substantial and significant tax relief. We are not asking that we take the entire $520 billion. We are not even asking that we take a majority. But we are asking that at least the onerous affront to the values of the American people, this attack on marriages, be taken from our Tax Code.

It would cost about $151.3 billion, I think, to do this over 5 years. So, if you subtract that from the $520 billion, you could figure out that you still have about $360 billion over the next 5 years. That is an amazing sum.

We are not even asking for 1 out of 3 dollars, or what would be equivalent to 1 out of 3 dollars, of the surplus to say leave it in the pockets of people who work hard to earn it. Don't sweep that money away to be spent by the bureaucracy. And, for heaven's sake, let's not send a signal to people, don't get married in this culture, don't begin to form the basis for this most important institution of America. We need to say, indeed, we want marriages; we want intact families; we want the lasting, durable—yes, legally recognized—formal commitments of marriage upon which to build our family.

We stand here at the end of July on the heels of a month-long recess coming up in August. And there is a real possibility that Congress will not pass a budget reconciliation and will not deliver on the tax cut that was promised to the American people. We ought to shout at the top of our lungs, "No, no." We do not want to miss this opportunity, with this substantial capacity in our system, to begin to grant relief to the people, especially to have a cease-fire on American marriages. It is time for us to declare peace instead of declaring war on the principles of the American people when it comes to tax policy. We need a tax policy that represents the people's principles. Let's declare peace in terms of our policy on marriage.

Mr. President, our society has affirmed the importance of marriage and family for a long time. Most Americans would agree that persistent, durable marriages and strong families are absolutely necessary if we are to succeed as a nation in the 21st century. Yet, for 30 years—nearly 30 years—in the last three decades politicians have idly watched as the Federal Income Tax Code has systematically penalized millions of people for having been married. In fact, this last year, 42 million married taxpayers collectively paid $29 billion—that is with a "b," not with an "m"—$29 billion more in taxes than they would have paid had they been single.

I find it important for me to once in a while review what $1 billion means.

We all know that $1 million is a lot of money. One billion dollars is 1,000 million dollars. So we have 29,000 billion dollars in tax penalty because people are married. When you boil that down to what it means to the average marriage penalty for a family what this tax anomaly, this tax assault, is, it turns out that is about $1,400 per family. I have to say that is about $1,400 of after-tax income. If you relieve them of that, that is actually spendable money. In order to have a spendable result of about $1,400 of more money for a family to spend, I think you have to allow in terms of a salary of about $2,000. So this would give those families about a $2,000 increase in their wages, or about $1,400 in spendable income.

Or, another way, that is well over $100 a month that families could either add to their payments for better housing, they could add to their budget for better nutrition, they could add to their clothing budget so that their children could be better clothed and that they could be better clothed. This is $1,400 they could use to promote things that are beneficial to the community.

Yet here we have this marriage penalty that sweeps that $1,400 right off the kitchen table at budget time merely because these individuals are married.

I believe this marriage penalty is a grossly unfair assault on the bedrock of our culture and civilization. As a matter of fairness, principle, and public policy, Congress should put an end to the Tax Code discrimination against marriage. The marriage penalty exists today because Congress legislated ill-advised changes to the Tax Code in the late 1960s. Fortunately, eliminating the marriage penalty simply requires Congress to amend the code.

I want to just mention that the marriage penalty tax has a pretty substantial negative impact on women. It hurts marriages when their income is equivalent to their husband's income. When their income is equivalent, it hurts them most of all. We enact policies to help women in the workplace, yet we have a Tax Code which penalizes those women once they earn income that is comparable to that of their spouse. There is significant evidence that such tax consequences have a direct impact on women's labor participation choices. People make judgments based on these taxes.

We have already heard from our good friend, the Senator from Kansas. As a matter of fact, he stated that single people are living together in a way that many of them feel bad—disappointed their families, set bad examples for the communities—and they didn't want to do this.

The amendment which Senator BROWNBACK, Senator GRAMS, and Senator INHOFE, Senator SMITH of New Hampshire, and Senator HUTCHISON have proposed would eliminate the marriage penalty. And, of course, I am proposing it with them by allowing husbands and wives to split incomes as equivalent and filing as if both were single.

Over the next 5 years, the Federal Government is expected to collect $9.6 trillion in revenues. Eliminating the marriage penalty will reduce that total by 1.6 percent, and that is less than a third of the projected surplus. That is, the surplus is expected to be $520 billion. That is money in excess of what we expect to spend. If we continue to make plans to spend it, we ought to make plans to give it back at least to curtail the marriage penalty.

There is no excuse for withholding tax relief from American families, especially tax relief that is necessary to allow them to continue to be American families. We have no reason to continue to punish Americans with a Tax Code that is designed to make it tough for them to be family. For years Washington has told taxpayers, "You send it, we spend it." We ought to change that. It is time for a new message to be sent to America. It should be, "You earned it, we returned it."

I rise today to say that I find it unconscionable that the policy of the United States would be an assault on the principles of the American people, especially a sacred principle of American families that are built on the core institution of marriage, and that this Government, frankly, should hang its head in shame to think that it has agreed to spend the money of individuals and that it would not provide relief from this war on the principles of America called the "marriage penalty."

In my judgment, we have but one alternative, especially in the face of the kind of projected surplus which we have before us. That opportunity is to say that we are going to declare peace when it comes to the American family, and we are going to tell people that, "We will not penalize you any longer because you have chosen to be married; as a matter of fact, we are going to provide a way for you to enjoy the same kind of treatment under the Tax Code that you would have if you were to have remained single."

The end of the 105th Congress is coming quickly upon us. I call upon my colleagues to join me for the elimination of the marriage penalty once and for all.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that Senator FAIRCLOTH be added as a cosponsor to this.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I want to give a couple of facts and some figures that I think are important to have.

The average marriage penalty in this country for people who are paying the marriage penalty is just over $1,400 a year; $1,425 a year is the average amount that families are paying for the marriage penalty in America. I think that is just far too high.

It may not seem like a lot to some people. But in paying electric bills, you could pay an average one for over 9 months. For some families, it would pay for a week-long vacation at Disneyland. It would make four payments on a minivan. You can go out to dinner, buy over 1,000 gallons of gasoline, you can buy over 1,200 loaves of bread. Those are important things to do with $1,425.

I want to show this chart to my colleagues as well. There are some who suggested last time when we entered into this debate that there is also a marriage bonus, and that if you will do away with the marriage bonus, we will do away with the marriage penalty. I have no problem whatsoever giving a bonus to people who are married. I think that we should honor this institution, and if they want to propose raising taxes on people who are married, they can go ahead and do so. I oppose that.

But I want to show who it hits. Again, you are talking about the highest proportion of the marriage penalty going to those families when the higher-earning spouse is making somewhere between $20,000 and $75,000. These are middle-income, a lot of times just starting to be wage-earner families, and it hits two-wage-earner families as well. These are the people that we should be trying to help out the absolute most. I just find it a completely wrongheaded policy, at a time when we are struggling so much in this country with the set of values we are putting forward, to say we are not only going to not help people making between $20,000 and $75,000, or are just starting a family, we are actually going to tax them, we are going to tax them more.

Mr. ASHCROFT. Will the Senator yield?

Mr. BROWNBACK. Yes, I yield.

Mr. ASHCROFT. It occurs to me you said this has its most substantial incidence in young families where people are getting started, both individuals working.

Mr. BROWNBACK. That is correct.

Mr. ASHCROFT. Is the Senator aware that when they interview people about family problems, and when families break up, that there is a high incidence of correlation between families that are overstressed economically and those that do not make it to last as families?

Mr. BROWNBACK. I thank the Senator from Missouri for the question. Absolutely. You hear that in any number of cases where people are breaking up, frequently the No. 1 cited problem is financial stress. But it then embellishes and builds into further stresses on them.

Mr. ASHCROFT. So if the average marriage penalty is $1,445 a year, you wonder about how many marriages might actually survive if the Government were not in there with its bureaucratic hand, extracting an extra $1,445 a year. You wonder in how many marriages the stress would be relieved enough that some of that financial friction that eventually sometimes flares into the flame which consumes the marriage, and burns down the house, could just be avoided.

Mr. BROWNBACK. The Senator raises a good consideration. We don't know the number of marriages that would be saved. But we do know that a lot of times people know this tax is on them. I think too many times my colleagues think people don't really know this tax exists on them, and that it exists there, but it is not a real tax, it is not one that anybody cites to. But we found, time and time again, people act rationally. They act economically rationally. So if you send a signal that you are going to tax something, they will do less of it. And if you send a signal you are going to subsidize something, they do more of it. So we tax marriage, and what do you think happens in that type of situation where you put more financial pressure on the family? The $1,445 is the average. There are some that are taxed substantially more.

I read to my colleagues, and the Senator from Missouri, letters from a number of people who have written in and said, "I cannot believe you guys would talk about family values, all of you, everybody saying that families are critical, families are important, yet here is such a classic example of where you are penalizing the family, and it still exists, and you guys are still talking about family values."

One thing I am very pleased about is the majority leader, TRENT LOTT, has been a strong proponent of doing away with this marriage penalty because he knows the importance of what this is about. He knows people act economically rationally and is supportive of this debate and is supportive of our efforts to try to get the marriage penalty done away with. I think it is important, and he has cited to it as well. This is not for high-wage-earning families, I point out to my colleagues as well. We are talking about hitting families the most where the highest earning spouse earns somewhere between $20,000 and $75,000. That is important.

Just because some of these testimonials are so touching, I want to read some more of them to my colleagues, because I think they are very, very telling. This is not just about statistics. This is not just about economists saying this has an impact. This is about real people looking at their real situation of real taxes they are paying. Listen to this one—Steve from Tennessee:

> My wife and I got married on January 1, 1997. We were going to have a Christmas wedding last year, but after talking to my accountant, we saw that instead of both of us getting money back on our taxes, we were going to have to pay in, so we postponed it. Now, after getting married, we have to have more taken out of our checks just to break even and not get a refund. We got penalized for getting married.

And then he says something that I think is prophetic and simple and straightforward. He just says, ". . . and that is just not right."

That is our point with this tax. We have the wherewithal to pay for it in the surplus. We will not touch Social Security surpluses coming into it. And this tax "is just not right."

Here is one from Dayton, OH:

> Penalizing for marriage flies in the face of common sense. This is a classic example of government policy not supporting that which it wishes to promote. In our particular situation, [he gives us his own situation] my girlfriend and I would incur a net annual penalty of $2,000, or approximately $167 per month. Though not huge, this is enough to pay our monthly phone, cable, water and home insurance bills.

We may sit here and look at this and say $2,000 a year, $167 a month, that is not a big deal—it is a big deal. It is a big signal we are sending to families that we are going to tax you and penalize you if you decide to get married. People act economically rational. They are going to look at this and they will understand it. They will also act economically rational if we say we are doing away with this marriage penalty. We think this is a bad tax, bad tax policy. It is not a place that we ought to tax, and they will act rationally there as well, and it sends a signal to families.

This is one I thought was excellent, from Marietta, GA.

> We always file as "married filing separately" because that saves us about $500 a year over "married filing jointly." When we figured our 1996 return, just out of curiosity, we figured what our tax would be if we lived together instead of married. Imagine our disgust when we discovered that, if we just lived together instead of being married, we would have saved an additional $1,000. So much for the much vaunted "family values" of our government. Our government is sending a very bad message to young adults by penalizing marriage this way.

That is from Bobby and Susan in Marietta, GA.

Is that the sort of signal we want to send? Listen to this one from Ohio:

> No person who legitimately supports family values could be against this bill. The marriage penalty is but another example of how, in the past 40 years the federal government has enacted policies that have broken down the fundamental institutions that were the strength of this country from the start.

That is Thomas from Ohio that writes that in.

I have studies here. We have Joint Economic Committee studies of the impact of a marriage penalty. We have studies from other institutions, citing about the marriage penalty. None of them could put it more succinctly than Thomas has right here: "This is but another example of a policy that has broken down the fundamental institutions that were the strength of this country from the start."

Let us hear the people. Let us hear their cry. Let us hear them say what they are saying to us, that this is a wrongheaded idea, what we are doing.

This one, David from Indiana:

> This is one of the most unfair laws that is on the books. I have been married for more than 23 years and would really like to see this injustice changed [And then he says, not for himself, but, he says] so my sons will not have to face this additional tax. Please keep up the great work. We need more people in office who are interested in families.

Then this one from North Carolina:

> It is unfortunate that the government makes a policy against the noble and sacred institution of marriage.

Here is somebody, Andrew from North Carolina, who is looking at his Federal Government and he says:

> It is unfortunate the government makes a policy against the noble and sacred institution of marriage. I also feel it is unfortunate it seems to hit young, struggling couples the hardest.

Let us hear the people. Let us hear their sense of what they are saying about this particular situation, about this particular tax that is in place.

This gentleman, Michael from California:

> I believe a majority of families do not realize the government is stealing from them because of this marriage penalty and indirectly has created this pressure to have both parents work to get by and pay for their family's future. This indirectly is driving a wedge between families.

Michael in California.

I disagree with the first portion of it, where I think the families do know about this, but in the last portion of it he is saying, "This indirectly is driving a wedge between families."

I think anybody here on this floor, if you ask people about this particular bill, "Do we want to drive a wedge between families?" There would be 100 Senators here saying "No, we don't want to drive a wedge between families."

That being the case, then why aren't we doing something at this point in time when we have a chance to deal with this particular issue?

Mr. President, I want to cite some of the studies in case people think we are just citing the people calling in who want a tax cut.

I have a Joint Economic Committee study, "Reducing Marriage Taxes, Issues and Proposals," that talks about the various bills that are put forward within the marriage penalty. What we are talking about is putting in income-splitting proposals. They are similar.

This is the study on page 10, ". . .to optional filing because they adjust for differences in the tax schedules between single and joint filers." This is the Joint Economic Committee report.

> However, the proposals differ from optional filing because they make no distinction regarding the division of income between spouses. In other words, couples are treated as if each spouse earns half of their total income regardless of which spouse actually generates that income. Income splitting would, therefore, provide all couples with the most favorable tax treatment by effectively treating them like two singles with a 50-50 income split. This favorable treatment would reduce taxes for nearly all married couples. Couples with equal incomes would receive equal tax cuts, thus maintaining horizontal equity.
>
> Moreover, income splitting would create marriage bonuses for most couples and increase bonuses for couples already receiving them, including one-earner couples. Thus, the proposals reduce marriage neutrality by [they are saying] heavily favoring marriage.

This is in the study they are putting forward. They are saying, "OK, we are going to create a positive situation for some and we are going to do away with disparity for others."

I say, Mr. President, this is a good thing. This is the sort of thing that we ought to do in doing away with this marriage penalty, and this is according to the Joint Economic Committee study that we have.

I showed you the chart earlier about the differences between marriage penalty and bonuses. What we are trying to get at is this zone of people making between $20,000 and $75,000 and just do away with the marriage penalty. That is a good thing, and that is the signal we ought to send.

Mr. ASHCROFT. Mr. President, will the Senator from Kansas yield for a question?

Mr. BROWNBACK. I will be happy to. But first I ask unanimous consent that Senator ABRAHAM from Michigan be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. I will be happy to yield for a question.

Mr. ASHCROFT. I wonder if the Senator from Kansas is aware of the fact that among people who are concerned about the culture, they have not only been concerned about families that are dissolved, and the divorce problem that we have, but the absence of family formation, the fact that there are lower rates of marriage than people had anticipated, than we have had in the past. I wonder, if given that situation, which individuals who have studied our culture are concerned about, I wonder if the Senator from Kansas might comment on whether or not the fact that we have a penalty on a number of people taxwise if they enter a marriage, if that might affect this challenge to our culture where we have had lower rates of individuals getting married?

Mr. BROWNBACK. I appreciate the question, and I think it is absolutely right on target that we are having a reduction in family creation. If you ask people in this body is that a good thing to have taking place, they would say no. We need to have more families, not less families, and part of the problem with government is we have had to create more and more government doing more and more things because we have fewer and fewer families proportionally doing less and less things.

If there is anything that we have been about, it is trying to reinstill a sense of family and values and virtues in this culture, and everybody agrees with that. Here you have a direct policy that is hurting creation of families, hurting creation of that foundational unit within a society and culture, that if it is weakened, the Government is weakened; if it is stronger, the Government is going to be stronger, too, because you have that foundational unit.

You can't create enough police forces or militaries or welfare institutions to take the place of the family. We have had a decline percentagewise in the creation of cohesive family units. This policy contributes to that of having a marriage penalty. The removal of that policy would help in the other direction of creating a family unit together.

I might note to the Senator from Missouri and to my colleagues, when we were looking at the welfare reform debate, we were very concerned about what has happened to our families and saying, "Are we sending the right signals or wrong signals to family creation?" We decided we were sending the wrong signals and we needed to change them to the right signals.

Do you know what is taking place? In my State of Kansas, we have a reduction in welfare rolls of 50 percent. I have met with a number of people who are off welfare now who were on welfare. I asked them, "What do you think of the changes we did?" And they said, "Thank goodness you did it. Welfare, to me, was like a drug. I got hooked on it. I got addicted to it, and you said, 'If you can work, you have to work, and we are going to let the States decide if we are going to subsidize additional children born out of wedlock.'"

They were thanking me for forcing them to do something that they needed to do. That was a policy signal that we sent from the Government. For many years we said if you don't want to work, you don't have to work; if you can work and you don't want to work, you still don't have to work; if you want to have more children out of wedlock, fine, we will pay you for doing that.

We said, "No, no, no, if you can work, you need to work." Here let's support marriage.

Mr. ASHCROFT. Will the Senator yield for an additional question?

Mr. BROWNBACK. Yes, I yield.

Mr. ASHCROFT. It occurs to me what you are saying, because families have begun to replace welfare in a number of settings, they have done a better job and people are becoming independent; that the number of people on welfare is going down, and when the number of people on welfare goes down, the cost to government goes down.

It seems to me that as these costs go down, when families begin to do their jobs and do them well, we ought to share some of the reduced costs of government with families by reducing the cost of families so that we can actually—and I wonder, if you will agree that since families are helping us reduce the cost of government by reducing the cost of welfare, if you agree that it might be appropriate for us, given the fact that families are helping us in this respect, to say to families, "and thank you very much, and we would like to reduce your costs now that you are helping us reduce ours."

Mr. BROWNBACK. Thank you for the question. My guess is—and we ought to probably have an economic study done on this—that for every dollar we help out the families, we probably get $10 in reduction of costs to the government. I don't have that based upon studies, but I do have that based upon personal experience of families reaching out and how much more effective they are with heart and soul and arms that can hug and love instead of a cold government check that really doesn't do anything other than make people hooked to it. We need to support, and we need to encourage that.

Mr. President, I will continue to have additional people wanting to be added as cosponsors. Senator LOTT has asked to be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Thank you very much. Mr. President, these are commonsense issues. They are commonsense results of what we need to have. If we support marriage, if we support the family, we will have less cost to government. This is a good thing. This is something we ought to support. It is something we ought to readily do. It is something that should pass with 100 votes.

We will shortly have a chance to vote on this particular issue. Whether we get a vote directly on it or we vote on a motion to table, I am asking my colleagues to support us in this effort to do away with the marriage penalty when this comes up. It is not taking the entire surplus of the $520 billion that the CBO is now projecting. It would actually score CBO $151.3 billion. I support walling off Social Security for flow of payments for Social Security. This is a statement of marriage to families. We don't have to pay a Social Security against marriage. We don't have to do this.

I support what the President has been saying, "Let's keep Social Security to Social Security. Let's create a real trust fund." We have real problems there. We also have real problems in marriage. We also have real problems with families in this country. We can do this.

Mr. President, $1.50 of every $5 coming in on the surplus would address this marriage penalty that is a horrific signal we are sending out to the country right now, that we would actually tax marriage more.

Perhaps this is getting somewhat long with people when they keep hearing from folks. These are the commonsense responses from people across country.

A gentleman in Texas:

> If we are really interested in putting children first, then why would this country penalize the very situation—marriage—where kids do best? When parents are truly committed to each other through their marriage vows their children's outcomes are enhanced.

And that is Gary from Houston, TX.

This one I could not believe. This lady is from Virginia.

> I am a 61-year-old grandmother still holding down a full-time job, and I remarried 3 years ago.

A 61-year-old grandmother, full-time job, remarried 3 years ago.

> I had to think long and hard about marriage over staying single as I knew it would cost us several thousand dollars a year just to sign the marriage license. Marriage has become a contract between two individuals and the Federal Government.

This one is from Pennsylvania:

> My wife and I have actually discussed the possibility of obtaining a divorce, something neither of us wants or believes in, especially myself.

He said he was the product of a marriage that has difficulty, but they were considering divorce. He says "simply because my family cannot afford to pay the price."

This is Jeffrey from Pennsylvania who says that.

This gentleman from Illinois says:

> You try and be honest and do things straight, and you get penalized for it. That's just not right.

That is Mike from Illinois who sent that letter in.

Person after person coming in and writing in saying that, "Look, this just isn't right."

This one from Sarah that was published in the Ottawa Daily Times:

> The marriage penalty is essentially a tax on working wives because the joint filing system compels married couples to identify a primary earner and a secondary earner, and usually the wife falls into the latter category. Therefore, from accountants' point of view, the wife's first dollar of income is taxed at the point where her husband's income has left her. If the husband is making substantially more money than the wife, the couple may even conclude it is not worth it for the wife to earn income. In fact—

And she is quoting from a book by a Professor McCaffrey at the University of Southern California.

> In fact, McCaffrey's book details the plight of one woman who realizes her job was actually losing money for her family—

Actually losing money for her family.

> by her working.

We are overtaxing the American public now anyway, with people having to pay roughly about 40 percent of their income in taxes, taxes at all levels—Federal, State, and local, with Federal being the highest portion. I think that ought to be lowered. But, clearly, you hear there are cases where they are not only being taxed but we are forcing people with two-wage-earner families to work and one just working for the Government, but even in that case you are even taxing them more, to the point where it isn't even worth working.

Mr. President, this amendment needs to pass. We need to have this debate. We can afford to do this. We can do this and still set Social Security, payroll taxes, aside; and I am calling on my colleagues to do just that.

With that, Mr. President, I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

PRIVILEGE OF THE FLOOR

Mr. ASHCROFT. I ask unanimous consent that Heather Oellermann be given floor privileges during the duration of this debate. She serves in my office.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I ask that my name be added as a cosponsor to the Ashcroft-Brownback amendment to S. 2312.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. I rise to speak further in support of the elimination of the marriage penalty. Some people have asked, "Well, isn't there also a marriage bonus, or isn't there a situation in which people might do better because they are married than if they're not married?" And there are areas of the Tax Code where some individuals do slightly better, but they are supported by very sound logic. I would like to talk for a few moments about them, those instances.

I indicate that in no way do I think that the existence of this so-called "marriage bonus" in some places in the Tax Code—that that bonus really is any reason why we should impose a penalty in some other area of the Tax Code. As a matter of fact, there are sound reasons for us to support the concept of the marriage bonus where it exists.

Currently, the standard deduction for a single person is $4,150, while the standard deduction for a married couple filing jointly is only $6,900. I did not major in mathematics, but I did one time have the privilege of serving as the State auditor. I can add $4,150 twice; that would be $8,300. And when you put the $8,300 that you would get for two single people together, and you look at the $6,900 deduction that you get for a married couple filing jointly, you clearly understand there is a $1,400 deduction that simply does not exist.

The marriage penalty elimination amendment that Senator BROWNBACK and I, and others, including the majority leader, have offered today will increase the standard deduction for a married couple to equal twice what it is for singles—that would be the $8,300 figure.

Now the Government rationale for the difference in deduction for singles and married couples is to reduce the so-called marriage bonus that occurs when only one spouse works. So the idea is, why should a spouse get a full deduction if the spouse isn't actually in the workforce? I think that sort of partakes of a myth that we ought to disabuse ourselves of and that I think most people understand. The suggestion that if someone works outside the home they are working, but if someone isn't working outside the home they are not working—I don't think that is really the case.

I think what we really indicate is not so much a bonus if we give a deduction for the person who is nonworking outside the home but stays home, it is a recognition of the substantial contribution that the nonemployed spouse makes to the family.

We have had a pretty substantial experience with marriage in my household. There are three decades plus that my wife and I have been married. There have been times when both of us have been employed, times when only my wife was employed, times when only I was employed. I think in every one of those instances to ignore the sort of contribution that the nonemployed spouse makes to the work product, even of the employed spouse and of the household, would be a tremendous injustice.

I think what we really have, instead of the so-called marriage bonus, is just a recognition of the fact that the nonemployed, in-a-formal-sense, spouse is contributing to the income that comes to that household by virtue of the capacity that is expanded to the other spouse who is employed and by virtue of the expanded well-being of the family. American families need help from the ever-increasing tax load which we are imposing on them. Men who stay at home or women who stay at home to care for the children should not be penalized by the Tax Code.

I have been somewhat distressed in recent years that we have begun to extend this myth and to provide incentives for people not to stay at home, to have a prejudice against people who would stay at home. Our Government policy should work in favor of children, not against them. Sometimes when we have a massive tax prejudice in favor of both parents leaving the house, that is not in the best interests of children. I think most of the data we have seen in recent years is that children really thrive when they have the attention of parents, and, obviously, if you have one of the parents who can stay at home, it really helps children significantly.

Our current Tax Code rewards the dependent child tax credit for families who put their children in child care, for example, and, therefore, provides an incentive for people to institutionalize their children rather than to care for them in the home. A mother who stays at home with her child makes the sacrifice in the total combined paycheck for the family and for her career, perhaps, or the father who does the same, should that family be penalized? I think the answer is clearly no. As a matter of fact, that person may be doing our culture a great favor by providing attention from a loving, compassionate parent in a way that no institution would be able to provide attention or training for that child.

The Tax Code should acknowledge that contributions made by spouses who stay at home, be they male or female—and we have done it both ways in my household from time to time; there have been times when my wife was the earner and I was either doing something at home or running for office or the like—and either way, we should acknowledge that the contributions by the so-called nonemployed spouse are not ignored, and no marriage bonus could ever begin to compensate those individuals for their contributions to the family.

Now, if Members on the other side of the aisle want to eliminate the small "bonus" in the Tax Code, I think that would be ill advised. I predict it would be soundly defeated, as it should be. It is antifamily, it is antimarriage, and given the fact that most of these are women in this setting, it is antiwomen to suggest a full-time homemaker provides no value that should be recognized in the Tax Code. I believe their contribution should continue to be recognized and applauded. The marriage bonus is a way to recognize some of the non-economic contributions of stay-at-home spouses.

What we are really here for, I don't think there is a serious legal attempt to take away those recognitions, but there is a very serious assault on the values of American families. When we are taxing the average family that endures the marriage penalty, we are taxing them $1,400 a year more in taxes than we would if they were single. It seems to me that assault on the values of the American public is a tragic, tragic invasion of the strongest institution which we need desperately for the success and survival of our country. We should recognize that we need to eliminate that penalty on marriage.

It is with that in mind that I am pleased so many Senators have agreed to cosponsor this measure. I hope we will vote to make sure that this becomes a part of the philosophy and policy of American Government. A government which is at war with the values of its people cannot long endure. No value is more cherished in America than the value of durable families. We simply have to eliminate the assault on marriage, the assault on our families, that is included in a Tax Code which undermines and curtails the value of families in our culture.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I rise in support of the efforts that have been brought to the floor by the Senator from Kansas. I would like to make a few comments and observations about tax cuts and some misconceptions. I was somewhat distressed at the beginning of this administration when a statement was made by Laura Tyson, who was the chief financial advisor at that time. She said—and this is almost a direct quote—that there is no relationship between the level of taxation that a country pays and its economic activity. If you would carry that to its logical conclusion, you would say you could tax somebody by 100 percent and they are going to be just as motivated to work hard and to contribute to the economy and take risks and to hire people as if they had no tax at all. As we know, history has shown us that this is not true.

One of the interesting things that is so overlooked by many of the liberals nowadays is that for every 1 percent increase in economic activity, it produces new income of approximately $24 billion. Three times in this century we have had administrations that have had massive tax cuts, and each time this has happened we have actually increased the revenue. What I am hoping we will get to is a discussion and a debate along the lines that you can actually increase revenue by reducing taxes. History has shown us that, in fact, this is true. The first time this happened was in the 1920s, during the Warren Harding and Calvin Coolidge administrations. They had consecutive tax cuts, reducing the top tax rate from 73 percent to 25 percent. The lower rates of taxation helped expand the economy dramatically. In fact, between 1921 and 1929, in spite of—or maybe because of—dramatic reductions in personal income tax rates, revenues increased from $719 million in 1921 to $1.16 billion in 1928, an increase of more than 60 percent. Now, over a 10-year period, that would have been about a doubling of the tax revenues that came as a result of reducing tax rates.

Then in the 1960s, along came the Kennedy administration. Of course, when you hear some of the things that President Kennedy said at the time that didn't sound that prophetic, they turned out to be true. At that time, he said we needed to have more revenues and the best way is to reduce our tax rates and expand the economy. Again, going back to the assumption that has been proven over and over again that your tax revenues increase with certain types of marginal tax rate reductions, in the 1960s, President Kennedy initiated a series of tax cuts where he took the top income tax rate and reduced it from 91 percent to 70 percent. These cuts, in part, helped increase the growth by some 42 percent between 1961 and 1968. So again, you have a very similar type of growth that we experienced back in the 1920s.

Then in 1980, we remember so well Ronald Reagan coming along and the criticisms that he has had. At that time, he was working with a Congress that was not that friendly—at least a House that wasn't that friendly. He was able to probably make the most dramatic reductions in the tax rates than at any period during any administration in this country's history, knocking the top tax rates from 70 percent in 1980 down to 28 percent by 1988.

The results of this were very interesting in that if you look at total revenues raised to run this country in 1980, it was $517 billion. By 1990, that figure was increased to $1.3 trillion. So revenues doubled during that period of time that he reduced the tax rates. As far as the revenues that were generated from the marginal rates, or from income tax, that went from $244 billion in 1980 to $466 billion in 1990. So you have almost a doubling in that case, also.

So I think those people who are saying that we don't want to reduce taxes are saying we don't want to reduce the revenues. We have need for more revenues when, in fact, some of the tax reductions that we will be talking about could have the opposite effect. I can remember in Ronald Reagan's speech—one of the speeches he made called "A Rendezvous With Destiny" in the sixties, it was prophetic. He said, "There is nothing closer to immortality on the face of this Earth than a Government agency once formed." I think this is one of the problems we are dealing with now, in that it is so difficult to cut down the size of Government.

Sometimes it is necessary to reduce taxes in order to overcome that temptation to spend the money that is out there. We know the political reality of that. By the way, when many of the Democrats—liberals—were saying, "Look at how the deficits increased during the Reagan administration," yes, that is true, they did, but that was not as a result of reducing taxes; that was a result of increased spending. I think that, in retrospect, the President should have adopted a policy of issuing more vetoes, and I don't think we would have had the deficits that we had.

The bottom line is that we are not an undertaxed Nation. We are a Nation that needs to reduce taxes. This is an opportunity to do it. I can't imagine that in this day and age when we have the projected, huge surpluses that are out there, we would consider anything less than making major tax reductions. The tax reduction that has been promoted on the floor by the various speakers regarding the marriage penalty is certainly one that is justified. I would like to see, in addition, some marginal rate reductions. I hope we will be able to do that before this debate is all over.

Lastly, we have come so dangerously close to what has been stated in history. People have observed this country. When Alexis de Tocqueville came here, he came to study the penal system and to write about that. After he saw the great wealth in this Nation and the freedoms, he wrote a book about the wealth. In the last paragraph, he said that once the people of this country find that they can vote themselves money out of the public trust, the system will fail. I think we have come dangerously close to that. This is the time to reduce taxes and allow individuals to have more control of the money they earn.

I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise in opposition to the Ashcroft amendment on marriage penalty tax relief. Let me quickly point out that I strongly support the Senator from Kansas' intentions and believe that most, if not all, of my Senate colleagues do as well. Americans should be free to marry or remain single based on much more important considerations than those related to tax liability.

That said, the Treasury-General Government appropriations bill is not the proper context for the marriage penalty debate. Now is simply not the right time or place. The Senate voted in favor of marriage tax relief during debate on the tobacco bill. And we all look forward to resuming this debate if and when we are able to take up, and it's my hope that we do take up, a comprehensive tax relief measure later this year. The marriage tax relief issue should be debated at that time, in the context of our overall budget priorities. Simply put, we've come too far in our efforts to enforce fiscal discipline to change course now and arbitrarily adopt major and expensive tax policy mesaures on appropriations bills.

I will oppose the Aschcroft amendment and urge my colleagues to do the same.

Mr. MACK. Mr. President, I rise to state my views on the elimination of the marriage penalty.

Before 1969, the federal income tax treated married couples like partnerships, in which husbands and wives shared their incomes equally. This practice was called income-splitting. It was ended in 1969, creating what is commonly known as the marriage penalty—the extra taxes couples have to pay because they are married rather than single. According to the Congressional Budget Office, about 21 million couples now pay these penalties, which average about $1,400 per couple.

This unfair treatment of married couples is fundamentally wrong. The tax code ought to treat married couples no worse than it treats single people. It ought to recognize that marriages are partnerships in which husbands and wives share their incomes equally for the good of their families. Until it does this, the tax code is punishing the most important institution our society has.

This amendment is explicitly pro-family. It is a direct way of letting families keep more of their hard-earned money, which can be used for child-care, taking care of a sick parent, education expenses or whatever else the family wants to do with it. It sends a message to the American people that marriage should be a welcome occasion, not just another excuse for higher taxes.

Mr. President, I encourage my colleagues to support this amendment to eliminate the marriage penalty.

Mr. KYL. Mr. President, there are a lot of things wrong with our nation's Tax Code, but two things in the code that have always struck me as particularly egregious are the steep taxes imposed on people when they get married and when they die. Today, we will have a chance to vote to end the marriage penalty.

All of us say we are concerned that families do not have enough to make ends meet—that they do not have enough to pay for child care or college, or to buy their own homes. Yet we tolerate a system that overtaxes American families.

According to Tax Foundation estimates, the average American family pays almost 40 percent of its income in taxes to federal, state, and local governments. To put it another way, in families where both parents work, one of the parents is nearly working full time just to pay the family's tax bill. It is no wonder, then, that parents do not have enough to make ends meet when government is taking that much. It is just not right.

The marriage penalty alone is estimated to cost the average couple an extra $1,400 a year. About 21 million American couples are affected, and the cost is particularly high for the working poor. Two-earner families making less than $20,000 often must devote a full eight percent of their income to pay the marriage penalty. The highest percentage of couples hit by the marriage penalty earns between $20,000 and $30,000 per year.

Think what these families could do with an extra $1,400 in their pockets. They could pay for three to four months of day care if they choose to send a child outside the home—or make it easier for one parent to stay at home to take care of the children, if that is what they decide is best for them. They could make four to five payments on their car or minivan. They could pay their utility bill for nine months.

Mr. President, it seems to me that if couples need advice about their decision to marry, they should be encouraged to look to their minister or rabbi, or their family, not their accountant or the Internal Revenue Service. This amendment represents an effort to strengthen families and give them a chance to spend their hard-earned money in the way they best see fit.

Given that federal revenues as a share of the nation's income, as measured by Gross Domestic Product, will set a peacetime record this year—a whopping 20.5 percent of GDP—and given that we are anticipating a budget surplus of more than $63 billion, it seems to me that there is no excuse for the Senate to allow the marriage-penalty tax to continue any longer.

I urge my colleagues to join me today in voting to end the egregious marriage-penalty tax.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the Brownback-Faircloth marriage penalty relief amendment.

In fact this amendment is the same as the legislation I originally offered with Senator KAY BAILEY HUTCHISON and many others to provide relief from the marriage penalty tax.

Mr. President, in listening to my colleagues, I find very little opposition to the notion that couples should not be penalized with additional taxes simply because they choose to marry.

As several members have stated, the Congressional Budget Office has determined that married couples are taxed an extra $1,400 on average more than singles. This legislation would correct that problem.

Relief from the marriage penalty tax is an idea which enjoys broad, bipartisan support in the Senate. In fact, legislation which I offered as an amendment to the Fiscal Year 1999 Budget resolution established marriage penalty tax relief as among the highest priorities of the Senate this year. That amendment passed this body by a vote of 99 to 0.

Clearly, there is no objection to providing this much needed relief.

Some of my colleagues have suggested that the bill before us is not the appropriate bill to serve as a vehicle for this tax relief. In fact, the only objections I can find to this amendment are based on procedure, and not about the merits of the issue.

I understand the concerns raised about procedure, but I would urge my colleagues to consider the injustice of this marriage penalty tax, and join me and the other sponsors of this amendment to eliminate this unfair burden. I urge my colleagues to vote no on the motion to table the Brownback-Faircloth amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—H.R. 4250

Mr. CAMPBELL. Mr. President, I understand H.R. 4250, regarding patient protection, is at the desk and is awaiting second reading.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 4250) to provide new patient protection under group health plans.

Mr. CAMPBELL. Mr. President, I object to the consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3359

Mr. ROTH. Mr. President, I rise to address the amendment offered by Senator BROWNBACK. I appreciate the work he and others have done. I agree with the premise of this amendment.

We need to provide much needed marriage penalty relief to American families. We all know how unfair the marriage penalty is. We have heard from our constituents. We see how it cuts into the family budget. We realize that it must be changed. Our laws should not penalize married couples and their families.

Over the years, I have been a forceful advocate for marriage penalty relief. In fact, during the recent consideration of the tobacco bill, I cosponsored an amendment that would have provided such relief. I have also stated many times that marriage penalty relief should be included in any package of tax cuts. As chairman of the Finance Committee, I remain committed to that position.

As we look to real and meaningful tax reform, we will take care of the marriage penalty. This will be one of our top priorities. But addressing this important issue must be done at the proper time and in the proper way. This is not the time, nor is this appropriations bill the appropriate vehicle to proceed with this amendment. This is a tax issue. It does not belong on this appropriations bill. It did not come through the committee of jurisdiction. That committee is the Finance Committee.

I know many of my colleagues agree with me when it comes to the marriage penalty. They are seeking an opportunity, as I am, to address it and find a remedy as quickly as we can. This will be our objective in the future. We intend to take care of this in the right way. I ask our colleagues outside the committee to support it.

Adoption of this amendment at this time would not only disrupt the proper order of things and result in the loss of appropriate and constructive debate within the Finance Committee, but, equally important, it would subject the entire Treasury-Postal appropriations bill to a blue slip from the House of Representatives. Revenue measures must originate in the House. If not, any Member—I emphasize "any Member"—of the House can raise an objection. The result would be that this appropriations bill dies. And that is not in anyone's interest.

While I completely agree with the objective and necessity of this amendment, while I remain a staunch ally of those who seek to provide marriage penalty relief, I cannot vote for this amendment.

I ask my colleagues to vote with me. Allow the Finance Committee and the Senate to address this important issue in a way that is correct and will bring real and lasting tax relief to married couples and families.

Mr. President, I understand the distinguished Senator from Texas wants to address this matter.

Mrs. HUTCHISON. Mr. President, before the Senator would make any motion, I would like to be able to speak for a few minutes on the amendment. I didn't want to be shut out.

If that is the Senator's intention, I would just ask if he would allow me at the appropriate time——

Mr. ROTH. Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished Senator from Delaware, because I wanted to be able to speak on this matter. I have just come from a committee markup. But the bill that is on the floor as an amendment is actually a bill that Senator FAIRCLOTH and I introduced.

I am very pleased that Senator BROWNBACK and Senator ASHCROFT and others have pursued this, because I think it is at the core of what we should be doing in this Congress; that is, to try to give people back the money they worked so hard to earn.

It is so important that we address the issue of the couple from Houston whom I met recently. He is a police officer. He makes $33,500 a year. She is a teacher in the Pasadena Independent School District. She earns $28,200 per year. They were married and immediately had to pay an increased tax of over $1,000.

Mr. President, this is a young couple who just got married who want to begin to save to purchase a new home, and they are hit with a $1,000 penalty because they got married.

This is of the utmost importance. It is an issue that we must address this year.

I appreciate that the Senator from Delaware, who is the chairman of the Finance Committee, has said if we have tax cuts, this will be the first priority. I know he agrees with us on the merits. He may disagree on process or on whether we use this bill as a vehicle. That is understandable. But in the end, Mr. President, it is very important that we speak for the working young people of our country to make sure they get a fair shake when it comes to taxes.

Twenty-one million couples are paying a penalty because they are in that middle-income level, and when they get married, they get assessed an average of $1,400 a year more. Simply because they wanted to get married and raise a family, they are penalized by the U.S. Government.

We must correct this inequity. That is what our bill, the Faircloth-Hutchison bill does. That is what Senator BROWNBACK and Senator ASHCROFT are trying to do with this amendment. We are together on this.

If this isn't the right process, if this isn't the right time, let's find the right time. Let's commit to the right time, because we must correct this inequity. I hope the Senate will speak very firmly that this is our priority.

I want to address one last issue, and that is Social Security.

Do we have to compete between tax cuts and Social Security? Absolutely not. In fact, I think many of us are going to support all of the surplus of the Social Security system going into saving Social Security. That is our first priority. We are going to have a budget surplus that is separate and apart from the surplus in Social Security. We are saying that the surplus should go to tax cuts, because those of us who have been around here for a few years have begun to see that if there is any excess revenue in this budget, all of a sudden we get very creative about how to spend taxpayer dollars. We must remember, the money does not belong to us, it belongs to the people who work so hard to earn it. And it must be returned to them before somebody gets very creative with some new program that would take the money from the families who earn it. That is the issue.

Let's set aside the surplus from Social Security. And let's start the process of saving Social Security and making it even better, which I think we are going to be able to do in a bipartisan way in this Senate. But let's also take the surplus from the revenue that is coming in and give it back to the people who earn it—the people to whom it makes a big difference. If they have that $1,400, that is six or seven car payments, several payments on a student loan or maybe the couple is saving for their first home. We can help them with those expenses, and we should.

Thank you, Mr. President. I thank the distinguished Senator from Delaware for allowing me to make those points.

I hope we will do the right thing. I hope we will make this our highest priority in this Congress, along with saving Social Security. We can do both.

Thank you, Mr. President.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I also would like to rise and join Senators BROWNBACK and ASHCROFT in offering an amendment to correct the injustices of the marriage penalty. I want to take a few minutes to speak on behalf of that. It is vitally important, I believe, that Congress pass this amendment, and as quickly as possible.

I also would like to note that Senator HELMS of North Carolina would like to be added as a cosponsor of this amendment.

Mr. President, we have debated this issue now for quite some time. It is clear to me that this is noncontroversial and should have support from all Members of this body.

Everyone in this debate agree that the family has been and will continue to be the bedrock of American society. We all agree strong families make strong communities; strong communities make for a strong America. We all agree that this marriage penalty tax treats married couples unfairly. Even President Clinton agrees that the marriage penalty is unfair.

But still Washington refuses to get rid of this bad tax policy that discourages marriage—the most basic institution of our society.

As a result, millions of married couples will be forced to pay more taxes simply for choosing to commit to a family through marriage.

A 1997 study by the Congressional Budget Office, entitled "For Better or Worse: Marriage and the Federal Income Tax," estimated 21 million couples, or 42 percent of couples incurred marriage penalties in 1996. This means 42 million individuals pay $1,400 more in taxes than if they are divorced, or living together.

But marriage penalties can run much higher than that. Under the current tax law, a married couple could face a Federal tax bill that is more than $20,000 higher than the amount they would pay if they were not married.

Again this is extremely unfair. This was not the intention of Congress when it created the marriage penalty tax in the 1960s by separating tax schedules for married and unmarried people.

The marriage penalty is most unfair to married couples who are both working. It discriminates against low-income families and is biased against working women.

The trends show that more couples under age 55 are working, and the earnings between husbands and wives are more evenly divided since 1969. As a result, more and more couples have received, and will continue to receive, marriage penalties and while fewer couples receive bonuses.

The marriage penalty creates a second-earner bias against married women under the federal tax system. The bias occurs because the income of the secondary earner is stacked on top of the primary earner's income.

As a result, the secondary earner's income may be taxed at a relatively higher marginal tax rate. Married women are often the victims of the second earner bias.

During the 1970's and 1980's, as more and more women went to work, their added incomes drove their households into higher tax brackets. Today, women who return to the work force after raising their kids face a tax rate as high as 50 percent.

The CBO study also found "small but statistically significant effects of marriage penalties in reducing the likelihood of marriage for women."

Mr. President, what this finding means is that the marriage penalty tax has discouraged women from marriage.

This is shameful. This is a direct insult to our most basic and most stable institutions. We must put an end to it.

American families today are taxed at the highest levels since World War II, with nearly 40 percent of a typical family's budget going to pay taxes on the Federal, State, and local level. They deserve a tax break. Last year's tax relief was too little and too late. More meaningful tax relief must be provided.

In the next 5 years, the Federal Government will take $9.6 trillion from the pockets of working Americans. The revenue windfall will generate a huge budget surplus. This surplus comes directly from taxes paid by the American people. It is only fair to return it to the taxpayers.

Repealing the marriage penalty will allow American Families to keep $1,400 more each year of their own money to pay for health insurance, groceries, child care, or other family necessities.

Mr. President, some argue that repealing the marriage penalty will only benefit the affluent. This is completely false. The fact is, the elimination of the injustice of the marriage penalty will primarily benefit minority, low- and middle-class families. Data suggests the marriage penalty hits African-Americans and lower income working families hardest.

According to the CBO, couples at the bottom end of the income scale who incur penalties paid an average of nearly $800 in additional taxes, which represented 8 percent of their income. Eight percent, Mr. President. Repeal the penalty, and those low-income families will immediately have an 8 percent increase in their income or an 8 percent cut in their taxes.

Some also argue that repealing the marriage penalty would affect families receiving marriage bonuses. This is not true either. Although there are couples who receive marriage bonuses, this doesn't justify the Federal Government penalizing another 21 million couples just for being married.

We should give more bonuses to all American families in the form of tax relief, whether both spouses or only one of them are working.

In closing, I must point out that this amendment takes the approach of income splitting to repeal the marriage penalty. Married couples would be allowed to split their income down the middle, regardless of who earned it, and be taxed at the lower rate. This would protect working couples without punishing women who remain at home.

In his book "The Decline (And Fall?) of the Income Tax," Michael Graetz, former Treasury Department tax whiz, writes "A tax system can't survive when it departs from the fundamental values of the people it taxes". I couldn't agree with him more.

Mr. President, it is unfair and immoral to continue the marriage penalty tax. Today, let us just get rid of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I rise in very strong support of the marriage penalty amendment. I am pleased to be a cosponsor of the amendment. I want to say, under our current tax system, getting married increases your taxes. That does not make a lot of sense.

The typical family pays more than $100 per month in extra taxes because of the marriage penalty. I have looked at this matter for years and never understood the rhyme or reason for the policy in the first place. Why on Earth such legislation would ever pass the U.S. Congress is mind-boggling. I guess there are some out there who think the institution of marriage has no special importance.

Even if there are those people who feel that way, it would be hard not to acknowledge that taxing people simply because they got married is discriminatory, pure and simple, no matter how you feel about marriage. Why should you be discriminated against in the Tax Code because you get married?

Let's not overlook the importance of marriage and the family to our country's success. Children do best when they are raised by two happily married parents. We have some in the liberal establishment who would probably take issue with that as well, but I believe that is the case. I think the statistics speak for themselves. Study after study indicates that children raised in such families are more successful in school, are less likely to commit crime, do drugs, or bear illegitimate children. They do better in the workplace when they get out of school. They do better and they are more likely to stay married as adults if they have that kind of family unit to learn from.

So, imposing a tax penalty on marriage is probably one of the most antichild and antifamily policies that we could have. Often, those hardest hit by the marriage tax are those young married couples who are just trying to get started. We hear all the time from our constituents—I know I do—about this. Here is a letter from a young man in Salem, NH. I am not going to have the letter printed in the RECORD, just for the purpose of protecting the individual's privacy, but let me quote from that letter:

> You see, Senator, my wife and I are both working very hard to make a decent life for ourselves and our future children, if we can ever afford to have them. Unfortunately, we made a tactical error some 15 months ago. We decided that we loved each other enough to get married, and now I realize that before making such a decision, I should have consulted the Tax Code to see what the incremental tax liabilities would be. In 1997, our tax liability was approximately $1,100 more than it would have been had we simply decided to live together out of wedlock.

That is a very powerful statement from a young couple who love each other, who got married, and then paid a penalty in the Tax Code for doing that.

There is one other letter from a constituent in Lee, NH.

> My husband and I got married this past August. He is a police officer and I started a new job as a project engineer for a large plastics manufacturer. We purchased our first home together in September, thinking we would get taxed on our savings for a home. We thought we were establishing ourselves quite well as a young married couple. It was to our surprise that when we met with our CPA we found out that there was a couple of thousand dollars tax penalty just for being married, which has cost us $2,700. This, of course, increased the amount of money that we owed to the IRS. We both expected to owe taxes, a small amount, due to the fact that we are a double income family without children as yet.
>
> However, the last thing we expected to be taxed on was our marriage. This has placed a very large burden on my husband and me and since it wasn't in our budget it is affecting our home security.
>
> In our country, I think that one of the last things we need to penalize is marriage. We have enough divorcees, deadbeat parents, and abusive families to worry about. Does it really make sense to attack the families that do not fall into these categories? I understand the money has to come from somewhere, but families like ours also have to control our expenses. Why can't the Government bring in funds without this tax penalty and control its expenses?

Mr. President, these constituents are very perceptive. I agree with them. There is no excuse for withholding tax relief from American families. I agree with them. There is no better place to start cutting taxes than the marriage penalty. There is no excuse for maintaining a tax policy that undermines children and marriage.

This amendment, which would allow a husband and a wife to each claim half of their joint incomes and be taxed in the lower brackets that apply, will send a very clear message to the American people from this Congress that marriage is a valued institution, that we want to encourage it, not discourage it, and that we ought not to be penalized in the Tax Code for being married. We want to adopt a policy that does not discriminate against marriage by effectively eliminating this marriage penalty.

New CBO projections call for Federal budget surpluses exceeding $500 billion over the next 5 years. Thus, the full elimination of the marriage penalty would equal less than one-third of the projected budget surplus. This surplus gives us the opportunity to have a positive impact upon millions of American families, hard-working American families who are trying to do the right thing to raise their children in the right way and send a message saying that marriage is important to our culture.

This amendment is long overdue—long overdue—and I agree with the Senator from Missouri that the business of Government is to create an environment in which the family can flourish, and we need to encourage institutions like the family. The more we encourage the family, the less need we are going to have for Government to step in. Maybe that is the reason why we had the marriage penalty in the first place.

Mr. President, I urge my colleagues to support this amendment. There will be all kinds of reasons given why we shouldn't, but I urge my colleagues to support this amendment to eliminate the penalty that the Tax Code imposes on the American family. I yield the floor, Mr. President.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I come to the floor today to join with my colleagues from Missouri and Kansas in their amendment to eliminate the marriage penalty. There has been a growing level of frustration amongst most of us in the Senate and, I am sure, our colleagues on the other side of the Rotunda, as the Congressional Budget Office and others predict and justify by their analysis higher and higher budget surpluses, as to what we will do with this revenue. As most of my colleagues know, I, amongst others, have fought for decades to bring about a balanced budget knowing that from that budget we would have opportunities to significantly change the way our Government does business, but most importantly, the way our Government impacts the lives of American citizens in the form of rules and regulations and laws, because balanced budgets limit Government, but most importantly, as a result of the kind of impact the Federal Government, through its taxing policies, have on wage earners' ability to earn and to spend their money for themselves, for their families, for their children.

Over the course of creating tax policy the last good number of decades, one of the great tragedies that I think the public recognizes is that Congress can use tax policy as a form of social engineering. You can cause the public to move their moneys in one direction or another by the way you tax them. You can also cause the public or individuals to act differently.

There was a recent article in a newspaper, a national wire story just this past week. More couples are living together without being married than ever in the history of our country. They cited a lot of reasons. One of the reasons they didn't cite was tax policy. But in talking with citizens of my State and couples who have chosen to live together without marriage, the marriage penalty is clearly one of those issues.

Tragically enough, that is either by intent or by mistake, but the reality is clear: Tax policy driven by this Congress and by the American Government has caused a lifestyle change in our country, a change in the forming of the family unit that many of my colleagues today have said, and rightfully spoken to, as being the foundation of our society, the strength of our communities and, therefore, the strength of our country.

Tax policy should not do that, and here we are in an opportune time, an opportunity that we have never had in the years I have spent here, to make these kinds of changes, and we ought to do it.

I must also tell you that with the projected surplus over the next 5 years of $500 billion plus, there are a lot of other things we can do. For future generations, we ought to fix the Social Security system. Fix it, I mean by not making it a chain letter, by not creating a tremendous precipice of problems as it relates to the year 2018 or whenever the spiking of the baby boomers arrives and those necessary checks must go out to our citizens. We ought to fix it now.

On that issue—I don't often side with this President—but I think he is right. We ought to use this opportunity to stabilize and change and adjust the Social Security system.

By offering this amendment today, what my colleagues are not saying is don't fix Social Security. They are saying we have an opportunity to address a nagging problem inside the tax structure of this country, while at the same time we ought to deal with Social Security. I hope the House and the Senate, before we adjourn this fall, speak very clearly to these issues. The public deserves a tax cut. When you have a surplus that you have collected from the American taxpayer, you ought to give it back, or at least you ought to give a substantial portion of it back.

Polling shows that the American public also expects us to pay off the debt, and one of the ways you pay off the debt or you eliminate a major portion of the debt structure of this country is by dealing with Social Security, because the debt is, in fact, the money that we have borrowed from the Social Security trust funds by the character of the unified budget under which we finance the activities of our Government.

I am going to support Senator ASHCROFT and Senator BROWNBACK today in their effort. We must deal with this. It is timely that we deal with it now, and I think it is important that the Senate express itself with this opportunity. The marriage penalty is a major first step in addressing what needs to be significant tax reform in this country that I hope can come in the 106th Congress that will convene in January of next year.

I applaud my colleagues today for bringing this issue to the floor for debate and for a vote, and I hope the Senate will concur with them. I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, this morning we will vote on an amendment that brings to light a particularly glaring injustice of the Federal Tax Code, and that is the marriage tax penalty.

In recent months, the Senate has debated this issue more than once. I think these efforts are significant. I congratulate Senators BROWNBACK and ASHCROFT for offering this amendment and also the many other Members who have championed the elimination of the marriage tax penalty.

Let me also say this: The U.S. Senate should not rest until we are able to eliminate this counterproductive, unfair, and regressive policy. I will continue to support amendments to end the marriage tax penalty until we are successful.

I ask myself one fundamental question before I make up my mind on any issue we deal with on the floor of the U.S. Senate. That is: Does this policy make sense for the American people?

Let us apply this question to our current Federal Tax Code, which quite simply penalizes a working couple for getting married. Should folks pay more tax because they are married? Absolutely not.

The marriage tax penalty raises revenue for the Government but it is poor public policy. It most often raises taxes on lower- and middle-income families who claim the standard deduction. That is wrong. We must strengthen the bonds of family to strengthen the fabric of our society.

Before 1969, marriages were treated by the Federal Tax Code like partnerships—allowing husbands and wives to split their incomes evenly. In 1969, the practice of income splitting was ended. By doing this, the Government did nothing less than penalize American couples for marrying.

Since that time, with the Nation's progressive tax rates, tax laws have meant that working married couples are forced to pay significantly more money in taxes than they would if they were both single. Currently, 42 percent of married couples suffer because of the marriage tax penalty.

Let me provide an example. A single person earning $24,000 per year is taxed at a rate of 15 percent. If two people, each earning $24,000, get married, the

IRS, by taxing them on their combined income, taxes them in the 28-percent bracket.

This amendment will phase out the marriage tax penalty by allowing married couples to file a combined return. By doing this, each spouse is taxed using the rates applicable to unmarried individuals so that one spouse's lesser income does not push a couple's combined income into a higher tax bracket.

Some might argue that it is the job of the Federal Government to promote good behavior; others might disagree. But I think that we could all agree on one issue: The Federal Government should not be penalizing marriages, a sacrosanct institution and the bedrock of our social structure. It is time for the Federal Government to end this injustice to the American family. I urge my colleagues to support this amendment.

How many times have we heard, Mr. President, statements by Senators on the floor of this institution talking about family values—family, the fabric of this society? Yet, here we have tax policy that penalizes families. It is time to end the injustice. Again, I support Senator BROWNBACK and Senator ASHCROFT and the leadership on this issue.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I am in the contradictory position of agreeing in substance with this amendment. There is no question in my mind that it is wrong to penalize married couples who pay more taxes than if they were single. As I have said, it is a matter that must be corrected. As chairman of the Finance Committee, I shall work mightily to see that this is accomplished.

But the fact is that this is a revenue measure. If this amendment is adopted, it subjects the entire Treasury-Postal appropriations to a blue slip from the House of Representatives. Under our Constitution, revenue measures must originate in the House. If not, any Member—and, again, I emphasize any Member—of the House can raise an objection. The result would be that this appropriations bill dies. I do not think that is in anyone's interest. For that reason, I move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table the Brownback amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Snowe
Thompson
Torricelli
Wellstone
Wyden

NAYS—51

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thurmond
Warner

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 3359) was rejected.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, this is the amendment that I put forward——

Mr. GRAMM. May we have order, Mr. President, so we can hear the Senator from Kansas?

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENT NO. 3359, WITHDRAWN

Mr. BROWNBACK. Mr. President, I appreciate greatly everybody's support of the notion that we should do away with the marriage penalty. It is the appropriate signal, and it is the appropriate thing for us to say to the American public. It is the appropriate sort of tax cut that we can certainly pay for it at the present time. I am particularly appreciative of the leadership's support and Senator LOTT's commitment to provide that sort of working relief to American taxpayers.

I am withdrawing my amendment because the Constitution does not allow tax-cutting legislation to originate in the Senate. This vote, however, sends a strong message to the House that we want to eliminate the marriage penalty. And that is what we hope to be able to get done yet this session of Congress.

I would like to yield to one of the cosponsors of this amendment, the Senator from Missouri, for comments as well.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I commend the Senator from Kansas for his outstanding work on this issue. I believe that it is simply wrong for America to launch through the tax system an assault on one of the major principles of our culture—enduring, lasting marriages. But I concur with his judgment that this would subject this bill to what is known as a blue slip in the House and could disrupt the business that we ought to be conducting. I commend him for withdrawing the amendment. I thank him for the excellent work that he has done.

I think this vote is a clear signal that this body understands this assault on the values of America, known as the marriage penalty, does not belong in the policy of this country.

I thank the Senator from Kansas. I thank those who supported this particular effort and hope that we will have an opportunity to rally as public servants to eliminate this scar on the body politic whereby we wound the primary institution of stability in our culture, the family, by penalizing marriages. It is time for us to stop that. I believe we can and will, and this vote demonstrates it.

I thank the Senator from Kansas. I thank the Chair.

The PRESIDING OFFICER. At the request of the Senator from Kansas, the amendment is withdrawn.

The amendment (No. 3359) was withdrawn

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I don't want anyone to misinterpret the vote just taken. Obviously, there are a lot of motivations in offering amendments like this on the appropriations bill. As the Senator from Missouri just noted, this legislation would have been blue-slipped had it gone over to the House. I appreciate the actions just taken in withdrawing the amendment.

So that there will be no doubt, we will be offering a similar marriage penalty amendment this afternoon—a marriage penalty amendment that will be paid for, that will be targeted, that will offer a far greater opportunity to address the real issue without using the Social Security surplus.

The previous amendment would have, without question, used Social Security to pay for it's tax benefits. One hundred billion dollars over the next 5 years out of the Social Security Trust Fund surplus is something most Democrats are unprepared to support. We don't have to use the Social Security trust fund. We don't have to use the surplus. We don't have to use a broad-based, completely untargeted approach to marriage penalty relief.

So we will have another opportunity this afternoon to vote on the marriage penalty in a reasonable and a direct and a far more responsible way. And I look forward to that debate as well.

Mr. DORGAN. Mr. President, will the Senator from South Dakota yield for a question?

Mr. DASCHLE. Yes, I yield.

Mr. DORGAN. I am trying to understand the difference. We voted on a tabling motion. We went actually to a recorded vote on a tabling motion on this amendment. Then, immediately after the tabling motion failed, the author of the amendment said he was going to withdraw it because apparently it would be blue-slipped and, therefore, inappropriate, and, second, violates the Budget Act.

What is the difference between voting to table and then being the author and deciding it violates the Budget Act and it is also a blue-slip problem, and therefore I am going to withdraw it? Is there any distinction between a vote to table and a decision by the author to withdraw, in the Senator's opinion?

Mr. DASCHLE. The Senator from North Dakota raises a good question. I don't know what motivation there may have been to simply put the Senate on record one more time. As everyone recalls, we had this debate on the tobacco bill. We had two versions of the marriage penalty proposed—the Democratic version and the Republican version. There are some very considerable differences. But, voting against the tabling motion and then withdrawing it seems somewhat of a convoluted approach to legislating. I am unclear as to what the motivation may have been.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. DASCHLE. Certainly, I will yield for a question.

Mr. DURBIN. I am glad the Senator reminded us that we had this morning penalty issues on the tobacco bill. The Senators who voted to table that tobacco bill had actually voted to table the marriage penalty then, did they not?

Mr. DASCHLE. The Senator from Illinois is correct. There was a motion to table the amendment at that time. They voted to do so at that time. Obviously, they will probably be voting again this afternoon to table a marriage penalty vote that we will be offering.

It will be interesting to see how this plays out. But, clearly, I think there was a political motivation as much as a substantive motivation on the part of our Republican colleagues. That was evidenced in the tobacco bill debate, and it will be evidenced again today.

Mr. DURBIN. Will the Senator yield for one more question?

Mr. DASCHLE. Yes.

Mr. DURBIN. For those of us who want to make certain the surplus is used first to guarantee the longevity and solvency of the Social Security trust fund, are we going to have an opportunity with the amendment that the Senator is going to offer to support tax reform consistent with that goal of protecting Social Security first?

Mr. DASCHLE. The Senator from Illinois is absolutely correct. We don't have to use Social Security trust funds. We don't have to use the surplus to pay for a marriage penalty amendment. We can find an appropriate offset and delineate that offset, which is what I think is the responsible thing to do. There was no delineation of an offset in the previous amendment, so one has to assume that the Republican amendment was, again, more of a demonstration of rhetoric than genuine effort to provide responsibly-funded tax relief. The rhetoric we get from our colleagues on the other side that they will not use the Social Security trust funds. The facts are otherwise. For example, in this amendment, **$100** billion in Social Security trust funds were likely to be used.

There is a difference between our approaches to fiscal responsibility, protecting Social Security, and providing tax relief. I think that ought to be made clear in the RECORD. We will have an opportunity once more to debate that this afternoon.

Mr. DORGAN. I wonder if the Senator will yield for one additional question?

Mr. DASCHLE. I yield to the Senator.

Mr. DORGAN. I inquire of the Senator from South Dakota, the representation was made by the author of the amendment, after the vote, "We now have some expression of who in the Senate wants to abolish the marriage tax penalty." We have had other votes on that constructed in different ways, constructed in ways that don't use the Social Security trust funds in order to provide this kind of tax relief. But, could one also not make the point that those who voted against tabling were casting a vote to violate the Budget Act? If, in fact, the amendment as offered violated the Budget Act, could one not construe a vote in opposition to tabling to say, by those who cast that vote, we would like to violate the Budget Act here? I mean, there are all kinds of motives, I suppose. I don't want to ascribe motives to anyone. But it seems to me, to have a tabling vote here on the floor of the Senate and then decide by that tabling vote who cares or does not care about the marriage tax penalty, and then withdraw the amendment and then stand up and say, "Now we know who cares and doesn't care," it seems to me you could also put different interpretations on that same vote. Perhaps the people who decided they didn't care whether it violated the Budget Act cast a vote to say we didn't care about the Budget Act. Would that be a fair construction?

Mr. DASCHLE. I think it is a fair construction. I give great credit to the chairman of the Finance Committee for making that point. The chairman of the Finance Committee did the responsible thing and was certainly showing, once again, his leadership in this regard in making sure everyone understood this is not a tax bill. This is an appropriations bill. There is a time to address taxes. There is a time to address spending through appropriations. The chairman of the Finance Committee drew that distinction, as did most of us.

So, again, we will have another opportunity to discuss this matter, but I simply wanted at this point in the RECORD to be sure everyone understood what motivations there may have been for those of us who feel we ought to take a more responsible view with regard to the marriage penalty itself.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I appreciate the opportunity to explain to my colleagues what the issue was just about. I appreciate the opportunity, as well, to be able to address the question of motivation.

Make no mistake about the motivation here. Our motivation is to eliminate the marriage penalty tax. That is pure and simple. That is what we have been saying for the last couple of hours. It is to eliminate the marriage penalty tax.

We wanted to have this debate at this point in time and juncture because there are less than 30 legislative days until we finish up. Signals that have been coming out haven't been much about tax cuts. They have been mostly about spending. We wanted to send a very clear signal we are for cutting taxes, and in particular, first and foremost, the marriage penalty tax.

We needed to have some way to be able to have that debate. We spent a lot of time here on the Senate floor—we spent 4 weeks on a tobacco bill. We spent a lot of time on a lot of other issues. We have not spent much time on tax cuts. We are limited on the number of things we can talk about, and the vehicles we can talk about them on. This was one we could, and we decided it is getting to the end of this session, we have to start talking about tax cuts. We have to start talking about families. This is one of the things that we can talk about, the marriage penalty tax.

Anybody looking at the Constitution can say, "Wait a minute; this has to originate in the House." And it does. Then there is a blue slip procedure in the House, which exists. We are soon to be going out for the August break, and we wanted to be able to say to our colleagues in the House: There is support for marriage penalty tax elimination. We wanted to get that debate started and moving on forward and to say that to them. That is what this debate was about. That is what the vote was for. That is what our motivation is. If anybody is questioning that, we have been standing here for 2 or 3 hours saying that is what we want to do.

I hope my colleagues on the other side of the aisle will join us, when it comes back from the House, to eliminate the marriage penalty tax. It is a ridiculous tax. I hope most of them would stand up and vote with us at that point in time. If they want to change their vote this time, maybe we can try it again here later on, to send that stronger signal to the House that the Democrat side supports this as well. That is what we are about and that is what we are trying to get through.

I think we spent plenty of time debating that and making that point clear. So if there is a question about motivation, that is what it is about. It is eliminating that marriage tax penalty and sending that signal back over to the House.

I appreciate the opportunity to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. The Senator from Kansas makes a fair point. I think he makes his point with some credibility on the issue of the marriage tax penalty. I understand that. I think most people find most Members of the Senate agree with him. When, in the Tax Code, you have a penalty with respect to the income tax for certain married couples, we ought to do something to address that. I just observed, however, that the Senator from Kansas and the Senator from Missouri offered an amendment that addresses it and then withdrew the amendment because it apparently violates the Budget Act and would be blue-slipped in any event because a revenue measure of this type must be advanced first in the House of Representatives by the Ways and Means Committee.

The reason I stood, following the vote on tabling this amendment, was I did not want this to be interpreted as the Senator from Kansas was interpreting it, that this tabling motion was a description of who in the Senate cares about the marriage tax penalty. I think there are many Members of the Senate who agree with the Senator that the marriage tax penalty ought to be eliminated. It ought to be eliminated. We ought to find a way to do that. We ought to find the right way to do that.

The question is, When you eliminate the marriage tax penalty, as the Senator from Delaware, the chairman of the Finance Committee indicated, where do you make up the revenue? Exactly how do you construct something that makes up the revenue you lose when you eliminate the marriage tax penalty? I think it is a worthy effort for this Congress and future Congresses to embark upon. But as we have discussed before, the proposition that was offered this morning would lose a substantial amount of revenue we now have. The proposal did not offer methods by which that would be made up. I think we have to do that. That is precisely why it violated the Budget Act.

I have heard a great deal of debate by a number of Senators here on the floor—the Senator from Kansas, from Missouri, and others. As the Senator knows, there have been other proposals to address the marriage tax penalty on the floor of the Senate that have also gotten a number of votes, and I have voted for addressing that issue, because I think it is a worthy issue to address.

So I just thought it was curious that we had a proposal that I think costs over $100 billion or so that had a blue slip problem and a problem of violating the Budget Act, that we debate it and then we have a tabling motion, and we allow people to vote not to table it, and then stand up and say those who voted not to table it care about dealing with the marriage penalty and, by inference, those who voted to table it do not care. Then the vote is over and it is not tabled, it is still prevailing here in the Senate, still pending as the Senate business, and then it is withdrawn precisely because it has the problems those who voted to table it allege that it had.

I just want to make the point, you will find support and we will find support, I think, when you and a number of us together address the marriage tax penalty in a thoughtful way and in a way that does not bust the Budget Act and does not create a blue slip and does not propose solutions for which there are not revenues in order to make up the shortfall.

I appreciate the attention of the Senator from Kansas and the Senator from Missouri. Let me end by saying, again, it is a worthy subject for the Senate to consider, but we cannot consider it in ways that violate the Budget Act.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Kansas. I thank the Senator from North Dakota. This is a matter that deserves our attention. It is an affront to the very institution that is most critical to the future of America. Some might say since this is not going to be included in a part of this bill because of the problems of originating such a measure in the Senate, that perhaps this was an endeavor which lacked merit.

I really think it is important for us to keep the pressure on in this arena. It is important for a very simple reason, and that is that there are proposals to spend, spend, spend constantly. They are insistent. They always have the support of the bureaucracy. They would fund a bigger and bigger Government, more bloated and more bloated. It is essential that we elevate into the consciousness of this body and to the consciousness of the American public that there are very important places in which we ought to provide relief to American families, particularly as it relates to the marriage penalty, which is an attack by our Government on a central value of our culture, that value of marriage.

You had but to look at this year and to see what it has contained. We started the year in January with some suggestion we were going to have additional revenues. The President came out virtually every day in January while we were preparing to come into session with what I call the "program du jour." It was like going to the diner and having the special. Every day there was a new program to expand spending, to enlarge the consumption of Government, and implicitly, to contract the ability of people to spend the money that they earned as families.

For those people who believe the success of America in the next generation is going to be based on Government, then that is, I think, a good strategy. But for those of us who believe the real success of America is not going to be based on Government programs, but is going to be based on whether or not we have solid families, then I think a strategy should exist to bring attention to the fact that we are penalizing, at the rate of $29 billion a year, people simply for being married. Some people think, "We need to be spending this money in Government."

Frankly, we ought to ask ourselves, do we think we are going to do more to foster the No. 1 institution in American culture, the family, by taking money from them and spending it in the bureaucracy, or letting those families spend the money on their own families in order to do what they need to do and to provide for a strong America.

This isn't a question about whether moneys are going to be spent or not. This is a question about whether people are going to spend money on their families or the bureaucracy is going to spend money on Government. Which do we believe builds a stronger America?

Frankly, the number of spending proposals that we are the recipient of continues to skyrocket. I have to say that the rules of this organization, the rules of the Senate, the rules of the Congress favor spending. It is hard to get something through to give money back to the people, and it should not be. But for so long, we have been so prejudiced toward taking money, and it has finally gotten to a point that is unacceptable. We are at the highest overall tax rate in Government in American history right now. It is time for us to say no more, especially as it relates to an assault on the American family.

It is true this measure has been withdrawn because it is awkward and not in accordance with the rules as relates to this measure, but it is time for us to begin to elevate this and to say, "Wait, we have to stop this insistent consumption by the Government that keeps us from being able to spend our own resources as families."

I thank the Senator from Kansas for an outstanding job. I was pleased to march shoulder to shoulder with him in this effort. I, frankly, welcome people from both sides of the aisle who feel keenly about this. We do need relief for American families, I don't think there is any question about it. I am delighted that some are expressing that and will continue to do so.

I have been delighted at every turn of the debate when individuals have understood that the future of America is far more likely to be guaranteed and ensured by strong families than it is by big Government. It is time for us to reflect that in our tax policy.

I thank the Senator from Kansas, and I look forward to working with him toward the realization of this goal of declaring peace on America's families. For too long, we have made war with our tax policy on America's families. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, we are only going to be another 10 minutes or so, and there are several Senators who want to make unanimous consent requests.

Since we only have a few minutes, and I hate to burden the two Senators who are waiting, I will wait and send the remainder of the amendments to the desk after the break. I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 3362

(Purpose: To require Federal agencies to assess the impact of policies and regulations on families, and for other purposes)

Mr. ABRAHAM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM], for himself, Mr. FAIRCLOTH, Mr. SESSIONS, Mr. HUTCHINSON, Mr. DEWINE, Mr. MCCAIN, Mr. BROWNBACK, Mr. ENZI, Mr. HELMS, Mr. COVERDELL and Mr. ASHCROFT, proposes an amendment numbered 3362.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES.

(a) PURPOSES.—The purposes of this section are to—

(1) require agencies to assess the impact of proposed agency actions on family well-being; and

(2) improve the management of executive branch agencies.

(b) DEFINITIONS.—In this section—

(1) the term "agency" has the meaning given the term "Executive agency" by section 105 of title 5, United States Code, except such term does not include the General Accounting Office; and

(2) the term "family" means—

(A) a group of individuals related by blood, marriage, or adoption who live together as a single household; and

(B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group, and over half of whose support in a calendar year is received from such group.

(c) FAMILY POLICYMAKING ASSESSMENT.—Before implementing policies and regulations that may affect family well-being, each agency shall assess such actions with respect to whether—

(1) the action strengthens or erodes the stability of the family and, particularly, the marital commitment;

(2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children;

(3) the action helps the family perform its functions, or substitutes governmental activity for the function;

(4) the action increases or decreases disposable family income;

(5) the proposed benefits of the action justify the financial impact on the family;

(6) the action may be carried out by State or local government or by the family; and

(7) the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

(d) GOVERNMENTWIDE FAMILY POLICY COORDINATION AND REVIEW.—

(1) CERTIFICATION AND RATIONALE.—With respect to each proposed policy or regulation that may affect family well-being, the head of each agency shall—

(A) submit a written certification to the Director of the Office of Management and Budget and to Congress that such policy or regulation has been assessed in accordance with this section; and

(B) provide an adequate rationale for implementation of each policy or regulation that may negatively affect family well-being.

(2) OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall—

(A) ensure that policies and regulations proposed by agencies are implemented consistent with this section; and

(B) compile, index, and submit annually to the Congress the written certifications received pursuant to paragraph (1)(A).

(3) OFFICE OF POLICY DEVELOPMENT.—The Office of Policy Development shall—

(A) assess proposed policies and regulations in accordance with this section;

(B) provide evaluations of policies and regulations that may affect family well-being to the Director of the Office of Management and Budget; and

(C) advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and family in the United States.

(e) ASSESSMENTS UPON REQUEST BY MEMBERS OF CONGRESS.—Upon request by a Member of Congress relating to a proposed policy or regulation, an agency shall conduct an assessment in accordance with subsection (c), and shall provide a certification and rationale in accordance with subsection (d).

(f) JUDICIAL REVIEW.—This section is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Mr. ABRAHAM. Mr. President, in light of the hour, I will only speak briefly about this amendment now and then move to set it aside so the Senator from Delaware can speak, and then we can return to this sometime later today.

This is an amendment, obviously, to the Treasury-Postal appropriations bill. This amendment, essentially, accomplishes a very specific purpose: to reinstate an Executive order which was in effect for over 10 years intended to "ensure that the autonomy and rights of the family are considered in the formulation and implementation of policies by Executive departments and agencies."

I am offering the Family Impact Statement Act as a relevant amendment to the Treasury-Postal appropriations bill because it is this bill which funds the agency which will oversee its implementation and enforcement; namely, the Office of Management and Budget.

I believe that today, in an era during which observers and social scientists from all parts of the political spectrum have come to realize the profound importance of the family on character development, we should be doing everything we can to protect the health, security and autonomy of the American family.

This belief lay behind President Ronald Reagan's signing of the family impact Executive order in 1987. In my view, President Clinton made a mistake last April when he revoked this order as part of an Executive order on environmental policy. Now I believe, more than ever, we need to make our bureaucracy more supportive and respectful of families' interests. I believe my colleagues will have no trouble giving their enthusiastic support to this amendment.

Simply put, this amendment will require Federal agencies to assess the impacts of their policies and regulations on America's families. It provides that each agency assess policies and regulations that may affect family well-being.

This assessment will aim to determine:

One, whether the action strengthens or erodes the stability of the family and particularly the marital commitment;

Two, whether the action strengthens or erodes the authority and rights of parents in the education, nurturing and supervision of their children;

Three, whether the act helps the family perform its function or substitute governmental activity for that function;

Four, whether the action increases or decreases disposable family income;

Five, whether the benefits of the proposed action will justify its financial impact on the family;

Six, whether the governmental action may be carried out by State or local government or by the family itself;

And seven, whether the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of young people and the norms of society.

Simply put, Mr. President, agencies will be directed to assess whether proposed rules and policies will help or hurt families as they seek to provide mutual support and carry out their vital function of forming children into good adults, good citizens, good workers, and good neighbors.

On finishing this assessment, the agency heads will submit a written certification to the Office of Management and Budget and to Congress that the assessment has been made and provide adequate rationale for implementing each policy or regulation that may adversely affect family well-being.

The Director of the Office of Management and Budget will then use this information to ensure that agency policies and regulations are implemented consistent with this amendment, and compile, index, and submit annually to Congress the written certifications made by agency heads.

To ensure that no proposed policy or regulation that could adversely affect the family goes unassessed, this legislation also provides that a Member of Congress may request a family impact assessment and certification.

In addition, the Office of Policy Development will be directed by this amendment to assess proposed policies and regulations in accordance with it, provide evaluations to the Office of Management and Budget, and advise the President on policy and regulatory actions that may be taken to strengthen marriage and the family in the United States.

In my view—and I will limit my statement at this time—I believe that most Members of this body, as we have already seen expressed today from both sides of the aisle, are very concerned about America's families and want to be on the side of strengthening families.

There are a variety of ways to do this, and the Executive order which was enacted in 1987 by President Reagan made unelected persons in our governmental bureaucracies responsible for assessing the impact on families of new rules and regulations before they were implemented. To me, that is a sensible thing to require of our Government regulators.

The decision to revoke that requirement, which was made last year, in my judgment, was a step in the wrong direction. This amendment seeks to, in effect, reinstitute those policies so that the concerns and the impact on families of governmental regulations will be assessed prior to—prior to—the creation of and implementation of new Federal regulations.

I think that makes sense, Mr. President. For that reason, I offer the amendment on behalf of myself and a number of other Senators who cosponsored our original legislation. In light of the hour and the desire on the part of others to speak at this time, I ask unanimous consent that this amendment be set aside for further consideration later today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware. I remind the Senator that under the previous order, the Senate will recess at 12:30.

Mr. ROTH. Mr. President, I ask unanimous consent that we stay in session until I complete my statement, which will be roughly 10 to 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, I am sorry, I did not hear the Senator's closing comment. That we stay in session until what time?

Mr. ROTH. Until I complete my statement, which will be roughly 10 to 15 minutes.

Mr. DURBIN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Delaware.

Mr. ROTH. Mr. President, I also ask unanimous consent that I may speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2369 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL 2:15

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ROBERTS].

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, we have some housekeeping things before we go to the next amendment.

AMENDMENT NO. 3363

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. MACK, proposes an amendment numbered 3363.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title IV, insert:

SEC. ___. LAND CONVEYANCE, UNITED STATES NAVAL OBSERVATORY/ALTERNATE TIME SERVICE LABORATORY, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—If the Secretary of the Navy reports to the Administrator of General Services that the property described in subsection (b) is excess property of the Department of the Navy under section 202(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)), and if the Administrator of General Services determines that such property is surplus property under that Act, then the Administrator may convey to the University of Miami, by negotiated sale or negotiated land exchange within one year after the date of the determination by the Administrator, all right, title, and interest of the United States in and to the property.

(b) COVERED PROPERTY.—The property referred to in subsection (a) is real property in Miami-Dade County, Florida, including improvements thereon, comprising the Federal facility known as the United States Naval Observatory/Alternate Time Service Laboratory, consisting of approximately 76 acres. The exact acreage and legal description of the property shall be determined by a survey that is satisfactory to the Administrator.

(c) CONDITION REGARDING USE.—Any conveyance under subsection (a) shall be subject to the condition that during the 10-year period beginning on the date of the conveyance, the University shall use the property, or provide for use of the property, only for—

(1) a research, education, and training facility complementary to longstanding national research missions, subject to such incidental exceptions as may be approved by the Administrator;

(2) research-related purposes other than the use specified in paragraph (1), under an agreement entered into by the Administrator and the University; or

(3) a combination of uses described in paragraph (1) and paragraph (2), respectively.

(d) REVERSION.—If the Administrator determines at any time that the property conveyed under subsection (a) is not being used in accordance with this section, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

Mr. CAMPBELL. Mr. President, this amendment encourages GSA to convey property in Miami, should the Secretary of the Navy choose to access it. It is my understanding it has been accepted on both sides.

Mr. KOHL. We accept that. That is fine.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 3363) was agreed to.

AMENDMENT NO. 3364

(Purpose: To establish requirements for the provision of child care in Federal facilities)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. JEFFORDS, for himself, Ms. LANDRIEU, Mr. DODD, and Mr. KOHL, proposes an amendment numbered 3364.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under Amendments Submitted.")

Mr. JEFFORDS. Mr. President, the amendment before us on the Treasury-Postal appropriations bill concerns the provision of child care services located in federally-owned and -leased buildings. This amendment will go a long way towards ensuring that child care services located in federally-owned and leased buildings are safe, positive environments for the children of federal employees.

I have been working closely with the Senate Committee on Government Affairs which has jurisdiction over this legislation. Chairman THOMPSON and his staff have been extremely helpful, as has the ranking member of that committee, Senator GLENN. The Senate Rules Committee was instrumental in crafting the language related to the Senate Employees' Child Care Center. I want to thank Chairman WARNER, and Senator FORD and their staff for their assistance.

This amendment was first introduced as a stand-alone bill on November 7, 1997. It was drafted because of several serious incidents which occurred in federal child care facilities. At that time, it came to my attention that child care centers located in federal facilities are not subject to even the most minimal health and safety standards.

As my colleagues know, federal property is exempt from state and local laws, regulations, and oversight. What this means for child care centers on federal property is that state and local health safety standards do not and cannot apply. This might not be a problem if federally-owned or leased child care centers met enforceable health and safety standards. I think most parents who place their children in federal child care would assume that this would be the case. However, I think federal employees will find it very surprising to learn, as I did, that, at many centers, no such health and safety standards apply.

I find this very troubling, and I think we should be embarassed that child care in federal facilities child care cannot guarantee that children are in safe environments. The federal government should set the example when it comes to providing safe child care. It should not turn an apathetic shoulder from meeting such standards simply because state and local regulations do not apply to them.

My amendment will require child care services in federal buildings to meet a standard no less stringent than the requirements for the same type of child care offered in the community in which the federal child care center is located. The child care provider would not be required to obtain a state or local license, although that is an option open to them. The Government Services Administration would be responsible for establishing the rules and regulations necessary to ensure that each child care facility in a federal building meets the same level of standards applicable to other child care services in the community.

In 1987, Congress passed the "Trible amendment" which permitted executive, legislative, and judicial branch agencies to utilize a portion of federally-owned or leased space for the provision of child care services for federal employees. The General Services Administration (GSA) was given the authority to provide guidance, assistance, and oversight to federal agencies for the development of child care centers. In the decade since the Trible amendment was passed, hundreds of federal facilities throughout the nation have established on-site child care centers which are a tremendous help to our employees.

The General Services Administration has done an excellent job of helping agencies develop child care centers and have adopted strong standards for those centers located in GSA-leased or -owned space. However, there are over 100 child care centers located in federal facilities that are not subject to the GSA standards or any other laws, rules, or regulations to ensure that the facilities are safe places for our children. Most parents, placing their children in a federal child care center, assume that some standards are in place—assume that the centers must minimally meet state and local child care licensing rules and regulations. They assume that the centers are subject to independent oversight and monitoring to continually ensure the safety of the premises.

Yet, that is not the case. In one case a federal employee had strong reason to suspect the sexual abuse of her child by an employee of child care center located in a federal facility. Local child protective services and law enforcement personnel were denied access to the premises and were prohibited from investigating the incident. Another employee's child was repeatedly injured because the child care providers under contract with a federal agency to provide on-site child care services failed to ensure that age-appropriate health and safety measures were taken—current law says they were not required to do so, even after the problems were identified and injuries had occurred.

In addition, I believe that the federal government can and should lead by example. Federal facilities should always try to meet the highest possible standards. In fact, the GSA has required national accreditation in GSA-owned and leased facilities, and has stated that its centers are either in compliance or are strenuously working to get there. This is the kind of tough standard we should strive for in all of our federal child care facilities.

For that reason, this amendment requires that within five years, all child care services located within federal facilities must become accredited by a professionally recognized child care accreditation entity. While state and local child care requirements generally ensure that those services meet the basic health and safety needs, child care credentialling entities go further. Accreditation also includes requirements that developmentally appropriate activities are an integral part of the program, that staff is trained, and that the program is a positive environment that contributes to the healthy development of children receiving child care services.

There are several child care accreditation entities providing these services around the country. The National Council for Private School Accreditation is a coalition of 13 entities providing private school accreditation, many of which issue credentials to child care service providers. The Council on Accreditation of Services for Families and Children, Inc. has developed standards and guidelines that are used by several child care accreditation entities to ensure a high quality of care for children. The National Association for the Education of Young Children provides accreditation for child care centers throughout the country. The Lutheran Church-Missouri Synod has been accrediting child care services longer than any other entity.

Child care providers in federally-owned and leased facilities will be able to choose which child care accreditation they will obtain. In addition, the General Services Administration is permitted to develop a child care accreditation process to add to the choices already available to programs in federal facilities.

Federal child care should mean something more than simply a location in a federal facility. The federal government has an obligation to provide safe care for the children of its employees, and it has a responsibility for making sure that those standards are monitored and enforced. Some federal employees receive this guarantee. Many do not. We can and must do better.

Senators LANDRIEU and DODD are original co-sponsors of this amendment. I urge my colleagues to help ensure high quality child care in federally owned and leased facilities by supporting this amendment.

Mr. DODD. Mr. President, it is my pleasure today to join my colleague from Vermont, Senator JEFFORDS and my colleague from Louisiana, Senator MARY LANDRIEU, in cosponsoring an amendment to require federal child care facilities to lead by example when it comes to child care quality.

Up to this point Mr. President, we in the federal government have not shown strong leadership when it comes to child care quality.

Many parents of children in federal child care facilities have been surprised to discover that these facilities are exempt from the state and local quality standards that apply to non-federal centers. Many parents have been surprised to find that the federal government does not require its centers to be accredited.

With this amendment, for the first time, the more than 200 federal, non-military, child care centers would be required to meet all state licensing standards. For the first time, these centers would be required to demonstrate that they provide high quality child care by becoming accredited by a nationally recognized accrediting body.

Child care shouldn't be like going to Las Vegas—where you roll the dice and hope for the best. Parents should be confident that when they are not able to be with their children, their children will still be well cared for. We shouldn't be gambling with our children's health and safety.

This legislation will go a long way toward giving parents of children in federal facilities peace of mind.

I should point out, Mr. President, that many of the child centers run by the federal government provide an invaluable service and excellent care to the children of federal workers and other families in the community. Many federal centers have even received accreditation from the National Association for the Education of Young Children—an outstanding private, non-profit accrediting entity.

But this excellence is not uniform. In some federal agencies, only a minority of child care centers are accredited. Too many centers are falling through the cracks. And too many children are unnecessarily being placed at risk.

Mr. President, at a time when we are asking our states and communities to take notice of the important research about brain development in young children—at a time when we all acknowledge how critical high quality child care is to helping children achieve their potential—shouldn't we, as federal government lead the way when it comes to providing the best care possible for our children?

Mr. President, this legislation enjoys broad bipartisan support. It was incorporated into the CIDCARE bill that I co-sponsored with Senator JEFFORDS and was a part of the Child Care ACCESS Act that I offered with 27 of my Democratic colleagues earlier this year.

This is an important step in improving the quality of our Nation's child care. I urge my colleagues to support this amendment.

Mr. CAMPBELL. Mr. President, this amendment relates to Federal child care facilities. This amendment has been cleared by both sides of the aisle. I ask for its adoption.

Mr. KOHL. We accept the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is agreed to.

The amendment (No. 3364) was agreed to.

Mr. CAMPBELL. Mr. President, I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Alabama is recognized.

AMENDMENT NO. 3362

Mr. SESSIONS. Mr. President, I would like to make a few remarks on the family impact statement amendment offered by Senator SPENCER ABRAHAM earlier today. It is an amendment that I supported last year. I think it is a very, very important signal and an important event for this Government.

I rise today in strong support of this important amendment and to voice my complete disagreement with antifamily action taken by President Clinton.

In 1997, President Ronald Reagan, recognizing the importance of the American family and the need to be aware of the negative impact that Federal laws and regulations can have on the family, signed Executive Order 12-606. The purpose was to ensure that the rights of the family are considered in the construction and carrying out of policies by executive departments and agencies of this Government.

Mr. President, even though we are faced with a staggering increase in out-of-wedlock births, rising rates of divorce, and increases in the number of child abuse cases, apparently President Clinton does not believe that considering the impact of regulations on families is good policy.

Much to my dismay, on April 21, 1997, President Clinton signed Executive Order 13045, thus stripping from the American family any existing protection from harm in the formulation and application of Federal policies.

President Reagan's Executive Order 12606, placed special emphasis on the relationship between the family and the Federal Government. President Reagan directed every Federal agency to asses all regulatory and statutory provisions "that may have significant potential negative impact on the family well-being. * * *" Before implementing any Federal policy, agency directors had to make certain that the programs they managed and the regulations they issued met certain family-friendly criteria. Specifically, they had to ask:

Does this action strengthen or erode the authority and rights of parents in educating, nurturing, and supervising their children?

Does it strengthen or erode the stability of the family, particularly the marital commitment?

Does it help the family perform its function, or does it substitute government activity for that function?

Does it increase or decrease family earnings, and do the proposed benefits justify the impact on the family budget?

Can the activity be carried out by a lower level of government or by the family itself?

What message, intended or otherwise, does this program send concerning the status of the family?

What message does it send to young people concerning the relationship between their behavior, their personal responsibility, and the norms of our society?

The elimination of President Reagan's Executive Order 12606 is just the latest in a series of decisions that indicates the Clinton administration's very different approach to family issues. From the outset of President Clinton's first term, it became clear that his administration intended to pursue policies sharply at odds with traditional American moral principles. White House actions have ranged from the incorporation of homosexuals into the military to the protection of partial-birth abortion procedures, to opposing parental consent in cases involving abortion for minors.

Mr. President, many have suggested it is community villages, in other words government, that raise children. But really it's families that raise children. Families are the ones who are there night and day to love, to care for, and to nurture children.

Many bureaucratic regulations produce little benefit, but can have unintended consequences. The examples are too numerous to mention.

What our amendment will do is to require the "regulators" to stop and take a moment to think through their regulations to make sure that, the most fundamental institution in civilization—the family, is not damaged by their actions. This is a reasonable and wise policy.

Mr. President, I find it very odd that of all the Executive orders that exist, President Clinton would reach down and lift this one up for elimination. This body should speak out forcefully on this subject and I am confident we will. The families of America deserve no less.

This amendment is a sound and reasonable piece of legislation which will restore a valuable pro-family policy that had been established for 10 years.

I urge all my colleagues to stand united, Republicans and Democrats, to show that the preservation of the family is not a partisan issue. Our voices united will send a loud and certain message to the President and this Nation that we consider family protection to be one of America's most important issues and we will not accept decisions that mark a retreat from our steadfast commitment to our Nation's families.

Mr. President, I strongly believe that American families must be considered when the Federal Government develops and implements policies and regulations that affect families. Therefore, I am honored to be an original cosponsor for this amendment, which will reinstate the Executive order of President Reagan.

I would like to thank my colleagues, Senators ABRAHAM, FAIRCLOTH, HUTCHINSON, for their dedicated work and help on this issue.

As we know, there is some dispute and controversy and concern in this body concerning the President's proclivity to utilize executive regulations to carry out various policies that he wants to carry out. He eliminated this regulation of President Reagan by his own Executive Order, and in fact has stated and reflected his view that the American family is not at times jeopardized by the actions of this Government, and special watch and attention is not necessary to that.

I just want to say this. Governmental policy in this country ought to consider what is good, wholesome, and healthy. The American family represents the finest opportunity to affect the growth, health, well-being, the mental attitude, and the lawfulness of a young person. Healthy families tend to raise healthy children. It is not always so. It is not always so. Families that have trouble raise good kids a lot of time, and families that are personally good have troubled children.

But fundamentally and historically we know, and there has been much data in recent months and years—you remember the article, "Dan Quayle Was Right." So we know that there is a general consensus today that a healthy family is important.

I think it was a bad signal. I think it is sad that in this entire monumental bureaucracy of this Federal Government that involves $1.7 trillion in expenditures every year, you don't have to give special concern to your actions with regard to how they might impact the American family.

I think in that regard the President made a serious error, and he sent a signal to this great Government and those who work for him within the executive branch that they don't have to give special scrutiny to it. I believe it was a mistake. Senator ABRAHAM's amendment would restore that.

I thank Senator CAMPBELL for his interest and concern on these issues and for giving me a few moments to make these remarks.

Thank you, Mr. President. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized.

AMENDMENT NO. 3365

(Purpose: To provide for marriage tax penalty relief)

Mr. DASCHLE. Mr. President, I ask unanimous consent that we lay aside the Abraham amendment, and I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3365.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The distinguished Senator from South Dakota, Mr. DASCHLE, is recognized.

Mr. DASCHLE. Mr. President, I thank the Presiding Officer.

Mr. President, as I noted this morning, Democrats have supported and continue to support tax relief for working families. In 1993, we supported tax cuts for millions of working families making less than $30,000 per year through an expansion of the earned income tax credit. Last year, we supported major tax relief proposals, including a $500-per-child tax credit, a $1,500 HOPE education tax credit, a 20-percent lifetime learning credit, the reinstatement of student loan deductions, full deductibility of health insurance premiums for the self-employed, a cut in capital gains taxes for investors and small businesses, and an expansion of estate tax relief for family farms and businesses. All of these tax cuts for working families had one thing in common. They were consistent with a balanced budget; they were fully paid for.

Democrats continue to have an ambitious agenda of tax relief for working families. But we also continue to insist that tax cuts be consistent with fiscal responsibility. This is because we understand that fiscal responsibility equals economic growth, and economic growth equals more jobs and higher wages.

Part of our continuing agenda to provide working families with tax cuts is to provide them with substantial relief from the marriage penalty. In many families, married couples pay more in income taxes than if they had remained single. Democrats would like to remedy this undesirable aspect of our tax system.

The amendment that I have just offered would let families deduct 20 percent of the income of the lesser-earning spouse. This deduction would be phased out for families making between $50,000 and $60,000 a year. The 20-percent deduction would be an "above-the-line" deduction, ensuring that that everyone could claim it, regardless of whether they chose the "EZ" form or itemized their deductions on a more complicated tax form. Also, the deduction would be factored into the earned income tax credit calculation; that is, it would help people making less than $30,000 who may have no income tax liability against which to take the deduction.

But, Mr. President, perhaps most important, contrary to the amendment offered this morning, this amendment is fully offset. The offsets include a number of proposals from the President's budget that have attracted broad support. Most of them would terminate unwarranted tax loopholes for corporations and investors. Because the amendment is fully offset, it is in keeping with the tradition and the practice that we have maintained all through the tax debate this year and previous years.

To summarize, unlike the Brownback-Ashcroft amendment offered this morning, the Democratic amendment, first, focuses roughly 90 percent of its tax cut on families who are actually penalized., compared with about 40 percent to 45 percent for the Brownback amendment offered this morning.

Second, it is fully offset. Its gross cost is $7 billion over 5 years and $21 billion over 10; but its net effect on the budget is zero. By contrast, the Brownback-Ashcroft amendment would have drained the Treasury and the Social Security trust fund by about $125 billion over 5 years and $300 billion over 10 years.

Therefore, if Senators are interested in delivering meaningful marriage penalty tax relief rather than simply grandstanding about it, they will want to support our amendment. Here are two examples of just how much tax relief our amendment would provide:

First, a couple making $35,000, split $20,000 and $15,000 between two spouses. With our 20-percent, second-earner deduction, this couple would receive an additional deduction of $3,000, or 20 percent of the $15,000 income of the second earner. That translates into an annual family tax cut of about $450.

Second, a couple making $50,000, in this case split $25,000 each between the two spouses. Under our 20-percent, second-earner deduction, the couple would receive an extra $5,000 deduction, or about $1,400 in actual cash-in-the-pocket tax relief.

Mr. President, my amendment provides Senators with an opportunity to help hard-working married couples without busting the budget or endangering our efforts next year to restore the Social Security system to solvency for future generations.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President. I want to take a moment to explain my support for the Daschle amendment on marriage tax relief. As you know, earlier today I opposed the Ashcroft-Brownback amendment on the same subject. My concerns related to the wisdom of attaching such a substantial tax policy change to an appropriations bill. Also, the Brownback amendment was not offset—it would have thrown the budget off balance by approximately $125 billion. The marriage tax debate belongs within the context of a balanced budget and a comprehensive tax bill. And let me again state my hope that we will approve such a tax bill later this year.

However, it's clear that today's debate is primarily about political messages and maneuvering. And, in that case, the record should demonstrate that my voice and vote definitely stands with those calling for the elimination of the marriage penalty. Our tax code should be family friendly. Couples who want to get married should not be discouraged from doing so based on how much they will owe in taxes. And tax policy changes should be fully offset and respect the principles of a balanced budget. For these reasons, I intend to support the Daschle marriage penalty amendment.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, we spent almost 2 hours on the Ashcroft amendment. I assume that much of the debate that we have already gone through will be repeated.

I don't think there is anyone on this floor who doesn't want to do something about the marriage penalty. We are all very comfortable with the fact that it is punitive, and I think all of us want to get rid of it, if we can. The question really has been, What is the vehicle to be able to do that?

I ask the minority leader, since we have spent so much time on this already in the previous debate, if he would be interested in trying to work out some kind of a time agreement, because we have about 56 amendments that we haven't cleared yet. It looks like it is going to be a long night, and a long day tomorrow, if we don't get some withdrawn, or some agreement on some of them.

I ask the minority leader if he would be interested in a time agreement.

Mr. DASCHLE. Mr. President, I think the distinguished Senator from Colorado makes a very good point, and our desire is certainly not to complicate his efforts and the efforts of the distinguished ranking member to complete action on this bill. I know there are some Senators who wish to be heard on this particular version of the amendment, but I do believe that we can accommodate those Senators. I would be willing to enter into a time agreement of 30 minutes, if we could assume that there isn't going to be a great deal of debate on the other side. I am not sure we have to equally divide it. I propose we ask unanimous consent the vote on this amendment occur no later than 3 o'clock.

Mr. CAMPBELL. Mr. President, I concur with that, but we have not checked with the majority leader yet. So if I could perhaps ask for a quorum call until we confer with him? I appreciate the Senator's offer to limit that time to 30 minutes equally divided.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, Senator DEWINE has been patiently waiting for a while to make a statement and possibly offer an amendment. I ask unanimous consent at the conclusion of his comments, I be allowed to suggest the absence of a quorum at that time.

The PRESIDING OFFICER. Is there objection? The Senator from Ohio is recognized.

Mr. HATCH. Mr. President, will the Senator from Ohio yield?

Mr. DEWINE. I certainly would.

Mr. HATCH. If the Senator will yield to allow me this opportunity to call up the reauthorization of the Office of National Drug Control Policy? I ask unanimous consent I be allowed to do so.

Let me withhold.

Mr. DEWINE. I will be more than happy to yield the floor for the Senator from Utah.

The PRESIDING OFFICER. The Senator from Ohio is recognized and retains the floor.

Mr. DEWINE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. HATCH. Will the Senator yield again?

Mr. DEWINE. I will be happy to yield to the Senator from Utah.

Mr. HATCH. Will the Senator withhold on the amendment? As I understand, we can do it at this time and it will only take a minute.

I ask unanimous consent the pending Daschle amendment be set aside with the understanding we will immediately come back to it after my amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 3367

(Purpose: To extend the authorization for the Office of National Drug Control Policy until September 30, 2002, and to expand the responsibilities and powers of the Director of National Drug Control Policy, and for other purposes)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. BIDEN, proposes an amendment numbered 3367.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HATCH. Mr. President, this is the reauthorization of the office of the drug czar, National Drug Control Policy. I do believe it has been accepted by both sides. It is critical that we have this amendment agreed to at this time.

The PRESIDING OFFICER. Without objection—the Chair will observe the Chair is having difficulty hearing the Senator. Perhaps, if the Senator could speak up, it would be very helpful.

Mr. HATCH. This is an amendment to reauthorize the Office of the National Drug Control Policy.

In this era of passivity and neglect toward what I believe should remain a vigorous war on drugs, we as Americans must refuse to give up the fight against a youth drug plague that is threatening to erode the very core of our society. To do this, we must mount an unflappable effort against this drug scourge that continues to tighten its grip on our nation's children.

Faced with such an ominous task, it is essential that the Office of National Drug Control Policy be maintained as the principal clearing house for the formulation and implementation of our nation's comprehensive counter-drug strategy. As a nation we simply cannot continue to turn our backs while drug abuse continues to run rampant among our youth.

For this reason I implore each of my colleagues to support the Hatch/Biden amendment, a substitute to H.R. 2610. This amendment truly represents a bipartisan effort to craft legislation that gives the office a meaningful reauthorization period and strengthens ONDCP's authority over drug control program agencies. In an effort to erase this Administration's abdication of its responsibilities to the Congress, the bill requires enhanced reporting requirements on the effectiveness of the National Drug Control strategy thus imposing far greater accountability to the Congress. It also disposes with an annual strategy that, under the Clinton administration, simply has served as an opportunity to grandstand in an effort to show that the President was going to take the drug war seriously in the future to make up for his past disinterest. Instead, the bill recognizes the comprehensive long term strategy drafted last year, and further requires an annual report that requires each administration to report on the success or failures of its strategy in the previous year.

This substitute differs principally from the House bill in that it calls for a 4-year versus a 2-year reauthorization period; and, in that it does not statutorily mandate "hard targets" that must be achieved by 2001. Rather, consistent with ONDCP's previous authorization, it requires that ONDCP establish annual measurable objectives and long term goals. In addition, the legislation also officially authorizes ONDCP's Performance Measurement System which will provide the Congress and the American people with the specific data needed to ascertain whether the strategy is working and where changes are necessary.

The legislation also provides flexibility in the event of a change in Presidents or ONDCP Directors. In such case, the incoming President or Director has the option of either adopting and continuing with the current strategy, or abandoning it in favor of an entirely new strategy. In addition, at any time upon a finding by the President that the current strategy, or certain policies therein, are found not to be sufficiently effective, the President may submit a revised strategy.

We have worked with ONDCP, the Armed Services Committee, and Senator BIDEN to resolve a significant disagreement concerning ONDCP's involvement in, and authority over, the development of budgets of other agencies. We have crafted a process which allows ONDCP to have input at all stages of the budget drafting process and to decertify budgets which are inadequate to fulfill the responsibilities given to that agency. It also allows agencies who are forced to alter their budgets at the direction of ONDCP to submit an "impact statement" describing how such changes might affect the ability of that agency to fulfill its other responsibilities.

I oppose a proposal by the administration to disband the office of "Supply Reduction" headed by a deputy director, which was established to coordinate all law enforcement and interdiction programs, both domestic and international. As recognized by the legislation recently introduced by Senator DEWINE, which I cosponsored, supply reduction is an integral part of our anti-drug efforts, and we need a deputy director specifically responsible for these efforts. We have, however, incorporated significant reorganizations of the leadership of ONDCP, including the new position of Deputy Director and a Deputy Director for State and Local Affairs.

We have also strengthened the ONDCP office in many respects, including: (1) Clarifying the Director's authority by adding to his responsibilities that he shall represent the administration before the Congress on all issues relating to the National Drug Control Program, and that he shall serve as the administration's primary spokesperson on drug issues; (2) Requiring the U.S. Department of Agriculture to give ONDCP an annual assessment of the acreage of illegal domestic drug cultivation; and (3) In order to strengthen ONDCP's ability to obtain information from its program agencies, adding provisions that require, upon the request of the Director, heads of departments and agencies under the National Drug Control Program to provide ONDCP with statistics, studies, reports, and other information pertaining to Federal drug abuse programs.

I might also point out that the definition of "drug control" has been modified in the reauthorization to include underage use of alcohol and tobacco. This change codifies ONDCP policy begun under Republican administrations.

While I recognize that there remain some concerns over reauthorizing this office in light of the Clinton administration's abysmal record on drugs, it is my belief that we must employ every possible weapon that is available to fight the drug war, including the authorization of a national drug office with teeth, which will be held accountable to take real action in combating illegal drug abuse. This bill achieves that goal. For this reason, I urge each of my colleagues to support this amendment, and to work in a bipartisan manner to address legitimate concerns as we go to conference.

Let me highlight why this issue is so pressing. Drug use by teenagers is one of the most serious domestic problems facing our nation today: In my mind, it may be the most crucial issue for our nation's ability to craft productive and law-abiding citizens. The worsening problem of drug abuse among our children and teens wreaks havoc on the lives and potential of thousands of young people each year. If we do not act decisively, we will pay a heavy price.

According to the highly respected Monitoring the Future study published by the University of Michigan, drug use among young people began a steady decline in the early 1980's which continued until 1992. Survey after survey demonstrated that we were on the right track in raising children free from drug abuse.

These declines, which I believe were largely the result of the strong leadership of Presidents Reagan and Bush, are not just statistics. The 1980's and early 1990's produced a generation of young adults with low rates of substance abuse. We reap the benefits of that fact every day as those young men and women succeed in the workforce and build their families and communities. We see the benefits of our work in the 1980's and early 1990's in the lower drug abuse rates and declining crime rates we find among adults today.

But just as we are realizing some benefit today from the hard work of the last decade, we will pay the price for the failures of the 1990's. Young people are being raised in an environment lacking in definition of moral leadership. As I saw these trends developing, I spoke out and demanded that this administration reverse course: I particularly recall, in 1993, President Clinton's first drug czar—Lee Brown—saying that drug control was no longer "at the top of the agenda" for the administration. Indeed, the administration's first drug control strategy in 1993 noted that there was developing "a loss of public focus which has also allowed the voices of those who would promote legalization to ring more loudly." Mr. Brown's concerns regarding legalization, as we all know, were realized in some States. I feared then that the blame for this loss of public focus on the drug war would be laid at the feet of the Clinton administration. The Committee's warnings were frank, continuous, and bipartisan. In recent years, under the leadership of General Barry McCaffrey, we have seen some efforts to make up for the years of neglect. Yet, notwithstanding his efforts I believe drug control—and ONDCP—

lack the full backing of President Clinton and the results are indisputable.

The steady downward trends of the 1980's and early 1990's were tragically reversed. Remember that each percentage point we discuss represents thousands of teens who are much more likely to become bigger problems for society as they become adults.

As measured by use in the past month, drug abuse by high school seniors jumped 27 percent in 1993, 20 percent in 1994, and an additional 9 percent in 1995. Past-monthly abuse by 10th graders skyrocketed by 27 percent in 1993. The 1996 National Household Survey on Drug Abuse published by Health and Human Services, published last year, shows that between 1992 and 1996 the number of 12- to 17-year-olds having used marijuana in the past year more than doubled—from 1.4 million to 2.9 million.

The annual use of any illicit drug among high school students has dramatically increased since 1991—from 11 percent to 24 percent in 1996 for 8th graders, from 21 percent to 38 percent for 10th graders, and from 29 percent to 40 percent for 12th graders.

Lifetime use statistics show a similar trend—from 19 percent in 1991 up to 31 percent in 1996 for 8th graders, from 31 percent up to 45 percent for 10th graders, and from 44 percent to 51 percent for 12th graders.

As for marijuana use for 8th graders, it is clear that marijuana use shot from 10 percent in 1991 to 23 percent in 1997.

Although marijuana is still the most readily available drug across the United States, teenagers can obtain just about any drug they desire with little problem. Today, illegal drugs are more easily obtained than alcohol or tobacco.

To those who suggested that marijuana does not serve as a gateway to even more harmful drug use, there are very few instances that I am aware of where the first drug a child ever tried was heroin or methamphetamine. Most teens tell you that they first experimented with marijuana. Studies show that if kids smoke marijuana, they have an 85 times greater propensity to move on to experiment with harder drugs. General Barry McCaffrey should be commended for his personal leadership in fighting the trends towards tolerance for marijuana use.

While marijuana use increasing, the use of other drugs—harder drugs—is growing at a dramatic rate. The use of methamphetamine has skyrocketed in the Western half of the country. Easy manufacturing and the increasing market have helped make methamphetamine cheaper and more available to kids.

What is the reason behind this surge in teen drug consumption? I believe several things. First, in recent years there has been a decline in anti-drug messages from elected leaders—like President Clinton—and similar messages in homes, schools, and the media. Second, the debate over the legalization of marijuana and the glorification of drugs in popular culture has caused confusion in our young people. Third, disapproval of drugs and perception of risk has declined among young people. The percent of 8th, 10th, and 12th graders who "disapproved" or "strongly disapproved" of use of various drugs declined steadily from 1991 to 1995. In 1992, 92 percent of 8th graders, 90 percent of 10th graders, and 89 percent of 12th graders disapproved of people who smoked marijuana regularly. By 1996, however, those figures had dropped significantly.

Previous administrations recognized that education and treatment programs were only effective if coupled with tough criminal deterrence and effective interdiction. Statistics clearly show that as the interdiction dollars go down, drugs use goes up.

I was recently pleased to hold a hearing on teen drug use. We heard from a teenager named Rachel who recounted her personal experience with drug addiction. We also heard testimony from two physicians, Dr. Nancy Auer and Dr. Sushma Jani who have seen in our emergency rooms and hospitals the devastating effects that drug abuse has had on our nation's youth. Lastly, we heard from Chris, an individual who works as an undercover officer in high schools in Ohio—to protect his continued ability to provide this valuable service, his identity was shielded during the hearing.

In conclusion, I think it is clear that the rates of youth drug abuse are neither stable nor acceptable, but are instead rising sharply. I was therefore very surprised to hear President Clinton claim on the world stage in his recent speech before the United Nations that "drug use by our young people is stabilizing, and in some categories, declining." I believe that we are in the middle of a crisis and that the time for action long since passed.

Passage of this legislation will be a crucial part of that action.

As I understand it, this is acceptable to both managers of the bill. So I urge its adoption.

Mr. BIDEN. Mr. President, I am pleased to offer this amendment with Senator HATCH to reauthorize the Drug Director's Office. Senator HATCH and I have been assisted by several other Senators in this effort, and I would just note that the reauthorization bill reported by the Judiciary Committee last year was cosponsored by Senators THURMOND, DEWINE, COVERDELL, and FEINSTEIN.

I would also note that since then, we have worked closely with Senator MCCAIN to meet some concerns that he had raised relating to the Drug Director's budget certification powers. And, the language we have negotiated with Senator MCCAIN is incorporated into the text offered in this amendment.

This bipartisan legislation will, I hope, result in speedy action to keep the Drug Director's Office in place—no matter what perspective any of us have on any specific drug policy, this legislation is about whether we will have a Drug Director and Drug Office to be responsible for—and accountable to—a national drug policy.

In 1987, before my legislation creating the Drug Office finally became law, There was no official in charge of the administration's drug effort; and, because there was no Cabinet official in charge, every Cabinet official could duck responsibility to talk about tough drug policy issues—and, guess what, that meant no administration talked about drugs and no administration was accountable on drugs.

Just as with my original drug czar legislation, the Hatch-Biden amendment retains its central goal—holding every administration and every President accountable on the drug issue.

The Hatch-Biden amendment does so in several ways:

First, and this was one of Chairman HATCH's top priorities, Hatch-Biden requires the Clinton administration to identify measurable objectives for the National Drug Strategy, and provide on February 1, 1999, specific answers about whether these objectives have been met;

Second, Hatch-Biden retains the current law about the administration submitting a detailed annual drug budget—every line of which is reviewed and changed in the annual congressional appropriations process.

To this, Hatch-Biden adds a requirement—called for by General McCaffrey—for budget projections covering the next 4 years. In other words, this prevents any "pie-in-the-sky" promises, which are not backed up by specific budget projections.

Third, and this is the major change proposed by General McCaffrey and included in Hatch-Biden, instead of the overall drug strategy, it requires a detailed annual report which will focus the administration and the Congress on the "nuts and bolts" of implementing the strategy.

As Senator HATCH points out—instead of a strategy in which an administration tells us what it is going to do about drugs; this report will force any administration to tell us what they have accomplished against drugs.

Hatch-Biden includes specific language requiring:

That the annual report include any necessary modifications of the drug strategy;

A whole new strategy if the current strategy proves ineffective;

An annual assessment of the progress on the specific, measurable goals identified in the drug strategy;

Goals that are required by law to address—current drug use; availability of cocaine, heroin, methamphetamine, marijuana; drug prices, and purity among many others; and

That any new President or new Drug Director submit a new drug strategy.

Finally, the key addition of the annual report included in Hatch-Biden is the "performance measurement system"—which would add nearly 100 detailed measures, each with a definite timetable.

These measures are all about holding the 50 drug agencies and offices accountable to the drug policy goals of the administration—the one task that all Drug Directors have found exceedingly difficult to actually implement.

Just to identify a few of these specific measures:

Increase asset seized from drug traffickers by 15 percent; increase drug trafficking organizations dismantled by 20 percent in high intensity drug trafficking areas; and reduce worldwide coca cultivation by at least 40 percent.

Of course, we would all like each of these measures to be achieved immediately—but, even if we could do this efficiently, the costs would be staggering—an additional $60–$90 billion over just the next 3 years. So, achieving these goals will take time.

One final point on the general's performance measurement system—if we are to give him a fighting chance to increase the accountability of all the drug agencies, we have to put this system in law. For, if we do not, mark my words, the general will be defeated by all the career officials in all the drug agencies who want to stop this increased accountability.

Another element of General McCaffrey's proposal which has been included in Hatch-Biden is to require that the No. 2 official in the office—the Deputy Director—have to come before the Senator for confirmation just like the demand deputy, supply deputy and State and local deputy.

I favor this because the hearing, committee, and floor votes on the Deputy Director would give the Senate another important opportunity to hold any administration accountable on drugs.

In addition, the key mission of the Drug Office—holding the nearly 50 agencies and offices with drug policy responsibilities accountable—requires having officials with the credentials of Senate confirmation.

The Hatch-Biden amendment also includes specific language calling for "scientific, educational, or professional" credentials for whomever is nominated for the demand deputy job.

This is an issue that Senators GRASSLEY and MOYNIHAN have really been the leaders on—and I just acknowledge their key role in this aspect of Hatch-Biden.

I also note that, at the chairman's insistence, the length of time of this reauthorization has been drastically shortened.

While the general initially proposed to authorize the office for 12 years, Hatch-Biden reauthorizes for 4 years through September 30, 2002.

In closing, I would point out that this legislation has been through a long process here in the Senate and that this process has resulted in a strong, bipartisan bill.

I understand that the two managers of the bill, Senators CAMPBELL AND KOHL, are willing to accept this amendment. I appreciate their support, and the support of the full Senate for the reauthorization of the Drug Director.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I might add this amendment is acceptable to both sides. It is a very, very important program. It is basically the drug czar's program. We know we have spent an awful lot of money on this program in the last few years, but clearly it is having an effect on reducing teenage drug use in particular. I just wanted to add my comments to those of the Senator from Utah that this is a good amendment.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, the amendment is agreed to.

The amendment (No. 3367) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

AMENDMENT NO. 3354

(Purpose: To prohibit the use of funds to pay for an abortion or to pay for the administrative expenses in connection with certain health plans that provide coverage for abortions)

Mr. DEWINE. Mr. President, I believe my amendment is already at the desk. I call up my amendment in regard to Federal employees.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from South Dakota is set aside, and the clerk will report the amendment of the Senator from Ohio.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. ABRAHAM, Mr. SESSIONS, Mr. BROWNBACK and Mr. SANTORUM, proposes an amendment numbered 3354.

Mr. DEWINE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VI, add the following:

SEC. . No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. . The provision of section _____ shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

Mr. DEWINE. Mr. President, I rise this afternoon to offer an amendment on behalf of myself, Senator ABRAHAM, Senator SESSIONS, Senator BROWNBACK, and Senator SANTORUM.

This is an amendment that would maintain in force—and let me emphasize that—would maintain in force the current law, the status quo. This amendment would remain and keep in force the current Federal law restricting Federal employee health insurance coverage for abortions except in cases of rape, incest, or to save the life of a mother.

This is the same amendment that was accepted by voice vote during the debate for fiscal year 1998, the Treasury-Postal appropriations. This is the same amendment that was accepted by this body during the debate for fiscal year 1996. And, in fact, this is the same language that has been consistently supported by a bipartisan group of Senators and Representatives from 1983 to 1998, with the exception of only 2 years. So from 1983 to 1998, that has been the law of the land with the exception of only 2 years.

Mr. President, I mention this to you and to my colleagues to make it clear that this amendment stakes out no new ground. It merely confirms what the status quo is today, what this body and what the other body have consistently voted in favor of.

The principle that we are dealing with today is a very simple one, one that goes beyond the conventional pro-life, pro-choice boundaries. I think everyone in this Chamber knows that I am pro-life and, therefore, wish to promote the value of protecting innocent human life.

I point out that the vast majority of Americans on both sides of the abortion issue—on both sides of the abortion issue—strongly agree that they should not pay for someone else's abortion, and that is what we are talking about today. Fairly stated, this amendment is not about abortion, it is not about the morality of abortion, or the right of women to choose abortions. This is a narrowly focused amendment that answers a key question: Should taxpayers pay for these abortions?

Mr. President, Congress has consistently agreed that we should not ask the taxpayers to promote a policy, in essence, of paying for abortion on demand for a Federal employee.

Again, this amendment would maintain the status quo. It limits Federal employee health plans to cover abortions only in the case of rape, incest, or threats to the life of the mother.

The vast majority of Americans oppose subsidizing abortions. That is clear. Employers, as a general principle, determine the health benefits their employees receive. Taxpayers are the employers of our Federal workforce, and a large majority of taxpayers simply do not want their tax dollars to pay for these abortions. Taxpayers provide a substantial majority share of the funds to purchase health insurance for the Federal civilian workforce. Over three-quarters of that premium on an average is paid for by taxpayers.

This amendment addresses the same core issue. It simply says that the Federal Government is not in the business of funding abortions. Abortion is a contentious issue, and we simply should not ask taxpayers to pay for them.

Mr. President, this issue has been debated time and time and time again on this floor. I will say the identical language has been debated time and time and time again.

Everyone in this Chamber has voted on this issue. Current law limits abortion availability in Federal employee health care plans to cases, again, of rape, incest, and to save the life of the mother. That is set in law. This has been the bipartisan position of the Senate and the bipartisan position of the House, and it has been approved by the President last year and the year before. We should not voluntarily take the money of many Americans who find abortion wrong to pay for those abortions. We should not go against the will of the people of this country. We should uphold the current law, and that is what this amendment would simply do.

Mr. President, I yield the floor.

Mr. SESSIONS. Mr. President, I thank my good friend from Ohio, Senator DEWINE, for offering this important amendment.

This amendment will maintain in force the current law restricting Federal funding for abortions to cases of rape, incest, or life of the mother.

This amendment would leave in place the restriction on Federal Employee Health Benefit Plans which prevents those plans from paying for abortions except in the case of rape or incest, and when the life of the mother is in danger.

The principle here is simple: Should the taxpayers, regardless of whether they are pro-life or not, be forced to pay for abortions?

Make no mistake about it, abortions provided under the Federal Employee Health Benefits Program would be subsidized by the taxpayers. Although employees are charged for the health plan they elect, a significant portion of the cost of those plans is offset by the Government using taxpayer dollars.

Therefore, by participating in a health plan, employees who oppose abortion are effectively subsidizing abortions when they pay their health insurance premiums. If the major health plans all fall in line and start paying for abortions, employees who are morally opposed to abortion are put in a very difficult position.

There are millions of Americans, myself included, who feel very strongly that abortion is the taking of an innocent human life. It is unconscionable to ask taxpayers to subsidize elective abortions.

Whatever your position on abortion is, this is one point we should all be able to agree on.

Congress has consistently agreed that we should not ask taxpayers to promote a policy, in essence, of paying for abortion on demand by a Federal employee.

This is the same amendment that was accepted by voice vote during the debate for fiscal year 1998 Treasury-Postal Appropriations; accepted by this body during the debate for fiscal year 1996; and in fact, this is the same language that has been supported by a bipartisan group of Senators and Representatives from 1983 to 1998.

Madam President, I will just say this. People in this country can disagree about the sensitive issue of abortion. The laws are as they are. Some people like them, some people don't like them. But with regard to the question of whether or not taxpayers ought to be required to fund abortions, this country and the law and the vote of almost every State and this Congress has been not to fund that, and not to take taxpayers' money from individuals who feel very, very deeply and personally about this issue and expend that money to eliminate life. That is not a choice that we believe this Congress ought to make. We ought to prohibit it as part of this legislation. Maybe we won't even need a vote on it. But if we do, so be it. I think it will pass again this year, as it has.

Again, I appreciate the work of the Senator from Ohio for reestablishing this year this important principle.

Mrs. MURRAY. Mr. President, I rise in strong opposition to the DeWine amendment which would prohibit female federal employees from accessing affordable, safe and legal abortion related services as part of their health insurance benefits.

I am always tempted to say, "here we go again." Another assault on women's health and another barrier for women to safe, affordable reproductive health services. For some of my colleagues, the 1973 landmark Roe versus Wade decision was not clear enough or they continue to attempt to restrict a women's right guarantee in this decision.

Instead of standing up and arguing that a woman should not have choices or that women should not be allowed to access safe, affordable reproductive health services, some of my colleagues hide behind the issue of federal funding.

Health benefits have been, and always will be for the benefit of the federal employee. It is a form of compensation. Every worker knows that health insurance is part of their compensation package, not a gift, not a loan, but something that they have earned. Health benefits are part of one's salary. This is no different for a federal employee or an employee of Boeing.

We would never see an amendment on the floor of the Senate dictating to federal employees how they spend their salary. As long as the employee spends this compensation on a legal commodity, we cannot restrict his or her decisions. Simply because they are employed by the American taxpayer does not mean that we can dictate how they spend their salary.

However, some of my colleagues are proposing to do just that. We are telling female federal employees how they can or cannot spend their health insurance benefits. In addition to denying federal employees the basic constitutional rights afforded every other woman, we are proposing to dictate how they spend their compensation.

Not only are health benefits considered employee compensation earned by the employee, federal employees are also responsible for up to 40 percent of the cost of the premiums as well as any deductibles or copays. So in fact we are telling female federal employees how to spend their take home pay as well.

If a federal employee uses his or her own salary to purchase a firearm is this federal funding of handguns? I would argue no. Even though there are federal taxpayers who oppose handguns, we do not restrict the right of federal employees to use their federal salary to purchase one. But, telling female federal employees how they can spend their insurance benefits is just as offensive. Only in this case it is probably more detrimental as it denies female federal employees access to safe, affordable reproductive health service.

One could argue that female federal employees should pay out of pocket for certain reproductive health services and not depend on her health benefits to cover or provide this protection. I would like to point out that federal employees by and large are not well paid CEOs. They live pay check to pay check and many are single mothers. Covering a $600 or $1,000 health care bill is just not possible. Economic barriers are just as solid as legal or social barriers. Denying health insurance coverage for a full range of reproductive health services, is denying access to these services for many female federal employees.

I urge my colleagues to oppose efforts to make second class citizens of female federal employees. They deserve our support and they deserve to be treated with dignity and respect. Instead of attacking a woman's right to make her own personal health decisions let's work to prevent unintentional pregnancies. I urge my colleagues to support federal family planning programs and contraceptive equity. The Supreme Court has already said that abortion with some restrictions is a legal right afforded all Americans. Let's not force federal employees to pay the price of political football, but rather let's do more to improve access to safe, affordable family planning benefits.

Ms. MIKULSKI. Mr. President, I rise in strong opposition to the amendment offered by Senator DEWINE.

The bill reported by the Senate Appropriations Committee would enable federal employees, whose health insurance is provided under the Federal Employees Health Benefits Plan, to receive coverage for abortion services.

The DeWine amendment would prohibit coverage for abortion, except in cases of life endangerment, rape or incest. It would continue a ban which has prevented federal employees from receiving a health care service which is widely available for private sector employees.

I oppose this amendment for two reasons. First of all, it is an assault on the earned benefits of federal employees. Secondly, it is part of a continuing assault on women's reproductive rights and would endanger women's health.

We have seen vote after vote designed to roll back the clock on women's reproductive rights. Since 1995, there have been over 81 votes in the House and Senate on abortion-related issues. It's clear that this unprecedented assault on a woman's right to decide for herself whether or not to have a child is continuing, as this amendment demonstrates.

Well, I support the right to choose. And I support federal employees. And that is why I strenuously oppose this amendment.

Let me speak first about our federal employees. Some 280,000 federal employees live in the State of Maryland. I am proud to represent them. They are the people who make sure that the Social Security checks go out on time. They make sure that our nation's veterans receive their disability checks. At NIH, they are doing vital research on finding cures and better treatments for diseases like cancer, Parkinson's and Alzheimers. There is no American whose life is not touched in some way by the hard work of a federal employee. They deserve our thanks and our support.

Instead, federal employees have suffered one assault after another in recent years. They have faced tremendous employment insecurity, as government has downsized, and eliminated over 200,000 federal jobs. Their COLA's and their retirement benefits have been threatened. They have faced the indignity and economic hardship of three government shutdowns. Federal employees have been vilified as what is wrong with government, when they should be thanked and valued for the tremendous service they provide to our country and to all Americans.

I view this amendment as yet another assault on these faithful public servants. It goes directly after the earned benefits of federal employees. Health insurance is part of the compensation package to which all federal employees are entitled. The costs of insurance coverage are shared by the federal government and the employee.

I know that proponents of continuing the ban on abortion coverage for federal employees say that they are only trying to prevent taxpayer funding of abortion. But that is not what this debate is about.

If we were to extend the logic of the argument of those who favor the ban, we would prohibit federal employees from obtaining abortions using their own paychecks. After all, those funds also come from the taxpayers.

But no one is seriously suggesting that federal employees ought not to have the right to do whatever they want with their own paychecks. And we should not be placing unfair restrictions on the type of health insurance federal employees can purchase under the Federal Employee Health Benefit Plan.

About 1.2 million women of reproductive age depend on the FEHBP for their medical care. We know that access to reproductive health services is essential to women's health. We know that restrictions that make it more difficult for women to obtain early abortions increase the likelihood that women will put their health at risk by being forced to continue a high-risk pregnancy.

If we continue the ban on abortion services, and provide exemptions only in cases of life endangerment, rape or incest, the 1.2 million women of reproductive health age who depend on the FEHBP will not have access to abortion even when their health is seriously threatened. We will be replacing the informed judgement of medical care givers with that of politicians.

Decisions on abortion should be made by the woman in close consultation with her physician. These decisions should be made on the basis of medical judgement, not on the basis of political judgements. Only a woman and her physician can weigh her unique circumstances and make the decision that is right for that particular woman's life and health.

It is wrong for the Congress to try to issue a blanket prohibition on insuring a legal medical procedure with no allowance for the particular set of circumstances that an individual woman may face. I deeply believe that women's health will suffer if we do so.

I believe it is time to quit attacking federal employees and their benefits. I believe we need to quit treating federal employees as second class citizens. I believe federal employees should be able to receive the same quality and range of health care services as their private sector counterparts.

Because I believe in the right to choose and because I support federal employees, I urge my colleagues to join me in defeating the DeWine amendment.

Mrs. BOXER. Mr. President, I oppose the DeWine amendment, which will curb the rights of women who work for the federal government to obtain abortion services through their health insurance. I strongly urge my colleagues to vote against this amendment.

Over one million women of reproductive age rely on the Federal Employees Health Benefits Program for their medical coverage. This amendment will stop them from using their own insurance to exercise their right to choose an abortion. The exceptions in this ban are inadequate to protect the rights of women.

Women who are employed by the Federal Government work hard. They pay for their health premiums out of their own pockets. They deserve the same, full range of reproductive health benefits as women who work in the private sector.

The question is: Should female federal employees or their dependents be treated the same as other women in the work force, or should they be treated differently, singled out, with their rights taken away from them?

In 1993 and 1994, Congress voted to permit federal employees to choose a health care plan that covered abortion. Unfortunately, this Republican Congress over-turned that right.

This bill provides funding for the full range of health benefits through the Federal Employees Health Benefits Program. We should ensure that these benefits remain in the bill by opposing this amendment.

Anti-choice forces are chipping away at the right of women in this country to obtain safe, legal abortions. They are making a woman's ability to exercise that choice dependent on the amount of her paycheck and the employer who signs it. It's simply unjust.

If there were an amendment to stop a man who happens to work for the Federal Government from getting a perfectly legal medical procedure, one that might protect his health, there would be an uproar on this floor. People would say, how dare you do that to the men of this country? Why not treat the men who work for the Federal Government the same way we treat men who work in the private sector?

Decisions about health care—including reproductive health care—should be made by patients and their doctors—not by HMO bureaucrats or politicians. Decisions about abortion are tough, personal, and private. We need to trust women to make that choice.

Let's ensure that all federal employees have the rights, the protections, and the healthcare coverage they deserve. I urge my colleagues to vote "no" on this amendment.

Mr. KOHL. Mr. President, I rise in opposition to this amendment. I am truly sorry we have to address it every year.

The bill we passed out of the Senate Appropriations Committee treats federal employees just as private employees with health insurance coverage are treated: they are permitted to join a health care plan that covers a full range of reproductive health services, including abortion. The bill returns us to the policy that was in place before November of 1995. Currently, two-thirds of private fee-for-service health plans and 70% of HMOs provide abortion coverage.

Like so many of my colleagues, I support a woman's right to choose, and I support policies that will keep abortions legal, safe, and rare. I also support anyone's right not to participate in a health plan that covers abortion, and federal employees can choose such plans under the bill as we passed it out of Committee.

Adding this amendment, and continuing the unfair policy of the past few years, will impose real consequences, and real pain for government workers.

Mr. President, I ask unanimous consent to have printed in the RECORD two letters that tell what these consequences were for two families of federal workers.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMPOUNDING A TRAGEDY: CONGRESS GIVES MEDICAL ADVICE

SEPTEMBER 6, 1996.

DEAR SENATOR: I've been a federal employee for 13 years. My husband and I were elated this summer when I became pregnant. At age 36, I was in the "advanced maternal age" category, so my insurance company, Kaiser Permanete offered us genetic screening as routine pre-natal care. They didn't mention that Congress had erased the option to terminate a pregnancy, even on the advice of my physician.

I was scheduled for a sonogram at 14 weeks to make sure we'd correctly estimated how far along I was. My husband, my mother and my sister accompanied me to the ultrasound waiting room because seeing this baby was a big event.

I realized something was odd when both the sonogram technician and the radiologist spent so much time looking at my baby's head. The radiologist had detected abnormalities and recommended that only my husband be allowed in to see the sonogram. The radiologist termed it severe hydrocephalus—we saw an empty skull. A week later, the perinatologist at Fairfax Hospital's Antenatal Testing Center gave an even colder picture. She called it holoprosencephaly and said the fetal development was incompatible with life. All of the doctors I saw agreed there was no hope for the fetus, and recommended terminating as soon as possible.

We were devastated. To compound the tragedy came the news that as of January this year, companies insuring federal workers are prohibited from covering abortions. I have since learned that federal employees are the exception—coverage for medically necessary abortions is provided for others by my insurance company. In the end, we paid a very high fee to have the abortion because the fetal anomaly made the procedure more complicated.

My husband and I question whether Congress is implying we were immoral for aborting this fetus and hoping to get pregnancy with a healthy child. Our decision was no wanton or frivolous; it was heartbreaking. My abortion was the day before my 37th birthday, and each year I face a higher probability of having to terminate another pregnancy because of a genetic problem. Yet, we really want to raise a family and will keep trying.

Sincerely,

SUSAN ALEXANDER AND
CHRISTOPHER DURR,
Alexandria, VA.

SEPTEMBER 10, 1997.

DEAR REPRESENTATIVE: My name is Kim Mathis. I live in Talladega, Alabama with my husband who works at the Federal prison in town. We are both covered under my husband's health insurance plan for federal employees and their families.

In February of last year, we learned that I was pregnant. During a routine appointment my doctor performed a standard A.F.P. test. This is a test that they offer to check for neural tube defects and other problems. About a month later, my doctor told me that the test came back positive and he wanted me to go to a specialist for more tests.

I immediately scheduled an appointment with the specialist. During my exam, they performed an ultrasound and found that my A.F.P. test results were elevated because I was carrying twins.

My next appointment was in May. This time the doctor studied the ultrasound for almost an hour. After the doctor was finished, he wanted to talk with us privately. It was at that time that I knew that something was wrong. He told us that was an unusually rare pregnancy. He told me that my twins, which were boys, suffered from Twin-to-Twin Transfusion Syndrome. Both babies shared the same blood vessels. Because of this, the baby on top was giving his blood and water to the baby on the bottom. The smaller twin was about one month smaller in size than the larger twin. The doctor said the larger twin was growing too fast. He also told us that the smaller twin did not have kidneys and his heartbeat was very slow. At that time, he gave us a 20% chance of one of the twins surviving the pregnancy.

After consulting with the doctor, my husband and I decided that the best thing to do would be to end the pregnancy. It was the hardest decision of my life.

After we made our decision our doctor asked us what kind of insurance we had. My husband told him and the doctor informed us that he had never had a problem with their coverage. When we arrived home that evening, we looked in my husband's benefit plan book for 1996 which plainly stated that "legal abortions" were covered.

A few weeks after the termination we received the first letter from our insurance company. The letter stated that our claims were denied. After further inquiries we learned that they denied our claims because Public Law 104-52 was enacted on November 19, 1995 which limited federal employees health benefits plans coverage of abortion.

By this time, the hospital was harassing us. They turned our account over to a collections agency. We received countless threatening letters and telephone calls at work. In October, my husband and I were forced to file bankruptcy. Our lives and financial future have been ruined.

I am writing this letter so you will know what happened to us and so that you can change this law. Families like ours should not have to go bankrupt in order to receive appropriate medical care.

Sincerely,

KIM MATHIS.

Mr. KOHL. One had to abort a fetus with no brain. Not only did they have the heartbreak of a failed pregnancy, but they also faced the high financial burden of a major operation not covered by insurance. The second letter tells of a family that had to abort non-viable twins. The cost of this complicated and necessary abortion bankrupted them.

I understand and respect the deeply held convictions of both sides in the abortion debate. But it is not fair to allow our heated political debate to do real harm to the people who work for the government. I urge my colleagues to vote against this amendment.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, before the Senator from Ohio came to the floor, we were in the process of trying to get a time agreement on the Daschle amendment. I ask the Senator if he would mind laying his amendment aside so we might finish the Daschle amendment as soon as we hear from the majority leader.

Mr. DEWINE. No objection.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

AMENDMENT NO. 3365

Mr. LOTT. Madam President, I call for the regular order with respect to the Daschle amendment and ask that there be 20 minutes, equally divided, prior to the motion to table, and I then be recognized to make the motion to table and with no second-degree amendments in order prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For the next 20 minutes, the floor would be open for discussion on the pending amendment, or Senators could speak on other issues.

I yield the floor.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. CAMPBELL. Madam President, while we are waiting, we are making progress in reaching agreements on other amendments.

AMENDMENT NO. 3368

(Purpose: To provide for the adjustment of status of certain Haitian nationals)

Mr. CAMPBELL. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. GRAHAM, for himself, Mr. MACK, Mr. KENNEDY, Mr. MOYNIHAN, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mr. KERRY, and Mr. DURBIN, proposes an amendment numbered 3368.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GRAHAM. Madam President, I rise today to offer an amendment to the Treasury-Postal appropriations bill that will bring justice to thousands of Haitian nationals who fought for democracy and freedom against the greatest odds.

Last November, Congress passed the Nicaraguan Adjustment and Central American Relief Act to protect those who fled Communism and oppression in Central America during the 1980s.

But while that legislation was a monumental step forward for fairness, it left one deserving group completely unprotected.

Just as brave Central Americans resisted tyranny in their native countries, Haitians struggled to free themselves from oppression.

In fact, many Haitians seeking asylum in our country are here because they challenged a regime that was wantonly violating basic human freedoms.

Mr. President, these brave Haitians have suffered greatly for the causes of freedom and democracy.

They should not be forced to endure serious disruptions in their life once again.

Even though conditions in Haiti have improved greatly since 1994, Amnesty International reports that human rights abuses still occur.

As people who contribute mightily to the strength of our communities, the Haitians living in the United States should not be forced to risk returning to the scene of their prior persecution . . . to face the possibility that it might happen again.

This amendment is a bipartisan effort. Senators MACK and I—along with the cosponsors of the bill I introduced last year, Senators KENNEDY, ABRAHAM, MOSELEY-BRAUN, D'AMATO, MOYNIHAN, FEINSTEIN, KERRY of Massachusetts, DURBIN, and LAUTENBERG—have joined together to ensure that the Haitian people who have sought fairness and justice for so long receive it in 1998.

We have the bipartisan support of leaders ranging from President Clinton to Republicans like Jack Kemp and my Florida colleagues ILEANA ROS-LEHTINEN and LINCOLN DIAZ BALART.

Mr. President, we have left no stone unturned in crafting this legislation. We've asked for input from all sources.

Senator ABRAHAM held a hearing on this bill in December of 1997. The bill was marked up and passed out of the Senate Judiciary Committee on April 23, 1998.

I have personally met with Senator LOTT and explained the importance of this legislation to my state of Florida.

Now we ask our Senate colleagues to take action. The 40,000 Haitian nationals in the United States face deportation in December if Congress does not act.

Our nation was built as a bastion of freedom and a haven for those fleeing oppression around the world. We embrace that heritage in this legislation.

Specifically, our bill helps three groups of individuals—a total of 40,000—adjust their status to legal residency.

Those who were paroled into the United States from Guantanamo Bay, after careful screening by immigration personnel.

These individuals were flow to the United States for review because their asylum cases were deemed to be valid and credible.

Our bill also helps those who were not paroled from Guantanamo, but who came to our nation and filed an application for asylum before December of 1995.

Finally, it reaches out to a small group of unaccompanied or orphaned Haitian children.

The members of each of these three groups are legally here in our country.

They have followed all the laws of our land. This legislation will give them the chance to continue working here. It will help them as they build small businesses. It will keep their U.S. citizen children in school.

Most importantly, it will keep their vibrant spirit and determined work ethic alive in our cities and communities.

During our field hearing, I saw the problem that Haitians face through the eyes of a bright, young student. She couldn't come to the hearing because she was working at one of the two jobs she holds to pay her community college tuition. Alexandra Charles is eighteen years old.

She is an orphan who came to the United States when she was ten years old—after her mother was brutally murdered by Haitian military officials.

She has over a dozen relatives in the United States who are legal residents, but who are not closely related enough to be sponsors.

She has virtually no relatives left alive in Haiti.

Like many individuals in similar circumstances, Ms. Charles was granted a suspension of deportation.

But this relief was withdrawn after the Board of Immigration Appeals ruled that the 1996 immigration law retroactively affected cases like hers.

Alexandra's future in the United States looks bright.

She is a hard worker and a model student.

But without this legislation, our nation will lose the benefit of her special skills and her dedication to our community.

Alexandra is just one of the thousands of law-abiding, hard working individuals who will not be allowed to pursue their valid asylum claims due to the retroactive nature of our 1996 immigration law.

I ask for your help in this fight for justice and fairness.

Let us prove once again that our nation values those who put their lives on the line in the struggle for freedom and democracy.

Mr. MACK. Madam President, I rise today in support of the Graham/Mack immigration amendment to the Treasury/Postal Appropriations bill. I strongly believe that this amendment is the right thing to do for the Haitian community and that it is consistent with our treatment of similarly-situated immigrant groups.

I would like to provide the Senate with some background information on what has led Senator GRAHAM and me to introduce this amendment, a brief explanation of the amendment, and the policy rationale behind the amendment.

First of all, some legislative history on events leading up to the introduction of this amendment. Last year, Senator GRAHAM and I introduced legislation which was intended to ease the transition into implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, otherwise known as IRAIRA. Our bill simply clarified that immigrants who were in the administrative pipeline for suspension of deportation when IRAIRA was enacted would have their cases for suspension considered under the rules in place when they applied for suspension, not the new rules contemplated by IRAIRA. I was concerned with the unfairness of changing the rules on people midstream.

While this bill was under consideration in the Senate, an agreement was reached in the House of Representatives which gave even greater relief to the Nicaraguan community—the ability to adjust to legal permanent resident status.

Once it was apparent that Nicaraguans would be granted the opportunity to adjust to legal permanent resident status, the Haitian community made an attempt to be included in the relief. Although they, too, had a compelling case, it was not possible to include them in the final bill at that point in the negotiations. However, Senator GRAHAM and I made a commitment to seek appropriate relief for the Haitians this Congress, and received assurances from the Administration that they would defer potential deportation decisions of the affected Haitians until after Congress had an opportunity to consider legislative relief.

This amendment, identical in text to Senate bill 1504, which was reported favorably out of the Judiciary Committee, would provide permanent resident status to certain Haitians who fled Haiti after the Aristide regime was toppled in a brutal military coup in 1991 and were either paroled into the country or applied for asylum by December 31, 1995.

This amendment is more narrow than the legislation passed last year which gave permanent resident status to Nicaraguans, since the scope and number of people covered is much smaller. Under last year's bill, nearly every Nicaraguan in the United States before December 1, 1995 was made eligible to adjust their status, approximately 150,000 people. Our amendment helps only a limited class of Haitians, estimated at 30,000–40,000, who have sought the help of the United States in fleeing persecution. Let me emphasize that point again—this amendment is for those who have actively sought U.S. help, not those who came illegally and sought to evade detection.

There are two different categories of Haitians involved. The first category are those paroled into the country after being identified as having a credible fear of persecution. Nearly all in this category, approximately 11,000 Haitians, were pre-screened at Guantanamo Bay and found to meet a credible fear of persecution test. These 11,000 Haitians represent approximately 25% of those screened at Guantanamo, the other 75% were returned to Haiti. The second category are those Haitians who have applied for asylum by December 31, 1995. In the case of those in the second category, they are people who have been caught in an asylum backlog not under their control and may have a difficult time now, due to the passage of time, demonstrating a credible fear of persecution. In the meantime, they have put down roots in this country and are making positive contributions to their communities.

I am talking about a twenty-five year old woman, Nestilia Robergeau, who fled Haiti, where she had been beaten and raped and her brother was murdered. Even though she was screened into this country through Guantanamo in 1992, she is still waiting for an asylum interview. In the meantime, she has graduated from high school and hopes to attend college to become a nurse. She works most days from 7 a.m. to 10 p.m. to support herself and her teenage brother.

And then there is a little fourth grade girl in Miami, Florida, Louiciana Miclisse. Both of her parents were shot and killed in Haiti, and the only relative she has now is her Aunt Nadia, who came with her from Haiti. She wants to grow up to be a doctor. She has applied for asylum, but her case has still not been considered. Do we really want to send this child back to Haiti where she has no family? Is that what this country is all about? I believe we are more compassionate than that.

It's also important to mention that conditions in Haiti are not safe for the return of these people. At an immigration subcommittee field hearing last December, the committee was informed that the Haitian government has not yet established the civil institutions necessary to protect these refugees from further retribution by those who perpetrated human rights crimes. In fact, it appears that these criminals continue to operate with impunity.

As I mentioned at the outset, this amendment is consistent with our treatment of similarly-situated immigrant groups. As Grover Joseph Rees, former General Counsel of INS under President Bush, testified at the subcommittee field hearing last December, it has been the rule rather than the exception that when a human rights emergency has led to the admission of large numbers of parolees from a particular country, such refugees and others similarly situated have been subsequently granted permanent residency through Congressional action. Congress has granted permanent residence on this basis in the past to Hungarians, Poles, Soviets, Vietnamese, Chinese, Cambodians, Laotians, Cubans, and, most recently, Nicaraguans. This action for the Haitians is entirely consistent with our past treatment of similarly-situated groups from other countries.

This amendment is the right thing to do, and this is the right time to do it. The Haitians who are affected by this situation have been left in limbo far too long. I urge my colleagues to support the Graham/Mack amendment.

Mr. KENNEDY. Madam President, it is a privilege to join Senator GRAHAM, Senator MACK, Senator ABRAHAM and our other distinguished colleagues in supporting legislation to provide permanent residence to Haitian refugees. Last year Congress enacted the Nicaraguan Adjustment and Central American Relief Act, which enabled Nicaraguan and Cuban refugees to remain permanently in the United States as immigrants. That legislation also enables Salvadorans, Guatemalans, Eastern Europeans and nationals from the former Soviet Union to seek similar relief on a case-by-case basis.

Haitian refugees deserve no less.

Haitians have seen their relatives, friends and neighbors jailed, or murdered, or abducted in the middle of the night and never seen again. Like other refugees, they have fled from decades of violence and brutal repression by the Ton Ton Macoutes, and later the military regime which overthrew the first democratically elected president of Haiti.

The Bush and Clinton Administrations found that the vast majority of these refugees were fleeing from political persecution in Haiti. Thousands of these Haitians were paroled into the United States after establishing a credible fear of persecution. Many others filed bona fide applications for asylum upon arrival in the United States.

This legislation also includes a significant number of unaccompanied children and orphans who did not have the capacity to apply for asylum for themselves. Senator ABRAHAM and I proposed an amendment which was approved by the Senate Judiciary Committee to include these deserving children in this legislation.

This legislation concerns basic fairness. The United States has a long and noble tradition of providing safe haven to refugees. Over the years, we have enacted legislation to provide Hungarians, Cubans, Yugoslavs, Vietnamese, Laotians, Cambodians, Poles, Chinese, and many other refugees with permanent protection from being returned to unstable or repressive regimes.

Last year, we adopted legislation to protect Nicaraguans, Cubans and others, but, the Haitians were unfairly excluded from that bill. The time has come for Congress to remedy this flagrant omission and add Haitians to the list of deserving refugees.

By approving this legislation, we can finally bring to an end the shameful decades of unjust treatment to Haitians. Throughout the 1980s, less than 2 percent of Haitians fleeing the atrocities committed by the Duvalier regimes were granted asylum. Yet, other refugee groups had approval rates as high as 75 percent. Haitian asylum seekers were detained by the Immigration and Naturalization Service, while asylum seekers from other countries were routinely released while their asylum applications were processed. Until recently, Haitians have been the only group intercepted on the high seas and forcibly returned to their home country, without even the opportunity to seek asylum.

Like other political refugees, Haitians have come to our country with a strong love of freedom and a strong commitment to democracy. They have settled in many parts of the United States. They have established deep roots in their communities, and their children born here are U.S. citizens. Wherever they have settled, they have made lasting contributions to the economic vitality and diversity of our communities and the nation.

This legislation has strong bipartisan support. It is also supported by a range of nation-wide organizations, including the U.S. Catholic Conference, the Church World Service, the American Baptist Churches, the Mennonite Central Committee, the Council of Jewish Federations, the Lutheran Immigration Refugee Service, the United Methodist General Board of Church and Society, the Presbyterian Church (USA) and many, many more.

We should do all we can to end this current flagrant discrimination under the immigration laws. Haitians refugees deserve too—the same protection we gave to Nicaraguans and Cubans last year. We need to pay more than lip service to the fundamental principle of equal protection of the laws.

Finally, the amendment has been modified to resolve a budget problem, deeming approximately 1000 Haitians ineligible for Supplemental Security Income and Medicaid. A similar budget concern was not raised last year when the Nicaraguan Adjustment and Central American Relief Act was considered. I am hopeful that this new injustice can be remedied as the Haitian legislation moves forward. I urge the Senate to accept this amendment.

Mr. CAMPBELL. This amendment is acceptable to both sides. I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 3368) was agreed to.

AMENDMENT NO. 3369

(Purpose: To express the sense of Congress that a postage stamp should be issued honoring Oskar Schindler)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. LAUTENBERG, proposes an amendment numbered 3369.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

Since during the Nazi occupation of Poland, Oskar Schindler personally risked his life and that of his wife to provide food and medical care and saved the lives of over 1,000 Jews from death, many of whom later made their homes in the United States.

Since Oskar Schindler also rescued about 100 Jewish men and women from the Golezow concentration camp, who lay trapped and partly frozen in 2 sealed train cars stranded near Brunnlitz;

Since millions of Americans have been made aware of the story of Schindler's bravery;

Since on April 28, 1962, Oskar Schindler was named a "Righteous Gentile" by Yad Vashem; and

Since Oskar Schindler is a true hero and humanitarian deserving of honor by the United States Government:

It is the sense of the Congress that the Postal Service should issue a stamp honoring the life of Oskar Schindler.

Mr. CAMPBELL. Madam President, this amendment has been cleared by both sides. I urge its immediate adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 3369) was agreed to.

Mr. CAMPBELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the Daschle amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3370

(Purpose: To improve access to FDA-approved prescription contraceptives or devices)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Ms. SNOWE, for herself and Mr. REID, proposes an amendment numbered 3370.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. (a) None of the funds appropriated by this Act may be expended by the Office of Personnel Management to enter into or renew any contract under section 8902 of title 5, United States Code, for a health benefits plan—

(1) which provides coverage for prescription drugs, unless such plan also provides equivalent coverage for all prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration; or

(2) which provides benefits for outpatient services provided by a health care professional, unless such plan also provides equivalent benefits for outpatient contraceptive services.

(b) Nothing in this section shall apply to a contract with any of the following religious plans:

(1) SelectCare.

(2) PersonalCare's HMO.

(3) Care Choices.

(4) OSF Health Plans, Inc.

(5) Yellowstone Community Health Plan.

(6) and any other existing or future religious based plan whose religious tenets are in conflict with the requirements in this Act.

(c) For purposes of this section—

(1) the term "contraceptive drug or device" means a drug or device intended for preventing pregnancy; and

(2) the term "outpatient contraceptive services" means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent pregnancy.

Ms. SNOWE. Madam President, I rise today, along with my colleague Senator REID, to offer an amendment to the Treasury-Postal appropriations bill that will produce two critical results: It will provide women who work for the federal government the equality in health care and the affordable access to prescription contraception coverage they need and deserve; and it will help reduce the number of unintended pregnancies and abortions in this country.

The Snowe-Reid amendment says that if a health plan in the Federal Employees Health Benefits Program, or FEHBP, provides coverage of prescription drugs and devices, they must also cover FDA-approved prescription contraceptives. It also provides that plans which already cover outpatient services also cover medical and counseling services to promote the effective use of those contraceptives.

That's it, Madam President. That's the extent and scope of the Snowe-Reid amendment. It only prevents health plans in the FEHBP from carving out exceptions for FDA-approved prescription contraceptives that prevent pregnancy.

It does not cover abortion in any way, shape or form. It does not cover abortion related services such as counseling a woman to seek an abortion. And it does not require coverage of RU–486, because RU–486 is not a method of contraception. Let me repeat, this amendment does not require coverage of RU–486.

The Snowe-Reid amendment also respects the rights of religious plans that, as a matter of conscience, choose not to cover contraceptives. Again, I want to make it clear that this amendment clearly exempts such plans.

Finally, the Snowe-Reid plan isn't going to break the bank or burden American taxpayers. In fact, CBO has estimated that the cost to the federal government would be less than $500,000, and under CBO's practice of scoring bills to the nearest million dollars, CBO stated: "this provision would have no effect on the budget totals in FY 1999."

So the Snowe-Reid amendment is a practical, common sense, cost effective approach to effecting the kind of public health policy that should set an example for the rest of the nation's insurers to follow.

The need for this visionary measure is clear. Today, nearly 9 million Federal employees, retirees, and their dependents participate in the FEHBP. Fully 1.2 million are women of reproductive age who rely on FEHBP for all their medical needs. Unfortunately, the vast majority of these women are currently denied access to the broad range of safe and effective methods of contraception.

In fact, according to the Office of Personnel Management, which administers the FEHBP, 81 percent of plans do not cover all five of the most basic and widely used methods of contraception and 10 percent of these plans do not cover any type of contraception at all.

The ramifications of this are dramatic. When 8 out of 10 women enrolled in the FEHBP aren't covered for the leading methods of contraception, their choices are unfairly limited. Who are we to pick and choose what method works best—or is most medically suited—for each individual woman?

The fact is, different women require different methods of contraception due to a variety of factors. If there is only one method of contraception her plan offers, where does that leave her? And even more to the point, why do we leave this decision to her health care plan, instead of her health care provider?

Across America, this lack of equitable coverage for prescription contraceptives contributes to the fact that women today spend 68 percent more than men in health care costs. That's 68 percent. And this gap in coverage translates into $7,000 to $10,000 over a woman's reproductive lifetime.

So I ask my colleagues: with 25 percent of all Federal employees earning less than $25,000—and nearly 18,000 Federal employees having incomes below or slightly above the Federal poverty level—what do you think is the likely effect of these tremendous added costs for these Federal employees?

Well, I'll tell you the effect it has: many of them simply stop using contraceptives, or will never use them in the first place, because they simply can't afford to. And the impact of those decisions on these individuals and this nation is a lasting and profound one.

Women spend more than 90 percent of their reproductive life avoiding pregnancy, and a woman who doesn't use contraception is 15 times more likely to become pregnant than women who do. Fifteen times. And of the 3.6 million unintended pregnancies in the United States, half of them will end in abortion.

I can't think of anyone I know, no matter their ideology, party, or gender, who doesn't want to see the instances of abortion in this nation reduced. Well, imagine if I told you we could do something about it, and do it at almost no cost to the federal government.

That is what the Snowe-Reid amendment does. When the Alan Guttmacher Institute estimates that the use of birth control lowers the likelihood of abortion by a remarkable 85 percent, how can we ignore a provision like the Snowe-Reid amendment that will make the use of birth control more affordable to our Federal employees, and do so with negligible cost to the Federal government?

And yet, as thoughtful an approach as the Snowe-Reid amendment may seem, I know that there will still be some in this body who will argue against it. Well, I believe these arguments do not withstand scrutiny, and I would like to take just a few minutes to explain why.

Some may voice concern that the Snowe-Reid amendment requires coverage of abortion of drugs that induce abortion, such as RU-486. To which I will reiterate, the Snowe-Reid amendment only requires coverage of FDA-approved methods of contraception—that means contraception to prevent pregnancy.

It is important to make it clear that we are only talking about methods of contraception under this amendment. And I might add, methods of contraception which will reduce the number of abortions in this country—so the fact is—if you want to see fewer abortions performed in the United States, you should support this amendment.

When it comes to the incredibly personal issue of abortion we should be celebrating common ground, not condemning it. This amendment achieves that goal. It does not pretend to settle the issue of abortion in America—far from it. It does, however, provide a rallying point for those who want to see abortions reduced—all of us, I would think—and that's the reason people like Senator REID who is prolife, support it on one side of the abortion debate and people like me on the other.

Some opponents may say that pregnancy isn't really a medical condition, and therefore we shouldn't be requiring its coverage in the FEHBP. Obviously, anyone who says this hasn't been through pregnancy or childbirth. If pregnancy isn't a medical condition, then I'd like to know what is!

And in this day and age when prevention is the buzzword—as it should be—how is it we can support prescription coverage to treat a variety of biological conditions but not to prevent one of the most dramatic and life-altering conditions of all?

Still others may argue, "Pregnancy is a lifestyle choice, and shouldn't be covered like diseases that are not". Such an argument simply ignores reality as well as the facts.

As Luella Klein, the director of women's health issues at ACOG, put it: "There's nothing 'optional' about contraception. It is a medical necessity for woman during 30 years of their lifespan. To ignore the health benefits of contraception is to say that the alternative of 12 to 15 pregnancies during a woman's lifetime is medically acceptible."

Of course, we shouldn't be too surprised at the attitude of our opponents. Indeed, it wasn't until 1978—only twenty years ago—that Congress passed a law requiring that maternity benefits be covered like any other medical care. Before we passed the Pregnancy Discrimination Act, 43 percent of insurance policies didn't include coverage of maternity care. Sound familiar?

So here we are, twenty years later, battling some of the same insurance companies that in 1978 didn't want to provide the same coverage we now take for granted. How can they still not cover the means to prevent what they already acknowledge through existing coverage as a medical condition?

The fact is, all methods of contraception are cost effective when compared to the cost of unintended pregnancy. And with unplanned pregnancies linked to higher rates of premature and low-birth weight babies, costs can rise even above and beyond those associated with healthy births.

As the American Journal of Public Health estimates, the cost under managed care for a year's dose of birth control pills is less than one-tenth of what it would cost for prenatal care and delivery.

So the question, then, is not "How can we afford to expand coverage to prescription contraceptives?" but "How can we afford not to?"

No, the cost argument doesn't hold water, Mr. President, and neither do any of the other arguments. The bottom line is, the Snowe-Reid amendment makes sense from a standpoint of fairness, from the standpoint of compassion, from the standpoint of cost effectiveness and from the standpoint of good public health policy.

Maybe that's why the concept is supported by such diverse groups as the American Medical Association, the American Academy of Family Physicians, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Society for Reproductive Medicine, the American Medical Women's Association, and the Society for Adolescent Medicine.

Whatever the reason, as an employer and model for the rest of the nation, the federal government should provide equal access to this most basic health benefit for women. This amendment would allow federal employees to have that option, one already provided an option for contraceptives through the Medicaid program. Why shouldn't the same federal commitment be extended to women employed by the federal government?

In closing, Madam President, let me say that if we, as a nation, are truly committed to reducing abortion rates and increasing the quality of life for all Americans, then we need to begin focusing our attention on how to prevent unintended pregnancies. The Snowe-Reid amendment is a significant step in the right direction, and I urge my colleagues to join me in supporting it.

Ms. MIKULSKI. Madam President, I want to thank Senators SNOWE and REID, for offering this important amendment today. I am proud to be a cosponsor of the Snowe amendment. I am also proud to be an original cosponsor of the Snowe-Reid bill on which this amendment is based.

This amendment is about two things—it's about equity and it's about women's health.

The Snowe amendment would help to narrow the gender gap for women in insurance plans. What it does it really is quite simple. It requires that any health plan for federal employees that covers prescription drugs must also cover prescription contraceptives.

Federal Employee Health Benefit plans routinely cover prescription drugs. But they routinely discriminate against women by not including prescription contraceptives. In fact, 81% of the plans under FEHBP fail to cover all five of the leading types of contraceptives. Ten percent offer no coverage at all.

Mr. President, I am a strong supporter of our federal employees. I am proud that so many of them call Maryland their home. They work hard in the service of our country. And I work hard for them. Whether it's fighting for fair COLAs, against disruptive and harmful shutdowns of the federal government, or fighting to prevent unwise schemes to privatize important services our federal workforce provide, they can count on me.

Today, I am fighting for equity in health insurance coverage for federal employee women. The failure of the majority of federal health plans to cover all forms of prescription contraceptions results in unfair physical and financial burdens for women. It forces women of reproductive age to spend 68% more for out-of-pocket health care costs than men.

This amendment would help to correct that inequity. That is one reason why I so strongly support it.

I also support the Snowe amendment because it will help to safeguard women's health. As a member of the Committee on Labor and Human Resources, I have worked hard for women's health. Whether it was establishing the Office of Women's Health Research at NIH, fighting for inclusion of women in clinical trials, or ensuring that women receive safe and accurate mammograms through the Mammography Quality Standards Act, I have fought to make sure that women's health needs are met.

Contraception is a part of basic health care for women. This amendment will ensure that federally-employed women will have the tools they need to plan their families, to avoid unintended pregnancies and to reduce the need for abortion.

Access to family planning is one of the most important issues facing women today. Family planning improves maternal and child health. We know that unwanted pregnancies are associated with lower birth weight babies and jeopardize maternal health. They also too often put a young woman's future academic and personal achievement in jeopardy. When the resources are available to help women make good, responsible choices about parenthood and their futures, we have no excuse for not making those tools available.

I am proud that my own state of Maryland has been a leader in this area. Earlier this year, Maryland became the first state in the nation to require insurers that cover prescription drugs to also cover FDA-approved prescription contraceptives. Maryland has once again shown itself to be on the leading edge of progressive health care policy.

Today, the Senate has an opportunity to take the first steps in following Maryland's example. We can adopt the Snowe amendment. We can ensure that women in the federal workforce have equitable access to prescription contraceptions.

I hope we will adopt this amendment today. And I hope we will bring to the floor soon the Snowe-Reid bill to ensure that all insurance plans that cover prescription drugs include contraceptive drugs and devices in that coverage.

Mrs. MURRAY. Madam President, I want to thank the sponsor of this important amendment for all his work and effort on behalf of women's health. As a Senator who has long championed women's health issues and fought to protect women's health, I commend him for his efforts. I am pleased to join with him today in support of women's health equity.

There has been a great deal of debate lately regarding contraceptive equity. Let me first start by explaining what this amendment does not do. It does not mandate benefits. Let me repeat that, this is not a mandate. If a plan does not have a prescription drug benefit then they do not have to add contraceptives. If a plan has a copy of deductible for prescription benefits, then contraceptives would also have the same copy or deductible. If a plan requires payments or deductibles for surgical services, then family planning benefits would also have the same copayments and deductibles. This is not a mandate. It simply says that plans cannot treat contraceptives any differently than medication to treat high blood pressure or to treat diabetes.

This amendment does not increase federal spending. CBO has scored this amendment as having a minimal effect on spending. The cost is such that CBO cannot even estimate as it falls below their threshold for calculating or determining budgetary impact. I would argue that in fact it will have a positive impact on spending. Currently, 50 percent of all pregnancies in this country are unintentional. Increasing access to safe, affordable family planning can only reduce this number. The average cost annually of oral contraceptives is estimated at $400 to $500. The cost of an uncomplicated delivery is close to $4,000, this excludes any prenatal or postnatal care. It does not take a budgetary expert to conclude that there will actually be savings from this amendment.

This amendment is also not about abortion. Let me make this very clear. This is not an abortion debate. No part of this amendment would require federal funding of abortions. It simply goes to those contraceptives that are currently approved by the FDA to prevent unintentional pregnancies. RU486 is not currently available in the United States. No plan would be required to cover RU486. If you ask any woman if there is a difference between abortion and contraceptives I can assure you that the answer would be yes.

Now let me tell you all what this amendment does. This amendment goes to the heart of women's health. Reproductive health and effective family planning are women's health issues. It is hard to go a week without hearing one of my colleagues talk about the importance of women's health. There are probably well over 500 pieces of legislation pending that impact women's health. Every member strives to have a solid record on women's health issues. Every member claims to be a champion of women's health. Yet denying access to safe, affordable contraceptives for federal employees poses a serious threat to women's health. On average, without effective, safe family planning, most women could expect to endure 12 to 13 pregnancies in her life time. While most women have safe and healthy pregnancies, for some it still can be life threatening. And for most women 12 or 13 pregnancies does pose a serious health threat.

In order to protect women's health and reduce infant mortality it is critical to plan for pregnancy. To place economic barriers for women to receive safe family planning services is to place a significant health burden upon us.

Many women may not even be aware, but women can expect to pay up to 68 percent more in out of pocket health care costs than men. Ask any woman if she is willing to pay 68 percent more for housing, or food or transportation and I can assure you the answer would be a resounding no. But, for health care this is actually what women face. I stand today to say we must reverse this trend. We already know that women can expect to earn 71 cents for every dollar earned by a man. Now we want to say that they should pay 68 percent more for health care or for any consumer product.

This is a basic question of equity and fairness. This is even more evident in the federal work force. By and large the federal work force is younger and paid less than the private sector. Effective family planning is even more essential in a younger work force. Many federal employees who live pay check to pay check. Yet, female federal employees have no guarantee that their insurance will not discriminate against them. If there is a health care benefit program that should offer a wide range of affordable reproductive health benefits, I would argue it must be the Federal Employees Health Benefit Plan.

There are some of my colleagues who will argue it should be up to the plan or even some who will argue that Members of Congress should decide what methods of family planning are covered. It is these very Members of Congress who also argue that only the physician and patient should be making health care decisions. Not health plans or politicians. I urge my colleagues to think very carefully about who they want making life and death health care decisions. I would hope that my colleagues would concur that only physicians and the patient should be making these decisions. This is why the American College of Obstetricians and Gynecologists endorses this amendment. They know how dangerous it is to make life or death decisions based solely on economics or other arbitrary criteria.

Economic barriers and discriminatory insurance practices do threaten women's health. The National Commission to Prevent Infant Mortality determined that "infant mortality could be reduced by 10 percent if all women not desiring pregnancy used contraceptives." With one action we could be reducing our tragic infant mortality rate in this country. The Institutes of Medicine's Committee on Unintended Pregnancy recommended that "financial barriers to contraception be reduced by increasing the proportion of all health insurance policies that cover contraceptive services and supplies." As the largest purchaser of private health insurance in this country, the Federal Government should set the example for the private market. We should listen to the evidence of the medical community and research scientists and tear down economic barriers within the Federal Employees Health Benefit Plan.

I urge my colleagues to let women and their doctors decide, not politicians and certainly not economics. Having access to the most appropriate family planning method without economic sanctions is a women's health issue. Each woman must have the ability to make this decision based on the recommendations of her doctor. To most women, this is a major women's health vote. This is a question of equity and fairness but more importantly it is an issue of access to safe, affordable reproductive health care services.

How would any Member of this body feel if we found out that our insurance policies would only provide access to one form of high blood pressure medication, regardless of the side effects? How would we react if a plan operating in the FEHBP said that they would charge a higher copayment for prescription drugs to treat heart ailments? How we would respond to these discriminatory practices that threaten quality, affordable health care for FEHBP participants? I can tell you how this member would respond. I would be on the floor offering amendments to end discriminatory insurance practices that result in nothing more than economic sanctions that diminished access to safe health care services.

We owe our federal employees more and we should be a leader on women's health. I urge my colleagues to vote for women's health instead of just talking about it.

Mr. KENNEDY. Madam President, I urge the Senate to approve the amendment by Senator SNOWE and Senator REID to provide fairness in prescription coverage for family planning.

The provisions of this amendment will benefit millions of American women by helping to make the cost of preventing unintended pregnancy more affordable. They will also help to reduce the number of unintended pregnancies by providing women with greater access to a broad range of safe and effective family planning services.

Too often, insurance companies refuse to cover these costs. Only a third of all private health plans currently cover oral contraceptives—the most widely used prescription method of family planning. According to a study by the Alan Guttmacher Institute, nearly half of all large-group plans do not cover such prescriptions—despite the fact that 97 percent of traditional fee-for-service plans routinely cover prescriptions for other medicines and medical devices. In a recent column in the Washington Post, David Broder called this lack of coverage "one of the great stupidities in the health care system."

The result in that women are too often forced to rely on family planning without the full range of available methods. Women pay 68 percent more than men in out-of-pocket health care costs—in large part because of the high cost of preventing unintended pregnancies. As Ellen Goodman noted in a column in The Boston Globe, "Some women are making hard economic choices between paying their bills and buying pills."

Too often, women are forced to settle for the family planning method that is most affordable, rather than the one that is most effective. Inevitably, many of them are forced to settle for no method at all. The result is large numbers of unintended pregnancies each year, and large numbers of abortions. Clearly, greater access to reliable methods of birth control will substantially reduce the number of abortions.

In the United States, it is estimated that half of all pregnancies each year are unintended. Three million women use no method of birth control, and they account for half of all unintended pregnancies. Greater access to insurance coverage will significantly reduce this number. As an editorial in the American Journal of Public Health points out: "Contraception is the keystone in the prevention of unintended pregnancy."

The vast majority of women who use some form of birth control do not have insurance coverage to defray the cost. Often, they are forced to choose inexpensive methods with high failure rates. The proposal by Senator SNOWE and Senator REID is an important step in the right direction. It requires private insurance companies to cover FDA-approved, prescription birth control drugs and devices in a manner comparable to all other prescription drugs and devices.

Just as more effective birth control means fewer unintended pregnancies and fewer abortions, it also means more savings in health costs. An April, 1995 study in the American Journal of Public Health estimated that women who use prescription contraceptives will avoid far more in other health costs than the cost of the prescriptions.

According to the Guttmacher Institute, the increased cost to employers who provide this coverage to their employees would be $17.00 a person per year. That's an increase of just one-half-of-one percent over current costs per employee.

This bill is sound public policy. It is supported by all major family planning organizations and by the vast majority of the American people. In surveys, 75 percent of Americans express support for increasing access to family planning services. And, 73 percent of survey respondents continue to be supportive, even if contraceptive coverage modestly increases their insurance premiums.

Support for increasing this coverage clearly crosses party lines. It is sound public policy that has been too long in coming. I urge the Senate to approve it.

Mr. JEFFORDS. Madam President, over the past few years we have become increasingly aware of the need to improve women's health. I am an original cosponsor of S. 766, the Equity in Prescription Insurance and Contraceptive Coverage Act and am proud to support Senators SNOWE and REID today in their amendment to ensure contraception coverage for all women covered by the Federal Employee Health Benefit Program.

I held a hearing on this issue in the committee on Labor and Human Resources on July 21, 1998, and am pleased to see interest in and support for this issue growing. It has been too long in coming, but I am glad to have the opportunity to be part of providing equity in health care for women. I look forward to the day when all American women will enjoy the same equity in coverage this amendment provides to women employed by the federal government.

Out-of-pocket health care expenses for women are 68 percent higher than those for men, and most of the difference is due to noncovered reproductive health care. It is disturbing how rapidly some insurance plans began covering Viagra when it has taken so long for many of them to begin covering contraceptives. This bill helps achieve gender equity in health benefits, and its passage would be a victory for women across the Nation.

"EPIC" provides that if a health insurance plan covers benefits for other FDA-approved prescription drugs or devices, it also must cover benefits for FDA-approved prescription contraceptive drugs or devices. Further, "EPIC" provides that if the plan covers benefits for other outpatient services provided by a health care professional, it also must cover outpatient contraceptive services.

The bill does not require special treatment of prescription contraceptives or outpatient contraceptive services compared to other prescription drugs or outpatient care.

Each year more than half of all pregnancies in the United States—approximately 3.6 million pregnancies—are unintended, and almost half of all unintended pregnancies end in abortion. Reducing unintended pregnancies by making effective contraception more widely available would reduce the need for abortion. For that reason, surveys suggest that most people favor increasing coverage of contraception by health insurance plans.

The vast majority of private insurers cover prescription drugs, but many exclude coverage for prescription contraceptives. In contrast to the lack of coverage for reversible contraception, most plans do cover abortion and sterilization.

The gender equity issue has been highlighted recently by the willingness of many health insurance plans to cover Viagra. A Kaiser Family Foundation national survey on insurance coverage of contraception conducted in May of this year demonstrated that 75 percent of Americans 18 years and older supported coverage of contraception, but only 49 percent supported coverage of Viagra.

The Health Insurance Association of America (HIAA) has estimated that the extra cost to employers who do not now cover reversible medical methods of contraception is about $16 per employee per year—or less than one percent of current health care premiums.

Mr. LAUTENBERG. Madam President, I would like to express my support for the amendment offered by Senators SNOWE and REID.

I applaud the efforts of these two Senators in bringing to our attention the inequities that exist for men and women in federal health care plans.

Most federal employee health care plans (FEHBP) cover a wide range of prescription drugs without covering prescription contraceptive drugs. In fact, almost all federal insurance plans fail to cover all five of the most widely used forms of contraception. Ten percent have no coverage of contraception at all.

A health care plan's refusal to cover contraception is effective discrimination against women. Access to contraception should be a basic health benefit for female federal employees. And women should be able to choose the best method of contraception for them, depending on their medical history and personal health care needs.

If adopted, this amendment will certainly help lower the rate of unintended pregnancies and reduce the need for abortion. That result is something positive on which we can all agree.

The Federal Government should be conscientious and fair about how it treats its employees. It should be a model for private insurance plans, guiding them to provide the best health care possible for those who enroll in government-sponsored plans. Not allowing access to a full range of contraceptive services to the women who work in our own Senate offices, to the civilian employees in the Pentagon, to FBI and DEA agents, and to the female officers on the Capitol Police Force, to name a few examples, is unfair and essentially creates a two-tiered health care system for public and private sector employees.

I urge my colleagues to support this amendment.

Mrs. BOXER. Madam President, I strongly support my colleague's amendment to require Federal Employee Health Benefits plans to treat prescription contraceptives the same as all other covered drugs. This amendment is critical to improving both equity and health care for federal employees.

The Federal Employee Health Benefits plans should be a model for health insurance coverage for all Americans. Unfortunately, they fall far short when it comes to reproductive health. Ten percent of Federal Employee Health Benefits plans have no coverage for contraception. 81 percent of plans do not cover the range of contraceptive care for women, including the most commonly used reversible contraceptives, including (oral contraceptives, diaphragm, IUD, Depo-Provera, and Norplant.

This is an issue of gender equity. Women spend 68 percent more in out-of-pocket costs for health care than men. Much of this difference is due to reproductive health costs. For many women, contraceptives cost an additional $400 or more each year. By passing this amendment, we can take an important step toward eliminating this economic disparity.

I note with some concern that this amendment allows certain plans to exempt themselves from complying with this requirement. This exemption will limit the scope of these gains for American women. It was my hope that we could ensure contraceptive parity for all, not some.

I urge my colleagues to continue to pursue that aim, but I acknowledge that effort must be left for another day.

I urge my colleagues to vote "yes" for this amendment, "yes" for equity, and "yes" for the reproductive health of our Federal employees.

Mr. KOHL. Madam President, I rise in strong support of this amendment. It would require Federal Employees Health Benefit (FEHB) plans that cover prescription drugs to also cover FDA approved prescription contraceptives. This same amendment was included in the House version of our bill by a vote of 239–183.

The issue of family planning should be one that brings together both sides of the abortion debate. Close to half of all pregnancies in the United States are unintended, and tragically, those unintended pregnancies often lead to abortion. By providing federal workers with the most appropriate and safe means of contraception, we can reduce the number of abortions performed and increase the number of children who are born wanted, planned for, and loved.

I thank Senators REID and SNOWE for their leadership on this issue, and I hope the Senate follows the House's lead and gives this amendment our overwhelming support.

Mr. REID. Madam President, this amendment will help to create gender equity in health care, will provide for healthier mothers and children, will lower the rate of abortion and it will cost the government nothing—in fact it may save money.

We can do all of this requiring the Federal Employee Health Benefits (FEHB) plans to cover prescription contraception just as they cover other prescriptions.

Currently, women of reproductive age spending 68 percent more in out of pocket health costs than men.

The proposed amendment would require FEHB plans to treat prescription contraceptives the same as all other cover drugs. In so doing, it would help to achieve parity between the benefits offered to male participants in FEHB plans and those offered to female participants, there by narrowing the gender gap in insurance coverage.

The vast majority of FEHB plans offer prescription drug coverage, but fail to cover the full range of prescription contraceptions.

I have said it many times now, but I believe if men were the ones who needed prescription contraceptives, I have no doubt they would have been covered by insurance years ago.

the FEHB Program should be the model for private plans. the United States Government, as an employer, should provide basic health benefits for women and families insured through FEHB.

Eight-one percent of FEHB plans do not cover all five leading reversible methods of contraception. (Oral contraceptives, diaphram, IUD's, Norplant and Depo-Provera)

Ten percent of FEHB plans have no coverage of contraceptives—they do not cover any of the five leading methods.

Women should be receiving health care coverage equal to the coverage that every man receives from the federal employee health care benefits plan—which is probably a majority of the male Senators in this chamber.

Contraceptive services also help to promote healthy pregnancies and healthy birth outcomes. A study of 45,000 women suggests that women who used family planning services in the 2 years before conception were more likely to receive early and adequate prenatal care.

The National Commission to Prevent Infant Mortality estimated that 10 percent of infant deaths could be prevented if all pregnancies were planned; in 1989 alone, 4000 infant lives could have been saved.

Now, we have all gone through the long abortion debates on this floor. they are heated passionate debates.

Senator SNOWE and I come from opposite sides of that debate. I am pro-life. Senator SNOWE is pro-choice. But we have one thing in common regarding this issue: We both believe that abortions are to be avoided and that the number that occur in this country every year needs to be reduced.

How do we reduce the number of abortions? We reduce the number of unintended pregnancies by providing women with the means to acquire birth control.

Contraceptive help couples plan wanted pregnancies and reduce the need for abortion. There are 3.6 million unintended pregnancies in this Nation each year—about 60 percent of all pregnancies. And almost half of these unintended pregnancies end in abortion.

I have a chart here that shows as the unintended pregnancy rate drops, so does the number of abortions.

From 1981 to 1987 the unintended pregnancy rate dropped by about 1 percent and the abortion rate also slightly dropped. the unintended pregnancy rate dropped 8.8 percent from 1987 to 1994, and the abortion rate per 1000 women during those years dropped from 24 to 20. Given this trend, I think it would be wise to do whatever we can to speed up the drop in unintended pregnancies.

The cost effectiveness of family planning is well documented. Studies indicate that in the private sector, for every dollar invested in family planning, between $4 and $14 are saved in health care and pregnancy related costs.

CBO has estimated that this amendment will cost less than $500,000. Under CBO's practice of scoring bills to the nearest million dollars this provision would have no effect on the budget total in fiscal year 1999.

AMENDMENT NO. 3371 TO AMENDMENT NO. 3370

(Purpose: To provide a rule of construction relating to coverage)

Mr. REID. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3371 to amendment No. 3370.

Mr. REID. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. CAMPBELL. Madam President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will report the amendment.

The assistant legislative clerk continued to read as follows:

At the end of the amendment, add the following new subsection:

(c) Nothing in this section shall be construed to require coverage of abortion or abortion related services.

Mr. CAMPBELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

AMENDMENT NO. 3365

Mr. ROTH. Madam President, as I stated earlier today, I am a strong proponent of fixing the marriage penalty. it is a top priority of the Finance Committee in our efforts to reform the Tax Code. But it must be done properly. And such is not the case with this amendment—nor with the amendment proposed this morning. As I said this morning, the bill on which my colleagues are trying to attach marriage penalty legislation is an appropriations bill. It is not a tax bill.

As this Treasury-Postal appropriations bill is not a revenue measure—and as all revenue measures must originate in the House of Representatives—this one amendment could subject the entire bill to a blue slip. In other words, Madam President, adding a revenue measure that originates in the Senate to a nonrevenue bill, will sink the entire bill. Under the rules, any member in the House can raise an objection and kill this appropriations bill. And that is in no one's interest.

So while I agree in principle with the objective of reforming the marriage penalty—I would be remiss in my duties if I did not make it clear that passing this amendment at this time is inappropriate. Whether the marriage penalty fix is paid for, or not, it must be handled in Congress as the Constitution requires. Therefore, I urge my colleagues to vote against the amendment.

Mr. MOYNIHAN. Mr. President, with regret, I must oppose Senator DASCHLE's amendment to provide for marriage tax penalty relief. Although I support the idea of a revenue-neutral solution to the inequitable situation created by the Internal Revenue Code for millions of married couples, an appropriations bill is not the proper forum for debating and voting on resolution of this matter. To attach this amendment to this bill would violate the constitutional requirement that revenue measures originate in the House, and it would kill this important appropriations legislation.

I agree with the distinguished chairman of the Finance Committee, Senator ROTH, that the issue of the marriage penalty should first be considered by the Finance Committee and proceed to the floor in the manner normally associated with tax legislation. I look forward to working with him, and all the members of the committee in coming to a bipartisan agreement on a measure that provides relief to taxpayers saddled with the marriage penalty and is properly offset under the budget rules.

Madam President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Madam President, I further call for the regular order with respect to the Daschle amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. CAMPBELL. I further tell Members, the majority side yields back all time.

The PRESIDING OFFICER. Ten minutes remains on the minority side for this amendment, controlled by the minority leader or his designee. Who yields time?

Mr. REID. Madam President, I ask the Daschle amendment be set aside.

The PRESIDING OFFICER. Is there objection to setting aside the Daschle amendment?

Mr. REID. And, if necessary, the DeWine amendment, which is next in order.

The PRESIDING OFFICER. Is there objection to setting aside the Daschle amendment and the DeWine amendment? Without objection, it is so ordered.

AMENDMENT NO. 3370, AS MODIFIED

Mr. REID. Madam President, on the Snowe-Reid amendment which is now pending, on page 2 of the amendment, line 3, the word "all" is listed. I would like to modify my amendment and delete the word "all."

The PRESIDING OFFICER. Is there objection to the Senator's request? Without objection the amendment will be modified.

The amendment (No. 3370), as modified, is as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. (a) None of the funds appropriated by this Act may be expended by the Office of Personnel Management to enter into or renew any contract under section 8902 of title 5, United States Code, for a health benefits plan—

(1) which provides coverage for prescription drugs, unless such plan also provides equivalent coverage for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration; or

(2) which provides benefits for outpatient services provided by a health care professional, unless such plan also provides equivalent benefits for outpatient contraceptive services.

(b) Nothing in this section shall apply to a contract with any of the following religious plans:

(1) SelectCare.

(2) PersonalCare's HMO.

(3) Care Choices.

(4) OSF Health Plans, Inc.

(5) Yellowstone Community Health Plan.

(6) and any other existing or future religious based plan whose religious tenets are in conflict with the requirements in this Act.

(c) For purposes of this section—

(1) the term "contraceptive drug or device" means a drug or device intended for preventing pregnancy; and

(2) the term "outpatient contraceptive services" means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent pregnancy.

Mr. REID. I ask for the regular order.

AMENDMENT NO. 3365

The PRESIDING OFFICER. The regular order brings back the amendment by Senator DASCHLE. The time is being charged against the amendment on the minority side. All time has been yielded back on the majority side.

The Senator from North Dakota.

Mr. CONRAD. Madam President, I have been asked to yield back the rest of our time on our side.

The PRESIDING OFFICER. All time has been yielded back on both sides.

The Senator from Colorado.

Mr. CAMPBELL. On behalf of the majority leader, I move to table the Daschle amendment. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota, Mr. DASCHLE.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "aye."

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—57

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Reid
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 3365) was agreed to.

Mr. GRAMM. I move to reconsider the vote.

Mr. WARNER. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3370, AS MODIFIED, AND 3371, EN BLOC

Mr. CAMPBELL. I ask unanimous consent that the Senate now consider amendment No. 3370 as modified and offered by Senator REID of Nevada for Senator SNOWE and ask for its adoption.

The PRESIDING OFFICER. The two amendments are pending; they are the pending amendments.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I further ask unanimous consent that amendments Nos. 3370 and 3371 be considered and accepted en bloc. This is the Snowe-Reid amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (No. 3371 and No. 3370, as modified, as amended) were agreed to en bloc.

Mr. REID. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. REID. I ask unanimous consent that Senator MIKULSKI be listed as a prime cosponsor of the amendment just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3354

Mr. CAMPBELL. Mr. President, I call for regular order with respect to amendment No. 3354, the DeWine amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. CAMPBELL. I know of no further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3354) was agreed to.

Ms. MIKULSKI. I thought there was going to be——

Mr. CAMPBELL. It is my understanding this amendment has been accepted by both sides of the aisle.

Ms. MIKULSKI. I misunderstood the parliamentary situation. The Senator from Colorado is correct.

I ask unanimous consent that the RECORD show that had there been a recorded vote, I would have voted no.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. SNOWE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I ask unanimous consent Senator MOSELEY-BRAUN and Senator GORDON SMITH be added as cosponsors of the Snowe-Reid amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3372

(Purpose: To require a study of the conditions under which certain grain products may be imported into the United States, and to require a report to Congress)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. DORGAN, proposes an amendment numbered 3372.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . IMPORTATION OF CERTAIN GRAINS.

(a) FINDINGS.—The Congress finds that—

(1) importation of grains into the United States at less than the cost to produce those grains is causing injury to the United States producers of those grains;

(2) importation of grains into the United States at less than the fair value of those grains is causing injury to the United States producers of those grains;

(3) the Canadian government and the Canadian Wheat Board have refused to disclose pricing and cost information necessary to determine whether grains are being exported to the United States at prices in violation of United States trade laws or agreements.

(B) REQUIREMENTS.—

(1) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall conduct a study of the efficiency and effectiveness of requiring that all spring wheat, durum or barely imported into the United States be imported into the United States through a single port of entry.

(2) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall determine whether such spring wheat, durum and barley could be imported into the United States through a single port of entry until either the Canadian Wheat Board or the Canadian Government discloses all information necessary to determine the cost and price for all such grains being exported to the United States from Canada and whether such cost or price violates any law of the United States, or violates, is inconsistent with, or denies benefits to the United States under, any trade agreement.

(3) The Customs Service shall report to the Committees on Appropriations and Finance not later than ninety days after the effective date of this act on the results of the study required by subsections (1) and (2), above.

Mr. CAMPBELL. Mr. President, this amendment asks the Customs Service to conduct a study regarding Canadian wheat. It has been agreed to by both sides. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3372) was agreed to.

Mr. CAMPBELL. Mr. President, we are not making very good progress on this bill. We have only cleared 14 amendments and we have yet to deal with 43. I just say to all of the Senators that this is our second day. We have been in here since 9:30 this morning. I urge them to help us expedite the process of dealing with these outstanding 43 amendments. It may be a very long evening and into the day tomorrow if we don't start clearing some of them. So I ask the Senators are watching the proceedings to come to the floor and help us move these forward.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. THOMPSON. Mr. President, I ask unanimous consent that Ellen Brown of my staff be allowed floor privileges for the duration of the discussion of the amendment that I am about to bring up.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3353

Mr. THOMPSON. Mr. President, we brought up yesterday amendment No. 3353 to the bill. Senator HARKIN had a situation he had to attend to yesterday, so we set it aside for the consideration of other business. Now Senator HARKIN is here. I think he will be joining us momentarily. We wanted to take advantage of the opportunity at this time to bring it up. I have been discussing this item with Senator HARKIN to see if we could reach an agreement. I don't believe that we are going to be able to.

Just basically, in summary, Mr. President, this has to do with procurement legislation. This is a very complex area. I can't think of an area that is more boring and more complex than the procurement laws. For that reason, the staff of our committee—the Governmental Affairs Committee, which has jurisdiction generally over the procurement laws—spent many, many hours on this subject. The last two Congresses have produced reform legislation that balances the interest in the procurement field between the government and those who are selling goods and services to the government.

This provision, section 642 in this Treasury-Postal bill, essentially is a procurement piece of legislation. It has to do with child labor. It essentially prohibits the Government from buying from those who use child labor any goods or services produced by child labor. That is a laudable goal. I support that. My amendment incorporates that goal. I point out that it is already against the law. But it is certainly fine with me if we put in this Treasury-Postal bill another law that says we cannot procure services or goods from those who do that sort of thing.

My problem, other than the fact that I believe the best way to legislate in this matter is to have hearings on a complex subject like this, is that it sets up a procedure that basically is overreaching and unfair, and probably unconstitutional. Because with regard to this area, as in no others, a contractor is required to sign a statement with the Government that will allow a Government official at any time at his discretion to come in and look at the books and records, or talk to the individual at any time at his discretion to see whether or not a child labor law has been violated. He should not be required to give up the fourth amendment rights in order to contract with the Government.

As I say, trafficking in those kinds of goods and services is against the criminal law. There is provision that prohibits such immoral activity by that company when dealing with the Federal Government as it is. But it certainly does not call for an abrogation of rights that we otherwise hold near and dear.

It says that the Secretary of Labor shall publish a list of items that might have been produced by child labor. And then the contractor has to certify that he is not using any of those items. Evidently, it is difficult to determine sometimes whether or not child labor has been used. The Government's only responsibility is to determine whether or not they might have been used. And, yet, the contractor is required to certify that they have not been used.

I am afraid this is a Catch-22 with regard to people in good faith who are out trying to do the right thing and certainly would not consider using child labor; but would allow unlimited access and unfettered access, under the language of this statute as it is now written, and would allow any Government official to come in and have unlimited access to books and records.

One other feature of this provision that I think is erroneous is the exception. This does not apply to countries that have signed NAFTA, for example. There are a couple of other exceptions. But I will just concentrate on that.

If a foreign country has signed the NAFTA agreement, then presumably companies of that country do not have this law applied to them.

We are focusing in on our own companies. We signed NAFTA. But we are focusing in on our own companies requiring this kind of intrusion with regard to our own contractors, and we are not applying the same standard to contractors of another country who might be supplying child labor.

I don't think that is right. I don't think that is fair. I do not want to make a mountain out of a molehill.

I think this is important. I feel a responsibility, as chairman of the Governmental Affairs Committee, to bring this to the attention of the Senate, and simply say that in matters that are this complex that require a balancing of interests, we should go through the committee process.

Senator GLENN had a piece of legislation that we considered last year. We have had the Clinger-Cohen Act, and lots and lots of working hours put into this in trying to reach the right balance.

We should not come in with a provision in an appropriations bill that basically upsets that balance and places new responsibilities, new requirements, new intrusions on contractors that in the wisdom of their deliberations the committees, after considering this thing for years, have not decided to do.

I respectfully urge the support of my colleagues with regard to my amendment.

I yield the floor, Mr. President.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I reserve the right to object. I will not object, but if the Senator will hold off just a moment. Apparently, we cannot find our copy of the amendment.

Mr. WELLSTONE. Mr. President, let me supply a copy.

Mr. CAMPBELL. I thank the Senator. If he would like to proceed, I have the amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 3373 TO AMENDMENT NO. 3362

(Purpose: To prevent Congress from enacting legislation which fails to address the legislation's impact on family well-being and on children.)

Mr. WELLSTONE. Mr. President, I send this second-degree amendment to the Abraham amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 3373 to amendment No. 3362.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment insert the following:

SEC. . FAMILY WELL-BEING AND CHILDREN'S IMPACT STATEMENT.

Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on family well-being and on children, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.

Mr. HARKIN. Mr. President, parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Parliamentary inquiry. Before the Senator from Minnesota starts, what is the order of precedence at the desk right now, of amendments? What amendment are we on right now?

The PRESIDING OFFICER. We are on the Wellstone amendment to the Abraham amendment.

Mr. HARKIN. Further parliamentary inquiry, I thought we were on the Thompson amendment.

The PRESIDING OFFICER. That amendment has been temporarily set aside.

Mr. HARKIN. I understand. Thank you, Mr. President.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. WELLSTONE. Mr. President, do I have the floor? I believe I do.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. I was not aware the amendment was set aside. I called it up. No one moved that it be set aside that I am aware of. Maybe I am mistaken. I thought we were on it. Senator HARKIN is prepared to address it.

Mr. WELLSTONE. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senator from Tennessee could call for the regular order, which would bring his amendment back.

Mr. THOMPSON. I call for the regular order, Mr. President.

Mr. WELLSTONE. We have two different views. Might I ask what regular order is? Is regular order the Abraham amendment that I have now second-degreed? Or not? I was under the impression that it was.

AMENDMENT NO. 3353

The PRESIDING OFFICER. The regular order is the underlying Thompson amendment. When we finish that, we will return to the amendment of the Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair and I thank my colleagues.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. HARKIN. Mr. President, I apologize to my friend and colleague from Minnesota. Senator THOMPSON and I were prepared to engage in some colloquies and debates and things on this amendment. I was surprised. I thought it had been called up. I apologize to my friend from Minnesota. We were scheduled to start this debate on the issue of child labor.

Mr. President, the Thompson amendment, which is the pending amendment, seeks to strike from the bill a provision that was incorporated at the committee level—subcommittee level and committee level—by unanimous consent. I don't know of any votes that were held on it. It seemed to be adopted overwhelmingly. No one raised any questions about it in full committee or anything like that.

The provision deals with setting some parameters on procurement policy for the Federal Government, to the maximum extent possible to preclude the Federal Government from purchasing items made by forced or indentured child labor.

I hardly know where to begin to respond to some of the issues raised by my friend from Tennessee, but let me attempt to start here. First of all, right now it is true that there are certain laws that we have that cover child labor in this country. But that gets to the point where if something happens, then you can take someone to court and you can fine them and debar them and all that. There is a long process and procedure for that.

What this provision that was put in the committee bill seeks to do is to set up a structure to try to avoid or to preclude this from happening in the first place. So that those who sell to the Federal Government would be on notice that, first of all, there is a list of items that would be promulgated—published by the Department of Labor in consultation with the Department of State and Department of the Treasury—a list of items which would be very small in number because there are not that many items, a list of items that have historically and traditionally been made with the use of forced or indentured child labor; that if you are a seller to the Federal Government and if you are procuring or selling those kinds of items—like hand-knitted carpets, for example, or certain leather items, some apparel, rattan furniture, things like that—where the Department of Labor over the last 4 years in studying this issue has issued about four volumes on the use of forced and indentured child labor and the products that are made and that type of thing. These are very extensive studies that are made by the Department of Labor. What this provision in the bill does is it sets up a list. They put out a list. Then, if you are selling to the Federal Government, you check a little box that you attest—"attestation" they call it—you attest that the item that you are selling to the Federal Government was not made using forced or indentured child labor. That is basically it.

The list is necessary for two reasons. First, it would narrow the scope to only suspect industries, thus preventing a sort of widespread kind of provision or a burdensome requirement on industries where the use of forced or indentured child labor does not occur. For example, I heard some mention made of Boeing aircraft. Boeing aircraft does not make things made by forced or indentured child labor. There has never been a scintilla of evidence to show that, so none of their products would be on the list. So we narrow the scope right away to just a few suspect industries.

Second, the list is necessary because procurement officers need guidelines to enforce the intent of the legislation. Again, this list would be compiled based on the four child labor studies already released by the Department of Labor. Furthermore, the only companies that would be affected by this are ones that sell an item that appears on the list. If you don't sell an item that appears on the list, you will not be affected by this. You would not have to attest; you would not have to check the box and attest that the item was not made by forced or indentured child labor if you are not even on the list. Boeing and all those wouldn't even be on the list, so they would not have to check the box. That is the first thing. We keep it narrow, and that is why we have the list.

Mention was made by the Senator from Tennessee about the Fair Labor Standards Act, that we already have this law. I say to the Senator from Tennessee that this law doesn't cover U.S. embassies abroad purchasing goods. For example, we could have an embassy, say in Pakistan, India, or whatever country, buying glassware or buying hand-knitted carpets or buying rattan furniture—I mentioned that—but they are not covered by this at all. I would like to have them covered by it. That is the intent of the provision that is in the committee bill. They are not covered by it. They would be covered by this. U.S. law, the Fair Labor Standards Act applies to the United States, but not to other countries. That is why this provision is necessary.

These are not new requirements, as I have said before and in private conversation with the Senator from Tennessee. There are similar requirements for companies that sell to the Armed Forces. I will get into that in a second. Even though it has to do with different types of contracts, they are similar. I think there is a difference without a distinction, but they are similar, and I will get into that in a second.

They said it would be duplicative. It is not really duplicative. Forced and indentured child labor is already illegal in interstate commerce, that is true, but what I am seeking to do, for debarment purposes, and what this amendment will do is have them attest up front that they are not using child labor. There are no provisions, as I understand, in law for that at this time.

Next, there was a question raised about the constitutionality of the provision. It requires a contractor to agree to allow official access to the records of the employees and premises. As I said, we already have such a provision, and as I said, we discussed that in private.

FAR, title 10 of Armed Forces, 10 U.S.C. section 2313 says:

> Agency authority. Section 2313, examination of records of contractor.
>
> (1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of:
>
> (A) a contractor performing a cost reimbursement, incentive, time and materials, labor hour or price redeterminable contract or any combination of such contracts made by that agency under this chapter and,
>
> (B) a subcontractor performing any cost reimbursement, incentive, time and materials, labor hour or price redeterminable subcontract or any combination of such contracts under a contract referred to in subparagraph (A).

The head of an agency, acting through himself or through an authorized representative can already have access to premises and to records under Armed Forces procurement law, and that is under FAR.

I understand this has to do with different types of contracts. That is OK, but that is, I think, a difference without distinction. It may be a time reimbursable or cost reimbursement or labor hour or price redeterminable contract. It is all fine and good, but I don't think that is really a distinct difference with a contract that provides goods or services to the Federal Government. So I say I don't think we have any kind of a constitutional problem there.

Senator THOMPSON did raise, I believe, a good point, and I am going to correct that with a technical amendment, to track the wording that is already in the FAR and in title 10. I am going to make it specifically that it is the head of an agency, acting through an authorized representative, so that not just anyone would have access, but that it would have to come from the head of an agency.

There is another question that the Senator from Tennessee raised, and that is, why do we exempt NAFTA or WTO countries. I say to my friend from Tennessee, I wish we didn't have to, but I am told we have to because it is a treaty that we signed on NAFTA and WTO. My amendment will exempt those countries that are parties to these two agreements. I am not happy about it, but it is the current U.S. law. It is treaty, and I guess we have to adhere to it, as I understand. We can't change this law or negotiate new procurement agreements.

I will just point out that the Committee on Government Procurements, the parties to this under WTO and NAFTA, basically are countries we really don't have a problem with—Austria, Belgium, Denmark, Germany and places like that we really don't have much of a problem. The only problem that we do have, I say, in NAFTA is perhaps with Mexico. But then, again, that is part of the NAFTA agreement and, quite frankly, we are stuck with that for right now on that issue.

The Federal Acquisition Regulations govern acquisition by executive branch agencies. Much of this regulation implements various statutes and Executive orders. My amendment is not unique under the FAR in seeking to implement U.S. standards and policies.

For example, Federal agencies cannot acquire supplies or services originating from sources within or that are located in or transported from or through North Korea, Cuba, Libya, Iran, Sudan and Iraq. We already have that.

In addition, my amendment is not unique in seeking to address a policy concern, such as protecting domestic industries through Federal procurement legislation. For example, the Buy

America Act provides an advantage to U.S. domestic producers through the competitive bidding process.

As a matter of fact, I include Senator THOMPSON's amendment as part of my provision already. However, I crafted my provision to be more targeted. My provision does treat forced or indentured child labor differently than other procurement regulations because of the illegal and hidden nature of the act it seeks to prevent.

For example, all goods shipped to the United States must carry a country of origin label. No such provision in current Federal procurement regulations exist for forced or indentured child labor. Likewise, the Buy America Act model is different because it operates through the bidding process. No such procedure exists for forced or indentured child labor. You don't know where the forced or indentured child labor is.

Therefore, it was necessary to create a special targeted mechanism to address this issue in a meaningful way that is the least burdensome to contractors. In short, to accomplish this, the provision that is in the bill, one, calls on the Secretary of Labor, in consultation with the Secretaries of Treasury and State, to draft a list of items which they feel historically has been made with forced or indentured child labor. That keeps the perspective narrow.

Next, this provision requires the contractor to sign an attestation that their products were not made with forced or indentured child labor and, yes, to provide access to records, premises and persons for a lawful investigation arising from allegations that forced or indentured child labor was used to produce the product.

Again, I read that other one that is already in Armed Forces, that the head of an agency, acting through an authorized representative, can inspect a plant and audit the records of, et cetera.

Lastly, this provision provides a debarment option for 3 years for making a false certification. In other words, if you certify that you did not use child labor, and inspections prove otherwise, then you could be debarred for up to 3 years for making a false certification.

Senator THOMPSON's proposal, his amendment, is not targeted enough for two reasons: One, procurement officers need specific information in order to apply a statute. Senator THOMPSON's amendment will take away the list which gives contract officers specific areas to look for forced or indentured child labor problems. By removing this self-certification, and the threat of debarment for a false certification, you ensure that the provision will never be effectively enforced because the Federal Government may never be able to track the forced or indentured child labor practices of all of its contractors, much less ever investigating them.

Quite simply, I do not believe that signing a simple attestation, if you are providing items to the U.S. Government which appear on a list of problem items, will prove a very difficult burden. It will be burdensome if you are illegally employing children. Then it will be burdensome. But if you are not, then it will not be. So again, this provision seeks to deter child labor, stopping it before it happens, or before the U.S. Government buys goods made with forced or indentured child labor.

Obviously, the Thompson amendment seeks to debar those who have been convicted or fined for using child labor. Nothing wrong with that. But that is included in the provision that is in the bill already. But what he carves out is a provision that seeks to prevent it from happening in the first place by saying that if you use it, the U.S. Government just simply will not do business with you.

I say, the difference might be that Senator THOMPSON's approach is: "We'll do business with you. Now, if we can take you in and prove through a lengthy court process and stuff, then we'll debar you." But mine comes up front and says, "Look, if you are using child labor, and you are on this list, you are making these items, you have to attest that you are not using child labor." That right away puts them on notice—puts them on notice that they are going to be in for some problems if they are on that list and that they would be subject to a head of an agency to come in and inspect them and inspect their records to see whether or not they actually were using child labor.

Mr. CAMPBELL. Would the Senator from Iowa yield for a question?

Mr. HARKIN. Yes, I would be glad to, without losing my right to the floor.

Mr. CAMPBELL. The child labor issue is important to all of us. I point out something I mentioned awhile ago. I say to the Senator, we have 43 amendments yet to clear. I wonder if the Senator would agree to a time limit on the debate. I talked to Senator THOMPSON. He is agreeable to a 20-minute time debate equally divided on both sides. Would the Senator from Iowa also agree with that?

Mr. HARKIN. How much time?

Mr. CAMPBELL. Twenty minutes equally divided; 10 minutes on each side.

Mr. HARKIN. I will consider that. Just a second. Let me finish my statement. It does not sound totally unreasonable.

Mr. CAMPBELL. Thank you.

Mr. HARKIN. Again, you might ask, well, why should they have to look for this? Why should procurement officers have to be concerned about this? Under 48 CFR 9.406-2, "Causes for Debarment," there is a whole list of things that they should look for that they made. The "Made in America" inscription that I have mentioned, violations of the Drug-Free Workplace Act—there is a whole list of things about which they have to be concerned.

The fact is, they do not have to be concerned about child labor right now. It is not even a concern of theirs. So we find ourselves in a peculiar position that procurement laws for the Federal Government say that you have to meet certain standards—a drug-free workplace; you have to have a "Made in America" inscription if it is made in America; you have to have country of origin—but you do not have to be worried about child labor. I find that rather odd.

What this all really arises out of is that in the 1930 Tariff Act, a provision was added that barred the entry into this country of any item made with forced or indentured labor. That has been part of our law since 1930.

Well, forced or indentured labor—what does that mean? It has been interpreted to mean prison labor. There are other forms of forced or indentured labor. A year ago I wrote a letter to the Department of the Treasury asking for a clarification of this: Did forced or indentured labor cover forced or indentured child labor? The letter they wrote back was sort of: "Well, yes, we think it does because we say 'forced or indentured labor.'" We didn't specify it has to be adult labor, but it has never really been clarified. So we have sought to clarify that.

Again, procurement officers have to take into account they have to be aware of whether or not something is made by prison labor. Can the Federal Government buy items made by prison labor? The answer is no, absolutely not. Can the Federal Government today buy items made by forced or indentured child labor? The answer is yes. We do it all the time overseas. We buy carpets, we buy furniture, we buy glassware, we buy leather. We buy a lot of items made by forced or indentured child labor. And that is what this provision seeks to get to.

The Fair Labor Standards Act does not reach that far, does not reach overseas, does not reach to these items. Our procurement policies do not reach to our embassies abroad, for example. They are part of the Federal Government. They are part of the executive branch. They do buy items. But right now they are blind as to whether something is made by forced or indentured child labor. That is why this provision is in the bill.

Lastly, Mr. President, I just point out that the administration is in support of this section, 642, of the Treasury-General Government appropriations bill. I have a letter here from Secretary Alexis Herman saying that this provision, a prohibition against the Federal Government's purchase of Federal products made by forced or indentured child labor "would establish a system to ensure that contractors take steps to avoid providing products to the Government that have been mined, produced, or manufactured using forced or indentured child labor.

> The Administration agrees that we should tap the purchasing power of the U.S. government in our efforts to eliminate egregious forms of child labor. In addition, the President's FY 1999 Budget includes an $89 million increase to address both international and domestic child labor abuses. We believe [this] amendment, coupled with our FY 1999 initiatives, will help reduce the prevalence of these forms of child labor.
>
> The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Again, I think that the provision stands foursquare on constitutional grounds. I do not believe there is any constitutional problem with it. I do not believe it runs far afield of provisions that we already have in present procurement law. It simply identifies one aspect, that is, like the "Made in America" or the "drug-free workplace" or "prison labor." It identifies another one, and that is "forced or indentured child labor" as one of those items that we want to put up front and to have those who seek to sell items to the Federal Government attest that they are not using forced or indentured child labor in the provision of those goods.

Again, this will be based upon the list. There will be a list, yes, publication of a list of prohibited items.

The Secretary of Labor, in consultation with the Secretary of Treasury and the Secretary of State, shall publish in the Federal Register every other year a list of items that such officials have identified that might have been mined, produced, or manufactured by forced or indentured child labor.

So we work from that list. And that list has to be published.

> The head of an executive agency shall include in each solicitation of offers for a contract for the procurement of an item included on a list published under subsection (b) [the list I just mentioned] the following clauses:

Again, the clauses stating that the contractor has not indeed used forced or indentured child labor in the production of any of the items that are on that list.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, I rise in opposition to the amendment by the Senator from Tennessee. The Senator, I believe, shares the concerns of those of us who drafted section 642—we want to make sure the Federal government does not buy goods made with child labor. However, his amendment, by eliminating the list of suspect goods that Section 642 requires the Department of Labor to make, will make it very difficult for Federal contractors to know whether they are buying a product manufactured by children.

Section 642 requires the Department of Labor print a list of products that may have been produced with forced child labor. Any federal contractor that sells these products to the government will be put on notice that the items he or she sells might have been produced by child labor. Those businesses then will have to check their suppliers and get assurances that they are not illegally selling a goods produced by children to the government.

The importance of this list of products that are potentially made with child labor cannot be underestimated. This list will allow federal agencies to focus on specific industries that use child labor most often. It will allow us to be vigilant in our efforts to stop the procurement of such goods. When the government buys soccer balls for the West Point soccer team, we need to be sure they were not sewn together by children. When the government buys tea for the cafeterias and commissaries of federal facilities, we ought to know those leaves were not picked by children.

I want to commend Senator HARKIN for his tireless work on behalf of the exploited children of the world. By putting in place a process by which Federal contractors can know about and be held accountable for products they sell to the government, Senator HARKIN has done a significant patriotic act. He has ensured that the United States is not in any way sanctioning, promoting, or even tolerating shameful exploitation of children.

I urge my colleagues to vote against the Thompson amendment—and to vote against diluting protections against government purchase of goods made with child labor.

Mr. THOMPSON. Mr. President, I say to my colleague from Colorado that I think I will need perhaps 5 minutes.

Mr. CAMPBELL. If the Senator from Iowa is willing to agree to a time agreement, I will make a unanimous consent request.

Mr. HARKIN. I have a couple of other items, then I will be ready to yield.

Mr. CAMPBELL. Would 10 more minutes be enough?

Mr. HARKIN. As I said, after I get the floor again.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. Mr. President, a couple of comments with regard to the remarks of my distinguished colleague from Iowa.

First of all, let's keep in mind my amendment makes the use of child labor grounds for disbarment and suspension. We need to keep that in mind. We set it out in bold type. It is already against the law, and now we are saying in addition to that you can't do business with the Federal Government if you engage in that kind of activity. So we get that out of the way to start with.

That is not the issue. The issue here is whether or not we want to set up a mechanism whereby some Federal official has unlimited access to your books and records and persons. Now, this whole area was entirely rewritten in 1994. Senator GLENN's bill, the Federal Acquisition Streamlining Act, provided for very circumspect, specific audit authorities for agencies, and GAO provided some subpoena authority in a very limited way. All this was debated and considered on a bipartisan basis and the competing interests were balanced out over a period of several days, and we came up with a law that we have now.

What we have here in the bill that we are seeking to amend departs from that substantially. There can be no comparison with the bill currently in force with existing law. Existing law under section 2313, chapter 137, procurement generally, is so long and detailed that I am not going to burden the record by going into it, but suffice it to say that there are very limited circumstances. Only certain kinds of contracts, certain circumstances are dealt with where subpoena authority is issued under certain kinds of contracts—limited authority, over contracts over $100,000.

Compare that with what we have before us in the bill today that says a clause that obligates the contractor to cooperate fully to provide access for it says any official—I understand that will be changed—but you must agree to provide access for some Government official of the United States to the contractors' records, documents, persons, or premises, if requested by the official, for the purpose of determining whether forced child labor is being issued. It is a total fishing expedition. You are not only going to have to give unlimited access to your books and records, but unlimited access to your person.

There is nothing I know of like this in law, much less procurement law. We are really doing something substantially different here. We can cover the child labor situation without opening up Pandora's box and running contractors away from us.

One of the reforms that Senator GLENN and others carried out had to do with the fact that we want to bring more contractors in. It is better for the taxpayer to have more competition, more people coming in to compete for these things.

My distinguished friend from Iowa suggests that we need to have a certification on the front end. Prior committee action got rid of all certification under the Governmental Affairs

Committee and armed services jurisdiction for the simple reason, first, if you are going to violate the law, if you are going to use child labor, you are not going to certify something on the front end. It will not make you quit doing it.

Secondly, we got tired of raising so many hoops and intruding so much that we were discouraging people from coming in and contracting with the Government. Therefore, costs of things are higher than they ought to be. This whole area has been addressed. It cannot even be discussed in a limited period of time because it is so extensive.

But with regard to the question of opening up books and records and persons by some anonymous Federal official to see whether or not you might have done something wrong, and when they get in there they are not limited to look just for the thing that you say they are looking for. Their eyes can gaze on whatever it is they are to be gazed upon.

When you deal with something like that, you are dealing with very, very, important constitutional rights and nobody is going to put up with that. Nobody is going to contract or agree to do business with the Government if they have that kind of burden. It has been well thought out, it has been considered, it has been deliberated upon for a long, long time, and we should not address something this important and this complex in this fashion.

I respectfully urge this amendment be adopted.

Mr. HARKIN. Mr. President, this provision is not unconstitutional and does not interfere with the Constitution, and it does not interfere with the exercise of any fourth amendment right a Government contractor might have.

The provision makes it possible for the Federal Government to ensure that it does not purchase items produced with forced or indentured child labor. Without ready Government access to records, workers and worker places, meaningful enforcement would be impossible.

Now this principle applies in a whole range of worker protection laws. Now there is no need for a statutory probable cause requirement or a statutory procedure for challenging a search by a Government agency. A contractor who believes that a Federal agency had no probable cause to inspect his business would be free to refuse entry to the agency. It is a constitutional right. The agency would then be required to seek a warrant from a court, and if necessary, to ask the court to enforce the warrant. In this way, the court would ensure that the fourth amendment was followed.

Lastly, this is how the process works under comparable statutes, like the Occupational Safety and Health Act. Applying the fourth amendment, the Supreme Court has held that OSHA must show probable cause or the legal equivalent if an employer refuses OSHA entry. There is no statutory probable cause requirement and no statutory procedure for challenging a search. Government agencies can be expected to develop reasonable and neutral criteria for seeking access. They would do so in order to comply with the fourth amendment which the courts will apply.

OSHA, for example, has adopted such criteria, although the Occupational Safety Health Act does not prescribe this, and they have been upheld by the courts. Only Government agencies with a legitimate need for access would be entitled to access. The access provision in section 642 makes clear that the contractors' obligation is to provide access only to the head of an agency, a Federal officer, and only for the purpose of determining whether forced indentured child labor was used.

So there is no reason to believe this provision would be invoked by an official acting without authority. But, if it happened, the contractor could not be sanctioned for refusing to cooperate, for example.

The fourth amendment may not apply in these certain cases in any case until a contractor's consent to providing access is required to provide access. The accession provision is intended to be incorporated in a Government contract. The contract provision would be required only for companies who wish to supply the Federal Government with an item from a list of items that may have been introduced by forced or indentured child labor.

I keep coming back to that. The Senator raises the specter that you will have the Government people all of a sudden going into Boeing and places like that. That won't happen, first of all, because they won't have anything on the list. So they won't have that. There will not be items that have been identified produced by forced or indentured child labor. Companies which choose to supply such items and which accept the terms of the contract have agreed to provide access.

As I said, there is no constitutional problem with this provision whatsoever.

Now, again, Mr. President, what we do have a problem with, and what this amendment really gets to, and for which there is no provision in law, is, when an arm of the Federal Government, such as the executive branch, acting through embassies overseas, procures items and those items are identified as having been produced by forced or indentured child labor, there is nothing that we can do about that—unless we adopt this provision, of course. And this is a good and reasonable place for this provision to be, in this appropriations bill, since we are providing appropriations for the running of the Government. So this is an appropriate place for the amendment.

I think there is some urgency to this also. The urgency is that we are gaining more and more information around the world about the use of forced or indentured child labor. The United States has, quite appropriately—and I am happy to see it—taken a forward position on trying to do away with forced and indentured child labor. I mentioned the letter from the Secretary of Labor indicating that the President had already asked for, I think, $89 million in the budget to address child labor abuses both here and abroad. We participate heavily in IPEC, the International Program for the Elimination of Child Labor, which has been increased this year from $30 million, up from $3 million.

So the U.S. Government has—and also through our work on the International Labor Organization, UNICEF, and others, we have been taking a very strong position against forced indentured child labor, as we should. But if one arm of our Government overseas is openly procuring items made by forced and indentured child labor, what kind of a signal does that send? So that is what this provision in the bill seeks to end, and would end, if this provision remains in.

Now, the things that the Senator from Tennessee is talking about we already incorporate in our amendment. There is a debarment procedure provision in the bill. That is already there. That debarment procedure is already there. What the Senator's amendment does is, it takes away those preliminary steps of publishing a list and then say to a procurement officer, look out for these items, and if you are buying one of these items, have that company attest on the form that they are not using forced and indentured child labor. If they do, then they are agreeing that you can, as we have under FAR—that the head of an agency is authorized to inspect the records of that company.

As I said earlier, the Senator from Tennessee, I think, raised one point that I think was very legitimate, and that was in the original amendment. It says, on page 99, the words "any official of the United States." Quite frankly, that is too broad. As we look at the FAR and at title X for the Department of Defense, it uses the words "the head of an agency." So I have a perfecting amendment that I am going to offer that would strike out "any official of the United States" and insert in lieu thereof "the head of the executive agency or the inspector general of the executive agency."

AMENDMENT NO. 3374 TO AMENDMENT NO. 3353

(Purpose: To provide a substitute that limits the scope of the requirement relating to inspection of a contractor's records)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. Harkin] proposes an amendment numbered 3374 to amendment No. 3353.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after Sec. 642." and insert in lieu thereof the following:

PROHIBITION OF ACQUISITION OF PRODUCTS PRODUCED BY FORCED OR INDENTURED CHILD LABOR.

(a) Prohibition.—The head of an executive agency may not acquire an item that appears on a list published under subsection (b) unless the source of the item certifies to the head of the executive agency that forced or indentured child labor was not used to mine, produce, or manufacture the item.

(b) Publication of List of Prohibited Items.—(1) The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of State, shall publish in the Federal Register every other year a list of items that such officials have identified that have been mined, produced, or manufactured by forced or indentured child labor.

(2) The first list shall be published under paragraph (1) not later than 120 days after the date of the enactment of this Act.

(c) Required Contract Clauses.—(1) The head of an executive agency shall include in each solicitation of offers for a contract for the procurement of an item included on a list published under subsection (b) the following clauses:

(A) A clause that requires the contractor to certify to the contracting officer that the contractor or, in the case of an incorporated contractor, a responsible official of the contractor has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor.

(B) A clause that obligates the contractor to cooperate fully to provide access for the head of the executive agency or the inspector general of the executive agency to the contractor's records, documents, persons, or premises if requested by the official for the purpose of determining whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract.

(2) This subsection applies with respect to acquisitions for a total amount in excess of the micro-purchase threshold (as defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)), including acquisitions of commercial items for such an amount notwithstanding section 34 of the Office of Federal Procurement Act (41 U.S.C. 430).

(d) Investigations.—Whenever a contracting officer of an executive agency has reason to believe that a contractor has submitted a false certification under subsection (a) or (c)(1)(A) or has failed to provide cooperation in accordance with the obligation imposed pursuant to subsection (c)(1)(B), the head of the executive agency shall refer the matter, for investigation, to the Inspector General of the executive agency and, as the head of the executive agency determines appropriate, to the Attorney General and the Secretary of the Treasury.

(e) Remedies.—(1) The head of an executive agency may impose remedies as provided in this subsection in the case of a contractor under a contract of the executive agency if the head of the executive agency finds that the contractor—

(A) has furnished under the contract items that have been mined, produced, or manufactured by forced or indentured child labor or uses forced or indentured child labor in mining, production, or manufacturing operations of the contractor;

(B) has submitted a false certification under subparagraph (A) of subsection (c)(1); or

(C) has failed to provide cooperation in accordance with the obligation imposed pursuant to subparagraph (B) of such subsection.

(2) The head of the executive agency, in the sole discretion of the head of the executive agency, may terminate a contract on the basis of any finding described in paragraph (1).

(3) The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts on the basis of a finding that the contractor has engaged in an act described in paragraph (1)(A). The period of the debarment or suspension may not exceed three years.

(4) The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (maintained by the Administrator as described in the Federal Acquisition Regulation) each person that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency or the Comptroller General on the basis that the person uses forced or indentured child labor to mine, produce, or manufacture any item.

(5) This subsection shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a finding described in paragraph (1).

(f) Report.—Each year, the Administrator of General Services, with the assistance of the heads of other executive agencies, shall review the actions taken under this section and submit to Congress a report on those actions.

(g) Implementation in the Federal Acquisition Regulation.—(1) The Federal Acquisition Regulation shall be revised within 180 days after the date of enactment of this Act—

(A) to provide for the implementation of this section; and

(B) to include the use of forced or indentured child labor in mining, production, or manufacturing as a cause on the lists of causes for debarment and suspension from contracting with executive agencies that are set forth in the regulation.

(2) The revisions of the Federal Acquisition Regulation shall be published in the Federal Register promptly after the final revisions are issued.

(h) Exception.—(1) This section does not apply to a contract that is for the procurement of any product, or any article, material, or supply contained in a product, that is mined, produced, or manufactured in any foreign country or instrumentality, if—

(A) the foreign country or instrumentality is—

(i) a party to the Agreement on Government Procurement annexed to the WTO Agreement; or

(ii) a party to the North American Free Trade Agreement; and

(B) the contract is of a value that is equal to or greater than the United States threshold specified in the Agreement on Government Procurement annexed to the WTO Agreement or the North American Free Trade Agreement, whichever is applicable.

(2) For purposes of this subsection, the term "WTO Agreement" means the Agreement Establishing the World Trade Organization, entered into on April 15, 1994.

(i) Applicability.—(1) Except as provided in subsection (c)(2), the requirements of this section apply on and after the date determined under subsection (2) to any solicitation that is issued, any unsolicited proposal that is received, and any contract that is entered into by an executive agency pursuant to such a solicitation or proposal on or after this date.

(2) The date referred to is paragraph (1) is the date that is 30 days after the date of the publication of the revisions of the Federal Acquisition Regulation under subsection (g)(2).

Mr. HARKIN. Mr. President, what this perfecting amendment does, very simply, is it takes the suggestion of the Senator from Tennessee and strikes out "any official of the United States" and inserts in lieu thereof "the head of the executive agency or the inspector general of the executive agency."

Secondly, it strikes the word "might" from page 99, because in the original language it said that they shall publish in the Federal Register every other year a list of items that "might have been mined. . .." We strike that out. That is a great suggestion, to say that they have to publish a list of items that such officials have identified that "have been mined, produced, or manufactured by forced or indentured child labor."

So this perfecting amendment tightens up my original amendment in two ways. It provides that only the head of an agency or the inspector general of that agency may be the one to do the inspection or authorize the inspection. Secondly, it says that the published list can only be of items that have been identified as having been mined, manufactured, or produced by forced or indentured child labor.

The rest of the provision remains the same as it is in the bill, but this tightens up those two provisions.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, with regard to the Treasury-Postal Service appropriations bill, I know there are amendments that are pending. They are trying to work out something on that. I urge my colleagues on both sides of the aisle to agree to reasonable time limits, and let's have a vote. But I am directing my remarks now more to other Senators who are not on the floor who may have amendments.

We need to make it clear that we are going to finish this bill tonight. We should be able to be through by 6 o'clock. But we still have a number of amendments that have not been resolved and haven't been worked out, or accepted, or offered.

We are going to have to just keep going. That could mean another late night. The managers of the bill would like cooperation to get this completed. But we are either going to be having votes at 11 or 12 o'clock, or we are going to agree to some process whereby we can finish the amendments that are still out there and get final votes on them in the morning in a stacked sequence. We can agree to that. But one of the things that is required is that Senators who do want to offer amendments have to come over here and offer them.

I am going to talk with Senator DASCHLE. I believe that he will support me in supporting the managers. If at a certain hour tonight Senators have not offered their amendments and have not come over here to debate those amendments, we will go out of session, and all amendments that have been agreed to would be stacked in sequence if they have to have votes in the morning.

Once again, while this week has been a difficult week because of the sadness we have all experienced, everybody has tried to be understanding of that, but now we are beginning to get back into the old routine. We have far too many amendments left on the bill that really shouldn't be that difficult to finish.

I plead again with my colleagues to come over here and offer their amendments. Let's get an agreement on how we are going to handle them and get votes on those amendments. If we don't get amendments, I can force votes tonight at all hours of the night. I don't want to do that. But it is going to take some cooperation again.

Mr. President, do we have an agreement on how to dispose of the present amendment? Do Senator THOMPSON and Senator HARKIN have something worked out in terms of a time agreement on this, or do I just need to move to table everything right where we are?

Mr. THOMPSON. Will the leader yield?

Mr. LOTT. I am glad to yield.

Mr. THOMPSON. If the leader will give us just a moment, I think we can ask for the yeas and nays momentarily.

Mr. LOTT. That would be very helpful.

Mr. President, unless somebody seeks the floor, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. In response to the leader's request, I ask my colleague from Iowa, is he agreeable to having an up-or-down vote on the Harkin amendment, immediately followed by an up-or-down vote on the Thompson amendment?

Mr. HARKIN. That is fine.

Mr. THOMPSON. I agree with that. Are we prepared to vote?

Mr. HARKIN. I am prepared to move forward with that agreement right now.

Mr. THOMPSON. I ask unanimous consent, pursuant to that understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair informs Senators the yeas and nays have been ordered on the Harkin amendment.

Mr. THOMPSON. I ask for the yeas and nays on the Thompson amendment, and ask that vote occur immediately following that on the Harkin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. At this time, the question is on agreeing to the amendment offered by the Senator from Iowa.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—53

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Helms

The amendment (No. 3374) was rejected.

Mr. LOTT. I move to reconsider the vote.

Mr. BAUCUS. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, Senator DASCHLE and I are working with our colleagues on both sides of the aisle to identify the remaining serious amendments. I have here a list that looks like it is about 20, but I think that we can probably identify half a dozen or so amendments.

Senator DASCHLE, do you have some information on that?

Mr. DASCHLE. In response to the majority leader, we have, I think, four amendments that currently would require a rollcall vote. There are two of those four that may actually still get worked out, so I think we are getting relatively close to coming to closure on this bill. I hope all Senators who wish to offer amendments will stay on the floor because this could happen fairly quickly. I think it would be very helpful if you are right on the floor to offer the amendment. It would expedite our ability to complete our work on this bill.

Mr. LOTT. I thank Senator DASCHLE.

We have, it looks like, probably no more than two amendments left on our side that might require a vote. With regard to one of the four you identified, I believe Senator BAUCUS has an amendment. We are working very hard to see if we can't get some agreement on that right now.

For the information of Senators, with regard to schedule, we think the best thing to do is just keep going and not have a break for the mealtime because we think that actually might wind up wasting time. If we would stay on the floor and focus here, we could finish this by 8 o'clock and would be through with this bill and then could decide—Senator DASCHLE and I need to discuss further—then, exactly whether we are going to go to health care or go to the DOD appropriations bill. We could get on that tonight, and then that would be the final business for the week.

We need your cooperation. When you do offer an amendment, agree to a short time so we don't have to go straight to a motion to table. We want everyone to have a chance to explain their case. With your cooperation, we can finish this at 8 o'clock.

I also note there are some Senators who would like to be able to go to the funeral in the morning. If we could finish this at a reasonable hour tonight, we wouldn't have to have stacked votes in the morning. We tried very hard to not have a lot of late nights, but we are going to have to in order to finish this, but with your cooperation we could finish it in a couple of hours.

I urge Members to do that. I thank Senator DASCHLE. Let's keep this working and see if we can't get this down to no more than two or three votes.

Mr. THOMPSON. I ask the yeas and nays on the Thompson amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Thompson amendment numbered 3353.

The amendment (No. 3353) was agreed to.

AMENDMENT NO. 3368

Mr. GRAMM. Mr. President, I enter a motion for reconsideration of the amendment numbered 3368.

The PRESIDING OFFICER. The Senator has that right.

Mr. GRAHAM. Is that motion debatable?

The PRESIDING OFFICER. The motion has been entered but it has not been made.

Mr. GRAHAM. I move to table the motion to reconsider.

The PRESIDING OFFICER. The motion is not before the body, so the motion to table would not be in order at this time.

Mr. WELLSTONE. What is the pending business?

AMENDMENT NO. 3373 TO AMENDMENT NO. 3362

The PRESIDING OFFICER. The pending business before the Senate is the Wellstone amendment numbered 3373.

Mr. WELLSTONE. If I could ask my colleague, I know Senator GRAHAM wants 10 seconds to dispose of an amendment, but I ask unanimous consent as soon as he does this that I then have the floor and go for a vote on my amendment.

The PRESIDING OFFICER. Is the Senator making a unanimous-consent request?

Mr. WELLSTONE. I am.

The PRESIDING OFFICER. The Presiding Officer, in his capacity as a Senator from the State of Michigan, objects.

Mr. WELLSTONE. Mr. President, the pending business is this amendment, correct, the second-degree amendment?

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). The pending business is amendment No. 3373, the Wellstone amendment.

Mr. WELLSTONE. Let me explain this amendment and speak on it for a short period of time. I don't know that there will be a vote within the next 2 or 3 minutes, I say to colleagues.

Mr. President, my amendment, which is a second-degree amendment to the Abraham amendment, expands on what Senator ABRAHAM is trying to do. It applies to the Congress and not just to the administration. Furthermore, what my amendment says is that when the Congress prepares its report on family well-being —which I think is a real important concept; I think it is something that we should be about—the Congress also reports on the impact of our legislation on children.

The amendment doesn't strike the Abraham amendment. It expands on the amendment. I believe that my colleagues, if I am given a little bit of time, will want to support this.

Mr. President, I think the reason when we pass legislation out of committee, that in our report language we need to talk about the impact of children, is because of the reality of the lives of children in America. Part of our definition of family well-being, surely, has to do with parents, and we ought to make sure that parents are able to do their very best by their children, because when parents do their very best by their children, they do their very best by our country. It is also true if we are going to talk about parents, we have to talk about the impact of our legislation on children.

Mr. President, one out of every four children in our country under the age of 3 is growing up poor. One in three children will be poor at some point in their childhood. One in five children today under the age of 6 is poor today in America. One in three is a year or more behind in school. One in four children is born to a mother who did not graduate from high school. One out of every four children lives with only one parent. One out of every five children lives in a family receiving food stamps. One out of every five children is born to a mother who received no prenatal care in the first 3 months of her pregnancy. One out of every seven children have no health insurance. One out of every eight children are born to teenage children. One out of every 12 children has a disability. One out of every 13 children is born at low birthweight. One out of every 25 children lives with neither parent. One out of every 132 children in America dies by the age of 1. And 1 in 680 children is killed by gunfire before the age of 20.

Let me do it a different way as to why I believe when we pass legislation we ought to talk about the impact of this legislation on children, and we ought to make it clear.

The PRESIDING OFFICER. We will have order in the Chamber.

Mr. WELLSTONE. I thank the Chair. I will say to my colleagues, if I don't get order, I will talk for a long time about this, because I don't think there is anything inappropriate about having a focus on the state of children in America.

So I hope that we can have order in the Chamber and I will be able to go on. I will take as long as necessary.

Mr. President, every day in America, one mother dies in child birth. Every day in America, three people under the age of 25 die from HIV infection. Every day in America, six children or young people commit suicide. Every day in America, 13 children and youths are murdered. Every day in America, 16 children and youths are killed by firearms. Every day in America, 36 children and youths die from accidents. Every day in America, 81 babies die. Every day in America, 144 babies are born at very low birth weight. Every day in America, 311 children are arrested for alcohol offenses. Ever day in America, 316 children are arrested for violent crime. Every day in America, 403 children are arrested for drug offenses. Every day in America, 443 babies are born to mothers who receive late or no prenatal care. Every day in America, 781 babies are born at low birth weight. Every day in America, 1,403 babies are born to mothers younger than 20. Every day in America, 2,377 babies are born to mothers who are not high school graduates. Every day in America, 2,556 children—babies—are born into poverty. Every day in America, 3,356 young people drop out of high school.

Colleagues, when I cite these figures from the Children's Defense Fund Report of this summer—this last report was July·17, 1998. When I cite the statistics that every day in America 3,356 high school students drop out, there is a higher correlation between high school dropouts and winding up in prison than between cigarette smoking and lung cancer. Surely, we ought to be looking at the state of children in America.

Mr. President, one quarter of all the homeless people in America are children under the age of 18, and 100,000 of these kids live on the streets right now. Mr. President, 5.5 million children go hungry in the United States of America today.

Mr. President, I commend my colleague for his emphasis on families. I commend my colleague for wanting to say that we want to do everything we can to enable parents to do well by their children. I want to commend my colleague for making the point that we want to make sure that parents are really able to exercise their responsibilities as parents with their children.

But I also want to say something else to my colleagues, which is that this second-degree amendment adds a lot of strength to what is on the floor. I don't think there should be any vote against this, because what the second-degree amendment says is, let's also apply this to the Congress. We simply say that whatever we vote out of committee, we also, in report language, have a very careful child impact statement. I see my colleague from Connecticut on the floor—probably the leading Senator for years when it comes to focusing on children. I say to my colleague, I think this is really an excellent idea. I think it is important for us to be looking at the impact.

Mr. President, I have one question that I can't let go of in my own mind, which I pose for every single colleague here: How can it be that right now in the United States of America, at our peak economic performance, we have one out of every four children under the age of 3 growing up poor in our country, and one out of every two children of color growing up poor in our country today? This is the most affluent country in the world, the most powerful country in the world, with record low unemployment, record economic performance, low inflation, a celebrated GDP, and we have a set of social arrangements that allow children to be the poorest group of Americans in our country. That is a national disgrace.

Now, Mr. President, I just want to go on and make one other point. In some of the debate that we have had over the years, colleagues have said, look, all right, Senator WELLSTONE, you disagree about proposed cuts in affordable housing, or Head Start; you disagree with proposed cuts in the Food Stamp Program, which is the major safety net food and nutrition program for children in America; you disagree with some of our other priorities, but we want to tell you that in no way, shape, or form are we not committed to children in America. I accept that in good faith. But what I want to say tonight is that, if so, we ought to at least be willing to look at our actions. We ought to be willing to look at our legislation, and we ought to be willing to analyze the impact on children in America.

Mr. President, I have traveled not just in Minnesota, but in our country, and the one thing that troubles me the most is, I just think we have to do a lot better for kids, a lot better for kids in our country.

We talk about low SAT scores; that is there. We talk about high rates of high school dropouts; that is there. We talk about children being arrested for substance abuse; that is happening. We talk about too many children taking their own lives; that is happening. We talk about too many children that are murdered; that is happening. We talk about too much violence in our schools; that is happening. We talk about too many hungry children in America; that is happening. We talk about too many children that are 3 and 4 years old and are home alone because the single parent is working and because there is no child care; that is happening. Second graders and first graders come home alone with no parent there, sometimes in very dangerous neighborhoods; that is happening. We talk about the poverty in our country and the number of children that are homeless children.

I say to the Chair, because of his commitment to veterans, that one of the most disgraceful things going on in our country is that about one-third of all the homeless are veterans—many Vietnam veterans. That is a scandal; that is simply unconscionable.

But the fact of the matter is that all of us say that we are for the children. All of us say that they are 100 percent of our future. All of us say that we care about children. All of us want to have our pictures taken next to children. All of us say that we are parents and grandparents and that this is our commitment. Well, I am saying that Senator ABRAHAM has brought a good piece of legislation on the floor. He wants to talk about the importance of parental responsibility. He wants to talk about the importance of families. And what I believe is that this second-degree amendment expands on his work, and I certainly hope that this amendment will be accepted by my colleagues.

Mr. President, I know there is a lot that we are trying to do tonight, and I have a lot more to say. In deference to colleagues—the majority leader has been gracious enough to come over here and say that this amendment will be accepted.

I just say to colleagues that, if so, I am delighted, I say to the Senator from Colorado. Might I ask my colleague one thing?

Mr. CAMPBELL. There is no opposition to the amendment.

Mr. WELLSTONE. Knowing of the commitment of the Senator from Colorado and just sort of knowing the way things work here, I wonder whether I could ask my colleague something. I am sort of tempted to have a vote because I would like to show a lot of support for this. I ask my colleague whether or not he would be willing to fight hard to keep this in conference committee?

I know my friend from Colorado being an honorable Senator—I am delighted that it will be taken—I am wondering whether my colleague would give me some sense of whether or not he supports this, whether I can count on his support in the conference committee so this doesn't get taken out.

Mr. CAMPBELL. I can't speak for everyone in the conference, but from my own perspective I am very supportive.

Mr. WELLSTONE. That means a great deal to me.

I don't know whether my colleague from Wisconsin is on the floor right now, Senator KOHL, but I believe that I can count on his support.

Is the Senator from Michigan, Senator ABRAHAM, on the floor?

Mr. President, I thank my colleagues. I am delighted that the amendment is accepted. We can vote on it.

Mr. CAMPBELL. Mr. President, there is no opposition on the majority side to the Abraham amendment.

With that, Mr. President, I voice my support for the amendment.

The PRESIDING OFFICER. Is there further debate on the Wellstone amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 3373) was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3362, AS AMENDED

The PRESIDING OFFICER. The pending question is now on the Abraham amendment, as amended, by the amendment of the Senator from Minnesota.

Is there further debate an the Abraham amendment?

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum. We are in the process of getting some technical corrections on the amendment of the Senator from Michigan.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, we got ahead of ourselves on the amendment of the Senator from Tennessee. I ask unanimous consent that the motion to reconsider the amendment be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The Abraham amendment is the pending question.

Mr. BINGAMAN. I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. Objection is heard.

The pending question is the Abraham amendment.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico still has the floor.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 3362, AS MODIFIED

Mr. ABRAHAM. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. Is there objection to the modification of the Abraham amendment?

Hearing no objection, it so ordered.

The amendment (No. 3362, as modified) is as follows:

At the appropriate place, insert the following:

SEC. ___. ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES.

(a) Purposes.—The purposes of this section are to—

(1) require agencies to assess the impact of proposed agency actions on family well-being; and

(2) improve the management of executive branch agencies.

(b) Definitions.—In this section—

(1) the term "agency" has the meaning given the term "Executive agency" by section 105 of title 5, United States Code, except such term does not include the General Accounting Office; and

(2) the term "family" means—

(A) a group of individuals related by blood, marriage, adoption, or other legal custody who live together as a single household; and

(B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group, and over half of whose support in a calendar year is received from such group.

(c) Family Policymaking Assessment.—Before implementing policies and regulations that may affect family well-being, each agency shall assess such actions with respect to whether—

(1) the action strengthens or erodes the stability or safety jof the family and, particularly, the marital commitment;

(2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children;

(3) the action helps the family perform its functions, or substitutes governmental activity for the function;

(4) the action increases or decreases disposable income or poverty of families and children;

(5) the proposed benefits of the action justify the financial impact on the family;

(6) the action may be carried out by State or local government or by the family; and

(7) the action establishes an implicit or explicit policy—concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

(d) Governmentwide Family Policy Coordination and Review.—

(1) Certification and Rationale.—With respect to each proposed policy or regulation that may affect family well-being, the head of each agency shall—

(A) submit a written certification to the Director of the Office of Management and Budget and to Congress that such policy or regulation has been assessed in accordance with this section; and

(B) provide an adequate rationale for implementation of each policy or regulation that may negatively affect family well-being.

(2) Office of Management and Budget.—The Director of the Office of Management and Budget shall—

(A) ensure that policies and regulations proposed by agencies are implemented consistent with this section; and

(B) compile, index, and submit annually to the Congress the written certifications received pursuant to paragraph (1)(A).

(3) Office of Policy Development.—The Office of Policy Development shall—

(A) assess proposed policies and regulations in accordance with this section;

(B) provide evaluations of policies and regulations that may affect family well-being to the Director of the Office of Management and Budget; and

(C) advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and family in the United States.

(e) Assessments Upon Request by Members of Congress.—Upon request by a Member of Congress relating to a proposed policy or regulation, an agency shall conduct an assessment in accordance with subsection (c), and shall provide a certification and rationale in accordance with subsection (d).

(f) Judicial Review.—This section is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SEC. . FAMILY WELL-BEING AND CHILDREN'S IMPACT STATEMENT.

Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on family well-being and on childen, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.

Mr. ABRAHAM. Mr. President, at this time I believe we have concluded all debate on the amendment.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the Abraham amendment?

If not, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 3362), as modified, as amended, was agreed to.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ABRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2312, which is open to amendment.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the amendment be set aside so I can offer an amendment.

The PRESIDING OFFICER. There is no amendment pending. The Senator has a right to offer an amendment.

AMENDMENT NO. 3376

(Purpose: To provide emergency authority to the Secretary of Energy to purchase oil for the Strategic Petroleum Reserve)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. Bingaman], for himself, Mr. Murkowski, Mr. Breaux, and Mr. Torricelli, proposes an amendment numbered 3376.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. CAMPBELL. Mr. President, reserving the right to object, I note that we do not have copies of the amendment. We have not had a chance to see it yet.

Mr. BINGAMAN. Mr. President, I will have my staff get a copy to the manager immediately. I thought we had done that before.

The PRESIDING OFFICER. Let me clarify. Is there objection to dispensing with the reading of the Bingaman amendment?

Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

"ADDITIONAL PURCHASES OF OIL FOR THE STRATEGIC PETROLEUM RESERVE

"In response to historically low prices for oil produced domestically and to build national capacity for response to future energy supply emergencies, the Secretary of Energy shall purchase and transport an additional $420,000,000 of oil for the Strategic Petroleum Reserve upon a determination by the President that current market conditions are imperiling domestic oil production from marginal and small producers: *Provided*, That an official budget request for the purchase of oil for the Strategic Petroleum Reserve and including a designation of the entire request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount in the preceding proviso is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.".

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I would like to talk about a critical energy issue facing the country today that calls for urgent action.

That is the price collapse that we have seen for crude oil. We are near historically low prices for crude oil in the world, in real terms, due in part to the economic turmoil in Asia. This is leading to several serious problems.

First, we are threatened with the loss of a major domestic industry. When the wellhead price of crude oil is in the vicinity of $10 a barrel, as it has been recently in the Permian basin and elsewhere in the country), we drive producers of oil from marginal wells out of the business. There are about a half million marginal wells in this country.

The employment from operating those wells puts food on the table for a lot of families all over the country, and we need to be concerned about their economic future.

Second, low prices mean we lose royalty and tax revenues that fund public education. Since October 1997, the drop in crude oil prices has triggered a revenue shortfall in the States totaling $819 million. That's close to a billion dollar loss for public education in less than one year. In New Mexico, counties and towns are canceling planned school construction and renovation projects.

Third, our national energy security is threatened. During the Arab oil embargo of the 1970s, we imported 30 percent of our oil. Today, it's 56 percent. Even before the current price decline, the Energy Information Administration was predicting that imports would go to 68 percent by 2015. With lower prices, though, EIA's projection rises to 75 percent oil import dependence.

Finally, international stability is put at risk by current oil prices. Earlier this month, the IMF approved $11.2 billion in aid for Russia. $2.9 billion of that amount was to make up for shortfalls in Russia's export earnings. Over half of Russia's oil is exported, but the benchmark price for that oil has declined by 25 percent in this year alone. Continued low world oil prices could undo whatever gains in stability are accomplished in Russia by IMF funding. The same is true of other major oil-producing countries such as Indonesia and Malaysia.

The Senate has recently focused on the problems confronting farmers growing out of collapsing world commodity prices. When it considered the agriculture appropriations bill, the Senate agreed to help address this urgent farm crisis by providing the Secretary of Agriculture with $500 million, under an emergency appropriation, to help agricultural producers, including family farmers, to stay in business. We need to do the same thing for the domestic oil industry.

The amendment that I have sent to the desk does just that. It is an emergency appropriation to allow the Administration to buy back all the oil the government has sold out of the Strategic Petroleum Reserve for budgetary purposes since the Gulf War. That amount comes to 28 million barrels.

We sold this oil out of the Strategic Petroleum Reserve to pay for other unrelated spending on appropriations bills. In effect, we were using one of the country's prime energy security tools as a giant ATM machine. The Chairman of the Senate Energy Committee and I led an effort last year and this to put a stop to such sales.

I am gratified that the Committee on Appropriations is not proposing any further sales this year. But the energy security concerns that I have mentioned, particularly our continuing and growing reliance on foreign oil imports, make repurchase of the oil for the SPR a good idea. Also, at current world oil prices, the oil we put back will cost less than what we sold it for. At an estimated cost of $15 per barrel delivered to the SPR, this amendment would require a $420 million emergency appropriation.

The use of an emergency appropriation in this case is well justified. It is somewhat less than what the Senate has done for farmers who are facing similar financial losses from the same sort of world economic forces and collapsing prices. And there can be no doubt that the economic implosion that threatens the oil-producing regions of the Southwest, if we allow current trends to continue, qualifies as an emergency.

This amendment gives the kind of help that does the most good here in the United States and internationally. It gets excess oil off the market. This would have a significant beneficial impact on wellhead prices, but not enough to trigger a price spike for refined oil products.

I think this is a good amendment. I think it is consistent with our concern for our long-term energy security. I think it is a very good investment. This is the time when we should, as a country, be thinking about replenishing the Strategic Petroleum Reserve. I hope very much the managers of the bill will be able to accept this amendment and that we will be able to add it to this piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Senator BINGAMAN, will you add me as a cosponsor, please?

Mr. BINGAMAN. I am very pleased to add Senator DOMENICI as a cosponsor. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico, Senator DOMENICI.

Mr. DOMENICI. Mr. President, it probably will come as a big surprise that, for example, the current price for a gallon of crude oil is cheaper than the price for a gallon of bottled water. Many people will say, "That is great." Those who look at the American economy and forget about our oil production and our oilfield workers, they would say, "Great." But if you are looking at how far we have gone in our oil dependence, you will see the small producers of oil in the United States are in the most serious problem they have been in in modern times. The prices are so low that I had two of them come to see me the other day. One last year had $15 million invested in new wells; this year, zero. One drilled 31 new wells last year; this year, 1. We have hundreds of thousands of small wells, called stripper wells, producing 15 barrels a day or less. Many of those, if they shut them in, the oil is gone. The entire reserve is lost.

We are not sure how to fix that. It is a very complicated problem. But the amendment that is being offered, which I join in, is saying, with prices this low and the fact that we used a lot of our expensive oil during the Iraqi war, we ought to replenish with $420 million worth of purchases. At least it will stabilize somewhat the faltering prices here and may stabilize the stripper wells that are going down the tube and will not be available to America for the production of oil. The way it is paid for is to say: If the President of the United States deems it to be an emergency, then it will be an emergency under the budget. That is not exceptional. We do that for emergencies all the time. We think the oil patch is in a state of emergency.

Mr. President, the head of the National Stripper Well Association, estimated that small producers already have closed 100,000 wells this year, and cut production by 300,000 barrels a day and has been forced to eliminate 10,000 jobs because of falling prices.

Small oil companies are sinking with crude oil prices.

Behind the price drop is the reduced demand in Asia because of its financial crisis, the prospect of Iraq selling more oil and the inability of the OPEC to agree on production cuts.

The state, receives about 30 percent of its funds from oil and gas. Each dollar drop in the price of a barrel of oil translates roughly into a drop of $20 million in state revenues.

In Oklahoma, the continuation of low oil prices could lead to the permanent abandonment of about three-fourths of Oklahoma's almost 90,000 oil wells.

This amendment will direct the Secretary of Energy to purchase and transport and additional $420,000,000 of oil for the Strategic Petroleum Reserve upon a determination by the President that the current market conditions are imperiling domestic oil productions from marginal and small producers.

This is a small step to show support for our domestic oil industry.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST—PATIENTS' BILL OF RIGHTS

Mr. LOTT. Mr. President, if I could, I ask Senator BINGAMAN to allow Senator DASCHLE and I to bring up an issue we have been wanting to do, and also say we are working with a number of Senators to see how we might deal with this, see if it can be handled without having to go to a recorded vote. We need a few more minutes. In the meantime, Senator DASCHLE and I would like to do an exchange here with regard to a unanimous consent.

Mr. President, we need to try to clear up what we are going to do for the balance of the week. Senator DASCHLE and

I have been working, back and forth, since the middle of June, trying to come to a unanimous consent agreement on how to handle the health care Patients' Bill of Rights issue. We have had a number of suggestions back and forth. We have not been able to come to agreement. There are ways that legislation could be brought to the floor anyway. But I am sure there would be objections if it were done in a way where there could not be amendments or, from this side, if there were unlimited amendments. But we need to try to see that there is one final opportunity for us to get a way to bring up the health care issue.

I ask unanimous consent the majority leader, after notification of the Democratic leader, shall turn to S. 2330 regarding health care. I further ask, immediately upon its reporting, Senator NICKLES be recognized to offer a substitute amendment making technical changes to the bill, and immediately following the reporting by the clerk, Senator KENNEDY be recognized to offer his Patients' Bill of Rights amendment, with votes occurring on each amendment with all points of order having been waived.

I further ask that three other amendments be in order on each side, for a total of six, to be offered by each leader or their designees, regarding health care. Following the conclusion of debate and following the votes with respect to the listed amendments, the bill be advanced to third reading and the Senate proceed to H.R. 4250, the House companion bill, all after the enacting clause be stricken, the text of S. 2330, as amended, if amended, be inserted, and the Senate proceed to vote at no later than 3 p.m. on Friday, July 31.

To sum up, what I am asking is we would have debate on the two underlying bills, six amendments, three on each side, and of course the votes that would be ordered as a result of that, and finish, then, by 3 on Friday, the 31st. I think we could have a good debate, have some votes, and complete that debate.

I further ask that following the vote, the Senate bill be returned to the calendar.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. DASCHLE. Reserving the right to object.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I would certainly want to reiterate what the majority leader said at the beginning of his comments, which is that we have been negotiating now for some time in an effort to determine how we might bring to the floor the health care bills offered by the Republican caucus as well as the Democratic caucus. I see Senator GRAHAM standing. There are other bills that may be contemplated in this debate as well.

Our view is that it would be very difficult to have a debate of the importance of what we consider this to be, with the limit of amendments that the majority leader has proposed. We had 56 amendments on the Agriculture appropriations bill. We disposed of them. We had 82 amendments on the Commerce-State-Justice bill. We disposed of them. I would not say, in either case, people felt that was too long a debate to have on an important bill like those two appropriations bills. We had 150 amendments on the Defense authorization bill.

I ask unanimous consent that the majority leader's request be modified to provide for relevant amendments—to limit it to relevant amendments. I think we can have a good debate. We are prepared to limit them to relevant amendments. I have asked my colleagues not to offer the Patients' Bill of Rights amendment to other bills because, in large measure, we have been working in good faith to try to see if we can accommodate a schedule that will allow us to bring it to the floor.

Certainly, I think having an agreement that would allow a debate, limited to relevant amendments, would certainly take into account the concerns that many of our colleagues have raised about being too limited on a bill, and a debate that is as consequential as is this one. So I make that request.

The PRESIDING OFFICER. The majority leader?

Mr. LOTT. Would that be with the agreement that we finish it and have final passage on the two underlying bills by a time certain on Friday?

Mr. DASCHLE. We would not know when we would finish. Obviously, we couldn't agree to a time limit on the bill because we really don't know how long the relevant amendments would take at this point.

Mr. LOTT. That would be our concern, then. There would be no way of knowing how many amendments or how long it would go on.

As the Senator knows, this year we have attempted some bills and we never could quite bring them to a conclusion. I really want to be able to get the Senate to actually vote on a bill that goes to conference. I believe Senator DASCHLE wants that, too. I am afraid, if we just go into it with relevant amendments with no limits—we only had 18 amendments, as I recall, on the tobacco bill. We stayed on that for 4 weeks. We only have 5 weeks and 2 days left, so I don't think we could do that.

Let me say to Senator GRAHAM, I know he and others are working on another bill. What we could do, we do have, under my proposal, three amendments on each side. We could make their substitute one of those three amendments. I presume that would be what we would probably do on our side, if there is one that is developed as an alternative. Alternatives would have an opportunity under that proposal.

Since we couldn't get any kind of guarantee that we will get it to a conclusion, I have to object to the addition that Senator DASCHLE proposed.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. In that case, I will have to object to the offer made by the majority leader.

The PRESIDING OFFICER. Objection is heard.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, it will be the intent of the leadership after we finish the Treasury-Postal appropriations bill that we will go to the Department of Defense appropriations bill. We would like to lay it down tonight and be prepared to stay on it.

I say to all Senators, that will be the final bill that we will take up this week. When we finish that bill, we will be prepared to recess for the August recess. That can be tomorrow night, that can be Friday morning, that can be Friday afternoon or Friday night. It will be our intent to stay on it, with cooperation from both sides of the aisle, to complete that very important Department of Defense appropriations bill.

Mr. DASCHLE. Mr. President, to clarify a comment just made by the majority leader, I know that he has indicated to me we will move to the Executive Calendar before the end of the week.

Mr. LOTT. Yes, we have a number of nominations that I believe we can clear, that we need to clear. We will be working on that beginning tomorrow night. I thought maybe we could do some tomorrow night and then some more on Friday, after we complete the Department of Defense appropriations bill. I yield the floor, Mr. President.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, Senator DASCHLE and I have been working to identify the remaining amendments and the time that will be necessary to debate those amendments. I thank Senator DASCHLE, again, for the time he spent on that.

I ask unanimous consent that the following amendments, as previously identified on the consent agreement, be limited to the following times, to be equally divided:

Senator BINGAMAN with regard to the Strategic Petroleum Reserve, 20 minutes;

Senator BAUCUS regarding post office closings, 10 minutes;

Senator MCCONNELL regarding the Federal Elections Commission, 10 minutes;

Senator GLENN regarding FEC, 10 minutes;

Senator HARKIN regarding drug control, 30 minutes;

And Senator WELLSTONE regarding naming of a post office, 10 minutes.

We will continue to work with the Senators on this list to see if we can work them out and get them accepted, but we need to get this order lined up and identify what those amendments are to be.

Mr. GLENN. Reserving the right to object, I wonder if we can have 15 minutes on my side. We have a couple of people who want to make short remarks.

Mr. LOTT. I would modify that request, then, so we will have 15 minutes on each side?

Mr. GLENN. Yes.

Mr. LOTT. Now we are talking 30 minutes.

Mr. GLENN. That is right, instead of 20.

Mr. LOTT. Then Senator MCCONNELL will need 30 minutes. So you are talking about 30 minutes on each side—30 minutes equally divided or 30 minutes total?

Mr. GLENN. Thirty total.

Mr. LOTT. It would be 30 minutes equally divided on the McConnell amendment and 30 minutes on the Glenn amendment.

I remind our colleagues, it is a quarter till 7. I can't think of any profound statement that can be made that will take 30 minutes that will affect one iota the vote or its outcome. If the Senators will be willing to yield some of that time, that will be very helpful.

Mr. BAUCUS. Mr. President, I appreciate my amendment being on the list. I would like 20 minutes equally divided.

Mr. LOTT. Baucus amendment, 20 minutes equally divided.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. WELLSTONE. Yes, there is.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Objection on two parts. First of all, with regard to the Gene McCarthy Post Office, if we are going to debate this, I would like to have that 20 minutes equally divided. And second of all, I did not agree—I thought we might reach an agreement—I did not agree to withdraw my other amendment. There is another amendment that should be added to the list that will deal with mental health or substance abuse as it affects Federal employees. I would like to have 20 minutes equally divided on that.

Mr. President, let me just add, I have been here in the afternoon ready to go with amendments, so I am not trying to delay anything.

Mr. DASCHLE. How much time did the Senator want on the second amendment?

Mr. WELLSTONE. Twenty minutes equally, if it is not accepted—maybe it will be acceptable—20 minutes equally divided.

Mr. LOTT. Mr. President, I believe this is sprouting wings here. I think I am going to at this point withdraw this agreement and notify Members I will move to table all amendments when offered. Unless we can get reasonable time agreements—we are now talking 1 hour, 2 hours, 3½ hours. What the heck, I will just move to table, and we will have a vote on each one of them.

Mr. BAUCUS. Will the Senator yield?

Mr. LOTT. I will be glad to yield.

Mr. BAUCUS. I say to the leader, I am willing to reduce mine down to 2 minutes if the Senator will agree to my amendment. (Laughter.)

Mr. LOTT. That would take unanimous consent. You might get my agreement, but I am not sure you will get the rest of them.

Mr. BAUCUS. If I get your agreement, I will reduce mine to 2 minutes.

Mr. MCCONNELL. Will the leader yield for an observation?

Mr. LOTT. I yield to the Senator from Kentucky.

Mr. MCCONNELL. I say to the majority leader, Senator GLENN suggested that my amendment will require 30 minutes, 15 minutes on a side, and then he wanted 30 minutes for his amendment. I had offered him earlier in the day that we could adopt them both on voice vote which will require no time at all for the Senate. If I understand the GLENN amendment, it is adding $2.8 million for the FEC; is that the GLENN amendment?

Mr. GLENN. Correct.

Mr. LOTT. Let me renew the request because Senator DASCHLE and I have other things we would like to do. If you want to talk and have votes, we will just be having votes every 20 minutes the rest of the night. We are not going to stack them. You need to be reasonable. The request as it now stands—does Senator GRAHAM have an addition?

Mr. GRAHAM. The central Florida drug trafficking area amendment.

Mr. LOTT. I understand you have an amendment in there which they are attempting to work out.

Mr. GRAHAM. I hope we can work it out. I want to be certain I am protected in the event.

Mr. LOTT. I renew my request with the present conditions:

Bingaman amendment for 20 minutes;

Baucus amendment for 20 minutes;

McConnell amendment for 30 minutes;

Glenn amendment for 30 minutes;

Harkin amendment for 30 minutes;

And Senator WELLSTONE, two amendments, 20 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Mr. President, reserving the right to object, if you are not on this list, does this mean you are precluded from offering your amendment?

Mr. LOTT. No, you would be in the order about 10 or 11 o'clock.

Mr. GRAHAM. I want to make sure I am protected to offer my amendment.

Mr. LOTT. The Senator's reservation is recognized, and if the issue is not worked out, he will have an opportunity to offer it and vote on it. Senator DASCHLE has a suggestion to make.

Mr. DASCHLE. I think we ought to add the Graham amendment and then limit it to the ones on this list. I don't want to see this list grow.

Mr. LOTT. Mr. President, let's add Senator GRAHAM to the list for 10 minutes. I don't think we can lock it in at this point because we have the managers' amendment and other problems could be caused doing that.

Mr. DASCHLE. Mr. President, at the very least, why don't we proceed that no second-degree amendments be in order prior to a vote on a tabling motion.

Mr. LOTT. I agree. I further ask that no second-degree amendments be in order prior to a vote on a tabling motion.

The PRESIDING OFFICER. Is there objection to the majority leader's request as amended by the minority leader? Without objection, it is so ordered.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 3376

Mr. TORRICELLI. Mr. President, I rise in support of the amendment of the Senator from New Mexico, Mr. BINGAMAN, with regard to the Strategic Petroleum Reserve.

Among the great attributes of our country, historic memory may not be our greatest strength. It was only 25 years ago that America found her economy crippled by attempts made to compromise her national security by an oil embargo placed upon states that disagreed with fundamental aspects of our national foreign policy.

The 1970s may be a memory, but we have been revisited by the low oil prices that preceded the oil embargo of that decade.

Mr. President, because of the foresight of this Congress in creating a Strategic Petroleum Reserve, there is now space for 120 million barrels of oil. This Congress had the foresight, during and after the oil embargo, to plan to preserve our foreign policy independence, to preserve a large capacity to store oil so we could not be intimidated.

What is missing now is the foresight to fill that reserve. The Senator from New Mexico has noted there is no better time, with oil being sold at historically low prices. But it is important for Members of the Senate to understand that this is a propitious moment not only because the reserve has capacity and prices are low, but because in many ways the principal factors that led to the embargo of the 1970s, in an attempt to exercise leverage over American foreign policy, many of those factors are being revisited.

In 1973, the United States imported less than 27 percent of its crude oil requirements. In 1979, we imported less than 43 percent of our requirements. Yet, an embargo, given those numbers, was enough to create a national recession, hyperinflation, and caused a serious debate about foreign policy objectives.

The United States has now passed the 50 percent limit on importing foreign crude oil—9.2 million barrels per day—and by the year 2015 could import fully 70 percent of America's oil. Indeed, in the last 10 years, the rate of increase in the American importation of oil is more than all the imported oil of all nations in the world, other than Japan and Russia. Not only are we dependent, not only is it at historic highs, it is increasing.

Secretary of Energy Pena said:

> The United States is highly dependent on Persian Gulf oil for a large and growing percent of our imports.

Mr. President, it is not only a question of the level of our imports, it is also the fact that many of those importations of oil continue to come from volatile areas of the world, including the Persian Gulf where we have serious foreign policy disputes with nations in the region.

It is estimated by the year 2010, the Persian Gulf's share of world export markets could surpass 67 percent, a level not seen since the oil embargoes of 1973 and 1974. Simultaneously, while American dependence on foreign oil is increasing, and world dependence on Persian Gulf oil is increasing, the United States continues to abandon domestic wells at an extraordinary rate. In the last 10 years alone, 173,000 U.S. oil wells have been abandoned. And oil production from smaller stripper wells is at its lowest level in 50 years.

Mr. President, at a time when Americans are enjoying a low price for oil and foreign policy threats have retreated for the moment, it is difficult for the Senator from New Mexico to rise and gain support of the Congress for this important initiative. But almost certainly this country will be revisited at another time when there will be an attempt to compromise our foreign policy and use the economic leverage of oil against this country.

We cannot be so foolish to forget what the oil lines were like or the recessions or the high inflation. In only a year after the Shah fell in Iran, in 1979, oil prices rose 250 percent. There are few easy ways to guard against this attempted intimidation or the economic shocks that would follow. Indeed, I know of only one. It is not perfect, it is not complete, but it is a contribution—it is the Strategic Petroleum Reserve.

It is time again to take advantage of these low prices to begin filling the reserve. For that reason, Mr. President, I rise in favor of the amendment offered by the Senator from New Mexico, Senator BINGAMAN, and I urge its adoption.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I do not know how much time is left on the amendment, but I would like to speak briefly on it.

The PRESIDING OFFICER. The Senator from New Mexico controls the time, and there are 6½ minutes remaining.

Mr. BINGAMAN. I am glad to yield the remaining time to the Senator from Alaska.

Mr. MURKOWSKI. I thank my colleague from New Mexico.

I rise in support of the amendment authorizing the purchase of 420 million dollars worth of oil for the Strategic Petroleum Reserve. First of all, as chairman of the Energy and Natural Resources Committee, it is my responsibility to protect the energy security interests of this country. The Strategic Petroleum Reserve was created for emergency purposes.

This amendment today would accomplish several goals: one, replace the oil that has been sold over the past several years for budgetary purposes. Now is a most opportune time to buy oil, when prices are at a 30-year low.

In this context, it is interesting to reflect on the fact that the average price of the oil in the SPR is about $33 a barrel. Over the past several years, the average price we have gotten in selling it is about $19 a barrel. So far, the Government has not done very well. I do not know whether they figured they would make it up in volume, but it is certainly poor business to buy high and sell low.

By taking action earlier this year, we stopped a proposed sale of oil from the Strategic Petroleum Reserve that was ordered in the 1998 Interior appropriations bill. We saved the American taxpayers over $½ billion by that action, and our energy security insurance policy remained intact. We did this, Mr. President, on an emergency appropriations bill.

Over the past 3 years, we have steadily drained our Nation's energy security insurance policy. The drain started in 1996 when the Department of Energy proposed the sale of $96 million worth of oil to pay for the decommissioning of the Weeks Island facility. In other words, we had a piggy bank. We broke into it. We did it in order to meet some budgetary requirements. We have had a hard time staying out of that piggy bank ever since.

In addition to the sale we canceled last year, there have been three additional sales. In January of 1996, the Balanced Budget Downpayment Act authorized the sale of $5.1 million barrels from Weeks Island. The oil cost a total of $40.33 a barrel. We sold it for $18.82. We lost $110 million.

In the 1996 budget agreement, we required the sale of 12.8 million barrels for $227 million. Based upon the average cost of oil in the SPR, the American taxpayer lost approximately $200 million.

The fiscal year 1997 appropriations required the sale of 10 million barrels for $220 million. Oil prices were up that winter, so the American taxpayer lost only $110 million.

So far we have lost the American taxpayer $½ billion by selling oil that we put in the SPR by buying it high and selling it low. And, of course, two years ago the President proposed to balance the budget in the year 2002 by selling $1.5 billion worth of SPR oil at $10 a barrel, which would be 150,000 barrels of oil. I am grateful that wiser heads have prevailed.

However, we did not stop the drip, drip, drip of small sales, the appropriations process. As I indicated, we paid an average of $33 per barrel. With three sales so far, it has cost the taxpayers a great deal of money—$½ billion. But now we have an opportunity to stop that by pursuing the amendment offered by my friend and colleague from New Mexico, who is also a member of the Energy Committee, because we are able to at an all-time low.

It is a great investment for our national energy security interests. I am told that what we are doing now is replacing, in this 28 million barrels, the amount that we have sold over the past several years for budgetary purposes. So while we are still short of our objective of a 90-day supply of net imports, we will be somewhere in the area of a 64-day supply.

I urge my colleagues to adopt this amendment. Let me congratulate my friend from New Mexico for offering it. I yield the floor and yield back whatever time I have.

Mr. BINGAMAN. Mr. President, let me first thank the Senator from Alaska for his strong support of this amendment and his leadership on this issue over many years.

Let me also indicate the strong support that we have had from the Independent Petroleum Association of America and the National Stripper Well Association. I thank them for the good work they have done in developing the facts that support what we are doing here.

I ask unanimous consent a letter from the President and chairman of those two organizations be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IPAA,
Washington, DC, July 29, 1998.

Hon. JEFF BINGAMAN,
Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATORS BINGAMAN AND MURKOWSKI: The Independent Petroleum Association of America (IPAA) and the National Stripper Well Association (NSWA) write in support of your amendment to the FY 1999 Treasury/Postal Appropriations. IPAA and NSWA, national associations representing America's 8,000 crude oil and natural gas producers, applaud your effort to seek an emergency appropriation of $420 million to purchase 28 million barrels of crude oil for the Strategic Petroleum Reserve (SPR).

Throughout 1998, America's independent oil producers have been experiencing a price crisis of historic magnitude. From October 1997 through July 1998, crude oil prices have dropped more than $7.00 per barrel. In many producing regions, oil producers are facing price declines of up to $10.00 per barrel.

A combination of events—increased foreign oil production, the collapse of Asian economies, and a mild winter—helped to create a temporary oversupply of crude oil on the world market. The result of the price collapse is that many of the 500,000 marginal oil wells, representing 20 percent of U.S. production or the same volume of oil imported from Saudi Arabia, are at risk of being permanently shut-in.

The amendment, which is similar to the recent $500 million emergency appropriation to remove excess agriculture commodities from the world market, would benefit (1) domestic oil producers, (2) the economies of the U.S. and other countries, and (3) U.S. national security.

1. Removing 28 million barrels of oil from a saturated market would help stabilize oil prices. In effect, policy makers would be signaling oil markets that the U.S. government is committed to preserving America's true strategic petroleum reserve—domestic crude oil producers.

This action could potentially increase prices to levels that would keep marginal oil wells economic. The average marginal oil well produces 2.2 barrels per day and costs $41.11 a day to operate. When oil sells for $14 a barrel, the marginal well generates only $30.80, resulting in a loss of $10.31 per day. Annually, the well loses $3,752. For a typical operator of 100 marginal wells, annual losses exceed $375,000.

2. This one-time purchase of oil for the SPR will stimulate U.S. and world economies. According to the National Petroleum Councils' 1994 Marginal Wells report, marginal wells generate 80,000 jobs and contribute an annual $14.4 billion to the U.S. economy. When oil prices fall, so do state and federal revenues. IPAA estimates that from November 1997 through July 1998 state severance taxes and federal oil royalties have dropped by more than $819 million.

The consequence of these revenue losses falls not on the producer but on the nation's citizens. The pinch is already being felt in state school spending where a great deal of this revenue is used. Construction spending, book purchases, and other key costs for state schools are being constrained because of lost revenues.

Additionally, the oversupply of oil on the world market is having a serious impact on the economies of Russia, Indonesia, Malaysia, and other countries. Last week, the International Monetary Fund announced the approval of an additional $11.2 billion in aid to Russia. Of that amount, $2.9 billion was directed to make up for shortfalls in Russia's oil export earnings.

3. The purchase of crude oil for the SPR would enhance America's energy and economic security. U.S. dependence on oil imports has grown to 54 percent, and is projected to climb to 61 percent by 2015. The SPR is America's best tool to combat the impact of growing import dependence and possible disruptions in crude oil supply. However, the federal government has sold 28 million barrels of oil from the Strategic Petroleum Reserve. Revenues raised from all three non-emergency sales were used to pay for government programs and to balance the federal budget.

Given the low price of crude oil, the purchase of additional stockpiles for the SPR would be a bárgain for the U.S. Treasury. This purchase should be viewed as an asset transfer rather than spending. Purchasing cheap oil for the SPR makes good business sense for the U.S. government and more importantly, for the tax paying citizens of this country. It's that simple.

IPAA and NSWA strongly support this important amendment. If you have any questions, please contact Craig Ward of the IPAA staff at 202-857-4722.

Sincerely,

GEORGE YATES,
Chairman, Independent Petroleum Association of America.
STEPHEN D. LAYTON,
President, National Stripper Well Association.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Colorado.

Mr. CAMPBELL. I add my support to the Bingaman amendment. To my knowledge, there is no opposition on the majority side. I urge its support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3376) was agreed to.

Mr. CAMPBELL. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, if I am going to stay around here and we are going to have these 30-minute discussions and then the amendments are going to be taken, I am going to move to table them and we are going to have votes and I am going to fight every one of them.

Senators, get serious. You have an amendment. Give a very brief explanation and let's dispose of it. This is ridiculous. I am going to start insisting on recorded votes. If we have an agreement to take an amendment, take it. Don't take the time and then not have a vote.

I yield the floor.

AMENDMENT NO. 3377

(Purpose: To express the sense of the Congress that a postage stamp should be issued honoring the 150th anniversary of Irish immigration to the United States that resulted from the Irish Famine of 1845–1850)

Mr. CAMPBELL. I have a couple of housekeeping things that have been accepted. I send an amendment to the desk and ask for its immediate consideration on behalf of Senators DURBIN, KENNEDY, DODD and MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL] for Mr. DURBIN, for himself, and Mr. KENNEDY, Mr. DODD and Mr. MCCAIN proposes an amendment numbered 3377.

Mr. CAMPBELL. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

The Senate finds more than 44 million Americans trace their ancestry to Ireland;

Finds these 44 million, many are descended from the nearly two million Irish immigrants who were forced to flee Ireland during the "Great Hunger" of 1845–1850;

Finds those immigrants dedicated themselves to the development of our nation and contributed immensely to it by helping to build our railroads, our canals, our cities and our schools;

Finds 1998 marks the 50th anniversary of the mass immigration of Irish immigrants to America during the Irish Potato Famine;

Finds commemorating this tragic but defining episode in the history of American immigration would be deserving of honor by the United States Government:

It is the sense of Congress that the United States Postal Service should issue a stamp honoring the 150th anniversary of Irish immigration to the United States during the Irish Famine of 1845–1850.

Mr. CAMPBELL. This is a sense of Congress regarding a commemorative stamp for the 150th anniversary of the Irish immigration to the United States.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3377) was agreed to.

Mr. CAMPBELL. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table.

AMENDMENT NO. 3378

(Purpose: To amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, and for other purposes)

Mr. BAUCUS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for himself, Mr. JEFFORDS, Mr. ALLARD, Mr. CONRAD, Mr. LEAHY, Mr. DORGAN, Mr. ENZI, Mr. REID and Mr. BRYAN proposes an amendment numbered 3378.

Mr. BAUCUS. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. ___. POST OFFICE RELOCATIONS, CLOSINGS, AND CONSOLIDATIONS.

(a) SHORT TITLE.—This section may be cited as the “Community and Postal Participation Act of 1998”.

(b) GUIDELINES FOR RELOCATION, CLOSING, OR CONSOLIDATION OF POST OFFICES.—Section 404 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

“(b)(1) Before making a determination under subsection (a)(3) as to the necessity for the relocation, closing, or consolidation of any post office, the Postal Service shall provide adequate notice to persons served by that post office of the intention of the Postal Service to relocate, close, or consolidate that post office not later than 60 days before the proposed date of that relocation, closing, or consolidation.

“(2)(A) The notification under paragraph (1) shall be in writing, hand delivered or delivered by mail to persons served by that post office, and published in 1 or more newspapers of general circulation within the zip codes served by that post office.

“(B) The notification under paragraph (1) shall include—

“(i) an identification of the relocation, closing, or consolidation of the post office involved;

“(ii) a summary of the reasons for the relocation, closing, or consolidation; and

“(iii) the proposed date for the relocation, closing, or consolidation.

“(3) Any person served by the post office that is the subject of a notification under paragraph (1) may offer an alternative relocation, consolidation, or closing proposal during the 60-day period beginning on the date on which the notice is provided under paragraph (1).

“(4)(A) At the end of the period specified in paragraph (3), the Postal Service shall make a determination under subsection (a)(3). Before making a final determination, the Postal Service shall conduct a hearing, and persons served by the post office that is the subject of a notice under paragraph (1) may present oral or written testimony with respect to the relocation, closing, or consolidation of the post office.

“(B) In making a determination as to whether or not to relocate, close, or consolidate a post office, the Postal Service shall consider—

“(i) the extent to which the post office is part of a core downtown business area;

“(ii) any potential effect of the relocation, closing, or consolidation on the community served by the post office;

“(iii) whether the community served by the post office opposes a relocation, closing, or consolidation;

“(iv) any potential effect of the relocation, closing, or consolidation on employees of the Postal Service employed at the post office;

“(v) whether the relocation, closing, or consolidation of the post office is consistent with the policy of the Government under section 101(b) that requires the Postal Service to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns in which post offices are not self-sustaining;

“(vi) the quantified long-term economic saving to the Postal Service resulting from the relocation, closing, or consolidation;

“(vii) whether postal officials engaged in negotiations with persons served by the post office concerning the proposed relocation, closing, or consolidation;

“(viii) whether management of the post office contributed to a desire to relocate;

“(ix)(I) the adequacy of the existing post office; and

“(II) whether all reasonable alternatives to relocation, closing, or consolidation have been explored; and

“(x) any other factor that the Postal Service determines to be necessary for making a determination whether to relocate, close, or consolidate that post office.

“(5)(A) Any determination of the Postal Service to relocate, close, or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (4).

“(B) The Postal Service shall respond to all of the alternative proposals described in paragraph (3) in a consolidated report that includes—

“(i) the determination and findings under subparagraph (A); and

“(ii) each alternative proposal and a response by the Postal Service.

“(C) The Postal Service shall make available to the public a copy of the report prepared under subparagraph (B) at the post office that is the subject of the report.

“(6)(A) The Postal Service shall take no action to relocate, close, or consolidate a post office until the applicable date described in subparagraph (B).

“(B) The applicable date specified in this subparagraph is—

“(i) if no appeal is made under paragraph (7), the end of the 60-day period specified in that paragraph; or

“(ii) if an appeal is made under paragraph (7), the date on which a determination is made by the Commission under paragraph (7)(A), but not later than 120 days after the date on which the appeal is made.

“(7)(A) A determination of the Postal Service to relocate, close, or consolidate any post office may be appealed by any person served by that post office to the Postal Rate Commission during the 60-day period beginning on the date on which the report is made available under paragraph (5). The Commission shall review the determination on the basis of the record before the Postal Service in the making of the determination. The Commission shall make a determination based on that review not later than 120 days after appeal is made under this paragraph.

“(B) The Commission shall set aside any determination, findings, and conclusions of the Postal Service that the Commission finds to be—

“(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

“(ii) without observance of procedure required by law; or

“(iii) unsupported by substantial evidence on the record.

“(C) The Commission may affirm the determination of the Postal Service that is the subject of an appeal under subparagraph (A) or order that the entire matter that is the subject of that appeal be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal.

“(D) The provisions of sections 556 and 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

“(E) A determination made by the Commission shall not be subject to judicial review.

“(8) In any case in which a community has in effect procedures to address the relocation, closing, or consolidation of buildings in the community, and the public participation requirements of those procedures are more stringent than those provided in this subsection, the Postal Service shall apply those procedures to the relocation, consolidation, or closing of a post office in that community in lieu of applying the procedures established in this subsection.

“(9) In making a determination to relocate, close, or consolidate any post office, the Postal Service shall comply with any applicable zoning, planning, or land use laws (including building codes and other related laws of State or local public entities, including any zoning authority with jurisdiction over the area in which the post office is located).

“(10) The relocation, closing, or consolidation of any post office under this subsection shall be conducted in accordance with section 110 of the National Historic Preservation Act (16 U.S.C. 470h-2).”.

(c) POLICY STATEMENT.—Section 101(g) of title 39, United States Code, is amended by adding at the end the following: “In addition to taking into consideration the matters referred to in the preceding sentence, with respect to the creation of any new postal facility, the Postal Service shall consider the potential effects of that facility on the community to be served by that facility and the service provided by any facility in operation at the time that a determination is made whether to plan or build that facility.”.

Mr. BAUCUS. In the spirit of cooperation, although I have been allotted 20 minutes, I will be very brief, hoping I can pick up a vote or two. It is a good amendment, anyway.

Very simply, the matter is this: In my State, and I know various other Senators in various other States, ran into a problem with the Postal Service. Namely, when the Postal Service wants to properly close, relocate or build a new post office, it has been, frankly, not the most sensitive operation in the world. That is, just close a post office, announce a closure, and that is it—giving the public and communities no say and no opportunity to comment on the closing, no opportunity to work out some accommodation with the Postal Service.

There are many examples of this. Let me give one in Livingston, MT. The Postal Service decided they were going to close the post office in downtown Livingston, just announced that they will build a new building on the edge of town. The community was up in arms because they had no notice of this, they had no opportunity to try to work something out with the Postal Service.

This is a very, very, very, popular part of town. It is the center of a small town. People go to the post office, linger, talk to their friends. It is basically kind of a commons. To have this willy-nilly moved out of town is quite disruptive to the community.

So one day when I was in Livingston, I decided to walk over to the post office to see what was going on there. The Postal Service might have a good argument, but the folks also had a pretty good argument. So I walked over to the post office. They said I couldn't come in. They said, "Sorry, Senator, you can't come in. We have to check in with headquarters to see if you can come in or not: So I say, "OK." I cooled my heels for 5 minutes, 10 minutes, 15 minutes, 20 minutes; 45 minutes later they got OK and approval from the headquarters someplace—maybe the Denver office, I don't know—that I could come to the post office, walk around and see why they needed to move the post office.

I wasn't being arrogant. I wasn't being unreasonable at all. I was just being a person. This is one example of the arrogance that we run up against. As it turns out, as a consequence of this, they are very embarrassed and sat down and worked out a solution with the community.

My amendment is very simple. Basically, it says whenever the Postal Service wants to close a post office, and I am sure there are needs to close post offices, and there are needs to relocate. Whenever they close or decide to relocate, they have to do several things.

No. 1, give notice. Give notice to the public, 60 days' notice to the communities being served. No. 2, have a hearing. No. 3, that they abide by the local zoning requirements of the community.

It is quite simple. I know the Postal Service will object, saying, gee, Congress shouldn't get into managing the Postal Service, and we are not getting into the managing of the Postal Service. We are saying give the communities an opportunity to be heard. If the Postal Service and the Commission reject the community's demand, that is it. There is no right of appeal or judicial jurisdiction over any decision made by the Postal Commission after the public has an opportunity to comment.

It is my experience that sometimes when a Government agency sits down with a community, in advance, and talks it over with the community and asks their opinions about things before making a decision of what they will do, that usually things work out pretty well.

On the other hand, if an agency doesn't in advance go talk to the community, but just announces a decision arbitrarily, the community feels like it has not been consulted and it hasn't been consulted. The committee feels like they are taken for granted. The fact is that we are talking about the public. They are the employers. The employees are the Postal Service. I just ask Senators to support this amendment because it does give communities a little bit of a say in where the facilities are located. It is as simple as that.

Mr. JEFFORDS. Will the Senator yield?

Mr. BAUCUS. I yield to my good friend from Vermont.

Mr. JEFFORDS. Mr. President, I rise today to argue in support of an amendment sponsored by myself and Senator BAUCUS that would require the U.S. Postal Service to let communities know when they are planning to shut down, relocate, or consolidate a community's post office. This amendment aims to preserve the fabric of downtowns and prevent sprawl by giving citizens a say in Postal Service decisions to close, relocate, or consolidate their local post office.

This amendment is supported by the National Governors Association, the National League of Cities, the National Trust for Historic Preservation, the National Association of Postmasters of the United States, the National Conference of State Historic Preservation Officers, the American Planning Association, the Association of United States Postal Lessors, and the International Downtown Association.

Coming from a small town in Vermont, I understand the importance downtowns or village centers play in the identity and longevity of a community. Downtowns are where people go to socialize, shop, learn what their elected representatives are doing, and gather to celebrate holidays with their neighbors.

One of the focal points of any downtown area is the community's post office. Post offices have been part of downtowns and village centers as long as most cities and towns have existed. These post offices are often located in historic buildings and have provided towns with a sense of continuity as their communities have changed over time. The removal of this focal point can quickly lead to the disappearance of continuity and spirit of a community and then the community itself.

Mr. President, this amendment will enable the inhabitants of small villages and large towns to have a say when the Postal Service decides that their local post office will be closed, relocated, or consolidated. Some of my colleagues may ask why this legislation is necessary. A few stories from my home state of Vermont will answer this question.

A few years ago the general store on the green in Perkinsville, Vermont went bankrupt and the adjacent post office wanted to leave the small village center for a new building outside of town. By the time the community was aware of the project, plans were so far along—the new building had actually been constructed based on the promise of the post office as the anchor tenant—that there was no time to fully investigate in-town alternatives. One elderly resident wrote that in contrast to families now being able to walk to the post office, "we certainly won't be walking along the busy Route 106 two miles or more to get our mail." The State Historic Preservation Officer commented that as people meet neighbors at the post office, the threads of community are woven and reinforced. "It may be intangible, but its real, and such interaction is critically important to the preservation of the spirit and physical fabric of small village centers like Perkinsville."

In 1988, the post office in the Stockbridge, Vermont, General Store needed to expand. The store owner tried to find money to rehabilitate an 1811 barn next to the store to provide the needed space, but was not successful. In 1990, the post office moved into a new facility located on the outskirts of Stockbridge on a previously undeveloped section of land at the intersection of two highways. People can no longer walk to the post office as they once were able to do when it was located in the village center. The relocation of the Stockbridge post office unfortunately removed one of the anchors of the community.

These are not isolated examples.

Mr. President, post office relocations are not only occurring in Vermont, but all across the country. My colleagues will quickly discover similar examples in their own states where the removal of the post office has harmed the economic vitality of the downtown area, deprived access to citizens without cars, and contributed to urban sprawl.

The basic premise for this legislation is to give the individuals in a community a voice in the process of a proposed relocation, closing or consolidation of a post office. This community voice has been lacking in the current process. This bill does not give the citizenry the ultimate veto power over a relocation, closing or consolidation. Instead, the bill sets up a process that makes sure community voices and concerns are heard and taken into account by the Postal Service.

Additionally, this act will require the Postal Service to abide by local zoning laws and the historic preservation rules regarding federal buildings. Because it is a federal entity, the Postal Service has the ability to override local zoning requirements. In some cases this has lead to disruption of traffic patterns, a rejection of local safety standards, and concerns about environmental damage from problems such as storm water management.

Mr. President, post offices in Vermont and across the nation are centers of social and business interaction.

In communities where post offices are located on village greens or in downtowns, they become integral to these communities' identities. I believe that this legislation will strengthen the federal-local ties of the Postal Service, help preserve our downtowns, and combat the problem of sprawl. I urge my colleagues to join Senator BAUCUS and me in support of this important amendment.

This is a simple amendment. I can't believe it can't be accepted.

Vermonters are tired of waking up in the morning and finding out their post office will be somewhere else. Under the proposed rule, all they get is a notice in the mail. There is no public hearing required. There is no way to appeal. It is just given carte blanche as to what they want to do.

In one little town in Vermont, they found out their post office moved 2 miles outside of town, and the people who had gathered in the village, a lot of the reason they gathered in the village was to be able to walk to the post office. They have to go 2 miles to get their mail.

No notice, no ability to participate at all. Blanket exemption for many zoning rules. They don't have to even take care of what the planning for the town has been. There is an exemption from the historic preservation rule. It says they can exempt projects from the new standards if the project is to meet an emergency requirement or is for temporary use, with no definition of what they are.

You are at the complete mercy of the post office to stick it anywhere they want. I tell you, our post offices are up in arms over this. All we want is a simple logical way where people are notified, they get a chance to be heard, they find out where the locations are going to be, they have an opportunity to make suggestions, and then they get on with life. But right now the way it is, it has my people in Vermont in the small town areas deeply upset. They have got postmasters who are ready to march on Washington. Why? Because we want some simple, commonsense rules to be abided by so that there is local input as to where your next post office is going to be.

I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I rise in opposition, reluctantly, to this amendment because I agree very strongly with the fact that customers and residents of an area where a post office facility is located that is considered for relocation, consolidation, or closing, ought to have an opportunity to have a say-so in that process.

For over a year, our subcommittee, which has jurisdiction over the legislation involving the Postal Service, has been working closely with officials at the U.S. Postal Service to try to improve the processes. I can tell you that we have received a lot of cooperation, and I am convinced that we will continue to receive cooperation in improving this process and showing some sensitivity to political concerns and to local interests that are affected by these decisions.

The Postal Service's continued efforts are appreciated very much by me. I think it would be a mistake for the Senate to legislate a new set of requirements or procedures that the U.S. Postal Service would have to follow. It would have the effect of undoing a lot of the good work that has been done recently when we have tried to work with them on this issue.

In fact, Postmaster General Henderson has recently placed a moratorium on the closing of small post offices. This is an important issue. I agree with that. It deserves the attention of the Congress. But it is also a complex issue, one that should receive the careful consideration of the legislative committee in the due course of business, not by the adoption of an amendment, with 10 minutes of debate on each side, attached to an appropriations bill.

This amendment would add a lengthy procedural set of requirements for all facility replacements, relocations, and closings. If a fire destroyed a postal facility, for example, necessary replacement would be delayed, as this new process—if we adopt it—ran its course. For each facility change, the postmasters would have to write to each customer explaining what, why, and when the action was planned. A public hearing would then be required, with testimony received from persons served by the facility. The Service would then have to respond in writing to any proposal of an alternative, giving reasons for rejecting such proposal. And then if one postal customer objects, the proposed action could be appealed to the Postal Rate Commission, causing additional delay.

The effect of this amendment would be to seriously slow down the facility modernization program of the U.S. Postal Service. The Service has over 35,000 facilities around the country, and 8,000 of these facilities were modernized or improved during the last year.

The Service has just recently published in the Federal Register new requirements that it is imposing on itself for consultation with local leaders and customers on all facility projects. The projects must be publicized in the local newspaper and a public hearing held to explain the proposal. Additionally, local public officials receive at least a 45-day notice before the Postal Service solicits for a new site. The new processes should provide ample opportunity for public input in a responsible and orderly way. I think they should be given a chance to work.

I urge Senators to reject this amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. How much time remains on both sides?

The PRESIDING OFFICER. Your side has 3 minutes 6 seconds. The other side has 6 minutes 7 seconds.

Mr. BAUCUS. Mr. President, I yield a minute and a half to my good friend from Vermont.

Mr. JEFFORDS. Mr. President, the list of things I presented is the list that the Senator from Mississippi was talking about. It doesn't do anything for you. It allows you to know and gives you a 1-day notice. You get it in the mail and you find out the next day where it is located. There is a minimum 60 days for the—there is a gross exemption, blanket exemption, of the zoning requirements. They are exempt from new standards if it is for temporary use, but there is no definition of what that is. All these things I mentioned are what we are talking about. That is why we believe very strongly that our amendment should prevail and we will work it out in conference.

I yield whatever time I have.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Simply, Mr. President, this is already in the law. A person may already appeal a decision to close a post office. The Commission then decides whether that is reviewable. We are not changing that. That is in the law today. Any person can appeal the decision made by the Postal Service to close a post office. That is in the law today. We are saying, at least give the community notice that they are going to close. If that is done, then fewer people are going to appeal. That is all this is.

I just urge Senators to vote for something which is just common sense and reasonable. It is not going to be an excessive burden on the Postal Service. It is just asking for people up front to have an opportunity to be in on the process.

Mr. COCHRAN. Mr. President, I am prepared to yield back the remainder of the time in opposition and move to table the amendment. I don't want to cut off any Senator's right to express themselves. I yield back the time left on this side on the amendment.

The PRESIDING OFFICER. Does the Senator from Montana yield back his time?

Mr. BAUCUS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. COCHRAN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana (Mr. COATS) and the Senator from Washington (Mr. GORTON) are necessarily absent.

I also announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 21, nays 76, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—21

Ashcroft
Campbell
Cleland
Cochran
Craig
Faircloth
Graham
Gramm
Gregg
Lott
Lugar
Mack
Moynihan
Murkowski
Nickles
Roberts
Roth
Santorum
Stevens
Thompson
Thurmond

NAYS—76

Abraham
Akaka
Allard
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Chafee
Collins
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Frist
Glenn
Grams
Grassley
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
McCain
McConnell
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—3

Coats
Gorton
Helms

The motion to lay on the table the amendment (No. 3378) was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, if the Senator from Ohio will yield momentarily, I know he is up next, but I think we have an agreement that will help us bring this to conclusion.

AMENDMENT NO. 3378

The PRESIDING OFFICER. The question is on the Baucus amendment.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I believe we have to act on the underlying amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3378) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I am continuing to struggle to try to get a finite list of amendments. I think we have that. I know a number of these amendments will be worked out, will be included in the managers' package. I have discussed this arrangement and this list with the chairman of the subcommittee, the ranking member, and with Senator DASCHLE. I believe this is the best way.to get this to a conclusion that would be fair to one and all.

Again, I do note, before I make that unanimous consent request, that we do have some Senators who are going to represent the entire body at the funeral in the morning. So we are trying to go ahead and take up the Department of Defense appropriations bill first thing in the morning, lay it down at 9 o'clock, and then any stacked votes would occur at 1 o'clock.

To renew the bidding, in the earlier unanimous consent agreement, we have lined up for consideration the McConnell amendment for 30 minutes, the Glenn amendment for 30 minutes, and the Harkin amendment for 30 minutes; Harkin with regard to drug control, the other two with regard to FEC.

I now ask unanimous consent that no further first-degree amendments be in order other than the list agreed to earlier this evening and the below-listed amendments, and they be subject to relevant second-degree amendments: Graham relevant amendment, managers' package; DeWine regarding Customs; Domenici regarding FLETC; Stevens relevant amendment; Senators Daschle and Lott—one relevant each; Conrad regarding high-intensity drug areas; Dorgan regarding an advisory commission; one by Graham; Harkin and Bingaman—all three on the high-intensity drug issue. I hope they could work those out or roll them into one or something of that nature; Kerrey regarding sense of the Senate; and a Kohl managers' amendment.

I further ask all amendments must be offered and debated tonight and the votes be postponed to occur at 1, if any are needed, on the amendments. And, of course, final passage on Thursday, and that they occur in stacked sequence with 2 minutes for debate at that time before each vote for closing remarks, and that following those votes the bill be advanced to third reading.

I further ask that if the motion relative to the Graham motion to reconsider is not tabled, the underlying amendment and motions be limited to unlimited debate.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I could, through the Chair, address the majority leader: We have a matter at 1 o'clock, for the hour. We have the Director of the CIA coming. We have 35 Senators who have said they want to hear him. It is going to be in 407. Could we do it at 2 o'clock, or 10 till, the votes?

Mr. STEVENS. If the Senator will yield for a moment, it is the intention of the leader to take up the defense bill when we convene in the morning, right?

Mr. LOTT. That is correct.

Mr. STEVENS. With the understanding we can proceed with business other than votes prior to that time, I think we can handle it.

Mr. LOTT. All right. Then we would have those stacked votes at——

Mr. REID. At 2 o'clock?

Mr. LOTT. At 2 o'clock? Is that agreeable with the chairman?

Mr. STEVENS. Yes, it is. I ask the leader if there is any possibility we might get some agreement, however, that we can see the amendments that are going to be brought up in the balance of the day by noon tomorrow with regard to the Defense bill. If we could just have an indication what Senators are going to have amendments so we can start scheduling the action after the vote on the stacked amendments?

Mr. LOTT. Let me say if I could, to the chairman, if there are amendments that are debated and ready for a vote at that time, we could put them in the sequence at 2 o'clock.

Mr. STEVENS. We would be happy to do that. We would like to see what the remainder of the day, and Friday morning, is going to look like if we are going to finish the bill sometime Friday.

Mr. LOTT. We amend the request, then, to 2 o'clock.

Mr. REID. I extend my appreciation to the leader.

Mr. WELLSTONE. Reserving the right to object, and I will not.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I am trying to discern whether or not the post office in St. Paul named after Eugene McCarthy will be in the managers' amendment? Is that correct?

Mr. LOTT. That will be accepted. The objection that has been lodged will be withdrawn and the agreement was, the understanding was, when that is withdrawn, the Senator had another amendment that he would withhold.

Your amendment will be in the bill when it is passed.

Mr. WELLSTONE. I thank the majority leader.

The PRESIDING OFFICER. Is there objection to the majority leader's request? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, reserving the right to object, and I don't intend to, may I just have scheduled, between 12:30 and 1:30, 5 minutes?

Mr. LOTT. Five minutes or so?

Mr. KENNEDY. Five.

Mr. LOTT. We will make sure that occurs, Mr. President.

Mr. KENNEDY. Thank you.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 3379

(Purpose: To amend the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) to provide for appointment and term length for the staff director and general counsel of the Federal Election Commission, and for other purposes)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration on behalf of myself, Senator MCCAIN, Senator BENNETT and Senator WARNER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. MCCAIN, Mr. BENNETT and Mr. WARNER, proposes an amendment numbered 3379.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title V, add the following section:

SEC. ___. PROVISIONS FOR STAFF DIRECTOR AND GENERAL COUNSEL OF THE FEDERAL ELECTION COMMISSION.

(a) APPOINTMENT AND TERM OF SERVICE.—

(1) IN GENERAL.—The first sentence of section 306(f)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)(1)) is amended by striking "by the Commission" and inserting "by an affirmative vote of not less than 4 members of the Commission for a term of 4 years".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to any individual serving as the staff director or general counsel of the Federal Election Commission on or after January 1, 1999, without regard to whether or not the individual served as staff director or general counsel prior to such date.

(b) TREATMENT OF INDIVIDUALS FILLING VACANCIES; TERMINATION OF AUTHORITY UPON EXPIRATION OF TERM.—Section 306(f)(1) of such Act (2 U.S.C. 437c(f)(1)) is amended by inserting after the first sentence the following: "An individual appointed as a staff director or general counsel to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the individual whose term is being filled. An individual serving as staff director or general counsel may not serve in such position after the expiration of the individual's term unless reappointed in accordance with this paragraph.".

(c) RULE OF CONSTRUCTION REGARDING AUTHORITY OF ACTING GENERAL COUNSEL.—Section 306(f) of such Act (2 U.S.C. 437c(f)) is amended by adding at the end the following:

"(5) Nothing in this Act shall be construed to prohibit any individual serving as an acting general counsel of the Commission from performing any functions of the general counsel of the Commission.".

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I had earlier offered to enter into a much shorter time agreement, because this amendment really requires very little explanation.

Last year, in the Treasury-Postal bill, we enacted term limits for the FEC Commissioners, and the terms of the Federal Election Commission members, Mr. President, are now one 6-year term.

This amendment continues the necessary reform of the Federal Election Commission by providing that two critical staff members at the Federal Election Commission—the staff director and the general counsel—serve a 4-year term, but it is important to note, these important staff members could continue to serve with the vote of four of the six FEC Commissioners. It is important to remember the FEC is a 3-3 Commission, three Republicans, three Democrats. It was structured that way on purpose. It is necessary that it be structured that way.

A very important part of the Federal Election Commission team is the staff director and the general counsel. Under the amendment that I have offered, cosponsored by Senator MCCAIN, Senator BENNETT and Senator WARNER, the chairman of the Rules Committee, beginning in January, the general counsel and the staff director will be subject to a 4-year term, and in order to achieve that 4-year term, Mr. President, they would have to enjoy the confidence of both parties; that is, they would have to achieve four votes which means at least three of one party and one of another——

Mr. GLENN. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order. Those Senators wishing to continue discussions please take your discussions off the floor of the Senate.

The Senator from Kentucky.

Mr. MCCONNELL. Or for that matter, Mr. President, the general counsel might achieve the votes of two of one party and two of another. In other words, four votes to achieve a 4-year term, after which the general counsel, if he or she wanted to continue—and many of them might not—would have to be able to reach across party lines, which is, of course, the spirit of the Federal Election Commission, in order to achieve a 4-year term.

There is really nothing else to say about this amendment. It continues the reform process.

Mr. President, how much of my time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes, 23 seconds.

Mr. MCCONNELL. I yield to the distinguished Senator from Utah whatever time he may desire.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, my understanding of the actions and activities of the FEC up to this point indicate that it is an agency badly in need of reform, and I am delighted that the term limits have been enacted. It is also my understanding that because of its past history, some Commissioners of the FEC have been less than diligent in their duties and, as a result, the power to run the Commission has devolved to the staff.

When we debate term limits generally, we are often told that one of the reasons we should oppose term limits is because it will put too much power in the hands of the staff. The staff becomes the permanent and institutional memory of the body, while those who are supposed to run it keep cycling through on term limits.

I think it entirely appropriate that we give the new Commissioners, as their terms expire, the opportunity to act affirmatively on the staff and not allow the power of inertia to keep staff members in forever and forever. It is a logical thing to do, and I am happy to support it and happy to be a cosponsor of this amendment.

I reserve the remainder of the time.

Mr. MCCONNELL. I reserve the remainder of my time.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise to oppose the amendment. If this is adopted, this means that this will be the only independent agency or department of Government to time limit the general counsel or staff director—the only independent agency in the Government.

One of the FEC Commissioners has indicated to us what he thought would happen in this regard. He said it would cause chaos in the agency because, as the distinguished Senator from Kentucky has said, the Commission normally must have four votes for any action to ensure action is bipartisan.

This means that if they were trying to get rid of the general counsel for whatever reason, the amendment would allow a minority of three to fire the general counsel because there wouldn't be a majority to retain, there wouldn't be the four votes. So there is concern about who they can get to even serve in a general counsel position in that situation.

I think this will go a long ways toward destroying the FEC's independence in its own investigations under the law, because the general counsel will have to continually lobby for reinstatement. That just doesn't make any sense. I see no reason why we should be carving out the FEC, which is so important to us these days in trying to get elections laws straightened out, to be the only independent agency in all of Government to have such a time limit put on their general counsel or their staff director.

They serve there, they have served for longer terms before, and served very honorably and well, but to place them under these different restrictions on voting, that would mean a general counsel could be ousted much more easily than I believe any of us would like to see and is something I don't think we should do.

Mr. President, I rise to oppose this. If there are any others who wish to speak against this amendment, I will be glad to yield such time. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes, 52 seconds.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I wonder if the Senator from Ohio will yield me 6 minutes.

Mr. GLENN. I yield such time as the Senator may desire.

Mr. FEINGOLD. I thank the Senator from Ohio.

Mr. President, I rise in strong opposition to this amendment offered by the Senator from Kentucky. I already spoke at length on the floor against a very similar amendment in its other incarnation in the other House. Fortunately, that body did not keep this provision on the bill.

What is happening here is the opposite of reform. It is the opposite of reform. This is an effort, plain and simple, to hamstring the agency that is charged with the very important responsibility of enforcing the Federal election law to which we all have to adhere—the Federal Election Commission. This effort has deadly serious consequences in terms of the independence of this Commission, and it has to be defeated.

The effect of the amendment of the Senator from Kentucky would be to result in the firing of the Commission's general counsel. The amendment involves the Congress in the personnel decisions of the FEC, the agency that we have charged with overseeing the way we conduct our reelection campaigns.

The Senator from Kentucky wants to get rid of a career civil servant who is simply trying to do his job to enforce the election laws. The current general counsel's institutional memory and knowledge is critically important now, because we are poised to confirm three new Commissioners, perhaps before the August recess.

If we do that, Mr. President, the Commission will be at full strength for the first time in almost 3 years. It has been that long since all six slots on the Commission were filled. And right as that happens, if we adopt this amendment, we are going to throw the Commission into turmoil once again by getting rid of the general counsel and forcing this newly constituted Commission to come to agreement on someone else. That could take months and hamper the enforcement efforts of the Commission at a crucial time, a very interesting time, right after the 1998 elections.

Mr. President, I want my colleagues to understand, as the Senator from Ohio has well stated, just how unprecedented this micromanaging of an agency's personnel decisions is.

No other agency must reappoint or replace its top staff every 4 years—not one. According to the Congressional Research Service, there are three independent agencies where the general counsel is actually a political appointee, nominated by the President and confirmed by the Senate. In each of these cases, the general counsel has direct statutory authority.

But in every other independent agency, including the FEC, the general counsel is appointed by either the chairman or the entire body and serves at the pleasure of the appointing entity. That is what the law is now with respect to the FEC, and there is no reason to change it.

In recent years, the FEC has undertaken a number of controversial actions in a very reasonable attempt to enforce the law that the Congress has written. Some of these cases have taken on very powerful political figures or groups—and they have done it on both sides of the aisle. And the crucial point is that the FEC itself has authorized all of these cases by a majority vote. If you don't like a case that the FEC has filed, you need to look to the Commission, not the general counsel. He is just trying to do his job as he sees fit.

What we have here, Mr. President, is an effort to intimidate an agency. The proponents of this firing want to punish the FEC's general counsel for bringing forward recommendations to enforce the law, even though in all of the cases I have mentioned, a bipartisan majority of the commission has agreed with him. In every one of those cases a bipartisan group has agreed to take the action.

Mr. President, I submit that we cannot let this happen. We need to let the professional staff of the FEC do its job. Surely the 3 to 3 party split on the Commission is enough to make sure that the Commission doesn't go off on some partisan vendetta. We must stop the partisan vendetta that this proposal represents. Protect the independence of the FEC and the nonpartisan nature of its staff by defeating the McConnell amendment.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, I rise in opposition to the McConnell amendment. If this provision is enacted, the traditional bipartisan balance of the Federal Elections Commission will be disrupted. Under this provision the general counsel and staff director of the FEC can essentially be fired by either the three Democratic or Republican Commissioners on the FEC.

This amendment has the potential of paralyzing the Federal Elections Commission and further eroding what is already a weakened campaign oversight agency.

Mr. President, such a move would be unprecedented in the Federal Government. According to a memorandum prepared by the Congressional Research Service, no general counsel which is not subject to Senate confirmation may be removed in this manner. It would be ironic that the agency charged with investigating political campaigns is crippled by Congress.

When this amendment was put forward in the House of Representatives, the New York Times noted that this provision would cripple the FEC and guarantee "an open field for influence peddlers and influence buyers."

In a year when this Congress failed to pass campaign finance reform, it would be even more tragic if we crippled the only watchdogs of our campaign finance system.

I urge my colleagues to vote against the McConnell amendment.

Mr. INOUYE. Mr. President, I oppose this amendment which proposes to limit the Federal Election Commission's (FEC) general counsel and staff director to a term of 4 years unless four of the six Commissioners vote to renew their terms. The Commission is composed of six members—three Republicans and three Democrats.

Consistent with the FEC's overall statutory scheme, requiring a majority decision to take official action, four votes are currently needed to remove the general counsel or staff director from office. If this amendment is adopted, four affirmative votes would be required for these officials to retain their position. That means three Commissioners from the same party voting as a block could force the termination of either the general counsel or the staff director and hold hostage either of the two top career officials at the FEC.

This amendment injects partisanship into the carefully balanced bipartisan structure at the FEC. Further, this could cause the staff to make recommendations based on partisan considerations in order to protect their jobs. These consequences would be extremely detrimental to the administration of the FEC and the enforcement of our campaign finance laws.

There appears to be little question that the purpose of this provision is to retaliate against the general counsel, Lawrence Noble, for certain actions. The general counsel recently made several controversial recommendations to the Commission. In response to 1997 rulemaking petitions filed by President Clinton and others, Mr. Noble recommended that the FEC seek public comment on a proposal to prohibit the use of soft money in connection with federal elections.

Acting on the general counsel's recommendation, the Commission also pursued cases in court that have received negative reactions from some Members. A review of Mr. Noble's record indicates that he has been nonpartisan, balanced and fair. Mr. Noble has aggressively pursued enforcement of campaign finance laws against Democrats and Republicans alike.

In a year in which the need for campaign finance reform has received so much attention, Congress would be sending the wrong message if it passes a provision designed to weaken the very agency responsible for enforcing campaign finance laws.

I urge you to oppose this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. One other item I would like to note for everyone's illumination on this.

The House had a similar provision to that which is proposed by the Senator from Kentucky. They had a similar provision in the bill when it came to the House floor. They had a debate over there on this very provision which was described to me as being a bitter debate, a lot of rancor in it. It wound up with a bipartisan effort being put forward to strike this position on the floor of the House; and it was struck. They voted this provision out of the House bill on a bipartisan vote. And now this is an effort being made to put it back in on the floor of the Senate here.

I urge my colleagues to defeat this amendment.

I reserve the remainder of my time.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, the House vote was on a point of order. In fact, this particular reform has been recommended by the House authorizing committee. Let us not make this more complicated than it is.

All this amendment does that the Senator from Kentucky has offered, in concert with the Senator from Utah, is require that on this—in this unique agency; it is different from any other agency in the Federal Government; it is three and three: three Republicans and three Democrats—to require that in this agency every 4 years the top two staff people enjoy enough confidence across party lines to be reappointed for 4 years.

In fact, Mr. President, this amendment ensures that the agency will, in fact, be operated on a bipartisan basis because any staff director or general counsel who, after 4 years in the office, cannot get the confidence of both parties, Mr. President, clearly is not operating on a bipartisan basis and therefore should not be reappointed.

So it is, in fact, this amendment that ensures that the Federal Election Commission achieves its original mission, which was to operate on a bipartisan basis.

I see that my friend from Utah is on the floor. I yield to him whatever time he may need.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I simply have to respond to the notion that this is an amendment to fire the incumbent general counsel. That is what we were told in the last debate. That assumes that the present general counsel does not enjoy bipartisan support. That assumes that the present general counsel has conducted himself in such a way that he cannot gather the necessary four votes. I have no knowledge that that is indeed the case. But if it is indeed the case, it is a strong argument for saying that the present general counsel probably should not be in his job.

If he cannot muster bipartisan support to hold this job, we have a situation where he is obviously supporting one party over the other in order to maintain those three votes. That is the only conclusion that can be drawn from the argument made by the Senator from Wisconsin who claims this is an attempt to fire the incumbent general counsel.

There is nothing in here that says this is an attempt to fire the incumbent general counsel. It simply says the incumbent general counsel has to enjoy bipartisan support. And if he is as wonderful and as bipartisan as the Senator from Wisconsin says he is, he has nothing to fear from this amendment.

Mr. McCONNELL. I would say to my friend from Utah, in further elaboration, after the enactment of this into law, we are not making the general counsel or the staff director subject to removal on a whim. They have a 4-year term, an opportunity to develop a record of bipartisan cooperation with both the Republicans and the Democrats on the Federal Election Commission before reaching the end of the 4-year term. At that point, if they want to continue enjoying enough confidence across party lines to achieve another 4-year appointment—it seems to me eminently reasonable. And, Mr. President, I think it guarantees that the Federal Election Commission will be the kind of agency that the Congress intended it to be when it was created in the mid 1970s.

Mr. President, I retain the remainder of my time, if I have any.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes 37 seconds.

Mr. GLENN. We are prepared to go to a vote. I am prepared to yield back the remainder of my time if the Senator from Kentucky is prepared to do the same thing.

Mr. McCONNELL. I yield back our time.

The PRESIDING OFFICER. All time has been yielded back by both parties. The question is on the amendment.

Mr. GLENN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. McCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. I ask unanimous consent that Elizabeth Coliguri, a member of my staff, be given floor privileges for the remainder of the consideration of the Treasury-Postal appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. There is obviously some misunderstanding about the earlier consent agreement that was entered into between all of us and the Parliamentarian. I think there is no misunderstanding among the Senators, so I ask unanimous consent that all of the amendments debated tonight be voted upon in order of their offering beginning at 2 o'clock tomorrow.

The PRESIDING OFFICER. That would be the order.

Is there objection?

Mr. GLENN. Reserving the right to object, and I do not plan to object, but my understanding is the majority leader proposed that and it was already entered. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. McCONNELL. There was some misunderstanding by the Parliamentarian as to whether we were voting further tonight. I do not think there was any misunderstanding among Senators.

Mr. GLENN. OK. Fine. Whatever.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3380

(Purpose: To provide additional funding for enforcement activities of the Federal Election Commission)

Mr. GLENN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, Mr. JEFFORDS, Mr. KOHL, Mr. LEVIN, Mr. FEINGOLD and Mr. DODD, proposes an amendment numbered 3380.

Mr. GLENN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, line 13, insert after "$33,700,000" the following: "(increased by $2,800,000 to be used for enforcement activities)".

On page 46, line 18, strike "$5,665,585,000" and insert "$5,662,785,000".

On page 56, line 20, strike "$5,665,585,000" and insert "$5,662,785,000".

Mr. GLENN. Mr. President, I send this to the desk, along with my cosponsors, Senators JEFFORDS, KOHL, LEVIN, FEINGOLD, and DODD. I offer this amendment to increase the budgeted funds a small amount for enforcement efforts by the Federal Election Commission. This agency bears the very difficult and thankless task of policing all of our campaigns in the whole Congress.

Mr. President, I would like to point out, first, that this amendment was offered in the House, was debated there, and was approved. And the amendment I offer today adds exactly the same amount. It is just an additional $2.8 million to the FEC budget. The money would help the agency to investigate and prove wrongdoing. These additional funds are just a small step toward giving the Commission the resources that it really needs.

In past years, we have seen attempts by Congress to stop vigorous enforcement of the law by failing to provide an adequate budget for this agency. Just last year, following an election in which unprecedented abuse of the campaign finance laws occurred, Congress refused to give money to the FEC to hire more staff to investigate these abuses. I thought that was a tragedy.

Just last week in the House, we saw an extraordinary display of bipartisanship because the House defeated provisions intended to politicize the agency, and instead approved additional funds, as I mentioned a moment ago, for the Federal Election Commission. The extra money was set aside very specifically to help the FEC pay for investigations, many stemming from the events of the 1996 campaign. Those of us who support campaign finance reform—which is a clear majority in this body—agree that the system is broken and needs to be fixed.

Until we can pass new laws, we must at least allow the agency we created to do its best to actively and vigorously enforce the existing law. This amendment takes an important step toward assuring that the FEC can do just that. This amendment is a renewed commitment by the Members of Congress to make a real effort to ensure that people who violate our existing campaign finance laws are found and are held accountable. This is the only way we can assure the continued integrity of our election process.

Last year, we saw a lot of effort on campaign finance reform, and with Chairman THOMPSON, I had the privilege of serving as the ranking member of the Committee on Governmental Affairs' investigation into the 1996 campaign finance fiasco. During the course of those hearings, Chairman THOMPSON called on several campaign finance experts to testify. One of those witnesses was Norm Ornstein of the Brookings Institution who told us in testimony that he believed that the FEC would probably need at least $50 million—that is about twice what they are receiving—in order to become an effective enforcement agency.

These funds I am proposing are a very small step. They just match the House funds that have already passed over there. It is a small step, but still leaves the agency woefully short of what experts think it needs.

Let me give a little bit of perspective of the job facing the FEC. Right now, the FEC has 200 cases pending; 93 of those cases are under investigation and 107 cases, over half, are sitting in a file cabinet. Why? Why are these cases just sitting there in the cabinets with no action? They are waiting for staff to become available for these 200 cases. The FEC can only afford 25 staff attorneys.

How about the investigators who could help the attorneys? The FEC has two, which they consider a great improvement from 1994 when they had exactly zero. They had none. By way of contrast, on last year's investigative staff of the Governmental Affairs Committee, we had 44 lawyers and a dozen investigators, and we weren't dealing with the whole aspect of everything the FEC has to deal with. We were dealing with only one limited aspect of what occurred during the 1996 campaign. We faced nowhere near the caseload that confronts the agency that is trying to do the best job it can on a real shoestring.

I think we can all agree it doesn't matter how good the law that you have, if it isn't actively and vigorously enforced, it means nothing. It becomes a scofflaw. The Federal Election Commission already enforces a law readily exploited and bent in ways never intended. We, in Congress, fail to give the FEC the resources to find and hold accountable those who willfully violate these laws, who misuse soft money, who attempt to disguise political ads as issue advertising, and on and on. With all of the things we know that can happen, how can we hope to ensure the public has confidence in its elections and in its elected officials?

This amendment is a very, very small and reasonable step towards allowing the FEC to accomplish its mission and enforce the law. I hope my colleague will support it. I repeat, it is one that has already passed in the House. We just matched the figure of $2.8 million that they have already passed in the House. I hope my colleagues will support my amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, very briefly, the FEC is clearly not underfunded. Its budget has more than doubled in the past decade. They are already getting $2 million more this year than last year under the budget of the Senator from Colorado, who has been quite generous to the Federal Election Commission—frankly, beyond what I would have done had I been in his shoes. The FEC's problems are certainly not on the financial side.

Senator GLENN would give them an extra $2.8 million over and above the additional $2 million that the distinguished Senator from Colorado is already providing for this agency. You are talking about a 16-percent budget increase, a 16-percent budget increase for the Federal Election Commission. I think the U.S. district court, in a recent case, said it best when they reported in a Wall Street Journal editorial of July 13:

> If there is one thing all the players agree on, it is the need for better disclosure of contributions and a crackdown on violators. But a Federal court this week [the Wall Street Journal referring to a court decision] signaled that the Nation's electoral traffic cop, the Federal Election Commission, is lax in carrying out even that basic function.

That is the point. The basic function of the Federal Election Commission is disclosure.

The distinguished Senator from Colorado has more than adequately provided funding for this agency. To give them the additional money offered by the distinguished Senator from Ohio would provide a 16-percent increase over last year. Clearly, that is not appropriate.

I yield the floor.

Mr. GLENN. Mr. President, that's difficult to respond to, to say the FEC needs more resources. My distinguished colleague, my friend from Kentucky, says they need to monitor disclosure better; but how do they monitor that if they don't have the people to do it? They should crack down on violators. How do they crack down if they don't have the people on the staff to do it? They have a grand total of 25 staff attorneys. Until 1994, they didn't have any investigators.

To say that we put them up a certain percentage this year, when estimates we had in testimony before the Governmental Affairs Committee were that we should probably double their budget to give them a fair shot at doing their job, which would put their budget up around, somewhere around $50 million was the estimate, instead of where it is now, to think if they could even come close to fulfilling the law and the requirements they are supposed to monitor with the staff they have, just isn't right.

I said in my statement a moment ago, the FEC has 200 cases pending. They are only investigating 93. Why? It is because they don't have the people to do it. To say that they don't need more money and are quite adequately funded just flies in the face of logic. They do not have adequate staff. They can't even keep up with these things. These cases are years and years old. Many of them will not even be settled before the next election cycle comes around. They don't have the staff over there for any expeditious treatment. Ninety-three of those cases are under investigation, 107 cases are sitting in file cabinets for lack of people.

In 1994, they didn't have any investigators and then they hired one. Then it was said later on they had 100-percent improvement in their investigative staff because they then hired two; they had two people on their investigative staff. None of these attorneys are people who are normally going out and doing all the spadework, doing all of the investigating, doing the fieldwork out in the field. To say that they have quite adequate funding because they went up a certain small percentage just flies in the face of logic.

I know we are not going to probably change many minds on this particular subject, but if we are serious about ever improving our campaign financing and having the FEC as the monitoring body that does that, this is such a modest little amount of $2.8 million. I hope my colleagues will vote for this and match the House with the exact same amount the House put in. We wanted to match what they have done.

They had a debate on this in the House and decided to put this in. It was because they felt they not only needed this, they probably needed much more, but could not get more through. I would like to see us do this an extra $15 million or $20 million. I know we are not going to do that here, but this is such a modest increase and they need it so badly that I hope my colleagues will agree to the amendment I am proposing when we vote tomorrow.

Mr. FEINGOLD. Mr. President, I'm pleased to cosponsor and rise in support of the amendment offered by the Senator from Ohio, Senator GLENN. And how fitting that Senator GLENN has taken the lead on this issue since he spent much of last year investigating the fundraising scandals of the 1996 election. I congratulate him on that work and on offering this very modest, but very important amendment today.

Mr. President, as you know, I have spent a lot of time on this floor in this Congress debating the McCain-Feingold bill, and the issue of campaign finance reform. It has been a very difficult issue to make progress on. We have a strong bipartisan majority, including seven Senators from the Republican side of the aisle, in support of reform. A partisan minority continues to block our bill.

But one area on which this entire body is united, Mr. President, is the need to enforce the laws that are already on the book. In fact, time after time when we debated the issue last fall and again early this spring, opponents of our bill raised that issue as a reason that they opposed McCain-Feingold. Why should we enact new laws, they said, when we can't even enforce the ones on the book? No less than eight Senators made some version of that argument in last fall's debate, right in the middle of the Thompson Committee hearings. More still raised it when we revisited campaign finance reform in February.

In fact, given the arguments made by the opponents of the McCain-Feingold bill, I would hope this amendment would be adopted by 100-0 when we vote. Because all the amendment does is give the resources that the Federal Election Commission says it needs to carry out the duties that we have given it under the law. The very small amount of money that this amendment proposes to add to the FEC's appropriation—just 2.8 million dollars—will bring the FEC's funding up to its full budget request, which is the level that the House passed bill includes.

This is a particularly good and important time to fully fund the FEC. The Rules Committee recently recommended approval of three new nominees to the Commission, and one reappointment. If the Senate follows that recommendation, the FEC will have a full complement of Commissioners for the first time since October 1995 when then Chairman Trevor Potter left the Commission. We therefore have a chance to have a fully functioning Commission prior to this year's elections. What better time to have a fully funded Commission as well. What better time to give the FEC the resources it says it needs to do its job right.

The additional funding provided in this amendment will go directly to hiring new personnel to beef up the FEC's enforcement capacity. And there is no doubt at all that these additional investigative and legal staff are truly necessary. The FEC simply is not able to keep up with the workload as things now stand. In Fiscal Year 1997, it dismissed 133 cases as being too minor or too old to be worth pursuing. Through June of this year, three quarters of the way through this Fiscal Year, the FEC has already dismissed 144 cases. Now these are not frivolous cases, these are cases that staff has determined are worth pursuing.

And here is the most disturbing statistic, Mr. President. In every year since the FEC adopted this practice of dropping cases that it can't get to the number of cases that are dropped because they are not that important has exceeded the number that are dropped because they are stale. Until this year. This year, nearly 60 percent of the cases dropped were high priority but stale. This is a very disturbing fact. The FEC is having a harder and harder time getting to the cases that it deems to be significant because of the rising caseload and inadequate resources.

So, Mr. President, frankly, I can hardly imagine how one could argue against this amendment. The FEC is a very small agency, with a very small appropriation, and a very big job. Campaign spending by candidates continues to increase. Involvement in election activity by outside groups continues to expand. We simply cannot pretend that we want the laws to be enforced at election time and then ignore the FEC at budget time.

There is nothing that undermines the public's faith in government more, Mr. President, than a feeling that the rules of the election game are being ignored. In a very real sense, Mr. President, this amendment gives us the chance to put our money where our mouth is. I hope we take it.

Once again, I congratulate the senior Senator from Ohio for offering this amendment, and I urge its adoption.

Mr. KOHL. Mr. President, I rise today to support the amendment by Senator GLENN to bring the funding for the Federal Elections Commission to the level requested by the administration. Mr. President, we have watched during the last few years as public confidence in our electoral system has crumbled. We've seen investigations, deliberations, orations—but nothing substantive to improve how we elect Members of Congress.

We all know that despite the strong efforts of many in this institution—especially Senator McCAIN and my colleague from Wisconsin, Senator FEINGOLD—we have not passed genuine campaign finance reform.

At the same time, the workload at the FEC has exploded. Since 1991, campaign spending has increased by nearly 150 percent. The number of audits have gone up 110 percent. And the sheer number of transactions recorded by the FEC has increased by 157 percent. This increase in work has come at a time when the FEC, an independent federal agency, has lost employees. In the last three years the number of full time employees has actually dropped from 314 to 300.

With this increase in work and decrease in staff, it should not be a surprise that the FEC—the agency charged with investigating campaign fraud and abuse—has been forced to drop legitimate cases because of insufficient resources. In 1998 alone, of the cases the FEC dismissed, nearly two out of three cases were dropped because the FEC did not have the resources to fully investigate them.

Mr. President, if I came before this body today and told you that criminals were being let out of jail because there were not enough policemen on the beat, we would rush to provide more resources to law enforcement. But because those allegedly breaking the law are political candidates and campaigns, we are ignoring the problem.

The House of Representatives recognized the deficiency in funding and voted to bring the FEC budget to $36.5 million. Senator GLENN's amendment would do the same, and without increasing overall spending.

Mr. President, we should have passed meaningful campaign finance reform this year, but we did not. Therefore, the only real improvement we can make to our campaign finance system is to provide the policemen of that systems the tool they need to enforce our laws. The Glenn amendment will provide that additional support, and I urge its passage.

Mr. GLENN. Mr. President, I will reserve the balance of my time. Do we have 2 minutes to explain this before the vote tomorrow? Was that the agreement?

The PRESIDING OFFICER. There will be 2 minutes, evenly divided, before each vote.

Mr. GLENN. Mr. President, I yield the balance of my time for this evening.

Mr. CAMPBELL. Mr. President, I ask for the yeas and nays on the Glenn amendment at the agreed to time tomorrow.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I appreciate the great courtesies that the Senator from Colorado and the Senator from Wisconsin have extended in terms of a series of amendments that relate to drug issues. It is my hope and expectation that before we come to closure on this matter, those various amendments will be combined in an amendment that will be supported by the managers of this bill.

I am in a difficult situation, however, wanting to assure that in the unlikely event that that doesn't occur, the amendment that I propose to offer is protected. So in a minimum amount of time, I would like to offer the amendment.

I ask unanimous consent that a letter from Mr. Robert Warshaw, the Associate Director of the Office of National Drug Control Policy, which outlines the severity of the situation in the region of central Florida, which is the subject of the amendment, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF NATIONAL DRUG CONTROL POLICY,
Washington, DC, July 29, 1998.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: This is in response to your inquiry concerning the status of the Central Florida High Intensity Drug Trafficking Area (HIDTA). The Central Florida HIDTA was designated by this office on February 27, 1998 after consultation with the governor of Florida, the Attorney General, the Secretary of Health and Human Services and the Secretary of the Treasury.

A thorough analysis of the Threat Assessment and supporting information submitted by the Central Florida HIDTA reveals that this region has been severely affected by the flow of illegal drugs from domestic and international sources, and that this drug trafficking affects the nation as a whole. Illegal drugs are increasingly smuggled into Orlando and Tampa from the Caribbean and Latin America. Among Florida cities in 1996, Orlando reported the highest rate of heroin deaths. Marijuana seizures doubled between 1995 and 1996. Violent crime in Orlando and St. Petersburg increased by 8% in the first six months of 1997, at a time when violent crime declined in many other locations.

The Central Florida HIDTA will provide federal assistance intended to measurably reduce drug trafficking through a more coordinated, deliberate and focused approach to drug enforcement and interdiction in the Central Florida area. We anticipate that Federal assistance will enhance combined federal, state and local law enforcement agencies who will focus on heroin, marijuana, methamphetamine and money laundering organizations.

With the support of Congress, and federal, state and local law enforcement programs, the Central Florida HIDTA and the national HIDTA program will continue to provide assistance in countering drug trafficking. ONDCP looks forward to your continued support and cooperation in advancing this goal.

Respectfully,

ROBERT WARSHAW,
Associate Director,
State and Local Affairs.

Mr. GRAHAM. Mr. President, I do not propose to have further debate on this matter now. I hope this amendment can be vitiated tomorrow because it will have been adopted or ready to be adopted in a form that would be submitted and supported by the managers of the bill.

Mr. CAMPBELL. Mr. President, I want to assure our colleague, Senator GRAHAM of Florida, that staff is working very diligently trying to reach agreement to work these amendments into one and make sure they are protected. We have a little work to do in finding offsets, but we are very close to that.

AMENDMENT NO. 3381

(Purpose: To provide funding for the Central Florida High Intensity Drug Trafficking Area)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself and Mr. MACK, proposes an amendment numbered 3381.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 16, strike $3,164,399,000" and insert "$3,162,399,000.

On page 39, line 10, strike "$171,007,000" and insert "$173,007,000".

On page 40, line 3, strike ": *Provided*, That funding" and insert the following: ", and of which $3,000,000 shall be used to continue the recently created Central Florida High Intensity Drug Trafficking Area: *Provided*, That except with respect to the Central Florida High Intensity Drug Trafficking Area, funding".

Mr. GRAHAM. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3382

(Purpose: To designate the building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, as the "Eugene J. McCarthy Post Office Building")

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. WELLSTONE, proposes an amendment numbered 3382.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104, between lines 21 and 22, insert the following:

SEC. 6___. DESIGNATION OF EUGENE J. MCCARTHY POST OFFICE BUILDING.

(a) IN GENERAL.—The building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, shall be known and designated as the "Eugene J. McCarthy Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Eugene J. McCarthy Post Office Building".

Mr. CAMPBELL. Mr. President, this amendment is on behalf of Mr. WELLSTONE, and it deals with the naming of a post office, which has been agreed to by both sides.

I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3382) was agreed to.

ADDITIONAL COSPONSOR ON AMENDMENT NO. 3377

Mr. CAMPBELL. Mr. President, I ask unanimous consent that Senator MACK be added as a cosponsor to amendment No. 3377.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3357

(Purpose: To promote the public's right to know about Federal regulatory programs, improve the quality of Government, increase Government accountability, and for other purposes)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. THOMPSON, proposes an amendment numbered 3357.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 625 and insert the following:

SEC. 625. (a) IN GENERAL.—Beginning in calendar year 2000, and every 2 calendar years thereafter, the Director of the Office of Management and Budget shall prepare and submit to Congress, with the budget submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

(1) an estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of Federal rules and paperwork, to the extent feasible—

(A) in the aggregate;

(B) by agency and agency program; and

(C) by major rule;

(2) an analysis of impacts of Federal regulation on State, local, and tribal government, small business, wages, and economic growth; and

(3) recommendations for reform.

(b) NOTICE.—The Director of the Office of Management and Budget shall provide public notice and an opportunity to comment on the statement and report under subsection (a) before the statement and report are submitted to Congress.

(c) GUIDELINES.—To implement this section, the Director of the Office of Management and Budget shall issue guidelines to agencies to standardize—

(1) measures of costs and benefits; and

(2) the format of accounting statements.

(d) PEER REVIEW.—The Director of the Office of Management and Budget shall provide for independent and external peer review of the guidelines and each accounting statement and associated report under this section. Such peer review shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Mr. THOMPSON. Mr. President, today I am offering an amendment to strengthen the regulatory accounting provision in Section 625 of the Treasury-Postal Appropriations bill. This amendment would require OMB to submit a biannual report to Congress on the costs and benefits of federal regulatory programs. I ask unanimous consent that Majority Leader LOTT and Senators BREAUX, SHELBY, and ROBB be added as cosponsors to my amendment. We come from different political viewpoints, but we all agree that we need to improve our regulatory system and make it more open and accountable.

This amendment continues the effort begun by Senator STEVENS, the former Chairman of the Governmental Affairs Committee, when he passed the Stevens Regulatory Accounting Amendment on the Treasury-Postal Appropriations bill in 1996. Our goal is to promote the public's right to know about regulation, increase government accountability, and to improve the quality of regulatory programs. This amendment would not change any regulation or regulatory standard. It just provides important information for smarter and more accountable regulation.

Under the Stevens Amendment, the Office of Management and Budget issued its first regulatory accounting report to the Congress in September 1997. While this first Report was an important step toward government accountability, it left a lot to be desired. Following that first Report, Senator STEVENS and I wrote to the OMB Director expressing our concern that OMB was not fully complying with the Amendment. Several members of the House sent a similar letter. In addition, the American Enterprise Institute and the Brookings Institution held a workshop reviewing the first OMB Report in the fall of 1997. At that workshop, a distinguished group of economists unanimously agreed that OMB had fallen short on the Stevens Amendment.

Now it's time to take another step toward a more open and accountable regulatory system. This amendment would add a few simple requirements to the Stevens regulatory accounting provision to ensure that:

Regulatory Accounting is a permanent requirement. Every two years, OMB would submit the Report with the President's budget.

The Report is more informative. To the extent feasible, agencies would provide cost and benefit estimates for agency programs. In addition, the Report will clearly cover paperwork costs, including the large costs of complying with our Byzantine tax system. That was always supposed to be covered.

The Report is of higher quality. OMB guidelines to the agencies and peer review will improve future reports.

As OMB said in their first regulatory accounting Report, "regulations (like other instruments of government policy) have enormous potential for both good and harm." Better information will help us regulate smarter—to increase the benefits of regulation while reducing needless waste and redtape. This will help ensure the success of important programs, while enhancing the economic security and well-being of our families and our communities.

Mr. President, I ask unanimous consent that a copy of a letter to former OMB Director Franklin Raines, and a letter from the Alliance USA be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 29, 1997.

Subject: Implementation of Regulatory Accounting Amendment.

Hon. FRANKLIN D. RAINES,
Director, Office of Management and Budget,
Washington, DC.

DEAR DIRECTOR RAINES: We would like to work with you toward the successful implementation of the regulatory accounting provision in section 625 of the Treasury and General Government Appropriations Act, 1998 (Pub. L. 105-61). This provision carries forward for another year the requirement that OMB report to Congress on the total costs and benefits of Federal regulatory programs. Based on our review of OMB's first regulatory accounting report, we believe there is an opportunity to make further progress toward a more transparent, cost-effective, and accountable regulatory system.

We believe that the public has a right to know the costs and benefits of federal regulatory programs. While the budget process provides the public and Congress with an opportunity to monitor and control tax-and-expenditure programs, regulatory programs do not receive such scrutiny. As your first report says, "regulations (like other instruments of government policy) have enormous potential for both good and harm." We believe that better information will help us to increase the benefits and reduce the costs of regulation. This would contribute to the success of programs the public values, while enhancing the economic security and well-being of our families and communities.

While the first regulatory accounting report has some serious omissions, it is an important foundation for improving the regulatory system. Critics said it could not be done, and we appreciate that OMB's Office of Information and Regulatory Affairs ("OIRA"), with limited staff, proved the critics were wrong. We agree that OMB should use the report to raise the quality and utility of agency analyses—for developing new regulations, reviewing existing regulations, and tracking regulatory impacts over time. We encourage OMB to build on this effort by tracking the net benefits of regulations and reforms of old rules.

As OMB develops its second report, we believe there are several opportunities for improvement, and we would like to make the following recommendations. First, the report should adhere to specific statutory requirements. The first report fails to recommend improvements for specific regulatory programs or program elements, as required by subsection (a)(4). OMB need not base its recommendations on perfect empirical information nor on its overall estimates of the impacts of the regulatory system. Moreover, the first report does not assess the indirect impacts of Federal regulation, as required by subsection (a)(3).

Second, the report should more fully implement the legislation to achieve its goals. The first report failed to break down costs and benefits by program or program element where feasible, as intended by subsection (a)(1). The public also deserves a complete accounting of federal mandates—not simply those that fall within OMB's categories of "social" and "economic" regulations. OMB should estimate the costs of all paperwork requirements, including those associated with tax collection. OMB also should estimate transfer costs, even if they are viewed as a different category of regulatory costs.

Finally, OMB should exercise leadership to assure the quality and reliability of information reported. Specifically, we urge OMB to standardize procedures government-wide for collecting, analyzing, and documenting the best available information. OMB should leverage its effort with cooperation from the agencies and the President's Council of Economic Advisors. OMB also should establish a database, enforce its "Best Practices" guidelines, and track the costs and benefits of programs, program elements, and rules over time. OMB should synthesize and evaluate the information provided by the agencies and provide an independent assessment. To this end, OMB staff should be directed to critique the quality of the estimates provided to them, not to simply compile data presented by the agencies.

We commend you for an important first step toward a more open, efficient, and accountable regulatory system. We look forward to working with you to advance further in the 1998 report. We would appreciate your response to our recommendations by December 1, 1997.

With best wishes,
Cordially,

Fred Thompson,
Chairman, Senate Governmental Affairs Committee.
Ted Stevens,
Chairman, Senate Appropriations Committee.

Alliance USA,
Washington, DC, July 28, 1998.

Hon. Fred Thompson,
U.S. Senate,
Washington, DC.

Dear Senator Thompson: I am writing you on behalf of Alliance USA (member list attached) to express our support of your regulatory accounting amendment to the Treasury-Postal Appropriations bill to our coalition. As you know, this amendment would continue the important work on regulatory accounting begun by Senator Stevens.

Alliance USA is a nationwide coalition of over 1,000 companies united by their support for responsible regulatory reform. Our coalition believes that your regulatory accounting amendment would improve the effectiveness of several pending regulatory reform measures, including S. 981, the Regulatory Improvement Act of 1998.

We believe that the successful addition of your amendment would result in a more informed public and Congress about the benefits and burdens of federal regulations. It would also enable Congress to assess more accurately the effectiveness of regulatory programs.

We commend you for your continued efforts to improve the regulatory accounting process. If our coalition can be helpful in this effort, please let me know.

Thank you for your consideration of this request.

Sincerely,

Lewis I. Dale,
Executive Director.

Mr. CAMPBELL. Mr. President, this amendment is acceptable to both sides of the aisle, and I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3357) was agreed to.

Mr. CAMPBELL. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Gorton). Without objection, it is so ordered.

Mr. DOMENICI. I wonder if the chairman of the committee would indulge me for an amendment on the Federal Law Enforcement Training Center.

Mr. CAMPBELL. I am happy to yield to the Senator from New Mexico.

AMENDMENT NO. 3383

(Purpose: To provide additional funding for the Federal Law Enforcement Training Center)

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. Domenici], for himself, Mr. Coverdell, and Mr. Bingaman, proposes an amendment numbered legislative 3383.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 11, strike "$66,251,000" and insert "$71,923,000".

On page 10, line 12, strike "and related expenses, $15,360,000" and insert "new construction, and related expenses, $42,620,000".

On page 46, line 18, strike "$5,665,585,000" and insert "$5,632,552,000".

On page 50, line 20, strike "$668,031,000" and insert "$634,998,000".

On page 50, line 23, strike "$323,800,000" and insert "$309,499,000".

On page 52, line 13, strike "$344,236,000" and insert "$311,203,000".

On page 56, line 20, strike "$5,665,585,000" and insert "$5,632,552,000".

On page 45, line 21, strike "$508,752,000" and insert "$475,719,000".

Mr. DOMENICI. Mr. President, I offer this amendment today with my distinguished colleague from Georgia, Senator Coverdell, and my colleague from, New Mexico, Senator Bingaman, to address funding for the Federal Law Enforcement Training Center, referred to as FLETC.

This is a consolidated law enforcement training center for the Federal Government that is operated by the Department of the Treasury.

The committee bill reduces the funding for FLETC by $18.7 million below the President's budget request of $100.3 million.

The bill reduces funding for both the operating and the construction and maintenance accounts, which will have serious effects on our law enforcement training program.

Mr. President, some years ago, because law enforcement training became a necessity for a number of departments of the Federal Government, every major department which wanted to train their own law enforcement people, and the U.S. Government made a very good decision. They said the Department of Treasury will establish the Federal Law Enforcement Training Center, and it will take care of most of law enforcement training that is required for institutions and entities like the Bureau of Indian Affairs, Immigration, and just an untold number of agencies that need to have their law enforcement people trained.

Through good fortune, an earlier abandoned naval base in the State of Georgia, called Glynco, was the site that was determined for this Federal Law Enforcement Training Center.

As a matter of fact, I am sure some wonder why I remain so interested in this. A little part of it is in the State of New Mexico. But, believe it or not, when I was a second-year Senator on the Public Works Committee, we were about to spend $600 million on a new center for the Federal Law Enforcement Training Center. I suggested, almost in a very mild voice, wondering whether then committee chairman of the Public Works Committee would even consider this new center, and said, "Would you adopt a resolution saying that before we agree to build a new one that we will take a year and look around and see if we might not already own a facility such as an abandoned military base?" I think, to get rid of me, they all said, "Let's adopt the resolution." And sure enough, 9 months later, before we ever spent any money, the chairman called me to his office and said, "Look. They found a naval base in the State of Georgia which has just recently been closed, and it will be perfect. We will not have to build a new one."

Although many, many claimed they were the people that got Glynco, I was very pleased to be invited as a brand new Senator in the back row and know that because I had asked that we not spend money until we look around, that we found it.

It has been doing a marvelous job. The only major competitor is the Federal Bureau of Investigation.

Some time ago, the Federal Law Enforcement Training Center, when Jim Baker was Secretary of Treasury, decided to expand and create a new one. They picked a former college in the city of Artesia, NM, which offered them the entire campus at a bargain rate, and it has since grown along with the Glynco establishment in Georgia.

I came to the floor tonight to urge the committee to restore the FLETC salary and expenses and construction to the President's level.

I know the committee had difficulty because they had to do a lot of things the House didn't do in their bill with the same amount of allocation, overall. But this amendment will actually allow $20 million for new construction of critical dormitory and classroom facilities at both Artesia in New Mexico and Glynco: $6.4 million for new dormitories in Artesia; $7.5 million for new dormitories at headquarters in Glynco; and, $6.4 million dollars for new classrooms at Glynco, which will be augmented by the amounts in the bill, restoring the budget request, and a proposed reprogramming of funds.

Mr. President, the Congress has put a significant emphasis on law enforcement over the past decade. I have been concerned for quite some time that the law enforcement agencies of the Treasury Department—that is FLETC, the Customs Service, and the Bureau of Alcohol, Tobacco, and Firearms—are overlooked when Congress talks about violent and youth crimes, drugs, gangs, and illegal immigration. The Department of the Treasury plays a very important role in this regard. While Congress has more than tripled the budget of the Department of Justice law enforcement agencies over the last decade, Treasury agencies—and this is no aspersions on the current leadership of the subcommittee—have often struggled to keep up with workloads that are increasing all the time. FLETC is a case in point. Since Congress began serious anticrime efforts, thousands of law enforcement agents have been recruited. Many of these agents receive their basic as well as advanced training at these Federal law enforcement facilities. While the administration and Congress added these agents, sufficient resources were not devoted to keep up with the training requirements. The President requested $71.9 million for the Federal law enforcement training salaries and expenses, and the committee provided $66.25.

There are 70 Federal agencies that depend solely upon the Federal Law Enforcement Training Center to provide all direct costs for entry level training. Without these additional funds, the number of students trained in 1999 will fall below the actual number of agents trained in 1997 while the demand is greater. That will be 3,900 less. Should the administration decide to keep training levels stable, as much as 10 percent would have to be cut from other sources or some programs would have to be reduced or eliminated such as the Office for State, Local and International Training within FLETC.

Rather than go on with all of the details that I have regarding this, I just want to conclude that this is not good policy. If Congress is going to commit to strong law enforcement, it needs not only the personnel but the high-quality training needed to prepare and protect our law enforcement agents. FLETC, the Federal Law Enforcement Training Center, must be in position to meet those demands.

Mr. President, this amendment provides important resources to support the training of our Federal law enforcement personnel. I believe the Federal Law Enforcement Training Center should be a priority in this bill, and I urge adoption of the amendment.

I ask unanimous consent to have printed in the RECORD a letter from the Treasury Department, signed by Raymond Kelly, Under Secretary, to me indicating that they would very much support funding the President's level in this bill for operation and for getting ready for future demands in terms of construction.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC, July 28, 1998.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of Secretary Rubin, I want to thank you for your leadership and support of Treasury Enforcement programs. Like you, we believe that the Federal Law Enforcement Training Center (FLETC) should be funded at the President's request of $100.283 million and thereby ensure our capacity to meet critical infrastructure needs. The Treasury Department considers this a high priority so FLETC can have adequate facilities, at both Glynco and Artesia, in order to meet the surging workload associated with border management build-up, drug interdiction, anti-terrorism, and related activities.

Equally important, we are committed to ensuring that funding for FLETC does not offset other Treasury programs. We hope that the Senate will be able to restore the funding levels requested by the Administration during its deliberations on the FY 1999 appropriations.

Very truly yours,
RAYMOND W. KELLY,
Under Secretary for Enforcement.

Mr. DOMENICI. Mr. President, I would like to ask the chairman, with whom I have conferred and whose staff I have conferred at length, would the chairman do his best to fully fund FLETC as requested by the President when he goes to conference?

Mr. CAMPBELL. Mr. President, I would be honored to support Senator DOMENICI's request in this amendment. I had some experience with FLETC, too. I visited the campus in Artesia, NM, a few years ago and was very impressed. It is one of the opportunities that Federal agencies really have to interact with each other, and certainly the agents who are going back to separate departments.

The Senator also mentioned other agencies. We have the Indian law enforcement agents who work throughout America.

Mr. DOMENICI. Exactly.

Mr. CAMPBELL. We have, of course, as every other subcommittee, only a certain amount of spending authority, and we have to deal with that. We have had a great many requests. We are now wrestling, in fact, with the request for the six high-density drug trafficking areas which are all becoming more expensive, and certainly they work in an allied fashion, because people who get out of FLETC sometimes go into those different agencies. But I want to assure the Senator I am very supportive and we will do our very best to come up with the money necessary to deal with the President's request.

AMENDMENT NO. 3383, WITHDRAWN

Mr. DOMENICI. Mr. President, I withdraw the amendment which I heretofore sent to the desk.

The PRESIDING OFFICER. The Senator's first amendment is withdrawn.

The amendment (No. 3383) was withdrawn.

AMENDMENT NO. 3384

(Purpose: To provide additional funding for the Federal Law Enforcement Training Center)

Mr. DOMENICI. I will send an amendment to the desk shortly which I hope will be adopted. This one is in behalf of myself, Senator COVERDELL, Senator BINGAMAN, and Senator CLELAND from the respective States, the largest center in Georgia by far, and we have kind of a small adjunct to it in the State of New Mexico. So all four Senators are on the amendment.

First, we are relying upon the distinguished chairman, who will see to it in conference that the President's request for operations and the like will be met, and that probably is already in the House bill.

This amendment says that within the amounts appropriated in the act, up to $20.3 million may be transferred to the acquisition, construction, improvements and related expenses account of the Federal Law Enforcement Training Center for new construction. I send that amendment to the desk. It is the one with the four Senators who I have mentioned.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. COVERDELL, Mr. BINGAMAN, and Mr. CLELAND, and others propose an amendment numbered 3384.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. . Within the amounts appropriated in this Act, up to $20.3 million may be transferred to the Acquisition, Construction, Improvements, and Related Expenses account of the Federal Law Enforcement Training Center for new construction."

Mr. COVERDELL. Mr. President, I rise today to speak on behalf of an amendment that I have cosponsored and introduced today with my colleague from New Mexico and Chairman of the Budget Committee, Senator DOMENICI, regarding funding for the Federal Law Enforcement Training Center.

To date only fifty one percent of FLETC's master construction plan is completed, and this amendment would move FLETC closer toward its goal of being the centralized training center for our federal agencies.

Whether traveling in my home state of Georgia, or chairing a Subcommittee hearing on drug interdiction, the need to address the crisis we face with drugs and crime is consistently brought to my attention. Through continued funding and support of the Federal Law Enforcement Training Center we will be able to take the necessary steps to achieve this goal for all Americans.

Mr. President, I once again urge my colleagues to join me in supporting this amendment.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. Mr. President, will the Senator withhold?

Mr. CAMPBELL. I withhold that.

Mr. DOMENICI. If there is nothing further before the Senate, is not the next matter adoption of the amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3384) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. CAMPBELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank the chairman and ranking member for their help in this matter, and I yield the floor.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3385

(Purpose: To provide for an adjustment in the computation of annuities for certain Federal officers and employees relating to average pay determinations, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3385.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. AVERAGE PAY DETERMINATION OF CERTAIN FEDERAL OFFICERS AND EMPLOYEES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended by inserting after section 8339 the following:

"§ 8339a. Average pay determination in certain years

"(a) For purposes of this section the term 'covered position' means—

"(1) any position for which pay is adjusted by statute whenever an adjustment takes effect under section 5303 (or any statute relating to cost-of-living adjustments in statutory pay systems in effect before the effective date of section 101 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101–509; 104 Stat. 1429)); or

"(2) any position for which pay is adjusted by rule, practice, or order based on an adjustment in the pay of a position described under paragraph (1).

"(b) Subject to subsection (d), for purposes of determining the average pay of an employee or Member, the basic pay of the employee or Member during a year described under subsection (c) shall be deemed to be the basic pay paid at the actual rate of pay adjusted by the same percentage as any cost-of-living adjustment of annuities under section 8340 which took effect during such year, on the date such cost-of-living adjustment took effect.

"(c) Subsection (b) refers to any year in which—

"(1) any cost-of-living adjustment of annuities under section 8340 took effect; and

"(2) the applicable employee or Member serving in a covered position did not receive an adjustment in pay described under subsection (a) (1) or (2) because a statute provided that such adjustment would not take effect with respect to a covered position described under subsection (a) (1).

"(d) Average pay shall be determined under this section, if the applicable employee or Member, or the survivor of such employee or Member, deposits to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the employee or Member during the period of service in a covered position and the amount which would have been deducted during such period if the rate of basic pay had been adjusted as provided under subsections (b) and (c), plus interest as computed under section 8334(e).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8339 the following:

"8339a. Average pay determination in certain years.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 84 of title 5, United States Code, is amended by inserting after section 8415 the following:

"§ 8415a. Average pay determination in certain years

"(a) For purposes of this section the term 'covered position' means—

"(1) any position for which pay is adjusted by statute whenever an adjustment takes effect under section 5303 (or any statute relating to cost-of-living adjustments in statutory pay systems in effect before the effective date of section 101 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101–509; 104 Stat. 1429)); or

"(2) any position for which pay is adjusted by rule, practice, or order based on an adjustment in the pay of a position described under paragraph (1).

"(b) Subject to subsection (d), for purposes of determining the average pay of an employee or Member, the basic pay of the employee or Member during a year described under subsection (c) shall be deemed to be the basic pay paid at the actual rate of pay adjusted by the same percentage as any cost-of-living adjustment of annuities under section 8462 which took effect during such year, on the date such cost-of-living adjustment took effect.

"(c) Subsection (b) refers to any year in which—

"(1) any cost-of-living adjustment of annuities under section 8462 took effect; and

"(2) the applicable employee or Member serving in a covered position did not receive an adjustment in pay described under subsection (a) (1) or (2) because a statute provided that such adjustment would not take effect with respect to a covered position described under subsection (a) (1).

"(d) Average pay shall be determined under this section, if the applicable employee or Member, or the survivor of such employee or Member, deposits to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the employee or Member during the period of service in a covered position and the amount which would have been deducted during such period if the rate of basic pay had been adjusted as provided under subsections (b) and (c), plus interest as computed under section 8334(e).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 84 of

title 5, United States Code, is amended by inserting after the item relating to section 8415 the following:

"8415a. Average pay determination in certain years."

(c) EFFECTIVE DATE.—This section shall take effect on January 2, 1999, and shall apply only to any annuity commencing on or after such date.

Mr. STEVENS. Mr. President, I will explain this amendment further tomorrow. What it does is deal with the computation of pay for retired Federal employees. It is an attempt to try to adjust the payment for retired former employees. It has nothing to do with the pay of any current Member. It will deal only with adjusting the pay of retired employees. I will explain it further. I ask it be set aside for the time being.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise in objection to the amendment and suggest we vote on it tomorrow.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3386

(Purpose: To protect Federal law enforcement officers who intervene in certain situations to protect life or prevent bodily injury.)

Mr. CAMPBELL. Mr. President, I ask unanimous consent that I be allowed to send an amendment to the desk on behalf of Senator GRASSLEY and that it be considered as being the LOTT relevant amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. GRASSLEY, for himself, Mr. D'AMATO, Mr. SESSIONS, Mr. STEVENS and Mr. GRAMS, proposes an amendment numbered 3386.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ____. (a) DEFINITIONS.—In this section—

(1) the term "crime of violence" has the meaning given that term in section 16 of title 18, United States Code; and

(2) the term "law enforcement officer" means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5, United States Code; and any special agent in the Diplomatic Security Service of the Department of State.

(b) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, a law enforcement officer shall be construed to be acting within the scope of his or her office or employment, if the officer takes reasonable action, including the use of force, to—

(1) protect an individual in the presence of the officer from a crime of violence;

(2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer a crime of violence.

Mr. GRASSLEY. Mr. President, I thank my colleague from Colorado for offering my amendment. This is legislation that I originally offered last year as a free standing bill. I would like to say a few words on the amendment and ask my colleagues to support. It is co-sponsored by Senators D'AMATO, SESSIONS, STEVENS, and GRAMS.

First, let me remind my colleagues of what the amendment does. I have outlined these in letters to my colleagues and in my original statement on the floor. In addition, many of you have heard from various federal law enforcement associations that support this amendment. Its main intent is to address a problem, a gray area, in current law. As it now stands, the situation reminds me of the old saying that no good deed goes unpunished.

This involves what I call the 7–11 situation. Suppose for a moment that an off-duty Capitol Police officer or a Customs Agent or some other federal officer goes into the 7–11 to buy coffee. While he is there, a robber tries to hold up the store and is threatening the public with violence. Under the present circumstance a not so funny thing can happen. If the off-duty officer intervenes to protect the public and is hurt in the process. Or if someone is hurt in the incident, the officer could lose his workman's compensation or be sued by the felon for injuries because the Federal officer was acting outside the scope of his work. If he was not on duty or if the felony did not occur as part of the duties involved in his job description, he has no protections.

This is a real concern to serving officers. It puts them in a difficult situation. That is what this amendment fixes. It would give protection to Federal officers in these situations.

Now, let me make it clear. This does not mean an expansion of the authorities to Federal officers to make arrests in matters reserved to the states. I have checked this with the States' Attorneys General. This amendment also does not authorize Federal law enforcement officers to act like cowboys. Nothing in current law, even when acting on official duty, would permit an officer to act irresponsibly. They are subject to penalties if they should do so under their scope of work and they are subject to the same sanctions here.

What we have now, however, is a situation where a law enforcement officer has to make a sudden decision. Does he intervene to protect the public, which is what we would all expect? Or does he sit it out to avoid the risk of being sued or losing his workman's compensation if he is injured? I think I know what most of us would expect. I know what most of us believe is the responsible thing to do. We would expect the officer to intervene with a clear conscience and the knowledge that his act of decency and responsibility will not be punished. I would add that this situation, fortunately, is not a common one. It is, however, one that needs to be addressed.

I hope that we will adopt this amendment today. It has been a long time in coming and I urge my colleagues to join me in voting for it. Again, let me remind my colleagues that this language has been a free-standing bill for almost a year and has been available for comment. We have worked with DEA, Customs, and many others on the language. It has been provided to both majority and minority members. Most of these members have been visited by all the major Federal law enforcement associations and unions, which, I might mention, support this legislation wholeheartedly. I offer for the RECORD a few of the letters that have been written to me and other Members in support. I believe all the Federal law enforcement officers who risk their lives on our behalf deserve this much. We know only too well the risk they take on our behalf.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEDERAL LAW ENFORCEMENT
OFFICERS ASSOCIATION,
East Northport, NY, April 10, 1998.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of the approximately 14,000 members of the Federal Law Enforcement Officers Association (FLEOA), I wish to thank you for introducing S. 1031, the Federal Law Enforcement Officer's Good Samaritan Act of 1997. This bill has the support of every FLEOA member, their families, and their friends. FLEOA guarantees you of our strong support and, pledges our efforts to see that this important piece of legislation is passed.

FLEOA is a non-partisan professional association representing federal agents and criminal investigators from the federal agencies listed on the left masthead. We represent line agents, supervisors and managers, with over sixty chapters across the United States and several overseas. We provide a voice for our members to express their concerns regarding legislative activity in Washington, D.C., relating to law enforcement. Having visited over 25 chapters within these last few months, I can assure you of the overwhelming support that S. 1031 has all over the country. Without a doubt, this piece of legislation will allow law enforcement to be more effective and better serve the American Public. We commend you for your efforts on S. 1031.

If you have any questions or need further information, please feel free to contact me directly at (212) 264-8406 or through FLEOA's Corporate Service offices at (516) 368-6117. We look forward to working with experienced and expert staffers, such as William Olson, on this issue. Thank you again.

Sincerely,

RICHARD J. GALLO,
President.

FRATERNAL ORDER OF POLICE,
EASTERN CHAPTER #111,
April 30, 1998.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of the men and women of the Fraternal Order of Police (FOP), lodge #111, I wish to thank you for introducing S. 1031, the Federal Law Enforcement Officer's Good Samaritan Act of 1997. This bill has the support of each and every member, their families, and friends. The F.O.P. guarantees you our strong support and pledges our efforts to see that this important piece of legislation is passed.

If you have any questions or need further information, please feel free to contact me directly at (215) 597-3507.

Sincerely,

FRANK NORRIS,
President #111.

THE LAW ENFORCEMENT
STEERING COMMITTEE,
Washington, DC, June 10, 1998.

Hon. ORRIN G. HATCH,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR HATCH: On behalf of the Law Enforcement Steering Committee (LESC), I write to request your support of S. 1031, the Federal Law Enforcement Officers Good Samaritan Act of 1998. The LESC is a nonpartisan coalition of police organizations collectively representing over 500,000 law enforcement officers and managers nationwide.

This bill, introduced by Senator Chuck Grassley in 1997, would provide full legal protection for federal law enforcement officers who intervene in certain situations to prevent loss of life or serious bodily injury to a citizen. This bill, if enacted, would offer legal protection to federal law enforcement officers who unexpectedly encounter and take action to prevent a violent crime in progress or to assist in an emergency. The bill does not expand the investigative authority or jurisdiction of any federal agency. The bill has the support of the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the National District Attorney's Association, and many other law enforcement organizations. The citizens of the United States would benefit in that the country's well trained and equipped law enforcement officers would be encouraged to assist the public. Federal law enforcement officers would benefit in the knowledge that the Congress of the United States supports them when they take appropriate action to help a citizen in need.

It is our desire to see this bill enacted during the 105th Congress. We would appreciate your assistance in this effort.

Sincerely,

ROBERT L. STEWART,
Chairman.

THE LAW ENFORCEMENT
STEERING COMMITTEE,
Washington, DC, June 10, 1998.

Hon. PATRICK J. LEAHY,
Ranking Minority Member, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR LEAHY: On behalf of the Law Enforcement Steering Committee (LESC), I write to request your support of S. 1031, the Federal Law Enforcement Officers Good Samaritan Act of 1998. The LESC is a nonpartisan coalition of police organizations collectively representing over 500,000 law enforcement officers and managers nationwide.

This bill, introduced by Senator Chuck Grassley in 1997, would provide full legal protection for federal law enforcement officers who intervene in certain situations to prevent loss of life or serious bodily injury to a citizen. This bill, if enacted, would offer legal protection to federal law enforcement officers who unexpectedly encounter and take action to prevent a violent crime in progress or to assist in an emergency. The bill does not expand the investigative authority or jurisdiction of any federal agency. The bill has the support of the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the National District Attorney's Association, and many other law enforcement organizations. The citizens of the United States would benefit in that the country's well trained and equipped law enforcement officers would be encouraged to assist the public. Federal law enforcement officers would benefit in the knowledge that the Congress of the United States supports them when they take appropriate action to help a citizen in need.

It is our desire to see this bill enacted during the 105th Congress. We would appreciate your assistance in this effort.

Sincerely,

ROBERT L. STEWART,
Chairman.

THE LAW ENFORCEMENT
STEERING COMMITTEE,
Washington, DC, June 10, 1998.

Hon. HENRY HYDE,
Chairman, House Committee on the Judiciary, Washington, DC.

DEAR REPRESENTATIVE HYDE: On behalf of the Law Enforcement Steering Committee (LESC), I write to request your support of H.R. 3839, the Federal Law Enforcement Officers Good Samaritan Act of 1998. The LESC is a nonpartisan coalition of police organizations collectively representing over 500,000 law enforcement officers and managers nationwide.

This bill, introduced by Senator Chuck Grassley in 1997, would provide full legal protection for federal law enforcement officers who intervene in certain situations to prevent loss of life or serious bodily injury to a citizen. This bill, if enacted, would offer legal protection to federal law enforcement officers who unexpectedly encounter and take action to prevent a violent crime in progress or to assist in an emergency. The bill does not expand the investigative authority or jurisdiction of any federal agency. The bill has the support of the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the National District Attorney's Association, and many other law enforcement organizations. The citizens of the United States would benefit in that the country's well trained and equipped law enforcement officers would be encouraged to assist the public. Federal law enforcement officers would benefit in the knowledge that the Congress of the United States supports them when they take appropriate action to help a citizen in need.

It is our desire to see this bill enacted during the 105th Congress. We would appreciate your assistance in this effort.

Sincerely,

ROBERT L. STEWART,
Chairman.

THE LAW ENFORCEMENT
STEERING COMMITTEE,
Washington, DC, June 10, 1998.

Hon. JOHN CONYERS,
Ranking Member, House Committee on the Judiciary, Washington, DC.

DEAR REPRESENTATIVE CONYERS: On behalf of the Law Enforcement Steering Committee (LESC), I write to request your support of H.R. 3839, the Federal Law Enforcement Officers Good Samaritan Act of 1998. The LESC is a nonpartisan coalition of police organizations collectively representing over 500,000 law enforcement officers and managers nationwide.

This bill, introduced by Senator Chuck Grassley in 1997, would provide full legal protection for federal law enforcement officers who intervene in certain situations to prevent loss of life or serious bodily injury to a citizen. This bill, if enacted, would offer legal protection to federal law enforcement officers who unexpectedly encounter and take action to prevent a violent crime in progress or to assist in an emergency. The bill does not expand the investigative authority or jurisdiction of any federal agency. The bill has the support of the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the National District Attorney's Association, and many other law enforcement organizations. The citizens of the United States would benefit in that the country's well trained and equipped law enforcement officers would be encouraged to assist the public. Federal law enforcement officers would benefit in the knowledge that the Congress of the United States supports them when they take appropriate action to help a citizen in need.

It is our desire to see this bill enacted during the 105th Congress. We would appreciate your assistance in this effort.

Sincerely,

ROBERT L. STEWART,
Chairman.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that this amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, what is the order of business? I have an amendment I wish to send to the desk. Is that proper to do so at this time?

The PRESIDING OFFICER. It is proper to do so.

AMENDMENT NO. 3387

(Purpose: To provide additional funding to reduce methamphetamine usage in High Intensity Drug Trafficking Areas)

Mr. HARKIN. I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mrs. MURRAY, proposes an amendment numbered 3387.

Mr. HARKIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

On page 39, strike lines 10 through 12 and insert in lieu thereof the following: "Area Program, $179,007,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which $8,000,000 shall be used for methamphetamine programs above the sums allocated in fiscal year 1998 and otherwise provided for in this legislation with no less than half of the $8,000,000 going to areas solely dedicated to fighting methamphetamine usage and in addition no less than $1,000,000 of the $8,000,000 shall be allocated to the Cascade High Intensity Drug Trafficking Areas, of which"

Amend page 50, line 20 by reducing the dollar figure by $8,000,000;

Amend page 52, line 13 by reducing the dollar figure by $8,000,000.

Mr. HARKIN. Mr. President, there is a plague sweeping across our Nation. It is ruining an untold number of lives, claiming countless numbers of our children. It is in our streets as well as our classrooms. Drugs have become more abundant. But there is a new drug, one that is far more addictive and readily available than heroin, cocaine, or any other illegal narcotic. Methamphetamine is becoming the leading addictive drug in this Nation. From the suburbs, to city streets, to the corn rows of Iowa, meth is destroying thousands of lives every year. The majority of those lives, unfortunately, are our children.

Methamphetamine is commonly referred to as Iowa's drug of choice in my State. It is reaching epidemic proportions as it sweeps from the west coast, ravages through the Midwest, and is now beginning to reach the east coast. The trail of destruction of human lives as a result of methamphetamine addiction stretches across America.

To illustrate the violence that meth elicits in people, methamphetamine is cited as a contributing factor in 80 percent of domestic violence cases in my State, and a leading factor in a majority of violent crimes. I recently introduced the Comprehensive Methamphetamine Control Act which I think will get support and get through the Senate. But I offer this amendment today as an opportunity to take immediate action to help our Nation's law enforcement in their war on methamphetamine.

This amendment makes a simple and modest request, taking $8 million in certain offsets and puts those dollars where they can do real good to combat the growing problem of methamphetamine.

These funds will be added to the High Intensity Drug Trafficking Areas Program to be used for increased enforcement and prosecution of meth dealers, additional undercover agents, and to help pay for the tremendous cost of confiscation and cleanup of clandestine meth labs.

The number of meth arrests, court cases, and confiscation of labs continues to escalate. The number of clandestine meth labs confiscated and destroyed in 1998 is on pace to triple the number that was confiscated in 1997—so triple this year over last year. The cost of cleaning up each lab ranges from $5,000 to $90,000. This cost is being absorbed by communities who are not prepared or experienced to deal with the dangers of methamphetamine.

These clandestine meth labs create an enormous amount of hazardous waste. For every 1 pound of methamphetamine produced, there are 5 to 6 pounds of hazardous waste as a byproduct. This waste is highly toxic and seeps into the ground where eventually it ends up in our drinking water supply.

The dangers posed to law enforcement officers are also greatly increased by these meth labs. Many peddlers of meth have now what they call "kitchen" labs. Meth pushers are now simply using mobile homes or even pickup trucks to produce their drugs. Combining many volatile chemicals in an uncontrolled environment, meth labs are time bombs to police officers and communities everywhere.

I believe we have a window of opportunity as a nation to take a stand right now to defeat this scourge. This amendment will not solve all of these problems, but it will give law enforcement the support that they vitally need in their efforts to defeat this dangerous drug.

Mr. President, family after family is being devastated across the Midwest. In my State, I have seen methamphetamine skyrocket in its use—the importation in the State and the development of these methamphetamine labs in the State of Iowa. Communities are trying to fight this, but they do not have the resources. Children are being lost and getting hooked to this deadly drug every day. So the time now is to do whatever we can to try to halt the growth of these meth labs, to give our high-intensity drug traffic areas the tools that they need to stop this drug, to help our communities, and most importantly to help our law enforcement officials.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I want to assure the Senator we are doing our very best to find a resolution in the funding of this. We have four that we are working with. And just in my own personal experience of having worked with several, particularly one in Denver, CO, I am certainly aware of the good work that they do in coordinating local, State, tribal and Federal law enforcement agencies so they are not duplicating their efforts and so that these agencies can share ideas and share resources.

The Senator's comments certainly underscore the importance of trying to stop the growth of the methamphetamine labs. These things are volatile. They are mobile. They are contaminative, so even when you do go through an expensive process of cleaning them up, you still have to worry about what it has done to contaminate the area, particularly the earth.

So I just want to assure him, we are working very hard to find a resolution to make sure they are all funded properly. I thank the Senator for his comments.

Mr. HARKIN. I thank the chairman. I know of his great interest in this area. And I know of his great support for our law enforcement agencies to crack down on the methamphetamine labs. I know your chairman is having the same experience out in his State, too, as we are in Iowa. I understand that you and the chairman, and Senator KOHL, are working on putting all this together. Obviously, it would be my intention to withdraw the amendment if this whole thing gets worked out. I am sure that we will get it worked out.

I thank the Senators.

Mr. CAMPBELL. I thank the Senator for his comments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3388

(Purpose: To provide funding for Customs drug interdiction and High Intensity Drug Trafficking Areas)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the Harkin amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for himself, and Mr. KOHL, proposes an amendment numbered 3388.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, strike and insert the following:

On page 10, line 14, strike through Page 10, line 20.

On page 17, line 7, strike "98,488,000," and insert in lieu thereof "113,488,000,"

On page 17, line 20 strike "1999." and insert in lieu thereof "1999: *Provided further*, That of the amount provided, $15,000,000 shall be made available for drug interdiction activities in South Florida and the Caribbean."

On page 39, line 10 strike "171,007,000" and insert in lieu thereof "183,977,000".

On page 39, line 19 after "criteria," insert "and of which $3,000,000 shall be used to continue the recently created Central Florida High Intensity Drug Trafficking Area, and of which $1,970,000 shall be used for the addition of North Dakota into the Midwest High Intensity Drug Trafficking Area, and of which $7,000,000 shall be used for methamphetamine programs otherwise provided for in this legislation with not less than half of the $7,000,000 shall expand the Midwest High Intensity Drug Trafficking Area, and of which $1,000,000 shall be used to expand the Cascade High Intensity Drug Trafficking Area, and of which $1,500,000 shall provided to the Southwest Border High Intensity Drug Trafficking Area,"

Mr. DEWINE. Mr. President, last week I introduced legislation that would bring a new, comprehensive strategy to America's effort against illegal drugs.

The Western Hemisphere Drug Elimination Act would support enhanced drug interdiction efforts in the major transit countries, and support a comprehensive supply eradication and crop substitution program in source countries. This legislation has 16 other Senate cosponsors.

Mr. President, this is a $2.6 billion authorization initiative over 3 years for enhanced international eradication, interdiction and crop substitution efforts. This important counter-drug initiative would restore a balanced drug control strategy by renewing our nation's commitment to international eradication and interdiction efforts—efforts that have proven successful in reducing the trafficking and use of illegal drugs. I believe that this is an important investment in the future of America—and the future of our children.

The day after the new drug initiative was introduced, I offered an amendment to the Transportation appropriations bill to provide much-needed resources for the U.S. Coast Guard—resources that will increase their drug interdiction capability. Other cosponsors of this amendment included Senators COVERDELL, GRAHAM, BOND, FAIRCLOTH, and GRASSLEY. This amendment, which was agreed to by voice vote, accomplishes two goals: First, it increases funds available for equipment devoted to drug interdiction by approximately $37.5 million. Second, the amendment sets aside resources needed to restore a much-needed drug interdiction operation in the Caribbean—an operation which I had the opportunity to visit earlier this year.

Today, I rise again with Senators COVERDELL, GRAHAM, BOND, FAIRCLOTH, GRASSLEY, and MACK to introduce an amendment to the Treasury, Postal appropriations bill. Specifically, we seek $15 million for enhanced drug interdiction efforts for the U.S. Customs Service in South Florida and the Caribbean.

Mr. President, in May, I traveled to the Caribbean for a very short—36-hour—visit to look at our interdiction operations there. I visited with U.S. Customs officials in Key West, Florida. It was on this very trip that I gained a greater appreciation of the actual difficult task of drug interdiction. I learned that it is far from an easy task—it is in fact highly dangerous.

U.S. Customs officials showed me video tapes of U.S. Customs go-fast boats pursuing Colombian go-fast boats in the middle of the night in high waves—waves that reached 5 or 6 feet. The videos showed Colombian boats ramming into our boats.

One of the key problems I learned about on that trip was that U.S. Customs has very few go-fast boats—and the ones they have lack 1990's technology. Our boats have a top speed of 70 mph—while Colombian boats can reach 80 or 90 mph. I rode in one of our go-fast boats in Key West during a mock chase—and I can tell you that even during the day and in low waves, this is dangerous work.

There can be no doubt that our U.S. Customs agents in Florida and the Caribbean need more equipment, better equipment dedicated to drug interdiction, and more personnel. Since 1986, the number of U.S. Customs vessels has decreased from 77 to 30. There has also been a significant decrease in maritime officers, from 124 to 23. In fact, U.S. Customs no longer runs a 7-day, 24-hour drug interdiction operation.

Mr. President, the amendment I offer today would provide U.S. Customs with more go-fast boats and more manpower for South Florida and the Caribbean. Let me tell you what this amendment would accomplish.

First, it would refurbish 22 interceptor and Blue Water Platform Boats. The interceptor boats are what is known as "go-fast boats." The Blue Water Platform Boats are for deep waters and have command and control capability—these vessels can accommodate satellite communications equipment and radar to communicate with the interceptor boats to enable them to better interdict the drug traffickers. Right now, these 22 vessels cannot be used because of lack of funding for refurbishment. This small amount of money will make a huge, huge difference. The amendment would also appropriate money for 9 new interceptor go-fast boats.

The amendment would also provide money for the hiring and training of 30 special agents—criminal investigators—for maritime operations. Finally, the amendment would provide resources for overhead coverage and operation and maintenance in the Caribbean.

Mr. President, this is a very important amendment which will accomplish a lot with a small amount of resources. The amendment has bipartisan support.

Mr. President, I see the distinguished Chairman and the Ranking Member of the Treasury, Postal Service, and General Government Subcommittee, Senator CAMPBELL and Senator KOHL. I thank them for their cooperation with this bipartisan amendment.

First, I want to make clear that I intend to work with the conferees and the Treasury Department on alternatives to fund this amendment. While an offset has been identified in order to pay for this amendment, I want to work with them to find alternatives.

Mr. CAMPBELL. I appreciate the efforts of the Senator from Ohio—first in offering this very important amendment and for his diligence in seeking additional funds for the U.S. Customs Service. I look forward to working with him on this important issue and we will work to address any remaining items during conference.

Mr. KOHL. I too appreciate the Senator from Ohio's efforts in seeking additional funds for the U.S. Customs Service to better interdict drug traffickers. I look forward to working with him to find an appropriate offset for this amendment.

Mr. DEWINE. Mr. President, again, I would like to express my thanks to the chairman and the ranking member of the Treasury, Postal Service, and General Government Subcommittee for their efforts to assist me and the distinguished list of cosponsors of this amendment. I also extend my thanks to the staff of the subcommittee for their efforts, which were nothing less than first rate.

Mr. President, this amendment today is another important step toward restoring a balanced drug interdiction strategy. I expect there will be many more steps in the future—steps that are needed if we are going to restore a truly balanced, truly effective drug control strategy. This amendment represents a bipartisan effort to make a targeted and specific investment in stopping drugs before they reach America. It will take similar efforts over the course of the next 3 years to bring our drug strategy back into balance, and most important, back on the course of reducing drug use in our homes, schools, and communities.

I thank the chair and I yield the floor.

Mr. CAMPBELL. This amendment deals with funding for Customs drug addiction, and High-Intensity Drug Trafficking Areas.

This amendment has been agreed to by both sides of the aisle. It accommodates Senators, DEWINE, CONRAD, HARKIN, GRAHAM, MACK, COVERDELL, BOND, FAIRCLOTH, GRASSLEY, BINGAMAN, and MURRAY.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 3388) was agreed to.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3389

(Purpose: To express the sense of the Senate regarding payroll tax relief)

Mr. KOHL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for Mr. KERREY, proposes an amendment numbered 3389.

Mr. KOHL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. SENSE OF THE SENATE REGARDING THE REDUCTION OF PAYROLL TAXES.

(a) FINDINGS.—The Senate finds the following:

(1) The payroll tax under the Federal Insurance Contributions Act (FICA) is the biggest, most regressive tax paid by working families.

(2) The payroll tax constitutes a 15.3 percent tax burden on the wages and self-employment income of each American, with 12.4 percent of the payroll tax used to pay social security benefits to current beneficiaries and 2.9 percent used to pay the medicare benefits of current beneficiaries.

(3) The amount of wages and self-employment income subject to the social security portion of the payroll tax is capped at $68,400. Therefore, the lower a family's income, the more they pay in payroll tax as a percentage of income. The Congressional Budget Office has estimated that for those families who pay payroll taxes, 80 percent pay more in payroll taxes than in income taxes.

(4) In 1996, the median household income was $35,492, and a family earning that amount and taking standard deductions and exemptions paid $2,719 in Federal income tax, but lost $5,430 in income to the payroll tax.

(5) Ownership of wealth is essential for everyone to have a shot at the American dream, but the payroll tax is the principal burden to savings and wealth creation for working families.

(6) Since 1983, the payroll tax has been higher than necessary to pay current benefits.

(7) Since most of the payroll tax receipts are deposited in the social security trust funds, which masks the real amount of Government borrowing, those whom the payroll tax hits hardest, working families, have shouldered a disproportionate share of the Federal budget deficit reduction and, therefore, a disproportionate share of the creation of the Federal budget surplus.

(8) Over the next 10 years, the Federal Government will generate a budget surplus of $1,550,000,000,000, and all but $32,000,000,000 of that surplus will be generated by excess payroll taxes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) if Congress decides to use the Federal budget surplus to provide tax relief the payroll tax should be reduced first; and

(2) Congress and the President should work to reduce this tax which burdens American families.

Mr. KOHL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KOHL. Mr. President, I ask unanimous consent that the amendment be laid aside in keeping with the prior unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—AMENDMENT NO. 3356

Mr. CAMPBELL. Mr. President, I now ask unanimous consent that, notwithstanding the previous consent, it be in order on Thursday for the managers to offer a modification to amendment No. 3356, which was previously adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

DASCHLE MARRIAGE PENALTY AMENDMENT

Mr. BYRD. Mr. President, earlier today I voted to table an amendment to the Treasury-Postal Service appropriations bill that had been offered by the distinguished Democratic leader, Senator DASCHLE. So there will be no confusion with respect to my position on this issue, I wish to advise my colleagues of the reason for my opposition.

First, I am, as are others, deeply concerned with that anomaly in the tax code known as the "marriage penalty." I can think of no rational reason why two individuals—individuals who have vowed a lifelong commitment to each other through the sacred institution of marriage—should, in certain cases, have their combined income taxed at a higher rate than that of two unmarried persons. At a time of declining social values, it simply does not make sense for the Congress to sanction policies which clearly work to the detriment of family stability.

However, despite this concern, I could not, in all good conscience, support the Daschle amendment for the most basic of reasons, namely, that Article I, section 7 of the Constitution of the United States requires that all revenue bills originate in the House of Representatives, not here in the Senate. As I am sure my colleagues know, that is a prerogative that the House vigorously defends. Consequently, I believe that had the Daschle amendment been adopted to the Treasury-Postal appropriations bill, which is a Senate-originated bill, that that bill would have been subjected to a constitutional point of order in the House. In short, adoption of the Daschle amendment would have killed this very important appropriations measure.

Again, Mr. President, notwithstanding my vote earlier today, I wish my colleagues to know that I remain committed to working toward the goal of alleviating the marriage penalty in the tax code.

Mr. FAIRCLOTH. I would like to engage in a colloquy with Senator CAMPBELL from Colorado.

Mr. CAMPBELL. I would welcome the opportunity to engage in a colloquy with my colleague from North Carolina.

Mr. FAIRCLOTH. Mr. President, as you know there has been severe financial turmoil in Asia. This has lead to a dramatic increase in the trade deficit. It is my understanding that exports from Asian nations are up significantly, particularly with respect to textiles. This is an important industry to my home State of North Carolina. My principal concern is that when quotas are met, there will be an attempt to illegally ship textiles into this country through other countries, like Mexico. This is a process known as "transhipment." As you know, the U.S. Customs Service has frontline responsibility for enforcing the laws that would bar illegal shipments into this country. We have already written our Senate report, but I would hope that in Conference you would advocate report language that would encourage the Customs Service to step up their enforcement activities in this area.

Mr. CAMPBELL. I certainly agree with the Senator that this is an important issue and I will work with you on that. We are running high trade deficits. I will certainly work with the gentleman to encourage the Customs Service to work diligently to stop illegal textile shipments into the United

States. I thank the gentleman for raising this issue, I think it is one that deserves our attention and the attention of the administration.

Mr. FAIRCLOTH. I thank the Senator from Colorado and I look forward to working with him on this issue in conference.

Mr. TORRICELLI. It has come to our attention that concerns have been raised regarding report language in the Treasury-General Government Appropriations bill on tax standards for tax-exempt health clubs. We would like to enter into a colloquy to clarify our intent in including the report language.

Mr. KOHL. I am pleased to have this opportunity to address the concerns that have been raised. The issue of tax-exempt health clubs has been of concern in my home State of Wisconsin. However, I share the Senator from New Jersey's desire to clarify the intent of the report language. In so doing, we also have the opportunity to emphasize that no one wishes to harm community service organizations who are legitimately using their tax-exempt status to serve our young people, our families, and our seniors through a variety of health-related programs, including health and fitness programs.

Ms. MOSELEY-BRAUN. I, too, share Senator KOHL's concerns and want to be clear that long-standing community service providers engaged in legitimate tax-exempt activities related to their central mission will not be targeted by this study. I am also concerned, however, that some tax-exempt organizations are moving away from their core purpose and that there are legitimate concerns as to whether they are engaging in commercial competition with the for-profit sector. Was it the Committee's intent to address this concerns?

Mr. KOHL. Yes, it was. But while addressing those concerns, we certainly do not wish the Internal Revenue Service [IRS] to reinvent the wheel. The IRS has issued several private letter rulings and technical advice memoranda (including Technical Advice Memorandum 8502002) over the past years regarding the circumstances when adult fitness can be a charitable activity. It is my understanding that these rulings have stated that adult fitness is a charitable activity as long as the program serves a broad section of the community.

Mr. TORRICELLI. While considering current business practices, we would expect the IRS to focus on adult fitness provided by tax-exempt organizations that serve only adults.

Ms. MOSELEY-BRAUN. As a member of the Senate Finance Committee, I want to state that it is my understanding this report will in no way require the IRS to effect any changes in current tax policy. It only asks the IRS to provide clear guidance for examining the issue in light of new market factors that may need to be considered.

Mr. KOHL. I appreciate your input. I Know Senator GRASSLEY will also have a statement on this issue, and that I and the Senator from Colorado would certainly be happy to work with any and all group that may have further concerns as we prepare to conference the Treasury-General Government Appropriations bill with the House.

Mr. GRASSLEY. I rise today to express my concern about some language included in Senate report that accompanies this bill. This language is not in the House report. This Senate language directs the Internal Revenue Service to review the legal standards and decisions the IRS utilizes in determining when fitness services and activities of tax-exempt organizations should be subject to unrelated business income tax. The stated intent of this review is to insure that tax-exempt health clubs are not unfairly competing with for-profit health clubs. I am afraid that the effect of this language will be to harm non-profit community organizations. Is this the intent of the language?

Mr. CAMPBELL. No, it is not. This language is not intended to harm non-profit community organizations.

Mr. GRASSLEY. These non-profit community organizations provide a unique variety of programs based on community needs. Some of the programs offered are child care, Head Start, GED classes, job training, substance abuse prevention, delinquency prevention, teen centers, counseling, and health and fitness for all children, youth, families, and adults. They have partnerships with public housing projects, juvenile courts and schools. It is of utmost importance to me that the Congress not urge the IRS to change current IRS policies in a way that will hurt our communities and our families. The IRS has determined that adult fitness is a charitable activity as long as the organization serves a broad segment of the community. does the committee intend that this determination be changed?

Mr. CAMPBELL. No, it is not the committee's intent to change this determination because it would hurt the poor and the young—the very people who benefit most from these community organizations. I agree that it is important that these non-profit community organizations are able to continue to provide their health, fitness, and other services to both adults and children. I would be glad to work with you to insure that any language included in the conference report takes into account the unique aspects of these community organizations, and does not unfairly target them.

Mr. GRASSLEY. I thank the Senator from Colorado.

ATF ARSON TASK FORCES

Mr. HATCH. Mr. President, I see my friend and colleague, Senator CAMPBELL, on the floor. I would like to briefly discuss with him a concern I have relating to BATF arson task forces.

Mr. CAMPBELL. I would be glad to respond to my friend from Utah.

Mr. HATCH. I thank the manager of the bill for his courtesy. I was very pleased to note that the committee report accompanying this bill specifically notes that the program objectives of the BATF include assisting "Federal, State, and local investigative and regulatory agencies in explosives and arson-related areas."

Until recently, BATF was involved in just such a program in my State of Utah, where in the past year there has been a very troubling escalation of arsons connected with the animal rights movement. Utah has experienced a string of animal rights terrorism arsons, including an attack on a West Jordan McDonald's, the firebombing of a Murray mink co-op, and numerous other arsons.

I am very concerned, however, by reports last week that the BATF has withdrawn the last remaining agent assigned to this task force, leading to its imminent disbandment. I believe this will have a serious negative effect on counter-terrorism efforts in Utah, and will send the wrong message to those pursuing social and political goals through violence.

I think the Utah task force is exactly the type of program the Subcommittee has in mind, and I would like to ask Senator CAMPBELL if he agrees.

Mr. CAMPBELL. The Senator from Utah is correct. The arson task force he describes is exactly the kind of program the Subcommittee wishes the BATF to engage in.

Mr. HATCH. Would the Chairman also agree that BATF should devote sufficient resources to ensure the continued viability of these efforts?

Mr. CAMPBELL. I agree with the Senator that disbanding a successful taskforce sends the wrong message to arsonists.

Mr. HATCH. I would appreciate the Senator working with me to address my concerns over the BATF's withdrawing support for this important task force.

Mr. CAMPBELL. I would be happy to work with Senator HATCH to address his concerns, and ensure that BATF dedicates necessary resources to arson task forces such as the one he describes.

Mr. HATCH. I thank Senator CAMPBELL for his assistance and his courtesy, and yield the floor.

REDUCING THE NUMBER OF EXECUTIVE BRANCH POLITICAL APPOINTMENTS

Mr. FEINGOLD. Mr. President, in the past, the Treasury-Postal Appropriations bill has been the vehicle for proposals relating to an area of great concern to me; namely, growing numbers of executive branch political appointees, and I want to offer a few comments on this matter.

I was pleased to introduce legislation early in this session to address this issue. That bill, S. 38, would cap the total number of political appointees at 2,000, and I am pleased to be joined in that effort by my good friend, the Senior Senator from Arizona (Mr. MCCAIN). Our proposal to cap the number of political appointees has been estimated by CBO to save $330 million over five years.

Mr. President, our bill was based on the recommendations of a number of distinguished panels, including most recently, the Twentieth Century Fund Task Force on the Presidential Appointment Process. The task force findings are only the latest in a long line of recommendations that we reduce the number of political appointees in the Executive Branch. For many years, the proposal has been included in CBO's annual publication, "Reducing the Deficit: Spending and Revenue Options," and it was one of the central recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker.

Mr. President, our proposal is also consistent with the recommendations of the Vice President's National Performance Review, which called for reductions in the number of federal managers and supervisors, arguing that "over-control and micro management" not only "stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs."

Those sentiments were also expressed in the 1989 report of the Volcker Commission, when it argued the growing number of presidential appointees may "actually undermine effective presidential control of the executive branch." The Volcker Commission recommended limiting the number of political appointees to 2,000, as our legislation does.

Mr. President, it is essential that any Administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leadership.

Between 1980 and 1992, the ranks of political appointees grew 17 percent, over three times as fast as the total number of Executive Branch employees and looking back to 1960 their growth is even more dramatic. In his recently published book "Thickening Government: Federal Government and the Diffusion of Accountability," author Paul Light reports a startling 430% increase in the number of political appointees and senior executives in Federal government between 1960 and 1992.

In recommending a cap on political appointees, the Volcker Commission report noted that the large number of presidential appointees simply cannot be managed effectively by any President or White House. This lack of control is aggravated by the often competing political agendas and constituencies that some appointees might bring with them to their new positions. Altogether, the Commission argued that this lack of control and political focus "may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable."

The Volcker Commission also reported that the excessive number of appointees is a barrier to critical expertise, distancing the President and his principal assistants from the most experienced career officials. Though bureaucracies can certainly impede needed reforms, they can also be a source of unbiased analysis. Adding organizational layers of political appointees can restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

Author Paul Light says, "As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them." Light adds that "Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively. . ."

Mr. President, the report of the Twentieth Century Fund Task Force on the Presidential Appointment Process identified another problem aggravated by the mushrooming number of political appointees; namely, the increasingly lengthy process of filling these thousands of positions. As the Task Force reported, both President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The Task Force noted that "on average, appointees in both administrations were confirmed more than eight months after the inauguration—one-sixth of an entire presidential term." By contrast, the report noted that in the presidential transition of 1960, "Kennedy appointees were confirmed, on average, two and a half months after the inauguration."

In addition to leaving vacancies among key leadership positions in government, the appointment process delays can have a detrimental effect on potential appointees. The Twentieth Century Fund Task Force reported that appointees can "wait for months on end in a limbo of uncertainty and awkward transition from the private to the public sector."

Mr. President, there is little doubt that the large number of political appointments currently made aggravates a cumbersome process, even in the best of circumstances. The long delays and logjams created in filling these positions under the Bush and Clinton Administrations simply illustrates another reason why the number of positions should be cut back.

Mr. President, let me also stress that the problem is not simply the initial filling of a political appointment, but keeping someone in that position over time. The General Accounting Office reviewed a portion of these positions for the period of 1981 to 1991, and found high levels of turnover—7 appointees in 10 years for one position—as well as delays, usually of months but sometimes years, in filling vacancies.

Mr. President, I was pleased to see the Government Affairs Committee beginning to examine issues surrounding political appointees and the political appointment process. The issues of vacancy rate, turnover, delays in the appointment process, and of course the total number of appointees, all merit scrutiny by that Committee, and I would very much like to work with Chairman THOMPSON and the Committee in crafting a bipartisan response to the set of problems that have been identified in this area.

I am also encouraged that the Administration is moving forward as well. The total number of appointees is down from last year, and down significantly from the levels seen in 1992. This is a healthy trend, and I very much hope it continues.

Mr. President, because the Government Affairs Committee is examining a variety of issues surrounding the presidential appointment process, and with the modest improvements in the overall number of political appointees, I will not pursue an amendment to the Treasury-Postal Appropriations measure capping the number of political appointees.

I will, however, continue to monitor the progress made both by the Government Affairs Committee and the Administration. This issue is important not only because of the potential to realize significant deficit reduction, but also because of the impact the appointees have on the day to day functioning of government.

As we move forward to implement the NPR recommendations to reduce the number of government employees, streamline agencies, and make government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any Administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

RANDOM AUDITS BY THE IRS

Mr. COVERDELL. Mr. President, I rise today to express my appreciation to the managers for accepting an amendment to S. 2312, the FY 1999 Treasury-Postal Service Appropriations bill, regarding the practice of randomly selecting innocent taxpayers for audits, otherwise known as random audits. This is an issue that has been a focus of mine for a long time. I would like to take this opportunity to discuss this matter with my good friend, the senior Senator from Colorado and the manager of the bill, who shares my concern about the impact the Internal Revenue Service has upon taxpayers and the potential for abuse of taxpayers' rights.

Mr. CAMPBELL. Indeed, I share many of the concerns of Senator COVERDELL regarding taxpayer rights. I commend the Senator for his tenacious work on behalf of taxpayers, particularly low-income taxpayers who are least able to defend themselves. This amendment the Senator offers presents a critical foundation upon which the Senate can build.

Mr. COVERDELL. I thank my good friend. Over the past several years, all of us have seen news accounts of regular, average citizens who have become the targets of grueling IRS audits. These individuals were neither wealthy nor powerful; in fact, they were most often ordinary, law-abiding taxpayers who earned a modest wage, ran a small business, or operated a family farm. Some struggled just to make ends meet, and many were understandably confused about what wrong they had committed to justify the scrutiny of the IRS.

The truth is they committed no wrong. They were simply unfortunate victims of a scandalous IRS practice called "random audits," where the IRS just picks people out of a hat in the hope it can uncover some wrongdoing.

A recent report produced by the General Accounting Office at my request confirms that the IRS has been targeting thousands of poor taxpayers and small businesses for random audits. In fact, almost 95 percent of all random audits performed between 1994 and 1996 were conducted on individual taxpayers who earned less than $25,000 each year.

Last fall, hearings held by the Senate Finance Committee brought the IRS's abuse of taxpayers to the attention of the entire Nation. One witness, Jennifer Long, who is a current field agent with the IRS, remarked, "As of late, we seem to be auditing only the poor people. The current IRS Management does not believe anyone in this country can possibly live on less than $20,000 per year, insisting anyone below that level must be cheating by understating their true income."

The IRS' belief that low-income families are more likely to cheat than others serves as a disturbing sign of how far it has strayed from the principles of American justice. The GAO report also indicates that the IRS has been specifically targeting the State of Georgia for random audits. Nearly twice as many random audits took place in Georgia between 1994 and 1996 than in all the New England states combined and Georgians are three-times more likely to be randomly audited than their California counterparts. Earlier this year, I introduced legislation to prohibit the use of random audits by the IRS and will continue to protect innocent taxpayers.

AMENDMENT OF THE GUN CONTROL ACT TO EXEMPT CERTAIN MUZZLE LOADING WEAPONS FROM REGULATION

Mr. GRASSLEY. Mr. President, according to the amendment, would the Knight DISC rifle manufactured in my State fall under the definition of a muzzle loader, or a regulated firearm?

Mr. CAMPBELL. The Knight DISC rifle would be defined as a muzzle loader.

Mr. GRASSLEY. Mr. President, with regard to the amendment of the Gun Control Act to Exempt Certain Muzzle Loading Weapons from Regulation ("the amendment"), in subparagraph (c), did the Committee intend "fixed ammunition" to mean a completed centerfire or rimfire cartridge?

Mr. CAMPBELL. Yes, for the purposes of the amendment, fixed ammunition is defined as a complete centerfire or rimfire cartridge.

Mr. GRASSLEY. Mr. President, subparagraph (c) of the amendment states that the term "antique firearm" shall not include any weapon which incorporates a firearm frame or receiver . . ." However, the amendment does not define the terms firearm frame or receiver.

Mr. CAMPBELL. For the purpose of the amendment, a firearm frame or receiver is defined as a serial numbered firearm frame or receiver.

Mr. GRASSLEY. Mr. President, the first sentence of subparagraph (c) of the amendment does not address the types of ignition systems which would fall within the definition of muzzle loading rifles.

Mr. CAMPBELL. The Committee did not address the issue of ignition systems because muzzle loaders may use black powder or a black powder substitute with any ignition system.

BLUE WATER VESSELS

Ms. SNOWE. Mr. President, I would like to take a moment to address my colleagues on a matter of critical importance to our national drug interdiction program.

I am very concerned about the condition of some of the currently deployed drug interdiction vessels. I understand that some of the vessels currently deployed in the U.S. Customs Service's marine program fleet are 30 years old and may pose a threat to U.S. Customs Service agents and the viability of our drug interdiction program.

The Customs Service already has a contract to build replacement vessels on demand. However, this contract will expire at the end of FY 1999, and no vessels have been purchased to date. I believe the Customs Service should extend this contract and make efforts to replace aging vessels in the field a high priority.

Mr. CAMPBELL. I thank Senator SNOWE for bringing this serious matter to our attention. I certainly understand and share her concerns about the importance of operating these drug interdiction vessels in a safe condition.

Ms. SNOWE. In recent years, drug seizures by the Customs Service have increased significantly. This progress is due in no small part to the Customs agents who put their lives on the line to help stem the flow of illegal narcotics into the United States. Protecting our borders and reducing the proliferation of narcotics is an enormous challenge.

It is imperative that we maintain the viability of our drug interdiction program and the fleet we use to enforce our drug laws on the high seas. I believe procurement of drug interdiction vessels would be an invaluable investment in our drug interdiction program.

In 1995, the U.S. Customs Service entered into a contract to build 82-foot "blue water" vessels for drug interdiction. As I mentioned, the contract was effective through FY 1999 but no vessel has been built.

These vessels have a proven track record, and the contract was awarded by Customs in anticipation of resources for replacement vessels. However, the FY 1995 budget request proposed a 50-percent reduction in Customs marine program operations and staffing. The Congress restored some of the funding for this program. However, no additional funds were appropriated to Customs for the replacement costs of vessels.

Mr. CAMPBELL. The Customs Service has certainly had to make difficult choices in the marine program under budget constraints. However, I recognize the importance of these vessels to drug interdiction efforts.

Ms. SNOWE. I am grateful to Senator CAMPBELL and Senator KOHL for their leadership on this important program. In the Committee's report on FY 1999 Customs' appropriations, the Committee recognizes the importance of the blue water vessels as a central component of the marine interdiction strategy, and urges the Customs Service to maintain its fleet of blue water vessels at a level which is safe for its agents.

I understand the delicate funding balance that the Customs Service and the Committee must strike. I had hoped to see some replacement blue water vessels built in FY 1999. Unfortunately, it was not possible to allocate the funding for this purpose this year. However, we should not let this opportunity to upgrade these vessels slip by—I believe we should ensure that the option to fund these vessels remains in the event that funding becomes available next year.

Again, Customs already has a contract to build these vessels on demand scheduled to expire in the 1999 fiscal year. I strongly believe that Customs should extend this contract.

Mr. CAMPBELL. I agree that the U.S. Customs Service should revisit this issue.

Ms. SNOWE. Again, I applaud the leadership of the Committee on this matter, and thank them for their cooperation. I look forward to working with the Committee on this continuing and important effort in the future.

MARRIAGE PENALTY AMENDMENTS

Mr. DODD. Mr. President, I rise today to offer my views on providing tax relief for working families, and more specifically about the marriage penalty. I have always supported efforts to alleviate the tax burden felt by many of our nation's working families. In 1993, I supported tax cuts for millions of working families making less than $30,000 per year through an expansion of the Earned Income Tax Credit. And again, last year, I supported tax cuts targeted toward working families, including the $500 per-child-tax credit, the $1,500 HOPE education tax credit, reinstatement of student loan deductions, full deductibility of health insurance premiums for the self-employed and capital gains and estate tax relief, I was pleased to support these tax cuts, Mr. President, because each was carefully targeted, fully paid for, and consistent with a balanced budget.

Today, I continue to support efforts to bring relief to working families, including providing them with substantial relief from the marriage penalty. Yet, despite my support for repealing the marriage penalty which affects more than 20 million American families, I felt compelled to vote against the amendment offered by Senator BROWNBACK, because in my view, the amendment did not provide targeted relief to those who need it most. In fact, Senator BROWNBACK's amendment would offer marriage penalty relief to only about 40 percent of those currently penalized. Moreover, this amendment was both a costly measure—costing $125 billion over five years and $300 billion over the next ten years—and one that was not paid for.

Mr. President, because Senator BROWNBACK's amendment was not offset, it would have significantly drained the Treasury and put an incredible strain on the Social Security trust fund. Indeed, had this amendment been adopted without an offset as proposed, we would be forced to make draconian across-the-board spending cuts to all discretionary spending, including many important programs like Head Start, public health programs, and defense. In addition, this amendment threatened to use as its offset, funds from the Social Security reserves, which clearly would jeopardize the solvency of and undermine the strength of the Social Security trust fund. Mr. President, in my view, we could ill afford to pay for this amendment with either option, and that is why I, in good conscience, could not support this amendment.

I want to be clear, however, that I support efforts to repeal the marriage penalty. Yet I remain committed to doing so in a way that does not harm the progress we've made in balancing the budget and in a way that targets relief to working families who need it most. That is why I was pleased to support the Democratic alternative, which would have reduced the marriage penalty in the tax code for approximately 90 percent of the families currently penalized. Indeed, this amendment was carefully targeted and would cut the marriage tax penalty more for a greater number of families Furthermore, this proposal would have cost far less than Senator BROWNBACK's proposal—$7 billion over five years and $21 billion over the next ten years. And finally, the Democratic alternative was fully offset without using reserves from the Social Security trust fund, but rather by using a number of widely supported proposals from the President's budget.

Although I was disappointed that the Democratic alternative was defeated, I remain hopeful that Congress will continue to work to repeal the marriage penalty in a way that is both fiscally responsible and carefully targeted to the American families who need relief the most.

Mr. KYL. Mr. President, I wish to enter into a colloquy with the Chairman of the Subcommittee, Senator CAMPBELL, regarding the importance of High Intensity Drug Trafficking Areas (HIDTAs).

Mr. CAMPBELL. I understand the Senator's interest in this area.

Mr. KYL. Mr. President. I would like to take a few minutes to describe the importance of HIDTAs, and specifically the creation of a new Central Arizona HIDTA.

As you know, HIDTAs are an effective mechanism for fighting drugs and especially for combating the increase in methamphetamine use and meth labs. Arizona has a huge problem with meth and meth lab cleanup. In April, I held a field hearing in Phoenix on this issue and I heard first-hand about the magnitude of the drug problem in urban and rural areas of the state. For example, I heard testimony that the Maricopa County HIDTA Meth Lab Unit presently dismantles an average of three labs per week and that, during fiscal year 97, it seized 137 meth labs. Projections for seizures this year are expected to reach 200. Moreover, the DEA testified that clandestine lab seizures in Arizona have increased 910 percent since 1994.

The formation of a new Arizona HIDTA, the Central Arizona HIDTA, is a cooperative effort among three Arizona counties—Maricopa, Pinal, and Mohave—representing both rural and urban interests.

Designating new HIDTAs where a need can be demonstrated and where law enforcement has joined together is key to stopping the spread of drugs. I look forward to working with you to ensure that new HIDTAs, like the Central Arizona HIDTA, receive funding.

Mr. CAMPBELL. This Committee is increasingly aware of the unique problems meth poses, as well as the cleanup of their toxic labs. This is an area where a HIDTA can provide much needed assistance to a community, therefore I can understand your interest in the creation of a Central Arizona HIDTA. I look forward to working with the Senator in the coming months to address these concerns.

Mr. KYL. I thank the Senator.

TAX CODE TERMINATION

Mr. SMITH of New Hampshire: Mr. President, I rise today in support of the Tax Code Termination Act, which had been proposed as an amendment to the Treasury-Postal Appropriations Act. This measure, which I cosponsored with Senators HUTCHINSON and BROWNBACK, would sunset the Federal Tax Code by the end of 2002.

Our current Tax Code, with its many rates, deductions and exemptions, needs to be replaced with a simpler, fairer system that will eliminate the bias against savings and investment and promote economic growth. Consider these facts:

The Tax Code is made up of about 7,500 pages. All the Internal Revenue Service regulations, rulings and tax court decisions add tens of thousands more pages. By contrast, when the income tax was enacted eighty-five years, the Tax Code was under twenty pages long.

By the most conservative estimate, the total cost of collecting taxes, including the value of the 4.5 billion hours that taxpayers spend preparing tax returns, is $75 billion per year. Other estimates are several times higher. The cost of complying with some provisions exceeds what the government collects in taxes.

I can think of no more fitting commentary on the tax laws that are on the books today than The Federalist Papers, and I quote: "It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood."

Is there any doubt that our current Tax Code is too voluminous to be read or too incoherent to be understood? There probably is not a single accountant who understands the Code in its entirety. Not even the IRS, which employs about 110,000 people and is twice as big as the CIA, seems to have a complete grasp on the Code. In 1993, for example, the IRS provided an estimated 8.5 million incorrect or incomplete answers to taxpayer inquiries, and taxpayers were overcharged an estimated $5 billion in penalties.

Another measure of the Code's complexity is the number of disputes it generates. As many as 40 percent of major corporate audits end up in administrative or legal disputes. Some last for years.

The Tax Code is so burdensome that it encourages tax evasion and distorts investment. the IRS has reported that there are hundreds of people who pay no taxes on incomes of more than $200,000 per year. Remember Leona Helmsly, the New York real estate magnate who spent eighteen months in jail for tax evasion? According to her former housekeeper, Leona said: "[w]e don't pay taxes. Only the little people pay taxes." Taxpayers who can afford to pay for tax planning have a strong incentive to invest in schemes to avoid paying taxes instead of investing in productive enterprises that will help the economy thrive.

Up to 30% of individuals reporting business income are not complying with the Tax Code, according to the IRS. Small wonder that many small businesses are not in compliance, when we consider the Code's complexity. For every $100 they paid in income taxes, small businesses with net profits paid an estimated $377 in accounting fees and other costs to comply with the tax laws, according to a 1996 Tax Foundation report. If the current tax code were not so complex, perhaps we would not be facing the enforcement problems that we brought to light by the Finance Committee in its April 1998 IRS oversight hearings.

Critics of the Tax Code Termination Act maintain that it would be irresponsible to sunset the Tax Code until a substitute is prepared. But there are already a number of other federal programs on the books that contain sunset language; and why should the Tax Code by any different? This legislation simply sets a fixed date by which the Tax Code will have to be reauthorized, thereby forcing the President and Congress to engage in a meaningful dialogue on the issue.

Mr. President, I urge my Senate colleagues to take the first step toward meaningful tax reform by setting a date when the Tax Code will expire. We should discard the current maze that is our Tax Code and enact a new tax system that is simple, fair and does not discourage savings or investment.

Mr. McCAIN. Mr. President, I want to thank the managers of this bill for their hard work in putting forth this legislation which provides federal funding for numerous vital programs. The Senate will soon vote to adopt the Treasury and General Appropriations Bill for the Fiscal Year 1999. I intend to support this measure because it provides funding for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies.

Mr. President, as elected officials, we bear no greater responsibility than to see the American people's hard earned tax dollars utilized in the most prudent fashion. We must remain committed to open and fair consideration of public expenditures. Our objective must always be to further the greatest public good. This must remain the cornerstone of the appropriations process.

I admit that this is a difficult task. Each year the appropriators face the daunting task of supporting necessary governmental activities and balancing additional competing interests for funding. However, this is a challenge that we must firmly uphold with integrity. I come forward to this body to once again declare that we are undermining the national faith by continuing the practice of earmarking and inappropriately designating funding for projects based on erroneous criteria rather than national priority and necessity.

After reviewing the Treasury Postal Appropriations Bill, it is painfully clear the subcommittee has not lost its appetite for pork-barrel spending. This bill has been fattened up with vast amounts of low-priority, unnecessary and wasteful spending. In fact, this appropriations bill contains well over $826 million in specifically earmarked pork-barrel spending. This is more than $791 million more than last year's pork-barrel spending total for this bill, which only contained $34.25 million in wasted funds. In addition, the bill and report directs that current year spending be maintained for hundreds of projects, without being specific about any dollar amount.

We now have the first unified-budget surplus in nearly 30 years. CBO projects that we will have $1.6 billion of budget surpluses over the next 10 years. However, if we continue with our current levels of wasteful spending, these budget surpluses may not occur. Pork-barrel spending today not only robs well-deserving programs of much needed funds, it also jeopardizes our fiscal well-being into the next century. I would be remiss if I did not inform the American public of the seriousness and magnitude of wasteful spending endorsed by this body. These individual earmarks may not seem extravagant. However, taken together, they represent a serious diversion of taxpayers' hard-earned dollars to low priority programs at the expense of numerous programs that have undergone the appropriate merit-based selection process. I take very strong exception to a large number of provisions in the bill before us today.

As usual, this bill and report contain numerous earmarks of new funds for particular states, as well as language designed to ensure the continued flow of federal funds into certain states. I have compiled a lengthy list of these and numerous other add-ons, earmarks in this bill. I will not spare precious time to recite the entire list. Instead, I will ask unanimous consent to have this list printed in the RECORD. However, I will discuss some of the more troubling provisions in this bill in detail.

Mr. President, this bill contains a provision which requires the Postal Service to work with the Hawaii Department of Agriculture to devise a plan to combat pest introduction into Hawaii through the U.S. mail. Also contained in this report is over one half billion dollars in new courthouse construction specifically allocated to certain states and localities. This type of earmarking of federal funds must stop.

Mr. President, in the last few weeks, the Senate has wasted billions of taxpayers' dollars on wasteful, unnecessary, or low priority projects. Most alarming, we still have 5 more appropriations bills still to be considered. When will Congress curb its appetite for wasteful pork-barrel spending? How much is too much?

Mr. President, I will not deliberate much longer on the objectionable provisions of this bill. I simply ask my colleagues to apply fair and reasonable spending principles when appropriating funds to the multitude of priority and necessary programs in our appropriations bills. Fiscal responsibility yields long term dividends to America as a whole. Moreover, responsible spending will renew the public's faith in their elected representatives, while also insuring that America realizes any projected budget surpluses.

Congress can ill afford to waste taxpayers' hard-earned dollars. Let us use these budget surpluses to pay down our multi-trillion-dollar national debt. Let us use the anticipated budget surpluses to save social security and for additional tax cuts. These objectives further the greater public good, and our long-term prosperity. Wasteful pork-barrel spending which has limited short term benefits to a few obscure special interests, does not further the public good. It drains our budget, and threatens our long-term prosperity. Congress will only make our potentially prosperous future a reality if it curbs its appetite for pork-barrel spending.

Mr. President, I urge my colleagues to think seriously about the repercussions that could soon be felt right here in this body, if we continue the long-standing practice of pork-barrel spending. Wasteful pork-barrel spending simply erodes the public's trust in our system of government. Congress must reaffirm its commitment to furthering the public good by curbing its appetite for pork-barrel spending.

I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LOW PRIORITY, UNNECESSARY, OR WASTEFUL SPENDING CONTAINED IN S. 2312, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS BILL FOR FISCAL YEAR 1999

The total dollar amount included in this bill is more than $3 billion over the Fiscal Year 1999 budget request.

BILL LANGUAGE

Sections 506, 507, 508, and 606 all contain the usual protectionist, Buy-America provisions.

REPORT LANGUAGE

BATF: $4.5 million to expand the National Tracing Center in Martinsburg, WV. $2.4 million for 12 trafficking agents, three of which are to be for Milwaukee, WI. The Committee urges the BATF to give strong consideration to Aurora, CO, Denver, CO, and Omaha, NE in determining the new locations for the expansion of the Youth Crime Gun Interdiction Initiative.

U.S. Customs Service: Language directing the Customs Service to maintain staffing levels at the Charleston, WV Customs office.

$750,000 for part-time and temporary positions in the Honolulu Customs District.

Language directing the Customs Service to ensure the staffing levels are sufficient to staff and operate all New Mexico border facilities.

Language stating that a high priority should be placed on the funding of the ports of entry in Florida.

Language directing the Customs Service to study the staffing levels of the Great Falls, MT area.

Language directing the Customs Service to conduct a feasibility study on the creation of an international freight processing center in McClain County, OK.

Language encouraging the Blaine, WA area port director to continue the current onboard clearance procedures for Amtrak passengers traveling inbound from Vancouver, BC.

$500,000 to expand the Vermont World Trade Office due to the fact that the current office has been "overwhelmed by requests from companies interested in exploring opportunities".

Internal Revenue Service: Language directing the IRS to maintain problem resolution specialist, problem resolution officer and associate problem resolution officer positions in the States of Alaska and Hawaii. Language stating that any reorganization of the IRS Criminal Investigative Division may not result in a reduction of criminal investigators in Wisconsin and South Dakota.

U.S. Postal Service: Language directing the Postal Service, together with the USDA and the Hawaii Department of Agriculture, to devise and implement a program to combat pest introduction into Hawaii through the U.S. mail.

Office of National Drug Control Policy: $1.5 million to expand the Milwaukee High-Intensity Drug Trafficking Area (HIDTA).

Language urging the Office of National Drug Control Policy (ONDCP) to give special consideration to the State of Hawaii's application to be HIDTA.

Language encouraging the ONDCP to assist in the clean up of methamphetamine labs in Missouri, Washington, Iowa, and New Mexico.

Language urging the ONCDP to consider Omaha, NE as the site for future conferences relating to methamphetamine.

General Services Administration: The Committee has funded the Federal Buildings Fund - Construction and Acquisition account at $553 million, which is $509 million above the budget request.

New Construction: $3.4 million for a U.S. Courthouse in Little Rock, AR.

$15.4 million for a U.S. Courthouse in San Diego, CA.

$10.8 million for a U.S. Courthouse in San Jose, CA.

$84 million for a U.S. Courthouse in Denver, CO.

$14.1 million for DOT Headquarters in Washington, D.C.

$10 million for the Southeast Federal Center remediation in Washington, D.C.

$86 million for a U.S. Courthouse in Jacksonville, FL.

$1.9 million for a U.S. Courthouse in Orlando, FL.

$46.5 million for a U.S. Courthouse in Savannah, GA.

$5.6 million for a U.S. Courthouse in Springfield, MA.

$572,000 for a Michigan border station.

$7.5 million for a U.S. Courthouse in Mississippi.

$2.2 million for a U.S. Courthouse in Missouri.

$6.2 million for a border station in Montana.

$152.6 million for a U.S. Courthouse in Brooklyn, NY.

$3.2 million to New York U.S. Mission to the United Nations.

$7.2 million for a U.S. Courthouse in Eugene, Oregon.

$28.2 million for a U.S. Courthouse in Greenville, TN.

$28.1 million for a U.S. Courthouse in Laredo, Texas.

$29.3 million for a U.S. Courthouse in Wheeling, WV.

$10 million for Nationwide: nonprospectus.

Language granting the GSA the authority to purchase the property located on block 111, East Denver, Denver, CO.

Language directing $475,000 of nonprospectus construction funds be used for the planning of the Mauna Kea Astronomy Educational Center in Hawaii.

Language stating that the Administrator of the GSA is not permitted to obligate funding for the design of the new headquarters of the DOT until the Secretary of Transportation approves landing rights for British Airways at Denver International Airport and Guarantees landing slots to the U.S. carrier authorized to serve the Charlotte-London (Gatwick) route.

FUNDING FOR REPAIRS AND ALTERATIONS TO FEDERAL BUILDINGS

$29.8 million for an appraisers building in San Francisco.

$29.4 million for the Denver Federal Building in CO.

$13.8 million for Federal Building 10B in Washington, D.C.

$84 million to the ICC.

$25.2 million for the OEOB.

$29.8 million for the State Department.

$20 million for an IRS service Center in Brookhaven, NY.

$4.8 million for a U.S. Courthouse in New York.

$11.2 million for a courthouse in Philadelphia, PA.

$9.1 million for the J.W. Powell Building in Reston, VA.

Language directing the GSA to upgrade the lighting system for the Bryne-Green Federal Courthouse in Philadelphia, PA.

$1.6 million for basic repair and alteration of a U.S. Courthouse and Federal Building located in Milwaukee, WI.

$1.1 million for a new fence around the Federal complex in Suitland MD.

$2.8 million for the Zorinsky building in Omaha, NE.

Language directing the GSA to study the cost and need for repair of the Federal Building in Tuscaloosa, AL.

Language directing the GSA to study the alternatives to repairing the Butte-Silver Bow Courthouse in Butte, MT.

Language directing the GSA to work with BATF to provide adequate facilities to meet the space needs of the National Tracing Center in Martinsburg, WV. ($4.5 million has been directed to this facility under a different account previously in this report.)

Language urging the GSA to report on the responsibility of the Federal Government to fund and provide security to the Federal complex in Newark, NJ.

Language directing the GSA to support the 1999 Women's World Cup Soccer and the 1999 World Alpine Ski Championships in Vail, CO.

Language directing the GSA to give the U.S. Olympic Committee special consideration to acquire a Federal Building in Colorado Springs, CO—should it become available.

Language providing for the demolition, cleanup, and transfer of property in Anchorage, AK.

Language stating that the GSA may convey the site which contains the U.S. Army Reserve Center in Racine, WI to the City of Racine.

National Archives: $875,000 to address space inadequacies in the Anchorage, AK facility.

Office of Personnel Management: Language directing the OPM to continue to work with the University of Hawaii to develop culturally sensitive model health programs.

MORNING BUSINESS

Mr. CAMPBELL. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DETECTIVE JOHN GIBSON, OFFICER JACOB CHESTNUT, AND THE MEMBERS OF THE CAPITOL POLICE FORCE

Mr. FEINGOLD. Mr. President, in the wake of the terrible crime committed in the Capitol last Friday, I want to take a moment to reflect on the courage exhibited by the Capitol Police force in the face of that attack at the heart of America's democracy.

The Capitol Police have guarded the U.S. Congress since 1828, but their finest, yet most tragic, moment came on July 24, 1998, when two officers gave their lives to defend their fellow citizens, and our Capitol and all that it represents.

Officer Jacob J. Chestnut and Detective John M. Gibson, like all the quiet heroes of the Capitol Police force and their colleagues across America, came to work each day, performing their duties with dedication and professionalism, prepared at any moment to lay down their lives so that others could be saved, and the security of the Capitol could be preserved.

In a few terrifying minutes on the afternoon of July 24th, that moment came, as Detective Gibson and Officer Chestnut gave their lives for ours, and for countless other people working and visiting here that day. As they bravely defended the Capitol, Detective Gibson and Officer Chestnut showed the enormity of their courage, the depth of their character, and the fullness of their commitment to duty as Capitol Police officers.

As Americans, we owe Officer Chestnut and Detective Gibson a debt that can never be repaid. Instead, we can only offer our deepest sympathies to the families of these two brave officers, and pledge to honor their memories with the same enduring strength and vigilance with which they defended our lives.

I also want to recognize the other Capitol Police officers involved in apprehending the gunman, rushing people in the building to safety, and conducting the subsequent investigation with such a high degree of professionalism. We commend their service in protecting our Capitol and reaffirm with confidence that under their watch the house of the people will stay open to all the people.

Americans can take great pride in the heroism the Capitol Police displayed last Friday, and in the bravery they summon every day as they protect our nation's Capitol. To them I offer my thanks, and the thanks of my staff and the people of the State of Wisconsin, for their courageous work.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 149

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

On November 14, 1994, in light of the danger of the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and of the means of delivering such weapons, using my authority under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), I declared a national emergency and issued Executive Order 12938. Because the proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have renewed the national emergency declared in Executive Order 12938 annually, most recently on November 14, 1997. Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)), I hereby report to the Congress that I have exercised my statutory authority to issue an Executive order to amend Executive Order 12938 in order to more effectively to respond to the worldwide threat of weapons of mass destruction proliferation activities.

The amendment of section 4 of Executive Order 12938 strengthens the original Executive order in several significant ways.

First, the amendment broadens the type of proliferation activity that is subject to potential penalties. Executive Order 12938 covers contributions to the efforts of any foreign country, project, or entity to use, acquire, design, produce, or stockpile chemical or biological weapons (CBW). This amendment adds potential penalties for contributions to foreign programs for nuclear weapons and missiles capable of delivering weapons of mass destruction. For example, the new amendment authorizes the imposition of measures against foreign entities that materially assist Iran's missile program.

Second, the amendment lowers the requirements for imposing penalties. Executive Order 12938 required a finding that a foreign person "knowingly and materially" contributed to a foreign CBW program. The amendment removes the "knowing" requirement as a basis for determining potential penalties. Therefore, the Secretary of State need only determine that the foreign person made a "material" contribution to a weapons of mass destruction or missile program to apply the specified sanctions. At the same time, the Secretary of State will have discretion regarding the scope of sanctions so that a truly unwitting party will not be unfairly punished.

Third, the amendment expands the original Executive order to include "attempts" to contribute to foreign proliferation activities, as well as actual contributions. This will allow imposition of penalties even in cases where foreign persons make an unsuccessful effort to contribute to weapons of mass destruction and missile programs or where authorities block a transaction before it is consummated.

Fourth, the amendment expressly expands the range of potential penalties to include the prohibition of United States Government assistance to the foreign person, as well as United States Government procurement and imports into the United States, which were specified by the original Executive order. Moreover, section 4(b) broadens the scope of the United States Government procurement limitations to include a bar on the procurement of technology, as well as goods or services from any foreign person described in section 4(a). Section 4(d) broadens the scope of import limitations to include a bar on imports of any technology or services produced or provided by any foreign person described in section 4(a).

Finally, this amendment gives the United States Government greater flexibility and discretion in deciding how and to what extent to impose penalties against foreign persons that assist proliferation programs. This provision authorizes the Secretary of State, who will act in consultation with the heads of other interested agencies, to determine the extent to which these measures should be imposed against entities contributing to foreign weapons of mass destruction or missile programs. The Secretary of State will act to further the national security and foreign policy interests of the United States, including principally our nonproliferation objectives. Prior to imposing measures pursuant to this provision, the Secretary of State will take into account the likely effectiveness of such measures in furthering the interests of the United States and the costs and benefits of such measures. This approach provides the necessary flexibility to tailor our responses to specific situations.

I have authorized these actions in view of the danger posed to the national security and foreign policy of the United States by the continuing proliferation of weapons of mass destruction and their means of delivery. I am enclosing a copy of the Executive order that I have issued exercising these authorities.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

REPORT OF THE DISTRICT OF COLUMBIA'S FISCAL YEAR 1999 BUDGET REQUEST ACT—MESSAGE FROM THE PRESIDENT—PM 150

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with section 202(c) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, I am transmitting the District of Columbia's Fiscal Year 1999 Budget Request Act.

This proposed Fiscal Year 1999 Budget represents the major programmatic objectives of the Mayor, the Council of the District of Columbia, and the District of Columbia Financial Responsibility and Management Assistance Authority. It also meets the financial stability and management improvement objectives of the National Capital Revitalization and Self-Government Improvement Act of 1997. For Fiscal Year 1999, the District estimates revenues of $5.230 billion and total expenditures of $5.189 billion resulting in a $41 million budget surplus.

My transmittal of the District of Columbia's budget, as required by law, does not represent an endorsement of its contents.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

REPORT CONCERNING THE ONGOING EFFORTS TO MEET THE GOALS SET FORTH IN THE DAYTON ACCORDS—MESSAGE FROM THE PRESIDENT—PM 151

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Pursuant to section 7 of Public Law 105–174, I am providing this report to inform the Congress of ongoing efforts to meet the goals set forth therein.

With my certification to the Congress of March 3, 1998, I outlined ten conditions—or benchmarks—under which Dayton implementation can continue without the support of a major NATO-led military force. Section 7 of Public Law 105–174 urges that we seek concurrence among NATO allies on: (1) the benchmarks set forth with the March 3 certification; (2) estimated target dates for achieving those benchmarks; and (3) a process for NATO to review progress toward achieving those benchmarks. NATO has agreed to move ahead in all these areas.

First, NATO agreed to benchmarks parallel to ours on May 28 as part of its approval of the Stabilization Force (SFOR) military plan (OPLAN 10407). Furthermore, the OPLAN requires SFOR to develop detailed criteria for each of these benchmarks, to be approved by the North Atlantic Council, which will provide a more specific basis to evaluate progress. SFOR will develop the benchmark criteria in coordination with appropriate international civilian agencies.

Second, with regard to timelines, the United States proposed that NATO military authorities provide an estimate of the time likely to be required for implementation of the military and civilian aspects of the Dayton Agreement based on the benchmark criteria. Allies agreed to this approach on June 10. As SACEUR General Wes Clark testified before the Senate Armed Services Committee June 4, the development and approval of the criteria and estimated target dates should take 2 to 3 months.

Third, with regard to a review process, NATO will continue the 6-month review process that began with the deployment of the Implementation Force (IFOR) in December 1995, incorporating the benchmarks and detailed criteria. The reviews will include an assessment of the security situation, an assessment of compliance by the parties with the Dayton Agreement, an assessment of progress against the benchmark criteria being developed by SFOR, recommendations on any changes in the level of support to civilian agencies, and recommendations on any other changes to the mission and tasks of the force.

While not required under Public Law 105–174, we have sought to further utilize this framework of benchmarks and criteria for Dayton implementation among civilian implementation agencies. The Steering Board of the Peace Implementation Council (PIC) adopted the same framework in its Luxembourg declaration of June 9, 1998. The declaration, which serves as the civilian implementation agenda for the next 6 months, now includes language that corresponds to the benchmarks in the March 3 certification to the Congress and in the SFOR OPLAN. In addition, the PIC Steering Board called on the High Representative to submit a report on the progress made in meeting these goals by mid-September, which will be considered in the NATO 6-month review process.

The benchmark framework, now approved by military and civilian implementers, is clearly a better approach than setting a fixed, arbitrary end date to the mission. This process will produce a clear picture of where intensive efforts will be required to achieve our goal: a self-sustaining peace process in Bosnia and Herzegovina for which a major international military force will no longer be necessary. Experience demonstrates that arbitrary deadlines can prove impossible to meet and tend to encourage those who would wait us out or undermine our credibility. Realistic target dates, combined with concerted use of incentives, leverage and pressure with all the parties, should maintain the sense of urgency necessary to move steadily toward an enduring peace. While the benchmark process will be useful as a tool both to promote and review the pace of Dayton implementation, the estimated target dates established will be notional, and their attainment dependent upon a complex set of interdependent factors.

We will provide a supplemental report once NATO has agreed upon detailed criteria and estimated target dates. The continuing 6-month reviews of the status of implementation will provide a useful opportunity to continue to consult with Congress. These reviews, and any updates to the estimated timelines for implementation, will be provided in subsequent reports submitted pursuant to Public Law 105–174. I look forward to continuing to work with the Congress in pursuing U.S. foreign policy goals in Bosnia and Herzegovina.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

REPORT CONCERNING THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM 152

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iraqi emergency is to continue in effect beyond August 2, 1998, to the *Federal Register* for publication.

The crisis between the United States and Iraq that led to the declaration on August 2, 1990, of a national emergency has not been resolved. The Government of Iraq continues to engage in activities inimical to stability in the Middle East and hostile to United States interests in the region. Such Iraqi actions pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interests of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Iraq.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR FISCAL YEAR 1997—MESSAGE FROM THE PRESIDENT—PM 153

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1997 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1997.

Thirty years following the establishment of the Corporation for Public Broadcasting, the Congress can take great pride in its creation. During these 30 years, the American public has been educated, inspired, and enriched by the programs and services made possible by this investment.

The need for and the accomplishments of this national network of knowledge have never been more apparent, and as the attached 1997 annual CPB report indicates, by "Going Digital," public broadcasting will have an ever greater capacity for fulfilling its mission.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 29, 1998.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate on July 29, 1998, during the recess of the Senate, received a message from the House of Representatives announcing that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

MEASURE PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

H.R. 4250. An act to provide new patient protections under group health plans.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6232. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule regarding Truth in Savings disclosures (Docket R-0869) received on July 24, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6233. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule regarding employer plans to reflect changes to Section 457 of the Internal Revenue Code (Rev. Proc. 98-41) received on July 27, 1997; to the Committee on Finance.

EC–6234. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding air pollution standards for pulp and paper production and technical amendments to OMB control numbers (FRL5799-8) received on July 27, 1998; to the Committee on Environment and Public Works.

EC–6235. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Gloucester Harbor Fireworks Display, Gloucester Harbor, Gloucester, MA" (Docket 01-98-080) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6236. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747-100 Series Airplanes" (Docket 97-NM-82-AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6237. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Helicopter Systems Model 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, 500N, 600N, and OH-6A Helicopters" (Docket 98-SW-22-AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6238. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Wilmington Clinton Field, OH" (Docket 98-AGL-31) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6239. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Prairie Du Chien, WI" (Docket 98-AGL-32) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6240. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Faribault, MN" (Docket 98-AGL-26) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6241. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Marshall, MN" (Docket 98-AGL-33) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6242. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Cambridge, NE" (Docket 98–ACE–11) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6243. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Gordon, NE" (Docket 98–ACE–9) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6244. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Scottsbluff, NE" (Docket 98–ACE–18) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6245. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Kimball, NE" (Docket 98–ACE–10) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6246. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Remove Class E Airspace and Establish Class E Airspace; Springfield, MO" (Docket 98–ACE–20) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6247. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Knoxville, IA" (Docket 98–ACE–12) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6248. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Ainsworth, NE" (Docket 98–ACE–16) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6249. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Jet Route J–502; VOR Federal Airway V–444; and Colored Federal Airways Amber 2 and Amber 15; AK" (Docket 98–AAL–8) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6250. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Waupun, WI" (Docket 98–AGL–27) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6251. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Richland Center, WI" (Docket 98–AGL–30) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6252. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; New Lisbon, WI" (Docket 98–AGL–28) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6253. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Beaver Dam, WI" (Docket 98–AGL–29) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6254. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Stemme GmbH and Co. KG Model S10-V Sailplanes" (Docket 97–CE–128–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6255. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes" (Docket 98–NM–33–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6256. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace" (Docket 28860) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6257. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bell Helicopter Textron, Inc. Model 412 Helicopters and Agusta S.p.A. Model AB 412 Helicopters; Correction" (Docket 97–SW–58–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6258. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes, and Model MD–99 Airplanes" (Docket 97–NM–105–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6259. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Maule Aerospace Technology Corp. M–4, M–5, M–6, M–7, MX–7, and MXT–7 Series Airplanes and M–8–235 Airplanes" (Docket 98–CE–01–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6260. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operating Regulation; Kelso Bayou, LA" (Docket 08–94–028) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6261. A communication from the Secretary of Defense, transmitting, notice of military retirements; to the Committee on Armed Services.

EC–6262. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Exporters Not Liable For Harbor Maintenance Fee" (RIN1515–AC31) received on July 28, 1998; to the Committee on Finance.

EC–6263. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the initiation of danger pay for the Kosovo Province under the Foreign Service Act; to the Committee on Foreign Relations.

EC–6264. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Department's report entitled "Outer Continental Shelf Lease Sales: Evaluation of Bidding Results and Competition" for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC–6265. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish Potatoes Grown in Colorado; Decreased Assessment Rate" (Docket FV98–948–1 IFR) received on July 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6266. A communication from the Human Resource Assistant of the Farm Credit Bank of Texas, transmitting, pursuant to law, the annual report of the Bank's Thrift Plus Plan for calendar year 1997; to the Committee on Governmental Affairs.

EC–6267. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Oral Dosage Form New Animal Drugs; Bacitracin Methylene Disalicylate Soluble" received on July 27, 1998; to the Committee on Labor and Human Resources.

EC–6268. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (Aluminum Borate)" (Docket 97F–0405) received on July 27, 1998; to the Committee on Labor and Human Resources.

EC–6269. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's report on the Employment of Minorities, Women and People with Disabilities in the Federal Government for fiscal year 1997; to the Committee on Labor and Human Resources.

EC–6270. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Authority to Approve Federal Home Loan Bank Bylaws" (RIN3069–AA70) received on July 28, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6271. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Financial Disclosure by Federal Home Loan Banks" (No. 98–28) received on July 28, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6272. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks" received on July 22, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6273. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area of the Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6274. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6275. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6276. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6277. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; "Other Rockfish" Species Group in the Eastern Regulatory Area" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6278. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands" (Docket 971208298–8055–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6279. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6280. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area of the Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6281. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Central Regulatory Area of the

Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6282. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery Off Alaska; Amendment 3" (RIN0648–AJ51) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6283. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Golden Crab Fishery off the Southern Atlantic States; Amendment 8; OMB Control Numbers" (RIN0648–AG27) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6284. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Gear Allocation of Shortraker and Rougheye Rockfish in the Aleutian Islands Subarea" (RIN0648–AJ99) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6285. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Summer Flounder Commercial Quota Harvested for Massachusetts" (Docket 971015246–7293–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6286. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule regarding revisions to the NASA Federal Acquisition Regulation Supplement received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1222: A bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes (Rept. No. 105–273).

By Mr. HATCH, from the Committee on the Judiciary: Report to accompany the bill (S. 512) to amend chapter 47 of title 18, United States Code, relating to identify fraud, and for other purposes (Rept. No. 105–274).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1978: A bill to designate the auditorium located within the Sandia Technology Transfer Center in Albuquerque, New Mexico, as the "Steve Schiff Auditorium" (Rept. No. 105–275).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 3453: A bill to designate the Federal Building and Post Office located at 100 East B Street, Casper, Wyoming, as the "Dick Cheney Federal Building."

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation:

Diane D. Blair, of Arkansas, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004. (Reappointment)

Kelley S. Coyner, of Virginia, to be Administrator of the Research and Special Programs Administration, Department of Transportation.

Ritajean Hartung Butterworth, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Bill Richardson, of New Mexico, to be Secretary of Energy.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 2368. A bill to permit the use of the proceeds from Senate recycling efforts for the expenses and activities of the Senate Employees Child Care Center; to the Committee on Rules and Administration.

By Mr. ROTH:

S. 2369. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

By Mr. CLELAND:

S. 2370. A bill to designate the facility of the United States Postal Service located at Tall Timbers Village Square, United States Highway 19 South, in Thomasville, Georgia, as the "Lieutenant Henry O. Flipper Station"; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND.

S. Res. 259. A resolution designating the week beginning September 20,1998, as "Historically Black Colleges and Universities Week," and for other purposes to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 2368. A bill to permit the use of the proceeds from Senate recycling efforts for the expenses and activities of the Senate Employees Child Care Center; to the Committee on Rules and Administration.

SENATE DAY CARE RECYCLING FUNDING SUPPORT ACT

• Mr. AKAKA. Mr. President. I am pleased to introduce legislation today that would enable the Senate Employees Child Care Center (SECCC) to receive the proceeds from Senate recycling or other waste prevention programs. Specifically, my bill would authorize the Architect of the Capitol to receive funds from Senate recycling programs and make those funds available for the activities and expenses of the SECCC, subject to the regular appropriations process. The effect of this measure will be to provide the SECCC with a potentially steady, if relatively small, source of income as well as create an additional incentive for the Senate to support recycling efforts.

Mr. President, the SECCC was established as a non-profit 501(c)(3) corporation in 1984 by parents who work for the Senate. Today, the center provides full and part-time care for about 50 children between the ages of 18 months and 5 years. The SECCC is open to the entire community, with priority enrollment reserved for children of Senate employees. The SECCC is accredited by the National Academy of Early Childhood Programs, a division of the National Association of Young Children. It first received such recognition in 1989, the first day care center in Washington, D.C., to be so distinguished.

The SECCC is governed by an independent board composed of the parents of children enrolled at the center. A cooperative relationship exists between the SECCC and the Senate. The parents, through the board, are responsible for oversight of SECCC operations; the Senate provides critical support, such as providing for the facility itself and utilities. The Senate is providing the funds for the construction of a new center, near the Daniel Webster Senate Page Residence, which is expected to be ready for occupancy within a few months.

The Senate currently does not appropriate annual funds for the operation of the SECCC. The SECCC's annual operating budget of approximately $535,000 is funded entirely through tuition payments and the center's fundraising efforts. These funds are used to defray costs associated with tuition assistance (scholarships), teacher salaries, curriculum materials, meals, general office expenses, advertising and marketing, accounting and audit fees, professional development, and unemployment and liability insurance.

The recycling program for House and Senate buildings is operated by the Office Waste Recycling Program (OWRP), under the Architect of the Capitol. Through OWRP, the Architect is responsible for collecting and bundling recycled materials; a private contractor, under contract to the General Services Administration, serves as the recycling facility. However, the Architect does not have the authority to receive funds from recycling or other so-called "enterprise" activities; thus, all recycling funds from both the Senate and House are deposited in the General Fund of the U.S. Treasury.

The OWRP started as pilot project in 1990–91 and was expanded on a voluntary participation basis to all offices in the House and Senate office buildings in 1992. The program is based on the concept of source separation, an approach that includes the separation, collection, and removal of high and mixed grade paper as well as aluminum cans, glass, and certain types of plastic materials. The effectiveness of the program depends on the active participation of Congressional staff, who are needed to separate recyclables into designated receptacles, and the custodial and labor forces, who must ensure that materials remain segregated during the collection process.

The program has been a success in certain respects. For example, it has allowed Congress to avoid paying costs associated with hauling away and landfilling recycled materials, since these costs are borne by the recycling contractor. According to the OWRP, in FY97, the House Office Buildings recycled 2,247 tons of paper, cans, glass, and plastic, avoiding landfill/haulaway costs of $173,000. For the same year, the Senate Office Buildings collected 898 tons, for a savings of $69,146.

However, actual revenues generated by the program have been nominal. The Senate recycling program, for example, brought in a relatively paltry $2,694 in FY96 and $2,364 in FY97, the last full year for which we have data, while collecting an estimated 1,021 tons and 886 tons of paper waste. The reason for this seemingly low return is that the contractor is not required to pay for materials that are contaminated by a certain percentage. With respect to paper, which constitutes the bulk of Senate recyclables, contamination refers to mixing with other recyclable (e.g., newspapers with high grade paper) or with foreign matter such as food. Apparently, Senate and House recycled materials have relatively high contamination levels, a fact which may be attributed in part to an absence of incentives on the part of Congressional offices to recycle.

This is in sharp contrast to the situation with federal agencies, which beginning in 1991 have had the authority to retain recycling proceeds, either to defray the cost of maintaining recycling programs and/or direct them to programs that directly benefit employees, including day care activities. In my opinion, it is no accident that while the level of participation in recycling programs varies from agency to agency, overall the Executive Branch agencies' recycling programs are much more robust than Congress'.

Mr. President, my bill would authorize the Architect of the Capitol to receive Senate recycling funds and make them available for the payment of SECCC activities and expenses, through the annual appropriations process. This would achieve two mutually beneficial goals: first, to provide a small but important supplement to the day care center's operating budget; second, to improve the efficiency of the Senate recycling program by establishing an internal incentive to recycle.

Thank you, Mr. President. I urge my colleagues to support this legislation. I ask unanimous consent that a copy of my bill as well as a letter supporting the legislation from the SECCC's board of directors be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senate Day Care Center Recycling Funding Support Act".

SEC. 2. RECYCLING FUNDING FOR THE SENATE DAY CARE CENTER.

(a) IN GENERAL.—The Architect of the Capitol shall receive all funds collected through Senate recycling or waste prevention programs and deposit those amounts in an account in the Treasury which shall be available for payment of the activities and expenses of the Senate Employees Child Care Center.

(b) SUBJECT TO APPROPRIATIONS.—Amounts deposited in the account referred to in subsection (a) shall be available to the extent provided in appropriations Acts.

SENATE EMPLOYEES'
CHILD CARE CENTER,
Washington, DC, July 27, 1998.

Hon. DANIEL K. AKAKA,
Hart Senate Building,
Washington, DC.

DEAR SENATOR AKAKA: The Board of Directors of the Senate Employees Child Care Center (SECCC) strongly supports legislation that would allow the SECCC to receive the proceeds from the Senate recycling and other waste prevention programs to support the operating and other expenses of the SECCC. This support was demonstrated in a recent unanimous vote during our board meeting on July 15, 1998.

We have been advised that the receipts from the Senate recycling program total several thousand dollars a year. Should the legislation pass, we anticipate applying the funds to our tuition assistance program, which helps families who may not be able to afford the full cost of enrollment at the center. The funds from the recycling program would represent a substantial portion of the tuition assistance budget and would provide an annual contribution, allowing us to maintain the tuition assistance program over the long-term.

Thank you for any assistance you could provide in authorizing the SECCC to receive Senate recycling funds.

Sincerely,

HEIDI BONNER,
President,
SECCC Board of Directors.●

By Mr. ROTH:

S. 2369. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

THE PERSONAL RETIREMENT ACCOUNTS ACT OF 1998

Mr. ROTH. Mr. President, I rise today to introduce the Personal Retirement Accounts Act of 1998. This legislation has a simple but powerful purpose—to establish personal retirement accounts for working Americans. In my view, these accounts promise to give working Americans not only a more secure retirement future but a new stake in the Nation's economic growth. And, as I will describe, these accounts may provide the model for future Social Security reform.

A few years ago personal retirement accounts were an exotic and even controversial concept. But no longer! In 1996, a majority of a Clinton Administration task force on Social Security reform endorsed the concept. Today, personal retirement accounts are a bipartisan, even mainstream, idea. In March, Senator MOYNIHAN, the ranking Democrat on the Finance Committee, and Senator KERREY introduced legislation that would create retirement accounts as part of an overhaul of Social Security.

And earlier this month, bipartisan, bicameral Social Security reform legislation that included personal retirement accounts was introduced by Senators GREGG and BREAUX in the Senate, and by Congressmen KOLBE and STENHOLM in the House. Their bill is based on the unanimous recommendations of a privately sponsored National Commission on Retirement Policy—comprised of 24 lawmakers, economists, pension experts, and businessmen.

Yesterday, at a Social Security town hall meeting in Albuqqerque, NM, the President said he had an "open mind" on personal retirement accounts. And in testimony before the Senate Finance Committee last week, a top Clinton Administration official offered several guidelines for designing such accounts, including efficiency, such as low administrative costs, and protection of the progressive benefits. My bill meets these guidelines.

Mr. President, let me explain why retirement accounts find so much support—not only in Congress but among the American people. With even conservative investment, such accounts have the potential to provide Americans with a substantial retirement nest egg, and an estate they can leave to their children and grandchildren.

Creating these accounts would also give the majority of Americans who do not own any investment assets a new stake in America's economic growth—because that growth will be returned directly to their benefit. More Americans will be the owners of capital—not just workers.

Creating these accounts may encourage Americans to save more. Today, Americans save less than people in almost every other country. But personal retirement accounts will demonstrate to all Americans the magic of compound interest as even small savings grow significantly over time.

Lastly, creating these accounts will help Americans to better prepare for retirement. According to the CRS, 60 percent of Americans are not actively participating in a retirement program other than Social Security. A recent survey by the Employee Benefits Research Institute found that only about 45 percent of working Americans have tried to calculate how much they will need for retirement. It is my belief that retirement accounts will prompt Americans—particularly baby boomers—to think more about retirement planning.

Mr. President, let me describe a few of the features of my bill. First, the program would run for 5 years, from 1999 to 2003, utilizing half the budget surplus projected by CBO earlier this month.

Each year, every working American who earned a minimum of 4 quarters of Social Security coverage—about $2,900 in 1999—would receive a deposit in his or her personal retirement account. About 127 million Americans would receive a deposit in 1999.

The formula for sharing the surplus among the accounts is progressive. Each eligible individual would receive a minimum amount of $250 per year, plus an additional amount based on how much they paid in payroll taxes.

Over the life of the program, a minimum wage earner—someone earning $12,400 this year—would receive about $1,720. That amount is equal to a 34-percent rebate of his or her payroll taxes.

An average wage earner—earning $27,600—would receive about $2,300—equal to a 20-percent rebate of payroll taxes. And an individual who paid the maximum Social Security tax would get $3,840, a 14-percent rebate of payroll taxes. These figures do not include any investment income or deductions for the costs of running the program.

Account holders would have three investment choices—prudent choices that balance risk and return. The three choices are a stock index fund—a mutual fund that reflects the overall performance of the stock market; a fund that invests in corporate bonds and other fixed income securities; and a fund that invests in U.S. Treasury bonds.

However, my legislation also provides for a study of additional investment options—of other types of investment funds and investment managers.

An account holder would become eligible for benefits when he or she signs up for Social Security. An individual could choose between an annuity or annual payments based on life expectancy.

The bill also provides a number of features to ensure the program is properly run. First, the program would be neither on budget nor off budget. Instead, the program would be outside the Federal budget. The money in the program could be used for no other purpose than retirement benefits and the program's operating expenses.

Second, the program would be supervised by a new, independent Personal Retirement Board, with members appointed by the President and Congressional leaders and subject to Senate confirmation. Board officials would be fiduciaries, and required by law to act only in the best financial interests of beneficiaries.

Lastly, the stock funds would be managed by private sector investment managers. To insulate companies represented in the stock funds from politics, no board official or other government employee would be eligible to vote company proxies—only the investment managers.

Mr. President, the design of this personal retirement accounts plan follows a proven model—the Federal Thrift Savings Plan. Back in 1983, when I was Chairman of the Governmental Affairs Committee, the retirement program for Federal employees needed to be revamped. One of the new elements we added was the Federal Thrift Savings Plan—a defined contribution employee benefit plan—that has been a great success.

Mr. President, many Americans will undoubtedly ask, "What size nest egg might grow in my personal retirement account?" According to an analysis done by Social Security's actuaries, someone earning the minimum wage would have an account worth about $2,150 in 2004, assuming a 7.5 percent interest rate. For the average wage earner, the account would be worth about $2,870, and for the individual paying the maximum Social Security tax, about $4,770.

Of course, over the long term, accounts can grow significantly. For the minimum wage person, after 40 years—in 2039—his or her account would be worth about $27,000; the average wage earner would have $36,000; and the person paying the maximum payroll tax, $60,000.

Mr. President, some might ask, "Why start with personal retirement accounts rather than proposing comprehensive Social Security reform?" Indeed, my bill will not affect the current Social Security program. Personal retirement accounts are an exciting concept, but still a big job, requiring careful work by the Finance Committee.

And unlike many other Social Security reform proposals, retirement accounts have broad support. So let's get these accounts up and running, proven and tested, while Congress considers carefully protecting and preserving Social Security for the long term.

Mr. President, in closing, let me add that personal retirement accounts have another big promise. Such accounts—if later made a part of Social Security—may help restore the confidence of the American people in Social Security. Polls show that Social Security is among the most popular of government programs, deservedly so. But many Americans—particularly young Americans—appear to have lost confidence in the program. They believe that there will be no benefits for them when they retire. Personal retirement accounts will provide the accountability and assurances that Americans are asking for.

I encourage my colleagues to take a careful look at my bill, and I invite members to co-sponsor it.

Mr. President, I ask for unanimous consent that a copy of this bill be printed into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Personal Retirement Accounts Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Save Social Security First Trust Fund.
Sec. 4. Establishment of Personal Retirement Accounts Program.

"TITLE I—PERSONAL RETIREMENT ACCOUNTS PROGRAM

"Subtitle A—Management of the Personal Retirement Accounts Program

"Sec. 101. Personal Retirement Accounts Board.
"Sec. 102. Executive director.

"Subtitle B—Establishment of Personal Retirement Savings Fund; Personal Retirement Accounts

"Sec. 111. Appropriations; annual transfers to the Personal Retirement Savings Fund.
"Sec. 112. Personal Retirement Savings Fund.
"Sec. 113. Personal retirement accounts.

"Subtitle C—Investment and Administration of Personal Retirement Accounts

"Sec. 121. Investment of personal retirement accounts.

“Sec. 122. Accounting and information.
“Sec. 123. Distribution of benefits.
“Sec. 124. Annuities: methods of payment; election; purchase.
“Sec. 125. Protections for spouses and former spouses.
“Sec. 126. Designation of beneficiary; order of precedence.
“Sec. 127. Tax treatment of the Personal Retirement Savings Fund.
“Sec. 128. Administrative provisions.
“Subtitle D—Beneficiary Protections
“Sec. 131. Fiduciary responsibilities; liability and penalties.
“Sec. 132. Bonding.
“Sec. 133. Investigative authority.
“Sec. 134. Exculpatory provisions; insurance.
Sec. 5. Report and recommendations regarding investment options.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The social security program is the foundation of retirement income for most Americans, and solving the financial problems of the social security program is a vital national priority and essential for the retirement security of today's working Americans and their families.

(2) There is a growing bipartisan consensus that personal retirement accounts should be an important feature of social security reform.

(3) Personal retirement accounts can provide a substantial retirement nest egg and real personal wealth. For an individual 28 years old on the date of enactment of this Act, earning an average wage, and retiring at age 65 in 2035, just 1 percent of that individual's wages deposited each year in a personal retirement account and invested in securities consisting of the Standard & Poors 500 would grow to $132,000, and be worth approximately 20 percent of the benefits that would be provided to the individual under the current provisions of the social security program.

(4) Personal retirement accounts would give the majority of Americans who do not own any investment assets a new stake in the economic growth of America.

(5) Personal retirement accounts would demonstrate the value of savings and the magic of compound interest to all Americans. Today, Americans save less than people in almost every other country.

(6) Personal retirement accounts would help Americans to better prepare for retirement generally. According to the Congressional Research Service, 60 percent of Americans are not actively participating in a retirement plan other than social security, although social security was never intended to be the sole source of retirement income.

(7) The Federal budget will register a surplus of $583,000,000,000 over fiscal years 1998 through 2003, offering a unique opportunity to begin a permanent solution to social security's financing.

(8) Using the Federal budget surplus to fund personal retirement accounts would be an important first step in comprehensive social security reform and ensuring the delivery of promised retirement benefits.

SEC. 3. SAVE SOCIAL SECURITY FIRST TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the “Save Social Security First Trust Fund” (in this section referred to as the “Trust Fund”), consisting of such amounts as are appropriated or credited to the Trust Fund as provided in this section.

(b) APPROPRIATION TO TRUST FUND.—There is appropriated to the Trust Fund, out of any sums in the Treasury not otherwise appropriated, an amount equal to $31,500,000,000 for fiscal year 1998 and $40,000,000,000 for fiscal year 1999. The Secretary of the Treasury shall transfer such amounts to the Trust Fund not later than—

(1) September 30, 1998, in the case of the amount appropriated for fiscal year 1998; and

(2) September 30, 1999, in the case of the amount appropriated for fiscal year 1999.

(c) INVESTMENT OF TRUST FUND.—The Secretary of the Treasury shall invest the Trust Fund in public debt securities with suitable maturities and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Trust Fund.

(d) LIMITATION ON USE OF TRUST FUND.—Amounts in the Trust Fund shall not be appropriated or used for any purpose other than to be transferred to the Personal Retirement Savings Fund established under section 112 of the Social Security Act in accordance with section 111(b)(1) of such Act.

(e) DISSOLUTION OF TRUST FUND.—On the date of the transfer of all amounts in the Trust Fund to the Personal Retirement Savings Fund in accordance with section 111(b)(1) of the Social Security Act, the Trust Fund established under this section shall be dissolved.

SEC. 4. ESTABLISHMENT OF PERSONAL RETIREMENT ACCOUNTS PROGRAM.

The Social Security Act (42 U.S.C. 301 et seq.) is amended—

(1) by redesignating title I as title VI; and

(2) by inserting before title II the following:

“TITLE I—PERSONAL RETIREMENT ACCOUNTS PROGRAM

“Subtitle A—Management of the Personal Retirement Accounts Program

“SEC. 101. PERSONAL RETIREMENT ACCOUNTS BOARD.

“(a) ESTABLISHMENT.—There is established in the Executive Branch of the Government a Personal Retirement Accounts Board (in this title referred to as the ‘Board’).

“(b) COMPOSITION.—The Board shall be composed of—

“(1) 3 members appointed by the President, of whom 1 shall be designated by the President as Chairman; and

“(2) 2 members appointed by the President, of whom—

“(A) 1 shall be appointed by the President after taking into consideration the recommendation made by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives; and

“(B) 1 shall be appointed by the President after taking into consideration the recommendation made by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate.

“(c) ADVICE AND CONSENT.—Appointments under subsection (b) shall be made by and with the advice and consent of the Senate.

“(d) MEMBERSHIP REQUIREMENTS.—Members of the Board shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

“(e) LENGTH OF APPOINTMENTS.—

“(1) TERMS.—A member of the Board shall be appointed for a term of 4 years, except that of the members first appointed under subsection (b)—

“(A) the Chairman shall be appointed for a term of 4 years;

“(B) the members appointed under subsection (b)(2) shall be appointed for terms of 3 years; and

“(C) the remaining members shall be appointed for terms of 2 years.

“(2) VACANCIES.—

“(A) IN GENERAL.—A vacancy on the Board shall be filled in the manner in which the original appointment was made and shall be subject to any conditions that applied with respect to the original appointment.

“(B) COMPLETION OF TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

“(3) EXPIRATION.—The term of any member shall not expire before the date on which the member's successor takes office.

“(f) DUTIES.—The Board shall—

“(1) administer the program established under this title;

“(2) establish policies for the investment and management of the Personal Retirement Savings Fund, including policies applicable to the outside entities and qualified professional asset managers with responsibility for managing the investment options described in section 121(b), that shall provide for—

“(A) prudent investments suitable for accumulating funds for payment of retirement income; and

“(B) low administrative costs.

“(3) review the performance of investments made for the Personal Retirement Savings Fund;

“(4) review and approve the budget of the Board; and

“(5) comply with the provisions of subtitle D.

“(g) ADMINISTRATIVE PROVISIONS.—

“(1) IN GENERAL.—The Board may—

“(A) adopt, alter, and use a seal;

“(B) except as provided in paragraph (2), direct the Executive Director to take such action as the Board considers appropriate to carry out the provisions of this title and the policies of the Board;

“(C) upon the concurring votes of 4 members, remove the Executive Director from office for good cause shown; and

“(D) take such other actions as may be necessary to carry out the functions of the Board.

“(2) MEETINGS.—The Board shall meet—

“(A) not less than once during each month; and

“(B) at additional times at the call of the Chairman.

“(3) EXERCISE OF POWERS.—

“(A) IN GENERAL.—Except as provided in paragraph (1)(C) and section 102(a)(1), the Board shall perform the functions and exercise the powers of the Board on a majority vote of a quorum of the Board. Three members of the Board shall constitute a quorum for the transaction of business.

“(B) VACANCIES.—A vacancy on the Board shall not impair the authority of a quorum of the Board to perform the functions and exercise the powers of the Board.

“(4) LIMITATION ON INVESTMENTS.—Except in the case of investments required by section 121 to be invested in securities of the Government, the Board may not direct the Executive Director to invest or to cause to be invested any sums in the Personal Retirement Savings Fund in a specific asset or to dispose of or cause to be disposed of any specific asset of such Fund.

“(h) COMPENSATION.—

“(1) IN GENERAL.—Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which such member is engaged in performing a function of the Board.

"(2) EXPENSES.—A member of the Board shall be paid travel, per diem, and other necessary expenses under subchapter I of chapter 57 of title 5, United States Code, while traveling away from such member's home or regular place of business in the performance of the duties of the Board.

"(3) SOURCE OF FUNDS.—Payments authorized under this subsection shall be paid from the Personal Retirement Savings Fund.

"(i) DISCHARGE OF RESPONSIBILITIES.—The members of the Board shall discharge their responsibilities solely in the interest of account holders and beneficiaries under this title.

"(j) ANNUAL INDEPENDENT AUDIT.—The Board shall annually engage an independent qualified public accountant to audit the activities of the Board.

"(k) SUBMISSION OF BUDGET TO CONGRESS.—The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall be included as a separate item in the budget required to be transmitted to Congress under section 1105 of title 31, United States Code.

"(l) SUBMISSION OF LEGISLATIVE RECOMMENDATIONS.—The Board may submit to the President, and, at the same time, shall submit to each House of Congress, any legislative recommendations of the Board relating to any of its functions under this title or any other provision of law.

"SEC. 102. EXECUTIVE DIRECTOR.

"(a) APPOINTMENT OF EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Board shall appoint, without regard to the provisions of law governing appointments in the competitive service, an Executive Director by action agreed to by a majority of the members of the Board.

"(2) REQUIREMENTS.—The Executive Director shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

"(b) DUTIES.—The Executive Director shall—

"(1) carry out the policies established by the Board;

"(2) invest and manage the Personal Retirement Savings Fund in accordance with the investment policies and other policies established by the Board;

"(3) purchase annuity contracts and provide for the payment of benefits under this title;

"(4) administer the provisions of this title; and

"(5) prescribe such regulations (other than regulations relating to fiduciary responsibilities) as may be necessary for the administration of this title.

"(c) ADMINISTRATIVE AUTHORITY.—The Executive Director may—

"(1) prescribe such regulations as may be necessary to carry out the responsibilities of the Executive Director under this section, other than regulations relating to fiduciary responsibilities;

"(2) appoint such personnel as may be necessary to carry out the provisions of this title;

"(3) subject to approval by the Board, procure the services of experts and consultants under section 3109 of title 5, United States Code;

"(4) secure directly from an Executive agency, the United States Postal Service, or the Postal Rate Commission any information necessary to carry out the provisions of this title and the policies of the Board;

"(5) make such payments out of sums in the Personal Retirement Savings Fund as the Executive Director determines are necessary to carry out the provisions of this title and the policies of the Board;

"(6) pay the compensation, per diem, and travel expenses of individuals appointed under paragraphs (2), (3), and (7) from the Personal Retirement Savings Fund;

"(7) accept and use the services of individuals employed intermittently in the Government service and reimburse such individuals for travel expenses, as authorized by section 5703 of title 5, United States Code, including per diem as authorized by section 5702 of such title;

"(8) except as otherwise expressly prohibited by law or the policies of the Board, delegate any of the Executive Director's functions to such employees under the Board as the Executive Director may designate and authorize such successive redelegations of such functions to such employees under the Board as the Executive Director may consider to be necessary or appropriate; and

"(9) take such other actions as are appropriate to carry out the functions of the Executive Director.

"Subtitle B—Establishment of Personal Retirement Savings Fund; Personal Retirement Accounts

"SEC. 111. APPROPRIATIONS; ANNUAL TRANSFERS TO THE PERSONAL RETIREMENT SAVINGS FUND.

"(a) APPROPRIATIONS.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for the purpose of making the transfers required under subsection (b)—

"(1) for fiscal year 2000, $40,000,000,000;

"(2) for fiscal year 2001, $43,000,000,000;

"(3) for fiscal year 2002, $70,000,000,000; and

"(4) for fiscal year 2003, $68,000,000,000.

"(b) TRANSFERS TO THE PERSONAL RETIREMENT SAVINGS FUND.—

"(1) TRANSFER OF AMOUNTS IN THE SAVE SOCIAL SECURITY FIRST TRUST FUND.—Not later than October 1, 1999, the Secretary of the Treasury shall transfer the obligations held by the Secretary for the Save Social Security First Trust Fund established under section 3 of the Personal Retirement Accounts Act of 1998, and the amount standing to the credit of such Trust Fund on the books of the Treasury on such date to the Personal Retirement Savings Fund established under section 112.

"(2) TRANSFER OF APPROPRIATED AMOUNTS.—With respect to a fiscal year for which an amount is appropriated under subsection (a), the Secretary of the Treasury shall transfer to the Personal Retirement Savings Fund established under section 112 the amount appropriated under subsection (a) for that fiscal year not later than—

"(A) September 30, 2000, in the case of the amount appropriated under such subsection for fiscal year 2000;

"(B) September 30, 2001, in the case of the amount appropriated under such subsection for fiscal year 2001;

"(C) September 30, 2002, in the case of the amount appropriated under such subsection for fiscal year 2002; and

"(D) September 30, 2003, in the case of the amount appropriated under such subsection for fiscal year 2003.

"SEC. 112. PERSONAL RETIREMENT SAVINGS FUND.

"(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a Personal Retirement Savings Fund, consisting of all amounts deposited by the Secretary of the Treasury in accordance with section 111(b), increased by the total net earnings from investments of sums in the Personal Retirement Savings Fund or reduced by the total net losses from investments of the Fund, and reduced by the total amount of payments made from the Fund (including payments for administrative expenses).

"(b) AVAILABILITY.—The sums in the Personal Retirement Savings Fund are appropriated and shall remain available without fiscal year limitation—

"(1) to invest under section 121;

"(2) to pay benefits or purchase annuity contracts under this title;

"(3) to pay the administrative expenses of the Board;

"(4) to make distributions in accordance with sections 123 and 124; and

"(5) to purchase insurance as provided in section 134(b)(2).

"(c) LIMITATIONS ON USE OF FUNDS.—

"(1) IN GENERAL.—Sums in the Personal Retirement Savings Fund credited to the account of an individual may not be used for, or diverted to, purposes other than for the exclusive benefit of the account holder or the account holder's beneficiaries under this title.

"(2) ASSIGNMENTS.—Except as provided in paragraph (3), sums in the Personal Retirement Savings Fund may not be assigned or alienated and are not subject to execution, levy, attachment, garnishment, or other legal process.

"(3) SUPPORT OBLIGATIONS.—Moneys due or payable from the Personal Retirement Savings Fund to any account holder shall be subject to legal process for the enforcement of the account holder's legal obligations to provide child support or make alimony payments as provided in section 459 or for the enforcement of a court order or other similar process in the nature of a garnishment for the enforcement of a judgment rendered against the account holder for physically, sexually, or emotionally abusing a child.

"(d) PAYMENT OF ADMINISTRATIVE EXPENSES.—Administrative expenses incurred to carry out this title shall be paid out of net earnings in the Personal Retirement Savings Fund in conjunction with the allocation of investment earnings and losses under section 122(a)(2).

"(e) LIMITATION.—The sums in the Personal Retirement Savings Fund shall not be appropriated for any purpose other than the purposes specified in this section and may not be used for any other purpose.

"(f) FUNDS HELD IN TRUST.—All sums transferred to the Personal Retirement Savings Fund for the benefit of individuals eligible for personal retirement accounts, and all net earnings in such Fund attributable to investment of such sums, are held in such Fund in trust for such individuals.

"SEC. 113. PERSONAL RETIREMENT ACCOUNTS.

"(a) ESTABLISHMENT OF INDIVIDUAL ACCOUNTS.—

"(1) FISCAL YEAR 2000.—Not later than October 1, 1999, the Executive Director shall establish and maintain a personal retirement savings account for any individual who has worked 4 qualifying quarters of coverage, as determined under title II, in calendar year 1998.

"(2) SUBSEQUENT FISCAL YEARS.—Not later than October 1 of each fiscal year beginning after fiscal year 2000, the Executive Director shall establish and maintain a personal retirement savings account for any individual who has worked 4 qualifying quarters of coverage, as determined under title II, in the calendar year ending on December 31 of the preceding fiscal year and for whom the Executive Director has not previously established an account.

"(b) ALLOCATION OF FUNDS TO ACCOUNTS.—Beginning on October 1, 1999, and annually thereafter, the Executive Director shall allocate to each personal retirement savings account maintained on such date for the benefit of an individual who has worked 4 qualifying quarters of coverage, as determined under title II, in the calendar year ending on December 31 of the preceding fiscal year the amount determined under subsection (c).

"(c) AMOUNT DETERMINED.—

"(1) IN GENERAL.—For any fiscal year, the amount determined under this subsection is equal to the sum of—

"(A) $250, plus

"(B) the amount determined under paragraph (2) (if any).

"(2) PRO RATA SHARE OF REMAINDER.—For any fiscal year, the amount determined under this paragraph with respect to the account of each individual maintained on October 1 of such fiscal year is equal to the product of—

"(A) the remainder of the Fund Balance for such fiscal year, determined after the application of paragraph (1)(A); and

"(B) the ratio determined under paragraph (3).

"(3) RATIO DETERMINED.—The ratio determined under this paragraph is the ratio, expressed as a percentage, of—

"(A) the excess of—

"(i) the sum of—

"(I) the total tax imposed on the individual's wages under section 3101(a) of the Internal Revenue Code of 1986 (relating to taxes on employees) for the taxable year ending in the preceding fiscal year, plus

"(II) 50 percent of the total tax imposed on the individual's self-employment income under section 1401(a) of such Code (relating to tax on self-employment income) for such taxable year, over

"(ii) $250; to

"(B) the total amount of such excess for all such individuals for such fiscal year.

"(4) DEFINITION OF FUND BALANCE.—In this subsection, the term 'Fund balance' means the net earnings and net losses from the investment of the sums transferred to the Personal Retirement Savings Fund in accordance with section 111(b), reduced by the appropriate share of the administrative expenses paid out of the net earnings under section 112(d), as determined by the Executive Director.

"Subtitle C—Investment and Administration of Personal Retirement Accounts

"SEC. 121. INVESTMENT OF PERSONAL RETIREMENT ACCOUNTS.

"(a) DEFINITIONS.—In this section—

"(1) the term 'Common Stock Index Investment Fund' means the Common Stock Index Investment Fund established under subsection (b)(1)(C);

"(2) the term 'equity capital' means common and preferred stock, surplus, undivided profits, contingency reserves, and other capital reserves;

"(3) the term 'Fixed Income Investment Fund' means the Fixed Income Investment Fund established under subsection (b)(1)(B);

"(4) the term 'Government Securities Investment Fund' means the Government Securities Investment Fund established under subsection (b)(1)(A);

"(5) the term 'net worth' means capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves;

"(6) the term "plan" means an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3));

"(7) the term 'qualified professional asset manager' means—

"(A) a bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(2)) which—

"(i) has the power to manage, acquire, or dispose of assets of a plan; and

"(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, equity capital in excess of $1,000,000;

"(B) a savings and loan association, the accounts of which are insured by the Federal Deposit Insurance Corporation, which—

"(i) has applied for and been granted trust powers to manage, acquire, or dispose of assets of a plan by a State or Government authority having supervision over savings and loan associations; and

"(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, equity capital or net worth in excess of $1,000,000;

"(C) an insurance company which—

"(i) is qualified under the laws of more than 1 State to manage, acquire, or dispose of any assets of a plan;

"(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of $1,000,000; and

"(iii) is subject to supervision and examination by a State authority having supervision over insurance companies; or

"(D) an investment adviser registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) if the investment adviser has, on the last day of its latest fiscal year ending before the date of a determination for the purpose of this subparagraph, total client assets under its management and control in excess of $50,000,000, and—

"(i) the investment adviser has, on such day, shareholder's or partner's equity in excess of $750,000; or

"(ii) payment of all of the investment adviser's liabilities, including any liabilities which may arise by reason of a breach or violation of a duty described in section 131, is unconditionally guaranteed by—

"(I) a person (as defined in paragraph (9)) who directly or indirectly, through 1 or more intermediaries, controls, is controlled by, or is under common control with the investment adviser and who has, on the last day of the person's latest fiscal year ending before the date of a determination for the purpose of this clause, shareholder's or partner's equity in an amount which, when added to the amount of the shareholder's or partner's equity of the investment adviser on such day, exceeds $750,000;

"(II) a qualified professional asset manager described in subparagraph (A), (B), or (C); or

"(III) a broker or dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) that has, on the last day of the broker's or dealer's latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of $750,000;

"(8) the term 'shareholder's or partner's equity', as used in paragraph (7)(D) with respect to an investment adviser or a person (as defined in paragraph (9)) who is affiliated with the investment adviser in a manner described in clause (ii)(I) of such paragraph, means the equity shown in the most recent balance sheet prepared for such investment adviser or affiliated person, in accordance with generally accepted accounting principles, within 2 years before the date on which the investment adviser's status as a qualified professional asset manager is determined for the purposes of this section; and

"(9) the term 'person' means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or labor organization.

"(b) ESTABLISHMENT OF INVESTMENT OPTIONS.—

"(1) INITIAL FUNDS.—The Board shall establish—

"(A) a Government Securities Investment Fund under which sums in the Personal Retirement Savings Fund are invested in securities of the United States Government issued as provided in subsection (e);

"(B) a Fixed Income Investment Fund under which sums in the Personal Retirement Savings Fund are invested in—

"(i) insurance contracts;

"(ii) certificates of deposits; or

"(iii) other instruments or obligations selected by qualified professional asset managers,

that return the amount invested and pay interest, at a specified rate or rates, on that amount during a specified period of time;

"(C) a Common Stock Index Investment Fund as provided in paragraph (3);

"(2) ADDITIONAL FUNDS.—The Board may approve diversified, indexed funds that are not described in paragraph (1) and that meet such other criteria as the Board may establish for inclusion among the investment choices offered to account holders under this title.

"(3) COMMON STOCK FUND REQUIREMENTS.—

"(A) SELECTION OF INDEX.—The Board shall select an index which is a commonly recognized index comprised of common stock the aggregate market value of which is a reasonably complete representation of the United States equity markets.

"(B) INVESTMENT IN PORTFOLIO.—The Common Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index selected under subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the Common Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

"(c) INVESTMENT OF FUND.—

"(1) IN GENERAL.—The Executive Director shall invest the sums available in the Personal Retirement Savings Fund for investment as provided in elections made under subsection (d).

"(2) INVESTMENT IF NO ELECTION.—If an election has not been made with respect to any sums in the Personal Retirement Savings Fund available for investment, the Executive Director shall invest such sums in the Government Securities Investment Fund.

"(d) ELECTION OF INVESTMENTS.—

"(1) TWICE YEARLY.—At least twice each year, an account holder may elect the investment funds referred to in subsection (b) into which the sums in the Personal Retirement Savings Fund credited to such individual's account are to be invested or reinvested.

"(2) Regulations.—An election may be made under paragraph (1) only in accordance with regulations prescribed by the Executive Director and within such period as the Executive Director shall provide in such regulations.

"(e) Government Securities Investment Fund.—

"(1) Authorization to issue certain obligations.—The Secretary of the Treasury is authorized to issue special interest-bearing obligations of the United States for purchase by the Personal Retirement Savings Fund for the Government Securities Investment Fund.

"(2) Requirements.—

"(A) In general.—Obligations issued for the purpose of this subsection shall have maturities fixed with due regard to the needs of such Fund as determined by the Executive Director, and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue of such obligations) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable earlier than 4 years after the end of such calendar month.

"(B) Rounding.—Any average market yield computed under subparagraph (A) which is not a multiple of ⅛ of 1 percent, shall be rounded to the nearest multiple of ⅛ of 1 percent.

"(f) Limitation on Voting Rights.—The Board, other Government agencies, the Executive Director, and an account holder may not exercise voting rights associated with the ownership of securities by the Personal Retirement Savings Fund.

"SEC. 122. ACCOUNTING AND INFORMATION.

"(a) Balance of Personal Retirement Accounts.—

"(1) In general.—The balance in an individual's account established under section 113 at any time is the excess of—

"(A) the sum of—

"(i) all allocations made to the account under section 113(b); and

"(ii) the total amount of the allocations made to and reductions made in the account pursuant to paragraph (2), over

"(B) the amounts paid out of the Personal Retirement Savings Fund with respect to such individual.

"(2) Allocation of investment earnings and losses.—Pursuant to regulations prescribed by the Executive Director, the Executive Director shall allocate to each account an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in the Personal Retirement Savings Fund attributable to sums credited to such account, reduced by an appropriate share of the administrative expenses paid out of the net earnings under section 112(d), as determined by the Executive Director.

"(b) Annual, Independent Audits.—

"(1) Definition.—In this subsection, the term 'qualified public accountant' shall have the same meaning as provided in section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)).

"(2) Independent accountant.—The Executive Director shall annually engage, on behalf of all account holders under this title, an independent qualified public accountant, who shall conduct an examination of all accounts and other books and records maintained in the administration of this title as the public accountant considers necessary to enable the public accountant to make the determination required by paragraph (3). The examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the accounts, books, and records as the public accountant considers necessary.

"(3) Determination required.—The public accountant conducting an examination under paragraph (2) shall determine whether the accounts, books, and records referred to in such paragraph have been maintained in conformity with generally accepted accounting principles applied on a basis consistent with the manner in which such principles were applied during the examination conducted under such paragraph during the preceding year. The public accountant shall transmit to the Board a report on his examination, including his determination under this paragraph.

"(4) Reliance on actuarial matter.—In making a determination under paragraph (3), a public accountant may rely on the correctness of any actuarial matter certified by an enrolled actuary if the public accountant states his reliance in the report transmitted to the Board under such paragraph.

"(c) Statements.—

"(1) In general.—The Board shall prescribe regulations under which each account holder under this title shall be furnished with—

"(A) a periodic statement relating to the individual's account; and

"(B) a summary description of the investment options under section 121 covering, and an evaluation of, each such option the 5-year period preceding the date as of which such evaluation is made.

"(2) Timing.—Information under this subsection shall be provided at least 30 calendar days before the beginning of each election period under section 121(d), and in a manner designed to facilitate informed decisionmaking with respect to elections under section 121.

"(d) Acknowledgement.—Each account holder who elects to invest in the Common Stock Index Investment Fund, the Fixed Income Investment Fund, or any other Fund designated by the Board shall sign an acknowledgement prescribed by the Executive Director which states that the account holder understands that an investment in such Fund is made at the account holder's risk, that the account holder is not protected by the Government against any loss on such investment, and that a return on such investment is not guaranteed by the Government.

"SEC. 123. DISTRIBUTION OF BENEFITS.

"(a) Timing of Distributions.—Notwithstanding any other provision of law, distributions may only be made from a personal retirement savings account of an individual on or after the earlier of the date on which the individual begins receiving old-age benefits under title II or the date of the individual's death.

"(b) Form of Distribution.—

"(1) In general.—Subject to section 125, an individual is entitled and may elect to withdraw from the Personal Retirement Savings Fund the balance of the individual's personal retirement savings account as—

"(A) an annuity; or

"(B) substantially equal payments to be made over a period not greater than the life expectancy of the individual or the joint life expectancies of the individual and the individual's designated beneficiary.

"(2) Lump-sum required for minimum amounts.—Notwithstanding paragraph (1), if the balance in an individual's personal retirement savings account is below such minimum amount as the Board, by regulation, shall establish, the account shall be distributed in a single lump-sum payment.

"(c) Change of Election of Distribution.—

"(1) In general.—Subject to paragraph (2) and subsections (a) and (c) of section 125, an account holder may change an election previously made under this section.

"(2) Limitation.—An account holder may not change an election under this section on or after the date on which a payment is made in accordance with such election or, in the case of an election to receive an annuity, the date on which an annuity contract is purchased to provide for the annuity elected by the account holder.

"(d) Rules if No Election.—If an account holder dies without having made an election under this section or after having elected an annuity under this section but before making an election under section 124, an amount equal to the value of that individual's account (as of death) shall, subject to any decree, order, or agreement referred to in section 125(c)(2), be paid in a manner consistent with section 126(b).

"SEC. 124. ANNUITIES: METHODS OF PAYMENT; ELECTION; PURCHASE.

"(a) Methods of Payment.—

"(1) In general.—The Board shall prescribe methods of payment of annuities under this title.

"(2) Requirements.—The methods of payment prescribed under paragraph (1) shall include—

"(A) a method that provides for the payment of a monthly annuity only to an annuitant during the life of the annuitant;

"(B) a method that provides for the payment of a monthly annuity to an annuitant for the joint lives of the annuitant and the spouse of the annuitant and an appropriate monthly annuity to the one of them who survives the other of them for the life of the survivor;

"(C) a method described in subparagraph (A) that provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any 1 year shall not be less than the amount payable in the previous year;

"(D) a method described in subparagraph (B) that provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any 1 year shall not be less than the amount payable in the previous year; and

"(E) a method which provides for the payment of a monthly annuity—

"(i) to the annuitant for the joint lives of the annuitant and an individual who is designated by the annuitant under regulations prescribed by the Executive Director and—

"(I) is a former spouse of the annuitant; or

"(II) has an insurable interest in the annuitant; and

"(ii) to the one of them who survives the other of them for the life of the survivor.

"(b) Timing.—Subject to section 125(b), under such regulations as the Executive Director shall prescribe, an account holder who elects under section 123 to receive an annuity under this title shall elect, on or before the date on which an annuity contract is purchased to provide for that annuity, one of the methods of payment prescribed under subsection (a).

"(c) Elimination of Methods.—Notwithstanding the elimination of a method of payment by the Board, an account holder may elect the eliminated method if the elimination of such method becomes effective less than 5 years before the date on which that account holder's annuity commences.

"(d) Purchase Requirements.—

"(1) Timing.—Not earlier than 90 days (or such shorter period as the Executive Director may by regulation prescribe) before an annuity is to commence under this title, the Executive Director shall expend the balance in the annuitant's account to purchase an annuity contract from any entity which, in the normal course of its business, sells and provides annuities.

"(2) Compliance with program requirements.—The Executive Director shall ensure, by contract entered into with each entity from which an annuity contract is purchased under paragraph (1), that the annuity shall be provided in accordance with the provisions of this title.

"(3) Additional terms and conditions.—An annuity contract purchased under paragraph (1) shall include such terms and conditions as the Executive Director requires for the protection of the annuitant.

"(4) Bonding requirements.—The Executive Director shall require, from each entity from which an annuity contract is purchased under paragraph (1), a bond or proof of financial responsibility sufficient to protect the annuitant.

"(e) Nonapplication of State Tax.—

"(1) In general.—No tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any amount paid to purchase an annuity contract under this section.

"(2) Rule of construction.—Paragraph (1) shall not be construed to exempt any company or other entity issuing an annuity contract under this section from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that entity from the sale of an annuity contract under this section if that tax, fee, or payment is applicable to a broad range of business activity.

"SEC. 125. PROTECTIONS FOR SPOUSES AND FORMER SPOUSES.

"(a) Limitation on Withdrawals.—

"(1) Application of requirements.—

"(A) In general.—A married account holder may withdraw all or part of a personal retirement savings account under section 123 or change a withdrawal election only if the account holder satisfies the requirements of subparagraph (B).

"(B) Joint written waiver.—An account holder may make an election or change referred to in subparagraph (A) if the account holder and the account holder's spouse jointly waive, by written election, any right that the spouse may have to a survivor annuity with respect to such account holder under section 124 or subsection (b).

"(2) Exception.—Paragraph (1) shall not apply to an election or change of election by an account holder who establishes to the satisfaction of the Executive Director (at the time of the election or change and in accordance with regulations prescribed by the Executive Director)—

"(A) that the spouse's whereabouts cannot be determined; or

"(B) that, due to exceptional circumstances, requiring the spouse's waiver would otherwise be inappropriate.

"(b) Method of Annuity.—

"(1) Survivor annuities.—Notwithstanding any election under section 124(b), the method described in section 124(a)(2)(B) (or, if more than one form of such method is available, the form that the Board determines to be the one that for a surviving spouse a survivor annuity most closely approximating the annuity of a surviving spouse under section 8442 of title 5, United States Code) shall be deemed the applicable method under section 124(b) in the case of an account holder who is married on the date on which an annuity contract is purchased to provide for the account holder's annuity under this title.

"(2) Exceptions.—Paragraph (1) shall not apply if—

"(A) a joint waiver of such method is made, in writing, by the account holder and the spouse; or

"(B) the account holder waives such method, in writing, after establishing to the satisfaction of the Executive Director that circumstances described under subparagraph (A) or (B) of subsection (a)(2) make the requirement of a joint waiver inappropriate.

"(c) Nonapplication of Election.—

"(1) In general.—An election or change of election shall not be effective under this title to the extent that the election, change, or transfer conflicts with any court decree, order, or agreement described in paragraph (2).

"(2) Court decree, order, or agreement described.—A court decree, order, or agreement described in this paragraph is, with respect to an account holder, a court decree of divorce, annulment, or legal separation issued in the case of such account holder and any former spouse of the account holder or any court order or court-approved property settlement agreement incident to such decree if—

"(A) the decree, order, or agreement expressly relates to any portion of the balance in the individual's personal retirement savings account; and

"(B) notice of the decree, order, or agreement was received by the Executive Director before—

"(i) the date on which payment is made, or

"(ii) in the case of an annuity, the date on which an annuity contract is purchased to provide for the annuity,

in accordance with the election, change, or contribution referred to in paragraph (1).

"(3) 2 or more cases.—The Executive Director shall prescribe regulations under which this subsection shall be applied in any case in which the Executive Director receives 2 or more decrees, orders, or agreements referred to in paragraph (1).

"(d) Procedures for Waivers.—Waivers and notifications required by this section and waivers of the requirements for such waivers and notifications (as authorized by this section) may be made only in accordance with procedures prescribed by the Executive Director.

"(e) Nonapplication.—None of the provisions of this section requiring notification to, or the consent or waiver of, a spouse or former spouse of an account holder shall apply in any case in which the account balance of the individual is equal to or less than such amount as the Board, by regulation, shall prescribe.

"SEC. 126. DESIGNATION OF BENEFICIARY; ORDER OF PRECEDENCE.

"(a) Designation of Beneficiaries.—Under regulations prescribed by the Board, an account holder may designate 1 or more beneficiaries under this section.

"(b) Payments.—

"(1) In general.—Benefits authorized to be paid to an account holder to individuals surviving the account holder and alive at the time of distribution shall be made according to the following:

"(A) First, to the beneficiary or beneficiaries designated by the account holder in a signed and witnessed writing received by the Executive Director before the death of such account holder. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

"(B) Second, if there is no designated beneficiary, to the widow or widower of the account holder.

"(C) Third, if none of the above, to the child or children of the account holder and descendants of deceased children by representation.

"(D) Fourth, if none of the above, to the parents of the account holder or the survivor of them.

"(E) Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the account holder.

"(F) Sixth, if none of the above, to such other next of kin of the account holder as the Board determines to be entitled under the laws of the domicile of the account holder at the date of death of the account holder.

"(2) Bar on other recoveries.—A payment made in accordance with paragraph (1) shall bar any other recovery by—

"(A) the individual receiving the payment; and

"(B) any other individual.

"(3) Definition of child.—In this section, the term 'child' includes a natural child and an adopted child, but does not include a stepchild.

"(c) Termination of an Annuity.—Any annuity accrued and unpaid on the termination, except by death, of the annuity of an annuitant or survivor shall be paid to that individual. Annuity accrued and unpaid on the death of a survivor shall be paid in the following order of precedence, and the payment bars recovery by any other person:

"(1) First, to the duly appointed executor or administrator of the estate of the survivor.

"(2) Second, if there is no executor or administrator, payment may be made, after 30 days from the date of death of the survivor, to such next of kin of the survivor as the Board determines to be entitled under the laws of the domicile of the survivor at the date of death.

"SEC. 127. TAX TREATMENT OF THE PERSONAL RETIREMENT SAVINGS FUND.

"For purposes of the Internal Revenue Code of 1986—

"(1) the Personal Retirement Savings Fund shall be treated as a trust described in section 401(a) of such Code that is exempt from taxation under section 501(a) of such Code;

"(2) any contribution to, or distribution from, such Fund shall be treated in the same manner as contributions to or distributions from such a trust; and

"(3) allocations made to an account holder's personal retirement savings account shall not be treated as distributed or made available to the account holder.

"SEC. 128. ADMINISTRATIVE PROVISIONS.

"(a) Duty of Executive Director.—The Executive Director shall make or provide for payments and transfers in accordance with an election of an account holder under section 123 or 124(b) or, if applicable, in accordance with section 125.

"(b) Written Requirements.—Any election, change of election, or modification of a deferred annuity commencement date made under this title shall be in writing and shall be filed with the Executive Director in accordance with regulations prescribed by the Executive Director.

"Subtitle D—Beneficiary Protections

"SEC. 131. FIDUCIARY RESPONSIBILITIES; LIABILITY AND PENALTIES.

"(a) DEFINITIONS.—For the purposes of this section—

"(1) the term 'account' is not limited to the personal retirement savings account established for an individual under section 113;

"(2) the term 'adequate consideration' means—

"(A) in the case of a security for which there is a generally recognized market—

"(i) the price of the security prevailing on a national securities exchange that is registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

"(ii) if the security is not traded on such a national securities exchange, a price not less favorable to the Personal Retirement Savings Fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of any party in interest; and

"(B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary of Labor;

"(3) the term 'fiduciary' means—

"(A) a member of the Board;

"(B) the Executive Director;

"(C) any person who has or exercises discretionary authority or discretionary control over the management or disposition of the assets of the Personal Retirement Savings Fund; and

"(D) any person who, with respect to the Personal Retirement Savings Fund, is described in section 3(21)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(21)(A)); and

"(4) the term 'party in interest' includes—

"(A) any fiduciary;

"(B) any counsel to a person who is a fiduciary, with respect to the actions of such person as a fiduciary;

"(C) any individual for which a personal retirement account is established under section 113;

"(D) any person providing services to the Board and, with respect to the actions of the Executive Director as a fiduciary, any person providing services to the Executive Director;

"(E) a spouse, sibling, ancestor, lineal descendant, or spouse of a lineal descendant of a person described in subparagraph (A), (B), or (D);

"(F) a corporation, partnership, or trust or estate of which, or in which, at least 50 percent of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation;

"(ii) the capital interest or profits interest of such partnership; or

"(iii) the beneficial interest of such trust or estate;

is owned directly or indirectly, or held by a person described in subparagraph (A), (B), or (D);

"(G) an official (including a director) of, or an individual employed by, a person described in subparagraph (A), (B), (D), or (F), or an individual having powers or responsibilities similar to those of such an official;

"(H) a holder (directly or indirectly) of at least 10 percent of the shares in a person described in any subparagraph referred to in subparagraph (G); and

"(I) a person who, directly or indirectly, is at least a 10 percent partner or joint venturer (measured in capital or profits) in a person described in any subparagraph referred to in subparagraph (G).

"(b) DISCHARGE OF RESPONSIBILITIES.—

"(1) IN GENERAL.—To the extent not inconsistent with the provisions of this title and the policies prescribed by the Board, a fiduciary shall discharge his or her responsibilities with respect to the Personal Retirement Savings Fund or any applicable portion thereof solely in the interest of the account holders and beneficiaries of such Fund and—

"(A) for the exclusive purpose of—

"(i) providing benefits to such account holders and beneficiaries; and

"(ii) defraying reasonable expenses of administering the Personal Retirement Savings Fund or applicable portions thereof;

"(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like objectives; and

"(C) to the extent permitted by section 121, by diversifying the investments of the Personal Retirement Savings Fund or applicable portions thereof so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

"(2) LIMITATION ON OWNERSHIP.—No fiduciary may maintain the indicia of ownership of any assets of the Personal Retirement Savings Fund outside the jurisdiction of the district courts of the United States.

"(c) LIMITATIONS ON TRANSACTIONS.—

"(1) PROHIBITED TRANSACTIONS.—A fiduciary shall not permit the Personal Retirement Savings Fund to engage in any of the following transactions, except in exchange for adequate consideration:

"(A) A transfer of any assets of the Personal Retirement Savings Fund to any person the fiduciary knows or should know to be a party in interest or the use of such assets by any such person.

"(B) An acquisition of any property from or sale of any property to the Personal Retirement Savings Fund by any person the fiduciary knows or should know to be a party in interest.

"(C) A transfer or exchange of services between the Personal Retirement Savings Fund and any person the fiduciary knows or should know to be a party in interest.

"(2) OTHER PROHIBITIONS.—Notwithstanding paragraph (1), a fiduciary with respect to the Personal Retirement Savings Fund shall not—

"(A) deal with any assets of the Personal Retirement Savings Fund in his or her own interest or for his or her own account;

"(B) act, in an individual capacity or any other capacity, in any transaction involving the Personal Retirement Savings Fund on behalf of a party, or representing a party, whose interests are adverse to the interests of the Personal Retirement Savings Fund or the interests of the account holders and beneficiaries of such Fund; or

"(C) receive any consideration for his or her own personal account from any party dealing with sums credited to the Personal Retirement Savings Fund in connection with a transaction involving assets of the Personal Retirement Savings Fund.

"(3) EXEMPTION BY THE SECRETARY OF LABOR.—

"(A) IN GENERAL.—The Secretary of Labor may, in accordance with procedures which the Secretary shall by regulation prescribe, grant a conditional or unconditional exemption of any fiduciary or transaction, or class of fiduciaries or transactions, from all or part of the restrictions imposed by paragraph (2).

"(B) NONAPPLICATION TO OTHER APPLICABLE PROVISIONS.—An exemption granted under this paragraph shall not relieve a fiduciary from any other applicable provision of this title.

"(C) REQUIREMENTS.—The Secretary of Labor may not grant an exemption under this paragraph unless the Secretary finds that such exemption is—

"(i) administratively feasible;

"(ii) in the interests of the Personal Retirement Savings Fund and of the account holders and beneficiaries of such Fund; and

"(iii) protective of the rights of such account holders and beneficiaries.

"(D) NOTICE.—An exemption under this paragraph may not be granted unless—

"(i) notice of the proposed exemption is published in the Federal Register;

"(ii) interested persons are given an opportunity to present views; and

"(iii) the Secretary of Labor affords an opportunity for a hearing and makes a determination on the record with respect to the respective requirements of clauses (i), (ii), and (iii) of subparagraph (C).

"(E) ERISA EXEMPTIONS.—Notwithstanding subparagraph (D), the Secretary of Labor may determine that an exemption granted for any class of fiduciaries or transactions under section 408(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(a)) shall, upon publication of notice in the Federal Register under this subparagraph, constitute an exemption for purposes of the provisions of paragraph (2).

"(d) BENEFITS AND COMPENSATION.—This section does not prohibit any fiduciary from—

"(1) receiving any benefit that the fiduciary is entitled to receive under this title as a beneficiary of the Personal Retirement Savings Fund;

"(2) receiving any reasonable compensation authorized by this title for services rendered, or for reimbursement of expenses properly and actually incurred, in the performance of the fiduciary's duties under this title; or

"(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

"(e) BREACH OF DUTIES.—

"(1) PERSONAL LIABILITY.—

"(A) IN GENERAL.—Any fiduciary that breaches the responsibilities, duties, and obligations set out in subsection (b) or violates subsection (c) shall be personally liable to the Personal Retirement Savings Fund for any losses to such Fund resulting from each such breach or violation and to restore to such Fund any profits made by the fiduciary through use of assets of such Fund by the fiduciary, and shall be subject to such other equitable or remedial relief as a court considers appropriate, except as provided in paragraphs (3) and (4). A fiduciary may be removed for a breach referred to in the preceding sentence.

"(B) CIVIL PENALTIES.—The Secretary of Labor may assess a civil penalty against a party in interest with respect to each transaction that is engaged in by the party in interest and is prohibited by subsection (c). The amount of such penalty shall be equal to 5 percent of the amount involved in each such transaction (as defined in section 4975(f)(4) of the Internal Revenue Code of

1986) for each year or part thereof during which the prohibited transaction continues, except that, if the transaction is not corrected (in such manner as the Secretary of Labor shall prescribe by regulation consistent with section 4975(f)(5) of such Code) within 90 days after the date the Secretary of Labor transmits notice to the party in interest (or such longer period as the Secretary of Labor may permit), such penalty may be in an amount not more than 100 percent of the amount involved.

"(C) ACTS COMMITTED PRIOR TO OR AFTER SERVICE.—A fiduciary shall not be liable under subparagraph (A) with respect to a breach of fiduciary duty under subsection (b) committed before becoming a fiduciary or after ceasing to be a fiduciary.

"(D) JOINT AND SEVERAL LIABILITY.—A fiduciary shall be jointly and severally liable under subparagraph (A) for a breach of fiduciary duty under subsection (b) by another fiduciary only if—

"(i) the fiduciary participates knowingly in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is such a breach;

"(ii) by the fiduciary's failure to comply with subsection (b) in the administration of the fiduciary's specific responsibilities that give rise to the fiduciary status, the fiduciary has enabled such other fiduciary to commit such a breach; or

"(iii) the fiduciary has knowledge of a breach by such other fiduciary, unless the fiduciary makes reasonable efforts under the circumstances to remedy the breach.

"(E) REGULATIONS.—The Secretary of Labor shall prescribe, in regulations, procedures for allocating fiduciary responsibilities among fiduciaries, including investment managers. Any fiduciary who, pursuant to such procedures, allocates to a person or persons any fiduciary responsibility shall not be liable for an act or omission of such person or persons unless—

"(i) such fiduciary violated subsection (b) with respect to the allocation, with respect to the implementation of the procedures prescribed by the Secretary of Labor (or the Board), or in continuing such allocation; or

"(ii) such fiduciary would otherwise be liable in accordance with subparagraph (D).

"(2) REQUIREMENTS FOR CIVIL ACTIONS.—

"(A) IN GENERAL.—No civil action may be maintained against any fiduciary with respect to the responsibilities, liabilities, and penalties authorized or provided for in this section except in accordance with subparagraphs (B) and (C).

"(B) JURISDICTION.—A civil action may be brought in the district courts of the United States—

"(i) by the Secretary of Labor against any fiduciary other than a Member of the Board or the Executive Director of the Board—

"(I) to determine and enforce a liability under paragraph (1)(A);

"(II) to collect any civil penalty under paragraph (1)(B);

"(III) to enjoin any act or practice that violates any provision of subsection (b) or (c);

"(IV) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(V) to enjoin any act or practice that violates subsection (g)(3) or (i) of section 101;

"(ii) by any beneficiary or fiduciary against any fiduciary—

"(I) to enjoin any act or practice that violates any provision of subsection (b) or (c);

"(II) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(III) to enjoin any act or practice that violates subsection (g)(3) or (i) of section 101; or

"(iii) by any beneficiary or fiduciary—

"(I) to recover benefits of the beneficiary under the provisions of this title, to enforce any right of the beneficiary under such provisions, or to clarify any such right to future benefits under such provisions; or

"(II) to enforce any claim otherwise cognizable under sections 1346(b) and 2671 through 2680 of title 28, United States Code, provided that the remedy against the United States provided by sections 1346(b) and 2672 of such title for damages for injury or loss of property caused by the negligent or wrongful act or omission of any fiduciary while acting within the scope of his duties or employment shall be exclusive of any other civil action or proceeding by the beneficiary for recovery of money by reason of the same subject matter against the fiduciary (or the estate of such fiduciary) whose act or omission gave rise to such action or proceeding, whether or not such action or proceeding is based on an alleged violation of subsection (b) or (c).

"(C) LEGAL REPRESENTATION.—

"(i) DEPARTMENT OF LABOR.—In all civil actions under subparagraph (B)(i), attorneys appointed by the Secretary of Labor may represent the Secretary (except as provided in section 518(a) of title 28, United States Code), however all such litigation shall be subject to the direction and control of the Attorney General.

"(ii) DEPARTMENT OF JUSTICE.—The Attorney General shall defend any civil action or proceeding brought in any court against any fiduciary referred to in subparagraph (B)(iii)(II) (or the estate of such fiduciary) for any such injury. Any fiduciary against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such fiduciary (or an attested copy thereof) to the Executive Director of the Board, who shall promptly furnish copies of the pleading and process to the Attorney General and the United States Attorney for the district wherein the action or proceeding is brought.

"(iii) REMOVAL.—Upon certification by the Attorney General that a fiduciary described in subparagraph (B)(iii)(II) was acting in the scope of such fiduciary's duties or employment as a fiduciary at the time of the occurrence or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be—

"(I) removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division in which it is pending; and

"(II) deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto.

"(iv) SETTLEMENT.—The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect. To the extent section 2672 of such title provides that persons other than the Attorney General or his designee may compromise and settle claims, and that payment of such claims may be made from agency appropriations, such provisions shall not apply to claims based upon an alleged violation of subsection (b) or (c).

"(v) NONAPPLICATION OF PROVISION.—For the purposes of subparagraph (B)(iii)(II), the provisions of section 2680(h) of title 28, United States Code, shall not apply to any claim based upon an alleged violation of subsection (b) or (c).

"(vi) PAYMENT.—Notwithstanding sections 1346(b) and 2671 through 2680 of title 28, United States Code, whenever an award, compromise, or settlement is made under such sections upon any claim based upon an alleged violation of subsection (b) or (c), payment of such award, compromise, or settlement shall be made to the appropriate account within the Personal Retirement Savings Fund, or where there is no such appropriate account, to the beneficiary bringing the claim.

"(vii) LIMITATION ON DEFINITION OF FIDUCIARY.—For purposes of subparagraph (B)(iii)(II), fiduciary includes only the members of the Board and the Board's Executive Director.

"(D) LIMITATION ON RECOVERY.—Any relief awarded against a member of the Board or the Executive Director of the Board in a civil action authorized by subparagraph (B) may not include any monetary damages or any other recovery of money.

"(E) LIMITATION ON COMMENCEMENT OF ACTIONS.—An action may not be commenced under subparagraph (B) with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

"(i) 6 years after—

"(I) the date of the last action that constituted a part of the breach or violation; or

"(II) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

"(ii) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation, except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation.

"(F) EXCLUSIVE JURISDICTION.—

"(i) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction of civil actions under this subsection.

"(ii) VENUE.—An action under this subsection may be brought in the District Court of the United States for the District of Columbia or a district court of the United States in the district where the breach alleged in the complaint or petition filed in the action took place or in the district where a defendant resides or may be found. Process may be served in any other district where a defendant resides or may be found.

"(G) FILING OF COMPLAINT.—

"(i) SERVICE.—A copy of the complaint or petition filed in any action brought under this subsection (other than by the Secretary of Labor) shall be served on the Executive Director, the Secretary of Labor, and the Secretary of the Treasury by certified mail.

"(ii) INTERVENTION.—Any officer referred to in clause (i) of this subparagraph shall have the right in his or her discretion to intervene in any action. If the Secretary of Labor brings an action under this paragraph on behalf of a beneficiary, the officer shall notify the Executive Director and the Secretary of the Treasury.

"(f) REGULATIONS.—The Secretary of Labor may prescribe regulations to carry out this section.

"(g) AUDITS.—

"(1) IN GENERAL.—The Secretary of Labor shall establish a program to carry out audits to determine the level of compliance with the requirements of this section relating to fiduciary responsibilities and prohibited activities of fiduciaries.

"(2) CONDUCT.—An audit under this subsection may be conducted by the Secretary of Labor, by contract with a qualified nongovernmental organization, or in cooperation with the Comptroller General of the United States, as the Secretary considers appropriate.

"SEC. 132. BONDING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each fiduciary and each person who handles funds or property of the Personal Retirement Savings Fund shall be bonded as provided in this section.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Bond shall not be required of a fiduciary (or of any officer or employee of such fiduciary) if such fiduciary—

"(i) is a corporation organized and doing business under the laws of the United States or of any State;

"(ii) is authorized under such laws to exercise trust powers or to conduct an insurance business;

"(iii) is subject to supervision or examination by Federal or State authority; and

"(iv) has at all times a combined capital and surplus in excess of such minimum amount (not less than $1,000,000) as the Secretary of Labor prescribes in regulations.

"(B) BANKS OR OTHER FINANCIAL INSTITUTIONS.—If—

"(i) a bank or other financial institution would, but for this subparagraph, not be required to be bonded under this section by reason of the application of the exception provided in subparagraph (A);

"(ii) the bank or financial institution is authorized to exercise trust powers; and

"(iii) the deposits of the bank or financial institution are not insured by the Federal Deposit Insurance Corporation,

such exception shall apply to such bank or financial institution only if the bank or institution meets bonding requirements under State law which the Secretary of Labor determines are at least equivalent to those imposed on banks by Federal law.

"(b) AMOUNT OF BOND.—

"(1) MINIMUM REQUIREMENTS.—The Secretary of Labor shall prescribe the amount of a bond under this section at the beginning of each fiscal year. Except as otherwise provided in this paragraph, such amount shall not be less than 10 percent of the amount of funds handled. In no case shall such bond be less than $1,000 nor more than $500,000, except that the Secretary of Labor, after due notice and opportunity for hearing to all interested parties, and other consideration of the record, may prescribe an amount in excess of $500,000.

"(2) DETERMINATION OF AMOUNT OF FUNDS.—For the purpose of prescribing the amount of a bond under paragraph (1), the amount of funds handled shall be determined by reference to the amount of the funds handled by the person, group, or class to be covered by such bond or by their predecessor or predecessors, if any, during the preceding fiscal year, or to the amount of funds to be handled during the current fiscal year by such person, group, or class, estimated as provided in regulations prescribed by the Secretary of Labor.

"(c) OTHER REQUIREMENTS.—A bond required by subsection (a)—

"(1) shall include such terms and conditions as the Secretary of Labor considers necessary to protect the Personal Retirement Savings Fund against loss by reason of acts of fraud or dishonesty on the part of the bonded person directly or through connivance with others;

"(2) shall have as surety thereon a corporate surety company that is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 9304 through 9308 of title 31, United States Code; and

"(3) shall be in a form or of a type approved by the Secretary of Labor, including individual bonds or schedule or blanket forms of bonds that cover a group or class.

"(d) PROHIBITIONS.—

"(1) BOND REQUIRED.—It shall be unlawful for any person to whom subsection (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Personal Retirement Savings Fund without being bonded as required by this section.

"(2) MEET ALL REQUIREMENTS.—It shall be unlawful for any fiduciary, or any other person having authority to direct the performance of functions described in paragraph (1), to permit any such function to be performed by any person to whom subsection (a) applies unless such person has met the requirements of such subsection.

"(e) NONAPPLICATION OF OTHER LAWS.—Notwithstanding any other provision of law, any person who is required to be bonded as provided in subsection (a) shall be exempt from any other provision of law that, but for this subsection, would require such person to be bonded for the handling of the funds or other property of the Personal Retirement Savings Fund.

"(f) REGULATIONS.—The Secretary of Labor shall prescribe such regulations as may be necessary to carry out the provisions of this section, including exempting a person or class of persons from the requirements of this section.

"SEC. 133. INVESTIGATIVE AUTHORITY.

Any authority available to the Secretary of Labor under section 504 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1134) is hereby made available to the Secretary of Labor, and any officer designated by the Secretary of Labor, to determine whether any person has violated, or is about to violate, any provision of section 131 or 132.

"SEC. 134. EXCULPATORY PROVISIONS; INSURANCE.

"(a) NONAPPLICATION OF EXCULPATORY PROVISIONS.—Any provision in an agreement or instrument that purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this title shall be void.

"(b) LIABILITY INSURANCE.—Sums credited to the Personal Retirement Savings Fund may be used at the discretion of the Executive Director to purchase insurance to cover the potential liability of persons who serve in a fiduciary capacity with respect to the Personal Retirement Savings Fund, without regard to whether a policy of insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation.".

SEC. 5. REPORT AND RECOMMENDATIONS REGARDING INVESTMENT OPTIONS.

Not later than 36 months after the date of enactment of this Act, the Personal Retirement Accounts Board established under section 101 of the Social Security Act (as amended by section 4 of this Act) shall submit to the appropriate committees of Congress a report regarding recommendations for additional investment options for individuals with personal retirement accounts established under title I of the Social Security Act (as so amended). The report shall include recommendations regarding—

(1) whether the Board should make available to such account holders investment funds managed by qualified professional asset managers (as defined in section 121(a)(7) of the Social Security Act (as amended by section 4 of this Act));

(2) whether such account holders should be permitted to transfer all or a portion of the balance in their personal retirement accounts to a new form of individual retirement account that would be managed by qualified professional asset managers (as so defined);

(3) whether the Board should provide an alternative for the investment of a personal retirement account for which no investment election is made to investment in the Government Securities Investment Fund provided for under section 121(c)(2) of the Social Security Act (as so amended); and

(4) whether the Board should offer diversified investment selections for such account holders that takes into consideration the age of the individual.

By Mr. CLELAND:

S. 2370. A bill to designate the facility of the United States Postal Service located at Tall Timbers Village Square, Untied States Highway 19 South, in Thomasville, Georgia, as the "Lieutenant Henry O. Flipper Station"; to the Committee on Governmental Affairs.

LIEUTENANT HENRY O. FLIPPER STATION

Mr. CLELAND. Mr. President, today I am introducing a bill in honor of an American patriot, Lieutenant Henry Ossian Flipper, on whose behalf I offer this legislation for the designation of the Lieutenant Henry O. Flipper Station, a postal station being constructed in Thomasville, Georgia.

It is an honor for me to highlight the contributions of this courageous American. Born in 1856, in Thomasville, Georgia, Lieutenant Flipper was the first African-American to graduate from the United States Military Academy at West Point in 1877.

Lieutenant Flipper had a distinguished career as an Army officer. His first assignment to frontier duty was with the Tenth Cavalry at Fort Sill, Oklahoma. The Tenth, along with its sister unit, the Ninth Cavalry unit, were responsible for facilitating the movement of pioneers wishing to settle in the Western frontier. The African-American members of these two units became known as "Buffalo Soldiers." During his tenure at Fort Sill, Lieutenant Flipper ingeniously engineered a drainage system to eliminate stagnant malarial ponds and swamps created during the rainy season. This effort made a significant contribution to improving the health of the Post, and the ditch, christened "Flipper's Ditch," is now a historic landmark.

Lieutenant Flipper was instrumental in the successful 1880 campaign against Mescalero Apache Chief Victorio, an escapee from the military authorities in New Mexico. Facing a judicial sentence for murder in 1879, Victorio was able to escape, gather his forces and begin a rampage throughout New Mexico and Texas. Through tough terrain and logistical challenges, the soldiers of the Ninth and Tenth Cavalry were able to push Victorio into Mexico where he was killed by the Mexican Army.

It is very timely that we commemorate Lieutenant Flipper since this year is the fiftieth anniversary of the racial integration of the military. This action marked a historic change which has led to significant progress in eliminating racial barriers. Lieutenant Flipper's legacy is that of a pioneer in confronting the challenges of racial strife who paved the way for this evolution. Although Lieutenant Flipper left the military in 1882, he was able to prove to America that African-Americans possessed the quality of military leadership.

After the end of his military service in 1882, Lieutenant Flipper continued a very distinguished career, applying his surveying and engineering skills as a civil and mining engineer on the frontiers of the Southwest and Mexico. He became the first African-American to gain prominence in the engineering profession.

Historical accounts depict the solid perseverance of Lieutenant Flipper. He confronted racial bias demonstrating unflinchingly strong character and intellect. In a book entitled "An Officer and a Gentlemen," historian Steve Wilson is credited with compiling a list of "firsts" for an African-American which were achieved by Lieutenant Flipper: Military Academy graduate, cavalry officer, surveyor, cartographer, civil and mining engineer, translator, interpreter, inventor, editor, author, special agent for the Justice Department, personal confident and advisor to a Senator, and pioneer in the oil industry.

In a ceremony in 1977, Lieutenant General Sidney B. Berry, the United States Military Academy's Superintendent, praised Lieutenant Flipper's memory, stating that, "there was a strength and gentleness that transcended any bad treatment Flipper received. He was a strong and gentle man." Lieutenant Flipper was a pioneer for civil rights in the military and in the civilian community. Although he had a very successful civilian life, Lieutenant Flipper always considered himself first and foremost an Army officer.

I join the residents of Thomasville in this quest of the post office designation in honor of Lieutenant Flipper. Not only is this hero one of Georgia's own, Lieutenant Flipper has earned the respect of a grateful Nation. The measure I am submitting today will give him this well-deserved recognition.

Mr. President, I request unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF LIEUTENANT HENRY O. FLIPPER STATION.

(a) IN GENERAL.—The facility of the United States Postal Service located at Tall Timbers Village Square, United States Highway 19 South, in Thomasville, Georgia, shall be known and designated as the "Lieutenant Henry O. Flipper Station".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility of the United States Postal Service referred to in subsection (a) shall be deemed to be a reference to the "Lieutenant Henry O. Flipper Station".

ADDITIONAL COSPONSORS

S. 230

At the request of Mr. THURMOND, the name of the Senator from Idaho (Mr. KEMPTHORNE) was added as a cosponsor of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 778

At the request of Mr. LUGAR, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 852

At the request of Mr. LOTT, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 981

At the request of Mr. LEVIN, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1480

At the request of Ms. SNOWE, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. AKAKA), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 1480, a bill to authorize appropriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of Pfiesteria piscicida and other aquatic toxins.

S. 1675

At the request of Mr. SHELBY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1675, a bill to establish a Congressional Office of Regulatory Analysis.

S. 1759

At the request of Mr. HATCH, the names of the Senator from Idaho [Mr. CRAIG], the Senator from South Carolina [Mr. THURMOND], the Senator from Kentucky [Mr. FORD], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Michigan [Mr. LEVIN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1960

At the request of Mr. WARNER, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1960, a bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield, as previously authorized by law, by purchase or exchange as well as by donation.

S. 2130

At the request of Mr. GRAMS, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Florida [Mr. MACK], the Senator from South Dakota [Mr. JOHNSON], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Colorado [Mr. ALLARD], the Senator from Virginia [Mr. ROBB], the Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. BENNETT], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2217

At the request of Mr. FRIST, the names of the Senator from California [Mrs. BOXER], the Senator from Ohio [Mr. DEWINE], the Senator from Maine [Ms. SNOWE], the Senator from California [Mrs. FEINSTEIN], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2344

At the request of Mr. COVERDELL, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 2344, a bill to amend the Agricultural Market Transition Act to provide for the advance payment, in full, of the fiscal year 1999 payments otherwise required under production flexibility contracts.

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 2344, supra.

S. 2352

At the request of Mr. LEAHY], the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. CRAIG], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 2352, a bill to protect the privacy rights of patients.

S. 2354

At the request of Mr. BOND, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 2354, a bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

S. 2358

At the request of Mr. ROCKEFELLER, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

SENATE RESOLUTION 95

At the request of Mr. THURMOND, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Resolution 95, a resolution designating August 16, 1997, as “National Airborne Day.”

SENATE RESOLUTION 189

At the request of Mr. TORRICELLI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Resolution 189, a resolution honoring the 150th anniversary of the United States Women's Rights Movement that was initiated by the 1848 Women's Rights Convention held in Seneca Falls, New York, and calling for a national celebration of women's rights in 1998.

AMENDMENT NO. 3354

At the request of Mr. DEWINE the names of the Senator from Alabama [Mr. SESSIONS], the Senator from Michigan [Mr. ABRAHAM], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of amendment No. 3354 proposed to S. 2312, an original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

AMENDMENT NO. 3357

At the request of Mr. THOMPSON the names of the Senator from Mississippi [Mr. LOTT], the Senator from Louisiana [Mr. BREAUX], the Senator from Alabama [Mr. SHELBY], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of amendment No. 3357 proposed to S. 2312, an original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

SENATE RESOLUTION 259—DESIGNATING “NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK”

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 259

Whereas there are 104 historically black colleges and universities in the United States;

Whereas black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning September 20, 1998, as “National Historically Black Colleges and Universities Week”; and

(2) requests that the President of the United States issue a proclamation calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

● Mr. THURMOND. Mr. President, I am pleased to submit today a Senate Resolution which authorizes and requests the President to designate the week beginning September 20, 1998, as “National Historically Black Colleges and Universities Week.”

It is my privilege to sponsor this legislation for the thirteenth time honoring the Historically Black Colleges of our Country.

Eight of the 104 Historically Black Colleges, namely Allen University, Benedict College, Claflin College, South Carolina State University, Morris College, Voorhees College, Denmark Technical College, and Clinton Junior College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of economically disadvantaged young people with the opportunity to obtain a college education.

Mr. President, thousands of young Americans have received quality educations at these 104 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically

Black Colleges offer our citizens a variety of curricula and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Mr. President, through passage of this Senate Resolution, Congress can reaffirm its support for Historically Black Colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy passage of this Resolution.•

AMENDMENT SUBMITTED

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

BROWNBACK (AND OTHERS) AMENDMENT NO. 3359

Mr. BROWNBACK (for himself, Mr. Ashcroft, Mr. Inhofe, Mr. Grams, Mr. Smith of New Hampshire, Mrs. Hutchison, Mr. Faircloth, Mr. Abraham, Mr. Lott, Mr. Campbell, Mr. Helms, Mr. Smith of Oregon, and Mr. Hutchinson) proposed an amendment to the bill (S. 2312) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. ___. COMBINED RETURN TO WHICH UNMARRIED RATES APPLY.

(a) In General.—Subpart B of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

"(a) General Rule.—A husband and wife may make a combined return of income taxes under subtitle A under which—

"(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

"(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

"(b) Determination of Taxable Income.—

"(1) In general.—For purposes of subsection (a)(1), the taxable income for each spouse shall be one-half of the taxable income computed as if the spouses were filing a joint return.

"(2) Nonitemizers.—For purposes of paragraph (1), if an election is made not to itemize deductions for any taxable year, the basic standard deduction shall be equal to the amount which is twice the basic standard deduction under section 63(c)(2)(C) for the taxable year.

"(c) Treatment of Credits.—Credits shall be determined (and applied against the joint liability of the couple for tax) as if the spouses had filed a joint return.

"(d) Treatment as Joint Return.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section."

(b) Unmarried Rate Made Applicable.—So much of subsection (c) of section 1 of such Code as precedes the table is amended to read as follows:

"(c) Separate or Unmarried Return Rate.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:".

(c) Clerical Amendment.—The table of sections for subpart B of part II of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6013 the following:

"Sec. 6013A. Combined return with separate rates."

(d) Budget Directive.—The members of the conference on the congressional budget resolution for fiscal year 1999 shall provide in the conference report sufficient spending reductions to offset the reduced revenues received by the United States Treasury resulting from the amendments made by this section.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

FAIRCLOTH (AND FEINSTEIN) AMENDMENT NO. 3360

(Ordered to lie on the table.)

Mr. FAIRCLOTH (for himself and Mrs. Feinstein) submitted an amendment intended to be proposed by them to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. .SENSE OF THE SENATE REGARDING THE TAX DEDUCTIBILITY OF BREAST CANCER POSTAGE STAMP.

(a) Findings.—The Senate finds that—

(1) There are 1.8 million women in America today with breast cancer;

(2) Another one million women do not know they have it;

(3) Breast cancer kills 46,000 women a year, and is one of the leading causes of death in women of all ages, and the second leading cause of cancer death in all women, claiming a life every 12 minutes in the United States;

(4) On August 13, 1997, the "Stamp Out Breast Cancer Act," Public Law 105-41, was signed into law, directing the United States Postal Service to establish a special first-class postage stamp, or semi-postal, at a cost not to exceed 25 percent above the regular first-class rate of postage;

(5) Amounts raised by the special breast cancer semi-postal above the regular first-class rate are to be available for breast cancer research, 70 percent of such funds the Postal Service shall pay to the National Institutes of Health and the remainder the Postal Service shall pay to Department of Defense.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the Internal Revenue Service should promulgate such rules and regulations as may be necessary concerning the differential amount above the regular first-class postage rate which is dedicated for breast cancer research, to ensure that purchasers of the breast cancer semi-postal postage stamp may deduct said amounts as a charitable contribution, as defined in Title 26 of the Internal Revenue Code, Section 170.

FAIRCLOTH AMENDMENT NO. 3361

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill, S. 2312, supra; as follows:

At the approriate place, insert the following:

SEC. . RESTRICTION ON THE USE OF THE EXCHANGE STABILIZATION FUND

(a) Short Title.—This Act may be cited as the "Accountability for International Bailouts Act of 1997".

(b) Congressional Approval.—Section 5302 of tile 31, United States Code, is amended by adding at the end the following:

'(e) Congressional Approval.—Notwithstanding any other provision of this section, the Secretary of the Treasury may not make any expenditure or loan, incur any other obligation, or make any guarantee in excess of $250,000,000 through the stabilization fund, for the purpose of engaging in a coordinated international rescue plan for any foreign entity or any government of a foreign country, without the approval of Congress.'.

ABRAHAM (AND OTHERS) AMENDMENT NO. 3362

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. Faircloth, Mr. Sessions, Mr. Hutchinson, Mr. DeWine, Mr. McCain, Mr. Brownback, Mr. Enzi, Mr. Helms, Mr. Coverdell, and Mr. Ashcroft) submitted an amendment intended to be proposed by them to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES.

(a) Purposes.—The purposes of this section are to—

(1) require agencies to assess the impact of proposed agency actions on family well-being; and

(2) improve the management of executive branch agencies.

(b) Definitions.—In this section—

(1) the term "agency" has the meaning given the term "Executive agency" by section 105 of title 5, United States Code, except such term does not include the General Accounting Office; and

(2) the term "family" means—

(A) a group of individuals related by blood, marriage, or adoption who live together as a single household; and

(B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group, and over half of whose support in a calendar year is received from such group.

(c) Family Policymaking Assessment.—Before implementing policies and regulations that may affect family well-being, each agency shall assess such actions with respect to whether—

(1) the action strengthens or erodes the stability of the family and, particularly, the marital commitment;

(2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children;

(3) the action helps the family perform its functions, or substitutes governmental activity for the function;

(4) the action increases or decreases disposable family income;

(5) the proposed benefits of the action justify the financial impact on the family;

(6) the action may be carried out by State or local government or by the family; and

(7) the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

(d) GOVERNMENTWIDE FAMILY POLICY COORDINATION AND REVIEW.—

(1) CERTIFICATION AND RATIONALE.—With respect to each proposed policy or regulation that may affect family well-being, the head of each agency shall—

(A) submit a written certification to the Director of the Office of Management and Budget and to Congress that such policy or regulation has been assessed in accordance with this section; and

(B) provide an adequate rationale for implementation of each policy or regulation that may negatively affect family well-being.

(2) OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall—

(A) ensure that policies and regulations proposed by agencies are implemented consistent with this section; and

(B) compile, index, and submit annually to the Congress the written certifications received pursuant to paragraph (1)(A).

(3) OFFICE OF POLICY DEVELOPMENT.—The Office of Policy Development shall—

(A) assess proposed policies and regulations in accordance with this section;

(B) provide evaluations of policies and regulations that may affect family well-being to the Director of the Office of Management and Budget; and

(C) advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and family in the United States.

(e) ASSESSMENTS UPON REQUEST BY MEMBERS OF CONGRESS.—Upon request by a Member of Congress relating to a proposed policy or regulation, an agency shall conduct an assessment in accordance with subsection (c), and shall provide a certification and rationale in accordance with subsection (d).

(f) JUDICIAL REVIEW.—This section is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

MACK (AND GRAHAM) AMENDMENT NO. 3363

Mr. CAMPBELL (for Mr. MACK for himself and Mr. GRAHAM) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in title IV, insert:

SEC. ___. LAND CONVEYANCE, UNITED STATES NAVAL OBSERVATORY/ALTERNATE TIME SERVICE LABORATORY, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—If the Secretary of the Navy reports to the Administrator of General Services that the property described in subsection (b) is excess property of the Department of the Navy under section 202(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)), and if the Administrator of General Services determines that such property is surplus property under that Act, then the Administrator may convey to the University of Miami, by negotiated sale or negotiated land exchange within one year after the date of the determination by the Administrator, all right, title, and interest of the United States in and to the property.

(b) COVERED PROPERTY.—The property referred to in subsection (a) is real property in Miami-Dade County, Florida, including improvements thereon, comprising the Federal facility known as the United States Naval Observatory/Alternate Time Service Laboratory, consisting of approximately 76 acres. The exact acreage and legal description of the property shall be determined by a survey that is satisfactory to the Administrator.

(c) CONDITION REGARDING USE.—Any conveyance under subsection (a) shall be subject to the condition that during the 10-year period beginning on the date of the conveyance, the University shall use the property, or provide for use of the property, only for—

(1) a research, education, and training facility complementary to longstanding national research missions, subject to such incidental exceptions as may be approved by the Administrator;

(2) research-related purposes other than the use specified in paragraph (1), under an agreement entered into by the Administrator and the University; or

(3) a combination of uses described in paragraph (1) and paragraph (2), respectively.

(d) REVERSION.—If the Administrator determines at any time that the property conveyed under subsection (a) is not being used in accordance with this section, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

JEFFORDS (AND OTHERS) AMENDMENT NO. 3364

Mr. CAMPBELL (for Mr. JEFFORDS, for himself, Ms. LANDRIEU, Mr. DODD, Mr. KOHL, and Mr. JOHNSON) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

TITLE ___—CHILD CARE IN FEDERAL FACILITIES

SEC. ___1. SHORT TITLE.

This title may be cited as "Quality Child Care for Federal Employees".

SEC. ___2. PROVIDING QUALITY CHILD CARE IN FEDERAL FACILITIES.

(a) DEFINITION.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(2) CHILD CARE ACCREDITATION ENTITY.—The term "child care accreditation entity" means a nonprofit private organization or public agency that—

(A) is recognized by a State agency or by a national organization that serves as a peer review panel on the standards and procedures of public and private child care or school accrediting bodies; and

(B) accredits a facility to provide child care on the basis of—

(i) an accreditation or credentialing instrument based on peer-validated research;

(ii) compliance with applicable State or local licensing requirements, as appropriate, for the facility;

(iii) outside monitoring of the facility; and

(iv) criteria that provide assurances of—

(I) use of developmentally appropriate health and safety standards at the facility;

(II) use of developmentally appropriate educational activities, as an integral part of the child care program carried out at the facility; and

(III) use of ongoing staff development or training activities for the staff of the facility, including related skills-based testing.

(3) ENTITY SPONSORING A CHILD CARE FACILITY.—The term "entity sponsoring a child care facility" means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care facility primarily for the use of Federal employees.

(4) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(A) does not include the Department of Defense and the Coast Guard; and

(B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (5)(B).

(5) EXECUTIVE FACILITY.—The term "executive facility"—

(A) means a facility that is owned or leased by an Executive agency; and

(B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(6) FEDERAL AGENCY.—The term "Federal agency" means an Executive agency or a legislative office.

(7) JUDICIAL OFFICE.—The term "judicial office" means an entity of the judicial branch of the Federal Government.

(8) LEGISLATIVE FACILITY.—The term "legislative facility" means a facility that is owned or leased by a legislative office.

(9) LEGISLATIVE OFFICE.—The term "legislative office" means an entity of the legislative branch of the Federal Government.

(10) STATE.—The term "State" has the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n).

(b) EXECUTIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS.—

(A) IN GENERAL.—Any entity sponsoring a child care facility in an executive facility shall—

(i) comply with child care standards described in paragraph (2) that, at a minimum, include applicable State or local licensing requirements, as appropriate, related to the provision of child care in the State or locality involved; or

(ii) obtain the applicable State or local licenses, as appropriate, for the facility.

(B) COMPLIANCE.—Not later than 6 months after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with subparagraph (A); and

(ii) any contract or licensing agreement used by an Executive agency for the provision of child care services in such child care facility shall include a condition that the child care be provided by an entity that complies with the standards described in subparagraph (A)(i) or obtains the licenses described in subparagraph (A)(ii).

(2) HEALTH, SAFETY, AND FACILITY STANDARDS.—The Administrator shall by regulation establish standards relating to health, safety, facilities, facility design, and other aspects of child care that the Administrator determines to be appropriate for child care in executive facilities, and require child care services in executive facilities to comply with the standards. Such standards shall include requirements that child care facilities be inspected for, and be free of, lead hazards.

(3) ACCREDITATION STANDARDS.—

(A) IN GENERAL.—The Administrator shall issue regulations requiring, to the maximum extent possible, any entity sponsoring an eligible child care facility (as defined by the Administrator) in an executive facility to comply with standards of a child care accreditation entity.

(B) COMPLIANCE.—The regulations shall require that, not later than 5 years after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with the standards; and

(ii) any contract or licensing agreement used by an Executive agency for the provision of child care services in such child care facility shall include a condition that the child care be provided by an entity that complies with the standards.

(4) EVALUATION AND COMPLIANCE.—

(A) IN GENERAL.—The Administrator shall evaluate the compliance, with the requirements of paragraph (1) and the regulations issued pursuant to paragraphs (2) and (3), as appropriate, of child care facilities, and entities sponsoring child care facilities, in executive facilities. The Administrator may conduct the evaluation of such a child care facility or entity directly, or through an agreement with another Federal agency or private entity, other than the Federal agency for which the child care facility is providing services. If the Administrator determines, on the basis of such an evaluation, that the child care facility or entity is not in compliance with the requirements, the Administrator shall notify the Executive agency.

(B) EFFECT OF NONCOMPLIANCE.—On receipt of the notification of noncompliance issued by the Administrator, the head of the Executive agency shall—

(i) if the entity operating the child care facility is the agency—

(I) not later than 2 business days after the date of receipt of the notification, correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) develop and provide to the Administrator a plan to correct any other deficiencies in the operation of the facility and bring the facility and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) provide the parents of the children receiving child care services at the child care facility and employees of the facility with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies, and post a copy of the notification in a conspicuous place in the facility for 5 working days or until the deficiencies are corrected, whichever is later;

(IV) bring the child care facility and entity into compliance with the requirements and certify to the Administrator that the facility and entity are in compliance, based on an onsite evaluation of the facility conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the child care facility, or the affected portion of the facility, until such deficiencies are corrected and notify the Administrator of such closure; and

(ii) if the entity operating the child care facility is a contractor or licensee of the Executive agency—

(I) require the contractor or licensee, not later than 2 business days after the date of receipt of the notification, to correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) require the contractor or licensee to develop and provide to the head of the agency a plan to correct any other deficiencies in the operation of the child care facility and bring the facility and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) require the contractor or licensee to provide the parents of the children receiving child care services at the child care facility and employees of the facility with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies, and to post a copy of the notification in a conspicuous place in the facility for 5 working days or until the deficiencies are corrected, whichever is later;

(IV) require the contractor or licensee to bring the child care facility and entity into compliance with the requirements and certify to the head of the agency that the facility and entity are in compliance, based on an onsite evaluation of the facility conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the child care facility, or the affected portion of the facility, until such deficiencies are corrected and notify the Administrator of such closure, which closure may be grounds for the immediate termination or suspension of the contract or license of the contractor or licensee.

(C) COST REIMBURSEMENT.—The Executive agency shall reimburse the Administrator for the costs of carrying out subparagraph (A) for child care facilities located in an executive facility other than an executive facility of the General Services Administration. If an entity is sponsoring a child care facility for 2 or more Executive agencies, the Administrator shall allocate the costs of providing such reimbursement with respect to the entity among the agencies in a fair and equitable manner, based on the extent to which each agency is eligible to place children in the facility.

(5) DISCLOSURE OF PRIOR VIOLATIONS TO PARENTS AND FACILITY EMPLOYEES.—The Administrator shall issue regulations that require that each entity sponsoring a child care facility in an Executive facility, upon receipt by the child care facility or the entity (as applicable) of a request by any individual who is a parent of any child enrolled at the facility, a parent of a child for whom an application has been submitted to enroll at the facility, or an employee of the facility, shall provide to the individual—

(A) copies of all notifications of deficiencies that have been provided in the past with respect to the facility under clause (i)(III) or (ii)(III), as applicable, of paragraph (4)(B); and

(B) a description of the actions that were taken to correct the deficiencies.

(c) LEGISLATIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS, HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—

(A) IN GENERAL.—The Chief Administrative Officer of the House of Representatives shall issue regulations, approved by the Committee on House Oversight of the House of Representatives, governing the operation of the House of Representatives Child Care Center. The Librarian of Congress shall issue regulations, approved by the appropriate House and Senate committees with jurisdiction over the Library of Congress, governing the operation of the child care center located at the Library of Congress. Subject to paragraph (3), the head of a designated entity in the Senate shall issue regulations, approved by the Committee on Rules and Administration of the Senate, governing the operation of the Senate Employees' Child Care Center.

(B) STRINGENCY.—The regulations described in subparagraph (A) shall be no less stringent in content and effect than the requirements of subsection (b)(1) and the regulations issued by the Administrator under paragraphs (2) and (3) of subsection (b), except to the extent that appropriate administrative officers, with the approval of the appropriate House or Senate committees with oversight responsibility for the centers, may jointly or independently determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in paragraphs (1), (2), and (3) of subsection (b) for child care facilities, and entities sponsoring child care facilities, in the corresponding legislative facilities.

(2) EVALUATION AND COMPLIANCE.—

(A) ADMINISTRATION.—Subject to paragraph (3), the Chief Administrative Officer of the House of Representatives, the head of the designated Senate entity, and the Librarian of Congress, shall have the same authorities and duties—

(i) with respect to the evaluation of, compliance of, and cost reimbursement for child care facilities, and entities sponsoring child care facilities, in the corresponding legislative facilities as the Administrator has under subsection (b)(4) with respect to the evaluation of, compliance of, and cost reimbursement for such facilities and entities sponsoring such facilities, in executive facilities; and

(ii) with respect to issuing regulations requiring the entities sponsoring child care facilities in the corresponding legislative facilities to provide notifications of deficiencies and descriptions of corrective actions as the Administration has under subsection (b)(5) with respect to issuing regulations requiring the entities sponsoring child care facilities in executive facilities to provide notifications of deficiencies and descriptions of corrective actions.

(B) ENFORCEMENT.—Subject to paragraph (3), the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, as appropriate, shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care facilities, and entities sponsoring child care facilities, in the corresponding legislative facilities as the head of an Executive agency has under subsection (b)(4) with respect to the compliance of and cost reimbursement for such facilities and entities sponsoring such facilities, in executive facilities.

(3) INTERIM STATUS.—Until such time as the Committee on Rules and Administration of the Senate establishes, or the head of the designated Senate entity establishes, standards described in paragraphs (1), (2), and (3) of subsection (b) governing the operation of the Senate Employees' Child Care Center, such facility shall maintain current accreditation status.

(d) APPLICATION.—Notwithstanding any other provision of this section, if 8 or more child care facilities are sponsored in facilities owned or leased by an Executive agency, the Administrator shall delegate to the head of the agency the evaluation and compliance responsibilities assigned to the Administrator under subsection (b)(4)(A).

(e) TECHNICAL ASSISTANCE, STUDIES, AND REVIEWS.—The Administrator may provide technical assistance, and conduct and provide the results of studies and reviews, for Executive agencies, and entities sponsoring child care facilities in executive facilities, on a reimbursable basis, in order to assist the entities in complying with this section. The Chief Administrative Officer of the House of Representatives, the Librarian of Congress, and the head of the designated Senate entity described in subsection (c), may provide technical assistance, and conduct and provide the results of studies and reviews, or request that the Administrator provide technical assistance, and conduct and provide the results of studies and reviews, for the corresponding legislative offices, and entities operating child care facilities in the corresponding legislative facilities, on a reimbursable basis, in order to assist the entities in complying with this section.

(f) COUNCIL.—The Administrator shall establish an interagency council, comprised of representatives of all Executive agencies described in subsection (d), a representative of the Chief Administrative Officer of the House of Representatives, a representative of the designated Senate entity described in subsection (c), and a representative of the Librarian of Congress, to facilitate cooperation and sharing of best practices, and to develop and coordinate policy, regarding the provision of child care, including the provision of areas for nursing mothers and other lactation support facilities and services, in the Federal Government.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $900,000 for fiscal year 1999 and such sums as may be necessary for each subsequent fiscal year.

SEC. ___3. CHILD CARE SERVICES FOR FEDERAL EMPLOYEES.

(a) IN GENERAL.—An Executive agency that provides or proposes to provide child care services for Federal employees may use agency funds to provide the child care services, in a facility that is owned or leased by an Executive agency, or through a contractor, for civilian employees of such agency.

(b) AFFORDABILITY.—Funds so used with respect to any such facility or contractor shall be applied to improve the affordability of child care for lower income Federal employees using or seeking to use the child care services offered by such facility or contractor.

(c) REGULATIONS.—The Director of the Office of Personnel Management shall, within 180 days after the date of enactment of this Act, issue regulations necessary to carry out this section.

(d) DEFINITION.—For purposes of this section, the term "Executive agency" has the meaning given such term by section 105 of title 5, United States Code, but does not include the General Accounting Office.

SEC. ___4. MISCELLANEOUS PROVISIONS RELATING TO CHILD CARE PROVIDED BY FEDERAL AGENCIES.

(a) AVAILABILITY OF FEDERAL CHILD CARE CENTERS FOR ONSITE CONTRACTORS; PERCENTAGE GOAL.—Section 616(a) of the Act of December 22, 1987 (40 U.S.C. 490b), is amended—

(1) in subsection (a), by striking paragraphs (2) and (3) and inserting the following:

"(2) such officer or agency determines that such space will be used to provide child care and related services to—

"(A) children of Federal employees or onsite Federal contractors; or

"(B) dependent children who live with Federal employees or onsite Federal contractors; and

"(3) such officer or agency determines that such individual or entity will give priority for available child care and related services in such space to Federal employees and onsite Federal contractors."; and

(2) by adding at the end the following:

"(e)(1)(A) The Administrator of General Services shall confirm that at least 50 percent of aggregate enrollment in Federal child care centers governmentwide are children of Federal employees or onsite Federal contractors, or dependent children who live with Federal employees or onsite Federal contractors.

"(B) Each provider of child care services at an individual Federal child care center shall maintain 50 percent of the enrollment at the center of children described under subparagraph (A) as a goal for enrollment at the center.

"(C) If enrollment at a center does not meet the percentage goal under subparagraph (B), the provider shall develop and implement a business plan with the sponsoring Federal agency to achieve the goal within a reasonable timeframe. Such plan shall be approved by the Administrator of General Services based on—

"(i) compliance of the plan with standards established by the Administrator; and

"(ii) the effect of the plan on achieving the aggregate Federal enrollment percentage goal.

"(2) The Administrator of General Services Administration may enter into public-private partnerships or contracts with nongovernmental entities to increase the capacity, quality, affordability, or range of child care and related services and may, on a demonstration basis, waive subsection (a)(3) and paragraph (1) of this subsection.".

(b) PAYMENT OF COSTS OF TRAINING PROGRAMS.—Section 616(b)(3) of such Act (40 U.S.C. 490(b)(3)) is amended to read as follows:

"(3) If an agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency or the General Services Administration may pay accreditation fees, including renewal fees, for that center to be accredited. Any agency, department, or instrumentality of the United States that provides or proposes to provide child care services for children referred to in subsection (a)(2), may reimburse any Federal employee or any person employed to provide such services for the costs of training programs, conferences, and meetings and related travel, transportation, and subsistence expenses incurred in connection with those activities. Any per diem allowance made under this section shall not exceed the rate specified in regulations prescribed under section 5707 of title 5, United States Code.".

(c) PROVISION OF CHILD CARE BY PRIVATE ENTITIES.—Section 616(d) of such Act (40 U.S.C. 490b(d)) is amended to read as follows:

"(d)(1) If a Federal agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency, the child care center board of directors, or the General Services Administration may enter into an agreement with 1 or more private entities under which such private entities would assist in defraying the general operating expenses of the child care providers including salaries and tuition assistance programs at the facility.

"(2)(A) Notwithstanding any other provision of law, if a Federal agency does not have a child care program, or if the Administrator of General Services has identified a need for child care for Federal employees at an agency providing child care services that do not meet the requirements of subsection (a), the agency or the Administrator may enter into an agreement with a non-Federal, licensed, and accredited child care facility, or a planned child care facility that will become licensed and accredited, for the provision of child care services for children of Federal employees.

"(B) Before entering into an agreement, the head of the Federal agency shall determine that child care services to be provided through the agreement are more cost effectively provided through such arrangement than through establishment of a Federal child care facility.

"(C) The agency may provide any of the services described in subsection (b)(3) if, in exchange for such services, the facility reserves child care spaces for children referred to in subsection (a)(2), as agreed to by the parties. The cost of any such services provided by an agency to a child care facility on behalf of another agency shall be reimbursed by the receiving agency.

"(3) This subsection does not apply to residential child care programs.".

(d) PILOT PROJECTS.—Section 616 of such Act (40 U.S.C. 490b) is further amended by adding at the end the following:

"(f)(1) Upon approval of the agency head, an agency may conduct a pilot project not otherwise authorized by law for no more than 2 years to test innovative approaches to providing alternative forms of quality child care assistance for Federal employees. An agency head may extend a pilot project for an additional 2-year period. Before any pilot project may be implemented, a determination shall be made by the agency head that initiating the pilot project would be more cost-effective than establishing a new child care facility. Costs of any pilot project shall be borne solely by the agency conducting the pilot project.

"(2) The Administrator of General Services shall serve as an information clearinghouse for pilot projects initiated by other agencies to disseminate information concerning the pilot projects to the other agencies.

"(3) Within 6 months after completion of the initial 2-year pilot project period, an agency conducting a pilot project under this subsection shall provide for an evaluation of the impact of the project on the delivery of child care services to Federal employees, and shall submit the results of the evaluation to the Administrator of General Services. The Administrator shall share the results with other Federal agencies.".

(e) Background Check.—Section 616 of such Act (40 U.S.C. 490b) is further amended by adding at the end the following:

"(g) Each child care center located in a federally owned or leased facility shall ensure that each employee of such center (including any employee whose employment began before the date of enactment of this subsection) shall undergo a criminal history background check consistent with section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).".

SEC. ___5. REQUIREMENT TO PROVIDE LACTATION SUPPORT IN NEW FEDERAL CHILD CARE FACILITIES.

(a) Definitions.—In this section, the terms "Federal agency", "executive facility", and "legislative facility" have the meanings given the terms in section ___2.

(b) Lactation Support.—The head of each Federal agency shall require that each child care facility in an executive facility or a legislative facility that is first operated after the 1-year period beginning on the date of enactment of this Act by the Federal agency, or under a contract or licensing agreement with the Federal agency, shall provide reasonable accommodations for the needs of breast-fed infants and their mothers, including providing a lactation area or a room for nursing mothers in part of the operating plan for the facility.

DASCHLE AMENDMENT NO. 3365

Mr. DASCHLE proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) In General.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) In General.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the qualified earned income of the spouse with the lower qualified earned income for the taxable year.

"(b) Applicable Percentage.—For purposes of this section—

"(1) In general.—The term 'applicable percentage' means 20 percent, reduced by 2 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income for the taxable year exceeds $50,000.

"(2) Transition rule for 1999 and 2000.—In the case of taxable years beginning in 1999 and 2000, paragraph (1) shall be applied by substituting '10 percent' for '20 percent' and '1 percentage point' for '2 percentage points'.

"(3) Modified adjusted gross income.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(4) Cost-of-living adjustment.—In the case of any taxable year beginning in a calendar year after 2002, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2002' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.

"(c) Qualified Earned Income Defined.—

"(1) In general.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), and (15) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws."

"(2) Earned income.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)), and

"(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of net profits of such trade or business'."

(b) Deduction To Be Above-the-Line.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) Deduction for two-earner married couples.—The deduction allowed by section 222."

(c) Earned Income Credit Phaseout To Reflect Deduction.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) Marriage penalty reduction.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. ___. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) In General.—Section 904(c) of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(b) Effective Date.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1998.

SEC. ___. LIMITATION ON REQUIRED ACCRUAL OF AMOUNTS RECEIVED FOR PERFORMANCE OF CERTAIN PERSONAL SERVICES.

(a) In General.—Paragraph (5) of section 448(d) of the Internal Revenue Code of 1986 (relating to special rule for services) is amended by inserting "in fields referred to in paragraph (2)(A)" after "services by such person".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1998.

(c) Coordination With Section 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(1) such change shall be treated as initiated by the taxpayer;

(2) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(3) the period for taking into account the adjustments under section 481 by reason of such change shall be 3 years.

SEC. ___. EXCISE TAX ON PURCHASE OF STRUCTURED SETTLEMENT AGREEMENTS.

(a) In General.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding at the end the following:

"CHAPTER 48—STRUCTURED SETTLEMENT AGREEMENTS

"Sec. 5000A. Tax on purchases of structured settlement agreements.

"SEC. 5000A. TAX ON PURCHASES OF STRUCTURED SETTLEMENT AGREEMENTS.

"(a) Imposition of Tax.—There is hereby imposed on any person who purchases the right to receive payments under a structured settlement agreement a tax equal to 10 percent of the amount of the purchase price.

"(b) Exception for Court-Ordered Purchases.—Subsection (a) shall not apply to any purchase which is pursuant to a court order which finds that such purchase is necessary because of the extraordinary and unanticipated needs of the individual with the personal injuries or sickness giving rise to the structured settlement agreement.

"(c) Structured Settlement Agreement.—For purposes of this section, the term 'structured settlement agreement' means—

"(1) any right to receive (whether by suit or agreement) periodic payments as damages on account of personal injuries or sickness, or

"(2) any right to receive periodic payments as compensation for personal injuries or sickness under any workmen's compensation act.

"(d) Purchase.—For purposes of this section, the term 'purchase' has the meaning given such term by section 179(d)(2)."

(b) Conforming Amendment.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Chapter 48. Structured settlement agreements."

(c) Effective Date.—The amendments made by this section shall apply to purchases after December 31, 1998.

SEC. ___. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) Repeal of Property Subject to a Liability Test.—

(1) Section 357.—Section 357(a) of the Internal Revenue Code of 1986 (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) Section 358.—Section 358(d)(1) of such Code (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) Section 368.—

(A) Section 368(a)(1)(C) of such Code is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) of such Code is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) Clarification of Assumption of Liability.—

(1) In general.—Section 357 of such Code is amended by adding at the end the following new subsections:

"(d) Determination of Amount of Liability Assumed.—

"(1) In general.—For purposes of this section, section 358(d), section 362(d), section 368(a)(1)(C), and section 368(a)(2)(B), except as provided in regulations—

"(A) a recourse liability (or portion thereof) shall be treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed to, and is expected to, satisfy such liability (or portion), whether or not the transferor has been relieved of such liability; and

"(B) a nonrecourse liability shall be treated as having been assumed by the transferee of any asset subject to such liability.

"(2) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 362(d). The Secretary may also prescribe regulations which provide that the manner in which a liability is treated as assumed under this subsection is applied, where appropriate, elsewhere in this title.".

(2) Limitation on basis increase attributable to assumption of liability.—Section 362 of such Code is amended by adding at the end the following new subsection:

"(d) Limitation on Basis Increase Attributable to Assumption of Liability.—

"(1) In general.—In no event shall the basis of any property be increased under subsection (a) or (b) above fair market value (determined without regard to section 7701(g)) by reason of any gain recognized to the transferor as a result of the assumption of a liability.

"(2) Treatment of gain not subject to tax.—Except as provided in regulations, if—

"(A) gain is recognized to the transferor as a result of an assumption of a nonrecourse liability by a transferee which is also secured by assets not transferred to such transferee; and

"(B) no person is subject to tax under this title on such gain,

then, for purposes of determining basis under subsections (a) and (b), the amount of gain recognized by the transferor as a result of the assumption of the liability shall be determined as if the liability assumed by the transferee equaled such transferee's ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all of the assets subject to such liability.".

(c) Application to Provisions Other Than Subchapter C.—

(1) Section 584.—Section 584(h)(3) of such Code is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A); and

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) Assumed liabilities.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) Assumption.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply.".

(2) Section 1031.—The last sentence of section 1031(d) of such Code is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(d)) a liability of the taxpayer"; and

(B) by striking "or acquisition (in the amount of the liability)".

(d) Conforming Amendments.—

(1) Section 351(h)(1) of such Code is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 of such Code is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) of such Code is amended by striking "or acquired".

(4) Section 357(c)(1) of such Code is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) of such Code is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) of such Code is amended by striking "or acquisition (in the amount of the liability)".

(e) Effective Date.—The amendments made by this section shall apply to transfers after December 31, 1998.

SEC. ___. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN Deemed Incorrect if Information on Return Differs With Agency Records.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

"A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN."

(b) Expansion of Mathematical Error Procedures to Cases Where TIN Establishes Individual Not Eligible for Tax Credit.—Section 6213(g)(2) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of the subparagraph (K) and inserting ", and", and by adding at the end the following new subparagraph:

"(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

"(i) such TIN is of an individual whose age affects the amount of the credit under such section, and

"(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual's age based on such TIN."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. ___. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) Extension of Taxes.—

(1) Environmental tax.—Section 59A(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(e) Application of Tax.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 1998, and before January 1, 2009."

(2) Excise taxes.—Section 4611(e) of such Code is amended to read as follows:

"(e) Application of Hazardous Substance Superfund Financing Rate.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 1998, and before October 1, 2008."

(b) Effective Dates.—

(1) Income tax.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1998.

(2) Excise tax.—The amendment made by subsection (a)(2) shall take effect on January 1, 1999.

SEC. ___. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) In General.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

"(c) Deductible Liquidating Distributions of Regulated Investment Companies and Real Estate Investment Trusts.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.".

(b) Conforming Amendments.—

(1) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking "subsection (a)" and inserting "this section".

(2) Paragraph (1) of section 334(b) of such Code is amended by striking "section 332(a)" and inserting "section 332".

(c) Effective Date.—The amendments made by this section shall apply to distributions after December 31, 2002.

INHOFE AMENDMENT NO. 3366

Mr. INHOFE proposed an amendment to the bill, S. 2312, supra; as follows:

On page 82, line 16, after the end period insert: "This subsection shall not apply unless the Joint Chiefs of Staff and the unified combatant commanders certify in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that the signing of the Convention is consistent with the combat requirements and safety of the armed forces of the United States.".

HATCH (AND BIDEN) AMENDMENT NO. 3367

Mr. HATCH (for himself and Mr. BIDEN) proposed an amendment to the bill, S. 2312, supra; as follows:

At the end of the bill, add the following:

TITLE VII—OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Office of National Drug Control Policy Reauthorization Act of 1998".

SEC. 702. DEFINITIONS.

In this title:

(1) DEMAND REDUCTION.—The term "demand reduction" means any activity conducted by a National Drug Control Program agency, other than an enforcement activity, that is intended to reduce the use of drugs, including—

(A) drug abuse education;

(B) drug abuse prevention;

(C) drug abuse treatment;

(D) drug abuse research;

(E) drug abuse rehabilitation;

(F) drug-free workplace programs; and

(G) drug testing.

(2) DIRECTOR.—The term "Director" means the Director of National Drug Control Policy.

(3) DRUG.—The term "drug" has the meaning given the term "controlled substance" in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(4) DRUG CONTROL.—The term "drug control" means any activity conducted by a National Drug Control Program agency involving supply reduction or demand reduction, including any activity to reduce the use of tobacco or alcoholic beverages by underage individuals.

(5) FUND.—The term "Fund" means the fund established under section 703(d).

(6) NATIONAL DRUG CONTROL PROGRAM.—The term "National Drug Control Program" means programs, policies, and activities undertaken by National Drug Control Program agencies pursuant to the responsibilities of such agencies under the National Drug Control Strategy.

(7) NATIONAL DRUG CONTROL PROGRAM AGENCY.—The term "National Drug Control Program agency" means any department or agency of the Federal Government and all dedicated units thereof, with responsibilities under the National Drug Control Strategy, as designated by the President, or jointly by the Director and the head of the department or agency.

(8) NATIONAL DRUG CONTROL STRATEGY.—The term "National Drug Control Strategy" means the strategy developed and submitted to Congress under section 706.

(9) OFFICE.—Unless the context clearly implicates otherwise, the term "Office" means the Office of National Drug Control Policy established under section 703(a).

(10) STATE AND LOCAL AFFAIRS.—The term "State and local affairs" means domestic activities conducted by a National Drug Control Program agency that are intended to reduce the availability and use of drugs, including—

(A) coordination and facilitation of Federal, State, and local law enforcement drug control efforts;

(B) promotion of coordination and cooperation among the drug supply reduction and demand reduction agencies of the various States, territories, and units of local government; and

(C) such other cooperative governmental activities which promote a comprehensive approach to drug control at the national, State, territory, and local levels.

(11) SUPPLY REDUCTION.—The term "supply reduction" means any activity of a program conducted by a National Drug Control Program agency that is intended to reduce the availability or use of drugs in the United States and abroad, including—

(A) international drug control;

(B) foreign and domestic drug intelligence;

(C) interdiction; and

(D) domestic drug law enforcement, including law enforcement directed at drug users.

SEC. 703. OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President an Office of National Drug Control Policy, which shall—

(1) develop national drug control policy;

(2) coordinate and oversee the implementation of that national drug control policy;

(3) assess and certify the adequacy of national drug control programs and the budget for those programs; and

(4) evaluate the effectiveness of the national drug control programs.

(b) DIRECTOR AND DEPUTY DIRECTORS.—

(1) DIRECTOR.—There shall be at the head of the Office a Director of National Drug Control Policy.

(2) DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—There shall be in the Office a Deputy Director of National Drug Control Policy, who shall assist the Director in carrying out the responsibilities of the Director under this title.

(3) OTHER DEPUTY DIRECTORS.—There shall be in the Office—

(A) a Deputy Director for Demand Reduction, who shall be responsible for the activities described in subparagraphs (A) through (G) of section 702(1);

(B) a Deputy Director for Supply Reduction, who shall be responsible for the activities described in subparagraphs (A) through (C) of section 702(11); and

(C) a Deputy Director for State and Local Affairs, who shall be responsible for the activities described in subparagraphs (A) through (C) of section 702(10).

(c) ACCESS BY CONGRESS.—The location of the Office in the Executive Office of the President shall not be construed as affecting access by Congress, or any committee of the House of Representatives or the Senate, to any—

(1) information, document, or study in the possession of, or conducted by or at the direction of the Director; or

(2) personnel of the Office.

(d) OFFICE OF NATIONAL DRUG CONTROL POLICY GIFT FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund for the receipt of gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office under section 704(c).

(2) CONTRIBUTIONS.—The Office may accept, hold, and administer contributions to the Fund.

(3) USE OF AMOUNTS DEPOSITED.—Amounts deposited in the Fund are authorized to be appropriated, to remain available until expended for authorized purposes at the discretion of the Director.

SEC. 704. APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTORS.

(a) APPOINTMENT.—

(1) IN GENERAL.—The Director, the Deputy Director of National Drug Control Policy, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State and Local Affairs, shall each be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In appointing the Deputy Director for Demand Reduction under this paragraph, the President shall take into consideration the scientific, educational or professional background of the individual, and whether the individual has experience in the fields of substance abuse prevention, education, or treatment.

(2) DUTIES OF DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—The Deputy Director of National Drug Control Policy shall—

(A) carry out the duties and powers prescribed by the Director; and

(B) serve as the Director in the absence of the Director or during any period in which the office of the Director is vacant.

(3) DESIGNATION OF OTHER OFFICERS.—In the absence of the Deputy Director, or if the office of the Deputy Director is vacant, the Director shall designate such other permanent employee of the Office to serve as the Director, if the Director is absent or unable to serve.

(4) PROHIBITION.—No person shall serve as Director or a Deputy Director while serving in any other position in the Federal Government.

(5) PROHIBITION ON POLITICAL CAMPAIGNING.—Any officer or employee of the Office who is appointed to that position by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such official is not prohibited by this paragraph from making contributions to individual candidates.

(b) RESPONSIBILITIES.—The Director shall—

(1) assist the President in the establishment of policies, goals, objectives, and priorities for the National Drug Control Program;

(2) promulgate the National Drug Control Strategy and each report under section 706(b) in accordance with section 706;

(3) coordinate and oversee the implementation by the National Drug Control Program agencies of the policies, goals, objectives, and priorities established under paragraph (1) and the fulfillment of the responsibilities of such agencies under the National Drug Control Strategy;

(4) make such recommendations to the President as the Director determines are appropriate regarding changes in the organization, management, and budgets of Federal departments and agencies engaged in drug enforcement, and changes in the allocation of personnel to and within those departments and agencies, to implement the policies, goals, priorities, and objectives established under paragraph (1) and the National Drug Control Strategy;

(5) consult with and assist State and local governments with respect to the formulation and implementation of National Drug Control Policy and their relations with the National Drug Control Program agencies;

(6) appear before duly constituted committees and subcommittees of the House of Representatives and of the Senate to represent the drug policies of the executive branch;

(7) notify any National Drug Control Program agency if its policies are not in compliance with the responsibilities of the agency under the National Drug Control Strategy, transmit a copy of each such notification to

the President, and maintain a copy of each such notification;

(8) provide, by July 1 of each year, budget recommendations, including requests for specific initiatives that are consistent with the priorities of the President under the National Drug Control Strategy, to the heads of departments and agencies with responsibilities under the National Drug Control Program, which recommendations shall—

(A) apply to next budget year scheduled for formulation under the Budget and Accounting Act of 1921, and each of the 4 subsequent fiscal years; and

(B) address funding priorities developed in the National Drug Control Strategy;

(9) serve as the representative of the President in appearing before Congress on all issues relating to the National Drug Control Program;

(10) in any matter affecting national security interests, work in conjunction with the Assistant to the President for National Security Affairs; and

(11) serve as primary spokesperson of the Administration on drug issues.

(c) NATIONAL DRUG CONTROL PROGRAM BUDGET.—

(1) RESPONSIBILITIES OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) IN GENERAL.—For each fiscal year, the head of each department, agency, or program of the Federal Government with responsibilities under the National Drug Control Program Strategy shall transmit to the Director a copy of the proposed drug control budget request of the department, agency, or program at the same time as that budget request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

(B) SUBMISSION OF DRUG CONTROL BUDGET REQUESTS.—The head of each National Drug Control Program agency shall ensure timely development and submission to the Director of each proposed drug control budget request transmitted pursuant to this paragraph, in such format as may be designated by the Director with the concurrence of the Director of the Office of Management and Budget.

(2) NATIONAL DRUG CONTROL PROGRAM BUDGET PROPOSAL.—For each fiscal year, following the transmission of proposed drug control budget requests to the Director under paragraph (1), the Director shall, in consultation with the head of each National Drug Control Program agency—

(A) develop a consolidated National Drug Control Program budget proposal designed to implement the National Drug Control Strategy;

(B) submit the consolidated budget proposal to the President; and

(C) after submission under subparagraph (B), submit the consolidated budget proposal to Congress.

(3) REVIEW AND CERTIFICATION OF BUDGET REQUESTS AND BUDGET SUBMISSIONS OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) IN GENERAL.—The Director shall review each drug control budget request submitted to the Director under paragraph (1).

(B) REVIEW OF BUDGET REQUESTS.—

(i) INADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under paragraph (1) is inadequate, in whole or in part, to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written description of funding levels and specific initiatives that would, in the determination of the Director, make the request adequate to implement those objectives.

(ii) ADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under paragraph (1) is adequate to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written statement confirming the adequacy of the request.

(iii) RECORD.—The Director shall maintain a record of each description submitted under clause (i) and each statement submitted under clause (ii).

(C) AGENCY RESPONSE.—

(i) IN GENERAL.—The head of a National Drug Control Program agency that receives a description under subparagraph (B)(i) shall include the funding levels and initiatives described by the Director in the budget submission for that agency to the Office of Management and Budget.

(ii) IMPACT STATEMENT.—The head of a National Drug Control Program agency that has altered its budget submission under this subparagraph shall include as an appendix to the budget submission for that agency to the Office of Management and Budget an impact statement that summarizes—

(I) the changes made to the budget under this subparagraph; and

(II) the impact of those changes on the ability of that agency to perform its other responsibilities, including any impact on specific missions or programs of the agency.

(iii) CONGRESSIONAL NOTIFICATION.—The head of a National Drug Control Program agency shall submit a copy of any impact statement under clause (ii) to the Senate and the House of Representatives at the time the budget for that agency is submitted to Congress under section 1105(a) of title 31, United States Code.

(D) CERTIFICATION OF BUDGET SUBMISSIONS.—

(i) IN GENERAL.—At the time a National Drug Control Program agency submits its budget request to the Office of Management and Budget, the head of the National Drug Control Program agency shall submit a copy of the budget request to the Director.

(ii) CERTIFICATION.—The Director—

(I) shall review each budget submission submitted under clause (i); and

(II) based on the review under subclause (I), if the Director concludes that the budget submission of a National Drug Control Program agency does not include the funding levels and initiatives described under subparagraph (B)—

(aa) may issue a written decertification of that agency's budget; and

(bb) in the case of a decertification issued under item (aa), shall submit to the Senate and the House of Representatives a copy of the—

(aaa) decertification issued under item (aa);

(bbb) the description made under subparagraph (B); and

(ccc) the budget recommendations made under subsection (b)(8).

(4) REPROGRAMMING AND TRANSFER REQUESTS.—

(A) IN GENERAL.—No National Drug Control Program agency shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds in an amount exceeding $5,000,000 that is included in the National Drug Control Program budget unless the request has been approved by the Director.

(B) APPEAL.—The head of any National Drug Control Program agency may appeal to the President any disapproval by the Director of a reprogramming or transfer request under this paragraph.

(d) POWERS OF THE DIRECTOR.—In carrying out subsection (b), the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees of the Office as may be necessary to carry out the functions of the Office under this title;

(2) subject to subsection (e)(3), request the head of a department or agency, or program of the Federal Government to place department, agency, or program personnel who are engaged in drug control activities on temporary detail to another department, agency, or program in order to implement the National Drug Control Strategy, and the head of the department or agency shall comply with such a request;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable under level IV of the Executive Schedule under section 5311 of title 5, United States Code;

(5) accept and use gifts and donations of property from Federal, State, and local government agencies, and from the private sector, as authorized in section 703(d);

(6) use the mails in the same manner as any other department or agency of the executive branch;

(7) monitor implementation of the National Drug Control Program, including—

(A) conducting program and performance audits and evaluations;

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations; and

(C) commissioning studies and reports by a National Drug Control Program agency, with the concurrence of the head of the affected agency;

(8) transfer funds made available to a National Drug Control Program agency for National Drug Control Strategy programs and activities to another account within such agency or to another National Drug Control Program agency for National Drug Control Strategy programs and activities, except that—

(A) the authority under this paragraph may be limited in an annual appropriations Act or other provision of Federal law;

(B) the Director may exercise the authority under this paragraph only with the concurrence of the head of each affected agency;

(C) in the case of an interagency transfer, the total amount of transfers under this paragraph may not exceed 2 percent of the total amount of funds made available for National Drug Control Strategy programs and activities to the agency from which those funds are to be transferred;

(D) funds transferred to an agency under this paragraph may only be used to increase the funding for programs or activities that—

(i) have a higher priority than the programs or activities from which funds are transferred; and

(ii) have been authorized by Congress; and

(E) the Director shall—

(i) submit to Congress, including to the Committees on Appropriations of the Senate and the House of Representatives and other applicable committees of jurisdiction, a reprogramming or transfer request in advance of any transfer under this paragraph in accordance with the regulations of the affected agency or agencies; and

(ii) annually submit to Congress a report describing the effect of all transfers of funds made pursuant to this paragraph or subsection (c)(4) during the 12-month period preceding the date on which the report is submitted;

(9) issue to the head of a National Drug Control Program agency a fund control notice described in subsection (f) to ensure compliance with the National Drug Control Program Strategy; and

(10) participate in the drug certification process pursuant to section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j).

(e) PERSONNEL DETAILED TO OFFICE.—

(1) EVALUATIONS.—Notwithstanding any provision of chapter 43 of title 5, United States Code, the Director shall perform the evaluation of the performance of any employee detailed to the Office for purposes of the applicable performance appraisal system established under such chapter for any rating period, or part thereof, that such employee is detailed to such office.

(2) COMPENSATION.—

(A) BONUS PAYMENTS.—Notwithstanding any other provision of law, the Director may provide periodic bonus payments to any employee detailed to the Office.

(B) RESTRICTIONS.—An amount paid under this paragraph to an employee for any period—

(i) shall not be greater than 20 percent of the basic pay paid or payable to such employee for such period; and

(ii) shall be in addition to the basic pay of such employee.

(C) AGGREGATE AMOUNT.—The aggregate amount paid during any fiscal year to an employee detailed to the Office as basic pay, awards, bonuses, and other compensation shall not exceed the annual rate payable at the end of such fiscal year for positions at level III of the Executive Schedule.

(3) MAXIMUM NUMBER OF DETAILEES.—The maximum number of personnel who may be detailed to another department or agency (including the Office) under subsection (d)(2) during any fiscal year is—

(A) for the Department of Defense, 50; and

(B) for any other department or agency, 10.

SEC. 705. COORDINATION WITH NATIONAL DRUG CONTROL PROGRAM AGENCIES IN DEMAND REDUCTION, SUPPLY REDUCTION, AND STATE AND LOCAL AFFAIRS.

(a) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Upon the request of the Director, the head of any National Drug Control Program agency shall cooperate with and provide to the Director any statistics, studies, reports, and other information prepared or collected by the agency concerning the responsibilities of the agency under the National Drug Control Strategy that relate to—

(A) drug abuse control; or

(B) the manner in which amounts made available to that agency for drug control are being used by that agency.

(2) PROTECTION OF INTELLIGENCE INFORMATION.—

(A) IN GENERAL.—The authorities conferred on the Office and the Director by this title shall be exercised in a manner consistent with provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.). The Director of Central Intelligence shall prescribe such regulations as may be necessary to protect information provided pursuant to this title regarding intelligence sources and methods.

(B) DUTIES OF DIRECTOR.—The Director of Central Intelligence shall, to the maximum extent practicable in accordance with subparagraph (A), render full assistance and support to the Office and the Director.

(3) ILLEGAL DRUG CULTIVATION.—The Secretary of Agriculture shall annually submit to the Director an assessment of the acreage of illegal drug cultivation in the United States.

(b) CERTIFICATION OF POLICY CHANGES TO DIRECTOR.—

(1) IN GENERAL.—Subject to paragraph (2), the head of a National Drug Control Program agency shall, unless exigent circumstances require otherwise, notify the Director in writing regarding any proposed change in policies relating to the activities of that agency under the National Drug Control Program prior to implementation of such change. The Director shall promptly review such proposed change and certify to the head of that agency in writing whether such change is consistent with the National Drug Control Strategy.

(2) EXCEPTION.—If prior notice of a proposed change under paragraph (1) is not practicable—

(A) the head of the National Drug Control Program agency shall notify the Director of the proposed change as soon as practicable; and

(B) upon such notification, the Director shall review the change and certify to the head of that agency in writing whether the change is consistent with the National Drug Control Program.

(c) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director, in a reimbursable basis, such administrative support services as the Director may request.

SEC. 706. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

(a) TIMING, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—

(1) TIMING.—Not later than February 1, 1998, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive plan, covering a period of not more than 10 years, for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs.

(2) CONTENTS.—

(A) IN GENERAL.—The National Drug Control Strategy submitted under paragraph (1) shall include—

(i) comprehensive, research-based, long-range, quantifiable, goals for reducing drug abuse and the consequences of drug abuse in the United States;

(ii) annual, quantifiable, and measurable objectives to accomplish long-term quantifiable goals that the Director determines may be realistically achieved during each year of the period beginning on the date on which the National Drug Control Strategy is submitted;

(iii) 5-year projections for program and budget priorities; and

(iv) a review of State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

(B) CLASSIFIED INFORMATION.—Any contents of the National Drug Control Strategy that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the National Drug Control Strategy.

(3) PROCESS FOR DEVELOPMENT AND SUBMISSION.—

(A) CONSULTATION.—In developing and effectively implementing the National Drug Control Strategy, the Director—

(i) shall consult with—

(I) the heads of the National Drug Control Program agencies;

(II) Congress;

(III) State and local officials;

(IV) private citizens and organizations with experience and expertise in demand reduction; and

(V) private citizens and organizations with experience and expertise in supply reduction; and

(ii) may require the National Drug Intelligence Center and the El Paso Intelligence Center to undertake specific tasks or projects to implement the National Drug Control Strategy.

(B) INCLUSION IN STRATEGY.—The National Drug Control Strategy under this subsection, and each report submitted under subsection (b), shall include a list of each entity consulted under subparagraph (A)(i).

(4) MODIFICATION AND RESUBMITTAL.—Notwithstanding any other provision of law, the President may modify a National Drug Control Strategy submitted under paragraph (1) at any time.

(b) ANNUAL STRATEGY REPORT.—

(1) IN GENERAL.—Not later than February 1, 1999, and on February 1 of each year thereafter, the President shall submit to Congress a report on the progress in implementing the Strategy under subsection (a), which shall include—

(A) an assessment of the Federal effectiveness in achieving the National Drug Control Strategy goals and objectives using the performance measurement system described in subsection (c), including—

(i) an assessment of drug use and availability in the United States; and

(ii) an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect during the preceding year, or in effect as of the date on which the report is submitted;

(B) any modifications of the National Drug Control Strategy or the performance measurement system described in subsection (c);

(C) an assessment of the manner in which the budget proposal submitted under section 704(c) is intended to implement the National Drug Control Strategy and whether the funding levels contained in such proposal are sufficient to implement such Strategy;

(D) beginning on February 1, 1999, and annually thereafter, measurable data evaluating the success or failure in achieving the annual measurable objectives described in subsection (a)(2)(A)(ii);

(E) an assessment of current drug use (including inhalants) and availability, impact of drug use, and treatment availability, which assessment shall include—

(i) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

(I) casual and chronic drug use;

(II) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, probationers, and juvenile delinquents; and

(III) drug use in the workplace and the productivity lost by such use;

(ii) an assessment of the reduction of drug availability against an ascertained baseline, as measured by—

(I) the quantities of cocaine, heroin, marijuana, methamphetamine, and other drugs available for consumption in the United States;

(II) the amount of marijuana, cocaine, and heroin entering the United States;

(III) the number of hectares of marijuana, poppy, and coca cultivated and destroyed;

(IV) the number of metric tons of marijuana, heroin, and cocaine seized;

(V) the number of cocaine and methamphetamine processing laboratories destroyed;

(VI) changes in the price and purity of heroin and cocaine;

(VII) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

(VIII) the effectiveness of Federal technology programs at improving drug detection capabilities in interdiction, and at United States ports of entry;

(iii) an assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

(I) the burden drug users placed on hospital emergency departments in the United States, such as the quantity of drug-related services provided;

(II) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other infectious diseases as a result of drug use;

(III) the extent of drug-related crime and criminal activity; and

(IV) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States;

(iv) a determination of the status of drug treatment in the United States, by assessing—

(I) public and private treatment capacity within each State, including information on the treatment capacity available in relation to the capacity actually used;

(II) the extent, within each State, to which treatment is available;

(III) the number of drug users the Director estimates could benefit from treatment; and

(IV) the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals; and

(v) a review of the research agenda of the Counter-Drug Technology Assessment Center to reduce the availability and abuse of drugs; and

(F) an assessment of private sector initiatives and cooperative efforts between the Federal Government and State and local governments for drug control.

(2) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

(A) at any time, upon a determination by the President, in consultation with the Director, that the National Drug Control Strategy in effect is not sufficiently effective; and

(B) if a new President or Director takes office.

(c) PERFORMANCE MEASUREMENT SYSTEM.—

(1) IN GENERAL.—Not later than February 1, 1998, the Director shall submit to Congress a description of the national drug control performance measurement system, designed in consultation with affected National Drug Control Program agencies, that—

(A) develops performance objectives, measures, and targets for each National Drug Control Strategy goal and objective;

(B) revises performance objectives, measures, and targets, to conform with National Drug Control Program Agency budgets;

(C) identifies major programs and activities of the National Drug Control Program agencies that support the goals and objectives of the National Drug Control Strategy;

(D) evaluates implementation of major program activities supporting the National Drug Control Strategy;

(E) monitors consistency between the drug-related goals and objectives of the National Drug Control Program agencies and ensures that drug control agency goals and budgets support and are fully consistent with the National Drug Control Strategy; and

(F) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—

(i) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

(ii) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups that are at risk for drug use; and

(iii) the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B) of subsection (b)(4).

(2) MODIFICATIONS.—

(A) IN GENERAL.—A description of any modifications made during the preceding year to the national drug control performance measurement system described in paragraph (1) shall be included in each report submitted under subsection (b).

(B) ANNUAL PERFORMANCE OBJECTIVES, MEASURES, AND TARGETS.—Not later than February 1, 1999, the Director shall submit to Congress a modified performance measurement system that—

(i) develops annual performance objectives, measures, and targets for each National Drug Control Strategy goal and objective; and

(ii) revises the annual performance objectives, measures, and targets to conform with the National Drug Control Program agency budgets.

SEC. 707. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.

(a) ESTABLISHMENT.—There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program.

(b) DESIGNATION.—The Director, upon consultation with the Attorney General, the Secretary of the Treasury, heads of the National Drug Control Program agencies, and the Governor of each State, may designate any specified area of the United States as a high intensity drug trafficking area. After making such a designation and in order to provide Federal assistance to the area so designated, the Director may—

(1) obligate such sums as appropriated for the High Intensity Drug Trafficking Areas Program;

(2) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

(3) take any other action authorized under section 704 to provide increased Federal assistance to those areas;

(4) coordinate activities under this subsection (specifically administrative, recordkeeping, and funds management activities) with State and local officials.

(c) FACTORS FOR CONSIDERATION.—In considering whether to designate an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

(1) the area is a center of illegal drug production, manufacturing, importation, or distribution;

(2) State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

(3) drug-related activities in the area are having a harmful impact in other areas of the country; and

(4) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

SEC. 708. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) ESTABLISHMENT.—There is established within the Office the Counter-Drug Technology Assessment Center (referred to in this section as the "Center"). The Center shall operate under the authority of the Director of National Drug Control Policy and shall serve as the central counter-drug technology research and development organization of the United States Government.

(b) DIRECTOR OF TECHNOLOGY.—There shall be at the head of the Center the Director of Technology, who shall be appointed by the Director of National Drug Control Policy from among individuals qualified and distinguished in the area of science, medicine, engineering, or technology.

(c) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—

(1) IN GENERAL.—The Director, acting through the Director of Technology shall—

(A) identify and define the short-, medium-, and long-term scientific and technological needs of Federal, State, and local drug supply reduction agencies, including—

(i) advanced surveillance, tracking, and radar imaging;

(ii) electronic support measures;

(iii) communications;

(iv) data fusion, advanced computer systems, and artificial intelligence; and

(v) chemical, biological, radiological (including neutron, electron, and graviton), and other means of detection;

(B) identify demand reduction basic and applied research needs and initiatives, in consultation with affected National Drug Control Program agencies, including—

(i) improving treatment through neuroscientific advances;

(ii) improving the transfer of biomedical research to the clinical setting; and

(iii) in consultation with the National Institute on Drug Abuse, and through interagency agreements or grants, examining addiction and rehabilitation research and the application of technology to expanding the effectiveness or availability of drug treatment;

(C) make a priority ranking of such needs identified in subparagraphs (A) and (B) according to fiscal and technological feasibility, as part of a National Counter-Drug

Enforcement Research and Development Program;

(D) oversee and coordinate counter-drug technology initiatives with related activities of other Federal civilian and military departments;

(E) provide support to the development and implementation of the national drug control performance measurement system; and

(F) pursuant to the authority of the Director of National Drug Control Policy under section 704, submit requests to Congress for the reprogramming or transfer of funds appropriated for counter-drug technology research and development.

(2) LIMITATION ON AUTHORITY.—The authority granted to the Director under this subsection shall not extend to the award of contracts, management of individual projects, or other operational activities.

(d) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Secretary of Defense and the Secretary of Health and Human Services shall, to the maximum extent practicable, render assistance and support to the Office and to the Director in the conduct of counter-drug technology assessment.

SEC. 709. PRESIDENT'S COUNCIL ON COUNTER-NARCOTICS.

(a) ESTABLISHMENT.—There is established a council to be known as the President's Council on Counter-Narcotics (referred to in this section as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—Subject to paragraph (2), the Council shall be composed of 18 members, of whom—

(A) 1 shall be the President, who shall serve as Chairman of the Council;

(B) 1 shall be the Vice President;

(C) 1 shall be the Secretary of State;

(D) 1 shall be the Secretary of the Treasury;

(E) 1 shall be the Secretary of Defense;

(F) 1 shall be the Attorney General;

(G) 1 shall be the Secretary of Transportation;

(H) 1 shall be the Secretary of Health and Human Services;

(I) 1 shall be the Secretary of Education;

(J) 1 shall be the Representative of the United States of America to the United Nations;

(K) 1 shall be the Director of the Office of Management and Budget;

(L) 1 shall be the Chief of Staff to the President;

(M) 1 shall be the Director of the Office, who shall serve as the Executive Director of the Council;

(N) 1 shall be the Director of Central Intelligence;

(O) 1 shall be the Assistant to the President for National Security Affairs;

(P) 1 shall be the Counsel to the President;

(Q) 1 shall be the Chairman of the Joint Chiefs of Staff; and

(R) 1 shall be the National Security Adviser to the Vice President.

(2) ADDITIONAL MEMBERS.—The President may, in the discretion of the President, appoint additional members to the Council.

(c) FUNCTIONS.—The Council shall advise and assist the President in—

(1) providing direction and oversight for the national drug control strategy, including relating drug control policy to other national security interests and establishing priorities; and

(2) ensuring coordination among departments and agencies of the Federal Government concerning implementation of the National Drug Control Strategy.

(d) ADMINISTRATION.—

(1) IN GENERAL.—The Council may utilize established or ad hoc committees, task forces, or interagency groups chaired by the Director (or a representative of the Director) in carrying out the functions of the Council under this section.

(2) STAFF.—The staff of the Office, in coordination with the staffs of the Vice President and the Assistant to the President for National Security Affairs, shall act as staff for the Council.

(3) COOPERATION FROM OTHER AGENCIES.—Each department and agency of the executive branch shall—

(A) cooperate with the Council in carrying out the functions of the Council under this section; and

(B) provide such assistance, information, and advice as the Council may request, to the extent permitted by law.

SEC. 710. PARENTS ADVISORY COUNCIL ON YOUTH DRUG ABUSE.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established a Council to be known as the Parents Advisory Council on Youth Drug Abuse (referred to in this section as the "Council").

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Council shall be composed of 16 members, of whom—

(i) 4 shall be appointed by the President, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(ii) 4 shall be appointed by the Majority Leader of the Senate, 3 of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(iii) 2 shall be appointed by the Minority Leader of the Senate, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(iv) 4 shall be appointed by the Speaker of the House of Representatives, 3 of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made; and

(v) 2 shall be appointed by the Minority Leader of the House of Representatives, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made.

(B) REQUIREMENTS.—

(i) IN GENERAL.—Each member of the Council shall be an individual from the private sector with a demonstrated interest and expertise in research, education, treatment, or prevention activities related to youth drug abuse.

(ii) REPRESENTATIVES OF NONPROFIT ORGANIZATIONS.—Not less than 1 member appointed under each of clauses (i) through (v) of paragraph (1)(A) shall be a representative of a nonprofit organization focused on involving parents in antidrug education and prevention.

(C) DATE.—The appointments of the initial members of the Council shall be made not later than 60 days after the date of enactment of this section.

(D) DIRECTOR.—The Director may, in the discretion of the Director, serve as an adviser to the Council and attend such meetings and hearings of the Council as the Director considers to be appropriate.

(3) PERIOD OF APPOINTMENT; VACANCIES.—

(A) PERIOD OF APPOINTMENT.—Each member of the Council shall be appointed for a term of 3 years, except that, of the initial members of the Council—

(i) 1 member appointed under each of clauses (i) through (v) of paragraph (1)(A) shall be appointed for a term of 1 year; and

(ii) 1 member appointed under each of clauses (i) through (v) of paragraph (1)(A) shall be appointed for a term of 2 years.

(B) VACANCIES.—Any vacancy in the Council shall not affect its powers, provided that a quorum is present, but shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(C) APPOINTMENT OF SUCCESSOR.—To the extent necessary to prevent a vacancy in the membership of the Council, a member of the Council may serve for not more than 6 months after the expiration of the term of that member, if the successor of that member has not been appointed.

(4) INITIAL MEETING.—Not later than 120 days after the date on which all initial members of the Council have been appointed, the Council shall hold its first meeting.

(5) MEETINGS.—The Council shall meet at the call of the Chairperson.

(6) QUORUM.—Nine members of the Council shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) IN GENERAL.—The members of the Council shall select a Chairperson and Vice Chairperson from among the members of the Council.

(B) DUTIES OF CHAIRPERSON.—The Chairperson of the Council shall—

(i) serve as the executive director of the Council;

(ii) direct the administration of the Council;

(iii) assign officer and committee duties relating to the Council; and

(iv) issue the reports, policy positions, and statements of the Council.

(C) DUTIES OF VICE CHAIRPERSON.—If the Chairperson of the Council is unable to serve, the Vice Chairperson shall serve as the Chairperson.

(b) DUTIES OF THE COUNCIL.—

(1) IN GENERAL.—The Council—

(A) shall advise the President and the Members of the Cabinet, including the Director, on drug prevention, education, and treatment; and

(B) may issue reports and recommendations on drug prevention, education, and treatment, in addition to the annual report detailed in paragraph (2), as the Council considers appropriate.

(2) SUBMISSION TO CONGRESS.—Any report or recommendation issued by the Council shall be submitted to Congress.

(3) ADVICE ON THE NATIONAL DRUG CONTROL STRATEGY.—Not later than December 1, 1998, and on December 1 of each year thereafter, the Council shall submit to the Director an annual report containing drug control strategy recommendations on drug prevention, education, and treatment. Each report submitted to the Director under this paragraph shall be included as an appendix to the report submitted by the Director under section 706(b).

(c) POWERS OF THE COUNCIL.—

(1) HEARINGS.—The Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Council considers advisable to carry out this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Council may secure directly from any department or agency of the Federal Government such information as the Council considers to be necessary to carry out this section. Upon request of the Chairperson of the Council, the head of that department or agency shall furnish such information to the Council, unless the head of that department or agency determines that furnishing the information to the Council would threaten the national security of the United States, the health, safety, or privacy of any individual, or the integrity of an ongoing investigation.

(3) POSTAL SERVICES.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Council may solicit, accept, use, and dispose of gifts or donations of services or property in connection with performing the duties of the Council under this section.

(d) EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary carry out this section.

SEC. 711. DRUG INTERDICTION.

(a) DEFINITION.—In this section, the term "Federal drug control agency" means—

(1) the Office of National Drug Control Policy;

(2) the Department of Defense;

(3) the Drug Enforcement Administration;

(4) the Federal Bureau of Investigation;

(5) the Immigration and Naturalization Service;

(6) the United States Coast Guard;

(7) the United States Customs Service; and

(8) any other department or agency of the Federal Government that the Director determines to be relevant.

(b) REPORT.—In order to assist Congress in determining the personnel, equipment, funding, and other resources that would be required by Federal drug control agencies in order to achieve a level of interdiction success at or above the highest level achieved before the date of enactment of this title, not later than 90 days after the date of enactment of this Act, the Director shall submit to Congress and to each Federal drug control program agency a report, which shall include—

(1) with respect to the southern and western border regions of the United States (including the Pacific coast, the border with Mexico, the Gulf of Mexico coast, and other ports of entry) and in overall totals, data relating to—

(A) the amount of marijuana, heroin, methamphetamine, and cocaine—

(i) seized during the year of highest recorded seizures for each drug in each region and during the year of highest recorded overall seizures; and

(ii) disrupted during the year of highest recorded disruptions for each drug in each region and during the year of highest recorded overall seizures; and

(B) the number of persons arrested for violations of section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)) and related offenses during the year of the highest number of arrests on record for each region and during the year of highest recorded overall arrests;

(2) the price of cocaine, heroin, methamphetamine, and marijuana during the year of highest price on record during the preceding 10-year period, adjusted for purity where possible; and

(3) a description of the personnel, equipment, funding, and other resources of the Federal drug control agency devoted to drug interdiction and securing the borders of the United States against drug trafficking for each of the years identified in paragraphs (1) and (2) for each Federal drug control agency.

(b) BUDGET PROCESS.—

(1) INFORMATION TO DIRECTOR.—Based on the report submitted under subsection (b), each Federal drug control agency shall submit to the Director, as part of each annual drug control budget request submitted by the Federal drug control agency to the Director under section 704(c)(2), a description of the specific personnel, equipment, funding, and other resources that would be required for the Federal drug control agency to meet or exceed the highest level of interdiction success for that agency identified in the report submitted under subsection (b).

(2) INFORMATION TO CONGRESS.—The Director shall include each submission under paragraph (1) in each annual consolidated National Drug Control Program budget proposal submitted by the Director to Congress under section 704(c), which submission shall be accompanied by a description of any additional resources that would be required by the Federal drug control agencies to meet the highest level of interdiction success identified in the report submitted under subsection (b).

SEC. 712. REPORT ON AN ALLIANCE AGAINST NARCOTICS TRAFFICKING IN THE WESTERN HEMISPHERE.

(a) SENSE OF CONGRESS ON DISCUSSIONS FOR ALLIANCE.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President should discuss with the democratically elected governments of the Western Hemisphere the prospect of forming a multilateral alliance to address problems relating to international drug trafficking in the Western Hemisphere.

(2) CONSULTATIONS.—In the consultations on the prospect of forming an alliance described in paragraph (1), the President should seek the input of such governments on the possibility of forming 1 or more structures within the alliance—

(A) to develop a regional, multilateral strategy to address the threat posed to nations in the Western Hemisphere by drug trafficking; and

(B) to establish a new mechanism for improving multilateral coordination of drug interdiction and drug-related law enforcement activities in the Western Hemisphere.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report on the proposal discussed under subsection (a), which shall include—

(A) an analysis of the reactions of the governments concerned to the proposal;

(B) an assessment of the proposal, including an evaluation of the feasibility and advisability of forming the alliance;

(C) a determination in light of the analysis and assessment whether or not the formation of the alliance is in the national interests of the United States;

(D) if the President determines that the formation of the alliance is in the national interests of the United States, a plan for encouraging and facilitating the formation of the alliance; and

(E) if the President determines that the formation of the alliance is not in the national interests of the United States, an alternative proposal to improve significantly efforts against the threats posed by narcotics trafficking in the Western Hemisphere, including an explanation of the manner in which the alternative proposal will—

(i) improve upon current cooperation and coordination of counter-drug efforts among nations in the Western Hemisphere;

(ii) provide for the allocation of the resources required to make significant progress in disrupting and disbanding the criminal organizations responsible for the trafficking of illegal drugs in the Western Hemisphere; and

(iii) differ from and improve upon past strategies adopted by the United States Government which have failed to make sufficient progress against the trafficking of illegal drugs in the Western Hemisphere.

(2) UNCLASSIFIED FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

SEC. 713. ESTABLISHMENT OF SPECIAL FORFEITURE FUND.

Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended—

(1) in subsection (b)—

(A) by striking "section 524(c)(9)" and inserting "section 524(c)(8)"; and

(B) by striking "section 9307(g)" and inserting "section 9703(g)"; and

(2) in subsection (e), by striking "strategy" and inserting "Strategy".

SEC. 714. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 5, UNITED STATES CODE.—Chapter 53 of title 5, United States Code, is amended—

(1) in section 5312, by adding at the end the following:

"Director of National Drug Control Policy.";

(2) in section 5313, by adding at the end the following:

"Deputy Director of National Drug Control Policy."; and

(3) in section 5314, by adding at the end the following:

"Deputy Director for Demand Reduction, Office of National Drug Control Policy.

"Deputy Director for Supply Reduction, Office of National Drug Control Policy.

"Deputy Director for State and Local Affairs, Office of National Drug Control Policy.".

(b) NATIONAL SECURITY ACT OF 1947.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following:

"(f) The Director of National Drug Control Policy may, in the role of the Director as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.".

(c) SUBMISSION OF NATIONAL DRUG CONTROL PROGRAM BUDGET WITH ANNUAL BUDGET REQUEST OF PRESIDENT.—Section 1105(a) of title 31, United States Code, is amended by inserting after paragraph (25) the following:

"(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.".

SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, to remain available until expended, such sums as may be necessary for each of fiscal years 1998 through 2002.

SEC. 716. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) IN GENERAL.—Except as provided in subsection (b), effective on September 30, 2002, this title and the amendments made by this title are repealed.

(b) EXCEPTION.—Subsection (a) does not apply to section 713 or the amendments made by that section.

GRAHAM (AND OTHERS) AMENDMENT NO. 3368

Mr. CAMPBELL (for Mr. GRAHAM for himself, Mr. MACK, Mr. KENNEDY, Mr. MOYNIHAN, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mr. KERRY, and Mr. DURBIN) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in the bill, insert the following:

TITLE ___—HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998

SEC. ___01. SHORT TITLE.

This title may be cited as the "Haitian Refugee Immigration Fairness Act of 1998".

SEC. ___02. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

(1) was present in the United States on December 31, 1995, who—

(A) filed for asylum before December 31, 1995,

(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) at the time of arrival in the United States and on December 31, 1995, and who—

(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival,

(ii) became orphaned subsequent to arrival in the United States, or

(iii) was abandoned by parents or guardians prior to April 1, 1998 and has remained abandoned since such abandonment; and

(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has made a final determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an "employment authorized" endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that he or she has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed;

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(i) ADJUSTMENT OF STATUS HAS NO EFFECT ON ELIGIBILITY FOR WELFARE AND PUBLIC BENEFITS.—No alien whose status has been adjusted in accordance with this section and who was not a qualified alien on the date of enactment of this Act may, solely on the basis of such adjusted status, be considered to be a qualified alien under section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)), as amended by section 5302 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 598), for purposes of determining the alien's eligibility for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.).

(j) PERIOD OF APPLICABILITY.—Subsection (i) shall not apply after October 1, 2003.

SEC. ___03. COLLECTION OF DATA ON DETAINED ASYLUM SEEKERS.

(a) IN GENERAL.—The Attorney General shall regularly collect data on a nation-wide basis with respect to asylum seekers in detention in the United States, including the following information:

(1) The number of detainees.

(2) An identification of the countries of origin of the detainees.

(3) The percentage of each gender within the total number of detainees.

(4) The number of detainees listed by each year of age of the detainees.

(5) The location of each detainee by detention facility.

(6) With respect to each facility where detainees are held, whether the facility is also used to detain criminals and whether any of the detainees are held in the same cells as criminals.

(7) The number and frequency of the transfers of detainees between detention facilities.

(8) The average length of detention and the number of detainees by category of the length of detention.

(9) The rate of release from detention of detainees for each district of the Immigration and Naturalization Service.

(10) A description of the disposition of cases.

(b) ANNUAL REPORTS.—Beginning October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsection (a) for the fiscal year ending September 30 of that year.

(c) Availability to Public.—Copies of the data collected under subsection (a) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

SEC. ___04. COLLECTION OF DATA ON OTHER DETAINED ALIENS.

(a) In General.—The Attorney General shall regularly collect data on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service other than the aliens described in section ___03, including the following information:

(1) The number of detainees who are criminal aliens and the number of detainees who are noncriminal aliens who are not seeking asylum.

(2) An identification of the ages, gender, and countries of origin of detainees within each category described in paragraph (1).

(3) The types of facilities, whether facilities of the Immigration and Naturalization Service or other Federal, State, or local facilities, in which each of the categories of detainees described in paragraph (1) are held.

(b) Length of Detention, Transfers, and Dispositions.—With respect to detainees who are criminal aliens and detainees who are noncriminal aliens who are not seeking asylum, the Attorney General shall also collect data concerning—

(1) the number and frequency of transfers between detention facilities for each category of detainee;

(2) the average length of detention of each category of detainee;

(3) for each category of detainee, the number of detainees who have been detained for the same length of time, in 3-month increments;

(4) for each category of detainee, the rate of release from detention for each district of the Immigration and Naturalization Service; and

(5) for each category of detainee, the disposition of detention, including whether detention ended due to deportation, release on parole, or any other release.

(c) Criminal Aliens.—With respect to criminal aliens, the Attorney General shall also collect data concerning—

(1) the number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General; and

(2) a list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.

(d) Annual Reports.—Beginning on October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsections (a), (b), and (c) for the fiscal year ending September 30 of that year.

(e) Availability to Public.—Copies of the data collected under subsections (a), (b), and (c) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

LAUTENBERG AMENDMENT NO. 3369

Mr. CAMPBELL (for Mr. Lautenberg) proposed an amendment to the bill, 2312, supra; as follows:

At the appropriate place, add the following:

Since during the Nazi occupation of Poland, Oskar Schindler personally risked his life and that of his wife to provide food and medical care and saved the lives of over 1,000 Jews from death, many of whom later made their homes in the United States;

Since Oskar Schindler also rescued about 100 Jewish men and women from the Golezow concentration camp, who lay trapped and partly frozen in 2 sealed train cars stranded near Brunnlitz;

Since millions of Americans have been made aware of the story of Schindler's bravery;

Since on April 28, 1962, Oskar Schindler was named a 'Righteous Gentile' by Yad Vashem; and

Since Oskar Schindler is a true hero and humanitarian deserving of honor by the United States Government;

It is the sense of the Congress that the Postal Service should issue a stamp honoring the life of Oskar Schindler.

SNOWE (AND OTHERS) AMENDMENT NO. 3370

Mr. REID (for Ms. Snowe for herself, Mr. Reid, Ms. Mikulski, Ms. Moseley-Braun, and Mr. Smith of Oregon) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in the bill, insert the following:

Sec. ___. (a) None of the funds appropriated by this Act may be expended by the Office of Personnel Management to enter into or renew any contract under section 8902 of title 5, United States Code, for a health benefits plan—

(1) which provides coverage for prescription drugs, unless such plan also provides equivalent coverage for all prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration; or

(2) which provides benefits for outpatient services provided by a health care professional, unless such plan also provides equivalent benefits for outpatient contraceptive services.

(b) Nothing in this section shall apply to a contract with any of the following religious plans:

(1) SelectCare.

(2) PersonalCare's HMO.

(3) Care Choices.

(4) OSF Health Plans, Inc.

(5) Yellowstone Community Health Plan.

(6) And any other existing or future religious based plan whose religious tenets are in conflict with the requirements in this Act.

(c) For purposes of this section—

(1) the term "contraceptive drug or device" means a drug or device intended for preventing pregnancy; and

(2) the term "outpatient contraceptive services" means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent pregnancy.

REID AMENDMENT NO. 3371

Mr. REID proposed an amendment to amendment No. 3370 proposed by Ms. Snowe to the bill, S. 2312, supra; as follows:

At the end of the amendment, add the following new subsection:

(c) Nothing in this section shall be construed to require coverage of abortion or abortion related services.

DORGAN AMENDMENT NO. 3372

Mr. DORGAN proposed an amendment to the bill, S. 2312, supra; as follows:

SEC. . IMPORTATION OF CERTAIN GRAINS.

(a) Findings.—The Congress finds that—

(1) importation of grains into the United States at less than the cost to produce those grains is causing injury to the United States producers of those grains;

(2) importation of grains into the United States at less than the fair value of those grains is causing injury to the United States producers of those grains;

(3) the Canadian government and the Canadian Wheat Board have refused to disclose pricing and cost information necessary to determine whether grains are being exported to the United States at prices in violation of United States trade laws or agreements.

(b) Requirements.—

(1) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall conduct a study of the efficiency and effectiveness of requiring that all spring wheat, durum or barley imported into the United States be imported into the United States through a single port of entry.

(2) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall determine whether such spring wheat, durum and barley could be imported into the United States through a single port of entry until either the Canadian Wheat Board or the Canadian Government discloses all information necessary to determine the cost and price for all such grains being exported to the United States from Canada and whether such cost or price violates any law of the United States, or violates, is inconsistent with, or denies benefits to the United States under, any trade agreement.

(3) The Customs Service shall report to the Committees on Appropriations and Finance not later than ninety days after the effective date of this act on the results of the study required by subsections (1) and (2), above.

WELLSTONE AMENDMENT NO. 3373

Mr. WELLSTONE proposed an amendment to amendment No. 3362 submitted by Mr. FAIRCLOTH to the bill, S. 2312, supra; as follows:

At the end of the amendment insert the following:

SEC. . FAMILY WELL-BEING AND CHILDREN'S IMPACT STATEMENT.

Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on family well-being and on children, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.

HARKIN AMENDMENT NO. 3374

Mr. HARKIN proposed an amendment to amendment No. 3353 proposed by Mr. THOMPSON to the bill, S. 2132, supra; as follows:

Strike out all after "SEC. 642." and insert in lieu thereof the following:

PROHIBITION OF ACQUISITION OF PRODUCTS PRODUCED BY FORCED OR INDENTURED CHILD LABOR.

(a) PROHIBITION.—The head of an executive agency may not acquire an item that appears on a list published under subsection (b) unless the source of the item certifies to the head of the executive agency that forced or indentured child labor was not used to mine, produce, or manufacture the item.

(b) PUBLICATION OF LIST OF PROHIBITED ITEMS.—(1) The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of State, shall publish in the Federal Register every other year a list of items that such officials have identified that have been mined, produced, or manufactured by forced or indentured child labor.

(2) The first list shall be published under paragraph (1) not later than 120 days after the date of the enactment of this Act.

(c) REQUIRED CONTRACT CLAUSES.—(1) The head of an executive agency shall include in each solicitation of offers for a contract for the procurement of an item included on a list published under subsection (b) the following clauses:

(A) A clause that requires the contractor to certify to the contracting officer that the contractor or, in the case of an incorporated contractor, a responsible official of the contractor has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor.

(B) A clause that obligates the contractor to cooperate fully to provide access for the head of the executive agency or the inspector general of the executive agency to the contractor's records, documents, persons, or premises if requested by the official for the purpose of determining whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract.

(2) This subsection applies with respect to acquisitions for a total amount in excess of the micro-purchase threshold (as defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)), including acquisitions of commercial items for such an amount notwithstanding section 34 of the Office of Federal Procurement Act (41 U.S.C. 430).

(d) INVESTIGATIONS.—Whenever a contracting officer of an executive agency has reason to believe that a contractor has submitted a false certification under subsection (a) or (c)(1)(A) or has failed to provide cooperation in accordance with the obligation imposed pursuant to subsection (c)(1)(B), the head of the executive agency shall refer the matter, for investigation, to the Inspector General of the executive agency and, as the head of the executive agency determines appropriate, to the Attorney General and the Secretary of the Treasury.

(e) REMEDIES.—(1) The head of an executive agency may impose remedies as provided in this subsection in the case of a contractor under a contract of the executive agency if the head of the executive agency finds that the contractor—

(A) has furnished under the contract items that have been mined, produced, or manufactured by forced or indentured child labor or uses forced or indentured child labor in mining, production, or manufacturing operations of the contractor;

(B) has submitted a false certification under subparagraph (A) of subsection (c)(1); or

(C) has failed to provide cooperation in accordance with the obligation imposed pursuant to subparagraph (B) of such subsection.

(2) The head of the executive agency, in the sole discretion of the head of the executive agency, may terminate a contract on the basis of any finding described in paragraph (1).

(3) The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts on the basis of a finding that the contractor has engaged in an act described in paragraph (1)(A). The period of the debarment or suspension may not exceed three years.

(4) The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (maintained by the Administrator as described in the Federal Acquisition Regulation) each person that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency or the Comptroller General on the basis that the person uses forced or indentured child labor to mine, produce, or manufacture any item.

(5) This subsection shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a finding described in paragraph (1).

(f) REPORT.—Each year, the Administrator of General Services, with the assistance of the heads of other executive agencies, shall review the actions taken under this section and submit to Congress a report on those actions.

(g) IMPLEMENTATION IN THE FEDERAL ACQUISITION REGULATION.—(1) The Federal Acquisition Regulation shall be revised within 180 days after the date of enactment of this Act—

(A) to provide for the implementation of this section; and

(B) to include the use of forced or indentured child labor in mining, production, or manufacturing as a cause on the lists of causes for debarment and suspension from contracting with executive agencies that are set forth in the regulation.

(2) The revisions of the Federal Acquisition Regulation shall be published in the Federal Register promptly after the final revisions are issued.

(h) EXCEPTION.—(1) This section does not apply to a contract that is for the procurement of any product, or any article, material, or supply contained in a product, that is mined, produced, or manufactured in any foreign country or instrumentality, if—

(A) the foreign country or instrumentality is—

(i) a party to the Agreement on Government Procurement annexed to the WTO Agreement; or

(ii) a party to the North American Free Trade Agreement; and

(B) the contract is of a value that is equal to or greater than the United States threshold specified in the Agreement on Government Procurement annexed to the WTO Agreement or the North American Free Trade Agreement, whichever is applicable.

(2) For purposes of this subsection, the term "WTO Agreement" means the Agreement Establishing the World Trade Organization, entered into on April 15, 1994.

(i) APPLICABILITY.—(1) Except as provided in subsection (c)(2), the requirements of this section apply on and after the date determined under subsection (2) to any solicitation that is issued, any unsolicited proposal that is received, and any contract that is entered into by an executive agency pursuant to such a solicitation or proposal on or after this date.

(2) The date referred to is paragraph (1) is the date that is 30 days after the date of the publication of the revisions of the Federal Acquisition Regulation under subsection (g)(2).

BINGAMAN AMENDMENT NO. 3375

Mr. BINGAMAN proposed an amendment to the bill, S. 2132; supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the amounts appropriated under title IV for the Army, the Navy, and the Air Force, $59,606,000 shall be available for the applied research element within the Dual Use Applications Program, as follows:

(1) Of the amount appropriated for the Army, $20,000,000.

(2) Of the amount appropriated for the Navy, $20,000,000.

(3) Of the amount appropriated for the Air Force, $19,606,000.

BINGAMAN (AND OTHERS) AMENDMENT NO. 3376

Mr. BINGAMAN (for himself, Mr. MURKOWSKI, Mr. TORRICELLI, Mr. BREAUX, Mr. DOMENICI, and Ms. LANDRIEU) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in the bill, add the following:

"ADDITIONAL PURCHASES OF OIL FOR THE STRATEGIC PETROLEUM RESERVE

"In response to historically low prices for oil produced domestically and to build national capacity for response to future energy supply emergencies, the Secretary of Energy shall purchase and transport an additional $420,000,000 of oil for the Strategic Petroleum Reserve upon a determination by the President that current market conditions are imperiling domestic oil production from marginal and small producers: *Provided*, That an official budget request for the purchase of oil for the Strategic Petroleum Reserve and including a designation of the entire request as an emergency requirement as defined in the

Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount in the preceding proviso is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.".

DURBIN (AND OTHERS) AMENDMENT NO. 3377

Mr. CAMPBELL (for Mr. DURBIN, for himself, Mr. KENNEDY, Mr. DODD, Mr. MCCAIN, and Mr. MACK) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert:

The Senate Find

Find of these 44 million, many are descended from the nearly two million Irish immigrants who were forced to flee Ireland during the "Great Hunger" of 1845-1850;

Find those immigrants dedicated themselves to the development of our nation and contributed immensely to it by helping to build our railroads, our canals, our cities and our schools;

Find 1998 marks the 150th anniversary of the mass immigration of Irish immigrants to America during the Irish Potato Famine;

Find commemorating this tragic but defining episode in the history of American immigration would be deserving of honor by the United States Government:

It is the sense of Congress that the United States Postal Service should issue a stamp honoring the 150th anniversary of Irish immigration to the United States during the Irish Famine of 1845-1850.

BAUCUS (AND OTHERS) AMENDMENT NO. 3378

Mr. BAUCUS (for himself, Mr. JEFFORDS, Mr. ALLARD, Mr. CONRAD, Mr. LEAHY, Mr. DORGAN, Mr. ENZI, Mr. REID, and Mr. BRYAN) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, add the following:

SEC. ___. POST OFFICE RELOCATIONS, CLOSINGS, AND CONSOLIDATIONS.

(a) SHORT TITLE.—This section may be cited as the "Community and Postal Participation Act of 1998".

(b) GUIDELINES FOR RELOCATION, CLOSING, OR CONSOLIDATION OF POST OFFICES.—Section 404 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Before making a determination under subsection (a)(3) as to the necessity for the relocation, closing, or consolidation of any post office, the Postal Service shall provide adequate notice to persons served by that post office of the intention of the Postal Service to relocate, close, or consolidate that post office not later than 60 days before the proposed date of that relocation, closing, or consolidation.

"(2)(A) The notification under paragraph (1) shall be [in writing, hand delivered or delivered by mail to persons served by that post office, and] published in 1 or more newspapers of general circulation within the zip codes served by that post office.

"(B) The notification under paragraph (1) shall include—

"(i) an identification of the relocation, closing, or consolidation of the post office involved;

"(ii) a summary of the reasons for the relocation, closing, or consolidation; and

"(iii) the proposed date for the relocation, closing, or consolidation.

"(3) Any person served by the post office that is the subject of a notification under paragraph (1) may offer an alternative relocation, consolidation, or closing proposal during the 60-day period beginning on the date on which the notice is provided under paragraph (1).

"(4)(A) At the end of the period specified in paragraph (3), the Postal Service shall make a determination under subsection (a)(3). Before making a final determination, the Postal Service shall conduct a hearing at the request of the community served. Persons served by the post office that is the subject of a notice under paragraph (1) may present oral or written testimony with respect to the relocation, closing, or consolidation of the post office.

"(B) In making a determination as to whether or not to relocate, close, or consolidate a post office, the Postal Service shall consider—

"(i) the extent to which the post office is part of a core downtown business area;

"(ii) any potential effect of the relocation, closing, or consolidation on the community served by the post office;

"(iii) whether the community served by the post office opposes a relocation, closing, or consolidation;

"(iv) any potential effect of the relocation, closing, or consolidation on employees of the Postal Service employed at the post office;

"(v) whether the relocation, closing, or consolidation of the post office is consistent with the policy of the Government under section 101(b) that requires the Postal Service to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns in which post offices are not self-sustaining;

"(vi) the quantified long-term economic saving to the Postal Service resulting from the relocation, closing, or consolidation;

"(vii) whether postal officials engaged in negotiations with persons served by the post office concerning the proposed relocation, closing, or consolidation;

"(viii) whether management of the post office contributed to a desire to relocate;

"(ix)(I) the adequacy of the existing post office; and

"(II) whether all reasonable alternatives to relocation, closing, or consolidation have been explored; and

"(x) any other factor that the Postal Service determines to be necessary for making a determination whether to relocate, close, or consolidate that post office.

"(5)(A) Any determination of the Postal Service to relocate, close, or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (4).

"(B) The Postal Service shall respond to all of the alternative proposals described in paragraph (3) in a consolidated report that includes—

"(i) the determination and findings under subparagraph (A); and

"(ii) each alternative proposal and a response by the Postal Service.

"(C) The Postal Service shall make available to the public a copy of the report prepared under subparagraph (B) at the post office that is the subject of the report.

"(6)(A) The Postal Service shall take no action to relocate, close, or consolidate a post office until the applicable date described in subparagraph (B).

"(B) The applicable date specified in this subparagraph is—

"(i) if no appeal is made under paragraph (7), the end of the 60-day period specified in that paragraph; or

"(ii) if an appeal is made under paragraph (7), the date on which a determination is made by the Commission under paragraph (7)(A), but not later than 120 days after the date on which the appeal is made.

"(7)(A) A determination of the Postal Service to relocate, close, or consolidate any post office may be appealed by any person served by that post office to the Postal Rate Commission during the 60-day period beginning on the date on which the report is made available under paragraph (5). The Commission shall review the determination on the basis of the record before the Postal Service in the making of the determination. The Commission shall make a determination based on that review not later than 120 days after appeal is made under this paragraph.

"(B) The Commission shall set aside any determination, findings, and conclusions of the Postal Service that the Commission finds to be—

"(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(ii) without observance of procedure required by law; or

"(iii) unsupported by substantial evidence on the record.

"(C) The Commission may affirm the determination of the Postal Service that is the subject of an appeal under subparagraph (A) or order that the entire matter that is the subject of that appeal be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal.

"(D) The provisions of sections 556 and 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

"(E) A determination made by the Commission shall not be subject to judicial review.

"(8) In any case in which a community has in effect procedures to address the relocation, closing, or consolidation of buildings in the community, and the public participation requirements of those procedures are more stringent than those provided in this subsection, the Postal Service shall apply those procedures to the relocation, consolidation, or closing of a post office in that community in lieu of applying the procedures established in this subsection.

"(9) In making a determination to relocate, close, or consolidate any post office, the Postal Service shall comply with any applicable zoning, planning, or land use laws (including building codes and other related laws of State or local public entities, including any zoning authority with jurisdiction over the area in which the post office is located).

"(10) The relocation, closing, or consolidation of any post office under this subsection shall be conducted in accordance with section 110 of the National Historic Preservation Act (16 U.S.C. 470h-2).".

(c) POLICY STATEMENT.—Section 101(g) of title 39, United States Code, is amended by adding at the end the following: "In addition to taking into consideration the matters referred to in the preceding sentence, with respect to the creation of any new postal facility, the Postal Service shall consider the potential effects of that facility on the community to be served by that facility and the service provided by any facility in operation at the time that a determination is made whether to plan or build that facility.".

MCCONNELL (AND OTHERS) AMENDMENT NO. 3379

Mr. MCCONNELL (for himself, Mr. MCCAIN, Mr. BENNETT, and Mr. WARNER) proposed an amendment to the bill, S. 2312, supra; as follows:

At the end of title V, add the following section:

SEC. ___. PROVISIONS FOR STAFF DIRECTOR AND GENERAL COUNSEL OF THE FEDERAL ELECTION COMMISSION.

(a) APPOINTMENT AND TERM OF SERVICE.—

(1) IN GENERAL.—The first sentence of section 306(f)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)(1)) is amended by striking "by the Commission" and inserting "by an affirmative vote of not less than 4 members of the Commission for a term of 4 years".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to any individual serving as the staff director or general counsel of the Federal Election Commission on or after January 1, 1999, without regard to whether or not the individual served as staff director or general counsel prior to such date.

(b) TREATMENT OF INDIVIDUALS FILLING VACANCIES; TERMINATION OF AUTHORITY UPON EXPIRATION OF TERM.—Section 306(f)(1) of such Act (2 U.S.C. 437c(f)(1)) is amended by inserting after the first sentence the following: "An individual appointed as a staff director or general counsel to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the individual whose term is being filled. An individual serving as staff director or general counsel may not serve in such position after the expiration of the individual's term unless reappointed in accordance with this paragraph.".

(c) RULE OF CONSTRUCTION REGARDING AUTHORITY OF ACTING GENERAL COUNSEL.—Section 306(f) of such Act (2 U.S.C. 437c(f)) is amended by adding at the end the following:

"(5) Nothing in this Act shall be construed to prohibit any individual serving as an acting general counsel of the Commission from performing any functions of the general counsel of the Commission.".

GLENN (AND OTHERS) AMENDMENT NO. 3380

Mr. GLENN (for himself, Mr. JEFFORDS, Mr. KOHL, Mr. LEVIN, Mr. FEINGOLD, and Mr. DODD) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 44, line 13, insert after "$33,700,000" the following: "(increased by $2,800,000 to be used for enforcement activities)".

On page 46, line 18, strike "$5,665,585,000" and insert "$5,662,785,000".

On page 56, line 20, strike "$5,665,585,000" and insert "$5,662,785,000".

GRAHAM (AND MACK) AMENDMENT NO. 3381

Mr. GRAHAM (for himself and Mr. MACK) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 20, line 16, strike $3,164,399,000" and insert "$3,162,399,000.

On page 39, line 10, strike "$171,007,000" and insert "$173,007,000".

On page 40, line 3, strike ": *Provided*, That funding" and insert the following: ", and of which $3,000,000 shall be used to continue the recently created Central Florida High Intensity Drug Trafficking Area: *Provided*, That except with respect to the Central Florida High Intensity Drug Trafficking Area, funding".

WELLSTONE AMENDMENT NO. 3382

Mr. CAMPBELL (for Mr. WELLSTONE) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 104, between lines 21 and 22, insert the following:

SEC. 6___. DESIGNATION OF EUGENE J. MCCARTHY POST OFFICE BUILDING.

(a) IN GENERAL.—The building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, shall be known and designated as the "Eugene J. McCarthy Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Eugene J. McCarthy Post Office Building".

DOMENICI (AND COVERDELL) AMENDMENT NO. 3383

Mr. DOMENICI (for himself and Mr. COVERDELL) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 8, line 11, strike "$66,251,000" and insert "$71,923,000".

On page 10, line 12, strike "and related expenses, $15,360,000" and insert "new construction, and related expenses, $42,620,000".

On page 46, line 18, strike "$5,665,585,000" and insert "$5,632,552,000".

On page 50, line 20, strike "$668,031,000" and insert "$634,998,000".

On page 50, line 23, strike "$323,800,000" and insert "$309,499,000".

On page 52, line 13, strike "$344,236,000" and insert "$311,203,000".

On page 56, line 20, strike "$5,665,585,000" and insert "$5,632,552,000".

On page 45, line 21, strike "$508,752,000" and insert "S475,719,000".

DOMENICI (AND OTHERS) AMENDMENT NO. 3384

Mr. DOMENICI (for himself, Mr. COVERDELL, Mr. BINGAMAN, and Mr. CLELAND) proposed an amendment to the bill, S. 2312, supra; as follows:

At the end of the bill add the following new section:

"SEC. . Within the amounts appropriated in this Act, up to $20.3 million may be transferred to the Acquisition, Construction, Improvements, and Related Expenses account of the Federal Law Enforcement Training Center for new construction."

STEVENS AMENDMENT NO. 3385

Mr. STEVENS proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. AVERAGE PAY DETERMINATION OF CERTAIN FEDERAL OFFICERS AND EMPLOYEES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended by inserting after section 8339 the following:

"§ 8339a. Average pay determination in certain years

"(a) For purposes of this section the term 'covered position' means—

"(1) any position for which pay is adjusted by statute whenever an adjustment takes effect under section 5303 (or any statute relating to cost-of-living adjustments in statutory pay systems in effect before the effective date of section 101 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101–509; 104 Stat. 1429)); or

"(2) any position for which pay is adjusted by rule, practice, or order based on an adjustment in the pay of a position described under paragraph (1).

"(b) Subject to subsection (d), for purposes of determining the average pay of an employee or Member, the basic pay of the employee or Member during a year described under subsection (c) shall be deemed to be the basic pay paid at the actual rate of pay adjusted by the same percentage as any cost-of-living adjustment of annuities under section 8340 which took effect during such year, on the date such cost-of-living adjustment took effect.

"(c) Subsection (b) refers to any year in which—

"(1) any cost-of-living adjustment of annuities under section 8340 took effect; and

"(2) the applicable employee or Member serving in a covered position did not receive an adjustment in pay described under subsection (a) (1) or (2) because a statute provided that such adjustment would not take effect with respect to a covered position described under subsection (a) (1).

"(d) Average pay shall be determined under this section, if the applicable employee or Member, or the survivor of such employee or Member, deposits to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the employee or Member during the period of service in a covered position and the amount which would have been deducted during such period if the rate of basic pay had been adjusted as provided under subsections (b) and (c), plus interest as computed under section 8334(e).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8339 the following:

"8339a. Average pay determination in certain years.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 84 of title 5, United States Code, is amended by inserting after section 8415 the following:

"§ 8415a. Average pay determination in certain years

"(a) For purposes of this section the term 'covered position' means—

"(1) any position for which pay is adjusted by statute whenever an adjustment takes effect under section 5303 (or any statute relating to cost-of-living adjustments in statutory pay systems in effect before the effective date of section 101 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101–509; 104 Stat. 1429)); or

"(2) any position for which pay is adjusted by rule, practice, or order based on an adjustment in the pay of a position described under paragraph (1).

"(b) Subject to subsection (d), for purposes of determining the average pay of an employee or Member, the basic pay of the employee or Member during a year described under subsection (c) shall be deemed to be the basic pay paid at the actual rate of pay adjusted by the same percentage as any cost-of-living adjustment of annuities under section 8462 which took effect during such year, on the date such cost-of-living adjustment took effect.

"(c) Subsection (b) refers to any year in which—

"(1) any cost-of-living adjustment of annuities under section 8462 took effect; and

"(2) the applicable employee or Member serving in a covered position did not receive an adjustment in pay described under subsection (a) (1) or (2) because a statute provided that such adjustment would not take effect with respect to a covered position described under subsection (a) (1).

"(d) Average pay shall be determined under this section, if the applicable employee or Member, or the survivor of such employee or Member, deposits to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the employee or Member during the period of service in a covered position and the amount which would have been deducted during such period if the rate of basic pay had been adjusted as provided under subsections (b) and (c), plus interest as computed under section 8334(e).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8415 the following:

"8415a. Average pay determination in certain years."

(c) EFFECTIVE DATE.—This section shall take effect on January 2, 1999, and shall apply only to any annuity commencing on or after such date.

GRASSLEY (AND OTHERS) AMENDMENT NO. 3386

Mr. CAMPBELL (for Mr. GRASSLEY for himself, Mr. D'AMATO, Mr. SESSIONS, Mr. STEVENS, and Mr. GRAMS) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) DEFINITIONS.—In this section—

(1) the term "crime of violence" has the meaning given that term in section 16 of title 18, United States Code; and

(2) the term "law enforcement officer" means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5, United States Code; and any special agent in the Diplomatic Security Service of the Department of State.

(b) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, a law enforcement officer shall be construed to be acting within the scope of his or her office or employment, if the officer takes reasonable action, including the use of force, to—

(1) protect an individual in the presence of the officer from a crime of violence;

(2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer a crime of violence.

HARKIN (AND MURRAY) AMENDMENT NO. 3387

Mr. HARKIN (for himself and Mrs. MURRAY) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in the bill and the following:

On page 39, strike lines 10 through 12 and insert in lieu thereof the following: "Area Program, $179,007,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which $8,000,000 shall be used for methamphetamine programs above the sums allocated in fiscal year 1998 and otherwise provided for in this legislation with no less than half of the $8,000,000 going to areas solely dedicated to fighting methamphetamine usage, and in addition no less than $1,000,000 of the $8,000,000 shall be allocated to the Cascade High Intensity Drug Trafficking Area, of which".

Amend page 50, line 20 by reducing the dollar figure by $8,000,000.

Amend page 52, line 13 by reducing the dollar figure by $8,000,000.

CAMPBELL (AND KOHL) AMENDMENT NO. 3388

Mr. CAMPBELL (for himself and Mr. KOHL) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, strike and insert the following:

On page 10, line 14, strike through page 10, line 20.

On page 17, line 7, strike "98,488,000," and insert in lieu thereof "113,488,000,".

On page 17, line 20, strike "1999." and insert in lieu thereof "1999: *Provided further*, That of the amount provided, $15,000,000 shall be made available for drug interdiction activities in South Florida and the Caribean.".

On page 39, line 10 strike "171,007,000" and insert in lieu thereof "183,977,000".

On page 39, line 19 after "criteria," insert "and of which $3,000,000 shall be used to continue the recently created Central Florida High Intensity Drug Trafficking Area, and of which $1,970,000 shall be used for the addition of North Dakota into the Midwest High Intensity Drug Trafficking Area, and of which $7,000,000 shall be used for methamphetamine programs otherwise provided for in this legislation with not less than half of the $7,000,000 shall expand the Midwest High Intensity Drug Trafficking Area, and of which $1,000,000 shall be used to expand the Cascade High Intensity Drug Trafficking Area, and of which $1,500,000 shall be provided to the Southwest Border High Intensity Drug Trafficking Area,".

KERREY AMENDMENT NO. 3389

Mr. KOHL (for Mr. KERREY) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place insert the following:

SECTION 1. SENSE OF THE SENATE REGARDING THE REDUCTION OF PAYROLL TAXES.

(a) FINDINGS.—The Senate finds the following:

(1) The payroll tax under the Federal Insurance Contributions Act (FICA) is the biggest, most regressive tax paid by working families.

(2) The payroll tax constitutes a 15.3 percent tax burden on the wages and self-employment income of each American, with 12.4 percent of the payroll tax used to pay social security benefits to current beneficiaries and 2.9 percent used to pay the medicare benefits of current beneficiaries.

(3) The amount of wages and self-employment income subject to the social security portion of the payroll tax is capped at $68,400. Therefore, the lower a family's income, the more they pay in payroll tax as a percentage of income. The Congressional Budget Office has estimated that for those families who pay payroll taxes, 80 percent pay more in payroll taxes than in income taxes.

(4) In 1996, the median household income was $35,492, and a family earning that amount and taking standard deductions and exemptions paid $2,719 in Federal income tax, but lost $5,430 in income to the payroll tax.

(5) Ownership of wealth is essential for everyone to have a shot at the American dream, but the payroll tax is the principal burden to savings and wealth creation for working families.

(6) Since 1983, the payroll tax has been higher than necessary to pay current benefits.

(7) Since most of the payroll tax receipts are deposited in the social security trust funds, which masks the real amount of Government borrowing, those whom the payroll tax hits hardest, working families, have shouldered a disproportionate share of the Federal budget deficit reduction and, therefore, a disproportionate share of the creation of the Federal budget surplus.

(8) Over the next 10 years, the Federal Government will generate a budget surplus of $1,550,000,000,000, and all but $32,000,000,000 of that surplus will be generated by excess payroll taxes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) if Congress decides to use the Federal budget surplus to provide tax relief the payroll tax should be reduced first; and

(2) Congress and the President should work to reduce this tax which burdens American families.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, July 29, 1998. The purpose of this meeting will be to examine USDA downsizing and consolidated efforts.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet in executive session during the session of the Senate on Wednesday, July 29, 1998, to conduct a mark-up of S. 1405, the "Financial Regulatory Relief and Economic Efficiency Act of 1997".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 29, 1998, at 9:30 a.m. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to conduct a Business Meeting during the session of the Senate on Wednesday, July 29 in Room SD–366.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, July 29 for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider pending business Wednesday, July 29, at 9:30 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 9:30 a.m. to conduct a business meeting to consider the following pending business of the Committee: S. 1905, A bill to Compensate the Cheyenne River Sioux Tribe, and for Other Purposes; S. 391, To Provide for the Distribution of Certain Judgment Funds to the Mississippi Sioux Tribe of Indians, and for Other Purposes; and S. 1770, To Elevate the Position of the Director of the Indian Health Service to Assistant Secretary for Health and Human Services. The Business Meeting will be held in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate Committe on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 2:00 p.m. to conduct a business meeting to consider the following pending business of the Committee: S. 1905, A Bill to Compensate the Cheyenne River Sioux Tribe, and for Other Purposes; H.R. 3069, A Bill to Extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council; S. 1770, To Elevate the Position of the Director of the Indian Health Service to Assistant Secretary for Health and Human Services; S. 391, To Provide for the Distribution of Certain Judgment Funds to the Mississippi Sioux Tribe of Indians, and for Other Purposes; and S. 1419, A Bill to deem the activities of the Miccosukee Tribe on the Tamiani Indian Reserve to be consistent with the purposes of the Everglades National Park, and for other purposes.

The Business Meeting will be held in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 9:30 a.m. in room 226 of the Senate Hart Office Building to hold a hearing on: "S. 1554, Fairness in Punitive Damages Awards Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, July 29, 1998, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 9:30 a.m. to hold a hearing on S. 2288, the Wendell H. Ford Government Publication Reform Act of 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 10 a.m. and 2:30 p.m. to hold a closed hearing on Intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Senate Judiciary Committee be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 2 p.m. to hold a hearing in room 226, Senate Dirksen Building, on "INS Reform: The Enforcement Side."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY

Mr. CAMPBELL. Mr. President, I ask unanimous consent on behalf of the Government Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Wednesday, July 29, 1998 at 2 p.m. for a hearing on "An Industry View of the Satellite Export Licensing Process."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SOCIAL SECURITY

Mr. CAMPBELL. Mr. President, the Finance Committee on Social Security and Family Policy requests unanimous consent to conduct a hearing on Wednesday, July 29, 1998 beginning at 2 p.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO MILLIE BEEM CELEBRATING HER 80th BIRTHDAY

• Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Ms. Millie Beem of Springfield, Missouri, who will celebrate her 80th birthday on August 2, 1998. Millie is truly a remarkable individual. She has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of Millie's life has meant much more, however, to the many relatives and friends whose lives she has touched over the last eighty years.

Millie's celebration of eighty years of life is a testament to me and all Missourians. Her achievements are significant and deserve to be recognized. I would like to join Millie's many friends and relatives in wishing her health and happiness in the future.•

250th ANNIVERSARY OF FREDERICK COUNTY, MARYLAND

• Mr. SARBANES. Mr. President, I rise today to commemorate the 250th anniversary of Frederick County, Maryland. Throughout Maryland's glorious history, Frederick County and her sons and daughters have played a critical role in our State's quest for freedom and progress. From the very founding of our nation, Frederick Countians have proudly and resolutely upheld the principles and beliefs which are the basis of our democratic system of self government.

This strong commitment to freedom was evident among the English and German immigrants who first settled in Frederick County. They were extremely appreciative of the freedoms they found in this "New World" and zealous in their dedication to protecting them. One such individual was Francis Scott Key, the lawyer and poet who, watching the bombardment of Ft. McHenry from a British cartel ship off Sparrow's Point in Baltimore's harbor, penned the words that subsequently became memorialized as our National Anthem.

What many may not know is that the eloquent author of the Star Spangled Banner was born in Frederick City, which celebrated its own 250th birthday in 1995. Francis Scott Key was detained on the British ship in 1814 while attempting to secure the release of Dr. William Beanes of Upper Marlboro who had been arrested. In the early morning of September 14, 1814, during the Battle of Baltimore, Key, overcome with pride from his unique vantage point, wrote the words that captured the essence of our national struggle for independence.

Frederick County is also the seat of some of our State's most tumultuous historic incidents. When the British passed the Stamp Act in 1785 requiring colonists to purchase stamps for all legal and commercial documents, twelve Frederick County judges resolved to reject the Stamp Act, and approved the use of unstamped documents. This bold maneuver is believed to be the first recorded act of rebellion in the colonies.

It was in Frederick County that the Maryland legislature held the momentous vote on secession. The vote was held in this venue in response to a personal request from President Lincoln in the hope that Marylanders from the southern part of the State would not be able to attend, therefore guaranteeing that Maryland remain in the Union. Although the strategy was successful, the narrow vote sent reverberations throughout the State and there were skirmishes at towns along the Potomac. While the resulting Confederate occupation of parts of Frederick County was relatively peaceful, this event was the immediate precursor to the Battle of Antietam, the bloodiest day of fighting in any American war.

A local anecdote, which serves as a testament to the tremendous dedication of these citizens, claims that on the day that General Jackson's troops were marching out of Frederick to Antietam, a Union flag was seen hanging from the home of Barbara Fritchie, a 95 year old widow known for her spirited nature, who risked injury and death by hanging from her window after shots were fired, flag in hand, shouting, "Shoot, if you must, this old gray head, but spare your country's flag."

Another significant event has its beginnings here, as it was from the City of Frederick that Lewis and Clark launched their exploration of the American West. In July, 1803, these two explorers set out from the Hessian Barracks in Frederick Town into uncharted territories. These events further illustrate Frederick County's position at the symbolic crossroads of history, and it is here that we find Maryland's true roots firmly in place. Frederick County is at a literal crossroads as well due to the construction of the B&O Railroad in the early 1800's and the location of the C&O canal. These two modes of transportation opened up major corridors from and to the east, laying the groundwork for a tradition of jobs, industry and trade.

From this lasting spirit of community interdependence and unity comes many of Frederick's modern landmarks. Frederick County is home to Ft. Detrick, crucial to the creation of new jobs and economic development in the region, and to the National Fallen Firefighters memorial in Emmitsburg. In recent years, Frederick County has been a leader in developing new economic growth and opportunities for our State and has attracted innovative technology companies to its pleasant surroundings.

The City of Frederick, the County Seat, is the second largest city in Maryland, yet it maintains its small town charm and sense of community that reflects the civil congeniality that has always defined Frederick, both in its rich history and its contemporary success. The contribution of Francis Scott Key to our nation has been complemented over the decades by other distinguished citizens of this county. Most recently, many of us in the Senate were privileged to count as a colleague the extremely distinguished Senator from Maryland and native son of Frederick, Charles Mac Mathias. The intellectual and personal integrity which Senator Mathias brought to this body in service to the nation is exemplary of the spirit of his fellow Frederick Countians.

The activities that have been planned in celebration of this auspicious anniversary exemplify the deep devotion of Frederick residents to their county. I join these citizens in sharing their pride in Frederick's past and their optimism for continued achievement. I urge my colleagues to visit this lovely location in the heart of Maryland and explore this renowned resource.•

TRIBUTE TO LOUIS TAYLOR

• Mr. BOND. Mr. President, I rise today to pay tribute to Louis Taylor who has provided great service to the Committee on Small Business, the U.S. Senate and to me personally. Louis Taylor is stepping down this week as Chief Counsel and Staff Director of the Senate Committee on Small Business. When I became chairman of the Committee on Small Business in January 1995, one of my first actions was to hire Louis. For the past 3½ years, Louis has provided outstanding leadership to the staff on the Committee on Small Business and he has been instrumental in support of my efforts to transform the committee so that it is the eyes, ears, and voice in the U.S. Senate for small businesses.

In his tenure on the Committee on Small Business, Louis Taylor played a significant role in crafting important pieces of legislation to help small businesses. Two such legislative accomplishments stand out among the numerous bills that originated from the Committee on Small Business and were enacted into law—the HUBZone Act of 1997 and the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Red-Tape Reduction Act. The HUBZone program expands the opportunity for small businesses in economically distressed areas to compete for Federal contracts, bringing jobs and new investments to inner cities and poor rural areas. The Red-Tape Reduction Act established safeguards to improve the Government's regulatory fairness to small businesses and established an independent ombudsman and regional citizen review boards to give small businesses a voice in evaluating Federal agency actions. Without Louis Taylor's contributions, the ultimate enactment of these important statutes would surely have been much more difficult.

In addition to these impressive legislative achievements, Louis Taylor played an integral role in ensuring that the Committee on Small Business capitalized on its expansive oversight jurisdiction to be a strong advocate for small business in the U.S. Senate. On those issues where the committee did not have legislative jurisdiction, Louis Taylor helped me guide the committee in its efforts to call attention to the impact such issues have on small business. For example, using its oversight jurisdiction, the committee was successful in including a number of small business provisions in the IRS Restructuring and Reform Act of 1998, which was signed into law last week. These changes to the structure of the IRS and improved taxpayer rights will help small business owners to resolve tax problems more efficiently while providing them with the service and respect that they deserve from the agency. The committee has also been extremely active in ensuring regulatory fairness for small businesses and women-owned businesses, in particular. Perhaps the provision that will have the broadest impact, however, is the provision of 100 percent deductibility for health insurance for the self-employed and their families. This measure ultimately will make health insurance more affordable for 5 million Americans who do not carry it now.

In conclusion, the entire committee and I certainly will miss Louis Taylor as he moves on to other endeavors, but the contributions that he has made and the leadership he has given to the Committee on Small Business are greatly appreciated and will not be soon forgotten.•

150TH PHINEAS GAGE ANNIVERSARY CELEBRATION, CAVENDISH, VERMONT

• Mr. LEAHY. Mr. President, on September 13, 1998, the town of Cavendish, Vermont will be holding a very special event to commemorate the remarkable life of Phineas Gage. Phineas Gage was the victim of a freak head injury that occurred in Cavendish, and the effect his injury had on his personality resulted in a breakthrough in the understanding of brain function.

To commemorate the 150th anniversary of Phineas Gage's accident, the town of Cavendish has planned a two-day celebration. A beautiful town in southern Vermont, lying on the original tracks of the Rutland-Burlington railroad, Cavendish has initiated and organized the Gage celebration. At the heart of the commemoration events will be a historic festival in the Cavendish town center. The festival will include tours along the historic railway, artifact displays, including the first public display of Gage's skull and tamping rod, and Vermont artisan and craft demonstrations.

The residents of Cavendish citizens are to be commended for their leadership and hard work in planning these events.

To more fully explain the events of September 13, 1848, and the importance of this day for medical history, at the conclusion of my remarks and those of my colleague from Vermont, I ask that the story of Phineas Gage provided by the town of Cavendish be printed in the RECORD.

Mr. JEFFORDS. Mr. President, I join my colleague from Vermont in recognizing September 13th as the 150th Anniversary of Phineas Gage's accident in Cavendish, VT. Gage was clearing away boulders for a new rail line in the town of Cavendish, population 1300, when an explosion sent his tamping rod passing through his skull and landing 30 yards away. It initially appeared that Gage had survived the accident without long term effects. However, soon after the accident, it became apparent that his emotional stability and good attitude had changed forever offering insight into the effects of the frontal lobe brain damage on mental function.

Earlier this year, Vermont Governor Howard Dean signed a proclamation declaring September 13, 1998 as Phineas Gage 150th Anniversary Commemoration Day. On this day, accompanying the historic festival, Cavendish will host the John Martyn Harlow Frontal Lobe Symposium. John Harlow, Gage's doctor, carefully documented Gage's accident and recovery, providing early insight into frontal lobe brain damage. The symposium will draw experts and scholars from around the globe to reexamine the Gage case, and apply modern technology to better understand the connection between brain damage and personality change.

I join my colleague from Vermont in commending the residents of Cavendish for bringing together their town, the state of Vermont, and the international neurological community to celebrate this Vermont legend and the medical breakthrough surrounding his life.

The story follows:

THE STORY OF PHINEAS GAGE'S ACCIDENT

Phineas Gage is one of the most famous patients in medical history and probably the most famous patient to have survived severe damage to the brain. He is also the first patient from whom we have learned something about the relationship between personality and the function of the frontal lobe of the brain.

Gage was the foreman in a railway construction gang working for the contractors preparing the bed for the Rutland and Burlington Railroad just outside of Cavendish (Vermont). On September 13, 1848, an accidental explosion of a charge he had set blew his tamping iron through the left side of his skull. The tamping iron, a crowbar-like tool, was 3 feet 7 inches long, weighed 13½ pounds, and was 1¼ inches in diameter at one end, tapering over a distance of about 1 foot to a diameter of ¼ inch at the other end.

The tamping iron went point first under his left cheek bone and out through the top of his head, landing about 25 to 30 yards behind him. Gage was knocked over but may not have lost consciousness according to historic accounts even though most of the left frontal lobe was destroyed. He was treated by Dr. John Harlow, the Cavendish physician, with such skill that Gage returned to his home in Lebanon, NH, 10 weeks later.

Seven months later, Gage felt strong enough to resume work. But because his personality had changed so much, the contractors who had employed him would not return him to his former position. Before the accident, he had been their most capable and efficient foreman, one with a well-balanced mind and a shrewd business sense. He was not fitful, irreverent, and grossly profane, showing little deference for his men. He was impatient and obstinate, yet capricious and vacillating, unable to settle on any of the plans he devised for future action. His friends said he was, "No longer Gage."

Phineas Gage never worked at the level of a foreman again. He held a number of odd jobs according to Dr. Harlow's 1868 account. He appeared at Barnum's Museum in New York, worked in the livery stable of the Darmouth Inn (Hanover, NH) and drove coaches and cared for horses in Chile. In about 1859, after his health began to fail, he went to San Francisco to live with his mother. He began to have epileptic seizures in February 1860 and died on May 21, 1860.

No studies of Phineas Gage's brain were made post mortem. Late in 1867, his body was exhumed from its grave in San Francisco's Lone Mountain Cemetery. Phineas' skull and the famous tamping iron were delivered by his brother-in-law to Dr. Harlow (who was at that time, living in Woburn, MA). Harlow reported his findings, including his estimate of the brain damage, in 1868. He donated the skull and tamping iron for preservation to the Warren Museum in the Harvard University School of Medicine where they are still on display, and still studied.

The case created a good deal of interest in both medical and lay circles at the time (which continues to this day). Phineas survived a horrendous injury. His case began to have a profound influence on the science of localization of brain function. For nearly 20 years knowledge of the profound change that occurred to Gage's personality was not widely disseminated. It was true that he was physically unchanged except for the obvious scars and that his mental capacity was also unchanged. Without knowing about the personality difference, most people thought he had survived totally intact. His case was therefore used as evidence against the doctrine that any functions were localized in the brain, especially against the phrenological version of it. Later it was also used as negative evidence in the medical debates regarding aphasia and frontal lobe function. The real story was publicized after 1868 by David Ferrier, the notable English doctor and physiological research worker. Even now, 150 years after the fateful accident, the case continues to generate controversy.•

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE FOR H.R. 1151

• Mr. D'AMATO. Mr. President, I ask that the Congressional Budget Office Cost Estimate for H.R. 1151, the Credit Union Membership Access Act, be printed in the RECORD. The Senate completed action on H.R. 1151 on July 28, 1998.

The cost estimate follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1151—CREDIT UNION MEMBERSHIP ACCESS ACT

Summary: H.R. 1151 would establish new guidelines governing eligibility for membership in credit unions; establish a framework of safety and soundness regulations for credit unions consistent with that for banks and savings and loans; and allow the National Credit Union Administration (NCUA) to increase assessments that credit unions pay into the National Credit Union Share Insurance Fund (NCUSIF) and to increase the normal operating balance of the fund. CBO estimates that implementing the act would increase net assessments paid to the NCUSIF BY $510 million over the 1999–2003 period, thereby reducing net outlays by that amount. The Joint Committee on Taxation (JCT) estimates that enacting H.R. 1151 would lead to a shift of deposits from financial institutions that pay federal income taxes to credit unions, which are not subject to federal income tax, resulting in revenue losses to the federal government totaling $143 million through 2003.

Because H.R. 1151 would affect both revenues and direct spending, it would be subject to pay-as-you-go procedures. H.R. 1151 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would, in certain circumstances, preempt state laws regulating credit unions. CBO estimates that the cost of such mandates would be minimal. Other impacts on states would also not be significant. H.R. 1151 would not impose mandates or have other budgetary impacts on local or tribal governments.

H.R. 1151 would impose new private-sector mandates, as defined by UMRA, on federally insured credit unions. CBO estimates that the cost of those mandates would not exceed the statutory threshold established in UMRA ($100 million in one year, adjusted annually for inflation). Other provisions of the bill would benefit some credit unions by reversing the effects of a recent Supreme Court Decision, thus allowing federal credit unions to organize with members from unrelated occupational groups.

DESCRIPTION OF MAJOR PROVISIONS

H.R. 1151 would overturn a February 1998 supreme Court decision in *National Credit Union Administration* v. *First National Bank & Trust Co., et al.*, which—in the absence of legislation such as this—will tighten the limitations on membership in credit unions. The case dealt with a challenge to the NCUA's interpretation of section 109 of the Federal Credit Union Act, which requires that membership in federal credit unions be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood or community. The NCUA ruled in 1982 that a single credit union could serve employees of multiple employers even though not all employers were engaged in the same industrial activity. The Supreme Court has now determined that the NCUA's interpretation was invalid.

This legislation would amend the Federal Credit Union Act to allow federal credit unions to accept members from unrelated groups—thus forming multiple common bonds—in addition to the current permissible categories of single common bond and community credit unions. The act would grandfather membership status for members of existing credit unions and allow credit unions to solicit members from unrelated groups of up to 3,000 persons.

Other provisions of the act would: establish new procedures for taking prompt corrective action regarding a troubled credit union and specify capital levels for credit unions, which would be equal to the standards that the banking and thrift regulators now require; require the NCUA to develop risk-based requirements for determining the net worth of certain credit unions that the NCUA determines to be "complex;" change the method for calculating the ratio of NCUSIF balances to total credit union deposits; specify a range (between 1.3 percent and 1.5 percent of insured deposits) for the normal balance of the insurance fund; assessments would be triggered if the fund balance falls below 1.2 percent; require an independent financial audit for all credit unions with total assets of $500,000 or more; limit the total volume of commercial loans that can be made by a credit union to the lesser of 1.75 times the actual capital level of the credit union or to 1.75 times the capital level of a well-capitalized credit union with the same amount of assets; require credit unions to serve members of "modest means," and require the NCUA to monitor the lending record of credit unions to ensure compliance with this provision; require the NCUA and the other federal banking agencies to review certain rules and regulations with the goal of streamlining and modifying them, as appropriate, to reduce paperwork and unnecessary costs for insured depository institutions; require the Secretary of the Treasury to prepare several reports, including a study of the difference between credit unions and other financial institutions that are federally insured, and a study outlining recommendations for legislative and administrative actions that would reduce and simplify the tax burden on small insured depository institutions; and simplify the rules allowing credit unions to convert to another insured institution and limit the economic benefit that senior officials of a credit union could gain when converting a credit union to a mutual institution.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1151 is shown in the following table. Over the 1999–2003 period, CBO estimates that net collections of the NCUSIF would increase by about $510 million. The JCT estimates that federal revenues would decline by $6 million in 1999 and $143 million over the 1999–2003 period. The outlay effects of this legislation fall within budget function 370 (commerce and housing credit).

[By fiscal year, in million of dollars]

	1998	1999	2000	2001	2002	2003
DIRECT SPENDING						
NCUA spending under current law:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	−182	−145	−117	−116	−120	−123
Proposed changes:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays[1]	0	−93	−113	−110	−99	−94
NCUA spending under H.R. 1151:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	−182	−238	−230	−226	−219	−217
CHANGES IN REVENUES						
Estimated revenues[2]	0	−6	−16	−27	−40	−54

[1] These amounts exclude changes in NCUA interest income from intragovernmental payments that have no net budgetary impact.

[2] A negative sign indicates a decrease in revenues.

Basis of estimate: For purposes of this estimate, we assume H.R. 1151 will be enacted by the beginning of fiscal year 1999. The provisions of the act that are expected to have a significant budgetary effect are discussed below. The reports to be completed by the Secretary of the Treasury would be funded by discretionary spending, but we estimate that the amounts required would not be significant.

Direct spending: CBO estimates that, under H.R. 1151, the amount of assessments that credit unions pay to the NCUSIF would increase by about $352 million over the 1999–2003 period and that rebates to members from the fund would decline by $185 million over the same period. Together, these changes would reduce federal outlays by $537 million from 1999 through 2003. NCUSIF's payments for the NCUA's operating costs would increase by $27 million over the five years, for a net budgetary savings of $510 million through 2003. Finally, we estimate that the operating fund of the NCUA would incur additional administrative costs of $55 million over the 1999–2003 period to carry out the act's provisions related to safety and soundness, and to ensure that credit unions meet the needs of all members of the community. These costs would be offset by additional income from fees and payments from the NCUSIF.

Assessment income: H.R. 1151 would make three changes that CBO expects would increase assessments paid into the NCUSIF over the next 10 years. It would (1) allow current credit union members whose membership status was nuclear as a result of the Supreme Court ruling to retain their membership and allow credit unions to accept members from unrelated groups; (2) change the formula for calculating the reserve balance in the NCUSIF; and (3) change the frequency with which credit unions pay assessments for deposit insurance. This estimate measures these changes relative to current law, which reflects the Supreme Court decision in the case of *National Credit Union Administration* v. *First National Bank & Trust Co., et al.*

The act would allow for an expansion in credit union memberships by allowing growth in groups with common bonds, including occupational credit unions, where the greatest potential for new deposits exists. Recently, about two-thirds of all net new job creation has been associated with small businesses employing fewer than 500 persons. Although H.R. 1151 would encourage the chartering of new credit unions with a common single bond of occupation or association, these groups are often too small to have their own sponsor for a separate credit union. CBO believes that, as a result of this act, such small groups of individuals sharing a common employer or occupation would be more likely to join together to form new credit unions, or to join existing ones, thereby forming credit unions with members having multiple common bonds. Thus, we expect the number of size of credit unions with multiple common bonds to grow faster than under current law. As a result, we expect that enactment of H.R. 1151 would trigger growth of deposits in credit unions of about 5 percent annually by 2000, compared to projected annual growth of about 3 percent under current law. With more rapid growth in deposits, CBO expects that insurance assessments collected by the NCUA also would increase because credit unions pay to the NCUSIF an amount equal to 1 percent of the growth in their deposits each year.

The act would impose some restrictions that could limit the growth of deposits, by narrowing the definition of "family members" eligible for membership; limiting conversions to community credit unions; requiring the NCUA to impose tougher capital standards and to close insolvent credit unions promptly; and prohibiting credit unions that are undercapitalized from making new commercial loans. It also would encourage a shift of some deposits from credit unions to thrifts or banks by simplifying the process involved in converting a credit union to another type of insured institution and by allowing some profits from conversions to accrue to individuals. Nevertheless, CBO expects that the effects of other provisions of H.R. 1151, which would lead to more rapid deposit growth, would more than offset thee restrictions.

The act would change the NCUSIF's normal operating level of reserves by allowing the fund balance to range between $1.30 per $100 of insured deposits to as much as $1.50 per $100 of insured deposits. Under current law, the NCUA rebates all balances in excess of 1.3 percent. Under the act, however, CBO expects that the NCUA would continue to provide rebates to members but would limit the amount to one-half the total potentially available for refunding, thereby accumulating higher balances in the insurance fund. CBO estimates that the NCUA would authorize rebates totaling about $465 million over the 1999–2003 period, or about $185 million less than under current law.

Safety and Soundness: H.R. 1151 also would strengthen the regulatory framework of credit unions, and would specify statutory capital and net worth standards equal to those of other insured financial institutions. The act would authorize the NCUA to take prompt corrective action against credit unions engaged in unsafe practices. Because the act would allow credit unions to diversify their membership among various occupational groups, we expect that the stress on particular credit unions would be reduced in periods of corporate downsizing or closure. As a consequence, the probability of failure of credit unions and of losses to the insurance fund would be lower. At this time, CBO has no basis for estimating the potential savings—if any—to the NCUSIF.

Other provisions. The act would limit the authority of most credit unions to make business loans exceeding $50,000 to the lesser of 1.75 times the net worth of the institution or 1.75 times the minimum net worth for a well-capitalized credit union with the same amount of assets. (A well-capitalized credit union is defined as having a ratio of capital to assets of 7 percent.) Section 203 would allow a transition period of three years to phase in the new restrictions on business loans. In addition, the act would require the NCUA to issue regulations defining permissible membership and boundaries for community credit unions. Title II would require the NCUA to prescribe criteria for annually evaluating the record of any community credit union and to develop procedures for ensuring compliance.

CBO estimates that the additional cost to the NCUA to undertake the various initiatives required by H.R. 1151 would total approximately $4 million in 1999, and would increase to $17 million by 2003, about 14 percent of its operating budget. The basis for this estimate is the cost of similar activities for the other federal financial regulators. Most of these expenses, which total an estimated $55 million through 2003, would be for evaluating the records of all insured credit unions to ensure that they meet the needs of those in the community with modest means. They include costs for training, computer support, and overhead. The operating funds of the NCUA are derived from two sources: examination fees charged to credit unions and transfers of funds from the NCUSIF equal to one-half of the annual expenses associated with operating the NCUA. We expect the NCUA would increase fees and reduce rebates to credit unions in amounts sufficient to recover the increase in administrative costs, resulting in no significant budgetary impact over the next five years.

Revenues: The Joint Committee on Taxation estimates that enacting H.R. 1151 would result in a loss of governmental receipts because deposits would shift from financial institutions that currently are subject to corporate taxation—primarily banks and thrifts—to credit unions, which are exempt from federal taxation. Assuming that, over time, deposits in credit unions would grow about 2 percent per year faster than under current law, the JCT estimates that the federal government would lose revenues totaling $143 million over the 1999–2003 period.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	0	0	0	0	0	0	0	0	0	0
Changes in receipts	0	−6	−16	−27	−40	−54	−70	−87	−106	−127	−151

The JCT estimates that, under H.R. 1151, there would be more deposits in credit unions and fewer in financial institutions that are subject to federal taxation. Forgone revenues are estimated to total $143 million over the 1999–2003 period.

Under the Balanced Budget and Emergency Deficit Control Act, provisions providing funding necessary to meet the government's deposit insurance commitment are excluded from pay-as-you-go procedures. Therefore, the projected increases in assessment income and decreases in rebates to credit unions would not count for pay-as-you-go purposes. CBO believes that the administrative costs related to safety and soundness, estimated to total about $11 million through 2003, would be excluded as well. In contract, CBO believes that the various costs that the NCUA would incur to ensure that credit unions serve people of modest means would count for pay-as-you-go purposes. We estimate that the additional direct spending for the NCUA's supervisory costs associated with activities other than those related to safety and soundness would total about $45 million over the 1999–2003 period. These costs would be fully offset by increases in fees charged to credit unions or reduced rebates, resulting in no significant net budgetary impact.

Estimated Impact on State, local, and tribal governments: H.R. 1151 contains intergovernmental mandates as defined in UMRA because it would, in certain circumstances, preempt state laws regulating credit unions. Specifically, the act would establish safety, soundness, and audit requirements that are stricter than some state standards. In addition, it would impose limits on the volume of business loans made by credit unions. It could also override state community reinvestment laws that apply to state-chartered credit unions that are federally insured. Under UMRA such preemptions would be mandates. However, because these preemptions would simply limit the application of state law in some circumstances, and because only a few states are likely to be affected, CBO estimates that they would impose only minimal costs on states.

H.R. 1151 also contains provisions that would increase the workload of state regulators of credit unions. These provisions would not be mandates under UMRA because they are the result of voluntary agreements between state and federal regulators, under which state regulators incorporate federal requirements into their evaluations of state-chartered credit unions. The net effect of these provisions would not be significant because costs incurred by state regulators would be offset by examination fees and assessments levied by the states. Finally, the legislation would not impose mandates or have other budgetary impacts on local or tribal governments.

Estimated impact on the private sector: H.R. 1151 would impose new private-sector mandates, as defined by UMRA, on federally insured credit unions. CBO estimates that the direct costs of complying with private-sector mandates in H.R. 1151, in the first five years after mandates become effective, would be below the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation). Several provisions in the act would impose restrictions on credit unions that could affect their long-term future business potential. CBO expects that those restrictions could limit somewhat the growth of deposits. At the same time, a key provision in H.R. 1151 would benefit federal credit unions by relaxing an existing restriction and allowing occupation-based credit unions to serve multiple unrelated groups. Overall, CBO estimates that total deposits of credit unions would grow faster under H.R. 1151 than under current law.

Private-sector mandates contained in the bill: H.R. 1151 would impose several mandates on federally insured credit unions. The primary mandates in the act would: establish new criteria for credit unions to demonstrate service to low- and moderate-income individuals; limit the amount of business loans that an institution can make to members; establish a system of prompt corrective action that is consistent with the system currently applicable to institutions insured by the Federal Deposit Insurance Corporation; require credit unions having assets greater than $50 million to remit deposits to the NCUSIF semiannually instead of annually; and impose new regulations regarding auditing and accounting procedures for institutions with assets greater than $10 million.

Serving persons of modest means. Section 204 would subject federally insured credit unions to a periodic review by the NCUA of their record in providing affordable credit union services to low- and moderate-income individuals within their membership group. The act would direct the NCUA to develop additional criteria for annual evaluations of the record of community credit unions. Such institutions are usually organized to serve a particular local community, neighborhood, or rural district and are not based on an occupational bond. The act would direct the NCUA to implement regulations that emphasize performance over paperwork.

Business Loans to Members. Section 203 would put limits on the total amount of business loans that a federally insured credit union could make. Business loans to members would be limited to an amount that is the lesser of 1.75 times a credit union's actual net worth or 1.75 times the statutory requirement for well-capitalized institutions with the same amount of assets. For a well-capitalized credit union, this provision would effectively limit business loans to its members to 12.25 percent of its assets. The act would exempt from this requirement credit unions that have a history of primarily making business loans to members and credit unions that serve predominantly low-income members. Although the limit on business loans would be effective on the date of enactment, H.R. 1151 would allow credit unions with loans over the limit on that date three years to reduce the volume of outstanding loans to a level that is in compliance.

Safety and Soundness Provisions. Section 301 would require the NCUA to establish a system of prompt corrective action (PCA) for federally insured credit unions within one and one-half years after enactment. As a part of the PCA system H.R. 1151 would establish statutory capital levels for federally insured credit unions based on an institution's ratio of net worth to assets—well-capitalized, adequately capitalized, undercapitalized, significantly undercapitalized, and critically undercapitalized. (Credit unions that are deemed to have complex portfolios by the NCUA would have additional risk-based capital requirements.) Well-capitalized institutions would have no further restrictions on their activities under PCA. Credit unions that are not well-capitalized would have to set aside net worth (usually retained earnings) at a rate of 0.4 percent of assets annually. Undercapitalized institutions would have to (1) create a restoration plan approved by the NCUA, (2) monitor asset growth in compliance with an approved plan, and (3) restrict the growth of business loans to members.

Semi-Annual Remittance to the Share Insurance Fund. Under current law, each insured credit union maintains on deposit in the NCUSIF an amount equal to 1 percent of the credit union's insured share deposits. Credit unions periodically certify the amount of share deposits and, each April, they adjust their deposit in the fund based on this amount. For credit unions with more than $50 million in assets, this legislation would change the schedule to twice per year for adjusting deposit levels in the fund.

New Accounting Requirements. Section 201 would require credit unions with assets over $500 million to have an annual independent audit of their financial statement performed in accordance with generally accepted accounting principles (GAAP). H.R. 1151 would also require credit unions with assets over $10 million to use GAAP in all reports required to be filed with the NCUA. Credit unions with assets under $10 million would be allowed to continue to use other methods outlined in NCUA's Accounting Manual, unless GAAP is specifically prescribed for them by NCUA or their state regulator.

Estimated costs to the private sector: In total, CBO estimates that the cost of mandates in H.R. 1151 would fall below UMRA's threshold for private-sector mandates. Complying with the provisions in section 204, dealing with service to persons of modest means, would be the most costly mandate in the act. The costs of those provisions would range from $25 million to $33 million in the first year that the regulations are fully implemented, fall in the next year, and rise somewhat thereafter. The cost to credit unions of limiting business loans to members are not expected to be substantial overall, but some institutions may have to bear significant losses on loans in order to comply with this restriction. The direct costs of other mandates in the legislation would be less than $3 million in any of the five years after mandates would become effective. The safety-and-soundness provisions would increase examination costs incurred by credit unions by about $1 million annually by the year 2001. Lost investment income to credit unions that would have to make additional deposits to the share insurance fund would total between $1.5 million and $2 million during each of the first five years after implementation. The costs of complying with the accounting provisions in the act would be negligible because most institutions are already in or near compliance.

Serving Persons of Modest Means. The cost of complying with requirements that would result from provisions in section 204 are difficult to assess because the NCUA would have to develop a new set of criteria to evaluate a credit union's service to members of modest means. Such rules are likely to differ substantially from those applicable to other depository institutions. Based on information from the NCUA and other regulatory agencies, CBO estimates that the costs of complying with those provisions would range from $25 million to $33 million in the year 2000 and would fall in the next year once the system is in place. Most of the incremental costs to credit unions would be for keeping additional records on member loans and share accounts to assist in monitoring services to low-income persons, marketing to all segments within the membership field, and undergoing more extensive periodic examinations. Costs could be higher if the NCUA determines that additional types of information would be necessary to monitor compliance with these provisions.

In general, federally insured credit unions would have to record additional information on households with respect to such member services as loans and, possibly, share accounts. The incremental costs of new recordkeeping requirements could range between $17 million and $25 million beginning in the year 2000, and would fall by 20 percent to 30 percent in the next years once the system is fully in place. Costs would then rise over time as the number of loans and share accounts grows. CBO estimates that the costs of marketing to all income strata within the field of membership would increase costs by $4 million to $5 million annually, which is less than 1 percent of the amount that credit unions currently spend on educational and promotional expenses. In addition to those incremental costs, credit unions would have to cover the costs of more extensive examinations by regulators. Based on information from the NCUA and banking regulators, CBO estimates that the increased costs for periodic examinations would be about $3 million a year by the year 2000.

Business Loans to Members. The restrictions on business loans to members would not impose a significant cost on the industry as a whole. Currently about 1,550 credit unions make business loans to their members. Of that group, only about 100 institutions are currently over the limit proposed in the act. According to the latest data, those institutions would be over the limit by almost $870 million in loans. However, many of the institutions that are over the limit would be able to qualify under the act for an exemption based on their history of making such loans. (In over 40 percent of the institutions that are currently over the limit, business loans make up 37 percent or more of their loan portfolio.)

Credit unions that do not qualify for an exemption would have 3 years to: allow loans to turn over (the turnover rate for all credit union loans averages about 22 months); try to sell loans on the market—only quality loans would attract a high percentage on the dollar; try to engage in "participating loan" programs, which allow institutions to share up to 90 percent of their loan portfolio with other credit unions; or try to "call in" loans under loan agreements that have a provision allowing such an action. Institutions with nonperforming loans or those that have a slow turnover in their portfolio may have to sell loans at a significant loss or write off loans at a total loss. Even institutions that are able to sell off business loans could experience a loss in interest income if they are unable to invest money from the sale of those loans at comparable interest rates. (Business loans typically garner a higher rate than other loans in a credit union's portfolio.)

Safety and Soundness Provisions. The near-term costs of new requirements under section 301 should be small for two reasons. First, the NCUA currently monitors the net worth of credit unions and administers several informal policies that are analogous to prompt corrective action procedures applicable to FDIC-insured institutions. Second, about 94 percent of all federally insured credit unions are currently well capitalized. Institutions with the lowest composite performance ratings given by regulators have accounted for only 3 percent or less of all credit unions over the last four years.

Under PCA, institutions that are not well capitalized would have to set aside funds that they could otherwise use to earn interest income. However, according to the NCUA, the .04 percent retention requirement is not significantly different from current earnings-retention requirements. The costs of examinations for credit unions would also increase slightly (by $1 million or so by the year 2001) for all credit unions under a system of prompt corrective action.

Other Mandate Costs. Under section 302, insured credit unions with more than $50 million in assets would have to remit assessments twice a year to the NCUSIF, thus losing the use of $60 million for six months, compared to the current system. Assuming credit unions would earn an annual yield of about 5.5 percent on those funds, they would lose income of $1.5 million to $2 million per year over the 1999–2003 period.

The costs of complying with the accounting provisions in H.R. 1151 would be small. According to recent data from the NCUA, all but one of the credit unions with over $500 million in assets already have an independent outside audit performed each year. The incremental costs of an audit would be less than $30,000 for an institution of that size. The costs of complying with GAAP would also be minor because most credit unions with assets over $10 million use accounting procedures that are largely consistent with GAAP. For institutions that currently use methods that are not consistent with GAAP (mostly cash accounting methods), the additional compliance costs of this mandate could include the costs to train employees in the application of GAAP accounting methods, and the costs of transferring records into a new system of accounting. However, the majority of institutions do not use cash accounting methods and would, therefore, only have to make minor changes to achieve compliance.

Previous CBO estimate: On June 2, 1998, CBO prepared a cost estimate for H.R. 1151, as passed by the House of Representatives on April 1, 1998. For the House version of H.R. 1151, CBO estimated that deposits in credit unions would grow by 6 percent annually by 2000, compared to projected annual growth of about 3 percent under current law. As a result, CBO estimated that net assessments paid to the NCUSIF would increase by $628 million over the period 1999–2003 period, and that the shift in deposits would reduce revenues to the federal government by $217 million through 2003. In contrast, for the Senate version of H.R. 1151, CBO estimates that deposits in credit unions would grow at a rate of about 2 percent annually by 2000, that net assessments would increase by $510 million over the 1999–2003 period, and that revenue losses would total $143 million through 2003.

CBO expects a lower annual rate of growth in deposits under the Senate version of H.R. 1151 for a number of reasons. The Senate version would specify net worth and capital requirements for credit unions and require regulators to restrict the growth of unhealthy institutions. In contrast, the House version would give the NCUA discretion to develop future standards affecting the safety and soundness of credit unions. The Senate version of H.R. 1151 also would simplify and ease procedures for converting a credit union to a mutual institution. Unlike the House version, the Senate provisions would not bar owners and members from earning profits if the newly created mutual institution subsequently converted to a publicly traded financial institution. CBO believes, therefore, that the Senate version of H.R. 1151 would provide a greater incentive to convert a credit union to a mutual or stock institution by allowing participants to realize greater economic benefits. This is consistent with the experience of many small thrifts and banks that recently have converted from mutual to stock ownership, thereby creating substantial value for the new shareholders.

Estimate prepared by: Federal Costs: Mary Maginniss; Revenues: Mark Booth; Impact on State, Local, and Tribal Governments: Marc Nicole; and Impact on the Private Sector: Patrice Gordon.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.●

ADDING SENATOR BINGAMAN AS A COSPONSOR TO THE VETERANS MEDICAL CARE AMENDMENT TO THE DEFENSE AUTHORIZATION BILL

● Mr. HARKIN. Mr. President, during the deliberations over the fiscal year 1999 Defense Authorization bill, I offered an amendment to increase spending for our nation's veterans medical needs. The amendment, offered on June 25th and numbered as 2982 would have allowed the transfer of $329 million from the defense budget to support the VA medical budget. The amendment would have transferred funds so as to avoid harming the readiness of the Armed Forces and the quality of life of military personnel and their families.

The amendment's description was incomplete as to the listing of cosponsors and I would like to correct the record at this time. Along with Senator WELLSTONE of Minnesota, Senator BINGAMAN of New Mexico, also a longtime champion of veterans, should have been included as a cosponsor.

Although the amendment did not receive the support of a majority of my colleagues, I appreciate the cosponsorship by Senator BINGAMAN and Senator WELLSTONE. I also appreciate the support of the 35 other Senators who voted in favor of increasing VA medical funding.●

COLUMBIA RIVER FISH MITIGATION FUNDING

● Mr. SMITH of Oregon. Mr. President, I rise today to urge my colleagues who are conferees for the Fiscal Year 1999 Energy and Water Development Appropriations bill to retain the Senate-passed funding level for the Army Corps of Engineers' fish and wildlife mitigation measures on the Columbia River.

The Senate approved $95 million for this program, which is vitally important to ongoing efforts to restore the salmon and steelhead runs in the Columbia and Snake Rivers. Unfortunately, the House-passed bill slashed funding for the program to less than $8 million, enough for just two studies already underway in the Basin. The House Committee justifies this action by claiming that the funds spent to date have not recovered the salmon. Further, the House report states that since a major decision on the long-term operations of the federal dams on the system is supposed to occur in 1999, we should just wait for that decision before we spend any more money on salmon recovery efforts in the basin.

Given the life cycle of the salmon, waiting even a few years is simply not an option. Inaction on our part could push the salmon closer to extinction, which is unacceptable to those of us in the Pacific Northwest. We must also be realistic about the possibility that the 1999 decision could be delayed. And unless a regional consensus is developed soon on how best to proceed, the decision—whenever it comes—is bound to be controversial and subject to challenges.

Work on these fish mitigation measures, for which most of the funding will be reimbursed through power revenues, must continue while a long-term solution is developed and implemented. The House approach to this issue fails to recognize that most of the funding is earmarked for important mitigation facilities at dams not being studied for permanent drawdown or by-pass, including McNary Dam and Bonneville Dam, as well as for important mitigation analysis studies. Information from these studies is needed if we are to make an informed decision on the long-term operation of the system.

Let me state emphatically that I am opposed to removal or drawdown of dams on the Columbia and Snake Rivers, which would destroy navigation on the river, affect irrigation, and eliminate up to 40 percent of Bonneville's generating capacity. There are those in the region who view this an "either/or" proposition: either the river is operated for salmon, or for economic activity. I say we can operate it for both.

The Columbia River truly is the lifeblood of the Northwest. The Basin drains approximately 259,000 square miles, and encompasses two countries and seven states in its approximately 1,200 miles to the Pacific Ocean.

In this century, we have harnessed the River for a variety of human activities and benefits, including navigation, water supply, power supply, and flood control. At the time many of the great public works projects in the Basin were constructed, fish and wildlife impacts were not fully considered. We are now struggling with the best way to mitigate these impacts while still meeting human needs. The consequences of these decisions could affect the livelihoods of most Northwest residents.

I know that there are those who oppose funding certain activities on the River that they view to be of questionable value. I think our colleague, Senator GORTON, performed a great service for the region with his 1996 amendment to the Northwest Power Planning and Conservation Act to require that an independent, 11-member scientific panel review projects proposed to be funded by that portion of BPA's annual fish and wildlife budget that implements the Northwest Power Planning Council's fish and wildlife program. I would support the expanded use of scientific review panels for other fish and wildlife funding proposals within the Columbia River Basin.

In closing, Mr. President, let me reiterate my fervent hope that Senate conferees on this bill will stand firm on the $95 million appropriation this body has already approved.●

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

(The text of the bill (S. 2260), as passed by the Senate on July 23, 1998, is as follows:)

S. 2260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1999, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $76,199,000, of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided*, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and $7,860,000 shall be expended for the Department Leadership Program: *Provided further*, That not to exceed 39 permanent positions and 39 full-time equivalent workyears and $4,660,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: *Provided further*, That the Attorney General is authorized to transfer, under such terms and conditions as the Attorney General shall specify, forfeited real or personal property of limited or marginal value, as such value is determined by guidelines established by the Attorney General, to a State or local government agency, or its designated contractor or transferee, for use to support drug abuse treatment, drug and crime prevention and education, housing, job skills, and other community-based public health and safety programs: *Provided further*, That any transfer under the preceding proviso shall not create or confer any private right of action in any person against the United States, and shall be treated as a reprogramming under section 605 of this Act.

JOINT AUTOMATED BOOKING SYSTEM

For expenses necessary for the nationwide deployment of a Joint Automated Booking System, $10,000,000, to remain available until expended.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $19,999,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities, (4) the costs associated with ensuring the continuance of essential Government functions during a time of emergency, and (5) the costs of activities related to the protection of the Nation's critical infrastructure: *Provided*, That any Federal agency may be reimbursed for costs associated with implementation of the recommendations of the President's Commission on Critical Infrastructure Protection: *Provided further*, That any agency receiving services from the Department of Justice from the Fund may reimburse the Fund and that any such reimbursement shall remain available in the Fund until expended: *Provided further*, That funds provided under this paragraph shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

In addition, for necessary expenses, as determined by the Attorney General, $174,000,000, to remain available until expended, for transfer to the Office of Justice Programs (OJP), for counterterrorism grants, contracts, cooperative agreements, and other assistance (including amounts for management and administration which shall be transferred to and merged with the "Justice Assistance" account), to cities, States, territories, and local jurisdictions; of which $95,000,000 shall be available for equipping first responders in cities, States, territories, and local jurisdictions; of which $5,000,000 shall be available to reimburse the Department of Health and Human Services for costs associated with Metropolitan Medical Strike Teams; of which $10,000,000 shall be available for technical assistance and evaluation; of which $7,000,000 shall be available for law enforcement first responder training; of which $22,000,000 shall be available for public safety first responder training provided through the National Domestic Preparedness Consortium; of which $25,000,000 shall be available for firefighter and emergency medical services equipment; and of which $10,000,000 shall be available for situational training exercises.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, $41,858,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $33,211,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year: *Provided*, That up to one-tenth of one percent of the Department of Justice's allocation from the Violent Crime Reduction Trust Fund grant programs may be transferred at the discretion of the Attorney General to this account for the audit or other review of such grant programs, as authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

United States Parole Commission

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $7,969,000.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; and for annual obligations of membership in law-based international organizations pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress, notwithstanding any other provision of law; $485,511,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the funds available in this appropriation, not to exceed $17,834,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further*, That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, as amended, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $86,588,000: *Provided*, That notwithstanding any other provision of law, not to exceed $86,588,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $0: *Provided further*, That the third proviso under the heading "Salaries and Expenses, Antitrust Division" in Public Law 105–119 is repealed.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including intergovernmental and cooperative agreements, $1,083,642,000; of which not to exceed $2,500,000 shall be available until September 30, 2000, for (1) training personnel in debt collection, (2) locating debtors and their property, (3) paying the net costs of selling property, and (4) tracking debts owed to the United States Government: *Provided*, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: *Provided further*, That not to exceed $1,200,000 for the design, development, and implementation of an information systems strategy for D.C. Superior Court shall remain available until expended: *Provided further*, That not to exceed $2,500,000 for the operation of the National Advocacy Center shall remain available until expended: *Provided further*, That not to exceed $1,000,000 shall remain available until expended for the expansion of existing Violent Crime Task Forces in United States Attorneys Offices into demonstration projects, including intergovernmental, inter-local, cooperative, and task-force agreements, however denominated, and contracts with State and local prosecutorial and law enforcement agencies engaged in the investigation and prosecution of violent crimes: *Provided further*, That, in addition to reimbursable full-time equivalent workyears available to the Office of the United States Attorneys, not to exceed 8,960 positions and 9,125 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys: *Provided further*, that of the total amount appropriated, not to exceed $3,000,000 shall remain available to hire additional assistant United States Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area of the United States) which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended: *Provided further*, That $2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which $1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania and $800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized by 28 U.S.C. 589a(a), $108,248,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That, notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, $100,000,000 of offsetting collections derived from fees collected pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the Fund not to exceed $8,248,000: *Provided further*, That the fourth proviso under the heading "United States Trustee Fund" in Public Law 105–119 is repealed.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $1,227,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, $501,752,000, as authorized by 28 U.S.C. 561(i); of which not to exceed $6,000 shall be available for official reception and representation expenses; and of which not to exceed $4,000,000 for development, implementation, maintenance and support, and training for an automated prisoner information system, shall remain available until expended.

CONSTRUCTION

For planning, constructing, renovating, equipping, and maintaining United States Marshals Service prisoner-holding space in United States courthouses and federal buildings, including the renovation and expansion of prisoner movement areas, elevators, and sallyports, $4,000,000, to remain available until expended.

JUSTICE PRISONER AND ALIEN TRANSPORTATION SYSTEM FUND, UNITED STATES MARSHALS SERVICE

There is hereby established a Justice Prisoner and Alien Transportation System Fund for the payment of necessary expenses related to the scheduling and transportation of United States prisoners and illegal and criminal aliens in the custody of the United States Marshals Service, as authorized in 18 U.S.C. 4013, including, without limitation, salaries and expenses, operations, and the acquisition, lease, and maintenance of aircraft and support facilities: *Provided*, That the Fund shall be reimbursed or credited with advance payments from amounts available to the Department of Justice, other Federal agencies, and other sources at rates that will recover the expenses of Fund operations, including, without limitation, accrual of annual leave and depreciation of plant and equipment of the Fund: *Provided further*, That proceeds from the disposal of Fund aircraft shall be credited to the Fund: *Provided further*, That amounts in the Fund shall be available without fiscal year limitation, and may be used for operating equipment lease agreements that do not exceed five years: *Provided further*, That with respect to the transportation of Federal, State, local and territorial prisoners and detainees, the lease or rent of aircraft by the Justice Prisoner Air Transport System shall be considered use of public aircraft pursuant to 49 U.S.C. section 40102(a)(37).

For the initial capitalization costs of the Fund, $10,000,000.

FEDERAL PRISONER DETENTION

For expenses, related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $407,018,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $95,000,000, to remain available until expended; of which not to exceed $6,000,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure, automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $5,319,000: *Provided*, That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (F), and (G), as amended, $23,000,000, to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,000,000.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $294,967,000: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,668 passenger motor vehicles, of which 2,000 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, $2,522,050,000; of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and not to exceed $1,000,000 for undercover operations shall remain available until September 30, 2000; of which not less than $233,473,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $61,800,000 shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority which has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government.

In addition, $433,124,000 for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund, as authorized by the Violent Crime Control and Law Enforcement Act of 1994 as amended, and the Antiterrorism and Effective Death Penalty Act of 1996.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $1,287,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,428 passenger motor vehicles, of which 1,080 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $802,054,000, of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $5,000,000 for purchase of evidence and payments for information, not to exceed $10,000,000 for contracting for automated data processing and telecommunications equipment, and not to exceed $2,000,000 for laboratory equipment, $4,000,000 for technical equipment, and $2,000,000 for aircraft replacement retrofit and parts, shall remain available until September 30, 2000; and of which not to exceed $50,000 shall be available for official reception and representation expenses.

In addition, $407,000,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $8,000,000, to remain available until expended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police type use (not to exceed 2,904, of which 1,711 are for replacement only), without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; research related to immigration enforcement; and for the care and housing of Federal detainees held in the joint Immigration and Naturalization Service and United States Marshals Service's Buffalo Detention Facility; $1,169,317,000 of which not to exceed $400,000 for research shall remain available until expended; of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training, and $5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration; and of which not to exceed $5,000,000 is to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 1999: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed 20 permanent positions and 20 full-time equivalent workyears and $1,711,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: *Provided further*, That the number of positions filled through non-career appointment at the Immigration and Naturalization Service, for which funding is provided in this Act or is otherwise made available to the Immigration and Naturalization Service, shall not exceed four permanent positions and four full-time equivalent workyears: *Provided further*, That the Border Patrol is authorized to continue helicopter procurement while developing a report on the cost and capabilities of a mixed fleet of manned and unmanned aerial vehicles, helicopters, and fixed-winged aircraft.

In addition, $1,099,667,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

CONSTRUCTION

For planning, construction, renovation, equipping, and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $110,251,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 763, of which 599 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,909,956,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further*, That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $90,000,000 for the activation of new facilities shall remain available until September 30, 2000: *Provided further*, That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980, as amended, for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)), FPS may enter into contracts and other agreements with private entities for periods of not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners.

In addition, $9,559,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $379,197,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System, upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,266,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and the Victims of Crime Act of 1984, as amended, and section 822 of the Antiterrorism and Effective Death Penalty Act of 1996, $170,151,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102–534 (106 Stat. 3524).

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $552,000,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102–534 (106 Stat. 3524), of which $47,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, including $4,500,000 which shall be available to the Executive Office of United States Attorneys to support the National District Attorneys Association's participation in legal education training at the National Advocacy Center.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $2,124,650,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $500,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995, except that for purposes of this Act, the Commonwealth of Puerto Rico shall be considered a "unit of local government" as well as a "State", for the purposes set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: *Provided*, That no funds provided under this heading may be used as matching funds for any other Federal grant program: *Provided further*, That $40,000,000 of this amount shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: *Provided further*, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers: *Provided further*, That, hereafter, for the purpose of eligibility for the Local Law Enforcement Block Grant Program in the State of Louisiana, parish sheriffs are to be considered the unit of local government at the parish level under section 108 of H.R. 728: *Provided further*, That $20,000,000 shall be available to carry out section 102(2) of H.R. 728; of which $45,000,000 shall be for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; of which $350,000,000 shall be for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; of which $711,000,000 shall be for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the 1994 Act, of which $150,000,000 shall be available for payments to States for incarceration of criminal aliens, of which $25,000,000 shall be available for the Cooperative Agreement Program, and of which $52,000,000 shall be for the construction, renovation and repair of tribal detention facilities; of which $9,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; of which $2,000,000 shall be for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; of which $210,750,000 shall be for Grants to Combat Violence Against Women, to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act, including $12,000,000 which shall be used exclusively for the purpose of strengthening civil legal assistance programs for victims of domestic violence, and $10,000,000 which shall be used exclusively for violence on college campuses: *Provided further*, That, of these funds, $5,200,000 shall be provided to the National Institute of Justice for research and evaluation of violence against women, $1,196,000 shall be provided to the Office of the United States Attorney for the District of Columbia for domestic violence programs in D.C. Superior Court, and $10,000,000 shall be available to the Office of Juvenile Justice and Delinquency Prevention for the Safe Start Program, to be administered as authorized by part C of the Juvenile Justice and Delinquency Act of 1974, as amended; of which $30,000,000 shall be for Grants to Encourage Arrest Policies to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; of which $25,000,000 shall be for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; of which $5,000,000 shall be for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the 1994 Act, and for local demonstration projects; of which $1,000,000 shall be for grants for televised testimony, as authorized by section 1001(a)(7) of the 1968 Act; of which $10,000,000 shall be for the Tribal Courts Initiative, including $400,000 for the establishment of a Sioux Nation Tribal Supreme Court; of which $63,000,000 shall be for grants for residential substance abuse treatment for State prisoners, as authorized by section 1001(a)(17) of the 1968 Act; of which $15,000,000 shall be for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; of which $900,000 shall be for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act; of which $2,000,000 shall be for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; of which $40,000,000 shall be for Drug Courts, as authorized by title V of the 1994 Act; of which $2,000,000 shall be for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; of which $2,000,000 shall be for public awareness programs addressing marketing scams aimed at senior citizens, as authorized by section 250005(3) of the 1994 Act; and of which $100,000,000 shall be for Juvenile Accountability Incentive Block Grants pursuant to Title III of H.R. 3 as passed by the House of Representatives on May 8, 1997, of which $9,523,685 shall be for discretionary grants: *Provided further*, That notwithstanding the requirements of H.R. 3, a State, or unit of local government within such State, shall be eligible for a grant under this program if the Governor of the State certifies to the Attorney General, consistent with guidelines established by the Attorney General in consultation with Congress, that the State is actively considering, or will consider within one year from the date of such certification, legislation, policies, or practices which if enacted would qualify the State for a grant under section 1802 of H.R. 3: *Provided further*, That 3 percent shall be available to the Attorney General for research, evaluation, and demonstration consistent with this program and 2 percent shall be available to the Attorney General for training and technical assistance consistent with this program: *Provided further*, That not less than 45 percent of any grant provided to a State or unit of local government shall be spent for the purposes set forth in paragraphs (3) through (9), and not less than 35 percent shall be spent for the purposes set forth in paragraphs (1), (2) and (10) of section 1801(b) of H.R. 3, unless the State or unit of local government certifies to the Attorney General or the State, whichever is appropriate, that the interests of public safety and juvenile crime control would be better served by expending its grant for other purposes set forth under section 1801(b) of H.R. 3: *Provided further*, That the Federal share limitation in section 1805(e) of H.R. 3 shall be 50 percent in relation to the costs of constructing a permanent juvenile corrections facility: *Provided further*, That prior to receiving a grant under this program, a unit of local government must establish a coordinated enforcement plan for reducing juvenile crime, developed by a juvenile crime enforcement coalition, such coalition consisting of individuals representing the police, sheriff, prosecutor, State or local probation services, juvenile court, schools, business, and religious affiliated, fraternal, non-profit, or social service organizations involved in crime prevention: *Provided further*, That the conditions of sections 1802(a)(3) and 1802(b)(1)(C) of H.R. 3 regarding juvenile adjudication records require a State or unit of local government to make available to the Federal Bureau of Investigation records of delinquency adjudications which are treated in a manner equivalent to adult records: *Provided further*, That no State or unit of local government may receive a grant under this program unless such State or unit of local government has implemented, or will implement no later than January 1, 1999, a policy of controlled substance testing for appropriate categories of juveniles within the juvenile justice system and funds received under this program may be expended for such purpose: *Provided further*, That the minimum allocation for each State under section 1803(a)(1)(A) of H.R. 3 shall be 0.5 percent: *Provided further*, That the terms and conditions under this heading for juvenile accountability incentive block grants are effective for fiscal year 1999 only and upon the enactment of authorization legislation for juvenile accountability incentive block grants, funding provided in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect: *Provided further*, That funds made available in fiscal year 1999 under subpart 1 of part E of title I of the 1968 Act may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions and for drug testing initiatives: *Provided further*, That if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $40,000,000, to remain available until expended, for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: *Provided*, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further*, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

COMMUNITY ORIENTED POLICING SERVICES

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act") (including administrative costs), $1,400,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, for Public Safety and Community Policing Grants pursuant to title I of the 1994 Act: *Provided*, That not to exceed 266 permanent positions and 266 full-time equivalent workyears and $34,023,000 shall be expended for program management and administration: *Provided further*, That of the unobligated balances available in this program, $120,960,000 shall be used for innovative community policing programs, of which $66,960,000 shall be used for a law enforcement technology program, $1,000,000 shall be used for police recruitment programs authorized under subtitle H of title III of the 1994 Act, $15,500,000 shall be used for policing initiatives to combat methamphetamine production and trafficking, $12,500,000 shall be used for the Community Policing to Combat Domestic Violence Program pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and $25,000,000 shall be used for the Matching Grant Program for Law Enforcement Armor Vests pursuant to section 2501 of part Y of the Omnibus Crime Control and Safe Streets Act of 1968, as amended: *Provided further*, That up to $54,000,000 shall be available to improve tribal law enforcement including equipment and training.

In addition, for activities authorized by the 1994 Act, $40,000,000 for the Police Corps program to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, ("the Act"), including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $277,597,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102–586, of which (1) notwithstanding any other provision of law, $6,847,000 shall be available for expenses authorized by part A of title II of the Act, $96,000,000 shall be available for expenses authorized by part B of title II of the Act, and $45,750,000 shall be available for expenses authorized by part C of title II of the Act: *Provided*, That $26,500,000 of the amounts provided for part B of title II of the Act, as amended, is for the purpose of providing additional formula grants under part B to States that provide assurances to the Administrator that the State has in effect (or will have in effect no later than one year after date of application) policies and programs, that ensure that juveniles are subject to accountability-based sanctions for every act for which they are adjudicated delinquent; (2) $12,000,000 shall be available for expenses authorized by section 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $12,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $95,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs; of which $20,000,000 shall be for delinquency prevention, control, and system improvement programs for tribal youth; of which $25,000,000 shall be available for grants of $360,000 to each state and $6,640,000 shall be available for discretionary grants to states, for programs and activities to enforce state laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training: *Provided further*, That upon the enactment of reauthorization legislation for Juvenile Justice Programs under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, funding provisions in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect: *Provided further*, That of amounts made available under the Juvenile Justice Programs of the Office of Justice Programs to carry out part B (relating to Federal Assistance for State and Local Programs), subpart II of part C (relating to Special Emphasis Prevention and Treatment Programs), part D (relating to Gang-Free Schools and Communities and Community-Based Gang Intervention), part E (relating to State Challenge Activities), and part G (relating to Mentoring) of title II of the Juvenile Justice and Delinquency Prevention Act of 1974, and to carry out the At-Risk Children's Program under title V of that Act, not more than 10 percent of each such amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized under the appropriate part or title, and not more than 2 percent of each such amount may be used for training and technical assistance activities designed to benefit the programs or activities authorized under that part or title.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $7,000,000, to remain available until expended, as authorized by section 214B of the Act.

PUBLIC SAFETY OFFICERS BENEFITS

To remain available until expended, for payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 103. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 104. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 103 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 105. Notwithstanding any other provision of law, not to exceed $10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly-advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: *Provided*, That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

SEC. 106. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 107. Any amounts credited to the "Legalization Account" established under section 245(c)(7)(B) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(7)(B)) are transferred to the "Examinations Fee Account" established under section 286(m) of that Act (8 U.S.C. 1356(m)).

SEC. 108. 28 U.S.C. Section 589a(b) is amended—

(1) by striking "and" in paragraph (7);

(2) by striking the period in paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph as follows:

"(9) interest earned on Fund investments.".

SEC. 109. Notwithstanding any other provision of law, during fiscal year 1999, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice—

(1) may make grants, or enter into cooperative agreements and contracts, for the Office of Justice Programs and the component organizations of that Office; and

(2) shall have final authority over all grants, cooperative agreements, and contracts made, or entered into, for the Office of Justice Programs and the component organizations of that Office.

SEC. 110. (a) ADJUSTMENT OF STATUS.—Section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is amended—

(1) in paragraph (1), by amending the first sentence to read as follows: "Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States who—

"(A) entered the United States without inspection; or

"(B) is within one of the classes enumerated in subsection (c) of this section, may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence."; and

(2) in paragraph (3)(B), by striking "Breach Bond/Detention Fund established under section 286(r)" and inserting "Immigration Detention and Naturalization Activity Account established under section 286(s)".

(b) REPEAL.—

(1) IN GENERAL.—Section 245(k) of the Immigration and Nationality Act (8 U.S.C. 1255(k)) is repealed.

(2) CONFORMING AMENDMENT.—Section 245(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1255(c)(2)) is amended by striking "subject to subsection (k),".

(c) IMMIGRATION DETENTION AND NATURALIZATION ACTIVITY ACCOUNT.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

"(s) IMMIGRATION DETENTION AND NATURALIZATION ACTIVITY ACCOUNT.—

"(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Detention And Naturalization Activity Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Detention And Naturalization Activity Account amounts described in section 245(i)(3)(B) to remain available until expended.

"(2) USES OF THE ACCOUNT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall refund out of the Immigration Detention And Naturalization Activity Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for the detention of aliens, for construction relating to such detention, and for activities relating to the naturalization of citizens.

"(B) QUARTERLY REFUNDS; ADJUSTMENTS.—The amounts that are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(C) ESTIMATES IN BUDGET REQUESTS.—The amounts required to be refunded from the Immigration Detention And Naturalization Activity Account for fiscal year 1999 or any fiscal year thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for that fiscal year. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 104–134.

"(3) ANNUAL REPORTS.—The Attorney General shall annually submit to Congress a report setting forth—

"(A) the financial condition of the Immigration Detention And Naturalization Activity Account for the current fiscal year, including beginning account balance, revenues, withdrawals, and ending account balance; and

"(B) projections for revenues, withdrawals, and the beginning and ending account balances for the next fiscal year.".

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for adjustment of status filed on or after the end of the 90-day period beginning on the date of enactment of this Act.

SEC. 111. Notwithstanding any other provision of law, with respect to any grant program for which amounts are made available under this title, the term "tribal" means of or relating to an Indian tribe (as that term is defined in section 102(2) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a(2))).

SEC. 112. Section 286(e)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1356(e)(1)(C)) is amended by inserting "State" and a comma immediately before "territory".

SEC. 113. For fiscal year 1999 and thereafter, the Director of the Bureau of Prisons may make expenditures out of the Commissary Fund of the Federal Prison System, regardless of whether any such expenditure is security-related, for programs, goods, and services for the benefit of inmates (to the extent the provision of those programs, goods, or services to inmates is not otherwise prohibited by law), including—

(1) the installation, operation, and maintenance of the Inmate Telephone System;

(2) the payment of all the equipment purchased or leased in connection with the Inmate Telephone System; and

(3) the salaries, benefits, and other expenses of personnel who install, operate, and maintain the Inmate Telephone System.

SEC. 114. (a)(1) Notwithstanding any other provision of law, for fiscal year 1999 and thereafter, the Attorney General may obligate any funds appropriated for or reimbursed to the Counterterrorism programs, projects or activities of the Department of Justice to purchase or lease equipment or any related items, or to acquire interim services, without regard to any otherwise applicable Federal acquisition rule, if the Attorney General determines that—

(A) there is an exigent need for the equipment, related items, or services in order to support an ongoing counterterrorism, national security, or computer-crime investigation or prosecution;

(B) the equipment, related items, or services required are not available within the Department of Justice; and

(C) adherence to that Federal acquisition rule would—

(i) delay the timely acquisition of the equipment, related items, or services; and

(ii) adversely affect an ongoing counterterrorism, national security, or computer-crime investigation or prosecution.

(2) In this subsection, the term "Federal acquisition rule" means any provision of title II or IX of the Federal Property and Administrative Services Act of 1949, the Office of Federal Procurement Policy Act, the Small Business Act, the Federal Acquisition Regulation, or any other provision of law or regulation that establishes policies, procedures, requirements, conditions, or restrictions for procurements by the head of a department or agency or the Federal Government.

(b) The Attorney General shall immediately notify the Committees on Appropriations of the House of Representatives and the Senate in writing of each expenditure under subsection (a), which notification shall include sufficient information to explain the circumstances necessitating the exercise of the authority under that subsection.

SEC. 115. Section 210501(b)(1)(A) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14151(b)(1)(A)) is amended by inserting "and provide investigative assistance to tribal law enforcement agencies" before the semicolon.

SEC. 116. (a) Section 110 of division C of Public Law 104–208 is repealed.

(b)(1) Paragraph (2) of section 104(b) of that Act is amended to read as follows:

"(2) CLAUSE B.—Clause (B) of such sentence shall apply as follows:

"(A) As of October 1, 2000, to not less than 25 percent of the border crossing identification cards in circulation as of April 1, 1998.

"(B) As of October 1, 2001, to not less than 50 percent of such cards in circulation as of April 1, 1998.

"(C) As of October 1, 2002, to not less than 75 percent of such cards in circulation as of April 1, 1998.

"(D) As of October 1, 2003, to all such cards in circulation as of April 1, 1998.".

(2) Such section 104(b) is further amended by adding at the end the following:

"(3) If the Secretary of State and the Attorney General jointly determine that sufficient capacity exists to replace border crossing identification cards in advance of any of the deadlines otherwise provided for under paragraph (2), the Secretary and the Attorney General may by regulation advance such deadlines.".

SEC. 117. (a) The President shall, with the submission of the President's fiscal year 2000 budget request, submit a Chapter in the Analytical Perspectives Volume (referred to in this section as the "Chapter") presenting the specific dollar amounts budgeted, by appropriation account and by line item, for counterterrorism and antiterrorism programs, projects, or activities.

(b) The Chapter shall provide a narrative outline of the content of, and detail the amounts budgeted for, each program, project, or activity for fiscal years 1998, 1999, 2000, and the succeeding 5 years of the Federal Counterterrorism Strategy.

(c) If the President determines that certain portions of the information contained in the Chapter are of a sensitive, classified nature, then the President shall submit to Congress a classified version of the Chapter along with the unclassified version published in the Analytical Perspectives Volume of the President's fiscal year 2000 budget request.

SEC. 118. Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (5), by inserting "knowingly" after "(5)"; and

(2) in paragraph (10), by inserting "knowingly" after "(10)".

SEC. 119. Section 402(c)(1) of the Controlled Substances Act (21 U.S.C. 842(c)(1)) is amended—

(1) by striking "Except as provided in paragraph (2), any person who violates this section shall" and inserting "(A) Subject to subparagraph (B) of this paragraph and paragraph (2), any person who violates this section may"; and

(2) by adding at the end the following:

"(B) In the case of a violation of paragraph (5) or (10) of subsection (a) in which, a result of the violation, no unauthorized person obtains unlawful control of a controlled substance, the civil penalty shall be not more than $500.".

SEC. 120. The General Accounting Office shall—

(1) monitor the compliance of the Department of Justice and all United States Attorneys with the "Guidance on the Use of the False Claims Act in Civil Health Care Matters" issued by the Department of Justice on June 3, 1998, including any revisions to that guidance; and

(2) not later than February 1, 1999, and again not later than August 2, 1999, submit a report on such compliance to the Committees on the Judiciary and the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 121. FIREARMS SAFETY. (a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 122. FIREARM SAFETY EDUCATION GRANTS. (a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

SEC. 123. FIREARMS. Section 922 of title 18, United States Code, is amended—

(1) in subsection (d), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(2) in subsection (g), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(3) in subsection (s)(3)(B), by striking clause (v) and inserting the following:

"(v) is not an alien who—

"(I) is illegally or unlawfully in the United States; or

"(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));"; and

(4) by inserting after subsection (x) the following:

"(y) Provisions Relating to Aliens Admitted Under Nonimmigrant Visas.—

"(1) Definitions.—In this subsection—

"(A) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

"(B) the term 'nonimmigrant visa' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

"(2) Exceptions.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

"(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

"(B) an official representative of a foreign government who is—

"(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

"(ii) en route to or from another country to which that alien is accredited;

"(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

"(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

"(3) Waiver.—

"(A) Conditions for waiver.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

"(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

"(ii) the Attorney General approves the petition.

"(B) Petition.—Each petition under subparagraph (B) shall—

"(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

"(C) Approval of petition.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

"(i) would be in the interests of justice; and

"(ii) would not jeopardize the public safety.".

Sec. 124. Mental Health Screening and Treatment for Prisoners. (a) Additional Requirements for the Use of Funds Under the Violent Offender Incarceration and Truth-in-Sentencing Grants Program.—Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"(b) Additional Requirements.—

"(1) Eligibility for grant.—To be eligible to receive a grant under section 20103 or 20104, a State shall, not later than January 1, 1999, have a program of mental health screening and treatment for appropriate categories of convicted juvenile and other offenders during periods of incarceration and juvenile and criminal justice supervision, that is consistent with guidelines issued by the Attorney General.

"(2) Use of funds.—

"(A) In general.—Notwithstanding any other provision of this subtitle, amounts made available to a State under section 20103 or 20104 may be applied to the costs of programs described in paragraph (1), consistent with guidelines issued by the Attorney General.

"(B) Additional use.—In addition to being used as specified in subparagraph (A), the funds referred to in that subparagraph may be used by a State to pay the costs of providing to the Attorney General a baseline study on the mental health problems of juvenile offenders and prisoners in the State, which study shall be consistent with guidelines issued by the Attorney General.".

Sec. 125. Section 3486(a)(1) of title 18, United States Code, is amended by inserting "or any act or activity involving a Federal offense relating to the sexual exploitation or other abuse of children," after "health care offense,".

Sec. 126. Section 505 of the Incentive Grants for Local Delinquency Prevention Programs Act (42 U.S.C. 5784) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(8) court supervised initiatives that address the illegal possession of firearms by juveniles."; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "demonstrate ability in";

(B) in paragraph (1), by inserting "have in effect" after "(1)";

(C) in paragraph (2)—

(i) by inserting "have developed" after "(2)"; and

(ii) by striking "and" at the end;

(D) in paragraph (3)—

(i) by inserting "are actively" after "(3)"; and

(ii) by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(4) have in effect a policy or practice that requires State and local law enforcement agencies to detain for not less than 24 hours any juvenile who unlawfully possesses a firearm in a school, upon a finding by a judicial officer that the juvenile may be a danger to himself or herself, or to the community.".

Sec. 127. Intensive Firearms Enforcement Initiatives. (a)(1) The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative, as enhanced in this section (and referred hereafter to as "YCGII/Exile") to 50 cities or counties by October 1, 2000, to 75 cities or counties by October 1, 2002, and to 150 cities or counties by October 1, 2003.

(2) Cities and counties selected for participation in the YCGII/Exile shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials. Not later than February 1, 1999, the Secretary shall deliver to the Congress, through the Chairman of each Committee on Appropriations, a full report, empirically based, explaining the impact of the pre-existing youth crime gun interdiction initiative on Federal firearms related offenses. The report shall also state in detail the plans by the Secretary to implement this section and the establishment of YCGII/Exile program.

(b)(1) The Secretary of the Treasury shall, utilizing the information provided by the YCGII/Exile, facilitate the identification and prosecution of individuals—

(A) illegally transferring firearms to individuals, particularly to those who have not attained 24 years of age, or in violation of the Youth Handgun Safety Act; and

(B) illegally possessing firearms, particularly in violation of section 922(g) (1)–(2) of title 18, United States Code, or in violation of any provision in section 924 of title 18, United States Code, in connection with a serious drug offense or violent felony, as those terms are used in that section.

(2) Within funds appropriated in this Act for necessary expenses of the Offices of United States Attorneys, $1,500,000 shall be available for the Attorney General to hire additional assistant United States Attorneys and investigators in the City of Philadelphia, Pennsylvania, for a demonstration project to identify and prosecute individuals in possession of firearms in violation of Federal law.

(3) The Attorney General, and the United States Attorneys, shall give the highest possible prosecution priority to the offenses stated in this subsection.

(4) The Secretary of the Treasury shall share information derived from the YCGII/Exile with State and local law enforcement agencies through on-line computer access, as soon as such capability is available.

(c)(1) The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII/Exile.

(2) Grants made under this part shall be used—

(A) to hire additional law enforcement personnel for the purpose of enhanced efforts in identifying and arresting individuals for the firearms offenses stated in subsection (b); and

(B) to purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.

Sec. 128. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking "or";

(2) in subsection (g)(3), by striking "minimally sufficient" and inserting "State sexual offender"; and

(3) by amending subsection (i) to read as follows:

"(i) Penalty.—A person who is—

"(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

"(2) required to register under a sexual offender registration program in the person's State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

"(3) described in section 4042(c)(4) of title 18, United States Code, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

"(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law 105–119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second or subsequent offense under this subsection, be imprisoned for not more than 10 years.".

SEC. 129. (a) IN GENERAL.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

"(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a residential training center. The Director may approve training conducted in not more than 3 separate sessions.".

(b) CONFORMING AMENDMENT.—Section 200108 (c) of the Police Corps Act (42 U.S.C. 14097(c)) is amended by striking "16 weeks of".

(c) REAUTHORIZATION.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking "$20,000" and all that follows before the period and inserting "$50,000,000 for fiscal year 1999, $70,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $90,000,000 for fiscal year 2002".

SEC. 130. INTERNET PREDATOR PREVENTION. (a) PROHIBITION AND PENALTIES.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"§2261. Publication of identifying information relating to a minor for criminal sexual purposes

"(a) DEFINITION OF IDENTIFYING INFORMATION RELATING TO A MINOR.—In this section, the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

"(b) PROHIBITION AND PENALTIES.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"2261. Publication of identifying information relating to a minor for criminal sexual purposes.".

SEC. 131. TRANSFER OF COUNTY.— (a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Philadelphia, and Schuylkill" and inserting "and Philadelphia"; and

(2) in subsection (b) by inserting "Schuylkill," after "Potter,".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

SEC. 132. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS. Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

"(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.—"; and

(2) in paragraph (4)—

(A) by inserting "(A)" after "(4)";

(B) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009–201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995."; and

(C) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321–165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.".

SEC. 133. CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES. (a) AUTHORITY TO CONDUCT BACKGROUND CHECKS.—

(1) IN GENERAL.—A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) SUBMISSION OF REQUESTS.—A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) SEARCH AND EXCHANGE OF RECORDS.—Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) USE OF INFORMATION.—Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section to cover the cost of conducting the search and providing the records.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) CRIMINAL PENALTY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) IMMUNITY FROM LIABILITY.—A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term "home health care agency" means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term "nursing facility" means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of

the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.

SEC. 134. None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with, any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff: *Provided, however*, that this section shall not—(1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to sections 6201–6212 of title 15, United States Code, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

SEC. 135. EXCEPTION TO GROUNDS OF REMOVAL. Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

"(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 201(b)(2)(A)(i) as an orphan described in section 101(b)(1)(F), unless that alien has knowingly declined United States citizenship.".

SEC. 136. PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS. Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal, State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

SEC. 137. EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALS OF LIBERIA. (a) CONTINUATION OF STATUS.—Notwithstanding any other provision of law, any alien described in subsection (b) who, as of the date of enactment of this Act, is registered for temporary protected status in the United States under section 244(c)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(A)(iv)), or any predecessor law, order, or regulation, shall be entitled to maintain that status through September 30, 1999.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is a national of Liberia or an alien who has no nationality and who last habitually resided in Liberia.

SEC. 138. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM. (a) ADJUSTMENT OF STATUS.—

(1) EXEMPTION FROM NUMERICAL LIMITATIONS.—The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(2) LIMITATION ON FEES.—

(A) IN GENERAL.—Any alien described in subsection (b) who applies for adjustment of status to that of an alien lawfully admitted for permanent residence under section 209(b) of that Act shall not be required to pay any fee for employment authorization or for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or adjustment of status.

(B) EFFECTIVE DATE.—This paragraph shall apply to applications for employment authorization or adjustment of status filed before, on, or after the date of enactment of this Act.

(b) COVERED ALIENS.—An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

SEC. 139. For fiscal year 1999 and thereafter, for any report which is required or authorized by this Act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns matters within the jurisdiction of the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently as the report is submitted to the Committee on Appropriations of the Senate or of the House of Representatives.

SEC. 140. (a) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting ", including older women" after "combat violent crimes against women"; and

(ii) by inserting ", including older women" before the period; and

(B) in subsection (b)—

(i) in the matter before subparagraph (A), by inserting ", including older women" after "against women";

(ii) in paragraph (6), by striking "and' after the semicolon;

(iii) in paragraph (7), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(8) developing, through the oversight of the State administrator, a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.";

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1), by inserting "and elder domestic abuse experts" after "victim services programs"; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—

(A) in paragraph (7), by striking "and' after the semicolon;

(B) in paragraph (8), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(9) the term 'elder' has the same meaning as the term 'older individual' in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

"(10) the term 'domestic abuse' means an act or threat of violence, not including an act of self-defense, committed by—

"(A) a current or former spouse of the victim;

"(B) a person related by blood or marriage to the victim;

"(C) a person who is cohabitating with or has cohabitated with the victim;

"(D) a person with whom the victim shares a child in common;

"(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

"(F) a person similarly situated to a spouse of the victim, or by any other person; if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

SEC. 141. CHILD EXPLOITATION SENTENCING ENHANCEMENT. (a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

This title may be cited as the "Department of Justice Appropriations Act, 1999".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $24,836,000, of which $2,500,000 shall remain available until expended: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $45,500,000 to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $310,167,000, to remain available until expended: *Provided*, That of the $318,167,000 provided for in direct obligations (of which $304,167,000 is appropriated from the General Fund, and $8,000,000 is derived from unobligated balances and deobligations from prior years and $6,000,000 is from fees), $69,826,000 shall be for Trade Development, $20,379,000 shall be for Market Access and Compliance, $31,047,000 shall be for the Import Administration, $177,000,000 shall be for the United States and Foreign Commercial Service, and $11,915,000 shall be for Executive Direction and Administration: *Provided further*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

Export Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $45,671,000 to remain available until expended, of which $1,877,000 shall be for inspections and other activities related to national security: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further*, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $280,775,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $22,465,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

Minority Business Development Agency

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $25,276,000.

Economic and Information Infrastructure

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $49,169,000, to remain available until September 30, 1999.

ECONOMICS AND STATISTICS ADMINISTRATION

REVOLVING FUND

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by sections 1, 2, and 4 of Public Law 91–412 (15 U.S.C. 1525–1527) and, notwithstanding section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912), charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $141,801,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to conduct the decennial census, $848,503,000, to remain available until expended: *Provided*, That the Department of Commerce shall submit a quarterly report to the Appropriations Committees of both Houses on the status and implementation of key decennial census milestones during fiscal year 1999.

In addition, for expenses to collect and publish statistics for other periodic censuses and programs provided for by law, $153,955,000, to remain available until expended.

National Telecommunications and Information Administration

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), $10,940,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, and operations, and related services and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further*, That hereafter, notwithstanding any other provision of law, NTIA shall not authorize spectrum use or provide any spectrum functions pursuant to the NTIA Organization Act, 47 U.S.C. §§ 902–903, to any Federal entity without reimbursement as required by NTIA for such spectrum management costs, and Federal entities withholding payment of such cost shall not use spectrum: *Provided further*, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $20,900,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Act: *Provided further*, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $11,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $3,000,000 shall be available for program administration and other support activities as authorized by section 391: *Provided further*, That none of the funds appropriated under this heading shall be used to make a grant to an applicant that is an entity that is eligible to receive preferential rates or treatment under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h).

Patent and Trademark Office

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks, $785,526,000, to remain available until expended: *Provided*, That of this amount, $785,526,000 shall be derived from offsetting collections assessed and collected pursuant to 15 U.S.C. 113 and 35 U.S.C. 41 and 376 and shall be retained and used for necessary expenses in this appropriation: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at $0: *Provided further*, That beginning on October 1, 1998, the Commissioner of Patents and Trademarks shall establish a surcharge on all fees charged under 35 U.S.C. 41(a) and (b) in order to ensure that $132,000,000 is collected: *Provided further*, That surcharges established under this authority may take effect on October 1, 1998, and that Section 553 of title 5, United States Code, shall not apply to the establishment of such surcharges: *Provided further*, That upon enactment of a statute reauthorizing the Patent and Trademark Office or establishing a successor agency or agencies, and upon the subsequent establishment of a new patent fee schedule, the surcharge established in this Act shall expire: *Provided further*, That during fiscal year 1999, should the total amount of offsetting collections be less than $785,526,000, the total amounts available to the Patent and Trademark Office shall be reduced accordingly: *Provided further*, That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving, furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.

SCIENCE AND TECHNOLOGY

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $9,993,000, of which not to exceed $1,600,000 shall remain available until September 30, 2000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $290,636,000, to remain available until expended, of which not to exceed $5,000,000 shall be used to fund a cooperative agreement with Montana State University for a research program on green buildings; and of which not to exceed $1,625,000 may be transferred to the "Working Capital Fund": *Provided*, That $2,300,000 shall be used to expand the Malcolm Baldrige National Quality Award program established under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a): *Provided further*, That none of the funds appropriated or otherwise made available by this Act for the "Malcolm Baldrige National Quality Award" may be obligated or expended unless such obligation or expenditure is expressly authorized by enactment of a subsequent Act.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, $106,800,000, to remain available until expended, of which not to exceed $300,000 may be transferred to the "Working Capital Fund": *Provided*, That notwithstanding the time limitations imposed by 15 U.S.C. 278k(c)(1) and (5) on the duration of Federal financial assistance that may be awarded by the Secretary of Commerce to Regional Centers for the transfer of Manufacturing Technology ("Centers"), such Federal financial assistance for a Center may continue beyond six years and may be renewed for additional periods, not to exceed one year, at a rate not to exceed one-third of the Center's total annual costs, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that continuation of Federal funding to the Center is in the best interest of the Regional Centers for the transfer of Manufacturing Technology Program: *Provided further*, That the Center's most recent performance evaluation is positive, and the Center has submitted a reapplication which has successfully passed merit review.

In addition, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, $192,500,000, to remain available until expended, of which not to exceed $38,700,000 shall be available for the award of new grants, and of which not to exceed $500,000 may be transferred to the "Working Capital Fund".

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $56,714,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities as authorized by 33 U.S.C. 883i; $1,608,914,000, to remain available until expended: *Provided*, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, $63,073,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided further*, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed $2,000,000: *Provided further*, That unexpended balances in the accounts "Construction" and "Fleet Modernization, Shipbuilding and Conversion" shall be transferred to and merged with this account, to remain available until expended for the purposes for which the funds were originally appropriated: *Provided further*, That of the $10,500,000 available for the estuarine research reserve system, $2,000,000 shall be made available for the Office of response and restoration and $1,160,000 shall be made available for Navigation services, mapping and charting: *Provided further*, That of funds made available for the National Marine Fisheries Service information collection and analyses, $400,000 shall be made available to continue Atlantic Herring and Mackerel studies: *Provided further*, That of the $8,500,000 provided for the interstate fisheries commissions, $7,000,000 shall be provided to the Atlantic States Marine Fisheries Commission for the Atlantic Coastal Cooperative Fisheries Management Act, $750,000 shall be provided for the Atlantic Coastal Cooperative Statistics Program, and the remainder shall be provided to each of the three interstate fisheries commissions (including the ASMFC): *Provided further*, That within the Procurement, Acquisition and Construction account that $3,000,000 shall be made available for the National Estuarine Research Reserve construction, and $5,000,000 shall be made available for Great Bay land acquisition: *Provided further*, That the Secretary of Commerce shall make funds available to implement the mitigation recommendations identified subsequent to the "1995 Secretary's Report to Congress on Adequacy of NEXRAD Coverage and Degradation of Weather Services" for Erie, PA; Williston, ND; Caribou, ME; and Key West, FL, and shall ensure continuation of weather service coverage for these communities until mitigation activities are completed: *Provided further*, That with respect to Erie, PA and Williston, ND, the Secretary shall integrate local radar data from such weather service offices into the advanced weather interactive processing system (AWIPS).

PROCUREMENT, ACQUISITION AND CONSTRUCTION

(INCLUDING TRANSFERS OF FUNDS)

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, $587,922,000, to remain available until expended: *Provided*, That unexpended balances of amounts previously made available in the "Operations, Research, and Facilities" account and the "Construction" account for activities funded under this heading may be transferred to and merged with this account, to remain available until expended for the purposes for which the funds were originally appropriated.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed $4,000,000, for purposes set forth in sections 308(b)(2)(A), 308(b)(2)(B)(v), and 315(e) of such Act.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $953,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627), and the American Fisheries Promotion Act (Public Law 96–561), to be derived from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $189,000, to remain available until expended.

FISHERIES FINANCE PROGRAM ACCOUNT

For the cost of direct loans, $388,000, as authorized by the Merchant Marine Act of 1936, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $31,765,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $20,662,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce, shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Should legislation be enacted to dismantle or reorganize the Department of Commerce, or any portion thereof, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: *Provided*, That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: *Provided further*, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization(s) may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce, or any portion thereof, to cover the costs of actions relating to the abolishment, reorganization, or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: *Provided*, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 207. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 208. Section 401(e)(4)(B) of Public Law 105–83 is amended by striking "majority vote, with each member" and inserting in lieu thereof, "the majority vote of the board members under paragraphs (3)(A), (F), and (G), the board member representing academia under paragraph (3)(K), and one of the board members under paragraph (3)(L) (as identified by the Governor), with each such member".

SEC. 209. (a) PROHIBITION.—

(1) IN GENERAL.—Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended—

(A) by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively; and

(B) by inserting after subsection (d) the following new subsection (e):

"(e)(1) Whoever in interstate or foreign commerce in or through the World Wide Web is engaged in the business of the commercial distribution of material that is harmful to minors shall restrict access to such material by persons under 17 years of age.

"(2) Any person who violates paragraph (1) shall be fined not more than $50,000, imprisoned not more than six months, or both.

"(3) In addition to the penalties under paragraph (2), whoever intentionally violates paragraph (1) shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(4) In addition to the penalties under paragraphs (2) and (3), whoever violates paragraph (1) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(5) It is an affirmative defense to prosecution under this subsection that the defendant restricted access to material that is harmful to minors by persons under 17 years of age by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number or in accordance with such other procedures as the Commission may prescribe.

"(6) This subsection may not be construed to authorize the Commission to regulate in any manner the content of any information provided on the World Wide Web.

"(7) For purposes of this subsection:

"(A) The term 'material that is harmful to minors' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

"(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

"(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

"(iii) lacks serious literary, artistic, political, or scientific value.

"(B) The terms 'sexual act' and 'sexual contact' have the meanings assigned such terms in section 2246 of title 18, United States Code.".

(2) CONFORMING AMENDMENT.—Subsection (h) of such section, as so redesignated, is amended by striking "(e), or (f)" and inserting "(f), or (g)".

(b) AVAILABILITY ON INTERNET OF DEFINITION OF MATERIAL THAT IS HARMFUL TO MINORS.—The Attorney General, in the case of the Internet web site of the Department of Justice, and the Federal Communications Commission, in the case of the Internet web site of the Commission, shall each post or otherwise make available on such web site such information as is necessary to inform the public of the meaning of the term "material that is harmful to minors" under section 223(e) of the Communications Act of 1934, as amended by subsection (a) of this section.

SEC. 210. NO UNIVERSAL SERVICE FOR SCHOOLS OR LIBRARIES THAT FAIL TO IMPLEMENT A FILTERING OR BLOCKING SYSTEM FOR COMPUTERS WITH INTERNET ACCESS. (a) IN GENERAL.—Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end thereof the following:

"(l) IMPLEMENTATION OF A FILTERING OR BLOCKING SYSTEM.—

"(1) IN GENERAL.—No services may be provided under subsection (h)(1)(B) to any elementary or secondary school, or any library, unless it provides the certification required by paragraph (2) or (3), respectively.

"(2) CERTIFICATION FOR SCHOOLS.—Before receiving universal service assistance under subsection (h)(1)(B), an elementary or secondary school (or the school board or other authority with responsibility for administration of that school) shall certify to the Commission that it has—

"(A) selected a system for computers with Internet access to filter or block matter deemed to be inappropriate for minors; and

"(B) installed, or will install as soon as it obtains computers with Internet access, a system to filter or block such matter.

"(3) CERTIFICATION FOR LIBRARIES.—Before receiving universal service assistance under subsection (h)(1)(B), a library that has a computer with Internet access shall certify to the Commission that, on one or more of its computers with Internet access, it employs a system to filter or block matter deemed to be inappropriate for minors. If a library that makes a certification under this paragraph changes the system it employs or ceases to employ any such system, it shall notify the Commission within 10 days after implementing the change or ceasing to employ the system.

"(4) LOCAL DETERMINATION OF CONTENT.—For purposes of paragraphs (2) and (3), the determination of what matter is inappropriate for minors shall be made by the school, school board, library or other authority responsible for making the required certification. No agency or instrumentality of the United States Government may—

"(A) establish criteria for making that determination;

"(B) review the determination made by the certifying school, school board, library, or other authority; or

"(C) consider the criteria employed by the certifying school, school board, library, or other authority in the administration of subsection (h)(1)(B).".

(b) CONFORMING CHANGE.—Section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B)) is amended by striking "All telecommunications" and inserting "Except as provided by subsection (l), all telecommunications".

SEC. 211. MULTICHANNEL VIDEO PROGRAMMING. Notwithstanding any other provision of law, the Copyright Office is prohibited from implementing, enforcing, collecting or awarding copyright royalty fees, and no obligation or liability for copyright royalty fees shall accrue pursuant to the decision of the Librarian of Congress on October 27, 1997, which established a royalty fee of $0.27 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, before March 31, 1999. This shall have no effect on the implementing, enforcing, collecting, or awarding copyright royalty fees pursuant to the royalty fee structure as it existed prior to October 27, 1997.

SEC. 212. PUBLIC AIRCRAFT. The flush sentence following subparagraph (B)(ii) of section 40102(37) of title 49, United States Code, is amended by striking "if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat" and inserting "if the operation is conducted for law enforcement, search and rescue, or responding to an imminent threat to property or natural resources".

SEC. 213. COMPENSATION OF ATTORNEYS. (a) CONTROLLED SUBSTANCES ACT.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed by that attorney during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the action is to be prosecuted receives for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

"(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation may not be granted for any calendar month in an amount that exceeds the maximum amount specified in clause (i).".

(b) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(d)(3) of title 18, United States Code, is amended—

(1) by striking "Payment" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), payment"; and

(2) by adding at the end the following:

"(B) MAXIMUM PAYMENTS.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).".

SEC. 214. No funds may be used under this Act to process or register any application filed or submitted with the Patent and Trademark Office under the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, commonly referred to as the Trademark Act of 1946, as amended, after the date of enactment of this Act for a mark identical to the official tribal insignia of any federally recognized Indian tribe for a period of one year from the date of enactment of this Act.

SEC. 215. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under "DEPARTMENT OF COMMERCE" is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under "DEPARTMENT OF COMMERCE" except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION" and under the heading "INFORMATION INFRASTRUCTURE GRANTS".

(B) Amounts appropriated under any heading under "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY".

(C) Amounts appropriated under any heading under "NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION".

(c)(1) Notwithstanding any other provision of this Act, the second proviso under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

SEC. 216. SEDIMENT CONTROL STUDY. Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

SEC. 217. (a) IN GENERAL.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) MEMBERSHIP OF JOINT BOARD.—

"(A) IN GENERAL.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

"(i) 3 shall be members of the Federal Communications Commission;

"(ii) 1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

"(iii) 5 shall be State utility commissioners nominated by the national organization of State utility commissions, with at least 2 such commissioners being commissioners of commissions of rural States.

"(B) CO-CHAIRMEN.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the 5 members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the co-chairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

"(C) RURAL STATE DEFINED.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.".

(b) FCC TO ADOPT PROCEDURES PROMPTLY.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

(c) RECONSTITUTED JOINT BOARD TO CONSIDER UNIVERSAL SERVICE.—The Federal-State Joint Board established under section 254(a)(1) of the Communications Act of 1934 (47 U.S.C. 254(a)(1)) shall not take action on the Commission's Order and Order on Reconsideration adopted July 13, 1998 (CC Docket No. 96-45; FCC 98-160), relating to universal service until—

(1) the Commission has adopted rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)); and

(2) the co-chairmen of the Joint Board have been chosen under that section.

SEC. 218. NONPOINT POLLUTION CONTROL. (a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1999".

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $31,059,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $5,871,000, to remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $15,631,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $11,483,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,808,516,000 (including the purchase of firearms and ammunition); of which not to exceed $13,454,000 shall remain available until expended for space alteration projects; and of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects: *Provided*, That of the amount made available under this heading, $7,150,000 shall be available only for the State Justice Institute.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,515,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended; the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)); the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences; and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); $360,952,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $68,721,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $176,873,000, of which not to exceed $10,000,000 shall remain available until expended for security systems, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $54,682,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,716,000; of which $1,800,000 shall remain available through September 30, 2000, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $27,500,000; to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $7,800,000; and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $2,000,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $9,374,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Not to exceed 10 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and Other Judicial Services, Defender Services" and "Courts of Appeals, District Courts, and Other Judicial Services, Fees of Jurors and Commissioners", shall be increased by more than 20 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 303. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

SEC. 304. Pursuant to section 140 of Public Law 97–92, justices and judges of the United States are authorized during fiscal year 1999, to receive a salary adjustment in accordance with 28 U.S.C. 461: *Provided*, That $6,893,000 is appropriated for salary adjustments pursuant to this section and such funds shall be transferred to and merged with appropriations in Title III of this Act.

This title may be cited as "The Judiciary Appropriations Act, 1999".

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and 22 U.S.C. 2674; and for expenses of general administration; $1,685,094,000: *Provided*, That of the amount made available under this heading, not to exceed $4,000,000 may be transferred to, and merged with, funds in the "Emergencies in the Diplomatic and Consular Service" appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That of the amount made available under this heading, $500,000 shall be available only for the National Law Center for Inter-American Free Trade: *Provided further*, That of the amount made available under this heading, $13,000,000 shall be available only for the East-West Center: *Provided further*, That, hereafter, notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), fees may be collected under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717); in addition not to exceed $1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553), as amended, and in addition, as authorized by section 5 of such Act $490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $349,474,000.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $118,340,000, to remain available until expended, as authorized in Public Law 103–236: *Provided*, That section 135(e) of Public Law 103–236 shall not apply to funds available under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $27,495,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96–465), as it relates to post inspections.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for necessary expenses as authorized by section 4 of the State Department Basic Authority Act of 1956 (22 U.S.C. 2671), $6,500,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $7,900,000, to remain available until September 30, 2000.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), preserving, maintaining, repairing, and planning for, buildings that are owned or directly leased by the Department of State, renovating, in addition to funds otherwise available, the Main State Building, and carrying out the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $550,832,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $3,500,000 to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $543,000, as authorized by section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $457,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8, $14,490,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $132,500,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $1,131,718,000, of which not to exceed $254,000,000 shall remain available until expended for payment of arrearages: *Provided*, That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of an Act that makes payment of arrearages contingent upon reforms that include the following: a reduction in the United States assessed share of the United Nations regular budget to 20 percent and of peacekeeping operations to 25 percent; reimbursement for goods and services provided by the United States to the United Nations; certification that the United Nations and its specialized or affiliated agencies have not taken any action to infringe on the sovereignty of the United States; a ceiling on United States contributions to international organizations after fiscal year 1999 of $900,000,000; establishment of a merit-based personnel system at the United Nations that includes a code of conduct and a personnel evaluation system; United States membership on the Advisory Committee on Administrative and Budgetary Questions that oversees the United Nations budget; access to United Nations financial data by the General Accounting Office; and achievement of a negative growth budget and the establishment of independent inspectors general for affiliated organizations; and improved consultation procedures with the Congress: *Provided further*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons: *Provided further*, That notwithstanding section 402 of this Act, not to exceed $1,223,000 may be transferred from the funds made available under this heading to the "International conferences and contingencies" account for assessed contributions to new or provisional international organizations or for travel expenses of official delegates to international conferences: *Provided further*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security $431,093,000, of which not to exceed $23,100,000 shall remain available until expended, and of which not to exceed $221,000,000 shall remain available until expended for payment of arrearages: *Provided*, That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of an Act described in the first proviso under the heading "Contributions to International Organizations" in this title.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $17,490,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,463,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,490,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,549,000: *Provided*, That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, $43,400,000, of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

INTERNATIONAL INFORMATION PROGRAMS

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by section 801 of such Act of 1948 (22 U.S.C. 1471), and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1474(3)); $427,097,000: *Provided*, That not to exceed $1,400,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085): *Provided further*, That not to exceed $6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other law, fees from educational advising and counseling, and exchange visitor program services: *Provided further*, That not to exceed $920,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $5,050,000, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $205,024,000, to remain available until expended as authorized by section 105 of such Act of 1961 (22 U.S.C. 2455): *Provided*, That not to exceed $800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other provision of law, fees from educational advising and counseling.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1999, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1999, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities, $332,915,000, of which not to exceed $16,000 may be used for official receptions within the United States as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1747(3)), not to exceed $35,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085), and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed $2,000,000 in receipts from advertising and revenue from business ventures, not to exceed $500,000 in receipts from cooperating international organizations, and not to exceed $1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $22,095,000, to remain available until expended.

RADIO CONSTRUCTION

For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471), $13,245,000, to remain available until expended, as authorized by section 704(a) of such Act of 1948 (22 U.S.C. 1477b(a)).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $12,000,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $3,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,500,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 10 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 20 percent by any such transfers: *Provided*, That not to exceed 10 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 20 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. None of the funds made available in this Act may be used by the Department of State or the United States Information Agency to provide equipment, technical support, training, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation or similar organization.

SEC. 404. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

SEC. 405. During the current fiscal year and hereafter, the Secretary of State shall have discretionary authority to pay tort claims in the manner authorized by section 2672 of title 28, United States Code, when such claims arise in foreign countries in connection with the overseas operations of the Department of State.

SEC. 406. None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter should be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. 407. None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official Government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. 408. For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

SEC. 409. (a) WAIVER OF FEES FOR CERTAIN VISAS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) DELAYED COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) RECOUPMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) for the processing of machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such combined border crossing cards and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been required to be replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 116(b)(2) of this Act), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

SEC. 410. (a) The purpose of this section is to protect the national security interests of the United States while studying the appropriate level of resources to improve the issuance of visas to legitimate foreign travelers.

(b) Congress recognizes the importance of maintaining quality service by consular officers in the processing of applications for nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(c) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(1) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(2) the adequacy of service to international tourism;

(3) the adequacy of computer and technical support to consular posts; and

(4) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(d)(1) Not later than 120 days after the date of enactment of this Act, the Secretary of

State shall submit a report to Congress setting forth—

(A) the results of the study conducted under subsection (c); and

(B) the steps the Secretary has taken to implement timeliness standards.

(2) Beginning one year after the date of submission of the report required by paragraph (1), and annually thereafter, the Secretary of State shall submit a report to Congress describing the implementation of timeliness standards during the preceding year.

(e) In this section—

(1) the term "nonimmigrant visas" means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) the term "timeliness standards" means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

SEC. 411. Before any additional disbursement of funds may be made pursuant to the sixth proviso under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (as contained in Public Law 105–119)—

(1) the Secretary of State shall, in lieu of the certification required under such sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the reform budget of $2,533,000,000 for the biennium 1998–1999; and

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.

SEC. 412. BAN ON EXTRADITION OR TRANSFER OF UNITED STATES CITIZENS TO THE INTERNATIONAL CRIMINAL COURT. (a) EXTRADITION.—None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the United States that applicable prohibitions on re-extradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) CONSENT.—None of the funds appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on re-extradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term "International Criminal Court" means the court established by agreement concluded in Rome on July 17, 1998.

SEC. 413. (a) None of the funds appropriated or otherwise made available by this or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998, or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization that is used to provide support to the International Criminal Court described in paragraph (1),

unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1999".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $97,650,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $69,818,000: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated: *Provided further*, That, of this amount, $1,400,000 shall be available for Student Incentive Payments.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $10,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $250,000, as authorized by Public Law 99–83, section 1303.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $8,900,000: *Provided*, That not to exceed $50,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,159,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; and not to exceed $27,500,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $253,580,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structure; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed 16) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $197,921,000, of which not to exceed $300,000 shall remain available until September 30, 1999, for research and policy studies: *Provided*, That $172,523,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at $25,398,000: *Provided further*, That any offsetting collections received in excess of $172,523,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999: *Provided further*, That any two stations that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal by November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video provider (including off-air, cable and satellite distribution).

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 U.S.C. App. 1111, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $14,300,000: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $93,167,000: *Provided*, That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: *Provided further*, That notwithstanding any other provision of law, not to exceed $90,000,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $3,167,000: *Provided further*, That the fourth proviso under the heading "Federal Trade Commission, Salaries and Expenses" in Public Law 105–119 is repealed: *Provided further*, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285).

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $300,000,000, of which $288,700,000 is for basic field programs and required independent audits; $300,000 is for grants for litigation associated with Aguilar v. United States; $2,015,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; and $8,985,000 is for management and administration.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

SEC. 501. (a) CONTINUATION OF COMPETITIVE SELECTION PROCESS.—None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity except through a competitive selection process conducted in accordance with regulations promulgated by the Corporation in accordance with the criteria set forth in subsections (c), (d), and (e) of section 503 of Public Law 104–134 (110 Stat. 1321–52 et seq.).

(b) INAPPLICABILITY OF CERTAIN PROCEDURES.—Sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 2996j) shall not apply to the provision, denial, suspension, or termination of any financial assistance using funds appropriated in this Act.

(c) ADDITIONAL PROCEDURES.—If, during any term of a grant or contract awarded to a recipient by the Legal Services Corporation under the competitive selection process referred to in subsection (a) and applicable Corporation regulations, the Corporation finds, after notice and opportunity for the recipient to be heard, that the recipient has failed to comply with any requirement of the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), this Act, or any other applicable law relating to funding for the Corporation, the Corporation may terminate the grant or contract and institute a new competitive selection process for the area served by the recipient, notwithstanding the terms of the recipient's grant or contract.

SEC. 502. (a) CONTINUATION OF REQUIREMENTS AND RESTRICTIONS.—None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of—

(1) sections 501, 502, 505, 506, and 507 of Public Law 104–134 (110 Stat. 1321–51 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions as set forth in such sections, except that all references in such sections to 1995 and 1996 shall be deemed to refer instead to 1998 and 1999, respectively; and

(2) section 504 of Public Law 104–134 (110 Stat. 1321–53 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such section, except that—

(A) subsection (c) of such section 504 shall not apply;

(B) paragraph (3) of section 508(b) of Public Law 104–134 (110 Stat. 1321–58) shall apply with respect to the requirements of subsection (a)(13) of such section 504, except that all references in such section 508(b) to the date of enactment shall be deemed to refer to April 26, 1996; and

(C) subsection (a)(11) of such section 504 shall not be construed to prohibit a recipient from using funds derived from a source other than the Corporation to provide related legal assistance to—

(i) an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; or

(ii) an alien whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty.

(b) DEFINITIONS.—For purposes of subsection (a)(2)(C):

(1) The term "battered or subjected to extreme cruelty" has the meaning given such term under regulations issued pursuant to subtitle G of the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1953).

(2) The term "related legal assistance" means legal assistance directly related to the prevention of, or obtaining of relief from, the battery or cruelty described in such subsection.

SEC. 503. (a) CONTINUATION OF AUDIT REQUIREMENTS.—The requirements of section 509 of Public Law 104–134 (110 Stat. 1321–58 et seq.), other than subsection (l) of such section, shall apply during the current fiscal year.

(b) REQUIREMENT OF ANNUAL AUDIT.—An annual audit of each person or entity receiving financial assistance from the Legal Services Corporation under this Act shall be conducted during the current fiscal year in accordance with the requirements referred to in subsection (a).

SEC. 504. (a) DEBARMENT.—The Legal Services Corporation may debar a recipient, on a showing of good cause, from receiving an additional award of financial assistance from the Corporation. Any such action to debar a recipient shall be instituted after the Corporation provides notice and an opportunity for a hearing to the recipient.

(b) REGULATIONS.—The Legal Services Corporation shall promulgate regulations to implement this section.

(c) GOOD CAUSE.—In this section, the term "good cause", used with respect to debarment, includes—

(1) prior termination of the financial assistance of the recipient, under part 1640 of title 45, Code of Federal Regulations (or any similar corresponding regulation or ruling);

(2) prior termination in whole, under part 1606 of title 45, Code of Federal Regulations (or any similar corresponding regulation or ruling), of the most recent financial assistance received by the recipient, prior to date of the debarment decision;

(3) substantial violation by the recipient of the statutory or regulatory restrictions that prohibit recipients from using financial assistance made available by the Legal Services Corporation or other financial assistance for purposes prohibited under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) or for involvement in any activity prohibited by, or inconsistent with, section 504 of Public Law 104–134 (110 Stat. 1321–53 et seq.), section 502(a)(2) of Public Law 104–208 (110 Stat. 3009–59 et seq.), or section 502(a)(2) of this Act;

(4) knowing entry by the recipient into a subgrant, subcontract, or other agreement with an entity that had been debarred by the Corporation; or

(5) the filing of a lawsuit by the recipient, on behalf of the recipient, as part of any program receiving any Federal funds, naming the Corporation, or any agency or employee of a Federal, State, or local government, as a defendant.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,240,000.

COMMISSION ON OCEAN POLICY

SALARIES AND EXPENSES

For the necessary expenses of the Commission on Ocean Policy, pursuant to S. 1213 as passed by the Senate in November 1996, $3,500,000, to remain available until expended: *Provided*, That the Commission shall present to the Congress with 18 months its recommendations for a national ocean policy.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $341,098,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (1) such incidental expenses as meals taken in the course of such attendance, (2) any travel and transportation to or from such meetings, and (3) any other related lodging or subsistance: *Provided*, That fees and charges authorized by sections 6(b)(4) of the Securities Act of 1933 (15 U.S.C. 77f(b)(4)) and 31(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78ee(d)) and collected in fiscal year 1999 shall be credited to this account as offsetting collections: *Provided further*, That not to exceed $341,098,000 of such offsetting collections shall be available until expended for necessary expenses of this account: *Provided further*, That the total amount appropriated from the General Fund for fiscal year 1999 under this heading shall be reduced as all such offsetting fees are deposited to this appropriation so as to result in no fiscal year 1999 appropriation from the General Fund.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103–403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $265,000,000: *Provided*, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: *Provided further*, That, notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations: *Provided further*, That $85,000,000 shall be available to fund grants for performance in fiscal year 1999 or fiscal year 2000 as authorized by section 21 of the Small Business Act, as amended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11, as amended by Public Law 100–504), $10,500,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $3,816,000, and the cost of guaranteed loans, $143,000,000, as authorized by 15 U.S.C. 631 note: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That of the funds previously made available under Public Law 105–135, section 507(g), for the Delta Loan program, up to $20,000,000 may be transferred to and merged with the appropriations for salaries and expenses: *Provided further*, That during fiscal year 1999, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under section 20(d)(1)(B)(ii) of the Small Business Act, as amended: *Provided further*, That during fiscal year 1999, commitments for general business loans authorized under section 7(a) of the Small Business Act, as amended, shall not exceed $10,000,000,000 without prior notification of the Committees on Appropriations of the House of Representatives and Senate in accordance with section 605 of this Act.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $94,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, $94,000,000, including not to exceed $500,000 for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program, and said sums shall be transferred to and merged with appropriations for the Office of Inspector General.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $3,300,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102–572 (106 Stat. 4515–4516)), $6,850,000, to remain available until expended: *Provided*, That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions, or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $1,000,000 or 20 percent, whichever is more, that: (1) augments existing programs, projects, or activities; (2) reduces by 20 percent funding for any existing program, project, or activity, or numbers of personnel by 20 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) Prohibition of Contracts With Persons Falsely Labeling Products as Made in America.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

Sec. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

Sec. 609. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC-17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

Sec. 610. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

Sec. 611. None of the funds made available in this Act to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.

Sec. 612. Of the funds appropriated in this Act under the heading "Office of Justice Programs—state and local law enforcement assistance", not more than 90 percent of the amount to be awarded to an entity under the Local Law Enforcement Block Grant shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits at the time of retirement or separation as they received while on duty.

Sec. 613. (a) None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmery, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(4) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(5) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) Exemption.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) Reporting Requirement.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) Definition.—In this section, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

Sec. 614. (a) None of the funds made available in this Act or any other Act hereafter enacted may be used to issue or renew a fishing permit or authorization for any fishing vessel of the United States greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing more than 3,000 shaft horsepower that would allow such vessel to engage in fishing in any fishery within the exclusive economic zone of the United States (except territories), unless a certificate of documentation had been issued for the vessel, endorsed with a fishery endorsement that was effective on September 25, 1997, and endorsed with a fishery endorsement at all times thereafter, or unless the appropriate regional fishery management council recommends after the date the enactment of this Act, and the Secretary approves, a fishery management plan or amendment that specifically allows such a vessel to engage in such fishing.

(b) Any fishing permit or authorization issued or renewed prior to the date of the enactment of this Act for a fishing vessel that exceeds the length, tonnage, or horsepower thresholds in subsection (a) that would allow such vessel to engage in fishing for any Atlantic mackerel or herring (or both) in the waters off the east coast of the United States during fiscal year 1999 shall be null and void unless the appropriate regional fishery management council has recommended and the Secretary has approved a fishery management plan or plan amendment that specifically allows such vessel to engage in such fishing.

(c) The prohibition in this section shall not apply to fishing vessels in the menhaden fishery, which occurs primarily outside the exclusive economic zone of the United States.

Sec. 615. None of the funds made available in this Act may be used to pay the expenses of an election officer appointed by a court to oversee an election of any officer or trustee for the International Brotherhood of Teamsters.

Sec. 616. (a) In General.—Section 1303 of the International Security and Development Corporation Act of 1985 (16 U.S.C. 469j) is amended—

(1) in subsection (d)(1)—

(A) by striking "21" and inserting "15"; and

(B) by striking "7" each place it appears and inserting "5"; and

(2) in subsection (e), by striking "three" and inserting "six".

(b) Savings Provision.—The enactment of the amendments made by paragraph (1) of subsection (a) shall not require any person appointed as a member of the Commission for the Preservation of America's Heritage Abroad before the date of enactment of this Act to terminate his or her service prior to the expiration of his or her current term of service.

SEC. 617. JAPAN-UNITED STATES FRIENDSHIP COMMISSION. (a) RELIEF FROM RESTRICTION OF INTERCHANGEABILITY OF FUNDS.—Section 6(4) of the Japan-United States Friendship Act (22 U.S.C. 2905(4)) is amended by striking "needed, except" and all that follows through "United States" and inserting "needed".

(b) The second sentence of section 7(b) of the Japan-United States Friendship Act (22 U.S.C. 2906(b)) is amended to read as follows: "Such investment may be made in only interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan.".

SEC. 618. STUDY ON INTERNET ACCESS AND COMMUNICATIONS AND THE TAXATION OF THE INTERNET. (a) DEFINITIONS.—In this section:

(1) INTERNET.—The term "Internet" has the meaning provided that term in section 230(e)(1) of the Communications Act of 1934 (47 U.S.C. 230(e)(1)).

(2) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—Not later than March 1, 1999, the Secretary, in consultation with the Secretary of State and the Secretary of the Treasury, shall conduct a study under this section and submit to the Committee on Appropriations a report on the results of the study.

(2) CONTENTS OF STUDY.—The study conducted by the Secretary under this section shall examine—

(A) the taxation of the Internet by States and political subdivisions thereof;

(B) access to the Internet; and

(C) communications and transactions conducted through the Internet.

(3) EFFECTS OF TAXATION.—With respect to the taxation of the Internet, the study conducted by the Secretary under this section shall examine the extent to which—

(A) that taxation may impede the progress and development of the Internet; and

(B) the effect that taxation may have with respect to the efforts of the President to keep the Internet free of discriminatory taxes on an international level.

SEC. 619. (a) PURPOSE.—The purpose of this section is to allow for the investment of joint Federal and State funds from the civil settlement of damages from the Exxon Valdez oil spill.

(b) INVESTMENT OF JOINT TRUST FUNDS.—Notwithstanding any other provision of law, upon the joint motion of the United States and the State of Alaska and the issuance of an appropriate order by the United States District Court for the District of Alaska, the joint trust funds or any portion thereof, including any interest accrued thereon, previously received or to be received by the United States and the State of Alaska pursuant to the Agreement and Consent Decree issued in United States v. Exxon Corporation, et al. (No. A91-082 CIV) and State of Alaska v. Exxon Corporation, et al. (No. A91-083 CIV) (hereafter referred to as the "Consent Decree"), may be deposited in appropriate accounts outside the Court Registry, including the Natural Resource Damage Assessment and Restoration Fund (hereafter referred to as the "Fund") established in title I of the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102-154, 43 U.S.C. 1474b) and such accounts outside the United States Treasury consisting of income-producing obligations and other instruments or securities of a type or class that have been determined unanimously by the Federal and State natural resource trustees for the Exxon Valdez oil spill to have a high degree of reliability and security: *Provided*, That any joint trust funds in the Fund and any such outside accounts that have been approved unanimously by the trustees for expenditure by or through a State or Federal agency shall be transferred promptly from the Fund and such outside accounts to the State or United States upon the joint request of the governments: *Provided further*, That the transfer of joint trust funds outside the Court Registry shall not affect the supervisory jurisdiction of such District Court under the Consent Decree or the Memorandum of Agreement and Consent Decree in United States v. State of Alaska (No. A91-081-CIV) over all expenditures of the joint trust funds: *Provided further*, That nothing herein shall affect the requirement of section 207 of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for the Incremental Cost of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102-229, 42 U.S.C. 1474b note) that amounts received by the United States and designated by the trustees for the expenditure by or through a Federal agency must be deposited into the Fund: *Provided further*, That any interest accrued under the authority in this section may be used only for grants for marine research and monitoring (including applied fisheries research) and for community and economic restoration projects (including projects proposed by the fishing industry and facilities): *Provided further*, That the Federal trustees are hereby authorized to administer such grants: *Provided further*, That the authority provided in this section shall expire on September 30, 2002, unless by September 30, 2001 the trustees have submitted to the Congress legislation to establish a board to administer funds invested, interest received, and grants awarded from such interest.

SEC. 620. None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t): *Provided*, That any person aggrieved by a violation of this provision may bring an action in the Federal district court for the district in which the person resides: *Provided further*, That any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee. The provisions of this section shall become effective upon enactment of this Act.

SEC. 621. SENSE OF THE SENATE ON THE BUDGET AND SOCIAL SECURITY. (a) FINDINGS.—The Senate finds that—

(1) the Social Security system provides benefits to 44,000,000 Americans, including 27,300,000 retirees, over 4,500,000 people with disabilities, 3,800,000 surviving children and 8,400,000 surviving adults, and is essential to the dignity and security of the Nation's elderly and disabled;

(2) the Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds have reported to the Congress that the "total income" of the Social Security system "is estimated to fall short of expenditures beginning in 2021 and in each year thereafter . . . until the assets of the combined trust funds are exhausted in 2032";

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy all require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010;

(4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to prefund the retirement of the baby boom generation;

(5) in his State of the Union message to the joint session of Congress on January 27, 1998, President Clinton called on the Congress to "save Social Security first" and to "reserve one hundred percent of the surplus, that is any penny of any surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century";

(6) saving Social Security first would work to expand national savings, reduce interest rates, enhance private investment, increase labor productivity, and boost economic growth;

(7) section 13301 of the Budget Enforcement Act of 1990 expressly forbids counting Social Security trust fund surpluses as revenue available to balance the budget; and

(8) the Congressional Budget Office has estimated that the unified budget surplus will reach nearly $1,500,000,000,000 over the next ten years.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress and the President should—

(1) continue to rid our country of debt and work to balance the budget without counting Social Security trust fund surpluses;

(2) work in a bipartisan way on specific legislation to reform the Social Security system, to ensure that it is financially sound over the long term and will be available for all future generations;

(3) save Social Security first; and

(4) return all remaining surpluses to American taxpayers.

SEC. 622. REPORT BY THE JUDICIAL CONFERENCE. (a) Not later than September 1, 1999, the Judicial Conference of the United States shall prepare and submit to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report evaluating whether an amendment to Rule 6 of the Federal Rules of Criminal Procedure permitting the presence in the grand jury room of counsel for a witness who is testifying before the grand jury would further the interests of justice and law enforcement.

(b) In preparing the report referred to in subsection (a) of this section the Judicial Conference shall consider the views of the Department of Justice, the organized Bar, the academic legal community, and other interested parties.

(c) Nothing in this section shall require the Judicial Conference to submit recommendations to the Congress in accordance with the Rules Enabling Act, nor prohibit the Conference from doing so.

SEC. 623. POLICIES RELATING TO FEDERALISM. It is the sense of the Senate that the President should repeal Executive Order No. 13083, issued May 14, 1998 and should reissue Executive Order No. 12612, issued October 26, 1987, and Executive Order No. 12875, issued October 26, 1993.

Sec. 624. Prohibition on Internet Gambling. (a) Short Title.—This section may be cited as the "Internet Gambling Prohibition Act of 1998".

(b) Definitions.—Section 1081 of title 18, United States Code, is amended—

(1) in the matter immediately following the colon, by designating the first 5 undesignated paragraphs as paragraphs (1) through (5), respectively, and indenting each paragraph 2 ems to the right; and

(2) by adding at the end the following:

"(6) Bets or wagers.—The term 'bets or wagers'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, sporting event of others, or of any game of chance, upon an agreement or understanding that the person or another person will receive something of value based on that outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

"(C) includes any scheme of a type described in section 3702 of title 28, United States Code; and

"(D) does not include—

"(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

"(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

"(iii) a contract of indemnity or guarantee;

"(iv) a contract for life, health, or accident insurance; or

"(v) participation in a game or contest, otherwise lawful under applicable Federal or State law—

"(I) that, by its terms or rules, is not dependent on the outcome of any single sporting event, any series or sporting events, any tournament, or the individual performance of 1 or more athletes or teams in a single sporting event;

"(II) in which the outcome is determined by accumulated statistical results of games or contests involving the performances of amateur or professional athletes or teams; and

"(III) in which the winner or winners may receive a prize or award;

(otherwise know as a 'fantasy sport league' or a 'rotisserie league') if such participation is without charge to the participant or any charge to a participant is limited to a reasonable administrative fee.

"(7) Foreign jurisdiction.—The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

"(8) Information assisting in the placing of a bet or wager.—The term 'information assisting in the placing of a bet or wager'—

"(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; and

"(B) does not include—

"(i) information concerning parimutuel pools that is exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and 1 or more parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, if that information is used only to conduct common pool parimutuel pooling under applicable law;

"(ii) information exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and a support service located in another State or foreign jurisdiction, if the information is used only for processing bets or wagers made with that facility under applicable law;

"(iii) information exchanged between or among 1 or more wagering facilities that are located within a single State and are licensed and regulated by that State, and any support service, wherever located, if the information is used only for the pooling or processing of bets or wagers made by or with the facility or facilities under applicable State law;

"(iv) any news reporting or analysis of wagering activity, including odds, racing or event results, race and event schedules, or categories of wagering; or

"(v) any posting or reporting of any educational information on how to make a bet or wager or the nature of betting or wagering.".

(c) Prohibition on Internet Gambling.—

(1) In general.—Chapter 50 of title 18, United States Code, is amended by adding at the end the following:

"§ 1085. Internet gambling

"(a) Definitions.—In this section:

"(1) Closed-loop subscriber-based service.—The term 'closed-loop subscriber-based service' means any information service or system that uses—

"(A) a device or combination of devices—

"(i) expressly authorized and operated in accordance with the laws of a State for the purposes described in subsection (e); and

"(ii) by which a person located within a State must subscribe to be authorized to place, receive, or otherwise make a bet or wager, and must be physically located within that State in order to be authorized to do so;

"(B) a customer verification system to ensure that all applicable Federal and State legal and regulatory requirements for lawful gambling are met; and

"(C) appropriate data security standards to prevent unauthorized access.

"(2) Gambling business.—The term 'gambling business' means a business that is conducted at a gambling establishment, or that—

"(A) involves—

"(i) the placing, receiving, or otherwise making of bets or wagers; or

"(ii) offers to engage in placing, receiving, or otherwise making bets or wagers;

"(B) involves 1 or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(C) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

"(3) Interactive computer service.—The term 'interactive computer service' means any information service, system, or access software provider that uses a public communication infrastructure or operates in interstate or foreign commerce to provide or enable computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

"(4) Internet.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(5) Person.—The term 'person' means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other government, organization, or entity.

"(6) Private network.—The term 'private network' means a communications channel or channels, including voice or computer data transmission facilities, that use either—

"(A) private dedicated lines; or

"(B) the public communications infrastructure, if the infrastructure is secured by means of the appropriate private communications technology to prevent unauthorized access.

"(7) State.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory, or possession of the United States.

"(b) Gambling.—

"(1) Prohibition.—Subject to subsection (e), it shall be unlawful for a person knowingly to use the Internet or any other interactive computer service—

"(A) to place, receive, or otherwise make a bet or wager with any person; or

"(B) to send, receive, or invite information assisting in the placing of a bet or wager with the intent to send, receive, or invite information assisting in the placing of a bet or wager.

"(2) Penalties.—A person who violates paragraph (1) shall be—

"(A) fined in an amount that is not more than the greater of—

"(i) three times the greater of—

"(I) the total amount that the person is found to have wagered through the Internet or other interactive computer service; or

"(II) the total amount that the person is found to have received as a result of such wagering; or

"(ii) $500;

"(B) imprisoned not more than 3 months; or

"(C) both.

"(c) Gambling Businesses.—

"(1) Prohibition.—Subject to subsection (e), it shall be unlawful for a person engaged in a gambling business knowingly to use the Internet or any other interactive computer service—

"(A) to place, receive, or otherwise make a bet or wager; or

"(B) to send, receive, or invite information assisting in the placing of a bet or wager.

"(2) Penalties.—A person engaged in a gambling business who violates paragraph (1) shall be—

"(A) fined in an amount that is not more than the greater of—

"(i) the amount that such person received in bets or wagers as a result of engaging in that business in violation of this subsection; or

"(ii) $20,000;

"(B) imprisoned not more than 4 years; or

"(C) both.

"(d) Permanent Injunctions.—Upon conviction of a person under this section, the court may, as an additional penalty, enter a permanent injunction enjoining the transmission of bets or wagers or information assisting in the placing of a bet or wager.

"(e) EXCEPTIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the prohibitions in this section shall not apply to any—

"(A) otherwise lawful bet or wager that is placed, received, or otherwise made wholly intrastate for a State lottery or a racing or parimutuel activity, or a multi-State lottery operated jointly between 2 or more States in conjunction with State lotteries, (if the lottery or activity is expressly authorized, and licensed or regulated, under applicable Federal or State law) on—

"(i) an interactive computer service that uses a private network, if each person placing or otherwise making that bet or wager is physically located at a facility that is open to the general public; or

"(ii) a closed-loop subscriber-based service that is wholly intrastate; or

"(B) otherwise lawful bet or wager for class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) that is placed, received, or otherwise made on a closed-loop subscriber-based service or an interactive computer service that uses a private network, if—

"(i) each person placing, receiving, or otherwise making that bet or wager is physically located on Indian land; and

"(ii) all games that constitute class III gaming are conducted in accordance with an applicable Tribal-State compact entered into under section 11(d) of the Indian Gaming Regulatory Act (25 U.S.C. 2701(d)) by a State in which each person placing, receiving, or otherwise making that bet or wager is physically located.

"(2) INAPPLICABILITY OF EXCEPTION TO BETS OR WAGERS MADE BY AGENTS OR PROXIES.—An exception under subparagraph (A) or (B) of paragraph (1) shall not apply in any case in which a bet or wager is placed, received, or otherwise made by the use of an agent or proxy using the Internet or an interactive computer service. Nothing in this paragraph shall be construed to prohibit the owner operator of a parimutuel wagering facility that is licensed by a State from employing an agent in the operation of the account wagering system owned or operated by the parimutuel facility.

"(f) STATE LAW.—Nothing in this section shall be construed to create immunity from criminal prosecution or civil liability under the law of any State.".

(2) TECHNICAL AMENDMENT.—The analysis for chapter 50 of title 18, United States Code, is amended by adding at the end the following:

"1085. Internet gambling.".

(d) CIVIL REMEDIES.—

(1) IN GENERAL.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of section 1085 of title 18, United States Code, as added by this section, by issuing appropriate orders.

(2) PROCEEDINGS.—

(A) INSTITUTION BY FEDERAL GOVERNMENT.—The United States may institute proceedings under this section. Upon application of the United States, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(B) INSTITUTION BY STATE ATTORNEY GENERAL.—

(i) IN GENERAL.—Subject to subclause (ii), the attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by this section, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this subsection. Upon application of the attorney general (or other appropriate State official) of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(ii) INDIAN LANDS.—With respect to a violation of section 1085 of title 18, United States Code, as added by this section, that is alleged to have occurred, or may occur, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the enforcement authority under clause (i) shall be limited to the remedies under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), including any applicable Tribal-State compact negotiated under section 11 of that Act (25 U.S.C. 2710).

(C) ORDERS AND INJUNCTIONS AGAINST INTERNET SERVICE PROVIDERS.—Notwithstanding subparagraph (A) or (B), the following rules shall apply in any proceeding instituted under this paragraph in which application is made for a temporary restraining order or an injunction against an interactive computer service:

(i) SCOPE OF RELIEF.—

(I) If the violation of section 1085 of title 18, United States Code, originates with a customer of the interactive computer service's system or network, the court may require the service to terminate the specified account or accounts of the customer, or of any readily identifiable successor in interest, who is using such service to place, receive or otherwise make a bet or wager, engage in a gambling business, or to initiate a transmission that violates such section 1085.

(II) Any other relief ordered by the court shall be technically feasible for the system or network in question under current conditions, reasonably effective in preventing a violation of section 1085, of title 18, United States Code, and shall not unreasonably interfere with access to lawful material at other online locations.

(III) No relief shall issue under clause (i)(II) if the interactive computer service demonstrates, after an opportunity to appear at a hearing, that such relief is not economically reasonable for the system or network in question under current conditions.

(ii) CONSIDERATIONS.—In the case of an application for relief under clause (i)(II), the court shall consider, in addition to all other factors that the court shall consider in the exercise of its equitable discretion, whether—

(I) such relief either singularly or in combination with such other injunctions issued against the same service under this paragraph, would seriously burden the operation of the service's system or network compared with other comparably effective means of preventing violations of section 1085 of title 18, United States Code;

(II) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, by a gambling business (as is defined in such section 1085) located outside the United States, the relief is more burdensome to the service than taking comparably effective steps to block access to specific, identified sites used by the gambling business located outside the United States; and

(III) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, as added by this section, relating to material or activity located within the United States, whether less burdensome, but comparably effective means are available to block access by a customer of the service's system or network to information or activity that violates such section 1085.

(iii) FINDINGS.—In any order issued by the court under this paragraph, the court shall set forth the reasons for its issuance, shall be specific in its terms, and shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained and the general steps to be taken to comply with the order.

(D) EXPIRATION.—Any temporary restraining order or preliminary injunction entered pursuant to this paragraph shall expire if, and as soon as, the United States, or the attorney general (or other appropriate State official) of the State, as applicable, notifies the court that issued the injunction that the United States or the State, as applicable, will not seek a permanent injunction.

(3) EXPEDITED PROCEEDINGS.—

(A) IN GENERAL.—In addition to proceedings under paragraph (2), a district court may enter a temporary restraining order against a person alleged to be in violation of section 1085 of title 18, United States Code, as added by this section, upon application of the United States under paragraph (2)(A), or the attorney general (or other appropriate State official) of an affected State under paragraph (2)(B), without notice and the opportunity for a hearing, if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the transmission at issue violates section 1085 of title 18, United States Code, as added by this section.

(B) EXPIRATION.—A temporary restraining order entered under this paragraph shall expire on the earlier of—

(i) the expiration of the 30-day period beginning on the date on which the order is entered; or

(ii) the date on which a preliminary injunction is granted or denied.

(C) HEARINGS.—A hearing requested concerning an order entered under this paragraph shall be held at the earliest practicable time.

(4) RULE OF CONSTRUCTION.—In the absence of fraud or bad faith, no interactive computer service (as defined in section 1085(a) of title 18, United States Code, as added by this section) shall be liable for any damages, penalty, or forfeiture, civil or criminal, for a reasonable course of action taken to comply with a court order issued under paragraph (2) or (3) of this subsection.

(5) PROTECTION OF PRIVACY.—Nothing in this section or the amendments made by this section shall be construed to authorize an affirmative obligation on an interactive computer service—

(A) to monitor use of its service; or

(B) except as required by an order of a court, to access, remove or disable access to material where such material reveals conduct prohibited by this section and the amendments made by this section.

(6) NO EFFECT ON OTHER REMEDIES.—Nothing in this subsection shall be construed to affect any remedy under section 1084 or 1085

of title 18, United States Code, as amended by this section, or under any other Federal or State law. The availability of relief under this subsection shall not depend on, or be affected by, the initiation or resolution of any action under section 1084 or 1085 of title 18, United States Code, as amended by this section, or under any other Federal or State law.

(7) CONTINUOUS JURISDICTION.—The court shall have continuous jurisdiction under this subsection to enforce section 1085 of title 18, United States Code, as added by this section.

(e) REPORT ON ENFORCEMENT.—Not later than 3 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that includes—

(1) an analysis of the problems, if any, associated with enforcing section 1085 of title 18, United States Code, as added by this section;

(2) recommendations for the best use of the resources of the Department of Justice to enforce that section; and

(3) an estimate of the amount of activity and money being used to gamble on the Internet.

(f) REPORT ON COSTS.—Not later than 3 years after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress that includes—

(1) an analysis of existing and potential methods or technologies for filtering or screening transmissions in violation of section 1085 of title 18, United States Code, as added by this section, that originate outside of the territorial boundaries of any State or the United States;

(2) a review of the effect, if any, on interactive computer services of any court ordered temporary restraining orders or injunctions imposed on those services under this section;

(3) a calculation of the cost to the economy of illegal gambling on the Internet, and other societal costs of such gambling; and

(4) an estimate of the effect, if any, on the Internet caused by any court ordered temporary restraining orders or injunctions imposed under this section.

(g) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section, the amendments made by this section, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 625. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION. (a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will contract by 1.5 percent in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive price pressures on United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.

(11) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States gross domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 11,500,000,000,000 yen in government spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) The American people and the countries of East and Southeast Asia are looking for a demonstration of Japanese leadership and close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking reform, market deregulation, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of the new Prime Minister of Japan and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

SEC. 626. (a) Add the following at the end of section 1153(b)(5)(C) of title 8, United States Code:

"(iv) DEFINITION.—

"(I) As used in this subsection the term 'capital' means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a payback period that exceeds 21 months.

"(II) Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioner's sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry, prior to approval of conditional lawful permanent resident status.".

(b) This section shall not apply to any application filed prior to July 23, 1998.

SEC. 627. (a) REQUIREMENT.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) OBLIGATIONS OF INTERNET ACCESS PROVIDERS.—

"(1) IN GENERAL.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

"(2) DEFINITIONS.—As used in this subsection:

"(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

"(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

"(C) SCREENING SOFTWARE.—The term 'screening software' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

SEC. 628. REPORT ON KOREAN STEEL SUBSIDIES. (a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the "Trade Representative") shall report to Congress on the Trade Representative's analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative's contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative's contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) Status of Investigation.—The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

Sec. 629. Notwithstanding any other provision of law, no funds appropriated or otherwise made available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GMDSS).

Sec. 630. Agricultural Export Controls. The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

"SEC. 208. AGRICULTURAL CONTROLS.

"(a) In General.—

"(1) Report to congress.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

"(2) Application of paragraph (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

"(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

"(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

"(b) Joint Resolution.—

"(1) In general.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on ______________.', with the blank space being filled with the appropriate date.

"(2) Introduction.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) Referral.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

"(4) Discharge of committee.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) Consideration in senate and house of representatives.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(6) Passage by 1 house.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(c) Computation of Time.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.".

Sec. 631. Investigation of Practices of Canadian Wheat Board. (a) In General.—Notwithstanding any other provision of law, not less than 4 of the new employees authorized in fiscal years 1998 and 1999 for the Office of the United States Trade Representative shall work on investigating pricing practices of the Canadian Wheat Board and determining whether the United States spring wheat, barley, or durum wheat industries have suffered injury as a result of those practices.

(b) Scope of Investigation.—The purpose of the investigation described in subsection (a) shall be to determine whether the practices of the Canadian Wheat Board constitute violations of the antidumping or countervailing duty provisions of title VII of the Tariff Act of 1930 or the provisions of title II or III of the Trade Act of 1974. The investigation shall include—

(1) a determination as to whether the United States durum wheat industry, spring wheat industry, or barley industry is being materially injured or is threatened with material injury as a result of the practices of the Canadian Wheat Board;

(2) a determination as to whether the acts, policies, or practices of the Canadian Wheat Board—

(A) violate, or are inconsistent with, the provisions of, or otherwise deny benefits to the United States under, any trade agreement, or

(B) are unjustifiable or burden or restrict United States commerce;

(3) a review of home market price and cost of acquisition of Canadian grain;

(4) a determination as to whether Canadian grain is being imported into the United States in sufficient quantities to be a substantial cause of serious injury or threat of serious injury to the United States spring wheat, barley, or durum wheat industries; and

(5) a determination as to whether there is harmonization in the requirements for cross-border transportation of grain between Canada and the United States.

(c) Action Based On Results of the Investigation.—

(1) In general.—If, based on the investigation conducted pursuant to this section, there is an affirmative determination under subsection (b) with respect to any act, policy, or practice of the Canadian Wheat Board, appropriate action shall be initiated under title VII of the Tariff Act of 1930, or title II or III of the Trade Act of 1974.

(2) Correction of harmonization problems.—If, based on the investigation conducted pursuant to this section, there is a determination that there is no harmonization for cross-border grain transportation between Canada and the United States, the United States Trade Representative shall report to Congress regarding what action should be taken in order to harmonize cross-border transportation requirements.

(d) Report.—Not later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) Definition of Grain.—For purposes of this section, the terms "Canadian grain" and "grain" include spring wheat, durum wheat, and barley.

Sec. 632. (a) In General.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

"(c) FM Translator Stations.—(1) It may be the policy of the Commission, in any case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a community in such county) that has a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

"(A) authority for the origination of unlimited local programming through the station on a primary basis but only if the licensee abides in such programming by all rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations; and

"(B) authority to operate the station (either omnidirectionally or directionally, with facilities equivalent to those of a station operating with maximum effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if—

"(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

"(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference as required by rules and regulations of the Commission applicable to full service FM stations; and

"(iii) the station complies with any other rules, regulations, and policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

"(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)—

"(A) may accept or receive any amount of theoretical interference from any full service FM station;

"(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

"(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

"(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

"(E) may utilize a directional antennae in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

"(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

"(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

"(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under clause (i).".

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows:

"SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.".

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) or (B) of section 331(c)(1) of the Communications Act of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision not to renew the license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license not to be renewed.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading on September 30, 1997, $45,326,000 are rescinded.

FEDERAL BUREAU OF INVESTIGATION

(RESCISSIONS)

Of the funds provided in previous Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

"Construction, 1996", $6,000,000.

"Construction, 1998", $4,000,000.

"Salaries and Expenses-Legal Attaché, 1998", $4,178,000.

"Salaries and Expenses, no year", $6,400,000.

"Violent Crime Reduction Program, 1996", $2,000,000.

"Violent Crime Reduction Program, 1997", $300,000.

DEPARTMENT OF COMMERCE

(RESCISSIONS)

Of the funds provided in previous Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

"United States Travel and Tourism Administration, no year", $915,000.

"Endowment for Children's Educational TV, no year", $1,175,000.

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

(RESCISSION)

Of the total amount of appropriations provided in Acts enacted before this Act for the Interparliamentary Union, $400,000 is rescinded.

TITLE VIII—LOCAL GOVERNMENT LAW ENFORCEMENT BLOCK GRANT ACT

SEC. 801. SHORT TITLE; DEFINITIONS. (a) SHORT TITLE.—This title may be cited as the "Local Government Law Enforcement Block Grant Act of 1998".

(b) DEFINITIONS.—In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

(2) JUVENILE.—The term "juvenile" means an individual who is 17 years of age or younger.

(3) LAW ENFORCEMENT EXPENDITURES.—The term "law enforcement expenditures" means the current operation expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported to the Bureau of the Census.

(4) PART 1 VIOLENT CRIMES.—The term "part 1 violent crimes" means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

(5) PAYMENT PERIOD.—The term "payment period" means each 1-year period beginning on October 1 of any year in which a grant under this Act is awarded.

(6) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as 1 State and that, for purposes of section 805(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

(7) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a general purpose unit of local government, as determined by the Secretary of Commerce for general statistical purposes, including a parish sheriff in the State of Louisiana;

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaska Native village that carries out substantial governmental duties and powers; and

(C) the Commonwealth of Puerto Rico, in addition to being considered a State, for the purposes set forth in section 802(a)(2).

SEC. 802. PAYMENTS TO LOCAL GOVERNMENTS. (a) PAYMENT AND USE.—

(1) PAYMENT.—The Director shall pay to each unit of local government that qualifies for a payment under this Act an amount equal to the sum of any amounts allocated to such unit under this Act for each payment period. The Director shall pay such amount from amounts appropriated to carry out this Act.

(2) USE.—Amounts paid to a unit of local government under this section shall be used by the unit for reducing crime and improving public safety, including but not limited to, 1 or more of the following purposes:

(A)(i) Hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel.

(ii) Paying overtime to presently employed law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel.

(iii) Procuring equipment, technology, and other material directly related to basic law enforcement functions.

(B) Enhancing security measures—

(i) in and around schools; and

(ii) in and around any other facility or location that is considered by the unit of local government to have a special risk for incidents of crime.

(C) Establishing crime prevention programs that may, though not exclusively, involve law enforcement officials and that are intended to discourage, disrupt, or interfere with the commission of criminal activity, including neighborhood watch and citizen patrol programs, sexual assault and domestic violence programs, and programs intended to prevent juvenile crime.

(D) Establishing or supporting drug courts.

(E) Establishing early intervention and prevention programs for juveniles to reduce or eliminate crime.

(F) Enhancing the adjudication process of cases involving violent offenders, including the adjudication process of cases involving violent juvenile offenders.

(G) Enhancing programs under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

(H) Establishing cooperative task forces between adjoining units of local government to work cooperatively to prevent and combat criminal activity, particularly criminal activity that is exacerbated by drug or gang-related involvement.

(I) Establishing a multijurisdictional task force, particularly in rural areas, composed of law enforcement officials representing units of local government, that works with Federal law enforcement officials to prevent and control crime.

(J) Establishing or supporting programs designed to collect, record, retain, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, DNA tests, and ballistics tests.

(3) DEFINITIONS.—In this subsection—

(A) the term "violent offender" means a person charged with committing a part I violent crime; and

(B) the term "drug courts" means a program that involves—

(i) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

(ii) the integrated administration of other sanctions and services, which shall include—

(I) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

(II) substance abuse treatment for each participant;

(III) probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

(IV) programmatic, offender management, and aftercare services such as relapse prevention, vocational job training, job placement, and housing placement.

(b) PROHIBITED USES.—Notwithstanding any other provision of this Act, a unit of local government may not expend any of the funds provided under this Act to purchase, lease, rent, or otherwise acquire—

(1) tanks or armored personnel carriers;

(2) fixed wing aircraft;

(3) limousines;

(4) real estate;

(5) yachts;

(6) consultants; or

(7) vehicles not primarily used for law enforcement;

unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of funds for such purposes essential to the maintenance of public safety and good order in such unit of local government. With regard to paragraph (2), such circumstances shall be deemed to exist with respect to a unit of local government in a rural State, as defined in section 1501 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb), upon certification by the chief law enforcement officer of the unit of local government that the unit of local government is experiencing an increase in production or cultivation of a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), and that the fixed wing aircraft will be used in the detection, disruption, or abatement of such production or cultivation.

(c) TIMING OF PAYMENTS.—The Director shall pay each unit of local government that has submitted an application under this Act not later than the later of—

(1) 90 days after the date that the amount is available; or

(2) the first day of the payment period if the unit of local government has provided the Director with the assurances required by section 804(c).

(d) ADJUSTMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Director shall adjust a payment under this Act to a unit of local government to the extent that a prior payment to the unit of local government was more or less than the amount required to be paid.

(2) CONSIDERATIONS.—The Director may increase or decrease under this subsection a payment to a unit of local government only if the Director determines the need for the increase or decrease, or if the unit requests the increase or decrease, not later than 1 year after the end of the payment period for which a payment was made.

(e) RESERVATION FOR ADJUSTMENT.—The Director may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of local government in a State if the Director considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of local government in the State.

(f) REPAYMENT OF UNEXPENDED AMOUNTS.—

(1) REPAYMENT REQUIRED.—A unit of local government shall repay to the Director, by not later than 27 months after receipt of funds from the Director, any amount that is—

(A) paid to the unit from amounts appropriated under the authority of this section; and

(B) not expended by the unit within 2 years after receipt of such funds from the Director.

(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Director shall reduce payment in future payment periods accordingly.

(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Director as repayments under this subsection shall be deposited in a designated fund for future payments to units of local government. Any amounts remaining in such designated fund after 5 years following the date of enactment of this Act shall be applied to the Federal deficit or, if there is no Federal deficit, to reducing the Federal debt.

(g) NONSUPPLANTING REQUIREMENT.—Funds made available under this Act to units of local government shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of funds made available under this Act, be made available from State or local sources.

(h) MATCHING FUNDS.—The Federal share of a grant received under this Act may not exceed 90 percent of the costs of a program or proposal funded under this Act. No funds provided under this Act may be used as matching funds for any other Federal grant program.

SEC. 803. AUTHORIZATION OF APPROPRIATIONS. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act $750,000,000 for each of fiscal years 1998 through 2003.

(b) OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.—Not more than 3 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1998 through 2003 shall be available to the Attorney General for studying the overall effectiveness and efficiency of the provisions of this Act, and assuring compliance with the provisions of this Act and for administrative costs to carry out the purposes of this Act. From the amount described in the preceding sentence, the Bureau of Justice Assistance shall receive such sums as may be necessary for the actual costs of administration and monitoring. The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients. Such sums are to remain available until expended.

(c) FUNDING SOURCE.—Appropriations for activities authorized in this Act may be made from the Violent Crime Reduction Trust Fund.

(d) TECHNOLOGY ASSISTANCE.—Of the amount appropriated under subsection (a) for each of fiscal years 1998 through 2003, the Attorney General shall reserve—

(1) 3 percent for use by the Bureau of Justice Statistics for information and identification technology, including the Integrated Automated Fingerprint Identification System (IAFIS), DNA, and ballistics systems; and

(2) 3 percent for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement.

(e) AVAILABILITY.—The amounts appropriated under subsection (a) shall remain available until expended.

SEC. 804. QUALIFICATION FOR PAYMENT. (a) IN GENERAL.—The Director shall issue regulations establishing procedures under which a unit of local government is required to provide notice to the Director regarding the proposed use of funds made available under this Act.

(b) PROGRAM REVIEW.—The Director shall establish a process for the ongoing evaluation of projects developed with funds made available under this Act.

(c) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit of local government submits an application to the Director and establishes, to the satisfaction of the Director, that—

(1) the unit of local government has established a local advisory board that—

(A) includes, but is not limited to, a representative from—

(i) the local police department or local sheriff's department;

(ii) the local prosecutor's office;

(iii) the local court system;

(iv) the local public school system; and

(v) a local nonprofit, educational, religious, or community group active in crime prevention or drug use prevention or treatment;

(B) has reviewed the application; and

(C) is designated to make nonbinding recommendations to the unit of local government for the use of funds received under this Act;

(2) the chief executive officer of the State has had not less than 20 days to review and comment on the application prior to submission to the Director;

(3)(A) the unit of local government will establish a trust fund in which the government will deposit all payments received under this Act; and

(B) the unit of local government will use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the unit of local government;

(4) the unit of local government will expend the payments received in accordance with the laws and procedures that are applicable to the expenditure of revenues of the unit of local government;

(5) the unit of local government will use accounting, audit, and fiscal procedures that conform to guidelines, which shall be prescribed by the Director after consultation with the Comptroller General of the United States and as applicable, amounts received under this Act shall be audited in compliance with the Single Audit Act of 1984;

(6) after reasonable notice from the Director or the Comptroller General of the United States to the unit of local government, the unit of local government will make available to the Director and the Comptroller General of the United States, with the right to inspect, records that the Director reasonably requires to review compliance with this Act or that the Comptroller General of the United States reasonably requires to review compliance and operation;

(7) a designated official of the unit of local government shall make reports the Director reasonably requires, in addition to the annual reports required under this Act;

(8) the unit of local government will spend the funds made available under this Act only for the purposes set forth in section 802(a)(2);

(9) the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service if such unit uses funds received under this Act to increase the number of law enforcement officers as described under section 802(a)(2)(A);

(10) the unit of local government—

(A) has an adequate process to assess the impact of any enhancement of a school security measure that is undertaken under section 802(a)(2)(B), or any crime prevention programs that are established under subparagraphs (C) and (E) of section 802(a)(2), on the incidence of crime in the geographic area where the enhancement is undertaken or the program is established;

(B) will conduct such an assessment with respect to each such enhancement or program; and

(C) will submit an annual written assessment report to the Director; and

(11) the unit of local government has established procedures to give members of the Armed Forces who, on or after October 1, 1990, were or are selected for involuntary separation (as described in section 1141 of title 10, United States Code), approved for separation under section 1174a or 1175 of such title, or retired pursuant to the authority provided under section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 10 U.S.C. 1293 note), a suitable preference in the employment of persons as additional law enforcement officers or support personnel using funds made available under this Act. The nature and extent of such employment preference shall be jointly established by the Attorney General and the Secretary of Defense. To the extent practicable, the Director shall endeavor to inform members who were separated between October 1, 1990, and the date of enactment of this Act of their eligibility for the employment preference.

(d) Sanctions for Noncompliance.—

(1) In general.—If the Director determines that a unit of local government has not complied substantially with the requirements or regulations prescribed under subsections (a) and (c), the Director shall notify the unit of local government that if the unit of local government does not take corrective action within 60 days of such notice, the Director will withhold additional payments to the unit of local government for the current and future payment periods until the Director is satisfied that the unit of local government—

(A) has taken the appropriate corrective action; and

(B) will comply with the requirements and regulations prescribed under subsections (a) and (c).

(2) Notice.—Before giving notice under paragraph (1), the Director shall give the chief executive officer of the unit of local government reasonable notice and an opportunity for comment.

(e) Maintenance of Effort Requirement.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit's expenditures on law enforcement services (as reported by the Bureau of the Census) for the fiscal year preceding the fiscal year in which the payment period occurs were not less than 90 percent of the unit's expenditures on such services for the second fiscal year preceding the fiscal year in which the payment period occurs.

Sec. 805. Allocation and Distribution of Funds. (a) State Set-Aside.—

(1) In general.—Of the total amounts appropriated for this Act for each payment period, the Director shall allocate for units of local government in each State an amount that bears the same ratio to such total as the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

(2) Minimum requirement.—Each State shall receive not less than 0.5 percent of the total amounts appropriated under section 803 under this subsection for each payment period.

(3) Proportional reduction.—If amounts available to carry out paragraph (2) for any payment period are insufficient to pay in full the total payment that any State is otherwise eligible to receive under paragraph (1) for such period, then the Director shall reduce payments under paragraph (1) for such payment period to the extent of such insufficiency. Reductions under the preceding sentence shall be allocated among the States (other than States whose payment is determined under paragraph (2)) in the same proportions as amounts would be allocated under paragraph (1) without regard to paragraph (2).

(b) Local Distribution.—

(1) In general.—From the amount reserved for each State under subsection (a), the Director shall allocate among units of local government an amount that bears the same ratio to the aggregate amount of such funds as

(A) the product of—

(i) two-thirds; multiplied by

(ii) the ratio of the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, to the sum of such violent crime in all units of local government in the State; and

(B) the product of—

(i) one-third; multiplied by

(ii) the ratio of the law enforcement expenditure, for such unit of local government for the most recent year for which such data are available, to such expenditures for all units of local government in the State.

(2) Expenditures.—The allocation any unit of local government shall receive under paragraph (1) for a payment period shall not exceed 100 percent of law enforcement expenditures of the unit for such payment period.

(3) Reallocation.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (2) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

(4) Local governments with allocations of less than $10,000.—If under paragraph (1) a unit of local government is allotted less than $10,000 for the payment period, the amount allotted shall be transferred to the chief executive officer of the State who shall distribute such funds among State police departments that provide law enforcement services to units of local government and units of local government whose allotment is less than such amount in a manner that reduces crime and improves public safety.

(5) Special rule.—If a unit of local government in the State has been annexed since the date of the collection of the data used by the Director in making allocations pursuant to this section, the Director shall pay the amount that would have been allocated to such unit of local government to the unit of local government that annexed it.

(c) Grants to Indian Tribes.—Notwithstanding subsections (a) and (b), of the amount appropriated under section 803(a) in each of fiscal years 1998 through 2003, the Attorney General shall reserve 0.3 percent for grants to Indian tribal governments performing law enforcement functions, to be used for the purposes described in section 802. To be eligible to receive a grant with amounts set aside under this subsection, an Indian tribal government shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(d) Unavailability and Inaccuracy of Information.—

(1) Data for states.—For purposes of this section, if data regarding part 1 violent crimes in any State for the 3 most recent calendar years is unavailable, insufficient, or substantially inaccurate, the Director shall utilize the best available comparable data regarding the number of violent crimes for such years for such State for the purposes of allocation of any funds under this Act.

(2) Possible inaccuracy of data for units of local government.—In addition to the provisions of paragraph (1), if the Director believes that the reported rate of part 1 violent crimes or legal expenditure information for a unit of local government is insufficient or inaccurate, the Director shall—

(A) investigate the methodology used by such unit to determine the accuracy of the submitted data; and

(B) when necessary, use the best available comparable data regarding the number of violent crimes or legal expenditure information for such years for such unit of local government.

Sec. 806. Utilization of Private Sector. Funds or a portion of funds allocated under this Act may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 802(a)(2).

Sec. 807. Public Participation. (a) In General.—A unit of local government expending payments under this Act shall hold not less than 1 public hearing on the proposed use of the payment from the Director in relation to its entire budget.

(b) Views.—At the hearing, persons shall be given an opportunity to provide written and oral views to the unit of local government authority responsible for enacting the budget.

(c) Time and Place.—The unit of local government shall hold the hearing at a time and place that allows and encourages public attendance and participation.

Sec. 808. Administrative Provisions. The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782 et seq.), shall apply to this Act and for purposes of this section any reference in such provisions to title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) shall be deemed to be a reference to this Act.

TITLE IX—NATIONAL WHALE CONSERVATION FUND ACT

Sec. 901. Short Title. This title may be cited as the "National Whale Conservation Fund Act of 1998".

Sec. 902. Findings. Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socioeconomic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

Sec. 903. National Whale Conservation Fund. Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

"(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

"(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

"(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

"(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

"(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

"(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1)—

"(I) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section; or

"(II) any amount (or portion thereof) received by the Secretary as a settlement or award for damages in a civil action or other legal proceeding relating to damage of natural resources.

"(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

"(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

"(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

"(B) most warrant, and are most likely to benefit from, research managment, or educational activities that may be funded with amounts made available from the fund.

"(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.".

TITLE X—VAWA RESTORATION ACT

Sec. 1001. Short Title. This title may be cited as the "VAWA Restoration Act".

Sec. 1002. Removing Barriers to Adjustment of Status for Victims of Domestic Violence. (a) In General.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by inserting "of an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" after "The status";

(2) in subsection (a), by adding at the end the following: "An alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) who files for adjustment of status under this subsection shall pay a $1,000 fee, subject to the provisions of section 245(k).";

(3) in subsection (c)(2), by striking "201(b) or a special" and inserting "201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special";

(4) in subsection (c)(4), by striking "201(b))" and inserting "201(b) or an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))";

(5) in subsection (c)(5), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))" after "an alien"; and

(6) in subsection (c)(8), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)" after "any alien".

(b) Effective Date.—The amendments made by subsection (a) shall apply to applications for adjustment of status pending on or after the date of the enactment of this title.

Sec. 1003. Removing Barriers to Cancellation of Removal and Suspension of Deportation for Victims of Domestic Violence. (a) In General.—

(1) Special rule for calculating continuous period for battered spouse or child.—Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

"(1) Termination of continuous period.—

"(A) In general.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(B) Special rule for battered spouse or child.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.".

(2) Exemption from annual limitation on cancellation of removal for battered spouse or child.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

"(C) Aliens whose removal is canceled under subsection (b)(2).".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—

(1) IN GENERAL.—Subparagraph (C) of section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(A) by amending the subparagraph heading to read as follows:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—"; and

(B) in clause (i)—

(i) by striking "or" at the end of subclause (IV);

(ii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iii) by adding at the end the following:

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. 1004. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE. (a) REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

"(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) DEPORTATION PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) APPLICABILITY.—Paragraph (1) shall apply to motions filed by aliens who—

(A) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.); or

(ii) section 1003 of this title.

TITLE XI—TEMPORARY AGRICULTURAL WORKERS

SEC. 1101. SHORT TITLE; TABLE OF CONTENTS. (a) SHORT TITLE.—This title may be cited as the "Agricultural Job Opportunity Benefits and Security Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1101. Short title; table of contents.
Sec. 1102. Definitions.
Sec. 1103. Agricultural worker registries.
Sec. 1104. Employer applications and assurances.
Sec. 1105. Search of registry.
Sec. 1106. Issuance of visas and admission of aliens.
Sec. 1107. Employment requirements.
Sec. 1108. Enforcement and penalties.
Sec. 1109. Alternative program for the admission of temporary H–2A workers.
Sec. 1110. Inclusion in employment-based immigration preference allocation.
Sec. 1111. Migrant and seasonal Head Start program.
Sec. 1112. Regulations.
Sec. 1113. Funding.
Sec. 1114. Report to Congress.
Sec. 1115. Presidential authority.
Sec. 1116. Effective date.

SEC. 1102. DEFINITIONS. In this title:

(1) ADVERSE EFFECT WAGE RATE.—The term "adverse effect wage rate" means the rate of pay for an agricultural occupation that is 5-percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the average hourly equivalent of the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture. No adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(2) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(3) ELIGIBLE.—The term "eligible" as used with respect to workers or individuals, means individuals authorized to be employed in the United States as provided for in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1188).

(4) EMPLOYER.—The term "employer" means any person or entity, including any independent contractor and any agricultural association, that employs workers.

(5) JOB OPPORTUNITY.—The term "job opportunity" means a specific period of employment for a worker in one or more specified agricultural activities.

(6) PREVAILING WAGE.—The term "prevailing wage" means with respect to an agricultural activity in an area of intended employment, the rate of wages that includes the 51st percentile of employees in that agricultural activity in the area of intended employment, expressed in terms of the prevailing method of pay for the agricultural activity in the area of intended employment.

(7) REGISTERED WORKER.—The term "registered worker" means an individual whose name appears in a registry.

(8) REGISTRY.—The term "registry" means an agricultural worker registry established under section 1103(a).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) UNITED STATES WORKER.—The term "United States worker" means any worker, whether a United States citizen, a United States national, or an alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or 218 of the Immigration and Nationality Act, as in effect on the effective date of this title.

SEC. 1103. AGRICULTURAL WORKER REGISTRIES. (a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities;

(B) to maximize the work period for eligible United States workers; and

(C) to provide timely referral of such workers to temporary and seasonal agricultural job opportunities in the United States.

(2) COVERAGE.—

(A) SINGLE STATE OR GROUP OF STATES.—Each registry established under paragraph (1) shall include the job opportunities in a single State, or a group of contiguous States that traditionally share a common pool of seasonal agricultural workers.

(B) REQUESTS FOR INCLUSION.—Each State requesting inclusion in a registry, or having any group of agricultural producers seeking to utilize the registry, shall be represented by a registry or by a registry of contiguous States.

(b) REGISTRATION.—

(1) IN GENERAL.—An eligible individual who seeks employment in temporary or seasonal agricultural work may apply to be included in the registry for the State or States in which the individual seeks employment. Such application shall include—

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the registry or registries on which the individual desires to be included;

(D) the specific qualifications and work experience possessed by the applicant;

(E) the type or types of temporary or seasonal agricultural work the applicant is willing to perform;

(F) such other information as the applicant wishes to be taken into account in referring the applicant to temporary or seasonal agricultural job opportunities; and

(G) such other information as may be required by the Secretary.

(2) Validation of employment authorization.—No person may be included on any registry unless the Attorney General has certified to the Secretary of Labor that the person is authorized to be employed in the United States.

(3) Workers referred to job opportunities.—The name of each registered worker who is referred and accepts employment with an employer pursuant to section 1105 shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred pursuant to section 1105.

(4) Removal of names from a registry.—The Secretary shall remove from all registries the name of any registered worker who, on 3 separate occasions within a 3-month period, is referred to a job opportunity pursuant to this section, and who declines such referral or fails to report to work in a timely manner.

(5) Voluntary removal.—A registered worker may request that the worker's name be removed from a registry or from all registries.

(6) Removal by expiration.—The application of a registered worker shall expire, and the Secretary shall remove the name of such worker from all registries if the worker has not accepted a job opportunity pursuant to this section within the preceding 12-month period.

(7) Reinstatement.—A worker whose name is removed from a registry pursuant to paragraph (4), (5), or (6) may apply to the Secretary for reinstatement to such registry at any time.

(c) Confidentiality of Registries.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this title.

(d) Advertising of Registries.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

Sec. 1104. Employer Applications and Assurances. (a) Applications to the Secretary.—

(1) In general.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a United States worker through a search of the appropriate registry, in accordance with section 1105. Such application shall—

(A) describe the nature and location of the work to be performed;

(B) list the anticipated period (expected beginning and ending dates) for which workers will be needed;

(C) indicate the number of job opportunities in which the employer seeks to employ workers from the registry;

(D) describe the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question;

(E) describe the wages and other terms and conditions of employment the employer will offer, which shall not be less (and are not required to be more) than those required by this section;

(F) contain the assurances required by subsection (c); and

(G) specify the foreign country or region thereof from which alien workers should be admitted in the case of a failure to refer United States workers under this title.

(2) Applications by associations on behalf of employer members.—

(A) In general.—An agricultural association may file an application under paragraph (1) for registered workers on behalf of its employer members.

(B) Employers.—An application under subparagraph (A) shall cover those employer members of the association that the association certifies in its application have agreed in writing to comply with the requirements of this title.

(b) Amendment of Applications.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer amends an application on a date which is later than 21 days prior to the date on which the workers on the amended application are sought to be employed, the Secretary may delay issuance of the report described in section 1105(b) by the number of days by which the filing of the amended application is later than 21 days before the date on which the employer desires to employ workers.

(c) Assurances.—The assurances referred to in subsection (a)(1)(F) are the following:

(1) Assurance that the job opportunity is not a result of a labor dispute.—The employer shall assure that the job opportunity for which the employer requests a registered worker is not vacant because a worker is involved in a strike, lockout, or work stoppage in the course of a labor dispute involving the job opportunity at the place of employment.

(2) Assurance that the job opportunity is temporary or seasonal.—

(A) Required assurance.—The employer shall assure that the job opportunity for which the employer requests a registered worker is temporary or seasonal.

(B) Seasonal basis.—For purposes of this title, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(C) Temporary basis.—For purposes of this title, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

(3) Assurance of provision of required wages and benefits.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section 1107 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

(4) Assurance of employment.—The employer shall assure that the employer will refuse to employ individuals referred under section 1105, or terminate individuals employed pursuant to this title, only for lawful job-related reasons, including lack of work.

(5) Assurance of compliance with labor laws.—

(A) In general.—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) Limitations.—The disclosure required under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(6) Assurance of advertising of the registry.—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) Assurance of contacting former workers.—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for registered workers, and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous worker, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(8) Assurance of provision of workers compensation.—The employer shall assure that if the job opportunity is not covered by the State workers' compensation law, that the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(d) Withdrawal of Applications.—

(1) In general.—An employer may withdraw an application under subsection (a), except that, if the employer is an agricultural association, the association may withdraw an application under subsection (a) with respect to one or more of its members. To withdraw an application, the employer shall notify the Secretary in writing, and the Secretary shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) Limitation.—An application may not be withdrawn while any alien provided status under this title pursuant to such application is employed by the employer.

(3) Obligations under other statutes.—Any obligation incurred by an employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) Review of Application.—

(1) In general.—Promptly upon receipt of an application by an employer under subsection (a), the Secretary shall review the application for compliance with the requirements of such subsection.

(2) Approval of applications.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section 1108(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

(3) Rejection of applications.—If the Secretary determines that an application fails to meet 1 or more of the requirements of subsection (a), the Secretary, as expeditiously as possible, but in no case later than 7 days after the receipt of such application, shall—

(A) notify the employer of the rejection of the application and the reasons for such rejection, and provide the opportunity for the prompt resubmission of an amended application; and

(B) offer the applicant an opportunity to request an expedited administrative review or a de novo administrative hearing before an administrative law judge of the rejection of the application.

(4) Rejection for program violations.—The Secretary shall reject the application of an employer under this section if the employer has been determined to be ineligible to employ workers under section 1108(b) or subsection (b)(2) of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

Sec. 1105. Search of Registry. (a) Search Process and Referral to the Employer.—Upon the approval of an application under section 1104(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered workers with the qualifications requested by the employer. The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will commit to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

(b) Deadline for Completing Search Process; Referral of Workers.—As expeditiously as possible, but not later than 7 days before the date on which an employer desires work to begin, the Secretary shall complete the search under subsection (a) and shall transmit to the employer a report containing the name, address, and social security account number of each registered worker who has committed to work for the employer on the date needed, together with sufficient information to enable the employer to establish contact with the worker. The identification of such registered workers in a report shall constitute a referral of workers under this section.

(c) Notice of Insufficient Workers.—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section 1104(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

Sec. 1106. Issuance of Visas and Admission of Aliens. (a) In General.—

(1) Number of admissions.—The Secretary of State shall promptly issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section 1105(c);

(B) upon receipt of an application (or copy of an application under subsection (b));

(C) upon receipt of the report required by subsection (c)(1)(B); or

(D) upon receipt of a report under subsection (d).

(2) Procedures.—The admission of aliens under paragraph (1) shall be subject to the procedures of section 218A of the Immigration and Nationality Act, as added by this title.

(3) Agricultural associations.—Aliens admitted pursuant to a report described in paragraph (1) may be employed by any member of the agricultural association that has made the certification required by section 1104(a)(2)(B). Independent contractors, agricultural associations, and such similar entities shall be subject to a cap on the number of H2-A visas that they may sponsor at the discretion of the Secretary of Labor.

(b) Direct Application Upon Failure To Act.—

(1) Application to the secretary of state.—If the employer has not received a referral of sufficient workers pursuant to section 1105(b) or a report of insufficient workers pursuant to section 1105(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section 1104(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) Expedited consideration by secretary of state.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) Redetermination of Need.—

(1) Requests for redetermination.—

(A) In general.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) Additional authorization of admissions.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) Job-related requirements.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) Emergency Applications.—Notwithstanding subsections (b) and (c), the Secretary may promptly transmit a report to the Attorney General and Secretary of State providing notice of a need for workers under this subsection for an employer—

(1) who has not employed aliens under this title in the occupation in question in the prior year's agricultural season;

(2) who faces an unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot refer able, willing, and qualified workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) Regulations.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

Sec. 1107. Employment Requirements. (a) Required Wages.—

(1) In general.—An employer applying under section 1104(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate.

(2) Payment of prevailing wage determined by a state employment security agency sufficient.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1) based upon such a determination, such payment shall be considered sufficient to meet the requirement of paragraph (1).

(3) Reliance on wage survey.—In lieu of the procedure of paragraph (2), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary.

(4) Alternative methods of payment permitted.—

(A) In general.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

(B) Compliance when paying an incentive rate.—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(C) Task rate.—For purposes of this paragraph, the term "task rate" means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(D) Group rate.—For purposes of this paragraph, the term "group rate" means an incentive payment method in which the payment is shared among a group of workers working together to perform the task.

(b) Requirement To Provide Housing.—

(1) In general.—An employer applying under section 1104(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal commuting distance.

(2) Type of housing.—In complying with paragraph (1), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or, in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation.

(3) Workers engaged in the range production of livestock.—The Secretary shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(4) Limitation.—Nothing in this subsection shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(5) Charges for housing.—

(A) Utilities and maintenance.—An employer who provides housing to a worker pursuant to paragraph (1) may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for maintenance and utilities, or such lesser amount as permitted by law.

(B) Security deposit.—An employer who provides housing to workers pursuant to paragraph (1) may require, as a condition for providing such housing, a deposit not to exceed $50 from workers occupying such housing to protect against gross negligence or willful destruction of property.

(C) Damages.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(6) Housing allowance as alternative.—

(A) In general.—In lieu of offering housing pursuant to paragraph (1), subject to subparagraphs (B) through (D), the employer may on a case-by-case basis provide a reasonable housing allowance. An employer who offers a housing allowance to a worker pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) Limitation.—At any time after the date that is 3 years after the effective date of this title, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(C) Effect of certification.—If the governor of the State makes the certification of insufficient housing described in subparagraph (A) with respect to an area of employment, employers of workers in that area of employment may not offer the housing allowance described in subparagraph (A) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to subparagraph (B).

(D) Amount of allowance.—The amount of a housing allowance under this paragraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(c) Reimbursement of Transportation.—

(1) To place of employment.—A worker who is referred to a job opportunity under section 1105(a), or an alien employed pursuant to this title, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section 1105(a).

(2) From place of employment.—A worker who is referred to a job opportunity under section 1105(a), or an alien employed pursuant to this title, who completes the period of employment for the job opportunity involved, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the place of employment to the worker's permanent place of residence.

(3) Limitation.—

(A) Amount of reimbursement.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) the most economical and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) Distance traveled.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(d) Continuing Obligation To Employ United States Workers.—

(1) In general.—An employer that applies for registered workers under section 1104(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who are referred under section 1105(b) after the employer receives the report described in section 1105(b).

(2) Limitation.—An employer shall not be obligated to comply with paragraph (1)—

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section 1104(a) has elapsed; or

(B) during any period in which the employer is employing no aliens in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for job opportunities in the occupation and area of intended employment to which the worker has been referred, or other occupations in the area of intended employment for which the worker is qualified that offer substantially similar terms and conditions of employment.

(3) Limitation on requirement to provide housing.—Notwithstanding any other provision of this title, an employer to whom a registered worker is referred pursuant to paragraph (1) may provide a reasonable housing allowance to such referred worker in lieu of providing housing if the employer does not have sufficient housing to accommodate the referred worker and all other workers for whom the employer is providing housing or has committed to provide housing.

(4) Referral of workers during 50-percent period.—The Secretary shall make all reasonable efforts to place a registered worker in an open job acceptable to the worker, including available jobs not listed on the registry, before referring such worker to an employer for a job opportunity already filled by, or committed to, an alien admitted pursuant to this title.

Sec. 1108. Enforcement and Penalties. (a) Enforcement Authority.—

(1) Investigation of complaints.—

(A) In general.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section 1104 or an employer's misrepresentation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) STATUTORY CONSTRUCTION.—Nothing in this title limits the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers or, in the absence of a complaint under this paragraph, under this title.

(2) WRITTEN NOTICE OF FINDING AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subsection (b) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

(b) REMEDIES.—

(1) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this title, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section 1104(a) has—

(A) filed an application that misrepresents a material fact; or

(B) failed to meet a condition specified in section 1104,

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation and may recommend to the Attorney General the disqualification of the employer for substantial violations in the employment of any United States workers or aliens described in section 101(a)(15)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year. In determining the amount of civil money penalty to be assessed or whether to recommend disqualification of the employer, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

(4) PROGRAM DISQUALIFICATION.—

(A) 3 YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this title or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of 3 years.

(B) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General, and the Attorney General shall disqualify the employer from any subsequent employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(c) ROLE OF ASSOCIATIONS.—

(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of this title, as though the employer had filed the application itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this title.

SEC. 1109. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS. (a) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) ELECTION OF PROCEDURES.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking "(c)(1) The" and inserting "(c)(1)(A) Except as provided in subparagraph (B), the"; and

(C) by adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a), the importing employer may elect to import the alien under the procedures of section 218 or section 218A, except that any employer that applies for registered workers under section 1104(a) of the Agricultural Job Opportunity Benefits and Security Act of 1998 shall import nonimmigrants described in section 101(a)(15)(H)(ii)(a) only in accordance with section 218A. For purposes of subparagraph (A), with respect to the importing of nonimmigrants under section 218, the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture.".

(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

"ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS

"SEC. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

"(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

"(A) CRITERIA FOR ADMISSIBILITY.—

"(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section 1106 of the Agricultural Job Opportunity Benefits and Security Act of 1998, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

"(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or being provided status under this section if the alien has, at any time during the past 5 years—

"(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

"(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

"(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

"(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

"(C) ABANDONMENT OF EMPLOYMENT.—

"(i) IN GENERAL.—An alien admitted or provided status under this section who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section 1106 of the Agricultural Job Opportunity Benefits and Security Act of 1998 by the employer who prematurely abandons the alien's employment.

"(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

"(i) IN GENERAL.—The Attorney General shall cause to be issued to each alien admitted under this section a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

“(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

“(I) specify the date of the alien's acquisition of status under this section;

“(II) specify the expiration date of the alien's work authorization; and

“(III) specify the alien's admission number or alien file number.

“(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

“(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section 1106(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section 1106 of the Agricultural Job Opportunity Benefits and Security Act of 1998.

“(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien's last admission to the United States under this section, whichever occurs first.

“(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term ‘filing’ means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States. Upon approval of an application for an extension of stay or change in the alien's authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application.

“(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien's authorized employment, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

“(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(a) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

“(b) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, then the Attorney General shall so report to Congress and make recommendations on appropriate courses of action.”.

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking “specified in this paragraph” and inserting “specified in this subparagraph (other than in clause (ii)(a))”.

(c) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

“Sec. 218A. Alternative program for the admission of H-2A workers.”.

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218 of the Immigration and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218.

(B) The table of contents of that Act is amended by striking the item relating to section 218A.

(C) The section heading for section 218 of that Act is amended by striking “ALTERNATIVE PROGRAM FOR”.

(3) TERMINATION OF EMPLOYER ELECTION.—Section 214(c)(1)(B) of the Immigration and Nationality Act is amended to read as follows:

“(B) Notwithstanding subparagraph (A), the procedures of section 218 shall apply to the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a).”.

(4) MAINTENANCE OF CERTAIN SECTION 218 PROVISIONS.—Section 218 (as redesignated by paragraph (2) of this subsection) is amended by adding at the end the following:

“(d) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

“(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.”.

(5) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this title.

SEC. 1110. INCLUSION IN EMPLOYMENT-BASED IMMIGRATION PREFERENCE ALLOCATION. (a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following:

“(iii) AGRICULTURAL WORKERS.—Qualified immigrants who have completed at least 6 months of work in the United States in each of 4 consecutive calendar years under section 101(a)(15)(H)(ii)(a), and have complied with all terms and conditions applicable to that section.”.

(b) CONFORMING AMENDMENT.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended by striking “subparagraph (A)(iii)” and inserting “subparagraph (A)(iv)”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to aliens described in section 101(a)(15)(H)(ii)(a) admitted to the United States before, on, or after the effective date of this title.

SEC. 1111. MIGRANT AND SEASONAL HEAD START PROGRAM. (a) IN GENERAL.—Section 637(12) of the Head Start Act (42 U.S.C. 9832(12)) is amended—

(1) by inserting “and seasonal” after “migrant”; and

(2) by inserting before the period the following: “, or families whose incomes or labor is primarily dedicated to performing seasonal agricultural labor for hire but whose places of residency have not changed to another geographic location in the preceding 2-year period”.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2), strike “13” and insert “14”;

(2) in paragraph (2)(A), by striking “1994” and inserting “1998”; and

(3) by adding at the end the following new paragraph:

“(8) In determining the need for migrant and seasonal Head Start programs and services, the Secretary shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.”.

SEC. 1112. REGULATIONS. (a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Secretary of Agriculture on all regulations to implement the duties of the Attorney General under this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this title.

SEC. 1113. FUNDING. If additional funds are necessary to pay the start-up costs of the registries established under section 1103(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.). Except as provided for by subsequent appropriation, additional expenses incurred for administration by the Attorney General, the Secretary of Labor, and the Secretary of State shall be paid for out of appropriations otherwise made available to their respective departments.

SEC. 1114. REPORT TO CONGRESS. Not later than 3 years after the date of enactment of this Act and 5 years after the date of enactment of this Act, the Attorney General and the Secretaries of Agriculture and Labor shall jointly prepare and transmit to Congress a report describing the results of a review of the implementation of and compliance with this title. The report shall address—

(1) whether the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed by employers;

(2) whether the program has ensured that aliens admitted under this program are employed only in authorized employment, and that they timely depart the United States when their authorized stay ends;

(3) whether the program has ensured that participating employers comply with the requirements of the program with respect to the employment of United States workers and aliens admitted under this program;

(4) whether the program has ensured that aliens admitted under this program are not displacing eligible, qualified United States workers or diminishing the wages and other terms and conditions of employment of eligible United States workers;

(5) whether the housing provisions of this program ensure that adequate housing is available to workers employed under this program who are required to be provided housing or a housing allowance; and

(6) recommendations for improving the operation of the program for the benefit of participating employers, eligible United States workers, participating aliens, and governmental agencies involved in administering the program.

SEC. 1115. PRESIDENTIAL AUTHORITY. In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles—

(1) where the procedures for using the program are simple and the least burdensome for growers;

(2) which assures an adequate labor supply for growers in a predictable and timely manner;

(3) that provides a clear and meaningful first preference for United States farm workers and a means for mitigating against the development of a structural dependency on foreign workers in an area or crop;

(4) which avoids the transfer of costs and risks from businesses to low wage workers;

(5) that encourages longer periods of employment for legal United States workers;

(6) which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

SEC. 1116. EFFECTIVE DATE. This title and the amendments made by this title shall take effect 180 days after the date of enactment of this title.

TITLE XII—NURSING RELIEF FOR DISADVANTAGED AREAS

SEC. 1201. SHORT TITLE. This title may be cited as the "Nursing Relief for Disadvantaged Areas Act of 1998".

SEC. 1202. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS DURING 4-YEAR PERIOD.—

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "; or" at the end and inserting the following: ", or (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or".

(b) REQUIREMENTS.—Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

"(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(c), with respect to alien who is coming to the United States to perform nursing services for a facility, are that the alien—

"(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

"(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

"(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

"(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(c), with respect to a facility for which an alien will perform services, is an attestation as to the following:

"(i) The facility meets all the requirements of paragraph (6).

"(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

"(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

"(iv) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

"(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

"(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(c), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to the registered nurses employed at the facility through posting in conspicuous locations.

"(vii) The facility will not, at any time, employ a number of aliens issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c) that exceeds 33 percent of the total number of registered nurses employed by the facility.

"(viii) The facility will not, with respect to any alien issued a visa or otherwise provided non-immigrant status under section 101(a)(15)(H)(i)(c)—

"(I) authorize the alien to perform nursing services at any worksite other than a worksite controlled by the facility; or

"(II) transfer the place of employment of the alien from one worksite to another.

Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of the Health Professional Shortage Area Nursing Relief Act of 1998. A copy of the attestation shall be provided, within 30 days of the date of filing, to registered nurses employed at the facility on the date of the filing.

"(B) For purposes of subparagraph (A)(iv), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

"(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

"(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

"(iv) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv). Subparagraph (A)(iv)'s requirement shall be satisfied by a facility taking any of the steps listed in this subparagraph.

"(C) Subject to subparagraph (E), an attestation under subparagraph (A)—

"(i) shall expire on the date that is the later of—

"(I) the end of the one-year period beginning of the date of its filing with the Secretary of Labor; or

"(II) the end of the period of admission under section 101(a)(15)(H)(i)(c) of the last alien with respect to whose admission it was applied (in accordance with clause (ii)); and

"(ii) shall apply to petitions filed during the one-year period beginning on the date of its filing with the Secretary of Labor if the facility states in each such petition that it continues to comply with the conditions in the attestation.

"(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

"(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(c) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

"(ii) The Secretary of Labor shall establish a process, including reasonable time limits, for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to. Subject to the time limits established under this clause, this subparagraph shall apply regardless of whether an attestation is expired or unexpired at the time a complaint is filed.

"(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

"(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such an administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

"(v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing that, a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties under this subsection, but not exceeding $250.

"(ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

"(iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

"(3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

"(4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of petitions granted under section 101(a)(15)(H)(i)(c) for each State in each fiscal year shall not exceed the following:

"(A) For States with populations of less than 9,000,000 based upon the 1990 decennial census of population, 25 petitions.

"(B) For States with populations of 9,000,000 or more, based upon the 1990 decennial census of population, 50 petitions.

"(C) If the total number of visas available under this paragraph for a calendar quarter exceeds the number of qualified nonimmigrants who may be issued such visas, the visas made available under this paragraph shall be issued without regard to the numerical limitations under subparagraphs (A) and (B) of this paragraph during the remainder of the calendar quarter.

"(5) A facility that has filed a petition under section 101(a)(15)(H)(I)(c) to employ a nonimmigrant to perform nursing services for the facility—

"(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

"(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

"(C) shall not interfere with the right of the nonimmigrant to join or organize a union.

"(6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term 'facility' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements:

"(A) As of March 31, 1997, the hospital was located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

"(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

"(i) the hospital has not less than 190 licensed acute care beds;

"(ii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital's acute care inpatient days for such period; and

"(iii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital's acute care inpatient days for such period.".

(c) REPEALER.—Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and Human Services) and the Attorney General shall promulgate final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the 4-year period beginning on the date that interim or final regulation are first promulgated under subsection (d).

SEC. 1203. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE. Not later than the last day of the 4-year period described in section 1202(e), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to Congress recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6) of the Immigration and Nationality Act (as amended by section 1202(b)) on nonimmigrant registered nurses by providing for a permanent solution to the shortage of registered nurses who are United States citizens or aliens lawfully admitted for permanent residence.

(2) A method of enforcing the requirements imposed on facilities under sections 101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended by section 1202) that would be more effective than the process described in section 212(m)(2)(E) of such Act (as so amended).

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999".

MODIFICATION TO AMENDMENT NO. 3258 OF S. 2260

Mr. CAMPBELL. Mr. President, during the consideration of S. 2260 and amendment No. 3258, language was inadvertently omitted.

I ask unanimous consent that in the engrossment of the bill the language that was omitted that is now at the desk be added at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

At the end of Section 13, before the period, insert "made available to their respective departments".

EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO DEMOCRACY AND HUMAN RIGHTS IN THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 429, S. Res. 240.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 240) expressing the sense of the Senate with respect to democracy and human rights in the Lao People's Democratic Republic.

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with amendments.

(The parts of the resolution intended to be stricken are shown in boldface brackets and the parts of the resolution intended to be inserted are shown in italic.)

S. RES. 240

Whereas in 1975, the Pathet Lao party supplanted the existing Lao government and the Lao Royal Family, and established a "people's democratic republic", in violation of the 1962 Declaration on the Neutrality of Laos and its Protocol, as well as the 1973 Vientiane Agreement on Laos;

Whereas since the 1975 overthrow of the existing Lao government, Laos has been under the sole control of the Lao People's Democratic Party;

Whereas the present Lao Constitution provides for human rights protection for the

Lao people, and Laos is a signatory to international agreements on civil and political rights;

Whereas Laos has become a member of the Association of Southeast Asian Nations, which calls for the creation of open societies in each of its member states by the year 2020;

Whereas despite that, the State Department's "Country Reports on Human Rights Practices for 1997" notes that the government has only slowly eased restrictions on basic freedoms and begun codification of implementing legislation for rights stipulated in the Lao Constitution, and continues to significantly restrict the freedoms of speech, assembly, and religion; and

Whereas on January 30, 1998, the Lao government arrested and detained forty-four individuals at a Bible study meeting in Vientiane and on March 25 sentenced thirteen Christians from the group to prison terms of three to five years for "creating divisions among the people, undermining the government, and accepting foreign funds to promote religion": Now, therefore, be it

Resolved, That it is the sense of the Senate that the present government of Laos should—

(1) respect international norms of human rights and democratic freedoms for the Lao people, and fully honor its commitments to those norms and freedoms as embodied in its constitution and international agreements, and in the 1962 Declaration on the Neutrality of Laos and its Protocol and the 1973 Vientiane Agreement on Laos;

(2) issue a public statement specifically reaffirming its commitment to protecting religious freedom *and other basic human rights;* **[and]**

(3) fully institute a process of democracy, human rights, and openly-contested free and fair elections in Laos, and ensure specifically that the National Assembly elections—currently scheduled for 2002—are openly contested**[.]**; *and*

(4) allow access for international human rights monitors, including the International Committee of the Red Cross to Lao prisons, and to all regions of the country to investigate allegations of human rights abuses, including those against the Hmong people, when requested.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the committee amendments be agreed to, as amended, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The resolution, (S. Res. 240) as amended, was agreed to.

The preamble was agreed to.

EXPRESSING THE SENSE OF CONGRESS CONCERNING THE HUMAN RIGHTS AND HUMANITARIAN SITUATION FACING THE WOMEN AND GIRLS OF AFGHANISTAN

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 428, Senate Concurrent Resolution 97.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Con. Res. 97) expressing the sense of Congress concerning human rights and humanitarian situation facing women and girls of Afghanistan.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations, with amendments.

Mr. CAMPBELL. Mr. President, I ask unanimous consent the committee amendment be agreed to, the concurrent resolution as amended and the preamble be agreed to en bloc, and the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

The text of the concurrent resolution (S. Con. Res. 97) will be printed in a future edition of the RECORD.

AMY SOMERS VOLUNTEERS AT FOOD BANKS ACT

Mr. CAMPBELL. I further ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 3152 and, further, the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3152) to provide that certain volunteers at private nonprofit food banks are not employees for purposes of the Fair Labor Standards Act of 1938.

There being no objection, the Senate proceeded to consider the bill.

Mr. CAMPBELL. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3152) was passed.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

Mr. CAMPBELL. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 1260) to amend the Securities Act of 1933 and Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1260) entitled "An Act to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Litigation Uniform Standards Act of 1998".

TITLE I—SECURITIES LITIGATION UNIFORM STANDARDS

SEC. 101. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No covered class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF COVERED CLASS ACTIONS.—Any covered class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) PRESERVATION OF CERTAIN ACTIONS.—

"(1) ACTIONS UNDER STATE LAW OF STATE OF INCORPORATION.—

"(A) ACTIONS PRESERVED.—Notwithstanding subsection (b) or (c), a covered class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(B) PERMISSIBLE ACTIONS.—A covered class action is described in this subparagraph if it involves—

"(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(ii) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

"(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(II) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(2) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans that are named

plaintiffs, and that have authorized participation, in such action.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

"(3) ACTIONS UNDER CONTRACTUAL AGREEMENTS BETWEEN ISSUERS AND INDENTURE TRUSTEES.—Notwithstanding subsection (b) or (c), a covered class action that seeks to enforce a contractual agreement between an issuer and an indenture trustee may be maintained in a State or Federal court by a party to the agreement or a successor to such party.

"(4) REMAND OF REMOVED ACTIONS.—In an action that has been removed from a State court pursuant to subsection (c), if the Federal court determines that the action may be maintained in State court pursuant to this subsection, the Federal court shall remand such action to such State court.

"(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(2) COVERED CLASS ACTION.—

"(A) IN GENERAL.—The term 'covered class action' means—

"(i) any single lawsuit in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(B) EXCEPTION FOR DERIVATIVE ACTIONS.—Notwithstanding subparagraph (A), the term 'covered class action' does not include an exclusively derivative action brought by one or more shareholders on behalf of a corporation.

"(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as one person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the discretion of a State court in determining whether actions filed in such court should be joined, consolidated, or otherwise allowed to proceed as a single action.

"(3) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in section 18(b)(1) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred, except that such term shall not include any debt security that is exempt from registration under this title pursuant to rules issued by the Commission under section 4(2) of this title.".

(2) CIRCUMVENTION OF STAY OF DISCOVERY.—Section 27(b) of the Securities Act of 1933 (15 U.S.C. 77z–1(b)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) CIRCUMVENTION OF STAY OF DISCOVERY.—Upon a proper showing, a court may stay discovery proceedings in any private action in a State court as necessary in aid of its jurisdiction, or to protect or effectuate its judgments, in an action subject to a stay of discovery pursuant to this subsection.".

(3) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting "except as provided in section 16 with respect to covered class actions," after "Territorial courts,"; and

(B) by striking "No case" and inserting "Except as provided in section 16(c), no case".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) AMENDMENT.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(A) in subsection (a), by striking "The rights and remedies" and inserting "Except as provided in subsection (f), the rights and remedies"; and

(B) by adding at the end the following new subsection:

"(f) LIMITATIONS ON REMEDIES.—

"(1) CLASS ACTION LIMITATIONS.—No covered class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

"(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(2) REMOVAL OF COVERED CLASS ACTIONS.—Any covered class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

"(3) PRESERVATION OF CERTAIN ACTIONS.—

"(A) ACTIONS UNDER STATE LAW OF STATE OF INCORPORATION.—

"(i) ACTIONS PRESERVED.—Notwithstanding paragraph (1) or (2), a covered class action described in clause (ii) of this subparagraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(ii) PERMISSIBLE ACTIONS.—A covered class action is described in this clause if it involves—

"(I) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(II) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

"(aa) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(bb) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(B) STATE ACTIONS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans that are named plaintiffs, and that have authorized participation, in such action.

"(ii) STATE PENSION PLAN DEFINED.—For purposes of this subparagraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

"(C) ACTIONS UNDER CONTRACTUAL AGREEMENTS BETWEEN ISSUERS AND INDENTURE TRUSTEES.—Notwithstanding paragraph (1) or (2), a covered class action that seeks to enforce a contractual agreement between an issuer and an indenture trustee may be maintained in a State or Federal court by a party to the agreement or a successor to such party.

"(D) REMAND OF REMOVED ACTIONS.—In an action that has been removed from a State court pursuant to paragraph (2), if the Federal court determines that the action may be maintained in State court pursuant to this subsection, the Federal court shall remand such action to such State court.

"(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(B) COVERED CLASS ACTION.—The term 'covered class action' means—

"(i) any single lawsuit in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(C) EXCEPTION FOR DERIVATIVE ACTIONS.—Notwithstanding subparagraph (B), the term 'covered class action' does not include an exclusively derivative action brought by one or more shareholders on behalf of a corporation.

"(D) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as one person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(E) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in section 18(b)(1) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred, except that such term shall not include any debt security that is exempt from registration under the Securities Act of 1933 pursuant to rules issued by the Commission under section 4(2) of such Act.

"(F) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the discretion of a State court in determining whether actions filed in such court should be joined, consolidated, or otherwise allowed to proceed as a single action.".

(2) CIRCUMVENTION OF STAY OF DISCOVERY.—Section 21D(b)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–4(b)(3)) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) CIRCUMVENTION OF STAY OF DISCOVERY.—Upon a proper showing, a court may stay discovery proceedings in any private action in a State court as necessary in aid of its jurisdiction, or to protect or effectuate its judgments, in an action subject to a stay of discovery pursuant to this paragraph.".

(c) APPLICABILITY.—The amendments made by this section shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

SEC. 102. PROMOTION OF RECIPROCAL SUBPOENA ENFORCEMENT.

(a) COMMISSION ACTION.—The Securities and Exchange Commission, in consultation with State securities commissions, shall seek to encourage the adoption of State laws providing for reciprocal enforcement by State securities commissions of subpoenas issued by another State securities commission seeking to compel persons to attend, testify in, or produce documents or records in connection with an action or investigation by a State securities commission of an alleged violation of State securities laws.

(b) REPORT.—Within 24 months after the date of enactment of this Act, the Commission shall submit a report to the Congress—

(1) identifying the States that have adopted laws described in subsection (a);

(2) describing the actions undertaken by the Commission and State securities commissions to promote the adoption of such laws; and

(3) identifying any further actions the Commission recommends for such purposes.

SEC. 103. REPORT ON CONSEQUENCES.

The Securities and Exchange Commission shall include in each of its first three annual reports submitted after the date of enactment of this Act a report regarding—

(1) the nature and the extent of the class action cases that are preempted by, or removed pursuant to, the amendments made by section 101 of this title;

(2) the extent to which that preemption or removal either promotes or adversely affects the protection of securities investors or the public interest; and

(3) if adverse effects are found, alternatives to, or revisions of, such preemption or removal that—

(A) would not have such adverse effects;

(B) would further promote the protection of investors and the public interest; and

(C) would still substantially reduce the risk of abusive securities litigation.

TITLE II—REAUTHORIZATION OF THE SECURITIES AND EXCHANGE COMMISSION

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission $351,280,000 for fiscal year 1999.

"(b) MISCELLANEOUS EXPENSES.—Funds appropriated pursuant to this section are authorized to be expended—

"(1) not to exceed $3,000 per fiscal year, for official reception and representation expenses;

"(2) not to exceed $10,000 per fiscal year, for funding a permanent secretariat for the International Organization of Securities Commissions; and

"(3) not to exceed $100,000 per fiscal year, for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives, and staff to exchange views concerning developments relating to securities matters, for development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings, including—

"(A) such incidental expenses as meals taken in the course of such attendance;

"(B) any travel or transportation to or from such meetings; and

"(C) any other related lodging or subsistence.".

SEC. 202. REQUIREMENTS FOR THE EDGAR SYSTEM.

Section 35A of the Securities Exchange Act of 1934 (15 U.S.C. 78ll) is amended—

(1) by striking subsections (a), (b), (c), and (e); and

(2) in subsection (d)—

(A) by striking the subsection designation;

(B) by striking "; and" at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3).

TITLE III—CLERICAL AND TECHNICAL AMENDMENTS

SEC. 301. CLERICAL AND TECHNICAL AMENDMENTS.

(a) SECURITIES ACT OF 1933.—The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended as follows:

(1) Section 2(a)(15)(i) (15 U.S.C. 77b(a)(15)(i)) is amended by striking "section 2(13) of the Act" and inserting "paragraph (13) of this subsection".

(2) Section 11(f)(2)(A) (15 U.S.C. 77k(f)(2)(A)) is amended by striking "section 38" and inserting "section 21D(f)".

(3) Section 13 (15 U.S.C. 77m) is amended—

(A) by striking "section 12(2)" each place it appears and inserting "section 12(a)(2)"; and

(B) by striking "section 12(1)" each place it appears and inserting "section 12(a)(1)".

(4) Section 18 (15 U.S.C. 77r) is amended—

(A) in subsection (b)(1)(A), by inserting ", or authorized for listing," after "Exchange, or listed";

(B) in subsection (c)(2)(B)(i), by striking "Capital Markets Efficiency Act of 1996" and inserting "National Securities Markets Improvement Act of 1996";

(C) in subsection (c)(2)(C)(i), by striking "Market" and inserting "Markets";

(D) in subsection (d)(1)(A)—

(i) by striking "section 2(10)" and inserting "section 2(a)(10)"; and

(ii) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (a) and (b)";

(E) in subsection (d)(2), by striking "Securities Amendments Act of 1996" and inserting "National Securities Markets Improvement Act of 1996"; and

(F) in subsection (d)(4), by striking "For purposes of this paragraph, the" and inserting "The".

(5) Sections 27, 27A, and 28 (15 U.S.C. 77z–1, 77z–2, 77z–3) are transferred to appear after section 26.

(6) Paragraph (28) of schedule A of such Act (15 U.S.C. 77aa(28)) is amended by striking "identic" and inserting "identical".

(b) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended as follows:

(1) Section 3(a)(10) (15 U.S.C. 78c(a)(10)) is amended by striking "deposit, for" and inserting "deposit for".

(2) Section 3(a)(12)(A) (15 U.S.C. 78c(a)(12)(A)) is amended by moving clause (vi) two em spaces to the left.

(3) Section 3(a)(22)(A) (15 U.S.C. 78c(a)(22)(A)) is amended—

(A) by striking "section 3(h)" and inserting "section 3"; and

(B) by striking "section 3(t)" and inserting "such section 3".

(4) Section 3(a)(39)(B)(i) (15 U.S.C. 78c(a)(39)(B)(i)) is amended by striking "an order to the Commission" and inserting "an order of the Commission".

(5) The following sections are each amended by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System": subsections (a) and (b) of section 7 (15 U.S.C. 78g(a), (b)); section 17(g) (15 U.S.C. 78q(g)); and section 26 (15 U.S.C. 78z).

(6) The heading of subsection (d) of section 7 (15 U.S.C. 78g(d)) is amended by striking "EXCEPTION" and inserting "EXCEPTIONS".

(7) Section 14(g)(4) (15 U.S.C. 78n(g)(4)) is amended by striking "consolidation sale," and inserting "consolidation, sale,".

(8) Section 15 (15 U.S.C. 78o) is amended—

(A) in subsection (c), by moving paragraph (8) two em spaces to the left;

(B) in subsection (h)(2), by striking "affecting" and inserting "effecting";

(C) in subsection (h)(3)(A)(i)(II)(bb), by inserting "or" after the semicolon;

(D) in subsection (h)(3)(A)(ii)(I), by striking "maintains" and inserting "maintained";

(E) in subsection (h)(3)(B)(ii), by striking "association" and inserting "associated".

(9) Section 15B(c)(4) (15 U.S.C. 78o–4(c)(4)) is amended by striking "convicted by any offense" and inserting "convicted of any offense".

(10) Section 15C(f)(5) (15 U.S.C. 78o–5(f)(5)) is amended by striking "any person or class or persons" and inserting "any person or class of persons".

(11) Section 19(c) (15 U.S.C. 78s(c)) is amended by moving paragraph (5) two em spaces to the right.

(12) Section 20 (15 U.S.C. 78t) is amended by redesignating subsection (f) as subsection (e).

(13) Section 21D (15 U.S.C. 78u–4) is amended—

(A) by redesignating subsection (g) as subsection (f); and

(B) in paragraph (2)(B)(i) of such subsection, by striking "paragraph (1)" and inserting "subparagraph (A)".

(14) Section 31(a) (15 U.S.C. 78ee(a)) is amended by striking "this subsection" and inserting "this section".

(c) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) is amended as follows:

(1) Section 2(a)(8) (15 U.S.C. 80a–2(a)(8)) is amended by striking "Unitde" and inserting "United".

(2) Section 3(b) (15 U.S.C. 80a–3(b)) is amended by striking "paragraph (3) of subsection (a)" and inserting "paragraph (1)(C) of subsection (a)".

(3) Section 12(d)(1)(G)(i)(III)(bb) (15 U.S.C. 80a–12(d)(1)(G)(i)(III)(bb)), by striking "the acquired fund" and inserting "the acquired company".

(4) Section 18(e)(2) (15 U.S.C. 80a–18(e)(2)) is amended by striking "subsection (e)(2)" and inserting "paragraph (1) of this subsection".

(5) Section 30 (15 U.S.C. 80a–29) is amended—

(A) by inserting "and" after the semicolon at the end of subsection (b)(1);

(B) in subsection (e), by striking "semi-annually" and inserting "semiannually"; and

(C) by redesignating subsections (g) and (h) as added by section 508(g) of the National Securities Markets Improvement Act of 1996 as subsections (i) and (j), respectively.

(6) Section 31(f) (15 U.S.C. 80a–30(f)) is amended by striking "subsection (c)" and inserting "subsection (e)".

(d) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.) is amended as follows:

(1) Section 203(e)(8)(B) (15 U.S.C. 80b–3(e)(8)(B)) is amended by inserting "or" after the semicolon.

(2) Section 222(b)(2) of (15 U.S.C. 80b–18a(b)(2)) is amended by striking "principle" and inserting "principal".

(e) TRUST INDENTURE ACT OF 1939.—The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended as follows:

(1) Section 303 (15 U.S.C. 77ccc) is amended by striking "section 2" each place it appears in paragraphs (2) and (3) and inserting "section 2(a)".

(2) Section 304(a)(4)(A) (15 U.S.C. 77ddd(a)(4)(A)) is amended by striking "(14) of subsection" and inserting "(13) of section".

(3) Section 313(a) (15 U.S.C. 77mmm(a)) is amended—

(A) by inserting "any change to" after the paragraph designation at the beginning of paragraph (4); and

(B) by striking "any change to" in paragraph (6).

(4) Section 319(b) (15 U.S.C. 77sss(b)) is amended by striking "the Federal Register Act" and inserting "chapter 15 of title 44, United States Code,".

SEC. 302. EXEMPTION OF SECURITIES ISSUED IN CONNECTION WITH CERTAIN STATE HEARINGS.

Section 18(b)(4)(C) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(C)) is amended by striking "paragraph (4) or (11)" and inserting "paragraph (4), (10), or (11)".

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate disagree in the amendment of the House and request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer appointed Mr. D'AMATO, Mr. GRAMM, Mr. SHELBY, Mr. SARBANES, and Mr. DODD conferees on the part of the Senate.

ORDERS FOR THURSDAY, JULY 30, 1998

Mr. CAMPBELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Thursday, July 30. I further ask that when the Senate reconvenes on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 9:30 a.m., with the time controlled by Senator GRASSLEY or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I now ask that at 9:30 a.m. on Thursday, the Senate proceed to the DOD appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CAMPBELL. For the information of all Senators, when the Senate reconvenes on Thursday at 9 a.m., there will be a period of morning business until 9:30 a.m. so that several Senators may introduce and discuss a farmer's tax bill. Following morning business, under a previous order, the Senate will begin consideration of S. 2132, the Department of Defense appropriations bill. Members are encouraged to come to the floor early during Thursday's session to offer and debate amendments to the defense bill. The first votes of Thursday's session will be in a stacked series at 2 p.m. Those votes will include any remaining amendments to the Treasury-Postal appropriations bill and possibly amendments to the defense appropriations bill. Members should expect further votes late into the evening on Thursday, as the Senate attempts to complete action on the defense bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. CAMPBELL. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:59 p.m., adjourned until Thursday, July 30, 1998, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 29, 1998:

ENVIRONMENTAL PROTECTION AGENCY

NORINE E. NOONAN, OF FLORIDA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE ROBERT JAMES HUGGETT, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PATRICIA T. MONTOYA, OF NEW MEXICO, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE OLIVIA A. GOLDEN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. ROBERT W. CHEDISTER, 3487.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CHARLES R. HEFLEBOWER, 8234.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. MICHAEL J. BYRON, 1295.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. VERNON E. CLARK, 8489.

DEPARTMENT OF DEFENSE

JAMES M. BODNER, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY, VICE JAN LODAL.

DEPARTMET OF TRANSPORTATION

EUGENE A. CONTI, JR., OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE FRANK EUGENE KRUESI, RESIGNED.

DEPARTMENT OF ENERGY

GREGORY H. FRIEDMAN, OF COLORADO, TO BE INSPECTOR GENERAL OF THE DEPARTMENT OF ENERGY, VICE JOHN C. LAYTON, RESIGNED.

DEPARTMENT OF JUSTICE

HARRY LITMAN, OF PENNSYLVANIA, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS VICE FREDERICK W. THIEMAN, RESIGNED.

PAUL M. WARNER, OF UTAH, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF UTAH FOR THE TERM OF FOUR YEARS VICE SCOTT M. MATHESON, JR., RESIGNED.

HOUSE OF REPRESENTATIVES—*Wednesday, July 29, 1998*

The House met at 10 a.m.

The Chaplain, Rev. James Davis Ford, D.D., offered the following prayer:

Oh, gracious God, Creator of Heaven and Earth, Your word tells us that You are with us wherever we are and Your grace surrounds us and makes us whole. In moments of joy and achievement Your spirit is in our midst and at the darkest hour Your abiding presence gives us sustenance and hope. So teach us, O God, so to live our lives that we celebrate and give thanks for our time together for by so doing we sanctify each hour and make sacred each day. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania (Mr. PITTS) come forward and lead the House in the Pledge of Allegiance.

Mr. PITTS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 1151.—An act to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 1-minute requests on each side.

TEACHING YOUNG PEOPLE IMPORTANT LIFE LESSONS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I want to recognize Vergil Fletcher, who spent 32 years teaching young people important life lessons, the value of hard work and fair play. He began an outstanding career coaching basketball in 1946 at Collinsville High School.

Coach Fletcher led the Kahoks to 747 victories, creating an impressive 81 percent winning average. In his 32 seasons coaching, the Collinsville basketball team won two State titles and 20 Southwestern Conference titles, a notable record in anyone's book.

Often referred to as one of the greatest high school coaches of all time, Coach Fletcher won the hearts of players and fans throughout Collinsville. In recognition of his dedication to school and community, he is being honored by the Collinsville High School Alumni Association later next month. All former athletes, cheerleaders and fans of Coach Fletcher are invited, with at least one player from each season he coached expected to attend.

The event is a small gesture to thank a man who affected hundreds of young lives in ways that cannot be measured in win percentages. Thanks, Coach.

THE EXAMPLE OF SUPERB PUBLIC SERVICE: DR. CLARENCE S. LIVINGOOD OF GROSSE POINTE, MICHIGAN

(Ms. KILPATRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KILPATRICK. Mr. Speaker, today I rise to pay honor and tribute to Dr. Clarence S. Livingood. He was a prominent physician who began in the Dermatology Department at Henry Ford Hospital; a physician to the Detroit Tigers and, Mr. Speaker, father to our Sergeant at Arms, Wilson Livingood.

Dr. Livingood was a man before his time. He wrote the manual for the U.S. Army. He led in the dermatology life and history as it materialized and grew in our country. Dr. Livingood was a man of honor. He was a leader and a worker and a righteous man as he led and was a department director at Henry Ford Hospital.

Dr. Livingood leaves a wonderful family, our dear Sergeant at Arms. We should also honor Dr. Wilson Livingood as he lost his father just recently in the last few days and stood here with us as we went through our terrible tragedy, as he lost his colleagues and our protectors in these last few days.

Dr. Clarence Livingood will be remembered for his hard work, his dedication and his service to the people of America.

Mr. Speaker, I rise today to pay tribute to a special person, physician, and constituent, Dr. Clarence S. Livingood. Dr. Livingood passed away on July 27, 1998 after a battle with leukemia at his home in Grosse Pointe, Michigan. Dr. Livingood was one of the most distinguished and respected physicians in our country, and set standards for training and care for patients who need care in the area of dermatology. The largest organ of the human body is the skin; Dr. Livingood helped to ensure the accurate diagnosis, treatment and cure of many of the afflictions of our body's first line of defense.

Dr. Livingood was born in Elverson, Pennsylvania, and graduated from Ursinus College in 1932. He began his career in medicine at the University of Pennsylvania's School of Medicine, completing his residency in dermatology at the Hospital of the University of Pennsylvania. Dr. Livingood later served his country in the U.S. Army as part of the Army's Medical Corps, where he co-wrote the Manual of Dermatology. This book is still used by both military and civilian physicians as a guide for the diagnosis and treatment of skin diseases.

Dr. Livingood was widely honored for his skill as a dermatologist. He was elected as Director of the American Board of Dermatology in 1962 and served as the Executive Director of the American Board of Dermatology for more than 20 years. He was Chair and Professor of the Department of Dermatology at Jefferson Medical College Hospital from 1948–1949, Chairman and Professor of the Department of Dermatology at the University of Texas in Galveston from 1949–1953, and established the Department of Dermatology at Henry Ford Hospital in Detroit, Michigan in 1953, serving as its Chairman until 1976, when he became Chairman Emeritus.

Some of the many honors bestowed upon Dr. Livingood include being the only dermatologist to receive the highest honor from the American Medical Association—"The Distinguished Service Award," and also received the Gold Medal from the American Academy of Dermatology. He also received World Series rings for serving as the doctor to the Detroit Tigers.

Predeceased by his wife, Louise, Dr. Livingood is survived by his five children, Bill (Mari Louise); Louise (William) Furbush, Susan Elizabeth (John) Cotton; Clarence (Nancy); and eleven grand children and two great grand children. I would be remiss if I did not mention that Dr. Livingood is the father to the Sergeant at Arms of the House of Representatives, Bill Livingood, who continued his excellent service to the protection of Members

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of Congress, dignitaries and visitors to the People's House despite the tragedy that befell two of his colleagues on July 24, 1998.

Funeral services will be held in Christ Episcopal Church in Grosse Point on Saturday, August 1, 1998. The Livingood Family asks that in lieu of flowers, contributions may be made to the Edward A. Krull Chair of Dermatologic Surgery, Office of Philanthropy, One Ford Place, Detroit, Michigan.

My personal prayers for peace and love go to the Livingood family. Your father served the people of the 15th Congressional District, the State of Michigan, and our country well. May he rest in peace. Amen.

THE WORLD TRADE ORGANIZATION, ERODING THE CHOICES AND RIGHTS OF THE AMERICAN PEOPLE

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, for almost 4 years, the World Trade Organization has been eroding the choices and the rights of the American people.

Like a leach feeding off its member countries, the WTO has been increasing its power at the expense of U.S. sovereignty.

Self-determination is now subordinate to the decisions of trade bureaucrats meeting in secret at Geneva headquarters of the WTO, invalidating and mandating changes in existing laws passed by the U.S. Congress and signed by the U.S. President.

Exactly how are the interests of the American people represented by unelected foreign nationals working in an ivory tower debating our commercial agreements?

U.S. priorities should not be held hostage to the decisions of the WTO. I urge my colleagues to support the Kucinich, Sanders, Ros-Lehtinen and Stearns amendment when the Commerce, Justice, State Appropriations bill comes to the floor, because the American people, through their elected representatives, can determine for themselves what our U.S. laws should be and not a foreign bureaucrat.

CABBAGE REGULATIONS EXCEED THE GETTYSBURG ADDRESS IN WORDS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Lord's prayer is 66 words. The Gettysburg Address is 286 words. The Declaration of Independence is 1,322 words. U.S. regulations on the sale of cabbage, that is right cabbage, is 27,000 words.

Now that is not enough to give Hulk Hogan's dictionary a hernia. Check this out. Regulatory red tape in America costs taxpayers $400 billion every year, over $4,000 each year, every year, year in, year out, for every family. Beam me up. With regulations like this, it is no wonder American jobs keep moving overseas.

Mr. Speaker, I want to yield back all of the reg writing bureaucrats in Washington, D.C. that never stood in an unemployment line.

PROTECT UNITED STATES FROM NUCLEAR MISSILE ATTACK

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the events of last week simply underscore the fact that we live in a dangerous and unpredictable world.

Not only must America respond to local threats, but we must also continue our vigilance to protect our Nation from foreign threats, threats that strike at the heart of this Nation, our very freedom.

Time after time, we have been told by the administration that no rogue nation is capable of deploying a nuclear tip or chemical missiles that could strike the American soil by the year 2010.

However, the Rumsfeld panel, a distinguished panel which had access to our national security, just released a sobering, independent assessment of the ballistic missile threat facing the U.S.

That panel concluded that North Korea and Iran will have the ability to build a long-range nuclear missile by the turn of the century, not more than 2 years away. Last week's successful intermediate range ballistic test by Iran validates the Rumsfeld panel's finding.

Iran sent a chilling message to their neighbors and the world that they can strike anywhere in the Middle East with their current technology.

The time has come for this Congress and this administration to focus on building and deploying an antimissile defense system to protect the United States from missile attack. Mr. Speaker, the American people deserve no less.

ADOPT-A-VOICE OF CONSCIENCE IN VIETNAM

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, a new struggle has started. It is the war against poverty, backwardness, and arbitrariness. In this new struggle, there can be only one winner, the nation and the people of Vietnam, and only one loser, the forces of dogmatism, arbitrariness, and backwardness. So wrote Professor Doan Viet Hoat in his essay entitled "The True Nature of Contemporary Vietnam."

After the article was circulated, he was arrested and sentenced to 20 years in jail for attempting to overthrow the government. Professor Hoat's case is but one of the many similar instances of government persecution in Vietnam.

For these reasons, the founding members of the Congressional Dialogue on Vietnam have established a campaign to bring attention to the human rights violations in Vietnam. We need to generate pressure for the release of all these prisoners from prison or house arrest.

We need to focus public attention on Vietnam's repression against freedom of expression so that it becomes a part of the U.S. policy towards Communist Vietnam.

Mr. Speaker, I urge all of my colleagues to participate in this campaign.

WESTERN SAHARA PRISONERS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, last week I spoke on Morocco's refusal to permit removal by the U.N. of millions of land mines in Western Sahara. Today, I rise on behalf of the POWs of both sides of the war between Morocco and the Western Sahara who were captured or are missing as a result of the 20-year conflict.

I personally visited with 84 Moroccan POW's military personnel who have been freed by Western Sahara as a gesture of goodwill and whom the kingdom of Morocco will not permit to return to their country.

On my visit to the refugee camps, I met with an organization which tracks missing Sahrawis. 526 Sahrawis remain among the disappeared. They are either prisoners held by Morocco or are missing, all held incommunicado by Morocco.

In a country like Morocco, which is a friend of the United States, it is strange to hear reports of such clear violations to fundamental human rights as to not identify POWs and missing people.

I urge the Kingdom of Morocco to reconsider their policy and identify all those held incommunicado as well as accept back their own military which have been freed by Western Sahara.

ONLY ONE PARTY SERIOUS ABOUT EDUCATION REFORM

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the truth is now known to the whole world. One party in this body is serious about education reform, and the other is not. On

July 21 of this year, President Clinton vetoed Education Savings Account legislation that would have allowed parents to save more for their children's education.

We have here a classic case of special interest politics. The big donor special interests win while the children trapped in dangerous schools lose. What can we say to these children who are in terrible schools who the only thing they demand is to have the opportunity to pursue the American dream?

Many people are able to send their children to private school or live in areas with excellent schools. What are they going to say to these children who do not have the same chance? Maybe that is a question better directed to the administration and to others who failed to back real education reform.

TALK ABOUT EDUCATION REFORM IS NOTHING BUT TALK

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, on July 21, President Clinton showed the entire world that all talk about education reform is nothing but talk. The President's veto of the Education Savings Account legislation that passed both Houses of Congress is clear evidence that one party is beholden to special interests who benefit from the status quo.

□ 1015

Education failure is virtually in every city in America. The liberals accept that failure in our education system year after year after year. The rhetoric is fine and wonderful sounding, repair crumbling schools, spend more money, hire more teachers, but nothing seems to change.

Mr. Speaker, Republicans have a better idea. Republicans believe that accountability and competition in the marketplace produce excellence in the auto industry, in the computer industry, and in manufacturing of consumer goods. Why should education be any different?

If we believe in accountability and if we believe in excellence, not in words but in practice, then I would urge my colleagues to vote to override the President's veto and overcome the status quo by making education savings accounts the law of the land.

THE STATE OF ONTOLOGICAL RAMBLINGS

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, the state of disbelief continues to grow in this town the longer Mike McCurry pretends to inform the public of any factual information regarding the investigation of Judge Starr.

His penchant for passing on ill-informed statements to pass as answers to the American people will now be known as "McCurryism," a new word I am coining today. This is a word which means to pretend shock at the suggestion of impropriety by a reporter's question and then answer that question with nothing but pure spin.

For instance, a McCurryism from January 21, 1998: "The President is outraged by these allegations. He has never had any improper relationship with this woman. He has made it clear from the beginning that he wants people to tell the truth on all matters."

Another McCurryism from yesterday: "I can only report what I can ontologically know."

Well, Mr. McCurry, no amount of metaphysical existentialism can pass as answer to the question: What exactly was the nature of the relationship with the President and one of his female interns?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DICKEY). The gentleman should avoid personal references to the President.

SOCIAL SECURITY

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I want to talk about Social Security.

Mr. Speaker, when I first came here 5½ years ago, we were not only borrowing a great deal from the Social Security Trust Fund, but we had an additional deficit spending that approached $300 billion.

Now, this year, we are not only going to have a zero deficit under the traditional way that we calculated deficit spending, but this year, if we have just a little bit of luck, we are going to have a real balanced budget. That means that we may have balance not considering the $80 billion that government is borrowing from the Social Security Trust Fund. This is one of the best years in the history of this country in terms of revenues exceeding expenditures. This year we might exceed $80 billion in terms of the unified budget. That means a real, honest balanced budget without the Social Security surplus.

I think it is very important that in the future we start changing the way that we do business. We stop fooling people, we stop borrowing from the Social Security Trust Fund, and consider that revenue as a way to mask the deficit. A real balanced budget is when we reach balance, not including that amount borrowed from the trust fund. My bill HR 4033 does that and I invite my colleagues to co-sponsor.

REAL EDUCATION REFORM FOR AMERICANS

(Mr. PAPPAS asked and was given permission to address the House for 1 minute.)

Mr. PAPPAS. Mr. Speaker, on July 21, the President vetoed a bill that would have helped millions of American families save for the education needs of their children. I would like to invite my colleagues on the other side to listen carefully, because this issue crystallizes beautifully the differences between the two parties.

I said that the bill that the President vetoed would have helped "millions of American families." We make no reference to the income of families because the bill would help all families save, rich or poor. The President and the Democrats, of course, on this and other issues, immediately turned the issue into a class warfare issue, and if a single family of wealth would benefit, brand the bill as a tax break for the wealthy.

The Democrats cannot, on principle, support a bill that will help families, families plain and simple, even if millions of middle class and poor families would benefit, because the idea that a wealthy family might also benefit is simply unacceptable. Children of middle class parents will be the losers and real education reform will continue to be nothing more than class warfare rhetoric.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

CONFERENCE REPORT ON H.R. 629, TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

The SPEAKER pro tempore. Before recognizing the gentlewoman, the Chair would like to wish her a happy birthday.

Ms. PRYCE of Ohio. Mr. Speaker, that is very kind. I appreciate that.

Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 511 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 511

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill

(H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), my good friend and colleague, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Ms. PRYCE of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE of Ohio. Mr. Speaker, on Tuesday, July 28, the Committee on Rules met and granted a rule to provide for the consideration of the conference report accompanying H.R. 629, the Texas low-level Radioactive Waste Disposal Compact Consent Act. The rule waives all points of order against the conference report and against its consideration.

Mr. Speaker, in 1980, Congress passed legislation to provide a system for States to take responsibility for the disposal of low-level radioactive waste. Examples of low-level radioactive waste include that which is disposed of by hospitals, universities conducting research, and by electric utilities. This waste poses relatively few risks and typically does not require any special protective shielding to make it safe for workers and communities.

When it passed the Low-Level Radioactive Waste Policy Act of 1980, Congress recognized that, while the Federal Government should handle high-level waste, that States should be primarily responsible for disposal of the low-level waste generated within their own borders. Through the 1980 act, Congress encouraged States to either build their own disposal sites or enter into compacts with other States to share waste disposal facilities. That is exactly what the States of Texas, Vermont and Maine have done.

Mr. Speaker, on October 7, 1997, this body considered and passed H.R. 629 by an overwhelming vote of 309 to 107. During its initial consideration in this body, an amendment was accepted to limit the compact disposal facility to accept waste solely from the States of Texas, Maine and Vermont. This amendment was accepted on the condition that the affected States would be consulted as to the impact such a limitation would have on their ability to effectively implement the compact.

The conferees concluded, after consultation with the affected States, that the limiting language would not be in the best interests of the compact. The additional language would present serious questions regarding the need for reratification, and it would lead to costly litigation, and it would create an uneven playing field within the compact system. In addition, such a limitation would create a possible infringement on State sovereignty.

Compacts are contractual agreements between the States, as required by Congress. In fact, Congress has historically ratified them without amendments. This rule will provide for the consideration of a clean bill that deals with a straightforward process, the ratification of an interstate compact under the 1980 law, as Congress intended.

Once again, it is important to point out that the States of Texas, Maine and Vermont have done their job. They have negotiated a compact between them to provide for the responsible disposal of low-level radioactive waste and submitted it to this body as required under Federal statute, for the consent of the Congress. That is exactly what this conference report will allow us to do: tell the States of Texas, Maine and Vermont whether or not we accept their mutual agreement.

As I have stated before, Congress has already given its consent to nine such compacts covering 41 States. This conference report will ratify compact number 10.

This conference report has the strong support of the governors of the member States as well as the National Governors Association, the Western Governors Association, the National Conference of State Legislatures, and the Nuclear Regulatory Commission.

Mr. Speaker, as we heard during the testimony in the Committee on Rules, this issue has been around for a long time. Adoption of this rule and the conference report will finally allow the States of Texas, Maine and Vermont to see light at the end of the tunnel.

Therefore, I encourage my colleagues to support the rule so that we may consider the conference report on H.R. 629. I urge a "yes" vote on this rule.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume. I thank the gentlewoman for yielding, and also wish her a happy birthday.

Mr. Speaker, H. Res. 511 waives all points of order against the conference report on H.R. 629 and against its consideration. This conference agreement would grant congressional consent to an interstate compact among the States of Texas, Maine and Vermont providing for the disposal of low-level radioactive waste.

Mr. Speaker, conference reports are normally privileged and do not require rules for their consideration on the House floor. Why does this report require a rule?

The answer is that the conferees chose to delete from the conference report certain provisions included in both the Senate and House bills. This is a violation of clause 3 of rule XXVIII that requires conference reports to be within the scope of the disagreements submitted to the conference committee. In other words, despite the fact that both bills contain similar provisions, the conference report did not include those provisions.

Under clause 6(f) of rule X, conferees shall "include the principal proponents of the major provisions of the bill as it passed the House."

□ 1030

This provision is designed to ensure that the House conferees fight for the provisions of the House bill. However, in this case, a conferee testified at the Committee on Rules that he checked with the Governor of Texas and followed his wishes, rather than the expressed will of the House. Apparently neither the House nor the Senate conferees fought for the provisions in each of their bills that the conference report deleted.

As we all know, conference committees have enormous power to shape legislation. The only checks on that power are the handful of points of order that individual Members can raise against the consideration of the conference report.

Under the rules of this House, a single Member can make a point of order against this conference report because it eliminated the provisions contained in the House and Senate versions. But the rule we are now considering prohibits that point of order from being raised. The proposed rule prohibits Members from exercising the protections expressly included in the House rules for the situation.

I am not taking a position on the deleted material nor on the conference report itself. However, I have to ask Members, particularly the vast majority of us who do not serve on conference committees, to not lightly waive their rights to challenge conference reports.

Today's provision that the conference committee discarded may not be important to some Members, but waiving this point of order makes it easier to waive it the next time, and further erodes protections afforded every Member by House rules. Next time a Member might be the champion of a provision included in both the House and Senate bills through his or her strenuous efforts, but then would see it discarded by the conference committee.

Mr. Speaker, I ask that my colleagues defeat the rule in order to uphold their own rights as guaranteed in the House rules.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. HENRY BONILLA).

Mr. BONILLA. Mr. Speaker, I thank the gentlewoman from Ohio for yielding time to me.

Mr. Speaker, I rise to oppose this rule. I realize that the majority on the Committee on Rules always tries to do their utmost to provide this body with the fairest of rules possible. In fact, this is a fair rule, considering the parliamentary needs that are required to consider this legislation.

But I hope that the Members understand that I am going to oppose this rule because I am doing everying I possibly can to defeat this legislation, because this legislation is about something happening in my congressional district.

This is the same legislation that was overwhelmingly defeated in the 104th Congress by an overwhelming vote of 243 to 176 against. This is about allowing a low-level dump site of nuclear waste to be constructed in one of the poorest areas of the country that falls in the heart of my congressional district. So honestly, it does not matter what kind of rule was granted, because my constituents and I think this legislation is beyond repair.

There are other developments that have occurred in this that have indicated it is dangerous to the environment in my congressional area. I will bring those up later, but at this point I would just like to advise my colleagues I oppose this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 9 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, as the gentlewoman from New York has pointed out quite eloquently, regardless of one's position on the merits of this compact, the rules of the House have been violated and the instructions of the Senate and of the House have been disregarded.

When this measure went to the conference committee, there were guarantees to protect the folks in Texas, that they would not be taking waste from States other than Maine and Vermont. There were guarantees that the people, the poor people of the Sierra Blanca area in the district of the gentleman from Texas (Mr. BONILLA), would have some rights and remedies if their interests were abused, as they surely will be if this waste site is located in Sierra Blanca. But this is more than a matter of abuse of the rules of the House and the Senate and of parliamentary procedure and insider talk.

I would suggest to my colleagues that anyone who has come to Texas has learned that one of the great qualities of our entire State is something called Texas hospitality. If you choose to visit our State, you will get more than just a pleasant "Howdy," you will get nods and smiles, and "How are you doing," from folks that do not even like you down there.

We believe in genuine hospitality. It is a warm State in more than the temperature at this time, and those of us who grew up in Texas take a special pride in that Texas hospitality.

But a very good and rare quality is being taken just a little too far when it comes to this compact, because there are those in Texas who basically are saying, "Send us your radioactive garbage." Unfortunately, at the top of the list is our Governor, George W. Bush.

It seems to me that the slogan that one can find on one pickup truck after another around Texas, and even a few other vehicles, "Don't mess with Texas," is being converted by that administration into another slogan, "Send us your mess; and in particular, send us your nuclear mess."

Governor Bush and other Statewide officials in Texas mostly have become largely silent on what is to become a nuclear waste dumping ground for this entire country, and that is the Sierra Blanca waste dump site in far West Texas.

On April 19 Governor Bush was quoted in the Houston Chronicle with some very positive comments about the issue that this conference committee has now dumped. He said, "My pledge is to make sure that those are the only two States beside our own to use this dump site." I was very encouraged by his comments, though he had been largely silent.

Then I learned that within only a few days of that comment in Texas, that Governor Bush signed a letter on April 22 of 1998, within the same week, in which he urged the conferees to end the provisions that would provide the very protection that in Texas he said he was for.

He was quoted the other day down in Brownsville as saying that he believed that this concept of limiting the dump to Texas, Vermont, and Maine, two small New England States sending a minimum amount of radioactive poisonous content to Texas, was such a good idea that he would be willing to write a State law to deal with this issue. The only problem is that if you have signed a compact ratified by Congress that provides otherwise, how are you going to write a State law?

If it is such a good idea in Texas and Brownsville and in Houston to limit the nuclear radioactive garbage that is about to be dumped in the pay toilet out in West Texas, if it is such a good idea to write a State law, then why not speak up vigorously for what has been done by the United States Senate and the United States House, and that is to write it into Federal law that we were limiting that amount of garbage that will come to Texas, not to the world but to those two small New England States, which was the original justification for having this compact?

We cannot have it both ways. Either we are in favor of protecting the people of Texas, as the Houston Chronicle called for yesterday in an editorial, we are either in favor of protecting the people of Texas, or we are in favor of extending that Texas hospitality a little too far and saying to the people of the United States, wherever they are, all of them who are in States who, since 1980, have not been able to get a single licensing agreement for a radioactive waste garbage site, "We are sorry you had problems, but we in Texas love having nuclear radioactive garbage from all over the country, and send it down to the poor people of Sierra Blanca. Send it to the good people, send all your nuclear garbage to the good people of Sierra Blanca down in the district of the gentleman from Texas (Mr. BONILLA), on the edge of the district of the gentleman from Texas (Mr. REYES), because they love to have your garbage."

I want to tell the Members that the folks of that area do not want the nuclear garbage, and neither do many people across the State of Texas. The more they learn about the dangers of this dump site, the less they are going to want it.

There is a significant question here about why this particular site was chosen in the first place. I understand, and I am sure Members will hear that, oh, no, this does not have anything to do with the selection of a particular site. We are just going to arrange for all the garbage from around the country to roll into Texas. There is no guarantee it is going to go to Sierra Blanca.

Indeed, some administrative law judges in Texas have recently questioned the Sierra Blanca site. The Sierra Blanca site was not chosen because it was the best place in the United States to locate nuclear garbage, or even the best place in the State of Texas. It was not chosen because it happens to be near a fault that recently had an earthquake and has had tremors, and might well expose this nuclear waste to flowing down the Rio Grande River, since it is so near the Rio Grande, poisoning the water supply for literally millions of people on both sides of the Rio Grande River.

It was not chosen for those reasons. It was chosen because it was perceived that the people of Sierra Blanca lack the political power to be able to do something to protect their neighborhood; that it was okay to take this garbage from across the United States and put it into a poor neighborhood that would not be able to resist.

That is just not my comment on it. I turn to the comments of some two Texas A&M professors, employed by who actually promote this dump. This is in an article that appeared in the Texas Observer on October 24 of last year.

They said, "The findings of this survey suggest that a broad-based public information campaign designed to familiarize the general public with all aspects of waste disposal siting might prove detrimental. A preferred methodology might be to develop public information campaigns targeted at specific populations. One population that might benefit from such a campaign is Hispanics. This group is the least informed of all segments of the population. The authorities should be aware, however, that increasing the level of knowledge of Hispanics may simply increase opposition to the site."

And indeed, that is exactly what has happened. The more that particularly the heavily Hispanic population of West Texas has learned about the dangers of this dump site, the more they have questioned it.

Indeed, the more people of any ethnic origin in Texas, including, I am sure, the readers yesterday of the Houston Chronicle, learned that this is about to become a dump site for garbage from all over the country, the more they are going to resist the idea, and say, "We still like the sign that we see on the bumper stickers on the back of pickup trucks all over Texas: "Don't mess with Texas." Don't send us your nuclear garbage.

Another phony argument that the supporters of this compact advance is that if we do not have this dump site, we are going to practically end medical and academic and industrial research in this country.

Ninety-nine, to be charitable to the supporters of this dump, 98 percent of the garbage that is going to be dumped here does not have anything to do with medical, academic, or even industrial research. Most of this garbage is coming out of decommissioned nuclear power plants.

It may well be that some with Maine Yankee Power think they can cut a better deal to put it somewhere else, and then assign their rights to others who have nuclear garbage around the country. That is why this provision is so anti-Texas, and why it is so strange that, as we gather here today, despite a vote of the United States Senate and of the United States House in favor of limiting this dump to Texas, Vermont, and Maine, that the conference committee has taken that protection off, that it has removed the protection to the people of Sierra Blanca and the surrounding area that Senator WELLSTONE put in, and why this rule should be rejected.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Colorado (Mr. DAN SCHAEFER), the chairman of the Subcommittee on Energy and Power.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I thank the gentlewoman very much for yielding time to me.

Mr. Speaker, I stand today in support of House Joint Resolution 511. This is a rule providing, as we all know, for the consideration of the conference report to accompany H.R. 629, the Texas Low-Level Radioactive Waste Compact Consent Act.

This important legislation, of course, would grant the consent of Congress to the States of Texas, Maine, and Vermont to enter into a compact for the disposal of low-level, low-level radioactive waste. I might say that nine other States have already done this. This would be the 10th State to do it.

The rule waives all points of order against consideration of this report. This is necessary for the House to consider a clean, clean compact bill as the conferees have recommended.

During the consideration in the House, an amendment was adopted which restricts the Texas compact to accept waste solely from Texas, Maine, and Vermont. Now, this language was accepted on one condition. That is that we have a chance to consult with the Governors of the three affected States regarding its impact on the ability to implement the compact.

The consultations were emphatic. All three Governors, all three Governors, opposed the amendment adopted by the House. The opposition was not limited to these three States. The National Governors Association, the Western Governors Association, the National Conference of State Legislators all contacted us in opposition to the House-passed language.

The Low-level Radioactive Waste Policy Act passed by Congress in 1980, 1980, provided the States with great latitude in implementing its requirements.

☐ 1045

It was not the intention of Congress to create a prescriptive idea for the States to adopt. In considering H.R. 629, the States have reminded us of this fact. The action to eliminate the provision which requires us to seek this rule is a necessary one to preserve the flexibility of the States. And I say to the States, we want States' rights in implementing not only the Texas compact but the administration of the entire compact system.

All eight conferees, both Republicans and Democrats, House and Senate, agreed that this was a proper course of action. The States of Texas, Maine, and Vermont have fulfilled their responsibilities. They have negotiated a disposal contract between themselves and have presented it to Congress for our consent. This is a very good rule. It will allow the House to do the right thing for the States of Texas, Maine, and Vermont.

Mr. Speaker, I urge support for the rule.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. DAN SCHAEFER of Colorado. I yield to the gentleman from Texas, one of the cosponsors of the bill.

Mr. HALL of Texas. Mr. Speaker, I will be brief because I know we have a long way to go today.

Notwithstanding my great respect for the gentleman from Travis County, Texas (Mr. DOGGETT), I opposed his amendment on the floor here. But the gentleman from Texas (Mr. BARTON) and others of us got together and I think we thought, not hysterically but from the standpoint of reason, it was the easiest way to deal with it, to send it on to conference and we could work it out.

Mr. Speaker, we tried to do that, and we have been unsuccessful in working it out with the gentleman from Texas (Mr. DOGGETT). We have carried out our part of the bargain. We sought the views of the governors; and, yes, we sought the views of Governor Bush, our governor, my governor, the governor of the State of Texas and the governors of the other two States. They oppose the Doggett amendment, and under these circumstances I fully support the conference report and the rule requested by the chairman.

We will get a chance to talk about a lot of these things that the gentleman from Texas (Mr. DOGGETT) set out later today, because we have other phases of it. But Texas is not about to get all the garbage. I think it is everyone's knowledge that there is a limitation on the amount that can come. I think it is 1.8 million cubic feet. Of that, only 20 percent of that can come from the other States. There is not going to be a trainload and a truckload and an airplane load and a pickup truckload of garbage coming into Texas from all areas. It is relegated to that amount from those two States.

That is the reason Congress passed this act to start with, to give States an opportunity to bind together to work out a situation to where they can put their low-level waste. That has happened and it has not been a one-way street. We have had hearings, public hearings. The three governors have had speeches and all over the State.

We have debated this three or four or five times here on the floor, I think. It is just common knowledge that this is the ninth or tenth such program that Congress provided for. We followed that rule to the extent of the law, and we think that this rule ought to be granted.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, it would be convenient if we lived in a country and a world that had no low-level nuclear waste. We would all like that. But we do not have the luxury of enjoying that convenience, because that is simply not the real world in which we exist.

The fact is that, from hospitals to medical offices to dental offices, we have low-level nuclear waste. The question today is not are we going to have it or what amount are we going to have; the question is what to do with it. And that is exactly the question this Congress considered in 1985 when it passed the Low-Level Radioactive Waste Policy Amendments Act.

In this act, Congress' intent was to give States the authority to work together so that we could provide sites for the location of low-level nuclear waste, so that we could encourage management of low-level nuclear waste, so that we do not have literally thousands and thousands of sites, perhaps unsafe, low-level waste in utility companies' arenas and the back doors of hospitals all across this country. There was a reason why this Congress passed that compact and the reason is it was supported by the American people at that time.

Since then, there has been a good reason why 42 States have chosen voluntarily to participate in this process of safely and smartly managing the inventory of low-level waste.

Today, those of us from Texas that support this, and let me point out for the record, despite my good friends, whom I greatly respect, the gentleman from Texas (Mr. BONILLA), the gentleman from Texas (Mr. DOGGETT) and the gentleman from Texas (Mr. REYES), despite their opposition, the majority of the members of the Texas delegation here in the House support this compact.

Republican Governor George Bush supports it. Democratic Governor Ann Richards at the time she was governor of Texas supported it. This is a compact that 42 other States have had the right to participate in since the passage of the original bill in 1985.

Today Texas, Maine, and Vermont are not asking for anything special. We are just asking other delegations to respect our right to do what they chose to do under the 1985 law.

Late last year, Mr. Speaker, the House overwhelmingly passed H.R. 629, and the Senate passed it without objection. I believe it is time to put this issue to rest. It is time to vote on H.R. 629 so we can finally resolve the question of how to effectively manage low-level waste in our three particular States.

Mr. Speaker, we gave the States responsibility to handle this waste and, as I have said, the governors have negotiated an interstate compact which comports with our policy and all three legislatures overwhelmingly approved that compact.

Now, the opponents to this bill, and they have legitimate reasons and I respect their concerns and their reasons for opposition, but they want, in many cases want to change Federal policy regarding low-level radioactive waste. They want Congress involved in individual States' decision.

Mr. Speaker, I urge support of this rule and urge passage of the bill.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for yielding me this time.

Mr. Speaker, I rise today to urge support of this particular rule. This matter, as the gentleman from Texas (Mr. EDWARDS) just said, has come before this House now on several occasions and all we are asking is to give the citizens of Texas, Vermont, and Maine a chance to enter into an agreement to dispose of their low-level nuclear waste in a way that makes sense.

I would say this, the reason that it is important to do this without any amendment is that an amendment means delay. The agreement that was reached in Maine, it was adopted by referendum of all the people. Then it went to the State legislature. In both Vermont and Texas, it has the support of the legislature and the governors of those States. This is a matter that has come to us with unanimous approval of the State bodies that have jurisdiction over this particular issue.

Mr. Speaker, all we are asking is to get it through and allow us to dispose of our low-level radioactive waste in a way that makes sense.

The gentleman from Texas (Mr. HALL) was reminding those from that State that they are not going to see a flood of low-level radioactive waste from Maine and Vermont, and that is accurate. We are not generating low-level radioactive waste at such a level that it should be a burden. But we are committed to help pay for this facility. We are sharing in the cost of this. For that reason, what I am asking all Members to do today is respect what these three States have accomplished, support the rule, and I urge passage of the underlying bill.

Ms. PRYCE of Ohio. Mr. Speaker, I continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 8 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for yielding me this time.

Mr. Speaker, I rise today in strong opposition to this rule. I am here again today to ask that this body do the right thing for the people of West Texas. The conference report on H.R. 629, the Texas Low-Level Radioactive Waste Disposal Act, is in my opinion and in the opinion of others, including those people that live in West Texas, an affront to all of us and to those of us that represent them in this body.

This conference report strips a key provision from the bill that both the House and the Senate had adopted. Unlike both the House- and Senate-passed measures, the conference report does not include a provision that would restrict waste at the selected site to the States of Texas, Maine, and Vermont.

I ask, how can this House in good conscience vote to waive all points of order against this report?

Mr. Speaker, this is my first term, but as I heard and as I understand the comments of the gentlewoman from New York, this is a highly unusual way to bring back a conference report for a vote.

I think that it is clear that the provisions that were both on the Senate and the House side were, to use an old West Texan term, finagled off in a highly unusual maneuver in requiring a rule on a simple conference report. I think that is wrong and I think that the people of West Texas deserve better treatment by this House than they have received on this.

By voting for the conference report, my colleagues are saying to all the Members of this House that it is okay to ignore the will of this body, that it is okay for eight conferees to ignore the rest of all of the senators and representatives that represent the people throughout this country.

Members should vote against this conference report because the conferees violated the scope of their authority. That I think is very clear. We should not let this House vote on a bill that ignores the will of both the House and the Senate. I am sure that without this key provision, which is the Doggett amendment which would restrict nuclear waste to Texas, Maine, and Vermont under H.R. 629, that bill would never have passed in the Senate.

Mr. Speaker, I ask my colleagues to defeat this rule and send this bill back to conference where it belongs. Let us all together today send a strong message that the conferees cannot and should not ignore the will of the House and the Senate. I urge all of my colleagues to vote against this rule.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. REYES. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, it is my understanding that the States of Michigan, New Hampshire, New York, Massachusetts, Connecticut and New Jersey are not a part of the compact at present. My question is, are there not a number of very large States with a significant amount of potential to generate nuclear garbage, specifically Michigan, New Hampshire, New York, Massachusetts, Connecticut and New Jersey, that do not have a compact partner right now and would love to send their garbage down to Sierra Blanca?

Mr. REYES. Mr. Speaker, that is correct.

Mr. DOGGETT. Mr. Speaker, if the gentleman would continue to yield, indeed, did not the former governor of Connecticut already inquire and try to become associated with this compact?

Mr. REYES. Mr. Speaker, as a point of reference, that is one of the major concerns that we have. That once the site is in place, it will become a profit-generating venture that would accept waste material not only from Texas, Maine, and Vermont but literally from throughout the country.

Mr. DOGGETT. Mr. Speaker, without the amendment that this House and the Senate approved, there is absolutely nothing to keep a group of unelected commissioners, appointed by the same governors who may have said, as in our case, one thing in Texas and another thing up here in Washington about this compact, from taking that nuclear waste from any of those States; or maybe some of the ones that are in compacts already but are part of those compacts that have been unable to get a licensing agreement since way back in 1980, almost 20 years ago?

Mr. REYES. That is correct. And the potential exists that this waste disposal site in Sierra Blanca, Texas, could conceivably become the only site where nuclear waste could be disposed of and could be stored. That is a very real concern for those of us that live in West Texas.

□ 1100

Mr. DOGGETT. Mr. Speaker, if the gentleman will continue to yield, and then I noticed an editorial in my hometown paper, the Austin American Statesman, back in April that was entitled, “Okay, If You Must, Keep It As Just Three.”

It concludes, if a three-State compact really means just three, no one should fear putting that into law. It is the very least that can be done to reassure Texans they are not getting suckered.

I want to ask the gentleman if he feels that the people of Sierra Blanca and west Texas will be suckered if this kind of proposal without the three-State limitation is approved.

Mr. REYES. Absolutely. That is a very real concern that all of us have about this site that is scheduled to be into Sierra Blanca.

Mr. DOGGETT. Mr. Speaker, I know the gentleman is familiar with the terms of some of the other compacts that have been approved in the country for other States. We have heard so much about this Congress approving other compacts.

Is it not true that some of those other compacts have provided representation for the very county and the very region where the regional facility would be located and that this particular compact does not give the people of El Paso or Sierra Blanca or Van Horn or Pecos or any of the area affected or any of the places through which that waste might be moved like Austin, Texas, they do not get any representation guaranteed in this compact agreement, do they?

Mr. REYES. They do not. And therein lies the liability, not just for the people of Sierra Blanca, not just for those of us who live in west Texas, but literally for communities throughout this country that this waste material would be transported through to get to Sierra Blanca.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. REYES. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Speaker, the gentleman has listed the three States that embody this agreement and he has listed five other major States that would like to send their low-level waste to Texas. I would like to add the other 44 States that would probably like to send their low-level waste to wherever they want to send it. When the gentleman says there is no way to keep them from it, I know that he is aware of the application, he is aware that the application limits it to 1.8 million cubic feet, and that only 20 percent of that can come from the other two States. It does not allocate any to come from all the States the gentleman has named, nor the other 44.

Mr. DOGGETT. Mr. Speaker, if the gentleman will continue to yield, I am aware of the limitation and the application starting this out. But we are approving a compact that is to last for the ages. My concern is that, as the gentleman just pointed out, and I could not agree with him more, that all 50 States would like to send their garbage to Texas. My guess is that with the kind of hospitality that they are being shown by Governor Bush and others who have been even more silent than he has, that they will all have a chance to put Sierra Blanca on the map.

It is a small place, heavily Hispanic, very poor. It is one of those places you can drive through and hardly know you have been through it when you are going down I–10 on the way to El Paso. It is going to be a point on the dot that they know about in Alaska and Vermont and Michigan and New York and all over this country, because it is going to be send your nuclear garbage there. Get a little bit in there now and a whole lot later when we amend the application.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BARTON), a member of the Committee on Commerce.

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the rule to govern floor debate on the conference report on H.R. 629.

It passed the House 309 to 107 earlier this year. It is a good piece of legislation. It authorizes three States, Texas, Vermont and Maine, to enter into a compact to accept low-level nuclear waste. I think some of the rhetoric we have already heard in the rule debate is hotter than the waste that is going to be in this site when it is constructed. I think we ought to pass the conference report and let the three States go on about their business like we have already let 42 other States.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I thank my colleague on the Committee on Rules for allowing me to speak today.

As she mentioned, now we can hear the rest of the story. I rise in support of the rule and support of the conference committee report.

Let me give the Members who are here on the floor and also in their offices and who are watching a little history about this compact. I think they have heard it over the last few years because I was in the State Senate in 1991, when we actually passed an interstate compact with Texas and Vermont and Maine, because under the interstate commerce clause, without a compact, if this site is built, whether it is in Sierra Blanca or anywhere else, it will be required to take waste from every State in the Union.

I think my colleague, the gentleman from Texas (Mr. HALL) pointed that out. All 44 other States would like to send it here or 46, after we get other than what is in the compact. So if this site is going to be built without a compact, it would have to accept it from everywhere.

Again, we did not pick the site, either in the legislature or here on the floor of this Congress. The site was selected by the folks in Texas which is what the intent was. It was not supposed to be by those of us who serve in Congress or in the legislature, because in Texas the legislature meets every 2 years whether they have to or not. It was selected by people who have the expertise to select sites, and they looked at sites in south Texas and west Texas, and they picked Sierra Blanca.

If it was my choice, I would not pick Sierra Blanca, because we have another site in Texas who may not be at the same level now in the application process who actually wants it. But that is not our decision on this floor and that is not the decision on the floor of the State legislature. It is a decision by the experts and the people that the State hires in their regulatory agencies to make that decision. So that is why this bill is so important. If we are going to have that site, then the compact, just like the other compacts, is important that we ratify it here.

The Low-Level Radioactive Waste Policy Amendments of 1985 established where States could develop compacts. Texas, under a former governor, not Governor Bush but Governor Ann Richards, worked out an agreement with

Maine and Vermont to have this so Texas could limit our exposure. Again, we do not want to be the waste site for the Nation or the world, but we recognize the responsibility we have in our own State for our low-level waste that we generate. Some of it is from hospitals, some of it is from nuclear power plants, it is from all sources. But that product, that waste is now being stored on sites all over the State of Texas.

That is why we need to put it in a secure location, a permanent location. My colleague from Austin mentioned that we are passing a bill for the ages. Granted, this low-level waste has a life much longer than any of us ever expect to be here in Congress or even our own lives, but we also know that Congress is in session all the time, the legislature is in session on a regular basis. They can change this, and they can deal with it. That is why it is so important today we pass this rule and adopt the conference committee report.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, the willingness and desire of our colleagues from New England to put this nuclear garbage as far away from there as possible out into west Texas is quite understandable. The silence in some cases and the open invitation of Governor George W. Bush that we accept all that nuclear garbage is a little bit more difficult to understand.

It is difficult to understand, particularly because some of the latest reports suggest that we do not need as many radioactive waste dump sites as are currently planned, that economically it does not make sense. We should consider the fact that none of these dump sites have been licensed for almost 20 years, despite the fact that some compacts have been formed. If we get on the fast track in Texas to put all that nuclear garbage out in Sierra Blanca, guess where the major waste dump site for the country is going to be located? Right there in that poor Texan Hispanic neighborhood.

I think that is one of the reasons why in June of this year some 95 environmental groups and legislators in both Mexico and the United States asked Governor Bush to keep his word and to stop this ongoing project. Unfortunately, that has not happened.

I find interesting the emphasis on the word "low," when talking about nuclear waste or radioactive waste. Low. It reminds me a little bit of one of those late night commercials on television where someone is talking about "how low can you go" when buying a car or mobile home or something else that they might want to sell on there.

Well, let me tell my colleagues how low this radioactive waste is. It is low enough to kill you. It is low enough to kill people for thousands of years to come. It is low enough to kill people who exist on this planet today and anyone in the future that might exist on this planet that would ever remember those of us that are gathered here on the floor of this Congress today. It is low for public relations purposes. It may be lower than the highest level of radioactive waste, but it is high enough to be lethal and deadly and not to be placed in Sierra Blanca.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. HALL), ranking member of the Subcommittee on Energy and Power.

Mr. HALL of Texas. Mr. Speaker, I would like to continue my discussion with the gentleman from Texas (Mr. DOGGETT) in hopes that we could win him over to see what his State needs and what these States have contracted for.

I simply start out by saying if we do not have a compact, he would be exactly right. These other 44 States, these three States, Mexico perhaps, Canada, throw in the Virgin Islands if we want to, maybe want to send their waste to Texas or to any other State. That is the reason we have compacts. That is the reason the Congress, in its wisdom back several years ago, provided for these compacts. That is the reason nine other compacts have been signed and are working. So I think in all these States that, including Texas, we have to have the compact or we could be the target for all of those.

Now, let me just talk a little, another minute about how a compact protects an area that enters into a compact. I am talking about these three States. I am talking about our State and the rights that we have and the vision that those that put this agreement and application together had for our State.

I would tell the gentleman, he says, what is to keep it from happening, how can it not happen, how can we stop the flow of trucks and trains filing into this State? Well, it is very simple. Section 6 of section 3.05 says, The commission may enter into an agreement with any person, State, regional body or group of States for the importation of low-level radioactive waste into the compact for management of disposal, provided that the agreement reaches a majority vote of the commission.

They cannot just load up and say we are headed for Texas. They have to have the assurance and the authority of the commission.

The commission, it says, may adopt such conditions and restrictions in the agreement as it deems advisable. That is local control in its finest sense. That is the commission of these three States. How much authority does the State of Texas have in that?

Well let us read again. Let us go to article 3. This is the protection I think that the gentleman is seeking. I think this is going to give you some assurance that I hope turns the tide on this rule. Who makes that decision by the commission? Who is the commission? Is that somebody from the other 46 States, the other 49 States or these three States? This tells us who makes that decision. It is not guesswork. It is not who has the biggest truck or who has the longest railroad. This says there is hereby established the Texas Low-Level Radio Waste Disposal Compact Commission. That is the commission the other article alluded to.

The commission shall consist of one voting member from each party State, except that the host State shall be entitled to 6 voting members. So the gentleman's State with 6 members, the other States with 2 members, I think they could do something about a deluge of low-level waste or garbage, whatever.

I have faith in the people that are going to be running this country in the future. I have faith in the legislature. The gentleman says do not mess with Texas. Do not mess with the legislature. Do not mess with Governor Bush. Do not mess with the governors of these other two States. Do not mess with all those public hearings that they have had. Do not mess with the Speaker of the House. Do not mess with the leader of the Senate. Do not mess with those who form the majority of the Senate and the House and voted for this, sent it on and asked for it, availed themselves of that that this Congress made available to them.

I think we need to pass this rule and get on with our business.

□ 1115

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I would like to thank the gentlewoman for yielding the time. The Texas Compact Act was passed by a floor vote of 309–107 in the House. The Texas compact has bipartisan support in its member States, in Congress and in the Nation. Congress has approved nine similar compacts for 41 States without amendments and without opposition.

The compact's member States oppose any amendments to this legislation. I support the rule. I support the proposal. It is in the best interest of Texas, Maine and Vermont, and it is in the best interest of this country. These entities need this safe disposal site, they need cooperation and collaboration between these States, and the State legislatures, the States' governors and the people of these States have supported these efforts. I ask for the consideration of this legislation.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Speaker, let us be very frank about this. The people that oppose the Texas compact traditionally oppose all of the low-level radiation compacts. Let us remember that

20, 30 years ago this material was going into landfills across this country.

Those who oppose the compacts and oppose siting these facilities have to ask themselves, it is easy to attack a location, an option, but it is awful hard to get a better option. I would just ask those who oppose this compact or any other compact to remember that the Federal Government mandated this approach, legislated this approach, and now there are those in the Federal Government that would love to obstruct this approach. I just ask those that do not like the options that are being proposed by this compact, what is your alternative? To continue to leave this waste stream in Dallas, in Houston, in Galveston, in the hospitals and the research facilities in Texas and in other States? What is your option of what do we do with this low-level waste stream? This is the Federal mandated option that we placed on States. This is better than having the waste stream in our neighborhoods, next to our facilities, where our children are playing, where our grandparents are staying. So when you talk about this and say, is this the proper site, let me challenge you by saying, is the option better? Is it better to leave the waste stream where it is now, backing up and piling up in our neighborhoods? I would just ask that you consider the fact there may be people concerned about this site and about this compact, but go into your communities and ask your planning groups and your community groups and your families about do they want this waste stream left in their neighborhoods where it is now? The big untold story here is the fact that where this waste stream is and where it would be if it was not sited appropriately. This is the safest, most logical strategy. This is a strategy we decided on decades ago, and it is one that we should continue with. It is a rational strategy. Let us not have this waste in our neighborhoods. Let us have it in a safe facility.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself the balance of my time. Let me just say in response to some of my colleagues' concerns that this conference report contains the identical language of the other nine existing compacts. Further, it is not the intention of Congress to create a proscriptive regime for the States. It was intended to allow the States to manage for themselves the safe disposal of low-level waste as they see fit, without burdensome Federal regulation. It is important to note that all eight conferees agreed to this course of action.

Let me remind my colleagues once again that this rule will allow the House to consider the conference report which is supported by the governors of the member States as well as the National Governors Association, the Western Governors Association, the National Conference of State Legislatures and the Nuclear Regulatory Commission.

I once again strongly urge my colleagues to support this rule and therefore allow the House to consider the conference report on this important legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOGGETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 313, nays 108, not voting 13, as follows:

[Roll No. 343]

YEAS—313

Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeGette
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Oxley
Packard
Pallone
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skaggs
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)

NAYS—108

Abercrombie
Ackerman
Andrews
Becerra
Berman
Blagojevich
Bonilla
Bonior
Borski
Brady (PA)
Brown (CA)
Capps
Cardin
Clay
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dixon
Doggett
Doyle
Ensign
Eshoo
Evans
Farr
Fattah
Filner
Ford
Furse
Gejdenson
Gibbons
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Holden
Hooley
Jackson (IL)
Jefferson
Kanjorski
Kennedy (MA)
Kilpatrick
Kucinich
LaFalce
Lantos
Lee
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Nadler
Neal
Olver
Ortiz
Owens
Pascrell
Pastor
Payne
Pelosi
Poshard
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sawyer
Schumer
Scott
Serrano
Sherman
Skeen
Slaughter
Stabenow
Stark
Stokes
Strickland
Thompson
Tierney
Torres
Velazquez
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOT VOTING—13

Clayton
Cubin
Engel
Etheridge
Gonzalez
Hinojosa
Hunter
Kaptur
McDade
Moakley
Price (NC)
Towns
Young (FL)

□ 1140

Ms. ESHOO and Messrs. RUSH, MCNULTY, SAWYER, HOLDEN and MARKEY changed their vote from "yea" to "nay."

Mr. RAHALL changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, pursuant to the provisions of House Resolution 511, I call up the conference report on the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DICKEY). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 16, 1998, page H5724).

The SPEAKER pro tempore. The gentleman from Colorado (Mr. DAN SCHAEFER) and the gentleman from Texas (Mr. HALL) each will control 30 minutes.

Mr. BONILLA. Mr. Speaker, I am opposed to the bill, and because the chairman and the ranking member are both in favor of the bill, under rule XXVIII I assert my right to be recognized for 20 minutes in opposition to the conference report.

The SPEAKER pro tempore. Is the gentleman from Texas (Mr. HALL) opposed to the conference report?

Mr. HALL of Texas. I support it, Mr. Speaker.

Mr. REYES. Mr. Speaker, as a member of the minority also in opposition to the conference report, I ask unanimous consent that the gentleman from Texas (Mr. BONILLA) yield to me 10 of his minutes that I may be allowed to control.

The SPEAKER pro tempore. Prior to entertaining that request, under clause 2(a) of rule XXVIII, recognition of a Member opposed does not depend on party affiliation but is within the sole discretion of the Chair, page 759 of the manual.

The gentleman from Texas (Mr. BONILLA) is senior to the gentleman from Texas (Mr. REYES), and therefore the gentleman from Texas (Mr. BONILLA) is recognized to control 20 minutes of debate.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I want to get this straight.

I will control 20 minutes, the gentleman from Texas (Mr. HALL) will control 20 minutes, and the gentleman from Texas (Mr. BONILLA) will control 20 minutes of which I think he is going to yield 10 minutes to the gentleman from Texas (Mr. REYES).

The SPEAKER pro tempore. That is accurate. That is the understanding of the Chair.

Mr. BONILLA. Then, Mr. Speaker, I ask unanimous consent to allow the gentleman from Texas (Mr. REYES) to also have 10 minutes of my time to control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1145

PARLIAMENTARY INQUIRY

Mr. BECERRA. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. DICKEY). Will the gentleman from California please state his parliamentary inquiry.

Mr. BECERRA. If I heard the Speaker correctly, the allocation of time is being distributed two-thirds to those who are in support of the bill and one-third to those who are opposed to the bill.

The SPEAKER pro tempore. That is correct.

Mr. BECERRA. Mr. Speaker, my parliamentary inquiry is, is it not the tradition of the House to divide the time equally between those who are in support and those who are opposed?

The SPEAKER pro tempore. The House is now operating under clause 2(a) of rule XXVIII, and that is what is provided.

GENERAL LEAVE

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself such time as I might consume of my 20 minutes.

H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act would grant the consent of Congress to the low-level radioactive waste disposal agreement reached between the States of Texas, Maine, and Vermont.

When Congress passed this Act back in 1980, it was a part of a broader general agreement whereby the States are responsible for the disposal of low-level radioactive waste while the Federal Government is responsible for high-level radioactive waste disposal. Since 1980 when the act was passed, 41 States have received the consent of Congress for their disposal compacts.

The vast majority of low-level radioactive waste do not even require the use of special containers to protect against threats to human health. They include a wide range of materials, medical isotopes, university research wastes, and low-level wastes from nuclear power operations. In most cases, the radioactivity in these materials would decay to the point where there is no significant, no significant risk to human health after about 100 years.

With the decision to put low-level waste responsibilities at the State level, the obligations of the Federal government have always been fairly limited. Our primary responsibility is to ensure that the compacts comply with the Federal Low-Level Waste Act. The Texas Compact meets this test without a doubt. The State legislatures and the Governors of Texas and Maine and Vermont have met their obligations under the Low-Level Radioactive Waste Policy Act. It is now our responsibility as Members of Congress to support the States in this decision.

The conference agreement accomplishes this. It proposes a clean bill which does not include the amendments adopted during the floor consideration in the House and the Senate. This provides the States of Texas, Maine, and Vermont with the same flexibility enjoyed by nine other compacts Congress has already approved. It maintains an even playing field for the entire compact system. It is the right thing for the House to do at this time.

The gentleman from Texas (Mr. BARTON) and the gentleman from Texas (Mr. Hall), the sponsors of the legislation, deserve a great deal of credit for their strong leadership and capable effort in moving this bill and this conference report forward. I strongly support the conference report and encourage its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield myself for 4 minutes.

Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 629, the Texas-Maine-Vermont Low-Level Radioactive Waste Compact. This is an oft told story because we have had many speeches on this floor. We have had many favorable votes.

This is not just an important bill to the three States involved, this is an important bill to the entire United States and to any of those who want a safe disposal of low-level radioactive waste that is produced within their own borders.

As my colleagues know, this material is produced by hospitals, universities, industries, power plants, you name it. Universities that teach industries that create jobs, and jobs mean dignity. We know all of that. We have talked about that before here.

This is pursuant to a plan set out by Congress followed by other States successfully, voted on in the various States, signed by the governors, debated by the legislators and passed. They have had public hearings galore. I think absent this consent we seek today to this interstate compact, it is not likely that a facility to take care of these three States' waste or material could be built anywhere without this compact.

This fulfills the plan that was envisioned by Congress some time ago and requested by the States when the legislation was enacted back in 1982. It permits States to join together to select a site to design an interstate agreement and one that works for them.

Congressional approval makes it possible for the States within a compact to control, and that is a very important feature, to control how much waste is accepted at the facility and for whom. The application controls that. That relegates it to a set amount. That set amount can only be changed by the commission set up in the law. That commission is controlled by the State where it is deposited because they have six votes. The other States have two votes. But it is a joint effort by all three.

This legislation like the nine compacts Congress has previously approved permits these three States to exclude waste from other nonmember States. That is very important. It is important to our State, but it is important to the total thrust of the compacts, because it alludes to other States and gives them the same right and the same opportunity to exclude if they enter into a compact.

It also allows the compact, if it chooses, to accept waste if so doing is in keeping with the purposes of the thrust. For example, taking out of region waste for a limited period of time might reduce operating costs. But that is not our decision. That is the decision to be made at the local level, at the State level, by whoever is in control of the local level and the State level at the time that decision is made.

The key is letting the compact make that decision and preserving the flexibility to do so. That is what this legislation was passed for. I think that is what H.R. 629 preserves.

I thank the committee for its attention. I thank all of these Members for their votes of the past. I urge them to revote as they have in the past. Get this behind us. I would say this to the gentleman who represents the area where the site is: He has fought a valiant fight. He got here after many of the debates had been held and decisions have been made.

But I have the same situation here. I have a wonderful friend who has a bad amendment, and we are going to try to turn back that amendment. But in doing so, we do not want to turn back the support that this fine Member has for the rest of the State, the great battle he has put up for his district. I admire him, yet I ask Members to support this thrust we are asking for today.

Mr. Speaker, I reserve the balance of my time.

Mr. BONILLA. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, what we are talking about here is a basic fundamental right as Americans that we recognize for generations that has made our country what it is today standing above and beyond any country in the history of this planet; that is, the rights are of those of us in communities to determine our own future and to determine our own destiny and our own communities.

Also the right to private property and the right to have that property held sacred to us and that the value and that the use of that property is controlled as long as you are not hurting your neighbors and your friends that are existing adjacent to your property to allow that property to prosper over the years and to use it as you see fit.

Those rights have been threatened, Mr. Speaker, by this compact, but more importantly by the State legislature at the turn of the decade that decided, along with Governor Ann Richards, to implement this low level nuclear dump site in the community of Sierra Blanca. The community opposed this strongly. I have the names here, which I will read at a later time, of 20 counties surrounding Sierra Blanca where this site was picked by Governor Richards, former Governor Richards, and the State legislature.

We have discussed before, as my friend, the gentleman from Texas (Mr. GREEN) has pointed out, that this issue we are voting on today has no reference at all to the site picked by the State legislature and Governor Richards many years ago.

We are simply trying to do the right thing for the people of the community around Sierra Blanca and surrounding counties by trying to stop this thing at the final checkpoint before it is allowed to be implemented.

The reasons for the opposition are very simple. There is unstable ground. The geology of the area has been reviewed over and over and, in fact, two administrative law judges who have looked carefully at this situation have determined that the earth is unstable in this area.

How would you like it, whether you live in Manhattan or you live in Cleveland or you live in San Francisco or you live in West Texas where earthquakes have occurred, how would you like it if suddenly someone said that right next door they are going to start putting in containers, low level nuclear waste, that might leak out if the ground were unstable enough that it might threaten your property and your water supply and the future of the environment for the children that are growing up in this particular area?

So the threat to the environment is real and has, in fact, back home in Texas, been documented by two administrative law judges that are recommending that now in the capital of Austin, the agency in charge of regulating this issue take this into consideration in the strongest way or in fact recommending that this not be accepted.

The economic impact tied to the environment is also a very big issue that these administrative law judges have pointed out. So you can see why these two threats to the people of this community would have a huge impact on their ability to govern their own future and their economic growth surrounding the Sierra Blanca area and the counties surrounding that area as well.

So we have a chance to do here in the United States Congress what again the State legislature at the turn of the decade and former Governor Ann Richards choose to dump on the people of West Texas, and we are the last hope for the folks of Sierra Blanca and surrounding counties.

I have a list here, Mr. Speaker, in case there is any doubt of anyone in this body as to how the folks in West Texas feel about this: El Paso County, Presidio County, Jeff Davis County, Culberson, Val Verde, Webb, Starr, Hidalgo, Cameron, Zapata, Reeves, Brewster, Ward, Sutton, Kimble, Kinney, Crockett, Pecos, Maverick, Ector. We are almost getting started on the entire list of counties in the State of Texas that have passed resolutions, I have the dates here on which they were passed, opposing building this dump that threatens the environment and their local economies.

We also have resolutions passed by 13 additional cities, municipalities in this area as well, that are opposed to this.

We also have a problem with our neighbors in Mexico whom we have a treaty with to work together on environmental issues, the Treaty of La Paz, that designates clearly that we have to work with folks when it means that their environment ought to be threatened as well.

We would not want them dumping nuclear waste within a few miles of the Rio Grande on the Mexican side. They also have expressed to us that they have a concern about this dump being constructed.

So I ask my colleagues in this body to oppose this conference report. It is a threat to their rights to control their own destiny, the folks back in Texas, and their communities. It is a threat to their private property rights, and it is something that we have an opportunity again to fix something that the former governor and the State legislature, at the turn of the decade, dumped on the people of West Texas.

Mr. Speaker, I reserve the balance of my time.

Mr. REYES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague, the gentleman from Texas (Mr. BONILLA) because this is a tough issue but it is an issue that I find easy to defend because it is the right issue for our community and the area that we represent.

I rise in opposition to conference report on H.R. 629 because, as I mentioned earlier, I do not believe that we should be considering a conference report that ignores the will of the House and the Senate. I do not believe we should be considering a conference report that has stripped a key provision from the bill that both the House and the Senate had adopted.

Unlike both the House and Senate passed measures, the conference report does not include a provision that would restrict waste at the selected site to the 3 States, the States of Texas, Maine and Vermont.

□ 1200

As far as I am concerned, that, in itself, is reason enough not to move this bill forward.

But if we need additional reasons to vote against this conference report, I would like to enter into the RECORD an article that has already been mentioned by my colleague from Texas (Mr. BONILLA) that was printed in the Dallas Morning News on July 8.

As we can see in this article, two Texas hearing examiners recommended against licensing a low-level nuclear waste dump in far West Texas, at Sierra Blanca. The hearing examiners explained that the State Low-Level Radioactive Waste Disposal Authority did not, and I repeat, did not adequately determine whether a fault under the site posed an environmental hazard or not.

The examiners further stated that the authority did not adequately address how the proposed facility might harm the quality of life in that area, the quality of life of a constituency that we represent. Their protection, their interests are why we are opposed to this conference report.

These findings are further evidence that the proposed radioactive waste dump is a potential environmental hazard which has not undergone adequate study by various State agencies.

Mr. Speaker, I ask this body if Texas State regulators do not support the Sierra Blanca site, why should we jeopardize the health and the well-being of people in West Texas? I do not care how many times supporters of this bill say that a vote for H.R. 629 is not a vote for the Sierra Blanca site. It simply is a vote for that site. They know it, I know it, and the people of Sierra Blanca and El Paso know it.

Mr. Speaker, by now, having heard the argument, even you know it. If H.R. 629 becomes law, it will endanger the safety and the welfare of the community and the people who live there.

Mr. Speaker, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BARTON), the author of the bill.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from Colorado for yielding me this time.

Mr. Speaker, I want to try to very quickly go through what I think are the substantive points in this debate. I want to try to address some of the comments the gentleman from Texas (Mr. BONILLA) and the gentleman also from Texas (Mr. REYES) have already raised and, in advance, some of the comments that perhaps the gentleman from Texas (Mr. DOGGETT) will raise when he speaks in opposition.

With regards to the fact that the conference report is coming back as a clean bill, if we look at the House RECORD of October 7, 1997, on page 8531, there is a colloquy or a dialogue between myself and the gentleman from Texas (Mr. DOGGETT) where I agreed to accept his amendment, but I did so with the reservation that we would check with the governor of Texas and let the representatives of Vermont and Maine check with their governors, and if they opposed the inclusion of the Doggett amendment, we reserved the right to strip that out in conference. The gentleman understood that and accepted it at the time.

Well, we did check with Governor Bush in terms of Texas, we checked with the governors of Maine and Vermont, and they decided that they did not want to accept any amendments, because no other compact had been amended on the floor of the House or the Senate previously when those compacts had been agreed to. So the conferees did strip out the Doggett amendment.

If Governor Bush and the other State governors had accepted it, we would have accepted it and reported it back.

Let us talk about some of the environmental concerns that have been raised. We have talked about some water table concerns. The water table at the site is 700 feet beneath the site. The groundwater there moves very slowly. There is no analysis that says there could be groundwater contamination at all, period.

With respect to the earthquake, and administrative law judges did state in their denial of the site a specific request that the earthquake analysis had not been adequately addressed. But they also said that that, in and of itself, was not a reason to deny the site.

I want to go through some of the earthquake site-specific issues. The strongest earthquake that has ever been recorded in Texas history is 6.4 on the Richter scale. This site is designed to withstand an earthquake of a magnitude of 6.0 directly beneath the site. The last time they can calculate there was ever an earthquake in the area was between 750,000 and 12 million years ago, Mr. Speaker, 750,000 and 12 million years ago. That is 730,000 years before the pyramids were built in Egypt.

The earthquake seismic activity rating for the region is, one, the same as Washington, D.C. This Capitol could not withstand an earthquake of 6.0 on the Richter scale directly beneath it. So I think there are some issues there. But again, even according to the administrative law judges' recommendation, in and of itself, the seismic concerns——

Mr. BONILLA. Mr. Speaker, will the gentleman yield?

Mr. BARTON. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Speaker, I appreciate the gentleman yielding.

I just want to remind my friend about the earthquake that struck in West Texas, I believe, if I am not mistaken it was just 2 years ago and there was damage caused. It was not right at this location, but it was not far away, in the Alpine area that, as the gentleman probably knows, is just a few miles away.

Mr. BARTON of Texas. Mr. Speaker, a few miles away. My understanding is it was over 100 miles away, and it was less than 3 on the Richter scale. That is my understanding, but I could obviously be corrected.

Mr. BONILLA. Mr. Speaker, if the gentleman will yield further, the earthquake did cause damage, enough to cause concern out in the West Texas area. And, as the gentleman knows, even though it covers vast distances that community is considered 100 miles up the road. As my friend knows, in that part of Texas, that is, in fact, just up the road.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, it is just up the road, I will admit to that, my good friend. But this site could withstand a 6.0 magnitude effort quake directly beneath it and sustain no damage; and, again, there was been no earthquake of this magnitude in the region in over 750,000 years.

Let us talk about local support. My good friend (Mr. BONILLA) waved and alluded to a great list of Texas counties that oppose this site, and I have no doubt that that is a true list. In this county, the local elected officials that ran for reelection in the last local election supported the site and were reelected.

Recently, in the office of American Statesmen there was an open letter asking that the site be approved signed by over 100 local residents, many of them elected officials. So I think that there is support for it in the region.

Finally, Mr. Speaker, this bill passed the House 309 to 107 back in October. Based on the rule vote that we just had, it is hopefully going to pass with that order of magnitude again in the next 30 or 40 minutes. We need to pass this bill; we need to let Texas, Vermont and Maine go about their business; we need to let the State of Texas go ahead and address the concerns that have been raised by the administrative law judge.

In conclusion, I want to read the conclusion of the administrative law judge's report. This is on page 7 TNRCC, docket number 96–1206–RAW. It says, and I quote,

> If the Commission approves the application, the draft license should be modified to clarify that the facility could accept waste containing a total of no more than 1 million curies of radioactivity over the 20-year license term. With this clarification, the performance assessment, including the consideration of nonradiological impacts and accident scenarios, is adequate.

So the administrative law judge did not approve the site, but they did not disapprove it. They said that there are some concerns that need to be addressed by the Licensing Commission in Texas, and if those concerns were addressed, it should be approved.

Mr. Speaker, I yield back the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I rise in support of the conference report for H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act.

I believe this bill is vital to protecting Texas from increasing amounts of out-of-State waste by entering into the compact. By ratifying this agreement, Texas will receive added protection to stop other States from shipping their low-level radioactive waste into the State. Texas will maintain complete control over the disposal site. Only Texas will decide whether or not another State may join the compact.

Mr. Speaker, at this time I would like to enter into the RECORD an article from the El Paso Times where Governor George Bush, the current governor of the State of Texas, says that he will ask the legislature to adopt such legislation when they meet in 1999, assuming, of course, he is reelected governor.

[From the El Paso Times, June 26, 1998]

BUSH WANTS NUCLEAR WASTE LIMIT FOR DUMP

(By Gary Scharrer)

BROWNSVILLE.—Gov. George W. Bush will ask Texas lawmakers to pass a law next year making it absolutely clear that only Vermont and Maine may export nuclear waste to the Lone Star State under a compact moving through the U.S. Congress.

"I think we ought to take this to the floor of the state House and Senate and say, 'We will limit future (compact) commissioners to Maine and Vermont and Texas,'" Bush said Thursday at the start of the 16th annual Border Governor Conference.

Bush said he agrees with the spirit of an amendment by U.S. Rep. Lloyd Doggett, D-Austin, and U.S. Sen. Paul Wellstone, D-Minn., that would restrict the proposed compact to low-level nuclear waste from those three states. But the nuclear power industry opposes the amendment, which it contends will delay opening of the state's low level nuclear waste dump near Sierra Blanca.

"If it passes without that amendment, I think it makes sense for the governor to propose a bill out of the Texas Legislature that forever limits low level radioactive waste to Texas, Maine and Vermont," Bush said.

Opponents of the proposed dump site 90 miles southeast of El Paso contend that for West Texas stands to become a national dumping ground if the compact passes without restrictions.

A majority of appointed compact commissioners could decide to accept nuclear waste from other states, according to the pact already approved by the three states.

More than 50 Mexican journalists are covering the Border Governors Conference. The issue of low-level waste dominated Bush's opening-day news conference.

Bush assured Mexico's news media that Texas won't open the dump "unless it's safe."

The Texas Natural Resource Conservation Commission is expected to act later this year on a license application necessary for opening and operating the dump.

Some elected officials in Mexico contend the planned dump will violate the La Paz Agreement negotiated by the two nations in 1983 to prevent and eliminate pollution sources within 52 miles of the international border. The Sierra site is about 16 miles from the Rio Grande.

Bush said he's already received a legal opinion indicating the proposed dump does not violate the La Paz Agreement. Those who disagree need to appeal to federal officials, he said.

"This is a federal treaty. I would strongly urge Mexican officials take it up with federal officials in Washington, DC, to determine whether or not the treaty negotiated between federal governments pertains," he said.

Governors from Texas, New Mexico, Arizona and California and most governors from the six Mexican border states are at the two-day conference.

Water and border crossings probably will get the most attention, Bush predicted.

Texas and bordering Mexican states face the second drought in three years. A plan used two years ago to conserve and share water is likely to be used again this summer, Bush said.

Both he and Republican Arizona Gov. Jane Dee Hull said a proposed larger border-crossing card won't work because Mexican citizens can't afford it.

"The idea of the card is fine," she said. "I like the high-tech idea, but it is far too expensive for the Mexican family to afford. And I don't believe we will be able to implement it this quickly, . . . I have suggested that they delay implementation."

A laser card would cost $45 and would be good for 10 years, but doesn't include photo, passport and visa costs.

"It's very important," Bush said, "for the U.S. federal government and the State Department to understand how important daily traffic is between our sister cities along the border, and we ought to make it easy for people to receive a modern card.

"The idea of modernizing border-crossing cards is a good idea. But to make it very expensive and difficult to obtain is not a good idea."

Mr. BENTSEN. Mr. Speaker, just to make it clear, both Governor Bush, a Republican, and former governor Ann Richards, a Democrat, have supported this, as well as the Texas State legislature, which is a split legislature between Republican and Democrat. By entering into the compact, Texas can keep other out-of-State compact waste from entering into our State. Currently, 41 other States have entered into these types of compacts to prevent further importation of out-of-State waste.

Now, with respect to the issue of the site, as was raised by my colleague from North Texas, the question of the administrative law judge as to the suitability of the site is again an issue for the State to decide. What we are talking about here is the issue of the compact with Maine and Vermont, and that is what we ought to concern ourselves with.

It is very important to the State of Texas as it relates to the low-level radioactive waste that we produce in my district at the Texas Medical Center all across the State of Texas. This is an issue that the State will decide. The bill establishes a structure for the State to decide, and it limits the amount of out-of-State waste that can come in.

So I would urge my colleagues to do as they have done in the past and support the conference report.

Mr. BONILLA. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from San Antonio, South Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in opposition to H.R. 629, which is the Texas-Maine-Vermont low-level radiation waste dump bill. This bill, as originally written, would allow waste dump operators to dispose of waste in Texas from States other than Texas, Vermont and Maine. That is simply unacceptable.

I served in the Texas legislature; and, in fact, of the Members that are here, I am one of the few that voted for the bill in 1993 when the low-level waste radioactive compact was approved. At that time, supporters of the bill insisted that the only waste generated of the three-member States would be disposed of at that site. It was on that understanding to the legislators that it was approved that only those three States would be able to dump in Texas.

The House and the Senate have both passed amendments by my colleague from Texas and the Senator from Minnesota to require that only that waste generated in those three States be dumped there.

Now, this is the first time, and I find it very unconscionable, that an amendment that is both put in on the House side and on the Senate side would now all of a sudden be stripped from both sides. Now, if my colleague from Texas indicated earlier that only waste from those three sites would be acceptable, then why not accept that amendment? Because we know otherwise, that basically they want to be able to dump from throughout the States; the other 49 States will be able to dump in Texas.

Furthermore, I urge inclusion of the environmental justice amendment that was put on the Senate. This allows a party to bring suit in the case of discriminatory waste dumping. This particular locality has a major concentration of Mexican-Americans. I believe this is a safeguard for residents of the Sierra Blanca, and it is necessary in light of the predominantly minority population in that region where the facility is located.

Supporters insist that the site is not finalized, but, in all honesty, they have already picked their site, and the judges have ruled against the site and they have ruled.

I would disagree with my friend from Texas, there has been an earthquake there. I was in the Texas legislature prior to 1993 when we allocated some resources because of some structural damage on some State facilities in the region. So we need to honestly look at this issue and take it into consideration.

Mr. REYES. Mr. Speaker, could I ask as to the availability of time that we all have?

The SPEAKER pro tempore. The gentleman from Colorado (Mr. DAN SCHAEFER) has 10½ minutes remaining; the gentleman from Texas (Mr. HALL) has 14 minutes remaining; the gentleman from Texas (Mr. BONILLA) has 2½ minutes remaining; and the gentleman from Texas (Mr. REYES) has 7½ minutes remaining.

Mr. REYES. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas; excuse me, the gentleman from California (Mr. BECERRA). He wants to be from Texas.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding, but if this bill goes through, I definitely would not want to be from Texas.

I know my colleagues have heard quite a bit on this. I think it is unfortunate that, once again, we are seeing communities that are poor, oftentimes unrepresented well in the Congress because they may not be sophisticated politically; they may not have a lot of money to give to campaigns, or for whatever the reasons, now again being dumped upon.

If I may, rather than speak words that I believe will be spoken by others of my colleagues here, let me read a letter that was just yesterday issued by the largest Hispanic national organization in the country, the League of United Latin American Citizens.

□ 1215

LULAC goes on to say,

> The selection of a poor Mexican-American community (which is already the site of one of the largest sewage sludge projects in the country) brings to mind serious considerations of environmental justice . . . The decision Congress now faces on this matter cannot be made in a vacuum, ignoring serious environmental justice questions that have been raised about the site selection process. These unjust procedures are an apparent contradiction of the 1994 Executive Order that firmly upheld environmental justice.
>
> LULAC would caution Congress not to be complicit in what has become, whether intentional or not, a repulsive trend in this country of setting the most hazardous and undesirable facilities in poor, politically powerless communities with high percentages of poor people of color. Only a vote against the Texas, Maine, and Vermont Radioactive Waste Compact conference committee report will ensure that this trend is not extended into Hudspeth County, Texas.

I would urge all Members to heed what one of the largest and oldest national organizations, representing a very large section of this country, is saying, not because of what it says, but because of what this bill will do to the people that live in those areas.

We are looking at affecting the lives of more than 5 million people that live in that area of Texas, and I would hope that my colleagues would look a little closer before moving forward on a compact that would jeopardize the safety not just of people, but mostly of children.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, I listened to my colleagues harangue here about some of the things that are going on. They were in the legislature and voted on that in Texas, and so did I. I was there at the time.

I hear people bad-mouth Ann Richards, our Governor at the time. She was of the other party, but I want to tell the Members, I thought Ann Richards handled the waste company issue well, and she and George Bush support this compact. To say that it is not the right thing to do is crazy. I do not know where these Members are coming from. If they voted for it, they ought to be for it. It is a State matter, not a Federal matter.

For the gentleman to sit there and say that we have to determine our own destiny, and then turn around and say it is up to the Federal Government to put our destiny at risk, it is not, it is up to the States. The States made a compact. Three States made a compact, Vermont, Maine and Texas.

To not approve that compact, which is in a conference report now, and it has been passed through both Houses, it is time for Congress to pass this compact so that those three States can get on down the road, and so that, in spite of what my colleagues are saying, Texas, Maine, and Vermont can store their low-level radioactive material. Because if we do not do it, Texas can be forced to take waste from other States in the Union, I am told. I think that is correct.

Also, to sit there and talk about Mexico, when they are one of the worst violators of the environment I have ever seen, that they are going to oppose us putting clean, well-packaged waste into the ground, is crazy. And then for somebody to bring up the idea that we are attacking a low-wage earning community is also ridiculous. I cannot believe it. That area was picked because of the soil, because of the ground around it, because it is a safe storage place.

The way we package these low-level radioactive items today, it is not dangerous. Members ought to go out to Nevada where they tested nuclear weapons. That is real hazard. I happened to be out there when they were testing them, and flew through some of those things as part of a test. I am not dead.

I think that anything that Members try to say about this compact as far as earthquakes, floods, water contamination, et cetera, is just crazy. It is time we voted for this report, the way it should be. It is up to the Congress to confirm what the States have asked. I urge consideration and passage.

Mr. HALL of Texas. Mr. Speaker, I yield 3½ minutes to the gentleman from Vermont (Mr. SANDERS), who represents one of the States.

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of the conference report. Let me say a few words on process, and then a few words on substance.

In terms of process, what is important for everyone to understand is that this compact bill has been passed overwhelmingly by the legislatures of Texas, Maine, and Vermont, and the legislation is strongly endorsed by the Governors of Texas, Maine, and Vermont.

In fact, in Vermont the legislature approved this legislation by voice vote in the State Senate and by a 3 to 1 margin in the House. In Texas, the Texas State Senate approved this legislation 26 to 2, while the Texas House approved it by voice vote. In Maine, both the House and Senate approved the bill by wide margins. Under a statewide referendum held in Maine, the legislation passed by better than a 2 to 1 margin.

This bill, Mr. Speaker, is supported by both Senators from Texas, both Senators from Maine, both Senators from Vermont. It is supported by the entire Maine delegation in the House, all two Members; the entire Vermont delegation, me; and as I understand it, two-thirds of the Texas House. So there is opposition from some Members of the Texas House here, but two-thirds support this legislation.

Mr. Speaker, this compact is not a new idea. Since 1985, nine interstate low-level radioactive waste compacts have been approved by Congress, encompassing 41 States. I think all we are saying, if this approach is valid for 41 States in nine compacts, it certainly should be valid for Texas, Maine, and Vermont. That is the process.

Let me say a few words on substance. Here, my views may be a little different than some of the people who are supporting this compact. I am an opponent of nuclear power. I think the nuclear power industry did us a disservice many, many years ago when they said, let us build the plants, except they forgot to tell us how we were going to get rid of the waste; a slight little problem.

Now, all over this country, serious people, environmentalists, are worried, how do you get rid of low-level radioactive waste, which we are dealing with here? How do you get rid of high-level waste? That is a very serious problem.

If I had my druthers, I would close down every nuclear power plant in America as quickly as we safely can. But the issue today is something different. The reality is, we have nuclear power plants. We have universities and hospitals that are using nuclear power. The environmental question today, therefore, is how do we get rid of that low-level waste in the safest possible way? In my view, that is what this legislation is about. I think the evidence is pretty clear that Texas is in fact the best location to get rid of this waste.

The last point that I would make is there is nowhere in this legislation that talks about a specific site. Nowhere will we find that. We are not voting on a site. That decision is left to the authorities and the people of the State of Texas.

Mr. HALL of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN), another of the Member compacts.

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in strong support of the conference report to H.R. 629, and urge all Members to support this agreement. I have spoken on this issue now many times in the past. The issue is still the same. This is simply the opportunity for Texas, Maine, and Vermont to do what 41 other States have already done, enter into a compact for the disposal of their low-level radioactive waste.

Last November the House overwhelmingly approved this compact by a vote of 309 to 107. The Low-Level Radioactive Waste Act places the responsibility for the disposal of low-level radioactive waste on the States. In order to dispose of waste safely and properly, States are allowed to enter into compacts.

Under the Act, the States of Maine, Vermont, and Texas have crafted a compact to meet their needs. Maine's voters approved the compact by a 3 to 1 margin at referendum, so it has not only been approved by the Governor and by the State legislature, but also by the people voting at referendum. Over the past years, several years, Congress has approved nine such compacts covering 41 States, and the time has come to add to that list.

We have heard Members stand up and argue that amendments were stripped in conference, and therefore the bill should be voted down. But not one of the other nine compacts, not one of them, had amendments to their agreements. Not one of them, in not one of those cases did the Congress try to impose on the parties that were agreeing additional requirements.

In particular, the amendment that has been proposed, we will not find that as part of any of the other compacts. This compact is like the others. It does not need a different amendment, and it should not have it.

I would say this, as well. We are opposed to this amendment because we have checked with the Governors of all three States. They are opposed to the amendments. There is no question that if this agreement, if this compact is amended here, it has to go back to the States and we start this process all over again. That spells delay.

Frankly, we have had enough delay in this process. We need to move ahead today. We need to vote to approve this compact. We do not need delay and added cost due to likely litigation. The compact was the result of years of negotiation and good faith by the three member States. They do not deserve additional costs and delays due to unwanted amendments.

Mr. Speaker, we must move this issue forward and allow Texas, Maine, and Vermont the opportunity to dispose of their low-level radioactive waste. I urge all Members to support this legislation.

Mr. HALL of Texas. Mr. Speaker I yield 2 minutes to the gentlewoman from Dallas, Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, we are at a crossroads. All of us support cancer treatment and X-rays. For the most part, much of that is done in our large university hospitals and medical centers and urban areas. We need to put the waste somewhere. It cannot be outside every doctor's office door or every hospital door. We must pick places that are sparsely populated.

There is no good answer, except we are not willing to sacrifice many of the scientific findings that we are using now to save people's lives. It is much more hazardous to have it scattered out all over very heavily populated areas.

If I thought for a moment that this would endanger the lives of the people that live somewhere in the area, in a very sparsely populated area, I would not be standing here. It is never comfortable to stand and speak against people that you stand with most of the time. But they are not going to be happy. If I represented the area, I would be standing in the same place they are standing, but I am representing a whole lot more people who are not willing to sacrifice what creates this waste.

None of us are willing to sacrifice cancer treatment, none of us are willing to sacrifice x-rays for diagnostic treatment. We are simply not going to do that. We must make hard choices, but we must find the best places that we can to deposit this waste. This is one of the best places we can come up with. It is sparsely populated, out in the middle of nowhere. Texas has more space than most States. But we are going to limit it to these two States.

The best environmental Governor that Texas has ever elected is Ann Richards. She stands for this legislation. As a matter of fact, she was very progressive in looking out for the environment in Texas.

□ 1230

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I thank the gentleman from Colorado (Mr. DAN SCHAEFER) for yielding me this time.

Mr. Speaker, this legislation has been before this body numerous times in the past. This legislation represents years of negotiation between the States of Maine, Vermont, and Texas. It is in each of those States' interest. The people in those States have voted for it. The Governors of those States support this. This Congress has approved compacts for 41 other States. This is no different.

I appreciate the concerns that have been raised, but those concerns will be addressed in the process. Each one of our Members knows that there will be an environmental impact statement. Just by voting for this approval for the process to move forward does not mean that the environment and the people and the public hearings that are to ensue will not occur. They will occur. So the public will be involved. The process will have the environmental safeguards, and the right siting will take place in regards to the public and the environment. To suggest otherwise is not to be accurate to the facts that take place.

Mr. Speaker, it is in our State's interest, it is in Vermont's State interest and it is in Texas' State interest. By law, Texas has to have a facility for the waste that it is producing. The States of Maine and Vermont are providing the resources with a low impact amount of waste in order to establish the compact, so that each one of our States will not be open to a site or trash or other things coming in from all over the country. That is why we were told and given legislation on a national level to form these compacts.

We are following through on the legislation that was initially passed in 1985. We are complying with the Federal legislation in the best interest of the people of our States. We ask for Congress to reaffirm its support that it had overwhelmingly supported in the past and to maintain that support and also to assure the citizens of the public hearings, the environmental impacts, and the process that will be taking place after this vote has been completed.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN), the chairman of the Texas Democratic delegation, who would inform the Chair that the Texas group is meeting; and I suggest that he take the gentleman from Texas (Mr. REYES), the gentleman from Texas (Mr. RODRIGUEZ), and the gentleman from Texas (Mr. DOGGETT) with him.

Mr. GREEN. Mr. Speaker, I thank the gentleman from Texas (Mr. HALL) for yielding me this time, and I will be glad to take my three colleagues to lunch today for our weekly luncheon.

Mr. BARTON of Texas. Mr. Speaker, if the gentleman would yield, does that include Republicans?

Mr. GREEN. Mr. Speaker, the gentleman may come as our guest.

Mr. BARTON of Texas. There is no such thing as a free lunch.

Mr. GREEN. Mr. Speaker, I rise in support of the conference committee regard.

Mr. Speaker, I have a prepared statement, and talking about the history of it, we have heard that already. Again, if we do not have a compact, then a State site in Texas will be subject to waste from all over the country.

The policy was developed in the State of Texas. I would not have picked Sierra Blanca if I had a vote, but I did not have a vote when I was in the legislature or a vote now as a Member of the House. That is going to be decided by the people in the legislature who confirm the people who make that decision and the governor appoints them.

Let me talk about some of the debate that we have had. One, the interstate commerce clause requires that Texas would take low-level waste from everyone if we do not have a compact. My colleague from California is opposed to it because of the Sierra Blanca location and the poor community. I represent a very poor community in Houston, Texas, and we have some of the same problems.

A statement, the letter from LULAC opposing the site, I am a member of LULAC and work with my local councils in Houston on a lot of issues and I share their concern. But, this is not the venue for their opposition. Granted, if they defeat it here, they could still create a compact and we could have it for Texas, but it would be for all the country.

Mr. Speaker, I notice that the State of California does have a compact and I do not know where their site is. But I was wondering if it was in a site that was also a rural area that was sparsely populated, compared to an urban area. That is why this is something that has been done by this Congress many times before, allowing States to join together to dispose of these low-level nuclear wastes.

I have a district in an urban area and we have this material all over our district right now and we would like to have a permanent place for it.

Mr. Speaker, I rise in support of the Conference Report on H.R. 629, the Texas Compact Consent Act. This bill grants Congressional approval to the proposed Texas, Maine, and Vermont compact for low-level radioactive waste disposal and deserves the quick support of the House.

As my colleagues know, the national policy for managing low-level radioactive waste is spelled out in the Low-Level Radioactive Waste Policy Amendments Act of 1985. This policy was developed by the states and passed by Congress, with overwhelming bipartisan support.

The objective of the policy is to provide for the safe, permanent disposal of the nation's low-level waste.

Under the terms of the Texas-Maine-Vermont compact, low-level radioactive waste produced in each state will be carefully disposed at a single facility in the State of Texas. The waste will be transported from the hospitals, university research centers, utilities or other waste producers in each state to a safe, permanent disposal and storage facility which will be built in Texas.

It is very important to understand that H.R. 629 does not designate a site for the Texas disposal facility. In the Low-Level Radioactive Waste Policy Amendments Act of 1985, Congress clearly reserved for the states the authority to decide where low-level radioactive waste facilities would be built within their borders. Even though H.R. 629 does not designate a specific site for the Texas facility, federal and state law requires that any low-level radioactive waste facility built by a state must be engineered to withstand any potential natural disasters that might occur at the chosen site.

Much has been said about the proposed site for the waste disposal facility. In fact, a permit to build a waste disposal facility in West Texas has been requested from the Texas Natural Resources Conservation Commission. If the Commission finds that the permit meets all the necessary requirements, it will grant the permit. If the Congress does not approve this bill, under the Interstate Commerce Clause, Texas must accept low-level radioactive waste from other states. H.R. 629 will allow Texas to limit who sends waste to the facility and be in compliance with the Low-Level Radioactive Waste Policy Act.

With this compact in place, Texas will be able to limit access to its facility to only those states that are signatories to the compact—Maine and Vermont. The compact makes it possible to manage Texas' facility in an orderly, effective manner. Without the compact, the State of Texas would have no effective control over access.

The Texas, Maine, and Vermont compact is an excellent arrangement for the three states. It received overwhelming bipartisan support in the state legislatures of the three states. At a time when state budgets are constrained, the ratification of this compact will result in shared cost for the construction and subsequent operation of the low-level waste disposal facility.

Since 1985, the Congress has approved nine compacts which now include 41 states. It is vitally important that we move forward with the approval of the Texas-Vermont-Maine compact. I urge my colleagues to support this very important bill.

Mr. REYES. Mr. Speaker I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, it is not every day that we see the Texas delegation on the floor of this House divided. Normally, we are a group who hangs together. It is true, however, that six of our members, out of 31, have opposed this compact, I think primarily because it is a local issue with them, and I understand that. I fought a low-level nuclear waste disposal facility in my legislative district when I was a member of that body in 1981, and I understand where they are coming from.

But I think it is important for the other Members of this body to understand that, though six Texans out of 31 oppose this compact, that this compact really is not about the selection of the site. In fact, under this compact, the State of Texas and the Low-Level Nuclear Waste Disposal Authority could select any site. It just so happens that the Sierra Blanca site is the site now under consideration. But that is a matter that will remain under the control of the Low-Level Nuclear Waste Disposal Authority in Texas.

Mr. Speaker, I want to share a little bit of history. The State of Texas created a Low-Level Nuclear Waste Disposal Authority in our State in 1981 when I was a freshman member of the Texas House. We did it because we were having an increasing problem at our medical facilities and with our utilities and finding out where we could permanently dispose of low-level waste. What we decided to do was create a State commission to select a permanent site. It was the right thing to do. It was approved unanimously by the legislature.

Later, the Congress came along and created a statute that said that States could form compacts, compacts for the purpose of uniting States together that would store their waste in one site facility, a means whereby a State like Texas can prevent out-of-State waste from coming into Texas.

This Congress passed that bill, and 41 States have already taken advantage of it, and nine compacts have been ratified by this Congress. Texas, Vermont, and Maine come today asking that they be the tenth compact to be approved. The Texas legislature overwhelmingly approved this compact.

Mr. Speaker, I urge the Members of this body to join with the majority of the members of the Texas delegation and allow Texas, Vermont, and Maine to be the tenth compact to be approved by this Congress. This is an issue that will not go away. The low-level nuclear waste that is building up in temporary stockpiles in Texas will not go away. We need this compact, and we urge our colleagues to support us in this effort.

Mr. REYES. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, with all deference to the gentleman from east Texas, he made the statement that this is an issue that will not go away. He is absolutely right. The issue will not go away. But with the decision that we are making here today, we expect that a whole community can potentially go away.

We have been called crazy because we are in opposition to this. I think it would be irresponsible not to oppose a proposal that could affect a whole area, a whole region. It could affect up to 5 million people that utilize the Rio Grande River as a primary water source. It could affect the underground water tables. It could conceivably affect a whole region of our border area.

We have been told that to send it back would be to delay it. Well, I would ask my colleagues, with all due respect, what do they expect us to do when we have got the consequences facing us that could potentially affect future generations of west Texans in a way that we at this point cannot even imagine?

I ask my colleagues who are talking about what a good deal it is, how it can be very safe, how it has been well thought out, how it will be well packaged, if it is so good, why do they not take it? Why do they not put it in their district? Why do they not put it in a place where the people want it?

Mr. Speaker, the people of Sierra Blanca, the people of El Paso, the people along the border in our region simply do not want it. We have been told that Governor Richards and Governor Bush want it. Let them hear loud and clear that in this area, we do not want it. We do not need it. And we should not have it.

Mr. Speaker, I rise in opposition to the conference report on H.R. 629. As I mentioned earlier, I do not believe we should be considering a conference report that ignores the will of the House and Senate. I do not believe we should be considering a conference report that has stripped a key provision from the bill that both the House and Senate had adopted. Unlike both the House and Senate passed measures, the conference report does not include a provision that would restrict waste at the selected site of the states of Texas, Maine and Vermont.

As far as I am concerned, that's reason enough not to move this bill forward.

But, if you need another reason to vote against this conference report, I'd like to enter into the RECORD an article printed in The Dallas Morning News on July 8.

As you can see, two Texas hearing examiners recommended against licensing a low-level nuclear waste dump in the far West Texas community of Sierra Blanca. The hearing examiners explained that the "State Low-Level Radioactive Waste Disposal Authority did not adequately determine whether a fault under the site posed an environmental hazard."

The examiners further stated that the Authority did not adequately address how the proposed facility might harm the quality of life in the area.

These findings are further evidence that the proposed radioactive waste dump is a potential environmental hazard which has not undergone adequate study by various state agencies. If Texas state regulators don't support the Sierra Blanca site, why should you?

I don't care how many times supporters of this bill say that a vote for H.R. 629 is not a vote for the Sierra Blanca site—it is. They know it, I know it, the people of Sierra Blanca know it and you know it. If H.R. 629 becomes law, it will endanger the safety and welfare of the community and the people who live there.

If you need still another reason to oppose this conference report, I want to enter into the RECORD a copy of the resolution that unanimously passed the Mexican Congress. This resolution was passed on April 30 of this year.

Let me read some of it to you. "The Mexican Congress declares that the proposed project of Sierra Blanca, Texas, like other proposed disposal facilities on the Mexican border, puts at risk the health of the population in the border zone and constitutes an aggression to our national dignity."

"The position that the Mexican government assumes with relation to the proposed disposal facility of Sierra Blanca will constitute a clear precedent that can be invoked relating to disposal facilities that are planned in the future within 100 kilometers along the common border."

"This represents high potential risk of contamination for the Rio Bravo and the underground aquifers, which could cause a negative impact for the health of the population, the environment, and the natural resources on both sides of the border."

"The construction of the disposal facility in dispute would violate the spirit of . . . international law and would implicate the noncompliance of the commitments assumed by the United States after the signature of the 1983 Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area—better known as the La Paz Agreement—particularly Article 2 of the Agreement, which states: 'The Parties undertake to the fullest extent practical to adopt the appropriate measures to prevent, reduce, and eliminate sources of pollution in their respective territory which affect the border area of the other.'"

The Agreement also "commits the Parties to cooperate in reciprocity, and mutual benefit. In complying with these dispositions, the United States Government must take measures in this case with the appropriate authorities, in order that the Sierra Blanca project not be authorized."

The Resolution further states, "due to the adverse effects that this project could have on the health of [the Mexican] population and the natural resources, we present the following Pronouncement:

"We reiterate our complete rejection of the project which is the construction and operation of the nuclear waste disposal facility that the Government of Texas plans to build in Sierra Blanca, Texas, and express our disagreement, concern, and unconformity with the policy adopted and followed up to now by the Government of the United States, that favors the construction of disposal facilities on the southern border with Mexico, without taking into account the potential negative impacts that this policy can have regarding human health and the environment in the communities located on both sides of the border."

The Mexican Congress asks the "House of Representatives of the United States to vote against the Compact Law that authorizes the disposal of wastes between the states of Texas, Maine, and Vermont in virtue that its approval signifies a relevant approval for the construction and management of the disposal facility of radioactive wastes in Sierra Blanca, Texas and represents a violation of the spirit of the La Paz Agreement."

Mr. Speaker, I urge all of my colleagues to listen to the Mexican Congress and to the people of far West Texas. Vote against this conference report because it's the right thing to do.

Mr. Speaker, I include the following material for the RECORD:

[From the Dallas Morning News]

EXAMINERS RECOMMEND NO LICENSE FOR PROPOSED NUCLEAR-WASTE DUMP—STATE AGENCY HASN'T FULLY EXPLORED POSSIBLE HAZARDS OF W. TEXAS FACILITY, THEY SAY

(By George Kuempel)

AUSTIN.—In a victory for environmental groups, two state hearing examiners Tuesday recommended against licensing a low-level nuclear-waste dump in far West Texas.

The recommendation was a setback for Gov. George W. Bush, who has tentatively backed the proposed dump, near Sierra Blanca just 18 miles from the Rio Grande.

The hearing examiners found that the State Low-Level Radioactive Waste Disposal Authority, which wants to build the facility, did not adequately determine whether a fault under the proposed site posed an environmental hazard.

Kerry Sullivan and Mike Rogan of the State Office of Administrative Hearings also said the agency failed to adequately address how the proposed facility might harm the quality of life in the area.

The examiners' report was forwarded to the three-member Texas Natural Resource Conservation Commission.

The commission staff already has recommended that a license be issued, but the final decision rests with the commissioners, all of whom were appointed by Mr. Bush.

Their decision is not expected soon.

Congress is considering a proposed pact favored by Mr. Bush that would allow for low-level nuclear waste from Texas, Vermont and Maine to be buried at the site.

Mr. Bush said in a written statement that he was "troubled" by the examiners' findings.

"I have said all along that if the site is not proven safe, I will not support it," he said. "I urge the Texas Natural Resource Conservation Commission to thoroughly review this recommendation and the facts and to make their decision based on sound science and the health and safety of Texans."

Democrat Garry Mauro, who is running against Mr. Bush in this year's governor's race, praised the examiners' ruling.

"I hope Governor Bush calls on his three [TNRCC] appointees to immediately reject this permit," he said.

Mr. Mauro said that he is pleased the administrative judges also raised the "specter of environmental racism" but that he is sorry they didn't address Mexico's concerns about a possible treaty violation.

Critics have said Sierra Blanca was chosen because of its largely poor Hispanic population, an allegation that supporters have disputed.

Mexican lawmakers visited Austin last month to protest the dump, saying it would violate an agreement between the nations to curb pollution along the border.

Mr. Sullivan and Mr. Rogan spent three months hearing from both sides on the issue.

Dump opponents said they were pleased with the findings.

"Politically and legally, it's a victory," said Bill Addington, a merchant in Sierra Blanca, a town of 700 in Hudspeth County, about 90 miles southeast of El Paso. "The authority has not done its job, even with all the money and resources they have at their disposal."

But Mr. Addington also was cautious because the final decision on the dump license rests with the TNRCC, which is not bound by the hearings officers' recommendation.

The dump, which would be built on a sprawling ranch just outside the rural town, is intended to hold radoactive waste primarily from the state's utilities hospitals and universities.

It spawned opposition from critics in West Texas and Mexico, who fear that it would contaminate precious groundwater reserves.

Unofficial Translation of Pronouncements passed by the Mexican National Chamber of Deputies (Camara de Diputados) and Senate in opposition to the proposed nuclear waste disposal facility in Sierra Blanca, Texas. Translation by Richard Boren

The Pronouncement was approved unanimously by the Chamber of Deputies on April 27, 1998 and by the Senate on April 30, 1998. The Senate and Chamber of Deputies Pronouncements are nearly identical. Following is the translation of the Senate Pronouncement.

Pronouncement of the United Commissions of Environment and Natural Resources, Border Affairs, and Foreign Relations of the Senate of the Republic Regarding the Nuclear Waste Disposal Facility That is Planned in Sierra Blanca, Texas

Honorable Assembly: The United Commissions of Environment and Natural Resources, Border Affairs, and Foreign Relations of the Senate was given for their study and analysis the point of agreement passed by the Plenary of the Permanent Commission of the Honorable Congress of the Union on February 11, 1998, that is transcribed as follows:

First—That the Mexican Congress, through the Permanent Commission, declares that the proposed project of Sierra Blanca, Texas, like other proposed disposal facilities on the Mexican border, puts at risk the health of the population in the border zone and constitutes an aggression to the national dignity;

Second—That the United Commissions of Ecology and Environment, Border Affairs, and Foreign Relations of the House of Deputies and the Senate, meet with the Intersectarial Group made up of the Department of Foreign Relations, Department of Energy, Environment, Natural Resources and Fishing, and the National Commission of Nuclear Safety and Safeguarding, in order to analyze in depth the consequences for Mexico of the installation of the radioactive waste disposal facility in Sierra Blanca and of the disposal facilities of toxic and radioactive wastes in the border zone of the country with the United States of America, with the purpose of carrying out the pronouncements and necessary measures to impede their installation.

In order to proceed and comply with the mandate granted by the Plenary of the Permanent Commission of the Honorable Congress of the Union, the members of the United Commissions of Environment and Natural Resources, Border Affairs, and Foreign Relations of the Chamber of Senators, have analyzed existing documentation and studies about the radioactive waste disposal facility that is planned in Sierra Blanca, Texas, meeting on various occasions to design a political action strategy. Likewise a work session was held with the intersectarial group, with the purpose of integrating the present Pronouncement.

Considering That: (a) the communities on both sides of the border, diverse non-governmental organizations, political organizations, and public officials from Mexico and the United States of America have manifested their total opposition to the construction of the nuclear waste disposal facility that the government of the State of Texas plans to install in the community of Sierra Blanca, Texas, at a distance of approximately 30 kilometers from the Mexican border;

(b) the administrative authorities of the State of Texas convened public hearings with the purpose of hearing the opinions of interested sectors regarding the possible construction of the disposal facility in Sierra Blanca;

(c) the position that the Mexican government assumes with relation to the proposed disposal facility of Sierra Blanca will constitute a clear precedent that can be invoked relating to disposal facilities that are planned in the future within 100 kilometers along the common border;

(d) the intersectarial group—created in 1995 by the Federal Executive Power with the purpose of defining the policy of the Mexican government regarding disposal facilities in the border zone and to continue to review the projects that are planned in the states of the southern United States—wrote a preliminary study regarding the disposal facility being questioned;

(e) the United Commissions have received diverse studies that demonstrate the existence of risks in the zone, not only the seismic activity of the terrain, but also due to the meteorological and hydro-geological registers observed in the chosen site. This represents a high potential risk of contamination for the Rio Bravo and the underground aquifers, which could cause a negative impact for the health of the population, the environment, and the natural resources on both sides of the border;

(f) other adequate sites exist in the United States for the installation of radioactive waste disposal facilities, located outside of the border zone of 100 kilometers which shows that the chosen site in Sierra Blanca doesn't represent the only option for the proposed project;

(g) the radioactive wastes that are planned for disposal in Sierra Blanca, next to the Mexican border, don't only include wastes generated in the State of Texas, but also it is foreseen to deposit wastes from the states of Vermont and Maine, located on the border between United States and Canada;

(h) the construction of the disposal facility in dispute would violate the spirit of diverse precepts of international law and would implicate the noncompliance of the commitments assumed by the United States after the signature of the Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area (La Paz Agreement), particularly Article 2 of the Agreement approved in 1983, which states: "The Parties undertake to the fullest extent practical to adopt the appropriate measures to prevent, reduce, and eliminate sources of pollution in their respective territory which affect the border area of the other." In like manner, the Agreement commits the Parties to cooperate in the field of environmental protection in the border zone, on the basis of equality, reciprocity, and mutual benefit. In complying with these dispositions, the United States Government must take measures in this case with the appropriate authorities, in order that the project not be authorized.

On the basis of what has already been stated and being founded in articles 58 and 59 of the Rules for the Interior Government of the General Congress of the United Mexican States, just as for dealing with a matter that merits an urgent resolution of the Honorable Senate of the Republic, due to the adverse effects that this project could have on the health of our population and the natural resources, we present the following Pronouncement.

Pronouncement

First—the Senate of the Republic reiterates its complete rejection of the project which is the construction and operation of the nuclear waste disposal facility that the Government of Texas plans to build in Sierra Blanca, Texas, and expresses its disagreement, concern, and inconformity with the policy adopted and followed up to now by the government of the United States, that favors the construction of disposal facilities on the southern border with Mexico, without taking into account the potential negative impacts that this policy can have regarding human health and the environment in the communities located on both sides of the border.

Second—The Senate of the Republic has carried out an evaluation of the available information about this disposal project, whose result demonstrates that its operation will bring with it potential adverse impacts. Based on this, being aware that the administrative authorities in the State of Texas have convened public hearings with the intention of analyzing the implications derived from the construction of said project, it is appropriate that the Mexican Government reiterate their concern and inconformity in light of the possibility that the project will be authorized.

Third—The Senate of the Republic sets forth to the Department of Foreign Relations to consider the formulation of the following proposals to the United States Government:

(a) Manifest the disagreement of the Senate of the Republic regarding the policy of the United States that favors the installation of nuclear and toxic waste disposal facilities in the border area.

(b) Insist in the possibility of relocating the Sierra Blanca project to a site located outside of the 100 kilometer common border zone.

(c) Manifest the wishes of the Senate of the Republic to the members of the House of Representatives of the United States so that they vote against the Compact Law that authorizes the disposal of wastes between the states of Texas, Maine, and Vermont in virtue that its approval signifies a relevant approval for the construction and the management of the disposal facility of radioactive wastes in Sierra Blanca, Texas and represents a violation of the spirit of the La Paz Agreement.

(d) Include the subject of the disposal facilities for radioactive and toxic wastes in the next meeting of the Mexico-United States Bi-national Commission in order to:

I. design criteria for the installation and operation of disposal facilities in the border zone of 100 kilometers within the framework of the La Paz Agreement and the Border 21 Program, in order to include the possibility of establishing a reciprocal moratorium on the installation of disposal facilities for radioactive waste inside the 100 kilometer border zone,

II. establish that a group of experts from both countries analyze the impacts of the proposed disposal facilities in the 100 kilometer border zone.

Fourth—The Senate of the Republic proposes:

(a) To inform the Governors and municipal mayors of the states of the Republic of Mexico in the border zone with the United States about the current status of the Sierra Blanca project and other disposal projects that are being planned in the 100 kilometer border zone with the objective of adopting any measures that are considered opportune.

(b) To transmit existing information about the Sierra Blanca project to the local legislatures of the border states of the Mexican Republic with the objective of making this information available to them so they can adopt any measures which they consider appropriate.

(c) That a multi-party commission of senators be formed with the purpose of meeting with the governor of Texas, George Bush, with the purpose of telling him that the Mexican Senate believes that the Sierra Blanca project violates the spirit of the commitments made with the signing of the La Paz Agreement and that are linked to the state which he governs and which don't contribute to the strengthening of the good relations of friendship and neighborliness that must prevail between both countries.

Fifth—That the Senate of the Republic proposes including this matter in the agenda of the next interparliamentary meeting between Mexico and the United States.

Sixth—The Senate of the Republic expresses that this case constitutes a valuable opportunity for both countries to demonstrate their good will, responsibility, and capacity for cooperating in dealing with similar matters of common interest.

Seventh—So that the public opinion has greater knowledge on this subject, it is suggested to prepare as soon as possible a document that can be disseminated through the national and international media, in order to express the nature of this problem and the current status of the project in dispute.

Approved in the Honorable Chambers of the Senators April 30, 1998.

Mr. Speaker, I want to make sure that every member of this House is aware of the substantial opposition to this compact. I want to read you a list of those cities and counties that have passed resolutions opposing it:

El Paso County, Presidio County, Jeff Davis County, Culberson County, Val Verde County, Webb County, Starr County, Hidalgo County, Cameron County, Zapata County, Reeves County, Brewster County, Ward County, Sutton County, Kimble County, Kinney County, Crockett County, Pecos County, Maverick County, Ector County, City of Austin, City of Del Rio, City of Bracketville, City of Marfa, City of Van Horn, City of El Paso, City of Alpine, Horizon City, City of Ft. Stockton, City of Laredo, City of Eagle Pass, City of Presidio, City of McAllen, City Council of Juarez.

Mexican State Congress of Coahuila, Mexican State Congress of Chihuahua, Mexican State Congress of Nuervo Leon, Mexican National Chamber of Deputies, Mexican National Senate, Mexican State Congress of Sonora, Mexican State Congress of Tamaulipas.

Mr. Speaker, I also want to enter into the RECORD a letter dated yesterday from the League of United Latin American Citizens. LULAC is asking all members of this House to vote NO on the conference report for H.R. 629.

As most of you know, LULAC is the oldest and largest Hispanic civil rights organization in the nation. Let me read part of their letter to you:

"The selection of a poor Mexican-American community (which is already the site of one of the largest sewage sludge projects in the country) brings to mind serious considerations of environmental justice . . . The decision Congress now faces on this matter cannot be made in a vacuum, ignoring serious environmental justice questions that have been raised about the site selection process. These unjust procedures are in apparent contradiction of the 1994 Executive Order that firmly upheld environmental justice."

"LULAC would caution Congress not to be complicit in what has become, whether intentional or not, a repulsive trend in this country of setting the most hazardous and undesirable facilities in poor, politically powerless communities with high percentages of people of color. Only a vote against the Texas Maine Vermont Radioactive Waste Compact conference committee report will ensure that this trend is not extended into Hudspeth County Texas."

I urge all of my colleagues to follow the advice of LULAC and vote against this conference report.

LEAGUE OF UNITED LATIN
AMERICAN CITIZENS,
Washington, DC, July 28, 1998.

DEAR REPRESENTATIVE: On behalf of the League of United Latin American Citizens (LULAC), I urge you to vote No on the Conference Committee Report for The Texas Maine Vermont Radioactive Waste Compact. LULAC is the oldest and largest Hispanic civil rights organization in the nation. Since 1929, we have been providing a voice to our community throughout the U.S. and Puerto Rico. A major concern of ours is the proposed site of a nuclear waste dump near Sierra Blanca in Texas.

As you know, The Compact proposes the construction of shallow, unlined soil trenches for the burial of "low-level" radioactive waste. LULAC strongly opposes this Compact. Serious issues of environmental justice and blatant discrimination arise when one considers this bill. One should not only vote against this proposal because of serious environmental and health matters, but also because of the racial discrimination practiced against the predominantly Mexican-American population of the area.

Just this month, two Texas administrative law judges recommended the Sierra Blanca compact dump license be denied because of severe geological problems and unanswered questions about environmental racism. If Congress ignores these problems and approves the compact, thus funding the dump, tremendous pressure will be placed on the political appointees at the Texas Natural Resource Conservation Commission to approve the license despite the judges' recommendation to deny it.

The selection of a poor Mexican-American community (which is already the site of one of the largest sewage sludge projects in the country) brings to mind serious considerations of environmental justice. Although the bill does not expressly designate Hudspeth County as the location for the site, the Faskin Ranch near Sierra Blanca has clearly been earmarked and a draft license has been approved. The decision Congress now faces on this matter cannot be made in a vacuum, ignoring serious environmental justice questions that have been raised about the site selection process. These unjust procedures are in apparent contradiction of the 1994 Executive Order that firmly upheld environmental justice.

There are also matters of international relevance that must be considered. The dumping of nuclear waste near Sierra Blanca, approximately 16 miles from the Rio Grande, would violate that 1983 La Paz Agreement between the U.S. and Mexico. With this agreement, both nations committed their efforts to prevent, reduce and eliminate pollution in the U.S./Mexico border area. The proposed site is well within the "border area" of 63 miles on each side of the border. The government of Mexico has already expressed its strong opposition to the project in communications to the U.S. Department of State. LULAC .would caution Congress not to be complicit in what has become, whether intentional or not, a repulsive trend in this country of setting the most hazardous and undesirable facilities in poor, politically powerless communities with high percentages of people of color. Only a vote against The Texas Maine Vermont Radioactive Waste Compact Conference Committee Report will ensure that this trend is not extended into Hudspeth County.

Thank you for your consideration of this issue. If you need more information please call Cuauhtemoc Figueroa, Director of Policy and Communications at (202) 408–0060.

Sincerely,

RICK DOVALINA,
LULAC National President.

Mr. REYES. Mr. Speaker, I reserve the balance of my time.

Mr. BONILLA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I first of all would like to thank the gentleman from Colorado (Chairman SCHAEFER) and the gentleman from Texas (Chairman BARTON) and the gentleman from Texas (Mr. HALL), my friend, who were speaking in support of this bill today. They have been most gracious in allowing those who have strong feelings about this conference report to work with them very closely, and I just wanted to express my appreciation for that.

The whole idea of having compacts is one that I have no problem with, and I do not think Members generally have a problem with the process of States getting together to decide where waste is going to go. Of course, then, as I stated strongly over and over again for many years now, the problem that I have and other Members who have nearby congressional areas in Texas have, is the threat to the environment in this area, the unstable geology, and also the threat to the economic future of these communities.

Quite simply speaking, they do not want it there. Again, I have 20 counties and 13 cities and municipalities on record as opposing this conference report and this whole idea. There is a county in Texas that is very strongly in favor of having this kind of dump in their community and I would gladly work with that community to try to have this dump moved to that area in the future, if that is even a possibility.

Though the whole idea of having places to put nuclear waste, low-level radioactive waste is an issue that I understand is very necessary, I know that my colleagues understand how strongly at this point my people feel about this issue, as do I.

There is another issue I want to bring up as well. All of us in Texas are going through an incredible drought at this point. The agriculture community is suffering. Local governments are implementing water rationing in some areas. I want to emphasize above all that now should be the time that we understand, as Texans, that any potential threat to water supplies in any community in Texas is something that we should all be concerned about.

I do not think any of us have anticipated being at this point in Texas right now with the shortage of water and the unbearable heat that is upon us every day at this time in Texas with no end in sight. So I would appeal to my colleagues in other areas of the State and other parts of the Nation suffering from droughts and heat waves that they could identify with the needs that could occur if the water supplies were threatened by a dump like this in the future.

So, I thank my colleagues for working with me on this issue and I ask them, I plead for every citizen in my congressional area who has ever pleaded with me to make their case before this body. I hope that I have made it and I hope that we have had an impact on those who are considering opposing this conference report. The people of West Texas need all the help they can get.

□ 1245

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HALL).

Mr. HALL of Texas. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Texas (Mr. HALL) is recognized for 2 minutes and 30 seconds.

Mr. HALL of Texas. Mr. Speaker, I thank the gentleman for yielding me the time.

I could not close without sending accolades toward the gentleman from Texas (Mr. BONILLA), the gentleman from Texas (Mr. REYES), the gentleman from Texas (Mr. RODRIQUEZ), the gentleman from Texas (Mr. DOGGETT). They have done a good job. They have been an honorable opposition, and they have been an effective opposition. Because no matter how the vote goes, I think the vote is going to go favorable on this, as it has before, but regardless of the outcome of this vote, they have made it a better compact.

Their opposition has spawned article 3 where it provides a way to amend the contract or to protect the depository State if the commission, in its wisdom, decides not to allow any other waste to come into the State. Then that is set up as to how that is done. There are 6 voting members. The host State has 6 voting Members. Each of the other two States have one. So the State of Texas, where it will be deposited, has the right to determine whether or not any other waste comes into the State.

We have to have faith in those who are going to represent the State and the local bodies in the future. I have that faith. I think it is going to work. On local support, on how good it has been, everybody out in Sierra Blanca and Hudspeth County and all of west Texas does not oppose this compact. Actually, there has been some signatures by a lot of adult citizens from Sierra Blanca asking for it. It has not been without meetings and keeping them advised. They have had monthly meetings out there, since 1992, in Hudspeth County to address the concerns, the concerns that are there. Perhaps this came about because of the insistence of the gentleman from Texas (Mr. REYES) that they be kept advised of it.

Benefits to Sierra Blanca, the host county has received over $2 million in benefits payable through housing, additional housing, medical services and others. They are going to receive $5 million from the other two States. They are going to receive a half a million dollars per year after start-up. This brings prosperity, it brings jobs. It brings opportunity. That brings dignity to this part of the State.

I think, as has been said before, the relations to earthquakes and all these others things, there is protection against that.

I urge the passage of this amendment.

Mr. REYES. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I would close by simply emphasizing to my colleagues 5 points.

First, when we talk about this radioactive waste as being low level, that is good for public relations purposes but not for health purposes. The radioactive waste that will be buried at Sierra Blanca will be deadly to human beings for longer than all recorded human history. It is extraordinarily lethal and makes this debate all the more important.

Number two, the Sierra Blanca site was not chosen because of its suitability but solely because of its vulnerability, its political vulnerability, which is playing out here today. It was not the best site for a storage facility. It was the easiest site, because it is a largely poor, Hispanic area.

That is one of the reasons that the Texas State conference of the NAACP this year called this "environmental racism." It is one of the reasons that the League of Conservation Voters has spotlighted this as one of the key anti-environmental votes of this Congress.

Number three, we do not need this dump. It is great public relations to talk about slowing scientific research or the health isotopes that are vital to the future of our health, but that has absolutely nothing to do with what is really at stake in this debate. We have heard much about all the other compacts that have already been approved. What our colleagues have not pointed out is that of those 9 compacts that Congress has approved, not one of them has secured a license agreement, not one. And two of them have actually stopped looking for a site. This leads to the conclusion that if they sought those compacts, but they are not doing anything with them, why should we approve another one in Texas?

Indeed, as the most recent report on radioactive waste storage by Dr. F. Gregory Hayden has pointed out, "There is currently an excess capacity for this type of disposal in the United States without any change to current law or practice."

That leads to the fourth and very important point, that the safeguards that are in this compact, without the amendments that have been stripped out, are meaningless.

My colleague, the gentleman from Texas (Mr. HALL) from Rockwall, is always eloquent, and he has been very candid in this debate. He has said it is not the fellow with the biggest truck that is going to be decisive here. I agree.

My concern is it will be determined by the place with the biggest dump. We all know Texas is bigger than most any other place, and we are about to have one heck of a big dump out there in west Texas. It will become the dumping site for all the people from those other places around the country because, as Mr. HALL has quite appropriately noted, and I quote him from this debate today, "It might reduce the operating cost."

The economic factors for those special interests, who want a cheaper place to put their radioactive garbage and found a convenient place among the poor people of Sierra Blanca, who now will have no adequate safeguards.

To suggest that the compact limits it to 20 percent from out of State is misleading. If we read the fine print, it is 20 percent that could come from Maine and Vermont, but there is no limitation that I see with regard to the rest of the States.

Finally, my colleague, the gentleman from Texas (Mr. BARTON) has been fair and direct with me. He told me on this floor that he would check with the governor. That is exactly what he did.

My final point is that without the blessing of Governor George Bush, we would be limited to three States. Governor Bush said one thing in Texas; he did another in Washington. That is most unfortunate for Texas.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 3 minutes the gentleman from Texas (Mr. BARTON), the author of the bill.

Mr. BARTON of Texas. Mr. Speaker, I will try to go through this very quickly. I believe my good friend from Austin was the president of the student body at the University of Texas. He obviously has a golden throat and is able to weave words very carefully. I was just a poor engineering student at Texas A&M trying to see how to use a slide rule so I do not claim that I am as elequent as he is.

I did try to list his 5 points down as he enumerated them. He talked about waste being there for all mankind. Eighty-five percent of the waste is going to decay to harmless levels within 30 years. Ninety-eight percent within harmless levels within 100 years. The canisters are designed to last 500 years. I do not think there is any question but there will not be any danger if we accept this waste on this site.

He talked about site location. That has been determined by the State of Texas, not by the U.S. Congress.

He talked about the administrative law judge saying that we do not really need a site. Actually the administrative law judge said that there is no other acceptable site. The waste that is being generated now at 97 locations in Texas and several in Vermont and Maine is being stored on site. The administrative law judge says that is simply not acceptable. He talked about the safeguards being meaningless. Again, the administrative law judge, in their application review, has said that we should limit the amount of waste stored to no more than 1 million curies.

The gentleman from Texas (Mr. HALL) has pointed out there are going to be 6 commissioners from Texas and one from Vermont and Maine. They will have the safeguards of the populations of their States high in their mind.

I guess to close I would simply state that we have debated this issue several times. It passed the House in October, 309 to 107. Hopefully it will pass again with a margin that large in the very next few minutes.

Let us do the right thing. Let us let Texas, Vermont and Maine adopt this compact, and let them go about the business of safeguarding the low-level waste that these three States generate.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think we have heard eloquent debate here. I do have to say, I feel like a little bit of an orphan here between Maine and Vermont and Texas, being from the State of Colorado, but I think what our committee has done is the right thing, to move this legislation, give it a chance to rise or fall on its merits here on the floor by a democratic process.

I think it is an important thing also to notice, I mentioned before, if we do nothing, then Texas may well have to be taking waste from a number of States, not just in addition to Maine and Vermont.

I thank the gentleman from Texas and the other gentlemen from Texas. And I would also like to say to the gentleman from Texas (Mr. BONILLA), his efforts on this have been admirable. We have worked real hard on this one over a period of time. I think that he has done a terrific job on this.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the Texas Low-Level Radioactive Waste Disposal Compact going to conference. This agreement will allow the States of Texas, Maine and Vermont to enter into an agreement to dispose of Low-Level Radioactive Waste produced in their states.

The Congressional consideration of this bill was thorough and thoughtful and we must at this time allow a contractual agreement to be developed by Texas, Maine, and Vermont for the cooperative resolution of the problem of disposing of low-level radioactive waste.

The Commerce Clause found in Article I, Section 8, Clause 3 of the United States Constitution provides that Congress—not the States—has the power to regulate commerce among states. * * * This clause has been interpreted by the courts to restrict a state's ability to regulate in a manner that would be an impermissible burden or discriminate against interstate commerce.

Under this law, without the Compact's protection, the site if opened in Texas would be forced to take Low-Level Radioactive Waste from all fifty states.

Through legislative action in 1980 and 1985, the Congress encouraged states to form compacts to provide for new low-level radioactive waste disposal. Since 1985, 9 interstate low-level radioactive waste compacts have been approved by Congress, encompassing 41 states.

All radioactive materials lose radioactivity at predictable rates. Therefore, agreements are necessary for the proper disposal and storage of low-level radioactive waste until it reaches harmless levels at the end of 100 years.

This compact would not designate a particular site, but only the agreement among the participating states for the development of a low-level radioactive facility.

My position on any site location, which I have expressed in the past, is that public hearings must and should be part of the process in order to give concerned citizens an opportunity to express their views on the site and that no site be selected that presents an undue burden on people with low incomes. I will continue to work with my Texas congressional colleagues who seek to resolve this questionable process that has allowed a low-income minority area to be selected for the site in Texas.

Before any final decision of location is made these hearings should allow for proper comment and evaluation of those comments to take place. It is my understanding that the Texas state planners are committed to as public a process as possible.

The Texas Compact specifies that commercial low-level radioactive waste generated in the party states of Texas, Maine, and Vermont will be accepted at the Texas Low-Level Radioactive Waste Disposal Facility. "Low-Level radioactive waste is defined the same way as the Low-Level Radioactive Waste Policy Amendments Act of 1985, Public Law 99–240.

With the needs for storage facilities constantly increasing with the number of nuclear research projects and medical applications which use radioactive materials in their treatment of patients with serious illnesses this Compact is needed.

Commercial low-level radioactive waste typically consists of wastes from operations and decommissioning of nuclear power plants, hospitals, research laboratories, industries, and universities. Typical low level radioactive waste is trash-like materials consisting of metals, paper, plastics, and construction materials that are contaminated with low levels of radioactive materials.

A compact is a serious matter, and a compact regarding the disposal or storage of Low-Level Radioactive Waste is extremely important. This compact will be managed by the participating states and especially by the State of Texas with the greatest care and professionalism possible.

I urge my colleagues to support this compact.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. REYES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 117, not voting 12, as follows:

[Roll No. 344]

YEAS—305

Aderholt
Allen
Archer
Armey
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman

Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bono
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Carson
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
DeGette
DeLay
Deutsch
Dickey
Dicks
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Everett
Ewing
Fawell
Fazio
Foley
Fossella
Fowler
Fox
Frank (MA)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Oxley
Packard
Parker
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skaggs
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Stump
Stupak
Sununu
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Vento
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Yates
Young (AK)

NAYS—117

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Becerra
Berman
Blagojevich
Bonilla
Bonior
Brady (PA)
Capps
Castle
Conyers
Cummings
Davis (IL)
Deal
DeFazio
Delahunt
DeLauro
Diaz-Balart
Dixon
Doggett
Doyle
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Filner
Forbes
Ford
Franks (NJ)
Furse
Gibbons
Gutierrez
Hastings (FL)
Hinchey
Holden
Hooley
Jackson (IL)
Jefferson
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kucinich
LaHood
Lantos
Lee
Lewis (GA)
LoBiondo
Lofgren
Maloney (NY)
Markey
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Mink
Morella
Nadler
Nethercutt
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Pombo
Rahall
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sanchez
Schumer
Sensenbrenner
Shays
Sherman
Skeen
Slaughter
Smith (NJ)
Stabenow
Stark
Strickland
Thompson
Tierney
Torres
Towns
Velazquez
Visclosky
Waters
Watt (NC)
Waxman
Weller
Wexler
Weygand
Woolsey

NOT VOTING—12

Clayton
Etheridge
Gonzalez
Granger
Hinojosa
Jenkins
McHale
Millender-McDonald
Moakley
Price (NC)
Talent
Young (FL)

□ 1317

Ms. KILPATRICK and Messrs. LAHOOD, CONYERS, PAYNE, WATT of North Carolina and FORD changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER ON THURSDAY, JULY 30, 1998, CONSIDERATION OF HOUSE JOINT RESOLUTION 120, DISAPPROVING EXTENSION OF WAIVER AUTHORITY WITH RESPECT TO VIETNAM

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that it be in order at any time on the legislative day of Thursday, July 30, 1998, to consider in the House the joint resolution (H.J. Res. 120) disapproving the extension of the waiver of authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam; that the joint resolution be considered as read for amendment; that all points of order against the joint resolution and against its consideration be waived; that the joint resolution be debatable for 1 hour equally divided and controlled by the chairman of the Committee on Ways and Means (in opposition to the joint resolution) and the gentlewoman from California (Ms. LOFGREN) or her designee in support of the joint resolution; that pursuant to sections 152 and 153 of the Trade Act, the previous question be considered as ordered on the joint resolution to final passage without intervening motion; and that the provisions of sections 152 and 153 of the Trade Act of 1974 shall not otherwise apply to any joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam for the remainder of the second session of the 105th Congress.

Mr. Speaker, it is the intention of this unanimous consent request that the majority manager in opposition to the joint resolution, who will probably be the gentleman from Illinois (Mr. CRANE), will yield half of his time to a majority Member in support of the joint resolution; that will be the gentleman from California (Mr. ROHRABACHER); and that the minority Member in support of the joint resolution, the gentlewoman from California (Ms. LOFGREN) on the Democrat side of the aisle yield half of her time to a minority Member in opposition to the joint resolution, and that will probably be the gentleman from California (Mr. MATSUI).

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the further consideration of the bill, H.R. 4194, and that I be permitted to include tables, charts and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 501 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4194.

□ 1320

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, with Mr. COMBEST in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday July 23, 1998, the request for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. ROEMER) had been postponed and the bill was open from page 72, line 3, through page 72, line 16.

Are there further amendments to this portion of the bill?

If not, the Clerk will read.

The Clerk read as follows:

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and technology research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,541,600,000, to remain available until September 30, 2000.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed 33 for replacement only) and hire of passenger motor vehicles; $2,458,600,000, to remain available until September 30, 2000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $19,000,000.

ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2001.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1999 and may be used to enter into contracts for training, investigations, costs associated with personnel relocation, and for other services, to be provided during the next fiscal year.

NASA shall develop a revised appropriation structure for submission in the Fiscal Year 2000 budget request consisting of two basic appropriations (the Human Space Flight Appropriation and the Science, Aeronautics and Technology Appropriation) with a separate (third) appropriation for the Office of Inspector General. The appropriations shall each include the planned full costs (direct and indirect costs) of NASA's related activities and allow NASA to shift civil service salaries, benefits and support between and/or among appropriations or accounts, as required, for the safe, timely, and successful accomplishment of NASA missions.

None of the funds made available by this Act may be used for feasibility studies for, or construction or procurement of satellite hardware for, a mission to a region of space identified as an Earth LaGrange point, other than for the Solar and Heliospheric Observatory (SOHO), Advanced Composition Explorer (ACE), or Genesis mission. Such funds shall also not be used for the addition of an Earth-observing payload to any of the missions named in the preceding sentence.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1999, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795), shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1999 shall not exceed $176,000: *Provided further*, That $2,000,000, together with amounts of principal and interest on loans repaid, to be available until expended, is available for loans to community development credit unions.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,745,000,000, of which not to exceed $244,960,000, shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 2000: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That none of the funds appropriated or otherwise made available to the National Science Foundation in this or any prior Act may be obligated or expended by the National Science Foundation to enter into or extend a grant, contract, or cooperative agreement for the support of administering the domain name and numbering system of the Internet after September 30, 1998.

AMENDMENT NO. 26 OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 offered by Mr. ROYCE: PAGE 76, LINE 24 STRIKE "2,745,000,000" AND INSERT "2,545,700,000."

Page 90, line 18 strike ", and $70,000,000 is appropriated to the National Science Foundation, 'Research and related activities'." and insert "."

Mr. ROYCE. Mr. Chairman, I rise in strong support of this amendment. It will merely freeze grant research funding at the same amount that was appropriated last year. There is no cut in the amendment. Our concern is with some of the grants; do we really think it is a good idea to take $176,000 from working families so that we can figure out the different meaning of smiles, and that was one of the grants.

Mr. Chairman, we have a responsibility to the American people to see that their tax money is being spent wisely. Asking them to dip just a little further into their pockets to pay $178,000 for a study on maintaining self-esteem does not fulfill that responsibility.

During debate on this bill last year, an amendment was adopted that struck $174,000 from the National Science Foundation because of previous inappropriate grant making. As I understand it, this was meant as a demonstration to NSF that they should take greater care of taxpayer money. Given some of the recent grants that it has doled out since that time, it seems that they have not taken heed of that action.

Another recent grant for $220,000 was handed over to a researcher for a study entitled "Status Dominance and Motivational Effects on Nonverbal Sensitivity and Smiling." I will submit my finding for free. Spending that much hard-earned money on sensitivity and smiling will wipe the smiles off the taxpayers' faces and make them pretty darn insensitive.

Another researcher was given over $476,000 for his study. For this amount he would perform a manufacturing analysis of coffee makers related to the grammar rules and the grammar itself which will be implemented.

Now, as we go down these grants, one enterprising researcher has received over $29 million since 1992 in nine different grants. From all indications, the bureaucrats have been busy shoveling out the door in the name of science to make sure we do not slide back into the dark ages. For example, research into the sex selection and evolution of horns in the dung beetle, $331,000 for the study of nitrogen excretion in fish, $113,000 for research into the agenda effects on group decisions.

I could go on, but our current agenda calls for a group decision. Two hundred twenty-eight years ago, when the Founding Fathers gathered in Philadelphia, they did not declare our independence so that the new government could tax American citizens and hand out $25,000 to study microwave methods for lower fat patties in meatballs.

I urge my colleagues to support this amendment, Mr. Chairman.

Mr. BOEHLERT. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, the poet Alexander Pope remarked centuries ago that a little learning is a dangerous thing. This amendment is a good example of that principle.

First of all, the Dear Colleague letters about this amendment have cited several NSF project titles that have been grossly misinterpreted. For example, grants researching asynchronous transfer mode, which is a computer technology known as ATM, were misconstrued as research on automated teller machines. Grants concerning billiards were thought to be about the game of pool when actually they concern abstruse matters in high-energy physics. The only trouble we have right here in River City is with this amendment.

Mr. Chairman, this amendment is a product of faulty research.

Now I would never claim that the National Science Foundation has never given out a misguided grant or that their grants should not be opened to congressional scrutiny, but as the ranking Republican on the House Committee on Science I am quite familiar with NSF operations, and I have helped oversee them for 15 years. And I can attest that the National Science Foundation is a model agency that provides grants through a peer review process that is the envy of other institutions and other nations. As a result, the research it funds is of high quality and has provided enormous insights that have improved our understanding and our lives.

A little learning is a dangerous thing for a Nation as well as an individual, and NSF's work ensures that our Nation is never hobbled by inadequate learning.

Mr. Chairman, let us not make the mistake of judging a grant by its title. We should resoundingly vote down this amendment and demonstrate our continued support for the outstanding work performed by the National Science Foundation.

□ 1330

Mr. SANFORD. Mr. Chairman, I rise in support of this amendment because it is a very simple amendment. This amendment simply freezes the research and related categories funding area of NSF at about $2.5 billion. It freezes at this year's level of spending.

The reason that this amendment is offered by Mr. ROYCE and myself and the reason supported by the National Taxpayers Union, the reason supporting it by Citizens against Government Waste is because it makes common sense.

It, in the whole, boils down to one very simple thought, and that is the issue of priorities. When I stand in front of a grocery store back home in my district and talk to folks, they talk about how they have to set priorities within their homes.

When they are given the choice between, let us say, the study of people's reaction to dirty jokes, specifically to sex and fart jokes, and cancer or diabetes research, they say that a study of sex and fart jokes is interesting, but not vital, and that they would rather see those same dollars go into cancer research or diabetes research.

On that same vain, again, this is simply an amendment about priorities. Again, it leaves in place $2.5 billion for funding for the National Science Foundation research. It simply says let us put our house in order.

I mean, the same folks that I talked to back home, they say, if they had to set no priorities, when they walked into Wal-Mart, they would essentially walk out of Wal-Mart with everything that is in the store. But they cannot do that. They have to set a budget. They have to set numbers. They come up with what they can spend overall.

So this amendment is simply a way of signaling to the National Science Foundation please look at those things. Because the gentleman from California (Mr. LEWIS) himself last year offered an amendment that said there was a grant that, as I understand it, would have studied, for about $174,000, why some people choose to run for office or choose not to run for office. Again, interesting but not vital.

I think that we ought to look more at what is vital when we fund these grants. I have other examples that have come up in this year's list. An example is $334,000 to develop methods for routing pickup and delivery vehicles in realtime. Again, that has something that is interesting, but not vital. The part that is vital is vital to the likes of UPS or FedEx. If that is at the case, why can UPS or FedEx not pay for them?

It has $14,000 to study the long-term profitability of automobile leasing. Interesting, but not vital. The part that is vital is vital to Budget or Hertz. Why can they not pay for it?

It has $12,000 to cheap talk. It has $137,000 to study how legislative leaders help shape their parties issues outside the legislature particularly in the media. Interesting, but not vital.

I could come up with others, but I think the main point is quite simple. That is that the National Science Foundation in funding research needs to look at two things: One, a clear criteria that answers the question for the taxpayer, is this interesting or is it vital? And that it answers the question of, is it worth the cost? Because you can simply turn on the Internet and see that there is all kinds of information out there. The question before us, though, is not, is there information, but is it vital information?

Mr. EHLERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to respond to the amendment and the comments just made. I would remind my colleague, the gentleman from South Carolina, that when his people come out of the store, my colleague might ask them what they think of the laser scanner that was used to get them out of the store more quickly and more efficiently, because development of the laser was financed in part by the National Science Foundation.

My colleague might ask, too, whether they enjoy the rapid delivery of their FedEx packages. Indeed, part of that research has been done by the National Science Foundation. My colleague suggested that FedEx should pay for it themselves, but, in fact, Federal Express developed into what it is today, because of the techniques resulting from such research, and the taxes that FedEx pays today far more than cover the cost of any research that was done which may have helped to develop the system.

My point is that the United States has a vibrant and booming economy today, especially compared to that of other nations, because we also have a booming and vital research enterprise in this Nation. There is a direct correlation between economic growth and the amount of money spent on research, and all of us should recognize that.

Let me also comment on a few other specifics because, as the gentleman from New York (Mr. BOEHLERT) said earlier, much of this debate arises out of a misunderstanding of the scientific terms used.

Some terms used in science which are similar to everyday language have totally different meanings when used scientifically. As an example, consider "billiards", which was referred to in one of the "Dear Colleagues" sent out by the sponsors of the amendment. Billiards we all understand is a game. But, in science, the word is used to describe a theory which originally was developed to explain the collisions and interaction between rigid objects, but today is used to describe collisions and trajectories of small objects, such as atoms, molecules and nuclei, within confined areas.

This is crucial to the study of air flow and turbulence around aircraft. In fact, a recent development was the discovery that ripples in the surface of an aircraft wing reduce turbulence substantially, resulting in fuel savings and cost savings.

It is interesting that you can now buy swimsuits that incorporate the same effect and will now allow for faster swimming in competition. That was not the intent of the research, but this is a by-product that is beneficial.

ATMs were criticized in one of the "Dear Colleagues." As used in science, that does not refer to "automated teller machines," where you withdraw money, but rather refers to "asynchronous transfer modes," which is today the most modern and most rapid method of transmitting information over the Internet or between computers in general. This is very beneficial to society, and allows sending more information for less money.

That brings us into the next item of criticism: that NSF spent $12,887 to study cheap talk. That is not referring to what you might in common parlance think of as "cheap talk," but rather refers to the cost of information transmitted over the Internet or used in commerce.

All of these are very beneficial grants. They have helped us. They have helped our economy and made us one of the strongest nations on this earth. It is hard to find a Federal agency that gives us as much for our money as the National Science Foundation, and it certainly does help our economy to a great extent. Therefore, Mr. Chairman, I strongly urge the defeat of this amendment.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that it is not necessary to extend this discussion and that the comments made by our distinguished colleagues, the gentleman from Michigan (Mr. EHLERS) as well as the gentleman from New York (Mr. BOEHLERT), probably adequately deal with this subject. But having risen to debate it many times over the last 20 years, I would feel remiss if I did not stand up and say a few words.

Let me identify myself with the remarks already made by my two distinguished colleagues. Let me point out that this simple innocuous amendment is approximately a 10 percent cut in the amount of money that would otherwise go to this fine agency and is much more important than might be thought.

Let me say that I appreciate the close scrutiny being given to the research done at the National Science Foundation. That close scrutiny is healthy. I would not want to have it discouraged. For one thing, it gives those of us in close touch with N.S.F. research an opportunity to praise the work being done. It encourages others to take a closer look at the work of the National Science Foundation and to see if they cannot come to appreciate the value of that work.

I remember when we first started debating this subject of research grant titles one popular target was a grant titled "The sex life of the Screw worm" a subject of great importance in Texas. Everybody thought they knew what sex life was about, and they could not understand why we needed to spend money researching it.

But, actually, as we pointed out many times, this innocuous piece of research has saved the cattle industry of Texas hundreds of times over what the cost of the actual research project was, because it involves the mode of reproduction of one of the pests that is of greatest importance to the Texas cattle industry, as I am sure the chairman of the committee well knows.

But this is merely one more example, to go along with the others that have already been mentioned, showing why one needs to look beyond the titles themselves to the content of the research in order to have some understanding of what its importance is.

Mr. Chairman, I urge all of the Members to follow the example of the author of this amendment and scrutinize these research projects very carefully. I think they will be highly enlightened if they do so, and will strongly oppose amendments such as the one before us.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just for a moment correct the record about the impression being left about the amendment of the gentleman from South Carolina (Mr. SANFORD). It was just described as a 10 percent cut.

It always amazes me in this city of Washington, freezing expenditures at the current year's level is described as a cut. It was just mentioned we would see a 10 percent reduction in the amount of money spent on research. Correct the report. If the amendment of the gentleman from South Carolina (Mr. SANFORD) is adopted, the committee and the National Science Foundation will be able to spend exactly what they spend this year.

Most families in America have not been able to allocate a 10 percent additional expenditure for next year's vacation or for the next year's food supply or for school uniforms, simply because they cannot project those types of dollars forward because they have to live in reality, they have to live with today's dollars.

I agree with the gentleman from Michigan (Mr. EHLERS) that there are a number of important research projects that are done by the National Science Foundation, and I agree with him. I think we have developed some wonderful technology in this government through their efforts, and I generally support most of them.

What I am concerned about is its refusal to heed Congress' call to use better judgment in awarding grants even though we are proposing to increase its budget this year by $200 million.

One of my constituents, Bill Donnelly, recently contacted my office to complain that the National Science Foundation awarded a $107,000 grant to study dirty jokes. Although skeptical, I contacted the National Science Foundation for an explanation. To my dismay, not only did the National Science Foundation spend more than $100,000 to fund such a study but it attempted to justify the grant by saying that there is no accurate study as to why people laugh at certain offensive jokes.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, let me make clear tht I did not say that the gentleman's amendment was a 10 percent cut in the NSF Budget. I said that his amendment was a 10% cut in the amount of money that would otherwise go to this fine agency. His amendment is $270 million below what the committee recommends, or $305 million below what the administration requested. It is actually a reduction in the amount of growth that has been projected, as we both understand.

Mr. FOLEY. I thank the gentleman for the clarification.

Mr. Chairman, obviously, the National Science Foundation does not get it. The U.S. taxpayer should not be funding research that has dubious scientific merit, at best. This is why we should support the Sanford amendment. We need to send a strong message not only to the National Science Foundation, folks, this is not just about one agency. This is about every agency that determines how to use its Federal dollars.

Now, I got a very nice letter back from the Office of the Assistant Director for Social, Behavioral and Economic Sciences trying to justify that this was a very important study. I still would ask my colleagues to ask every American taxpayer at home, do they think we should spend $107,000 to find out why people laugh at dirty jokes? I would say no.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, both the gentleman from Ohio (Mr. STOKES) and I have prepared a very extensive response to this amendment but, frankly, because of the pressures of time and otherwise, let me suggest simply that the National Science Foundation is among the committee's and the Congress' very high priorities. We believe that the American government has played a very significant role in productive research efforts.

It is rather standard for critics of NSF often to pick a handful of examples of that which they would call excess, and usually those examples, while they have a title that can be used conveniently, do not reflect at all the specific project in terms of its detail.

These items funded by NSF come under very serious review. NSF relies on the judgment of over 60,000 independent reviewers, each of whom has expertise in his or her field. Depending on whether by mail or by panel reviews being used, each proposal is reviewed by an average of 4 to 11 experts and ranked on its scientific merit. As of this moment, approximately 1 in 3 proposals are eventually funded even though well over half are considered to have enough merit to deserve funding.

It is important for the Members to know that we support strongly this bill in its present form. It is very important that the Members oppose this amendment.

□ 1345

Mr. NEUMANN. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of this amendment. I came here 4 years ago. We were $5½ trillion in debt, $20,000 for every man, woman and child in the United States of America. When we got here, the deficit was over $200 billion a year.

We have come a long ways in this 3 years. We have gotten to a point where we are actually running surpluses for the first time since 1969. We saw a tax cut package passed last year for the first time in 16 years.

Then we get into the discussion about have we really done our job or do we have a long ways yet to go, and we start looking at lists of projects like some of these that are mentioned here and talking about 10 percent increases, and one almost gets this feeling, this tugging out here that, since now we are in surplus, we can start spending more of the taxpayers' money, and we had 10 percent increases in some areas.

The gentleman from South Carolina (Mr. SANFORD), my good friend, has proposed an amendment that does not decrease funding for this very important area but rather freezes it at last year's level. It simply brings it back into line.

Let us talk about some of the things that we have been funding and why it is that we would not want to see this kind of dramatic increase, much more of an increase than most of the households in my district are getting: Studying things like video on demand for popular videos; I am not sure that the people of Wisconsin would want to spend money on that study. Or why women smile more than men; I am not sure they would want to see money spent on that.

I am a former math teacher, and I taught everywhere from 7th grade on up through college courses. I find the study on the geometric applications to billiards to be of particular interest to me personally, because I was very interested in those sorts of things. And back in my math courses we did things like look at money growth and how it related to Social Security and how the interest rates impacted that. We did a lot of practical applications in our math courses, and this seems to be an area that a math professor from some place in the United States of America, or maybe a fine high school math teacher, or even a junior high math teacher might want to go out and start doing some of the studies that are involved with this.

But do I think I want to go into the households in Wisconsin's first district in Janesville, Wisconsin, or Kenosha or Racine and say to those families that we are going to take your tax dollars and use those tax dollars for purposes of doing a study on billiards? I do not so. I do not think that they would think that is a good use of tax dollars out here.

I think when we go through some of the rest of these we can see additional areas: Study cheap talk, $12,000 to study cheap talk. Long-term profitability of automobile leasing. This brings us to another area, long-term profitability of automobile leasing.

We are talking about corporations here, fine corporations that provide many jobs in the United States of America. The question that needs to be asked is, do we need the taxpayers' money to fund studies that are going to benefit these corporations?

I guess I keep coming back to the all-important question, and that question is, if I go to a family of five in my district that gets up every morning and goes to work and works hard and I ask them, do you want me to spend money on behalf of these automobile leasing organizations to find better ways and more efficient ways to lease cars, or do you think that that is a study that they should themselves initiate? Is it all right to take money out of your paycheck to pay for these sorts of things?

I keep coming back to the answer is no. The answer is just plain, flat-out no. We should not be spending money on some of these sorts of programs. And as important as research is in this country, we need to direct our research dollars to those areas that are going to benefit the Nation as a whole.

For that reason, I strongly support the Sanford amendment; and I would hope that my colleagues see the wisdom of going along with this sort of an amendment to this bill.

I would just like to commend the chairman on his hard work and the staff on their hard work on this bill because I think they have done a very, very fine job. There are some areas that perhaps some of our colleagues would disagree with, and this just happens to be one of them.

So I rise in strong support of the Sanford amendment.

Ms. STABENOW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to thank the chairman and the ranking member of the subcommittee for their strong commitment to science, research and development in this country.

I rise today as someone representing middle Michigan where those middle-class families that have been discussed today are rising every day to go to work in jobs that have more and more technology involved in their employment. They rise to go to work in areas where they are dependent upon new research and developing technologies so that the jobs that they are working in are the best-paying jobs possible.

They care about the air and the water, and they want to make sure that we are doing everything we can to research ways to be able to clean up the air and the water and protect the environment through research areas that do not involve job loss but new technologies. They care very much about health research and the future for their children. They want us to be at the front end of the technology revolution that is happening all across the world.

In my opinion, there are two efforts critically important that we are engaged in nationally on behalf of Americans, and that is education and a focus on research and technology development for future jobs and future quality-of-life opportunities for our citizens.

The National Science Foundation is a small investment in a major effort to increase the quality of life for our citizens, and I would strongly urge a "no" vote on this amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, Representative SANFORD has offered an amendment to freeze NSF's appropriations for research awards, giving as the reason NSF's support for questionable grant awards. He has referred to several grants which he claims support his action.

Examination of the grants listed by Mr. SANFORD indicate his assessment of the contents is based on title alone:

ATM Research—This is not research on automated teller machines. Actually, it is research on Asynchronous Transfer Mode, a promising new network transmission protocol to enable the creation of very high speed computer networks.

Social Poker—This refers not to a poker game but to the development of a theory of how individuals determine which of their resources they are willing to put at risk in order to gain the benefits of joining a group. This is basic research that may help explain what it would take to get a country to sign on to a treaty, or when it is a rational decision for companies to merge.

Routing Trucks—This is an extension of what is known to mathematicians as the "traveling salesman problem." This problem asks how to find the shortest possible route to a given number of cities without visiting one twice. The study in question develops and tests powerful new mathematical optimization algorithms.

This subject has considerable practical value. Transportation costs account for 15% of the U.s. Gross Domestic Product, and a major element of transportation involves the routing and scheduling of fleets of trucks.

Cheap Talk—Cheap talk refers to the cost of information in an economic model. Generally speaking, we must pay for information—in terms of procuring expert advice, the cost of publications or the time to gather data. The research explores the implications for economic and decision models when information is relatively inexpensive, such as that made available on the Internet.

Video on Demand—The underlying research issues are related to using network protocols to transmit real time video, which has enormous data transmission requirements. These fundamental questions require high-risk research that HBO or Blockbuster are not likely to support. But if the basic research is successful, service providers and consumers (including those who may use real-time video for distance learning or telemedicine) stand to reap huge returns from the investment.

Billiards—This research applies, not to pool playing, but to a complex mathematical theory of interest in geometry and physics. The scientific use of the term "billiards" originated over 100 years ago as a way of conceptualizing how atomic particles carom off each other. Mathematicians later on began to develop complex math theory, known as Ergodtic Theory, that attempts to predict the trajectory of idealized particles in confined spaces. This research is important for understanding many different types of non-linear or chaotic systems, such as airflow around an airplane, leading to an improved understanding of turbulence in fluids.

Study of Jokes—This research at its core is not about humor. Rather, it is involved with the reasons for the perpetuation of inaccurate stereotypes and the promulgation of racism, sexism, and prejudice against people with disabilities and other distinguishing characteristics. Humor is used in the study as a research tool to investigate the cognitive processes that accompany and determine the interpretation of information conveyed in a social context.

The proponent of the amendment has picked a handful of grants from the 10,000 or so that are funded each year by NSF and, on the basis of a title which is obscure or seems frivolous, proposes that the House freeze the research activities of the Foundation at last year's level.

This proposed amendment represents an effective cut of $270 million to the nation's basic research enterprise, which is largely carried out at colleges and universities throughout the country. It will result in 760 fewer research awards. It will mean NSF supports 5,000 fewer scientists and students.

The proposals funded by NSF have been subjected to a rigorous evaluation. They are chosen on the basis of merit through a competitive process: In a given year, NSF relies on the judgment of over 60,000 reviewers, each an expert in the field of a particular proposal. Each proposal is reviewed by between 4 and 11 experts, depending on whether a mail or panel review is used. The proposals are ranked on the basis of scientific merit, as well as on the broader impacts of the proposed activity. Only one in three proposals is funded, although more than half are rated as sufficiently meritorious to deserve to be funded.

The proposal selection process is rigorous, but not perfect. Efforts are made continually to improve the range of representation of reviewers and to sharpen the review criteria. But the system is widely respected by the scientific community, and constitutes the most effective method yet discovered to identify meritorious research proposals and to prioritize among worthy proposals.

The merit selection and prioritization process used by NSF has produced an academic research enterprise that is the envy of the world. The proposed amendment to freeze funding for NSF's research activities will result in harm to the nation's technological strength.

Investment in R&D is the single most important determinant of long-term economic growth. According to economists, about one half to two thirds of economic growth can be attributed to technological advances. Although difficult to measure, there is consensus that the economic payoff from basic research investments is substantial. The importance of basic research can be appreciated by considering the technological advancements that have grown out of past NSF-sponsored work:

Internet—Over the past decade, NSF has transformed the Internet from a tool used by a handful of researchers at DOD to the backbone of this Nation's university research infrastructure. Today the Internet is on the verge of becoming the Nation's commercial marketplace.

Nanotechnology and "Thin Film"—50 years ago scientists developed the transistor and ushered in the information revolution. Today 3 million transistors can fit on a chip no larger than the fingernail-sized individual transistor. NSF's investment in nanotechnology & "thin films" are expected to generate a further 1,000 fold reduction in size for semiconductor devices with eventual cost-savings of a similar magnitude.

Genetics—What is often overlooked is the critical role played by NSF in supporting the basic research that leads to the breakthroughs of mapping the human genome for which NIH justly receives credit. Research supported by NSF was key to the development of the polymerase chain reaction and a great deal of the technology used for sequencing.

Magnetic Resonance Imaging—The development of this technology was made possible by combining information gained through the study of the spin characteristics of basic matter, research in mathematics, and high flux magnets. The Next Generation Nuclear Magnetic Resonance Imager, currently under construction, will allow for the identification of the 3-dimensional structures of the 100,000 proteins whose genes are being sequenced by the Human Genome Project.

Buckeyballs—The discovery of buckeyballs, a new form of carbon won for the researchers a Nobel prize. Its discovery was the result of work by astronomers. This in turn led to the discovery of the carbon nanotube, which has been found to be 100 times stronger than steel and a fraction of the weight. Nanotubes may produce cars weighing no more than 100 pounds.

Plant Genome—Research into the genome of a flower plant with no previous commercial value (Arabidopsis thaliana) led to the discovery of ways to increase crop yields, production of plants with seeds having lower polyunsaturated fats and to the development of crops that produce a biodegradable plastic.

Artificial Retina—Researchers at NC State have designed a computer chip that may pave the way for creation of an artificial retina. Problems with bio-compatibility have been solved by researchers at Stanford who developed a synthetic cell membrane that adheres to both living cells and silicon chips.

CD Players—CD players rely on data compression algorithms that were developed using a NSF grant. These algorithms were first used in the transmission of satellite data and now provide the foundation for new developments in data storage.

Jet Printers—The mathematical equations that describe the behavior of fluid under pressure provided the foundation for developing the ink jet printer.

Camcorders—Virtually all camcorders and electronic devices using electronic imaging sensors are based on charge-coupled devices. These devices, sensitive to a single photon of light, were developed and transformed by astronomers interested in maximizing their capacity for light gathering.

Ms. JACKSON-LEE of Texas. Mr. Chairman. I rise to speak against the Sanford amendment to reduce the National Science Foundation by $269 million.

The National Science Foundation (NSF) provides this Nation with the tools to remain a superpower in a world where technology remains supreme. It helps develop new technologies, not only on its own, but also through its partnerships with other government agencies, like NASA, and with private institutions.

The NSF is largely responsible for many of the scientific breakthroughs that we currently enjoy in this country. In fact, many of our more important scientific achievements started either with an experiment in a NSF lab, or with a NSF grant to a university or private corporation.

We cannot expect our chldren to be prepared for the next millennium if they do not have the right equipment to learn on. Ladies and gentlemen, trying to teach children computer science without the benefit of a computer is like trying to teach English to children without books—utterly impossible.

We must do our part to ensure that our children have the opportunity to learn, especially in the areas of math in science. This year in the House Science Committee, we have heard a myriad of testimony during hearings regarding the under-education of our youth in the hard sciences. It has gotten to the point that the media fails to report scientific breakthroughs, not because of lack of public interest, but often because they do not feel that the general public will understand the scientific achievement and what it means to them. That is shameful. If this Nation intends to remain a world leader, we must do our part to educate our children in the ways of the future.

Here in Congress, we have worked long and hard to rectify this problem. We have sought to increase funding for education. We have tried to provide targeted discounts to schools and libraries so that they can get on the Internet. Those initiatives are controversial, but this provision is not. Its costs are low, and its benefits high.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYCE).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to this portion of the bill?

The Clerk will read.

The Clerk read as follows:

MAJOR RESEARCH EQUIPMENT

For necessary expenses of major construction projects pursuant to the National Science Foundation Act of 1950, as amended, $90,000,000, to remain available until expended.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so for the purposes of having a brief colloquy with the chairman of the subcommittee with regard to an item of funding in the National Science Foundation. I understand that the chairman is aware of the important work done by the RAND Corporation's Radius program, which was established at the direction of the White House Office of Science and Technology Policy. This program provides a unique asset for tracking all Federal spending on R&D and should prove a very useful tool to those of us in Congress who are looking for ways to do more with the limited dollars we have.

In past years, the Federal share of funding for Radius has come from the National Science Foundation. It is my understanding that the Chair would support NSF's providing $1.5 million in funding for Radius services during fiscal year 1999. Is that correct?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. LEWIS of California. Yes, Mr. Chairman, my colleague is correct. I am familiar with the Radius program, and I am very impressed by this unique tool. I believe it is in the best interest of the Federal Government to continue to support the further development of Radius and would look favorably upon NSF providing $1.5 million in fiscal year 1999 towards that end. I will work in the conference to include the language that makes this clear.

Mr. BROWN of California. Mr. Chairman, as usual, I want to thank my friend for his kind words and his support for this program.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $642,500,000, to remain available until September 30, 2000: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For salaries and expenses necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $144,000,000: *Provided*, That contracts may be entered into under "Salaries and expenses" in fiscal year 1999 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $5,200,000, to remain available until September 30, 2000.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $90,000,000, of which $25,000,000 shall be for a pilot homeownership initiative, including an evaluation by an independent third party to determine its effectiveness.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $24,176,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefore in the budget estimates submitted for the appropriations: *Provided*, That this provision does not apply to accounts that do not contain an object classification for travel: *Provided further*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefore set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between their domicile and their place of employment, with the exception of any officer or employee authorized such transportation under 31 U.S.C. 1344 or 5 U.S.C. 7905.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 409. None of the funds provided in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 410. Except as otherwise provided under existing law, or under an existing Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 411. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 412. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 413. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 414. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 415. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 416. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A–21.

SEC. 417. Such sums as may be necessary for fiscal year 1999 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 418. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 419. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1999 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations; or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 420. Notwithstanding section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)), funds made available pursuant to authorization under such section for fiscal year 1999 and prior fiscal years may be used for implementing comprehensive conservation and management plans.

SEC. 421. Notwithstanding any other provision of law, the term "qualified student loan" with respect to national service education awards shall mean any loan made directly to a student by the Alaska Commission on Postsecondary Education, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

SEC. 422. Notwithstanding any other law, funds made available by this or any other Act to the Environmental Protection Agency, the National Science Foundation, or the National Aeronautics and Space Administration for the United States/Mexico Foundation for Science may be used for the endowment of such Foundation.

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that title IV, sections 401 through 422 on page 88, line 15, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. COBURN. Yes, Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued to read.

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that title IV, sections 401 through 422 on page 88, line 15, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to that portion of the bill?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 423. (a) Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall propose for comment and, not later than 270 days after the date of the enactment of this Act, issue a final rule amending its Flammable Fabrics Act standards to revoke the amendments to the standards for the flammability of children's sleepwear sizes 0 through 6X (contained in regulations published at 16 CFR part 1615) and 7 through 14 (contained in regulations published at 16 CFR part 1616) issued by the Commission on September 9, 1996 (61 FR 47634).

(b) None of the following shall apply with respect to the promulgation of the amendment prescribed by subsection (a):

(1) The Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(2) The Flammable Fabrics Act (15 U.S.C. 1191 et seq.).

(3) Chapter 6 of title 5, United States Code.

(4) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(5) The Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121).

(6) Any other statute or Executive order.

(c) Sleepwear manufactured or imported before the effective date (as established by the Commission) of the Consumer Product Safety Commission's revocation required by subsection (a) shall not be considered in violation of the Flammable Fabrics Act if it complied with the Commission rules in effect at the time it was manufactured or imported.

POINT OF ORDER

Mr. BONILLA. Mr. Chairman, I make the point of order that the provisions of section 423 constitute legislation in an appropriation bill in violation of clause 2 of rule XXI. Clause 2 of rule

XXI provides that no amendment to a general appropriations bill shall be in order if changing existing law. The provision contained in section 423 is clearly a change in existing law and is, therefore, in violation of clause 2 of rule XXI.

The CHAIRMAN. Are there Members wishing to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that section 423 of the bill imparts direction to the Consumer Product Safety Commission and expressly supersedes the applicability of a range of existing laws.

The Chair therefore holds that section 423 constitutes legislation in violation of clause 2(b) of rule XXI.

The point of order is sustained, and section 423 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 424. (a) Subparagraph (A) of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking clause (ii) and all that follows through the end of the subparagraph and inserting the following:

"(ii) 87 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; except that the dollar amount limitation in effect for any area under this subparagraph may not be less than 48 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; and",

and, in addition to the amounts appropriated in other parts of this Act, $10,000,000 is appropriated to the Department of Veterans Affairs, "Medical and prosthetic research", and $70,000,000 is appropriated to the National Science Foundation, "Research and related activities".

(b) The first sentence in the matter following section 203(b)(2)(B)(iii) of the National Housing Act (12 U.S.C. 1709(b)(2)(B)(iii) is amended to read as follows: "For purposes of the preceding sentence, the term 'area' means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price.".

SEC. 425. (a) The Consumer Product Safety Commission shall contract with the National Institute on Environmental Health Sciences (NIEHS) to conduct a thorough study of the toxicity of all the flame retardant chemicals identified by the Commission as likely candidates for addition to residential upholstered furniture for the purpose of meeting regulations proposed by the Commission for flame-resistance of residential upholstered furniture. Where NIEHS has existing adequate information regarding the chemicals identified by the Commission, such information can be transmitted to the Commission in lieu of an additional study on those chemicals.

(b) The Commission shall establish a Chronic Hazard Advisory Panel, according to the provisions of section 28 of the Consumer Product Safety Act (15 U.S.C. 2077), convened for the purpose of advising the Commission on the potential health effects and hazards, including carcinogenicity, neurotoxicity, mutagenicity, and other chronic and acute effects on consumers exposed to fabrics intended to be used in residential upholstered furniture which would be chemically treated to meet the Commission's proposed flame-resistant standards. In lieu of the requirements of section 31(b)(2)(B) of such Act (15 U.S.C. 2080(b)(2)(B)), the Panel may meet for up to one year.

(c) The Chronic Hazard Panel convened by the Commission under subsection (b) for purposes of advising the Commission concerning the chronic hazards of flame-retardant chemicals in residential upholstered furniture shall complete its work and furnish its report to the Commission not later than one year after the date of the establishment of the Panel, except that if the Panel finds that it is unable to complete its work adequately within the one year after this establishment, it shall—

(1) advise the Commission that it will be unable to complete its work within one year;

(2) furnish the Commission with an interim report at the expiration of such year discussing its findings to date; and

(3) provide the Commission with an estimated date on which it will complete its work and submit a final report to the Commission.

(d) The Commission shall furnish the interim report, and the estimated date on which the Panel will complete its final report, to the House Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the House Committee on Appropriations and Senate Committee on Appropriations. The Commission shall furnish the final report to the House Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the House Committee on Appropriations and Senate Committee on Appropriations.

(e) No additional funds shall be expended by the Commission on developing flammability standards for residential upholstered furniture until 3 months after the Commission has furnished either the interim report or the final report of the Panel to the House Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the House Committee on Appropriations and Senate Committee on Appropriations.

(f) The Commission, before promulgating any final rule setting flammability standards for residential upholstered furniture shall report to the House Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the House Committee on Appropriations and Senate Committee on Appropriations on the report of the Panel, and the anticipated costs of the flammability standards regulation, including costs resulting from—

(1) public exposure to flame-retardant chemicals in residential upholstered furniture;

(2) exposure of workers to flame-retardant chemicals in the manufacture, distribution and sale of textiles and residential upholstered furniture;

(3) the generating, tracking, and disposing of flame-retardant chemicals and hazardous wastes generated from the handling of flame-retardant chemicals used on textiles and residential upholstered furniture; and

(4) limited availability in particular geographic regions of competing flame-resistant chemicals approved for use for residential upholstered furniture.

(g) In addition to amounts appropriated elsewhere in this Act, there is appropriated to the Consumer Product Safety Commission $5,000,000 to carry out this section.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

At the end of the bill, insert the following new section:

SEC. . The amount otherwise provided by this Act for the Department of Veterans Affairs—Veterans Health Administration, Medical care, equipment and land and structures object classifications, is hereby reduced by $69,000,000.

Mr. OBEY. Mr. Chairman, I would like to explain this amendment, because it is not apparent on its face what it does.

Without reading the rest of the bill, although it appears to be reducing funds for veterans' medical care, it, in reality, does just the opposite. Reducing the amount available for equipment and land and structures by $69 million in budget authority provides, in reality, $53 million more for actual spending in outlays for veterans' health care, and I would like to explain to the House why.

For the past few years, the administration and the Congress have been engaged in a budgetary slight of hand to try to make dwindling resources stretch further. The device is called the delayed equipment obligation. The gimmick is to provide several hundred million dollars for the equipment needs of the VA health care system and then to prohibit the VA from actually using those funds until very late in the fiscal year, thus temporarily saving outlays.

Last year, $570 million was provided for equipment with the obligations delayed until August. This year's budget level requires even grander thinking. The administration proposed to delay the obligation of $635 million for equipment, land and structures; and faced with an extremely tight budget allocation, the Committee on Appropriations recommended that $846 million for equipment be delayed for obligation until next August.

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The impact of increasing the amount of delayed equipment obligation by more than $200 million above the request is to actually reduce the basic medical care amount to a level $276 million below the 1998 program.

This is simply unacceptable, in the view of many veterans' organizations. To the extent possible, while remaining within budget totals, my amendment seeks to adjust that imbalance. It reduces the delayed equipment obligation by $69 million in Budget Authority and increases the basic medical care activity by a similar amount.

The effect is to make funds available at the start of the fiscal year for hands-on health care delivered to veterans. To do this results in $53 million more in that spending during the year, according to the CBO. That is the amount of outlays that currently are available and unused, left on the table, as it were, in this bill.

For those concerned about the size of the VA's medical equipment backlog, Mr. Chairman, let me say that my amendment still provides $775 million for such requirements. That is $205 million above the 1998 level, $140 million above the Administration's 1999 request, and $88 million above the Senate's recommendation.

Because it results in more hands-on veterans medical care, earlier this year veterans groups supported my amendment. Here I have a letter from the Paralyzed Veterans Association, another from the Blinded Veterans Association, and another from the Disabled American Veterans, all indicating support for this amendment, and other letters will be forthcoming.

To summarize, this is a simple amendment. It does not hurt any program. It takes the outlays that are left on the table. There is no offset required to accelerate spending for veterans' health. Reduced equipment obligations by $69 million actually increases hands-on medical care by the same amount. That is what the veterans want. That is what the veterans organization groups feel they need. That is what this House ought to do.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. LEWIS of California. We have had a chance to review the the gentleman's amendment. We appreciate the the gentleman's assistance to the committee, and we accept the amendment, Mr. Chairman.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, we accept the amendment.

Mr. OBEY. Mr. Chairman, I thank the chairman and ranking member.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The amendment was agreed to.

Ms. STABENOW. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with the distinguished gentleman from California (Mr. LEWIS), chairman of the Subcommittee for the VA, HUD and Independent Agencies of the Committee on Appropriations.

I want to thank the chairman for providing an increase in funding for NASA's academic programs. Inspiring our youth, our youth's teachers, and the general public is absolutely essential to sustaining our Nation's edge in research and development in space exploration.

I applaud the subcommittee's funding equipment. However, I am concerned about the House mark that does not provide an increase in funding for an academic program that literally has touched millions of people's lives. As Members know, one of the most effective academic programs launched by NASA is the National Space Grant College and Fellowship program, with over 586 member universities and institutions in every State.

I would ask that the Chair adopt the Senate budget mark of $23.5 million for the National Space Grant College and Fellowship Program when the VA, HUD and Independent Agencies appropriations goes to conference.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Ms. STABENOW. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I thank the gentlewoman from Michigan for bringing this issue to our attention. As a distinguished member of the Committee on Science, I appreciate the gentlewoman's commitment to research and development, as well as to education.

I agree with the gentlewoman that the National Space Grant College and Fellowship Program is a worthwhile program that deserves additional funding, and I want to assure the gentlewoman that I will take the advice of the gentlewoman and give serious consideration to it during the conference negotiations.

Ms. STABENOW. Mr. Chairman, I would like to thank the gentleman from California for all of his hard work on this appropriations bill. I am encouraged by his words to look closely at the Senate mark of $23.5 million for the National Space Grant College and Fellowship Program.

Let me also say that I appreciate the gentleman's willingness to work with me and all of the other Members of Congress who feel strongly about this program, and I look forward to a positive outcome.

Mr. LEWIS of California. Mr. Chairman, let me thank the gentlewoman from Michigan (Ms. STABENOW) for her kinds words. I look forward to resolving the issue as we go forward to the conference.

AMENDMENT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Chairman, I offer an amendment.

Mr. LEWIS of California. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. A point of order has been reserved.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Ms. DELAURO:

At the end of the bill add the following new section:

None of the funds made available under this Act may be used to develop and enforce the standard for the flammability of children's sleepware sizes 0 through 6X (contained in regulations published at 16 CFR part 1615) and sizes 7 through 14 (contained in regulations published at 16 CFR part 1616) as the standard was amended effective January 1, 1997.

Ms. DELAURO. Mr. Chairman, this is an amendment which will protect America's children from burn injuries and from death. I feel confident that every Member of this body will support it.

This amendment would prohibit the Consumer Product Safety Commission from using any of its resources to promulgate or implement weakened fire and safety standards for children's sleepwear.

For more than two decades children's sleepwear was held to a more stringent standard of fire safety than any other type of clothing. Kids' pajamas needed to self-extinguish after exposure to a small open flame. Manufacturers were required to test every part of the garment's fabrics, seams, and the trim, to ensure that it met this high standard of safety. Why this strict standard of safety? Because Americans understood the importance of protecting their children from the horrific burns that can come from a fire accident.

I saw a demonstration of in my home State of Connecticut of just how fast a pair of pajamas that are not treated to reduce flammability can go up in flames. It was horrifying and it was frightening. The strict standard of fire safety worked. Fire burns and deaths relating to children's sleepwear went down to nearly zero. In fact, the National Fire Protection Agency estimates that without this safety standard, there would have been ten times as many deaths associated with children's sleepwear. The standard also brought about a substantial decrease in the number of burn injuries.

That is why I was shocked to learn that the Consumer Product Safety Commission, an agency for which I have the utmost respect, had voted to turn its back on that successful record and to weaken the fire safety standards for children's sleepwear.

The current standards allow all sleepwear for infants nine months or younger and tightfitting sleepwear in children's sizes up to 14 to be exempt from flammability standards so that they can be made from untreated cotton and cotton blends. These types of clothes can easily ignite from a stove or other types of flames.

Tight-fitting clothes made with flame resistent material are the safest choice for children. Nonflame-resistent materials like untreated cotton and cotton blends ignite at a lower temperature than fabrics such as polyester. The flames spread rapidly, and they tend to spread up towards the child's face.

The reasoning behind the new rules is that if a garment is tight, it is more difficult for flames to spread. Parents do not buy clothes that are tight. We have all bought clothes for new babies. We buy them for our kids and we buy them for our friend's kids, and they look beautiful. They are very, very pretty. We think how cute it is, and we buy clothes that are big so a child grows into them.

But the combination of nonflame resistance and large sizes is lethal to our kids. It is important to note that the chair of the Consumer Product Safety Commission voted against changing the standards, and she said, "Available injury and death data demonstrates to me that the sleepwear standards are working. I am unable to agree to an exemption that could leave these infants more vulnerable to injury or to death."

I have been working with the gentleman from New Jersey (Mr. ROB ANDREWS) and the gentleman from Pennsylvania (Mr. CURT WELDON), two of this body's most eminent experts on fire safety, to reinstate the original fair safety standards to protect our children from burns and from death. We are backed by a large coalition of fire safety organizations, medical organizations, public health groups, who are dedicated to protecting our children and reinstating this standard.

Let me just quote from one member of that coalition, Andrew McGuire, executive director of the Trauma Foundation at San Francisco General Hospital, who was burned when his pajamas caught fire in 1952, on his 7th birthday. He was instrumental in lobbying for the passage of the original standard.

This is what he says, that the children's sleepwear fire safety standard has been "a truly successful 'vaccine' that has protected thousands of children from serious burns over the past 25 years. No one in America would consider reducing the use of the vaccine for polio. Why would the CPSC relax such a life-saving vaccine for burns?"

Andrew McGuire is right, we do not want to wait for the number of fire burns and deaths to rise before we take action to protect our children. One death is too many. One child living with a disfigurement left from a burn is too many. This is a life or death issue for our children.

This is a bipartisan effort. We have the responsibility to protect our children's health and safety. It does not belong to one party or another. We all hold that responsibility. I urge my colleagues to stand behind our Nation's children and support this amendment.

The CHAIRMAN. Does the gentleman from California (Mr. LEWIS) continue to reserve the point of order?

Mr. LEWIS of California. Mr. Chairman, Yes, I do.

Mrs. LOWEY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I just came down to talk on another amendment, which I believe will follow this amendment.

I just want to say to my colleagues that I rise in strong support of the amendment of the gentlewoman from Connecticut. As a mother, as as a grandmother, it is shocking to me that these laws that were put in place to protect our youth, our infants, would be weakened.

I just appeal to the House to support my colleague from Connecticut, because when we have a chance to save lives, it seems to me we should do everything we can to do so. So I strongly support the gentlewoman from Connecticut's amendment. I thank her for introducing it.

Mr. ANDREWS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment. The amendment proposed by my friend, the gentlewoman from Connecticut (Ms. DELAURO), and the coauthor of legislation, along with the gentleman from Pennsylvania (Mr. WELDON) and myself, would have restored the sleepwear safety standard that worked so very well for 24 years.

I want to take a moment and talk about why this is important, and how we got to this point. It is important, Mr. Chairman, for a very simple reason. When people go into the store and they look to buy sleepwear for their children, there are basically two kinds of sleepwear. There is sleepwear that will catch on fire and burn in an instant, that is not treated for flammability, and then there is sleepwear that will not catch on fire and it will burn much more slowly, because it is treated for flammability.

For 24 years, the law of this country recognized that distinction. If we went in and bought sleepwear for our children that was treated for flammability, we knew it, because there was a label there. If it were not treated for flammability, we knew that, because there was no label. Parents and others buying for their children could be intelligent consumers and safeguard their children.

If we listened to the testimony of emergency room nurses, emergency room doctors, firefighters, burn center personnel, lots of nonpolitical people who deal with burned children, they would have told us that this law made sense. If it is not broke, do not fix it.

In 1996, for reasons that are inexplicable, the Consumer Product Safety Commission decided to change this law and take the warning labels off flammable sleepwear. The gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from Pennsylvania (Mr. WELDON) and I introduced a bill to say let us go back to a standard that worked for 24 years, and let us get it done through this legislation.

Through the cooperation and farsightedness of the chairman of the subcommittee of this bill today, we were given that opportunity. We appreciate it very much, and thank him for his cooperation.

When this bill was brought to the floor, the rule was written in such a way that any one Member, one Member, could stand up and have this provision stripped from the bill without a vote. That just happened a few minutes ago.

The gentlewoman from Connecticut (Ms. DELAURO) has now done the next best thing. She has said, if we cannot get the old standard back, let us enjoin the use of the new one, which emergency room doctors, emergency room nurses, and other personnel in the fire service around this country say do not work.

What we really should be doing here, Mr. Chairman, is having a fair debate and an up-or-down vote on the real, underlying bill, which says let us put the standard that worked for 24 years back in. We were not getting that. But this is the next best thing.

On behalf of children across this country, consumers across this country, emergency room nurses, burn center personnel, and on behalf of Republicans and Democrats in this institution, I would implore and urge my colleagues to vote yes on the DeLauro amendment.

Mr. LEWIS of California. Mr. Chairman, while we are not the authorizing committee, I no longer reserve a point of order on the amendment.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to make it clear that, to those of who have raised questions about such an effort through this amendment, and I have a 9-year-old boy and a 13-year-old girl, and I know my colleague, the gentleman from Texas (Mr. THORNBERRY), has young children as well, this is not a question of being concerned about children. It is about doing the right thing and using the right vehicle to accomplish it.

□ 1415

There is not a person in here who is going to stand up and ever object to us doing everything we possibly can to protect our children from any kind of injury or any kind of accident. But the initial effort to try to write law in this bill was deemed inappropriate earlier through a parliamentary ruling because we really had not had a chance to talk about this and figure out what the facts are.

I have a letter in my possession dated July 8 of this year from the U.S. Consumer Product Safety Commission that clearly States an opposition by commissioner Ann Brown who clearly states that the current rules, as they have been changed, should remain and we should not do anything to go back to the way they were before.

There have been no burn injuries associated with any snug-fitting garments that we are aware of. Certainly, accidents occur out there and we are not sure of what the causes are in each particular case. But I think that in light of the fact that we have not had hearings on this. I might support this if we had the appropriate hearings and used the appropriate vehicle.

But it is like trying to use one of those new Volkswagen beetles to haul a giant cabinet down the highway. It is just the wrong vehicle to use to accomplish a goal.

So I would strongly urge my colleagues to let us go through the process and not rush an amendment that Members have not even had a chance to look at. It was presented within the last 15 to 20 minutes and we have just barely gotten around to figuring out what it says exactly. It is the wrong way to write Federal law.

We always know that when the Federal Government tries to legislate quickly without really thinking things through, we wind up messing the problem up worse than it was when we started out. That is my concern.

Mr. Chairman, I emphasize that none of us in this body with young children, as I have and the gentleman from Texas (Mr. THORNBERRY) has, would do anything to risk the safety of a child in this country. Our only concern is that we want to do the right thing for the kids and for everyone involved in this issue.

Mr. THORNBERRY. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Texas.

Mr. THORNBERRY. Mr. Chairman, I want to support what my colleague is saying with two additional concerns. Number one is the effect of this provision overrides the judgment of the Consumer Product Safety Commission, not something necessarily that we should do lightly. And I do not think anyone should accuse them of wanting to lower safety standards for children.

Secondly, it is a far more complicated question than a simple speech on the floor can indicate. For example, those of us with small children know that when it comes to bedtime, normally what a lot of children sleep in are big, bulky cotton T-shirts. They like the feel of cotton, but that big bulk presents some dangers to them.

That was one of the concerns that has motivated the Consumer Product Safety Commission to take another look at these standards. If people are going to want to put cotton on their children to have a tighter fitting garment, which is part of where this arises.

So I want to share the concern of the gentleman from Texas (Mr. BONILLA). This is not as simple as some would have us believe. And I hope as this thing moves forward through the legislative process, we can take a more careful look at it to truly make children safer because that has got to be the goal for all of us.

Mr. BONILLA. Mr. Chairman, reclaiming my time, I appreciate the comments of the gentleman from Texas (Mr. THORNBERRY). I would also concur; my kids sleep in those baggy T-shirts as well.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to rise in favor of this amendment.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Chairman, I thank the gentleman from New York (Mr. HINCHEY) for yielding me this time.

Mr. Chairman, I think it is interesting to note that we just passed a major health reform bill in this body, managed care reform. The single biggest issue on the minds of the American people in this country and we did it without a hearing. Without one single hearing. The majority party would not allow any hearings on a major health care reform bill in this body.

This is an issue that has nothing to do with the issue of whether or not we have hearings. I will tell my colleagues what it has to do with, and I will quote, not my comments, but I will quote from Molly Ivins on June 27. This is a quote about the gentleman from Texas (Mr. BONILLA):

"Bonilla will move to strike DeLauro's amendment today. He told The Washington Post last week, 'I don't have a huge cotton constituency in my district, but my State does,' and added that the Texas drought has already taken a toll on cotton farmers. 'They came to me and explained this would place severe restrictions on what they could produce.'

"Excuse me—did I just hear someone say that we could bail out the cotton farmers by letting more little kids get burned to death every year?"

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I want to set the record straight on the position of Ann Brown, who was the chairperson of the Consumer Product Safety Commission at the time the rule change was done.

I have in my possession, and I will submit it at the appropriate time for the RECORD a letter from Ann Brown to my the gentlewoman from Connecticut, April 10, 1998, in which she says the following. It is addressed to the gentlewoman from Connecticut (Ms. DELAURO):

"As you know, I share your views." The letter goes on to say, "in these circumstances, it appears the only remedy is legislative action to restore the previous rule." The previous rule, referring to the one that was in effect for 24 years. So, Ms. Brown's position is in support of our effort.

The second thing I would like to say is it is extraordinary, this commitment to regular order and procedure. This is the same bill that is rewriting the entire public housing policy of the United States of America through legislating on an appropriations bill. I would invite my colleagues who are so enraged by this departure from regular order to join those of us who are concerned about that.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Chairman, let me make another point about the issue of hearings. The fact of the matter is when we hold hearings, we bring in new information, new ideas, in a process that goes before the committee to listen to.

This is a set of regulations that has been on the books for the last 25 years. It has worked. These standards have worked. Not according to Democrats or Republicans or the political people, but in fact according to the medical community, to fire marshals, to fire chiefs, people who work in burn units all over this country have banned together to say it is wrong to eliminate these standards. Why are we not listening?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I would speak to the gentlewoman from Connecticut (Ms. DELAURO) by way of the gentleman from New York (Mr. HINCHEY). If we could, to kind of help work with the time of the day which is running, and as I think the points have been made very effectively, I think the gentleman from Ohio (Mr. STOKES) and I would be willing to accept the amendment.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, on this side, we would accept the amendment.

Mr. HINCHEY. Mr. Chairman, reclaiming my time, I thank the gentlemen.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Connecticut (Ms. DELAURO).

The amendment was agreed to.

AMENDMENT NO. 33 OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 33 offered by Mr. COBURN: At the end of the bill, insert after the last section preceding the short title) the following new sections:

SEC. . The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—FEDERAL HOUSING ADMINISTRATION—FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT" for non-overhead administrative expenses necessary to carry out the Mutual Mortgage Insurance guarantee and direct loan program, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—VETERANS HEALTH ADMINISTRATION—MEDICAL CARE", by $199,999,999.

SEC. . The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—FEDERAL HOUSING ADMINISTRATION—FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT" for non-overhead administrative expenses necessary to carry out the guaranteed and direct loan programs, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—VETERANS HEALTH ADMINISTRATION—MEDICAL CARE", by $103,999,999.

Mr. COBURN. Mr. Chairman, this is an amendment about fulfilling our obligations. This is an amendment about the government being truthful with our veterans. This is an amendment about supplying health care to veterans that is equal to what one can get in the private sector.

We are going to hear a whole lot of things as we discuss this amendment about where we are getting the money, how it is going to be affected. This past Saturday night, I had the pleasure and also the terrible, gut-wrenching remorse to see a very new movie called "Saving Private Ryan," and I want to tell my colleagues that for the first time in my life, I truly now am understanding what some of the veterans have been telling me for the last 4 years.

When we see the price paid by our veterans, the price that they have paid with loss of limb, with loss of health, with loss of life, we can do nothing less than to fulfill our obligation to those men and women of the commitment that we made for them.

This is a very simple amendment. It is not complicated. It takes money that was used for a mandatory program last year, and the last 7 years, and moves that money, which has now been moved from a mandatory spending account, to veterans health care. It still will not get us to the point that the Committee on Veterans' Affairs authorizes and states we should be spending on veterans health care.

When our veterans are not given what they have been promised in terms of health care, we will never in the future be able to recruit the men and women that we need to defend our country because we will not have a track record of fulfilling our commitments.

There is going to be 9.3 million veterans in the year 2000. That veteran population is aging severely. We will see a large number of the World War II veterans require hospitalization, both now and in increasing amounts over the next few years. There is going to be almost 3.5 million World War II veterans at that time. The Veterans Advisory Committee recommends that we increase spending minimally $250 million just to catch up to the point where we can meet minimum needs.

I want to tell my colleagues, the people that are on Federal Health Care Employment Benefit policies in this body do not have near the worry that our veterans have. We have written for ourselves, and all the rest of the Federal employees, a health care plan that is comparable to none. It is better than. But we have not given that same thing to our veterans.

To not supply the minimal needs as required and recognized by the authorizing committee is inappropriate and it is also unpatriotic and it fails to recognize the tremendous sacrifices that have been paid.

Under law, veterans centers are mandated, prosthetic spinal cord clinics, chronic care clinics, blind rehabilitation, which we are not funding adequately that which has been mandated. We are cutting services at every hospital. We are decreasing the quality of care by increasing the quantity of patients seen, and giving tertiary providers and secondary providers their care. Not that it is substandard in the regular community, but it is less than what they were promised.

Just to keep up with fiscal year 1998 level services, spending needs to be increased by $681 million over last year just to account for health care cost inflation and increases.

What this bill does is move $304 million. It moves it from the administration, a nonoverhead administrative account, into veterans health care.

As Members are asked to vote for this amendment, the real question that they are going to have to ask themselves is do they think we ought to be absorbing the administrative overhead of HUD programs in the mandatory accounts or can we and dare we continue to do and manage HUD the way we have in the past, and in fact do what we are obligated to do for our veterans?

Mr. Chairman, with that, I yield back, noting that I would like to hear from the gentleman from California (Chairman LEWIS) on this amendment.

Mr. LEWIS of California. Mr. Chairman, I rise very reluctantly in opposition to the amendment.

Mr. Chairman, I think it is very, very important for the House to know and to revisit the reality that veterans programs, especially veterans' medical care programs, have very broadly-based, bipartisan, almost nonpartisan support within the House. Of all the accounts in this very complex bill where we have consistently appropriated dollars above and beyond the President's request, it is the veterans' accounts. Of all the accounts, we have not reduced veterans programs. This account has received that support.

We worked, and I would appreciate the gentleman listening to this, we worked very closely with the veterans service organizations regarding the medical care accounts. But let me say to my colleague, I personally have a very strong disagreement with many of those organizations.

□ 1430

While I usually join hands with them in supporting additional funding for veterans programs, all too often I cannot get them to join me to go out to the hospitals where veterans are treated and make certain those monies are being spent in a fashion that assures that our veterans are treated as human beings, not as people with a number on their forehead.

So the VA has a lot of work to do there. I hope that my colleague would assist me with communicating that to our VSOs and make sure the dollars we are spending are being used in a maximum way for the positive benefit of all veterans being served.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, I could not agree with the gentleman. As a matter of fact, in my district we have gone through a transition in a veterans hospital, Muskogee Veterans Hospital, in which we have seen a redirection in the change. But that does not negate the fact that there is not enough dollars to meet the obligations. Yes, we have increased it, but we have not increased it to what we need to meet the obligations for our veterans. I would love to give the gentleman some examples.

Mr. LEWIS of California. Reclaiming my time, Mr. Chairman, let me go back to my point. The gentleman, I know, has many points that he will make. But indeed, within this bill there is a great variety and mix of accounts that we have tried to balance.

I think most of our colleagues understand that one of the issues that has floated around here all year long and has raised a lot of controversy involves FHA loan limitations. It happens that the gentleman has decided to take funding that HUD uses to administer those programs.

Literally the progress we made earlier in the year on that FHA issue would be undermined, dramatically undermined by the gentleman's amendment. Whether we like it or not, those funds have to be administered in the fashion that is outlined in this bill or the programs will not be administered. Indeed, it has been suggested that this funding is not included on the Senate side and thereby is not needed. The reality that funds are not on the Senate side is exactly why they are needed at this point within this bill.

So while I understand and appreciate the gentleman's circumstance, there is many an account in this bill that I would love to zero to put more money in veterans programs. In the past, I have had some difficulty zeroing programs where I have proposed that we do exactly what the gentleman is talking about.

This is a fairly balanced bill. So reluctantly, as I have suggested, I would resist the gentleman's amendment.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Coburn amendment. It would cut administrative funds available to the FHA by more than one-third, thereby crippling its operations.

I am in favor of providing additional funds for veterans health care, if a way can be found to do this. However, I cannot support increasing funds for the Department of Veterans Affairs at the price of virtually shutting down the Federal Housing Administration. The FHA and its programs are well known to most of the Members. The largest FHA program is single family mortgage insurance, what most of us simply know as FHA mortgages.

This program has made homeownership affordable for literally millions of American families, especially first-time home buyers, families with modest incomes, minorities, women and residents of inner cities. Other major FHA programs provide major insurance or other forms of credit for multifamily apartment construction, home repair, hospitals, nursing homes and many other purposes.

While there might be disagreements about the details of some of the FHA's programs, few of us, if any, advocate shutting down or crippling the FHA. Yet that is exactly what the Coburn amendment threatens to do.

In our bill we provide four line item appropriations for the administrative costs of the FHA. The Coburn amendment essentially eliminates the appropriations for two of these line items, leaving just one dollar in each of the accounts. That is a cut of $306 million, a reduction of 36 percent in the FHA administrative funds provided by the bill.

The two particular line items that the Coburn amendment virtually eliminates provide funds for contracting. This includes the contracts to operate and maintain all of the FHA's basic computer and data processing systems, including systems for accounting, processing claims, collecting premiums, managing assets and the like. Other contracts funded through these appropriations cover things like auditing, property appraisals, loan management. These are not just incidentals of some kind of bureaucratic overhead. Rather, they are all core functions for a credit program like the FHA.

Even if funds could be shifted from the FHA's two other line items to cover these costs, then things covered by other appropriations would be left unfunded.

However we slice it, I do not see how the FHA can function with a 36 percent cut in its budget for operations and administration.

I would hope that we would defeat the Coburn amendment.

Mr. SCARBOROUGH. Mr. Chairman, I move to strike the requisite number of words.

Let me say, first of all, I want to state that I do appreciate what the chairman of this committee has done over the years. I want to also thank the gentleman from Arizona (Mr. STUMP) for what he has done for the Committee on Veterans' Affairs and for all the men and women on the Committee on Veterans' Affairs and also on the Subcommittee on VA, HUD and Independent Agencies, because we can trace over the past 3 or 4 years the budgets that have come out of this House and also the budgets that have come out of the administration and see that their efforts have been truly heroic.

Regrettably, in my opinion, this administration has continued to slash veterans funding too much. All we have to look at for evidence of that is the balanced budget deal that was passed back in 1997. The only two areas where real spending cuts took place, I am talking real cuts, not freezes, not increases that people in Washington called spending cuts, the only two areas where there were real cuts were in defense dollars that affected military retirees' medical accounts and also in the veterans area where there was a $3 billion cut. Talk about shameful, that is shameful. And certainly I do not stand here in the well of this House and say that has any reflection on either the gentleman from California (Mr. LEWIS) or the gentleman from Arizona (Mr. STUMP) or the members on those respective committees. In fact, I want to thank them on behalf of all of the veterans in my district for the great fight that they have put forward.

However, I do support this amendment, the Coburn amendment. I do that because I have more military retirees, which this does not affect, and veterans in my area, and I have seen from the past 3 or 4 years the declining medical state of those people in my district. I have no other choice but to be here.

I have a brief question to ask the gentleman from Oklahoma regarding a statement that was said over here. We heard from the ranking member that somehow the FHA would be crippled if the gentleman's amendment passed. That is something I do not want to do. I would like some clarification. It is my understanding that this bill actually increases FHA funding by 50 percent. Could the gentleman enlighten me on that matter?

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, this bill, under current FHA operation, increases FHA administration by 50 percent over what it was last year in terms of the dollars.

Number two, this is into an account called nonoverhead administrative expenses. It is a new provision. It was not in there last year. Neither the committee report nor the actual text of the bill provides any explanation as to what this money will be used for or why FHA needs more than a 50 percent increase in funds for administrative and overhead expenses. While the President requested this money, there is no explanation other than to say that the result of FHA correcting the allocation of administrative expenses among its budgetary accounts.

Finally the Committee on Banking and Financial Services, which has jurisdiction over FHA, made no mention of these nonadministrative overhead expenses in their review and their view on the fiscal year 1999 budget request. HUD claims they need this money to keep the Federal Credit Reform Act. For the past 7 years, FHA has used mandatory spending to meet these costs. Now OMB tells them they need discretionary funds to meet these costs or they need statutory language so that they can continue to use mandatory money.

This amendment will allow the conference to add the language, as the Senate seems to intend on doing, by not appropriating money for this account.

Mr. SCARBOROUGH. Reclaiming my time, I thank the gentleman and will be supporting his amendment. Again, I want to say I understand the extremely difficult balancing act the chairman of this committee undertakes and I certainly, despite supporting this amendment, I want to thank the gentleman from California (Mr. LEWIS), and I also want to thank the gentleman from Arizona (Mr. Stump) for all the work they have done on behalf of the veterans in my district.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask the gentleman from California a number of questions, if he would not mind responding.

I wonder if the gentleman would be willing to answer a number of questions about how the FHA fund works. It has just been alleged that the FHA funding level for administrative purposes is 50 percent above last year's level. Is it not true that in the past, FHA funded these operations simply by taking their own funds and using them without a congressional appropriation? And is it not true that OMB said that they could no longer do that, that they could only perform those functions if they actually got an appropriation from Congress? And is it not, therefore, a fact that there is no real increase whatsoever in the dollar level that is available to FHA for these purposes?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, the gentleman is correct. Indeed, this is the first year that we will have had this kind of account within our bill to my knowledge.

Mr. OBEY. So there is no increase in the amount of money available to the FHA for these administrative purposes?

Mr. LEWIS of California. Mr. Chairman, I was going to ask the question, where these numbers came from. Frankly, I did not want to embarrass anybody.

Mr. OBEY. Let me also then ask the gentleman, is it not true that the effect of this amendment goes to the services which are contracted for by FHA?

Mr. LEWIS of California. Mr. Chairman, that is correct.

Mr. OBEY. And is it not true that those services are, for instance, appraisals that FHA is required to obtain and computer services, without which FHA could not function and could not cut checks that they are supposed to cut?

Mr. LEWIS of California. Mr. Chairman, the gentleman is correct. As I said in my opening remarks regarding this amendment, it concerns me that this cut could undermine all the work we have been doing all year long on FHA accounts.

Mr. OBEY. So that is why the gentleman from California said, in essence, that if this amendment is passed, it would shut down the ability of the FHA to function without these services to American homeowners.

Mr. LEWIS of California. The gentleman is correct.

Mr. OBEY. Mr. Chairman, I thank the gentleman.

Mr. RYUN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all I want to thank the gentleman from Oklahoma for offering this amendment. I want to stand and speak in strong support of it.

I think it is very important at this point that we restore confidence in this country's commitment to our veterans. Currently our military is in its 14th year of declining budgets. That means benefits are being cut for our current active duty men and women who serve this country. This discourages our young men and women who are involved in the service.

I think it is very important that we send a very positive message to them, to our current active military as well as our veterans, that we will make good on our commitment to them. And this is an opportunity to ensure that those benefits will be there and that we will continue to work to fulfill those commitments.

I recognize that this is difficult and the gentleman from California (Mr. LEWIS) and the gentleman from Arizona (Mr. STUMP) have worked very hard, but I want to thank the gentleman from Oklahoma for offering this amendment.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. RYUN. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, I would just like to make a couple of points.

Number one, I do appreciate the chairman's work for veterans. This amendment is not intended to imply in any way that his concern and care for veterans and that his responsibility for increasing veteran spending in the last 4 years is anything less than stellar.

I think the assumption made by the gentleman from Wisconsin that if this money is not in there that everything is going to shut down is not an accurate assumption.

□ 1445

As a matter of fact, that assumption would mean to say that the Senate intends to shut down HUD and FHA loans because they have put no money in for this amendment.

The other thing that I would want to make sure that the Members are aware of, that the American Legion, the Order of Purple Heart and the Veterans of Foreign Wars adamantly and fully support this amendment. It will in fact move us in a direction of meeting the obligations that we are obligated and morally bound to fulfill.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. RYUN. I yield to the gentleman from California.

Mr. LEWIS of California. I know the gentleman did not mean to even suggest that the Senate would know more about the process than we might, but this is the first time this year that we have had this kind of responsibility in our bill. I must say that the other body seemed to be unaware of this need. Indeed, it would have a significant impact upon this administration. It is a new ball game, so I can understand misunderstanding, even on the part of the Senate. And possibly there is some misunderstanding here within the House as well.

Mr. SHADEGG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too would like to join the others in this Chamber complimenting both the majority and the minority in drafting this bill, but I rise in very strong support of the gentleman's amendment.

Let me try to clarify the issue with regard to HUD funding. It is true that these HUD funds have in the past come from a different account. Indeed, for the past 7 years, FHA has used mandatory spending to meet these costs. But the OMB put out a report saying that in the future, one of two things would have to happen: Either, the OMB said, you must find discretionary funds to meet these costs, or you need a statutory change in language to continue to use the mandatory funding. The point being that while the gentleman argues there is no funding increase, in point of fact there has been no funding cut anywhere else; and if we appropriate this 50 percent increase in discretionary funding, we will in fact be spending more money. It does not have to happen. We can in fact fix the statutory language, avoid a 50 percent increase in HUD funding simply by changing the statute, and fund a cause that is extremely important.

So having talked about the fact that we do not need to increase spending by 50 percent, we do not need to spend an additional $304 million on non-overhead expenditures, administrative expenditures at FHA, we can continue the practice in the past with a mere statutory change in the language, I want to talk about why using this fund for VA health care is important.

I recently visited the VA hospital in Phoenix, Arizona. I was embarrassed to walk through that facility. In the southwestern United States, we face a difficult problem. Many of our Nation's veterans are retiring to the Sunbelt, to the South and the Southwest where it is warmer and they want to spend their final years. That has put an incredible burden on our veterans hospitals. As my colleague has pointed out, we are underfunding our commitment to our veterans. This bill is a painless way to add $304 million critically needed to those VA health services. It is important that we step up to the plate.

All my life I have been kind of a fan and an aficionado of D-Day and the sacrifices that were made there. We all know that in this Capitol just a few days ago, a sacrifice was made to protect the people in this building. Our veterans have all made a sacrifice in their lives. With all due respect to the chairman of the committee and the ranking member, the gentleman's amendment will enable us to honor our commitment to provide health care to our veterans without increasing the spending at FHA simply by fixing the problem at FHA that OMB identified in a very simple administrative way. It does appear to be the same method that the Senate plans to use. If I can, I urge my colleagues, in the strongest possible terms, to join me and to join the gentleman in supporting this amendment and in honoring our commitment to America's veterans and to the health care needs that they have.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to follow up on that. Our VA hospitals are important. In spite of a few of them maybe being bad, I believe that they are doing better, doing a better job and being more responsible. I can cite the Dallas VA as an example of that. So I do not think that we need to wait to increase funding for our veterans. Our veterans are probably our most important product here in this country, and it is time we supported them fully.

I think it is important that not only all the veterans organizations support this amendment but our Conservative Action Team also on this side supports it. I think $304 million that we have been discussing back and forth here is kind of one of those nebulous things that nobody has really put their finger on to say it is really needed. If it was not there last year, why do we need it this year, and they can waive the rules so that it can operate under mandatory funding. Apparently that is what our Senate did.

I would encourage us to help our veterans. It is an aging population, as has been stated before. Our age is going to peak in the year 2000. We need to have more money in that system. The Committee on Veterans' Affairs recommended about $452 million above the House level. This $300 million will start to make our veterans well. I encourage all Members to vote for the Coburn amendment.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. I thank the gentleman for yielding to me.

I would ask the maker of the amendment, the gentleman from Oklahoma (Mr. COBURN), the gentleman sent out a Dear Colleague letter. In his letter, he makes reference to the fact that they need statutory language so that they can continue to use mandatory money.

Does the gentleman agree with me that under his language, that is, if we use mandatory language, that that in effect is also spending for which the committee would be charged and that if we are charged with it, we will go over the 302(b) allocation?

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Oklahoma.

Mr. COBURN. That is right. What we are saying is if we write that statutory language, we will continue to take administrative expenses from the mandatory side rather than from the discretionary side. That is how you have been doing it the last 7 years.

Mr. STOKES. If I can bring this to the attention of the gentleman, "Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations laws will be scored against the Appropriations Committee's section 302(b) allocations in the House and the Senate."

Is the gentleman aware of that provision of the law?

Mr. COBURN. Yes, I am, and I still would tell him that I will vote for a priority for our veterans over the administrative overhead of HUD every day.

Mr. STOKES. Then the gentleman does agree that we would exceed our 302(b) allocation by using the mandatory language.

Mr. COBURN. Mandatory spending does not count on 302(b) allocations.

Mr. STOKES. I just read the gentleman the law.

Mr. COBURN. I understand. But mandatory spending is not appointed against 302(b) allocations.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. I would like to simply point out that there is no statutory authority for the agency to continue to do this through mandatory spending. If there were, then they would simply be spending the same amount of dollars in mandatory spending as they are spending through appropriated accounts.

Mr. COBURN. Absolutely.

Mr. OBEY. And so you would not be saving one dime. You would simply be adding in the real world as opposed to the green eyeshade accounting world, you would simply be adding more money to the budget. What you are suggesting is that there is a way that we can sneak around the budget limits without getting caught, and I thought that the CATs were opposed to stuff like that.

Mr. COBURN. First of all, I am not stating that a legislative waiver is necessarily the best answer. I know that may be the temptation of us as a body, and in fact we may need to do that. What I am saying is that there is a lack of available discretionary funds made between the two bodies. What the explanation for that is, I do not know. But the question that I would have is why does the CBO score a legislative waiver as a cost? CBO scores it as a cost because it is an actual change in the law. It is not, however, a change in practice.

Mr. OBEY. The fact is I cannot get into the head of OMB or anybody else around here. All I know is that we have a choice. The choice is whether or not we are going to tell Members that things are so that are not so. The fact is, Members are being told by your side that this will not shut down FHA. The fact is absent new statutory authority, it most certainly will. And your amendment will in fact cripple the ability of FHA to deliver housing to people in this country. Now, that is a fact, whether you admit it or not.

Mr. COBURN. If the gentleman will yield further, I would not have that interpretation of the facts, especially not in that absolute manner. I would also say, and I would reemphasize again, if this causes heartburn: "So be it". Our veterans are underfunded.

Mr. OBEY. I would suggest what you are saying is if this causes heartburn to all of the people who we supposedly helped in the Neumann amendment last week on FHA housing, you are saying: "So be it." I do not think you ought to treat homeowners that way, either; certainly not struggling working people who need FHA to get access to the housing market.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. I appreciate the gentlewoman yielding.

Mr. Chairman, I think it is important for the body to know that while there may be some confusion about the impact of this amendment, and it is understandable because it is a new responsibility in terms of language that we have in this bill, it nonetheless would have a huge impact upon the administration of FHA programs and would thereby undermine that work that we are all involved in. I think there are some 250 Members who coauthored that effort we made a couple of weeks ago, and this would undermine much of what we did there. So it is important that we not, because we have a wish list, to take money from so-called easy housing programs and move it somewhere else. This is a very delicately balanced bill. I would urge the Members not to undo that FHA program they worked so hard for with this amendment but find some other way to do this.

Mrs. CHENOWETH. Mr. Chairman, reclaiming my time, I yield to the gentleman from Wisconsin (Mr. NEUMANN).

Mr. NEUMANN. I would just like to clarify the funding and what exactly happens with this funding, to the best of my understanding. This is currently an appropriated amount of money, which means it is under the 302(b) allocation. If we were to move it back into mandatory and we were to authorize the spending under the mandatory portion of the budget, we would have a pay-go problem. Because pay-go says if you are going to start a new mandatory spending program, you either have to raise taxes or decrease a mandatory spending program elsewhere.

My only intent here is to make sure that we understand what the funding implications are. Certainly if they had been spending this money in the mandatory portion of this program, the program should have been authorized and they had no business spending it before.

Mr. COBURN. Mr. Chairman, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from Oklahoma.

Mr. COBURN. First of all, they are already spending this money, so it is offset. It is already being spent.

Mr. NEUMANN. In the 302(b).

Mr. COBURN. Yes. Under mandatory spending. It is already being spent. The money is being spent. Otherwise, we would not have had the administration in the last year.

I would just ask to make one additional point. Given all that technically, we have not met our commitments to our veterans. There is no need for a 50 percent increase in the funding on this bill, and we need to move it to the veterans. If there is a problem with that, then we need to prioritize somewhere else so that we meet what we need to do for our veterans.

Mrs. CHENOWETH. Reclaiming my time, I thank the gentleman for his explanation.

My concern is, is just keeping promises. The fact is, we have over $4 billion in new spending on HUD and EPA and CEQ, but we are not expending one new, thin dime in veterans' health care. The fact is that there will be about 3,413,000 new veteran claimants this year. The fact is that World War II veterans are now old, they are aged, they are infirm, they are frightened, they feel alone, and now we are not keeping our promise because we have only set aside about $5,000 per year for each one of those veterans. That is not enough. They were willing to give their last full measure on the battlefield for us, and they won for us. We made a deal with them, and I think we better keep it.

Theodore Roosevelt, our President, said that a man who is good enough to shed his blood for his country is good enough to expect a square deal will be given to him when he gets home.

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Mr. Chairman, I feel very strongly about that, and I believe that every veteran in this great Nation recognizes the need that he must fulfill in fighting for his country, and we need to recognize the need of our veterans.

My parents, I lost both of them recently, and even with old age people do feel alone and frightened, and can we do that to our veterans now, those men who fought with able, fit, young bodies and went overseas and fought the good fight for us so that we would be able to stand here and be able to speak freely?

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to commend the gentleman from Oklahoma (Mr. COBURN) for his efforts to encourage others to vote with him. The gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) are probably right when they say the way he goes about it is flawed. Guess what? We do lots of flawed things around here. We start off every day by waiving the rules that govern this body, every single day, Mr. Chairman, and say we got these rules, but they do not count; let us throw them out. The question is if we are going to do that for everything else, how about just once doing it for the folks who deserve it the most?

There is really only one group of Americans who were promised health care, and that is our veterans. Medicare and Medicaid did not come along until the glory years of America in the 1960s when we had more money than sense. We now spend about $260 billion a year on Medicare and Medicaid. We spend about 40 on veterans. Those folks got it just because they exist. Now, veterans earned it.

So even if what the gentleman is doing is flawed, that is why we have a conference committee to make it fit within the rules.

As my colleagues know, we are talking, some people here in this body, not me, are talking about giving back a hundred billion dollars in tax breaks. But doggone, if we can find the money to give their wealthy contributors a tax break, how about us finding the money to help those people who are now too old to help themselves, who go to the veterans hospital because they are short on cash, who go there because it gives them the chance to relive the greatest days of their lives, the most horrible and the greatest days of their lives all at once?

And if my colleagues ever want a reason to do this, I would encourage them to read a one-page article in Newsweek 2 weeks ago, written by Stephen Ambrose, called "The Kids Who Saved the World." They did not question; they did it for 50 bucks a month. It was not for the benefits, it was not for free health care. They did it because it was the right thing to do.

We have a chance to do the right thing. We can find a million technical reasons why we should not help our veterans. But, my colleagues, know what? People in this country were not promised cheap home loans. People in this country were not promised free medical care if they served their country. Let us keep the promise that we made and then worry about those other things that are nice if we can afford them.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not going to speak on this until I heard the debate, and I have the greatest respect for the ranking minority member, the gentleman from Ohio (Mr. STOKES), and my colleague from California (Mr. LEWIS). But I tell my colleagues this is about priorities and it is about promises.

The priority: If I was going to vote for health care for veterans or housing, I have no question where my priority lies. It is health care for our veterans.

Our Capitol Police, in the news right now; if I was going to support either their health care or the housing, I would choose their health care for themselves and their families.

I was the original offeror of subvention, not myself, but the veterans in San Diego, California, and it is a Band-Aid. TriCare is a Band-Aid for the promises that we made. The original bill of the gentleman from Oklahoma (Mr. WATTS) and myself gave full funding to FEHBP. One can take a trash collector at a military base for the Pentagon, or a secretary, and they get the benefits of FEHBP. But someone who has gone over and fought our wars or their families, they do not get it. And that is the real answer that we need to do and take a look for our veterans, and take a look at it, and this is a very divisive issue, and it should not be.

But I read the article by Mr. Ambrose, "Kids Who Saved the World." I would recommend it. It is one of the best articles that one could read. And I would say to my friends that our active duty forces today, we are only retaining 24 percent of them because our operation tempo is 300 percent above what it was during the Cold War or Vietnam.

We are killing our military. It is in the worst shape I have ever seen it. These people are going to become veterans, and we are going to deny them health care? I do not think so.

I rise in strong support of the gentleman's amendment, and I ask for its passage.

Mr. BENTSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. With all due respect to my colleagues, this is not necessarily about the choice between housing for the American people and veterans, and if we were going to use that as a yardstick, we could go back to when we passed the highway bill, and I did not hear a lot of my colleagues or did not see a lot of my colleagues voting against the highway bill.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, the author of this amendment was in vocal opposition to the highway bill.

Mr. BENTSEN. Mr. Chairman, I appreciate that, but nonetheless we have heard a number of colleagues say we have to deal with priorities here. Well, we seem to lose those priorities when it came down to concrete and cement and all that we were going to do.

Now there are issues related to the highway bill, budget and things like that. But here is the problem as I see it with this particular amendment: I appreciate what the gentleman from Oklahoma is trying to achieve with respect to veterans health care. However I am afraid that his amendment unintentionally, I believe, would tamper with what is otherwise a very successful Federal housing program and put the government at greater risk and, thus, the taxpayers at greater risk of default.

Now it is my understanding that the reason why the discretionary appropriation is in here is part of FHA's responsibility to meet the Fair Credit Reform Act of, I think, 1990 which requires all government credit-type agencies, including FHA where we guarantee mortgage loans that are outstanding, that we have adequate reserves and adequate servicing and management of those portfolios. To not allow the FHA by taking away their funds to adequately manage the single family mortgage portfolio that they have would ultimately put at risk the triple-A-triple-A credit standard of that portfolio. So in the long run, it would affect the borrowing cost of the American people who are eligible for the FHA loans, and I am not sure that any Member wants to be involved with raising the borrowing cost in that regard.

Second of all, it very well could affect the portfolio quality if we do not give the FHA the ability to move, foreclose, and liquidate real estate owned. We do not want to have the government owning a lot of property that is not bringing an income and putting at risk the credit portfolio, and that also would affect the credit quality but ultimately could affect the taxpayers where we might have to put out more money to address shortfalls in the portfolio.

So while I applaud the gentleman for trying to reach out to the veterans and give them more funding, this amendment is the wrong way to go because we are going to potentially mess up what is otherwise a well-run program that meets its obligations and thus has achieved the credit rating that lowers the interest cost to the people who can benefit in it.

So I would urge my colleagues, as one who came to this House from working in the mortgage industry, and I have looked at a lot of FHA credits over time, I do not think we want to tamper with a good thing, and this amendment tampers with a good thing, and I would urge my colleagues to oppose the amendment.

Mr. LEWIS of California. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I will not take the 5 minutes. I have had discussions with my colleagues, the gentleman from Ohio (Mr. STOKES) and others on the other side, and with a voice vote it is our intention to accept that amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. COBURN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BERMAN

Mr. BERMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BERMAN:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 425. None of the funds made available in this Act (including amounts made available for salaries and expenses) may be used by the Director of the Federal Emergency Management Agency to take any action—

(1) to permit Kaiser Permanente to transfer any of the funds made available to the Kaiser Permanente hospital in Panorama City, California, under the Seismic Hazard Mitigation Program for Hospitals (including funds made available before October 1, 1998) to any other facility; or

(2) to permit Kaiser Permanente to use any of the funds described in paragraph (1) to relocate the hospital to a site that is located more than 3 miles from the current site of the hospital.

If, before October 1, 1998, the Director takes an action described in paragraph (1) or (2), the Director shall rescind the action.

Mr. BERMAN (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Chairman, my amendment, which I am showing both to the chair and ranking members of this subcommittee, would simply ensure that certain FEMA disaster funds related to the 1994 Northridge earthquake are used in a fair and appropriate manner. After the quake and at the behest of a great deal of effort by the gentleman from California, the chairman of the subcommittee, FEMA created the Seismic Hazard Mitigation Program for hospitals, a program which was intended to rebuild and improve seismic performance of damaged hospitals. FEMA allocated 68 million under this program to the Kaiser Permanente Hospital in Panorama City which provides emergency room services and inpatient care for thousands of families.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. LEWIS of California. My colleagues and I discussed this in some depth, and I think the House, when they read it, will understand it.

I am ready to accept the amendment if my colleague from Cleveland is so inclined.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Ohio.

Mr. STOKES. We also are agreeable to accepting the amendment.

Mr. BERMAN. Mr. Chairman, I thank the gentlemen, and, reclaiming my time, I am ready to accept their acceptance and to stop my talking.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BERMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NEUMANN

Mr. NEUMANN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NEUMANN:

At the end of Title IV, insert the following:

SEC. . None of the funds made in this Act may be used for researching methods to reduce methane emissions from cows, sheep or any other ruminant livestock.

Mr. NEUMANN. Mr. Chairman, about a month, month-and-a-half ago, I brought some information to this body regarding an audit of the Federal Government, and we started going through some of the things that were in that audit, and it got to the point where people were laughing about the things, and they would have been funny had they not been true; when we found things like the Navy could not find 21 out of 79 ships they went looking for.

The amendment I bring here today falls into that category.

I would like to see some of our colleagues explain to their constituents back home exactly why it is that we are spending hundreds of thousands of dollars of the taxpayers' money every year to study cow belching and cow gas and those other words for this that would make it even more humorous.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I am having a bit of difficulty swallowing all of this, and, as a result of that, I read the amendment carefully and I believe my colleague and I are ready to accept the gentleman's amendment.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, I am having difficulty swallowing it, too, but I also agree to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. NEUMANN).

The amendment was agreed to.

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AMENDMENT NO. 22 OFFERED BY MR. HINCHEY

Mr. HINCHEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. HINCHEY: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 425. None of the funds made available in this Act may be used by the Department of Veterans Affairs to implement or administer the Veterans Equitable Resource Allocation system.

Mr. HINCHEY. Mr. Chairman, the Veterans' Equitable Resource Allocation system, known as VERA, may have started out with good intentions. The purpose was to shift funds in accord with shifts in veterans' populations, and more specifically, with veterans' needs.

If there are more veterans needing health care services in Florida today than there were 20 years ago, and we know that that is true, then Florida should be getting a larger share of the VA health budget than it received previously. That is common sense, and I have no argument with that principle.

But I do have an argument with the actual plan for reallocation, the VERA plan, and with its consequences. Many of us were very disturbed in January of 1997 when the VA first gave us figures about how much would be cut from its health care spending in our regions to fit the VERA plan.

We had been hearing from our veterans that the quality of care was not what it ought to be in many places, and we were concerned that these new cuts would hurt our veterans even more.

The VA assured us that quality of care would not decline. Most of the reductions had already taken place, we were told. Any further reduction would be covered by improvements and efficiency.

Every time we raised a question about the VERA model, for example, did it take into account higher costs in our region, did it take into account the fact that our facilities are old and in need of repair or replacement, each time we were assured that it did and the model was perfect. It was not.

The decline in patient care at one of the hospitals that serves veterans in my area was swift and dramatic. Myself and my colleagues in the area asked for a review by the Inspector General at the Veterans Administration, and the report was horrifying. It documented sharp increases in deficient care, understaffing, and important professional categories, poor maintenance of facilities.

It found, in fact, that there was a 50 percent increase in the rate of patients who died, who had received poor or marginal care in the 6 months after VERA formally took effect, a 50 percent increase in mortality rates. Some veterans told me they wept when they read the report.

It was undeniable that these problems were attributable to the VERA cuts. To mention just one example, professional staff were offered buyouts to get the budget into line with the VERA requirements. But no one had planned how to replace them or to reassign those who stayed.

In February, we were given more bad news. What we were told about the VERA cuts had not been accurate. We were going to have to absorb another $120 million in cuts over the next 2 years. How are we going to do that, we asked, when we have just documented the problems in our region? We have not received an answer to how that is going to be done.

I have just learned that the Veterans Administration is planning another round of cuts under VERA that will affect 11 regions. The regions facing cuts are these, Boston headquarters serving Maine, New Hampshire, Vermont, Rhode Island, and Massachusetts. They will receive $38.8 million in cuts. The Albany area, serving upstate New York cut $12 million. The New York City metropolitan area, serving lower New York and Newark, New Jersey cut $48 million. Pittsburgh, serving Pennsylvania, Delaware, part of West Virginia cut $3 million. Durham, serving North Carolina, part of West Virginia and Virginia cut $1 million. Nashville, serving Tennessee, part of West Virginia and Kentucky cut $12 million. Chicago, serving part of Illinois, Michigan, and Wisconsin cut $28 million. Kansas City, serving Kansas, Missouri, part of Illinois cut $20 million. Dallas, serving Texas, except for Houston, cut $10.5 million. Denver, serving Colorado, Wyoming, Utah, and Montana cut $13 million. And Long Beach, serving California and Nevada cut $23 million.

The message of my amendment is simple. VERA is not equitable. It has failed. It may not have failed veterans all over the country yet, but it has clearly failed veterans in many regions and will be failing more instantly.

My amendment would cut off funding for implementation of VERA. It would force the VA to go back to the drawing boards and develop a system that really would treat all veterans equitably.

The CHAIRMAN. The time of the gentleman from New York (Mr. HINCHEY) has expired.

(By unanimous consent, Mr. HINCHEY was allowed to proceed for 1 additional minute.)

Mr. HINCHEY. Mr. Chairman, right now our veterans are being damaged by a faulty computer model. We would like to free them from the computer model and see a system based on the realities.

There will be some people who may come to the floor opposing this amendment. They may say that the system is working. They may say that it is helping veterans in some parts of the country. That may be true, but, increasingly, it is hurting more and more veterans, not just in metropolitan areas but all across the country. From coast to coast, veterans are being affected negatively by these cuts.

I ask my colleagues to join me in adopting this amendment so that we can get a sensible approach to the need to finance the health care needs for veterans all across the country.

Mr. BILIRAKIS. Mr. Chairman, I rise to speak in opposition of the amendment.

Mr. Chairman, as I said, I do rise in strong opposition to the amendment which would prohibit the use of VA funds to further implement the Veterans' Equitable, and I emphasize that word equitable, Resource Allocation system.

VERA, as it is called, corrects historic geographic imbalances in funding for VA health care services and ensures equitable access to care for all veterans. Long ago, our Nation made a commitment to care for the brave men and women who fought the battles to keep America free. These are our Nation's veterans. Please take note when I say "our Nation's veterans." They are not Florida's veterans or Arizona's veterans or New York's veterans. They are our veterans, and we, as a Nation, have a collective responsibility to honor the commitment that we made to them.

When they volunteered to fight for America's freedom, no one asked these veterans what part of the country they came from. It simply did not matter. Unfortunately, when they came home, veterans found out that where they live matters a great deal. Until the passage of VERA, a veteran's ability to access the VA health care system literally depended upon where he or she happened to live.

Since coming to Congress, I have heard from many, many veterans who were denied care at Florida VA medical facilities. In many instances, these veterans have been receiving care at their local VA medical center. However, once they moved to Florida, the VA was forced to turn them away because the facilities in our State simply did not have the resources to meet the high demand for care.

This lack of adequate resources, Mr. Chairman, is further compounded in the winter months when Florida veterans are literally crowded out of the system by individuals who travel south to enjoy our warm water.

It is hard for my veterans to understand how they can lose their VA health care simply by moving to another part of the country or because a veteran from a different state is using our VA facilities.

Congress enacted VERA for a very simple reason: equity. No matter where they live or what circumstances they face, all veterans deserve to have equal access to quality health care.

Since VERA's implementation, the Florida Veterans' Integrated Services

Network, VISN, which includes Puerto Rico, I might add, has treated approximately 35,000 more Category A veterans. These are service-connected and low-income veterans who would not have had access to VA medical care without VERA.

The Florida and Puerto Rico network estimates it will treat a total of 280,000 veterans by the end fiscal year of 1998. The Florida network has also opened nine new community based outpatient clinics in the past 2 years. It plans to open three more clinics by the end of the fiscal year. None of this could have happened without VERA.

The failure to move forward with an improved and fair funding allocation system would mean that the VA would miss a unique opportunity to revitalize its way of doing business. The negative impact would be felt most by veterans who would not be treated in areas that are currently underfunded.

Failing to implement VERA will waste taxpayers' dollars because a return to the funding practices of the past will mean that some VA facilities will receive more money per veteran than others to provide essentially the same care.

The author of this amendment argues that veterans of New York are not being treated equitably. The VERA system already takes regional differences into account by making adjustments for labor costs, differences in patient mix, and differing levels of support for research and education.

Under VERA, the VA facilities in the metropolitan New York area are receiving an average of $5,659 per veteran patient. This means that these facilities receive an average payment for each patient that is 27 percent higher than the national average.

I ask, how is this inequitable? If the Hinchey amendment passes, continued funding imbalances will result in unequal access to VA health care for veterans in different parts of the country.

VERA ensures that veterans across the country have equal access to VA health care and that tax dollars are wisely spent. I urge my colleagues to vote against the Hinchey amendment.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Hinchey amendment to prohibit funding for the Department of Veterans Affairs misguided VERA plan.

The VERA plan will take scarce resources away from the veterans in my district and other areas of the northeast based on flawed data about veteran populations around the country. The veterans who use the VA health care system in New York deserve better than the VERA plan gives them.

Each year, about 150,000 veterans use the eight VA facilities in the New York metropolitan region. These veterans have come to rely on the excellent services provided by these facilities but the cuts in these services called for in the VERA plan will be disastrous.

Since the implementation of VERA began, I have received reports from many veterans in my district of diminished quality of care at the VA medical centers. In fact, the VA's Office of the Medical Inspector investigated the Hudson Valley VA hospitals and found more than 150 violations of health and safety rules at those hospitals alone. It is not a coincidence that these violations came at a time when these hospitals were trying to cut costs to comply with VERA, and the situation is about to get worse.

When I joined some of my colleagues in a meeting with VA officials about VERA implementation several months ago, the reports from the VA were alarming. Under Secretary for Health Kenneth Kizer told us that under the current budget the VA will hit a brick wall in its ability to provide services to the veterans community in my region, and James Farsetta, the director of Network 3, which serves my constituents, said his network would, quote, be in trouble soon under the current VERA plan.

Mr. Chairman, I understand the need to provide services to growing veterans populations in other regions of the country but that must not be done on the backs of New York's veterans.

A recent assessment of the VERA plan by Price Waterhouse highlighted a major flaw in the fundamental assumptions of the plan. The report stated that, quote, basing resource allocation on patient volume is only an interim solution because patient volume indicates which veterans the VHA, Veterans Health Administration, is serving; not which veterans have the highest health care needs. This is especially relevant to the New York region, which has the highest proportion of specialty care veterans in the country.

Mr. Chairman, we cannot turn our backs on New York's proud veterans, but that is exactly what will happen if we allow the VERA plan to go forward. I urge my colleagues to protect our veterans by supporting the Hinchey amendment.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the requisite of number words.

Mr. Chairman, I rise very strongly in opposition to this amendment, and I think that my colleagues need to understand really what it does and what this amendment seeks to do as it relates to veterans health care.

The VERA system was mandated by legislation passed into law in the 104th Congress. It is strongly supported by the Veterans Administration. In the second half of fiscal year 1997, the VA began implementing the VERA system, the Veteran Equitable Resource Allocation system.

This allocates health care resources according to the numbers of veterans served in each veteran's integrated service network, VISN, in the country. Historically, funding for the VA flowed into hospitals in the east where veterans were originally concentrated. Each year, this funding was increased, even as veterans began to migrate away from these regions. Over time, a serious mismatch developed between numbers of veterans needing care and the number that the system was capable of serving.

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VERA corrects this divergence of linking funding within each visit to the actual population served.

What is happening now, Mr. Chairman, is that veterans are moving south and they are moving west, but yet those who support this amendment want to keep the money that supports those veterans in the areas from which veterans are leaving and not give the resources to the areas to which the veteran population is going.

The gentleman from New York (Mr. HINCHEY), in support of his argument, has argued that the current allocation is not equitable for the Northeast; but, simply stated, this VERA formula is straightforward. It does not allow the inequities that existed in the old system. It is an equitable system. The system matches workloads with annual allocations. It takes into account numbers of basic and special care veterans, national price and wage differences in education and equipment differences.

Now, it may well be that VISN number 3 is having difficulty adopting to the VERA system, but that is because the most inefficient network is VISN 3, it is most inefficient in the country. So the VERA system does not reward inefficiency, it forces networks to develop a resource plan that makes the most of limited funds.

If we look at the historic resource consumption per patient, a standard industry measure of efficiency, it reveals that while my VISN in Portland, Oregon, which serves the West, was more than 20 percent more efficient than the system as a whole, Chicago and the Bronx were 20 percent more inefficient than the system as a whole.

The VA has, I would tell my friend, $50 million in reserve that it sets aside to address the quality of care issues associated with VERA implementation. If, in fact, the Secretary feels that the quality is being impacted, he can use this $50 million reserve to assist VISN 3 without eliminating the entire VERA system.

The VA does not know what would happen to veterans' funding if the Hinchey amendment was adopted. There is no fall-back option if the VERA system is eliminated, and that should be very much of concern to all of us who have veterans in our district, and especially those districts that are increasing in their veteran population.

The most likely option we would have would be to revert to the formula that created this massive funding shortfall in VISNs across most of the country and return then more money to the Northeast. That is not equitable to veterans. It is not equitable to veterans of the West and the South, where all the veterans seem to be moving.

If we reverted to fiscal year 1996 allocations, my VISN in Portland, Oregon, would lose $80 million. Dallas, Texas, would lose the same amount. Jackson, Georgia, would lose $120 million. Bay Pines, Florida, would lose $110 million. San Francisco, California, would lose about $50 million. And Long Beach, California, would lose some $40 million.

How about those veterans? They have needs and priorities as well, and they would be then underserved.

On the local level, what would these massive cuts mean for rural VA hospitals in the West and the South? It would mean that the uniform benefits that the VA is striving to provide would be unavailable. My local hospital in Spokane, Washington, has told me that they would have to eliminate all of the subspecialty care that they have recently subcontracted for with the new VERA dollars. So they would lose specialists in the fields of cardiology, enterology, neurology and ophthalmology.

The bottom line is VERA is equitable. Until last year, small VA hospitals across most of the country did not have the funds available to provide this care on site. The Hinchey amendment would end this specialty care. I urge that we vote against the Hinchey amendment.

Mr. FRELINGHUYSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the gentleman of New York's amendment to suspend the Department of Veterans Affairs Equitable Resources Allocation program, or VERA. As the gentleman may know, the gentlewoman from New York (Mrs. KELLY) and I tried to do the same thing last year. Unfortunately, our efforts were thwarted by the Senate. We settled instead for a General Accounting Office study on the effects of VERA implementation on VISN 3, which covers parts of New York and New Jersey. This report is still not completed.

Simply put, it is my feeling that VERA is bad public policy. The program shifts money away from areas with existing elderly veteran populations and into areas with developing veteran populations. In the end, this program has done nothing more than pit veterans in one region of the country against veterans in other regions.

Let me tell my colleagues what VERA has meant for the veterans in my district in New Jersey. VERA has meant that security stations in the psychiatric ward at Lyons VA Medical Center are often empty or unmanned. VERA has meant less doctors and less nurses working more overtime to care for patients at Lyons and East Orange Medical Centers. Furthermore, I understand that the FBI and the VA's Inspector General are currently investigating alleged rapes and other alleged mistreatments or abuses of patients.

And the worst example of VERA's impact on my district happened last month. A Korean War veteran at Lyons VA Medical Center left his room, unobserved by staff because they are understaffed, and his body was found not until 2 days later, just yards away from the very building where he lived. Why did it take so long? From what I have been told, there was no money to pay the Medical Center's police overtime to search for him. Local authorities evidently were not contacted.

Unfortunately, my district is not alone. The gentlewoman from New York (Mrs. KELLY), who also represents VA medical centers, and others in this room as well have had similar experiences. At Castle Point Medical Center, a pressure ulcer patient in the long-term care unit had maggots living in his wound. A VA Inspector General's report found a large number of flies in his care unit.

The VERA program was implemented by the VA with minimal guidance by Congress. The proposal of the gentleman from New York (Mr. HINCHEY) to suspend the implementation is on target, because it will give Congress time to evaluate the program's consequences on the quality of health care for all within the system. It is our duty and our responsibility to fully explore the impact of VERA on veterans medical care.

Congress needs to exercise more oversight over the VA and VERA to prevent other egregious actions. For example, the leadership in VISN 3 in our area which covers my district returned $20 million to Washington, to the VA last year. Yet patient needs continue to be unmet and patient care suffers.

VERA is not the answer to the VA's funding problems. All VERA has done since it was implemented was to create regional battles for diminishing funds. When our Nation was at war, our veterans answered the call and placed their lives on the line to defend ours. They deserve better than a managed care system which often elevates cost savings over quality care.

Mr. Chairman, I support the Hinchey amendment and urge my colleagues to do the same.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand to strongly oppose the Hinchey amendment. First of all, it would bar the VA from funding a system which they already have to distribute medical care equitably. The word equity is important in VERA. It is not so much where one lives demographically but this equitable distribution.

So then I want to ask the gentleman from New York (Mr. HINCHEY) and some of the people from the other areas, this has happened for the past two sessions that I have been here. The gentleman is saying that there is no equity in VERA, but what he does not tell us is that VA facilities in the metropolitan New York area, that is VISN 3, they receive an average payment for each VA patient which is 27 percent higher, 27 percent higher, than the national average. Other New York facilities and VISN 2 receive an average payment for each VA patient which is 7 percent higher than the national average.

Mr. Chairman, 90 percent of Mr. HINCHEY's district is in VISN 2, so we can see that there is some discrepancy there in terms of the equitable treatment of veterans in these areas.

The VERA system, Mr. Chairman, does make regional differences. It takes them into account by making adjustments for labor calls, differences in patient mix, and different levels of support for research and education. And VISN 3 that is in the Bronx, VA medical facilities receives an average of $5,659 per veteran patient. The national average is just $4,465 per patient. VISN 8 that is in Florida, VA facilities receive $4,076.

Now, let us face it, Congress. The veterans want to move south, the veterans want to move out west, and they bring their illnesses and their disabilities to these areas. Does that mean that we go out and recruit them like we recruit football players? No, we do not do that. They come to these areas.

And we keep saying that the medical inspector of the VA conducted a 6-month study. Well, he did, or they did, but it refuted much of the information we hear here today. Much of the Hinchey amendment's rationale is flawed when we look at the statistics that are here.

If members of the VA believe that VA medical funding in their hospitals is inadequate, the solution is to increase the funding into the medical account, not to throw out the system for the distribution of these funds. No matter what we say, there is always going to be some disagreement when there is a formula. There is always going to be one side saying that the formula is skewed one way and the other one says the other. But this has been studied, and we have some empirical data which shows that the veterans, the money, I repeat, the money should follow the veterans, not the veterans follow the money.

Now, the people in the Northeast area used to get all of the money; and in the South, we were left out. But now we see that this mix has changed. So now they want us to come back and change the system, and we just changed it I think in 1997. So why go back again?

Since VERA was implemented, VISN 8 has treated 35,000 more category A veterans. Do we know what the category A veterans are? Service-connected, low-income veterans. The Florida network has opened nine new community-based outpatient clinics in the past 2 years. Do my colleagues know why? The people are moving from the North into Florida, and we must deal with it.

VERA has supported increased expenses through the VISN, $3.5 million for prosthetic expenses. Total veterans treated in VISN 8 should reach 28,000 by the end of fiscal year 1998. Florida's veterans population is approximately 1.7 million.

Mr. Chairman, we all realize the VERA issue is a very difficult one. Our veterans population is on the move. They are moving to the southern and western States and away from the States in the Northeast and the Midwest.

This is not something that is new. These demographic changes have been going on for over a decade.

In Florida it has meant overcrowded VA facilities, lots of inadequate equipment, and long waits, because we did not have the personnel we needed to serve the large number of veterans moving to our States. In other parts of the country, it has meant empty beds, unused beds, unneeded beds. So they have had too much bedding in some of these other areas.

To hear proponents of the Hinchey amendment speak, one would think VERA is stealing health care dollars from veterans in other States. That is not right, Congress. The fact of the matter, vets are moving away, as I said. The large budgets in the VA health care facilities are no longer justified. Vote against the Hinchey amendment for fairness.

The VERA issue is a difficult one. Our veterans population is on the move; they are moving to the Southern and Western states and away from the States in the Northeast and the Midwest.

This is not something that is new; these demographic changes have been going on for over a decade. In Florida, it has meant overcrowded VA facilities; lack of adequate equipment; and long waits because we didn't have the personnel we needed to serve the large number of veterans moving to our state. In other parts of the country, it has means empty beds, unused and unneeded capacity in VA facilities, and more personnel than warranted by the number of vets or their specific treatment needs.

To hear proponents of this amendment speak, you'd think VERA is stealing health care dollars from vets in their states; the fact of the matter is, vets are moving away from their states; the large budgets of their VA health care facilities are no longer justified; and they are complaining because cutbacks are always painful.

While I sympathize with their concerns, we must make sure that VA health care dollars follow the veterans—not the bureaucrats. The fact of the matter is that VERA provides an equitable distribution of VA health care funds, and we should all support it because it is fair—not painless, especially for those who are closing facilities, but fair.

Veterans health care is particularly important to the millions of vets in Florida—not just because we have so many veterans, but because we have so many veterans who are elderly and/or disabled.

From 1980 to 1990 Census Data, 47% of all vets to relocated to another state during the decade moved to Florida

The net gain of vets to Florida in the last decade alone (349,000) was greater than the overall veteran populations of 22 states

Florida also is home to the nation's second largest population of veterans—second only to my Chairman's state, California

Florida is home to the second largest population of veterans with a service-connected disability

Florida has the largest population of veterans with 100% service-connected disabilities, as well as veterans who have 60–90% service-connected disabilities.

I know that the VA has implemented the VERA system (veterans equitable resource allocation) to insure that VA health care resources are directed to where there are the most veterans who need these services.

I urge the members to support VERA by rejecting this most unwise amendment.

Mrs. KELLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support for the Hinchey amendment. Under the Veterans' Equitable Resource Allocation plan, I have witnessed the effects of a $226 million cut to the lower New York area veterans network.

After a careful study of VERA, I have come to the conclusion that it is flawed. These flaws permeate VERA's methodology, its implementation, and especially the VA's oversight of this new spending plan. It is unfortunate that the VERA plan imposed upon our VA facilities, it is not one to provide proper funding to the VA facilities but one to steal from Peter to pay Paul or to take from some VA facilities to give to others.

A little over 6 months ago the VA released a report of its own Office of the Medical Inspector investigating reports into the reduced quality of care at Castle Point and Montrose Veterans Hospitals in my district in the New York Hudson Valley. The findings of the Office of Medical Inspector are startling and uncover a problem that we were only partly aware of.

The Medical Inspector found 158 violations of health and safety and VA codes. The most startling finding was that there was a 25 percent increase in poor to marginal care that was given at the VA hospitals in 1997 in my district.

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Let me point out that the report made continuing references to findings such as, and I quote, "pieces of antiquated medical equipment, including those used by or on patients who were identified in the ICU."

The report also stated that its "Team members had observed dust, fecal stains, and urine stains on patient care unit floors. Team members noted floors, walls, and ceilings with cobwebs, windowsills covered with dirt and dust, peeling paint, broken floor tiles, crumbling cement," et cetera.

This prompted one of the most important conclusions of the report, again, which I quote: "There is a great need for overall upgrading of both facilities."

The VA inspectors also stated that they, and I again quote, "believe that (the network) and Castle Point and Montrose leadership and management may have accelerated the pace of the integration to become more efficient in anticipation of VERA." In short, we were feeling the negative effects of VERA long before it was ever implemented.

When VERA is supposed to promote more efficient and effective delivery of care, I am seeing the exact opposite occur at veterans' hospitals in my area. The staff there is caring and wonderfully committed, but the VA is not supporting them.

I beseech my colleagues on both sides of the aisle to support the Hinchey amendment and to make the necessary investment into veterans' hospitals for all necessary upgrading needed in order to keep their promise of care for our veterans. The veterans of this Nation gave their best for us, and now we must do our best for them.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I simply rise and suggest to the gentlewoman that I very much appreciate her position. Positions not entirely the same as hers are going to be expressed across the floor, I can tell, in proportionate numbers to the Members who serve in various areas of the country.

May I suggest recognizing the value of revising and extending.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a Member of the Committee on Veterans' Affairs, I know that VERA was developed as a way for the VA to be more efficient in providing health care for our veterans. VERA is not simply taking money from one region to another, it is a well-thought-out system, supported by our own General Accounting Office and the VA Under Secretary for Health. It recognizes that health care costs vary from region to region, and it also accounts for veterans who move to warmer climates and therefore are using Sunbelt facilities more.

In my State of Florida, the demand for veterans' health care continues to rise. Many constituents in the States of my colleagues who oppose this system have moved to Florida and very much want this system to stay in place. I support VERA, veterans' service organizations support VERA, the GAO supports VERA, the VA supports VERA. I urge my colleagues to support VERA. If there is a problem with one hospital, if there is a problem with the system, it is better to address them, than to eliminate a program that will affect veterans across the entire country.

I urge my colleagues to support our veterans and not vote for any amendment to strike VERA.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to rise in strong support of the amendment being offered by my colleague, the gentleman from New York (Mr. HINCHEY), to the VA, HUD appropriation act for fiscal year 1999. I join him in expressing strong concern for the future of VA health care, and I agree that VERA is not the proper model to use in determining future funding allocations.

While VERA was a noble effort, it has been unfairly biased against older veterans in major metropolitan areas. These older veterans are those most in need of inpatient comprehensive health care, and they have been the ones most adversely affected and impacted by VERA.

In fact, Mr. Chairman, widespread evidence of deteriorating quality of care in New York veterans' hospitals last year is proof enough that VERA has hurt too many of our veterans. The primary reasons for this is that VERA advocates a zero sum game. For veterans in the South and West who gain health care funds, veterans in another region have to lose some funding. This is being done in an environment where veterans' funding is theoretically frozen for the next 5 years.

Even with the modest increases suggested by the Committee on Veterans' Affairs, those VISNs in the Northeast will still lose a great deal of money to both VERA and annual medical inflation costs. Thus, health care for our veterans in the Northeast are going to take a double hit every year.

In VISN Network 3, the reported plans for the new VERA cuts in fiscal year 2000 will result in a $48 million cut in lower New York State. The problems with VERA are twofold.

First, since the VA means test is a national figure, there will be more category A veterans in the South and West, which have lower costs of living, than in the Northeast. This results in an inaccurate measure of demand for services between VISNs.

Secondly, VERA fails to differentiate between the types of care delivered at VA facilities. VA hospitals in the Northeast have more specialized care patients, including spinal cord injuries, mental health, AIDS, and geriatric care cases. These cases cost more than their outpatient counterparts, which are more plentiful in the South and West.

Furthermore, despite the well-publicized concerns of my colleagues, there exists no crisis for VA health care in the Sunbelt. In response to an inquiry we made on this subject last year, the GAO informed us that there was no empirical evidence that any veteran in the South or West has been denied care due to inadequate funding.

While it is true that many veterans have in the past migrated to the Sunbelt, let us note that these are predominantly well-off individuals who use private facilities or Medicare over VA facilities.

The GAO will also soon be releasing a final report on the impact of VERA on the quality of care being delivered in those VISNs of the Northeast. From the preliminary evidence I and my Northeast colleagues were made privy to during the course of my investigations, the results will not be encouraging for VERA.

Accordingly, Mr. Chairman, I urge all of our colleagues to vote for this amendment to show their commitment to our veterans, regardless of their geographic residence. The solution for VA health care is to make the pie larger, not to alter the size of the pieces after they have been cut.

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Hinchey amendment, but I must say that in many ways, this is an embarrassing and unfortunate debate. We should all be a little bit ashamed of ourselves. Veterans are not Vermonters, they are not Floridians, they are not New Yorkers, they are not Californians, they are Americans.

The fact of the matter is that over recent years, this Congress has cut and cut veterans' programs. I do not have to remind the Members here that only a few months ago we took $10 billion from veterans' programs in order to increase funding for the highway program. I think the highway program is important, and a good idea. I supported it. But they did not need another $10 billion on top of $200 billion. Yet, we lost by 5 votes the effort to retrieve that $10 billion.

Last year in the so-called balanced budget agreement we gave huge tax breaks to some of the wealthiest people in this country, and then we cut back, not only on Medicare, but on veterans' programs again. So I happen to agree with those people who say that when men and women put their lives on the line and sign the contract with the United States government, we have a moral obligation to fulfill that contract, and we have not done that. That is the most important issue.

The Northeast should not be fighting with the South. Every veteran in this country deserves quality health care, but that is what has happened, because we have cut back when we should not have cut back. This is a wealthy Nation. This is a Nation that has given huge tax breaks to those people who do not need it, and then we say, gee, we do not have enough money for veterans' programs.

In respect to the Hinchey amendment, I strongly support it, having said that. I think that the formulation in VERA is not fair to various regions of this country, and that we should support the Hinchey amendment and make what exists a little bit better. But the bottom line is we should support all of our veterans. We should increase funding for veterans' programs, and we have the resources to do that, if we get our priorities straight.

Mr. EVERETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a supporter of fairness for our Nation's veterans, I rise in strong opposition to the Hinchey amendment. It is ironic that this legislation, which the sponsors say will help veterans, will end up destroying many veterans. If the Hinchey amendment is adopted, veterans across the Nation will lose newly-won equitable assets to vital medical care funds afforded to them by law.

In April of 1997, the VA implemented VERA to address medical care funding inequities in VA facilities nationwide. Since its implementation, the findings are, contrary to what we have heard on this floor, for which they say they have documentation, and I would like to see it, as chairman of the Subcommittee on Oversight and Investigations, because nobody has given it to me, but contrary to that report, the well-known accounting firm of Price Waterhouse reviewed VERA and has given it positive marks in its March report. It says that VERA was a well-designed, conceptually sound system marked by simplicity, equity, and fairness.

This positive review was conducted on the heels of another favorable assessment by the General Accounting Office in 1997 which noted that VERA is making resource allocations more equitable than previous funding systems.

Despite the evidence that VERA is working just as it was intended, the sponsor of this amendment, the gentleman from New York (Mr. HINCHEY) claims that his veterans in New York are being shortchanged. Nothing could be further from the truth. VERA is designed to factor in regional costs, such as labor, differences in patient mix, and varying levels of support for research and education.

For example, in New York, the gentleman's district, the average veteran patient receives $5,659. In my district in Alabama, which is part of VISN 7, the average patient just gets $4,300. In reality, New York's VA facilities receive an average payment per patient which is 27 percent higher than the national average.

What disturbs me even more are the charges by some in the New York delegation that somehow VERA's funding allocations have resulted in a deterioration of health care and untimely deaths in several New York VA medical facilities. These are serious charges. I would frankly like to see their proof.

It is my understanding that my colleagues from New York base their facts on a report by the VA's Inspector General as to the deaths at Montrose and Castle Point New York VA hospitals. This very report vindicated VERA in those cases. The VA's IG report even went on to specifically state there was no impact of VERA at Castle Point and Montrose concerning mortality rates. VERA was in fact not tied to any health care quality concerns at these facilities reported by the VA IG.

Further, I understand that the VA's IG report did list over 150 areas of improvement to address the problems of two New York hospitals, but none included VERA, despite what you have heard on the floor today.

As chairman of the VA Subcommittee on Oversight and Investigations, I rely on facts. I must tell the Members, there are no facts to back up the claims that VERA has adversely affected any veteran, any of my veterans or any in New York. Rushing to judgment armed with half facts serves no one's interests, especially our veterans. America's veterans deserve the very best medical care, and VERA is helping deliver it. We need to work that out.

Let me also say, I would suggest that my fellow Members of Congress visit their VA hospitals and pay particular attention to the way their money is spent. I have seen $200,000 spent for gold-plated faucets by a director, of health care money, by a director renovating his house; $26,000 for a fish tank; $100,000 for another fish tank, and by the way, in the area that they say is going to be affected, $20,000 just to keep this fish tank up every year.

Mr. Chairman, I would suggest we all take a close look at how VA spends its money. I am very satisfied with the current help I am getting from the VA on cracking down on this kind of stuff.

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Another hospital, 63 percent occupancy. The overtime runs over a million dollars a year consistently. It is absolutely unacceptable. I urge a "no" vote on this amendment.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Hinchey amendment.

Let me start out by voicing my agreement with the comments of the gentleman from Vermont (Mr. SANDERS). To a large extent, this debate is taking place in a context that it should not be taking place in, the context of large cuts in veterans services.

This is the richest country in the history of the planet, but we are wasting too much of those resources, too much of government's resources which could be spent on helping veterans and on other worthy purposes, on tax breaks for the richest people in our society.

But within the amount of money we make available for veterans, the intent of VERA was to distribute the VA's resources equitably to take into account population shifts and needs in growing States. We know that and do not object to that. But the actual plan has not worked out that way.

What do we see? We see professional staff shortages due to staff buyouts, buyouts apparently pushed in order to meet VERA quotas. We see a 20 percent cut in the per patient budget. We see an increase from 17 to 25 percent in the number of deceased patients, deceased patients judged to have received marginal or poor care. Inspectors noted that this represented a sharp rise, unquote, in poor care in the period after VERA took effect.

We see decline in maintenance. We see no janitorial services on nights and weekends and other indices of poor services.

The VA has consistently maintained that allocation should be based on its computer model that says that some regions have too high a per patient cost, rather than determining why those costs are higher than average.

Mr. Chairman, if my colleagues believe in equitable treatment for veterans and quality care for all veterans, they will join us in questioning why some regions have suffered so severely since VERA took effect and in supporting the Hinchey amendment and also in increasing the overall budget.

Mr. HINCHEY. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I thank the gentleman from New York (Mr. NADLER) for yielding me this time.

Mr. Chairman, I would like to point out that some of the remarks that were made a moment ago by the gentleman from Alabama (Mr. EVERETT) are just incorrect. It sounded to me as though they could have been written by the Veterans Administration itself.

The VA and its apologists for VERA would have us believe that VERA is an equitable allocation of resources. The fact of the matter is it is not anything of the kind. And the impact of VERA is not confined to the Northeast. The impact of VERA is spreading all across the country. We have been the guinea pig for this program. The New York metropolitan area, and the Northeast generally, has been the laboratory from whence this Frankenstein monster has originated.

But, Mr. Chairman, it is now sweeping across the country and it is going to impinge upon every single veterans hospital, with the exception of a few in a few States. Florida might not be affected, that is correct. It may not be that Arizona will be affected. There will be two or three States, perhaps, that are not affected.

But as I indicated in the my opening remarks, whether veterans are served out of the Boston headquarters or the Pittsburgh headquarters or the Durham, North Carolina, headquarters or Nashville or Chicago or Kansas City or Dallas or Denver or Long Beach or others, they are being impacted and they will be impacted more severely as time goes on.

There is nothing equitable about this distribution. It is grossly inequitable. It is horribly unfair. Contrary to what was said a few moments ago from that podium right there, we have in New York seen a 50 percent increase in mortality rates as a result of VERA.

Do my colleagues want to visit that upon their veterans in their part of the country? Do they want to see the veterans that are served out of their VA headquarters suffer the same kind of iniquities and inequities that we have seen in the Northeast? I do not think so. I do not think so at all.

Mr. Chairman, this amendment is essential. If we do not pass this amendment today, if it does not become part of this bill this year, I promise we will be back here again shortly and the number of people speaking in favor of reforming VERA and against what VERA has done will have increased by multitudes on the floor of this House.

Please, let us not have any deaths in my colleagues' regions before that happens. Let us not have veterans in their part of the country suffering the way my veterans have before that happens.

I ask my colleagues to take a precautionary move here. Mr. Chairman, I urge my colleagues to do what is right for the veterans in their areas before this suffering is visited upon them. Support this amendment.

Mr. STEARNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to say a few things to my colleagues.

The gentleman from Arizona (Mr. STUMP), chairman of the Committee on Veterans' Affairs, is opposed to the Hinchey amendment, as well as myself, I am chairman of the Subcommittee on

Health, and the gentleman from Alabama (Mr. EVERETT), who is chairman of the Subcommittee on Oversight and Investigations.

The basic reason is this would actually destroy the allocation system. The gentleman from New York (Mr. HINCHEY) knows that we beat this same amendment handily before. And to bring it up again and to try to pit the Northeast against the Southeast is not the way to solve the problem. Throwing more money at any problem is not going to solve it. I think the supporters of this amendment would be better suited and wiser to establish reforms and change and innovations instead of asking to throw more money at problems.

Every time they want to come back, they should also realize that the President's budget fell short of the recommendations made by both the House Committee on Veterans' Affairs and the Senate Committee on Veterans' Affairs. The figures that the gentleman from New York is using here in this debate are based upon the President's fiscal year 1999 budget, and those numbers are preliminary. And so the numbers that the gentleman is using are really not the accurate numbers, and I submit that to the gentleman in all deference.

Unfortunately, not all the veterans live in the Northeast. I respect the gentleman's position and the fact that he wants more money. But I also submit that the States in the Southeast have long been without money and so now they are asking for their fair share, because the veterans are moving in. In fact, there is a crisis in the Sunbelt. I think one of my colleagues on that side said there is not a crisis. We need more money, too.

In the end, all of us are going to have to come up with innovative ways to serve veterans and we will have to continue to fund them adequately. I think this bill does, out of admiration and deference to the gentleman from California (Chairman LEWIS). The gentleman has made a hard effort here. I urge all Members to support the gentleman from California (Chairman LEWIS) and support the gentleman from Arizona (Chairman STUMP) and vote against the Hinchey amendment.

Mr. Chairman, I rise to oppose the Hinchey amendment. He is absolutely correct that VERA was designed to ensure that the dollars follow the veterans.

Perhaps Rep. HINCHEY should consider that the President's budget falls far short of the recommendations made by both the House and Senate appropriators. The figures used by Mr. HINCHEY are based upon the President's FY 99 budget for VA and those numbers are preliminary. They are not our numbers—we intend to increase funding for VA and that, in turn, will ensure that the dollars will be disbursed as VERA intended—to our nation's veterans.

Last Congress, we passed the Veterans Equitable Resource Allocation or VERA system to fix a gross funding inequity.

Prior to the passage of VERA, Veterans health funds were allocated based solely on the historical usage of VA facilities, and then were simply adjusted upward each year for inflation. As a result of this system, Veterans funding was concentrated in the densely populated Northeast.

Unfortunately, not all of our country's Veterans live in the Northeast. In fact, most now live in the previously grossly underfunded South and West.

VERA goes a long way toward fixing this inequity. Under the VERA system, workloads are matched directly with annual allocations. Furthermore, the number of special care veterans, national price and wage differences, and education and equipment differences are taken into account for funding considerations.

In other words, VERA eliminates the arcane political mechanism that forced funding into the urban Northeast, replacing it with a funding mechanism that takes reason and common sense into account to determine adequate funding amounts.

I urge my colleagues to look at the language of this amendment. It would prohibit the use of VA funding to implement VERA.

My point is, this amendment would change current law. And in doing so, would undue what VERA guarantees—that all American veterans have equal access to care regardless of the region of the country in which they live.

The bottom line is this: VERA became law during the last Congress, not by mistake, but because the funding mechanism was grossly unfair and terribly inadequate.

Put simply, attempts to dismantle the VERA funding system could potentially have an unfair impact on states such as my home state of Florida. As such, Mr. Chairman, in the quest for equality and for fairness for our nation's veterans, I urge my colleagues to oppose the Hinchey amendment.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will try to be brief today, but this is an important amendment. I rise in support of the amendment offered by the gentleman from New York (Mr. HINCHEY) to prohibit the VA from using the VERA system for the distribution of funds in the fiscal year 1999.

Veterans in Maine receive their health care from one primary hospital and that is the Togas VA hospital in Augusta. I have heard statements on the floor that the VERA system is working. Maybe in some places it is working, but it is not working in Maine for the veterans of Maine.

In recent years, Togas has experienced an increasing patient load, not a declining load. And at the same time, it suffered from declining budgets and reduced staffing. The result has put a severe strain on the quality and the timeliness of care provided to veterans in Maine.

VISN 1 is the region that includes Togas. VISN 1 has seen its budget cut by over 5 percent, despite the level funding in VA. That must be distributed among the hospitals in that region, and the result is Togas in Maine has an increasing workload but a 3 percent cut in funding from over last year.

Increasing workloads with reduced budgets means longer wait times for health care, increased numbers of veterans sent out of the region to receive care, and a general reduction in staffing and health care quality.

Let me just say a word about what we hear. The gentleman from Maine (Mr. BALDACCI) and I and the two Senators from Maine spend more time on Togas than on any other single issue that we deal with. And it is not because the care is so great that no one is complaining.

Mr. Chairman, we have 100 percent disabled veterans who wait a year and a half for any attention to their dental work. We have veterans who are having a variety of different problems that take too long to provide attention. The staff is upset because they cannot provide the quality of care that they used to provide in the past.

This is having a significant serious adverse impact on veterans in Maine. We need to take a closer look at VERA. The GAO is already reviewing the VA's implementation of VERA and its impact on VA hospitals and veterans. And while we await the GAO report and examine the impact of VERA in more detail, we should delay its implementation.

One final word. Those on the other side who voted for the Republican budget resolution should think about that resolution. It includes flat funding for veterans' health care. If that is the policy of this Congress, we will be back here year after year after year arguing about this allocation among States. It is a mistake. Not only was that a mistake to cut Head Start and to cut Title I, it was a mistake to flat fund veteran's health care. We cannot keep going this way. We have a surplus. We ought to make things right for the veterans in this country.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will keep my remarks brief, but I rise in strong support of the Hinchey amendment. The purpose of the VERA methodology, as I have understood it, is to transform VHA into a fully integrated system of health care delivery that ensures that funding follows veterans. I agree with that overarching goal.

Mr. Chairman, I believe that the VA must take into account population shifts and an increase in the veterans population in certain States. But from my perspective in VISN 4 in Pennsylvania, we cannot force these changes so quickly. We need to take into account the fact that the care that veterans receive at their VA hospital cannot be jeopardized in this process.

The shifting of funds has already caused many veterans hospitals to reevaluate every dollar spent, and this has resulted in staff buyouts and budgetary shortfalls.

With regard to the comments of the gentleman from Alabama (Mr. EVERETT), whom I regard highly, I visit my two veterans hospitals on a regular basis and I have put a human face on this issue. As we debate this issue, I think it is important to remember that these veterans rely on the veterans health care system and they deserve the best quality of care possible.

Mr. Chairman, I can tell my colleagues that in Pennsylvania the reform that the gentleman from Florida (Mr. STEARNS) advocates are being implemented in our hospitals. But we have a rural veterans population. We need to give the hospitals time to bring the veterans into the system so they can justify their dollars. We need to improve utilization, and we need time to allow the veterans hospitals to do that.

To give them that time, I urge my colleagues to vote in favor of this amendment to prohibit the use of VA funds to implement VERA at this time. The fact is, it is not working, and veterans' health care is at risk.

Mr. BALDACCI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Hinchey amendment. This is an issue that is vital to the health and welfare of veterans in my district and throughout Maine and the Nation.

My concerns, of course, lie with the VERA program, as it is known, the Veterans' Equitable Resource Allocation System, and its effect on the availability, accessibility, and quality of health care offered to veterans.

These concerns should come as no surprise to any Member of this Chamber. Last year's report from the House Subcommittee on VA, HUD, and Independent Agencies appropriations expressed concern about the way the VERA system distributes resources. In particular, the committee recognized that VERA failed to adequately account for the disproportionate number of special needs veterans in the northeastern States.

For that reason, the House voted last year to request a General Accounting Office report on the effects of VERA and its implementation. The committee questioned especially the impact of quality of care for VISNs 1, 2, 3, 12, and 14. This study was expected to be completed in 4 months, but to date no report has been produced, and we are now told not to expect a report until September of this year.

Mr. Chairman, significant questions remain. One in particular was the first year the cut was 2.5 percent. This year's cut is proposed to be 5 percent, a much more significant cut, given the fact that it is all flat funded.

What the VA Togas Hospital in Maine is looking at with a $40 million budget is an $8 million cut. What that means, more importantly, to the veterans in the district I represent, which is the largest physical district northeast of the Mississippi where we are talking about 22 million acres of land, is having those people go from Augusta, Maine, to travel down to Boston, Massachusetts, in order to get an MRI examination, routine X-ray examination, having a van deliver them on a weekly basis so that they get the proper radiation treatment for their cancer.

□ 1615

We are told constantly by hospitals everywhere in major hubs that our rural people do not need to be there, that they have the protocols for cancer treatment, chemotherapy protocols in any hospital in America and you do not have to leave your family, your home or your community in order to get that, but we require the veterans of Maine on a weekly basis to go to Boston, drive to Boston in a van to get that treatment which should be routine and should be provided.

But because of the fact of the cuts and the flat funding, they are forced to make these routine examinations and treatments to go to Boston. We do not want to see any veterans anywhere in this country be sacrificed for services that they served their country and they are owed from their country anywhere.

It has been pointed out a veteran in Maine and a veteran in California and a veteran in Florida and Texas and anywhere else should be treated with respect and care that really that we as a country owe them for what they have done for all of us.

Nobody wants to see anyone hurt. I am sure my friends that oppose this amendment would not want to see veterans and their families have to go through some of the things that they have to go through. But there is a problem here. We are asking for not only an increase in maintenance of a program that has been reducing allocations but they propose to increase those cuts over last year.

It is just unacceptable to see what veterans and their families are going through now as the system is set up to ask them to go through further hardships and pressures. I think it is just totally unacceptable. I support this amendment. I ask my colleagues to endorse this amendment.

I ask my colleagues to work together to see if we cannot make the pie larger for all of our veterans.

Mr. COOKSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in this debate over VERA funding, we can disagree and discuss what are the most meaningful statistics and whether VA's funding formula has achieved true equity. I expect the gentleman to fight for funding for his area just as all of us fight for funding in our districts.

But we ought to stick to the facts and avoid the kind of reckless scare tactics which some proponents of the Hinchey amendment have used. Some of my colleagues from New York are actually claiming that cuts in VERA funding have resulted in the, quote, deterioration of veterans health and even the loss of life in many instances.

For example, in debate last week the proponents of this amendment claimed that, quote, many veterans lost their lives at two hospitals in New York as a result of VERA funding reductions.

That is a very serious charge. The gentleman went on to say that this assertion is substantiated by the report which was done by the Inspector General of the VA itself.

I have served on the ethics board of the Louisiana Medical Society. Allegations of patients dying are the most serious that can be made and should never be made lightly, particularly in light of what the VA report already says. In fact, the report which the gentleman from New York cited is a 6-volume, 6-month study by the VA Office of Medical Inspector. That report did document serious problems at Castle Point and Montrose, New York VA Medical Centers, including greater than expected mortality rates during the first half of fiscal year 1997.

My colleague from New York will do well to read the medical inspector's report. However, because it says clearly that VERA was not the problem, specifically the medical inspector's report states, there was no impact of VERA at Castle Point and Montrose concerning mortality rates. And the medical inspector found that VERA was not linked to any of the quality care problems at the facilities.

The medical inspector made 158 recommendations to fix the problems he found at Castle Point and Montrose VA Medical Centers. Not a single one of those recommendations called for funding adjustments for New York, let alone the dismantling of the VERA funding system.

None of us wants to minimize quality of care problems when they surface. But it is one thing to advocate for increased funding for medical care. It is quite another to make baseless inflammatory charges. And I am disappointed to see the debate move to this level.

Mr. HINCHEY. Mr. Chairman, will the gentleman yield?

Mr. COOKSEY. I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I would draw the gentleman's attention to the fact that the Inspector General's report from the Veterans Administration, although it did not specifically in that report say that VERA was responsible for the decline in the quality of care, for the decline in the quality of maintenance at those Veterans Administration hospitals, for the decline in personnel, for the misallocation of personnel, for the incompetent personnel who were there at those facilities and for the increase in mortality at those facilities, it is quite clear that all those things occurred immediately upon the implementation of VERA and continued to get worse as VERA was continually implemented.

So while I did not expect the Veterans Administration to say specifically that VERA was responsible, it does not take an awful lot of reasoning to conclude from that report that these adverse circumstances occurred shortly after VERA was put into place, and as VERA was implemented they continued to get worse.

Mr. COOKSEY. Mr. Chairman, that said, I think that we really need to look at the management. There is reason to believe there may be some management problems there. I am a physician. I know about quality of care. Too often too many decisions made by some industry, some industries that we deal with, politicians, and unfortunately we are all politicians, are not always made on what is real quality of care. I think there is good reason to look at what is going on in the management of these hospitals.

Let me bring up something that has been brought to my attention by the gentlewoman from New York. There is one administrator for all these hospitals. This system that was set up actually pays bonuses to administrators in terms of added salary for giving money back. I agree, I have a problem with that. I do not feel that an administrator should receive a bonus for depriving a veteran of health benefits. I am a veteran. We all have veterans. Veterans across the country should get good care. We should look at quality of care and some equity in the system.

Mrs. THURMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when I came to Congress in 1992, from the State Senate, and watched in Florida the population gain of veterans in our State, it was probably one of the most compelling issues that would bring any of us here in making sure there was equitable health care for all veterans, not only in the State of Florida but across the country.

We have watched in Florida the number of veterans rising and then, on top of that, you have to add in to that the amount of veterans that come to the State of Florida during the winter months, which also pushes up our health care needs.

But I would like to say a couple of things here. I am going to take a colleague, the gentleman from Washington (Mr. NETHERCUTT) who wrote a letter to his colleagues that said, when veterans migrated to the west and the south, funding continued to be concentrated in the northeast. The VERA system was directly to match work loads with annual allocations, taking into account numbers of basic and special care veterans, national price and wage differences and identification and equipment differences. We know that there are going to be some losers under that.

He also goes on to say, and I think this is true, that all VA network administrators agreed that this reform was crucial.

I also want to take an opportunity here to just talk a little bit about what our Florida Department of Veterans Affairs put out. It says, The really important outcome is that the VA system seems to be making a genuine effort to at least begin to concentrate on what is important, that similarly situated veterans receive similar treatment. VERA is the step in that direction. That is and should remain our focus.

I think that is what this Congress needs to do, is remain the focus on why these changes were made. We all know the migration in this country. I have to tell my colleagues, I could go through one allocation of resources in every budget in this Federal Government, whether it be Medicaid, education, whatever, that we do not get equitable treatment. For the first time in a long time this was the first chance and has been the only chance that we have actually seen these changes made.

Let me give you a fact. In Florida, we now are servicing 36,000 more veterans because of this allocation. These are not new veterans. These were not veterans that just all of a sudden showed up. These are veterans who have been standing in lines, have been waiting for the service, who have not had the opportunity to be served in the State that they live in. And these are folks that live in there.

Then on top of that in the wintertime asking them if they can get any services. It is simple service, it is not extra service. It is not the special need person. It is the simple, everyday veteran out there that wants the same opportunity as the one in New York or any place else.

I have to tell my colleagues, there is just a very fair issue here.

I would hope, and this is very difficult because to me all veterans are equal, they served this country. Many of them died for this country. They have asked for us to keep our promise. We are having to fight an issue here that none of us want to have to fight. But on the other side of it, we have to take into account the migration into the southern parts of this country, and we have to start looking at how we are allocating our dollars and making sure that those dollars go to those veterans because of where they are today.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

As a veteran myself and a Floridian, I rise in very, very strong opposition to this gentleman's amendment. I want to share something with all of my colleagues, whether they are from east of the Mississippi or west of the Mississippi or north of the Mason-Dixon line or south of the Mason-Dixon line, that veterans that come into my district, let me say this, the veterans in my district, the vast majority of them are not born and raised in my district.

I will tell my colleagues where they are from. They are from Maine. They are from New York. They are from New Jersey. And they come to my district, and they want to know why they cannot get seen, why they cannot get the care that they used to get up north or up in the midwest in Florida.

Now, this amendment is a very, very simple amendment. It is a very, very common sense amendment. It says, now that we have had 30, 40 years of millions of veterans moving from the northeast and the midwest into the sunbelt, that we will finally, for the first time, put the money where the veterans are and not where the bricks and mortar is.

I would encourage all of my colleagues to remember not their provincial square on the map but the veterans themselves who fought, many of them sacrificed lost limbs in defense of liberty, in defense of freedom, in defense of our country, and put the money, put the dollars where the veterans are and not where the bricks and mortar are.

I encourage all of my colleagues to vote no on the Hinchey amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

I rise because this is a very painful discussion. It is painful because I believe that all of us who rise on the floor of the House and discuss our veterans truly believe that they are equal, as we would like all of us to be in this Nation. They have fought. They have bled. They have sacrificed. But it seems that the proponents of this particular amendment would like to say that our pain is greater than your pain.

And frankly, I was a supporter of the Coburn amendment. We do need more money in medical care for veterans. Just the other day I talked to a World War II veteran of mine who actually participated in the Japanese death march. He went to a hospital and was turned away, did not have the proper papers, the proper documentation, could not get necessary life-saving prescriptions.

□ 1630

So we have a crisis around this country as it relates to veterans. I believe we tried to do something credible about it. We instituted VERA, not because we wanted to take away from someone else's veterans. In fact, I think we should be discussing taking the surplus moneys that we seem to have found in this balanced budget and put it in veterans health and not talk about a tax cut. But VERA is the best we have got right now. If we need the facts, in 1997, the GAO reported that VERA is making resource allocation more equitable than previous systems. The VERA system takes regional differences into account by making adjustments for labor costs, differences in patient mix and differing levels of support for research and education.

What does that mean? It means that the overcrowded hospitals in our areas, people who move from the Rust Belt in the north, not that we are castigating the losses of population in our sister States, but they are coming south. What does that mean? Long, long, long lines. This has helped to bring about an equitable system, Mr. Chairman. Yes, there have been modest cuts in certain areas of the country. These cuts have been made in funding for hospitals whose patient populations have declined 20, 30 percent. This is not a reckless, random system where we do A-B-C and we pick you without any analysis. If your populations have fallen, then the moneys are distributed where there is a need.

I spoke to the administrator at my hospital in Houston, Texas, Mr. Whatley, new to the area. He says we cannot survive without VERA. Texas has got an increase in funds because of the increase in numbers of veterans. If I have got a 77-year-old World War II veteran being turned away from a hospital, we have got a real problem.

I would say to my friends who are supporting this amendment, let us work together to put more money in hospital care and medical care for veterans, period, but VERA is the best way we can to handle what we have got. Just over the last fiscal year, our hospital got 13 million more dollars to serve those in line at our front doors. In fact, VERA has helped us open community outreach centers in our rural areas. Again, this is not to claim that my pain is greater than your pain. But do not take away from us when we are suffering as well. Why do we not work together to get more dollars into veterans health care, more than even the Coburn amendment, deal with some of these surplus moneys and be fair to everyone. But right now, Mr. Chairman, it is unfair to distinguish it and eliminate it as something being wrong in the VERA reallocation process. I ask my colleagues in good faith to defeat this amendment and recognize the fairness of what we have tried to do.

Mr. STUMP. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in strong opposition to this amendment. The Hinchey amendment turns back the clock to the days when the VA distributed its health care resources on the basis of where we built the hospitals after World War II. The current needs of veterans should determine how the VA allocates medical resources.

The proponents of this amendment say they do not want to start a regional fight over this, but of course that is exactly what they are doing. Congress mandated in Public Law 104–204 that VA medical resources be equitably distributed throughout the country. This was to ensure that veterans have equal access to care regardless of the region where they live. In response, the VA has implemented the Veterans Equitable Resource Allocation system, or VERA. Independent reviews by the General Accounting Office and by Price Waterhouse have validated this new system as meeting the intent of Congress. Both studies found that VERA is equitable to all veterans in the country and is a significant improvement over past allocation methods.

Mr. Chairman, I have letters from both the American Legion and the Veterans of Foreign Wars supporting this concept. I will include these for the RECORD. I urge my colleagues to vote "no" on the Hinchey amendment.

The letters referred to are as follows:

DEPARTMENT OF VETERANS AFFAIRS,
Washington, DC, July 17, 1998.

Hon. JERRY LEWIS,
Chairman, Subcommittee on VA, HUD, and Independent Agencies, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR CONGRESSMAN LEWIS: I am writing this letter to express the Department's strong opposition to the amendment to H.R. 4194 that would prevent fiscal year 1999 appropriations from being used by the Department of Veterans Affairs for implementing the Veterans Equitable Resource Allocation (VERA) system.

The VERA system was developed in response to a Congressional mandate in Public Law 104–204. Independent reviews by the General Accounting Office and Price Waterhouse, LLP have validated the model as meeting the intent of Congress. Both studies have found that VERA is equitable and is a significant improvement over past allocation models. If VERA is stopped, then we will not be able to more equitably distribute our $17 billion appropriation for veterans' medical care. In FY 1999 alone, facilities in the central, southern, southwestern and western states will lose approximately $164 million in funding.

Enclosed is a fact sheet that in more detail describes why VERA was implemented, how VERA rectifies problems perpetuated by previous funding systems, the results of VERA to date, and external feedback about VERA which has reflected positively on its progress to date.

Thank you for your continued support of our Nation's veterans on this important issue.

Sincerely,
KENNETH W. KIZER, M.D., M.P.H.,
Under Secretary for Health.

Enclosure.

FACT SHEET ADDRESSING THE NEED TO CONTINUE USING THE VETERANS EQUITABLE RESOURCE ALLOCATION (VERA) TO DISTRIBUTE THE FY 1999 MEDICAL CARE APPROPRIATION

Issue: Amendment to H.R. 4194, which would mandate that none of the funds made available in the FY 1999 VA/HUD Appropriations Act may be used by the Department of Veterans Affairs to implement or administer the Veterans Equitable Resource Allocations system.

Discussion: The Veterans Health Administration (VHA) strongly opposes this Amendment. It would have an adverse effect on the VA's ability to equitably distribute its medical care resources and will perpetuate current residual inefficient use of taxpayers' dollars.

VERA was implemented beginning in April 1997 because: VA's FY 1997 Appropriation Act (Public law 104–204) required VHA to develop and submit to Congress a plan to allocate funds in an equitable manner. In February 1996, the General Accounting Office called for changes in VHA's allocation system. The effect of those previous systems was that dollars were spent inefficiently at some facilities, resulting in limited access and services at other facilities and an inefficient use of taxpayers' dollars.

VERA rectifies problems perpetuated by previous funding systems by:

Providing networks with two national workload prices for two types of patients—those with routine (Basic Care) and those with complex/chronic healthcare needs (Complex Care). In FY 1998, Networks receive $2,604 for each Basic Care patient and $36,960 for each Complex Care patient. This ensures that VA's special patients are funded appropriately. For example, the New York City Network (VISN 3) receives more Complex Care funds than any other VISN because they have the greatest number of special patients.

No longer basing funding on historical funding patterns but on validated patient workload and adjustments for variances in labor costs, research, education, equipment and NRM.

Adjusting network budgets to account for those veterans who receive care in more than one network.

Providing each network an allocation that recognizes its individual characteristics.

The results of VERA to-date are as follows:

For FY 1998 (the first full year of VERA), 13 networks received increases over funding levels for FY 1997. Nine networks received less funding. Network reductions were limited to 5%. Six networks saw increases of more than 10%, with the greatest at 12.3%.

Since July 1997 all collections from third party reimbursements, co-payments, per diems and certain torts are retained by the collecting network. A total of $688 million in receipts is projected to be collected in FY 1998. When estimated collections are added to VERA totals, the smallest percentage change from FY 1997 in funds available is +0.10% in network 3, while network 16 experiences the greatest percentage change in total funding with +10.38%.

With the 5% cap on losses in place, it is expected all funding inequities will be corrected by FY 2000, and VERA will have shifted $500 million across VHA's healthcare system over four years. (Most will be corrected by FY 1999.)

The graph[1] reflects that VERA is not simply moving all networks to an average cost per patient, rather it adjusts network allocations for variances in patient mix, labor costs, research and education support, equipment and NRM activities. Variances from the national average will exist because VERA allocates funds in a manner that adjusts for differences in patient mix, labor costs, and research and education support costs. Thus, even the networks that have less funding in FY 1998 compared to FY 1997 may still be provided a higher than average price than networks that receive more funding. For example, Network 3 which would receive 12.2 percent less funding under full VERA, has an average price of $5,659, which is 26.7 percent above the system average of $4,465. Conversely, Network 18 which would receive 11.4 percent more funding under full VERA, has an average price of $3,886 per patient, which is 13 percent below the system average.

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[1] Graph not reproduced.

External feedback about VERA has reflected positively on our progress to date:

In the Spring of 1997 Senator "Kit" Bond, Chairman of the VA-HUD Senate Appropriations Subcommittee said: ". . . VA has overhauled its allocation methodology, vastly improving fairness and appropriateness with which resources are allocated to facilities . . . the new system is a tremendous step forward.

In late 1997 the GAO reported that VERA is making resource allocation more equitable than previous allocation systems.

In March 1998 Price Waterhouse LLP issued a report on its evaluation of VERA. The report concluded that VERA was a well designed system, is ahead of other global budgeting systems, and met VHA's goals of simplicity, equity and fairness. It also found that the conceptual and methodological underpinnings of VERA were sound.

Conclusion: The Amendment to H.R. 4194 is inappropriate given the accomplishments of VERA to-date. Additionally, we are maintaining a $100 million national funding reserve in the VA headquarters to assist networks in the unlikely event that the current level of patient care is threatened. The reserves will be used, if needed, to maintain the quality and level of services.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, July 28, 1998.

Hon. BOB STUMP,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is written to express the strong opposition of the Veterans of Foreign Wars to an amendment offered by Congressman Maurice Hinchey to H.R. 4194, which would prevent VA from further implementing the Veterans Equitable Resource Allocation system known as VERA.

VERA was developed in accordance with a congressional mandate and an overwhelmingly clear need to distribute resources in a more equitable manner within the VA medical system. While still in its relative infancy, VERA has been shown to be both equitable and a significant improvement over past allocation models. If VERA is halted at this juncture, there will be no better means of distributing scarce health care resources and veterans will suffer as a consequence.

The VFW has been and will continue to carefully scrutinize the operation of the VERA system, including the establishment on September 1, 1997, of a 1–800 hotline in operation 24 hours a day for the purpose of oversight. Thus far we have recorded no undue problems associated with VERA's operation. We are convinced that this will be the absolutely wrong time to halt its operation. We urge you to oppose Mr. Hinchey's Amendment to H.R. 4194 targeting VERA.

Sincerely,

DENNIS M. CULLINAN,
National Legislative Service.

THE AMERICAN LEGION,
Washington, DC, July 28, 1998.

Hon. BOB STUMP,
Chairman, House Veterans Affairs Committee, Washington, DC.

DEAR CHAIRMAN STUMP: The American Legion continues to support positive changes to the VA health-care system which are intended to improve its overall operating efficiency and, thereby, be more responsive to the needs of veterans. Today, more than three million veterans across the country rely on VA as their primary source of health care, based on the current eligibility criteria. We believe millions more would like to use VA, but limited resources still forces VA to limit services and access systemwide.

Funding levels in the FY 1999 budget for VA/HUD and independent agencies, now under consideration, will be constrained by the limits imposed on VA discretionary spending under the Balanced Budget Act of 1997. This is requiring the 22 Veterans Integrated Service Networks (VISNs), rather than 172 individual medical centers, to seek greater operating efficiencies, cost containment, and increased medical care cost recoveries, while trying to provide improved service to more veterans. Even though The American Legion has a number of concerns regarding problems with funding to the VISNs under the Veterans Equitable Resource Allocation (VERA) system, we continue to support VA's efforts to modify and improve this methodology based on experience.

It is recognized that the implementation of VERA involves many difficult financial decisions for VISN officials. Some of these decisions have resulted in stress and hardship for veterans and their families, particularly in those VISNs that incurred real dollar funding reductions. Nonetheless, VERA is an important management tool which will over time help VA meet the needs of veterans in a more efficient, effective, and responsible manner. However, these changes do not address VA's need for long-term, guaranteed financial stability which can only be achieved by combining realistic federal appropriations, broadened third party reimbursement authority to include Medicare subvention, and the development of other new funding sources.

The American Legion believes Congress has a responsibility to safeguard the fiscal integrity of the VA health care program. It must also exercise continued oversight of the changes currently ongoing within the VA medical care program and the impact of reduced funding to ensure that veterans are not shortchanged or arbitrarily denied needed care and treatment.

The American Legion appreciates your continued support of our nation's veterans and their families.

Sincerely,

STEVE A. ROBERTSON,
Director, National
Legislative Commission.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I really raced over here from a markup because I could not bear the thought that yet again we have to discuss a regional problem and be turning our backs on the elderly, sickest veterans in our country. I wanted to be here to strongly, for yet again the third time, I believe, during a series of debates, support our American veterans through the Hinchey amendment. We have heard about robbing Peter to pay Paul. Here this committee is proposing to rob GI Joe to pay who? I am not quite sure. In the transportation bill, we were paying for roads and taking it out of the veterans. But this VERA formula is the most egregious portion of this appropriations. Changing this formula is robbing GI Joe in States like New Jersey, and throughout the Northeast, where there are the oldest and the sickest, the people that are most dependent and most in need of this kind of care. Do not be deceived by any loose rhetoric that we have heard around here. There is no inference at all that they are overstaffed or that they have empty rooms and that we do not need it. That is a distortion of the real facts. For certain, a number of studies verify, including one by the Inspector General. There is no question but that these veterans in terms of the needs of their age group as well as the intensity of the quality of care that they need are the most needy and deserving of our veterans, those who were ready to give their lives for our freedom. Certainly gave their all, for their country in times of greatest need. I want to strongly endorse this Hinchey amendment. I cannot believe, that the committee is not open to rectifying this distortion and this abuse of our veterans and that we cannot in good faith find the money and correct this egregious abuse through the VERA formula.

To additionally make the point, Mr. Chairman, the current VERA formula is unacceptable. New Jersey and the Northeast stand to lose up to $130 million over the next three years. VERA favor veterans centers in the South and West over the Northeast. Although there are fewer veterans in the Northeast, their health problems are more expensive than the "healthy" veterans who retired and live in the South and West.

New Jersey has one of the oldest and neediest veteran population in the nation. Most of the veterans in the South and West do not have extensive health problems associated with age like in the Northeast. In addition, when many veterans that retired to the South and West become infirmed they find the health centers caring for veterans inadequate and return to their former homes in the northeast to receive proper medical attention. This places another burden on veteran health centers in the Northeast that was not anticipated by VERA and selfishly pits veterans against veterans in a regional fight for federal dollars. Veterans are veterans . . . no matter where they live.

The strain created by the reduction in funding is taking a tragic toll on the veterans of New Jersey and the northeast. To save money, the VA has cut back on numerous services for veterans and instituted various managed care procedures that have the impact of destroying the quality of care the veterans receive. For instance, the VA has reduced the amount of treatment offered to those who suffer from Post Traumatic Stress Disorder (PTSD) and reduced the number of medical personnel at various health centers. As a result of these cuts, there has been an erosion of confidence between veterans and the VA. This erosion threatens to destroy the solemn commitment that this nation made to its veterans when they were called to duty.

Mr. HINCHEY. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from New York, the author of the amendment.

Mr. HINCHEY. I very much thank the gentlewoman for yielding. I would like to take this opportunity to draw the attention of the Members of the House to the Inspector General report which was discussed here a few moments ago. At that time, I made the point that it was quite clear that although the report itself did not stipulate a causal relationship between VERA and the decline in quality and the increase in mortality, that it was clear to reason that one followed upon the other.

I want now to say this to my friends and colleagues here. Although the report did not stipulate that VERA was the causal effect, the author of the report, the Inspector General, said to me personally that he believed that VERA was the causal effect of the decline in quality in our veterans hospitals and that VERA was the causal effect of the increase in mortality in our veterans hospitals. That is undeniable. We have that from the mouth of the author of the report himself.

I would just like to say this, also. This amendment is about fairness. This amendment is not about taking money from one part of the country and giving it to another. This is not an amendment to hurt Florida. Yes, I listened carefully to what was said a few minutes ago by a number of our friends and colleagues from Florida who talked about the increase in the number of veterans in that State. Undeniably that is true. I addressed that, in fact, in my opening remarks. We are not denying that Florida veterans need more help and more funding because of the increase in population of veterans in that State and some other States in the South as well. What I am saying is that VERA is not doing it fairly. VERA is turning its back on the veterans in other parts of the country, not just the Northeast. I read the list to Members a couple of times. Veterans headquarters in every part of the country, from the East through the Midwest, including the South, Durham, North Carolina for example, out to Long Beach are being adversely affected. Veterans funds are being cut in every one of those regions. This amendment is about fairness. It simply says, yes, we have to recognize that we have to do more for veterans in Florida and more for veterans in Arizona and other places but let us not do it at the expense of veterans in other parts of the country.

Mrs. ROUKEMA. Exactly.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. ROUKEMA) has expired.

Mr. HINCHEY. Mr. Chairman, I ask unanimous consent that the gentlewoman be given 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. SCARBOROUGH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, sometimes it is almost laughable. I am a veteran. I live here in the Northeast right now. I want fairness for veterans. There is no one that I take a back seat to on support for veterans issues or active duty military issues. But I rise in opposition to the gentleman's amendment.

Let us look at cause and effect. I am going to speak to my Republican colleagues, not even the opposition over here. Many of those that live in the Northeast are the first to support the great social programs. Look at the National Endowment for the Arts. Why do you not cut it? How about Davis-Bacon, that we can save 35 percent on all construction, but will you stop that? We could put every penny of that in veterans. And the great social programs that you support and the war on the West. So do not come to me crying that your veterans are not being taken care of.

Those that support defense, we want live veterans. Three hundred percent operation deployments above what it was during the Cold War. We are only maintaining 24 percent of our military. That means all of them are going to become veterans. Defense cuts.

And then my colleagues on the other side from the Northeast saying, well, there were tax breaks for the rich. Now, I want to tell the gentleman, veterans benefit from tax breaks, just like anybody else. Veterans benefit from a balanced budget that most of them voted against for low interest rates, whether it is for scholarships, for homes or buying a home or just getting a double-egg double-cheese double-fryburger down at the store. And yet they cry, "Oh, there is no money."

So look at the cause of why we are. We pay nearly $1 billion a day on the national debt, $360 billion we could use for veterans care. But a liberal Congress over 40 years spent with big government, high taxes. And where are we now under a balanced budget? We could survive under a balanced budget, but if the President refuses to pay for 300 percent Operation Tempo, where does that money come from out of defense? It goes against our veterans. We could use the $25 billion that it is costing us in Bosnia, and we could fund every veterans program there is.

So do not come to me crying, we need to fund our veterans, or that we are cutting veterans. I want more money for veterans, but I look at the cause of why we cannot give it.

I rise in opposition to the amendment.

Mrs. MCCARTHY of New York. Mr. Chairman, I rise today in support of Representative HINCHEY's amendment to prohibit funding for the implementation of the Veteran's Equitable Resource Allocation program.

Making sure our veterans receive high quality care is one of my top priorities. This is an issue of basic fairness—when our country called on men and women to serve, they answered without hesitation. In return, we promised to take care of them when they got sick or old. Our country must honor their part of this agreement.

I often visit the Northport VA facility on Long Island and I am always impressed by the quality of health care that is available. More importantly, I am impressed by the praise the facility received from the patients themselves. As a nurse, I know that the best critic of a health care facility is its patients.

I am pleased to say that the veterans treated at the Northport facility are extremely satisfied with their quality of care. Unfortunately, I am also aware that this high quality health care is in jeopardy. In the Northeast, the implementation of VERA would result in decreased funding for our VA facilities. At this point, most of our VA hospitals in the Northeast have already cut back on spending and trimmed down. Further cutbacks in funding to our VA hospitals will come at the expense of patient care. Our VA hospitals will be forced to cut back on the bare necessities, like nursing and support staff, which we all know are the backbone of quality care. We must not allow this to happen.

That is why I rise in support of Representative HINCHEY's amendment to prohibit the implementation of the Veteran's Resource Allocation Program. This amendment will ensure that valuable resource dollars for veterans health care remain in the Northeast.

Mr. BEREUTER. Mr. Chairman, this Member rises today in strong support of the Hinchey amendment and in opposition to the Veterans Equitable Resource Allocation (VERA) system. As you know, VERA provides the Department of Veterans Affairs medical care funding to regions across the country, and uses an allocation formula that ties funding for each of the 22 geographic regions to the number of veterans that they actually serve, based on per capita veterans usage of facilities. While this sounds like fair allocation system in theory, it has detrimental effects on VA medical care in many areas of the country, especially sparsely populated areas like Nebraska.

From the time the Administration announced this new system, this Member has opposed VERA and have supported funding levels of the VA Health Administration above the amount the President recommended. This new formula has produced a 5 percent decrease in funding for this fiscal year for my state, which resulted in a $13.5 million decrease in funding distributed to my state of Nebraska. Already, we have been threatened by the closure of a major VA medical facility in my district. VERA has seriously impacted health care for veterans in the less populated states and generally ignored existing facilities such as the Lincoln VA Hospital. In fact, last February the Administration recommended that inpatient care at the Lincoln VA Hospital be terminated in the near future. While it is true that the number of veterans served at the Lincoln VA Hospital and other VA facilities in the state have decreased over the past years, as they have in most areas of the nation because we now deny most veterans in-patient care in our VA hospitals. Nevertheless, we still have an obligation to provide care to these people who served our country during our greatest times of need. There must be at least a basic level of acceptable national infrastructure of facilities, and medical personnel is needed to serve our veterans wherever they live. This Member finds the decrease in quality and accessibility of medical care for veterans who live in sparsely populated areas to be completely unacceptable.

Everyone will agree that the VA must provide adequate facilities for veterans all across the country regardless of whether they live in sparsely populated areas with resultant low usage numbers for VA hospitals. This Member strongly supports the Hinchey amendment to prevent further implementation of the Veterans Equitable Resource Allocation system. American veterans living in all areas of the country deserve nothing less. This Member asks his colleagues to support the Hinchey Amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HINCHEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HINCHEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 501, further proceedings on the amendment offered by the gentleman from New York (Mr. HINCHEY) will be postponed.

AMENDMENT NO. 32 OFFERED BY MR. HILLEARY

Mr. HILLEARY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 32 offered by Mr. HILLEARY:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . The amounts otherwise provided by this Act are revised by reducing the amount made available for "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—COMMUNITY PLANNING AND DEVELOPMENT—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—DEPARTMENTAL ADMINISTRATION—GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES," by $21,000,000.

Mr. HILLEARY. Mr. Chairman, I rise today and offer an amendment to H.R. 4194 that will adjust HUD housing opportunities for persons with AIDS back to fiscal year 1998 levels and invest more money in the Department of Veterans Affairs grants for construction of State extended-care facilities.

Mr. Chairman, I must first acknowledge the hard work of the gentleman from California (Mr. LEWIS) and his counterpart on the other side of the aisle and the members of the committee and their staff for all the hard work on this bill. I know they did everything they could to come up with a balanced budget. I think it is pretty balanced.

But I just have one small amendment I want to make, and it is very simple. As has been said many times on the floor this afternoon, we have a severe shortage of veterans care facilities, both health care and these type of housing facilities. This program is used to provide matching grants to States to construct State home facilities, to provide a home or nursing home care to veterans. These grants may also be used to expand, remodel or alter existing facilities that provide those needs to veterans or that provide hospital care to veterans in State homes.

□ 1645

The need for veterans care facilities continues to increase at a rapid pace as the veterans population continues to age. The number of veterans 65 and over is expected to peak in the year 2000 at 9.3 million. H.R. 4194 in its present form appropriates $80 million for this program, the same as last year, while the number of veterans who need this program has dramatically risen. To fully fund the extended-care needs of our veterans in this country for fiscal year 1999 we would need $152 million.

My amendment does not even meet that level of assistance, but it does transfer $21 million toward that goal. This additional money would provide grants to assist States in constructing State home facilities. My amendment transfers $21 million from the base bill's increase in housing for persons with AIDS. My amendment does not cut dollars from housing opportunities for Persons With AIDS program. It simply freezes that program at fiscal year 1998 levels. While the number of aging veterans who require this program continues to increase at a rapid pace, the most recent data shows that the annual number of new AIDS cases declined by 6 percent. Once again, the base bill increases funding for housing opportunities for persons with AIDS by 21 million over fiscal year 1998 levels while the base bill freezes funding for veterans housing at fiscal year 1998 levels even though the number of veterans who need this housing has increased dramatically. My amendment transfers the increase in funding to veterans housing and leaves housing for those with AIDS frozen at the fiscal year 1998 level.

I want my colleagues to know that the American Legion fully supports this effort to increase VA grants for construction of State extended-care facilities by this $21 million.

I ask my colleagues to consider what is at hand and make the right choice, and I urge a strong vote on this amendment.

AMENDMENT OFFERED BY MR. NADLER TO THE AMENDMENT OFFERED BY MR. HILLEARY

Mr. NADLER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. NADLER to the amendment offered by Mr. HILLEARY:

In lieu of the matter proposed to be inserted insert the following:

SEC. XXX. The amounts otherwise provided by this Act are revised by reducing the amount made available for National Aeronautics and Space Administration—Human Space Flight for and increasing the amount made available for Department of Veterans Affairs—Departmental Administration—grants for construction of state extended care facilities', by $21,000,000.

Mr. NADLER. Mr. Chairman, I recognize the intentions and the intelligence of the gentleman's intention to increase $21 million in funding to the veterans housing and medical care facilities. I object, however, to his wanting to take this $21 million away from the housing opportunities for people with AIDS, or HOPWA program. It is a cut in the HOPWA program compared to what the bill gives it of almost 10 percent. The HOPWA program is the only Federal housing program that specifically provides cities and States hardest hit by the AIDS epidemic with the resources to address the housing crisis facing people living with AIDS. Sixty percent of all people living with HIV and AIDS will face a housing crisis at some point during their illness because of high medical expenses and the loss of wages attendant under the disease.

Major strides, thank God, have been made in treatment options for people living with AIDS, and with these advances there is new hope. But the cost of these treatments often places people in the position to decide between essential medications and other necessities such as housing. Further, individuals who have HIV and AIDS must have stable housing, access to and benefits from complex drug treatments which often requires special dietary needs.

Medications must often be refrigerated and taken on a rigid time schedule. Inadequate housing is not only a barrier to treatment, but also puts people with AIDS at risk of premature death from exposure to other diseases, poor nutrition, stress and lack of medical care. At any given time, one-third to one-half of all Americans with AIDS are either homeless or in imminent danger of losing their homes. HOPWA answers this need.

Mr. Chairman, increasing numbers of people have AIDS in this country and increasing numbers of people every year, luckily, because of our medical advances, are surviving and living longer, and we need more money for HOPWA. A cut of almost 10 percent makes no sense.

So I would suggest, instead, and what my amendment does is takes $21 million instead away from the space station which is funded this year at 2.1 billion. So this is 1 one-thousandth, a reduction of 1 one-thousandth in the space station budget, instead of a reduction of 10 percent in the HOPWA budget.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, let me say to the gentleman I appreciate where he is coming from. It has been my intention to oppose the amendment as it is presented. If we go through with this process of amending amendments, I am not sure the chairman is going to be able to find himself in that position.

Mr. NADLER. Mr. Chairman, let me just suggest if the gentleman would accept the amendment, I would support his amendment. If he does not, I have to oppose his amendment. I think the space station, regardless of how colleagues voted on the Roemer amendment, $20 million less, $21 million less out of 2.1 billion, will not materially affect when the space station is completed; but a 10 percent reduction in HOPWA is a devastating cut, and I would ask if the gentleman would accept the amendment.

Mr. HILLEARY. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Tennessee.

Mr. HILLEARY. Mr. Chairman, I cannot accept that amendment simply because it is not a devastating cut to HOPWA. This is going to freeze it at its present level.

Mr. NADLER. Reclaiming my time, if the gentleman will not accept the amendment, I have to say a 10 percent cut is a very heavy cut. We have a choice, and I will press the amendment. We have a choice. If the amendment goes as it is, then it is a 10 percent cut to HOPWA. I do not see how my colleague can rationally say that it will make a material difference to the space station whether it gets 2.1 billion or 2.098, or whatever it is, billion dollars.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, the actual numbers of people with AIDS in our country declined 6 percent this past year. That is a fact produced. It is because we are doing a good job on triple drug therapy and there are more people living with HIV that the actual number of people living with AIDS is down 6 percent in our country, living with AIDS.

Mr. NADLER. Reclaiming my time, Mr. Chairman, my information, and I do not have the figures in front of me, is that the number of people who died from AIDS is down, thank God, but the number of people living with AIDS is up because more people are contracting AIDS every year and fewer people are dying from it and more people are living with it.

So we need these funds.

Mr. HILLEARY. Mr. Chairman, will the gentleman yield on that particular?

Mr. NADLER. Mr. Chairman, no, there is no point debating that specific. The fact is we have great unmet needs for housing for people with AIDS. The committee made an intelligent decision, and now to cut the budget by $21 million, by almost 10 percent for veterans needs which are also there, I do not understand the stubbornness in not accepting my amendment which I hope people will agree to. A 1 one-thousandth reduction in the space station is a heck of a lot more bearable than a 10 percent reduction in housing for people with AIDS. One doesn't really have an effect, the other has a very substantial effect, and I just hope people will think about it.

Mr. HILLEARY. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman if he has a question to ask me.

The CHAIRMAN. The time of the gentleman from New York (Mr. NADLER) has expired.

(By unanimous consent, Mr. NADLER was allowed to proceed for 1 additional minute.)

Mr. NADLER. Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. HILLEARY. Mr. Chairman, I was simply going to say that I think the statistic about the 6 percent decrease might not be exactly right. It is a decrease in the number of new cases, a percentage decrease in the number. It is a decrease in the increase of the number of new cases, and I just wanted to clarify that.

Mr. NADLER. Mr. Chairman, the needs in both areas are going up, and I would again implore the gentleman to accept the amendment because it will not affect the space station, 21 million, it is so tiny a percentage of it, but it will really affect HOPWA.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wanted to rise in opposition to the Nadler amendment and, in addition to that, enter into a colloquy with the gentleman from Michigan.

Mr. KNOLLENBERG, I have read the various "Dear Colleague" letters that have been distributed on the committee bill and listened carefully to the floor debate on this issue. Is it the committee's intention to limit EPA programs such as a climate challenge, the program for a new generation of vehicles, green lights, energy start and other programs that Congress has funded in the past?

I raise this issue because these programs have increased energy efficiency over the range of U.S. energy in industrial sectors of our economy. It would not seem that it was the intent of the legislation to report language or limit these activities.

Mr. KNOLLENBERG. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Michigan.

Mr. KNOLLENBERG. Mr. Chairman, I appreciate the opportunity to respond to the gentleman's inquiry about this legislation because there has been a great deal of misunderstanding and mischaracterizations regarding the real-world results it might have on EPA.

We need this provision in order to assure that EPA does not undertake back-door implementation of the Kyoto Protocol. This is a strong setup of the House based on the debate that we have had. We have seen a trend where EPA is beginning to interpret existing statutes overly broadly and to even create new interpretations of current law. These examples have come out in oversight hearings in both the House and the Senate.

The main purpose of the legislative and report language is to ensure that existing regulatory authority is not misused to implement or to serve as a future basis for the implementation of the Kyoto Protocol in advance of its consideration and approval by the Senate of the United States. We are not trying to cripple or to cancel existing energy conservation programs or to curtail research development and demonstration programs for new, more efficient technologies or to undermine existing environmental law. We are only trying to keep EPA honest.

That is our job in Congress, to conduct oversight hearings and to make sure that the Federal agencies live by the letter of the law and the Constitution and to ensure taxpayer money is spent wisely.

Mr. BARTON of Texas. Mr. Chairman, I would ask the gentleman from Michigan if the Senate has taken a similar position in their VA appropriation bill.

Mr. KNOLLENBERG. I would be pleased to respond to that.

The Senate does indeed have a similar position dealing with this issue. In fact, Senator CHAFEE, the chairman of the Senate Environment Committee, stated in a colloquy with Senator BOND, that was during the debate on the VA-HUD appropriations, that he agreed. And let me stress this point: He agreed that the EPA should not use appropriated funds for the purpose of issuing regulations to implement the Kyoto Protocol unless and until such treaty is ratified by the U.S. Senate.

Both the House and the Senate strongly concur in that position, so it is a bit of a red herring for people to say that this legislation will hamstring EPA or hinder energy conservation and greenhouse gas reduction programs that are ongoing.

Mr. BARTON of Texas. I understand that there is more concern about the report language in this bill than the legislative language. There seems to be various interpretations of the report language.

Mr. KNOLLENBERG. The report language simply tries to clarify that EPA has been pushing the envelope with various activities that have been portrayed as being educational in nature but have, in fact, become Kyoto Protocol advocacy activities. We wanted to make it clear that EPA should not be engaged in advocating for implementation of the Kyoto Protocol, or through its so-called outreach activities that would actually implement the protocol. It was not our intention to stifle discussion about potential climate change, scientific give and take, research or general educational efforts regarding global climate. This report language was never intended to muzzle EPA. It was, however, needed because we wanted to clear the EPA and the CEQ, but there is a fine line between education and advocacy, and that the EPA should not cross that line.

The gentleman from Wisconsin (Mr. OBEY) made this quite clear during the debate on this amendment.

Mr. BARTON of Texas. Mr. Chairman, to summarize, I appreciate the gentleman's clarification. I agree that EPA should not be stopped from fostering legitimate scientific research and balanced public debate on this issue because there is still much to be learned in this area. During our numerous congressional hearings on this issue, the administration has not been willing to engage in this debate.

For example, we have yet to receive an authoritative analysis of the economic impact of the Kyoto Protocol reflecting all of the constraints on possible emissions trading. As chairman of the Subcommittee on Oversight and Investigations of the Committee on Commerce, I look forward to working to assure that the administration, EPA and CEQ understands this guidance, and I thank the patience of the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield to the gentleman from New York (Mr. NADLER) by chance?

Mr. BARTON of Texas. Mr. Chairman, I yield to my good friend, the gentleman from New York.

Mr. NADLER. Mr. Chairman, I am informed that the chairman of the subcommittee would probably oppose the Hilleary amendment, in fact, I think he said that on the floor but I was not listening carefully enough, if we withdraw this amendment to the amendment.

So, Mr. Chairman, I ask unanimous consent to withdraw the secondary amendment on the understanding that we will have support in opposing the Hilleary amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from New York (Mr. NADLER) to the amendment offered by the gentleman from Tennessee (Mr. HILLEARY) is withdrawn.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Tennessee (Mr. HILLEARY). I cannot support reducing the amount provided for housing opportunities for people with AIDS, as the Hilleary amendment proposes to do.

□ 1700

Last year's appropriations bill provided a 70 percent increase for this program. This year, we simply held the program constant at the higher amount. It is also true that the committee did recommend an increase for the Housing Opportunities for People With AIDS Program.

This year's recommended increase is about 15 percent, and it follows smaller increases or freezes in the preceding years. Why did the Committee on Appropriations consider it so important to provide a modest increase for HOPWA? Quite simply because the need for this program is great and continues to grow each year.

The number of Americans living with AIDS continues to grow. One reason for this is that the number of new cases remains substantial. More than 60,000 last year. Another important reason is that advances in medicine are making it possible for people with HIV infections to live longer. That is wonderful news, but it does mean that, every year, there are more people living with AIDS who may be in need of our help.

One measure of the need for this program is the number of State and local governments that qualify for HOPWA grants. Almost all funding under the HOPWA program is distributed through a formula based on the number of AIDS cases.

When the number of cases in a State or metro area crosses a specified threshold, that State or locality becomes eligible for HOPWA grants. The number of jurisdictions qualifying has risen from 80 last year to 88 this year and is expected to rise to 96 next year.

In this context, the funding increase provided in the bill seems quite modest. Between 1977 and 1999, the number of States and localities qualifying for HOPWA money will increase by 20 percent while the funding will increase by only 15 percent.

That increase is not enough to fully accommodate the newly qualifying States and cities, let alone the workload increases in those places already receiving grants. The Hilleary amendment would cut the 2-year funding increase to just 4 percent, plainly inadequate in the face of the rising need.

Some may ask, why do we have a special housing program for people with AIDS? The answer is that we have a special AIDS-related program because AIDS creates some very special and particularly urgent housing needs.

A number of people living with AIDS are already homeless. Many more face the imminent threat of losing their homes, either because of discrimination or simply because the combination of declining earnings and escalating medical expenses makes housing unaffordable without some help.

At the same time safe, decent, and stable housing is essential to maintaining health and to undertaking the complex medication and treatment regimes that offer the best hope of survival.

But we do not just maintain the HOPWA program out of compassion, although that would be reason enough. The program also makes sense as a matter of economics. It has been estimated that about 30 percent of the HIV patients in acute care hospitals in any given time are in the hospital only because there are no appropriate community-based residential alternatives.

It is far less costly to help someone live in a residential environment with access to supportive services than to have them in and out of emergency rooms and hospitals.

This supportive housing, as funded under the HOPWA program, helps save health care dollars while helping people live healthier, happier, and more productive lives.

In short, HOPWA is a program that makes sense. The modest increase recommended by the committee is more than fully justified by the rising need. We should not eliminate this increase. I urge defeat of the amendment.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Hilleary amendment which would take much-needed funds from the Housing Opportunities for People With AIDS, the HOPWA program.

I am sympathetic to the gentleman's concerns about the funding for the veterans program that benefits from this amendment, and that is why I wish that the 602(b) allocation for this particular appropriations bill could be larger.

I sympathize with the attempt on the part of the gentleman from New York (Mr. NADLER) to say we respect the need that the gentleman from Tennessee (Mr. HILLEARY) points out, but recognize that this is also a bad place to take the funds. As the distinguished ranking member has said, it is a good investment in health. It saves taxpayers' dollars and, indeed, it saves lives.

I feel very partial to the Housing Opportunities for People With AIDS legislation because the gentleman from Washington (Mr. MCDERMOTT), the gentleman from New York (Mr. SCHUMER), and I were the authors of this legislation on the Committee on Banking and Financial Services or the Committee on Banking, Finance, and Urban Affairs years ago. It has been a successful program that has deserved continuing support of this House under the leadership of the gentleman from Ohio (Mr. STOKES) and now under the distinguished chairman of the committee, the gentleman from California (Mr. LEWIS).

Mr. Chairman, I am pleased to yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Chairman, I very much appreciate my colleague from California yielding to me.

I have before me a "Dear Colleague" that is signed by most of those Members who have spoken today regarding this matter on the floor. There is a broad bipartisan understanding of the challenge that AIDS provides for our entire society, and I must say that this particular housing problem is a very, very difficult one. I want to associate myself with the remarks of the gentlewoman from San Francisco, California and appreciate very much her position.

Ms. PELOSI. Mr. Chairman, I thank the gentleman and his opposition to the Hilleary amendment when he is associating himself with my remarks.

Mr. LEWIS of California. I certainly agree with the gentlewoman's complimenting the concern of the gentleman from Tennessee (Mr. HILLEARY) about deference problems; but, the challenge that we have relative to funding these problems that HOPWA programs address deserves our support. Thereby, I oppose the amendment.

Ms. PELOSI. I thank the gentleman for the clarity of his statement, for his leadership on this issue, and for the hard work that he has put into this important VA-HUD bill. He sees the whole picture. He knows the value of this HOPWA program. He has followed it over the years. So I am very, very pleased with his clear statement and the remarks of the distinguished ranking member, the gentleman from Ohio (Mr. STOKES).

It is clear that, by reducing HOPWA's funding by $21 million, this Hilleary amendment would deny housing assistance to more than 4,800 people. It would result in the withdrawal of program support for an estimated 3,800 units of housing, including funds for rental assistance and homelessness prevention.

If one has HIV, if one is HIV infected, the last thing one's immune system needs is the additional stress of homelessness or the threat of homelessness.

We will hear today, Mr. Chairman, that the HOPWA funds may not be necessary because the annual new number of AIDS cases is declining. The reality is that the need for this housing continues to grow, as does the epidemic, as the ranking member pointed out. In the 1997 reporting period, CDC reported 60,634 new cases, to be precise, in the United States.

HOPWA funding is primarily allocated on a formula basis. Almost since its inception, funding for HOPWA has not kept pace with the number of new communities eligible for HOPWA funds. I would like to name what those communities are for 1999. FY 1999, it is expected that seven communities, Birmingham, Alabama; Buffalo, New York; Honolulu; Wilmington; and the States of Arizona, New Mexico, and Utah will become eligible for HOPWA funds, and five other States: Hawaii, Delaware, Minnesota, Nevada, and Wisconsin, which would otherwise have lost funding due to their urban areas qualifying separately under the formula.

As a result of the good news of the success of powerful drugs fighting the virus, the number of people living with AIDS is increasing dramatically. But so are their needs. In 1997, the number of people living with HIV increased 13 percent. But in order for the drug therapies to work, people need the stability of having a home.

Some of the people on the AIDS drugs must take as many as 40 pills a day at regular times. People cannot comply with the rigors of these drug regimens if they are homeless, moving from shelter to shelter, or trying to cope with impending homelessness.

The number of people living with AIDS has increased by 13 percent. It is important to remember who benefits from HOPWA funding. HOPWA funding is for people with HIV/AIDS and their families. About 25 percent of recipients of HOPWA funds are family members who reside with persons with HIV/AIDS. Over 96 percent of the families and individuals who received HOPWA assistance were households with incomes of less than $1,000 a month.

I know it is difficult for many of us to vote against something for the veterans, but I urge my colleagues to understand what this need is. Many of the people who benefit from the funds are veterans.

Vote "no" on the Hilleary amendment.

Mr. DELAHUNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as others have indicated, this amendment would strike funding for programs that are, not only compassionate, but are cost effective. In short, it is working. I am at a loss to understand why anyone would want to undercut it.

The sponsor of the amendment says he wants to redirect this money to veterans' health care programs but who does he think these funds are benefiting now? Because it is important to remember that roughly 30 percent of the homeless in America are veterans, and many of these are numbered among the 100,000 to 150,000 veterans who are living with HIV.

These are the very people that HOPWA serves. It helps them live longer and stay healthier. It spares States and localities the far greater costs of hospital and emergency room care to which they would otherwise be forced to turn.

If this amendment succeeds, thousands would be forced to choose between paying their medical bills or paying the rent. Many would end up in acute care hospitals at a cost 10 to 20 times that of the housing and services that they would receive in a HOPWA-funded residential facility.

The rest could find themselves huddled in homeless shelters and sleeping on grates.

Mr. Chairman, I associate myself and welcome the remarks of the other speakers and am pleased to hear the distinguished gentleman from California (Mr. LEWIS), the chair of the subcommittee, will oppose this particular amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman very much because I quickly want to associate myself with the gentleman's remarks because I was here previously on the floor of the House discussing the question about the needs of veterans.

I do want to say that this is a difficult and very wrenching decision. The gentleman is right, 100,000 to 150,000 of our veterans are living with HIV. I know that many of our veterans are homeless.

Another point I wanted to raise, many people living with AIDS are suffering housing discrimination. People do not want them around, and the idea of HOPWA is to provide clean, secure housing that these people who have been in the past looked at as being contagious or not wanting to have people around them and being isolated or rejected from normal housing situations, to be able to have good clean housing.

As you well know, the increase in minority populations also require this kind of housing.

I would simply say that we are making a wrenching decision that really would be more hurtful, hurtful to veterans living with AIDS, hurtful to new populations and other States that are being grandfathered in and other States like Utah that are being added in, and I would hope that we would defeat this amendment, recognizing how crucial it is to be able to provide for these people living with this disease and living longer.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in reluctant opposition to this amendment. I have always supported the highest possible spending levels for veterans programs, but unfortunately we should not be pitting one important program against another and that is what this amendment does by cutting the housing opportunities for people with AIDS, the HOPWA program, by $21 million.

Mr. Chairman, the HOPWA program has strong bipartisanship support. It is the only Federal housing program that specifically provides cities and States, those that are hardest hit by the AIDS epidemic, with the resources to address the housing crisis faced by people living with AIDS.

In fact, the gentleman from New York (Mr. NADLER) and I circulated a Congressional letter to appropriators urging increased funding for HOPWA and this letter was co-signed by almost 100 Members of both parties.

It is true that the number of AIDS-related deaths has begun to decline thanks to dramatic new treatments and improvements in care. However, HIV/AIDS remains a major killer of young people. It is the leading cause of death for African and Hispanic Americans between the ages of 25 and 44.

The high cost of the new treatments has often forced people to decide between essential medications and other necessities, such as housing. Further, stable housing is critical to the success of the drug regime. The medication often must be refrigerated and taken on a rigid time schedule.

Without adequate housing, people with HIV/AIDS may not only be unable to adhere to the strict regimen required but premature death may result from poor nutrition, exposure to other diseases and the lack of medical care. At any given time, one-third to one-half of all people with AIDS are either homeless or on the verge of losing their homes.

HOPWA addresses this need by providing reasonably priced housing for thousands of individuals and yet the demand far outstrips the supply. HOPWA gives cities and States the ability to provide community-based cost effective housing and, in so doing, reduces the number of people who would otherwise end up on the streets or in acute care facilities.

□ 1715

At a daily cost of $1,085 per day under Medicaid, acute care facilities are far more expensive than HOPWA community housing, which averages $55 to $110 per day. Nationwide, HOPWA saves an estimated $47,000 per person per year in emergency medical expenses.

Contrary to the assertions that there is a reduced need for HOPWA funding, HUD has estimated that an additional seven to ten jurisdictions will qualify for HOPWA funding during fiscal year 1999, a program that already serves more than 52,000 individuals in 88 jurisdictions, 59 metropolitan areas, and 29 States.

To prevent cuts to qualifying jurisdictions, the bill's level of funding is needed. It is important to realize that the increase in HOPWA spending in the bill simply maintains current services for qualifying jurisdictions. It is important to recognize that between 100,000 and 150,000 veterans currently access some level of HIV-AIDS services, and many of these veterans are also eligible for housing assistance under HOPWA.

Mr. Chairman, I will certainly work in conference to ensure that veterans' housing is increased. However, this funding offset is unacceptable, and I must reluctantly oppose the amendment. I hope my colleagues will do likewise.

Mr. McDERMOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong opposition to the Hilleary amendment. While I recognize the urgency of housing for our Nation's veterans, robbing Peter to pay Paul is not the way to go.

The Hilleary amendment would take away $21 million earmarked for the Housing Opportunity Act from the 1999 budget. This is a bill that, as the gentlewoman from California (Ms. PELOSI) said, we started a long time ago. And I think we ought to acknowledge the gentleman from Texas (Mr. GONZALEZ), who really was the man who was in charge of the committee when we were on it; and when we told him about this idea he said, it sounds like a good idea.

While supporters of this bill will argue that we are not cutting HOPWA per se but rather freezing it at the 1998 levels, I would argue that an increase is what is actually needed to provide adequate housing for people living with AIDS, many of whom are veterans.

As my colleagues have heard, what the gentleman fails to recognize is the dramatic increase in the number of veterans with AIDS. There are 100,000 to 150,000 people in this country who are veterans who have HIV. 17,000 of them are taken care of in the VA system, and roughly 30 percent of the homeless in the United States are veterans.

Now, with the advent of new drug therapies, new hope is offered to people with HIV. However, these therapies are not available to everyone, especially the homeless. Strict regimens and a proper diet are mandatory for these drug therapies to work, and people with inadequate housing are not good candidates for such therapy.

This was one of the suggestions of the Reagan Commission on AIDS. There were five suggestions, and one of them was HOPWA. The reason they suggested it is because when one has AIDS, one has a weakened system, and if one does not have anyplace to live, one winds up in a shelter.

Now, if one goes into a shelter and one sleeps in a big room with 200 or 300 people and one has no defense system, one picks up every disease in the world, so one then gets sick and winds up back in the hospital. And every big city hospital in this country has had the experience of getting somebody with AIDS up and stabilized and ready to go out but knowing if they put them out of the hospital they will be back in in worse shape. That is what this program is really all about. We are not talking about people who have not served their country.

HOPWA really is a link between housing and health care. And if one looks at the numbers, one would say, well, AIDS is declining in this country; but, actually, the HIV infection rate in selected groups continues to rise. Tragically, that epidemic is increasing among the low-income communities where homelessness is a reality or it is one paycheck away.

HOPWA helps fund a variety of AIDS services throughout Washington State, not just in the district where I come from, but from the Sean Humphrey House in Bellingham in the district of the gentleman from Washington (Mr. METCALF); Three Cedars in Tacoma; the Tamarak House in Yakima, which is in the district of the gentleman from Washington (Mr. HASTINGS); and the Bailey Boushay House in my district. HOPWA is used by housing authorities in Spokane, Tacoma and Seattle. So it is distributed across our State; it is not just in the big cities.

Mr. Chairman, I have always been an advocate for the Nation's veterans, and it is critical that we ensure adequate health care and housing for them. However, cutting the one is the wrong way to get the other.

Mr. Chairman, I urge my colleagues to vote against the Hilleary amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Tennessee (Mr. HILLEARY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HILLEARY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 501, further proceedings on the amendment offered by the gentleman from Tennessee (Mr. HILLEARY) will be postponed.

Mr. DOOLEY of California. Mr. Chairman, I move to strike the last word.

I would like to engage the gentleman from California (Mr. LEWIS), chairman of the subcommittee, on a matter of importance to my district in the San Joaquin Valley of California.

The agricultural communities along Interstate 5 in the San Joaquin Valley face chronically high unemployment rates that are, in part, as a result of uncertain water supplies. A coordinated water resources management plan that makes the maximum use of available supplies must be a central feature of any environmental protection or economic development initiative in the arid Central Valley.

A partnership of public and private interests in the I–5 corridor has proposed a Water Resources Assessment Plan that will centralize information on the region's surface and groundwater supplies. This information will include assessments of water quality conditions, wetlands, riparian habitat and domestic industrial water needs.

I look forward to working with the chairman and the gentleman from Ohio (Mr. STOKES), the ranking member, and the conferees in trying to identify funding for this important effort.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the comments of the gentleman from California (Mr. DOOLEY). I will be glad to work with him on this very worthy project and plan to talk with him between now and conference as well.

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time in order to engage in a colloquy with the chairman of the subcommittee and potentially with the ranking minority member.

Legislation was enacted in 1996 to amend the Safe Drinking Water Act and to inject more common sense into the process of testing and treating our Nation's drinking water. This Member is concerned, as a representative of the State that has the largest use of groundwater for its public water supplies by far in the Nation, with only 7 out of some 700 or 800 systems using any surface water. I am concerned that the Environmental Protection Agency's groundwater rule may be ignoring congressional intent. Specifically, the EPA may attempt to implement a rule which would result in enormous disinfection costs for small communities, but with no actual benefits to the citizens of those communities.

In recognition of the general good quality of our Nation's groundwater, the excellent existing State water quality protection programs, and the expense and other complications of unneeded treatment, not to mention questions about whether or not some of the treatment agents themselves are threatening the health, the Safe Drinking Water Act of 1996 provided the EPA with only the authority to promulgate regulations requiring disinfection as a treatment technique, as necessary, and I stress the words "as necessary," for all public water systems using groundwater. Therefore, this Member would request that the chairman of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations enter into a colloquy on this matter.

Mr. Chairman, is it the committee's intention that a small community using groundwater should not be subject to EPA-directed improvements unless the community's groundwater poses a genuine health risk?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, yes, it is.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman.

Is it also the committee's intention that EPA should work to develop a groundwater rule which gives the States adequate flexibility in developing preventive measures?

Mr. LEWIS of California. Mr. Chairman, let me say to the gentleman I appreciate his bringing this problem to my attention and the committee's attention. It is our intention to not only be responsive to that problem but to have as much flexibility as possible in dealing with those communities' problems.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman. I would say to the distinguished gentleman I appreciate his clarification, and I appreciate the fact that the subcommittee's report language also addresses this subject.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague's concern.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER:

Page 91, after line 3, insert the following:

SECTION 425. The Administrator of the Environmental Protection Agency, in consultation with the National Academy of Sciences, shall expedite a review of scientific literature concerning the health effects of copper in drinking water. The Administrator of the Environmental Protection Agency shall assemble a team of technical and policy experts from the Agency's Region 7 Office and headquarters to work with Nebraska state officials to help identify and clarify measures to meet requirements of the Copper Rule where central treatment of groundwater is not cost effective. The Administrator of the Environmental Protection Agency shall expedite clinical research studies regarding the health effects of copper in drinking water. The Environmental Protection Agency shall use the results of its review of scientific literature and clinical studies of the health effects of copper in drinking water to review the National Primary Drinking Water Standard for copper pursuant to section 1412(b)(9) of the Safe Drinking Water Act.

Mr. WAXMAN. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) reserves a point of order.

Mr. BEREUTER. Mr. Chairman, I understand that the gentleman is reserving a point of order, and this is straightforward legislating on an appropriation bill if it were to be accepted. I understand that fact.

I have two amendments filed, I would say to my colleagues on both sides of the aisle, that indeed are in order. One simply forbids the use of funds to implement the copper rule, and the other takes $15 million out of the administrator's office. Both are in order. I would prefer not to offer them.

I gave my colleagues some indication of why this is particularly important to my State. I want to tell my colleagues that the Republican Attorney General of Nebraska is filing or has filed a lawsuit on this issue. The Democratic governor is supporting that lawsuit and requesting relief for more than 60 communities in our State that are affected by the copper rule, and the entire Nebraska delegation in both Houses are very much involved in trying to find a solution to this issue.

In fact, I believe that the amendment offered here might well be acceptable to the EPA and to the appropriators and authorizers on both sides of the aisle as report language, but what the administrator wants to avoid is any kind of statutory direction, and I think that is what it comes down to on this amendment. But I do think it is better to have that statutory language than report language which seems sometimes to have little impact upon the Environmental Protection Agency. And I think I would say to my colleagues it is better to accept this amendment than having one of the two other amendments that are in order and which are not subject to a point of order.

Unfortunately, the EPA is moving forward in implementing a regulation, despite the lack of any convincing evidence of adverse health effects which would justify its current course of action. As a result, the current regulations will result in enormous costs for water systems across the country, even though it is unlikely to result in any health benefits.

Obviously, communities do not have unlimited financial resources, and money spent on compliance with the copper rule is money that cannot be spent for other necessary community needs. The costs are significant for all communities, especially the smaller ones. As a result, it is crucial that this rule be implemented only if it is supported by solid, objective and scientific research.

The EPA's current standard relies on what seems to be almost anecdotal evidence rather than scientific studies. For instance, one of the studies cited by the EPA involved nurses who became ill after consuming cocktails which were mixed and stored in corroded copper-lined containers. It is important to emphasize that this so-called copper problem is generally the result of the corrosion of copper household plumbing, rather than by copper in the community's water sources.

In addition, copper concentrations from plumbing result from water setting in copper pipes for many hours and the level drops dramatically after the tap has run for several seconds.

□ 1730

The commonsense solution to any potential problem related to copper concentrations from plumbing in the house is to have consumers simply run the faucet for less than a minute for the first time the water is used in the morning, and that eliminates the problem or reduces the copper level below the 1.3 or even below the 2.0, 3.0 milligrams per liter, whatever standard or copper action level you might wish to choose.

To help compensate for the dearth of scientific research on the issue of copper in drinking water, the Centers for Disease Control and Prevention were commissioned to conduct new and more comprehensive studies. One was conducted in Nebraska and the other in Delaware. The studies are expected to be published soon. They have not been peer-reviewed. That is the problem at this point.

The interim CDC report on the Nebraska study concluded that "People were not experiencing G.I.," gastrointestinal, "illness related to the level of copper in their drinking water, even though in 51 of the selected homes drinking water levels were greater than 2 times the EPA action level the year prior to the study."

A similar study in Delaware which had even higher copper concentration levels also found that the water was safe for drinking. Correspondence from the EPA concerning the Delaware study acknowledges that "Study results suggested no meaningful differences in the symptoms typically associated with copper toxicity between the control group, those not exposed to copper in drinking water, and the group with high copper levels of 5 milligrams per liter."

That 5.0 level is much more than what is being proposed here by the EPA in the way of a copper action level—1.3 milligrams per bites. That is on the "first draw sample."

The EPA rule establishes an action level for copper and drinking water of 1.3 milligrams per liter. Yet our Canadian friends and the World Health Organization says it should be at 2.0. They also provided for a risk margin at that level, as well.

Copper in drinking water is generally caused by household plumbing, as I said, rather than water source. In addition, copper concentrations result from water setting in copper pipes for many hours, and the level drops dramatically after the tap has been run for several seconds.

I could give the Members some statistics about a number of our communities.

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 2 additional minutes.)

Mr. BEREUTER. Mr. Chairman, in one of our communities, a community of 23,000, the estimated initial cost would be $1 million for water treatment equipment, $250,000 per year for treatment. Unfortunately, it would result in no health benefits. That community has wells in 14 different locations. None of them are interconnected. There is no central point for decontamination, disinfection, or copper treatment. That is a very typical situation in our State. We are unique in that respect. We have the largest groundwater supply in the continent.

Although this Member is obviously most familiar with the problems in our communities, it is important to keep in mind that dozens of States will be affected by this rule. If Members have not heard from communities in their districts, they should expect in the near future to hear from them as the EPA pushes for enforcement.

This Member has had repeated contacts with the EPA on the issue dating back to 1993. Unfortunately, the EPA has resisted a commonsense approach, and this Member has come to the conclusion that Congress must act to correct the situation. This amendment does not go nearly as far as I would like, but it does require them to move ahead in consultation with the National Academy of Sciences to find a proper copper action level.

I want to thank the gentleman from Florida (Mr. BILIRAKIS) for his work and the work of his staff with me in trying to find some accommodation on this issue.

Mr. BILIRAKIS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the gentleman from Florida.

Mr. BILIRAKIS. Mr. Chairman, I thank the gentleman for yielding.

As the gentleman knows, the original amendment that he is planning to offer was an amendment that I was prepared to oppose very, very strongly, because we, the majority and the minority, worked awfully hard for a long time to come up with the Safe Drinking Water Act, and now, just a short time afterward, it looked like attempts were made to change that.

But we have pointed that out to the gentleman, and we had tremendous cooperation in trying to work this out. Actually, the language we did work out would not have changed, because there was never any intent on our part to change, the Safe Drinking Water Act in any way whatsoever. It was just basically to focus on the fact that there is a problem in Nebraska in expediting a review, and asking the EPA to use the results of its review pursuant to the appropriate section of the Safe Drinking Water Act.

So whereas I suppose technically it is legislating on an appropriations bill, there is really no intent to do that, or to change the Safe Drinking Water Act in any way whatsoever.

Again, I appreciate the gentleman's understanding and cooperation. I would hope that the Environmental Protection Agency would see that we are focusing on this, even though we certainly do not intend to change the Act.

Mr. BEREUTER. I am pleased to have the gentleman's comments. I appreciate his assistance.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding. I know the gentleman is trying to deal with a very real problem in the gentleman's State.

As I understand it, the language that the gentleman has worked out would be acceptable to the Administrator in the report of this legislation. But the Administrator is reluctant to have the precedent of having this language inserted in the statute itself.

The gentleman expressed his concern that perhaps the report language would not be taken seriously, and statutory language would be necessary to accomplish the goals. I would point out to the gentleman that if the Administrator is supporting this language——

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, as I understand it, the Administrator is willing to commit to follow the language that we would seek to have in the report. The gentleman has more assurance than simply report language, because the one to whom it is directed is promising to carry it out.

The subsequent point I want to make is that just last week, as we discussed this bill, we had a heated debate over whether the report language that I and others were trying to strike in the appropriations bill would be taken seriously and we had assurances from the Chairman of the Appropriations subcommittee that report language is not binding, but we were concerned that the report language would be intimidating to the EPA, and that we did not want that report language to go forward.

So my point to the gentleman is that I regret that I am going to have to make the point of order, but I would have hoped that this could have been in the report, and that the whole issue might have been avoided.

Mr. BEREUTER. Reclaiming my time, I thank the gentleman for his understanding of the concern that we have in our State. It is not our State alone, but we have a more severe problem with it, there is no doubt about it, because of our groundwater dependence and the corrosive impact of copper in the house pipes.

I would say to the gentleman, perhaps he could help this gentleman understand, since we are legislators, what the difficulty is in us legislating some advice on the kind of studies that are necessary, since we are not changing the copper standard, since we are only asking them to proceed at the same time with studies to be done in consultation with the National Academy of Sciences?

What is there about the precedent of having some statutory direction that is so offensive to the administrator?

Mr. WAXMAN. If the gentleman will continue to yield, I think the concern the Administrator has, and I think it is a legitimate one, is that if we start legislating on specific problems in appropriations bills——

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the concern is that once we have that precedent, we will have a never-ending series of small changes that people will try to make in our laws—whether it is the drinking water law or some other statutory environmental legislation.

So for that reason, there is this reluctance to accept this proposal offered as bill language.

Mr. BEREUTER. I thank the gentleman for his comments. I think we are in the business of making judgments as legislators over appropriate kinds of initiatives by Members trying to take the interest of their constituents to heart. If statutory direction is a bad idea, if it does damage in a national sense to priorities, then the gentleman has a right to object. That is his responsibility. I see no reason why that would happen in this instance.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, if we were in a position of having this item considered as part of the report language, I could tell the gentleman that I would work directly with him between now and the time we go to conference to try to find a way, with our colleagues, to accommodate the gentleman's problem.

Mr. BEREUTER. I thank the gentleman. I know that he is sincere in this, but perhaps the gentleman himself knows that the entire Nebraska delegation has met with Ms. Browner and people under her in the last several weeks.

Mr. LEWIS of California. If the gentleman will yield further, I would mention to the gentleman that I believe the Senator from the gentleman's State is a member of the committee, and will be participating in the conference as well.

Mr. BEREUTER. I wish that was the case, but my senior Senator gave up his position to go to the Senate Finance Committee.

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

(On request of Mr. WAXMAN, and by unanimous consent, Mr. BEREUTER was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to join with the gentleman from California (Mr. LEWIS) in making my personal commitment to the gentleman as well that if we can work on this as report language, we will do everything that both of us can to make sure that the goals the gentleman wants are accomplished.

Mr. BEREUTER. Reclaiming my time, if the gentleman persists in his point of order and I proceed with what I think is necessary, I assume the gentleman's commitment is still there to work with me.

Mr. WAXMAN. I want to be as helpful as I possibly can.

Mr. BEREUTER. I thank the gentleman.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California (Mr. WAXMAN) insist upon his point of order?

Mr. WAXMAN. Yes, Mr. Chairman, I would insist on it.

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) is recognized on his point of order.

Mr. WAXMAN. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill, and therefore violates clause 2 of rule XXI.

The rule states, in pertinent part, "No amendment to a general appropriations bill shall be in order if changing existing law . . . ." This amendment gives affirmative direction, and in effect imposes additional duties, modifies existing powers and duties, and I therefore ask that the amendment be considered out of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

If not, the Chair is prepared to rule. The Chair finds that the amendment explicitly places several new duties on the administrator of the Environmental Protection Agency. As such, the amendment proposes to legislate on an appropriation bill, in violation of clause 2 of rule XXI. Accordingly, the point of order is sustained.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my remarks here directly relate to the point of order and to other similar situations which have arisen during the course of this and other appropriation bills.

The rule with regard to legislating on an appropriation bill has been with us in the rules of the House for quite a long period of time. It was originally put there in order to distinguish between the role of the Committee on Appropriations and the rest of us peons who only serve on authorizing committees, and do not get a chance to do the heavy lifting that is involved in distributing the money, like the appropriators do.

I have frequently had reason to raise points of order about legislating on appropriation bills as it involved the work of my own committee. There has been a propensity to insert in appropriation bills funding for research projects which were not authorized, and a number of other things of that sort.

I did this to the point where I made myself obnoxious to my friends on the Committee on Appropriations for a period of several years, and I have ceased to pursue that as actively as I once did, because I began to recognize that there were many legitimate reasons why there should be or could be legislation on an appropriation bill.

The standards for what are the appropriate reasons for having legislation on an appropriation bill are extremely vague. I can think of a number of good reasons in my own case, and involving the Committee on Science, we have a problem getting the Senators to enact authorization bills, for example. That is because the Senate rules have allowed Members who serve on the Committee on Appropriations to also serve as chairmen of authorizing committees, something they cannot do in the House of Representatives.

These Senators have a very strong interest in doing things efficiently, so they do it on the appropriation bill and leave the authorizing bills sort of hanging out to dry over there in the Senate. This is not the way the system is supposed to work.

In the case of what is going on in most instances here in the House, authorizing on an appropriation bill constitutes the fastest and most efficient way to get action accomplished on something that needs to be accomplished or should be accomplished. I think that is a legitimate reason to have an exception to the rule, to have a waiver. These waivers, of course, are frequently granted by the Committee on Rules to include situations where there seems to be a good reason to have such a waiver. But there is, again, no standard as to when waivers will be granted.

Many of the amendments that we have considered here are an effort to legislate on an appropriation bill by Members of the House who are not appropriators, but they see an amendment to the appropriation bill as the fastest way to get action.

□ 1945

This was the case with the sleepwear amendment as I recall, and it comes up very often.

Now, there are cases in which waivers are not granted; and, of course, in that case any Member can raise a point of order against language in an appropriations bill and we end up with in some cases half or 75 percent of an appropriation bill being "stick it" and we go to conference with no House position. That is not sound legislation, it is not efficient, and we need to think this through.

Now, I am not proposing a solution, but I am saying that this matter has gotten to the point where I think at the beginning of the next session of Congress there ought to be responsible Members who look at the problem and come up with reasonable solutions, which might include having authorizing committees ask the appropriators to include legislative language on an appropriations bill in order to move something through the other body that needs to be moved. That would seem to be reasonable to me. It is completely different from what we do now, but I have found that the whole system works better when there is close cooperation between the authorizing committee and the Committee on Appropriations.

At the present time, that exists in some cases; it does not exist in other cases, and we need to regularize that. We need to have a regular order under which we can understand what is appropriate and what is not appropriate.

Mr. Chairman, I make this brief statement in order to alert my friends to the fact that if I am so blessed as to return to this great body I may propose such a change in the rules.

AMENDMENT NO. 29 OFFERED BY MR. SCARBOROUGH

Mr. SCARBOROUGH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 29 offered by Mr. SCARBOROUGH:

At the end of the bill, insert after the last section (preceeding the short title) the following new section:

SEC.—. None of the funds made available in this Act may be used to carry out Executive Order 13083.

Mr. SCARBOROUGH. Mr. Chairman, President Clinton signed Executive Order 13083 on May 14, while out of the country, and we believe it is a serious affront to the Federalist framework established in the United States Constitution. It could potentially lead to the abuse of power by individual agencies as they attempt to interpret this Executive Order.

The order establishes broad, ambiguous, and we believe unconstitutional tests to justify Washington bureaucratic intervention in matters that are typically left to State and local communities. Neither the Constitution, the Bill of Rights, nor the Federalist Papers even remotely justify Executive Order 13083 or its expansion of Federal regulatory activity.

Back in 1987, President Ronald Reagan signed an Executive Order which this Executive Order reverses. In the Reagan Executive Order it stated, "The constitutional relationship among sovereign governments, State and national, is formalized in and protected by the tenth amendment to the Constitution."

President Reagan also said, "It is my intention to curb the size and influence of the Federal establishment and to demand recognition of the distinction between the powers granted to the Federal Government and those reserved to the States or upon the People."

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, the gentleman and I have had a chance to discuss this amendment. I discussed it with the gentleman from Ohio (Mr. STOKES) as well. While we will need to massage this as we go towards conference, we are inclined at this point to accept the amendment.

Mr. SCARBOROUGH. Mr. Chairman, reclaiming my time, I thank the gentleman from California. And if no one is willing to object to it——

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, the amendment is also acceptable to us.

Mr. ARMEY. Mr. Chairman, I rise in support of the Scarborough amendment to curtail funding for Executive Order 13083, President Clinton's efforts to grab power from the states in the name of "federalism."

Ronald Reagan had it right. In 1987, President Reagan reaffirmed the principles of federalism—that powers not explicitly given to the federal government are reserved for the States and individuals.

The specifically enumerated federal powers that are designed to limit Washington's power is the very cornerstone of our fundamental liberties. It is at the heart of what the American people expect from Washington—respect for their rights to know what's best for them—without Washington interference.

Unless we preserve a healthy balance between the States and the federal government, we risk the creation of a government that is beyond control, one insulated from the will of the people. It is for that reason that our Constitution lays out enumerated powers of the federal government—powers given to it only by the people in the nation. It was the genius of the founders—a way to ensure that no leader pandered away the wealth and resources of the nation.

In fact, a central theme of our 1994 "Contract with America" was the return of power to the States and the revival of federalism. The nation responded, with overwhelming enthusiasm.

I was astonished to learn that on May 14th, President Clinton issued a new Executive Order that overturns Ronald Reagan's 1987 federalism Order and repudiates a principle so deeply held by all Americans.

I was pleased to read in today's Washington Post that OMB has decided it errored in its federalism executive order based on unanimous opposition from states, cities, and counties. I commend Chairman DAVID MCINTOSH for his hearing that demonstrated this opposition yesterday.

This amendment is still a valuable message to send the White House, and I commend the leadership of my colleague, JOE SCARBOROUGH.

I hope the committee will accept this amendment. I urge the committee, in the strongest possible terms, to retain this amendment as they work with the Senate and come to a final resolution on this appropriation bill. Congress must also be clear in rejecting this effort by the Administration to change long-standing federalism principles.

Is there a more fundamental guarantee of liberty than this check on federal powers?

President Clinton's pronounced exceptions to federalism swallow up the principle with nearly one bite.

Paul Begala, one of President Clinton's advisors, in talking about President Clinton's increased use of Executive orders, was quoted as saying, "Stroke of the Pen. Law of the Land. Kinda Cool."

Kinda Cool, Mr. Begala? With a stroke of the pen, President Clinton undermined the foundations of federalism. With a stroke of the pen, he repudiated a time honored, fundamental principle that rules this nation. By a stroke of the pen he gave a green light to future unwarranted and unconstitutional national regulatory powers and actions. With a stroke of the pen, he may have done irreparable harm to individual rights and liberties.

As President Reagan would say—"Well, there they go again."

President Clinton is starting to demonstrate a comfort level with an unprecedented use of executive branch powers—trying to effect policy without going through the regular, time-consuming legislative process, where the American people are represented, negotiations occur and laws are made.

The Wall Street Journal labeled this phenomenon on July 8th in their lead editorial, as "King Clinton." The editorial says we are witnessing "a Presidency that has attempted to build between itself and the other branches a kind of moat of nonaccountability. . . . If it receives subpoenas, it rejects them or files lawsuits against them. Raw background files on hundreds in the political opposition are summoned from the FBI. . . . If Congress balks, overleap it with whatever executive order is needed, to satisfy the courtier constituencies." The editorial goes on to say, [it is time for the Congress] "to act as a check and balance on the assertion of the royal prerogatives."

Executive Orders, Presidential Memorandums, Presidential Decision Directives and Proclamations can sometimes have tremendous policy impact on the nation, yet they do not require the approval of Congress. They do have the force of law. These legal tools are not mentioned in the Constitution, but have grown up based on the implied powers inherent in the grant of "executive power" to the President in Article 2, section 1. President Clinton seems bent on using his powers until someone says stop.

The federal courts have stopped this President from legislating through Executive orders before. Who recalls President Clinton's Executive Order to forbid government contractors from hiring permanent striker replacements? There, the courts found the President had overreached.

Who recalls the Federal "land grab" in Utah? 1.7 million acres—by "presidential proclamation."

What about the stroke of a pen addition of "sexual orientation" to federal anti-discrimination laws? All other "protected categories" were put into this Executive Order because Congress had passed a law for them—race, gender, ethnicity, religion, handicap, and age. Previous efforts along these lines were based on statute, not political pressure and pandering. If this is the right thing to do, let's do it the right way—through the legislative process, where the American people have a voice.

Then there is the dangerous manipulation or disregard of the Constitution's wording when it comes to the census, as President Clinton pursues a politically motivated concept of sampling, rather than actual counting of people. The Constitution is a restraint on government power, but not for this team in the White House.

Consider the many legal maneuvers we have seen from this White House—all in efforts to escape scrutiny. Using taxpayer funded lawyers oftentimes, this President is undermining executive branch accountability by invoking novel and frivolous constitutional privileges—with the ultimate effect of hiding the facts from the public.

Who can forget the attempt to escape questioning by the Paula Jones attorneys by the claim that this President was "on duty," in accordance with the Soldiers and Sailors Relief Act? And, how can this President have such disrespect for the Secret Service that, instead of asking them to tell the truth, he seeks to establish a new "protective function" privilege, risking the making of bad law to save himself from potential embarrassment?

Who isn't appalled at the efforts by Clinton allies to intimidate political opponents or witnesses? Where is the outrage about the fact that we now know that this White House has an "enemies list" and that research on those enemies is bought and paid for by the President's lawyers?

In summary, Paul Begala may think this is "kinda neat," but President Clinton is running roughshod over our Constitution.

As for the Congress, it is time to make a stand. There is an abuse of power occurring that can no longer be tolerated.

It is time for the Congress to say, "enough is enough." In representing the American people, you and I are far too familiar with the fact that compromise and negotiation is difficult and slow—yet, it is the very hallmark of divided federal government. Lawmaking and the process of making laws occur here, Mr. President, not with the stroke of your pen.

A vote against the Scarborough amendment is a vote for another form of government; it is a vote against the Framers' vision of how we were to preserve our liberties.

I urge my colleagues to vote yes to affirm the federalism principles that Ronald Reagan articulated.

Mr. BARR of Georgia. Mr. Chairman, today I ask my colleagues to send a clear message to the White House that our venerable Constitution is alive and well, if not at 1600 Pennsylvania Avenue, at least here in the People's House. Especially, that the principles of the Tenth Amendment endure.

On May 14, from Great Britain, President Clinton issued Executive Order13083 which completely undercuts the notion of federalism that forms the basis of our entire system of government. This Executive Order deeply undermines, if not obliterates, the Tenth Amendment to the United States Constitution.

Congress must stop the White House by responding aggressively and quickly. Blocking this unconstitutional Executive Order on federalism is essential. If we fail to act by August 12, 1998, the Order will go into effect; no ifs ands or buts; and regardless of what promises or platitudes are issued by the Administration.

As most of us are aware, in 1987, President Ronald Reagan issued Executive Order 12612, reaffirming the principles of federalism and the powers reserved to states and individuals as outlined in the Tenth Amendment.

Ronald Reagan's Executive Order which is explicitly repealed by President Clinton, detailed that the federal government was given few, limited, and enumerated powers. Reagan's Executive Order served as a limitation on Executive Agencies, not an accelerant on their work, as proposed in President Clinton's order.

In the Constitution the Framers granted specific federal powers, and outlined when the government legitimately may exercise its authority.

They did not intend the federal government to exercise authority over the states, local communities, and the people except in very limited and clearly delineated circumstances, such as a national currency, or customs matters.

The Executive Order which will in effect have the force of law if we don't stop it, lists several, all-encompassing "exceptions" under which the powers of the states and the people could be abrogated by any federal agency at any time; ignoring and overriding the Tenth Amendment.

Some individuals, I presume we will hear from today, will argue this Executive Order constitutes nothing more than the President's opinion and does not carry the force of law. These individuals are wrong.

Congress must stop the Clinton Administration practice by responding aggressively and quickly. This amendment today will be the first step to block this unconstitutional Executive Order on federalism.

This reflects a systematic, very conscious political plan by this Administration. A recent New York Times article noted that some of President Clinton's "closest advisers deeply pessimistic about the chances of getting major legislation passed during the rest of the year, Mr. Clinton plans to issue a series of executive orders to demonstrate that he can still be effective."

The President's recent actions raise a bright crimson flag signaling just what he thinks of the office of the President.

I have already heard from hundreds of individuals from around the country, outraged over this Executive Order.

It is time for this Congress to focus the political issues for the public. Today we take the first step to bring back the Framers' principles of checks and balances.

This is not a theoretical debate. The consequences of our failure to act will be real, immediate, and continuing; from taxes levied by federal agencies with no congressional authorization, to international agreements being forced on state and local governments without any advise and consent by the Senate.

The Clinton Administration believes power should be given to, taken by, and retained in Washington. They believe in a top-down governing structure—not the bottom-up structure clearly envisioned by our Founding Fathers and by many of us in this Chamber. Power comes from the individual not the Federal Government.

I rise in support of the Gentleman from Florida's amendment and ask my colleagues to support this important issue.

Mr. McINTOSH. Mr. Chairman, I was outraged by President Clinton's recent Executive Order (E.O.) 13083 which revoked President Reagan's historic Executive Order on Federalism issued in 1987. President Reagan's order provided many protections for and reflected great deference to State and local governments.

By stark contrast, President Clinton's order, issued without prior consultation with State and local governments, betrays and repudiates an 11-year tradition of trust and mutual consultation between the States and the Federal Government. In its place, President Clinton's order lays the groundwork for an unprecedented Federal power grab in virtually every area of policy previously reserved to the States under the Tenth Amendment.

On June 8, I wrote President Clinton that "I could not understand how you, as a former Governor, could willingly abandon the protections accorded the states since 1987 from unwarranted federal regulatory burdens." Prior to the new order's revocation, there were "important constraints on federal regulatory power by requiring a minimum of federal intrusion and substantial deference to state governance. With E.O. 13083, you have swept away these limitations on the power of the federal government." I stated my belief that the bottom line is that the new order would wreak havoc on the balance of power envisioned by the Constitution between the States and the Federal Government.

On June 10, my subcommittee called the National Governors' Association (NGA) to ascertain NGA's views of the new executive order. Shockingly, NGA's Executive Director was totally unaware of the order. NGA learned about it first from my staff!

Apparently, the Clinton-Gore White House had neither consulted with any of the seven principal State and local interest groups prior to issuance of the new order nor notified them about it after its issuance. The way they went about this executive order belies any claim that the Clinton Administration intends to consult with State and local governments.

On July 17, leadership of "the Big 7"—the governors, the state legislatures, the cities, the counties, the mayors, the city/county managers, and council of State governments—wrote the President requesting that the new order be withdrawn. They wrote "we feel that Executive Order 13083 so seriously erodes federalism that we must request its withdrawal," which should occur "as quickly as possible."

Although the President has agreed "to delay implementation of the Executive Order . . . and to make changes where appropriate," at this point, frankly, there is no change that will repair the damage to the President's credibility that has resulted from the stealth issuance of this order.

It takes a lot of nerve for a president, while out of the country, to issue an order that completely reverses an 11-year commitment to the States and gives federal regulators sweeping new justifications for interfering with State affairs, but giving the States: no advance notice of the order; no opportunity to comment; and no voice in a decision that will drastically upset the constitutional balance of power between the States and the federal government.

In this climate of bad faith, the States are extremely reluctant to entrust their social, moral, and financial destiny to an Administration that governs by midnight decrees issued on the fly.

Yesterday, I chaired a hearing to examine (1) the potential impacts of President Clinton's Executive Order on Federalism on State and local governments and (2) the need for a possible legislative solution to address the concerns of State and local governments. This hearing allowed key State and local elected officials to voice their concerns and former and current Administration officials to express the rationales for their Federalism executive orders.

To ensure that the States' constitutional rights and protections are guaranteed, the only sure path at this stage is to enshrine the principles of Federalism in law and not leave them to the President's whim. By repealing the protections afforded in earlier executive orders issued by President Reagan and reaffirmed by this President, President Clinton has demonstrated that he cannot be trusted to defend the States against an ever-expanding federal bureaucracy. Congress must take responsibility and pass new legislation that will codify federalism principles.

Vote yes on the Scarborough amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. SCARBOROUGH).

The amendment was agreed to.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I did not want to interfere with the progress of the gentleman from Florida (Mr. SCARBOROUGH), but I did want to underline the significance of this to Members.

As I understand it, we have now adopted an amendment that acts against the President's Federalism order. That is relevant, because I have been told, by looking at the work of the Committee on Rules, that when we do the Commerce, Justice, State appropriation, an amendment will be offered by the gentleman from Colorado (Mr. HEFLEY) which would cancel an Executive Order involving the civil service and discrimination and will also include this.

So I do want to make it clear now to Members that having adopted this amendment today, which cancels the Federalism order, when the vote comes on the amendment of the gentleman from Colorado which deals with sexual orientation and the executive branch, it will have a part dealing with Federalism which will be moot. That is, the Federalism part of that amendment, of the Hefley amendment, will now not mean anything. So the Hefley amendment is now back to its original form before it was transmogrified by the Committee on Rules.

Thus, and I want to stress this again because it did get a little complicated, it is a little late, people may be getting low blood sugar and may not be paying attention, we now have adopted an amendment which, to the extent that we can, cancels the President's Federalism order. I was not in favor of that. I tried to yell loud, but nobody heard me.

On the other hand, what it means is that when the Hefley amendment comes before us, even though it will purport to deal both with the question of sexual orientation in the Executive Order on the civil service and with anti-Federalism, it will in fact be solely on sexual orientation, because the Federalism part will be redundant and it will, therefore, have no role whatsoever in the debate.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this as a courtesy to the House to give plenty of notice as to what my motion to recommit will be, if we ever get to that point tonight.

Let me explain briefly what it will be. There are provisions in this bill which, in essence, prevent the Consumer Product Safety Commission from enforcing new regulations with respect to fire retardant furniture. Language was adopted to this bill which will prohibit the enforcement of provisions that are designed to protect people from flammable furniture. So I will simply be offering a motion to strike the sentence beginning on line 7 on page 55 and strike section 425 of the bill.

Mr. Chairman, I will be doing this, frankly, because I think this proposal in the bill is masquerading under false pretenses. Supporters of the provision in the bill will be saying, well, what is more reasonable than simply providing more time for the study of the matter before the Consumer Product Safety Commission can take up a new rule?

What I think would be more reasonable is that we quit allowing lawyers to jerk this Congress around and get to the point of actually protecting the public from a serious safety hazard.

I want to say, Mr. Chairman, this is going on governmentwide, whether we are talking about consumer products and pajamas for children, or whether we are talking about flammable furniture, or whether we are talking about OSHA in its efforts to try to protect workers from repetitive motion injuries. In each case, we have got smart law firms in this town who put together a case on behalf of their clients. They go to a friendly Member of Congress or a friendly committee or a friendly Chamber of the Congress, and they say, "Boys and girls, why don't you help us out? Shield us from regulatory action."

Well, when we shield them from regulatory action, we really expose the general public and workers in this country to dangerous products, dangerous work facilities, and the result is injured workers, the result is injured children, and in some cases we have the death of children and the death of consumers.

So, Mr. Chairman, it just seems to me that this Congress is going to have to make a choice. We are either going to stand with the law firms that advocate for these special interests or we are going to stand for the public that we are supposed to represent.

So, I will be offering that motion at the proper time and wanted to give the House notice of that fact now.

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have an amendment Number 20 which would stop the promulgation of the copper rule. I am not going to offer it, because of my concern of what it would do in some places where the copper rule needs to be applied.

I have heard the assurances of the gentleman from California (Mr. WAXMAN) and the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from California (Chairman LEWIS) of the appropriations subcommittee, and I take those assurances for cooperation. And next year, I will be back to cut the $15 million out of the administrator's office, a very tempting target, if necessary.

Mr. McINTOSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, very quickly, the language of this bill on the Kyoto Protocol was wonderful. I wanted to engage in a quick colloquy with its author, the gentleman from Michigan (Mr. KNOLLENBERG), about a couple of the provisions in that language.

Mr. Chairman, I would ask the gentleman, do those activities include drafting, preparing, or developing rules, orders or decrees, or work such as preparing notices or other language or studies that would be used to justify rules, orders, or decrees that would implement the Kyoto Protocol?

Mr. KNOLLENBERG. Mr. Chairman, if the gentleman would yield, the gentleman is correct.

Mr. McINTOSH. Mr. Chairman, would this language also prohibit the finalization of any rules——

POINT OF ORDER

Mr. OBEY. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. OBEY. Mr. Chairman, we did not hear that exchange. I would like to have the question repeated.

The CHAIRMAN. The gentleman is correct. If the Committee would be in order, the gentleman from Wisconsin (Mr. OBEY) and all gentlemen and gentlewomen deserve the opportunity to be heard.

If the gentleman from Indiana (Mr. McINTOSH) would repeat the question.

Mr. McINTOSH. Mr. Chairman, the question was: Do those activities regarded in the Knollenberg amendment include drafting, preparing, or developing rules, orders, or decrees, or work such as preparing notices other language or studies that would be used to justify rules, orders, or other decrees that would implement the Kyoto Protocol?

Mr. KNOLLENBERG. Yes, those regulatory activities would be precluded.

Mr. McINTOSH. Mr. Chairman, would this language also prohibit the finalization of any rules, regulations, or orders implementing the Kyoto Protocol prior to Senate ratification, whether or not authorized by current law?

Mr. KNOLLENBERG. Mr. Chairman, yes; and when and if the protocol were ratified after full and open discussion by the Senate, these provisions would be void.

Mr. McINTOSH. Mr. Chairman, I would ask what this funding restriction would not do. Does it limit funding for balanced education activities that are not propaganda advocacy or lobbying?

Mr. KNOLLENBERG. No, it does not.

Mr. McINTOSH. Mr. Chairman, what about legitimate climate science and research and development activities?

Mr. KNOLLENBERG. Mr. Chairman, I would tell the gentleman that those activities are still funded and encouraged. In fact, we have increased funding for the global climate change research account within this bill by $10 million.

Mr. McINTOSH. What about existing programs and ongoing activities to carry out the United States voluntary commitments under the 1992 Climate Change Convention?

Mr. KNOLLENBERG. The United States will live up to its commitments.

Mr. McINTOSH. So what we are really talking about here is just stopping action by EPA to implement the protocol prior to ratification, not legitimate programs or education or research?

Mr. KNOLLENBERG. Mr. Chairman, the gentleman again is correct. And we have good reason to be concerned about EPA's back-door regulatory actions. EPA has repeatedly sought to expand its authority to restrict greenhouse gas emissions where no such authority exists.

Mr. McINTOSH. We cannot allow EPA to circumvent our constitutional process through such action.

Mr. KNOLLENBERG: I agree. The Kyoto Protocol is a flawed treaty. Our only safeguard against a flawed treaty is our constitutional process.

Mr. McINTOSH. Mr. Chairman, the language of the gentleman from Michigan is crucial to prevent back-door regulatory implementation. I thank the gentleman for bringing it.

Mr. KNOLLENBERG. Mr. Chairman, I rise to thank my colleagues, Representatives OBEY and McINTOSH, for their discussions on the House floor regarding the fine line between education and advocacy efforts conducted by the Environmental Protection Agency (EPA). I have ongoing concerns that some of the EPA's education activities at times crossed that line and became advocacy efforts.

Mr. OBEY offered an apt description of education when he explained to Mr. McINTOSH during the debate over his amendment, and that his amendment clarifying the DPA's ability to conduct educational outreach was meant to allow only those activities that were objective in nature and presented both sides of the issue in a factual manner.

In my view, much of the EPA's past problems have stemmed from its inability to present information in an objective and balanced manner. If information is presented without allowing the airing of both sides, it ceases to be education, and becomes advocacy. There is a fine line between education and advocacy, and the EPA must recognize this distinction and refrain from crossing this line.

So, I thank the gentleman from Wisconsin for helping me to make this very important point. It is my hope that the Obey amendment will help clarify what is the necessary role of the Administration, and compel the EPA to promote balance and objectivity in all its future activities.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I listened carefully to the colloquy that just took place and I want to point out that that colloquy may reflect the views of the two gentlemen who entered into it, but I do not think they accurately reflect the views of the House.

□ 1800

Last week the House adopted an amendment to the Knollenberg language that came out of the Committee on Appropriations, an amendment offered by the gentleman from Wisconsin (Mr. OBEY). The Obey amendment made it quite clear that the EPA would not be precluded from doing studies and educational efforts, that the House did not want the Knollenberg language to be interpreted so narrowly, and so I do not know whether that colloquy was an attempt to make some legislative history, but I just want to use this opportunity to point out that I do not think it reflects the views of the House.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me simply say that the only use of any colloquy, if they have any use at all, is to explain legislative history. If readers of the RECORD want to know what the legislative history is, they need to read more than the comments of two Members of the Congress who agree with each other, who get up for 2 minutes and think that they have taken a public opinion poll.

The fact is that the Knollenberg amendment has been modified by the Obey amendment, and it seems to me that there is no accurate description of what that amendment means, as amended, unless all parties to the action actually have a consensus.

Mr. WAXMAN. Reclaiming my time, Mr. Chairman, I would point out that the gentleman is absolutely correct. I do not think that the Knollenberg language, as amended by the gentleman from Wisconsin (Mr. OBEY) would preclude the EPA from developing any information they need to permit an adequate ratification debate and to express their views on such a debate on behalf of the administration.

Mr. McINTOSH. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Indiana.

Mr. McINTOSH. Mr. Chairman, let me say it certainly was not my intention and the intention of the gentleman from Michigan (Mr. KNOLLENBERG) to modify the legislative intent as expressed by this body with the Obey amendment. There was much debate during that time about those activities that would be allowed and the difficulty of defining the line and when it became advocacy.

I think the debate that we had on the House floor the other night, the gentleman is correct, accurately reflects the legislative history regarding that amendment, and that is incorporated into the Knollenberg amendment.

We were merely exploring other provisions, not intending to rewrite any of the legislative history regarding the Obey amendment.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for his clarification. I do want to point out that some of the colloquy that I heard reflected his individual views, and it did not reflect how I interpret Knollenberg language, as amended by Obey, and should not be used for any legal interpretation of the Knollenberg amendment as so modified.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 501, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 5 offered by the gentleman from Indiana (Mr. ROEMER); amendment No. 22 offered by the gentleman from New York (Mr. HINCHEY); amendment No. 32 offered by the gentleman from Tennessee (Mr. HILLEARY).

AMENDMENT NO. 5 OFFERED BY MR. ROEMER

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. ROEMER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. ROEMER:

Page 72, line 15, strike "$5,309,000,000" and insert "$3,709,000,000".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to House Resolution 501, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

The vote was taken by electronic device, and there were—ayes 109, noes 323, not voting 2, as follows:

[Roll No. 345]

AYES—109

Barrett (WI)
Bass
Bateman
Bereuter
Berry
Blagojevich
Blumenauer
Brown (OH)
Camp
Carson
Chabot
Christensen
Coble
Coburn
Conyers
Costello
Coyne
Danner
DeFazio
Delahunt
Dingell
Doyle
Duncan
Ensign
Evans
Fossella
Frank (MA)
Franks (NJ)
Ganske
Goode
Goodlatte
Goodling
Gutierrez
Hamilton
Hefley
Herger
Hilleary
Hoekstra
Holden
Inglis
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kildee
Kind (WI)
Kingston
Kleczka
Klug
LaFalce
Largent
Latham
Lazio
Leach
Lee
Levin
LoBiondo
Lowey
Luther
Maloney (NY)
Manzullo
Markey
McHugh
McInnis
Meehan
Miller (CA)
Minge
Mink
Moakley
Myrick
Nadler
Neumann
Nussle
Oberstar
Obey
Owens
Pallone
Paul
Paxon
Payne
Pelosi
Peterson (MN)
Pomeroy
Porter
Portman
Poshard
Ramstad
Rivers
Roemer
Roukema
Sanders
Sanford
Schaffer, Bob
Schumer
Shays
Shuster
Slaughter
Smith (MI)
Stark
Strickland
Stupak
Tierney
Upton
Velazquez
Vento
Visclosky
Wamp
Woolsey
Yates

NOES—323

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Becerra
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fowler
Fox
Frelinghuysen
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kennedy (RI)
Kennelly
Kilpatrick
Kim
King (NY)
Klink
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Lucas
Maloney (CT)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Neal
Nethercutt
Ney
Northup
Norwood
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)

NOT VOTING—2

Gonzalez
Young (FL)

□ 1823

Messrs. SAXTON, JACKSON of Illinois, CRAPO, Ms. GRANGER and Mr. NEY changed their vote from "aye" to "no".

Mrs. MYRICK, Mr. MARKEY, Mr. STARK and Ms. KAPTUR changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 22 OFFERED BY MR. HINCHEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. HINCHEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 146, noes 285, not voting 3, as follows:

[Roll No. 346]

AYES—146

Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Bass
Bereuter
Boehlert
Bonior
Borski
Boswell
Brady (PA)
Brown (OH)
Camp
Castle
Conyers
Costello
Coyne
Crane
Davis (IL)
Delahunt
DeLauro
Doyle
Ehlers
Engel
English
Ewing
Fattah
Fawell
Forbes
Ford
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Ganske
Gejdenson
Gekas
Gilman
Goodling
Greenwood
Gutierrez
Hastert
Hinchey
Hoekstra
Holden
Houghton
Hulshof
Hyde
Jackson (IL)
Johnson (CT)
Johnson (WI)
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
LaFalce
LaHood
Latham
Lazio
Leach
Levin
Lipinski
LoBiondo
Lowey
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McDade
McGovern
McHale
McHugh
McIntosh
McNulty
Meehan
Meeks (NY)
Menendez
Moakley
Mollohan
Murtha
Nadler
Neal
Neumann
Nussle
Oberstar
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Paxon
Payne
Peterson (PA)
Petri
Pitts
Porter
Poshard
Quinn
Rangel
Rivers
Roemer
Rothman
Roukema
Rush
Sanders
Saxton
Schumer
Sensenbrenner
Serrano
Shays
Shimkus
Shuster
Slaughter
Smith (MI)
Smith (NJ)
Solomon
Souder
Stabenow
Stupak
Sununu
Tierney
Towns
Upton
Visclosky
Walsh
Weldon (PA)
Weller
Weygand
Wise
Yates

NOES—285

Abercrombie
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Becerra
Bentsen
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boucher
Boyd
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Capps
Cardin
Carson
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fazio
Filner
Foley
Fowler
Frost
Furse
Gallegly
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hooley
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kim
Klug
Knollenberg
Kolbe
Kucinich
Lampson
Lantos
Largent
LaTourette
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
Lofgren
Lucas
Luther
Martinez
Matsui
McCollum
McCrery
McDermott
McInnis
McIntyre
McKeon
McKinney
Meek (FL)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Ortiz
Oxley
Packard
Parker
Pastor
Paul
Pease
Pelosi
Peterson (MN)
Pickering
Pickett
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sessions
Shadegg
Shaw
Sherman
Sisisky
Skaggs
Skeen
Skelton
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Traficant
Turner
Vento
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Wexler
White
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (AK)

NOT VOTING—3

Gonzalez
Velazquez
Young (FL)

□ 1832

Messrs. CLAY, KUCINICH and CHAMBLISS changed their vote from "aye" to "no."

Mr. EHLERS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 32 OFFERED BY MR. HILLEARY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Tennessee (Mr. HILLEARY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 231, noes 200, not voting 3, as follows:

[Roll No. 347]

AYES—231

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burton
Callahan
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fossella
Fowler
Fox
Franks (NJ)
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kasich
King (NY)
Kingston
Klink
Klug
LaHood
Largent
Latham
LaTourette
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOES—200

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Buyer
Calvert
Campbell
Capps
Cardin
Carson
Castle
Clay
Clement
Clyburn
Condit
Conyers
Cox
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Granger
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hobson
Hooley
Horn
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E.B.
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Packard
Pallone
Pascrell
Payne
Pelosi
Porter
Poshard
Price (NC)
Rangel
Riggs
Rivers
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Strickland
Sununu
Tauscher
Thomas
Thompson
Tierney
Torres
Towns
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—3

Gonzalez
Velazquez
Young (FL)

□ 1840

Mrs. CLAYTON changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The committee will rise informally to receive a message.

The Speaker pro tempore (Mr. LAHOOD) assumed the Chair.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore (Mr. LAHOOD). The Committee will resume its sitting.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The Committee resumed its sitting.

(By unanimous consent Mr. LINDER was allowed to speak out of order.)

PERSONAL EXPLANATION

Mr. LINDER. Mr. Chairman, regrettably I was not present to vote on Rollcall Numbers 337, 338 and 339 last Friday afternoon. Had I been present I would have voted aye on 337, no on vote 338 and aye on vote 339 which was the final passage of the Patient Protection Act.

Ms. DELAURO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to my colleague, the gentleman from Virginia (Mr. SCOTT).

(Mr. SCOTT asked and was given permission to revise and extend his remarks.)

Ms. DELAURO. Mr. Chairman, I rise to support the motion which will be offered by the gentleman from Wisconsin (Mr. OBEY) a little bit later in the evening.

Mr. Chairman, in 1994 the Consumer Product Safety Commission decided to grant part of a petition by State fire marshals, State fire marshals who have been asking the CPSC to develop a safety standard for upholstered furniture to address the problems of fires started from small open flames such as lighters, matches and candles. Every year 200 people are killed and 600 injured unnecessarily by fires which start on upholstered couches and chairs. Most of the fires start when children play with lighters and matches, and every year 40 children under age 5 die in fires started by burning upholstered furniture.

These fires, Mr. Chairman, cost an estimated $1 billion and are completely avoidable. These fires could be avoided by using fire-retardant chemicals to reduce the flammability of upholstered furniture. The CPSC has been working for the past 4 years to conduct tests and evaluate all of the issues relating to the proposed standard to reduce fires, but the upholstered furniture industry does not want this standard to move forward, so in subcommittee an amendment was added to tie the CPSC up in red tape and paperwork and delay the development of these standards.

Mr. Chairman, the study required in this bill is unnecessary, it is a stall tactic, and the CPSC estimates that it would take more than 5 years and cost nearly a million dollars to do this unnecessary study. In the meantime more fires will occur putting peoples' lives in danger. Each year that goes by before the standard is put in place 200 people die, each year 600 people are injured unnecessarily, and each year that goes by nearly $1 billion in damages and social costs from these preventable fires occur. Each year that goes by 40 more children under age five will die from fires and burns.

□ 1845

Will we continue to sacrifice the lives of our children and firemen? Will we pander to the upholstered furniture industry to stop the CPSC from taking steps to prevent these completely avoidable fires? No. I urge my colleagues to support this motion to recommit.

Mr. Chairman, I am pleased to yield to my colleague, the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, we will vote on a motion to recommit with specific instructions to strike section 425. This section puts the interest of an industry over the interest of our citizens. Today we won a victory on children's sleepwear fire safety standards. We demonstrated Congress' bipartisan commitment to ensuring that our children are safer from fires. Now we must continue that commitment by allowing the Consumer Product Safety Commission to proceed on upholstered flammability standards.

In a letter to the Committee on Rules, the Consumer Product Safety Commission called this language an obstacle to their work. They said, and I quote:

> The proposal creates additional costs to an ongoing project and adds considerable delay and redundancy with no additional benefits to the American public. This is only intended to interfere and disrupt the orderly process already developed by the Consumer Product Safety Commission to consider a serious hazard facing American consumers.

That is not stated by any Congressperson. That is stated by the CPSC. Unfortunately, if this VA-HUD appropriations bill passes with section 425, the $16 billion upholstery manufacturing industry will receive an early Christmas present. That is what this is all about.

While the industry is laughing its way to the bank, thousands of Americans will be in jeopardy and will continue to be in jeopardy. They will be burned because the industry spent thousands of dollars lobbying against a national upholstery flammability standard. Thirty-seven hundred people a year are killed by house fires. Seventeen hundred youngsters are injured due to residential fires, most of which are starting when upholstery furniture catches fire.

This bill blocks the progress that has been made by the Consumer Product Safety Commission. The provision not only delays the project, but it is totally redundant and provides no further benefit to the American public.

While we wait, over 25,000 men, women, and children will have died as a result of burning furniture if we wait a year or 18 months. The Consumer Product Safety Commission calculates that an upholstery flammability standard will have an annual net savings of $300 million.

AMENDMENT NO. 31 OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 31 offered by Mr. RIGGS: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated by this Act may be used to implement section 12B.2(b) of the Administrative Code of San Francisco, California.

Mr. RIGGS. Mr. Chairman, I will try to be as brief as I can for this debate, because I believe that this is the last substantive amendment pending to the bill before we move to recommittal and final passage.

I am glad the Clerk read my amendment because the amendment has been revised and modified now a couple of times in part because of what I think is the legitimate criticism of earlier versions of the amendment from some of my colleagues on the Democratic side of the aisle.

So the amendment in its current form is intended to do one thing and one thing only, and that is to prevent the City and County of San Francisco government, which is one unit of local government, one political subdivision, and to the extent that my amendment, if it passes, reflects the thinking and the intent and the will of the Congress, by inference, any other local government, to prevent the city and county of San Francisco government from being able to use Federal taxpayer funding, Federal taxpayer funding to condition any city contract to a private organization to require that private organization, whether it be a for-profit business or a not-for-profit community-based charitable organization, to provide domestic partner benefits to their employees.

I think that that is the basis for a very legitimate, a very serious debate in the people's House before any local government can use Federal taxpayer funding in this fashion.

So I want to stipulate at the outset that this is not, in my view, a matter involving local autonomy. It does not force the city and county of San Francisco to change its current law, city ordinance on the use of city funding, local taxpayer funding in this fashion, no matter how misguided I might think that is. For that matter, it does not apply to any city contracts with State taxpayer fund.

While I would disagree with the policy, it does not interfere with the city and county of San Francisco's decision to offer domestic partner benefits to their own employees. It only applies at that point where the city and county attempts to condition the city contract using Federal taxpayer funding to impose this requirement on the private sector. Therein lies, I think, a very important distinction.

Secondly, the way the city's ordinance is currently drafted, chapter 12B of the San Francisco Administrative Code, it requires private organizations doing business with the city to provide benefits to unmarried domestic partners to the same extent as spouses of married employees.

I think we should have a debate on whether we want to elevate that relationship to the same status as marriage, which I consider to be a sacred institution and which I define as the covenant between one man and one woman. I think we can have a very legitimate debate on that.

But the real problem I have with the city ordinance is, as I have mentioned, that it applies to all city contracts and grants using monies deposited or under the control of the city. I quote from the ordinance. So it applies to Federal taxpayer funding as well as State and local taxpayer funding. Hence, the need for my amendment.

This is a relatively recent law, relatively recent development in San Francisco. Since its implementation by the elected decision makers for the city and county of San Francisco, that is to say a majority of the San Francisco Board of Supervisors, there have been a number of organizations that have resisted this policy, some of them for-profit businesses, large corporations like United Airlines, Federal Express. It needs city approval in order to be able to do business, to have facilities in San Francisco International Airport.

Those large corporations, for-profit entities, they have resources that smaller nonprofit community-based charitable organizations do not. So I am not here really on their behalf. I am here on behalf of Catholic Charities and Salvation Army, two venerable organizations. They have longstanding relationships with the city and county of San Francisco government that have found themselves suddenly forced to accept this policy or lose its city contracts.

In the case of Catholic Charities, they were able to work out apparently an agreement that is a slight variation of the city law. But in the case of the Salvation Army, which refused to buckle to the city policy, the Salvation Army forfeited $3.5 million of its $18 million budget. Here is the headline from the San Francisco Examiner newspaper.

The CHAIRMAN. The time of the gentleman from California (Mr. RIGGS) has expired.

(By unanimous consent, Mr. RIGGS was allowed to proceed for 2 additional minutes.)

Mr. RIGGS. Mr. Chairman, the headline says "The Salvation Army has decided to end its contracts with San Francisco and shrink programs serving the homeless, drug addicts and the elderly because of a dispute over the city's domestic partners law.

Some, if not most, or even all of this funding originated with Federal taxpayers and was appropriated by this body, in this annual spending bill, as well as other annual spending bills.

What I want my colleagues to know is that the city law provides for a specific exemption, a sole provider exemption, otherwise known as a waiver, and that the city and county of San Francisco, upon the recommendation of the city's Human Rights Commission, has granted a number of waivers to private contractors doing business with the city of San Francisco, including Blue Cross, Encyclopedia Britannica, the U.S. Tennis Association, Lawrence Hall, Paramount, the large corporation that operates two amusement parks in the San Francisco Bay area so that 9,000 underprivileged kids living in San Francisco could go to those amusement parks this summer; yet it refused to grant a waiver to the Salvation Army and Catholic Charities.

So, Mr. Chairman, I think this is an appropriate debate to take. I think we should take a stand. We should not sanction domestic partner relations; that we should say unequivocally that the American people want leaders who will respect and support rather than dishonor and undermine marriage and the family, and most importantly, I think we should support the rights of private organizations, whether it be the Boy Scouts, Catholic Charities or Salvation Army, to adhere to the traditional values that they have always followed.

So I ask support from my colleagues for my amendment which simply would not allow Federal taxpayer funding from this bill to be used to force or to coerce private groups and businesses to adopt policies that they find morally objectionable.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Riggs amendment. When I came to the floor to oppose the amendment, I did so on the basis of the issue of local autonomy. Having the concern that I do about the impact of a vote on my colleagues that I wish the maker of this motion would share, I am concerned when I hear him making statements about the practice in San Francisco that is not true. Either the gentleman is ill-informed or he chooses to ignore the truth in this situation.

What this amendment will do is to single out one city. I ask my colleagues, do you want your city singled out next? None of the funds appropriated by this act may be used to implement Section 12B.2(b) of the Administrative Code of the city of San Francisco.

This is the fifth version of the Riggs amendment. It took five versions for the gentleman from California (Mr. RIGGS) to conclude what he wanted our colleagues to consider because this is a very sloppy approach to legislation. It is in violation of local autonomy and it is unconstitutional.

As I said, I came to talk about this in terms of local autonomy, and if I have the time I will, but I do want to set the record straight.

First of all, the city of San Francisco is not forcing anyone to act against his or her or their principles. Indeed, the gentleman from California (Mr. RIGGS) said he is here on behalf of Catholic Charities. He said that.

Catholic Charities and the city of San Francisco have entered into a very amicable agreement about how Catholic Charities will continue to provide the services that it does exceptionally well in helping with the homeless and with child care and other delivery of services as contractors to the city of San Francisco. There is peace between Catholic Charities and the city of San Francisco. I do not know why the gentleman from California (Mr. RIGGS) wants to create a war there.

In terms of the services provided by the Salvation Army, the gentleman from California (Mr. RIGGS) says that there has been a shrinking of programs and they have not been able to provide the services that they have been contracted to do, and that simply is not true. Indeed, the gentleman from California (Mr. RIGGS) says that San Francisco has offered sole-sourcers the opportunity for a waiver but it would not offer that waiver to the Salvation Army. Not true.

That waiver is available to Salvation Army. They chose not to accept it, and in September their contracts will lapse and San Francisco will award the contracts for the delivery of services that Salvation Army so ably provides. Perhaps the contract will go to Catholic Charities which is complying with the law in San Francisco, as I say, very peacefully.

I say to my colleagues I care about the impact of this vote on them and I do not want to ask them to do something that is not in their interest at the end of the day, and I believe it is in their interest at the end of the day to protect the local autonomy.

Indeed, in the words of our colleague, the gentleman from California (Mr. RIGGS), who said on another occasion, when he was arguing against Federal control, he urged us, and I quote, to decentralize authority and responsibility and, yes, funding and revenues back to the States. This was in the context of the block grants in education.

Then he said, in turn, we will be disbursing power to our fellow citizens.

Well, that is a great idea. Why not support it today?

In another statement, he advised the House, we have to have a national policy which specifies that the Federal Government no longer can impose mandates on State and local government.

□ 1900

Well, if the maker of the amendment were to be true to those words, he would vote down his own amendment today.

The Riggs amendment would prohibit, as I say, any funds from being used to implement section 12B, or the antidiscrimination section of the San Francisco Code to the Administrative Code of San Francisco.

I want my colleagues to hear the words of the U.S. Conference of Mayors. If any of my colleagues have cities and towns in their districts, and I assume that they do, they might want to know that they have said: "The modified," and this is now the 5th modification, "Riggs amendment strikes at the heart of a local jurisdiction's obligation to ensure that civil rights are protected within its boundaries."

The Office of Management and Budget warns that "The amendment would impose an unfunded, expensive and extremely burdensome administration requirement on the city."

Can my colleagues just see it now? We are going to administer some homelessness or child care or whatever the service is, and we are going to have to figure out what part of it going to Catholic charities is federal, in a way that meets the criteria of the gentleman from California (Mr. RIGGS) but not those of the City of San Francisco and the Constitution of the United States.

Mr. Chairman, this body is not the city council of any city in the country. I urge my colleagues to vote against this ill-advised, poorly-formed amendment.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from California (Mr. RIGGS), who serves in this House from the State of California, is retiring from his position at the end of this year; and I would make a suggestion that if he wants to get involved in the laws adopted by the City of San Francisco, he ought go to San Francisco and run for the city council.

Because what this amendment has us do here in Washington is interfere with the legitimate local judgments about city contracts by the city itself. It prohibits the use of Federal funds to implement Chapter 12B of San Francisco's Administrative Code, but, obviously, the City does not use Federal funds to implement its ordinances. It does not use Federal funds to pay its employees or its department of public works. When the City issues an RFP, it does not spend Federal dollars.

So what is this amendment all about? It is a message amendment. It is an attack on the City of San Francisco. It is an affront to the citizens of San Francisco and to the progressive corporate citizenship of companies which provide domestic partner benefits. It is a slap at both small mom and pop businesses and Fortune 500 companies like American Express, IBM, and Shell Oil.

The amendment may not have any real effect on the City's business, but it will unquestionably encourage prejudice and intolerance. It will encourage future attacks on local government, and it will fail to do what it purportedly seeks to accomplish; it will fail to interfere with San Francisco's local judgment about its own contracts.

Mr. Chairman, I want to put into the RECORD following my comments here on the floor a letter from the Human Rights Campaign Fund, the Leadership Conference on Civil Rights, the United States Conference of Mayors, and the American Civil Liberties Union, and a resolution adopted by the City of Los Angeles, all opposing this amendment.

I urge my colleagues to oppose it. It is an unwarranted, extraordinary interference with local community judgment. It is not the job of the Congress to be micromanaging the business of American cities.

Mr. Chairman, I urge defeat of this amendment. I include at this time the letters I just referenced.

VOTE NO ON THE RIGGS AMENDMENT TO VA-HUD APPROPRIATIONS

(Working for Lesbian and Gay Equal Rights)

Representative Riggs (R-CA) intends to introduce an amendment when the House resumes consideration of the VA-HUD Appropriations bill. The amendment would prohibit the City of San Francisco from using VA-HUD funds to implement its entire city ordinance against discrimination in city contracts. The ordinance requires all city contractors to prohibit discrimination based on factors which include race, color, religion, sexual orientation, domestic partner status, marital status, or AIDS/HIV status.

UNPRECEDENTED FEDERAL INTERVENTION. The Riggs amendment is an example of gross micro-management of one particular city by the federal government. Congress sets a dangerous precedent and poses a threat to all localities if it begins to use its power to appropriate funds as a means to intimidate and coerce local governments. While the federal government conditions the use of federal funds, these conditions are based on the federal law authorizing the grant program (which is openly debated in Congress) or existing federal government regulations on the use of federal funds (which are subject to public comment). The Riggs amendment is "de facto" legislation on an appropriations bill without appropriate committee consideration and debate.

NO NATIONAL INTEREST AT STAKE. In a recent decision regarding the San Francisco ordinance, the U.S. District Court held that local governments have the discretion, as do individual consumers, to pick and choose the companies and organizations with which they will do business. Federal grant requirements similarly require grantees to comply with civil rights and other federal law in order to do business with the federal government. While Representative Riggs may disagree with San Francisco's ordinance, there is no national interest at stake in its application.

MEAN SPIRITED PUNISHMENT. Punishing the people in one particular city because their duly elected leaders set a government policy clearly within their jurisdiction is a mean-spirited Congressional action. While the Riggs amendment does not cut off federal funds, use of those funds forces the city to violate its own rules and regulations. VA-HUD dollars are meant to help state and local governments meet the needs of their citizens. They are not meant to punish a locality for setting government policy.

THE ORDINANCE IS FLEXIBLE. The San Francisco ordinance requires city contractors who already provide benefits to married partners of employees to also provide benefits to domestic partners of employees. Several exceptions to the ordinance exist which, for example, have allowed San Francisco to craft an agreement with Catholic Charities that is satisfactory to both. Catholic Charities is now delivering care, housing, counseling and other services under a city contract.

THIS IS AN HRC KEY VOTE.

The United States
Conference of Mayors,
July 22, 1998.

Dear Member of Congress: On behalf of The United States Conference of Mayors, I am writing to express our continued opposition to an amendment to the VA-HUD Appropriations bill which would be a major undermining of local autonomy and the principles of federalism.

The modified amendment proposed by Representative Frank Riggs (CA) would prohibit any funds under the bill from being used by the City of San Francisco to implement sections of its municipal code that provide specific civil rights protections. These protections include prohibiting discrimination on the basis of race or national origin, religion, gender, disability or age.

The nation's mayors are seriously concerned with this unwarranted intrusion into local decision making. The modified Riggs amendment strikes at the heart of a local jurisdiction's obligation to ensure that civil rights are protected within its boundaries.

We again urge you to oppose this amendment on the grounds that the principles of federalism and local autonomy must not be held hostage to the provision of needed federal funding. The amendment would establish a very dangerous precedent and we urge you to oppose its adoption.

Sincerely,

J. Thomas Cochran,
Executive Director.

Leadership Conference on
Civil Rights,
Washington, DC, July 22, 1998.

Dear Representative: On behalf of the Leadership Conference on Civil Rights (LCCR), a coalition of more than 180 national organizations representing people of color, women, labor unions, persons with disabilities, older Americans, major religious groups, gays and lesbians and civil liberties and human rights groups, we write to express our strong opposition to the so-called modified Riggs amendment to H.R. 4194, the FY '99 VA-HUD Appropriations Bill. If enacted, this amendment would mark a profound departure from this nation's bipartisan commitment to equal protection under the law and cause irreparable harm to countless Americans.

The modified Riggs amendment would prohibit the implementation of Chapter 12B of San Francisco's Administrative Code in programs funded by this bill. Chapter 12B includes fair employment protections prohibiting private vendors who do business with the city from discriminating on the basis of race, gender, color, creed, national origin, disability, and sexual orientation. Chapter 12B also provides for enforcement of these nondiscrimination protections through the local Human Rights Commission.

Each year, government entities (federal, state, and local) purchase goods and services from private vendors. For most of the nation's history, women and people of color faced insurmountable legal barriers that deprived them of the opportunity to compete for these government contracts. Even after these legal obstacles were removed in the 1960's, Congress has repeatedly recognized that systemic illegal discrimination continues to deprive countless individuals an equal opportunity to secure the federal government's procurement dollars. Similarly, state and local governments have enacted numerous program to ensure they are not an active participant in the continuing cycle of discrimination.

Prohibiting the City of San Francisco from ensuring nondiscrimination within programs under its jurisdiction not only would represent an unprecedented intrusion in local government autonomy, but more important, would mark a significant retreat in the nation's bipartisan commitment to effective civil rights enforcement. State and local governments have a compelling interest in expanding employment opportunities and ensuring that taxpayer dollars are not inadvertently being used to subsidize discrimination.

On behalf of the Leadership Conference, I urge you to continue the bipartisan tradition of supporting non-discrimination by rejecting the revised Riggs Amendment that would endanger equal employment opportunities.

Sincerely,

Wade Henderson,
Executive Director.

ACLU,
Washington National Office,
Washington, DC, July 23, 1998.

Dear Representative: The American Civil Liberties Union strongly urges you to oppose the Riggs Amendment to the Veterans Administration/Housing and Urban Development Appropriations bill. The Riggs Amendment will most likely come up for a vote as early as this afternoon or tomorrow morning.

Congressman Riggs has proposed four different versions of his amendment to punish the City of San Francisco for contracting with businesses that provide domestic partnership health care benefits to their employees. Several of those versions are unconstitutional as lacking any legitimate governmental purpose under the Supreme Court case of Romer v. Evans, or as directly violating the constitutional prohibition on Congress passing any bill of attainder—specifying a person or organization for punishment instead of passing a generally applicable law.

The fourth and latest version of the Riggs Amendment raises an entirely new set of problems. It provides that "none of the funds appropriated by this Act may be used to implement Chapter 12B of the Administrative Code of San Francisco, California."

In his rush to punish San Francisco for encouraging its vendors to provide the partners or spouses of both gay and lesbian and heterosexual employees with the same health care benefits, Congressman Riggs is attacking a city law that also protects against discrimination based on race, religion, color, gender, and national origin. Riggs has broadened his attack to include all minorities.

The San Francisco City Council passed Chapter 12B of its Administrative Code to eliminate all forms of discrimination against its employees and persons working for its vendors. The objective is to protect the basic civil rights of persons working for the city—even if those workers are in positions that have been privatized.

The Riggs Amendment will punish San Francisco for doing what all federal civil rights laws permit San Francisco to do. Specifically, federal civil rights laws do not preempt state and local civil rights laws. The purpose of preserving the rights of state and local governments to pass their own civil rights laws is to encourage them to enforce civil rights laws at the state and local level and reduce the need for the federal government to intervene.

The Riggs Amendment violates the historic federal principle of not preempting stronger state or local civil rights laws by punishing a city for passing a provision that provides effective protection for persons based on such characteristics as race, religion, color, natural origin, gender, and sexual orientation. If it passes, the Riggs Amendment will be a big step backward for the protection of civil rights at the state and local level.

For these reasons, the ACLU strongly urges you to vote against the Riggs Amendment.

Sincerely,

Laura W. Murphy.
Christopher E. Anders.

City of Los Angeles,
California, July 24, 1998.

Re: Include in city's Federal Legislative Program Opposition to Riggs Amendment to H.R. 4194—VA, HUD, and Independent Agencies appropriations bill—which would prohibit any HUD funds from being distributed to a locality which has an ordinance requiring contractors to provide health care benefits to domestic partners of company employees.

I hereby certify that the attached resolution (Miscikowski-Wachs), was adopted by the Los Angeles City Council at its meeting held July 24, 1998.

J. Michael Carey, *City Clerk.*
By Judi R. Clarke, *Deputy.*

Resolution

Whereas, Congress is in the process of enacting various appropriation bills to fund all Federal programs for the fiscal year beginning October 1, 1998; and

Whereas, one of these bills is H.R. 4194, which makes appropriations for Veterans Affairs, HUD, and Independent Agencies, including funding for homeless programs, housing programs for people living with HIV/AIDS, low-income elderly housing and lead abatement programs; and

Whereas, Representative Frank Riggs has introduced an amendment to this legislation which, although worded differently in its various iterations, would essentially undermine local autonomy and put the Federal

Government in the role of dictating policy to cities around the country; and

Whereas, this amendment would essentially prohibit any HUD funds from being distributed to a locality which has an ordinance requiring contractors to provide health care benefits to domestic partners of company employees; and

Whereas, although currently worded to specifically apply only to the City of San Francisco, the real impact of this amendment stretches far beyond the borders of any particular city. The issue is the right of any municipality in America to consider and enact ordinances within their traditional purview without Federal intervention; and

Whereas, the effect of this amendment would be to reduce lead hazard reduction activities for children, eliminate funds for low income elderly housing, curtail services to the homeless and eliminate resources for housing for people with AIDS; and

Whereas, the San Francisco ordinance under attack by this amendment merely requires contractors who already provide benefits to married partners of employees to also provide benefits to domestic partners of employees; and the ordinance provides several exceptions to exempt certain contractors, such as Catholic Charities and the Salvation Army from some of these requirements; and

Whereas, this ordinance has been upheld by a U.S. District Court in San Francisco which held that local governments have the discretion to pick and choose the companies and organizations with which they will do business; and

Whereas, the Riggs amendment has been modified four times in an effort to secure its passage, the last version narrowing to apply only to the City of San Francisco. However, its intent is far reaching and has serious implications for all cities, including the City of Los Angeles which has implemented various efforts to benefit domestic partners, secure living wages for workers and eliminate substandard/slum housing—all programs which may fall victim to some future Congressional initiative such as the Riggs amendment; now, therefore, be it

Resolved, That the Council of the City of Los Angeles hereby includes in the City's Federal Legislative Program opposition to the Riggs Amendment to H.R. 4194—the VA, HUD, and Independent Agencies appropriations bill, and any similar legislation which would prohibit any HUD funds from being distributed to a locality which Has an ordinance requiring contractors to provide health care benefits to domestic partners of company employees, and would undermine local autonomy and put the Federal Government in the role of dictating Policy to cities around the country.

ANDY MISCIKOWSKI,
Councilwoman, 11th District.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Riggs amendment, because, frankly, this amendment is a clear intrusion into the affairs of a local government. It targets an ordinance approved by only one city in this country, San Francisco; and, frankly, it sets a terrible precedent in so doing.

As has been mentioned, the U.S. mayors oppose the modified Riggs amendment saying that, quote, the modified Riggs amendment strikes at the heart of a local jurisdiction's obligation to ensure that civil rights are protected within its boundaries, unquote. The Leadership Conference on Civil Rights has also expressed its strong opposition, as have other organizations.

Further, the amendment violates the Constitution's prohibition against the enactment of "bills of attainder" by naming specific targets for punishment through the prohibition of funding. I think it would clearly be challenged in the courts.

The amendment would have a substantial financial impact on the City of San Francisco. The Office of Management and Budget has determined that the amendment would impose an unfunded, expensive and extremely burdensome administrative requirement on the City, unquote.

Mr. Chairman, contrary to the charges made by amendment supporters, the City of San Francisco has worked with organizations with differing beliefs to reach agreements satisfactory to both; and as has been mentioned and I will reiterate, in fact, Catholic charities and the City have reached just such an agreement in regard to the ordinance.

So Mr. Chairman, I repeat, this is a clear instance in which the Federal intervention in local affairs is not appropriate. There is no justification for this intrusion in local decisionmaking. In fact, this amendment would set a dangerous precedent if it were approved, and I hope it will not be approved.

Mr. LANTOS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, San Francisco has two representatives in Congress, and I am proud to join the gentlewoman from California (Ms. PELOSI), my friend and colleague, in expressing my strongest disapproval of this proposed amendment.

This amendment by the gentleman from California (Mr. RIGGS) should be called the "Big Brother Amendment," because it engages in a preposterous degree of micromanagement of the affairs of a city. And it is not surprising that the national organization representing the mayors of our country and the national organization representing the counties in our country are as opposed to this amendment as are we.

It is simply preposterous for the Federal Government to interfere with city ordinances that merely provide for equality of opportunity and fairness. Micromanagement has no role in our legislative process. And to find a subsection of a section of the San Francisco city ordinance to be unacceptable to the Congress of the United States by individuals who favor block grants and who tell us to allow local decisionmaking is so hypocritical as to boggle the mind.

But this is not just interference in local decisionmaking. This is a poorly disguised assault on a persecuted minority, and I hope my colleagues across this political spectrum, from the far right to the left, will oppose this amendment. There is no room in our society for fermenting divisions, hate, and persecution, and this amendment should be rejected.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. RIGGS). I do so because I believe the amendment represents an unwarranted intrusion into the local affairs of one particular city.

The Riggs amendment says that none of the funds in this bill may be used to implement section 12B.2(b) of the Administrative Code of San Francisco, California. This particular section of local law requires contractors doing business with the City of San Francisco to provide the same benefits to their employees' "domestic partners" as they provide to employees' spouses. Domestic partners are defined as persons registered as such with a government agency pursuant to a State and local law. The apparent intent of the Riggs amendment is to prevent the City from applying this requirement on contracts that use funding from HUD or one of the other Federal agencies covered by this bill.

San Francisco's domestic partnership law is motivated, in part, by a belief that, as a matter of principle, spouses and domestic partners should be treated equally with respect to employee benefits. The practice of providing benefits to domestic partners has been adopted by a great many employers throughout the country, ranging from local governments to large corporations.

I also understand that the City's law is motivated, in part, by a desire to make health benefits more widely available and thereby reduce costs for public health programs.

Now, whether one agrees or disagrees with the particular approach chosen by San Francisco, we should all be able to agree that these are legitimate goals for a municipal government to be pursuing and that the City's elected officials have every right to adopt this rule.

We are so often told, especially by members of the majority party, that greater power must be returned to State and local governments and that the Federal Government should be providing assistance, largely through block grants with few strings attached. And, indeed, many of the programs administered by the Department of Housing and Urban Development that are funded in this bill, there has been an increasing emphasis on local control and local decisionmaking.

The Riggs amendment turns this principle on its head. It singles out one particular city and says that city cannot apply a particular local ordinance to block grant and other funds.

Mr. Chairman, do we believe in local control and local decisionmaking or do we not? If we truly believe in local control, that principle should apply regardless of whether Congress happens to agree with all of the decisions made by every locality. Does Congress really need to turn itself into some sort of super review body for city councils picking and choosing those local enactments with which it agrees and disagrees and singling them out for disapproval in appropriation bills? I hope not. We should not start down that road.

Mr. Chairman, I urge defeat of the Riggs amendment.

Mr. NORWOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California (Mr. RIGGS).

Mr. RIGGS. Mr. Chairman, I thank my good friend and colleague for seeking recognition and for yielding to me, because at this point in the debate I think it is important that we perhaps clarify some erroneous impressions that I believe my colleagues on the other side of the aisle are laboring under. Certainly I hope that they are not trying to perpetuate some of this nonsense that I have heard in recent days as we diligently sought to narrow the scope and the impacts of my amendment.

Just for the record, there were three versions, not four, not five, and I do not think there is a need to constantly exaggerate.

Just for the record, the City and County of San Francisco is the only such city with this kind of law, this kind of ordinance on the books, using Federal taxpayer funding to force private organizations to comply with the law. They are very proud of that fact. They are proud of the fact that they have a ground-blazing ordinance, their groundbreaking domestic partners law, the equal benefits ordinance which requires that organizations doing business with the City provide health care benefits to gay, lesbian and unmarried partners of their employees if they provide the same benefits to husbands and wives. And I do not think we will get any dispute over here that that is what the ordinance says and what it seeks to do.

So I guess the question to my colleagues is, do my colleagues have any concern about unwarranted intrusion into the private sector? I guess not. Do my colleagues really think that we should elevate a relationship between two unmarried people to the same relationship as two married people? And if we do not, that that is a form of discrimination, as I have heard people who oppose my amendment say repeatedly? Do my colleagues really feel that that is a form of discrimination, that unmarried people are treated differently under the law than married people? Do my colleagues think that that should be the policy of the United States Government, that unmarried people in a relationship are treated the same as married people?

Mr. LANTOS. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. Mr. Chairman, the gentleman from Georgia controls the time.

Mr. LANTOS. Mr. Chairman, is this a rhetorical question or a serious question?

Mr. RIGGS. Mr. Chairman, the gentleman from Georgia controls the time. I will continue on. I will continue on, because, obviously, the gentleman has the ability to get more time on that side of the aisle.

□ 1915

I do not want people, our colleagues who might be following this debate, to labor under a false impression. Of course the Conference of Mayors, of course local officials, are going to go on record as opposing the amendment. They want as few strings attached as possible. We recognize that.

The gentlewoman from California (Ms. PELOSI) is right when she says that generally speaking it is the Republican philosophy to decentralize funding and to maximize local control. The problem here is that we are talking about Federal taxpayer funding, not just State and local government funding, but Federal taxpayer funding.

My amendment does not jeopardize, as some have attempted to portray, receipt of these funds. The city and county of San Francisco would still get their full allocation of funding under the bill. They just could not use the funding to require that private organizations accept this policy against their fiscal and/or moral objections.

So my amendment merely prohibits the city and county of San Francisco, the first unit of local government to adopt such a law and to use Federal taxpayer funding, to force this law on private sector contractors, from attaching any domestic partner conditions to city contracts with Federal taxpayer funding because it now has had the unintended effect, at least in the case of the Salvation Army, of jeopardizing, if not disrupting, $3.5 million in funding to serve the homeless, to serve AIDS patients, and to provide meals to elderly citizens.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think a national civics lesson is in order here. First of all, as a former mayor of the city of Cleveland, I think that I understand what all mayors understand, and that is that people in our cities pay taxes to city, State, and to the Nation. So people in cities across this country give their tax dollars to the Federal Government. They are Federal taxpayers. That does not give them any less rights, it actually gives them more rights. It gives them something to say at all levels.

I am very concerned, as a former mayor and as a former city councilman, that the Riggs amendment would usurp the right of a local community, and by reference, all local communities, to make their own laws. The principle of home rule is something that every one of us in the Congress of the United States ought to support. We ought to support the principle of home rule.

People make laws at a local level to promote their own safety, to provide for their own services, to make sure that people have their waste collected, have their streets plowed in the winter, the streets clean, to make sure that the people have good recreation and health care. People establish local governments specifically to do that, and they also establish laws which relate to the concerns of people in the community.

People elect local officials because there are some decisions that are made at a local level, the decision of which ought to be made by the people of that locality. The history of the Federal Government does not provide for preemption of State or civil rights laws where State or civil rights laws of a locality have gone further than the Federal Government.

There is no place like home, and there is no government institution like home rule. How precious is this right of self-government? How precious is this right of home rule? People together, coming together at a local level, they elect their members of council to address local issues which are of importance to the people in their neighborhood, their community, and their city.

City councils meet as legislative bodies to make the laws for a city. It has been said before, we are not a plenipotentiary legislative body that seeks to make laws at every level of this government. We make Federal laws. We do not make laws for city councils and the city of San Francisco or Cleveland or Chicago or New York.

All across this land, mayors and councils meet daily, meet weekly, to do what they feel is in the best interests of their community. Local government exists for local matters, and the Federal Government exists for Federal matters, and we should not try to usurp the job and the duty of local government.

But when an amendment is created and aimed specifically at one city, in this case, San Francisco, California, I submit that it attacks home rule not only in San Francisco, but it attacks home rule in every city in the United

States of America. As a former mayor, I can tell the Members that that ought not to happen, because that is not what the founders or the framers meant when they created a United States. It attacks home rule in New York, in Cleveland, in Chicago and Los Angeles, in every city and in every suburb and in every town.

Local government means power to the people in its finest. Aside from this attempt to dictate to San Francisco, there is an undercurrent here which is not worthy of this Congress. I ask the Members, whatever happened to keeping government out of people's private lives? Whatever happened to live and let live? Whatever happened to do onto others as you would have them do unto you? Whatever happened to judge not, that ye be not judged?

Mr. Chairman, I yield back, but I do not yield back anybody's constitutional rights.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise with some regret to strongly oppose the amendment of my colleague, the gentleman from California (Mr. RIGGS).

Mr. Chairman, I rise to make a couple of points. The first is that many may not know, but the early part of my life in a professional sense involved years in the health and life insurance business. I know a good deal about the group health insurance business and the way those contracts are formed.

I feel very strongly that in this arena, the marketplace ought to have something to say. Indeed, as my colleague, the gentleman from Ohio (Mr. STOKES) indicated, there are corporations across the country who, in specifications they have outlined in terms of health insurance contracts, have included, among other things, provisions such as the ones that are being discussed here. The marketplace will work. People who are bidding to place those contracts can either choose to compete or not compete. So, frankly, I think, in the clearest sense, that ought to be true in this instance in the bay area of California.

Above and beyond that, it strikes me that beauty often lies in the eyes of the genuflector, and I find people in this House, sometimes on both sides of the aisle, stand and pound their chests in support of local control. Indeed, I have often said to my friends who are involved in educational issues at the local level, friends, be very careful as you turn to Washington and look for your educational dollars, and recognize that we only give 10 cents on the dollar for educational purposes, but very quickly those who are delivering that dime want to spend your entire dollar, for they love the control, using the Federal dollar as the reason to control.

In this case, in a most fundamental way, local government is reflecting its views as to what their policy should be, and very much reflecting their community in total, the epitome of what local control is all about.

It seems to me that the first thing the Congress should know is that we do not have all the answers to all the problems around. Indeed, that government that serves best is the government that is closest to the people who would be served.

So for all of those reasons, I would strongly urge the Members of this body to reject the Riggs amendment.

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. RIGGS. Mr. Chairman, as the gentleman knows, we are friends and colleagues of the same State congressional delegation, and I respect the gentleman's opinion and views. But I want to explain one more time why I think we should give this very careful thought.

That is simply this: In the instance of the Salvation Army, we have an organization that has had a longstanding relationship with the city of San Francisco. I do not think there is any argument to that. They have long had a presence in the San Francisco Bay area that is specifically within the city and county of San Francisco.

There are a lot of destitute and very needy people in the city of San Francisco. This is an organization dedicated through its founding principles, yes, its Judeo-Christian principles, on which it was founded, to helping the desperately poor and truly needy among us in our society.

So there is an organization that is put in this quandary. They have a presence, a longstanding presence there. They have had a relationship with local government. Local government adopts this law. They condition their contracts; and ultimately, the contractor, this private organization, objects to the contract and to the law on moral and religious grounds.

The problem that I have is that that is not the marketplace working. If it is a private for-profit entity, that is one thing, but this is a private not-for-profit charitable Christian organization that objects on moral and religious grounds, but wants to stay there in the city and continue to provide the services.

Mr. LEWIS of California. Mr. Chairman, reclaiming my time, I must say to the gentleman that there is probably not an organization in the country that I feel more closely to than the Salvation Army. I have worked with them not just here at home but overseas, in many instances in the country of India. I have a great sensitivity there.

But indeed, the marketplace does play a role here. Indeed, I am sure the Salvation Army, like other organizations working with the city, can find a way through this. But we should not be overriding that fundamental element of local control because of either a single organization, or in this case, because some disagree here at the Federal level.

Mr. FILNER. Mr. Chairman, I move to strike the requisite number of words.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentlewoman from Texas.

Mr. Chairman, because this is a very destructive amendment, I rise to oppose it, and I hope my colleagues will defeat it handily.

Mr. FILNER. Mr. Chairman, I thank the gentleman from California (Mr. LEWIS) for reminding other Members of his party that they are again conveniently forgetting their own sacred mantras of local control and no Washington interference to meet their own extreme partisan ends. Do they not get it, Mr. Chairman? They cannot have it both ways: honor and even sanctify local control when it suits them, but then disregard it when it conflicts with their own partisan agenda.

I am very concerned that this Congress is attempting to micromanage the affairs of the American public.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I do feel this is a very serious issue. I would really regret it if we paint an issue like this in partisan terms.

Mr. FILNER. I thank the gentleman.

In any terms, Mr. Chairman, this is a very harmful precedent to set. Members should mark my words that each and every one of our communities, as the gentleman from Ohio stated, becomes instantly vulnerable to the very same congressional meddling if we pass this amendment.

As a former city councilman and deputy mayor of the city of San Diego, I recall that my city's working with the Federal Government was a two-way relationship. The city met the reasonable requirements and guidelines of Federal grants and programs, and the Federal Government did not meddle in our city's internal affairs and policies. It was a mutually respectful arrangement that this Congress should continue to honor.

Mr. Chairman, the city of San Francisco has the right to conduct its business as it sees fit. Whether it is domestic partnership benefits or term limits or parking restrictions, if the people of San Francisco do not agree with the policies of their government, it is their prerogative to address these issues at the ballot box. It is not the prerogative of this Congress.

I strongly urge my colleagues to be consistent in their demand to honor local control. Let the people of San Francisco and every city in America govern themselves.

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding, and I thank him for his statement. I know that he is a former member of the city council, and deputy mayor or vice mayor.

Mr. FILNER. Deputy mayor.

Ms. PELOSI. Deputy mayor of San Diego. I appreciate the perspective he brings to this debate.

I particularly want to thank the chairman of the subcommittee, the gentleman from California (Mr. LEWIS) for his opposition to this amendment.

Mr. Chairman, just for the record, because a statement I made was contradicted by the maker of the motion, I want to submit for the RECORD the five versions of the Riggs amendment. This will be a resubmission, Mr. Chairman, because they have already appeared in the RECORD on July 15, in the case of one of them; on July 16, in the case of two of them; on July 21, in the case of another one; and the amendment that we have before us.

Mr. Chairman, I also want to say that it is interesting that the gentleman stood up and said he spoke here on behalf of Catholic Charities and Salvation Army, and now he is backing off the Catholic Charities defense because he knows it was not a legitimate one. It is one that does not say that if you oppose the Riggs amendment, then you support domestic partners.

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That is not the issue at all. It is about local autonomy. And, as I say, there is nobody here to have to defend Catholic Charities. They do a good job themselves. They are in contract with the City of San Francisco to provide the services that Federal dollars do provide. We do not want them to have to spend some of that money trying to separate which dollar is a San Francisco dollar, which dollar is a California dollar, which dollar is a Federal dollar. We would rather they have the maximum use of those funds for the delivery of services to meet the needs of the people of our community.

Mr. Chairman, I am very proud to represent San Francisco, particularly so in conjunction with my colleague, the gentleman from California (Mr. LANTOS), who spoke so eloquently against this amendment earlier. But we all respect our cities that we represent and we respect our colleagues; and when we ask them to vote for something, we should be on the level with them.

When this legislation comes to the floor, it is about local autonomy. I do not think that the VA-HUD bill is the appropriate venue for us to have a discussion about domestic partners. I do not think it is the appropriate venue for us to tell all the corporations in America, many of the largest corporations in America, and I have the list which I will submit for the RECORD, that what they are doing is immoral and indecent. Perhaps the gentleman thinks that is a legitimate debate for this Congress to have. Let him bring it up as an authorizing measure, but not to interfere with this VA-HUD bill.

Mr. Chairman, I include for the RECORD the amendments offered by the gentleman from California (Mr. RIGGS):

Amendment No. 15. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by this Act may be provided to the City of San Francisco because the City requires, as a condition for an organization to contract with, or receive a grant from, the City, that the organization provide health care benefits for unmarried, domestic partners of individuals who are provided such benefits on the basis of their employment by or other relationship with the organization.

Amendment No. 24. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by title II may be provided to any locality that requires as a condition for an organization to contract with, or receive a grant from, the locality, that the organization provide health care benefits for unmarried, domestic partners of individuals who are provided such benefits on the basis of their employment by or other relationship with the organization.

Amendment No. 25. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by title II may be provided to the political entity known as the City and County of San Francisco, California.

Amendment No. 30. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by this Act may be used to implement Chapter 12B of the Administrative Code of San Francisco, California.

Amendment No. 31. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by this Act may be used to implement section 12B.2(b) of the Administrative Code of San Francisco, California.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to echo some of the comments that have been made by my colleagues, most particularly the comments just made by my colleague, the gentleman from California (Mr. LEWIS), with respect to the marketplace and the fact that, in these instances, the marketplace dictates that these provisions do be provided. Do my colleagues know why? In order to get the best people.

These provisions need to be provided because, in this tight labor market, employers want to make sure they get the best possible talent. And I am sure the gentleman from California (Mr. RIGGS) means no slight to those who are receiving human services. Because, obviously, we want the best people out there who are capable of delivering human services to be the people that we have deliver human services. We would not want to shut out anybody from being able to deliver those human services.

So I think we need to address that point that the gentleman from California (Mr. LEWIS) brought up, because I think it is a very good point. It is not a matter of these private companies having extra money so they can dig into their pockets and do something that feels good. These companies adhere to stock markets. They need to provide the best maximum profit. And the reason they know they can do it and provide these benefits is because they know they are going to get the best possible people. The City of San Francisco should be no different from these private corporations.

Mr. Chairman, I just want to bring to the attention of my colleagues in the House, however, the issue that is being brought up here, the issue with respect to local autonomy. It has been echoed over and over again that the Council of Mayors has rejected the Riggs amendment. They have spoken very strongly on this issue. I want to add that the National Association of Counties and County Executives has also come out vigorously against the Riggs amendment because of its usurpation of local control.

But I want to bring to the attention of my colleagues the fact that this really is usurping local control. In fact, so much so that it will undoubtedly end up in the courts. I am not making anything up here, when the gentleman from California (Mr. RIGGS) himself acknowledges that the only city that is going to be affected is San Francisco.

Mr. Chairman, I thought we were passing a bill that would provide coverage to all the cities and towns in America. But, apparently, the gentleman wants to micromanage and effect a policy in one city in this country. To me, that violates the case of Romer v. Evans, which said that Congress cannot pass any bill of attainder which specifies that Congress cannot carve out one city and town or person for direct impact when passing any legislation. That any legislation that the Congress proposes must impact the whole body of general information that the amendment seeks to change, and it cannot specify in one instance. So, for that reason, this will be tied up in the courts.

Let me tell my colleagues what will practically be the result of when this is tied up in the courts. When this is tied up in courts, it will tie up approximately $65 million in Federal funds which will be tied up. What are those funds? The very programs that the gentleman from California (Mr. RIGGS) says he cares about are going to be compromised because of his amendment.

Homeless people are not going to get the McKinney Grant funds because of the Riggs amendment. People who are homeless because of AIDS are not going to get the necessary Federal funds because the gentleman from California is on this political witch-hunt.

So do not think that this is any old amendment for Members to go in there and cover themselves with political stripes saying, "I was strong today because I stood up and beat up on some minority in this country and was able to scapegoat some group in this country." Do not be so quick to do that, because when we do that we are affecting real people's lives. Real people are going to be affected by this, because of some ideological march that the gentleman from California is on.

Mr. Chairman, I would ask my colleagues to join the gentleman from California (Mr. Lewis) and others in rejecting this mean-spirited, bigoted, bigoted amendment.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a great deal of comment from the other side on this issue, and I think it is only fair that I yield to the gentleman from California (Mr. Riggs) so that he may respond.

Mr. RIGGS. Mr. Chairman, I thank the gentleman from Florida (Mr. Mica) for yielding this time to me. I do want the opportunity to respond, since the previous speaker in the well I think just referred to me as being "mean-spirited" and "bigoted." I guess the proper thing to do is to consider the source.

But I also want to respond by saying that I did not know the gentleman from Rhode Island (Mr. Kennedy) was a constitutional expert. I did not realize he was a legal scholar.

Mr. Chairman, I do realize that he is reading from a letter, because I have a copy of the same letter. I can read from the same letter. I have a copy from the ACLU, the Washington office, which the gentleman, the renowned constitutional scholar, was just referring to regarding, "The Riggs amendment is an unconstitutional bill of attainder." But right above that it says, in their opinion, "the sole objective of the Riggs amendment is to punish San Francisco for attempting to use its municipal spending powers to help equalize health care benefits for married heterosexual couples and unmarried, due to State law, homosexual couples."

That is kind of a convoluted way, I guess, of explaining their interpretation of my amendment. But it is the purpose of my amendment not to allow them to use Federal taxpayer funding to condition contracts to equate married heterosexual couples with, as they put it, unmarried homosexual couples.

I also want to respond to a couple of points. The gentlewoman from California (Ms. Pelosi) is correct. I stand corrected. We apparently had five versions of the amendment, three of which we drafted in 1 day.

It is rare that one can stand up on the floor and get criticized by one's colleagues for making a good-faith effort. I served with the gentlewoman on the Committee on Appropriations in the last Congress, so I am well aware of the tactics. It is rare that when one makes a good-faith effort to address, as I said at the outset, legitimate concerns raised by one's colleagues that one is then criticized for raising those efforts.

Be that as it may, I want to go back to Salvation Army and Catholic Charities. I will insert the San Francisco Examiner article in the Record at the appropriate time that quotes Mr. Richard Love, an appropriate name, spokesman for the Salvation Army who said that, after 11 months of negotiation, the organization told city officials that it could not comply with the ordinance. It is giving up $3.5 million in city contracts to serve the needy. Three programs, including meals for 1,700 senior citizens, received taxpayers' dollars and will be reduced, but the programs will not be closed.

So it seems to me that the actual effect at the local level was exactly the opposite of what the gentleman from Rhode Island (Mr. Kennedy), in a kind of hysterical rhetoric, was trying to describe.

The part about Catholic Charities though, well, staying on Salvation Army, it quotes Mr. Love as saying, as I pointed out to the gentleman from California (Chairman Lewis), chairman of the subcommittee and the primary author of the legislation, "The Salvation Army objects to the domestic partners law on religious grounds.

"The Army's belief system, grounded in traditional interpretation of Scripture, does not perceive domestic partnership arrangements as similar to the sanctity granted marriage partners."

That is the position of the Salvation Army. But then they went on to say that the Salvation Army says that the group will continue to "provide services to individuals, regardless of race, religion, sexual orientation, or marital status." They just do not want this policy forced on them, because it contradicts their founding principles and the beliefs that they have long adhered to. They have been in San Francisco for 118 years.

Mr. Chairman, with respect to Catholic Charities, and this I do want to personally address to the gentleman from Rhode Island (Mr. Kennedy), since he is a member of one of best-known Catholic families in America, it says, "Last year the City of San Francisco and the Roman Catholic Archdiocese of San Francisco, which has affiliated agencies with city contracts, fought the mandate."

Mr. Chairman, I would say to the gentlewoman from California (Ms. Pelosi) they fought the mandate. They did not go along with it, Catholic Charities. "In the end, they reached an accommodation which allows employees of Catholic agencies, or any other organization doing business with the city, to designate someone in their household as eligible to receive spousal-equivalent benefits, and that could include a spouse, a sibling, other relative, or other married partner. Citing Church doctrine, the Archdiocese has been a vocal foe of sanctioning domestic partner relations, homosexual or otherwise."

So I think it is very inappropriate to give the impression that Catholic Charities went along willingly.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Ms. PELOSI. Mr. Chairman, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, let the Record show that no one here says that Catholic Charities approved of domestic partners laws. What we are saying is that no law in San Francisco forces Catholic Charities to accept domestic partners laws or stops it from contracting with the City.

Catholic Charities and the City of San Francisco have reached their accommodation. There is no fight here in our city on this issue. I do not know why the gentleman from California (Mr. Riggs) wants to start one on this floor.

Ms. WOOLSEY. Mr. Chairman, reclaiming my time, I rise in strong opposition to this amendment, an amendment designed to prevent San Francisco from requiring their contractors to offer domestic partner benefits.

This legislation is discriminatory, hypocritical, mean-spirited and ill-conceived. This legislation is hypocritical because it blatantly denies local control. In essence, it says local officials are free to make decisions about local issues, unless we, the Federal Government and individuals in the Congress, do not agree with that local decision.

I thought Republicans wanted more, not less local control. I guess I was wrong.

This amendment is discriminatory because it once again singles out one group, gays and lesbians, for second-class treatment.

This legislation is mean-spirited because it will deny thousands of people living in domestic partnerships the funds that they need to have health care for themselves.

Finally, the amendment offered by the gentleman from California (Mr. Riggs) is ill-conceived because it is an attempt to play politics with the vitally important appropriations process.

This amendment, which has wide-reaching implications for our country through precedents, if through no other way, was rushed to the House Floor without going through the normal committee process because the right-wing element in this country wants to score some political points.

The fact is, Mr. Chairman, San Francisco chooses to view domestic partnership as a legitimate life-style, a choice that thousands of people make. The Federal Government has no right to tell San Francisco what is right or what is wrong.

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The Federal Government has no place in interfering with local decisions. This Congress has no place in judging another person's lifestyle.

I urge my colleagues to make this truly moral choice and vote against this amendment and support the principle of home rule.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is an amazing day. We have a member of Congress, the gentleman from California (Mr. RIGGS) who has decided that he knows better than San Francisco council members who were elected by San Francisco city citizens.

Wake up, citizens of Portland, Oregon and Portland, Maine. Understand that this amendment affects you and the people you elect.

In fact, this amendment is an equal opportunity offender. It is offensive on a bipartisan basis. It is offensive to the people of this country, and it is offensive to the whole issue of home rule.

I say we should vote for local control, stop the nonsense, vote against the Riggs amendment.

Mr. DAVIS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Those who would take this amendment lightly or who would sit on the sidelines of this debate, I would warn them, because it reminds me of the words of Martin Niemoeller commenting on Nazi Germany. He said that, they came first for the Communists, and I did not speak up because I was not a Communist. Then they came for the Jews, and I did not speak up because I was not a Jew. Then they came for the trade unionists and I did not speak because I was not a trade unionist. Then they came for the Catholics, I did not speak. I was a Protestant. Then they came for me. And no one was left to speak up.

Mr. Chairman, I rise to speak up for those individuals who would be affected by this amendment. It is the City of San Francisco today, could be New York tomorrow, Los Angeles next week, New Orleans next month and even perhaps Chicago next year. I rise against this amendment because I agree with those who have suggested that it is indeed a mean-spirited maneuver that is designed to punish a certain group of individuals in one particular city.

This amendment would bar the City of San Francisco from using HUD funds to execute its entire city ordinance against discrimination in city contracts. If enacted, the well-being of tens of thousands of veterans, disabled people, children, victims of natural disasters, individuals with HIV and AIDs would be jeopardized in order to punish a locality.

I agree with those who have stressed the issue of local control, home rule, citizenship, meaning that people can decide what it is that they will and will not do. I would hate to see us move back to the days of witch-hunting, back to the days of trying to determine what others should and should not do. But I simply close, Mr. Chairman, by saying that I strongly oppose any measure that seeks to discriminate based on sexual orientation, and I urge my colleagues to reject this amendment and let America be America, the America that it has never been but the America that it can and must become.

Mrs. LOWEY. Mr. Chairman, although the sponsor of this amendment would have us believe that this amendment is not as egregious as its earlier incarnation, the fundamental fact remains: its purpose is to nullify a duly adopted local ordinance, micro-manage a city, and punish those who don't share a narrow-minded vision of America.

I have to ask why, in the Congress where Members on both sides of the aisle routinely preach the virtues of states' rights, local governance, and devolution of federal power, we're even considering such a thing. This amendment is really the height of hypocrisy.

If the people of San Francisco—or any city for that matter—have chosen to use their municipal spending powers to prohibit discrimination in city contracts and help equalize health benefits for married heterosexual couples and unmarried same-sex couples, what business do we have in stepping in and overruling that action?

As the U.S. Conference of Mayors has stated, passage of this amendment "would establish a very dangerous precedent." It could harm more than 30,000 people who benefit from federal funding for low-income elderly housing, homeless programs, and housing for people with AIDS. It also would serve to blackmail other municipalities who—through the democratic process—want to adopt similar ordinances that prohibit discrimination in city contracts.

Call me cynical, but I don't believe the sponsors have had a change in heart on the issue of local control. The truth is that, in this election season, the Republican leadership has decided it's in their political interest to push proposals backed by the Radical Right in order to mobilize their base for the November elections.

This amendment is just one in a series of attacks on those who don't fit the Right Wing's vision of America. In the next few days we'll debate an amendment to strip gay and lesbian federal employees of basic protections against being fired simply because of their sexual orientation.

This is not the direction we should be heading in. I urge all Members to defeat the Riggs Amendment and work instead on bringing *all* Americans together.

Ms. DELAURO. Mr. Chairman, I rise today in strong opposition to the Riggs Amendment, which is a unacceptable intrusion into local affairs. My colleagues on the other side of the aisle constantly preach to us about government intrusion into local affairs. According to them, government has no place in education. No place in protecting our environment. No place in protecting the safety of American workers.

But when it suits their purpose, it suddenly becomes acceptable to dictate how a city should run its affairs. San Francisco has been a model for the nation in providing benefits for domestic partners. This is a policy determined by San Francisco's government. This is a policy supported by San Francisco's citizens. This is a policy meant to end discrimination and ensure equality under the law.

This amendment would single out the city of San Francisco for punishment because it enacted a policy that the Congressional Majority just doesn't like. Requiring any city to go against its own ordinance in order to use federal funds is simply unacceptable. Congress has no place dictating local affairs to this extent. That's why this amendment is opposed by the U.S. Conference of Mayors, which called it an "unwarranted intrusion into local decision making."

I urge my colleagues to stand up for local decision making and for civil rights and oppose this amendment.

Mr. NADLER, Mr. Chairman, I rise today in strong opposition to this amendment.

This amendment flies in the face of the ideals that many of its proponents purport to hold dear. In debates after debate, my colleagues from the other side of the aisle warn darkly of the dangers of intruding into the affairs of State and local governments. Is that not exactly the effect of this amendment? Some may say that those who have espoused the belief that State and local governments deserve autonomy would be committing a gross act of hypocrisy if they were to support this amendment.

Beyond that fact, I urge my colleagues to oppose this amendment because it is outrageously mean-spirited. This amendment is a blatant effort to deny gay men and lesbians, who live as domestic partners, health benefits through their partners' employment.

If this amendment were to become law, San Francisco and other cities fearing government intervention would be forced to choose between ensuring their domestic partners receive appropriate health care benefits or, ensuring that funding is available to assist those in need of adequate housing. This is nothing short of blackmail. By punishing localities that set policies that help ensure equal rights in health care benefits, thousands would be hurt through the loss of Federal housing dollars.

In the past few weeks, we have hear much from some Members from the other side of the aisle about their views on homosexuality. Now, these appalling statements are being put into action through attempts, such as this amendment, to legislate away rights that have been hard fought and won fair and square. This level of bigotry must not be tolerated in this body. We must not stand by and allow such a mean-spirited and dangerous amendment to prevail. I urge my colleagues to oppose this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I appreciate the opportunity to speak on this issue tonight. The Riggs amendment would unfairly deny Federal funds to any locality that requires private companies and organizations contracting with the locality to provide health care benefits to unmarried domestic partners of its employees.

Equality in employee compensation is a legitimate public policy goal recognized by a myriad of different entities including cities, municipalities, private and public colleges and universities and private employers both large and small.

This amendment infringes on the right of local government to operate freely and without gross Federal interference. The passage of this amendment would affect an enormous demographic pool. The private lives of our workers and who they choose as life partners should not interfere with their ability to receive spousal benefits. Thousands of people including veterans, the disabled, the elderly, and victims of natural disaster would lose access to spousal benefits, along with the targets of this amendment—the gay and lesbian community.

It is irresponsible for Congress to act on such an important matter without appropriate committee considerations and debate. Equality in employee compensation is a legitimate public policy goal and when employees are denied benefits for their life partners, they are being unequally compensated as compared to their married co-workers, as defined in this amendment. I urge my colleagues to vote "No" on the Riggs amendment.

Ms. LEE. Mr. Chairman, I rise today in strong opposition to this outrageous amendment. Mr. Chairman, this bill brings me memories from my childhood, but not a single good one. I remember how excited I was about going to school. The sad reality was that when I started school, I was unable to attend public schools because education was segregated. I was unable to attend public schools because of the color of my skin. I was unable to attend public schools because I was black. It did not matter that my father proudly served in the military with patriotism risking his life to protect my freedom and that of others regardless of skin color. No, it didn't matter. I, like many others, was subjected to the painful calvary of discrimination. It wasn't until many courageous men and women from all over the country decided to join forces to fight prejudice and the injustice of segregation that these barriers were broken. I learned so much from those experiences and there is one lesson I will never forget, discrimination—no matter what form it takes—is wrong.

Mr. Chairman, this amendment has gone through four rewrites. Not one, not two, not three, but four rewrites and the latest version is still unfair, invasive, and unconstitutional. Mr. Chairman, the San Francisco's civil rights ordinance has the full support of the City and County of San Francisco, its elected mayor and Board of Supervisors. This amendment constitutes nothing but a chilling attack on San Francisco's civil rights laws. It sends out to undermine the civil rights laws of the City and County of San Francisco, a prospect that should sound alarm bells for anyone who supports the effort to attain civil rights in this nation.

Mr. Chairman, I thought that our friends on the other side of the aisle were in favor of more powers for local government not against. Well, may be I'm reading the wrong papers or may be it is that some people have decided to be selective about who to attack, when to attack, and why. If we are the House of the people, we are not to violate their trust by launching a malicious attack on the City of San Francisco and its wonderful people. But the people of San Francisco are not the only ones opposing this amendment. The U.S. Conference of Mayors has indicated that they are "* * * seriously concerned with this unwarranted intrusion into local decision making * * *" Mr. Chairman, the passage of this amendment would establish a frightening precedent, which is why the U.S. Conference of Mayors, the National Association of Counties, the City of Los Angeles, and others have voiced strong opposition to the amendment.

Mr. Chairman, I come from a religious family and I continue to practice my faith. I learned early in life that if we believe in justice we also need to believe in tolerance and respect. Mr. Chairman, I have no doubt in my heart that every single Member of this House agrees with me that discrimination is wrong. Every single person is created equal! If that is the case we need to oppose this attack on civil rights. I encourage my fellow Members to vote no on this amendment.

Ms. NORTON. Mr. Chairman, the Riggs Amendment might just as well be called the "Join the District of Columbia Club" amendment. Until now, bald intrusion into the affairs of a local jurisdiction was confined to the nation's capital. Now another noble city joins the ranks of local jurisdictions run by the Congress of the United States.

San Francisco local code not only bars discrimination based on sexual orientations; San Francisco requires contractors who benefit from city contracts to provide health care and other benefits to domestic partners only if they provide these same benefits to married partners. This is a wise policy because it assures health care at no cost to the city from companies who profit from city contracts. Otherwise the city of San Francisco might well be left to pay for the health care of people with AIDS or other illnesses.

Is there nothing we will not do to promote gay bashing? Some of the most revered principles in this chamber have been sacrificed in the name of anti-gay chest thumping—religious tolerance, civil rights, privacy, service in the armed forces, and now, devolution and local control. We've done enough harm through Federal laws. But this is still a Federal republic. Let each jurisdiction decide its own local laws locally.

Mr. DELAHUNT. Mr. Chairman, I rise in strong opposition to the amendment.

I happen to support the San Francisco policy. I believe that companies should provide benefits to the domestic partners of their employees. And I think it is reasonable for a local jurisdiction to choose to award county contracts to companies whose practices conform to local civil rights policies.

But it really doesn't matter what I think about this policy, or any other * * * you think about it. The only opinion that matters is the opinion of the citizens of San Francisco.

With all due respect to the gentleman from California, where did he get the idea that Congress has the right to step in and nullify the contracting decisions made by locally-elected leaders?

This Congress has told local governments what to do about a lot of things. We have used federal grants to dictate local policies regarding abortion and contraception, educational standards, and juvenile crime. The list goes on and on.

Whatever one may think about these federal mandates, most of them can claim at least some tenuous connection to the national interest.

But what possible national purpose can we have in telling the County of San Francisco how to award its contracts? Next, we'll be placing street lights and directing traffic.

I think that if members of Congress want to try their hand at local government, they should run for mayor. Otherwise, they should content themselves with governing the country.

We have no authority to tell the people of San Francisco—or any other locality—whom they should select to perform their public contracts. I know of no legitimate national interest that can justify this kind of incursion into state and local prerogatives.

Many groups, including the National Association of Counties, have expressed alarm over this amendment. It is a feeling we all should share.

Let's defeat this outrageous amendment, and get back to the business we were sent here to do.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. RIGGS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RIGGS. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point or order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Evidently a quorum is not present.

Pursuant to clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 348]

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger

Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-
McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)

□ 2009

The CHAIRMAN. Four hundred fourteen Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. RIGGS) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 214, noes 212, not voting 8, as follows:

[Roll No. 349]

AYES—214

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Everett
Ewing
Fawell
Fossella
Fox
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOES—212

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Bilbray
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cubin
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
English
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Goss
Green
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-
McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver

Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
White
Wise
Woolsey
Wynn

NOT VOTING—8

Burton
Gonzalez
LaTourette
McDade
Moakley
Porter
Yates
Young (FL)

☐ 2016

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Chairman, earlier this evening, although I was in the Capitol building, I did not hear the bell for the vote on Rollcall No. 349 and consequently was not present for the vote. Had I been present, I would have voted "no."

The CHAIRMAN. The Clerk will read the final lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999".

Ms. DELAURO. Mr. Chairman, I insert the following for the RECORD.

U.S. CONSUMER PRODUCT SAFETY COMMISSION

[Statement of Chairman Ann Brown, August 3, 1994]

CHILDREN'S SLEEPWEAR

I voted today to terminate the Commission's rulemaking proceeding to amend the Standards for the Flammability of Children's Sleepwear in sizes 0–6x and 7–14. I also voted to terminate the stay of enforcement after providing firms an adequate lead time to bring their sleepwear garments into compliance with the flammability standards.

The proposal approved by the Commission today would exempt so-called tight-fitting sleepwear garments from the flammability standards, and sleepwear garments for infants under one year of age. In considering whether to support continuing the rulemaking proceeding, I have made it clear that my primary concern is that the Commission take no action that would reduce the level of safety currently provided by the children's sleepwear standards. I am unable to support changing the sleepwear standards unless I can make the statutory findings that the changes would not present an unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage. Since I am not convinced by the evidence currently available that I can make this finding, I cannot vote to support the proposed amendments.

I am concerned that the available data fail to support the conclusion that exempting tight fitting garments from the regulation will not decrease safety. Available injury and death data demonstrate to me that the sleepwear standards are working. Although incident data was not kept on a statistical basis before issuance of the sleepwear standards in 1972 (sizes 0–6x) and 1975 (sizes 7–14), it is clear that a significant number of burn injuries and deaths associated with children's sleepwear did occur. Over the years, the actual numbers of injuries and deaths associated with sleepwear injuries and deaths appear to have declined dramatically. Although there is speculation that this decline may be based on such things as the reduced number of persons smoking and safer appliance such as space heaters and ranges, it is merely speculation. It is just as likely that the injuries and deaths have declined because the sleepwear standards are working.

I recognize that there is a consumer preference for cotton children's sleepwear garments especially in infant sizes, and that the Commission staff has encountered difficulty in enforcing the sleepwear standards because of this consumer preference. I have taken this into account in reaching my decision. I understand and am sympathetic to these concerns.

I do not disagree with the staff's conclusion that tight-fitting cotton garments present less of a hazard than loose-fitting cotton garments. I am skeptical, however, of the staff's conclusion that if the standard is amended, parents will switch from loose-fitting cotton garments (e.g. t-shirts) to exempt tight-fitting sleepwear. There is no factual evidence of consumer demand for tight-fitting sleepwear. There is no factual evidence that consumers would switch from loose-fitting noncomplying garments to exempted tight-fitting garments. It is at least as likely that the purchase of tight-fitting garments will be at the expense of garments that meet the children's sleepwear flammability standards. If so, the level of safety afforded children may well be reduced. Further, even if skin tight garments could reduce burn injuries, I am concerned that it is not practical to think that consumers will actually sleep in them. We may well find that consumers purchase tight-fitting garments in larger sizes to increase comfort, thereby obviating any safety benefit staff has indicated might be achieved with tight-fitting garments.

Regarding the proposed exemption for sleepwear for infants less than six months of age, existing evidence shows that infants at this tender age are exposed to ignition sources. The exemption would cover at least 20% of sleepwear garments in sizes 0–14. I am unable to agree to an exemption that could leave these infants more vulnerable to injury or death.

U.S. CONSUMER
PRODUCT SAFETY COMMISSION,
Washington, DC, April 10, 1998.

Hon. ROSA DELAURO,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN DELAURO: Thank you for your letter opposing the change in the CPSC's children's sleepwear standard. I appreciate your kind words about my opposition to the change. As you know, I share your views. I continue to be concerned that parents will not switch from loose fitting garments to tight fitting sleepwear. I also am unable to agree with the nine month exemption that could leave infants more vulnerable to injury.

In these circumstances, it appears the only remedy is legislative action to restore the previous rule. If you decide to introduce a bill to achieve that result, my staff and I would be pleased and honored to assist you in drafting an appropriate bill.

Sincerely,

ANN BROWN.

[From the Fort Worth Star-Telegram, July 27, 1998]

SO NOW WE'RE BACK TO FLAMMABLE PAJAMAS?

(By Molly Ivins)

AUSTIN—Keeping your eye on the shell with the pea under it seems to get harder and harder. While the media are focused on the thrilling antics of Monica, Ken Starr and Co., there are just a few other itty-bitty items that you might want to pay some attention to. Your babies, for example. Congress is now engaged in a quiet donnybrook over whether to keep the old flammability standards for children's pajamas. Thought that one was over, did you? Thought that after the consumer movement forced pajama manufacturers to make kids' PJs from flame-resistant material back in 1972—and after the number of children burned to death every year from having their PJs catch on fire decreased tenfold—that no one was ever going to question whether that was a good idea again.

Wrong. Consumer protection is so politically incorrect these days that Congress won't even listen to groups representing firefighters and trauma care providers on this issue, much less consumer advocates.

The Consumer Product Safety Commission revised its flammability standards for sleepwear in 1996, in theory because parents were letting their kids sleep in oversize cotton T-shirts, which are comfortable but highly flammable. According to "The Washington Post," from 200 to 300 kids a year are treated in emergency rooms for burns related to billowy sleepwear. Under the new standards, snug-fitting garments such as long underwear can be sold as sleepwear, and pajamas for infants younger than 9 months need not be flame-resistant.

Rep. Rosa DeLauro, D-Conn., introduced a bill in May to reinstate the earlier standards and then tried to tack it onto the VA–HUD bill as an amendment in June. Cotton lobbyists learned of the move and started lobbying Republicans—including Reps. Henry Bonilla, Larry Combest and Mac Thornberry, all of Texas.

Bonilla will move to strike DeLauro's amendment today. He told "The Washington Post" last week, "I don't have a huge cotton constituency in my district, but my state does," and added that the Texas drought has already taken a toll on cotton farmers. "They came to me and explained this would place severe restrictions on what they could produce."

Excuse me—did I just hear someone say we should bail out the cotton farmers by letting more little kids get burned to death every year? Did anyone think to ask the cotton farmers whether they approve of this move? Because I seriously doubt that they do.

DeLauro said, "It is just mind-boggling to me that we would allow special interests to influence this legislation." However, according to Bonilla's press secretary this week, his main motive here is procedural: DeLauro's bill never got a hearing, and here she is trying to tack it onto an unrelated bill.

I find this objection breathtaking—using the amendment-on-an-unrelated-bill maneuver has been a specialty of Republicans in this Congress. As previously reported, they have used unrelated bills to pass amendments damaging the environment, fouling up the Department of Interior's efforts to get a fair royalty from the oil companies (the Kay Bailey Hutchison special) and innumerable other horrors.

(The "St. Louis Post-Dispatch" recently editorialized: "Republicans are sneakily trying to chisel away at environmental protections. . . . they are using the legislative rider to slip through anti-environmental bills that would wilt under the glare of public scrutiny. . . . This summer the riders have multiplied like E. coli.")

In fact, I'd bet good money that the Republicans have done more actual legislation by the sneaky amendment-and-rider method than they have passed actual legislation (an easy bet, given their remarkable nonperformance in general). Boy oh boy, if that's now an objection on procedural grounds, these R's will never get anything passed.

We could go on and on with these examples, but let's take a look at the broader perspective instead.

There are two things we can do about corporate misbehavior in this society: We can have the government regulate corporations for health, safety and environmental damage, or we can let people who have been damaged by corporations haul them into court and sue the b-----. What is happening is that both avenues of control are being squeezed out of existence. "Regulation" is a dirty word to the Republicans, and at the same time they are restricting the right of citizens to sue in every way they possibly can.

According to a study by the Violence Policy Center, the latest effort was a bill placing wide-ranging limits on product liability lawsuits against "small business." You may think that "small business" means the mom-and-pop candy stores. Nah. Specially included as a "small favor" in "small business" are, among others, manufacturers of Saturday-night-specials, the AK-47, the TEC-9 and the Street Sweeper. Cut, eh?

Look, friends, this is all fairly simple. Corporate money dominates politics, and the politicians dance with them what brung 'em. Until we force politicians to change the way campaigns are financed, rule by corporate money will continue. And while we're on the subject, please notice that corporations have put millions and millions and millions of dollars into the campaign to convince us that lawsuits against do-badding corporations are rotten, unfair and nasty. Welcome back to flammable pajamas.

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. COMBEST, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 501, he reported the bill, as amended pursuant to that rule, back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. COBURN. Mr. Speaker, I demand a separate vote on the so-called Coburn amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment:

At the end of the bill, insert after the last section (preceding the short title) the following new sections:

SEC. ____. The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—FEDERAL HOUSING ADMINISTRATION—FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT" for non-overhead administrative expenses necessary to carry out the Mutual Mortgage Insurance guarantee and direct loan program, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—VETERANS HEALTH ADMINISTRATION—MEDICAL CARE", by $199,999,999.

SEC. ____. The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—FEDERAL HOUSING ADMINISTRATION—FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT" for non-overhead administrative expenses necessary to carry out the guaranteed and direct loan programs, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—VETERANS HEALTH ADMINISTRATION—MEDICAL CARE", by $103,999,999.

Mr. COBURN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PARLIAMENTARY INQUIRIES

Mr. LEWIS of California. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LEWIS of California. Mr. Speaker, to clarify for the House, is this the amendment that will transfer administrative funds for FHA's program that are in the HUD provisions and move those moneys to veterans programs?

The SPEAKER pro tempore. Would the gentleman like the amendment read?

The reading of the amendment was suspended by unanimous consent and would the gentleman demand a reading of the gentleman from Oklahoma's amendment?

Mr. LEWIS of California. Mr. Speaker, I believe my question was clear.

Mr. WAXMAN. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WAXMAN. My inquiry is whether it is timely to ask for another separate vote in the House of an amendment adopted in committee.

The SPEAKER pro tempore. The House has proceeded past that opportunity when the Chair inquired earlier.

The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COBURN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 351, noes 73, not voting 10, as follows:

[Roll No. 350]

AYES—351

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeLauro
DeLay
Dickey
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern

McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)

Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam

Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)

NOES—73

Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Brown (CA)
Clayton
Conyers
Cummings
DeGette
Delahunt
Deutsch
Diaz-Balart
Dixon
Doggett
Fawell
Fazio
Frank (MA)
Furse
Gilchrest
Green
Gutierrez
Hastings (FL)
Hoyer

Jackson (IL)
Kaptur
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Knollenberg
Kolbe
Kucinich
LaFalce
Lazio
Lee
Lewis (CA)
Livingston
Lofgren
Luther
Markey
Martinez
McDade
McDermott
Meek (FL)
Meeks (NY)
Miller (CA)
Mollohan
Moran (VA)
Nadler

Neal
Oberstar
Olver
Owens
Payne
Pelosi
Rangel
Roybal-Allard
Rush
Sabo
Scott
Sherman
Skaggs
Stark
Stokes
Tierney
Torres
Velazquez
Vento
Waters
Watt (NC)
Waxman
Woolsey

NOT VOTING—10

Boehner
Burton
Clay
Gonzalez

Harman
Meehan
Moakley
Obey

Yates
Young (FL)

□ 2036

Mr. DOGGETT changed his vote from "aye" to "no."

Mr. SHAYS and Mr. ABERCROMBIE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the engrossment and a third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OBEY. I certainly am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. OBEY moves to recommit the bill, H.R. 4194, to the Committee on Appropriations with instructions to report the same back to the House with an amendment as follows:
>
> On page 55, line 7, strike the sentence beginning on line 7, and strike section 425.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes in support of his motion.

Mr. OBEY. Mr. Speaker, the rule under which this bill was considered contains a self-executing provision, the effect of which was to delay from anywhere between 2 and 5 years the Consumer Product Safety Commission's adoption of a rule protecting consumers from flammable furniture. Because of the way that rule was adopted, Members were precluded from offering any amendments to that provision.

The proponents of that provision will say that all this provision does is to allow for more study and to get more science before the Commission proceeds. In fact, in my view, the real purpose of this provision is to stall and stall and stall some more, in hopes that eventually they will get a commission with a different makeup so that the rule will never proceed at all.

Mr. Speaker, this is part of a pattern. What has been happening is that law firms around this town have been hired by clients. Those clients are hired to prevent action by the government to prevent consumers or workers from being protected by new actions of the government.

So whether it is children's pajamas or whether it is OSHA being precluded from offering a new rule to stop the development of carpal tunnel syndrome by millions of workers or whether it is consumers continuing to die because of flammable furniture, those law firms find friendly voices in Congress who will carry out their wishes and we wind up with language like this in the bill.

I think the issue is very simple in this case. More deaths occur in this country from upholstered furniture than from any other product under the Consumer Product Safety Commission jurisdiction.

So the vote is very simple. If Members want to vote to save lives, Members will vote for this amendment to allow the Commission to proceed to develop rules that will protect the public from flammable furniture. If Members want to let yet another industry continue to expose consumers to life-threatening products, then Members will vote against the amendment. It is as simple as that.

I would urge an aye vote on the motion to recommit.

Mr. LEWIS of California. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I strongly urge my colleagues to oppose this procedural motion.

Mr. Speaker, I yield to my colleague, the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I thank my chairman for yielding. I thank him for a good bill.

Mr. Speaker, I urge support of the bill and certainly urge defeat of the Obey motion to recommit with instructions.

In the 1970s, the Consumer Product Safety Commission issued a regulation concerning children's sleepwear, and in this 1970s regulation, the CPSC required that baby's sleepwear be coated with a chemical known as tris, T-R-I-S. Thereafter, the regulation went out and all of the baby sleepwear in America was coated with this chemical.

It turns out that this chemical caused cancer. It was a pesticide. It had to be recalled at enormous expense to the American people, at enormous danger to American consumers, and it continues to be a black mark on the history of the Consumer Product Safety Commission.

This is what then Congressman AL GORE had to say about the tris disaster with the Consumer Product Safety Commission: Quote, "The magnitude of this nightmare is difficult to fathom. Here we take all of the sleepwear for children of this country and soak it in what is basically a pesticide, a mutagenic, and then we wrap up American children in these garments." I unquote then Congressman AL GORE.

Now, Mr. Speaker, if you believe this is the only mistake that the Consumer Product Safety Commission will ever make, then perhaps you need to vote for the motion to recommit by my friend from Wisconsin.

□ 2045

If my colleagues believe that Federal regulatory agencies are always right and never make a mistake and never need an outside scientist looking at what they propose, then maybe my colleagues should vote for the motion of the gentleman from Wisconsin (Mr. OBEY).

What are we talking about here? We are talking about a proposed regulation by the Consumer Product Safety Commission that says every bit of upholstered furniture in the United States of America will be coated with flame-retardant chemicals. My colleagues might ask, what is wrong with this? Let us just coat furniture with a flame-retardant chemical.

Well, here is the problem. EPA, our own Federal Government, says that these chemicals are harmful. Let me just list three of them, if I can pronounce them:

Decabromodiphenyl oxide. EPA says it is a class C carcinogen. It causes cancer.

Ammonium nitrate. Do my colleagues know what EPA says about this flame retardant chemical that would go on furniture? It says it causes adverse affects across whole ecosystems.

Antimony trioxide, a B2 carcinogen. It causes tumors.

That is what the Consumer Product Safety Commission is proposing that we put on furniture in the United States of America.

Now, if it does not bother my colleagues to have thousands and tens of thousands of Americans exposed to what the EPA says is a toxic chemical, then maybe my colleagues should vote for this motion.

Mr. Speaker, I think the scientists raise serious questions. We are all for saving lives. Every Member of this Congress wants to prevent fire-related deaths, and we have done that working through the subcommittee of the gentleman from California (Mr. LEWIS) and working with voluntary and mandatory programs with industries. But we need to ask ourselves the question: Are we preventing one kind of harm while allowing all sorts of other dangers to come about?

How do we resolve questions like this? We do not make the decisions ourselves. We are elected officials. We turn it over to science. And in this Federal Government, we have procedures for reasonable scientific peer review; and, despite the hyperbole, that is exactly what this well-crafted bill and well-crafted compromise by the gentleman from California (Mr. LEWIS) does. It turns the issue over to scientists within the Consumer Product Safety Commission. It turns it over to scientists within the National Institutes of Health, an agency that we are plussing up the funding for.

So I say when my colleagues vote in just a moment, vote against taking unwarranted risks with American industrial workers and consumers. Vote for sound science. Vote for the bill and against the Obey motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair will reduce to 5 minutes the minimum time for an electronic vote on final passage.

The vote was taken by electronic device, and there were—ayes 164, noes 261, not voting 9, as follows:

[Roll No. 351]

AYES—164

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clement
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moran (VA)
Morella
Murtha
Nadler
Neumann
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thurman
Tierney
Towns
Velazquez
Vento
Visclosky
Waters
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn

NOES—261

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Young (AK)

NOT VOTING—9

Frank (MA)
Gonzalez
Harman
Moakley
Neal
Shuster
Torres
Yates
Young (FL)

☐ 2104

Mr. WELDON of Pennsylvania changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This is a five-minute vote.

The vote was taken by electronic device, and there were—yeas 259, nays 164, not voting 11, as follows:

[Roll No. 352]

YEAS—259

Abercrombie
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Etheridge
Evans
Everett
Ewing
Fawell
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hinojosa
Hobson
Horn
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Martinez
Mascara
Matsui
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Ryun
Sabo
Sandlin
Saxton
Scarborough
Schaefer, Dan
Scott
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)

NAYS—164

Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (OH)
Capps
Cardin
Carson
Chenoweth
Clay
Clyburn
Condit
Conyers
Costello
Cox
Coyne
Crane
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Duncan
Edwards
Engel
English
Eshoo
Farr
Fattah
Fazio
Filner
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hamilton
Hastings (FL)
Herger
Hilliard
Hinchey
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Morella
Nadler
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Poshard
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Royce
Rush
Salmon
Sanchez
Sanders
Sanford
Sawyer
Schaffer, Bob
Schumer
Sensenbrenner
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Smith, Linda
Snyder
Stabenow
Stark
Strickland
Stupak
Tauscher
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn

NOT VOTING—11

Chambliss
Frank (MA)
Gonzalez
Gordon
Harman
McDade
Moakley
Neal
Weldon (PA)
Yates
Young (FL)

□ 2113

Mr. COSTELLO and Mr. HERGER changed their vote from "yea" to "nay."

Mr. MASCARA changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2115

PERSONAL EXPLANATION

Mr. ETHERIDGE. Mr. Speaker, earlier today, during the consideration of rollcall votes 343 and 344, I was unavoidably detained. Had I been present, I would have voted "yes" on each vote.

PERSONAL EXPLANATION

Ms. GRANGER. Mr. Speaker, I was unavoidably detained during the rollcall vote on the adoption of the conference report on H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act earlier today. If I had been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. SHUSTER. Mr. Speaker, I was in the Chamber when the previous vote occurred, and I regret that I was not recognized. Thank you for recognizing me now.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3396

Mr. MORAN of Virginia. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of H.R. 3396.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2801

Mr. FAZIO of California. Mr. Speaker, I ask unanimous consent that the gentlewoman from Michigan (Ms. STABENOW) be removed as a cosponsor of H.R. 2801.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 375

Mr. FAZIO of California. Mr. Speaker, I ask unanimous consent that I may be removed as a cosponsor of H. Res. 375.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3000

Mr. FORD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3000.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report accompanying the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read when called up.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3396 and H.R. 1515

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor from H.R. 3396 and H.R. 1515.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONGRESSIONAL GOLD MEDAL TO GERALD R. AND BETTY FORD

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Financial Services be discharged from further consideration of the bill (H.R. 3506) to award a congressional gold medal to Gerald R. and Betty Ford, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

Mr. LaFALCE. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to the gentleman from Delaware (Mr. Castle) for an explanation of the bill.

Mr. CASTLE. Mr. Speaker, under the gentleman's reservation in response, let me state that H.R. 3506 was introduced by the gentleman from Michigan (Mr. Ehlers) and cosponsored by 296 Members. It authorizes President Clinton to present to Gerald R. and Betty Ford a gold medal on behalf of Congress and in recognition of their dedicated public service and outstanding humanitarian contributions to the people of the United States, and to commemorate the 85th anniversary of the birth of President Ford, the 80th anniversary of the birth of Mrs. Ford, the 50th anniversary of the first election of Gerald R. Ford to the House of Representatives, and their 50th wedding anniversary.

The bill authorizes appropriation of up to $20,000 to cover the cost of providing the medal. The actual amount spent for the medal is recouped by the Mint through the sale of authentic bronze reproductions of the medal.

Mr. LaFALCE. Mr. Speaker, reclaiming my time, as a proud cosponsor of the resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL GOLD MEDAL.

(a) Presentation Authorized.—The President is authorized to present, on behalf of the Congress, to Gerald R. and Betty Ford a gold medal of appropriate design—

(1) in recognition of their dedicated public service and outstanding humanitarian contributions to the people of the United States; and

(2) in commemoration of the following occasions in 1998:

(A) The 85th anniversary of the birth of President Ford.

(B) The 80th anniversary of the birth of Mrs. Ford.

(C) The 50th wedding anniversary of President and Mrs. Ford.

(D) The 50th anniversary of the 1st election of Gerald R. Ford to the United States House of Representatives.

(E) The 25th anniversary of the approval of Gerald R. Ford by the Congress to become Vice President of the United States.

(b) Design and Striking.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) Authorization of Appropriation.—There are authorized to be appropriated not to exceed $20,000 to carry out this section.

SEC. 2. DUPLICATE MEDALS.

(a) Striking and Sale.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 1 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) Reimbursement of Appropriation.—The appropriation used to carry out section 1 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 3. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3506, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

GENERAL LEAVE

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 4059, and that I may include tabular and extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. PACKARD. Mr. Speaker, pursuant to the order of the House of today, I call up the conference report on the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered read.

(For conference report and statement, see proceedings of the House of July 24, 1998 at page H6427.)

The SPEAKER pro tempore. The gentleman from California (Mr. Packard) and the gentleman from North Carolina (Mr. Hefner) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. Packard).

Mr. PACKARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would advise the Members of the House that we do not expect this to take more than just a few moments.

Less than a month ago, we voted on the floor of the House on this bill, H.R. 4059, and it passed 396 to 10. No controversy came out of the conference. It was a very amicable and successful conference.

Mr. Speaker, this conference report calls for an 8 percent decrease in funding from last year's appropriated level. It was a successful conference. We came to an agreeable compromise between the Senate version of the bill and the House version.

Mr. Speaker, I simply want to thank the members of my subcommittee and the staff that has helped craft this conference report.

Mr. Speaker, I submit the following for inclusion in the Record:

MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1999 (H.R. 4059)

	FY 1998 Enacted	FY 1999 Estimate	House	Senate	Conference	Conference compared with enacted
Military construction, Army	714,377,000	790,876,000	780,599,000	810,476,000	868,726,000	+154,349,000
Military construction, Navy	683,666,000	468,150,000	570,643,000	565,030,000	604,593,000	-79,073,000
Military construction, Air Force	701,855,000	454,810,000	560,475,000	627,874,000	615,809,000	-86,046,000
Military construction, Defense-wide	646,342,000	491,675,000	611,075,000	560,485,000	553,114,000	-93,228,000
Total, Active components	2,746,240,000	2,205,511,000	2,512,792,000	2,563,865,000	2,642,242,000	-103,998,000
Department of Defense Military Unaccompanied Housing Improvement Fund: Rescission (FY 1997, P.L. 104-196)					-5,000,000	-5,000,000
Military construction, Army National Guard	118,350,000	47,675,000	70,338,000	137,315,000	142,403,000	+24,053,000
Emergency appropriations (P.L. 105-174)	3,700,000					-3,700,000
Military construction, Air National Guard	190,444,000	34,761,000	97,701,000	163,161,000	169,801,000	-20,643,000
Military construction, Army Reserve	74,167,000	71,287,000	71,894,000	101,833,000	102,119,000	+27,952,000
Military construction, Naval Reserve	47,329,000	15,271,000	33,721,000	21,621,000	31,621,000	-15,708,000
Military construction, Air Force Reserve	30,243,000	10,535,000	35,371,000	22,635,000	34,371,000	+4,128,000
Total, Reserve components	464,233,000	179,529,000	309,025,000	446,565,000	480,315,000	+16,082,000
Total, Military construction	3,210,473,000	2,385,040,000	2,821,817,000	3,010,430,000	3,117,557,000	-92,916,000
NATO Security Investment Program	152,600,000	185,000,000	169,000,000	152,600,000	155,000,000	+2,400,000
Revised economic assumptions					-1,000,000	-1,000,000
Total, NATO	152,600,000	185,000,000	169,000,000	152,600,000	154,000,000	+1,400,000
Family housing, Army:						
New construction	101,650,000	70,100,000	41,700,000	70,100,000	83,100,000	-18,550,000
Construction improvements	86,100,000	28,629,000	37,429,000	49,679,000	48,479,000	-37,621,000
Planning and design	9,550,000	6,350,000	6,350,000	6,350,000	6,350,000	-3,200,000
General reduction		-1,639,000	-2,639,000	-1,639,000	-2,639,000	-2,639,000
Subtotal, construction	197,300,000	103,440,000	82,840,000	124,490,000	135,290,000	-62,010,000
Operation and maintenance	1,140,568,000	1,104,733,000	1,097,697,000	1,104,733,000	1,094,697,000	-45,871,000
Total, Family housing, Army	1,337,868,000	1,208,173,000	1,180,537,000	1,229,223,000	1,229,987,000	-107,881,000
Family housing, Navy and Marine Corps:						
New construction	175,196,000	59,504,000	29,125,000	59,504,000	59,504,000	-115,692,000
Construction improvements	203,536,000	211,991,000	92,037,000	217,791,000	227,791,000	+24,255,000
Planning and design	15,100,000	15,618,000	15,618,000	15,618,000	15,618,000	+518,000
General reduction and revised economic assumptions		-6,323,000	-6,323,000	-6,323,000	-7,323,000	-7,323,000
Subtotal, construction	393,832,000	280,790,000	130,457,000	286,590,000	295,590,000	-98,242,000
Operation and maintenance	976,504,000	915,293,000	915,293,000	915,293,000	912,293,000	-64,211,000
Emergency appropriations (P.L. 105-174)	18,100,000					-18,100,000
Total, Family housing, Navy and Marine Corps	1,388,436,000	1,196,083,000	1,045,750,000	1,201,883,000	1,207,883,000	-180,553,000
Family housing, Air Force:						
New construction	159,943,000	140,499,000	124,344,000	179,199,000	176,099,000	+16,156,000
Construction improvements	123,795,000	81,778,000	81,778,000	123,238,000	104,108,000	-19,687,000
Planning and design	11,971,000	11,342,000	11,342,000	11,342,000	11,342,000	-629,000
General reduction and revised economic assumptions		-7,584,000	-9,584,000	-11,084,000	-10,584,000	-10,584,000
Subtotal, construction	295,709,000	226,035,000	207,880,000	302,695,000	280,965,000	-14,744,000
Operation and maintenance	830,234,000	789,995,000	785,204,000	789,995,000	783,204,000	-47,030,000
Emergency appropriations (P.L. 105-174)	2,400,000					-2,400,000
Total, Family housing, Air Force	1,128,343,000	1,016,030,000	993,084,000	1,092,690,000	1,064,169,000	-64,174,000
Family housing, Defense-wide:						
Construction improvements	4,900,000	345,000	345,000	345,000	345,000	-4,555,000
Planning and design	50,000					-50,000
Subtotal, construction	4,950,000	345,000	345,000	345,000	345,000	-4,605,000
Operation and maintenance	32,724,000	36,899,000	36,899,000	36,899,000	36,899,000	+4,175,000
Total, Family housing, Defense-wide	37,674,000	37,244,000	37,244,000	37,244,000	37,244,000	-430,000
Department of Defense Family Housing Improvement Fund		7,000,000	242,438,000	7,000,000	2,000,000	+2,000,000
Homeowners Assistance Fund, Defense		12,800,000	7,500,000	12,800,000		
Total, Family housing	3,892,321,000	3,477,330,000	3,506,553,000	3,580,840,000	3,541,283,000	-351,038,000
New construction	(436,789,000)	(270,103,000)	(195,169,000)	(308,803,000)	(318,703,000)	(-118,086,000)
Construction improvements	(418,331,000)	(322,743,000)	(211,589,000)	(391,053,000)	(380,723,000)	(-37,608,000)
Planning and design	(36,671,000)	(33,310,000)	(33,310,000)	(33,310,000)	(33,310,000)	(-3,361,000)
General reduction		(-15,546,000)	(-18,546,000)	(-19,046,000)	(-20,546,000)	(-20,546,000)
Operation and maintenance	(2,980,030,000)	(2,846,920,000)	(2,835,093,000)	(2,846,920,000)	(2,827,093,000)	(-152,937,000)
Family Housing Improvement Fund		(7,000,000)	(242,438,000)	(7,000,000)	(2,000,000)	(+2,000,000)
Homeowners Assistance Fund		(12,800,000)	(7,500,000)	(12,800,000)		
Emergency appropriations (P.L. 105-174)	(20,500,000)					(-20,500,000)

MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1999 (H.R. 4059)— continued

	FY 1998 Enacted	FY 1999 Estimate	House	Senate	Conference	Conference compared with enacted
Base realignment and closure accounts:						
Part II	116,754,000					-116,754,000
Part III	768,702,000	433,464,000	433,464,000	433,464,000	427,164,000	-341,538,000
Part IV	1,175,398,000	1,297,240,000	1,297,240,000	1,297,240,000	1,203,738,000	+28,340,000
Emergency appropriations (P.L. 105-174)	1,020,000					-1,020,000
Total, Base realignment and closure accounts	2,061,874,000	1,730,704,000	1,730,704,000	1,730,704,000	1,630,902,000	-430,972,000
Family housing, Navy and Marine Corps (FY99 Sec. 125)		6,000,000	6,000,000	6,000,000	6,000,000	+6,000,000
Revised economic assumption (FY98 Sec. 125)	-108,800,000					+108,800,000
Grand total:						
New budget (obligational) authority	9,208,468,000	7,784,074,000	8,234,074,000	8,480,574,000	8,449,742,000	-758,726,000
Appropriations	(9,183,248,000)	(7,784,074,000)	(8,234,074,000)	(8,480,574,000)	(8,454,742,000)	(-728,506,000)
Rescissions					(-5,000,000)	(-5,000,000)
Emergency appropriations (P.L. 105-174)	(25,220,000)					(-25,220,000)

Mr. PACKARD. Mr. Speaker, I reserve the balance of my time.

Mr. HEFNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I would like to congratulate the gentleman from California (Chairman PACKARD) for his work, as well as the work of the staff on the committee, which I think is one of the staffs that is most responsive to the needs of the members on the Committee on Appropriations.

This is a good bill. We did the very best that we could with very limited funds, and we targeted it toward quality of life for our men and women in the Armed Forces. I would urge everyone to support this bill.

Mr. Speaker, I rise today in support of the conference agreement for the FY 1999 Military Construction bill.

I also want to thank the Subcommittee Chairman, Mr. PACKARD, for his hard work as well as the bipartisan spirit he has encouraged among the members of this committee.

The bill provides $8.4 billion for military construction, family housing, and the last two rounds of base closings.

Although members recognize the importance of this bill in meeting the needs of the men and women that serve us in the military, this bill is $734 million dollars below last years level. I can't say that I am happy to see funding for this important bill drop like this.

Within the allocations, though, this is a good agreement that responds to the highest priority needs of our service men and women.

Of course, I am very proud of the years of service that I have given this subcommittee. It used to be easy to forget the folks that serve us in the military, and we have changed that.

The past few years, though, the numbers keep getting lower and lower. It worries me.

Giving our men and women in the military a decent place to live and work is not just one of the keys to military readiness and retention, it is also a basic responsibility we all shoulder.

I urge all members to support the conference agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. PACKARD. Mr. Speaker, let me conclude by simply saying this is the last conference report for the gentleman from North Carolina (Mr. HEFNER) and we want to thank him with a round of applause.

Mr. Speaker, I reserve the balance of my time.

Mr. HEFNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I will not take the 2 minutes. I simply want to, on this side of the aisle, express our congratulations to the gentleman from North Carolina (Mr. HEFNER) for the wonderful service he has provided this institution.

He has worked for as long as he has been here for decent working conditions and decent living conditions for our American servicemen and servicewomen, and I think this institution owes him a debt of gratitude for the work he his done on behalf of all of them.

Mr. HEFNER. Mr. Speaker, I yield back the balance of my time.

Mr. PACKARD. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 417, nays 1, not voting 16, as follows:

[Roll No. 353]

YEAS—417

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
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Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
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Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)

NAYS—1

Paul

NOT VOTING—16

Duncan
Frank (MA)
Gonzalez
Harman
Linder
McCollum
Moakley
Neal
Norwood
Rangel
Rogers
Torres
Towns
Whitfield
Yates
Young (FL)

□ 2142

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McDADE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and that I may include tabular and extraneous material on H.R. 4060, the matter to be considered now.

The SPEAKER pro tempore (Mr. LaHOOD). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4060, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Mr. McDADE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. VENTO moves that in resolving the differences between the House and Senate, the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4060, be instructed to disagree with the provision in Title IV of the Senate amendment, providing funding for the Denali Commission, and the provision in Title VI of the Senate amendment, the authorization for such Commission.

The SPEAKER pro tempore. Under the rule, the gentleman from Minnesota (Mr. VENTO) will control 30 minutes and the gentleman from Pennsylvania (Mr. McDADE) will control 30 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important motion that could save the American taxpayers $20 million in this fiscal year which is included in the Senate bill, unauthorized, and could save tens of millions of dollars in each of fiscal years 2000, 2001, 2002 and 2003.

The Senate provisions of the Energy and Water Development Bill include a small title, title VI, that goes under the innocuous title of Denali Commission. However, if one reads the title, it becomes clear that this Denali Commission is designed to be more than a small help for the isolated communities of Alaska. This commission is destined to become the new Alaska Department of Economic Development funded by the Federal Government and the Federal taxpayers.

This commission is granted broad authority to develop a statewide comprehensive plan for economic and infrastructure development and, as I said, is given $20 million to approve project and grant proposals in fiscal year 1999. The bill goes on to authorize such sums as may be necessary for the following 4 years.

It does not take much imagination, given the prominent role of Alaska in the Senate appropriation process, as to what is going to happen with regards to this in future years. Federal funding will be as much as the traffic will bear, fundamentally. While we would be handing over millions of dollars for economic development in Alaska, we are providing a pittance of Federal oversight or accountability.

There are no guidelines or standards as to the grants that are provided. There is no qualification. There is no matching funds. The oversight, of course, by the GAO and the Inspector General will probably prove ample if something like this were ever put in place and point out in graphic detail all the mistakes and political deal that will have been made and the misappropriation and or waste of federal dollars.

This Denali Commission is stacked and is dominated by Alaskans with a board composed of a representative from the Chamber of Commerce, the executive director of the Alaska Municipal League, the president of the University of Alaska, a representative of the governor and a single Federal representative, who would be subject to Senate confirmation, in essence a Senate veto over the one national voice.

Mr. Speaker, it is my understanding that the original intent of the legislative proposal was to help those Alaskans who lived in the bush regions, the rural parts of the State. Mr. Speaker, this is far afield of what was considered.

The bill did not have any hearings in the House or Senate. It was inserted into the Senate appropriations bill. As a member of an authorizing committee, I would point out to my colleagues this is how bad law is developed. I would hope that we would instruct our conferees not to agree to this egregious provision, that we go back to the regular order, the regular process in terms of hearings in the sunlight of open hearing and debate on this issue; to pass the authorization, if there is a justification to pass it, through the House and the Senate and then provide for an appropriate commission and funding as justified and reasonable.

I might say, too, that Alaska as a State seems to be doing quite well these days and has not been shortchanged with regards to resources of the Federal Government. In fact, it is pointed out that it is one of the leading States in terms of per capita investment by the Federal Government and has a surplus today of $25 billion due to its oil revenues, so much so that it will be making $1,400 rebates this year for each person without a sales tax in most parts of Alaska, without an income tax.

I think that the State of Alaska, while having serious problems that we need to work on, and I have worked on many of them over the years, this is not the way to go, this is not the route to go to create an economic authority to pass out grants. I urge my colleagues to strongly support my motion to instruct conferees, not to accept these provisions.

Mr. Speaker, I include the following two documents for the RECORD:

TAXPAYERS FOR
COMMON SENSE,
Washington, DC, July 29, 1998.

Hon. BRUCE VENTO,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE VENTO: Taxpayers for Common Sense is pleased to support your motion to instruct House conferees to oppose authorization and funding for the Denali Commission (Title VI) in the FY99 Energy and Water Appropriations bill. We oppose Title VI for the following reasons:

Process: A big new commission doesn't belong in a spending bill. Even if such a commission were a nice idea (Taxpayers for Common Sense doesn't think it is), it is totally outrageous that the five pages of authorization language creating this commission are stuck into an appropriations bill.

Cost: No ceiling. The language authorizes "such sums as may be necessary" for the years 2000 through 2003. If this commission is enacted, no doubt there will be huge pressure to continue it after 2003. In short, Congress would be establishing an open-ended program with no authorization ceiling.

Substance: No controls and poorly drafted. Many other federal public works programs contain safeguards to make sure the money goes to good use. But Title VI requires no local cost sharing (as is required for Corps of Engineers water projects), no targeting of benefits to communities of need, and no criteria for judging priorities. There is nothing in Title VI to prevent money from simply being spread around to politically influential localities for low-priority projects and people who don't need the benefits.

Role: Should federal taxpayers pay for this? The commission would use federal taxpayers' money to accomplish what are clearly state projects addressing unique state concerns. Congress should be eliminating programs like this, not creating more of them.

Waste: Half-baked commission unlikely to achieve goals. With all of these failings, the commission is unlikely to achieve its goals and may very well end up wasting taxpayer money.

When the House considers the motion to go to conference on the FY99 Energy and Water Appropriations bill, Taxpayers for Common Sense urges all Representatives to vote for your motion to instruct on this issue. Please call me at (202) 546-8500 x102 if you have questions.

Sincerely,

RALPH DEGENNARO,
Executive Director

[From the Anchorage Daily News, July 12, 1998]

Permanent Fund; Record Dividend on Our Riches

The Alaska Permanent Fund provided further proof of its status as the state's most powerful economic engine on Thursday with word that its value grew to about $25 billion as of June 30, the end of the fiscal year.

That's a staggering number. But a much smaller number is the one that strikes home for most Alaskans—the estimated $1,460 that each Alaskan will receive this fall for doing no more than living here.

That number is a guess, but Alaska Permanent Fund Corp. spokesman Jim Kelly does promise a record check, meaning something bigger than the $1,296 sent to each Alaskan in 1997.

Call it $1,400. That means an Alaska family of four will receive $5,600 this fall. That's money to use for everything from appliances to cars to college savings to knocking down debt. No other state in the union gives its people such a direct, no-strings share of its revenue. What other state has the means?

No state income tax. In Anchorage, no sales tax. A yearly check that's grown to four figures. A $25 billion fund that provides more revenue to the state than oil does. Financial-crisis? Not even with oil at $12 a barrel. Other states would love this crisis.

Alaska has its share of problems and challenges, from Third World sanitary conditions in some villages and troubled fisheries to battles over subsistence rights and religious convictions. But we're not broke. We're rich.

That's a problem, too. We must decide what to do as a state with the Permanent Fund's income. We must decide what to do as families and individuals with our dividends.

May we be cursed with such difficulties for a long time to come.

Mr. Speaker, I reserve the balance of my time.

Mr. MCDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to point out to my colleagues, they do not need to be told that the hour is late. I think we are trying to get as much as we can done before we break. This bill is a pending bill which passed this body, Mr. Speaker, by a vote of 404–4. All we are saying to our colleagues is do not fetter us as we go to conference. Give us the opportunity to continue to represent the House that will merit a vote like this as we come back.

Mr. Speaker, I hope this will be roundly defeated.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Miller), the ranking member of the Committee on Resources.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding time. I rise in support of his motion to instruct conferees to maintain the House position that he has offered.

The House has passed a clean energy and water bill without controversy over antienvironmental legislative riders which have bogged down Interior and other appropriations bills. The Vento motion to instruct would put the House on record in opposition to a $20 million Alaska grant program which has been included as a rider in the Senate bill.

It is my understanding that the original intent of authorizing these funds was for the purpose of improving sanitation, drinking water and other basic needs of remote native villages in Alaska. Let me clearly state that I recognize the serious problems in rural Alaska and support responsible congressional efforts to address them.

But the Senate rider, as presently drafted, is not limited to using Federal funds to meet priority needs of native Alaskans. Instead, the Senate would empower a five-person commission to develop a statewide, comprehensive plan for economic and infrastructure development. No native Alaskan nor rural Alaskan is directly appointed to the commission. Rather, the Chamber of Commerce, the Alaskan Municipal League, the university president, all of which are urban dominated, are given a vote in distributing $20 million in federally funded grants with no strings attached.

Let us not allow ourselves to be fooled here. This is a blank check to use Federal funds to promote road building, resource extraction and other favorite causes of development proponents in Alaska. This is a recipe for federally funded antienvironmental mischief.

The Senate would spend $20 million in Federal funds for Alaska development grants in 1999 and authorizes unlimited amounts for the next 4 years. So the next 4 years we would see a repeated habit of the Senate adding money for this purpose as the appropriations bills come from the Senate.

As the gentleman who has offered this motion points out, we have not been stingy with Alaska. In 1996, they insisted upon $110 million in emergency economic disaster relief in southeast Alaska communities impacted by the closure of two pulp mills because of poor markets. Some of that money was used to hire lobbyists to come down here and ask for more money. I think what we have seen here, that is $110 million, now there is $20 million for this study. Then there is open-ended appropriations for the next 4 years. I do not think that the taxpayers of this country can afford to do business this way. I do not think that we can ask for another $20 million. If this was important, then why did they not use some of the $110 million we gave them 2 years ago to do economic and infrastructure studies?

I would also point out very clearly, as the gentleman who offered this motion has pointed out, and, that is, Alaska has a permanent fund of $23 billion. That $23 billion fund is supposed to be there in perpetuity for the future of Alaska and its residents. I have no problem with that. But maybe Alaska and its residents concerned about their economic development in the future could find it in their heart to spend $20 million of their $23 billion for the purposes of ensuring the kind of infrastructure and development that they think they need to go into the future.

This is a permanent fund that is currently spinning off $1,300 for every man, woman and child who is a resident of the State of Alaska. That is fine. That is what they decided to do with the fund. But because they decided to have the fund make those expenditures does not mean that the Federal Government and all of the rest of the taxpayers of this country need to come in and fill behind those decisions with $20 million in a study that is very loosely constructed and without limitations as to the future appropriations for it. I think it is fair to ask the State legislature to step up to the plate and contribute to addressing the problems of rural Alaska, but the Senate rider does not even require matching funds from the State of Alaska.

In the State of California, we have huge infrastructure problems, we have huge problems trying to meet our water needs, our transportation needs, our airport needs, all the things that so many of us in other States experience. But we are not getting $20 million from the Federal Government to study that and we are not getting 4 years of unlimited appropriations to study that in the future.

Clearly, there ought to be some effort to try to focus this study on the problems of rural Alaska. There ought to be some effort to have the State match the money for this study.

There are many, many studies and many, many projects in this bill that are worthwhile. But local communities are matching those, States are matching those, private organizations are matching that. This one is simply a free gift of $20 million to the State of Alaska. I would urge Members to support the Vento motion.

Mr. MCDADE. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska (Mr. Young), the chairman of the Committee on Resources.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in opposition to the motion to instruct conferees.

Mr. VENTO. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Hinchey).

Mr. HINCHEY. Mr. Speaker, I believe that if a comprehensive infrastructure bill was brought to the full floor of this Congress, there would be many people who would support it. I think it is quite clear that the infrastructure needs of the country are quite severe and that we ought to have a comprehensive approach to these infrastructure needs. But this is a particular appropriation for one particular

State, $20 million in one fiscal year and an open-ended circumstance for the next several years, probably as much as $100 million over a 5-year period for the State of Alaska.

As has been pointed out, this Congress has not been ungenerous to the State of Alaska. Alaska is second only to the State of Mississippi in terms of Federal per capita aid.

In addition to that, the State has its own $42 billion fund from oil royalties. That fund will be distributed to every man, woman and child in the State this year as it was last year. Last year, every person in the State received about $1,300. That is $5,200 for a family of four.

It is also true that Alaska has not been aggressive in taxing itself. This is a State without a State income tax, and much of the State does not have a State sales tax. So it is hard to imagine why the Congress would be appropriating this particular money for this one State for this one particular situation, particularly when the expenditure is so open-ended.

In other words, this money could be spent for virtually anything. It could be spent to build roads anywhere. It could be spent to engage in a whole host of activities which would be contrary to sound environmental not less economic policy.

With all that in mind, Mr. Speaker, I think that it is prudent for us to join with those who have called this a taxpayer boondoggle and support the Vento motion.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McDADE. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Minnesota (Mr. Vento).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. McDADE. Mr. Speaker, may I explain to my colleagues that for the first time in 36 years, I am about to move a call of the House, and I only do so because the leadership on both sides is trying to get a rule up, so, therefore, Mr. Speaker, I move reluctantly a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 354]

ANSWERED "PRESENT"—403

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berry
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
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Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
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Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
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Latham
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Lewis (CA)
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Lipinski
Livingston
LoBiondo
Lofgren
Lowey
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Maloney (CT)
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Matsui
McCarthy (MO)
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McCollum
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McGovern
McHale
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McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)

□ 2225

The SPEAKER pro tempore (Mr. LaHood). On this rollcall, 403 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

APPOINTMENT OF CONFEREES ON H.R. 4060, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees on H.R. 4060: Messrs. McDade, Rogers, Knollenberg, Frelinghuysen, Parker, Callahan, Dickey, Livingston, Fazio of California, Visclosky, Edwards, Pastor and Obey.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I ask for this time for the purpose of reporting on the schedule.

Mr. Speaker, let me begin by saying I appreciate all the Members for their patience. Working this time of the year in appropriations season is always difficult, we know. We are about to begin consideration of a rule for the transportation appropriations bill.

We have a little bit of difficulty with that bill, but the principals who are involved in it are, in fact, actively, and I think effectively, working towards a solution of that. So I would suggest that we could move forward with the rule and then by the time we have the vote on the rule I am sure we will be ready to begin our work and complete our work on transportation.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I am happy to yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, if I might say to the majority leader, most folks have been working on both sides of the aisle. We are going on probably the 14th hour of a workday today. In addition to that, we have had an extraordinary week, an emotional and stressful week, as we all know. Folks have been working long hours and long shifts, including the Capitol Police, as the gentleman is fully aware and appreciates.

I do not know what we gain by going into at 10:30 in the evening a contentious rule that has not been worked out yet, and even if it is worked out I am not sure that we are in a position to even proceed on the appropriation bill itself.

I am cognizant of the pressures that the majority has with respect to finishing these appropriation bills, and I can appreciate that having once been in the majority, but I think I would say to my friend, the gentleman from Texas, that in consultation with many of my colleagues on both sides of the aisle, I think they have expressed a desire to me anyway that the prudent thing today and this evening would be to leave and come back and start fresh after the funeral in the morning.

I would just offer that to my friend, the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, let me thank the gentleman for suggesting that. I appreciate the gentleman for his concern, not only for the Members but for the staff, in particular our Capitol Police who are still standing their stations around the Capitol. It is because we, as a group, have clearly indicated our desire, rightly so, to spend the time tomorrow and then again on Friday in attendance to these very important funerals, that we feel the compulsion to complete the work as best we can this week and to try to do so in maximum consideration of all people.

I just would like to assure the gentleman from Michigan that all of these matters are of concern to me and I am working the best I can.

□ 2230

We are ready now, though, to begin to move forward on the rule; and given the progress that I am confident I am seeing with the gentleman from New York (Mr. NADLER) and others, I think we can be confident we can complete our work tonight and all get some rest.

I thank the gentleman.

REPORT ON RESOLUTION PROVIDING SPECIAL INVESTIGATIVE AUTHORITY FOR THE COMMITTEE ON EDUCATION AND THE WORKFORCE

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–658) on the resolution (H. Res. 507) providing special investigative authority for the Committee on Education and the Workforce, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3262

Mr. FROST. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.R. 3262.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4328, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 510 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 510

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4328) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 7 of rule XXI or section 401(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendments printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: beginning with ", of which", on page 11, line 19, through "Fund" on line 20; page 16, lines 20 through 24; beginning with ": Provided" on page 18, line 2, through "motor carriers" on line 5; and page 54, lines 4 through 8. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Dallas, Texas (Mr. FROST), my friend, and pending that I yield myself such time as I may consume. Mr. Speaker, all time that I will be yielding will be for debate purposes only.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material in the RECORD on the resolution now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Speaker, this rule makes in order H.R. 4328, the Department of Transportation and Related Agencies Appropriations Bill for fiscal year 1999 under an open rule containing a number of noncontroversial waivers against points of order. The rule also self-executes two noncontroversial changes in the bill, of which one is technical in nature.

I would like to commend the gentleman from Virginia (Mr. WOLF), chairman of the Subcommittee on Transportation, as well as the gentleman from Louisiana (Mr. LIVINGSTON), chairman of the full committee, and the other members of the committee for the tremendous job that they did in producing a bill that adequately funds our Nation's priorities within the constraints imposed by both the Balanced Budget Act of 1997 and the Transportation Equity Act of 1998.

Although 70 percent of the bill consists of spending mandated by the T.E.A. 21, resulting in a substantial increase in funding for highway and transit programs, the subcommittee was also able to increase funding for drug interdiction efforts and transportation safety programs.

A total of $406 million is provided for Coast Guard counter-drug activities, an increase of $73.8 million over the President's request. Funding to reduce fatalities on the Nation's roadways is increased by more than 8 percent.

Despite this balanced effort, I find it hard to believe that the administration, which signed the T.E.A. 21 bill into law, could be critical of the funding levels that are in this appropriations bill. Unfortunately, this seems to be par for the course for an administration that proposes to pay for more government spending with $9 billion in new taxes and user fees that are political nonstarters.

Mr. Speaker, the Committee on Appropriations produced a fair and balanced bill, and the Committee on Rules was equal to the task of reporting this rule. Therefore, I urge adoption of both the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my intention to make a fairly brief opening statement and then to yield back all of our time in an effort to try and move this along.

Mr. Speaker, while I rise in support of this rule and this bill making appropriations for the Department of Transportation for fiscal year 1999, I am concerned that a point of order may lie against an amendment which seeks to limit expenditures of funds for a highway project funded in this bill. Mr. Speaker, should this point of order be pursued and ultimately upheld, the House will set a terrible precedent which may have ramifications far beyond this transportation appropriations.

The matter is now being negotiated, but I do want to express my concern that a major change in the rules that govern this House was included in T-21 and was never even considered by the Committee on Rules. That being said, Mr. Speaker, while the funding level of this appropriations bill is slightly below the levels requested by the President in several areas, overall, the Committee on Appropriations did a good job of providing adequate funding for most of the programs and services in the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I urge adoption of the rule, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-291)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iraqi emergency is to continue in effect beyond August 2, 1998, to the *Federal Register* for publication.

The crisis between the United States and Iraq that led to the declaration on August 2, 1990, of a national emergency has not been resolved. The Government of Iraq continues to engage in activities inimical to stability in the Middle East and hostile to United States interests in the region. Such Iraqi actions pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interests of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Iraq.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

ANNUAL REPORT OF THE CORPORATION OF PUBLIC BROADCASTING AND INVENTORY OF FEDERAL FUNDS DISTRIBUTED TO PUBLIC TELECOMMUNICATIONS ENTITIES FOR FISCAL YEAR 1997

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1997 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1997.

Thirty years following the establishment of the Corporation for Public Broadcasting, the Congress can take great pride in its creation. During these 30 years, the American public has been educated, inspired, and enriched by the programs and services made possible by this investment.

The need for and the accomplishments of this national network of knowledge have never been more apparent, and as the attached 1997 annual CPB report indicates, by "Going Digital," public broadcasting will have an ever greater capacity for fulfilling its mission.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 29, 1998.*

REPORT ON PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-293)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

On November 14, 1994, in light of the danger of the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and of the means of delivering such weapons, using my authority under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), I declared a national emergency and issued Executive Order 12938. Because the proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have renewed the national emergency declared in Executive Order 12938 annually, most recently on November 14, 1997. Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)), I hereby report to the Congress that I have exercised my statutory authority to issue an Executive order to amend Executive Order 12938 in order to more effectively respond to the worldwide threat of weapons of mass destruction proliferation activities.

The amendment of section 4 of Executive Order 12938 strengthens the original Executive order in several significant ways.

First, the amendment broadens the type of proliferation activity that is subject to potential penalties. Executive Order 12938 covers contributions to the efforts of any foreign country, project, or entity to use, acquire, design, produce, or stockpile chemical or biological weapons (CBW). This amendment adds potential penalties for contributions to foreign programs for nuclear weapons and missiles capable of delivering weapons of mass destruction. For example, the new amendment authorizes the imposition of measures against foreign entities that materially assist Iran's missile program.

Second, the amendment lowers the requirements for imposing penalties. Executive Order 12938 required a finding that a foreign person "knowingly and materially" contributed to a foreign CBW program. The amendment removes the "knowing" requirement as a basis for determining potential penalties. Therefore, the Secretary of State need only determine that the foreign person made a "material" contribution to a weapons of mass destruction or missile program to apply the specified sanctions. At the same time, the Secretary of State will have discretion regarding the scope of sanctions so that a truly unwitting party will not be unfairly punished.

Third, the amendment expands the original Executive order to include "attempts" to contribute to foreign proliferation activities, as well as actual contributions. This will allow imposition of penalties even in cases where foreign persons make an unsuccessful effort to contribute to weapons of mass destruction and missile programs or where authorities block a transaction before it is consummated.

Fourth, the amendment expressly expands the range of potential penalties to include the prohibition of United States Government assistance to the foreign person, as well as United States Government procurement and imports into the United States, which were specified by the original Executive order. Moreover, section 4(b) broadens the scope of the United States Government procurement limitations to include a bar on the procurement of technology, as well as goods or services from any foreign person described in section 4(a). Section 4(d) broadens the scope of import limitations to include a bar on imports of any technology or services produced or provided by any foreign person described in section 4(a).

Finally, this amendment gives the United States Government greater flexibility and discretion in deciding how and to what extent to impose penalties against foreign persons that assist proliferation programs. This provision authorizes the Secretary of State, who will act in consultation with the heads of other interested agencies, to determine the extent to which these measures should be imposed against entities contributing to foreign weapons of mass destruction or missile programs. The Secretary of State will act to further the national security and foreign policy interests of the United States, including principally our nonproliferation objectives. Prior to imposing measures pursuant to this provision, the Secretary of State will take into account the likely effectiveness of such measures in furthering the interests of the United States and the costs and benefits of such measures. This approach provides the necessary flexibility to tailor our responses to specific situations.

I have authorized these actions in view of the danger posed to the national security and foreign policy of the United States by the continuing proliferation of weapons of mass destruction and their means of delivery. I am enclosing a copy of the Executive order that I have issued exercising these authorities.

William J. Clinton.

The White House, *July 28, 1998.*

□ 2245

RECOGNIZING THE 50TH ANNIVERSARY OF THE INTEGRATION OF THE ARMED FORCES

Mr. BUYER. Mr. Speaker, I ask unanimous consent that the Committee on National Security be discharged from further consideration of the concurrent resolution (H. Con. Res. 294) recognizing the 50th Anniversary of the integration of the Armed Forces, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. LaHood). Is there objection to the request of the gentleman from Indiana?

Mr. SKELTON. Mr. Speaker, reserving the right to object, I will not object, but I would ask the gentleman from Indiana to explain the concurrent resolution.

Mr. BUYER. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Indiana.

Mr. BUYER. Mr. Speaker, I rise tonight to mark an important historical event for the Armed Forces, and indeed, for our Nation. On July 26, 1948, just over 50 years ago, President Truman signed Executive Order 9981 ordering the racial integration of the Armed Forces.

When we think about that in the context of the way things are done today, unlike this election year of 1948, it was a presidential election year, and President Truman was running for his first full term of office. Undeterred by those who today would have counseled him to wait until after the election to make such a controversial decision at that time for the integration of the Armed Forces, he acted in what I believe to be a responsible manner, and he did the right thing.

Some may think that his choice was easy, but I believe that the choice at the time was not easy, and it was a courageous decision. It is not easy to make a decision that may profoundly affect the military readiness over the objections of the military leaders of that day. Yet, Harry Truman did just that. Today we acknowledge the overwhelming correctness of that decision.

While President Truman took the first step, our military executed its orders with discipline and purpose. Sure there have been missteps, and yes, there are still areas that could be improved. Most important, however, is that many of America's fine young men and women were finally able to take their rightful place in the Armed Forces, and it helped transform our society.

As we all know, thousands of young African Americans, both men and women, have joined the Armed Forces. They have not only joined but have succeeded in staying in the military, and in higher numbers than their majority counterparts, and are rising to the highest ranks in the military. In fact, today African Americans alone make up 20 percent of the Armed Forces.

The many extraordinary examples of success obviously are far too numerous to cover adequately in these short remarks, but they include General Colin Powell; the Army four-star General Johnny Wilson; the Navy's first of many black admirals, Rear Admiral Samuel Gravely, Junior; and yes, here recently we honored, tragically, the deceased hero, the Capitol police officer, J.J. Chestnut, who served 20 years in the Air Force and was a Vietnam veteran.

I believe that Officer Chestnut and many others are individuals who have served with honor and went on and, in turn, left the service and made great contributions to their communities and this country.

Mr. SKELTON. Mr. Speaker, under my reservation of objection, first I wish to compliment the gentlewoman from California (Ms. Maxine Waters) for her foresight in offering this resolution.

I think it is a very, very appropriate one, particularly realizing that I am from Missouri, and that this past weekend, Mr. Speaker, I had the honor of speaking at the commissioning of the U.S.S. Harry S. Truman in Norfolk, Virginia. So I think it is entirely appropriate that I commemorate 50 years of racial integration in the armed services.

It was President Harry Truman, a fellow Missourian, who took the courageous and historic action in signing Executive Order 9981. President Truman had seen many examples of sacrifice by soldiers and airmen which proved that segregation was incompatible with the values of our Nation: the Tuskegee airmen, who never lost a bomber they accompanied, showed the high quality of black pilots; the heroism of Dory Miller, who manned a machine gun, in violation of the Navy's then segregationist policies, to defend Pearl Harbor against the Japanese invasion. For his brave actions, he was awarded a Navy cross for two confirmed kills on Japanese aircraft.

While integration of our military has not been without difficulty, this executive order was a giant step forward in the quality of our force. Take a good look at it today. It works, and it works well.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Ms. McKINNEY. Mr. Speaker, reserving the right to object, I, too, would like to join my colleagues in commending what I call America's Congresswoman, the gentlewoman from California (Ms. MAXINE WATERS), for shepherding this legislation through the process onto the floor of the House tonight.

As this body recognizes the 50th anniversary of the integration of the Armed Forces, we must remember the historic role that President Truman's executive order played, not only in opening the military to African Americans, but in advancing the March for civil rights for all outside the military. His signature paved the way for today's Army.

Today 27 percent of the Army is black. These proud men and women comprise 12 percent of the officers and 30 percent of the enlisted soldiers. Eight percent of all generals are black. Prior to Truman's executive order, successful African American soldiers were recognized as exceptional, as distinct.

In 1939, the government established a segregated program at the Tuskegee Institute to train blacks as civilian pilots. These young men became known as the Tuskegee Airmen, and became successful World War II pilots. These brave and accomplished flyers never lost a bomber that they accompanied.

Truman's executive order provided African Americans with the opportunity to be more than just the exception. They were the backbone of our enlisted soldiers, and they are our leaders. They are the heroes, like the Tuskegee Airmen, and they are role models for American society, both black and white.

General Colin Powell in the U.S. Army, Lieutenant General Benjamin O. Davis in the U.S. Air Force, and the Secretary of Veterans Affairs, Togo West, in today's society our young people cannot have too many honorable role models to help instill in them discipline, confidence, and self-respect.

As we honor the integration of the military, we must not forget the steps it took to get us here. The road has not been easy, and we still have a long way to go. The military must still guard against extremists and racist attacks within its ranks, like the tragic incident at Fort Bragg where two black civilians were gunned down by Lieutenant Burmeister.

We must be wary of differential treatments for blacks and whites in legal proceedings. While some white officers are allowed to retire quietly, other black enlisted personnel are sent to courts-martial.

Let me tell Members about a recent case that has come to my attention. This case is of Sgt. Aidens. Sgt. Aidens became the target of an investigation after he refused to lie that he knew about the misconduct of another black serviceman.

Coincidentally, Sgt. Aidens just last night was found to be guilty of using crack cocaine. The evidence used to find him guilty was a pubic hair sample taken by army investigators. Most of America is not aware of this form of drug testing because it is not proven, it is controversial, and gives false positives for African Americans. However, pubic hair testing has been used in military courts as evidence when accompanied with an urinalysis. Yet, in Sgt. Aiden's case, the Army did not give him a urinalysis. If Sgt. Aidens' verdict is upheld, I am very concerned for every African American in our Armed Forces.

A recent article by Charles Moskos lays out some lessons that we can learn on race in the Army. He suggests, one, we focus on black opportunity channels; two, be ruthless against discrimination; three, affirmative action must be linked to standards; four, a level playing field is not enough. We need to recognize the disadvantages that minorities have and compensate those with additional help.

I hope when we recognize the next 50 years of integration of our Armed Forces, that we look at each shortcoming and racist act not only as a battle lost, but a serious chipping away at the war of what it means to be an American and what America means to the world.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 294

Whereas on July 26, 1948, President Truman issued Executive Order 9981 ordering the integration of the Armed Forces;

Whereas the President stated in the executive order that it was "essential that there be maintained in the armed services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense";

Whereas in the executive order the President declared that "there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin";

Whereas, soon after the President issued the executive order, United States forces in Korea were integrated, leading the way to a fully integrated army;

Whereas the Armed Forces have used the implementation and enforcement of the Civil Rights Act of 1964 as additional tools to eliminate discrimination among their military and civilian personnel;

Whereas in 1998 minorities serve in senior leadership positions throughout the Armed Forces, as officers, as senior non-commissioned officers, and as civilian leaders;

Whereas the Armed Forces have demonstrated a continuing commitment to ensuring the equality of treatment and opportunity for all military and civilian personnel of the Armed Forces; and

Whereas the efforts of the Armed Forces to ensure the equality of treatment and opportunity for their personnel have contributed significantly to the advancement of equality of treatment and opportunity for all Americans: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) commends the Armed Forces for their efforts, leadership, and success in providing equality of treatment and opportunity for their military and civilian personnel without regard to race, color, religion, or national origin; and

(2) recognizes the Department of Defense's celebration of the 50th Anniversary of the integration of the Armed Forces.

□ 2300

AMENDMENT OFFERED BY MR. BUYER

Mr. BUYER. Mr. Speaker, I offer an amendment to the text.

The Clerk read as follows:

Amendment to the text offered by Mr. BUYER:

Page 2, line 2, strike "That the Congress" and all that follows and insert the following:

That the Congress commends the Armed Forces for their efforts, leadership, and success in providing equality of treatment and opportunity for their military and civilian personnel without regard to race, color, religion, or national origin.

Mr. BUYER. Mr. Speaker, this amendment makes minor modifications to the resolution that addresses concerns over language that may have been interpreted as conflicting with the House rule against commemoratives. These changes have been worked out in advance with the minority and the sponsor of the resolution, and I understand this to be noncontroversial.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the amendment to the text offered by the gentleman from Indiana (Mr. BUYER).

The amendment to the text was agreed to .

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. BUYER

Mr. BUYER. Mr. Speaker. I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. BUYER:

Page, 1, in the second clause of the preamble insert "50 years ago" after "The President stated".

The amendment to the preamble was agreed to.

TITLE AMENDMENT OFFERED BY MR. BUYER

Mr. BUYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. BUYER:

Amend the title so as to read: "Concurrent resolution commending the Armed Forces for their efforts, leadership, and success in providing equality of treatment and opportunity for their military and civilian personnel without regard to race, color, religion, or national origin."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 1385, WORKFORCE INVESTMENT ACT OF 1998

Mr. BOB SCHAFFER of Colorado submitted the following conference report and statement on the bill (H.R. 1385) to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–659)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1385), to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Workforce Investment Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—WORKFORCE INVESTMENT SYSTEMS

Subtitle A—Workforce Investment Definitions

Sec. 101. Definitions.

Subtitle B—Statewide and Local Workforce Investment Systems

Sec. 106. Purpose.

CHAPTER 1—STATE PROVISIONS

Sec. 111. State workforce investment boards.
Sec. 112. State plan.

CHAPTER 2—LOCAL PROVISIONS

Sec. 116. Local workforce investment areas.
Sec. 117. Local workforce investment boards.
Sec. 118. Local plan.

CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES PROVIDERS

Sec. 121. Establishment of one-stop delivery systems.
Sec. 122. Identification of eligible providers of training services.
Sec. 123. Identification of eligible providers of youth activities.

CHAPTER 4—YOUTH ACTIVITIES

Sec. 126. General authorization.
Sec. 127. State allotments.
Sec. 128. Within State allocations.
Sec. 129. Use of funds for youth activities.

CHAPTER 5—ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES

Sec. 131. General authorization.
Sec. 132. State allotments.
Sec. 133. Within State allocations.
Sec. 134. Use of funds for employment and training activities.

CHAPTER 6—GENERAL PROVISIONS

Sec. 136. Performance accountability system.
Sec. 137. Authorization of appropriations.

Subtitle C—Job Corps

Sec. 141. Purposes.
Sec. 142. Definitions.
Sec. 143. Establishment.
Sec. 144. Individuals eligible for the job corps.
Sec. 145. Recruitment, screening, selection, and assignment of enrollees.
Sec. 146. Enrollment.
Sec. 147. Job corps centers.
Sec. 148. Program activities.
Sec. 149. Counseling and job placement.
Sec. 150. Support.
Sec. 151. Operating plan.
Sec. 152. Standards of conduct.
Sec. 153. Community participation.
Sec. 154. Industry councils.
Sec. 155. Advisory committees.
Sec. 156. Experimental, research, and demonstration projects.
Sec. 157. Application of provisions of Federal law.
Sec. 158. Special provisions.
Sec. 159. Management information.
Sec. 160. General provisions.
Sec. 161. Authorization of appropriations.

Subtitle D—National Programs

Sec. 166. Native american programs.
Sec. 167. Migrant and seasonal farmworker programs.
Sec. 168. Veterans' workforce investment programs.
Sec. 169. Youth opportunity grants.
Sec. 170. Technical assistance.
Sec. 171. Demonstration, pilot, multiservice, research, and multistate projects.
Sec. 172. Evaluations.
Sec. 173. National emergency grants.
Sec. 174. Authorization of appropriations.

Subtitle E—Administration

Sec. 181. Requirements and restrictions.
Sec. 182. Prompt allocation of funds.
Sec. 183. Monitoring.
Sec. 184. Fiscal controls; sanctions.
Sec. 185. Reports; recordkeeping; investigations.
Sec. 186. Administrative adjudication.
Sec. 187. Judicial review.
Sec. 188. Nondiscrimination.
Sec. 189. Administrative provisions.
Sec. 190. Reference.
Sec. 191. State legislative authority.
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TITLE I—WORKFORCE INVESTMENT SYSTEMS

Subtitle A—Workforce Investment Definitions

SEC. 101. DEFINITIONS.

In this title:

(1) ADULT.—Except in sections 127 and 132, the term "adult" means an individual who is age 18 or older.

(2) ADULT EDUCATION; ADULT EDUCATION AND LITERACY ACTIVITIES.—The terms "adult education" and "adult education and literacy activities" have the meanings given the terms in section 203.

(3) AREA VOCATIONAL EDUCATION SCHOOL.—The term "area vocational education school" has the meaning given the term in section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471).

(4) BASIC SKILLS DEFICIENT.—The term "basic skills deficient" means, with respect to an individual, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

(5) CASE MANAGEMENT.—The term "case management" means the provision of a client-centered approach in the delivery of services, designed—

(A) to prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to necessary workforce investment activities and supportive services, using, where feasible, computer-based technologies; and

(B) to provide job and career counseling during program participation and after job placement.

(6) CHIEF ELECTED OFFICIAL.—The term "chief elected official" means—

(A) the chief elected executive officer of a unit of general local government in a local area; and

(B) in a case in which a local area includes more than 1 unit of general local government, the individuals designated under the agreement described in section 117(c)(1)(B).

(7) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private nonprofit organization that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce investment.

(8) CUSTOMIZED TRAINING.—The term "customized training" means training—

(A) that is designed to meet the special requirements of an employer (including a group of employers);

(B) that is conducted with a commitment by the employer to employ an individual on successful completion of the training; and

(C) for which the employer pays for not less than 50 percent of the cost of the training.

(9) DISLOCATED WORKER.—The term "dislocated worker" means an individual who—

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 134(c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

(iii) is unlikely to return to a previous industry or occupation;

(B)(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive services other than training services described in section 134(d)(4), intensive services described in section 134(d)(3), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

(C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters; or

(D) is a displaced homemaker.

(10) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent on the income of another family member but is no longer supported by that income; and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(11) ECONOMIC DEVELOPMENT AGENCIES.—The term "economic development agencies" includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

(12) ELIGIBLE PROVIDER.—The term "eligible provider", used with respect to—

(A) training services, means a provider who is identified in accordance with section 122(e)(3);

(B) intensive services, means a provider who is identified or awarded a contract as described in section 134(d)(3)(B);

(C) youth activities, means a provider who is awarded a grant or contract in accordance with section 123; or

(D) other workforce investment activities, means a public or private entity selected to be responsible for such activities, such as a one-stop operator designated or certified under section 121(d).

(13) ELIGIBLE YOUTH.—Except as provided in subtitles C and D, the term "eligible youth" means an individual who—

(A) is not less than age 14 and not more than age 21;

(B) is a low-income individual; and

(C) is an individual who is 1 or more of the following:

(i) Deficient in basic literacy skills.

(ii) A school dropout.

(iii) Homeless, a runaway, or a foster child.

(iv) Pregnant or a parent.

(v) An offender.

(vi) An individual who requires additional assistance to complete an educational program, or to secure and hold employment.

(14) EMPLOYMENT AND TRAINING ACTIVITY.—The term "employment and training activity" means an activity described in section 134 that is carried out for an adult or dislocated worker.

(15) FAMILY.—The term "family" means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

(A) A husband, wife, and dependent children.

(B) A parent or guardian and dependent children.

(C) A husband and wife.

(16) GOVERNOR.—The term "Governor" means the chief executive of a State.

(17) INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term "individual with a disability" means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) INDIVIDUALS WITH DISABILITIES.—The term "individuals with disabilities" means more than 1 individual with a disability.

(18) LABOR MARKET AREA.—The term "labor market area" means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor.

(19) LITERACY.—The term "literacy" has the meaning given the term in section 203.

(20) LOCAL AREA.—The term "local area" means a local workforce investment area designated under section 116.

(21) LOCAL BOARD.—The term "local board" means a local workforce investment board established under section 117.

(22) LOCAL PERFORMANCE MEASURE.—The term "local performance measure" means a performance measure established under section 136(c).

(23) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(24) LOWER LIVING STANDARD INCOME LEVEL.—The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent lower living family budget issued by the Secretary.

(25) LOW-INCOME INDIVIDUAL.—The term "low-income individual" means an individual who—

(A) receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program;

(B) received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, payments described in subparagraph (A), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of—

(i) the poverty line, for an equivalent period; or

(ii) 70 percent of the lower living standard income level, for an equivalent period;

(C) is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);

(E) is a foster child on behalf of whom State or local government payments are made; or

(F) in cases permitted by regulations promulgated by the Secretary of Labor, is an individual with a disability whose own income meets *the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.*

(26) NONTRADITIONAL EMPLOYMENT.—The term "nontraditional employment" refers to occupations or fields of work for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

(27) OFFENDER.—The term "offender" means any adult or juvenile—

(A) who is or has been subject to any stage of the criminal justice process, for whom services under this Act may be beneficial; or

(B) who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

(28) OLDER INDIVIDUAL.—The term "older individual" means an individual age 55 or older.

(29) ONE-STOP OPERATOR.—The term "one-stop operator" means 1 or more entities designated or certified under section 121(d).

(30) ONE-STOP PARTNER.—The term "one-stop partner" means—

(A) an entity described in section 121(b)(1); and

(B) an entity described in section 121(b)(2) that is participating, with the approval of the local board and chief elected official, in the operation of a one-stop delivery system.

(31) ON-THE-JOB TRAINING.—The term "on-the-job training" means training by an employer that is provided to a paid participant while engaged in productive work in a job that—

(A) provides knowledge or skills essential to the full and adequate performance of the job;

(B) provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

(32) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(33) OUT-OF-SCHOOL YOUTH.—The term "out-of-school youth" means—

(A) an eligible youth who is a school dropout; or

(B) an eligible youth who has received a secondary school diploma or its equivalent but is basic skills deficient, unemployed, or underemployed.

(34) PARTICIPANT.—The term "participant" means an individual who has been determined to be eligible to participate in and who is receiving services (except followup services authorized under this title) under a program authorized by this title. Participation shall be deemed to commence on the first day, following determination of eligibility, on which the individual began receiving subsidized employment, training, or other services provided under this title.

(35) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term "postsecondary educational institution" means an institution of higher education, as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088).

(36) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(37) PUBLIC ASSISTANCE.—The term "public assistance" means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

(38) RAPID RESPONSE ACTIVITY.—The term "rapid response activity" means an activity provided by a State, or by an entity designated by a State, with funds provided by the State under section 134(a)(1)(A), in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible, with services including—

(A) the establishment of onsite contact with employers and employee representatives—

(i) immediately after the State is notified of a current or projected permanent closure or mass layoff; or

(ii) in the case of a disaster, immediately after the State is made aware of mass job dislocation as a result of such disaster;

(B) the provision of information and access to available employment and training activities;

(C) assistance in establishing a labor-management committee, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs;

(D) the provision of emergency assistance adapted to the particular closure, layoff, or disaster; and

(E) the provision of assistance to the local community in developing a coordinated response and in obtaining access to State economic development assistance.

(39) SCHOOL DROPOUT.—The term "school dropout" means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

(40) SECONDARY SCHOOL.—The term "secondary school" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(41) SECRETARY.—The term "Secretary" means the Secretary of Labor, and the term means such Secretary for purposes of section 503.

(42) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(43) STATE ADJUSTED LEVEL OF PERFORMANCE.—The term "State adjusted level of performance" means a level described in clause (iii) or (v) of section 136(b)(3)(A).

(44) STATE BOARD.—The term "State board" means a State workforce investment board established under section 111.

(45) STATE PERFORMANCE MEASURE.—The term "State performance measure" means a performance measure established under section 136(b).

(46) SUPPORTIVE SERVICES.—The term "supportive services" means services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under this title, consistent with the provisions of this title.

(47) UNEMPLOYED INDIVIDUAL.—The term "unemployed individual" means an individual who is without a job and who wants and is available for work. The determination of whether an individual is without a job shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

(48) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(49) VETERAN; RELATED DEFINITION.—

(A) VETERAN.—The term "veteran" means an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.

(B) RECENTLY SEPARATED VETERAN.—The term "recently separated veteran" means any veteran who applies for participation under this title within 48 months after the discharge or release from active military, naval, or air service.

(50) VOCATIONAL EDUCATION.—The term "vocational education" has the meaning given the term in section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471).

(51) WORKFORCE INVESTMENT ACTIVITY.—The term "workforce investment activity" means an employment and training activity, and a youth activity.

(52) YOUTH ACTIVITY.—The term "youth activity" means an activity described in section 129 that is carried out for eligible youth (or as described in section 129(c)(5)).

(53) YOUTH COUNCIL.—The term "youth council" means a council established under section 117(h).

Subtitle B—Statewide and Local Workforce Investment Systems

SEC. 106. PURPOSE.

The purpose of this subtitle is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation.

CHAPTER 1—STATE PROVISIONS

SEC. 111. STATE WORKFORCE INVESTMENT BOARDS.

(a) IN GENERAL.—The Governor of a State shall establish a State workforce investment board to assist in the development of the State plan described in section 112 and to carry out the other functions described in subsection (d).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The State Board shall include—

(A) the Governor;

(B) 2 members of each chamber of the State legislature, appointed by the appropriate presiding officers of each such chamber; and

(C) representatives appointed by the Governor, who are—

(i) representatives of business in the State, who—

(I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority, including members of local boards described in section 117(b)(2)(A)(i);

(II) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(III) are appointed from among individuals nominated by State business organizations and business trade associations;

(ii) chief elected officials (representing both cities and counties, where appropriate);

(iii) representatives of labor organizations, who have been nominated by State labor federations;

(iv) representatives of individuals and organizations that have experience with respect to youth activities;

(v) representatives of individuals and organizations that have experience and expertise in the delivery of workforce investment activities, including chief executive officers of community colleges and community-based organizations within the State;

(vi)(I) the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners; and

(II) in any case in which no lead State agency official has responsibility for such a program, service, or activity, a representative in the State with expertise relating to such program, service, or activity; and

(vii) such other representatives and State agency officials as the Governor may designate, such as the State agency officials responsible for economic development and juvenile justice programs in the State.

(2) AUTHORITY AND REGIONAL REPRESENTATION OF BOARD MEMBERS.—Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. The members of the board shall represent diverse regions of the State, including urban, rural, and suburban areas.

(3) MAJORITY.—A majority of the members of the State Board shall be representatives described in paragraph (1)(C)(i).

(c) CHAIRMAN.—The Governor shall select a chairperson for the State Board from among the representatives described in subsection (b)(1)(C)(i).

(d) FUNCTIONS.—The State Board shall assist the Governor in—

(1) development of the State plan;

(2) development and continuous improvement of a statewide system of activities that are funded under this subtitle or carried out through a one-stop delivery system described in section 134(c) that receives funds under this subtitle (referred to in this title as a "statewide workforce investment system"), including—

(A) development of linkages in order to assure coordination and nonduplication among the programs and activities described in section 121(b); and

(B) review of local plans;

(3) commenting at least once annually on the measures taken pursuant to section 113(b)(14) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C 2323(b)(14));

(4) designation of local areas as required in section 116;

(5) development of allocation formulas for the distribution of funds for adult employment and training activities and youth activities to local areas as permitted under sections 128(b)(3)(B) and 133(b)(3)(B);

(6) development and continuous improvement of comprehensive State performance measures, including State adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the State as required under section 136(b);

(7) preparation of the annual report to the Secretary described in section 136(d);

(8) development of the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act; and

(9) development of an application for an incentive grant under section 503.

(e) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (b), and (c), a State may use any State entity (including a State council, State workforce development board, combination of regional workforce development boards; or similar entity) that—

(A) was in existence on December 31, 1997;

(B)(i) was established pursuant to section 122 or title VII of the Job Training Partnership Act, as in effect on December 31, 1997; or

(ii) is substantially similar to the State board described in subsections (a), (b), and (c); and

(C) includes representatives of business in the State and representatives of labor organizations in the State.

(2) REFERENCES.—References in this Act to a State board shall be considered to include such an entity.

(f) CONFLICT OF INTEREST.—A member of a State board may not—

(1) vote on a matter under consideration by the State board—

(A) regarding the provision of services by such member (or by an entity that such member represents); or

(B) that would provide direct financial benefit to such member or the immediate family of such member; or

(2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(g) SUNSHINE PROVISION.—The State board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the State board, including information regarding the State plan prior to submission of the plan, information regarding membership, and, on request, minutes of formal meetings of the State board.

SEC. 112. STATE PLAN.

(a) IN GENERAL.—For a State to be eligible to receive an allotment under section 127 or 132, or to receive financial assistance under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), the Governor of the State shall submit to the Secretary for consideration by the Secretary, a single State plan (referred to in this title as the "State plan") that outlines a 5-year strategy for the statewide workforce investment system of the State and that meets the requirements of section 111 and this section.

(b) CONTENTS.—The State plan shall include—

(1) a description of the State board, including a description of the manner in which such board collaborated in the development of the State plan and a description of how the board will continue to collaborate in carrying out the functions described in section 111(d);

(2) a description of State-imposed requirements for the statewide workforce investment system;

(3) a description of the State performance accountability system developed for the workforce investment activities to be carried out through the statewide workforce investment system, that includes information identifying State performance measures as described in section 136(b)(3)(A)(ii);

(4) information describing—

(A) the needs of the State with regard to current and projected employment opportunities, by occupation;

(B) the job skills necessary to obtain such employment opportunities;

(C) the skills and economic development needs of the State; and

(D) the type and availability of workforce investment activities in the State;

(5) an identification of local areas designated in the State, including a description of the process used for the designation of such areas;

(6) an identification of criteria to be used by chief elected officials for the appointment of members of local boards based on the requirements of section 117;

(7) the detailed plans required under section 8 of the Wagner-Peyser Act (29 U.S.C. 49g);

(8)(A) a description of the procedures that will be taken by the State to assure coordination of and avoid duplication among—

(i) workforce investment activities authorized under this title;

(ii) other activities authorized under this title;

(iii) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title II of this Act, title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)), activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.), and postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(iv) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(v) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(vi) activities authorized under chapter 41 of title 38, United States Code;

(vii) employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

(viii) activities authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

(ix) employment and training activities carried out by the Department of Housing and Urban Development; and

(x) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law); and

(B) a description of the common data collection and reporting processes used for the programs and activities described in subparagraph (A);

(9) a description of the process used by the State, consistent with section 111(g), to provide an opportunity for public comment, including comment by representatives of businesses and representatives of labor organizations, and input into development of the plan, prior to submission of the plan;

(10) information identifying how the State will use funds the State receives under this subtitle to leverage other Federal, State, local, and private resources, in order to maximize the effectiveness of such resources, and to expand the participation of business, employees, and individuals in the statewide workforce investment system;

(11) assurances that the State will provide, in accordance with section 184 for fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotments made under sections 127 and 132;

(12)(A) a description of the methods and factors the State will use in distributing funds to local areas for youth activities and adult employment and training activities under sections 128(b)(3)(B) and 133(b)(3)(B), including—

(i) a description of how the individuals and entities represented on the State board were involved in determining such methods and factors of distribution; and

(ii) a description of how the State consulted with chief elected officials in local areas throughout the State in determining such distribution;

(B) assurances that the funds will be distributed equitably throughout the State, and that no local areas will suffer significant shifts in funding from year to year; and

(C) a description of the formula prescribed by the Governor pursuant to section 133(b)(2)(B) for the allocation of funds to local areas for dislocated worker employment and training activities;

(13) information specifying the actions that constitute a conflict of interest prohibited in the State for purposes of sections 111(f) and 117(g);

(14) with respect to the one-stop delivery systems described in section 134(c) (referred to individually in this title as a "one-stop delivery system"), a description of the strategy of the State for assisting local areas in development and implementation of fully operational one-stop delivery systems in the State;

(15) a description of the appeals process referred to in section 116(a)(5);

(16) a description of the competitive process to be used by the State to award grants and contracts in the State for activities carried out under this title;

(17) with respect to the employment and training activities authorized in section 134—

(A) a description of—

(i) the employment and training activities that will be carried out with the funds received by the State through the allotment made under section 132;

(ii) how the State will provide rapid response activities to dislocated workers from funds reserved under section 133(a)(2) for such purposes, including the designation of an identifiable State rapid response dislocated worker unit to carry out statewide rapid response activities;

(iii) the procedures the local boards in the State will use to identify eligible providers of training services described in section 134(d)(4) (other than on-the-job training or customized training), as required under section 122; and

(iv) how the State will serve the employment and training needs of dislocated workers (including displaced homemakers), low-income individuals (including recipients of public assistance), individuals training for nontraditional employment, and other individuals with multiple barriers to employment (including older individuals and individuals with disabilities); and

(B) an assurance that veterans will be afforded the employment and training activities by the State, to the extent practicable; and

(18) with respect to youth activities authorized in section 129, information—

(A) describing the State strategy for providing comprehensive services to eligible youth, particularly those eligible youth who are recognized as having significant barriers to employment;

(B) identifying the criteria to be used by local boards in awarding grants for youth activities, including criteria that the Governor and local boards will use to identify effective and ineffective youth activities and providers of such activities;

(C) describing how the State will coordinate the youth activities carried out in the State under section 129 with the services provided by Job Corps centers in the State (where such centers exist); and

(D) describing how the State will coordinate youth activities described in subparagraph (C) with activities carried out through the youth opportunity grants under section 169.

(c) PLAN SUBMISSION AND APPROVAL.—A State plan submitted to the Secretary under this section by a Governor shall be considered to be approved by the Secretary at the end of the 90-day period beginning on the day the Secretary receives the plan, unless the Secretary makes a written determination, during the 90-day period, that—

(1) the plan is inconsistent with the provisions of this title; and

(2) in the case of the portion of the plan described in section 8(a) of the Wagner-Peyser Act (29 U.S.C. 49g(a)), the portion does not satisfy the criteria for approval provided in section 8(d) of such Act.

(d) MODIFICATIONS TO PLAN.—A State may submit modifications to a State plan in accordance with the requirements of this section and section 111 as necessary during the 5-year period covered by the plan.

CHAPTER 2—LOCAL PROVISIONS

SEC. 116. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) IN GENERAL.—

(A) PROCESS.—Except as provided in subsection (b), and consistent with paragraphs (2), (3), and (4), in order for a State to receive an allotment under section 127 or 132, the Governor of the State shall designate local workforce investment areas within the State—

(i) through consultation with the State board; and

(ii) after consultation with chief elected officials and after consideration of comments received through the public comment process as described in section 112(b)(9).

(B) CONSIDERATIONS.—In making the designation of local areas, the Governor shall take into consideration the following:

(i) Geographic areas served by local educational agencies and intermediate educational agencies.

(ii) Geographic areas served by postsecondary educational institutions and area vocational education schools.

(iii) The extent to which such local areas are consistent with labor market areas.

(iv) The distance that individuals will need to travel to receive services provided in such local areas.

(v) The resources of such local areas that are available to effectively administer the activities carried out under this subtitle.

(2) AUTOMATIC DESIGNATION.—The Governor shall approve any request for designation as a local area—

(A) from any unit of general local government with a population of 500,000 or more;

(B) of the area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery area or substate area under the Job Training Partnership Act, if the grant recipient has submitted the request; and

(C) of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) in a State that has a population of not more than 1,100,000 and a population density greater than 900 persons per square mile.

(3) TEMPORARY AND SUBSEQUENT DESIGNATION.—

(A) CRITERIA.—Notwithstanding paragraph (2)(A), the Governor shall approve any request, made not later than the date of submission of the initial State plan under this subtitle, for temporary designation as a local area from any unit of general local government (including a combination of such units) with a population of 200,000 or more that was a service delivery area under the Job Training Partnership Act on the day before the date of enactment of this Act if the Governor determines that the area—

(i) performed successfully, in each of the last 2 years prior to the request for which data are available, in the delivery of services to participants under part A of title II and title III of the Job Training Partnership Act (as in effect on such day); and

(ii) has sustained the fiscal integrity of the funds used by the area to carry out activities under such part and title.

(B) DURATION AND SUBSEQUENT DESIGNATION.—A temporary designation under this paragraph shall be for a period of not more than 2 years, after which the designation shall be extended until the end of the period covered by the State plan if the Governor determines that, during the temporary designation period, the area substantially met (as defined by the State board) the local performance measures for the local area and sustained the fiscal integrity of the funds used by the area to carry out activities under this subtitle.

(C) TECHNICAL ASSISTANCE.—The Secretary shall provide the States with technical assistance in making the determinations required by this paragraph. The Secretary shall not issue regulations governing determinations to be made under this paragraph.

(D) PERFORMED SUCCESSFULLY.—In this paragraph, the term "performed successfully" means that the area involved met or exceeded the performance standards for activities administered in the area that—

(i) are established by the Secretary for each year and modified by the adjustment methodology of the State (used to account for differences in economic conditions, participant characteristics, and combination of services provided from the combination assumed for purposes of the established standards of the Secretary); and

(ii)(I) if the area was designated as both a service delivery area and a substate area under the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act)—

(aa) relate to job retention and earnings, with respect to activities carried out under part A of title II of such Act (as in effect on such day); or

(bb) relate to entry into employment, with respect to activities carried out under title III of such Act (as in effect on such day);

(II) if the area was designated only as a service delivery area under such Act (as in effect on such day), relate to the standards described in subclause (I)(aa); or

(III) if the area was only designated as a substate area under such Act (as in effect on such day), relate to the standards described in subclause (I)(bb) .

(E) SUSTAINED THE FISCAL INTEGRITY.—In this paragraph, the term "sustained the fiscal integrity", used with respect to funds used by a service delivery area or local area, means that the Secretary has not made a final determination during any of the last 3 years for which data are available, prior to the date of the designation request involved, that either the grant recipient or the administrative entity of the area misexpended the funds due to willful disregard of the requirements of the Act involved, gross negligence, or failure to observe accepted standards of administration.

(4) DESIGNATION ON RECOMMENDATION OF STATE BOARD.—The Governor may approve a request from any unit of general local government (including a combination of such units) for designation (including temporary designation) as a local area if the State board determines, taking into account the factors described in clauses (i) through (v) of paragraph (1)(B), and recommends to the Governor, that such area should be so designated.

(5) APPEALS.—A unit of general local government (including a combination of such units) or grant recipient that requests but is not granted designation of an area as a local area under paragraph (2) or (3) may submit an appeal to the State board under an appeal process established in the State plan. If the appeal does not result in such a designation, the Secretary, after receiving a request for review from the unit or grant recipient and on determining that the unit or grant recipient was not accorded procedural rights under the appeal process established in the State plan or that the area meets the requirements of paragraph (2) or (3), as appropriate, may require that the area be designated as a local area under such paragraph.

(b) SMALL STATES.—The Governor of any State that was a single State service delivery area under the Job Training Partnership Act as of July 1, 1998, may designate the State as a single State local area for the purposes of this title. In the case of such a designation, the Governor shall identify the State as a local area under section 112(b)(5).

(c) REGIONAL PLANNING AND COOPERATION.—

(1) PLANNING.—As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the

local boards for a designated region to participate in a regional planning process that results in the establishment of regional performance measures for workforce investment activities authorized under this subtitle. The State may award regional incentive grants to the designated regions that meet or exceed the regional performance measures.

(2) INFORMATION SHARING.—The State may require the local boards for a designated region to share, in feasible cases, employment statistics, information about employment opportunities and trends, and other types of information that would assist in improving the performance of all local areas in the designated region on local performance measures.

(3) COORDINATION OF SERVICES.—The State may require the local boards for a designated region to coordinate the provision of workforce investment activities authorized under this subtitle, including the provision of transportation and other supportive services, so that services provided through the activities may be provided across the boundaries of local areas within the designated region.

(4) INTERSTATE REGIONS.—Two or more States that contain an interstate region that is a labor market area, economic development region, or other appropriate contiguous subarea of the States may designate the area as a designated region for purposes of this subsection, and jointly exercise the State functions described in paragraphs (1) through (3).

(5) DEFINITIONS.—In this subsection:

(A) DESIGNATED REGION.—The term "designated region" means a combination of local areas that are partly or completely in a single labor market area, economic development region, or other appropriate contiguous subarea of a State, that is designated by the State, except as provided in paragraph (4).

(B) LOCAL BOARD FOR A DESIGNATED REGION.—The term "local board for a designated region" means a local board for a local area in a designated region.

SEC. 117. LOCAL WORKFORCE INVESTMENT BOARDS.

(a) ESTABLISHMENT.—There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area (referred to in this title as a "local workforce investment system").

(b) MEMBERSHIP.—

(1) STATE CRITERIA.—The Governor of the State, in partnership with the State board, shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards in such local areas in accordance with the requirements of paragraph (2).

(2) COMPOSITION.—Such criteria shall require, at a minimum, that the membership of each local board—

(A) shall include—

(i) representatives of business in the local area, who—

(I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(II) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(III) are appointed from among individuals nominated by local business organizations and business trade associations;

(ii) representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities;

(iii) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees;

(iv) representatives of community-based organizations (including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present);

(v) representatives of economic development agencies, including private sector economic development entities; and

(vi) representatives of each of the one-stop partners; and

(B) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) AUTHORITY OF BOARD MEMBERS.—Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

(4) MAJORITY.—A majority of the members of the local board shall be representatives described in paragraph (2)(A)(i).

(5) CHAIRPERSON.—The local board shall elect a chairperson for the local board from among the representatives described in paragraph (2)(A)(i).

(c) APPOINTMENT AND CERTIFICATION OF BOARD.—

(1) APPOINTMENT OF BOARD MEMBERS AND ASSIGNMENT OF RESPONSIBILITIES.—

(A) IN GENERAL.—The chief elected official in a local area is authorized to appoint the members of the local board for such area, in accordance with the State criteria established under subsection (b).

(B) MULTIPLE UNITS OF LOCAL GOVERNMENT IN AREA.—

(i) IN GENERAL.—In a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials—

(I) in the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (b); and

(II) in carrying out any other responsibilities assigned to such officials under this subtitle.

(ii) LACK OF AGREEMENT.—If, after a reasonable effort, the chief elected officials are unable to reach agreement as provided under clause (i), the Governor may appoint the members of the local board from individuals so nominated or recommended.

(C) CONCENTRATED EMPLOYMENT PROGRAMS.—In the case of a local area designated in accordance with section 116(a)(2)(B), the governing body of the concentrated employment program involved shall act in consultation with the chief elected official in the local area to appoint members of the local board, in accordance with the State criteria established under subsection (b), and to carry out any other responsibility relating to workforce investment activities assigned to such official under this Act.

(2) CERTIFICATION.—

(A) IN GENERAL.—The Governor shall, once every 2 years, certify 1 local board for each local area in the State.

(B) CRITERIA.—Such certification shall be based on criteria established under subsection (b) and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures.

(C) FAILURE TO ACHIEVE CERTIFICATION.—Failure of a local board to achieve certification shall result in reappointment and certification of another local board for the local area pursuant to the process described in paragraph (1) and this paragraph.

(3) DECERTIFICATION.—

(A) FRAUD, ABUSE, FAILURE TO CARRY OUT FUNCTIONS.—Notwithstanding paragraph (2), the Governor may decertify a local board, at any time after providing notice and an opportunity for comment, for—

(i) fraud or abuse; or

(ii) failure to carry out the functions specified for the local board in any of paragraphs (1) through (7) of subsection (d).

(B) NONPERFORMANCE.—Notwithstanding paragraph (2), the Governor may decertify a local board if a local area fails to meet the local performance measures for such local area for 2 consecutive program years (in accordance with section 136(h)).

(C) PLAN.—If the Governor decertifies a local board for a local area under subparagraph (A) or (B), the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area, and in accordance with the criteria established under subsection (b).

(4) SINGLE STATE AREA.—Notwithstanding subsection (b) and paragraphs (1) and (2), if a State described in section 116(b) indicates in the State plan that the State will be treated as a local area for purposes of the application of this title, the Governor may designate the State board to carry out any of the functions described in subsection (d).

(d) FUNCTIONS OF LOCAL BOARD.—The functions of the local board shall include the following:

(1) LOCAL PLAN.—Consistent with section 118, each local board, in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor.

(2) SELECTION OF OPERATORS AND PROVIDERS.—

(A) SELECTION OF ONE-STOP OPERATORS.—Consistent with section 121(d), the local board, with the agreement of the chief elected official—

(i) shall designate or certify one-stop operators as described in section 121(d)(2)(A); and

(ii) may terminate for cause the eligibility of such operators.

(B) SELECTION OF YOUTH PROVIDERS.—Consistent with section 123, the local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council.

(C) IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.—Consistent with section 122, the local board shall identify eligible providers of training services described in section 134(d)(4) in the local area.

(D) IDENTIFICATION OF ELIGIBLE PROVIDERS OF INTENSIVE SERVICES.—If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services described in section 134(d)(3) in the local area by awarding contracts.

(3) BUDGET AND ADMINISTRATION.—

(A) BUDGET.—The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official.

(B) ADMINISTRATION.—

(i) GRANT RECIPIENT.—

(I) IN GENERAL.—The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under sections 128 and 133, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability.

(II) DESIGNATION.—In order to assist in the administration of the grant funds, the chief elected official or the Governor, where the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds as described in subclause (I).

(III) DISBURSAL.—The local grant recipient or an entity designated under subclause (II) shall disburse such funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this title, if the direction does not violate a provision of this Act. The local grant recipient or entity designated under subclause (II) shall disburse the funds immediately on receiving such direction from the local board.

(ii) STAFF.—The local board may employ staff.

(iii) GRANTS AND DONATIONS.—The local board may solicit and accept grants and donations from sources other than Federal funds made available under this Act.

(4) PROGRAM OVERSIGHT.—The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities authorized under section 129, local employment and training activities authorized under section 134, and the one-stop delivery system in the local area.

(5) NEGOTIATION OF LOCAL PERFORMANCE MEASURES.—The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance measures as described in section 136(c).

(6) EMPLOYMENT STATISTICS SYSTEM.—The local board shall assist the Governor in developing the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act.

(7) EMPLOYER LINKAGES.—The local board shall coordinate the workforce investment activities authorized under this subtitle and carried out in the local area with economic development strategies and develop other employer linkages with such activities.

(8) CONNECTING, BROKERING, AND COACHING.—The local board shall promote the participation of private sector employers in the statewide workforce investment system and ensure the effective provision, through the system, of connecting, brokering, and coaching activities, through intermediaries such as the one-stop operator in the local area or through other organizations, to assist such employers in meeting hiring needs.

(e) SUNSHINE PROVISION.—The local board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local board, including information regarding the local plan prior to submission of the plan, and regarding membership, the designation and certification of one-stop operators, and the award of grants or contracts to eligible providers of youth activities, and on request, minutes of formal meetings of the local board.

(f) LIMITATIONS.—

(1) TRAINING SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no local board may provide training services described in section 134(d)(4).

(B) WAIVERS OF TRAINING PROHIBITION.—The Governor of the State in which a local board is located may, pursuant to a request from the local board, grant a written waiver of the prohibition set forth in subparagraph (A) (relating to the provision of training services) for a program of training services, if the local board—

(i) submits to the Governor a proposed request for the waiver that includes—

(I) satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;

(II) information demonstrating that the board meets the requirements for an eligible provider of training services under section 122; and

(III) information demonstrating that the program of training services prepares participants for an occupation that is in demand in the local area;

(ii) makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than 30 days; and

(iii) includes, in the final request for the waiver, the evidence and information described in clause (i) and the comments received pursuant to clause (ii).

(C) DURATION.—A waiver granted to a local board under subparagraph (B) shall apply for a period of not to exceed 1 year. The waiver may be renewed for additional periods of not to exceed 1 year, pursuant to requests from the local board, if the board meets the requirements of subparagraph (B) in making the requests.

(D) REVOCATION.—The Governor may revoke a waiver granted under this paragraph during the appropriate period described in subparagraph (C) if the State determines that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

(2) CORE SERVICES; INTENSIVE SERVICES; DESIGNATION OR CERTIFICATION AS ONE-STOP OPERATORS.—A local board may provide core services described in section 134(d)(2) or intensive services described in section 134(d)(3) through a one-stop delivery system described in section 134(c) or be designated or certified as a one-stop operator only with the agreement of the chief elected official and the Governor.

(3) LIMITATION ON AUTHORITY.—Nothing in this Act shall be construed to provide a local board with the authority to mandate curricula for schools.

(g) CONFLICT OF INTEREST.—A member of a local board may not—

(1) vote on a matter under consideration by the local board—

(A) regarding the provision of services by such member (or by an entity that such member represents); or

(B) that would provide direct financial benefit to such member or the immediate family of such member; or

(2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(h) YOUTH COUNCIL.—

(1) ESTABLISHMENT.—There shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

(2) MEMBERSHIP.—The membership of each youth council—

(A) shall include—

(i) members of the local board described in subparagraph (A) or (B) of subsection (b)(2) with special interest or expertise in youth policy;

(ii) representatives of youth service agencies, including juvenile justice and local law enforcement agencies;

(iii) representatives of local public housing authorities;

(iv) parents of eligible youth seeking assistance under this subtitle;

(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities; and

(vi) representatives of the Job Corps, as appropriate; and

(B) may include such other individuals as the chairperson of the local board, in cooperation with the chief elected official, determines to be appropriate.

(3) RELATIONSHIP TO LOCAL BOARD.—Members of the youth council who are not members of the local board described in subparagraphs (A) and (B) of subsection (b)(2) shall be voting members of the youth council and nonvoting members of the board.

(4) DUTIES.—The duties of the youth council include—

(A) developing the portions of the local plan relating to eligible youth, as determined by the chairperson of the local board;

(B) subject to the approval of the local board and consistent with section 123—

(i) recommending eligible providers of youth activities, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth activities; and

(ii) conducting oversight with respect to the eligible providers of youth activities, in the local area;

(C) coordinating youth activities authorized under section 129 in the local area; and

(D) other duties determined to be appropriate by the chairperson of the local board.

(i) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h), a State may use any local entity (including a local council, regional workforce development board, or similar entity) that—

(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area);

(B) is in existence on December 31, 1997;

(C)(i) is established pursuant to section 102 of the Job Training Partnership Act, as in effect on December 31, 1997; or

(ii) is substantially similar to the local board described in subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h);

(D) includes—

(i) representatives of business in the local area; and

(ii)(I) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations; or

(II) (for a local area in which no employees are represented by such organizations), other representatives of employees in the local area.

(2) REFERENCES.—References in this Act to a local board or a youth council shall be considered to include such an entity or a subgroup of such an entity, respectively.

SEC. 118. LOCAL PLAN.

(a) IN GENERAL.—Each local board shall develop and submit to the Governor a comprehensive 5-year local plan (referred to in this title as the "local plan"), in partnership with the appropriate chief elected official. The plan shall be consistent with the State plan.

(b) CONTENTS.—The local plan shall include—

(1) an identification of—

(A) the workforce investment needs of businesses, jobseekers, and workers in the local area;

(B) the current and projected employment opportunities in the local area; and

(C) the job skills necessary to obtain such employment opportunities;

(2) a description of the one-stop delivery system to be established or designated in the local area, including—

(A) a description of how the local board will ensure the continuous improvement of eligible providers of services through the system and ensure that such providers meet the employment needs of local employers and participants; and

(B) a copy of each memorandum of understanding described in section 121(c) (between the local board and each of the one-stop partners) concerning the operation of the one-stop delivery system in the local area;

(3) a description of the local levels of performance negotiated with the Governor and chief elected official pursuant to section 136(c), to be used to measure the performance of the local area and to be used by the local board for measuring the performance of the local fiscal agent (where appropriate), eligible providers, and the one-stop delivery system, in the local area;

(4) a description and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;

(5) a description of how the local board will coordinate workforce investment activities carried out in the local area with statewide rapid response activities, as appropriate;

(6) a description and assessment of the type and availability of youth activities in the local area, including an identification of successful providers of such activities;

(7) a description of the process used by the local board, consistent with subsection (c), to provide an opportunity for public comment, including comment by representatives of businesses and comment by representatives of labor organizations, and input into the development of the local plan, prior to submission of the plan;

(8) an identification of the entity responsible for the disbursal of grant funds described in section 117(d)(3)(B)(i)(III), as determined by the chief elected official or the Governor under section 117(d)(3)(B)(i);

(9) a description of the competitive process to be used to award the grants and contracts in the local area for activities carried out under this subtitle; and

(10) such other information as the Governor may require.

(c) Process.—Prior to the date on which the local board submits a local plan under this section, the local board shall—

(1) make available copies of a proposed local plan to the public through such means as public hearings and local news media;

(2) allow members of the local board and members of the public, including representatives of business and representatives of labor organizations, to submit comments on the proposed local plan to the local board, not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available; and

(3) include with the local plan submitted to the Governor under this section any such comments that represent disagreement with the plan.

(d) Plan Submission and Approval.—A local plan submitted to the Governor under this section shall be considered to be approved by the Governor at the end of the 90-day period beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the 90-day period that—

(1) deficiencies in activities carried out under this subtitle have been identified, through audits conducted under section 184 or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or

(2) the plan does not comply with this title.

CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES PROVIDERS

SEC. 121. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) In General.—Consistent with the State plan, the local board for a local area, with the agreement of the chief elected official for the local area, shall—

(1) develop and enter into the memorandum of understanding described in subsection (c) with one-stop partners;

(2) designate or certify one-stop operators under subsection (d); and

(3) conduct oversight with respect to the one-stop delivery system in the local area.

(b) One-Stop Partners.—

(1) Required partners.—

(A) In general.—Each entity that carries out a program or activities described in subparagraph (B) shall—

(i) make available to participants, through a one-stop delivery system, the services described in section 134(d)(2) that are applicable to such program or activities; and

(ii) participate in the operation of such system consistent with the terms of the memorandum described in subsection (c), and with the requirements of the Federal law in which the program or activities are authorized.

(B) Programs and activities.—The programs and activities referred to in subparagraph (A) consist of—

(i) programs authorized under this title;

(ii) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(iii) adult education and literacy activities authorized under title II;

(iv) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(v) programs authorized under section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)) (as added by section 5001 of the Balanced Budget Act of 1997);

(vi) activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(vii) postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(viii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(ix) activities authorized under chapter 41 of title 38, United States Code;

(x) employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

(xi) employment and training activities carried out by the Department of Housing and Urban Development; and

(xii) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(2) Additional partners.—

(A) In general.—In addition to the entities described in paragraph (1), other entities that carry out a human resource program described in subparagraph (B) may—

(i) make available to participants, through the one-stop delivery system, the services described in section 134(d)(2) that are applicable to such program; and

(ii) participate in the operation of such system consistent with the terms of the memorandum described in subsection (c), and with the requirements of the Federal law in which the program is authorized;

if the local board and chief elected official involved approve such participation.

(B) Programs.—The programs referred to in subparagraph (A) may include—

(i) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(ii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(iii) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(iv) programs authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.); and

(v) other appropriate Federal, State, or local programs, including programs in the private sector.

(c) Memorandum of Understanding.—

(1) Development.—The local board, with the agreement of the chief elected official, shall develop and enter into a memorandum of understanding (between the local board and the one-stop partners), consistent with paragraph (2), concerning the operation of the one-stop delivery system in the local area.

(2) Contents.—Each memorandum of understanding shall contain—

(A) provisions describing—

(i) the services to be provided through the one-stop delivery system;

(ii) how the costs of such services and the operating costs of the system will be funded;

(iii) methods for referral of individuals between the one-stop operator and the one-stop partners, for the appropriate services and activities; and

(iv) the duration of the memorandum and the procedures for amending the memorandum during the term of the memorandum; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.

(d) One-Stop Operators.—

(1) Designation and certification.—Consistent with paragraphs (2) and (3), the local board, with the agreement of the chief elected official, is authorized to designate or certify one-stop operators and to terminate for cause the eligibility of such operators.

(2) Eligibility.—To be eligible to receive funds made available under this subtitle to operate a one-stop center referred to in section 134(c), an entity (which may be a consortium of entities)—

(A) shall be designated or certified as a one-stop operator—

(i) through a competitive process; or

(ii) in accordance with an agreement reached between the local board and a consortium of entities that, at a minimum, includes 3 or more of the one-stop partners described in subsection (b)(1); and

(B) may be a public or private entity, or consortium of entities, of demonstrated effectiveness, located in the local area, which may include—

(i) a postsecondary educational institution;

(ii) an employment service agency established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), on behalf of the local office of the agency;

(iii) a private, nonprofit organization (including a community-based organization);

(iv) a private for-profit entity;

(v) a government agency; and

(vi) another interested organization or entity, which may include a local chamber of commerce or other business organization.

(3) Exception.—Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop operators, except that nontraditional public secondary schools and area vocational education schools shall be eligible for such designation or certification.

(e) Established One-Stop Delivery System.—If a one-stop delivery system has been established in a local area prior to the date of enactment of this Act, the local board, the chief elected official, and the Governor involved may

agree to certify an entity carrying out activities through the system as a one-stop operator for purposes of subsection (d), consistent with the requirements of subsection (b), of the memorandum of understanding, and of section 134(c).

SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.

(a) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsection (h), to be identified as an eligible provider of training services described in section 134(d)(4) (referred to in this section as "training services") in a local area and to be eligible to receive funds made available under section 133(b) for the provision of training services, a provider of such services shall meet the requirements of this section.

(2) PROVIDERS.—Subject to the provisions of this section, to be eligible to receive the funds, the provider shall be—

(A) a postsecondary educational institution that—

(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate;

(B) an entity that carries out programs under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); or

(C) another public or private provider of a program of training services.

(b) INITIAL ELIGIBILITY DETERMINATION.—

(1) POSTSECONDARY EDUCATIONAL INSTITUTIONS AND ENTITIES CARRYING OUT APPRENTICESHIP PROGRAMS.—To be initially eligible to receive funds as described in subsection (a) to carry out a program described in subparagraph (A) or (B) of subsection (a)(2), a provider described in subparagraph (A) or (B), respectively, of subsection (a)(2) shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time, in such manner, and containing such information as the local board may require.

(2) OTHER ELIGIBLE PROVIDERS.—

(A) PROCEDURE.—Each Governor of a State shall establish a procedure for use by local boards in the State in determining the initial eligibility of a provider described in subsection (a)(2)(C) to receive funds as described in subsection (a) for a program of training services, including the initial eligibility of—

(i) a postsecondary educational institution to receive such funds for a program not described in subsection (a)(2)(A); and

(ii) a provider described in subsection (a)(2)(B) to receive such funds for a program not described in subsection (a)(2)(B).

(B) RECOMMENDATIONS.—In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

(C) OPPORTUNITY TO SUBMIT COMMENTS.—The Governor shall provide an opportunity, during the development of the procedure, for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

(D) REQUIREMENTS.—In establishing the procedure, the Governor shall require that, to be initially eligible to receive funds as described in subsection (a) for a program, a provider described in subsection (a)(2)(C)—

(i) shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time and in such manner as may be required, and containing a description of the program;

(ii) if the provider provides training services through a program on the date of application, shall include in the application an appropriate portion of the performance information and program cost information described in subsection (d) for the program, as specified in the procedure, and shall meet appropriate levels of performance for the program, as specified in the procedure; and

(iii) if the provider does not provide training services on such date, shall meet appropriate requirements, as specified in the procedure.

(c) SUBSEQUENT ELIGIBILITY DETERMINATION.—

(1) PROCEDURE.—Each Governor of a State shall establish a procedure for use by local boards in the State in determining the eligibility of a provider described in subsection (a)(2) to continue to receive funds as described in subsection (a) for a program after an initial period of eligibility under subsection (b) (referred to in this section as "subsequent eligibility").

(2) RECOMMENDATIONS.—In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

(3) OPPORTUNITY TO SUBMIT COMMENTS.—The Governor shall provide an opportunity, during the development of the procedure, for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

(4) CONSIDERATIONS.—In developing such procedure, the Governor shall ensure that the procedure requires the local boards to take into consideration, in making the determinations of subsequent eligibility—

(A) the specific economic, geographic, and demographic factors in the local areas in which providers seeking eligibility are located; and

(B) the characteristics of the populations served by providers seeking eligibility, including the demonstrated difficulties in serving such populations, where applicable.

(5) REQUIREMENTS.—In establishing the procedure, the Governor shall require that, to be eligible to continue to receive funds as described in subsection (a) for a program after the initial period of eligibility, a provider described in subsection (a)(2) shall—

(A) submit the performance information and program cost information described in subsection (d)(1) for the program and any additional information required to be submitted in accordance with subsection (d)(2) for the program annually to the appropriate local board at such time and in such manner as may be required; and

(B) annually meet the performance levels described in paragraph (6) for the program, as demonstrated utilizing quarterly records described in section 136, in a manner consistent with section 136.

(6) LEVELS OF PERFORMANCE.—

(A) IN GENERAL.—At a minimum, the procedure described in paragraph (1) shall require the provider to meet minimum acceptable levels of performance based on the performance information referred to in paragraph (5)(A).

(B) HIGHER LEVELS OF PERFORMANCE ELIGIBILITY.—The local board may require higher levels of performance than the levels referred to in subparagraph (A) for subsequent eligibility to receive funds as described in subsection (a).

(d) PERFORMANCE AND COST INFORMATION.—

(1) REQUIRED INFORMATION.—For a provider of training services to be determined to be subsequently eligible under subsection (c) to receive funds as described in subsection (a), such provider shall, under subsection (c), submit—

(A) verifiable program-specific performance information consisting of—

(i) program information, including—

(I) the program completion rates for all individuals participating in the applicable program conducted by the provider;

(II) the percentage of all individuals participating in the applicable program who obtain unsubsidized employment, which may also include information specifying the percentage of the individuals who obtain unsubsidized employment in an occupation related to the program conducted; and

(III) the wages at placement in employment of all individuals participating in the applicable program; and

(ii) training services information for all participants who received assistance under section 134 to participate in the applicable program, including—

(I) the percentage of participants who have completed the applicable program and who are placed in unsubsidized employment;

(II) the retention rates in unsubsidized employment of participants who have completed the applicable program, 6 months after the first day of the employment;

(III) the wages received by participants who have completed the applicable program, 6 months after the first day of the employment involved; and

(IV) where appropriate, the rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skills, of the graduates of the applicable program; and

(B) information on program costs (such as tuition and fees) for participants in the applicable program.

(2) ADDITIONAL INFORMATION.—Subject to paragraph (3), in addition to the performance information described in paragraph (1)—

(A) the Governor may require that a provider submit, under subsection (c), such other verifiable program-specific performance information as the Governor determines to be appropriate to obtain such subsequent eligibility, which may include information relating to—

(i) retention rates in employment and the subsequent wages of all individuals who complete the applicable program;

(ii) where appropriate, the rates of licensure or certification of all individuals who complete the program; and

(iii) the percentage of individuals who complete the program who attain industry-recognized occupational skills in the subject, occupation, or industry for which training is provided through the program, where applicable; and

(B) the Governor, or the local board, may require a provider to submit, under subsection (c), other verifiable program-specific performance information to obtain such subsequent eligibility.

(3) CONDITIONS.—

(A) IN GENERAL.—If the Governor or a local board requests additional information under paragraph (2) that imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information required under paragraph (1)(A)(ii)), the Governor or the local board shall provide access to cost-effective methods for the collection of the information involved, or the Governor shall provide additional resources to assist providers in the collection of such information from funds made available as described in sections 128(a) and 133(a)(1), as appropriate.

(B) HIGHER EDUCATION ELIGIBILITY REQUIREMENTS.—The local board and the designated State agency described in subsection (i) may accept program-specific performance information consistent with the requirements for eligibility under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) from a provider for purposes of enabling the provider to fulfill the applicable requirements of this subsection, if such information is substantially similar to the information otherwise required under this subsection.

(e) Local Identification.—

(1) In general.—The local board shall place on a list providers submitting an application under subsection (b)(1) and providers determined to be initially eligible under subsection (b)(2), and retain on the list providers determined to be subsequently eligible under subsection (c), to receive funds as described in subsection (a) for the provision of training services in the local area served by the local board. The list of providers shall be accompanied by any performance information and program cost information submitted under subsection (b) or (c) by the provider.

(2) Submission to state agency.—On placing or retaining a provider on the list, the local board shall submit, to the designated State agency described in subsection (i), the list and the performance information and program cost information referred to in paragraph (1). If the agency determines, within 30 days after the date of the submission, that the provider does not meet the performance levels described in subsection (c)(6) for the program (where applicable), the agency may remove the provider from the list for the program. The agency may not remove from the list an agency submitting an application under subsection (b)(1).

(3) Identification of eligible providers.—A provider who is placed or retained on the list under paragraph (1), and is not removed by the designated State agency under paragraph (2), for a program, shall be considered to be identified as an eligible provider of training services for the program.

(4) Availability.—

(A) State list.—The designated State agency shall compile a single list of the providers identified under paragraph (3) from all local areas in the State and disseminate such list, and the performance information and program cost information described in paragraph (1), to the one-stop delivery systems within the State. Such list and information shall be made widely available to participants in employment and training activities authorized under section 134 and others through the one-stop delivery system.

(B) Selection from state list.—Individuals eligible to receive training services under section 134(d)(4) shall have the opportunity to select any of the eligible providers, from any of the local areas in the State, that are included on the list described in subparagraph (A) to provide the services, consistent with the requirements of section 134.

(5) Acceptance of individual training accounts by other states.—States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services in a State to accept individual training accounts provided in another State.

(f) Enforcement.—

(1) Accuracy of information.—If the designated State agency, after consultation with the local board involved, determines that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information under this section, the agency shall terminate the eligibility of the provider to receive funds described in subsection (a) for any program for a period of time, but not less than 2 years.

(2) Noncompliance.—If the designated State agency, or the local board working with the State agency, determines that an eligible provider described in subsection (a) substantially violates any requirement under this Act, the agency, or the local board working with the State agency, may terminate the eligibility of such provider to receive funds described in subsection (a) for the program involved or take such other action as the agency or local board determines to be appropriate.

(3) Repayment.—A provider whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of all funds described in subsection (a) received for the program during any period of noncompliance described in such paragraph.

(4) Construction.—This subsection and subsection (g) shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

(g) Appeal.—The Governor shall establish procedures for providers of training services to appeal a denial of eligibility by the local board or the designated State agency under subsection (b), (c), or (e), a termination of eligibility or other action by the board or agency under subsection (f), or a denial of eligibility by a one-stop operator under subsection (h). Such procedures shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(h) On-the-Job Training or Customized Training Exception.—

(1) In general.—Providers of on-the-job training or customized training shall not be subject to the requirements of subsections (a) through (e).

(2) Collection and dissemination of information.—A one-stop operator in a local area shall collect such performance information from on-the-job training and customized training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.

(i) Administration.—The Governor shall designate a State agency to make the determinations described in subsection (e)(2), take the enforcement actions described in subsection (f), and carry out other duties described in this section.

SEC. 123. IDENTIFICATION OF ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

From funds allocated under paragraph (2)(A) or (3) of section 128(b) to a local area, the local board for such area shall identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council and on the criteria contained in the State plan, to the providers to carry out the activities, and shall conduct oversight with respect to the providers, in the local area.

CHAPTER 4—YOUTH ACTIVITIES

SEC. 126. GENERAL AUTHORIZATION.

The Secretary shall make an allotment under section 127(b)(1)(C) to each State that meets the requirements of section 112 and a grant to each outlying area that complies with the requirements of this title, to assist the State or outlying area, and to enable the State or outlying area to assist local areas, for the purpose of providing workforce investment activities for eligible youth in the State or outlying area and in the local areas.

SEC. 127. STATE ALLOTMENTS.

(a) In General.—The Secretary shall—

(1) for each fiscal year in which the amount appropriated under section 137(a) exceeds $1,000,000,000, reserve a portion determined under subsection (b)(1)(A) of the amount appropriated under section 137(a) for use under sections 167 (relating to migrant and seasonal farmworker programs) and 169 (relating to youth opportunity grants); and

(2) use the remainder of the amount appropriated under section 137(a) for a fiscal year to make allotments and grants in accordance with subparagraphs (B) and (C) of subsection (b)(1) and make funds available for use under section 166 (relating to Native American programs).

(b) Allotment Among States.—

(1) Youth activities.—

(A) Youth opportunity grants.—

(i) In general.—For each fiscal year in which the amount appropriated under section 137(a) exceeds $1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth opportunity grants and other activities under section 169 (relating to youth opportunity grants) and provide youth activities under section 167 (relating to migrant and seasonal farmworker programs).

(ii) Portion.—The portion referred to in clause (i) shall equal, for a fiscal year—

(I) except as provided in subclause (II), the difference obtained by subtracting $1,000,000,000 from the amount appropriated under section 137(a) for the fiscal year; or

(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

(iii) Youth activities for farmworkers.—From the portion described in clause (i) for a fiscal year, the Secretary shall make available 4 percent of such portion to provide youth activities under section 167.

(iv) Role model academy project.—From the portion described in clause (i) for fiscal year 1999, the Secretary shall make available such sums as the Secretary determines to be appropriate to carry out section 169(g).

(B) Outlying areas.—

(i) In general.—From the amount made available under subsection (a)(2) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent of the amount appropriated under section 137(a) for the fiscal year—

(I) to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities; and

(II) for each of fiscal years 1999, 2000, and 2001, to carry out the competition described in clause (ii), except that the funds reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1997, from amounts reserved under sections 252(a) and 262(a)(1) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

(ii) Limitation for freely associated states.—

(I) Competitive grants.—The Secretary shall use funds described in clause (i)(II) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

(II) Award basis.—The Secretary shall award grants pursuant to subclause (I) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(III) Assistance requirements.—Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

(bb) an assurance that, notwithstanding any other provision of this title, the Freely Associated State will use such assistance only for the direct provision of services; and

(cc) such other information and assurances as the Secretary may require.

(IV) Termination of eligibility.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any assistance under this subparagraph for any program year that begins after September 30, 2001.

(V) Administrative costs.—The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

(iii) Additional requirement.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including the Freely Associated States, under this subparagraph.

(C) States.—

(i) In general.—After determining the amounts to be reserved under subparagraph (A) (if any) and subparagraph (B), the Secretary shall—

(I) from the amount referred to in subsection (a)(2) for a fiscal year, make available not more than 1.5 percent to provide youth activities under section 166 (relating to Native Americans); and

(II) allot the remainder of the amount referred to in subsection (a)(2) for a fiscal year to the States pursuant to clause (ii) for youth activities and statewide workforce investment activities.

(ii) Formula.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33$\frac{1}{3}$ percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) 33$\frac{1}{3}$ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33$\frac{1}{3}$ percent shall be allotted on the basis of the relative number of disadvantaged youth in each State, compared to the total number of disadvantaged youth in all States, except as described in clause (iii).

(iii) Calculation.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 116(a)(2)(B) (relating to the area served by a rural concentrated employment program grant recipient), the allotment shall be based on the higher of—

(I) the number of individuals who are age 16 through 21 in families with an income below the low-income level in such area; or

(II) the number of disadvantaged youth in such area.

(iv) Minimum and maximum percentages and minimum allotments.—In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) Minimum percentage and allotment.—Subject to subclause (IV), the Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than the greater of—

(aa) an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year; or

(bb) 100 percent of the total of the allotments of the State under sections 252 and 262 of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) for fiscal year 1998.

(II) Small state minimum allotment.—Subject to subclauses (I), (III), and (IV), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

(aa) $\frac{3}{10}$ of 1 percent of $1,000,000,000 of the remainder described in clause (i)(II) for the fiscal year; and

(bb) if the remainder described in clause (i)(II) for the fiscal year exceeds $1,000,000,000, $\frac{2}{5}$ of 1 percent of the excess.

(III) Maximum percentage.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(IV) Minimum funding.—In any fiscal year in which the remainder described in clause (i)(II) does not exceed $1,000,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology for calculating the corresponding allotments under parts B and C of title II of the Job Training Partnership Act, as in effect on July 1, 1998.

(2) Definitions.—For the purpose of the formula specified in paragraph (1)(C):

(A) Allotment percentage.—The term "allotment percentage", used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i)(II) that is received through an allotment made under paragraph (1)(C) for the fiscal year. The term, used with respect to fiscal year 1998 or 1999, means the percentage of the amounts allotted to States under sections 252(b) and 262(a) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) that is received under such sections by the State involved for fiscal year 1998 or 1999.

(B) Area of substantial unemployment.—The term "area of substantial unemployment" means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subparagraph, determinations of areas of substantial unemployment shall be made once each fiscal year.

(C) Disadvantaged youth.—Subject to paragraph (3), the term "disadvantaged youth" means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(i) the poverty line; or

(ii) 70 percent of the lower living standard income level.

(D) Excess number.—The term "excess number" means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(E) Low-income level.—The term "low-income level" means $7,000 with respect to income in 1969, and for any later year means that amount that bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

(3) Special rule.—For the purpose of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.

(4) Definition.—In this subsection, the term "Freely Associated State" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(c) Reallotment.—

(1) In general.—The Secretary shall, in accordance with this subsection, reallot to eligible States amounts that are allotted under this section for youth activities and statewide workforce investment activities and that are available for reallotment.

(2) Amount.—The amount available for reallotment for a program year is equal to the amount by which the unobligated balance of the State allotment under this section for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotment for the prior program year.

(3) Reallotment.—In making reallotments to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such State under this section for such activities for the prior program year, as compared to the total amount allotted to all eligible States under this section for such activities for such prior program year.

(4) Eligibility.—For purposes of this subsection, an eligible State means a State that has obligated at least 80 percent of the State allotment under this section for such activities for the program year prior to the program year for which the determination under paragraph (2) is made.

(5) Procedures.—The Governor of each State shall prescribe uniform procedures for the obligation of funds by local areas within the State in order to avoid the requirement that funds be made available for reallotment under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallotment under this subsection.

SEC. 128. WITHIN STATE ALLOCATIONS.

(a) Reservations for State Activities.—

(1) In general.—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and (2)(B) of section 132(b) for a fiscal year for statewide workforce investment activities.

(2) Use of funds.—Regardless of whether the reserved amounts were allotted under section 127(b)(1)(C), or under paragraph (1)(B) or (2)(B) of section 132(b), the Governor may use the reserved amounts to carry out statewide youth activities described in section 129(b) or statewide employment and training activities, for adults or for dislocated workers, described in paragraph (2)(B) or (3) of section 134(a).

(b) Within State Allocation.—

(1) Methods.—The Governor, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate the funds that are allotted to the State for youth activities and statewide workforce investment activities under section 127(b)(1)(C) and are not reserved under subsection (a), in accordance with paragraph (2) or (3).

(2) Formula allocation.—

(A) Youth activities.—

(i) Allocation.—In allocating the funds described in paragraph (1) to local areas, a State may allocate—

(I) 33$\frac{1}{3}$ percent of the funds on the basis described in section 127(b)(1)(C)(ii)(I);

(II) 33$\frac{1}{3}$ percent of the funds on the basis described in section 127(b)(1)(C)(ii)(II); and

(III) 33$\frac{1}{3}$ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 127(b)(1)(C).

(ii) Minimum percentage.—Effective at the end of the second full fiscal year after the date on which a local area is designated under section 116, the local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing *such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.*

(iii) DEFINITION.—The term "allocation percentage", used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year.

(B) APPLICATION.—For purposes of carrying out subparagraph (A)—

(i) references in section 127(b) to a State shall be deemed to be references to a local area;

(ii) references in section 127(b) to all States shall be deemed to be references to all local areas in the State involved; and

(iii) except as described in clause (i), references in section 127(b)(1) to the term "excess number" shall be considered to be references to the term as defined in section 127(b)(2).

(3) YOUTH DISCRETIONARY ALLOCATION.—In lieu of making the allocation described in paragraph (2)(A), in allocating the funds described in paragraph (1) to local areas, a State may distribute—

(A) a portion equal to not less than 70 percent of the funds in accordance with paragraph (2)(A); and

(B) the remaining portion of the funds on the basis of a formula that—

(i) incorporates additional factors (other than the factors described in paragraph (2)(A)) relating to—

(I) excess youth poverty in urban, rural, and suburban local areas; and

(II) excess unemployment above the State average in urban, rural, and suburban local areas; and

(ii) was developed by the State board and approved by the Secretary as part of the State plan.

(4) LIMITATION.—

(A) IN GENERAL.—Of the amount allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be used by the local board for the administrative cost of carrying out local workforce investment activities described in subsection (d) or (e) of section 134 or in section 129(c).

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the local workforce investment activities described in subsection (d) or (e) of section 134 or in section 129(c), regardless of whether the funds were allocated under this subsection or section 133(b).

(C) REGULATIONS.—The Secretary, after consulting with the Governors, shall develop and issue regulations that define the term "administrative cost" for purposes of this title. Such definition shall be consistent with generally accepted accounting principles.

(c) REALLOCATION AMONG LOCAL AREAS.—

(1) IN GENERAL.—The Governor may, in accordance with this subsection, reallocate to eligible local areas within the State amounts that are allocated under paragraph (2)(A) or (3) of subsection (b) for youth activities and that are available for reallocation.

(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made exceeds 20 percent of such allocation for the prior program year.

(3) REALLOCATION.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State an amount based on the relative amount allocated to such local area under subsection (b)(3) for such activities for the prior program year, as compared to the total amount allocated to all eligible local areas in the State under subsection (b)(3) for such activities for such prior program year. For purposes of this paragraph, local areas that received allocations under subsection (b)(2)(A) for the prior program year shall be treated as if the local areas received allocations under subsection (b)(3) for such year.

(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that has obligated at least 80 percent of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, for the program year prior to the program year for which the determination under paragraph (2) is made.

SEC. 129. USE OF FUNDS FOR YOUTH ACTIVITIES.

(a) PURPOSES.—The purposes of this section are—

(1) to provide, to eligible youth seeking assistance in achieving academic and employment success, effective and comprehensive activities, which shall include a variety of options for improving educational and skill competencies and provide effective connections to employers;

(2) to ensure on-going mentoring opportunities for eligible youth with adults committed to providing such opportunities;

(3) to provide opportunities for training to eligible youth;

(4) to provide continued supportive services for eligible youth;

(5) to provide incentives for recognition and achievement to eligible youth; and

(6) to provide opportunities for eligible youth in activities related to leadership, development, decisionmaking, citizenship, and community service.

(b) STATEWIDE YOUTH ACTIVITIES.—

(1) IN GENERAL.—Funds reserved by a Governor for a State as described in sections 128(a) and 133(a)(1)—

(A) shall be used to carry out the statewide youth activities described in paragraph (2); and

(B) may be used to carry out any of the statewide youth activities described in paragraph (3),

regardless of whether the funds were allotted to the State under section 127(b)(1) or under paragraph (1) or (2) of section 132(b).

(2) REQUIRED STATEWIDE YOUTH ACTIVITIES.—A State shall use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out statewide youth activities, which shall include—

(A) disseminating a list of eligible providers of youth activities described in section 123;

(B) carrying out activities described in clauses (ii) through (vi) of section 134(a)(2)(B), except that references in such clauses to activities authorized under section 134 shall be considered to be references to activities authorized under this section; and

(C) providing additional assistance to local areas that have high concentrations of eligible youth to carry out the activities described in subsection (c).

(3) ALLOWABLE STATEWIDE YOUTH ACTIVITIES.—A State may use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out additional statewide youth activities, which may include—

(A) carrying out activities described in clauses (i), (ii), (iii), (iv)(II), and (vi)(II) of section 134(a)(3)(A), except that references in such clauses to activities authorized under section 134 shall be considered to be references to activities authorized under this section; and

(B) carrying out, on a statewide basis, activities described in subsection (c).

(4) PROHIBITION.—No funds described in this subsection or section 134(a) shall be used to develop or implement education curricula for school systems in the State.

(c) LOCAL ELEMENTS AND REQUIREMENTS.—

(1) PROGRAM DESIGN.—Funds allocated to a local area for eligible youth under paragraph (2)(A) or (3), as appropriate, of section 128(b) shall be used to carry out, for eligible youth, programs that—

(A) provide an objective assessment of the academic levels, skill levels, and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), supportive service needs, and developmental needs of such participant, except that a new assessment of a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program;

(B) develop service strategies for each participant that shall identify an employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for the participant taking into account the assessment conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program; and

(C) provide—

(i) preparation for postsecondary educational opportunities, in appropriate cases;

(ii) strong linkages between academic and occupational learning;

(iii) preparation for unsubsidized employment opportunities, in appropriate cases; and

(iv) effective connections to intermediaries with strong links to—

(I) the job market; and

(II) local and regional employers.

(2) PROGRAM ELEMENTS.—The programs described in paragraph (1) shall provide elements consisting of—

(A) tutoring, study skills training, and instruction, leading to completion of secondary school, including dropout prevention strategies;

(B) alternative secondary school services, as appropriate;

(C) summer employment opportunities that are directly linked to academic and occupational learning;

(D) as appropriate, paid and unpaid work experiences, including internships and job shadowing;

(E) occupational skill training, as appropriate;

(F) leadership development opportunities, which may include community service and peer-centered activities encouraging responsibility and other positive social behaviors during nonschool hours, as appropriate;

(G) supportive services;

(H) adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months;

(I) followup services for not less than 12 months after the completion of participation, as appropriate; and

(J) comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate.

(3) ADDITIONAL REQUIREMENTS.—

(A) INFORMATION AND REFERRALS.—Each local board shall ensure that each participant or applicant who meets the minimum income criteria to be considered an eligible youth shall be provided—

(i) information on the full array of applicable or appropriate services that are available through the local board or other eligible providers or one-stop partners, including those receiving funds under this subtitle; and

(ii) referral to appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—Each eligible provider of a program of youth activities shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program or who cannot be served shall be referred for further assessment, as necessary, and referred to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.

(C) INVOLVEMENT IN DESIGN AND IMPLEMENTATION.—The local board shall ensure that parents, participants, and other members of the community with experience relating to programs for youth are involved in the design and implementation of the programs described in paragraph (1).

(4) PRIORITY.—

(A) IN GENERAL.—At a minimum, 30 percent of the funds described in paragraph (1) shall be used to provide youth activities to out-of-school youth.

(B) EXCEPTION.—A State that receives a minimum allotment under section 127(b)(1) in accordance with section 127(b)(1)(C)(iv)(II) or under section 132(b)(1) in accordance with section 132(b)(1)(B)(iv)(II) may reduce the percentage described in subparagraph (A) for a local area in the State, if—

(i) after an analysis of the eligible youth population in the local area, the State determines that the local area will be unable to meet the percentage described in subparagraph (A) due to a low number of out-of-school youth; and

(ii)(I) the State submits to the Secretary, for the local area, a request including a proposed reduced percentage for purposes of subparagraph (A), and the summary of the eligible youth population analysis; and

(II) the request is approved by the Secretary.

(5) EXCEPTIONS.—Not more than 5 percent of participants assisted under this section in each local area may be individuals who do not meet the minimum income criteria to be considered eligible youth, if such individuals are within 1 or more of the following categories:

(A) Individuals who are school dropouts.

(B) Individuals who are basic skills deficient.

(C) Individuals with educational attainment that is 1 or more grade levels below the grade level appropriate to the age of the individuals.

(D) Individuals who are pregnant or parenting.

(E) Individuals with disabilities, including learning disabilities.

(F) Individuals who are homeless or runaway youth.

(G) Individuals who are offenders.

(H) Other eligible youth who face serious barriers to employment as identified by the local board.

(6) PROHIBITIONS.—

(A) PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION.—No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution, school, or school system.

(B) NONDUPLICATION.—All of the funds made available under this Act shall be used in accordance with the requirements of this Act. None of the funds made available under this Act may be used to provide funding under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.) or to carry out, through programs funded under this Act, activities that were funded under the School-to-Work Opportunities Act of 1994, unless the programs funded under this Act serve only those participants eligible to participate in the programs under this Act.

(C) NONINTERFERENCE AND NONREPLACEMENT OF REGULAR ACADEMIC REQUIREMENTS.—No funds described in paragraph (1) shall be used to provide an activity for eligible youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

(7) LINKAGES.—In coordinating the programs authorized under this section, youth councils shall establish linkages with educational agencies responsible for services to participants as appropriate.

(8) VOLUNTEERS.—The local board shall make opportunities available for individuals who have successfully participated in programs carried out under this section to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

CHAPTER 5—ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES

SEC. 131. GENERAL AUTHORIZATION.

The Secretary shall make allotments under paragraphs (1)(B) and (2)(B) of section 132(b) to each State that meets the requirements of section 112 and a grant to each outlying area that complies with the requirements of this title, to assist the State or outlying area, and to enable the State or outlying area to assist local areas, for the purpose of providing workforce investment activities for adults, and dislocated workers, in the State or outlying area and in the local areas.

SEC. 132. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall—

(1) make allotments and grants from the total amount appropriated under section 137(b) for a fiscal year in accordance with subsection (b)(1); and

(2)(A) reserve 20 percent of the amount appropriated under section 137(c) for a fiscal year for use under subsection (b)(2)(A), and under sections 170(b) (relating to dislocated worker technical assistance), 171(d) (relating to dislocated worker projects), and 173 (relating to national emergency grants); and

(B) make allotments from 80 percent of the amount appropriated under section 137(c) for a fiscal year in accordance with subsection (b)(2)(B).

(b) ALLOTMENT AMONG STATES.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) RESERVATION FOR OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(1) for a fiscal year, the Secretary shall reserve not more than $\frac{1}{4}$ of 1 percent to provide assistance to the outlying areas.

(ii) APPLICABILITY OF ADDITIONAL REQUIREMENTS.—From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for adult employment and training activities and statewide workforce investment activities in accordance with the requirements of section 127(b)(1)(B), except that the reference in section 127(b)(1)(B)(i)(II) to sections 252(d) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 202(a)(1) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

(B) STATES.—

(i) IN GENERAL.—After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount referred to in subsection (a)(1) for a fiscal year to the States pursuant to clause (ii) for adult employment and training activities and statewide workforce investment activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 116(a)(2)(B), the allotment shall be based on the higher of—

(I) the number of adults in families with an income below the low-income level in such area; or

(II) the number of disadvantaged adults in such area.

(iv) MINIMUM AND MAXIMUM PERCENTAGES AND MINIMUM ALLOTMENTS.—In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) MINIMUM PERCENTAGE AND ALLOTMENT.—Subject to subclause (IV), the Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than the greater of—

(aa) an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year; or

(bb) 100 percent of the allotment of the State under section 202 of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) for fiscal year 1998.

(II) SMALL STATE MINIMUM ALLOTMENT.—Subject to subclauses (I), (III), and (IV), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

(aa) $\frac{3}{10}$ of 1 percent of $960,000,000 of the remainder described in clause (i) for the fiscal year; and

(bb) if the remainder described in clause (i) for the fiscal year exceeds $960,000,000, $\frac{2}{5}$ of 1 percent of the excess.

(III) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(IV) MINIMUM FUNDING.—In any fiscal year in which the remainder described in clause (i) does not exceed $960,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology for calculating the corresponding allotments under part A of title II of the Job Training Partnership Act, as in effect on July 1, 1998.

(v) DEFINITIONS.—For the purpose of the formula specified in this subparagraph:

(I) ADULT.—The term "adult" means an individual who is not less than age 22 and not more than age 72.

(II) ALLOTMENT PERCENTAGE.—The term "allotment percentage", used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the remainder described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year. The term, used with respect to fiscal year 1998 or 1999, means the percentage of the amounts allotted to States under section 202(a) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) that is received under such section by the State involved for fiscal year 1998 or 1999.

(III) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term "area of substantial unemployment" means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

(IV) DISADVANTAGED ADULT.—Subject to subclause (V), the term "disadvantaged adult" means an adult who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(V) DISADVANTAGED ADULT SPECIAL RULE.—The Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged adults.

(VI) EXCESS NUMBER.—The term "excess number" means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(aa) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(bb) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(2) DISLOCATED WORKER EMPLOYMENT AND TRAINING.—

(A) RESERVATION FOR OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(2)(A) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent of the amount appropriated under section 137(c) for the fiscal year to provide assistance to the outlying areas.

(ii) APPLICABILITY OF ADDITIONAL REQUIREMENTS.—From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for dislocated worker employment and training activities and statewide workforce investment activities in accordance with the requirements of section 127(b)(1)(B), except that the reference in section 127(b)(1)(B)(i)(II) to sections 252(a) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 302(e) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

(B) STATES.—

(i) IN GENERAL.—The Secretary shall allot the amount referred to in subsection (a)(2)(B) for a fiscal year to the States pursuant to clause (ii) for dislocated worker employment and training activities and statewide workforce investment activities.

(ii) FORMULA.—Of the amount—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(II) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33⅓ percent shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 15 weeks or more, compared to the total number of individuals in all States who have been unemployed for 15 weeks or more.

(iii) DEFINITION.—In this subparagraph, the term "excess number" means, used with respect to the excess number of unemployed individuals within a State, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(3) DEFINITIONS.—For the purpose of the formulas specified in this subsection:

(A) FREELY ASSOCIATED STATES.—The term "Freely Associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) LOW-INCOME LEVEL.—The term "low-income level" means $7,000 with respect to income in 1969, and for any later year means that amount that bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

(c) REALLOTMENT.—

(1) IN GENERAL.—The Secretary shall, in accordance with this subsection, reallot to eligible States amounts that are allotted under this section for employment and training activities and statewide workforce investment activities and that are available for reallotment.

(2) AMOUNT.—The amount available for reallotment for a program year is equal to the amount by which the unobligated balance of the State allotments under this section for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotments for the prior program year.

(3) REALLOTMENT.—In making reallotments to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such State under this section for such activities for the prior program year, as compared to the total amount allotted to all eligible States under this section for such activities for such prior program year.

(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that has obligated at least 80 percent of the State allotment under this section for such activities for the program year prior to the program year for which the determination under paragraph (2) is made.

(5) PROCEDURES.—The Governor of each State shall prescribe uniform procedures for the obligation of funds by local areas within the State in order to avoid the requirement that funds be made available for reallotment under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallotment under this subsection.

SEC. 133. WITHIN STATE ALLOCATIONS.

(a) RESERVATIONS FOR STATE ACTIVITIES.—

(1) STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—The Governor of a State shall make the reservation required under section 128(a).

(2) STATEWIDE RAPID RESPONSE ACTIVITIES.—The Governor of the State shall reserve not more than 25 percent of the total amount allotted to the State under section 132(b)(2)(B) for a fiscal year for statewide rapid response activities described in section 134(a)(2)(A).

(b) WITHIN STATE ALLOCATION.—

(1) METHODS.—The Governor, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate—

(A) the funds that are allotted to the State for adult employment and training activities and statewide workforce investment activities under section 132(b)(1)(B) and are not reserved under subsection (a)(1), in accordance with paragraph (2) or (3); and

(B) the funds that are allotted to the State for dislocated worker employment and training activities under section 132(b)(2)(B) and are not reserved under paragraph (1) or (2) of subsection (a), in accordance with paragraph (2).

(2) FORMULA ALLOCATIONS.—

(A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) ALLOCATION.—In allocating the funds described in paragraph (1)(A) to local areas, a State may allocate—

(I) 33⅓ percent of the funds on the basis described in section 132(b)(1)(B)(ii)(I);

(II) 33⅓ percent of the funds on the basis described in section 132(b)(1)(B)(ii)(II); and

(III) 33⅓ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 132(b)(1)(B).

(ii) MINIMUM PERCENTAGE.—Effective at the end of the second full fiscal year after the date on which a local area is designated under section 116, the local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) DEFINITION.—The term "allocation percentage", used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year.

(B) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) FORMULA.—In allocating the funds described in paragraph (1)(B) to local areas, a State shall allocate the funds based on an allocation formula prescribed by the Governor of the State. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State's worker readjustment assistance needs.

(ii) INFORMATION.—The information described in clause (i) shall include insured unemployment data, unemployment concentrations, plant closing and mass layoff data, declining industries data, farmer-rancher economic hardship data, and long-term unemployment data.

(C) APPLICATION.—For purposes of carrying out subparagraph (A)—

(i) references in section 132(b) to a State shall be deemed to be references to a local area;

(ii) references in section 132(b) to all States shall be deemed to be references to all local areas in the State involved; and

(iii) except as described in clause (i), references in section 132(b)(1) to the term "excess number" shall be considered to be references to the term as defined in section 132(b)(1).

(3) ADULT EMPLOYMENT AND TRAINING DISCRETIONARY ALLOCATIONS.—In lieu of making the allocation described in paragraph (2)(A), in allocating the funds described in paragraph (1)(A) to local areas, a State may distribute—

(A) a portion equal to not less than 70 percent of the funds in accordance with paragraph (2)(A); and

(B) the remaining portion of the funds on the basis of a formula that—

(i) incorporates additional factors (other than the factors described in paragraph (2)(A)) relating to—

(I) excess poverty in urban, rural, and suburban local areas; and

(II) excess unemployment above the State average in urban, rural, and suburban local areas; and

(ii) was developed by the State board and approved by the Secretary as part of the State plan.

(4) TRANSFER AUTHORITY.—A local board may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (2)(A) or (3), and 20 percent of the funds allocated to the local area under paragraph (2)(B), for a fiscal year between—

(A) adult employment and training activities; and

(B) dislocated worker employment and training activities.

(5) ALLOCATION.—

(A) IN GENERAL.—The Governor of the State shall allocate the funds described in paragraph (1) to local areas under paragraphs (2) and (3) for the purpose of providing a single system of employment and training activities for adults and dislocated workers in accordance with subsections (d) and (e) of section 134.

(B) ADDITIONAL REQUIREMENTS.—

(i) ADULTS.—Funds allocated under paragraph (2)(A) or (3) shall be used by a local area to contribute proportionately to the costs of the one-stop delivery system described in section 134(c) in the local area, and to pay for employment and training activities provided to adults in the local area, consistent with section 134.

(ii) DISLOCATED WORKERS.—Funds allocated under paragraph (2)(B) shall be used by a local area to contribute proportionately to the costs of the one-stop delivery system described in section 134(c) in the local area, and to pay for employment and training activities provided to dislocated workers in the local area, consistent with section 134.

(c) REALLOCATION AMONG LOCAL AREAS.—

(1) IN GENERAL.—The Governor may, in accordance with this subsection, reallocate to eligible local areas within the State amounts that are allocated under paragraph (2)(A) or (3) of subsection (b) for adult employment and training activities and that are available for reallocation.

(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made exceeds 20 percent of such allocation for the prior program year.

(3) REALLOCATION.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State an amount based on the relative amount allocated to such local area under subsection (b)(3) for such activities for the prior program year, as compared to the total amount allocated to all eligible local areas in the State under subsection (b)(3) for such activities for such prior program year. For purposes of this paragraph, local areas that received allocations under subsection (b)(2)(A) for the prior program year shall be treated as if the local areas received allocations under subsection (b)(3) for such year.

(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that has obligated at least 80 percent of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, for the program year prior to the program year for which the determination under paragraph (2) is made.

SEC. 134. USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.

(a) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) IN GENERAL.—Funds reserved by a Governor for a State—

(A) as described in section 133(a)(2) shall be used to carry out the statewide rapid response activities described in paragraph (2)(A); and

(B) as described in sections 128(a) and 133(a)(1)—

(i) shall be used to carry out the statewide employment and training activities described in paragraph (2)(B); and

(ii) may be used to carry out any of the statewide employment and training activities described in paragraph (3),

regardless of whether the funds were allotted to the State under section 127(b)(1) or under paragraph (1) or (2) of section 132(b).

(2) REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—A State shall use funds reserved as described in section 133(a)(2) to carry out statewide rapid response activities, which shall include—

(i) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials in the local areas; and

(ii) provision of additional assistance to local areas that experience disasters, mass layoffs or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials in the local areas.

(B) OTHER REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—A State shall use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out other statewide employment and training activities, which shall include—

(i) disseminating the State list of eligible providers of training services, including eligible providers of nontraditional training services, information identifying eligible providers of on-the-job training and customized training, and performance information and program cost information, as described in subsections (e) and (h) of section 122;

(ii) conducting evaluations, under section 136(e), of activities authorized in this section, in coordination with the activities carried out under section 172;

(iii) providing incentive grants to local areas for regional cooperation among local boards (including local boards for a designated region as described in section 116(c)), for local coordination of activities carried out under this Act, and for exemplary performance by local areas on the local performance measures;

(iv) providing technical assistance to local areas that fail to meet local performance measures;

(v) assisting in the establishment and operation of one-stop delivery systems described in subsection (c); and

(vi) operating a fiscal and management accountability information system under section 136(f).

(3) ALLOWABLE STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) IN GENERAL.—A State may use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out additional statewide employment and training activities, which may include—

(i) subject to subparagraph (B), administration by the State of the activities authorized under this section;

(ii) provision of capacity building and technical assistance to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff and the development of exemplary program activities;

(iii) conduct of research and demonstrations;

(iv)(I) implementation of innovative incumbent worker training programs, which may include the establishment and implementation of an employer loan program to assist in skills upgrading; and

(II) the establishment and implementation of programs targeted to empowerment zones and enterprise communities;

(v) support for the identification of eligible providers of training services as required under section 122;

(vi)(I) implementation of innovative programs for displaced homemakers, which for purposes of this subclause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

(II) implementation of programs to increase the number of individuals training for and placed in nontraditional employment; and

(vii) carrying out other activities authorized in this section that the State determines to be necessary to assist local areas in carrying out activities described in subsection (d) or (e) through the statewide workforce investment system.

(B) LIMITATION.—

(i) IN GENERAL.—Of the funds allotted to a State under sections 127(b) and 132(b) and reserved as described in sections 128(a) and 133(a)(1) for a fiscal year—

(I) not more than 5 percent of the amount allotted under section 127(b)(1);

(II) not more than 5 percent of the amount allotted under section 132(b)(1); and

(III) not more than 5 percent of the amount allotted under section 132(b)(2),

may be used by the State for the administration of youth activities carried out under section 129 and employment and training activities carried out under this section.

(ii) USE OF FUNDS.—Funds made available for administrative costs under clause (i) may be used for the administrative cost of any of the statewide youth activities or statewide employment and training activities, regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b).

(b) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to a local area for dislocated workers under section 133(b)(2)(B)—

(1) shall be used to carry out employment and training activities described in subsection (d) for adults or dislocated workers, respectively; and

(2) may be used to carry out employment and training activities described in subsection (e) for adults or dislocated workers, respectively.

(c) ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEM.—

(1) IN GENERAL.—There shall be established in a State that receives an allotment under section 132(b) a one-stop delivery system, which—

(A) shall provide the core services described in subsection (d)(2);

(B) shall provide access to intensive services and training services as described in paragraphs (3) and (4) of subsection (d), including serving as the point of access to individual training accounts for training services to participants in accordance with subsection (d)(4)(G);

(C) shall provide access to the activities carried out under subsection (e), if any;

(D) shall provide access to programs and activities carried out by one-stop partners and described in section 121(b); and

(E) shall provide access to the information described in section 15 of the Wagner-Peyser Act and all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(2) ONE-STOP DELIVERY.—At a minimum, the one-stop delivery system—

(A) shall make each of the programs, services, and activities described in paragraph (1) accessible at not less than 1 physical center in each local area of the State; and

(B) may also make programs, services, and activities described in paragraph (1) available—

(i) through a network of affiliated sites that can provide 1 or more of the programs, services, and activities to individuals; and

(ii) through a network of eligible one-stop partners—

(I) in which each partner provides 1 or more of the programs, services, and activities to such individuals and is accessible at an affiliated site that consists of a physical location or an electronically or technologically linked access point; and

(II) that assures individuals that information on the availability of the core services will be available regardless of where the individuals initially enter the statewide workforce investment system, including information made available through an access point described in subclause (I).

(3) SPECIALIZED CENTERS.—The centers and sites described in paragraph (2) may have a specialization in addressing special needs, such as the needs of dislocated workers.

(d) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) IN GENERAL.—

(A) ALLOCATED FUNDS.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used—

(i) to establish a one-stop delivery system described in subsection (c);

(ii) to provide the core services described in paragraph (2) to adults and dislocated workers, respectively, through the one-stop delivery system in accordance with such paragraph;

(iii) to provide the intensive services described in paragraph (3) to adults and dislocated workers, respectively, described in such paragraph; and

(iv) to provide training services described in paragraph (4) to adults and dislocated workers, respectively, described in such paragraph.

(B) OTHER FUNDS.—A portion of the funds made available under Federal law authorizing the programs and activities described in section 121(b)(1)(B), including the Wagner-Peyser Act (29 U.S.C. 49 et seq.), shall be used as described in clauses (i) and (ii) of subparagraph (A), to the extent not inconsistent with the Federal law involved.

(2) CORE SERVICES.—Funds described in paragraph (1)(A) shall be used to provide core services, which shall be available to individuals who are adults or dislocated workers through the one-stop delivery system and shall, at a minimum, include—

(A) determinations of whether the individuals are eligible to receive assistance under this subtitle;

(B) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop delivery system;

(C) initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(D) job search and placement assistance, and where appropriate, career counseling;

(E) provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—

(i) job vacancy listings in such labor market areas;

(ii) information on job skills necessary to obtain the jobs described in clause (i); and

(iii) information relating to local occupations in demand and the earnings and skill requirements for such occupations; and

(F) provision of performance information and program cost information on eligible providers of training services as described in section 122, provided by program, and eligible providers of youth activities described in section 123, providers of adult education described in title II, providers of postsecondary vocational education activities and vocational education activities available to school dropouts under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and providers of vocational rehabilitation program activities described in title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(G) provision of information regarding how the local area is performing on the local performance measures and any additional performance information with respect to the one-stop delivery system in the local area;

(H) provision of accurate information relating to the availability of supportive services, including child care and transportation, available in the local area, and referral to such services, as appropriate;

(I) provision of information regarding filing claims for unemployment compensation;

(J) assistance in establishing eligibility for—

(i) welfare-to-work activities authorized under section 403(a)(5) of the Social Security Act (as added by section 5001 of the Balanced Budget Act of 1997) available in the local area; and

(ii) programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

(K) followup services, including counseling regarding the workplace, for participants in workforce investment activities authorized under this subtitle who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

(3) INTENSIVE SERVICES.—

(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

(i)(I) who are unemployed and are unable to obtain employment through core services provided under paragraph (2); and

(II) who have been determined by a one-stop operator to be in need of more intensive services in order to obtain employment; or

(ii) who are employed, but who are determined by a one-stop operator to be in need of such intensive services in order to obtain or retain employment that allows for self-sufficiency.

(B) DELIVERY OF SERVICES.—Such intensive services shall be provided through the one-stop delivery system—

(i) directly through one-stop operators identified pursuant to section 121(d); or

(ii) through contracts with service providers, which may include contracts with public, private for-profit, and private nonprofit service providers, approved by the local board.

(C) TYPES OF SERVICES.—Such intensive services may include the following:

(i) Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include—

(I) diagnostic testing and use of other assessment tools; and

(II) in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

(ii) Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals.

(iii) Group counseling.

(iv) Individual counseling and career planning.

(v) Case management for participants seeking training services under paragraph (4).

(vi) Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training.

(4) TRAINING SERVICES.—

(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to a local area for dislocated workers under section 133(b)(2)(B) shall be used to provide training services to adults and dislocated workers, respectively—

(i) who have met the eligibility requirements for intensive services under paragraph (3)(A) and who are unable to obtain or retain employment through such services;

(ii) who after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to be in need of training services and to have the skills and qualifications to successfully participate in the selected program of training services;

(iii) who select programs of training services that are directly linked to the employment opportunities in the local area involved or in another area in which the adults or dislocated workers receiving such services are willing to relocate;

(iv) who meet the requirements of subparagraph (B); and

(v) who are determined to be eligible in accordance with the priority system, if any, in effect under subparagraph (E).

(B) QUALIFICATION.—

(i) REQUIREMENT.—Except as provided in clause (ii), provision of such training services shall be limited to individuals who—

(I) are unable to obtain other grant assistance for such services, including Federal Pell Grants established under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(II) require assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants.

(ii) REIMBURSEMENTS.—Training services may be provided under this paragraph to an individual who otherwise meets the requirements of this paragraph while an application for a Federal Pell Grant is pending, except that if such individual is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to the local area from such Federal Pell Grant.

(C) PROVIDER QUALIFICATION.—Training services shall be provided through providers identified in accordance with section 122.

(D) TRAINING SERVICES.—Training services may include—

(i) occupational skills training, including training for nontraditional employment;

(ii) on-the-job training;

(iii) programs that combine workplace training with related instruction, which may include cooperative education programs;

(iv) training programs operated by the private sector;

(v) skill upgrading and retraining;

(vi) entrepreneurial training;

(vii) job readiness training;

(viii) adult education and literacy activities provided in combination with services described in any of clauses (i) through (vii); and

(ix) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

(E) PRIORITY.—In the event that funds allocated to a local area for adult employment and training activities under paragraph (2)(A) or (3) of section 133(b) are limited, priority shall be given to recipients of public assistance and other low-income individuals for intensive services and training services. The appropriate local board and the Governor shall direct the one-stop operators in the local area with regard to making determinations related to such priority.

(F) CONSUMER CHOICE REQUIREMENTS.—

(i) IN GENERAL.—Training services provided under this paragraph shall be provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.

(ii) ELIGIBLE PROVIDERS.—Each local board, through one-stop centers referred to in subsection (c), shall make available—

(I) the State list of eligible providers of training services required under section 122(e), with a description of the programs through which the providers may offer the training services, and the information identifying eligible providers of on-the-job training and customized training required under section 122(h); and

(II) the performance information and performance cost information relating to eligible providers of training services described in subsections (e) and (h) of section 122.

(G) USE OF INDIVIDUAL TRAINING ACCOUNTS.—

(i) IN GENERAL.—Except as provided in clause (ii), training services provided under this paragraph shall be provided through the use of individual training accounts in accordance with this paragraph, and shall be provided to eligible individuals through the one-stop delivery system.

(ii) EXCEPTIONS.—Training services authorized under this paragraph may be provided pursuant to a contract for services in lieu of an individual training account if the requirements of subparagraph (F) are met and if—

(I) such services are on-the-job training provided by an employer or customized training;

(II) the local board determines there are an insufficient number of eligible providers of training services in the local area involved (such as in a rural area) to accomplish the purposes of a system of individual training accounts; or

(III) the local board determines that there is a training services program of demonstrated effectiveness offered in the local area by a community-based organization or another private organization to serve special participant populations that face multiple barriers to employment.

(iii) LINKAGE TO OCCUPATIONS IN DEMAND.—Training services provided under this paragraph shall be directly linked to occupations that are in demand in the local area, or in another area to which an adult or dislocated worker receiving such services is willing to relocate, except that a local board may approve training services for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.

(iv) DEFINITION.—In this subparagraph, the term "special participant population that faces multiple barriers to employment" means a population of low-income individuals that is included in 1 or more of the following categories:

(I) Individuals with substantial language or cultural barriers.

(II) Offenders.

(III) Homeless individuals.

(IV) Other hard-to-serve populations as defined by the Governor involved.

(e) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through one-stop delivery described in subsection (c)(2)—

(A) customized screening and referral of qualified participants in training services described in subsection (d)(4) to employment; and

(B) customized employment-related services to employers on a fee-for-service basis.

(2) SUPPORTIVE SERVICES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers, respectively—

(A) who are participating in programs with activities authorized in any of paragraphs (2), (3), or (4) of subsection (d); and

(B) who are unable to obtain such supportive services through other programs providing such services.

(3) NEEDS-RELATED PAYMENTS.—

(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide needs-related payments to adults and dislocated workers, respectively, who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation for the purpose of enabling such individuals to participate in programs of training services under subsection (d)(4).

(B) ADDITIONAL ELIGIBILITY REQUIREMENTS.—In addition to the requirements contained in subparagraph (A), a dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments under this paragraph only if such worker was enrolled in the training services—

(i) by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers under this subtitle; or

(ii) if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months.

(C) LEVEL OF PAYMENTS.—The level of a needs-related payment made to a dislocated worker under this paragraph shall not exceed the greater of—

(i) the applicable level of unemployment compensation; or

(ii) if such worker did not qualify for unemployment compensation, an amount equal to the poverty line, for an equivalent period, which amount shall be adjusted to reflect changes in total family income.

CHAPTER 6—GENERAL PROVISIONS

SEC. 136. PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) PURPOSE.—The purpose of this section is to establish a comprehensive performance accountability system, comprised of the activities described in this section, to assess the effectiveness of States and local areas in achieving continuous improvement of workforce investment activities funded under this subtitle, in order to optimize the return on investment of Federal funds in statewide and local workforce investment activities.

(b) STATE PERFORMANCE MEASURES.—

(1) IN GENERAL.—For each State, the State performance measures shall consist of—

(A)(i) the core indicators of performance described in paragraph (2)(A) and the customer satisfaction indicator of performance described in paragraph (2)(B); and

(ii) additional indicators of performance (if any) identified by the State under paragraph (2)(C); and

(B) a State adjusted level of performance for each indicator described in subparagraph (A).

(2) INDICATORS OF PERFORMANCE.—

(A) CORE INDICATORS OF PERFORMANCE.—

(i) IN GENERAL.—The core indicators of performance for employment and training activities authorized under section 134 (except for self-service and informational activities) and (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 129 shall consist of—

(I) entry into unsubsidized employment;

(II) retention in unsubsidized employment 6 months after entry into the employment;

(III) earnings received in unsubsidized employment 6 months after entry into the employment; and

(IV) attainment of a recognized credential relating to achievement of educational skills, which may include attainment of a secondary school diploma or its recognized equivalent, or occupational skills, by participants who enter unsubsidized employment, or by participants who are eligible youth age 19 through 21 who enter postsecondary education, advanced training, or unsubsidized employment.

(ii) CORE INDICATORS FOR ELIGIBLE YOUTH.—The core indicators of performance (for participants who are eligible youth age 14 through 18) for youth activities authorized under section 129, shall include—

(I) attainment of basic skills and, as appropriate, work readiness or occupational skills;

(II) attainment of secondary school diplomas and their recognized equivalents; and

(III) placement and retention in postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships.

(B) CUSTOMER SATISFACTION INDICATORS.—The customer satisfaction indicator of performance shall consist of customer satisfaction of employers and participants with services received from the workforce investment activities authorized under this subtitle. Customer satisfaction may be measured through surveys conducted after the conclusion of participation in the workforce investment activities.

(C) ADDITIONAL INDICATORS.—A State may identify in the State plan additional indicators for workforce investment activities authorized under this subtitle.

(3) LEVELS OF PERFORMANCE.—

(A) STATE ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS AND CUSTOMER SATISFACTION INDICATOR.—

(i) IN GENERAL.—For each State submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph (2)(A) and the customer satisfaction indicator described in paragraph (2)(B) for workforce investment activities authorized under this subtitle. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in an objective, quantifiable, and measurable form; and

(II) show the progress of the State toward continuously improving in performance.

(ii) IDENTIFICATION IN STATE PLAN.—Each State shall identify, in the State plan submitted under section 112, expected levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the first 3 program years covered by the State plan.

(iii) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 3 YEARS.—In order to ensure an optimal return on the investment of Federal funds in workforce investment activities authorized under this subtitle, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—

(I) the extent to which the levels involved will assist the State in attaining a high level of customer satisfaction;

(II) how the levels involved compare with the State adjusted levels of performance established for other States, taking into account factors including differences in economic conditions, the characteristics of participants when the participants entered the program, and the services to be provided; and

(III) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such State and ensure optimal return on the investment of Federal funds.

(v) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR 4TH AND 5TH YEARS.—Prior to the fourth program year covered by the State plan, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the fourth and fifth program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

(vi) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv)(II), the Governor may request that the State adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary, after collaboration with the representatives described in subsection (i), shall issue objective criteria and methods for making such revisions.

(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—The State may identify, in the State plan, State levels of performance for each of the additional indicators described in paragraph (2)(C). Such levels shall be considered to be State adjusted levels of performance for purposes of this title.

(c) LOCAL PERFORMANCE MEASURES.—

(1) IN GENERAL.—For each local area in a State, the local performance measures shall consist of—

(A)(i) the core indicators of performance described in subsection (b)(2)(A), and the customer satisfaction indicator of performance described in subsection (b)(2)(B), for activities described in such subsections, other than statewide workforce investment activities; and

(ii) additional indicators of performance (if any) identified by the State under subsection (b)(2)(C) for activities described in such subsection, other than statewide workforce investment activities; and

(B) a local level of performance for each indicator described in subparagraph (A).

(2) LOCAL LEVEL OF PERFORMANCE.—The local board, the chief elected official, and the Governor shall negotiate and reach agreement on the local levels of performance based on the State adjusted levels of performance established under subsection (b).

(3) DETERMINATIONS.—In determining such local levels of performance, the local board, the chief elected official, and the Governor shall take into account the specific economic, demographic, and other characteristics of the populations to be served in the local area.

(d) REPORT.—

(1) IN GENERAL.—Each State that receives an allotment under section 127 or 132 shall annually prepare and submit to the Secretary a report on the progress of the State in achieving State performance measures, including information on the levels of performance achieved by the State with respect to the core indicators of performance and the customer satisfaction indicator. The annual report also shall include information regarding the progress of local areas in the State in achieving local performance measures, including information on the levels of performance achieved by the areas with respect to the core indicators of performance and the customer satisfaction indicator. The report also shall include information on the status of State evaluations of workforce investment activities described in subsection (e).

(2) ADDITIONAL INFORMATION.—In preparing such report, the State shall include, at a minimum, information on participants in workforce investment activities authorized under this subtitle relating to—

(A) entry by participants who have completed training services provided under section 134(d)(4) into unsubsidized employment related to the training received;

(B) wages at entry into employment for participants in workforce investment activities who entered unsubsidized employment, including the rate of wage replacement for such participants who are dislocated workers;

(C) cost of workforce investment activities relative to the effect of the activities on the performance of participants;

(D) retention and earnings received in unsubsidized employment 12 months after entry into the employment;

(E) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of participants in workforce investment activities who received the training services compared with the performance of participants in workforce investment activities who received only services other than the training services (excluding participants who received only self-service and informational activities); and

(F) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced homemakers, and older individuals.

(3) INFORMATION DISSEMINATION.—The Secretary—

(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate congressional committees with copies of such reports.

(e) EVALUATION OF STATE PROGRAMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the State, in coordination with local boards in the State, shall conduct ongoing evaluation studies of workforce investment activities carried out in the State under this subtitle in order to promote, establish, implement, and utilize methods for continuously improving the activities in order to achieve high-level performance within, and high-level outcomes from, the statewide workforce investment system. To the maximum extent practicable, the State shall coordinate the evaluations with the evaluations provided for by the Secretary under section 172.

(2) DESIGN.—The evaluation studies conducted under this subsection shall be designed in conjunction with the State board and local boards and shall include analysis of customer feedback and outcome and process measures in the statewide workforce investment system. The studies may include use of control groups.

(3) RESULTS.—The State shall periodically prepare and submit to the State board, and local boards in the State, reports containing the results of evaluation studies conducted under this subsection, to promote the efficiency and effectiveness of the statewide workforce investment system in improving employability for jobseekers and competitiveness for employers.

(f) FISCAL AND MANAGEMENT ACCOUNTABILITY INFORMATION SYSTEMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the Governor, in coordination with local boards and chief elected officials in the State, shall establish and operate a fiscal and management accountability information system based on guidelines established by the Secretary after consultation with the Governors, local elected officials, and one-stop partners. Such guidelines shall promote efficient collection and use of fiscal and management information for reporting and monitoring the use of funds made available under this subtitle and for preparing the annual report described in subsection (d).

(2) WAGE RECORDS.—In measuring the progress of the State on State and local performance measures, a State shall utilize quarterly wage records, consistent with State law. The Secretary shall make arrangements, consistent with State law, to ensure that the wage records of any State are available to any other State to the extent that such wage records are required by the State in carrying out the State plan of the State or completing the annual report described in subsection (d).

(3) CONFIDENTIALITY.—In carrying out the requirements of this Act, the State shall comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (as added by the Family Educational Rights and Privacy Act of 1974).

(g) SANCTIONS FOR STATE FAILURE TO MEET STATE PERFORMANCE MEASURES.—

(1) STATES.—

(A) TECHNICAL ASSISTANCE.—If a State fails to meet State adjusted levels of performance relating to indicators described in subparagraph (A) or (B) of subsection (b)(2) for a program for any program year, the Secretary shall, upon request, provide technical assistance in accordance with section 170, including assistance in the development of a performance improvement plan.

(B) REDUCTION IN AMOUNT OF GRANT.—If such failure continues for a second consecutive year, or if a State fails to submit a report under subsection (d) for any program year, the Secretary may reduce by not more than 5 percent, the amount of the grant that would (in the absence of this paragraph) be payable to the State under such program for the immediately succeeding program year. Such penalty shall be based on the degree of failure to meet State adjusted levels of performance.

(2) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The Secretary shall use an amount retained, as a result of a reduction in an allotment to a State made under paragraph (1)(B), to provide incentive grants under section 503.

(h) SANCTIONS FOR LOCAL AREA FAILURE TO MEET LOCAL PERFORMANCE MEASURES.—

(1) TECHNICAL ASSISTANCE.—If a local area fails to meet levels of performance relating to indicators described in subparagraph (A) or (B) of subsection (b)(2) for a program for any program year, the Governor, or upon request by the Governor, the Secretary, shall provide technical assistance, which may include assistance in the development of a performance improvement plan, or the development of a modified local plan.

(2) CORRECTIVE ACTIONS.—

(A) IN GENERAL.—If such failure continues for a second consecutive year, the Governor shall take corrective actions, which may include development of a reorganization plan through which the Governor may—

(i) require the appointment and certification of a new local board (consistent with the criteria established under section 117(b));

(ii) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or

(iii) take such other actions as the Governor determines are appropriate.

(B) APPEAL BY LOCAL AREA.—

(i) APPEAL TO GOVERNOR.—A local area that is subject to a reorganization plan under subparagraph (A) may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Governor to rescind or revise such plan. In such case, the Governor shall make a final decision not later then 30 days after the receipt of the appeal.

(ii) SUBSEQUENT ACTION.—The local area may, not later than 30 days after receiving a decision from the Governor pursuant to clause (i), appeal such decision to the Secretary. In such case, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

(C) EFFECTIVE DATE.—The decision made by the Governor under clause (i) of subparagraph (B) shall become effective at the time the Governor issues the decision pursuant to such clause. Such decision shall remain effective unless the Secretary rescinds or revises such plan pursuant to clause (ii) of subparagraph (B).

(i) OTHER MEASURES AND TERMINOLOGY.—

(1) RESPONSIBILITIES.—In order to ensure nationwide comparability of performance data, the Secretary, after collaboration with representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities, educators, and participants, with expertise regarding workforce investment policies and workforce investment activities, shall issue—

(A) definitions for information required to be reported under subsection (d)(2);

(B) terms for a menu of additional indicators of performance described in subsection (b)(2)(C) to assist States in assessing their progress toward State workforce investment goals; and

(C) objective criteria and methods described in subsection (b)(3)(A)(vi) for making revisions to levels of performance.

(2) DEFINITIONS FOR CORE INDICATORS.—The Secretary and the representatives described in paragraph (1) shall participate in the activities described in section 502 concerning the issuance of definitions for indicators of performance described in subsection (b)(2)(A).

(3) ASSISTANCE.—The Secretary shall make the services of staff available to the representatives to assist the representatives in participating in the collaboration described in paragraph (1) and in the activities described in section 502.

SEC. 137. AUTHORIZATION OF APPROPRIATIONS.

(a) YOUTH ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 127(a), such sums as may be necessary for each of fiscal years 1999 through 2003.

(b) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 132(a)(1), such sums as may be necessary for each of fiscal years 1999 through 2003.

(c) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 132(a)(2), such sums as may be necessary for each of fiscal years 1999 through 2003.

Subtitle C—Job Corps

SEC. 141. PURPOSES.

The purposes of this subtitle are—

(1) to maintain a national Job Corps program, carried out in partnership with States and communities, to assist eligible youth who need and can benefit from an intensive program, operated in a group setting in residential and nonresidential centers, to become more responsible, employable, and productive citizens;

(2) to set forth standards and procedures for selecting individuals as enrollees in the Job Corps;

(3) to authorize the establishment of Job Corps centers in which enrollees will participate in intensive programs of activities described in this subtitle; and

(4) to prescribe various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps.

SEC. 142. DEFINITIONS.

In this subtitle:

(1) APPLICABLE LOCAL BOARD.—The term "applicable local board" means a local board—

(A) that provides information for a Job Corps center on local employment opportunities and the job skills needed to obtain the opportunities; and

(B) that serves communities in which the graduates of the Job Corps center seek employment.

(2) APPLICABLE ONE-STOP CENTER.—The term "applicable one-stop center" means a one-stop customer service center that provides services, such as referral, intake, recruitment, and placement, to a Job Corps center.

(3) ENROLLEE.—The term "enrollee" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and remains with the program, but has not yet become a graduate.

(4) FORMER ENROLLEE.—The term "former enrollee" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, but left the program before completing the requirements of a vocational training program, or receiving a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(5) GRADUATE.—The term "graduate" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program and has completed the requirements of a vocational training program, or received a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(6) JOB CORPS.—The term "Job Corps" means the Job Corps described in section 143.

(7) JOB CORPS CENTER.—The term "Job Corps center" means a center described in section 147.

(8) OPERATOR.—The term "operator" means an entity selected under this subtitle to operate a Job Corps center.

(9) REGION.—The term "region" means an area served by a regional office of the Employment and Training Administration.

(10) SERVICE PROVIDER.—The term "service provider" means an entity selected under this subtitle to provide services described in this subtitle to a Job Corps center.

SEC. 143. ESTABLISHMENT.

There shall be within the Department of Labor a "Job Corps".

SEC. 144. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.

To be eligible to become an enrollee, an individual shall be—

(1) not less than age 16 and not more than age 21 on the date of enrollment, except that—

(A) not more than 20 percent of the individuals enrolled in the Job Corps may be not less than age 22 and not more than age 24 on the date of enrollment; and

(B) either such maximum age limitation may be waived by the Secretary, in accordance with regulations of the Secretary, in the case of an individual with a disability;

(2) a low-income individual; and

(3) an individual who is 1 or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

(C) Homeless, a runaway, or a foster child.

(D) A parent.

(E) An individual who requires additional education, vocational training, or intensive counseling and related assistance, in order to participate successfully in regular schoolwork or to secure and hold employment.

SEC. 145. RECRUITMENT, SCREENING, SELECTION, AND ASSIGNMENT OF ENROLLEES.

(a) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.—The Secretary shall prescribe specific standards and procedures for the recruitment, screening, and selection of eligible applicants for the Job Corps, after considering recommendations from the Governors, local boards, and other interested parties.

(2) METHODS.—In prescribing standards and procedures under paragraph (1), the Secretary, at a minimum, shall—

(A) prescribe procedures for informing enrollees that drug tests will be administered to the enrollees and the results received within 45 days after the enrollees enroll in the Job Corps;

(B) establish standards for recruitment of Job Corps applicants;

(C) establish standards and procedures for—

(i) determining, for each applicant, whether the educational and vocational needs of the applicant can best be met through the Job Corps program or an alternative program in the community in which the applicant resides; and

(ii) obtaining from each applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment;

(D) where appropriate, take measures to improve the professional capability of the individuals conducting screening of the applicants; and

(E) assure that an appropriate number of enrollees are from rural areas.

(3) IMPLEMENTATION.—To the extent practicable, the standards and procedures shall be implemented through arrangements with—

(A) applicable one-stop centers;

(B) community action agencies, business organizations, and labor organizations; and

(C) agencies and individuals that have contact with youth over substantial periods of time and are able to offer reliable information about the needs and problems of youth.

(4) CONSULTATION.—The standards and procedures shall provide for necessary consultation with individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers.

(5) REIMBURSEMENT.—The Secretary is authorized to enter into contracts with and make payments to individuals and organizations for the cost of conducting recruitment, screening, and selection of eligible applicants for the Job Corps, as provided for in this section. The Secretary shall make no payment to any individual or organization solely as compensation for referring the names of applicants for the Job Corps.

(b) SPECIAL LIMITATIONS ON SELECTION.—

(1) IN GENERAL.—No individual shall be selected as an enrollee unless the individual or organization implementing the standards and procedures described in subsection (a) determines that—

(A) there is a reasonable expectation that the individual considered for selection can participate successfully in group situations and activities, and is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the Job Corps program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the Job Corps center to which the individual might be assigned and communities surrounding the Job Corps center;

(B) the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe the rules; and

(C) the individual has passed a background check conducted in accordance with procedures established by the Secretary.

(2) INDIVIDUALS ON PROBATION, PAROLE, OR SUPERVISED RELEASE.—An individual on probation, parole, or supervised release may be selected as an enrollee only if release from the supervision of the probation or parole official involved is satisfactory to the official and the Secretary and does not violate applicable laws (including regulations). No individual shall be denied a position in the Job Corps solely on the basis of individual contact with the criminal justice system.

(c) ASSIGNMENT PLAN.—

(1) IN GENERAL.—Every 2 years, the Secretary shall develop and implement an assignment plan for assigning enrollees to Job Corps centers. In developing the plan, the Secretary shall, based on the analysis described in paragraph (2), establish targets, applicable to each Job Corps center, for—

(A) the maximum attainable percentage of enrollees at the Job Corps center that reside in the State in which the center is located; and

(B) the maximum attainable percentage of enrollees at the Job Corps center that reside in the region in which the center is located, and in surrounding regions.

(2) ANALYSIS.—In order to develop the plan described in paragraph (1), the Secretary shall, every 2 years, analyze, for the Job Corps center—

(A) the size of the population of individuals eligible to participate in Job Corps in the State and region in which the Job Corps center is located, and in surrounding regions;

(B) the relative demand for participation in the Job Corps in the State and region, and in surrounding regions; and

(C) the capacity and utilization of the Job Corps center, including services provided through the center.

(d) ASSIGNMENT OF INDIVIDUAL ENROLLEES.—

(1) IN GENERAL.—After an individual has been selected for the Job Corps in accordance with the standards and procedures of the Secretary under subsection (a), the enrollee shall be assigned to the Job Corps center that is closest to the home of the enrollee, except that the Secretary may waive this requirement if—

(A) the enrollee chooses a vocational training program, or requires an English literacy program, that is not available at such center;

(B) the enrollee would be unduly delayed in participating in the Job Corps program because the closest center is operating at full capacity; or

(C) the parent or guardian of the enrollee requests assignment of the enrollee to another Job Corps center due to circumstances in the community of the enrollee that would impair prospects for successful participation in the Job Corps program.

(2) ENROLLEES WHO ARE YOUNGER THAN 18.—An enrollee who is younger than 18 shall not be assigned to a Job Corps center other than the center closest to the home of the enrollee pursuant to paragraph (1) if the parent or guardian of the enrollee objects to the assignment.

SEC. 146. ENROLLMENT.

(a) RELATIONSHIP BETWEEN ENROLLMENT AND MILITARY OBLIGATIONS.—Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(b) PERIOD OF ENROLLMENT.—No individual may be enrolled in the Job Corps for more than 2 years, except—

(1) in a case in which completion of an advanced career training program under section 148(c) would require an individual to participate in the Job Corps for not more than 1 additional year; or

(2) as the Secretary may authorize in a special case.

SEC. 147. JOB CORPS CENTERS.

(a) OPERATORS AND SERVICE PROVIDERS.—

(1) ELIGIBLE ENTITIES.—

(A) OPERATORS.—The Secretary shall enter into an agreement with a Federal, State, or local agency, an area vocational education school or residential vocational school, or a private organization, for the operation of each Job Corps center.

(B) PROVIDERS.—The Secretary may enter into an agreement with a local entity to provide activities described in this subtitle to the Job Corps center.

(2) SELECTION PROCESS.—

(A) COMPETITIVE BASIS.—Except as provided in subsections (c) and (d) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary shall select on a competitive basis an entity to operate a Job Corps center and entities to provide activities described in this subtitle to the Job Corps center. In developing a solicitation for an operator or service provider, the Secretary shall consult with the Governor of the State in which the center is located, the industry council for the Job Corps center (if established), and the applicable local board regarding the contents of such solicitation, including elements that will promote the consistency of the activities carried out through the center with the objectives set forth in the State plan or in a local plan.

(B) RECOMMENDATIONS AND CONSIDERATIONS.—

(i) OPERATORS.—In selecting an entity to operate a Job Corps center, the Secretary shall consider—

(I) the ability of the entity to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State plan and local plans;

(II) the degree to which the vocational training that the entity proposes for the center reflects local employment opportunities in the local areas in which enrollees at the center intend to seek employment;

(III) the degree to which the entity is familiar with the surrounding communities, applicable one-stop centers, and the State and region in which the center is located; and

(IV) the past performance of the entity, if any, relating to operating or providing activities described in this subtitle to a Job Corps center.

(ii) PROVIDERS.—In selecting a service provider for a Job Corps center, the Secretary shall consider the factors described in subclauses (I) through (IV) of clause (i), as appropriate.

(b) CHARACTER AND ACTIVITIES.—Job Corps centers may be residential or nonresidential in character, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with access to activities described in this subtitle. In any year, no more than 20 percent of the individuals enrolled in the Job Corps may be nonresidential participants in the Job Corps.

(c) CIVILIAN CONSERVATION CENTERS.—

(1) IN GENERAL.—The Job Corps centers may include Civilian Conservation Centers operated under agreements with the Secretary of Agriculture or the Secretary of the Interior, located primarily in rural areas, which shall provide, in addition to other vocational training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

(2) SELECTION PROCESS.—The Secretary may select an entity to operate a Civilian Conservation Center on a competitive basis, as provided in subsection (a), if the center fails to meet such national performance standards as the Secretary shall establish.

(d) INDIAN TRIBES.—

(1) GENERAL AUTHORITY.—The Secretary may enter into agreements with Indian tribes to operate Job Corps centers for Indians.

(2) DEFINITIONS.—In this subsection, the terms "Indian" and "Indian tribe", have the meanings given such terms in subsections (d) and (e), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 148. PROGRAM ACTIVITIES.

(a) ACTIVITIES PROVIDED BY JOB CORPS CENTERS.—

(1) IN GENERAL.—Each Job Corps center shall provide enrollees with an intensive, well organized, and fully supervised program of education, vocational training, work experience, recreational activities, physical rehabilitation and development, and counseling. Each Job Corps center shall provide enrollees assigned to the center with access to core services described in section 134(d)(2) and the intensive services described in section 134(d)(3).

(2) RELATIONSHIP TO OPPORTUNITIES.—

(A) IN GENERAL.—The activities provided under this subsection shall provide work-based learning throughout the enrollment of the enrollees and assist the enrollees in obtaining meaningful unsubsidized employment, participating in secondary education or postsecondary education programs, enrolling in other suitable vocational training programs, or satisfying Armed Forces requirements, on completion of their enrollment.

(B) LINK TO EMPLOYMENT OPPORTUNITIES.—The vocational training provided shall be linked to the employment opportunities in the local area in which the enrollee intends to seek employment after graduation.

(b) EDUCATION AND VOCATIONAL TRAINING.—The Secretary may arrange for education and vocational training of enrollees through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such entities provide education and training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

(c) ADVANCED CAREER TRAINING PROGRAMS.—

(1) IN GENERAL.—The Secretary may arrange for programs of advanced career training for selected enrollees in which the enrollees may continue to participate for a period of not to exceed 1 year in addition to the period of participation to which the enrollees would otherwise be limited. The advanced career training may be provided through the eligible providers of training services identified under section 122.

(2) BENEFITS.—

(A) IN GENERAL.—During the period of participation in an advanced career training program, an enrollee shall be eligible for full Job Corps benefits, or a monthly stipend equal to the average value of the residential support, food, allowances, and other benefits provided to enrollees assigned to residential Job Corps centers.

(B) CALCULATION.—The total amount for which an enrollee shall be eligible under subparagraph (A) shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee for advanced career training.

(3) DEMONSTRATION.—Each year, any operator seeking to enroll additional enrollees in an advanced career training program shall demonstrate that participants in such program have achieved a satisfactory rate of completion and placement in training-related jobs before the operator may carry out such additional enrollment.

(d) CONTINUED SERVICES.—The Secretary shall also provide continued services to graduates, including providing counseling regarding the workplace for 12 months after the date of graduation of the graduates. In selecting a provider for such services, the Secretary shall give priority to one-stop partners.

(e) CHILD CARE.—The Secretary shall, to the extent practicable, provide child care at or near Job Corps centers, for individuals who require child care for their children in order to participate in the Job Corps.

SEC. 149. COUNSELING AND JOB PLACEMENT.

(a) COUNSELING AND TESTING.—The Secretary shall arrange for counseling and testing for each enrollee at regular intervals to measure progress in the education and vocational training programs carried out through the Job Corps.

(b) PLACEMENT.—The Secretary shall arrange for counseling and testing for enrollees prior to their scheduled graduations to determine their capabilities and, based on their capabilities, shall make every effort to arrange to place the enrollees in jobs in the vocations for which the enrollees are trained or to assist the enrollees in obtaining further activities described in this subtitle. In arranging for the placement of graduates in jobs, the Secretary shall utilize the one-stop delivery system to the fullest extent possible.

(c) STATUS AND PROGRESS.—The Secretary shall determine the status and progress of enrollees scheduled for graduation and make every effort to assure that their needs for further activities described in this subtitle are met.

(d) SERVICES TO FORMER ENROLLEES.—The Secretary may provide such services as the Secretary determines to be appropriate under this subtitle to former enrollees.

SEC. 150. SUPPORT.

(a) PERSONAL ALLOWANCES.—The Secretary may provide enrollees assigned to Job Corps centers with such personal allowances as the Secretary may determine to be necessary or appropriate to meet the needs of the enrollees.

(b) READJUSTMENT ALLOWANCES.—

(1) GRADUATES.—The Secretary shall arrange for a readjustment allowance to be paid to graduates. The Secretary shall arrange for the allowance to be paid at the one-stop center nearest to the home of the graduate who is returning home, or at the one-stop center nearest to the location where the graduate has indicated an intent to seek employment. If the Secretary uses any organization, in lieu of a one-stop center, to provide placement services under this Act, the Secretary shall arrange for that organization to pay the readjustment allowance.

(2) FORMER ENROLLEES.—The Secretary may provide for a readjustment allowance to be paid to former enrollees. The provision of the readjustment allowance shall be subject to the same requirements as are applicable to the provision of the readjustment allowance paid to graduates under paragraph (1).

SEC. 151. OPERATING PLAN.

(a) IN GENERAL.—The provisions of the contract between the Secretary and an entity selected to operate a Job Corps center shall, at a minimum, serve as an operating plan for the Job Corps center.

(b) ADDITIONAL INFORMATION.—The Secretary may require the operator, in order to remain eligible to operate the Job Corps center, to submit such additional information as the Secretary may require, which shall be considered part of the operating plan.

(c) AVAILABILITY.—The Secretary shall make the operating plan described in subsections (a) and (b), excluding any proprietary information, available to the public.

SEC. 152. STANDARDS OF CONDUCT.

(a) PROVISION AND ENFORCEMENT.—The Secretary shall provide, and directors of Job Corps centers shall stringently enforce, standards of conduct within the centers. Such standards of conduct shall include provisions forbidding the actions described in subsection (b)(2)(A).

(b) DISCIPLINARY MEASURES.—

(1) IN GENERAL.—To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees. If such a director determines that an enrollee has committed a violation of the standards of conduct, the director shall dismiss the enrollee from the Job Corps if the director determines that the retention of the enrollee in the Job Corps will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees. .

(2) ZERO TOLERANCE POLICY AND DRUG TESTING.—

(A) GUIDELINES.—The Secretary shall adopt guidelines establishing a zero tolerance policy for an act of violence, for use, sale, or possession of a controlled substance, for abuse of alcohol, or for other illegal or disruptive activity.

(B) DRUG TESTING.—The Secretary shall require drug testing of all enrollees for controlled substances in accordance with procedures prescribed by the Secretary under section 145(a).

(C) DEFINITIONS.—In this paragraph:

(i) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(ii) ZERO TOLERANCE POLICY.—The term "zero tolerance policy" means a policy under which an enrollee shall be automatically dismissed from the Job Corps after a determination by the director that the enrollee has carried out an action described in subparagraph (A).

(c) APPEAL.—A disciplinary measure taken by a director under this section shall be subject to expeditious appeal in accordance with procedures established by the Secretary.

SEC. 153. COMMUNITY PARTICIPATION.

(a) BUSINESS AND COMMUNITY LIAISON.—Each Job Corps center shall have a Business and Community Liaison (referred to in this Act as a "Liaison"), designated by the director of the center.

(b) RESPONSIBILITIES.—The responsibilities of the Liaison shall include—

(1) establishing and developing relationships and networks with—

(A) local and distant employers; and

(B) applicable one-stop centers and applicable local boards,

for the purpose of providing job opportunities for Job Corps graduates; and

(2) establishing and developing relationships with members of the community in which the Job Corps center is located, informing members of the community about the projects of the Job Corps center and changes in the rules, procedures, or activities of the center that may affect the community, and planning events of mutual interest to the community and the Job Corps center.

(c) NEW CENTERS.—The Liaison for a Job Corps center that is not yet operating shall establish and develop the relationships and networks described in subsection (b) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 154. INDUSTRY COUNCILS.

(a) IN GENERAL.—Each Job Corps center shall have an industry council, appointed by the director of the center after consultation with the Liaison, in accordance with procedures established by the Secretary.

(b) INDUSTRY COUNCIL COMPOSITION.—

(1) IN GENERAL.—An industry council shall be comprised of—

(A) a majority of members who shall be local and distant owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector employers, who—

(i) have substantial management, hiring, or policy responsibility; and

(ii) represent businesses with employment opportunities that reflect the employment opportunities of the applicable local area;

(B) representatives of labor organizations (where present) and representatives of employees; and

(C) enrollees and graduates of the Job Corps.

(2) LOCAL BOARD.—The industry council may include members of the applicable local boards who meet the requirements described in paragraph (1).

(c) RESPONSIBILITIES.—The responsibilities of the industry council shall be—

(1) to work closely with all applicable local boards in order to determine, and recommend to the Secretary, appropriate vocational training for the center;

(2) to review all the relevant labor market information to—

(A) determine the employment opportunities in the local areas in which the enrollees intend to seek employment after graduation;

(B) determine the skills and education that are necessary to obtain the employment opportunities; and

(C) recommend to the Secretary the type of vocational training that should be implemented at the center to enable the enrollees to obtain the employment opportunities; and

(3) to meet at least once every 6 months to reevaluate the labor market information, and other relevant information, to determine, and recommend to the Secretary, any necessary changes in the vocational training provided at the center.

(d) NEW CENTERS.—The industry council for a Job Corps center that is not yet operating shall carry out the responsibilities described in subsection (c) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 155. ADVISORY COMMITTEES.

The Secretary may establish and use advisory committees in connection with the operation of the Job Corps program, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

SEC. 156. EXPERIMENTAL, RESEARCH, AND DEMONSTRATION PROJECTS.

The Secretary may carry out experimental, research, or demonstration projects relating to carrying out the Job Corps program and may waive any provisions of this subtitle that the Secretary finds would prevent the Secretary from carrying out the projects.

SEC. 157. APPLICATION OF PROVISIONS OF FEDERAL LAW.

(a) ENROLLEES NOT CONSIDERED TO BE FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection and in section 8143(a) of title

5, United States Code, enrollees shall not be considered to be Federal employees and shall not be subject to the provisions of law relating to Federal employment, including such provisions regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) PROVISIONS RELATING TO TAXES AND SOCIAL SECURITY BENEFITS.—For purposes of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed to be employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(3) PROVISIONS RELATING TO COMPENSATION TO FEDERAL EMPLOYEES FOR WORK INJURIES.—For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed to be civil employees of the Government of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of such subchapter shall apply as specified in section 8143(a) of title 5, United States Code.

(4) FEDERAL TORT CLAIMS PROVISIONS.—For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered to be employees of the Government.

(b) ADJUSTMENTS AND SETTLEMENTS.—Whenever the Secretary finds a claim for damages to a person or property resulting from the operation of the Job Corps to be a proper charge against the United States, and the claim is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle the claim in an amount not exceeding $1,500.

(c) PERSONNEL OF THE UNIFORMED SERVICES.—Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Job Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

SEC. 158. SPECIAL PROVISIONS.

(a) ENROLLMENT.—The Secretary shall ensure that women and men have an equal opportunity to participate in the Job Corps program, consistent with section 145.

(b) STUDIES, EVALUATIONS, PROPOSALS, AND DATA.—The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of carrying out the Job Corps program shall become the property of the United States.

(c) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, the Secretary and the Secretary of Education shall receive priority by the Secretary of Defense for the direct transfer, on a nonreimbursable basis, of the property described in paragraph (2) for use in carrying out programs under this Act or under any other Act.

(2) PROPERTY.—The property described in this paragraph is real and personal property under the control of the Department of Defense that is not used by such Department, including property that the Secretary of Defense determines is in excess of current and projected requirements of such Department.

(d) GROSS RECEIPTS.—Transactions conducted by a private for-profit or nonprofit entity that is an operator or service provider for a Job Corps center shall not be considered to be generating gross receipts. Such an operator or service provider shall not be liable, directly or indirectly, to any State or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such entity for operating or providing services to a Job Corps center. Such an operator or service provider shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with the operation of or provision of services to a Job Corps center.

(e) MANAGEMENT FEE.—The Secretary shall provide each operator and (in an appropriate case, as determined by the Secretary) service provider with an equitable and negotiated management fee of not less than 1 percent of the amount of the funding provided under the appropriate agreement specified in section 147.

(f) DONATIONS.—The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this subtitle.

(g) SALE OF PROPERTY.—Notwithstanding any other provision of law, if the Administrator of General Services sells a Job Corps center facility, the Administrator shall transfer the proceeds from the sale to the Secretary, who shall use the proceeds to carry out the Job Corps program.

SEC. 159. MANAGEMENT INFORMATION.

(a) FINANCIAL MANAGEMENT INFORMATION SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish procedures to ensure that each operator, and each service provider, maintains a financial management information system that will provide—

(A) accurate, complete, and current disclosures of the costs of Job Corps operations; and

(B) sufficient data for the effective evaluation of activities carried out through the Job Corps program.

(2) ACCOUNTS.—Each operator and service provider shall maintain funds received under this subtitle in accounts in a manner that ensures timely and accurate reporting as required by the Secretary.

(3) FISCAL RESPONSIBILITY.—Operators shall remain fiscally responsible and control costs, regardless of whether the funds made available for Job Corps centers are incrementally increased or decreased between fiscal years.

(b) AUDIT.—

(1) ACCESS.—The Secretary, the Inspector General of the Department of Labor, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the operators and service providers described in subsection (a) that are pertinent to the Job Corps program, for purposes of conducting surveys, audits, and evaluations of the operators and service providers.

(2) SURVEYS, AUDITS, AND EVALUATIONS.—The Secretary shall survey, audit, or evaluate, or arrange for the survey, audit, or evaluation of, the operators and service providers, using Federal auditors or independent public accountants. The Secretary shall conduct such surveys, audits, or evaluations not less often than once every 3 years.

(c) INFORMATION ON INDICATORS OF PERFORMANCE.—

(1) ESTABLISHMENT.—The Secretary shall, with continuity and consistency from year to year, establish indicators of performance, and expected levels of performance for Job Corps centers and the Job Corps program, relating to—

(A) the number of graduates and the rate of such graduation, analyzed by type of vocational training received through the Job Corps program and by whether the vocational training was provided by a local or national service provider;

(B) the number of graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received, analyzed by whether the vocational training was provided by a local or national service provider and by whether the placement in the employment was conducted by a local or national service provider;

(C) the average wage received by graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the average wage received by graduates who entered unsubsidized employment unrelated to the vocational training received;

(D) the average wage received by graduates placed in unsubsidized employment after completion of the Job Corps program—

(i) on the first day of the employment;

(ii) 6 months after the first day of the employment; and

(iii) 12 months after the first day of the employment,

analyzed by type of vocational training received through the Job Corps program;

(E) the number of graduates who entered unsubsidized employment and were retained in the unsubsidized employment—

(i) 6 months after the first day of the employment; and

(ii) 12 months after the first day of the employment;

(F) the number of graduates who entered unsubsidized employment—

(i) for 32 hours per week or more;

(ii) for not less than 20 but less than 32 hours per week; and

(iii) for less than 20 hours per week;

(G) the number of graduates who entered postsecondary education or advanced training programs, including apprenticeship programs, as appropriate; and

(H) the number of graduates who attained job readiness and employment skills.

(2) PERFORMANCE OF RECRUITERS.—The Secretary shall also establish performance measures, and expected performance levels on the performance measures, for local and national recruitment service providers serving the Job Corps program. The performance measures shall relate to the number of enrollees retained in the Job Corps program for 30 days and for 60 days after initial placement in the program.

(3) REPORT.—The Secretary shall collect, and annually submit a report to the appropriate committees of Congress containing, information on the performance of each Job Corps center, and the Job Corps program, on the core performance measures, as compared to the expected performance level for each performance measure. The report shall also contain information on the performance of the service providers described in paragraph (2) on the performance measures established under such paragraph, as compared to the expected performance levels for the performance measures.

(d) ADDITIONAL INFORMATION.—The Secretary shall also collect, and submit in the report described in subsection (c), information on the performance of each Job Corps center, and the Job Corps program, regarding—

(1) the number of enrollees served;

(2) the average level of learning gains for graduates and former enrollees;

(3) the number of former enrollees and graduates who entered the Armed Forces;

(4) the number of former enrollees who entered postsecondary education;

(5) the number of former enrollees who entered unsubsidized employment related to the vocational training received through the Job Corps

program and the number who entered unsubsidized employment not related to the vocational training received;

(6) the number of former enrollees and graduates who obtained a secondary school diploma or its recognized equivalent;

(7) the number and percentage of dropouts from the Job Corps program including the number dismissed under the zero tolerance policy described in section 152(b); and

(8) any additional information required by the Secretary.

(e) METHODS.—The Secretary may collect the information described in subsections (c) and (d) using methods described in section 136(f)(2) consistent with State law.

(f) PERFORMANCE ASSESSMENTS AND IMPROVEMENTS.—

(1) ASSESSMENTS.—The Secretary shall conduct an annual assessment of the performance of each Job Corps center. Based on the assessment, the Secretary shall take measures to continuously improve the performance of the Job Corps program.

(2) PERFORMANCE IMPROVEMENT PLANS.—With respect to a Job Corps center that fails to meet the expected levels of performance relating to the core performance measures specified in subsection (c), the Secretary shall develop and implement a performance improvement plan. Such a plan shall require action including—

(A) providing technical assistance to the center;

(B) changing the vocational training offered at the center;

(C) changing the management staff of the center;

(D) replacing the operator of the center;

(E) reducing the capacity of the center;

(F) relocating the center; or

(G) closing the center.

(3) ADDITIONAL PERFORMANCE IMPROVEMENT PLANS.—In addition to the performance improvement plans required under paragraph (2), the Secretary may develop and implement additional performance improvement plans. Such a plan shall require improvements, including the actions described in paragraph (2), for a Job Corps center that fails to meet criteria established by the Secretary other than the expected levels of performance described in paragraph (2).

(g) CLOSURE OF JOB CORPS CENTER.—Prior to the closure of any Job Corps center, the Secretary shall ensure—

(1) that the proposed decision to close the center is announced in advance to the general public through publication in the Federal Register or other appropriate means;

(2) the establishment of a reasonable comment period, not to exceed 30 days, for interested individuals to submit written comments to the Secretary; and

(3) that the Member of Congress who represents the district in which such center is located is notified within a reasonable period of time in advance of any final decision to close the center.

SEC. 160. GENERAL PROVISIONS.

The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall determine to be appropriate, to public agencies, private organizations, and the general public;

(2) subject to section 157(b), collect or compromise all obligations to or held by the Secretary and exercise all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this subtitle—

(A) for printing and binding, in accordance with applicable law (including regulation); and

(B) without regard to any other law (including regulation), for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not expend funds under the authority of this subparagraph—

(i) except when necessary to obtain an item, service, or facility, that is required in the proper administration of this subtitle, and that otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which the item, service, or facility is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the expenditure would affect an activity that otherwise would be under the jurisdiction of the General Services Administration) of the intention of the Secretary to make the expenditure, and the reasons and justifications for the expenditure.

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2003.

Subtitle D—National Programs

SEC. 166. NATIVE AMERICAN PROGRAMS.

(a) PURPOSE.—

(1) IN GENERAL.—The purpose of this section is to support employment and training activities for Indian, Alaska Native, and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.

(2) INDIAN POLICY.—All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

(b) DEFINITIONS.—As used in this section:

(1) ALASKA NATIVE.—The term "Alaska Native" means a Native as such term is defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms "Indian", "Indian tribe", and "tribal organization" have the meanings given such terms in subsections (d), (e), and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) NATIVE HAWAIIAN AND NATIVE HAWAIIAN ORGANIZATION.—The terms "Native Hawaiian" and "Native Hawaiian organization" have the meanings given such terms in paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(c) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

(2) EXCEPTION.—The competition for grants, contracts, or cooperative agreements conducted under paragraph (1) shall be conducted every 2 years, except that if a recipient of such a grant, contract, or agreement has performed satisfactorily, the Secretary may waive the requirements for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year period of the grant, contract, or agreement.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds made available under subsection (c) shall be used to carry out the activities described in paragraph (2) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment.

(2) WORKFORCE INVESTMENT ACTIVITIES AND SUPPLEMENTAL SERVICES.—

(A) IN GENERAL.—Funds made available under subsection (c) shall be used for—

(i) comprehensive workforce investment activities for Indians or Native Hawaiians; or

(ii) supplemental services for Indian or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

(B) SPECIAL RULE.—Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 401 of the Job Training Partnership Act (29 U.S.C. 1671) (as such section was in effect on the day before the date of enactment of this Act) shall be eligible to participate in an activity assisted under this section.

(e) PROGRAM PLAN.—In order to receive a grant or enter into a contract or cooperative agreement under this section an entity described in subsection (c) shall submit to the Secretary a program plan that describes a 2-year strategy for meeting the needs of Indian, Alaska Native, or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

(1) be consistent with the purpose of this section;

(2) identify the population to be served;

(3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment;

(4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and

(5) describe, after the entity submitting the plan consults with the Secretary, the performance measures to be used to assess the performance of entities in carrying out the activities assisted under this section.

(f) CONSOLIDATION OF FUNDS.—Each entity receiving assistance under subsection (c) may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

(1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or

(2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) ADMINISTRATIVE PROVISIONS.—

(1) ORGANIZATIONAL UNIT ESTABLISHED.—The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

(2) REGULATIONS.—The Secretary shall consult with the entities described in subsection (c) in—

(A) establishing regulations to carry out this section, including performance measures for entities receiving assistance under such subsection, taking into account the economic circumstances of such entities; and

(B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to the date of enactment of this Act) to such entities.

(3) WAIVERS.—

(A) IN GENERAL.—With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under paragraph (2), waive any of the statutory or regulatory requirements of this title that are inconsistent with the specific needs of the entities described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, participation and protection of workers and participants, grievance procedures, and judicial review.

(B) REQUEST AND APPROVAL.—An entity described in subsection (c) that requests a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 189(i)(4)(B).

(4) ADVISORY COUNCIL.—

(A) IN GENERAL.—Using funds made available to carry out this section, the Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2).

(B) COMPOSITION.—The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

(C) DUTIES.—The Council shall advise the Secretary on all aspects of the operation and administration of the programs assisted under this section, including the selection of the individual appointed as the head of the unit established under paragraph (1).

(D) PERSONNEL MATTERS.—

(i) COMPENSATION OF MEMBERS.—Members of the Council shall serve without compensation.

(ii) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(iii) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

(E) CHAIRPERSON.—The Council shall select a chairperson from among its members.

(F) MEETINGS.—The Council shall meet not less than twice each year.

(G) APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(5) TECHNICAL ASSISTANCE.—The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under subsection (c) to enable such entities to improve the activities authorized under this section that are provided by such entities.

(6) AGREEMENT FOR CERTAIN FEDERALLY-RECOGNIZED INDIAN TRIBES TO TRANSFER FUNDS TO THE PROGRAM.—A federally-recognized Indian tribe that administers funds provided under this section and funds provided by more than 1 State under other sections of this title may enter into an agreement with the Secretary and the Governors of the affected States to transfer the funds provided by the States to the program administered by the tribe under this section.

(i) COMPLIANCE WITH SINGLE AUDIT REQUIREMENTS; RELATED REQUIREMENT.—Grants, contracts, and cooperative agreements entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, United States Code (enacted by the Single Audit Act of 1984) and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

(j) ASSISTANCE TO AMERICAN SAMOANS IN HAWAII.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to provide assistance to American Samoans who reside in Hawaii for the co-location of federally-funded and State-funded workforce investment activities.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1999 such sums as may be necessary to carry out this subsection.

SEC. 167. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

(a) IN GENERAL.—Every 2 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts with, eligible entities to carry out the activities described in subsection (d).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant or enter into a contract under this section, an entity shall have an understanding of the problems of eligible migrant and seasonal farmworkers (including dependents), a familiarity with the area to be served, and the ability to demonstrate a capacity to administer effectively a diversified program of workforce investment activities (including youth activities) and related assistance for eligible migrant and seasonal farmworkers.

(c) PROGRAM PLAN.—

(1) IN GENERAL.—To be eligible to receive a grant or enter into a contract under this section, an entity described in subsection (b) shall submit to the Secretary a plan that describes a 2-year strategy for meeting the needs of eligible migrant and seasonal farmworkers in the area to be served by such entity.

(2) CONTENTS.—Such plan shall—

(A) identify the education and employment needs of the population to be served and the manner in which the services to be provided will strengthen the ability of the eligible migrant and seasonal farmworkers and dependents to obtain or retain unsubsidized employment or stabilize their unsubsidized employment;

(B) describe the related assistance and supportive services to be provided and the manner in which such assistance and services are to be integrated and coordinated with other appropriate services; and

(C) describe the indicators of performance to be used to assess the performance of such entity in carrying out the activities assisted under this section.

(3) ADMINISTRATION.—Grants and contracts awarded under this section shall be centrally administered by the Department of Labor and competitively awarded by the Secretary using procedures consistent with standard Federal Government competitive procurement policies.

(4) COMPETITION.—

(A) IN GENERAL.—The competition for grants made and contracts entered into under this section shall be conducted every 2 years.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if a recipient of such a grant or contract has performed satisfactorily under the terms of the grant agreement or contract, the Secretary may waive the requirement for such competition for such recipient upon receipt from the recipient of a satisfactory 2-year plan described in paragraph (1) for the succeeding 2-year grant or contract period. The Secretary may exercise the waiver authority of the preceding sentence not more than once during any 4-year period with respect any single recipient.

(d) AUTHORIZED ACTIVITIES.—Funds made available under this section shall be used to carry out workforce investment activities (including youth activities) and provide related assistance for eligible migrant and seasonal farmworkers, which may include employment, training, educational assistance, literacy assistance, an English language program, worker safety training, housing, supportive services, dropout prevention activities, follow-up services for those individuals placed in employment, self-employment and related business enterprise development education as needed by eligible migrant and seasonal farmworkers and identified pursuant to the plan required by subsection (c), and technical assistance relating to capacity enhancement in such areas as management information technology.

(e) CONSULTATION WITH GOVERNORS AND LOCAL BOARDS.—In making grants and entering into contracts under this section, the Secretary shall consult with the Governors and local boards of the States in which the eligible entities will carry out the activities described in subsection (d).

(f) REGULATIONS.—The Secretary shall consult with eligible migrant and seasonal farmworkers groups and States in establishing regulations to carry out this section, including performance measures for eligible entities that take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.

(g) COMPLIANCE WITH SINGLE AUDIT REQUIREMENTS; RELATED REQUIREMENT.—Grants and contracts entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, United States Code (enacted by the Single Audit Act of 1984) and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

(h) DEFINITIONS.—In this section:

(1) DISADVANTAGED.—The term "disadvantaged", used with respect to a farmworker, means a farmworker whose income, for 12 consecutive months out of the 24 months prior to application for the program involved, does not exceed the higher of—

(A) the poverty line (as defined in section 334(a)(2)(B)) for an equivalent period; or

(B) 70 percent of the lower living standard income level, for an equivalent period.

(2) ELIGIBLE MIGRANT AND SEASONAL FARMWORKERS.—The term "eligible migrant and seasonal farmworkers" means individuals who are eligible migrant farmworkers or are eligible seasonal farmworkers.

(3) ELIGIBLE MIGRANT FARMWORKER.—The term "eligible migrant farmworker" means—

(A) an eligible seasonal farmworker described in paragraph (4)(A) whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day; and

(B) a dependent of the farmworker described in subparagraph (A).

(4) ELIGIBLE SEASONAL FARMWORKER.—The term "eligible seasonal farmworker" means—

(A) a disadvantaged person who, for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural labor that is characterized by chronic unemployment or underemployment; and

(B) a dependent of the person described in subparagraph (A).

SEC. 168. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall conduct, directly or through grants or contracts, programs to meet the needs for workforce investment activities of veterans with service-connected disabilities, veterans who have significant barriers to employment, veterans who served on active duty in the armed forces during a war or in a campaign or expedition for which a campaign badge has been authorized, and recently separated veterans.

(2) CONDUCT OF PROGRAMS.—Programs supported under this section may be conducted through grants and contracts with public agencies and private nonprofit organizations, including recipients of Federal assistance under other provisions of this title, that the Secretary determines have an understanding of the unemployment problems of veterans described in paragraph (1), familiarity with the area to be served, and the capability to administer effectively a program of workforce investment activities for such veterans.

(3) REQUIRED ACTIVITIES.—Programs supported under this section shall include—

(A) activities to enhance services provided to veterans by other providers of workforce investment activities funded by Federal, State, or local government;

(B) activities to provide workforce investment activities to such veterans that are not adequately provided by other public providers of workforce investment activities; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job training, on-the-job training and educational opportunities under this title, under title 38, United States Code, and under other provisions of law, which activities shall be coordinated with activities provided through the one-stop centers described in section 134(c).

(b) ADMINISTRATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall administer programs supported under this section through the Assistant Secretary for Veterans' Employment and Training.

(2) ADDITIONAL RESPONSIBILITIES.—In carrying out responsibilities under this section, the Assistant Secretary for Veterans' Employment and Training shall—

(A) be responsible for the awarding of grants and contracts and the distribution of funds under this section and for the establishment of appropriate fiscal controls, accountability, and program performance measures for recipients of grants and contracts under this section; and

(B) consult with the Secretary of Veterans Affairs and take steps to ensure that programs supported under this section are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter II of chapter 77 of such title, chapters 30, 31, 32, and 34 of such title, and sections 1712A, 1720A, 3687, and 4103A of such title.

SEC. 169. YOUTH OPPORTUNITY GRANTS.

(a) GRANTS.—

(1) IN GENERAL.—Using funds made available under section 127(b)(1)(A), the Secretary shall make grants to eligible local boards and eligible entities described in subsection (d) to provide activities described in subsection (b) for youth to increase the long-term employment of youth who live in empowerment zones, enterprise communities, and high poverty areas and who seek assistance.

(2) DEFINITION.—In this section, the term "youth" means an individual who is not less than age 14 and not more than age 21.

(3) GRANT PERIOD.—The Secretary may make a grant under this section for a 1-year period, and may renew the grant for each of the 4 succeeding years.

(4) GRANT AWARDS.—In making grants under this section, the Secretary shall ensure that grants are distributed equitably among local boards and entities serving urban areas and local boards and entities serving rural areas, taking into consideration the poverty rate in such urban and rural areas, as described in subsection (c)(3)(B).

(b) USE OF FUNDS.—

(1) IN GENERAL.—A local board or entity that receives a grant under this section shall use the funds made available through the grant to provide activities that meet the requirements of section 129, except as provided in paragraph (2), as well as youth development activities such as activities relating to leadership development, citizenship, and community service, and recreation activities.

(2) INTENSIVE PLACEMENT AND FOLLOWUP SERVICES.—In providing activities under this section, a local board or entity shall provide—

(A) intensive placement services; and

(B) followup services for not less than 24 months after the completion of participation in the other activities described in this subsection, as appropriate.

(c) ELIGIBLE LOCAL BOARDS.—To be eligible to receive a grant under this section, a local board shall serve a community that—

(1) has been designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986;

(2)(A) is a State without a zone or community described in paragraph (1); and

(B) has been designated as a high poverty area by the Governor of the State; or

(3) is 1 of 2 areas in a State that—

(A) have been designated by the Governor as areas for which a local board may apply for a grant under this section; and

(B) meet the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986.

(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity (other than a local board) shall—

(1) be a recipient of financial assistance under section 166; and

(2) serve a community that—

(A) meets the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986; and

(B) is located on an Indian reservation or serves Oklahoma Indians or Alaska Native villages or Native groups (as such terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

(e) APPLICATION.—To be eligible to receive a grant under this section, a local board or entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the local board or entity will provide under this section to youth in the community described in subsection (c);

(2) a description of the performance measures negotiated under subsection (f), and the manner in which the local boards or entities will carry out the activities to meet the performance measures;

(3) a description of the manner in which the activities will be linked to activities described in section 129; and

(4) a description of the community support, including financial support through leveraging additional public and private resources, for the activities.

(f) PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary shall negotiate and reach agreement with the local board or entity on performance measures for the indicators of performance referred to in subparagraphs (A) and (B) of section 136(b)(2) that will be used to evaluate the performance of the local board or entity in carrying out the activities described in subsection (b). Each local performance measure shall consist of such a indicator of performance, and a performance level referred to in paragraph (2).

(2) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the local board or entity regarding the levels of performance expected to be achieved by the local board or entity on the indicators of performance.

(g) ROLE MODEL ACADEMY PROJECT.—

(1) IN GENERAL.—Using the funds made available pursuant to section 127(b)(1)(A)(iv) for fiscal year 1999, the Secretary shall provide assistance to an entity to carry out a project establishing a role model academy for out-of-school youth.

(2) RESIDENTIAL CENTER.—The entity shall use the assistance to establish an academy that consists of a residential center located on the site of a military installation closed or realigned pursuant to a law providing for closures and realignments of such installations.

(3) SERVICES.—The academy established pursuant to this subsection shall provide services that—

(A) utilize a military style model that emphasizes leadership skills and discipline, or another model of demonstrated effectiveness; and

(B) include vocational training, secondary school course work leading to a secondary school diploma or recognized equivalent, and the use of mentors who serve as role models and who provide academic training and career counseling to the youth.

SEC. 170. TECHNICAL ASSISTANCE.

(a) GENERAL TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide, coordinate, and support the development of, appropriate training, technical assistance, staff development, and other activities, including assistance in replicating programs of demonstrated effectiveness, to States and localities, and, in particular, to assist States in making transitions from carrying out activities under the provisions of law repealed under section 199 to carrying out activities under this title.

(2) FORM OF ASSISTANCE.—In carrying out paragraph (1) on behalf of a State, or recipient of financial assistance under any of sections 166 through 169, the Secretary, after consultation with the State or grant recipient, may award grants and enter into contracts and cooperative agreements.

(3) LIMITATION.—Grants or contracts awarded under paragraph (1) to entities other than States or local units of government that are for amounts in excess of $100,000 shall only be awarded on a competitive basis.

(b) DISLOCATED WORKER TECHNICAL ASSISTANCE.—

(1) AUTHORITY.—Of the amounts available pursuant to section 132(a)(2), the Secretary shall reserve not more than 5 percent of such amounts to provide technical assistance to States that do not meet the State performance measures described in section 136 with respect to employment and training activities for dislocated workers. Using such reserved funds, the Secretary may provide such assistance to other States, local areas, and other entities involved in providing assistance to dislocated workers, to promote the continuous improvement of assistance provided to dislocated workers, under this title.

(2) TRAINING.—Amounts reserved under this subsection may be used to provide for the training of staff, including specialists, who provide

rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees. Such projects shall be administered through the dislocated worker office described in section 174(b).

SEC. 171. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.

(a) STRATEGIC PLAN.—

(1) IN GENERAL.—After consultation with States, localities, and other interested parties, the Secretary shall, every 2 years, publish in the Federal Register, a plan that describes the demonstration and pilot (including dislocated worker demonstration and pilot), multiservice, research, and multistate project priorities of the Department of Labor concerning employment and training for the 5-year period following the submission of the plan. Copies of the plan shall be transmitted to the appropriate committees of Congress.

(2) FACTORS.—The plan published under paragraph (1) shall contain strategies to address national employment and training problems and take into account factors such as—

(A) the availability of existing research (as of the date of the publication);

(B) the need to ensure results that have interstate validity;

(C) the benefits of economies of scale and the efficiency of proposed projects; and

(D) the likelihood that the results of the projects will be useful to policymakers and stakeholders in addressing employment and training problems.

(b) DEMONSTRATION AND PILOT PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out demonstration and pilot projects for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of specialized methods, in addressing employment and training needs. Such projects shall include the provision of direct services to individuals to enhance employment opportunities and an evaluation component and may include—

(A) the establishment of advanced manufacturing technology skill centers developed through local partnerships of industry, labor, education, community-based organizations, and economic development organizations to meet unmet, high-tech skill needs of local communities;

(B) projects that provide training to upgrade the skills of employed workers who reside and are employed in enterprise communities or empowerment zones;

(C) programs conducted jointly with the Department of Defense to develop training programs utilizing computer-based and other innovative learning technologies;

(D) projects that promote the use of distance learning, enabling students to take courses through the use of media technology such as videos, teleconferencing computers, and the Internet;

(E) projects that assist in providing comprehensive services to increase the employment rates of out-of-school youth residing in targeted high poverty areas within empowerment zones and enterprise communities;

(F) the establishment of partnerships with national organizations with special expertise in developing, organizing, and administering employment and training services, for individuals with disabilities, at the national, State, and local levels;

(G) projects to assist public housing authorities that provide, to public housing residents, job training programs that demonstrate success in upgrading the job skills and promoting employment of the residents; and

(H) projects that assist local areas to develop and implement local self-sufficiency standards to evaluate the degree to which participants in programs under this title are achieving self-sufficiency.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out demonstration and pilot projects under this subsection shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts may be awarded under this subsection only to—

(i) entities with recognized expertise in—

(I) conducting national demonstration projects;

(II) utilizing state-of-the-art demonstration methods; or

(III) conducting evaluations of workforce investment projects; or

(ii) State and local entities with expertise in operating or overseeing workforce investment programs.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for carrying out demonstration and pilot projects under this subsection.

(c) MULTISERVICE PROJECTS, RESEARCH PROJECTS, AND MULTISTATE PROJECTS.—

(1) MULTISERVICE PROJECTS.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out multiservice projects—

(A) that will test an array of approaches to the provision of employment and training services to a variety of targeted populations;

(B) in which the entity carrying out the project, in conjunction with employers, organized labor, and other groups such as the disability community, will design, develop, and test various training approaches in order to determine effective practices; and

(C) that will assist in the development and replication of effective service delivery strategies for targeted populations for the national employment and training system as a whole.

(2) RESEARCH PROJECTS.—

(A) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out research projects that will contribute to the solution of employment and training problems in the United States.

(B) FORMULA IMPROVEMENT STUDY AND REPORT.—

(i) STUDY.—The Secretary shall conduct a 2-year study concerning improvements in the formulas described in section 132(b)(1)(B) and paragraphs (2)(A) and (3) of section 133(b) (regarding distributing funds under subtitle B to States and local areas for adult employment and training activities). In conducting the study, the Secretary shall examine means of improving the formulas by—

(I) developing formulas based on statistically reliable data;

(II) developing formulas that are consistent with the goals and objectives of this title; and

(III) developing formulas based on organizational and financial stability of State boards and local boards.

(ii) REPORT.—The Secretary shall prepare and submit to Congress a report containing the results of the study, including recommendations for improved formulas.

(3) MULTISTATE PROJECTS.—

(A) IN GENERAL.—

(i) AUTHORITY.—Under a plan published under subsection (a), the Secretary may, through grants or contracts, carry out multistate projects that require demonstrated expertise that is available at the national level to effectively disseminate best practices and models for implementing employment and training services, address the specialized employment and training needs of particular service populations, or address industry-wide skill shortages.

(ii) DESIGN OF GRANTS.—Grants or contracts awarded under this subsection shall be designed to obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how best to administer specific employment and training services.

(4) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out projects under this subsection in amounts that exceed $100,000 shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of assistance under the grant or contract for the project.

(B) TIME LIMITS.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(C) PEER REVIEW.—

(i) IN GENERAL.—The Secretary shall utilize a peer review process—

(I) to review and evaluate all applications for grants in amounts that exceed $500,000 that are submitted under this section; and

(II) to review and designate exemplary and promising programs under this section.

(ii) AVAILABILITY OF FUNDS.—The Secretary is authorized to use funds provided under this section to carry out peer review activities under this subparagraph.

(D) PRIORITY.—In awarding grants or contracts under this subsection, priority shall be provided to entities with nationally recognized expertise in the methods, techniques, and knowledge of workforce investment activities and shall include appropriate time limits, established by the Secretary, for the duration of such projects.

(d) DISLOCATED WORKER PROJECTS.—Of the amount made available pursuant to section 132(a)(2)(A) for any program year, the Secretary shall use not more than 10 percent of such amount to carry out demonstration and pilot projects, multiservice projects, and multistate projects, relating to the employment and training needs of dislocated workers. Of the requirements of this section, such projects shall be subject only to the provisions relating to review and evaluation of applications under subsection (c)(4)(C). Such projects may include demonstration and pilot projects relating to promoting self-employment, promoting job creation, averting dislocations, assisting dislocated farmers, assisting dislocated fishermen, and promoting public works. Such projects shall be administered through the dislocated worker office described in section 173(b).

SEC. 172. EVALUATIONS.

(a) PROGRAMS AND ACTIVITIES CARRIED OUT UNDER THIS TITLE.—For the purpose of improving the management and effectiveness of programs and activities carried out under this title, the Secretary shall provide for the continuing evaluation of the programs and activities, including those programs and activities carried out under section 171. Such evaluations shall address—

(1) the general effectiveness of such programs and activities in relation to their cost, including the extent to which the programs and activities—

(A) improve the employment competencies of participants in comparison to comparably-situated individuals who did not participate in such programs and activities; and

(B) to the extent feasible, increase the level of total employment over the level that would have existed in the absence of such programs and activities;

(2) the effectiveness of the performance measures relating to such programs and activities;

(3) the effectiveness of the structure and mechanisms for delivery of services through such programs and activities;

(4) the impact of the programs and activities on the community and participants involved;

(5) the impact of such programs and activities on related programs and activities;

(6) the extent to which such programs and activities meet the needs of various demographic groups; and

(7) such other factors as may be appropriate.

(b) Other Programs and Activities.—The Secretary may conduct evaluations of other federally funded employment-related programs and activities under other provisions of law.

(c) Techniques.—Evaluations conducted under this section shall utilize appropriate methodology and research designs, including the use of control groups chosen by scientific random assignment methodologies. The Secretary shall conduct as least 1 multisite control group evaluation under this section by the end of fiscal year 2005.

(d) Reports.—The entity carrying out an evaluation described in subsection (a) or (b) shall prepare and submit to the Secretary a draft report and a final report containing the results of the evaluation.

(e) Reports to Congress.—Not later than 30 days after the completion of such a draft report, the Secretary shall transmit the draft report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Not later than 60 days after the completion of such a final report, the Secretary shall transmit the final report to such committees of the Congress.

(f) Coordination.—The Secretary shall ensure the coordination of evaluations carried out by States pursuant to section 136(e) with the evaluations carried out under this section.

SEC. 173. NATIONAL EMERGENCY GRANTS.

(a) In General.—The Secretary is authorized to award national emergency grants in a timely manner—

(1) to an entity described in subsection (c) to provide employment and training assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or closures and realignments of military installations;

(2) to provide assistance to the Governor of any State within the boundaries of which is an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 (1) and (2)) (referred to in this section as the "disaster area") to provide disaster relief employment in the area; and

(3) to provide additional assistance to a State or local board for eligible dislocated workers in a case in which the State or local board has expended the funds provided under this section to carry out activities described in paragraphs (1) and (2) and can demonstrate the need for additional funds to provide appropriate services for such workers, in accordance with requirements prescribed by the Secretary.

(b) Administration.—The Secretary shall designate a dislocated worker office to coordinate the functions of the Secretary under this title relating to employment and training activities for dislocated workers, including activities carried out under the national emergency grants.

(c) Employment and Training Assistance Requirements.—

(1) Grant recipient eligibility.—

(A) Application.—To be eligible to receive a grant under subsection (a)(1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) Eligible entity.—In this paragraph, the term "entity" means a State, a local board, an entity described in section 166(c), entities determined to be eligible by the Governor of the State involved, and other entities that demonstrate to the Secretary the capability to effectively respond to the circumstances relating to particular dislocations.

(2) Participant eligibility.—

(A) In general.—In order to be eligible to receive employment and training assistance under a national emergency grant awarded pursuant to subsection (a)(1), an individual shall be—

(i) a dislocated worker;

(ii) a civilian employee of the Department of Defense or the Department of Energy employed at a military installation that is being closed, or that will undergo realignment, within the next 24 months after the date of the determination of eligibility;

(iii) an individual who is employed in a nonmanagerial position with a Department of Defense contractor, who is determined by the Secretary of Defense to be at-risk of termination from employment as a result of reductions in defense expenditures, and whose employer is converting operations from defense to nondefense applications in order to prevent worker layoffs; or

(iv) a member of the Armed Forces who—

(I) was on active duty or full-time National Guard duty;

(II)(aa) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; or

(bb) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title;

(III) is not entitled to retired or retained pay incident to the separation described in subclause (II); and

(IV) applies for such employment and training assistance before the end of the 180-day period beginning on the date of that separation.

(B) Retraining assistance.—The individuals described in subparagraph (A)(iii) shall be eligible for retraining assistance to upgrade skills by obtaining marketable skills needed to support the conversion described in subparagraph (A)(iii).

(C) Additional requirements.—The Secretary shall establish and publish additional requirements related to eligibility for employment and training assistance under the national emergency grants to ensure effective use of the funds available for this purpose.

(D) Definitions.—In this paragraph, the terms 'military institution' and 'realignment' have the meanings given the terms in section 2910 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 10 U.S.C. 2687 note).

(d) Disaster Relief Employment Assistance Requirements.—

(1) In general.—Funds made available under subsection (a)(2)—

(A) shall be used to provide disaster relief employment on projects that provide food, clothing, shelter, and other humanitarian assistance for disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area;

(B) may be expended through public and private agencies and organizations engaged in such projects; and

(C) may be expended to provide employment and training activities.

(2) Eligibility.—An individual shall be eligible to be offered disaster relief employment under subsection (a)(2) if such individual is a dislocated worker, is a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster.

(3) Limitations on disaster relief employment.—No individual shall be employed under subsection (a)(2) for more than 6 months for work related to recovery from a single natural disaster.

SEC. 174. AUTHORIZATION OF APPROPRIATIONS.

(a) Native American Programs; Migrant and Seasonal Farmworker Programs; Veterans' Workforce Investment Programs.—

(1) In general.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 166 through 168 such sums as may be necessary for each of the fiscal years 1999 through 2003.

(2) Reservations.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall—

(A) reserve not less than $55,000,000 for carrying out section 166;

(B) reserve not less than $70,000,000 for carrying out section 167; and

(C) reserve not less than $7,300,000 for carrying out section 168.

(b) Technical Assistance; Demonstration and Pilot Projects; Evaluations; Incentive Grants.—

(1) In general.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 170 through 172 and section 503 such sums as may be necessary for each of the fiscal years 1999 through 2003.

(2) Reservations.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall—

(A)(i) for fiscal year 1999, reserve up to 40 percent for carrying out section 170 (other than subsection (b) of such section);

(ii) for fiscal year 2000, reserve up to 25 percent for carrying out section 170 (other than subsection (b) of such section); and

(iii) for each of the fiscal years 2001 through 2003, reserve up to 20 percent for carrying out section 170 (other than subsection (b) of such section);

(B)(i) for fiscal year 1999, reserve not less than 50 percent for carrying out section 171; and

(ii) for each of the fiscal years 2000 through 2003, reserve not less than 45 percent for carrying out section 171;

(C)(i) for fiscal year 1999, reserve not less than 10 percent for carrying out section 172; and

(ii) for each of the fiscal years 2000 through 2003, reserve not less than 10 percent for carrying out section 172; and

(D)(i) for fiscal year 1999, reserve no funds for carrying out section 503;

(ii) for fiscal year 2000, reserve up to 20 percent for carrying out section 503; and

(iii) for each of the fiscal years 2001 through 2003, reserve up to 25 percent for carrying out section 503.

Subtitle E—Administration

SEC. 181. REQUIREMENTS AND RESTRICTIONS.

(a) Benefits.—

(1) Wages.—

(A) In general.—Individuals in on-the-job training or individuals employed in activities under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who

have similar training, experience, and skills, and such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

(B) RULE OF CONSTRUCTION.—The reference in subparagraph (A) to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1))—

(i) shall be deemed to be a reference to section 6(a)(3) of that Act for individuals in American Samoa; and

(ii) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act of 1938 does not apply.

(2) TREATMENT OF ALLOWANCES, EARNINGS, AND PAYMENTS.—Allowances, earnings and payments to individuals participating in programs under this title shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

(b) LABOR STANDARDS.—

(1) LIMITATIONS ON ACTIVITIES THAT IMPACT WAGES OF EMPLOYEES.—No funds provided under this title shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system.

(2) DISPLACEMENT.—

(A) PROHIBITION.—A participant in a program or activity authorized under this title (referred to in this section as a "specified activity") shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) OTHER PROHIBITIONS.—A participant in a specified activity shall not be employed in a job if—

(A) any other individual is on layoff from the same or any substantially equivalent job;

(B) the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) the job is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation).

(4) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

(5) EMPLOYMENT CONDITIONS.—Individuals in on-the-job training or individuals employed in programs and activities under this title, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

(6) OPPORTUNITY TO SUBMIT COMMENTS.—Interested members of the public, including representatives of businesses and of labor organizations, shall be provided an opportunity to submit comments to the Secretary with respect to programs and activities proposed to be funded under subtitle B.

(7) NO IMPACT ON UNION ORGANIZING.—Each recipient of funds under this title shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(c) GRIEVANCE PROCEDURE.—

(1) IN GENERAL.—Each State and local area receiving an allotment under this title shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the filing of the grievance or complaint.

(2) INVESTIGATION.—

(A) IN GENERAL.—The Secretary shall investigate an allegation of a violation described in paragraph (1) if—

(i) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals to the Secretary; or

(ii) a decision relating to such violation has been reached within such 60 days and the party to which such decision is adverse appeals such decision to the Secretary.

(B) ADDITIONAL REQUIREMENT.—The Secretary shall make a final determination relating to an appeal made under subparagraph (A) no later than 120 days after receiving such appeal.

(3) REMEDIES.—Remedies that may be imposed under this section for a violation of any requirement of this title shall be limited—

(A) to suspension or termination of payments under this title;

(B) to prohibition of placement of a participant with an employer that has violated any requirement under this title;

(C) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

(D) where appropriate, to other equitable relief.

(4) RULE OF CONSTRUCTION.—Nothing in paragraph (3) shall be construed to prohibit a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law for a violation of this title.

(d) RELOCATION.—

(1) PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR INDUCE RELOCATION.—No funds provided under this title shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(2) PROHIBITION ON USE OF FUNDS FOR CUSTOMIZED OR SKILL TRAINING AND RELATED ACTIVITIES AFTER RELOCATION.—No funds provided under this title for an employment and training activity shall be used for customized or skill training, on-the-job training, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(3) REPAYMENT.—If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State that has violated such paragraph to repay to the United States an amount equal to the amount expended in violation of such paragraph.

(e) LIMITATION ON USE OF FUNDS.—No funds available under this title shall be used for employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities that are not directly related to training for eligible individuals under this title. No funds available under subtitle B shall be used for foreign travel.

(f) TESTING AND SANCTIONING FOR USE OF CONTROLLED SUBSTANCES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a State shall not be prohibited by the Federal Government from—

(A) testing participants in programs under subtitle B for the use of controlled substances; and

(B) sanctioning such participants who test positive for the use of such controlled substances.

(2) ADDITIONAL REQUIREMENTS.—

(A) PERIOD OF SANCTION.—In sanctioning participants in programs under subtitle B who test positive for the use of controlled substances—

(i) with respect to the first occurrence for which a participant tests positive, a State may exclude the participant from the program for a period not to exceed 6 months; and

(ii) with respect to the second occurrence and each subsequent occurrence for which a participant tests positive, a State may exclude the participant from the program for a period not to exceed not to exceed 2 years.

(B) APPEAL.—The testing of participants and the imposition of sanctions under this subsection shall be subject to expeditious appeal in accordance with due process procedures established by the State.

(C) PRIVACY.— A State shall establish procedures for testing participants for the use of controlled substances that ensure a maximum degree of privacy for the participants.

(4) FUNDING REQUIREMENT.—In testing and sanctioning of participants for the use of controlled substances in accordance with this subsection, the only Federal funds that a State may use are the amounts made available for the administration of statewide workforce investment activities under section 134(a)(3)(B).

SEC. 182. PROMPT ALLOCATION OF FUNDS.

(a) ALLOTMENTS BASED ON LATEST AVAILABLE DATA.—All allotments to States and grants to outlying areas under this title shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to disadvantaged adults and disadvantaged youth shall be based on the most recent satisfactory data from the Bureau of the Census.

(b) PUBLICATION IN FEDERAL REGISTER RELATING TO FORMULA FUNDS.—Whenever the Secretary allots funds required to be allotted under this title, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient of the funds.

(c) REQUIREMENT FOR FUNDS DISTRIBUTED BY FORMULA.—All funds required to be allotted under section 127 or 132 shall be allotted within 45 days after the date of enactment of the Act appropriating the funds, except that, if such funds are appropriated in advance as authorized by section 189(g), such funds shall be allotted or allocated not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) PUBLICATION IN FEDERAL REGISTER RELATING TO DISCRETIONARY FUNDS.—Whenever the Secretary utilizes a formula to allot or allocate funds made available for distribution at the

Secretary's discretion under this title, the Secretary shall, not later than 30 days prior to such allotment or allocation, publish such formula in the Federal Register for comments along with the rationale for the formula and the proposed amounts to be distributed to each State and local area. After consideration of any comments received, the Secretary shall publish final allotments and allocations in the Federal Register.

(e) AVAILABILITY OF FUNDS.—Funds shall be made available under sections 128 and 133 for a local area not later than 30 days after the date the funds are made available to the Governor involved, under section 127 or 132 (as the case may be), or 7 days after the date the local plan for the area is approved, whichever is later.

SEC. 183. MONITORING.

(a) IN GENERAL.—The Secretary is authorized to monitor all recipients of financial assistance under this title to determine whether the recipients are complying with the provisions of this title, including the regulations issued under this title.

(b) INVESTIGATIONS.—The Secretary may investigate any matter the Secretary determines to be necessary to determine the compliance of the recipients with this title, including the regulations issued under this title. The investigations authorized by this subsection may include examining records (including making certified copies of the records), questioning employees, and entering any premises or onto any site in which any part of a program or activity of such a recipient is conducted or in which any of the records of the recipient are kept.

(c) ADDITIONAL REQUIREMENT.—For the purpose of any investigation or hearing conducted under this title by the Secretary, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of documents) apply to the Secretary, in the same manner and to the same extent as the provisions apply to the Federal Trade Commission.

SEC. 184. FISCAL CONTROLS; SANCTIONS.

(a) ESTABLISHMENT OF FISCAL CONTROLS BY STATES.—

(1) IN GENERAL.—Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds allocated to local areas under subtitle B. Such procedures shall ensure that all financial transactions carried out under subtitle B are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

(2) COST PRINCIPLES.—

(A) IN GENERAL.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the applicable uniform cost principles included in the appropriate circulars of the Office of Management and Budget for the type of entity receiving the funds.

(B) EXCEPTION.—The funds made available to a State for administration of statewide workforce investment activities in accordance with section 134(a)(3)(B) shall be allocable to the overall administration of workforce investment activities, but need not be specifically allocable to—

(i) the administration of adult employment and training activities;

(ii) the administration of dislocated worker employment and training activities; or

(iii) the administration of youth activities.

(3) UNIFORM ADMINISTRATIVE REQUIREMENTS.—

(A) IN GENERAL.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget.

(B) ADDITIONAL REQUIREMENT.—Procurement transactions under this title between local boards and units of State or local governments shall be conducted only on a cost-reimbursable basis.

(4) MONITORING.—Each Governor of a State shall conduct on an annual basis onsite monitoring of each local area within the State to ensure compliance with the uniform administrative requirements referred to in paragraph (3).

(5) ACTION BY GOVERNOR.—If the Governor determines that a local area is not in compliance with the uniform administrative requirements referred to in paragraph (3), the Governor shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

(6) CERTIFICATION.—The Governor shall, every 2 years, certify to the Secretary that—

(A) the State has implemented the uniform administrative requirements referred to in paragraph (3);

(B) the State has monitored local areas to ensure compliance with the uniform administrative requirements as required under paragraph (4); and

(C) the State has taken appropriate action to secure compliance pursuant to paragraph (5).

(7) ACTION BY THE SECRETARY.—If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (e) in the event of failure of the Governor to take the required appropriate action to secure compliance.

(b) SUBSTANTIAL VIOLATION.—

(1) ACTION BY GOVERNOR.—If, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this title, and corrective action has not been taken, the Governor shall—

(A) issue a notice of intent to revoke approval of all or part of the local plan affected; or

(B) impose a reorganization plan, which may include—

(i) decertifying the local board involved;

(ii) prohibiting the use of eligible providers;

(iii) selecting an alternative entity to administer the program for the local area involved;

(iv) merging the local area into 1 or more other local areas; or

(v) making other such changes as the Secretary or Governor determines necessary to secure compliance.

(2) APPEAL.—

(A) IN GENERAL.—The actions taken by the Governor pursuant to subparagraphs (A) and (B) of paragraph (1) may be appealed to the Secretary and shall not become effective until—

(i) the time for appeal has expired; or

(ii) the Secretary has issued a decision.

(B) ADDITIONAL REQUIREMENT.—The Secretary shall make a final decision under subparagraph (A) not later than 45 days after the receipt of the appeal.

(3) ACTION BY THE SECRETARY.—If the Governor fails to promptly take the actions required under paragraph (1), the Secretary shall take such actions.

(c) REPAYMENT OF CERTAIN AMOUNTS TO THE UNITED STATES.—

(1) IN GENERAL.—Every recipient of funds under this title shall repay to the United States amounts found not to have been expended in accordance with this title.

(2) OFFSET OF REPAYMENT.—If the Secretary determines that a State has expended funds made available under this title in a manner contrary to the requirements of this title, the Secretary may offset repayment of such expenditures against any other amount to which the State is or may be entitled, except as provided under subsection (d)(1).

(3) REPAYMENT FROM DEDUCTION BY STATE.—If the Secretary requires a State to repay funds as a result of a determination that a local area of the State has expended funds contrary to the requirements of this title, the Governor of the State may use an amount deducted under paragraph (4) to repay the funds, except as provided under subsection (e)(1).

(4) DEDUCTION BY STATE.—The Governor may deduct an amount equal to the misexpenditure described in paragraph (3) from subsequent program year allocations to the local area from funds reserved for the administrative costs of the local programs involved, as appropriate.

(5) LIMITATIONS.—A deduction made by a State as described in paragraph (4) shall not be made until such time as the Governor has taken appropriate corrective action to ensure full compliance within such local area with regard to appropriate expenditures of funds under this title.

(d) REPAYMENT OF AMOUNTS.—

(1) IN GENERAL.—Each recipient of funds under this title shall be liable to repay the amounts described in subsection (c)(1), from funds other than funds received under this title, upon a determination by the Secretary that the misexpenditure of funds was due to willful disregard of the requirements of this title, gross negligence, failure to observe accepted standards of administration, or a pattern of misexpenditure as described in paragraphs (2) and (3) of subsection (c). No such determination shall be made under this subsection or subsection (c) until notice and opportunity for a fair hearing has been given to the recipient.

(2) FACTORS IN IMPOSING SANCTIONS.—In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee or contractor of such recipient under this title (including the regulations issued under this title), the Secretary shall first determine whether such recipient has adequately demonstrated that the recipient has—

(A) established and adhered to an appropriate system for the award and monitoring of grants and contracts with subgrantees and contractors that contains acceptable standards for ensuring accountability;

(B) entered into a written grant agreement or contract with such subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the grant agreement or contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this title, including regulations issued under this title, by such subgrantee or contractor.

(3) WAIVER.—If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this title and any applicable Federal or State law directly against any subgrantee or contractor for violation of this title, including regulations issued under this title.

(e) IMMEDIATE TERMINATION OR SUSPENSION OF ASSISTANCE IN EMERGENCY SITUATIONS.—In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(f) DISCRIMINATION AGAINST PARTICIPANTS.—If the Secretary determines that any recipient under this title has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title, or has testified or is about to testify in any such proceeding or investigation under or related to this title, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this title or the Secretary's regulations, the Secretary shall, within thirty days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

(g) REMEDIES.—The remedies described in this section shall not be construed to be the exclusive remedies available for violations described in this section.

SEC. 185. REPORTS; RECORDKEEPING; INVESTIGATIONS.

(a) REPORTS.—

(1) IN GENERAL.—Recipients of funds under this title shall keep records that are sufficient to permit the preparation of reports required by this title and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

(2) SUBMISSION TO THE SECRETARY.—Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this title. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress, in which case an estimate may be provided.

(3) MAINTENANCE OF STANDARDIZED RECORDS.—In order to allow for the preparation of the reports required under subsection (c), such recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

(4) AVAILABILITY TO THE PUBLIC.—

(A) IN GENERAL.—Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

(B) EXCEPTION.—Subparagraph (A) shall not apply to—

(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(ii) trade secrets, or commercial or financial information, that is obtained from a person and privileged or confidential.

(C) FEES TO RECOVER COSTS.—Such recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).

(b) INVESTIGATIONS OF USE OF FUNDS.—

(1) IN GENERAL.—

(A) SECRETARY.—In order to evaluate compliance with the provisions of this title, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this title.

(B) COMPTROLLER GENERAL OF THE UNITED STATES.—In order to ensure compliance with the provisions of this title, the Comptroller General of the United States may conduct investigations of the use of funds received under this title by any recipient.

(2) PROHIBITION.—In conducting any investigation under this title, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to compile and that is not readily available to such recipient.

(3) AUDITS.—

(A) IN GENERAL.—In carrying out any audit under this title (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as soon as practicable), prior to the commencement of the audit.

(B) NOTIFICATION REQUIREMENT.—If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

(C) ADDITIONAL REQUIREMENT.—The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

(D) RULE OF CONSTRUCTION.—Nothing contained in this title shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

(c) ACCESSIBILITY OF REPORTS.—Each State, each local board, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this title—

(1) shall make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) shall prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 188; and

(3) shall monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this title.

(d) INFORMATION TO BE INCLUDED IN REPORTS.—

(1) IN GENERAL.—The reports required in subsection (c) shall include information regarding programs and activities carried out under this title pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 188.

(2) ADDITIONAL REQUIREMENT.—The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

(e) QUARTERLY FINANCIAL REPORTS.—

(1) IN GENERAL.—Each local board in the State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this title. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

(2) ADDITIONAL REQUIREMENT.—Each State shall submit to the Secretary, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

(f) MAINTENANCE OF ADDITIONAL RECORDS.—Each State and local board shall maintain records with respect to programs and activities carried out under this title that identify—

(1) any income or profits earned, including such income or profits earned by subrecipients; and

(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

(g) COST CATEGORIES.—In requiring entities to maintain records of costs by category under this title, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

SEC. 186. ADMINISTRATIVE ADJUDICATION.

(a) IN GENERAL.—Whenever any applicant for financial assistance under this title is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 184.

(b) APPEAL.—The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, has notified the parties that the case involved has been accepted for review.

(c) TIME LIMIT.—Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

(d) ADDITIONAL REQUIREMENT.—The provisions of section 187 shall apply to any final action of the Secretary under this section.

SEC. 187. JUDICIAL REVIEW.

(a) REVIEW.—

(1) PETITION.—With respect to any final order by the Secretary under section 186 by which the Secretary awards, declines to award, or only conditionally awards, financial assistance

under his title, or any final order of the Secretary under section 186 with respect to a corrective action or sanction imposed under section 184, any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

(2) ACTION ON PETITION.—The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record on which the final order was entered as provided in section 2112 of title 28, United States Code. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

(3) STANDARD AND SCOPE OF REVIEW.—No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

(b) JUDGMENT.—The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The judgment of the court regarding the order shall be final, subject to certiorari review by the Supreme Court as provided in section 1254(1) of title 28, United States Code.

SEC. 188. NONDISCRIMINATION.

(a) IN GENERAL.—

(1) FEDERAL FINANCIAL ASSISTANCE.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) PROHIBITION OF DISCRIMINATION REGARDING PARTICIPATION, BENEFITS, AND EMPLOYMENT.—No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.

(3) PROHIBITION ON ASSISTANCE FOR FACILITIES FOR SECTARIAN INSTRUCTION OR RELIGIOUS WORSHIP.—Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

(4) PROHIBITION ON DISCRIMINATION ON BASIS OF PARTICIPANT STATUS.—No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

(5) PROHIBITION ON DISCRIMINATION AGAINST CERTAIN NONCITIZENS.—Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

(b) ACTION OF SECRETARY.—Whenever the Secretary finds that a State or other recipient of funds under this title has failed to comply with a provision of law referred to in subsection (a)(1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(2) take such other action as may be provided by law.

(c) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this title is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) JOB CORPS.—For the purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.

(e) REGULATIONS.—The Secretary shall issue regulations necessary to implement this section not later than one year after the date of the enactment of the Workforce Investment Act of 1998. Such regulations shall adopt standards for determining discrimination and procedures for enforcement that are consistent with the Acts referred to in a subsection (a)(1), as well as procedures to ensure that complaints filed under this section and such Acts are processed in a manner that avoids duplication of effort.

SEC. 189. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe rules and regulations to carry out this title only to the extent necessary to administer and ensure compliance with the requirements of this title. Such rules and regulations may include provisions making adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

(b) ACQUISITION OF CERTAIN PROPERTY AND SERVICES.—The Secretary is authorized, in carrying out this title, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

(c) AUTHORITY TO ENTER INTO CERTAIN AGREEMENTS AND TO MAKE CERTAIN EXPENDITURES.—The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this title, as may be necessary to carry out this title, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of overpayments or underpayments.

(d) ANNUAL REPORT.—The Secretary shall prepare and submit to Congress an annual report regarding the programs and activities carried out under this title. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs and activities in meeting the objectives of this title;

(2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this title in the fiscal year prior to the submission of the report;

(3) recommendations for modifications in the programs and activities based on analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

(e) UTILIZATION OF SERVICES AND FACILITIES.—The Secretary is authorized, in carrying out this title, under the same procedures as are applicable under subsection (c) or to the extent permitted by law other than this title, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this title, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.

(f) OBLIGATIONAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this title except to such extent and in such amounts as are provided in advance in appropriations Acts.

(g) PROGRAM YEAR.—

(1) IN GENERAL.—

(A) PROGRAM YEAR.—Except as provided in subparagraph (B), appropriations for any fiscal year for programs and activities carried out under this title shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(B) YOUTH ACTIVITIES.—The Secretary may make available for obligation, beginning April 1 of any fiscal year, funds appropriated for such fiscal year to carry out youth activities under subtitle B.

(2) AVAILABILITY.—Funds obligated for any program year for a program or activity carried out under this title may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds obligated for any program year for a program or activity carried out under section 171 or 172 shall remain available until expended. Funds received by local areas from States under this title during a program year may be expended during that program year and the succeeding program year. No amount of the funds described in this paragraph shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 151, or a plan, grant agreement, contract, application, or other agreement described in subtitle D, as appropriate.

(h) ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT.—The Secretary shall ensure that *each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.*

(i) WAIVERS AND SPECIAL RULES.—

(1) EXISTING WAIVERS.—With respect to a State that has been granted a waiver under the provisions relating to training and employment services of the Department of Labor in title I of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–234), the authority provided under such waiver shall continue in effect and apply, and include a waiver of the related provisions of subtitle B and this subtitle, for the duration of the initial waiver.

(2) SPECIAL RULE REGARDING DESIGNATED AREAS.—A State that has enacted, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this title, notwithstanding section 116.

(3) SPECIAL RULE REGARDING SANCTIONS.—A State that enacts, not later than December 31, 1997, a State law providing for the sanctioning of such service delivery areas for failure to meet performance measures for workforce investment activities, may use the State law to sanction local areas for failure to meet State performance measures under this title.

(4) GENERAL WAIVERS OF STATUTORY OR REGULATORY REQUIREMENTS.—

(A) GENERAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of subtitle B or this subtitle (except for requirements relating to wage and labor standards, including nondisplacement protections, worker rights, participation and protection of workers and participants, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, the establishment and functions of local areas and local boards, and procedures for review and approval of plans); and

(ii) any of the statutory or regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers).

(B) REQUESTS.—A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce investment system that—

(i) identifies the statutory or regulatory requirements that are requested to be waived and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;

(ii) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(iii) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describes the individuals impacted by the waiver; and

(v) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and an opportunity to comment on such request has been provided to the local board.

(C) CONDITIONS.—Not later than 90 days after the date of the original submission of a request for a waiver under subparagraph (A), the Secretary shall provide a waiver under this paragraph if and only to the extent that—

(i) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in subparagraph (B); and

(ii) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

SEC. 190. REFERENCE.

Effective on the date of the enactment of the Workforce Investment Act of 1998, all references in any other provision of law (other than section 665 of title 18, United States Code) to the Comprehensive Employment and Training Act, or to the Job Training Partnership Act, as the case may be, shall be deemed to refer to Workforce Investment Act of 1998.''.

SEC. 191. STATE LEGISLATIVE AUTHORITY.

(a) AUTHORITY OF STATE LEGISLATURE.—Nothing in this title shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this title, of the activities assisted under this title. Any funds received by a State under this title shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this title.

(b) INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS.—In the event that compliance with provisions of this title would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

SEC. 192. WORKFORCE FLEXIBILITY PLANS.

(a) PLANS.—A State may submit to the Secretary, and the Secretary may approve, a workforce flexibility plan under which the State is authorized to waive, in accordance with the plan—

(1) any of the statutory or regulatory requirements applicable under this title to local areas, pursuant to applications for such waivers from the local areas, except for requirements relating to the basic purposes of this title, wage and labor standards, grievance procedures and judicial review, nondiscrimination, eligibility of participants, allocation of funds to local areas, establishment and functions of local areas and local boards, review and approval of local plans, and worker rights, participation, and protection;

(2) any of the statutory or regulatory requirements applicable under sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) to the State, except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to jobseekers; and

(3) any of the statutory or regulatory requirements applicable under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) to State agencies on aging with respect to activities carried out using funds allotted under section 506(a)(3) of such Act (42 U.S.C. 3056d(a)(3)), except for requirements relating to the basic purposes of such Act, wage and labor standards, eligibility of participants in the activities, and standards for agreements.

(b) CONTENT OF PLANS.—A workforce flexibility plan implemented by a State under subsection (a) shall include descriptions of—

(1)(A) the process by which local areas in the State may submit and obtain approval by the State of applications for waivers of requirements applicable under this title; and

(B) the requirements described in subparagraph (A) that are likely to be waived by the State under the plan;

(2) the requirements applicable under sections 8 through 10 of the Wagner-Peyser Act that are proposed to be waived, if any;

(3) the requirements applicable under the Older Americans Act of 1965 that are proposed to be waived, if any;

(4) the outcomes to be achieved by the waivers described in paragraphs (1) through (3); and

(5) other measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

(c) PERIODS.—The Secretary may approve a workforce flexibility plan for a period of not more than 5 years.

(d) OPPORTUNITY FOR PUBLIC COMMENTS.—Prior to submitting a workforce flexibility plan to the Secretary for approval, the State shall provide to all interested parties and to the general public adequate notice and a reasonable opportunity for comment on the waiver requests proposed to be implemented pursuant to such plan.

SEC. 193. USE OF CERTAIN REAL PROPERTY.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Governor may authorize a public agency to make available, for the use of a one-stop service delivery system within the State which is carried out by a consortium of entities that includes the public agency, real property in which, as of the date of the enactment of the Workforce Investment Act of 1998, the Federal Government has acquired equity through the use of funds provided under title III of the Social Security Act (42 U.S.C. 501 et seq.), section 903(c) of such Act (42 U.S.C. 1103(c)), or the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(b) USE OF FUNDS.—Subsequent to the commencement of the use of the property described in subsection (a) for the functions of a one-stop service delivery system, funds provided under the provisions of law described in subsection (a) may only be used to acquire further equity in such property, or to pay operating and maintenance expenses relating to such property in proportion to the extent of the use of such property attributable to the activities authorized under such provisions of law.

SEC. 194. CONTINUATION OF STATE ACTIVITIES AND POLICIES.

(a) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may not deny approval of a State plan for a covered State, or an application of a covered State for financial assistance, under this title or find a covered State (including a State board or Governor), or a local area (including a local board or chief elected official) in a covered State, in violation of a provision of this title, on the basis that—

(1)(A) the State proposes to allocate or disburse, allocates, or disburses, within the State, funds made available to the State under section 127 or 132 in accordance with the allocation formula for the type of activities involved, or in accordance with a disbursal procedure or process, used by the State under prior consistent State laws; or

(B) a local board in the State proposes to disburse, or disburses, within the local area, funds made available to a State under section 127 or 132 in accordance with a disbursal procedure or process used by a private industry council under prior consistent State law;

(2) the State proposes to carry out or carries out a State procedure through which local areas

use, as fiscal agents for funds made available to the State under section 127 or 132 and allocated within the State, fiscal agents selected in accordance with a process established under prior consistent State laws;

(3) the State proposes to carry out or carries out a State procedure through which the local board in the State (or the local boards, the chief elected officials in the State, and the Governor) designate or select the one-stop partners and one-stop operators of the statewide system in the State under prior consistent State laws, in lieu of making the designation, or certification described in section 121 (regardless of the date the one-stop delivery systems involved have been established);

(4) the State proposes to carry out or carries out a State procedure through which the persons responsible for selecting eligible providers for purposes of subtitle B are permitted to determine that a provider shall not be selected to provide both intake services under section 134(d)(2) and training services under section 134(d)(4), under prior consistent State laws;

(5) the State proposes to designate or designates a State board, or proposes to assign or assigns functions and roles of the State board (including determining the time periods for development and submission of a State plan required under section 112), for purposes of subtitle B in accordance with prior consistent State laws; or

(6) a local board in the State proposes to use or carry out, uses, or carries out a local plan (including assigning functions and roles of the local board) for purposes of subtitle B in accordance with the authorities and requirements applicable to local plans and private industry councils under prior consistent State laws.

(b) DEFINITION.—In this section:

(1) COVERED STATE.—The term "covered State" means a State that enacted State laws described in paragraph (2).

(2) PRIOR CONSISTENT STATE LAWS.—The term "prior consistent State laws" means State laws, not inconsistent with the Job Training Partnership Act or any other applicable Federal law, that took effect on September 1, 1993, September 1, 1995, and September 1, 1997.

SEC. 195. GENERAL PROGRAM REQUIREMENTS.

Except as otherwise provided in this title, the following conditions are applicable to all programs under this title:

(1) Each program under this title shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities. In addition, efforts shall be made to develop programs which contribute to occupational development, upward mobility, development of new careers, and opportunities for nontraditional employment.

(2) Funds provided under this title shall only be used for activities that are in addition to those that would otherwise be available in the local area in the absence of such funds.

(3)(A) Any local area may enter into an agreement with another local area (including a local area that is a city or county within the same labor market) to pay or share the cost of educating, training, or placing individuals participating in programs assisted under this title, including the provision of supportive services.

(B) Such agreement shall be approved by each local board providing guidance to the local area and shall be described in the local plan under section 118.

(4) On-the-job training contracts under this title shall not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this title.

(7) The Secretary shall not provide financial assistance for any program under this title that involves political activities.

(8)(A) Income under any program administered by a public or private nonprofit entity may be retained by such entity only if such income is used to continue to carry out the program.

(B) Income subject to the requirements of subparagraph (A) shall include—

(i) receipts from goods or services (including conferences) provided as a result of activities funded under this title;

(ii) funds provided to a service provider under this title that are in excess of the costs associated with the services provided; and

(iii) interest income earned on funds received under this title.

(C) For purposes of this paragraph, each entity receiving financial assistance under this title shall maintain records sufficient to determine the amount of such income received and the purposes for which such income is expended.

(9)(A) The Secretary shall notify the Governor and the appropriate local board and chief elected official of, and consult with the Governor and such board and official concerning, any activity to be funded by the Secretary under this title within the corresponding State or local area.

(B) The Governor shall notify the appropriate local board and chief elected official of, and consult with such board and official concerning, any activity to be funded by the Governor under this title within the corresponding local area.

(10)(A) All education programs for youth supported with funds provided under chapter 4 of subtitle B shall be consistent with applicable State and local educational standards.

(B) Standards and procedures with respect to awarding academic credit and certifying educational attainment in programs conducted under such chapter shall be consistent with the requirements of applicable State and local law, including regulation.

(11) No funds available under this title may be used for public service employment except as specifically authorized under this title.

(12) The Federal requirements governing the title, use, and disposition of real property, equipment, and supplies purchased with funds provided under this title shall be the Federal requirements generally applicable to Federal grants to States and local governments.

(13) Nothing in this title shall be construed to provide an individual with an entitlement to a service under this title.

(14) Services, facilities, or equipment funded under this title may be used, as appropriate, on a fee-for-service basis, by employers in a local area in order to provide employment and training activities to incumbent workers—

(A) when such services, facilities, or equipment are not in use for the provision of services for eligible participants under this title;

(B) if such use for incumbent workers would not have an adverse affect on the provision of services to eligible participants under this title; and

(C) if the income derived from such fees is used to carry out the programs authorized under this title.

Subtitle F—Repeals and Conforming Amendments

SEC. 199. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(4) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(5) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.), except section 738 of such title (42 U.S.C. 11448).

(6) Subchapter I of chapter 421 of title 49, United States Code.

(b) SUBSEQUENT REPEALS.—The following provisions are repealed:

(1) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

(2) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(c) EFFECTIVE DATES.—

(1) IMMEDIATE REPEALS.—The repeals made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SUBSEQUENT REPEALS.—

(A) STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—The repeal made by subsection (b)(1) shall take effect on July 1, 1999.

(B) JOB TRAINING PARTNERSHIP ACT.—The repeal made by subsection (b)(2) shall take effect on July 1, 2000.

SEC. 199A. CONFORMING AMENDMENTS.

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to Congress the recommended legislation referred to under subsection (a).

(c) REFERENCES.—All references in any other provision of law to a provision of the Comprehensive Employment and Training Act, or of the Job Training Partnership Act, as the case may be, shall be deemed to refer to the corresponding provision of this title.

TITLE II—ADULT EDUCATION AND LITERACY

SEC. 201. SHORT TITLE.

This title may be cited as the "Adult Education and Family Literacy Act".

SEC. 202. PURPOSE.

It is the purpose of this title to create a partnership among the Federal Government, States, and localities to provide, on a voluntary basis, adult education and literacy services, in order to—

(1) assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency;

(2) assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children; and

(3) assist adults in the completion of a secondary school education.

SEC. 203. DEFINITIONS.

In this subtitle:

(1) ADULT EDUCATION.—The term "adult education" means services or instruction below the postsecondary level for individuals—

(A) who have attained 16 years of age;

(B) who are not enrolled or required to be enrolled in secondary school under State law; and

(C) who—

(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

(ii) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or *(iii) are unable to speak, read, or write the English language.*

(2) ADULT EDUCATION AND LITERACY ACTIVITIES.—The term "adult education and literacy activities" means activities described in section 231(b).

(3) EDUCATIONAL SERVICE AGENCY.—The term "educational service agency" means a regional public multiservice agency authorized by State statute to develop and manage a service or program, and to provide the service or program to a local educational agency.

(4) ELIGIBLE AGENCY.—The term "eligible agency" means the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for adult education and literacy in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

(5) ELIGIBLE PROVIDER.—The term "eligible provider" means—

(A) a local educational agency;

(B) a community-based organization of demonstrated effectiveness;

(C) a volunteer literacy organization of demonstrated effectiveness;

(D) an institution of higher education;

(E) a public or private nonprofit agency;

(F) a library;

(G) a public housing authority;

(H) a nonprofit institution that is not described in any of subparagraphs (A) through (G) and has the ability to provide literacy services to adults and families; and

(I) a consortium of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) through (H).

(6) ENGLISH LITERACY PROGRAM.—The term "English literacy program" means a program of instruction designed to help individuals of limited English proficiency achieve competence in the English language.

(7) FAMILY LITERACY SERVICES.—The term "family literacy services" means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(8) GOVERNOR.—The term "Governor" means the chief executive officer of a State or outlying area.

(9) INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term "individual with a disability" means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) INDIVIDUALS WITH DISABILITIES.—The term "individuals with disabilities" means more than 1 individual with a disability.

(10) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term "individual of limited English proficiency" means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment where a language other than English is the dominant language.

(11) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

(12) LITERACY.—The term "literacy" means an individual's ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job, in the family of the individual, and in society.

(13) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(14) OUTLYING AREA.—The term "outlying area" has the meaning given the term in section 101.

(15) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term "postsecondary educational institution" means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

(B) a tribally controlled community college; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(16) SECRETARY.—The term "Secretary" means the Secretary of Education.

(17) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(18) WORKPLACE LITERACY SERVICES.—The term "workplace literacy services" means literacy services that are offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills.

SEC. 204. HOME SCHOOLS.

Nothing in this subtitle shall be construed to affect home schools, or to compel a parent engaged in home schooling to participate in an English literacy program, family literacy services, or adult education.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2003.

Subtitle A—Adult Education and Literacy Programs

CHAPTER 1—FEDERAL PROVISIONS

SEC. 211. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.

(a) RESERVATION OF FUNDS.—From the sum appropriated under section 205 for a fiscal year, the Secretary—

(1) shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed $8,000,000;

(2) shall reserve 1.5 percent to carry out section 243, except that the amount so reserved shall not exceed $8,000,000; and

(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 503.

(b) GRANTS TO ELIGIBLE AGENCIES.—

(1) IN GENERAL.—From the sum appropriated under section 205 and not reserved under subsection (a) for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 224 in an amount equal to the sum of the initial allotment under subsection (c)(1) and the additional allotment under subsection (c)(2) for the eligible agency for the fiscal year, subject to subsections (f) and (g), to enable the eligible agency to carry out the activities assisted under this subtitle.

(2) PURPOSE OF GRANTS.—The Secretary may award a grant under paragraph (1) only if the eligible entity involved agrees to expend the grant for adult education and literacy activities in accordance with the provisions of this subtitle.

(c) ALLOTMENTS.—

(1) INITIAL ALLOTMENTS.—From the sum appropriated under section 205 and not reserved under subsection (a) for a fiscal year, the Secretary shall allot to each eligible agency having a State plan approved under section 224(f)—

(A) $100,000, in the case of an eligible agency serving an outlying area.

(B) $250,000, in the case of any other eligible agency.

(2) ADDITIONAL ALLOTMENTS.—From the sum appropriated under section 205, not reserved under subsection (a), and not allotted under paragraph (1), for a fiscal year, the Secretary shall allot to each eligible agency that receives an initial allotment under paragraph (1) an additional amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

(d) QUALIFYING ADULT.—For the purpose of subsection (c)(2), the term "qualifying adult" means an adult who—

(1) is at least 16 years of age, but less than 61 years of age;

(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;

(3) does not have a secondary school diploma or its recognized equivalent; and

(4) is not enrolled in secondary school.

(e) SPECIAL RULE.—

(1) IN GENERAL.—From amounts made available under subsection (c) for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Secretary determines are not inconsistent with this subsection.

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

(f) HOLD-HARMLESS.—

(1) IN GENERAL.—Notwithstanding subsection (c)—

(A) for fiscal year 1999, no eligible agency shall receive an allotment under this subtitle that is less than 90 percent of the payments made to the State or outlying area of the eligible agency for fiscal year 1998 for programs for which funds were authorized to be appropriated under section 313 of the Adult Education Act (as such Act was in effect on the day before the date of the enactment of the Workforce Investment Act of 1998); and

(B) for fiscal year 2000 and each succeeding fiscal year, no eligible agency shall receive an allotment under this subtitle that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this subtitle.

(2) RATABLE REDUCTION.—If for any fiscal year the amount available for allotment under this subtitle is insufficient to satisfy the provisions of paragraph (1), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

(g) REALLOTMENT.—The portion of any eligible agency's allotment under this subtitle for a fiscal year that the Secretary determines will not be required for the period such allotment is available for carrying out activities under this subtitle, shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other eligible agencies in proportion to the original allotments to such agencies under this subtitle for such year.

SEC. 212. PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) PURPOSE.—The purpose of this section is to establish a comprehensive performance accountability system, comprised of the activities described in this section, to assess the effectiveness of eligible agencies in achieving continuous improvement of adult education and literacy activities funded under this subtitle, in order to optimize the return on investment of Federal funds in adult education and literacy activities.

(b) ELIGIBLE AGENCY PERFORMANCE MEASURES.—

(1) IN GENERAL.—For each eligible agency, the eligible agency performance measures shall consist of—

(A)(i) the core indicators of performance described in paragraph (2)(A); and

(ii) additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(B); and

(B) an eligible agency adjusted level of performance for each indicator described in subparagraph (A).

(2) INDICATORS OF PERFORMANCE.—

(A) CORE INDICATORS OF PERFORMANCE.—The core indicators of performance shall include the following:

(i) Demonstrated improvements in literacy skill levels in reading, writing and speaking the English language, numeracy, problem-solving, English language acquisition, and other literacy skills.

(ii) Placement in, retention in, or completion of, postsecondary education, training, unsubsidized employment or career advancement.

(iii) Receipt of a secondary school diploma or its recognized equivalent.

(B) ADDITIONAL INDICATORS.—An eligible agency may identify in the State plan additional indicators for adult education and literacy activities authorized under this subtitle.

(3) LEVELS OF PERFORMANCE.—

(A) ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS.—

(i) IN GENERAL.—For each eligible agency submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph (2)(A) for adult education and literacy activities authorized under this subtitle. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in an objective, quantifiable, and measurable form; and

(II) show the progress of the eligible agency toward continuously improving in performance.

(ii) IDENTIFICATION IN STATE PLAN.—Each eligible agency shall identify, in the State plan submitted under section 224, expected levels of performance for each of the core indicators of performance for the first 3 program years covered by the State plan.

(iii) AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 3 YEARS.—In order to ensure an optimal return on the investment of Federal funds in adult education and literacy activities authorized under this subtitle, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—

(I) how the levels involved compare with the eligible agency adjusted levels of performance established for other eligible agencies, taking into account factors including the characteristics of participants when the participants entered the program, and the services or instruction to be provided; and

(II) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such eligible agency and ensure optimal return on the investment of Federal funds.

(v) AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR 4TH AND 5TH YEARS.—Prior to the fourth program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance for the fourth and fifth program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan.

(vi) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv)(II), the eligible agency may request that the eligible agency adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary, after collaboration with the representatives described in section 136(j), shall issue objective criteria and methods for making such revisions.

(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—The eligible agency may identify, in the State plan, eligible agency levels of performance for each of the additional indicators described in paragraph (2)(B). Such levels shall be considered to be eligible agency adjusted levels of performance for purposes of this subtitle.

(c) REPORT.—

(1) IN GENERAL.—Each eligible agency that receives a grant under section 211(b) shall annually prepare and submit to the Secretary a report on the progress of the eligible agency in achieving eligible agency performance measures, including information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance.

(2) INFORMATION DISSEMINATION.—The Secretary—

(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate committees of Congress with copies of such reports.

CHAPTER 2—STATE PROVISIONS

SEC. 221. STATE ADMINISTRATION.

Each eligible agency shall be responsible for the State or outlying area administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this subtitle; and

(3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

SEC. 222. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.

(a) STATE DISTRIBUTION OF FUNDS.—Each eligible agency receiving a grant under this subtitle for a fiscal year—

(1) shall use not less than 82.5 percent of the grant funds to award grants and contracts under section 231 and to carry out section 225, of which not more than 10 percent of the 82.5 percent shall be available to carry out section 225;

(2) shall use not more than 12.5 percent of the grant funds to carry out State leadership activities under section 223; and

(3) shall use not more than 5 percent of the grant funds, or $65,000, whichever is greater, for the administrative expenses of the eligible agency.

(b) MATCHING REQUIREMENT.—

(1) IN GENERAL.—In order to receive a grant from the Secretary under section 211(b) each eligible agency shall provide, for the costs to be incurred by the eligible agency in carrying out the adult education and literacy activities for which the grant is awarded, a non-Federal contribution in an amount equal to—

(A) in the case of an eligible agency serving an outlying area, 12 percent of the total amount of funds expended for adult education and literacy activities in the outlying area, except that the Secretary may decrease the amount of funds required under this subparagraph for an eligible agency; and

(B) in the case of an eligible agency serving a State, 25 percent of the total amount of funds expended for adult education and literacy activities in the State.

(2) NON-FEDERAL CONTRIBUTION.—An eligible agency's non-Federal contribution required under paragraph (1) may be provided in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this subtitle.

SEC. 223. STATE LEADERSHIP ACTIVITIES.

(a) IN GENERAL.—Each eligible agency shall use funds made available under section 222(a)(2) for 1 or more of the following adult education and literacy activities:

(1) The establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under section 231(b), including instruction incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension, and instruction provided by volunteers or by personnel of a State or outlying area.

(2) The provision of technical assistance to eligible providers of adult education and literacy activities.

(3) The provision of technology assistance, including staff training, to eligible providers of adult education and literacy activities to enable the eligible providers to improve the quality of such activities.

(4) The support of State or regional networks of literacy resource centers.

(5) The monitoring and evaluation of the quality of, and the improvement in, adult education and literacy activities.

(6) Incentives for—

(A) program coordination and integration; and

(B) performance awards.

(7) Developing and disseminating curricula, including curricula incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension.

(8) Other activities of statewide significance that promote the purpose of this title.

(9) Coordination with existing support services, such as transportation, child care, and

other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, to adults enrolled in such activities.

(10) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

(11) Linkages with postsecondary educational institutions.

(b) COLLABORATION.—In carrying out this section, eligible agencies shall collaborate where possible, and avoid duplicating efforts, in order to maximize the impact of the activities described in subsection (a).

(c) STATE-IMPOSED REQUIREMENTS.—Whenever a State or outlying area implements any rule or policy relating to the administration or operation of a program authorized under this subtitle that has the effect of imposing a requirement that is not imposed under Federal law (including any rule or policy based on a State or outlying area interpretation of a Federal statute, regulation, or guideline), the State or outlying area shall identify, to eligible providers, the rule or policy as being State- or outlying area-imposed.

SEC. 224. STATE PLAN.

(a) 5-YEAR PLANS.—

(1) IN GENERAL.—Each eligible agency desiring a grant under this subtitle for any fiscal year shall submit to, or have on file with, the Secretary a 5-year State plan.

(2) COMPREHENSIVE PLAN OR APPLICATION.—The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

(b) PLAN CONTENTS.—In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State or outlying area for adult education and literacy activities, including individuals most in need or hardest to serve;

(2) a description of the adult education and literacy activities that will be carried out with any funds received under this subtitle;

(3) a description of how the eligible agency will evaluate annually the effectiveness of the adult education and literacy activities based on the performance measures described in section 212;

(4) a description of the performance measures described in section 212 and how such performance measures will ensure the improvement of adult education and literacy activities in the State or outlying area;

(5) an assurance that the eligible agency will award not less than 1 grant under this subtitle to an eligible provider who offers flexible schedules and necessary support services (such as child care and transportation) to enable individuals, including individuals with disabilities, or individuals with other special needs, to participate in adult education and literacy activities, which eligible provider shall attempt to coordinate with support services that are not provided under this subtitle prior to using funds for adult education and literacy activities provided under this subtitle for support services;

(6) an assurance that the funds received under this subtitle will not be expended for any purpose other than for activities under this subtitle;

(7) a description of how the eligible agency will fund local activities in accordance with the considerations described in section 231(e);

(8) an assurance that the eligible agency will expend the funds under this subtitle only in a manner consistent with fiscal requirements in section 241;

(9) a description of the process that will be used for public participation and comment with respect to the State plan;

(10) a description of how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income students;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;

(11) a description of how the adult education and literacy activities that will be carried out with any funds received under this subtitle will be integrated with other adult education, career development, and employment and training activities in the State or outlying area served by the eligible agency; and

(12) a description of the steps the eligible agency will take to ensure direct and equitable access, as required in section 231(c)(1).

(c) PLAN REVISIONS.—When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit the revisions to the State plan to the Secretary.

(d) CONSULTATION.—The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor of the State or outlying area for review and comment; and

(2) ensure that any comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.

(e) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding the approval of State plans.

(f) PLAN APPROVAL.—A State plan submitted to the Secretary shall be approved by the Secretary unless the Secretary makes a written determination, within 90 days after receiving the plan, that the plan is inconsistent with the specific provisions of this subtitle.

SEC. 225. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

(a) PROGRAM AUTHORIZED.—From funds made available under section 222(a)(1) for a fiscal year, each eligible agency shall carry out corrections education or education for other institutionalized individuals.

(b) USES OF FUNDS.—The funds described in subsection (a) shall be used for the cost of educational programs for criminal offenders in correctional institutions and for other institutionalized individuals, including academic programs for—

(1) basic education;

(2) special education programs as determined by the eligible agency;

(3) English literacy programs; and

(4) secondary school credit programs.

(c) PRIORITY.—Each eligible agency that is using assistance provided under this section to carry out a program for criminal offenders in a correctional institution shall give priority to serving individuals who are likely to leave the correctional institution with 5 years of participation in the program.

(d) DEFINITION OF CRIMINAL OFFENDER.—

(1) CRIMINAL OFFENDER.—The term "criminal offender" means any individual who is charged with or convicted of any criminal offense.

(2) CORRECTIONAL INSTITUTION.—The term "correctional institution" means any—

(A) prison;

(B) jail;

(C) reformatory;

(D) work farm;

(E) detention center; or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

CHAPTER 3—LOCAL PROVISIONS

SEC. 231. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

(a) GRANTS AND CONTRACTS.—From grant funds made available under section 211(b), each eligible agency shall award multiyear grants or contracts, on a competitive basis, to eligible providers within the State or outlying area to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State.

(b) REQUIRED LOCAL ACTIVITIES.—The eligible agency shall require that each eligible provider receiving a grant or contract under subsection (a) use the grant or contract to establish or operate 1 or more programs that provide services or instruction in 1 or more of the following categories:

(1) Adult education and literacy services, including workplace literacy services.

(2) Family literacy services.

(3) English literacy programs.

(c) DIRECT AND EQUITABLE ACCESS; SAME PROCESS.—Each eligible agency receiving funds under this subtitle shall ensure that—

(1) all eligible providers have direct and equitable access to apply for grants or contracts under this section; and

(2) the same grant or contract announcement process and application process is used for all eligible providers in the State or outlying area.

(d) SPECIAL RULE.—Each eligible agency awarding a grant or contract under this section shall not use any funds made available under this subtitle for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are not individuals described in subparagraphs (A) and (B) of section 203(1), except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy services. In providing family literacy services under this subtitle, an eligible provider shall attempt to coordinate with programs and services that are not assisted under this subtitle prior to using funds for adult education and literacy activities under this subtitle for activities other than adult education activities.

(e) CONSIDERATIONS.—In awarding grants or contracts under this section, the eligible agency shall consider—

(1) the degree to which the eligible provider will establish measurable goals for participant outcomes;

(2) the past effectiveness of an eligible provider in improving the literacy skills of adults and families, and, after the 1-year period beginning with the adoption of an eligible agency's performance measures under section 212, the success of an eligible provider receiving funding under this subtitle in meeting or exceeding such performance measures, especially with respect to those adults with the lowest levels of literacy;

(3) the commitment of the eligible provider to serve individuals in the community who are most in need of literacy services, including individuals who are low-income or have minimal literacy skills;

(4) whether or not the program—

(A) is of sufficient intensity and duration for participants to achieve substantial learning gains; and

(B) uses instructional practices, such as phonemic awareness, systematic phonics, fluency, and reading comprehension that research has proven to be effective in teaching individuals to read;

(5) whether the activities are built on a strong foundation of research and effective educational practice;

(6) whether the activities effectively employ advances in technology, as appropriate, including the use of computers;

(7) whether the activities provide learning in real life contexts to ensure that an individual has the skills needed to compete in the workplace and exercise the rights and responsibilities of citizenship;

(8) whether the activities are staffed by well-trained instructors, counselors, and administrators;

(9) whether the activities coordinate with other available resources in the community, such as by establishing strong links with elementary schools and secondary schools, postsecondary educational institutions, one-stop centers, job training programs, and social service agencies;

(10) whether the activities offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;

(11) whether the activities maintain a high-quality information management system that has the capacity to report participant outcomes and to monitor program performance against the eligible agency performance measures; and

(12) whether the local communities have a demonstrated need for additional English literacy programs.

SEC. 232. LOCAL APPLICATION.

Each eligible provider desiring a grant or contract under this subtitle shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this subtitle will be spent; and

(2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities.

SEC. 233. LOCAL ADMINISTRATIVE COST LIMITS.

(a) IN GENERAL.—Subject to subsection (b), of the amount that is made available under this subtitle to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and interagency coordination.

(b) SPECIAL RULE.—In cases where the cost limits described in subsection (a) are too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination, the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

CHAPTER 4—GENERAL PROVISIONS

SEC. 241. ADMINISTRATIVE PROVISIONS.

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available for adult education and literacy activities under this subtitle shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

(b) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—

(A) DETERMINATION.—An eligible agency may receive funds under this subtitle for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the third preceding fiscal year.

(B) PROPORTIONATE REDUCTION.—Subject to paragraphs (2), (3), and (4), for any fiscal year with respect to which the Secretary determines under subparagraph (A) that the fiscal effort or the aggregate expenditures of an eligible agency for the preceding program year were less than such effort or expenditures for the second preceding program year, the Secretary—

(i) shall determine the percentage decreases in such effort or in such expenditures; and

(ii) shall decrease the payment made under this subtitle for such program year to the agency for adult education and literacy activities by the lesser of such percentages.

(2) COMPUTATION.—In computing the fiscal effort and aggregate expenditures under paragraph (1), the Secretary shall exclude capital expenditures and special one-time project costs.

(3) DECREASE IN FEDERAL SUPPORT.—If the amount made available for adult education and literacy activities under this subtitle for a fiscal year is less than the amount made available for adult education and literacy activities under this subtitle for the preceding fiscal year, then the fiscal effort per student and the aggregate expenditures of an eligible agency required in order to avoid a reduction under paragraph (1)(B) shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(4) WAIVER.—The Secretary may waive the requirements of this subsection for 1 fiscal year only, if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State or outlying area of the eligible agency. If the Secretary grants a waiver under the preceding sentence for a fiscal year, the level of effort required under paragraph (1) shall not be reduced in the subsequent fiscal year because of the waiver.

SEC. 242. NATIONAL INSTITUTE FOR LITERACY.

(a) PURPOSE.—The purpose of this section is to establish a National Institute for Literacy that—

(1) provides national leadership regarding literacy;

(2) coordinates literacy services and policy; and

(3) serves as a national resource for adult education and literacy programs by—

(A) providing the best and most current information available, including the work of the National Institute of Child Health and Human Development in the area of phonemic awareness, systematic phonics, fluency, and reading comprehension, to all recipients of Federal assistance that focuses on reading, including programs under titles I and VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq. and 7401 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and this Act; and

(B) supporting the creation of new ways to offer services of proven effectiveness.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Institute for Literacy (in this section referred to as the "Institute"). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the "Interagency Group"). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services the purpose of which is determined by the Interagency Group to be related to the purpose of the Institute.

(2) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

(3) RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the "Board") established under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board's recommendations, including the reasons for not following the Board's recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board's recommendations.

(4) DAILY OPERATIONS.—The daily operations of the Institute shall be administered by the Director of the Institute.

(c) DUTIES.—

(1) IN GENERAL.—In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized—

(A) to establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including instruction in phonemic awareness, systematic phonics, fluency, and reading comprehension, and the integration of literacy and basic skills instruction with occupational skills training;

(ii) public and private literacy and basic skills programs, and Federal, State, and local policies, affecting the provision of literacy services at the national, State, and local levels;

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

(iv) a communication network for literacy programs, providers, social service agencies, and students;

(B) to coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

(C) to coordinate the support of reliable and replicable research and development on literacy and basic skills in families and adults across Federal agencies, especially with the Office of Educational Research and Improvement in the Department of Education, and to carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies, such as the special literacy needs of individuals with learning disabilities;

(D) to collect and disseminate information on methods of advancing literacy that show great promise, including phonemic awareness, systematic phonics, fluency, and reading comprehension based on the work of the National Institute of Child Health and Human Development;

(E) to provide policy and technical assistance to Federal, State, and local entities for the improvement of policy and programs relating to literacy;

(F) to fund a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services;

(ii) enhancing the capacity of State and local organizations to provide literacy services; and

(iii) serving as a link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

(G) to coordinate and share information with national organizations and associations that are interested in literacy and workforce investment activities;

(H) to advise Congress and Federal departments and agencies regarding the development of policy with respect to literacy and basic skills; and

(I) to undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations.

(2) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute.

(d) LITERACY LEADERSHIP.—

(1) IN GENERAL.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) INTERNS AND VOLUNTEERS.—The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

(e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There shall be a National Institute for Literacy Advisory Board (in this section referred to as the "Board"), which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.

(B) COMPOSITION.—The Board shall be comprised of individuals who are not otherwise officers or employees of the Federal Government and who are representative of entities such as—

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English literacy programs and services, social service organizations, and eligible providers receiving assistance under this subtitle;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students, including literacy students with disabilities;

(iv) experts in the area of literacy research;

(v) State and local governments;

(vi) State Directors of adult education; and

(vii) representatives of employees, including representatives of labor organizations.

(2) DUTIES.—The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute;

(B) provide independent advice on the operation of the Institute; and

(C) receive reports from the Interagency Group and the Director.

(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(4) APPOINTMENTS.—

(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

(6) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

(f) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(2) RULES.—The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out the responsibilities of the Institute or employee, or official duties, in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of the Institute's programs or any official involved in those programs.

(g) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(i) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

(j) EXPERTS AND CONSULTANTS.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(k) REPORT.—The Institute shall submit a report biennially to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

(2) a description of how plans for the operation of the Institute for the succeeding 2 fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

(3) any additional minority, or dissenting views submitted by members of the Board.

(l) FUNDING.—Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.

The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide. Such activities may include the following:

(1) Technical assistance, including—

(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult education and literacy activities, including family literacy services, based on scientific evidence where available; and

(C) assistance in distance learning and promoting and improving the use of technology in the classroom.

(2) Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—

(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using phonemic awareness, systematic phonics, fluency, and reading comprehension, based on the work of the National Institute of Child Health and Human Development;

(B) increasing the effectiveness of, and improving the qualify of, adult education and literacy activities, including family literacy services;

(C) carrying out research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

(D)(i) carrying out demonstration programs;

(ii) developing and replicating model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs; and

(iii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs;

(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy

services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

(iv) the extent to which eligible agencies have distributed funds under section 231 to meet the needs of adults through community-based organizations;

(F) supporting efforts aimed at capacity building at the State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subtitle;

(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems; and

(H) other activities designed to enhance the quality of adult education and literacy activities nationwide.

Subtitle B—Repeals

SEC. 251. REPEALS.

(a) REPEALS.—

(1) ADULT EDUCATION ACT.—The Adult Education Act (20 U.S.C. 1201 et seq.) is repealed.

(2) NATIONAL LITERACY ACT OF 1991.—The National Literacy Act of 1991 (20 U.S.C. 1201 note) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(2) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1202 OF ESEA.—Section 1202(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(1)) is amended by striking "Adult Education Act" and inserting "Adult Education and Family Literacy Act".

(B) SECTION 1205 OF ESEA.—Section 1205(8)(B) of such Act (20 U.S.C. 6365(8)(B)) is amended by striking "Adult Education Act" and inserting "Adult Education and Family Literacy Act".

(C) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of such Act (20 U.S.C. 6366(a)(1)(A)) is amended by striking "an adult basic education program under the Adult Education Act" and inserting "adult education and literacy activities under the Adult Education and Family Literacy Act".

(D) SECTION 3113 OF ESEA.—Section 3113(1) of such Act (20 U.S.C. 6813(1)) is amended by striking "section 312 of the Adult Education Act" and inserting "section 203 of the Adult Education and Family Literacy Act".

(E) SECTION 9161 OF ESEA.—Section 9161(2) of such Act (20 U.S.C. 7881(2)) is amended by striking "section 312(2) of the Adult Education Act" and inserting "section 203 of the Adult Education and Family Literacy Act".

(3) OLDER AMERICANS ACT OF 1965.—Section 203(b)(8) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(8)) is amended by striking "Adult Education Act" and inserting "Adult Education and Family Literacy Act".

TITLE III—WORKFORCE INVESTMENT-RELATED ACTIVITIES

Subtitle A—Wagner-Peyser Act

SEC. 301. DEFINITIONS.

Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(1) in paragraph (1)—

(A) by striking "or officials"; and

(B) by striking "Job Training Partnership Act" and inserting "Workforce Investment Act of 1998";

(2) by striking paragraphs (2) and (4);

(3) by redesignating paragraph (3) as paragraph (4);

(4) by inserting after paragraph (1) the following:

"(2) the term 'local workforce investment board' means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998;

"(3) the term 'one-stop delivery system' means a one-stop delivery system described in section 134(c) of the Workforce Investment Act of 1998;"; and

(5) in paragraph (4) (as redesignated in paragraph (3)), by striking the semicolon and inserting "; and".

SEC. 302. FUNCTIONS.

(a) IN GENERAL.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended—

(1) in subsection (a), by striking "United States Employment Service" and inserting "Secretary"; and

(2) by adding at the end the following:

"(c) The Secretary shall—

"(1) assist in the coordination and development of a nationwide system of public labor exchange services, provided as part of the one-stop customer service systems of the States;

"(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of jobseekers relating to the system; and

"(3) ensure, for individuals otherwise eligible to receive unemployment compensation, the provision of reemployment services and other activities in which the individuals are required to participate to receive the compensation.".

(b) CONFORMING AMENDMENTS.—Section 508(b)(1) of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a(b)(1)) is amended—

(1) by striking "the third sentence of section 3(a)" and inserting "section 3(b)"; and

(2) by striking "49b(a)" and inserting "49b(b))".

SEC. 303. DESIGNATION OF STATE AGENCIES.

Section 4 of the Wagner-Peyser Act (29 U.S.C. 49c) is amended—

(1) by striking ", through its legislature," and inserting ", pursuant to State statute,";

(2) by inserting after "the provisions of this Act and" the following: ", in accordance with such State statute, the Governor shall"; and

(3) by striking "United States Employment Service" and inserting "Secretary".

SEC. 304. APPROPRIATIONS.

Section 5(c) of the Wagner-Peyser Act (29 U.S.C. 49d(c)) is amended by striking paragraph (3).

SEC. 305. DISPOSITION OF ALLOTTED FUNDS.

Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) in subsection (b)(2), by striking "private industry council" and inserting "local workforce investment board";

(2) in subsection (c)(2), by striking "any program under" and all that follows and inserting "any workforce investment activity carried out under the Workforce Investment Act of 1998.";

(3) in subsection (d)—

(A) by striking "United States Employment Service" and inserting "Secretary"; and

(B) by striking "Job Training Partnership Act" and inserting "Workforce Investment Act of 1998"; and

(4) by adding at the end the following:

"(e) All job search, placement, recruitment, labor employment statistics, and other labor exchange services authorized under subsection (a) shall be provided, consistent with the other requirements of this Act, as part of the one-stop delivery system established by the State.".

SEC. 306. STATE PLANS.

Section 8 of the Wagner-Peyser Act (29 U.S.C. 49g) is amended—

(1) in subsection (a) to read as follows:

"(a) Any State desiring to receive assistance under this Act shall submit to the Secretary, as part of the State plan submitted under section 112 of the Workforce Investment Act of 1998, detailed plans for carrying out the provisions of this Act within such State.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b);

(4) by inserting after subsection (b) (as redesignated by paragraph (3)) the following:

"(c) The part of the State plan described in subsection (a) shall include the information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.";

(5) by redesignating subsection (e) as subsection (d); and

(6) in subsection (d) (as redesignated in paragraph (5)), by striking "such plans" and inserting "such detailed plans".

SEC. 307. REPEAL OF FEDERAL ADVISORY COUNCIL.

Section 11 of the Wagner-Peyser Act (29 U.S.C. 49j) is amended—

(1) by striking "11." and all that follows through "(b) In" and inserting "11. In"; and

(2) by striking "Director" and inserting "Secretary".

SEC. 308. REGULATIONS.

Section 12 of the Wagner-Peyser Act (29 U.S.C. 49k) is amended by striking "The Director, with the approval of the Secretary of Labor," and inserting "The Secretary".

SEC. 309. EMPLOYMENT STATISTICS.

The Wagner-Peyser Act is amended—

(1) by redesignating section 15 (29 U.S.C. 49 note) as section 16; and

(2) by inserting after section 14 (29 U.S.C. 49l–1) the following:

"SEC. 15. EMPLOYMENT STATISTICS.

"(a) SYSTEM CONTENT.—

"(1) IN GENERAL.—The Secretary, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a nationwide employment statistics system of employment statistics that includes—

"(A) statistical data from cooperative statistical survey and projection programs and data from administrative reporting systems that, taken together, enumerate, estimate, and project employment opportunities and conditions at national, State, and local levels in a timely manner, including statistics on—

"(i) employment and unemployment status of national, State, and local populations, including self-employed, part-time, and seasonal workers;

"(ii) industrial distribution of occupations, as well as current and projected employment opportunities, wages, benefits (where data is available), and skill trends by occupation and industry, with particular attention paid to State and local conditions;

"(iii) the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings; and

"(iv) employment and earnings information maintained in a longitudinal manner to be used for research and program evaluation;

"(B) information on State and local employment opportunities, and other appropriate statistical data related to labor market dynamics, which—

"(i) shall be current and comprehensive;

"(ii) shall meet the needs identified through the consultations described in subparagraphs (A) and (B) of subsection (e)(2); and

"(iii) shall meet the needs for the information identified in section 134(d);

"(C) technical standards (which the Secretary shall publish annually) for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44, United States Code;

"(D) procedures to ensure compatibility and additivity of the data and information described in subparagraphs (A) and (B) from national, State, and local levels;

"(E) procedures to support standardization and aggregation of data from administrative reporting systems described in subparagraph (A) of employment-related programs;

"(F) analysis of data and information described in subparagraphs (A) and (B) for uses such as—

"(i) national, State, and local policymaking;

"(ii) implementation of Federal policies (including allocation formulas);

"(iii) program planning and evaluation; and

"(iv) researching labor market dynamics;

"(G) wide dissemination of such data, information, and analysis in a user-friendly manner and voluntary technical standards for dissemination mechanisms; and

"(H) programs of—

"(i) training for effective data dissemination;

"(ii) research and demonstration; and

"(iii) programs and technical assistance.

"(2) INFORMATION TO BE CONFIDENTIAL.—

"(A) IN GENERAL.—No officer or employee of the Federal Government or agent of the Federal Government may—

"(i) use any submission that is furnished for exclusively statistical purposes under the provisions of this section for any purpose other than the statistical purposes of this section for which the submission is furnished;

"(ii) make any publication or media transmittal of the data contained in the submission described in clause (i) that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means; or

"(iii) permit anyone other than a sworn officer, employee, or agent of any Federal department or agency, or a contractor (including an employee of a contractor) of such department or agency, to examine an individual submission described in clause (i);

without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission.

"(B) IMMUNITY FROM LEGAL PROCESS.—Any submission (including any data derived from the submission) that is collected and retained by a Federal department or agency, or an officer, employee, agent, or contractor of such a department or agency, for exclusively statistical purposes under this section shall be immune from the legal process and shall not, without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide immunity from the legal process for such submission (including any data derived from the submission) if the submission is in the possession of any person, agency, or entity other than the Federal Government or an officer, employee, agent, or contractor of the Federal Government, or if the submission is independently collected, retained, or produced for purposes other than the purposes of this Act.

"(b) SYSTEM RESPONSIBILITIES.—

"(1) IN GENERAL.—The employment statistics system described in subsection (a) shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States.

"(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor employment statistics for the system, shall carry out the following duties:

"(A) Assign responsibilities within the Department of Labor for elements of the employment statistics system described in subsection (a) to ensure that all statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions.

"(B) Actively seek the cooperation of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.

"(C) Eliminate gaps and duplication in statistical undertakings, with the systemization of wage surveys as an early priority.

"(D) In collaboration with the Bureau of Labor Statistics and States, develop and maintain the elements of the employment statistics system described in subsection (a), including the development of consistent procedures and definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B) of subsection (a)(1).

"(E) Establish procedures for the system to ensure that—

"(i) such data and information are timely;

"(ii) paperwork and reporting for the system are reduced to a minimum; and

"(iii) States and localities are fully involved in the development and continuous improvement of the system at all levels, including ensuring the provision, to such States and localities, of budget information necessary for carrying out their responsibilities under subsection (e).

"(c) ANNUAL PLAN.—The Secretary, working through the Bureau of Labor Statistics, and in cooperation with the States, and with the assistance of other appropriate Federal agencies, shall prepare an annual plan which shall be the mechanism for achieving cooperative management of the nationwide employment statistics system described in subsection (a) and the statewide employment statistics systems that comprise the nationwide system. The plan shall—

"(1) describe the steps the Secretary has taken in the preceding year and will take in the following 5 years to carry out the duties described in subsection (b)(2);

"(2) include a report on the results of an annual consumer satisfaction review concerning the performance of the system, including the performance of the system in addressing the needs of Congress, States, localities, employers, jobseekers, and other consumers;

"(3) evaluate the performance of the system and recommend needed improvements, taking into consideration the results of the consumer satisfaction review, with particular attention to the improvements needed at the State and local levels;

"(4) justify the budget request for annual appropriations by describing priorities for the fiscal year succeeding the fiscal year in which the plan is developed and priorities for the 5 subsequent fiscal years for the system;

"(5) describe current (as of the date of the submission of the plan) spending and spending needs to carry out activities under this section, including the costs to States and localities of meeting the requirements of subsection (e)(2); and

"(6) describe the involvement of States in the development of the plan, through formal consultations conducted by the Secretary in cooperation with representatives of the Governors of every State, and with representatives of local workforce investment boards, pursuant to a process established by the Secretary in cooperation with the States.

"(d) COORDINATION WITH THE STATES.—The Secretary, working through the Bureau of Labor Statistics, and in cooperation with the States, shall—

"(1) develop the annual plan described in subsection (c) and address other employment statistics issues by holding formal consultations, at least once each quarter (beginning with the calendar quarter in which the Workforce Investment Act of 1998 is enacted) on the products and administration of the nationwide employment statistics system; and

"(2) hold the consultations with representatives from each of the 10 Federal regions of the Department of Labor, elected (pursuant to a process established by the Secretary) by and from the State employment statistics directors affiliated with the State agencies that perform the duties described in subsection (e)(2).

"(e) STATE RESPONSIBILITIES.—

"(1) DESIGNATION OF STATE AGENCY.—In order to receive Federal financial assistance under this section, the Governor of a State shall—

"(A) designate a single State agency to be responsible for the management of the portions of the employment statistics system described in subsection (a) that comprise a statewide employment statistics system and for the State's participation in the development of the annual plan; and

"(B) establish a process for the oversight of such system.

"(2) DUTIES.—In order to receive Federal financial assistance under this section, the State agency shall—

"(A) consult with State and local employers, participants, and local workforce investment boards about the labor market relevance of the data to be collected and disseminated through the statewide employment statistics system;

"(B) consult with State educational agencies and local educational agencies concerning the provision of employment statistics in order to meet the needs of secondary school and postsecondary school students who seek such information;

"(C) collect and disseminate for the system, on behalf of the State and localities in the State, the information and data described in subparagraphs (A) and (B) of subsection (a)(1);

"(D) maintain and continuously improve the statewide employment statistics system in accordance with this section;

"(E) perform contract and grant responsibilities for data collection, analysis, and dissemination for such system;

"(F) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide employment statistics system;

"(G) actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementarity, compatibility, and usefulness of data;

"(H) participate in the development of the annual plan described in subsection (c); and

"(I) utilize the quarterly records described in section 136(f)(2) of the Workforce Investment Act of 1998 to assist the State and other States in measuring State progress on State performance measures.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the ability of a State agency to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.

"(f) NONDUPLICATION REQUIREMENT.—None of the functions and activities carried out pursuant to this section shall duplicate the functions

and activities carried out under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2004.

"(h) DEFINITION.—In this section, the term 'local area' means the smallest geographical area for which data can be produced with statistical reliability.".

SEC. 310. TECHNICAL AMENDMENTS.

Sections 3(b), 6(b)(1), and 7(d) of the Wagner-Peyser Act (29 U.S.C. 49b(b), 49e(b)(1), and 49f(d)) are amended by striking "Secretary of Labor" and inserting "Secretary".

SEC. 311. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on July 1, 1999.

Subtitle B—Linkages With Other Programs

SEC. 321. TRADE ACT OF 1974.

Section 239 of the Trade Act of 1974 (19 U.S.C. 2311) is amended by adding at the end the following:

"(g) In order to promote the coordination of workforce investment activities in each State with activities carried out under this chapter, any agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.".

SEC. 322. VETERANS' EMPLOYMENT PROGRAMS.

Chapter 41 of title 38, United States Code, is amended by adding at the end the following:

"§4110B. Coordination and nonduplication

"In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.".

SEC. 323. OLDER AMERICANS ACT OF 1965.

Section 502(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)) is amended—

(1) in subparagraph (O), by striking "; and" and inserting a semicolon;

(2) in subparagraph (P), by striking the period and inserting "; and"; and

(3) by adding at the end the following subparagraph:

"(Q) will provide to the Secretary the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.".

Subtitle C—Twenty-First Century Workforce Commission

SEC. 331. SHORT TITLE.

This subtitle may be cited as the "Twenty-First Century Workforce Commission Act".

SEC. 332. FINDINGS.

Congress finds that—

(1) information technology is one of the fastest growing areas in the United States economy;

(2) the United States is a world leader in the information technology industry;

(3) the continued growth and prosperity of the information technology industry is important to the continued prosperity of the United States economy;

(4) highly skilled employees are essential for the success of business entities in the information technology industry and other business entities that use information technology;

(5) employees in information technology jobs are highly paid;

(6) as of the date of enactment of this Act, these employees are in high demand in all industries and all regions of the United States; and

(7) through a concerted effort by business entities, the Federal Government, the governments of States and political subdivisions of States, and educational institutions, more individuals will gain the skills necessary to enter into a technology-based job market, ensuring that the United States remains the world leader in the information technology industry.

SEC. 333. DEFINITIONS.

In this subtitle:

(1) BUSINESS ENTITY.—The term "business entity" means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) COMMISSION.—The term "Commission" means the Twenty-First Century Workforce Commission established under section 334.

(3) INFORMATION TECHNOLOGY.—The term "information technology" has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(4) STATE.—The term "State" means each of the several States of the United States and the District of Columbia.

SEC. 334. ESTABLISHMENT OF TWENTY-FIRST CENTURY WORKFORCE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Twenty-First Century Workforce Commission.

(b) MEMBERSHIP.—

(1) COMPOSITION.—

(A) IN GENERAL.—The Commission shall be composed of 15 voting members, of which—

(i) 5 members shall be appointed by the President;

(ii) 5 members shall be appointed by the Majority Leader of the Senate; and

(iii) 5 members shall be appointed by the Speaker of the House of Representatives.

(B) GOVERNMENTAL REPRESENTATIVES.—Of the members appointed under this subsection, 3 members shall be representatives of the governments of States and political subdivisions of States, 1 of whom shall be appointed by the President, 1 of whom shall be appointed by the Majority Leader of the Senate, and 1 of whom shall be appointed by the Speaker of the House of Representatives.

(C) EDUCATORS.—Of the members appointed under this subsection, 3 shall be educators who are selected from among elementary, secondary, vocational, and postsecondary educators—

(i) 1 of whom shall be appointed by the President;

(ii) 1 of whom shall be appointed by the Majority Leader of the Senate; and

(iii) 1 of whom shall be appointed by the Speaker of the House of Representatives.

(D) BUSINESS REPRESENTATIVES.—

(i) IN GENERAL.—Of the members appointed under this subsection, 8 shall be representatives of business entities (at least 3 of which shall be individuals who are employed by non-information technology business entities), 2 of whom shall be appointed by the President, 3 of whom shall be appointed by the Majority Leader of the Senate, and 3 of whom shall be appointed by the Speaker of the House of Representatives.

(ii) SIZE.—Members appointed under this subsection in accordance with clause (i) shall, to the extent practicable, include individuals from business entities of a size that is small or average.

(E) LABOR REPRESENTATIVE.—Of the members appointed under this subsection, 1 shall be a representative of a labor organization who has been nominated by a national labor federation and who shall be appointed by the President.

(F) EX-OFFICIO MEMBERS.—The Commission shall include 2 non-voting members, of which—

(i) 1 member shall be an officer or employee of the Department of Labor, who shall be appointed by the President; and

(ii) 1 member shall be an officer or employee of the Department of Education, who shall be appointed by the President.

(2) DATE.—The appointments of the members of the Commission shall be made by the later of—

(A) October 31, 1998; or

(B) the date that is 45 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select by vote a chairperson and vice chairperson from among its voting members.

SEC. 335. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of all matters relating to the information technology workforce in the United States.

(2) MATTERS STUDIED.—The matters studied by the Commission shall include an examination of—

(A) the skills necessary to enter the information technology workforce;

(B) ways to expand the number of skilled information technology workers; and

(C) the relative efficacy of programs in the United States and foreign countries to train information technology workers, with special emphasis on programs that provide for secondary education or postsecondary education in a program other than a 4-year baccalaureate program (including associate degree programs and graduate degree programs).

(3) PUBLIC HEARINGS.—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(4) EXISTING INFORMATION.—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(5) CONSULTATION WITH CHIEF INFORMATION OFFICERS COUNCIL.—In carrying out the study under this subsection, the Commission shall consult with the Chief Information Officers Council established under Executive Order No. 13011.

(b) REPORT.—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and the Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with its recommendations for such legislation and administrative actions as the Commission considers to be appropriate.

(c) FACILITATION OF EXCHANGE OF INFORMATION.—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government and the governments of States and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

SEC. 336. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 337. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 338. TERMINATION OF THE COMMISSION.

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 335(b).

SEC. 339. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 to the Commission to carry out the purposes of this subtitle.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

Subtitle D—Application of Civil Rights and Labor-Management Laws to the Smithsonian Institution

SEC. 341. APPLICATION OF CIVIL RIGHTS AND LABOR-MANAGEMENT LAWS TO THE SMITHSONIAN INSTITUTION.

(a) PROHIBITION ON EMPLOYMENT DISCRIMINATION ON BASIS OF RACE, COLOR, RELIGION, SEX, AND NATIONAL ORIGIN.—Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) is amended by inserting "in the Smithsonian Institution," before "and in the Government Printing Office,".

(b) PROHIBITION ON EMPLOYMENT DISCRIMINATION ON BASIS OF AGE.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by inserting "in the Smithsonian Institution," before "and in the Government Printing Office,".

(c) PROHIBITION ON EMPLOYMENT DISCRIMINATION ON BASIS OF DISABILITY.—Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) is amended—

(1) in the fourth sentence of subsection (a), in paragraph (1), by inserting "and the Smithsonian Institution" after "Government";

(2) in the first sentence of subsection (b)—

(A) by inserting "and the Smithsonian Institution" after "in the executive branch"; and

(B) by striking "such department, agency, or instrumentality" and inserting "such department, agency, instrumentality, or Institution"; and

(3) in subsection (d), by inserting "and the Smithsonian Institution" after "instrumentality".

(d) APPLICATION.—The amendments made by subsections (a), (b), and (c) shall take effect on the date of enactment of this Act and shall apply to and may be raised in any administrative or judicial claim or action brought before such date of enactment but pending on such date, and any administrative or judicial claim or action brought after such date regardless of whether the claim or action arose prior to such date, if the claim or action was brought within the applicable statute of limitations.

(e) LABOR-MANAGEMENT LAWS.—Section 7103(a)(3) of title 5, United States Code, is amended—

(1) by striking "and" after "Library of Congress,"; and

(2) by inserting "and the Smithsonian Institution" after "Government Printing Office,".

TITLE IV—REHABILITATION ACT AMENDMENTS OF 1998

SEC. 401. SHORT TITLE.

This title may be cited as the "Rehabilitation Act Amendments of 1998".

SEC. 402. TITLE.

The title of the Rehabilitation Act of 1973 is amended by striking "to establish special responsibilities" and all that follows and inserting the following: "to create linkage between State vocational rehabilitation programs and workforce investment activities carried out under title I of the Workforce Investment Act of 1998, to establish special responsibilities for the Secretary of Education for coordination of all activities with respect to individuals with disabilities within and across programs administered by the Federal Government, and for other purposes.".

SEC. 403. GENERAL PROVISIONS.

The Rehabilitation Act of 1973 is amended by striking the matter preceding title I and inserting the following:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Rehabilitation Act of 1973'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings; purpose; policy.
"Sec. 3. Rehabilitation Services Administration.
"Sec. 4. Advance funding.
"Sec. 5. Joint funding.
"Sec. 7. Definitions.
"Sec. 8. Allotment percentage.
"Sec. 10. Nonduplication.
"Sec. 11. Application of other laws.
"Sec. 12. Administration of the Act.
"Sec. 13. Reports.
"Sec. 14. Evaluation.
"Sec. 15. Information clearinghouse.
"Sec. 16. Transfer of funds.
"Sec. 17. State administration.
"Sec. 18. Review of applications.
"Sec. 19. Carryover.
"Sec. 20. Client assistance information.
"Sec. 21. Traditionally underserved populations.

"TITLE I—VOCATIONAL REHABILITATION SERVICES

"PART A—GENERAL PROVISIONS

"Sec. 100. Declaration of policy; authorization of appropriations.
"Sec. 101. State plans.
"Sec. 102. Eligibility and individualized plan for employment.
"Sec. 103. Vocational rehabilitation services.
"Sec. 104. Non-Federal share for establishment of program.
"Sec. 105. State Rehabilitation Council.
"Sec. 106. Evaluation standards and performance indicators.
"Sec. 107. Monitoring and review.
"Sec. 108. Expenditure of certain amounts.
"Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.

"PART B—BASIC VOCATIONAL REHABILITATION SERVICES

"Sec. 110. State allotments.
"Sec. 111. Payments to States.
"Sec. 112. Client assistance program.

"PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"Sec. 121. Vocational rehabilitation services grants.

"PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

"Sec. 131. Data sharing.

"TITLE II—RESEARCH AND TRAINING

"Sec. 200. Declaration of purpose.
"Sec. 201. Authorization of appropriations.
"Sec. 202. National Institute on Disability and Rehabilitation Research.
"Sec. 203. Interagency Committee.
"Sec. 204. Research and other covered activities.
"Sec. 205. Rehabilitation Research Advisory Council.

"TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

"Sec. 301. Declaration of purpose and competitive basis of grants and contracts.
"Sec. 302. Training.
"Sec. 303. Demonstration and training programs.
"Sec. 304. Migrant and seasonal farmworkers.
"Sec. 305. Recreational programs.
"Sec. 306. Measuring of project outcomes and performance.

"TITLE IV—NATIONAL COUNCIL ON DISABILITY

"Sec. 400. Establishment of National Council on Disability.
"Sec. 401. Duties of National Council.
"Sec. 402. Compensation of National Council members.
"Sec. 403. Staff of National Council.

"Sec. 404. Administrative powers of National Council.
"Sec. 405. Authorization of Appropriations.

"TITLE V—RIGHTS AND ADVOCACY

"Sec. 501. Employment of individuals with disabilities.
"Sec. 502. Architectural and Transportation Barriers Compliance Board.
"Sec. 503. Employment under Federal contracts.
"Sec. 504. Nondiscrimination under Federal grants and programs.
"Sec. 505. Remedies and attorneys' fees.
"Sec. 506. Secretarial responsibilities.
"Sec. 507. Interagency Disability Coordinating Council.
"Sec. 508. Electronic and information technology regulations.
"Sec. 509. Protection and advocacy of individual rights.

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

"Sec. 601. Short title.

"PART A—PROJECTS WITH INDUSTRY

"Sec. 611. Projects with industry.
"Sec. 612. Authorization of appropriations.

"PART B—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES

"Sec. 621. Purpose.
"Sec. 622. Allotments.
"Sec. 623. Availability of services.
"Sec. 624. Eligibility.
"Sec. 625. State plan.
"Sec. 626. Restriction.
"Sec. 627. Savings provision.
"Sec. 628. Authorization of appropriations.

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. Eligibility for receipt of services.
"Sec. 704. State plan.
"Sec. 705. Statewide Independent Living Council.
"Sec. 706. Responsibilities of the Commissioner.

"PART B—INDEPENDENT LIVING SERVICES

"Sec. 711. Allotments.
"Sec. 712. Payments to States from allotments.
"Sec. 713. Authorized uses of funds.
"Sec. 714. Authorization of appropriations.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Program authorization.
"Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 724. Centers operated by State agencies.
"Sec. 725. Standards and assurances for centers for independent living.
"Sec. 726. Definitions.
"Sec. 727. Authorization of appropriations.

"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

"Sec. 751. Definition.
"Sec. 752. Program of grants.
"Sec. 753. Authorization of appropriations.

"FINDINGS; PURPOSE; POLICY

"SEC. 2. (a) FINDINGS.—Congress finds that—

"(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

"(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

"(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination;

"(C) make choices;

"(D) contribute to society;

"(E) pursue meaningful careers; and

"(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

"(4) increased employment of individuals with disabilities can be achieved through implementation of statewide workforce investment systems under title I of the Workforce Investment Act of 1998 that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under title I, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

"(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

"(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purposes of this Act are—

"(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

"(A) statewide workforce investment systems implemented in accordance with title I of the Workforce Investment Act of 1998 that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(B) independent living centers and services;

"(C) research;

"(D) training;

"(E) demonstration projects; and

"(F) the guarantee of equal opportunity; and

"(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of an individual's representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.

"REHABILITATION SERVICES ADMINISTRATION

"SEC. 3. (a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the 'Commissioner') appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this Act, the Commissioner shall be guided by general policies of the National Council on Disability established under title IV of this Act.

"(b) The Secretary shall take whatever action is necessary to ensure that funds appropriated pursuant to this Act are expended only for the programs, personnel, and administration of programs carried out under this Act.

"ADVANCE FUNDING

"SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

"(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"JOINT FUNDING

"SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

"SEC. 7. DEFINITIONS.

"For the purposes of this Act:

"(1) The term 'administrative costs' means expenditures incurred in the performance of administrative functions under the vocational rehabilitation program carried out under title I, including expenses related to program planning, development, monitoring, and evaluation, including expenses for—

“(A) quality assurance;

“(B) budgeting, accounting, financial management, information systems, and related data processing;

“(C) providing information about the program to the public;

“(D) technical assistance and support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in section 103(b)(5);

“(E) the State Rehabilitation Council and other advisory committees;

“(F) professional organization membership dues for designated State unit employees;

“(G) the removal of architectural barriers in State vocational rehabilitation agency offices and State operated rehabilitation facilities;

“(H) operating and maintaining designated State unit facilities, equipment, and grounds;

“(I) supplies;

“(J) administration of the comprehensive system of personnel development described in section 101(a)(7), including personnel administration, administration of affirmative action plans, and training and staff development;

“(K) administrative salaries, including clerical and other support staff salaries, in support of these administrative functions;

“(L) travel costs related to carrying out the program, other than travel costs related to the provision of services;

“(M) costs incurred in conducting reviews of rehabilitation counselor or coordinator determinations under section 102(c); and

“(N) legal expenses required in the administration of the program.

“(2) ASSESSMENT FOR DETERMINING ELIGIBILITY AND VOCATIONAL REHABILITATION NEEDS.—The term ‘assessment for determining eligibility and vocational rehabilitation needs’ means, as appropriate in each case—

“(A)(i) a review of existing data—

“(I) to determine whether an individual is eligible for vocational rehabilitation services; and

“(II) to assign priority for an order of selection described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

“(ii) to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make such determination and assignment;

“(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the objectives, nature, and scope of vocational rehabilitation services, to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—

“(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan for employment of the eligible individual;

“(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

“(I) existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in section 101(a)(5)(A) for the individual; and

“(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

“(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

“(iv) may include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

“(C) referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

“(D) an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which shall be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

“(3) ASSISTIVE TECHNOLOGY DEVICE.—The term ‘assistive technology device’ has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section to the term ‘individuals with disabilities’ shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

“(4) ASSISTIVE TECHNOLOGY SERVICE.—The term ‘assistive technology service’ has the meaning given such term in section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3)), except that the reference in such section—

“(A) to the term ‘individual with a disability’ shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

“(B) to the term ‘individuals with disabilities’ shall be deemed to mean more than one such individual.

“(5) COMMUNITY REHABILITATION PROGRAM.—The term ‘community rehabilitation program’ means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

“(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

“(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

“(C) recreational therapy;

“(D) physical and occupational therapy;

“(E) speech, language, and hearing therapy;

“(F) psychiatric, psychological, and social services, including positive behavior management;

“(G) assessment for determining eligibility and vocational rehabilitation needs;

“(H) rehabilitation technology;

“(I) job development, placement, and retention services;

“(J) evaluation or control of specific disabilities;

“(K) orientation and mobility services for individuals who are blind;

“(L) extended employment;

“(M) psychosocial rehabilitation services;

“(N) supported employment services and extended services;

“(O) services to family members when necessary to the vocational rehabilitation of the individual;

“(P) personal assistance services; or

“(Q) services similar to the services described in one of subparagraphs (A) through (P).

“(6) CONSTRUCTION; COST OF CONSTRUCTION.—

“(A) CONSTRUCTION.—The term ‘construction’ means—

“(i) the construction of new buildings;

“(ii) the acquisition, expansion, remodeling, alteration, and renovation of existing buildings; and

“(iii) initial equipment of buildings described in clauses (i) and (ii).

“(B) COST OF CONSTRUCTION.—The term “cost of construction” includes architects' fees and the cost of acquisition of land in connection with construction but does not include the cost of offsite improvements.

“(7) CRIMINAL ACT.—The term ‘criminal act’ means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, or intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

“(8) DESIGNATED STATE AGENCY; DESIGNATED STATE UNIT.—

“(A) DESIGNATED STATE AGENCY.—The term ‘designated State agency’ means an agency designated under section 101(a)(2)(A).

“(B) DESIGNATED STATE UNIT.—The term ‘designated State unit’ means—

“(i) any State agency unit required under section 101(a)(2)(B)(ii); or

“(ii) in cases in which no such unit is so required, the State agency described in section 101(a)(2)(B)(i).

“(9) DISABILITY.—The term ‘disability’ means—

“(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

“(B) for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII, a physical or mental impairment that substantially limits one or more major life activities.

“(10) DRUG AND ILLEGAL USE OF DRUGS.—

“(A) DRUG.—The term ‘drug’ means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

“(B) ILLEGAL USE OF DRUGS.—The term ‘illegal use of drugs’ means the use of drugs. the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

“(11) EMPLOYMENT OUTCOME.—The term ‘employment outcome’ means, with respect to an individual—

“(A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

“(B) satisfying the vocational outcome of supported employment; or

“(C) satisfying any other vocational outcome the Secretary may determine to be appropriate (including satisfying the vocational outcome of self-employment, telecommuting, or business ownership),

in a manner consistent with this Act.

“(12) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—The term ‘establishment of a community rehabilitation program’ includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations

as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

"(13) EXTENDED SERVICES.—The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with a most significant disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(14) FEDERAL SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'Federal share' means 78.7 percent.

"(B) EXCEPTION.—The term "Federal share" means the share specifically set forth in section 111(a)(3), except that with respect to payments pursuant to part B of title I to any State that are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 111(a)(3) applicable with respect to the State.

"(C) RELATIONSHIP TO EXPENDITURES BY A POLITICAL SUBDIVISION.—For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

"(15) GOVERNOR.—The term 'Governor' means a chief executive officer of a State.

"(16) IMPARTIAL HEARING OFFICER.—

"(A) IN GENERAL.—The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

"(ii) who is not a member of the State Rehabilitation Council described in section 105;

"(iii) who has not been involved previously in the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) CONSTRUCTION.—An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(17) INDEPENDENT LIVING CORE SERVICES.—The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(18) INDEPENDENT LIVING SERVICES.—The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

"(vi) personal assistance services, including attendant care and the training of personnel providing such services;

"(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

"(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

"(ix) education and training necessary for living in a community and participating in community activities;

"(x) supported living;

"(xi) transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

"(xii) physical rehabilitation;

"(xiii) therapeutic treatment;

"(xiv) provision of needed prostheses and other appliances and devices;

"(xv) individual and group social and recreational services;

"(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

"(xvii) services for children;

"(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

"(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

"(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

"(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

"(19) INDIAN; AMERICAN INDIAN; INDIAN AMERICAN; INDIAN TRIBE.—

"(A) IN GENERAL.—The terms 'Indian', 'American Indian', and 'Indian American' mean an individual who is a member of an Indian tribe.

"(B) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).

"(20) INDIVIDUAL WITH A DISABILITY.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the term 'individual with a disability' means any individual who—

"(i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

"(ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to title I, III, or VI.

"(B) CERTAIN PROGRAMS; LIMITATIONS ON MAJOR LIFE ACTIVITIES.—Subject to subparagraphs (C), (D), (E), and (F), the term 'individual with a disability' means, for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII of this Act, any person who—

"(i) has a physical or mental impairment which substantially limits one or more of such person's major life activities;

"(ii) has a record of such an impairment; or

"(iii) is regarded as having such an impairment.

"(C) RIGHTS AND ADVOCACY PROVISIONS.—

"(i) IN GENERAL; EXCLUSION OF INDIVIDUALS ENGAGING IN DRUG USE.—For purposes of title V, the term 'individual with a disability' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) EXCEPTION FOR INDIVIDUALS NO LONGER ENGAGING IN DRUG USE.—Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) EXCLUSION FOR CERTAIN SERVICES.—Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II, and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) DISCIPLINARY ACTION.—For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at section 104.36 of title 34, Code of Federal Regulations (or any corresponding similar regulation or ruling) shall not apply to such disciplinary actions.

"(v) EMPLOYMENT; EXCLUSION OF ALCOHOLICS.—For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with a disability' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

"(D) EMPLOYMENT; EXCLUSION OF INDIVIDUALS WITH CERTAIN DISEASES OR INFECTIONS.—For the purposes of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

"(E) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF HOMOSEXUALITY OR BISEXUALITY.—For the purposes of sections 501, 503, and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF CERTAIN DISORDERS.—For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

"(G) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.

"(21) INDIVIDUAL WITH A SIGNIFICANT DISABILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term 'individual with a significant disability' means an individual with a disability—

"(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

"(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

"(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

"(B) INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.—For purposes of title VII, the term 'individual with a significant disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) RESEARCH AND TRAINING.—For purposes of title II, the term 'individual with a significant disability' includes an individual described in subparagraph (A) or (B).

"(D) INDIVIDUALS WITH SIGNIFICANT DISABILITIES.—The term 'individuals with significant disabilities' means more than one individual with a significant disability.

"(E) INDIVIDUAL WITH A MOST SIGNIFICANT DISABILITY.—

"(i) IN GENERAL.—The term 'individual with a most significant disability', used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section 101(a)(5)(C).

"(ii) INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES.—The term 'individuals with the most significant disabilities' means more than one individual with a most significant disability.

"(22) INDIVIDUAL'S REPRESENTATIVE; APPLICANT'S REPRESENTATIVE.—The terms 'individual's representative' and 'applicant's representative' mean a parent, a family member, a guardian, an advocate, or an authorized representative of an individual or applicant, respectively.

"(23) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(24) LOCAL AGENCY.—The term 'local agency' means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from arranging to utilize another local public or nonprofit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

"(25) LOCAL WORKFORCE INVESTMENT BOARD.—The term 'local workforce investment board' means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998.

"(26) NONPROFIT.—The term 'nonprofit', when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

"(27) ONGOING SUPPORT SERVICES.—The term 'ongoing support services' means services—

"(A) provided to individuals with the most significant disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the worksite;

"(iii) job development, job retention, and placement services;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, the individuals' representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(28) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

"(29) PUBLIC OR NONPROFIT.—The term 'public or nonprofit', used with respect to an agency or organization, includes an Indian tribe.

"(30) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"(31) SECRETARY.—The term 'Secretary', except when the context otherwise requires, means the Secretary of Education.

"(32) STATE.—The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(33) STATE WORKFORCE INVESTMENT BOARD.—The term 'State workforce investment board' means a State workforce investment board established under section 111 of the Workforce Investment Act of 1998.

"(34) STATEWIDE WORKFORCE INVESTMENT SYSTEM.—The term 'statewide workforce investment system' means a system described in section 111(d)(2) of the Workforce Investment Act of 1998.

"(35) SUPPORTED EMPLOYMENT.—

"(A) IN GENERAL.—The term 'supported employment' means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (36)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

"(B) CERTAIN TRANSITIONAL EMPLOYMENT.—Such term includes transitional employment for persons who are individuals with the most significant disabilities due to mental illness.

"(36) SUPPORTED EMPLOYMENT SERVICES.—The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a

way as to assist an eligible individual to achieve competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator involved jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized plan for employment.

"(37) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

"(38) VOCATIONAL REHABILITATION SERVICES.—The term 'vocational rehabilitation services' means those services identified in section 103 which are provided to individuals with disabilities under this Act.

"(39) WORKFORCE INVESTMENT ACTIVITIES.—The term 'workforce investment activities' means workforce investment activities, as defined in section 101 of the Workforce Investment Act of 1998, that are carried out under that Act.

"ALLOTMENT PERCENTAGE

"SEC. 8. (a)(1) For purposes of section 110, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that—

"(A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum; and

"(B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 75 per centum.

"(2) The allotment percentages shall be promulgated by the Secretary between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the October 1 next succeeding such promulgation.

"(3) The term 'United States' means (but only for purposes of this subsection) the fifty States and the District of Columbia.

"(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

"NONDUPLICATION

"SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

"APPLICATION OF OTHER LAWS

"SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93–510) and of title V of the Act of October 15, 1977 (Public Law 95–134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

"ADMINISTRATION OF THE ACT

"SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

"(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations, including assistance to enable such agencies and organizations to facilitate meaningful and effective participation by individuals with disabilities in workforce investment activities;

"(2) provide short-term training and technical instruction, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

"(3) conduct special projects and demonstrations;

"(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

"(5) provide monitoring and conduct evaluations.

"(b)(1) In carrying out the duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

"(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.

"(c) The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner's duties under this Act.

"(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

"(e) Not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1998, the Secretary shall receive public comment and promulgate regulations to implement the amendments made by the Rehabilitation Act Amendments of 1998.

"(f) In promulgating regulations to carry out this Act, the Secretary shall promulgate only regulations that are necessary to administer and ensure compliance with the specific requirements of this Act.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"REPORTS

"SEC. 13. (a) Not later than one hundred and eighty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15.

"(b) The Commissioner shall collect information to determine whether the purposes of this Act are being met and to assess the performance of programs carried out under this Act. The Commissioner shall take whatever action is necessary to assure that the identity of each individual for which information is supplied under this section is kept confidential, except as otherwise required by law (including regulation).

"(c) In preparing the report, the Commissioner shall annually collect and include in the report information based on the information submitted by States in accordance with section 101(a)(10), including information on administrative costs as required by section 101(a)(10)(D). The Commissioner shall, to the maximum extent appropriate, include in the report all information that is required to be submitted in the reports described in section 136(d) of the Workforce Investment Act of 1998 and that pertains to the employment of individuals with disabilities.

"EVALUATION

"SEC. 14. (a) For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this Act, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. Such an evaluation shall be conducted by a person not immediately involved in the administration of the program evaluated.

"(b) In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

"(c) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds under this Act shall become the property of the United States.

"(d) Such information as the Secretary may determine to be necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

"(e)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

"(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

"(3) The study shall be planned to cover the period beginning on the application of individuals with disabilities for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.

"(f)(1) The Commissioner shall identify and disseminate information on exemplary practices concerning vocational rehabilitation.

"(2) To facilitate compliance with paragraph (1), the Commissioner shall conduct studies and analyses that identify exemplary practices concerning vocational rehabilitation, including

studies in areas relating to providing informed choice in the rehabilitation process, promoting consumer satisfaction, promoting job placement and retention, providing supported employment, providing services to particular disability populations, financing personal assistance services, providing assistive technology devices and assistive technology services, entering into cooperative agreements, establishing standards and certification for community rehabilitation programs, converting from nonintegrated to integrated employment, and providing caseload management.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"INFORMATION CLEARINGHOUSE

"SEC. 15. (a) The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding—

"(1) the location, provision, and availability of services and programs for individuals with disabilities, including such information and data provided by State workforce investment boards regarding such services and programs authorized under title I of such Act;

"(2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures); and

"(3) the current numbers of individuals with disabilities and their needs.

The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

"(b) The Commissioner may assist the Secretary to develop within the Department of Education a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

"(c) The office established to carry out the provisions of this section shall be known as the 'Office of Information and Resources for Individuals with Disabilities'.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"TRANSFER OF FUNDS

"SEC. 16. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any program or activity may be used for any purpose other than that for which the funds were specifically authorized.

"(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

"STATE ADMINISTRATION

"SEC. 17. The application of any State rule or policy relating to the administration or operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"REVIEW OF APPLICATIONS

"SEC. 18. Applications for grants in excess of $100,000 in the aggregate authorized to be funded under this Act, other than grants primarily for the purpose of conducting dissemination or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

"SEC. 19. CARRYOVER.

"(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law—

"(1) any funds appropriated for a fiscal year to carry out any grant program under part B of title I, section 509 (except as provided in section 509(b)), part B of title VI, part B or C of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section 752(b)), including any funds reallotted under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

"(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,

shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

"(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

"SEC. 20. CLIENT ASSISTANCE INFORMATION.

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals who are applicants for or recipients of the services, or the applicants' representatives or individuals' representatives, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.

"SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.

"(a) FINDINGS.—With respect to the programs authorized in titles II through VII, the Congress finds as follows:

"(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

"(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled.

"(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

"(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of preservice training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

"(b) OUTREACH TO MINORITIES.—

"(1) IN GENERAL.—For each fiscal year, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research (referred to in this subsection as the 'Director') shall reserve 1 percent of the funds appropriated for the fiscal year for programs authorized under titles II, III, VI, and VII to carry out this subsection. The Commissioner and the Director shall use the reserved funds to carry out 1 or more of the activities described in paragraph (2) through a grant, contract, or cooperative agreement.

"(2) ACTIVITIES.—The activities carried out by the Commissioner and the Director shall include 1 or more of the following:

"(A) Making awards to minority entities and Indian tribes to carry out activities under the programs authorized under titles II, III, VI, and VII.

"(B) Making awards to minority entities and Indian tribes to conduct research, training, technical assistance, or a related activity, to improve services provided under this Act, especially services provided to individuals from minority backgrounds.

"(C) Making awards to entities described in paragraph (3) to provide outreach and technical assistance to minority entities and Indian tribes to promote their participation in activities funded under this Act, including assistance to enhance their capacity to carry out such activities.

"(3) ELIGIBILITY.—To be eligible to receive an award under paragraph (2)(C), an entity shall be a State or a public or private nonprofit agency or organization, such as an institution of higher education or an Indian tribe.

"(4) REPORT.—In each fiscal year, the Commissioner and the Director shall prepare and submit to Congress a report that describes the activities funded under this subsection for the preceding fiscal year.

"(5) DEFINITIONS.—In this subsection:

"(A) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

"(B) MINORITY ENTITY.—The term 'minority entity' means an entity that is a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent.

"(c) DEMONSTRATION.—In awarding grants, or entering into contracts or cooperative agreements under titles I, II, III, VI, and VII, and section 509, the Commissioner and the Director, in appropriate cases, shall require applicants to demonstrate how the applicants will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.".

SEC. 404. VOCATIONAL REHABILITATION SERVICES.

Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) is amended to read as follows:

"TITLE I—VOCATIONAL REHABILITATION SERVICES

"PART A—GENERAL PROVISIONS

"SEC. 100. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.

"(a) FINDINGS; PURPOSE; POLICY.—

"(1) Findings.—Congress finds that—

"(A) work—

"(i) is a valued activity, both for individuals and society; and

"(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States;

"(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

"(C) individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

"(D) reasons for significant numbers of individuals with disabilities not working, or working at levels not commensurate with their abilities and capabilities, include—

"(i) discrimination;

"(ii) lack of accessible and available transportation;

"(iii) fear of losing health coverage under the medicare and medicaid programs carried out under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing private health insurance; and

"(iv) lack of education, training, and supports to meet job qualification standards necessary to secure, retain, regain, or advance in employment;

"(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities;

"(F) the provision of workforce investment activities and vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities; and

"(G) linkages between the vocational rehabilitation programs established under this title and other components of the statewide workforce investment systems are critical to ensure effective and meaningful participation by individuals with disabilities in workforce investment activities.

"(2) Purpose.—The purpose of this title is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is—

"(A) an integral part of a statewide workforce investment system; and

"(B) designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment.

"(3) Policy.—It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

"(A) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

"(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

"(C) Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners in the vocational rehabilitation process, making meaningful and informed choices—

"(i) during assessments for determining eligibility and vocational rehabilitation needs; and

"(ii) in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services.

"(D) Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability involved requests, desires, or needs such supports.

"(E) Vocational rehabilitation counselors that are trained and prepared in accordance with State policies and procedures as described in section 101(a)(7)(B) (referred to individually in this title as a 'qualified vocational rehabilitation counselor'), other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment outcomes and objectives of an individual.

"(F) Individuals with disabilities and the individuals' representatives are full partners in a vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

"(G) Accountability measures must facilitate the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most significant disabilities.

"(b) Authorization of Appropriations.—

"(1) In general.—For the purpose of making grants to States under part B to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1999 through 2003, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this paragraph for the immediately preceding fiscal year, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year.

"(2) Reference.—The reference in paragraph (1) to grants to States under part B shall not be considered to refer to grants under section 112.

"(c) Consumer Price Index.—

"(1) Percentage change.—No later than November 15 of each fiscal year (beginning with fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the Consumer Price Index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(2) Application.—

"(A) Increase.—If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

"(B) No increase or decrease.—If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1).

"(3) Definition.—For purposes of this section, the term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

"(d) Extension.—

"(1) In general.—

"(A) Authorization or duration of program.—Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

"(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

"(ii) of the duration of the program authorized by the State grant program under part B of this title;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization or duration is automatically extended for 1 additional year for the program authorized by this title.

"(B) Calculation.—The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 2003, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year, if the percentage change indicates an increase.

"(2) Construction.—

"(A) Passage of legislation.—For the purposes of paragraph (1)(A), Congress shall not be deemed to have passed legislation unless such legislation becomes law.

"(B) Acts or determinations of commissioner.—In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this title, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which the extension described in that part of paragraph (1) that follows clause (ii) of paragraph (1)(A) is in effect.

"SEC. 101. STATE PLANS.

"(a) Plan Requirements.—

"(1) In general.—

"(A) Submission.—To be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of this section, on the same date that the State submits a State plan under section 112 of the Workforce Investment Act of 1998.

"(B) Nonduplication.—The State shall not be required to submit, in the State plan for vocational rehabilitation services, policies, procedures, or descriptions required under this title that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this title, including any policies, procedures, or descriptions submitted under this title as in effect on the day before the effective date of the Rehabilitation Act Amendments of 1998.

"(C) Duration.—The State plan shall remain in effect subject to the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this Act by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this Act, until the State submits and receives approval of a new State plan.

"(2) Designated state agency; designated state unit.—

"(A) Designated state agency.—The State plan shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

"(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who

are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

"(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

"(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.

"(B) DESIGNATED STATE UNIT.—The State agency designated under subparagraph (A) shall be—

"(i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

"(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

"(I) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

"(II) has a full-time director;

"(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work; and

"(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.

"(C) RESPONSIBILITY FOR SERVICES FOR THE BLIND.—If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

"(3) NON-FEDERAL SHARE.—The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B.

"(4) STATEWIDENESS.—The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that—

"(A) in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner, but only if the non-Federal share of the cost of the vocational rehabilitation services involved is met from funds made available by a local agency (including funds contributed to such agency by a private agency, organization, or individual); and

"(B) in a case in which earmarked funds are used toward the non-Federal share and such funds are earmarked for particular geographic areas within the State, the earmarked funds may be used in such areas if the State notifies the Commissioner that the State cannot provide the full non-Federal share without such funds.

"(5) ORDER OF SELECTION FOR VOCATIONAL REHABILITATION SERVICES.—In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

"(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

"(B) provide the justification for the order of selection;

"(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

"(D) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

"(6) METHODS FOR ADMINISTRATION.—

"(A) IN GENERAL.—The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

"(B) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 503.

"(C) FACILITIES.—The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved on August 12, 1968 (commonly known as the 'Architectural Barriers Act of 1968'), with section 504, and with the Americans with Disabilities Act of 1990.

"(7) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State plan shall—

"(A) include a description (consistent with the purposes of this Act) of a comprehensive system of personnel development, which shall include—

"(i) a description of the procedures and activities the designated State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

"(I) the number and type of personnel that are employed by the designated State unit in the provision of vocational rehabilitation services, including ratios of qualified vocational rehabilitation counselors to clients; and

"(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the vocational rehabilitation field, and other relevant factors;

"(ii) where appropriate, a description of the manner in which activities will be undertaken under this section to coordinate the system of personnel development with personnel development activities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the programs of institutions of higher education within the State that are preparing rehabilitation professionals, including—

"(I) the numbers of students enrolled in such programs; and

"(II) the number of such students who graduated with certification or licensure, or with credentials to qualify for certification or licensure, as a rehabilitation professional during the past year;

"(iv) a description of the development, updating, and implementation of a plan that—

"(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

"(II) provides for the coordination and facilitation of efforts between the designated State unit, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

"(v) a description of the procedures and activities the designated State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

"(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and

"(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to this Act made by the Rehabilitation Act Amendments of 1998;

"(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including rehabilitation professionals and paraprofessionals, needed within the designated State unit to carry out this part are appropriately and adequately prepared and trained, including—

"(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

"(ii) to the extent that such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated State unit that meet appropriate professional requirements in the State; and

"(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual.

"(8) COMPARABLE SERVICES AND BENEFITS.—

"(A) DETERMINATION OF AVAILABILITY.—

"(i) IN GENERAL.—The State plan shall include an assurance that, prior to providing any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(D) and in paragraphs (1) through

(4) and (14) of section 103(a), the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this title) unless such a determination would interrupt or delay—

"(I) the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment of the individual in accordance with section 102(b);

"(II) an immediate job placement; or

"(III) the provision of such service to any individual at extreme medical risk.

"(ii) AWARDS AND SCHOLARSHIPS.—For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

"(B) INTERAGENCY AGREEMENT.—The State plan shall include an assurance that the Governor of the State, in consultation with the entity in the State responsible for the vocational rehabilitation program and other appropriate agencies, will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including the State entity responsible for administering the State medicaid program, a public institution of higher education, and a component of the statewide workforce investment system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in subparagraph (A) (other than those services specified in paragraph (5)(D), and in paragraphs (1) through (4) and (14) of section 103(a)), that are included in the individualized plan for employment of an eligible individual, including the provision of such vocational rehabilitation services during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

"(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating the financial responsibility of such public entity for providing such services.

"(ii) CONDITIONS, TERMS, AND PROCEDURES OF REIMBURSEMENT.—Information specifying the conditions, terms, and procedures under which a designated State unit shall be reimbursed by other public entities for providing such services, based on the provisions of such agreement or mechanism.

"(iii) INTERAGENCY DISPUTES.—Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other public entities or otherwise implement the provisions of the agreement or mechanism).

"(iv) COORDINATION OF SERVICES PROCEDURES.—Information specifying policies and procedures for public entities to determine and identify the interagency coordination responsibilities of each public entity to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)).

"(C) RESPONSIBILITIES OF OTHER PUBLIC ENTITIES.—

"(i) RESPONSIBILITIES UNDER OTHER LAW.—Notwithstanding subparagraph (B), if any public entity other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)), such public entity shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

"(ii) REIMBURSEMENT.—If a public entity other than the designated State unit fails to provide or pay for the services described in clause (i) for an eligible individual, the designated State unit shall provide or pay for such services to the individual. Such designated State unit may claim reimbursement for the services from the public entity that failed to provide or pay for such services. Such public entity shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism described in this paragraph according to the procedures established in such agreement or mechanism pursuant to subparagraph (B)(ii).

"(D) METHODS.—The Governor of a State may meet the requirements of subparagraph (B) through—

"(i) a State statute or regulation;

"(ii) a signed agreement between the respective officials of the public entities that clearly identifies the responsibilities of each public entity relating to the provision of services; or

"(iii) another appropriate method, as determined by the designated State unit.

"(9) INDIVIDUALIZED PLAN FOR EMPLOYMENT.—

"(A) DEVELOPMENT AND IMPLEMENTATION.—The State plan shall include an assurance that an individualized plan for employment meeting the requirements of section 102(b) will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this title, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

"(B) PROVISION OF SERVICES.—The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized plan for employment.

"(10) REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this title.

"(B) ANNUAL REPORTING.—In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998 that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this title.

"(C) ADDITIONAL DATA.—In specifying the information required to be submitted in the reports, the Commissioner shall require additional data with regard to applicants and eligible individuals related to—

"(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this title, including—

"(I) the number of individuals determined to be ineligible because they did not require vocational rehabilitation services, as provided in section 102(a); and

"(II) the number of individuals determined, on the basis of clear and convincing evidence, to be too severely disabled to benefit in terms of an employment outcome from vocational rehabilitation services;

"(ii) the number of individuals who received vocational rehabilitation services through the program, including—

"(I) the number who received services under paragraph (5)(D), but not assistance under an individualized plan for employment;

"(II) of those recipients who are individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 102(b); and

"(III) of those recipients who are not individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 102(b);

"(iii) of those applicants and eligible recipients who are individuals with significant disabilities—

"(I) the number who ended their participation in the program carried out under this title and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

"(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

"(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

"(bb) the number who received employment benefits from an employer during such employment; and

"(iv) of those applicants and eligible recipients who are not individuals with significant disabilities—

"(I) the number who ended their participation in the program carried out under this title and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

"(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

"(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

"(bb) the number who received employment benefits from an employer during such employment.

"(D) COSTS AND RESULTS.—The Commissioner shall also require that the designated State agency include in the reports information on—

"(i) the costs under this title of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized plans for employment, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, providing other services to groups, and facilitating use of other programs under this Act and title I of the Workforce Investment Act of 1998 by eligible individuals; and

"(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

"(E) ADDITIONAL INFORMATION.—The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

"(i) information on—

"(I) age, gender, race, ethnicity, education, category of impairment, severity of disability,

and whether the individuals are students with disabilities;

"(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized plan for employment, and termination of participation in the program;

"(III) earnings at the time of application for the program and termination of participation in the program;

"(IV) work status and occupation;

"(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

"(VI) types of public or private programs or agencies that furnished services under the program; and

"(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

"(ii) information necessary to determine the success of the State in meeting—

"(I) the State performance measures established under section 136(b) of the Workforce Investment Act of 1998, to the extent the measures are applicable to individuals with disabilities; and

"(II) the standards and indicators established pursuant to section 106.

"(F) COMPLETENESS AND CONFIDENTIALITY.—The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

"(11) COOPERATION, COLLABORATION, AND COORDINATION.—

"(A) COOPERATIVE AGREEMENTS WITH OTHER COMPONENTS OF STATEWIDE WORKFORCE INVESTMENT SYSTEMS.—The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of the statewide workforce investment system of the State, regarding the system, which agreement may provide for—

"(i) provision of intercomponent staff training and technical assistance with regard to—

"(I) the availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and

"(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce investment activities in the State through the promotion of program accessibility, the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

"(ii) use of information and financial management systems that link all components of the statewide workforce investment system, that link the components to other electronic networks, including nonvisual electronic networks, and that relate to such subjects as employment statistics, and information on job vacancies, career planning, and workforce investment activities;

"(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

"(iv) establishment of cooperative efforts with employers to—

"(I) facilitate job placement; and

"(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

"(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce investment system with regard to paying for necessary services (consistent with State law and Federal requirements); and

"(vi) specification of procedures for resolving disputes among such components.

"(B) REPLICATION OF COOPERATIVE AGREEMENTS.—The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce investment system.

"(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including programs carried out by the Under Secretary for Rural Development of the Department of Agriculture and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system.

"(D) COORDINATION WITH EDUCATION OFFICIALS.—The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities, that are designed to facilitate the transition of the students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

"(i) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;

"(ii) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (as added by section 101 of Public Law 105–17);

"(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

"(iv) procedures for outreach to and identification of students with disabilities who need the transition services.

"(E) COORDINATION WITH STATEWIDE INDEPENDENT LIVING COUNCILS AND INDEPENDENT LIVING CENTERS.—The State plan shall include an assurance that the designated State unit, the Statewide Independent Living Council established under section 705, and the independent living centers described in part C of title VII within the State have developed working relationships and coordinate their activities.

"(F) COOPERATIVE AGREEMENT WITH RECIPIENTS OF GRANTS FOR SERVICES TO AMERICAN INDIANS.—In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

"(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized plans for employment;

"(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living near a reservation or tribal service area are provided vocational rehabilitation services; and

"(iii) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

"(12) RESIDENCY.—The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

"(13) SERVICES TO AMERICAN INDIANS.—The State plan shall include an assurance that, except as otherwise provided in part C, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

"(14) ANNUAL REVIEW OF INDIVIDUALS IN EXTENDED EMPLOYMENT OR OTHER EMPLOYMENT UNDER SPECIAL CERTIFICATE PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.—The State plan shall provide for—

"(A) an annual review and reevaluation of the status of each individual with a disability served under this title who has achieved an employment outcome either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the achievement of the outcome (and thereafter if requested by the individual or, if appropriate, the individual's representative), to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment;

"(B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative; and

"(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individuals described in subparagraph (A) in engaging in competitive employment.

"(15) ANNUAL STATE GOALS AND REPORTS OF PROGRESS.—

"(A) ASSESSMENTS AND ESTIMATES.—The State plan shall—

"(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

"(I) individuals with the most significant disabilities, including their need for supported employment services;

"(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this title; and

"(III) individuals with disabilities served through other components of the statewide workforce investment system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components;

"(ii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

"(iii) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for *any year in which the State updates the assessments.*

"(B) ANNUAL ESTIMATES.—The State plan shall include, and shall provide that the State shall annually submit a report to the Commissioner that includes, State estimates of—

"(i) the number of individuals in the State who are eligible for services under this title;

"(ii) the number of such individuals who will receive services provided with funds provided under part B and under part B of title VI, including, if the designated State agency uses an order of selection in accordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order; and

"(iii) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

"(C) GOALS AND PRIORITIES.—

"(i) IN GENERAL.—The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

"(ii) BASIS.—The State goals and priorities shall be based on an analysis of—

"(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

"(II) the performance of the State on the standards and indicators established under section 106; and

"(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 105(c) and the findings and recommendations from monitoring activities conducted under section 107.

"(iii) SERVICE AND OUTCOME GOALS FOR CATEGORIES IN ORDER OF SELECTION.—If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

"(D) STRATEGIES.—The State plan shall contain a description of the strategies the State will use to address the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

"(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

"(ii) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

"(iii) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

"(iv) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 106; and

"(v) strategies for assisting entities carrying out other components of the statewide workforce investment system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

"(E) EVALUATION AND REPORTS OF PROGRESS.—The State plan shall—

"(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program, and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

"(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

"(II) a description of strategies that contributed to achieving the goals;

"(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

"(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 106; and

"(ii) provide that the designated State unit and the State Rehabilitation Council, if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

"(16) PUBLIC COMMENT.—The State plan shall—

"(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 112, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

"(B) provide that the designated State agency (or each designated State agency if 2 agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

"(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals' representatives;

"(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

"(iii) providers of vocational rehabilitation services to individuals with disabilities;

"(iv) the director of the client assistance program; and

"(v) the State Rehabilitation Council, if the State has such a Council.

"(17) USE OF FUNDS FOR CONSTRUCTION OF FACILITIES.—The State plan shall provide that if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs—

"(A) the Federal share of the cost of construction for the facilities for a fiscal year will not exceed an amount equal to 10 percent of the State's allotment under section 110 for such year;

"(B) the provisions of section 306 (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) shall be applicable to such construction and such provisions shall be deemed to apply to such construction; and

"(C) there shall be compliance with regulations the Commissioner shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of facilities for community rehabilitation programs) because the plan includes such provisions for construction.

"(18) INNOVATION AND EXPANSION ACTIVITIES.—The State plan shall—

"(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 110—

"(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this title, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

"(ii) to support the funding of—

"(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 105(d)(1); and

"(II) the Statewide Independent Living Council, consistent with the plan prepared under section 705(e)(1);

"(B) include a description of how the reserved funds will be utilized; and

"(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds will be utilized.

"(19) CHOICE.—The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants' representatives or individuals' representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 102(d).

"(20) INFORMATION AND REFERRAL SERVICES.—

"(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program carried out under this title), including other components of the statewide workforce investment system in the State.

"(B) REFERRALS.—An appropriate referral made through the system shall—

"(i) be to the Federal or State programs, including programs carried out by other components of the statewide workforce investment system in the State, best suited to address the specific employment needs of an individual with a disability; and

"(ii) include, for each of these programs, provision to the individual of—

"(I) a notice of the referral by the designated State agency to the agency carrying out the program;

"(II) information identifying a specific point of contact within the agency carrying out the program; and

"(III) information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

"(21) STATE INDEPENDENT CONSUMER-CONTROLLED COMMISSION; STATE REHABILITATION COUNCIL.—

"(A) COMMISSION OR COUNCIL.—The State plan shall provide that either—

"(i) the designated State agency is an independent commission that—

"(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

"(II) is consumer-controlled by persons who—

"(aa) are individuals with physical or mental impairments that substantially limit major life activities; and

"(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

"(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

"(IV) undertakes the functions set forth in section 105(c)(4); or

"(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 105 and the designated State unit—

"(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

"(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

"(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 105(c)(5), the review and analysis of consumer satisfaction described in section 105(c)(4), and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

"(IV) transmits to the Council—

"(aa) all plans, reports, and other information required under this title to be submitted to the Secretary;

"(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this title; and

"(cc) copies of due process hearing decisions issued under this title, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

"(B) MORE THAN 1 DESIGNATED STATE AGENCY.—In the case of a State that, under section 101(a)(2), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the 2 agencies that does not meet the requirements in subparagraph (A)(i), or establish 1 State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

"(22) SUPPORTED EMPLOYMENT STATE PLAN SUPPLEMENT.—The State plan shall include an assurance that the State has an acceptable plan for carrying out part B of title VI, including the use of funds under that part to supplement funds made available under part B of this title to pay for the cost of services leading to supported employment.

"(23) ANNUAL UPDATES.—The plan shall include an assurance that the State will submit to the Commissioner reports containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

"(24) CERTAIN CONTRACTS AND COOPERATIVE AGREEMENTS.—

"(A) CONTRACTS WITH FOR-PROFIT ORGANIZATIONS.—The State plan shall provide that the designated State agency has the authority to enter into contracts with for-profit organizations for the purpose of providing, as vocational rehabilitation services, on-the-job training and related programs for individuals with disabilities under part A of title VI, upon a determination by such agency that such for-profit organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations.

"(B) COOPERATIVE AGREEMENTS WITH PRIVATE NONPROFIT ORGANIZATIONS.—The State plan shall describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established.

"(b) APPROVAL; DISAPPROVAL OF THE STATE PLAN.—

"(1) APPROVAL.—The Commissioner shall approve any plan that the Commissioner finds fulfills the conditions specified in this section, and shall disapprove any plan that does not fulfill such conditions.

"(2) DISAPPROVAL.—Prior to disapproval of the State plan, the Commissioner shall notify the State of the intention to disapprove the plan and shall afford the State reasonable notice and opportunity for a hearing.

"SEC. 102. ELIGIBILITY AND INDIVIDUALIZED PLAN FOR EMPLOYMENT.

"(a) ELIGIBILITY.—

"(1) CRITERION FOR ELIGIBILITY.—An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(20)(A); and

"(B) requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

"(2) PRESUMPTION OF BENEFIT.—

"(A) DEMONSTRATION.—For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(20)(A), unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

"(B) METHODS.—In making the demonstration required under subparagraph (A), the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 7(2)(D), with appropriate supports provided through the designated State unit, except under limited circumstances when an individual can not take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

"(3) PRESUMPTION OF ELIGIBILITY.—

"(A) IN GENERAL.—For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

"(i) considered to be an individual with a significant disability under section 7(21)(A); and

"(ii) presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to create an entitlement to any vocational rehabilitation service.

"(4) USE OF EXISTING INFORMATION.—

"(A) IN GENERAL.—To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this title and developing the individualized plan for employment described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized plan for employment), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

"(B) DETERMINATIONS BY OFFICIALS OF OTHER AGENCIES.—Determinations made by officials of other agencies, particularly education officials described in section 101(a)(11)(D), regarding whether an individual satisfies 1 or more factors relating to whether an individual is an individual with a disability under section 7(20)(A) or an individual with a significant disability under section 7(21)(A) shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

"(C) BASIS.—The determination of eligibility for vocational rehabilitation services shall be based on—

"(i) the review of existing data described in section 7(2)(A)(i); and

"(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 7(2)(A)(ii).

"(5) DETERMINATION OF INELIGIBILITY.—If an individual who applies for services under this title is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 7(2)(A)(ii), not to be eligible for the services, or if an eligible individual receiving services under an individualized plan for employment is determined to be no longer eligible for the services—

"(A) the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

"(B) the individual or, as appropriate, the individual's representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

"(i) the reasons for the determination; and

"(ii) a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c);

"(C) the individual shall be provided with a description of services available from the client assistance program under section 112 and information on how to contact that program; and

"(D) any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

"(i) within 12 months; and

"(ii) thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative.

"(6) TIMEFRAME FOR MAKING AN ELIGIBILITY DETERMINATION.—The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

"(A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

"(B) the designated State unit is exploring an individual's abilities, capabilities, and capacity to perform in work situations under paragraph (2)(B).

"(b) DEVELOPMENT OF AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—

"(1) OPTIONS FOR DEVELOPING AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a), the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs, as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized plan for employment, including—

"(A) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized plan for employment for the individual, and the availability of technical assistance in developing all or part of the individualized plan for employment for the individual;

"(B) a description of the full range of components that shall be included in an individualized plan for employment;

"(C) as appropriate—

"(i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized plan for employment;

"(ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

"(iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized plan for employment; and

"(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); and

"(ii) a description of the availability of a client assistance program established pursuant to section 112 and information about how to contact the client assistance program.

"(2) MANDATORY PROCEDURES.—

"(A) WRITTEN DOCUMENT.—An individualized plan for employment shall be a written document prepared on forms provided by the designated State unit.

"(B) INFORMED CHOICE.—An individualized plan for employment shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services, consistent with subsection (d).

"(C) SIGNATORIES.—An individualized plan for employment shall be—

"(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

"(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

"(D) COPY.—A copy of the individualized plan for employment for an eligible individual shall be provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, of the individual's representative.

"(E) REVIEW AND AMENDMENT.—The individualized plan for employment shall be—

"(i) reviewed at least annually by—

"(I) a qualified vocational rehabilitation counselor; and

"(II) the eligible individual or, as appropriate, the individual's representative; and

"(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit).

"(3) MANDATORY COMPONENTS OF AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—Regardless of the approach selected by an eligible individual to develop an individualized plan for employment, an individualized plan for employment shall, at a minimum, contain mandatory components consisting of—

"(A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;

"(B)(i) a description of the specific vocational rehabilitation services that are—

"(I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and

"(II) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and

"(ii) timelines for the achievement of the employment outcome and for the initiation of the services;

"(C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;

"(D) a description of criteria to evaluate progress toward achievement of the employment outcome;

"(E) the terms and conditions of the individualized plan for employment, including, as appropriate, information describing—

"(i) the responsibilities of the designated State unit;

"(ii) the responsibilities of the eligible individual, including—

"(I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;

"(II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and

"(III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 101(a)(8); and

"(iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 101(a)(8);

"(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

"(i) the extended services needed by the eligible individual; and

"(ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized plan for employment, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and

"(G) as determined to be necessary, a statement of projected need for post-employment services.

"(c) PROCEDURES.—

"(1) IN GENERAL.—Each State shall establish procedures for mediation of, and procedures for review through an impartial due process hearing of, determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.

"(2) NOTIFICATION.—

"(A) RIGHTS AND ASSISTANCE.—The procedures shall provide that an applicant or an eligible individual or, as appropriate, the applicant's representative or individual's representative shall be notified of—

"(i) the right to obtain review of determinations described in paragraph (1) in an impartial due process hearing under paragraph (5);

"(ii) the right to pursue mediation with respect to the determinations under paragraph (4); and

"(iii) the availability of assistance from the client assistance program under section 112.

"(B) TIMING.—Such notification shall be provided in writing—

"(i) at the time an individual applies for vocational rehabilitation services provided under this title;

"(ii) at the time the individualized plan for employment for the individual is developed; and

"(iii) upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

"(3) EVIDENCE AND REPRESENTATION.—The procedures required under this subsection shall, at a minimum—

"(A) provide an opportunity for an applicant or an eligible individual, or, as appropriate, the applicant's representative or individual's representative, to submit at the mediation session or hearing evidence and information to support the position of the applicant or eligible individual; and

"(B) include provisions to allow an applicant or an eligible individual to be represented in the

mediation session or hearing by a person selected by the applicant or eligible individual.

"(4) MEDIATION.—

"(A) PROCEDURES.—Each State shall ensure that procedures are established and implemented under this subsection to allow parties described in paragraph (1) to disputes involving any determination described in paragraph (1) to resolve such disputes through a mediation process that, at a minimum, shall be available whenever a hearing is requested under this subsection.

"(B) REQUIREMENTS.—Such procedures shall ensure that the mediation process—

"(i) is voluntary on the part of the parties;

"(ii) is not used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this title; and

"(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

"(C) LIST OF MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title, from which the mediators described in subparagraph (B) shall be selected.

"(D) COST.—The State shall bear the cost of the mediation process.

"(E) SCHEDULING.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

"(F) AGREEMENT.—An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

"(G) CONFIDENTIALITY.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

"(H) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to proceedings under this paragraph or paragraph (5), if the informal process used is not used to deny or delay the right of the applicant or eligible individual to a hearing under this subsection or to deny any other right afforded under this title.

"(5) HEARINGS.—

"(A) OFFICER.—A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State plan, this Act (including regulations implementing this Act), and State regulations and policies that are consistent with the Federal requirements specified in this title. The officer shall provide the decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit.

"(B) LIST.—The designated State unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title from which the officer described in subparagraph (A) shall be selected. For the purposes of maintaining such list, impartial hearing officers shall be identified jointly by—

"(i) the designated State unit; and

"(ii) members of the Council or commission, as appropriate, described in section 101(a)(21).

"(C) SELECTION.—Such an impartial hearing officer shall be selected to hear a particular case relating to a determination—

"(i) on a random basis; or

"(ii) by agreement between—

"(I) the Director of the designated State unit and the individual with a disability; or

"(II) in appropriate cases, the Director and the individual's representative.

"(D) PROCEDURES FOR SEEKING REVIEW.—A State may establish procedures to enable a party involved in a hearing under this paragraph to seek an impartial review of the decision of the hearing officer under subparagraph (A) by—

"(i) the chief official of the designated State agency if the State has established both a designated State agency and a designated State unit under section 101(a)(2); or

"(ii) an official from the office of the Governor.

"(E) REVIEW REQUEST.—If the State establishes impartial review procedures under subparagraph (D), either party may request the review of the decision of the hearing officer within 20 days after the decision.

"(F) REVIEWING OFFICIAL.—The reviewing official described in subparagraph (D) shall—

"(i) in conducting the review, provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review;

"(ii) not overturn or modify the decision of the hearing officer, or part of the decision, that supports the position of the applicant or eligible individual unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, this Act (including regulations implementing this Act) or any State regulation or policy that is consistent with the Federal requirements specified in this title; and

"(iii) make a final decision with respect to the matter in a timely manner and provide such decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit, including a full report of the findings and the grounds for such decision.

"(G) FINALITY OF HEARING DECISION.—A decision made after a hearing under subparagraph (A) shall be final, except that a party may request an impartial review if the State has established procedures for such review under subparagraph (D) and a party involved in a hearing may bring a civil action under subparagraph (J).

"(H) FINALITY OF REVIEW.—A decision made under subparagraph (F) shall be final unless such a party brings a civil action under subparagraph (J).

"(I) IMPLEMENTATION.—If a party brings a civil action under subparagraph (J) to challenge a final decision of a hearing officer under subparagraph (A) or to challenge a final decision of a State reviewing official under subparagraph (F), the final decision involved shall be implemented pending review by the court.

"(J) CIVIL ACTION.—

"(i) IN GENERAL.—Any party aggrieved by a final decision described in subparagraph (I), may bring a civil action for review of such decision. The action may be brought in any State court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

"(ii) PROCEDURE.—In any action brought under this subparagraph, the court—

"(I) shall receive the records relating to the hearing under subparagraph (A) and the records relating to the State review under subparagraphs (D) through (F), if applicable;

"(II) shall hear additional evidence at the request of a party to the action; and

"(III) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

"(6) HEARING BOARD.—

"(A) IN GENERAL.—A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations or decisions under this Act, is authorized to carry out the responsibilities of the impartial hearing officer under this subsection.

"(B) APPLICATION.—The provisions of paragraphs (1), (2), and (3) that relate to due process hearings do not apply, and paragraph (5) (other than subparagraph (J)) does not apply, to any State to which subparagraph (A) applies.

"(7) IMPACT ON PROVISION OF SERVICES.—Unless the individual with a disability so requests, or, in an appropriate case, the individual's representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual's representative.

"(8) INFORMATION COLLECTION AND REPORT.—

"(A) IN GENERAL.—The Director of the designated State unit shall collect information described in subparagraph (B) and prepare and submit to the Commissioner a report containing such information. The Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 13. The Commissioner shall also collect copies of the final decisions of impartial hearing officers conducting hearings under this subsection and State officials conducting reviews under this subsection.

"(B) INFORMATION.—The information required to be collected under this subsection includes—

"(i) a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers under this subsection;

"(ii) information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;

"(iii) information on the number of hearing decisions made under this subsection that were not reviewed by the State reviewing officials; and

"(iv) information on the number of the hearing decisions that were reviewed by the State reviewing officials, and, based on such reviews, the number of hearing decisions that were—

"(I) sustained in favor of an applicant or eligible individual;

"(II) sustained in favor of the designated State unit;

"(III) reversed in whole or in part in favor of the applicant or eligible individual; and

"(IV) reversed in whole or in part in favor of the designated State unit.

"(C) CONFIDENTIALITY.—The confidentiality of records of applicants and eligible individuals maintained by the designated State unit shall not preclude the access of the Commissioner to those records for the purposes described in subparagraph (A).

"(d) POLICIES AND PROCEDURES.—Each designated State agency, in consultation with the State Rehabilitation Council, if the State has such a council, shall, consistent with section 100(a)(3)(C), develop and implement written policies and procedures that enable each individual who is an applicant for or eligible to receive vocational rehabilitation services under this title to exercise informed choice throughout the vocational rehabilitation process carried out under this title, including policies and procedures that require the designated State agency—

"(1) to inform each such applicant and eligible individual (including students with disabilities who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process;

"(2) to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this title;

"(3) to develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services, under this title;

"(4) to provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this title in the selection of—

"(A) the employment outcome;

"(B) the specific vocational rehabilitation services needed to achieve the employment outcome;

"(C) the entity that will provide the services;

"(D) the employment setting and the settings in which the services will be provided; and

"(E) the methods available for procuring the services; and

"(5) to ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated State agency under this title.

"SEC. 103. VOCATIONAL REHABILITATION SERVICES.

"(a) Vocational Rehabilitation Services for Individuals.—Vocational rehabilitation services provided under this title are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

"(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);

"(3) referral and other services to secure needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this title;

"(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

"(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

"(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

"(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

"(B) necessary hospitalization in connection with surgery or treatment;

"(C) prosthetic and orthotic devices;

"(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

"(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

"(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

"(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;

"(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

"(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

"(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

"(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

"(12) occupational licenses, tools, equipment, and initial stocks and supplies;

"(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

"(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

"(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;

"(16) supported employment services;

"(17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

"(18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

"(b) Vocational Rehabilitation Services for Groups of Individuals.—Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

"(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

"(2)(A) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs shall be used to provide services that promote integration and competitive employment.

"(B) The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any 1 individual with a disability.

"(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

"(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

"(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

"(C) Tactile materials for individuals who are deaf-blind.

"(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

"(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.

"(6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

"SEC. 104. NON-FEDERAL SHARE FOR ESTABLISHMENT OF PROGRAM OR CONSTRUCTION.

"For the purpose of determining the amount of payments to States for carrying out part B (or to an Indian tribe under part C), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program or construction of such a facility.

"SEC. 105. STATE REHABILITATION COUNCIL.

"(a) Establishment.—

"(1) In general.—Except as provided in section 101(a)(21)(A)(i), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Council (referred to in this section as the 'Council') in accordance with this section.

"(2) Separate agency for individuals who are blind.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(2)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) Composition and Appointment.—

"(1) Composition.—

"(A) In general.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

"(ii) at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17);

"(iii) at least one representative of the client assistance program established under section 112;

"(iv) at least one qualified vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

"(v) at least one representative of community rehabilitation program service providers;

"(vi) four representatives of business, industry, and labor;

"(vii) representatives of disability advocacy groups representing a cross section of—

"(I) individuals with physical, cognitive, sensory, and mental disabilities; and

"(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

"(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

"(ix) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects;

"(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this title and part B of the Individuals with Disabilities Education Act; and

"(xi) at least one representative of the State workforce investment board.

"(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative described in subparagraph (A)(i);

"(ii) at least one representative described in subparagraph (A)(ii);

"(iii) at least one representative described in subparagraph (A)(iii);

"(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

"(v) at least one representative described in subparagraph (A)(v);

"(vi) four representatives described in subparagraph (A)(vi);

"(vii) at least one representative of a disability advocacy group representing individuals who are blind;

"(viii) at least one individual's representative, of an individual who—

"(I) is an individual who is blind and has multiple disabilities; and

"(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

"(ix) applicants or recipients described in subparagraph (A)(viii);

"(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

"(xi) at least one representative described in subparagraph (A)(x); and

"(xii) at least one representative described in subparagraph (A)(xi).

"(C) EXCEPTION.—In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

"(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

"(ii) includes at least—

"(I) one representative described in subparagraph (B)(vi); and

"(II) one applicant or recipient described in subparagraph (B)(ix).

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

"(4) QUALIFICATIONS.—

"(A) IN GENERAL.—A majority of Council members shall be persons who are—

"(i) individuals with disabilities described in section 7(20)(A); and

"(ii) not employed by the designated State unit.

"(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), a majority of Council members shall be persons who are—

"(i) blind; and

"(ii) not employed by the designated State unit.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the chief executive officer does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

"(7) VACANCIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

"(c) FUNCTIONS OF COUNCIL.—The Council shall, after consulting with the State workforce investment board—

"(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this title;

"(2) in partnership with the designated State unit—

"(A) develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C); and

"(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 101(a)(15)(E);

"(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this title, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this title;

"(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by the designated State agency;

"(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this Act; and

"(C) employment outcomes achieved by eligible individuals receiving services under this title, including the availability of health and other employment benefits in connection with such employment outcomes;

"(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

"(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 612(a)(21) of the Individual with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17), the State Developmental Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), the State mental health planning council established under section 1914(a) of the Public Health Service Act (42 U.S.C. 300x–4(a)), and the State workforce investment board;

"(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

"(8) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

"(d) RESOURCES.—

"(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

"(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

"(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

"(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

"(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

"(g) COMPENSATION AND EXPENSES.—The Council may use funds allocated to the Council by the designated State unit under this title (except for funds appropriated to carry out the client assistance program under section 112 and funds reserved pursuant to section 110(c) to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

"(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT OF STANDARDS AND INDICATORS.—The Commissioner shall, not later than July 1, 1999, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program carried out under this title.

"(B) REVIEW AND REVISION.—Effective July 1, 1999, the Commissioner shall review and, if necessary, revise the evaluation standards and performance indicators every 3 years. Any revisions of the standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. Any revisions of the standards and indicators shall be subject to the publication, review, and comment provisions of paragraph (3).

"(C) BASES.—Effective July 1, 1999, to the maximum extent practicable, the standards and indicators shall be consistent with the core indicators of performance established under section 136(b) of the Workforce Investment Act of 1998.

"(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate the accomplishment of the purpose and policy of this title.

"(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

"(b) COMPLIANCE.—

"(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

"(2) PROGRAM IMPROVEMENT.—

"(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

"(B) REVIEW.—The Commissioner shall—

"(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

"(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

"(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

"(d) REPORT TO CONGRESS.—Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.

"SEC. 107. MONITORING AND REVIEW.

"(a) IN GENERAL.—

"(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic onsite monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

"(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) State goals established under section 101(a)(15) and the extent to which the State has achieved such goals;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction reviews and analyses described in section 105(c)(4);

"(G) information provided by the State Rehabilitation Council established under section 105, if the State has such a Council, or by the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

"(H) reports; and

"(I) budget and financial management data.

"(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) onsite visits, including onsite reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

"(D) reviews of individual case files, including individualized plans for employment and ineligibility determinations; and

"(E) meetings with qualified vocational rehabilitation counselors and other personnel.

"(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) such other areas as may be identified by the public or through meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission; and

"(D) such other areas of inquiry as the Commissioner may consider appropriate.

"(5) REPORTS.—If the Commissioner issues a report detailing the findings of an annual review or onsite monitoring conducted under this section, the report shall be made available to the State Rehabilitation Council, if the State has such a Council, for use in the development and modification of the State plan described in section 101.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for *the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.*

"(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d) REVIEW.—

"(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) STANDARDS OF REVIEW.—

"(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

"SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.

"(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part B of title VI, or under title VII.

"(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.

"SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

"A State may expend payments received under section 111—

"(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

"(2) to inform employers of the existence of the program and the availability of the services of the program.

"PART B—BASIC VOCATIONAL REHABILITATION SERVICES

"STATE ALLOTMENTS

"SEC. 110. (a)(1) Subject to the provisions of subsection (c), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

"(A) the population of the State; and

"(B) the square of its allotment percentage, bears to the sum of the corresponding products for all the States.

"(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

"(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1)(A) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

"(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

"(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

"(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1), or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.

"(b)(1) Not later than forty-five days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

"(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

"(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

"(c)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C.

"(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

"(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1999; and

"(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 2000 through 2003.

"PAYMENTS TO STATES

"SEC. 111. (a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

"(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 110 for such year.

"(B) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

"(C) The Commissioner may waive or modify any requirement or limitation under subparagraph (B) or section 101(a)(17) if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

"(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the

Public Health Service Act (42 U.S.C. 291o(a))), in such State.

"(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.

"(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

"(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

"(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

"CLIENT ASSISTANCE PROGRAM

"SEC. 112. (a) From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

"(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which—

"(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this Act within the State; and

"(2) meets the requirements of designation under subsection (c).

"(c)(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

"(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

"(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

"(ii) If, after the date of enactment of the Rehabilitation Act Amendments of 1998—

"(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of 1 or more new State agencies or departments or results in the merger of the designated State agency with 1 or more other State agencies or departments; and

"(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

"(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

"(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

"(d) The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

"(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than $50,000.

"(B) The Secretary shall allot $30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(C) For the purpose of this paragraph, the term 'State' does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed $7,500,000, the minimum allotment shall be $100,000 for States and $45,000 for territories.

"(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause (i) by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

"(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any such amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

"(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

"(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

"(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

"(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State.

"(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

"(3)(A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

"(B) In subparagraph (A), the term 'alternative means of dispute resolution' means any procedure, including good faith negotiation, conciliation, facilitation, mediation, factfinding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

"(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(h) There are authorized to be appropriated such sums as may be necessary for fiscal years 1999 through 2003 to carry out the provisions of this section.

"PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"VOCATIONAL REHABILITATION SERVICES GRANTS

"SEC. 121. (a) The Commissioner, in accordance with the provisions of this part, may make

grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on or near such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.

"(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

"(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

"(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities residing on or near a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; and

"(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

"(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Education or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

"(3) Any application approved under this part shall be effective for not more than 60 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on or near a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

"(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

"(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.

"(c) The term 'reservation' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

"PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

"SEC. 131. DATA SHARING.

"(a) IN GENERAL.—

"(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

"(A) that concern clients of designated State agencies; and

"(B) that are data maintained either by—

"(i) the Rehabilitation Services Administration, as required by section 13; or

"(ii) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

"(2) EMPLOYMENT STATISTICS.—The Secretary of Labor shall provide the Commissioner with employment statistics specified in section 15 of the Wagner-Peyser Act, that facilitate evaluation by the Commissioner of the program carried out under part B, and allow the Commissioner to compare the progress of individuals with disabilities who are assisted under the program in securing, retaining, regaining, and advancing in employment with the progress made by individuals who are assisted under title I of the Workforce Investment Act of 1998.

"(b) TREATMENT OF INFORMATION.—For purposes of the exchange described in subsection (a)(1), the data described in subsection (a)(1)(B)(ii) shall not be considered return information (as defined in section 6103(b)(2) of the Internal Revenue Code of 1986) and, as appropriate, the confidentiality of all client information shall be maintained by the Rehabilitation Services Administration and the Social Security Administration.".

SEC. 405. RESEARCH AND TRAINING.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 760 et seq.) is amended to read as follows:

"TITLE II—RESEARCH AND TRAINING

"DECLARATION OF PURPOSE

"SEC. 200. The purpose of this title is to—

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the 5-year plan developed under section 202(h);

"(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

"(A) the procurement process for the purchase of rehabilitation technology;

"(B) the utilization of rehabilitation technology on a national basis;

"(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently; and

"(D) the development or transfer of assistive technology;

"(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

"(A) generated by research, demonstration projects, training, and related activities; and

"(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties, including the general public;

"(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in employment, including employment involving telecommuting and self-employment; and

"(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 201. (a) There are authorized to be appropriated—

"(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204, such sums as may be necessary for each of fiscal years 1999 through 2003; and

"(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1999 through 2003.

"(b) Funds appropriated under this title shall remain available until expended.

"NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

"SEC. 202. (a)(1) There is established within the Department of Education a National Institute on Disability and Rehabilitation Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'), in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects and training; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204 and activities under this section;

"(C) widely disseminate information from the activities described in subparagraphs (A) and (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities.

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).

"(b) The Director, through the Institute, shall be responsible for—

"(1) administering the programs described in section 204 and activities under this section;

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, training, and related activities (referred to in this title as 'covered activities') funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and the individuals' representatives;

"(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

"(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

"(A) public and private entities, including—

"(i) elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965; and

"(ii) institutions of higher education;

"(B) rehabilitation practitioners;

"(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

"(D) the individuals' representatives for the individuals described in subparagraph (C);

"(5)(A) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to—

"(i) family care;

"(ii) self-care; and

"(iii) assistive technology devices and assistive technology services; and

"(B) as part of the program, disseminating engineering information about assistive technology devices;

"(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology (including advances concerning the selection and use of assistive technology devices and assistive technology services), pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;

"(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title, including dissemination activities;

"(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Health Care Financing Administration, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, self-employment, telecommuting, health, income, and other demographic characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations, and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the individuals' representatives, and others to assist in the planning, assessment, and evaluation of vocational and other rehabilitation services for individuals with disabilities;

"(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

"(10) conducting research to examine the relationship between the provision of specific services and successful, sustained employment outcomes, including employment outcomes involving self-employment and telecommuting; and

"(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).

"(c)(1) The Director, acting through the Institute or 1 or more entities funded by the Institute, shall provide for the development and dissemination of models to address consumer-driven information needs related to assistive technology devices and assistive technology services.

"(2) The development and dissemination of models may include—

"(A) convening groups of individuals with disabilities, family members and advocates of such individuals, commercial producers of assistive technology, and entities funded by the Institute to develop, assess, and disseminate knowledge about information needs related to assistive technology;

"(B) identifying the types of information regarding assistive technology devices and assistive technology services that individuals with disabilities find especially useful;

"(C) evaluating current models, and developing new models, for transmitting the information described in subparagraph (B) to consumers and to commercial producers of assistive technology; and

"(D) disseminating through 1 or more entities funded by the Institute, the models described in subparagraph (C) and findings regarding the information described in subparagraph (B) to consumers and commercial producers of assistive technology.

"(d)(1) The Director of the Institute shall be appointed by the Secretary. The Director shall be an individual with substantial experience in rehabilitation and in research administration.

"(2) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director determines to be necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

"(3) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(e) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

"(f)(1) The Director shall provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The scientific peer review shall be conducted by individuals who are not Federal employees, who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals' representatives, and who are competent to review applications for the financial assistance.

"(2) In providing for such scientific peer review, the Secretary shall provide for training, as necessary and appropriate, to facilitate the effective participation of those individuals selected to participate in such review.

"(g) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

"(h)(1) The Director shall—

"(A) by October 1, 1998 and every fifth October 1 thereafter, prepare and publish in the Federal Register for public comment a draft of a 5-year plan that outlines priorities for rehabilitation research, demonstration projects, training, and related activities and explains the basis for such priorities;

"(B) by June 1, 1999, and every fifth June 1 thereafter, after considering public comments, submit the plan in final form to the appropriate committees of Congress;

"(C) at appropriate intervals, prepare and submit revisions in the plan to the appropriate committees of Congress; and

"(D) annually prepare and submit progress reports on the plan to the appropriate committees of Congress.

"(2) Such plan shall—

"(A) identify any covered activity that should be conducted under this section and section 204 respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

"(B) determine the funding priorities for covered activities to be conducted under this section and section 204;

"(C) specify appropriate goals and timetables for covered activities to be conducted under this section and section 204;

"(D) be developed by the Director—

"(i) after consultation with the Rehabilitation Research Advisory Council established under section 205;

"(ii) in coordination with the Commissioner;

"(iii) after consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Interagency Committee on Disability Research established under section 203; and

"(iv) after full consideration of the input of individuals with disabilities and the individuals' representatives, organizations representing individuals with disabilities, providers of services furnished under this Act, researchers in the rehabilitation field, and any other persons or entities the Director considers to be appropriate;

"(E) specify plans for widespread dissemination of the results of covered activities, in accessible formats, to rehabilitation practitioners, individuals with disabilities, and the individuals' representatives; and

"(F) specify plans for widespread dissemination of the results of covered activities that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs carried out under this Act.

"(i) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

"(j)(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director as Chairperson of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

"(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this title.

"(3) The Director shall support, directly or by grant or contract, a center associated with an institution of higher education, for research and training concerning the delivery of vocational rehabilitation services to rural areas.

"(k) The Director shall make grants to institutions of higher education for the training of rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the

effectiveness of services authorized under this Act.

"INTERAGENCY COMMITTEE

"SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service, and the Director of the National Science Foundation.

"(2) The Committee shall meet not less than four times each year.

"(b) After receiving input from individuals with disabilities and the individuals' representatives, the Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of individuals with disabilities.

"(c) The Committee shall annually submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of individuals with disabilities.

"RESEARCH AND OTHER COVERED ACTIVITIES

"SEC. 204. (a)(1) To the extent consistent with priorities established in the 5-year plan described in section 202(h), the Director may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to pay part of the cost of projects for the purpose of planning and conducting research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most significant disabilities, and improve the effectiveness of services authorized under this Act.

"(2)(A) In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, V, VI, and VII, including projects addressing the needs described in the State plans submitted under section 101 or 704 by State agencies.

"(B) Such projects, as described in the State plans submitted by State agencies, may include—

"(i) medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services;

"(ii) studies and analysis of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities;

"(iii) studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized;

"(iv) studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities;

"(v) studies, analyses, and other activities related to supported employment;

"(vi) related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most significant disabilities, particularly individuals with disabilities, and individuals with the most significant disabilities, who are members of populations that are unserved or underserved by programs under this Act; and

"(vii) studies, analyses, and other activities related to job accommodations, including the use of rehabilitation engineering and assistive technology.

"(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the research or other specialized covered activities described in paragraphs (2) through (18). A research grant made under any of paragraphs (2) through (18) may only be used in a manner consistent with priorities established in the 5-year plan described in section 202(h).

"(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

"(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

"(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the individuals' representatives.

"(B) The Centers shall conduct research and training activities by—

"(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities, especially promoting the ability of the individuals to prepare for, secure, retain, regain, or advance in employment;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

"(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the individuals' representatives, through conferences, workshops, public education programs, in-service training programs, and similar activities.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

"(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation-related courses of study for credit; and

"(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

"(K) To be eligible to receive a grant under this paragraph, each such institution or provider described in subparagraph (A) shall—

"(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

"(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(N) In conducting scientific peer review under section 202(f) of an application for the renewal of a grant made under this paragraph, the peer review panel shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the individuals' representatives.

"(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training

activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

"(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

"(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

"(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

"(ii) demonstrating and disseminating—

"(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

"(II) other scientific research to assist in meeting the employment and independent living needs of individuals with significant disabilities; or

"(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

"(I) consumer responsive and individual and family-centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

"(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with significant disabilities.

"(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with programs established under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the individuals' representatives to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

"(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

"(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

"(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

"(I) Early childhood services, including early intervention and family support.

"(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

"(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

"(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

"(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the individuals' representatives.

"(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(G) Each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

"(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program of the Center in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

"(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

"(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the individuals' representatives, and organizations receiving financial assistance under this paragraph;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, and improved methods and rehabilitation technology essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.

"(5) Research grants may be used to conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals with such disease and which will—

"(A) ensure dissemination of research findings;

"(B) provide encouragement and support for initiatives and new approaches by individuals and institutional investigators; and

"(C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts,

in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

"(6) Research grants may be used to conduct a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of individuals with disabilities, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the levels of skill of rehabilitation personnel.

"(7) Research grants may be used to conduct a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities.

"(8) Research grants may be used to conduct a program of joint projects with the National Institutes of Health, the National Institute of Mental Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Department of Health and Human Services, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

"(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are

individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.

"(10) Research grants may be used to conduct a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with disabilities, including individuals with significant disabilities.

"(11) Research grants may be used to conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to individuals who are deaf or hard of hearing captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programming.

"(12) Research grants may be used to conduct a model research and demonstration program to develop innovative methods of providing services for preschool age children who are individuals with disabilities, including—

"(A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with significant disabilities up to the age of five, with a special emphasis on children who are individuals with significant disabilities up to the age of three;

"(B) such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and

"(C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.

"(13) Research grants may be used to conduct a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and addressing the employment needs of individuals with disabilities, including programs that—

"(A) provide training and continuing education for personnel involved with the employment of individuals with disabilities;

"(B) develop model procedures for testing and evaluating the employment needs of individuals with disabilities;

"(C) develop model training programs to teach individuals with disabilities skills which will lead to appropriate employment;

"(D) develop new approaches for job placement of individuals with disabilities, including new followup procedures relating to such placement;

"(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities; and

"(F) develop new approaches and provide information regarding job accommodations, including the use of rehabilitation engineering and assistive technology.

"(14) Research grants may be used to conduct a rehabilitation research program under which financial assistance is provided in order to—

"(A) test new concepts and innovative ideas;

"(B) demonstrate research results of high potential benefits;

"(C) purchase prototype aids and devices for evaluation;

"(D) develop unique rehabilitation training curricula; and

"(E) be responsive to special initiatives of the Director.

No single grant under this paragraph may exceed $50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 percent of the amount available for this section to the National Institute on Disability and Rehabilitation Research in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited.

"(15) Research grants may be used to conduct studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.

"(16) Research grants may be used to conduct a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices, including technology transfer concerning such devices, designed to enable individuals with disabilities to achieve independence and access to gainful employment.

"(17)(A) Research grants may be used to conduct a research program related to quality assurance in the area of rehabilitation technology.

"(B) Activities carried out under the research program may include—

"(i) the development of methodologies to evaluate rehabilitation technology products and services and the dissemination of the methodologies to consumers and other interested parties;

"(ii) identification of models for service provider training and evaluation and certification of the effectiveness of the models;

"(iii) identification and dissemination of outcome measurement models for the assessment of rehabilitation technology products and services; and

"(iv) development and testing of research-based tools to enhance consumer decisionmaking about rehabilitation technology products and services.

"(18) Research grants may be used to provide for research and demonstration projects and related activities that explore the use and effectiveness of specific alternative or complementary medical practices for individuals with disabilities. Such projects and activities may include projects and activities designed to—

"(A) determine the use of specific alternative or complementary medical practices among individuals with disabilities and the perceived effectiveness of the practices;

"(B) determine the specific information sources, decisionmaking methods, and methods of payment used by individuals with disabilities who access alternative or complementary medical services;

"(C) develop criteria to screen and assess the validity of research studies of such practices for individuals with disabilities; and

"(D) determine the effectiveness of specific alternative or complementary medical practices that show promise for promoting increased functioning, prevention of secondary disabilities, or other positive outcomes for individuals with certain types of disabilities, by conducting controlled research studies.

"(c)(1) In carrying out evaluations of covered activities under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

"(2) The Director shall not make a grant under this section that exceeds $500,000 unless the peer review of the grant application has included a site visit.

"REHABILITATION RESEARCH ADVISORY COUNCIL

"SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the 5-year plan required by section 202(h).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the individuals' representatives. At least one-half of the members shall be individuals with disabilities or the individuals' representatives.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) PAYMENT AND EXPENSES.—

"(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

SEC. 406. PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS.

Title III of the Rehabilitation Act of 1973 (29 U.S.C. 770 et seq.) is amended to read as follows:

"TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

"SEC. 301. DECLARATION OF PURPOSE AND COMPETITIVE BASIS OF GRANTS AND CONTRACTS.

"(a) PURPOSE.—It is the purpose of this title to authorize grants and contracts to—

"(1)(A) provide academic training to ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs (including supported employment programs), through economic and business development programs, through independent living services programs, and through client assistance programs; and

"(B) provide training to maintain and upgrade basic skills and knowledge of personnel (including personnel specifically trained to deliver services to individuals with disabilities whose employment outcome is self-employment or telecommuting) employed to provide state-of-the-art service delivery and rehabilitation technology services;

"(2) conduct special projects and demonstrations that expand and improve the provision of rehabilitation and other services (including those services provided through community rehabilitation programs) authorized under this Act, or that otherwise further the purposes of this Act, including related research and evaluation;

"(3) provide vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers;

"(4) initiate recreational programs to provide recreational activities and related experiences for individuals with disabilities to aid such individuals in employment, mobility, socialization, independence, and community integration; and

"(5) provide training and information to individuals with disabilities and the individuals' representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to gain access to the rehabilitation system and statewide workforce investment systems and to become active decisionmakers in the rehabilitation process.

"(b) COMPETITIVE BASIS OF GRANTS AND CONTRACTS.—The Secretary shall ensure that all grants and contracts are awarded under this title on a competitive basis.

"SEC. 302. TRAINING.

"(a) GRANTS AND CONTRACTS FOR PERSONNEL TRAINING.—

"(1) AUTHORITY.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the cost of projects to provide training, traineeships, and related activities, including the provision of technical assistance, that are designed to assist in increasing the numbers of, and upgrading the skills of, qualified personnel (especially rehabilitation counselors) who are trained in providing vocational, medical, social, and psychological rehabilitation services, who are trained to assist individuals with communication and related disorders, who are trained to provide other services provided under this Act, to individuals with disabilities, and who may include—

"(A) personnel specifically trained in providing employment assistance to individuals with disabilities through job development and job placement services;

"(B) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with disabilities, including needs for rehabilitation technology;

"(C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services;

"(D) personnel specifically trained to deliver services in the client assistance programs;

"(E) personnel specifically trained to deliver services, through supported employment programs, to individuals with a most significant disability; and

"(F) personnel specifically trained to deliver services to individuals with disabilities pursuing self-employment, business ownership, and telecommuting; and

"(G) personnel trained in performing other functions necessary to the provision of vocational, medical, social, and psychological rehabilitation services, and other services provided under this Act.

"(2) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expended for scholarships and may include necessary stipends and allowances.

"(3) RELATED FEDERAL STATUTES.—In carrying out this subsection, the Commissioner may make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training regarding provisions of Federal statutes, including section 504, title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.), and the provisions of titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.), that are related to work incentives for individuals with disabilities.

"(4) TRAINING FOR STATEWIDE WORKFORCE SYSTEMS PERSONNEL.—The Commissioner may make grants to and enter into contracts under this subsection with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training to personnel providing services to individuals with disabilities under title I of the Workforce Investment Act of 1998. Under this paragraph, personnel may be trained—

"(A) in evaluative skills to determine whether an individual with a disability may be served by the State vocational rehabilitation program or another component of a statewide workforce investment system; or

"(B) to assist individuals with disabilities seeking assistance through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998.

"(5) JOINT FUNDING.—Training and other activities provided under paragraph (4) for personnel may be jointly funded with the Department of Labor, using funds made available under title I of the Workforce Investment Act of 1998.

"(b) GRANTS AND CONTRACTS FOR ACADEMIC DEGREES AND ACADEMIC CERTIFICATE GRANTING TRAINING PROJECTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the costs of academic training projects to provide training that leads to an academic degree or academic certificate. In making such grants or entering into such contracts, the Commissioner shall target funds to areas determined under subsection (e) to have shortages of qualified personnel.

"(B) TYPES OF PROJECTS.—Academic training projects described in this subsection may include—

"(i) projects to train personnel in the areas of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting, and of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

"(ii) projects to train personnel to provide—

"(I) services to individuals with specific disabilities or individuals with disabilities who have specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

"(II) job development and job placement services to individuals with disabilities;

"(III) supported employment services, including services of employment specialists for individuals with disabilities;

"(IV) specialized services for individuals with significant disabilities; or

"(V) recreation for individuals with disabilities;

"(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities; and

"(iv) projects to train personnel in the use, applications, and benefits of rehabilitation technology.

"(2) APPLICATION.—No grant shall be awarded or contract entered into under this subsection unless the applicant has submitted to the Commissioner an application at such time, in such form, in accordance with such procedures, and including such information as the Secretary may require, including—

"(A) a description of how the designated State unit or units will participate in the project to be funded under the grant or contract, including, as appropriate, participation on advisory committees, as practicum sites, in curriculum development, and in other ways so as to build closer relationships between the applicant and the designated State unit and to encourage students to pursue careers in public vocational rehabilitation programs;

"(B) the identification of potential employers that provide employment that meets the requirements of paragraph (5)(A)(i); and

"(C) an assurance that data on the employment of graduates or trainees who participate in the project is accurate.

"(3) LIMITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no grant or contract under this subsection may be used to provide any one course of study to an individual for a period of more than 4 years.

"(B) EXCEPTION.—If a grant or contract recipient under this subsection determines that an individual has a disability which seriously affects the completion of training under this subsection, the grant or contract recipient may extend the period referred to in subparagraph (A).

"(4) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expanded to provide services that include the provision of scholarships and necessary stipends and allowances.

"(5) AGREEMENTS.—

"(A) CONTENTS.—A recipient of a grant or contract under this subsection shall provide assurances to the Commissioner that each individual who receives a scholarship, for any academic year beginning after June 1, 1992, utilizing funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall—

"(i) maintain employment—

"(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

"(II) on a full- or part-time basis; and

"(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this section was received by the individual,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and *"(ii) repay all or part of any scholarship received, plus interest, if the individual does not fulfill the requirements of clause (i),*

except as the Commissioner by regulation may provide for repayment exceptions and deferrals.

"(B) Enforcement.—The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon completion of the training involved under such subparagraph.

"(c) Grants to Historically Black Colleges and Universities.—The Commissioner, in carrying out this section, shall make grants to historically Black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent of the total enrollment of the institution.

"(d) Application.—A grant may not be awarded to a State or other organization under this section unless the State or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train individuals so as to reflect the diverse populations of the United States as part of the effort to increase the number of individuals with disabilities, and individuals who are from linguistically and culturally diverse backgrounds, who are available to provide rehabilitation services.

"(e) Evaluation and Collection of Data.—The Commissioner shall evaluate the impact of the training programs conducted under this section, and collect information on the training needs of, and data on shortages of qualified personnel necessary to provide services to individuals with disabilities. The Commissioner shall prepare and submit to Congress, by September 30 of each fiscal year, a report setting forth and justifying in detail how the funds made available for training under this section for the fiscal year prior to such submission are allocated by professional discipline and other program areas. The report shall also contain findings on such personnel shortages, how funds proposed for the succeeding fiscal year will be allocated under the President's budget proposal, and how the findings on personnel shortages justify the allocations.

"(f) Grants for the Training of Interpreters.—

"(1) Authority.—

"(A) In general.—For the purpose of training a sufficient number of qualified interpreters to meet the communications needs of individuals who are deaf or hard of hearing, and individuals who are deaf-blind, the Commissioner, acting through a Federal office responsible for deafness and communicative disorders, may award grants to public or private nonprofit agencies or organizations to pay part of the costs—

"(i) for the establishment of interpreter training programs; or

"(ii) to enable such agencies or organizations to provide financial assistance for ongoing interpreter training programs.

"(B) Geographic areas.—The Commissioner shall award grants under this subsection for programs in geographic areas throughout the United States that the Commissioner considers appropriate to best carry out the objectives of this section.

"(C) Priority.—In awarding grants under this subsection, the Commissioner shall give priority to public or private nonprofit agencies or organizations with existing programs that have a demonstrated capacity for providing interpreter training services.

"(D) Funding.—The Commissioner may award grants under this subsection through the use of—

"(i) amounts appropriated to carry out this section; or

"(ii) pursuant to an agreement with the Director of the Office of the Special Education Program (established under section 603 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105–17))), amounts appropriated under section 686 of the Individuals with Disabilities Education Act.

"(2) Application.—A grant may not be awarded to an agency or organization under paragraph (1) unless the agency or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including—

"(A) a description of the manner in which an interpreter training program will be developed and operated during the 5-year period following the date on which a grant is received by the applicant under this subsection;

"(B) a demonstration of the applicant's capacity or potential for providing training for interpreters for individuals who are deaf or hard of hearing, and individuals who are deaf-blind;

"(C) assurances that any interpreter trained or retrained under a program funded under the grant will meet such minimum standards of competency as the Commissioner may establish for purposes of this subsection; and

"(D) such other information as the Commissioner may require.

"(g) Technical Assistance and In-Service Training.—

"(1) Technical assistance.—The Commissioner is authorized to provide technical assistance to State designated agencies and community rehabilitation programs, directly or through contracts with State designated agencies or nonprofit organizations.

"(2) Compensation.—An expert or consultant appointed or serving under contract pursuant to this section shall be compensated at a rate, subject to approval of the Commissioner, that shall not exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code. Such an expert or consultant may be allowed travel and transportation expenses in accordance with section 5703 of title 5, United States Code.

"(3) In-service training of rehabilitation personnel.—

"(A) Projects.—Subject to subparagraph (B), at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used, directly or indirectly, for projects for in-service training for rehabilitation personnel, consistent with the needs identified through the comprehensive system for personnel development required by section 101(a)(7), including projects designed—

"(i) to address recruitment and retention of qualified rehabilitation professionals;

"(ii) to provide for succession planning;

"(iii) to provide for leadership development and capacity building; and

"(iv) for fiscal years 1999 and 2000, to provide training regarding the Workforce Investment Act of 1998 and the amendments to this Act made by the Rehabilitation Act Amendments of 1998.

"(B) Limitation.—If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1998 by other recipients of funds under this section, the Commissioner may allocate less than 15 percent of the sums described in subparagraph (A) to designated State agencies for such in-service training.

"(h) Provision of Information.—The Commissioner, subject to the provisions of section 306, may require that recipients of grants or contracts under this section provide information, including data, with regard to the impact of activities funded under this section.

"(i) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

"SEC. 303. DEMONSTRATION AND TRAINING PROGRAMS.

"(a) Demonstration Projects To Increase Client Choice.—

"(1) Grants.—The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

"(2) Use of funds.—An entity that receives a grant under this subsection shall use the grant only—

"(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

"(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

"(3) Application.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) a description of—

"(i) how the entity intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

"(ii) how the entity intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

"(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals to be achieved;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

"(4) Award of grants.—In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration—

"(A) the diversity of strategies used to increase client choice, including selection among qualified service providers;

"(B) the geographic distribution of projects; and

"(C) the diversity of clients to be served.

"(5) Records.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

"(6) Direct services.—At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

"(7) Evaluation.—The Commissioner may conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost-effectiveness of the project, and the effects of increased

choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this section for the fiscal year.

"(8) DEFINITIONS.—For the purposes of this subsection:

"(A) DIRECT SERVICES.—The term 'direct services' means vocational rehabilitation services, as described in section 103(a).

"(B) ELIGIBLE CLIENT.—The term 'eligible client' means an individual with a disability, as defined in section 7(20)(A), who is not currently receiving services under an individualized plan for employment established through a designated State unit.

"(b) SPECIAL DEMONSTRATION PROGRAMS.—

"(1) GRANTS; CONTRACTS.—The Commissioner, subject to the provisions of section 306, may provide grants to, or enter into contracts with, eligible entities to pay all or part of the cost of programs that expand and improve the provision of rehabilitation and other services authorized under this Act or that further the purposes of the Act, including related research and evaluation activities.

"(2) ELIGIBLE ENTITIES; TERMS AND CONDITIONS.—

"(A) ELIGIBLE ENTITIES.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an entity shall be a State vocational rehabilitation agency, community rehabilitation program, Indian tribe or tribal organization, or other public or nonprofit agency or organization, or as the Commissioner determines appropriate, a for-profit organization. The Commissioner may limit competitions to 1 or more types of organizations described in this subparagraph.

"(B) TERMS AND CONDITIONS.—A grant or contract under paragraph (1) shall contain such terms and conditions as the Commissioner may require.

"(3) APPLICATION.—An eligible entity that desires to receive a grant, or enter into a contract, under paragraph (1) shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Commissioner may require, including, if the Commissioner determines appropriate, a description of how the proposed project or demonstration program—

"(A) is based on current research findings, which may include research conducted by the National Institute on Disability and Rehabilitation Research, the National Institutes of Health, and other public or private organizations; and

"(B) is of national significance.

"(4) TYPES OF PROJECTS.—The programs that may be funded under this subsection may include—

"(A) special projects and demonstrations of service delivery;

"(B) model demonstration projects;

"(C) technical assistance projects;

"(D) systems change projects;

"(E) special studies and evaluations; and

"(F) dissemination and utilization activities.

"(5) PRIORITY FOR COMPETITIONS.—

"(A) IN GENERAL.—In announcing competitions for grants and contracts under this subsection, the Commissioner shall give priority consideration to—

"(i) special projects and demonstration programs of service delivery for adults who are either low-functioning and deaf or low-functioning and hard of hearing;

"(ii) supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services; and

"(iii) model transitional planning services for youths with disabilities.

"(B) ADDITIONAL COMPETITIONS.—In announcing competitions for grants and contracts under this subsection, the Commissioner may require that applicants address 1 or more of the following:

"(i) Age ranges.

"(ii) Types of disabilities.

"(iii) Types of services.

"(iv) Models of service delivery.

"(v) Stage of the rehabilitation process.

"(vi) The needs of underserved populations, unserved and underserved areas, individuals with significant disabilities, low-incidence disability population or individuals residing in federally designated empowerment zones and enterprise communities.

"(vii) Expansion of employment opportunities for individuals with disabilities.

"(viii) Systems change projects to promote meaningful access of individuals with disabilities to employment-related services under title I of the Workforce Investment Act of 1998 and under other Federal laws.

"(ix) Innovative methods of promoting achievement of high-quality employment outcomes.

"(x) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

"(xi) Alternative methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

"(6) USE OF FUNDS FOR CONTINUATION AWARDS.—The Commissioner may use funds made available to carry out this section for continuation awards for projects that were funded under sections 12 and 311 (as such sections were in effect on the day before the date of the enactment of the Rehabilitation Act Amendments of 1998).

"(c) PARENT INFORMATION AND TRAINING PROGRAM.—

"(1) GRANTS.—The Commissioner is authorized to make grants to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational, independent living, and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of the individuals described in the preceding sentence, who live in the area to be served, particularly those who are members of populations that have been unserved or underserved by programs under this Act.

"(2) USE OF GRANTS.—An organization that receives a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals—

"(A) to better understand vocational rehabilitation and independent living programs and services;

"(B) to provide followup support for transition and employment programs;

"(C) to communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

"(D) to provide support in the development of the individualized plan for employment;

"(E) to provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

"(F) to understand the provisions of this Act, particularly provisions relating to employment, supported employment, and independent living.

"(3) AWARD OF GRANTS.—The Commissioner shall ensure that grants under this subsection—

"(A) shall be distributed geographically to the greatest extent possible throughout all States; and

"(B) shall be targeted to individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

"(4) ELIGIBLE ORGANIZATIONS.—In order to receive a grant under this subsection, an organization—

"(A) shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization—

"(i) to coordinate training and information activities with Centers for Independent Living;

"(ii) to coordinate and work closely with parent training and information centers established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17); and

"(iii) to effectively conduct the training and information activities authorized under this subsection;

"(B)(i) shall be governed by a board of directors—

"(I) that includes professionals in the field of vocational rehabilitation; and

"(II) on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

"(ii)(I) shall have a membership that represents the interests of individuals with disabilities; and

"(II) shall establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

"(C) shall serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(5) CONSULTATION.—Each organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

"(6) COORDINATION.—The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17).

"(7) REVIEW.—

"(A) QUARTERLY REVIEW.—The board of directors or special governing committee of an organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

"(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the organization during the preceding fiscal year.

"(d) BRAILLE TRAINING PROGRAMS.—

"(1) ESTABLISHMENT.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind.

"(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

"(A) development of braille training materials;

"(B) in-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching braille to youth and adults who are blind; and

"(C) activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

"(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

"SEC. 304. MIGRANT AND SEASONAL FARMWORKERS.

"(a) GRANTS.—

"(1) AUTHORITY.—The Commissioner, subject to the provisions of section 306, may make grants to eligible entities to pay up to 90 percent of the cost of projects or demonstration programs for the provision of vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers, as determined in accordance with rules prescribed by the Secretary of Labor, and to the family members who are residing with such individuals (whether or not such family members are individuals with disabilities).

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1), an entity shall be—

"(A) a State designated agency;

"(B) a nonprofit agency working in collaboration with a State agency described in subparagraph (A); or

"(C) a local agency working in collaboration with a State agency described in subparagraph (A).

"(3) MAINTENANCE AND TRANSPORTATION.—

"(A) IN GENERAL.—Amounts provided under a grant under this section may be used to provide for the maintenance of and transportation for individuals and family members described in paragraph (1) as necessary for the rehabilitation of such individuals.

"(B) REQUIREMENT.—Maintenance payments under this paragraph shall be provided in a manner consistent with any maintenance payments provided to other individuals with disabilities in the State under this Act.

"(4) ASSURANCE OF COOPERATION.—To be eligible to receive a grant under this section an entity shall provide assurances (satisfactory to the Commissioner) that in the provision of services under the grant there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migrant or seasonal farmworkers or their families.

"(5) COORDINATION WITH OTHER PROGRAMS.—The Commissioner shall administer this section in coordination with other programs serving migrant and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), and the Workforce Investment Act of 1998.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, for each of the fiscal years 1999 through 2003.

"SEC. 305. RECREATIONAL PROGRAMS.

"(a) GRANTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations to pay the Federal share of the cost of the establishment and operation of recreation programs to provide individuals with disabilities with recreational activities and related experiences to aid in the employment, mobility, socialization, independence, and community integration of such individuals.

"(B) RECREATION PROGRAMS.—The recreation programs that may be funded using assistance provided under a grant under this section may include vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4-H activities, construction of facilities for aquatic rehabilitation therapy, music, dancing, handicrafts, art, and homemaking. When possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities.

"(C) DESIGN OF PROGRAM.—Programs and activities carried out under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with disabilities.

"(2) MAXIMUM TERM OF GRANT.—A grant under this section shall be made for a period of not more than 3 years.

"(3) AVAILABILITY OF NONGRANT RESOURCES.—

"(A) IN GENERAL.—A grant may not be made to an applicant under this section unless the applicant provides assurances that, with respect to costs of the recreation program to be carried out under the grant, the applicant, to the maximum extent practicable, will make available non-Federal resources (in cash or in-kind) to pay the non-Federal share of such costs.

"(B) FEDERAL SHARE.—The Federal share of the costs of the recreation programs carried out under this section shall be—

"(i) with respect to the first year in which assistance is provided under a grant under this section, 100 percent;

"(ii) with respect to the second year in which assistance is provided under a grant under this section, 75 percent; and

"(iii) with respect to the third year in which assistance is provided under a grant under this section, 50 percent.

"(4) APPLICATION.—To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project to be funded under the grant, particularly information that facilitates the replication of the results of such projects, will be made generally available; and

"(B) the manner in which the service program funded under the grant will be continued after Federal assistance ends.

"(5) LEVEL OF SERVICES.—Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) REPORTS BY GRANTEES.—

"(A) REQUIREMENT.—The Commissioner shall require that each recipient of a grant under this section annually prepare and submit to the Commissioner a report concerning the results of the activities funded under the grant.

"(B) LIMITATION.—The Commissioner may not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated the annual report of the recipient under subparagraph (A) for the current year.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1999 through 2003.

"SEC. 306. MEASURING OF PROJECT OUTCOMES AND PERFORMANCE.

"The Commissioner may require that recipients of grants under this title submit information, including data, as determined by the Commissioner to be necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act.".

SEC. 407. NATIONAL COUNCIL ON DISABILITY.

Title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) is amended to read as follows:

"TITLE IV—NATIONAL COUNCIL ON DISABILITY

"ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY

"SEC. 400. (a)(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this title referred to as the 'National Council'), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities, parents or guardians of individuals with disabilities, or other individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent

living, and inclusion and integration into all aspects of society.

"(b)(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2)(A) No member of the National Council may serve more than two consecutive full terms beginning on the date of commencement of the first full term on the Council. Members may serve after the expiration of their terms until their successors have taken office.

"(B) As used in this paragraph, the term 'full term' means a term of 3 years.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(c) The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

"(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

"DUTIES OF NATIONAL COUNCIL

"SEC. 401. (a) The National Council shall—

"(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

"(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

"(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this Act;

"(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

"(5) review and evaluate on a continuing basis—

"(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

"(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities;

in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

"(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);

"(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

"(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies or other Federal entities, respecting ways to better promote the policies set forth in section 400(a)(2);

"(9) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information that the National Council or the Congress deems appropriate; and

"(10) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

"(b)(1) Not later than October 31, 1998, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

"(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the National Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

"COMPENSATION OF NATIONAL COUNCIL MEMBERS

"SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

"(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

"(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"STAFF OF NATIONAL COUNCIL

"SEC. 403. (a)(1) The Chairperson of the National Council may appoint and remove, without regard to the provisions of title 5, United States Code, governing appointments, the provisions of chapter 75 of such title (relating to adverse actions), the provisions of chapter 77 of such title (relating to appeals), or the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates), an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

"(2) The Executive Director is authorized to hire technical and professional employees to assist the National Council to carry out its duties.

"(b)(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code).

"(2) The National Council may—

"(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

"(B) in the name of the Council, solicit, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

"(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council's duties and responsibilities.

"(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

"(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

"(d)(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts made available under subsection (a)(2)(B) as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

"(2) The amounts described in paragraph (1), and the interest on, and the proceeds from the sale or redemption of, the obligations described in paragraph (1) shall be available to the National Council to carry out this title.

"ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

"SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

"(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

"(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1999 through 2003.".

SEC. 408. RIGHTS AND ADVOCACY.

(a) CONFORMING AMENDMENTS TO RIGHTS AND ADVOCACY PROVISIONS.—

(1) EMPLOYMENT.—Section 501 (29 U.S.C. 791) is amended—

(A) in the third sentence of subsection (a), by striking "President's Committees on Employment of the Handicapped" and inserting "President's Committees on Employment of People With Disabilities"; and

(B) in subsection (e), by striking "individualized written rehabilitation program" and inserting "individualized plan for employment".

(2) Access Board.—Section 502 (29 U.S.C. 792) is amended—

(A) in subsection (a)(1), in the sentence following subparagraph (B), by striking "Chairperson" and inserting "chairperson";

(B) in subsection (b)—

(i) in paragraph (2), by striking "guidelines" and inserting "information";

(ii) by striking paragraph (3) and inserting the following:

"(3) establish and maintain—

"(A) minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

"(B) minimum guidelines and requirements for the standards issued pursuant to titles II and III of the Americans with Disabilities Act of 1990;

"(C) guidelines for accessibility of telecommunications equipment and customer premises equipment under section 255 of the Telecommunications Act of 1934 (47 U.S.C. 255); and

"(D) standards for accessible electronic and information technology under section 508;";

(iii) in paragraph (9), by striking "; and" and inserting a semicolon;

(iv) in paragraph (10), by striking the period and inserting "; and"; and

(v) by adding at the end the following:

"(11) carry out the responsibilities specified for the Access Board in section 508.";

(C) in subsection (d)(1), by striking "procedures under this section" and inserting "procedures under this subsection";

(D) in subsection (g)(2), by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce";

(E) in subsection (h)(2)(A), by striking "paragraphs (5) and (7)" and inserting "paragraphs (2) and (4)"; and

(F) in subsection (i), by striking "fiscal years 1993 through 1997" and inserting "fiscal years 1999 through 2003".

(3) Federal Grants and Contracts.—Section 504(a) (29 U.S.C. 794(a)) is amended in the first sentence by striking "section 7(8)" and inserting "section 7(20)".

(4) Secretarial Responsibilities.—Section 506(a) (29 U.S.C. 794b(a)) is amended—

(A) by striking the second sentence and inserting the following: "Any concurrence of the Access Board under paragraph (2) shall reflect its consideration of cost studies carried out by States."; and

(B) in the second sentence of subsection (c), by striking "provided under this paragraph" and inserting "provided under this subsection".

(b) Electronic and Information Technology Regulations.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY.

"(a) Requirements for Federal Departments and Agencies.—

"(1) Accessibility.—

"(A) Development, Procurement, Maintenance, or Use of Electronic and Information Technology.—When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology—

"(i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and

"(ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.

"(B) Alternative Means Efforts.—When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board under paragraph (2) would impose an undue burden, the Federal department or agency shall provide individuals with disabilities covered by paragraph (1) with the information and data involved by an alternative means of access that allows the individual to use the information and data.

"(2) Electronic and Information Technology Standards.—

"(A) In General.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the 'Access Board'), after consultation with the Secretary of Education, the Administrator of General Services, the Secretary of Commerce, the Chairman of the Federal Communications Commission, the Secretary of Defense, and the head of any other Federal department or agency that the Access Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, including organizations representing individuals with disabilities, shall issue and publish standards setting forth—

"(i) for purposes of this section, a definition of electronic and information technology that is consistent with the definition of information technology specified in section 5002(3) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401(3)); and

"(ii) the technical and functional performance criteria necessary to implement the requirements set forth in paragraph (1).

"(B) Review and Amendment.—The Access Board shall periodically review and, as appropriate, amend the standards required under subparagraph (A) to reflect technological advances or changes in electronic and information technology.

"(3) Incorporation of Standards.—Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards. Not later than 6 months after the Access Board revises any standards required under paragraph (2), the Council shall revise the Federal Acquisition Regulation and each appropriate Federal department or agency shall revise the procurement policies and directives, as necessary, to incorporate the revisions.

"(4) Acquisition Planning.—In the event that a Federal department or agency determines that compliance with the standards issued by the Access Board under paragraph (2) relating to procurement imposes an undue burden, the documentation by the department or agency supporting the procurement shall explain why compliance creates an undue burden.

"(5) Exemption for National Security Systems.—This section shall not apply to national security systems, as that term is defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

"(6) Construction.—

"(A) Equipment.—In a case in which the Federal Government provides access to the public to information or data through electronic and information technology, nothing in this section shall be construed to require a Federal department or agency—

"(i) to make equipment owned by the Federal Government available for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public; or

"(ii) to purchase equipment for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public.

"(B) Software and Peripheral Devices.—Except as required to comply with standards issued by the Access Board under paragraph (2), nothing in paragraph (1) requires the installation of specific accessibility-related software or the attachment of a specific accessibility-related peripheral device at a workstation of a Federal employee who is not an individual with a disability.

"(b) Technical Assistance.—The Administrator of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.

"(c) Agency Evaluations.—Not later than 6 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the head of each Federal department or agency shall evaluate the extent to which the electronic and information technology of the department or agency is accessible to and usable by individuals with disabilities described in subsection (a)(1), compared to the access to and use of the technology by individuals described in such subsection who are not individuals with disabilities, and submit a report containing the evaluation to the Attorney General.

"(d) Reports.—

"(1) Interim Report.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the extent to which the electronic and information technology of the Federal Government is accessible to and usable by individuals with disabilities described in subsection (a)(1).

"(2) Biennial Reports.—Not later than 3 years after the date of enactment of the Rehabilitation Act Amendments of 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f).

"(e) Cooperation.—Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall provide to the Attorney General such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) and prepare the reports under subsection (d).

"(f) Enforcement.—

"(1) General.—

"(A) Complaints.—Effective 2 years after the date of enactment of the Rehabilitation Act

Amendments of 1998, any individual with a disability may file a complaint alleging that a Federal department or agency fails to comply with subsection (a)(1) in providing electronic and information technology.

"(B) APPLICATION.—This subsection shall apply only to electronic and information technology that is procured by a Federal department or agency not less than 2 years after the date of enactment of the Rehabilitation Act Amendments of 1998.

"(2) ADMINISTRATIVE COMPLAINTS.—Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 504 for resolving allegations of discrimination in a federally conducted program or activity.

"(3) CIVIL ACTIONS.—The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under paragraph (1).

"(g) APPLICATION TO OTHER FEDERAL LAWS.—This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 501 through 505) that provides greater or equal protection for the rights of individuals with disabilities than this section.".

(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 509 (29 U.S.C. 794e) is amended to read as follows:

"SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

"(a) PURPOSE AND CONSTRUCTION.—

"(1) PURPOSE.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

"(A) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 112; and

"(B)(i) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) because the individuals do not have a developmental disability, as defined in section 102 of such Act (42 U.S.C. 6002); and

"(ii) are ineligible for services under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

"(2) CONSTRUCTION.—This section shall not be construed to require the provision of protection and advocacy services that can be provided under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (42 U.S.C. 2201 et seq.).

"(b) APPROPRIATIONS LESS THAN $5,500,000.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of subparagraphs (A) and (B) of subsection (a)(1).

"(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

"(1) RESERVATIONS.—

"(A) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

"(B) GRANT FOR THE ELIGIBLE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $10,500,000, the Commissioner shall reserve a portion, and use the portion to make a grant for the eligible system serving the American Indian consortium. The Commission shall make the grant in an amount of not less than $50,000 for the fiscal year.

"(2) ALLOTMENTS.—For any such fiscal year, after the reservations required by paragraph (1) have been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for individuals referred to in subsection (b).

"(3) SYSTEMS WITHIN STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

"(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

"(A) IN GENERAL.—For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted under paragraph (3)(A) not less than $50,000 for the fiscal year for which the allotment is made.

"(5) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

"(d) PROPORTIONAL REDUCTION.—To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.

"(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

"(f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

"(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

"(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

"(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a)(1);

"(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;

"(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, the individuals' representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

"(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

"(g) CARRYOVER AND DIRECT PAYMENT.—

"(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

“(2) CARRYOVER.—Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

“(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

“(i) ADMINISTRATIVE COST.—In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

“(j) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

“(k) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

“(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

“(m) DEFINITIONS.—As used in this section:

“(1) ELIGIBLE SYSTEM.—The term ‘eligible system’ means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

“(2) AMERICAN INDIAN CONSORTIUM.—The term ‘American Indian consortium’ means a consortium established as described in section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).”.

SEC. 409. EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

Title VI of the Rehabilitation Act of 1973 (29 U.S.C. 795 et seq.) is amended to read as follows:

“TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

“SEC. 601. SHORT TITLE.

“This title may be cited as the ‘Employment Opportunities for Individuals With Disabilities Act’.

“PART A—PROJECTS WITH INDUSTRY

“PROJECTS WITH INDUSTRY

“SEC. 611. (a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

“(2) The Commissioner, in consultation with the Secretary of Labor and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

“(A) provide for the establishment of business advisory councils, that shall—

“(i) be comprised of—

“(I) representatives of private industry, business concerns, and organized labor;

“(II) individuals with disabilities and representatives of individuals with disabilities; and

“(III) a representative of the appropriate designated State unit;

“(ii) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment board for the community under section 118(b)(1)(B) of the Workforce Investment Act of 1998;

“(iii) identify the skills necessary to perform the jobs and careers identified; and

“(iv) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities in fields related to the job and career availability identified under clause (ii);

“(B) provide job development, job placement, and career advancement services;

“(C) to the extent appropriate, provide for—

“(i) training in realistic work settings in order to prepare individuals with disabilities for employment and career advancement in the competitive market; and

“(ii) to the extent practicable, the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities, except that a project shall not be required to provide for such modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

“(D) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

“(3)(A) An individual shall be eligible for services described in paragraph (2) if the individual is determined to be an individual described in section 102(a)(1), and if the determination is made in a manner consistent with section 102(a).

“(B) Such a determination may be made by the recipient of a grant under this part, to the extent the determination is appropriate and available and consistent with the requirements of section 102(a).

“(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or the individuals' representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

“(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect data and information of the type described in subparagraphs (A) through (C) of section 101(a)(10), as determined to be appropriate by the Commissioner.

“(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

“(A) assist employers in hiring individuals with disabilities; or

“(B) improve or develop relationships between—

“(i) grant recipients or prospective grant recipients; and

“(ii) employers or organized labor; or

“(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.

“(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

“(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

“(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated nondisabled co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

“(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.

“(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

“(d)(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraph (2).

“(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.

“(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

“(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

“(2) The Commissioner shall, to the extent practicable, ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

“(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register, in final form, indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

"(3)(A) The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

"(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of onsite compliance reviews, identifying individual grant recipients.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) The term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 612. There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of fiscal years 1999 through 2003.

"PART B—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES

"SEC. 621. PURPOSE.

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities to enable such individuals to achieve the employment outcome of supported employment.

"SEC. 622. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

"(A) no State shall receive less than $250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made.

"(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"SEC. 623. AVAILABILITY OF SERVICES.

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, or title I, may not be used to provide extended services to individuals who are eligible under this part or title I.

"SEC. 624. ELIGIBILITY.

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with a most significant disability; and

"(3) a comprehensive assessment of rehabilitation needs of the individual described in section 7(2)(B), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate employment outcome for the individual.

"SEC. 625. STATE PLAN.

"(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) CONTENTS.—Each such plan supplement shall—

"(1) designate each designated State agency as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(15)(A)(i), with respect to the rehabilitation needs of individuals with significant disabilities and the need for supported employment services, including needs related to coordination;

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 622;

"(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) the comprehensive assessments of individuals with significant disabilities conducted under section 102(b)(1) and funded under title I will include consideration of supported employment as an appropriate employment outcome;

"(C) an individualized plan for employment, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized plan for employment is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized plan for employment;

"(E) services provided under an individualized plan for employment will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided on site; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

"SEC. 626. RESTRICTION.

"Each State agency designated under section 625(b)(1) shall collect the information required *by section 101(a)(10) separately for eligible individuals receiving supported employment services under this part and for eligible individuals receiving supported employment services under title I.*

"SEC. 627. SAVINGS PROVISION.

''(a) Supported Employment Services.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

''(b) Postemployment Services.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

"SEC. 628. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1999 through 2003.''.

SEC. 410. INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.

Title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.) is amended to read as follows:

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

''PART A—GENERAL PROVISIONS

"SEC. 701. PURPOSE.

''The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

''(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

''(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

''(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part B of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal law, and programs funded through non-Federal sources.

"SEC. 702. DEFINITIONS.

''As used in this chapter:

''(1) Center for independent living.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

''(A) is designed and operated within a local community by individuals with disabilities; and

''(B) provides an array of independent living services.

''(2) Consumer control.—The term 'consumer control' means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities.

"SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.

''Services may be provided under this chapter to any individual with a significant disability, as defined in section 7(21)(B).

"SEC. 704. STATE PLAN.

''(a) In General.—

''(1) Requirement.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

''(2) Joint development.—The plan under paragraph (1) shall be jointly developed and signed by—

''(A) the director of the designated State unit; and

''(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

''(3) Periodic review and revision.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

''(A) the provision of State independent living services;

''(B) the development and support of a statewide network of centers for independent living; and

''(C) working relationships between—

''(i) programs providing independent living services and independent living centers; and

''(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

''(4) Date of submission.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

''(b) Statewide Independent Living Council.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

''(c) Designation of State Unit.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

''(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

''(2) provide administrative support services for a program under part B, and a program under part C in a case in which the program is administered by the State under section 723;

''(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

''(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

''(d) Objectives.—The plan shall—

''(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

''(2) explain how such objectives are consistent with and further the purpose of this chapter.

''(e) Independent Living Services.—The plan shall provide that the State will provide independent living services under this chapter to individuals with significant disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

''(f) Scope and Arrangements.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

''(g) Network.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

''(h) Centers.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

''(i) Cooperation, Coordination, and Working Relationships Among Various Entities.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

''(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

''(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

''(j) Coordination of Services.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

''(k) Coordination Between Federal and State Sources.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

''(l) Outreach.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

''(m) Requirements.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

''(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

''(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

''(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

''(4)(A) maintain records that fully disclose—

''(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

''(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

''(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

"(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

"(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

"(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

"SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within a State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities; and

"(C) in a State in which 1 or more projects are carried out under section 121, at least 1 representative of the directors of the projects.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—

"(A) IN GENERAL.—The Council shall be composed of members—

"(i) who provide statewide representation;

"(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

"(iii) who are knowledgeable about centers for independent living and independent living services; and

"(iv) a majority of whom are persons who are—

"(I) individuals with disabilities described in section 7(20)(B); and

"(II) not employed by any State agency or center for independent living.

"(B) VOTING MEMBERS.—A majority of the voting members of the Council shall be—

"(i) individuals with disabilities described in section 7(20)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the voting membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a voting member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a voting member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

"(c) DUTIES.—The Council shall—

"(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 704;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Council established under section 105, if the State has such a Council, or the commission described in section 101(a)(21)(A), if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(e) PLAN.—

"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this chapter, and under section 110 (consistent with section 101(a)(18)), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

"(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

"(i) to the Secretary shall be deemed to be references to the Commissioner; and

"(ii) to section 101 shall be deemed to be references to section 704.

"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

"(c) ONSITE COMPLIANCE REVIEWS.—

"(1) REVIEWS.—The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 722 and shall periodically conduct such a review of each such center. The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State. The Commissioner shall select the centers and State units described in this paragraph for review on a random basis.

"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

"(C) ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not a government employee; and

"(ii) has experience in the operation of centers for independent living.

"(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds

under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

"*PART B—INDEPENDENT LIVING SERVICES*

"*SEC. 711. ALLOTMENTS.*

"*(a) IN GENERAL.—*

"*(1) STATES.—*

"*(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.*

"*(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.*

"*(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.*

"*(2) CERTAIN TERRITORIES.—*

"*(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.*

"*(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made.*

"*(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.*

"*(b) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).*

"*(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.*

"*SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.*

"*(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.*

"*(b) FEDERAL SHARE.—*

"*(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.*

"*(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.*

"*SEC. 713. AUTHORIZED USES OF FUNDS.*

"*The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—*

"*(1) to provide independent living services to individuals with significant disabilities;*

"*(2) to demonstrate ways to expand and improve independent living services;*

"*(3) to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725;*

"*(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;*

"*(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;*

"*(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and*

"*(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.*

"*SEC. 714. AUTHORIZATION OF APPROPRIATIONS.*

"*There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1999 through 2003.*

"*PART C—CENTERS FOR INDEPENDENT LIVING*

"*SEC. 721. PROGRAM AUTHORIZATION.*

"*(a) IN GENERAL.—From the funds appropriated for fiscal year 1999 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).*

"*(b) TRAINING.—*

"*(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance to eligible agencies, centers for independent living, and Statewide Independent Living Councils for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this part for the fiscal year involved.*

"*(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.*

"*(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.*

"*(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.*

"*(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.*

"*(c) IN GENERAL.—*

"*(1) STATES.—*

"*(A) POPULATION BASIS.—After the reservation required by subsection (b) has been made, and except as provided in subparagraphs (B) and (C), from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.*

"*(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.*

"*(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—*

"*(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or one-third* of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

"(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

"(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made.

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

"(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B).

"(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant proposing to serve such region, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel and the involvement of individuals with significant disabilities;

"(v) budgets and cost-effectiveness;

"(vi) an evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

"(g) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B), making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year.

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the

Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to eligible agencies in the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

"(g) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (i), the date of any final decision under subsection (i),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(h) ONSITE COMPLIANCE REVIEW.—The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State. Each team that conducts onsite compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

"(i) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 724. CENTERS OPERATED BY STATE AGENCIES.

"A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for the fiscal year before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

"SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of

significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this title). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

"(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

"(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decision-making positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit, notwithstanding section 7502(a)(2)(A) of title 31, United States Code;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with significant disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decision-making positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

"SEC. 726. DEFINITIONS.

"As used in this part, the term 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

"SEC. 727. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1999 through 2003.

"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

"SEC. 751. DEFINITION.

"For purposes of this chapter, the term 'older individual who is blind' means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

"SEC. 752. PROGRAM OF GRANTS.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

"(2) DESIGNATED STATE AGENCY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(2)(A)(i).

"(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants made under subsection (a) shall be—

"(1) discretionary grants made on a competitive basis to States; or

"(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

"(A) under this chapter; or

"(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(c) CONTINGENT FORMULA GRANTS.—

"(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

"(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

"(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

"(1) providing independent living services to older individuals who are blind;

"(2) conducting activities that will improve or expand services for such individuals; and

"(3) conducting activities to help improve public understanding of the problems of such individuals.

"(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

"(1) services to help correct blindness, such as—

"(A) outreach services;

"(B) visual screening;

"(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(4) mobility training, braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(5) guide services, reader services, and transportation;

"(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

"(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

"(8) other independent living services.

"(f) MATCHING FUNDS.—

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any

significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) Certain Expenditures of Grants.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

"(h) Requirement Regarding State Plan.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

"(i) Application for Grant.—

"(1) In general.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

"(2) Contents.—An application for a grant under this section shall contain—

"(A) an assurance that the agency described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the agency operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

"(i) the number and types of older individuals who are blind and are receiving services;

"(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

"(iii) the sources and amounts of funding for the operation of each project or program;

"(iv) the amounts and percentages of resources committed to each type of service provided;

"(v) data on actions taken to employ, and advance in employment, qualified individuals with significant disabilities, including older individuals who are blind; and

"(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

"(B) an assurance that the agency will—

"(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

"(ii) engage in—

"(I) capacity-building activities, including collaboration with other agencies and organizations;

"(II) activities to promote community awareness, involvement, and assistance; and

"(III) outreach efforts; and

"(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

"(j) Amount of Formula Grant.—

"(1) In general.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

"(A) the amount determined under paragraph (2); or

"(B) the amount determined under paragraph (3).

"(2) Minimum allotment.—

"(A) States.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

"(i) $225,000; or

"(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

"(B) Certain territories.—In the case of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000.

"(3) Formula.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

"(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

"(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

"(4) Disposition of certain amounts.—

"(A) Grants.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

"(B) Amounts.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

"(i) the failure of any State to submit an application under subsection (i);

"(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

"(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

"(C) Conditions.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

"SEC. 753. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1999 through 2003.".

SEC. 411. REPEAL.

Title VIII of the Rehabilitation Act of 1973 (29 U.S.C. 797 et seq.) is repealed.

SEC. 412. HELEN KELLER NATIONAL CENTER ACT.

(a) General Authorization of Appropriations.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking "1993 through 1997" and inserting "1999 through 2003".

(b) Helen Keller National Center Federal Endowment Fund.—The first sentence of section 208(h) of such Act (29 U.S.C. 1907(h)) is amended by striking "1993 through 1997" and inserting "1999 through 2003".

(c) Registry.—Such Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following:

"SEC. 209. REGISTRY.

"(a) In General.—To assist the Center in providing services to individuals who are deaf-blind, the Center may establish and maintain registries of such individuals in each of the regional field offices of the network of the Center.

"(b) Voluntary Provision of Information.—No individual who is deaf-blind may be required to provide information to the Center for any purpose with respect to a registry established under subsection (a).

"(c) Nondisclosure.—The Center (including the network of the Center) may not disclose information contained in a registry established under subsection (a) to any individual or organization that is not affiliated with the Center, unless the individual to whom the information relates provides specific written authorization for the Center to disclose the information.

"(d) Privacy Rights.—The requirements of section 552a of title 5, United States Code (commonly known as the 'Privacy Act of 1974') shall apply to personally identifiable information contained in the registries established by the Center under subsection (a), in the same manner and to the same extent as such requirements apply to a record of an agency.

"(e) Removal of Information.—On the request of an individual, the Center shall remove all information relating to the individual from any registry established under subsection (a).".

SEC. 413. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

Section 2(2) of the joint resolution approved July 11, 1949 (63 Stat. 409, chapter 302; 36 U.S.C. 155b(2)) is amended by inserting "solicit," before "accept,".

SEC. 414. CONFORMING AMENDMENTS.

(a) Randolph-Sheppard Act.—Section 2(e) of the Act of June 20, 1936 (commonly known as the "Randolph-Sheppard Act") (49 Stat. 1559, chapter 638; 20 U.S.C. 107a(e)) is amended by striking "section 101(a)(1)(A)" and inserting "section 101(a)(2)(A)".

(b) Technology-Related Assistance for Individuals With Disabilities Act of 1988.—

(1) Section 101(b) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(b)) is amended—

(A) in paragraph (7)(A)(ii)(II), by striking "individualized written rehabilitation program" and inserting "individualized plan for employment"; and

(B) in paragraph (9)(B), by striking "(as defined in section 7(25) of such Act (29 U.S.C. 706(25)))" and inserting "(as defined in section 7 of such Act)".

(2) Section 102(e)(23)(A) of such Act (29 U.S.C. 2212(e)(23)(A)) is amended by striking "the assurance provided by the State in accordance with section 101(a)(36) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(36))" and inserting "the portion of the State plan provided by the State in accordance with section 101(a)(21) of the Rehabilitation Act of 1973".

(c) Title 38, United States Code.—Sections 3904(b) and 7303(b) of title 38, United States Code, are amended by striking "section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2)) (relating to the establishment and support of Rehabilitation Engineering Research Centers)" and inserting "section 204(b)(3) of the Rehabilitation Act of 1973 (relating to the establishment and support of Rehabilitation Engineering Research Centers)".

(d) National School Lunch Act.—Section 27(a)(1)(B) of the National School Lunch Act (42 U.S.C. 1769h(a)(1)(B)) is amended by striking "section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8))" and inserting "section 7 of the Rehabilitation Act of 1973".

(e) Domestic Volunteer Service Act of 1973.—Section 421(11) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061(11)) is amended by striking "section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B))" and inserting "section 7(20)(B) of the Rehabilitation Act of 1973".

(f) Energy Conservation and Production Act.—Section 412(5) of the Energy Conservation and Production Act (42 U.S.C. 6862(5)) is amended by striking "a handicapped individual as defined in section 7(7) of the Rehabilitation Act of 1973" and inserting "an individual with a disability, as defined in section 7 of the Rehabilitation Act of 1973".

(g) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Section 101(12) of the National and Community Service Act of 1990 (42 U.S.C. 12511(12)) is amended by striking "section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B))" and inserting "section 7(20)(B) of the Rehabilitation Act of 1973".

TITLE V—GENERAL PROVISIONS

SEC. 501. STATE UNIFIED PLAN.

(a) DEFINITION OF APPROPRIATE SECRETARY.—In this section, the term "appropriate Secretary" means the head of the Federal agency who exercises administrative authority over an activity or program described in subsection (b).

(b) STATE UNIFIED PLAN.—

(1) IN GENERAL.—A State may develop and submit to the appropriate Secretaries a State unified plan for 2 or more of the activities or programs set forth in paragraph (2), except that the State may include in the plan the activities described in paragraph (2)(A) only with the prior approval of the legislature of the State. The State unified plan shall cover 1 or more of the activities set forth in subparagraphs (A) through (D) of paragraph (2) and may cover 1 or more of the activities set forth in subparagraphs (E) through (O) of paragraph (2).

(2) ACTIVITIES.—The activities and programs referred to in paragraph (1) are as follows:

(A) Secondary vocational education programs authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(B) Postsecondary vocational education programs authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(C) Activities authorized under title I.

(D) Activities authorized under title II.

(E) Programs authorized under section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)).

(F) Work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)).

(G) Activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(H) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(I) Programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 of such Act (29 U.S.C. 732).

(J) Activities authorized under chapter 41 of title 38, United States Code.

(K) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(L) Programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(M) Programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(N) Training activities carried out by the Department of Housing and Urban Development.

(O) Programs authorized under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(c) REQUIREMENTS.—

(1) IN GENERAL.—The portion of a State unified plan covering an activity or program described in subsection (b) shall be subject to the requirements, if any, applicable to a plan or application for assistance under the Federal statute authorizing the activity or program.

(2) ADDITIONAL SUBMISSION NOT REQUIRED.—A State that submits a State unified plan covering an activity or program described in subsection (b) that is approved under subsection (d) shall not be required to submit any other plan or application in order to receive Federal funds to carry out the activity or program.

(3) COORDINATION.—A State unified plan shall include—

(A) a description of the methods used for joint planning and coordination of the programs and activities included in the unified plan; and

(B) an assurance that the methods included an opportunity for the entities responsible for planning or administering such programs and activities to review and comment on all portions of the unified plan.

(d) APPROVAL BY THE APPROPRIATE SECRETARIES.—

(1) JURISDICTION.—The appropriate Secretary shall have the authority to approve the portion of the State unified plan relating to the activity or program over which the appropriate Secretary exercises administrative authority. On the approval of the appropriate Secretary, the portion of the plan relating to the activity or program shall be implemented by the State pursuant to the applicable portion of the State unified plan.

(2) APPROVAL.—

(A) IN GENERAL.—A portion of the State unified plan covering an activity or program described in subsection (b) that is submitted to the appropriate Secretary under this section shall be considered to be approved by the appropriate Secretary at the end of the 90-day period beginning on the day the appropriate Secretary receives the portion, unless the appropriate Secretary makes a written determination, during the 90-day period, that the portion is not consistent with the requirements of the Federal statute authorizing the activity or program including the criteria for approval of a plan or application, if any, under such statute or the plan is not consistent with the requirements of subsection (c)(3).

(B) SPECIAL RULE.—In subparagraph (A), the term "criteria for approval of a State plan", relating to activities carried out under title I or II or under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), includes a requirement for agreement between the State and the appropriate Secretary regarding State performance measures, including levels of performance.

SEC. 502. DEFINITIONS FOR INDICATORS OF PERFORMANCE.

(a) IN GENERAL.—In order to ensure nationwide comparability of performance data, the Secretary of Labor and the Secretary of Education, after consultation with the representatives described in subsection (b), shall issue definitions for indicators of performance and levels of performance established under titles I and II.

(b) REPRESENTATIVES.—The representatives referred to in subsection (a) are representatives of States (as defined in section 101) and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 101), educators, participants in activities carried out under this Act, State Directors of adult education, providers of adult education, providers of literacy services, individuals with expertise in serving the employment and training needs of eligible youth (as defined in section 101), parents, and other interested parties, with expertise regarding activities authorized under this Act.

SEC. 503. INCENTIVE GRANTS.

(a) IN GENERAL.—Beginning on July 1, 2000, the Secretary shall award a grant to each State that exceeds the State adjusted levels of performance for title I, the expected levels of performance for title II, and the levels of performance for programs under Public Law 88–210 (as amended; 20 U.S.C. 2301 et seq.), for the purpose of carrying out an innovative program consistent with the requirements of any 1 or more of the programs within title I, title II, or such Public Law, respectively.

(b) APPLICATION.—

(1) IN GENERAL.—The Secretary may provide a grant to a State under subsection (a) only if the State submits an application to the Secretary for the grant that meets the requirements of paragraph (2).

(2) REQUIREMENTS.—The Secretary may review an application described in paragraph (1) only to ensure that the application contains the following assurances:

(A) The legislature of the State was consulted with respect to the development of the application.

(B) The application was approved by the Governor, the eligible agency (as defined in section 203), and the State agency responsible for programs established under Public Law 88–210 (as amended; 20 U.S.C. 2301 et seq.).

(C) The State and the eligible agency, as appropriate, exceeded the State adjusted levels of performance for title I, the expected levels of performance for title II, and the levels of performance for programs under Public Law 88–210 (as amended; 20 U.S.C. 2301 et seq.).

(c) AMOUNT.—

(1) MINIMUM AND MAXIMUM GRANT AMOUNTS.—Subject to paragraph (2), a grant provided to a State under subsection (a) shall be awarded in an amount that is not less than $750,000 and not more than $3,000,000.

(2) PROPORTIONATE REDUCTION.—If the amount available for grants under this section for a fiscal year is insufficient to award a grant to each State or eligible agency that is eligible for a grant, the Secretary shall reduce the minimum and maximum grant amount by a uniform percentage.

SEC. 504. PRIVACY.

(a) SECTION 144 OF THE GENERAL EDUCATION PROVISIONS ACT.—Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), as added by the Family Educational Rights and Privacy Act of 1974 (section 513 of Public Law 93–380; 88 Stat. 571).

(b) PROHIBITION ON DEVELOPMENT OF NATIONAL DATABASE.—

(1) IN GENERAL.—Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under title I of this Act.

(2) LIMITATION.—Nothing in paragraph (1) shall be construed to prevent the proper administration of national programs under subtitles C and D of title I of this Act or to carry out program management activities consistent with title I of this Act.

SEC. 505. BUY-AMERICAN REQUIREMENTS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a et seq.).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under this Act, it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in

America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this subtitle, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations as such sections are in effect on the date of enactment of this Act, or pursuant to any successor regulations.

SEC. 506. TRANSITION PROVISIONS.

(a) WORKFORCE INVESTMENT SYSTEMS.—The Secretary of Labor shall take such actions as the Secretary determines to be appropriate to provide for the orderly transition from any authority under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) to the workforce investment systems established under title I of this Act. Such actions shall include the provision of guidance relating to the designation of State workforce investment boards, local workforce investment areas, and local workforce investment boards described in such title.

(b) ADULT EDUCATION AND LITERACY PROGRAMS.—

(1) IN GENERAL.—The Secretary of Education shall take such actions as the Secretary determines to be appropriate to provide for the transition from any authority under the Adult Education Act (20 U.S.C. 1201 et seq.) to any authority under the Adult Education and Family Literacy Act (as added by title II of this Act).

(2) LIMITATION.—The authority to take actions under paragraph (1) shall apply only for the 1-year period beginning on the date of the enactment of this Act.

(c) REGULATIONS.—

(1) INTERIM FINAL REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall develop and publish in the Federal Register interim final regulations relating to the transition to, and implementation of, this Act.

(2) FINAL REGULATIONS.—Not later than December 31, 1999, the Secretary shall develop and publish in the Federal Register final regulations relating to the transition to, and implementation of, this Act.

(d) EXPENDITURE OF FUNDS DURING TRANSITION.—

(1) IN GENERAL.—Subject to paragraph (2) and in accordance with regulations developed under subsection (b), States, grant recipients, administrative entities, and other recipients of financial assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or under this Act may expend funds received under the Job Training Partnership Act or under this Act, prior to July 1, 2000, in order to plan and implement programs and activities authorized under this Act.

(2) ADDITIONAL REQUIREMENTS.—Not to exceed 2 percent of any allotment to any State from amounts appropriated under the Job Training Partnership Act or under this Act for fiscal year 1998 or 1999 may be made available to carry out paragraph (1) and not less than 50 percent of any such amount used to carry out paragraph (1) shall be made available to local entities for the purposes described in such paragraph.

(e) REORGANIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall reorganize and align functions within the Department of Labor and within the Employment and Training Administration in order to carry out the duties and responsibilities required by this Act (and related laws) in an effective and efficient manner.

SEC. 507. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act, shall take effect on the date of the enactment of this Act.

And the Senate agree to the same.

Bill Goodling.
Howard "Buck" McKeon.
Frank Riggs.
Lindsey Graham.
Bob Schaffer.
W.L. Clay.
M.G. Martinez.
Dale Kildee.
Managers on the Part of the House.

Jim Jeffords.
Dan Coats.
Judd Gregg.
Bill Frist.
Mike DeWine.
Michael B. Enzi.
Tim Hutchinson.
Susan Collins.
John Warner.
Mitch McConnell.
Edward M. Kennedy.
Paul Wellstone.
Jack Reed.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1385) to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—WORKFORCE INVESTMENT SYSTEMS

WORKFORCE INVESTMENT DEFINITIONS

The House bill provides definitions of the following terms: 'adult education and literacy activities'; 'basic skills deficient'; 'case management'; 'chief elected official'; 'citizenship skills'; 'community based organization'; 'dislocated worker'; 'displaced homemaker'; 'economic development agencies'; 'employment, training, and literacy programs'; 'English literacy program'; 'family'; 'family literacy services'; 'full service eligible provider'; 'Governor'; 'human resource programs'; 'individual of limited English proficiency'; 'individual with a disability'; 'institution of higher education'; 'labor market area'; 'literacy'; 'local benchmarks'; 'local board'; 'local educational agency'; 'local workforce development area'; 'lower living standard income level'; 'nontraditional employment'; 'offender'; 'on-the-job training'; 'outlying area'; 'participant'; 'postsecondary institution'; 'public assistance'; 'rapid response assistance'; 'representatives of employees'; 'school dropout'; 'Secretaries'; 'skill grant'; 'appropriate Secretary'; 'State'; 'State adjusted benchmarks'; 'State benchmark'; 'State educational agency'; 'statewide system'; 'supportive services'; 'termination'; 'unemployed individuals'; 'unit of general local government'; 'veteran'; 'vocational education'; and 'youth corps program'.

The Senate amendment provides definitions of the following terms: 'adult'; 'adult education'; 'area vocational education school'; 'chief elected official'; 'disadvantaged adult'; 'dislocated worker'; 'displaced homemaker'; 'economic development agencies'; 'educational service agency'; 'elementary school'; 'local educational agency'; 'eligible agency'; 'eligible institution'; 'eligible provider'; 'employment and training activity'; 'English literacy program'; 'Governor'; 'individual of limited English proficiency'; 'individual with a disability'; 'institution of higher education'; 'literacy'; 'local area'; 'local partnership'; 'local performance measure'; 'low-income individual'; 'lower living standard income level'; 'nontraditional employment'; 'on-the-job-training'; 'out-of-school youth'; 'outlying area'; 'participant'; 'postsecondary educational institution'; 'poverty line'; 'public assistance'; 'rapid response activity'; 'school dropout'; 'secondary school'; 'Secretary'; 'State'; 'State educational agency'; 'State performance measure'; 'statewide partnership'; 'supportive services'; 'tribally controlled community college'; 'unit of general local government'; 'veteran'; 'vocational education'; 'vocational rehabilitation program'; 'vocational student organization'; 'welfare recipient'; 'workforce investment activity'; 'youth'; 'youth activity'; and 'youth partnership'.

In the Conference agreement, the House recedes on the definition of 'adult' with an amendment to change the age from 22 to 18; the Senate recedes on the definition of 'adult education'; the Senate recedes on the definition of 'area vocational education schools'; the Senate recedes on the definition of 'basic skills deficient' with an amendment to add writing to the definition; the Senate recedes on the definition of 'case management'; the House recedes on the definition of 'chief elected official'; the House recedes on the definition of 'citizenship skills'; the Senate recedes on the definition of 'community-based organization' with an amendment to clarify that the community-based organization has demonstrated effectiveness in the field of workforce development; the House and Senate add a definition of 'customized training'; the House recedes on the definition of 'disadvantaged adult'; the House recedes on the definition of 'dislocated worker'; the House recedes on the 'definition of 'displaced homemaker'; the Senate recedes on the definition of 'economic development agencies'; the House recedes on the definition of 'educational service agency'; the Senate recedes on the definition of 'elementary school'; the House recedes on the definition of 'eligible agency'; the Senate recedes on part A, and the House recedes on part B of the definition of 'eligible provider'; the House and Senate have the same definition of 'employment and training activity'; the House recedes on the definition of 'English literacy program'; the Senate recedes on the definition of 'family'; the Senate recedes on the definition of 'family literacy Services'; the House recedes on the definition of 'full service eligible providers'; the Senate recedes on the definition of 'Governor'; the House recedes on the definition of 'human resource programs'; the House recedes on the definition of 'individual of limited English proficiency'; the House recedes on the definition of 'individual with a disability'; the House and Senate have the same definition of 'institution of higher education'; the Senate recedes on the definition of 'labor market area'; the House recedes on the definition of 'literacy'; the House recedes on the definition of 'local area'; the Senate recedes on the definition of 'local board' with an amendment to change the term to 'local workforce investment board'; the House recedes on the definition of 'local benchmarks' with an amendment to change the term to 'local performance measures'; the Senate recedes on the definition of 'local educational agency'; the Senate recedes on the definition of 'local partnership'; the House recedes on the definition of 'low-income individual'; the

House recedes on the definition of 'lower living standard income level'; the House and Senate agree to use the current law definition of an older individual to define 'older worker'; the House recedes on the definition of 'nontraditional employment' with an amendment to strike 'in titles I and III' from the definition; the Senate recedes on the definition of 'offender'; the Senate recedes on the definition of 'on-the-job training'; the House recedes on the definition of 'out-of-schoolyouth' with an amendment to remove literacy from the list; the House recedes on the definition of 'outlying area'; the Senate recedes on the definition of 'participant'; the House recedes on the definition of 'postsecondary educational institutions'; the House recedes on the definition of 'poverty line'; the Senate recedes on the definition of 'public assistance'; the House recedes on the definition of 'rapid response activity'; the House recedes on the definition of 'representatives of employees'; the House recedes on the definition of 'school dropout'; the Senate recedes on the definition of 'Secretary' with an amendment to not include the Secretary of Education; the House recedes on the definition of 'secondary school' with an amendment; the House recedes on the definition of 'skill grant'; the Senate recedes on the definition of 'State'; the House recedes on the definition of 'State adjusted benchmarks'; the House recedes on the definition of 'State benchmark'; the Senate recedes on the definition of 'State educational agency'; the House recedes on the definition of 'State performance measure'; the House recedes on the definition of 'Statewide partnership' with an amendment to change the term to 'State board'; the House recedes on the definition of 'Statewide system'; the Senate recedes on the definition of 'supportive services' with an amendment to add housing; the Senate recedes on the definition of 'termination'; the House recedes on the definition of 'tribally controlled community college'; the Senate recedes on the definition of 'unemployed individuals'; the House recedes on the definition of 'unit of general local government'; the House recedes on the definition of 'veteran'; the House and Senate recede to strike the definition of 'vocational education'; the House recedes on the definition of 'vocational rehabilitation program'; the Senate recedes on the definition of 'vocational student organization'; the Senate recedes on the definition of 'welfare recipient'; the House recedes on the definition of 'workforce investment activity'; the House recedes on the definition of 'youth' with an amendment to change the term to 'eligible youth'; the House recedes on the definition of 'youth activity'; the House recedes on the definition of 'youth corps program'; the House recedes with an amendment to the definition of 'youth partnership' to change the term to 'youth council'.

STATE PROVISIONS

State workforce investment boards

The House bill requires States to establish a collaborative process consisting of the Governor, representatives of the State legislature, and representatives appointed by the Governor, with: business; local elected officials; local education agencies; postsecondary institutions; organizations representing participants (including community-based organizations); service providers; parents; employers; State Education Agency; State agencies responsible for vocational rehabilitation; welfare; vocational, adult and postsecondary education; such other agency officials as the Governor may designate (including economic development); and the Veterans' Employment and Training Service, to develop a single State plan for the three block grants, for programs authorized under the Wagner-Peyser Act, and a performance measurement system for the three block grant. The collaborative process would also be used to carry out other duties including designation of local workforce development areas, development of criteria for appointment of local workforce development boards, and development of criteria for the Statewide full-service employment and training delivery system.

The Senate amendment establishes a Statewide partnership with composition similar to the House provision except: (1) it adds individuals with experience relating to youth activities; it expands the illustrative list of additional State agencies to include the Employment Service and others; refers to representatives of "labor organizations" rather than "employees", and (2) it does not include representatives of local educational agencies, postsecondary institutions, organizations representing participants, service providers, parents, or the State agency responsible for welfare or veterans. In addition, the Senate requires that the chair of the partnership be a representative of business.

The Conference agreement establishes a State Workforce Investment Board composed of the Governor; members of the State legislature; a majority of representatives of business; chief elected officials; representatives of individuals with experience relating to youth activities; representatives of individuals with experience and expertise in the delivery of workforce investment activities (including chief executive officers of community colleges and community-based organizations); and officials of the lead State agency with responsibility for programs, services, and activities carried out by one-stop partners. The Conference agreement adds a conflict of interest provision which prohibits members of the State board from voting on matters regarding the provision of services by such member, matters that would provide direct financial benefit to such member or their immediate family, and other activities considered in conflict of interest by the Governor. Additionally, the Conference agreement contains a sunshine provision that requires information regarding activities of the State board, the plan prior to submission, its membership, and minutes of its formal meetings, to be made available to the public.

State plan

The House bill requires State to submit a 3-year plan that describes the statewide system as well as activities under the Wagner-Peyser Act and the Adult Education Act. The State plan must include long-term goals for the workforce development system and benchmarks for achieving those goals and ensuring continuous improvement.

With respect to approval of the State plan, the House bill provides that the State plan be approved unless the appropriate Secretary makes a written determination within 90 days of receipt that the plan is inconsistent with a specific provision of the Act.

The Senate amendment contains provisions similar to the House bill, except that the plan does not include Adult Education or reference to long-term goals. The Senate amendment includes similar plan controls regarding the identification and description of the State workforce system, descriptions and assurance on criteria for appointments, processes for public comment, and data and reporting.

With respect to approval of the State plan, the Senate amendment provides that the State plan be approved unless the appropriate Secretary makes a written determination within 60 days of receipt that the plan is: (1) inconsistent with the provisions of the title; (2) in the case of the Wagner-Peyser portion of the plan, does not meet the plan approval standard under that Act; or (3) the State and the Secretary have not reached agreement on the expected levels of performance.

The Conference agreement requires States to submit a plan that outlines a 5-year strategy for the statewide workforce investment system, including activities under Wagner-Peyser. The contents of the State plan follow the House and Senate provisions, specifically with respect to a description of the State board, performance accountability, state workforce and economic development information, and identification of local areas. Additionally, States are given the authority to require regional planning by workforce development areas in a single labor market area, economic development region or other appropriate contiguous sub-area of the state.

With respect to approval of the State plan, the Conference agreement generally follows the Senate amendment except to provide that State plans are considered approved unless the Secretary makes a written determination within 90 days of receipt of the State plan that the plan is inconsistent with the provisions of the title.

LOCAL PROVISIONS

Local workforce investment areas

The House bill requires that States desiring to receive a grant under this Act, designate local geographic areas, called workforce development areas, for the purpose of distributing funds. The House bill allows Governors to determine where geographic lines are drawn to form local workforce areas and guarantees automatic designation of single local units of government with populations of 500,000 or more who apply for designation.

The Senate amendment follows the House bill, with the exceptions that units of government with populations of 500,000 or more may request designation only with the agreement of the political subdivisions within the county with populations of 200,000 or more. Additionally, single units of general local government with populations of 200,000 or more that were previously Service Delivery Areas under the Job Training Partnership Act (JTPA) are given an automatic right to request designation as local areas. Such areas may appeal a denial of designation to the Secretary, who may grant the designation if the local area has demonstrated effectiveness and meets certain other criteria.

The Conference agreement requires States to designate local workforce areas through the process described in the State plan, and after consultation which chief elected officials. In making such designations, the Governor must take into consideration several factors such as labor market areas. The Conference agreement also requires the Governor to approve a request for designation from any single unit of general local government with a population of 500,000 or more. Additionally, Governors are required to approve a request for temporary designation, as a local area, from any unit, or combination of units, of local governments with a population of 200,000 or more that was a service delivery area under JTPA and performed successfully and has sustained fiscal integrity. Such temporary designation is limited to 2 years, after which the designation is to be extended until the end of the duration of the State plan if, for the period of the temporary designation, the Governor determines the area substantially met (as defined by the State board) the local performance measures for the area and sustained the fiscal integrity of the program. A process for appeal to the Secretary of Labor is outlined. Additionally, the Governor may approve any request from any unit, or combination of units, of local government, based upon a recommendation of the State board.

Local workforce investment boards

The House bill establishes local workforce development boards which are comprised of a majority of representatives of business; representatives of local educational entities; representatives of community-based organizations, representatives of employees (which may include labor); and other representatives of the public (which may include program participants, parents, individuals with disabilities, older workers, veterans, or organizations serving such individuals). Boards may also include representatives of local welfare agencies, economic development agencies, and the local employment services system.

With respect to functions of local workforce investment boards, the House bill includes development of the local plan, selection of one-stop providers, identification of training providers, budgeting, program oversight, designation of administrative entity, and negotiation of local benchmarks. Additionally, local boards are authorized to act as the fiscal agent to receive and disburse funds, or may designate an alternate administrative entity to serve as the fiscal agent.

The Senate amendment establishes local workforce investment partnerships which are comprised of a majority of representatives of business; chief officers of postsecondary, adult and vocational education; chief officers of labor organizations; and chief officers of economic development agencies. Boards may also include chief officers from one-stop partners and other individuals or entities.

With respect to functions of local workforce investment boards, the Senate amendment adds to the House provisions: (1) promotion of the participation of private sector employment and the use of intermediaries to assist employers in meeting hiring needs; (2) coordination of the workforce investment activities with economic development strategies; and (3) assistance in the development of the labor market information system as functions of the local partnership. The Senate amendment does not include the designation of an administrative entity as a function of the local workforce investment board. Additionally, although the chief local elected official is the fiscal agent for funds allocated to the local area, the fiscal agent is required to disburse funds for workforce investment activities at the direction of the local partnerships.

In addition, the Senate amendment establishes a youth partnership in each local area to work, with the approval of the local partnership, on planning, awarding and oversight of grants for the youth programs. The youth partnerships are required to include parents as well as representatives of the local partnership, youth service agencies, public housing authorities, youth organizations, business, and Job Corps.

The Conference agreement establishes local workforce investment boards whose members are appointed by the chief elected officials and which are comprised of a majority of representatives of business; representatives of local educational entities; representatives of labor organizations; representatives of community-based organizations; representatives of economic development agencies; and representatives of each of the one-stop partners. Boards may also include others as determined by the local elected official. The Conference agreement includes language to require the actions of the Board to be available to the public and includes conflict of interest language for members of the Board.

In the Conference agreement, Governors may require regional planning, sharing of employment statistics, arrangements of the delivery of service, and performance measurements across labor market areas, regardless of workforce investment area designation, in order to ensure maximum efficiency in the delivery of employment and training services.

With respect to functions of local workforce investment boards, the Conference agreement generally follows the House and Senate provisions to include: development of the local plan; designation, certification and oversight of one-stop operators; the provision of grants for youth activities; identification of eligible providers of intensive and training services; development and entry into memorandums of understanding with one-stop partners; development of a budget; negotiation of local performance measures; program oversight and assistance in development of a statewide employment statistics system; and coordination of employer linkages with workforce investment activities and promotion of the participation of private employers with the statewide workforce investment system.

With respect to youth partnerships, the Conference agreement establishes a "youth council" similar to the youth partnership established by the Senate amendment. The youth council would operate as a subgroup within each local workforce investment board and would be responsible for the selection and oversight of local youth programs.

Local plan

The House bill requires the local workforce development board and the local elected official to develop a 3-year local strategic plan to be submitted to the Governor for approval, describing the employment and job skills needs of the local area, the employment and training activities to be funded, local performance measures, and the local full service employment and training delivery system. The House bill also includes specific provisions relating to involving others in development of disadvantaged youth programs.

The Senate amendment requires the local workforce investment partnership, in partnership with the local elected official, to develop a local plan similar to that in the House bill, to be submitted to the Governor for approval.

The Conference agreement follows the House and Senate provisions with the exception to allow for development of a 5-year local plan. The submitted local plan is required to include an identification of the workforce investment and job skill needs of the local area; a description of the one-stop delivery system; the local levels of performance; the type and availability of adult and dislocated worker employment and training activities; a description of how the local board will coordinate statewide rapid response activities; a description of available local youth activities; a description of the process for providing for public comment; identification of the local fiscal agent; and other such information required by the Governor.

WORKFORCE INVESTMENT ACTIVITIES PROVIDERS

Establishment of one-stop delivery systems

The House bill requires local workforce development areas to establish a full service employment and training delivery system to provide both individuals and employers access to services through a network of eligible providers. Services are available to participants regardless of where they initially enter the full-service system. The design of the full service system is determined by States and local communities, and requires that there be at least one physical location in each local workforce development area where participants can receive all of the core services, and through which they may access more intensive employment and training services. Any entity located in a local area may be designated by the local board to provide services. Such entities may include institutions of higher education; local employment services offices established under the Wagner-Peyser Act; private, nonprofit organizations (including community-based organizations); private for-profit entities; agencies of local government; and other organizations of demonstrated effectiveness (which may include local chambers of commerce).

The Senate amendment requires States to establish at least one one-stop customer service center in each local area where the activities of the local participating entities must be accessible to all individuals seeking assistance. One-stop partners are designated by the local partnership and local chief elected official. Each one-stop partner must enter into an operating agreement with the local partnership and the one-stop operator. One-stop operators are selected by the local partnership and the chief elected official and may be public or private entities. One-stop centers administer the individual training accounts and provide core services. Entities eligible to be designated as providers of services are similar to those in the House bill except that nontraditional public secondary schools and area vocational education schools are eligible for designation.

The Conference agreement requires there be established a one-stop delivery system in each local workforce investment area. Such local systems shall provide core services, and access to intensive services, training and related services. Programs carried out by one-stop partners are required to make available to participants, through such system, the core services applicable to such programs administered by the one-stop partner or additional partners. The local board, chief elected official, and Governor are encouraged to retain existing one-stop delivery systems where such systems have been established and are effectively and efficiently meeting the workforce investment needs of the local area, and are performing to the satisfaction of the local board, chief elected official and the Governor. Additionally, the Conference agreement prohibits the designation or certification of elementary and secondary schools as one-stop operators.

Identification of eligible providers of training services

The House bill requires eligible providers of adult or dislocated worker services to submit specified performance-based information relating to outcomes of their participants, such as completion rates, and placement. Any eligible provider may lose eligibility if they fail to meet performance criteria established by the Governor. Additionally providers of on-the-job training and apprenticeship programs registered with the National Apprenticeship Act are exempt from certain requirements.

The Senate amendment is similar to the House bill, but does not include an exemption for registered apprenticeship programs from certain requirements.

In the Conference agreement local boards would be authorized to identify providers of training services at the local level based upon minimum criteria established by the Governor. To be eligible, providers submit an application to the local workforce investment board which includes performance and cost information. The local workforce investment board submits the list of such providers to the State, which may remove a provider in the event such provider fails to meet minimum levels of performance. Otherwise, such provider is considered an eligible provider. A participant with an Individual Training Account (ITA) may attend any provider on the State list. A program operated under title IV, and apprenticeship programs (registered with the National Apprenticeship Act), are automatically eligible for the first year, and may remain on such State list unless they fail to meet the specified performance levels.

Identification of eligible providers of youth activities.

The House bill authorizes the local workforce investment board to identify eligible providers of youth activities. Adult mentoring is required as an element of youth programs.

The Senate amendment authorizes the youth partnership to identify providers of youth activities.

The Conference agreement authorizes the local youth council, working through the local workforce investment board, to competitively award grants or contract to eligible youth providers.

YOUTH ACTIVITIES

Authorization/State allotments

The House bill reserves .25 percent for outlying areas. The remaining 99.75 percent is allotted to States under a formula based on ⅓ unemployment individuals in areas of substantial unemployment (greater than 6.5 percent), ⅓ excess number of unemployed individuals (greater than 4.5 percent), and ⅓ disadvantaged youth. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .25 percent applies for small states.

The Senate amendment contains a trigger when appropriations exceed $1 billion. If the funding level is less than $1 billion, the first .25 percent is reserved for outlying areas. Of the remaining 99.75 percent, the first $15 million is reserved for Native American youth activities. The remaining funds are then allotted to States under a formula based on ⅓ unemployed individuals in areas of substantial unemployment, ⅓ excess number of unemployed individuals, and ⅓ economically disadvantaged youth. If the funding level is in excess of $1 billion, before any amounts are reserved or allotted to States, up to $250 million is assigned for Youth Opportunity grants, $10 million for migrant youth activities, and $10 million for youth academies. The remainder is then allotted per the above specifications. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .40 percent applies for small states.

The Conference agreement generally follows the Senate amendment with the exception that, from funding dedicated for Youth Opportunity grants ($250 million in grants for high-poverty areas when State block grant funding exceeds $1 billion), 4 percent is guaranteed for migrant youth programs. Additionally, the Conference agreement holds all States harmless at 100 percent of their FY 1998 funding allotments. A small State minimum of .3 percent would apply, as long as States receive their FY 1998 allotted levels. For new funds in excess of the FY 1998 funding levels, a .4 percent small State minimum would apply. However, "small States" are limited to those defined as "small States" under JTPA.

Within State allocations

The House bill reserves 25 percent of youth funds at the State level, 15 percent of which is for State youth activities with the remaining 10 percent to be used to make matching grants for school dropouts. The remaining 75 percent of State grant funds would be driven to the local level. Of that amount 70 percent, or more, would be disbursed based on a formula of ⅓ unemployed, ⅓ excess unemployed, and ⅓ economically disadvantaged adults. The remaining 30 percent, or less, would be disbursed by a method determined through the State collaborative process.

The Senate amendment sends 85 percent of youth State grant funds to the local level in one of two ways as determined by the State. Either all 85 percent of the funds are driven to the local level through a formula based on ⅓ unemployed individuals in areas of substantial unemployment, ⅓ excess number of unemployed individuals, ⅓ disadvantaged adults (min. 90%); or States can choose to send 70 percent or more of those funds through the above formula with up to the remaining 30 percent being disbursed through a formula incorporating other factors relating to excess poverty and employment. This optional formula would be developed through the Statewide partnership and approved by the Secretary. The remaining 15 percent is reserved for Statewide activities. States may reserve not more than 15 percent from each of the three funding streams for statewide activities, with no more than 5 percent of that amount being used for administration. Funds from all three funding streams reserved for statewide activities and administration would be pooled at the state level, with statewide activities benefiting adults, dislocated workers, and youth.

The Conference agreement generally follows the Senate amendment except that consideration of rural, urban and suburban areas are included in the factors relating to excess poverty and employment used in the alternative formula.

Use of funds

The House bill requires programs providing youth activities to include summer employment linked directly to academic and occupational learning; postsecondary educational or training opportunities; an objective assessment of the academic and skill levels and service needs of each participant; service strategies that identify the employment goal; adult mentoring; the integration of academic, occupational and work-based learning opportunities; comprehensive guidance and counseling; and the involvement of employers and parents in the design and implementation of such programs.

The Senate amendment requires youth activities to include a summer jobs program; tutoring and instruction leading to the completion of secondary school; dropout prevention; and alternative secondary school for out-of-school youth in addition to employment skills training.

The Conference agreement program requirements for youth activities follow the House bill and Senate amendment. Program elements shall consist of tutoring, study skills training, and instruction leading to completion of secondary school (including dropout prevention strategies) alternative secondary school services; summer employment opportunities directly linked to academic and occupational learning; paid and unpaid work experiences as appropriate (including internships and job shadowing); occupational skill training; leadership development opportunities; supportive services; adult mentoring; follow-up services; and comprehensive guidance and counseling (which may include drug and alcohol abuse counseling and referral). Additionally, at least 30 percent of youth funds must be used to provide services to out-of-school youth.

Youth opportunity grants

The House bill authorizes, as a demonstration activity, projects that assist in providing comprehensive services to increase the employment rates of out-of-school youth residing in targeted high-poverty areas within Empowerment Zones and Enterprise Communities. In addition, the House bill reserves 10 percent of youth funds at the State level to be used for out-of-school youth projects in high-poverty areas.

The Senate amendment reserves amounts appropriated for youth in excess of $1 billion (up to $250 million) for Youth Opportunity grants, which the Secretary may provide to assist youth in high-poverty areas located in Empowerment Zones/Enterprise Communities, high-poverty areas located on Indian reservations, or other high-poverty areas designated by the States.

The Conference agreement follows the Senate amendment.

ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES

Authorization/State allotments

The House bill establishes a single delivery system for all adults and dislocated workers while maintaining separate funding streams for each. For the Adult funding, .25 percent is reserved for outlying areas. The remaining 99.75 percent is allotted to States under a formula based on ⅓ unemployed individuals in areas of substantial unemployment, ⅓ excess number of unemployed individuals and ⅓ economically disadvantaged adults. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .25 percent applies for small states.

For dislocated workers, the House bill allots 80 percent to States, first reserving .25 percent for outlying areas, under a formula based on ⅓ unemployed individuals in areas of substantial unemployment, ⅓ excess number of unemployment individuals, and ⅓ long-term unemployment. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .25 percent applies for small states. The Department of Labor reserves the remaining 20 percent for skill upgrading and emergency grants.

The Senate amendment reserves .25 percent for outlying areas for adult activities. The remaining 99.75 percent is disbursed to States under a formula based on ⅓ unemployed individuals in areas of substantial unemployment, ⅓ excess number of unemployed individuals, and ⅓ disadvantaged adults. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .40 percent applies for small states.

For dislocated workers, States receive 80 percent of funds disbursed under a formula based on ⅓ unemployed individuals in areas of substantial unemployment, ⅓ excess unemployed individuals and ⅓ long-term (15 weeks or more) unemployment. The Department of Labor is allowed to reserve 20 percent of the amount available for allotment to States for outlying areas, dislocated worker demonstration projects, emergency grants, and dislocated worker activities technical assistance.

The Conference agreement generally follows the Senate amendment except that the Conference agreement holds all States harmless at 100 percent of their FY 1998 funding allotments. A small State minimum of .3 percent would apply, as long as States receive their FY 1998 allotted levels. For new funds in excess of the FY 1998 funding levels, a .4 percent small State minimum would apply. However, "small States" are limited to those defined as "small States" under JTPA.

Within State allocations

The House bill separately allocates funds to local workforce development areas for both adult and dislocated worker funding streams based upon State-determined formulas. Under the Adult funding stream, 15 percent of funds would be held at the State level for adult activities only. The remaining 85 percent of funds would go to the local level. Of that amount, 70 percent or more would be disbursed based on a formula based on ⅓ unemployed, ⅓ excess unemployed and ⅓ economically disadvantaged adults. The remaining 30 percent, or less, would be disbursed by a method determined through the State collaborative process. The House bill includes a cap of 10 percent for local administration. Additionally, 20 percent of funds may be transferred between the adult and dislocated workers streams with approval of the Governor.

For dislocated workers, the House bill allows the State to reserve up to 30 percent for dislocated worker activities. The remaining 70 percent, or more, would be driven to the local level. Of that amount, 70 percent would be disbursed based on a formula of ⅓ unemployed, ⅓ excess unemployed, and ⅓ economically disadvantaged adults. The remaining 30 percent, or less, would be disbursed by a method determined through the State collaborative process.

The Senate amendment sends 85 percent of adult State grant funds to the local level in one of two ways that the State determines. Either all 85 percent of the funds are driven to the local level through a formula based on ⅓ unemployed individuals in areas of substantial unemployment (greater than 6.5 percent), ⅓ excess number of unemployed individuals, and ⅓ disadvantaged adults (min. 90%); or States can choose to send 70 percent, or more, of those funds through the above formula with up to the remaining 30 percent being disbursed through a formula incorporating other factors relating to excess proverty and employment. This optional formula would be developed through the Statewide partnership and approved by the Secretary. The remaining 15 percent is reserved for Statewide activities.

For dislocated workers, the Senate amendments sends 60 percent of State grant funds to the local level under a formula determined by the Governor to be based on: (1) insured unemployment data, (2) unemployment concentrations, (3) plant closings and mass layoff data, (4) declining industries data, (5) farmer-rancher economic hardship data, and (6) long-term unemployment data. Twenty-five percent of the State grant is to be used for rapid response activities. The remaining 15 percent is reserved for Statewide activities. The Senate amendment allows a 20 percent transfer, at the local level, between the Adult and Dislocated Worker funding streams.

Additionally, the Senate amendment allows States to reserve not more than 15 percent from each of the three funding streams (adult, dislocated and youth) for statewide activities, with no more than 5 percent of that amount being used for administration. Funds from all three funding streams reserved for statewide activities and administrative would be pooled at the State level, with Statewide activities benefiting adults, dislocated workers and youth.

The Conference agreement generally follows the Senate amendment except that consideration of rural, urban and suburban areas is included in the factors relating to excess poverty and employment used in the alternative formula.

Use of funds

In the House bill, services available to adults and dislocated workers and the local level include core services and training services. Training services include basic skills training; occupational skills training; on-the-job training; customized training; programs that combine workplace training with related instruction, which may include cooperative education programs; private sector operated training programs; skill upgrading and retraining; entrepreneurial training; employability training; and customized training conducted with a commitment by an employer to employ an individual upon successful completion of the training. Additionally, participants unable to obtain employment through the core services may receive intensive services. (Intensive services include specialized assessments; individuals counseling and career planning; case management; and follow-up services.)

In the Senate amendment, services available to adults and dislocated workers at the local level include employment skills training; on-the-job training; job readiness training; adult education when combined with one of the other training activities; and other services deemed appropriate by the local partnership. Additionally, core services are provided through the one-stop customer service system. The Senate amendment provides no distinction for intensive services.

The Conference agreement generally follows the House bill including distinguishing intensive services from other types of services provided.

Rapid response activities

The House bill requires rapid response assistance to be provided by the State through an entity designated by the State. The House bill generally follows current law with respect to the activities under rapid response.

The Senate amendment generally follows the House bill with respect to rapid response.

The Conference agreement follows House and Senate provisions.

Individual training accounts

The House bill requires, for adult training, the use of career grants, which are defined as a voucher or credit, through which a participant chooses training among qualified providers. The House bill specifies four exceptions where training may be provided by contract in lieu of career grants: (1) on-the-job training; (2) where there are an insufficient number of qualified providers; (3) where qualified providers are unable to provide effective services to special populations; or (4) where training is to be provided by community-based organizations. Even where there are exceptions, it is required that participants be provided customer choice to the extent possible.

The Senate amendment contains provisions similar to the House bill regarding requirements for customer choice, except the term "Individual Training Account" is used in lieu of career grant. The two exceptions allow the use of contracting for training services are (1) on-the-job training; and (2) where the Governor issues a written waiver based on evidence that there are no available private or public providers.

The Conference agreement includes Individual Training Accounts (ITAs). The Conference agreement makes an exception to the use of Individual Training Accounts for on-the-job training; customized training; training services not provided by an eligible provider within the local workforce investment area; and training services offered by community-based organizations or other private organizations that serve "special participant populations", defined as those who face multiple barriers to employment (including individuals with substantial language or cultural barriers, offenders, or homeless).

GENERAL PROVISIONS

Performance accountability system

The House bill establishes indicators of performance for all adult, dislocated workers, and youth programs to be applied to States as well as local areas. There are six core indicators relating to adult and dislocated worker programs, and four core indicators relating to the youth program. The Secretary of Labor is required to negotiate the expected levels of performance for each indicator with each State. States then negotiate expected levels of performance with each local area. Negotiations are to take into account special economic and demographic factors. Technical assistance, sanctions, and incentive funds are tied to actual performance.

The Senate amendment is similar to current law and establishes four core indicators of performance that apply to States and local areas. Indicators of performance apply separately to dislocated workers, economically disadvantaged adults, and youth. Additionally, the Senate amendment specifies performance-related information that is to be reported annually.

The Conference agreement generally follows the House bill and Senate amendment. The Conference agreement establishes four core indicators of performance relating to adults and dislocated workers and three core indicators of performance relating to activities for eligible youth. The process for negotiating expected levels of performance is similar to the process outlined in the House bill. States failing to meet expected performance levels after one year may request technical assistance or assistance in the development of a performance improvement plan. For States failing to meet expected performance levels for two consecutive years, the Secretary may reduce the amount of that State's grant by up to 5 percent. Funds resulting from such a reduction are to be used to provide financial incentives for States exceeding expected levels of performance.

JOB CORPS

The House bill retains Job Corps as a national program, but raises the minimum age to 16. The Secretary is required to consult with States and localities prior to establishing procedures for selecting center operators. As part of the selection process, applicants would need to pass a background check. Selection would be based, in part, on previous performance. The House bill outlines some procedures regarding the closure of centers, as well as provisions regarding the "zero tolerance" policy.

The Senate amendment strengthens linkages among Job Corps centers and the State workforce development systems and the local communities in which they are located. Assures that applicants are assigned to Job Corps centers nearest to where they reside, with certain exceptions. The Senate amendment also assures that Job Corps students would learn occupational skills in demand in their "home" labor market areas. Job Corps Center performance standards would be established for placement, retention, earning and skill gains of graduates, and students would be provided with follow-up counseling for up to 12 months after graduation.

The Conference agreement generally follows the Senate amendment.

NATIONAL PROGRAMS

Native American programs

The House bill generally follows current law and authorizes programs for Native Americans which can include comprehensive workforce and career development activities and supplemental services.

The Senate amendment generally follows the House bill, with the exception that it maintains the Native American Employment and Training Council from current law.

The Conference agreement generally follows the House and Senate provisions.

Migrant and seasonal farmworker programs

The House bill authorizes a program for migrant and seasonal farmworkers from current law which is authorized to provide comprehensive workforce and career development activities and related services which may include employment, training, educational assistance, literacy assistance, an English literacy program, worker safety training, housing, supportive services, and the continuation of the case management database.

The Senate amendment generally follows the House bill except that it authorizes additional activities, includes dropout prevention activities, follow-up services for employed individuals, self-employment and related business enterprise development education, and technical assistance relating to capacity enhancement. The Senate amendment does not include the provision of housing as an authorized activity.

The Conference agreement follows the Senate amendment with the exception that the provision of housing remains as an authorized activity.

Veterans

The House bill retains the current law which authorizes the Secretary of Labor to conduct programs to meet the needs of "Vietnam era veterans" as well as veterans with service-connected disabilities, and veterans who are recently separated from military service.

The Senate amendment broadens the eligibility provision to add veterans with significant barriers to employment and veterans who served on active duty during war or campaign for which badges have been authorized.

The Conference agreement follows the Senate amendment.

Demonstration, pilot, multiservice, research, multistate projects and evaluations

The House bill contains provisions relating to technical assistance, national partnership grants, research, pilots and demonstration grants, and evaluations, that are similar to current law.

The Senate amendment requires the Secretary to develop a strategic plan for setting priorities for demonstrations, pilots, multiservice, research, multistate projects. Requires grants and contracts, under this section, to be awarded through a peer review process for awards over $100,000. Dislocated worker projects are separately authorized; not more than 10 percent of dislocated worker funds reserved for the national emergency grants may be used for such projects.

The Conference agreement generally follows the Senate amendment with the exception that the peer review process applies only to applications for awards in excess of $500,000.

National emergency grants

The House bill makes National Emergency Grants available to provide assistance to dislocated workers.

The Senate amendment expands eligibility for services under the Emergency Grants to include, in addition to dislocated workers, members of the armed forces and certain defense employees that are eligible for services under the current Defense Diversification Program.

The Conference agreement follows the Senate amendment.

Civil rights/Labor standards

The House bill generally incorporates the current law provisions for nondiscrimination; and provisions relating to wages, benefits, health and safety, non-displacement, and grievance procedures.

The Senate amendment also generally incorporates the current law provisions but adds title IX exemptions to the prohibition on sex discrimination and modifies the religious facility exemption consistent with the National and Community Service Act regulations. The Senate amendment also similarly incorporates many of the labor standards from current law.

The Conference agreement generally follows the House and Senate provisions.

Waivers

The House bill includes authority for the Secretary to waive any statutory or regulatory requirements of the adult and youth training provisions of the Act and Wagner-Peyser, with exceptions for labor standards, nondiscrimination, and related provisions.

The Senate amendment clarifies that waivers previously granted to States may continue to be in effect under this Act for the duration of the waiver. Additionally, the Senate amendment includes provisions similar to the House bill with respect to general waivers of statutory or regulatory requirements. The Senate amendment also authorizes workforce flexibility plans to allow States to submit to the Secretary plans under which the State may provide waivers to local areas.

The Conference agreement follows the Senate amendment except for striking all references to "partnership".

Drug testing provision

The House bill has no provision.

The Senate amendment requires each eligible provider of training services to administer a drug test (1) on a random basis to individuals who apply to participate in training services, and (2) to participants in training where there is a reasonable suspicion of drug use. Each applicant must agree to submit to such tests and be dismissed from participation if they fail the test.

The Conference agreement strikes the Senate provision and replaces it with language to clarify that States shall not be prohibited from testing job training participants for the use of controlled substances. The Conference agreement stipulates that States may sanction individuals who test positive, as follows: 1) a six month ban from the program for the first positive test; and 2) similar to the Senate amendment, a 2-year ban from the program for subsequent positive tests. Additionally, if States use funds from this Act for such testing, the Conference agreement stipulates that such funds must come from State administrative expenses, which are limited to 5 percent of the total State training allotment.

REPEALERS

The House bill repeals Parts F, G, H, I, and J of title IV of the Job Training Partnership Act; title V of the Job Training Partnership Act; the National Literacy Act of 1991; and sections 303, 304, 305, and 306 of the Rehabilitation Act of 1973.

The Senate amendment repeals the Adult Education Act (20 U.S.C. 1201); Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note); title II of Public Law 95–250 (92 Stat. 172); the Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.); Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211); subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.) except section 738 of such title (42 U.S.C. 11448); subchapter I of chapter 421 of title 49, United States Code; the Job Training Partnership Act (29 U.S.C. 1501 et seq.); title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

The Conference agreement follows the Senate amendment.

TITLE II—ADULT EDUCATION AND FAMILY LITERACY PROGRAMS

Title

The House bill names this Act the "Adult Education and Family Literacy Act".

The Senate amendment names this Act the "Adult Education and Literacy Act".

The Conference agreement adopts the House title.

Purpose

The purpose of the House bill is to assist the States to provide educational skills for adults necessary for employment and self-sufficiency, as well as the skills necessary for the educational development of their children.

The purpose of the Senate amendment is to assist the States to provide education and literacy services to adults to enable them to become literate, complete a secondary education, and obtain the education skills necessary for the educational development of their children.

The Conference agreement blends the purposes in the House and Senate bills. It provides that the purpose is to assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency, assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children and assist adults in the completion of a secondary school education.

Allocation of funds to eligible agencies

The House bill provides an initial allotment of $100,000 for each outlying area and $250,000 for each eligible agency. The additional allotment would be distributed on the basis of a population age 16 through 60, who are without a high school diploma or the equivalent, who are not currently required to be enrolled in school, and who are not currently enrolled in secondary school. No eligible agency allotment would be less than 90 percent of its allotment in the preceding year.

The Senate amendment provides for initial allotments identical to those in the House bill. Remaining funds are to be distributed on the basis of population age 16 and over, who are without a high school diploma, or the equivalent, who are not currently required to be enrolled in school, and who are not currently enrolled in secondary school.

The Conference agreement adopts the House provisions.

Eligible recipients

The House bill specifies those entities eligible to receive grants from the eligible agency. Grants are to be made on a competitive basis and all eligible entities are to have direct and equitable access to funds.

The Senate amendment also specifies those entities eligible to receive grants from the eligible agency and includes language regarding direct and equitable access.

The Conference agreement blends the two lists and specifies the following as entities eligible to receive grants from the eligible agency: a local educational agency; a community-based organization of demonstrated effectiveness; an institution of higher education; volunteer literacy organizations of demonstrated effectiveness; a public or private nonprofit agency; other nonprofit institutions which have an ability to provide literacy services to adults and families; a library; public housing authorities; and a consortium of such agencies; organizations or institutions. The agreement adopts the House language requiring grants to be made on a competitive basis and includes language regarding direct and equitable access to eligible providers, including the use of the same announcement and application process.

Use of funds by eligible agency

The House bill provides that the eligible agency responsible for the administration of adult education and literacy programs would be authorized to spend funds directly for both program administration and other permissible activities. Other uses of eligible agency funds would include: professional development programs; technical assistance; State or regional literacy resource centers; monitoring and evaluation; incentives for coordination and performance awards, curriculum development; other Statewide activities for adult education and literacy; and support services such as transportation and child care. The House bill would require eligible agencies to use not less than 85 percent of available funds for local grants and allows them to reserve not more than 15 percent for State level activities, of which no more than 5 percent or $50,000 could be used for administrative expenses.

The Senate amendment provides that the eligible agency responsible for the administration of adult education and literacy programs which be authorized to spend funds directly for program administration, State leadership activities, and programs for corrections education and other institutionalized persons. State leadership activities would include: professional development, curriculum development, monitoring and evaluation, development of performance measures, integration of literacy instruction with occupational skill training, developing linkages with postsecondary institutions, State or regional literacy resource centers, and other Statewide activities for adult education and literacy. The Senate would require eligible agencies to use not less than 80 percent of available funds for local grants and allows States to use not more than 20 percent for State leadership activities, of which no more than 5 percent of $80,000 could be used for administrative expenses. Of the 80 percent reserved for local grants, the Senate amendment requires that eligible agencies make available not more than 10 percent of the funds reserved for grants to local providers for programs for corrections education and other institutionalized individuals.

The Conference agreement blends the two lists of activities and would include: the establishment or operation of professional development programs to improve the quality of instruction; the provision of technical assistance to eligible providers; the provision of technology assistance, including staff training, to eligible providers; support of State or regional networks of literacy resource centers; monitoring and evaluation of the quality of and the improvement in, activities and services authorized under this section; developing and disseminating curricula; integration of literacy instruction and occupational skill training and promoting linkages with employers; linkages with postsecondary institutions; incentives for coordination and performance awards; other activities of Statewide significance, and coordination with existing support services designed to increase enrollment in, and successful completion of, adult education and literacy activities. It requires eligible agencies to collaborate where possible and avoid duplicating efforts in order to maximize the impact of activities carried out under this Act. The agreement would require eligible agencies to use not less than 82.5 percent of available funds for local grants, and allow eligible agencies to use not more than 12.5 percent for State leadership activities and not more than 5 percent or $65,000 for administrative expenses. The agreement adopts the Senate reservation for corrections education but modifies the program description to encourage dollars to be spent on criminal offenders who will be released within five years and to change the reference to bilingual programs to English literacy programs.

Priorities and preferences

The House bill requires eligible agencies to consider a variety of factors in awarding grants to local providers.

The Senate amendment sets forth a list of priorities and preferences eligible agencies are to consider in funding local adult education and literacy activities.

The Conference agreement merges the two provisions and requires the following factors to be considered when awarding grants to provide: whether or not they are based on sound research; the past effectiveness of the provider in improving the literacy skills of adults and families; the commitment of the provider to serve those most in need of services; whether or not the program is of sufficient intensity and duration for participants to achieve substantial learning gains, and whether the program effectively employs technology, provides learning in real-life contexts, is staffed by well trained personnel, is coordinated with other available resources, maintains a high-quality information management system, funds communities that have a demonstrated need for English literacy programs, and establishes measurable goals for client outcomes.

Use of funds by eligible recipients

The House bill requires eligible recipients receiving a grant to conduct one of the following activities: adult education and literacy services, including services provided on a work site; family services, and English literacy programs. It limits to 5 percent the amount of the grant available for planning, administration, personnel development and interagency coordination.

The Senate amendment requires grants and contracts to eligible recipients to be used for programs or services that meet the purposes of the Adult Education and Literacy Act, such as adult education and literacy services and English literacy programs. It limits to 5 percent the amount recipients could use for planning, administration, personnel development and interagency coordination.

The Conference agreement adopts the House language but modifies it slightly to specifically reference workplace literacy services. Adoption of the House language would, for the first time, specifically allow the use of funds for family literacy programs.

Eligible agency fiscal requirements

The House bill requires eligible agencies to use their federal grants to supplement and not supplant other public funds spent for adult education and literacy activities. It requires the fiscal effort per student or the aggregate expenditures for adult education and literacy activities within the State to be maintained at a level not less than 90 percent of the previous year. Grants to eligible agencies would be reduced in proportion to the amount the eligible agency failed to meet this requirement. One quarter of the federal grant to each eligible agency would be required to be matched with non-federal funds used for adult education and literacy activities.

The Senate amendment contains similar supplement, not supplant language. It requires aggregate expenditures for adult education and literacy to be maintained at a level not less than 90 percent of the previous year but would not permit grants to any eligible agency failing to reach that level. The Senate amendment requires eligible agencies to provide an amount equal to 25 percent of the total amount of funds expended for adult education in the State from non-federal sources. The Senate amendment allows that eligible agency's share to be in cash or in kind, fairly evaluated.

The Conference agreement adopts the House language on maintenance of effort but amends it to prevent an eligible agency reduction from bringing the per capita expenditure below the national average. The House recedes to the Senate language on supplement not supplant and the State share.

Eligible agency plan requirements

The House bill requires the eligible agency plan to include assurances for the coordination of adult education and job training programs within the State, describe the assessment to determine adult education needs, the use of funds, and an evaluation of program effectiveness. It would also provide assurances concerning direct and equitable access to all eligible recipients and an assurance regarding fiscal requirements of the program. Finally, it requires an assurance that at least one grant will be awarded to providers who offer flexible schedules and necessary support services to enable individuals to participate in adult education and literacy activities.

The Senate amendment would require eligible agencies to submit plans for a 3-year period. Such plans are to include an assessment to determine adult education needs and descriptions of the use of funds, evaluation procedures, the method of selecting local recipients, the measures to be taken to coordinate and avoid duplication of services among various federal education, training and human services programs, a description of the process to be used for public participation and comment with respect to the eligible agency plan and a description of how the eligible agency will develop program strategies for populations such as low-income students, individuals with disabilities, single parents, etc. Each plan would have to provide assurances regarding the fiscal requirements of the program.

The Conference agreement blends the provisions of the House and Senate bills. It adopts language requiring the submission of a 5-year plan. Plan components would include an assessment to determine adult education needs, a description of the use of funds, evaluation procedures, a description of how the eligible agency will develop program strategies for populations such as low-income students, individuals with disabilities, single parents, etc., assurances for the coordination of adult education and job training programs within the State. It adopts House language requiring an assurance that at least one grant will be awarded to providers who offer flexible schedules and necessary support services to enable individuals to participate in adult education and literacy activities except that it is amended to require that an effort be made to coordinate funds for support services prior to paying for them with adult education dollars.

It would also provide assurances concerning direct and equitable access to all eligible recipients and an assurance regarding fiscal requirements of the program. The eligible agency plan would also be required to describe the process used for public participation and comment consistent with the Senate amendment.

Use of phonics

The House bill contains numerous references to the use of instructional practices using phonemic awareness and systematic phonics.

The Senate amendment does not contain similar references.

The Conference agreement adopts the House language but amends such references to include fluency and reading comprehension as well.

National Institute for Literacy

The House bill continues the National Institute for Literacy for purposes of providing national literacy leadership, coordinating literacy services, and serving as a national resource for adult education and family literacy by disseminating information and supporting more effective services. Activities are similar to current law but place an emphasis on support for a national electronic database of information and for a network of State or regional adult literacy resource centers. The administrative structure would remain the same, except that the name of the National Institute Board would be changed to the National Institute for Literacy Advisory Board. The House bill requires the Secretary to reserve 1.5 percent of the amount appropriated, but not more than $6,500,000, for the Institute.

The Senate amendment contains provisions similar to those in the House bill but does not cap funding for the Institute.

The Conference agreement would continue the National Institute for Literacy based on provisions in the House and Senate bills. There are few changes from current law. The Conferees are especially interested in the Institute taking a leadership role in improving reading instruction for youth and adults based on recent research supported by the National Institute for Health and identified by the National Academy of Sciences. The agreement requires the Secretary to reserve 1.5 percent of the amount appropriated, but not more than $8,000,000, for the Institute.

National activities—Department of Education

The House bill would authorize the Secretary to carry out national activities to enhance the quality of adult education and family literacy nationwide, including technical assistance to States for developing and using performance measures, research on adult education methods and effectiveness, evaluation and assessment, and demonstration programs. The House bill would reserve 1.5 percent of the amount appropriated, but not more than $6,500,000 to establish and carry out national leadership and evaluation activities.

The Senate amendment would authorize the Secretary to carry out national leadership and evaluation activities to enhance the quality of adult education and literacy nationwide, including research, demonstration, dissemination, evaluations and assessments, capacity building at the State and local levels, data collection, professional development and technical assistance. The Senate amendment would reserve 1.5 percent of the amount appropriated for national leadership and evaluation activities, but does not cap the amount available.

The Conference agreement blends the House and Senate National leadership activities. Authorized activities would include: technical assistance, dissemination of information on successful practices, improving the quality of adult education and literacy activities, research, demonstration programs, carrying out an independent evaluation and assessment of adult education and literacy activities, support efforts aimed at capacity building, collecting data and other activities to enhance the quality of adult education and literacy nationwide. The agreement requires the Secretary to reserve 1.5 percent of the amount appropriated, but not more than $8,000,000, for national leadership and evaluation activities.

Accountability

The House will requires eligible agencies receiving funds under the Adult Education title to identify, in their plan, indicators and related levels of performance to be used to measure the State's progress in meeting the State's long-term goals. Upon submission of the plan, the Secretary of Education is authorized to negotiate with each eligible agency, the expected levels of performance to be achieved.

The core indicators of performance for adult education and family literacy programs to include measures of achievement in the areas of reading, writing, language acquisition, problem solving, etc.; receipt of a high school diploma or its equivalent; entry into a postsecondary school, job retraining program, employment or career advancement; attainment of the literacy skills and knowledge individuals need to be productive and responsible citizens and become more actively involved with the education of their children, and such other measures as the eligible agency may wish to collect.

Eligible agencies that exceed the benchmarks or demonstrate continuing progress toward meeting them are eligible to receive incentive grant funds.

The Senate amendment contains a similar list of performance measures, including demonstrated improvements in literacy skill levels; attainment of secondary school diplomas or their equivalent, and placement in, retention in, or completion of postsecondary education, training, or unsubsidized employment.

The Conference agreement follows the House bill, although it uses the term "performance measures" instead of "benchmarks." It merges the two lists of specific indicators, except that language referring to the literacy skills and knowledge individuals need to be productive and responsible citizens is dropped and "measures of the success of family literacy programs" is listed among the other measures eligible agencies may wish to collect.

TITLE III—WORKFORCE INVESTMENT-RELATED ACTIVITIES

WAGNER-PEYSER ACT

Amendments to Wagner-Peyser

The House bill retains a separate authorization and funding stream for Wagner-Peyser. It requires public labor exchange activities to be part of the one-stop system, integrates the Wagner-Peyser plan into the State Workforce Development plan, and amends several sections of the Wagner-Peyser Act.

The Senate amendment also retains a separate authorization and funding stream for Wagner-Peyser and integrates the labor exchange activities and plan into the workforce development system.

The Conference agreement generally follows the House bill and Senate amendment. The Conference agreement follows the Senate amendment with respect to function of the Secretary and approval of the plan.

Employment statistics

The House bill retains the current labor market information provisions under JTPA.

The Senate amendment streamlines current provisions related to labor market statistics (LMI), strengthening the role of States and localities, and makes such information beneficial to individuals seeking employment.

The Conference agreement generally follows the Senate amendment except it renames the section as "Employment Statistics".

21st Century Workforce Commission

The House bill contains no provision.

The Senate amendment establishes the 21st Century Workforce Commission to conduct a study of all matters relating to the information technology workforce in the United States. Composed of 21 members, the Commission is required to submit to the President and Congress their report within 6 months of their first meeting, and terminate within 90 days of that submission.

The Conference Agreement generally follows the Senate amendment with modifications to limit the number of Commission members to 15 (8 business, 1 labor, 2 State and local officials, 3 education, and 1 representing the research community in the field of information technology). The Secretaries of Education and Labor would be exofficio members of the Commission.

Prohibitions

The House bills includes provisions that no provisions under this Act may be construed to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system. The House bill further includes a provision clarifying that nothing in this Act shall be construed to provide a local workforce investment board with the authority to mandate curricula for schools.

The Senate agreement includes a prohibition that none of the funds under the Act may be used for activities authorized under the School to Work Opportunities Act. The Senate bill also includes a provision clarifying that no funds under this Act may be use to provide an activity for eligible youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

The Conference agreement generally contains both the House and Senate provisions. Specifically the Conference agreement includes language that "None of the funds made available under this Act may be used to provide funding under the School-to-Work Opportunities Act of 1994 or to carry out, through programs funded under this Act, activities that were funded under the School-to-Work Opportunities Act of 1994, unless the programs funded under this Act serve only those participants eligible to participate in the programs under this Act."

TITLE IV—REHABILITATION ACT AMENDMENTS OF 1998

General Provisions

The House bill addresses several definitions including administrative costs, employment outcome, and public safety officer.

The Senate amendment addresses each definition considered by the House and several more definitions including: assessment for determining eligibility and vocational rehabilitation needs, construction, extended services, federal share, independent living core services and independent living services, individual with a disability, individual with a most significant disability, individual's representative/applicant's representative, local workforce investment board, the term "requires vocational rehabilitation services", significant disability, statewide workforce investment board, supported employment, supported employment services, underemployed, and workforce investment activities.

The Conference agreement accents the Senate amendment on a majority of definitions with the following few exceptions or qualifications: 1) "administrative costs" will be the definition in the current Department of Education regulations; 2) "construction" remains unchanged from current law; 3) "individual's representative/applicant's representative" does not include the descriptor 'advocate'; 4) the term "requires vocational rehabilitation services" is deleted; and 5) the definition of the term "underemployed" is eliminated. Those definitions relating back to other titles of the Workforce Investment Act mirror the meanings and definitions given them in those titles.

Reports on Program Outcomes and Evaluations

The House bill requires that the annual report on vocational rehabilitation include data on the administrative costs for the Title I program.

The Senate amendment expands the performance and accountability information that is collected and reported on the vocational rehabilitation programs. The Senate amendment also requires the Commissioner to conduct studies and make analyses to identify exemplary practices in vocational rehabilitation. These studies would focus on subjects such as informed client choice, customer satisfaction, job placement and retention, assistive technology, and integrated employment.

The Conference agreement includes the requirement for reporting administrative costs contained in the House bill as well as the additional reporting requirement in the Senate amendment. The Conferees urge the Commissioner to direct current evaluation activities on identifying what works well, rather than continuing to seek to define, or in many cases, redefine, the chronic problems connected to the employment of individuals with disabilities.

Vocational Rehabilitation Services

Statewideness

The House bill clarifies that the requirement for the State plan to be in effect in all political subdivisions of the State does not apply to cases in which private earmarked funds are used as state matching funds for particular geographic regions of the State, and is permitted without a waiver by the Commissioner.

The Senate amendment makes no change to current law.

The Conference agreement follows the clarifications in the House bill. These clarifications are necessary in light of recent Department of Education interpretations of these statutory provisions that are contrary to the legislative intent. The Conference agreement provides that earmarking of private funds for service delivery in particular geographic areas of the State is permitted without a waiver of the State's statewideness obligations by the Commissioner if State funds are unavailable for the Federal match. This exception to the statewideness requirements in section 101 (a)(4)(B) is intended to allow States to use funds earmarked for a particular geographic location within the State as part of the State's non-Federal share under title I without obtaining a waiver of Statewideness from the Commissioner.

In making these changes, the Conferees reaffirm the original purposes of the statewideness provisions and the earmarked funds exception of Title I. The statewideness provision is intended to ensure that, in general, State efforts are not purposely skewed to particular areas of a State, without approval from the Department of Education.

Information for Individuals Not Covered Under the State's Order of Selection Criteria

The House bill makes no change to current law.

The Senate amendment requires that all individuals eligible for vocational rehabilitation services, including those who do not receive services because the State is under an order of selection, receive at least information and referral services regarding access to the State workforce development system and other information to help the individual prepare for, secure, retain, or regain a job. A State may also provide additional counseling and guidance services.

The Conference agreement deletes the allowable State activities (but maintains the authority to provide additional counseling and guidance services), expands the required information and referral services to include guidance, and specifies what a proper referral must be. The Conferees intend to alleviate the backlog of eligible individuals who do not receive services from the State vocational rehabilitation program because they do not meet the State's order of selection criteria. Many of these individuals do not receive services from the State workforce system and are inappropriately referred back to the State vocational rehabilitation program because they have a disability. The Conferees expect that through the changes made throughout the Conference agreement in integrating the State workforce system, States will serve individuals with disabilities throughout the entire State workforce system, not only through State vocational rehabilitation program.

Comprehensive System of Personnel Training

The House bill modifies the requirements in current law for a comprehensive personnel development system.

The Senate amendment adopts the majority of changes in the House bill and adds several additional requirements.

The Conference agreement maintains the requirements contained in current law. The Conferees believe that there is a continued need for a comprehensive system of personnel development, which was included in the Rehabilitation Amendments of 1992, in order to ensure that individuals with disabilities receive assistance from qualified vocational rehabilitation personnel.

Interagency agreements

The House bill makes no changes to current law.

The Senate amendment requires a State's Governor to ensure that the State's vocational rehabilitation agency enters into interagency agreements with appropriate public entities, including the State's workforce investment system, to provide vocational rehabilitation services more efficiently and comprehensibly, to ensure cooperation among agencies which provide vocational rehabilitation services, and to ensure no duplication of services. While the Senate amendment does not detail what the agreements must contain or with whom they must be made, it does include requirements that the agreements contain a dispute resolution process and methods for defining financial responsibility.

The Conference agreement modifies the Senate amendment by 1) allowing the State's vocational rehabilitation chief administrator to consult with the Governor regarding the agreements and 2) specifying certain entities with which the State vocational rehabilitation agency must establish agreements. These entities include public institutions of higher education. The Conferees recognize that colleges and universities already have a responsibility to provide certain services under the Americans with Disabilities Act (ADA). The Conferees encourage State vocational rehabilitation agencies and public institutions of higher education, in developing interagency agreements, to consider the requirements of the ADA and other laws as well as agreements that may currently be in place. However, State vocational rehabilitation agencies should not interpret these "interagency agreement" provisions as shifting the obligation for paying for specific vocational rehabilitation services to colleges and universities. State vocational rehabilitation agencies still have that responsibility. Moreover, public institutions of higher education, as parties in interagency agreements, must agree to the terms of the interagency agreements, including the services that they are expected to provide.

Cooperative agreements with other components of State workforce investment system

The House bill makes no changes to current law.

The Senate amendment provides for cooperative agreements with other parts of a

State's workforce investment system to allow for activities such as: staff training and technical assistance regarding vocational rehabilitation services and eligibility, common customer service procedures such as intake and human services hot lines, common dispute resolution procedures, and electronic links to share employment statistics and employment opportunities.

The Conference agreement mirrors the Senate amendment. The Conferees do not intend that this provision be confused with the provision outlining "Interagency Agreements." Interagency agreements are designed to assure cooperation not only among agencies within a State's workforce investment system, but more importantly outside the system. Interagency agreements also have specific provisions regarding the payment of services among these agencies. This section is designed to make the State vocational rehabilitation system more compatible with the State's workforce system and to underscore the links between the two systems.

Coordination with education officials

The House bill changed references in the area of transition services for students with disabilities from Individualized Written Rehabilitation Plan (IWRP) to Individualized Education Program (IEP) so that transition services may be provided under an IEP without requiring the development of a separate IWRP, or Individual Plan for Employment (IPE) as it is referred to in the House bill.

The Senate amendment requires the State plan to contain plans, policies and procedures for coordination between the vocational rehabilitation agency and local and State education officials in facilitating the transition of students with disabilities from secondary school to the workforce through vocational rehabilitation services.

The Conference agreement blends the House and Senate provisions. First, the Conference agreement specifically allows transition planning to be provided under an IEP without requiring the development of a separate IPE. Second, the Conferees also reaffirm the intent of the transition services provisions in the 1992 Vocational Rehabilitation Amendments, which according to the Senate report, was not "to shift the responsibility of service delivery from education to rehabilitation during the transition years" but rather to define the role of the rehabilitation system as "primarily one of planning for the student's years after leaving school." The Conference agreement encourages State vocational rehabilitation agencies to assist schools in identifying transition services in the development of the IEP (including participation in IEP meetings), and to participate in the cost of transition services for any student with a disability so long as those students have been determined eligible to receive vocational rehabilitation services. The nature of these services and the roles and responsibilities of each party are to be determined at the State or local level. However, State vocational rehabilitation agencies should not interpret the "interagency agreement" provisions as shifting the obligation for paying for specific transition services normally provided by those agencies to local school districts. State vocational rehabilitation agencies still have that responsibility. Further, school districts are parties in interagency agreements, and must agree to the terms of the interagency agreements and the services that they are expected to provide.

The Conferees intend for transition services to cover a wide range of activities that facilitate the transition of secondary school students with disabilities from school to post-school activities.

Presumption of eligibility for recipients of SSDI and SSI

The House bill makes no changes to current law.

The Senate amendment adds new language making individuals who receive SSI or SSDI benefits to be automatically eligible for vocational rehabilitation services.

The Conference agreement follows the Senate amendment. However, the Conferees do not intend to create any sort of entitlement to vocational rehabilitation services for individuals receiving SSI or SSDI benefits. To actually receive services, a person must have a disability and require vocational rehabilitation services to prepare for, secure, retain, or regain employment. The "presumption of eligibility" is only the first step in the overall evaluation of whether or not an individual with a disability will receive vocational rehabilitation services. People receiving SSI or SSDI have already met a much stricter standard as to whether they have a disability. Therefore there is no need to reestablish their eligibility in that regard for vocational rehabilitation. SSI and SSDI recipients must still, however, demonstrate their desire to work in order to receive vocational rehabilitation services. Moreover, the decision on whether an individual actually receives vocational rehabilitation services is based on the availability of funds in accordance with the State's order of selection criteria.

Individual plans

The House bill renames the *Individualized Written Rehabilitation Plan* (IWRP) as the *Individual Plan for Employment* (IPE). The bill enhances client control by requiring that clients have the opportunity to exercise informed choice in the development and implementation of their plans by selecting employment goals, services, providers, and methods to procure services, as well as providing for extended services.

The Senate amendment renames the IWRP as the *Individual Rehabilitation Employment Plan* (IREP), and follows the House bill in providing for informed client choice and extended services. The Senate amendment also establishes mandatory procedures and components for individual plans.

The Conference agreement follows the Senate amendment, except for adopting the House term of *Individual Plan for Employment*. The Conference agreement reflects the need to provide greater choice and involvement of vocational rehabilitation clients in developing their service plans. The Conferees expect that these changes will fundamentally change the role of the client-counselor relationship, and that in many cases counselors will serve more as facilitators of plan development.

Improved and enhanced consumer choice

The House bill strongly emphasize improved and enhanced consumer choice, especially through new language regarding the vocational rehabilitation consumer's role in his or her Individual Employment Plan.

The Senate amendment also emphasizes improved and enhanced consumer choice and requires assurances that vocational rehabilitation consumers or their appropriate representative be provided information and support services to assist the consumers in exercising informed choice throughout the rehabilitation process.

The Conference agreement adopts these views and expands the role of vocational rehabilitation consumers in the decisions regarding their job training. The Conferees believe that a consumer-driven program is most effective in getting people jobs. Therefore, the Conferees endorse increased independence for individuals with disabilities to informed choice.

State Rehabilitation Council

The House bill makes no changes to current law.

The Senate amendment expands the membership of the Council, increases the responsibilities of the Council, and adds additional functions. The Senate amendment also makes several changes to better integrate and coordinate vocational rehabilitation services in the State Workforce system.

The Conference agreement follows the Senate amendment. In doing so, the Conferees preserve the Council's advisory functions. The Conference agreement adds additional function that follow the Senate amendment in requiring that the Council and State agency jointly develop, agree to, and review State goals and priorities.

American Indian vocational rehabilitation services

The House bill makes no changes to current law.

The Senate amendment gives the Rehabilitation Services Administration the flexibility to make decisions about the duration of individual grants, but also allows for long-term grants that will contribute to the stability and effectiveness of services.

The Conference agreement follows the Senate amendment and adds language giving tribal vocational rehabilitation agencies the authority to provide vocational rehabilitation services to Native Americans who reside either on or near reservations. However, the Conferees do not intend this authority to require tribal vocational rehabilitation agencies to serve Native Americans not living on a reservation. It merely allows the agencies to do so if they choose.

RESEARCH AND TRAINING

Research and training improvements

The House bill eliminates the references to the compensation rate for the Director of the National Institute for Disability and Rehabilitation Research (NIDRR), and eliminates provisions related to the Deputy Director.

The Senate amendment follows the House bill regarding the appointment of the Director but retains references to the Deputy Director; eliminates provisions that requires the awarding of funds for pediatric rehabilitation and other areas, adds provisions that allow research grants to be made for research programs on the effectiveness of medical practices and on quality assurance in rehabilitation technology, and makes other improvements in focusing research funds on critical areas.

The Conference agreement follows the House bill regarding the appointment of the Director and Deputy Director of NIDRR. The Conference agreement follows the Senate amendment regarding the elimination of provisions requiring funding for specific projects and in allowing for grants in designated emerging research areas. The Conferees intend that information and findings from work funded by the Institute be effectively disseminated so that it is more accessible to the public, including individuals with disabilities. The Conferees also recognize that individuals with disabilities lack access to uniform, useful information about assistive technology devices and services. The Conferees urge NIDRR to assume a leadership role in promoting the identification, use, and acceptance of uniform information about common devices and services that permit individuals with disabilities to make informed decisions about such devices and services. However, the Conferees believe that it would be inappropriate for NIDRR to contemplate or set standards for such devices and services.

PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

Transfer and elimination of programs

The House bill eliminates 22 programs by repealing sections 303 through 306 in Title III of current law and repealing authorized but unfunded programs in Title VIII.

The Senate amendment also repeals sections 303 to 306 in Title III, as well as the currently funded Reader Services and Interpreter Services programs, and all programs in Title VIII.

The Conference agreement consolidates into Title III the currently funded programs authorized under Title VIII. It also retains the currently funded Reader Services and Interpreter Services programs in Title III, and transfers the Grants for Demonstration Projects to Increase Choice, Braille Training Projects and Parent Information and Training Programs from Title VIII to Title III. Title VIII is repealed completely. Many of these programs were authorized for more than twenty years yet were never funded. The changes in the Conference agreement streamline the training and demonstration projects by consolidating them into a single section with flexible authority to address changing and emerging needs.

NATIONAL COUNCIL ON DISABILITY

Duties and administration of the National Council on Disability

The House bill makes no changes to current law regarding the National Council on Disability, other than extending the authorization for the Council.

The Senate amendment expands the membership of the Council, modifies the duties of the Council, and makes other changes related to the administration of the Council.

The Conference agreement follows the Senate amendment, but strikes the expansion of duties at the international level.

RIGHTS AND ADVOCACY

Electronic and information technology regulations

The House bill requires that the Director of the Office of Management and Budget establish procedures for each federal agency to provide written certification by September 30 of each year that is in compliance with the accessibility guidelines, and to oversee agencies in complying with the requirements. The House bill, however, makes no changes to the guidelines for electronic and information technology accessibility.

The Senate amendment makes significant changes to current law in the areas of accessibility and electronic and information technology standards. These changes include requiring Federal agencies to procure, maintain, and use electronic and information technology that provides individuals with disabilities with comparable access to what is available to individuals without disabilities. The Senate amendment also requires that the Architectural and Transportation Barriers Compliance Board with issuing electronic and information technology standards, establishes reporting requirements for Federal agencies, establishes, complaint procedures, and clarifies individual rights of action relative to section 505 of the Act.

The Conference agreement follows the Senate amendment with several changes. The Conference agreement clarifies provisions in order to be consistent with the Clinger-Cohen Act of 1996, clarifies procedures relating to the extent of the Federal government's responsibilities in providing public access to information, and modifies the procedures for filing complaints.

EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Expanding employment opportunities

The House bill makes no changes to current law.

The Senate amendment emphasizes expanded employment opportunities for individuals with disabilities by authoring funding for two new types of projects: projects in telecommuting and projects in self-employment.

The Conference agreement deletes the authority related to the new projects in the Senate amendment, reflecting the Conferees' intention to streamline and consolidate programs in the Rehabilitation Act. However, the Conferees agree and fully intend that telecommuting and self-employment be viable employment outcomes for recipients of vocational rehabilitation services who want such opportunities. These amendments are supported by amendments to Title I of the Act.

INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

State Independent Living Councils

The House bill makes no changes to current law.

The Senate amendment adds at least one representatives of the directors of projects serving American Indians with disabilities to the State Independent Living Councils and clarifies the means by which the minimum allotments are adjusted for inflation, and other technical changes.

The Conference agreement adopts the Senate amendments.

TITLE V—GENERAL PROVISIONS

Unified plan

The House bill contains no provision.

The Senate amendment allows States to submit a unified plan to the Secretary to fulfill the State plan requirements of training activities for adults, dislocated workers and youth; adult education; and secondary and postsecondary vocational education.

The Conference agreement generally follows the Senate amendment with the exception that the State legislature must approve the inclusion of secondary vocational education in the unified plan.

Incentive grants

The House bill authorizes the Secretary of Labor to award incentive grants to States that: (1) exceed levels of performance; (2) demonstrate continuing progress towards exceeding benchmarks; and (3) demonstrate significant progress in the coordination and integration of programs.

The Senate amendment authorizes the Secretary of Labor to award incentive grants to States that exceed the expected levels of performance for performance measures established under the workforce development and adult education titles and vocational education. Special consideration is to be given to States achieving the highest level of performance related to employment retention and earnings. Funds are to be used for innovative projects.

The Conference agreement generally follows the Senate amendment except that States must apply for such incentive grants, and are only eligible to receive incentive grants if they consult with their State legislature in development of their application. The application must have the approval of the Governor, the State agency responsible for adult education, and the State agency responsible for vocational education. Grant funds would be required to be spent to carry out innovative training, adult education, or vocational education programs consistent with the requirements of this Act and the Carl D. Perkins Vocational Education Act accordingly. Applications would be developed with the assistance of the State board.

Authorization of appropriations/Effective date/Transition

The House bill authorizes such sums for five years (FY 1999–FY 2003). The House bill takes effect July 1, 1998. The Secretaries are authorized to take such steps as they determine appropriate to provide for an orderly transition from authorities amended or repealed by the Act.

The Senate amendment authorizes such sums for six years (FY 1999–FY 2004). In general, the Senate amendment takes effect July 1, 1999 (except for the 21st Century Workforce Commission authority which takes effect upon enactment). The Secretary of Labor is authorized to take steps to provide for the orderly transition to the authority of the bill. Additionally, the Governor may use funds made available under any provision of law repealed by the bill to implement the bill prior to its effective date.

The Conference agreement takes effect upon the date of enactment, unless otherwise set forth in the Act and authorizes such sums for five years (FY 1999–FY 2003). The Conference agreement generally follows the House bill and Senate amendment with respect to transition.

BILL GOODLING.
HOWARD "BUCK" MCKEON.
FRANK RIGGS.
LINDSEY GRAHAM.
BOB SCHAFFER.
W.L. CLAY.
M.G. MARTINEZ.
DALE KILDEE.

Managers on the Part of the House.

JIM JEFFORDS.
DAN COATS.
JUDD GREGG.
BILL FRIST.
MIKE DEWINE.
MICHAEL B. ENZI.
TIM HUTCHINSON.
SUSAN COLLINS.
JOHN WARNER.
MITCH MCCONNELL.
EDWARD M. KENNEDY.
CHRIS DODD.
PAUL WELLSTONE.
JACK REED.

Managers on the Part of the Senate.

REPORT REGARDING ONGOING EFFORTS TO MEET GOALS TOWARD IMPLEMENTATION OF DAYTON ACCORDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–292)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 7 of Public Law 105-174, I am providing this report to inform the Congress of ongoing efforts to meet the goals set forth therein.

With my certification to the Congress of March 3, 1998, I outlined ten conditions—or benchmarks—under which Dayton implementation can continue without the support of a major NATO-led military force. Section 7 of Public Law 105-174 urges that we seek concurrence among NATO allies on: (1) the benchmarks set forth with the March 3 certification; (2) estimated target dates for achieving those benchmarks; and (3) a process for NATO to review progress toward achieving those benchmarks. NATO has agreed to move ahead in all these areas.

First, NATO agreed to benchmarks parallel to ours on May 28 as part of its approval of the Stabilization Force (SFOR) military plan (OPLAN 10407). Furthermore, the OPLAN requires SFOR to develop detailed criteria for each of these benchmarks, to be approved by the North Atlantic Council, which will provide a more specific basis to evaluate progress. SFOR will develop the benchmark criteria in coordination with appropriate international civilian agencies.

Second, with regard to timelines, the United States proposed that NATO military authorities provide an estimate of the time likely to be required for implementation of the military and civilian aspects of the Dayton Agreement based on the benchmark criteria. Allies agreed to this approach on June 10. As SACEUR General Wes Clark testified before the Senate Armed Services Committee June 4, the development and approval of the criteria and estimated target dates should take 2 to 3 months.

Third, with regard to a review process, NATO will continue the 6-month review process that began with the deployment of the Implementation Force (IFOR) in December 1995, incorporating the benchmarks and detailed criteria. The reviews will include an assessment of the security situation, an assessment of compliance by the parties with the Dayton Agreement, an assessment of progress against the benchmark criteria being developed by SFOR, recommendations on any changes in the level of support to civilian agencies, and recommendations on any other changes to the mission and tasks of the force.

While not required under Public Law 105-174, we have sought to further utilize this framework of benchmarks and criteria for Dayton implementation among civilian implementation agencies. The Steering Board of the Peace Implementation Council (PIC) adopted the same framework in its Luxembourg declaration of June 9, 1998. The declaration, which serves as the civilian implementation agenda for the next 6 months, now includes language that corresponds to the benchmarks in the March 3 certification to the Congress and in the SFOR OPLAN. In addition, the PIC Steering Board called on the High Representative to submit a report on the progress made in meeting these goals by mid-September, which will be considered in the NATO 6-month review process.

The benchmark framework, now approved by military and civilian implementers, is clearly a better approach than setting a fixed, arbitrary end date to the mission. This process will produce a clear picture of where intensive efforts will be required to achieve our goal: a self-sustaining peace process in Bosnia and Herzegovina for which a major international military force will no longer be necessary. Experience demonstrates that arbitrary deadlines can prove impossible to meet and tend to encourage those who would wait us out or undermine our credibility. Realistic target dates, combined with concerted use of incentives, leverage and pressure with all the parties, should maintain the sense of urgency necessary to move steadily toward an enduring peace. While the benchmark process will be useful as a tool both to promote and review the pace of Dayton implementation, the estimated target dates established will be notional, and their attainment dependent upon a complex set of interdependent factors.

We will provide a supplemental report once NATO has agreed upon detailed criteria and estimated target dates. The continuing 6-month reviews of the status of implementation will provide a useful opportunity to continue to consult with Congress. These reviews, and any updates to the estimated timelines for implementation, will be provided in subsequent reports submitted pursuant to Public Law 105-174. I look forward to continuing to work with the Congress in pursuing U.S. foreign policy goals in Bosnia and Herzegovina.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

DISTRICT OF COLUMBIA FISCAL YEAR 1999 BUDGET REQUEST ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-294)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

To the Congress of the United States:

In accordance with section 202(c) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, I am transmitting the District of Columbia's Fiscal Year 1999 Budget Request Act.

This proposed Fiscal Year 1999 Budget represents the major programmatic objectives of the Mayor, the Council of the District of Columbia, and the District of Columbia Financial Responsibility and Management Assistance Authority. It also meets the financial stability and management improvement objectives of the National Capital Revitalization and Self-Government Improvement Act of 1997. For Fiscal Year 1999, the District estimates revenues of $5.230 billion and total expenditures of $5.189 billion resulting in a $41 million budget surplus.

My transmittal of the District of Columbia's budget, as required by law, does not represent an endorsement of its contents.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

GENERAL LEAVE

Mr. WOLF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4328, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 510 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4328.

□ 2303

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4328) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. WOLF), and the gentleman from Minnesota (Mr. SABO), each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will not read the whole statement, but just about two paragraphs to make a couple of points. This is the first transportation appropriations bill since the enactment of the Transportation Equity Act, TEA21, which has made significant effects on the way the committee operates.

For example, TEA21 amended the Budget Enforcement Act to provide two additional spending categories or "firewalls," the highway category and the transit category. These firewalls make it virtually impossible for the committee to make drawdown adjustments to those funding levels in the appropriation process over the next 5 years.

As such, these firewalls create a new mandatory appropriations within the discretionary caps which has undermined the committee's flexibility to fund other equally important programs.

The bill reflects the first attempt to produce a balanced bill in this new environment. The committee was allocated a 7.4 percent increase, or $2.8 billion in outlays for the coming year. However, the increases for the highway and transit programs guaranteed by TEA21 fully consumed the 7.4 percent increase provided to the subcommittee. As a result, the other agencies must compete for the leftover funding, which is essentially at a hard freeze.

Within these constraints, the bill continues to place the highest priority on safety programs and drug interdiction of the Coast Guard. But, as a result of the lack of flexibility available to the committee, and after meeting the highway and transit guarantees, sufficient funding is not available for many critical and important programs of the Coast Guard, FAA, and even NHTSA. While the highway and transit programs are feasting at a banquet, these other agencies are left to scramble for the crumbs.

One other point I want to make, I have told the Commandant of the Coast Guard that should the committee receive any additional allocation, perhaps Defense allocation later on, that we will make every effort to supplement the current funding provided in the bill.

Today the Committee on Appropriations brings to the floor the ninth appropriations bill for fiscal year 1999. H.R. 4328, the fiscal year 1999 Department of Transportation and Related Agencies Appropriations bill, totals $46.9 billion. This figure includes all obligation authority (that is to say, new budget authority, guaranteed obligations contained in the Transportation Equity Act for the 21st Century, limitations on obligations, and exempt obligations). This is an increase of $4.7 billion over the fiscal year 1998 level and $3.9 billion more than the budget request.

This is the first transportation appropriations bill since the enactment of the Transportation Equity Act for the 21st Century (TEA21). TEA21 has had significant effects on the way in which this Committee operates and it has diminished the flexibility available to the Committee. For example, TEA21 amended the Budget Enforcement Act to provide two new additional spending categories or "firewalls"—the highway category and the transit category. These firewalls make it virtually impossible for the Appropriations Committee to make downward adjustments to these funding levels in the appropriations process over the next five years. As such, these firewalls created new mandatory appropriations within the discretionary caps. This has undermined the Committee's flexibility to fund other equally important programs.

This bill reflects the best attempt to produce a balanced bill in this new environment. The subcommittee was allocated a 7.4 percent increase or $2.8 billion in outlays for the coming year. However, the increases for highways and transit programs guaranteed TEA21 fully consume the 7.4 percent increase provided to the Subcommittee. As a result, the other agencies must compete for leftover funding, which is essentially at a hard freeze. Within these constraints, the bill continues to place the highest priority on the department's safety programs and drug interdiction activities of the Coast Guard. But, as a result of lack of flexibility available to this Committee and after meeting the highway and transit guarantees, sufficient funding is not available for many critical and important programs of the Coast Guard, the FAA, and even NHTSA. While the highway and transit programs are feasting at a banquet, these agencies are left to scramble for the crumbs.

Were it not for the firewalls, a portion of the generous 7.4 percent increase or $2.8 billion could have been allocated to improvements in aviation or maritime safety, and more could have done to fight the menace of illegal drug trafficking, while still providing significant increases in highways and transit programs. the bill shies away from funding new authorizations contained in TEA21. The bill also does not contain funding above the guaranteed amounts for the highway and transit programs, as other critical programs, including safety and drug interdiction activities, would have had to have been cut in order to fund the new authorizations and any increases above the guarantee.

Selected major recommendations of the bill include the following:

(1) $7.7 billion for the FAA, an increase of $275 over the 1998 level;

(2) $1.8 for the AIP program, an increase of $100 million;

(3) $2.7 billion for the Coast Guard's operating expenses, including $446 million for drug interdiction activities (an increase of 11 percent);

(4) $609 million for Amtrak, essentially the same level as the Administration's request;

(5) $461 million for NHTSA, the fully authorized level, including $100 million for motor carrier safety grants that are transferred from FHWA;

(6) $25.5 billion for federal-aid highways, as is guaranteed by TEA21; and

(7) $5.4 billion for transit programs, the same level as guaranteed by TEA21.

Returning to the Coast Guard, the bill provides $2.7 billion, essentially a hard freeze. Within these funds, the Committee has increased funds allocated to fight the war on drugs to $446 million, an increase of eleven percent. The previous commandant and many members of the House advocated this increase. Unfortunately, given the tight budgetary caps this year and the firewalls imposed on the Committee, the Committee was unable to provide resources above the overall Coast Guard budget request without unacceptably harming critical safety programs of other DOT agencies. Clearly, the funding levels contained in this bill will require the Coast Guard to prioritize its activities and missions.

I have told the Commandant that should additional budgetary resources be made available to this subcommittee later in the year, the Committee would endeavor to supplement the funding currently provided in the bill.

In addition, the Committee is very concerned about the Coast Guard's ability to address all of its missions adequately in future years, given budget constraints and the effect of the surface transportation firewalls. Although the service has performed admirably over the past four years in reforming and reorganizing itself into a more efficient organization, it is possible that there will still be insufficient funding over the next ten years to enable the Coast Guard to maintain today's level of service. To address this concern, the bill provides $1,000,000 specifically for the establishment of a blue-ribbon panel to study the future capital needs, roles, and missions of the Coast Guard. This panel is to include the secretary of transportation, and current and former commandants of the Coast Guard, and shall address and make recommendations on the best roles and missions of the Coast Guard over the next twenty years, and the capital budget requirements to meet those needs.

With respect to funding for Amtrak, the bill provides $609 million, nearly the same level of funding as requested by the President. In addition to this appropriation, the Taxpayer Relief Act makes available $1.1 billion to Amtrak in fiscal year 1999. Together this is an historic level of funding for the troubled corporation. With the adoption of the new authorization for Amtrak and the availability of the tax credits, the Committee would hope to be optimistic about Amtrak's future. However, the Committee is not convinced that Amtrak's fiscal year 1999 budget proposal provides for the long-term viability and solvency of the Corporation.

To gain a better understanding of Amtrak's financial condition, the Committee contacted the Department of Transportation's Inspector General, the General Accounting Office, and a diverse group of non-federal railroad experts. This group was asked to comment on whether Amtrak continues to operate in a fragile state, as many testified, or if the recent legislative actions have placed the Corporation on a more stable footing. There was a wide divergence of opinions, but everyone expressed some degree of concern about Amtrak's long-term viability. At this point in the record, I would like to insert the responses provided to the Committee. In summary, it appears that the internal changes Amtrak has made, and the external changes provided in the authorization Act and TRA, do not guarantee Amtrak's viability or even disperse the storm clouds which have been looming on Amtrak's horizon for many years.

With respect to bus and new start projects, the Subcommittee received requests totaling nearly $2.8 billion for new start projects and

$1.7 billion for bus projects, for which TEA21 allocated $902.8 million and $200 million, respectively. As a result, it was extremely difficult to accommodate all the requests. Here, again, TEA21 significantly affected the way the Subcommittee operated this year. First, TEA21 vastly inflated expectations, authorizing over 170 new start projects, while providing $902.8 million for new starts in fiscal year 1999. After funding the fourteen full funding grant agreements (which, incidentally TEA21 completely ignores) only $224.8 million is available to fund these 170 projects. Moreover, TEA21 imposes a new limitation, which requires that no more than eight percent of funding provided for new starts (or about $70 million) can be allocated for projects that are in preliminary engineering and design (of which there are over 150 such projects in fiscal year 1999). Similarly, with respect to bus earmarks, TEA21 earmarked 150 bus projects, totaling nearly $240 million, more than one-half of the funding made available for buses. This action further reduced the flexibility of the Subcommittee to accommodate all the requests made of the Subcommittee for bus projects.

The Committee has worked closely with the minority and the gentleman from Minnesota, Mr. SABO, to produce a bill that has broad bipartisan support. The bill was reported out of Subcommittee and Full Committee without significant change or amendment. I know of no significant controversy or problems with this bill. Moreover, I am confident that the President would sign this bill if it were presented to him in its current form. I urge its immediate adoption.

Mr. Chairman, I submit the following for the RECORD:

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4328)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF TRANSPORTATION					
Office of the Secretary					
Salaries and expenses	61,000,000	61,930,000	....	-61,000,000	-61,930,000
Immediate Office of the Secretary	....	....	1,623,800	+1,623,800	+1,623,800
Immediate Office of the Deputy Secretary	....	....	585,000	+585,000	+585,000
Office of the General Counsel	....	....	8,895,000	+8,895,000	+8,895,000
Office of the Assistant Secretary for Policy	....	....	2,667,200	+2,667,200	+2,667,200
Office of the Assistant Secretary for Aviation and International Affairs	....	....	7,002,200	+7,002,200	+7,002,200
Office of the Assistant Secretary for Budget and Programs	....	....	6,069,300	+6,069,300	+6,069,300
Office of the Assistant Secretary for Governmental Affairs	....	....	1,672,000	+1,672,000	+1,672,000
Office of the Assistant Secretary for Administration	....	....	19,147,100	+19,147,100	+19,147,100
Office of Public Affairs	....	....	1,377,600	+1,377,600	+1,377,600
Executive Secretariat	....	....	1,046,900	+1,046,900	+1,046,900
Board of Contract Appeals	....	....	675,500	+675,500	+675,500
Office of Small and Disadvantaged Business Utilization	....	....	839,200	+839,200	+839,200
Office of Intelligence and Security	....	....	961,100	+961,100	+961,100
Office of the Chief Information Officer	....	....	4,400,000	+4,400,000	+4,400,000
Office of Intermodalism	....	....	1,018,000	+1,018,000	+1,018,000
Subtotal	61,000,000	61,930,000	57,979,900	-3,020,100	-3,950,100
Office of civil rights	5,574,000	6,966,000	6,966,000	+1,392,000	....
Transportation planning, research, and development	4,400,000	4,710,000	3,035,000	-1,365,000	-1,675,000
Transportation Administrative Service Center	(121,800,000)	....	(109,124,000)	(-12,676,000)	(+109,124,000)
Payments to Air Carriers (rescission)	(-2,500,000)	....	....	(+2,500,000)	....
Payments to air carriers (Airport and Airway Trust Fund):					
Rescission of contract authorization	(-41,600,000)	....	....	(+41,600,000)	....
Minority business resource center program	1,900,000	1,900,000	1,900,000	....	....
(Limitation on direct loans)	(15,000,000)	(13,775,000)	(13,775,000)	(-1,225,000)	....
Minority business outreach	2,900,000	2,900,000	2,900,000	....	....
Amtrak Reform Council	2,450,000	....	450,000	-2,000,000	+450,000
Total, Office of the Secretary	78,224,000	78,406,000	73,230,900	-4,993,100	-5,175,100
Coast Guard					
Operating expenses	2,415,400,000	2,462,705,000	2,400,000,000	-15,400,000	-62,705,000
Defense function (050)	300,000,000	309,000,000	300,000,000	....	-9,000,000
Acquisition, construction, and improvements:					
Offsetting collections	-9,000,000	-1,000,000	....	+9,000,000	+1,000,000
Vessels	212,100,000	234,573,000	227,913,000	+15,813,000	-6,660,000
Aircraft	25,800,000	37,131,000	39,400,000	+13,600,000	+2,269,000
Other equipment	44,650,000	33,969,000	30,314,000	-14,336,000	-3,655,000
Shore facilities and aids to navigation facilities	68,300,000	53,650,000	42,923,000	-25,377,000	-10,727,000
Personnel and related support	47,000,000	48,450,000	48,450,000	+1,450,000	....
Subtotal, A C and I appropriations	388,850,000	406,773,000	389,000,000	+150,000	-17,773,000
Environmental compliance and restoration	21,000,000	21,000,000	21,000,000	....	....
Alteration of bridges	17,000,000	....	12,000,000	-5,000,000	+12,000,000
Retired pay	653,196,000	684,000,000	684,000,000	+30,804,000	....
Reserve training	67,000,000	67,000,000	69,000,000	+2,000,000	+2,000,000
Research, development, test, and evaluation	19,000,000	18,300,000	12,000,000	-7,000,000	-6,300,000
Boat safety (Aquatic Resources Trust Fund)	35,000,000	....	....	-35,000,000	....
Total, Coast Guard	3,916,446,000	3,968,778,000	3,887,000,000	-29,446,000	-81,778,000
Federal Aviation Administration					
Operations	5,301,934,000	5,588,130,000	5,532,558,000	+230,624,000	-55,572,000
Facilities and equipment (Airport and Airway Trust Fund)	1,900,477,000	2,130,000,000	2,000,000,000	+99,523,000	-130,000,000
Research, engineering, and development (Airport and Airway Trust Fund)	199,183,000	290,000,000	145,000,000	-54,183,000	-145,000,000
Grants-in-aid for airports (Airport and Airway Trust Fund):					
(Liquidation of contract authorization)	(1,600,000,000)	(1,600,000,000)	(1,600,000,000)	....	....
(Limitation on obligations)	(1,700,000,000)	(1,700,000,000)	(1,800,000,000)	(+100,000,000)	(+100,000,000)
Rescission of contract authorization	(-707,000,000)	....	(-5,000,000)	(+702,000,000)	(-5,000,000)
Facilities, equipment and development (rescission)	(-500,000)	....	....	(+500,000)	....
Total, Federal Aviation Administration	7,401,594,000	8,008,130,000	7,677,558,000	+275,964,000	-330,572,000
(Limitations on obligations)	(1,700,000,000)	(1,700,000,000)	(1,800,000,000)	(+100,000,000)	(+100,000,000)
Total budgetary resources	(9,101,594,000)	(9,708,130,000)	(9,477,558,000)	(+375,964,000)	(-230,572,000)
Federal Highway Administration					
Limitation on general operating expenses	(552,266,000)	(521,883,000)	(318,733,000)	(-233,533,000)	(-203,150,000)
Limitation on transportation research	....	....	(409,150,000)	(+409,150,000)	(+409,150,000)
Federal-aid highways (Highway Trust Fund):					
(Limitation on obligations)	(21,500,000,000)	(21,500,000,000)	(25,511,000,000)	(+4,011,000,000)	(+4,011,000,000)
(Exempt obligations)	(1,597,000,000)	(1,265,000,000)	(1,211,614,000)	(-385,386,000)	(-53,386,000)
(Liquidation of contract authorization)	(20,800,000,000)	(23,000,000,000)	(24,000,000,000)	(+3,200,000,000)	(+1,000,000,000)
Emergency relief program (emergency funding)	(259,000,000)	....	....	(-259,000,000)	....
Motor carrier safety grants (Highway Trust Fund):					
(Liquidation of contract authorization)	(85,000,000)	(100,000,000)	....	(-85,000,000)	(-100,000,000)
(Limitation on obligations)	(84,825,000)	(100,000,000)	....	(-84,825,000)	(-100,000,000)
Appalachian Development Highway system	300,000,000	....	....	-300,000,000	....
State infrastructure banks (Highway Trust Fund)	....	150,000,000	....	....	-150,000,000

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4328)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Transportation infrastructure credit enhancement program (Highway Trust Fund)		100,000,000			-100,000,000
Total, Federal Highway Administration	300,000,000	250,000,000		-300,000,000	-250,000,000
(Limitations on obligations)	(21,584,825,000)	(21,600,000,000)	(25,511,000,000)	(+3,926,175,000)	(+3,911,000,000)
(Exempt obligations)	(1,597,000,000)	(1,265,000,000)	(1,211,614,000)	(-385,386,000)	(-53,386,000)
Total budgetary resources	(23,481,825,000)	(23,115,000,000)	(26,722,614,000)	(+3,240,789,000)	(+3,607,614,000)
National Highway Traffic Safety Administration					
Operations and research (general fund)	74,901,000		87,400,000	+12,499,000	+87,400,000
Operations and research (highway trust fund):					
(Limitation on obligations)	(72,061,000)	(172,902,000)	(72,000,000)	(-61,000)	(-100,902,000)
(Liquidation of contract authorization)			(72,000,000)	(+72,000,000)	(+72,000,000)
National Driver Register (highway trust fund)			2,000,000	+2,000,000	+2,000,000
Subtotal, Operations and research	(146,962,000)	(172,902,000)	(161,400,000)	(+14,438,000)	(-11,502,000)
Highway traffic safety grants (Highway Trust Fund):					
(Liquidation of contract authorization)	(186,000,000)	(197,000,000)	(200,000,000)	(+14,000,000)	(+3,000,000)
(Limitation on obligations):					
Highway safety programs (Sec. 402)	(149,700,000)	(166,700,000)	(150,000,000)	(+300,000)	(-16,700,000)
National Driver Register (Sec. 402)	2,300,000	2,300,000		-2,300,000	-2,300,000
Occupant protection incentive grants (Sec. 405)		(20,000,000)	(10,000,000)	(+10,000,000)	(-10,000,000)
Drugged driving incentive grants		(5,000,000)			(-5,000,000)
Alcohol-impaired driving countermeasures grants (Sec. 410)	(34,500,000)	(39,000,000)	(35,000,000)	(+500,000)	(-4,000,000)
State Highway safety data grants (Sec. 411)			(5,000,000)	(+5,000,000)	(+5,000,000)
Motor carrier safety grants (Highway Trust Fund):					
(Liquidation of contract authorization)			(100,000,000)	(+100,000,000)	(+100,000,000)
(Limitation on obligations)			(100,000,000)	(+100,000,000)	(+100,000,000)
Total, National Highway Traffic Safety Administration	77,201,000	2,300,000	89,400,000	+12,199,000	+87,100,000
(Limitations on obligations)	(256,261,000)	(403,602,000)	(372,000,000)	(+115,739,000)	(-31,602,000)
Total budgetary resources	(333,462,000)	(405,902,000)	(461,400,000)	(+127,938,000)	(+55,498,000)
Federal Railroad Administration					
Office of the Administrator	20,290,000	21,573,000	21,367,000	+1,077,000	-206,000
Railroad safety	57,067,000	61,959,000	60,948,000	+3,881,000	-1,011,000
Nationwide differential global positioning system		3,000,000			-3,000,000
Railroad research and development	20,758,000	20,757,000	20,477,000	-281,000	-280,000
Northeast corridor improvement program	250,000,000			-250,000,000	
(Pennsylvania Station Redevelopment Project)	(12,000,000)			(-12,000,000)	
Next generation high-speed rail	20,395,000	12,594,000	15,294,000	-5,101,000	+2,700,000
Alaska Railroad rehabilitation	15,280,000			-15,280,000	
Rhode Island Rail Development	10,000,000	10,000,000	2,000,000	-8,000,000	-8,000,000
Grants to the National Railroad Passenger Corporation:					
Operations	344,000,000			-344,000,000	
Capital	199,000,000			-199,000,000	
Capital grants to the National Railroad Passenger Corporation			609,230,000	+609,230,000	+609,230,000
Highway Trust Fund		621,476,000			-621,476,000
(Northeast corridor improvements)		(200,000,000)			(-200,000,000)
(Pennsylvania Station Redevelopment Project)		(11,746,530)			(-11,746,530)
Subtotal, Grants to Amtrak	543,000,000	621,476,000	609,230,000	+66,230,000	-12,246,000
Emergency railroad rehabilitation and repair (emergency funding)	(9,800,000)			(-9,800,000)	
Conrail Labor protection (rescission)	(-508,234)			(+508,234)	
Total, Federal Railroad Administration	936,790,000	751,359,000	729,316,000	-207,474,000	-22,043,000
Federal Transit Administration					
Administrative expenses (general fund)	45,738,000		10,800,000	-34,938,000	+10,800,000
Administrative expenses (Highway Trust Fund, Mass Transit Account)		48,142,000			-48,142,000
(Limitation on obligations)			(43,200,000)	(+43,200,000)	(+43,200,000)
Subtotal, Administrative expenses	(45,738,000)	(48,142,000)	(54,000,000)	(+8,262,000)	(+5,858,000)
Formula grants (general fund)	240,000,000		570,000,000	+330,000,000	+570,000,000
Formula grants (Highway Trust Fund):					
(Limitation on obligations)	(2,260,000,000)		(2,280,000,000)	(+20,000,000)	(+2,280,000,000)
Operating assistance grants	(150,000,000)			(-150,000,000)	
Subtotal, Formula grants	(2,500,000,000)		(2,850,000,000)	(+350,000,000)	(+2,850,000,000)
Formula programs (Highway Trust Fund, Mass Transit Account):					
(Limitation on obligations)		(3,709,235,000)			(-3,709,235,000)
(Liquidation of contract authorization)		(1,500,000,000)			(-1,500,000,000)
University transportation research (general fund)	6,000,000		1,200,000	-4,800,000	+1,200,000
University transportation research (Highway Trust Fund, Mass Transit Account) (limitation on obligations)			(4,800,000)	(+4,800,000)	(+4,800,000)
Subtotal, University transportation research	(6,000,000)		(6,000,000)		(+6,000,000)

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4328)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Transit planning and research (general fund)	92,000,000		19,800,000	-72,200,000	+19,800,000
Transit planning and research (Highway Trust Fund, Mass Transit Account)		91,900,000			-91,900,000
(Limitation on obligations)			(78,200,000)	(+78,200,000)	(+78,200,000)
Subtotal, Transit planning and research	(92,000,000)	(91,900,000)	(98,000,000)	(+6,000,000)	(+6,100,000)
Rural transportation assistance	(4,500,000)	(6,000,000)	(5,250,000)	(+750,000)	(-750,000)
National transit institute	(3,000,000)	(3,000,000)	(4,000,000)	(+1,000,000)	(+1,000,000)
Transit cooperative research		(8,250,000)	(8,250,000)	(+8,250,000)	
Metropolitan planning	(39,500,000)	(39,500,000)	(43,841,600)	(+4,341,600)	(+4,341,600)
State planning and research	(8,250,000)	(8,250,000)	(9,158,400)	(+908,400)	(+908,400)
National planning and research	(36,750,000)	(26,900,000)	(27,500,000)	(-9,250,000)	(+600,000)
Subtotal	(92,000,000)	(91,900,000)	(98,000,000)	(+6,000,000)	(+6,100,000)
Trust fund share of expenses (Highway Trust Fund) (liquidation of contract authorization)	(2,210,000,000)		(2,446,200,000)	(+236,200,000)	(+2,446,200,000)
Capital investment grants (general fund)			451,400,000	+451,400,000	+451,400,000
Capital investment grants (Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(2,000,000,000)	(876,114,857)	(1,805,600,000)	(-194,400,000)	(+929,485,143)
Subtotal, Capital investment grants	(2,000,000,000)	(876,114,857)	(2,257,000,000)	(+257,000,000)	(+1,380,885,143)
(Fixed guideway modernization)	(800,000,000)		(902,800,000)	(+102,800,000)	(+902,800,000)
(Buses and bus-related facilities)	(400,000,000)		(451,400,000)	(+51,400,000)	(+451,400,000)
(New starts)	(800,000,000)	(876,114,857)	(902,800,000)	(+102,800,000)	(+26,685,143)
Subtotal	(2,000,000,000)	(876,114,857)	(2,257,000,000)	(+257,000,000)	(+1,380,885,143)
Major capital investments (Highway Trust Fund, Mass Transit Account) (liquidation of contract authority)		(1,900,000,000)			(-1,900,000,000)
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(2,350,000,000)		(1,805,600,000)	(-544,400,000)	(+1,805,600,000)
Job access and reverse commute grants (general fund)			10,000,000	+10,000,000	+10,000,000
(Highway Trust Fund, Mass Transit Account) (limitation on obligations)			(40,000,000)	(+40,000,000)	(+40,000,000)
Subtotal, Job access and reverse commute grants			(50,000,000)	(+50,000,000)	(+50,000,000)
Washington Metropolitan Area Transit Authority (general fund)	200,000,000		50,000,000	-150,000,000	+50,000,000
Washington Metropolitan Area Transit Authority (Highway Trust Fund, Mass Transit Account)		50,300,000			-50,300,000
Total, Federal Transit Administration	583,738,000	190,342,000	1,113,200,000	+529,462,000	+922,858,000
(Limitations on obligations)	(4,260,000,000)	(4,585,349,857)	(4,251,800,000)	(-8,200,000)	(-333,549,857)
Total budgetary resources	(4,843,738,000)	(4,775,691,857)	(5,365,000,000)	(+521,262,000)	(+589,308,143)
Saint Lawrence Seaway Development Corporation					
Operations and maintenance (Harbor Maintenance Trust Fund)	11,200,000		11,496,000	+296,000	+11,496,000
Research and Special Programs Administration					
Research and special programs:					
Hazardous materials safety	15,342,000	15,863,000	15,863,000	+521,000	
Emergency transportation	2,443,000	997,000	997,000	-1,446,000	
Research and technology	3,446,000	3,851,000	3,700,000	+254,000	-151,000
Program and administrative support	8,219,000	8,944,000	8,819,000	+600,000	-125,000
Advanced vehicle technology consortia			5,000,000	+5,000,000	+5,000,000
Subtotal, research and special programs	29,450,000	29,655,000	34,379,000	+4,929,000	+4,724,000
Pipeline safety:					
Pipeline Safety Fund	28,000,000	32,163,000	28,973,000	+973,000	-3,190,000
Oil Spill Liability Trust Fund	3,300,000	3,300,000	4,475,000	+1,175,000	+1,175,000
Pipeline safety reserve	(1,465,000)		(1,300,000)	(-165,000)	(+1,300,000)
Subtotal, Pipeline safety	31,300,000	35,463,000	33,448,000	+2,148,000	-2,015,000
Emergency preparedness grants:					
Emergency preparedness fund	200,000	200,000	200,000		
(Limitation on obligations)			(9,600,000)	(+9,600,000)	(+9,600,000)
Total, Research and Special Programs Administration	60,950,000	65,318,000	68,027,000	+7,077,000	+2,709,000
(Limitations on obligations)			(9,600,000)	(+9,600,000)	(+9,600,000)
Total budgetary resources	(60,950,000)	(65,318,000)	(77,627,000)	(+16,677,000)	(+12,309,000)
Office of Inspector General					
Salaries and expenses	42,000,000	42,491,000	43,495,000	+1,495,000	+1,004,000
Surface Transportation Board					
Salaries and expenses	13,853,000	16,000,000	16,000,000	+2,147,000	
Offsetting collections		-16,000,000	-2,600,000	-2,600,000	+13,400,000

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4328)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
General Provisions					
Transportation Administrative Service Center reduction	-3,000,000		-20,000,000	-17,000,000	-20,000,000
National Aviation Review Commission (rescission)			-752,000	-752,000	-752,000
Urban discretionary grants (rescission)			-3,918,000	-3,918,000	-3,918,000
Net total, title I, Department of Transportation	12,666,887,766	13,357,124,000	13,676,452,900	+1,009,565,134	+319,328,900
Appropriations	(13,418,996,000)	(13,357,124,000)	(13,686,122,900)	(+267,126,900)	(+328,998,900)
Rescissions	(-752,108,234)		(-9,670,000)	(+742,438,234)	(-9,670,000)
(Limitations on obligations)	(27,801,086,000)	(28,288,951,857)	(31,944,400,000)	(+4,143,314,000)	(+3,655,448,143)
(Exempt obligations)	(1,597,000,000)	(1,265,000,000)	(1,211,614,000)	(-385,386,000)	(-53,386,000)
Net total budgetary resources	(42,064,973,766)	(42,911,075,857)	(46,832,466,900)	(+4,767,493,134)	(+3,921,391,043)
TITLE II - RELATED AGENCIES					
Architectural and Transportation Barriers Compliance Board					
Salaries and expenses	3,640,000	3,847,000	3,847,000	+207,000	
National Transportation Safety Board					
Salaries and expenses	53,771,000	47,200,000	53,300,000	-471,000	+6,100,000
Appropriation of user fees		6,000,000			-6,000,000
Emergency fund	1,000,000	1,000,000	1,000,000		
Total, National Transportation Safety Board	54,771,000	54,200,000	54,300,000	-471,000	+100,000
Total, title II, Related Agencies	58,411,000	58,047,000	58,147,000	-264,000	+100,000
Net total appropriations	12,725,298,766	13,415,171,000	13,734,599,900	+1,009,301,134	+319,428,900
Scorekeeping adjustments:					
Pipeline safety (OSLTF)	1,000,000		1,300,000	+300,000	+1,300,000
Coast Guard adjustment		1,000,000			-1,000,000
FAA adjustment		43,000,000			-43,000,000
Net grand total	12,726,298,766	13,459,171,000	13,735,899,900	+1,009,601,134	+276,728,900
Appropriations	(13,478,407,000)	(13,459,171,000)	(13,745,569,900)	(+267,162,900)	(+286,398,900)
Rescissions	(-752,108,234)		(-9,670,000)	(+742,438,234)	(-9,670,000)
(Limitations on obligations)	(27,801,086,000)	(28,288,951,857)	(31,944,400,000)	(+4,143,314,000)	(+3,655,448,143)
(Exempt obligations)	(1,597,000,000)	(1,265,000,000)	(1,211,614,000)	(-385,386,000)	(-53,386,000)
Net grand total budgetary resources	(42,124,384,766)	(43,013,122,857)	(46,891,913,900)	(+4,767,529,134)	(+3,878,791,043)
SUMMARY					
Total mandatory and discretionary	12,726,298,766	13,459,171,000	13,735,899,900	+1,009,601,134	+276,728,900
Mandatory	653,196,000	684,000,000	684,000,000	+30,804,000	
Total, Mandatory	653,196,000	684,000,000	684,000,000	+30,804,000	
Discretionary:					
Highway category: (Limitation on obligations)	(21,841,086,000)	(21,998,602,000)	(25,883,000,000)	(+4,041,914,000)	(+3,884,398,000)
Mass Transit category	583,738,000	140,042,000	1,113,200,000	+529,462,000	+973,158,000
(Limitation on obligations)	(4,260,000,000)	(876,114,857)	(4,251,800,000)	(-8,200,000)	(+3,375,685,143)
Total, Mass Transit category	4,843,738,000	1,016,156,857	5,365,000,000	+521,262,000	+4,348,843,143
Budget scoring	583,738,000	140,042,000	1,113,200,000	+529,462,000	+973,158,000
General purposes:					
Defense (050)	300,000,000	309,000,000	300,000,000		-9,000,000
Nondefense	11,189,364,766	12,326,129,000	11,638,699,900	+449,335,134	-687,429,100
Total, Discretionary	12,073,102,766	12,775,171,000	13,051,899,900	+978,797,134	+276,728,900

It has come to the Committee's attention that the table on page 97 of House Report 105–648 showing the estimated distribution of the federal-aid limitation by state is in error. The following table reflects the corrections:

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

Estimated FY 1999 Obligation Limitation

States	Estimated FY 1999 Formula Limitation	FY 1999 Minimum Guarantee	Appalachia	Total	Change from FY 1998
Alabama	356,717,558	36,249,673	44,386,075	437,353,306	65,155,925
Alaska	176,862,464	75,457,577	0	252,320,041	36,054,471
Arizona	303,242,010	41,689,478	0	344,931,488	50,387,631
Arkansas	253,048,519	29,531,271	0	282,579,790	39,941,480
California	1,863,262,921	128,492,399	0	1,991,755,320	283,405,981
Colorado	246,794,527	12,783,562	0	259,578,089	37,782,233
Connecticut	263,140,366	59,984,184	0	323,124,550	45,790,935
Delaware	89,175,631	10,204,143	0	99,379,774	14,671,844
Dist. of Col.	87,500,316	0	0	87,500,316	12,604,317
Florida	836,403,576	164,045,867	0	1,000,449,443	144,013,176
Georgia	631,182,058	106,041,763	17,738,763	754,962,181	108,862,001
Hawaii	101,013,240	10,150,553	0	111,163,793	15,739,476
Idaho	135,558,256	23,611,006	0	159,169,262	21,832,705
Illinois	684,346,858	41,374,700	0	725,721,558	102,311,366
Indiana	443,339,425	62,812,583	0	506,152,008	71,922,451
Iowa	251,743,987	10,229,839	0	261,973,826	37,409,782
Kansas	247,975,576	7,191,787	0	255,167,363	36,377,429
Kentucky	301,686,021	33,262,150	40,717,006	375,665,177	56,302,900
Louisiana	309,567,618	29,387,327	0	338,954,945	47,647,164
Maine	105,067,775	9,995,936	0	115,063,711	16,554,386
Maryland	298,563,022	22,232,349	6,940,719	327,736,090	47,244,813
Massachusetts	393,447,726	10,135,128	0	403,582,854	(140,623,520)
Michigan	601,179,804	73,909,316	0	675,089,120	95,546,926
Minnesota	299,390,185	20,374,380	0	319,764,565	44,901,436
Mississippi	240,285,680	18,147,691	4,977,512	263,410,883	37,788,019
Missouri	472,680,856	35,242,540	0	507,923,396	71,861,955
Montana	185,761,378	34,956,689	0	220,718,067	32,472,136
Nebraska	172,373,765	3,434,871	0	175,808,636	25,898,549
Nevada	136,454,844	21,912,644	0	158,367,488	22,908,306
New Hampshire	97,761,103	11,247,908	0	109,009,011	16,622,698
New Jersey	528,704,456	25,550,346	0	554,254,802	77,979,908
New Mexico	189,037,604	24,551,758	0	213,589,362	30,523,462
New York	1,000,631,061	89,011,429	9,566,292	1,099,208,782	154,675,252
North Carolina	508,903,855	76,141,397	26,133,026	611,178,278	89,086,984
North Dakota	136,379,058	10,668,948	0	147,048,006	21,634,743
Ohio	669,345,173	49,795,300	20,015,376	739,155,849	106,209,804
Oklahoma	312,524,560	24,659,577	0	337,184,137	48,475,721
Oregon	243,605,252	16,279,527	0	259,884,779	36,477,315
Pennsylvania	885,942,462	56,749,443	108,530,182	1,051,222,087	152,748,355
Rhode Island	112,218,000	19,004,264	0	131,222,264	19,114,099
South Carolina	299,227,293	46,689,562	2,174,947	348,091,802	50,532,521
South Dakota	141,306,695	13,733,400	0	155,040,095	22,168,368
Tennessee	402,458,421	36,818,342	49,762,093	489,038,856	72,857,127
Texas	1,377,362,296	192,615,348	0	1,569,977,644	225,934,036
Utah	156,165,398	12,107,424	0	168,272,822	23,808,584
Vermont	93,676,350	7,932,136	0	101,608,486	14,817,139
Virginia	490,201,761	56,048,394	10,459,943	556,710,098	80,470,677
Washington	360,017,192	23,031,097	0	383,048,289	53,953,390
West Virginia	170,488,388	4,857,645	61,717,244	237,063,277	36,651,007
Wisconsin	370,808,051	57,655,199	0	428,463,250	61,103,421
Wyoming	143,559,043	12,010,150	0	155,569,193	22,841,062
SUBTOTAL	19,178,089,434	2,000,000,000	403,118,775	21,581,208,209	2,901,451,946
SPECIAL LIMITATION—					
HIGH PRIORITY PROJECTS				1,271,395,575	348,270,075
WOODROW WILSON BRIDGE				68,175,000	45,675,000
ALLOCATION RESERVE				2,590,221,216	715,602,979
TOTAL LIMITATION				25,511,000,000	4,011,000,000

JUNE 4, 1998.

HON. FRANK WOLF,
Chairman, Housing Committee on Appropriations, Subcommittee on Transportation, Washington DC.

DEAR MR. CHAIRMAN: In your letter of April 28, 1998 you asked me to offer my views on the long term viability of Amtrak and to comment on materials presented at your March 11, 1998 hearings on Amtrak. In a subsequent conversation with Ms. Stephanie Gupta of your staff, she explained that you were aware that I am no longer working with GAO's Transportation Group but that you were interested in my views based on the fact that I have been involved in research on Amtrak and intercity railroad passenger issues since Amtrak was created. My doctoral thesis addressed the economics of intercity rail passenger operations and subsequent studies I conducted for the National Transportation Policy Study Commission, the Northeast Corridor Improvement Project, and the State of Wisconsin assessed Amtrak's potential for contributing to the solution of energy, environmental, and safety problems. Therefore, although I later served as a consultant to the GAO on Amtrak issues and directed some of GAO's studies of Amtrak after I joined that organization, the views expressed here are solely my own and should in no way be considered as representing those of the General Accounting Office.

OVERALL OBSERVATIONS

Perhaps the most striking thing about Amtrak's (and FRA's) testimony is how familiar it all sounds. If one goes back to the testimonies of Tom Downs in the 90s, Graham Claytor in the 80s, or Paul Reistrup in the 70s the refrain is the same. If I may paraphrase:

"Amtrak is turning the corner and is making significant progress through its actions and will be achieving major productivity gains (if it is able to negotiate work rule changes, replace infrastructure, etc). As a result, the Corporation is now well-positioned to reduce its need for federal support."

But the corner never quite gets turned. Amtrak registers progress for a while, but then "events" always seem to overtake it. It can be many things: deferred maintenance of way or delays in modernizing the rolling stock and locomotive fleet cause service deterioration, or the economy sours and ridership forecasts fail to materialize, or wage increases can no longer be postponed—something always happens to reverse or forestall the gains and the Corporation's future again is in peril

Let me begin by saying two things in Amtrak's defense. First, it has presented a more realistic assessment of its current situation and of the risks it faces than it has in the past. The Corporation clearly recognizes the conflicting goals it is being asked to pursue. On page 2 of its Legislative Report and Federal Grant Request Amtrak acknowledges:

If the Corporation focuses too heavily on immediate returns, it risks undermining the ability to deploy its assets in a way that provides a national route system. However, without a balanced approach to infrastructure/capital investment, Amtrak will certainly not achieve operating self-sufficiency by 2002, and may not generate sufficient cash to survive.

In short, Amtrak is saying that it cannot operate a national system of passenger trains and achieve operating self-sufficiency—at least not without substantial federal support to use for capital and capital-related expenses.

Second, it is not as though successive Amtrak managements have not made serious attempts to become more efficient. Indeed, as far as passenger train services are concerned, Amtrak might well be the most efficient system in the world—at least by such standard productivity measures as revenue per employee or passenger miles per employee. In many other nations, rail passenger services are government operations and are highly subsidized. While the quality of service abroad, in terms of speed, on-time performance, or on-board amenities, is typically very high—these come at a price. Pressures are building to make these systems more efficient, but they are generally well behind Amtrak.

Thus, while Amtrak has received something on the order of $20 billion in public support over its history, it has periodically made serious attempts (often at congressional prodding) to find ways to cut costs and operate more efficiently.[1] In the past, it has restructured its route system (within the now removed confines of maintaining a defined basic network of intercity routes), secured labor concessions often well beyond those gained by the nation's freight railroads, and reorganized its operations more along the lines of a private company with "profit centers" in order to decentralize decision making responsibility. However, future opportunities to find ways to hold the line against mounting losses might be more difficult to come by without a more dramatic rethinking of Amtrak's role in the nation's transportation system.

There are three areas where I believe the Congress should have reason for concern—the failure to register meaningful increases in ridership, substantial increases in labor costs, and the problems inherent in an aging rolling stock and locomotive fleet.

RIDERSHIP

In 1972, Amtrak's first full year of operation, it carried 16.2 million passengers who travelled 3 billion passenger miles. Although deficits mounted rapidly in the early years, Amtrak was successful in reversing the long term decline in patronage. By 1977 ridership had risen nearly 20 percent to 19.2 million passengers and passenger miles of travel had grown by more than 40 percent to 4.3 billion. Twenty years later, Amtrak still carries only about 20 million passengers annually, although average trip length has increased. During this same 20-year period airline traffic has more than doubled and interstate highway traffic nearly so. Amtrak hopes to carry a record 22 million passengers this year, but this relatively meager improvement is being recorded in the midst of a very prosperous economy. The demand for travel services, whether it be for business or pleasure, is highly sensitive to economic conditions. Amtrak has failed to register significant ridership gains even in these "best of times."

Amtrak has increased revenues by increasing fares. Two-thirds of the increase in passenger related revenues came from an increase in ticket yields (fares) while one third came from increased traffic. Amtrak's yields are now higher than airline yields and have been growing more rapidly in recent years. While it is true that in the markets where Amtrak and airlines compete head-to-head, airline yields are typically higher, Amtrak's competitive position will deteriorate if whatever price advantage it holds shrinks. The bottom line is that fare increases might not be as available a strategy as it has been—at least not with respect to traffic that is interested in transportation. The "cruise market" is one where Amtrak might have more leeway for fare increases, but I have always believed that this business has always been underdeveloped by Amtrak.

Amtrak hopes for significant traffic growth following the introduction of high speed (or at least higher speed) service between Boston and New York City. Amtrak has developed more realistic ridership projections over time, but still projects that it will capture a share on the air/rail travel market akin to what it carries between New York and Washington. I would expect that its ridership will grow after the significant reduction in travel times, but I have always been skeptical about whether it will increase ridership so that it replicates the NYC–DC experience. The Metroliners came at a time when rail still maintained a significant market share. Whether the time savings that will be achieved on the north end of the NEC will generate traffic volumes comparable to the southern end remains to be seen. But, Amtrak is a national system. Outside the Northeast Corridor Amtrak continues to experience large operating losses. Amtrak West has registered better ridership and revenue increases, but there is some concern that these gains have been costly to acquire.

While I applaud Amtrak's overall candor, I am somewhat struck by the new CEO's view that Amtrak needs "to know much more about the travel market demand and our role in the marketplace." After nearly 30 years of operations and a mountain of studies, I would have thought Amtrak gained some knowledge about market demand and the nature of its ridership. Still, those of us who argued for devoting resources to more sophisticated demand estimation methodologies can feel somewhat vindicated. I do have some concern, however, with Amtrak's use of the "attractiveness of high speed trains themselves" as an element in its HSR projections.

LABOR COSTS

For quite some time Amtrak has had labor agreements with its unions that are more favorable than those of the major freight railroads. Amtrak recently signed a new agreement with the Brotherhood of Maintenance of Way Employees that it hopes will set the pattern for bargaining with its other 12 unions. Finally, Amtrak notes that for many of its positions, its employees are paid less than those doing comparable tasks on the commuter lines. On this score, I believe that freight railroad employees around the nation, not commuter line employees in high cost Metropolitan areas are the relevant comparison group. Amtrak's labor costs are roughly the same as those working in the freight industry. Labor costs are Amtrak's largest expense and these costs are rising.

Amtrak projects a near quarter billion dollar increase in labor costs over the life of the agreement. About 20 percent of this is to be offset by work rule changes and productivity improvements. The result says Amtrak is an incremental annual cost increase of less than $40 million on a billion dollar annual payroll over the 5-year life of the contract. However, 2 of the 5 years have already past, so the payout is over the remaining three years.

While some of the numbers are there, I have difficulty figuring out just what the contracts imply for Amtrak's future. First, Amtrak focuses on the "incremental cost" above and beyond the COLA's and GWI. But these are substantial. Second, I can not tell what the annual impact might be if these contracts were extended to 2001 and beyond. The data on page 123, Amtrak's submission of the results of extrapolating the BMWE contract suggest that wages will increase $150 million in 2000 adding the new costs to the existing COLAs. This does not strike me as insignificant. Amtrak expects nearly $30 million savings mostly from work rule changes, but whether these projections will likely be realized I can not judge without more information.

The bottom line is that labor costs are rising and, if ridership and revenue growth fail to fully materialize (either because the economy turns down and/or competition from others modes intensifies) Amtrak's financial condition will become even more precarious.

AGE OF EQUIPMENT

Amtrak inherited an aged fleet of locomotives and passenger cars. The average diesel locomotive was 19 years old and none of the electrics were less than 29 years old—together they averaged 22 years. The average passenger car was more than 20 years old and some were nearly 35 years old. These were best cars available from the railroads that formerly ran the intercity passenger trains. Amtrak was remarkably successful in updating the fleets, especially the locomotive fleet. In 1981, the average locomotive was just 7 years old. The passenger car fleet also was gradually replaced so that by 1981 the average age of the rolling stock was about 14 years. New equipment is more reliable, more attractive, and less costly to maintain. Unfortunately, the gains of the first decade have been lost and Amtrak's fleets are again aging. Locomotives are now 12 years old on average and rolling stock about 20 years old.

Some of the equipment that pulls up the average age is reserve equipment, not in regular operations. Amtrak has a schedule for new car and locomotive deliveries that it submitted in response to your post-hearing questions. However, even as new equipment is brought on line each year, all the other equipment gets one year older. I would like to see a table combining acquisitions and retirements and the impact on average ages of the locomotive and passenger car fleets.

CONCLUSION

The monies made available through the TRA combined with increased flexibility in how the funds are spent ensures that in the near term the struggle will not become a crisis. But, Amtrak continues to face an uncertain future. Further fare hikes to increase revenues might be limited by air fare competition, low gasoline prices, and a slowing economy. Its labor cost situation might be as best it can do given the nature of the operation, but it will add to the problem of eliminating the need for federal operating subsidy.

I hope these observations are helpful as you consider the future of the nation's intercity rail passenger system.

Sincerely,

FRANCIS P. MULVEY.

GENERAL ACCOUNTING OFFICE,
Washington, DC, June 5, 1998.

Subject: Intercity Passenger Rail: Prospects for Amtrak's Financial Viability

Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation and Related Agencies, Committee on Appropriations, House of Representatives.

DEAR MR. CHAIRMAN: Since it began operations in 1971, the National Railroad Passenger Corporation (Amtrak) has never been profitable and has received about $21 billion in federal subsidies for operating and capital expenses. Amtrak currently provides intercity passenger rail service along 40 routes that cover about 22,800 miles in 44 states and Washington, D.C. Because of your continuing concerns about the financial stability of Amtrak, you asked us, along with others, to provide our comments on Amtrak's long-term financial viability. Specifically, as agreed with your office, we examined (1) Amtrak's current financial status and (2) the outlook for its long-term financial viability. Our comments are primarily based on our recent work examining Amtrak's financial condition.[1]

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[1] Including federal operating and capital subsidies, NEC improvements, and state and local support.

In summary, during the last 3 fiscal years, Amtrak reduced its annual net loss by only $72 million—from $834 million in fiscal year 1994 to $762 million in fiscal year 1997.[2] Amtrak projects that its net loss will grow to $845 million this fiscal year, resulting in a cash-flow deficit of up to $200 million and contributing to substantial deficits in the next 2 years. In response, Amtrak's Board of Directors approved a revised strategic business plan in March 1998 that would use about $800 million of anticipated federal capital appropriations over the next 5 years for maintenance expenses, which traditionally have been treated as operating expenses. According to Amtrak, the flexibility to use appropriated capital funds to pay for maintenance would provide it with stability over the next several year, thereby averting a possible bankruptcy. However, using these federal funds for maintenance expenses will correspondingly reduce the funding available for Amtrak's proposed capital improvements that are needed to enhance its long-term viability. Amtrak recently initiated a market-based analysis of its route system that is important for its long-term viability because Amtrak's current route system will continue to incur substantial annual net losses. Amtrak remains heavily dependent on federal funding to pay its operating and capital expenses and will remain so for the foreseeable future.

Background

In December 1994, at the direction of the administration, Amtrak established the goal of eliminating its need for federal operating subsidies—except for federal contributions to retirement payments for railroad employees—by fiscal year 2002 and established a "glidepath" of decreasing federal operating subsidies for each intervening year.[3] The Congress, in the Amtrak Reform and Accountability Act of 1997, stated that federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by 2002. In addition, the act requires the newly established Amtrak Reform council to develop an action plan for a "restructured and rationalized national intercity passenger rail system" if it determines, at any time after December 1999, that Amtrak is not achieving its financial goals or that it would require operating subsidies after December 2002. Under such circumstances, Amtrak would be required to develop and submit to the Congress an action plan to liquidate the railroad.

The Taxpayer Relief Act of 1997 makes a total of $2.2 billion available to Amtrak in fiscal years 1998 and 1999 to acquire capital improvements and to pay, among other things, certain equipment maintenance expenses.[4] Amtrak has stated that it will use funds from the Taxpayer Relief Act for those high rate-of-return capital investments that over time would strengthen its long-term financial viability, improve productivity and efficiency, and reduce its reliance on federal operating subsidies.

AMTRAK'S Current Financial Status

Despite efforts to increase revenues and reduce costs, Amtrak is in a very precarious financial condition. Amtrak has reduced its annual net loss from $834 million in fiscal year 1994 to $762 million in fiscal year 1997. In March 1998, Amtrak's Board of Directors approved a revised strategic business plan for fiscal years 1998 through 2003 that projects that its net loss will grow to $845 million in fiscal year 1998—$83 million more than in fiscal year 1997. Amtrak's projected net loss is larger in fiscal year 1998 because (1) its agreement with the Brotherhood of Maintenance of Way Employees in November 1997 would add about $35 million in expenses in fiscal year 1998 if its terms were extended to all of Amtrak's unions and (2) its estimated net revenue from its express service for transporting high-value, time-sensitive merchandise was recently reduced from $59 million to $11 million in fiscal year 1998. In addition, fiscal year 1997 revenues included $69 million from the one-time sale of telecommunications rights-of-way and real estate in the Northeast Corridor.

Amtrak has a serious cash-flow problem because its revenues and federal operating subsidies do not cover its expenses. While Amtrak borrowed $75 million to meet its operating expenses in fiscal year 1997 and initially planned to borrow $100 million in fiscal year 1998, its March 1998 revised plan projects a cash-flow deficit of up to $200 million in this fiscal year, which could exceed its $170 million line of credit. To cover its cash-flow deficit, Amtrak plans to use $100 million from its short-term lines of credit and temporarily use up to $100 million in funds from the Taxpayer Relief Act in fiscal year 1998 for certain equipment maintenance expenses.

AMTRAK'S Long-Term Financial Viability

Amtrak's ability to remain financially viable is influenced by three factors—the federal subsidies it receives, its ability to increase revenues and control costs, and the business decisions it makes regarding its route system. Current prospects for Amtrak's long-term viability are uncertain unless the corporation reduces its net losses by increasing revenues and controlling costs. As currently structured, Amtrak will continue to require federal capital and operating support in fiscal year 2002 and well into the future.

RELIANCE ON FEDERAL SUBSIDIES

Amtrak is unlikely ever to be free of the need for federal capital subsidies because of the capital-intensive nature of railroads. Amtrak's March 1998 strategic business plan shows that Amtrak will also depend heavily upon federal subsidies for operating expenses through fiscal year 2003, and, therefore, will not achieve its goal of eliminating the need for federal support for operating expenses by fiscal year 2002.

An immediate issue affecting Amtrak's long-term viability is the amount and use of federal support for fiscal year 1999. The administration proposes a capital appropriation of 621.5 million but no operating appropriation. The budget justification also proposes that, similar to Federal Transit Administration grantees, Amtrak be allowed to use appropriated capital funds to pay expenses for preventive maintenance that Amtrak has traditionally treated as operating expenses.[5] Amtrak's March 1998 strategic business plan proposes to spend $1.8 billion (65 percent) of the Administration's proposed $2.8 billion in capital appropriations for maintenance expenses between fiscal years 1999 and 2003 to reduce its net losses and cash-flow deficits. As a result, Amtrak would spend $800 million (15 percent) less for capital improvements over the next 5 years than it had previously planned under its glidepath approach.

According to Amtrak, the flexibility to use appropriated capital funds to pay for maintenance would provide it with stability over the next several years, thereby averting a possible bankruptcy. However, spending capital funds on maintenance would decrease the amount of money available for capital improvements and equipment overhauls that will be necessary to increase revenues and reduce costs. Such investments are essential to Amtrak's long-term viability.

AMTRAK'S ABILITY TO INCREASE REVENUE AND REDUCE COSTS

Amtrak's ability to increase its revenues and reduce costs also will influence its long-term viability. However, while the corporation has made some progress in increasing its revenues and controlling costs over the past 3 fiscal years, it did not achieve its budget goals in fiscal years 1996 and 1997. Furthermore, since 1990, Amtrak's revenues, considered in constant dollars, have been relatively flat.

Amtrak's plans for increasing revenues have depended largely on expanding its express service for transporting high-value, time-sensitive merchandise and introducing high-speed rail service in the Northeast Corridor. However Amtrak's revised strategic business plan reduced its projections of profits from its express merchandise service from about $75 million annually to $21 million in fiscal year 1999 and $27 million annually through fiscal year 2003. On May 28, 1998, the Surface Transportation Board granted Amtrak's application to transport express merchandise over the Union Pacific Railroad Company's and the Southern Pacific Transportation Company's track, provided that Amtrak ,offers "a premium transportation service at premium rates—expedited, regularly scheduled train service provided at prices which are generally higher than freight service—that is provided as an adjunct to Amtrak's passenger service." Amtrak expects that express merchandise service will improve the financial performance of certain of its long-distance routes.[6]

Amtrak projects that fully implementing high-speed rail service on the Northeast Corridor by the end of fiscal year 2000 will significantly increase net revenues for the routes between Washington, DC, and Boston and will foster the growth of other routes along the Northeast Corridor. Amtrak projects that high-speed rail service will provide profits of $93 million in fiscal year 2000 and $219 million in fiscal year 2003. If achieved, these additional net revenues would eliminate almost all of the Northeast Corridor Strategic Business Unit's net loss. However, even with these net revenues, Amtrak expects that its systemwide net loss will decline by only $158 million—from $845 million in fiscal year 1998 to $687 million in fiscal year 2003.

Two bright spots for Amtrak are its commuter operations and increased contributions by states for intercity passenger rail services that have particularly benefited their residents. Amtrak's profits from operating commuter trains grew from $18 million in fiscal year 1995 to $38 million in fiscal year 1997. Similarly, operating support from the states for Amtrak's intercity passenger service more than doubled between fiscal years 1994 and 19997. In fiscal year 1997, 12 states provided a total of amount $70 million to subsidize service on 17 Amtrak routes.

Amtrak's long-term financial viability will be affected by its ability to control costs as well as increase revenues. However, Amtrak's record in controlling costs indicates that achieving future goals for cost reductions may be difficult. Amtrak did not meet its cost-reduction goals for fiscal years 1996 and 1997. Furthermore, while revenues from Amtrak's core intercity passenger services grew by about 4 percent in fiscal year 1997 (including a 7-percent increase in passenger revenues),[7] expenses for these services its debt—primarily incurred to modernize its fleet of locomotives and passenger cars—will rise from $76 million in fiscal year 1997 to $97 million in fiscal year 1999.

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[1] Footnotes at end of report.

Amtrak also will face challenges in controlling future costs because labor costs will increase significantly. Amtrak estimates that extending the terms of its November 1997 agreement with the Brotherhood of Maintenance of Way Employees to all of its unions will increase costs between $60 million and $70 million a year between fiscal years 1999 and 2003.[8] In addition, Amtrak and Federal Railroad Administration officials told us that reforms contained in the Amtrak Reform and Accountability Act of 1997 will provide little, if any, immediate effect on Amtrak's financial performance and that their long-term benefits are unclear.[9] Specifically, the act (1) Repealed a statutory ban on contracting out work that would result in employee layoffs, except for food and beverage service and (2) eliminated, effective May 31, 1996, statutory and contractual arrangements to protect labor that provided up to 6 years' compensation and benefits for employees who loose their jobs because of specific covered actions, such as the discontinuance of service on a route or the closure of a maintenance facility. In the long term, repealing the ban on contracting out work may provide Amtrak with important flexibility in labor negotiations and cost control. Amtrak and its unions are addressing labor protection arrangements in collective bargaining negotiations. While Amtrak currently does not have plans to close any of its 40 routes, eliminating these arrangements could become important if, for example, the market analysis that Amtrak recently initiated results in a decision to substantially reorganize its route system.

BUSINESS DECISIONS REGARDING AMTRAK'S ROUTE NETWORK

The business decisions Amtrak makes regarding the structure of its route system will play a crucial role in determining its long-term viability. Amtrak spends almost $2 for every dollar of revenue it earns in providing intercity passenger rail services.[10] Only the Metroliner's high-speed service between Washington, D.C., and New York City is profitable; all of Amtrak's other 39 routes operate at a loss. Fourteen of Amtrak's 40 routes lost more than $100 per passenger in fiscal year 1997. Amtrak will continue to incur large net losses if it continues to operate its current route system.

Figure 1 shows that, during fiscal year 1997, fewer than 100 passengers, on average, boarded Amtrak intercity trains and connecting buses per day in 13 states.[11] (See the enc. for the estimated daily average ridership by state in fiscal year 1997.) Amtrak officials noted that ridership in a state is not directly linked to Amtrak's profitability because other factors, including ticket prices and a train's expenses, need to be considered. Nevertheless, we believe that the relatively large number of states with relatively low ridership, along with other financial performance data, is indicative of Amtrak's financial performance problems.

Within a year, Amtrak plans to complete a market-based analysis of the role and growth potential of its national passenger rail system. This study will identify opportunities to increase Amtrak's revenues and market share by analyzing customer demand, revenues, expenses, and net contributions associated with each route in Amtrak's route system to identify service amenities, pricing changes, and route changes that may improve the corporation's ridership and revenues in the short and the long terms. Amtrak's study will also consider various service alternatives and their potential effects on revenues and expenses. In your March 11, 1998, hearing on Amtrak's fiscal year 1999 appropriation, the acting President of Amtrak testified that he was not comfortable that today's national system is "the most effective, economical market-driven system." He added that Amtrak's challenge over the next year is to try to "define and articulate a national system that works . . . within reasonable economic parameters." This market-based analysis is the third extensive study of Amtrak's route system undertaken in the past 4 years; the first two studies, completed in 1994 and 1996, focused on cutting costs.

While Amtrak management considers this market-based analysis, which will identify alternatives to the current route system, to be critical for securing its long-term viability, past experience indicates that major changes to the existing route system will be difficult to make and that the financial effects of changes will be difficult to predict. Amtrak has encountered opposition when it has proposed to cut routes because of the desire by various groups to see passenger train service continued in potentially affected communities. For example, in response to concerns raised by affected parties, Amtrak scaled back initial plans to reduce routes and services in fiscal years 1995 and 1997. During fiscal year 1995, Amtrak reduced and eliminated service on several routes, resulting in a 13-percent reduction in the total miles that Amtrak trains traveled between fiscal years 1994 and 1996 and $54 million in cost savings in fiscal year 1995. However, anticipated cost savings were not realized in fiscal year 1996. In fiscal year 1997, Amtrak closed two routes to increase the frequency of service on three other routes; to date, these adjustments have not led to financial improvements in Amtrak's bottom line.

We discussed the contents of this report with Amtrak officials, including the Vice President for Finance and Chief Financial Officer, who provided comments to improve the report's technical accuracy, which we incorporated as appropriate.

We are sending copies of this report to the acting President of Amtrak; the Secretary of Transportation; and the Director, Office of Management and Budget. We will also make copies available to others upon request.

If you or your staff have any questions about this report, please contact me at (202) 512–3650. Major contributors to this report were Richard Cheston, Judy Guilliams-Tapia, and James Ratzenberger.

Sincerely yours,
PHYLLIS F. SCHEINBERG,
Associate Director,
Transportation Issues.

FOOTNOTES

[1] Intercity Passenger Rail: Financial Performance of Amtrak's Routes (GAO/RCED–98–151, May 14, 1998), Intercity Passenger Rail: Outlook for Improving Amtrak's Financial Health (GAO/T–RCED–98–134, Mar. 24, 1998), Intercity Passenger Rail: Issues Associated With a Possible Amtrak Liquidation (GAO/RCED–98–60, Mar. 2, 1998), and DOT's Budget: Management and Performance Issues Facing the Department in Fiscal Year 1999 (GAO/T–RCED/AIMD–98–76, Feb. 12, 1998). In addition, we obtained information on Amtrak's ridership by state and for Washington, D.C.

[2] Net loss is Amtrak's total expenses—including depreciation of its equipment and infrastructure—minus total revenues. Amtrak refers to this difference as its operating loss.

[3] Amtrak revised its glidepath by requesting an additional $84 million in federal operating support for fiscal year 1999 because, in previous years, it had not received the federal operating funding that the original glidepath had assumed.

[4] Amtrak is required to pay 1 percent of the $2.3 billion made available under the act to each state that it does not serve.

[5] Preventive maintenance is designed to keep Amtrak's locomotives, passenger cars, and other equipment; facilities; and infrastructure in good operating condition.

[6] Amtrak anticipates that the three routes that lost the most money per passenger in fiscal year 1997 could generate substantial new revenues if its express merchandise service was expanded. These routes are the Sunset Limited (between Los Angeles and Orlando), the Texas Eagle (between Chicago and San Antonio or Los Angelse), and the Southwest Chief (between Chicago and Los Angeles).

[7] These include revenues from passenger ticket sales, food and beverage sales, mail and express merchandise service, as well as contributions from the states.

[8] Productivity savings negotiated with the unions are accounted for in this estimate.

[9] For a fuller discussion of these issues, see GAO/RCED–98–151.

[10] For its business operations as a whole, Amtrak spends $1.46 for every dollar it earns.

[11] Our calculations of the daily average number of passengers by state are estimates and exclude riders for whom the states in which they boarded are unknown. This unknown ridership (which primarily includes passengers who have multiride tickets that do not identify a particular origin or destination) totaled about 2.5 million in fiscal year 1997, or 6,724 passengers per day.

AMTRAK RIDERSHIP BY STATE, FISCAL YEAR 1997

State	Annual number of passengers boarding	Estimated daily average number of passengers boarding	Annual number of passengers alighting	Estimated daily average number of passengers alighting
Alabama	30,843	85	30,720	84
Arizona	42,587	117	43,507	119
Arkansas[1]	8,446	70	8,176	68
California	4,054,944	11,109	4,024,714	11,027
Colorado	115,150	315	113,343	311
Connecticut	427,073	1,170	443,339	1,215
Delaware	272,370	746	274,597	752
District of Columbia	1,494,748	4,095	1,494,276	4,094
Florida	431,933	1,183	442,993	1,214

AMTRAK RIDERSHIP BY STATE, FISCAL YEAR 1997—Continued

State	Annual number of passengers boarding	Estimated daily average number of passengers boarding	Annual number of passengers alighting	Estimated daily average number of passengers alighting
Georgia	68,678	188	68,600	188
Idaho	4,887	13	5,105	14
Illinois	1,337,426	3,664	1,334,269	3,656
Indiana	48,136	132	50,878	139
Iowa	24,121	66	28,252	77
Kansas	16,121	44	17,781	49
Kentucky	4,214	12	3,688	10
Louisiana	102,975	282	103,401	283
Maryland	686,424	1,881	685,603	1,878
Massachusetts	591,258	1,620	570,265	1,562
Michigan	377,669	1,035	378,131	1,036
Minnesota	68,124	187	66,669	183
Mississippi	49,052	134	50,120	137
Missouri	205,932	564	204,491	560
Montana [2]	50,378	138	51,458	141
Nebraska	17,688	48	18,273	50
Nevada	49,083	134	77,382	212
New Hampshire	780	2	831	2
New Jersey	544,155	1,491	545,934	1,496
New Mexico	42,118	115	41,592	114
New York	3,600,203	9,864	3,584,546	9,821
North Carolina	236,220	647	235,460	645
North Dakota [2]	28,718	79	29,259	80
Ohio	92,540	254	91,518	251
Oregon	267,430	733	261,470	716
Pennsylvania	1,778,265	4,872	1,778,437	4,872
Rhode Island	177,679	487	185,880	509
South Carolina	80,292	220	80,041	219
Tennessee [3]	20,018	55	19,930	55
Texas [1]	77,981	644	76,705	634
Utah	19,778	54	20,529	56
Vermont	49,224	135	50,330	138
Virginia	446,924	1,224	440,320	1,206
Washington	372,068	1,019	378,107	1,036
West Virginia	22,814	63	24,339	67
Wisconsin	182,305	499	182,427	500
Wyoming [4]	3,701	39	3,482	37
Unknown [5]	2,454,435	6,724	2,453,624	6,722

[1] The average daily ridership computation reflects that Arkansas and Texas each had train service only three times a week during fiscal year 1997.

[2] Montana and North Dakota had train service four times a week from October 1, 1996, to May 10, 1997, when Amtrak restored daily service through Montana and North Dakota on the Empire Builder route.

[3] Tennessee had train service six times a week from October 1, 1996, to May 11, 1997, when Amtrak restored daily service through Tennessee on the City of New Orleans route.

[4] The average daily ridership computation reflects that Amtrak discontinued train service in Wyoming on May 10, 1997, when it closed the Pioneer route.

[5] Amtrak could not readily identify the states in which these passengers boarded or alighted from its trains.

Note: Amounts include passengers on Amtrak trains and connecting buses. Each state, except Arkansas, Montana, North Dakota, Tennessee, Texas, and Wyoming, had daily train service provided by one route or more operating within the state. Amtrak intercity passenger trains did not serve Alaska, Hawaii, Maine, Oklahoma, or South Dakota in fiscal year 1997.

Source: GAO's analysis of Amtrak's data.

AMTRAK, THE NATIONAL RAILROAD PASSENGER CORPORATION: CURRENT PERFORMANCE AND FUTURE PROSPECTS

(By Randolph R. Resor)

STATEMENT OF QUALIFICATIONS

My name is Randolph R. Resor. I am Vice President, Costing and Economic Analysis for ZETA-TECH Associates, Inc., a transportation consulting firm with offices at 900 Kings Highway North, Suite 208, Cherry Hill, NJ 08002.

I received a Bachelor of Arts degree in History and Economics from the University of Chicago in 1975. I attended Northwestern University's Transportation Center for a year of graduate study in transportation management, completing courses in finance, marketing, transportation planning, and economic geography.

I have spent twenty-one years in the rail transportation industry. In 1977, I began my career as a Special Assistant to the president of the Association of American Railroads, where I performed economic analysis and assisted in developing industry positions on a number of topics, including waterway user charges and railroad deregulation. After nearly two years at the AAR, I moved to the United States Railway Association. Following conveyance of the rail assets of the bankrupt railroads to Conrail, USRA had a continuing role in monitoring the use of Federal funds to improve the Conrail properties. My responsibility at USRA was the analysis of Conrail's ongoing track reconstruction program. Issues included appropriateness of the planned projects and expected operational and safety improvements resulting from track reconstruction.

Following my time at USRA, I worked in transportation consulting for two years. Projects included an oversight contract on the Northeast Corridor Improvement Program (NECIP), publication of the FRA Accident/Incident Bulletin and the rail/highway crossing accident statistics for 1980, and an assessment of intermodal cargo movement through U.S. ports.

In 1982 I accepted a position with the New York City Transit Authority (NYCTA) in New York, the agency which operates the New York City subway system. I worked at NYCTA from 1982 through 1987. My first task was the construction of a cost forecasting model, which required me to develop relationships between measures of size and output (number of trains, number of miles of track) and spending by the NYCTA. NYCTA tracks had become severely deteriorated due to lack of maintenance, and because of my specialized knowledge of the relationship between traffic levels and track maintenance costs, after developing the cost model I was assigned to prepare a plan for systemwide track reconstruction. When the plan was implemented, I was given responsibility for budgeting, planning, and scheduling each year's work program.

In 1987 I joined ZETA-TECH Associates, Inc. as Director of Costing, and became Vice President in 1992. In the past eleven years I have directed studies of the economics of heavy axle load fright cars, quantified the economic benefits of advanced train control systems for railroads, and investigated the economic potential of new technologies in areas as diverse as locomotive design, composite materials, and hot wheel bearing detectors. But a major focus of my work at ZETA-TECH has been the development and application of engineering-based methodologies for assigning track maintenance costs to particular types of rail traffic and particular parts of the railroad. Together with ZETA-TECH's president, Allan Zarembski, Ph.D., I developed the Weighted System Average Cost (WSAC) methodology for assigning costs to tracks and traffics. WSAC has been applied on six North American railroads, and was accepted in December 1995 by the Interstate Commerce Commission as the "best available" methodology for determining the incremental track maintenance cost associated with the operation of a particular type of rail service (e.g. passenger trains).

I. SUMMARY OF PURPOSE

I am submitting this statement at the request of Frank Wolf, Representative from Virginia and chairman of the Transportation Subcommittee of the House Appropriations Committee. The purpose of my statement is to assess the current condition and future prospects for Amtrak, the National Railroad Passenger Corporation, based on testimony and General Accounting Office (GAO) reports with which I have been provided by committee staff.

Amtrak began its operations in 1971. In nearly 30 years, the debate over Amtrak has repeatedly revisited the same issues: Lack of a dedicated funding source; inadequate capital investment; failure to exploit many obvious markets for passenger service; unreliable trains and poor service quality; high cost relative to the service levels provided.

The materials presented in testimony before the Subcommittee by the Federal Railroad Administration and Amtrak tell the same story yet one more time. Again, Amtrak is in crisis. According to FRA, over the next five years Amtrak will receive more funding than it has in any five-year period since its foundation. But again, capital funding is inadequate according to Amtrak, which claims to need double the $2.2 billion in the Taxpayer Relief Act. Over the last four years, Amtrak has attempted a painful restructuring of its operations that has produced the first major service abandonments since 1980. Annual reductions in Federal operating subsidies, along with a failure to realize budgeted economies and revenue increases, have resulted in steadily increasing negative cash flows, to the point that bankruptcy of the corporation is being seriously discussed.[1] Yet at the same time, large investments in high-speed train sets and electrification are being made along the Northeast Corridor, Western states are funding purchase of Talgo tilt-trains and other new rolling stock, and patronage, at least in some areas, is increasing. So the question remains: what is the future of Amtrak? This paper will attempt to develop an objective answer to that question.

II. AMTRAK'S CURRENT CONDITION

A. Operating results

Amtrak is pleased to boast of its increasing revenues. However, a look at Amtrak's own figures tells a somewhat different story than Amtrak chooses to present? What it shows is the following:

Revenues from passenger train operations (tickets, food and beverages, 403b services) have decreased from 70% of total revenues in 1988 to 57% in 1997.

Passenger miles reached their lowest level in ten years in 1996, and are up only slightly for 1997.

Passenger revenue (in current dollars) has been essentially flat since 1990.

The load factor has declined steadily from 53% in 1988 to a low of 46% in 1996, improving slightly to 47% in 1997.

Amtrak is also pleased to boast about the "glide path" to self-sufficiency. While it is true that Amtrak's operating subsidy was only $223 million in 1997, 42% of the 1988 level, this reduction was largely achieved by running an operating deficit. In 1988, with a $532 million operating subsidy, Amtrak ran a year-end surplus of $35 million. Thus, the net loss was only $497 million. In 1997, the year-end deficit was $70 million, and there was also a Federal contribution of $142 million for excess RRTA payments (this amount was included in the 1988 subsidy). Thus, in 1997 Amtrak actually received $444 million and ran a $70 million deficit beyond this, totaling to a net loss of $521 million. It is difficult to see this result as an improvement. Furthermore, Amtrak generated 9% fewer passenger-miles in 1997 than in 1988.

Figure 1 shows Amtrak's sources of revenue over the last ten years. Note that while total revenue has grown by 51% in current dollars, passenger revenue (income from carrying passengers on trains) has grown only 27% in the same period. Amtrak is in effect getting out of the passenger train business, generating increasing amounts of income from contract operation of commuter trains, from real estate, and (most recently) attempting to add express freight services to its trains. [Figures not reproduced.]

In terms of total cash contribution, the commuter service operating contracts generated the largest part of this non-passenger revenue. Carriage of U.S. mail was a distant second. Despite substantial investments in equipment by Amtrak during 1997, the "express" business generated very little revenue, as Amtrak notes in its legislative report. It did, however, generate a great deal of controversy. Amtrak is currently embroiled in a proceeding before the Surface Transportation Board in which Union Pacific Railroad and Conrail are challenging the corporation's right to solicit express traffic on its passenger trains. I will return to this issue at a later point in this paper.

It also must be noted that, in constant (inflation-adjusted) dollars, passenger revenues have been stable since 1989. The selective increases in "yield" that Amtrak notes have simply kept pace with inflation. The improvement in subsidy per passenger over the same period appears to result mainly from an increase in the percentage of short-distance riders (at lower fares and therefore lower subsidy). This is unsurprising, since the majority of the service reductions since 1994 have affected long-distance trains.

B. Ridership trends

Amtrak has trumpeted recent increases in West Coast Business unit patronage. However, the WCBU is the smallest of Amtrak's three Strategic Business Units (SBUs), and only the increase in 1997 (10% over 1996) was large enough to interrupt a secular downtrend in annual passenger miles that had been continuous since 1991.

Passenger miles reached a high (for the Amtrak era) of 6.365 billion in calendar 1979 (the year of the Iranian revolution), and declined thereafter through the mid 1980s. Since then, there has been some growth. However, the most recent peak was in 1991, when Amtrak generated 6.2 billion passenger miles. This number equaled the passenger miles generated by the private railroads in 1970, the last full year of private operation of passenger trains. Passenger miles have declined continuously since (except for 1997).

The number of passengers carried by Amtrak also peaked in 1979 (the year of the Iranian revolution) at 21.5 million. This level of ridership was not reached again until 1988, and was exceeded only in 1990, 1991, and 1993. With the 1995 restructuring, the number of passengers returned to the levels of the late 1970s.[3]

The point of this discussion is that an examination of Amtrak ridership trends reveals no clear trend. Ridership has been stable, with minor increases and decreases, for nearly twenty years. Adjustments to the size of the network appear only to shift ridership from one area to another. Increases on one route or in one market appear to be balanced, in general, by decreases elsewhere. Figure 2 shows trends since 1970.

C. Restructuring and revenue initiatives

Amtrak's attempts at restructuring appear to have failed to achieve the economies claimed for them. Ridership has declined from its 1991 high, and revenues have only kept pace with inflation despite large increases in prices in some markets (as an example, a round-trip Metroliner coach ticket from Philadelphia to Washington cost $96 in 1993. The current price is $156). In fact, there is considerable anecdotal evidence that Amtrak may have exhausted opportunities to increase passenger fares. On the Northeast Corridor, Metroliner fares now equal or exceed prices charged by competing airlines. Elsewhere, the cost of air travel also restrains opportunities for increases. A round-trip from Philadelphia to Jacksonville, FL in an Amtrak sleeping car now exceeds the weekday, unrestricted air fare by about $200.

By its actions, Amtrak appears to have recognized the limited opportunities for increasing fare yield. Instead, the company has pursued real estate development, U.S. Mail contracts, and the movement of "express" traffic. As noted earlier, Amtrak in 1997 realized only 57% of its total revenue from passenger fares, as against 70% in 1998.

The difficulty with Amtrak's apparent strategy is that, to date, it seems to have borne no fruit. The expansion of express traffic, promised in Amtrak's business plan to yield as much as $70 million in incremental annual revenue, is tied up in a Surface Transportation Board proceeding. There may be some additional opportunities in the management of commuter rail operations or in additional mail contracts. However, the volume of mail and express now being carried by Amtrak has already caused the corporation to lengthen schedules (to allow for the extra switching needed, and to allow time for loading and unloading).

The bottom line is that the United States now has less passenger service than in 1988, for about the same subsidy.

III. FUTURE PROSPECTS

A. Real estate and express

Since 1988, when Washington Union Station was opened with great fanfare, Amtrak has attempted to exploit the commercial potential of real estate along the Northwest Corridor and elsewhere. However, real estate revenues have never exceeded $55 million annually, and show no clear growth trend over the last ten years. It appears unlikely that Amtrak will be able to meet its mandate of self-sufficiency through real estate development.

Mail, baggage, and express revenues have doubled, to $70 million annually, in ten years. However, the express business has been much slower to develop. In written testimony provided to the Transportation Subcommittee, George Warrington of Amtrak noted that net revenues from express traffic, forecast at $75 million to $76 million in the September 1997 Strategic Plan, have been reduced to a maximum of $27 million in 1999 and beyond. Even with a favorable STB decision, it appears doubtful that express revenues could close the revenue gap for Amtrak.

B. Payments to freight railroads

Amtrak is really two separate railroads. In the Northeastern U.S., the right-of-way is owned by Amtrak, which allows use of it (for a fee) by commuter and freight railroads. Their payments are used to defray part of the maintenance cost.

Elsewhere in the U.S., Amtrak is almost always a tenant on privately-owned freight railroads, who receive compensation for use of the track. By law, Amtrak pays only the "incremental" cost of this use (defined as the cost that would be avoided should Amtrak cease operating). This cost is very substantially less than what the private railroads typically pay each other for "trackage rights", and accounts for much of the controversy over Amtrak haulage of express traffic. Table 1 compares typical Amtrak payments with those paid by freight railroads to each other.

TABLE 1.—PAYMENTS FOR TRACKAGE RIGHTS

	Basis	Amount per car mile
Freight railroad (typical)	Car mile	$0.20 to $0.30
UP/SP Merger trackage rights to BNSF.	Ton mile	$0.18
Amtrak to freight railroads	Train mile	$0.07 to $0.20, depending on train length
Freight railroads to Amtrak for NEC use.	Car mile	$0.89
Commuter rail operators	Train mile	$1.00 to $2.00

In December of 1995, Amtrak was dealt a setback that is mentioned nowhere in the

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Footnotes at end of article.

GAO reports, the Amtrak Legislative Report, or in testimony. In that month, the Interstate Commerce Commission found for Conrail in a compensation case against Amtrak. Amtrak was directed to pay nearly $3 million per year for use of Conrail trackage. This decision set the pattern for renegotiation of contracts with all private railroads over which Amtrak operated. All contracts expired in 1996. Previously, Amtrak used a formula that reduced the incremental cost of passenger train operation as total railroad traffic volume increased, and this formula had produced costs as low as $0.70 per train mile on some railroads. Following the ICC decision, Amtrak's new contracts have been averaging about $1.00 per train mile for track usage, plus incentives for on-time performance.

The net cost of these new contracts to Amtrak may be as much as $50 million per year, but still does not give the freight railroads the level of payments they would receive from providing trackage rights to each other. As long as the operation of Amtrak trains produces substantially less revenue for the freight railroads than operation of freight trains, Amtrak can expert resistance to initiatives such as the planned move into the express business. Also, the Western railroads are seriously capacity-constrained, as the UP "service meltdown" has made clear. Additions to capacity can be expensive. If these investments must be made as a result of the presence of Amtrak trains, there may be an expectation that Amtrak will pay part, or all, of the cost.

By any objective measures, Amtrak enjoys access to the freight railroad network at "below market" rates. While this may continue, so will the resistance of the freight railroads to expansion of service. Potentially, this resistance could result in increased costs of access for Amtrak in the future, especially if substantial increases in passenger train traffic are proposed.

C. The Northeast corridor

Ownership of the Northeast Corridor (the railroad from Boston to Washington, with branches from New Haven to Springfield, MA and from Philadelphia to Harrisburg, PA) was conveyed to Amtrak by Conrail in 1976 as part of the transfer of assets from the Penn Central estate and other railroads to Conrail, local governments, and commuter rail operators. In the subsequent 22 years, a total of about $2.5 billion has been spent on capital improvements of various kinds. Service on the "southend", from New York to Washington, is generally reliable and quick, with schedules of three and a half hours or less typical for most trains. The "northend" is still operated with diesel locomotives from New Haven to Boston, since the original funding of 1977 and later was insufficient to electrify the railroad. However, electrification is now finally underway, and Amtrak pins many of its hopes for the future on the increased patronage expected from the faster Boston-New York service that will result.

The NEC SBU already carries more than half of Amtrak's passengers. Completion of the northend improvements will only strengthen its position.

The Northeast Corridor (NEC) represents an unusual opportunity for Amtrak. First, it has excess capacity that might be sold to freight operations. Second, it serves the largest urban area and one of the largest ports in America (New York). Amtrak has been ambivalent about increased freight traffic on the NEC, however, despite the announced intention of Norfolk Southern (in its Conrail purchase filing) to greatly increase its freight operations in the corridor. In fact, there was until recently a marked lack of interest on Amtrak's part in even renegotiating the existing Conrail NEC access agreement.

The opportunity for Amtrak lies in more effectively exploiting the NEC for freight operations, and possibly also in a lease/purchase arrangement (possibly with states, port authorities, or an entity specifically created for the purpose) that could make badly needed capital available in return for annual lease payments. The value of the NEC may be large enough to provide the funds Amtrak says it requires.

D. The "glide path"

Amtrak has recognized that certain elements of the September 1997 Strategic Business Plan, such as the projected revenue from express service, are no longer realistic. However, it appears that the "glide path" itself may no longer be a realistic expectation. Amtrak's request to divert part of the $2.1 billion in TRA funds to operating subsidy is a virtual admission that financial self-sufficiency, at present, appears out of reach. Certainly, nothing in the trends of the last 20 years suggests that Amtrak may expect major changes in patronage or revenues short of inventing some radical new way to conduct the business of passenger railroading.

It appears that Amtrak may be caught in a sort of circular argument. Without further capital investment, Amtrak will be unable to enter new markets and compete for new business. However, Amtrak has never had the capital to do this, and has never done it. Perhaps Amtrak's boldest venture was in taking over the "Auto Train" service in 1983. However, this service (which was operated for nearly a decade, at a profit, by Auto Train) is now one of the largest loss-makers among Amtrak trains.[4] Further, its loss per passenger has increased rapidly in recent years. Prospects for changing this trend do not appear bright.

The cumulative result of 26 years of investment in Amtrak has been, essentially, stability. Amtrak's market share has fallen, ridership is stable at a time when air travel and auto travel are both increasing much faster than population growth, and capital funding is insufficient even to keep pace with accumulated depreciation. A continuation of the current state of affairs would appear to guarantee eventual liquidation of Amtrak, not financial self-sufficiency.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusion

Amtrak ridership has shown no clear trend for nearly 20 years after increasing from 1971 through 1979. It is not clear that future increases may be excepted.

Amtrak's rail/air market share has declined from about 8% to only 5.5% over the same period.

Adjusted for inflation, revenues from passenger service has been flat for many years. Only non-passenger sources of income have shown increases.

The decline in subsidy is in large part the result of accounting changes and of Amtrak's decision to post deficits rather than surpluses.

The "glide path" to financial self-sufficiency does not appear realistic or feasible.

Amtrak continues to need large infusions of capital, but no more than stability has been achieved for the estimated $21 billion in government money spent during the 1971–1997 period.

The future of Amtrak clearly lies in short-distance corridors, where the losses are much smaller than for intercity trains. However, with the exception of the NEC, these corridors are owned by freight railroads, which at present have no financial incentive to cooperate with proposed increases in service.

Of the many initiatives to improve Amtrak over the past 26 years, only the Northeast Corridor Improvement Project appears to have had any lasting effect. As Amtrak notes, market penetration in the NEC is the best in America for Amtrak. Amtrak also notes that annual spending on track maintenance is far below levels at New Jersey Transit and other neighboring properties. This is largely a result of the heavy investments made between 1977 and 1985. However, track components installed during those years will eventually require renewal, and additional capital funding.

B. Recommendations

It is almost certainly counterproductive to attempt to continue Amtrak as a national passenger system. A public policy argument may be made for the importance of the NEC. It is very difficult to credibly argue for the essentially of a tri-weekly train serving Arizona and New Mexico.

The Northeast Corridor provides some potential for privatization, a lease/purchase arrangement, or some other means for generating additional investment capital.

Other local services may be supported by individual states, with the Federal role confined, perhaps, to dictating standards that would ensure compatible equipment types.

FOOTNOTES

[1] "Issues Associated With a Possible Liquidation of Amtrak." United States General Accounting Office, March 1998.

[2] "FY 1999 Amtrak Legislative Report and Federal Grant Requests", Amtrak, February 1998.

[3] Statistics are from the *Yearbook of Railroad Facts, 1981 Edition* (Association of American Railroads), Amtrak's 1988 annual report, and Amtrak's *Legislative Report*, 1997.

[4] The GAO report, *Financial Performance of Amtrak's Routes*, shows a calculated loss of $118 per passenger for the Auto Train, one of the highest among all routes.

THE UNIVERSITY OF CALGARY,
Calgary, Canada, May 30, 1998.

Hon. FRANK WOLF,
Chairman, Subcommittee on Transportation and Related Agencies, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: I am writing in reply to your letter of April 28, requesting my perspective on Amtrak's long term viability. I appreciate the opportunity to voice my thoughts on this matter and commend your initiative in reaching out "beyond the Beltway" for input into your committee's deliberations. In order to place my thoughts on Amtrak's future in some context, I would like to say a few words about my own exposure to, and experience, with America's national passenger railroad.

I have had the opportunity to observe Amtrak closely through twenty-two years of using its services, of advocating for their improvement as a board member of the National Association of Railroad Passengers from 1981 to 1991, and of focusing my attention as a policy researcher on its development. The enclosed resume lists my publications in transportation policy, a number of which relate directly on Amtrak. These have appeared in journals ranging from Scientific American to The Journal of Policy Analysis and Management. I would be happy to furnish copies of any of these publications, if you would like to add them to the Subcommittee's reference collection.

The material that you forwarded from your hearing on Amtrak, along with other documents from the FRA, GAO, and Amtrak itself suggests that some aspects of Amtrak's operations and performance have changed considerably over the last few years and others have not. I would like to focus on the relationship between what has changed about Amtrak and what has not changed as my own contribution to your committee's deliberations. I believe that this, arguably idiosyncratic, measure offers important clues to Amtrak's long term viability.

I will not go into great detail on the changes in Amtrak's operations and performance that have occurred over the last five years since they are well documented in your committee's record and will likely be analyzed with greater expertise and firsthand experience by others writing to you. From my perspective, changing both the internal workings of the corporation (through decentralization into Strategic Business Units) and the external terms by which it is regulated (Amtrak Reform & Accountability Act) and subsidized (Taxpayer Relief Act) have been important steps forward toward a future in which passenger trains play a more productive role in America's intercity transportation, they do not in themselves guarantee Amtrak's viability.

The Amtrak Reform & Accountability Act creates substantial opportunities for enhancing productivity and real, but more limited, chances for raising revenues. The magnitude of these changes depends on implementing many initiatives that are only just beginning. My guess is that the full impact of these changes will become apparent in three to five years. Furthermore, that impact will depend on the interaction of re-engineered operations with renewed investment in Amtrak's physical plant. Such reinvestment occurring through the Taxpayer Relief Act will certainly pay dividends through this period, estimated by Amtrak at $180 million in additional revenue. This result is impressive, but is not sufficient to fund the cost of operating a national system of intercity passenger trains, even a more efficient and effective one. In my view, what has changed at Amtrak, and around its legislation and finances, takes the company toward viability, but not all the way there.

This is why I would suggest that what has not changed about the way passenger trains fit into America's transportation system remains a crucial component of Amtrak's long term viability. Despite the sometimes heroic efforts of individuals (both Amtrak executives and legislators) to remedy to corporation's dysfunctional place in America's transport sector, the fact remains that the intercity passenger train remains an institutional orphan among U.S. transportation modes. Indeed, the recent changes launched by legislative reform are themselves the product of compromises that fell short of bringing Amtrak "inside the tent" of the planning and finance process that now applies to all other transport modes. Instead of dedicating federal transportation revenues to intercity passengers rail in the same way that they are spent on aviation, highways, and transit, the Taxpayer Relief Act created a funding alternative by fiscal sleight of hand. Without detracting from the importance of these funds and the achievement of legislators who enacted this compromise, such fiscal gimmickry will not make Amtrak viable over the long run.

Making it possible for states to spend federal transportation dollars on intercity rail projects under the same administrative, economic, and political terms as they do for airports, highways, or urban transit holds the key to Amtrak's long run viability. Although such a reform lies well beyond the jurisdiction of your subcommittee, I remain optimistic that the current round of initiatives will make it easier to build the consensus that passenger trains belongs on the same policymaking agenda as America's other transportations modes. This will occur as Amtrak's enhanced services demonstrate the economic and social contribution that passenger trains could make across America, a contribution that can be maximized by managing passenger trains with the same framework as other transport modes. In this way, today's reform process is a necessary step on the way to long run viability for Amtrak, and I would encourage you and your colleagues to facilitate the process by appropriating the funds that have been requested by the Administration and Amtrak. Along with the TRA capital funding, they represent an essential down payment on the future American transportation system—a future in which the prohibition on spending certain kinds of public revenue for intercity passenger trains will eventually come to appear as arbitrary and inappropriate as the 18th Amendment's prohibition on the manufacture, sale and transportation of liquor.

The administrative and fiscal integration of passenger trains into America's intercity transportation system will require significant additional reforms to the way Amtrak does business. My colleague James Dunn and I sketched out some possible scenarios of how such a transformation would play out in our contribution to Transportation Research Circular number 484, "National Conference on Critical Issues for the Future of Intercity Passenger Rail." Our article is entitled "Institutional Challenges: Making Rail Revitalization Happen." You may find this analysis of interest.

I wish your subcommittee well in its deliberations.

Sincerely,

ANTHONY PERL,
Director, Research Unit
for Public Policy Studies.

UNIVERSITY OF ILLINOIS
AT CHICAGO,
Chicago, IL, July 13, 1998.

To: The Honorable Frank R. Wolf, Chairman, Subcommittee on Transportation and Related Agencies, Committee on Appropriations, House of Representatives, Rayburn Building, Washington, DC.

From: Anthony M. Pagano, Ph.D., Associate Professor of Management.

Re Amtrak's Long Term Future Financial Viability

I have carefully reviewed the testimony given before your Subcommittee this past spring concerning Amtrak's appropriations request and the analysis of Amtrak's financial condition by the GAO. I agree completely with the GAO analysis. I do not believe that Amtrak is on a path to achieve financial independence. On the contrary, the more liberal definitions of capital costs have allowed Amtrak to use capital funds for previously classified operating purposes. The long term impact of these decisions on Amtrak's future capital needs have yet to be determined.

The financial problems experienced by Amtrak are symptomatic of a larger problem when government attempts to act as a producer of goods and services. Government is an inappropriate mechanism to provide long distance rail passenger services. As long as government continues to subsidize and operate Amtrak, there will always be deficits. This is why former socialist and communist countries are in the process of transferring their State Owned Enterprises (SOE's) to the free market. It is time that the federal government does the same with Amtrak.

PRIVATIZATION SUCCESSES IN TRANSIT

Privatization of mass transit operations have taken place in many cities across the United States and around the world. These successes are indicative of the possible positive impacts that privatization of Amtrak can have. For example:[1]

Los Angeles Contracted out bus service to private operators resulting in a 60% reduction of the costs of providing service. Quality of service also has risen with the use of private contractors.

In Colorado, state legislation required Denver to contract out 20 percent of its transit service to private operators. This has resulted in a long term savings of 31.0 percent.

San Diego Contracted out 38 percent of its service with an average cost savings of 30 percent.

The city of Las Vegas contracts out its entire system. Costs per vehicle hour dropped by 33.3 percent.

Foothills Transit outside Los Angeles Contracts out its entire system to private operators. Its ridership has risen by over 50 percent, it has added 57 percent more service, its operating costs have fallen by 31 percent and its fares are 37 percent lower.

London, which operates the world's largest bus system, has privatized over half of its system. Services have expanded by 29 percent and operating costs have fallen by 30 percent.

Stockholm runs a 2,000 bus system with 900 rail cars. It contracts out two thirds of its bus service and all rail service. Operating costs have fallen 17 percent while service has been increased by 13 percent.

Metra, the commuter rail division of the RTA in the Chicago metropolitan area, contracts out most of its service to the freight railroads. Metra is the only public transit service board in the Chicago area to consistently experience ridership increases. By contrast, CTA ridership has declined by 40% over the last 10 years.

NEW APPROACH TO PUBLIC SECTOR MANAGEMENT

Amtrak today represents the old style public sector management that relies on service cuts and increased public sector subsidy. A new approach to public sector management is sweeping the world. The new approach to public sector management recognizes the inherent inefficiencies in public sector monopoly provision of services. It also recognizes that the public sector must rely to a greater extent on the competitive forces of the free market to provide services. Only through a competitive marketplace will the incentives to be efficient, to provide high levels of customer service, to give taxpayers a fair return be effective. This new management approach relies heavily on the private sector to provide services. Privatization can be achieved through competitive contracting of rail services, private sector management of entire systems, or outright sale of services to the private sector.

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[1] For further information, see Pagano, Anthony M. An Analysis of Proposed CTA Service Cuts: New Public Sector Management Alternatives, Metropolitan Transportation Association, Oak Brook, IL, May 1997, and Cox, Wendell, and Love, Jean, Rescuing Transit in Chicago, Redirecting CTA to Serve Customers First, Metropolitan Transportation Association, Oak Brook, IL, March, 1998.

The new public sector management is not just confined to transit. China, Russia, many of the former Eastern Bloc countries and many South American countries are reforming and privatizing their SOE's. From transit to railroads to steel to agriculture, the new public sector management is sweeping the world.

APPROACHES TO PRIVATIZATION

There are several approaches to privatization that can yield benefits in terms of reduced government subsidy, improved efficiency of operations and increased ridership.

Asset Sales—Asset sales involve selling the assets to the private sector, which then would be charged with providing the service. Asset sales generally involve three types. One is Citizen Share-Purchase in which citizens can purchase shares of stock in the privatized enterprise through an initial public offering. This is what was done with CONRAIL with great success. A second approach is Voucher Privatization where there is universal distribution of stock to all citizens. An option is to provide additional stock to existing employees. Voucher privatization has been used in South America, Canada, the Czech Republic and other places. A third option is to sell the assets to another enterprise.

An asset sale could be very successful with the Northeast Corridor SBU. This service is currently running a slight profit according the GAO, so that an asset sale could be very successful. It would signal that government is getting out of the railroad business entirely in this part of the country.

Competitive Contracting. With competitive contracting, the ownership of the enterprise is retained by the government. The actual production is done by the private sector under contract with the government enterprise. Competitive contracting harnesses the power of the marketplace to more efficiently deliver services. A variation on competitive contracting is to contract out the entire operation to one firm which would then manage the enterprise for the government.

Competitive contracting could be utilized in the rest of the AMTRAK system, where break-even operations seem most elusive. Government would subsidize services and oversee route planning, fares and other strategic matters. New style public sector management approaches could be utilized to provide incentives for private sector contractors to increase service quality and ridership. Eventually, as ridership and operating ratios improve, much of this service could be spun off to the private sector in an asset sale as well.

Whichever approach is utilized, it imperative that the federal government begin to move away from the never ending subsidies of AMTRAK and embrace a fundamental change in the way rail passenger service is provided in the United States. Without such structural changes, AMTRAK deficits will be a continuing feature of the federal budget well into the next millennium and beyond.

U.S. DEPARTMENT OF TRANSPORTATION,
Washington, DC, May 28, 1998.
Hon. FRANK R. WOLF,
Chairman, Committee on Appropriations,
U.S. House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for providing the Office of the Inspector General with the opportunity to provide input on Amtrak's financial future.

The issues you asked us to address concerning Amtrak's long-term viability are similar to those raised in November 1997, when Congress passed the Amtrak Reform and Accountability Act. In the Act, Congress asked the Secretary of Transportation to contract for an independent assessment of Amtrak's financial needs through Fiscal Year 2002. I am pleased to inform the Committee that following a competitive bid process and upon appropriation of funds in the Emergency Supplemental Appropriations Act, this contract was awarded on May 5, 1998. The Office of Inspector General is tasked with overseeing this contract, and we believe that when this assessment is completed in November 1998, we will be in a better position to comment on Amtrak's long-term viability. In the interim, we expect to have significant, preliminary results in August that we will share with you and your staff.

We believe the results of this assessment will provide the most accurate indication of Amtrak's future viability and financial requirements. However, in addressing the question of Amtrak's future viability, it may be advisable for Congress to consider providing more specific guidance on what the term "viability" actually means. When Congress mandated that Amtrak eliminate its need for operating assistance, the structure of Amtrak's Federal funding assistance was very different than what is currently being proposed. Prior to the FY 1999 budget request, Amtrak received a separate capital and operating subsidy. This year, however, Amtrak is requesting only capital assistance, with the flexibility provided through the "transit definition" of capital, to use these funds for costs traditionally considered operating costs. While technically, Amtrak will not receive an operating subsidy, this more flexible definition of capital will in effect, allow Amtrak to extract operating assistance from its capital appropriation. It is important to note that Amtrak has never anticipated eliminating its need for a Federal capital subsidy. As such, in light of the proposed change in the definition of capital, Congress may want to consider providing more specific guidance on how viability—or operating self-sufficiency—will be measured.

If I can answer any questions or be of further assistance, please contact me on 366-1959, or Raymond J. DeCarli, Deputy Inspector General, on 366-6767.

Sincerely,

RAYMOND J. DECARLI,
(For Kenneth M. Mead, Inspector General).

Mr. Chairman, I wish to recognize and thank those assciate staff members who supported the Members of this House in the preparation and passage of the fiscal year 1999 Transportation and Related Agencies Appropriations Bill, H.R. 4328: David Whitestone of my office, Monica Vegas Kladakis of Majority Whip DELAY's office, Connie Veillette of Mr. REGULA's office, Mike Robinson of Mr. ROGERS' office, Eric Mondero of Mr. PACKARD's office, Todd Rich of Mr. CALLAHAN's office, Joe Cramer of Mr. TIAHRT's office, Mark Zelden of Mr. ADERHOLT's office, Paul Cambon of Chairman LIVINGSTON's office, Marjorie Duske of Mr. SABO's office, Albert Jacquez and Nancy Alcalde of Mr. TORRES' office, David Oliveira of Mr. OLVER's office, Blake Gable of Mr. PASTOR's office, Dana Gresham of Mr. CRAMER's office, and Paul Carver of Mr. OBEY's office.

Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I congratulate the gentleman from Virginia (Chairman WOLF) on a good bill. It is a bill that deserves to be passed this evening. There are two or three rough spots that have to be worked out, in particular the Coast Guard clearly needs some additional money, but this is a good bill.

Let me in specific thank the staff that has worked very hard on this bill. From the minority staff Cheryl Smith and Marjorie Duske, the majority staff, John Blazey, Rich Efford, Stephanie Gupta, Linda Muir and David Whitestone. The committee, with their aid, has produced a very good bill.

Mr. Chairman, the evening is late. I am ready to vote, but I think we may have a couple of amendments and a couple of colloquies.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

(Mr. OBERSTAR addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Chairman, I would ask the gentleman from Virginia (Mr. WOLF) just to one moment go back to the statement on the Coast Guard. I hope that he will do everything he said here today to try to add funding.

Clearly, the R&D function is woefully underfunded. And I would also hope that we would give the Coast Guard some latitude within its budget to move funds around as well in this kind of very tight situation.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I appreciate the gentleman's comments. If there is any additional allocation for Defense, which many people believe there will be, we will make every effort to see that the Coast Guard participates in that and meet the gentleman's concerns.

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, I thank the gentleman for that.

Mr. Chairman, I have an amendment at the desk.

In any given year, the Coast Guard saves thousands of lives, assists tens of thousands of people, and prevents millions of dollars of property damage.

Their fleet of 250 cutters, 225 aircraft and over 2,000 small rescue and utility craft are, as their motto proclaims, "always ready, always there."

But instead of preparing the Coast Guard for the twenty-first century, this bill cuts crucial funding for research and development by $7 million below FY 98 and $6.3 million below the request.

Research and development is not an esoteric exercise. This work contributes directly to the work that Coast Guard personnel perform in the field every day.

This budget will stop research on:

IMPROVED SEARCH AND RESCUE

Through the R&D program, the Coast Guard has developed a system using Global Positioning System (GPS) to dramatically improve response time during search and rescue missions.

When a boat capsizes in the frigid Atlantic or in Alaska or in the rough currents off Hawaii and California, more rapid response means the difference between life and death.

FIRE PREVENTION AND SAFETY

The R&D program conducts full-scale fire tests aboard actual ships, making this a unique laboratory for exploring how fire reacts on ships. This research translates directly into improved safety.

The recent fire aboard the *Ecstasy* cruise ship—which had over 2,000 people onboard—demonstrates the importance of developing quick responses to these catastrophes.

The Coast Guard is also conducting research to improve fire safety on the Coast Guard cutters. This directly contributes to the safety of the men and women in uniform on those ships.

OTHER PROGRAMS

Improvements in aid to navigation, vessel management systems, even drug interdiction are all the result of the R&D program. Make no mistake about it—this cut will compromise the safety of the American people and the men and women in the Coast Guard.

The Coast Guard is the guardian of our coastline. They risk their lives everyday to protect us. We should be helping, not hindering their mission.

Research and development leads to advancements that improve the Coast Guard's everyday activities. A cut of this magnitude will seriously impair the Coast Guard's ability to perform its duties.

Let's help the Coast Guard do what they do best—protecting our waters and saving lives.

Mr. SABO. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise for the purpose of entering into a colloquy with the gentleman from Northern Virginia (Mr. WOLF), the chairman of the subcommittee and my friend.

Mr. Chairman, I am one of the representatives of the only region in the country with two airports, governed by the High Density Rule, LaGuardia and John F. Kennedy. Since last October, the Secretary of Transportation has granted 30 slot exemptions to the High Density Rule at LaGuardia with little, if any, examination of the impacts on aviation safety, flight delays, and aircraft noise that are occurring from this increased traffic.

Numerous communities in the New York metropolitan area are very concerned about the situation, and I would like to ask for the gentleman's assistance in working with me and other Members from New York in having the FAA examine these potential adverse impacts.

Mr. Chairman, we need to have a study done of the average flight delays at the airport, whether the additional flights are making it more difficult for air traffic controllers in manage the region's air traffic, and if there is an appreciable increase in aircraft noise. This is a very serious issue, both for the traveling public and the residents on the ground.

Mr. WOLF. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I agree with the gentlewoman from New York (Mrs. LOWEY) and I understand the very, very legitimate concerns of the residents of New York about the increased air traffic and I will do everything I can to work with the gentlewoman and the FAA administrator to guarantee that this report is underway as soon as possible.

□ 2310

If the gentlewoman needs to, we can have a joint meeting with the FAA administrator.

Mrs. LOWEY. I thank the gentleman, and I look forward to working with him.

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Chairman, I rise for the purpose of a colloquy with the chairman.

Southwest Florida is one of the fastest growing areas in the Nation. Consequently, the airport serving this area, Southwest Florida International Airport, has been operating above capacity for some time. Anybody who has been there knows that. In fact, Southwest Florida International Airport has experienced an average annual growth of 9.2 percent during the past 10 years.

Because of this growth, the airport has begun an expansion project called Project Millennium which would include construction of a new terminal and runway. Project Millennium is the State of Florida's number one funded airport project, and it has also received discretionary funds from the FAA.

Southwest Florida International Airport has requested a letter of intent from the FAA to ensure long-term commitment to Project Millennium. In light of our commitment to fiscal responsibility, I am pleased to report that the airport has reduced the Federal share of the project to 24 percent of the total cost.

I would ask the gentleman from Virginia (Mr. WOLF) to consider including language in the transportation appropriations conference report expressing congressional support for Southwest Florida International Airport's request for a letter of intent. I understand that Senator MACK and Senator SHELBY of the other body have reached a similar agreement regarding the inclusion of this provision in the conference report.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I thank the gentleman from Florida for making me aware of the very intense growth of the Southwest Florida area and the planned expansion of the Southwest Florida International Airport. Because of its location, it is a wonderful place to visit, I understand, particularly in the winter, not always in the summer.

The Southwest Florida International Airport is essential in maintaining Florida's balanced airport system. This project is worthy of a long-term commitment, a very long-term commitment by the FAA. I will do all I can to ensure the conference report on the transportation appropriation contains language to encourage the FAA to grant Southwest Florida International Airport's request for a letter of intent.

Mr. GOSS. Mr. Chairman, I thank my colleague from Virginia for his commitment and support of Southwest Florida International Airport and invite him to participate in its use at any time during the year. It is a marvelous place.

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Chairman, I rise to engage with the chairman of the Subcommittee on Transportation in a colloquy.

Mr. Chairman, in an effort to construct an additional crossing of the Ocmulgee River through the City of Macon, Georgia, Federal, State and local officials have been working together for over 20 years to extend the Eisenhower Parkway, but to no avail. This additional crossing will improve access to and for hospitals, firefighting, and other public safety organizations, as well as improve the circulation of traffic into and through Macon, aiding the economic revitalization of the community and the creation of even more jobs. In addition to the economic impact and easing Macon's traffic problems, this project could be used to link middle Georgia with a multi-lane Statewide corridor connecting Macon with the cities of Augusta and Columbus.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. CHAMBLISS. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, the committee appreciates the importance of the Eisenhower Parkway extension to the gentleman's district in the State of Georgia and recognizes the commitment Congress has made in the past with funding for the project.

Mr. CHAMBLISS. Mr. Chairman, currently the project in Macon is virtually at a standstill as a result of bureaucratic delays, incurring additional costs to the taxpayer because of governmental agencies' inability to complete the approval process.

Mr. Chairman, will the committee agree that unnecessary delays can result in additional costs that could be avoided if project approvals were completed in a timely manner.

Mr. WOLF. Mr. Chairman, if the gentleman will continue to yield, the gentleman is correct. The committee's desire is for the projects to move forward consistent with all applicable rules and regulations in a timely and efficient manner, thereby avoiding additional costs associated with unsubstantiated delays.

Mr. CHAMBLISS. Mr. Chairman, I believe that this project in Macon and Bibb County, Georgia could serve as a model of interagency cooperation. As the gentleman is aware, Congress recently enacted legislation directing the Department of Transportation to develop and implement a coordinated environmental review process whereby all reviews will be done concurrently rather than sequentially; thus, moving the process along in an expedient manner under the national Environmental Review Act.

Mr. WOLF. Mr. Chairman, if the gentleman will continue to yield, upon forwarding all essential documents to the appropriate Federal agencies by the State and local offices, the committee expects the Federal Highway Administration and other Federal resource agencies to streamline and expedite the review for all projects, including this particular one, consistent with NEPA.

Mr. CHAMBLISS. Mr. Chairman, I thank the gentleman for the clarification of this matter, and I thank the gentleman for the leadership he provides to this committee.

Mr. SABO. Mr. Chairman, I yield 30 seconds to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Mr. Chairman, I thank the honorable Member for yielding me the time.

I rise in strong support of H.R. 4328. I want to thank the gentleman from Virginia (Mr. WOLF), the chairman, and the gentleman from Minnesota (Mr. SABO), the ranking member, and every other member of this Subcommittee on Transportation for this excellent bill.

On September 12 of this year in my district, a crowd of 25,000 people is expected to attend the grand opening celebration of the Westside Light Rail project. I am pleased that this bill before the House includes the $25.7 million for this project, an amount equal to the full funding grant agreement.

Westside Light Rail will be the crown jewel of Oregon's transportation system, and I thank the chairman and the ranking member for their help in this project.

Mr. Chairman, I rise today in strong support of H.R. 4328, FY 99 Transportation Appropriations. I want to thank Mr. WOLF, Mr. SABO, and every member of the Transportation Subcommittee for producing an excellent bill. I know the passage of the TEA–21 bill made the Subcommittee's work more difficult than usual, and I wanted to publicly acknowledge their efforts.

On September 12th of this year, in my district, a crowd of over 25,000 people is expected to attend the Grand Opening Celebration of the Westside Light Rail project. When I was elected to represent Oregon's First District in 1992, one of my top priorities was to ensure that the Westside Project was completed on time. I am pleased that the bill before the House today includes $25.7 million for this project, an amount equal to the full funding grant agreement.

As many people know, the Westside Light Rail project is a national model of the benefits of effective land-use planning. It is also the first transit system in North America to use low-floor cars which are fully ADA accessible, and I had the fortune of driving one of these new vehicles earlier this summer. Because I am retiring at the end of this Congress, it is reassuring to know that H.R. 4328 will allow the Westside Light Rail project to open on time in September.

I also want to thank the Chairman for two additional items in H.R. 4328. First, the bill fully funds a bus authorization that will help our local transit agency upgrade new bus lines that serve Portland's suburbs, helping them operate efficiently with the new Westside Light Rail line. In addition, at my request, the Subcommittee including language on the South-North Project which is the next building block in our region's long-term transportation plan.

I want to thank Mr. WOLF, Mr. SABO, and the entire Subcommittee for their unwavering and generous support for this project over the past six years. The citizens of my entire district owe this Subcommittee a tremendous debt of gratitude. It has been an honor to work with the Subcommittee on these issues, and I urge my colleagues to support H.R. 4328.

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. LOBIONDO).

Mr. LOBIONDO. Mr. Chairman, I rise to engage the chairman in a colloquy.

As a member of the committee that authorizes U.S. Coast Guard operations, I am deeply concerned by the advanced age of the Coast Guard's vessels, aircraft and technology. This problem is beginning to hamper the Coast Guard's ability to conduct vital antidrug operations.

As the gentleman well knows, Mr. Chairman, the Coast Guard is America's first line of defense on the high seas against drug lords and cartels that are bent on putting their deadly products in the hands of our Nation's children. It is the responsibility of Congress to ensure that the Coast Guard is equipped with the most advanced equipment to perform their counterdrug mission effectively.

The Coast Guard has a modernization program called the Deepwater Capabilities Replacement project, which would overhaul all the Coast Guard's assets. Deepwater represents the 21st century Coast Guard.

The Clinton administration sought to delay Deepwater through the establishment of a Presidential Advisory Council on Coast Guard roles and missions. I would like to thank the chairman for seeing through this delaying tactic and preventing this unnecessary and expensive commission from going forward.

Instead, this bill provides for a smaller panel of former Coast Guard commandants and other officials not to exceed $1 million.

My question, Mr. Chairman, relates to this provision. Can I get an assurance from the gentleman that the establishment and activities of the blue ribbon panel will not in any way prevent the Coast Guard's Deepwater modernization program from going forward?

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. LOBIONDO. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, the administration's roles and missions Presidential Advisory Council would have come at a great cost to the Coast Guard's operating budget. Despite the announcement of this commission several months ago, the administration has not appointed this council.

The gentleman is correct. In disapproving the administration's plan and setting up in its place the blue ribbon panel contained in the bill, it is our intention that the Coast Guard's modernization effort, Deepwater, should not be held up pending the result of this panel.

There is nothing in the bill or report which would indicate these two efforts should be linked. We expect Deepwater to proceed independently of the blue ribbon panel. By having the former commandants look at this, there will be some historical factors, because much of what the Coast Guard has is so old that the more attention we can bring to it, I think the better it is for the Coast Guard, for search and rescue, drug interdiction and everything else.

Mr. LOBIONDO. Mr. Chairman, I thank the gentleman.

□ 2320

Mr. WOLF. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I would like to engage the gentleman from Virginia, the distinguished chairman of the subcommittee, in a colloquy.

Mr. Chairman, Operation Respond is a nonprofit public-private partnership between railroads, motor carriers and America's emergency responders. Operation Respond allows emergency responders to determine whether or not there is hazardous material at an accident site and to get the information that they need to safely handle hazardous materials incidents. The true benefit of the Operation Respond partnership is that it saves minutes and often hours in obtaining critical action information and it brings an extra dimension to surface transportation safety. The Operation Respond Institute was created in 1992 as a cooperative effort between the Federal Railroad Administration and the Port Terminal Railroad of Houston, Texas. It is jointly funded by the U.S. Department of Transportation, rail and motor carriers, and the National Institute of Occupational Safety and Health.

This is a critical time, Mr. Chairman, for the Operation Respond program. All of the major railroads now participate, and efforts are under way to expand the program in the motor carrier industry. If adequately funded, Operation Respond will expand its protection of emergency personnel and the public throughout the Nation.

Last year, the Transportation appropriations bill for fiscal year 1998 under your leadership provided $1 million under the Federal highway program and $103,000 under the Federal Railroad Administration for Operation Respond. Are there any funds, Mr. Chairman, for this important program in the Transportation appropriations bill?

Mr. WOLF. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, $103,000 has been appropriated for Operation Respond under the Federal Railroad Administration. No other funds have been appropriated.

Mrs. MORELLA. Mr. Chairman, by matching the funding for Operation Respond to last year's levels, we can help this very important program achieve a realistic goal of expanding installations to an estimated 2,000 Emergency Respond dispatch centers across the country.

Mr. Chairman, emergency responders, fire, police and medical personnel, need help as never before in gauging the correct response to transportation incidents. As we know too well from the recent tragic incident in the Capitol, it is really those very first few critical minutes that the first responders must take actions to accurately assess the situation, safeguard lives and property and prepare the scene for arriving fire and medical responders. Operation Respond is a program that works, Mr. Chairman.

Mr. WOLF. You are so convincing, I just agree with you that this is a worthwhile program, and I will consider ways in which to continue to fund Operation Respond.

Mrs. MORELLA. Mr. Chairman, I feel very passionately about the importance of the program as the gentleman can tell.

Mr. WOLF. I can tell.

Mrs. MORELLA. I urge my colleagues to support the Transportation appropriations bill, and I look forward to working with the gentleman maybe even in conference to do more with it.

Mr. WOLF. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding. I want to thank the committee and the chairman for their efforts to increase the amount of money put into the Coast Guard budget. I especially want to thank the committee in their endeavors to try to find moneys to put into and increase the interdiction budget for the Coast Guard. The administration has lacked boldness and intensity in its effort to engage the problem of drug interdiction into this country. Mr. Chairman, I do think we need to continue to look for further resources. You have mentioned some examples a little bit earlier. I would also like to continue to pursue further funds in the conference committee. The interdiction that the Coast Guard provides for this country, I think, is very misunderstood by most Americans and many Members of Congress. We have a finite border in the United States. It is not infinite. With the collaborative efforts of the Coast Guard, Customs, DEA, military services and other agencies, it is possible, we have seen plans time and time again, we have seen examples of when these plans are put into effect that we could cut, we could interdict 80 percent of the drugs coming in by sea by the year 2007. It is possible. But we need to generate the resources in a collaborative fashion to make these predictions come true and they can come true.

I as well as all of us here believe in many types of drug treatment, public and private. We believe in educational programs. I even believe in the graphic TV commercials that are put on television. We must do everything we can to reduce drug use and drugs coming into this country. It is possible if we work together to make this happen. I applaud the committee and their efforts to do so.

I have one other comment in this bill, Mr. Chairman. There is some money taken from the fisheries program which helped bump up the money in the interdiction end of the Coast Guard process. I have a problem with that. We need more money in the interdiction program, that is true, but we have 2.25 million square miles of coastal waters that the Coast Guard needs to enforce our fisheries regulations. What do they do? They have search and rescue for fishermen, they provide enforcement so that many countries, mostly foreign, cannot use these high sea drift nets which are 25 miles long and longer. We protect the billions of dollars in the industry that this country depends upon. Fisheries is an important part of this program. It is an important part of this country. The Coast Guard not only enforces the safety aspect of this and saves people's lives at sea but they stop dead in their tracks foreign fishing vessels from encroaching on our waters.

Mr. Chairman, once again I want to thank the gentleman from Virginia for his effort in this. The Coast Guard is one of those unseen entities that we need to continue to encourage, and I look forward to working with him.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I completely agree. We want to crack down on poaching of Forrest Gump in the gulf and people are doing that.

Mr. GILCHREST. Absolutely.

Mr. WOLF. If we do have any other allocations which I hope we will at the end for defense, we plan on asking for some of that so we can beef up the Coast Guard in many of these areas, including additional funding in the area of drug interdiction.

Mr. GILCHREST. I thank the gentleman.

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Chairman, I would like to engage the distinguished gentleman from Virginia in a colloquy.

Is it the chairman's understanding that under current law, the Secretary of Transportation may not close a Coast Guard boat station or subunit unless the Secretary determines the remaining search and rescue capabilities can continue to maintain the safety of the public in that area?

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Virginia.

Mr. WOLF. The answer to that question is yes.

Mr. CAMP. Mr. Chairman, is it the chairman's understanding that a Coast Guard station or subunit cannot be closed unless the Secretary determines the Coast Guard search and rescue standards related to search and rescue times are met?

Mr. WOLF. The gentleman is correct.

Mr. CAMP. Mr. Chairman, is it the chairman's understanding that under current law if the Coast Guard plans on closing a station, the Coast Guard must provide an opportunity for public comment and for public meetings in the area of the station with regard to the decision to close the station or subunit?

Mr. WOLF. The answer is yes.

Mr. CAMP. Is it the chairman's understanding that the Coast Guard has no immediate plans to close any boat stations?

Mr. WOLF. Somehow I want to say no, but the answer is yes.

Mr. CAMP. I thank the gentleman from Virginia for working so diligently on behalf of our Nation's infrastructure needs and clarifying these questions.

Mr. SABO. Mr. Chairman, I yield back the balance of my time.

Mr. WOLF. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendments printed in House Report 105–651 are adopted and the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Immediate Office of the Secretary

For necessary expenses of the Immediate Office of the Secretary, $1,623,800.

Immediate Office of the Deputy Secretary

For necessary expenses of the Immediate Office of the Deputy Secretary, $585,000.

Office of the General Counsel

For necessary expenses of the Office of the General Counsel, $8,895,000.

Office of the Assistant Secretary for Policy

For necessary expenses of the Office of the Assistant Secretary for Policy, $2,667,200.

Office of the Assistant Secretary for Aviation and International Affairs

For necessary expenses of the Office of the Assistant Secretary for Aviation and International Affairs, $7,002,200: *Provided,* That notwithstanding any other provision of law, there may be credited to this appropriation up to $1,000,000 in funds received in user fees.

Office of the Assistant Secretary for Budget and Programs

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $6,069,300, including not to exceed $40,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine.

Office of the Assistant Secretary for Governmental Affairs

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $1,672,000.

Office of the Assistant Secretary for Administration

For necessary expenses of the Office of the Assistant Secretary for Administration, $19,147,100.

Office of Public Affairs

For necessary expenses of the Office of Public Affairs, $1,377,600.

Executive Secretariat

For necessary expenses of the Executive Secretariat, $1,046,900.

Board of Contract Appeals

For necessary expenses of the Board of Contract Appeals, $675,500.

Office of Small and Disadvantaged Business Utilization

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $839,200.

Office of Intelligence and Security

For necessary expenses of the Office of Intelligence and Security, $961,100.

Office of the Chief Information Officer

For necessary expenses of the Office of the Chief Information Officer, $4,400,000.

Office of Intermodalism

For necessary expenses of the Office of Intermodalism, $1,018,000.

Office of Civil Rights

For necessary expenses of the Office of Civil Rights, $6,966,000.

Transportation Planning, Research, and Development

For necessary expenses for conducting transportation planning, research, systems development, and development activities, to remain available until expended, $3,035,000.

Transportation Administrative Service Center

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $109,124,000, shall be paid from appropriations made available to the Department of Transportation: *Provided,* That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further,* That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further,* That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: *Provided further,* That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

Minority Business Resource Center Program

For the cost of direct loans, $1,500,000, as authorized by 49 U.S.C. 332: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $13,775,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

Minority Business Outreach

For necessary expenses of Minority Business Resource Center outreach activities, $2,900,000, of which $2,635,000 shall remain available until September 30, 2000: *Provided,* That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

Amtrak Reform Council

For necessary expenses of the Amtrak Reform Council authorized under section 203 of Public Law 105–134, $450,000, to remain available until September 30, 2000.

COAST GUARD

Operating Expenses

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,700,000,000, of which not to exceed $4,000,000 shall be for the establishment and operating costs of a Caribbean international support tender, to train and support foreign coast guards in the Caribbean region; of which $300,000,000 shall be available for defense-related activities; and of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That the number of aircraft on hand at any one time shall not exceed 212, exclusive of aircraft and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further,* That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839: *Provided further,* That up to $615,000 in user fees collected pursuant to section 1111 of Public Law 104–324 shall be credited to this appropriation as offsetting collections in fiscal year 1999: *Provided further,* That none of the funds in this Act shall be available for the Coast Guard to plan, finalize, or implement any regulation that would promulgate new maritime user fees not specifically authorized by law after the date of enactment of this Act.

Acquisition, Construction, and Improvements

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $389,000,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $227,913,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2003; $39,400,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2001; $30,314,000 shall be available for other equipment, to remain available until September 30, 2001; $42,923,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2001; and $48,450,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 2000: *Provided,* That funds received from the sale of HU–25 aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity: *Provided further,* That the Commandant may dispose of surplus real property by sale or lease and the proceeds shall be credited to this appropriation, of which not more than $3,000,000 shall be credited as offsetting collections to this account, to be available for the purposes of this account: *Provided further,* That the amount herein appropriated from the General Fund shall be reduced by such amount: *Provided further*, That any proceeds from the sale or lease of Coast Guard surplus real property in excess of $3,000,000 shall be retained and remain available until expended, but shall not be available for obligation until October 1, 1999.

Environmental Compliance and Restoration

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $21,000,000, to remain available until expended.

Alteration of Bridges

For necessary expenses for alteration or removal of obstructive bridges, $12,000,000, to remain available until expended.

Retired Pay

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $684,000,000.

Reserve Training

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $69,000,000: *Provided*, That no more than $20,000,000 of funds made available under this heading may be transferred to Coast Guard "Operating expenses" or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve: *Provided further*, That none of the funds in this Act may be used by the Coast Guard to assess direct charges on the Coast Guard Reserves for items or activities which were not so charged during fiscal year 1997.

Research, Development, Test, and Evaluation

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $12,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

FEDERAL AVIATION ADMINISTRATION

Operations

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities and the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, and carrying out the provisions of subchapter I of chapter 471 of title 49, United States Code, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104-264, $5,532,558,000, of which $2,060,000,000 shall be derived from the Airport and Airway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the Federal Aviation Administration to plan, finalize, or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further*, That no more than $28,600,000 of funds appropriated to the Federal Aviation Administration in this Act may be used for activities conducted by, or coordinated through, the Transportation Administrative Service Center (TASC): *Provided further*, That none of the funds in this Act may be used for the Federal Aviation Administration to enter into a multiyear lease greater than three years in length or greater than $100,000,000 in value unless such lease is specifically authorized by the Congress and appropriations have been provided to fully cover the Federal Government's contingent liabilities: *Provided further*, That none of the funds appropriated or otherwise made available in this Act may be used to pay the salaries or expenses of personnel who carry out an essential air service program under section 41742 of title 49, United States Code, from amounts not credited to the account established under section 45303 of such title: *Provided further*, That none of the funds in this Act may be used for the Federal Aviation Administration (FAA) to sign a lease for satellite services related to the global positioning system (GPS) wide area augmentation system until the administrator of the FAA certifies in writing to the House and Senate Committees on Appropriations that FAA has conducted a lease versus buy analysis which indicates that such lease will result in the lowest overall cost to the agency.

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, $2,000,000,000, of which $1,749,350,000 shall remain available until September 30, 2001, and of which $250,650,000 shall remain available until September 30, 1999: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That none of the funds in this Act may be obligated for bulk explosive detection systems until 30 days after the FAA administrator certifies to the House and Senate Committees on Appropriations, in writing, that the major air carriers responsible for providing aircraft security at Category X airports have agreed to: (a) begin assuming the operation and maintenance costs of such machines beginning in fiscal year 1999; and (b) substantially increase the usage of such machines above the level experienced as of April 1, 1998: *Provided further*, That of the funds provided under this heading, up to $4,680,000 is to reimburse the sponsor of Louisville Standiford Field in Kentucky for costs related to acquisition and installation of an instrument landing system.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $145,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2001: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

Grants-in-Aid for Airports

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and for noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations, $1,600,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $1,800,000,000 in fiscal year 1999 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 47117(h) of title 49, United States Code.

Grants-in-Aid for Airports

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103 as amended, $5,000,000 are rescinded.

Aviation Insurance Revolving Fund

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

Aircraft Purchase Loan Guarantee Program

None of the funds in this Act shall be available for activities under this heading during fiscal year 1999.

Administrative Services Franchise Fund

None of the funds in this Act may be used for the FAA to conduct, monitor, or otherwise continue operations of the Administrative Services Franchise Fund in fiscal year 1999.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

(INCLUDING TRANSFER OF FUNDS)

Necessary expenses for administration and operation of the Federal Highway Administration not to exceed $318,733,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That $52,530,000 shall be transferred to the National Highway Traffic Safety Administration to carry out the functions and operations of the office of motor carriers: *Provided further*, That none of the funds in this Act may be used to carry out the functions and operations of the office of motor carriers within the Federal Highway Administration.

Limitation on Transportation Research

Necessary expenses for transportation research of the Federal Highway Administration, not to exceed $409,150,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration: *Provided*, That this limitation shall not apply to any authority previously made available for obligation.

Federal-Aid Highways

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $25,511,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1999.

Federal-Aid Highways

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, $24,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Operations and Research

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under part C of subtitle VI of title 49, U.S.C. and chapter 301 of title 49, U.S.C. $87,400,000, of which $58,558,000 shall remain available until September 30, 2001: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

Operations and Research

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payments of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, $72,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1999, are in excess of $72,000,000 for programs authorized under 23 U.S.C. 403.

National Driver Register

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, U.S.C., $2,000,000 to be derived from the Highway Trust Fund, and to remain available until expended.

Highway Traffic Safety Grants

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411 to remain available until expended, $200,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1999, are in excess of $200,000,000 for programs authorized under 23 U.S.C. 402, 405, 410, and 411 of which $150,000,000 shall be for "Highway Safety Programs" under 23 U.S.C. 402, $10,000,000 shall be for "Occupant Protection Incentive Grants" under 23 U.S.C. 405, $35,000,000 shall be for "Alcohol-Impaired Driving Countermeasures Grants" under 23 U.S.C. 410, $5,000,000 shall be for the "State Highway Safety Data Grants" under 23 U.S.C. 411: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That not to exceed $9,943,000 of the funds made available for Highway Safety Programs under 23 U.S.C. 402 shall be available to NHTSA for administering "Highway Safety Programs": *Provided further*, That not to exceed $500,000 of the funds made available for section 410 "Alcohol-Impaired Driving Countermeasures Grants" shall be available for technical assistance to the States.

Motor Carrier Safety Grants

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, $100,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $100,000,000 for "Motor Carrier Safety Grants".

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $21,367,000, of which $1,784,000 shall remain available until expended: *Provided*, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further*, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

Railroad Safety

For necessary expenses in connection with railroad safety, not otherwise provided for, $60,948,000, of which $3,825,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated under this heading are available for the reimbursement of out-of-state travel and per diem costs incurred by employees of State governments directly supporting the Federal railroad safety program, including regulatory development and compliance-related activities.

Railroad Research and Development

For necessary expenses for railroad research and development, $20,477,000, to remain available until expended: *Provided*, That the Secretary is authorized to sell aluminum reaction rail, power rail base, and other related materials located at the Transportation Technology Center, near Pueblo, Colorado and shall credit the receipts from such sale to this account, notwithstanding 31 U.S.C. 3302, to remain available until expended.

Railroad Rehabilitation and Improvement Program

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds during fiscal year 1999.

Next Generation High-Speed Rail

For necessary expenses for Next Generation High-Speed Rail program, as authorized under 49 U.S.C. 26101 and 26102, $15,294,000, to remain available until expended: *Provided*, That funds under this heading may be made available for grants to States for high-speed rail corridor design, feasibility studies, environmental analyses, and track and signal improvements.

Rhode Island Rail Development

For the costs associated with construction of a third track on the Northeast Corridor between Davisville and Central Falls, Rhode Island, with sufficient clearance to accommodate double stack freight cars, $2,000,000 be matched by the State of Rhode Island or its designee on a dollar-for-dollar basis and to remain available until expended.

Capital Grants to the National Railroad Passenger Corporation

For necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a) $609,230,000, to remain available until expended: *Provided*, That the funding under this heading shall be available only after (1) deposit in the Treasury of the sums made available to the Corporation pursuant to section 977 of the Taxpayer Relief Act of 1997, and (2) approval of a comprehensive capital plan for use of section 977 funds and amounts provided under this heading by the Secretary of Transportation, the Director of the Office of Management and Budget, and the House and Senate Committees on Appropriations: *Provided further*, That upon satisfaction of the prior proviso, section 977 funds shall be available.

FEDERAL TRANSIT ADMINISTRATION

Administrative Expenses

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $10,800,000: *Provided*, That no more than $54,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, $750,000 shall be transferred to the Department of Transportation Inspector General for costs associated with the audit and review of new fixed guideway systems.

Formula Grants

For necessary expenses to carry out 49 United States Code 5307, 5308, 5310, 5311, and 5327, $570,000,000: *Provided*, That no more than $2,850,000,000 of budget authority shall be available for these purposes.

University Transportation Research

For necessary expenses to carry out 49 United States Code 5505, $1,200,000: *Provided*, That no more than $6,000,000 of budget authority shall be available for these purposes.

Transit Planning and Research

For necessary expenses to carry out 49 United States Code 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $19,800,000: *Provided*, That no more than $98,000,000 of budget authority shall be available for these purposes: *Provided further*, That $5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2); $4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315); $8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a); $43,841,600 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305); $9,158,400 is available for state planning (49 U.S.C. 5313(b); and $27,500,000 is available for the national planning and research program (49 U.S.C. 5314).

Trust Fund Share of Expenses

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5303 through 5308, 5310 through 5315, 5317(b), 5322, 5327, and 5334, $2,446,200,000, to remain available until expended and to be derived from the Mass Transit Account of the Highway Trust Fund: *Provided*, That $2,280,000,000 shall be paid to the Federal Transit Administration's formula grants account: *Provided further*, That $78,200,000 shall be paid to the Federal Transit Administration's transit planning and research account: *Provided further*, That $43,200,000 shall be paid to the Federal Transit Administration's administrative expenses account: *Provided further*, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: *Provided further*, That $40,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program.

Capital Investment Grants

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $451,400,000: *Provided*, That no more than $2,257,000,000 of budget authority shall be available for these purposes: *Provided further*, That there shall be available for fixed guideway modernization, $902,800,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $451,400,000; and there shall be available for new fixed guideway systems, $902,800,000, to be available as follows:

$10,400,000 for Alaska or Hawaii ferry projects;

$52,110,000 for the Atlanta North Springs project;

$1,000,000 for the Austin Capital metro project;

$3,000,000 for the Canton-Akron-Cleveland commuter rail project;

$2,000,000 for the Charlotte, North Carolina North-South corridor transitway project;

$4,000,000 for Chicago Metra commuter rail extensions and upgrades;

$2,000,000 for the Chicago Transit Authority Ravenswood line project;

$4,000,000 for the Clark County, Nevada fixed guideway project;

$1,000,000 for the Cleveland Berea Red Line extension to the Hopkins International Airport;

$2,000,000 for the Cleveland Euclid corridor improvement project;

$10,698,000 for the Dallas-Fort Worth RAILTRAN project;

$8,000,000 for the DART North Central light rail extension project;

$1,000,000 for the Dayton, Ohio light rail study;

$40,000,000 for the Denver Southwest Corridor project;

$17,000,000 for the Dulles Corridor project;

$4,000,000 for the Fort Lauderdale, Florida Tri-County commuter rail project;

$500,000 for the Harrisburg, Pennsylvania capital area transit/corridor one project;

$2,000,000 for the Houston Advanced Transit Program;

$59,670,000 for the Houston Regional Bus project;

$1,000,000 for the Johnson County, Kansas I–35 commuter rail project;

$1,500,000 for the Knoxville, Tennessee electric transit project;

$46,000,000 for the Los Angeles MOS–3 project;

$17,041,000 for MARC commuter rail improvements;

$1,500,000 for the Maryland Route 5 corridor project;

$2,200,000 for the Memphis, Tennessee Medical Center rail extension project;

$3,000,000 for the Miami Metro-Dade Transit east-west corridor project;

$1,000,000 for the Miami Metro-Dade North 27th Avenue corridor project;

$2,000,000 for the Mission Valley East light rail transit project;

$500,000 for the Nashville, Tennessee regional commuter rail project;

$70,000,000 for the New Jersey urban core Hudson-Bergen LRT project;

$43,000,000 for the New Orleans Canal Street corridor project;

$2,000,000 for the New Orleans Desire Streetcar project;

$2,000,000 for the Norfolk-Virginia Beach regional rail project;

$2,000,000 for the Northern Indiana South Shore commuter rail project;

$5,500,000 for the Oceanside-Escondido light rail project;

$4,000,000 for the Orange County, California transitway project;

$17,500,000 for the Orlando Lynx Light rail project;

$2,000,000 for the Philadelphia-Reading SEPTA Schuylkill Valley Metro project;

$1,000,000 for the Philadelphia SEPTA Cross County Metro project;

$8,000,000 for the Phoenix metropolitan area transit project;

$3,000,000 for the Pittsburgh Allegheny County busway and light rail projects;

$25,718,000 for the Portland-Westside/Hillsboro and South-North light rail projects;

$1,000,000 for the Puget Sound RTA Link light rail project;

$19,500,000 for the Puget Sound RTA Sounder commuter rail project;

$8,000,000 for the Raleigh-Durham-Chapel Hill Triangle Transit project;

$23,480,000 for the Sacramento south corridor LRT project;

$70,000,000 for the Salt Lake City South LRT project;

$3,000,000 for the Salt Lake City/Airport to University (West-East) light rail project;

$2,000,000 for the San Bernardino Metrolink extension project;

$3,000,000 for the San Diego Mid-Coast corridor project;

$74,000,000 for the San Francisco BART extension to the airport project;

$500,000 for the San Jacinto-Branch Line (Riverside County) project;

$35,000,000 for the San Jose Tasman LRT project;

$60,000,000 for the San Juan Tren Urbano;

$53,983,000 for the South Boston Piers MOS–2 project;

$1,000,000 for the South DeKalb-Lindbergh Corridor LRT project;

$1,000,000 for the Spokane, Washington light rail project;

$35,000,000 for the St. Louis-St. Clair County LRT extension project;

$500,000 for the Tampa Bay regional rail project;

$22,000,000 for the Twin Cities transitways project;

$2,000,000 for the Virginia Rail Express Fredericksburg to Washington commuter rail project;

$1,000,000 for the West Trenton, New Jersey rail project; and

$1,000,000 for the Whitehall ferry terminal project: *Provided further*, That funds provided in Public Law 105–66 for the Pennsylvania Strawberry Hill/Diamond Branch rail project shall be available for the Laurel Rail line project in Lackawanna County, Pennsylvania.

Mass Transit Capital Fund

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(b) administered by the Federal Transit Administration, $1,805,600,000, to be derived from the Highway Trust Fund and to remain available until expended.

Job Access and Reverse Commute Grants

For necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, $10,000,000: *Provided*, That no more than $50,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the amounts appropriated under this head, not more than $10,000,000 shall be used for grants for reverse commute projects.

Washington Metropolitan Area Transit Authority

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184 and Public Law 101–551, $50,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Saint Lawrence Seaway Development Corporation

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

Operations and Maintenance

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $11,496,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Research and Special Programs

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $34,379,000, of which $574,000 shall be derived from the Pipeline Safety Fund, and of which $8,460,000 shall remain available until September 30, 2001: *Provided*, That $5,000,000 shall be available for activities authorized under 49 U.S.C. 5506: *Provided further*, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

Pipeline Safety

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $33,448,000, of which $4,475,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2001; and of which $28,973,000 shall be derived from the Pipeline Safety Fund, of which $16,919,000 shall remain available until September 30, 2001: *Provided*, That in addition to amounts made available for the Pipeline Safety Fund, $1,300,000 shall be available for grants to States for the development and establishment of one-call notification systems, public education, and damage prevention activities, and shall be derived from amounts previously collected under 49 U.S.C. 60301.

Emergency Preparedness Grants

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2001: *Provided*, That not more than $9,600,000 shall be made available for obligation in fiscal year 1999 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): *Provided further*, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

Salaries and Expenses

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $43,495,000.

SURFACE TRANSPORTATION BOARD

Salaries and Expenses

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $16,000,000: *Provided*, That notwithstanding any other provision of law, not to exceed $2,600,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar for dollar basis as such offsetting collections are received during fiscal year 1999, to result in a final appropriation from the general fund estimated at no more than $16,000,000: *Provided further*, That any fees received in excess of $2,600,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Salaries and Expenses

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $3,847,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

Salaries and Expenses

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $53,300,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

Emergency Fund

For necessary expenses of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $1,000,000, to remain available until expended.

□ 2330

Mr. WOLF (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 40, line 9, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. Are there any points of order to this portion of the bill?

Mr. PETRI. Mr. Chairman, I have three points of order against this part of the bill.

The CHAIRMAN. The gentleman will state his first point of order, and we will deal with them individually.

POINTS OF ORDER

Mr. PETRI. Mr. Chairman, I raise a point of order against page 11, line 19, beginning with "of which" through "fund" on Line 20.

This provision violates clause 2 of rule XXI because it alters the funding formula established under the airport improvement program by appropriating $2.06 billion out of the airport and airway fund for FAA operations. The correct figure should be approximately $1,970,000,000 if the formula under existing law is followed. The added funding for appropriations has the effect of changing existing law and therefore constitutes legislation on an appropriation bill in violation of House rules.

The CHAIRMAN. Does any other Member desire to be heard on the point of order?

Mr. WOLF. Mr. Chairman, we certainly did not want to have any legislation on an appropriation bill, so I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

Mr. PETRI. Mr. Chairman, I raise a point of order against page 16, line 20 through line 24. This provisions violates clause 2 of rule XXI because it rescinds $5 million in Airport and Airway Trust Fund contract authority, not general fund appropriations for grants and aid to airports. Airport and Airway Trust Fund contract authority, while a form of direct spending, is legislative in nature, and rescinding such authority is not within the jurisdiction of the Committee on Appropriations.

This rescission constitutes legislation on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any other Member desire to be heard on the point of order?

Mr. WOLF. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

Mr. PETRI. Mr. Chairman, I raise a point of order against page 18, line 2, beginning with "provided" through "motor carriers" on line 5.

This provision violates clause 2 of rule XXI because it transfers contract authority funds from the Federal Highway Administration to pay for the functions of the Office of Motor Carriers.

This provision changes existing law, and, therefore, constitutes legislating on an appropriation bill in violation of House rules.

The CHAIRMAN. Does any other Member desire to be heard on the point of order?

Mr. WOLF. Mr. Chairman, this would save a lot of lives, and make truck safety much better throughout the Nation and keep accidents from taking place, but I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

Are there any amendments to this portion of the bill?

AMENDMENT OFFERED BY MR. WOLF

Mr. WOLF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLF:

On page 11, line 19 of the bill, after "5,532,558,000,", insert the following: "of which $1,972,500,000 shall be derived from the Airport and Airway Trust Fund".

Mr. WOLF. Mr. Chairman, the previous point of order deleted the trust fund's share of the FAA's operating expenses. I am aware that the chairman of the authorizing committee objects to a trust fund share in excess of $1.9725 billion which is the maximum authorized level according to the formula in the current law. However, the authorizing committee has written that there is no objection to a trust fund share at the authorized level. My amendment simply states that $1.9725 billion of FAA's total operating budget may be taken from the Aviation Trust Fund. That is the authorized level.

Mr. Chairman, I know of no objection to the amendment. I encourage its adoption.

Mr. SABO. Mr. Chairman, I rise in support of the amendment, but might I address a question to the gentleman?

Does the effect of the combination of the point of order, the gentleman's amendment now implementing that, mean that significantly less than half of the operations budget of the FAA now comes from the Airport Trust Fund?

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, that is correct.

Mr. SABO. So, it is probably close to 60 percent of the operations actually comes from general revenue and not from the trust fund.

Mr. WOLF. That is correct.

Mr. SABO. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. WOLF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLF

Mr. WOLF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLF:

On page 26, strike lines 1 through 2.

Mr. WOLF. Mr. Chairman, I offer a technical amendment to strike the proviso that appears on the top of page 26. The proviso inadvertently changed the payment of the tax credit to Amtrak made by the Tax Payer Relief Act. That was not the intent of the committee. The committee merely intends to ensure that the Federal funds available to the corporation in fiscal year 1999 would be available only after Amtrak developed a comprehensive capital plan for the expenditure of the tax credit as proposed by the President's budget. The Committee on Ways and Means brought this oversight to our attention, and again it was not the committee's intent to change the payment of the TRA funds in any way.

Mr. Chairman, it is technical in nature, and I urge its immediate adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. WOLF).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to this part of the bill?

The Clerk will read.

The Clerk read as follows:

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 1999 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available: (1) except as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents; and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 305. None of the funds in this Act shall be available for salaries and expenses of more than 88 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. The Secretary of Transportation may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 and related legislation: *Provided*, That the authority provided in this section may be exercised without regard to section 3324 of title 31, United States Code.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 310. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation under the discretionary grants program.

SEC. 311. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 312. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 313. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant. The FAA shall accept such equipment, which shall thereafter be operated and maintained by the FAA in accordance with agency criteria.

SEC. 314. None of the funds in this Act shall be available to award a multiyear contract for production end items that: (a) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any one year of the contract; or (b) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the Government's liability; or (c) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: *Provided*, That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 315. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Capital Investments Grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2001, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 316. Notwithstanding any other provision of law, any funds appropriated before October 1, 1998, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 317. None of the funds in this Act may be used to compensate in excess of 350 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 1999.

SEC. 318. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $20,000,000, which limits fiscal year 1999 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $89,124,000: *Provided*, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center.

SEC. 319. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Limitation on General Operating Expenses" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Railroad Safety" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 320. None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations pursuant to title V of the Motor Vehicle Information and Cost Savings Act (49 U.S.C. 32901 et seq.) prescribing corporate average fuel economy standards for automobiles, as defined in such title, in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

SEC. 321. Notwithstanding any other provision of law, the Secretary of Transportation shall convey, without consideration, all right, title, and interest of the United States in and to the parcels of real property described in this section, together with any improvements thereon, as the Secretary considers appropriate for purposes of the conveyance, to the entities described in this section, namely: (a) United States Coast Guard Pass Manchac Light in Tangipahoa Parish, Louisiana, to the State of Louisiana; and (b) Tchefuncte River Range Rear Light in Madisonville, Louisiana, to the Town of Madisonville, Louisiana.

SEC. 322. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 323. None of the funds in this Act may be obligated or expended for employee training which: (a) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (b) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (c) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (d) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or (f) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 324. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation: *Provided*, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 325. Not to exceed $1,000,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 326. No funds other than those appropriated to the Surface Transportation Board or fees collected by the Board shall be used for conducting the activities of the Board.

SEC. 327. (a) None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 328. Notwithstanding any other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities.

SEC. 329. None of the funds in this Act shall be available to implement or enforce regulations that would result in the withdrawal of a slot from an air carrier at O'Hare International Airport under section 93.223 of title 14 of the Code of Federal Regulations in excess of the total slots withdrawn from that air carrier as of October 31, 1993 if such additional slot is to be allocated to an air carrier or foreign air carrier under section 93.217 of title 14 of the Code of Federal Regulations.

SEC. 330. Notwithstanding 49 U.S.C. 41742, no essential air service shall be provided to communities in the 48 contiguous States that are located fewer than 70 highway miles from the nearest large and medium hub airport, or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than 210 miles from the nearest large or medium hub airport.

SEC. 331. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 1999.

SEC. 332. Notwithstanding the provisions of any other law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 333. The unobligated balances of the funds made available in previous appropriations Acts for the National Civil Aviation Review Commission and for Urban Discretionary Grants are rescinded.

SEC. 334. (a) IN GENERAL.—Notwithstanding any other provision of law—

(1) the land and improvements thereto comprising the Coast Guard Reserve Training Facility in Jacksonville, Florida, is deemed to be surplus property; and

(2) the Commandant of the Coast Guard shall dispose of all right, title, and interest of the United States in and to that property, by sale, at fair market value.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other person, the Commandant of the Coast Guard shall give to the city of Jacksonville, Florida, the right of first refusal to purchase all or any part of the property required to be sold under that subsection.

SEC. 335. Of the funds provided under Coast Guard "Operating expenses", $1,000,000 is only for the Secretary of Transportation, in consultation with the Commandant of the Coast Guard, to establish a blue-ribbon panel to study the future capital requirements, roles, and missions of the U.S. Coast Guard, the activities of which shall not be subject to section 325 of this Act.

SEC. 336. Of the funds provided under Federal Aviation Administration "Operations", $250,000 is only for activities and operations of the Centennial of Flight Commission.

SEC. 337. Notwithstanding any provision of law, the Secretary of Transportation is hereby authorized to waive repayment of any Federal-aid highway funds expended on the construction of high occupancy lanes or auxiliary lanes on I–287 in the State of New Jersey: *Provided*, That such waiver shall not be granted by the Secretary until such time as the Secretary is assured by the State of New Jersey that removal of the high occupancy vehicle restrictions on I–287 is in the public interest.

SEC. 338. Funds made available in previous appropriations Acts for a railroad-highway crossing project in Augusta, Georgia shall be available for other street, rail, and related improvements in the vicinity of the grade crossing of the CSX railroad and 15th Street in Augusta, Georgia.

SEC. 339. Of the $40,000,000 provided under section 1602 of Public Law 105–178, item number 1679, $28,253,470 shall only be available for fire and life safety improvements to the East River and North Tunnels and the subterranean complex of Pennsylvania Station.

SEC. 340. (a) None of the funds made available by this Act or subsequent Acts may be used by the Coast Guard to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104–55), or the amendments made by that Act, that does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act, or the amendments made by that Act) differences in—

(1) physical, chemical, biological and other relevant properties; and

(2) environmental effects.

(b) DEADLINE FOR PROMULGATION OF REGULATIONS.—Not later than March 31, 1999, the Secretary of Transportation shall issue regulations amending 33 C.F.R. 154 to comply with the requirements of Public Law 104–55.

SEC. 341. Funding made available in Public Law 105–174 for emergency railroad rehabilitation and repair shall be available for repairs resulting from natural disasters occurring from September 1996 through July 10, 1998.

SEC. 342. For purposes of evaluating environmental impacts of the toll road in Orange and San Diego counties, California, the Administrator of the Federal Highway Administration shall consider only those transportation alternatives previously identified by regional planning processes and shall restrict agency comments to those matters over which the agency has direct jurisdiction.

SEC. 343. (a) IN GENERAL.—Notwithstanding any other law, the Commandant, United States Coast Guard, shall convey to the University of South Alabama (in this section referred to as "the recipient"), the right, title, and interest of the United States Government in and to a decommissioned vessel of the Coast Guard, as determined appropriate by the Commandant and the recipient, if—

(1) the recipient agrees to use the vessel for the purposes of supporting archaeological and historical research in the Mobile Bay Delta;

(2) the recipient agrees not to use the vessel for commercial transportation purposes, except as incident to the provision of logistics services in connection with the Old Mobile Archaeological Project;

(3) The recipient agrees to make the vessel available to the Government if the Commandant requires use of the vessel by the Government in times of war or national emergency;

(4) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous materials including, but not limited to, asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3);

(5) the recipient has funds available to be committed for use to restore the vessel to operation and thereafter maintain it in good working condition, in the amount of at least $400,000; and

(6) the recipient agrees to any other conditions that the Secretary considers appropriate.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, without cost to the Government. The conveyance of this vessel shall not be considered a distribution in commerce for purposes of 15 U.S.C. section 2605(e).

(c) OTHER UNNEEDED EQUIPMENT.—The Commandant may convey to the recipient any unneeded equipment or parts from other decommissioned vessels pending disposition for use to restore the vessel to operability. The Commandant may require compensation from the recipient for such items.

(d) APPLICABLE LAWS AND REGULATIONS.—The vessel shall at all times remain subject to applicable vessel safety laws and regulations.

SEC. 344. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking "Pirate Cove" and inserting "Pirates' Cove and 4-lane connector to Mississippi Highway 468".

SEC. __. CONVEYANCE OF COAST GUARD PROPERTY TO JACKSONVILLE UNIVERSITY IN JACKSONVILLE, FLORIDA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey to Jacksonville University, located in Jackson, Florida, without consideration, all right, title, and interest of the United States in and to the property comprising the Long Branch Rear Range Light, Jacksonville, Florida.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—Any conveyance of any property under this section shall be made—

(1) subject to such terms and conditions as the Commandant may consider appropriate; and

(2) subject to the condition that all right, title, and interest in and to the property conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by Jacksonville University.

Mr. WOLF (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 59, line 5, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. Are there any points of order to this section of the bill?

POINT OF ORDER

Mr. PETRI. Mr. Chairman, I raise a point of order against section 339. This provision violates clause 2 of rule XXI because it limits contract authority for the Pennsylvania Station project. This provision changes existing law and therefore constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Do any Members wish to be heard on the point of order?

Mr. WOLF. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

Are there any amendments to this part of the bill?

AMENDMENT OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ackerman:

Page 59, after line 5, insert the following:

SEC. 347. None of the funds in this Act may be obligated or expended for closing any Coast Guard station in fiscal year 1999 unless such closure has been specifically authorized by law.

Mr. ACKERMAN. Mr. Chairman, I rise to offer my amendment which would prevent the Coast Guard from closing any stations without specific congressional approval. This amendment would not allow the Coast Guard to use funds in fiscal year 1999 to close the station whose closure was not expressly authorized by the Congress.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I have reviewed the gentleman's amendment, and I understand the grave concerns that are posed to the public health and safety by closing the Coast Guard station specifically in the case of the Eaton Neck's Coast Guard station on Long Island. However, if the gentleman would kindly withdraw his amendment, I am confident we can find a suitable alternative to closing the Eaton Neck's Coast Guard Station. I would be willing to set up a meeting next week with the gentleman and Admiral Loy, the Commandant of the Coast Guard, to find an alternative solution to closing the Coast Guard Station at Eaton's Neck.

Mr. ACKERMAN. Reclaiming my time, Mr. Chairman, let me say that I appreciate the gentleman's attention to this matter. His word has always been as good as gold in this body. I would be glad to withdraw my amendment with his assurance and look forward to working with him on this.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from New York (Mr. ACKERMAN) is withdrawn.

□ 2340

AMENDMENT OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDREWS:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds made available in title I under the heading "OFFICE OF THE SECRETARY—AMTRAK REFORM COUNCIL" may be used for payments to outside consultants.

Mr. ANDREWS. Mr. Chairman, a great Nation needs a great national passenger rail system, and I believe we have established one in the United States that is getting even better literally with every day, as we have read some very good news from Amtrak today.

In 1987, the Congress came up with an innovative plan for a review council that would give a fair, public, and objective evaluation of where Amtrak is going and the progress that it is making.

I believe that this bill makes an important contribution to that effort. I particularly commend the chairman for appropriating $450,000 instead of the $1.9 million which was originally requested.

I think that another way we can expand on the chairman's efforts to make sure that we get a fair and efficient evaluation of where Amtrak is going is my amendment, which would specifically say that funds under this section may not be used for outside consultants.

I believe, Mr. Chairman, that we have ample and more than adequate expertise within the members of the council and the Department of Transportation, and I believe this amendment would accomplish those objectives.

I also would like to engage the Chairman of the subcommittee in a colloquy at this time.

Mr. WOLF. Mr. Chairman, if the gentleman will yield, I would be glad to. Before I begin, let me just say we do accept the gentleman's amendment. I think it is a good amendment. I think we can work with the DOT and IG. Having said that, I would be glad to engage with him in a colloquy.

Mr. ANDREWS. Mr. Chairman, I want to first thank the chairman for his leadership on this issue and for his support of Amtrak. In particular, I commend the chairman for his responsible action of providing only a small portion of the funds requested by the council.

Some members of the council have requested an appropriation of $1.9 million. The committee has appropriated only $450,000. This is a clear signal to the American taxpayers that Congress is active in its fight against wasteful spending.

It is my understanding that in appropriating this money, the committee expects the council to follow the dictates provided in law that their meeting should be open to the public. Is that also the chairman's understanding?

Mr. WOLF. Mr. Chairman, if the gentleman will yield, yes, that is my understanding clearly.

Mr. ANDREWS. Reclaiming my time, it is also my understanding that the committee expects the council to spend money on travel only when absolutely necessary to fulfill its responsibilities as prescribed by Congress in the Amtrak Reform and Accountability Act. Is that also the understanding and expectation of the chairman?

I yield to the gentleman from Virginia.

Mr. WOLF. Yes, that is my understanding.

Mr. ANDREWS. I want to just conclude my remarks by also thanking the chairman for his support of $50 million for the job access and reverse commute funding in a different part of this bill. The gentleman from Illinois (Mr. DAVIS), my colleague, was the leader in getting that program authorized. We appreciate the effort in getting it appropriated.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to this amendment. This amendment is an attempt to further hamstring the Amtrak Reform Council—a group of outside volunteers, a majority of whom were appointed by the congressional leadership itself. These are public-spirited citizens of both parties who get no pay, only travel reimbursement under the specific terms of the 1997 Amtrak Reform Law.

Yet this amendment tries to beat up on a volunteer watchdog group that has been allocated what in my opinion is already an inadequate appropriation—only $450,000.

Why so much attention to such a small outfit? Because the Clinton administration is deathly afraid of facts and candor where Amtrak is concerned. From the day the President signed last year's Amtrak Reform Law, there has been an unrelenting pattern of delay, sabotage, and non-feasance by the Clinton administration. Time and time again, the administration has-characteristically, simply ignored federal law.

The reform council is the one source of analysis and scrutiny that the administration cannot control: It's not part of D.O.T., its made up of outside independent leaders, and it has a broad mandate under the law to delve into all aspects of rail passenger service. What could be more frightening to an administration that adheres slavishly to a status quo that will simply guarantee an Amtrak bankruptcy?

That's where the Andrews amendment comes in. The administration wants the reform council denigrated, disenfranchised, and defunded. The President has made that clear by, among other things, not appointing either of the two presidential members of the council—A labor and management representative—although the law required him to do that seven months ago. The Andrews amendment is just the latest installment in the continuing effort to sabotage Amtrak Reform.

This amendment would forbid the reform council to hire any outside consultants to assist it in carrying out its mandate under the Reform Law.

The mandate includes evaluating Amtrak's performance and making recommendations for cost containment, productivity improvements, and financial reform. The council is also to address Amtrak's accounting methods, management efficiencies, and labor cost savings.

To do this extensive analysis, the council members necessarily must be free to obtain the services of experts on railroad operations, accounting, and indeed financial investigators. Such persons must be independent—not part of the Clinton administration's D.O.T. That has already proven itself an enemy of Amtrak reform.

I realize that the Senate bill contains a similar restriction, albeit ill-advised. The Senate provision—and I believe the present amendment—are based on a complete misunderstanding of the Reform Council's function relative to the "independent assessment" of Amtrak required under a separate provision of the reform law.

Unlike the Reform Council's broad mandate to look into virtually every aspect of Amtrak, the independent assessment is focused on one central topic—stated in section 202 of Public Law 105–134. That is "the financial requirements of Amtrak through fiscal year 2000." This assessment is to be conducted by an independent entity under contract to D.O.T.

Far from duplicating the independent assessment, the Reform Councils' activities are complementary to it. The D.O.T. contractor does not have the broad mandate to delve into the details of all aspects of Amtrak's operations and to recommend systemic changes. To put it in the simplest terms, the independent assessment is to be a snapshot of Amtrak's financial requirements for Amtrak as it is now doing business. The Reform Council's job, on the other hand is to identify what is wrong with the specific business methods of Amtrak, and to recommend changes to those methods.

This brings us to why the unwarranted restriction on the use of outside talent in this amendment is so important to the Clinton administration. The administration is in "denial" with respect to Amtrak; it does not want to be asked—or to have to answer—the tough questions about Amtrak's operations, methods, and finances. Anything that disarms the Reform Council advances the administration's goal of clinging irrationally to an untenable status quo.

If you doubt my conclusions about the reasons behind this amendment, ask yourself: why are rail labor and the administration expending this much effort to restrict an appropriation of $450,000? it can only be because of a tremendous fear of having to face financial and business reality with respect to Amtrak.

This amendment does not appear in a vacuum. We have now had eight months of consistent delay and sabotage of the Amtrak reforms that were negotiated with the administration and passed with bipartisan support last December. At every turn—the appointment of the new Amtrak Board of Directors, the resolution of labor issues mandated in the reform law, and even the appointment of the President's two selections for membership on the Reform Council itself—the administration has consistently ignored the law. Now the administration sees a chance to neutralize the reform council completely by denying it the resources of professional financial and investigative personnel.

The Amtrak Reform Law specifically directs Amtrak to grant the Reform Council full access to "all information the council requires," including proprietary matters. As the administration well knows, this will be a meaningless and theoretical right if the council cannot utilize the services of its own professionals to delve into all aspects of Amtrak.

The choice on this amendment is simple: either we stand up for the reform we enacted last year and help to make it work, or we cater to the obvious desire of the Clinton administration to avoid all of the tough questions about the future of intercity rail passenger service.

In sum, this amendment is an unwarranted and unfair assault on a bipartisan group of public-spirited citizens who are doing their level best to deal with the realities facing Amtrak—not the delusional world the administration wants to pretend it lives in. If the Clinton administration and other unrealistic fans of the Amtrak status quo would spend a fraction of the energy on actual reform of Amtrak that they have already expended in trying to beat up on a very sound $450,000 expenditure, everyone—especially Amtrak and the future of rail passenger service—would be much better served.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

Mr. WOLF. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Virginia reserves a point of order.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. NADLER:

At the end of title III, insert the following:

SEC. 347. None of the funds made available in this Act or in the Transportation Equity Act for the 21st Century (P.L. 105–178) may be used for improvements to the Miller Highway in New York City.

POINT OF ORDER

Mr. WOLF. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitute legislation in an appropriation bill and, therefore, violates clause 2 of rule XXII. The rule states in pertinent part no amendment to a general appropriation bill shall be in order if changing existing law. I would ask for a ruling from the Chair.

The CHAIRMAN. The gentleman from Virginia raises a point of order. Does any Member wish to be heard on the point of order?

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I will await the ruling of the Chair on this point of order.

The CHAIRMAN. The gentleman from Virginia (Mr. WOLF) makes a point of order that the amendment offered by the gentleman from New York is in violation of clause 2(c) of rule XXI for legislating on an appropriation bill.

The amendment offered by the gentleman from New York seeks to deny the use of funds in the pending Act and in the authorizing law for improvements to the Miller highway.

Clause 2(c) of rule XXI provides that no amendment to a general appropriation bill shall be in order if changing existing law. A general principle of the rule prohibiting amendments to general appropriation bills that change existing law is that a limitation amendment must confine itself to funds in the pending bill. This principle is codified on page 677 of the House Rules and Manual.

Mr. NADLER. Mr. Chairman, I have heard enough. I concede the point of order.

The CHAIRMAN. The gentleman concedes the point of order. The point of order is conceded and sustained.

Are there further amendments to this part of the bill?

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer a second amendment.

The Clerk read as follows:

Amendment offered by Mr. NADLER:

At the end of title III, insert the following: None of the funds made available in this Act may be used for improvements to the Miller Highway in New York City, except for funds resulting from obligations pursuant to sections 1601 and 1602 of the Transportation Equity Act for the 21st Century (P.L. 105–178).

Mr. NADLER. Mr. Chairman, once again, along with the gentleman from California (Mr. ROYCE), the gentleman from Minnesota (Mr. MINGE), and the gentleman from Wisconsin (Mr. NEUMANN), with strong support from the administration, from the Pork Busters Coalition, the Council for Citizens Against Government Waste, the National Taxpayers Union, and Taxpayers for Common Sense, I rise to offer an amendment to keep valuable taxpayers' dollars from being wasted on an outrageous boondoggle in my district in New York City.

The language we seek to add to this bill, with one change necessitated by the Chair's ruling on the first amendment, is the exact same language that has been included in this bill for the last 3 years.

For 3 years, this Congress has said no, we do not believe this project is worthwhile. Nothing in the past 3 years has changed, except for one action by the other body; not the design nor the purpose of this project.

The issue is simple. Donald Trump wants the taxpayers to put up $350 million so that he can take a highway, a 13-block long highway, that was rehabilitated for close to $90 million of taxpayers' money, the ribbon cutting was less than 5 years ago, this highway has a life expectancy of 35 to 40 years before the necessity for major expenditures will arise again, and having just refinished rebuilding this highway at a cost of close to $90 million, Mr. Trump wants to take 300 to 350 million additional taxpayers' dollars and tear it down and move it a few hundred feet and change a straight highway into a curved highway.

Why? So that the residents in the new luxury apartments in the buildings he is planning to develop will have an unobstructed view of the Hudson River and The Palisades and the glorious sunsets in New Jersey.

Mr. Chairman, I appreciate the view of The Palisades in New Jersey and the Hudson River. It is a beautiful river, but I do not think that we should be spending $350 million of the taxpayers' money so that Mr. Trump will be able to charge higher prices, higher rents for these new luxury apartments and will be able to sell these new condos for higher prices.

If Mr. Trump wants better views so that he can get better prices for his apartments, let him put up the money. For him it is a pittance. Let him put up the money to move this perfectly good highway.

I would like to point out that there is no transportation purpose to this project whatsoever. No one even claims it. In fact, from a transportation point of view, it is not a good idea to take a straight highway and substitute a 180 degree curved highway.

The only purpose for this boondoggle is to line Mr. Trump's pockets.

I would like to point out that every local elected official, the State Senator, the assembly member, the council member, the two local community planning boards, 4,000 local residents whose petition signatures I have here, say to us, do not waste the money on this boondoggle. Do not pass this project.

I want to thank the gentleman from California (Mr. ROYCE), the gentleman from Minnesota (Mr. MINGE) and the gentleman from Wisconsin (Mr. NEUMANN) and the Pork Busters Coalition and the Council for Citizens Against Government Waste, the National Taxpayers Union, the Taxpayers for Common Sense and the Clinton administration for the strong support they have given this amendment and the work they have done to put the brakes on this boondoggle.

Now, the second amendment which was not ruled out of order has one difference. A Senator from my State, or a Member of the other body from my State, put $6 million in the TEA–21 Act in the dead of night in the conference committee for a study of moving this highway.

This study is a boondoggle. It is $6 million to study something that is not going to happen because it would cost $350 million and this Congress is going to say, as it has before, this will not happen.

We cannot, because of the rules, take that $6 million out of the bill. So, unfortunately, we will waste maybe $6 million.

I will point out, I would like to read one paragraph from a letter written by the deputy major of the City of New York, to Donald Trump. "Dear Donald, while the administration is fully committed to the Miller Highway relocation, it is critical that the funds for the project not redirect or act as an offset for Federal or State funds for other transportation and infrastructure projects in New York City, the city's numerous pressing highway and transportation needs that have Federal financial support and the administration would not be able to support a relocation proposal that reduced Federal commitments to these other projects."

I will point out that all of the money, except for the $6 million, the other $294 million to $344 million for this project, would have to come out of the State's general formula money and the mayor obviously does not want that to happen because he intelligently understands that there are far more important things for the people of the city and State of New York than this boondoggle.

□ 2350

All this amendment, as rewritten, as modified, would do is to make sure that, other than that $6 million which, unfortunately, we cannot touch because of the Rules of the House, no funds generally obligated for transportation in New York are diverted from other projects elsewhere in the State or the city for this project.

Mr. Chairman, I again urge that this amendment be adopted.

I include for the RECORD four letters, one from the Office of Management and Budget, one from the Taxpayers for Common Sense, one from the National Taxpayers Union, and one from the Citizens Against Government Waste.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 28, 1998.

Hon. JERROLD NADLER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE NADLER: Thank you for your letter requesting the President to line item veto funds contained in the Transportation Equity Act for the 21st Century (TEA–21) for the Miller Highway project. The President has asked that I respond on his behalf.

The Administration shares your concern that funding to convert Miller Highway to an underground tunnel is not appropriate. However, on June 25, 1998, the Supreme Court declared the President's authority to utilize the line item veto to cancel specific project funding unconstitutional.

I understand that you may be offering an amendment to the Transportation Appropriations bill that would prohibit funds from being made available for the Miller Highway project, as has been enacted into law in recent years. The Administration would support such an amendment.

As you recall, the Administration expressed concern regarding the excessive funding provided for so-called "high priority" highway demonstration projects prior to the passage of TEA–21. We are particularly concerned that these projects have not received appropriate scrutiny.

Thank you again for bringing your concerns to our attention.

Sincerely,

JACOB J. LEW,
Acting Director.

TAXPAYERS FOR COMMON SENSE,
Washington, DC, July 29, 1998.

WHY SHOULD TAXPAYERS PAY FOR A PROJECT OPPOSED BY THE CONGRESSMAN WHOSE DISTRICT IT'S IN?

DEAR REPRESENTATIVE: Taxpayers for Common Sense urges you to support the Nadler-Royce-Minge-Neumann amendment to the FY99 Transportation Appropriations bill that would prohibit the use of funds to relocate the Miller Highway in New York City.

The relocation of this highway would serve no determinable transportation purpose. An independent architect estimated this project would cost as much as $350 million. Real estate developers have an interest in getting federal dollars for this project because the highway relocation would raise the value of their property.

Representative Nadler opposes this wasteful project, even though the federal money would go to his district. Many residents and area officials join him in opposing the project. In December 1994, the Miller Highway was refurbished at a cost of $80 million. Those repairs have a life expectancy of 35 to 40 years. Developers are now trying to get funding for a project to tear down and rebuild this renovated highway, at a possible cost of more than $300 million, even though the move has no apparent transportation benefit.

Taxpayers should not be forced to shell out hundreds of millions of dollars to subsidize greater profit margins for private investors. This project exemplifies the extravagance that a fiscally responsible Congress cannot tolerate. Support the Nadler-Royce-Minge-Neumann amendment and stop this wasteful expenditure of federal transportation funds.

Sincerely,

JILL LANCELOT,
Legislative Director.

NATIONAL TAXPAYERS UNION,
Alexandria, VA, July 23, 1998.

Hon. JERROLD NADLER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE NADLER: The National Taxpayers Union, America's largest grassroots taxpayer organization, strongly supports your amendment to the FY 1999 Transportation Appropriations bill to stop the resurrection of a huge pork barrel project in your own district—the infamous Miller Highway.

The Department of Transportation strictly ordered all work to stop on this boondoggle in 1995. However, real estate mogul Donald Trump has persisted in seeking taxpayer funds to tear down and move the recently refurbished highway to enable him to build luxury housing. Somehow, $6 million was added to the Intermodal Surface Transportation Efficiency Act (ISTEA) during conference committee. This $6 million is only a small down payment that could mutate into a staggering $350 million in federal funds according to one independent architect.

In 1995, taxpayers spent more than $90 million to rehabilitate this very same elevated highway. This "emergency reconstruction" is projected to have a life expectancy of 35 to 40 years. Mr. Trump proposes to demolish this recent highway reconstruction and move it a few hundred feet to provide an unobstructed view of the Hudson River. Is this really a federal taxpayer priority? Absolutely not.

We applaud your effort to stop pork in your own district. New York City Councilmembers, State Senators and Assemblymembers, and two local planning groups have already said "no" to Mr. Trump. He just hasn't listened. Mr. Trump should pay for the unobstructed view of the Hudson River out of his own pocket rather than pick the pockets of millions of hard working taxpayers.

Sincerely,

JOHN BERTHOUD,
President.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, July 29, 1998.

DEAR MEMBER OF CONGRESS: Election year politics is once again affecting sound public policy. We write today to offer our strong support for the Nadler-Royce-Minge-Neumann amendment to H.R. 4328, the Transportation Appropriations Act for FY 1999. This amendment would prevent the allocation of $6 million to study the relocation of the Miller Highway on Manhattan's Upper West Side. The relocation of the elevated highway benefits one person. It would allow New York City developer Donald Trump to build luxury high-rise apartments with an unobstructed view of the waterfront thereby increasing the value of the property.

In 1994, the Miller Highway in Manhattan was renovated at a cost to the taxpayers of over $90 million, and is expected to be operable for the next 35 to 40 years. Now Mr. Trump would like to have the highway moved, at a potential cost of $350 million to the taxpayers, along with new transportation headaches for New Yorkers.

Congress has overwhelmingly refused to support this initiative in each of the last three years and should do so once again. It's an absolute outrage for the House to even be considering the appropriation of these taxpayer funds in order to boost the real estate values of a multi-millionaire. The government has already given its opinion of this boondoggle when the Department of Housing and Urban Development recently refused to provide subsidized housing loans for the project.

Do not allow election year politics to cloud your judgment. This transportation project serves no transportation purpose. Please support Nadler-Royce-Minge-Neumann.

Sincerely,

TOM SCHATZ,
President.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not going to take anywhere near 5 minutes, and I was not going to speak at all, but I was just taken aback by my colleague, the gentleman from New York (Mr. NADLER), who is standing up here talking about how he is siding with the taxpayers and he is siding with the pork busters and he is siding with the National Taxpayers Union. I find that a little amazing.

He is a very good friend. I served in the legislature with the gentleman in New York State, as I did with the gentleman from New York (Mr. SCHUMER), my good friend. But I do find that amusing, because, as the gentleman knows, he is rated by those same organizations as the biggest spender, one of the biggest spenders in the Congress. So I just find it hard to find that argument credible.

But more than that, I am from New York, but I am from way up in the Adirondack Mountains in New York, and it is about 200 miles from New York City. But we have to do what is right for our State. I believe in States' rights.

I heard the gentleman saying some people were opposed to it, but I have a memorandum here that says that the Regional Planning Board Association, the Parks Council of New York, the Municipal Arts Society, all of these are in favor of this continuing construction of this road. The General Contractors Association, it goes on and on and on, the AFL-CIO, the International Union of Operating Engineers, and including Mayor Lavine, Empire State Development Corporation, and a host of others.

But, to me, this is not pork barrel. This is what the New York State Transportation Department wants, and that is what we ought to go by. We should not be jamming little pet projects into bills like this. We ought to go by the recommendations from our State, and that is exactly what this is.

I might say that it is supported on a bipartisan basis by one of my best friends and one of the great Senators in the other body, and I am not talking about AL D'AMATO, I am talking about PAT MOYNIHAN, a great Senator. He is for this very much, and so is the other great Senator, AL D'AMATO.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York, although I wonder why the gentleman is standing up here siding with all of these organizations who normally side with me.

Mr. NADLER. Mr. Chairman, I would like to explain that.

First of all, I offered the amendment for the first time 3 years ago, and we have adopted it 3 years running. These organizations have supported my amendment. They recognize the wisdom of it. I appreciate their recognition. The fact that one disagrees with someone on a lot of things does not mean one disagrees on everything.

Mr. SOLOMON. Mr. Chairman, I just want the gentleman to be consistent; and the next time we have amendments similar to this, I want the gentleman out here fighting for the National Taxpayers Association.

Mr. MINGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to report that the Taxpayer Coalition, or the Pork Buster Coalition, in this body strongly supports this amendment. It really confirms the insidious nature of a conference committee process which has operated in secret with major legislation that is not available for scrutiny at the time of its presentation to this body.

This process must stop. It undermines the credibility of this institution.

Mr. WOLF. Mr. Chairman, I accept the amendment.

Mr. SCHUMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. NADLER), my friend and neighbor, to delete funding for a multimillion dollar, unnecessary, uncalled for highway project.

The Miller Highway project is truly an unprecedented act of raw pork. It is opposed by the Congressman whose district the project resides in. It is opposed by the entire neighborhood in which the highway is built. It serves no transportation purpose because it replaces a highway that was rebuilt 5 years ago. It only has the support of one very influential person, Donald Trump.

Now, I do not fault Donald Trump for wanting to tear down the Miller Highway so he can get better views for his luxury apartments. I do not agree with him, but I do not fault him.

I fault the Congress that put this wasteful boondoggle in the budget. I fault the Congress for building a $300 million highway to satisfy one person. We should be ashamed.

The Nadler amendment rectifies this embarrassing situation, so let us do the right thing. Let us do right by the neighborhood. Let us do right by the taxpayers. Let us clear our conscience and support the Nadler amendment.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding.

I just want to point out two points. One, this highway was not on the priority list submitted for the ISTEA act or the T.E.A. 21 act by either the city or the State. Neither the governor nor the mayor submitted it.

The second thing I would point out is that the gentleman from New York mentioned Randy Levine as having a letter in support. Randy Levine is the deputy mayor of New York, and it was the second paragraph of his letter that I read from in which he said, the administration of New York City would like this highway moved but not with the use of any funds unless they get an extra $300 million, which they have not gotten. They do not want it moved at the cost of other projects in New York, and that is what my amendment would accomplish.

Mr. SCHUMER. Mr. Chairman, I think the gentleman from New York has offered to pay for this personally, and that would solve, well, it would not solve the problem. It would alleviate the problem.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARR of Georgia:

SEC. . None of the funds appropriated by this Act may be used to carry out the National Highway Traffic Safety Administration proposed rule (Docket No. NHTSA-98-3945) dated June 17, 1998, which implements section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Mr. WOLF. Mr. Chairman, I reserve a point of order.

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Mr. BARR of Georgia. Mr. Chairman, this language simply directs that none of the funds appropriated by this act shall be used to implement certain rules proposed by the Department of Transportation, National Highway Traffic Safety Administration, on June

17, 1998, in the Federal Register, pages 33219 to 33225. It does not go beyond the scope of that, and it does not go beyond the scope of what properly may be an appropriations bill, such as the one currently before this body.

Mr. Chairman, the problem with these rules proposed by the Department of Transportation's National Highway Traffic Safety Administration is that while purporting to implement Section 656 of the Illegal Immigration and Immigrant Responsibility Act of 1996, they go far beyond the intent of that legislation as passed by this Congress.

The intent of that particular section of the legislation was simply to provide that there be proposed and implemented a tamper-resistent alien identification card, and to take steps to ensure that identification cards do not allow for fraudulent uses and purposes and manufactured by illegal aliens.

However, in the rule proposed by the administration, there is a very clear directive intent that would result in the development of a national identification card. The rule would do this by providing that after October 1 of the year 2000, all Federal agencies may accept as proof of identity only a driver's license or identification document that conforms strictly to certain specific and uniform requirements, and that if any State driver's license issued by any State fails in any respect to conform to such requirements, it shall not be acceptable for any Federal purpose or by any Federal agency.

The proposed rule also requires that all driver's licenses or identification cards issued by States contain a Social Security number.

Mr. Chairman, this clearly is designed to go far beyond the scope of the provisions contained in Section 656 of the aforementioned 1996 immigration law. It was not the intent of that bill or of the Congress to establish a national identification card, or to require that all States issue only drivers' licenses in a format required by the Federal Government.

This proposed amendment to the transportation appropriation bill simply would require, by its refusal to allow any funds to be used to implement the proposed rule contained in the June 17, 1998, Federal Register, it would simply force the administration to go back, reconsider its rule, and come forward with a rule that hopefully would be in conformity with the intent of section 656 of the 1996 immigration bill, and would force them to amend the current proposed rule, which goes far beyond the intent of Congress in passing that particular section in 1996.

I believe it is the clear desire of this Congress not to see a national identification card implemented, which these proposed rules, if they are not stopped at this point, will in fact result in.

With that, Mr. Chairman, I urge the adoption of this amendment.

The CHAIRMAN. Does the gentleman from Virginia (Mr. WOLF) insist on his point of order?

Mr. WOLF. Mr. Chairman, I do not, but I move to strike the last word.

Mr. Chairman, this amendment is opposed by the gentleman from Texas (Mr. LAMAR SMITH), who is apparently on his way to the floor. It deals with the immigration reform bill, which was passed by this Congress in another Congress. We know very, very little about it.

We were told that there was a colloquy that was going to take place between the gentleman from Georgia (Mr. BARR) and the gentleman from Texas (Mr. SMITH). We just called the office of the gentleman from Texas (Mr. SMITH). He apparently is opposed to the bill, and is on his way over.

I would just say that in lieu of the gentleman from Texas (Mr. SMITH) walking hopefully very fast over, I would rise in opposition to the amendment, which would prevent the Department of Transportation from implementing a regulation.

If I might say, without me going through this as a waste of time, would the gentleman from Georgia (Mr. BARR) agree to withdraw the amendment until the gentleman from Texas (Mr. SMITH) gets here, and allow us to take the amendment from the gentlewoman from New Jersey (Mrs. ROUKEMA)? Then the gentleman from Georgia (Mr. BARR) could offer his amendment again, and then the gentleman from Texas (Mr. SMITH) would be here. The gentleman could offer it again, as a courtesy.

Mr. BARR of Georgia. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Georgia.

Mr. BARR of Georgia. Mr. Chairman, I strived to contact the gentleman from Texas (Mr. SMITH) on the way over here. I do have a colloquy to discuss with him.

With the assurance that we will have time soon as the gentlewoman from New Jersey (Mrs. ROUKEMA) moves forward with her amendment, I certainly would withdraw it at this time with the gentleman's consent, and with the understanding that we would pose it immediately after the next amendment.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. I offer an amendment, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA:

Page 53, line 15, strike "is hereby authorized to" and insert "shall".

Page 53, line 18, strike the colon and all that follows through "time as" on line 20 and insert "if".

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, I think we can very brief with this.

Mr. WOLF. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I would tell the gentlewoman, I think it is a great amendment, and I accept it.

Mrs. ROUKEMA. I thank the gentleman, Mr. Chairman.

Let me just say a few words, and also acknowledge my colleagues, the gentlemen from New Jersey, Mr. FRELINGHUYSEN and Mr. FRANKS, who really initiated this issue, and included the language in the bill that we have before us.

Mr. Chairman, this deals with the HOV lanes in the State of New Jersey, particularly along Route I–287, and the fact is that they have caused tremendous problems in terms of airplane pollution, and they certainly have caused enormous traffic jams.

So consistent with the language the gentleman has in the bill, I was concerned that, as currently drafted, it might be giving Federal bureaucrats too much discretion. For this reason, this amendment, I believe, does the same thing with the precision which was originally intended. I think the change in language gives that precision. The amendment would simply require the Secretary of Transportation to grant New Jersey this commonsense waiver for I–287 that we already have for Route 80, so New Jersey assures the Secretary that removing these lanes is in the public interest.

I think the legislative language will make a big difference for New Jersey, and it will return the decision-making process to the people of the State.

Mr. WOLF. If the gentlewoman will continue to yield, Mr. Chairman, the gentlemen from New Jersey, Mr. FRANKS and Mr. FRELINGHUYSEN, have spoken to me about this. I think it is a wonderful amendment, and we accept it.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman. I really appreciate the help, and so do the people of New Jersey.

Mr. SABO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me indicate that the Department has some serious reservations about this provision. I expect we will adopt it tonight, but I would indicate to our friends from New Jersey, I think this is something we need to keep visiting about as we go to conference.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARR of Georgia:

At the end of the bill insert the following:

SEC. . None of the funds appropriated by this Act may be used to carry out the National Highway Traffic Safety Administration proposed rule (Docket No. NHTSA-98-3945) dated June 17, 1998, which implements section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Mr. BARR of Georgia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARR of Georgia. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Texas (Mr. SMITH), the distinguished chairman of the Subcommittee on Immigration and Claims, with regard to Section 656 of the Illegal Immigration and Immigrant Responsibility Act of 1996.

In this important piece of legislation there was a section which requires States to produce driver's licenses that conform to Federal specifications.

Recently, the Department of Transportation has promulgated a rule to provide the basis for a national identification card. It does this in part by directing that all Federal agencies may accept as proof of identity only a driver's license or identification document that conforms strictly to certain specific and uniform requirements; and that if a State driver's license issued by any State fails in any respect to conform to such requirements, it shall not be acceptable for any Federal purpose or by any Federal agency.

The proposed rule also requires that all drivers' licenses or identification cards contain a Social Security number. I understand this was not the intention of that provision in the 1996 law, and that the author thereof, the distinguished gentleman from Texas (Mr. SMITH), agrees that the rule proposed by the U.S. Transportation Department, National Highway Traffic Safety Administration, on June 17, 1998, in the Federal Register at pages 33219 to 33225, goes far beyond the intent of Section 656 of the 1996 legislation.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. BARR of Georgia. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, the gentleman is correct, the legislation we passed was designed only to address necessary steps to deal with a specific problem, such as illegal immigration in the United States. It was not the intention of the bill or the Congress to establish a national ID, or to require that all States issue only driver's licenses in a format required by the Federal Government.

Mr. BARR of Georgia. Reclaiming my time, is it the chairman's reading of the proposed rule that the Department of Transportation has gone far beyond the scope of congressional intent with respect to the rules of the National Highway Traffic Safety Administration issued in the Federal Register on June 17, 1998?

□ 0010

Mr. SMITH of Texas. Mr. Chairman, if the gentleman would yield, the gentleman from Georgia (Mr. BARR) is correct. The proposed rule does go far beyond the intent and scope of section 656 of the 1996 legislation.

Mr. BARR of Georgia. Mr. Chairman, reclaiming my time, would the distinguished gentleman commit to work with me, the gentleman from Texas (Mr. PAUL), and others to draft and enact legislation before the adjournment of this Congress which will prevent the establishment of a national ID card and properly limit rules and regulations issued by the administration so as to conform to the intent and purpose of section 656 of the 1996 legislation?

Mr. SMITH of Texas. Mr. Chairman, if the gentleman would continue to yield, as the chairman of the Subcommittee on Immigration and Claims and as a coauthor of the language in section 656, I will work with the gentleman, the gentleman from Texas (Mr. PAUL), and others who might be interested, to draft and enact legislation this Congress that will prevent the Department of Transportation, or any other agency or department of the executive branch, from establishing or requiring a national ID card that might result from the aforesaid rules proposed in the Federal Register on June 17, 1998.

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman from Texas for his commitment to work on this legislation which will address this serious situation.

At this time, I will amend my amendment so that its only purpose will be to rescind the rules proposed by the National Highway Traffic Safety Administration in the Federal Register on June 17, 1998, at pages 33219 to 33225, 23 CFR, part 1331, entitled State-Issued Driver's Licenses and Comparable Identification Documents; Proposed Rule.

This will not hamper the legitimate purpose of the legislation proposed and adopted in 1996 as section 656 but will simply force the administration to go back and propose more limited rules consistent with the law and congressional intent.

Mr. Chairman, I urge the adoption of this amendment.

Mr. PAUL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am very pleased that this subject has been brought to the House floor tonight. I am very pleased that the gentleman from Georgia (Mr. BARR) has offered this amendment.

Mr. Chairman, it does not solve the problem that we face here in the Congress and in this country, and that is the perpetual invasion of our privacy. It has been said even by the author of the immigration bill that the intent was not to have a national ID card, but if Members would read the regulations now being written by the Department of Transportation, it can be seen as nothing else.

This indeed would be a national ID card. Last week, we dealt with the subject of medical IDs and a national data bank. Fortunately, something was put into the Patient Protection Act to stymie that a little bit.

But there is an ongoing onslaught against personal privacy in this country. And in 1996, of course, when the immigration bill was passed, this authority was given. Quite frankly, even though I am quite pleased with the efforts that we have made here tonight, I think ultimately, if we are sincere about protecting the American people and guaranteeing that we do not have a national identification card, we will repeal that authority. Tonight we are not doing that, but at least we are putting a roadblock in these regulations now being written.

I do not think this is an accident. I do not think that this is something that we should be surprised about. Too often, Congress writes regulations and gives authority to certain departments and agencies of government, and then they go beyond the scope; and, too often, we do not pay much attention to it. Fortunately, under these circumstances, I think that it has been brought to the attention of the Congress and proper action has been started, so I am very pleased to be able to support this amendment.

Mr. Chairman, in the bigger picture, I think that we are going to continue to see this problem, because when a government gets very large, when a government gets very bureaucratic and when it is difficult to solve all the problems, the government naturally becomes more authoritarian and then the effort becomes how do we get the government to work efficiently? So there is a contest going on in the country today, and it is going to continue: the efficiency of government versus the privacy and the freedoms of the individual.

I do not believe that we have been sent here to protect the interests of the State. We have been sent here to uphold the Constitution and protect the liberties of the individual. So this is a perfect example of a contest going on between the bureaucracy and the encroachment of big government versus the individual liberties of other American citizens.

So I am pleased with this amendment and, hopefully, it will pass. I think we have to continue to be vigilant about privacy in our medical records and the abuse of the social security number as the national identifier. There are many, many pieces of legislation; there are 40 times we have authorized in this Congress for the social security number to be used as the identifier. It was never intended that way.

So I plead with my fellow colleagues to continue to be vigilant and watch out and protect the individual liberty and the privacy of all of us.

Mr. MENENDEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am concerned that, after midnight, we raise the question here that goes not to the heart of the transportation bill before us but to questions of the implementation of the immigration bill.

I am very concerned when I hear some of my colleagues who I think very much would like to see a national ID card raise the specter that the National Highway Traffic Safety Administration's rulemaking, which is pursuant to the Illegal Immigration Reform and Immigration Responsibility Act of 1996, is in fact that they are concerned about that, when they are raising the rules based upon the mandate that the legislation had.

Now, what does a mandate do? It says that a State-issued driver's license and comparable identification document provides that a Federal Agency may only accept as proof of identity a driver's license or identification document that conforms to specific requirements in accordance with regulations to be issued by the Secretary of Transportation.

Now if the Department of Transportation, under the act that was passed and offered by the majority, can never issue the rulemaking to give the standard, then the person who is a permanent legal resident of the United States does not have a vehicle by which, in fact, to show identification and, therefore, be able to give themselves the opportunity to access whatever it is governmentally that they wish, whether it be a program or otherwise.

So I would like to ask, if I may, the sponsor of the amendment, the gentleman from Georgia (Mr. BARR), if he would be willing to respond to a question. My question is, is not the National Highway Traffic Safety Administration just doing the rulemaking that the legislation which I believe you and the gentleman from Texas (Chairman SMITH) supported?

Mr. BARR of Georgia. Mr. Chairman, will the gentleman yield?

Mr. MENENDEZ. I yield to the gentleman from Georgia.

Mr. BARR of Georgia. Mr. Chairman, that is the question. I would say to the gentleman from New Jersey, it appears that the rule that they are proposing goes beyond the intent.

Mr. Chairman, I just talked with the distinguished gentleman from Virginia (Chairman WOLF), and based on a colloquy that he and I are going to ask unanimous consent to engage in, we will be withdrawing the amendment at this time.

Mr. MENENDEZ. Mr. Chairman, the gentleman will be withdrawing the amendment?

Mr. BARR of Georgia. Yes, based on a colloquy that I will have with the gentleman from Virginia.

PARLIAMENTARY INQUIRY

Mr. MENENDEZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MENENDEZ. Mr. Chairman, I accept that is what will happen. Would this amendment not, in essence, be legislating on an appropriations bill?

The CHAIRMAN. The Chair cannot rule on that at this point, because the amendment is already pending.

Mr. MENENDEZ. Mr. Chairman, can the Chair advise if the amendment is appropriately drafted for the purposes of pursuing this appropriations bill?

The CHAIRMAN. The Chair cannot respond to that as a parliamentary inquiry. The amendment is before us.

Mr. WOLF. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it basically would be legislative in intent, if it is not actually legislation on an appropriations bill. I ask the gentleman from Georgia (Mr. BARR) if he would withdraw his amendment. It is 12:20 at night. Nobody has seen it.

Mr. Chairman, what we have offered to do is set up a meeting next week with NHTSA. The minority staff will be there. The majority staff will be there. The gentleman from Georgia (Mr. BARR) and the gentleman from Texas (Mr. SMITH) will be there. And we will sit down and see what we can do to work it out.

Mr. BARR of Georgia. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Georgia.

Mr. BARR of Georgia. Mr. Chairman, based on the fact that there may be something problematic in the language in that we are dealing here with fiscal year 1998–1999 appropriated funds, the rule that the administration is proposing, as I understand it, would go into effect next month. That is August of 1998. And while it certainly would be implemented over a period of time, it would clearly bring it into fiscal year 1999.

Therefore, I think that the amendment is appropriate. It is not legislating. It would simply be to stop appropriated funds for fiscal year 1999 from being used to continue to implement this rule, which will go into fiscal year 1999 in its implementation.

However, in light of that and in light of the assurances of the gentleman from Virginia, whom I certainly respect, and in light of the fact that the chairman of the Subcommittee on Immigration and Claims, the author of the original language, the gentleman from Texas (Mr. SMITH), will work with us next week in setting up a meeting with the National Highway Traffic Safety Administration to see if we can work out an agreement with them and, if not, thereafter propose a legislative remedy for this, I will at this time withdraw the amendment.

☐ 0020

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

The CHAIRMAN. Are there further amendments to the bill?

Mr. BALDACCI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of supporting the transportation appropriations bill and also to enter into a colloquy with the ranking minority member.

Mr. Chairman, the committee's recommendation for the Federal Highway Administration's research program includes $15.2 million for research into high performance materials and bridge systems which could be applied to improve our Nation's infrastructure. This amount is $1.8 million less than the $17 million included in the Senate transportation bill.

The Senate bill also includes $1 million for wood composite research and $1 million for the University of Maine's Advanced Engineered Wood Composite Center. This is an exciting program that has yielded many innovations with wood composites and their applications to our country's transportation needs, from better bridges to lighter trucks.

When the House conferees meet with the Senate conferees on this bill, I ask the conferees' support for the Senate's provisions providing $2 million for this important research which will go a long way in making bridges of all kinds more economical.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I thank the distinguished gentleman from Maine for bringing this important issue before the House. I agree that we need to aggressively pursue new technologies that will make our transportation infrastructure safer, more economical and friendlier towards the environment.

As the House and Senate conferees meet, I assure the gentleman that as the ranking minority member of the subcommittee, I will certainly do all that I can to ensure that the funding for this important activity receives full consideration.

Mr. BALDACCI. I thank the gentleman for those comments and for his support.

The CHAIRMAN. Are there further amendments to the bill? The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1999".

Mr. SHUSTER. Mr. Chairman, some have argued that the TEA–21 highway and transit firewalls somehow have caused the appropriators to underfund other discretionary spending. This is false. The truth is that TEA–21 provided more, not less, funds for remaining discretionary appropriations.

First, all the increased spending for the highway and transit firewalls was fully reflected in the firewalls and fully offset by other, saving provisions in TEA–21.

Second, the current, overall discretionary spending caps were only adjusted downward by the amount of highway and transit spending provided in 1998.

In other words, existing discretionary spending was not reduced by the amount of firewall spending, but rather by the amount that the appropriators had previously provided for FY 1998.

Third, there is no longer any pressure on the existing discretionary spending caps to fund increased highway trust fund spending.

Without a doubt, if these new highway and transit firewalls had not been created, there would have been inordinate pressure within the existing caps to increase trust fund spending above fiscal year 1998 levels.

Fourth, because of differences in CBO's and OMB's scoring of the discretionary cap adjustments an extra $900 million of outlays was added to the appropriations Committee's 302 allocation for fiscal year 1999.

Over the next five years, the effect of this adjustment is between $4 and $5 billion.

The fact is that TEA–21 made more funds available for remaining discretionary programs. If certain non-firewall transportation programs remain underfunded, the cause is not TEA–21, but rather decisions by the appropriators to spend the money elsewhere.

Finally, the argument that other transportation programs are underfunded because the appropriators cannot reduce firewalled spending to increase other, general fund programs has already been rejected by the Congress and the President.

The sole purpose of the firewalls—which I remind my colleagues was a compromise from the House position of taking the highway trust fund off-budget—was to guarantee that future gasoline taxes are spent for their intended purposes.

TEA–21 settled for once and for all that this Congress will no longer continue the charade of masking the size of general fund spending through raiding the highway trust fund.

In conclusion, I compliment the appropriations committee for fully funding and complying with the highway and transit firewalls in TEA–21. Let us not confuse this good work with faulty arguments about the effect of the firewalls on remaining discretionary spending.

Mr. POSHARD. Mr. Chairman, I rise today in support of the FY99 Transportation Appropriations measure. This bill incorporates the funding levels agreed to in the Transportation Equity Act for the 21st Century (TEA–21) and will help ensure that our nation's roads and highways remain safe and that our transportation needs will be met into the next century. I am especially pleased with this legislation because it represents the fact that we will now be using our gas tax receipts for their intended purpose.

In addition, I applaud Chairman WOLF and Representative SABO for including $609 million in the bill for assistance to Amtrak. Amtrak is of vital importance to my constituents and to countless Americans who rely on its service to this country, and continued funding for Amtrak will help these dedicated men and women retain their jobs.

As a member of the Transportation and Infrastructure Committee, I am acutely aware of the constant need to fund maintenance and construction projects in order to provide the safe, efficient, and high quality transportation services on which Americans have come to depend. I believe this bill will help us do that, and I urge my colleagues to join me in support of H.R. 4328.

Mr. FORBES. Mr. Chairman, and I want to thank the distinguished Subcommittee Chairman from Virginia for all the work he has done on this bill.

Mr. Chairman, in April of this year, two jetliners nearly collided over LaGuardia Airport in New York. Thousands of my constituents fly to and from LaGuardia each and every year. A subsequent investigation led the FAA to order a two-hour "refresher" training for their air traffic controllers, but I am concerned that this incident may only be the tip of the iceberg and may reflect similar problems at other airports around the nation.

Over the last 4 years the FAA has delayed, reduced or eliminated planned air traffic controller proficiency and operational training at many airports, including New York, Miami, Washington DC, Atlanta and Kansas City. Although the Congress has in the past fully funded the FAA request for safety training, the agency has for various reasons not fulfilled their own training plans.

In Fiscal Year 1996, Congress included report language in the Transportation Appropriations conference report that recognized this problem and urged the FAA to address the issue. However, over the last several fiscal years, the FAA has still not fully funded their own training plans. This lack of funding has led to a high number of operational errors among air traffic controllers where that refresher training has not taken place.

I am concerned that perhaps the Administration is not asking the Congress for sufficient funding to adequately address this training. With a growing number of new controllers, the FAA has identified its needs but the Administration has failed to include enough funding in its budget request to make up for the previous year's funding shortfall.

Mr. Chairman, it is my strong position that the Other Body's report language on this topic should be accepted during the House-Senate conference on this legislation. In my view the Senate report language will help make our skies safer for the traveling public.

Mr. SMITH of Oregon. Mr. Chairman, I would like to share with my colleagues a program that is very important to my district and to the State of Oregon. In the Department of Transportation and Related Agencies Appropriations Act, H.R. 4328, I requested $1.5 million be appropriated to the Oregon Department of Transportation for a joint effort with the Aviation Life Flight Network in Oregon. Although H.R. 4328 does not provide funds for this program, this is a very worthwhile program, and one that is worthy of congressional support.

Oregon's Aeronautics Section, in partnership with Life Flight Network, a consortium of Oregon Health Care Providers, proposes to establish global position systems (GPS) instrument and weather systems at rural airports throughout the State of Oregon. By using GPS navigation through mountain passes and rural areas, medical helicopters would be able to serve rural communities and remote areas during periods of inclement weather. My district, the Second District of Oregon, is very rural in nature and has weather extremes that sometimes make it difficult to evacuate people in medical emergencies. The $1.5 million I requested for this program would go a long way to alleviate these problems. In addition, local businesses would be able to use local facilities for corporate and business air passenger and air freight purposes.

I ask that the Conferees on the House/Senate Conference Report for H.R. 4328 fund the $1.5 million needed for this very important program.

Mr. DELAHUNT. Mr. Chairman, I rise tonight to express grave concern about what I believe to be devastating funding reductions for the U.S. Coast Guard in this bill.

In my view, the decision to cut $29 million from overall FY98 levels, and to shift assets away from some of its most essential missions, will jeopardize the Coast Guard's capacity to safeguard environmental resources and maritime safety. In this context, the additional $15 million reduction in the operating account would seriously impair the Coast Guard's marine conservation, fisheries law enforcement and search-and-rescue capabilities.

I am especially dismayed that these cuts were accompanied by an $33.8 million increase in funding for drug interdiction. While I strongly support efforts to intercept illegal narcotics, by land and sea, I was astonished to learn that this new commitment would come at the expense of long-established Coast Guard ice-breaking and fisheries management duties—through budget offsets totaling $20 million and $13.8 million, respectively.

The historical pattern is all too familiar. Between operational cutbacks and expanded responsibilities, coastal communities will—once again—start calculating the odds of Coast Guard personnel reductions, decreased hours at sea and station closings.

As I read this legislation, there are no provisions relieving the Coast Guard of responsibility for delivering fuel to the Air force in Antarctica, or for its patrols to protect endangered right whales. Nor do I see directives relating to the billions of dollars in damage prevented to private property—or to its most critical mission, search-and-rescue. In the last decade, the Coast Guard has responded to a half-million SOS calls, and saved nearly 45,000 lives in the process. These services are somehow supposed to continue, unimpeded by crippling cutbacks.

The Congress cannot expect to have it both ways. We must decide what level of service we desire, then determine how—not whether—to pay for it. The consequences are matters, quite literally, of life and death.

I appreciate the difficulties facing appropriators under current budget constraints, but the committee faced the same pressure while increasing overall Transportation Department funding by 11 percent. The FAA is slated for a four percent increase; the Federal Transit Administration will receive 11 percent more; Amtrak will increase by 12 percent, and National Highway Safety Administration will get an additional 38 percent.

I do not presume to question the merits of these activities, any more than I contest beefing up drug interdiction efforts. I do, however, object vigorously to do so by arbitrarily diverting resources from essential Coast Guard missions.

The Subcommittee Chairman, in remarks accompanying the Committee Report, makes an impassioned argument for strengthened interdiction on the seas. What he fails to discuss, however, is the full cost of these added burdens—in terms of foregone icebreaking, fisheries enforcement or rescues at sea.

This bill enriches Paul, without even considering the impact on Peter. In so doing, it unnecessarily and irresponsibly places at risk marine resources, private property and human life.

The CHAIRMAN. If there are no further amendments to the bill, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. GILLMOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4328) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 510, he reported the bill, as amended pursuant to that rule, back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 391, nays 25, not voting 18, as follows:

[Roll No. 355]

YEAS—391

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hefner
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)

NAYS—25

Burr
Campbell
Chabot
Chenoweth
Crane
Graham
Hayworth
Herger
Hill
Hoekstra
Jones
Kasich
Kucinich
Moran (KS)
Paul
Royce
Salmon
Sanford
Schaffer, Bob
Sessions
Shadegg
Souder
Stearns
Stump
Wexler

NOT VOTING—18

Becerra
Cox
Dingell
Ewing
Fazio
Frank (MA)
Gonzalez
Hall (OH)
Harman
Johnson, Sam
LaTourette
McDade
Moakley
Murtha
Smith (OR)
Stark
Yates
Young (FL)

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Mr. JONES and Mr. KASICH changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BIOMATERIALS ACCESS ASSURANCE ACT OF 1997

Mr. GEKAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 872) to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Pennsylvania?

Ms. LOFGREN. Reserving the right to object, Mr. Speaker, and I will not object, but I do want to say how pleased I am and so many of us on this side of the aisle are to have this wonderful success this evening. We worked hard, we gained consensus on a bipartisan basis, opponents have come together for the good of the country, and I think it is really the way the legislative process should work. I want to thank the gentleman for his efforts. It has been really a privilege to work on this, and I know that this will help many in our country who need the medicine and need the implantables, and they will now be able to get them.

So, as I say, I reserve the right to object, but I do not object.

Mr. GEKAS. Mr. Speaker, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I thank the gentlewoman not just for yielding this time to me, but for the continuous effort that she has expended in promoting the final moments which we are enjoying of the passage of this bill.

As the gentlewoman knows, some 7 million fellow Americans are at this very moment living better lives because of the medical devices which have been developed over the years and which were in danger of being stopped dead in their tracks by the lack of the flow of materials, basic materials needed in their manufacture. So this bill will go a long way in guaranteeing to the people who look forward to these medical devices in the near and far future.

We also want to put on the record the fact that the administration has nodded its head and given advanced approval of the bill so the prospects for its being signed into law are excellent.

Mr. BILBRAY. Mr. Speaker, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Speaker, I would just like to thank the gentleman from Pennsylvania (Mr. GEKAS) for this important piece of legislation. As my colleagues know, we asked the gentleman to take on this cause, and let me just say I would like to thank the gentleman from Pennsylvania and the gentlewoman from California for the cooperative effort for those who need the implants and the biomaterials here, that we are talking about here today. And let me just say I would like to sort of congratulate my colleagues in the name of Titus, the young man who depends on shunts to be able to stay alive every day and was basically concerned that because of liability and the problems of liability, the biomaterials that make those shunts to keep him alive could be restricted from his position so that he could continue the happy life and the very active life.

If my colleagues met Titus, they would know what I mean. He is one of my constituents, is a young man that I look forward to watching him grow up and become prosperous, and with this kind of legislation, Mr. Speaker, I want to thank my colleagues in the name of Titus and for all the children and all the citizens in America that will be served by those biomaterials that might have been denied to people who desperately need them for life and limb.

Ms. LOFGREN. Reclaiming my time, Mr. Speaker, I would like to say that this bill is a very fair accommodation that will provide the relief necessary to keep materials in the marketplace, yet provides an opportunity should judicial relief be required to be made available.

So it strikes the exact right balance, I am proud to be associated with it, and as we have all noted at the Committee on the Judiciary, we believe that this measure should not be expanded in any way. We have got it where it needs to be, we all agree, and I am glad that we stand firm in that across the aisle.

Mr. GEKAS. Mr. Speaker, will the gentlewoman yield further?

Ms. LOFGREN. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I am glad that the gentleman from California (Mr. BILBRAY) brought up the name of little Titus. He actually came with me at one point and sat on my knee as we both testified jointly before the relevant committee in the subcommittee of the Committee on Commerce, and I must say that he carried the day with the poignancy of the need of the special device which carries his life forward, and so he with young Tara Ransom it was, Tara Ransom also a child who needs this continuation of the medical device syndrome to survive, also testified, and thus we have a nationwide effort, shall we say, that has brought us to this moment.

Mr. BURR of North Carolina. Mr. Speaker, would the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from North Carolina.

Mr. BURR of North Carolina. Mr. Speaker, I wanted to rise in support of H.R. 872, the Biomaterials Access Assurance Act.

Biomaterials are the raw materials or component parts used by manufacturing companies to make implantable medical devices. Almost 8 million Americans have had their lives saved or improved by biomedicals, including anyone using a pacemaker, a heart valve, a hip joint, a knee joint or who have received sutures during surgery.

Last year the Committee on Commerce found that only 25 percent of the biomaterials companies are currently willing to supply implant manufacturers with necessary raw materials for production of medical devices. The other 75 percent have banned sales of their raw materials to medical implant markets in the United States. This means that in the United States my colleagues and their families may no longer be able to get the pacemaker or heart valve or knee joint, once stockpiles run out.

Why are these companies no longer willing to provide these lifesaving products? One hundred percent of the companies surveyed stated that a key factor driving them out of the American market was our out-of-control legal system that is bankrupting their operations.

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Tens of millions of dollars are being wasted on litigation cost for biomaterials suppliers to protect themselves from liability. Tens of millions of dollars that could be spent on research or making health care more affordable for the American people.

Any American who has been sued knows how the system works. Even if they are innocent, they risk going broke just to pay their legal fees to prove themselves in the case against them.

This bill does not protect the manufacturer of medical devices. They will still be liable to the injured victim for defective products. Nor does this bill protect the seller of medical devices. Consumers will still have every opportunity to get their full recoveries from the responsible parties.

This bill merely says that the entities who provide the raw materials used in medical devices, but do not manufacture or sell the device, and, therefore, are never found liable by the courts should not have to prove themselves out of the same types of litigation year after year after year.

H.R. 872 was reported unanimously out of the Committee on Commerce and has been negotiated on a bipartisan, bicameral basis with the participation and assistance of the administration.

Eight million Americans are relying on us to protect the continued supply of raw materials used for medical devices.

I urge everyone in this House to support this unanimous consent request.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in support of the Biomaterial Access Assurance Act.

When companies decide to stop producing certain life-saving products because of the threat of costly litigation, we have reached the point in our society where our urge to protect smothers our ability to heal.

Medical implants such as heart valves, joint implants, and brain shunts save or improve the lives of more than 7.5 million people every year. The worldwide market for medical devices exceeds $100 billion, with about half of that supplied by American firms.

Biomaterials are the raw materials, such as silicone, polyester, urethane, and polypropylene, used to make medical devices. The already small number of U.S. firms that produce these materials is shrinking, as businesses face the threat of scatter-shot lawsuits. Under U.S. product liability laws, any party involved in the creation of a product—even remote contributors—may be included in product liability litigation.

It is a troubling paradox that now, when the opportunity for technical innovation in the use of medical implants has never been greater, Americans are being robbed of the benefits of these products.

Dupont decided in 1994 to halt the supply of three materials used in medical implants because the sale of small amounts of these marginally profitable materials exposed Dupont to very expensive product liability lawsuits, even if Dupont won.

The growing fear of litigation has led 14 suppliers to cut the supply of biomaterials to the medical implant market, with many certain to follow. The uncertainty surrounding the supply of biomaterials has already caused a technological slowdown. Companies are reluctant to push forward with new product ideas they're not sure they can ever afford to insure, manufacture and market.

Suppliers of raw biomaterials (mostly small companies) who do not make or design medical devices should not be held responsible when a manufactured product allegedly malfunctions. This protection from litigation is included in the Biomaterial Access Assurance Act.

This biomaterials reform legislation will not hold the manufacturers of faulty biomaterial products harmless. The ability to sue a supplier is maintained in the legislation if the biomaterial is defective, fails to meet contractual agreements, or where the supplier is also the manufacturer.

Putting small high-tech firms that make implantable medical devices out of business is an unfortunate economic consequence of our society's litigious nature. These firms should be nurtured and supported, not run out of business because they can't afford the cost of lawsuits, the vast majority of which they win, but which nevertheless soak up valuable financial and human resources.

Opponents of product liability reform often speak of their concern for the victims of defective products. But unless we enact this legislation, we could soon have more than 7.5 million more victims—those individuals who depend on medical devices made with biomateials.

I must admit to a certain personal interest in this subject. There is a medical implant, a small brain shunt, in my daughter Dorothy's head that serves as a relief valve so that the pressure from any fluid buildup from cancer growth can be relieved. I don't even know the name of the company that supplied the materials for the brain shunt. Yet I'm told by her doctors that our current short-sighted product liability laws may force the company that helped save my daughter's life to forego supplying any more such low-cost shunts.

In 1994, when Dorothy was diagnosed with brain cancer, her doctors gave her 50/50 odds of reaching her fifth birthday. Dorothy turned six last month, and will attend first grade in September. Her ongoing recovery is attributable to many factors, the shunt in her hand being only one. And yet the supplier of the material that forms that shunt might pull its product off the domestic medical device market, if it hasn't already, because of the looming danger of financial ruin posed by potential product liability lawsuits.

We can protect biomaterials suppliers, and provide a better quality life for the recipients of medical devices, by passing this bill.

Mr. MARKEY. Mr. Speaker, I rise in support of H.R. 872, the "Biomaterials Access Assurance Act."

Modern medical science has produced true miracles, and we want to encourage continued innovation in this area. We all want to assure that those who suffer from injury or illness can get access to the treatments and technologies needed to treat or cure them. At the same time, however, we must recognize that consumers deserve protection from defective or unsafe medical devices or drugs. Since that the FDA cannot always be safely relied upon to prevent dangerous or unsafe drugs or medical devices from reaching the market, consumers currently depend on our system of tort law to compensate them for the harm caused by such products and to create incentives for product and materials manufacturers and suppliers to undertake rigorous product testing, issue appropriate warnings, and obtain sufficient insurance or indemnification to guard against litigation risks.

While I am generally skeptical about the notion of carving an entire class of persons out of tort liability, I agree that we should assure that patients can obtain access to critically needed medical devices. The House today is presented with a more narrow and limited biomaterials bill, which represents a significant improvement over previous incarnations and minimizes the prospect that injured consumers would be unable to obtain appropriate redress and compensation. Specifically, the bill before us today addresses the three concerns I had raised about legislating in this area in the Subcommittee's oversight hearing last year. First, it is a free-standing biomaterials bill, and not part of a broader product liability reform effort. Second, the so-called "English Rule" of the original bill has been dropped, which would have forced losing litigants to pay litigation costs. Third, and most importantly, an effort has been made in the impleading provisions of the bill to address the concerns I raised in the hearing regarding the need to assure that fraudulent suppliers could be held liable for their actions.

These are all positive changes, and in light of their adoption I intend to support this legislation today. I do wish to note, for the record, however, that I continue to have some concerns about the extension of the bill to cover manufacturers of component parts in addition to raw material suppliers. While I understand the arguments made in support of this legislation as it relates to the supply of raw materials, this bill also protects the manufacturers of "component parts" of implantable devices. Raw materials, such as silicone or polyethylene, are vastly different subject matter from components, which can be as technically diverse as batteries, tubes, wiring and pacemaker leads. Yet there is little, if any, substantiation in the legislative record for broadening H.R. 872's protections to the manufacturers of such components. While I, the gentleman from California (Mr. WAXMAN) and others on this side of the aisle support the bill moving forward, we believe liability protection for manufacturers of component parts should be very carefully reviewed before this bill achieves final passage. If the provision remains in the bill, it should be construed as narrowly as possible to avoid unintended consequences of limiting liability of the makers of the manufactured pieces of such devices. I hope that we can work in conference to address these concerns.

In addition, I am concerned about reports that an effort may be underway to use this biomaterials bill as a vehicle to get into conference on a broader product liability legislation, or to broaden the scope of the bill to cover other medical devices. I want to caution strongly against either course of action. My support is contingent on one very specific understanding: that this legislation not be expanded beyond the form reported by the Commerce Committee.

I would, for example, be strongly opposed to changes in which FDA-regulated products are included within the class of biomaterials that receive special protections in this bill. On June 23, 1998, we received a letter from Jim Benson, executive vice president of the Health Industry Manufacturers Association (HIMA), assuring us that it is the intention of that organization to oppose any efforts to change the bill as reported or encumber it with other legislative items. I commend HIMA for taking this stance.

This possibility is not mere speculation. On July 9, 1998, the New York Times reported that Senate Majority Leader Lott had handwritten an amendment into the Senate version of H.R. 872 on behalf of a major medical device manufacturer, Baxter International. Baxter recently lost a $18 million lawsuit to the family of Andrina Hansen, who suffered severe brain damage because of a faulty Baxter Intravenous, or IV, connector.

In 1991, Mrs. Hansen underwent surgery for a bleeding ulcer. After successful surgery, the disconnection of a postoperative IV forced air into her brain, causing a stroke. Mrs. Hansen spent four years in a nursing home as a quadriplegic before she died. When her family took legal action, all defendants settled except Baxter Healthcare, a subsidiary of Baxter International and the manufacturer of the faculty IV connector.

According to the court record, Baxter's internal memoranda documented the company's awareness that its IV connector design allowed IV tubing to slip. This defect was also the subject of almost 70 lawsuits over 20 years. Baxter also manufactured a newer, improved connector which prevented fatal incidents like Mrs. Hansen's. But Baxter never warned patients or health providers of these problems.

The proposed Senate amendment would insulate Baxter and similar underserving manufacturers of component parts of "containers and their related products to be used to collect fluids or tissue from the body or to infuse or to otherwise introduce fluids or tissue into the body" from liability for defective and dangerous products. This would be true even if it was the component, such as Baxter's defective IV connector, and not the entire device which was the cause of injuries or deaths.

In a July 10 letter to Senate Majority Leader Lott, Alan Magazine, president, and Ronald Dollens, chairman-elect of HIMA wrote of their organization's "very serious concerns about expanding [H.R. 872] to medical devices not considered during the four-year long debate on this legislation."

I take HIMA at their word in this commitment, and commend them for making it. I also accept the assurances of our colleagues on the Commerce Committee that passage of this bill without amendment is their intention. But if that is not the case—if this bill is amended adversely or becomes a vehicle for unwarranted Senate changes—then I will not support it and in fact will do all I can to see that it does not become law.

In its present form, however, this is a limited bill that I think the Members can and should support. Thank you, Mr. Speaker, and I yield back the balance of my time.

Mr. CUNNINGHAM. Mr. Speaker, I rise today in support of the Biomaterials Access Assurance Act. I want to thank my colleague, Mr. GEKAS, and the Committee Chairmen, Mr. HYDE and Mr. BLILEY, for bringing this important legislation forward.

This legislation seeks to alleviate a critical shortage of biomaterials available to our nation's medical device manufacturers. Biomaterials are the raw materials and component parts that go into life-saving and life-enhancing medical implants and devices. These devices include heart valves, prosthetics, brain shunts, and many other devices that provide an unmeasurable benefit to the lives of millions of Americans. Our citizens can only continue to enjoy these benefits if the biomaterials that go into such devices remain available.

This legislation will ensure that patients have access to the biomaterials and medical devices that they need. Over the last several years, I have met with researchers and doctors who manufacture medical devices. Each time we meet they stress the importance of this legislation and show another area of critical shortage in biomaterials which could prevent them from making the medical devices which save lives.

I have also met with parents and children who suffer from diseases which require these important medical devices. One of these young men is Titus Simonini, 5, who suffers from Hydrocephalus, a condition in which spinal fluid is blocked and builds up in the brain, often causing brain damage, paralysis and death. Titus' condition is treated through the implantation of silastic shunts, a silicon-coated device that regulates the fluid and prevents the buildup in the brain. These shunts are manufactured by only two small suppliers in the entire country. Without this legislation we are approaching the day when children like Titus won't have these products that make their lives possible.

The Biomaterials Access Assurance Act protects biomaterials suppliers from the litigation that swarms to them whenever they sell to the medical device market, even though they take no part in the design, testing, or sales of medical devices. The Biomaterials Access Assurance Act gives biomaterials suppliers a quick exit from lawsuits in which they would not be found liable anyway.

With regards to this important issue, it is equally important to stress what this bill does not do. The bill does not protect anyone who is involved in the design, testing, manufacture, or sale of medical implants. The bill also does not allow biomaterials suppliers to be negligent or fraudulent in their sale of materials to the medical market. As everyone knows, medical implants are intricately designed and rigorously tested in the FDA approval process. The specifications and tolerances of the materials that go into these devices are very precise and very narrow. If a biomaterials supplier fails to meet contractual specifications or specifications given to the Food and Drug Administration in the premarket approval process, the protections of this bill evaporate.

Now, these are narrow, technical points that should not detract from the main focus of this legislation. The threat to biomaterials access is a problem on which Congress must take action. With the protections of this legislation material suppliers will continue to provide important components for medical devices that help Americans live healthier and more productive lives. I encourage all of my colleagues to support this important legislation.

Mr. BERMAN. Mr. Speaker, I rise in strong support of H.R. 872, the Biomaterial Acccess Assurance Act.

I believe a persuasive case has been made that many medical device manufacturers face a shortage of raw materials and component parts as a result of their suppliers' exposure to tort claims. It troubles me that consumers could be denied access to life-saving and life-enhancing products, and it is for this reason that I have long engaged in efforts to seek a legislative solution to the problem.

The manufacturers who have made the most compelling case to me are people I have known for years in my own state of California. Many of them are small companies who depend for critical supplies on corporate giants. Because of their deep pockets, these suppliers are almost invariably brought in as co-defendants in lawsuits brought against device manufacturers. Because the device manufacturers are often an inconsequential segment of the market for their raw materials and components, the suppliers have increasingly refused to sell to them.

This is the problem we need to solve. But as strongly as I feel about our responsibility to act, I did not embrace this bill as originally introduced. I felt that it was wrong to completely shield the supplier who may have a degree of culpability for a faulty device.

That is why I was heartened that further efforts were made to improve the bill in committee, by spelling out means by which the supplier, though initially dismissed, can be brought back into the lawsuit.

I believe the appropriate balance has now been struck between consumer protection from faulty devices and consumer access to life-saving and life-enhancing devices. For that reason, I enthusiastically support the bill we have before us today.

I am compelled to make one further statement. I emphatically believe the case has been made for H.R. 872 in the form in which it is presented to us today. I do not believe the case has been made for an expansion of the bill beyond its present countours.

To be more precise, I am well aware that efforts have been made to expand the scope of the bill to include devices that do not fit the term "implant" as defined in the bill, thereby sweeping in devices and materials used outside of the body.

I want to be very clear that I will withdraw my support for this bill if along the way it is expanded beyond its present terms either by broadening its scope or enrolling it into a broader product liability bill. Today's floor consideration has long been sought by myself and other supporters of this bill. But it would be snatching defeat from the jaws of victory than for anyone to alter the careful balance achieved by this bill.

I profoundly hope that we can pass this bill today and have it quickly taken up by the other body, so that the millions of Americans who depend on life-saving and life-enhancing medical devices can be assured that they can continue to rely on the products of America's peerless medical technology industry.

Ms. LOFGREN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the bill, as follows:

H.R. 872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biomaterials Access Assurance Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) Biomaterials supplier.—

(A) In general.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) Persons included.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) Claimant.—

(A) In general.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) Action brought on behalf of an estate.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) Action brought on behalf of a minor or incompetent.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) Exclusions.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services;

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier; or

(iii) a person alleging harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel, except that—

(I) neither the exclusion provided by this clause nor any other provision of this Act may be construed as a finding that silicone gel (or any other form of silicone) may or may not cause harm; and

(II) the existence of the exclusion under this clause may not be disclosed to a jury in any civil action or other proceeding and, except as necessary to establish the applicability of this Act, otherwise be presented in any civil action or other proceeding.

(3) Component part.—

(A) In general.—The term "component part" means a manufactured piece of an implant.

(B) Certain components.—Such term includes a manufactured piece of an implant that—

(i) has significant non-implant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) Harm.—

(A) In general.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) Exclusion.—The term does not include any commercial loss or loss of or damage to an implant.

(5) Implant.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) Manufacturer.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) Medical device.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) Raw material.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(10) Seller.—

(A) In general.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) Exclusions.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 4. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) General Requirements.—

(1) In general.—In any civil action covered by this Act, a biomaterials supplier may raise any defense set forth in section 5.

(2) Procedures.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this Act is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 6.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this Act applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this Act; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this Act establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this Act and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 5. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 6. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this Act, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 5(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 5(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 5(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) Response to motion to dismiss.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 5(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 5(c).

(2) Effect of motion to dismiss on discovery.—

(A) In general.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) Discovery.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) Affidavits relating status of defendant.—

(A) In general.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) Responses to motion to dismiss.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 5 on the grounds that the defendant is not a manufacturer subject to such section 5(b) or seller subject to section 5(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 5(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 5(c).

(4) Basis of ruling on motion to dismiss.—

(A) In general.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) Motion for summary judgment.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) Summary Judgment.—

(1) In general.—

(A) Basis for entry of judgment.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 5(d).

(B) Issues of material fact.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) Discovery made prior to a ruling on a motion for summary judgment.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 5(d).

(3) Discovery with respect to a biomaterials supplier.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 5(d) or the failure to establish the applicable elements of section 5(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) Stay Pending Petition for Declaration.—If a claimant has filed a petition for a declaration pursuant to section 5(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) Manufacturer Conduct of Proceeding.—The manufacturer of an implant that is the subject of an action covered under this Act shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) Attorney Fees.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Gekas:

Strike out all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "Biomaterials Access Assurance Act of 1998".

SEC. 2. FINDINGS.

The Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) move in interstate commerce;

(B) are not designed or manufactured specifically for use in medical devices; and

(C) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and component parts;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices for a number of reasons, including concerns about the costs of such litigation;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; or

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) because medical devices and the raw materials and component parts used in their manufacture move in interstate commerce, a shortage of such raw materials and component parts affects interstate commerce;

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs;

(16) the several States and their courts are the primary architects and regulators of our tort system; Congress, however, must, in certain circumstances involving the national interest, address tort issues, and a threatened shortage of raw materials and component parts for life-saving medical devices is one such circumstance; and

(17) the protections set forth in this Act are needed to assure the continued supply of materials for life-saving medical devices, although such protections do not protect negligent suppliers.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of a deceased individual into whose body, or in contact with whose blood or tissue the implant was placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services in any case in which—

(I) the sale or use of an implant is incidental to such services; and

(II) the essence of the professional health care services provided is the furnishing of judgment, skill, or services;

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier; or

(iii) a person alleging harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel, except that—

(I) neither the exclusion provided by this clause nor any other provision of this Act may be construed as a finding that silicone gel (or any other form of silicone) may or may not cause harm; and

(II) the existence of the exclusion under this clause may not—

(aa) be disclosed to a jury in any civil action or other proceeding, and

(bb) except as necessary to establish the applicability of this Act, otherwise be presented in any civil action or other proceeding.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant non-implant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional health care services in any case in which—

(I) the sale or use of the implant is incidental to such services; and

(II) the essence of the professional health care services provided is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 4. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this Act, a biomaterials supplier may—

(A) raise any exclusion from liability set forth in section 5; and

(B) make a motion for dismissal or for summary judgment as set forth in section 6.

(2) PROCEDURES.—Notwithstanding any other provision of law, a Federal or State court in which an action covered by this Act is pending shall, in connection with a motion under section 6 or 7, use the procedures set forth in this Act.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this Act applies to any civil action brought by a claimant, whether in a Federal or State court, on the basis of any legal theory, for harm allegedly caused, directly or indirectly, by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device, purchased for use in providing professional health care services, for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this Act; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this Act establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this Act and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 5. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—Except as provided in section 7, a biomaterials supplier shall not be liable for harm to a claimant caused by an implant unless such supplier is liable—

(1) as a manufacturer of the implant, as provided in subsection (b);

(2) as a seller of the implant, as provided in subsection (c); or

(3) for furnishing raw materials or component parts for the implant that failed to meet applicable contractual requirements or specifications, as provided in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) registered or was required to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included or was required to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 120 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period from the time a claimant files a petition with the Secretary under this paragraph until such time as either (i) the Secretary issues a final decision on the petition, or (ii) the petition is withdrawn.

(D) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant only if—

(1) the biomaterials supplier—

(A) held title to the implant and then acted as a seller of the implant after its initial sale by the manufacturer; or

(B) acted under contract as a seller to arrange for the transfer of the implant directly to the claimant after the initial sale by the manufacturer of the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR FAILURE TO MEET APPLICABLE CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the biomaterials supplier supplied raw materials or component parts for use in the implant that either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for the supplying of the product; or

(B) failed to meet any specifications that were—

(i) accepted, pursuant to applicable law, by the biomaterials supplier;

(ii) published by the biomaterials supplier;

(iii) provided by the biomaterials supplier to the person who contracted for such product;

(iv) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(v) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were accepted, pursuant to applicable law, by the biomaterials supplier; and

(2) such failure to meet applicable contractual requirements or specifications was an actual and proximate cause of the harm to the claimant.

SEC. 6. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—A defendant may, at any time during which a motion to dismiss may be filed under applicable law, move to dismiss an action against it on the grounds that the defendant is a biomaterials supplier and one or more of the following:

(1) The defendant is not liable as a manufacturer, as provided in section 5(b).

(2) The defendant is not liable as a seller, as provided in section 5(c).

(3) The defendant is not liable for furnishing raw materials or component parts for the implant that failed to meet applicable contractual requirements or specifications, as provided in section 5(d).

(4) The claimant did not name the manufacturer as a party to the action, as provided in subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—In any civil action covered by this Act, the claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) a claim against the manufacturer is barred by applicable law or rule of practice.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed by a defendant under this section:

(1) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a defendant files a motion to dismiss under subsection (a), no discovery shall be permitted in connection with the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(3) on the grounds that it did not furnish raw materials or component parts for the implant that failed to meet applicable contractual requirements or specifications, the court may permit discovery limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(2) AFFIDAVITS.—

(A) DEFENDANT.—A defendant may submit affidavits supporting the grounds for dismissal contained in its motion to dismiss under subsection (a). If the motion is made under subsection (a)(1), the defendant may submit an affidavit demonstrating that the defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) CLAIMANT.—In response to a motion to dismiss, the claimant may submit affidavits demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 5(b)(2)(B); or

(ii) the defendant is a seller of the implant who is liable under section 5(c).

(3) BASIS OF RULING ON MOTION TO DISMISS.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings and affidavits of the parties made pursuant to this subsection. The court shall grant a motion to dismiss filed under subsection (a)—

(A) unless the claimant submits a valid affidavit that demonstrates that the defendant is not a biomaterials supplier;

(B) unless the court determines, to the extent raised in the pleadings and affidavits, that one or more of the following apply:

(i) the defendant may be liable as a manufacturer, as provided in section 5(b);

(ii) the defendant may be liable as a seller, as provided in section 5(c); or

(iii) the defendant may be liable for furnishing raw materials or component parts for the implant that failed to meet applicable contractual requirements or specifications, as provided in section 5(d); or

(C) if the claimant did not name the manufacturer as a party to the action, as provided in subsection (b).

(4) TREATMENT OF MOTION AS MOTION FOR SUMMARY JUDGMENT.—The court may treat a motion to dismiss as a motion for summary judgment subject to subsection (d) in order to determine whether the pleadings and affidavits, in connection with such action, raise

genuine issues of material fact concerning whether the defendant furnished raw materials or component parts of the implant that failed to meet applicable contractual requirements or specifications as provided in section 5(d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—If a motion to dismiss of a biomaterials supplier is to be treated as a motion for summary judgment under subsection (c)(4) or if a biomaterials supplier moves for summary judgment, the biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue of material fact for each applicable element set forth in paragraphs (1) and (2) of section 5(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by the claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment governed by section 5(d), such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 5(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 5(d) or the failure to establish the applicable elements of section 5(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) DISMISSAL WITH PREJUDICE.—An order granting a motion to dismiss or for summary judgment pursuant to this section shall be entered with prejudice, except insofar as the moving defendant may be rejoined to the action as provided in section 7.

(f) MANUFACTURER CONDUCT OF LITIGATION.—The manufacturer of an implant that is the subject of an action covered under this Act shall be permitted to conduct litigation on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section on behalf of such supplier if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such litigation or to conduct such litigation.

SEC. 7. SUBSEQUENT IMPLEADER OF DISMISSED BIOMATERIALS SUPPLIER.

(a) IMPLEADING OF DISMISSED DEFENDANT.—A court, upon motion by a manufacturer or a claimant within 90 days after entry of a final judgment in an action by the claimant against a manufacturer, and notwithstanding any otherwise applicable statute of limitations, may implead a biomaterials supplier who has been dismissed from the action pursuant to this Act if—

(1) the manufacturer has made an assertion, either in a motion or other pleading filed with the court or in an opening or closing statement at trial, or as part of a claim for contribution or indemnification, and the court finds based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and

(B) the manufacturer's liability for damages should be reduced in whole or in part because of such negligence or intentionally tortious conduct; or

(2) the claimant has moved to implead the supplier and the court finds, based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and

(B) the claimant is unlikely to be able to recover the full amount of its damages from the remaining defendants.

(b) STANDARD OF LIABILITY.—Notwithstanding any preliminary finding under subsection (a), a biomaterials supplier who has been impleaded into an action covered by this Act, as provided for in this section—

(1) may, prior to entry of judgment on the claim against it, supplement the record of the proceeding that was developed prior to the grant of the motion for impleader under subsection (a), and

(2) may be found liable to a manufacturer or a claimant only to the extent required and permitted by any applicable State or Federal law other than this Act.

(c) DISCOVERY.—Nothing in this section shall give a claimant or any other party the right to obtain discovery from a biomaterials supplier at any time prior to grant of a motion for impleader beyond that allowed under section 6.

SEC. 8. EFFECTIVE DATE.

This Act shall apply to all civil actions covered under this Act that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.

Mr. GEKAS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. GEKAS).

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 872, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

TERRY SANFORD COMMEMORATION ACT OF 1998

Mr. KIM. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3982) to designate the Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, as the "Terry Sanford Federal Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. TRAFICANT. Mr. Speaker, reserving the right to object, I would ask the gentleman from California (Mr. KIM) to explain this bill.

Mr. KIM. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. KIM. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, H.R. 3982 designates the Federal building located in Raleigh, North Carolina as the "Terry Sanford Federal Building."

Senator Sanford was successful in many pursuits. He was the founder of three law firms and held positions on the boards of numerous universities and colleges and corporations in the technology industry. Senator Sanford was also president of Duke University from 1969 to 1984 and continued as president emeritus from 1995 until his passing in 1998.

However, in addition to his pursuits in private sector, Senator Sanford also was a dedicated public servant. From 1950 to 1953, he served on the North Carolina State Ports Authority. In 1953, he was elected to the North Carolina State Senate and served until 1955.

In 1961, he was elected Governor of North Carolina for a term, returning to private practice in 1965. After several years out of public office, Senator Sanford returned in 1986 with a successful bid to the United States Senate where he served North Carolina until 1993.

This is a fitting tribute to a dedicated public servant. I support the bill as amended and urge my colleagues to support it.

Mr. TRAFICANT. Mr. Speaker, further reserving my right to object, I yield to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am honored to have this opportunity to honor the life and memory of a truly great American, Terry Sanford. I want to thank the gentlemen from California and from Ohio for his support in legislation which is so important to the Sanford family and really to all the people whose lives that he touched.

I want to thank the chairman and ranking member of the Committee on Transportation and Infrastructure, the House majority leader, and the minority leader in their efforts in getting this legislation scheduled for consideration.

Terry Sanford learned growing up that hard work reaps rewards, that boldness is a requirement of leadership, and that possibilities exist that are only bound by the size of one's imagination.

He also learned that there is character in service, and serve he did, as you have already heard, as an FBI agent, keeping our streets safe from crime; as a paratrooper in World War II where he was decorated for his acts of valor; as a member of the North Carolina Senate, representing the values we hold dear in public service, and perhaps more importantly as governor of the State of North Carolina, for which he received the appropriate title of the education governor.

It is fitting that Harvard University named him as one of this country's 10 most effective governors during this whole century. His leadership continued after he left the governor's mansion, as we have already heard this evening, serving as president of Duke University and later as a United States Senator.

Through his life, he fought to improve education, promote racial healing, eradicate poverty, promote economic development and help his fellow man. Terry Sanford was more than a great and admired politician. He was one of the most accomplished Americans of our time. His North Carolina values and visionary leadership brought us through some of the most difficult challenges that our State faced. This gesture is the least we should do for a man who allowed us to view the world from his broad shoulders.

Mr. TRAFICANT. Further reserving the right to object, Mr. Speaker, Terry Sanford's leadership and diligence led Harvard University to name him as one of the most effective governors of the 20th Century. His service in the United States Senate is distinguished by hard work and loyalty to the interests of his constituents.

Duke University has benefited from his tenure as president. With wisdom and vision, he guided the university into becoming a leader in the field of medicine and law. I am proud to join in passing this bill to name this Federal building in his honor.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Terry Sanford Commemoration Act of 1998".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Terry Sanford served the State of North Carolina and the Nation with enthusiasm, bravery, and distinction in many important ways, including—

(A) as a paratrooper in World War II;

(B) as an agent with the Federal Bureau of Investigation;

(C) as a North Carolina State senator;

(D) as Governor of North Carolina;

(E) as a professor of public policy at Duke University;

(F) as President of Duke University;

(G) as a United States Senator from North Carolina;

(H) as a patron of the arts; and

(I) as a loving and committed husband and father.

(2) Terry Sanford fought tirelessly and selflessly throughout his life to improve the lives of his fellow citizens through public education, racial healing, economic development, eradication of poverty, and promotion of the arts.

(3) Terry Sanford exemplified the best qualities mankind has to offer.

(4) Terry Sanford lived an exemplary life and is owed a debt of gratitude for his untiring service to the State of North Carolina and his fellow Americans.

SEC. 3. DESIGNATION.

The Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, shall be known and designated as the "Terry Sanford Federal Building".

SEC. 4. REFERENCES.

Any reference in law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 3 shall be deemed to be a reference to the "Terry Sanford Federal Building".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KIM

Mr. KIM. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. KIM: Strike out all after the enacting clause and insert:

SECTION 1. DESIGNATION.

The Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, shall be known and designated as the "Terry Sanford Federal Building".

SEC. 2. REFERENCES.

Any reference in law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Terry Sanford Federal Building".

Mr. KIM (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. KIM).

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3982, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING USE OF CAPITOL GROUNDS FOR AMERICAN LUGE ASSOCIATION RACES

Mr. KIM. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure be discharged from further consideration of the Concurrent Resolution (H. Con. Res. 305), authorizing the use of the Capitol grounds for the American Luge Association Races, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. TRAFICANT. Mr. Speaker, reserving my right to object, I yield to the gentleman from California (Mr. KIM) for an explanation of the concurrent resolution.

Mr. KIM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, House Concurrent Resolution 305, with my intended amendment, authorizes the use of the Capitol grounds for a recruitment and training clinic sponsored by the United States Luge Association, on August 8 and 9, 1998, or on such other dates as the Speaker of the House and the Senate Committee on Rules Administration may jointly designate.

The clinic will use actual luge sleds equipped with wheels for summer use. Coaches, as well as athletes from the United States Olympic Luge Team, will provide guidance to boys and girls ages 10 to 14 on how to ride and steer the sleds.

The event shall be free of charge, open to the public and arranged not to interfere with the needs of Congress. The event will operate under the conditions prescribed by the Architect of the Capitol, and all structures and equipment will be subject to the approval of the Architect.

Additionally, the Architect and Capitol Police Board are authorized to make additional arrangements as may be necessary, including limiting access to Constitution Avenue as required for the event.

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The sponsor of the event shall assume all full responsibility for all expenses and liabilities related to the event, and all sales displays, solicitation and photography for commercial purposes is expressly prohibited.

Mr. Speaker, I support the resolution, as amended, and I urge my colleagues to support it.

Mr. TRAFICANT. Mr. Speaker, I urge support of the resolution, and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 305

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF AMERICAN LUGE RACES ON CAPITOL GROUNDS.

The American Luge Association (in this resolution referred to as the "Association") shall be permitted to sponsor a public event, luge races, on the Capitol grounds on August 8 and 9, 1998, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

SEC. 2. CONDITIONS.

The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. STRUCTURES AND EQUIPMENT.

For the purposes of this resolution, the Association is authorized to erect upon the Capitol grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KIM

Mr. KIM. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. KIM: Strike out all after the resolving clause and insert the following:

SECTION 1. AUTHORIZATION OF UNITED STATES LUGE ASSOCIATION CLINIC ON CAPITOL GROUNDS.

The United States Luge Association (in this resolution referred to as the "sponsor") shall be permitted to sponsor a clinic (in this resolution referred to as the "event") on the Capitol grounds on August 8 and 9, 1998, or on such other dates as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized by section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. STRUCTURES AND EQUIPMENT.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the sponsor may erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment as may be required for the event authorized by section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event, including arrangements to limit access to a portion of Constitution Avenue as required for the event.

SEC. 4. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, with respect to the event authorized by section 1.

SEC. 5. LIMITATIONS ON REPRESENTATIONS.

(a) IN GENERAL.—No person may represent, either directly or indirectly, that this resolution or any activity carried out under this resolution in any way constitutes approval or endorsement by the Federal Government of any person or any product or service.

(b) ENFORCEMENT.—The Architect of the Capitol and the Capitol Police Board shall enter into an agreement with the sponsor, and such other persons participating in the event authorized by section 1 as the Architect of the Capitol and the Capitol Police Board considers appropriate, under which such persons shall agree to comply with the requirements of subsection (a). The agreement shall specifically prohibit the use of any photograph taken at the event for a commercial purpose and shall provide for the imposition of financial penalties if any violations of the agreement occur.

Mr. KIM (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. KIM).

The amendment in the nature of a substitute was agreed to.

The concurrent resolution was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution authorizing the use of the Capitol grounds for a clinic to be conducted by the United States Luge Association.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 305.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING ON THURSDAY, JULY 30, 1998

Mr. BURR of North Carolina. Mr. Speaker, I ask unanimous consent that when the House adjourns on the legislative day of today, it adjourn to meet at 1 p.m. on Thursday, July 30, 1998.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

HOUR OF MEETING ON FRIDAY, JULY 31, 1998

Mr. BURR of North Carolina. Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday, July 30, 1998, it adjourn to meet at 1 p.m. on Friday, July 31, 1998.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PASS MAMMOGRAPHY QUALITY STANDARDS ACT

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include therein extraneous material.)

Ms. NORTON. Mr. Speaker, great strides have been made in concurring breast cancer. Much of this progress is due to the work of the Congress in general and the bipartisan Congressional Women's Caucus in particular. Tamoxifen, a new drug now promises to prevent and cure breast cancer.

One of the seven must-pass bills of the bipartisan Congressional Women's Caucus this year is the reauthorization of the Mammography Quality Standards Act to assure correct and safe mammograms. This bill has passed unanimously in the Senate. We cannot go home without doing the same here. American women and families deserve no less.

Mr. Speaker, I include for the RECORD the testimony from the Women's Caucus hearing on tamoxifen.

INTRODUCTION OF PANELISTS

Witness 1: Surgeon General David Satcher.

Witness 2: Rici Rutkoss—Tamoxifen study participant.

Witness 3: Lynda Peterson—Chair-Elect of the Susan G. Komen Breast Cancer Foundation/At high risk for breast cancer and considering Tamoxifen.

Witness 4: Marica Plater—At high risk for breast cancer and considering Tamoxifen.

Witness 5: Leslie Ford, NCI Associate Director of Oncology.

Witness 6: Dr. Michael Friedman, FDA—Acting Commissioner.

Witness 7: Dr. Gerard Kennealey, Zeneca—Vice President of Medical Affairs.

NEW STUDY ON EDUCATION IN AMERICA SHOWS NO IMPROVEMENT FOR OUR CHILDREN

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, I rise today to talk about education here in the United States.

For the past year, the gentleman from Michigan (Mr. HOEKSTRA), who is the chairman of the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce, has been conducting hearings all across the United States. They have been to 22 different cities. They have been to large cities, they have been to small towns, and they have been to rural communities. They visited 26 different educational institutions. They have had 200 expert witnesses, and they have talked about what is happening in education today.

They are going to be coming out very soon with a report, and I invite all of my colleagues on both sides of the aisle to get a copy of this report, because they have spent an awful lot of time and a certain amount of taxpayers' dollars to find out what is really happening in education in America today.

Their findings are somewhat troubling. They find, for example, that there has been no real improvement in education in America since the report entitled "A Nation At Risk." They found that Washington programs have done nothing to improve children's education; and, finally, they have determined that this is not acceptable to the Congress and certainly is not acceptable to the American people.

So what do we have to do? An important thing about this report also is it has recommendations. We must focus on children by strengthening the role of parents. Now, that should not surprise many parents. We must restore local control by getting Washington out of the way. We must get dollars into the classroom instead of losing them to the bureaucracy; and, finally, and most importantly, we must emphasize basic academics rather than social experimentation.

Mr. Speaker, I hope Members will get a copy of this report, and I hope they will all read it. I include for the RECORD a copy of same.

THE "EDUCATION AT A CROSSROADS" REPORT

Methods

22 Congressional hearings across America and in Washington, D.C.;

26 educational institutions visited;

200 expert witnesses.

Major findings

There has been no improvement in American education since A Nation at Risk.

Washington programs have done nothing to improve children's education.

This is not acceptable.

Recommendationse

We must focus on children by strengthening the role of parents.

We must restore local control by getting Washington out of the way.

We must get dollars into classrooms instead of losing them in bureaucracy.

We must emphasize basic academics rather than social experimentation.

EDUCATION AT A CROSSROADS: WHAT WORKS AND WHAT'S WASTED IN EDUCATION TODAY

INTRODUCTION

The Subcommittee on Oversight and Investigations, in accordance with Rule X of the U.S. House of Representatives,[1] undertook an intensive review of the federal role in education. This review, which included extensive visits to schools across the country, is the only known such review ever performed by the Committee or by Congress.

EXECUTIVE SUMMARY

America's educational system is at a crossroads. Down one path can be found the many successful schools and systems that have emerged from the crisis of the 1980s to become shining examples of educational excellence. Down the other path are schools that are mired in failure or that have implemented erroneous reforms, succeeding only in worsening their already dismal performances. At the intersection of these two paths are the vast majority of America's schools—stagnating in mediocrity—at the crossroads of excellence and failure.

The purpose of the Committee on Education and the Workforce's Crossroads project was to identify the steps that lead in the direction of either excellence or failure in order to develop a positive vision for change. At a time when the economy continues to grow and technological advancements of the information age are fundamentally changing how we live and work, our nation should not be willing to accept mediocrity in education. America needs to develop a world class education system that is second to none. In order to succeed, our education system must have flexibility and vision—a willingness to think and act "outside of the box"—for the sake of our children.

Since the seminal report A Nation at Risk was released in 1983 describing the "rising tide of mediocrity" in America's schools, there have been some improvements. More students than ever are going on to college. SAT scores have risen moderately and fourth grade students have performed well on international comparison tests. However, despite these few bright spots, current indicators paint a disappointing picture overall of the preparedness of today's students to continue our nation's economic strength well into the 21st century.

40 percent of fourth-graders do not read at even a basic level,[2]

Half of the students from urban school districts fail to graduate on time, if at all;[3]

Average 1996 NAEP scores among 17-year-olds are lower than they were in 1984, a year after *A Nation at Risk* was released;

U.S. 12th graders only outperformed two out of 21 nations in mathematics;[4]

American students fall farther behind students from other countries the longer they are in school;[5]

Public institutions of higher education annually spend $1 billion on remedial education.[6]

The factors behind stagnant scores and declining international performance must be addressed to ensure that U.S. students are competitive in a global marketplace when they graduate.

For more than 40 years, the federal government has been increasingly influential in local schooling. Since 1957, when the Soviet Union launched the Sputnik satellite, federal education spending and red tape has been expanding and becoming more involved in the classroom. Since 1980, nearly $400 billion has been spent by the federal government on education.

A Key decision at the crossroads: It is time for America to take a careful look at what billions of federal education dollars have purchased, and to make hard decisions about whether to continue expanding the federal role, or to return control to parents and teachers.

The Crossroads project began in 1995 as a project of the House Education and Workforce Committee's Subcommittee on Oversight and Investigations, under the leadership of Chairman Pete Hoekstra. Its mission was to answer the following questions about education:

1. What are the elements of a successful school?
2. To what extent do federal education programs contribute or detract from those factors?
3. What works and what is wasted?

After asking the General Accounting Office (GAO) to determine the elements of successful schools, the Subcommittee began a series of hearings around the country to look at what works and what is wasted at the local level.[7] The Subcommittee traveled to 15 states and heard from more than 225 witnesses. These hearings gave principals, teachers, parents, students and state officials from around the country a rare opportunity to share their experiences about what works and what is wasted. Rather than relying on a small, elite group of witnesses who could leave their work to come to Washington and testify, the Subcommittee visited educators, parents and students where learning takes place: the classroom. From small towns to major cities, real people discussed real successes and problems in education. Apart from these hearings, these voices may never have been heard.

Based on the findings of GAO and these hearings, the Subcommittee found that successful schools and school systems were not the product of federal funding and programs; but instead were characterized by: Parents involved in the education of their children; local control; emphasis on basic academics; and dollars spent on the classroom, not bureaucracy and ineffective programs.

The current Federal role

In addition to these findings, the Crossroads project research the nature of the current federal role in education. The Committee found a system fraught with failure and bureaucracy:

More than 760 federal education programs: For the first time in the history of federal education funding, the Committee assembled the most comprehensive list of federal education programs to date. At least 39 federal agencies oversee more than 760 education programs, at a cost of $100 billion a year to taxpayers. The Congressional Research Service has confirmed that these numbers are accurate, and even added additional programs to the 760 originally found by the committee.

The leviathan of federal education programs has actually led to a cottage industry in selling information on program descriptions, application deadlines and filing instructions for each of the myriad of federal education programs. The Education Funding Research Council identifies potential sources of funds for local school districts, and sells for nearly $400 the Guide to Federal Funding for Education. The company promises to steer its subscribers to "a wide range of Federal programs," and offers these subscribers timely updates on "500 education programs." More recently, the Aid for Education Report published by CD Publications advertised that "huge sums are available . . . in the federal government alone, there are nearly 800 different education programs that receive authorization totaling almost a hundred billion dollars."

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[1] Footnotes at end of article.

Mountains of Paperwork: Even after accounting for recent reductions, the U.S. Department of Education still requires over 48.6 million hours worth of paperwork per year—or the equivalent of 25,000 employees working full-time.[8] The Subcommittee has attempted to quantify the number of pages required by recipients of federal funds in order to qualify for assistance. Without fully accounting for all the attachments and supplemental submissions required with each application, the Committee counted more than 20,000 pages of applications states must fill out to receive federal education funds each year.

A "Shadow" Department of Education: The Department of Education touts that it is one of the smallest federal agencies with 4,637 employees, and that it has a relatively small administrative budget. What many people do not realize, however, is that there are nearly three times as many federally funded employees of state education agencies administering federal education programs, as there are U.S. Department of Education employees. According to GAO, there are about 13,400 FTEs (full-time equivalents) funded with federal dollars to administer these programs for state education agencies.

As little as 65–70 cents reaches the classroom: A recent study found that for every tax dollar sent to Washington for elementary and secondary education, 85 cents is returned to local school districts. The remaining 15 cents is spend on bureaucracy and national and research programs of unknown effectiveness.[9] The Department of Education has since released a study, which also found that about 85 cents of federal dollars reaches school districts for use in the classroom.[10] Although these studies provided information not previously available on federal education spending, they only examined what was returned to school districts, still several layers of bureaucracy away from the classroom.

To date, no studies exist to enable us to determine what portion of federal education dollars actually reach the classroom, or what schools and state education agencies must spend to apply for education dollars and comply with their requirements. However, audits of school district spending indicate just how little in general reaches the classroom. A recent audit of the New York City School District found that only 43 percent of the district's total funds were spent on direct classroom expenditures.[11] Given the 48.6 million paperwork hours required to receive federal education dollars and the school district bureaucracies funds must pass through to reach the classroom, it is not unreasonable to assume that another 15–20 cents spent outside the classroom. This would mean a net return of 65–70 cents to the classroom.

The 487 Step Labyrinth: In 1993, Vice-President Gore's National Performance Review discovered that the Department of Education's discretionary grant process lasted 26 weeks and took 487 steps from start to finish. It was not until 1996 that the Department finally took steps to begin "streamlining" their long and protracted grant review process, a process that has yet to be completed and fully implemented. After the streamlining is complete it will only take an average of 20 weeks and 216 steps to complete a review.[12]

Federal Dollars for Baywatch and Jerry Springer. The Department of Education's Office of Special Education and Rehabilitative Services Media and Captioning Services funds closed captioning for "educational" programs such as Baywatch, Ricki Lake, The Montel Williams Show, and Jerry Springer. By funding captioning for these programs—funding which could easily be provided by the television industry or other commercial enterprises—the federal government is demonstrating to the American people just how far away it is from supporting what works and identifying federal education priorities.

Programs for every problem

The massive array of federal education programs was not created overnight, but developed slowly, as an attempt to address specific problems. Each program received minimal funding at the outset, and most have received additional funds from one year to the next. The current arrangement of federal education funding is as follows: local tax dollars go to Washington, where they are allocated to a variety of purposes, usually to address what someone in the federal government sees as a problem. The money is then returned to the states and school districts in the form of categorical programs. This process puts smaller school districts at a disadvantage: States and local school districts are highly dependent on administrators and skilled grant writers to obtain these federal dollars and comply with their requirements, which places a greater burden on poorer and smaller school systems.

The effectiveness of these programs is seldom measured, even as the problems continue to mount. Evaluations of federal programs almost always measure process, not whether or not they help children learn. For example, the largest education program for disadvantaged children has spent more than $100 billion over 30 years while producing hardly any evidence of positive, lasting results. Congress must ensure that such wasteful use of tax dollars is stopped.

It is time for the burden of proof to shift to the federal government. If it cannot be demonstrated that a particular federal program is more effectively spending funds than state and local communities would otherwise spend them, Congress should return the money to the states and the people, without any burdensome strings attached. This Subcommittee has found little evidence proving the effectiveness of federal programs, or that federal programs are more effective than local efforts.

Now is the time to act on what we've learned. The central theme of what we learned is that the federal government cannot consistently and effectively replicate success stories throughout the nation in the form of federal programs. Instead, federal education dollars should support effective state and local initiatives, ensuring that it neither impedes local innovation and control, nor diverts dollars from the classroom through burdensome regulations and overhead.

Empower parents

Reduce the family federal tax burden;

Encourage parental choice in education at all levels of government;

Create opportunity scholarships for poor children in Washington, D.C., and other federal empowerment zones;

Allow states to send Title I (Aid to Disadvantaged Students) funds to impoverished parents as grants in order to enable their children to receive additional academic assistance.

Return control to the local level

Return federal elementary and secondary education funds to states and local school districts through flexible grants;

Expand opportunities for waivers from burdensome regulations;

Give states and school districts greater freedom to consolidate program funds to more effectively address pressing needs;

Provide no-strings-attached funds for charter school start-up costs.

Encourage what works in the classroom

Federally funded education programs should only use proven methods backed by reliable, replicable research;

Research and evaluation should concentrate on measuring outcomes and less on process—such as how many children are served by a particular program.

Send dollars to the classroom

Streamline and consolidate federal education programs;

Reform or eliminate ineffective and inefficient programs;

Reduce paperwork burden.

Fifteen years ago our nation was diagnosed as being at risk—at risk of entering the 21st Century lagging behind other industrialized nations economically and educationally. Since then here has been little evidence of the federal government effectively addressing this problem through its hundreds of duplicative and uncoordinated education programs.

In order to address the continued crisis, education policy in this country needs to be re-oriented around ensuring that children receive a quality education, not preserving programs and bureaucracies. Significant progress needs to be made by all levels of government: Solving problems at the federal level is only one component.

Congress has already begun to take action. The findings of the Crossroads Project have underscored an education agenda that has encouraged "flex" grants, parental choice in education, education savings accounts, scholarships for low income children, charter schools, and getting dollars to the classroom.

The federal government should only play a limited role in education; It should serve education at the state and local level as a research and statistics gathering agency, disseminating findings and enabling states to share best practices with each other. Local educators must be empowered to teach children with effective methods and adequate resources, without federal interference. Parents must once again be in charge of the education of their children. Schools should be havens for learning, safe from drugs and violence.

Much work remains. It is time for the federal bureaucracy to move out of the way—to put children first—by supporting what works. The Crossroads Report points the way.

FOOTNOTES

[1] Robin H. Carle, Clerk of the House of Representatives, rules of the House of Representatives, Effective for One Hundred Fifth Congress, January 7, 1997.

[2] National Center for Education Statistics, NAEP 1994 Reading Report Card for the Nation and the States, U.S. Department of Education, March 1996.

[3] Ibid.

[4] Ibid.

[5] Ibid.

[6] David W. Breneman, "The Extent and Cost of Remediation in Higher Education," Brookings Papers on Education Policy, Washington, D.C.: The Brookings Institution, April, 1998.

[7] U.S. General Accounting Office, Schools and Workplaces: An Overview of Successful and Unsuccessful Practices, GAO/PEMD–95–28, August, 1995, p. 3.

[8] Marshall Smith, "Paper Reduction Act Accomplishments and Plans for Future," U.S. Department of Education, October 31, 1996.

[9] Christine L. Olson, U.S. Department of Education Financing of Elementary and Secondary Education: Where the Money Goes, (Washington, DC: The Heritage Foundation), December 30, 1996.

[10] U.S. Department of Education, Planning and Evaluation Service, The Use of Federal Education Funds for Administrative Costs, 1998, p. 28.

[11] Jacques Steinberg, "NYC School System Budget Analysis Shows 43% Goes to Classroom," The New York Times, November 21, 1996. See also: Speakman, Cooper, Sampiere, May, Holsomback, Glass, "Bringing Money to the Classroom: A Systemic Resource Model Applied to the New York City Public Schools," Where Does the Money Go? Resource Allocation in Elementary and Secondary Schools, Lawrence O. Picus and James L. Wattenberger, eds., (Thousand Oaks, CA: Corwin Press, 1995).

[12] U.S. Department of Education Report, "A Redesigned Discretionary Grant Process"—Vice President Gore's National Performance Review 1995. Redesigned process is due to be in place in 1998.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RIGGS (at the request of Mr. ARMEY) for July 30 and 31 on account of personal reasons.

Mr. YATES (at the request of Mr. GEPHARDT) after 7 p.m. today for physical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TRAFICANT) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. BENTSEN, for 5 minutes, today.

(The following Members (at the request of Mr. BURR of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS, for 5 minutes, today.

Mr. CAMPBELL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. DELAURO, and to include extraneous material on H.R. 4194, in the Committee of the Whole today regarding the children's sleepwear amendment.

(The following Members (at the request of Mr. TRAFICANT) and to include extraneous material:)

Mr. SANDERS.
Mr. KIND.
Mr. BENTSEN.
Ms. MCCARTHY of Missouri.
Mr. STARK.
Mr. HAMILTON.
Mr. ABERCROMBIE.
Mr. FORD.
Mr. SERRANO.
Mr. KUCINICH.
Mr. VENTO.
Mr. BLAGOJEVICH.
Mr. KENNEDY of Massachusetts.
Ms. JACKSON-LEE of Texas.
Mrs. MALONEY of New York.
Mr. HOYER.
Mr. RANGEL.
Mr. ETHERIDGE.
Mr. MARKEY.
Mrs. CLAYTON.
Mr. HINCHEY.
Ms. LEE.
Ms. MILLENDER-MCDONALD.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BURR of North Carolina) and to include extraneous material:)

Mr. EHRLICH.
Mr. SAXTON.
Mr. MCKEON.
Mr. DELAY.
Mr. FORBES.
Mr. SPENCE.
Mr. FRANKS of New Jersey.
Mr. CALVERT.
Mr. NEY.
Mr. RADANOVICH.
Mr. SMITH of New Jersey.
Mr. SMITH of Oregon.
Mr. RIGGS.
Ms. ROS-LEHTINEN.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 39. An act to reauthorize the African Elephant Conservation Act.

ADJOURNMENT

Mr. BURR of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 3 minutes a.m.), under its previous order, the House adjourned until today Thursday, July 30, 1998, at 1 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10359. A letter from the Administrator, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule—Subordination of Direct Loan Security to Secure a Guaranteed Line of Credit; Correction (RIN: 0560–AE92) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10360. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement [DFARS Case 97–D012] received July 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

10361. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Resolution and Receivership Rules (RIN: 3064–AB92) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10362. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Department of Health and Human Services, transmitting the Administration's final rule—Oral Dosage Form New Animal Drugs; Bacitracin Methylene Disalicylate Soluble [21 CFR Part 520] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10363. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Colorado; 1993 Periodic Carbon Monoxide Emission Inventories For Colorado [CO–001–0024a; FRL–6124–4] received July 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10364. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption And Water Use Of Certain Home Appliances And Other Products Required Under The Energy Policy And Conservation Act ("Appliance Labeling Rule") received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10365. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 97F–0405] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10366. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Secondary Direct Food Addititves Permitted in Food for Human Consumption [Docket No. 94F–0040] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10367. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations; Clarifying Amendments and Corrections (RIN: 3150–AE07) received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10368. A letter from the Executive Director, Committee For Purchase From People Who

Are Blind Or Severely Disabled, transmitting the Committee's final rule—Procurement List; Additions—received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

10369. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Public Availability of Information; Electronic FOIA Amendment [Docket No. OST–96–1430; Amdt. 1] (RIN: 2105–AC69) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

10370. A letter from the Deputy Assistant Administrator For Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Management Measures for Nontrawl Sablefish [Docket No. 980406085–8164–01; I.D. 031198C] (RIN: 0648–AJ27) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10371. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Indiana Regulatory Program [SPATS No. IN–130–FOR; State Program Amendment No. 95–8] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10372. A letter from the Chief, Regulations Division Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting the Department's final rule—Posting of Signs and Written Notification to Purchasers of Handguns [T.D. ATF–402; Ref: Notice No. 855] (RIN: 1512–AB68) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10373. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes [Docket No. 98–NM–209–AD; Amendment 39–10665; AD 98–15–14] (RIN: 2120–AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10374. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29280; Amdt. No. 1878] (RIN: 2120–AA65) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10375. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29281; Amdt. No. 1879] (RIN: 2120–AA65) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10376. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 98–NM–133–AD; Amendment 39–10662; AD 98–15–11] (RIN: 2120–AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10377. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Porterville, CA [Airspace Docket No. 98–AWP–2] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10378. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Ukiah, CA [Airspace Docket No. 98–AWP–11] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10379. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D and Establishment of Class E Airspace; Yuma MCAS-Yuma International Airport, AZ; Correction [Airspace Docket No. 98–AWP–14] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10380. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29282; Amdt. No. 1880] (RIN: 2120–AA65) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10381. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. 98–NM–117–AD; Amendment 39–10661; AD 98–15–10] (RIN: 2120–AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10382. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes [Docket No. 98–NM–149–AD; Amendment 39–10663; AD 98–15–12] (RIN: 2120–AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10383. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes [Docket No. 96–NM–230–AD; Amendment 39–10658; AD 98–15–07] (RIN: 2120–AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10384. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes [Docket No. 97–NM–02–AD; Amendment 39–10659; AD 98–15–08] (RIN: 2120–AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10385. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320–111 and -211 Series Airplanes [Docket No. 97–NM–160–AD; Amendment 39–10660; AD 98–15–09] (RIN: 2120–AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10386. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320 and Model A321 Series Airplanes [Docket No. 94–NM–94–AD; Amendment 39–10657; AD 98–15–06] (RIN: 2120–AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10387. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes [Docket No. 97–CE–92–AD; Amendment 39–10664; AD 98–15–13] (RIN: 2120–AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10388. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Amendments to the Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Organic Pesticide Chemicals Manufacturing Industry——Pesticide Chemicals Point Source Category [FRL–6126–6] received July 23, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10389. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Adminstration's final rule—Small Business Investment Companies [13 CFR Part 107] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10390. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Payment for Non-VA Physician Services Associated with Either Outpatient or Inpatient Care Provided at Non-VA Facilities (RIN: 2900–AH66) received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

10391. A letter from the Chief Counsel, Department of the Treasury, transmitting the Department's final rule—Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds [31 CFR Part 356] received July 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10392. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rules and Regulations [Revenue Ruling 98–37] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10393. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treatment Of Loans With Below-Market Interest Rates [Revenue Ruling 98–34] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. House Joint Resolution 120. Resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam; adversely (Rept. 105–653). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3482. A bill to designate the Federal building located at 11000 Wilshire Boulevard in Los Angeles, California, as the "Abraham Lincoln Federal

Building" (Rept. 105-654). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3598. A bill to designate the Federal building located at 700 East San Antonio Street in El Paso, Texas, as the "Richard C. White Federal Building" (Rept. 105-655). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. S. 2032. A act to designate the Federal building in Juneau, Alaska, as the "Hurff A. Saunders Federal Building"; with amendments (Rept. 105-656). Referred to the House Calendar.

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 3736. A bill to amend the Immigration and Nationality Act to make changes relating to H-1B nonimmigrants; with an amendment (Rept. 105-657). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 507. Resolution providing special investigative authority for the Committee on Education and the Workforce; with an amendment (Rept. 105-658). Referred to the House Calendar.

Mr. GOODLING: Committee of Conference. Conference report on H.R. 1385. A bill to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes (Rept. 105-659). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CRANE (for himself and Mr. Matsui):

H.R. 4342. A bill to make miscellaneous and technical changes to various trade laws, and for other purposes; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 4343. A bill to amend the Congressional Budget Act of 1974 regarding the application of points of order to unreported measures in the House of Representatives; to the Committee on Rules, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DeFAZIO (for himself, Mr. Abercrombie, Mr. Allen, Mr. Andrews, Mr. Ackerman, Mr. Baldacci, Mr. Barrett of Wisconsin, Mr. Bishop, Mr. Blumenauer, Mr. Boehlert, Mr. Borski, Mr. Boswell, Mr. Brady of Pennsylvania, Ms. Brown of Florida, Mr. Brown of Ohio, Mr. Buyer, Mrs. Capps, Ms. Carson, Mr. Chambliss, Mrs. Clayton, Mr. Clay, Mr. Costello, Ms. Danner, Mr. Delahunt, Ms. DeLauro, Mr. Dixon, Mrs. Emerson, Mr. Engel, Mr. English of Pennsylvania, Mr. Farr of California, Mr. Fattah, Mr. Filner, Mr. Ford, Mr. Frank of Massachusetts, Mr. Frelinghuysen, Mr. Frost, Ms. Furse, Mr. Gejdenson, Mr. Gekas, Mr. Gilchrest, Mr. Green, Mr. Hall of Ohio, Mr. Hamilton, Mr. Hilliard, Mr. Hinchey, Mr. Holden, Ms. Hooley of Oregon, Mr. Hulshof, Mr. Hutchinson, Mr. Jackson, Mrs. Johnson of Connecticut, Mr. Jones, Mr. Kanjorski, Ms. Kaptur, Mr. Kennedy of Massachusetts, Mr. Kennedy of Rhode Island, Mr. Kildee, Mr. Kind of Wisconsin, Mr. Kingston, Ms. Kilpatrick, Mr. LaFalce, Mr. Lewis of Georgia, Mr. LoBiondo, Ms. Lofgren, Mrs. Lowey, Mr. Manton, Mrs. Maloney of New York, Mr. Markey, Mr. Martinez, Mr. Mascara, Mr. McDermott, Mr. McGovern, Mr. McHugh, Mr. McNulty, Mr. Meehan, Mrs. Meek of Florida, Mr. Meeks of New York, Mr. Metcalf, Mr. Miller of California, Ms. Millender-McDonald, Mrs. Mink of Hawaii, Mr. Moakley, Mrs. Morella, Mr. Murtha, Mr. Nadler, Ms. Norton, Mr. Oberstar, Mr. Olver, Mr. Owens, Mr. Pascrell, Mr. Paul, Mr. Payne, Mr. Peterson of Minnesota, Mr. Poshard, Mr. Quinn, Mr. Rahall, Mr. Regula, Mr. Roemer, Mr. Romero-Barcelo, Mr. Rothman, Ms. Sanchez, Mr. Sanders, Mr. Sandlin, Mr. Sawyer, Mr. Saxton, Mr. Scott, Mr. Schumer, Mr. Serrano, Mr. Shays, Mr. Skelton, Mr. Adam Smith of Washington, Mr. Smith of New Jersey, Mr. Spratt, Mr. Stearns, Mr. Stenholm, Mr. Strickland, Mr. Stokes, Mr. Towns, Mr. Underwood, Mr. Walsh, Mr. Watts of Oklahoma, Mr. Watkins, Mr. Waxman, Mr. Wexler, Mr. Weygand, Mr. Whitfield, and Ms. Woolsey):

H.R. 4344. A bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes; to the Committee on Education and the Workforce.

By Mrs. CHENOWETH (for herself, Mr. Boyd, Mr. Peterson of Pennsylvania, Mr. Cannon, Mr. McInnis, and Mr. Rogers):

H.R. 4345. A bill to authorize the continued use on national forest and other public lands of the alternative arrangements that were approved by the Council on Environmental Quality for windstorm-damaged national forests and grasslands in Texas; to the Committee on Resources.

By Mr. BUNNING of Kentucky:

H.R. 4346. A bill to amend the Internal Revenue Code of 1986 to provide exemptions from taxation with respect to public safety officers killed in the line of duty; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 4347. A bill to authorize the Architect of the Capitol to establish a Capitol Visitor Center under the East Plaza of the United States Capitol, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS:

H.R. 4348. A bill to amend section 5137 of the Revised Statutes of the United States to allow national banks to continue to hold passive investments in certain subsurface rights acquired in the course of the banking business and carried on the books of the bank for a nominal amount; to the Committee on Banking and Financial Services.

By Mr. SMITH of New Jersey (for himself, Mr. English of Pennsylvania, Mr. Paul, Mr. Ensign, and Mr. Shays):

H.R. 4349. A bill to amend the Internal Revenue Code of 1986 to provide for an exception from penalty tax and exclusion from income for certain amounts withdrawn from certain retirement plans for qualified long-term care insurance and a credit for taxpayers with certain persons requiring custodial care in their households; to the Committee on Ways and Means.

By Mr. STEARNS (for himself, Mr. Oxley, and Mr. Largent):

H.R. 4350. A bill to amend title 18, United States Code, to prohibit Internet gambling, and for other purposes; to the Committee on the Judiciary.

By Mr. STUPAK:

H.R. 4351. A bill to amend the Act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historical Parks Advisory Commission; to the Committee on Resources.

By Mr. TAUZIN (for himself and Mr. Markey):

H.R. 4352. A bill to amend the Communications Act of 1934 to improve competition in the multichannel video programming distribution market, and for other purposes; to the Committee on Commerce.

By Mr. STUPAK:

H. Res. 512. A resolution expressing the sense of the House of Representatives that the President should focus appropriate attention on the issue of neighborhood crime prevention, community policing and reduction of school crime by delivering speeches, convening meetings, and directing his Administration to make reducing crime an important priority; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. Sam Johnson of Texas.

H.R. 74: Mr. Filner and Ms. Brown of Florida.

H.R. 164: Mr. McNulty, Mr. Dooley of California, Mr. Davis of Virginia, Mr. Dicks, and Mr. Sherman.

H.R. 979: Mr. Bilirakis.

H.R. 1073: Mr. Luther.

H.R. 1111: Mr. Hayworth, Mr. Meeks of New York, Mr. Bonior, Mr. Holden, Mr. Goode, Mr. Stark, and Mr. Miller of California.

H.R. 1126: Mr. Goodling, Mr. Cardin, Mr. Fox of Pennsylvania, Mr. Gekas, Mr. Talent, Mr. Pitts, and Mr. Hulshof.

H.R. 1134: Mr. Weller.

H.R. 1202: Mrs. Johnson of Connecticut.

H.R. 1231: Ms. Kaptur, Mr. Kleczka, and Mr. Cummings.

H.R. 1321: Mrs. Thurman and Mr. Hilliard.

H.R. 1356: Mr. Inglis of South Carolina.

H.R. 1383: Mr. Riggs.

H.R. 1450: Mr. Klink.

H.R. 1542: Mrs. Bono.

H.R. 2023: Mr. Bishop.

H.R. 2397: Mr. Kildee, Ms. Brown of Florida, Mr. Snowbarger, Mr. John, Mr. Abercrombie, Mr. Nussle, Ms. Dunn of Washington, and Mr. Bachus.

H.R. 2408: Ms. McCarthy of Missouri.

H.R. 2468: Mr. Rangel.

H.R. 2497: Mr. Riggs.

H.R. 2568: Mr. McIntyre.

H.R. 2635: Mr. Davis of Virginia.

H.R. 2660: Mr. Martinez.

H.R. 2670: Mr. Foley.

H.R. 2697: Mr. Goode, Mr. Kildee, and Mr. Ford.

H.R. 2721: Mrs. Myrick.

H.R. 2723: Mr. Watts of Oklahoma.

H.R. 2828: Mr. Gilman, Mr. Stokes, Ms. Waters, Mr. English of Pennsylvania, Mr. Manton, Mr. Boyd, Mr. Pastor, Mr. Saxton, Mr. Bilirakis, Mr. Ramstad, Mr. Chambliss, Mr. Watts of Oklahoma, Mr. Solomon, Mr. Regula, and Mr. Ackerman.

H.R. 2882: Mrs. Bono and Mr. Schumer.

H.R. 2900: Mr. Matsui.

H.R. 2914: Mr. Greenwood and Mr. Cramer.

H.R. 2931: Mr. Rangel.

H.R. 2953: Mr. Hastings of Florida, Mr. Frank of Massachusetts, and Ms. Kilpatrick.

H.R. 2968: Mr. Romero-Barcelo.

H.R. 2990: Mr. Dan Schaefer of Colorado, Mr. Collins, Mr. Miller of California, and Ms. Granger.

H.R. 3008: Mr. Forbes.

H.R. 3050: Mr. Gejdenson and Mr. Boucher.

H.R. 3070: Mr. McGovern, Ms. Lofgren, and Mr. DeFazio.

H.R. 3081: Mr. Blumenauer and Ms. Stabenow.

H.R. 3177: Mr. Bartlett of Maryland.

H.R. 3181: Mr. Rangel.

H.R. 3207: Mr. Schumer.

H.R. 3217: Mr. Portman and Mr. Tanner.

H.R. 3231: Ms. Jackson-Lee of Texas.

H.R. 3248: Mr. Buyer and Mr. Brady of Texas.

H.R. 3261: Mr. Hostettler.

H.R. 3262: Ms. McCarthy of Missouri and Mr. Ford.

H.R. 3284: Mr. Snyder.

H.R. 3304: Mr. Blumenauer.

H.R. 3320: Ms. Millender-McDonald.

H.R. 3341: Mr. Pallone.

H.R. 3501: Mr. McCrery.

H.R. 3550: Mr. Thompson.

H.R. 3567: Mr. Manzullo.

H.R. 3610: Mr. Bartlett of Maryland.

H.R. 3688: Mr. Stenholm, Mr. Combest, Mr. Frost, Mr. Sessions, Mr. Bonilla, Mr. Dooley of California, Mr. Barton of Texas, and Mr. Bunning of Kentucky.

H.R. 3741: Mr. Traficant.

H.R. 3747: Mr. Sandlin.

H.R. 3773: Mr. Kucinich.

H.R. 3795: Mr. Engel.

H.R. 3814: Mr. Lewis of Georgia, Mrs. Mink of Hawaii, Mrs. Thurman, Mr. Kildee, Mr. Rangel, and Mr. Allen.

H.R. 3821: Mr. LaHood, Mr. Markey, Mr. Ford, Ms. Harman, Mr. Skaggs, Ms. Pelosi, and Mr. Towns.

H.R. 3831: Mr. Lantos and Mr. Ford.

H.R. 3865: Mr. Engel.

H.R. 3879: Ms. Danner, Mr. Combest, and Mr. Inglis of South Carolina.

H.R. 3916: Mr. Farr of California, Mr. Barcia of Michigan, Mr. Strickland, and Ms. Kaptur.

H.R. 3925: Mr. Martinez.

H.R. 3932: Ms. Furse and Mr. Owens.

H.R. 3981: Mrs. Johnson of Connecticut, Mr. Houghton, Mr. Delahunt, Mr. English of Pennsylvania, Ms. McCarthy of Missouri, Mr. Pickett, Mr. Davis of Virginia, and Mr. Scott.

H.R. 4006: Mr. Doyle, Mr. Peterson of Minnesota, Mr. LaHood, Mrs. Myrick, Mr. Goodlatte, Mr. Pease, Mr. Sununu, and Ms. Pryce of Ohio.

H.R. 4007: Mr. Hansen and Mr. Owens.

H.R. 4037: Mr. Skeen, Mr. Snowbarger, Mr. Nethercutt, and Mr. Chabot.

H.R. 4061: Mr. Fox of Pennsylvania.

H.R. 4067: Mr. Snowbarger.

H.R. 4070: Mr. Markey.

H.R. 4071: Mr. Baker and Mr. Lewis of Kentucky.

H.R. 4135: Mr. Schumer, Ms. Kilpatrick, Mrs. Clayton, Ms. Norton, and Mr. Hilliard.

H.R. 4145: Mr. Brady of Pennsylvania, Mr. Yates, Mr. Hinchey, Mr. Frank of Massachusetts, Mr. Clay, Mr. Rush, Ms. Christian-Green, Mr. Hastings of Florida, Mr. Meeks of New York, Mr. Rangel, Mrs. Clayton, Ms. Furse, Mr. Bishop, Mrs. Meek of Florida, Ms. Kilpatrick, Ms. Eddie Bernice Johnson of Texas, Mr. Cummings, Mr. Thompson, Mr. Davis of Illinois, Mr. Owens, Mr. Filner, Mr. Barrett of Nebraska, Ms. Norton, and Ms. Roybal-Allard.

H.R. 4152: Mr. Brown of Ohio, Ms. Norton, and Ms. Kilpatrick.

H.R. 4183: Mr. Boehlert.

H.R. 4184: Mr. Bonior and Mr. Frost.

H.R. 4185: Mr. Bonior and Mr. Frost.

H.R. 4196: Mr. Sam Johnson of Texas.

H.R. 4197: Mr. Stump, Mr. Gillmor, Mr. Sam Johnson of Texas, and Mr. Metcalf.

H.R. 4204: Mr. Chambliss.

H.R. 4206: Mr. Manton, Mr. Engel, Ms. Woolsey, Mr. Waxman, Mr. Delahunt, Mr. Rangel, and Mr. Vento,

H.R. 4211: Ms. Norton, Ms. Jackson-Lee of Texas, Mr. Jenkins, Mr. Bereuter, Mr. Meeks of New York, Mr. Rush, Mr. Brady of Pennsylvania, Mr. Aderholt, Mr. Kennedy of Rhode Island, Ms. Rivers, Mrs. Meek of Florida, and Mr. Ford.

H.R. 4213: Mr. Towns, Mr. Pitts, and Mr. Houghton.

H.R. 4217: Mr. Hostettler and Mr. Metcalf.

H.R. 4220: Mr. Ensign, Mr. Riley, and Mr. Kucinich.

H.R. 4224: Mrs. Maloney of New York and Mr. Poshard.

H.R. 4233: Mr. Waxman, Ms. Lofgren, Mr. Yates, Mr. Ackerman, and Mrs. Maloney of New York.

H.R. 4248: Mr. Boyd.

H.R. 4252: Mr. Pallone and Mr. Lewis of Kentucky.

H.R. 4258: Mr. Pickering.

H.R. 4281: Mr. Hostettler, Mrs. Myrick, and Mr. Metcalf.

H.R. 4293: Ms. Valazquez and Mr. Doyle.

H.R. 4296: Mr. Yates, Mr. Miller of Florida, and Mrs. Myrick.

H.R. 4300: Mr. Bonilla, Mr. Solomon, Mr. Spence, and Ms. Waters.

H.R. 4301: Mr. Bunning of Kentucky.

H.R. 4308: Mr. Gilman, Mr. Owens, and Mr. Bonior.

H.R. 4309: Mr. Saxton.

H.R. 4312: Mr. Metcalf.

H.R. 4314: Mr. Houghton.

H.R. 4321: Mrs. Kelly.

H.R. 4324: Mr. Dreier, Mr. Norwood, and Mr. Gillmor.

H.R. 4330: Mr. Aderholt and Mr. Duncan.

H.R. 4339: Mr. McIntosh, Ms. Stabenow, Mr. Goode, Mr. Lucas of Oklahoma, Mr. Hall of Texas, Mr. Sanders, Ms. Danner, Mr. Riley, Mr. Watkins, Mr. Borski, Mr. Mascara, Mr. Hilliard, Mr. Rodriguez, and Mr. Clement.

H. Con. Res. 264: Mr. Martinez.

H. Con. Res. 286: Mr. Deutsch, Mr. Jackson of Illinois, and Mr. Clay.

H. Con. Res. 287: Mr. LaFalce.

H. Con. Res. 292: Mr. Jackson of Illinois.

H. Con. Res. 299: Mrs. Bono, Mr. Inglis of South Carolina, Mr. Royce, and Mr. Foley.

H. Con. Res. 309: Ms. Norton, Ms. Brown of Florida, and Ms. McKinney.

H. Con. Res. 312: Mr. Rohrabacher.

H. Res. 313: Mrs. Capps, Ms. Brown of Florida, and Ms. DeGette.

H. Res. 483: Mr. Waxman, Mr. Martinez, Mr. Frost, and Mr. Dixon.

H. Res. 503: Mr. Ballenger, Mr. Traficant, Mrs. Fowler, and Mr. Largent.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1515: Mr. Davis of Illinois.

H.R. 2801: Ms. Stabenow.

H.R. 3000: Mr. Ford.

H.R. 3262: Mr. Frost.

H.R. 3396: Mr. Moran of Virginia and Mr. Davis of Illinois.

H. Res. 375: Mr. Fazio of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3736

Offered By: Mr. Smith of Texas

Amendment No. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.

(a) Short Title.—This Act may be cited as the "Temporary Access to Skilled Workers and H–1B Nonimmigrant Program Improvement Act of 1998".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; amendments to Immigration and Nationality Act.

TITLE I—PROVISIONS RELATING TO H–1B NONIMMIGRANTS

Sec. 101. Temporary increase in access to temporary skilled personnel under H–1B program.

Sec. 102. Protection against displacement of United States workers in case of H–1B dependent employers.

Sec. 103. Changes in enforcement and penalties.

Sec. 104. Collection and use of H–1B nonimmigrant fees for State student incentive grant programs and job training of United States workers.

Sec. 105. Determinations on labor condition applications to be made by Attorney General.

Sec. 106. Computation of prevailing wage level.

Sec. 107. Improving count of H–1B and H–2B nonimmigrants.

Sec. 108. Report on age discrimination in the information technology field.

Sec. 109. Report on high-technology labor market needs.

TITLE II—SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES

Sec. 201. Special immigrant status for certain NATO civilian employees.

TITLE III—MISCELLANEOUS PROVISION

Sec. 301. Academic honoraria.

(c) Amendments to Immigration and Nationality Act.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to that section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

TITLE I—PROVISIONS RELATING TO H–1B NONIMMIGRANTS

SEC. 101. TEMPORARY INCREASE IN ACCESS TO TEMPORARY SKILLED PERSONNEL UNDER H–1B PROGRAM.

(a) Temporary Increase in Skilled Nonimmigrant Workers.—Paragraph (1)(A) of section 214(g) (8 U.S.C. 1184(g)) is amended to read as follows:

"(A) under section 101(a)(15)(H)(i)(b), may not exceed—

"(i) 65,000 in each fiscal year before fiscal year 1998;

"(ii) 85,000 in fiscal year 1998;

"(iii) 95,000 in fiscal year 1999;

"(iv) 105,000 in fiscal year 2000;

"(v) 115,000 in each of fiscal years 2001 and 2002; and

"(vi) 65,000 in each succeeding fiscal year.".

(b) TEMPORARY CAP ON NONIMMIGRANT, NONPHYSICIAN HEALTH CARE WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is further amended by adding at the end the following:

"(5) The total number of aliens described in section 212(a)(5)(C) who may be issued visas or otherwise provided nonimmigrant status during each of fiscal years 1999, 2000, 2001, and 2002 under section 101(a)(15)(H)(i)(b) may not exceed 7,500.".

(c) EFFECTIVE DATES.—The amendment made by subsection (a) applies beginning with fiscal year 1998 and the amendment made by subsection (b) applies beginning with fiscal year 1999.

SEC. 102. PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS IN CASE OF H-1B-DEPENDENT EMPLOYERS.

(a) PROTECTION AGAINST LAY OFF AND REQUIREMENT FOR PRIOR RECRUITMENT OF UNITED STATES WORKERS.—

(1) ADDITIONAL STATEMENTS ON APPLICATION.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following:

"(E)(i) In the case of an application described in clause (ii), the employer did not displace and will not displace a United States worker (as defined in paragraph (4)) employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application.

"(ii) An application described in this clause is an application filed on or after the date final regulations are first promulgated to carry out this subparagraph (but not earlier than October 1, 1998), and before October 1, 2002, by an H–1B-dependent employer (as defined in paragraph (3)). An application is not described in this clause if the only H–1B nonimmigrants sought in the application are exempt H–1B nonimmigrants.

"(F) In the case of an application described in subparagraph (E)(ii), the employer will not place the nonimmigrant with another employer (regardless of whether or not such other employer is an H–1B-dependent employer) where—

"(i) the nonimmigrant performs duties in whole or in part at one or more worksites owned, operated, or controlled by such other employer; and

"(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer;

unless the employer has inquired of the other employer as to whether, and has no knowledge that, the other employer has displaced or intends to displace a United States worker employed by such other employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application.

"(G)(i) In the case of an application described in subparagraph (E)(ii), subject to clause (ii), the employer, prior to filing the application—

"(I) has taken good faith steps to recruit, in the United States using procedures that meet industry-wide standards and offering compensation that is at least as great as that required to be offered to H–1B nonimmigrants under subparagraph (A), United States workers for the job for which the nonimmigrant or nonimmigrants is or are sought; and

"(II) has offered the job to any United States worker who applies and is equally or better qualified for the job for which the nonimmigrant or nonimmigrants is or are sought.

"(ii) The conditions described in clause (i) shall not apply to an application filed with respect to the employment of an H–1B nonimmigrant who is described in subparagraph (A), (B), or (C) of section 203(b)(1).".

(2) NOTICE ON APPLICATION OF POTENTIAL LIABILITY OF PLACING EMPLOYERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by adding at the end the following: "The application form shall include a clear statement explaining the liability under subparagraph (F) of a placing employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.".

(3) CONSTRUCTION.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is further amended by adding at the end the following: "Nothing in subparagraph (G) shall be construed to prohibit an employer from using selection standards normal or customary to the type of job involved.".

(b) H–1B-DEPENDENT EMPLOYER AND OTHER DEFINITIONS.—

(1) IN GENERAL.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following:

"(3)(A) For purposes of this subsection, the term 'H–1B-dependent employer' means an employer that—

"(i) has at least 51 full-time equivalent employees who are employed in the United States; and

(ii) employs non-exempt H–1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time equivalent employees.

"(B) For purposes of this subsection—

"(i) the term 'exempt H–1B nonimmigrant' means an H–1B nonimmigrant who—

"(I) receives wages (including cash bonuses and similar compensation) at an annual rate equal to at least $60,000; or

"(II) has attained a master's or higher degree (or its equivalent) in a specialty related to the intended employment; and

"(ii) the term 'non-exempt H–1B nonimmigrant' means an H–1B nonimmigrant who is not an exempt H–1B nonimmigrant.

"(C) For purposes of subparagraph (A)—

"(i) in computing the number of full-time equivalent employees, exempt H–1B nonimmigrants shall not be take into account; and

"(ii) any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer.

"(4) For purposes of this subsection:

"(A) The term 'area of employment' means the area within normal commuting distance of the worksite or physical location where the work of the H–1B nonimmigrant is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

"(B) In the case of an application with respect to one or more H–1B nonimmigrants by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the nonimmigrant or nonimmigrants is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

"(C) The term 'H–1B nonimmigrant' means an alien admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b).

"(D) The term 'lays off', with respect to a worker—

"(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in subparagraph (E) or (F) of paragraph (1)); but

"(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under paragraph (1)(F), with either employer described in such paragraph) at equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(E) The term 'United States worker' means an employee who—

"(i) is a citizen or national of the United States; or

"(ii) is an alien who is lawfully admitted for permanent residence, is admitted as a refugee under section 207, or is granted asylum under section 208.".

(2) CONFORMING AMENDMENTS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by striking "a nonimmigrant described in section 101(a)(15)(H)(i)(b)" each place it appears and inserting "an H–1B nonimmigrant".

(c) IMPROVED POSTING OF NOTICE OF APPLICATION.—Section 212(n)(1)(C)(ii) (8 U.S.C. 1182(n)(1)(C)(ii)) is amended to read as follows:

"(ii) if there is no such bargaining representative, has provided notice of filing in the occupational classification through such methods as physical posting in conspicuous locations at the place of employment or electronic notification to employees in the occupational classification for which H–1B nonimmigrants are sought.".

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) apply to applications filed under section 212(n)(1) of the Immigration and Nationality Act on or after the date final regulations are issued to carry out such amendments (but not earlier than October 1, 1998), and the amendments made by subsection (b) take effect on the date of the enactment of this Act.

(e) REDUCTION OF PERIOD FOR PUBLIC COMMENT.—In first promulgating regulations to implement the amendments made by this section in a timely manner, the Secretary of Labor and the Attorney General may reduce to not less than 30 days the period of public comment on proposed regulations.

SEC. 103. CHANGES IN ENFORCEMENT AND PENALTIES.

(a) INCREASED ENFORCEMENT AND PENALTIES.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended to read as follows:

"(C)(i) If the Secretary finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(B), (1)(E), or (1)(F), a substantial failure to meet a condition of paragraph (1)(C), (1)(D), or (1)(G)(i)(I), or a misrepresentation of material fact in an application—

"(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate; and

"(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(ii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1), a willful misrepresentation of material fact in an application, or a violation of clause (iv)—

"(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $5,000 per violation) as the Secretary determines to be appropriate; and

"(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(iii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1) or a willful misrepresentation of material fact in an application, in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application—

"(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $25,000 per violation) as the Secretary determines to be appropriate; and

"(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

"(iv) It is a violation of this clause for an employer who has filed an application under this subsection to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this clause, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of this subsection, or any rule or regulation pertaining to this subsection, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of this subsection or any rule or regulation pertaining to this subsection.

"(v) The Secretary of Labor and the Attorney General shall devise a process under which an H–1B nonimmigrant who files a complaint regarding a violation of clause (iv) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period (not to exceed the duration of the alien's authorized admission as such an nonimmigrant).".

(b) USE OF ARBITRATION PROCESS FOR DISPUTES INVOLVING QUALIFICATIONS OF UNITED STATES WORKERS NOT HIRED.—

(1) IN GENERAL.—Section 212(n) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following:

"(5)(A) This paragraph shall apply instead of subparagraphs (A) through (E) of paragraph (2) in the case of a violation described in subparagraph (B).

"(B) The Commissioner shall establish a process for the receipt, initial review, and disposition in accordance with this paragraph of complaints respecting an employer's failure to meet the condition of paragraph (1)(G)(i)(II) or a petitioner's misrepresentation of material facts with respect to such condition. Complaints may be filed by an aggrieved individual who has submitted a resume or otherwise applied in a reasonable manner for the job that is the subject of the condition. No proceeding shall be conducted under this paragraph on a complaint concerning such a failure or misrepresentation unless the Commissioner determines that the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively.

"(C) If the Commissioner finds that a complaint has been filed in accordance with subparagraph (B) and there is reasonable cause to believe that such a failure or misrepresentation described in such complaint has occurred, the Commissioner shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Commissioner shall pay the fee and expenses of the arbitrator.

"(D)(i) The arbitrator shall make findings respecting whether a failure or misrepresentation described in subparagraph (B) occurred. If the arbitrator concludes that failure or misrepresentation was willful, the arbitrator shall make a finding to that effect. The arbitrator may not find such a failure or misrepresentation (or that such a failure or misrepresentation was willful) unless the complainant demonstrates such a failure or misrepresentation (or its willful character) by clear and convincing evidence. The arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Commissioner. Such findings shall be final and conclusive, and, except as provided in this subparagraph, no official or court of the United States shall have power or jurisdiction to review any such findings.

"(ii) The Commissioner may review and reverse or modify the findings of an arbitrator only on the same bases as an award of an arbitrator may be vacated or modified under section 10 or 11 of title 9, United States Code.

"(iii) With respect to the findings of an arbitrator, a court may review only the actions of the Commissioner under clause (ii) and may set aside such actions only on the grounds described in subparagraph (A), (B), or (C) of section 706(a)(2) of title 5, United States Code. Notwithstanding any other provision of law, such judicial review may only be brought in an appropriate United States Court of Appeals.

"(E) If the Commissioner receives a finding of an arbitrator under this paragraph that an employer has failed to meet the condition of paragraph (1)(G)(i)(II) or has misrepresented a material fact with respect to such condition, unless the Commissioner reverses or modifies the finding under subparagraph (D)(ii)—

"(i) the Commissioner may impose administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation or $5,000 per violation in the case of a willful failure or misrepresentation) as the Commissioner determines to be appropriate; and

"(ii) the Attorney General is authorized to not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of not more than 1 year for aliens to be employed by the employer.".

(2) CONFORMING AMENDMENT.—The first sentence of section 202(n)(2)(A) (8 U.S.C. 1152(n)(2)(A)) is amended by striking "The Secretary" and inserting "Subject to paragraph (5)(A), the Secretary".

(c) LIABILITY OF PETITIONING EMPLOYER IN CASE OF PLACEMENT OF H–1B NONIMMIGRANT WITH ANOTHER EMPLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following:

"(E) If an H–1B-dependent employer places a non-exempt H–1B nonimmigrant with another employer as provided under paragraph (1)(F) and the other employer has displaced or displaces a United States worker employed by such other employer during the period described in such paragraph, such displacement shall be considered for purposes of this paragraph a failure, by the placing employer, to meet a condition specified in an application submitted under paragraph (1); except that the Attorney General may impose a sanction described in subclause (II) of subparagraph (C)(i), (C)(ii), or (C)(iii) only if the Secretary of Labor found that such placing employer—

"(i) knew or had reason to know of such displacement at the time of the placement of the nonimmigrant with the other employer, or

"(ii) has been subject to a sanction under this subparagraph based upon a previous placement of an H–1B nonimmigrant with the same other employer.".

(d) SPOT INVESTIGATIONS DURING PROBATIONARY PERIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (c), is further amended by adding at the end the following:

"(F) The Secretary may, on a case-by-case basis, subject an employer to random investigations for a period of up to 5 years, beginning on the date that the employer is found by the Secretary to have committed a willful failure to meet a condition of paragraph (1) (or has been found under paragraph (5) to have committed a willful failure to meet the condition of paragraph (1)(G)(i)(II)) or to have made a willful misrepresentation of material fact in an application. The preceding sentence shall apply to an employer regardless of whether or not the employer is an H–1B-dependent employer. The authority of the Secretary under this subparagraph shall not be construed to be subject to, or limited by, the requirements of subparagraph (A).".

SEC. 104. COLLECTION AND USE OF H–1B NONIMMIGRANT FEES FOR STATE STUDENT INCENTIVE GRANT PROGRAMS AND JOB TRAINING OF UNITED STATES WORKERS.

(a) IMPOSITION OF FEE.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following:

"(9)(A) The Attorney General shall impose a fee on an employer (excluding an employer described in subparagraph (A) or (B) of section 212(p)(1)) as a condition for the approval of a petition filed on or after October 1, 1998, and before October 1, 2002, under paragraph (1) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(i)(b). The amount of the fee shall be $250 for each such nonimmigrant.

"(B) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(t).

"(C)(i) An employer may not require an alien who is the subject of the petition for which a fee is imposed under this paragraph to reimburse, or otherwise compensate, the employer for part or all of the cost of such fee,

"(ii) Section 274A(g)(2) shall apply to a violation of clause (i) in the same manner as it applies to a violation of section 274A(g)(1).".

(b) Establishment of Account; Use of Fees.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

"(t) H–1B Nonimmigrant Petitioner Account.—

"(1) In general.—There is established in the general fund of the Treasury a separate account which shall be known as the 'H–1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(9).

"(2) Use of half of fees by secretary of education for higher education grants.—Fifty percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available until expended to the Secretary of Education for additional allotments to States under subpart 4 of chapter 8 of title IV of the Higher Education Act of 1965 but only for the purpose of assisting States in providing grants to eligible students enrolled in a program of study leading to a degree in mathematics, computer science, or engineering.

"(3) Use of half of fees by secretary of labor for job training.—Fifty percent of amounts deposited into the deposits into such Account shall remain available until expended to the Secretary of Labor for demonstration programs described in section 104(d) of the Temporary Access to Skilled Workers and H–1B Nonimmigrant Program Improvement Act of 1998.".

(c) Conforming Modification of Application Requirements for State Student Incentive Grant Program.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (9), by striking "and" at the end;

(2) in paragraph (10), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(11) provides that any portion of the allotment to the State for each fiscal year that derives from funds made available under section 286(t)(2) of the Immigration and Nationality Act shall be expended for grants described in paragraph (2)(A) to students enrolled in a program of study leading to a degree in mathematics, computer science, or engineering.".

(d) Demonstration Programs and Projects to Provide Technical Skills Training for Workers.

(1) In general.—Subject to paragraph (3), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or demonstration programs or projects under a successor Federal law, the Secretary of Labor shall establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(2) Grants.—Subject to paragraph (3), the Secretary of Labor shall award grants to carry out the programs and projects described in paragraph (1) to—

(A)(i) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act; or

(ii) local boards that will carry out such programs or projects through one-stop delivery systems established under a successor Federal law; or

(B) regional consortia of councils or local boards described in subparagraph (A).

(3) Limitation.—The Secretary of Labor shall establish programs and projects under paragraph (1), including awarding grants to carry out such programs and projects under paragraph (2), only with funds made available under section 286(t)(3) of the Immigration and Nationality Act, and not with funds made available under the Job Training Partnership Act or a successor Federal law.

SEC. 105. DETERMINATIONS ON LABOR CONDITION APPLICATIONS TO BE MADE BY ATTORNEY GENERAL.

(a) In General.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by striking "with respect to whom" and all that follows through "with the Secretary" and inserting "with respect to whom the Attorney General determines that the intending employer has filed with the Attorney General".

(b) Conforming Amendments.—Section 212(n) (8 U.S.C. 1182(n)) is amended—

(1) in paragraph (1), in the matter before subparagraph (A), by striking "unless the employer has filed with the Secretary of Labor" and inserting "unless the employer has filed with the Attorney General";

(2) in paragraph (1), in the matter following subparagraph (D)—

(A) by striking "The Secretary shall compile" and inserting "The Secretary of Labor shall compile";

(B) by striking "The Secretary shall make such list available" and inserting "The Secretary of Labor shall make such list available";

(C) by striking "The Secretary of Labor shall review such an application" and inserting "The Attorney General shall review such an application";

(D) by amending the last sentence to read as follows: "The Attorney General shall treat such an application as being filed for purposes of section 101(a)(15)(H)(i)(b) unless the Attorney General finds that the application is incomplete or obviously inaccurate within 7 days of the date of its filing."; and

(E) by adding at the end the following: "The employer shall file the application with the employer's petition for a nonimmigrant visa for the alien under section 214(c)(1), and the Attorney General shall transmit a copy of such application to the Secretary of Labor."; and

(3) in the first sentence of paragraph (2)(A), by striking "The Secretary shall establish a process" and inserting "The Secretary of Labor shall establish a process".

(c) Effective Date.—The amendments made by this section shall apply to applications filed on or after such date (not later than April 1, 1999) as the Secretary of Labor and the Attorney General shall publish, at least 30 days in advance of such date, in the Federal Register.

SEC. 106. COMPUTATION OF PREVAILING WAGE LEVEL.

(a) In General.—Section 212 (8 U.S.C. 1182) is amended by adding at the end the following:

"(p)(1) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of subsections (n)(1)(A)(i)(II) and (a)(5)(A) in the case of an employee of—

"(A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity; or

"(B) a nonprofit research organization or a Governmental research organization;

the prevailing wage level shall only take into account employees at such institutions and organizations in the area of employment.

"(2) With respect to a professional athlete (as defined in subsection (a)(5)(A)(iii)(II)) when the job opportunity is covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and be considered the prevailing wage.".

(b) Effective Date.—The amendment made by subsection (a) applies to prevailing wage computations made for applications filed on or after the date of the enactment of this Act.

SEC. 107. IMPROVING COUNT OF H–1B AND H–2B NONIMMIGRANTS.

(a) Ensuring Accurate Count.—The Attorney General shall take such steps as are necessary to maintain an accurate count of the number of aliens subject to the numerical limitations of section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)) who are issued visas or otherwise provided nonimmigrant status.

(b) Revision of Petition Forms.—The Attorney General shall take such steps as are necessary to revise the forms used for petitions for visas or nonimmigrant status under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) so as to ensure that the forms provide the Attorney General with sufficient information to permit the Attorney General accurately to count the number of aliens subject to the numerical limitations of section 214(g)(1) of such Act (8 U.S.C. 1184(g)(1)) who are issued visas or otherwise provided nonimmigrant status.

(c) Reports.—Beginning with fiscal year 1999, the Attorney General shall provide to the Congress—

(1) on a quarterly basis a report on the numbers of individuals who were issued visas or otherwise provided nonimmigrant status during the preceding 3-month period under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)); and

(2) on an annual basis a report on the countries of origin and occupations of, educational levels attained by, and compensation paid to, individuals issued visas or provided nonimmigrant status under such sections during such period.

Each report under paragraph (2) shall include the number of individuals described in paragraph (1) during the year who were issued visas pursuant to petitions filed by institutions or organizations described in section 212(p)(1) of such Act (as added by section 106 of this title).

SEC. 108. REPORT ON AGE DISCRIMINATION IN THE INFORMATION TECHNOLOGY FIELD.

(a) Study.—The Director of the Congressional Research Division of the Library of Congress shall enter into a contract with an appropriate entity to conduct a study assessing age discrimination in the information technology field. The study shall consider the following:

(1) The prevalence of age discrimination in the information technology workplace.

(2) The extent to which there is a difference, based on age, in—

(A) promotion and advancement,

(B) working hours,

(C) telecommuting,

(D) salary, and

(E) stock options, bonuses, and other benefits.

(3) The relationship between rates of advancement, promotion, and compensation to experience, skill level, education, and age.

(4) Differences in skill level on the basis of age.

(b) REPORT.—Not later than October 1, 2000, such Director shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a).

SEC. 109. REPORT ON HIGH-TECHNOLOGY LABOR MARKET NEEDS.

(a) STUDY.—The National Science Foundation shall conduct a study to assess labor market needs for workers with high technology skills during the next 10 years. The study shall investigate and analyze the following:

(1) Future training and education needs of companies in the high technology and information technology sectors and future training and education needs of United States students to ensure that students' skills at various levels are matched to the needs in such sectors.

(2) An analysis of progress made by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer, and engineering since 1998.

(3) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(4) The relative achievement rates of United States and foreign students in secondary school in a variety of subjects, including math, science, computer science, English, and history.

(5) The relative performance, by subject area, of United States and foreign students in postsecondary and graduate schools as compared to secondary schools.

(6) The needs of the high-technology sector for foreign workers with specific skills and the potential benefits and costs to United States employers, workers, consumers, postsecondary educational institutions, and the United States economy, from the entry of skilled foreign professionals in the fields of science and engineering.

(7) The needs of the high-technology sector to adapt products and services for export to particular local markets in foreign countries.

(8) An examination of the amount and trend of moving the production or performance of products and services now occurring in the United States abroad.

(b) REPORT.—Not later than October 1, 2000, the National Science Foundation shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a).

(c) INVOLVEMENT.—The study under subsection (a) shall be conducted in a manner that assures the participation of individuals representing a variety of points of view.

TITLE II—SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES

SEC. 201. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking "or" at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

"(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

"(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO-6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

"(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the Temporary Access to Skilled Workers and H-1B Nonimmigrant Program Improvement Act of 1998.".

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)(i)", and

(2) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)".

TITLE III—MISCELLANEOUS PROVISION

SEC. 301. ACADEMIC HONORARIA.

(a) IN GENERAL.—Section 212 (8 U.S.C. 1182), as amended by section 106, is further amended by adding at the end the following:

"(q) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities (lasting not longer than 9 days at any single institution), as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by institution or organization described in subsection (p)(1) and is made for services conducted for the benefit of that institution or entity and if the alien has not accepted such payment or expenses from more than 5 institutions or organizations in the previous 6-month period.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to activities occurring on or after the date of the enactment of this Act.

H.R. 4276

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 28: Page 53, line 6, after the dollar amount insert "(reduced by $20,000,000)".

H.R. 4276

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 29: Page 38, after line 9, insert the following:

PROHIBITION ON HANDGUN TRANSFER WITHOUT LOCKING DEVICE

SEC. 112. (a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(y)(1) It shall be unlawful for any person to transfer a handgun to another person unless a locking device is attached to, or an integral part of, the handgun, or is sold or delivered to the transferee as part of the transfer.

"(2) Paragraph (1) shall not apply to the transfer of a handgun to the United States, or any department or agency of the United States, or a State, or a department, agency, or political subdivision of a State.".

(b) LOCKING DEVICE DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(34) The term 'locking device' means a device which, while attached to or part of a firearm, prevents the firearm from being discharged, and which can be removed or deactivated by means of a key or a mechanically, electronically, or electro-mechanically operated combination lock.".

H.R. 4276

OFFERED BY: MR. METCALF

AMENDMENT NO. 30: Page 38, after line 9, insert the following:

SEC. 112. Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is repealed.

H.R. 4276

OFFERED BY: MR. METCALF

AMENDMENT NO. 31: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds made available in this Act may be used to carry out section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note).

H.R. 4276

OFFERED BY: MS. MILLENDER-MCDONALD

AMENDMENT NO. 32: Page 101, line 21 insert "(increased by $250,000 to be used for the National Women's Business Council as authorized by section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note)" after the dollar amount.

H.R. 4276

OFFERED BY: MR. SCARBOROUGH

AMENDMENT NO. 33: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds appropriated to the Federal Communications Commission in this Act may be used by the Commission for implementing or enforcing the requirements for telecommunications carriers to contribute to support mechanisms to provide services to schools, libraries, and health care providers under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)).

H.R. 4276

OFFERED BY: MR. STEARNS

AMENDMENT NO. 34: Page 78, line 19, strike "$475,000,000," and insert "$365,800,000,".

H.R. 4276

OFFERED BY: MR. STEARNS

AMENDMENT NO. 35: Page 124, after line 2, add the following new title:

TITLE IX—INTERNET GAMBLING PROHIBITION

SEC. 901. SHORT TITLE.

This title may be cited as the "Internet Gambling Prohibition Act of 1998".

SEC. 902. DEFINITIONS.

Section 1081 of title 18, United States Code, is amended—

(1) in the matter immediately following the colon, by designating the first 5 undesignated paragraphs as paragraphs (1) through (5), respectively, and indenting each paragraph 2 ems to the right; and

(2) by adding at the end the following:

"(6) BETS OR WAGERS.—The term 'bets or wagers'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, sporting event of others, or of any game of chance, upon an agreement or understanding that the person or another person will receive something of value based on that outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

"(C) includes any scheme of a type described in section 3702 of title 28, United States Code; and

"(D) does not include—

"(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

"(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

"(iii) a contract of indemnity or guarantee;

"(iv) a contract for life, health, or accident insurance; or

"(v) participation in a game or contest, otherwise lawful under applicable Federal or State law—

"(I) that, by its terms or rules, is not dependent on the outcome of any single sporting event, any series or sporting events, any tournament, or the individual performance of 1 or more athletes or teams in a single sporting event;

"(II) in which the outcome is determined by accumulated statistical results of games or contests involving the performances of amateur or professional athletes or teams; and

"(III) in which the winner or winners may receive a prize or award;

(otherwise known as a 'fantasy sport league' or a 'rotisserie league') if such participation is without charge to the participant or any charge to a participant is limited to a reasonable administrative fee.

"(7) FOREIGN JURISDICTION.—The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

"(8) INFORMATION ASSISTING IN THE PLACING OF A BET OR WAGER.—The term 'information assisting in the placing of a bet or wager'—

"(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; and

"(B) does not include—

"(i) information concerning parimutuel pools that is exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and 1 or more parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, if that information is used only to conduct common pool parimutuel pooling under applicable law;

"(ii) information exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and a support service located in another State or foreign jurisdiction, if the information is used only for processing bets or wagers made with that facility under applicable law;

"(iii) information exchanged between or among 1 or more wagering facilities that are located within a single State and are licensed and regulated by that State, and any support service, wherever located, if the information is used only for the pooling or processing of bets or wagers made by or with the facility or facilities under applicable State law;

"(iv) any news reporting or analysis of wagering activity, including odds, racing or event results, race and event schedules, or categories of wagering; or

"(v) any posting or reporting of any educational information on how to make a bet or wager or the nature of betting or wagering.".

SEC. 903. PROHIBITION ON INTERNET GAMBLING.

(a) IN GENERAL.—Chapter 50 of title 18, United States Code, is amended by adding at the end the following:

"§ 1085. Internet gambling

"(a) DEFINITIONS.—In this section:

"(1) CLOSED-LOOP SUBSCRIBER-BASED SERVICE.—The term 'closed-loop subscriber-based service' means any information service or system that uses—

"(A) a device or combination of devices—

"(i) expressly authorized and operated in accordance with the laws of a State for the purposes described in subsection (e); and

"(ii) by which a person located within a State must subscribe to be authorized to place, receive, or otherwise make a bet or wager, and must be physically located within that State in order to be authorized to do so;

"(B) a customer verification system to ensure that all applicable Federal and State legal and regulatory requirements for lawful gambling are met; and

"(C) appropriate data security standards to prevent unauthorized access.

"(2) GAMBLING BUSINESS.—The term 'gambling business' means a business that is conducted at a gambling establishment, or that—

"(A) involves—

"(i) the placing, receiving, or otherwise making of bets or wagers; or

"(ii) offers to engage in placing, receiving, or otherwise making bets or wagers;

"(B) involves 1 or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(C) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

"(3) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service, system, or access software provider that uses a public communication infrastructure or operates in interstate or foreign commerce to provide or enable computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

"(4) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(5) PERSON.—The term 'person' means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other government, organization, or entity.

"(6) PRIVATE NETWORK.—The term 'private network' means a communications channel or channels, including voice or computer data transmission facilities, that use either—

"(A) private dedicated lines; or

"(B) the public communications infrastructure, if the infrastructure is secured by means of the appropriate private communications technology to prevent unauthorized access.

"(7) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory, or possession of the United States.

"(b) GAMBLING.—

"(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person knowingly to use the Internet or any other interactive computer service—

"(A) to place, receive, or otherwise make a bet or wager with any person; or

"(B) to send, receive, or invite information assisting in the placing of a bet or wager with the intent to send, receive, or invite information assisting in the placing of a bet or wager.

"(2) PENALTIES.—A person who violates paragraph (1) shall be—

"(A) fined in an amount that is not more than the greater of—

"(i) three times the greater of—

"(I) the total amount that the person is found to have wagered through the Internet or other interactive computer service; or

"(II) the total amount that the person is found to have received as a result of such wagering; or

"(ii) $500;

"(B) imprisoned not more than 3 months; or

"(C) both.

"(c) GAMBLING BUSINESSES.—

"(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person engaged in a gambling business knowingly to use the Internet or any other interactive computer service—

"(A) to place, receive, or otherwise make a bet or wager; or

"(B) to send, receive, or invite information assisting in the placing of a bet or wager.

"(2) PENALTIES.—A person engaged in a gambling business who violates paragraph (1) shall be—

"(A) fined in an amount that is not more than the greater of—

"(i) the amount that such person received in bets or wagers as a result of engaging in that business in violation of this subsection; or

"(ii) $20,000;

"(B) imprisoned not more than 4 years; or

"(C) both.

"(d) PERMANENT INJUNCTIONS.—Upon conviction of a person under this section, the court may, as an additional penalty, enter a permanent injunction enjoining the transmission of bets or wagers or information assisting in the placing of a bet or wager.

"(e) EXCEPTIONS.—

"(1) In general.—Subject to paragraph (2), the prohibitions in this section shall not apply to any—

"(A) otherwise lawful bet or wager that is placed, received, or otherwise made wholly intrastate for a State lottery or a racing or parimutuel activity, or a multi-State lottery operated jointly between 2 or more States in conjunction with State lotteries, (if the lottery or activity is expressly authorized, and licensed or regulated, under applicable Federal or State law) on—

"(i) an interactive computer service that uses a private network, if each person placing or otherwise making that bet or wager is physically located at a facility that is open to the general public; or

"(ii) a closed-loop subscriber-based service that is wholly intrastate; or

"(B) otherwise lawful bet or wager for class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) that is placed, received, or otherwise made on a closed-loop subscriber-based service or an interactive computer service that uses a private network, if—

"(i) each person placing, receiving, or otherwise making that bet or wager is physically located on Indian land; and

"(ii) all games that constitute class III gaming are conducted in accordance with an applicable Tribal-State compact entered into under section 11(d) of the Indian Gaming Regulatory Act (25 U.S.C. 2701(d)) by a State in which each person placing, receiving, or otherwise making that bet or wager is physically located.

"(2) Inapplicability of exception to bets or wagers made by agents or proxies.—An exception under subparagraph (A) or (B) of paragraph (1) shall not apply in any case in which a bet or wager is placed, received, or otherwise made by the use of an agent or proxy using the Internet or an interactive computer service. Nothing in this paragraph shall be construed to prohibit the owner operator of a parimutuel wagering facility that is licensed by a State from employing an agent in the operation of the account wagering system owned or operated by the parimutuel facility.

"(f) State Law.—Nothing in this section shall be construed to create immunity from criminal prosecution or civil liability under the law of any State.".

(b) Technical Amendment.—The analysis for chapter 50 of title 18, United States Code, is amended by adding at the end the following:

"1085. Internet gambling.".

SEC. 904. CIVIL REMEDIES.

(a) In General.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of section 1085 of title 18, United States Code, as added by section 903, by issuing appropriate orders.

(b) Proceedings.—

(1) Institution by federal government.—The United States may institute proceedings under this section. Upon application of the United States, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(2) Institution by state attorney general.—

(A) In general.—Subject to subparagraph (B), the attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by section 903, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this section. Upon application of the attorney general (or other appropriate State official) of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(B) Indian lands.—With respect to a violation of section 1085 of title 18, United States Code, as added by section 903, that is alleged to have occurred, or may occur, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the enforcement authority under subparagraph (A) shall be limited to the remedies under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), including any applicable Tribal-State compact negotiated under section 11 of that Act (25 U.S.C. 2710).

(3) Orders and injunctions against internet service providers.—Notwithstanding paragraph (1) or (2), the following rules shall apply in any proceeding instituted under this subsection in which application is made for a temporary restraining order or an injunction against an interactive computer service:

(A) Scope of relief.—

(i) If the violation of section 1085 of title 18, United States Code, originates with a customer of the interactive computer service's system or network, the court may require the service to terminate the specified account or accounts of the customer, or of any readily identifiable successor in interest, who is using such service to place, receive or otherwise make a bet or wager, engage in a gambling business, or to initiate a transmission that violates such section 1085.

(ii) Any other relief ordered by the court shall be technically feasible for the system or network in question under current conditions, reasonably effective in preventing a violation of section 1085, of title 18, United States Code, and shall not unreasonably interfere with access to lawful material at other online locations.

(iii) No relief shall be issued under subparagraph (A)(ii) if the interactive computer service demonstrates, after an opportunity to appear at a hearing, that such relief is not economically reasonable for the system or network in question under current conditions.

(B) Considerations.—In the case of an application for relief under subparagraph (A)(ii), the court shall consider, in addition to all other factors that the court shall consider in the exercise of its equitable discretion, whether—

(i) such relief either singularly or in combination with such other injunctions issued against the same service under this subsection, would seriously burden the operation of the service's system network compared with other comparably effective means of preventing violations of section 1085 of title 18, United States Code;

(ii) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, by a gambling business (as is defined in such section 1085) located outside the United States, the relief is more burdensome to the service than taking comparably effective steps to block access to specific, identified sites used by the gambling business located outside the United States; and

(iii) in the case of an application for a temporary order or an injunction to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, relating to material or activity located within the United States, whether less burdensome, but comparably effective means are available to block access by a customer of the service's system or network to information or activity that violates such section 1085.

(C) Findings.—In any order issued by the court under this subsection, the court shall set forth the reasons for its issuance, shall be specific in its terms, and shall describe in reasonable detail, and not be reference to the complaint or other document, the act or acts sought to be restrained and the general steps to be taken to comply with the order.

(4) Expiration.—Any temporary restraining order or preliminary injunction entered pursuant to this subsection shall expire if, and as soon as, the United States, or the attorney general (or other appropriate State official) of the State, as applicable, notifies the court that issued the injunction that the United States or the State, as applicable, will not seek a permanent injunction.

(c) Expedited Proceedings.—

(1) In general.—In addition to proceedings under subsection (b), a district court may enter a temporary restraining order against a person alleged to be in violation of section 1085 of title 18, United States Code, as added by section 903, upon application of the United States under subsection (b)(1), or the attorney general (or other appropriate State official) of an affected State under subsection (b)(2), without notice and the opportunity for a hearing, if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the transmission at issue violates section 1085 of title 18, United States Code, as added by section 903.

(2) Expiration.—A temporary restraining order entered under this subsection shall expire on the earlier of—

(A) the expiration of the 30-day period beginning on the date on which the order is entered; or

(B) the date on which a preliminary injunction is granted or denied.

(3) Hearings.—A hearing requested concerning an order entered under this subsection shall be held at the earliest practicable time.

(d) Rule of Construction.—In the absence of fraud or bad faith, no interactive computer service (as defined in section 1085(a) of title 18, United States Code, as added by section 903) shall be liable for any damages, penalty, or forfeiture, civil or criminal, for any reasonable course of action taken to comply with a court order issued under subsection (b) or (c) of this section.

(e) Protection of Privacy.—Nothing in this title or the amendments made by this title shall be construed to authorize an affirmative obligation on an interactive computer service—

(1) to monitor use of its service; or

(2) except as required by an order of a court, to access, remove or disable access to material where such material reveals conduct prohibited by this section and the amendments made by this section.

(f) No Effect on Other Remedies.—Nothing in this section shall be construed to affect any remedy under section 1084 or 1085 of title 18, United States Code, as amended by this title, or under any other Federal or State law. The availability of relief under this section shall not depend on, or be affected by, the initiation or resolution of any action under section 1084 or 1085 of title 18, United States Code, as amended by this title, or under any other Federal or State law.

(g) CONTINUOUS JURISDICTION.—The court shall have continuous jurisdiction under this section to enforce section 1085 of title 18, United States Code, as added by section 903.

SEC. 905. REPORT ON ENFORCEMENT.

Not later than 3 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that includes—

(1) an analysis of the problems, if any, associated with enforcing section 1085 of title 18, United States Code, as added by section 903;

(2) recommendations for the best use of the resources of the Department of Justice to enforce that section; and

(3) an estimate of the amount of activity and money being used to gamble on the Internet.

SEC. 906. REPORT ON COSTS.

Not later than 3 years after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress that includes—

(1) an analysis of existing and potential methods or technologies for filtering or screening transmissions in violation of section 1085 of title 18, United States Code, as added by section 903, that originate outside of the territorial boundaries of any State or the United States;

(2) a review of the effect, if any, on interactive computer services of any court ordered temporary restraining orders or injunctions imposed on those services under this section;

(3) a calculation of the cost to the economy of illegal gambling on the Internet, and other societal costs of such gambling; and

(4) an estimate of the effect, if any, on the Internet caused by any court ordered temporary restraining orders or injunctions imposed under this title.

SEC. 907. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

H.R. 4328

OFFERED BY: MR. BARR OF GEORGIA

AMENDMENT NO. 1: At the appropriate place in the bill, insert the following:

SEC. ____. None of the funds appropriated by this Act may be used to carry out section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note; 110 Stat. 3009–716 through 3009–719) and any regulation issued to carry out such section.

H.R. 4328

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 2: Page 30, line 10, after "$59,670,000" insert "(decreased by $2,000,000)".

Page 30, after line 11, insert the following:

$2,000,000 for a major investment study for an alternative transportation system in the city of Houston;

H.R. 4328

OFFERED BY: MR. NADLER

AMENDMENT NO. 3: At the end of title III, insert the following:

SEC. 347. None of the funds made available in this Act may be used for improvements to the Miller Highway in New York City.

EXTENSIONS OF REMARKS

THE PURPLE HEART VETERAN JUSTIFICATION ACT, H.R. 3970

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. McKEON. Mr. Speaker, today I rise to address a troubling situation that Congress can address before our wounded Veteran's hard earned medals are diminished in importance.

As you may recall last year, Congress passed S. 923 denying burial benefits to veterans convicted of Federal Capital Offenses. The primary reason for the need of this legislation was to prevent individuals such as Tim McVeigh, the convicted murderer and terrorist, from being buried in our national cemeteries. We passed this legislation by voice vote with many members speaking out in favor of its passage.

I would like to relate the story of a woman by the name of Leah Schendel. On December 18, 1980, Mrs. Schendel was brutally raped and murdered by Manuel Babbit. Mrs. Schendel was a loving mother and at the time of her death was 78 years old, less than 5 feet tall, and weighed under 100 pounds. In 1981, Mr. Babbit was convicted of the horrible murder and was sentenced to death. Mr. Babbit's final appeal was scheduled for just this past month.

How might this problem relate to the problem of the Purple Heart Medal? Well, Mr. Babbit, a convicted murderer and death penalty recipient, recently received the Purple Heart Medal for wounds that he received in Vietnam over 25 years ago. While I do not argue that Mr. Babbit is eligible for the award, I have serious problems with the circumstances surrounding Mr. Babbit's application for the Purple Heart Medal. With no other choice, the military approved the award, which was required by Mr. Babbit's attorney, Charles Patterson.

I find the timing of Mr. Babbit's reception of this award troubling. Assuming the worst case scenario, Mr. Babbit is attempting to use the honor that comes along with reception of this medal to curry favor with an appellate judge to reduce his sentence or grant him a new trial. I find it appalling that someone would attempt to bring dishonor to an award granted to individuals who bravely fought for the greatness of the nation by using it to assist a murderer's appeal process.

H.R. 3970 would help put an end to problems like this. It would also go a long way to preserving the honor and dignity of the Purple Heart Medal. This legislation would prohibit the awarding of the Purple Heart Medal to individuals convicted of Federal Capital Offenses. The measure does not address eligibility for the award, but rather denies reception of the award for convicted Capital Offenders. The legislation is not retro-active and would not strip individuals of the Purple Heart Medal who had received the award prior to their conviction. Finally, the legislation is narrow in focus and would only apply to a very select group of individuals that have committed the most heinous crimes in our society.

Mr. Speaker, it is not often that we can act before a problem occurs, but that is exactly what this Congress can do on this matter. This legislation has been endorsed by the Military Order of the Purple Heart and was introduced with the support of the House Veterans Affairs Committee Chairman Bob Stump. I would urge my colleagues to help preserve the dignity of the Purple Heart by co-sponsoring this important legislation.

IN HONOR OF RALPH A. VASEY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor the achievements of Ralph Vasey on the occasion of his 80th birthday.

Ralph Vasey, a boxer in his teens, joined the Marine Corps and served diligently in the second world war, where he was wounded three times. He returned home to the honorable trade of Roofer, Waterproofer and Allied Worker. He held offices, including that of the president, for Local 44 through three decades; and was among the founders of the Pension Fund and Health and Welfare Fund for Local 44. Ralph Vasey has been a hard and industrious worker in all his pursuits and exemplifies the American Spirit. He worked with his hands and built a life he can be proud of. He has not only helped himself, but also persevered to help those in his community.

Ralph Vasey is also a devoted family man. He is the proud father of Michael. And his two granddaughters, Jenelle and Carrie, have made him a great grandfather of Jonathan, Brandon, Michael, Nicholas, Mikayla and soon to arrive Justin. In all his pursuits, Ralph Vasey has not lost sight of what is truly important: His family.

My fellow colleagues, please join me in recognizing the life accomplishments of a father, grandfather and great-grandfather, and a veteran of our country, Ralph Vasey, on his 80th birthday.

146TH ANNIVERSARY OF THE TRAGEDY AT EL PUEBLO, CO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. McINNIS. Mr. Speaker, Whereas, in 1842, El Pueblo was built a few miles above the junction of the Napeste River, present day Arkansas River, and Fountaine-qui-bouille, present day Fountain Creek, just north of the Mexican Border, and

Whereas, the Native American inhabitants of the area, had been displaced from their homes without regard to their survival and had suffered immensely, and

Whereas, at Christmas 1854 a party of Utes, and some Jicarilla Apaches, led by Chief Tierra Blanca fought with the occupants of El Pueblo resulting in the deaths of at least twelve Spanish surnamed individuals, and the capture of the two boys, and the deaths of an unknown number of Native Americans, and

Whereas, the settlers killed at El Pueblo were early residents of Pueblo, braving new frontiers and looking for a better way of life, and became victims at a time when cultures were in conflict, and

Whereas, it has been one-hundred forty-four years since the tragedy at El Pueblo.

Now, therefore, I Scott McInnis, a United States Congressman from the State of Colorado, on behalf of the Fray Angelico Chazes Hispanic Genealogical Society of Southern Colorado, proclaim this a significant event in Pueblo and Colorado's history and what led to this tragedy could have been prevented by the promotion of greater understanding between peoples and cultures and should never be allowed to happen again.

TRIBUTE TO DR. GERALD FROM

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday,, July 28, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay a respectful tribute to Dr. Gerald From, who has provided invaluable services to the South Bronx Mental Health Council since 1969 and made a tremendous contribution to the Gouverneur Hospital Community Advisory Board.

A long-time resident of New York, Dr. From received his B.A. from Yeshiva University, his Masters in Counseling Psychology from Columbia Teachers College and his Ph.D. in Rehabilitation Counseling from New York University in 1987.

A man of many talents, Dr. From is a licensed substitute teacher for the New York City school system, as well as a rehabilitation counselor and a psychologist. He has worked at the Rockland County Center for the physically handicapped, the Pesach Tikvah Guidance Center, and he also ran his own part-time private practice.

Dr. From has made significant contributions to the Bronx Mental Health Clinics. In a variety of capacities during his 28 years of service there, he acted as both a senior and a supervising vocational rehabilitation counselor.

Dr. From impact on the New York community has also been profound. He was a remedial mathematics teacher at an antipoverty program called Project Talent, and he served as an audiometric tester for the Jewish Educational Committee, testing thousands of youngsters for hearing defects. He has served on many boards, including the board of directors for the 219 Henry Street Corporation and the Department Center for Education and Health Services.

Dr. From has also received numerous honors, ranging from being named among the "Outstanding Young Men in America" in 1974, to being included in the 1997–98 Whos's Who in Medicine and Health Care.

Tonight, however, Dr. From will be honored for his outstanding contribution to the Gouverneur Hospital Community Advisory Board. Dr. From was first elected to the board in 1974 by over 3,000 diverse members of the New York City community. He served as treasurer until 1977, and then proceeded to serve as chairman of the board for 21 years. The community and Gouverneur Hospital have benefitted immensely from his wisdom and guidance.

Mr. Speaker, I ask that my colleagues join me in thanking and congratulating Dr. From for his many years of outstanding service to this board and to the community. It is a privilege to have such an outstanding leader in my district.

TRIBUTE TO OFFICER CLAIRE CONNELLY

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. CALVERT. Mr. Speaker, I rise today to pay tribute to a fallen police officer from Riverside, California. Officer Claire Connelly, who was an 18-month veteran of the force, is the first female Riverside police officer ever to be killed in the line of duty. She contributed generously of her time and talents to help others and to make her community a better place in which to live and work.

She was a bright, caring, and compassionate individual who made an everlasting impression in her short life. Claire Connelly went out every day to make a difference and she did—some days in small ways, some days in big ways, and on July 12, 1998, at the cost of her life. One cannot ask more of peace officers. Officer Connelly deserves our deepest respect and gratitude.

Mr. Speaker, I ask that you and our colleagues join me today in remembering this fine officer. On behalf of the residents of the 43rd Congressional District, I extend my prayers and most heartfelt sympathy to her family and loved ones.

TRIBUTE TO THE BRONX PUERTO RICAN DAY PARADE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. SERRANO. Mr. Speaker, once again it is with pride that I rise to pay tribute to the Bronx Puerto Rican Day Parade, on its tenth year of celebrating the culture and contributions of the Puerto Rican community to our nation.

The Bronx Puerto Rican Day Parade will be held on Sunday in my South Bronx Congressional District. The event is the culmination of a series of activities surrounding Puerto Rican Week in the Bronx.

Under the leadership of its founder, Mr. Angel L. Rosario, and its president, Mr. Francisco Gonzalez, the Parade has grown into one of the most colorful and important festivals of Puerto Rican culture in the five Boroughs of New York City and beyond.

The Parade brings together people from all ethnic backgrounds, including Puerto Ricans from the island and all across the nation.

It is an honor for me to join once again the hundreds of thousands of people who will march with pride from Mount Eden to 161st Street and the Grand Concourse in celebration of our Puerto Rican heritage. The Puerto Rican flag and other ornaments in the flag's red, white, and blue will decorate the festival.

As one who has participated in the parade in the past, I can attest that the excitement it generates brings the entire City together. It is a celebration and an affirmation of life. It feels wonderful that so many people can have this experience, which will change the lives of many of them. There's no better way to see our Bronx community.

The event will feature a wide variety of entertainment for all age groups. The Parade ends at 161st and the Grand Concourse, where live music, Puerto Rican food, crafts, and other entertainments await partakers. It is expected that this year's Parade will surpass last year's half-million visitors.

In addition to the Parade, President Gonzalez and the many organizers will provide the community with nearly a week of activities to commemorate the contributions of the Puerto Rican community, its culture and history.

Mr. Speaker, it is with enthusiasm that I ask my colleagues to join me in paying tribute to this wonderful celebration of Puerto Rican culture, which has brought much pride to the Bronx community.

TRIBUTE TO COLONEL JOHN KELLY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. SPENCE. Mr. Speaker, it is a pleasure for me to pay tribute today to a truly exceptional Marine, and American, Colonel John Kelly, who serves as the Marine Corps Liaison Officer to the U.S. House of Representatives. Today, John pins on the rank of "full-bird" colonel. I cannot think of an officer more deserving of this promotion.

Military promotion boards make their selections based on sustained and superior performance, as well as on an officer's ability to lead. John has demonstrated throughout his career that he is an outstanding leader of Marines. And that is the essence being a Marine!

A native of Brighton, Massachusetts, John began his military career by enlisting in the Marine Corps on September 10, 1970. From the beginning, John demonstrated his leadership potential. Only nineteen months after enlisting, John was meritoriously promoted to sergeant—a feat that is nearly unheard of! Shortly thereafter, John was selected for the coveted Marine Enlisted Commissioning Education Program, where he obtained his bachelor's degree in just over three years.

Upon graduation, John was commissioned a Second Lieutenant in the Marine Corps on November 1, 1975. Throughout his twenty-eight-year career, John Kelly has commanded every echelon of infantry unit from fire team to battalion. His non-Fleet Marine Force assignments included serving as executive officer of the Marine detachments aboard the aircraft carriers U.S.S. *Forrestal* and U.S.S. *Independence*. During his ship-board duty, John acquired his "sea-legs" by qualifying as "Officer of the Deck Underway," a qualification that is difficult to achieve and allowed him to conn the ship during flight operations. Among his other assignments, John was stationed at the Marine Corps' Combat Development Command where he served as instructor at "The Basic School," manpower monitor, and director of the Infantry Officers Course. John also has earned post-graduate degrees from Georgetown University and the National Defense University.

On June 11, 1995, Colonel Kelly reported for duty at the Marine Corps' House Liaison Office and immediately assumed responsibility for the direction of the liaison office's activities, which include responding to Congressional and constituent inquiries as well as planning, coordinating and escorting Members and Congressional Staff on domestic and overseas travel. I benefited personally from John's professionalism, thoroughness and attention to detail, having had the opportunity to travel with him to military installations around the world. I know that I speak for all of my colleagues in thanking John for his integrity, his dedication to duty and, above all, for his friendship. John is a natural leader in the finest tradition of the nation and the Marine Corps.

I would also like to take a moment to recognize John's family. The national asks a lot of our service members. And when we ask a lot of the men and women in uniform, we also ask a lot of the spouses and families that are left behind. During John's career, he and his family have made many sacrifices for his nation. Therefore, I would also like to thank John's family—his lovely wife, Karen, and their three children, John, Robert and Kathleen—for their support to John and for their contributions to the Marine Corps.

Mr. Speaker, I know first hand that Colonel John Kelly is ready to meet the challenges and opportunities ahead. John epitomizes what it means to devote oneself to serving the nation. I look forward to the day when I will call him "General." Semper Fidelis!

IN RECOGNITION OF MICHAEL D. WIDLER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. McINNIS. Mr. Speaker, I rise today in recognition of an individual who has, for the past 30 years, faithfully and honorably served in the United States of America while in the United States Naval Reserves. His name is Michael D. Widler of Grand Junction, Colorado. During his distinguished career, Mr. Widler, a Master Chief Petty Officer, provided exceptional service and sustained outstanding performance while serving with the Naval Security Group, from October 8, 1969 through October 7, 1998. Master Chief Widler has been the only member in the history of the Security Group Reserve Program to attain the rank of Master Chief Petty Officer in the CTA rating. He has served in numerous active duty and reserve assignments in Colorado, Alaska, Kansas and Washington D.C. He has served as the key enlisted member of national teams where he was instrumental in the development of an action plan to restructure portions of the Naval Reserve program. He served as the national advisor to validate Naval Reserve support billets at the National Security Agency. His career has been distinguished by excellence in leadership and a deep commitment to the United States of America. Master Chief Widler has continuously demonstrated superior management abilities, administrative expertise and an abiding concern for his shipmates. His outstanding performance, inspiring leadership and total dedication to duty have reflected great credit upon himself, the State of Colorado and the United States Navy. Please join me in thanking CTACM Mike Widler for his 30 years of service and on a job well done.

PATIENT PROTECTION ACT OF 1998

SPEECH OF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to speak about a specific provision in the Patient Protection Act.

According to the *Washington Post*, and I quote: "The Republican-crafted Patient Protection Act of 1998 would allow anyone who collects health information . . . to provide that data to any health care provider or health plan". In other words, no one's personal health care information will be private. From your broken leg, to your HIV status, to your genetic makeup, to your psychiatric records—all of it can be bought and sold between hospitals, health maintenance organizations, doctors, pharmacies and insurers. Anyone in the health care business will be able to find out the most intimate details of your life under the Patient Protection Act.

As Mr. DINGELL said, "This is one of the worst outrages that I've seen." It is an outrage. It is also unconstitutional. The Fourth Amendment of the United States Constitution guarantees "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures."

The taking of personal health information under the false pretense that this information is private, and selling or giving that information away violates the right of the people to be "secure in their persons". Rifling through a persons' health care files for the purpose of selling that information is an unlawful search. And accepting this information without the patient's consent is an unlawful seizure.

It is no accident that the bill actually does protect patients is the Patient Bill of Rights. The Dingell-Ganske Patient Bill of Rights reforms the HMO industry without invading the constitutionally protected right to privacy. I urge my colleagues to vote for the Dingell-Ganske Patient Bill of Rights.

IN TRIBUTE

SPEECH OF

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mrs. MALONEY of New York. Mr. Speaker, it's difficult to add to what my fellow Members of Congress have said here today about the dedication and commitment of the Capitol Police Force.

Officers Jacob Chestnut and John Gibson gave their lives so that some of my colleagues might live.

I did not know officers Gibson or Chestnut. But they laid down their lives for my fellow Members and in so doing, they were my friends.

I want to simply thank the Capitol Police Force for their acts of bravery. And I deeply admire their courage—not only in the face of danger but also in the face of tremendous grief these past few days.

Officers Jacob Chestnut and John Gibson are leaving behind wives and children. I extend my condolences to them, and I also extend my condolences to my fellow Members of the House because we all clearly have lost two friends—two people who were committed to service—who were committed to us. Committed to this country and committed to democracy.

They have continued to stand proudly and helpfully on the streets and corners of Capitol Hill carrying on through these difficult days.

We remember these two brave officers today—and will memorialize them in the Capitol building.

It's also a time to remember the officers across the country who have laid down their lives for the citizens they protect.

Right now—near my home town—a 28 year old officer is struggling to stay alive after a teenager shot him in cold blood. Officer Gerard Carter took a bullet to his head as he walked with a fellow officer apparently on his beat in Staten Island.

Officer Carter had recently received the "Policeman of the Month" award. He is married and has a young son. I pray for his survival.

IN MEMORY OF DAVID GOLDWARE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication to the community and to the overall well-being of the 43d Congressional District is unparalleled. My district has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give of their time and talents to make their communities a better place to live and work. Mr. David Goldware was first among these individuals. He died last week at the age of 81.

David Goldware was a man who never shied away from becoming involved from helping others and helping his community. He was a strong advocate for the less fortunate, for his community, and the country he loved. David Goldware served with honor in the U.S. Navy during World War II, and was decorated with a presidential unit citation for saving the life of a fellow crewman when their ship was torpedoed. After leaving the Navy, he continued this commitment to his country through his involvement with veterans' issues. When the Riverside National Cemetery fell into disrepair a few years ago, David helped put together any army of volunteers to clean up the cemetery and maintain the grounds.

He was also active in many community organizations, including B'nai B'rith, Temple Beth El, City of Hope, Greater Riverside Chambers of Commerce, United Way, Boy Scouts of America, St. Jude Children's Research Hospital, Riverside Community Hospital Foundation, and the Janet Goeske Senior Center. His good deeds and work in the community would fill pages and pages were I to try and list them all. David's outstanding accomplishments made everyone who met him proud to call him a friend, community leader, and fellow American.

David was a wonderful guy—he brightened up every room and every person he met. He became the unofficial historian at every event he attended because he always had his camera with him. I have pictures in my desk drawer that David sent to me of a charity event in Riverside that were taken just a few days before his death. As always, David was there with his camera and a smile for everyone he met.

David would have agreed that his greatest accomplishment was his family. He married his wife, June, in 1942 and together they raised two wonderful sons. She has recently preceded him in death. My deepest condolences go to David's sons, Michael and Nick. My thoughts and prayers are with them. David Goldware will be sorely missed—I don't know how you replace someone like him. The 43d Congressional District, and I, have lost a dear friend. We can best honor him by trying to meet the same high standard he set as a patriot, citizen, and friend.

IN TRIBUTE

SPEECH OF

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mrs. NORTHUP. Mr. Speaker, I recognize that my few remarks here today could never adequately express the profound sadness felt by myself, my Congressional colleagues members of the Capitol Hill Police Force and indeed the entire nation, over the slaying of Officer J.J. Chestnut and Detective John Gibson.

Last Friday, an individual bent on destruction and misery, launched an attack on this building. But he did much more than that. He also attacked the very freedom this building symbolizes. But he was not successful. At that critical moment in time, two officers performed the duties they were sworn to, and sacrificed their lives to saved others.

This tragedy has affected all of us. I believe that during the past few days, Americans have paused to reflect what freedom and democracy mean to them. Because the Capitol is much more than just a building. The Capitol Hill Police Force do not just project a physical structure, but also the very center of our democracy.

In my year and a half in Congress, I have often commented on the openness of our capitol building. I have seen how the history of both the building and our nation, expressed the walls and ceilings and stairs, interested and inspired school children and senior citizens alike. The supreme sacrifice given us by Officer Chestnut and Detective Gibson is in the same tradition of courage and honor demonstrated by every man and woman who have given their lives so that we may be free.

I would like to complement the outstanding work performed daily by the Capitol Hill Police Force. Every day, they stand on the street corners and in doorways and give directions to lost and tired visitors. They answer the same questions one hundred times a day. And they do it with courtesy, dignity, and professionalism. They are goodwill ambassadors to thousands of visitors—yet they remain largely unheralded. Finally, they are highly trained law enforcement agents sworn to protect the lives of Members of Congress, staff, and all others who make their way to Capitol Hill.

Last Friday, two brave men upheld their oath with heartbreaking efficiency, and today we mourn their loss.

IN TRIBUTE

SPEECH OF

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. KIND. Mr. Speaker, I want to express my deepest sympathy to the families of Officer Jacob Joseph "J.J." Chestnut and Detective John Michael Gibson. These fine men made the ultimate sacrifice for their government and their country. My wife, Tawni, and I will keep their loved ones in our prayers in this time of terrible pain and sadness.

This is my first term in Congress. I have been impressed by how accessible the Capitol building, and all the buildings in the Capitol complex, are to the American public. I have also been impressed with the superb level of security provided to the Members of Congress, staff and the public by the Capitol police force.

This senseless act of random violence will cause some people to call for closing the doors of the Capitol to the public—turning it into a fortress. This building has historically been the center of the People's government, housing the proceeding of the House, the Senate and the Supreme Court. The public has always been able to freely witness the proceedings under its roof. Millions visit the Capitol of the United States each year. They come from across the country and around the world for the chance to walk through the halls of what they know is the ultimate beacon of Democracy and freedom.

Officers Chestnut and Gibson knew, as well as any of us, how important a visit to this Nation's Capitol is to so many people who pass through its doors. Their names have been added to the list of those who have died to preserve the freedoms we enjoy. Many of us forget all too often that freedom has a heavy price. Their astonishing bravery is becoming clearer as we learn the details of their struggle to stop the gunman last Friday. Their selfless instincts were to protect, at all cost, the innocent people working in and visiting the Capitol that day.

Sealing off the Capitol to the public would sidestep the real issue that these Officers and police everywhere in America deal with every day—escalating gun violence. We should use this horrible incident to examine our society and consider what can be done to reduce this violence and keep guns out of the hands of those who would perpetrate such heinous crimes. When it comes to the point where children are shooting other children in our schools and a gunman shoots his way into the U.S. Capitol, we must recommit ourselves to finding real solutions to gun violence.

We should honor the memory of Officer Chestnut and Detective Gibson by taking the steps necessary to reduce gun violence in our country. That is the challenge posed to us by their ultimate sacrifice. That is the legacy they deserve.

MORAL VALUES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 29, 1998 into the CONGRESSIONAL RECORD.

MORAL VALUES

I've often been impressed in talking with Hoosiers about the concern that many of them have that the state of moral values in the country is weak. With all of the tough issues of the day, like the problems of campaign finance or how to maintain solid economic growth in the economy, the moral concern of Hoosiers comes through repeatedly. They worry about moral decline and about the character and values exhibited by Americans today.

More generally, the polls show that by substantial majorities the public believes that the United States is in a long-term moral decline. They see behavior that weakens family life, widespread disrespect for authority, an inclination towards self-indulgence and a lessening of personal responsibility. They see a lot of behavior around them they do not approve of: A professional athlete spits on an umpire or abuses women, a movie star says she wants a baby but not a husband, and a politician makes a lot of money on a book deal from a personal scandal. They do not like to see children being mistreated or ignored, marriages disintegrating, high levels of violence and drug use, deteriorating educational systems, less emphasis on responsibility and accountability, increasing coarseness and incivility in popular culture and politics, too much emphasis on making money, not enough concern about the distinction between right and wrong, less concern with the truth.

I think most Hoosiers understand too that there is only so much government can do to improve the moral culture of the country. Certainly government actions can make it either harder or easier for families to prosper, or for children to get a good education, for example. Government can punish actions which threaten the social order. It can fund programs to fight drugs and crime, pass laws against discrimination and pornography, and hold congressional hearings to spotlight moral issues. Public officials can be positive or negative role models. But government's power to foster attitudes like civility and respect is limited.

Fortunately there are many institutions which strengthen our society and build character and citizenship. It is not surprising then that the country is becoming more concerned about civil society—that is, the relationships and institutions that are not controlled by the government but are essential, like families, neighborhoods, and the web of religious, economic, educational and civic associations that foster character in individuals and help children become good people and good citizens.

By all odds, the most important is the family, where children first learn or fail to learn the simple virtues: honesty trust, loyalty, cooperation, self-restraint, civility, compassion, personal responsibility, and respect for others.

Religion is very important in the lives of most Americans, and our churches foster the values that are essential to good quality of life in America. They emphasize personal responsibility, respect for moral law, and concern for others. They remind us of the timeless and transcendent virtues toward which we all must strive.

A large number of voluntary civic organizations help define our country and help us achieve social goals. All of us know the importance that civic organizations like Little League, the Chamber of Commerce, service clubs, the Future Farmers of America, Boy and Girl Scouts, and hundreds of others play in improving our lives. People want to be able to play in the parks, go to the library, learn from and help each other, and participate in all sorts of activities and relationships that make life meaningful.

In every community there are people who push for greater exposure to music, poetry, literature, and the other arts. The arts strengthen our communities by affirming important, core values: creativity, sensitivity, integrity of expression, craftsmanship.

Schools, of course, are crucial. They shape the lives of students and at their best require basic standards of good conduct: responsibility, respect for teachers' authority, respect for other students. They pass on the culture of the country and the responsibilities of citizenship, thereby sustaining our democratic values.

Business enterprises of all kinds and descriptions are increasingly playing a prominent role in our civil society, quite apart from their critical economic role. Labor and management both have a role to play in ensuring honest value in return for fair reward, in promoting ethnical business practices and in enforcing standards of conduct in the workplace. Businesses also can provide vital support for all sorts of community efforts.

One institution demands special mention because of its size and influence, but also because it is widely criticized as undermining civic life, and that is the media. Often I hear that the media—including movies, video games, Internet sites, and television—are hostile to the values that parents want for their children.

These and other institutions are in no small measure responsible for the country's success. The concern is that many of them are eroding.

I frequently ask Hoosier audiences what the United States is all about. One theme that comes through is that this is a country that should permit every person the opportunity to become the best they can become. Civil society helps advance that goal. The purpose of government and the other institutions of our society is to help foster the conditions to permit individuals to achieve their highest potential, to flourish and to prosper, and live positive and constructive lives.

So a primary challenge in the country today is neither governmental nor economic, but moral. It is to strengthen our families, improve our communities, permit our religious institutions to flourish, encourage voluntary civic organizations, support the arts, and place great emphasis on education, including character education programs. We must ensure that business, labor, and other community leaders understand their role in providing for the overall health of society, and encourage the media to be mindful of the effects of inappropriate violent and sexual content on young people.

The Founding Fathers were not afraid to speak of virtue and the role that individuals must play for a democratic society to flourish. The essential product in the foundation of a democratic nation is good and responsible people.

IN TRIBUTE

SPEECH OF

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. PITTS. Mr. Speaker, today I rise with my colleagues to pay tribute to the valiant work and lives of two fallen heroes—J.J. Chestnut and John Gibson. The whole community here in Congress is slowly recovering from the shock of the fatal shooting of two honorable Capitol Hill policemen just under a week ago. It is disturbing and sad that this happened.

Just 10 short minutes after the House adjourned for the weekend last Friday, bedlam and terror engulfed the Capitol of the United States. An armed gunman entered the Capitol—and who knows what his intent was. Were it not for the valiant efforts of two brave Capitol Police Officers, many lives of staff, tourists, and Members of Congress could have been lost.

We cannot quite fathom the implications of the bravery of these two men. Those of us who work here can attest to the commitment of the Capitol Police force. Yet, we're never really ready for something like this.

Scripture tells us that "there is no greater love than this, that a man would lay down his life for a friend." Where terror struck, these two men knew exactly how to respond. Officers J.J. Chestnut and John Gibson have paid the supreme sacrifice for their friends by giving their lives.

They represent the finest among us—officers who protect our freedom, our Capitol, our system of government, our way of life. It is a great tragedy that they have been slain in the line of duty. But we honor them, we honor their memory, we honor their commitment. Their lives exemplify duty, honor and country.

J.J. Chestnut and John Gibson are American heroes. Our thoughts and prayers are with their families and loved ones.

SCHOOL SAFETY

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to support the special White House school safety summit called by President Clinton for October. This conference will bring together educators, law enforcement officials, and parents to discuss methods for ensuring school safety.

Our children are our future, and we must do everything we can to guarantee them a safe learning environment in our public schools. Unfortunately, many school children today face threats on a daily basis in their schools—if not more tragic acts, such as the recent shootings on school grounds.

It is also important to recognize that every day, all across America, children are being threatened, harassed, and beaten. President Clinton quoted statistics showing that three out of four students claim that they have trouble with disruptive classmates. These children are not able to fulfill their full potential because they are too afraid or distracted to focus on learning.

Problem students who show constant disregard for teachers' classroom rules cause disorder that prohibits learning. The National Center for Education Statistics reports that in 1993–94, 23.6% of public school teachers indicated that student disrespect for teachers is a serious problem. When teachers are not in control, their morale is lowered, the students are afraid, and the time spent in school is wasted.

Perhaps even more distressing are the students who simply do not attend school. Truancy leads to many criminal acts, including drug and alcohol use, gang activity, and violence. Further, truant students are not learning. When our children don't go to school, not only their own future, but also our country's future is threatened.

I am a cosponsor of H.R. 4009, which will combat juvenile crime in our schools and amend the Omnibus Crime Control and Safe Streets Act of 1968. This bill encourages school based partnerships between local law enforcement agencies and school systems. Federal funding would be provided to hire School Resource Officers, who would work with the school to proactively address crime in the school.

I am also a cosponsor of H.R. 2408, the After School Education and Safety Act of 1997, which would provide children with a safe and supervised place at the end of the school day. Safe places are especially important in the hours after school because this time frame poses the greatest risk for juveniles to be affected by criminal behavior. This bill would also create enrichment programs for the children to participate in, to increase their academic success and improve their intellectual, social, physical, and cultural skills.

We must commit ourselves to taking responsibility for our children's educational future. Parents, teachers, and community leaders must work together to provide a safe and stimulating learning environment for our students. Our children deserve the best possible education we can provide, and they deserve to learn and grow in a safe environment.

In my district, schools are using a variety of programs to keep kids safe. The Kansas City School District has used the "Growing Healthy" program in elementary schools for the last three years. This program utilizes materials on conflict resolution and violence prevention, but its main focus is on mental and physical health awareness.

In Independence, Missouri, schools use a program developed by Alvin Brooks of the Ad Hoc Group Against Crime titled, "Stop the Violence," which includes a series of videos and speakers. In Fort Osage, schools have designed their own program to identify troubled students so as to enter them into early intervention counseling programs.

Other strategies used in my home state of Missouri to increase school safety include placing police officers in schools, training student mediators, and installing metal detectors. Metal detectors have significantly reduced the number of weapons violations in the Kansas City district. During the 1992–93 school year, more than 100 weapons violations were reported in one month. This past year, weapons violations were down to 16 in a month.

Mr. Speaker, I look forward to the "First Annual Report on School Safety," which will be the result of the school safety summit. Participants in the President's summit on school safety will identify and share creative and effective solutions to the problems currently facing our public schools, such as those being implemented by Missouri school districts. I hope that my colleagues in Congress will take their ideas and concerns to heart and make school safety a top priority.

TRIBUTE IN RECOGNITION OF J. GARFIELD DEMARCO'S 60TH BIRTHDAY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to a consultant, friend, and mentor, J. Garfield DeMarco, better known to his friends as "Gar." Gar turns 60 years old today, July 29.

Garfield is well-known throughout southern New Jersey for many things, but among them three stand out: (1) his political and public policy insight, (2) his cranberry-growing prowess, and, (3) most importantly, his compassion for those less fortunate.

Garfield was born, raised, and still resides in the beautiful small town of Hammonton, New Jersey. He graduated Dartmouth College in 1959, Yale Law School in 1964, and received the Fulbright Grant for European study. Garfield was admitted to the New Jersey Bar in 1966.

Gar used his educational background and natural talents to continue the family business—cranberry growing. The business, known as A.R. DeMarco, is now the second largest cranberry growing entity in New Jersey and one of the largest in the entire Ocean Spray system with production of 140,000 barrels a year.

Mr. Speaker, Garfield also cares deeply about the community in which he lives and does business. He served as the Director of several area banks, Chairman of the Pinelands Environmental Council, and Chairman of the Burlington County Bridge Commission.

Garfield has been honored by many area civic and charitable organizations.

And, Mr. Speaker, Garfield DeMarco understands New Jersey politics better than almost anyone I've known in my 25 years of public service. I could list his political accomplishments, but it would take far too long. It's enough to say that he's served the taxpayers of our area well, by helping to elect quality leaders on the local, county, state, and federal levels.

Mr. Speaker, J. Garfield DeMarco's first 60 years have been incredibly successful, valuable, and productive. I speak for thousands of Burlington County residents when I wish him the happiest of birthdays and a long, healthy and delightful future.

PERSONAL EXPLANATION

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. FORD. Mr. Speaker, on the dates of July 16–24, 1998, I missed the following votes due to personal business:

ON JULY 16, 1998

Rollcall No. 288, H.R. 4104, Treasury, Postal Service, Executive Office and Independent Agencies FY99 Appropriations Act, amendment by Ms. DELAURO (D–CT), I would have voted "aye."

Rollcall No. 289, H.R. 4104, Treasury, Postal Service, Executive Office and Independent Agencies FY99 Appropriations Act, amendment by Mr. HEFNER (D–NC), I would have voted "nay."

Rollcall No. 290, H.R. 4104, Treasury, Postal Service, Executive Office and Independent Agencies FY99 Appropriations Act, amendment by Ms. LOWEY (D–NY), I would have voted "aye."

Rollcall No. 291, H.R. 4104, Treasury, Postal Service, Executive Office and Independent Agencies FY99 Appropriations Act, amendment by Mr. SANDERS (I–VT), I would have voted "nay."

Rollcall No. 292, H.R. 4104, Treasury, Postal Service, Executive Office and Independent Agencies FY99 Appropriations Act, amendment by Mr. SMITH (R–NJ), I would have voted "nay."

Rollcall No. 293, H.R. 4104, Treasury, Postal Service, Executive Office and Independent Agencies FY99 Appropriations Act, Passage, I would have voted "nay."

Rollcall No. 294, H.R. 3731, Steve Schiff Auditorium Designation, Passage, I would have voted "aye."

ON JULY 17, 1998

Rollcall No. 295, H.R. 4194, Veterans Affairs and Housing and Urban Development, and Independent Agencies FY99 Appropriations Act, amendment by Mr. STOKES (D–OH), I would have voted "aye."

Rollcall No. 296, H.R. 4194, Veterans Affairs and Housing and Urban Development, and Independent Agencies FY99 Appropriations Act, amendment by Mr. LAZIO (R–NY), I would have voted "nay."

Rollcall No. 297, H.R. 3874, Child Nutrition and WIC Reauthorization Amendments of 1998, Passage, I would have voted "aye."

Rollcall No. 298, H. Con. Res. 208, Expressing the Sense of Congress Regarding Access to Affordable Housing and Expansion of Homeownership Opportunities, I would have voted "aye."

Rollcall No. 299, H. Res. 392, Relating to the Importance of Japanese-American Relations, I would have voted "aye."

ON JULY 20, 1998

Rollcall No. 300, H. Con. Res. 301, Affirming the U.S. Commitment to Taiwan, I would have voted "aye."

Rollcall No. 301, H.R. 2183, Campaign Finance Reform, amendment by Mr. WICKER (R–MS) to Shays Substitute, I would have voted "aye."

Rollcall No. 302, H.R. 2183, Campaign Finance Reform, amendment by Mr. STEARNS (R–FL) to Shays Substitute, I would have voted "nay."

Rollcall No. 303, H.R. 2183, Campaign Finance Reform, amendment by Mr. PICKERING (R–MS) to Shays Substitute, I would have voted "aye."

Rollcall No. 304, H.R. 2183, Campaign Finance Reform, amendment by Mr. DELAY (R–TX) to Shays Substitute, I would have voted "nay."

Rollcall No. 305, H.R. 2183, Campaign Finance Reform, amendment by Mr. MCINNES (R–CO) to Shays Substitute, I would have voted "aye."

Rollcall No. 306, H.R. 2183, Campaign Finance Reform, amendment by Mr. PAXON (R–NY) to Shays Substitute, I would have voted "nay."

Rollcall No. 307, H.R. 2183, Campaign Finance Reform, amendment by Mr. HEFLEY (R–CO) to Shays Substitute, I would have voted "nay."

Rollcall No. 308, H.R. 2183, Campaign Finance Reform, amendment by Mrs. NORTHUP (R–KY) to Shays Substitute, I would have voted "nay."

ON JULY 21, 1998

Rollcall No. 309, Motion to Adjourn, I would have voted "nay."

Rollcall No. 310, H. Res. 504, Providing for Consideration of H.R. 4193—Interior FY99 Appropriations Act, Ordering the Previous Question, I would have voted "nay."

Rollcall No. 311, H. Res. 504, Providing for Consideration of H.R. 4193—Interior FY99 Appropriations Act, Agreeing to the Resolution, I would have voted "nay."

Rollcall No. 312, H.R. 4193, Interior FY99 Appropriations Act, amendment by Mrs. JOHNSON (R–CT), I would have voted "aye."

Rollcall No. 313, H.R. 4193, Interior FY99 Appropriations Act, amendment by Mr. SKAGGS (D–CO), I would have voted "aye."

Rollcall No. 314, H.R. 4193, Interior FY99 Appropriations Act, amendment by Mr. SANDERS (VT), I would have voted "aye."

Rollcall No. 315, H.R. 4193, Interior FY99 Appropriations Act, amendment by Mr. MCGOVERN (D–MA), I would have voted "aye."

ON JULY 22, 1998

Rollcall No. 317, H.J. Res. 121, To Disapprove Most-Favored-Nation Treatment to China, I would have voted "nay."

Rollcall No. 318, H.R. 1689, Securities Litigation Uniform Standards Act, I would have voted "aye."

Rollcall No. 319, H.R. 4193, Interior FY99 Appropriations Act, amendment by Mr. PARKER (R–MS), I would have voted "nay."

Rollcall No. 320, H.R. 4193, Interior FY99 Appropriations Act, amendment by Mr. MILLER (D–CA), I would have voted "aye."

ON JULY 23, 1998

Rollcall No. 321, H.R. 1122, Partial Birth Abortion Ban Act, Motion to Discharge the Committee, I would have voted "nay."

Rollcall No. 322, H.R. 3616, National Defense Authorization for FY99, Motion to Instruct Conferees, I would have voted "aye."

Rollcall No. 323, H.R. 3616, National Defense Authorization for FY99, Closing Portions of the Conference, I would have voted "aye."

Rollcall No. 325, H.R. 1122, Partial-Birth Abortion Ban Act, Passage, Objections of the President Notwithstanding, I would have voted "nay."

Rollcall No. 326, H.R. 4193, Interior Appropriations for FY99, amendment by Mr. DEFAZIO (D–OR), I would have voted "nay."

Rollcall No. 327, H.R. 4193, Interior Appropriations for FY99, amendment by Mr. MCDERMOTT (D–WA), I would have voted "aye."

Rollcall No. 328, H.R. 4193, Interior Appropriations for FY99, amendment by Mr. HINCHEY (D–NY), I would have voted "aye."

Rollcall No. 329, H.R. 4193, Interior Appropriations for FY99, amendment by Mr. MILLER (D–CA), I would have voted "nay."

Rollcall No. 330, H.R. 4193, Interior Appropriations for FY99, amendment by Mr. PAPPAS (R–NY), I would have voted "nay."

Rollcall No. 331, H.R. 4193, Interior Appropriations for FY99, Passage, I would have voted "nay."

Rollcall No. 332, H.R. 4194, VA–HUD Appropriations for FY99, amendment by Mr. OBEY (D–WI), I would have voted "aye."

Rollcall No. 334, H.R. 4194, VA–HUD Appropriations for FY99, amendment by Mr. WAXMAN (D–CA), I would have voted "aye."

ON JULY 24, 1998

Rollcall No. 335, H.Res. 509, Providing for Consideration of H.R. 4250, the Patient Protection Act, I would have voted "nay."

Rollcall No. 336, H.R. 4250, the Patient Protection Act, Substitute amendment by Mr. DINGELL (D–MI), I would have voted "aye."

Rollcall No. 337, H.R. 4250, the Patient Protection Act, On Motion to Table the Appeal of the Ruling of the Chair, I would have voted "nay."

Rollcall No. 338, H.R. 4250, the Patient Protection Act, On Motion to Recommit with Instructions, I would have voted "aye."

Rollcall No. 339, H.R. 4250, the Patient Protection Act, Passage, I would have voted "nay."

IN TRIBUTE

SPEECH OF

HON. CARLOS A. ROMERO-BARCELÓ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. ROMERO-BARCELÓ. Mr. Speaker, I would like to extend the heartfelt sympathy of the citizens of Puerto Rico for the families, friends, and colleagues of Officer Jacob Chestnut and Special Agent John Gibson, the Capitol Hill police officers who were tragically killed on June 24. These two officers sacrificed their lives to ensure the safety of the Senators, Representatives, staff and visitors to the U.S. Capitol. For this, we will be forever grateful. I hope their families can take some solace in the knowledge that their fellow Americans hold these heroic men in the very highest regard for their courageous actions.

In times of tragedy and sorrow I turn to prayer and I hope the families of Special Agent Gibson and Officer Chestnut can take comfort in the 23rd Psalm:

The Lord is my shepherd; I shall not want.
He maketh me to lie down in green pastures: He leadeth me beside the still waters.
He restoreth my soul: He leadeth me in the paths of righteousness for his name's sake.
Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me.
Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over.
Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever.

A TRIBUTE TO THOMAS K. CULLEN OF LONG ISLAND

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. FORBES. Mr. Speaker, I rise today in this historic chamber to pay tribute to Thomas K. Cullen of Bellport, Long Island. As the President of the Board of Directors and Chairman of the Fundraising Committee for Little Flower Family Services, Tom Cullen has worked tirelessly and given so much of his own time, talents and resources so that the most vulnerable members of our Long Island community, the young children who have lost their parents, will receive the care and education they need to succeed in life.

This Friday evening, Tom Cullen will be honored by Little Flower Family Services with the "Children's Hope Award" for his seemingly tireless efforts on behalf of orphaned children. I ask my colleagues here in the People's House to join that chorus of praise from the Little Flower family, and it is truly a family in every sense of the word.

No organization is more deserving of Tom Cullen's good work than Little Flower Family Services. Over the past seven decades, Little Flower has given shelter to orphaned youngsters of all races, ages and religions from throughout Long Island and New York City. Under Monsignor John Fagan's leadership, Little Flower is dedicated to finding loving, nurturing families for the children in his care. Until that time when each child is placed in a caring and supporting home, Little Flower is their family.

Tom Cullen's commitment to providing the children of Little Flower the familial love and support every child deserves is deeply rooted in his own strong sense of family. Cullen is the name behind the King Kullen Grocery Company, Long Island's own supermarket. Carrying on the work ethic practiced by his grandfather—company founder Michael J. Cullen—Tom learned the grocery business working his way up through several stores, and now serves as Vice President of Government and Industry Relations.

Tom's commitment to Little Flower began with his parents, James and Florence Cullen, who encouraged their children to reach out and help Monsignor Fagan and his Little Flower staff rescue those children who are alone in this world. In 1982, Tom and his brothers James and Brian started the "James A. Cullen Memorial Golf and Tennis Outing" to raise funds for Little Flower's mission. In 15 years, this annual event has raised $1.5 million for Little Flower's Adoption Program and the Residential Treatment Center in Wading River, Long Island. They have also initiated the Cullen Family Scholarship Program that has made it possible for nearly 100 Little Flower children to pursue their college education.

And so Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me and the Little Flower family in honoring Tom Cullen for his invaluable contributions of time, talents and hard work. Though their young lives have often seen tragedy and heartbreak, the children of Little Flower are truly blessed to have a guardian angel like Tom Cullen working for them.

IN TRIBUTE

SPEECH OF

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. EHRLICH. Mr. Speaker, below is the text of a poem written by Mr. Albert Caswell. Mr. Caswell, a longtime Maryland resident, outstanding collegiate athlete, and historian with the U.S. Capitol Guide Service, was profoundly moved by the heroism and sacrifice displayed by U.S. Capitol Police Officers J. J. Chestnut and John Gibson during last week's assault on the Capitol. He set his thoughts to paper in loving tribute of these two fine and brave souls who selflessly and unflinchingly laid down their lives for their country. it is my pleasure to submit his words into the CONGRESSIONAL RECORD.

UP TO THE LORD THEY DID FLY

On one bright, warm, and wonderful sunny day in July,
Two great American heroes would lay down their lives.
People stunned and confused, asking the eternal question . . . Why?
Few noticed on that day as two bright lights were heading up into the sky.
As straight up to heaven, their souls . . . Up to the Lord they did fly.
For in this World no woman, nor man . . . Knows their date . . . Their time,
When one's life passage . . . So precious . . . Will end without reason or rhyme.
Until tested, acting on a clarion call, will we be the one ever standing tall . . . While in death's line.
Yes, on this day two great American heroes, . . . This our nation's heart did find.
As straight up to heaven, their souls . . . Up to the Lord they did fly.
Children and wives now without husband or dad, oh how unjust . . . So very sad.
No greater act of courage is to be, as in the line of one's duty . . . Gallantly forsaken the life you have. For all those spared, remember how they cared, hold in your hearts the good not bad.
In God's kingdom, 'one's life, no greater gift could ever be', rejoice they are now with the Lord, be glad As straight up to heaven, their souls . . . Up to the Lord they did fly.
To the children, wives, who have lost the ones so close, your loved ones sacrifice means everything . . . The most a Rev. King, Rembrandt, or a woman who might one day save our World, from these acts we may soon boast. Families hugging & crying . . . Still intact, because these heroes lay dying, death this day came so very close. The names Chestnut & Gibson we now carry ever in our hearts . . .Just everything . . . All . . . For they gave the most. Surely those two bright lights heading up into the sky . . . This day . . . Were but their souls, as straight Up to heave with the Lord they did fly.

To the families, our hearts, our prayers, our thoughts with you,
We cherish the honor and great privilege to have known and served
With such men of character, and all the heroes in blue who
Showed all their true and great worth
May God bless you.

ALBERT CASWELL
U.S. Capitol Guide Service.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 30, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 31

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on pending nominations.
SR–332

9:30 a.m.
Special on SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM
To hold hearings to examine the Y2K status of the telecommunications industry.
SD–192

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on mandatory arbitration agreements in employment contracts in the securities industry.
SD–538

Judiciary
To hold hearings to examine issues with regard to physician assisted suicide.
SD–226

SEPTEMBER 2

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the impact of United States satellite technology transfer to China.
SR–253

SEPTEMBER 10

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2365, to promote competition and privatization in satellite communications.
SR–253

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

POSTPONEMENTS

JULY 30

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to examine international satellite reform.
SR–253

10:00 a.m.
Commission on Security and Cooperation in Europe
To hold joint hearings with the House Committee on International Relations to examine issues relating to religious intolerance in Europe.
2172 Rayburn Building

SENATE—*Thursday, July 30, 1998*

The Senate met at 9 a.m., and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, You have loved, forgiven, and cared for us. In Your holy presence, any self-sufficiency fades like a candlelight before the rising sun. Awaken us again to the wonder of Your unqualified grace. May the radiance of Your Spirit invade our hearts, vanishing all the gloom and darkness of worry and fear and anxiety.

Father, set us free to do our work today with joy and gladness. The people in our lives desperately need Your love. Liberate us with the sure knowledge of Your unfailing love so that we will be able to be free to love unselfishly. Speak to us now so that we may be energized with new life and new power. We claim this in the assurance of Your love divine, all loves excelling! Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. THOMAS. Thank you, Mr. President.

SCHEDULE

Mr. THOMAS. Mr. President, on behalf of the majority leader, I will lay out the plan for today.

This morning, the Senate will be in a period for morning business until 9:30 a.m. Following morning business, under a previous order, the Senate will begin consideration of the Department of Defense appropriations bill. All Members are encouraged to come to the floor early during today's session to offer and debate any amendments to the defense bill. The first votes of today's session will occur in a stacked series beginning at approximately 2 p.m. These votes will include any remaining amendments to the Treasury appropriations bill and possibly several amendments to the defense bill. Members should expect votes late into the evening during today's session, as the Senate attempts to complete action on the defense bill.

I thank my colleagues for their attention.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered. The Senator is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY and Mr. HAGEL pertaining to the introduction of S. 2371 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HAGEL. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

(The remarks of Mr. THOMAS, Mr. CRAIG and Mr. ROBERTS pertaining to the introduction of S. 2371 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the defense appropriations bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2132) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I have given the clerk a list of staff members. I ask unanimous consent that these staff members associated with our presentation of the bill be allowed the privilege of the floor during consideration of the defense bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

Sid Ashworth, Tom Hawkins, Susan Hogan, Mary Marshall, Gary Reese, John Young, James Hayes, Justin Weddle, Carolyn Willis, Jennifer Stiefel, Frank Barca, and Kristin Iagulli.

Mr. STEVENS. Mr. President, the Senate begins consideration today of the 1999 Defense appropriations bill, to fund the military activities of the Department of Defense for the upcoming fiscal year.

This bill provides $250.5 billion in new budget authority for 1999, an increase of $2.8 billion over the amount appropriated in 1998.

The committee reported this bill on June 4th. Unforeseen circumstances delayed the consideration of the bill, but I believe it is vital that we pass the Defense funding bill prior to the recess.

The military must know how much money it will have to meet critical operational and modernization requirements at the beginning of the fiscal year, October 1.

Fiscal year 1999 represents the first budget cycle under the 5 year bipartisan budget agreement—the amount requested by the President corresponds to the cap agreed to for Defense.

That results in a fundamentally different dynamic for balancing this bill compared to fiscal years 1996, 1997 and 1998.

For the previous three fiscal years, Congress and the White House were at odds over the total level of funding for Defense. The budget submitted by the Pentagon failed to fully accommodate the readiness and modernization priorities of the Joint Chiefs.

For 1999, the committee received a budget proposal consistent with the bipartisan budget agreement—not enough for Defense, but at the level agreed to last summer at the summit.

The content of that budget reflected the priorities and strategy of the Quadrennial Defense Review, submitted by Secretary Cohen and Gen. Joe Ralston last spring. The FY 1999 budget kept faith with the concepts and priorities advocated in the QDR.

I want to begin by commending Secretary Cohen and Deputy Secretary John Hamre for their efforts to present a budget that did not require a major overhaul by Congress.

We do not agree on every item, and fact of life events resulted in adjustments on many programs, but essentially, this budget request meets the minimum needs of the Armed Forces.

The recommendations from the committee focus on three goals: ensure an adequate quality of life for the men and women of the Armed Forces; sustain readiness; and modernize to assure future battlefield dominance by our Armed Forces, if needed.

To achieve needed quality of life for our troops, and their families, this bill fully funds the 3.1 percent authorized military pay raise.

During consideration of the DOD authorization bill in June, I joined the managers of that bill in co-sponsoring an amendment to increase the pay raise to 3.6 percent for 1999.

The first amendment that Senator INOUYE and I will jointly offer to this bill will provide the additional appropriation for the 3.6 percent raise.

Additionally, the Treasury-General Government bill that we will pass later today provides a comparable pay raise for civilian Pentagon workers. Those amounts are funded from within the general operation and maintenance appropriations.

The pay raise solves only a part of the compensation crisis facing the Department of Defense.

My discussions with the service chiefs, the service secretaries, field commanders and the men and women of the Armed Forces, serving in my State of Alaska and around the world, lead me to conclude that an equally pressing challenge is retirement pay.

The changes adopted by Congress in 1986 reflected the cold war priority of attracting men and women to serve a full 30 year career in the Armed Forces.

Our victory in the cold war led to a wrenching realignment of the force, and radical new personnel priorities.

There is great pressure today for individuals to spend only 20 years in active service. The revised retirement plan puts them at an unfair, and unacceptable disadvantage, as compared to serving a full 30 years.

It is my intention to work with the leaders here in Congress, and with the Secretary of Defense, to put us on a track to fix the retirement system—in my mind, there is no higher defense funding priority, for it has led to a series of decisions by men and women in the services, not to continue because of their feeling about the unfairness of the retirement policies.

The considerable operational demands on our Armed Forces dictate that we also ensure the welfare and quality of life for those on active duty now.

Based on the committee's recent trip to Bosnia and Southwest Asia, a new $50 million MWR and retention initiative is included in this bill.

These funds will provide added resources and flexibility to address the tough living conditions and family separation challenges of deployments to Bosnia and Southwest Asia.

More than $100 million is added for quality of life enhancements in the service O&M accounts, to upgrade barracks, dormitories, and other personnel support facilities.

Our second focus, maintaining readiness, has been stressed by overseas deployments during the past three years.

For 1998, this committee succeeded in providing needed contingency funds as an emergency, without disrupting other Defense programs.

For 1999, the recommendation adds funds for flying hours, depot maintenance, training, and base operations.

We recommend savings resulting from changed economic factors, such as fuel costs, foreign currency, and inflation—but restore all those amounts to the O&M appropriations.

There is no option to trade near term readiness for future modernization. As long as our Armed Forces face the range of missions overseas underway today, we must sustain the O&M accounts at least at the levels provided in this bill, and the House bill.

No sector of Defense has suffered more the past few years than acquisition. We must invest more to protect the technological superiority that our smaller military force counts on.

These recommendations fully fund the combat priorities advocated by the Joint Chiefs: F–22, the Crusader, F–18, new attack submarine, the JASSM missile, V–22, and national missile defense.

In many instances, the recommendations add funds for technology development programs, to look even further down the road, past the systems we will deploy over the next ten years—out for the next thirty years.

Achieving these three priorities was especially challenging given our fixed budget caps.

Every dollar shifted among programs came from a reduction to an item in the budget request—there were no additional dollars to spend this year for Defense.

Senator INOUYE and I sought to allocate the resources available to the subcommittee as equitably as possible, and consistent with the military needs identified by the Chiefs.

In most cases, we could not provide large increases in existing procurement programs, or to restore programs already terminated.

No member of this committee, or the Senate, secured every priority which he or she advocated to the committee. On the other hand, we reviewed all of them, and have done our best.

I believe the recommendations are fair and achieve a balance between the budget and the priorities of Congress. It is my intention to do everything we can to work with all of our colleagues to meet the needs they have brought to the Committee.

Finally, there is one notable change from the bill reported last year by this Committee—in the area of medical research.

In the bill we reported last year, we provided $176 million for medical research. Coming out of conference, that total grew to $344 million, almost twice the level of the Senate.

In the context of adding $6 billion to the budget, that total was manageable.

Let me explain that again. Last year, we had an additional $6 billion by the time we came out of the conference, and it was possible to increase that amount. This year, we have no top line margin to allocate. Whatever is added to this bill will come out of either readiness, or future acquisition, or the quality of life concepts that I have discussed.

For 1999, Senator INOUYE and I recommended a new appropriations of $250 million in the defense health program for medical research grants.

This increase over last year's appropriation provides adequate resources to sustain growth in the breast cancer and prostate cancer programs, while enabling the Department of review other research programs and opportunities. The report lists all the programs seeking funding this year.

The bill establishes a floor for breast cancer and prostate cancer research at the minimum; at least they must be provided at the level that we finally agreed to in conference in 1998.

The bill also seeks to address the funding priorities of the National Guard. In testimony before the subcommittee, the Army Guard identified as shortfall for 1999 $634 million for their operational requirements—not for future involvement for just their operational requirements.

The bill reported by the committee provides an additional $20 million for the Guard counterdrug operation, $225 million for the Army Guard O&M account, and $95 million for Army Guard personnel account.

A total of $475 million will be added to the National Guard and Reserve equipment. That is a cut, however, of 25 percent from the level appropriated in 1998.

Finally, the bill reported by the committee did not include the $1.9 billion requested by the President as emergency spending for Bosnia.

The Senate considered several amendments during debate on the defense authorization bill concerning our future force levels and operations in Bosnia.

Later this morning, I know Senator HUTCHISON, Senator BYRD, and others will raise at least one amendment related to our presence in Bosnia.

At the time we considered this bill in the Appropriations Committee, it was premature for this committee to consider funding for that mission for 1999.

Based on our visit to Bosnia in May, and to NATO headquarters after that, it is clear that a long-term presence in Bosnia is envisioned by NATO and the administration.

That long-term role cannot in the future be funded on an annual emergency basis. The Congress must be part of the decision on the size of the force, the duration of the mission, and the cost of the operations.

Mr. President, we bring this bill to the Senate with the hope of commencing the August recess tomorrow.

Securing passage of this bill at a reasonable hour will require the cooperation, consideration, and assistance of every Senator.

It is my hope that we will obtain early today an agreement to have all amendments filed at the desk so we can most efficiently dispose of those amendments—accepting some, debating some, and encouraging Members not to raise others.

This bill has been available to all Members since June 5. The bill closely approximates the level authorized in the defense bill we passed last June.

That authorization bill is in conference with the House, and we have continued to work closely with Senator THURMOND, Senator LEVIN, and others on that committee to support the priorities passed by the Senate in that bill.

Mr. President, the presentation of this bill to the Senate would not be possible without the leadership and partnership that I have enjoyed with my friend from Hawaii, Senator INOUYE.

This is the tenth year that the two of us have come to the Senate jointly to present and recommend the defense appropriations bills. Six of those years Senator INOUYE served as chairman, and I have enjoyed that privilege for the past four.

It is a pleasure and a privilege to work with the Senator from Hawaii on defense matters and other matters. I enjoy our personal friendship. And the opportunity to bring this bill to the Senate on a full bipartisan basis is one that I think comes from the tie between us that we enjoy.

Mr. President, I yield to Senator INOUYE for his statement.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, may I first thank my dear colleague from Alaska for his very generous remarks. It has been a pleasure to work with him for the past 10 years. We hope that together we have been able to present to the U.S. Senate a bipartisan approach to this very important subject.

Mr. President, I rise to speak in strong support of the Department of Defense appropriations bill for fiscal year 1999, S. 2132, as reported from the Committee on Appropriations.

This bill contains funding for the Department of Defense for the upcoming year, excluding amounts for military construction.

The total recommended is $250.5 billion. This is about $840 million less than was requested by the administration, but about $2.8 billion more than funded for fiscal year 1998.

Within these amounts, the committee has recommended full funding to support our men and women in uniform.

This includes a 3.1-percent pay raise as requested by the President. Later today, the chairman will offer an amendment to increase that to 3.6 percent, the amount authorized by the Senate last month. I strongly support this amendment.

Also at the chairman's initiative, the committee is recommending $50 million to initiate a new fund for morale, welfare, and recreation.

This new appropriation account will support the personnel support needs of our men and women serving on contingency deployments in Bosnia and Southwest Asia.

Last May, Senator STEVENS led a delegation of members from the Armed Services and Appropriations Committees to Bosnia and Southwest Asia.

It was apparent in our discussions with these units that the deployments for these contingencies were beginning to impair the retention of critically skilled individuals and that morale was starting to suffer.

The delegation unanimously concluded that we needed to do more to support our troops serving in these areas.

The chairman's initiative will help ease the burden of these long overseas deployments and show our men and women in uniform that the Congress has not forgotten them.

Mr. President, this is a very good bill, which meets the national security needs of our Nation, but within the fiscal constraints that have been agreed upon in this balanced budget environment.

I should point out to my colleagues that this bill does not provide any funding for Bosnia.

The President submitted a budget amendment to the Congress requesting an appropriation of $1.29 billion in emergency funding to maintain our troops in Bosnia.

When the committee marked up this bill, it was unclear what action the Senate would take on Bosnia.

It is my hope that this matter will be resolved in conference or through a supplemental spending measure at a later date.

Let me assure my colleagues that the committee will not shirk from our responsibility to support funding for our forces assigned overseas, no matter where they are located. This matter will be addressed at a later date.

Mr. President, I want to close by commending our chairman and his staff for the fine work that they have done in putting this bill together. As many of you recognize, this is a huge bill. Nearly half of our Government's discretionary resources are contained in this one appropriations bill.

There are an enormous number of programs that must be reviewed and recommended by the chairman and his staff before this measure can be reported to the Senate. That task is made more difficult by the thousands of requests for billions of dollars that are made by the Members of this body.

I want to salute the majority staff which really has done yeoman's work in putting this bill together for the Senate. It is a small staff, many have been with the Appropriations Committee for several years. They transcend the political divisions that sometimes divide this Senate. The staff is led by Steve Cortese who has been by the chairman's side for the past decade and it includes, Sid Ashworth, Tom Hawkins, Susan Hogan, Mary Marshall, Mazie Mattson, Gary Reese, John Young, Justin Weddle, and on assignment as a legislative fellow, Ms. Carolyn Willis.

Mr. President, the Senate owes them a deep debt of gratitude.

Under Chairman STEVENS' leadership, the resulting bill is a well-balanced product, crafted in a completely bipartisan fashion. It meets the needs of the military services and also fully considers the priorities of the Senate and the American taxpayers.

This is a good bill. I urge all of my colleagues to support its passage.

Before ending my presentation, I would like to reflect upon a few things that have just come across my mind in the past few minutes.

Chairman STEVENS and I are what some of us call dinosaurs of the Senate. Admittedly, we are chronologically a bit old. Both of us served in World War II, the ancient war. I would like my colleagues to recall that in that war 16 million men and women served—16 million. Today, we are calling upon less than 1 percent of our Nation's population—one-half of 1 percent—to stand in harm's way for us, to risk their lives for us. Some have suggested that this is too much spending. As far as I am concerned, if any person is willing to stand in harm's way in my behalf, he or she gets the best.

There are many programs that have been carried out at the chairman's initiative that he is too humble to even mention. He has been in the forefront of medical research, and I am proud to say that, working with him, we have been able to come up with a breast cancer program that is being acclaimed worldwide—not just nationally. Scientists from all over the world come to work with the Army Research Center. It may not be evident to many of my colleagues, but some of the best research being done on AIDS is being done by the U.S. Army. The same can be said for prostate cancer and other tropical diseases.

I began my closing remarks by saying there were 16 million American men and women who served with us in World War II. It was at a time when our population was about 100 million. Today, our population is over 250 million, and we are asking 1.3 million to defend all of us.

I concur with my chairman: This is the minimum, this meets the minimum needs of our military. If budgetary constraints were not placed upon us, I am certain we would come forth with something a bit more generous. After all, Mr. President, you and I want our children and our grandchildren to go to college, we want to be able to have a car in the garage, three meals a day. That is part of the American way of life. I believe that men and women in the service should also aspire to the American way of life, and I am sorry to say that this measure may not provide all that is necessary, but we are striving for the best.

I ask my colleagues to support this measure.

I thank the Chair.

Mr. STEVENS. Mr. President, I reciprocate in thanking my good friend for his comments. It is interesting when we reflect back on World War II. We as a nation knew who we were, what we were doing, and we had unanimous support for what we were doing. Today, each of us faces comments from time to time about our commitment to defense and questions of whether we could not cut this budget. If anything, we should have a great deal more money. I shall speak to the Senate later about that during the consideration of this bill.

Let me point out to Members of the Senate that we have knowledge of 46 amendments on this bill. We have reviewed them with our staff and with the staff of those who will present those amendments, and 23 of them we are prepared to accept. Of the balance, 13 of them we have not seen. It would be very helpful if Members will bring their amendments to us so that we can look at them and determine whether or not we can work with the person who wishes to present the amendment and accept it or modify it in a way that it becomes acceptable. I expect we will have some substantial votes today and into the night. But it will be much easier for all of us if we can see these amendments and we can try to find some way to accommodate the needs of the Senate and the demand of our defense spending with the individual desires of Members of the Senate.

AMENDMENT NO. 3391

(Purpose: To provide a 3.6 percent pay raise for military personnel during Fiscal Year 1999)

Mr. STEVENS. Mr. President, I mentioned in my statement that we have a 3.1 percent pay raise in this bill. I want to send to the desk, and do send to the desk, an amendment. It is sponsored by myself and my friend from Hawaii.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. INOUYE, proposes an amendment numbered 3391.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, in between lines 17 and 18, insert the following:

SEC. 8104(a) On page 34, line 24, strike out all after "$94,500,000" down to and including "1999" on page 35, line 7.

(b) On page 42, line 1, strike out the amount "$2,000,000,000", and insert the amount "$1,775,000,000".

(c) In addition to funds provided under title I of this Act, the following amounts are hereby appropriated: for "Military Personnel Army", $58,000,000; for "Military Personnel Navy", $43,000,000; for "Military Personnel, Marine Corps", $14,000,000; for "Military Personnel, Air Force", $44,000,000; for "Reserve Personnel, Army", $5,377,000; for "Reserve Personnel, Navy", $3,684,000; for "Reserve Personnel, Marine Corps," $1,103,000; for "Reserve Personnel, Air Force", $1,000,000; for "National Guard Personnel, Army", $9,392,000; and for "National Guard Personnel, Air Force", $4,112,000".

(d) Notwithstanding any other provision in this Act, the total amount available in this Act for "Quality of Life Enhancements, Defense", real property maintenance is hereby decreased by reducing the total mounts appropriated in the following accounts: "Operation and Maintenance, Army", by $58,000,000; "Operation and Maintenance, Navy", by $43,000,000; "Operation and Maintenance, Marine Corps", by $14,000,000; and "Operation and Maintenance, Air Force", by $44,000,000.

(e) Notwithstanding any other provision in this Act, the total amount appropriated under the heading "National Guard and Reserve Equipment", is hereby reduced by $24,668,000.

Mr. STEVENS. Mr. President, this amendment will raise the military pay to 3.6 percent. This pay raise will add $185 million to the Active Forces, Guard, and Reserve pay accounts. Over the last year, our committee has heard repeatedly in both hearings with the service chiefs and during field visits to Bosnia, Saudi Arabia, Kuwait, Alaska, and other places throughout the world that our military members perceive an erosion of existing benefits. This adjustment in pay matches the private sector wage growth at a time when many service members are questioning the value of continued service due to an increasing pace of deployments.

Some economists estimate that the pay gap between the private sector and the military may be as high as 13.5 percent. This amendment will, at a minimum, provide a fairer base for military pay raises in the future.

I ask if my friend has any comments to make in regard to this amendment. He is a cosponsor.

Mr. INOUYE. Mr. President, my only comment is that I wish we could have provided much more than this.

Mr. STEVENS. I ask for adoption of the amendment. That is consistent with the authorization bill, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3391) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3392

(Purpose: To provide additional funds for U.S. military operations in Bosnia as an emergency requirement)

Mr. STEVENS. Mr. President, we have tried to be consistent with the authorization bill. As this bill came out of committee, the authorization bill did not meet the contingency operations in Bosnia as requested by the President. I send to the desk an amendment and state to the Senate that, if it is adopted, it will conform the handling of the moneys in this bill for Bosnia with the authorization bill as it has been amended.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3392.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. . For an additional amount for "Overseas Contingency Operations Transfer Fund," $1,858,600,000: *Provided*, That the Secretary of Defense may transfer these funds only to military personnel accounts, operation and maintenance accounts, procurement accounts, the defense health program appropriations and working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Mr. STEVENS. This does conform, as I indicated, with the decision of the defense authorization committee for the handling of the Bosnia money.

Mr. INOUYE. Mr. President, I am pleased to concur with the amendment.

The PRESIDING OFFICER. If there is no further discussion, the amendment is agreed to.

The amendment (No. 3392) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that Nancy Gilmore-Lee, a fellow assigned to my staff, be provided floor privileges during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that James Bynum, a Capitol Hill fellow serving on Senator MCCAIN's staff, be granted privileges of the floor during debate and any votes concerning this bill, as well as any related amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. My previous request and Senator INOUYE's request applied to time during votes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUTCHINSON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3393

(Purpose: To impose a limitation on deployments of United States forces to Yugoslavia, Albania, or Macedonia)

Mr. ROBERTS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 3393.

Mr. ROBERTS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) None of the funds appropriated or otherwise made available under this Act may be obligated or expended for any deployment of forces of the Armed Forces of the United States to Yugoslavia, Albania, or Macedonia unless and until the President, after consultation with the Speaker of the House of Representatives, the Majority Leader of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate, transmits to Congress a report on the deployment that includes the following:

(1) The President's certification that the presence of those forces in each country to which the forces are to be deployed is necessary in the national security interests of the United States.

(2) The reasons why the deployment is in the national security interests of the United States.

(3) The number of United States military personnel to be deployed to each country.

(4) The mission and objectives of forces to be deployed.

(5) The expected schedule for accomplishing the objectives of the deployment.

(6) The exit strategy for United States forces engaged in the deployment.

(7) The costs associated with the deployment and the funding sources for paying those costs.

(8) The anticipated effects of the deployment on the morale, retention, and effectiveness of United States forces.

(b) Subsection (a) does not apply to a deployment of forces—

(1) in accordance with United Nations Security Council Resolution 795; or

(2) under circumstances determined by the President to be an emergency necessitating immediate deployment of the forces.

Mr. ROBERTS. Mr. President, the United States and the rest of the Western European countries are on the verge of a very deep and expensive and very dangerous involvement in yet another area of the Balkans, the Serbian province of Kosovo. Unfortunately, and once again, it seems to me the administration has yet to explain to the Congress or to the American people why it is in our vital—again, I emphasize the word "vital"—national interest to get in the middle of this growing conflict.

Let me make it clear I think a case can be made that, under certain circumstances, it is in the U.S. national interest to get involved in the conflict in Kosovo. But in my view, it is the responsibility of the President of the United States and the administration, i.e., the national security team, to explain to the American public and the U.S. Congress why such an involvement is in our vital national interest before our troops are committed.

The reports on CNN are clear that the Yugoslavian leader, Mr. Milosevic, is taking hard and very brutal action against the ethnic Albanians who are living—and, by the way, they comprise, Mr. President, 90 percent of the total population—in Kosovo. Certainly, this should be of no surprise since this is the same kind of activity that he directed in the breakup of Bosnia.

Our diplomatic efforts are active, but they keep changing in purpose and intent. The all too frequent U.S. diplomatic technique has been employed. Several lines in the sand have been drawn, with threats of severe reprisals if the Serbian action against the Albanian population does not cease, but, regretfully, nothing positive to date has come from our diplomatic initiatives or threats. So these lines in the sand are crossed and the fighting has intensified, resulting in increased human suffering.

The Albanian rebels, known as the KLA, are growing in strength and the fighting grows more fierce, with no peaceful solution in sight. The United States and NATO have threatened military action, and they gave a military demonstration consisting of a determined flight involving a considerable amount of aircraft. They called it "Determined Falcon." I am not sure how determined the falcon was. At any rate, neither side has offered to end the conflict. In fact, the KLA is actually buoyed by the apparent Western support for their cause, and therefore they are not interested in backing off now. Mr. Milosevic, having observed our unwillingness to carry out our threats when he crossed the lines in the sand, and coupled with the strong support of the Serbian people to put an end to the rebel uprising in Kosovo, has no reason to back off either.

We have now started an international monitoring program, Mr. President, in Kosovo. It is "aimed at bringing peace to this strife-torn region." I don't know of any Senator or anybody or any observer who would object to that. But it is not entirely clear what these observers will accomplish other than to report on the obvious, and that is, there is a small war in Kosovo and we have been unable to influence its cessation.

This observer group is comprised of about 40 diplomats and "military experts" attached to the embassies in Belgrade. Our "military experts" are unarmed U.S. military forces from the European Command, and they are specifically trained for this mission.

Here are my concerns: In Kosovo, we are, once again, backing into a military commitment, just as we did in Bosnia—and I hate to use this example but I think it is applicable—and in Vietnam. The term of "unarmed military observers" or "experts" brings back some pretty sad memories of other wars that we have backed into. We are running a great risk that our military experts or diplomats could be in harm's way. As a matter of fact, in terms of hearings yesterday in the Intelligence Committee, we were talking about the priorities in regard to intelligence assets in certain countries, and force protection, obviously, plays a big role in that. So if we have our intelligence assets certainly supporting our troops in that part of the world, it gives real evidence that this is the case.

NATO is conducting contingency planning that could involve thousands of military troops to separate the warring factions or impose peace—it has been estimated anywhere from 7,000 to 25,000 troops, even more.

The distinguished chairman of the Appropriations Committee, at a briefing when the Secretary of State briefed a bipartisan group of Senators on what was happening in regard to India and Pakistan, actually warned the Secretary of State and said we do not have the personnel, we do not have the means, we do not have the materiel to commit those kinds of troops, that kind of involvement with regard to Kosovo, without emergency funding, without certainly stepping up our support, both in terms of funds and in terms of troops.

The costs of involvement in Kosovo, both in dollars and the impact on an already-stressed military, are potentially devastating. The chairman indicated that in his discussion with the national security team and with the administration, There are many unanswered questions of how this conflict in Kosovo is in our vital national interest. I think a good case can be made for our involvement in Kosovo. I just came back with the distinguished chairman of the Senate Intelligence Committee from taking a look at the three new NATO countries, what our intelligence assets are there and what the situation is there. Every official there, every foreign minister, every president indicated that Kosovo was in the interest of NATO and peace in Europe. But there are some very serious unanswered questions, and there are unexplained scenarios of the conflict in Kosovo leading to a larger war in Europe if this war is not ended now.

But my primary concern is that this whole business has yet to be addressed by the administration or, for that matter, to some degree, the Congress in any substantive way. He cannot, nor will Congress let him, commit the men and women of our Armed Forces without defining our national interests, the objectives, and the exit strategy for any involvement in Kosovo.

In the military, Mr. President, there is a term called a warning order, which is sort of a heads-up that some action is coming your way and, as the commander, you should start planning on how you would handle that action.

The amendment I offer today, which is consistent with the amendment that was accepted on a bipartisan basis during the last defense appropriations bill in regard to Bosnia, is a kind of a "warning order." The intent is to let the administration know that before they decide to deploy the military to the region as a result of the conflict in Kosovo, we need to address some salient points before Congress will fund the deployment. It is that simple.

The Congress and, more importantly, the American people need to understand at least the following information, and information required by the amendment. They are as follows:

No. 1, certification that such a deployment is necessary in the national interests of the United States;

No. 2, to explain the reasons why the deployment is in the national security interests of the United States;

No. 3, to define the number of U.S. military forces to be deployed to each country;

No. 4, to explain the mission and the objectives of the forces to be deployed;

No. 5, to discuss the expected schedule for accomplishing the objectives of the deployment;

No. 6, what is the exit strategy for U.S. forces engaged in deployment, if that is possible;

No. 7, what are the expected costs associated with the deployment and the funding source for paying these costs.

I am going to terminate my remarks very quickly, because I know the time schedule here. Let me point out that when Ambassador Gelbard and General Wesley Clark appeared before the Senate Armed Services Committee and reported again on Bosnia and again said that the mission had changed and again said that the objective or the end game could not be defined, I pointed out that it could be in our national interest that we are in Bosnia and that while it was ill-defined, while the mission was changed, my main complaint—and I think one of the complaints shared by the distinguished chairman—is that the administration didn't fund it and the money is coming out of readiness and procurement and modernization, and that has to stop.

What are the expected costs associated with the deployment and the funding source?

What are the anticipated effects of the deployment on the morale, retention, and effectiveness of U.S. forces?

I think, Mr. President, that Bosnia is the perfect example of why such a "warning order" is necessary. We have expended over $10 billion in Bosnia.

We have yet to answer most of the questions contained in this amendment: Why is it in our national interest to continue to be there? How many troops do we need? How and when do we get out? And how are we going to pay for it?

I am a strong believer, Mr. President, that once the U.S. flag—the U.S. credibility—is "planted," that we must support the U.S. position rather than embarrass or put our troops at risk. My intent is simply to go on record now before we get involved in yet another entanglement in yet another region of the Balkans—before the flag is planted and the troops are deployed.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I commend Senator ROBERTS. He is following the path that he followed last year. The Senate adopted his amendment that he presented last year, which has had a salutary effect on the considerations involved in Bosnia. And we will soon have announced the basic reduction in forces in Bosnia, brought about in many ways because of the study that Senator ROBERTS' amendment last year mandated.

I have reviewed this with my friend from Hawaii. And I note that he has put in even another provision this year that recognizes that there might be an emergency that would be such where the President would not have time to prepare the report that is listed. I think that is very wise to offer that flexibility to the administration.

I am prepared to accept this amendment. I ask the Senator from Hawaii what his views would be concerning Senator ROBERTS' amendment?

Mr. INOUYE. Mr. President, I join my chairman in commending our dear friend. Once again, he has taken the initiative and leadership in this important area. Thank you very much.

Mr. STEVENS. Mr. President, I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3393) was agreed to.

Mr. INOUYE. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. It is my understanding that the Senator from Washington wishes to speak on a subject that is not related to the bill. I am pleased to afford my good southern friend that opportunity. I ask him, how much time does he wish?

Mr. GORTON. Ten minutes.

Mr. STEVENS. I ask unanimous consent that the Senator have 10 minutes for a statement as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I thank my friend from Alaska for the use of this time, and I appreciate the courtesy of the Senator from Texas, who is here with an important amendment, in granting me this time.

THE PLIGHT OF THE AMERICAN FARMER

Mr. GORTON. Mr. President, we have heard a large number of words and speeches on this floor, of course, in the last 2 or 3 months on the plight of the American farmer. Many called for a return to the policies of yesteryear. I am here this morning in contrast to talk about 10 impediments or evidences of indifference on the part of this administration to the farmers and the agricultural communities of the State of Washington, the Pacific Northwest, and all of America which can be solved simply by the administration's willingness to care about those Americans who produce our food and fibers.

So in the classic way that we give lists of 10, I will start, Mr. President, with number 10, the Interior Columbia Basin Ecosystem Management Program. A bloated attempt begun 4 years ago, to have lasted 1 year would cost $5 million, which is now approaching $40 million in 4 years, and has antagonized all of the private interests in the Interior Columbia Basin, all of the Members of Congress who represent any part of that basin, but the continuance of which is demanded by the President as the price of signing an appropriations bill for the Department of Interior.

I held a field hearing on this subject in Spokane, WA, with unanimous or near unanimous opposition to the program as it is being conducted at the present time. Both the bill that I am in charge of managing and the bill that has already passed the House of Representatives dramatically changes and minimizes that program.

At the behest of this administration, however, a Seattle Congressman put up an amendment to restore the program to its present pristine size. Every Member of the House of Representatives representing any part of the Columbia Basin voted against that amendment, and yet the administration continues to demand it, with all of the interference of private agriculture that it entails.

No. 9, the Department of Agriculture budget—welfare over farmers. Two-thirds of the Department of Agriculture's budget is earmarked for food and for welfare programs. The essential research conservation and on-the-ground farmer programs get lost in the shuffle. Only when there is a crisis does the Secretary of Agriculture pay any attention to them.

For 3 consecutive years, the administration's request for farmer programs have decreased while the amount requested for food and nutrition programs has increased. No one disputes the importance of those food and nutrition programs, but we cannot very well feed America without providing the funding and infrastructure necessary to enhance the production of the most healthy, abundant, safe and inexpensive crops in the world.

No. 8, Columbia-Snake River dams. The President's Council on Environmental Policy of the Department of the Interior had made it quite clear that major dam removal is very high on their agenda of courses of action for the Columbia and Snake Rivers. The Columbia Basin in eastern Washington, in eastern Oregon, and in Idaho, was literally a dust bowl until the introduction of irrigation. Without it, those States would not lead the country in apples, hops, asparagus, and potato production.

The Columbia Basin is a cornucopia for the Nation's food supply. Dam drawdown or removal would shut down agriculture in the region. In addition, of course, those rivers provide the avenues of transportation to get those agricultural products to market, a transportation system that would be destroyed by dam removal.

No. 7, China trade policy—Washington wheat farmers seem not worth helping by this administration. For more than 20 years, China has refused to import Pacific Northwest wheat because of unfounded, nonscientific phytosanitary reasons. They call it "TCK smut." TCK smut has never been detected in Washington wheat. It does exist, however, in the fields of our wheat-growing counterparts—Canada, France and Germany; but China imports from all three.

The administration seeks a new set of trade relations with China. The President went to China. The President, in order to keep peace with China, did not so much as mention these trade barriers, ignoring the plight of our wheat farmers in the Pacific Northwest. His first priority should be to get that barrier lifted.

No. 6, repeated efforts to eliminate agricultural research. For the past 2 years, the administration has recommended zeroing out all of the national regionally based agriculture research programs. These programs conduct research necessary to all food-producing regions of the country. The administration's insistence on nationalizing these programs is ludicrous. Obviously, cotton research cannot and should not be conducted in eastern Washington; and red delicious apple research is not conducted in Mississippi. These regional programs have bolstered our already strained land grant education university programs. They are absolutely essential, and yet the administration would wipe them out.

No. 5, no movement on fast-track trade negotiating authority. Fast track is essential to establishing trade relations with Chile. Currently, the United States exports face an 11-percent tariff in that country, giving our competitors an 11-percent advantage. Yet, because of objections from members of his own party, the President has abandoned the cause of fast-track trade authority.

No. 4, the agricultural labor shortage—not our problem. The administration does not seem to believe that there is an agriculture labor shortage and is opposed to the Guest Worker Program to address this issue that has already passed the Senate of the United States. In the face of that fact, the General Accounting Office estimates that over one-third of our Nation's migrant workforce is illegal. By doing nothing, the Clinton administration is making lawbreakers out of law-abiding agriculture employers and proposes to do nothing about it.

No. 3, sanctions against Pakistan. Sanctions are killing our agriculture industries. With more than 40 percent of the world's population under U.S. sanctions, the American farmer is locked out of many markets. The President instantly imposed sanctions on Pakistan as a result of its nuclear tests, and only as a result of action by Congress have those sanctions or the effect of those sanctions been at least partially removed with respect to Pakistan.

No. 2, the Endangered Species Act and private property rights. The Endangered Species Act impacts eastern Washington farmers and many others more than any other environmental regulation, and yet the administration, rather than assist in reasonable amendments to the Endangered Species Act, insists on ever more rigid enforcement and ever more interference with the ability of our farmers to grow the food and fiber that the Nation needs.

No. 1, AL GORE. President Clinton has officially tagged the Vice President as the administration's environmental leader. He is the promulgator of most of the policies that I have already discussed and has constructed environmental roadblocks and headaches for farmers from Washington State all across the United States to Florida.

No one knows the land better than America's hard-working farm families. The District of Columbia, the administration, and AL GORE should not be dictating to America's farmers how to till, harvest, irrigate, employ, and manage their farms. AL GORE and his administration need to focus on foreign trade and agricultural research, not on locking up private property and over-regulating the family farm.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Ed Fienga from my staff be allowed on the floor during the debate on the defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3397

(Purpose: To achieve the near full funding of the Army National Guard operation and maintenance account that the Senate provided for in the concurrent resolution on the budget for fiscal year 1999 (H. Con. Res. 28), as agreed to by the Senate, and to offset that increase by reducing the amount provided for procurement for the F/A-18E/F aircraft program to the amount provided by the House of Representatives in H.R. 4103, as passed by the House of Representatives)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 3397.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 9, increase the amount by $219,700,000.

On page 25, line 25, reduce the amount by $219,700,000.

Mr. FEINGOLD. Mr. President, my amendment would allow the National Guard to almost fully fund its operation and maintenance, or O&M account, for the coming fiscal year. This year's Defense Department budget request left the National Guard with a $634 million budget shortfall, including a $450 million shortfall in the Guard's O&M account. This request fell on the heals of a $743 million shortfall for the current fiscal year. I think these shortfalls are wrongheaded and unacceptable.

Fortunately, both Houses of Congress have acted more responsibly in funding the National Guard. Even with the improvements from both Houses, though, the Senate appropriations bill we are currently considering leaves the Guard's operation and maintenance account $225 million short. The House bill leaves an even greater gap of $317 million. My amendment would add $220 million to the National Guard's O&M account, leaving just a $5 million shortfall to that account.

According to the National Guard, shortfalls in the operation and maintenance account compromise the Guard's readiness levels, capabilities, force structure, and end strength. Failing to fully support these vital areas will have a direct as well as indirect effect. The shortfall puts the Guard's personnel, schools, training, full-time support, and retention and recruitment at risk. Perhaps most importantly, however, I know firsthand that it is eroding the morale of our citizen-soldiers, as I have had the opportunity to visit some of the armories in Wisconsin and have heard this concern firsthand.

With that in mind, 26 State adjutants general—a majority of the adjutants general in this country—have contacted my office to voice their support for this amendment. The leaders of the National Guard units in Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Kansas, Maine, Maryland, Massachusetts, Michigan, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wyoming, and my own home State of Wisconsin support my amendment. I would like to thank them for their dedication and support, and I hope we decide to heed their call for support of the National Guard.

Mr. President, in spite of the National Guard's budget concerns, the administration continues to deliver insufficient budget requests given the National Guard's duties; yet, the administration increasingly calls on the Guard to handle some very wide-ranging tasks. These shortfalls have an increasingly greater effect given the National Guard's increased operations burden. This is as a result of new missions, increased deployments, and training requirements, including the missions in Bosnia, Iraq, Haiti, and Somalia.

As I am sure my colleagues know by now, the Army National Guard represents a full 34 percent of total Army forces, including 55 percent of combat divisions and brigades, 46 percent of combat support, and 25 percent of combat service support; yet, the Guard only receives 9.5 percent of Army funds.

To offer a comparison with the other Army components, the National Guard receives just 71 percent of requested funding, as opposed to the Active Army's 80 percent and Army Reserve's 81 percent. I think it is time we move toward giving the National Guard adequate and equal funding. This amendment almost achieves funding equity for the National Guard, and the National Guard is the Nation's only constitutionally mandated defense force.

Not only have we failed to invest fully in the National Guard, we have failed to invest fully in the best bargain in the Defense Department. That should not come as a surprise, however. DOD has never been known as a frugal or practical department—from $436 hammers to $640 toilet seats to $2 billion bombers that don't work and the Department doesn't seem to want to use. The Department of Defense has a storied history of wasting our tax dollars. Here is an opportunity to spend defense dollars on something that actually works, that is worthwhile, and enjoys broad support on both sides of the aisle.

In this regard, the National Guard fits the bill. According to a National Guard study, the average cost to train and equip an active duty soldier is $73,000 per year, while it costs only $17,000 per year to train and equip a National Guard soldier. The cost of maintaining Army National Guard units is just 23 percent of the cost of maintaining active Army units. It is time for the Pentagon to quit complaining about lack of funding and begin using their money a little more wisely and efficiently.

Finally, my amendment doesn't terminate any program, nor does it create unsupported cuts to existing programs. This amendment merely follows the recommendation of the other Chamber.

Early this year, the House overwhelmingly supported DOD authorization and appropriations bills that provide $2.6 billion to procure 27 Super Hornet aircraft. I think, and the General Accounting Office thinks, that is actually far too much money for a plane that provides only marginal benefits over the current, reliable Hornet. But it is better than the $2.8 billion for 30 Super Hornets that the bill contains. I think we should follow the prudent lead of our colleagues in the other body on this issue.

Mr. President, I ask unanimous consent that the text of the House National Security Committee's report on its fiscal year 1999 DOD authorization bill, which specifically addresses the Super Hornet, be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

F/A–18E/F

The budget request contained $2,787.8 million for 30 F/A–18E/F aircraft and $109.4 million for advanced procurement of 36 aircraft in fiscal year 2000.

Based on the results of the Quadrennial Defense Review (QDR), the committee notes that the Department has reduced the total procurement objective from 1,000 to 548 aircraft and has also reduced procurement in the future years defense program (FYDP) from 248 to 224. The committee notes that the Department plans to request increases of six aircraft per year for each of the next three fiscal years until its maximum production rate of 48 aircraft per year is attained in fiscal year 2002. However, for fiscal year 1999, the requested increase from fiscal year 1998 is 10 aircraft.

The committee is also aware that the Department has increased the number of low rate initial production (LRIP) aircraft in fiscal years 1997, 1998 and 1999 from 42, as approved in 1992 by the Defense Acquisition Board (DAB), to its current plan of 62 aircraft. The Department's Selected Acquisition Reports indicate that both its initial plan of 42 LRIP aircraft and its current plan of 62 LRIP aircraft were predicated on a procurement objective of 1,000 aircraft. The committee notes that were the Department to comply with the 10 percent LRIP guideline contained in section 2400 of title 10, United States Code, 55 LRIP aircraft should be sufficient.

During the past year, the committee has followed the Department's challenges in solving an uncommanded rolling motion problem that occurs at altitudes and angles of attack in that portion of the flight envelop where the F/A–18E/F performs air combat maneuvers. The Department's Director of Operational Test and Evaluation recently testified that the most promising solution to this problem—a porous wing fairing—causes unacceptable airframe buffeting and that the final solution to the problem may include other combinations of aerodynamic alternations to the wing surface. According to the Director, the root cause of the problem and modifications to the porous wing fairing are still being investigated, and the wing fairing configuration flown during developmental testing does not incorporate the production representative wing fold mechanism. Additionally, the Director stated that the Department would not have a complete understanding of the impact of the design fix, including uncertainty over air flow effects around the weapons pylons, until the conclusion of operational testing in 1999. Moreover, the Director also noted other concerns with the aircraft such as deficiencies in the performance of its survivability and radar jamming systems.

> In light of the significantly higher increase in production proposed for fiscal year 1999, the apparent excess number of LRIP aircraft, and the development and testing issues yet to be fully resolved, the committee recommends a reduction of $213.1 million and three aircraft. Of the total $213.1 million reduction, initial spares is reduced by $8.4 million. The committee believes that an increase of seven aircraft from the approved fiscal year 1998 level is appropriate and further believes that a total of 59 LRIP aircraft, approximately 11 percent of the total procurement objective, will meet requirements for operational testing and evaluation and will also be sufficient to meet both initial training requirements and the first operational deployment scheduled for fiscal year 2002.

Mr. FEINGOLD. Mr. President, I would like to quote the chairman of the House Military Procurement Subcommittee, DUNCAN HUNTER. Speaking of the National Security Committee's Super Hornet procurement decision, Representative HUNTER said, "We think it's a rational, responsible reduction, a balanced reduction."

Mr. President, it is time we prioritized this Nation's defense needs. The National Guard provides a wide range of services, from combat in foreign lands to support in local weather emergencies, all at a fraction of the cost of the Active Army. The National Guard needs and deserves our full support. And it is for that reason that I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I intend to move to table this amendment.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I would like to commend the Senator from Wisconsin for presenting this amendment. I would have to speak against that.

It is true that the budget request submitted by the administration for the National Guard had a shortfall for O&M activities in the Guard in the amount of about $770 million. On our chairman's initiative, we placed an amount of $320 million to make up for part of the shortfall.

In addition to that, the administration had zero dollars for procurement of new equipment based upon the philosophy that if the regular services, the Regular Army, purchases equipment, some of the leftovers may go for the Guard. We did not concur with that. We appropriated $500 million for the Guard to get new equipment.

Having said that, Mr. President, I believe it should be noted that every service, every component of every service, is faced with shortfalls. There is a shortfall in Navy O&M. They would like to have more steaming time. They want their ships to be out there for maneuvers. We can't do that. The Army Tank Corps would like to have more petroleum and gasoline so that the men who drive these tanks may get more experience and be ready for combat, if such is necessary. Artillerymen would like to have more ammunition for firing range practice.

Mr. President, we have the sad chore of trying to balance all of the accounts and, at the same time, realizing that if this Nation is to continue being the superpower of this world and thereby deter any nation from any mischievous action, we have to provide funds to modernize. The accounts that may be affected by this amendment would stop the modernization program.

Mr. President, although I agree that the Guard should be receiving much more, I will have to concur with my chairman's action when he moves to table this.

Thank you.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we have had a series of visits with the Joint Chiefs of Staff. I particularly recall the discussion I had with Secretary of the Navy John Dalton and with Admiral Johnson. There is no question that the Navy representatives have informed our committee that full F/A–18E/F funding is the administration's top appropriations priority for defense and the Navy.

This amendment would take these funds from that priority, the F/A–18E/F, and move it to the National Guard.

We have added, as I stated this morning, $95 million to augment the Guard and Reserve personnel accounts.

We have added for the Guard and Reserve operation and maintenance funds an additional $225 million.

Finally, we added $450 million to the Guard and Reserve procurement account.

I have to tell the Senator we have exceeded the requests in many instances. We added almost $1 billion in the zero sum budget for the Guard and Reserve priorities.

Furthermore, the F/A/-18E/F is just entering production. The Senator's amendment will seriously disrupt the production program, and substantially increase the unit cost, if the Senate approves this amendment. To me it does not make common sense to increase the cost of the F–18, the Navy's top priority planes which we must buy to meet the Navy's previously approved program requirements. We have helped the Guard and Reserve. I do not think we should punish the Navy in order to help them any more.

If the Senator wishes to make any comments, I yield to him for those comments.

I intend to make a motion to table his amendment. But before I do that, I ask unanimous consent that, on any votes that are laid aside in order to join the priority list that is already in existence under the Guard and Reserve the common procedure of a minute on each side be the procedure for this bill: That there be 2 minutes equally divided on any vote that occurs on this bill on an amendment that is set aside for a later time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, let me first of all say that the two Senators who have spoken in opposition to this amendment are not only very sincere in their support of the National Guard but they have demonstrated in committee a serious concern about increasing funding. And their efforts have gone a long way to make sure that we have less of a shortfall than was originally occurring. That is encouraging. However, as was admitted by those opposed to this amendment, we still have a $225 million shortfall in the O&M account at the National Guard. This is a serious shortfall.

I am not suggesting that we remove this funding from vital areas, but this is about priorities within the defense budget. I think it is a pretty easy call. Although I would prefer that we not move forward with the Super Hornet airplane, what I am suggesting here is not a dramatic reduction in those planes. I am simply suggesting we take what has already been passed in the House; that is, instead of having 30 of the Super Hornets, we procure 27—3 fewer. For three fewer of these planes, we could fully fund the National Guard O&M account.

This is not an attempt, as the Senator from Alaska, suggested, to seriously disrupt the production of the Super Hornet. Very candidly, Mr. President, I would prefer to do that, because the General Accounting Office has pointed out that the Super Hornet is not substantially better than the current plane. It is going to cost $17 billion more than the current plane. That is a huge amount of money.

But that is not what this amendment does. All this amendment does is say let's adopt what the House did, which is have 27 Super Hornets instead of 30, and use the money that is saved to fully fund the National Guard, or virtually fully fund the National Guard O&M account.

Mr. President, these shortfalls for the National Guard are serious. I have had the opportunity to visit armories in Oak Creek, WI, and Appleton, WI, and spend a fair amount of time speaking to the officers and the guardsmen and guardswomen who are trying so hard to do the job that they are expected to do, constituting 34 percent of our entire Army's sources and resources. They are having morale problems. Otherwise, why would 26 adjutant generals in this country write in support of this amendment? They are very concerned.

Mr. President, my amendment is simply about priorities. It is a modest reduction in the number of these Super Hornets that are going to be procured, and in return for something that is far more vital at this point. And that is fully funding the O&M account for the National Guard.

Mr. President, in light of the fact there will be a motion to table at some point, I strongly urge my colleagues to put these modest resources in the National Guard, which supports our Army and which exists in our communities in every one of our States, rather than three more airplanes that, frankly, have not been proven to be substantially better than the current plane that has done a good job in the Gulf war and other situations.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, if there is no further debate on this matter, I move to table the Senator's amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. STEVENS. I now ask that that amendment be set aside.

Is the standing order that all of the votes we ask for the yeas and nays on prior to 2 o'clock will be automatically set aside?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

AMENDMENT NO. 3398

(Purpose: To limit the use of funds pending establishment of the position of Deputy Under Secretary of Defense for Technology Security Policy)

Mr. KYL. Mr. President, if it is in order, I would like to send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. KYL. And ask for its immediate consideration.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 3398.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) None of the funds appropriated by this Act may be obligated or expended for the establishment or operation of the Defense Threat Reduction Agency until the Secretary of Defense takes the following actions:

(1) Establishes within the Office of the Under Secretary of Defense for Policy the position of Deputy Under Secretary of Defense for Technology Security Policy and designates that official to serve as the Director of the Defense Security Technology Agency with only the following duties:

(A) To develop for the Department of Defense policies and positions regarding the appropriate export control policies and procedures that are necessary to protect the national security interests of the United States.

(B) To supervise activities of the Department of Defense relating to export controls.

(C) As the Director of the Defense Security Technology Agency—

(i) to administer the technology security program of the Department of Defense;

(ii) to review, under that program, international transfers of defense-related technology, goods, services, and munitions in order to determine whether such transfers are consistent with United States foreign policy and national security interests and to ensure that such international transfers comply with Department of Defense technology security policies;

(iii) to ensure (using automation and other computerized techniques to the maximum extent practicable) that the Department of Defense role in the processing of export license applications is carried out as expeditiously as is practicable consistent with the national security interests of the United States; and

(iv) to actively support intelligence and enforcement activities of the Federal Government to restrain the flow of defense-related technology, goods, services, and munitions to potential adversaries.

(2) Submits to Congress a written certification that—

(A) the Defense Security Technology Agency is to remain a Defense Agency independent of all other Defense Agencies of the Department of Defense and the military departments; and

(B) no funds are to be obligated or expended for integrating the Defense Security Technology Agency into another Defense Agency.

(b) The Deputy Under Secretary of Defense for Technology Security Policy may report directly to the Secretary of Defense on the matters that are within the duties of the Deputy Under Secretary.

(c) Not later than 10 days after the Secretary of Defense establishes the position of Deputy Under Secretary of Defense for Technology Security Policy, the Secretary shall submit to the Committees on Armed Services and on Appropriations of the Senate and the Committees on National Security and on Appropriations of the House of Representatives a report on the establishment of the position. The report shall include the following:

(1) A description of any organizational changes that have been made or are to be made within the Department of Defense to satisfy the conditions set forth in subsection (a) and otherwise to implement this section.

(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after the establishment of the position, together with a discussion of how that role compares to the Chairman's role in those activities before the establishment of the position.

(d) Unless specifically authorized and appropriated for such purpose, funds may not be obligated to relocate any office or personnel of the Defense Technology Security Administration to any location that is more than five miles from the Pentagon Reservation (as defined in section 2674(f) of title 10, United States Code).

Mr. KYL. Mr. President, might I ask of the distinguished chairman whether this would be an appropriate time to discuss briefly the amendment or whether we should lay it aside and move to other business? What would be the chairman's pleasure?

Mr. STEVENS. Mr. President, I just delivered a copy of the Senator's amendment to the minority and other committees affected. He is at liberty to make such comments he wishes to make, but we will not be able to have final consideration of the matter until we have heard back from Senator INOUYE and his people on his side of the aisle. The Governmental Affairs Committee is also considering this issue.

Mr. KYL. What I might do then, Mr. President, since we want to handle this in a way agreeable to the chairman, if there is no one else to present an amendment right now, rather than defer business, I will go ahead and describe the amendment but do it briefly and then, when the chairman is ready to proceed with other business, lay it aside and handle it in that fashion, if that is agreeable with the chairman.

Mr. STEVENS. Fine.

PRIVILEGE OF THE FLOOR

Mr. KYL. Mr. President, in that event, let me first ask unanimous consent that two fellows from my office, John Rood and David Stephens, be granted floor privileges for the debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. I thank the Chair.

Mr. President, I will describe this amendment briefly.

Frankly, this came out of the revelations concerning the alleged transfer of certain technology to the Chinese Government as a part of the process of launching American satellites on Chinese rockets, the so-called Loral-Hughes matter. But it really goes beyond that. It is a question of whether or not the Defense Department has in process an adequate way of reviewing the requests for export licensure and the conditions attached to those licenses to ensure that national security is not jeopardized.

That role has in the past been played by an agency of the Defense Department called the Defense Technology Security Agency. It goes by the name of DTSA for the people who understand it. The point of this memorandum is to ensure that DTSA will continue to have a prominent role in the evaluation of export licenses and the kinds of conditions that would be attached to them.

In fact, we ensure as a result of this amendment that the role is prominent by restoring the position of the Deputy Under Secretary for Technology Security Policy within the Office of the Under Secretary of Defense for Policy, and thereby ensure, as I say, a prominent role for this agency. The Deputy Under Secretary would have access to both the Under Secretary of Policy and the Secretary of Defense himself.

This is important, Mr. President, for the following reasons:

No. 1, DTSA is the single agency in the Government reviewing the national security implications of an item for export;

No. 2, DTSA coordinates input from the services, military branches, the Joint Chiefs and the defense agencies;

No. 3, DTSA routinely supports the Department of State in its investigations of these matters;

No. 4, creating a Deputy Secretary of Technology Security will ensure that the Department of Defense is represented at a sufficiently high level at the interagency meetings that occur to discuss these export licenses.

And, finally, providing the Deputy Under Secretary with the authority to interact directly with the Secretary of Defense will enable the Deputy Secretary to bring items of immediate concern directly to the Secretary to discuss with the Secretary of Commerce and the President.

The Department of Defense is the only agency with the expertise, the personnel, and the ability to assess the impact of exports on the national security of the United States, and this ought to be our No. 1 concern. The Persian Gulf war demonstrated the value of the United States maintaining a technical edge on the battlefield. Maintaining that edge in the future is dependent upon keeping sensitive technologies out of the hands of potential adversaries.

Questions regarding the appropriate role of the Department of Defense in considering exports of dual-use items have obviously been of concern for a number of years. But, as I said, the alleged transfer technology to the Chinese Government has really elevated this concern to the point that there are those of us in Congress who want to ensure that the Department of Defense continues to have an important role here.

Early in the 1990s, Congress examined the problems with export control and how it was possible that American companies, with the knowledge of the Department of Commerce, could have contributed to the Iraqi arms buildup, as we know occurred. We learned, for example, that between 1985 and the imposition of the U.N. embargo on Iraq in August of 1990, the Department of Commerce approved for sale to Iraq 771 export licenses for dual-use goods. Some of these sales involved technologies that very probably helped the Iraqis develop ballistic missile, nuclear, and chemical weapons. In some cases, Commerce approved the sale over strong objections from Defense or without even consulting the Department of Defense at all.

In 1994, the Export Administration Act expired and in 1996 dissolved, leaving no overarching legal forum to guide the export control policies of the United States. Export controls were at that point directed by Executive order. And this resulted in relaxed control over national-security-related equipment and technologies. The GAO has documented potential problems with changes that occurred in 1996 and with the Department of Commerce retaining the primary responsibility for oversight of important national security equipment or technology.

Let me just give a couple of examples here. On September 14, 1994, the Department of Commerce approved an export of machine tools to China. The tools had been used in a plant in Ohio that produced aircraft and missiles for the U.S. military. Some of the more sophisticated machine tools were diverted to a Chinese facility engaged in military production, possibly cruise missile production.

Under current referral practices, the majority of applications for the export of categories related to stealth are not sent to the Department of Defense or the Department of State for review. Without such referrals, it cannot be ensured that export licenses for militarily significant stealth technology are properly reviewed and controlled.

A third example: Commercial jet engine hot section technology was transferred to the Department of Commerce in 1996. Defense officials are concerned about the diffusion of technology and the availability of hot section components that could negatively affect the combat advantage of our aircraft and pose a threat to U.S. national security concerns. So the Defense Department must have an active role and a strong position in advising the President about the national security implications of exporting these and other important dual-use technologies. In order to do this, the Secretary of Defense must have the best advice available. This amendment will ensure that Secretary Cohen and all subsequent Secretaries have that advice.

Mr. President, at the appropriate time I hope we can engage in further discussion of this to ensure that the national security of the United States is not impaired.

At this time, unless there is anyone else who would like to discuss it, I am happy to have the chairman or the ranking member move to other business.

Mr. STEVENS. Mr. President, I ask this amendment be set aside for later consideration so we may have consultation with other committees and Members involved in this subject. We did not have this on our list and have not distributed it until just now. I ask unanimous consent it be put aside until other Members have a chance to review it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3397

Mr. BOND. Mr. President, we have had a brief debate. The manager of the bill, the chairman of the committee, has moved to table the Feingold amendment. I want to add my comments to the debate on that issue.

This is an amendment which I strongly oppose and I urge my colleagues on both sides of the aisle to oppose it. This is part of a continuing campaign of harassment against the Navy's No. 1 program, the No. 1 program of the U.S. Navy. This campaign has had a long, and to date totally unsuccessful, history. We all know the problems in the court systems when individuals flood the courts with frivolous lawsuits. We, in providing procurement funds for the Navy, have had a string of what I consider to be less than good-faith, responsible amendments directed at this program.

The amendment before us purports to cut funds from a Navy procurement program and earmark them for the National Guard operations and maintenance fund. As a long-time and strong supporter of the National Guard, I recognize the limited funding the Guard has, and I have worked with my colleagues, the chairman and the ranking member of the Defense Appropriations Committee, and the Senator from Kentucky, my cochairman of the National Guard caucus, to fund adequately the Guard component of the total force. But I do not believe that pitting one service against the other, raiding the Navy's No. 1 procurement program, is the way to fill that funding requirement. No, this amendment is not a step forward for good government. It has been proposed for no other reason than as a reckless assault on a program which has successfully cleared every production hurdle with room to spare.

I have been advised by Major General Edward Philbin, Executive Director of the National Guard Association of the U.S., that NGAUS is not supporting this program because, among other things, it would simply create problems between the National Guard and the Navy. This, to me, is a very unfortunate step when, as pointed out by the distinguished Senator from Hawaii, all services are facing shortfalls. We have to address the inadequacy in funding for the National Guard and all of the other services. But I can tell you that this amendment is totally uncalled for.

The F/A–18E/F is the Navy's No. 1 priority procurement program. If you ask the Secretary of the Navy or any of the fleet carrier strike-fighter aviators what will enable the Navy to be viable in the 21st century and beyond, they will tell you it is the Super Hornet. Yesterday the CNO was in my office with one of the fine young men who fly the F/A–18. They reemphasize this is their No. 1 program. They cannot afford to take cuts in the program such as proposed on the House side, or particularly as proposed in this amendment. I think it is a sad day when some Members, for reasons known to themselves, would wish to pit the National Guard against the Navy. I think it is irresponsible and could lead to services raiding each other's accounts to achieve an individual Senator's political goals.

In January of 1997, the Senator from Wisconsin led an effort to terminate the F/A–18E/F. He failed. Since then, he has continued what appears to be a vendetta against the program, and now his intent is slowly to drain the money from the aircraft by continuing a plan to reduce the number of aircraft and the funding available, to make a full-rate production decision nearly impossible.

When you talk with the people in the Navy who know what their needs are, who know what the future of naval aviation is, they will insist, and they will tell you that this is the airplane that they must have. If we want our men and women in naval aviation to carry out the missions we demand of them, then we have to provide them the modern, up-to-date, efficient aircraft, technologically superior, that the E/F F–18 gives us.

I remember full well several years ago when the distinguished ranking member of this committee, the Senator from Hawaii, said, "We don't ever want to send American fighting men and women into a battle evenly matched. We want to send them in with the technological superiority, the training, and the capability and resources to make sure they win."

Mr. President, that is what the 18E/F gives us. It gives us that technological superiority. It gives us the ability to make sure we have the best chance possible of bringing our naval aviators home safely, having accomplished their mission.

The F/A–18E/F has already been scrutinized in the Quadrennial Defense Review. It has been scrutinized by the National Defense Panel. It has undergone GAO study after GAO study. It has been tested by pilots at the Patuxent River Naval Air Station and the Naval Air Weapons Station, China Lake. It has accumulated 2,749 test flight hours, over 1,800 flights, and numerous aircraft carrier landings. It has never had a catastrophic failure. I wish other tactical air programs could meet these standards. It has test fired just about every weapon the Navy might need it to carry. It is on time, it is on budget, and it needs to get underway.

I ask my colleagues, if they have any question about the value of this plane, ask somebody who flies one. Ask somebody who has had the opportunity to fly it. Ask somebody who we are sending in harm's way, asking them to fly a fighter and attack aircraft off a carrier, ask them how important they think the F/A–18E/F is to their ability to carry out their mission and to come home safely. If you will ask the naval aviators, whose lives are on the line, I have no question what their response is going to be. I have heard it myself. Any of my colleagues who wish to contact somebody they know in naval aviation or in the Navy itself, I believe they will tell you it is the No. 1 priority.

Mr. President, this is simply a bad amendment, and I sincerely hope that my colleagues will vote overwhelmingly with the chairman of the committee and the ranking member to table this unwise amendment. I thank the Chair. I yield the floor.

Mr. FEINGOLD. Mr. President, the distinguished Senator from Missouri states that my amendment is a "reckless assault" on the Navy's Super Hornet program. This could not be further from the truth.

My amendment to increase funding for the National Guard is simply that; an amendment to correct most of a dangerous shortfall in funding for the National Guard's operations and maintenance account. To raise as little controversy as possible in finding an offset to the funding increase, I chose a provision already agreed to by the other chamber. Not only did the House agree to funding procurement of 27 Super Hornets in FY99, the body authorized funding for the identical amount.

In speaking to the reduction, Chairman of the House Military Procurement subcommittee, DUNCAN HUNTER said, "We think it's a rational, responsible reduction, a balanced reduction." Does this mean Chairman HUNTER is recklessly assaulting the Super Hornet program? Is Chairman HUNTER diminishing the value of the Navy's aviation fleet? Is Chairman HUNTER questioning the value of the Super Hornet? I don't think Chairman HUNTER was, or ever will be, accused of any of those things. That's why, Mr. President, it boggles my mind why I now stand accused of all those things. It's a plain mischaracterization of my amendment.

This amendment is not about gutting the Super Hornet program. This amendment is not about pitting one service against another. This amendment is not about diminishing the Navy's aviation fleet. This amendment does not question the value of the Super Hornet.

Mr. President, this amendment is about an adequate level of funding for the National Guard and priorities in our armed forces. This amendment is about giving priority to the National Guard's readiness levels, capabilities, force structure, and end strength. This amendment is about bringing the Guard's personnel, schools, training, full-time support, and retention and recruitment to adequate levels. This amendment, is about ending a slide in the morale of our citizen-soldiers.

Finally, my friend from Missouri states that the National Guard Association of the United States does not support this amendment. I'm sure he made his case very forcefully to them. I counter by saying that the association does not oppose this amendment either. In fact, a majority of State Adjutants General, 26 of them so far, have contacted my office to add their names in support for my amendment. I hope my colleagues will draw their own conclusions from that figure. Indeed, I urge my colleagues to contact their State Adjutant General and ask them for their opinion of my amendment.

I urge my colleagues to support the National Guard, as I do. I urge my colleagues to vote against tabling my amendment.

AMENDMENT NO. 3124

(Purpose: Relating to human rights in the People's Republic of China)

Mr. HUTCHINSON. Mr. President, I call up amendment No. 3124 which I filed previously.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON] proposes an amendment numbered 3124.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, between lines 17 and 18, insert the following:

TITLE IX

HUMAN RIGHTS IN CHINA

Subtitle A—Forced Abortions in China

SEC. 9001. This subtitle may be cited as the "Forced Abortion Condemnation Act".

SEC. 9002. Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. 9003. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue any visa to any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

Subtitle B—Freedom on Religion in China

SEC. 9011. (a) It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China.

(b) As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds.

(c) In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed.

(d) The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. 9012. (a) Notwithstanding any other provision of law, no funds appropriated or otherwise made available for the Department of State for fiscal year 1999 for the United States Information Agency or the United States Agency for International Development may be used for the purpose of providing travel expenses and per diem for the participation in conferences, exchanges, programs, and activities of the following nationals of the People's Republic of China:

(1) The head or political secretary of any of the following Chinese Government-created or approved organizations:

(A) The Chinese Buddhist Association.

(B) The Chinese Catholic Patriotic Association.

(C) The National Congress of Catholic Representatives.

(D) The Chinese Catholic Bishops' Conference.

(E) The Chinese Protestant "Three Self" Patriotic Movement.

(F) The China Christian Council.

(G) The Chinese Taoist Association.

(H) The Chinese Islamic Association.

(2) Any military or civilian official or employee of the Government of the People's Republic of China who carried out or directed the carrying out of any of the following policies or practices:

(A) Formulating, drafting, or implementing repressive religious policies.

(B) Imprisoning, detaining, or harassing individuals on religious grounds.

(C) Promoting or participating in policies or practices which hinder religious activities or the free expression of religious beliefs.

(b)(1) Each Federal agency subject to the prohibition in subsection (a) shall certify in writing to the appropriate congressional committees, on a quarterly basis during fiscal year 1999, that it did not pay, either directly or through a contractor or grantee, for travel expenses or per diem of any national of the People's Republic of China described in subsection (a).

(2) Each certification under paragraph (1) shall be supported by the following information:

(A) The name of each employee of any agency of the Government of the People's Republic of China whose travel expenses or per diem were paid by funds of the reporting agency of the United States Government.

(B) The procedures employed by the reporting agency of the United States Government to ascertain whether each individual under subparagraph (A) did or did not participate in activities described in subsection (a)(2).

(C) The reporting agency's basis for concluding that each individual under subparagraph (A) did not participate in such activities.

SEC. 9013. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue a visa to any national of the People's Republic of China described in section 9012(a)(2) (except the head of state, the head of government, and cabinet level ministers).

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 9014. In this subtitle, the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

Mr. HUTCHINSON. Mr. President, I turn, I believe, to an issue of great, great importance to this body and to the Nation. In defending his policy before he left for China, President Clinton said:

> We do not ignore the value of symbols, but in the end, if the choice is between making a symbolic point and making a real difference, I choose to make a difference.

I say to my colleagues, today we have a chance to make a difference. The President went on and said:

> When it comes to advancing human rights and religious freedom, dealing directly, speaking honestly with the Chinese is clearly the best way to make a difference.

While in China, President Clinton was allowed to make some tempered remarks on human rights abuses in China, though, unfortunately, he was quick to equate them with problems in America. He came back from China hailing his trip as a success and praising President Jiang and saying—I quote again— "feeling the breeze of freedom."

Only a week after President Clinton's return from China, China demonstrated the impact of this rhetoric on their attitude and their policies by arresting 10 democracy advocates. There their crime was not rape. It was not theft. It was not burglary. It was not grand larceny. It was not fraud. Their crime was that they dared to start a democratic opposition party.

The Washington Post reported—it is obvious in the headline—on Sunday, July 12, on the front page, "Chinese Resume Arrests, 10 Detained a Week after Clinton Visit."

Fortunately, five of these activists were subsequently released. But when the supporters of democracy protested these arrests in an open letter to the Communist Government, it was no surprise the Chinese Government kindly responded by arresting yet another dissident, Xu Wenli.

According to the Associated Press, on July 24, 1998, the Chinese Government detained four more dissidents, bringing the known number of detained dissidents since the President returned from China to 21. Twenty-one dissidents have been detained since July 10, and three remain in custody at this moment.

On July 29, the Associated Press reported that the Chinese Government detained the democracy activist Wang Youcai for the second time this month. I will simply say, this is not the "breeze of freedom," but it is rather the draft of repression.

Some would like to argue that President Clinton's televised comments in China were a historic breakthrough in emboldening democracy activists throughout China. Unfortunately, the President's remarks were broadcast in the middle of the day when few Chinese were watching television. His remarks were not repeated on the evening news and were completely omitted from the next day's state-controlled newspapers. I remind my colleagues also that Chinese activists already had their momentum, and that momentum was of their own creation from the 1989 demonstrations at Tiananmen Square.

We see that President Clinton spoke directly to the Chinese people, at least some of them. We see the symbolic point that he made, but what we do not see is that there was any difference made in the policy of the Chinese Government. In fact, their response was one of impudence, one of, if you will, a reinforcement of their policy of repression, and I believe the arrests that the Washington Post and all the major media in our country spoke of within a week of the President's return is testimony to the failure of our policy of appeasement.

As this chart is on the floor of the Senate with that headline, "Chinese Resume Arrests," it stands as, I think, irrefutable evidence that the current policies failed to bring about the desired changes, the changes that we all desire in China.

They resumed arrests. A policy of appeasement has never worked, and it is not working today. Today, we, as a body, have the opportunity to move beyond rhetoric into real action with the amendment that I have offered.

The amendment is composed of two parts: one dealing with forced abortions and one dealing with religious persecution in China. This will have brought most of the House-passed measures last year—the Chinese freedom policy measures sponsored by my good friend and colleague, CHRIS COX—this will have brought most of those now to a vote in the Senate. I am glad to say that my friend, SPENCE ABRAHAM, the Senator from Michigan, intends to offer the human rights monitors amendment later on this bill.

I am also glad that an amendment that I had filed dealing with satellite technology transfers and moving the authority for that waiver process back to the State Department and away from the Commerce Department is, as I speak, being worked out in the State Department authorization conference committee, and I trust and hope that it will be in that conference report when it is presented to the Senate later.

I want to provide my colleagues with some background on this amendment. As many of my colleagues will recall, in November of last year, a number of China-related bills were overwhelmingly passed by the House of Representatives. This is that package of bills sponsored by Congressman COX, a "policy for freedom," it was called. Since that time, most of these measures have languished in Senate committees without hearings, without movement and without consideration.

On the defense authorization bill, we adopted several of these House provisions that I offered at that time. However, the remainder of those were not passed because my efforts to offer them were thwarted by those who did not desire to have that debate on these China provisions before or during the President's trip to China. I simply say the President has returned. This is our opportunity now.

My amendment, which I am glad to say is bipartisan and that Senator WELLSTONE from Minnesota, who is on the floor—and I welcome his remarks in support of this—is cosponsoring this amendment, mirrors the language that passed overwhelmingly in the House of Representatives last November.

The provision on forced abortions—by the way, the Nuremberg Tribunal on War Crimes condemned forced abortions, rightfully, as being a crime against humanity. This is not a pro-life, pro-choice issue. Pro-choicers overwhelmingly in the House of Representatives voted for this provision because this is, in fact, a crime against humanity.

To compel and to force—to use coercion—take a woman in the seventh, eighth, ninth month of pregnancy and compel her, against her wishes, to have an abortion, that is a crime against humanity. That is why that provision in the House of Representatives passed by a vote of 415–1—415–1.

The second provision, the "free the clergy" portion, of the amendment passed the House of Representatives last November by a vote of 366–54.

Now, what does the amendment do? It condemns religious persecution and forced abortion in China. The amendment would prohibit the use of American funds, appropriated to the Department of State, the USIA or AID, to pay for the travel of Communist officials involved in repressing worship or religious persecution.

So where there is credible evidence that these officials are engaged in these horrendous practices, they would be denied visa approval, they would be denied travel expenses, per diem by the American Government, by the American taxpayer. It would deny visas to officials engaged in religious persecution and forced abortion.

The amendment would force the Department of State to raise, in every bilateral and multilateral forum, the issues of individuals in prison, detained, confined, or otherwise harassed by the Chinese Government on religious grounds. It simply means that we are going to require our diplomats, when engaging in bilateral and multilateral discussions, to raise these important issues of religious persecution and forced abortions so that that discussion and our concern—the concern of the American people—is reflected by our diplomatic corps.

This amendment would make freedom of religion one of the major objectives of the United States foreign policy with respect to China.

And lastly, concerning religious persecution, this amendment would demand that Chinese Government officials provide the United States State Department with the specific names of individuals, the individuals' whereabouts, the condition of those individuals, the charges against them, and the sentence that it imposed against them.

So individuals who have been arrested and incarcerated because of their faith, because of their religious practice, we would demand that the Chinese Government provide information about the condition, the whereabouts of those individuals and how long the sentence was. The same would be applied to those engaged in forced abortions.

Mr. President, since the founding of the People's Republic of China almost 50 years ago, the Government has savaged and persecuted religious believers and subjected religious groups in China to comprehensive control by the state and the Chinese Communist Party.

The head of the state's Religious Affairs Bureau said in 1996—and I quote the head of the Religious Affairs Bureau in China—"Our aim is not registration for its own sake, but control." Let me say that again. He said, "Our aim is not just registration, but control over places for religious activities as well as over all religious activities themselves."

When people say there is religious freedom in China, that they only require registration, please realize, the purpose of that registration is to control religious activities in China, an effort that they have been quite successful at. So religious organizations today in China are required to promote socialism and "patriotism" while the massive state party propaganda apparatus vigorously attempts to promote atheism and combat what they call "superstition."

Mr. President, the Chinese Government, the Communist Party, have in recent years intensified efforts to expel religious believers from the Government, the military, and the party, ordering a nationwide purge of believers in January of 1995.

I am very concerned about the mounting campaign of religious persecution being waged by the rulers of China. I believe this amendment is the least that we can do. Many of my colleagues have said that using trade policy is the wrong instrument in dealing with the repressive practices of the Chinese Government. I understand. In fact, I am sympathetic to that argument.

I never thought that most-favored-nation status was the best tool that we had, and yet when we come with a proposal like this, one that I have visited with Senator WELLSTONE about, and many of my colleagues about, when we come with one that denies visas and denies travel and per diem for those involved in these terrible practices, then I hear people saying that is the wrong tool to use, we should not use visas. This is the very least that we can do. If we are not willing to deal with the $60 billion trade deficit that we give China—trade imbalance that we have with that country—then the least we can do is come back on this issue of visas, travel expenses, and raising the issue in our diplomacy and diplomatic efforts with the Chinese Government and make this something more than mere rhetoric.

I believe that these amendments are modest, that they are temperate, that they are well thought out. They have been repeatedly debated, not only in the House of Representatives but on the floor of the Senate as well.

I will ask my colleagues to support the amendments and to oppose any effort to table these amendments. I believe that there is clear evidence not only of religious persecution among Evangelical believers, among Roman Catholic believers, but most obviously among Buddhist believers and the followers of the Dalai Lama. The repression ranges from ransacking homes in Tibet in search of banned pictures of the Dalai Lama to the closing and destroying of over 18,000 Buddhist shrines last spring. So the repression is real. And religious faith of all persuasions is in revival in China, but it is in revival in the face of intense persecution by the Chinese Government.

I will only briefly speak of the practice of forced abortions that are going on in China today. I believe that this is a practice that is indefensible by any civilized human being. In their effort and attempt to reach a 1 percent annual population growth, the Chinese authorities, in 1979, issued regulations that provided monetary bonuses and other benefits, as incentives, and economic penalties for those who would have in excess of one child.

They subject families in China to rigorous pressure to end pregnancies and to undergo sterilizations. And while the Communist Chinese Government today says that coercion is not an approved policy, they admit that it goes on. They have not provided our State Department any evidence that they are punishing the perpetrators of that terrible practice of coerced abortions and forced sterilizations in China today.

Even more tragic is their effort to eliminate those they regard as "defective." China's eugenics policy, the so-called natal and health care law, requires couples at risk of transmitting disabling congenital defects to their children to undergo sterilization.

So the practices continue in China; the abuses continue in China. This amendment is the very least that we can do in clear conscience. I have faith that my colleagues are going to support this amendment. I think it is something that is so essential that we do. This practice of coerced abortions—and, may I add, the practice of persecuting believers, religious believers—is morally reprehensible and indefensible.

It is clear, as well, that the desired changes that the policy of so-called constructive engagement has sought has failed.

I once again point to this headline in the Washington Post, which was, in various forms, the front page story all across this country this month: "Chinese Resume Arrests"—that in the wake of our President's visit to China.

So please look at the temperate tone of these amendments. Realize that the substance is simply denying visas, travel expenses, if you will, American-taxpayer-subsidized travel, in recognition of those who the State Department, the Secretary of State, has credible evidence indicating that they are involved in these inhumane practices.

I ask my colleagues to support this amendment when we vote this afternoon.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, let me say that I am very proud to join with my colleague, Senator HUTCHINSON from Arkansas, in offering this amendment. Let me say, second of all, that while we do not agree on all issues—that may be the understatement of the year—we do have a common bond in our very strongly held views and, I think, passion when it comes to human freedom in our country and other countries and respect for human rights.

At the beginning, I would like to just start out by doing two other things before speaking right to the amendment.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that Linn Schulte-Sasse, who is an intern with our office, be allowed to be on the floor during the debate on this appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I think my colleague from Arkansas will agree with me, it would be important, given this topic, given this debate, given this discussion, to mention Aung San Suu Kyi from Burma, a woman who just wanted to go to a meeting. That repressive junta Government would not let her do so. She spent 5 days in her car, refusing to leave, before she could go to this meeting. She never could get to the meeting. Now she is back safely at home. It reminds us, again, of the repression of this regime.

I hope that these junta leaders understand that all of us in the Senate, Democrats and Republicans alike, abhor their actions. From my point of view, we can't do enough as a country to isolate that repressive Government.

The core value that brings my colleague from Arkansas and the Senator from Minnesota together here today is freedom in human rights. I think that there is no better way to speak to this than to examine our relationship with the Government and 1.2 billion people in China.

I am concerned that the administration's "carrots only" policy has not worked well enough when it comes to accomplishing this goal of promoting freedom in human rights. I believe that the limited steps that the Chinese Government has taken to lessen political persecution or religious persecution has been when there has been American pressure. These included the prospect of a human rights resolution on China at the U.N. Commission on Human Rights in Geneva and the debate over annual MFN renewal. All of this has been important in communicating a strong statement to this Government that they are under our watchful eye, and that we speak out against persecution against people because of the practice of their religion or of their basic political viewpoint.

I had reservations, I have reservations about the June summit between the President and President Jiang Zemin. I had hoped that there would be concrete results. I always believed it would have been better if the President had laid out clear human rights preconditions before visiting China. Having said that, I was still very hopeful that this visit would make a difference.

I applauded the President speaking out while in China. But always the question was, what next? Will China now take realistic but meaningful steps, such as opening up Tibet to human rights monitors and foreign journalists? Will China release political prisoners? Will they put safeguards in place for the right of free association of workers, beginning a process of abolishing the arbitrary system of reduction through labor? Will they lift their official blacklist of prodemocracy activists now abroad who can't return to China?

I fear that what we have seen so far by way of agreements announced in Beijing are merely symbolic in nature. On Tuesday, Secretary Albright reported that Chinese dissidents are continuing to be rounded up. For example, last Wednesday the police arrested Zhang Shanguang, a prominent dissident, who had already spent 7 years in jail. What did he do? What was his crime? He tried to organize laid off workers. Also last week, a Chinese court sentenced another dissident to 3 years in prison for helping a fellow activist to escape from China.

Mr. President, I am all for having good relations with the Government. I am all for making sure that we have economic cooperation. I understand the market that is there. But I join with my colleague, Senator HUTCHINSON, in introducing this amendment, to say that whatever we do by way of our relations with China, we ought not to sacrifice a basic principle that we hold dear as a country, which is a respect for human rights and for human freedom of peoples.

This amendment started out to do three things. One will be taken care of in an amendment by my colleague, Senator ABRAHAM, which will increase the number of U.N. diplomats at the Bejing Embassy assigned to monitor human rights and add at least one human rights monitor to each U.S. consulate in this vast country. That is an important amendment. I hope my colleagues will support it.

The second point I want to make is that our amendment is divided into two parts. First, our amendment will demonstrate our commitment to religious freedom by banning travel to the United States by any Chinese official who has engaged in religious persecution. While membership in religious groups is increasing explosively in China, the Government continues to prosecute, continues to persecute, Muslim Uighurs, Tibetan Buddhists and Christians.

While harsh prison sentences and violence against religious activists still occur, state control increasingly takes the form of a registration process. This is the way the Government monitors the membership in religious organizations.

According to the State Department's reports, Chinese officials have conducted a special campaign against all unauthorized religious activities by Christians. This included police detaining people, beating, and fining members of the underground Catholic Church in Jiangxi Province, and raiding the homes of bishops. That is what is happening in this country.

The Government has also carried out a major purge of local officials in certain heavily Muslim populated areas, and targeted again "underground" Muslim activities. The Government has banned the construction or renovation of 130 mosques, and arrested scores of Muslim dissidents.

In Tibet, human rights conditions remain grim, and have gotten worse this past year. Tibetan religious activists face "disappearance," or incommunicado detention, long prison sentences, and brutal treatment in custody.

Finally, this amendment, second part, demonstrates the abhorrence of the United States over the practice of forced abortion and sterilization. It targets officials involved in forcing Chinese women to undergo abortions and sterilization and bans their travel to the United States of America. Chinese population control officials, working with employers and work unit officials, routinely monitor women's menstrual cycles. They subject women who conceive without Government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines—in one province, twice a family's gross annual income—to loss of employment, and in some cases to the use of physical force.

Some people argue that we cannot influence China, that the country is too large, too proud, and that change takes too long. I disagree. Religious prosecution, religious persecution, forced sterilization, forced abortion, people trying to speak out on behalf of their own human rights, all of these citizens have thanked us for speaking out; all of the human rights advocates have thanked us for helping to keep them alive by focusing attention on their plight and for fighting for reforms.

We cannot give up. We must continue to pressure China on these urgent matters. I urge my colleagues to vote for this very reasonable amendment, and I think Senator HUTCHINSON sends a very compelling and very powerful message, not only to the Government that we will not in any way, shape, or form stand by idly and be silent about this kind of repression, but also to the people in China, the citizens, that we support their efforts on behalf of human rights, on behalf of their right to be able to practice their own religion, on behalf of their right to be free from forced abortion and forced sterilization.

Colleagues, please give this amendment your overwhelming support.

I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I realize that standing and speaking in opposition would be condemned by some of my colleagues and my constituents. I also realize that my chairman will rise to table this amendment at the appropriate time. But I believe that something has to be said as to why some of us oppose this amendment.

Mr. President, we are blessed to be able to live in a great country. We just celebrated the 222nd anniversary of our birth. We have had a very illustrious and a glorious history. Yet, there are many chapters in our history that we would prefer not to discuss; we would prefer to just pass them over. The countries that we are speaking up against in Southeast Asia and Asia do not have a 222-year history. Yes, they may have been in existence for 4,000 or 5,000 years, but keep in mind that most of these countries have been under the yoke of some European power until just recently. Indonesia, until the end of World War II, was under the control, and therefore a colony of, Holland. China has been controlled by various countries. The Japanese have been there; the British have been there; the French, the Russians—and Americans. North Korea had been under the control of the Japanese up until World War II. The Philippines was our colony until the end of the war.

Our country is blessed with resources—all of the minerals that we need, all of the chemicals we need to make us the No. 1 high-tech country in the world, the most powerful military country in the world. These other countries are still struggling. I don't think we can expect these nations who are going through the evolutionary stage of just 50 years, as compared to our 222 years—we cannot impose and demand that our will be carried out.

We should remind ourselves that we, the people of the United States, and the Supreme Court of the United States have said that slavery was constitutional. That wasn't too long ago. And there are many fellow Americans who are still showing the effects of slavery to this day. Well, we pride ourselves on human rights, but hardly a day goes by when we don't see statistics that may not be the happiest. For example, I am vice chairman now of the Indian Affairs Committee. The things we are confronted with on a daily basis in this committee are sickening. For example, the unemployment rate in the Nation is less than 5 percent. The unemployment rate in Indian reservations today is over 50 percent. In some reservations, it is as high as 92 percent. Yes, there are reservations that are doing well—doing very, very well. But most of the 550 tribes are not doing well.

When you look at health statistics, they are worse than Third World countries. They are worse in cancer, worse in respiratory diseases, worse in diabetes. And this happens in these United States. And if some other country should condemn us for this, we would stand up as one and say: It is none of your damn business.

Well, Mr. President, the question before us is, Do we contain and do we isolate China—a nation with a population of over one-fourth of the world's population? They have problems, as much as we have problems. The question is, Do we ignore them, realizing that they may someday acquire all the technology that they need to become a terrible world power? Or do we try to engage them and, hopefully, by practice and by model, convince them that our system is the best?

We seem to have done pretty well in doing this with the Soviet Union. We are told that the cold war is over now, that the power the Soviet Union had once upon a time is no more. Why? Because we had a policy of engagement. We continue to talk to them. We continue to exchange views. Yes, we propagandize them and they propagandize us. But because of our attitude, because of our resources, we have prevailed. I think the same can happen elsewhere.

Yes, we are dealing with countries that have a short contemporary history—Vietnam, Cambodia, Laos. These were European colonies. If one looks at the history of these colonies, the treatment was just as bad as the colonies in Africa. And now to suddenly say, "Now that you have freedom, we expect you to behave like Americans," I think is asking too much, Mr. President.

We speak of human rights. We will conclude this year the final payment of redress to Japanese Americans who were put in camps. Mr. President, I certainly recall that soon after December 7—on February 19, 1942—an Executive order was issued declaring that Japanese Americans were not to be trusted. Therefore, they had to be rounded up, with 48 hours' notice, and placed in 10 camps throughout the United States—no due process. No crimes were committed. Studies were made, investigations done, and there was not a single case of sabotage, not a single case of un-American activity. In fact, men volunteered from these camps to form a regiment, which I was honored to serve in, and we became the most decorated Army unit in the history of the Army. The United States is finally going to close that chapter.

But these things have happened to us. As a personal matter, I resented that when, on March 17, 1942, my Government said I was to be declared 4C.

In case people are not aware of what 4C is about, 1A is the Draft Board's declaration that you are physically fit, mentally alert. Therefore, you are qualified to put on the uniform of the United States; 4F, something is wrong with you, physically or mentally; 4C is a special designation for enemy alien. That was my designation.

So when one speaks of the history of the United States, there are chapters that we don't wish to look at, because, if we start looking back to these chapters, you will find that we have gone through this painful evolution.

So I am telling my colleagues that this is not a simple amendment. It is an amendment that requires deep thought on our part. I hope that we leave it up to those who we rely upon in our State Department to do the best. We can always watch what is going on. Yes, they have forced abortion. I am against that. I am against religious persecution. We try to convince ourselves that there is no religious persecution in the United States. But I am certain we know that there is.

Mr. President, I will be voting to table this amendment.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, it is with some reluctance that I respond to the comments, because I have such utmost respect for the Senator from Hawaii and his distinguished career, and all that he represents.

But I just want to clarify the perspective of the authors of this amendment. The issue is not imposing American values. Frankly, we don't and we can't impose anything on another nation. But what we can say is that the values are important.

I think it is terribly wrong to try to make a moral equivalency argument and say that examples of religious persecution that may exist in the United States can in any stretch of the imagination be compared to the wholesale religious oppression that exists in China today.

We simply don't have headlines in the Washington Post saying that there were "10 detained in Arkansas" because of their religious beliefs. We don't have that in this country, and we shouldn't. If we did there would be an outrage, and if we did we should be condemned by other nations in the world.

So the issue is not imposing American values. The issue is whether or not we as a body and we as a nation want to reflect certain fundamental beliefs and fundamental rights.

I add that these are not American values that we speak of. These are not American values that this amendment is addressing. These are human values. They are basic human rights.

It was not the U.S. Supreme Court that I quoted in condemnation of forced abortion. It was the Nuremberg War Tribunal that said forced abortion is a crime against humanity.

These are human values. We cannot excuse a nation by saying they are new at this thing of freedom. No. In fact, it is not that the communist rulers of China don't understand freedom. It is that they understand freedom all too well, and they are determined to repress it.

The issue in China is control, and the Chinese Communist Government is determined to use whatever means necessary and whatever means at their disposal to insure that they maintain control, even to the point of persecuting those who might say there is a power above and beyond the power of the Chinese Government.

I say to my distinguished colleague from Hawaii that the issue is not isolation. It is certainly not isolation. There is no way that we could, even if we wished to, isolate the largest, most populist nation in the world.

It is, though, whether we as a country and we as a people are going to stand for something other than profits.

That is what this amendment is about. That is why I believe, I have faith, that my colleagues in the Senate will support an amendment that really reflects the best not only of American values but human values.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will take 2 minutes, because I know my colleague wants to move forward.

Mr. President, the Senator from Hawaii is the best of the best Senators. I don't like to be in disagreement with him. I am certainly not in disagreement with his analysis about our own history. There is nobody who can speak with more eloquence and more integrity about injustices in our country toward minorities and violations of people's human rights than the Senator from Hawaii. There is no question about it.

But I also believe, as my colleague from Arkansas has ably pointed out, that it is also important for other countries, and it would have been an important relation for our country to speak out.

When I think about South Africa, I think about what President Mandela said. One of the things he said over and over again, was when the people in the United States took action, it was when we put the pressure—not just symbolic politics—that things began to break open, and finally we were able to end the awful system of subjugation of people because of the color of their skin.

When I think even about our relations with the former Soviet Union, we were tough on these human rights violations.

I really believe that this amendment is just a very modest beginning which says, look, when you have people who are directly guilty of religious persecution, and when you have people who are directly guilty of forced sterilization, forced abortion—and we even had waivers for the Presidents. But what we are saying is then let's take this into account. They ought not to be given travel visas to our country.

This is moderate, I say to my colleagues. This is but a step forward. But it sends such a powerful and important message about what our values are all about, what we are about as a nation. And it supports the people in China. This really is an important amendment. I hope that our colleagues will vote for it and will give it overwhelming support.

Mr. STEVENS. Mr. President, before I respond, I again would like to request Senators to come forward, and let us see their amendments.

Earlier today I said of the 46—it is now 47 amendments that we know of—that we had agreed to accept 23 of them.

My staff informs me that the difficulty is we can't accept them because we haven't seen the final version of them. We hope that those will be produced here so we can dispose of the amendments that we are willing to accept expeditiously with very short comments from Members.

We are going to have over 50 amendments. We are going to finish this bill by tomorrow. I advise Members and staff to start bringing in cots for people to rest on tonight unless we get through them very quickly.

Mr. President, I have to confess to my friends, both of them who have spoken in favor of this amendment, that this Senator is at a loss to understand section 9012, which says that no funds can be used to pay the travel expenses and per diem for the participation in conferences, exchanges, programs, et cetera, of any national from the People's Republic of China who is the head or political secretary of any Chinese Government-created or approved organization. And it lists the Chinese Buddhist Association, the Chinese Catholic Patriotic Association, the National Congress of Catholic Representatives, the Chinese Catholic Bishops' Conference, the Chinese Protestant Three-Self Patriotic Movement, the China Christian Council, the Chinese Taoist Association, the Chinese Islamic Association, and then a series of civilian and military officials and employees of Government to carry out the specific policies that are listed, such as promoting or participating in policies or practices which hinder religious activities, or the free expression of religious beliefs.

I am at a loss to understand that section. Perhaps the Senator would explain that to me.

Mr. HUTCHINSON. Mr. President, if the Senator will yield.

Mr. STEVENS. Yes.

Mr. HUTCHINSON. The officials that are listed of the various religious organizations that the Senator listed in the amendment are, in fact, Government employees, and Government agents. They are those at the head of these associations. These are the registered churches that are used as tools and the agents of the Chinese Communist Government in the repression of those various groups. It does not refer to the pastors, the ministers, the priests of local congregations, but the heads of these associations which, in fact, work for the Communist Chinese Government and are those that are perpetrating the very persecution against those groups.

So while there are millions of Chinese today underground in unregistered churches, mosques, synagogues and temples, there is also the so-called Patriotic Church, the recognized church by the Government which is strictly controlled, names, addresses of worshipers to be turned into the Government. Messages that are proclaimed are closely censored by the Government. That is why those officials would be included if, in fact, the Secretary of State found credible evidence that they were practicing perpetrating religious persecution.

Mr. STEVENS. I am sad to say to my friend I don't understand that section to have that limitation, but, in any event, it is a very controversial subject to be added to the Defense appropriations bill. In conferring with Members yesterday, it was the position that we took at the time that we were going to do our utmost to keep controversial subjects that would lead to extended debate off of this bill. The only way to do that is, once we have had a short explanation of it in courtesy to the presenting Senator, it was going to be my intention to move to table any such amendment, not just this one but any such amendment.

Therefore, on the basis of the policy that we have announced, I move to table the Senator's amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment is set aside and the vote will occur after 2 p.m. today.

Mr. STEVENS. Mr. President, I ask unanimous consent at the request of Senator THOMAS that a letter signed by himself and Senator MURKOWSKI, Senator BIDEN, Senator KERRY, Senator SMITH of Oregon, Senator HAGEL, Senator GRAMS, Senator FEINSTEIN, Senator ROBB, and Senator LIEBERMAN, and an excerpt from Newsweek be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 15, 1998.

DEAR COLLEAGUE: When the Senate returns to consideration of the DOD Authorization bill, S. 2057, we expect a series of amendments to be offered concerning the People's Republic of China. These amendments, if accepted, would do serious damage to our bilateral relationship and halt a decade of U.S. efforts to encourage greater Chinese adherence to international norms in such areas as nonproliferation, human rights, and trade.

In relative terms, in the last year China has shown improvement in several areas which the U.S. has specifically indicated are important to us. Relations with Taiwan have stabilized, several prominent dissents have been released from prison, enforcement of or agreements on intellectual property rights have been stepped up, the revision of Hong Kong has gone smoothly, and China's agreement not to devalue its currency helped stabilize Asia's economic crisis.

Has this been enough change? Clearly not. But the question is: how do we best encourage more change in China? Do we do so by isolating one fourth of the world's population, by denying visas to most members of its government, by denying it access to any international concessional loans, and by backing it into a corner and declaring it a pariah as these amendments would do?

Or, rather, is the better course to engage China, to expand dialogue, to invite China to live up to its aspirations as a world power, to expose the country to the norms of democracy and human rights and thereby draw it further into the family of nations?

We are all for human rights; there's no dispute about that. But the question is, how do be best achieve human rights? We think it's through engagement.

We urge you to look beyond the artfully-crafted titles of these amendments to their actual content and effect. One would require that the United States to oppose the provision of any international concessional loan to China, its citizens, or businesses, even if the loan were to be used in a manner which would promote democracy or human rights. This same amendment would require every U.S. national involved in conducting any significant business in China to register with the Commerce Department and to agree to abide by a set of government-imposed "business principles" mandated in the amendment. On the eve of President Clinton's trip to China, the raft of radical China-related amendments threatens to undermine our relationship just when it is most crucial to advance vital U.S. interests.

Several of the amendments contain provisions which are sufficiently vague so as to effectively bar the grant of any entrance visa to the United States to every member of the Chinese government. Those provisions not only countervene many of our international treaty commitments, but are completely at odds with one of the amendments which would prohibit the United States from funding the participation of a great proportion of Chinese officials in any State Department, USIA, or USAID conference, exchange program, or activity; and with another amendment which urges agencies of the U.S. Government to increase programs between the two countries.

Finally, many of the amendments are drawn from bills which have yet to be considered by the committee of jurisdiction, the Foreign Relations Committee. That committee will review the bills at a June 18 hearing, and they are scheduled to be marked-up in committee on June 23. Legislation such as this that would have such a profound effect on US-China relations warrant careful committee consideration. They should not be subject of an attempt to circumvent the committee process.

In the short twenty years since we first officially engaged China, that country has opened up to the outside world, rejected Maoism, initiated extensive market reforms, witnessed a growing grass-roots movement towards increased democratization, agreed to be bound by major international nonproliferation and human rights agreements, and is on the verge of dismantling its state-run enterprises. We can continue to nurture that transformation through further engagement, or we can capitualte to the voices of isolation and containment that these amendments represent and negate all the advances made so far.

We hope that you will agree with us and choose engagement. We strongly urge you to vote against these amendments.

Sincerely,

Craig Thomas, Chairman, Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations; Frank H. Murkowski, Chairman, Committee on Energy and Natural Resources; Chuck Hagel, Chairman, Subcommittee on International Economic Policy, Committee on Foreign Relations; Joseph R. Biden, Jr., Ranking Member, Committee on Foreign Relations; John F. Kerry, Ranking Member, Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations; Gordon Smith, Chairman, Subcommittee on European Affairs, Committee on Foreign Relations; Rod Grams, Chairman, Subcommittee on International Operations, Committee on Foreign Relations; Charles S. Robb, Ranking Member, Subcommittee on Near East/South Asian Affairs, Committee on Foreign Relations; Dianne Feinstein, Ranking Member, Subcommittee on International Operations, Committee on Foreign Relations; Joseph L. Lieberman, Ranking Member, Subcommittee on Acquisition and Technology, Committee on Armed Services.

[From Newsweek, July 6, 1998]

HELP "INDEPENDENT SPIRITS"—A GULAG VETERAN APPRAISES CLINTON'S MISSION

(By Wang Dan)

President Clinton is taking a lot of heat for his decision to visit China in spite of the serious human-rights problems there. I spent seven years in prison in China for my activities on Tiananmen Square in 1989, so I certainly share the view that the Chinese government must change its ways. But I also think the American president can accomplish some positive things with his trip.

It's critically important to have a broad range of contacts with China. The West should not try to isolate the communist regime or limit contact to political exchange. Washington needs to maintain dialogue on many fronts at once: economic, cultural, academic, anything that helps build civil society. The key to democracy in China is independence. My country needs independent intellectuals, independent economic actors, independent spirits.

Economic change does influence political change. China's economic development will be good for the West as well as for the Chinese people. China needs Most Favored Nation trade status with the United States, and it should fully enter the world trading system. The terms of that entry must be negotiated, of course, but in any case the rest of the world must not break its contact with China.

President Clinton's visit to Tiananmen Square did not look like a sacrilege to the Chinese people. He didn't stand in the middle of the square, but along the side, outside the Great Hall of the People. All foreign leaders go there. Clinton was right later to mention the events of June 4, 1989. He must continue to stick up for such political prisoners as Liu Nianchun, imprisoned in 1995 for three years; Li Hai, a former student at Peking University sentenced to nine years in 1995; and Hu Shigen, another former Peking University student who was sentenced to 20 years in 1994. All were convicted on trumped-up criminal charges. These people must never be forgotten. Nor should the routine arrest and harassment of other dissidents, which continued last week.

It's hard to say exactly what Chinese leaders think about Clinton. The scandals in Washington allegedly implicating Chinese officials only make the picture murkier. But one thing is clear: China's leaders always view American presidents as competitors. They believe that the United States doesn't want China to grow, and they are suspicious of its motives. That made Clinton's task in China more difficult still. I wish him well.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I keep asking and requesting that Members come forward with these amendments. I have asked now the leadership to clear a unanimous consent request that all amendments have to be filed by 4. I know it is not cleared yet, but I am again requesting that and letting people know somehow or other we are going to get these amendments. It may be that I will just have to move to go to third reading, we will have a vote to go to third reading and cut them all off.

For those people who want to go home, I will give them an avenue to get home, and that is let's just vote on this bill. But if people won't bring the amendments to us, we are going to have to take some drastic steps here to limit the number of amendments we can consider. I know that it is an extraordinary procedure, but these are extraordinary times. I would like at least to have the amendments we have said we would accept. Twenty-three Members out there with amendments I said we would accept, and they have not brought them over. I plead with the Senate to think about proceeding with this bill.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Texas is recognized.

AMENDMENT NO. 3409

(Purpose: To express the Sense of Congress that the readiness of the United States Armed Forces to execute the National Security Strategy of the United States is eroded from a combination of declining defense budgets and expanded missions, including the ongoing, open-ended commitment of U.S. forces to the peacekeeping mission in Bosnia)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 3409.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. __. (a): Congress makes the following findings:

(1) Since 1989,

(A) The national defense budget has been cut in half as a percentage of the gross domestic product;

(B) The national defense budget has been cut by over $120 billion in real terms;

(C) The U.S. military force structure has been reduced by more than 30 percent;

(D) The Department of Defense's operations and maintenance accounts have been reduced by 40 percent;

(E) The Department of Defense's procurement funding has declined by more than 50 percent;

(F) U.S. military operational commitments have increased fourfold;

(G) The Army has reduced its ranks by over 630,000 soldiers and civilians, closed over 700 installations at home and overseas, and cut 10 divisions from its force structure;

(H) The Army has reduced its presence in Europe from 215,000 to 65,000 personnel;

(I) The Army has averaged 14 deployments every four years, increased significantly from the Cold War trend of one deployment every four years;

(J) The Air Force has downsized by nearly 40 percent, while experiencing a four-fold increase in operational commitments.

(2) In 1992, 37 percent of the Navy's fleet was deployed at any given time. Today that number is 57 percent; at its present rate, it will climb to 62 percent by 2005.

(3) The Navy Surface Warfare Officer community will fall short of its needs a 40 percent increase in retention to meet requirements;

(4) The Air Force is 18 percent short of its retention goal for second-term airmen;

(5) The Air Force is more than 800 pilots short, and more than 70 percent eligible for retention bonuses have turned them down in favor of separation;

(6) The Army faces critical personnel shortages in combat units, forcing unit commanders to borrow troops from other units just to participate in training exercises.

(7) An Air Force F–16 squadron commander testified before the House National Security Committee that his unit was forced to borrow three aircraft and use cannibalized parts from four other F–16s in order to deploy to Southwest Asia;

(8) In 1997, the Army averaged 31,000 soldiers deployed away from their home station

in support of military operations in 70 countries with the average deployment lasting 125 days;

(9) Critical shortfalls in meeting recruiting and retention goals is seriously affecting the ability of the Army to train and deploy. The Army reduced its recruiting goals for 1998 by 12,000 personnel;

(10) In fiscal year 1997, the Army fell short of its recruiting goal for critical infantry soldiers by almost 5,000. As of February 15, 1998, Army-wide shortages existed for 28 Army specialities. Many positions in squads and crews are left unfilled or minimally filled because personnel are diverted to work in key positions elsewhere;

(11) The Navy reports it will fall short of enlisted sailor recruitment for 1998 by 10,000

(12) One in ten Air Force front-line units are not combat ready;

(13) Ten Air Force technical specialties, representing thousands of airmen, deployed away from their home station for longer than the Air Force standard 120-day mark in 1997;

(14) The Air Force fell short of its reenlistment rate for mid-career enlisted personnel by an average of six percent, with key war fighting career fields experiencing even larger drops in reenlistments;

(15) In 1997, U.S. Marines in the operating forces have deployed on more than 200 exercises, rotational deployments, or actual contingencies.

(16) U.S. Marine Corps maintenance forces are only able to maintain 92 percent ground equipment and 77 percent aviation equipment readiness rates due to excessive deployments of troops and equipment;

(17) The National Security Strategy of the United States assumes the ability of the U.S. Armed Forces to prevail in two major regional conflicts nearly simultaneously.

(18) To execute the National Security of the United States, the U.S. Army's five later-deploying divisions, which constitute almost half of the Army's active combat forces, are critical to the success of specific war plans;

(19) According to commanders in these divisions, the practice of under staffing squads and crews that are responsible for training, and assigning personnel to other units as fillers for exercises and operations, has become common and is degrading unit capability and readiness.

(20) In the aggregate, the Army's later-deploying divisions were assigned 93 percent of their authorized personnel at the beginning of fiscal year 1998. In one specific case, the 1st Armored Division was staffed at 94 percent in the aggregate; however, its combat support and service support specialties were filled at below 85 percent, and captains and majors were filled at 73 percent.

(21) At the 10th Infantry Division, only 138 of 162 infantry squads were fully or minimally filled, and 36 of the filled squads were unqualified. At the 1st Brigade of the 1st Infantry Division, only 56 percent of the authorized infantry soldiers for its Bradley Fighting Vehicles were assigned, and in the 2nd Brigade, 21 of 48 infantry squads had no personnel assigned. At the 3rd Brigade of the 1st Armored Division, only 16 of 116 M1A1 tanks had full crews and were qualified, and in one of the Brigade's two armor battalions, 14 of 58 tanks had no crewmembers assigned because the personnel were deployed to Bosnia.

(23) At the beginning of fiscal year 1998, the five later-deploying divisions critical to the execution of the U.S. National Security Strategy were short nearly 1,900 of the total 25,357 Non-Commissioned Officers authorized, and as of February 15, 1998, this shortage had grown to almost 2,200.

(24) Rotation of units to Bosnia is having a direct and negative impact on the ability of later-deploying divisions to maintain the training and readiness levels needed to execute their mission in a major regional conflict. Indications of this include:

(A) The reassignment by the Commander of the 3rd Brigade Combat Team of 63 soldiers within the brigade to serve in infantry squads of a deploying unit of 800 troops, stripping non-deploying infantry and armor units of maintenance personel, and reassigning Non-Commissioned Officers and support personnel to the task force from throughout the brigade;

(B) Cancellation of gunnery exercises for at least two armor battalions in later-deploying divisions, causing 43 of 116 tank crews to lose their qualifications on the weapon system;

(C) Hiring of outside contract personnel by 1st Armored and 1st Infantry later-deploying divisions to perform routine maintenance.

(25) National Guard budget shortfalls compromise the Guard's readiness levels, capabilities, force structure, and end strength, putting the Guard's personel, schools, training, full-time support, retention and recruitment, and morale at risk.

(26) The President's budget requests for the National Guard have been insufficient, notwithstanding the frequent calls on the Guard to handle wide-ranging tasks, including deployments in Bosnia, Iraq, Haiti, and Somalia.

(b) Sense of Congress:

(1) It is the sense of Congress that—

(A) The readiness of U.S. military forces to execute the National Security Strategy of the United States is being eroded from a combination of declining defense budgets and expanded missions;

(B) The ongoing, open-ended commitment of U.S. forces to the peacekeeping mission in Bosnia is causing assigned and supporting units to compromise their principle wartime assignments;

(C) Defense appropriations are not keeping pace with the expanding needs of the armed forces.

(c) Report Requirement.

(1) Not later than June 1, 1999, the President shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives, and to the Committees on Appropriations in both Houses, a report on the military readiness of the Armed Forces of the United States. The President shall include in the report a detailed discussion of the competition for resources service-by-service caused by the ongoing commitment to the peacekeeping operation in Bosnia, including in those units that are supporting but not directly deployed to Bosnia. The President shall specifically include in the report the following:

(A) an assessment of current force structure and its sufficiency to execute the National Security Strategy of the United States;

(B) an outline of the service-by-service force structure expected to be committed to a major regional contingency as envisioned in the National Security Strategy of the United States;

(C) a comparison of the force structures outlined in sub-paragraph (c)(1)(B) above with the service-by-service order of battle in Operation Desert Shield/Desert Storm, as a representative and recent major regional conflict;

(D) the force structure and defense appropriation increases that are necessary to execute the National Security Strategy of the United States assuming current projected ground force levels assigned to the peacekeeping mission in Bosnia are unchanged;

(E) a discussion of the U.S. ground force level in Bosnia that can be sustained without impacting the ability of the Armed Forces to execute the National Security Strategy of the United States, assuming no increases in force structure and defense appropriations during the period in which ground forces are assigned to Bosnia.

Mrs. HUTCHISON. Mr. President, this amendment is a sense of Congress regarding the readiness of the U.S. Armed Forces to execute the national security strategy of the United States. So many people are now talking about the hollow military that we seem to be going into, and I think it is time that Congress address the concern that all of us have that we may be driving our military down to the point that we will not be able to respond if something happens where we are needed anywhere in the world.

So, I make the following findings:

That since 1989:

The national defense budget has been cut in half as a percentage of the gross domestic product;

The national defense budget has been cut by over $120 billion in real terms;

The U.S. military force structure has been reduced by more than 30 percent;

The Department of Defense's operations and maintenance accounts have been reduced by 40 percent;

The Department of Defense's procurement funding has declined by more than 50 percent;

U.S. military operational commitments have increased fourfold.

It is clear the Army has reduced its ranks by over 630,000 soldiers and civilians, closed over 700 installations at home and overseas and cut 10 divisions from its force structure.

The Army has reduced its presence in Europe from 215,000 to 65,000 personnel.

The Army has averaged 14 deployments every four years, increased significantly from the Cold War trend of one deployment every four years.

The Air Force has downsized by nearly 40 percent,while experiencing a fourfold increase in operation commitments.

In 1992, 37 percent of the Navy's fleet was deployed at any given time. Today that number is 57 percent; at its present rate, it will climb to 62 percent by 2005.

The Navy Surface Warfare Officer community will fall short of its needs a 40 percent increase in retention to meet requirements;

The Air Force is 18 percent short of its retention goal for second-term airmen.

We know the Air Force is more than 800 pilots short, and we know that our experienced pilots have not re-upped, even in the face of a $60,000 bonus.

The Army faces critical personnel shortages in combat units, forcing unit commanders to borrow troops from other units just to participate in training exercises.

In 1997, the Army averaged 31,000 soldiers deployed away from their home station in support of military operations in 70 countries with the average deployment lasting 125 days.

Critical shortfalls in meeting recruiting and retention goals is seriously affecting the ability of the Army to train and deploy. The Army reduced its recruiting goal for 1998 by 12,000 personnel.

The Navy reports it will fall short of enlisted sailor recruitment for 1998 by 10,000.

One in ten Air Force front-line units are not combat ready.

Ten Air Force technical specialties, representing thousands of airmen, deployed away from their home station for longer than the Air Force standard 120-day mark in 1997.

In 1997, U.S. Marines in the operating forces have deployed on more than 200 exercises, rotational deployments, or actual contingencies.

U.S. Marine Corps maintenance forces are only able to maintain 92 percent ground equipment and 77 percent aviation equipment readiness rates due to excessive deployments of troops and equipment;

The National Security Strategy of the United States assumes the ability of the U.S. Armed Forces to prevail in two major regional conflicts nearly simultaneously.

Mr. President, all of us, including the distinguished Senator from Kansas who is a former marine, know that "nearly" has been inserted into our national security strategy. Our strategy used to be that we would have the ability to prevail in two major regional conflicts simultaneously. Today, we are saying "nearly simultaneously," yet none of us who have studied these issues believe that we are ready, today, even for this ramped down mission.

To execute the National Security of the United States, the U.S. Army's five later-deploying divisions, which constitute almost half of the Army's active combat forces, are critical if the success of specific war plans can be achieved.

According to commanders in these divisions, the practice of under staffing squads and crews that are responsible for training, and assigning personnel to other units as fillers for exercises and operations, has become common and is degrading unit capability and readiness.

In the aggregate, the Army's later-deploying divisions were assigned 93 percent of their authorized personnel at the beginning of fiscal year 1998. In one specific case, the 1st Armored Division was staffed at 94 percent in the aggregate; however, its combat support and service support specialties were filled at below 85 percent, and captains and majors were filled at 73 percent.

At the 10th Infantry Division, only 138 of 162 infantry squads were fully or minimally filled, and 36 of the filled squads were unqualified.

At the beginning of fiscal year 1998, the five later-deploying divisions critical to the execution of the U.S. National Security Strategy were short nearly 1,900 of the total 25,357 Non-Commissioned Officers authorized, and as of February 15, 1998, this shortage had grown to almost 2,200.

Rotation of units to Bosnia is having a direct and negative impact on the ability of later-deploying divisions to maintain the training and readiness levels needed to executive their mission in a major regional conflict. Indications of this include;

The reassignment by the Commander of the 3rd Brigade Combat Team of 63 soldiers within the brigade to serve in infantry squads of a deploying unit of 800 troops, stripping non-deploying infantry and armor units of maintenance personnel, and reassigning Non-Commissioned Officers and support personnel to the task force from throughout the brigade;

Cancellation of gunnery exercises for at least two armor battalions in later-deploying divisions, causing 43 of 116 tank crews to lose their qualifications on the weapon system;

Hiring of outside contract personnel by 1st Armored and 1st Infantry later-deploying divisions to perform routine maintenance.

Mr. President, these are the facts. Every one of the facts that I have read is absolutely in print, in the report of the Quadrennial Defense Review, in the DOD budget for fiscal year 1999, and a compilation of statements from the Department of Defense vice chiefs in a hearing before the Senate Armed Services Committee, and every other part of what I have just read has been documented. These are from the Defense Department's own statistics.

So I am asking for the sense of Congress, that we declare that:

The readiness of U.S. military forces to execute the National Security Strategy of the United States is being eroded from a combination of declining defense budgets and expanded missions;

The ongoing, open-ended commitment of U.S. forces to the peacekeeping mission in Bosnia is causing assigned and supporting units to compromise their principle wartime assignments.

Defense appropriations are not keeping pace with the expanding needs of the Armed Forces.

So I am asking for a report by June 1, 1999 from: the President of the United States to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives, and to the Committees on Appropriations in both Houses, a report on the military readiness of the Armed Forces of the United States.

The President shall include in the report a detailed discussion of the competition for resources service-by-service caused by the ongoing commitment to the peacekeeping operation in Bosnia, including in those units that are supporting but not directly deployed to Bosnia.

What we are asking, Mr. President, is for an assessment of where we are. We have all talked about the problems we have seen in small instances and different pieces of testimony. What I have done in this sense of the Senate is put it all together. I have taken from the Department of Defense its own authorization, its own budget, its Quadrennial Defense Review, from statements made before one of our two committees that talked about the problems in specific detail.

I think it is time that we in Congress now say we have put it all together and we want a report on the state of our readiness. Let's look at all of the factors and let's determine that we have a problem, that we have to determine what to do about it, and let's go forward and try to work with the administration, with the President, with the Secretary of Defense, and look at the big picture, and the big picture and the goal for all of us is that we would be able to meet the national security strategy of the United States, that we would be able to prevail in two major regional conflicts nearly simultaneously.

I prefer simultaneously, but, nevertheless, we are not even up to the goal that we have stated, and we want to do what is our responsibility in the U.S. Congress, and that is, ask for the report, let's study the problem and let's come up with a solution together with the Armed Services Committee and the Appropriations Committee of the U.S. Senate and the U.S. House.

Mr. President, I hope that my colleagues will support me in this sense of Congress. It is just the beginning of our responsibility to address what we see as the problems in our military and that we would then be able to take the report and take the necessary steps to correct the backward motion that we are making with regard to the military readiness and the security of our country.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The distinguished chairman of the Appropriations Committee, the Senator from Alaska.

Mr. STEVENS. Mr. President, I commend the Senator from Texas for her presentation. It is my hope we will be able to accept that amendment. I have referred it to my colleagues on the other side of the aisle, and we are hopeful that we can reach that conclusion later.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999—AMENDMENT NO. 3385

Mr. STEVENS. Mr. President, on another subject, time will expire at 2 o'clock on the items to be voted on included in the Treasury and general government operations bill. I offered amendment No. 3385 regarding recomputation of some Federal annuities. I point out that this option is not mandatory. The only way future retired employees can take advantage of this provision is if they make a payment into the Federal retirement system.

Several times in recent years, Congress has denied COLA adjustments for Federal employees. In some years, only Members of Congress were denied COLAs. In other years, other employees were affected.

My amendment provides that Federal employees covered by the Civil Service Retirement System and the Federal Employees Retirement System who did not receive automatic pay adjustments because of an act of Congress may, upon retirement, have their high-three salary recomputed as if they received the COLAs provided to annuitants.

This option cannot be exercised until the covered employee pays into the Civil Service Retirement Fund the amounts required by the amendment; namely, the contributions to the retirement fund the employee would have made if the employee had received the annuitant COLA.

It is really a fairness issue, to me. I am most concerned about survivors. Currently, 26 percent of all those who receive Federal annuities are survivors and the median time for a survivor annuity is just over 12 years. Survivors live on 55 percent of the employee's annuity. But, Mr. President, when an employee does not receive a COLA received by retired annuitants—and I point out that in almost every year, the retired annuitant, the people retired, have received the COLAs—then it simply means that survivors of retired employees receive greater annuities, greater compensation than those received by survivors of employees who continued to serve during the period when Congress denied COLAs to current Members and employees.

I believe the right thing to do is to adopt this concept. It allows the employee or the survivor of the employee who has passed on to ask for recomputation of the high-three concept based upon an assumption that the retiree had received the cost-of-living adjustments that were given to retired annuitants in the period when those were denied to Congress or other Federal employees.

I urge my colleagues to adopt this amendment. I will have a minute to talk about it when the amendment comes up for a vote, as we start voting at 2 o'clock. I wanted this in the RECORD at this point.

I thank the Chair.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. STEVENS. Mr. President, I understand the Senator from California would like to speak on the Hutchinson amendment.

Mrs. FEINSTEIN. Not on this amendment, Mr. President, but the Hutchinson amendment.

Mr. STEVENS. The Hutchinson amendment that I made a motion to table, the one pertaining to China.

Mrs. FEINSTEIN. That is correct.

Mr. STEVENS. Although I made a motion to table, I think it is in order until 2 o'clock that they may be able to speak.

AMENDMENT NO. 3409

Mrs. HUTCHISON. I am prepared to leave the floor, but I have two things. First, I ask unanimous consent that Senator ABRAHAM be added as a cosponsor of amendment No. 3409.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Secondly, I ask the manager of the bill if he still wants me to offer the other amendment that I was to offer, or would he prefer to go forward with Senator FEINSTEIN, and I can always do that after the votes.

Mr. STEVENS. Mr. President, I did request the Senator from Texas offer her Bosnia amendment so it will be the pending amendment after the votes this afternoon. I appreciate that she did that at this time. I urge she save the statement to be made until after the Senator from California, who has been waiting to make comments on the China amendment which I have already moved to table.

AMENDMENT NO. 3391, AS MODIFIED

Mr. STEVENS. Mr. President, I send to the desk a technical correction to amendment No. 3391 previously adopted. I ask unanimous consent that the amendment be modified. It is strictly a technical error in the amendment that was previously adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3391), as modified, is as follows:

On page 34, line 24, strike out all after "$94,500,000" down to and including "1999" on page 35, line 7.

On page 42, line 1, strike out the amount "$2,000,000,000", and insert the amount "$1,775,000,000".

On page 99, in between lines 17 and 18, insert the following:

SEC. 8 . (a) In addition to funds provided under title I of this Act, the following amounts are hereby appropriated: for "Military Personnel, Army", $58,000,000; for "Military Personnel, Navy", $43,000,000; for "Military Personnel, Marine Corps", $14,000,000; for "Military Personnel, Air Force", $44,000,000; for "Reserve Personnel, Army", $5,377,000; for "Reserve Personnel, Navy", $3,684,000; for "Reserve Personnel, Marine Corps", $1,103,000; for "Reserve Personnel, Air Force", $1,000,000; for "National Guard Personnel, Army", $9,392,000; and for "National Guard Personnel, Air Force", $4,112,000".

(b) Notwithstanding any other provision in this Act, the total amount available in this Act for "Quality of Life Enhancements, Defense", real property maintenance is hereby decreased by reducing the total amounts appropriated in the following accounts: "Operation and Maintenance, Army", by $58,000,000; "Operation and Maintenance, Navy", by $43,000,000; "Operation and Maintenance, Marine Corps", by $14,000,000; and "Operation and Maintenance, Air Force", by $44,000,000.

(c) Notwithstanding any other provision in this Act, the total amount appropriated under the heading "National Guard and Reserve Equipment", is hereby reduced by $24,668,000.

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order for the Senator from California to speak on the amendment that was offered by Senator HUTCHINSON, following the offering of the Bosnia amendment by the Senator from Texas.

The PRESIDING OFFICER. Without objection it is so ordered. The Senator from California is recognized.

Mrs. HUTCHISON. Mr. President, I think the unanimous consent agreement was to allow me to offer my amendment, and then I will defer to the Senator from California.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 3413

(Purpose: To condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces in the Republic of Bosnia and Herzegovina)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. STEVENS, Mr. CRAIG, Mr. SESSIONS, Mr. SMITH of Oregon and Mr. FEINGOLD, proposes an amendment numbered 3413.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) The Congress finds the following:

(1) United States Armed Forces in the Republic of Bosnia and Herzegovina have accomplished the military mission assigned to them as a component of the Implementation and Stabilization Forces.

(2) The continuing and open-ended commitment of U.S. ground forces in the Republic of Bosnia and Herzegovina is subject to the oversight authority of the Congress.

(3) Congress may limit the use of appropriated funds to create the conditions for an

orderly and honorable withdrawal of U.S. troops from the Republic of Bosnia and Herzegovina.

(4) On November 27, 1995, the President affirmed that United States participation in the multinational military Implementation Force in the Republic of Bosnia and Herzegovina would terminate in about one year.

(5) The President declared the expiration date of the mandate for the Implementation Force to be December 20, 1996.

(6) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed confidence that the Implementation Force would complete its mission in about one year.

(7) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed the critical importance of establishing a firm deadline in the absence of which there is a potential for expansion of the mission of U.S. forces.

(8) On October 3, 1996, the Chairman of the Joint Chiefs of Staff announced the intention of the United States Administration to delay the removal of United States Armed Forces personnel from the Republic of Bosnia and Herzegovina until March 1997.

(9) In November 1996 the President announced his intention to further extend the deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(10) The President did not request authorization by the Congress of a policy that would result in the further deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(11) Notwithstanding the passage of two previously established deadlines, the reaffirmation of those deadlines by senior national security officials, and the endorsement by those same national security officials of the importance of having a deadline as a hedge against an expanded mission, the President announced on December 17, 1997 that establishing a deadline had been a mistake and that U.S. ground combat forces were committed to the NATO-led mission in Bosnia for the indefinite future.

(12) NATO military forces have increased their participation in law enforcement, particularly police activities.

(13) U.S. Commanders of NATO have stated on several occasions that, in accordance with the Dayton Peace Accords, the principal responsibility for such law enforcement and police activities lies with the Bosnian parties themselves.

SEC. 2. LIMITATIONS ON THE USE OF FUNDS.

(a) Funds appropriated or otherwise made available for the Department of Defense for any fiscal year may not be obligated for the ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina except as conditioned below.

(1) The President shall continue the ongoing withdrawal of American forces from the NATO Stabilization Force in the Republic of Bosnia and Herzegovina such that U.S. ground forces in that force or the planned multi-national successor force shall not exceed:

(A) 6500, by February 2, 1999;

(B) 5000, by October 1, 1999.

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply—

(1) to the extent necessary for U.S. ground forces to protect themselves as the drawdowns outlined in sub-paragraph (a)(1) proceeds;

(2) to the extent necessary to support a limited number of United States military personnel sufficient only to protect United States diplomatic facilities in existence on the date of the enactment of this Act; or

(3) to the extent necessary to support noncombat military personnel sufficient only to advise the commanders of North Atlantic Treaty Organization peacekeeping operations in the Republic of Bosnia and Herzegovina; and

(4) to U.S. ground forces that may be deployed as part of NATO containment operations in regions surrounding the Republic of Bosnia and Herzegovina.

(c) CONSTRUCTION OF SECTION.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

(d) LIMITATION ON SUPPORT FOR LAW ENFORCEMENT ACTIVITIES IN BOSNIA.—None of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended after the date of the enactment of this Act for the—

(1) conduct of, or direct support for, law enforcement and police activities in the Republic of Bosnia and Herzegovina, except for the training of law enforcement personnel or to prevent imminent loss of life;

(2) conduct of, or support for, any activity in the Republic of Bosnia and Herzegovina that may have the effect of jeopardizing the primary mission of the NATO-led force in preventing armed conflict between the Federation of Bosnia and Herzegovina and the Repulika Srpska ('Bosnian Entities');

(3) transfer of refugees within the Republic of Bosnia and Herzegovina that, in the opinion of the commander of NATO Forces involved in such transfer—

(A) has as one of its purposes the acquisition of control by a Bosnia Entity of territory allocated to the other Bosnian Entity under the Dayton Peace Agreement; or

(B) may expose United States Armed Forces to substantial risk to their personal safety; and

(4) implementation of any decision to change the legal status of any territory within the Republic of Bosnia and Herzegovina unless expressly agreed to by all signatories to the Dayton Peace Agreement.

SEC. 4. PRESIDENTIAL REPORT.

(a) Not later than December 1, 1998, the President shall submit to Congress a report on the progress towards meeting the drawdown limit established in section 2(a).

(b) The report under paragraph (a) shall include an identification of the specific steps taken by the United States Government to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to European allied nations or organizations.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. This is the amendment on Bosnia that we will discuss immediately following the stacked votes this afternoon. I am happy to yield the floor.

The PRESIDING OFFICER. The distinguished Senator from California is finally recognized.

Mrs. FEINSTEIN. I thank the Chair.

AMENDMENT NO. 3124

Mr. President, as one who has watched China for some 35 years now, and been a frequent visitor for the past 20 years, I would like to make a few comments on the Hutchinson amendment, which effectively would set up a protocol whereby officials beneath the rank of Cabinet officials could be refused visas to come to this country.

The amendment, while it promotes a worthy goal, goes about it in a completely, I believe, counterproductive way. I do not think there is any Senator in this body who does not condemn the practice of forced abortion, forced sterilization, or any other coercive population control device or measure. We all condemn it.

I do not think there is any Senator in this body who does not condemn religious persecution that prevents people from freely exercising their own personal religious beliefs. Of course, not. We all condemn that. This amendment takes a stand on a principle but it does nothing to help solve the problem it is designed to address, and there is the rub.

We all agree there are certain practices and policies still in China that we oppose. The question we need to ask ourselves is this: What is the best contribution we can make to producing change, real change, in China? I submit that the answer is, we can engage China at all levels, all levels of government. Academia, business, law, and every other kind of social interaction should be energized. We should welcome every chance to interact with the Chinese people and officials as an opportunity to expose them to our values, to expose them to the rule of law, to Democratic values, to individual liberties.

The path set out by this amendment, I believe, is extraordinarily dangerous and it takes us on the opposite path. It is a path of isolation and containment. It cuts ourselves off from the very people we need to help educate and persuade and expose to Western values. And it would surely spark similar countermeasures by the Chinese Government to deny visas to U.S. officials, further deepening our isolation from one another, and developing the adversarial relationship that many of us believe need never happen. It could go on and on in a vicious cycle.

Do any of my colleagues seriously believe that any Chinese official would be dissuaded from conducting any human rights action because they would be denied a visa to the United States? I think not. I do deeply believe that if Chinese officials are exposed to U.S. society—and this has begun. I know it has been criticized, but I see it working. I come from a Pacific rim State where there is a great deal of interaction with Asia. I see our values go across the Pacific. I see them enter the Chinese mainland. I see the changes that have been made.

Mr. President, when Richard Nixon went to China in 1972, China was still in the midst of the Cultural Revolution. There has never been a more brutal period in Chinese history than the Cultural Revolution. We have seen those dark days recede. We have seen a new leadership in place.

For the first time, I believe that this new leader now has the face, has consolidated his power, to begin to make certain major reforms. I very deeply believe we are going to see those reforms in the next few years. Already, there is writing here and in China about the order given to the Chinese military to remove themselves from all commercial endeavors.

Surprisingly enough, this, for the first time, has been done with transparency—in other words, a public statement for all to know that the new policy of the Chinese Government is that the Chinese military will not run commercial operations in trade, in business, or in any other pursuit. This is a very healthy, a very positive advance, which I think the entire free world should take hold of.

Additionally, you heard voluntarily the President of China, after many of us have importuned him over a long period of time, I myself beginning in 1991 carrying messages from His Holiness, the Dalai Lama, to the President of China, urging that there be a meeting—for the first time, the President of China has said publicly, with transparency, that if His Holiness, the Dalai Lama, makes a statement that respects the fact that Tibet is a part of China and that independence is not a part of the discussions, that there can be meetings that follow.

This is, true, a breakthrough in rhetoric, but it has never happened before in the 8 years I have been trying to achieve it. That happened while the President was in China. So these changes are being made.

One by one—perhaps not enough—the freeing of political dissidents, the adoption of a 30-day period of administrative leave, the Chinese interests in developing exchanges in the rule of law, to develop a modern commercial code, a modern criminal code, hopefully to press for the independence of the judicial branch of Government which currently is subject to party control —all of these are the breakthroughs that we should begin to press.

We have certain intellectual property, certain intellectual property concerns. How could those ever be brought about if we could not have an exchange of lower level officials to see to it that intellectual property laws are being carried out? It makes no sense to me. I believe it is one step toward containment and isolation. I believe that both of those are unwarranted, highly counterproductive——

Mr. HUTCHINSON. Will the Senator yield for a question?

Mrs. FEINSTEIN. I am happy to yield for a question.

Mr. HUTCHINSON. You were speaking very positively about the changes in China. My question is, How do we reconcile the recent round of arrests that occurred in the 2 weeks—actually, the week subsequent to the President's visit—headlined in all of the newspapers across the country? Those who had attempted to register as an opposition political party and were arrested, some of whom are still incarcerated, as well as the tests of rocket engines that occurred even while the President was in China, how do we reconcile that with this supposed great reform that is taking place in China? And then also, the question I would pose is, The amendment that you are opposing simply says that visas should not be granted to those who are involved in forcing—compelling—abortions on women against their will and those who are involved in persecution of religious believers of various faiths. Do you oppose denying visas to those individuals who are involved in forced abortions and religious persecution?

Mrs. FEINSTEIN. I would be happy to answer the questions of the distinguished Senator from Arkansas.

Yes, I oppose a measure which would oppose the granting of visas. The normal diplomatic and pragmatic efforts of a government-to-government effort to engage and discuss, to bring to light of day, to continue to persuade and develop a better sense of values would be truncated and cut off.

I believe, I say to the Senator, as one who has watched China for some 35 years now, that this is a country which has been humiliated by the West in the past. This is a country that has 5,000 years of dictatorship by one individual, generally an emperor, an emperor who could cast aside people, who could kill people at will—then revolutionary war heroes, basically people who were uneducated.

This is the first post-revolutionary war leadership that has had some Western education, that has some Western understanding. China closed itself off from the West after the Boxer Rebellion and because of what happened in the opium trade, never wanting any kind of interaction with the West.

Now, for the first time, China is open, I believe, to Western values, to Western ideas. I happen to believe it is to our interest. We didn't settle the enormous intellectual property and piracy problems by saying, if you commit a piracy act, you won't have a visa to the United States. We settled it by sending over delegation after delegation of officials to let the Chinese Government know what this was all about, to identify and help identify those factories that were producing illegal goods, and to follow up and see, in fact, that the Chinese Government was willing to take action to shut them down. It has worked. It will be a bumpy road. But cutting off visas of officials isn't the way to handle problems, whether they relate to IPR, whether they relate to technology transfer, whether they relate to other military endeavors or trade matters, I believe.

I must say, I believe this is the first time in the last year that the administration has really made up their mind that what they are going to do is engage China fully and completely at the top level. I believe it is having enormous dividends and that we will see in the years to come a much more open country, a country that has taken steps to make greater reforms.

You have to realize that to those of us who sit on the west coast, the Pacific rim is our world of trade. The Pacific rim has by far exceeded the Atlantic Ocean as the major theater of trade. In my State, approximately over a third of the jobs depend on trade with Asia. We want to have positive relations with Asia, positive relations with the Philippines, with Taiwan, with South Korea, with China, with all of the ASEAN countries as well. Increasingly, we have an opportunity, we believe, on the Pacific, to form a Pacific rim community that is peaceful, where trade can take place, where like values can be shared. I must tell you, I buy into that dream. I want to see it happen.

Mr. HUTCHINSON. Will the Senator yield?

Mrs. FEINSTEIN. I am happy to yield.

Mr. HUTCHINSON. Mr. President, coerced abortion and religious persecution are two practices that the Chinese Communist Government denies take place in China.

How, then, would denying visas to Chinese officials in which we have credible evidence that, in fact, they are doing—how would that impede the kind of positive relationship that you want to see?

I again reiterate the questions: How do we reconcile the most recent rounds of arrests of those who tried to form a democracy party in China when they were detained and incarcerated? And the test of the rocket engines while the President was in China, how do we reconcile that with this supposed breeze of freedom that we now have blowing through China?

Mrs. FEINSTEIN. I don't think it is all going to be smooth and all going in one direction. I find the arrest of dissidents in the wake of the President's visit or prior to the President's visit as 100 percent wrong.

Senator, if there is one thing I have learned about the Chinese, they can be ham-handed in how they function. They can be their own worst enemies in how they handle, because they function under a different, I think, value system in this regard. Sometimes, I believe, it is overreaction. I have read things, and I sit back and say, why did this have to happen?

Now, let's talk for a moment about forced abortion. I think it is an abysmal practice, it is a barbaric practice. China says they do not countenance and they do not want to permit it. That is the official government policy. Are there occasions where, in this vast country, forced abortion is committed, do I believe? I believe there are instances where forced abortions are, in fact, committed. I also believe, though, that by pointing this out continually, we will see some changes.

I think it has to be understood that China still has over 100 million people way under the poverty line, some living in caves, some living in the most impoverished circumstances, particularly in western China. It has to be understood that China is a nation of 1.2 billion people, growing rapidly.

When I first went to China in 1979, what I was told was, what we have for one person must be extended to five people. I have seen since that time the quality of life improving for people. I have seen the easing of restrictions. I have seen the improvement in the dialog. I have seen the stress on education. I have seen the opening of the society. I have to think that is healthy for the society. I think if we engage that society, if we talk with people on equal levels, if we treat China without humiliating China but treat China with equality, that we will see major positive changes in the future.

So I appreciate the opportunity to have this dialog. I respect your values. I respect what you are trying to do in this regard. I just happen to believe, based on my knowledge, my understanding, and my experience with China and the Chinese people, I believe it would be highly unproductive.

I just wanted an opportunity to come to the floor and have that opportunity to state my views. I thank the distinguished Senator.

The PRESIDING OFFICER. The distinguished Senator from Michigan.

Mr. KENNEDY. Will the Senator yield?

Last evening I had asked the majority leader just for 5 minutes at some time during the period when he was propounding the consent request. I am glad to cooperate with the floor managers on when would be the most appropriate time to do so, but since we are starting off on an amendment, I don't want to interrupt the debate on the amendment, and I am glad to inquire of my friend from Michigan what period of time he intends to take.

Mr. ABRAHAM. If the Senator from Massachusetts would like to speak for up to 5 minutes, the Senator from Michigan would be happy to propose a unanimous consent agreement by which the Senator from Massachusetts is yielded 5 minutes to speak, in morning business or whatever, and then establish that the Senator from Michigan would be recognized to proceed with the amendment.

The PRESIDING OFFICER. Does the Senator from Michigan desire to make that request in the form of a unanimous consent request?

Mr. ABRAHAM. I ask unanimous consent that the Senator from Massachusetts be permitted to speak for 5 minutes at this time, to be followed by the Senator from Michigan to then resume discussion of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator from Michigan.

As the Senator knows, the Judiciary Committee, of which we are both members, is starting hearings at this time as well. I appreciate his kindness in permitting me to address the Senate at this time.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, as we begin the August recess, the American people should understand that the Republican leadership is still bent on blocking meaningful HMO reform. I believe that Senator LOTT owes it to Congress and the American people to schedule a full and fair debate as the Senate's first order of business when we return in September, but he has refused to do so and continues to hide behind the unreasonable restrictions on fair guidelines for the Senate's debate.

The Republican leadership in Congress deserves the failing grades it is getting for fumbling the issue on HMO reform. At least since last January when the press reports began noting that Oscar-winning actress Helen Hunt in "As Good as it Gets," who electrified audiences with her attack on HMOs, it has been clear that a tidal wave of support is building to end the managed care abuses and stop HMOs from profiting in ways that jeopardize patients' health or their very lives.

The GOP's HMO line of defense continues to be to block any strong legislation, refuse to allow fair debate, and to give the HMO industry antireform TV ads a chance to bite. The genie is out of the bottle, and that cynical strategy will fail. If the majority leader has not already done so, I urge him to see the film during the recess. I have a videotape of the film here. I ask a page to deliver it to the majority leader.

I urge the leader to see the film in a theater so he can judge the audience reaction and be more convinced of the genuine public outrage that exists over the abuses of HMOs and managed care. It is long past time for the Congress to end these abuses. Too often, the managed care is mismanaged care. No amount of distortion or smokescreens by insurance companies or GOP campaign ads can change the facts. A real Patients' Bill of Rights can stop these abuses. Let's pass it now before more patients have to suffer.

All we want is a chance, in the time-honored tradition and the regular order of this body, to present a full and complete debate on this issue. We have had 5 days of debate and discussion on agriculture, with 55 amendments. We have had 6 days of debate on the defense authorization, with 105 amendments. We have had 7 days of debate on the budget, with over 100 amendments. We are entitled to an opportunity for a full and fair debate. If there are provisions to be included in the Daschle bill, we would like to hear about them and what the objectives are. We believe that this debate offers the best opportunity to make sure that we are going to have the doctors and patients make decisions and not the insurance companies. That is the central and fundamental issue that we ought to be debating. We are going to continue to press this issue until we have that debate.

The Senate Republican leadership plan is not a bill of rights—it's a bill of wrongs. It cannot withstand a full and fair debate on the floor of the Senate. Its supporters know that—so they are refusing to bring it up for full debate, or at least agree on a fair number of amendments.

The goal of the Republican leadership and their friends in the insurance industry is to prevent legislation this year, or to pass only a minimalist bill so weak that it would be worse than no bill at all. The initial Republican strategy—the stonewall strategy—lasted for more than a year. But it broke down last month in the face of overwhelming public demand for action.

Their minimalist approach pays lip service to reform without the reality of reform. They refuse to let the Senate debate it, because they know their plan is more loophole than law.

The Republican record of delay and denial is clear. Congressman DINGELL and I first introduced patient protection legislation 17 months ago—on February 25, 1997.

Senator DASCHLE introduced the Patients' Bill of Rights four months ago—on March 31, 1998.

We have repeatedly asked for committee action or consideration by the full Senate of this important legislation, but the Republican leadership has repeatedly said "no."

Now, they know they can no longer just say "no." So the Leadership is trying the next best thing. Instead of bringing up the bill for full and fair debate, they have offered up a series of phony consent agreements that they know are unacceptable. They don't want a full debate with an opportunity to amend their Patient Bill of Wrongs, because they believe that the less the American people know about their sham proposals, the better they will be able to protect their friends in the health insurance industry.

In fact, the Republican leadership has gone to extraordinary lengths in the past six weeks to prevent a full debate on HMO reform.

On June 18, Senator LOTT proposed to bring up the bill, but on terms that made a mockery of legislative process.

That proposal would have allowed the Senate to start debate on HMO reform, but Senator LOTT would have been permitted to pull the bill down at any time, and the Senate would have been barred from considering it further for the rest of the year. So if Senator LOTT did not like the direction the bill was headed, he could withdraw it and tie the Senate's hands on HMO reform for the remainder of the year.

On June 23, 43 Democratic Senators wrote to Senator LOTT to urge him to allow a full debate and votes on the merits of the Patients' Bill of Rights before the August recess.

In response, on June 24, Senator LOTT simply repeated his earlier unacceptable offer.

On June 25, Senator DASCHLE proposed an agreement under which Senator LOTT would bring up a Republican health care bill by July 6, Senator DASCHLE could offer the Democratic Patients' Bill of Rights, and other Senators could offer only amendments relevant to the HMO reform issue. We would not allow amendments on any other subject—just those relevant to the Patients' Bill of Rights.

However, Senator LOTT rejected this offer. And on June 26, he offered once again an agreement that allowed Senator LOTT to withdraw the legislation at any time, and bar any further consideration of any health care legislation for the remainder of the year.

On July 15, after a long silence, Senator LOTT made yet another offer. This time he proposed an agreement that allowed for no amendments. He could bring up his bill. We could bring up ours. And that is it. It would be all or nothing. The American people would be denied votes on specific issues.

No vote on whether all Americans should be covered, or just one-third as the Republicans propose.

No vote on whether there should be genuine access to emergency room care.

No vote on whether patients should have access to the specialists they need when they are seriously ill.

No vote on whether doctors should be free to give the medical advice they feel is appropriate, without fear of being fired by the HMO.

No vote on whether patients with cancer or Alzheimer's disease or other illnesses should have access to clinical trials after conventional treatments fail.

No vote on whether patients in the middle of a course of treatment can keep their doctor if their health plan drops the doctor from the network, or the employer changes health plans.

No vote on whether patients should have meaningful independent review of plan decisions—or whether health plans should continue to be judge and jury.

No vote on whether the special health needs of persons with disabilities, and women, and children should be met.

No vote on whether health plans should be held responsible for decisions that kill or injure patients.

The list goes on and on.

But the Republican Leadership just wants an all-or-nothing vote on their plan and our plan. They don't want a genuine debate on patient protection. They don't want to be held accountable by the American people for defending industry profits instead of patients. They want to gag the Senate, and allow HMOs to continue to gag doctors.

On July 16, Senator DASCHLE proposed that we agree on a limited number of amendments—20 per side, directly related to the legislation, not on extraneous issues.

This offer by Senator DASCHLE reflects the best traditions of the Senate. It is consistent with the conditions under which we have debated many major legislative proposals in the Senate this year.

We had 7 days of debate on the budget resolution, and considered 105 amendments. Two of those were offered by Senator NICKLES.

We had 6 days of debate on the defense authorization bill, and considered 150 amendments. Two of those were offered by Senator LOTT, and he cosponsored 10 others.

We had 8 days of debate on IRS reform, and considered 13 amendments.

We had 17 days of debate on tobacco legislation—a bill we never completed—and considered 18 amendments.

We had 5 days of debate on the Agriculture Appropriations bill and 55 amendments.

Senator LOTT has said to reporters that Democrats might be able to offer 3 or 4 amendments. But that means we would have to decide which issues of concern to the American people are debated, and which are discarded. Do we debate access to emergency rooms, but put aside all concerns about access to specialists? Do we offer an amendment to ensure that all Americans are covered by the legislation, and not just the one-third the Republican plan proposes, but put aside access to clinical trials that could save lives?

This debate should not be an unfair choice. We agree that the number of amendments should be limited. But the number should be large enough to accommodate the large number of legitimate issues that need to be debated as part of this important reform.

If the Republican leaders are serious about fair debate, they know how to do it. We do it every day in the Senate, and we should do it now. If they are serious about passing meaningful patient protection legislation, they should call up the bill now. All we have asked for is 20 amendments per side. It will take at least 20 amendments to even begin to remedy the major defects in the Republican proposal.

Since the Republican leadership plan was introduced a week ago, we have held meetings and forums with doctors, nurses and patients to explore the critical issues that must be addressed if a Patients' Bill of Rights is to be worthy of its name.

In each case, doctors, nurses and patients have reached the same conclusions. The abuses by HMOs and managed care are pervasive in our health system. Every doctor and patient knows that, too often, managed care is mismanaged care. Every doctor and patient knows that medical decisions that should be made by doctors and patients are being made by insurance company accountants. Every doctor and patient knows that profits, not patient care, have become the priority of too many health insurance companies.

The message in each of these forums from doctors, nurses and patients has been the same. Pass the Patients' Bill of Rights. Reject the Republican leadership plan. It leaves out too many critical protections. It leaves out too many patients. Even the protections it claims to offer have too many loopholes. It is a plan to protect industry profits, not patients.

One of the aspects of their legislation that the Republican leadership likes to tout is its alleged protections for women. As part of their ongoing disinformation campaign about their legislation, they even had a press conference this morning to proclaim the benefits of their legislation for women. But no credible organization representing women endorses their bill—because their so-called protections for women are a sham.

Nowhere is the difference between the bipartisan Patients' Bill of Rights and the Republican Bill of Wrongs more evident than on the issue of protecting women's health. The Republican leadership bill leaves out most key patient protections. Even the protections it does include are more cosmetic than real. And even those cosmetic protections are limited to fewer than one-third of the privately insured patients who need help.

We held a forum yesterday afternoon during which leading organizations for women released a letter urging Senators to support the Patients' Bill of Rights and to reject the Republican leadership bill. The letter is signed by more than 30 women's groups, who represent millions of women in communities across the country.

Last Friday, we heard from Diane Bergin of College Park, MD. She has ovarian cancer, and is currently enrolled in a clinical trial. She eloquently described the need for plans to cover such trials and the importance of having access to specialty care. Diane is a vivid example of the promise of such therapies and the need to see that patients have genuine access to specialists.

Women need to know that they will receive the benefits covered by their plan and recommended by their treating physician—without being overruled by insurance company accountants.

Women need to know that they can choose their gynecologist to be their primary care physician.

Women need to know that they will never have to drive past the nearest emergency room, because a more distant hospital is part of their managed care plan.

Women with mental illness need to know that they will have access to psychiatrists, psychologists and other mental health professionals.

Women with ovarian cancer—like Diane Bergin—or other life-threatening conditions need to know that their health plan will let them participate in clinical trials by covering routine costs of such care.

Women whose plans provide pharmaceutical benefits need to know that they will have access to drugs that are not on the plan's list.

Women need to know that they will have access to a quick and independent appeal if their plan overrules their doctor.

Women need to know that they have a genuine remedy when plan abuses result in injury or death.

The Patients' Bill of Rights guarantees these rights to all women with private health insurance. The Republican plan guarantees none of them.

In fact, the closer you look at the Republican bill, the worse it looks. They claim to provide protections for patients who seek emergency room care. But the American College of Emergency Physicians has denounced their proposal as a sham.

They claim to provide independent third party appeal, but Consumer's Union analyzed their proposal and called it "woefully inadequate and far from independent."

Virtually every protection they claim to have included turns out to fail the truth-in-advertising test—and the protections they have left out are a dishonor roll of insurance industry abuses.

Part of democracy is accountability. We have votes in the Senate to pass or defeat bills. We have votes on amendments to improve bills. We record these votes, because we are elected by the people of our states to represent them. The people have a right to know where we stand on important issues.

I ask the Republican leader why he doesn't want the American people to know where members of the Senate stand on whether protections for patients should apply to all 161 million privately insured Americans—or leave more than 100 million out.

I ask the Republican leader why he doesn't want the American people to know where members of the Senate stand on allowing a sick child with cancer to have access to a specialist to treat his disease.

I ask the Republican leader why he doesn't want a vote on whether doctors and patients, not accountants, should make medical decisions.

I ask the Republican leader why he doesn't want a vote on whether doctors who stand up for their patients should be protected from retaliation by insurance companies.

I ask the Republican leader why he doesn't want a vote on whether patients should have access to the nearest emergency room when immediate medical treatment means the difference between life and death.

I ask the Republican leader why he doesn't want a vote on whether HMO decisions to deny patients the care they need should be subject to timely and independent review by an impartial third party.

I ask the Republican leader why he doesn't want a vote on whether patients with deadly diseases that no conventional treatment can help should have access to clinical trials that offer them the hope of cure or improvement.

I ask the Republican leader why he doesn't want a vote to insist on accountability for health plans when they kill or injure patients.

Each of those votes will address a critical weakness in the Republican plan. It is obvious why the Republican leader does not want Democrats to offer these amendments. He wants to keep the Republican bill weak, so that it will protect profits instead of patients. He thinks that he can hold Republican Senators for one vote in favor of a bad bill, but he cannot keep them together on vote after vote that will show who stands with patients—and who stands with HMOs.

The President will not sign—and the Senate should not pass—a bill that is a fig leaf over continued HMO abuses.

If the Senate has a full and fair debate in full view of the American people, needed patient protections will pass—and that is what the Republican leadership is trying to avoid.

The House Republican plan is so flawed that President Clinton has already sent a strong veto message. But the Senate Republican plan is even weaker than the House Republican plan—it's "Gingrich Lite." We know we can do better, and we will do better if we have a fair opportunity for full debate.

The Senate Republican plan protects industry profits instead of protecting patients. It is so riddled with loopholes that it's a license for continued abuse. It allows insurance company accountants to continue to make medical decisions, not doctors and patients. Patients with cancer, heart disease, or other serious illnesses will not have timely access to specialists and the treatment they need. Managed care plans are immunized from liability for abuses that injure or even kill a patient. No other industry in America has this immunity—and the managed care industry doesn't deserve it either.

Just as managed care plans gag their doctors, the Republican leadership wants to gag the Senate. Just as insurance companies delay and deny care, the Republican leadership is trying to delay and deny meaningful reform. Just as health plans want to avoid being held accountable when they kill or injure a patient, the Republican leadership wants to avoid being held accountable for killing patient protection legislation.

Yesterday, Senator CHAFEE offered a proposal that is a major improvement over the Senate Republican leadership plan, and it provides significant patient protections. But it lacks many of the most important protections in our Patients' Bill of Rights.

Key provisions omitted in the Chafee plan include the lack of needed protection for breast cancer patients from drive-through mastectomies and access to reconstructive surgery—the lack of fair opportunities for patients to join health plans allowing them to go to the physician or specialist of their choice—the lack of protection for health professionals who point out problems in the quality of care provided by health plans or facilities—and the lack of adequate remedies for patients injuries or killed by HMO abuses.

All of these reforms are needed, and all of them are strongly supported by an unprecedented alliance of physicians, nurses, patients, and working families.

Despite these significant gaps, the Chafee plan shows that the wall of opposition by Senate Republicans to genuine reform is continuing to crack, and it shows that at least some Republicans in the Senate are serious about reform. Now is the time for the Republican leadership to respond. As the Chafee plan shows, their industry profit protection plan is becoming less and less tenable with each passing day. The American people demand action, but the Republican leadership still refuses to bring patient protection legislation to the floor for full debate and action.

The Republican Leadership in Congress deserves the failing grades it's getting for fumbling the issue of HMO reform. At least since last January—when press reports began noting that Oscar-winning actress Helen Hunt in the movie "As Good As It Gets" was electrifying audiences with her attack on her HMO—it has been clear that a tidal wave of support is building to end managed care abuses and stop HMOs from profiteering in ways that jeopardizing patients' health or their very lives.

The GOP–HMO line of defense continues to be to block any legislation, refuse to allow fair debate, and give the HMO industry's anti-reform TV ads a chance to bite. But the genie is out of the bottle, and that cynical strategy will fail.

It's time for Congress to end the abuses of patients and physicians by HMOs and managed care health plans. Too often, managed care is mis-managed care. No amount of distortions or smokescreens by insurance companies can change the facts. A real Patients' Bill of Rights can stop these abuses. Let's pass it now, before more patients have to suffer.

Mr. President, I ask unanimous consent that two articles on the film "As Good As It Gets" be printed in the RECORD. The first is a March 29 Boston Globe column by Ellen Goodman. The second is a January 12 article in the St. Louis Post-Dispatch, which to my knowledge is the first report of the extraordinary impact of the film on the HMO debate, and which mentions State Representative Thomas Holbrook of Beltsville, Illinois as the first elected official to recognize this impact.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From The Boston Globe, March 29, 1998]

(By Ellen Goodman)

THE HMO HORROR SHOW

Too bad they don't have a Oscar for the Single Best Line in a movie. A zeitgeist award for the sentence you want to freeze-frame, the magical moment when Hollywood fantasy meets daily life, with they get it absolutely right.

Helen Hunt and Jack Nicholson picked up a couple of statues last week for Best Actress and Best Actor in "As Good as It Gets." But the Best Line prize belongs to the scribbler who put a string of ungenteel words in Hunt's mouth. When the distraught mother gave her opinion about the managed medical attention being given her asthmatic son, she exploded: "F------ HMO B------ Pieces of S---!"

At this outburst—with none of the expletives deleted—audiences all over America spontaneously burst out in applause. It was one of those moments when you know the tide has turned.

HMOs have become the new expletive—undeleted. Managed-care companies are rapidly replacing tobacco companies as corporate demons. Indeed, if you watch "The Rainmaker," the HMOs are taking the place of the Russkies as the bad guys. As Ronald Glasser, a Minneapolis pediatrician, HMO critic, and moviegoer who was downing popcorn when the audience roared at Hunt, exclaims, "I looked around and said, 'My God, the people are way ahead of the politicians on this.' "

A few years ago, the public saw doctors as rich professionals who overcharged on Tuesday and played golf on Wednesday. The weakness in the system was cost control—or cost out of control.

Now doctors and consumers are becoming allies on the same side, fighting the HMOs, hassling the 800 numbers, trapped in a medical system we suspect is being run by accountants. The weakness in the system is trust. Or rather, mistrust.

It is an astonishingly swift transformation. Bob Blendon, who polls health care issues at Harvard's School of Public Health, is about to publish a study of the consumer backlash that confirms Helen Hunt's less professorial opinion. His survey of surveys proves, he says, that "we have changed the whole politics of the health field. Essentially patients and doctors have come together in a new class of exploited people."

On the one hand, polls show that most Americans are satisfied with their own health care plans. On the other hand, they favor some type of government regulation.

These two views seem contradictory, but the backlash is based on the widespread anxiety about what happens if they get sick. "People have come to believe," says Blendon, "that these plans won't do the right thing for them when they are very sick."

There isn't yet much objective research to show how often health care is refused, or how often the hassles and hurdles have lethal consequences. The backlash is driven by horror stories of health care plans that won't pay for emergency care, by anecdotes of cancer referrals denied or delayed, by firsthand stories about a mother, a sister, a neighbor, a friend.

We have gotten the big picture as well. About 15 percent of the population accounts for 80 percent of the medical bills. In the phrase Glasser used in the March issue of Harper's, HMOs are "a Ponzi scheme" in which the premiums have to keep ahead of claims.

But the backlash scenario presents the HMOs with a dilemma. On the one hand, employers and employees may choose a system based on how it treats the very ill. On the other hand, HMOs want to enroll the very healthy.

In general, managed-care companies have shown the public relations skills of Ken Starr. In the past year or so, we've had reports of outpatient breast surgery and drive-through deliveries. All we've seen in return is HMO defensiveness.

Now politicians who read the papers and go to the movies are playing catch-up. There have been about 1,000 bills in state legislatures to protect the consumers from the managers.

In Washington, Congress is still dithering around with various forms of a patients' bill of rights, with Republican leadership trying to stall, duck, and weave. But it is getting pushed closer to a law that would provide for an external appeal to those denied care, access to emergency room, and an ombudsman program.

As for the HMO's those folks who brought us Harry and Louise are now warning us about Frankenstein. The latest ads say, "Washington: Be careful how you play doctor, you might mandate a monster."

A monster? It's the unmandated, unregulated system that has now produced the horror movie running in everybody's head. Any way you look at health care, even in a darkened theater, this is not as good as it gets.

[From the St. Louis Post-Dispatch, January 12, 1998]

HMOS MAY HIGHLIGHT HOT TOPICS IN LEGISLATURE; BILLS WOULD TARGET MYRIAD OF PATIENTS' COMPLAINTS

State Rep. Thomas Holbrook, Beltsville, Illinois got a preview of what may lie ahead in this year's Illinois legislative session when he saw the new Jack Nicholson movie, "As Good As It Gets."

In one scene, co-star Helen Hunt, playing the mother of a chronically ill boy, spouts vulgarity about a health maintenance organization that is refusing to give her son the treatment he needs.

"She starts railing on this HMO, and people in the theater actually stood up and started applauding," Holbrook recalled last week. "When's the last time you saw that happen in a theater? That's not an undercurrent, it's a tidal wave."

Proposals to make HMOs more user-friendly to consumers are among the major issues likely to face Illinois legislators when the year's legislative session opens Wednesday.

Other potential topics include clamping more restrictions on the campaign and contracting practices of state politicians; continued controversy over hog farm waste; discussions of new transportation projects in the Metro East area; and minor adjustments to the major education funding changes passed into law last year.

Technically, this year is the second half of a two-year legislative session. By legislative rule in Illinois, legislators in the second, even-numbered years are supposed to consider only budgetary matters and emergency issues.

That has historically been among the most ignored rules in state government, especially since even-numbered years are also election years. And, with the Senate and House under opposing parties—and with the House, especially, under a razor-thin Democratic majority—much of the debate this year is likely to be partisan and acrimonious.

Most legislators predict there will be few concrete changes on the books after the dust clears.

"There's no question there will be election-generated bills . . . but it will just be window-dressing," said Rep. Kurt Granberg, D-Carlyle. "Mainly, I think it's going to be a budget year."

AMONG THIS YEAR'S LIKELY TOPICS OF DEBATE IN THE LEGISLATURE: HMOS

The House last year passed several bills that would have regulated how HMOs deal with their patients and member doctors. Most of that legislation has remained stalled in the Senate but could be called up again through the end of this year.

One measure, labeled the "Patient Bill of Rights" by its supporters, would require that insurance companies provide certain information to patients, would set up a formalized grievance process and would make other changes to the HMO industry.

"There seems to be a real ground swell about this," said Holbrook, a co-sponsor of the bill. HMO expenses and alleged lack of responsiveness to patients have "become such a glaring atrocity."

Not everyone agrees with that assessment. But even Republican Senate President James "Pate" Philip of Wood Dale, who has prevented most HMO-related legislation in the past year from coming up for a Senate vote, is likely to open the subject to debate this year.

"We're going to find out what's out there," in the way of legislation, said Patty Schuh, Philip's spokeswoman. "This is an issue that hits everyone."

Propoents of the changes believe public frustration will work in their favor in an election year.

"That truly has a chance at moving forward," said Rep. Jay Hoffman, D-Collinsville. "I see bipartisan support."

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2964

(Purpose: To provide for improved monitoring of human rights violations in the People's Republic of China, and for other purposes)

Mr. ABRAHAM. Mr. President, I call up my amendment No. 2964 and ask for its immediate consideration, and I ask unanimous consent Senator HUTCHINSON from Arkansas be added as a cosponsor to the amendment.

The PRESIDING OFFICER. The clerk will report.

The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Michigan [Mr. ABRAHAM], for himself and Mr. HUTCHINSON proposes an amendment numbered 2964.

Mr. ABRAHAM. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end the following new titles:

TITLE —MONITORING OF HUMAN RIGHTS ABUSES IN CHINA

SEC. . SHORT TITLE.

This title may be cited as the "Political Freedom in China Act of 1998".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the following conclusions of the United States State Department on human rights in the People's Republic of China in 1996:

(A) The People's Republic of China is "an authoritarian state" in which "citizens lack the freedom to peacefully express opposition to the party-led political system and the right to change their national leaders or form of government".

(B) The Government of the People's Republic of China has "continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms".

(C) "[a]buses include torture and mistreatment of prisoners, forced confessions, and arbitrary and incommunicado detention".

(D) "[p]rison conditions remained harsh [and] [t]he Government continued severe restrictions on freedom of speech, the press, assembly, association, religion, privacy, and worker rights".

(E) "[a]lthough the Government denies that it holds political prisoners, the number of persons detained or serving sentences for 'counterrevolutionary crimes' or 'crimes against the state', or for peaceful political or religious activities are believed to number in the thousands".

(F) "[n]onapproved religious groups, including Protestant and Catholic groups . . . experienced intensified repression".

(G) "[s]erious human rights abuses persist in minority areas, including Tibet, Xinjiang, and Inner Mongolia[, and] [c]ontrols on religion and on other fundamental freedoms in these areas have also intensified".

(H) "[o]verall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end.".

(2) In addition to the State Department, credible independent human rights organizations have documented an increase in repression in China during 1995, and effective destruction of the dissident movement through the arrest and sentencing of the few remaining pro-democracy and human rights activists not already in prison or exile.

(3) Among those were Li Hai, sentenced to 9 years in prison on December 18, 1996, for gathering information on the victims of the 1989 crackdown, which according to the court's verdict constituted "state secrets"; Liu Nianchun, an independent labor organizer, sentenced to 3 years of "re-education through labor" on July 4, 1996, due to his activities in connection with a petition campaign calling for human rights reforms; and Ngodrup Phuntsog, a Tibetan national, who was arrested in Tibet in 1987 immediately after he returned from a 2-year trip to India, where the Tibetan government in exile is located, and following a secret trial was convicted by the Government of the People's Republic of China of espionage on behalf of the "Ministry of Security of the Dalai clique".

(4) Many political prisoners are suffering from poor conditions and ill-treatment leading to serious medical and health problems, including—

(A) Gao Yu, a journalist sentenced to 6 years in prison in November 1994 and honored by UNESCO in May 1997, has a heart condition; and

(B) Chen Longde, a leading human rights advocate now serving a 3-year reeducation through labor sentence imposed without trial in August 1995, has reportedly been subject to repeated beatings and electric shocks at a labor camp for refusing to confess his guilt.

(5) The People's Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(6) The People's Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. . CONDUCT OF FOREIGN RELATIONS.

(a) Release of Prisoners: The Secretary of State, in all official meetings with the Government of the People's Republic of China, should request the immediate and unconditional release of Ngodrup Phuntsog and other prisoners of conscience in Tibet, as well as in the People's Republic of China.

(b) Access to Prisons: The Secretary of State should seek access for international humanitarian organizations to Drapchi prison and other prisons in Tibet, as well as in the People's Republic of China, to ensure that prisoners are not being mistreated and are receiving necessary medical treatment.

(c) Dialogue on Future of Tibet: The Secretary of State, in all official meetings with the Government of the People's Republic of China, should call on that country to begin serious discussions with the Dalai Lama or his representatives, without preconditions, on the future of Tibet.

SEC. . AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL PERSONNEL AT DIPLOMATIC POSTS TO MONITOR HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA.

There are authorized to be appropriated to support personnel to monitor political repression in the People's Republic of China in the United States Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong, $2,200,000 for fiscal year 1999 and $2,200,000 for fiscal year 2000.

SEC. . DEMOCRACY BUILDING IN CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR NED.—In addition to such sums as are otherwise authorized to be approprited for the "National Endowment for Democracy" for fiscal years 1999 and 2000, there are authorized for the "National Endowment for Democracy" $4,000,000 for fiscal year 1999 and $4,000,000 for fiscal year 2000, which shall be available to promote democracy, civil society, and the development of the rule of law in China.

(b) EAST ASIA-PACIFIC REGIONAL DEMOCRACY FUND.—The Secretary of State shall use funds available in the East Asia-Pacific Regional Democracy Fund to provide grants to nongovernmental organizations to promote democracy, civil society, and the development of the rule of law in China.

SEC. . HUMAN RIGHTS IN CHINA.

(a) REPORTS.—Not later than March 30, 1999, and each subsequent year thereafter, the Secretary of State shall submit to the International Relations Committee of the House of Representatives and the Foreign Relations Committee of the Senate an annual report on human rights in China, including religious persecution, the development of democratic institutions, and the rule of law. Reports shall provide information on each region in China.

(b) PRISONER INFORMATION REGISTRY.—The Secretary of State shall establish a Prisoner Information Registry for China which shall provide information on all political prisoners, prisoners of conscience, and prisoners of faith in China. Such information shall include the charges, judicial processes, adminstrative actions, use of forced labor, incidences of tortue, length of imprisonment, physical and health conditions, and other matters related to the incarceration of such prisoners in China. The Secretary of State is authorized to make funds available to nongovernmental organizations presently engaged in monitoring activities regarding Chinese political prisoners to assist in the creation and maintenance of the registry.

SEC. . SENSE OF CONGRESS CONCERNING ESTABLISHMENT OF A COMMISSION ON SECURITY AND COOPERATION IN ASIA.

It is the sense of Congress that Congress, the President, and the Secretary of State should work with the governments of other countries to establish a Commission on Security and Cooperation in Asia which would be modeled after the Commission on Security and Cooperation in Europe.

SEC. . SENSE OF CONGRESS REGARDING DEMOCRACY IN HONG KONG.

It is the sense of Congress that the people of Hong Kong should continue to have the right and ability to freely elect their legislative representatives, and that the procedure for the conduct of the elections of the legislature of the Hong Kong Special Administrative Region should be determined by the people of Hong Kong through an election law convention, a referendum, or both.

SEC. . SENSE OF CONGRESS RELATING TO ORGAN HARVESTING AND TRANSPLANTING IN THE PEOPLE'S REPUBLIC OF CHINA.

It is the sense of Congress that—

(1) the Government of the People's Republic of China should stop the practice of harvesting and transplanting organs for profit from prisoners that it executes;

(2) the Government of the People's Republic of China should be strongly condemned for such organ harvesting and transplanting practice;

(3) the President should bar from entry into the United States any and all officials of the Government of the People's Republic of China known to be directly involved in such organ harvesting and transplanting practice;

(4) individuals determined to be participating in or otherwise facilitating the sale of such organs in the United States should be prosecuted to the fullest possible extent of the law; and

(5) the appropriate officials in the United States should interview individuals, including doctors, who may have knowledge of such organ harvesting and transplanting practice.

Mr. President, let me speak a little bit about this amendment. I don't intend to take up too much of the Senate's time discussing it, because I know other Senators, including Senator HUTCHINSON, are interested in speaking as well to the amendment.

Essentially, this amendment sets forth concrete steps by which the United States would support the improvement of human rights in the People's Republic of China. Its provisions regarding human rights are identical to those included in the legislation that was recently passed by the other Chamber by an overwhelming vote of 394–29.

The amendment I am offering is based on the recognition that the United States can conduct meaningful engagement with China only if we are honest with Chinese leaders, and only if we are willing to stand up for our principles. And chief among the principles on which our nation was founded is an abiding commitment to fundamental human rights.

The current regime in China suppresses fundamental human rights on a daily basis:

Women pregnant with their second or third child are pressured to have abortions and even subjected to forced abortion and sterilization.

Religious exercise is violently suppressed among Christians in China, and among indigenous Buddhists in Tibet.

Proponents of democracy and human rights are imprisoned under inhumane conditions and often denied necessary medical treatment.

I could go on, Mr. President. The list of human rights abuses in China is as long as it is deplorable.

Let no one in this body be mistaken, the current Chinese regime does not respect fundamental human rights.

The question I think we have to ask is, Should that influence how American policy toward China is shaped? Obviously, there are some who say the only way for us to change those policies in China is to have a complete and total engagement with the People's Republic of China. Obviously, that is one point of view. But I subscribe to the view that we can take constructive steps designed to try to change things and to try to make things more consistent with America's views of appropriate human rights behavior.

And the Chinese regime's recent conduct gives us no reason to expect improvement any time soon. Indeed, Mr. President, since President Clinton returned from his trip to China this June, that government has detained 21 prominent human rights activists. At least three remain in custody today.

Through this amendment, Mr. President, we would make clear to the Chinese government our opposition to its oppressive practices and initiate concrete steps by which we can monitor human rights abuses and assist those seeking to promote human dignity and civil society.

Among the provisions in this amendment: First, it contains findings detailing the deplorable human rights record of the Chinese government. Second, the amendment calls for greater efforts on the part of our Secretary of State to improve the behavior of the current Chinese regime:

It calls on the Secretary of State, during official meetings with the Chinese government, to call for the release of political prisoners in China and Tibet.

The amendment also calls on the Secretary of State to seek greater access for international humanitarian organizations to prisons in Tibet and China—access that will ensure that prisoners are not being mistreated and that they are receiving necessary medical treatment.

And the amendment calls on the Secretary of State, during official meetings, to request that China begin serious discussions with the Dalai Lama or his representatives, without preconditions, on the future of Tibet.

Third, the amendment authorizes funding for several programs intended to improve human rights conditions in China. These include: $2.2 million in 1999 and 2000 for additional personnel at diplomatic posts to monitor human rights in China; $4 million in 1999 and 2000 for the National Endowment for Democracy to promote democracy, civil society, and the development of the rule of law in China, and permission for funds in the East Asia-Pacific Regional Democracy Fund to be used to provide grants to nongovernmental organizations to promote democracy, civil society, and the development of the rule of law in China.

Fifth, the amendment contains provisions aimed at improving our monitoring of human rights in China.

These include: A call for preparation of an annual report on human rights, religious persecution, and the development of democratic institutions and the rule of law in China that includes specific information on each region, and establishment within the State Department of a Prisoner Information Registry for China to provide information on all political prisoners, prisoners of conscience, and prisoners of faith in China.

Finally, this amendment includes several sense of Congress resolutions, including: A sense-of-the-Congress resolution concerning the establishment of a Commission on Security and Cooperation in Asia; A resolution concerning democracy in Hong Kong; and a resolution condemning organ harvesting and transplantation for profit from prisoners executed by the Chinese government.

Mr. President, these provisions will make clear our determination to stand up for the fundamental human rights of the Chinese people.

As the world's first free nation, and the continuing leader of the free world, we have a responsibility, in my view, to defênd people's basic rights wherever they are endangered or violated.

We cannot, without undermining freedom in our own nation, turn our backs on those who suffer oppression in China, or in any other nation.

Our principles as well as our national interest demand that we pursue meaningful engagement with the current government in China. And that requires, at a minimum, an open discussion of human rights abuses and concrete steps aimed at bringing those abuses to an end.

These amendments will not destroy our current relationship with China. None of the amendment's supporters seek an isolationist policy. I for one support normal trade relations with China because I see them as a necessary element of effective engagement.

But this amendment serves an important function in our effort to achieve and maintain meaningful engagement with China. it signals this Congress' continuing concerns for human rights, democracy, and freedom in China. It signals our determination to speak up and support the fundamental principles of civilized society.

Through this amendment we can stand with oppressed people of conscience in China, for our sake as well as theirs.

I yield the floor.

Mr. President, I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I rise in support of the Abraham amendment 2964 to the Defense appropriations bill. The Abraham amendment would authorize additional human rights monitors at the embassy in Beijing, China, as well as our other consulates around China. I think it is exceptionally warranted. It is very, very much needed.

The Chinese Government has repeatedly flaunted its lack of respect for human rights. We have seen how the Government controls its people through registration, through coercive and repressive practices. We have seen how the Chinese Government punishes those who would dare to worship by the dictates of their conscience. We have seen how the Government punishes those who would speak in the name of democracy, those who would seek to register an opposition political party. They punish those who simply seek to fulfill normal human aspirations, aspirations that we too often take for granted.

We have seen that in the last two, at least the last two annual State Department reports on human rights that China was found to be one of, if not the worst human rights abuser in the world today. I think that fact alone, the fact that our State Department, in monitoring the countries of the world, the nations of the world, issuing reports on human rights conditions in the various nations of the world, found China as the greatest abuser of human rights justifies the Abraham amendment in establishing additional human rights monitors, additional personnel in the embassy to monitor situations like this: "Chinese Resume Arrests," so that we will have the kind of knowledge about what is going on in the area of human rights within China that will allow us to, I think, engage China in the correct way.

Mr. President, we do not expect that China will change overnight, nor do we expect that the amendment that I have offered dealing with forced abortions and religious persecution, or the amendment that Senator ABRAHAM has offered will magically produce the change that we all desire. But it is essential that we shed light on the kind of human rights abuses, the dark practices that have become too evident for too many years. And it is essential that we engage those abuses with a substantive response.

This is part of that substantive response. The question before us is not whether we contain and isolate China. We cannot do that. We should not do that. We would not want to do that. The question before us is whether or not we will engage them on issues of human rights, as well as trade, as well as national security issues, whether we will actually engage them, and in so doing support the cause of freedom.

Frankly, I am puzzled by those who would excuse themselves and pardon themselves by saying that they, too, are opposed to the human rights abuses in China but then would oppose any effort to have a substantive response to those human rights abuses.

So I believe that this is not only a well-intended but a well-drafted amendment. It is, once again, part of the package that passed in the House of Representatives now almost a year ago with overwhelming bipartisan support, and it is long past time for the Senate to weigh in on that; to support the monitoring of human rights abuses in China, as we seek to do throughout the world; to give the kinds of personnel to our State Department, to our diplomatic people to assure that we have the best intelligence, the best reporting possible.

It is, I think, evident that this is needed in light of this latest round of arrests of political dissidents in China. It is puzzling to me that we can talk about the great improvement in China and the reforms that are taking place, and that this administration could put so much faith in President Jiang and his regime in Beijing when all of the evidence that is forthcoming, whether it is in the media, through our intelligence agencies, or the State Department itself indicates that, in fact, those abuses are as bad as ever, and that the crackdown on religious believers is now only most recently exceeded by the crackdown on political dissidents. I do believe, as the President has expressed, that eventually China will be free. I believe that. I think someday China will be a country in which free expression is tolerated and the freedoms that are not American values, but are fundamental human values, will exist in China. But I think it will not be through the regime that rules with an iron fist in Beijing, China, today. So, let us engage, but let us engage thoroughly and on all fronts.

The package of amendments that is before the Senate today will enable us to do that. So it is essential that we not table the China amendments, that we support them, that we agree to them as part of the appropriations bill. I believe, because the House passed these measures by such an overwhelming vote, they will be preserved in the conference and we will be able to give the President an opportunity to truly involve this administration in an engagement policy that will reflect the values that are precious to us and help to bring about the change that we desire to see in China and to give support to the freedom fighters, freedom lovers in China today who risk the limited freedom that they have to go about their daily activities by speaking out, by seeking to form an opposition political party, by seeking to worship according to the dictates of their conscience.

I think it is so imperative that we go on record with these amendments, to stand shoulder to shoulder with those who are putting their lives and their limited liberty at stake by taking a far more dangerous stand there, in China, today.

I applaud Senator ABRAHAM for bringing the human rights monitors amendment to the floor of the Senate, and I look forward to casting my vote against tabling and for the amendment. I ask my colleagues to do likewise.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Matthew Tourville, who is an intern in my office, be granted the privilege of the floor while we debate and vote on this bill today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAN'S LONGING FOR IMMORTALITY SHALL ACHIEVE ITS REALIZATION

Mr. BYRD. Mr. President, I ask unanimous consent that an article from the July 20, 1998, edition of U.S. News & World Report and an article from the July 20, 1998, edition of Newsweek be printed in the RECORD. The two articles are relevant to the speech that I delivered on Tuesday this week entitled "Man's Longing for Immortality Shall Achieve Its Realization."

I understand the Government Printing Office estimates it will cost approximately $1,283 to have these articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From U.S. News & World Report, July 20, 1998]

SCIENTISTS AND THEOLOGIANS DISCOVER A COMMON GROUND

Darwin, Freud, relativity, the mechanics of the big bang—rightly or wrongly, all have been taken as supporting the modernistic conception of a change-based world in which forces devoid of meaning account for all outcomes. Some thinkers have maintained that the big-bang theory shows that no god was necessary at the creation. Intellectuals have wrung their hands in angst about how bang-caused cosmic expansion will result in an inescapable running down of the stars, proving existence to be pointless. A depressing inevitable death of the universe figures prominently in the works of post-modern novelist Thomas Pynchon; while in the movie *Annie Hall*, Woody Allen's character is psychologically paralyzed by his dread of the galaxies expanding until they die.

By contrast new developments in big-bang science are almost supernaturally upbeat: The universe wants us, and the stars will shine forever!

This remarkable change in perspectives is helping inspire a warming trend between scientific and spiritual disciplines. A conference last month in Berkeley, Calif., at which cosmologists discussed the theological implications of their work, is representative. Allan Sandage, one of the world's leading astronomers, told the gathering that contemplating the majesty of the big bang helped make him a believer in God, willing to accept that creation could only be explained as a "miracle."

HERESIES

Not that long ago, such a comment from an establishment scientist would have been shocking. The mere existence of the organization that sponsored the Berkeley event, a well-regarded academic group called the Center for Theology and the Natural Sciences, might have been snickered at. Today, "intellectuals are beginning to find it respectable" to talk about how physical law seems to favor life, notes Ian Barbour, a professor of both religion and physics at Carleton College, in Northfield, Minn.

In this vein, the recent book *Consilience* by Harvard biologist E.O. Wilson argues that there is no need to wall off scientific from moral thought; rather, people should once again pursue the Enlightenment vision of reconciling the technical and the spiritual. A boomlet of serious books with titles such as *A Case Against Accident and Self-Organization* and *God: The Evidence* goes further, suggesting the unknowns of the big bang eventually will be seen as divine latency.

If nothing else, the theological idea of creation ex nihilo—out of nothing—is looking better all the time as "inflation" theories (main story) increasingly suggest the universe emerged from no tangible source. The word "design," rejected by most 20th-century scientists as a theological taboo in the context of cosmology or evolution, is even creeping back into the big-bang debate. Physicist Ernest Sternglass, among Einstein's last living acolytes, recently argued that the propitious circumstances of the big bang show that the universe is "apparently designed for the development of life and destined to live forever, neither to fly apart into dying cinders nor collapse."

Parallels between cosmology and spirituality may be coincidence. Some find it significant that the Book of Genesis describes God creating existence out of the "waters," because big-bang science asserts the early universe was mostly hydrogen, the chief component of H_2O. Maybe that tells us something; probably it's just a word choice.

But on more telling issues, the trend line of cosmology unquestionably favors a sense of purpose. Existence may be eternal, prewired somehow for life; consciousness may expand forever, never running out of room or resources; there may be a larger cosmic enterprise waiting for us to join its purpose, if we can just learn wisdom and justice.

Because the cosmos is ancient by our measure, people assume they are latecomers, gazing out into a universe worn down and faltering. But if the firmament will expand for an enormous span of time, or even for an eternity, then our universe glistens with morning dew. Homo sapiens may represent a youth movement, arriving at a time when almost everything is still to come. Dreary projections about ultimate fates may be supplanted by the belief that, like the cosmos itself, the human prospect is, as the physicist Freeman Dyson once wrote, "infinite in all directions."

[From Newsweek, July 20, 1998]

SCIENCE FINDS GOD

(By Sharon Begley)

The more deeply scientists see into the secrets of the universe, you'd expect, the more God would fade away from their hearts and minds. But that's not how it went for Allan Sandage. Now slightly stooped and white-haired at 72, Sandage has spent a professional lifetime coaxing secrets out of the stars, peering through telescopes from Chile to California in the hope of spying nothing less than the origins and destiny of the universe. As much as any other 20th-century astronomer, Sandage actually figured it out: his observations of distance stars showed how fast the universe is expanding and how old it is (15 billion years or so). But through it all Sandage, who says he was "almost a practicing atheist as a boy," was nagged by mysteries whose answers were not to be found in the glittering panoply of supernovas. Among them: why is there something rather than nothing? Sandage began to despair of answering such questions through reason alone, and so, at 50, he willed himself to accept God. "It was my science that drove me to the conclusion that the world is much more complicated than can be explained by science," he says. "It is only through the supernatural that I can understand the mystery of existence."

Something surprising is happening between those two old warhorses science and religion.

Historically, they have alternated between mutual support and bitter enmity. Although religious doctrine midwifed the birth of the experimental method centuries ago (following story), faith and reason soon parted ways. Galileo, Darwin and others whose research challenged church dogma were branded heretics, and the polite way to reconcile science and theology was to simply agree that each would keep to its own realm: science would ask, and answer, empirical questions like "what" and "how"; religion would confront the spiritual, wondering "why." But as science grew in authority and power beginning with the Enlightenment, this détente broke down. Some of its greatest minds dismissed God as an unnecessary hypothesis, one they didn't need to explain how galaxies came to shine or how life grew so complex. Since the birth of the universe could now be explained by the laws of physics alone, the late astronomer and atheist Carl Sagan concluded, there was "nothing for a Creator to do," and every thinking person was therefore forced to admit "the absence of God." Today the scientific community so scorns faith, says Sandage, that "there is a reluctance to reveal yourself as a believer, the opprobrium is so severe."

Some clergy are no more tolerant of scientists. A fellow researcher and friend of Sandage's was told by a pastor, "Unless you accept and believe that the Earth and universe are only 6,000 years old [as a literal reading of the Bible implies], you cannot be a Christian." It is little wonder that people of faith resent science: by reducing the miracle of life to a series of biochemical reactions, by explaining Creation as a hiccup in space-time, science seems to undermine belief, render existence meaningless and rob the world of spiritual wonder.

But now "theology and science are entering into a new relationship," says physicist turned theologian Robert John Russell, who in 1981 founded the Center for Theology and the Natural Sciences at the Graduate Theological Union in Berkeley. Rather than undercutting faith and a sense of the spiritual, scientific discoveries are offering support for them, at least in the minds of people of faith. Big-bang cosmology, for instance, once read as leaving no room for a Creator, now implies to some scientists that there is a design and purpose behind the universe. Evolution, say some scientist-theologians, provides clues to the very nature of God. And chaos theory, which describes such mundane processes as the patterns of weather and the dripping of faucets, is being interpreted as opening a door for God to act in the world.

From Georgetown to Berkeley, theologians who embrace science, and scientists who cannot abide the spiritual emptiness of empiricism, are establishing institutes integrating the two. Books like "Science and Theology: The New Consonance" and "Belief in God in an Age of Science" are streaming off the presses. A June symposium on "Science and the Spiritual Quest," organized by Russell's CTNS, drew more than 320 paying attendees and 33 speakers, and a PBS documentary on science and faith will air this fall.

In 1977 Nobel physicist Steven Weinberg of the University of Texas sounded a famous note of despair: the more the universe has become comprehensible through cosmology, he wrote, the more it seems pointless. But now the very science that "killed" God is, in the eyes of believers, restoring faith. Physicists have stumbled on signs that the cosmos is custom-made for life and consciousness. It turns out that if the constants of nature—unchanging numbers like the strength of gravity, the charge of an electron and the mass of a proton—were the tiniest bit different, then atoms would not hold together, stars would not burn and life would never have made an appearance. "When you realize that the laws of nature must be incredibly finely tuned to produce the universe we see," says John Polkinghorne, who had a distinguished career as a physicist at Cambridge University before becoming an Anglican priest in 1982, "that conspires to plant the idea that the universe did not just happen, but that there must be a purpose behind it." Charles Townes, who shared the 1964 Nobel Prize in Physics for discovering the principles of the laser, goes further: "Many have a feeling that somehow intelligence must have been involved in the law of the universe."

Although the very rationality of science often feels like an enemy of the spiritual, here, too, a new reading can sustain rather than snuff out belief. Ever since Isaac Newton, science has blared a clear message: the world follows rules, rules that are fundamentally mathematical, rules that humans can figure out. Humans invent abstract mathematics, basically making it up out of their imaginations, yet math magically turns out to describe the world. Greek mathematicians divided the circumference of a circle by its diameter, for example, and got the number pi, 3.14159 . . . . Pi turns up in equations that describe subatomic particles, light and other quantities that have no obvious connections to circles. This points, says Polkinghorn, "to a very deep fact about the nature of the universe," namely, that our minds, which invent mathematics, conform to the reality of the cosmos. We are somehow tuned in to its truths. Since pure thought can penetrate the universe's mysteries, "this seems to be telling us that something about human consciousness is harmonious with the mind of God," says Carl Feit, a cancer biologist at yeshiva University in New York and Talmudic scholar.

To most worshipers, a sense of the divine as an unseen presence behind the visible world is all well and good, but what they really yearn for is a God who acts in the world. Some scientists see an opening for this sort of god at the level of quantum or subatomic events. In this spooky realm, the behavior of particles is unpredictable. In perhaps the most famous example, a radioactive element might have a half-life of, say, one hour. Half-life means that half of the atoms in a sample will decay in that time; half will not. but what if you have only a single atom? Then, in an hour, it has a 50–50 chance of decaying. And what if the experiment is arranged so that if the atom does decay, it releases poison gas? If you have a cat in the lab, will the cat be alive or dead after the hour is up? Physicists have discovered that there is no way to determine, even in principle, what the atom would do. Some theologian-scientists see that decision point—will the atom decay or not? will the cat live or die?—as one where God can act. "Quantum mechanics allows us to think of special divine action," says Russell. Even better, since few scientists abide miracles, God can act without violating the law of physics.

An even newer science, chaos theory, describes phenomena like the weather and some chemical reactions whose exact outcomes cannot be predicted. It could be, says Polkinghorne, that God selects which possibility becomes reality. This divine action would not violate physical laws either.

Most scientists still park their faith, if they have it, at the laboratory door. But just as belief can find inspiration in science, so scientists can find inspiration in belief. Physicist Mehdi Golshani of Sharif University of Technology in Tehran, drawing from the Koran, believes that natural phenomena are "God's signs in the universe," and that studying them is almost a religious obligation. The Koran asks humans to "travel in the earth, then see how He initiated the creation." Research, Golshani says, "is a worship act, in that it reveals more of the wonders of God's creation." The same strain runs through Judaism. Carl Feit cites Maimonides, "who said that the only pathway to achieve a love of God is by understanding the works of his hand, which is the natural universe. Knowing how the universe functions is crucial to a religious person because this is the world He created." Feit is hardly alone. According to a study released last year, 40 percent of American scientists believe in a personal God—not merely an ineffable power and presence in the world, but a deity to whom they can pray.

To Joel Primack, an astrophysicist at the University of California, Santa Cruz, "practicing science [even] has a spiritual goal"—namely, providing inspiration. It turns out, explains Primack, that the largest size imaginable, the entire universe, is 10 with 29 zeros after it (in centimeters). The smallest size describes the subatomic world, and is 10 with 24 zeros (and a decimal) in front of it. Humans are right in the middle. Does this return us to a privileged place? Primack doesn't know, but he describes this as a "soul-satisfying cosmology."

Although skeptical scientists grumble that science has no need of religion, forward-looking theologians think religion needs science. Religion "is incapable of making its moral claims persuasive or its spiritual comfort effective [unless] its cognitive claims" are credible, argues physicist-theologian Russell. Although upwards of 90 percent of Americans believe in a personal God, fewer believe in a God who parts seas, or creates species one by one. To make religions forged millenniums ago relevant in an age of atoms and DNA, some theologians are "incorporat[ing] knowledge gained from natural science into the formation of doctrinal beliefs," says Ted Peters of Pacific Lutheran Seminary. Otherwise, says astronomer and Jesuit priest William Stoeger, religion is in danger of being seen, by people even minimally acquainted with science, "as an anachronism."

Science cannot prove the existence of God, let alone spy him at the end of a telescope. But to some believers, learning about the universe offers clues about what God might be like. As W. Mark Richardson of the Center for Theology and the Natural Sciences says, "Science may not serve as an eyewitness of God the Creator, but it can serve as a character witness." One place to get a glimpse of God's character, ironically, is in the workings of evolution. Arthur Peacocke, a biochemist who became a priest in the Church of England in 1971, has no quarrel with evolution. To the contrary: he finds in it signs of God's nature. He infers, from evolution, that God has chosen to limit this omnipotence and omniscience. In other words, it is the appearance of chance mutations, and the Darwinian laws of natural selection acting on this "variation," that bring about the diversity of life on Earth. This process suggests a divine humility, a God who acts selflessly for the good of creation, says theologian John Haught, who founded the Georgetown (University) Center for the Study of Science and Religion. He calls this a "humble retreat on God's part": much as a loving parent lets a child be, and become, freely and without interference, so does God let creation make itself.

It would be an exaggeration to say that such sophisticated theological thinking is remaking religion at the level of the local parish, mosque or synagogue. But some of these ideas do resonate with ordinary worshipers and clergy. For Billy Crockett, president of Walking Angel Records in Dallas, the discoveries of quantum mechanics that he reads about in the paper reinforces his faith that "there is a lot of mystery in the nature of things." For other believers, an appreciation of science deepens faith. "Science produces in me a tremendous awe," says Sister Mary White of the Benedictine Meditation Center in St. Paul, Minn. "Science and spirituality have a common quest, which is a quest for truth." And if science has not yet influenced religious thought and practice at the grass-roots level very much, just wait, says Ted Peters of CTNS. Much as feminism sneaked up on churches and is now shaping the liturgy, he predicts, "in 10 years science will be a major factor in how many ordinary religious people think."

Not everyone believes that's such a hot idea. "Science is a method, not a body of knowledge," says Michael Shermer, a director of the Skeptics Society, which debunks claims of the paranormal. "It can have nothing to say either way about whether there is a God. These are two such different things, it would be like using baseball stats to prove a point in football." Another red flag is that adherents of different faiths—like the Orthodox Jews, Anglicans, Quakers, Catholics and Muslims who spoke at the June conference in Berkeley—tend to find, in science, confirmation of what their particular religion has already taught them.

Take the difficult Christian concept of Jesus as both fully divine and fully human. It turns out that this duality has a parallel in quantum physics. In the early years of this century, physicists discovered that entities thought of as particles, like electrons, can also act as waves. And light, considered a wave, can in some experiments act like a barrage of particles. The orthodox interpretation of this strange situation is that light is, simultaneously, wave and particle. Electrons are, simultaneously, waves and particles. Which aspect of light one sees, which face an electron turns to a human observer, varies with the circumstances. So, too, with Jesus, suggests physicist F. Russell Stannard of England's Open University. Jesus is not to be seen as really God in human guise, or as really human but acting divine, says Stannard: "He was fully both." Finding these parallels may make some people feel, says Polkinghorne, "that this is not just some deeply weird Christian idea."

Jews aren't likely to make the same leap. And someone who is not already a believer will not join the faithful because of quantum mechanics; conversely, someone in whom science raises no doubts about faith probably isn't even listening. But to people in the middle, for whom science raises questions about religion, these new concordances can deepen a faith already present. As Feit says, "I don't think that by studying science you will be forced to conclude that there must be a God. But if you have already found God, then you can say, from understanding science, 'Ah, I see what God has done in the world'."

In one sense, science and religion will never be truly reconciled. Perhaps they shouldn't be. The default setting of science is eternal doubt; the core of religion is faith. Yet profoundly religious people and great scientists are both driven to understand the world. Once, science and religion were viewed as two fundamentally different, even antagonistic, ways of pursuing that quest, and science stood accused of smothering faith and killing God. Now, it may strengthen belief. And although it cannot prove God's existence, science might whisper to believers where to seek the divine.

How The Heavens Go

(By Kenneth L. Woodward)

That many contemporary scientists make room for god in their understanding of the cosmos should hardly be surprising. For most of history, religion and science have been siblings—feeding off and sparring with each other—rather than outright adversaries in the common human quest for understanding. Only in the West, and only after the French Enlightenment in the 18th century, did the votaries of science and religion drift into separate ideological camps. And only in the 19th century, after Darwin, was the supposed irreconcilability between "God" and "science" elevated to the status of cultural myth. History tells a different, more complicated story.

In the ancient world, religious myth invested nature and the cosmos with divine emanations and powers. But this celestial pantheism did not prevent sober observation of the heavens and sophisticated mathematical calculations. By 1400 B.C. the Chinese had established a solar year of 365 days. Ancient India formulated the decimal system. Ancient Greece bequeathed Euclidean geometry, Ptolemy's map of the solar system and Aristotle's classification of living organisms, which served biologists until Darwin.

But none of these advances seriously disrupted religions's more comprehensive worldviews. Buddhists, for example, showed no interest in investigating nature since it was both impermanent and, at bottom, an illusion. Islam made great advances in algebra, geometry and optics, as well as philosophy. But Muslim scholars left the mysteries of physics—motion, causality, etc.—to the power of Allah and to the aphorisms of Aristotle, whose works they recovered and transmitted to the Christian West.

The Bible, of course, has its own creation myth, and it is that very story that eventually led scientists to realize that nature had to be discovered empirically and so fostered the development of science in the Christian West. The universe created by a rational God had to be rational and consistent—that much the Creeks already knew. But a universe created out of nothing, as Genesis described, also had to be contingent. In other words, it could have turned out other than it did. It was only one of an infinite number of possibilities open to a wholly transcendent deity. Gradually, scientists realized that the laws governing such a universe could not be deduced from pure thought—as Aristotle supposed—but instead needed to be discovered through experiment. Thus was experimental science nurtured by religious doctrine.

When the scientific revolution did occur, in Europe early in the 17th century, and researchers for the first time began to regard the world as a mechanism whose workings they could probe through the scientific method, it wasn't God's existence that was thrown in doubt. Rather, it was Aristotle's "sacred geography," in which Earth and the heavenly bodies were fixed and eternal. Relying on Aristotle, medieval Christianity had imagined a tidy geocentric universe in which nature served man and mankind served God. "In a certain sense, religion got burned for locking itself too deeply into a particular scientific view which was then discarded," says Owen Gingerich, a professor of astronomy and the history of science at Harvard.

First Copernicus, then Galileo (aided by one of the first telescopes) and Kepler demonstrated with ever greater precision that the earth and other planets circled the sun. Humankind, it seemed, was peripheral to God and the universe. All three scientists, however, were devout Christians who defended their new worldview as most worthy of the Creator. But Copernicus and Kepler were denounced by Martin Luther for views he thought contradicted the bible, and Galileo was tried and condemned to house arrest by the Roman Inquisition. Although Pope John Paul II declared in 1992 that the church had erred in condemning Galileo, the incident was never a simple conflict between science and religion. Galileo overstated the proof he could provide for a heliocentric (suncentered) cosmos and incautiously caricatured the pope in a published tract. Yet he could also quote one of the pope's own cardinals in his defense: "The intention of [the Bible] is to teach us how one goes to heaven, not how the heavens go."

In subsequent centuries, however, scientific theories of "how the heavens go" increasingly determined the place and power of God. The "celestial mechanics" of Isaac Newton produced a god who designed a world machine and somehow sustained it in motion. Theologians readily accepted whatever proofs for God's existence the new science chose to give. The result was a diminished "god of the gaps" inhabiting whatever dark corners science had not yet brought to rational light. In this way, says Jesuit theologian Michael Buckley of Boston College, theologians themselves cooperated in the advent of modern atheism by relying on science to explain God and ignoring "the traditional sources of religious insight and experience that make belief in God intelligible," By the 18th century, astronomer Pierre Laplace could explain nature as a self-sufficient mechanism. As for God, he told Emperor Napoleon, "I have no need of that hypothesis," Nor, a century later, did Darwin in his theory of evolution.

Now, at the end of the millennium, religion and science are beginning to talk, though neither answers to the other's authority. John Paul II consults with his Pontifical Academy of Science—most of whom are not Catholic. Philosophers of science examine the often-hidden assumptions on which scientific theories rest. Confronted by dimensions of the world no scripture has encoded, theologians are discovering a God who resists domestication into any single theory of how the world works. And at the center—still—are flawed and fragile human beings trying to understand a universe that has the uncomfortable feel of a home away from home.

AUGUSTUS ENGLEKEN STEVENS

Mr. BYRD. Mr. President, August is from the Latin Augustus, the eighth month of our calendar year, a time of harvest and of plenty, named after Augustus Caesar. Augustus Caesar, or, more formally, Gaius Julius Caesar Octavianus. He was the grandnephew of Julius Caesar, and he was the first emperor of Rome, from 27 B.C. through 14 A.D. August is also an adjective, derived from the Latin verb meaning to increase, and in English meaning: to inspire awe and reverence, impose, something that is imposing and magnificent, or dignified and majestic. The adjective augustan refers also to the age of Augustus Caesar and his reign and suggests that anything so described is classical and elegant. The term Augustan age specifically refers to a period of Latin literature during the reign of Augustus Caesar, when elegance and correctness were highly valued. Oh, that we might return to that age at least in one sense, when elegance and correctness—not political correctness, but correctness—were highly valued.

Augustine, a diminutive form of Augustus, was the name of two saints, Saint Augustine of Hippo (354–430 A.D.), a Latin church father and bishop of Hippo, in northern Africa, known for his "Confessions" and his work "The City of God." The second Saint Augustine—the dates we are not sure of but we can believe that he lived until about 604 A.D. He was a Roman monk who went to spread Christianity among the English and who was the first Archbishop of Canterbury.

We can see from this that the name Augustus is fraught with significance and with portent. It is a name to be lived up to with great deeds and great learning. It is also the name conferred upon the newest member of Senator TED STEVENS' growing family, Augustus Engleken Stevens. My guess would be the middle name is Anglo-Saxon. And this is the third child of Senator STEVENS' third son, Ben.

It is also the tenth grandchild to join the impressive Stevens clan. This newest Caesar to rule with his chubby and imperious fist, and to issue edicts in a piercing wail, was born on Monday, July 27, at 3:20 p.m., weighing in at a healthy 7 pounds, 10 ounces.

I congratulate Senator STEVENS and his wife, Catherine, on this blessed addition to their family. As they well know, there is no greater joy than to gather into one's arms a tiny, peaceful bundle, and to gaze down upon that small, sleeping face, to gently stroke the soft, velvety down of hair and rounded cheek, and to listen closely for the faint murmurs and coos that slip almost unnoticed from that perfect cupid's bow of a mouth. What happier moment could there be, than to see that little mouth open in a sleepy, toothless yawn, or to catch a glimpse of a little foot—not much longer than a peanut, with toes so small that they could not possibly have working bones inside them—kicking out on bowed leg from within the folded blanket?

In choosing a name as ancient and as illustrious as Augustus, his parents—I surmise—have high hopes and grand ambitions for their infant son. I am sure that grandfather TED has great, grandiloquent schemes afoot as well, to bounce him on a hobbyhorse knee, or to take him salmon fishing in pristine Alaskan waters. I suspect that those who see TED on the Senate floor, shepherding appropriations bills through contentious debate to final passage—fists pounding and voice booming—might not recognize Senator STEVENS in his happier and more serene role as grandfather. But to be a grandfather is to be a happy man.

And what feelings of immortality, to be a grandfather. Holding this youngest member of his family, born in the waning days of this second millennium, the namesake of one whose life spanned the opening days of the first millennium, and poised to come into his own birthright in the third millennium, Senator STEVENS can see history unfold into the coming ages. Through children and grandchildren, one has a glimpse of the glorious future, the immortality of the human race, tinged with the bittersweet sorrow of time passing too swiftly and of children who grow up much too quickly.

Lest I overwhelm young Augustus with the great weight of such high expectations and such intimations of immortality, I hasten to wish him a happy childhood, complete with much exploring, great adventures, barked shins and skinned knees, of quiet moments of wonder and learning, of great books to be shared with his parents and grandparents, and of countless hugs and kisses. Be a boy, Augustus, with moments good and bad, tender and terrible. Be like the Augustus in these lines by Heinrich Hoffman (1809–1874), who said:

Augustus was a chubby lad;
Fat ruddy cheeks Augustus had:
And everybody saw with joy
The plump and hearty, healthy boy.
He ate and drank as he was told,
And never let his soup get cold.
But one day, one winter's day,
He screamed out, 'Take the soup away!
O take the nasty soup away!
I won't have any soup to-day.'

Welcome, young emperor, and carry on, bringing ever your illustrious grandfather under your sway with the dictatorial charms of a much loved child.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am uncharacteristically speechless. I think—to listen to my good friend talk about my latest grandchild—he is absolutely right in one thing; and that is, there is nothing so humbling as to look at a grandchild and realize what that child means. Senator BYRD told me once that to have a grandchild is to touch infinity. And it is a very sobering thing to think about. But it is a joy to have these grandchildren. If one must get old, it helps a lot.

I thank the Senator very much.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, the Senate will resume consideration of S. 2312, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2312) making appropriations for the Treasury Department, the United States Postal Service, and the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

McConnell amendment No. 3379, to provide for appointment and term length for the staff director and general counsel of the Federal Election Commission.

Glenn amendment No. 3380, to provide additional funding for enforcement activities of the Federal Election Commission.

Graham/Mack amendment No. 3381, to provide funding for the Central Florida High Intensity Drug Trafficking Area.

Stevens amendment No. 3385, to provide for an adjustment in the computation of annuities for certain Federal officers and employees relating to average pay determinations.

Campbell (for Grassley) amendment No. 3386, to protect Federal law enforcement officers who intervene in certain situations to protect life or prevent bodily injury.

Harkin amendment No. 3387, to provide additional funding to reduce methamphetamine usage in High Intensity Drug Trafficking Areas.

Kohl (for Kerrey) amendment No. 3389, to express the sense of the Senate regarding payroll tax relief.

Mr. TORRICELLI. Mr. President, yesterday I engaged in a colloquy with Senators KOHL and MOSELEY-BRAUN regarding the intent of report language in S. 2312 concerning tax standards for tax-exempt health clubs. In that colloquy, I stated that my expectation was that the report would "focus on adult fitness provided by tax-exempt organizations that serve only adults." However, both tax-exempt health clubs and for-profit health clubs serve entire families including young adults and children. While I believe the report should focus on adult fitness provided by tax-exempt organizations, tax-exempt organizations also offer non-adult service. The fact that they offer service to non-adults does not qualify an entity for tax-exempt status. Therefore, to eliminate any entity that provides any level of services to non-adults would greatly restrict the usefulness of this report in providing guidance to Congress. Again, I want to emphasize that my intent here is only for the IRS to provide Congress guidance in this area.

Therefore, I want to clarify that it is my expectation that the report will reflect the language in the report accompanying S. 2312 with the input of yesterday's colloquies as well as this clarification. Again, I want to thank Senators CAMPBELL and KOHL for their assistance on this and I look forward to working with them and all other interested Senators and parties on this issue.

AMENDMENT NO. 3388

Mr. JOHNSON. Mr. President, I rise today to ask unanimous consent that my name be added as a cosponsor to amendment number 3388 to the FY 1999 Treasury-Postal Appropriations legislation currently under consideration. This amendment is a combination of several amendments aimed at increasing support for the High Intensity Drug Trafficking Areas administered by the Office of National Drug Control Policy. The Midwest HIDTA program has been extremely helpful to cracking down on drug trafficking in my rural state by coordinating federal, state and local law enforcement efforts to combat methamphetamine trafficking. While the Campbell-Kohl amendment addresses HIDTA programs nationwide, the Midwest HIDTA will be increased by $3.5 million, bringing the total methamphetamine elimination funding to $13 million for the Midwestern States of South Dakota, Iowa, Missouri, Nebraska and Kansas. The amendment will also add North Dakota to the Midwest HIDTA program which is crucial to tightening law enforcement's grip on meth traffickers in the area. I appreciate the efforts of my colleagues from Colorado and Wisconsin for recognizing that drug trafficking is not a uniquely coastal or urban problem, and that federal coordination and assistance is necessary for fighting drug use and trafficking nationwide.

DENVER COURTHOUSE

Mr. CAMPBELL. Mr. President, I rise to discuss an important funding issue contained in the Treasury and General Government appropriations bill. This appropriations bill provides $84 million for construction of an annex to the Rogers Courthouse in Denver. The General Services Administration has included this project high on its list of priorities, at the recommendation of the Administrative Offices of the Courts. GSA and the AOC have provided me with detailed information on the costs of this courthouse and assured me repeatedly that these costs are prudent, practical and necessary to meet the future judicial needs of Colorado. I have also been assured that the renovated courthouse will be functional, but not extravagant. I have demanded this of every project on the list and will continue to work to ensure that this standard is applied to all new construction. Members of the Federal bench in Colorado have expressed gratitude that I have included construction money for the Rogers Courthouse. I am of course happy to help meet the needs of our federal legal system, especially in Colorado. In addition to the Rogers Courthouse, this bill contains fourteen other projects totaling almost $500 million. I believe that if Congress is going to pass laws, we'd better provide sufficient attorneys and judges to enforce those laws and adequate facilities in which those laws may be administered.

I am aware of the growing federal caseload in other parts of Colorado. For example, the City of Grand Junction is experiencing rapid growth, and with that comes a need for more government attorneys and judges. Being from the West Slope, I appreciate the time and expense required to travel to Denver. Traveling 5 or 8 hours to get to a federal court can be a burden to all parties in federal lawsuits.

While I am happy to accommodate the wish of the federal bench in Colorado to provide this money, I will continue to listen to members of the Colorado Federal Bar, the Administrative Office of the Courts, and other areas of the state that experience growing needs for judges and courtroom space to ensure that this appropriations bill accurately provides for the needs of the entire state.

The PRESIDING OFFICER. Under the order, the hour of 2 o'clock having arrived, the Senate is to proceed to a sequence of votes on Amendments to the Treasury-Postal bill.

AMENDMENT NO. 3385, WITHDRAWN

Mr. STEVENS. Mr. President, I ask unanimous consent to withdraw amendment No. 3385.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3385) was withdrawn.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

AMENDMENT NO. 3379

The PRESIDING OFFICER. The first vote is on amendment No. 3379.

Mr. STEVENS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered.

This is the McConnell amendment. There are 2 minutes equally divided.

Mr. GLENN. Mr. President, I urged last night to put this on the table. This would really knock the socks off any election law enforcement over at the FEC. We oppose this very much. It would mean there would be a restriction on the FEC that is not on any other agency or department of government as far as their general counsel goes and their staff director.

The efforts to oust him over there, I think, are unconscionable. He has been doing a good job. This just stands starkly opposed to our efforts for campaign finance reform.

At the appropriate time I will move to table this, but I yield the remaining time to Senator LEVIN.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this amendment is directly aimed at the independence of the Federal Elections Commission. It is aimed at no other commission. Its purpose is obvious—to eliminate a general counsel who has taken an independent position, following the Federal Election Commission's decision relative to soft money and other issues. We should not muzzle them. We should not throttle them. We should not destroy their independence.

Mr. MCCONNELL. Mr. President, the amendment is really quite simple. The Federal Election Commission is like no other commission of the Federal Government. It has three Republicans and three Democrats. The general counsel, under the current system, could serve for a lifetime. All the McConnell amendment does is require that every 4 years the general counsel come up for reappointment and not be reappointed unless he can achieve at least four votes, thereby demonstrating to the full Commission, on a bipartisan basis, enough confidence to continue for another 4-year term.

This guarantees that the general counsel will operate in a bipartisan manner, because a general counsel who, after 4 years, could not achieve votes from both parties, it seems to this Senator, clearly would fail a test of bipartisanship.

This is not about the current occupant of the office. It is about ensuring that the Federal Election Commission continues to operate on a bipartisan basis. I hope the amendment will be approved.

Mr. GLENN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table the McConnell amendment numbered 3379.

Mr. GLENN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 3379. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

The PRESIDING OFFICER (Mr. SMITH of Oregon). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 54, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—45

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—54

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 3379) was rejected.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, we have had, obviously, extensive consultation about how to proceed to this point. There is disagreement about this particular amendment and how we can complete the Treasury-Postal Service and other related agencies appropriations bill at this time.

In the interest of Senators to have time to work on the substance, what we have agreed to do is to set this bill aside—I will ask unanimous consent to that effect in a moment—and we would go on to the Department of Defense appropriations amendments and continue to work progressively, with the idea of finishing the Department of Defense appropriations bill as early as possible—hopefully, even tonight—which will allow us time to work on some nominations and allow Senators to attend the funeral tomorrow and adjourn for the recess at a reasonable hour tomorrow, or earlier if there is any way of doing it.

I ask unanimous consent that the pending Treasury-Postal Service appropriations bill be laid aside, not to recur prior to September 1, unless agreement is worked out in the meantime. There is hope that could be done. Maybe we could act on it after the DOD appropriations bill is completed. If not, it would be September 1. And no call for the regular order serves to displace the treasury bill, when it is pending in September, in the status quo.

Mr. DASCHLE. Mr. President, reserving the right to object, just for purposes of clarification, this would lock into place the current situation. The pending amendment would be, of course, the McConnell amendment. Senators wishing to offer amendments in the second degree subject to recognition would be recognized as authors of amendments in the second degree.

It is with that understanding that I do not object. I am sure the majority leader would clarify and would conform with that understanding.

Mr. LOTT. Mr. President, that is correct. Second-degree amendments would be in order. We are freezing everything in place. We would not take it up again before September 1, unless an agreement were worked out. When we do go back to it, we will be right where we are now, and second-degree amendments will be in order.

Mr. GLENN. Mr. President, reserving the right to object, and I don't plan to object, I want to clarify, this would in no way affect the voting order we agreed to last night on other amendments?

Mr. LOTT. Everything would be just like it is at this very moment on this appropriations bill.

Mr. GLENN. Thank you.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The clerk will report the defense bill.

The legislative clerk read as follows:

A bill (S. 2132) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

AMENDMENT NO. 3397

The PRESIDING OFFICER. There are 2 minutes equally divided on the Feingold amendment.

Mr. FEINGOLD. Mr. President, this amendment is about the National Guard. This amendment is about priorities in our Armed Forces, not about the merits of any aircraft proposed to be added to the Navy's aviation fleet. This amendment fills in almost all of the dangerous $225 million shortfall in the National Guard's O&M account. As an offset, we use the House's recommendation on Super Hornet procurement for the coming fiscal year.

Mr. President, this amendment is supported by 25 State adjutants general. I hope my colleagues contact their State adjutants generals to get their opinion before casting their vote. I urge colleagues to support the National Guard and to vote against tabling this amendment.

Mr. STEVENS. Mr. President, this amendment will eliminate the Navy's highest priority, or I would say the Defense Department's highest priority for the Navy, the F–18 E/F. It would move that money into the National Guard. We have already increased the National Guard by more than $500 million above the budget request. So that approval of the National Guard Adjutants is a facade. This is to kill the F–18. I urge that the Senate support my motion to table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 3397.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 19, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—80

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bond
Boxer
Brownback
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Kempthorne
Kennedy
Kerry
Kyl
Landrieu
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NAYS—19

Bingaman
Breaux
Bryan
Bumpers
Conrad
Daschle
Feingold
Graham
Harkin
Jeffords
Johnson
Kerrey
Kohl
Lautenberg
Leahy
Reid
Rockefeller
Wellstone
Wyden

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 3397) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, could we have order for just one moment.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STEVENS. Mr. President, I want to inform the Senate that tomorrow there will be another funeral. It is the funeral for Officer Chestnut. The agreement today was we would not have any votes until 1 p.m. Then we made that 2 p.m. because of the Intelligence Committee meeting. But we are going to have the same agreement now that we will not vote on the amendments that we take up later this evening until tomorrow at 1 p.m.

I am soon going to seek agreement that all amendments will have to be debated tonight, and we will start voting tomorrow at 1 p.m. on those that require a vote. We will have taken over half—we have agreed to take over half the amendments we know of now, and we very soon hope to be able to know what amendments there are, but we will work out that time agreement.

I think Senators should realize that without regard to anything else we do now, we are going to be here tomorrow, and we are going to start voting at 1 o'clock and not before. The alternative is if we get through these—we might be able to get through them tonight if Senators want to do that and be finished tonight. But we can't do that unless we see the amendments.

Now, I have asked two or three times for an agreement that Senators bring amendments through, that we have a time limit on when they must be disclosed, and we will try that again after the next vote. But we have to have some certainty. If Senators want to, we are going to be here until Sunday, because I will never, never allow a defense bill to hang over a recess. It just will not do. And I think anybody who understands defense understands it cannot happen. So we are going to finish this bill tonight or tomorrow or Saturday or Sunday. My plane doesn't leave until Monday.

Mr. DODD. Will the Senator yield?

Mr. STEVENS. What is the next vote?

Mr. DODD. Will the Senator yield, Mr. President?

I inquire of the chairman of the committee, are we going to have votes this evening? Why wouldn't we vote on into the evening rather than having votes hanging over until tomorrow?

Mr. STEVENS. We might be able to do that.

Mr. President, I ask unanimous consent that no vote on this bill take more than 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Are we going to have votes then this evening, all into the evening?

Mr. STEVENS. We are going to vote on amendments when they come up. Whenever they come up, we will vote on them. Most of them are going to be motions to table, I will tell you. Most of them are going to be motions to table because most of this stuff is not relevant to this bill at all. So you might as well be put on notice, Republican or Democrat, I am going to move to table any nonrelevant amendments.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. If I can question the floor manager relative to his intent, if we are in tomorrow and votes start at 1 o'clock, might it be possible to stack the votes in the event that actuality should be determined, because the last plane that I can catch is 2:20;

otherwise, I have to leave the next day. And I don't request special consideration. On the other hand, it just means another day's delay. So if we did go into tomorrow and we start voting, the 2:20 plane is the last one I can catch.

Mr. STEVENS. I tell my colleague I will do my best.

I renew my unanimous consent request that all remaining first-degree amendments in order to be offered to this bill must be presented and offered before 5 p.m.

Mr. BAUCUS. Mr. President, objection. I object.

Mr. STEVENS. There is the answer to my friend. I do not see how we can finish before 2:30 tomorrow afternoon unless we know what we are voting on.

What is the next order of business, Mr. President?

AMENDMENT NO. 3124

The PRESIDING OFFICER. The pending question is on the Hutchinson amendment No. 3124. There are 2 minutes of debate equally divided.

Mr. STEVENS. Mr. President, I might say I am prepared to accept this. It is a sense-of-the-Senate amendment primarily.

This is the Senator from Arkansas. I do have a tabling motion in place on this, do I not?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I ask for the vote after 1 minute on each side.

The PRESIDING OFFICER. There are 2 minutes equally divided.

The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

There are 2 minutes equally divided. The Senator deserves to be heard.

Mr. HUTCHINSON. Mr. President, thank you for bringing the Senate to order.

This is an amendment that would simply deny visas and travel to those in the Chinese Government who the Secretary of State finds, by credible evidence, are involved in either forced abortions or religious persecution. It is not MFN, it is not IMF, it is not sanctions, but it would deny visas. China denies these practices are taking place. If that is the case, there would be no obstruction at all in diplomatic relations.

We provide in the amendment, and I hope everybody will look closely at the amendment, a Presidential waiver if it is in the national interest. This amendment passed overwhelmingly in the House of Representatives. I think, since the President returned, the most recent round of arrests of democratic dissidents underscores the need for this amendment.

It is a rifleshot, not a shotgun. We want to go after the bad guys, and that is all. It is not against trading. It doesn't deal with trading. A vote against tabling this amendment is a vote for freedom in China.

I ask my colleagues to oppose the tabling motion.

The PRESIDING OFFICER. The question occurs on the motion to table.

Mr. STEVENS. Senator THOMAS has a minute on our side.

The PRESIDING OFFICER. The Chair was under the impression the Senator from Alaska yielded back the time. If that is incorrect——

Mr. STEVENS. No; I did not.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I urge my colleagues to follow the leadership of the floor leader and the bill leader here on this one. No. 1, it doesn't belong in this area. We are taking away all these amendments. I think that is the right thing to do.

The second point is those of us who have been working in this area for a very long time feel as if there is a process that is going on to make things better with China, to make our relations better.

No one disagrees with doing something about religious freedom. No one disagrees with any of these issues. The question is, How do you best do it? And the best way to do it is not to refuse to provide visas to the Chinese.

I urge we table this amendment.

Mr. STEVENS. Vote.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce the the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announcd that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

The result was announced—yeas 29, nays 70, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—29

Akaka
Baucus
Bingaman
Bond
Bumpers
Burns
Chafee
Cleland
Domenici
Feinstein
Glenn
Grams
Hagel
Hollings
Inouye
Jeffords
Kennedy
Landrieu
Levin
Lugar
Moynihan
Murray
Reed
Robb
Roberts
Rockefeller
Stevens
Thomas
Thurmond

NAYS—70

Abraham
Allard
Ashcroft
Bennett
Biden
Boxer
Breaux
Brownback
Bryan
Byrd
Campbell
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Enzi
Faircloth
Feingold
Ford
Frist
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hutchinson
Hutchison
Inhofe
Johnson
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Nickles
Reid
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thompson
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 3124) was rejected.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I am informed now there are at least two, maybe three, amendments that will be offered to this amendment. Under the circumstances, I would like to just suggest we set that aside for a minute and have the proponents of the second-degree amendments talk to the author of the first-degree amendment to see if we might work something out as to how we limit the time or deal with this, if that is agreeable. If it is, then I would ask it be temporarily set aside.

I would like to take up the amendment No. 2964.

The PRESIDING OFFICER (Mr. GORTON). Is that a unanimous consent request?

Mr. STEVENS. It is a request. I ask unanimous consent that it be temporarily set aside, and we take them up one by one. Hopefully, they will talk while we are doing this.

Mr. HUTCHINSON. Reserving the right to object, will the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. HUTCHINSON. When we temporarily set this aside and do the negotiations on the various second-degree amendments that are to be considered, when do you anticipate returning to——

Mr. STEVENS. I say to the Senator, there are two other amendments we could act upon now. Your amendment will automatically be the order when we finish those.

The PRESIDING OFFICER. The regular order would bring back the amendment.

Mr. STEVENS. Yes.

Mr. HUTCHINSON. Thank you.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Without objection, it is so ordered.

AMENDMENT NO. 2964

Mr. STEVENS. Mr. President, the next amendment would be amendment No. 2964, offered by Senator ABRAHAM. There was no request for time that I know of for this. We are prepared to and do ask that—are the yeas and nays ordered on that amendment? I do not think they have been ordered. Have they?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. STEVENS. I ask for the adoption of Senator ABRAHAM's amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the Abraham amendment No. 2964.

The amendment (No. 2964) was agreed to.

Mr. McCAIN. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Was there one more amendment we had to dispose of before we come back to the regular order?

The PRESIDING OFFICER. There is the Kyl amendment.

Mr. STEVENS. For the information of the Senate, Senator KYL asked that his amendment be set aside temporarily because the Armed Services Committee is meeting to consider a similar amendment. We would like to have that set aside until Senator KYL asks that it be brought up. I ask unanimous consent that Senator KYL's amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

We have two amendments pending from the Senator from Texas, Mrs. HUTCHISON.

Mr. STEVENS. There is one amendment on which the debate has been finished.

May I inquire of the Senator from Texas, is debate finished on the one amendment?

Mrs. HUTCHISON. That is correct. I have spoken on the first amendment, No. 3409. I am happy to yield back time on that.

Mr. STEVENS. Mr. President, I am informed there is reluctance to accept that amendment until the Bosnia amendment is considered. I ask unanimous consent to set it aside temporarily, also, until that is resolved.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3124

Mr. STEVENS. We come back, then, to the pending amendment. As I understand, it is the regular order. And that is the amendment that was not tabled.

The PRESIDING OFFICER. The amendment of the Senator from Arkansas, Mr. HUTCHINSON. The motion to table was not agreed to.

Mr. STEVENS. That is open to amendment.

Mr. President, I think they are following the suggestion and perhaps discussing those second-degree amendments. I ask unanimous consent that, again, that be the pending business but it be temporarily set aside until the sponsor of that amendment can return to the floor. I also ask unanimous consent that we proceed with the Bosnia amendment by the Senator from Texas.

The PRESIDING OFFICER. Without objection, the pending amendment will be amendment No.—I ask the Senator from Texas, 3409 or 3413?

Mrs. HUTCHISON. Amendment No. 3413 has to do with Bosnia.

The PRESIDING OFFICER. Amendment No. 3413.

The Senator from Texas is recognized.

AMENDMENT NO. 3413

Mrs. HUTCHISON. Mr. President, amendment No. 3413 is to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces in Bosnia.

It is a fact that the U.S. Armed Forces have accomplished the military mission assigned to them as a component of the implementation and stabilization forces. The continuing and open-ended commitment of U.S. ground forces in the Republic of Bosnia and Herzegovina is subject to the oversight authority of Congress.

Mr. President, this is the first time that Congress will vote on any kind of resolution that would establish some kind of policy on Bosnia since the President decided that it would be an unending mission.

On November 27, 1995, the President said that America would be part of a multinational military implementation force that would terminate in about a year. The President declared the expiration of the mandate to be December 20, 1996.

The Secretary of Defense and the Chairman of the Joint Chiefs of Staff at the time expressed the critical importance of establishing a firm deadline in the absence of which there is a potential for expansion of the mission of U.S. forces. That was a forceful statement by the Chairman of the Joint Chiefs. He said it is a recipe for mission creep not to have a termination date.

On October 3, 1996, the Chairman of the Joint Chiefs announced the intention of the United States to delay removal until March 1997. In November of 1996, the President announced that we would delay until June of 1998. The President did not request authorization by the Congress of a policy that would result in the further deployment of U.S. forces in Bosnia until June 1998.

Notwithstanding the passage of two previously established deadlines, the reaffirmation of those deadlines by senior national security officials, and the endorsement by those same national security officials of the importance of having a deadline, nevertheless, the President announced on December 17, 1997, that establishing a deadline had been a mistake and that U.S. ground combat forces would be committed to the NATO-led mission in Bosnia for an indefinite amount of time.

What my amendment does is very simple. It says that funds appropriated will not be made available except as conditioned below; that the President will bring the number of troops down to 6,500 by February of next year and 5,000 by October of 1999, so we are staying within this fiscal year. Now, the exceptions are very broad at the discretion of the President and the Secretary of Defense that U.S. forces would have enough forces to protect themselves as the drawdowns proceed. So we are, of course, going to give the protection to the forces as the drawdown goes forward.

This doesn't take us out of Bosnia, which many in this body feel that we should do, that we should begin this at the base, for an honorable withdrawal. It just says, by the end of the fiscal year of the budget that we are considering, that our troop level would be down from about 8,500 to about 5,000. This should start the process of working with our allies to have a better distribution and sharing of responsibility among our allies and the United States.

This is a European security issue. The United States has approximately double the number of forces that any of our European allies have. We want to be a good ally. In fact, I don't want to pull up stakes and leave Bosnia without doing it in a responsible way. I think that is our responsibility. But, in fact, many of us have asked the President repeatedly to lay the groundwork with an established and clear mission that has a chance to succeed, a mission that has a finite term so that both our allies and any enemies of our cause would know exactly what to expect from America. That would not be possible at this time. We have said we were going to leave twice, and we have not left. We have not left, and we have not laid a proper base to leave.

What I am asking the President to consider and what I ask the American people to consider is that we start the process of realigning the forces in Bosnia so that our contribution would be reduced and our allies in NATO would begin to take a greater share of the burden.

Why is this important? We are looking at a time when our military readiness is being called into question. In fact, if you look at all of the responsibilities that America has in the world, we are spending too much on Bosnia and putting the future security of the United States and our ability to respond in the future in other places where America may have to respond, even unilaterally, in jeopardy. That is not the course we should be taking.

It is most important that America start with the issue of Bosnia and address it in a way that we should by putting it in context with our overall responsibilities in the world. The Bosnia operation has already diverted nearly $10 billion from our national defense. A growing lament at the Pentagon among senior officers is that we are in danger of returning to the hollow forces of the militaries of the late 1970s.

Let me mention some of the indicators that demonstrate our military is once again at risk. Last year, the military had its worst recruiting year since 1979. The Army failed to meet its objective to recruit infantry soldiers, the single most important specialty in the Army. A Senate Budget Committee investigator recently reported finding serious Army-wide personnel and readiness problems. At the National Training Center, where our troops go for advanced training, units rotating in typically come with a 60 percent shortage in mechanics and often a 50 percent shortage in infantry. These shortages were blamed on the fact that these personnel, especially the mechanics, are deployed abroad for missions such as Bosnia.

More than 350 Air Force pilots turned down the $60,000 bonuses they would have received to remain in the cockpit another 5 years—a 29 percent acceptance rate. That is compared with 59 percent last year and 81 percent in 1995. That is a stark trend. The Air Force is finding that whatever the perks, it can't hold its best pilots. Last year, about 500 pilots resigned. Most of them were lured by the airlines. This year the number will be 700, and the Air Force says it is not able to train enough new pilots to replace them.

When I have gone and visited our bases overseas and at home and I ask our enlisted military men and women why we are losing our experienced people, almost every time the answer is: Too much time away from our families on operations that don't seem that necessary. A Senate Budget Committee investigator also found that some small units are now being led by junior people because sergeants are off on peacekeeping duty. As a result, subunits from basic squads on up do not train with the leaders they would go to war with—breaking the rule of training just as you would go to war.

Since 1991, the United States has cut its Armed Forces by about a third. It may be more difficult, more risky, and possibly more costly to invade Iraq right now. We are going to debate and vote on a resolution today, hopefully, expressing our support for the President's strong actions toward Iraq. But the fact is, if anything went wrong, we would have to divert troops from every theater in the world to prevail. Defense cuts of almost 50 percent over the last decade have put our security at risk. But this has been made worse by the diversion of U.S. resources and readiness to places where there is no security threat to the United States, such as Bosnia, Haiti, and elsewhere.

We have spent more time discussing Bosnia than missile defense, which is a security risk to our country. We are not developing a policy that is going to put our country in the best position to deal with the myriad of issues that will face this country and our security in the next century.

President Clinton and his administration are missing a big-picture view of the world and the proper role for the United States. Our growing involvement in Bosnia is a good example of that. Just last week, U.S. forces were directly involved in tracking down and capturing a war criminal.

The Dayton accords have made it clear that apprehension of war criminals would be the responsibility of the parties to Dayton—civilian police and government officials. In fact, a little more than 1 year ago now, the former NATO commander, George Joulwan, told the Congress this:

> The military are not policemen. And I think the proper responsibility rests on the parties. That is what Dayton says. . .[I]f we are not careful, we will go down this slippery slope where the military will be put in the position of hunting down war criminals. That is not within the mandate.

That is Gen. George Joulwan.

I joined with many of my colleagues in the Senate to oppose the decision to send troops to Bosnia. One of our principal concerns was that, once there, our mission would be indefinite, and that it might lead to mission creep. We were bolstered in our concerns by former Secretary of Defense William Perry and former Chairman of the Joint Chiefs, General Shalikashvili. They both warned that without a specific deadline for withdrawal there would be the potential for expanding the mission.

I am concerned that Secretary Perry's warnings are coming true. While we were on a recent recess, the President announced that thousands of U.S. troops would remain in Bosnia after the June 30 deadline, remembering that the Senate had unanimously endorsed that deadline of June 30, 1998, which his administration had established.

After 240 U.S. Marines were killed in Lebanon in 1984, Defense Secretary Caspar Weinberger established six principles upon which the decision to send U.S. ground troops should be based. Here is what he said:

> The U.S. should not commit forces unless the engagement is in our vital national interest. If we do commit forces, we should have clearly defined political and military objectives. We should know how those objectives can be accomplished, and we should send the appropriate forces to complete the objectives. We must constantly reassess and adjust our relationship between our objectives and forces, if necessary. The commitment of troops should be a last resort, not the first.

We have violated virtually every one of Secretary Weinberger's principles in Bosnia. It was supposed to be a 1-year peacekeeping operation that would keep the factions apart until their own forces could come in and keep the peace from the ground up. They would have local elections and general elections for their national leadership. They would begin to resettle refugees.

Dayton has long since passed. I was in Brcko a year ago, 1 week before the eruption there in which U.S. troops were harmed. I was able to see how far we had come. I have been to Bosnia four times.

What I saw in Brcko was the resettling of refugees who did not even meet their next-door neighbors from the other factions, and I thought this is going to take a long time. The atrocities committed right in Brcko against thousands of Muslims are as bad as anything I have ever heard reported from the Nazi atrocities of World War II. Yet, we are trying to say "come and live together like Americans do." It looks like we are trying to create multiethnic neighborhoods, forcing people to do this prematurely, after the atrocities that have occurred in that country. This in itself can be antipeaceful. I think it is going to prolong the uprisings if we try to force this before the people themselves are ready—before the wounds have healed.

So I hope that we can let things settle, let the peace settle in, and let's do what we said we were going to do. Let's start training the people who are there to be a peacekeeping and police force. This could be done in an orderly way. We could begin with a NATO force that transitions and trains the forces that would come in behind them. They will be able to keep their peace, but it will not be an incentive for them to take over this job if they know that we are going to be there to do it for them.

I hope that we can create the base for an honorable exit. My amendment just tries to get a more equitable distribution of forces so that the burden is more equally shared between the United States and our NATO allies in Europe. It validates the legitimate responsibility that Congress has to authorize the long-term deployment of forces around the world by requiring a vote on the President's plan.

Without this amendment, we will be looking at American troops in Bosnia indefinitely. We will be looking at a never-ending commitment, and we will be taking resources that are vitally necessary for our own security and for our responsibilities around the world.

It is most important that we establish a policy that can succeed. Keeping thousands of American troops in a 30,000-troop enclave in Bosnia in perpetuity is not good military strategy and is not based on good policy. Remember what Shalikashvili said: "Having a defined deadline is important to avoid mission creep." We have learned that before and we should not forget the lesson. I think it is important for us to begin to act like the superpower that we are. When a superpower makes a commitment, it must be willing to back it up and do what it says it is going to do. It is so important that we act firmly. It was important in Iraq. It is important in Bosnia that when we set deadlines, we meet them, so that everyone knows what to expect. It is most important, Mr. President, that we look at our security forces and the money that we are spending on our defense. We are lowering our defense expenditures while increasing the OPTEMPO—increasing the operations we are getting involved in around the world. This is despite warning after warning from past Presidents, from past Chairmen of the Joint Chiefs, from the experts who have seen history and have learned from it.

We can do things that no one else in the world can do. We can provide an umbrella of defense for ballistic missiles, for nuclear weaponry, but that takes a commitment of money and a commitment of will. If we are dissipating to the tune of about $3 billion a year in a peacekeeping mission, which can be done just as well by any of our other allies, we are walking away from the responsibility we have to our allies to protect them in a way that only we can, because only we have the resources to do it.

Mr. President, I don't see how our colleagues can express alarm about the decline in U.S. readiness, and at the same time, ignore the policies that are causing the decline. It is our responsibility to act when our troops are going to be sent to an overseas conflict or missions of any kind when they are long-term. The President has now said it is going to be long-term—in fact, unending. If we don't have any set time, we will forget and the Bosnia operation will be in perpetuity. Those who are relying on us will continue to. Why shouldn't they? What incentive do they have to start the training of their own forces, which was envisioned in the Dayton accords?

I hope my colleagues will look at this very small first step in exercising Congress' responsibility. This is a precedent that has been set by Congresses in the past. We have set time deadlines. We have stopped the funding for operations that Congress did not think should be continued. This has happened in Cambodia, Vietnam, Somalia, Rwanda, and even in Korea, in the Philippines, and in Japan. We have spoken. In the past, Congress has stepped up to its responsibility. I hope it will today.

Mr. President, I will stop at this point because others want to speak. I do hope that my colleagues will focus carefully on this step. It is not even a major step of withdrawing from Bosnia. It is to just say we want our allies to accept more of the responsibility so that our troops will be able to do what they do best, and that is to train for the contingency that only we can address; that we will have the money to be able to invest in the technology that will protect the world from ballistic missiles and nuclear, biological, and chemical weapons; and that we will not lose our most experienced personnel because they are worn out from mission fatigue on operations they do not see as threats to U.S. security.

Mr. President, I thank you. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise today as a cosponsor of the Hutchison amendment, No. 3413, to the DOD appropriations bill concerning Bosnia.

I want to very sincerely commend the Senator from Texas for all the hard work she continues to devote to this important issue and for trying to craft a compromise that would be acceptable to a majority of our colleagues regarding the United States' ongoing presence in Bosnia and Herzegovina.

As my friend from Texas has already explained, this amendment mandates a withdrawal of U.S. forces participating in the NATO Stabilization Force, or S-FOR, requiring that that force, or any future multi-national successor force, shall not exceed 6,500 troops by February 2, 1999, and 5,000 troops by October 1, 1999. The amendment enforces these levels by tying any appropriated funds for the Bosnia mission to this troop reduction.

This amendment represents something less than a funding cut-off for the mission, although that is a policy I have pursued in the past.

Rather, it suggests a slow and careful drawdown of U.S. forces in the region. In fact, it allows for troops to stay there past October of next year!

Mr. President, this is July 30. This is exactly 1 month after the date that we were supposed to be out of Bosnia in the first place. That isn't even accurate, because really we were supposed to be out of Bosnia in the first place, according to the promises that were made by both parties, by December 30, 1996. So we are way beyond that date.

Our troops have been there since 1995—much longer than the original 1-year mandate, and already longer than the expanded 18-month mandate for S-FOR—and I do not think anyone has a good idea how many more years we will be there.

More significantly, the cost of our involvement in Bosnia has increased dramatically—easily more than quadrupling the original $2 billion estimate to over $9 billion.

The estimate is that it is now well over $9 billion for this commitment that has already been spent or obligated.

Mr. President, I regret that the managers of this bill earlier today agreed to a provision that would allow $1.8 billion in additional funds for the Bosnia mission to be added to this bill with an emergency designation.

Mr. President, the mission in Bosnia has clearly ceased to be an emergency, and this amendment even recognizes that fact.

The fact that the emergency designation was inserted into the bill this morning unfortunately highlights the fact that we in Congress continue to be lax in establishing some kind of accountability for our continued operation in Bosnia, and particularly for the taxpayer dollars that are needed to support that operation, soon to approach the astounding figure of $10 billion.

I recognize that my continued opposition to the mission in Bosnia is not shared by everyone in Congress. But I think all of us would agree that the Congress has a constitutional responsibility to provide a check on the manner in which the executive branch spends money.

This is the way the President spends an annual budget request to the Congress with his plans for the following year's spending. From time to time there are emergencies that can not be foreseen, and we deal with those accordingly as emergencies.

But let me repeat again, U.S. involvement in Bosnia has ceased to be an emergency.

Rather, our presence in Bosnia has clearly become a substantial, long-term commitment. It is something the United States has, for better or worse, decided to do for the long-term. And we need to evaluate this operation on its merits accordingly, and not pretend that it is an appropriate occasion for an emergency designation.

The amendment by the Senator from Texas can at least put some real pressure on the administration to develop plans for a reduction in troop levels in Bosnia. The amendment also would have a positive budgetary impact, because we would need fewer resources to support a smaller troop presence.

Mr. President, with or without this amendment, I think we all recognize that there will be troops in Bosnia next year.

So, this is not an emergency, and I think the Congress has a responsibility to face that fact and deal with it accordingly.

I hope, therefore, that those of my colleagues who do support the mission in Bosnia will cease to resort to maneuvers regarding the funding of this mission that seek to avoid our budget spending caps! This has been going on far too long, and has eaten up too many of our resources—human, financial and otherwise. We cannot continue with this budgetary game.

Mr. President, I am pleased once again to join the junior Senator from Texas in trying to assert some kind of accountability for this mission. I urge my colleagues to support her amendment.

Mr. President, I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, it is with reluctance I rise to oppose the amendment offered by my colleague, the Senator from Texas, because we share much the same goal. We had the same concerns about the deployment of our troops to Bosnia initially. We had the same concerns about the Dayton accord, which, as presented to us, was transparent on its face. It was disingenuous on its face that we could accomplish the task incorporated in Dayton with a 1-year period of time of deployment of our troops on the ground, a timetable unachievable by any measure. The continued existence of our involvement in Bosnia is something that I don't support.

But I believe that the amendment has a fatal flaw, and the fatal flaw is that it makes Congress the determiner of how many troops and what time period those troops will be deployed once that decision has been made by the Commander in Chief, the President of the United States.

I find it difficult to stand up here and defend the powers of the President of the United States, particularly at a time like this. But there are constitutional prerogatives and constitutional powers that I think need defending regardless of what your personal assessment is of any particular President.

Second, I believe it is unwise policy for those of us to make decisions about the force levels of our troops or decisions that micromanage how those troops conduct themselves and how they accomplish their mission once the decision has been made. Clearly, our responsibility, if we disagree with the presence of those troops and the deployment of those troops, is to address that by eliminating the funding for those troops, but not to determine the force level of those troops, the kind of equipment they ought to have, and what their timetable ought to be.

I quote from a letter from the Secretary of Defense dated May 21, 1998, when he says, "Our military commanders in the field have determined the level and type of force required to carry out the mission within acceptable risks. The mission force and guidance of the force currently planned for have been fully agreed to by military authorities. Military commanders"—under the amendment offered here—"Military commanders would be forced to restructure their force and mission tasks based on an arbitrarily mandated schedule rather than on mission accomplishment, operational consideration, and the fluid tactical situations they face. In addition, legislating withdrawal would incite heightened intransigence and extremism."

Mr. President, we sadly learned in Somalia, to cite one example, the disastrous and tragic consequences of political decisions overriding military requests. We lost some brave Americans unnecessarily because the political decision was made to not provide those forces with the necessary equipment and not base a sufficient force there until our mission was accomplished. I don't want to see us doing that again.

We in Congress do not have the expertise to make that decision. Even if we did, we shouldn't make that decision. That is a decision that ought to be made by those who command the troops and make the decisions about their presence and what they need to be there.

So I strongly, strongly urge my colleagues to vote to table this amendment, not because they necessarily agree or disagree with whether or not this is a proper deployment, not because this impacts our readiness, which it does, not because it is costing a lot of money, which it is, not because it was a bad decision to start with, and an unachievable mission and objective to start with, because it is, but because it tells our troops that we in Congress know more about what they need, what the troop levels should be, what the date of withdrawal should be, how we accomplish the mission of our military commanders. Those men and women in uniform who we put in harm's way have to have every advantage we can give them in terms of protecting their security, in terms of accomplishing their mission, and it is a decision that has to be made by people with military expertise and not Members of Congress. For that reason, I strongly urge that we table this well-intended but, I think, misguided amendment.

Mr. BIDEN. Mr. President, I rise today in opposition to the Bosnia amendment introduced by the junior Senator from Texas. Before I discuss the reasons for my opposition, I would like to commend the Senator for her continuing interest and involvement in U.S. foreign policy. The Senator is one of this body's most active Members, and while I have often opposed her legislative initiatives, which seemed to me unnecessarily to limit American involvement abroad, I value her enthusiasm and engagement.

The amendment that Senator HUTCHISON has proposed today sets arbitrary caps on our troop strength in Bosnia and micromanages their duties from the vantage point of Washington, D.C.—4,000 miles from Bosnia and Herzegovina! The amendment is fatally flawed.

Mr. President, the Hutchison amendment is predicated upon a false assertion: that the U.S. contribution to SFOR is inequitable and disproportionately large. I will return to that inaccurate claim in a moment.

Moreover, the amendment makes several incorrect claims about the current situation in Bosnia, for example that NATO forces participate in law enforcement activities there.

In circumscribing future activities, it also incorrectly implies that NATO forces are transferring refugees or that refugees are relocating in order to control the territory of the other Bosnian entity.

But, Mr. President, the core of my opposition to the Hutchison amendment is the same as was my opposition last month to the Thurmond amendment to the Defense authorization bill.

Put quite simply, if the United States wishes to remain the leader of the North Atlantic Treaty Organization, then it must continue to lead!

Mr. President, leadership means being present in all aspects of NATO operations and sharing in the risks.

The Hutchison amendment is a prescription for "NATO á la carte."

By February 1999 it would allow exceptions in Bosnia to the arbitrary troop limits in Bosnia only for self-protection as we withdraw our forces, to protect U.S. diplomatic facilities, or in advisory support roles.

That might work for a junior member of the Alliance, but not for the United States of America. Not for the leader of NATO.

Let me return to the false assumption that underlies the Hutchison amendment—that our participation in SFOR is disproportionately large.

As a matter of fact, Mr. President, while the U.S. contribution to SFOR remains the largest single national contribution, the proportion of U.S. forces within NATO forces in Bosnia has declined dramatically since initial deployment in December 1995.

At the outset, U.S. troops made up fully one-third of IFOR. As a result of steady, measured reductions, U.S. participation has dropped to one-fifth of SFOR.

In other words, our allies and other SFOR partners have agreed to the U.S. taking disproportionate cuts in force numbers at each milestone, while continuing to accept U.S. command of the overall force.

At the current time, our European allies alone contribute more than three-and-one-half times the number of troops in SFOR than we do.

Attempting to lower the U.S. proportion to equal or below that of any single European ally would almost certainly cost us our command position. Some Members of the Senate might welcome such a development. I would not.

I want the United States to retain command of SFOR in order to ensure that the pace of implementing the Dayton Accords holds steady or accelerates.

I want the United States to retain command of SFOR in order to maximize the effectiveness and protection of the U.S. forces in Bosnia.

We are in Bosnia because helping to resolve the Bosnian problem is in our national interest.

As was repeatedly pointed out by this Senator and many others during the debate on NATO enlargement last spring, that is the reason we are in Europe at all.

In political, security, and economic terms, we are a European power. Our engagement in Europe, including Bosnia, is not a charity operation. Stability in Europe benefits us.

The European allies of the United States are playing a major role in Bosnia.

Because of our leadership role in NATO, and because of our superior logistical capabilities, we have maintained command of SFOR. This is how it should be.

Like my colleagues, I am in favor of the speediest fulfillment of the Dayton Accords so that Bosnia and Herzegovina will have a self-sustaining democracy and all foreign troops may be withdrawn. American command of SFOR is the best guarantee that we can rapidly achieve this goal.

The Hutchison amendment would, I submit, gravely undermine that American command in Bosnia and would set in motion a process that could ultimately result in loss of the position of SACEUR, the command of NATO land forces in Europe.

For all these reasons, I oppose the Hutchison amendment, and I urge my colleagues to join me in defeating it.

I thank the Chair and yield the floor.

Mr. President, I will take no more time. I know my friend from Arizona is about to make some comments.

Last spring this was a bad idea. Nothing has caused it to become a good idea in the summer. It was a bad idea then; it is a bad idea now. I hope it will be tabled.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank my friend from Delaware, who obviously is very knowledgeable on this issue and has stayed focused on these issues for many, many years.

I also wish to thank the Senator from Indiana for his very forceful presentation.

Mr. President, I believe everyone in this body knows that I have long had serious concerns about our mission in Bosnia. From the time the IFOR mission was first briefed to the Congress, I knew the job could not be completed in one year—nor against any arbitrary deadline. Instead, I urged the Administration to set concrete objectives and benchmarks for measuring success.

Now, as many members have pointed out, we are in an open-ended and ill-defined military commitment. The Administration has scrapped all the artificial deadlines. But no clear set of objectives and well-defined military missions has taken its place. We seem to drift in and out of going after war criminals, of using the military to resettle refugees, and of taking on a direct political role in parts of Bosnia in the name of supporting international civilian authorities. The role of our military has expanded, and there is no end in sight.

The answer to this problem, however, is not to go back and set new artificial deadlines or troop levels. And make no mistake about it, Mr. President. The amendment before us is little different than the one the Senate rejected last month.

Bosnia is a long-term, complicated problem. It involves not only the warring factions, but has direct effects on Croatia and Serbia, including Kosovo, and threatens to spill over to the wider Balkan region. The credibility of NATO and especially the United States is tied up with finding a solution for the Bosnia crisis. It would be sheer irresponsibility, probably leading to renewed warfare, if we were to precipitously pull Out of Bosnia after investing so much. It would be a betrayal of our commitment to cooperating with our Allies. And it could well lead to an even more costly and dangerous re-introduction of American forces to stop the renewed fighting.

Dealing with the Bosnia crisis—even if though our objective is to get American troops out of there—requires treating Bosnia as a serious long-term challenge. It is not an issue that lends itself to artificial deadlines for withdrawal. Nor is there any rationale to forcing the Congress to vote by some artificial deadline. Worse still would be a funding cut-off, which would only punish our troops for the failure of policy makers in Washington to craft a viable long term policy.

I would like to offer six principles that I believe should guide our policy:

(1) The U.S. has no permanent national interests in Bosnia. We are not interested in nation-building for its own sake. All we want is to create a self-sustaining peace. We must carry out our responsibilities and then get out.

(2) Our withdrawal must not precipitate renewed warfare in Bosnia.

(3) There must be no phony deadlines—whether for a withdrawal date, a Senate vote, or anything else. We have all the power we need to act whenever we want. We don't need a deadline. We need sound policy.

(4) There must be no funding cut-offs or troop limits. This would only hurt our troops on the ground. The real problem is policy making here in Washington. It needs to be solved here.

(5) There must be no micro-management of the military. The Congress and Administration must provide political leadership. We must make the tough decisions and bear the consequences. The military's job is to implement our decisions as effectively as possible based solely on military considerations. The military has no business making political decisions for us, and we have no business making military decisions for them.

(6) The U.S. must provide leadership. No other country in the world has the political, military, and moral authority to exert leadership. Simply packing our bags and walking away is not an option. We must not simply abandon our Allies. We must leave Bosnia, but with dignity and leadership, leaving behind a well-planned succession.

Handling the Bosnia crisis requires us to look beyond just this fiscal year. It requires the United States to develop a multi-year strategy that sets Out our objectives, the means for achieving these objectives, and a target timetable for getting us there—but no phony deadlines. For the sake of our troops, we need to set out clearly the military and nonmilitary missions they are being asked to perform. 'Creative ambiguity' may be useful in politics, but it is dangerous for soldiers. We need to be honest with ourselves about the risks we are asking our troops to face, and the costs to the taxpayers of continuing the mission.

I am convinced that the direction we should be taking is to move toward a force made up of European nations inside Bosnia, with U.S. forces just "over-the-horizon" outside of Bosnia—providing a rapid response capability to deter security threats, and providing logistical, intelligence, and air support to the European forces inside Bosnia. This step would free up U.S. forces to prepare for other contingencies.

But it is not possible to achieve this goal simply by setting arbitrary numbers, or even numbers arrived at through an averaging process involving contributions of countries with militaries' a fraction the size of our own, and deadlines for troop withdrawals. Doing so could provoke a crisis with our Allies and could have the effect of simply setting a timeable for restoring violence to Bosnia. Instead, achieving this goal requires working together with our Allies and realistically taking account of the situation inside Bosnia.

Mr. President, the Senate already approved an amendment, of which I sponsored, that seeks to do exactly these things. It imposes a number of reporting requirements, designed to provide the basis for moving us in the direction we all want to go. According to the amendment already passed by the Senate just over one month ago, each time the Administration submits a budget request for funding military operations in Bosnia, the Administration must clearly state its best assessment of six items:

(1) our overall objectives and multi-year timetable for achieving these objectives—taking account of the benchmarks already required under the supplemental appropriation passed earlier this year;

(2) the military and nonmilitary missiosn the President has directed U.S. forces to carry out—including specific language on our policy on war

criminals, returning refugees, police functions, and support for civil implementation;

(3) the Chairman of the Joint Chiefs of Staff's assessment of the risks these missions present to U.S. military personnel;

(4) the cost of executing our strategy over several fiscal years.

(5) the status of plans to move forward a European force inside Bosnia with a U.S. force outside Bosnia that would deter threats and provide support to the European force; and

(6) an assessment of the impact of reducing our forces according to the timetable proposed in the original Byrd-Hutchison amendment.

This may seem like a detailed and onerous reporting requirement, but it is nothing more than the king of long-term planning the Administration should be doing anyway. And by requiring it in a report to Congress, we ensure that the Congress is operating off the same set of assumptions and plans as the Administration. This will give us an opportunity to look more thoughtfully at the real challenges in Bosnia and structure our decisions more appropriately. Instead of broad swipes through artificial deadlines or prohibitions on certain missions, we will be able to target our policy choices more effectively.

Mr. President, I am not going to elaborate very much on what the Senator from Indiana had to say, except to ask unanimous consent that a letter to Senator STROM THURMOND, the chairman of the Senate Armed Services Committee, written by General Shelton and Secretary Cohen be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, 21 May 1998.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write to express our concerns with any amendment that would legislate a date or schedule for withdrawal or reduction of US forces from the NATO-led mission in Bosnia. Such amendments would make it more difficult to accomplish the mission, which has been remarkable successful to date.

It is our intention to reduce our forces in Bosnia. Based on the progress achieved to date, our commanders already have been able to reduce US troop levels from almost 20,000 in 1996 to the 6,900 that will be deployed after the current drawdown is completed in September. We will conduct regular reviews of our force posture and progress toward the benchmarks we have established, and we expect further reductions will be possible. But that determination is best based on the actual situation on the ground, the military advice of our commanders in the field, and the approval of the NATO military and political authorities, not an arbitrary withdrawal or reduction dates determined long in advance.

Our military commanders in the field have determined the level and type of force required to carry out the mission within acceptable risk. The mission, forces and guidance of the force currently planned for June 1998 have been fully agreed to by NATO political and military authorities. Under a legislated approach, military commanders would be forced to restructure their force and mission tasks based on an arbitrarily mandated schedule rather than on mission accomplishment, operational considerations, and the fluid tactical situation they face. In addition, while those opposed to the Dayton Accords have been steadily isolated and diminished in their influence, legislating withdrawal of reduction dates would invite heightened intransigence and extremism.

Additional factors that Congress should consider in reviewing any such amendment are the following:

Under the proposed amendment, command of the SFOR operation and its element in MND-North might well be transferred to a non-US officer early next year.

Shifting to a posture in which the US has much smaller force levels in Bosnia but enhances its force presence in regions surrounding Bosnia, as envisioned by the amendment, will not save money and indeed could cost more than our current operation in Bosnia. We are continually evaluating the force posture for Bosnia, and do not consider an over-the-horizon force appropriate now.

Accordingly, we strongly urge you to oppose any legislated fixed date or timetable for withdrawal or reduction of US forces in Bosnia.

There is one other factor related to operations in Bosnia of great concern to us, and that is funding. The Department submitted an addition to the FY99 budget to fund a 6,900-person force in Bosnia. Authorizing that request is essential to accomplishing the mission without significantly reducing readiness in other areas. Without that funding, we would have to choose between Bosnia operations and the overall readiness of our Armed Forces.

Sincerely,

HENRY H. SHELTON.
BILL COHEN.

Mr. McCAIN. Mr. President, in Secretary Cohen and General Shelton's letter the Senator from Indiana just referred to, it is very important to understand what they are saying here:

> Under a legislated approach, military commanders will be forced to restructure their force and mission tasks based on an arbitrarily mandated schedule rather than on mission accomplishment, operational considerations and the fluid tactical situation they face. In addition, while those opposed to the Dayton Accords have been steadily isolated and diminished in their influence, legislating withdrawal of reduction dates would invite heightened intransigence and extremism.

So that is the view of the people to whom we entrust the care of our men and women in the military.

I think it would be very appropriate to have a vigorous and, I think, illuminating debate on the issue of whether the troops should be there at all. Congress clearly has the right to cut off funding for any military operation anywhere in the world. But I see nowhere in the Constitution where we have the right to, indeed, decide the levels of troops that should be there. I pride myself on the fact that I had some time in the service of our country wearing a uniform, but no way does that give me the expertise or the knowledge to set a troop level. That responsibility is entrusted to our civilian and military commanders.

So it is with reluctance, because I agree with the thrust of what Senator HUTCHISON is saying, Mr. President, I move to table the Hutchison amendment.

Mr. BYRD. Mr. President, will the Senator allow me to speak on this amendment before he moves to table?

Mr. McCAIN. Absolutely.

Mrs. HUTCHISON. Will the Senator also allow others who said they would like to speak on this amendment to speak and then move to table?

Mr. McCAIN. I do not intend that the request—I will allow the distinguished manager of the bill. It is nearly 5 o'clock. We have 50 pending amendments.

Mrs. HUTCHISON. Mr. President, I would like to be able to close.

The PRESIDING OFFICER. Does the Senator withdraw the motion to table?

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. McCAIN. I will yield.

The PRESIDING OFFICER. The Chair needs to know whether the Senator has withdrawn his motion to table.

Mr. McCAIN. I withdraw my motion to table and I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I was trying to condition that motion to table. I know Senator BYRD is one of the original cosponsors, Senator HUTCHISON also. But we do have to move along. I am a cosponsor also. But I do think we have to have some time limit.

Would the Senator be willing to have some discussion as to a time when we might be able to vote?

Mr. BYRD. I, first of all, wish to thank the distinguished Senator from Arizona for withholding his motion. I would probably need 25 minutes.

Mr. STEVENS. And how much time does the Senator want?

Mrs. HUTCHISON. Mr. President, Senator INHOFE and Senator SESSIONS have both asked to speak for approximately 10 minutes each, and then I would like to close on my amendment with about 10 minutes.

Mr. McCAIN. Senator INHOFE said he does not wish to speak on the amendment.

Mr. STEVENS. He has gone to a meeting.

Mr. President, I would like to put some time restraints on this, if we could. I would like to see if we could have the vote take place no later than quarter to 6.

Could we have that agreement?

Mr. BIDEN. Mr. President, if the Senator will yield, a lot of us withheld speaking against this amendment, and

I hope that maybe just the Senator from West Virginia, Mr. BYRD, would speak and then all those who already spoke refrain from speaking again so people such as me don't feel compelled to stand up and respond. We are trying to get this done. Because the Senator from Arizona was kind enough to withhold his motion to table, I hope we could agree that after the Senator from West Virginia speaks, and maybe the Senator from Texas takes a couple minutes to close out, we then let the Senator move. It would be helpful.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I would then ask unanimous consent that Senator BYRD be recognized, and the Senator from Texas have whatever time is remaining, and the Senator from Arizona be recognized to make his motion to table at 5:30. And it is with the understanding that if the amendment is not tabled, there is no agreement on the amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. After Senator BYRD speaks, I would be allowed at least 5 minutes to close?

Mr. STEVENS. That leaves 10 minutes, I might say to the Senator, in her control; 25 minutes in the control of the Senator from West Virginia.

Mrs. HUTCHISON. That will be fine. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered. The unanimous consent agreement is accepted.

The Senator from West Virginia.

Mr. STEVENS. Pardon me. The agreement is the Senator from Arizona will be recognized, is that correct?

The PRESIDING OFFICER. That is part of the unanimous consent agreement.

Mr. LEVIN. Mr. President, parliamentary inquiry. Has the agreement been entered into?

Mr. STEVENS. Yes, it has. Is the Senator from Michigan upset?

Mr. LEVIN. I would like 5 minutes, if I could.

Mr. STEVENS. On which amendment?

Mr. LEVIN. On the pending amendment.

Mr. STEVENS. The Senator has not spoken on the amendment.

May I extend him another 5 minutes. We will vote, then—let's put that off. When that time has expired, I do want to ask unanimous consent that we then proceed to the Hutchinson amendment in the second degree to his amendment, and following that, there will be a vote. I understand there is an agreement so I don't think we need a time agreement. But I would ask that the time on this expire at 5:40 and that we then proceed to the Hutchinson amendment in the second degree—there will be three comments about that amendment—and that we vote on both of those amendments at 6 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object, why didn't the Senator just leave it at 5:30 the way you had it? I think the Senator from Michigan may be willing to take, say, a minute.

Mr. STEVENS. Very well. At 5:30 he gets a minute, and we will go back. We still want to have a vote on the two amendments at the same time. I will renew that request later.

Mr. COATS. Mr. President, reserving the right to object, but I will not object, could I just inquire, did I understand the Senator to say that the second degree will be in order if the amendment is not tabled?

Mr. STEVENS. If it is not tabled. There is no second-degree amendment available because the Senator from Arizona will be recognized to table at the end of these statements.

Mr. COATS. If not tabled, the second degree——

Mr. STEVENS. If not tabled, the second degree is still in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank all Senators, and I, again, thank the distinguished Senator from Arizona.

Mr. President, I commend the Senator from Texas, Mrs. HUTCHISON, for offering this amendment regarding the continued participation of U.S. forces in the NATO operation in Bosnia. She has been a persistent and thorough overseer of the situation there. I share her concern that Bosnia not become another forgotten war, another long term military mission whose purpose and even existence is largely ignored, unremarked upon unless something terrible happens. In that unhappy event, of course, much shouting and finger-pointing would ensue, amid calls to "bring our boys home, now."

It is Congress's Constitutional duty to provide for the maintenance of the military, as we are doing in this bill, and that includes those instances in which U.S. troops are pressed into service. We have an obligation to the men and women in our military services not only to provide for them, but also to provide our concurrence and oversight on the ways and places that they are employed. I believe that that calls for something more compelling than Sense of Congress resolutions, such as those that have been passed, one that has been passed during the debate on the Department of Defense Authorization bill last month, but I recognize that, sadly, the majority of my colleagues do not share my opinion. So I applaud Senator HUTCHISON for steaming ahead on the strength of her convictions, despite the somewhat daunting odds.

U.S. troops have been in Bosnia since the Dayton Peace Accords were signed in December 1995. Some 25,000 U.S. troops formed the U.S. contingent of the NATO-led force that replaced the failing United Nations peacekeeping effort there since 1992. The original mission of the NATO force was quite limited—to separate the warring factions, contain the heavy weapons that were bombarding defenseless towns and cities, and begin to mark the hazardous and indiscriminately strewn minefields so that civilians could take over the arduous task of clearing mines. The U.S. had to lead, because our European allies would not rally behind anyone else. This task, we were assured at that time, would take "about one year." And that was in 1995.

As that initial year drew to a close, the military tasks were declared essentially complete, and the situation on the ground was, indeed, transformed. While far from enjoying the kind of security that we in the United States take for granted, people could at least seek water without dodging shells and gunfire. The civilian efforts to reestablish Bosnian society, however, had barely begun. NATO leaders agreed to leave substantial numbers of troops in place to keep the peace while the civilian rebuilding effort continued. That is understandable. Again, the U.S., we were assured, must take the lead, because if we left, our European NATO allies would march out right behind us. We were told that the troops would be needed only through June 1998. That was in 1996.

Now it is July 1998, almost August. We have been told that the considerable progress being made in rebuilding a government and civilian infrastructure requires the continued reassurance of a NATO peacekeeping force. Elections are scheduled for September, and more work needs to be done to establish a competent and impartial justice system that has the trust of the populace. Therefore, the Administration announced a substantial shift in U.S. policy on Bosnia in December 1997—there would be no further estimates regarding the end of a U.S. presence in Bosnia. The U.S. and NATO would leave when sufficient progress was made in achieving certain benchmarks. The complete and detailed benchmarks are classified, but the unclassified summary that I have seen is fairly lengthy. It basically says that when Bosnian government and institutions resemble those of the United States, then our troops might leave.

Mr. President, that is a pretty big order. Bosnia has never previously resembled the United States, with free press, alternative media, free and fair multiparty elections, a clean and impartial judiciary, free access throughout the country, and so forth. For most of this century, Bosnia was part of communist Yugoslavia. Prior to that, it was part of a monarchy, and before that, it was part of the Ottoman Empire. This leads me to suspect that U.S. troops might be in Bosnia for a very long time, indeed, before Bosnia becomes a happy, peaceful, multi-ethnic republic. And this assumes, of course, that everyone in Bosnia shares this same aspiration, and that no one will try to undermine the progress towards this utopian vision.

Now, Mr. President, I do not want to create the impression that I am against helping the suffering people of Bosnia to establish a sound government that can lead them into a peaceful and prosperous future in the family of nations. The amendment of the Senator from Texas, Mrs. HUTCHISON, also does not call for the withdrawal of U.S. troops from Bosnia. This amendment appreciates the investment that has been made for peace in Bosnia and does not jeopardize that still fragile situation, but it also recognizes the considerable costs of that investment.

I believe that Senator HUTCHISON's effort addresses three very basic questions regarding the continuing role of U.S. forces in Bosnia. These are the questions:

First, does this Senate really want to acquiesce to an open-ended commitment in Bosnia for the foreseeable future? The United States has spent $8.6 billion, or about $2 billion a year, to maintain our presence in Bosnia from Fiscal Year 1996 through Fiscal Year 1999. If you include the U.S. share of the United Nations operation in Bosnia from 1992 through 1995, the total cost is about $9.5 billion.

That is a lot of money. That is $9.50 for every minute since Jesus Christ was born, 2,000 years ago. For every minute since Jesus Christ was born, 2,000 years ago, $9.50. For every minute. That is what it equals.

This bill provides $1.86 billion for Bosnia operating costs for Fiscal Year 1999, under an emergency declaration.

There are approximately 6700 troops inside Bosnia now, down from almost 10,000, and another 3,000 more are supporting them from bases in Hungary, Italy, and on ships in the Mediterranean. These troops and these funds are not available to meet other crises that might arise, such as that developing in Kosovo, and they are not available to protect U.S. core national security interests. Further, the support troops employed in this mission are drawn heavily from the Guard and Reserves, creating hardships for our part-time military and their employers. The President will need to request continued Reserve call-up authority in August to maintain the Bosnia operation. These readiness questions must be measured against the estimate of how many troops are needed to provide continued reassurance for civilian reconstruction in Bosnia—what is the minimum number of troops required to provide that reassurance? And for how long? And at what cost? Let us not be satisfied with the status quo, if a lower number is adequate or if a shorter time is sufficient. There are too many other demands being placed upon U.S. Armed Forces for us to be spendthrifts in this regard.

Second, does the Senate wish to continue to allow the United States to be led by the reluctance of others? Must the United States continue to provide a substantially greater number of troops than any of the other NATO allies, as is now envisioned? If we cannot pass the baton of leadership because our European allies will not lead, then should we not at least push them into carrying an equal military burden for a situation that is, after all, on their borders, not on ours? I know that it is easier to be a follower than a leader, easier to be a critic rather than a playwright, but as the Bosnia operation settles into a routine, surely some of this burden could be assumed by our allies.

Third, does the Senate want to abstain from placing limits on the role that U.S. forces should play in Bosnia? Or do we want to enhance the safety of the men and women we are supporting on the ground there by prohibiting them from performing the kinds of activities that put them in harm's way by making them appear to side with one ethnic group over another? NATO forces have played an increasing role in the capture of war criminals, and have taken over radio transmission towers linked with propaganda practices. A news story from early July reported that U.S. special operations teams came very close to mounting a "snatch and grab" exercise designed to capture Serb military leaders before commanders on the ground declared that the intelligence was insufficient to ensure a reasonable chance of success. The longer we stay in Bosnia, and the more manpower we have to spare, the more such jobs we will be drawn into doing. It is the American way, to say, "we'll pitch in." And we are suckers for the underdog. But that can be dangerous in a place as rife with centuries-old animosities as Bosnia. These ethnic and religious factions know how to carry a grudge, how to nurse an injustice, through centuries if need be.

With these questions in mind, consider the current situation in the Balkans, as Senator HUTCHISON has. Bosnia is relatively stable. No one is shooting at each other, and no one is shooting at the NATO forces. But, Kosovo, on its borders, is not stable. There, the situation is rapidly degenerating. Already more than 10,000 refugees have fled into neighboring Albania to seek refuge from Serbian dominated Yugoslav military forces who are ruthlessly squashing a separatist movement in ethnically Albanian Kosovo, which had been an autonomous region of Yugoslavia until 1989. The situation is complex and, frighteningly, contains the potential to draw in neighboring nations and even NATO members. This is the dreaded "spillover" that was much discussed when the ethnic conflagration in Bosnia erupted in 1992.

NATO officials have already contemplated what forces might be necessary to contain the conflict in Kosovo. Even with over 20,000 troops spread along the mountainous border between Kosovo and Albania, they concluded, the probability of success would be low. Air strikes are under consideration. Diplomatic efforts are ongoing, but the Yugoslav leader, Slobodan Milosevic has an unsavory history of playing both ends against the middle to achieve his goals.

It is clear that the cost of maintaining a large presence in Bosnia could be fairly high if forces are needed to contain the conflict in Kosovo and keep it from engulfing a large part of the Balkans. Our NATO allies will happily continue to let the U.S. carry the heaviest load in addition to the burdens of leadership, if all it takes is to threaten to beat us through the exit door, should we decide to leave. To hear them say it, it would be quite a stampede, no matter what the consequences are for Bosnia and their own continent's future.

The amendment offered by Senator HUTCHISON calls for a gradual ramping down of the U.S. presence in Bosnia, reducing our forces there to 5,000 by October 1, 1999, a number roughly equivalent to that of Britain, the next largest contributor to the NATO mission. The amendment of the Senator from Texas also limits the mission of those remaining forces to the security role assigned to them in 1995. This honors U.S. NATO commitments in Bosnia, protects our men and women in the military from being put in a position of playing favorites and therefore creating enemies, while freeing up troops, energy, and funds for other pressing security matters.

The United States cannot continue to pick up the largest burden of every NATO military mission. While our allies have been reducing their military budgets and forces since the cold war ended, the United States military has been strained by the increasing number of calls to respond to crises around the world—in Somalia, Rwanda, Haiti, Iraq, Bosnia, and next, perhaps, in Kosovo. Our generosity in picking up the bulk of the tab has, I fear, marked us as a patsy, a patsy who can be suckered into bankrolling everyone's problems with funds and troops. If we keep doing it, what incentive is there for anyone else to develop the expertise, training, and tools to take over appropriate parts of that role?

I wish that the administration would put its support behind this amendment. I think it would strengthen the administration's position in talking with our allies in Europe, and it would seem to me that would be a very beneficial thing, insofar as the administration is concerned.

Mr. President, I believe that Senator HUTCHISON has offered a blueprint for the continued U.S. participation in Bosnia that supports our NATO commitment, even our leadership role, but not at the cost of maintaining a disproportionate force size. The most important thing we can do here today is to let the soldiers and airmen out there so far away know that we are watching, and that we care enough about them to act in their best interests. They are not America's forgotten heroes, out of sight and out of mind unless trouble comes their way. We are there with them, in thought and in deed, and we will not keep any more of them engaged in lengthy and lonely overseas deployments for any longer than is absolutely necessary. I will vote for the Hutchison amendment. I urge my colleagues to do the same.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I yield 3 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. SESSIONS. Thank you, Mr. President.

I want to say a couple things that I think are very important. I think this amendment is much more important than it may appear to some who probably will be casting their vote on it. We are a great Nation, the greatest Nation in the history of the world. This body, this Senate, has traditionally been involved in American foreign policy and American national defense. We are spending a very large sum of money on this mission which is ill-defined and provides little immediate benefit to our Nation. Other nations which have a far clearer and more direct interest in it are contributing far less to it.

This mission has exceeded $10 billion, money which comes from the American taxpayers. We went through a BRAC process, a base-closing process of which the Senator from Texas and the Senator from Oklahoma, who is here today, are all quite aware. We saved $9 billion. We spent more than that already on Bosnia, an operation that has very little vision. The President has articulated very poorly and inadequately, in my opinion, any justification for an extended mission with no end in sight.

As the President said in remarks earlier, it was a political decision to move into this area of the world. Therefore, it is a decision quite appropriate for this body to respond to. I say it is time for us to confront the issue, demand some answers, require the President to be responsible, and assert our rightful role as a U.S. Senate in American national defense. I am, frankly, disappointed that a Senator would move to table and cut off debate on this issue.

I think we ought to say a lot more about it, and we ought to have a lot of time talking about it, not be cutting off this debate. Maybe some of them have made up their minds, they think they know what is best for everybody else here, but I am not so certain they do. So I don't know.

I do not have much time. I know others do. And we are going to have the vote on the motion to table shortly. And I just feel very strongly about it. We have a role in this world, not to be the policemen. We have ballistic missile defense. We have chemical, biological weapons. We have strategic capabilities that we must fulfill. We cannot just drift into this without a clear understanding of our mission.

Mr. President, I yield the floor.

Mrs. HUTCHISON. Mr. President, I yield up to 3 minutes to the Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Texas for yielding the time. It is very precious time. There isn't nearly time to get into the seriousness of this issue. The Senator from Alabama is exactly right, there is no issue before this body that is more significant than this particular issue.

We have stood here and debated this at least once a month since November of 1995. If I could criticize the Senator from Texas, I would say this isn't strong enough. But I know she knows it is not strong enough either. We should have a date. We should be out of there. And it isn't being hardhearted, it isn't being uncompassionate.

This is something where the times are different now than they were back in 1995. If you just look at a very recent development, the Rumsfeld report came out. And if you will remember, the national intelligence estimate that came out in 1995, that said we would have a good 3 years' warning, in 3 years, to participate in preparing for a national missile defense system. Now the Rumsfeld report has come out and said that isn't true at all, that we are out of time, we are naked—if we started today to deploy a system and put it into effect, we would not be able to do it.

What has that got to do with Bosnia? It is very simple, because in Bosnia right now they are using up our military assets to the extent that we are not able to carry out the minimum expectations of the American people, which would be to defend America on two regional fronts.

If you do not believe this, go to the 21st TACOM in Germany. They are responsible for the ground support, anything that will happen in that theater. That theater includes Iraq. That means that if something should happen, we should have to surgically strike Iraq—I do not think there is a person in America who does not believe that is a possibility—we would eventually have to go in on the ground and clean it up.

How do you do that? If you go to the 21st TACOM in Germany, they will say we are right now over 100 percent capacity in just supporting Bosnia. We have M-915 trucks that have a million miles on them right now trying to carry the support over there and support Bosnia on the ground. Until we are able to get that out, we are not going to be able to adequately meet the defense needs.

I hope that you read, Mr. President, just in this morning's Inside the Pentagon: "The Navy's ability to retain its carrier aviators has hit its lowest historical annual rate. . . ."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. INHOFE. I thought I had 3 minutes.

The PRESIDING OFFICER. We believe the time allocated to the Senator was 2 minutes. If it was 3, the Senator may continue.

Mrs. HUTCHISON. I had 10 minutes. I authorized up to 3 minutes for Senator SESSIONS and up to 3 for the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator may continue.

Mr. INHOFE. I will wrap up real quickly. I think the point is here in today's report. We talk about the fact that only 27 eligible carrier pilots had applied for the ACP agreements. The minimum expectation of the Navy was 82. That means that approximately one-third are re-upping for this particular duty.

It costs $6 million to put a new pilot in the seat of an F-16. We are at the lowest retention rate in the history of America. And if you look at the exits surveys, they will say it is not because of pay, it is because of the type of operation they are having to do to support Bosnia. And they are unable to carry out the red flag training and all the serious training that would be necessary should we have to send them into combat.

So I do support this. I would like a much stronger amendment than this, but I would certainly support—this is the best thing out there.

The PRESIDING OFFICER. The Senator from Texas—the Chair would advise we have restored the time taken in discussing the misallocation of time back to the Senator. The Senator now has 4 minutes remaining.

Mrs. HUTCHISON. Thank you, Mr. President.

I will withhold until the Senator from Michigan uses his time that was allocated, and then I will finish.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I understand I have been allocated 1 minute. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Mr. President, this amendment would set arbitrary dates for reductions of troops. It runs smack against the advice of our top military officials, both uniformed and civilian.

In a letter which has been quoted by a number of Senators, including the Senator occupying the Chair, General Shelton and Secretary Cohen, on May 21, told us the following:

> Under a legislated approach, military commanders would be forced to restructure their force and mission tasks based on an arbitrarily mandated schedule rather than on mission accomplishment, operational considerations, and the fluid tactical situation they face.

Mr. President, that is why military commanders, including our top commander, oppose this amendment. That is why General Shelton opposes this amendment. It is why Secretary Cohen opposes this amendment. It would be mandating an arbitrary date for a troop reduction. That jeopardizes the well-being of our forces in Bosnia.

Mr. President, I want to talk about a number of provisions in the amendment with which I disagree.

First of all, I want to correct an impression that I believe is created by the findings in this amendment. The findings imply that Congress has not played any role nor exercised its oversight authority since U.S. forces were first deployed to Bosnia. I would remind my colleagues of the provisions that were included in the National Defense Authorization Act for Fiscal Year 1998 and the National Defense Appropriations Act for Fiscal Year 1998. Those Acts required the President to certify that the continued presence of U.S. armed forces in Bosnia, after June 30, 1998, is required in order to meet the national security interests of the United States and that it is the policy of the United States that U.S. armed forces will not serve as, or be used as, civil police in Bosnia. It also required the President to submit to Congress a report on why the U.S. armed forces' presence in Bosnia was in the U.S. national security interests, the expected duration of such deployment, the mission and objectives of the U.S. armed forces, the exit strategy of such forces, and a number of other matters.

The President submitted the required certifications and report to Congress on March 3, 1998. In detailing the exit strategy for U.S. forces, the report contained 10 benchmarks that were the goal of the NATO-led Stabilization Force in Bosnia. The report stated that "These benchmarks are concrete and achievable, and their achievement will enable the international community to rely largely on traditional diplomacy, international civil personnel, economic incentives and disincentives, confidence-building measures, and negotiation to continue implementing the Dayton Accords over the longer term." I ask unanimous consent that the 10 benchmarks from the President's March 3, 1998 report to Congress be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. LEVIN. Those 10 benchmarks, however, were established unilaterally by the Administration and were not shared with or agreed upon by our NATO allies. Accordingly, I offered an amendment when the Senate was considering the emergency supplemental bill at the end of March. That amendment, which was accepted and eventually became part of the 1998 Supplemental Appropriations and Rescissions Act, urged the President to seek concurrence among the NATO members on the ten benchmarks, on estimated target dates for achieving the benchmarks, and on a process for NATO to review progress towards achieving the benchmarks. It also required the President to submit to Congress a report on these matters by June 30, 1998 and semiannually thereafter so long as U.S. ground combat forces remain in the Stabilization Force in Bosnia.

Mr. President, two days ago the President submitted that report as required by the amendment to the 1998 Supplemental Appropriations and Rescissions Act. That report advises that benchmarks parallel to ours have been incorporated in NATO's Operation Plan or OPLAN for the post-June 1998 mission in Bosnia. The OPLAN requires SFOR to develop detailed criteria for each of those benchmarks, to be approved by the North Atlantic Council.

The President's report also advises that the NATO allies agreed on June 10 to the United States' proposal that the NATO military authorities provide an estimate of the time likely to be required for the implementation of the military and civilian aspects of the Dayton Agreement based on the benchmark criteria. During his testimony before the Armed Services Committee on June 4, General Wes Clark, NATO's Supreme Allied Commander, Europe, stated that the development and approval of the criteria and estimated target dates should take two or three months.

The President's report further advises that the benchmark criteria will be used during NATO's regular six-month review of the Bosnia mission in December. The President added that, although not required by the amendment to the Supplemental Appropriations Act, the Steering Board of the Peace Implementation Council has included language that corresponds to the benchmarks in its Luxembourg declaration of June 9. The Peace Implementation Council also called on the High Representative to submit a report on the progress being made in meeting those goals by mid-September. This means that both General Shinseki, the NATO on-scene commander, and High Representative Westendorp, the international community's senior civilian in Bosnia, will be using the same framework and that the North Atlantic Council will have the benefit of the judgment of both of these officials.

Mr. President, I ask unanimous consent that the President's July 28, 1998 report to Congress be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 2.)

Mr. LEVIN. Finally on this point, I would note that the Senate adopted an amendment during its consideration of the Defense Authorization bill for Fiscal Year 1999 that expressed the sense of Congress that, among other things, stated that the President should work with our NATO allies to withdraw U.S. ground combat forces from Bosnia within a reasonable period of time, consistent with the safety of those forces and the accomplishment of SFOR's military tasks. That amendment passed by a vote of 90-5 on June 24—a little more than a month ago.

Mr. President, I thought that it was important to get that information on the record to correct any impression that Congress has not paid attention to the participation of U.S. military forces in the NATO-led force in Bosnia. But it is far more important, in my view, to focus on the other sections of the amendment, particularly the mandatory reduction of U.S. ground elements from Bosnia to a level of 6,500 by February 2, 1999, and 5,000 by October 1, 1999.

First, I think it would be useful to put the size of the U.S. contingent in Bosnia in perspective. It should be noted that the United States provided about 20,000 of NATO's Implementation Force in 1996—or about 33 percent of the total force. Up until approximately June of this year, the United States provided about 8,500 troops to NATO's Stabilization Force—or about 25 percent of the total force. By September of this year, the United States will provide about 6,900 troops—or about 22 percent of the total force. So the percentage of the U.S. contribution to the NATO-led force has been declining over time—from 33 to 25 to 22 percent.

The amendment before us, however, would use the power of the purse to reduce the number of U.S. ground troops in Bosnia by another 400 by February 2 of next year and then by an additional 1,500 by October 1 of next year. That is the main purpose and impact of this amendment. That is also what makes this amendment unacceptable to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff and should make it unacceptable to us. When the Armed Services Committee was considering a series of amendments during its markup of the Defense Authorization bill earlier this year, we sought the views of the Department of Defense. Secretary Cohen and General Shelton, in their letter of May 21, 1998, gave us their views and I would like to quote from a few parts of their letter:

> We write to express our concerns with any amendment that would legislate a date or schedule for withdrawal or reduction of US forces from the NATO-led mission in Bosnia. Such amendments would make it more difficult to accomplish the mission, which has been remarkably successful to date.
>
> * * * * *
>
> We will conduct regular reviews of our force posture and progress toward the benchmarks we have established, and we expect further reductions will be possible. But that determination is best based on the actual situation on the ground, the military advice of our commanders in the field, and the approval of the NATO military and political authorities, not an arbitrary withdrawal or reduction dates determined long in advance.
>
> * * * * *
>
> Under a legislated approach, military commanders would be forced to restructure their force and mission tasks based on an arbitrarily mandated schedule rather than on mission accomplishment, operational considerations, and the fluid tactical situation they face.

Mr. President, I ask unanimous consent that the May 21, 1998 letter from Secretary Cohen and General Shelton be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it so ordered.

(See Exhibit 3.)

Mr. LEVIN. Mr. President, Secretary Cohen and General Shelton said it well. I agree with them—Congress should not mandate troop reduction by arbitrary dates.

Mr. President, I also disagree with other sections of this amendment dealing with exceptions to the mandated drawdown and limitations on support for law enforcement activities in Bosnia.

Finally, I would note that the Statement on Administration Policy states that the President's senior advisors would recommend veto of this bill if it contains a provision that would prescribe a arbitrarily scheduled force drawdown in Bosnia.

Mr. President, for all these reasons I will vote against this amendment and I urge my colleagues to vote against this amendment as well.

EXHIBIT 1

TEN BENCHMARKS

1. The Dayton cease-fire remains in place, supported by mechanisms for military-to-military transparency and cooperation.
2. Police in both entities are restructured, re-integrated, re-trained and equipped in accordance with democratic standards.
3. An effective judicial reform program is in place.
4. Illegal pre-Dayton institutions (e.g. Herceg Bosnia, Strategic Reserve Office, Centreks and Selek Impeks) are dissolved and revenue and disbursement mechanisms under control of legitimately elected officials.
5. Media are regulated in accordance with democratic standards; independent/alternative media are available throughout B-H.
6. Elections are conducted in accordance with democratic standards, and results are implemented.
7. Free-market reforms (e.g. functioning privatization and banking laws) and an IMF program are in place, with formal barriers to inter-entity commerce eliminated.
8. A phased and orderly minority return process is functioning, with Sarajevo, Mostar, and Banja Luka having accepted significant returns.
9. In Brcko, the multi-ethnic administration functioning and a secure environment for returns is established.
10. The Parties are cooperating with ICTY in the arrest and prosecution of war criminals.

These benchmarks are concrete and achievable, and their achievement will enable the international community to rely largely on traditional diplomacy, international civil personnel, economic incentives and disincentives, confidence-building measures, and negotiation to continue implementing the Dayton Accords over the longer term.

EXHIBIT 2

To the Congress of the United States:

Pursuant to section 7 of Public Law 105–174, I am providing this report to inform the Congress of ongoing efforts to meet the goals set forth therein.

With my certification to the Congress of March 3, 1998, I outlined ten conditions—or benchmarks—under which Dayton implementation can continue without the support of a major NATO-led military force. Section 7 of Public Law 105–174 urges that we seek concurrence among NATO allies on: (1) the bench-marks set forth with the March 3 certification; (2) estimated target dates for achieving those benchmarks; and (3) a process for NATO to review progress toward achieving those benchmarks. NATO has agreed to move ahead in all these areas.

First, NATO agreed to benchmarks parallel to ours on May 28 as part of its approval of the Stabilization Force (SFOR) military plan (OPLAN 10407). Furthermore, the OPLAN requires SFOR to develop detailed criteria for each of these benchmarks, to be approved by the North Atlantic Council, which will provide a more specific basis to evaluate progress. SFOR will develop the benchmark criteria in coordination with appropriate international civilian agencies.

Second, with regard to timelines, the United States proposed that NATO military authorities provide an estimate of the time likely to be required for implementation of the military and civilian aspects of the Dayton Agreement based on the benchmark criteria. Allies agreed to this approach on June 10. As SACEUR General Wes Clark testified before the Senate Armed Services Committee June 4, the development and approval of the criteria and estimated target dates should take 2 to 3 months.

Third, with regard to a review process, NATO will continue the 6-month review process that began with the deployment of the Implementation Force (IFOR) in December 1995, incorporating the benchmarks and detailed criteria. The reviews will include an assessment of the security situation, an assessment of compliance by the parties with the Dayton Agreement, an assessment of progress against the benchmark criteria being developed by SFOR, recommendations on any changes in the level of support to civilian agencies, and recommendations on any other changes to the mission and tasks of the force.

While not required under Public Law 105–174, we have sought to further utilize this framework of benchmarks and criteria for Dayton implementation among civilian implementation agencies. The Steering Board of the Peace Implementation Council (PIC) adopted the same framework in its Luxembourg declaration of June 9, 1998. The declaration, which serves as the civilian implementation agenda for the next 6 months, now includes language that corresponds to the benchmarks in the March 3 certification to the Congress and in the SFOR OPLAN. In addition, the PIC Steering Board called on the High Representative to submit a report on the progress made in meeting these goals by mid-September, which will be considered in the NATO 6-month review process.

The benchmark framework, now approved the military and civilian implementers, is clearly a better approach than setting a fixed, arbitrary end date to the mission. This process will produce a clear picture of where intensive efforts will be required to achieve our goal: a self-sustaining peace process in Bosnia and Herzegovina for which a major international military force will no longer be necessary. Experience demonstrates that arbitrary deadlines can prove impossible to meet and tend to encourage those who would wait us out or undermine our credibility. Realistic target dates, combined with concerted use of incentives, leverage and pressure with all the parties, should maintain the sense of urgency necessary to move steadily toward an enduring peace. While the benchmark process will be useful as a tool both to promote and review the pace of Dayton implementation, the estimated target dates established will be notional, and their attainment dependent upon a complex set of interdependent factors.

We will provide a supplemental report once NATO has agreed upon detailed criteria and estimated target dates. The continuing 6-month reviews of the status of implementation will provide a useful opportunity to continue to consult with Congress. These reviews, and any updates to the estimated timelines for implementation, will be provided in subsequent reports submitted pursuant to Public Law 105–174. I look forward to continuing to work with the Congress in pursuing U.S. foreign policy goals in Bosnia and Herzegovina.

WILLIAM J. CLINTON,
The White House, July 28, 1998.

EXHIBIT 3

THE SECRETARY OF DEFENSE,
Washington, DC, May 21, 1998.

Hon. CARL LEVIN,
Ranking Democrat, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR CARL: We write to express our concerns with any amendment that would legislate a date or schedule for withdrawal or reduction of U.S. forces from the NATO-led mission in Bosnia. Such amendments would make it more difficult to accomplish the mission, which has been remarkably successful to date.

It is our intention to reduce our forces in Bosnia. Based on the progress achieved to date, our commanders already have been able to reduce U.S. troop levels from almost 20,000 in 1996 to the 6,900 that will be deployed after the current drawdown is completed in September. We will conduct regular reviews of our force posture and progress toward the benchmarks we have established, and we expect further reductions will be possible. But that determination is best based on the actual situation on the ground, the military advice of our commanders in the field, and the approval of the NATO military and political authorities, not an arbitrary withdrawal or reduction dates determined long in advance.

Our military commanders in the field have determined the level and type of force required to carry out the mission within acceptable risk. The mission, forces and guidance of the force currently planned for June 1998 have been fully agreed to by NATO political and military authorities. Under a legislated approach, military commanders would be forced to restructure their force and mission tasks based on an arbitrarily mandated schedule rather than on mission accomplishment, operational considerations, and the fluid tactical situation they face. In addition, while those opposed to the Dayton Accords have been steadily isolated and diminished in their influence, legislating withdrawal of reduction dates would invite heightened intransigence and extremism.

Additional factors that Congress should consider in reviewing any such amendment are the following:

Under the proposed amendment, command of the SFOR operation and its element in MND-North might well be transferred to a non-U.S. officer early next year.

Shifting to a posture in which the U.S. has much smaller force levels in Bosnia but enhances its force presence in regions surrounding Bosnia, as envisioned by the amendment, will not save money and indeed could cost more than our current operation in Bosnia. We are continually evaluating the force posture for Bosnia, and do not consider an over-the-horizon force appropriate now.

Accordingly, we strongly urge you to oppose any legislated fixed date or timetable for withdrawal or reduction of U.S. forces in Bosnia.

There is one other factor related to operations in Bosnia of great concern to us, and that is funding. The Department submitted an addition to the FY99 budget to fund a 6,900-person force in Bosnia. Authorizing that request is essential to accomplishing the mission without significantly reducing readiness in other areas. Without that funding, we would have to choose between Bosnia operations and the overall readiness of our Armed Forces.

Sincerely,

HENRY H. SHELTON.
BILL COHEN.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I thank the Senator from Oklahoma, the Senator from Alabama, the Senator from West Virginia, who have all made very strong statements about their commitment and the commitment of Congress to support our troops. It is our responsibility to do this.

I want to answer a couple of points that were made. Somalia—the argument was made that troops were not provided equipment and we lost 18 rangers. That is exactly correct. I would hold up Somalia as the very reason that we should be doing something today to protect our troops in the field—because, in fact, in Somalia Congress was never consulted. The decision not to send the equipment was made by the Pentagon. It is precisely because Congress was not consulted and was not committed to this that it failed so miserably. The mission creep in Somalia is exactly what we are trying to avoid in Bosnia today. And that is why I have this amendment on the floor.

Let us talk about precedent. On July 31, 1989, there was a resolution requiring the President to reduce the number of U.S. forces in Korea. That is exactly what I would hope that we would do today. Nine years ago, almost to the day, Congress met its responsibility. This was an amendment that specifically asked the President to come forward with a plan to have gradual reductions in the number of U.S. military personnel stationed in the Republic of Korea.

This is exactly what we are doing today. We are saying, in this appropriations bill for this fiscal year, that we should reduce the number of forces so that the President can go to our allies and start negotiating for a more equitable spread. That is exactly what we did in Korea.

With Korea we said, "The Republic of Korea should assume increased responsibilities for its own security." This was an amendment that was sponsored by Senator McCAIN, Senator Nunn, Senator WARNER, Senator Exxon, Senator Dixon, Senator Wirth, Senator SHELBY, Senator THURMOND, Senator Cohen, Senator Wallop, Senator GORTON, Senator LOTT, and Senator COATS.

This is exactly what I hope we will do today. It is the responsibility of Congress to provide support for our troops. We cannot stand by and watch our military disintegrate, lose our most experienced warriors, put them in harm's way, and do nothing.

Have we lost our backbone in 9 years? Or have we lost our compass? Have we lost the will to do what is right for this country?

Congress is responsible for providing the support for our troops. And I hope that we will meet our responsibility today.

Thank you, Mr. President. And I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Nearing the moment, I think, according to the previous unanimous consent agreement, for me to make a motion to table, I would just like to make one quick point.

Back several years ago, in 1990, I was speaking in support of an amendment—in support of the Bush administration, the President of the United States, not in opposition. And it was a peacetime deployment to Korea, a rearrangement of forces, not the situation in Bosnia. An important factor is, I was supporting the President of the United States and the Secretary of Defense.

The Hutchison amendment is in opposition to the Chairman of the Joint Chiefs of Staff and the Secretary of Defense, as well as the President of the United States. I think there is a significant difference there.

Second, one of the Members came to the floor and said that we need to debate this more. As the Senator from Indiana pointed out, this is the same amendment we voted on last May; basically, fundamentally the same thing. We did have lots of debate on it.

As the distinguished chairman of the committee pointed out, we have 50 or 60 amendments that we need to address between tonight and tomorrow, all of which deserve also very thorough debate and discussion, as well, if we expect to get out at a reasonable timeframe either tomorrow or Saturday or Sunday, as the distinguished chairman and ranking member point out.

The hour of 5:30 having arrived, I move to table the Hutchison amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I want to announce, there appears there now is a second-degree amendment to the Hutchison amendment that could be offered and may settle the issue with regard to the previous amendment which was not tabled.

AMENDMENT NO. 3419 TO AMENDMENT NO. 3124

Therefore, I ask unanimous consent the Senate now turn to the Hutchinson amendment in the second-degree and that there be a short period of debate. Can you tell me how long you think it will take?

Mr. HUTCHINSON. I think the amendment has been agreed to and would not need debate, from my standpoint.

Mr. STEVENS. I think we should have at least 10 minutes equally divided between the Senator from Arkansas and the Senators from Michigan and Delaware, and I am informed it will require a rollcall vote.

I ask unanimous consent there be that period now for 10 minutes on this amendment that Senator HUTCHINSON will offer, and following that time that the rollcall on his amendment take place after the rollcall vote on the motion to table that has just been made by the Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that it be in order for me to offer an a second-degree amendment numbered 3419, and I send that amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON], for himself and Mr. LEVIN, Mr. KERRY, Mr. BIDEN and Mr. LIEBERMAN proposes an amendment numbered 3419 to amendment 3124.

The amendment is as follows:

Strike all after the word "Title" and insert the following:

IX

HUMAN RIGHTS IN CHINA

Subtitle A—Forced Abortions in China

SEC. 9001. This subtitle may be cited as the "Forced Abortion Condemnation Act".

SEC. 9002. Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. 9003. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue any visa to any official of any country (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible and specific information, has been directly involved in the establishment or enforcement of population control policies forcing a woman to undergo an abortion against her free choice, or forcing a man or woman to undergo sterilization against his or her free choice policies condoning the practice of genital mutilation.

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

Subtitle B—Freedom on Religion in China

SEC. 9011. (a) It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China.

(b) As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds.

(c) In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed.

(d) The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. 9012. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue a visa to any official of any country (except the head of state, the head of government, and cabinet level ministers) who the Secretary of State finds, based on credible and specific information, has been directly involved in the establishment or enforcement of policies or practices designed to restrict religious freedom.

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 9014. In this subtitle, the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

Mr. HUTCHINSON. Mr. President, I want to express my appreciation to the Senators on the other side of the aisle who, I think, have made very positive and productive suggestions to improve the amendment that I have offered regarding human rights abuses in China.

The simple explanation for the changes that are made, we have made the bill generic in nature rather than country-specific. I have some reservations about that because I don't want to in any way dilute, I think, the proper attention that should be placed upon what our State Department says is the greatest abusers of human rights in the world today. But at the same time, I think this makes this a very, very powerful human rights amendment applicable to all nations of the world. The "finding" section of the amendment remains in which we are able to outline some of the abuses evident in China today.

We would add, I think, a positive suggestion, that the genital mutilation issue be added. So in addition to religious persecution and forced abortions, genital mutilation and those who would condone it would be added as criteria for those countries that would be denied their visas for those condoning that practice, the terrible practice that human rights advocates the world over and all people, I think, condemn.

I want to thank Senator BIDEN for, I think, some very good suggestions regarding the "definitions" area on the Secretary's obligations in determining who would be denied these visas. The addition to the phrase "credible information," adding "and specific information," and adding to the phrase "has been involved in the establishment or enforcement," the word "directly"; so, "has been directly involved in the establishment or enforcement of population control policies." I think that is a very helpful change that will make this much more enforceable and make it much more clear. I am grateful for that suggestion, as well.

We have struck section 9012, which simply lists a number of associations and organizations which are agents of the government in carrying out some of these abuses. It is really unnecessary, an unnecessary provision that has caused confusion, because anyone, any individual, any official, who is involved in perpetrating persecution of religious minorities, coerced abortions or the genital mutilation would be covered by the amendment, without what is really extraneous language and unnecessary language.

So I think these are all very positive changes and that is the content of the second-degree amendment. I think this is relevant. I think it is a very positive improvement to the appropriations bill. I appreciate the support of those on both sides of the aisle in the defeat of the motion to table.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will be very brief. I want to thank the Senator from Arkansas. He has been a gentleman.

His amendment is, I think, a good amendment and I thank him for considering some of the suggestions that I and a few others had.

I ask unanimous consent that Senator LEVIN of Michigan, Senator KERRY of Massachusetts and Senator BIDEN of Delaware be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I particularly want to thank my friend from Arkansas for adding the prohibition, the ability to deny visas to those countries that engage in the heinous practice of engaging in female genital mutilation. I am not one who thinks we should be erecting sanctions all over the world, but there are certain things that are so, so contrary to our basic values—forced abortion, forced sterilization, mutilation of body parts—that I think that it is appropriate that we use sanctions in those circumstances.

I also ask unanimous consent that the Senator from Connecticut, Senator LIEBERMAN, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I realize I have a few more minutes, but in order to accommodate this bill moving along, again, I close by thanking the Senator from Arkansas for accommodating some of the changes that he has for his amendment.

I yield the floor.

Mr. STEVENS. Mr. President, I understand that the Senator from Michigan is on his way.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, let me commend the Senator from Arkansas for the second-degree amendment, the modification in effect, which he has sent to the desk.

I reluctantly voted to table his original amendment because I was troubled by his narrow focus on one country, when the problem exists not only in China, but a number of other countries. The problems he identifies in his amendment are real problems and they are problems we must be concerned with. He has shown that concern, and I think it is wise that we reflect the concern relating to people engaging in those practices that come from any country—China or anyplace else. And while I reluctantly voted to table his original amendment, the first-degree amendment, for the reason I just gave, I enthusiastically cosponsored the second-degree amendment of the Senator from Arkansas, and I hope it passes with a resounding vote.

I yield the floor.

The PRESIDING OFFICER. Who yields time on the second-degree amendment? Time will be equally divided.

Mr. STEVENS. Mr. President, I now have before me here a managers' package that lists some 33 amendments. Following the next two votes, I intend to ask that no more amendments be in order. I urge Members to come and look at the list and see if their amendment is here. If there are more, fine. I urge Members to let us know if they intend to offer the amendments shown here. Secondly, if they intend to offer any other amendment, I am pleased to have them do that.

Mr. President, as I understand it, the first vote will be on a motion to table offered by the Senator from Arizona, and the second will be the amendment in the second degree offered by the Senator from Arkansas.

I ask for the yeas and nays on the second-degree amendment of the Senator from Arkansas.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. If the pending motion to table is not carried, that amendment will still be open. If the amendment of the Senator from Arkansas passes in the second degree, I intend to ask that the—are the yeas and nays requested on the Senator's original amendment?

The PRESIDING OFFICER. Only on the motion to table the original amendment.

Mr. STEVENS. Very well. If that is adopted, which I urge the Senate to adopt, then we will move to adopt the original amendment, as amended, with a voice vote. I call for the vote.

AMENDMENT NO. 3413

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENS. I yield back any time I have left.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Texas.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—68

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Chafee
Cleland
Coats
Cochran
Collins
Conrad
D'Amato
Daschle
DeWine
Dodd
Domenici
Durbin
Feinstein
Ford
Glenn
Graham
Hagel
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Sarbanes
Snowe
Specter
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—31

Allard
Ashcroft
Bond
Byrd
Campbell
Coverdell
Craig
Dorgan
Enzi
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hutchinson
Hutchison
Inhofe
Kempthorne
Murkowski
Nickles
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 3413) was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent to proceed for 10 seconds.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I failed to ask that Senator FEINSTEIN of California be added as a cosponsor to the Hutchinson amendment. I ask unanimous consent she be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. GRAMS. Mr. President, on rollcall vote No. 249. I voted "yea." It was my intention to vote "no." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I believe the Senator from Delaware wished to be recognized for just one minute.

The PRESIDING OFFICER. The Senator from Delaware has been recognized.

Mr. STEVENS. He has been?

The PRESIDING OFFICER. Yes.

VOTE ON AMENDMENT NO. 3419

Mr. STEVENS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BIDEN. Mr. President, I also ask unanimous consent the Senator from Virginia, Mr. ROBB, be added as a cosponsor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Vote.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment offered by the Senator from Arkansas. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "aye."

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Mr. Helms

The amendment (No. 3419) was agreed to.

Mr. HUTCHINSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3124, AS AMENDED

Mr. STEVENS. Mr. President, I ask for the immediate consideration of the first-degree amendment.

The PRESIDING OFFICER. If there is no further debate, the question before the Senate is on the underlying amendment No. 3124, as amended.

The amendment (No. 3124), as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we have now exchanged lists. We have a managers' package which we will present in a moment. We have the two lists now from the two sides of the aisle.

I ask unanimous consent that the following amendments be the only first-degree amendments remaining in order, other than the managers' package, and that they be subject to only relevant second-degree amendments:

D'Amato—Air Guard, Coast Guard Search & Rescue.

Faircloth—Spend Fiscal Year 1998 fund (PFNA).

DeWine—Drug interdiction.

Mack—Electronic combat testing.

Santorum—60mm mortar ?.

Mack—Commercial Space Act.

D'Amato G.Smith—Sanctions—Serbia/Montenegro.

Coats—Sense of Senate.

Coats—Next QDR.

Stevens—relevant.

Frist—LME.

Baucus—Bear Paw development canal (20=divided).

Bingaman—Dual use.

Bingaman—White Sands.

Bingaman—Health centers.

Boxer—Relevant.

Bumpers—Relevant.

Byrd—Relevant.

Byrd—Relevant.

Daschle—Relevant.

Daschle—Relevant.

Daschle—Relevant.

Dodd—Army pensions.

Dodd—Lyme disease.

Dodd—Relevant.

Durbin—Land conveyance.

Durbin—Military operations/war powers.

Dorgan—Indian incentive program.

Dorgan—Relevant.

Ford—National Symphony.

Graham—Land transfer.

Graham—Relevant.

Graham—Space.

Harkin—Outlays.

Harkin—P.O.O.

Harkin—Veterans medals.

Harkin—Gulf war illness research.

Harkin—Smoking funding.

Hollings—Environmental report.

Inouye—Manager's amendment.

Inouye—Manager's amendment.

Inouye—Manager's amendment

Kerrey—Sense of Senate on payroll tax.

Kerry—Relevant.

Kerry—Relevant.

Leahy—JSAT.

Reed—Environmental training.

Robb—Reimbursement for Italy accident.

Wellstone—Child soldiers.

Wellstone—Domestic violence.

Wellstone—Relevant.

Mr. STEVENS. I further ask unanimous consent that following disposition of the listed amendments, the bill be advanced to third reading and the Senate proceed to the immediate consideration of the House companion bill; that all after the enacting clause be stricken and the text of S. 2132, as amended, be inserted; and that the bill be advanced to third reading and passage occur without any further action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object, Mr. President, as I understand what the Senator from Alaska——

Mr. STEVENS. I really can't hear the Senator, I am sorry.

Mr. WELLSTONE. Reserving the right to object, have you eliminated time on debate? I am not quite sure.

Mr. STEVENS. We have not yet addressed the question of time on debate. The only real limitation here is that this list be the only first-degree amendments in order and that they only be subject to relevant second-degree amendments in the event they are considered and not adopted.

Mr. FORD. Reserving the right to object, Mr. President, I have been trying to work out on our side as it relates to amendments, and I have not seen this list yet. I want to be sure, when I have told my colleagues that their amendment has been accepted, I want it on the managers' list or I want it on the amendments yet to be worked out.

Mr. STEVENS. I say to the Senator from Kentucky, Mr. President, many of the amendments that are on the list that have come from your side are, in fact, on the managers' list. But they will all be qualified if they are on the list you have given us.

Mr. FORD. I want to be sure that all of these amendments—I have not seen the list, I say to my friend, and would like to work it out.

Mr. KEMPTHORNE. Will the Senator from Alaska yield?

Mr. STEVENS. I will be happy to yield, Mr. President.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, my request is still pending.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, as I understand the unanimous consent request, what the Senator is saying is that after disposal of the last amendment, we go right to final passage; is that correct? But there is no limit on debate on amendments; is that correct?

Mr. STEVENS. These listed amendments will be disposed of. Once they are disposed of, the bill will go to third reading. They will have to be either acted upon or withdrawn.

Mr. WELLSTONE. I understand. But there is no limit on debate on the individual amendments; is that correct?

Mr. STEVENS. There is no limit there on debate time. I intend to do my best to do that.

Mr. WELLSTONE. I withdraw my objection.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. I reserved my right to object a moment ago, and I have no objection now. I thank the chairman for his courtesy.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I have been asked to amend my request and add this following portion—I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint the following conferees on the part of the Senate: Senators STEVENS, COCHRAN, SPECTER, DOMENICI, BOND, MCCONNELL, SHELBY, GREGG, HUTCHISON, INOUYE, HOLLINGS, BYRD, LEAHY, BUMPERS, LAUTENBERG, HARKIN, and DORGAN, and the foregoing occur without any intervening action or debate, and I further ask that when the Senate passes H.R. 4103, as amended, that S. 2132 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. Mr. President, we are proceeding now to a look at the amendments that are not in the managers' package. I would like to address that issue with the Senate.

It is my understanding that Senator BAUCUS has an amendment that he wishes to have 20 minutes equally divided; Senator BINGAMAN has two amendments; Senator BOXER's amendment that was on the list is in the managers' package; Senator BUMPERS' amendment is on the list in the managers' package; Senator BYRD has two amendments which are to be in the managers' package; Senator DASCHLE's relevant amendments are withdrawn, as I understand it; Senator DODD has one amendment dealing with Army pensions which we have not seen; Senator DURBIN's amendment on land conveyance is in the package; his amendment on military operations and war powers will be opposed and we will have to deal with it; Senator DORGAN's amendment on Indian incentive program is in the package, and I understand his second amendment will not be offered; Senator FORD's amendment on National Symphony is not in the package and would have to be debated; Senator GRAHAM has a land transfer amendment which is in the package now, and the space amendment, as I understand it, is the same as the amendment from Senator MACK, and that will have to be debated; Senator HARKIN has the outlay amendment, and the POO amendment is in the package, the vets medals amendment we have not seen and we cannot discuss now; Senator HOLLINGS' amendment will be accepted; Senator INOUYE's manager's amendment is in the managers' package; Senator KERREY's SOS payroll tax amendment cannot be accepted and will have to be debated; there are two relevant amendments by Senator KERRY which we have not seen; Senator LEAHY's amendment cannot be accepted; Senator REED's amendment we have not seen; and Senator ROBB's amendment on reimbursement we would like to discuss with Senator ROBB—it is in the House bill; we prefer not to take it up at this time if we can avoid it—and Senator WELLSTONE's amendment on child soldiers has been accepted, the domestic violence one has not been agreed to yet—we will have to discuss it with them.

Those are the amendments on the Democratic side.

Mr. FORD. Mr. President, would the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. FORD. I was trying to keep up with you, with the Senator. Senator DODD has one as it relates to Lyme Disease.

Mr. STEVENS. That is in the package.

Mr. FORD. That is in the package?

Mr. STEVENS. Yes.

Mr. FORD. Then he still has two left.

Mr. STEVENS. I realize the relevant one is just a place holder.

Mr. FORD. I understand. That is correct.

Mr. INOUYE. Will the chairman yield? I am now working on an amendment for Senator CAROL MOSELEY-BRAUN. Can I discuss that with you later?

Mr. STEVENS. Yes. I would be happy to do that. The Senator has the right to an amendment in the managers' package. That may be the way that is considered.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I wonder whether I could ask my colleague from Alaska whether he could include the child soldiers amendment in the managers' package since it has been accepted?

Mr. STEVENS. It is in there.

Mr. WELLSTONE. I am sorry.

Mr. STEVENS. The domestic violence one I do not think I have seen yet. That is also being reviewed by the Armed Services Committee and we cannot report that yet.

Mr. WELLSTONE. I say to my colleague, I am ready to debate it if you want to, but let me know.

Mr. STEVENS. I could not hear you.

Mr. WELLSTONE. I say to my colleague, I am pleased to debate it if you want, but you just let me know.

Mr. LOTT. Mr. President, while the chairman is working on the list, I have a quick unanimous consent agreement we have worked out. I would like to go ahead and get that done while we have a break here.

UNANIMOUS-CONSENT AGREEMENT—H.R. 629

Mr. LOTT. I ask unanimous consent that immediately after the conclusion of morning business, following the reconvening of the Senate from the August recess, the Senate proceed to the conference report to accompany the Texas Compact, H.R. 629, and the conference report be considered as having been read. I further ask that there be 4 hours of debate, equally divided, between the Senator from Minnesota, Senator WELLSTONE, and Senator HATCH, or their designees, and following the conclusion or yielding back of time, the Senate proceed to a vote on adoption of the conference report, without any intervening action or debate.

Now, I did not specify whether this would be Monday the 31st or Tuesday, September 1st. I need to talk further about the exact date with the Senators involved, and Senator DASCHLE, but the first day we are back. And I appreciate the cooperation I received from Senator WELLSTONE on this UC.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. I do not object. I would also like to thank the majority leader for his cooperation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENTS NOS. 3420 THROUGH 3464, EN BLOC

Mr. STEVENS. Mr. President, I have sent to the desk the first managers' package. And I believe that it has been cleared on both sides. So there is no misunderstanding about it, because Senators may wonder whether the amendments are in this or not, I want to read this package and then ask for its immediate consideration. Senator AKAKA's amendment on electric vehicles R&D funds; Bingaman-Domenici on the Air National Guard Program at White Sands; an amendment that I have offered for Senator COCHRAN on acoustic sensor technology; the Domenici-Harkin amendment on food stamp report; the Durbin amendment on land conveyance at Fort Sheridan; the Gregg amendment on conveyance of former Pease Air Force Base; the Hollings amendment on environmental restoration; my amendment for strategic materials manufacturing; the Inouye amendment on American Samoa vets; the Inouye amendment on Ford Island; the Kennedy amendment on cybersecurity; the Sarbanes amendment on the Korean war vets memorial repairs; the McConnell amendment on chemical demilitarization; the Mack amendment on NAWC transfer of property; the Mikulski amendment on shipbreaking; the Lott amendment on the next-generation Internet; the Murkowski amendment on FERTEC; my amendment for Senator SHELBY on the electronic circuit board manufacturing; the Specter amendment on proliferation of the Weapons of Mass Destruction Commission; my amendment on the MILES training and equipment issue; my amendment on rescission as of the date of enactment; my amendment for Senator COATS on the near-term digital radio issue; my amendment for Senator WARNER on Palmtop computers for soldiers; the Boxer amendment on what we call Shop Stop; the Ford amendment on counterdrug interdiction; the Dodd amendment on Lyme Disease; the Kerry amendment on solid-state dye lasers; the McCain-Kyl amendment on land transfer; my amendment for Senator KYL on passenger safety system for tactical trucks; the Grassley amendment on problem disbursements threshold; the Harkin amendment on the gulf war illness; my amendment on the air combat training instrumentation issue; Faircloth amendment on TRICARE; my amendment on firefighting equipment leasing; the Bumpers amendment on the DTRTCA, Domestic Preparedness Training Center; the Faircloth amendment on the Aerostat Development Program; Burns-Baucus for redevelopment of the Havre Air Force Base; the McCain amendment on foreign students' reimbursements; Dorgan on Indian incentive payments; the McConnell-Ford amendment on chemical demilitarization; the Wellstone SOS, child soldiers, global use amendment; my amendment for Senator FAIRCLOTH on spending 1998 funds, so-called PFNA issue; the Bennett amendment on alternate turbine engines; and the Gramm amendment on military voting rights.

There should be 44 separate amendments in that package. They have been cleared on both sides, and unless there is some discussion, I ask unanimous consent the first managers' package be adopted and any statements offered by any Senator appear in the RECORD prior to adoption of that Senator's amendment that is in the package.

I add to it, Senator INOUYE has a managers' amendment—this would be the first amendment of Senator INOUYE—for Ms. MOSELEY-BRAUN that pertains to the National Guard Armory in Chicago.

The PRESIDING OFFICER. Without objection, it is so ordered.

The managers' amendment is adopted.

Mr. STEVENS. I send the last amendment to the desk to be included, and it makes 45 amendments in the package.

The PRESIDING OFFICER. The clerk will report the en bloc amendments.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes amendments No. 3420 through and including 3463 en bloc, and the Senator from Hawaii [Mr. INOUYE], for Ms. MOSELEY-BRAUN, proposes amendment numbered 3464.

The amendments are as follows:

AMENDMENT NO. 3420

(Purpose: To set aside $12,000,000 for continuation of electric and hybrid-electric vehicle development)

On page 33, line 25, insert before the period at the end the following: ": *Provided*, That of the funds appropriated under this heading, $12,000,000 shall be available only to continue development of electric and hybrid-electric vehicles".

Mr. AKAKA. I have offered an amendment to the Department of Defense Appropriations Bill to provide $12 million for electric and hybrid-electric vehicle development. The funds will be administered by the Defense Advanced Research Projects Agency, known as DARPA. Senators INOUYE, JEFFORDS, LEAHY, COATS, and BOXER have joined me as cosponsors of the amendment.

This is not a new program. Congress provided $115 million to the Department of Defense for the electric vehicle program over the past five fiscal years. Industry has contributed more than $115 million in matching funds. In fiscal year 1998, the appropriation was $15 million, so my amendment represents a budget reduction of 20 percent compared to the current fiscal year.

Seven regional consortia, comprised of more than 200 member companies, participate in the program. Individual consortia, which were selected competitively, include Hawaii, Sacramento, the Mid Atlantic Consortium in Johnstown, PA, the Northeast Consortium in Boston, the Southern Consortium in Atlanta, the Mid America Consortium in Indianapolis, and CALSTART in Burbank, CA.

The President's fiscal year 1999 budget proposed that the DARPA program be transferred to the Department of Energy and the Department of Transportation. The object of the fiscal year 1999 change was to transfer DoD-developed technology to commercial service vehicles such as buses, delivery vans, and service trucks. I support this transfer.

Unfortunately, despite the best efforts of all three federal agencies and the consortia that participate in the electric vehicle program, another year of funding through the Department of Defense is needed before the transition can proceed.

The Department of Defense has long been interested in hybrid electric combat vehicles because they can reduce fuel consumption by 50 percent, leading to a reduced fuel logistics burden, increased endurance, and reduced emissions. In addition, hybrid electric combat vehicles use electric power for mobility, weapons, countermeasures and sensors, and have reduced thermal and acoustic signatures.

The five-year DARPA program has resulted in the development of a number of combat vehicles with hybrid electric propulsion. These include an Army M–113 Armored Personnel Carrier, a Bradley Fighting Vehicle, two High Mobility Multipurpose Wheeled Vehicles, commonly known as Humvees, and a prototype composite armored vehicle.

Other DoD projects are in the planning stages. DARPA and the Marine Corps are jointly developing a hybrid-electric reconnaissance, surveillance and targeting vehicle, designed as a stealthy, fuel efficient vehicle that can be transported by the V–22 Osprey in support of the Marine Corps Sea Dragon operation. DARPA and the Army are jointly developing a combat hybrid power system for a 15-ton future combat vehicle. The system will provide pulse power for electric guns, directed energy weapons, and electromagnetic armor, as well as other components and systems.

The funds provided by my amendment shoud be used in the same manner, and for the same program objectives, as in fiscal year 1998 funding. As the author of the amendment, it is my intention that DARPA administer the program as it did in fiscal year 1998, and that funds can be used for the development of defense and non-defense electric and hybrid-electric vehicles.

I thank the Chairman, and my colleague from Hawaii, the ranking Democrat on the subcommittee for their consideration of my amendment. I yield the floor.

AMENDMENT NO. 3421

(Purpose: To set aside $2,250,000 for the Defense Systems Evaluation program for support of test and training operations at White Sands Missile Range, New Mexico, and Fort Bliss, Texas)

On page 99 in between lines 17 and 18, insert before the period at the end the following:

"SEC. 8104. (a) That of the amount available under Air National Guard, Operations and Maintenance for flying hours and related personnel support, $2,250,000 shall be available for the Defense Systems Evaluation program for support of test and training operations at White Sands Missile Range, New Mexico, and Fort Bliss, Texas".

AMENDMENT NO 3422

(Purpose: The purpose is to provide $1,000,000 for Acoustic Sensor Technology Development Planning for the Department of Defense. The funds are provided from within the funds appropriated for Defense-wide RDT&E)

On page 99 insert at the appropriate place the following new section:

SEC.   . That of the funds appropriated for Defense-wise research, development, test and evaluation, $1,000,000 is available for Acoustic Sensor Technology Development Planning.

AMENDMENT NO. 3423

(Purpose: To require the Secretary of Defense to report on food stamp assistance for Armed Forces families, and to require the Comptroller General to study and report on issues relating to the family life, morale, and retention of members of the Armed Forces)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on food stamp assistance for members of the Armed Forces. The Secretary shall submit the report at the same time that the Secretary submits to Congress, in support of the fiscal year 2000 budget, the materials that relate to the funding provided in that budget for the Department of Defense.

(b) The report shall include the following:

(1) The number of members of the Armed Forces and dependents of members of the Armed Forces who are eligible for food stamps.

(2) The number of members of the Armed Forces and dependents of members of the Armed Forces who received food stamps in fiscal year 1998.

(3) A proposal for using, as a means for eliminating or reducing significantly the need of such personnel for food stamps, the authority under section 2828 of title 10, United States Code, to lease housing facilities for enlisted members of the Armed Forces and their families when Government quarters are not available for such personnel.

(4) A proposal for increased locality adjustments through the basic allowance for housing and other methods as a means for eliminating or reducing significantly the need of such personnel for food stamps.

(5) Other potential alternative actions (including any recommended legislation) for eliminating or reducing significantly the need of such personnel for food stamps.

(6) A discussion of the potential for each alternative action referred to in paragraph (3) or (4) to result in the elimination or a significant reduction in the need of such personnel for food stamps.

(c) Each potential alternative action included in the report under paragraph (3) or (4) of subsection (b) shall meet the following requirements:

(1) Apply only to persons referred to in paragraph (1) of such subsection.

(2) Be limited in cost to the lowest amount feasible to achieve the objectives.

(d) In this section:

(1) The term "fiscal year 2000 budget" means the budget for fiscal year 2000 that the President submits to Congress under section 1105(a) of title 31, United States Code.

(2) The term "food stamps" means assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

SEC. 8105. (a) The Comptroller General shall carry out a study of issues relating to family life, morale, and retention of members of the Armed Forces and, not later than June 25, 1999, submit the results of the study to the Committees on Appropriations of the Senate and the House of Representatives. The Comptroller General may submit to the committees an interim report on the matters described in paragraphs (1) and (2) of subsection (c). Any such interim report shall be submitted by February 12, 1999.

(b) In carrying out the study, the Comptroller General shall consult with experts on the subjects of the study who are independent of the Department of Defense.

(c) The study shall include the following matters:

(1) The conditions of the family lives of members of the Armed Forces and the members' needs regarding their family lives, including a discussion of each of the following:

(A) How leaders of the Department of Defense and leaders of each of the Armed Forces—

(i) collect, organize, validate, and assess information to determine those conditions and needs;

(ii) determine consistency and variations among the assessments and assessed information for each of the Armed Forces; and

(iv) use the information and assessments to address those conditions and needs.

(B) How the information on those conditions and needs compares with any corresponding information that is available on the conditions of the family lives of civilians in the United States and the needs of such civilians regarding their family lives.

(C) How the conditions of the family lives of members of each of the Armed Forces and the members' needs regarding their family lives compare with those of the members of each of the other Armed Forces.

(D) How the conditions and needs of the members compare or vary among members in relation to the pay grades of the members.

(E) How the conditions and needs of the members compare or vary among members in relation to the occupational specialties of the members.

(F) What, if any, effects high operating tempos of the Armed Forces have had on the family lives of members, including effects on the incidence of substance abuse, physical or emotional abuse of family members, and divorce.

(G) The extent to which family lives of members of the Armed Forces prevent members from being deployed.

(2) The rates of retention of members of the Armed Forces, including the following:

(A) The rates based on the latest information available when the report is prepared.

(B) Projected rates for future periods for which reasonably reliable projections can be made.

(C) An analysis of the rates under subparagraphs (A) and (B) for each of the Armed Forces, each pay grade, and each major occupational specialty.

(3) The relationships among the quality of the family lives of members of the Armed Forces, high operating tempos of the Armed Forces, and retention of the members in the Armed Forces, analyzed for each of the Armed Forces, each pay grade, and each occupational specialty, including, to the extent ascertainable and relevant to the analysis of the relationships, the reasons expressed by members of the Armed Forces for separating from the Armed Forces and the reasons expressed by the members of the Armed Forces for remaining in the Armed Forces.

(4) The programs and policies of the Department of Defense (including programs and policies specifically directed at quality of life) that have tended to improve, and those that have tended to degrade, the morale of members of the Armed Forces and members of their families, the retention of members of the Armed Forces, and the perceptions of members of the Armed Forces and members of their families regarding the quality of their lives.

(d) In this section, the term "major occupational specialty" means the aircraft pilot specialty and each other occupational specialty that the Comptroller General considers a major occupational specialty of the Armed Forces.

Mr. DOMENICI. I am pleased to have Senator HARKIN as a cosponsor of this amendment.

There are two parts to my amendment; both parts have no cost.

The first part addresses the 12,000 military families on Food Stamps.

For 3 years the Defense Department has refused to take this problem seriously.

I first wrote to DoD in 1996; then I was told that this was a problem only because military personnel have decided, and I quote, "to have a larger family than he/she can afford." In other words, it is Defense Department policy to discourage military families and to engineer the size of those families.

In 1997, I wrote again to Secretary Cohen because he publicly stated that it was "not acceptable" for military personnel to be on Food Stamps. I regret to say that he wrote back saying only that he would "monitor" the issue.

Last year in the fiscal year 1998 Defense Authorization bill, Congress mandated a DoD report on potential solutions. The report is now several months late and will not be submitted in the foreseeable future.

Congress is getting the bureaucratic stiff-arm from DoD on this issue. It's time to bring that to an end.

My amendment will require DoD to propose low cost solutions to this problem, and it requires these proposals as a part of DoD's FY 2000 budget request.

Next year. If DoD still refuses to take this problem seriously, I will propose my own solution. If the Chairman and Ranking Member of the Defense Subcommittee of the Appropriations Committee see fit to support me, I'm sure we can be successful.

The second part of the amendment will permit us to better understand our growing problems in military family life, morale, and retention.

This year, I collected information from each of the services on these issues. Unfortunately, the information I collected confirms my suspicions that the Defense Department has failed to collect data properly. For example:

Each service collects data on these issues differently—or not at all—which prevents comparing among the services. This also means that successes and failures to address these problems cannot be identified.

Now that everyone agrees that readiness is a serious problem, everyone wants to do something about it. But, because the issues are not fully understood, some of the proposed "solutions" may be off the mark. For example, Congress is increasing re-enlistment bonuses for pilots to compete with airline salaries, but there are indications that high airline salaries are not the real problem. We won't really understand the problem until we have better data; only then can we apply effective solutions.

The nature of military life has gone through profound change in the last 20 years, but those changes are not fully understood or taken into account in DoD national security decision making. It is not clear how the new prominence of families in military life should—or should not—be taken into account in making national security decisions.

Because of these problems, my amendment requires a special unit in the General Accounting Office to collect and study the data. They will use an Advisory Panel of experts to assist the study and will report back to the Appropriations Committees next year. With these issues better understood, we will be able to apply more effective solutions, and we should be able to make some real improvements in how Congress and DoD address quality of life and family issues.

AMENDMENT NO. 3424

(Purpose: Relating to the conveyance of the remaining Army Reserve property at former Fort Sheridan, Illinois)

At the appropriate place, insert the following:

Sec. . (a)(1) Notwithstanding any other provision of law, no funds appropriated or otherwise made available by this Act may be used to carry out any conveyance of land at the former Fort Sheridan, Illinois, unless such conveyance is consistent with a regional agreement among the communities and jurisdictions in the vicinity of Fort Sheridan and in accordance with section 2862 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 573).

(2) The land referred to in paragraph (1) is a parcel of real property, including any improvements thereon, located at the former Fort Sheridan, Illinois, consisting of approximately 14 acres, and known as the northern Army Reserve enclave area, that is covered by the authority in section 2862 of the Military Construction Authorization Act for Fiscal Year 1996 and has not been conveyed pursuant to that authority as of the date of enactment of this Act.

AMENDMENT NO. 3425

(Purpose: To require a conveyance of certain property at former Pease Air Force Base, New Hampshire)

On page 99, between lines 17 and 18, insert the following:

Sec. 8104. (a) Conveyance Required.—The Secretary of the Air Force shall convey, without consideration, to the Town of Newington, New Hampshire, all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 1.3 acres located at former Pease Air Force Base, New Hampshire, and known as the site of the old Stone School.

(b) Exception from Screening Requirement.—The Secretary shall make the conveyance under subsection (a) without regard to the requirement under section 2696 of title 10, United States Code, that the property be screened for further Federal use in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Secretary.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

AMENDMENT NO. 3426

(Purpose: To make available up to $10,000,000 for the Department of Defense share of environmental restoration at Defense Logistics Agency inventory location 429 (Macalloy site) in Charleston, South Carolina)

On page 99, between lines 17 and 18, insert the following:

Sec. 8104. Of the amounts appropriated or otherwise made available for the Department of Defense by this Act, up to $10,000,000 may be available for the Department of Defense share of environmental remediation and restoration activities at Defense Logistics Agency inventory location 429 (Macalloy site) in Charleston, South Carolina.

AMENDMENT NO. 3427

(Purpose: To designate funds for a strategic materials manufacturing project)

On page 99, insert in the appropriate place the following new general provision:

Sec. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", for Materials and Electronics Technology, $2,000,000 shall be made available only for the Strategic Materials Manufacturing Facility project.

AMENDMENT NO. 3428

(Purpose: To authorize the transportation of American Samoa veterans to Hawaii on Department of Defense aircraft for receipt of veterans medical care in Hawaii)

On page 99, between lines 17 and 18, insert the following:

Sec. 8104. (a) Chapter 157 of title 10, United States Code, is amended by inserting after section 2641 the following:

"§ 2641a. Transportation of American Samoa veterans on Department of Defense aircraft for certain medical care in Hawaii

"(a) Transportation Authorized.—The Secretary of Defense may provide transportation on Department of Defense aircraft for the purpose of transporting any veteran specified in subsection (b) between American Samoa and the State of Hawaii if such transportation is required in order to provide hospital care to such veteran as described in that subsection.

"(b) Veterans Eligible for Transport.—A veteran eligible for transport under subsection (a) is any veteran who—

"(1) resides in and is located in American Samoa; and

"(2) as determined by an official of the Department of Veterans Affairs designated for that purpose by the Secretary of Veterans Affairs, must be transported to the State of Hawaii in order to receive hospital care to which such veteran is entitled under chapter 17 of title 38 in facilities of such Department in the State of Hawaii.

"(c) Administration.—(1) Transportation may be provided to veterans under this section only on a space-available basis.

"(2) A charge may not be imposed on a veteran for transportation provided to the veteran under this section.

"(d) Definitions.—In this section:

"(1) The term 'veteran' has the meaning given that term in section 101(2) of title 38.

"(2) The term 'hospital care' has the meaning given that term in section 1701(5) of title 38.".

(b) The table of sections at the beginning of chapter 157 of such title is amended by inserting after the item relating to section 2641 the following new item:

"2641a. Transportation of American Samoa veterans on Department of Defense aircraft for certain medical care in Hawaii.".

AMENDMENT NO. 3429

At the appropriate place, insert:

Sec. . Not later than December 1, 1998, the Secretary of Defense shall submit to the President and the Congressional Defense Committees a report regarding the potential for development of Ford Island within the Pearl Harbor Naval Complex, Oahu, Hawaii through an integrated resourcing plan incorporating both appropriated funds and one or more public-private ventures. This report shall consider innovative resource development measures, including but not limited to, an enhanced-use leasing program similar to that of the Department of Veterans Affairs as well as the sale or other disposal of land in Hawaii under the control of the Navy as part of an overall program for Ford Island development. The report shall include proposed legislation for carrying out the measures recommended therein.

Mr. INOUYE. Mr. President, I rise today to raise a matter which I believe could revolutionize the way we finance our defense infrastructure, our family housing, barracks and other base facilities. If successful, it would allow us to recapitalize our bases with a much smaller investment than is currently required. In so doing, it could dramatically improve the quality of life of the men and women in uniform.

Mr. President often Members rise and offer that theirs is a simple amendment. This is not a simple matter, and it will take some time to describe it, but I want all of my colleagues to understand what it would do for national defense.

Several years ago, I sponsored legislation to sell defense property in Hawaii to the State.

In return the proceeds were used to build a new bridge to connect the Pearl Harbor Naval Base to Ford Island, a piece of Navy property located in Pearl Harbor.

Over the years Ford Island has been the home of Battleship Row, the site of the Arizona Memorial, and just last month it became the final home for the U.S.S. *Missouri*. It has had a small airstrip on which some of the Navy's earliest aviators trained.

It has housed a few sailors and families, and has been the workplace for selected other military activities.

But because there was no bridge connecting the island, it could never be fully utilized. The Island comprises 450 acres, about half the size of Pearl Harbor Navy Base, yet it contains less than one tenth of the working and residential population of Pearl Harbor.

The only access to the island has been by ferry. For years, boats have shuttled passengers and cargo from the rest of base about once per hour. In short it has been a very inefficient use of space. And for a small State like mine, especially in and around Honolulu, space is a premium.

In April of this year, this situation was changed forever. Ford Island was opened to the rest of Oahu by the new Chick Clarey Bridge.

Ford Island is now poised to be a more useful part of the Pearl Harbor naval facility. However, as is unfortunately so often the case in these matters, there simply is not enough money in the Navy budget to build the facilities that could make this base more useful. And so, without action, Ford Island will remain underutilized.

About two years ago, when he took over as the Commander in Chief of the Pacific Fleet, Admiral Clemins saw the bridge being constructed and recognized the prospect of developing Ford Island. He began to investigate how he could maximize its vast potential to improve the Navy in Hawaii. He quickly came to the conclusion that there simply was not enough money to build the new facilities the Navy needs.

While some might have given up when faced with this obstacle, that is not the Admiral's way. Instead he directed his staff to keep studying this and identify other ways to achieve his objective.

The Admiral took to heart what we have often heard coming from the Congress, that we need to revolutionize the way the Pentagon does business.

He agreed that we have to become more efficient, more like the private sector. He noted that public/private venture legislation had been approved by the Congress at the request of former Secretary of Defense William Perry for a few family housing projects and he suggested that a similar but expanded approach was needed for Ford Island.

At every step there were those that told him why he couldn't do this.

Some said it would cost billions, others that the State would not support developing Ford Island, still others raised technical arguments on our arcane accounting practices in the Government. But, the Admiral kept after it.

While the lawyers raised legal concerns, and the Navy staff and others raised objections, every decision maker, the leaders of the Navy, State, and local governments, and business leaders always had the same response. This is a good idea, we must figure out how we can do it.

That was the reaction of the Commander in Chief of The Pacific Command, Admiral Prueher. Recently he testified to the Appropriations Committee that he has reviewed the legislation and believes it is the right approach to solving some of the critical housing and facility shortfalls for the Navy.

But, because of the difficulty of moving the legislative proposal within the bureaucracy, the measure was not included in the President's formal budget request. Still the Fleet Commander and CINCPAC were undeterred.

Admiral Clemins brought the idea to Washington directly, where he quickly won support from the uniformed Navy.

The Chief of Naval Operations gave the proposal his approval. He then received personal support from the Secretary of the Navy. His arguments even won the informal support from the Deputy Secretary of Defense. Finally, the Navy gave the proposal its official blessing. And after many, many months, the legislation was finally forwarded unofficially to the Congress.

Unfortunately, all of this took time and the delays in winding through the internal chain of command did not allow the Senate's Armed Services Committee time to review this matter prior to its mark up.

I offered this same amendment to that bill and it was adopted. However, there are some in the House that do not agree with the Navy, DOD and the Senate Armed Services Committee and they hope to gut the proposal.

This amendment requires DOD to report on the current legislative proposal and to submit legislation to carry out the proposal by December 1, 1998. That will provide sufficient time for the authorization committee to pass judgement on the matter next year.

The amendment does not mandate any specific terms for the Defense Department to follow, but offers several Navy ideas to be considered.

What the Navy seeks to do, as a pilot project only for this one base, is to provide authority to the Secretary of the Navy to use his resources in conjunction with the private sector to develop Ford Island. The plan would examine whether it is feasible to provide incentives and other guarantees to businesses to carry out this idea, and establish a framework to carry it out.

It is important that we understand how this differs from our current system and how it might work. Under our normal course of operations, the Navy would identify how much the development of Ford Island would cost, and it would develop a spending plan. It is estimated that the costs of developing the island under normal procedures could be as much as $600 million.

Judging from the military construction budget it would probably require 15 to 20 years to identify sufficient funds to pay for this. That means a whole generation of Navy sailors would enlist, serve and retire, before the base could be completed. This is simply unacceptable to Admiral Clemins as it should be to all of my colleagues.

By relying on a joint venture, the Navy can use resources gained by leasing, exchanging, or selling property that it currently holds in Hawaii and use those assets and revenues to leverage development of the island. It is like taking out a long term loan. The Navy can put down the down payment using its property or newly generated cash resources, and, as is the case under the family housing pilot program, the sailors housing allowances can be used to make the mortgage payments.

In theory, the Navy might offer a commercial developer the opportunity to establish a few small commercial facilities—like parking garages, child care facilities, shops and restaurants—on the base to support the families, and in return the private concern would be responsible for developing additional Navy facilities.

In each case, the Secretary of the Navy would have to approve the specific uses and the Congress would have to allow the funding to be used for the proposed purpose. This means that sufficient oversight would exist at all levels to ensure that the project stayed on course.

Let me tell my colleagues that the business community in my State is very excited about this proposal.

They are positive that the legislation will provide a mechanism for creating a public-private partnership to develop the island.

From Congress' viewpoint, the development will involve very few taxpayer dollars which is exactly what is needed in today's tight budget environment.

Most important is what this will do for the men and women in the Navy. Today in Hawaii, the Navy is spread out throughout the island of Oahu at a number of small posts and with large numbers of military families living in poor conditions a long way away from their jobs at Pearl Harbor.

The development of Ford Island will allow the Navy to move many of its sailors right to the base to live and work. This will cut down on their commutes, and it will keep them on base.

It will also help ease what has become a very congested rush hour on the highways in the area. For many what was an hour commute will now become minutes. For families disconnected from the Navy community, they will now be living and working in a quality family environment—a nice home in a beautiful location, with the working spouse only minutes away.

For our commanders this means many more sailors housed right on base and readily available if needed.

It will probably come as a surprise to my colleagues to learn that my State has some of the worst housing in all the Defense Department. The Army says its worst barracks anywhere in the world are in Hawaii. Some of the Navy's housing is so bad that it is an embarrassment to the service.

Several years ago, Mrs. Margaret Dalton, the wife of Navy Secretary John Dalton visited Hawaii and was taken on a tour of some family housing units. The conditions were so deplorable that she was very troubled. When she returned to Washington she insisted that the Navy provide her with a full briefing on its housing rehabilitation plans for the State. Single handedly she moved the Navy forward.

Since then, the Navy has made great strides toward improving living conditions. But it has become painfully clear, that there simply isn't enough money to do what is required. There are many areas that still need to be torn down and rebuilt. Or, that property could be turned over for a new use by the private sector. Mrs. Dalton will long be remembered by the sailors who serve in Hawaii as the person who started to turn around the Navy's living conditions in my State. This proposal will provide us a means to expand upon her work, but this time without enormous investment in this constrained budget environment.

The benefits of the proposal to the Navy and my State are enormous.

I am sure many are now thinking this sounds good, but if it is that simple why hasn't it been done before. To that I would say, it is not simple.

It will require great leadership and management by the Navy to work with the local authorities and business community to carry this out. But, I am confident that we have the right man for the job in Admiral Clemins. He was demonstrated his skills as both a warrior and as a manager and he has the skills necessary to accomplish this task.

This approach has not been tried before, because no one put the time and energy into working through all the details to formulate a legislative plan to achieve this goal. Furthermore, how many opportunities arise when a military department, for all practical purposes, receives what amounts to a land grant adjoining a base? This is in some ways a unique opportunity because of the location of Ford Island and the new bridge. That is why a pilot proposal is proper. It could also serve as a model for other revitalization efforts at other bases, perhaps not on this grand a scale, but using elements from this approach.

My colleagues all know that there will come a time when the Defense Department will want to establish a new base somewhere. This public private venture could be the method where building new bases could become affordable.

Mr. President, this is an excellent idea, that has been shepherded this far by the Navy because they recognized that it is the only way that we can take Ford Island and develop it in a timely and cost effective manner.

Ten years from now, we can be discussing how we will get enough money and authority to proceed to develop Ford Island for the Navy, or we can be discussing how this model pilot program established a method whereby we have begun to recapitalize our defense infrastructure affordably. This is our choice, there is only one answer, we need to approve this legislation to get the ball rolling.

I think my colleagues for their attention, and I urge all to support this measure.

AMENDMENT NO. 3430

(Purpose: To reduce funds available for Navy S–3 Weapon System Improvement program and to provide funds for a cyber-security program)

On page 99, insert in the appropriate place the following new general provisions:

SEC. 8104. Within the amounts appropriated under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Navy", the amount available for S–3 Weapon System Improvement is hereby reduced by $8,000,000: *Provided*, Within the amounts appropriated under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Air Force", the amount available for a cyber-security program is hereby increased by $8,000,000: *Provided further*, That the funds are made available for the cyber-security program to conduct research and development on issues relating to security information assurance and to facilitate the transition of information assurance technology to the defense community.

Mr. KENNEDY. Mr. President, the Department of Defense and many other government agencies are increasing their use and reliance on information technology for a wide variety of applications.

The growing frequency and increasing sophistication of attacks on the Defense Department's computer networks is cause for concern. Other government agencies, as well as the private sector, are also subject to these attacks on their network infrastructure.

Last year, the Administration organized an exercise to test the Pentagon's ability to deal with cyber attacks. In this exercise, several computer specialists from the National Security Agency targeted computers used by our military forces in the United States and our forces in the Pacific. Using computers, modems, and software technology widely available on the Internet, these friendly "hackers" were able to penetrate unclassified military computer networks in Hawaii, Washington, D.C., Chicago, St. Louis and Colorado.

We need to do more to protect the Defense Department networks that are critical for the operation of our military forces around the world. My amendment, which is fully offset, adds $8 million to the Air Force Information Systems Security Program. The additional funds will be used for research by the Air Force and will rely on the expertise of two federally funded research and development centers currently working on issues of information security. These efforts will facilitate the development of information security technology for the Armed Forces, and I urge the Senate to approve it.

AMENDMENT NO. 3431

(Purpose: To provide additional funding for repair of the Korean War Veterans Memorial)

On page 99, between lines 17 and 18, insert the following:

SEC. 8 . ADDITIONAL FUNDING FOR KOREAN WAR VETERANS MEMORIAL.

Section 3 of Public Law 99–572 (40 U.S.C. 1003 note) is amended by adding at the end the following:

"(c) ADDITIONAL FUNDING.—

"(1) IN GENERAL.—In addition to amounts made available under subsections (a) and (b), the Secretary of the Army may expend, from any funds available to the Secretary on the date of enactment of this paragraph, $2,000,000 for repair of the memorial.

"(2) DISPOSITION OF FUNDS RECEIVED FROM CLAIMS.—Any funds received by the Secretary of the Army as a result of any claim against a contractor in connection with construction of the memorial shall be deposited in the general fund of the Treasury.".

Mr. SARBANES. Mr. President, the amendment I am offering would fix and restore one of our most important monuments, the Korean War Veterans Memorial. It authorizes the Secretary of the Army to provide, within existing funds, up to $2 million to complete essential repairs to the Memorial. Joining me as a cosponsor of this amendment is my distinguished colleague from Colorado—a Korean War veteran himself—Senator CAMPBELL.

The Korean War Memorial is the newest war monument in Washington, DC. It was authorized in 1986 by Public Law 99–752 which established a Presidential Advisory Board to raise funds and oversee the design of the project, and charged the American Battle Monuments Commission with the management of this project. The authorization provided $1 million in federal funds for the design and initial construction of the memorial and Korean War Veterans' organizations and the Advisory Board raised over $13 million in private donations to complete the facility. Construction on the memorial began in 1992 and it was dedicated on July 27, 1995.

For those who haven't visited, the Memorial is located south of the Vietnam Veteran's Memorial on the Mall, to the east of the Lincoln Memorial. Designed by world class Cooper Lecky Architects, the monument contains a triangular "field of service," with 19 stainless steel, larger than life statues, depicting a squad of soldiers on patrol. A curb of granite north of the statues lists the 22 countries of the United Nations that sent troops in defense of South Korea. To the south of the patrol stands a wall of black granite, with engraved images of more than 2,400 unnamed service men and women detailing the countless ways in which Americans answered the call to service. Adjacent to the wall is a fountain which is supposed to be encircled by a Memorial Grove of linden trees, creating a peaceful setting for quiet reflection. When this memorial was originally created, it was intended to be a lasting and fitting tribute to the bravery and sacrifice of our troops who fought in the "Forgotten War." Unfortunately, just three years after its dedication, the monument is not lasting and is no longer fitting.

The Memorial has not functioned as it was originally conceived and designed and has instead been plagued by a series of problems in its construction. The grove of 40 linden trees have all died and been removed from the ground, leaving forty gaping holes. The pipes feeding the Pool of Remembrance' return system have cracked and the pool has been cordoned off. The monument's lighting system has been deemed inadequate and has caused safety problems for those who wish to visit the site at night. As a result, most of the 1.3 million who visit the monument each year—many of whom are veterans—must cope with construction gates or areas which have been cordoned off instead of experiencing the full effect of the Memorial

Let me read a quote from the Washington Post—from a Korean War Veteran, John LeGault who visited the site—that I think captures the frustration associated with not having a fitting and complete tribute for the Korean War. He says, "Who cares?" "That was the forgotten war and this is the forgotten memorial." Mr. President, we ought not to be sunshine patriots when it comes to making decisions which affect our veterans. Too often, we are very high on the contributions that our military makes in times of crisis, but when a crisis fades from the scene, we seem to forget about this sacrifice. Our veterans deserve better.

To resolve these problems and restore this monument to something that our Korean War Veterans can be proud of, the U.S. Army Corps of Engineers conducted an extensive study of the site in an effort to identify, comprehensively, what corrective actions would be required. The Corps has determined that an additional $2 million would be required to complete the restoration of the grove work and replace the statuary lighting. My amendment would provide the authority for the funds to make these repairs swiftly and once and for all.

With the 50th anniversary of the Korean War conflict fast approaching, we must ensure that these repairs are made as soon as possible. This additional funding would ensure that we have a fitting, proper, and lasting tribute to those who served in Korea and that we will never forget those who served in the "Forgotten War." I urge my colleagues to join me in supporting this amendment.

AMENDMENT NO. 3432

(Purpose: To set aside $18,000,000 for the Assembled Chemical Weapons Assessment for demonstrations of technologies and a pilot scale facility)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the funds available under title VI for chemical agents and munitions destruction, Defense, for research and design, $18,000,000 shall be made available for the program manager for the Assembled Chemical Weapons Assessment (under section 8065 of the Department of Defense Appropriations Act, 1997) for demonstrations of technologies under the Assembled Chemical Weapons Assessment, for planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, and for the design, construction, and operation of a pilot facility for the technology.

AMENDMENT NO. 3433

(Purpose: To authorize the lease of real property at the Naval Air Warfare Center, Training Systems Division, Orlando, Florida)

On page 99, between lines 17 and 18, insert the following:

SEC. 8014. (a) The Secretary of the Navy may lease to the University of Central Florida (in this section referred to as the "University"), or a representative or agent of the University designated by the University, such portion of the property known as the Naval Air Warfare Center, Training Systems Division, Orlando, Florida, as the Secretary considers appropriate as a location for the establishment of a center for research in the fields of law enforcement, public safety, civil defense, and national defense.

(b) Notwithstanding any other provision of law, the term of the lease under subsection (a) may not exceed 50 years.

(c) As consideration for the lease under subsection (a), the University shall—

(1) undertake and incur the cost of the planning, design, and construction required to establish the center referred to in that subsection; and

(2) during the term of the lease, provide the Secretary such space in the center for activities of the Navy as the Secretary and the University jointly consider appropriate.

(d) The Secretary may require such additional terms and conditions in connection with the lease authorized by subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

AMENDMENT NO. 3434

(Purpose: To provide for the funding of a vessel scrapping pilot program)

On page 99 in between lines 17 and 18, insert the following:

SEC. 8104. Funds appropriated under O&M Navy are available for a vessel scrapping pilot program which the Secretary of the Navy may carry out during fiscal year 1999 and (notwithstanding the expiration of authority to obligate funds appropriated under this heading) fiscal year 2000, and for which the Secretary may define the program scope as that which the Secretary determines sufficient for gathering data on the cost of scrapping Government vessels and for demonstrating cost effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment.

AMENDMENT NO. 3435

(Purpose: Relating to the Next Generation Internet (NGI) initiative)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. The Department of Defense shall, in allocating funds for the Next Generation Internet (NGI) initiative, give full consideration to the allocation of funds to the regional partnerships that will best leverage Department investments in the DoD Major Shared Resource Centers and Centers with supercomputers purchased using DoD RDT&E funds, including the high performance networks associated with such centers.

AMENDMENT NO. 3436

(Purpose: To provide $500,000 for payment of subcontractors and suppliers under an Army services contract)

On page 99, between lines 17 and 18, insert the following new section: "From within the funds provided, with the heading "Operations and Maintenance, Army", up to $500,000 shall be available for paying subcontractors and suppliers for work performed at Fort Wainwright, Alaska, in 1994, under Army services contract number DACA85–93–C–0065".

AMENDMENT NO. 3437

(Purpose: To designate funds to continue an electronic circuit board manufacturing program)

On page 99, insert in the appropriate place the following new general provision: SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", for Industrial Preparedness, $2,000,000 shall be made available only for the Electronic Circuit Board Manufacturing Development Center.

AMENDMENT NO. 3438

(Purpose: To reestablish the Commission To Assess the Organization of the Federal Government To Combat the Proliferation of Weapons of Mass Destruction)

At the appropriate place in the bill, insert the following:

SEC. . COMMISSION TO ASSESS THE ORGANIZATION OF THE FEDERAL GOVERNMENT TO COMBAT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

The Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (as contained in Public Law 104–293) is amended—

(1) in section 711(b), in the text above paragraph (1), by striking "eight" and inserting "twelve";

(2) in section 711(b)(2), by striking "one" and inserting "three";

(3) in section 711(b)(4), by striking "one" and inserting "three";

(4) in section 711(e), by striking "on which all members of the Commission have been appointed" and inserting "on which the Department of Defense Appropriations Act, 1999, is enacted, regardless of whether all members of the Commission have been appointed"; and

(5) in section 712(c), by striking "Not later than 18 months after the date of enactment of this Act," and inserting "Not later than June 15, 1999,".

AMENDMENT NO. 3439

(Purpose: To designate funds for the procurement of Multiple Integrated Laser Engagement System (MILES) training equipment)

On page 99, insert in the appropriate place the following new general provision: SEC. 8104. Of the funds provided under Title III of this Act under the heading "Other Procurement Army", for Training Devices, $4,000,000 shall be made available only for procurement of Multiple Integrated Laser Engagement System (MILES) equipment to support Department of Defense Cope Thunder exercises.

AMENDMENT NO. 3440

(Purpose: To strike the emergency designation for the funds authorized to be appropriate for the costs of overseas contingency operations)

On page 73, line 4 of the bill, revise the text "rescinded from" to read "rescinded as of the date of enactment of this act from"

AMENDMENT NO. 3441

(Purpose: To reduce funds available for development of the Army Joint Tactical Radio and to provide funds for the development of the Army Near Term Digital Radio)

On page 99, insert in the appropriate place the following new general provision: SEC. 8104. Within the amounts appropriated under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", the amount available for Joint Tactical Radio is hereby reduced by $10,981,000, and the amount available for Army Data Distribution System development is hereby increased by $10,981,000.

AMENDMENT NO. 3442

(Purpose: To designate Army Digitization funds for development of the Digital Intelligence Situation Mapboard)

On page 99, insert in the appropriate place the following new general provision: SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", for Digitization, $2,000,000 shall be made available only for the Digital Intelligence Situation Mapboard (DISM).

AMENDMENT NO. 3443

(Purpose: To set aside $5,000,000 for Navy research, development, test, and evaluation funds for the Shortstop Electronic Protection System, which is to be developed for use in urban warfare, littoral operations, and peacekeeping operations)

On page 99, between lines 17 and 18, insert the following: SEC. 8104. Of the funds available for the Navy for research, development, test, and evaluation under title IV, $5,000,000 shall be available for the Shortstop Electronic Protection System".

AMENDMENT NO. 3444

(Purpose: To revise and clarify the authority for Federal support of National Guard drug interdiction and counterdrug activities)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Subsection (a)(3) of section 112 of title 32, United States Code, is amended by striking out "and leasing of equipment" and inserting in lieu thereof "and equipment, and the leasing of equipment,".

(b) Subsection (b)(2) of such section is amended to read as follows:

"(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities.

"(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.".

(c) Subsection (b)(3) of such section is amended to read as follows:

"(2) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if—

"(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

"(B) in the case of services, the provision of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

"(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan.".

(d) Subsection (i)(1) of such section is amended by inserting after "drug interdiction and counter-drug law enforcement activities" the following: ", including drug demand reduction activities,".

AMENDMENT NO. 3445

(Purpose: To set aside funds for research and surveillance activities relating to Lyme disease and other tick-borne diseases)

On page 36, line 22, insert before the period at the end the following: ": *Provided*, That, of the funds available under this heading, $3,000,000 shall be available for research and surveillance activities relating to Lyme disease and other tick-borne diseases".

AMENDMENT NO. 3446

(Purpose: To make available $3,000,000 for advanced research relating to solid state dye lasers)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the amounts appropriated by title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", $3,000,000 shall be available for advanced research relating to solid state dye lasers.

AMENDMENT NO. 3447

(Purpose: To authorize the Secretary of Defense to lease a parcel of real property from the City of Phoenix)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of the Air Force may enter into an agreement to lease from the City of Phoenix, Arizona, the parcel of real property described in subsection (b), together with improvements on the property, in consideration of annual rent not in excess of one dollar.

(b) The real property referred to in subsection (a) is a parcel, known as Auxiliary Field 3, that is located approximately 12 miles north of Luke Air Force Base, Arizona, in section 4 of township 3 north, range 1 west of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, is bounded on the north by Bell Road, on the east by Litchfield Road, on the south by Greenway Road, and on the west by agricultural land, and is composed of approximately 638 acres, more or less, the same property that was formerly an Air Force training and emergency field developed during World War II.

(c) The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Mr. McCAIN. Mr. President, I will be brief. I rise to offer an amendment to the Defense Appropriations bill for fiscal year 1999 on behalf of Senator KYL and myself. The amendment would authorize the Secretary of The Air Force to enter into an agreement to lease from the City of Phoenix, Arizona a parcel of land near Luke Air Force Base that is known as Auxiliary Field 3 for a cost not in excess of one dollar.

I offer this amendment because the U.S. Air Force may foresee a need to acquire or lease land near Luke Air Force Base to more effectively manage public and private development compatibility with the Luke Air Force Base mission. Many communities on the west side of Phoenix are dedicated to ensuring that the Air Force has the additional flexibility it may need in the near and long term to meet Air Force operational and training requirements and preserve its overall readiness.

Mr. President, this simple amendment is discretionary in nature and meets the criteria which I have ensured that my colleagues must meet when amendments are offered to appropriations bills. I urge my colleagues to support this amendment.

AMENDMENT NO. 3448

(Purpose: To designate Army RDT&E funds for integration and evaluation of a passenger safety system for heavy tactical trucks)

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", up to $1,300,000 may be made available only to integrate and evaluate enhanced, active and passive, passenger safety system for heavy tactical trucks.

AMENDMENT NO. 3449

At the end of title VIII, add the following:

SEC. . Effective on June 30, 1999, section 8106(a) of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under section 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note), is amended—

(1) by striking out "not later than June 30, 1997,", and inserting in lieu thereof "not later than June 30, 1999,"; and

(2) by striking out "$1,000,000" and inserting in lieu thereof "$500,000".

AMENDMENT NO. 3450

(Purpose: To increase by $10,000,000 the amount provided for research and development relating to Persian Gulf illnesses)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Of the total amount appropriated under title IV for research, development, test and evaluation, Defense-wide, for basic research, $29,646,000 is available for research and development relating to Persian Gulf illnesses.

Mr. HARKIN. I offered an amendment to the Defense Appropriations bill important to Persian Gulf War veterans. My amendment increases Department of Defense spending on research to determine the causes and possible treatments of those suffering from Gulf War illness by $10 million. It is my understanding that the amendment has been accepted. This is similar to the amendment I offered and was also accepted as part of the Defense Authorization bill.

While the Persian Gulf War ended in 1991, the physical and psychological ordeal for many of the nearly 700,000 troops who served our country in Operations Desert Storm and Desert Shield has not ended. It's been seven years since our troops were winning the war in the Gulf. Unfortunately, they continue to suffer due to their deployment.

Many of our troops returned from the Persian Gulf suffering from a variety of symptoms that have been difficult to trace to a single source or substance. Our veterans have experienced a combination of symptoms in varying degrees of seriousness, including: fatigue, skin rash, muscle and joint pain, headache, loss of memory, shortness of breath, and gastrointestinal and respiratory problems. Unfortunately, the initial response from the Pentagon and the Department of Veterans affairs was to express skepticism about veterans' claims of illness and disability. This strained the government's credibility with veterans and their loved ones who dealt with the very real affects of their service in the Gulf.

I vividly remember a series of roundtable discussions I held with veterans across Iowa after being contacted by several families of Gulf War veterans stricken with undiagnosed illnesses. And these folks weren't just sick. They were tired. They were tired of getting the runaround from the government they defended. They were tired of people who refused to listen . . . or told them it was in their head . . . or that it had nothing to do with their service in the Gulf.

Their stories put a human face on the results of a study I requested through the Centers for Disease Control and Prevention. The results add to the increasing volume of evidence that what these veterans were experiencing was indeed very real. More than one in three Gulf War veterans reported one or more significant medical problems. Fifteen percent reported two or more significant medical conditions. These Iowa veterans also reported significantly greater problems with quality of life issues than others on active duty at the time but not deployed in the Gulf. For example, Persian Gulf veterans had lower scores on measures of vitality, physical and mental health, ability to work, and increased levels of emotional problems and bodily pain.

In addition, over 80 percent of the Gulf War veterans in the CDC study reported having been exposed to at least one potentially hazardous material during their Persian Gulf Deployment. A recent General Accounting Office report provided an alarming laundry list of such hazards including: "compounds used to decontaminate equipment and protect it against chemical agents, fuel used as a sand suppressant in and around encampments, fuel used to burn human waste, fuel in shower water, leaded vehicle exhaust used to dry sleeping bags, depleted uranium, parasites, pesticides, multiple vaccines used to protect against chemical warfare agents, and smoke from oil-well fires."

To this rather exhaustive list, we can also add exposure to nerve gas. The DOD and CIA have admitted that as many as 100,000 or more . . . that's 1 in 7 troops deployed in the Gulf . . . may have been exposed to chemical agents released into the atmosphere when U.S. troops destroyed an Iraqi weapons bunker. A Presidential Advisory Committee also found credible evidence of exposure to chemical agents in a second incident when troops crossed Iraqi front lines on the first day of the ground war. Chemical weapons specialists in these units said they detected poison gas. Unfortunately, these detections were initially neither acknowledged nor pursued by the Pentagon.

That being said, the Pentagon and others have been more forthcoming recently with relevant information, documents, and research. But more needs to be done. I am pleased that the President, acting based on legislation I cosponsored, extended the time veterans will have to file claims with the government for illnesses related to their service in the Gulf. Previously, they had to show their illness surfaced within two years of their service. Now, they have until the end of 2001. This is a great victory for our veterans. Gulf War illnesses do not surface on a time line convenient to the rules of bureaucrats. This extension will help us meet our responsibility to take care of these soldiers. But, more still needs to be done.

There is still substantial mystery and confusion surrounding the symptoms and health problems experienced by Gulf War veterans. While many veterans have been diagnosed with a recognizable disease, I am concerned about those who have no explanation, no label, no treatment for their suffering. More needs to be done to help these Americans.

For example, the Presidential Advisory Committee has suggested research in three new areas to help close the gaps in what we know about Gulf War illnesses. They suggest research on the long-term health effects of low-level exposures to chemical warfare agents, the combined effects of medical injections meant to combat chemical warfare with other Gulf War risk factors, and on the body's physical response to stress. It is also imperative to ensure that longitudinal studies and mortality studies are funded since some health effects, such as cancer, may not appear for several years after the end of the Gulf War.

Although there may be no single Gulf-War related disease so to speak, it is widely acknowledged that the multiple illnesses and symptoms experienced by Gulf War veterans are connected to their service during the war. Therefore, we must not forget on our solemn obligation to those who willingly served their country and put their lives in harm's way.

To that end, I offer this amendment to increase research into the illnesses experienced by Persian Gulf veterans by $10 million. The funds would support much more research, including the evaluation and treatment of a host of neuro-immunological disorders, as well as possible connections to Multiple Chemical Sensitivity, chronic fatigue syndrome and fibromyaglia.

Our veterans are not asking for much. They want answers. They want the truth. Our veterans answered our nation's call in war, and now we must answer theirs. Should our priorities include our Gulf War veterans? I believe the choice is self evident and absolutely clear.

AMENDMENT NO. 3451

(Purpose: To reduce funds available for development of the Navy Hard and Deeply Buried Target Defeat System and to provide funds for the procurement of Joint Tactical Combat Training System (JTCTS) equipment)

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Within the amounts appropriated under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Navy", the amount available for Hard and Deeply Buried Target Defeat System is hereby reduced by $9,827,000, and the amount available for Consolidated Training Systems Development is hereby increased by $9,827,000.

AMENDMENT NO. 3452

(Purpose: To require a comprehensive assessment of the TRICARE program)

On page 99, between lines 17 and 18, insert the following:

SEC. 8014. (a) Not later than six months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report containing a comprehensive assessment of the TRICARE program.

(b) The assessment under subsection (a) shall include the following:

(1) A comparison of the health care benefits available under the health care options of the TRICARE program known as TRICARE Standard, TRICARE Prime, and TRICARE Extra with the health care benefits available under the health care plan of the Federal Employees Health Benefits program most similar to each such option that

has the most subscribers as of the date of enactment of this Act, including—

(A) the types of health care services offered by each option and plan under comparison;

(B) the ceilings, if any, imposed on the amounts paid for covered services under each option and plan under comparison; and

(C) the timeliness of payments to physicians providing services under each option and plan under comparison.

(2) An assessment of the effect on the subscription choices made by potential subscribers to the TRICARE program of the Department of Defense policy to grant priority in the provision of health care services to subscribers to a particular option.

(3) An assessment whether or not the implementation of the TRICARE program has discouraged medicare-eligible individuals from obtaining health care services from military treatment facilities, including—

(A) an estimate of the number of such individuals discouraged from obtaining health care services from such facilities during the two-year period ending with the commencement of the implementation of the TRICARE program; and

(B) an estimate of the number of such individuals discouraged from obtaining health care services from such facilities during the two-year period following the commencement of the implementation of the TRICARE program.

(4) An assessment of any other matters that the Comptroller General considers appropriate for purposes of this section.

(c) In this section:

(1) The term "Federal Employees Health Benefits program" means the health benefits program under chapter 89 of title 5, United States Code.

(2) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

REQUIRING A COMPREHENSIVE ASSESSMENT OF THE TRICARE PROGRAM

Mr. FAIRCLOTH. Mr. President, this amendment directs the General Accounting Office to take a close look at the health care benefit that we provide to our military dependents, retirees, and their survivors. Enough time has passed since we replaced CHAMPUS with the TRICARE program that it is now time to see whether or not we are providing a proper benefit.

When I speak of a "proper benefit," I use a very simple standard. I want to be sure that our men and women in uniform and their loved ones are being cared for as well as our civilian federal employees are. The Federal Employees Health Benefits program (FEHBP) provides civilian federal employees and retirees with a good health care benefit having a wide range of patient choice. It's the program that covers all of us in Congress, and my goal is to make sure that TRICARE is just as good for our military families.

Mr. President, the FEHBP offers many different managed-care, fee-for-service, and preferred-provider plans from which to choose. If the civilian federal employee or retiree finds his or her health care plan to be inadequate, another plan of the same type can be chosen. For our military families, it is not so simple. With TRICARE, you only get a choice of one managed-care, one fee-for-service, or one preferred-provider plan. To paraphrase Henry Ford, you can pick any HMO-type plan that you want, as long as you choose TRICARE Prime. And if, for example, you are unhappy with TRICARE Prime, you either have to live with it, or go for the one fee-for-service or the one preferred-provider plan—there are no alternate managed-care plans.

Now, I recognize that a comparison between the TRICARE plans and the FEHBP plans will have to be very subjective. The comparison should not be limited simply to objective cost factors, such as co-pays and premiums, but it must be expansive enough to consider factors such as patient satisfaction, administrative requirements, ceilings on reimbursements and timeliness of their payment, covered services, etc. This is why I want the GAO to do this study. They will be independent and can use a combination of objective analyses and subjective surveys and interviews to give us the most clear, unbiased picture.

Of course, we would not have to worry about conducting studies or figuring out how to compare the quality of TRICARE with the FEHBP if we provided more customer choice. Ultimately, the best "study" of the quality of a product or service is its acceptance in the marketplace. For this reason, I have long favored considering Medicare subvention and making FEHBP available for military beneficiaries as well as civilians. But, with TRICARE only offering one of each type of plan and having a captive audience, there are no competitive pressures to keep providers focused on customer service, so this study is necessary.

I am also concerned that Department of Defense policies with regard to TRICARE may be further limiting choice. The GAO should identify reasons why TRICARE Prime enrollees should have priority at Military Treatment Facilities. This decision may be effectively eliminating the TRICARE Standard and Extra options because to choose either of these options may close off treatment at a Military Treatment Facility.

And there is another problem. Medicare-eligible military retirees, since the implementation of TRICARE are now having a very difficult time getting to see the doctor at the Military Treatment Facilities, if not facing an impossibility altogether. Let me explain. Because TRICARE Prime patients have first priority for medical treatment, retirees who wish to be served at a Military Treatment Facility have to sign up for TRICARE Prime—their choice for TRICARE Standard or Extra is effectively eliminated. But, the worst of it is that Medicare-eligible retirees are not eligible to participate in TRICARE at all. They and their Medicare-eligible dependents and survivors, if there are no appointments available at the Military Treatment Facility, are left with no military medical benefit, which we all know is contrary to the promise made to these veterans when they decided to make a career in the military.

Mr. President, there is no reasonable explanation that I can think of that could justify a health care benefit for our men and women in uniform, their dependents, and survivors, and retirees who give and gave so much of their lives for our country, that is anything less than what we have provided for ourselves and for civil servants. My amendment will give us a clear idea whether the military medical benefit offered is truly "prime," or even "standard," or whether it is substandard and we need to take action.

AMENDMENT NO. 3453

(Purpose: To authorize the Secretary of the Army and the Secretary of the Air Force to enter into one or more multiyear leases of non-tactical firefighting, crash rescue, or snow removal equipment)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of the Army and the Secretary of the Air Force may each enter into one or more multiyear leases of non-tactical firefighting equipment, non-tactical crash rescue equipment, or non-tactical snow removal equipment. The period of a lease entered into under this section shall be for any period not in excess of 10 years. Any such lease shall provide that performance under the lease during the second and subsequent years of the contract is contingent upon the appropriation of funds and shall provide for a cancellation payment to be made to the lessor if such appropriations are not made.

(b) Lease payments made under subsection (a) shall be made from amounts provided in this or future Appropriations Acts.

(c) This section is effective for all fiscal years beginning after September 30, 1998.

AMENDMENT 3454

(Purpose: To provide funds for a Domestic Preparedness Sustainment Training Center)

At the appropriate place in the bill in Title VIII, insert the following:

"SEC. . Of the amounts appropriated in this bill for the Defense Threat Reduction and Treaty Compliance Agency and for Operations and Maintenance, National Guard, $1,500,000 shall be available to develop training materials and a curriculum for a Domestic Preparedness Sustainment Training Center at Pine Bluff Arsenal, Arkansas."

AMENDMENT 3455

(Purpose: To ensure that a balanced investment is made in the Aerostat development program)

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", up to $10,000,000 may be made available only for the efforts associated with building and demonstrating a deployable mobile large aerostat system platform.

AMENDMENT NO. 3456

(Purpose: To provide $150,000 for the redevelopment of Havre Air Force Base and Training Site, Montana, for public benefit purposes)

On page 99, in between lines 17 and 18, insert before the period at the end the following: ": SEC.   . That of the amounts available under this heading, $150,000 shall be made available to the Bear Paw Development Council, Montana, for the management and conversion of the Havre Air Force Base and Training Site, Montana, for public benefit purposes, including public schools, housing for the homeless, and economic development".

AMENDMENT NO. 3457

(Purpose: To repeal limitations on authority to set rates and waive requirements for reimbursement of expenses incurred for instruction at service academies of persons from foreign countries)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Section 4344(b) of title 10, United States Code, is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States"; and

(2) by striking out paragraph (3).

(b) Section 6957(b) of such title is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a midshipman appointed from the United States"; and

(2) by striking out paragraph (3).

(c) Section 9344(b) of such title is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States"; and

(2) by striking out paragraph (3).

Mr. MCCAIN. Mr. President, I rise to offer a simple amendment to the Fiscal Year 1999 Defense Appropriations bill on behalf of Senator KAY BAILEY HUTCHISON and myself that merits bipartisan support and speedy passage.

My amendment would repeal the limitations on the military departments to waive the requirement for reimbursement of expenses for foreign students at the service academies. Clearly, the authority to set rates and waive reimbursement expenses for persons from foreign countries undergoing instruction at U.S. service academies should rest with our military departments and not be subject to limitations on their ability to determine the costs of instruction of foreign nationals.

Mr. President, the Senate Armed Services Committee included this provision in its version of the Fiscal Year 1999 Defense Authorization bill, however it was subsequently dropped in Conference. The service academy superintendents all support this legislation, and I urge my colleagues to do the same. Mr. President, I request that letters of support of my amendment from the service academy superintendents and others be placed in the RECORD at the conclusion of my statement.

AMENDMENT NO. 3458

(Purpose: to make small businesses eligible to participate in the Indian Subcontracting Incentive Program)

On page 54, strike Section 8023 and insert the following:

SEC. 8023. (a) In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That contractors participating in the in the test program established by section 854 of Public Law 101–189 (15 U.S.C. 637 note) shall be eligible for the program established by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

(b) Section 8024 of the Department of Defense Appropriations Act (Public Law 105–56) is amended by striking out "That these payments" and all that follows through "*Provided further,*".

Mr. INOUYE. Mr. President, I rise in support of Senator DORGAN'S amendment that would clarify the eligibility of small businesses to participate in the Indian incentive payment program.

Mr. President, I can assure my colleagues that in establishing this program, it was our intent to provide incentives to Defense contractors who would enter into subcontracts with Indian tribal government-chartered entities and tribal enterprises.

Mr. President, it was not our intent to exclude from the Indian incentive payment program, those small businesses that might enter into contracts with the Department of Defense.

It is my understanding that because the original authorizing language which established the Indian incentive payment program refers to a subcontracting plan pursuant to 15 U.S.C. 637(d), the Department of Defense has interpreted that provision to exclude small businesses from participation in the Indian incentive payment program.

Senator DORGAN'S amendment would simply strike the reference to a subcontracting plan pursuant to 15 U.S.C. 637(d), to make clear that small businesses who enter into contracts with the Department of Defense may participate in the Indian incentive payment program by entering into subcontracts with tribally-chartered entities or tribal enterprises.

Mr. President, I believe we should include Senator DORGAN'S amendment in S. 2132.

I ask unanimous consent to have two pertinent letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, December 19, 1997.
Hon. BYRON L. DORGAN,
U.S. Senate, Washington, DC.

DEAR BYRON: This is in response to your letter dated October 31, 1997, concerning the Department of Defense Indian Subcontracting Incentive Program.

The situation you describe is the consequence of a provision in the Department of Defense Appropriations Act, 1998. Specifically, section 8024 of that Act appropriates $8 million for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544). Section 8024, however, restricts the availability of such incentive payments to contractors that have submitted subcontracting plans pursuant to 15 U.S.C. 637(d). However, subsection 637(d)(7) expressly provides that the provisions relating to submission of a subcontracting plan under section 637(d) do not apply to small businesses. Consequently, the $8 million is not available for payments to small business under this authority.

Accordingly, in order to permit small businesses to participate in the program supported by the $8 million available under section 8024, new legislation, rather than an administrative change, would be required. We strongly support maximum practicable participation of small businesses in the performance of Department of Defense contracts, and accordingly we intend to explore, in coordination with the Office of Management and Budget, whether to advance a legislative proposal to eliminate the restrictive language in section 8024 in future years appropriations acts.

I appreciate your bringing this issue to our attention, and trust that this responds to your concerns.

Sincerely,

WILLIAM COHEN.

UNDER SECRETARY OF DEFENSE, ACQUISITION AND TECHNOLOGY,
Washington, DC, November 12, 1997.
Mr. MARC A. KING,
Vice President, Business Development,
GMA Cover Corp., Washington, DC.

DEAR MR. KING: This responds to our telephone conversation of October 9, 1997 relative to whether or not small businesses are eligible to receive incentive payments under the DoD Indian Subcontracting Incentive Program. My staff, in consultation with both the Office of General Counsel and the Office of Defense Procurement, thoroughly reviewed the FY 1998 DoD Appropriations Act and our implementing policy. The conclusion reached based on that review is that the legislation authorizes incentive payments from the $8 Million appropriated only to firms who submit subcontracting plans pursuant to 15 U.S.C. 637(d). Since 15 U.S.C. 637(d) does not apply to small businesses, even if GMA Cover Corporation agreed to submit a subcontracting plan, such a submission would not be pursuant to this provision of the law. Consequently, payment of incentives for subcontracting with Indian organizations or Indian-owned business enterprises using the $8 Million appropriated in the FY 1998 DoD Appropriations Act is not authorized for GMA Cover Corporation or other small businesses.

As the restriction on the use of the $8 Million appropriated for Indian subcontracting incentive payments to large businesses is part of the FY 1998 Appropriations Act, it cannot be eliminated through regulations developed by the Department to implement the legislation. However, since it is our objective to provide for the maximum practicable participation of Indian organizations and Indian-owned business enterprises in our contracts, I have submitted a legislative initiative proposing an amendment to the FY 1998 Appropriations Act language that will allow incentive payments to small businesses which subcontract to Indian organizations or Indian-owned business enterprises.

The point of contact for this subject is Mr. Ivory Fisher. You may contact him directly on this or any other issues associated with the Indian Subcontracting Incentive Program. He may be reached at (703) 697-1688.

ROBERT L. NEAL, JR.,
Director, Office of Small and Disadvantaged Business Utilization.

AMENDMENT NO. 3459

(Purpose: To provide for full funding of the testing of six chemical demilitarization technologies under the Assembled Chemical Weapons Assessment)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Out of the funds available for the Department of Defense under title VI of this Act for chemical agents and munitions, Defense, or the unobligated balances of funds available for chemical agents and munitions destruction, Defense, under any other Act making appropriations for military functions administered by the Department of Defense for any fiscal year, the Secretary of Defense may use not more than $25,000,000 for the Assembled Chemical Weapons Assessment to complete the demonstration of alternatives to baseline incineration for the destruction of chemical agents and munitions and to carry out the pilot program under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104-208; 110 Stat. 3009-101; 50 U.S.C. 1521 note). The amount specified in the preceding sentence is in addition to any other amount that is made available pursuant to any other provision of this Act out of funds appropriated under title VI of this Act to complete the demonstration of the alternatives and to carry out the pilot program: *Provided*, That none of the funds shall be taken from any ongoing operational chemical munition destruction programs.

AMENDMENT NO. 3460

(Purpose: To express the Sense of the Senate regarding the use of child soldiers in armed conflict)

At the appropriate place, add the following:

Findings:

child experts estimate that as many as 250,000 children under the age of 18 are currently serving in armed forces or armed groups in more than 30 countries around the world;

contemporary armed conflict has caused the deaths of 2,000,000 minors in the last decade alone, and has left an estimated 6,000,000 children seriously injured or permanently disabled;

children are uniquely vulnerable to military recruitment because of their emotional and physical immaturity, are easily manipulated, and can be drawn into violence that they are too young to resist or understand;

children are most likely to become child soldiers if they are poor, separated from their families, displaced from their homes, living in a combat zone, or have limited access to education;

orphans and refugees are particularly vulnerable to recruitment;

one of the most egregious examples of the use of child soldiers is the abduction of some 10,000 children, some as young as 8 years of age, by the Lord's Resistance Army (in this resolution referred to as the "LRA") in northern Uganda;

the Department of State's Country Reports on Human Rights Practices for 1997 reports that in Uganda the LRA kills, maims, and rapes large numbers of civilians, and forces abducted children into "virtual slavery as guards, concubines, and soldiers";

children abducted by the LRA are forced to raid and loot villages, fight in the front line of battle against the Ugandan army and the Sudan People's Liberation Army (SPLA), serve as sexual slaves to rebel commanders, and participate in the killing of other children who try to escape;

former LRA child captives report witnessing Sudanese government soldiers delivering food supplies, vehicles, ammunition, and arms to LRA base camps in government-controlled southern Sudan;

children who manage to escape from LRA captivity have little access to trauma care and rehabilitation programs, and many find their families displaced, unlocatable, dead, or fearful of having their children return home;

Graca Machel, the former United Nations expert on the impact of armed conflict on children, identified the immediate demobilization of all child soldiers as an urgent priority, and recommended the establishment through an optional protocol to the Convention on the Rights of the Child of 18 as the minimum age for recruitment and participation in armed forces; and

the International Committee of the Red Cross, the United Nations Children's Fund (UNICEF), the United Nations High Commission on Refugees, and the United Nations High Commissioner on Human Rights, as well as many nongovernmental organizations, also support the establishment of 18 as the minimum age for military recruitment and participation in armed conflict:

SEC. 1. (a) The Senate hereby—

(1) deplores the global use of child soldiers and supports their immediate demobilization;

(2) condemns the abduction of Ugandan children by the LRA;

(3) calls on the Government of Sudan to use its influence with the LRA to secure the release of abducted children and to halt further abductions; and

(4) encourages the United States delegation not to block the drafting of an optional protocol to the Convention on the Rights of the Child that would establish 18 as the minimum age for participation in armed conflict.

(b) It is the sense of the Senate that the President and the Secretary of State should—

(1) support efforts to end the abduction of children by the LRA, secure their release, and facilitate their rehabilitation and reintegration into society;

(2) not block efforts to establish 18 as the minimum age for participation in conflict through an optional protocol to the Convention on the Rights of the Child; and

(3) provide greater support to United Nations agencies and nongovernmental organizations working for the rehabilitation and reintegration of former child soldiers into society.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.

AMENDMENT NO. 3461

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Notwithstanding any other provision of law, the Secretary of Defense shall obligate the funds provided for Counterterror Technical Support in the Department of Defense Appropriations Act, 1998 (under title IV of Public Law 105-56) for the projects and in the amounts provided for in House Report 105-265 of the House of Representatives, 105th Congress, first session: *Provided*, That the funds available for the Pulsed Fast Neutron Analysis Project should be executed through cooperation with the Office of National Drug Control Policy.

AMENDMENT NO. 3462

(Purpose: To designate funds for the development and testing of alternate turbine engines for missiles)

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Navy", up to $1,000,000 may be made available only for the development and testing of alternate turbine engines for missiles.

AMENDMENT NO. 3463

(Purpose: to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections)

At the appropriate place, insert the following:

SEC. . VOTING RIGHTS OF MILITARY PERSONNEL.

(a) GUARANTEE OF RESIDENCY.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 5890 et seq.) is amended by adding at the end the following:

"SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State;

"(2) be deemed to have acquired a residence or domicile in any other Sate; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

(b) STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS:

(1) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(A) by inserting "(a) ELECTIONS FOR FEDERAL OFFICES.—" before "Each State shall—"; and

(B) by adding at the end the following:

"(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

"(1) permit absent informed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and run-off elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

(2) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking out "FOR FEDERAL OFFICE".

On page 99, between lines 17 and 18, inset the following:

SEC. 8014. From amounts made available by this Act, up to $10,0000,0000 may be available to convert the Eighth Regiment National Guard Armory into a Chicago Military Academy: *Provided*, That the Academy shall provide a 4-year college prepatory curriculum combined with a mandatory JROTC instruction program.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (No. 3420 through 3464) were agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I say with regard to the unresolved issues: We ask Senator DEWINE or his staff to show us the drug interdiction amendment; the D'Amato Serbia amendment; the two Coats amendments on SOS, and the next QDR, so that we can proceed to review those.

Similarly, we have a series on the Democratic side that we have not seen, and I urge that we see those: the Dodd Army pension issues; the Harkin vets' meals issue. Other than that, I believe we have seen them all.

I might state, it appears that the one amendment that will take the longest time to dispose of is Senator DURBIN's amendment, and I see he is here. I invite him to offer his amendment so that we might determine how to handle it.

Is the Senator prepared to suggest any kind of a time arrangement with regard to that? We would like to have a vote sometime around 8 o'clock, to make sure people understand we are going to stay here until we get done.

Mr. DURBIN. If the Senator will yield.

Mr. STEVENS. I yield.

Mr. DURBIN. I am open to the Senator's request for a time limitation. Whatever the Senator from Alaska would like to suggest, I would certainly entertain.

Mr. STEVENS. Mr. President, I am willing to suggest to the Senator that we divide the time equally between now and 8 p.m., at which time it would be my intention to move to table the Senator's amendment.

Mr. DURBIN. I agree to that. I have no objection. Before agreeing, could I ask the Senator from Alaska, time will be equally divided?

Mr. STEVENS. And I add to that, there will be no second-degree amendments to this motion prior to the motion to table; after the motion to table, it is open.

Mr. DURBIN. And further debate?

Mr. STEVENS. And further debate; obviously, there is no limitation if the amendment is not tabled.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3465

(Purpose: To prohibit the availability of funds for offensive military operations except in accordance with Article I, Section 8 of the Constitution)

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3465.

The amendment is as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. No funds appropriated or otherwise made available by this Act may be used to initiate or conduct offensive military operations by United States Armed Forces except in accordance with Article I, Section 8 of the Constitution, which vests in Congress the power to declare war and take certain other related actions.

Mr. DURBIN. Mr. President, it is the usual custom in the Senate as long as I have been here—almost 19 or 20 months now—to dispense with the reading of an amendment. In this case, I did not—first, because the amendment in its entirety is very brief, only one page; and, second, I wanted those who are following this debate to hear each word of the amendment, because in the wording of this amendment I think we have an important decision to make on the floor of the U.S. Senate.

This amendment which I offer reaffirms that the United States should only go to war in accordance with the war powers vested in the Congress by the Constitution. My colleague, who has just joined us on the floor, Senator BYRD of West Virginia, carries a well-worn and tattered version of that Constitution with him. I bet he has it on his person as this moment—and I win my bet—and Senator BYRD refers to it frequently to remind all of us that we, when we took the oath of office to become Members of the U.S. Senate, swore to uphold this Constitution.

The section of the Constitution which my amendment addresses is one which is central to the power of the U.S. Senate and the power of Congress. Article I, section 8, includes in the powers of Congress, the power:

> To declare War, grant Letters of Marque and Reprisal and make Rules concerning Captures on Land and Water.

Most constitutional scholars will know the meaning of the term "marque and reprisal." We have read it many times, but for those of us who need to be refreshed, that is an effort, short of war, where the United States, short of some commitment of major troop forces and the like, would seek to impose its will or stand for its own national security.

The most operative section of Article I, section 8, are the simple words "To declare War."

This amendment would prohibit the use of funds appropriated to the Department of Defense for "offensive military operations," except in accordance with Article I, section 8, which specifically gives to Congress, and Congress alone, the power to declare war and take other actions to govern and regulate the Armed Forces.

A similar amendment was offered by Congressman DAVID SKAGGS of Colorado and Congressman TOM CAMPBELL of California in a bipartisan fashion. It has passed the House of Representatives. It is part of the Department of Defense appropriations bill, which will be considered in conference with the bill that we are debating.

This amendment that I offer today reaffirms that the Constitution favors the Congress in the decision to go to war, and that Members of Congress have a constitutional responsibility that they cannot ignore with regard to the offensive use of Armed Forces. Why is this necessary? Let me quote from a scholar who has written on this subject extensively. Louis Fisher is a senior specialist in the separation of powers with the Congressional Research Service at the Library of Congress. He wrote in an article entitled "Sidestepping Congress: Presidents Acting Under the UN and NATO:

> Truman in Korea, Bush in Iraq, Clinton in Haiti and Bosnia—in each instance, a President circumvented Congress by relying either on the UN or NATO. President Bush also stitched together a multilateral alliance before turning to Congress at the eleventh hour to obtain statutory authority. Each exercise of power built a stronger base for unilateral Presidential action, no matter how illegal, unconstitutional and undemocratic. The attitude, increasingly, is not to do things the right way, in accordance with the Constitution and our laws, but to do the "right thing." It is an attitude of autocracy, if not monarchy. How long do we drift in these currents before discovering that the waters are hazardous for constitutional government?

On January 12, 1991, the Congress, in addition to authorizing the use of force to drive Saddam Hussein from Kuwait, took an important vote asserting its constitutional responsibilities and insisting that the President follow the wisdom of the framers of our Constitution when considering a question as serious as war. Despite the vocal opposition of the Bush White House, the House of Representatives in which I served voted 302–131 in favor of a resolution that I offered with Congressman Bennett of Florida. You may recall what happened. When Saddam Hussein of Iraq invaded Kuwait, there was fear that he would continue and then invade Saudi Arabia. The United States began positioning forces in Saudi Arabia. At the invitation of the Saudis, we brought in a sufficient force to at least discourage, if not deter, Saddam Hussein.

Over time, it became clear that the force in place was growing and the intention was just not to protect Saudi Arabia, but in fact to remove Iraqi forces from Kuwait. At that moment, the nature of our commitment changed, and at that moment, the congressional responsibility changed, from my point of view. We were no longer in Saudi Arabia just at the invitation of the Saudis to defend; we were preparing a massive military force to, in fact, invade Kuwait and to oust the Iraqis. We knew that that would necessarily involve the loss of life, and many of us in Congress believed that it clearly fit within the four corners of Article I, section 8, that Congress should act and, in fact, we did. There was an extensive debate on the floor of the Senate, as well as the House of Representatives, and ultimately, Congress voted to authorize the use of force by the President—President Bush at the time—in order to push the Iraqis out of Kuwait.

Another important congressional action was a 1994 Senate resolution rejecting the Clinton administration's claim that the United Nations Security Council 940 constituted "authorization for the deployment of U.S. Armed Forces in Haiti under the Constitution of the United States." The Senate passed this resolution by a resounding 99-0 vote. The framers never intended the Armed Forces to be employed by the Executive as a blunt instrument for enforcing U.S. foreign policy without congressional approval. Yet, in the Iraq crisis earlier this year, and in the unstable situation in Kosovo today, that is exactly what we have seen. Absent a reaffirmation by Congress of its proper constitutional war powers, we will certainly see it again. The time for this amendment is now. I will speak to the Kosovo situation toward the close of my opening statement.

Article I, section 8, clause 11 of the Constitution, the so-called war powers clause, vests in Congress this power that I have read. Other clauses of the same article I, section 8 vests in Congress the power to "define and punish piracies" and "offenses against the Law of Nations," "raise and support armies," "to provide and maintain a navy," and "make rules for the government and regulation of the land and naval forces," and "to provide for organizing," arming, and disciplining the militia, and "governing such part of them as may be employed in the service of the United States."

Very significantly, clause 18 of this section gives Congress the power to "make all laws which shall be necessary and proper for carrying into execution the foregoing powers." This clause clearly states that it is Congress that makes the laws for the regulation of the Armed Forces, especially in matters of war.

Article II, section 2 of the Constitution states:

> The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States."

That is all the war powers vested in the President by the Constitution. It is instructive for us to look back at the debate which gave rise to these constitutional provisions.

Comments by the framers of the Constitution clearly indicate their intent in favor of Congress in matters relating to the offensive use of military force.

James Wilson, speaking at the Pennsylvania State Convention on the Adoption of the Federal Constitution, argued that the system of checks and balances built into the Constitution "will not hurry us into war; it is calculated to guard against it. It will not be in the power of a single man or a single body of men to involve us in such distress; for the important power of declaring war is vested in the legislature at large."

No one less than Thomas Jefferson explained that he desired Congress to be "an effectual check to the dog of war."

James Madison wrote that Congress would have the power to initiate war, though the President could act immediately "to repel sudden attacks" without congressional authorization.

Roger Sherman further delineated on the President's war powers: "The executive should be able to repel and not to commence war."

Constitutional scholar Louis Henkin of Columbia University wrote this in 1987:

> There is no evidence that the framers contemplated any significant independent role—or authority—for the president as commander in chief when there was no war. . . . The president's designation as commander in chief . . . appears to have implied no substantive authority to use the Armed Forces, whether for war (unless the United States were suddenly attacked) or for peacetime purposes, except as Congress directed.

International law scholar, John Bassett Moore, wrote in 1944:

> There can hardly be room for doubt that the framers of the Constitution, when they vested in Congress the power to declare war, never imagined that they were leaving it to the Executive to use the military and naval forces of the United States all over the world for the purpose of actually coercing other nations, occupying their territory, and killing their soldiers and citizens, all according to his own notions of the fitness of things, as long as he called his action something other than 'war' or persisted in calling it peace.

The constitutional framework adopted by the framers for the war power is remarkably clear in its basic principles. The authority to initiate war lay with Congress. Other U.S. Presidents have affirmed this interpretation of war powers under the Constitution.

Abraham Lincoln wrote this in 1848:

> This, our (Constitutional) Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us.

Fast forward 100 years into the 20th century, as we debated the possibility of creating a United Nations. The U.N. Charter was written against the backdrop of the disaster of the Treaty of Versailles and President Wilson's determination to make foreign policy without Congress. When President Wilson submitted that treaty to the Senate in 1919, he attached the covenant of the League of Nations. Senator Henry Cabot Lodge offered a number of reservations, specifically including a protection of the prerogative of Congress, and Congress alone, to declare war. President Wilson called this reservation "a nullification of the treaty." The issue was joined. The Senate rejected the treaty, and thereby the League of Nations, in 1919 and again in 1920.

In the midst of World War II, when the concept of another world organization began to form, care was taken not to cross the line that had doomed the League of Nations. Any commitment of U.S. forces to a world body would require prior authorization by both Houses of Congress. Debate on the Hill between the House and Senate had more to do with each body's prerogative and role than the underlying assumption. Even under the auspices of the United Nations, congressional approval was necessary before troops could be committed.

Section 6 of the United Nations Participation Act is explicit. Agreements "shall be subject to the approval of the Congress by appropriate act or joint resolution."

Ultimately the decision was reached that both Houses of Congress—not just the Senate under its treaty authority—was necessary.

Soon after President Roosevelt's death, President Harry Truman sent a cable from the conference in Potsdam that led to the establishment of the U.N., stating that all agreements involving U.S. troop commitments in the U.N. would first have to be approved by both Houses of Congress.

President Eisenhower assured the press, in January of 1956, in an often-quoted statement, "When it comes to a matter of war, there is only one place I would go, and that is the Congress of the United States and tell them what I believe. I will never be guilty of any kind of action that can be interpreted as war until Congress, which has constitutional authority, says so. I am not going to order any troops into anything that can be interpreted as war until Congress directs it."

In the creation of NATO, Secretary of State Dean Acheson told the Senate Foreign Relations Committee in 1949 that the North Atlantic Treaty Organization "does not mean the United States would automatically be at war if one of the other signatory nations were the victim of an armed attack. Under our Constitution the Congress alone has the power to declare war."

Then came Korea. President Truman sent U.S. troops in 1950 without ever seeking, or obtaining, congressional authority. By historical fluke, the Soviet Union was absent from the U.N. Security Council when a crucial vote was taken responding to the possibility that the Korean peninsula would be overrun. Without a Soviet veto, the U.N. moved forward, and President Truman rationalized the use of force in this "police action" to uphold the rule of law.

I recall that particularly, because my two older brothers served in the Korean war, and there was an ongoing joke about the fact that this was just a "police action." They knew better. All of the families and all of those involved knew that it was, in fact, a war.

The courts, too, have supported the constitutional prerogatives of Congress with regard to war-making, including the implied constitutional power to "authorize" war.

The Supreme Court in Bas v. Tingy, in 1800 said, "Congress is empowered to declare general war, or Congress may wage a limited war; limited in place, in objects, and in time. . . ."

Chief Justice Marshall, writing in Talbot v. Seeman in 1801: "The whole powers of war being, by the Constitution of the United States, vested in Congress, the acts of that body can alone be resorted to as guides in this inquiry."

U.S. Circuit Court, New York, U.S. v. Smith, 1806: "It is the exclusive province of Congress to change a state of peace into a state of war."

More recently, during the Persian Gulf episode, a case was filed in the U.S. district court in Washington. I joined with petitioners who filed this action to ask the court to spell out the power of Congress when it came to the declaration of war. The court rejected the Justice Department's contention that "the question whether an offensive action taken by American armed forces constitutes an act of war (to be initiated by a declaration of war) or an 'offensive military attack' (presumably undertaken by the President in his capacity as Commander in Chief) is not one of objective fact but involves an exercise of judgment based upon all the vagaries of foreign affairs and national security."

The court said, "This claim on behalf of the Executive is far too sweeping to be accepted by the courts. If the Executive had the sole power to determine that any particular offensive military operation, no matter how vast, does not constitute war-making but only an offensive military attack, the congressional power to declare war will be at the mercy of a semantic decision by the Executive. Such an 'interpretation' would evade the plain language of the Constitution, and it cannot stand."

Mr. President, over the last 40 or 45 years, Congress has virtually ceded its constitutional war powers responsibilities to the President. Many of the significant instances of use of force by the Executive without congressional authorization, including the only major unauthorized war in Korea, and localized conflicts in the Dominican Republic, Grenada, and Panama, among others, occurred during this period.

I will not visit that sad and contentious chapter of American history surrounding the Vietnam war, but suffice it to say that after that war Congress made the decision, through the passage of legislation, to take a more active role in the decisionmaking process.

The 1973 War Powers Resolution, which then-Armed Services Committee Chairman John Stennis called "an important step in this Congress to assume its duty in representing the people of this Nation," unfortunately has done little to slow down the gradual assumption of war powers claimed by successive administrations or to embolden Congress to properly exercise its war powers responsibilities under the Constitution.

Even in signing the congressional authorization of the use of force against Iraq in 1991, President Bush went to great pains to emphasize his claim that he possessed constitutional authority to act. "As I made clear to congressional leaders at the outset, my request for congressional support did not, and my signing of this resolution does not, constitute any change in the longstanding position of the Executive Branch on either the President's constitutional authority to use the Armed Forces to defend vital U.S. interests, or the constitutionality of the War Powers Resolution."

The Clinton administration echoed President Bush's comments and even took it one step further.

During her congressional testimony during the Iraq crisis this last February, Secretary of State Madeleine Albright spoke of "the President's constitutional authority as Commander in Chief to use armed forces to protect our national interests."

In a Statement of Administration policy threatening a veto of the House version of this bill if the Skaggs-Campbell amendment were included, the administration stated that, "The President must be able to act decisively to protect U.S. national security and foreign policy interests."

I do not believe that the framers of our Constitution would have ever accepted such inflated claims of executive authority, or the idea the Armed Forces should be used by the President as a device for implementing administration foreign policy, without the approval of Congress.

President Bush's comments notwithstanding, Congress made a good start in regaining its proper constitutional war powers in its thorough 1991 debate and vote tc authorize the war in the Persian Gulf. Congress affirmed at that time that its responsibilities extended far beyond merely paying the bills for Presidents' wars.

Now it is time for the Congress to take the next step. This amendment will restore the proper constitutional balance between the executive and legislative branches in deciding when or if the United States is to go to war.

Mr. President, in the time that I have served on Capitol Hill, in both the House and Senate, it has been my sad responsibility on several occasions to attend funerals in my home district, in my congressional district, for the families of those who have fallen in combat.

I can't think of a sadder occasion—one of the saddest that I can recall—than the one that involved the sending of Marines to Lebanon, putting them in harm's way, and after a terrible bombing of the barracks, the loss of life of a young man from Springfield, IL. Time and again, I thought at those sad services that there is a legitimate question the family could ask of their elected representative in Congress, and now in the U.S. Senate. Was I part of the decision that led to the war that took their son's life? Because the Constitution makes it clear that I should have been part of that decision. In so many instances, I was not; the decision was made by the President. The only course for Congress is control of the purse, and virtually nothing else. As a direct result, we lost lives without the American people speaking to the question of war through their elected Congress.

I caution my colleagues to read carefully this amendment and to realize that it does more than assert our constitutional authority to declare war. It also asserts our responsibility. Be careful for what you wish because with the passage of this amendment and the reassertion of our constitutional responsibility, we will be and should be called on more frequently to make important decisions about committing American troops.

There is one operative and very important word in this amendment. It is the word "offensive," as in offensive military operations. So the Record is eminently clear, there is no doubt in my mind nor in anything I have read that the President of the United States, as Commander in Chief, has the power to protect American citizens and the property of the United States. He need not come to the Congress and seek our approval when he is, in fact, defending Americans and their property. We are talking about a separate circumstance, a circumstance where instead of taking a defensive action, the President decides to take an offensive action.

I might also add that for those who say, clearly the Senator from Illinois is offering this amendment because he is concerned about somc current conflict, well, yes, I am concerned. I am concerned about any conflict that involves

American lives, but that isn't what motivates me to join the gentleman from Colorado who offered this amendment in the House of Representatives. As I mentioned earlier, it was almost 7 years ago that I joined Congressman BENNETT of Florida in a similar effort. I do believe this principle is sound, and those who want to gainsay this effort should know that I have tried to stand by this principle through the time that I have been in Congress.

Is there a need for us to consider it now? I will leave that to your judgment. Consider the statements made by Robert Gelbard, special representative of the President and Secretary of State on Implementation of the Dayton Peace Agreement, when he spoke before the House International Relations Committee in Washington on July 23, 1998, relative to the tragedy in Kosovo.

Mr. Gelbard said:

> In NATO councils, planning for possible NATO action is nearly completed. While no decision has been made regarding the use of force, all options, including robust military intervention in Kosovo, remain on the table. NATO planning is on track and Milosevic understands that this is no idle threat. The deteriorating situation in Kosovo is a threat to regional peace and security. The potential for spillover into neighboring States remains a paramount concern. We and our allies have made clear to President Milosevic that spillover of the conflict into Albania or Macedonia will not be tolerated.

Make no mistake, if Mr. Gelbard's statement is a statement of administration policy, the administration is poised to initiate an offensive military action relative to Kosovo, an action which I believe clearly requires congressional approval. If the men and women in service to our country who are presently in Bosnia—and I believe the number is about 6,900—should be called to take offensive military action and lives are lost, from all that I have read, it is clearly in derogation of article I, section 8 of the Constitution. This President, my President, any President, has the responsibility to come to Congress to seek our approval. Of course, then the responsibility is on our shoulders to decide whether or not this is in America's national security interest.

I ask my colleagues in the Senate in considering this amendment to consider the historical perspective here. For the first time since World War II, when President Franklin Roosevelt hobbled up the steps to take the podium for a Joint Session of Congress in the House of Representatives, asking for a declaration of war, we will state in clear and unequivocal terms that we are asserting our constitutional responsibility and authority when it comes to a declaration of war.

I understand that this will require more dialogue and conversation between the executive and legislative branches about our foreign policy, and particularly about committing troops, but I do believe that is what the framers of the Constitution had in mind. Those of us who must face the families and explain to them why their daughters and sons, their husbands, their wives and friends and relatives are called on to not only serve this country, but stand in harm's way and risk their lives have to have the authority to stand before them and say we have done our part, we have played our role, we have made the judgment, the judgment which the Constitution gives to us and us alone to make.

At this point, Mr. President, I ask unanimous consent, to add Senator FEINGOLD as an original cosponsor of this amendment.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. DURBIN. I reserve the remainder of my time.

Mr. BYRD. Mr. President, will the Senator yield me some time?

Mr. DURBIN. I would be happy to yield to the Senator from West Virginia.

Mr. BYRD. How much time remains?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. BYRD. Mr. President, I can't get started in 9 minutes on this subject.

Mr. DURBIN. I wonder if the Senator from West Virginia might be able to secure some time from the other side. I would be happy to ask, if there is anyone in the Chamber. They might be called for that purpose.

Mr. BYRD. Mr. President, I was not in the Chamber when the agreement was entered into. My friend knew of my interest in speaking on the amendment, and I wish I had been protected.

Mr. DURBIN. May I ask the Chair, it was my understanding that at about quarter of 7 we agreed we would debate this until 8 o'clock equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. That is correct. That is how time was calculated. I am sorry; I apologize to the Senator from West Virginia, whom I asked to come to the floor, and I would be glad to give him every minute remaining. I am sorry that I had gone as long as I did, because I am anxious to hear his remarks.

Mr. BYRD. Mr. President, I don't know how much time the opponents of this amendment will require.

Mr. President, I think I will just ask for 2 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. I wish to thank the opponents for offering 10 minutes to me, but I feel that I will just ask that my speech be printed in the RECORD.

On a matter of this gravity, I am disappointed that the Senate has entered into an agreement to speak for what would amount to about 1 hour and 15 minutes for both opponents and proponents. Of course, the distinguished Senator from Illinois is preeminently correct in what he has said about the Constitution and what he has said about the efforts toward aggrandizement on the part of this administration and most recent administration when it comes to the war powers.

We have in the Senate particularly, may I say, additional responsibilities over those of the House in this area of war powers because of the Constitution and provisions therein, and it seems to me that we ought to take a little more time when it comes to debating an amendment of this importance. This is an amendment that is calculated to protect the prerogatives of the Senate when it comes to our constitutional powers and duties, and here we are limited to 1 hour and 15 minutes.

In saying this, of course, I am complaining, but I also want to thank Mr. DURBIN and I want to thank Mr. STEVENS for their consideration and kindness in offering to give me some additional time.

Mr. DURBIN. Mr. President, before the Senator from West Virginia leaves the floor, I have just contacted the majority in an effort to postpone the vote so we can extend this debate. I certainly would like the Senator from West Virginia to have an opportunity to state his position clearly. I believe it will be a valuable addition to this debate. I will be happy to afford an equal amount of time to the other side, so there is no disadvantage created.

Before I make that unanimous consent request, I have asked the majority side if there is objection.

Mr. STEVENS. What? I object. Just a second.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. If I might ask the Senator from Alaska, Senator BYRD has come to the floor to speak to this issue. I was wondering if it might be allowed by unanimous consent to extend —postpone the vote for a sufficient time so that each side could have an equal amount of time, to give the Senator from West Virginia his opportunity.

Mr. STEVENS. I say to the Senator, I have talked with Senator BYRD. We are perfectly prepared to have him continue to take time.

Under a unanimous consent agreement, at 8 o'clock we have Senators coming back to vote, and hopefully we can vote at approximately that time. I don't know how long my good friend is going to speak, but I will limit the amount of time spent in opposition. We will just make the motion to table when the time comes. We do not want to extend it now. We are going to have to be here until 3 or 4 o'clock in the morning as it is, so I object to any further change in this time agreement, and I urge my good friend from West

Virginia to make his statement. He knows we will accommodate him with such time as he needs. But let's not change the time agreement yet.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Pursuant to the order of July 16, 1998, the Senate having received H.R. 4194, the provisions of the unanimous consent agreement are executed.

The provisions of the unanimous consent agreement are as follows:

That when the companion measure to S. 2168, a bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, is received from the House of Representatives, the Senate proceed to its immediate consideration; that all after the enacting clause of the House bill be stricken and the text of S. 2168, as passed, be inserted in lieu thereof; that the House bill, as amended, be read for a third time and passed; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the following conferees on the part of the Senate: Mr. Bond, Mr. Burns, Mr. Stevens, Mr. Shelby, Mr. Campbell, Mr. Craig, Ms. Mikulski, Mr. Leahy, Mr. Lautenberg, Mr. Harkin, and Mr. Byrd; and that the foregoing occur without any intervening action or debate.

Ordered further, That upon passage of the House companion measure, as amended, the passage of S. 2168 be vitiated and the bill be indefinitely postponed.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Pursuant to the order of July 23, 1998, having received H.R. 4328, the provisions of the unanimous consent agreement are executed.

The provisions of the unanimous consent agreement are as follows:

That when the Senate receives the House companion bill, the Senate immediately proceed to its consideration; that all after the enacting clause be stricken and the text of S. 2307, as passed, be inserted in lieu thereof; that the House bill, as amended, be read for a third time and passed; that the motion to reconsider the vote be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair appoint the following conferees on the part of the Senate: Senators Shelby, Domenici, Specter, Bond, Gorton, Bennett, Faircloth, Stevens, Lautenberg, Byrd, Mikulski, Reid, Kohl, Murray, and Inouye; and that the foregoing occur without any intervening action or debate.

Ordered further, That when the Senate passes the House companion measure, as amended, the passage of S. 2307 be vitiated and the bill be indefinitely postponed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is my understanding when the Senator returns to the floor, Senator BYRD will speak. I state to the Senate, there is substantial opposition to this amendment. I am one who voted against the War Powers Act, but I think this goes too far. It is an amendment that should be considered by the Armed Services Committee and not debated at the last minute on an appropriations bill.

In the old days, we had a point of order against legislation on an appropriations bill. This is purely legislation on an appropriations bill. That point of order is not available to us now, but the concept is still there, and that is what we are trying to establish once again—the concept that we limit this to relevant amendments to the provisions of this bill that regard spending of money for our defense in the fiscal year 1999.

This is a provision that is ongoing for years. It is not related to this bill. It is not a matter that was before the Senate Appropriations Committee in any way, and it should be part of the Armed Services' consideration. There was an Armed Services bill brought before us before. It would have been perfectly proper to have that brought up at that time in connection with the Armed Services' bill. But I do not think it is proper to bring it up in this bill.

For that reason, as I said before, when the time for Senator BYRD has expired, I intend to move to table the amendment. But, as I indicated to him, I offer him the full amount of time that was allocated to this side to present his statement, plus what is left to the Senator from Illinois.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Could I ask for clarification of the time remaining to both sides?

The PRESIDING OFFICER. The Senator from Illinois has 4½ minutes. The Senator from Alaska, 32 minutes.

Mr. DURBIN. Mr. President, I reserve the remainder of my time.

Mr. STEVENS. I suggest the absence of a quorum, the time to be charged to our side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

Mr. STEVENS. It is my understanding the Senator from Illinois will use the remainder of his time. I understand it is 4 and some-odd minutes.

The PRESIDING OFFICER. Four-and-a-half minutes.

Mr. STEVENS. It is my understanding Senator BYRD, to my great regret, is not going to make his statement. Under the circumstances, I yield back the remainder of our time and ask that the time of the Senator from Illinois start at 4½ minutes before 8 o'clock, and we will vote at 8 o'clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I just conferred with Mr. Cortese, the staff director. I am told that we have but one other Senator who has indicated an intention to debate an amendment tonight. We are working now on the remainder of the second managers' package which we should be able to present to the Senate in about 10 to 15 minutes. I ask the cloakrooms to send out notice to Senators that after presentation of that second managers' amendment, I shall move to go to third reading, unless Senators who have amendments on this list come forth to debate them.

We have a very serious situation tomorrow morning. Many Senators told me they want to go to the second funeral of our deceased friend, the officer who was killed in the line of duty. That means we cannot commence voting until 1 o'clock.

We have accepted a great many of these amendments and are prepared to accept them. If Senators want to know whether that is the case, I urge them to come and review the managers' package.

I will not indicate the name of the Senator who we think wants to debate the amendment, because he may not want to debate it. If no one comes after the motion to table the Durbin amendment to present an amendment, I shall move to go to third reading. It is a debatable motion, and we may have some debate on that. I recall my good friend from West Virginia taught me how to do that, Mr. President. So we are going to proceed along that line. I ask my friend from Hawaii if he knows of any amendments or any matter to take up at this time.

Mr. INOUYE. No, we are prepared to go to third reading.

Mr. STEVENS. The managers of the bill are prepared to go to third reading, unless a Senator appears to debate an amendment. I suggest the absence of a quorum and ask that it extend only until 5 minutes of the hour of 8 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3465

Mr. BIDEN. Mr. President, I ask unanimous consent, since there is no one seeking to speak, to speak for 7 minutes in support of the Durbin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, debate will end at 5 of the hour.

Mr. BIDEN. Mr. President, I am asking only to go until 10 of the hour.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BIDEN. Thank you very much.

Mr. President, I am going to support the Durbin amendment, and I admire what he is attempting to do and respect his effort. I am not, quite frankly, certain it will have its intended effect.

I strongly agree with the views expressed by my friend from Illinois, that what I call the "monarchist" view of the war power has become the prevalent view at the other end of Pennsylvania Avenue, and it does not matter whether it is a Democratic President or a Republican President. And the original framework of the war power clause envisioned by the Founding Fathers, I think, has been greatly undermined over the last several decades.

On the question of war power, I believe the Constitution is as clear as it is plain. Article I, section 8, provides that the Congress has the power "to declare War, [and] grant Letters of Marque and Reprisal . . . ." Article II, section 2, provides, "The President shall be Commander in Chief of the Army and Navy of the United States."

To be sure, the Commander in Chief ensures that the President has the sole power to direct U.S. military forces in combat. But that power—except in very few limited instances—derives totally from congressional authority. It is not the power to move from a state of peace to a state of war. It is a power, once the state of war is in play, to command the forces, but not to change the state.

Until that authority is granted, the President has no inherent power to send forces to war—except, as I said, in certain very limited circumstances, such as to repel sudden attacks or to protect the safety and security of Americans abroad.

On this point, the writings of Alexander Hamilton, a very strong defender, as the Presiding Officer knows, of Presidential power, is very instructive. In Federalist No. 69, Hamilton emphasized that the President's power as Commander in Chief would be "much inferior" to that of the British King, amounting to "nothing more than the supreme command and direction of the military and naval forces."

During the cold war, and during the nuclear age, the thesis arose that, at a time when the fate of the planet itself appeared to rest on two men thousands of miles apart, Congress had little choice, or so it was claimed, but to cede tremendous authority to the Executive.

Unfortunately, despite the end of the cold war, the view that the President had this authority has continued to survive—and flourish—under Presidents of both political parties.

On the eve of the gulf war, President Bush insisted that he did not need congressional authorization to send half a million men and women into combat with Iraq. I insisted at that time we hold hearings on that subject and there be a resolution concluding whether or not he had that power.

More recently, President Clinton asserted sweeping theories about his power to deploy forces to Haiti and to begin offensive military action against Iraq.

I believe we need to remedy this constitutional imbalance. Accordingly, I have offered in the past, and I have drafted, comprehensive legislation called the Use of Force Act, which is designed to replace the War Powers Resolution.

The Durbin amendment is far shorter and more direct in its approach. And although I support it, as I said, I am skeptical that it will achieve its total desired effect. The Durbin amendment would bar the use of appropriated funds for "offensive military operations" by Armed Forces "except in accordance with Article I, section 8 of the Constitution."

I believe the Constitution already says that, that we need not redeclare that. But I think it is valuable to do it if it sends a message that we are going to be looking a whole lot closer.

In my view, the President may not use force, except in certain limited circumstances, without the authorization of the Congress, period. The war power is not limited to a formal declaration of war—of which we have had only five in our history. The Founding Fathers had little interest, it seems, in the ceremonial aspects of war. The real issue was congressional authorization of war.

As Hamilton noted in Federalist 25, the "ceremony of a formal denunciation of war has of late fallen into disuse." Obviously, the founders were not talking about a circumstance where the only circumstance that the Congress could impact on whether we use force or not is with a formal declaration of war. Even in 1789—to quote Hamilton—ceremonial declarations of war had fallen into disuse, so obviously that is not what they were talking about alone.

The conclusion that Congress has the power to authorize all uses of force is buttressed by the inclusion in the war clause of the power to grant letters of marque and reprisal. An anachronism today, I acknowledge, letters of marque and reprisal were, though, in the 18th century, their version of limited war. Even back then, for a President to engage in limited war, he needed the authorization of the U.S. Congress. The vehicle was issuing letters of marque and reprisal.

I understand that the administration has expressed its strong opposition to this provision and is threatening to veto it. I have called the administration and indicated they are being foolish in even making that threat, with all due respect. It is merely an institutional instinct that does not surprise me, but I am somewhat surprised by the volume of the objection.

The Durbin amendment, if enacted, may have one salutary effect: It could force the President and his advisors to pause before continuing to make broad assertions of Presidential war power.

If even that result is achieved, the enactment of the Durbin amendment will be a positive development in restoring the constitutional balance.

Mr. President, I will not take the time now, but I will, at the appropriate time, reintroduce the Use of Force Act that I have in previously attempted to have passed, working with a number of constitutional scholars who have written extensively in this area.

Let me conclude in the 30 seconds I have left to again compliment the Senator from Illinois. It is time the Congress, with the changed world, reassert its rightful role in the conduct of the use of force, and, now that the world has changed, the old saw about the need for this emergency power—the Congress being less relevant in that regard—should be put to bed once and for all.

I thank him for his effort and I yield the floor.

Mr. STEVENS. Mr. President, I know that the Senator from Illinois still has 5 and a half minutes. But I ask unanimous consent that it be in order for me to put down the first of the series of the second managers' package.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3466

(Purpose: To require the Air National Guard to provide support for Coast Guard seasonal search and rescue operations at Francis S. Gabreski Airport, Hampton, New York)

Mr. STEVENS. So I send to the desk an amendment I offer on behalf of the Senator from New York, Mr. D'AMATO.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8014. (a) The Air National Guard shall, during the period beginning on April 15, 1999, and ending on October 15, 1999, provide support at the Francis S. Gabreski Airport, Hampton, New York, for seasonal search and rescue mission requirements of the Coast Guard in the vicinity of Hampton, New York.

(b) The support provided under subsection (a) shall include access to and use of appropriate facilities at Francis S. Gabreski Airport, including runways, hangars, the operations center, and aircraft berthing and maintenance spaces.

(c)(1) The adjutant general of the National Guard of the State of New York and the Commandant of the Coast Guard shall enter into a memorandum of understanding regarding the support to be provided under subsection (a).

(2) Not later than December 1, 1998, the adjutant general and the Commandant shall jointly submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a copy of the memorandum of understanding entered into under paragraph (1).

Mr. STEVENS. Mr. President, I ask unanimous consent that this amendment be set aside to be considered along with the other managers' package at the conclusion of the vote. And I ask unanimous consent that that shall be at 8 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3392, AS MODIFIED

Mr. STEVENS. Mr. President, there is a technical correction to amendment No. 3392. It was earlier adopted. Its citation needs to be corrected. I ask unanimous consent that it be corrected.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3392), as modified, is as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. ___ For an additional amount for "Overseas Contingency Operations Transfer Fund," $1,858,600,000: Provided, That the Secretary of Defense may transfer these funds only to military personnel accounts, operation and maintenance accounts, procurement accounts, the defense health program appropriations and working capital funds: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: Provided further, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Mr. STEVENS. Mr. President, at this time the Senator from Illinois is left. I say to my good friend, be my guest for the extra 1½ minutes.

AMENDMENT NO. 3465

Mr. DURBIN. Mr. President, I thank the Senator from Alaska for his generosity. I will conclude at 8 o'clock, as we promised, and ask for a vote on this. Allow me to try to describe what is at stake, because for everybody in the gallery and those listening to the debate, this could hit home some day. It is a question about when or if the United States should ever go to war, who will make the decision. If you were called on, or one of your children was, who will decide whether or not that person will stand in harm's way, risk their lives for their country?

I have the deepest respect and admiration for those who serve in the armed services. They have given up their lives to protect this Nation and we owe them a great debt of gratitude. What we are talking about is how this decision is made. The men who wrote this Constitution understood very clearly that if they were going to have a voice in the process, they would have to rely on the Senators and Members of Congress to make that decision on the declaration of war.

This amendment is very brief. By Senate standards, it is amazingly brief—just a few lines. But it states very clearly what I think is an important constitutional concept. First, the President of the United States as Commander in Chief of all of our Armed Forces still retains all of his power and authority to defend the United States and its citizens. He does not have to come to Congress on bended knee and beg for that authority. It is his; he is Commander in Chief. But when he crosses that line and no longer is defending us, but rather is pushing forward in an offensive capacity, saying that we are now going to invade a nation, we are now going to try to secure a certain objective or target, beyond a defensive objective, then the Constitution is clear: That is not his decision to make; it is our decision to make. Better yet, it is your decision to make—to speak to your elected Representatives in the House and Senate and to express your heartfelt feelings.

I can recall the debate over the Persian Gulf war. There was quite a division within the military, and even within Congress. But I don't think there was a finer moment in the 16 years I have served on Capitol Hill than that period of time when each Member of the U.S. Senate and the House came to the floor and took all the time necessary to speak their hearts about whether or not we should put our children in harm's way to stop this aggression by Saddam Hussein.

I can speak for myself—and I am sure for many colleagues, Republicans and Democrats alike—there were sleepless nights when you knew that a vote to go forward and commit our troops in an offensive capacity was going to lead to the loss of life. It was a painful decision, but it is one that I accepted, and everybody as a Member of the House and Senate accepted as well.

I say to my colleagues in the U.S. Senate, who I hope are following this debate, that this is about whether or not the oath of office that we took is meaningful. When we swore to uphold the Constitution of the United States, I don't believe they asked us to turn to Article I, section 8 and make an amendment to take it out. No, it was included. It was part of that responsibility—an awesome responsibility.

My friend, the Senator from Alaska, has raised a procedural point. He says that this is beyond the scope of an appropriation or a spending bill. I disagree with his conclusion on that. I have seen what is considered authorizing language and much more expansive language easily adopted on the floor of the Senate and in the House time and time again. So I hope that those who vote on the amendment will vote on it on all fours, straightforward, up or down; do you agree or disagree? Do you agree with our Constitution, which says this is our responsibility in Congress to declare war? Or are you prepared to accept the drift that has gone on for half a century now, which says we will continue to give more and more power to the President to make this decision?

If you should decide this is the President's province and we are going to cede all of our constitutional authority, mark my words, you should think twice before you come to the floor of the Senate—or our colleagues in the House—and question when the President uses this authority, because if you are not prepared to say that we accept our responsibility under the Constitution, that we will stand up and decide and vote when it comes to putting our troops in harm's way, then I think you may have forsworn any opportunity to come to this floor and second-guess the President—a President who uses the power that we have handed to him.

As I have said in previous moments in this debate, there is no sadder moment than going home to your State or district and facing a casket, draped with a flag, of a fallen soldier, sailor, airman or marine and then facing that family. I believe that it is our constitutional responsibility to be part of the decisionmaking that leads to military action. It will not be an easy task. It will be a tough burden, but it is exactly why we have stood for office and why we have asked to represent our States.

I hope my colleagues in the U.S. Senate will support this amendment. I believe this is straightforward and honest in its approach. I believe that as you consider the possibilities just in the weeks ahead—perhaps even while we are gone over the August recess—that there may be an effort in the Bosnian region, in Kosovo or some other place, to assert and take offensive military action. Those who have voted against this amendment tonight will not be able to say the President should have called on us first, because that is what this amendment says. This amendment says anywhere in the world where the President wants to take offensive military action—not to defend the property and the persons of America, but offensive military action—he is bound by the Constitution of the United States.

Mr. President, I believe my time has expired. I yield the remainder of my time.

Mr. STEVENS. Mr. President, I ask that the text of the amendment be placed before both parties on the appropriate table.

I move to table the amendment of the Senator from Illinois and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "aye".

The PRESIDING OFFICER (Mr. FRIST). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 84, nays 15, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—84

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Bryan
Bumpers
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Enzi
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hutchinson
Inhofe
Inouye
Jeffords
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—15

Biden
Bingaman
Boxer
Byrd
Durbin
Feingold
Harkin
Hollings
Hutchison
Johnson
Kennedy
Moseley-Braun
Sarbanes
Specter
Wellstone

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 3465) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to change a vote. On the last vote, I voted "nay." I meant to vote "yea." The vote will not affect the outcome. I did not realize it was a tabling motion. I ask unanimous consent to change my vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

AMENDMENT NO. 3398, WITHDRAWN

Mr. STEVENS. Mr. President, I ask unanimous consent that I may withdraw the Kyl amendment No. 3398, with the consent of the sponsor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment (No. 3398) was withdrawn.

AMENDMENTS NOS. 3466 THROUGH 3475, EN BLOC

Mr. STEVENS. Mr. President, I want to announce that we have left outstanding one amendment of Senator GRAHAM which I understand may be disposed of by separate—two amendments of Senator HARKIN, and we have two outstanding amendments on this side which I hope will be cleared soon.

We have a package here ready to present. We have before the Senate—the pending amendment I believe is Senator D'AMATO's amendment on search and rescue. I add to that amendment the following amendments: the Bingaman amendment on donation of surplus dental equipment; the Bingaman amendment on furnishing of dental care to dependents; the Dodd amendment on retired pay backlog; the Harkin amendment on backlog of medals; the Harkin amendment on smoking cessation; the Frist amendment on Marine Corps lightweight maintenance enclosures; the Dorgan amendment on environmental cleanup; the DeWine amendment on drug interdiction; the Wellstone amendment on family violence.

I ask unanimous consent that it be in order to consider the managers' amendment en bloc and that the amendments be adopted en bloc and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I am curious what the Dorgan amendment is—environmental. Would you briefly describe that?

Mr. STEVENS. It is $1.4 million for a site in North Dakota as a permissive amendment for cleanup. It has been cleared on both sides, I might say to the Senator.

Mr. CHAFEE. Not totally.

Mr. STEVENS. What?

Mr. CHAFEE. Not totally cleared on both sides.

Mr. STEVENS. It is a permissive amendment. It does not mandate. It authorizes. It provides the money if they want to do it. We thought on that basis it is up to the administration to do it or not do it.

I inquire of the Senator from Florida——

The PRESIDING OFFICER. The clerk will report the amendments by number.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], on behalf of others, proposes en bloc amendments 3466 through 3475.

The PRESIDING OFFICER. If there is no objection——

Mr. STEVENS. May we have order, Mr. President.

The PRESIDING OFFICER. May we have order.

If there is no objection, the amendments are considered and agreed to en bloc.

Mr. STEVENS. And the motion to reconsider is laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3466 through 3475) were agreed to, as follows:

AMENDMENT NO. 3466

(Purpose: To require the Air National Guard to provide support for Coast Guard seasonal search and rescue operations at Francis S. Gabreski Airport, Hampton, New York)

On page 99, between lines 17 and 18, insert the following:

SEC. 8014. (a) The Air National Guard shall, during the period beginning on April 15, 1999, and ending on October 15, 1999, provide support at the Francis S. Gabreski Airport, Hampton, New York, for seasonal search and rescue mission requirements of the Coast Guard in the vicinity of Hampton, New York.

(b) The support provided under subsection (a) shall include access to and use of appropriate facilities at Francis S. Gabreski Airport, including runways, hangars, the operations center, and aircraft berthing and maintenance spaces.

(c)(1) The adjutant general of the National Guard of the State of New York and the Commandant of the Coast Guard shall enter into a memorandum of understanding regarding the support to be provided under subsection (a).

(2) Not later than December 1, 1998, the adjutant general and the Commandant shall jointly submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a copy of the memorandum of understanding entered into under paragraph (1).

AMENDMENT NO. 3467

(Purpose: To require the Secretary of Defense to carry out a program to donate surplus dental equipment of the Department of Defense to Indian Health Service facilities and Federally-qualified health centers that serve rural and medically underserved populations)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to DoD Indian Health Service facilities and to Federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

(b) Not later than March 15, 1999, the Secretary of Defense shall submit to Congress a report on the program, including the actions taken under the program.

AMENDMENT NO. 3468

(Purpose: To require a report on uniformed services dental care policies, practices, and experience pertaining to the furnishing of dental services to dependents of members of the uniformed services on active duty)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Not later than March 15, 1999, the Secretary of Defense shall submit to the Committees on Appropriations and on Armed Services of the Senate and the Committees on Appropriations and on National Security of the House of Representatives a report on the policies, practices, and experience of the uniformed services pertaining to the furnishing of dental care to dependents of members of the uniformed services on active duty who are 18 years of age and younger.

(b) The report shall include (1) the rates of usage of various types of dental services under the health care system of the uniformed services by the dependents, set forth in categories defined by the age and the gender of the dependents and by the rank of the members of the uniformed services who are the sponsors for those dependents, (2) an assessment of the feasibility of providing the dependents with dental benefits (including initial dental visits for children) that conform with the guidelines of the American Academy of Pediatric Dentistry regarding infant oral health care, and (3) an evaluation of the feasibility and potential effects of offering general anesthesia as a dental health care benefit available under TRICARE to the dependents.

AMENDMENT NO. 3469

(Purpose: To make appropriations available for actions necessary to eliminate the backlog of unpaid retired pay relating to Army service and to report to Congress)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Of the total amount appropriated for the Army, the Army Reserve, and the Army National Guard under title I, $1,700,000 may be available for taking the actions required under this section to eliminate the backlog of unpaid retired pay and to submit a report.

(b) The Secretary of the Army may take such actions as are necessary to eliminate, by December 31, 1998, the backlog of unpaid retired pay for members and former members of the Army (including members and former members of the Army Reserve and the Army National Guard).

(c) Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the backlog of unpaid retired pay. The report shall include the following:

(1) The actions taken under subsection (b).

(2) The extent of the remaining backlog.

(3) A discussion of any additional actions that are necessary to ensure that retired pay is paid in a timely manner.

AMENDMENT NO. 3470

(Purpose: To require the Secretary of Defense to take action to ensure the elimination of the backlog of incomplete actions on requests for replacement medals and replacement of other decorations)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense may take such actions as are necessary to ensure the elimination of the backlog of incomplete actions on requests of former members of the Armed Forces for replacement medals and replacements for other decorations that such personnel have earned in the military service of the United States.

(b)(1) The actions taken under subsection (a) may include, except as provided in paragraph (2), allocations of additional resources to improve relevant staffing levels at the Army Reserve Personnel Command, the Bureau of Naval Personnel, and the Air Force Personnel Center, allocations of Department of Defense resources to the National Archives and Records Administration, and any additional allocations of resources that the Secretary considers necessary to carry out subsection (a).

(2) An allocation of resources may be made under paragraph (1) only if and to the extent that the allocation does not detract from the performance of other personnel service and personnel support activities within the Department of Defense.

AMENDMENT NO. 3471

(Purpose: To provide tobacco cessation therapy)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Beginning no later than 60 days after enactment, effective tobacco cessation products and counseling may be provided for members of the Armed Forces (including retired members), former members of the Armed Forces entitled to retired or retainer pay, and dependents of such members and former members, who are identified as likely to benefit from such assistance in a manner that does not impose costs upon the individual.

AMENDMENT NO. 3472

(Purpose: To make available funds for procurement of light-weight maintenance enclosures (LME) for the Army and the Marine Corps)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Of the amounts appropriated by title II of this Act under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", $5,000,000 may be available for procurement of lightweight maintenance enclosures (LME).

(b) Of the amounts appropriated by title III of this Act under the heading "OTHER PROCUREMENT, ARMY", $2,000,000 may be available for procurement of light-weight maintenance enclosures (LME).

LIGHTWEIGHT MAINTENANCE ENCLOSURES

Mr. FRIST. Mr. President, I appreciate having the opportunity to offer this amendment which I hope will be accepted by both floor managers on this important Defense bill.

Mr. President, the amendment that I am offering today would provide $5,000,000 for the Marine Corps within the Operation and Maintenance, Marine Corps account, and $2,000,000 within the Other Procurement, Army account for the Army to allow both Service branches to obtain lightweight maintenance enclosures or LMEs for deployment in forward maintenance operations in the field. More specifically, these funds will provide our soldiers and Marines the capability to forward-deploy lightweight, low cost shelter systems that are easy to operate, provide protection for field maintenance operations in difficult environments, and at a cost that is one-quarter the cost of the older model units previously utilized by the Army and Marine Corps.

The House of Representatives recognized the requirement for these Lightweight Maintenance Enclosures by authorizing the identical level of funding that I am recommending in my amendment, in the House version of the National Defense Authorization bill for fiscal year 1999 (H.R. 3616). In the House Committee report (H. Rept. 105–532), the House National Security Committee stated that the Army identified its requirement for the LMEs after the President's budget request was submitted to the Congress, and therefore authorized funding for LMEs in the House authorization bill. The House also approved a $5,000,000 authorization for the Marine Corps to meet their requirements for LMEs as well.

Furthermore, Mr. President, the Chief of Staff of the Army, General Dennis Reimer, identified "Soldier Life Support" equipment, including LMEs, as being among the Army's top 10 highest unfunded priorities.

Unfortunately, despite the authorization in place in the House-passed Defense authorization bill, no appropriations have been provided in either the House or Senate versions of the Defense appropriations bills. Therefore, it is my hope that the distinguished Senator from Alaska, Senator STEVENS, and his outstanding Ranking Member, Senator INOUYE, would be willing to accept this small amendment and take it to conference with the House. Let me quickly say that I would be pleased to work with the two managers of the bill to find appropriate offsets to accommodate this small but important amendment as we head toward conference following final disposition of this bill.

Finally, we are working vigorously with our counterparts in the House, including Representative VAN HILLEARY of Tennessee, and Members of the Virginia delegation, including Representative RICK BOUCHER, to hold the LME authorization levels in conference with the Senate and to, hopefully, pave the way for acceptance of this pending amendment in conference on the Defense appropriations bill.

Therefore, Mr. President, I would hope that the Senate would approve this amendment today. The funding that I am seeking meets a real soldier life support requirement for both the Army and the Marines. It will allow our soldiers and Marines to have a cost-effective, lightweight, forward-deployed maintenance shelter system that is easy to operate, durable and significantly less expensive than the current, older, less effective shelters and tents that we currently use in the field. For these reasons, I would ask that the Senate approve this modest amendment today.

AMENDMENT NO. 3473

(Purpose: To require the abatement of hazardous substances at Finley Air Force Station, Finley, North Dakota)

On page 10, line 15, before the period, insert the following: ": *Provided further*, that out of the funds available under this heading, $300,000 may be available for the abatement of hazardous substances in housing at the Finely Air Force Station, Finely, North Dakota".

AMENDMENT NO. 3474

(Purpose: To provide additional resources for enhanced drug interdiction efforts in the Caribbean and South America)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104: Of the funds available for Drug Interdiction, up to $8,500,000 may be made available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola, for operation and maintenance for establishment of ground-based radar coverage at Guantanamo Bay Naval Base, Cuba, for procurement of 2 Schweizer observation/spray aircraft, and for upgrades for 3 UH–IH helicopter for Colombia.

AMENDMENT NO. 3475

(Purpose: To provide for enhanced protections of the confidentiality of records of family advocacy services and other professional support services relating to incidents of sexual harassment, sexual abuse, and intrafamily abuse)

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense shall study the policies, procedures, and practices of the military departments for protecting the confidentiality of communications between—

(1) a dependent of a member of the Armed Forces who—

(A) is a victim of sexual harassment, sexual assault, or intrafamily abuse; or

(B) has engaged in such misconduct; and

(2) a therapist, counselor, advocate, or other professional from whom the victim seeks professional services in connection with effects of such misconduct.

(b)(1) The Secretary of Defense shall prescribe in regulations the policies and procedures that the Secretary considers necessary to provide the maximum possible protections for the confidentiality of communications described in subsection (a) relating to misconduct described in that subsection.

(2) The regulations shall provide the following:

(A) Complete confidentiality of the records of the communications of dependents of members of the Armed Forces.

(B) Characterization of the records under family advocacy programs of the Department of Defense as primary medical records for purposes of the protections from disclosure that are associated with primary medical records.

(C) Facilitated transfer of records under family advocacy programs in conjunction with changes of duty stations of persons to whom the records relate in order to provide for continuity in the furnishing of professional services.

(D) Adoption of standards of confidentiality and ethical standards that are consistent with standards issued by relevant professional associations.

(3) In prescribing the regulations, the Secretary shall consider the following:

(A) Any risk that the goals of advocacy and counseling programs for helping victims recover from adverse effects of misconduct will not be attained if there is no assurance that the records of the communications (including records of counseling sessions) will be kept confidential.

(B) The extent, if any, to which a victim's safety and privacy should be factors in determinations regarding—

(i) disclosure of the victim's identity to the public or the chain of command of a member of the Armed Forces alleged to have engaged in the misconduct toward the victim; or

(ii) any other action that facilitates such a disclosure without the consent of the victim.

(C) The eligibility for care and treatment in medical facilities of the uniformed services for any person having a uniformed services identification card (including a card indicating the status of a person as a dependent of a member of the uniformed services) that is valid for that person.

(D) The appropriateness of requiring that so-called Privacy Act statements be presented as a condition for proceeding with the furnishing of treatment or other services by professionals referred to in subsection (a).

(E) The appropriateness of adopting the same standards of confidentiality and ethical standards that have been issued by such professional associations as the American Psychiatric Association and the National Association of Social Workers.

(4) The regulations may not prohibit the disclosure of information to a Federal or State agency for a law enforcement or other governmental purpose.

(c) The Secretary of Defense shall consult with the Attorney General in carrying out this section.

(d) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the actions taken under this section. The report shall include a discussion of the results of the study under subsection (a) and the comprehensive discussion of the regulations prescribed under subsection (b).

Mr. STEVENS. Mr. President, may I inquire of the Senator from Florida, Mr. GRAHAM—is he here?

The PRESIDING OFFICER. May we please have order in the Chamber.

Mr. STEVENS. Is Mr. HARKIN here?

Mr. President, I am in error on the Leahy amendment on JSAT. That is still on the list. It has not been removed.

AMENDMENT NO. 3476

Mr. STEVENS. Mr. President, Senator ROBB now has a sense of the Senate with regard to the Italy incident, which we are prepared to take. I yield to the Senator to present and explain his amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, this amendment has been converted to a sense of the Senate. It simply recognizes an obligation of the United States to compensate the victims of the Marine Corps jet incident involving a jet aircraft flying out of Aviano. At this point, the Ambassador of the United States to Italy has already agreed that, under the Status of Forces Agreement, that the United States would pick up the 25 percent normally assigned to the host nation. We were going to try to present an arrangement where this could be worked out more expeditiously. At this point it is simply a sense of the Senate. Instead, it ought to be resolved as quickly and fairly as possible.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. ROBB] proposes an amendment numbered 3476.

Mr. ROBB. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Findings:

On the third of February a United States Marine Corps jet aircraft, flying a low-level training mission out of Aviano, Italy, flew below its prescribed altitude and severed the cables supporting a gondola at the Italian ski resort near Cavalese, resulting in the death of twenty civilians;

the crew of the aircraft, facing criminal charges, is entitled to a speedy trial and is being provided that and all the other protections and advantages of the U.S. system of justice;

the United States, to maintain its credibility and honor amongst its allies and all nations of the world, should make prompt reparations for an accident clearly caused by a United States military aircraft;

a high-level delegation, including the U.S. Ambassador to Italy, recently visited Cavalese and, as a result, 20 million dollars was promised to the people in Cavalese for their property damage and business losses;

without our prompt action, these families continue to suffer financial agonies, our credibility in the European community continues to suffer, and our own citizens remain puzzled and angered by our lack of accountability;

under the current arrangement we have with Italy in the context of our Status of Force Agreement (SOFA), civil claims arising from the accident at Cavalese must be brought against the Government of Italy, in accordance with the laws and regulations of Italy, as if the armed forces of Italy had been responsible for the accident;

under Italian law, every claimant for property damage, personal injury or wrongful death must file initially an administrative claim for damages with the Ministry of Defense in Rome which is expected to take 12–18 months, and, if the Ministry's offer in settlement is not acceptable, which it is not likely to be, the claimant must thereafter resort to the Italian court system, where civil cases for wrongful death are reported to take up to ten years to resolve;

while under the SOFA process, the United States—as the "sending state"—will be responsible for 75 percent of any damages awarded, and the Government of Italy—as the "receiving state"—will be responsible for 25 percent, the United States has agreed to pay all damages awarded in this case;

It is the Sense of the Congress that the United States should resolve the claims of the victims of the February 8, 1998 U.S. Marine Corps aircraft incident in Cavalese, Italy as quickly and fairly as possible.

Mr. STEVENS. Mr. President, we have agreed to take this amendment. It is now a sense-of-the-Senate amendment and requires a report concerning the Italy incident.

I ask for its immediate consideration.

THE PRESIDING OFFICER. If there be no further debate, without objection, the amendment is agreed to.

The amendment (No. 3476) was agreed to.

Mr. ROBB. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3477

Mr. STEVENS. Senator LEAHY's amendment on JSAT, has he sent the amendment to the desk?

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 3477.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . TRAINING AND OTHER PROGRAMS.

(a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that a member of such unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—Not more than 90 days after enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall establish procedures to ensure that prior to a decision to conduct any training program referred to in paragraph (a), full consideration is given to all information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in paragraph (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under paragraph (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

Mr. STEVENS. Mr. President, I ask the Senator's indulgence. We have to finally clear this amendment. There is some confusion, I might say to my friend from Vermont, because our indication was that there was a position from the Department which opposed the amendment. The Senator's information is the Department supports the amendment. We intend to take it to conference and confer with the Department and then confer with the Senator with regard to the final disposition of it.

Mr. LEAHY. The Senator from Alaska is correct. This is a Xerox copy, but I do have the actual signoff from DOD on the amendment, which I will give to the distinguished chairman.

Mr. President, I note this was primarily a clarification so the Department of Defense and Department of State could be saying the same thing in this area. I understand the Senator from Alaska and the Senator from Hawaii may want to discuss it further between now and conference. I will be a conferee on that, and will be happy to do so.

Mr. STEVENS. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3477) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I wonder if the chairman will yield 2 minutes to the Senator from New Mexico?

Mr. STEVENS. Reluctantly, Mr. President.

Mr. DOMENICI. When you hear my remarks, you will be pleased that you did.

Mr. President, let me suggest the Appropriations Committee has come in right on the number, in terms of the budget. They have no directed spending or anything else that would seek to gimmick this budget. Some were asking, "Will you turn the other way and let us have some directed spending that breaks the caps?" I haven't been able to do that for anyone, and I am very grateful we do not have to do it on this bill. The chairman of this committee came in, and everywhere he moved, he said, "Let's meet the budget right on the money." And he did. I commend him for that.

Mr. President, I strongly support S. 2132, the Defense Appropriations bill for FY 1999. The pending bill provides $250.5 billion in total budget authority and $168.2 billion in new outlays for the Department of Defense and related activities. When outlays from prior years and other adjustments are taken into account, outlays total $245.2 billion.

There are some major elements to this bill that are important for the Senate to review.

The bill is consistent with the Bipartisan Balanced Budget Agreement.

This year the defense budget is once again confronted with a serious mismatch between the DoD/OMB and the CBO estimates of the outlays needed to execute the programs in the budget request. CBO's estimate was $3.7 billion higher than OMB and DoD's estimate.

Because the President's proposed defense spending was right up to the discretionary spending caps adopted in the Bipartisan Budget Agreement, compensating for CBO scoring would require large reductions in manpower, procurement, or readiness, or all three. Cuts like that are simply not acceptable.

During the Senate's consideration of the congressional budget resolution in March, the Senate received an excellent suggestion from the Chairman of the Appropriations Committee. We adopted a Stevens Amendment that called on CBO and OMB to resolve their differences. Several meetings occurred as a result, and under the auspices of the Budget Committee, we devised a solution. The solution has three parts:

First, Congress would legislate policies recommended by the Administration to better manage cash in DoD's Working Capital Funds. This would lower fiscal year 1999 outlays by $1.3 billion.

Second, Congress would agree to changes proposed by the Administration in two classified accounts in the Air Force budget that would lower 1999 outlays by $700 million.

Third, Congress would enact asset sales amounting to $730 million.

The Chairman of the Appropriations Committee has assured me that taken together these actions help reduce the 1999 outlay shortage to manageable dimensions and help avoid the negative effect on readiness or modernization that was feared.

I strongly support this bill, and I urge its adoption. I want to compliment the Chairman of the Appropriations Committee on his very skillful handling of this important legislation and for his statesmanlike approach to some serious and troubling issues in this year's defense budget.

Mr. President, I ask unanimous consent that a Senate Budget Committee table displaying the budget impact of this bill be printed in the RECORD.

There being no objection the table was ordered to be printed in the RECORD, as follows:

S. 2132, DEFENSE APPROPRIATIONS, 1999: SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 1999, in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority	250,289	27		202	250,518

S. 2132, DEFENSE APPROPRIATIONS, 1999: SPENDING COMPARISONS—SENATE-REPORTED BILL—Continued

[Fiscal year 1999, in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Outlays	244,942	27		202	245,171
Senate 302(b) allocation:					
Budget authority	250,290	27		202	250,519
Outlays	244,942	27		202	245,171
President's request:					
Budget authority	250,763	27		202	250,992
Outlays	242,863	27		202	243,092
House-passed bill:					
Budget authority					
Outlays					
Senate-reported bill compared to:					
Senate 302(b) allocation:					
Budget authority	−1				−1
Outlays					
President's request:					
Budget authority	−474				−474
Outlays	2,079				2,079
House-passed bill:					
Budget authority	250,289	27		202	250,518
Outlays	244,942	27		202	245,171

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. STEVENS. Mr. President, the Budget Committee chairman is too kind. We do appreciate his constant watch over the budget and our spending of the money from the Treasury.

Mr. DOMENICI. I yield the floor.

AMENDMENT NO. 3409

Mr. STEVENS. Mr. President, there still is pending the Hutchison amendment, the sense of the Senate on Bosnia, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. May I make a parliamentary inquiry? It is my understanding that is the only other amendment that is pending?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. We still have four more beyond that to deal with. So I suggest the absence of a quorum until we find out what is going to happen with these three amendments.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I have a number of problems with the amendment offered by the Senator from Texas that contains a series of findings, expresses the sense of Congress, and requires the President to submit a report relating to the readiness of the United States Armed Forces to execute the National Security Strategy.

I realize that the managers of the Defense Appropriations bill are up against a tight deadline to finish their bill and I want to cooperate with them. But, I do want to note for the record a few points.

I believe a number of statements in the amendment are overdrawn and I believe that the sense of Congress section of the amendment, particularly subparagraph (B), improperly singles out the Bosnia operation and badly overstates its impact on the units participating in and supporting that operation.

Nevertheless, I believe that it would be useful to the Congress to receive a report from the President on the military readiness of the Armed Forces of the United States. Accordingly and despite the problems I have noted, I will not object to this amendment.

Mr. STEVENS. The Senator has indicated he is prepared to not object to this amendment. There being no objection to the sense-of-the-Senate amendment on Bosnia of the Senator from Texas, I ask it be laid before the Senate for action. Is it the pending business?

The PRESIDING OFFICER. It is the pending question.

Mr. STEVENS. I ask for the adoption of the sense-of-the-Senate amendment of the Senator from Texas.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3409) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator CAMPBELL be included as a cosponsor of amendment No. 3431 previously been adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Stewart Holmes, a fellow on Senator COCHRAN's staff, be granted the privilege of the floor during consideration of this defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator HUTCHISON of Texas be added as a cosponsor to the Gramm amendment No. 3463 on military voting rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3394

(Purpose: To add $8,200,000 for procurement of M888, 60-millimeter, high-explosive ammunition for the Marine Corps, and to offset the increase by reducing the amount for Air force war reserve materials (PE 13950) by $8,200,000)

Mr. STEVENS. Mr. President, I call up amendment No. 3394 offered by Senator SANTORUM.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SANTORUM, proposes an amendment numbered 3394.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 8, increase the amount by $8,200,000.

On page 10, line 6, reduce the first amount by $8,200,000.

Mr. STEVENS. Mr. President, I urge the adoption of the amendment.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3394) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I seek recognition for the purpose of engaging the manager of the bill in a colloquy.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Thank you Mr. President. I rise to update the distinguished Chairman of the Appropriations Defense Subcommittee on the status of the CH-47 engine upgrade program, which the committee reduced by $27.3 million in its reported bill. The basis for the reduction was program delays.

The committee's action has called Army leadership attention to the delays in getting the FY 1997 and 1998 funds on contract. This delay was due in part to disruptions from relocating the contracting office from St. Louis to Huntsville and in part to unsuccessful, protracted efforts to use commercial pricing practices on the contract.

I understand that the strong support from the CINC's combined with the Committee's recommendations made completion of these contracts a high priority. I am pleased to report that the FY97 kit production contract was signed July 1 and that the FY97 engine conversion contract and the FY 1998 kit production contract was signed as of July 29. Further, the full rate production contracts are scheduled to be signed early in fiscal year 1999.

Fortunately, production of the engine conversion kits has been underway on a letter contract since December 1997 with actual engine upgrades now underway and on schedule at the Greer, South Carolina plant to meet the initial delivery of upgraded engines in October 1998.

Mr. STEVENS. I thank my good friend from South Carolina for the update on action since the committee markup. The committee recommendations were not meant to be pejorative but reflective of what was likely to be a fact of life delay in the program.

Mr. HOLLINGS. I thank the chairman for that assurance. I hasten to add my support for the upgrade program, which is done in part at two separate facilities in Greer, South Carolina.

While I voted for the bill in subcommittee and full committee, I strongly urge the chairman to give careful consideration to restoring full program funding in conference based on this new information. The upgrade program is just phasing out of its low rate initial production phase with the FY 1999 funds. Maintaining the production schedule is critical to controlling costs and achieving efficiencies. The FY 1999 funding in question starts full rate production for which all the necessary Army approvals have been given.

Mr. STEVENS. I accept the Senator's point on timing of the committee mark. I point out that the House has reduced the program by $12.7 million for other reasons. I can assure the Senator that we will do our best in conference if the contracts are signed in accordance with the schedule given to you.

Mr. HOLLINGS. I thank my good friend, the distinguished Senator from Alaska. Mr. President, I yield the floor.

FIRST PROGRAM

Mr. DEWINE. Mr. President, as the Senate continues consideration of the Fiscal Year (FY) 1999 Defense appropriations bill, I would like to take a moment to express my concerns regarding the funding and administration of the Air Force's Financial Information Resources System (FIRST) program. This is a controversial program for a number of reasons. First, legitimate questions have been raised about the necessity of this program. It is my understanding that even though all the military departments and agencies were to move toward a single system for program, budgeting and accounting (PBAS), the Air Force has not moved in that direction.

The Air Force intends for the FIRST program to perform the functions intended for PBAS, which would make the program duplicative. This issue was raised by the house National Security Committee, which zeroed out funding for the FIRST program in its version of the Fiscal Year 1999 Defense Authorization Bill.

The House National Security Committee also noted in its Committee report that the Air Force has chosen to utilize the Global Combat Supply System-Air Force (GCSS–AF) contract for the program, rather than competitively bid for the program. This decision raises both fiscal and policy concerns because this would be work outside the scope of the GCSS–AF contract. The GCSS–AF contract was advertised and awarded for "base-level systems modernization." In contrast, the FIRST program involves a budget system modernization plan that would impact all Air Force functional levels: base level, wholesale level, major air command, and headquarters. Clearly, the FIRST program would exceed the scope of the GCSS–AF contract.

I should also point out that the Air Force's decision to utilize GCSS–AF for the FIRST program was made after the Air Force announced an open competition, and after eighteen companies acted in good faith and submitted qualification applications for evaluation and screening. This course reversal, and the rational behind it has not been made clear to me or others that are concerned about this decision.

Mr. President, I also believe the Air Force's decision merits close review because it's not clear to me that it would be wise for the Air Force to place a disproportionate amount of its systems modernization work all in one contract.

Finally, the entire process raises policy concerns with respect to organizational planning within the Air Force. Currently, the development and execution of corporate information management systems for combat support is, in my view, not conducted in a coordinated and integrated fashion. In other words, the way the FIRST program is being administered is a symptom of a much larger organizational issue that deserves review by Congress and the Air Force.

In short, given all the issues that I have briefly described, I believe we should withhold going forward with the FIRST program until we can sort these and any other related issues that others may have. In fact, I had intended to offer an amendment that would allow for the Defense Department to use these funds for drug interdiction programs, but I have worked with the chairman and the ranking member to find other ways to help our drug interdiction strategy.

Mr. President, we cannot understate the importance of information technology programs to the future of our armed services. Thousands of people at Wright-Patterson Air Force Base and in the surrounding Miami Valley area play a leading role in the development of these programs. However, these programs have to be pursued with an eye toward fiscal soundness and effective coordination with similar systems defense-wide. I see the distinguished chairman of the Appropriations Committee on the floor and I hope that he will take the issues and concerns I have raised into consideration as he proceeds to conference with the House of Representatives.

Mr. STEVENS. Mr. President, I thank my friend from Ohio for raising these issues with respect to the FIRST program. I have listened closely to his remarks, and he certainly has offered food for thought. I will take his comments into consideration as we move to conference, and look forward to working with him and others interested in this issue to find an appropriate solution.

Mr. DEWINE. Mr. President, I thank the distinguished chairman of the Appropriations Committee for his remarks, and I look forward to working with him as well.

PULSED FAST NEUTRON ANALYSIS (PFNA) CARGO INSPECTION SYSTEMS (CIS) OPERATIONAL FIELD DEMONSTRATION

Mr. FAIRCLOTH. Mr. President, I would like to engage the distinguished chairman of the Senate Appropriations Committee in a colloquy regarding the Senate's action on the Pulsed Fast Neutron Analysis (PFNA) program. On behalf of the many Senators on both sides of the aisle who support this initiative, I wish to thank you for agreeing to include an amendment to the FY 1999 DoD Appropriations bill that directs the Department of Defense (DoD) to immediately obligate all of the funds which Congress has mandated be used for a fair, and rigorous operational field demonstration of the PFNA system at a major U.S. border crossing or at a major U.S. port of entry.

Mr. STEVENS. The committee has previously supported the PFNA project by adding funds to permit this new technology to be developed and tested. Like you, I am dismayed that the Department has failed to make available to PFNA the $3 million appropriated by Congress in FY 1998 and so far has demonstrated an unwillingness to carry out the PFNA test program according to congressional intent. It is the clear expectation of this Senator, and the Committee as a whole, that the Department will place no further obstacles in the path of a meaningful PFNA field test program.

Mr. FAIRCLOTH. I thank the Senator from Alaska. Furthermore, I believe that the Defense Department should take whatever steps are necessary to transfer full administrative and operational responsibility for the PFNA program to the Office of National Drug Control Policy (ONDCP). It is my understanding that General Barry McCaffrey, Director of ONDCP, is willing to serve as the Executive Agent for the program next year and then assume full management control as long as the funds already appropriated by Congress are used to complete the activities planned under the FY 98 program. I expect that the Secretary of Defense and the Director of ONDCP will work together to ensure this transfer of authority and funding is carried out as expeditiously as possible.

Mr. STEVENS. I thank my colleague. I agree with his understanding of the situation and the Committee expects DoD to proceed with obligation of the fiscal year 1998 funds and with the transfer of future program responsibility to ONDCP.

Mr. FAIRCLOTH. In the light of the recent terrorist attacks on U.S. soil, our Nation's growing problem with drug smuggling and even the proliferation for weapons of mass destruction, it would be a tragedy if we did not take full advantage of the best technologies available to meet these threats. PFNA has enjoyed extraordinary success in laboratory tests, consistently detecting the presence of contraband in sealed containers well over 90 percent of the time and with false alarm rate near zero. No other technology, including X-ray, can come close to this level of detection.

Mr. STEVENS. I am aware of these results and believe that the U.S. Customs Service is one government agency which should seriously consider deploying PFNA should the field test program yield positive results. The committee hopes that Customs Service will work closely with ONDCP to provide whatever assistance is necessary to ensure a complete and honest evaluation of the technology.

Mr. FAIRCLOTH. This would include space at a port of entry or border crossing where a test might be conducted. Once this is done, I hope that ONDCP and the Customs Service will provide the committee with a recommendation on the strategy to guide the possible future acquisition, deployment, and support of neutron interrogation systems, including PFNA, at land border crossings and ports of entry around the nation. I believe a useful assessment would provide: (1) a range of deployment options for the PFNA system; (2) a cost comparison between PFNA deployment options; and (3) an evaluation of how the employment of new and existing contraband detection technologies might be optimized to meet changing threats to U.S. security.

I will consult with my colleague from Alaska and with the chairman of the Senate Treasury, Postal Appropriations Subcommittee, on what resources might be available through that subcommittee to support a continuation of the PFNA test program and the possible procurement of multiple systems in future years.

Mr. STEVENS. I thank my colleague from North Carolina for his thorough and careful review of this matter.

SHIPBREAKING PROVISION

Ms. MIKULSKI. Mr. President, I would like to engage the chairman and ranking member of the Defense Appropriations Subcommittee in a colloquy.

The Department of Defense appropriations bill provides funds for a Navy ship disposal pilot program. I would like to clarify the Senate's intent in creating this pilot program.

I support the Navy's goal of disposing of these ships efficiently. However, by considering only short-term costs, the Navy has ignored the long term costs of worker death and injury and environmental degradation.

For example, during the scrapping of the Coral Sea in Baltimore, there were many worker injuries and fires. We don't yet know the environmental damage caused by the improper disposal of asbestos. The ship is still in the Baltimore harbor, and it will now cost millions of dollars for the Navy to dispose of the ship properly. American taxpayers would have saved a lot if we had disposed of the ship correctly the first time.

To prevent these problems, does the distinguished ranking member agree that it is the Senate's intent to encourage the Secretary of the Navy to give significant weight to the technical qualifications and past performance of the contractor in complying with federal, state and local laws and regulations for environmental and worker protection?

In addition, do you agree that in making a best value determination in granting contracts, the Secretary should give a greater weight to technical and performance-related factors than to cost and price-related factors?

Mr. INOUYE. I agree that the Navy must give more consideration to ensuring worker and environmental safety to prevent the problems we have had in the past.

Ms. MIKULSKI. I thank the Senator.

In addition, does the distinguished chairman agree with me that this pilot program will help the Navy to develop safer, more efficient methods of disposing of unneeded vessels—and that this pilot program should not be delayed?

Mr. STEVENS. I agree that this pilot program is in the best interest of the Navy and is not contingent on any other legislative action.

Ms. MIKULSKI. I thank the chairman and ranking member for their courtesy and assistance in this important matter.

SUPPLEMENTAL IMPACT AID PROGRAM

Mr. KEMPTHORNE, Mr. President, I rise today to discuss the Department of Defense's Supplemental Impact Aid Program. As chairman of the Military Personnel subcommittee of the authorization committee, I included $35 million in the FY99 Defense Authorization bill for this important program.

As many of my colleagues already know, supplemental Impact Aid funding is focused specifically on school districts that are heavily impacted by large numbers of military connected students or the effects of base realignment and closures. The DoD funds are in addition to funds appropriated to the Department of Education for all federally impacted schools. The $35 million included in the FY99 Defense Authorization bill will be used to ensure that military impacted schools can maintain the same standards as other, non-impacted, school districts. Without these funds, these districts, quite frankly, would be hard pressed to provide adequate educational opportunities.

Mr. President, I know many of my colleagues believe that education is, and should remain, a local and state issue. I wholeheartedly agree. If there is any role for the Federal Government in funding education, however, impact aid is it. Without a Federal presence, these impacted districts would be able to provide for a quality education for their students. Because of the military presence in the districts we are discussing today, however, educational resources are severely strained. We owe it to the families of the men and women who proudly serve our country, and the families who live near an installation, to provide adequate resources to offset the military presence.

Originally, it was my intention to offer an amendment today that, if passed, would have set aside $35 million in this appropriation bill for DoD supplemental impact aid. After consultation with Chairman STEVENS, I will not offer the amendment. Instead, Chairman STEVENS has assured me this matter will be addressed in conference. I would like to ask the distinguished Chairman, if it is still his intention to do so?

Mr. STEVENS. Mr. President, the House passed FY99 Defense Appropriations bill contains $35 million for impact aid for school districts impacted by excessive students from nearby defense installations. I would like to assure my friend, the Senator from Idaho, that it is my intention to give fair consideration to the House position regarding funding for impact aid during the conference to see if we can include these funds in the final conference report without negatively impacting the important operations and maintenance accounts of the Department of Defense.

Mr. KEMPTHORNE. Mr. President, I thank my friend from Alaska, the distinguished chairman of the Appropriations Committee, for his consideration of this important program, which is important to the good citizens of Alaska. In addition, this program is equally important to the people of Mountain Home, Idaho, home of the 366th Composite Wing.

REPORT 105–200

Mr. GREGG. Mr. President, I would like to direct a question to the majority manager of the Defense Appropriations bill, the distinguished Senator from Alaska. I note that the Committee on Appropriations directs the Department of Defense to make available, from existing funds, up to $8,000,000 for a community retraining, reinvestment, and manufacturing initiative to be conducted by an academic consortia with existing programs in manufacturing and retraining. It is my understanding that the consortia referred to is the New Hampshire Network for Science, Technology and Communication, and further, that the funds should be provided to that organization to create a state wide higher education network among small independent colleges to improve and expand research and training opportunities in science, technology, and communication for undergraduate students and for community, business, and K–12 schools. Am I correct, is that not the intent of the committee?

Mr. STEVENS. The distinguished Senator from New Hampshire is correct. The committee intends that the funds be provided to the New Hampshire Network for Science, Technology and Communication to conduct the effort described.

ADVANCED MATERIALS INTELLIGENT PROCESSING CENTER

Ms. MOSELEY-BRAUN. Mr. President, I rise today to engage in a short colloquy with the distinguished Chairman of the Appropriations Committee, the senior Senator from Alaska, Senator STEVENS.

As I understand it, the committee included $5 million in the Research, development, Test, and Evaluation Navy account of your Fiscal Year 1999 Department of Defense Appropriations bill for continued funding of the Advanced Materials Intelligent Processing Center in Evanston, Illinois. I want to confirm that the intent of the committee was to provide this additional $5 million to continue the activities of the Center in affiliation with the Naval Air Warfare Center in Lexington Park, Maryland, as well as other industrial and governmental partners. This continuation funding will allow the Center first to complete a state-of-the-art resin transfer molding system with all required equipment functionality, monitoring, and intelligent supervisory control, and then to transfer it to the Center's industrial and governmental partners for prove out in a production environment.

Mr. STEVENS. I thank the senior Senator from Illinois for her interest in this matter. I would like to confirm that the intent of our committee's action was as she stated.

Mr. MOSELEY-BRAUN. I thank the Senator from Alaska for his clarification on this important matter, and for his leadership with Senator INOUYE of the Committee. I would also like to say to my colleagues that I am confident the work of the Center can help reduce the cost of our defense systems through the use of faster, cheaper, and better means of processing composite materials for military hardware. These improvements will provide substantial dividends to the American people.

ANTI-CORROSION RESEARCH AT NORTH DAKOTA STATE UNIVERSITY

Mr. DORGAN. Mr. President, I would like to take a moment to thank the Managers of this bill, Senator STEVENS and Senator INOUYE, for the fine job they have done on this important legislation. It has been my great pleasure to work with the Managers as a member of the Defense Subcommittee, and they do a masterful job of balancing many competing needs and interests in this bill.

Mr. President, I would like to call the Chairman's attention to one key provision in the committee report. In the Defense-Wide Research, Development, Test, and Evaluation section, the committee has included report language regarding the importance of anti-corrosion technologies to the Department of Defense. As the report says "New anti-corrosion technologies are needed to prevent corrosion, reduce corrosion-related costs, and extend the life of aircraft in a manner compatible with environmental concerns."

North Dakota State University has a long history of excellence and nationally-recognized expertise in polymers and coatings, and has received significant competitively-awarded funding to investigate new methods of fighting corrosion. Last year DoD awarded a $2 million competitive grant to NDSU for this purpose. Mr. President, given NDSU's expertise in this area and DoD's experience working with NDSU, does the Chairman believe NDSU would be well-qualified to compete for this work?

Mr. STEVENS. Mr. President, I appreciate Senator DORGAN'S comments. The Air Force in particular is confronted with severe coatings problems in maintenance of its aging aircraft fleet. To protect the country's investment in these aircraft, it is important that the committee provide for increased research on anti-corrosive coatings. I agree with the Senator that NDSU would be a solid candidate for these anti-corrosion research funds.

ELECTRONIC COMBAT TESTING

Mr. MACK. Mr. President, I would like to engage the distinguished chairman of the Senate Appropriations Committee in a colloquy regarding threat emitters used to support electronic combat training by the Air Force Special Operations Command as well as testing by the Air Force and other services. These emitters replicate the surface-to-air missile threats and jammers which our combat aircraft might encounter if deployed to execute a real mission—a mission which would take them into harm's way. It is essential that these systems be available to train our first to fight, the special operations forces.

Mr. GRAHAM. Mr. President, I would like to agree and emphasize the remarks of my colleague. Unfortunately, there has been a debate over the status of these emitters which are presently at Eglin Air Force Base. Some believe the Base Closure and Realignment process mandated the relocation of these emitters. However, the BRAC also insisted that training requirements must be met. I believe these emitters should remain at Eglin to meet the warfighters training requirements until we can resolve this dispute. I believe this would be consistent with the BRAC direction.

Mr. MACK. Mr. President, my colleague is correct. We cannot let ambiguity about words hinder the training and readiness of our forces. These emitters should be supported at Eglin until we can resolve these issues. I would ask the distinguished chairman of the Senate Appropriations Committee if he can assist us by working on this issue in the appropriations conference if we can find a solution. We will work with the Department of Defense as well as the defense authorizing committees to find a solution which can be accommodated in the defense appropriations conference.

Mr. STEVENS. I agree with my colleague from Florida. I have followed this difficult issue for some time. I firmly support the need for adequate training. And I believe that training can best be conducted in varying environments, including the terrain and surrounds of Eglin Air Force Base. I assure my colleagues from Florida that I will do my best to work this issue with my House counterparts during conference.

PROJECT AT ELLSWORTH AIR FORCE BASE

Mr. JOHNSON. Mr. President, my colleague from South Dakota, Senator DASCHLE, and I would like to engage the distinguished Chairman of the Appropriations Committee, Senator STEVENS, and the distinguished Ranking Member of the Subcommittee on Defense, Senator INOUYE, in a colloquy regarding a housing project at Ellsworth Air Force Base.

Mr. STEVENS. Mr. President, Senator INOUYE and I are pleased to discuss this matter with our colleagues from South Dakota.

Mr. DASCHLE. Mr. President, I thank the Chairman and the Ranking Member for their indulgence. As both of you know, the Hunt Building Corporation (HBC) constructed an 828-unit military family housing complex, known as the Centennial Housing Project, at Ellsworth Air Force Base in 1990 and 1991. Unfortunately, within a year of the completion of construction, serious and often dangerous defects were found in many of the units. It is my understanding that over half of the units in the Centennial Housing Project constructed by HBC are currently uninhabitable.

Mr. JOHNSON. Mr. President, Senator DASCHLE is correct. In fact, the extensive damage in these units includes: severe racking due to the unit's design not holding up to wind; unlevel floors, sticking windows and doors, and cracking due to badly designed and constructed rim joists; collapse of interior ceilings caused by defective garage eaves, which allow heavy snow and rain to enter some attics; sewer gas back up due to improperly vented plumbing; deck and porch supports and stairs that have separated from the units and become unlevel because caissons supporting these structures were not placed below the frost line; and other problems both with the work done and problems resulting from work required by the contract but never completed by the Corporation. Despite these serious problems, the Air Force continues to pay rent on these units.

Mr. STEVENS. Mr. President, Senator INOUYE and I are aware of these severe problems.

Mr. DASCHLE. Mr. President, it is my understanding that the Air Force and HBC agreed to enter into an alternative dispute resolution in an attempt to resolve the construction and liability issues associated with the defective housing in the Centennial Housing Project at Ellsworth.

Mr. JOHNSON. Mr. President, the Senator is correct. The two parties have met with a mediator appointed by the Justice Department and have had several subsequent meetings to continue negotiating an agreement. I have been told that the next meeting between the Air Force and HBC will be next week. Although some progress has been made, it is critically important that the negotiations between the Air Force and HBC result in a timely, workable resolution that guarantees the expeditious repair of the housing units and the return of military personnel to the homes. While it is my understanding that the Department of Justice has been looking into this matter for some time and is considering litigation against HBC if no resolution can be found through the mediation process, I am hopeful that action by the Department of Justice can be avoided.

Mr. DASCHLE. Mr. President, I agree with the comments made by Senator JOHNSON. I, too, am hopeful that the mediation process will soon yield an agreement. Necessary repairs to these homes simply cannot be delayed any longer. I would also like to inform the Chairman and Ranking Member that we brought this situation to the attention of the Senate Armed Services Committee earlier this year.

Mr. STEVENS. Mr. President, I appreciate this update on the situation at Ellsworth Air Force Base regarding the Centennial Housing Project.

Mr. JOHNSON. Mr. President, I want to thank both the distinguished Ranking Member, Senator INOUYE, and the distinguished Chairman, Senator STEVENS, for your willingness to help Senator DASCHLE and me monitor this situation, which is of critical importance to the quality of life at Ellsworth Air Force Base. We will keep you apprised of progress made through the negotiating process.

Mr. DASCHLE. Mr. President, I would also like to thank Senator STEVENS and Senator INOUYE for their assistance. This matter is extremely important to me, Senator JOHNSON and everyone at Ellsworth Air Force Base.

Mr. INOUYE. Mr. President, I thank Senator DASCHLE. I share the concern expressed by the two Senators from South Dakota that taxpayers are not getting their money's worth out of the Centennial Housing Project. You can be assured that I will assist you in your efforts to find a timely solution to this matter that will result in the repair of the housing units and the return of military personnel to the homes.

ENCOURAGING GREATER USE OF DISTANCE LEARNING BY THE DEPARTMENT OF DEFENSE

Mr. CLELAND. Mr. President, I rise today to offer my support for the many distance learning initiatives contained in the Defense Appropriations Act for Fiscal Year 1999. Senators INOUYE and STEVENS have done an outstanding job in encouraging the Department of Defense to take full advantage of the opportunities provided by great advances in telecommunications technology, particularly witn respect to distance learning.

This bill contains funding for distance learning programs for the Marine Corps, and a new initiative for the Army National Guard. In particular, the National Guard initiative would create a distance learning network to reduce the cost of training soldiers, enhance readiness and furthering community development. The Subcommittee on Defense has a demonstrated its support for these and a number of other initiatives underway.

Mr. STEVENS. I thank the Senator from Georgia for his comments. The Subcommittee on Defense indeed supports these initiatives. Would the Senator from Hawaii agree?

Mr. INOUYE. That is correct. We have attempted to encourage such initiatives wherever we could, and wherever such initiatives made sense.

Mr. CLELAND. As the Ranking Member of the Personnel Subcommittee of the Senate Armed Services Committee, I believe I can report that our Subcommittee is also very supportive of distance learning initiatives. We are keenly aware of the advantages of distance learning. As you know, Mr. President, many of our military personnel are expected to available for deployment at a moments notice. Others are deployed around the world where they do not have ready access to educational opportunities. Rapid developments in technology have enabled them to continue in their educational development, even while deployed.

The ability to continue in one's educational pursuits is a quality of life issue that is not necessarily always at the top of a soldier's list. However, many military personnel are only able to pursue higher education by leaving the military. I believe the maintenance of a viable distance learning program for higher education could be a useful retention mechanism to keep highly motivated individuals in the service.

Mr. STEVENS. If the Senator would yield, the Senator raises an interesting point. I would be interested in learning of some of the types of initiatives that are under way that may prove useful in retaining personnel in the military.

Mr. CLELAND. I thank the Senator. I am particularly proud of one such program which is managed by the Georgia College and State University. The Distance Education Unit and the Department of Government there were recently awarded a contract by the Navy to provide two graduate courses aboard the USS Carl Vinson which is deployed in the Pacific Ocean. The courses use two-way video and audio which links educators at the school with students on board the Carl Vinson. We all knew that aircraft carriers were small cities, but this Senator was pleasantly surprised to see that sailors could take graduate level courses while at sea.

Mr. INOUYE. I am aware of the Carl Vinson project. It is certainly a promising concept, but are we providing any educational opportunities for service personnel nearing retirement or leaving the military due to the draw down of the military?

Mr. CLELAND. That is a very good question. I am told that more than 50 percent of military personnel reentering civilian life either change or lose their jobs in the first year after leaving the military. Given this, I believe we should consider providing opportunities for job training and placement for active-duty service members nearing separation or retirement from service without regard to their duty locations.

Clayton College and State University has developed a program that could serve as a worthwhile demonstration project to demonstrate how technology can be utilized to provide pre-separation training for civilian jobs to military personnel. The program would provide training via the Internet and other technology to active-duty personnel at their duty locations for specific, existing job opportunities which would be available upon their separation from the military. The program would then link these personnel to these specific jobs ensuring that when the leave the military, employment is available.

I am not immediately aware of any initiatives underway that would offer similar opportunities. It is my view that we should encourage the Department of Defense to explore such initiatives, perhaps in conjunction with the Department of Veterans Affairs.

Mr. INOUYE. I agree with the Senator from Georgia. He makes a good point, and I hope the Department of Defense will take a look at such initiatives in the future.

Mr. STEVENS. I thank Senator CLELAND for his remarks. He is a good friend of America's men and women in uniform.

Mr. CLELAND. I thank my colleagues for their leadership and for allowing me to speak on this matter.

Mr. FEINGOLD. Mr. President, I rise to voice my opposition to the fiscal year 1999 Department of Defense appropriations bill.

Once again, we have loaded up this bill with unnecessary, extravagant, and flat-out wasteful items. In a time when we are cutting programs and fighting for a true balanced budget, we cannot afford to insulate any department from scrutiny as we seek to reduce the Federal debt. Unfortunately, the DoD budget remains immune to any and all attempts at responsible spending.

Mr. President, I offered an amendment to this bill that aimed to invest fully in the best bargain in the Defense Department. According to a National Guard study, the average cost to train and equip an active duty soldier is $73,000 per year, while it costs $17,000 per year to train and equip a National Guard soldier. The cost of maintaining Army National Guard units is just 23 percent of the cost of maintaining Active Army units.

It failed, however, but that should not come as a surprise. DoD and a complicit Congress have never been known as a frugal or practical when it comes to defense spending. From $436 hammers to $640 toilet seats to $2 billion bombers that don't work and the department doesn't seem to want to use, we have a storied history of wasting our tax dollars. I presented an opportunity to spend defense dollars on something that works and is worthwhile, but the lobby for the wasteful and unnecessary Super Hornet prevailed.

Speaking of which, the bill appropriates $2.9 billion for the procurement of 30 Navy F/A-18E/F Super Hornets.

The current Hornet program has been proven reliable and cost-effective. Why do we want to replace the Hornet with a bloated, cost-prohibitive aircraft that offers marginal benefits over a reliable fighter?

This bill also contradicts the House's overwhelming recommendation on Super Hornet procurement. Twice, once in their authorization bill and again in their appropriations bill, the House, by margins of nearly 300 members, voted to procure 27 Super Hornets in fiscal year 1999.

The House correctly notes that the Navy asks for an inexplicable procurement increase from fiscal year 1998; that the Navy's low rate initial production schedule is not consistent with its procurement objective of 548 aircraft; and that the wing drop problem has not been resolved.

Mr. President, it seems we have thrown rationality out the window when it comes to this plane. Judging by the Super Hornet's past performance, I'm sure we'll be hearing more about it soon.

Finally, Mr. President, authors of the bill have again loaded it up with projects and hundreds of millions of dollars the Pentagon didn't even ask for. Just to give my colleagues a taste of these extravagant morsels, the bill adds: $78.5 million for 8 additional UH-60 helicopters; $30.0 million for JAVELIN anti-tank missiles; $208.3 million for Marine Corps procurement priorities; $50 million for advance procurement of the LHD-8 amphibious ship, which is a program DoD didn't even want to fund next year; $65.7 million for Humvee vehicles; $90 million for C-135 aircraft; and $40 million for F-15 Eagles.

Further, there is $1.8 billion in additional funds for the deployment of U.S. troops in Bosnia that are designated as "emergency" funds. The Bosnia mission is no longer an emergency. It is a long-term commitment for the United States military, and we should pay for it on budget.

Mr. President, this is shameful. We have a duty to act responsibly with our constituents tax dollars. Instead of looking after our constituents, we continue to pick their pockets.

We have to make smart choices, Mr. President. A truly balanced federal budget is in sight for the first time in three decades. But we are not going to be able to maintain a balanced budget, let alone start bringing down the federal debt, so long as we continue to commit to programs and force structures that are so blatantly unaffordable. We must continue to fight for further spending reductions until we achieve the most effective and cost efficient military which serves our national security interests.

I thank the Chair and I yield the floor.

PROSTATE CANCER RESEARCH

Ms. MIKULSKI. Mr. President, I rise today to support the Department of Defense's research in prostate cancer. I know that this program has no greater champion than the distinguished Chairman of the Appropriations Committee, Senator STEVENS.

Throughout my time in Congress, I have fought for women's health initiatives. Women's health is one of my highest priorities and it always will be. However, I also strongly support efforts to improve the health of men. One such effort that I believe deserves our attention is prostate cancer research.

In my home state of Maryland alone, 3,500 men receive the ominous diagnosis of prostate cancer each year. Nationwide, the number soars to over 200,000. Even more frightening, 42,000 American men lose their lives to this ruthless killer annually. This means that every 15 minutes, 1 man somewhere in our country dies from prostate cancer, and during the same time span, 5 more men are newly diagnosed with the disease.

I am very pleased that the frequency of prostate cancer screening has increased over the past five years. These efforts have led to an overall decrease in the prostate cancer death rate. The importance of early detection through regular screening cannot be overstated. When prostate cancer is detected early, survival rates are over 90%. But, when detected late, prostate cancer kills 70% of its victims. The increased emphasis on the use of current screening techniques has certainly been a step in the right direction. However, we can, and must, do better for the men of our country. How? Through improvement of diagnostic screening and imaging technology, we can make detection of prostate cancer easier and more efficient. We've done it before—mammograms have made screening for breast cancer a much more reliable process. We must do the same for prostate cancer.

Last year, Congress provided $40 million to the Department of Defense for prostate cancer research. Overall, $130 million in government-funded prostate cancer research was performed, compared with $650 million for breast cancer. Of course, we all recognize the importance of fighting breast cancer. It is a major threat to the women of our nation and the fight to find new and better prevention methods must continue. I think it is time we started fighting prostate cancer with the same tenacity.

In this year's Defense Appropriations bill we have provided $40 million for prostate cancer research. In addition to funds for peer review prostate cancer research, we have provided funding to the Walter Reed Army Medical Center for research on prostate cancer diagnostic imaging. This research is extremely important, as it could pave the way to better, faster, and more reliable screening and diagnosis.

One in every ten American men will develop prostate cancer at some point during his life. We need to target sufficient resources for research into the causes, treatment and cure of prostate cancer.

I hope that when the Defense Appropriations bill is in Conference, we will increase funding for prostate cancer research. Increased funding is necessary to give our scientists and researchers the tools they need to combat this deadly disease.

We are blessed with great medical scientists who are scattered across our country at universities, medical schools, and government research agencies. They are an incredible resource. I believe that we owe it to ourselves, to our children, and to the American people to ensure that these great men and women have the support they need to continue their efforts to bring the people of our nation a better, healthier tomorrow.

DOD IMPACT AID

Mr. DORGAN. Mr. President, I would like to take a moment to express my concern about the lack of funding within the Senate's Department of Defense Appropriations bill for fiscal year 1999 for schools that have been heavily impacted by their proximity to military installations.

Fortunately, the House bill does include $35 million for this purpose, and I want to put my colleagues on notice that I will be working through my position on the House-Senate conference committee to see that this funding is preserved.

This extra assistance is needed by schools on or near our military bases because their tax base is eroded by the large amount of federal land taken off the tax rolls. In addition, military personnel often are not required to pay local taxes, which support the schools, even if they have children enrolled in those schools. The DOD funding would be aimed at those schools most in need of the extra aid—school districts whose student population is made up of at least 20 percent military children.

This funding is sufficiently important to the quality of life of military personnel and their families that both the House and Senate fiscal year 1999 Defense Authorization bills authorize $35 million for this purpose. It is my strong hope that the Congress will see fit to include this funding in the final version of the Defense Appropriations bill.

Mr. HARKIN. Mr. President, during the deliberations over the fiscal year 1999 Defense Authorization bill, I offered an amendment to increase spending for our nation's veterans medical needs. The amendment, offered on June 25th and numbered as 2982 would have allowed the transfer of $329 million from the defense budget to support the VA medical budget. The amendment would have transferred funds so as to avoid harming the readiness of the Armed Forces and the quality of life of military personnel and their families.

The amendment's description was incomplete as to the listing of cosponsors and I would like to correct the record at this time. Along with Senator WELLSTONE of Minnesota, Senator BINGAMAN of New Mexico, also a longtime champion of veterans, should have been included as a cosponsor.

Although the amendment did not receive the support of a majority of my colleagues, I appreciate the cosponsorship by Senator BINGAMAN and Senator WELLSTONE. I also appreciate the support of the 35 other Senators who voted in favor of increasing VA medical funding.

Mr. STEVENS. Mr. President, I tell the Senate, there are now three amendments that are not disposed of, to my knowledge: the Graham amendment on space and two Harkin amendments. I call on those Senators to ask what they intend to do.

Mr. HARKIN. One amendment; I have one amendment.

Mr. STEVENS. I will be happy to eliminate one of the two.

Mr. President, again, I call on the Senators involved to inform us if they going to proceed with the amendment.

Mr. President, it is my understanding that the Senator from Florida is going to make a motion concerning the space amendment. I ask someone to inquire about that amendment.

May I inquire of the Senator from Iowa, does he intend to proceed with his amendment?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADAK NAVAL FACILITY AT ADAK, ALASKA

Mr. MURKOWSKI. Mr. President, as the chairman of the Appropriations Committee knows, we have been working for some time with the Natives of the Aleut Corporation, the Navy and the Department of the Interior on an effective plan for the reuse of Adak Naval Base, and I thank the Chairman for the inclusion of funding to help resolve remaining environmental problems with the facilities at Adak.

The Aleut Corporation, one of Alaska's 12 Native regional corporations, is the only entity that has expressed an interest in assuming the closed base, and has proposed a land exchange involving the Navy and the Department of the Interior. The Senate Energy committee, as you know, is considering and has held a hearing on S. 1488, which would authorize an exchange of property that would promote the reuse of Adak and improve the Aleutian refuge through incorporation of Aleut Corporation inholdings. This legislation is designed to ratify an agreement that will very shortly be executed by the Aleut Corporation and the Departments of the Navy and the Interior.

Mr. STEVENS. I am familiar with that legislation and fully support its adoption. In closing out its operations and responsibilities on Adak I understand the Navy wishes to transfer from Navy ownership as much as the base as possible; this includes both facilities that have foreseeable reuse and those that do not. Many of the moth-balled buildings on Adak were constructed before restrictions were imposed on the use of asbestos and lead paint. The environmental conditions at Adak, to which anyone who has visited there can attest, take a hard and quick toll on buildings and other facilities, especially those that are unused and not maintained. The Committee has included $15 million to resolve potential environmental hazards from deteriorating facilities. This funding will help to protect those who move to Adak to participate in its economic revitalization.

Mr. MURKOWSKI. With the expectation that all the parties to the Adak exchange will sign an agreement within the next few weeks, it is also my hope that the Conference Committee on S. 2312 would consider the inclusion of the language ratifying the agreement.

Mr. STEVENS. If all parties to the exchange are supportive, I would be open to the possibility of having the Conference consider that language.

Mr. MURKOWSKI. I thank the chairman, the distinguished senior Senator from Alaska.

NATIONAL ADVANCED TELECOMMUNICATIONS AND APPLICATIONS CENTER

Mr. FAIRCLOTH. Mr. President, I would like to enter into a colloquy with the distinguished chairman of the Defense Appropriations Subcommittee.

I was disappointed that the Defense Appropriations Subcommittee did not include funding for the National Advanced Telecommunications and Applications Center in the Research Triangle Park in North Carolina. I ask the chairman whether this is an indication that the subcommittee disapproves spending for this project or if it is merely because sufficient funds were unavailable?

Mr. STEVENS. The Senator from North Carolina will be pleased to know that the subcommittee believes that this project is very worthy, but we did not directly provide funding in FY 1999.

Mr. FAIRCLOTH. Therefore, may I assume that the chairman would support a reprogramming request from any branch of the Department of Defense if that branch found that unavoidable delays in its other programs made funding available for the NATAC?

Mr. STEVENS. The Senator is correct.

Mr. FAIRCLOTH. I thank the chairman. Mr. President, I yield the floor.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I understand the Senator from Iowa will ask to be recognized, and I urge Members of the Senate to stay around. In my opinion, we are very close to final passage. We are very close to final passage. I expect final passage within 20 minutes. I might not get my expectations, right?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3478

(Purpose: Express sense of Senate regarding payroll tax relief)

Mr. STEVENS. Mr. President, I send to the desk a sense-of-the-Senate resolution on behalf of Senator KERREY and Senator MOYNIHAN and Senator BREAUX, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. KERREY, for himself, Mr. MOYNIHAN and Mr. BREAUX, proposes an amendment numbered 3478.

Mr. STEVENS. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SECTION 1. SENSE OF THE SENATE REGARDING PAYROLL TAX RELIEF.

(a) FINDINGS.—The Senate finds the following:

(1) The payroll tax under the Federal Insurance Contributions Act (FICA) is the biggest, most regressive tax paid by working families.

(2) The payroll tax constitutes a 15.3 percent tax burden on the wages and self-employment income of each American, with 12.4 percent of the payroll tax used to pay social security benefits to current beneficiaries and 2.9 percent used to pay the medicare benefits of current beneficiaries.

(3) The amount of wages and self-employment income subject to the social security portion of the payroll tax is capped at $68,400. Therefore, the lower a family's income, the more they pay in payroll tax as a percentage of income. The Congressional Budget Office has estimated that for those families who pay payroll taxes, 80 percent pay more in payroll taxes than in income taxes.

(4) In 1996, the median household income was $35,492, and a family earning that amount and taking standard deductions and exemptions paid $2,719 in Federal income tax, but lost $5,430 in income to the payroll tax.

(5) Ownership of wealth is essential for everyone to have a shot at the American dream, but the payroll tax is the principal burden to savings and wealth creation for working families.

(6) Since 1983, the payroll tax has been higher than necessary to pay current benefits.

(7) Since most of the payroll tax receipts are deposited in the social security trust funds, which masks the real amount of Government borrowing, those whom the payroll tax hits hardest, working families, have shouldered a disproportionate share of the Federal budget deficit reduction and, therefore, a disproportionate share of the creation of the Federal budget surplus.

(8) Over the next 10 years, the Federal Government will generate a budget surplus of $1,550,000,000,000, and all but $32,000,000,000 of that surplus will be generated by excess payroll taxes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) if Congress decides to provide tax relief, reducing the burden of payroll taxes should be a top priority; and

(2) Congress and the President should work to reduce this payroll tax burden on American families.

Mr. KERREY. I am delighted to be joined by Senators MOYNIHAN and BREAUX in offering this important Sense of the Senate on reducing the payroll tax burden. This Sense of the Senate is simple: the payroll tax is the biggest, most regressive tax that working families in this country face. According to the CBO, 80 percent of American families pay more in payroll taxes than they do in income taxes.

Here's what that means. The average household income in 1996 was $35,492. That family, taking the standard deductions and exemptions, paid $2,719 in Federal income tax. But they paid a whopping $5,430 in payroll taxes—double what they paid in income taxes!

What this Sense of the Senate says is that if we talk about relieving the tax burden on American's families, we ought to look first at the payroll tax burden. After all, of the over $1.5 trillon surplus we expect to generate over the next ten years, all but $32 billion is being generated through payroll taxes. If anyone is going to get tax relief in this country, it ought to be the working people responsible for that surplus. I urge my colleagues to support this Sense of the Senate.

Mr. MOYNIHAN. Mr. President, my colleague Senator KERREY, with whom I am pleased to cosponsor this Sense of the Senate resolution, has it exactly right. The payroll tax is regressive. The statistic he quoted bears repeating. Among families that pay payroll taxes 80 percent pay more in payroll taxes than in income taxes.

If—and I say if—we are going to have a tax cut look no further than the payroll tax. Albert Hunt, writing in today's Wall Street Journal, agrees, noting that for most families it is "the most onerous levy. . .."

Even excluding interest income, the Social Security Trust Funds will generate $698 billion of surpluses over the next 10 years. That is just about enough to finance the 2 percentage point reduction in the payroll tax that Senator KERREY and I have proposed in our comprehensive Social Security rescue plan.

In contrast, the operating budget will only have a $32 billion surplus over the next 10 years—and no significant surplus until 2006.

Finally, maybe we shouldn't be considering any tax cuts. Those surpluses can easily evaporate, even in the absence of a recession. Growth of one percent for the next two or three years —rather than the 2 percent projected by CBO—just about wipes out surpluses for the next several years.

Mr. BREAUX. Mr. President, I am pleased to be an original co-sponsor of the Sense of the Senate offered by Senator KERREY and accepted tonight by unanimous consent regarding payroll tax relief.

We keep hearing the good news about surpluses but of the $1.55 trillion surplus over the next decade, all but $32 billion comes from the social security trust fund—from payroll taxes paid by working Americans on their wages—taxes that American workers paid to insure the viability of their Social Security benefits.

Of families who pay payroll taxes, 80 percent pay more in payroll taxes than in income taxes. The payroll tax is the most regressive tax in America, disproportionately burdening low income families. Remember that almost 50 percent of households in this country earn under $35,000 per year and most of this income is from wages which are subject to the payroll tax. Given these facts, the payroll tax cut is clearly the tax cut this Congress should be discussing.

And we should be discussing it along with the reforms necessary to fix Social Security for all Americans for all time. I know there are many Senators here who share my sentiments. I served with Senator GREGG on a bipartisan commission that thorougly studied this issue and we have recommended a comprehensive reform package. Senator KERREY and Senator MOYNIHAN have been working on a bill. Others in this bodies are also working on social security reforms. I look forward to working with all of my colleagues in a bipartisan effort to not only reduce taxes but to shore up social security and create wealth for working Americans.

Mr. STEVENS. I ask for the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3478) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I state for the record, according to my understanding, the only amendment we have not disposed of that was listed on the two lists is the amendment that Senator HARKIN is about ready to discuss.

Does any Senator have another amendment?

Mr. President—I repeat the request—does any Senator have another amendment?

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is my understanding the Senator from Iowa will speak in a minute. And no Senator has raised any amendment to be considered; so, therefore, I ask unanimous consent that no more amendments be in order to this bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. I further ask unanimous consent that following the statement of the Senator from Iowa, we shall immediately go to third reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask unanimous consent that the Senator from New Jersey also be recognized for 10 minutes prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I have an amendment at the desk that basically would equalize the treatment that the Budget Committee gave to the defense side of the ledger, would equalize that with the nondefense side of the ledger.

Now, let me try to explain it as best I can. A couple of years ago in a situation involving Social Security here on the Senate floor, the Parliamentarian of the Senate ruled in a way that gave the chairman of the Budget Committee the authority to decide whether or not scoring would be done under the CBO estimates and rules or under OMB.

This year, using that authority, the chairman of the Budget Committee sent a letter dated April 27, 1998, to the chairman of the Appropriations Committee, Senator STEVENS. This letter, among other things, basically said—and I will quote from the letter:

> Staff have also identified $2.0 billion in potential policy outlays scorekeeping adjustments. If the Administration's own policy initiatives are legislated for the DWCF, I will exercise my authority to score the legislation recognizing the administration's outlay estimates.

What that means, in "bureaucratese," is that the chairman of the Budget Committee decided to use his authority to use the administration's policy initiatives—read that to be OMB—to adjust the outlay figures for the Defense Appropriations Subcommittee.

What did that add up to? We looked at it and those adjustments added up to $2.2 billion—$2.2 billion under OMB. Then the Budget Committee identified another $737 million in asset sales to come up with $2.9 billion additional for the Defense Appropriations Subcommittee.

But I am looking at the $2.2 billion. Forget about the other. The $2.2 billion came about because the chairman of the Budget Committee decided to use the administration's own policy initiatives and use the administration's outlay estimates from OMB. Mr. President, what that means is that the Budget Committee chairman has the authority because of a ruling by the Parliamentarian of this body that he can decide whether to use OMB or CBO estimates for outlay purposes.

I think it is appropriate to ask unanimous consent to have printed in the RECORD a copy of the letter from the chairman of the Senate Budget Committee, Senator DOMENICI, to Senator STEVENS, dated April 27, 1998.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, April 27, 1998.

Hon. TED STEVENS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am reporting to you on your amendment to S. Con. Res. 86, the Senate-passed Budget Resolution, concerning defense and non-defense outlay scoring. Over the recent recess, representatives of the Department of Defense (DoD), the Office of Management and the Budget (OMB), and the Congressional Budget Office (CBO) have met and discussed these issues. As a result, we have identified from $2.6 billion to $2.9 billion in outlay reductions based on asset sales and proposed policy changes in the President's 1999 DoD budget request, including: (1) management initiatives for the Defense Working Capital Funds (DWCF) and, (2) alterations in classified activities in two Air Force accounts.

These identified outlay scoring adjustments for policies enumerated here do not prejudge other technical adjustments that might be considered with this year's reported defense authorizations or appropriations bills.

If legislation provides for defense asset sales subject to appropriations, appropriate savings will be scored. I understand the assets currently being considered would generate between $0.6 billion and $0.9 billion in negative outlays. The precise amount would, of course, depend on the text provisions reported to the Senate.

Staff have also identified $2.0 billion in potential policy outlay scorekeeping adjustments. If the Administration's own policy initiatives are legislated for the DWCF, I will exercise my authority to score the legislation recognizing the Administration's outlay estimates. For the classified policy initiatives in intelligence community activities, I will respect your judgment that the proposed policy initiatives will have the downward impact on outlays asserted by the Department of Defense and that the legislation reported to the Senate would not reverse or materially alter this impact, and will, therefore, score the outlays for reported legislation appropriately.

The disagreements between CBO, OMB and DoD on outlay estimates for the President's defense budget are not new. I believe Congress must insist on the most accurate projects from both the executive branch and our own estimators. Accordingly, I believe we should work together to achieve the following results.

1. Prompt submission of the annual joint report to Congress required by 10 U.S.C. 226 concerning CBO and OMB scoring of outlays on December 15 of each year;

2. The routine and timely transmission by CBO of its scoring of defense budget requests and relevant legislation to the appropriate representatives of DoD's Office of the Comptroller and OMB;

3. An analysis by CBO and the Administration, submitted as a part of their fiscal year 2000 Presidential budget presentations, of the actual outlays and rates that occurred for fiscal year 1998 for the Department of Defense with: (a) the outlays and outlay rates originally estimated by CBO and the Administration, respectively, for the fiscal year 1998 Department of Defense budget when that budget was originally presented to Congress, and (b) any revised outlays and outlay rates estimated for the final appropriations legislation, pursuant to Section 251 of the Balanced Budget Enforcement and Deficit Control Act, for the Department of Defense for fiscal year 1998, including supplementals, transfers, rescissions, and any other adjustments;

4. An analysis by CBO and the Administration, submitted as a part of their fiscal year 2000 Presidential budget presentations, of the outlays and outlay rates currently estimated to be appropriate for fiscal year 1999 for the Department of Defense with: (a) the outlays and outlay rates originally estimated by CBO and the Administration for the fiscal year 1999 Department of Defense budget when that budget was originally presented to Congress, and (b) any revised outlays and outlay rates estimated for the final appropriations legislation, pursuant to Section 251 of the Balanced Budget Enforcement and Deficit Control Act, to date, for the Department of Defense for fiscal year 1999, including supplementals, transfers, rescissions, and any other adjustments;

5. A timely explanation by DoD of (a) any policy initiatives in the fiscal year 2000 DoD budget that, in DoD's judgement, CBO did not recognize in the latter's scoring of the fiscal year 2000 DoD budget, (b) DoD's analysis of how such policy initiatives will affect outlays in fiscal year 2000 and subsequent years, and (c) how DoD intends to implement the proposed policy initiatives.

Pursuant to your amendment we are also looking into the issue of non-defense outlays scoring and will report back to you shortly.

I look forward to working with you on this year's DoD appropriation and on action to ensure we have the most accurate estimate possible for defense expenditures in future years.

With best regards,

PETE V. DOMENICI,
Chairman.

Mr. HARKIN. Now, why am I taking the time here late at night to talk about this? Because we are about to go out on a break. We are going to go out for the month of August. In the first week of September when we come back, the chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, the largest of the nondefense appropriations subcommittees—and that is my colleague and my friend, Senator SPECTER from Pennsylvania—will be calling us together to mark up the nondefense portion of the appropriations bill.

Right now, the allocation that was given to our subcommittee with respect to outlays is almost $300 million below a freeze from last year—$300 million below a freeze from last year.

The House, using those figures, marked up a bill, and the only way they marked it up was by completely eliminating all of the funding for the summer jobs program and all of the funding for the heating assistance for the elderly and poor—the LIHEAP program. They just eliminated all of that, and then they came in with the allocations that they had.

What my amendment basically says is that the chairman of the Budget Committee ought to apply the same rationale, the same decision, on using OMB estimates for nondefense as he did for defense. We need the outlays that this amendment will give us to fund programs important to Members on both sides of the aisle. This is not a Democrat amendment.

Now, we have heard many calls on the other side of the aisle to get more funding for IDEA, the Individuals with Disabilities Education Act. We have had more calls from the other side of the aisle to fund more programs for the National Institutes of Health. We have heard calls on this side of the aisle for more funding for Head Start, for low-income heating energy assistance programs for the elderly and the working poor. This cuts across both sides of this aisle. Those are just a few of the programs that will be drastically cut if we don't have the figures that could be given to us by the chairman of the Budget Committee.

Now, I will point out one thing. Recently, the Senators here voted on a sense-of-the-Senate resolution. It passed 99–0—I don't know who was missing, but it passed 99–0— a sense-of-the-Senate resolution that would raise NIH funding by $2 billion next year. That increase alone would require over $600 million in outlays. And I just said that our allocation puts us $300 million below a freeze.

Mr. SPECTER. Will the Senator yield for a question?

Mr. HARKIN. I am delighted to yield to my friend and chairman.

Mr. SPECTER. I thank my colleague. When the distinguished Senator from Iowa points out that the vote was 99–0, is the Senator aware that when we sought the transfer, that it was turned down 57–41?

Mr. HARKIN. I am aware that the Senator from Pennsylvania, I think, within a week after that, offered an amendment——

Mr. SPECTER. An amendment on which the Senator from Iowa joined this Senator from Pennsylvania.

Mr. HARKIN. I proudly did so.

Mr. SPECTER. I believe the Senator from Iowa raises a valid point on having the same scoring for the Subcommittee on Labor, Health and Human Services, and Education as for the Department of Defense. I am optimistic that in working with the distinguished chairman of the Budget Committee there are ways that we can resolve these differences on policy grounds. The Senator from Iowa and I have worked very closely for many years now, when the Senator from Iowa was chairman and I was ranking—in reverse. We will move ahead with our markup in the subcommittee on September 1, the day after we get back. The chairman has agreed to have the markup on September 3 to bring this complex bill to the floor at an early date. I have taken the preliminary step in a very small meeting with Secretary Shalala of Health and Human Services and Secretary Riley of Education and Secretary Herman of Labor, to try to ascertain their real priorities so that we can try to move this bill ahead and get it passed.

I think the Senator from Iowa is performing a real service in highlighting the necessity for similar scoring so we can have additional funds. I think we will get there. I thank my colleague for his yielding and for his cooperation this year and through the years.

Mr. HARKIN. I thank my chairman for his kind words. We have worked collaboratively. I could not ask for a better chairman than Senator SPECTER. We have worked closely together. We have talked privately about this and, quite frankly, I believe we are going to be able to work this out. That is why I will, at the appropriate time, withdraw my amendment, because I do believe we are going to be able to work this out with the chairman of the Budget Committee and with the chairman of the Labor-HHS appropriations subcommittee. I believe we will be able to work this out in a manner that will be, I hope, conducive to getting the money that we need immediately—just the basic requirements that we want for the National Institutes of Health, that we want for LIHEAP, and a lot of the other programs that so many Members support here. I wanted to raise this issue because I think it is vitally important that we use the same set of scoring for both defense and nondefense.

So, Mr. President, with the assurances of my chairman that we will be able to get this thing worked out, I just wanted to refer to one thing on the chart. With the reallocation, with the amount of money we would get from the rescoring, we would have $770 million. That would get us the money that we need for NIH. That would get us the money that we need for LIHEAP and for the other programs—Head Start and others—that we need, which Senators support here.

Mr. President, again, I raise this issue because it is vitally important. I don't know how many other Senators want to speak on this issue. But I would be willing to yield the floor at this time for any other Senators who might want to speak on the issue.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, first, I want to hear the response of the Senator from New Mexico, because in a private conversation we just had here there was an assurance that I would like to hear publicly made and then I will be able to respond.

Mr. DOMENICI. I wonder if the Senator will give me 3 minutes.

Mr. LAUTENBERG. Mr. President, I yield 3 minutes of the time I have to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I believe one of the most difficult bills to appropriate and stay within the caps and the allocations under the Balanced Budget Act is the bill that the distinguished Senator, Senator HARKIN, is referring to. It is difficult every single year. It will be difficult this year; he knows it and I know it.

I want to make sure that everybody understands that the Senator from New Mexico did not adopt OMB numbers in arriving at the corrections that were made in the amounts of money available for the Defense appropriations bill. We will be very glad to show Senators precisely what we did. In fact, I am going to insert a statement into the RECORD—I won't give it—showing that we actually made policy adjustments that permitted the changes in the expectation of expenditures, and then on top of that we allowed for the sale of assets that were a certainty, and we counted those sales in terms of receipts that could be spent in this bill.

What I am going to say to Senator SPECTER, chairman of the committee—and I told him this already—is that the staff and I are going to work with them, and we intend to do everything in our power to adjust the numbers so that they get the benefit of any policy changes that are justifiably on the side of OMB's different numbers. If that yields more money to spend, we are going to do that, and we are going to try our best. Let me repeat that we did not use OMB's numbers; we used OMB policy adjustments in a very confused procurement account, and they convinced us that in the policy that they were going to adopt, there would be more expenditures than we had expected—or less, whichever the case may be that yields more money to spend.

I also want to say to the distinguished chairman and ranking member of the Subcommittee on Labor, Health and Human Services, and Education that they chose last year to forward-fund a lot of their accounts. I am not critical. What they did is, they said, on a number of big accounts, we will not fund them for the whole year. We will fund them at the end of the year, thus, getting charged for only a small amount of money. Now, I can't help it that the chickens have come home to roost. The money is now being spent in this year, and we don't even have to appropriate; we already spent it. I can't fix that on every bill.

So, Mr. President, let me just say to the Senate, the bill, which Senator SPECTER will chair and Senator HARKIN is ranking member on, is the most difficult bill we have. And this Senator, in my responsibility to the Senate, will do everything I can to see that the numbers are accurate and that we maximize the amount of outlays. It is outlays they need; they don't need any budget authority. I will do that as soon as practicable, and our staff and theirs will start working as soon as they want us to.

The amendment and its author do not accurately characterize what has been done respecting outlays for the National Defense budget function.

There has been no arbitrary adjustment of CBO's scoring of defense outlays as some characterize.

Instead, the following actions have been taken:

The DoD Authorization bill contains legislation to reduce outlays in DoD's Working Capital funds by $1.3 billion.

The DoD Authorization bill also implements policies that would reduce outlays in two Air Force accounts in classified programs by $700 million.

The DoD Appropriations bill we are debating today contains a new Pentagon Renovation Fund; there has been a scoring adjustment for this new fund to bring its outlays in line with typical military construction outlay rates, rather than the higher overall rates that CBO would otherwise attribute to this spending. This adjustment amounts to about $190 million.

That's the totality of any outlay scoring adjustments in this appropriations bill. There are no other adjustments to CBO scoring. I believe it is important to realize that for the adjustments that have been made, in each case there is a specific legislative and/or policy provision that is key to the adjustment, and each legislative provision should have a material impact on outlays.

Mr. STEVENS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. The remaining speaker is the Senator from New Jersey, is that correct?

Mr. LAUTENBERG. Mr. President, I say to the distinguished chairman that I am going to be very brief, in view of what has just been said. I trust the chairman of the Budget Committee. There is some time available, is there not, Mr. President?

The PRESIDING OFFICER. Yes.

Mr. LAUTENBERG. Very quickly, I am pleased to hear the assurances. First, I commend the Senator from Iowa for bringing this to our attention because we were both of the same mind. Even as I read the letter sent to Senator STEVENS and Senator THURMOND, to me, it looked like we were going to be put in a position where defense was going to be particularly well treated, and nondefense was going to be left out. But we have had an interesting colloquy here, a dialog, and I trust the chairman of the Budget Committee. I work with him all the time and have great respect for him.

When he gives us an assurance that there will be no distinction, or no difference between the treatment given to defense and nondefense, I don't have to go a lot further. We have heard it. We have heard it directly from the chairman. We have heard it in this public forum.

Mr. President, I yield the time I have in the interest of moving this along.

Mr. HARKIN. Mr. President, I have an amendment.

Mr. STEVENS. Mr. President, I say to the Senator, under the agreement the amendments, if they are not called up, just go away. We do not offer them all. But the Senator is at liberty to withdraw his amendment.

Mr. HARKIN. Was it called up?

Mr. STEVENS. It was not called up.

Mr. HARKIN. That is fine.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to H.R. 4103, all after the enacting clause is stricken, the text of S. 2132, as amended, is inserted in lieu thereof.

The House bill is considered read a third time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask that we stop there for just one moment for leaders to have a chance to talk about this bill just briefly.

I want to make a statement to the Senate. I often make mistakes. I have not made one as great as the one I made tonight when I interrupted the Senator from West Virginia. I had no intention of interrupting him. I know he intended to make his speech. I assured him that he would have the time to make the speech that he wished. We had entered into an agreement concerning a time limit on the amendment of the Senator from Illinois.

I deeply regret the misunderstanding that occurred. I know my good friend from West Virginia has a long and serious speech to make about the war powers and the amendment that was offered by the Senator from Illinois concerning the power of Congress to declare war.

I admire and respect him greatly, and I sincerely regret that incident.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will momentarily proceed to passage of the Department of Defense appropriations bill.

But I can't let this moment escape without first commending the chairman, Senator STEVENS, and his ranking member, Senator INOUYE, for the unbelievable speed in which they have been able to handle this appropriations bill and bring it to a close.

They are absolutely the best when it comes to knowing this legislation, and perhaps all legislation. I think they probably have set a record. But I think they did it in a way that was sensitive to all Senators' needs. And it took a lot of cooperation on both sides of the aisle.

So I thank Senator STEVENS. He set an example for all of us to follow. And the better part of wisdom was for me to get out of the way and let him do his job. He did a great job. I thank him, and I know that all Senators extend their thanks to him, and congratulations.

Having said that, the Senate still must consider two additional items before I can announce the voting situation for the rest of the evening.

Those items are the Emergency Farm Financial Relief Act, and legislation coming from the House relative to H-1B, the Nonmigrant Immigrant Program.

CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. LOTT. Mr. President, I send an adjournment resolution to the desk calling for a conditional adjournment for the August recess, and ask that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 114) was agreed to, as follows:

S. CON. RES. 114

Resolved by the Senate (the House of Representatives concurring), That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Friday, July 31, 1998, Saturday, August 1, 1998, or Sunday, August 2, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, August 31 or Tuesday, September 1, 1998, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, August 7, 1998, it stand adjourned until noon on Wednesday, September 9, 1998, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

EMERGENCY FARM FINANCIAL RELIEF ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 2344, and that the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk reported as follows:

A bill (S. 2344) to amend the Agricultural Market Transition Act to provide for the advance payment, in full, of the fiscal year 1999 payments otherwise required under production flexibility contracts.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, reserving the right to object, I thought the majority leader and I were working on this. I am a little bit surprised he has chosen to call it up right now. We can object. But I would prefer that we continue to see if we can't resolve this matter. We have been cooperating all night.

I guess I expected a little more reciprocation on the other side. I am disappointed that I was surprised in this manner, and at this hour under these circumstances it is uncalled for.

Mr. LOTT. Mr. President, I think the Senator would like to withhold that last comment about it being uncalled for. I don't do this lightly.

Mr. DASCHLE. I was not informed this was going to happen.

Mr. LOTT. I did it for a reason.

Mr. President, if I could respond to the Senator's comments, this is not a controversial issue. This is an issue that I am sure that all agriculture Members would very much like for us to get resolved. There is no budget impact. All it does is say that this allows farmers suffering from drought, El Nino, fire, and other natural disasters to begin considering and receiving emergency transition payments that they are entitled to under the Freedom to Farm Act. As a matter of fact, I understand that it will allow them to get these benefits in October rather than having to wait until January. I did it for a reason.

If we don't get it resolved before we get to a final vote, then objections later on tonight would make it impossible for us to get any consideration.

If the Senator would indicate to me that there is some idea that we could get this agreed to tonight, I would be glad to work with him like I always do. But the timing was such that we have to do it now in order to get it considered, or it could be objected to after Senators have gone, and we would not get it completed.

I am trying to complete action so that we can go through a long list of Executive Calendar nominations, so that we could complete some more of them tomorrow. If we don't do these two issues now, they are basically gone until September.

I thought that—I understood there was an objection, but that we had worked through that, and that we would not have any problem in getting this cleared.

I had talked to Senators on your side of the aisle that have agriculture interests that indicated they would not object to this.

If there is some problem that we could resolve right quick, I would be glad to withhold. But we need to try to get this resolved, because it is something that is very important timewise to the Department of Agriculture and to the farmers that have been affected by drought.

We have worked this year on both sides of the aisle on the agriculture appropriations bill to get considerations for farmers that have been impacted by these disasters. This is just one way to do that.

Since there is no cost factor involved, it just gives authority for this to be moved forward.

Mr. DASCHLE. Mr. President, reserving the right to object again, I was consumed, I guess, in assisting the chairman of the Defense Appropriations Subcommittee in working down the amendments. We have been working on that tirelessly all day. The majority leader and I have worked throughout the day on a number of issues. Not once did he raise this issue with me. That explanation would have been welcomed, would have been appreciated 5 minutes ago, a half hour ago, 2 hours ago. But he surprises me at this hour after we cooperated all week on an array of issues working over these appropriations bills amendment after amendment. And I guess it is very, very disappointing to me.

I ask unanimous consent that an amendment that would provide $500 million in indemnity payments to farmers and that was passed unanimously on the Senate floor during the debate on the agricultural appropriations bill be attached to the bill that is now under consideration, and for which the majority has asked unanimous consent.

Would he accept that addition to the bill? Because, if he would, I am sure then that we could accommodate the majority leader and those who wish to pass this, as it was a surprise to the rest of us.

Mr. LOTT. Mr. President, this comes as no surprise to Senators interested in agriculture on either side of the aisle. In fact, I did bring this subject up to Senator DASCHLE earlier today, standing right there.

By the way, I have been working on amendments and Executive Calendar items while we have been having these last few votes. I have been talking to Senators on both sides of the aisle about nominations. I talked to Senator DORGAN who I know confers with Senator DASCHLE all the time about this particular unanimous consent request within the hour.

I don't believe there is anybody on either side of the aisle surprised by this.

Mr. DASCHLE. I am one.

Mr. LOTT. As a matter of fact, we just discussed it a moment ago.

If the Senator wants to object, he can go ahead and object. I think the implication here is that there is some sinister effort here. And it is certainly not true. This is something that is very noncontroversial. I don't know of any problem with it. I can't imagine why any Senator would object to it.

Mr. HARKIN. Will the Senator yield?

Mr. ROBERTS. Will the majority leader yield?

Mr. LOTT. With regard to his unanimous consent request, I have no idea of the ramifications of the unanimous consent request he just asked. I don't know what is involved there. We already passed the agriculture appropriations bill. There was action taken on that particular item.

I would not be able to agree to that at this point without checking with Senators that have been involved in that legislation with that amendment.

So there is no need in holding up the Senate any further. If the Senator wants to object, he can do so.

I am going to also ask unanimous consent that he go ahead and move on the H-1B issue which has been worked out previously in conference by both sides of the Capitol by both parties. This is an issue that we need to get resolved.

I thought that we had a reasonable resolution of the issue.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROBERTS. Mr. President, will the majority leader yield?

Mr. LOTT. I would be glad to yield.

Mr. ROBERTS. Mr. President, the basic reason I think this is so important is that the other body, the House, is going to pass this very same bill, and all it is, is one of the many steps that we need to consider and hopefully pass in regard to growing problems we are experiencing in farm country.

There was a great deal of press last week about the intention of the House to provide something called "advanced transition payments." All that does is provide the farmer an opportunity for a voluntarily decision which he can make as to whether or not he can accept next year's transition payments this year.

It means a considerable amount of money. And if we are able to pass the Farm Savings Account that Senator GRASSLEY has introduced, it will be of tremendous cash flow assistance.

I thought it was not controversial. Since the House is going to pass it next week, since the House is out of session, it made a lot of sense, it seemed to me, and many others, for us to deem it passed, or to pass it.

Farmers would then have, under the banner of consistency and predictability, the knowledge that they would have this as a tool.

Now, I can't tell you what we are going to do in September with the $500 million that was referred to by the distinguished Democratic leader. That is a place hold, and it is sitting there, and as we go through the situation of judging what is happening with adverse weather all around the country—in Texas, Oklahoma, Florida, Georgia, South Carolina, and the Northern Plains certainly—perhaps that number will change. We can take a look at it at that particular point.

As a matter of fact, I was just going to give to all the distinguished Senators from the Dakotas a proposal that I have had in regard to crop insurance and see maybe if the $500 million could be increased somewhat and funneled through crop insurance to answer these indemnity payment questions that have been raised.

But for goodness' sake, to object to this at this particular time—to give farmers the advance news that this is, as a matter of fact, on the table, that they can expect this, that they have some consistency, some idea of what is coming—I think is very untoward.

More to the point, I think it has been agreed to in a tremendous bipartisan effort in the House and, I had thought, in this as well.

Now, I understand that people perhaps don't get the word on each and every occasion, but I cannot imagine anybody objecting to this knowing full well in September we will get to the $500 million that the distinguished Senator has mentioned. I would certainly urge that we not object to this, we give the farmers a very clear signal, and we get on with the business.

Mr. LOTT. Will the Senator respond to a question?

Mr. ROBERTS. I would be delighted to respond if I can.

Mr. LOTT. I believe the Senator from Kansas has been working on this issue. He knew we were trying to get it cleared tonight. I made a specific call to him to contact Senators on both sides of the aisle and discuss this issue. I assumed that he was doing that. I had the impression that it had been—any holds or objections had been cleared.

Did it come as surprise to the Senator? Does the Senator think it came as a surprise?

Mr. ROBERTS. I am always pleased, if I can respond to the majority leader, to be Garcia and run the trap lines for anything that could be proposed by the Senator and the distinguished leader of the minority. I have checked with a great many Senators. I thought it was pretty much common knowledge. I have checked with the chairman of the Subcommittee on Ag Appropriations, the distinguished chairman of the Senate Agriculture Committee, checked with Senator DORGAN, checked with Senator CONRAD, and checked with others. I could go down the list. But I just did not anticipate that there would be an objection, and so consequently—or, more especially, when the very subject that Senator DASCHLE indicated is already in the Agriculture appropriations bill.

As a matter of fact, I think if we fund it now, you could make the argument that later down the road, in regard to disaster assistance, there would not be any more forthcoming. I apologize if it is my fault, if in fact I was supposed to run the trap line and I didn't run all the traps. I am sorry, but I just did not anticipate that this would be this much of a problem.

Mr. DASCHLE. Mr. President, reserving the right to object, we can play these games all night long, and there are a lot of people who are tired. This isn't the way to end what I thought was a fairly productive week.

We are not going to object. Let's just quit playing these kinds of games. Let's just get on with it. Let's pass it. But let's all be aware of what we have done.

You and I have a good relationship. We ought to keep it that way. I don't like being dealt with this way. I will accept it this time, but I wish we would work in the manner in which we have been working all week.

This is a very serious, important issue. There are a lot of political ramifications, and we can play the political game. The fact is that there are a lot of people out there who want some help. This is going to be a little help. I wish we could pass the indemnity payment tonight. I don't see why we could not. The fact is that we would pass it unanimously, and that would be new money, $500 million in new money. I wish we could do that just as easily as we are going to agree to pass this thing that isn't going to mean that much. But we will pass it.

But I must say, we shouldn't be doing it this way. I have been here all night. I haven't left the floor. Somebody could have come to me to say, look, we want to do this. Instead, what has happened is that this was sprung on me.

Now, you don't have to apologize. Nobody has to apologize. It just isn't the way we ought to do business.

So, Mr. President, we don't object.

Mr. LOTT. Mr. President, I appreciate the fact the Senator did not object.

Mr. HARKIN. Reserving the right to object—I will reserve the right to object. Is this unanimous consent on advancing AMTA payments? Is that what is before the body right now?

Mr. President, parliamentary inquiry. What is the unanimous consent before the Senate right now?

Mr. LOTT. Mr. President, if I could respond, it is unanimous consent that the Agriculture Committee be discharged from further consideration of S. 2344, which is a bill that allows farmers who are suffering from the drought to begin receiving emergency transition payments that they are entitled to in October instead of having to wait until January.

Mr. HARKIN. I would ask the proponents, I would ask the majority leader then, is this the unanimous consent that would reopen the 1996 farm bill? Because the farm bill stipulates that a farmer could get half of the payment if he wanted to in December or January and could get the other half the next September.

That was in the farm bill. As I understand it, this then changes what the farm bill provides. Is that correct?

Mr. LOTT. It says, as I understand it, that they would get the same amount they would get either way. They would just get it earlier in the year instead of later in the year so they could begin to deal with the problems that they have had to face as a result of disasters.

Mr. HARKIN. Further reserving the right to object then, this then would undo some of the provisions that were in the 1996 farm bill, because it changes the dates and circumstances under which the farmer could get the AMTA payment, as it is called.

I understand that some people want to do that and they want to reopen the farm bill. That is fine. But I would remind my colleagues that a couple of weeks ago we offered an amendment to take the caps off the commodity loan rates. For a typical Iowa farmer with 500 acres of corn that amendment would have put about $20,000 of additional income in the farmer's pocket this fall. Not only does this bill involve significantly less money for that farmer, but it only advances money that he is already going to get anyway. As far as increasing income to the farmer, this bill doesn't do a darned thing.

What we need to do is to get the indemnity payments through that Senator DASCHLE is talking about, $500 million. There are a lot of farmers out there who are hurting very badly. I have to tell you, there is a crisis in agriculture today. Farmers have been devastated by bad weather, by crop disease in the Upper Midwest, and especially in the Dakotas.

We can pass the $500 million for indemnity payments tonight. Why don't we pass that measure by unanimous consent right now to get that $500 million in indemnity payments out to farmers immediately? Why can't we do that?

I ask the majority leader, why can't we pass that?

Mr. LOTT. Mr. President, this is a bill that has been offered. It provides help now. I know no Senator would want to delay that help that they were going to get anyway. We just get it earlier. This is a bill that is going to pass the House next Monday, probably unanimously, which would provide some more immediate help to these farmers.

There is no effort to play games here. This is an effort to provide some help to the farmers who need it as soon as they can possibly get it. That is all there is to it. The idea we are playing games here—I will be glad to yield to the Senator from Idaho.

Mr. CRAIG. Mr. President, I had the privilege of working with Senator CONRAD on crafting the indemnity payment. We cooperated with Senator COCHRAN in getting it in the agriculture bill. We are going to go to conference right soon. We think that will be in the new fiscal year. You talk about immediacy of payment? We hope that will be available by late this year to deal with some of these agricultural problems.

But I must say, it has not been shaped to my satisfaction. Senator CONRAD and I have talked about how we would work within the conference to make sure that it is a legitimate approach toward a true disaster environment. This is a broader approach that deals with more farmers.

The definition under which Senator CONRAD and I shaped that—he being the primary author—dealt with double, back-to-back disasters. It is narrower by scope. We may want to adjust that some. I would not think tonight we would want to just accept it as it was originally crafted with its narrowness. The problem is already much larger today than when we passed it, by character of the drought and heat in Texas and in other States. It is already broader. We will want to look at that again.

It is not that I am objecting. I am saying I think we will be working together in the conference of the Ag approps to make that a viable approach as we originally thought it ought to be.

Mr. LOTT. Let me ask Senator CRAIG, if he would respond, do you think this bill, which is very limited, with no budget impact, would, at any rate, still provide some help quicker to the farmers who had been affected by these disasters?

Mr. CRAIG. There is no question it does. Is it something new? No. Is it advanced? You bet it is. When the crops dried out in the field and the banker wants you to pay your bills and you can pay them sooner than later, then it is a big help. This is not opening up Freedom to Farm. This is advancing a payment that is already built within that structure. That is why there is the budget impact about which the majority leader spoke.

I hope we can work together to resolve this, as we thought we had, so that this can move forward this week to deal with the problems that are very current in our agricultural sector.

Mr. LOTT. Mr. President, I renew my unanimous consent request.

Mr. CONRAD. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. CONRAD. Mr. President, reserving the right to object, and I will not object—but I do object to what has occurred here, in terms of the way we are dealing with each other.

When I worked to put together an indemnity plan, I went to Members on the other side and I consulted with everyone. On this matter, there was no consultation.

Mr. LOTT. Mr. President—did we not have conversations with Senators?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. CONRAD. No, no, I have reserved the right to object. I just say this: My name was raised as having been consulted; I haven't been consulted. I was not consulted. So, when my name is raised on the floor of this body and it has been said publicly that I was consulted, that is not the case. In fact, I heard a rumor that this was occurring and went to another Member.

I am just saying, in terms of the way we treat each other here, this is not quite the way it ought to be done. I would hope we would truly work together to advance the interests of our farmers who, in many parts of our country, are, indeed, financially troubled.

There is no question this proposal is of some help. It is no new money, but it is of some assistance.

But I couldn't be silent when it is suggested people came and consulted with us. That did not happen. The Democratic leader is precisely right; there was no consultation, at least with this Senator.

Mr. LOTT. We are late in the hour. I see a number of Senators from farm States who would like to speak, perhaps, on this.

Senator HUTCHISON, I know her State of Texas has been affected by the drought. Is this a matter that would be helpful in your State of Texas?

Mrs. HUTCHISON. Mr. President, if we let the perfect be the enemy of the good, we are going to let a lot of people down who are in desperation right now. This is a good bill. I think the debate can be legitimately waged, but, please, at this late hour, as we are leaving for a month, do not fail to let us have this relief. These farmers can get credit if they can get that payment moved up. It is no new money. But they need this help. This will help my State, which is the most drastically affected at this point with this drought.

I urge you, for whatever other reasons it may not have been handled right, let this unanimous consent go through. It will be to everyone's benefit who has a stake here. Let's work out the other problems when we can. We are going into a month recess.

Mr. LOTT. Let me say again, Mr. President, when you get to the end of a period of time like this, when you are fixing to go on a recess for an extended period of time, there are a lot of bills, there are a lot of issues we are dealing with, a lot of nominations we are trying to clear.

I am either going to have to do it now or later tonight or tomorrow, when everybody else is gone. We wouldn't have been able to get this cleared, probably, tomorrow. But by doing it now, I think everybody will realize that this is something that will help. It is not that controversial, and we can get it done and we can move on to the recess and feel like we did something here that will be helpful. We will have other opportunities before the year is out to provide more help as we go through the conference.

Mr. DORGAN. Mr. President, reserving the right to object.

Mr. LOTT. Mr. President, I know there are a lot of Senators on their feet, but in an effort to try to be fair before I move for regular order, I am going to withhold so the Senator from North Dakota can comment and then the Senator from Georgia, and then I will ask for the regular order.

Mr. DORGAN. I do not intend to object. I have no quarrel with this provision that is being proposed tonight.

Mr. LOTT. Didn't I call the Senator and ask if there was a problem?

Mr. DORGAN. You did call within the last hour or so. I indicated to you there was no problem with this provision, and I do not object to this provision.

But I do want to make the point that the Senate has debated and passed an emergency provision calling for $500 million of indemnity payments. That is the only new money available. It is the only new money around in the appropriations process. If it is completed by October 1, then perhaps we may get money into the pockets of some farmers. We have seen prices collapse even further in recent weeks. It may get money into the hands of some farmers, perhaps in October—unlikely—perhaps November, maybe December.

My proposition is that to the extent that we have already debated this subject, the Senate, by 99 to nothing, has said we have an emergency in farm country. They have already passed a $500 million indemnity payment program. It makes eminent good sense to me that we would be able to pass that indemnity program this evening and move it to the House. Does the House want to deal with it? I don't know. But they won't have an opportunity to deal with it in any timely way if we don't proceed.

I have no objection at all to what the Senator is requesting. I simply ask that he consider, and we consider, taking the $500 million we have already decided upon and see if we can't move that to the hands of family farmers, many of whom are desperately strapped for cash.

As soon as the Senator has completed getting his unanimous consent and as soon as I am able to get the floor, I intend to ask unanimous consent the Senate will proceed to the bill providing the $500 million of agriculture indemnity payments, which was agreed to as an amendment to the agricultural appropriations bill, and the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

If someone objects to that, fine. But I hope they would not object to it. We will not object to this. I think this may help. I hope you will not object to that, because I know it will help. It would help in a more timely way than will be the case if we wait until after recess, and farmers have to wait until November or December. Perhaps we can help farmers to get some help from that provision earlier.

Mr. LOTT. I yield to the Senator from Georgia.

Mr. COVERDELL. Mr. President, I have just returned from a disaster area in our State. It is the most emotional difficulty, I believe, with which I have ever dealt. And I have dealt with a 1000-year flood and a 500-year flood. Back-to-back crises like this are enormous.

I heard the exchange between the majority and minority leaders. I understand the tensions of the day. I appreciate the minority leader, in deference to the issue involved, removing his right to object. I appreciate that.

That removal of an objection will lead to the movement and option of farmers, in many States, to relieve their cash flow problem. They have an equity problem. The proposal that the minority leader has mentioned, about the $500 million, and others, is something for the broader issue. There are many issues we are going to have to bring to the table to deal with this crisis. That is one idea. It is probably not near enough. It wouldn't take care of Georgia and South Carolina, much less Alabama and Texas and the Midwestern States.

We do have a major issue in front of us dealing with food and fiber and the Nation's security. I hope we could proceed this evening with that which does not require new funds and it is simply a logistical and administrative decision that will move money more rapidly.

I say to the leader, I appreciate the chance to speak on this. Again, I thank the minority leader for removing his objection.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed; that the motion to reconsider be laid upon the table; and that any statement relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The bill (S. 2344) was considered read the third time and passed, as follows:

S. 2344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Farm Financial Relief Act".

SEC. 2. SPECIAL RULE FOR FISCAL YEAR 1999 PAYMENT UNDER PRODUCTION FLEXIBILITY CONTRACTS.

Section 112(d) of the Agirucltural Market Transition Act (7 U.S.C. 7212(d)) is amended by adding at the end the following:

"(3) SPECIAL RULE FOR FISCAL YEAR 1999.—Notwithstanding the requirements for making an annual contract payment specified in paragraphs (1) and (2), at the option of the owner or producer, the Secretary shall pay the full amount (or such portion as the owner or producer may specify) of the contract payment required to be paid for fiscal year 1999 at such time or times during that fiscal year as the owner or producer may specify.".

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate receives the House bill relative to H-1B, the text of which I send to the desk, the bill be deemed agreed to and the motion to reconsider be laid upon the table. I further ask that if the text of the House-passed bill is not identical to the text just sent to the desk, then the House bill will be appropriately referred.

Mr. DASCHLE. Mr. President, there are objections on our side.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, I believe we are ready to go to final passage of the defense bill.

Mr. STEVENS. I ask we proceed with the unanimous consent agreement.

The PRESIDING OFFICER. The question is, Shall the bill, H.R. 4103, as amended, pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—97

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—2

Feingold
Wellstone

NOT VOTING—1

Helms

The bill (H.R. 4103), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair appoints the following conferees.

The Presiding Officer appointed Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mrs. HUTCHISON, Mr. INOUYE, Mr. HOLLINGS, Mr. BYRD, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, and Mr. DORGAN, conferees on the part of the Senate.

The PRESIDING OFFICER. Under the order, S. 2132 is indefinitely postponed.

UNANIMOUS-CONSENT REQUEST— S. 2344

Mr. DORGAN. Mr. President, as I indicated to the majority leader, it is my intent to ask unanimous consent that the Senate proceed to the bill which provides $500 million in agricultural indemnity payments which was agreed to as an amendment to the agricultural appropriations bill, and the bill be read the third time and passed, and the motion to reconsider be laid upon the table.

Mr. GREGG. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. WELLSTONE. Mr. President, I heard on the other side of the aisle a chorus of "I object." I am not quite sure why.

I was on a show this morning, WCCO Radio, in Minnesota. It is hard to explain to farmers why we can't take the action right now on the indemnity payment, the $500 million. We passed it. The correction would be made later on, but we can get assistance to farmers right now.

Why can't we send this over to the House? I say to my colleagues.

Mr. CRAIG. Will the Senator yield?

Mr. WELLSTONE. I am pleased to yield.

Mr. CRAIG. I helped craft that indemnity payment. It is very important we do work with the House. Senator CONRAD, I, and others, deserve to go to conference. Senator DORGAN was a part of that.

I can understand a rush to immediacy. That is in the next fiscal cycle. I think it is important we deal with it in a fair and balanced way. As it is written, already the circumstances of agriculture have changed significantly enough. We deserve to look at it in a broader spectrum.

We, the Senate, tonight acted to bring some immediacy to the difficulty you are expressing. There may be more to be done in the coming weeks as this whole difficulty with production agriculture increases across our country.

Mr. WELLSTONE. Mr. President, let the RECORD show I am speaking for myself, but let the RECORD show that there was no objection to moving forward on advance payments for this "freedom to fail" bill, which is just an admission what an awful piece of legislation it was on our side. In addition, we could have gotten a $500 million indemnity payment out to farmers.

People are asking, when are we going to see this assistance? People are thinking about a lifetime of 2 months or 3 months.

I hear this discussion that we need to take a broader view, it needs to go over to the House, and we need to work it in conference committee, and we haven't had a chance to meet yet in conference committee. Do you know how ridiculous that sounds to the people whom we represent?

Mr. President, I will just say I don't think it is just that simple. Obviously, I am not going to change the course of events tonight.

My colleague from Iowa came out here earlier and spoke about this. First, the minority leader asked whether or not we also could have unanimous consent to get this indemnity payment out to the countryside, out to families in rural America. Then the Senator from Iowa spoke about it. Then the Senator from North Dakota comes to the floor, after we have agreed to go forward—fast forward the advance payments was just fine with this Freedom to Farm bill. And now we come out and the Senator from North Dakota asks unanimous consent that we get the $500 million—when did we pass that? I ask my colleagues.

Mr. DORGAN. Almost a month ago.

Mr. WELLSTONE. A month ago. We get this out now, over to the House of Representatives; they take action this week or next week; and then we get the assistance out to farmers.

And what I hear on this side is this chorus of "No," and then everyone leaves. With all due respect, it is not that simple. I want the farmers in Minnesota and I want the farmers across the country to know that there was an effort made tonight to get some additional help to people above and beyond these advance payments, which will help only a little.

It is a desperate situation. Many people are going to go under over the next several months. There was an effort tonight to get $500 million passed, over to the House, and out to farmers all across the country, especially in those areas that have been hardest hit. And my colleagues on the other side said no. And they are gone.

I will be willing to yield in 1 second. I would like to speak a little bit more about this for another 3 minutes. It is not that simple. I will just say to my colleagues on the other side, I see that it is late at night, but I will just say to them, it is not as simple as saying no. You said no to a proposal, to an effort to get assistance to people now. We could have done it. We have done it.

I think the RECORD should be very clear. I want every single farm family in northwest Minnesota that is in desperate shape to know that this proposal was turned down by the Republican Party—unwilling to do it. We were more than willing to help out a little bit with moving forward on the advance payments. No reciprocation or cooperation on the other side in getting the $500 million out to people right now.

I don't think it will be very easy to explain to people why we are waiting another month. I don't know whether we should have even left. It is sort of interesting to me, a bitter irony. Now we are gone. We probably shouldn't have gone. We probably shouldn't be going into recess.

How do you say to people, well, it will be in a conference committee and we haven't quite got that together and we just didn't want to do it tonight because there are some things that I am not satisfied with as a Senator and I would like to work on that longer?

The future is now for people. Time is not neutral. We could have passed something which would have provided $500 million to farmer families that are in real trouble, and we didn't do it. I am embarrassed that we are going into recess. I am embarrassed that the U.S. Senate blocked this. I am embarrassed, specifically, that my Republican colleagues blocked it.

I didn't get a chance to talk earlier because the majority leader tried to move things along, said he would recognize two Senators, and the Senator from Georgia was the last Senator. So now I get to speak. I think it is just outrageous.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I simply wanted to make the point that the reason I asked the unanimous consent request really has nothing to do with the request by others to advance the Agriculture Marketing Assistance Act, or AMTA payments as they are called, under the Freedom to Farm bill. I didn't object to that. If that will help a producer here and there, that is good. Anything that helps gets assistance into the pockets of family farmers, I am for that. So I didn't object to that. I told folks this evening I wouldn't object to that.

But, this is not new money at all. This is just a payment that they are supposed to get later on. Now, they might get this payment earlier or at least they will have the option to get it earlier.

I was thinking about the farmer who testified yesterday at our farm policy hearing. This was young fellow from South Dakota who testified. When he talked about putting the crop in this spring, he could barely continue. His chin was quivering, and he had tears in his eyes. He talked about having to find something on his farm to sell in order to get the money together to put in his crop. Then things went bad for him and he was out of money again. He had to sell some of the feed for his cattle that he put aside for this winter. He didn't have any money. He talks about the need to feed his kids, the need to provide for his family. He could barely continue because he was talking about something that is much more than a business. It is a way of life. This was life, and his dream. I had a call from a guy in Sarles, ND. You could hear the pain in his voice. Everything that he has, everything that he owns, everything that he aspires to, everything that he has fought and worked for in his family is on the line. He said, "You know, I'm going to harvest my barley and I'm going to have to take it right to the elevator. Prices have crashed, I am not going to get anything for it. I don't have a choice. I have to pay back my lender, and feed my family." The pain was so evident in his voice. He was asking, "What can I do? Is there help someplace?"

The point of both of these producers is that they didn't cause these conditions. They didn't cause the Asian financial crisis that has caused our exports to start to slow down and prices collapse. They didn't cause the crop diseases that have devastated these crops. They didn't cause the price collapse of wheat and barley. It is not their fault. The question for this country is whether we are going to have any family farmers left. And, does anybody care about that?

This Senate did something that I thought was the right thing to do. We passed an indemnity program of $500 million. Frankly, that is going to have to increase substantially. Since that time, in the last several weeks, we have learned that the Texas cotton crop is gone, with over $2 billion in damage. In Louisiana and Oklahoma, the agricultural economies are devastated. So the $500 million is going to have to be increased. The point is, while I think advancing the Freedom to Farm payments is fine, I think we can do more by deciding to take the $500 million we have already agreed upon and advance that and move that out.

The earliest farmers are going to get these indemnity payments would be perhaps November or December. Tonight, we could have taken that $500 million and made it available. We could have sent it to the House, and let them pass it. Next week, or the week after, the Department of Agriculture could have begun to try to deal with this deepening farm crisis. This isn't an ordinary crisis. I have mentioned before that we have so many auction sales of family farms in North Dakota that they were calling auctioneers out of retirement to handle the sales. You can go to those sales and see these little tykes wearing their britches and cowboy hats with hair in their eyes, wondering why mom and dad have to sell the farm, and why their life is going to change. You can see the husband and wife with tears in their eyes, watching people bid on their machinery. Most of the equipment is old because they can't afford the new machinery. You can see the pain being suffered out in the great plains.

I am disappointed tonight. I wish we could have done what we have already decided to do. We should make $500 million available now. We should do it sooner rather than later. We will come back in September and have another significant debate. Advancing the Freedom to Farm payment is fine. It may help some producers. If it does, I am for that. But we must do more. This Congress must decide that family farmers matter. This isn't just about dollars and cents, or about economic theory. With all that is going on in agriculture, including unfair trade, unfair competition, a choked market, monopolies up and down and sideways, and everywhere, we are losing something very important. We are losing family farmers. Then all the yard lights will be turned off on these farms. You will fly from California to Maine and you won't see family farms because agrifactories don't have yard lights. They plow as far as you can plow for 10 hours, and they plow back. There will be nobody living out in the country. That seed bed of family values that existed and that nurtures us from small towns to America's cities, and which has always refreshed this country will be gone. Then somebody will scratch their head and say: What happened to our country? What will have happened is that this Congress didn't understand, as some other countries do, that family farmers make a difference in our national life. It is not just dollars and cents. It is a lot more than some economic calculation made by those who give us a bunch of constipated theories about agriculture. This is everyday living by farm families that just ask for an even chance to make a decent living. Yet they are confronted in every direction by monopolies, price collapse, disease, and then by a Government that says they want to pull the rug out from under them on price supports.

What if the Government tried to do that on the minimum wage? They would say, "Let's reduce the minimum wage to $1 an hour and call it freedom to work." It's the same thing. The fact is, we must come back here in September and have a real debate about real policies that will give family farmers in this country a real opportunity to make a decent living. They are the economic all stars in this country. Make no mistake about it. This country will make a serious mistake if it turns its back to the economic opportunity that ought to be offered to the family farmers in this country.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, perhaps it is healthy that we had a discussion on the farm crisis started again tonight. It is unfortunate the way it came up because, typically, those of us who represent farm country have tried to work together. That did not happen tonight. That is unfortunate. There is no great harm done. In fact, we passed something that will be modestly helpful, although it represents no new money.

Mr. President, the reason there is such a high level of feeling about what is happening in farm country is because we face an unmitigated disaster. In North Dakota, farm income declined 98 percent from 1996 to 1997. The result is a massive number of auction sales, and the result is that the Secretary of Agriculture came to North Dakota and his crisis response team said that we are in danger of losing 30 percent of our farmers in the next 2 years. That is a disaster of staggering proportion.

Of course, it is not limited to North Dakota because we have the lowest prices for wheat and barley in 50 years. Those prices continue to crash. I just received a phone call from a farmer back home in North Dakota, who heard this debate occurring and he said, "Don't they know down there that just shuffling payments is not going to solve the problem? Don't they know that this kind of shell game is not what is needed? What is needed are additional resources to fight what is an international trade war. Don't they know that Europe spends 10 times more supporting their producers than we do supporting ours? Don't they know Europe is spending 100 times more than we are supporting exports? Don't they understand the result is not only the lowest prices in 50 years, but in addition to that, disasters that are not being addressed?"

The disaster in North Dakota is the outbreak of a disease called scab, a fungus that is loose in the fields, which cost us a third of the crop last year. That combination of the lowest prices in 50 years and losing a third of the crop to this horrible disease, scab, has meant devastation to farm income. As I indicated, there has been a 98 percent reduction in farm income from 1996 to 1997, with literally thousands of farmers being forced off the land this year, and many more coming next year. One of the major agricultural lenders in my State called me and told me, "Senator, there is something radically wrong with this country's farm policy. If a State like North Dakota, which is one of the breadbasket States of our country, is in a farm depression, then there is something radically wrong with the farm policy.

Mr. President, I just want to conclude by saying that we do face low prices in North Dakota. It is not just in North Dakota because now it is spreading to other States as well. They are being hit by the low prices, but they are also being hit by these disaster conditions. In different parts of the country, it is different kinds of weather disasters. In Oklahoma and Texas, it is overly dry conditions, a drought. It's the same thing in Louisiana. In our part of the country, it is overly wet conditions that led to this outbreak of the fungus called scab. In other parts of the country, it has been hurricanes.

The combined result is a farm crisis worse than anything we have seen since I have been in public life. I have been in public life now for over 20 years.

Mr. President, I hope when we return that we are ready to aggressively address this problem. What we did tonight will help. It is not new money. It just moves money forward. That will be of some assistance. But it in no way solves the problem. We have a crisis of staggering dimensions, and it requires our full response.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, we are now in the closing process for the evening, and we have several matters to be considered.

MORNING BUSINESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDIA CAMPAIGN HELPS INFORM CONGRESSIONAL ACTION ON ENCRYPTION

Mr. LOTT. Mr. President, I rise to recognize the continuing efforts of Americans for Computer Privacy (ACP), a broad-based advocacy coalition, to energize the discussion now taking place in Washington on encryption. ACP has a role since they represent industry, private citizens and interest groups from all sides of the political spectrum. The computer industry believes, as do many members in both the House and Senate, that it is time to reform America's outdated encryption regime. Last week, an important step was taken when a multimedia campaign was launched to raise Congressional and public awareness on the encryption issue. This campaign includes television commercials, print media, and an online banner component with such statements as, "would you give the government the keys to your safety deposit box or home." In the past few days, television commercials highlighting the need for encryption reform have appeared during Good Morning America, the Today show, Hardball, and Cross Fire.

Mr. President, ACP has an impressive membership which includes such organizations as the Law Enforcement Alliance of America, the Louisiana Sheriff's Association, American Small Business Alliance, Americans for Tax Reform, Electronic Commerce Forum, Information Technology Industry Council, the National Association of Manufacturers, the U.S. Chamber of Commerce, and over sixty technology companies. It's bipartisan advisory panel includes several intelligence and law enforcement experts such as former National Security Advisor Richard Allen, former NSA Deputy Director William Crowell, former CIA Director John Deutch, former FBI Director William Webster, and former San Jose Police Chief Joseph McNamara. This array adds credibility to their message.

As you are well aware, encryption plays a significant role in our daily lives. This technology scrambles and unscrambles computer text to keep private communications from being read by unauthorized individuals such as hackers, thieves, and other criminals. Encryption protects private citizens credit card numbers when they buy something over the Internet, ensures that only authorized medical personnel can read a patients' medical records stored on a hospital database, shields tax information that we send to the IRS, and safeguards personal letters that we E-mail to loved ones. Encryption means that American companies can protect confidential employee information, such as salary and performance data; valuable trade secrets and competitive bidding information; and critical target market data.

Encryption also benefits America's security by protecting our nation's critical infrastructures, like the power grid, telecommunications infrastructure, financial networks, air traffic control operations, and emergency response systems. Strong encryption thwarts infiltration attempts by computer hackers and terrorists who have destructive, life threatening intent.

Yes, this is an issue that truly affects all Americans.

By allowing a public policy that limits encryption to continue, we risk sending more potential U.S. business overseas. This approach only serves to harm America's economic and national security interest by encouraging criminals to purchase foreign made products now widely available with unlimited encryption strength. By contrast, the broad development and use of American encryption products should be advantageous to our law enforcement and intelligence communities.

I must say that I am deeply troubled by the comments made by Commerce Under Secretary William Reinsch, head of the Bureau of Export Administration, in response to ACP's efforts. Apparently, Under Secretary Reinsch doubts that this initiative will work—that industry and privacy advocates are wasting their money. I disagree. This media campaign is rightfully educating the public about the importance of encryption in our every day lives. These advertisements make clear that encryption technology preserves our First Amendment right to freedom of speech and our Fourth Amendment freedom against unreasonable search and seizure. They illustrate that we need strong security to keep all Americans safe from infrastructure attack. And they explain that Americans and computer users everywhere must feel confident in the knowledge that their private information will remain private. Clearly, the development and use and strong encryption is critical if Internet commerce is going to grow to its full potential and sustain the economic engine that is driving this country into the 21st century.

I believe this advertising campaign is yet another indication of industry's willingness and desire to find a reasonable solution to the encryption issue. Industry and privacy groups, for example, have been working in earnest with Administration officials for several months. In May, a proposed interim solution to the encryption issue was offered. The Administration responded that it would take five to six months to review the proposal. This reaction in conjunction with Under Secretary Reinsch's recent comments, lead many in Congress, from both sides of the aisle, to conclude that the Administration, despite what it has been saying publicly, does not want to see a balanced resolution before this Congress adjourns.

Mr. President, I think it is also important to reiterate that the Administration's restrictions against U.S. encryption exports and its proposals to control domestic use just cannot work. Innovation in the high tech industry is relentless and ubiquitous. The government cannot stop it. It is for this reason that industry is trying to persuade the Administration that innovation is the solution to this issue, not the enemy. Two weeks ago, a coalition of thirteen companies proposed "private doorbells", a technology solution that would provide law enforcement with court approved access to computer messages. Clearly, industry leaders want to help officials capture criminals and terrorists. I believe the ideas they have put forward are reasonable and responsible. On the other hand, I do not believe the Administration's response has been forthcoming. Encryption policy can be modernized with the stroke of a pen, but the Administration has shown little willingness. Thus, industry takes appropriate action by implementing a media campaign.

While encryption is a complex and divisive information technology issue, this media initiative reinforces the need for legislation to bring America's encryption policy into the 21st century. The national security and law enforcement communities have legitimate concerns that must be considered. I believe that the best way to deal with these concerns is to pass during this Congress legislation that strikes a balance on encryption. Legislation that would help keep private and corporate communications away from hackers, terrorists and other criminals, provide a level playing field for U.S. encryption manufacturers, and ensure Constitutional protections for all Americans. A number of my colleagues have been pushing for this type of reform for years and several competing encryption bills have been offered in both the House and Senate during this session.

Mr. President, as you may recall, I engaged in a colloquy with my colleagues last week which reinforced the need for Congress to act during this session to break the impasse. This is a difficult issue, not easily explained or understood, but it is a crucial one. Momentum has been built in both the House and Senate toward finding a workable solution. Congress must seize upon these efforts and pass a consensus encryption bill now or risk starting all over during the next session. Congress has come too far on this issue to go back to the beginning.

Americans need a sound and reasonable encryption policy that protects public safety, reinforces security, promotes digital privacy, and encourages online commerce and economic growth. Without the development and use of powerful encryption, we may bear the consequences of the next hacker's attack on the Pentagon's information network, a terrorist attack on the city's power supply, or a thief's attack on the international financial markets.

With over $60 billion and over 200,000 jobs at stake by the year 2000, the House and Senate cannot continue to hope that the Administration will reach an amicable solution that satisfies the needs of all parties. I strongly encourage my colleagues to report out a balanced encryption bill that Congress can act on before the end of this session. Before it is too late.

INSTALLATION OF WILLIAM B. GREENWOOD AS PRESIDENT OF THE INDEPENDENT INSURANCE AGENTS OF AMERICA

Mr. FORD. Mr. President, I rise today to commend a fellow Kentuckian and my friend, William B. Greenwood of Central City, who will be installed as president of the nation's largest insurance association—the Independent Insurance Agents of America (IIAA)—next month in Boston. Bill is president of C.A. Lawton Insurance, an independent insurance agency located in Central City.

Bill's career as an independent insurance agent has been marked with outstanding dedication to his clients, his community, IIAA, the State association—the Independent Insurance Agents of Kentucky—his colleagues and his profession.

At the state level, Bill served as president of the Independent Insurance Agents of Kentucky in 1983, and was named the Kentucky association's Insurer of the Year in 1986. He was Kentucky's representative to IIAA's National Board of State Directors for seven years beginning in 1985.

Bill also has been very active with IIAA. He served as chairman of its Communications and Membership Committees as well as chairman of the Future One Communications Task Force. Bill was elected to IIAA's Executive Committee in 1992 and since then he has exhibited a spirit of dedication and concern for his 300,000 independent agent colleagues around the country.

Bill's selfless attitude also extends to his involvement in numerous Central City-area community activities. He received the 1989 Kentucky Chamber of Commerce Volunteer of the Year Award. He is on the Boards of Directors for the Leadership Kentucky Foundation, Kentucky Audubon Council Boy Scouts of America, and Central City, Main Street, Inc.

In the past, Bill served on the Board of Directors of the Muhlenberg Community Theater, the Everly Brothers Foundation, and the Central City Main Street and Redy Downtown Development Corporation. Also, Bill is past president of the Central City Chamber of Commerce and the Central City Lions Club.

Bill's professional endeavors outside IIAA extend to serving on the board of directors and serving as president of the First United Holding Company, which owns Central City's First National Bank.

I have complete confidence that Bill will serve with distinction and provide strong leadership as president of the Independent Insurance Agents of America. I wish him and his lovely wife, Leslie, all the best as IIAA President and First Lady over the next year.

UTAH ASSISTIVE TECHNOLOGY PROGRAM

Mr. HATCH. Mr. President, today I pay tribute to the noteworthy efforts of the Utah Assistive Technology Program, which has helped empower individuals with disabilities, allowing them to live more rewarding, productive, and independent lives.

An estimated 216,100 Utahns of all ages—approximately 10 percent of our state's population—live with a disabling condition. Assistive technology provides a means whereby these individuals can live and work in virtually all areas of society. Stated plainly, assistive technology not only improves the quality of life for individuals with disabilities but also enables the rest of us to have the benefit of their contributions.

The term "assistive technology" encompasses all devices that improve the functional capabilities of individuals with disabilities. Such devices can be as simple as a wheelchair or as high-tech as an electronic Liberator, a technological apparatus that makes communication possible for disabled individuals who are not able to speak. Organizations such as the Utah Assistive Technology Program provide services that assist disabled individuals in the selection and acquisition of these products.

With the help of assistive technology, children have received a more meaningful and challenging education; adults have undertaken rewarding careers; and senior citizens have continued to live independently in their own homes.

The Tech Act, as it is known, passed by Congress in 1988, has proven invaluable to the realization of these goals. Under this act, Utah has established an impressive assistive technology program. According to my fellow Utahn, Ms. Corey Rowley, chairperson of the National Council on Independent Living Assistive Technology Task Force, the effectiveness of the Utah Assistive Technology Program lies in its ability to initiate and coordinate projects with all relevant Utah agencies—an integrated effort that transcends any one piece of federal legislation.

Prominent among its achievements is the creation of the Utah Center for Assistive Technology in Salt Lake City—a statewide service center that provides invaluable assessments and demonstrations of applicable assistive technology devices to consumers. This center also provides people with informative guidance concerning available resources to acquire these services. While federal funds from the Tech Act were crucial to the center's creation, it is now fully funded by the state. This is an excellent example of how Utah has been able to leverage a small amount of federal funding.

Mr. President, we must make sure that the Tech Act is reauthorized. While this act has already enhanced the lives of many Americans, a great need still exists. We must do more. It seems clear that the need for assistive technology in the coming years will increase as America's population ages. Moreover, we must take full advantage of scientific and technological advances that can be applied to persons with disabilities.

Congress will have the opportunity this year to continue a modest federal effort to empower individuals with disabilities to learn, to work, and to prosper. I hope that all my colleagues will support this program.

HONORING THE WRIGHTS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Lonnie and Regina Wright of Goshen, Arkansas, who on August 4, 1998, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Wrights' commitment to the principles and values of their marriage deserves to be saluted and recognized.

RECOGNITION OF ACHIEVEMENT

Mr. ASHCROFT. Mr. President, I rise today to extend appreciation to Arsalan Iftikhar for his service as an intern in my office during the Spring of 1998. Arsalan set the highest standard of excellence on a project undertaken by my Operations Team.

Since I was elected in 1994, my staff and I have made an oath of service, commitment, and dedication. We dedicate ourselves to quality service. America's future will be determined by the character and productivity of our people. In this respect, we seek to lead by our example. We strive to lead with humility and honesty, and to work with energy and spirit. Our standard of productivity is accuracy, courtesy, efficiency, integrity, validity, and timeliness.

Arsalan has not only achieved this standard, he set a new standard on the project he was given. He exemplified a competitive level of work while maintaining a cooperative spirit. His performance truly was inspiring to my entire office. It is with much appreciation that I recognize Arsalan's contribution to me and my staff in our effort to fulfill our office pledge and to serve all people by whose consent we govern.

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COMMUNITY SERVICES BLOCK GRANT LEGISLATION

Mr. ASHCROFT. Mr. President, I would like to take this opportunity to thank Senator COATS, the Chairman of the Labor Committee's Subcommittee on Children and Families, for the excellent work he has done in drafting legislation to reauthorize the Community Services Block Grant, which recently passed in the Senate. The CSBG program is intended to fight poverty and alleviate its effects on people and their communities. Through these block grants, federal money is given to the states and local communities to create programs that help low-income people secure employment, get an adequate education, make better use of their available income, obtain and maintain adequate housing, and ultimately achieve self-sufficiency.

These block grants free states and local communities of federal red tape and give them the flexibility they desire to initiate programs that meet the needs of people who need help. As a former governor, I learned that state and local governments are far more effective in serving local communities than Washington's bureaucracy.

Further, Community Services Block Grants provide opportunities for the government to partner with the nongovernmental sector to provide a variety of services to the poor. I am grateful that Senator COATS has led a bipartisan effort to include within this reauthorization bill language that can expand the opportunities for charitable and faith-based organizations to serve their communities with CSBG funds. The provisions included will help faith-based organizations to maintain their religious character and integrity when providing social services with government funds.

For years, America's charities and churches have been transforming shattered lives by addressing the deeper needs of people—by instilling hope and values which help change behavior and attitudes. As a matter of sound public policy, we in Congress need to find ways to allow these successful organizations to unleash the cultural remedy that our society so desperately needs. Senator COATS' legislation reauthorizing the Community Services Block Grant will help to further this goal.

The language in this bill regarding charitable and faith-based providers is similar to my Charitable Choice provision contained in the welfare reform law which we passed two years ago, but it does contain some differences. For non-governmental organizations wishing to participate in both the Community Service Block Grant and the Temporary Assistance for Needy Families programs, the differences between the two provisions may cause some confusion and lead to additional administrative burdens.

This situation demonstrates the need to pass legislation that applies the same Charitable Choice language to all federally funded social service programs in which the government is authorized to use nongovernmental organizations to provide services to beneficiaries. Under my Charitable Choice Expansion Act, which I introduced in May of this year, uniform protections and guidelines would apply to faith-based entities using federal dollars to provide housing, substance abuse prevention and treatment, juvenile services, seniors services, abstinence education, and child welfare services, as well as services under the Community Development Block Grant, the Social Services Block Grant, and of course, the Community Services Block Grant. One uniform Charitable Choice provision will certainly make it easier for both the government and faith-based organizations to work together more efficiently to help our nation's needy.

Again, I thank Senator COATS and all the members of the Labor Committee, as well as their staff, for their hard work on this legislation, and I commend them for their decision to include provisions that invite the greater participation of charitable and faith-based providers in the Community Services Block Grant program. I hope that we in the Senate will continue working together to pursue legislative proposals that encourage successful non-governmental organizations to expand their life-transforming programs to serve our nation's poor and needy.

NUCLEAR NON-PROLIFERATION AND SENATE RATIFICATION OF THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY

Mr. BIDEN. Thank you, Mr. President.

It is a truism that despite the end of the Cold War, we live in a dangerous world. The ultimate danger we face, perhaps, is that nuclear weapons will be obtained—or even used—by unstable countries or terrorist groups.

We must undertake a range of activities to reduce that danger. There is no magic bullet. No single program or initiative will rid the world of the threat of nuclear cataclysm at the hands of a new or unstable nuclear power.

Rather, we need a coherent strategy with many elements—a strategy designed to reduce both the supply of nuclear weapons technology to would-be nuclear powers and the regional tensions that fuel their demand for those weapons.

I would like to spend a few minutes today talking about one piece of that strategy that this body can implement: We can and should give our advice and consent to ratification of the Comprehensive Nuclear Test-Ban Treaty. And we should do that promptly.

In her speech on the 35th anniversary of John F. Kennedy's American University speech, Secretary of State Madeleine Albright called for U.S. ratification of the Comprehensive Nuclear Test-Ban Treaty. Noting the recent Indian and Pakistani nuclear tests, she said that ratification was needed "now, more than ever."

Senator SPECTER and I have also called for ratification now, both in floor statements and by drafting a resolution calling for expeditious Senate consideration of the Test-Ban Treaty.

Why is the Test-Ban so crucial? Because it is directly related to the global bargain that is the heart of the global nonproliferation regime. Other countries will give up their ambition to acquire nuclear weapons, but only if the declared nuclear powers honestly seek to end their nuclear advantage. We have to keep up our side of the bargain—and that means ratifying and adhering to the comprehensive test ban—or the non-nuclear weapons states will not feel bound to theirs.

One lesson of this decade's nuclear developments in India, Pakistan, Iraq and North Korea is that very basic nuclear weapon design information is no longer a tightly held secret. The technology required to produce nuclear weapons remains expensive and complex, but it is well within the reach of literally scores of countries.

To keep countries from producing what scores of them could produce, you need more than pressure or sanctions. You must constantly maintain their consent to remain non-nuclear weapons states.

Ideally, we would maintain that consent by removing the security concerns that propel countries to seek nuclear weapons. But that is terribly difficult, be it in Kashmir or the Middle East, in the Balkans or the Korean Peninsula or the Taiwan Straits.

In the world of today and of the foreseeable future, peace does not reign. Nuclear non-proliferation will not prevail in this world either, unless we convince states that nuclear weapons are not the key to survival, to status or to power.

The Comprehensive Nuclear Test-Ban Treaty is not merely emblematic of the nuclear powers' commitment to the non-nuclear weapons states. It also will put a cap on the development of new classes of nuclear weapons by the nuclear powers.

The test-ban treaty will also limit the ability of any non-nuclear weapons state to develop sophisticated nuclear weapons or to gain confidence in more primitive nuclear weapons if it were to illegally acquire or produce them. If you can't test your weapon, you are very unlikely to rely upon it as an instrument of war.

These are important reassurances to the non-nuclear nations of the world. They are why those countries agreed to foreswear all nuclear tests and to accept intrusive on-site inspection if a suspicion arose that they might have tested a nuclear device.

Will the Test-Ban Treaty also gradually reduce a country's confidence in the reliability of its nuclear weapons over the next 30 or 50 years, as some of its opponents assert? If so, that is actually reassuring to the non-nuclear weapons states, for it gives them hope of the eventual realization of that "cessation of the nuclear arms race" encouraged by Article VI of the Non-Proliferation Treaty. So even the cloud that most frightens test-ban opponents has a silver lining: it helps keep the rest of the world on board the non-proliferation bandwagon.

Now it is true, Mr. President, that some countries have never accepted the world non-proliferation bargain. The so-called "threshold states" of India, Pakistan and Israel all viewed nuclear weapons as essential to their national security, and India denounced the Non-Proliferation Treaty because it did not require immediate nuclear disarmament.

Still other countries, like Iran, Iraq and North Korea, signed the Non-Proliferation Treaty but maintained covert nuclear weapons programs.

But the vast majority of the world's states, including many prospective nuclear powers, have gone along with this bargain. And it is vital to our national security that we maintain their adherence to the world non-proliferation regime. They must not become "threshold states," let alone actually test nuclear weapons.

So, how will we maintain the adherence of the world's non-nuclear weapons states to the nuclear proliferation regime? The Indian and Pakistani nuclear tests are a direct challenge to that regime. The regime—and the countries who support it—can only meet that challenge if the United States leads the way.

On one level, we are already doing that. We have imposed severe sanctions on both India and Pakistan, and both of their economies are at risk. We have adjusted our sanctions to limit their effect upon innocent populations, and we are working to give the President the flexibility to lift them in return for serious steps by India and Pakistan toward capping their arms race and addressing their differences.

On the world-wide level, however, our record is mixed. Some countries have joined us in imposing sanctions on

India and Pakistan. We have also been joined in strong statements by countries ranging from Japan to Russia and China.

Statements and resolutions by the G-8, the Organization of American States, the Conference on Disarmament, and the United Nations Security Council have rightly condemned India and Pakistan's nuclear tests and called upon them to join the Nuclear Non-Proliferation Treaty, to refrain from actual deployment of their weapons, to ratify the Comprehensive Nuclear Test-Ban Treaty and to move toward a peaceful settlement of the Kashmir dispute.

But the world is acutely aware of our failure to persuade more countries to impose sanctions, and also of our own failure, so far, to ratify the Comprehensive Test-Ban Treaty. Until we ratify this Treaty, the nuclear hardliners in India and Pakistan will be able to cite U.S. hypocrisy as one more reason to reject the nuclear non-proliferation regime. And until we ratify the Treaty, the rest of the world will find it easier to reject U.S. calls for diplomatic and economic measures to pressure India and Pakistan.

We must keep our part of that nonproliferation bargain, if we are to maintain U.S. leadership on non-proliferation, keep the rest of the world on board, and influence India and Pakistan. The truth is that we have little choice.

If we fail to keep faith with the nonnuclear states because we cannot even ratify the Test-Ban Treaty, then we will also fail to keep them from developing nuclear weapons of their own. And in that case, Mr. President, we might as well prepare for a world of at least 15 or 20 nuclear weapon states, rather than the 5 or 7 or 8 we have today. That is the stark reality we face.

THE FATE OF THE TEST-BAN TREATY

But we need not fail, Mr. President. The Comprehensive Nuclear Test-Ban Treaty is a very sensible treaty that is clearly in our national interest. It binds the rest of the world to refrain from nuclear testing, just as we have bound our own government for the last 6 years.

The Test-Ban Treaty forces us to rely upon so-called "stockpile stewardship" to maintain the safety and reliability of our nuclear weapons, but we are in a better position economically and scientifically to do that than is any other country in the world.

Treaty verification will require our attention and our resources, but those are resources that we would have to spend anyway in order to monitor world-wide nuclear weapons programs.

Indeed, the International Monitoring System under the Treaty may save us money, as we will pay only a quarter of those costs for monitoring resources that otherwise we might well have to finance in full.

But we do have a problem. We have been unable to hold hearings on this treaty in the Foreign Relations Committee, even though committees with lesser roles have held them. And the Majority Leader has said that he will not bring this treaty to the floor.

Why is that, Mr. President? I know that my good friends the chairman and the majority leader have raised arguments against the Treaty, but they seem curiously unwilling to make those arguments in the context of a proper committee or floor debate on a resolution of ratification.

Could they be afraid of losing? Could they be afraid that, once the pros and cons are laid out with a resolution of ratification before us, two thirds of this body will support ratification? Perhaps; I know that I think the Treaty can readily get that support.

For the arguments in favor of ratification look pretty strong. The conditions that the President has asked us to attach to a resolution of ratification will assure that we maintain our weapons and the ability to test them, and that he will consider every year whether we must withdraw from the Treaty and resume testing to maintain nuclear deterrence.

I also know, Mr. President, that the American people overwhelmingly support ratification of the Test-Ban Treaty. A nation-wide poll in mid-May, after the Indian tests, found 73 percent in favor of ratification and only 16 percent against it. Later polls in 5 states—with 7 Republican senators—found support for the Treaty ranging from 79 percent to 86 percent.

The May poll also found that the American people knew there was a risk that other countries would try to cheat, so the public is not supporting ratification because they wear rose-colored glasses. The people are pretty level-headed on this issue, as on so many others. They know that no treaty is perfect. They also know that this Treaty, on balance, is good for America.

So perhaps those who block the Senate from fulfilling its Constitutional duty regarding this Treaty are doing that because they know the people overwhelmingly support this Treaty, and they know that ratification would pass.

Perhaps they just don't like arms control treaties. Perhaps they would rather rely only upon American military might, including nuclear weapons tests. Perhaps they want a nation-wide ballistic missile defense and figure that then it won't matter how many countries have nuclear weapons. Perhaps they figure our weapons will keep us safe, even if we let the rest of the world fall into the abyss of nuclear war.

I don't share that view, Mr. President. I believe we can keep non-proliferation on track. I believe that we can maintain nuclear deterrence without engaging in nuclear testing, and that the Comprehensive Test-Ban Treaty is a small price for keeping the nonnuclear states with us on an issue where the fate of the world is truly at stake.

I cannot force a resolution of ratification on this Treaty through the Foreign Relations Committee and onto the floor of this body.

But the American people want us to ratify this Treaty. They are absolutely right to want that. I will remind my colleagues—however often I must—of their duty under the U.S. Constitution and to our national security. I will make sure that the American people know who stands with them in that vital quest.

My colleague, the senior Senator from Pennsylvania, and I have drafted a resolution calling for expeditious consideration of this Treaty. So far, we have been joined by 34 of our colleagues as co-sponsors of that resolution.

We know that many others support us quietly, Mr. President, but hesitate to part company with their leaders. We are confident, however, that as more of them reflect on what is at stake, and on the need for continued U.S. leadership in nuclear non-proliferation, they will realize that they will do their leaders a favor by helping the Senate to do what is so clearly in the national interest.

The Senate will give its advice and consent to ratification of the Comprehensive Nuclear Test-Ban Treaty. The only question is when.

The world is a dangerous place, Mr. President, and we must no underestimate the challenges our country faces. But the spirit of America lies in our ability to rise to those challenges and overcome them. The immediate challenge of non-proliferation is to bring forth a resolution of ratification on a useful treaty, Mr. President. We should show more of that American spirit in our approach to that task.

THE IMPORTANCE OF IMF FUNDING

Mr. BIDEN. Mr. President, no less an authority than Alan Greenspan recently pronounced our economy in the best shape he has seen in his professional life.

Unemployment, inflation, and interest rates are low; incomes, investment, and optimism remain high.

Clearly, Mr. President, now is the time to worry.

Now is the time to worry, Mr. President, because these are exactly the circumstances that breed overconfidence and complacency. Pride, Mr. President, goeth before the fall.

Mr. President, we enjoy this excellent economic performance because we have got our own house in order—we have gone through a painful period of restructuring that has made our economy more efficient, and we have taken the tough steps to balance our federal budget.

So our factories and businesses are operating efficiently, our workers are earning more, and our sound government finances are helping to keep interest rates down. What could go wrong?

Well, what if the markets for this new, more productive economy were not there? What if international investors pull their money out of some of our major trading partners? What if those countries stop buying our products and services? What if they can't pay back their loans, and American investments there lose money instead of sending profits back home?

Unfortunately, that is just what is happening now, and instead of acting quickly to limit the threat of these developments, the majority in the House of Representatives has chosen to play a dangerous game of chicken with international financial markets.

Mr. President, the Senate went on record in March, by an overwhelming vote of 84 to 16, in favor of full funding of U.S. participation in the International Monetary Fund. But those funds were dropped by the House in Conference.

I am pleased to see that Chairman STEVENS, who, along with my colleague Senator HAGEL on the Foreign Relations Committee has shown real leadership on this issue, has taken a second crack at the problem by including this funding on the Foreign Operations Appropriations bill. Unfortunately, we will not act on that bill until after the August recess.

But just last week, the House pulled its version of the Foreign Ops bill from further consideration because of their internal squabbling over funding for the IMF.

I fear that those squabbles may mask an even more cynical motive—to hold the IMF, and by extension global financial stability, hostage to increase their bargaining leverage on unrelated issues at the end of the legislative session this fall.

Mr. President, I want to stress what is at stake while the majority in the House dithers. The financial crisis that began a year ago in Asia has not gone away—it continues to fester, and threatens to spread. Indeed, with the resources of the IMF already stretched thin, we may be entering the most critical phase of this threat to the global economy.

If the worst case happens, Mr. President, we will have no place to hide, no matter how well things have been going for us lately. Just look at the risks.

Japan is the keystone of the Asian economy—it could pull that already fragile region into a real depression if current trends are not quickly and dramatically reversed. That's why the recent elections there were so important, and why international investors are watching closely to see if Japan has the political muscle to overhaul its financial system and restore growth at the same time. That is a lot to ask, and much hangs on the outcome, including the health of important markets for American exports throughout Asia.

Mr. President, in May our trade deficit soared to $15.8 billion, as exports to Asia dropped by 21 percent compared to a year ago. Still, our friends in the House suggest that we wait until the fall to see if things get worse.

Russia presents an additional threat to our economic and security interests. Despite the announcement of a new IMF package, the Moscow stock market index has dropped 24 percent. An economically foundering Russia, facing political collapse, opens a Pandora's box of issues for stability in Europe and around the world.

On top of all this, other countries, including South Africa, Ukraine, and Malaysia, are lined up in the IMF's waiting room.

But because of the severity of the Asian crisis, the IMF's resources are so low that international investors must now have real fear that it will not be able to provide further support to its current clients, or support any additional countries now on the brink. This will add uncertainty to an already shaky situation, and can only make further panic more likely.

Mr. President, the distinguished Senator from Maryland, Senator SARBANES, recently warned those who think we can do without the IMF that they are "playing with fire." He's right.

They have decided, for short-term political reasons—some as small as their own fight over the Speaker's job—that they are willing to fiddle while the international economy burns. The IMF is not a perfect institution, Mr. President, but right now it is the only fire insurance we have got.

By delaying indefinitely the funding for the IMF, these gamblers are taking deadly risks with our own economy, an economy that has taken years of sacrifice to restore to health. They are squandering our ability to lead economically and politically in a time of international crisis in exchange for some short-term political gains.

It is time to cease this recklessness, Mr. President. It's time to provide the IMF with the funds it needs, and remove short-sighted bickering and self-serving calculations in the U.S. Congress from the list of threats to our own economy.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting three withdrawals and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it request the concurrence of the Senate:

H.R. 872. An act to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

H.R. 3506. An act to award a congressional gold medal to Gerald R. and Betty Ford.

H.R. 3962. An act to designate the Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, as the "Terry Sanford Federal Building".

H.R. 4194. An act making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 294. Concurrent resolution commending the Armed Forces for their efforts, leadership, and success in providing equality of treatment and opportunity for their military and civilian personnel without regard to race, color, religion, or natural origin.

H. Con. Res. 305. Concurrent resolution authorizing the use of the Capitol Grounds for a clinic to be conducted by the United States Luge Association.

The message further announced that the Houses agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of the Defense for the fiscal year ending September 30, 1999, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. MCDADE, Mr. ROGERS, Mr. KNOLLENBERG, Mr. FRELINGHUYSEN, Mr. PARKER, Mr. CALLAHAN, Mr. DICKEY, Mr. LIVINGSTON, Mr. FAZIO of California, Mr. VISCLOSKY, Mr. EDWARDS, Mr. PASTOR, and Mr. OBEY, as the managers of the conference on the part of the House.

At 10:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4237. An act to amend the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 to revise the revenues and activities covered under such Act, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3982. An act to designate the Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, as the "Terry Sanford Federal Building"; to the Committee on Environmental and Public Works.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res 294. Concurrent resolution commending the Armed Forces for their efforts, leadership, and success in providing equality of treatment and opportunity for their military and civilian personnel without regard to race, color, religion, or natural origin; to the Committee on Armed Services.

H. Con. Res. 305. Concurrent resolution authorizing the use of the Capitol Grounds for a clinic to be conducted by the United States Luge Association; to the Committee on Rules and Administration.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-6287. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems" (Docket 93-61) received on July 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6288. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Conversion to the Euro" (RIN1545-AW34) received on July 29, 1998; to the Committee on Finance.

EC-6289. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Kentucky Regulatory Program" (Docket KY-217-FOR) received on July 29, 1998; to the Committee on Energy and Natural Resources.

EC-6290. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the Endowment's annual report for fiscal year 1997; to the Committee on Labor and Human Resources.

EC-6291. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, certification of a proposed Technical Assistance Agreement for the export of defense services to the Federation of Bosnia and Herzegovina (DTC-71-98); to the Committee on Foreign Relations.

EC-6292. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Additions to the Entity List: Russian Entities" (RIN0694-AB60) received on July 29, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-6293. A communication from the Acting Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Exports to the Federal Republic of Yugoslavia (Serbia and Montenegro); Imposition of Foreign Policy Controls" (RIN0694-AB69) received on July 29, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-6294. A communication from the Employee Benefits Manager, AgFirst Farm Credit Bank, transmitting, pursuant to law, the financial statements of the Bank's Retirement Plan and Employee Thrift Plan for calendar year 1997; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 442: A bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes (Rept. No. 105-276).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2375: An original bill to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1997, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes (Rept. No. 105-277).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2279: A bill to amend title 49, United States Code, to authorize the programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001, and 2002, and for other purposes (Rept. No. 105-278).

By Mr. STEVENS, from the Committee on Appropriations: Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999" (Rept. No. 105-279).

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

H.R. 3528: A bill to amend title 28, United States Code, with respect to the use of alternative dispute resolution processes in United States district courts, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 193: A resolution designating December 13, 1998, as "National Children's Memorial Day".

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1031: A bill to protect Federal law enforcement officers who intervene in certain situations to protect life or prevent bodily injury.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S.J. Res. 51: A joint resolution granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Rebecca M. Blank, of Illinois, to be a Member of the Council of Economic Advisers.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from Committee on the Judiciary:

Rebecca R. Pallmeyer, of Illinois, to be United States District Judge for the Northern District of Illinois.

Nora M. Manella, of California, to be United States District Judge for the Central District of California.

Jeanne E. Scott, of Illinois, to be United States District Judge for the Central District of Illinois.

David R. Herndon, of Illinois, to be United States District Judge for the Southern District of Illinois.

Carl J. Barbier, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Gerald Bruce Lee, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Patricia A. Seitz, of Florida, to be United States District Judge for the Southern District of Florida.

Howard Hikaru Tagomori, of Hawaii, to be United States Marshal for the District of Hawaii for the term of four years.

Paul M. Warner, of Utah, to be United States Attorney for the District of Utah for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for Mr. LOTT (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. ROBERTS, Mr. BURNS, Mr. CRAIG, Mr. SHELBY, Mr. SESSIONS, Mr. THOMAS, Mr. COVERDELL, and Mr. COCHRAN):

S. 2371. A bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates and to provide tax incentives for farmers; to the Committee on Finance.

By Mr. BOND (for himself, Ms. Snowe, and Mr. Bennett):

S. 2372. A bill to provide for a pilot loan guarantee program to address Year 2000 problems of small business concerns, and for other purposes; to the Committee on Small Business.

By Mr. GRASSLEY (for himself and Mr. Durbin):

S. 2373. A bill to amend title 28, United States Code, with respect to the use of alternative dispute resolution processes in United States district courts, and for other purposes; to the Committee on the Judiciary.

By Mr. SARBANES:

S. 2374. A bill to provide additional funding for repair of the Korean War Veterans Memorial; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. 2375. An original bill to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. JEFFORDS:

S. 2376. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for land sales for conservation purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. Levin, Mr. Jeffords, Mr. Leahy, Mr. Cleland, Mr. Durbin, Mr. D'Amato, and Mrs. Boxer):

S. 2377. A bill to amend the Clean Air Act to limit the concentration of sulfur in gasoline used in motor vehicles; to the Committee on Environment and Public Works.

By Mr. AKAKA:

S. 2378. A bill to amend title XVIII of the Social Security Act to increase the amount of payment under the Medicare program for pap smear laboratory tests; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. Daschle):

S. 2379. A bill to establish a program to establish and sustain viable rural and remote communities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ASHCROFT:

S. 2380. A bill to require the written consent of a parent of an unemancipated minor prior to the provision of contraceptive drugs or devices to such a minor, or the referral of such minor for abortion services, under any Federally funded program; to the Committee on the Judiciary.

By Mr. MACK (for himself and Mr. Graham):

S. 2381. A bill to provide that no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978; to the Committee on Energy and Natural Resources.

By Mr. McCAIN (for himself and Mr. Kerry):

S. 2382. A bill to amend title XIX of the Social Security Act to allow certain community-based organizations and health care providers to determine that a child is presumptively eligible for medical assistance under a State plan under that title; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. Kennedy, Mr. Kerry, and Ms. Moseley-Braun):

S. 2383. A bill to amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor; to the Committee on Labor and Human Resources.

By Mr. ASHCROFT (for himself and Mr. Faircloth):

S. 2384. A bill entitled "Year 2000 Enhance Cooperation Solution"; to the Committee on the Judiciary.

By Mr. BENNETT (for himself and Mr. Hatch):

S. 2385. A bill to establish the San Rafael Swell National Heritage Area and the San Rafael National Conservation Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FAIRCLOTH (for himself and Mrs. Feinstein):

S. 2386. A bill to provide that a charitable contribution deduction shall be allowed for that portion of the cost breast cancer research stamp which is in excess of the cost of a regular first-class stamp; to the Committee on Finance.

By Mr. BIDEN:

S. 2387. A bill to confer and confirm Presidential authority to use force abroad, to set forth procedures governing the exercise of that authority, and thereby to facilitate cooperation between the President and Congress in decisions concerning the use or deployment of United States Armed Forces abroad in situations of actual or potential hostilities; to the Committee on Foreign Relations.

By Mr. DORGAN:

S. 2388. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion from gain on the sale of a principal residence; to the Committee on Finance.

By Mr. WELLSTONE:

S. 2389. A bill to strengthen the rights of workers to associate, organize and strike, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BROWNBACK (for himself and Mr. Helms):

S. 2390. A bill to permit ships built in foreign countries to engage in coastwise in the transport of certain products; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE:

S. 2391. A bill to authorize and direct the Secretary of Commerce to initiate an investigation under section 702 of the Tariff Act of 1930 of methlyl tertiary butyl ether imported from Saudi Arabia; to the Committee on Finance.

By Mr. BENNETT (for himself, Mr. Dodd, Mr. Moynihan, Mr. Kohl, and Mr. Robb) (by request):

S. 2392. A bill to encourage the disclosure and exchange of information about computer processing problems and related matters in connection with the transition to the Year 2000; to the Committee on the Judiciary.I16By Mr. MURKOWSKI:

S. 2393. A bill to protect the sovereign right of the State of Alaska and prevent the Secretary of Agriculture and the Secretary of the Interior from assuming management of Alaska's fish and game resources; read the first time.

By Mr. ROTH (for himself and Mr. Moynihan) (by request):

S. 2394. A bill to amend section 334 of the Uruguay Round Agreements Act to clarify the rules of origin with respect to certain textile products; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAHAM (for himself, Mrs. Murray, Mr. Dorgan, Mr. Sarbanes, Mr. Levin, Mr. Moynihan, Mr. Byrd, Mr. Dodd, Mr. Akaka, Mr. Lautenberg, Mr. Durbin, Mrs. Boxer, Ms. Landrieu, Mr. Kohl, Ms. Mikulski, Ms. Moseley-Braun, Mr. DeWine, Mr. Faircloth, Mr. Specter, Mr. Bond, and Mr. Cochran):

S. Res. 260. A resolution expressing the sense of the Senate that October 11, 1998, should be designated as "National Children's Day"; to the Committee on the Judiciary.

By Mr. BROWNBACK:

S. Res. 261. A resolution requiring the privatization of the Senate barber and beauty shops and the Senate restaurants; to the Committee on Rules and Administration.

By Mr. ROTH (for himself and Mr. Bingaman):

S. Res. 262. A resolution to state the sense of the Senate that the government of the United States should place priority on formulating a comprehensive and strategic policy of engaging and cooperating with Japan in advancing science and technology for the benefit of both nations as well as the rest of the world; to the Committee on Foreign Relations.

By Mr. WARNER:

S. Res. 263. A resolution to authorize the payment of the expenses of representatives of the Senate attending the funeral of a Senator; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 114. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

By Mr. WARNER:

S. Con. Res. 115. A concurrent resolution to authorize the printing of copies of the publication entitled "The United States Capital" as a Senate document; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for Mr. Lott (for himself, Mr. Hagel, Mr. Roberts, Mr. Burns, Mr. Craig, Mr. Shelby, Mr. Sessions, and Mr. Thomas)):

S. 2371. A bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates and to provide tax incentives for farmers; to the Committee on Finance.

FAMILY INVESTMENT AND RURAL SAVINGS TAX ACT

Mr. GRASSLEY. Mr. President, today several of us from rural States and the leadership of the Senate take a step to help America's farmers as representatives of States with major agricultural economies. All of us introducing this legislation agree that farmers are facing some difficult times.

While we must do what we can to make sure that farmers survive for the short term, the key to the agricultural economic situation is long-term solutions. While we can't eliminate every risk and we can't control every factor that governs the success of the family farm, there are initiatives that we can pursue that will help smooth out some of the bumps that are in the road.

That is why today several of us are introducing the FIRST Act, the Family Investment and Rural Savings Tax Act of 1998. As I said at the outset, there are some genuine problems in the ag community. Some parts of the country are experiencing problems that are worse than we are seeing in my own State of Iowa. We can offer reforms that address short-term and long-term needs.

To address short-term needs and help give farmers that extra support that some will need to get through this year, I have joined with several of my colleagues in supporting legislation that will speed up transition payments, payments that would be made during 1999 and could, upon election by individual farmers, be taken in 1998. In my State of Iowa, that will bring 36 cents per bushel into the farmer's income in 1998 that would otherwise not be there.

But the focus of this legislation which I am speaking about today, the FIRST Act, is to address long-term need, because what I just described to you, advancing the transition payments, is obviously a short-term solution.

What we are saying is that we must ensure economic stability for everyone first through the transition proposition I described, and then we must help our farmers plan for the future.

This measure takes a three-prong approach to assist farmers and families through tax reform.

The first section of our bill reduces the capital gains tax rate for individuals from 20 percent to 15 percent. This will spur growth, entrepreneurship and help farmers make the most of their capital assets. It will also encourage movement of capital investment from one generation to the other to help young farmers get started.

This language builds on the capital gains tax reform that we made in last year's Tax Relief Act.

Secondly, the FIRST Act includes my legislation that creates savings accounts for farmers. This initiative would allow farmers to make contributions to tax-deferred accounts. These Grassley savings accounts, as I call them, will give farmers a tool to control their lives. This savings account legislation will encourage farmers to save during good years to help cushion the fall from the inevitable bad years. The accounts will give farmers even greater freedom in their business decisions rather than giving the Government more authority over farmers and their lives.

As a working farmer myself, and an American, I know that we want to control our own destiny. We want to manage our own business. We want to make those decisions that are connected with being a good business operator. We do not want to have to wait for the bureaucrats at the USDA in Washington, DC, in that bureaucracy to tell us how many acres of corn and how many acres of soybeans that we can plant. This allows, through the balancing out of income, the leveling out of the peaks and valleys from one year to another, because in farming, it seems to be all boom or all bust. This farmers' savings account that I suggest will give farmers an opportunity to do that.

Finally, our tax legislation allows for the permanent extension of income averaging. Income averaging helps farmers because when prices are low and when farmers' income goes down, their tax burden will also be lowered. This helps farmers prepare for the especially volatile nature of their income.

This is a tough time for a lot of farmers. I know there is a great deal of anxiety among farmers about what the future might bring. This proposal will help them to know that we in Congress recognize the particular difficulties they face in trying to plan for the future. I, along with other Members who have worked on this bill, believe that our initiatives will provide farmers with additional financial insurance they need to help face the future.

The initiatives of this legislation have been endorsed by virtually every major agricultural organization. These organizations know that these measures are what farmers need to have more confidence and security in the future.

I am very pleased to see the majority leader, TRENT LOTT, the Senator from Mississippi, taking a strong stand in favor of this. I thank my colleagues who have worked with me on this legislation. We all agree that passing this measure as soon as possible is one of the best things that we can do for our farmers in our States and across the country.

This legislation is a long-term solution. It helps our farmers and our families survive and to keep control of their own decisions, so that we can let Washington make decisions for Washington but let farmers make decisions for themselves.

The bottom line, Mr. President, is right now we are facing a variety of troubling circumstances: an economic crisis in southeast Asia, a drought combined with the hot weather in Texas today, fires in Florida, too much wheat coming across the Canadian border, unfairly, to drive down the price of wheat in North Dakota, and the prospect of having bumper crops this year and big carryovers from last year. These are things that are beyond the control of the family farmer.

Because we in family farming assume the responsibility—each one of us—of feeding, on average, 126 other people, we must keep the family farms strong as a matter of national policy, as a matter of good economics. We do that not because of nostalgia for family farmers but because when there is a good supply of food, the urban populations of this country are going to feel more secure and more certain about the future.

We want to continually remind people, though, through actions of this Congress that we in the Congress know that food grows on farms, it does not grow in supermarkets. If there were not farmers producing, if there were not the labor and processing people, if there were not truckers and trains taking the food from the farm to the city, we would not have the high quality of food we have, we would not have the quantity of food we have, we would not have the stability that we have in our cities, we would not have the quality of life that we have beyond food for the American people. Let's not forget that food as a percentage of disposable income at about 11 percent is cheaper for the American consumer than any consumer anywhere else in the world.

This legislation that we are all introducing is in support of maintaining that sort of environment for the people of America, and also as we export food for people around the world. We are committed to it, but also as a Congress we are committed to maintaining the family farm as well. So I introduce this bill for Senator LOTT, myself, Senator HAGEL, Senator ROBERTS, Senator BURNS, Senator CRAIG, Senator SHELBY, and Senator SESSIONS. I thank my colleagues for their hard work and support.

I yield the floor.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, I rise to support, as an original cosponsor, the Family Investment and Rural Savings Tax Act of 1998. I thank the majority leader, Senator LOTT, for working with many of us to make tax relief for farmers and ranchers a very top priority this year.

Mr. President, I am not a farmer. When I want advice about agricultural issues, I ask farmers, I ask ranchers. About a month ago, the Senators offering this bill, and several others concerned about the problems facing rural America, agriculture today, right now, sat down with every major farm and commodity group in America. These representatives of American agriculture—real agriculture—told us the same thing I hear repeatedly from ranchers and farmers across my State of Nebraska: "We do not want to go back to the failed Government supply and demand policies of the past." That is clear. They told us very clearly that there are three things—three things—

Congress can do to help America's farmers and ranchers: One, open up more export markets; two, tax relief; and, three, reduce Government regulation. This, after all, Mr. President, was indeed the promise of the 1996 Freedom to Farm Act.

Those of us on the floor today and our colleagues have been working very hard over the last few months to open more markets overseas, especially in the area of dealing with unilateral sanctions. And we are going to keep pushing aggressively for important export tools, important for all of America, not just American agriculture, important tools like fast track, and reform and complete funding for the IMF.

This bill we are introducing today goes to the second point. It will provide real and meaningful tax relief, tax relief to America's agricultural producers. It will provide farmers and ranchers with the tools they need in managing the unique financial situations that they alone face on their farms and ranches.

This bill has three provisions, which Senator GRASSLEY has just outlined accurately and succinctly: One, the farm and ranch risk management accounts; two, the permanent extension of income averaging for farmers; and, three, reduction of capital gains rates not just for American agriculture but for all of America.

Mr. President, I have said over the last 2 years I would like to see the capital gains tax completely eliminated. But that is a debate for another day. However, this bill is a major step in the right direction. This bill will mean lower taxes for our farmers and ranchers and many Americans. It is the right thing to do.

I hope a majority of my colleagues will join us in support of this bill, an important bill for America, an important bill for our farmers and ranchers.

Mr. THOMAS. Mr. President, I rise for just a moment to thank the Senator from Nebraska and the Senator from Iowa for their leadership on this agricultural issue that we have before us. I join as an original cosponsor to the effort.

It seems to me that clearly there are two areas that have to be pursued. The Senator from Nebraska talked about one, and that is seeking to reopen and to strengthen these foreign markets that are there that are critical to agricultural production.

One of the areas, of course, in this matter is unilateral sanctions, of which some action has already been taken in the case of Pakistan and India. We need to do more of that. The other, of course, is to do something domestically. I agree entirely that we should not try to return to the managed agriculture that we had before, but to continue to move towards market agriculture in which our production is based on demand. But it is a difficult transition. And that, coupled with the Asian crisis, coupled with the fact that, particularly in the northern tier and in the south, we have had drought, we have had floods, we have had freezes—we have had a series of difficult things that lend to the difficulty of agriculture.

So I am pleased that the Congress has taken some steps. I think this idea of moving forward with the transition payments is a good idea.

Certainly we can do that for farmers. Then if we can provide a farmer savings account which will allow them to have these payments, in advance, without being taxed until they are used, is a good one.

Certainly, as the Senator from Nebraska has indicated, I, too, favor the idea of reducing and, indeed, eventually eliminating the capital gains taxes. I just want to say I support this very much.

There perhaps are other activities that we can undertake that will be helpful, but we do need to get started. I think this is a good beginning. I want to say again that I appreciate the leadership of the Senator from Iowa and the Senator from Nebraska.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Idaho.

Mr. CRAIG. Mr. President, I, too, have come to the floor this morning to thank you, and certainly the Senator from Iowa, the Senator from Wyoming, who has been involved with us, along with our leader, TRENT LOTT, Senator BURNS of Montana, Senator ROBERTS, and myself in looking at the current agricultural situation in this country, which is very concerning to all of us as commodity prices plummet in the face of what could be record harvests and as foreign markets diminish because of the Asian crisis and world competition.

As a result of that, we have come together to look at tools that we could bring to American agriculture, production agriculture, farmers and ranchers, that would assist them now and into the future to build stability there and allow them not only to invest but to save during years of profit in a way that is unique for American agricultural.

In 1986, when this Congress made sweeping tax reform, they eliminated income averaging. I was in the House at that time and I opposed that legislation. I remember an economist from the University of Virginia saying that it would take a decade or more, but there would come a time when all of us in Congress would begin to see the problems that a denial of income averaging would do to production agriculture; that slowly but surely the ability to divert income during cyclical market patterns would, in effect, weaken production agriculture at the farm and ranch level to a point that they could not sustain themselves during these cyclical patterns. Bankruptcies would occur; family operations that had been in business for two or three generations would begin to fail.

We are at that point. We have been at that point for several years. I remember the words of that economist in a hearing before one of the House committees echoing, saying, "Don't do this. This is the wrong approach." In those days, though, I wasn't, but others in Congress were anxious to crank up the money and spend it here in Washington and return it in farm products, recycle it, skim off the 15 or 20 percent that it oftentimes takes to run a government operation, and then somehow appear to be magnanimous by returning it in some form of farm program.

That day is over. We ought to be looking at the tools that we can offer production agriculture of the kind that is now before the Senate in the legislation that we call the Family Investment and Rural Savings Act, not only looking at a permanency income averaging, but looking at real estate depreciation, recapturing, and a variety of tools that we think will be extremely valuable to production agriculture at a time when they are in very real need.

Also, the transition payments' extension that we have talked about moving forward to give some immediate cash to production agriculture, that is appropriate under the Freedom to Farm transitions in which we are currently involved, becomes increasingly valuable.

I join today and applaud those who have worked on this issue, to bring it immediately, and I hope that we clearly can move it in this Congress, to give farmers and ranchers today those tools—be it drought or be it a very wet year or be it the collapse of foreign markets. Prices in some of our commodity areas today are at a 20-plus year low, yet, of course, the tractor and the combine purchased is at an all-time high.

I do applaud those who have worked with us in bringing this legislation to the floor, and I thank the chairman for the time.

I yield the floor.

The PRESIDING OFFICER. The distinguished former chairman of the House Agriculture Committee, the Senator from Kansas.

Mr. ROBERTS. I thank the Presiding Officer and the distinguished Senator from Wyoming.

Mr. ROBERTS. Mr. President, I am pleased to join my friends and colleagues in introducing the Family Investment and Rural Savings Tax (FIRST) Act. I would especially like to thank our Leader, Senator LOTT, for his strong commitment to this effort. His dedication and interest in these important issues should underscore how serious we are about providing tax relief and improvements for farmers and ranchers before the 105th Congress adjourns.

America's producers are currently experiencing a troubling time. Thanks in large part to the Asian economic crisis and the Administration's inability to open up new markets for U.S. farm products, commodity prices across the board have fallen to dangerously low levels. Low prices, combined with isolated weather-related problems in some regions of the country on one hand and election-year posturing on the other, have prompted some of our Democratic colleagues to call for a return to the failed agriculture policies of the past. They support loan programs that price the United States out of the world market. They support a return to the system whereby the U.S. Government is in the grain business. And they support a return to command-and-control agriculture whereby producers are required to limit their production in a foolish and futile attempt to try to bolster commodity prices. These policies did not work for 50 years and they will not work now.

The FIRST Act is designed to address the real needs of producers today. The FIRST Act provides tax relief for every farmer and rancher in the United States. Specifically, income averaging—which was an important component of the 1996 tax bill—would become permanent, the capital gains tax brackets would be cut by 25 percent across the board and a new Farm and Ranch Risk Management Account would be established to allow producers to manage the volatile shifts in farm income from one year to another.

I specifically want to address the capital gains tax cut and the FARRM accounts. The capital gains tax represents one of the most burdensome, expensive provisions of the U.S. Tax Code for America's farmers and ranchers and for America's families. Production agriculture is a capital-intensive business. Without equipment and inputs—expensive equipment and inputs—you simply can't survive in the incredibly competitive agriculture world. Therefore, because of the tremendous costs of depreciating that expensive equipment, the capital gains tax hits farmers and ranchers especially hard. In addition, today the Congress encourages middle-income families to save for their future in part to take pressure off of the Social Security system. However, we continue to allow capital gains taxes to hit America's families twice. Investors' money is taxed both as income when they get their paycheck and as capital gain when they make a smart investment. That's a strange and counterproductive way to encourage personal responsibility and savings for the future. As a result, I am very grateful to our Majority Leader for including the "Crown Jewel" of his tax and Speaker GINGRICH's tax bill in the FIRST Act today and I look forward to working with the Leader to pass meaningful tax relief before the Senate adjourns.

I also want to address the creation of the new FARRM Accounts. While Chairman of the House Agriculture Committee, I was charged with producing the 1996 farm bill. As we were producing that legislation, I wanted very badly to create what I called a "farmer IRA." Basically, the farmer IRA would be a rainy day account whereby if a farmer or rancher had a good year, he could invest part of his profits in a tax-deferred account. Then, when a bad year hits, he could withdraw that money to offset the downturn. That's exactly what the FARRM Accounts would do. Producers will be able to invest up to 20 percent of their Schedule F (farm) income in any interest-bearing account. They may withdraw that money at any time during a five-year period. If passed, FARRM Accounts will correct the huge problem in our existing Tax Code that encourages producers to buy a new tractor or combine at the end of the year in order to reduce taxable income instead of saving for the future. Again, I wanted to do this during the farm bill but we ran out of time. I'm very pleased that the Congress may finally get the opportunity to provide the flexibility and tax relief producers so desperately need.

I want to thank my colleagues again for their leadership in this area and I look forward to working with them and the rest of the Senate to pass this important legislation.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Investment and Rural Savings Tax Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX RATES

Sec. 101. Reduction in individual capital gains tax rates.

TITLE II—TAX INCENTIVES FOR FARMERS

Sec. 201. Farm and ranch risk management accounts.

Sec. 202. Permanent extension of income averaging for farmers.

TITLE I—REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX RATES

SEC. 101. REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX RATES.

(a) IN GENERAL.—Subsection (h) of section 1 of the Internal Revenue Code of 1986 is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on taxable income reduced by the net capital gain,

"(B) 7.5 percent of so much of the net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

"(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

"(ii) the taxable income reduced by the net capital gain, and

"(C) 15 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under subparagraphs (A) and (B).

"(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii)."

(b) ALTERNATIVE MINIMUM TAX.—Paragraph (3) of section 55(b) of such Code is amended to read as follows:

"(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

"(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the net capital gain,

"(B) 7.5 percent of so much of the net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), and

"(C) 15 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under subparagraphs (A) and (B)."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 1445(e) of such Code is amended by striking "20 percent" and inserting "15 percent".

(2) The second sentence of section 7518(g)(6)(A) of such Code, and the second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, are each amended by striking "20 percent" and inserting "15 percent".

(3) Section 311 of the Taxpayer Relief Act of 1997 is amended by striking subsection (e).

(4) Paragraph (7) of section 57(a) of such Code (as amended by the Internal Revenue Service Restructuring and Reform Act of 1998) is amended by striking the last sentence.

(5) Paragraphs (11) and (12) of section 1223, and section 1235(a), of such Code (as amended by the Internal Revenue Service Restructuring and Reform Act of 1998) are each amended by striking "18 months" each place it appears and inserting "1 year".

(d) TRANSITIONAL RULES FOR TAXABLE YEARS WHICH INCLUDE JUNE 24, 1998.—

(1) IN GENERAL.—Subsection (h) of section 1 of such Code (as amended by the Internal Revenue Service Restructuring and Reform Act of 1998) is amended by adding at the end the following new paragraph:

"(14) SPECIAL RULES FOR TAXABLE YEARS WHICH INCLUDE JUNE 24, 1998.—For purposes of applying this subsection in the case of a taxable year which includes June 24, 1998—

"(A) Gains or losses properly taken into account for the period on or after such date shall be disregarded in applying paragraph (5)(A)(i), subclauses (I) and (II) of paragraph

(5)(A)(ii), paragraph (5)(B), paragraph (6), and paragraph (7)(A).

"(B) The amount determined under subparagraph (B) of paragraph (1) shall be the sum of—

"(i) 7.5 percent of the amount which would be determined under such subparagraph if the amount of gain taken into account under such subparagraph did not exceed the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year on or after such date, plus

"(ii) 10 percent of the excess of the amount determined under such subparagraph (determined without regard to this paragraph) over the amount determined under clause (i).

"(C) The amount determined under subparagraph (C) of paragraph (1) shall be the sum of—

"(i) 15 percent of the amount which would be determined under such subparagraph if the adjusted net capital gain did not exceed the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year on or after such date, plus

"(ii) 20 percent of the excess of the amount determined under such subparagraph (determined without regard to this paragraph) over the amount determined under clause (i).

"(D) Rules similar to the rules of paragraph (13)(C) shall apply."

(2) ALTERNATIVE MINIMUM TAX.—Paragraph (3) of section 55(b) of such Code (as amended by the Internal Revenue Service Restructuring and Reform Act of 1998) is amended by adding at the end the following new sentence: "For purposes of applying this paragraph for a taxable year which includes June 24, 1998, rules similar to the rules of section 1(h)(14) shall apply."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning on or after June 24, 1998.

(2) TRANSITIONAL RULES FOR TAXABLE YEARS WHICH INCLUDE JUNE 24, 1998.—The amendments made by subsection (d) shall apply to taxable years beginning before such date and ending on or after June 24, 1998.

(3) WITHHOLDING.—The amendment made by subsection (c)(1) shall apply only to amounts paid after the date of the enactment of this Act.

(4) CERTAIN CONFORMING AMENDMENTS.—The amendments made by subsection (c)(5) shall take effect on June 24, 1998.

TITLE II—TAX INCENTIVES FOR FARMERS

SEC. 201. FARM AND RANCH RISK MANAGEMENT ACCOUNTS.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to taxable year for which deductions taken) is amended by inserting after section 468B the following new section:

"SEC. 468C. FARM AND RANCH RISK MANAGEMENT ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual engaged in an eligible farming business, there shall be allowed as a deduction for any taxable year the amount paid in cash by the taxpayer during the taxable year to a Farm and Ranch Risk Management Account (hereinafter referred to as the 'FARRM Account').

"(b) LIMITATION.—The amount which a taxpayer may pay into the FARRM Account for any taxable year shall not exceed 20 percent of so much of the taxable income of the taxpayer (determined without regard to this section) which is attributable (determined in the manner applicable under section 1301) to any eligible farming business.

"(c) ELIGIBLE FARMING BUSINESS.—For purposes of this section, the term 'eligible farming business' means any farming business (as defined in section 263A(e)(4)) which is not a passive activity (within the meaning of section 469(c)) of the taxpayer.

"(d) FARRM ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'FARRM Account' means a trust created or organized in the United States for the exclusive benefit of the taxpayer, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted for any taxable year in excess of the amount allowed as a deduction under subsection (a) for such year.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) The assets of the trust consist entirely of cash or of obligations which have adequate stated interest (as defined in section 1274(c)(2)) and which pay such interest not less often than annually.

"(D) All income of the trust is distributed currently to the grantor.

"(E) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(2) ACCOUNT TAXED AS GRANTOR TRUST.—The grantor of a FARRM Account shall be treated for purposes of this title as the owner of such Account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

"(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), there shall be includible in the gross income of the taxpayer for any taxable year—

"(A) any amount distributed from a FARRM Account of the taxpayer during such taxable year, and

"(B) any deemed distribution under—

"(i) subsection (f)(1) (relating to deposits not distributed within 5 years),

"(ii) subsection (f)(2) (relating to cessation in eligible farming business), and

"(iii) subparagraph (A) or (B) of subsection (f)(3) (relating to prohibited transactions and pledging account as security).

"(2) EXCEPTIONS.—Paragraph (1)(A) shall not apply to—

"(A) any distribution to the extent attributable to income of the Account, and

"(B) the distribution of any contribution paid during a taxable year to a FARRM Account to the extent that such contribution exceeds the limitation applicable under subsection (b) if requirements similar to the requirements of section 408(d)(4) are met.

For purposes of subparagraph (A), distributions shall be treated as first attributable to income and then to other amounts.

"(3) EXCLUSION FROM SELF-EMPLOYMENT TAX.—Amounts included in gross income under this subsection shall not be included in determining net earnings from self-employment under section 1402.

"(f) SPECIAL RULES.—

"(1) TAX ON DEPOSITS IN ACCOUNT WHICH ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

"(A) IN GENERAL.—If, at the close of any taxable year, there is a nonqualified balance in any FARRM Account—

"(i) there shall be deemed distributed from such Account during such taxable year an amount equal to such balance, and

"(ii) the taxpayer's tax imposed by this chapter for such taxable year shall be increased by 10 percent of such deemed distribution.

The preceding sentence shall not apply if an amount equal to such nonqualified balance is distributed from such Account to the taxpayer before the due date (including extensions) for filing the return of tax imposed by this chapter for such year (or, if earlier, the date the taxpayer files such return for such year).

"(B) NONQUALIFIED BALANCE.—For purposes of subparagraph (A), the term 'nonqualified balance' means any balance in the Account on the last day of the taxable year which is attributable to amounts deposited in such Account before the 4th preceding taxable year.

"(C) ORDERING RULE.—For purposes of this paragraph, distributions from a FARRM Account shall be treated as made from deposits in the order in which such deposits were made, beginning with the earliest deposits. For purposes of the preceding sentence, income of such an Account shall be treated as a deposit made on the date such income is received by the Account.

"(2) CESSATION IN ELIGIBLE FARMING BUSINESS.—At the close of the first disqualification period after a period for which the taxpayer was engaged in an eligible farming business, there shall be deemed distributed from the FARRM Account (if any) of the taxpayer an amount equal to the balance in such Account at the close of such disqualification period. For purposes of the preceding sentence, the term 'disqualification period' means any period of 2 consecutive taxable years for which the taxpayer is not engaged in an eligible farming business.

"(3) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 408(e)(2) (relating to loss of exemption of account where individual engages in prohibited transaction).

"(B) Section 408(e)(4) (relating to effect of pledging account as security).

"(C) Section 408(g) (relating to community property laws).

"(D) Section 408(h) (relating to custodial accounts).

"(4) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to a FARRM Account on the last day of a taxable year if such payment is made on account of such taxable year and is made within 3½ months after the close of such taxable year.

"(5) INDIVIDUAL.—For purposes of this section, the term 'individual' shall not include an estate or trust.

"(g) REPORTS.—The trustee of a FARRM Account shall make such reports regarding such Account to the Secretary and to the person for whose benefit the Account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such persons at such time and in such manner as may be required by those regulations."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code (defining adjusted gross income) is amended by inserting after paragraph (17) the following new paragraph:

"(18) CONTRIBUTIONS TO FARM AND RANCH RISK MANAGEMENT ACCOUNTS.—The deduction allowed by section 468C(a)."

(c) TAX ON EXCESS CONTRIBUTIONS.—

(1) Subsection (a) of section 4973 of such Code (relating to tax on certain excess contributions) is amended by striking "or" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) a FARRM Account (within the meaning of section 468C(d)), or".

(2) Section 4973 of such Code is amended by adding at the end the following new subsection:

"(g) EXCESS CONTRIBUTIONS TO FARRM ACCOUNTS.—For purposes of this section, in the case of a FARRM Account (within the meaning of section 468C(d)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the Account exceeds the amount which may be contributed to the Account under section 468C(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the FARRM Account in a distribution to which section 468C(e)(2)(B) applies shall be treated as an amount not contributed."

(3) The section heading for section 4973 of such Code is amended to read as follows:

"SEC. 4973. EXCESS CONTRIBUTIONS TO CERTAIN ACCOUNTS, ANNUITIES, ETC."

(4) The table of sections for chapter 43 of such Code is amended by striking the item relating to section 4973 and inserting the following new item:

"Sec. 4973. Excess contributions to certain accounts, annuities, etc."

(d) TAX ON PROHIBITED TRANSACTIONS.—

(1) Subsection (c) of section 4975 of such Code (relating to prohibited transactions) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE FOR FARRM ACCOUNTS.—A person for whose benefit a FARRM Account (within the meaning of section 468C(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such Account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a FARRM Account by reason of the application of section 468C(f)(3)(A) to such Account."

(2) Paragraph (1) of section 4975(e) of such Code is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) a FARRM Account described in section 468C(d),".

(e) FAILURE TO PROVIDE REPORTS ON FARRM ACCOUNTS.—Paragraph (2) of section 6693(a) of such Code (relating to failure to provide reports on certain tax-favored accounts or annuities) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 468C(g) (relating to FARRM Accounts)."

(f) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 of such Code is amended by inserting after the item relating to section 468B the following new item:

"Sec. 468C. Farm and Ranch Risk Management Accounts."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 202. PERMANENT EXTENSION OF INCOME AVERAGING FOR FARMERS.

Section 933(c) of the Taxpayer Relief Act of 1997 is amended by striking ", and before January 1, 2001".

Mr. BURNS. Mr. President, I rise today along with Senators LOTT, CRAIG, GRASSLEY, HAGEL, ROBERTS, SESSIONS, SHELBY, and THOMAS to introduce the Family Investment and Rural Savings Tax (FIRST) Act of 1998.

Mr. President, today's family farms are in jeopardy. This bill will help all Americans as well as our nation's farming families.

The bill consists of two titles—the first will reduce the top individual capital gains tax rate from 20% to 15% and reduces the capital gains tax rate for individuals with lower incomes from 10% to 7.5%.

Title two of the bill consists of two separate measures which work hand in hand: First, the bill will allow farmers to open their own tax deferred savings accounts. These accounts would provide farmers and ranchers an opportunity to set aside income in high-income years and withdraw the money in low-income years. The money is taxed only when it is withdrawn and can be deferred for up to five years.

In 1995, 2.2 million taxpayers, qualified as farmers under IRS definitions, would have been eligible to use these accounts. Only 725,000 of those filed a net income while 1.5 million filed a net loss.

Now that could mean one of two things: (1) fewer and fewer farmers are able to stay in the black or; (2) more and more farmers are going out of business. We cannot continue to treat our farmers and ranchers as second class citizens in our tax code.

The second part of this title contains language that I introduced earlier this year. This language would allow farmers to use average their income over three years and make that tool permanent in the tax code. This bill will give American farmers a fair tool to offset the unpredictable nature of their business.

The question is who will benefit most from income averaging and farm savings accounts. This is the best part—this legislation will allow farmers to delay payment of their taxes by reducing their overall income and spreading it out over a number of years.

However, based on the tax rate schedule, this bill would favor farmers in the lower tax bracket. If a farmer could use these tools to reduce their tax burden from one year to the next, it is very conceivable that taxpayer would pay only 15% on his income compared to 28%. That is a significant savings.

This bill leaves the business decisions in the hands of farmers, not the government. Farmers can decide whether to defer income and when to withdraw funds to supplement operations.

Farmers and ranchers labor seven days a week, from dawn until dusk, to provide our nation with the world's best produce, dairy products and meats. Farming is a difficult business requiring calloused hands and rarely a profitable financial reward. This profession is not getting any easier. Today, we are seeing more and more of our family farms swallowed up by the corporate farms.

Farming has always been a family affair. Rural communities rely on the family farm for their own economic sustenance. Although family farms are traditionally passed on from father to son—it is becoming more and more difficult as the economics of farming are becoming more and more complicated. Further tightening of the belt on these folks can only mean the eventual loss of the family farm.

Montana's farmers take pride in their harvests. You could call today's farmer the ultimate environmentalist. They know how to take care of the land and ensure that future harvests will be plentiful. As land managers, farmers understand the importance of proper land stewardship.

Those colleagues of mine who grew up on a farm or ranch would certainly understand the frustration of this business. Farmers and ranchers don't receive an annual salary. They cannot rely on income that may not be there at the end of the year and they certainly cannot count on a monthly paycheck. This is a crucial time for family farms and tax relief can mean the difference between keeping the family farm for future generations or losing it.

With the recent passage of the Farm Bill, farmers are more than ever impacted by market forces and in the farming business, those market forces can be very unpredictable.

Market forces in farming are very unique—drought, flooding, infestation and disease all play a vital role in a farmer's bottom line. And it's not often when the elements of mother nature allow for a profitable harvest.

At best, most farmers are lucky to break even more than two years in a row. One year may be a windfall, while the next may mean bankruptcy. Farmers and ranchers are forced to make large capital investments in machinery, livestock and improvements to their properties.

Agricultural markets are rarely predictable. Farmers, more than any other sector of our economy are likely to experience substantial fluctuations in income.

We also need to address the issue of the estate tax. This is a death blow to a family farm that has been passed down through the generations. A family farm in Montana is not really referred to as an estate. We call it home, we call it work, and we call it our lives, but we don't call it an estate.

I urge my colleagues to support this bill and urge you also to support future bills such as estate tax relief legislation to encourage America's farming family of a safe and secure future.

I have letters in support of this bill signed by numerous agriculture groups as well as a letter from the National Federation of Independent Businesses (NFIB). I ask unanimous consent to have both of these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

July 23, 1998.

Hon. CONRAD BURNS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BURNS: Farming and ranching is a high risk endeavor. Problems due to this year's adverse weather and low prices provide a vivid illustration of the difficulties that can be caused by nature and markets.

The tax code can and should help producers deal with financial uncertainties unique to agriculture. Agricultural organizations have recommended estate tax relief, permanent income averaging for farmers, the full deductibility of health insurance premiums for the self-employed and the creation of farm and ranch risk management accounts (FARRM).

We applaud you for introducing legislation that encompasses the creation of FARRM accounts and makes income averaging a permanent part of the tax code. FARRM accounts will help producers by providing incentives to save during good times for times that are not. Income averaging will help producers by allowing them to manage their volatile incomes for financial planning.

A reduction in capital gains tax rates is also part of your legislation. Because farming and ranching is a capital intensive business, capital gains taxes have a huge impact on agriculture. Lower capital gains tax rates will help producers by making it easier for them to invest in their businesses and make the best use of their capital assets.

We support your legislation and pledge our help to secure its passage into law.

Agricultural Retailers Association.
Alabama Farmers Federation .
American Farm Bureau Federation.
American Horse Council.
American Nursery and Landscape Association.
American Sheep Industry Association.
American Soybean Association.
American Sugarbeet Growers Association.
Communicating for Agriculture.
Farm Credit Council.
The Fertilizer Institute.
National Association of State Departments of Agriculture.
National Association of Wheat Growers.
National Barley Growers Association.
National Cattlemen's Beef Association.
National Corn Growers Association.
National Cotton Council of America.
National Council of Farmer Cooperatives.
National Grain Sorghum Producers Association.
National Grange.
National Pork Producers Council.
National Sunflower Association.
North Carolina Peanut Growers Association.
United Fresh Fruit and Vegetable Association.
USA Rice Federation.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS—THE VOICE OF SMALL BUSINESS,
July 29, 1998.

Hon. CONRAD BURNS,
U.S. Senate, Washington, DC.

DEAR SENATOR BURNS: I am writing to commend you for introducing legislation, "The Family Investment and Rural Savings Tax (FIRST) Act of 1998, that will provide needed tax relief to small businesses and farms.

Among other provisions, this legislation would reduce and simplify the current capital gains tax for the many small business owners who file as individuals. Small businesses face unique difficulties trying to obtain capital, including lack of access to the securities market and difficulty in getting bank loans. They often must get their capital from the business itself, family members or associates. Small businesses, therefore, need capital gains relief that will promote investment by both investors and business owners themselves.

The FIRST Act also contains needed relief to help farmers and ranchers by allowing eligible ones to make contributions to tax deferred accounts and by restoring income averaging. We very much support extending income averaging to small businesses, as well, and hope that Congress will consider this soon.

We applaud your efforts to reduce the tax burden on small businesses, farmers and ranchers, and look forward to working with you in the future.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

By Mr. BOND (for himself, Ms. SNOWE, and Mr. BENNETT):

S. 2372. A bill to provide for a pilot loan guarantee program to address Year 2000 problems of small business concerns, and for other purposes; to the Committee on Small Business.

SMALL BUSINESS YEAR 2000 READINESS ACT

Mr. BOND. Mr. President, I rise today to introduce the Small Business Year 2000 Readiness Act along with my colleagues Senators BENNETT and SNOWE. This bill provides small businesses with the resources necessary to repair Year 2000 computer problems. This legislation is an important step toward avoiding the widespread failure of small businesses.

The problem, as many Senators are aware, is that certain computers and processors in automated systems will fail because such systems will not recognize the Year 2000. My colleague Senator BENNETT, who is the Chairman of the Senate Special Year 2000 Technology Problem Committee and is cosponsoring this bill, is very well versed in this problem and has been active in getting the word out to industries and to agencies of the federal government of the drastic consequences that may result from the Y2K problem.

Recently, the Committee on Small Business, which I chair, held hearings on the effect the Y2K problem will have on small businesses. The outlook is not good. The Committee received testimony that the companies most at risk from Y2K failures are small and medium-sized industries, not larger companies. The major reasons for this anomaly is that many small companies have not begun to realize how much of a problem Y2K failures will be and may not have the access to capital to cure such problems before they cause disastrous effects.

A study on Small Business and the Y2K Problem sponsored by Wells Fargo Bank and the NFIB found that an estimated four and three-quarter million small employers are exposed to the Y2K problem. This equals approximately 82 percent of all small businesses that have at least two employees. Such exposure to the Y2K problem will have devastating affects on our economy generally. As the result of communications with small businesses, computer manufacturers, consultants and groups, the Small Business Committee has found there is significant likelihood that the Y2K issue will cause many small businesses to close, playing a large role in Federal Reserve Chairman Greenspan's prediction of a 40 percent chance for recession at the beginning of the new millennium.

The Committee received information indicating that approximately 330,000 small businesses will shut down due to the Y2K problem and an even larger number will be severely crippled. Such failures will affect not only the employees and owners of such small businesses, but also the creditors, suppliers and customers of such failed small businesses. Lenders, including banks and non-bank lenders, that have extended credit to small businesses will face significant losses if small businesses either go out of business or have a sustained period in which they cannot operate.

It must be remembered that the Y2K problem is not a problem for only those businesses that have large computer networks or mainframes. A small business is at risk if it uses any computers in its business, if it has customized software, if it is conducting e-commerce, if it accepts credit card payments, if it uses a service bureau for its payroll, if it depends on a data bank for information, if it has automated equipment for communicating with its sales or service force of if it has automated manufacturing equipment.

A good example of how small businesses are dramatically affected by the Y2K problem is the experience of John Healy, the owner of Coventry Spares Ltd. in Holliston, Massachusetts, as reported in INC Magazine. Coventry Spares is a distributor of vintage motorcycle parts. Like many small business owners, Mr. Healy's business depends on trailing technology purchased over the years, including a 286 computer, with software that is 14 years old and an operating system that is six or seven versions out of date. Mr. Healy uses this computer equipment, among other matters, for handling the company's payroll, ordering, inventory control, product lookup and maintaining a database of customers and subscribers to a vintage motorcycle magazine he publishes. The system handles 85 percent of his business and, without it working properly, Mr. Healy stated that "I'd be a dead duck in the water." Unlike many small business owners, however, Mr. Healy is aware of the Y2K problem and tested his equipment to see if his equipment could handle the Year 2000. His tests confirmed his fear—the equipment and software could not process the year 2000 date and would not work properly after December 21, 1999. Therefore, Mr. Healy will have to expand over $20,000 to keep his business afloat. The experience of Mr. Healy has been and will continue to be repeated across the country as small businesses realize the impact the Y2K problem will have on their business.

The Gartner Group, an international computer consulting firm, has conducted studies showing small businesses are way behind—the worst of all sectors studied—where they need to be in order to avoid significant failures due to non-Y2K compliance. It estimates that only 15 percent of all businesses with under 200 employees have even begun to inventory the automated systems that may be affected by this computer glitch. That means that 85 percent of small businesses have not be even begun the initial task of determining how much of a problem they may have or taken steps to ensure that their businesses are not impaired by this problem.

Given the effects a substantial number of small business failures will have on our nation's economy, it is imperative that Congress take steps to ensure that small businesses are aware of the Y2K problem and have access to capital to fix such problems. Moreover, it is imperative that Congress take such steps before the problem occurs, not after it has already happened. Therefore, today I am introducing the Small Business Year 2000 Readiness Act.

This Act will serve the dual purpose of providing small businesses with the means to continue operating successfully after January 1, 2000, and making lenders and small firms more aware of the dangers that lie ahead. The Act requires the Small Business Administration to establish a limited-term loan program whereby SBA would guarantee 50 percent of the principal amount of a loan made by a private lender to assist small businesses in correcting Year 2000 computer problems. The loan amount would be capped at $50,000. The guarantee limit and loan amount will limit the exposure of the government and ensure that eligible lenders retain sufficient risk so that they make sound underwriting decisions.

The Y2K loan program guidelines will be based on the guidelines SBA has already established governing its FA$TRACK pilot program. Lenders originating loans under the Y2K loan program would be permitted to process and document loans using the same internal procedures they would on loans of a similar type and size not governed by a government guarantee. Otherwise, the loans are subject to the same requirements as all other loans made under the (7)(a) loan program.

Under the loan program, each lender designated as a Preferred Lender or Certified Lender by SBA would be eligible to participate in the Y2K loan program. This would include approximately 1,000 lenders that have received special authority from the SBA to originate loans under SBA's existing 7(a) loan program. The Year 2000 loan program would sunset after October 31, 2001.

To assure that the loan program is made available to those small businesses that need it, the legislation requires SBA to inform all lenders eligible to participate in the program of the loan program's availability. It is intended that these lenders, in their own self-interest, will contact their small business customers to ensure that they are Y2K complaint and inform them of the loan program if they are not.

The Small Business Year 2000 Readiness Act is a necessary step to ensure that the economic health of this country is not marred by a substantial number of small business failures following January 1, 2000, and that small businesses continue to be the fastest growing segment of our economy in the Year 2000 and beyond.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Year 2000 Readiness Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the failure of many computer programs to recognize the Year 2000 will have extreme negative financial consequences in the Year 2000 and in subsequent years for both large and small businesses;

(2) small businesses are well behind larger businesses in implementing corrective changes to their automated systems—85 percent of businesses with 200 employees or less have not commenced inventorying the changes they must make to their automated systems to avoid Year 2000 problems;

(3) many small businesses do not have access to capital to fix mission critical automated systems; and

(4) the failure of a large number of small businesses will have a highly detrimental effect on the economy in the Year 2000 and in subsequent years.

SEC. 3. YEAR 2000 COMPUTER PROBLEM LOAN GUARANTEE PROGRAM.

(a) PROGRAM ESTABLISHED.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

"(27) YEAR 2000 COMPUTER PROBLEM PILOT PROGRAM.—

"(A) DEFINITIONS.—In this paragraph—

"(i) the term 'eligible lender' means any lender designated by the Administration as eligible to participate in—

"(I) the Preferred Lenders Program authorized by the proviso in section 5(b)(7); or

"(II) the Certified Lenders Program authorized in paragraph (19); and

"(ii) the term 'Year 2000 computer problem' means, with respect to information technology, any problem that prevents the information technology from accurately processing, calculating, comparing, or sequencing date or time data—

"(I) from, into, or between—

"(aa) the 20th or 21st centuries; or

"(bb) the years 1999 and 2000; or

"(II) with regard to leap year calculations.

"(B) ESTABLISHMENT OF PROGRAM.—The Administration shall—

"(i) establish a pilot loan guarantee program, under which the Administration shall guarantee loans made by eligible lenders to small business concerns in accordance with this subsection; and

"(ii) notify each eligible lender of the establishment of the program under this paragraph.

"(C) USE OF FUNDS.—A small business concern that receives a loan guaranteed under this paragraph shall use the proceeds of the loan solely to address the Year 2000 computer problems of that small business concern, including the repair or acquisition of information technology systems and other automated systems.

"(D) MAXIMUM AMOUNT.—The total amount of a loan made to a small business concern and guaranteed under this paragraph shall not exceed $50,000.

"(E) GUARANTEE LIMIT.—The guarantee percentage of a loan guaranteed under this paragraph shall not exceed 50 percent of the balance of the financing outstanding at the time of disbursement of the loan.

"(F) REPORT.—The Administration shall annually submit to the Committees on Small Business of the House of Representatives and the Senate a report on the results of the program under this paragraph, which shall include information relating to—

"(i) the number and amount of loans guaranteed under this paragraph;

"(ii) whether the loans guaranteed were made to repair or replace information technology and other automated systems; and

"(iii) the number of eligible lenders participating in the program.".

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue final regulations to carry out the program under section 7(a)(27) of the Small Business Act, as added by this section.

(2) REQUIREMENTS.—Except to the extent inconsistent this section or section 7(a)(27) of the Small Business Act, as added by this section, the regulations issued under this subsection shall be substantially similar to the requirements governing the FA$TRACK pilot program of the Small Business Administration, or any successor pilot program to that pilot program.

(c) REPEAL.—Effective on October 1, 2001, this section and the amendment made by this section are repealed.

SEC. 4. PILOT PROGRAM REQUIREMENTS.

Section 7(a)(25) of the Small Business Act (15 U.S.C. 636(a)(25)) is amended by adding at the end the following:

"(D) NOTIFICATION OF CHANGE.—Not later than 30 days prior to initiating any pilot program or making any change in a pilot program under this subsection that may affect the subsidy rate estimates for the loan program under this subsection, the Administration shall notify the Committees on Small Business of the House of Representatives and the Senate, which notification shall include—

"(i) a description of the proposed change; and

"(ii) an explanation, which shall be developed by the Administration in consultation with the Director of the Office of Management and Budget, of the estimated effect that the change will have on the subsidy rate.

"(E) REPORT ON PILOT PROGRAMS.—The Administration shall annually submit to the Committees on Small Business of the House of Representatives and the Senate a report on each pilot program under this subsection, which report shall include information relating to—

"(i) the number and amount of loans made under the pilot program;

"(ii) the number of lenders participating in the pilot program; and

"(iii) the default rate, delinquency rate, and recovery rate for loans under each pilot program, as compared to those rates for other loan programs under this subsection.".

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 2373. A bill to amend title 28, United States Code, with respect to the use of alternative dispute resolution processes in United States district courts, and for other purposes; to the Committee on the Judiciary.

ALTERNATIVE DISPUTE RESOLUTION ACT

Mr. GRASSLEY. Mr. President, I rise today to introduce the Alternative Dispute Resolution Act of 1998. My Judiciary Subcommittee on Administrative Oversight and the Courts has jurisdiction over this matter, and I am very pleased that the ranking member of the subcommittee, Senator DURBIN, has joined me in sponsoring this bill. It will require every Federal district court in the country to institute an alternative dispute resolution, or ADR, program. The bill will provide parties and district court judges with options other than the traditional, costly and adversarial process of litigation.

ADR programs have been gaining in popularity and respect for years now. For example, many contracts drafted today—between private parties, corporations, and even nations—include arbitration clauses. Most State and Federal bar associations, including the ABA, have established committees to focus on ADR. Also, comprehensive ADR programs are flourishing in many of the States.

ADR is also being used at the Federal level. In 1990, for example, President Bush signed into law a bill that I introduced called the Administrative Dispute Resolutions Act. The law promoted the increased use of ADR in Federal agency proceedings. In 1996, because ADR was working so well, we permanently re-authorized the law. And earlier this year, the executive branch recommitted themselves to using ADR as much as possible.

Since the late 1970s, our Federal district courts have also been successfully introducing ADR. In 1998, we authorized 20 district courts to begin implementing ADR programs. The results were very encouraging, so last year we made these programs permanent. It's time to take another step and make ADR available in all district courts.

Mr. President, ADR allows innovations and flexibility in the administration of justice. The complex legal problems that people have demand creative and flexible solutions on the part of the courts. There are numerous benefits to providing people with alternatives to traditional litigation. For example, a recent Northwestern University study of ADR programs in State courts indicated that mediation significantly reduced the duration of lawsuits and produced significant cost savings for litigants. That means fewer cases on the docket and decreased costs. The Federal courts should be taking every opportunity to reap the benefits that the state courts have been enjoying.

Mr. President, the fact of the matter is that ADR works. The future of justice in this country includes ADR. Perhaps one of the signs of this is that many of the best law, business, and graduate schools in the country are beginning to emphasize training in negotiation, mediation, and other kinds of dispute resolution.

Quite simply, this bill will increase the availability of ADR in our Federal courts. It mandates that every district court establish some form of professional ADR program. It provides the district, however, with the flexibility to decide what kind of ADR works best locally. The bill also allows a district with a current ADR program that's working well to continue the program.

This bill is the Senate companion to H.R. 3528, which was reported out of the Judiciary Committee today without any opposition. Our bill tracks the original House bill, except for some findings and a few technical changes to improve the legislation. These changes were included in the bill reported out of committee. The House bill received overwhelming, bipartisan support, passing 405-2.

The Department of Justice, along with the administration, the Administrative Office of the Courts, and the American Bar Association, including its business section, all support the legislation with these improvements. The consensus is clear: ADR has an important role to play in our Federal court system.

Mr. President, this bill is a step in the right direction for the administration of justice in our country. Increased availability of ADR will benefit all of us. It should be an option to people in every judicial district of the country. This bill assures that it will be.

By Mr. SARBANES:

S. 2374. A bill to provide additional funding for repair of the Korean War Veterans Memorial; to the Committee on Energy and Natural Resources.

KOREAN WAR VETERANS MEMORIAL LEGISLATION

• Mr. SARBANES. Mr. President, today I am introducing legislation to fix and restore one of our most important monuments, the Korean War Veterans Memorial. My bill would authorize the Secretary of the Army to provide, within existing funds, up to $2 million to complete essential repairs to the Memorial.

The Korean War Memorial is the newest war monument in Washington, DC. It was authorized in 1986 by Public Law 99-752 which established a Presidential Advisory Board to raise funds and oversee the design of the project, and charged the American Battle Monuments Commission with the management of this project. The authorization provided $1 million in federal funds for the design and initial construction of the memorial and Korean War Veterans' organizations and the Advisory Board raised over $13 million in private donations to complete the facility. Construction on the memorial began in 1992 and it was dedicated on July 27, 1995.

For those who haven't visited, the Memorial is located south of the Vietnam Veteran's Memorial on the Mall, to the east of the Lincoln Memorial. Designed by world class Cooper Lecky Architects, the monument contains a triangular "field of service," with 19 stainless steel, larger than life statues, depicting a squad of soldiers on patrol. A curb of granite north of the statues lists the 22 countries of the United Nations that sent troops in defense of South Korea. To the south of the patrol stands a wall of black granite, with engraved images of more than 2,400 unamed servicemen and women detailing the countless ways in which Americans answered the call to service. Adjacent to the wall is a fountain which is supposed to be encircled by a Memorial Grove of linden trees, creating a peaceful setting for quiet reflection. When this memorial was originally created, it was intended to be a lasting and fitting tribute to the bravery and sacrifice of our troops who fought in the "Forgotten War." Unfortunately, just three years after its dedication, the monument is not lasting and is no longer fitting.

The Memorial has not functioned as it was originally conceived and designed and has instead been plagued by a series of problems in its construction.

The grove of 40 linden trees have all died and been removed from the ground, leaving forty gaping holes. The pipes feeding the "pool of remembrance's" return system have cracked and the pool has been cordoned off. The monument's lighting system has been deemed inadequate and has caused safety problems for those who wish to visit the site at night. As a result, most of the 1.3 million who visit the monument each year—many of whom are veterans—must cope with construction gates or areas which have been cordoned off instead of experiencing the full effect of the Memorial.

Let me read a quote from the Washington Post—from a Korean War Veteran, John LeGault who visited the site—that I think captures the frustration associated with not having a fitting and complete tribute for the Korean War. He says, "Who cares?" "That was the forgotten war and this is the forgotten memorial." Mr. President, we ought not to be sunshine patriots when it comes to making decisions which affect our veterans. Too often, we are very high on the contributions that our military makes in times of crisis, but when a crisis fades from the scene, we seem to forget about this sacrifice. Our veterans deserve better.

To resolve these problems and restore this monument to something that our Korean War Veterans can be proud of, the U.S. Army Corps of Engineers conducted an extensive study of the site in an effort to identify, comprehensively, what corrective actions would be required. The Corps has determined that an additional $2 million would be required to complete the restoration of the grove work and replace the statuary lighting. My legislation would provide the authority for the funds to make these repairs swiftly and once and for all.

With the 50th anniversary of the Korean War conflict fast approaching, we must ensure that these repairs are made as soon as possible. This additional funding would ensure that we have a fitting, proper, and lasting tribute to those who served in Korea and that we will never forget those who served in the "Forgotten War." I urge my colleagues to join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL FUNDING FOR KOREAN WAR VETERANS MEMORIAL.

Section 3 of Public Law 99–572 (40 U.S.C. 1003 note) is amended by adding at the end the following:

"(c) ADDITIONAL FUNDING.—

"(1) IN GENERAL.—In addition to amounts made available under subsections (a) and (b), the Secretary of the Army may expend, from any funds available to the Secretary on the date of enactment of this paragraph, $2,000,000 for repair of the memorial.

"(2) DISPOSITION OF FUNDS RECEIVED FROM CLAIMS.—Any funds received by the Secretary of the Army as a result of any claim against a contractor in connection with construction of the memorial shall be deposited in the general fund of the Treasury.".●

By Mr. JEFFORDS:

S. 2376. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for land sales for conservation purposes; to the Committee on Finance.

THE CONSERVATION TAX INCENTIVES ACT OF 1998

● Mr. JEFFORDS. Mr. President, today, I am introducing the Conservation Tax Incentives Act of 1998, a bill that will result in a reduction in the capital gains tax for landowners who sell property for conservation purposes. This bill creates a new incentive for private, voluntary land protection. This legislation is a cost-effective nonregulatory, market-based approach to conservation, and I urge my colleagues to join me in support of it.

The tax code's charitable contribution deduction currently provides an incentive to taxpayers who give land away for conservation purposes. That is, we already have a tax incentive to encourage people to donate land or conservation easements to government agencies like the Fish and Wildlife Service or to citizens' groups like the Vermont Land Trust. This incentive has been instrumental in the conservation of environmentally significant land across the country.

Not all land worth preserving, however, is owned by people who can afford to give it away. For many landowners, their land is their primary financial asset, and they cannot afford to donate it for conservation purposes. While they might like to see their land preserved in its underdeveloped state, the tax code's incentive for donations is of no help.

The Conservation Tax Incentives Act will provide a new tax incentive for sales of land for conservation by reducing the amount of income that landowners would ordinarily have to report—and pay tax on—when they sell their land. The bill provides that when land is sold for conservation purposes, only one half of any gain will be included in income. The other half can be excluded from income, and the effect of this exclusion is to cut in half the capital gains tax the seller would otherwise have to pay. The bill will apply to land and to partial interests in land and water.

It will enable landowners to permanently protect a property's environmental value without forgoing the financial security it provides. The bill's benefits are available to landowners who sell land either to a government agency or to a qualified conservation nonprofit organization, as long as the land will be used for such conservation purposes as protection of fish, wildlife or plant habitat, or as open space for agriculture, forestry, outdoor recreation or scenic beauty.

Land is being lost to development and commercial use at an alarming rate. By Department of Agriculture estimates, more than four square miles of farmland are lost to development every day, often with devastating effects on the habitat wildlife need to thrive. Without additional incentives for conservation, we will continue to lose ecologically valuable land.

A real-life example from my home state illustrates the need for this bill. A few years ago, in an area of Vermont known as the Northeast Kingdom, a large well-managed forested property came on the market. The land had appreciated greatly over the years and was very valuable commercially. With more than 3,000 acres of mountains, forests, and ponds, with hiking trails, towering cliffs, scenic views and habitat for many wildlife species, the property was very valuable environmentally. Indeed, the State of Vermont was anxious to acquire it and preserve it for traditional agricultural uses and habitat conservation.

After the property had been on the market for a few weeks, the seller was contacted by an out-of-state buyer who planned to sell the timber on the land and to dispose of the rest of the property for development. After learning of this, the State quickly moved to obtain appraisals and a legislative appropriation in preparation for a possible purchase of the land by the State. Subsequently, the State and The Nature Conservancy made a series of purchase offers to the landowner. The out-of-state buyer however, prevailed upon the landowner to accept his offer. Local newspaper headlines read, "State of Vermont Loses Out On Northeast Kingdom Land Deal." The price accepted by the landowner was only slightly higher than the amount the State had offered. Had the bill I'm introducing today been on the books, the lower offer by the State may well have been as attractive—perhaps more so—than the amount offered by the developer.

This bill provides an incentive-based means for accomplishing conservation in the public interest. It helps tax dollars accomplish more, allowing public and charitable conservation funds to go to higher-priority conservation projects. Preliminary estimates indicate that with the benefits of this bill, nine percent more land could be acquired, with no increase in the amount governments currently spend for conservation land acquisition. At a time when little money is available for conservation, it is important that we stretch as far as possible the dollars that are available.

State and local governments will be important beneficiaries of this bill.

Many local communities have voted in favor of raising taxes to finance bond initiatives to acquire land for conservation. My bill will help stretch these bond proceeds so that they can go further in improving the conservation results for local communities. In addition, because the bill applies to sales to publicly-supported national, regional, State and local citizen conservation groups, its provisions will strengthen private, voluntary work to save places important to the quality of life in communities across the country. Private fundraising efforts for land conservation will be enhanced by this bill, as funds will be able to conserve more, or more valuable, land.

Let me provide an example to show how I intend the bill to work. Let's suppose that in 1952 a young couple purchased a house and a tract of adjoining land, which they have maintained as open land. Recently, the county where they lived passed a bond initiative to buy land for open space, as county residents wanted to protect the quality of their life from rampant development and uncontrolled sprawl. Let's further assume that the couple, now contemplating retirement, is considering competing offers for their land, one from a developer, the other from the county, which will preserve the land in furtherance of its open-space goals. Originally purchased for $25,000, the land is now worth $250,000 on the open market. If they sell the land to the developer for its fair market value, the couple would realize a gain of $225,000 ($250,000 sales price minus $25,000 costs), owe tax of $45,000 (at a rate of 20% on the $225,000 gain), and thus net $205,000 after tax.

Under my bill, if the couple sold the land for conservation purposes, they could exclude from income one half of any gain they realized upon the sale. This means they would pay a lower capital gains tax; consequently, they would be in a position to accept a lower offer from a local government or a conservation organization, yet still end up with more money in their pockets than they would have had if they had accepted the developer's offer. Continuing with the example from the preceding paragraph, let's assume the couple sold the property to the county, for the purpose of conservation, at a price of $240,000. They would realize a gain of $215,000 ($240,000 sales price minus $25,000 cost). Under my bill, only half of this gain $107,500, would be includible in income. The couple would pay $21,500 in capital gains tax (at a rate of 20% on the $107,500 gain includible in income) and thus net $218,500 ($240,000 sales price minus $21,500 tax). Despite having accepted a sales price $10,000 below the developer's offer, the couple will keep $13,000 more than they would have kept if they had accepted his offer.

The end result is a win both for the landowners, who end up with more money in their pocket than they would have had after a sale to an outsider, and for the local community, which is able to preserve the land at a lower price. This example illustrates how the exclusion from income will be especially beneficial to middle-income, "land rich/cash poor" landowners who can't avail themselves of the tax benefits available to those who can afford to donate land.

As this bill also applies to partial interests in land, the exclusion from income—and the resulting reduction in capital gains tax—will, in certain instances, also be available to landowners selling partial interests in their land for conservation purposes. A farmer could, for example, sell a conservation easement, continuing to remain on and farm his land, yet still be able to take advantage of the provisions in this bill. The conservation easement must meet the tax code's requirements i.e., it must serve a conservation purpose, such as the protection of fish or wildlife habitat or the preservation of open space (including farmland and forest land).

There are some things this bill does not do. It does not impose new regulations or controls on people who own environmentally-sensitive land. It does not compel anyone to do anything; it is entirely voluntary. Nor will it increase government spending for land conservation. In fact, the effect of this bill will be to allow better investment of tax and charitable dollars used for land conservation.

The estimated cost of this bill is just $50 million annually. This modest cost, however, does not take into account the value of the land conserved. It is estimated that for every dollar foregone by the Federal treasury, $1.76 in land will be permanently preserved.

I urge all my colleagues to join me in support of the Conservation Tax Incentives Act of 1998.•

By Mr. MOYNIHAN (for himself, Mr. LEVIN, Mr. JEFFORDS, Mr. LEAHY, Mr. CLELAND, Mr. DURBIN, Mr. D'AMATO, and Mrs. BOXER):

S. 2377. A bill to amend the Clean Air Act to limit the concentration of sulfur in gasoline used in motor vehicles; to the committee on Environment and Public Works.

CLEAN GASOLINE ACT OF 1998

• Mr. MOYNIHAN. Mr. President, I am proud to introduce today the Clean Gasoline Act of 1998, a bill to establish a nationwide, year-round cap on the sulfur content of gasoline. My bill presents an opportunity to make tremendous progress in improving our national air quality through a simple, cost-effective measure. Today, 70 million people—30 percent of the nation's population—live in counties which exceed heatlh-based ozone standards. For just a few pennies a gallon, we can make our urban environment appreciably better.

Sulfur in gasoline contaminates catalytic converters so that they remove less of the nitrogen oxide (NO_x), carbon monoxide (CO), and hydrocarbons (HC) contained in tailpipe emissions. These pollutants elevate the levels of particulate matter (PM) and contribute to ground-level ozone. By reducing the amount of sulfur allowed in gasoline sold nationwide, my bill will substantially improve air quality, especially in America's largest cities.

The current average sulfur content in U.S. gasoline is approximately 330 parts per million (ppm), and ranges as high as 1,000 ppm. the Clean Gasoline Act will impose a year-round cap of 40 ppm on the sulfur content of all gasoline sold in the United States. Under my bill, refineries will also have the option of meeting an 80 ppm cap, provided that they maintain an overall average sulfur content of no more than 30 ppm.

Imposing limits on the sulfur content of gasoline will achieve tremendous—and virtually immediate—air quality benefits. The emissions reductions achieved by lowering gasoline sulfur levels to 40 ppm would be equivalent to removing 3 million vehicles from the streets of New York, and nearly 54 million vehicles from our roads nationwide.

California imposed a similar cap on gasoline sulfur beginning in 1996, resulting in significant air quality gains. Japan has already established a 50 ppm gasoline standard, and the European Union currently has a gasoline sulfur standard of 150 ppm—which will drop to 50 ppm beginning in the year 2005.

The gasoline sulfur cap established by my bill will apply year-round. A seasonal cap is insufficient because the damage done to catalytic converters by sulfur poisoning is not fully reversible by typical driving—meaning that vehicle emission controls would be reposioned every year when high-sulfur gasoline returned to the market. In the absence of national standards, travel over state boundaries could disable emissions controls.

The current high-sulfur content of U.S. gasoline will also preclude the introduction of the next generation of fuel efficiency technologies—most notably fuel cells and direct-injection gasoline engines. U.S. citizen will not have access to these advanced technologies—unless we adopt low sulfur gasoline standards.

Mr. President, I believe our task is clear. A national low sulfur gasoline standard will result in considerable health and environmental benefits. It will maximize the effectiveness of currently available vehicle emissions technology, and will enable the introduction of the next generation of vehicle technology into the U.S. market.

Refineries can reduce the sulfur content of gasoline using existing technology that is already being used to supply markets in California, Japan, and the European Union. Our national fleet is already comprised of world-class vehicles. It is time for us to provide this fleet with world-class fuel. I urge my colleagues to join my cosponsors and me in supporting this important legislation.•

• Mr. JEFFORDS. Mr. President, I join Senator MOYNIHAN in offering legislation that would reduce the sulfur content of gasoline. Current levels of sulfur in gasoline lead to high nitrogen oxide, carbon monoxide, and hydrocarbon emissions by weakening catalytic converter emission controls. These emissions elevate ground-level ozone and particulate matter pollution.

As we all have learned, long-term exposure to ozone pollution can have significant health impacts, including asthma attacks, breathing and respiratory problems, loss of lung function, and lowered immunity to disease. The EPA has compared breathing ozone to getting a sunburn in your lungs. Children, including Vermont's approximately 10,000 asthmatic children, are at special risk for adverse health effects from ozone pollution. Children playing outside in the summer time, the season when concentrations of ground-level ozone are the greatest, may suffer from coughing, decreased lung function, and have trouble catching their breath. Exposure to particulate matter pollution is similarly dangerous causing premature death, increased respiratory symptoms and disease, decreased lung function, and alterations in lung tissue. These pollutants also result in adverse environmental effects such as acid rain and visibility impairment.

Mr. President, this bill will reduce these pollutants in our communities, and more importantly it will reduce these pollutants cost-effectively. To reduce the sulfur content of gasoline, refineries can use currently available technology. These measures will not break the bank. California has already adopted the measures in this bill on a statewide basis. So have Japan and the members of the European Union.

Mr. President, I urge my colleagues to support this bill. Let's clean up our air so we can all breathe just a little bit easier.•

• Mr. CLELAND. Mr. President, I am pleased today to announce that I have added my name as an original co-sponsors of the Low Sulfur Fuel Act of 1998 and to express my reasons for supporting this important legislation. I would first like to thank my colleague from New York, Senator MOYNIHAN, for his authorship of this measure and his leadership on this issue. The bill establishes a national, year-round cap on gasoline sulfur levels, and would impose a reduction of sulfur content in gasoline from 300 parts per million (ppm) to 40 ppm within two years from the date of enactment.

High sulfur levels in gasoline increase vehicle emissions of nitrogen oxides (NO_x), carbon monoxide (CO), and hydrocarbons (HC) which in turn produce higher levels of particulate matter (PM) and contribute to ground level ozone. Reducing sulfur content levels to 40 ppm has been shown to reduce Nitrogen Oxides by 51 percent, Carbon Monoxide by 40 percent, and Hydrocarbons by 24 percent. Essentially, the sulfur in gasoline inhibits the catalyst in an automobile from doing its job—which is to reduce the emissions of the aforementioned pollutants. Sulfur is a contaminant only and does not in any way enhance engine performance.

There are two compelling reasons which led me to support this bill: First, helping our states attain the health requirements set forth by the Clean Air Act by providing them with a viable tool for reducing NO_x and CO emissions; and second, updating our gasoline to keep pace with other industrialized nations thereby keeping our automotive fleet competitive in the international marketplace.

In my home state of Georgia, the Metro Atlanta area has experienced extensive difficulties in complying with the standards set forth by the Clean Air Act. In a recent attempt to meet these standards, the Georgia Department of Natural Resources (DNR), has voted to implement reduced sulfur content in fuel. The rule would require gasoline in the 25 county area surrounding Atlanta to be reduced to 30 ppm by 2003. Georgia is only the second state, after California, to take such innovative steps to meet air quality goals. In my review of this bill, I sent a copy to Harold Reheis, Director of the Georgia Environmental Protection Division (EPD), an agency of the Georgia DNR for his comments. In his response, which I will ask unanimous consent to add as part of the RECORD after my statement, Mr. Reheis states that the Moynihan bill would "result in a reduction in air pollutants statewide and nationwide." Further, he added that this bill "could help prevent ozone nonattainment problems in other urban areas of Georgia like Augusta, Columbus, and Macon, which all could have difficulty meeting the tighter federal ozone standards adopted by the USEPA last year." I encourage all my colleagues to contact their State Environmental Agencies to request their input on this matter.

Relating to the second point in support of the bill, the U.S. must maintain our innovative and forward thinking approach and support this measure because other countries, such as Japan, Egypt, Thailand, and every member of the European Union have already required similar caps on the sulfur content of their gasoline. Thus, in order for us to compete with these and other countries, we must take this extremely valuable step. California has already taken such action and now we have the opportunity to send a message to the rest of the world, that we, as a nation, are committed to cleaner, more fuel efficient gasoline. Further, we should signify that we are committed to ensuring that our auto industry and the U.S. consumer are equipped with the infrastructure necessary to take advantage of the emerging market for new, innovative, less polluting automobiles.

There is a real possibility that if the U.S. does not take this action, we would fall behind the rest of the industrialized world—a position that the US should never be in—and become the dumping ground for higher sulfur level fuels—making it more difficult to shift to the lower sulfur fuels and inhibiting U.S. automakers from producing and U.S. consumers from purchasing, cleaner and more fuel efficient technologies.

The crux of this issue is that reducing sulfur content in gasoline to 40 ppm, year round, is a viable, cost-effective tool to dramatically reduce pollutants which cause high levels of Particulate Matter as well as Ozone and I urge my colleagues to support this bill.

I ask unanimous consent that the letter from Mr. Reheis be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GEORGIA DEPARTMENT
OF NATURAL RESOURCES,
Atlanta, GA, June 22, 1998.

Hon. MAX CLELAND,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CLELAND: Thank you for sharing with EPD the proposed bill by Senator Moynihan to require the use of low sulfur gasoline all over the United States. The bill is a fine idea, and we have done something similar in Georgia. The Board of Natural Resources, upon my recommendation, recently promulgated rules to require low sulfur gasoline to be sold in 25 counties in and around Metro Atlanta starting May 1999.

The proposed Senate bill would result in a reduction in air pollutants statewide and nationwide. This could help prevent ozone nonattainment problems in other urban areas of Georgia like Augusta, Columbus, and Macon, which all could have difficulty meeting the tighter federal ozone standards adopted by USEPA last year.

I think the bill deserves your support. Please contact me if you need future information.

Sincerely,

HAROLD F. REHEIS,
Director.•

By Mr. AKAKA:

S. 2378. A bill to amend title XVIII of the Social Security Act to increase the amount of payment under the Medicare program for pap smear laboratory tests; to the Committee on Finance.

INVESTMENT IN WOMEN'S HEALTH CARE ACT OF 1998

Mr. AKAKA. Mr. President, today I introduce the Investment in Women's Health Act of 1998, a bill to increase Medicare reimbursement for Pap smear laboratory tests. This is the Senate companion measure to the bill introduced in the House by my colleague and friend, Representative NEIL ABERCROMBIE.

Last year, I was contacted by pathologists who alerted me to the cost-payment differential for Pap smear testing in Hawaii. According to the American Pathology Foundation, Hawaii is one of 23 states where the cost of performing the test significantly exceeds the Medicare payment. In Hawaii, the cost of performing the test ranges between $13.04 and $15.80. The Medicare reimbursement rate is only $7.15.

This large disparity between the reimbursement rate and the actual cost may force labs in Hawaii and other states to discontinue Pap smear testing. Additionally, the below-cost-reimbursement may compel some labs to process tests faster and in higher volume to improve cost efficiency. This situation increases the risk of inaccurate results and can severely handicap patient outcomes.

If the Pap smear is to continues an effective cancer screening tool, it must remain widely available and reasonably priced for all women. Adequate payment is a necessary component of ensuring women's continued access to quality Pap smears.

My bill will increase the Medicare reimbursement rate for Pap smear lab work from its current $7.15 to $14.60—the national average cost of the test. This rate is important because it establishes a benchmark for many private insurers.

No other cancer screening procedure is as effective for early detection of cancer as the Pap smear. Over the last 50 years, the incidence of cervical cancer deaths has declined by 70 percent due in large part to the use of this cancer detection measure. Experts agree that the detection and treatment of precancerous lesions can actually prevent cervical cancer. Evidence also shows that the likelihood of survival when cervical cancer is detected in its earliest stage is almost 100 percent with timely and appropriate treatment and follow-up.

Mr. President, an estimated 13,700 new cases of invasive cervical cancer will be diagnosed in 1998 and 4,900 women will die of the disease. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a list of the average Pap smear production costs for 23 states be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Pap Smear Production Costs

California	$18.84
	17.11
	17.00
	13.05
Colorado	16.94
Connecticut	16.87
Delaware	22.00
Florida	14.00
Georgia	10.73
Hawaii	13.04
	14.04
	15.40
	15.80
Illinois	13.12
Iowa	13.78
Kansas	14.62
Kentucky	16.00
	13.01
Maryland	14.05
Michigan	13.16
Nebraska	16.12
New Mexico	20.65
Ohio	18.46
	14.15
	14.50
South Carolina	16.89
	13.00
South Dakota	10.25
Tennessee	12.36
Texas	13.50
Vermont	18.92
Washington	11.64
	12.00
	12.52
	12.90
	12.91
	13.22
	13.42
	14.69
Wisconsin	13.00

Note.—This data was obtained from the American Pathology Foundation.

By Mr. MURKOWSKI (for himself and Mr. DASCHLE):

S. 2379. A bill to establish a program to establish and sustain viable rural and remote communities; to the Committee on Banking, Housing, and Urban Affairs

THE RURAL AND REMOTE COMMUNITY FAIRNESS ACT OF 1998

• Mr. MURKOWSKI. Mr. President, today I introduce the Rural and Remote Community Fairness Act of 1998. This Act will lead to a brighter future for rural and remote communities by establishing two new grant programs that will address the unique economic and environmental challenges faced by small communities in rural and remote areas across this country. I am pleased that this legislation is co-sponsored by the Minority Leader, Senator DASCHLE.

The bill authorizes up to $100 million a year in grant aid from 1999 through 2005 for any commuunities across the nation with populations of less than 10,000 which face electric rates in excess of 150 percent of the national average retail price. The money can go for electricity system improvements, energy efficiency and weatherization efforts, water and sanitation improvements or work to solve leaking fuel storage tanks.

The bill also amends the Rural Electrification Act to authorize Rural and Remote Electrification Grants of an additional $20 million a year to the same communities. The grants can be used to increase energy efficiency, lower electricity rates or provide for the modernization of electric facilities.

This nation has well-established programs for community development grants. The majority of these programs were established to help resolve the very real problems found in this Nation's urban areas. However, our most rural and remote communities experience different, but equally real, problems that are not addressed by existing law. Not only are these communities generally ineligible for the existing programs, their unique challenges, while sometimes similar to those experienced by urban areas, require a different focus and approach.

The biggest single economic problem facing small communities is the expense of establishing a modern infrastructure. These costs, which are always substantial, are exacerbated in remote and rural areas. The existence of this infrastructure, including efficient housing, electricity, bulk fuel storage, waste water and water service, is a necessity for the health and welfare of our children, the development of a prosperous economy and minimizing environmental problems.

There is a real cost in human misery and to the health and welfare of everyone, especially our children and our elderly from poor or polluted water or bad housing or an inefficient power system. Hepatitis B infections in rural Alaska are five times more common than in urban Alaska. We just have to do better if we are to bring our rural communities into the 21st Century.

The experience of many Alaskans is a perfect example. Most small communities or villages in Alaska are not interconnected to an electricity grid, and rely upon diesel generators for their electricity. Often, the fuel can only be delivered by barge or airplane, and is stored in tanks. These tanks are expensive to maintain, and in many cases, must be completely replaced to prevent leakage of fuel into the environment. While economic and environmental savings clearly justify the construction of new facilities, these communities simply don't have the ability to raise enough capital to make the necessary investments.

As a result, these communities are forced to bear an oppressive economic and environmental burden that can be eased with a relatively small investment on the part of the Federal government. I can give you some examples: in Manley Hot Springs, Alaska, the citizens pay almost 70 cents per kilowatt hour for electricity. In Igiugig, Kokhanok, Akiachak Native Community, and Middle Kuskokwim, consumers all pay over 50 cents per kilowatt hour for electricity. The national average is around 7 cents per kilowatt hour.

Further, in Alaska, for example, many rural villages still lack modern water and sewer sanitation systems taken for granted in all other areas of America. According to a Federal Field Working Group, 190 of the state's villages have "unsafe" sanitation systems, 135 villages still using "honey buckets" for waste disposal. Only 31 villages have a fully safe, piped water system; 71 villages having only one central watering source.

Concerning leaking storage tanks, the Alaska Department of Community and Regional Affairs estimates that there are more than 2,000 leaking above-ground fuel storage tanks in Alaska. There are several hundred other below-ground tanks that need repair, according to the Alaska Department of Environmental Conservation.

These are not only an Alaskan problem. The highest electricity rates in America are paid by a small community in Missouri, and communities in Maine, as well as islands in Rhode Island and New York will likely qualify for this program. Providing safe drinking water and adequate waste treatment facilities is a problem for very small communities all across this land.

What will this Act do to address these problems? First, the Act authorizes $100 million per year for the years 1999–2005 for block grants to communities of under 10,000 inhabitants who pay more than 150 percent of the national average retail price for electricity.

The grants will be allocated by the Secretary of Housing and Urban Development among eligible communities proportionate to cost of electricity in the community, as compared to the national average. The communities may use the grants only for the following eligible activities:

Low-cost weatherization of homes and other buildings;

Construction and repair of electrical generation, transmission, distribution, and related facilities;

Construction, remediation and repair of bulk fuel storage facilities;

Facilities and training to reduce costs of maintaining and operating electrical generation, distribution, transmission, and related facilities;

Professional management and maintenance for electrical generation, distribution and transmission, and related facilities;

Investigation of the feasibility of alternate energy services;

Construction, operation, maintenance and repair of water and waste water services;

Acquisition and disposition of real property for eligible activities and facilities; and

Development of an implementation plan, including administrative costs for eligible activities and facilities.

In addition, this bill will amend the rural Electrification Act of 1936 to authorize Rural and Remote Electrification Grants for $20 million per year for years 1999–2005 for grants to qualified borrowers under the Act that are in rural and remote communities who pay more than 150 percent of the national average retail price for electricity. These grants can be used to increase energy efficiency, lower electricity rates, or provide or modernize electric facilities.

This Act makes a significant step toward resolving the critical social, economic, and environmental problems faced by our Nation's rural and remote communities. I encourage my colleagues to support this legislation.●

By Mr. ASHCROFT:

S. 2380. A bill to require the written consent of a parent of an unemancipated minor prior to the provision of contraceptive drugs or devices to such a minor, or the referral of such minor for abortion services, under any Federally funded program; to the Committee on the Judiciary.

PUTTING PARENTS FIRST ACT

Mr. ASHCROFT. Mr. President, I rise today to introduce legislation to reaffirm the vital role parents play in the lives of their children. My legislation, the Putting Parents First Act, will guarantee that parents have the opportunity to be involved in their children's most important decisions—whether or not to have an abortion and whether or not to receive federally-subsidized contraception.

The American people have long understood the unique role the family plays in our most cherished values. As usual, President Reagan said it best. Within the American family, Reagan said, "the seeds of personal character are planted, the roots of public value first nourished. Through love and instruction, discipline, guidance and example, we learn from our mothers and fathers the values that will shape our private lives and public citizenship."

The Putting Parents First Act contains two distinct provisions to protect the role of parents in the important life decisions of their minor children. The first part ensures that parents are given every opportunity to be involved in a child's decision whether or not to have an abortion. Specifically, the Act prohibits any individual from performing an abortion upon a woman under the age of 18 unless that individual has secured the informed written consent of the minor and a parent or guardian. In accordance with Supreme Court decisions concerning state-passed parental consent laws, the Putting Parents First Act allows a minor to forego the parental involvement requirement where a court has issued a waiver certifying that the process of obtaining the consent of a parent or guardian is not in the best interests of the minor or that the minor is emancipated.

For too long, the issue of abortion has polarized the American people. To some extent, this is the inevitable result of vastly distinct views of what an abortion is. Many, including myself, view abortion as the unconscionable taking of innocent human life. Others, including a majority of Supreme Court Justices, view abortion as a constitutionally-protected alternative for pregnant women.

There are, however, a few areas of common ground where people on both sides of the abortion issue can agree. One such area of agreement is that, whenever possible, parents should be involved in helping their young daughters to make the critically important decision of whether or not to have an abortion. A recent CNN/USA Today survey conducted by the Gallup Organization found that 74 percent of Americans support parental consent before an abortion is performed on a girl under age 18. Even those who do not view an abortion as a taking of human life recognize it as a momentous and life-changing decision that a minor should not make alone. The fact that nearly 40 states have passed laws requiring doctors to notify or seek the consent of a minor's parents before performing an abortion also demonstrates the consensus in favor of parental involvement.

The instruction and guidance of which President Reagan spoke are needed most when children are forced to make important life decisions. It is hard to imagine a decision more fundamental in our culture than whether or not to beget a child. Parental involvement in this crucial decision is necessary to ensure that the sanctity of human life is given appropriate consideration. There are few more issues deserving of our attention than promoting parental involvement.

Only half of the 39 states with parental involvement laws on the books currently enforce them. Some states have enacted laws that have been struck down in state or federal courts while in other states the executive department has chosen not to enforce the legislature's will. As a result, just over 20 states have parental laws in effect today. In these states, parents do not have the right to be involved in their minor children's most fundamental decisions, decisions that can have severe physical and emotional health consequences for young women.

Moreover, in those states where laws requiring consent are on the books and being enforced, those laws are frequently circumvented by pregnant minors who cross state lines to avoid the laws' requirements. Sadly, nowhere is this problem more apparent than in my home state of Missouri. I was proud to have successfully defended Missouri's parental consent law before the Supreme Court in Planned Parenthood versus Ashcroft. Unfortunately, the law has not been as effective as I had hoped. A study last year in the American Journal of Public Health found that the odds of a minor traveling out of state for an abortion increased by over 50 percent after Missouri's parental consent law went into effect.

The limited degree of enforcement and the ease with which state laws can be evaded demand a national solution. The importance of protecting life demands a national solution. It is time for Congress to act. Requiring a parent's consent before a minor can receive an abortion is one way states have chosen to protect not only the role of parents and the health and safety of young women, but also, the lives of the unborn. Congress shares with the states the authority—and duty—to protect life under the Constitution. Thus, enactment of a federal parental consent law will allow Congress to protect the guiding role of parents as it protects human life.

The Putting Parents First Act is based on state statutes that already have been determined to be constitutional by the U.S. Supreme Court. The legislation establishes a minimum level of parental involvement that must be honored nationwide. It does not preempt state parental involvement laws that provide additional protections to the parents of pregnant minors.

The second part of the Putting Parents First Act extends the idea of parental involvement to the arena of federally-subsidized contraception. Currently, the federal government funds many different programs through the Department of Health and Human Services and the Department of Education that can provide prescription contraceptive drugs and devices, as well as abortion referrals, to minors without parental consent.

The case of the little girl from Crystal Lake, IL is just one example, but it makes clear everything that is wrong with current law in this area. In that case, the young girl was just 14 years old when her 37-year-old teacher brought her to the county health department for birth control injections. He wanted to continue having sex with her, but had grown tired of using condoms. A county health official injected the young girl with the controversial birth control drug Depo-Provera without notifying the girl's parents. The teacher knew that federal Title X rules prohibited clinics from notifying parents when issuing birth control drugs to minors. He continued to molest her for 18 months until the girl finally broke down and told her parents. The teacher was arrested and sentenced to ten years in prison. The young girl spent five days a week in therapy and is still recovering from effects of anorexia nervosa.

Although the teacher's crime was unspeakable, it was the federal government's policy that allowed him to shield his crime for so long. This is an outrage. The policy of the Government of the United States should be to help parents to help their children. Providing contraceptives and abortion referrals to children without involving parents undermines, not strengthens the role of parents. Worse yet, it jeopardizes the health of children.

The current law for federally-funded contraceptives puts bureaucrats in front of parents when it comes to a child's decision-making process. That is intolerable. We must put parents first when it comes to such critical decisions. The legislation I am introducing today restores common sense to government policy by requiring programs that receive federal funds to obtain a parent's consent before dispensing contraceptives or referring abortion services to the parent's minor child.

In my view, Mr. President, sound and sensible public policy requires that parents be involved in critical, life-shaping decisions involving their children. A young person whose life is in crisis may be highly anxious, and may want to take a fateful step without their parents' knowledge. But it is at these times of crisis that children need their parents, not government bureaucrats or uninvolved strangers. This legislation will strengthen the family and protect human life by ensuring that parents have the primary role in helping their children when they are making decisions that will shape the rest of their lives.

By Mr. McCAIN (for himself and Mr. KERRY):

S. 2382. A bill to amend title XIX of the Social Security Act to allow certain community-based organizations and health care providers to determine that a child is presumptively eligible for medical assistance under a State plan under that title; to the Committee on Finance.

CHILDREN'S HEALTH ASSURANCE THROUGH THE MEDICAID PROGRAM (CHAMP) ACT

• Mr. McCAIN. Mr. President, today I am proud to rise with my colleague and dear friend, JOHN KERRY, to introduce legislation which would help provide thousands, if not millions, of children with health care coverage. Clearly, a bipartisan priority in the 105th Congress has been to find a solution for providing access to health insurance for the approximately 10 million uninsured children in our nation. This matter has been a very high priority for me since coming to Congress. The legislation we are introducing today, the "Children's Health Assurance through the Medicaid Program" (CHAMP), would help our states reach more than 3 million uninsured children who are eligible for the Medicaid program but not enrolled.

The consequences of lack of insurance are problematic for everyone, but they are particularly serious for children. Uninsured and low income children are less likely to receive vital primary and preventative care services. This is quite discouraging since it is repeatedly demonstrated that regular health care visits facilitate the continuity of care which plays a critical role in the development of a healthy child. For example, one analysis found that children living in families with incomes below the poverty line were more likely to go without a physician visit than those with Medicaid coverage or those with other insurance. The result is many uninsured, low-income children not seeking health care services until they are seriously sick.

Studies have further demonstrated that many of these children are more likely to be hospitalized or receive their care in emergency rooms, which means higher health care costs for conditions that could have been treated with appropriate outpatient services or prevented through regular check ups.

Last year, as Congress was searching for ways to reduce the number of uninsured children, I kept hearing about children who are uninsured, yet, could qualify for health care insurance through the Medicaid program. I was unable to find specific information about who these children are, where they reside, and why they are not enrolled in the Medicaid program. Subsequently, I requested that the General Accounting Office conduct an in-depth analysis to provide Congress data on uninsured Medicaid eligible children. This information would provide the necessary tools to develop community outreach strategies and education programs to address this problem.

The GAO study was completed in March. The data shows that 3.4 million children are eligible for the Medicaid program (under the minimum federal standards) but are not enrolled. It also shows that these kids are more likely to be part of a working family with parents who are employed but earning a low income. A significant number of these children come from two-parent families rather than single-parent families. The study also discovered that more than thirty-five percent of these children are Hispanic, with seventy-four percent of them residing in Southern or Western states. Finally, the GAO report suggested that states need to be developing and implementing creative outreach and enrollment strategies which specifically target the unenrolled children.

It is important that we build upon these findings and develop methods for states to reach out to these families and educate them about the resources which exist for their children. The CHAMP bill is an important step in this process and would assist these children by expanding the state offices which can presume Medicaid eligibility for a child.

As you know, the 1997 Balanced Budget Act provided states with the option of utilizing "presumptive eligibility" as an outreach method for enrolling eligible children into their state Medicaid programs. Presumptive eligibility allows certain agencies to temporarily enroll children in the state Medicaid program for a brief period if the child appears to be eligible for the program based on their family's income. Health care services can be provided to these children if necessary during this "presumptive" period while the state Medicaid agency processes the child's application and makes a final determination of their eligibility.

Presumptive eligibility is completely optional for the states and is not mandatory.

Under current law, states are only given the limited choice of using a few specific community agencies for presumptive eligibility including: Head Start Centers, WIC clinics, Medicaid providers and state or local child care agencies. The McCain-Kerry CHAMP bill would expand the types of community-based organizations which would be recognized as qualified entities and permitted to presume eligibility for children. Under our bill, public schools, entities operating child welfare programs under Title IV-A, Temporary Assistance to Needy Families (TANF) offices and the new Children Health Insurance Program (CHIP) offices would be permitted to help identify Medicaid eligible kids. Allowing more entities to participate in outreach would increase the opportunities for screening children and educating their families about the Medicaid services available to them. By increasing the "net" for states, we would be helping them "capture" more children who are going without health care services because their families are not familiar, comfortable or aware of the Medicaid program and its enrollment process.

Our bill would help millions of children gain access to health care without creating a new government program, imposing mandates on states, or expanding the role of government in our communities. This is important to note—we would not be creating new agencies, bureaucracies or benefits. Instead we would be increasing the efficiency and effectiveness of a longstanding program designed to help one of our most vulnerable populations, children. We urge our colleagues to support this innovative piece of legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Health Assurance through the Medicaid Program (CHAMP) Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Twenty-three percent or 3,400,000 of the 15,000,000 medicaid-eligible children went without health insurance in 1996.

(2) Medicaid-eligible children with working parents are more likely to be uninsured.

(3) More than 35 percent of the 3,400,000 million uninsured medicaid-eligible children are Hispanic.

(4) Almost three-fourths of the uninsured medicaid-eligible children live in the Western and Southern States.

(5) Multiple studies have shown that insured children are more likely to receive preventive and primary health care services as well as to have a relationship with a physician.

(6) Studies have shown that a lack of health insurance prevents parents from trying to obtain preventive health care for their children.

(7) These studies demonstrate that low-income and uninsured children are more likely to be hospitalized for conditions that could have been treated with appropriate outpatient services, resulting in higher health care costs.

SEC. 3. ADDITIONAL ENTITIES QUALIFIED TO DETERMINE MEDICAID PRESUMPTIVE ELIGIBILITY FOR LOW-INCOME CHILDREN.

Section 1920A(b)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r–1a(b)(3)(A)(i)) is amended—

(1) by striking "or (II)" and inserting ", (II)"; and

(2) by inserting "eligibility of a child for medical assistance under the State plan under this title, or eligibility of a child for child health assistance under the program funded under title XXI, or (III) is an elementary school or secondary school, as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), an elementary or secondary school operated or supported by the Bureau of Indian Affairs, a State child support enforcement agency, a child care resource and referral agency, or a State office or private contractor that accepts applications for or administers a program funded under part A of title IV or that determines eligibility for any assistance or benefits provided under any program of public or assisted housing that receives Federal funds, including the program under section 8 or any other section of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)" before the semicolon.●

● Mr. KERRY. Mr. President, I want to thank my friend and colleague Senator McCAIN for his work on this important issue. I am honored to introduce with him this legislation, entitled the Children's Health Assurance Through the Medicaid Program (CHAMP), which would increase health coverage for eligible children and increase state flexibility.

Mr. President, the Balanced Budget Act of 1997 gave States the option to bring more eligible but uninsured children into Medicaid by allowing states to grant "presumptive eligibility." This means that a child would temporarily be covered by Medicaid if preliminary information suggests that they qualify. Providing health insurance for children is important because studies show that children without health insurance are more likely to be in worse health, less likely to see a doctor, and less likely to receive preventive care such as immunizations.

Mr. President, the legislation Senator McCAIN and I are introducing today would strengthen the existing option and give states more flexibility. First, it will allow states to rely on a broader range of agencies to assist with Medicaid outreach and enrollment. By expanding the list of community-based providers and state and local agencies to include schools, child support agencies, and some child care facilities, states will be able to make significant gains in the number of children identified and enrolled in Medicaid. States would not be required to rely on these additional providers but would have the flexibility to choose among qualified providers and shape their own outreach and enrollment strategies.

The cost of these changes to the presumptive eligibility option for Medicaid under last year's Balanced Budget Act are modest. Our understanding is that our proposal would cost approximately $250 million over five years. This is a positive step in the right direction, helping ensure that the growing population of American children start off on the right foot. Access to affordable health care in the early years saves the country's financial resources in the long run.

Once again, I would like to thank Senator McCAIN for his invaluable work on behalf of children. I look forward to working with him and the Senate to pass this important legislation.●

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. KERRY, and Ms. MOSELEY-BRAUN):

S. 2383. A bill to amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor; to the Committee on Labor and Human Resources.

THE CHILDREN'S ACT FOR RESPONSIBLE EMPLOYMENT

● Mr. HARKIN. Mr. President, on behalf of myself, Mr. KENNEDY, Mr. KERRY and Ms. MOSELEY-BRAUN I introduce the Children's Act for Responsible Employment or the CARE Act that will modernize our antiquated domestic child labor laws. Congressman RICHARD GEPHARDT and Congressman TOM LANTOS are introducing companion legislation in the House.

It is hard to imagine that we are on the verge of entering the 21st century and we still have young children working under hazardous conditions in the United States. Unfortunately, outdated U.S. child labor laws that have not been revamped since the 1930's allow this practice to continue.

I have been working on the eradication of child labor overseas since

1992. At that time, I introduced the Child Labor Deterrence Act, which prohibits the importation of products made by abusive and exploitative child labor. Since then, we have made some important progress, but in order to end child labor overseas the U.S. must lead by example and address child labor in our own backyard.

Now, when I talk about child labor, I'm not talking about a part time job or a teenager who helps out on the family farm after school. There is nothing wrong with that. What I am talking about is the nearly 300,000 children illegally employed in the U.S. I would like to insert for the record at this time the testimony of Sergio Reyes, who was expected to testify at a hearing before the Senate Subcommittee on Employment and Training I requested on June 11 of this year. Mr. Reyes was unable to attend that hearing but his written testimony tells a story that is becoming all to familiar in the United States.

According to a recent study by economist Douglas L. Krause of Rutgers University, there are nearly 60,000 children under age 14 working in the U.S. Of those children, one will die every five days in a work related accident according to the National Institute of Occupational Safety and Health. Nowhere is this more true than children who work in agriculture.

In general, children receive fewer protections in agriculture than other industries. The minimum age for hazardous work in agriculture is 16, it is 18 for all other occupations. In a GAO preliminary report released in March 1998, the researchers noted that "children working in agriculture are legally permitted to work at younger ages, in more hazardous occupations, and for longer periods of time than their peers in other industries." For example, a 13 year old child can not work as a clerk in an air conditioned office building, but can pick strawberries in a field in the middle of summer. That same report noted that over 155,000 children are working in agriculture. However, because that number is based on census data, the Farm Worker Union places the number at nearly 800,000 children working in agriculture.

In December 1997, the Associated Press (AP) did a five part series on child labor in the United States documenting 4 year olds picking chili peppers in New Mexico and 10 year olds harvesting cucumbers in Ohio. In one tragic example reported by the AP, 14 year-old Alexis Jaimes was crushed to death when a 5000 lb. hammer fell on him while working on a construction site in Texas. I was outraged.

At the June hearing of the Senate Employment and Training Subcommittee, two things became clear with regard to U.S. domestic child labor. First, agricultural child laborers are dropping out of school at an alarming rate. Over of 45 percent of farm worker youth will never complete high school. Second, the laws that we do have regarding child labor are inadequate to protect a modern workforce. Our present civil and criminal penalties are simply insufficient to deter compliance with the law and need to be strengthened and more vigorously enforced.

My legislation, which is supported by the Administration and children's advocates groups across the country, such as the Child Labor Coalition and the Solidarity Center, will help rectify this alarming situation. It will; raise the current age of 16 to 18 in order to engage in hazardous agricultural work, close the loopholes in federal child labor laws which allow a three year old to work in the fields, and increase the civil and criminal penalties for child labor violations to a minimum of $500, up from $100 and a maximum of $15,000, up from $10,000.

In closing. Let me say that we must end child labor—the last vestige of slavery in the world. It is time to give all children the chance at a real childhood and give them the skills necessary to compete in tomorrow's work place. There is no excuse for the number of children being maimed or killed in work related accidents when labor saving technologies have been developed in recent years. So, on today's farms, it makes even less sense than ever to put kids in dangerous situations operating hazardous machinery.

Mr. President, I hope that we will be able to vote on this legislation in the near future so that we can prepare our children for the 21st century. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a copy of the bill, a letter from the Child Labor Coalition, and the testimony of Sergio Reyes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Children's Act for Responsible Employment" or the "CARE Act".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

SEC. 2. AGRICULTURAL EMPLOYMENT.

Section 13(c) (29 U.S.C. 213(c)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) The provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he or she is so employed, if such employee is employed by his or her parent or legal guardian, on a farm owned or operated by such parent or legal guardian."; and

(2) by striking paragraphs (2) and (4).

SEC. 3. YOUTH PEDDLING.

(a) FAIR LABOR STANDARDS ACT COVERAGE.—

(1) FINDING.—The last sentence of section 2(a) (29 U.S.C. 202(a)) is amended by inserting after "households" the following: ", and the employment of employees under the age of 16 years in youth peddling,".

(2) DEFINITION.—Section 3 (29 U.S.C. 203) is amended by adding at the end the following:

"(y) 'Youth peddling' means selling goods or services to customers at their residences, places of business, or public places such as street corners or public transportation stations. 'Youth peddling' does not include the activities of persons who, as volunteers, sell goods or services on behalf of not-for-profit organizations.".

(b) DEFINITION OF OPPRESSIVE CHILD LABOR.—Section 3(l) (29 U.S.C. 203(l)) is amended in the last sentence by insert after "occupations other than" the following: "youth peddling,".

(c) PROHIBITION OF YOUTH PEDDLING.—Section 12(c) (29 U.S.C. 212(c)) is amended by inserting after "oppressive child labor in commerce or in the production of goods for commerce" the following: ", or in youth peddling,".

SEC. 4. CIVIL AND CRIMINAL PENALTIES FOR CHILD LABOR VIOLATIONS.

(a) CIVIL MONEY PENALTIES.—Section 16(e) (29 U.S.C. 216(e)) is amended in the first sentence—

(1) by striking "$10,000" and inserting "$15,000";

(2) by inserting after "subject to a civil penalty of" the following: "not less than $500 and".

(b) CRIMINAL PENALTIES.—Section 16(a) (29 U.S.C. 216(a)) is amended by adding at the end the following: "Any person who violates the provisions of section 15(a)(4), concerning oppressive child labor, shall on conviction be subject to a fine of not more than $15,000, or to imprisonment for not more than 5 years, or both, in the case of a willful or repeat violation that results in or contributes to a fatality of a minor employee or a permanent disability of a minor employee, or a violation which is concurrent with a criminal violation of any other provision of this Act or of any other Federal or State law.".

SEC. 5. GOODS TAINTED BY OPPRESSIVE CHILD LABOR.

Section 12(a) (29 U.S.C. 212(a)) is amended by striking the period at the end and inserting the following: ": *And provided further*, that the Secretary shall determine the circumstances under which such goods may be allowed to be shipped or delivered for shipment in interstate commerce.".

SEC. 6. COORDINATION.

Section 4 (29 U.S.C. 204) is amended by adding at the end the following:

"(g) The Secretary shall encourage and establish closer working relationships with non-governmental organizations and with State and local government agencies having responsibility for administering and enforcing labor and safety and health laws. Upon the request of the Secretary, and to the extent permissible under applicable law, State and local government agencies with information regarding injuries and deaths of employees shall submit such information to the Secretary for use as appropriate in the enforcement of section 12 and in the promulgation and interpretation of the regulations and orders authorized by section 3(l). The Secretary may reimburse such State and local government agencies for such services.".

SEC. 7. REGULATIONS AND MEMORANDUM OF UNDERSTANDING.

(a) REGULATIONS.—The Secretary of Labor shall issue such regulations as are necessary to carry out this Act and the amendments made by this Act.

(b) MEMORANDUM OF UNDERSTANDING.—The Secretary of Labor and the Secretary of Agriculture shall, not later than 180 days after the date of enactment of this Act, enter into a memorandum or understanding to coordinate the development and enforcement of standards to minimize child labor.

SEC. 8. AUTHORIZATION.

There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary for to carry out this Act and the amendments made by this Act.

THE CHILD LABOR COALITION,
Washington, DC, July 30, 1998.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: The Child Labor Coalition thanks you for your leadership over the last six years to end child labor exploitation overseas. Your influence has spurred much of the progress that has been made in the international community.

As you are certainly aware, the United States is not immune to child labor problems. Two of our most significant problems are the escalating injuries to young workers and the inadequate protection of children working in agriculture. The legislation you are introducing is a positive step toward addressing these problems.

Evey year, more than 200,000 minors are injured and more than 100 die in the workplace. Research has shown that injuries often occur when youth are engaged in prohibited duties or occupations. Your legislation to increase penalties for child labor violations will send a clear message to employers to ensure the safety of their young workers through increased diligence in following the child labor laws.

The FLSA does not adequately protect children working as hired farmworkers. Children may work at younger ages, for more hours, and engage in hazardous employment at a younger age than a minor employed in any other workplace or occupation. This has to change and your legislation to equalize the protections of all children who are working, regardless of the occupation, is applauded.

On behalf of the more than 50 organizational members of the Child Labor Coalition we thank you for your efforts to update our nation's child labor laws and wholeheartedly support this legislation.

Sincerely,

DARLENE S. ADKINS,
Coordinator.

TESTIMONY OF SERGIO REYES BEFORE THE SENATE SUBCOMMITTEE ON EMPLOYMENT AND TRAINING, JUNE 11, 1998

Good morning. My name is Sergio Reyes, and I'm 15 years old. This is my brother Oscar and he is nine years old. We're from Hollister, California, and we are farmworkers like our father and our grandfather. We are permanent residents here in the United States. Thank you for inviting us to speak today about our experience being frameworkers. We both have been farmworkers for five years now, ever since our family came from Mexico. I started working when I was 10 years old, and Oscar started when he was four. He has been working for more than half of his life. We work for as many as 10 hours a days, cutting paprika, topping garlic and pulling onions. The work is very hard and it gets very hot. It's tough working these long and going to school too. We work after school, during the weekends, during the summer and on holidays. Oscar can show you some of the tools that we use and how we top garlic and cut onions. I don't have any idea when pesticides are used on these crops or not.

To do this work we have to stay bent over for most of the time and have to lift heavy bags and buckets filled with the crops that we're picking. It's hard work for adults and very hard work for kids. We work because our family needs the money. I'd rather be in school. I am in the 10th grade and someday I'd like to be a lawyer. Oscar wants to be fireman when he grow up. My family knows how important it is to go to school and get an education. But there are times when working is more important. We know lots of families like ours where the kids drop out of school because they need to work. It's sad because they really need an education or to learn another job skill if they're ever going to get out of the fields. Without an education, I will never become a lawyer and Oscar will never be a fireman.

My dad is trying to get out of farmwork. He is working in farmwork and also in a farmworker job training program to learn another skill. He is trying to get another job so that he can earn more money and have some health insurance. We've never had health insurance before. As hard as my dad works, he's not guaranteed to make a good living. And my dad works very hard. I just hope that when I get older and if something happens to keep me from graduating from school, that there will be a program for Oscar and me.

Thank you for letting us come. We appreciate all the you do that will help our dad, other farmworker kids and my brother Oscar and me.●

By Mr. ASHCROFT (for himself and Mr. FAIRCLOTH):

S. 2384. A bill entitled "Year 2000 Enhance Cooperation Solution"; to the Committee on the Judiciary.

YEAR 2000 SOLUTION LEGISLATION

Mr. ASHCROFT. Mr. President, I rise today to introduce a bill that addresses a critical problem that demands immediate attention from the Congress.

For many years now I have been involved with a variety of issues that affect the technology sector. As I have said before, no other sector of the economy is as vibrant and forward looking. The ingenuity, drive and vision of this industry should be a model for all of us, including those of us in the Senate. Moreover, the importance of this industry should only grow in the coming years. However, as I look to the future with the hope of seeing the next century stamped "Made in America" I see one large impediment—the Year 2000 bug.

The 105th Congress must consider this problem and assist the country in trying to avoid a potentially disastrous crisis. We cannot wait for disaster to strike. We must act now to enable companies to avert the crisis. No individual will be left untouched if the country fails to address this problem and experiences widespread ramifications. No company will escape huge costs if they cannot successfully fix their own problems and have some assurances that their business partners and suppliers have fixed their problems. A great deal of effort has been undertaken to bring attention to this problem, including several efforts here in the U.S. Senate. However, it is now time to move beyond simply highlighting the problem. We need to roll up our sleeves and get to work on a solution.

I begin today to lay out my plan for assisting individuals and businesses to walk safely through the minefield called the Y2K problem. The first part of this overall plan is the Year 2000 Enhanced Cooperation Solution. This legislation provides a very narrow exemption to the antitrust laws if and when a company is engaged in cooperative conduct to alleviate the impact of a year 2000 date failure in hardware or software. The exemption has a clear sunset and expressly ensures that the law continues to prohibit anti-competitive conduct such as boycotts or agreements to allocate markets or fix prices.

This simple, straightforward proposal is critical to allowing for true cooperation in an effort to rectify the problem. No company can solve the Y2K problem alone. Even if one company devises a workable solution to their own problems they still face potential disaster from components provided by outside suppliers. What is more, when companies find workable solutions we certainly want to provide them with every incentive to disseminate those solutions as widely as possible. Cooperation is essential. But without a clear legislative directive, potential antitrust liability will stand in the way of cooperation. We must provide our industries with the appropriate incentives and tools to fix this problem without the threat of antitrust lawsuits based on the very cooperation we ought to be encouraging.

I do want to be very clear on one point—as important as it is that this legislation be enacted and enacted soon, it is merely the first piece of a difficult puzzle. The Administration has presented the Congress with their view of how information sharing on the Y2K problem should be furthered. Based on my initial review, that proposal appears to be headed in the right direction but falls far short of the target destination. Most importantly, the proposed approach which purports to promote information sharing does not accomplish its objective as it leaves the problem of potential antitrust liability. In other words, it does not accomplish the task that it set out to complete.

I will seek the introduction of the second piece of the solution, the Year

2000 Enhanced Information Solution, which while working within the guidelines of the Administration's language will add the teeth, make clear that good faith disclosure of information will be protected, and provide for protection of individual consumers. Together with the antitrust legislation I introduce today, this should provide sufficient protection to promote the kind of cooperation that will be essential to addressing this looming problem.

The final piece of the package will be the Year 2000 Litigation Solution. Real harm from inadequate efforts to address this problem must be compensated. However, we cannot allow the prospect of frivolous litigation to block efforts to avoid such harm. We also must ensure that frivolous litigation over the Y2K problem does not consume the lion's share of the next millennium. While it is not possible for Congress to guarantee that private individuals and companies will be able to solve the Y2K problem, Congress can eliminate legal obstacles that stand in the way of private solutions. Information regarding existing software and known problems must be shared as completely and openly as possible. The current fear of litigation and liability that imposes a distinct chilling effect on information sharing must be alleviated.

Resources to address the Y2K problem, particularly time, are finite. They must be focused as fully as possible on remediation, rather than on unproductive litigation. Moreover, the availability of adequate development and programming talent may hinge upon a working environment that protects good faith remediation efforts from the threat of liability for their work. Congress must prevent a fiasco where only lawyers win.

I look forward to working with those that are interested as this process moves forward. I believe that this Congress cannot wait to address this problem. This issue is about time, and we have precious little left in this Congress and before the Y2K problem is upon us. I hope we can work together to free up talented individuals to address this serious problem.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 2385. A bill to establish the San Rafael Swell National Heritage Area and the San Rafael National Conservation Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

THE SAN RAFAEL NATIONAL HERITAGE AND CONSERVATION ACT

Mr. BENNETT. Mr. President, I am pleased to introduce the "San Rafael National Heritage and Conservation Act" and I am pleased to be joined by Senator HATCH in this effort.

The San Rafael National Heritage and Conservation Act not only accomplishes the preservation of an important historic area, but it is the result of a collaborative approach among Federal land managers, state and local governments and other concerned agencies and organizations. This revised legislation incorporates several of the suggestions of the Administration, the House and those who originally expressed concerns about the bill as introduced in the House. The legislation we introduce today is the result of months of discussions between the Bureau of Land Management, the citizens of Emery County and Members of Congress. It is a good-faith effort to initiate what we hope will bring resolution to the larger philosophical differences between land management practices in Utah. With a little luck, we might even begin a process which could lead to a resolution to the ongoing Utah wilderness debate.

The San Rafael Swell region in the State of Utah was one of America's last frontiers. I have in my office, a map of the State of Utah drafted in 1876 in which large portions of the San Rafael Swell were simply left blank because they were yet to be explored. Visitors who comment on this map are amazed when they see that large portions of the San Rafael area remained unmapped thirty years after the Mormon pioneers arrived in the Salt Lake Valley.

This area is known for its important historical sites, notable tradition of mining, widely recognized paleontological resources, and numerous recreational opportunities. As such, it needs to be protected. The San Rafael Swell National Conservation Area created through this legislation will be approximately 630,000 acres in size and will comprise wilderness, a Bighorn Sheep Management Area, a scenic Area of Critical Environmental Concern, and Semi-Primitive Area of Non-Motorized Use. The value of the new management structure for the National Conservation Area can be found in the flexibility it gives in addressing a broad array of issues from the protection of critical lands to the oversight of recreational uses.

The San Rafael National Heritage and Conservation Act sets aside 130,000 acres as BLM wilderness lands. It permanently removes the threat of mining, oil drilling, and timbering from the Swell. It also sets aside a conservation area of significant size to protect Utah's largest herd of Desert Bighorn Sheep. Vehicle travel is restricted to designated roads and trails in other areas and visitors recreational facilities are provided. Finally, it will assist the BLM and the local communities in developing a long term strategy to preserve the history and heritage of the region through the National Heritage Area. Careful study of the bill shows that the San Rafael Swell National Heritage and Conservation Act is a multidimensional management plan for an area with multidimensional needs. It provides comprehensive protection and management for an entire ecosystem.

My colleagues in the House have worked hard to address the concerns of the Administration and they have made several changes to the House version as introduced in an effort to improve the legislation. We have redrawn maps, eliminated roads from wilderness areas, eliminated cherry stems of other roads and increased the size of wilderness and semi-primitive areas. Specifically, by including new provisions dealing with the Compact and Heritage Plan, the new language ensures that the resources found in the county will be properly surveyed and understood prior to the Heritage Area moving forward.

With regards to the Conservation Area, bill language guarantees that the management plan will not impair any of the important resources within the Swell. We have also included new language that ensures the Secretary of Interior is fully represented on the Advisory Council.

The San Rafael Swell National Heritage and Conservation Act is unique in that it sets the San Rafael Swell apart from Utah's other national parks and monuments. It protects not only the important lands in this area but also another resource just as precious—its captivating history and heritage. This bill is an example of how a legislative solution can result from a grassroots effort involving both state and local government officials, the BLM, historical preservation groups, and wildlife enthusiasts. Most important, it takes the necessary steps to preserve the wilderness value of these lands.

This legislation has broad statewide and local support. It is sound, reasonable, and innovative in its approach to protecting and managing the public land treasures of the San Rafael Swell. Finally, it is based on the scientific methods of ecosystem management and prevents the fracturing of large areas of multiple use lands with small parcels of wilderness interspersed between.

Mr. President, I will conclude with this point; the wilderness debate in Utah has gone on too long. My colleagues will be reminded that in the last Congress, the debate centered around whether two million acres or 5.7 million acres were the proper amount of wilderness to designate. We are now trying to protect more than 600,000 acres in one county in Utah alone. The Emery County Commissioners should be commended for their foresight and vision in preparing this proposal. I hope that this legislation can become a model for future conflict resolutions.

Unfortunately, the shouting match over acreage has often drowned out the discussion over what types of protection were in order for these lands. I doubt that there are few people who would debate the need to protect these lands. But too often in the past we have argued over the definition of what constitutes "protection." Unfortunately for some groups, a certain designation is the only method of acceptable protection. I urge those groups to look beyond the trees and see the forest for a change. Should these groups decide to come to the table, lend their considerable expertise to our efforts and try to reach a consensus, the first steps toward resolving the decades-old wilderness debate in Utah will have been taken.

I hope my colleagues will carefully review this legislation and support for this bill.

Mr. HATCH. Mr. President, I rise in support of the San Rafael Swell National Heritage and Conservation Act. As a cosponsor of this measure, I applaud the efforts of my friend and colleague, Senator BENNETT, for bringing this matter before the United States Senate. This is a refreshing approach to managing public lands in the West.

This legislation reflects the ability of our citizens to make wise decisions about how land in their area should be used and protected. It is an article of our democracy that we recognize the prerogatives and preferences of citizens who are most affected by public policy. This measure gives citizens who live next to these lands a say as to what is right and appropriate for the land's management. I believe this initiative, which began locally at the grassroots level, is a cynosure for future land management decisions in the West.

Much more than simply protecting rocks and soil, this legislation safeguards wildlife and their habitat, cultural sites and artifacts, and Indian and Western heritage. This is not your standard one-size-fits-all land management plan. It provides for the conservation of this unique area, opting to encourage visitors not development.

Mr. President, the San Rafael Swell is an area of immense scenic beauty and cultural heritage. It was once the home to Native Americans who adorned the area with petroglyphs on the rock outcrops and canyon walls. What were once their dwellings are now significant archaeological sites scattered throughout the Swell. After the Indian tribes came explorers, trappers, and outlaws. In the 1870s, ranchers and cowboys came to the area and began grazing the land, managing it for its continued sustainability. Today, there are still citizens with roots in this long western tradition. These citizens understand the land; they understand conservation and preservation principles; and they want to see the land they love and depend on preserved for present and future generations.

First of all, Mr. President, this legislation sets up a National Heritage Area, the first of its kind west of the Mississippi. In the new National Heritage Area, tourists will walk where Indians walked and where other outstanding historical figures such as Kit Carson, Chief Walker, Jedediah Smith, John Wesley Powell, Butch Cassidy, and John C. Fremont spent time. The area already boasts a number of fine museums, including the John Wesley Powell Museum, the Museum of the San Rafael, the College of Eastern Utah Prehistoric Museum, the Helper Mining Museum, and the Cleveland-Lloyd Dinosaur Quarry. Consolidated under the new National Heritage Area, these important sites and museums will add a Western flavor to the already diverse network of existing National Heritage Areas in our nation.

Next, this legislation sets up one of our nation's most significant and dynamic conservation areas. The San Rafael Conservation Area will encompass the entire San Rafael Swell and protect approximately 1 million acres of scenic splendor. The area will be managed according to the same standards set by Congress for all other conservation areas. In fact, this legislation withdraws the entire San Rafael Swell from future oil drilling, logging, mining, and tar sands development. Moreover, the area will protect important paleontological resources including an area on the northern edge of the Swell know as the Cleveland-Lloyd Dinosaur Quarry which was set aside in 1966 as a National Natural Landmark, preserving one of the largest sources of fossils in the New World.

Of particular interest, Mr. President, is the designation of the Desert Bighorn Sheep National Management Area. This provision ensures that our precious herd of bighorn sheep will continue to be monitored by state wildlife managers. The bill also provides strict protections to other resources in the area. Last but not least, Mr. President, this legislation formally designates certain areas within the Swell as wilderness.

This proposal preserves a portion of the West as it currently exists and allows for traditional uses, where appropriate, such as hunting, trapping, and fishing. It will foster the development and management of tourism in keeping with the overall goals of preservation. This management concept is one of multiple use and allows for the continuation of working landscapes including agriculture, irrigation, and ranching, which are a part of our Western tradition.

Mr. President, this initiative is compatible with local and regional needs, but it invites the world to come and enjoy the natural and historical treasures of the San Rafael Swell. I urge my colleagues to support this important citizens' initiative to preserve the San Rafael Swell.

By Mr. BIDEN:

S. 2387. A bill to confer and confirm Presidential authority to use force abroad, to set forth procedures governing the exercise of that authority, and thereby to facilitate cooperation between the President and Congress in decisions concerning the use or deployment of United States Armed Forces abroad in situations of actual or potential hostilities; to the Committee on Foreign Relations.

USE OF FORCE ACT

• Mr. BIDEN. Mr. President, today I introduce legislation designed to provide a framework for joint congressional-executive decision-making about the most solemn decision that a nation can make: to send men and women to fight and die for their country.

Entitled the "Use of Force Act," the legislation would replace the war powers resolution of 1973 with a new mechanism that, I hope, will be more effective than the existing statute.

Enacted nearly a quarter century ago, over the veto of President Nixon, the war powers resolution has enjoyed an unhappy fate—scorned by Presidents who questioned its constitutionality, and ignored by a Congress too timid to exercise its constitutional duty.

That was not, of course, the intent of its framers, who sought to improve executive-congressional cooperation on questions involving the use of force—and to remedy a dangerous constitutional imbalance.

This imbalance resulted from what I call the "monarchist" view of the war power—the thesis that the President holds nearly unlimited power to direct American forces into action.

The thesis is largely a product of the cold war and the nuclear age: the view that, at a time when the fate of the planet itself appeared to rest with two men thousands of miles apart, Congress had little choice, or so it was claimed but to cede tremendous authority to the executive.

This thesis first emerged in 1950, when President Truman sent forces to Korea without congressional authorization. It peaked twenty years later, in 1970, when President Nixon sent U.S. forces into Cambodia—also without congressional authorization, but this time accompanied by sweeping assertions of autonomous Presidential power.

President Nixon's theory was so extreme that it prompted the Senate to begin a search—a search led by Republican Jacob Javits and strongly supported by a conservative Democrat, John Stennis of Mississippi—for some means of rectifying the constitutional imbalance. That search culminated in the war powers resolution.

Unfortunately, the war powers resolution has failed to fulfill its objective. If anything, the monarchist view has become more deeply ingrained with the passage of time.

This trend was been on display throughout this decade. Before the gulf war, for example, with half a million American forces standing ready in Saudi Arabia—a situation clearly requiring congressional authorization—President Bush still refused to concede that he required an act of Congress before using force. Only at the last minute, and only grudgingly, did President Bush seek congressional support. Even then, he continued to assert that he sought only support, refusing to concede that congressional authorization was a legal necessity.

Several years ago, the notion of broad executive power was claimed on the eve of a proposed invasion of Haiti—an invasion that, thankfully, was averted by a last-minute diplomatic initiative.

In 1994, officials of the Clinton administration characterized the Haiti operation as a mere "police action"—a semantic dodge designed to avoid congressional authorization—and a demonstration that the monarchist view prevails in the White House, without regard to political party.

And, most recently, the Clinton administration asserted that it had all the authority it needed to initiate a military attack against Iraq—though it never publicly elaborated on this supposed authority.

In this case, the question was not clear-cut—as it was in 1991. But two things emerged in the debate that reinforce the need for this legislation. First, it demonstrated that the executive instinct to find "sufficient legal authority" to use force is undiluted.

Second, it demonstrated that Congress often lacks the institutional will to carry out its responsibilities under the war power. Although there was strong consensus that a strong response was required to Saddam Hussein's resistance to U.N. inspections, there was no consensus in this body about whether Congress itself should authorize military action. Lacking such a consensus, Congress did nothing.

Congress' responsibilities could not be clearer. Article one, section eight, clause eleven of the Constitution grants to Congress the power "to declare war, grant letters of marque and reprisal and to make rules concerning captures on land and water."

To the President, the Constitution provides in article two, section two the role of "Commander in Chief of the Army and Navy of the United States."

It may fairly be said that, with regard to many constitutional provisions, the Framers' intent was ambiguous. But on the war power, both the contemporaneous evidence and the early construction of these clauses do not leave much room for doubt.

The original draft of the Constitution would have given to Congress the power to "make war." At the Constitutional Convention, a motion was made to change this to "declare war." The reason for the change is instructive.

At the Convention, James Madison and Elbridge Gerry argued for the amendment solely in order to permit the President the power "to repel sudden attacks." Just one delegate, Pierce Butler of South Carolina, suggested that the President should be given the power to initiate war.

The rationale for vesting the power to launch war in Congress was simple. The Framers' views were dominated by their experience with the British King, who had unfettered power to start wars. Such powers the Framers were determined to deny the President.

Even Alexander Hamilton, a staunch advocate of Presidential power, emphasized that the President's power as Commander in Chief would be "much inferior" to the British King, amounting to "nothing more than the supreme command and direction of the military and naval forces," while that of the British King "extends to declaring of war and to the raising and regulating of fleets and armies—all which, by [the U.S.] Constitution, would appertain to the legislature."

It is frequently contended by those who favor vast Presidential powers that Congress was granted only the ceremonial power to declare war. But the Framers had little interest, it seems, in the ceremonial aspects of war. The real issue was congressional authorization of war. As Hamilton noted in Federalist twenty-five, the "ceremony of a formal denunciation of war has of late fallen into disuse."

The conclusion that Congress was given the power to initiate all wars, except to repel attacks on the United States, is also strengthened in view of the second part of the war clause: the power to "grant letters of marque and reprisal."

An anachronism today, letters of marque and reprisal were licenses issued by governments empowering agents to seize enemy ships or take action on land short of all-out war. In essence, it was an eighteenth century version of what we now regarded as "limited war" or "police actions."

The framers undoubtedly knew that reprisals, or "imperfect war," could lead to an all-out war. England, for example, had fought five wars between 1652 and 1756 which were preceded by public naval reprisals.

Surely, those who met at Philadelphia—all learned men—knew and understood this history. Given this, the only logical conclusion is that the framers intended to grant to Congress the power to initiate all hostilities, even limited wars.

In sum, to accept the proposition that the war power is merely ceremonial, or applies only to "big wars," is to read much of the war clause out of the Constitution. Such a reading is supported neither by the plain language of the text, or the original intent of the framers.

Any doubt about the wisdom of relying on this interpretation of the intent of the framers is dispelled in view of the actions of early Presidents, early Congresses, and early Supreme Court decisions.

Our earliest Presidents were extremely cautious about encroaching on Congress' power under the war clause.

For example, in 1793, the first President, George Washington, stated that offensive operations against an indian tribe, the Creek Nation, depended on congressional action: "The Constitution vests the power of declaring war with Congress; therefore no offensive expedition of importance can be undertaken until after they have deliberated upon the subject, and authorized such a measure."

During the Presidency of John Adams, the United States engaged in an undeclared naval war with France. But it bears emphasis that these military engagements were clearly authorized by Congress by a series of incremental statutes.

The naval war with France also yielded three important Supreme Court decisions regarding the scope of the war power.

In 1799, Congress authorized the President to intercept any U.S. vessels headed to France. President Adams subsequently ordered the Navy to seize any ships traveling to or from France.

The Supreme Court declared the seizure of a U.S. vessel traveling from France to be illegal—thus ruling that Congress had the power not only to authorize limited war, and but also to limit Presidential power to take military action.

The court ruled in two other cases bearing on the question of limited war. Wars, the Court said, even if "imperfect," are nonetheless wars. In still another case, Chief Justice Marshall opined that "the whole powers of war [are] by the Constitution . . . vested in Congress . . . [which] may authorize general hostilities . . . or partial war."

These precedents, and the historical record of actions taken by other early Presidents, have significantly more bearing on the meaning of the war clause than the modern era.

As Chief Justice Warren once wrote, "The precedential value of [prior practice] tends to increase in proportion to the proximity" to the constitutional convention.

Unfortunately, this constitutional history seems largely forgotten, and the doctrine of Presidential power that arose during the cold war remains in vogue.

To accept the status quo requires us to believe that the constitutional imbalance serves our nation well. But it can hardly be said that it does.

As matters now stand, Congress is denied its proper role in sharing in the decision to commit American troops, and the President is deprived of the consensus to help carry this policy through.

I believe that only by establishing an effective war powers mechanism can we ensure that both of these goals are met. The question then is this: How to revise the war powers resolution in a manner that gains bipartisan support—and support of the executive?

In the past two decades, a premise has gained wide acceptance that the war powers resolution is fatally flawed. Indeed, there are flaws in the resolution but they need not have been fatal.

In 1988, determining that a review of the war powers resolution was in order, the Foreign Relations Committee established a special subcommittee to assume the task.

As chairman of the subcommittee, I conducted extensive hearings. Over the course of two months, the subcommittee heard from many distinguished witnesses: former President Ford, former Secretaries of State and Defense, former Joint Chiefs of Staff, former Members of Congress who drafted the war powers resolution, and many constitutional scholars.

At the end of that process, I wrote a law review article describing how the war powers resolution might be thoroughly rewritten to overcome its actual and perceived liabilities.

That effort provided the foundation for the legislation I introduced in the 104th Congress, and that I reintroduce today. The bill has many elements; I will briefly summarize it.

First, the bill replaces the war powers resolution with a new version. But I should make clear that I retain its central element: a time-clock mechanism that limits the President's power to use force abroad. That mechanism, it bears emphasis, was found to be unambiguously constitutional in a 1980 opinion issued by the Office of Legal Counsel at the Department of Justice.

It is often asserted that the time-clock provisions is "unworkable," or that it invites our adversaries to make a conflict so painful in the short run so as to induce timidity in the Congress.

But with or without a war powers law, American willingness to undertake sustained hostilities will always be subject to democratic pressures. A statutory mechanism is simply a means of delineating procedure.

And the procedure set forth in this legislation assures that if the President wants an early congressional vote on a use of force abroad, his congressional supporters can produce it.

Recent history tells us, of course, that the American people, as well as Congress, rally around the flag—and the Commander-in-Chief—in the early moments of a military deployment.

Second, my bill defuses the specter that a "timid Congress" can simply sit on its hands and permit the authority for a deployment to expire.

First, it establishes elaborate expedited procedures designed to ensure that a vote will occur. And it explicitly defeats the "timid Congress" specter by granting to the President the authority he has sought if these procedures nonetheless fail to produce a vote.

Thus, if the President requests authority for a sustained use of force—one outside the realm of emergency—and Congress fails to vote, the President's authority is extended indefinitely.

Third, the legislation delineates what I call the "going in" authorities for the President to use force. One fundamental weakness of the war powers resolution is that it fails to acknowledge powers that most scholars agree are inherent Presidential powers: to repel an armed attack upon the United States or its Armed Forces, or to rescue Americans abroad.

My legislation corrects this deficiency by enumerating five instances where the President may use force:

(1) To repel attack on U.S. territory or U.S. forces;

(2) To deal with urgent situations threatening supreme U.S. interests;

(3) To extricate imperiled U.S. citizens;

(4) To forestall or retaliate against specific acts of terrorism;

(5) To defend against substantial threats to international sea lanes or airspace;

It may be that no such enumeration can be exhaustive. But the circumstances set forth would have sanctioned virtually every use of force by the United States since World War Two.

This concession of authority is circumscribed by the maintenance of the time-clock provision.

After sixty days have passed, the President's authority would expire, unless one of three conditions had been met:

(1) Congress has declared war or enacted specific statutory authorization;

(2) The President has requested authority for an extended use of force but Congress has failed to act on that request, notwithstanding the expedited procedures established by this act;

(3) The President has certified the existence of an emergency threatening the supreme national interests of the United States.

The legislation also affirms the importance of consultation between the President and Congress and establishes a new means to facilitate it.

To overcome the common complaint that Presidents must contend with "535 Secretaries of State," the bill establishes a congressional leadership group with whom the President is mandated to consult on the use of force.

Another infirmity of the war powers resolution is that it fails to define "hostilities." Thus, Presidents frequently engaged in a verbal gymnastics of insisting that "hostilities" were not "imminent"—even when hundreds of thousands of troops were positioned in the Arabian desert opposite Saddam's legions.

Therefore, the legislation includes a more precise definition of what constitutes a "use of force."

Finally, to make the statutory mechanism complete, the use of force act provides a means for judicial review. Because I share the reluctance of many of my colleagues to inject the judiciary into decisions that should be made by the political branches, this provision is extremely limited. It empowers a three-judge panel to decide only whether the time-clock mechanism has been triggered.

The bill contains a provision granting standing to Members of Congress, a door that the Supreme Court appears to have largely closed in the case of Raines versus Byrd—the line-item veto challenge brought by the senior Senator from West Virginia. I believe, notwithstanding the holding of that case, that a Member of Congress would suffer the concrete injury necessary to satisfy the standing requirement under article three of the Constitution.

The reason is this: The failure of the President to submit a use of force report would harm the ability of a Member of Congress to exercise a power clearly reposed in Congress under article one, section eight. That injury, I believe, should suffice in clearing the high hurdle on standing which the Court imposed in the Byrd case. No private individual can bring such a suit; if a Member of Congress cannot, then no one can.

I have no illusions that enacting this legislation will be easy. But I am determined to try.

The status quo—with Presidents asserting broad executive power, and Congress often content to surrender its constitutional powers—does not serve the American people well.

More fundamentally, it does not serve the men and women who risk their lives to defend our interests. For that, ultimately, must be the test of any war powers law.

Mr. President, I ask unanimous consent that the section-by-section analysis be included in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. *Short Title.* The title of the bill is the "Use of Force Act (UFA)."

Section 2. *Table of Contents.*

Section 3. *Findings.* This section sets forth three findings regarding the need to provide a statutory framework to facilitate joint decisionmaking between Congress and the President regarding decisions to use force abroad.

Section 4. *Statement of Purpose.* The key phrase in this section is "confer and confirm Presidential authority." The Use of Force

Act is designed to bridge the long-standing—and, for all practical purposes, unresolvable—dispute over precisely what constitutes the President's "inherent" authority to use force. Whereas the War Powers Resolution purported to delineate the President's constitutional authority and to grant no more, the Use of Force Act sets forth a range of authorities that are practical for the modern age and sufficiently broad to subsume all presidential authorities deemed "inherent" by any reasonable constitutional interpretation.

Section 5. *Definitions.* This section defines a number of terms, including the term "use of force abroad," thus correcting a major flaw of the War Powers Resolution, which left undefined the term "hostilities."

As defined in the Use of Force Act, a "use of force abroad" comprises two prongs:

(1) a deployment of U.S. armed forces (either a new introduction of forces, a significant expansion of the U.S. military presence in a country, or a commitment to a new mission or objective); and

(2) the deployment is aimed at deterring an identified threat, or the forces deployed are incurring or inflicting casualties (or are operating with a substantial possibility of incurring or inflicting casualties).

TITLE I—GENERAL PROVISIONS

Section 101. *Authority and Governing Principles.* This section sets forth the Presidential authorities being "conferred and confirmed." Based on the Constitution and this Act, the President may use force—

(1) to repel an attack on U.S. territory or U.S. forces;

(2) to deal with urgent situations threatening supreme U.S. interests;

(3) to extricate imperiled U.S. citizens;

(4) to forestall or retaliate against specific acts of terrorism;

(5) to defend against substantial threats to international sea lanes or airspace.

Against a complaint that this list is excessively permissive, it should be emphasized that these are the President's initial authorities to undertake a use of force—so-called "going in" authorities—and that the "staying in" conditions set forth in section 104 will, in most cases, bear heavily on the President's original decision.

Section 102. *Consultation.* Section 102 affirms the importance of consultation between the President and Congress and establishes new means to facilitate it. To overcome the common complaint that Presidents must contend with "535 secretaries of state," the UFA establishes a Congressional Leadership Group with whom the President is mandated to consult on the use of force.

A framework of regular consultations between specified Executive branch officials and relevant congressional committees is also mandated in order to establish a "norm" of consultative interaction and in hope of overcoming what many find to be the overly theatrical public-hearing process that has superseded the more frank and informal consultations of earlier years.

Note: An alternative to the Use of Force Act is to repeal (or effectively repeal) the War Powers Resolution and leave in its place *only* a Congressional Leadership Group. (This is the essence of S.J. Res. 323, 100th Congress, legislation to amend the War Powers Resolution introduced by Senators Byrd, Warner, Nunn, and Mitchell in 1988.) This approach, which relies on "consultation and the Constitution," avoids the complexities of enacting legislation such as the UFA but fails to solve chronic problems of procedure or authority, leaving matters of process and power to be debated anew as each crisis arises. In contrast, the Use of Force Act would perform one of the valuable functions of law, which is to guide individual and institutional behavior.

Section 103. *Reporting Requirements.* Section 103 requires that the President report in writing to the Congress concerning any use of force, not later than 48 hours after commencing a use of force abroad.

Section 104. *Conditions for Extended Use of Force.* Section 104 sets forth the "staying in" conditions: that is, the conditions that must be met if the President is to sustain a use of force he has begun under the authorities set forth in section 101. A use of force may extend beyond 60 days only if—

(1) Congress has declared war or enacted specific statutory authorization;

(2) the President has requested authority for an extended use of force but Congress has failed to act on that request (notwithstanding the expedited procedures established by Title II of this Act);

(3) the President has certified the existence of an emergency threatening the supreme national interests of the United States.

The second and third conditions are designed to provide sound means other than a declaration of war or the enactment of specific statutory authority by which the President may engage in an extended use of force. Through these conditions, the Use of Force Act avoids two principal criticisms of the War Powers Resolution: (1) that Congress could irresponsibly require a force withdrawal simply through inaction; and (2) that the law might, under certain circumstances, unconstitutionally deny the President the use of his "inherent" authority.

To defuse the specter of a President hamstrung by a Congress too timid or inept to face its responsibilities, the UFA uses two means: first, it establishes elaborate expedited procedures designed to ensure that a vote will occur; second, it explicitly defeats the "timid Congress" specter by granting to the President the authority he has sought if these procedures nonetheless fail to produce a vote. Thus, if the President requests authority for a sustained use of force—one outside the realm of emergency—and Congress fails to vote, the President's authority is extended indefinitely.

The final condition should satisfy all but proponents of an extreme "monarchist" interpretation under which the President has the constitutional authority to use force as he sees fit. Under all other interpretations, the concept of an "inherent" authority depends upon the element of emergency: the need for the President to act under urgent circumstances to defend the nation's security and its citizens. If so, the UFA protects any "inherent" presidential authority by affirming his ability to act for up to 60 days under the broad-ranging authorities in section 101 and, in the event he is prepared to certify an extended national emergency, to exercise the authority available to him through the final condition of section 104.

Section 105. *Measures Eligible for Congressional Priority Procedures.* This section establishes criteria by which joint and concurrent resolutions become eligible for the expedited procedures created by Title II of the UFA.

A joint resolution that declares war or provides specific statutory authorization—or one that terminates, limits, or prohibits a use of force—becomes eligible if it is introduced: (1) pursuant to a written request by the President to any one member of Congress; (2) if cosponsored by a majority of the members of the Congressional Leadership Group in the house where introduced; or (3) if cosponsored by 30 percent of the members of either house. Thus, there is almost no conceivable instance in which a President can be denied a prompt vote: he need only ask *one member of Congress* to introduce a resolution on his behalf.

A concurrent resolution becomes eligible if it meets either of the cosponsorship criteria cited above and contains a finding that a use of force abroad began on a certain date, or has exceeded the 60 day limitation, or has been undertaken outside the authority provided by section 101, or is being conducted in a manner inconsistent with the governing principles set forth in section 101.

While having no direct legal effect, the passage of a concurrent resolution under the UFA could have considerable significance: politically, it would represent a clear, prompt, and formal congressional repudiation of a presidential action; within Congress, it would trigger parliamentary rules blocking further consideration of measures providing funds for the use of force in question (as provided by section 106 of the UFA); and juridically, it would become a consideration in any action brought by a member of Congress for declaratory judgment and injunctive relief (as envisaged by section 107 of the UFA).

Section 106. *Funding Limitations.* This section prohibits the expenditure of funds for any use of force inconsistent with the UFA. Further, this section exercises the power of Congress to make its own rules by providing that a point of order will lie against any measure containing funds to perpetuate a use of force that Congress, by concurrent resolution, has found to be illegitimate.

Section 107. *Judicial Review.* This section permits judicial review of any action brought by a Member of Congress on the grounds that the UFA has been violated. It does so by—

(1) granting standing to any Member of Congress who brings suit in the U.S. District Court for the District of Columbia;

(2) providing that neither the District Court nor the Supreme Court may refuse to make a determination on the merits based on certain judicial doctrines, such as political question or ripeness (doctrines invoked previously by courts to avoid deciding cases regarding the war power);

(3) prescribing the judicial remedies available to the District Court; and

(4) creating a right of direct appeal to the Supreme Court and encouraging expeditious consideration of such appeal.

It bears emphasis that the remedy prescribed is modest, and does not risk unwarranted interference of the judicial branch in a decision better reposed in the political branches. It provides that the matter must be heard by a three-judge panel; one of these judges must a circuit judge. Additionally, the power of the court is extremely limited: it may only declare that the 60-day period set forth in Section 104 has begun.

In 1997, the Supreme Court held, in *Raines v. Byrd*, that Members of Congress did not have standing to challenge an alleged constitutional violation under the Line-Item Veto Act. That case might be read to suggest that a Member of Congress can never attain standing. But such a conclusion would be unwarranted. First, the Court made clear in *Raines* that an explicit grant of authority to bring a suit eliminates any "prudential" limitations on standing. *Raines v. Byrd*, 521 U.S. ___, ___, n.3 (1997) (slip op., at 8, n.3) Second, a more recent decision of the Court suggests that a Member of Congress could attain "constitutional standing" (that is, meet the "case or controversy" requirements of Article III) in just the sort of case envisaged by the Use of Force Act. In *Federal Election Commission v. Akins*, a case decided on June 1, 1998, the Court permitted standing in a case where the plaintiffs sought to require the Federal Election Commission (FEC) to treat an organization as a "political committee," which then would have triggered public disclosure of certain information about that organization. The Court held that standing would be permitted where the plaintiff "fails to obtain information which must be publicly disclosed pursuant to statute." A case under the Use of Force Act would be analogous—in that the plaintiff Members of Congress would seek information in a "Use of Force Report" required to be submitted to Congress by Section 103(a). Such information, quite obviously, would be essential to Members of Congress in the exercise of their constitutional powers under the war clause of the Constitution (Article I, Section 8, Clause 11), a power they alone possess.

Section 108. *Interpretation*. This section clarifies several points of interpretation, including these: that authority to use force is not derived from other statutes or from treaties (which create international obligations but not authority in a domestic, constitutional context); and that the failure of Congress to pass any joint or concurrent resolution concerning a particular use of force may not be construed as indicating congressional authorization or approval.

Section 109. *Severability*. This section stipulates that certain sections of the UFA would be null and void, and others not affected, if specified provisions of the UFA were held by the Courts to be invalid.

Section 110. *Repeal of War Powers Resolution*. Section 110 repeals the War Powers Resolution of 1973.

TITLE II—EXPEDITED PROCEDURES

Section 201. *Priority Procedures*. Section 201 provides for the expedited parliamentary procedures that are integral to the functioning of the Act. (These procedures are drawn from the war powers legislation cited earlier, introduced by Senator Robert Byrd *et al.* in 1988.)

Section 202. *Repeal of Obsolete Expedited Procedures*. Section 202 repeals other expedited procedures provided for in existing law.●

By Mr. DORGAN.

S. 2388. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion from gain on the sale of a principal residence; to the Committee on Finance.

LEGISLATION TO PROVIDE EXCLUSION FOR GAIN FROM THE SALE OF FARMLAND

● Mr. DORGAN. Mr. President, a new and disastrous farm crisis is roaring through the Upper Midwest. Family farmers are under severe assault and many of them are simply not making it. It's not their fault. It's just that the combination of bad weather, crop disease, low yield, low prices and bad federal farm policy is too much to handle. Under the current federal farm law there is no price safety net. Farmers are—as they were in the 1930's —at the mercy of forces much bigger than they are.

The exodus occurring from family farms in the Upper Midwest is heartbreaking and demands the immediate attention of this Congress. We need to address this problem both within the farm program and in other policy areas as well.

For example, Mr. President, there's a fundamental flaw in the tax code that we need to fix. It adds insult to injury for many of these farmers. You see, too often, these family farmers are not able to take full advantage of the $500,000 capital gains tax break that city folks get when they sell their homes. Once family farmers have been beaten down and forced to sell the farm they've farmed for generations, they get a rude awakening. Many of them discover, as they leave the farm, that Uncle Sam is waiting for them at the end of the lane with a big tax bill.

One of the most popular provisions included in last year's major tax bill permits families to exclude from federal income tax up to $500,000 of gain from the sale of their principal residences. That's a good deal, especially for most urban and suburban dwellers who have spent many years paying for their houses, and who regard their houses as both a home and a retirement account. For many middle income families, their home is their major financial asset, an asset the family can draw on in retirement. House prices in major growth markets such as Washington, D.C., New York, or California may start at hundreds of thousands of dollars. As a result, the urban dwellers who have owned their homes through many years of appreciation can often benefit from a large portion of this new $500,000 capital gains tax exclusion. Unfortunately this provision, as currently applied, is virtually useless to family farmers.

For farm families, their farm is their major financial asset. Unfortunately, family farmers under current law receive little or no benefit from the new $500,000 exclusion because the IRS separates the value of their homes from the value of the farmland the homes sit on. As people from my state of North Dakota know, houses out on the farmsteads of rural America are more commonly sold for $5,000 to $40,000. Most farmers plow any profits they make into the whole farm rather than into a house that will hold little or no value when the farm is sold. It's not surprising that the IRS often judges that homes far out in the country have very little value and thus farmers receive much less benefit from this $500,000 exclusion than do their urban and suburban counterparts. As a result, the capital gain exclusion is little or no help to farmers who are being forced out of business. They may immediately face a hefty capital gains tax bill from the IRS.

This is simply wrong, Mr. President. It is unfair. Federal farm policy helped create the hole that many of these farmers find themselves in. Federal tax policy shouldn't dig the hole deeper as they attempt to shovel their way out.

The legislation that I'm introducing today recognizes the unique character and role of our family farmers and their important contributions to our economy. It expands the $500,000 capital gains tax exclusion for sales of principal residences to cover family farmers who sell their farmhouses or surrounding farmland, so long as they are actively engaged in farming prior to the sales. In this way, farmers may get some benefit from a tax break that would otherwise be unavailable to them.

I fully understand that this legislation is not a cure-all for financial hardships that are ailing our farm communities. This legislation is just one of a number of policy initiatives we can use to ease the pain for family farmers as we pursue other initiatives to help turn around the crippled farm economy.

Again, my legislation would expand the $500,000 tax exclusion for principle residences to cover the entire farm. Specifically, the provision will allow a family or individual who has actively engaged in farming prior to the farm sale to exclude the gain from the sale up to the $500,000 maximum.

What does this relief mean to the thousands of farmers who are being forced to sell off the farm due to current economic conditions?

Take, for example, a farmer who is forced to leave today because of crop disease and slumping grain prices and sells his farmstead that his family has operated for decades. If he must report a gain of $10,000 on the sale of farm house, that is all he can exclude under current law. But if, for example, he sold 1000 acres surrounding the farm house for $400,000, and the capital gain was $200,000, he would be subject to $40,000 tax on that gain. Again, my provision excludes from tax the gain on the farmhouse and land up to the $500,000 maximum that is otherwise available to a family on the sale of its residence.

We must wage, on every federal and state policy front, the battle to stem the loss of family farmers. Tax provisions have grown increasingly important as our farm families deal with drought, floods, diseases and price swings.

I believe that Congress should move quickly to pass this legislation and other meaningful measures to help get working capital into the hands of our family farmers in the Great Plains. Let's stop penalizing farmers who are forced out of agriculture. Let's allow farmers to benefit from the same kind of tax exclusion that most homeowners already receive. This is the right thing to do. And it's the fair thing to do.●

By Mr. WELLSTONE:

S. 2389. A bill to strengthen the rights of workers to associate, organize and strike, and for other purposes; to the Committee on Labor and Human Resources.

FAIR LABOR ORGANIZING ACT

• Mr. WELLSTONE. Mr. President, I rise to introduce a bill, the Fair Labor Organizing Act, to strengthen the basic rights of workers freely to associate, organize and to join a union. The bill would address significant shortcomings in the National Labor Relations Act. These shortcomings amount to impediments to one of the most fundamental ways that working people can seek to improve their own and their families' standard of living and quality of life, which is to join, belong to and participate in a union.

Mr. President, in the past few years, working men and women across the country have been fighting and organizing with a new energy. They are fighting for better health care, pensions, a living wage, better education policy and fairer trade policy. They also are fighting and organizing to ensure that they have the opportunity to be represented by a union through which they can collectively bargain with their employers. Much of this organizing is taking place among sectors of the workforce, and among portions of our working population, that have not previously been organized. I think these new efforts are part of what really is a new civil rights and human rights struggle in our country. It is an important and positive historical development. There is probably no clearer indication that the impact of this development is being felt, and that many of these efforts are succeeding, than some of the attacks in the current Congress on unions representing the country's working people.

Why have we seen so many bills with Orwellian titles such as the TEAM Act, which has little to do with employer-employee teamwork and a lot more to do with company-dominated labor organizations? Such as the "Family Friendly Workplace Act," which really isn't family friendly, but would reduce working families' pay and undercut the 40-hour workweek? Such as the so-called SAFE Act, which doesn't promote safety but actually would roll back well-established and necessary OSHA protections?

Why does the majority in Congress seem so desperate to single out unions to suppress their political activities at the same time they maneuver to kill genuine political campaign finance reform?

It is because unions are succeeding. That is a good thing because in my view, when organized labor fights for job security, for dignity, justice and for a fair share of America's prosperity, it is not a struggle merely for their own benefit. The gains of unionized workers on basic bread and butter issues are key to the economic security of all working families.

How can it be that as many as 10,000 Americans lose their jobs each year for supporting union organizing when the National Labor Relations Act already supposedly prohibits the firing of an employee to deny his or her right to freely organize or join a union? If more than four in 10 workers who are not currently in a union say they would join one if they had the opportunity, why aren't there more opportunities? Since we know that union workers earn up to one-third more than non-union workers and are more likely to have pensions and health benefits, why aren't more workers unionized when the new labor movement is correctly focused on organizing?

The answer to these basic questions is this: we need labor law reform. We need to improve the National Labor Relations Act (NLRA).

The Fair Labor Organizing Act would achieve three basic goals. First, it would help employees make fully informed, free decisions about union representation. Second, it would expand the remedies available to wrongfully discharged employees. Third, it would require mediation and arbitration when employers and employees fail to reach a collective bargaining agreement on their own.

It is late in the current Congress. My bill may not receive full consideration or be enacted into law this year. But I believe it is important to set a standard and place a marker. Workers across America are fighting for their rights, and many are finding that the playing field is tilted against them. The NLRA does not fully allow them fair opportunity to speak freely, to associate, organize and join a union, even though that is its intended purpose. I have walked some picket lines during the past two years. I have joined in solidarity with workers seeking to organize. I have called on employers to bargain in good faith with their employees during disputes. I intend to continue doing so, and I urge colleagues to do the same. At the same time, it is clear to nearly any organizer and to many workers who have sought to join a union that the rules in crucial ways are stacked against them. My bill seeks to address that fact.

First, it is a central tenet of U.S. labor policy that employees should be free to make informed and free decisions about union representation. Yet, union organizers have limited access to employees while employers have unfettered access. Employers have daily contact with employees. They may distribute written materials about unions. They may require employees to attend meetings where they present their views on union representation. They may talk to employees one-on-one about how they view union representation. On the other hand, union organizers are restricted from worksites and even public areas.

If we want people to make independent, informed decisions about whether they should be represented by a union, then we have to give them equal access to both sides of the story. This bill would amend the National Labor Relations Act to provide equal time to labor organizations to provide information about union representation. Equal time. That means that an employer would trigger the equal time provision that this bill would insert into the NLRA by expressing opinions on union representation during work hours or at the worksite. The provision would give a union equal time to use the same media used by the employer to distribute information, and would allow the union access to the worksite to communicate with employees.

The second reform in the bill would toughen penalties for wrongful discharge violations. It would require the National Labor Relations Board to award back pay equal to 3 times the employee's wages when the Board finds that an employee is discharged as a result of an unfair labor practice. It also would allow employees to file civil actions to recover punitive damages when they have been discharged as a result of an unfair labor practice.

Third, the bill would put in place mediation and arbitration procedures to help employers and employees reach mutually agreeable first-contract collective bargaining agreements. It would require mediation if the parties cannot reach agreement on their own after 60 days. Should the parties not reach agreement 30 days after a mediator is selected, then either party could call in the Federal Mediation and Conciliation Service for binding arbitration. I believe that this proposal represents a balanced solution—one that would help both parties reach agreements they can live with. It gives both parties incentive to reach genuine agreement without allowing either side to indefinitely hold the other hostage to unrealistic proposals.

Mr. President, this bill would be a step toward fairness for working families in America. The proposals are not new. I hope my colleagues will support the bill.•

By Mr. DASCHLE:

S. 2391. A bill to authorize and direct the Secretary of Commerce to initiate an investigation under section 702 of the Tariff Act of 1930 of methlyl tertiary butyl ether imported from Saudi Arabia; to the Committee on Finance.

FAIR TRADE IN MTBE ACT OF 1998

Mr. DASCHLE. Mr. President, today I am pleased to introduce legislation designed to combat unfairly traded imports of methyl tertiary butyl ether (MTBE) from Saudi Arabia. MTBE is an oxygenated fuel additive derived from methanol.

Through the wintertime oxygenated fuels program to reduce carbon monoxide pollution and through the reformulated gasoline program to reduce emissions of toxics and ozone-causing chemicals, we have created considerable demand in this nation for oxygenated fuels, such as MTBE, ETBE and ethanol. It has been my hope that this demand could be met with domestically-produced oxygenates, thereby reducing our dependence on foreign imports and expanding economic opportunities at home. Unfortunately, this goal has not been achieved, in large part because of a substantial expansion of subsidized MTBE imports from Saudi Arabia.

Mr. President, I am a supporter of free trade when it is also fair trade. However, there has been a marked surge in MTBE imports from Saudi Arabia in recent years that does not reflect the natural outcome of market-based competition.

These imports appear to be driven by a pattern of government subsidies. Not only is this increasing our dependence on foreign suppliers, but it is unfairly harming domestic oxygenate producers and those who provide the raw materials for these oxygenates, such as America's farmers.

The Saudi government has made no secret of its desire to expand domestic industrial capacity of methyl tertiary butyl ether (MTBE). In particular, several years ago, there were public reports that the Saudi government promised investors a 30% discount relative to world prices on the feedstock raw materials used in the production of MTBE. The feedstock is the major cost component of MTBE production, and the Saudi government decree has apparently translated into a nearly −30% artificial cost advantage to Saudi-based producers and exporters.

Moreover, it appears that this blatant subsidy is in large measure responsible for the increase in Saudi MTBE exports to the United States in recent years. These exports have not only reduced the U.S. market share of American producers of MTBE, ETBE, and ethanol, but also has discouraged new capital investment, thereby depriving American workers, farmers, and investors of a significant share of the economic activity that Congress contemplated when it drafted the oxygenated fuel requirements of the Clean Air Act Amendments of 1990.

Mr. President, I believe it is high time for the United States government to respond to the Saudi government's subsidies. Saudi Arabia is a valued ally; however, our bond of friendship should not be a justification for turning a blind eye to an unfair element of our otherwise mutually beneficial trading relationship.

Because it is not a member of the World Trade Organization nor a party to its Agreement on Subsidies and Countervailing Measures, the Saudi government may not feel constrained by the international trade rules by which we legally are required to abide. This does not mean, however, that we must stand idly by while foreign subsidies undermine an important sector of our economy.

For this reason, my bill would require the Secretary of Commerce to self-initiate an investigation under Section 702 of the Tariff Act of 1930 to determine whether a countervailable subsidy has been provided with respect to Saudi Arabian exports of methyl tertiary butyl ether (MTBE). If the Secretary finds that a subsidy has indeed been provided to Saudi producers, he would be required under the terms of our existing law to impose an import duty in the amount necessary to offset the subsidy. Because Saudi Arabia is not a member of the WTO, there would be no requirement for a demonstration of injury to the domestic industry as a result of the subsidy.

Let's talk for a moment about what is at stake here for American consumers. Last year, I asked the U.S. General Accounting Office (GAO) to assess the impact on U.S. oil imports of the Reformulated Gasoline (RFG) program that was created by Congress in 1991. The GAO found that the U.S. RFG program has already resulted in over 250,000 barrels per day less imported petroleum due to the addition of oxygenates like ethanol, ETBE and MTBE. That means, at an average of $20 spent per barrel of imported oil, we currently save nearly $2 billion per year due to domestically produced oxygenates.

The GAO further found that, if all gasoline in the U.S. were reformulated (compared to the current 35%), the U.S. would import 777,000 fewer barrels of oil per day. That is more than $5.5 billion per year that would not be flowing to foreign oil producers and could be reinvested in the United States.

This is not "pie-in-the-sky" theory. Ethanol production and domestically produced MTBE can reduce oil imports and strengthen our economy. In rural America, for example, new ethanol and ETBE plants will be built, so long as we wise up and create a level playing field against subsidized Saudi competition.

Phase II of the Clean Air Act's reformulated gasoline program (RFG) requires transportation fuels to meet even tougher emissions standards starting in the year 2000. That gasoline market is growing, with demand for ethanol, ETBE and MTBE in 2005 estimated to be 300,000 barrels per day. Unless we act to ensure that American-made oxygenated fuels can compete in American fuels markets, we stand to cede those markets to subsidized Saudi Arabian MTBE.

Mr. President, I am hopeful that my legislation will help level the playing field for American producers of ethanol, ETBE and MTBE and add new economic vitality to their associated communities of workers, farmers, and business owners. I urge my colleagues to give it serious consideration and to enact it as soon as possible so that we may begin the process of bringing fairness back into the realm of international trade in oxygenated fuels.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Trade in MTBE Act of 1998".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Section 814 of Public Law 101-549 (commonly referred to as the "Clean Air Act Amendments of 1990") expressed the sense of Congress that every effort should be made to purchase and produce American-made reformulated gasoline and other clean fuel products.

(2) Since the passage of the Clean Air Amendments Act of 1990, Saudi Arabia has added substantial industrial capacity for the production of methyl tertiary butyl ether (in this Act referred to as "MTBE").

(3) The expansion of Saudi Arabian production capacity has been stimulated by government subsidies, notably in the form of a governmental decree guaranteeing Saudi Arabian MTBE producers a 30 percent discount relative to world prices on feedstock.

(4) The expansion of subsidized Saudi Arabian production has been accompanied by a major increase in Saudi Arabian MTBE exported to the United States.

(5) The subsidized Saudi Arabian MTBE exports have reduced the market share of American producers of MTBE, ETBE, and ethanol, as well as discouraged capital investment by American producers.

(6) Saudi Arabia is not a member of the World Trade Organization and is not subject to the terms and conditions of the Agreement on Subsidies and Countervailing Measures negotiated as part of the Uruguay Round Agreements.

SEC. 3. INITIATION OF COUNTERVAILING DUTY INVESTIGATION.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the administering authority shall initiate an investigation pursuant to title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) to determine if the necessary elements exist for the imposition of a duty under section 701 of such Act with respect to the importation into the United States of MTBE from Saudi Arabia.

(b) ADMINISTERING AUTHORITY.—For purposes of this section, the term "administering authority" has the meaning given such term by section 771(1) of the Tariff Act of 1930 (19 U.S.C. 1677(1)).

By Mr. BENNETT (for himself, Mr. DODD, Mr. MOYNIHAN, Mr. KOHL, and Mr. ROBB) (by request):

S. 2392. A bill to encourage the disclosure and exchange of information about computer processing problems and related matters in connection with the transition to the Year 2000; to the Committee on the Judiciary.

YEAR 2000 INFORMATION DISCLOSURE ACT

• Mr. BENNETT. Mr. President, today I introduce, by request of President Bill Clinton, the Administration's "Good Samaritan" legislation referred to as the "Year 2000 Information Disclosure Act".

I want to thank the White House for joining Vice Chairman DODD and the rest of the members of the Special Committee on the Year 2000 Technology Problem in the debate on how to promote the flow of information on Year 2000 readiness throughout the private sector. The Administration's recognition of this problem, the fear of law suits and its stifling effect on companies' willingness to disclose helpful Y2K information, is invaluable in helping all of us deal with this national crisis.

The existing legal framework clearly discourages the sharing of critical information between private sector companies. The President's bill attempts to limit the legal liability of corporations and other organizations who in good faith openly share information about computer and technology processing problems and related matters in connection with the transition to the Year 2000. We welcome the thoughtful ideas of the White House and the hard work of the Office of Management and Budget, as well John Koskinen, the Chairman of the President's Council on Year 2000 Conversion.

President Clinton's proposal represents a good starting point from which to begin the process of addressing the critical need for private sector information sharing announced in his speech before the National Sciences Foundation on Tuesday, July 14.

The Senate Special Committee on the Year 2000 Technology Problem, which I chair, has to date held hearings on Year 2000 problems in several industry sectors including energy utilities, financial institutions, and health care. This Friday, July 31, the Committee will hold its fourth hearing the subject of which will be the telecommunications industry. In each of the prior hearings, it has become increasingly evident that the fear of legal liability has proven to be the single biggest deterrent to the open sharing of Year 2000 information. With just over 500 days remaining before the Year 2000 problem manifests itself in full, we must do everything we can to encourage the sharing of vital Year 2000 information. Through this sharing, organizations can save valuable time and resources in addressing their Year 2000 problems.

But, we must be careful to pass meaningful legislation that will indeed encourage disclosure and sharing of Year 2000 information. For example, small companies which cannot afford to do all of their own testing and who, for the most part, are not as knowledgeable about where the dangers of the Y2K bug may appear are significant elements of our economy and their Y2K failures could have devastating impacts on those who depend on their services.

We look forward to hearing the input of those companies and individuals who are affected both as plaintiffs and defendants. To be of value, we must pass legislation this year. To that end, we will be working closely with the administration, and with Senators HATCH and LEAHY of the Judiciary Committee which has the primary jurisdiction for this legislation.•

• Mr. MOYNIHAN. Mr. President, I am pleased to join with Senators ROBERT F. BENNETT (R–UT) and CHRISTOPHER DODD (D–CT) today as original cosponsors of President Clinton's "Year 2000 (Y2K) Information Disclosure Act." This legislation is intended to promote the open sharing of information about Y2K solutions by protecting those who share information in good faith from liability claims based on exchanges of information. As the President stated in his speech at the National Academy of Sciences on July 14, 1998, the purpose of this legislation is to "guarantee that businesses which share information about their readiness with the public or with each other, and do it honestly and carefully, cannot be held liable for the exchange of that information if it turns out to be inaccurate."

The open sharing of information on the Y2K problem will play a significant role in preparing the nation and the world for the millennial malady. I urge the prompt and favorable consideration of this legislation. There is no time to waste.•

• Mr. DODD. Mr. President, today I join with Senator ROBERT BENNETT, the chairman of the Senate Special Committee on the Year 2000 Technology Problem, to introduce, at the request of the President of the United States, "The Year 2000 Information Disclosure Act." We are joined in this introduction by Senators MOYNIHAN, KOHL, and ROBB.

It should be clear to even the most disinterested observer that we are facing a serious economic challenge in form of the Year 2000 computer problem. There is little doubt that the millennium conversion will have a significant impact on the economy; the outstanding question is how large that impact will be.

One of the most relevant factors in assessing the potential impact of this problem is the expected readiness of small and medium sized businesses to deal with this issue. Many of the nation's largest corporations are spending hundreds of millions of dollars to prepare for Year 2000 conversion: Citibank is spending $600 million, Aetna is spending more than $125 million, and the list goes on and on. However, it is not so clear that small and medium sized businesses are approaching the problem with similar vigor.

As a result, it is my opinion that it will become increasingly necessary for those companies that have successfully completed remediation and are now testing to able to share those results with other companies that might not be as far along. It will be an increasing national economic priority to use all the tools available to help businesses and government entities meet the millennium deadline, and encouraging the sharing of information that can cut precious weeks off the time it takes to get ready will be essential.

I agree with the statements of President Clinton that companies that make such voluntary disclosures should not be punished for those disclosures with frivolous or abusive lawsuits. It is to address that concern that the President has requested that Senator BENNETT and I introduce his legislation.

I also agree with the President's analysis that in order for this information-sharing to be effective, it must start to take place as soon as possible. Sharing information about non-compliant systems six, eight, or twelve months from now will be of limited value to all concerned.

Some questions have emerged in the press as to the scope of this legislation. The fact is that there are very few weeks left in this session, and therefore the broader the bill, the more difficult it will be to pass. Therefore, if we are intent on providing protection for voluntary disclosures on Year 2000, it will be very hard to add to that provisions dealing with other aspects of Year 2000 liability. While I believe that concerns on underlying liability are real and meaningful, there is little question that dealing with any liability issues is always a controversial and lengthy process. So as we move forward with the concept of a safe harbor for voluntary disclosure, I hope that we can do so without encumbering that legislation with these larger and contentious issues regarding liability.

President Clinton has given us an excellent starting point for discussing these important issues. I look forward to working with all my colleagues in the weeks remaining to craft final legislation that addresses these issues in a meaningful and constructive manner.•

ADDITIONAL COSPONSORS

S. 230

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 657

At the request of Mr. DASCHLE, the name of the Senator from Arizona (Mr.

McCAIN) was added as a cosponsor of S. 657, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1459

At the request of Mr. GRASSLEY, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1759

At the request of Mr. HATCH, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1877

At the request of Mr. WYDEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1877, a bill to remove barriers to the provision of affordable housing for all Americans.

S. 1905

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1905, a bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes.

S. 1959

At the request of Mr. COVERDELL, the name of the Senator from Arizona (Mr. McCAIN) was added as a cosponsor of S. 1959, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 1960

At the request of Mr. WARNER, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Mississippi (Mr. COCHRAN), the Senator from Washington (Mrs. MURRAY), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Delaware (Mr. ROTH), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1960, a bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield, as previously authorized by law, by purchase or exchange as well as by donation.

S. 2061

At the request of Mr. GRAHAM, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 2061, a bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities.

S. 2071

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 2071, a bill to extend a quarterly financial report program administered by the Secretary of Commerce.

S. 2086

At the request of Mr. WARNER, the names of the Senator from Florida (Mr. GRAHAM), the Senator from Mississippi (Mr. LOTT), the Senator from Mississippi (Mr. COCHRAN), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Delaware (Mr. ROTH), the Senator from North Carolina (Mr. HELMS), and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 2086, a bill to revise the boundaries of the George Washington Birthplace National Monument.

S. 2161

At the request of Mr. THOMPSON, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2161, a bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes.

S. 2213

At the request of Mr. FRIST, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 2217

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2233

At the request of Mr. HATCH, the names of the Senator from Alaska (Mr. MURKOWSKI) and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 2233, a bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities.

S. 2295

At the request of Mr. McCAIN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2308

At the request of Mr. GRAHAM, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 2308, a bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

S. 2318

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2318, a bill to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period.

S. 2344

At the request of Mr. COVERDELL, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 2344, a bill to amend the Agricultural Market Transition Act to provide for the advance payment, in full, of the fiscal year 1999 payments otherwise required under production flexibility contracts.

At the request of Mr. BROWNBACK, his name was added as a cosponsor of S. 2344, supra.

At the request of Mr. LOTT, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2344, supra.

S. 2352

At the request of Mr. LEAHY, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2352, a bill to protect the privacy rights of patients.

S. 2354

At the request of Mr. BOND, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 2354, a bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

S. 2359

At the request of Mr. INHOFE, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2359, a bill to amend the National Environmental Education Act to extend the programs under the Act, and for other purposes.

SENATE CONCURRENT RESOLUTION 83

At the request of Mr. WARNER, the names of the Senator from Montana (Mr. BAUCUS), the Senator from California (Mrs. FEINSTEIN), the Senator from Wyoming (Mr. ENZI), the Senator from Maryland (Mr. SARBANES), the Senator from Delaware (Mr. ROTH), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of Senate Concurrent Resolution 83, a concurrent resolution remembering the life of

George Washington and his contributions to the Nation.

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. DORGAN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. DURBIN), the Senator from South Dakota (Mr. DASCHLE), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from California (Mrs. BOXER) were added as cosponsors of Senate Concurrent Resolution 108, a concurrent resolution recognizing the 50th anniversary of the National Heart, Lung, and Blood Institute, and for other purposes.

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Resolution 199, a resolution designating the last week of April of each calendar year as "National Youth Fitness Week."

AMENDMENT NO. 3124

At the request of Mr. HUTCHINSON the names of the Senator from Minnesota (Mr. WELLSTONE), the Senator from Florida (Mr. MACK), the Senator from Oklahoma (Mr. INHOFE), the Senator from Michigan (Mr. ABRAHAM), and the Senator from Missouri (Mr. ASHCROFT) were added as cosponsors of Amendment No. 3124 proposed to S. 2132, an original bill making appropriations for the Department of Defense for fiscal year ending September 30, 1999, and for other purposes.

AMENDMENT NO. 3338

At the request of Mr. JOHNSON his name was added as a cosponsor of Amendment No. 3338 proposed to H.R. 1151, a bill to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions.

AMENDMENT NO. 3388

At the request of Mr. JOHNSON his name was added as a cosponsor of Amendment No. 3388 proposed to S. 2312, an original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

AMENDMENT NO. 3389

At the request of Mr. KERREY the names of the Senator from New York (Mr. MOYNIHAN) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of amendment No. 3389 proposed to S. 2312, an original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

SENATE CONCURRENT RESOLUTION 114—PROVIDING FOR A CONDITIONAL ADJOURNMENT OF BOTH HOUSES

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 114

Resolved by the Senate (the House of Representatives concurring), That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Friday, July 31, 1998, Saturday, August 1, 1998, or Sunday, August 2, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, August 31 or Tuesday, September 1, 1998, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, August 7, 1998, it stand adjourned until noon on Wednesday, September 9, 1998, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 115—TO AUTHORIZE THE PRINTING OF COPIES OF THE PUBLICATION ENTITLED "THE UNITED STATES CAPITOL" AS A SENATE DOCUMENT

Mr. WARNER submitted the following resolution; which was considered and agreed to:

S. CON. RES. 115

Resolved by the Senate (the House of Representatives concurring), That (a) a revised edition of the publication entitled "The United States Capitol" (referred to as "the pamphlet") shall be reprinted as a Senate document.

(b) There shall be printed 2,000,000 copies of the pamphlet in the English language at a cost not to exceed $100,000 for distribution as follows:

(1)(A) 206,000 copies of the publication for the use of the Senate with 2,000 copies distributed to each Member;

(B) 886,000 copies of the publication for the use of the House of Representatives, with 2,000 copies distributed to each Member; and

(C) 908,000 of the publication for distribution to the Capitol Guide Service; or

(2) if the total printing and production costs of copies in paragraph (1) exceed $100,000, such number of copies of the publication as does not exceed total printing and production costs of $100,000, with distribution to be allocated in the same proportion as in paragraph (1).

(c) In addition to the copies printed pursuant to subsection (b), there shall be printed at a total printing and production cost of not to exceed $70,000—

(1) 50,000 copies of the pamphlet in each of the following 5 languages: German, French, Russian, Chinese, and Japanese; and

(2) 100,000 copies of the pamphlet in Spanish;

to be distributed to the Capitol Guide Service.

SENATE RESOLUTION 260—DESIGNATING "NATIONAL CHILDREN'S DAY"

Mr. GRAHAM (for himself, Mrs. MURRAY, Mr. DORGAN, Mr. SARBANES, Mr. LEVIN, Mr. MOYNIHAN, Mr. BYRD, Mr. DODD, Mr. AKAKA, Mr. LAUTENBERG, Mr. DURBIN, Mrs. BOXER, Ms. LANDRIEU, Mr. KOHL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. DEWINE, Mr. FAIRCLOTH, Mr. SPECTER, Mr. BOND, and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 260

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should be allowed to feel that their ideas and dreams will be respected because adults in the United States take time to listen;

Whereas many children of the United States face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to engage together in family activities;

Whereas adults in the United States should have an opportunity to reminisce on their youth and to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety and to contribute to their communities;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family and society;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas children are the responsibility of all Americans and everyone should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that October 11, 1998, should be designated as "National Children's Day"; and

(2) the President is requested to issue a proclamation calling upon the people of the United States to observe "National Children's Day" with appropriate ceremonies and activities.

• Mr. GRAHAM. Mr. President, today I submit a resolution that designated October 11, 1998 as National Children's Day.

Our children are our future. Over 5 million children, however, go hungry at some point each month. There has been a 60 percent increase in the number of children needing foster care in the last 10 years. Many children today face crises of grave proportions, especially as they enter their adolescent years.

The establishment of a National Children's Day would help us focus on our children's needs and recognize their accomplishments. It would encourage families to spend more quality time together and highlight the special importance of the child in the family unit.

It is important that we show our support for the youth of America. This simple resolution will foster family togetherness and ensure that our children receive the attention they deserve.

I urge my colleagues to join me in establishing National Children's Day.•

SENATE RESOLUTION 261—TO PRIVATIZE THE SENATE BARBER AND BEAUTY SHOPS AND THE SENATE RESTAURANTS

Mr. BROWNBACK submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 261

Resolved, That (a) the Sergeant at Arms and Doorkeeper of the Senate shall convert the Senate barber shop and Senate beauty shop to operation by a private sector source under contract.

(b) The Architect of the Capitol shall convert the Senate restaurants to operation by a private sector source under contract.

SENATE RESOLUTION 262—TO STATE THE SENSE OF THE SENATE THAT THE GOVERNMENT OF THE UNITED STATES SHOULD PLACE A PRIORITY ON FORMULATING A COMPREHENSIVE AND STRATEGIC POLICY WITH JAPAN IN ADVANCING SCIENCE

Mr. ROTH (for himself and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 262

Whereas, advances in science and technology will continue to underlie the prosperity and security of the United States and the international community into the next century;

Whereas, the United States and Japan are global leaders in science and technology;

Whereas, the rapid pace of innovation creates growing linkages between science and technology and bilateral relations in security and trade;

Whereas, the Government of Japan, through its 1996 Basic Plan for Science and Technology, made science and technology a higher priority area of investment for the Government of Japan;

Whereas, the Supplemental Budget of the Government of Japan for 1998 will result in more than a 21 percent increase in the Government of Japan's support for science and technology this year;

Whereas, advances in Japanese science and technology are increasingly at the global frontier;

Whereas, cooperation between the United States and Japan in science and technology holds the promise of better assuring human health and nutrition, enhancing the quality of the environment, lessening the impact of natural and man-made disasters, providing for more productive agriculture, stimulating discoveries in the basic processes of life and matter, expanding supplies of energy, furthering advances in space exploration, improving manufacturing processes, and strengthening communications through electronic language translation;

Whereas, productive collaboration with Japan has increased due to negotiated frameworks such as the bilateral Agreement for Cooperation in Science and Technology and efforts by the Government of Japan to invite larger numbers of U.S. scientists to participate in university, government and industrial research in Japan;

Whereas, the flow of science and technology from the United States to Japan is nonetheless still larger than the reverse due partly to barriers Japan has erected to the outward flow of scientific and technological information and data, as well as barriers to the inward flow of foreign investment and foreign participation in industrial organizations such as consortia and associations;

Whereas, the application of rigorous scientific methods to the development of standards and regulations can help mitigate certain market access and trade problems;

Whereas, Japan's treatment of scientific and technological advances continues to handicap U.S. innovators in Japan due to inadequate intellectual property protection;

Resolved, That it is the sense of the Senate that:

(1) The Government of the United States should place priority on formulating a comprehensive and strategic policy of engaging and cooperating with Japan in advancing science and technology for the benefit of both nations as well as the rest of the world;

(2) Among other goals, that policy should aim to promote strategic cooperation on areas that further U.S. policy interests in science and technology; more balanced flows of scientific and technological information and personnel between the United States and Japan; more rigorous application of scientific methods in the development of standards and regulations to promote efficient technological progress and mitigate trade problems; and more equitable intellectual property protection; and

(3) The Government of the United States should integrate this strategic policy into current and future science and technology agreements with the Government of Japan.

• Mr. ROTH. Mr. President, I rise today on behalf of myself and Mr. BINGAMAN to submit a resolution to state the sense of the Senate that the Governments of the United States and Japan should place priority on formulating a comprehensive and strategic policy of advancing science and technology for the benefit of both nations as well as the rest of the world.

As this body is well aware, Japan is facing a number of economic and financial challenges that are of vital importance to the bilateral relationship. I have spoken about these challenges at length in other fora including through a hearing recently held by the Finance Committee. While our priority in bilateral relations should remain Japan's rapid economic recovery, we must not lose sight of other aspects of the relationship that are important to our shared future.

For example, Japan is a major source of leading-edge science and technology. Two years ago, the Government of Japan released its Basic Plan for Science and Technology. That plan called for substantial funding increases and important policy reforms to further innovation in the country's science and technology programs and processes.

This year, the Government of Japan will increase its investment in science and technology by more than 21 percent. With these new resources, Japan—already at the forefront in many areas of science and technology—will be poised to make further important advances.

For decades, the U.S. has shared the fruit of its own basic research with Japan and the rest of the world in an effort to enhance global prosperity and the lives of average people around the world. With its increased resources devoted to science and technology, Japan has a more important opportunity to join the United States in taking a similar approach toward sharing advances in science and technology. The potential for greater benefits for both countries and for the rest of the world are enormous.

For example, opportunities are emerging to improve human health by jointly addressing the problems posed by infectious diseases; sustaining the quality of the environment through research on global climate change; reducing the risks posed by earthquakes and hurricanes; furthering the fundamental understanding of matter so important for advances in new materials, telecommunications, and new medical treatments; and better ensuring mutual security.

Partly because Japan was engaged in catching up with other leaders in science and technology for much of the postwar period, Tokyo tended to emphasize the accumulation—rather than the sharing—of information. Now that Japan is a global leader in science and technology, however, I believe Tokyo should move toward greater emphasis on cooperation. Similarly, I believe it important that Japan pay more attention to basic research that advances general knowledge as opposed to Tokyo's traditional emphasis on applied research.

The potential for a greater bilateral partnership in science and technology is growing, and both the U.S. and Japanese governments should work toward turning that potential into reality. That is the purpose of this resolution and I urge my colleagues to support its early passage.●

Mr. BINGAMAN. Mr. President, I rise today in enthusiastic support of the statement made by Senator ROTH concerning the U.S.-Japan relationship and, furthermore, to ask our colleagues to support this resolution.

As you are aware, I have been integrally involved over the years with many of my colleagues in ascertaining the obstacles and opportunities that exist between the United States and Japan. I have offered ongoing support for a cooperative, forward-looking bilateral relationship that is defined by transparency, access, equity and reciprocity. Given the current environment in East Asia and the potential for political economic instability, I believe the U.S.-Japan relationship to be one of our country's most important in that region, and worthy of constant and precise attention.

In the future, much as in the past, Japan will be both partner and competitor, and we must ensure that we maintain our support for this relationship while we recognize both its possibilities and its limitations.

The resolution submitted by Senator ROTH and I identifies the level of science and technology interaction that has developed between the United States and Japan over the last decade, and gives a number of suggestions as to where we should go in the future. Specific reference is made to the U.S.-Japan Science and Technology Agreement, which is now being re-negotiated by our two governments. Let me describe in concise terms what I see as important in this regard.

Significantly, the United States and Japan are, at present, cooperating in a range of projects as diverse as Global Change, Earthquake Disaster Mitigation, Emerging Infectious Diseases, Global Information Infrastructure, Space Cooperation, Thermonuclear Experimentation, Deep Sea Drilling, and Sustainable Development. Individually, these projects include the participation of nearly every department and agency in the U.S. government, and all have been initiated and have prospered as a result of the U.S.-Japan Science and Technology Agreement. All of these projects will grow even more substantially with the renewal of the agreement. Clearly this is something to be encouraged.

Significantly, all of these projects mentioned above will benefit not only the United States and Japan, but also the developed and developing countries in the world—many of which are eager for the knowledge and technology that derive from our two countries' cooperative activities. This interaction has already provided innumerable advantages to the international community, and can only provide even more in the future. With certain conditions, it deserves our wholehearted support.

The current resolution outlines some, but not all of these conditions. As specific examples, we need to ensure that the cooperative interaction between the United States and Japan results in balanced and easily accessible flows of information between the United States and Japan, and that all data from this interaction be easily available to other scientists and engineers in the international community. International access to private sector laboratories in Japan needs to be improved. Divisions that exist between ministries in Japan—fragmentation that creates serious obstacles for research projects that include national universities and government research laboratories—must be made less evident. Effective mechanisms that allow the U.S. and other countries to participate in Japanese research projects need to be identified and obstacles that preclude this interaction eliminated. A more complete development of common regulations and standards should be pursued, and dual use and export control policies clarified. Questions relating to intellectual property rights have existed far too long and should be rectified. Finally, the obvious relationship that exists between science, technology and trade relations should be recognized, and understandings reached between the two governments on important, cross-cutting issues.

While these aforementioned problems should not prevent the U.S.-Japan Science and Technology Agreement from being renewed, our concerns should be made apparent during negotiations.

I would argue that any new agreement must satisfy three criteria:

First, it must recognize that serious structural and procedural assymetries still exist between the two countries and that they must be resolved;

Second, it must provide freedom for scientists and engineers to interact and complete their research as free as possible from government interference;

Finally, it must recognize that the results that derive from U.S.-Japan science and technology cooperation has the potential to alleviate many of the problems we face in the world today and, as such, should be easily diffused into the international community.

Much of our current science and technology cooperation with Japan rests on a single but extremely important premise: the U.S. economic and national security interest depends upon its ability to complete fundamental research in critical areas, and then encourage innovation that will result in competitive advantage. Where this research might once have been done in isolation and without data input from other countries, it now requires the capacity to access information and technologies being developed elsewhere. While the United States has been inattentive to the importance of increased expenditures on science and technology, Japan has not. While we still lead in many technologies, we will not do so in perpetuity.

Science and engineering are the archetypical endeavors of the current international society: individuals and ideas come together in an effort to improve the collective welfare of the global community at large. We must recognize this dynamic, and encourage it every way we can.

Let me emphasize that the results of research in laboratories across the world are not abstractions. As America's productivity, competitiveness, and economic performance—indeed, its very economic security—depends upon cooperative research and development with Japan and other countries, these results provide tangible advantages for families in New Mexico and every other state in the union. The car you drive, the home you live in, the appliances you use, the food you eat, the air you breathe—all of these derive from research and development programs that were undertaken yesterday. These programs should be a national priority.

To this end, it is essential that we further solidify the cooperative linkages that exist between our two countries, to find ways to leverage increasingly scarce funds, to combine diverse and complementary streams of ideas and technologies, and to provide mutual advantages to our respective societies and the international community as a whole.

Although some would deny the obvious synergies that exist between the United States and Japan at this time, it is not in our national interest to do so. The question is no longer whether these synergies will exist, but under what conditions they will exist. Interaction between our two countries exists on a scale far beyond what many once considered possible, and it will only grow as scientific and technological interaction between the two countries increases. We should take real pride in this development, just as we must, at the same time, carefully consider the path we will follow in the future.

While the current resolution is nonbinding, it does reflect our desire to engage Japan in an ongoing, cooperative, and reciprocal relationship. Senator ROTH and I consider the U.S.-Japan Science and Technology Agreement to be an interactive arrangements of the highest importance, and we hope other colleagues will join us in our support for its renewal.

SENATE RESOLUTION 263—TO AUTHORIZE PAYMENT OF THE EXPENSES OF REPRESENTATIVES OF THE SENATE ATTENDING THE FUNERAL OF A SENATOR

Mr. WARNER submitted the following resolution; which was considered and agreed to:

S. Res. 263

Resolved, That, upon approval by the Committee on Rules and Administration, the Secretary of the Senate is authorized to pay, from the contingent fund of the Senate, the actual and necessary expenses incurred by the representatives of the Senate who attend the funeral of a Senator, including the funeral of a retired Senator. Expenses of the Senate representatives attending the funeral of a Senator shall be processed on vouchers submitted by the Secretary of the Senate and approved by the Chairman of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

GRASSLEY AMENDMENT NO. 3390

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill (S. 2132) making appropriations for the Department of Defense for fiscal year ending September 30, 1999, and for other purposes; as follows:

On page 99, between lines 17 and 18, insert the following:

Sec. 8104. Effective on June 30, 1999, section 8106(a) of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under section 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note), is amended—

(1) by striking out "not later than June 30, 1997,", and inserting in lieu thereof "not later than June 30, 1999,"; and

(2) by striking out "$1,000,000" and inserting in lieu thereof "$500,000".

STEVENS (AND INOUYE) AMENDMENT NO. 3391

Mr. STEVENS (for himself and Mr. INOUYE) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, in between lines 17 and 18, insert the following:

Sec. 8104(a) On page 34, line 24, strike out all after "$94,500,000" down to and including "1999" on page 35, line 7.

(b) On page 42, line 1, strike out the amount "$2,000,000,000", and insert the amount "$1,775,000,000".

(c) In addition to funds provided under title I of this Act, the following amounts are hereby appropriated: for "Military Personnel, Army", $58,000,000; for "Military Personnel, Navy", $43,000,000; for "Military Personnel, Marine Corps", $14,000,000; for "Military Personnel, Air Force", $44,000,000; for "Reserve Personnel, Army", $5,377,000; for "Reserve Personnel, Navy", $3,684,000; for "Reserve Personnel, Marine Corps", $1,103,000; for "Reserve Personnel, Air Force", $1,000,000; for "National Guard Personnel, Army", $9,392,000; and "National Guard Personnel, Air Force", $4,112,000".

(d) Notwithstanding any other provision in this Act, the total amount available in this Act for "Quality of Life Enhancements, Defense", real property maintenance is hereby decreased by reducing the total amounts appropriated in the following accounts: "Operation and Maintenance, Army", by $58,000,000; "Operation and Maintenance, Navy", by $43,000,000; "Operation and Maintenance, Marine Corps", by $14,000,000; and "Operation and Maintenance, Air Force", $44,000,000.

(e) Notwithstanding any other provision in this Act, the total amount appropriated under the heading "National Guard and Reserve Equipment", is hereby reduced by $24,668,000.

STEVENS AMENDMENT NO. 3392

Mr. STEVENS proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

Sec. . For an additional amount for "Overseas Contingency Operations Transfer Fund," $1,858,600,000: *Provided*, That the Secretary of Defense may transfer these funds only to military personnel accounts, operation and maintenance accounts, procurement accounts, the defense health program appropriations and working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ROBERTS AMENDMENT NO. 3393

Mr. ROBERTS proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

Sec. 8104. (a) None of the funds appropriated or otherwise made available under this Act may be obligated or expended for any deployment of forces of the Armed Forces of the United States to Yugoslavia, Albania, or Macedonia unless and until the President, after consultation with the Speaker of the House of Representatives, the Majority Leader of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate, transmits to Congress a report on the deployment that includes the following:

(1) The President's certification that the presence of those forces in each country to which the forces are to be deployed is necessary in the national security interests of the United States.

(2) The reasons why the deployment is in the national security interests of the United States.

(3) The number of United States military personnel to be deployed to each country.

(4) The mission and objectives of forces to be deployed.

(5) The expected schedule for accomplishing the objectives of the deployment.

(6) The exit strategy for United States forces engaged in the deployment.

(7) The costs associated with the deployment and the funding sources for paying those costs.

(8) The anticipated effects of the deployment on the morale, retention, and effectiveness of United States forces.

(b) Subsection (a) does not apply to a deployment of forces—

(1) in accordance with United Nations Security Council Resolution 795; or

(2) under circumstances determined by the President to be an emergency necessitating immediate deployment of the forces.

SANTORUM AMENDMENT NO. 3394

Mr. SANTORUM proposed an amendment to the bill, S. 2132, supra; as follows:

On page 26, line 8, increase the amount by $8,200,000.

On page 10, line 6, reduce the first amount by $8,200,000.

• Mr. SANTORUM. Mr. President, this amendment to S. 2132, the Fiscal Year 1999 Defense Appropriations Act, seeks to add $8.2 million for the procurement of M888, 60-millimeter, high-explosive munitions for the Marine Corps.

The additional funds would help alleviate training constraints for Marine Corps units due to shortages in this term, and will help reduce the coming "bow-wave" of procurement requirements we may not have the resources to fund in future years. The Marine Corps has stated that procurement at this level would be consistent with its acquisition strategy regarding ammunition.

I would like to clarify that funds for this procurement have been identified. In order to fund this important acquisition I have identified the Air Force war reserve materials account.•

KEMPTHORNE AMENDMENT NO. 3395

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 11, line 7 after the period insert the following: "*Provided*, That of the funds appropriated under this heading, $35,000,000 shall be made available only for use for Impact Aid to local educational agencies."

FAIRCLOTH AMENDMENT NO. 3396

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

Sec. 8014. (a) Not later than six months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report containing a comprehensive assessment of the TRICARE program.

(b) The assessment under subsection (a) shall include the following:

(1) A comparison of the health care benefits available under the health care options

of the TRICARE program known as TRICARE Standard, TRICARE Prime, and TRICARE Extra with the health care benefits available under the health care plan of the Federal Employees Health Benefits program most similar to each such option that has the most subscribers as of the date of enactment of this Act, including—

(A) the types of health care services offered by each option and plan under comparison;

(B) the ceilings, if any, imposed on the amounts paid for covered services under each option and plan under comparison; and

(C) the timeliness of payments to physicians providing services under each option and plan under comparison.

(2) An assessment of the effect on the subscription choices made by potential subscribers to the TRICARE program of the Department of Defense policy to grant priority in the provision of health care services to subscribers to a particular option.

(3) An assessment whether or not the implementation of the TRICARE program has discouraged medicare-eligible individuals from obtaining health care services from military treatment facilities, including—

(A) an estimate of the number of such individuals discouraged from obtaining health care services from such facilities during the two-year period ending with the commencement of the implementation of the TRICARE program; and

(B) an estimate of the number of such individuals discouraged from obtaining health care services from such facilities during the two-year period following the commencement of the implementation of the TRICARE program.

(4) An assessment of any other matters that the Comptroller General considers appropriate for purposes of this section.

(c) In this section:

(1) The term "Federal Employees Health Benefits program" means the health benefits program under chapter 89 of title 5, United States Code.

(2) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

FEINGOLD (AND OTHERS) AMENDMENT NO. 3397

(Ordered to lie on the table.)

Mr. FEINGOLD (for himself, Mr. KOHL, and Mr. BRYAN) submitted an amendment to be proposed by him to the bill, S. 2132, supra; as follows:

On page 13, line 9, increase the amount by $219,700,000.

On page 25, line 25, reduce the amount by $219,700,000.

KYL AMENDMENT NO. 3398

Mr. KYL proposed an amendment to the bill, S. 2312, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) None of the funds appropriated by this Act may be obligated or expended for the establishment or operation of the Defense Threat Reduction Agency until the Secretary of Defense takes the following actions:

(1) Establishes within the Office of the Under Secretary of Defense for Policy the position of Deputy Under Secretary of Defense for Technology Security Policy and designates that official to serve as the Director of the Defense Security Technology Agency with only the following duties:

(A) To develop for the Department of Defense policies and positions regarding the appropriate export control policies and procedures that are necessary to protect the national security interests of the United States.

(B) To supervise activities of the Department of Defense relating to export controls.

(C) As the Director of the Defense Security Technology Agency—

(i) to administer the technology security program of the Department of Defense;

(ii) to review, under that program, international transfers of defense-related technology, goods, services, and munitions in order to determine whether such transfers are consistent with United States foreign policy and national security interests and to ensure that such international transfers comply with Department of Defense technology security policies;

(iii) to ensure (using automation and other computerized techniques to the maximum extent practicable) that the Department of Defense role in the processing of export license applications is carried out as expeditiously as is practicable consistent with the national security interests of the United States; and

(iv) to actively support intelligence and enforcement activities of the Federal Government to restrain the flow of defense-related technology, goods, services, and munitions to potential adversaries.

(2) Submits to Congress a written certification that—

(A) the Defense Security Technology Agency is to remain a Defense Agency independent of all other Defense Agencies of the Department of Defense and the military departments; and

(B) no funds are to be obligated or expended for integrating the Defense Security Technology Agency into another Defense Agency.

(b) The Deputy Under Secretary of Defense for Technology Security Policy may report directly to the Secretary of Defense on the matters that are within the duties of the Deputy Under Secretary.

(c) Not later than 10 days after the Secretary of Defense establishes the position of Deputy Under Secretary of Defense for Technology Security Policy, the Secretary shall submit to the Committees on Armed Services and on Appropriations of the Senate and the Committees on National Security and on Appropriations of the House of Representatives a report on the establishment of the position. The report shall include the following:

(1) A description of any organizational changes that have been made or are to be made within the Department of Defense to satisfy the conditions set forth in subsection (a) and otherwise to implement this section.

(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after the establishment of the position, together with a discussion of how that role compares to the Chairman's role in those activities before the establishment of the position.

(d) Unless specifically authorized and appropriated for such purpose, funds may not be obligated to relocate any office or personnel of the Defense Technology Security Administration to any location that is more than five miles from the Pentagon Reservation (as defined in section 2674(f) of title 10, United States Code).

BAUCUS AMENDMENT NO. 3399

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment to be proposed by him to the bill, S. 2132, supra; as follows:

On page 18, line 22, insert before the period at the end the following: "*Provided further*, That of the amounts available under this heading, $150,000 shall be made available to the Bear Paw Development Council, Montana, for the management and conversion of the Havre Air Force Base and Training Site, Montana, for public benefit purposes, including public schools, housing for the homeless, and economic development".

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3400

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill, S. 2132, supra; as follows:

On page 99, in between lines 17 and 18, insert before the period at the end the following: ": Sec. 8104(a) that of the amount available under Air National Guard, Operations and Maintenance for flying hours and related personnel support, $4,500,000 shall be available for the Defense Systems Evaluation program for support of test and training operations at White Sands Missile range, New Mexico, and Fort Bliss, Texas".

GRAHAM (AND MACK) AMENDMENT NO. 3401

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mr. MACK) submitted an amendment intended to be proposed by them to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

TITLE IX—COMMERCIAL SPACE

SEC. 901. SHORT TITLE.

This title may be cited as the "Commercial Space Act of 1998".

SEC. 902. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) COMMERCIAL PROVIDER.—The term "commercial provider" means any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments.

(3) PAYLOAD.—The term "payload" means anything that a person undertakes to transport to, from, or within outer space, or in suborbital trajectory, by means of a space transportation vehicle, but does not include the space transportation vehicle itself except for its components which are specifically designed or adapted for that payload.

(4) SPACE-RELATED ACTIVITIES.—The term "space-related activities" includes research and development, manufacturing, processing, service, and other associated and support activities.

(5) SPACE TRANSPORTATION SERVICES.—The term "space transportation services" means the preparation of a space transportation vehicle and its payloads for transportation to, from, or within outer space, or in suborbital trajectory, and the conduct of transporting a

payload to, from, or within outer space, or in suborbital trajectory.

(6) SPACE TRANSPORTATION VEHICLE.—The term "space transportation vehicle"—

(A) means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory; and

(B) includes any component of that vehicle not specifically designed or adapted for a payload.

(7) STATE.—The term "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(8) UNITED STATES COMMERCIAL PROVIDER.—The term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, that is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) that subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii)(I) each country in which that foreign company is incorporated or organized; and

(II) if appropriate, in which that foreign company principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to that foreign company's subsidiary in the United States, as evidenced by—

(aa) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(bb) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(cc) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

SEC. 903. COMMERCIALIZATION OF SPACE STATION.

(a) POLICY.—Congress declares that—

(1) a priority goal of constructing the International Space Station is the economic development of Earth orbital space;

(2) free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space; and

(3) the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce International Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) REPORTS.—

(1) IN GENERAL.—The Administrator shall deliver to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives, not later than 90 days after the date of enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers during fiscal years 1999 and 2000;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the International Space Station.

(2) STUDY.—

(A) IN GENERAL.—The Administrator shall deliver to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives, not later than 180 days after the date of enactment of this Act, an independently-conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station.

(B) ADDITIONAL REQUIREMENTS.—In addition to meeting the requirements under subparagraph (A), the study under this paragraph shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) SUBMISSION OF REPORT.—The Administrator shall deliver to Congress, no later than the submission of the President's annual budget request for fiscal year 2000 submitted in accordance with section 1105(a) of title 31, United States Code, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar year 1998 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, broken down by each of those 4 categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by those 4 categories.

(4) ROLE OF STATE GOVERNMENTS.—Each of the studies and reports required by paragraphs (1), (2), and (3) shall include consideration of the potential role of State governments as brokers in promoting commercial participation in the International Space Station program.

SEC. 904. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

and

(D) by adding at the end the following new items:

"70120. Regulations.
"70121. Report to Congress.".

(2) in section 70101—

(A) by inserting "microgravity research," after "information services," in subsection (a)(3);

(B) by inserting ", reentry," after "launching" both places it appears in subsection (a)(4);

(C) by inserting ", reentry vehicles," after "launch vehicles" in subsection (a)(5);

(D) by inserting "and reentry services" after "launch services" in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting ", reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "conduct of commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4);

(3) in section 70102—

(A) in paragraph (3)—

(i) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth";

(ii) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a comma; and

(iii) by adding after subparagraph (C) the following:

"including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.";

(B) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(C) by redesignating paragraphs (10), (11), and (12) as paragraphs (14), (15), and (16), respectively;

(D) by inserting after paragraph (10) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return or attempt to return a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact."; and

(E) by inserting "or reentry services" after "launch services" each place it appears in paragraph (15), as so redesignated by subparagraph (C) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "commercial space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting "or reentry site, or to reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES AND REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following: "The Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a written notice not later than 30 days after any occurrence when a license is not issued within the deadline established by this subsection.

"(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1);

(E) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(F) by striking "and" at the end of subsection (b)(2)(B);

(G) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and";

(H) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application."; and

(I) by inserting ", including the requirement to obtain a license," after "waive a requirement" in subsection (b)(3);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(D) by striking "source." in subsection (a)(2) and inserting "source, whether such source is located on or off a Federal range.";

(E) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(F) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(G) by inserting after subsection (b)(2) the following new paragraph:

"(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.";

(H) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(I) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) in subsection (a)(1), by inserting "launch or reentry" after "(1) When a";

(B) by inserting "or reentry" after "one launch" in subsection (a)(3);

(C) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(D) in subsection (b)(1), by inserting "launch or reentry" after "(1) A";

(E) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(F) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(G) by striking ", Space, and Technology" in subsection (d)(1);

(H) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e);

(I) by inserting "or reentry site or a reentry" after "launch site" in subsection (e); and

(J) in subsection (f), by inserting "launch or reentry" after "carried out under a";

(13) in section 70113—by inserting "or reentry" after "one launch" each place it appears in paragraphs (1) and (2) of subsection (d);

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears;

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports, except that payloads launched pursuant to foreign trade zone procedures as provided for under the Foreign Trade Zones Act (19 U.S.C. 81a–81u) shall be considered exports with regard to customs entry."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, or operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2); and

(16) by adding at the end the following new sections:

"§ 70120. Regulations

"(a) IN GENERAL.—The Secretary of Transportation, not later than 9 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

"(1) guidelines for industry and State governments to obtain sufficient insurance coverage for potential damages to third parties;

"(2) procedures for requesting and obtaining licenses to launch a commercial launch vehicle;

"(3) procedures for requesting and obtaining operator licenses for launch;

"(4) procedures for requesting and obtaining launch site operator licenses; and

"(5) procedures for the application of government indemnification.

"(b) REENTRY.—The Secretary of Transportation, not later than 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes—

"(1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;

"(2) procedures for requesting and obtaining operator licenses for reentry; and

"(3) procedures for requesting and obtaining reentry site operator licenses.

"§ 70121. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request submitted under section 1105(a) of title 31, United States Code, that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 70119 of title 49, United States Code, is amended to read as follows:

"§ 70119. Authorization of appropriations

"There are authorized to be appropriated to the Secretary of Transportation for the activities of the Office of the Associate Administrator for Commercial Space Transportation—

"(1) $6,275,000 for the fiscal year ending September 30, 1999; and

"(2) $6,600,000 for the fiscal year ending September 30, 2000.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a)(6)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(6)(H).

SEC. 905. PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS.

(a) FINDING.—Congress finds that the Global Positioning System, including satellites, signal equipment, ground stations, data links, and associated command and control facilities, has become an essential element in civil, scientific, and military space development because of the emergence of a United States commercial industry which provides Global Positioning System equipment and related services.

(b) INTERNATIONAL COOPERATION.—In order to support and sustain the Global Positioning System in a manner that will most effectively contribute to the national security, public safety, scientific, and economic interests of the United States, Congress encourages the President to—

(1) ensure the operation of the Global Positioning System on a continuous worldwide basis free of direct user fees;

(2) enter into international agreements that promote cooperation with foreign governments and international organizations to—

(A) establish the Global Positioning System and its augmentations as an acceptable international standard; and

(B) eliminate any foreign barriers to applications of the Global Positioning System worldwide; and

(3) provide clear direction and adequate resources to United States representatives so that on an international basis they can—

(A) achieve and sustain efficient management of the electromagnetic spectrum used by the Global Positioning System; and

(B) protect that spectrum from disruption and interference.

SEC. 906. ACQUISITION OF SPACE SCIENCE DATA.

(a) ACQUISITION FROM COMMERCIAL PROVIDERS.—In order to satisfy the scientific and educational requirements of the National Aeronautics and Space Administration, and where practicable of other Federal agencies and scientific researchers, the Administrator shall to the maximum extent practicable acquire, if cost effective, space science data from a commercial provider.

(b) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space science data shall be considered to be a commercial item for purposes of such laws and regulations. Nothing in this subsection shall be construed to preclude the United States from acquiring sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) DEFINITION.—For purposes of this section, the term "space science data" includes scientific data concerning the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets, microgravity acceleration, and solar storm monitoring.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) LIMITATION.—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

SEC. 907. ADMINISTRATION OF COMMERCIAL SPACE CENTERS.

The Administrator shall administer the Commercial Space Center program in a coordinated manner from National Aeronautics and Space Administration headquarters in Washington, D.C.

SEC. 908. LAND REMOTE SENSING POLICY ACT OF 1992 AMENDMENTS.

(a) FINDINGS.—Congress finds that—

(1) a robust domestic United States industry in high resolution Earth remote sensing is in the economic, employment, technological, scientific, and national security interests of the United States;

(2) to secure its national interests the United States must nurture a commercial remote sensing industry that leads the world;

(3) the Federal Government must provide policy and regulations that promote a stable business environment for that industry to succeed and fulfill the national interest;

(4) it is the responsibility of the Federal Government to create domestic and international conditions favorable to the health and growth of the United States commercial remote sensing industry;

(5) it is a fundamental goal of United States policy to support and enhance United States industrial competitiveness in the field of remote sensing, while at the same time protecting the national security concerns and international obligations of the United States;

(6) it is fundamental that the States be able to deploy and utilize that technology in their land management responsibilities;

(7) to date, very few States have the ability to deploy and utilize that technology in the manner described in paragraph (6) without engaging the academic institutions within their boundaries; and

(8) in order to develop a market for the commercial sector, the States must have the capacity to fully utilize that technology.

(b) AMENDMENTS.—The Land Remote Sensing Policy Act of 1992 is amended—

(1) in section 2 (15 U.S.C. 5601)—

(A) by amending paragraph (5) to read as follows:

"(5) Commercialization of land remote sensing is a near-term goal, and should remain a long-term goal, of United States policy.";

(B) by striking paragraph (6) and redesignating paragraphs (7) through (16) as paragraphs (6) through (15), respectively;

(C) in paragraph (11), as redesignated by subparagraph (B) of this paragraph, by striking "determining the design" and all that follows through "international consortium" and inserting in lieu thereof "ensuring the continuity of Landsat quality data"; and

(D) by adding at the end the following:

"(16) The United States should encourage remote sensing systems to promote access to land remote sensing data by scientific researchers and educators.

"(17) It is in the best interest of the United States to encourage remote sensing systems whether privately-funded or publicly-funded, to promote widespread affordable access to unenhanced land remote sensing data by scientific researchers and educators and to allow such users appropriate rights for redistribution for scientific and educational noncommercial purposes.";

(2) in section 101 (15 U.S.C. 5611)—

(A) in subsection (c)—

(i) by inserting "and" at the end of paragraph (6);

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(B) in subsection (e)(1)—

(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking ", and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(iii) by striking subparagraph (C);

(3) in section 201 (15 U.S.C. 5621)—

(A) by inserting "(1)" after "NATIONAL SECURITY.—" in subsection (b);

(B) in subsection (b)(1), as redesignated by subparagraph (A) of this paragraph—

(i) by striking "No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply" and inserting in lieu thereof "The Secretary shall grant a license if the Secretary determines that the activities proposed in the application are consistent";

(ii) by inserting ", and that the applicant has provided assurances adequate to indicate, in combination with other information available to the Secretary that is relevant to activities proposed in the application, that the applicant will comply with all terms of the license" after "concerns of the United States"; and

(iii) by inserting "and policies" after "international obligations";

(C) by adding at the end of subsection (b) the following new paragraph:

"(2) The Secretary, not later than 6 months after the date of the enactment of the Department of Defense Appropriations Act, 1999, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this title. An application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information."; and

(D) in subsection (c), by amending the second sentence thereof to read as follows: "If the Secretary has not granted the license within such 120-day period, the Secretary shall inform the applicant, within such period, of any pending issues and actions required to be carried out by the applicant or the Secretary in order to result in the granting of a license.";

(4) in section 202 (15 U.S.C. 5622)—

(A) by striking "section 506" in subsection (b)(1) and inserting in lieu thereof "section 507";

(B) in subsection (b)(2), by striking "as soon as such data are available and on reasonable terms and conditions" and inserting in lieu thereof "on reasonable terms and conditions, including the provision of such data in a timely manner subject to United States national security and foreign policy interests";

(C) in subsection (b)(6), by striking "any agreement" and all that follows through "nations or entities" and inserting in lieu thereof "any significant or substantial agreement"; and

(D) by inserting after paragraph (6) of subsection (b) the following:

"The Secretary may not seek to enjoin a company from entering into a foreign agreement the Secretary receives notification of under paragraph (6) unless the Secretary has, within 30 days after receipt of such notification, transmitted to the licensee a statement that such agreement is inconsistent with the national security, foreign policy, or international obligations of the United States, including an explanation of that inconsistency.";

(5) in section 203(a)(2) (15 U.S.C. 5623(a)(2)), by striking "under this title and" and inserting in lieu thereof "under this title or";

(6) in section 204 (15 U.S.C. 5624), by striking "may" and inserting in lieu thereof "shall";

(7) in section 205(c) (15 U.S.C. 5625(c)), by striking "if such remote sensing space system is licensed by the Secretary before commencing operation" and inserting in lieu thereof "if such private remote sensing space system will be licensed by the Secretary before commencing its commercial operation";

(8) by adding at the end of title II the following new section:

"SEC. 206. NOTIFICATION.

"(a) Limitations on Licensee.—Not later than 30 days after a determination by the Secretary to require a licensee to limit collection or distribution of data from a system licensed under this title, the Secretary shall provide written notification to Congress of such determination, including the reasons therefor, the limitations imposed on the licensee, and the period during which those limitations apply.

"(b) Termination, Modification, or Suspension.—Not later than 30 days after an action by the Secretary to seek an order of injunction or other judicial determination pursuant to section 202(b) or section 203(a)(2), the Secretary shall provide written notification to Congress of that action and the reasons for that action.";

(9) in section 301 (15 U.S.C. 5631)—

(A) by inserting ", that are not being commercially developed" after "and its environment" in subsection (a)(2)(B); and

(B) by adding at the end the following:

"(d) Duplication of Commercial Sector Activities.—The Federal Government shall not undertake activities under this section which duplicate activities available from the United States commercial sector, unless such activities would result in significant cost savings to the Federal Government, or are necessary for reasons of national security or international obligations or policies.";

(10) in section 302 (15 U.S.C. 5632)—

(A) by striking "(a) General Rule.—";

(B) by striking ", including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303,"; and

(C) by striking subsection (b);

(11) by striking section 303 (15 U.S.C. 5633);

(12) in section 401(b)(3) (15 U.S.C. 5641(b)(3)), by striking ", including any such enhancements developed under the technology demonstration program under section 303,";

(13) in section 501(a) (15 U.S.C. 5651(a)), by striking "section 506" and inserting "section 507";

(14) in section 502(c)(7) (15 U.S.C. 5652(c)(7)), by striking "section 506" and inserting "section 507"; and

(15) in section 507 (15 U.S.C. 5657)—

(A) by striking subsection (a) and inserting the following:

"(a) Responsibility of the Secretary of Defense.—The Secretary shall consult with the Secretary of Defense on all matters under title II affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States, and for notifying the Secretary promptly of such conditions. The Secretary of Defense shall convey to the Secretary the determinations for a license issued under title II, consistent with this Act, that the Secretary of Defense determines necessary to meet the national security concerns of the United States.";

(B) by striking subsection (b)(1) and (2) and inserting the following:

"(b) Responsibility of the Secretary of State.—(1) The Secretary shall consult with the Secretary of State on all matters under title II affecting international obligations and policies of the United States. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying the Secretary promptly of such conditions. The Secretary of State shall convey to the Secretary the determinations for a license issued under title II, consistent with this Act, that the Secretary of State determines necessary to meet the international obligations and policies of the United States.

"(2) Appropriate United States Government agencies are authorized and encouraged to provide to developing nations, as a component of international aid, resources for purchasing remote sensing data, training, and analysis from commercial providers. National Aeronautics and Space Administration, United States Geological Survey, and National Oceanic and Atmospheric Administration should develop and implement a program to aid the transfer of remote sensing technology and Mission to Planet Earth (OES) science at the state level"; and

(C) in subsection (d), by striking "Secretary may require" and inserting "Secretary shall, if appropriate, require".

SEC. 909. ACQUISITION OF EARTH SCIENCE DATA.

(a) Acquisition.—For purposes of meeting Government goals for Mission to Planet Earth, and in order to satisfy the scientific and educational requirements of the National Aeronautics and Space Administration, and if appropriate, of other Federal agencies and scientific researchers, the Administrator shall to the maximum extent practicable acquire, if cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) Treatment as Commercial Item Under Acquisition Laws.—Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that those data, services, distribution, and applications shall be considered to be a commercial item for purposes of such laws and regulations. Nothing in this subsection shall be construed to preclude the United States from acquiring sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) Safety Standards.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(d) Administration and Execution.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

SEC. 910. REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) In General.—Except as otherwise provided in this section, the Federal Government shall acquire space transportation services from United States commercial providers in any case in which those services are required in the course of its activities. To the maximum extent practicable, the Federal Government shall plan missions to accommodate the space transportation services capabilities of United States commercial providers.

(b) Exceptions.—The Federal Government shall not be required to acquire space transportation services under subsection (a) if, on a case-by-case basis, the Administrator or, in the case of a national security issue, the Secretary of the Air Force, determines that—

(1) a payload requires the unique capabilities of the Space Shuttle;

(2) cost effective space transportation services that meet specific mission requirements would not be reasonably available from United States commercial providers when required;

(3) the use of space transportation services from United States commercial providers poses an unacceptable risk of loss of a unique scientific opportunity;

(4) the use of space transportation services from United States commercial providers is inconsistent with national security objectives;

(5) the use of space transportation services from United States commercial providers is inconsistent with foreign policy purposes, or launch of the payload by a foreign entity serves foreign policy purposes;

(6) it is more cost effective to transport a payload in conjunction with a test or demonstration of a space transportation vehicle owned by the Federal Government; or

(7) a payload may make use of the available cargo space on a Space Shuttle mission as a secondary payload, and that payload is consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(c) Delayed Effect.—Subsection (a) shall not apply to space transportation services and space transportation vehicles acquired or owned by the Federal Government before the date of enactment of this Act, or with respect to which a contract for that acquisition or ownership has been entered into before that date.

(d) HISTORICAL PURPOSES.—This section shall not be construed to prohibit the Federal Government from acquiring, owning, or maintaining space transportation vehicles solely for historical display purposes.

SEC. 911. ACQUISITION OF COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) TREATMENT OF COMMERCIAL SPACE TRANSPORTATION SERVICES AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space transportation services by the Federal Government shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space transportation services shall be considered to be a commercial item for purposes of those laws and regulations.

(b) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

SEC. 912. LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS.

The Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.) is amended—

(1) by striking section 202;

(2) in section 203—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(3) by striking sections 204 and 205; and

(4) in section 206—

(A) by striking "(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—"; and

(B) by striking subsection (b).

SEC. 913. SHUTTLE PRIVATIZATION.

(a) POLICY AND PREPARATION.—The Administrator shall prepare for an orderly transition from the Federal operation, or Federal management of contracted operation, of space transportation systems to the Federal purchase of commercial space transportation services for all nonemergency launch requirements, including human, cargo, and mixed payloads. In those preparations, the Administrator shall take into account the need for short-term economies, as well as the goal of restoring the National Aeronautics and Space Administration's research focus and its mandate to promote the fullest possible commercial use of space. As part of those preparations, the Administrator shall plan for the potential privatization of the Space Shuttle program. That plan shall keep safety and cost effectiveness as high priorities. Nothing in this section shall prohibit the National Aeronautics and Space Administration from studying, designing, developing, or funding upgrades or modifications essential to the safe and economical operation of the Space Shuttle fleet.

(b) FEASIBILITY STUDY.—The Administrator shall conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that the National Aeronautics and Space Administration transition toward the privatization of the Space Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Space Shuttle is privatized, including—

(1) whether the Federal Government or the Space Shuttle contractor should own the Space Shuttle orbiters and ground facilities;

(2) whether the Federal Government should indemnify the contractor for any third party liability arising from Space Shuttle operations, and, if so, under what terms and conditions;

(3) whether payloads other than National Aeronautics and Space Administration payloads should be allowed to be launched on the Space Shuttle, how missions will be prioritized, and who will decide which mission flies and when;

(4) whether commercial payloads should be allowed to be launched on the Space Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(5) whether National Aeronautics and Space Administration and other Federal Government payloads should have priority over non-Federal payloads in the Space Shuttle launch assignments, and what policies should be developed to prioritize among payloads generally;

(6) whether the public interest requires that certain Space Shuttle functions continue to be performed by the Federal Government; and

(7) how much cost savings, if any, will be generated by privatization of the Space Shuttle.

(c) REPORT TO CONGRESS.—Within 60 days after the date of enactment of this Act, the National Aeronautics and Space Administration shall complete the study required under subsection (b) and shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

SEC. 914. USE OF EXCESS INTERCONTINENTAL BALLISTIC MISSILES.

(a) IN GENERAL.—The Federal Government shall not—

(1) convert any missile described in subsection (c) to a space transportation vehicle configuration or otherwise use any such missile to place a payload in space; or

(2) transfer ownership of any such missile to another person, except as provided in subsection (b).

(b) AUTHORIZED FEDERAL USES.—

(1) A missile described in subsection (c) may be converted for use as a space transportation vehicle by the Federal Government if except as provided in paragraph (2), at least 30 days before that conversion the agency seeking to use the missile as a space transportation vehicle transmits to the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on National Security and the Committee Science of the House of Representatives, shall ensure in writing that the use of that missile—

(A) would result in cost savings to the Federal Government when compared to the cost of acquiring space transportation services from United States commercial providers;

(B) meets all mission requirements of the agency, including performance, schedule, and risk requirements;

(C) is consistent with international obligations of the United States; and

(D) is approved by the Secretary of Defense or his designee.

(2) The requirement under paragraph (1) that the assurance described in that paragraph must be transmitted at least 30 days before conversion of the missile shall not apply if the Secretary of Defense determines that compliance with that requirement would be inconsistent with meeting immediate national security requirements.

(c) MISSILES REFERRED TO.— The missiles referred to in this section are missiles owned by the United States that—

(1) were formerly used by the Department of Defense for national defense purposes as intercontinental ballistic missiles; and

(2) have been declared excess to United States national defense needs and are in compliance with international obligations of the United States.

SEC. 915. NATIONAL LAUNCH CAPABILITY.

(a) FINDINGS.—Congress finds that—

(1) a robust satellite and launch industry in the United States serves the interest of the United States by—

(A) contributing to the economy of the United States;

(B) strengthening employment, technological, and scientific interests of the United States; and

(C) serving the foreign policy and national security interests of the United States.

(b) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Defense.

(2) TOTAL POTENTIAL NATIONAL MISSION MODEL.—The term "total potential national mission model" means a model that—

(A) is determined by the Secretary, in consultation with the Administrator, to assess the total potential space missions to be conducted by the United States during a specified period of time; and

(B) includes all United States launches (including launches conducted on or off a Federal range).

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator and appropriate representatives of the satellite and launch industry and the governments of States and political subdivisions thereof—

(A) prepare a report that meets the requirements of this subsection; and

(B) submit that report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(2) REQUIREMENTS FOR REPORT.—The report prepared under this section shall—

(A) identify the total potential national mission model for the period beginning on the date of the report and ending on December 31, 2007;

(B) identify the resources that are necessary to carry out the total potential national mission model described in subparagraph (A), including providing for—

(i) launch property and services of the Department of Defense; and

(ii) the ability to support a launch within 6 hours after the appropriate official of the Federal Government receives notification by telephone at Government facilities located at—

(I) Cape Canaveral in Florida; or

(II) Vandenberg Air Force Base in California;

(C) identify each deficiency in the resources referred to in subparagraph (B);

(D) with respect to the deficiencies identified under subparagraph (C), including estimates of the level of funding necessary to address those deficiencies for the period described in subparagraph (A);

(E) identify opportunities for investment by non-Federal entities (including States and political subdivisions thereof and private sector entities) to assist the Federal Government in providing launch capabilities for the commercial space industry in the United States;

(F) identify 1 or more methods by which, if sufficient resources referred to in subparagraph (D) are not available to the Department of Defense, the control of the launch property and launch services of the Department of Defense may be transferred from the Department of Defense to—

(i) 1 or more other Federal agencies;

(ii) 1 or more States (or subdivisions thereof);

(iii) 1 or more private sector entities; or

(iv) any combination of the entities described in clauses (i) through (iii); and

(G) identify the technical, structural, and legal impediments associated with making launch sites in the United States cost-competitive on an international level.

HARKIN AMENDMENTS NOS. 3402–3404

(Ordered to lie on the table.)

Mr. HARKIN submitted three amendments intended to be proposed by him to the bill, S. 2132, supra; as follows:

AMENDMENT NO. 3402

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Of the total amount appropriated under title IV for research, development, test and evaluation, Defense-wide, for basic research, $29,646,000 is available for research and development relating to Persian Gulf illnesses.

(b) Notwithstanding any provision of title IV, the total amount available under title IV for the Foreign Military Comparative Testing program is $10,000,000 less than the amount provided for that program under that title.

AMENDMENT NO. 3403

On page 36, line 22, before the period at the end insert the following: "*Provided*, That the total amount available under this heading is hereby increased by $50,000,000, which shall be available for making smoking cessation therapy available for members of the Armed Forces (including retired members), former members of the Armed Forces entitled to retired or retainer pay, and dependents of such members and former members who are identified as persons likely to benefit from effective smoking cessation therapy, including providing subsidies for defraying costs incurred by the members, former members, and dependents for counseling and nicotine replacement: *Provided, further*, That the total amount appropriated under title IV is hereby reduced by $50,000,000, to be derived from amounts appropriated under that title for advisory and assistance services".

AMENDMENT NO. 3404

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Out of funds appropriated by this Act, the Secretary of Defense shall make available to the Army Reserve Personnel Command, the Bureau of Naval Personnel, and the Air Force Personnel Center, and the National Archives and Records Administration funds in amounts necessary to ensure the elimination of the backlog in satisfying requests of former members of the Armed Forces for replacement medals and replacements for other decorations that such personnel have earned in the military service of the United States, and shall make any additional allocations of resources that the Secretary considers necessary to ensure the elimination of that backlog.

(b) An allocation of funds may be made under subsection (a) only if and to the extent that the allocation does not detract from the performance of other personnel service and personnel support activities within the Department of Defense.

FRIST AMENDMENT NO. 3405

(Ordered to lie on the table.)

Mr. FRIST submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 9, line 13, increase the amount by $5,000,000.

On page 24, line 16, increase the amount by $2,000,000.

LEAHY AMENDMENT NO. 3406

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . TRAINING AND OTHER PROGRAMS.

(a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program or exercise involving a unit of the security forces of a foreign country if the Secretary of Defense has credible information that a member of such unit has committed a gross violation of human rights.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall establish procedures to ensure full consideration of all available information relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in paragraph (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under paragraph (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

COATS (AND LIEBERMAN) AMENDMENT NO. 3407

(Ordered to lie on the table.)

Mr. COATS (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to the bill, S. 2132, supra; as follows:

At the appropriate place, insert:

JOINT WAR FIGHTING EXPERIMENTATION

SEC. FINDINGS.

The Senate makes the following findings:

(1) The collapse of the Soviet Union in 1991 and the unprecedented explosion of technological advances that could fundamentally redefine military threats and military capabilities in the future have generated a need to assess the defense policy, strategy, and force structure necessary to meet future defense requirements of the United States.

(2) The assessment conducted by the administration of President Bush (known as the "Base Force" assessment) and the assessment conducted by the administration of President Clinton (known as the "Bottom-Up Review") were important attempts to redefine the defense strategy of the United States and the force structure of the Armed Forces necessary to execute that strategy.

(3) Those assessments have become inadequate as a result of the pace of global geopolitical change and the speed of technological change, which have been greater than expected.

(4) The Chairman of the Joint Chiefs of Staff reacted to the changing environment by developing and publishing in May 1996 a vision statement, known as "Joint Vision 2010", to be a basis for the transformation of United States military capabilities. The vision statement embodies the improved intelligence and command and control that is available in the information age and sets forth the operational concepts of dominant maneuver, precision engagement, full-dimensional protection, and focused logistics to achieve the objective of full spectrum dominance.

(5) In 1996 Congress, concerned about the shortcomings in defense policies and programs derived from the Base-Force Review and the Bottom Up Review, determined that there was a need for a new, comprehensive assessment of the defense strategy of the United States and the force structure of the Armed Forces necessary for meeting the threats to the United States in the 21st century.

(6) As a result of that determination, Congress passed the Military Force Structure Review Act of 1996 (subtitle B of title IX of the National Defense Authorization Act for Fiscal Year 1997), which required the Secretary of Defense to complete in 1997 a quadrennial defense review of the defense program of the United States. The review was required to include a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense program through 2005. The Act also established a National Defense Panel to assess the Quadrennial Defense Review and to conduct an independent, nonpartisan review of the strategy, force structure, and funding required to meet anticipated threats to the national security of the United States through 2010 and beyond.

(7) The Quadrennial Defense Review, completed by the Secretary of Defense in May 1997, defined the defense strategy in terms of "Shape, Respond, and Prepare Now". The Quadrennial Defense Review placed greater emphasis on the need to prepare now for an uncertain future by exploiting the revolution in technology and transforming the force toward Joint Vision 2010. It concluded that our future force will be different in character than our current force.

(8) The National Defense Panel Report, published in December 1997, concluded that "the Department of Defense should accord the highest priority to executing a transformation strategy for the United States military, starting now." The panel recommended the establishment of a Joint Forces Command with the responsibility to be the joint force integrator and provider and the responsibility for driving the process for transforming United States forces, including the conduct of joint experimentation, and to have the budget for carrying out those responsibilities.

(9) The assessments of both the Quadrennial Defense Review and the National Defense Panel provide the Senate with a compelling argument that the future security environment and the military challenges to be faced by the United States in the future will be fundamentally different than the current environment and challenges. The assessments also reinforce the foundational premise of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 that warfare, in all of its varieties, will be

joint warfare requiring the execution of developed joint operational concepts.

(10) A process of joint experimentation is necessary for—

(A) integrating advances in technology with changes in the organizational structure of the Armed Forces and the development of joint operational concepts that will be effective against national security threats anticipated for the future; and

(B) identifying and assessing the interdependent aspects of joint warfare that are key for transforming the conduct of military operations by the United States to meet those anticipated threats successfully.

(11) It is critical for future readiness that the Armed Forces of the Untied States innovatively investigate and test technologies, forces, and joint operational concepts in simulations, wargames, and virtual settings, as well as in field environments under realistic conditions against the full range of future challenges. It is essential that an energetic and innovative organization be established and empowered to design and implement a process of joint experimentation to develop and validate new joint warfighting concepts, along with experimentation by the Armed Forces, that is directed at transforming the Armed Forces to meet the threats to the national security that are anticipated for the early 21st century. That process will drive changes in doctrine, organization, training and education, materiel, leadership, and personnel.

(12) The Department of Defense is committed to conducting aggressive experimentation as a key component of its transformation strategy. The competition of ideas is critical for achieving effective transformation. Experimentation by each of the Armed Forces has been, and will continue to be, a vital aspect of the pursuit of effective transformation. Joint experimentation leverages the effectiveness of each of the Armed Forces and the Defense Agencies.

SEC. . SENSE OF SENATE.

(a) Designation of Commander To Have Joint Warfighting Experimentation Mission.—It is the sense of Senate that Congress supports the initiative of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to designate a commander of a combatant command to have the mission for joint warefighting experimentation, consistent with the understanding of the Senate that the Chairman of the Joint Chiefs of Staff will assign the designated commander the tasks to develop and validate new joint warfighting concepts and capabilities, and to determine the implications, for doctrine, organization, training and education, materiel, leadership, and personnel, of the Department of Defense strategy for transforming the Armed Forces to meet the national security threats of the future.

(b) Resources of Commander.—It is, further, the sense of Senate that the commander designated to have the joint warfighting experimentation mission should—

(1) have sufficient freedom of action and authority over the necessary forces to successfully establish and conduct the process of joint warfighting experimentation;

(2) be provided resources adequate for the joint warfighting experimentation process; and

(3) have authority over the use of the resources for the planning, preparation, conduct, and assessment of joint warfighting experimentation.

(c) Authority and Responsibilities of Commander.—It is, further, the sense of Senate that, for the conduct of joint warfighting experimentation to be effective, it is necessary that the commander designated to have the joint warfighting experimentation mission also have the authority and responsibility for the following:

(1) Developing and implementing a process of joint experimentation to formulate and validate concepts critical for joint warfighting in the future, including (in such process) analyses, simulations, wargames, information superiority and other experiments, advanced concept technology demonstrations, and joint exercises conducted in virtual and actual field environments.

(2) Planning, preparing, and conducting the program of joint warfighting experimentation.

(3) Assessing the effectiveness of organizational structures, operational concepts, and technologies employed in joint experimentation, investigating opportunities for coordinating the evolution of the organizational structure of the Armed Forces compatibly with the concurrent evolution of advanced technologies, and investigating new concepts for transforming joint warfighting capabilities to meet the operational challenges expected to be encountered by the Armed Forces in the early 21st century.

(4) Coordinating with each of the Armed Forces and the Defense Agencies regarding the development of the equipment (including surrogate or real technologies, platforms, and systems) necessary for the conduct of joint experimentation, or, if necessary, developing such equipment directly.

(5) Coordinating with each of the Armed Forces and the Defense Agencies regarding the acquisition of the materiel, supplies, services, and surrogate or real technology resources necessary for the conduct of joint experimentation, or, if necessary, acquiring such items and services directly.

(6) Developing scenarios and measures of effectiveness for joint experimentation.

(7) conducting so-called "red team" vulnerability assessments as part of joint experimentation.

(8) Assessing the interoperability of equipment and forces.

(9) Providing the Secretary of Defense and the Chairman of the Joint Chiefs of Staff with the commander's recommendations (developed on the basis of joint experimentation) for reducing unnecessary redundancy of equipment and forces.

(10) Providing the Secretary of Defense and the Chairman of the Joint Chiefs of Staff with the commander's recommendations (developed on the basis of joint experimentation) regarding synchronization of the fielding of advanced technologies among the Armed Forces to enable the development and execution of joint operational concepts.

(11) Submitting, reviewing, and making recommendations (in conjunction with the joint experimentation and evaluation process) to the Chairman of the Joint Chiefs of Staff on mission needs statements and operational requirements documents.

(12) Exploring new operational concepts (including those developed within the Office of the Secretary of Defense and Defense Agencies, other unified commands, the Armed Forces, and the Joint Staff), and integrating and testing in joint experimentation the systems and concepts that result from warfighting experimentation by the Armed Forces and the Defense Agencies.

(13) Developing, planning, refining, assessing, and recommending to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff the most promising joint concepts and capabilities for experimentation and assessment.

(14) Assisting the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to prioritize joint requirements and acquisition programs on the basis of joint warfighting experimentation.

(d) Continued Experimentation by Other Defense Organizations.—It is, further, the sense of Senate that—

(1) the Armed Forces are expected to continue to develop concepts and conduct intraservice and multiservice warfighting experimentation within their core competencies; and

(2) the commander of United States Special Operations Command is expected to continue to develop concepts and conduct joint experimentation associated with special operations forces.

(e) Congressional Review.—It is, further, the sense of Senate that—

(1) The Senate will carefully review the initial report and annual reports on joint warfighting experimentation required under section 1203 to determine the adequacy of the scope and pace of the transformation of the Armed Forces to meet future challenges to the national security; and

(2) if the progress is inadequate, the Senate will consider legislation to establish a unified combatant command with the mission, forces, budget, responsibilities, and authority described in the preceding provisions of this section.

SEC. . REPORTS ON JOINT WARFIGHTING EXPERIMENTATION.

(a) Initial Report.—(1) On such schedule as the Secretary of Defense shall direct, the commander of the combatant command assigned the mission for joint warfighting experimentation shall submit to the Secretary an initial report on the implementation of joint experimentation. Not later than April 1, 1999, the Secretary shall submit the report, together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the U.S. Senate.

(2) The initial report of the commander shall include the following:

(A) The commander's understanding of the commander's specific authority and responsibilities and of the commander's relationship to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Joint Staff, the commanders of other combatant commands, the Armed Forces, and the Defense Agencies and activities.

(B) The organization of the commander's combatant command, and of its staff, for carrying out the joint warfighting experimentation mission.

(C) The process established for tasking forces to participate in joint warfighting experimentation and the commander's specific authority over the forces.

(D) Any forces designated or made available as joint experimentation forces.

(E) The resources provided for joint warfighting experimentation, including the personnel and funding for the initial implementation of joint experimentation, the process for providing the resources to the commander, the categories of the funding, and the authority of the commander for budget execution.

(F) The authority of the commander, and the process established, for the development and acquisition of the material, supplies, services, and equipment necessary for the conduct of joint warfighting experimentation, including the authority and process for development and acquisition by the Armed Forces and the Defense Agencies and the authority and process for development and acquisition by the commander directly.

(G) The authority of the commander to design, prepare, and conduct joint experiments (including the scenarios and measures of effectiveness used) for assessing operational concepts for meeting future challenges to the national security.

(H) The role assigned the commander for—

(i) integrating and testing in joint warfighting experimentation the systems that emerge from warfighting experimentation by the Armed Forces or the Defense Agencies;

(ii) assessing the effectiveness of organizational structures, operational concepts, and technologies employed in joint warfighting experimentation; and

(iii) assisting the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in prioritizing acquisition programs in relationship to future joint warfighting capabilities.

(I) Any other comments that the commander considers appropriate.

(b) ANNUAL REPORT.—(1) On such schedule as the Secretary of Defense shall direct, the commander of the combatant command assigned the mission for joint warfighting experimentation shall submit to the Secretary an annual report on the conduct of joint experimentation activities for the fiscal year ending in the year of the report. Not later than December 1 of each year, the Secretary shall submit the report, together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the U.S. Senate. The first annual report shall be submitted in 1999.

(2) The annual report of the commander shall include, for the fiscal year covered by the report, the following:

(A) Any changes in—

(i) the commander's authority and responsibilities for joint warfighting experimentation;

(ii) the commander's relationship to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the commanders of the other combatant commands, the Armed Forces, or the Defense Agencies or activities;

(iii) the organization of the commander's command and staff for joint warfighting experimentation;

(iv) any forces designated or made available as joint experimentation forces;

(v) the process established for tasking forces to participate in joint experimentation activities or the commander's specific authority over the tasked forces;

(vi) the procedures for providing funding for the commander, the categories of funding, or the commander's authority for budget execution;

(vii) the authority of the commander, and the process established, for the development and acquisition of the material, supplies, services, and equipment necessary for the conduct of joint warfighting experimentation;

(viii) the commander's authority to design, prepare, and conduct joint experiments (including the scenarios and measures of effectiveness used) for assessing operational concepts for meeting future challenges to the national security; or

(ix) any role described in subsection (a)(2)(H).

(B) The conduct of joint warfighting experimentation activities, including the number of activities, the forces involved, the national security challenges addressed, the operational concepts assessed, and the scenarios and measures of effectiveness used.

(C) An assessment of the results of warfighting experimentation within the Department of Defense.

(D) The effect of warfighting experimentation on the process for transforming the Armed Forces to meet future challenges to the national security.

(E) Any recommendation that the commander considers appropriate regarding—

(i) the development or acquisition of advanced technologies; or

(ii) changes in organizational structure, operational concepts, or joint doctrine.

(F) An assessment of the adequacy of resources, and any recommended changes for the process of providing resources, for joint warfighting experimentation.

(G) Any recommended changes in the authority or responsibilities of the commander.

(H) Any additional comments that the commander considers appropriate.

BINGAMAN AMENDMENT NO. 3408

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, shall carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the recipients, to Federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))) that serve special medically underserved populations including migratory and seasonal agricultural workers, the homeless, and residents of public housing.

(b) Not later than March 15, 1999, the Secretary of Defense shall submit to Congress a report on the program, including the actions taken under the program.

HUTCHISON (AND ABRAHAM) AMENDMENT NO. 3409

Mrs. HUTCHISON (for herself and Mr. ABRAHAM) proposed an amendment to the bill, S 2132, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. (a): Congress makes the following findings:

(1) Since 1989,

(A) The national defense budget has been cut in half as a percentage of the gross domestic product;

(B) The national defense budget has been cut by over $120 billion in real terms;

(C) The U.S. military force structure has been reduced by more than 30 percent;

(D) The Department of Defense's operations and maintenance accounts have been reduced by 40 percent;

(E) The Department of Defense's procurement funding has declined by more than 50 percent;

(F) U.S. military operational commitments have increased fourfold;

(G) The Army has reduced its ranks by over 630,000 soldiers and civilians, closed over 700 installations at home and overseas, and cut 10 divisions from its force structure;

(H) The Army has reduced its presence in Europe from 215,000 to 65,000 personnel;

(I) The Army has averaged 14 deployments every four years, increased significantly from the Cold War trend of one deployment every four years;

(J) The Air Force has downsized by nearly 40 percent, while experiencing a four-fold increase in operational commitments.

(2) In 1992, 37 percent of the Navy's fleet was deployed at any given time. Today that number is 57 percent; at its present rate, it will climb to 62 percent by 2005.

(3) The Navy Surface Warfare Officer community will fall short of its needs a 40 percent increase in retention to meet requirements;

(4) The Air Force is 18 percent short of its retention goal for second-term airmen;

(5) The Air Force is more than 800 pilots short, and more than 70 percent eligible for retention bonuses have turned them down in favor of separation;

(6) The Army faces critical personnel shortages in combat units, forcing unit commanders to borrow troops from other units just to participate in training exercises.

(7) An Air Force F–16 squadron commander testified before the House National Security Committee that his unit was forced to borrow three aircraft and use cannibalized parts from four other F–16s in order to deploy to Southwest Asia;

(8) In 1997, the Army averaged 31,000 soldiers deployed away from their home station in support of military operations in 70 countries with the average deployment lasting 125 days;

(9) Critical shortfalls in meeting recruiting and retention goals is seriously affecting the ability of the Army to train and deploy. The Army reduced its recruiting goals for 1998 by 12,000 personnel;

(10) In fiscal year 1997, the Army fell short of its recruiting goal for critical infantry soldiers by almost 5,000. As of February 15, 1998, Army-wide shortages existed for 28 Army specialities Many positions in squads and crews are left unfilled or minimally filled because personnel are diverted to work in key positions elsewhere;

(11) The Navy reports it will fall short of enlisted sailor recruitment for 1998 by 10,000

(12) One in ten Air Force front-line units are not combat ready;

(13) Ten Air Force technical specialties, representing thousands of airmen, deployed away from their home station for longer than the Air Force standard 120-day mark in 1997;

(14) The Air Force fell short of its reenlistment rate for mid-career enlisted personnel by an average of six percent, with key war fighting career fields experiencing even larger drops in reenlistments;

(15) In 1997, U.S. Marines in the operating forces have deployed on more than 200 exercises, rotational deployments, or actual contingencies.

(16) U.S. Marine Corps maintenance forces are only able to maintain 92 percent ground equipment and 77 percent aviation equipment readiness rates due to excessive deployments of troops and equipment;

(17) The National Security Strategy of the United States assumes the ability of the U.S. Armed Forces to prevail in two major regional conflicts nearly simultaneously.

(18) To execute the National Security of the United States, the U.S. Army's five later-deploying divisions, which constitute almost half of the Army's active combat forces, are critical to the success of specific war plans;

(19) According to commanders in these divisions, the practice of under staffing squads

and crews that are responsible for training, and assigning personnel to other units as fillers for exercises and operations, has become common and is degrading unit capability and readiness.

(20) In the aggregate, the Army's later-deploying divisions were assigned 93 percent of their authorized personnel at the beginning of fiscal year 1998. In one specific case, the 1st Armored Division was staffed at 94 percent in the aggregate; however, its combat support and service support specialties were filled at below 85 percent, and captains and majors were filled at 73 percent.

(21) At the 10th Infantry Division, only 138 of 162 infantry squads were fully or minimally filled, and 36 of the filled squads were unqualified. At the 1st Brigade of the 1st Infantry Division, only 56 percent of the authorized infantry soldiers for its Bradley Fighting Vehicles were assigned, and in the 2nd Brigade, 21 of 48 infantry squads had no personnel assigned. At the 3rd Brigade of the 1st Armored Division, only 16 of 116 M1A1 tanks had full crews and were qualified, and in one of the Brigade's two armor battalions, 14 of 58 tanks had no crewmembers assigned because the personnel were deployed to Bosnia.

(23) At the beginning of fiscal year 1998, the five later-deploying divisions critical to the execution of the U.S. National Security Strategy were short nearly 1,900 of the total 25,357 Non-Commissioned Officers authorized, and as of February 15, 1998, this shortage had grown to almost 2,200.

(24) Rotation of units to Bosnia is having a direct and negative impact on the ability of later-deploying divisions to maintain the training and readiness levels needed to execute their mission in a major regional conflict. Indications of this include:

(A) The reassignment by the Commander of the 3rd Brigade Combat Team of 63 soldiers within the brigade to serve in infantry squads of a deploying unit of 800 troops, stripping non-deploying infantry and armor units of maintenance personel, and reassigning Non-Commissioned Officers and support personnel to the task force from throughout the brigade;

(B) Cancellation of gunnery exercises for at least two armor battalions in later-deploying divisions, causing 43 of 116 tank crews to lose their qualifications on the weapon system;

(C) Hiring of outside contract personnel by 1st Armored and 1st Infantry later-deploying divisions to perform routine maintenance.

(25) National Guard budget shortfalls compromise the Guard's readiness levels, capabilities, force structure, and end strength, putting the Guard's personel, schools, training, full-time support, retention and recruitment, and morale at risk.

(26) The President's budget requests for the National Guard have been insufficient, notwithstanding the frequent calls on the Guard to handle wide-ranging tasks, including deployments in Bosnia, Iraq, Haiti, and Somalia.

(b) Sense of Congress:

(1) It is the sense of Congress that—

(A) The readiness of U.S. military forces to execute the National Security Strategy of the United States is being eroded from a combination of declining defense budgets and expanded missions;

(B) The ongoing, open-ended commitment of U.S. forces to the peacekeeping mission in Bosnia is causing assigned and supporting units to compromise their principle wartime assignments;

(C) Defense appropriations are not keeping pace with the expanding needs of the armed forces.

(c) Report Requirement.

(1) Not later than June 1, 1999, the President shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives, and to the Committees on Appropriations in both Houses, a report on the military readiness of the Armed Forces of the United States. The President shall include in the report a detailed discussion of the competition for resources service-by-service caused by the ongoing commitment to the peacekeeping operation in Bosnia, including in those units that are supporting but not directly deployed to Bosnia. The President shall specifically include in the report the following:

(A) an assessment of current force structure and its sufficiency to execute the National Security Strategy of the United States;

(B) an outline of the service-by-service force structure expected to be committed to a major regional contingency as envisioned in the National Security Strategy of the United States;

(C) a comparison of the force structures outlined in sub-paragraph (c)(1)(B) above with the service-by-service order of battle in Operation Desert Shield/Desert Storm, as a representative and recent major regional conflict;

(D) the force structure and defense appropriation increases that are necessary to execute the National Security Strategy of the United States assuming current projected ground force levels assigned to the peacekeeping mission in Bosnia are unchanged;

(E) a discussion of the U.S. ground force level in Bosnia that can be sustained without impacting the ability of the Armed Forces to execute the National Security Strategy of the United States, assuming no increases in force structure and defense appropriations during the period in which ground forces are assigned to Bosnia.

HARKIN (AND BUMPERS) AMENDMENT NO. 3410

(Ordered to lie on the table.)

Mr. HARKIN (for himself and Mr. BUMPERS) submitted an amendment intended to be proposed by them to the bill, S. 2132, supra; as follows:

At the appropriate place, insert the following:

SEC.   . No later than the date that the Senate passes S. 2132, CBO shall revise and reduce its estimates of outlays for fiscal year 1999 for nondefense outlays in a manner consistent with the adjustments and reductions made by the Chairman of the Committee on the Budget of the Senate of outlays for fiscal year 1999 for defense outlays.

HARKIN AMENDMENT NO. 3411

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense shall take such actions as are necessary to ensure the elimination of the backlog of incomplete actions on requests of former members of the Armed Forces for replacement medals and replacements for other decorations that such personnel have earned in the military service of the United States.

(b)(1) The actions taken under subsection (a) shall include, except as provided in paragraph (2), allocations of additional resources to improve relevant staffing levels at the Army Reserve Personnel Command, the Bureau of Naval Personnel, and the Air Force Personnel Center, allocations of Department of Defense resources to the National Archives and Records Administration, and any additional allocations of resources that the Secretary considers necessary to carry out subsection (a).

(2) An allocation of resources may be made under paragraph (1) only if and to the extent that the allocation does not detract from the performance of other personnel service and personnel support activities within the Department of Defense.

COATS (AND LIEBERMAN) AMENDMENT NO. 3412

(Ordered to lie on the table.)

Mr. COATS (for himself, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to the bill, S. 2132, supra; as follows:

At the appropriate place, insert:

REQUIREMENT FOR QUADRENNIAL DEFENSE REVIEW.

(a) REVIEW REQUIRED.—Chapter 2 of title 10, United States Code, is amended by inserting after section 116 the following:

"§ 117. Quadrennial defense review

"(a) REVIEW REQUIRED.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall conduct in each year in which a President is inaugurated a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense plan for the ensuing 10 years and a revised defense plan for the ensuing 20 years.

"(b) CONSIDERATION OF REPORTS OF NATIONAL DEFENSE PANEL.—In conducting the review, the Secretary shall take into consideration the reports of the National Defense Panel submitted under section 181(d) of this title.

"(c) REPORT TO CONGRESS.—The Secretary shall submit a report on each review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than September 30, 2001. The report shall include the following:

"(1) The results of the review, including a comprehensive discussion of the defense strategy of the United States and the force structure best suited to implement that strategy.

"(2) The threats examined for purposes of the review and the scenarios developed in the examination of such threats.

"(3) The assumptions used in the review, including assumptions relating to the cooperation of allies and mission-sharing, levels of acceptable risk, warning times, and intensity and duration of conflict.

"(4) The effect on the force structure of preparations for and participation in peace operations and military operations other than war.

"(5) The effect on the force structure of the utilization by the Armed Forces of technologies anticipated to be available for the ensuing 10 years and technologies anticipated to be available for the ensuing 20 years, including precision guided munitions, stealth, night vision, digitization, and communications, and the changes in doctrine and operational concepts that would result from the utilization of such technologies.

"(6) The manpower and sustainment policies required under the defense strategy to support engagement in conflicts lasting more than 120 days.

"(7) The anticipated roles and missions of the reserve components in the defense strategy and the strength, capabilities, and equipment necessary to assure that the reserve components can capably discharge those roles and missions.

"(8) The appropriate ratio of combat forces to support forces (commonly referred to as the "tooth-to-tail" ratio) under the defense strategy, including, in particular, the appropriate number and size of headquarter units and Defense Agencies for that purpose.

"(9) The air-lift and sea-lift capabilities required to support the defense strategy.

"(10) The forward presence, pre-positioning, and other anticipatory deployments necessary under the defense strategy for conflict deterrence and adequate military response to anticipated conflicts.

"(11) The extent to which resources must be shifted among two or more theaters under the defense strategy in the event of conflict in such theaters.

"(12) The advisability of revisions to the Unified Command Plan as a result of the defense strategy.

"(13) Any other matter the Secretary considers appropriate.".

(b) NATIONAL DEFENSE PANEL.—Chapter 7 of such title is amended by adding at the end the following:

"§181. National Defense Panel

"(a) ESTABLISHMENT.—Not later than January 1, 2000, the Secretary of Defense shall establish a nonpartisan, independent panel to be known as the National Defense Panel. The Panel shall have the duties set forth in this section.

"(b) MEMBERSHIP.—The Panel shall be composed of a chairman and eight other individuals appointed by the Secretary, in consultation with the chairman and ranking member of the Committee on Armed Services of the Senate and the chairman and ranking member of the Committee on National Security of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to the national security of the United States.

"(c) DUTIES.—The Panel shall—

"(1) conduct and submit to the Secretary of Defense and to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a comprehensive assessment of the defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies with a view toward recommending a defense strategy of the United States and a revised defense plan for the ensuing 10 years and a revised defense plan for the ensuing 20 years; and

"(2) identify issues that the Panel recommends for assessment during the next QDR.

"(d) REPORT.—(1) The Panel, (c), shall submit to the Secretary of Defense and to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives two reports on its activities and the findings and recommendations of the Panel, including any recommendations for legislation that the Panel considers appropriate, as follows:

"(A) An interim report not later than July 1, 2000.

"(B) A final report not later than December 1, 2000.

"(2) Not later than December 15, 2000, the Secretary shall submit to the committees referred to in subsection (b) a copy of the report together with the Secretary's comments on the report.

"(e) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from the Department of Defense and any of its components and from any other Federal department and agency such information as the Panel considers necessary to carry out its duties under this section. The head of the department or agency concerned shall ensure that information requested by the Panel under this subsection is promptly provided.

"(f) PERSONNEL MATTERS.—(1) Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which the member is engaged in the performance of the duties of the Panel.

"(2) The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Panel.

"(3)(A) The chairman of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and a staff if the Panel determines that an executive director and staff are necessary in order for the Panel to perform its duties effectively. The employment of an executive director shall be subject to confirmation by the Panel.

"(B) The chairman may fix the compensation of the executive director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

"(4) Any Federal Government employee may be detailed to the Panel without reimbursement of the employee's agency, and such detail shall be without interruption or loss of civil service status or privilege. The Secretary shall ensure that sufficient personnel are detailed to the Panel to enable the Panel to carry out its duties effectively.

"(5) To the maximum extent practicable, the members and employees of the Panel shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Panel, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

"(g) ADMINISTRATIVE PROVISIONS.—(1) The Panel may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel.

"(3) The Panel may accept, use, and dispose of gifts or donations of services or property.

"(h) PAYMENT OF PANEL EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to the Department of Defense for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Panel shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

"(i) TERMINATION.—The Panel shall terminate at the end of the year following the year in which the Panel submits its final report under subsection (d)(1)(B). For the period that begins 90 days after the date of submittal of the report, the activities and staff of the panel shall be reduced to a level that the Secretary of Defense considers sufficient to continue the availability of the panel for consultation with the Secretary of Defense and with the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.".

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 2 of title 10, United States Code, is amended by inserting after the item relating to section 116 the following:

"117. Quadrennial defense review.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by adding at the end the following:

"181. National Defense Panel.".

HUTCHISON (AND OTHERS) AMENDMENT NO. 3413

Mrs. HUTCHISON (for herself, Mr. STEVENS, Mr. CRAIG, Mr. SESSIONS, Mr. SMITH of Oregon, and Mr. FEINGOLD) proposed an amendment to the bill, S. 2132, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) The Congress finds the following:

(1) United States Armed Forces in the Republic of Bosnia and Herzegovina have accomplished the military mission assigned to them as a component of the Implementation and Stabilization Forces.

(2) The continuing and open-ended commitment of U.S. ground forces in the Republic of Bosnia and Herzegovina is subject to the oversight authority of the Congress.

(3) Congress may limit the use of appropriated funds to create the conditions for an orderly and honorable withdrawal of U.S. troops from the Republic of Bosnia and Herzegovina.

(4) On November 27, 1995, the President affirmed that United States participation in the multinational military Implementation Force in the Republic of Bosnia and Herzegovina would terminate in about one year.

(5) The President declared the expiration date of the mandate for the Implementation Force to be December 20, 1996.

(6) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed confidence that the Implementation Force would complete its mission in about one year.

(7) the Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed the critical importance of establishing a firm deadline, in the absence of which there is a potential for expansion of the mission of U.S. forces.

(8) On October 3, 1996, the Chairman of the Joint Chiefs of Staff announced the intention of the United States Administration to delay the removal of United States Armed

Forces personnel from the Republic of Bosnia and Herzegovina until March 1997.

(9) In November 1996 the President announced his intention to further extend the deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(10) The President did not request authorization by the Congress of a policy that would result in the further deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(11) Notwithstanding the passage of two previously established deadlines, the reaffirmation of those deadlines by senior national security officials, and the endorsement by those same national security officials of the importance of having a deadline as a hedge against an expanded mission, the President announced on December 17, 1997 that establishing a deadline had been a mistake and that U.S. ground combat forces were committed to the NATO-led mission in Bosnia for the indefinite future.

(12) NATO military forces have increased their participation in law enforcement, particularly police activities.

(13) U.S. Commanders of NATO have stated on several occasions that, in accordance with the Dayton Peace Accords, the principal responsibility for such law enforcement and police activities lies with the Bosnian parties themselves.

SEC. 2. LIMITATIONS ON THE USE OF FUNDS.

(a) Funds appropriated or otherwise made available for the Department of Defense for any fiscal year may not be obligated for the ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina except as conditioned below.

(1) The President shall continue the ongoing withdrawal of American forces from the NATO Stabilization Force in the Republic of Bosnia and Herzegovina such that U.S. ground forces in that force or the planned multi-national successor force shall not exceed:

(A) 6500, by February 2, 1999;

(B) 5000, by October 1, 1999.

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply—

(1) to the extent necessary for U.S. ground forces to protect themselves as the drawdowns outlined in sub-paragraph (a)(1) proceeds;

(2) to the extent necessary to support a limited number of United States military personnel sufficient only to protect United States diplomatic facilities in existence on the date of the enactment of this Act; or

(3) to the extent necessary to support noncombat military personnel sufficient only to advise the commanders North Atlantic Treaty Organization peacekeeping operations in the Republic of Bosnia and Herzegovina; and

(4) to U.S. ground forces that may be deployed as part of NATO containment operations in regions surrounding the Republic of Bosnia and Herzegovina.

(v) CONSTRUCTION OF SECTION.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of the United States citizens.

(d) LIMITATION ON SUPPORT FOR LAW ENFORCEMENT ACTIVITIES IN BOSNIA.—None of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended after the date of the enactment of this Act for the—

(1) conduct of, or direct support for, law enforcement and police activities in the Republic of Bosnia and Herzegovina, except for the training of law enforcement personnel or to prevent imminent loss of life;

(2) conduct of, or support for, any activity in the Republic of Bosnia and Herzegovina that may have the effect of jeopardizing the primary mission of the NATO-lead force in preventing armed conflict between the Federation of Bosnia and Herzegovina and the Republika Srpska ("Bosnian Entities");

(3) transfer of refugees within the Republic of Bosnia and Herzegovina that, in the opinion of the commander of NATO Forces involved in such transfer—

(A) has as one of its purposes the acquisition of control by a Bosnian Entity of territory allocated to the other Bosnian Entity under the Dayton Peace Agreement; or

(B) may expose United States Armed Forces to substantial risk to their personal safety; and

(4) implementation of any decision to change the legal status of any territory within the Republic of Bosnia and Herzegovina unless expressly agreed to by all signatories to the Dayton Peace Agreement.

SEC. 4. PRESIDENTIAL REPORT.

(a) Not later than December 1, 1998, the President shall submit to Congress a report on the progress towards meeting the drawdown limit established in section 2(a).

(b) The report under paragraph (a) shall include an identification of the specific steps taken by the United States Government to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to European allied nations or organizations.

DODD AMENDMENT NO. 3414

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Of the total amount appropriated for the Army, the Army Reserve, and the Army National Guard under title I, $1,700,000 shall be available for taking the actions required under this section to eliminate the backlog of unpaid retired pay and to submit a report.

(b) The Secretary of the Army shall take such actions as are necessary to eliminate, by December 31, 1998, the backlog of unpaid retired pay for members and former members of the Army (including members and former members of the Army Reserve and the Army National Guard).

(c) Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the backlog of unpaid retired pay. The report shall include the following:

(1) The actions taken under subsection (b).

(2) The extent of the remaining backlog.

(3) A discussion of any additional actions that are necessary to ensure that retired pay is paid in a timely manner.

DODD AMENDMENT NO. 3415

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the funds available under title VI for the Defense Health Program, $3,000,000 shall be available for Department of Defense programs relating to Lyme disease and other tick-borne diseases, which shall include programs involving risk assessments at military installations, training for medical personnel in the detection, diagnosis and treatment of such diseases, improvement of educational and awareness programs for Armed Forces personnel, development of diagnostic tests for such diseases, testing of repellents, and field testing of new control technologies, and may include other programs.

MURKOWSKI AMENDMENT NO. 3416

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following new section: "From within the funds provided, with the heading "Operations and Maintenance, Army", up to $500,000 shall be available for paying subcontractors and suppliers for work performed at Fort Wainwright, Alaska, in 1994, under Army services contract number DACA85-93-C-0065".

LOTT AMENDMENT NO. 3417

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. The Department of Defense shall, in allocating funds for the Next Generation Internet (NGI) initiative, give full consideration to the allocation of funds to the regional partnerships that will best leverage Department investments in the Major Shared Resource Centers and Distributed Centers of the Department, including the high performance networks associated with such centers.

ROBB AMENDMENT NO. 3418

(Ordered to lie on the table.)

Mr. ROBB submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the amounts appropriated or otherwise made available by title II of this Act under the heading "OPERATION AND MAINTENANCE, NAVY", $45,000,000 shall be available for emergency and extraordinary expenses associated with the accident involving a United States Marine Corps A-6 aircraft on February 3, 1998, near Cavalese, Italy: *Provided*, That the amount available under this section shall remain available until expended: *Provided further*, That the amount available under this section shall be available only for payments to persons, communities, or other entities in Italy for reimbursement for damages resulting from the expenses, or for settlement of claims arising from deaths, associated with the accident described in this section: *Provided further*, That notwithstanding any other provision of law, the amount available under this section may be used to rebuild or replace the funicular system in Cavalese, Italy, destroyed on February 3, 1998, by United States aircraft: *Provided further*, That any amount paid to any individual or entity from the amount available under this section shall be credited against any amount subsequently determined to be payable to that individual or entity under section 127 or chapter 163 of title

10, United States Code, or any other provision of law for administrative settlement of claims against the United States with respect to damages arising from the accident described in this section: *Provided further*, That payment of an amount under this section shall not be considered to constitute a statement of legal liability on the part of the United States or otherwise to prejudge any judicial proceeding or investigation arising from the accident described in this section.

HUTCHINSON (AND OTHERS) AMENDMENT NO. 3419

Mr. HUTCHINSON (for himself, Mr. LEVIN, Mr. KERRY, Mr. BIDEN, and Mr. LIEBERMAN) proposed an amendment to amendment No. 3124 proposed by Mr. HUTCHINSON to the bill, S. 2132, supra; as follows:

Strike all after the word "TITLE" and insert the following:

IX

HUMAN RIGHTS IN CHINA

Subtitle A—Forced Abortions in China

SEC. 9001. This subtitle may be cited as the "Forced Abortion Condemnation Act".

SEC. 9002. Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. 9003. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue any visa to any official of any country (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible and specific information, has been directly involved in the establishment or enforcement of population control policies forcing a woman to undergo an abortion against her free choice, or forcing a man or woman to undergo sterilization against his or her free choice or policies condoning the practice of genital mutilation.

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

Subtitle B—Freedom on Religion in China

SEC. 9011. (a) It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China.

(b) As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds.

(c) In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed.

(d) The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. 9012. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue a visa to any official or any country (except the head of state, the head of government, and cabinet level ministers) who the Secretary of State finds, based on credible and specific information, has been directly involved in the establishment or enforcement of policies or practices designed to restrict religious freedom.

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 9014. In this subtitle, the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

AKAKA (AND OTHERS) AMENDMENT NO. 3420

Mr. STEVENS (for Mr. AKAKA for himself, Mr. JEFFORDS, Mr. LEAHY, Mr. COATS, Mrs. BOXER, and Mr. INOUYE) proposed an amendment to the bill S. 2132, supra; as follows:

On page 33, line 25, insert before the period at the end the following: ":*Provided*, That of the funds appropriated under this heading, $12,000,000 shall be available only to continue development of electric and hybrid-electric vehicles".

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3421

Mr. STEVENS (for Mr. BINGAMAN for himself and Mr. DOMENICI) proposed an amendment to the bill, S. 2132, supra; as follows:'

On page 99, in between lines 17 and 18, insert before the period at the end the following: ": SEC. 8104(a), That of the amount available under Air National Guard, Operations and Maintenance for flying hours and related personnel support, 2,250,000 shall be available for the Defense Systems Evaluation program for support of test and training operations at White Sands Missile Range, New Mexico, and Fort Bliss, Texas".

COCHRAN AMENDMENT NO. 3422

Mr. STEVENS (for Mr. COCHRAN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert at the appropriate place the following new section:

SEC. . That of the funds appropriated for Defense-wide research, development test and evaluation, $1,000,000 is available for Acoustic Sensor Technology Development Planning.

DOMENICI (AND HARKIN) AMENDMENT NO. 3423

Mr. STEVENS (for Mr. DOMENICI for himself and Mr. HARKIN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on food stamp assistance for members of the Armed Forces. The Secretary shall submit the report at the same time that the Secretary submits to Congress, in support of the fiscal year 2000 budget, the materials that relate to the funding provided in that budget for the Department of Defense.

(b) The report shall include the following:

(1) The number of members of the Armed Forces and dependents of members of the

Armed Forces who are eligible for food stamps.

(2) The number of members of the Armed Forces and dependents of members of the Armed Forces who received food stamps in fiscal year 1998.

(3) A proposal for using, as a means for eliminating or reducing significantly the need of such personnel for food stamps, the authority under section 2828 of title 10, United States Code, to lease housing facilities for enlisted members of the Armed Forces and their families when Government quarters are not available for such personnel.

(4) A proposal for increased locality adjustments through the basic allowance for housing and other methods as a means for eliminating or reducing signficantly the need of such personnel for food stamps.

(5) Other potential alternative actions (including any recommended legislation) for eliminating or reducing significantly the need of such personnel for food stamps.

(6) A discussion of the potential for each alternative action referred to in paragraph (3) or (4) to result in the elimination or a significant reduction in the need of such personnel for food stamps.

(c) Each potential alternative action included in the report under paragraph (3) or (4) of subsection (b) shall meet the following requirements:

(1) Apply only to persons referred to in paragraph (1) of such subsection.

(2) Be limited in cost to the lowest amount feasible to achieve the objectives.

(d) In this section:

(1) The term "fiscal year 2000 budget" means the budget for fiscal year 2000 that the President submits to Congress under section 1105(a) of title 31, United States Code.

(2) The term "food stamps" means assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

SEC. 8105. (a) The Comptroller General shall carry out a study of issues relating to family life, morale, and retention of members of the Armed Forces and, not later than June 25, 1999, submit the results of the study to the Committees on Appropriations of the Senate and the House of Representatives. The Comptroller General may submit to the committees an interim report on the matters described in paragraphs (1) and (2) of subsection (c). Any such interim report shall be submitted by February 12, 1999.

(b) In carrying out the study, the Comptroller General shall consult with experts on the subjects of the study who are independent of the Department of Defense.

(c) The study shall include the following matters:

(1) The conditions of the family lives of members of the Armed Forces and the members' needs regarding their family lives, including a discussion of each of the following:

(A) How leaders of the Department of Defense and leaders of each of the Armed Forces—

(i) collect, organize, validate, and assess information to determine those conditions and needs;

(ii) determine consistency and variations among the assessments and assessed information for each of the Armed Forces; and

(iv) use the information and assessments to address those conditions and needs.

(B) How the information on those conditions and needs compares with any corresponding information that is available on the conditions of the family lives of civilians in the United States and the needs of such civilians regarding their family lives.

(C) How the conditions of the family lives of members of each of the Armed Forces and the members' needs regarding their family lives compare with those of the members of each of the other Armed Forces.

(D) How the conditions and needs of the members compare or vary among members in relation to the pay grades of the members.

(E) How the conditions and needs of the members compare or vary among members in relation to the occupational specialties of the members.

(F) What, if any, effects high operating tempos of the Armed Forces have had on the family lives of members, including effects on the incidence of substance abuse, physical or emotional abuse of family members, and divorce.

(G) The extent to which family lives of members of the Armed Forces prevent members from being deployed.

(2) The rates of retention of members of the Armed Forces, including the following:

(A) The rates based on the latest information available when the report is prepared.

(B) Projected rates for future periods for which reasonably reliable projections can be made.

(C) An analysis of the rates under subparagraphs (A) and (B) for each of the Armed Forces, each pay grade, and each major occupational specialty.

(3) The relationships among the quality of the family lives of members of the Armed Forces, high operating tempos of the Armed Forces, and retention of the members in the Armed Forces, analyzed for each of the Armed Forces, each pay grade, and each occupational specialty, including, to the extent ascertainable and relevant to the analysis of the relationships, the reasons expressed by members of the Armed Forces for separating from the Armed Forces and the reasons expressed by the members of the Armed Forces for remaining in the Armed Forces.

(4) The programs and policies of the Department of Defense (including programs and policies specifically directed at quality of life) that have tended to improve, and those that have tended to degrade, the morale of members of the Armed Forces and members of their families, the retention of members of the Armed Forces, and the perceptions of members of the Armed Forces and members of their families regarding the quality of their lives.

(d) In this section, the term "major occupational specialty" means the aircraft pilot specialty and each other occupational specialty that the Comptroller General considers a major occupational specialty of the Armed Forces.

DURBIN AMENDMENT NO. 3424

Mr. STEVENS (for Mr. DURBIN) proposed an amendment to the bill, S. 2132, supra; as follows:

At the appropriate place, insert the following:

SEC. . (a)(1) Notwithstanding any other provision of law, no funds appropriated or otherwise made available by this Act may be used to carry out any conveyance of land at the former Fort Sheridan, Illinois, unless such conveyance is consistent with a regional agreement among the communities and jurisdictions in the vicinity of Fort Sheridan and in accordance with section 2862 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 573).

(2) The land referred to in paragraph (1) is a parcel of real property, including any improvements thereon, located at the former Fort Sheridan, Illinois, consisting of approximately 14 acres, and known as the northern Army Reserve enclave area, that is covered by the authority in section 2862 of the Military Construction Authorization Act for Fiscal Year 1996 and has not been conveyed pursuant to that authority as of the date of enactment of this Act.

GREGG AMENDMENT NO. 3425

Mr. STEVENS (for Mr. GREGG) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) CONVEYANCE REQUIRED.—The Secretary of the Air Force shall convey, without consideration, to the Town of Newington, New Hampshire, all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 1.3 acres located at former Pease Air Force Base, New Hampshire, and known as the site of the old Stone School.

(b) EXCEPTION FROM SCREENING REQUIREMENT.—The Secretary shall make the conveyance under subsection (a) without regard to the requirement under section 2696 of title 10, United States Code, that the property be screened for further Federal use in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

HOLLINGS AMENDMENT NO. 3426

Mr. STEVENS (for Mr. HOLLINGS) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the amounts appropriated or otherwise made available for the Department of Defense by this Act, up to $10,000,000 may be available for the Department of Defense share of environmental remediation and restoration activities at Defense Logistics Agency inventory location 429 (Macalloy site) in Charleston, South Carolina.

INOUYE AMENDMENTS NOS. 3427–3429

Mr. STEVENS (for Mr. INOUYE) proposed three amendments to the bill, S. 2132, supra; as follows:

AMENDMENT NO. 3427

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", for Materials and Electronics Technology, $2,000,000 shall be made available only for the Strategic Materials Manufacturing Facility project.

AMENDMENT NO. 3428

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Chapter 157 of title 10, United States Code, is amended by inserting after section 2641 the following:

"§ 2641a. Transportation of American Samoa veterans on Department of Defense aircraft for certain medical care in Hawaii

"(a) TRANSPORTATION AUTHORIZED.—The Secretary of Defense may provide transportation on Department of Defense aircraft for the purpose of transporting any veteran specified in subsection (b) between American Samoa and the State of Hawaii if such transportation is required in order to provide hospital care to such veteran as described in that subsection.

"(b) VETERANS ELIGIBLE FOR TRANSPORT.—A veteran eligible for transport under subsection (a) is any veteran who—

"(1) resides in and is located in American Samoa; and

"(2) as determined by an official of the Department of Veterans Affairs designated for that purpose by the Secretary of Veterans Affairs, must be transported to the State of Hawaii in order to receive hospital care to which such veteran is entitled under chapter 17 of title 38 in facilities of such Department in the State of Hawaii.

"(c) ADMINISTRATION.—(1) Transportation may be provided to veterans under this section only on a space-available basis.

"(2) A charge may not be imposed on a veteran for transportation provided to the veteran under this section.

"(d) DEFINITIONS.—In this section:

"(1) The term 'veteran' has the meaning given that term in section 101(2) of title 38.

"(2) The term 'hospital care' has the meaning given that term in section 1701(5) of title 38.".

(b) The table of sections at the beginning of chapter 157 of such title is amended by inserting after the item relating to section 2641 the following new item:

"2641a. Transportation of American Samoa veterans on Department of Defense aircraft for certain medical care in Hawaii.".

AMENDMENT NO. 3424

SEC. . Not later than December 1, 1998, the Secretary of Defense shall submit to the President and the Congressional Defense Committees a report regarding the potential for development of Ford Island within the Pearl Harbor Naval Complex, Oahu, Hawaii through an integrated resourcing plan incorporating both appropriated funds and one or more public-private ventures. This report shall consider innovative resources development measures, including but not limited to, an enhanced-use leasing program similar to that of the Department of Veterans Affairs as well as the sale or other disposal of land in Hawaii under the control of the Navy as part of an overall program for Ford Island development. The report shall include proposed legislation for carrying out the measures recommended therein.

KENNEDY AMENDMENT NO. 3430

Mr. STEVENS (for Mr. KENNEDY) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Within the amounts appropriated under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Navy", the amount available for S-3 Weapon System Improvement is hereby reduced by $8,000,000: *Provided*, Within the amounts appropriated under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Air Force", the amount available for a cyber-security program is hereby increased by $8,000,000: *Provided further*, That the funds are made available for the cyber-security program to conduct research and development on issues relating to security information assurance and to facilitate the transition of information assurance technology to the defense community.

SARBANES (AND CAMPBELL) AMENDMENT NO. 3431

Mr. STEVENS (for Mr. SARBANES for himself and Mr. CAMPBELL) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8___. ADDITIONAL FUNDING FOR KOREAN WAR VETERANS MEMORIAL.

Section 3 of Public Law 99-572 (40 U.S.C. 1003 note) is amended by adding at the end the following:

"(c) ADDITIONAL FUNDING.—

"(1) IN GENERAL.—In addition to amounts made available under subsections (a) and (b), the Secretary of the Army may expend, from any funds available to the Secretary on the date of enactment of this paragraph, $2,000,000 for repair of the memorial.

"(2) DISPOSITION OF FUNDS RECEIVED FROM CLAIMS.—Any funds received by the Secretary of the Army as a result of any claim against a contractor in connection with construction of the memorial shall be deposited in the general fund of the Treasury.".

MCCONNELL (AND OTHERS) AMENDMENT NO. 3432

Mr. STEVENS (for Mr. MCCONNELL for himself, Mr. FORD, and Mr. SHELBY) proposed an amendment to the bill, S 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the funds available under title VI for chemical agents and munitions destruction, Defense, for research and design, $18,000,000 shall be made available for the program manager for the Assembled Chemical Weapons Assessment (under section 8065 of the Department of Defense Appropriations Act, 1997) for demonstrations of technologies under the Assembled Chemical Weapons Assessment, for planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, and for the design, construction, and operation of a pilot facility for the technology.

MACK AMENDMENT NO. 3433

Mr. STEVENS (for Mr. MACK) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8014. (a) The Secretary of the Navy may lease to the University of Central Florida (in this section referred to as the "University"), or a representative or agent of the University designated by the University, such portion of the property known as the Naval Air Warfare Center, Training Systems Division, Orlando, Florida, as the Secretary considers appropriate as a location for the establishment of a center for research in the fields of law enforcement, public safety, civil defense, and national defense.

(b) Notwithstanding any other provision of law, the term of the lease under subsection (a) may not exceed 50 years.

(c) As consideration for the lease under subsection (a), the University shall—

(1) undertake and incur the cost of the planning, design, and construction required to establish the center referred to in that subsection; and

(2) during the term of the lease, provide the Secretary such space in the center for activities of the Navy as the Secretary and the University jointly consider appropriate.

(d) The Secretary may require such additional terms and conditions in connection with the lease authorized by subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

MIKULSKI AMENDMENT NO. 3434

Mr. STEVENS (for Ms. MIKULSKI) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99 in between lines 17 and 18, insert the following:

SEC. 8104. Funds appropriated under O&M Navy are available for a vessel scrapping pilot program which the Secretary of the Navy may carry out during fiscal year 1999 and (notwithstanding the expiration of authority to obligate funds appropriated under this heading) fiscal year 2000, and for which the Secretary may define the program scope as that which the Secretary determines sufficient for gathering data on the cost of scrapping Government vessels and for demonstrating cost effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment".

LOTT AMENDMENT NO. 3435

Mr. STEVENS (for Mr. LOTT) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. The Department of Defense shall, in allocating funds for the Next Generation Internet (NGI) initiative, give full consideration to the allocation of funds to the regional partnerships that will best leverage Department investments in the DoD Major Shared Resource Centers and Centers with supercomputers purchased using DoD RDT&E funds, including the high performance networks associated with such centers.

MURKOWSKI AMENDMENT NO. 3436

Mr. STEVENS (for Mr. MURKOWSKI) proposed an amenment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following new section: "From within the funds provided, with the heading, "Operations and Maintenance, Army", up to $500,000 shall be available for paying subcontractors and suppliers for work performed at Fort Wainwright, Alaska, in 1994, under Army services contract number DACA85- 93-C-0065".

SHELBY AMENDMENT NO. 3437

Mr. STEVENS (for Mr. SHELBY) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", for Industrial Preparedness, $2,000,000 shall be made available only for the Electronic Circuit Board Manufacturing Development Center.

SPECTER AMENDMENT NO. 3438

Mr. STEVENS (for Mr. SPECTER) proposed an amendment to the bill, S. 2132, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . COMMISSION TO ASSESS THE ORGANIZATION OF THE FEDERAL GOVERNMENT TO COMBAT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

The Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (as contained in Public Law 104–293) is amended—

(1) in section 711(b), in the text above paragraph (1), by striking "eight" and inserting "twelve";

(2) in section 711(b)(2), by striking "one" and inserting "three";

(3) in section 711(b)(4), by striking "one" and inserting "three";

(4) in section 711(e), by striking "on which all members of the Commission have been appointed" and inserting "on which the Department of Defense Appropriations Act, 1999, is enacted, regardless of whether all members of the Commission have been appointed"; and

(5) in section 712(c), by striking "not later than 18 months after the date of enactment of this Act," and inserting "Not later than June 15, 1999,".

STEVENS AMENDMENT NO. 3439

Mr. STEVENS proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following general provision:

SEC. 8104. Of the funds provided under Title III of this Act under the heading "Other Procurement, Army", for Training Devices $4,000,000 shall be made available only for procurement of Multiple Integrated Laser Engagement System (MILES) equipment to support Department of Defense Cope Thunder exercises.

STEVENS AMENDMENT NO. 3440

Mr. STEVENS proposed an amendment to the bill, S. 2132, supra; as follows:

On page 73, line 4 of the bill, revise the text "rescinded from" to read "rescinded as of the date of enactment of this act from".

COCHRAN AMENDMENT NO. 3441

Mr. STEVENS (for Mr. COCHRAN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Within the amounts appropriated under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", the amount available for Joint Tactical Radio is hereby reduced by $10,981,000, and the amount available for Army Data Distribution System development is hereby increased by $10,981,000.

WARNER AMENDMENT NO. 3442

Mr. STEVENS (for Mr. WARNER) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", for Digitization, $2,000,000 shall be made available only for the Ditigal Intelligence Situation Mapboard (DISM).

BOXER AMENDMENT NO. 3443

Mr. STEVENS (for Mrs. BOXER) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the funds available for the Navy for research, development, test, and evaluation under title IV, $5,000,000 shall be available for the Shortstop Electronic Protection System".

FORD (AND OTHERS) AMENDMENT NO. 3444

Mr. STEVENS (for Mr. FORD for himself, Mr. BOND, and Mr. LOTT) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Subsection (a)(3) of section 112 of title 32, United States Code, is amended by striking out "and leasing of equipment" and inserting in lieu thereof "and equipment, and the leasing of equipment,".

(b) Subsection (b)(2) of such section is amended to read as follows:

"(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities.

"(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.".

(c) Subsection (b)(3) of such section is amended to read as follows:

"(2) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if—

"(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

"(B) in the case of services, the provision of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

"(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan.".

(d) Subsection (i)(1) of such section is amended by inserting after "drug interdiction and counter-drug law enforcement activities" the following: ", including drug demand reduction activities,".

DODD AMENDMENT NO. 3445

Mr. STEVENS (for Mr. DODD) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 36, line 22, insert before the period at the end the following: ": *Provided*, That, of the funds available under this heading, $3,000,000 shall be available for research and surveillance activities relating to Lyme disease and other tick-borne diseases".

KERRY AMENDMENT NO. 3446

Mr. STEVENS (for Mr. KERRY) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the amounts appropriated by title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", $3,000,000 shall be available for advanced research relating to solid state dye lasers.

McCAIN (AND KYL) AMENDMENT NO. 3447

Mr. STEVENS (for Mr. McCAIN for himself and Mr. KYL) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of the Air Force may enter into an agreement to lease from the City of Phoenix, Arizona, the parcel of real property described in subsection (b), together with improvements on the property, in consideration of annual rent not in excess of one dollar.

(b) The real property referred to in subsection (a) is a parcel, known as Auxiliary Field 3, that is located approximately 12 miles north of Luke Air Force Base, Arizona, in section 4 of township 3 north, range 1 west of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, is bounded on the north by Bell Road, on the east by Litchfield Road, on the south by Greenway Road, and on the west by agricultural land, and is composed of approximately 638 acres, more or less, the same property that was formerly an Air Force training and emergency field developed during World War II.

(c) The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

McCAIN (AND KYL) AMENDMENT NO. 3448

Mr. STEVENS (for Mr. McCAIN for himself and Mr. KYL) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", up to $1,300,000 may be made available only to integrate and evaluate enhanced, active and passive, passenger safety system for heavy tactical trucks.

GRASSLEY AMENDMENT NO. 3449

Mr. STEVENS (for Mr. GRASSLEY) proposed an amendment to the bill, S. 2132, supra; as follows:

At the end of title VIII, add the following:

SEC. ___. Effective on June 30, 1999, section 8106(a) of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under section 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note), is amended—

(1) by striking out "not later than June 30, 1997,", and inserting in lieu thereof "not later than June 30, 1999,"; and

(2) by striking out "$1,000,000" and inserting in lieu thereof "$500,000".

HARKIN AMENDMENT NO. 3450

Mr. STEVENS (for Mr. HARKIN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Of the total amount appropriated under title IV for research, development, test and evaluation, Defense-wide, for basic research, $29,646,000 is available for research and development relating to Persian Gulf illnesses.

STEVENS AMENDMENT NO. 3451

Mr. STEVENS proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Within the amounts appropriated under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Navy", the amount available for Hard and Deeply Buried Target Defeat System is hereby reduced by $9,827,000, and the amount available for Consolidated Training Systems Development is hereby increased by $9,827,000.

FAIRCLOTH AMENDMENT NO. 3452

Mr. STEVENS (for Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8014. (a) Not later than six months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report containing a comprehensive assessment of the TRICARE program.

(b) The assessment under subsection (a) shall include the following:

(1) A comparison of the health care benefits available under the health care options of the TRICARE program known as TRICARE Standard, TRICARE Prime, and TRICARE Extra with the health care benefits available under the health care plan of the Federal Employees Health Benefits program most similar to each such option that has the most subscribers as of the date of enactment of this Act, including—

(A) the types of health care services offered by each option and plan under comparison;

(B) the ceilings, if any, imposed on the amounts paid for covered services under each option and plan under comparison; and

(C) the timeliness of payments to physicians providing services under each option and plan under comparison.

(2) An assessment of the effect on the subscription choices made by potential subscribers to the TRICARE program of the Department of Defense policy to grant priority in the provision of health care services to subscribers to a particular option.

(3) An assessment whether or not the implementation of the TRICARE program has discouraged medicare-eligible individuals from obtaining health care services from military treatment facilities, including—

(A) an estimate of the number of such individuals discouraged from obtaining health care services from such facilities during the two-year period ending with the commencement of the implementation of the TRICARE program; and

(B) an estimate of the number of such individuals discouraged from obtaining health-care services from such facilities during the two-year period following the commencement of the implementation of the TRICARE program.

(4) An assessment of any other matters that the Comptroller General considers appropriate for purposes of this section.

(c) In this section:

(1) The term "Federal Employees Health Benefits program" means the health benefits program under chapter 89 of title 5, United States Code.

(2) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

STEVENS AMENDMENT NO. 3453

Mr. STEVENS proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of the Army and the Secretary of the Air Force may each enter into one or more multiyear leases of non-tactical firefighting equipment, non-tactical crash rescue equipment, or non-tactical snow removal equipment. The period of a lease entered into under this section shall be for any period not in excess of 10 years. Any such lease shall provide that performance under the lease during the second and subsequent years of the contract is contingent upon the appropriation of funds and shall provide for a cancellation payment to be made to the lessor if such appropriations are not made.

(b) Lease payments made under subsection (a) shall be made from amounts provided in this or future appropriations Acts.

(c) This section is effective for all fiscal years beginning after September 30, 1998.

BUMPERS AMENDMENT NO. 3454

Mr. STEVENS (for Mr. BUMPERS) proposed an amendment to the bill, S. 2132, supra; as follows:

At the appropriate place in the bill in Title VIII, insert the following:

"SEC. . Of the amounts appropriated in this bill for the Defense Threat seduction and Treaty Compliance Agency and for Operations and Maintenance, National Guard, $1,500,000 shall be available to develop training materials and a curriculum for a Domestic Preparedness Sustainment Training Center at Pine Bluff Arsenal, Arkansas."

FAIRCLOTH AMENDMENT NO. 3455

Mr. STEVENS (for Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Army", up to $10,000,000 may be made available only for the efforts associated with building and demonstrating a deployable mobile large aerostat system platform.

BAUCUS AMENDMENT NO. 3456

Mr. STEVENS (for Mr. BAUCUS) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert before the period at the end the following: ": SEC. . That of the amounts available under this heading, $150,000 shall be made available to the Bear Paw Development Council, Montana, for the management and conversion of the Havre Air Force Base and Training Site, Montana, for public benefit purposes, including public schools, housing for the homeless, and economic development".

MCCAIN (AND HUTCHISON) AMENDMENT NO. 3457

Mr. STEVENS (for Mr. MCCAIN for himself and Mrs. HUTCHISON) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Section 4344(b) of title 10, United States Code, is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States"; and

(2) by striking out paragraph (3).

(b) Section 6957(b) of such title is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a midshipman appointed from the United States"; and

(2) by striking out paragraph (3).

(c) Section 9344(b) of such title is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States"; and

(2) by striking out paragraph (3).

DORGAN AMENDMENT NO. 3458

Mr. STEVENS (for Mr. DORGAN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 54, strike Section 8023 and insert the following:

SEC. 8023. (a) In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That contractors participating in the test program established by section 854 of Public Law 101–189 (15 U.S.C. 637 note) shall be eligible for the program established by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

(b) Section 8024 of the Department of Defense Appropriations Act (Public Law 105–56) is amended by striking out "That these payments" and all that follows through "*Provided further,*".

McCONNELL (AND OTHERS) AMENDMENT NO. 3459

Mr. STEVENS (for Mr. McCONNELL for himself, Mr. FORD, and Mr. SHELBY) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Out of the funds available for the Department of Defense under title VI of this Act for chemical agents and munitions, Defense, or the unobligated balances of funds available for chemical agents and munitions destruction, Defense, under any other Act making appropriations for military functions administered by the Department of Defense for any fiscal year, the Secretary of Defense may use not more than $25,000,000 for the Assembled Chemical Weapons Assessment to complete the demonstration of alternatives to baseline incineration for the destruction of chemical agents and munitions and to carry out the pilot program under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104–208; 110 Stat. 3009–101; 50 U.S.C. 1521 note). The amount specified in the preceding sentence is in addition to any other amount that is made available under title VI of this Act to complete the demonstration of the alternatives and to carry out the pilot program: *Provided*, That none of these funds shall be taken from any ongoing operational chemical munition destruction programs.

WELLSTONE AMENDMENT NO. 3460

Mr. STEVENS (for Mr. WELLSTONE) proposed an amendment to the bill, S. 2132, supra; as follows:

At the appropriate place, add the following:

Findings:

child experts estimate that as many as 250,000 children under the age of 18 are currently serving in armed forces or armed groups in more than 30 countries around the world;

contemporary armed conflict has caused the deaths of 2,000,000 minors in the last decade alone, and has left an estimated 6,000,000 children seriously injured or permanently disabled;

children are uniquely vulnerable to military recruitment because of their emotional and physical immaturity, are easily manipulated, and can be drawn into violence that they are too young to resist or understand;

children are most likely to become child soldiers if they are poor, separated from their families, displaced from their homes, living in a combat zone, or have limited access to education;

orphans and refugees are particularly vulnerable to recruitment;

one of the most egregious examples of the use of child soldiers is the abduction of some 10,000 children, some as young as 8 years of age, by the Lord's Resistance Army (in this resolution referred to as the "LRA") in northern Uganda;

the Department of State's Country Reports on Human Rights Practices for 1997 reports that in Uganda the LRA kills, maims, and rapes large numbers of civilians, and forces abducted children into "virtual slavery as guards, concubines, and soldiers";

children abducted by the LRA are forced to raid and loot villages, fight in the front line of battle against the Ugandan army and the Sudan People's Liberation Army (SPLA); serve as sexual slaves to rebel commanders, and participate in the killing of other children who try to escape;

former LRA child captives report witnessing Sudanese government soldiers delivering food supplies, vehicles, ammunition, and arms to LRA base camps in government-controlled southern Sudan;

children who manage to escape from LRA captivity have little access to trauma care and rehabilitation programs, and many find their families displaced, unlocatable, dead, or fearful of having their children return home;

Graca Machel, the former United Nations expert on the impact of armed conflict on children, identified the immediate demobilization of all child soldiers as an urgent priority, and recommended the establishment through an optional protocol to the Convention on the Rights of the Child of 18 as the minimum age for recruitment and participation in armed forces; and

the International Committee of the Red Cross, the United Nations Children's Fund (UNICEF), the United Nations High Commission on Refugees, and the United Nations High Commissioner on Human Rights, as well as many nongovernmental organizations, also support the establishment of 18 as the minimum age for military recruitment and participation in armed conflict:

SEC. 1. (a) The Senate hereby—

(1) deplores the global use of child soldiers and supports their immediate demobilization;

(2) condemns the abduction of Ugandan children by the LRA;

(3) calls on the Government of Sudan to use its influence with the LRA to secure the release of abducted children and to halt further abductions; and

(4) encourages the United States delegation not to block the drafting of an optional protocol to the Convention on the Rights of the Child that would establish 18 as the minimum age for participation in armed conflict.

(b) It is the sense of the Senate that the President and the Secretary of State should—

(1) support efforts to end the abduction of children by the LRA, secure their release, and facilitate their rehabilitation and reintegration into society;

(2) not block efforts to establish 18 as the minimum age for participation in conflict through an optional protocol to the Convention on the Rights of the Child; and

(3) provide greater support to United Nations agencies and nongovernmental organizations working for the rehabilitation and reintegration of former child soldiers into society.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.

FAIRCLOTH AMENDMENT NO. 3461

Mr. STEVENS (for Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Notwithstanding any other provision of law, the Secretary of Defense shall obligate the funds provided for Counterterror Technical Support in the Department of Defense Appropriations Act, 1998 (under title IV of Public Law 105–56) for the projects and in the amounts provided for in House Report 105–265 of the House of Representatives, 105th Congress, first session: *Provided*, That the funds available for the Pulsed Fast Neutron Analysis Project should be executed through cooperation with the Office of National Drug Control Policy.

BENNETT AMENDMENT NO. 3462

Mr. STEVENS (for Mr. BENNETT) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, insert in the appropriate place the following new general provision:

SEC. 8104. Of the funds provided under Title IV of this Act under the heading "Research, Development, Test and Evaluation, Navy", up to $1,000,000 may be made available only for the development and testing of alternate turbine engines for missiles.

GRAMM AMENDMENT NO. 3463

Mr. STEVENS (for Mr. GRAMM) proposed an amendment to the bill, S. 2132, supra; as follows:

At the appropriate place, insert the following:

SEC. . VOTING RIGHTS OF MILITARY PERSONNEL.

(a) GUARANTEE OF RESIDENCY.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 590 et seq.) is amended by adding at the end the following:

"SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

(b) STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.—(1) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(A) by inserting "(a) ELECTIONS FOR FEDERAL OFFICES.—" before "Each State shall—"; and

by adding at the end the following:

(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and run-off elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

(2) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking out "**FOR FEDERAL OFFICE**".

MOSELEY-BRAUN AMENDMENT NO. 3464

Mr. INOUYE (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8014. From amounts made available by this Act, up to $10,000,000 may be available to convert the Eighth Regiment National Guard Armory into a Chicago Military Academy: *Provided*, That the Academy shall provide a 4 year college prepatory curriculum combined with a mandatory JROTC instruction program.

DURBIN AMENDMENT NO. 3465

Mr. DURBIN proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. No funds appropriated or otherwise made available by this Act may be used to initiate or conduct offensive military operations by United States Armed Forces except in accordance with Article I, Section 8 of the Constitution, which vests in Congress the power to declare war and take certain other related actions.

D'AMATO AMENDMENT NO. 3466

Mr. STEVENS (for Mr. D'AMATO) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Air National Guard shall, during the period beginning on April 15, 1999, and ending on October 15, 1999, provide support at the Francis S. Gabreski Airport, Hampton, New York, for seasonal search and rescue mission requirements of the Coast Guard in the vicinity of Hampton, New York.

(b) The support provided under subsection (a) shall include access to and use of appropriate facilities at Francis S. Gabreski Airport, including runways, hangars, the operations center, and aircraft berthing and maintenance spaces.

(c)(1) The adjutant general of the National Guard of the State of New York and the Commandant of the Coast Guard shall enter into a memorandum of understanding regarding the support to be provided under subsection (a).

(2) Not later than December 1, 1998, the adjutant general and the Commandant shall jointly submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a copy of the memorandum of understanding entered into under paragraph (1).

BINGAMAN AMENDMENT NO. 3467

Mr. STEVENS (for Mr. BINGAMAN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to DoD Indian Health Service facilities and to Federally-qualified health centers (within the meaning of section 1905(1)(2)(B) of the Social Security Act (42 U.S.C. 1396d(1)(2)(B))).

(b) Not later than March 15, 1999, the Secretary of Defense shall submit to Congress a report on the program, including the actions taken under the program.

BINGAMAN AMENDMENT NO. 3468

Mr. STEVENS (for Mr. BINGAMAN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Not later than March 15, 1999, the Secretary of Defense shall submit to the Committees on Appropriations and on Armed Services of the Senate and the Committees on Appropriations and on National Security of the House of Representatives a report on the policies, practices, and experience of the uniformed services pertaining to the furnishing of dental care to dependents of members of the uniformed services on active duty who are 18 years of age and younger.

(b) The report shall include (1) the rates of usage of various types of dental services under the health care system of the uniformed services by the dependents, set forth in categories defined by the age and the gender of the dependents and by the rank of the members of the uniformed services who are the sponsors for those dependents, (2) an assessment of the feasibility of providing the dependents with dental benefits (including initial dental visits for children) that conform with the guidelines of the American Academy of Pediatric Dentistry regarding infant oral health care, and (3) an evaluation of the feasibility and potential effects of offering general anesthesia as a dental health care benefit available under TRICARE to the dependents.

DODD AMENDMENT NO. 3469

Mr. STEVENS (for Mr. DODD) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Of the total amount appropriated for the Army, the Army Reserve, and the Army National Guard under title I, $1,700,000 may be available for taking the actions required under this section to eliminate the backlog of unpaid retired pay and to submit a report.

(b) The Secretary of the Army may take such actions as are necessary to eliminate, by December 31, 1998, the backlog of unpaid retired pay for members and former members of the Army (including members and former members of the Army Reserve and the Army National Guard).

(c) Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the backlog of unpaid retired pay. The report shall include the following:

(1) The actions taken under subsection (b).

(2) The extent of the remaining backlog.

(3) A discussion of any additional actions that are necessary to ensure that retired pay is paid in a timely manner.

HARKIN AMENDMENT NO. 3470

Mr. STEVENS (for Mr. HARKIN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense may take such actions as are necessary to ensure the elimination of the backlog of incomplete actions on requests of former members of the Armed Forces for replacement medals and replacements for other decorations that such personnel have earned in the military service of the United States.

(b)(1) The actions taken under subsection (a) may include, except as provided in paragraph (2), allocations of additional resources to improve relevant staffing levels at the Army Reserve Personnel Command, the Bureau of Naval Personnel, and the Air Force Personnel Center, allocations of Department of Defense resources to the National Archives and Records Administration, and any additional allocations of resources that the Secretary considers necessary to carry out subsection (a).

(2) An allocation of resources may be made under paragraph (1) only if and to the extent that the allocation does not detract from the performance of other personnel service and personnel support activities within the Department of Defense.

HARKIN AMENDMENT NO. 3471

Mr. STEVENS (for Mr. HARKIN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Beginning no later than 60 days after enactment, effective tobacco cessation products and counseling may be provided for members of the Armed Forces (including retired members), former members of the Armed Forces entitled to retired or retainer pay, and dependents of such members and former members, who are identified as likely to benefit from such assistance in a manner that does not impose costs upon the individual.

FRIST AMENDMENT NO. 3472

Mr. STEVENS (for Mr. FRIST) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) Of the amounts appropriated by title II of this Act under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", $5,000,000 may be available for procurement of lightweight maintenance enclosures (LME).

(b) Of the amounts appropriated by title III of this Act under the heading "OTHER PROCUREMENT, ARMY", $2,000,000 may be available for procurement of light-weight maintenance enclosures (LME).

DORGAN AMENDMENT NO. 3473

Mr. STEVENS (for Mr. DORGAN) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 10, line 15, before the period, insert the following: ": *Provided further*, that out of the funds available under this heading, $300,000 may be available for the abatement of hazardous substances in housing at the Finley Air Force Station, Finley, North Dakota".

DEWINE AMENDMENT NO. 3474

Mr. STEVENS (for Mr. DEWINE) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104: Of the funds available for Drug Interdiction, up to $8,500,000 may be made available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola, for operation and maintenance for establishment of ground-based radar coverage at Guantanamo Bay Naval Base, Cuba, for procurement of 2 Schweizer observation/spray aircraft, and for upgrades for 3 UH–IH helicopter for Colombia.

WELLSTONE AMENDMENT NO. 3475

Mr. STEVENS (for Mr. WELLSTONE) proposed an amendment to the bill, S. 2132, supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. (a) The Secretary of Defense shall study the policies, procedures, and practices of the military departments for protecting the confidentiality of communications between—

(1) a dependent of a member of the Armed Forces who—

(A) is a victim of sexual harassment, sexual assault, or intrafamily abuse; or

(B) has engaged in such misconduct; and

(2) a therapist, counselor, advocate, or other professional from whom the victim seeks professional services in connection with effects of such misconduct.

(b)(1) The Secretary of Defense shall prescribe in regulations the policies and procedures that the Secretary considers necessary to provide the maximum possible protections for the confidentiality of communications described in subsection (a) relating to misconduct described in that subsection.

(2) The regulations shall provide the following:

(A) Complete confidentiality of the records of the communications of dependents of members of the Armed Forces.

(B) Characterization of the records under family advocacy programs of the Department of Defense as primary medical records for purposes of the protections from disclosure that are associated with primary medical records.

(C) Facilitated transfer of records under family advocacy programs in conjunction with changes of duty stations of persons to whom the records relate in order to provide for continuity in the furnishing of professional services.

(D) Adoption of standards of confidentiality and ethical standards that are consistent with standards issued by relevant professional associations.

(3) In prescribing the regulations, the Secretary shall consider the following:

(A) Any risk that the goals of advocacy and counseling programs for helping victims recover from adverse effects of misconduct will not be attained if there is no assurance that the records of the communications (including records of counseling sessions) will be kept confidential.

(B) The extent, if any, to which a victim's safety and privacy should be factors in determinations regarding—

(i) disclosure of the victim's identity to the public or the chain of command of a member of the Armed Forces alleged to have engaged in the misconduct toward the victim; or

(ii) any other action that facilitates such a disclosure without the consent of the victim.

(C) The eligibility for care and treatment in medical facilities of the uniformed services for any person having a uniformed services identification card (including a card indicating the status of a person as a dependent of a member of the uniformed services) that is valid for that person.

(D) The appropriateness of requiring that so-called Privacy Act statements be presented as a condition for proceeding with the furnishing of treatment or other services by professionals referred to in subsection (a).

(E) The appropriateness of adopting the same standards of confidentiality and ethical standards that have been issued by such professional associations as the American Psychiatric Association and the National Association of Social Workers.

(4) The regulations may not prohibit the disclosure of information to a Federal or State agency for a law enforcement or other governmental purpose.

(c) The Secretary of Defense shall consult with the Attorney General in carrying out this section.

(d) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the actions taken under this section. The report shall include a discussion of the results of the study under subsection (a) and the comprehensive discussion of the regulations prescribed under subsection (b).

ROBB AMENDMENT NO. 3476

Mr. STEVENS (for Mr. ROBB) proposed an amendment to the bill, S. 2132, supra; as follows:

At the appropriate place, insert:

Findings:

On the third of February a United States Marine Corps jet aircraft, flying a low-level training mission out of Aviano, Italy, flew below its prescribed altitude and severed the cables supporting a gondola at the Italian ski resort near Cavalese, resulting in the death of twenty civilians;

The crew of the aircraft, facing criminal charges, is entitled to a speedy trial and is being provided that and all the other protections and advantages of the U.S. system of justice;

The United States, to maintain its credibility and honor amongst its allies and all nations of the world, should make prompt reparations for an accident clearly caused by a United States military aircraft;

A high-level delegation, including the U.S. Ambassador to Italy, recently visited Cavalese and, as a result, 20 million dollars was promised to the people in Cavalese for their property damage and business losses;

Without our prompt action, these families continue to suffer financial agonies, our credibility in the European community continues to suffer, and our own citizens remain puzzled and angered by our lack of accountability;

Under the current arrangement we have with Italy in the context of our Status of Forces Agreement (SOFA), civil claims arising from the accident at Cavalese must be brought against the Government of Italy, in accordance with the laws and regulations of Italy, as if the armed forces of Italy had been responsible for the accident;

Under Italian law, every claimant for property damage, personal injury or wrongful death must file initially an administrative claim for damages with the Ministry of Defense in Rome which is expected to take 12–18 months, and, if the Ministry's offer in settlement is not acceptable, which it is not likely to be, the claimant must thereafter resort to the Italian court system, where civil cases for wrongful death are reported to take up to ten years to resolve;

While under the SOFA process, the United States—as the "sending state"—will be responsible for 75 percent of any damages awarded, and the Government of Italy—as the "receiving state"—will be responsible for 25 percent, the United States has agreed to pay all damages awarded in this case;

It is the Sense of the Congress that the United States should resolve the claims of the victims of the February 8, 1998 U.S. Marine Corps aircraft incident in Cavalese, Italy as quickly and fairly as possible.

LEAHY AMENDMENT NO. 3477

Mr. STEVENS (for Mr. LEAHY) proposed an amendment to the bill, S. 2132, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . TRAINING AND OTHER PROGRAMS.

(a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that a member of such unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—Not more than 90 days after enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall establish procedures to ensure that prior to a decision to conduct any training program referred to in paragraph (a), full consideration is given to all information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in paragraph (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under paragraph (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

KERREY (AND OTHERS) AMENDMENT NO. 3478

Mr. STEVENS (for Mr. KERREY, for himself, Mr. MOYNIHAN, and Mr. BREAUX) proposed an amendment to the bill, S. 2132, supra; as follows:

At the appropriate place, insert:

SECTION 1. SENSE OF THE SENATE REGARDING PAYROLL TAX RELIEF.

(a) FINDINGS.—The Senate finds the following:

(1) The payroll tax under the Federal Insurance Contributions Act (FICA) is the biggest, most regressive tax paid by working families.

(2) The payroll tax constitutes a 15.3 percent tax burden on the wages and self-employment income of each American, with 12.4 percent of the payroll tax used to pay social security benefits to current beneficiaries and 2.9 percent used to pay the medicare benefits of current beneficiaries.

(3) The amount of wages and self-employment income subject to the social security portion of the payroll tax is capped at $68,400. Therefore, the lower a family's income, the more they pay in payroll tax as a percentage of income. The Congressional Budget Office has estimated that for those families who pay payroll taxes, 80 percent

pay more in payroll taxes than in income taxes.

(4) In 1996, the median household income was $35,492, and a family earning that amount and taking standard deductions and exemptions paid $2,719 in Federal income tax, but lost $5,430 in income to the payroll tax.

(5) Ownership of wealth is essential for everyone to have a shot at the American dream, but the payroll tax is the principal burden to savings and wealth creation for working families.

(6) Since 1983, the payroll tax has been higher than necessary to pay current benefits.

(7) Since most of the payroll tax receipts are deposited in the social security trust funds, which masks the real amount of Government borrowing, those whom the payroll tax hits hardest, working families, have shouldered a disproportionate share of the Federal budget deficit reduction and, therefore, a disproportionate share of the creation of the Federal budget surplus.

(8) Over the next 10 years, the Federal Government will generate a budget surplus of $1,550,000,000,000, and all but $32,000,000,000 of that surplus will be generated by excess payroll taxes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) if Congress decides to provide tax relief, reducing the burden of payroll taxes should be a top priority; and

(2) Congress and the President should work to reduce this payroll tax burden on American families.

CURT FLOOD ACT OF 1998

HATCH AMENDMENT NO. 3479

Mr. JEFFORDS (for Mr. HATCH) proposed an amendment to the bill (S. 53) to require the general application of the antitrust laws to major league baseball, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Curt Flood Act of 1998."

SEC. 2. PURPOSE.

It is the purpose of this legislation to state that major league baseball players are covered under the antitrust laws (*i.e*, that major league baseball players will have the same rights under the antitrust laws as do other professional athletes, *e.g.*, football and basketball players), along with a provision that makes it clear that the passage of this Act does not change the application of the antitrust laws in any other context or with respect to any other person or entity.

SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO PROFESSIONAL MAJOR LEAGUE BASEBALL.

The Clayton Act (15 U.S.C. §12 et seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) Subject to subsections (b) through (d) below, the conduct, acts, practices or agreements of persons in the business of organized professional major league baseball directly relating to or affecting employment of major league baseball players to play baseball at the major league level are subject to the antitrust laws to the same extent such conduct, acts, practices or agreements would be subject to the antitrust laws if engaged in by persons in any other professional sports business affecting interstate commerce.

"(b) No court shall rely on the enactment of this section as a basis for changing the application of the antitrust laws to any conduct, acts, practices or agreements other than those set forth in subsection (a). This section does not create, permit or imply a cause of action by which to challenge under the antitrust laws, or otherwise apply the antitrust laws to, any conduct, acts, practices or agreements that do not directly related to or affect employment of major league baseball players to play baseball at the major league level, including but not limited to:

"(1) any conduct, acts, practices or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting employment to play baseball at the minor league level, any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players;

"(2) the agreement between organized professional major league baseball teams and the teams of the National Association of Professional Baseball Leagues, commonly known as the "Professional Baseball Agreement," the relationship between organized professional major league baseball and organized professional minor league baseball, or any other matter relating to organized professional baseball's minor leagues;

"(3) any conduct, acts, practices or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting franchise expansion, location or relocation, franchise ownership issues, including ownership transfers, the relationship between the Office of the Commissioner and franchise owners, the marketing or sales of the entertainment product of organized professional baseball and the licensing of intellectual property rights owned or held by organized professional baseball teams individually or collectively;

"(4) any conduct, acts, practices or agreements protected by Public Law 87–331 (15 U.S.C. §1291 et seq.) (commonly known as "the Sports Broadcasting Act of 1961");

"(5) the relationship between persons in the business of organized professional baseball and umpires or other individuals who are employed in the business of organized professional baseball by such persons; or

"(6) any conduct, acts, practices or agreements of persons not in the business of organized professional major league baseball.

"(c) Only a major league baseball player has standing to sue under this section. For the purposes of this section, a major league baseball player is:

"(1) a person who is a party to a major league player's contract, or is playing baseball at the major league level; or

"(2) a person who was a party to a major league player's contract or playing baseball at the major league level at the time of the injury that is the subject of the complaint; or

"(3) a person who has been a party to a major league player's contract or who has played baseball at the major league level, and who claims he has been injured in his efforts to secure a subsequent major league player's contract by an alleged violation of the antitrust laws, provided however, that for the purposes of this paragraph, the alleged antitrust violation shall not include any conduct, acts, practices or agreements of persons in the business of organized professional baseball relating to or affect employment to play baseball at the minor league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

"(4) a person who was a party to a major league player's contract or who was playing baseball at the major league level at the conclusion of the last full championship season immediately preceding the expiration of the last collective bargaining agreement between persons in the business of organized professional major league baseball and the exclusive collective bargaining representative of major league baseball players.

"(d)(1) As used in this section, "person" means any entity, including an individual, partnership, corporation, trust or unincorporated association or any combination or association thereof. As used in this section, the National Association of Professional Baseball Leagues, its member leagues and the clubs of those leagues, are not "in the business of organized professional major league baseball."

"(2) In cases involving conduct, acts, practices or agreements that directly relate to or affect both employment of major league baseball players to play baseball at the major league level and also relate to or affect any other aspect of organized professional baseball, including but not limited to employment to play baseball at the minor league level and the other areas set forth in subsection (b) above, only those components, portions or aspects of such conduct, acts, practices or agreements that directly relate to or affect employment of major league players to play baseball at the major league level may be challenged under subsection (a) and then only to the extent that they directly relate to or affect employment of major league baseball players to play baseball at the major league level.

"(3) As used in subsection (a), interpretation of the term 'directly' shall not be governed by any interpretation of 29 U.S.C. §151 et seq. (as amended).

"(4) Nothing in this section shall be construed to affect the application to organized professional baseball of the nonstatutory labor exemption from the antitrust laws.

"(5) The scope of the conduct, acts, practices or agreements covered by subsection (b) shall not be strictly or narrowly construed.

IDENTITY THEFT AND ASSUMPTION DETERRENCE ACT OF 1998

KYL (AND OTHERS) AMENDMENT NO. 3480

Mr. JEFFORDS (for Mr. KYL for himself, Mr. LEAHY, Mr. HATCH, Mrs. FEINSTEIN, Mr. DEWINE, Mr. D'AMATO, Mr. GRASSLEY, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. HARKIN, Mr. WARNER, Mr. MURKOWSKI, and Mr. ROBB) proposed an amendment to the bill (S. 512) to amend chapter 47 of title 18, United State Code, relating to fraud, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Identity Theft and Assumption Deterrence Act of 1998".

SEC. 2. IDENTITY THEFT.

(a) Establishment of Offense.—Section 1028(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by adding "or" at the end;

(3) in the flush matter following paragraph (6), by striking "or attempts to do so,"; and

(4) by inserting after paragraph (6) the following:

"(7) knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or otherwise promote, carry on, or facilitate any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law;".

(b) Penalties.—Section 1028(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by adding "or" at the end; and

(C) by adding at the end the following:

"(D) an offense under paragraph (7) of such subsection that involves the transfer or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating $1,000 or more during any 1-year period;";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "or transfer of an identification document or" and inserting "transfer, or use of a means of identification, an identification document, or a"; and

(B) in subparagraph (B), by inserting "or (7)" after "(3)";

(3) by striking paragraphs (3) and (4) and inserting the following:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

"(A) to facilitate a drug trafficking crime (as defined in section 929(a)(2)); or

"(B) after a prior conviction under this section becomes final;

"(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed—

"(A) to facilitate an act of international terrorism (as defined in section 2331(1)); or

"(B) in connection with a crime of violence (as defined in section 924(c)(3));";

(4) by redesignating paragraph (5) as paragraph (6); and

(5) by inserting after paragraph (4) (as added by paragraph (3) of this subsection) the following:

"(5) in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and".

(c) Circumstances.—Section 1028(c) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) either—

"(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce; or

"(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.".

(d) Definitions.—Section 1028 of title 18, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) Definitions.—In this section:

"(1) Document-making implement.—The term 'document-making implement' means any implement, impression, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement.

"(2) Identification document.—The term 'identification document' means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"(3) Means of identification.—The term 'means of identification' means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—

"(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

"(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

"(C) unique electronic identification number, address, or routing code; or

"(D) telecommunication identifying information or access device (as defined in section 1029(e)).

"(4) Personal identification card.—The term 'personal identification card' means an identification document issued by a State or local government solely for the purpose of identification.

"(5) Produce.—The term 'produce' includes alter, authenticate, or assemble.

"(6) State.—The term 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.".

(e) Attempt and Conspiracy.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(f) Attempt and Conspiracy.—Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

(f) Forfeiture Procedures.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(g) Forfeiture Procedures.—The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).".

(g) Rule of Construction.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(h) Rule of Construction.—For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.".

(h) Conforming Amendments.—Chapter 47 of title 18, United States Code, is amended—

(1) in section 1028, by striking "or attempts to do so,";

(2) in the heading for section 1028, by adding "**and information**" at the end; and

(3) in the analysis for the chapter, in the item relating to section 1028, by adding "and information" at the end.

SEC. 3. RESTITUTION.

Section 3663A of title 18, United States Code, is amended—

(1) in subsection (c)(1)(A)—

(A) in clause (ii), by striking "or" at the end;

(B) in clause (iii), by striking "and" at the end and inserting "or"; and

(C) by adding at the end the following:

"(iv) an offense described in section 1028 (relating to fraud and related activity in connection with means of identification or identification documents); and"; and

(2) by adding at the end the following:

"(e) Fraud and Related Activity in Connection With Identification Documents and Information.—Making restitution to a victim under this section for an offense described in section 1028 (relating to fraud and related activity in connection with means of identification or identification documents) may include payment for any costs, including attorney fees, incurred by the victim, including any costs incurred—

"(1) in clearing the credit history or credit rating of the victim; or

"(2) in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.".

SEC. 4. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR OFFENSES UNDER SECTION 1028.

(a) In General.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate penalty for each offense under section 1028 of title 18, United States Code, as amended by this Act.

(b) Factors for Consideration.—In carrying out subsection (a), the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) the extent to which the number of victims (as defined in section 3663A(a) of title 18, United States Code) involved in the offense, including harm to reputation, inconvenience, and other difficulties resulting from the offense, is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(2) the number of means of identification, identification documents, or false identification documents (as those terms are defined in section 1028(d) of title 18, United States Code, as amended by this Act) involved in the offense, is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(3) the extent to which the value of the loss to any individual caused by the offense is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(4) the range of conduct covered by the offense;

(5) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to sentence above the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(6) the extent to which Federal sentencing guidelines sentences for the offense have been constrained by statutory maximum penalties;

(7) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code; and

(8) any other factor that the United States Sentencing Commission considers to be appropriate.

SEC. 5. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF IDENTITY THEFT.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall establish procedures to—

(1) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully acquired in violation of section 1028 of title 18, United States Code, as amended by this Act;

(2) provide informational materials to individuals described in paragraph (1); and

(3) refer complaints described in paragraph (1) to appropriate entities, which may include referral to—

(A) the 3 major national consumer reporting agencies; and

(B) appropriate law enforcement agencies for potential law enforcement action.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) Technical Correction Relating to Criminal Forfeiture Procedures.—Section 982(b)(1) of title 18, United States Code, is amended to read as follows: "(1) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).".

(b) Economic Espionage and Theft of Trade Secrets as Predicate Offenses For Wire Interception.—Section 2516(1)(a) of title 18, United States Code, is amended by inserting "chapter 90 (relating to protection of trade secrets)," after "to espionage),".

BORDER IMPROVEMENT AND IMMIGRATION ACT OF 1998

ABRAHAM AMENDMENT NO. 3481

Mr. JEFFORDS (for Mr. Abraham) proposed an amendment to the bill (S. 1360) to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Improvement and Immigration Act of 1998".

SEC. 2. AMENDMENT OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.

(a) In General.—Section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended to read as follows:

"(a) System.—

"(1) In general.—Subject to paragraph (2), not later than 2 years after the date of enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

"(A) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States; and

"(B) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

"(2) Exception.—The system under paragraph (1) shall not collect a record of arrival or departure—

"(A) at a land border or seaport of the United States for any alien; or

"(B) for any alien for whom the documentary requirements in section 212(a)(7)(B) of the Immigration and Nationality Act have been waived by the Attorney General and the Secretary of State under section 212(d)(4)(B) of the Immigration and Nationality Act.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) Requirement.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the feasibility of developing and implementing an automated entry-exit control system that would collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

(b) Contents of Report.—Such report shall—

(1) assess the costs and feasibility of various means of operating such an automated entry-exit control system, including exploring—

(A) how, if the automated entry-exit control system were limited to certain aliens arriving at airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(B) the feasibility of the Attorney General, in consultation with the Secretary of State, negotiating reciprocal agreements with the governments of contiguous countries to collect such information on behalf of the United States and share it in an acceptable automated format;

(2) consider the various means of developing such a system, including the use of pilot projects if appropriate, and assess which means would be most appropriate in which geographical regions;

(3) evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and

(4) estimate the length of time that would be required for any such system to be developed and implemented.

SEC. 4. ANNUAL REPORTS ON ENTRY-EXIT CONTROL AND USE OF ENTRY-EXIT CONTROL DATA.

(a) Annual Reports on Implementation of Entry-Exit Control at Airports.—Not later than 30 days after the end of each fiscal year until the fiscal year in which Attorney General certifies to Congress that the entry-exit control system required by section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 2 of this Act, has been developed, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that—

(1) provides an accurate assessment of the status of the development of the entry-exit control system;

(2) includes a specific schedule for the development of the entry-exit control system that the Attorney General anticipates will be met; and

(3) includes a detailed estimate of the funding, if any, needed for the development of the entry-exit control system.

(b) Annual Reports on Visa Overstays Identified Through the Entry-Exit Control System.—Not later than June 30 of each year, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report that sets forth—

(1) the number of arrival records of aliens and the number of departure records of aliens that were collected during the preceding fiscal year under the entry-exit control system under section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as so amended, with a separate accounting of such numbers by country of nationality;

(2) the number of departure records of aliens that were successfully matched to records of such aliens' prior arrival in the United States, with a separate accounting of such numbers by country of nationality and by classification as immigrant or nonimmigrant; and

(3) the number of aliens who arrived as nonimmigrants, or as visitors under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the system, or through other means, as of the end of such aliens' authorized period of stay, with an accounting by country of nationality and approximate date of arrival in the United States.

(c) Incorporation into Other Databases.—Information regarding aliens who have remained in the United States beyond their authorized period of stay that is identified through the system referred to in subsection (a) shall be integrated into appropriate databases of the Immigration and Naturalization Service and the Department of State, including those used at ports-of-entry and at consular offices.

SEC. 5. BORDER CROSSING-RELATED VISAS.

(a) Waiver of Fees for Certain Visas.—

(1) Requirement.—Notwithstanding any other provision of law, the Secretary of State or the Attorney General may waive all or part of any fee or fees for the processing of any application for the issuance of a combined border crossing identification card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act where the application is made in Mexico on behalf of a Mexican national under 15 years old at the time of application.

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the visa shall be issued to expire on the earlier of—

(i) the date that is 10 years after the date of issuance; or

(ii) the date on which the child attains the age of 15.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State or the Attorney General may charge a fee for the processing of an application of the issuance of a combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) LEVEL OF FEES.—Notwithstanding any other provision of law, fees authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (8 U.S.C. 1351 note) may be set at a level that will ensure recovery of the full cost to the Department of State of providing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas, including the cost of such combined cards and visas for which the fee is waived pursuant to this subsection.

(b) MODIFIED SCHEDULE FOR IMPLEMENTATION OF BORDER CROSSING RESTRICTIONS.—

(1) MODIFIED SCHEDULE.—Paragraph (2) of section 104(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–555; 8 U.S.C. 1101 note) is amended to read as follows:

"(2) CLAUSE B.—Clause (B) of such sentence shall apply to the extent that inspections personnel and technology in operation at the port of entry can verify information from the card. For the replacement of existing border crossing identification cards, clause (B) of such sentence shall apply in accordance with the timetable as follows:

"(A) As of October 1, 2000, to not less than 25 percent of the border crossing identification cards in circulation as of April 1, 1998.

"(B) As of October 1, 2001, to not less than 50 percent of such cards in circulation as of April 1, 1998.

"(C) As of October 1, 2002, to not less than 75 percent of such cards in circulation as of April 1, 1998.

"(D) As of October 1, 2003, to all such cards in circulation as of April 1, 1998.".

(2) EARLIER DEADLINES.—Such section 104(b) is further amended by adding at the end the following:

"(3) EARLIER DEADLINES.—If the Secretary of State and the Attorney General jointly determine that sufficient capacity exists to replace border crossing identification cards in advance of any of the deadlines otherwise provided for under paragraph (2), the Secretary and the Attorney General may by regulation advance such deadlines.".

(c) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2000, to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR BORDER CONTROL AND ENFORCEMENT ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) AUTHORIZATION.—In order to enhance enforcement and inspection resources on the land borders of the United States, enhance investigative resources for anticorruption efforts and efforts against drug smuggling and money-laundering organizations, reduce commercial and passenger traffic waiting times, and open all primary lanes during peak hours at major land border ports of entry on the Southwest and Northern land borders of the United States, in addition to any other amounts appropriated, there are authorized to be appropriated for salaries, expenses, and equipment for the Immigration and Naturalization Service for purposes of carrying out this section—

(1) $119,604,000 for fiscal year 1999;

(2) $123,064,000 for fiscal year 2000; and

(3) such sums as may be necessary in each fiscal year thereafter.

(b) USE OF CERTAIN FISCAL YEAR 1999 FUNDS.—Of the amounts authorized to be appropriated under subsection (a)(1) for fiscal year 1999 for the Immigration and Naturalization Service, $19,090,000 shall be available until expended for acquisition and other expenses associated with implementation and full deployment of narcotics enforcement and other technology along the land borders of the United States, including—

(1) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging to be distributed to border patrol checkpoints and in secondary inspection areas of land border ports-of-entry;

(2) $200,000 for 10 ultrasonic container inspection units to be distributed to border patrol checkpoints and in secondary inspection areas of land border ports-of-entry;

(3) $240,000 for 10 Portable Treasury Enforcement Communications System (TECS) terminals to be distributed to border patrol checkpoints;

(4) $5,000,000 for 20 remote watch surveillance camera systems to be distributed to border patrol checkpoints and at secondary inspection areas of land border ports-of-entry;

(5) $180,000 for 36 AM radio "Welcome to the United States" stations located at permanent border patrol checkpoints and at secondary inspection areas of land border ports-of-entry;

(6) $875,000 for 36 spotter camera systems located at permanent border patrol checkpoints and at secondary inspection areas of land border ports-of-entry; and

(7) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to border patrol checkpoints and at secondary inspection areas of land border ports-of-entry.

(c) USE OF CERTAIN FUNDS AFTER FISCAL YEAR 1999.—Of the amounts authorized to be appropriated under paragraphs (2) and (3) of subsection (a) for the Immigration and Naturalization Service for fiscal year 2000 and each fiscal year thereafter, $4,773,000 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (b), based on an estimate of 25 percent of the cost of such equipment.

(d) USE OF FUNDS FOR NEW TECHNOLOGIES.—

(1) IN GENERAL.—The Attorney General may use the amounts authorized to be appropriated for equipment under this section for equipment other than the equipment specified in subsection (b) if such other equipment—

(A)(i) is technologically superior to the equipment specified in subsection (b); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment specified in subsection (b); or

(B) can be obtained at a lower cost than the equipment authorized in subsection (b).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Attorney General may reallocate an amount not to exceed 10 percent of the amount specified in paragraphs (1) through (7) of subsection (b) for any other equipment specified in subsection (b).

(e) PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT.—Of the amounts authorized to be appropriated under paragraphs (1) and (2) of subsection (a) for the Immigration and Naturalization Service for fiscal years 1999 and 2000, $100,514,000 in fiscal year 1999 and $121,555,000 for fiscal year 2000 shall be for—

(1) a net increase of 535 inspectors for the Southwest land border and 375 inspectors for the Northern land border, in order to open all primary lanes on the Southwest and Northern borders during peak hours and enhance investigative resources;

(2) in order to enhance enforcement and reduce waiting times, a net increase of 100 inspectors and canine enforcement officers for border patrol checkpoints and ports-of-entry, as well as 100 canines and 5 canine trainers;

(3) 100 canine enforcement vehicles to be used by the Immigration and Naturalization Service for inspection and enforcement at the land borders of the United States;

(4) a net increase of 40 intelligence analysts and additional resources to be distributed among border patrol sectors that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations;

(5) a net increase of 68 positions and additional resources to the Office of the Inspector General of the Department of Justice to enhance investigative resources for anticorruption efforts; and

(6) the costs incurred as a result of the increase in personnel hired pursuant to this section.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR BORDER CONTROL AND ENFORCEMENT ACTIVITIES OF THE UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATION.—In order to enhance border investigative resources on the land borders of the United States, enhance investigative resources for anticorruption efforts, intensify efforts against drug smuggling and money-laundering organizations, process cargo, reduce commercial and passenger traffic waiting times, and open all primary lanes during peak hours at certain ports on the Southwest and Northern borders, in addition to any other amount appropriated, there are authorized to be appropriated for salaries, expenses, and equipment for the United States Customs Service for purposes of carrying out this section—

(1) $161,248,584 for fiscal year 1999;

(2) $185,751,328 for fiscal year 2000; and

(3) such sums as may be necessary in each fiscal year thereafter.

(b) USE OF CERTAIN FISCAL YEAR 1999 FUNDS.—Of the amounts authorized to be appropriated under subsection (a)(1) for fiscal year 1999 for the United States Customs Service, $48,404,000 shall be available until expended for acquisition and other expenses associated with implementation and full deployment of narcotics enforcement and cargo processing technology along the land borders of the United States, including—

(1) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS);

(2) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging;

(3) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV);

(4) $7,200,000 for 8 1–MeV pallet x-rays;

(5) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate;

(6) $600,000 for 50 contraband detection kits to be distributed among border ports based on traffic volume and need as identified by the Customs Service;

(7) $500,000 for 25 ultrasonic container inspection units to be distributed among ports receiving liquid-filled cargo and ports with a hazardous material inspection facility, based on need as identified by the Customs Service;

(8) $2,450,000 for 7 automated targeting systems;

(9) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat;

(10) $480,000 for 20 Portable Treasury Enforcement Communications System (TECS) terminals to be moved among ports as needed;

(11) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured, based on need as identified by the Customs Service;

(12) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports on the Southwest border with the greatest volume of outbound traffic;

(13) $180,000 for 36 AM radio "Welcome to the United States" stations, with one station to be located at each border crossing point on the Southwest border;

(14) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane on the Southwest border;

(15) $950,000 for 38 spotter camera systems to counter the surveillance of Customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring;

(16) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry on the Southwest border;

(17) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing on the Southwest border; and

(18) $400,000 for license plate reader automatic targeting software to be installed at each port on the Southwest border to target inbound vehicles.

(c) USE OF CERTAIN FUNDS AFTER FISCAL YEAR 1999.—Of the amounts authorized to be appropriated under paragraphs (2) and (3) of subsection (a) for the United States Customs Service for fiscal year 2000 and each fiscal year thereafter, $4,840,400 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (b), based on an estimate of 10 percent of the cost of such equipment.

(d) USE OF FUNDS FOR NEW TECHNOLOGIES.—

(1) IN GENERAL.—The Commissioner of Customs may use the amounts authorized to be appropriated for equipment under this section for equipment other than the equipment specified in subsection (b) if such other equipment—

(A)(i) is technologically superior to the equipment specified in subsection (b); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment specified in subsection (b); or

(B) can be obtained at a lower cost than the equipment authorized in paragraphs (1) through (18) of subsection (b).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of the amount specified in paragraphs (1) through (18) of subsection (b) for any other equipment specified in such paragraphs.

(e) PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT.—Of the amounts authorized to be appropriated under paragraphs (1) and (2) of subsection (a) for the United States Customs Service for fiscal years 1999 and 2000, $112,844,584 in fiscal year 1999 and $180,910,928 for fiscal year 2000 shall be for—

(1) a net increase of 535 inspectors and 60 special agents for the Southwest border and 375 inspectors for the Northern border, in order to open all primary lanes on the Southwest and Northern borders during peak hours and enhance investigative resources;

(2) a net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the land borders of the United States;

(3) a net increase of 360 special agents, 40 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations;

(4) a net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts; and

(5) the costs incurred as a result of the increase in personnel hired pursuant to this section.

COMMERCIAL SPACE ACT OF 1998

FRIST AMENDMENT NO. 3482

Mr. JEFFORDS (for Mr. FRIST) proposed an amendment to the bill (H.R. 1702) to encourage the development of a commercial space industry in the United States, and for other purposes; as follows:

On page 46, between lines 1 and 2, strike the item relating to section 306 and insert the following:

Sec. 306. National launch capability study.

On page 87, beginning in line 21, strike "Government, if except as provided in paragraph (2), at least 30 days before such conversion" and inserting "Government if, except as provided in paragraph (2) and at least 30 days before such conversion,".

On page 88, beginning in line 3, strike "shall ensure in writing" and insert "a certification."

On page 89, line 7, strike "CAPABILITY" and insert "CAPABILITY STUDY.".

On page 91, strike lines 9 through 16 and insert the following:

(ii) the ability to support commercial launch-on-demand on short notification at national launch sites or test ranges;

On page 91, line 18, insert "and" after the semicolon.

On page 91, line 23, strike "(A);" and insert "(A).".

On page 91, between lines 23 and 24, insert the following:

(3) QUINQUENNIAL UPDATES.—The Secretary shall update the report required by paragraph (1) quinquennially beginning with 2012.

(d) RECOMMENDATIONS.—Based on the reports under subsection (c), the Secretary, after consultation with the Secretary of Transportation, the Secretary of Commerce, and representatives from interested private sector entities, States, and local governments, shall—

Reset the matter appearing on page 91, beginning with line 24 through line 22 on page 92, 2 ems closer to the left margin.

On page 91, line 24, strike "(E)" and insert "(1)".

On page 92, line 5, strike "(F)" and insert "(2)".

On page 92, beginning in line 6, strike "subparagraph (D)," and insert "subsection (c)(2)(D),".

On page 92, line 12, strike "(i)" and insert "(A)".

On page 92, line 13, strike "(ii)" and insert "(B)".

On page 92, line 15, strike "(iii)" and insert "(C)".

On page 92, line 17, strike "(iv)" and insert "(D)".

On page 92, line 18, strike "clauses (i) through (iii);" and insert "subparagraphs (A) through (C);".

On page 92, line 19, strike "(G)" and insert "(3)".

On page 92, beginning in line 21, strike "launch sites in the United States cost-competitive on an international level." and insert "national ranges in the United States viable and competitive.".

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Friday, July 31, 1998 at 9:00 a.m. in SR–328A. The purpose of this meeting will be to review pending nominations to the U.S. Department of Agriculture and the Commodity Futures Trading Commission.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, July 30, 1998. The purpose of this meeting will be to examine a recent concept release by CFTC on over-the-counter derivatives and related legislation proposed by the Treasury Department, the Board of Governors of the Federal Reserve System and the SEC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet in executive session during the session of the Senate on Thursday, July 30, 1998, to conduct a mark-up of S. 1405, the "Financial Regulatory Relief and Economic Efficiency Act of 1997".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STEVENS. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing to receive testimony from Romulo L. Diaz, Jr., nominated by the President to be an Assistant Administrator for Administration and Resources Management of the Environmental Protection Agency, and J. Charles Fox, nominated by the President to be an Assistant Administrator for Water of the Environmental Protection Agency, Thursday, July 30, 1998, 2:00 p.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. STEVENS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, July 30, 1998 beginning at 10:00 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent on behalf of the Committee on Governmental Affairs to meet on Thursday, July 30, 1998, at 10:00 a.m. for a hearing on Observations on the Census Dress Rehearsal and Implications for Census 2000.

The PRESIDING Officer. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, July 30, 1998, at 9:30 a.m., in room 226, of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 30, 1998 at 1:00 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: "Judicial Nominations."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Thursday, July 30, 1998 at 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct an oversight hearing on the Nuclear Regulatory Commission Thursday, July 30, 1998, at 9:00 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 30, 1998, at 9:30 a.m. on international satellite reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HARNESSING AMERICAN IDEALS

• Mr. DURBIN. Mr. President, I submit an article to be printed in the RECORD. I thought it would be beneficial for my colleagues to learn about the success that the AmeriCorps program has had among my constituents in Illinois. These are only a few stories about the positive impact that this program has had on people who live in often under served communities in the Chicago area.

The article follows:

[From the Chicago Sun-Times, July 3, 1998]

HARNESSING AMERICAN IDEALS

[By Michael Gillis]

In Uptown, they teach Asian immigrants English and help them adjust to life in the United States.

In Ford Heights, they help low-income parents become better teachers of their own children.

In neighborhoods throughout the Chicago area, they teach adults how to read, tutor students after school, counsel battered women, teach first aid and help communities right themselves.

Four years after President Clinton's Americorps project was launched amid a flurry of publicity, its workers are toiling away in relative obscurity. While some still criticize the program for its cost, supporters say it is changing the city in small, but important, ways.

"We never say we're going to change a community in a year," said Craig Huffman, executive director of City Year Chicago, which employed about 50 Americorps workers last year and this week received funding to hire about 55 workers starting in the fall.

"But far too many people use the excuse that problems are insurmountable. . . . You have to think about solving a problem, even when everyone else is saying it can't be solved."

Americorps workers say they're more than worth the money they're paid.

"I realized the impact that one person can have in a lot of lives," said Lisa Novak, 23, of Flossmoor, who taught CPR and first aid to thousands of Chicago public school students in the last year as one of the 13 Americorps workers for the American Red Cross of Greater Chicago.

That's the kind of idealism Clinton sought to harness when he proposed the Americorps program during his 1992 presidential campaign. Lawmakers passed Clinton's pet project in 1993, and Clinton signed the bill using the pens Franklin D. Roosevelt and John F. Kennedy used to create the Civilian Conservation Corps and the Peace Corps.

Under the program, which is run by a public-private partnership called the Corporation for Public Service, students earn $4,725 to apply toward college tuition or student loans by completing a year of community service work. They also earn living allowances of about $7,400 a year and health care and child day care benefits.

About 90,000 people have served in the program since it started in 1993. More than $1.7 billion has been spent on or committed to the program so far, including $400 million set aside for education awards.

This year, Illinois has about 500 Americorps workers. About 450 are expected next year.

According to the Corporation for National Service, Americorps workers last year tutored more than 500,000 youth, mentored 95,000 more, created 3,100 safety patrols, built or rehabilitated 5,600 homes, placed 32,000 homeless people in permanent housing and recruited more than 300,000 volunteers.

Many Republicans, including House Speaker Newt Gingrich (R–Ga.), oppose the national service program. Gingrich told Newsweek magazine in 1995 that he was "totally, unequivocally opposed to national service. . . . It is coerced volunteerism. It's a gimmick."

Critics also question whether the program is worth the expense, but officials at the corporation say they try to fund programs that get the most bang for the buck. The program uses strict standards to ensure funded programs produce results that can be measured—say, the number of children tutored or the number of homes rehabilitated.

And they argue that the program represents a way for Washington to help communities help themselves—an argument tailor-made for Republicans who advocate decentralizing government.

"Right now there is a consensus in Washington that Washington cannot solve every problem and that we have to look at ways to strengthen local communities so they can take on the needs that are specific to their communities," said Tara Murphy, the director of public affairs for the corporation. "That's exactly what this program does." Two-thirds of the funds go straight to state commissions, made up of members appointed by the governors, she said. Those commissions decide which agencies get the money, and the agencies recruit and deploy the workers, she said.

Agencies that were awarded grants this week to hire Americorps workers don't question whether the program is worth the expense.

"It's definitely worth it," said Pat Clay, the director of the program at the Aunt Martha's Youth Services Center of Park Forest, where 10 Americorps workers teach low-income parents how to instruct their preschool children.

"To see the smile on a child's face, to hear a parent say, 'My child tested very well in a preschool screening test'—that makes it worthwhile. You are investing in a child's future for life.

Aunt Martha's hires its Americorps workers from the communities the program serves—in this case, Ford Heights and Chicago Heights.

The Uptown-based Asian Human Services agency, which will hire about 14 workers to aid Asian refugees and immigrants this year, does the same.

Ralph Hardy, the director of programs at Asian Human Services, said he believes the program is inspiring Americorps workers to a career in public service.

"The outcome of the program will be best seen down the road, say 10 or 15 years from now, after a whole generation has gone through it," he said, "We've seen it here—we have workers who will go into some sort of community-based career."

That's what Trina Poole, 25, plans to do. Poole, one of six Americorps workers at Family Rescue, a community service agency in South Shore for victims of domestic violence, answers the agency's crisis line and helps arrange services for callers.

A victim of domestic violence herself, Poole said she hopes to be hired for a permanent position to continue providing to women and children the services she never received.

"It's a healing process for me to help as many women as possible," she said. "I'm not doing this for the money. I'm doing it to help the community."

Becky Nieves, 21, of Hanover Park, an Americorps worker for City Year who helped run an after-school program on gardening and environment, said she learned how much she meant to her students at the end of the year.

"When it's over and you say your goodbyes, and the kids tell you what they learned, that's when you know you've made a difference," she said.•

CBO COST ESTIMATE ON S. 1283

• **Mr. D'AMATO.** Mr. President, the Committee on Banking, Housing, and Urban Affairs reported S. 1283, the "Little Rock Nine Congressional Gold Medal Act" on Friday, June 26, 1998. The Committee report, S. 105–245, was filed on Friday, July 10, 1998.

The Congressional Budget Office cost estimate required by Senate Rule XXVI, section 11(b) of the Standing Rules of the Senate and section 403 of the Congressional Budget Impoundment and Control Act, was not available at the time of filing and, therefore, was not included in the Committee Report. Instead, the Committee indicated the Congressional Budget Office cost estimate would be published in the CONGRESSIONAL RECORD when it became available.

Mr. President, I ask that the full statement and cover letter from the Congressional Budget Office regarding S. 1283 be printed in the RECORD.

The material follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 23, 1998.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1283, an act to award congressional gold medals to the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1283—An act to award congressional gold medals to the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas

S. 1283 would authorize the President to present gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, referred to as the "Little Rock Nine," on behalf of the Congress. To help recover the costs of the gold medals, the legislation would authorize the U.S. Mint to strike and sell bronze duplicates of the medals at a price that covers production costs for both the medals and the duplicates.

Based on the costs of recent medals produced by the Mint, CBO estimates that authorizing the gold medals would increase direct spending from the U.S. Mint Public Enterprise Fund by about $65,000 in fiscal year 1999, largely to cover the cost of the gold for each medal. The Mint could recoup some of those costs by selling bronze duplicates to the public; however, based on the sales of duplicates in previous cases, we expect that the proceeds from the duplicates would not cover the cost of the medals.

In addition to authorizing the gold medals, the legislation would allow the Mint to continue selling coins commemorating Jackie Robinson through the end of this calendar year. CBO estimates that extending the time by which the Mint can sell these coins would increase collections to the Mint by about $1 million over fiscal years 1998 and 1999. (The Mint's authority to sell the coins expired on July 1.) According to the Mint, it has close to 80,000 coins in its inventory. If the Mint were to sell all of its remaining inventory, it would generate between $3 million and $5 million in additional collections, net of surcharges that must be paid to the Jackie Robinson Foundation, a nonprofit organization. That range depends on whether the Mint would sell some or all of the coins in bulk at a discounted price. Based on the sales of previous commemorative coin programs and because the coins were available already for purchase by the public, CBO expects that the Mint would sell far less than the amount of its remaining inventory. In any event, because the Mint can retain and spend the additional collections on other commercial activities, CBO estimates that the provision would have no net budgetary impact over time.

S. 1283 would affect direct spending, so pay-as-you-go procedures would apply. S. 1283 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact is John R. Righter. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.•

CHEYENNE RIVER SIOUX TRIBE EQUITABLE COMPENSATION ACT OF 1998

• **Mr. JOHNSON.** Mr. President, I rise today to express my support as a cosponsor of S. 1905, the Cheyenne River Sioux Tribe Equitable Compensation Act of 1998. This extremely important issue is the highest priority for the Cheyenne River Sioux tribe and will have a positive and lasting impact on the Cheyenne River reservation community and the entire State of South Dakota. I have worked closely with the Indian Affairs Committee to insure that this legislation protects the future interests of tribal members, and I am pleased that the bill reported by the Committee reflects these concerns. I am committed to seeing that the bill receive strong Senate support, and look forward to working with my colleagues to ensure that the bill moves forward for approval by the full Senate.

The Cheyenne River Sioux Tribe Equitable Compensation Act would establish a trust fund within the Department of the Treasury for the development of certain tribal infrastructure projects for the Cheyenne River Tribe as compensation for lands lost to federal public works projects. The trust fund would be capitalized from a small percentage of hydropower revenues and would be capped at $290 million. Independent research has concluded that the economic loss to the tribe justifies such a compensation fund. The tribe would then receive the interest from the fund to be used according to a development plan based on legislation previously passed by Congress, and prepared in conjunction with the Bureau of Indian Affairs and the Indian Health Service.

This type of funding mechanism has seen unanimous support in the Congress though recent passage of the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act as well as the Crow Creek legislation passed last Congress. Precedent for these infrastructure development trust funds capitalized through hydro-power revenue was established with the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act of 1992, which set up a recovery fund financed entirely from a percentage of Pick-Sloan power revenues to compensate the tribes for lands lost to Pick-Sloan.

I believe it is important for the Senate to understand the historic context of this proposed compensation. As you may know, the Flood Control Act of

1944 created five massive earthen dams along the Missouri River. Known as the Pick-Sloan Plan, this public works project has since provided much-needed flood control, irrigation, and hydropower for communities along the Missouri. Four of the Pick-Sloan dams are located in South Dakota and the benefits of the project have proven indispensable to the people of my State.

Unfortunately, construction of the Big Bend and Fort Randall dams was severely detrimental to economic and agricultural development for several of South Dakota's tribes, including Cheyenne River. Over 100,000 acres of the tribe's most fertile and productive land, the basis for the tribal economy, were inundated, forcing the relocation of roughly 30 percent of the tribe's population, including four entire communities.

The Cheyenne River Sioux Tribe Equitable Compensation Act of 1998 will enable the Cheyenne River Tribe to address and improve their infrastructure and will provide the needed resources for further economic development within the Cheyenne River reservation community. However, the damage caused by the Pick-Sloan projects touched every aspect of life in South Dakota, on and off reservation. The economic development goal targeted in this approach is a pressing issue for surrounding communities off reservation as well, because every effort toward healthy local economies in rural South Dakota resonates throughout the State.

Language included in this bill would prohibit any increase in power rates in connection with the trust fund. This legislation has broad support in South Dakota. South Dakota Governor Bill Janklow has endorsed this type of funding mechanism for the compensation of South Dakota tribes, and fully supports S. 1905.

Mr. President, the tribes in my State experience some of the most extreme poverty and unemployment in this country. Under the current Chairman, Gregg Bourland, the Cheyenne River Sioux Tribe has been a leader in economic development initiatives within the reservation community and I believe this bill will reinforce and further the economic development successes of the tribe. I look forward to educating my colleagues about the importance of this bill to the Cheyenne River Sioux Tribe and I encourage swift Senate action on this bill.•

PATENT AND TRADEMARK OFFICE'S LEASE PROCUREMENT

• Mr. WARNER. Mr. President, I rise today to set the record straight about the Patent and Trademark Office's lease procurement for a new or remodeled facility. There is a continuing misinformation campaign being waged to delay the Patent and Trademark Office's lease procurement or put it back to square one.

Allegations are being made that, to the taxpayer's detriment, the new facility is vastly overpriced and that a new federal construction option has not been considered.

The fact is that the procurement has been conducted by the book and has undergone several, impartial reviews, all of which conclude that the project is on the right track, competitively sound and should continue.

Mr. President, we all know that funding is not available to support the federal construction of a new headquarters for PTO because of the limitations of the Balanced Budget Act. We also know that the new lease, authorized by the Senate Environment and Public Works Committee in Fall of 1995, will result in cost savings of $72 million over the life of the lease. That cost savings will accrue in spite of moving costs, an upgraded work environment, new furniture and other improvements designed to enable the PTO to more effectively do its job.

The PTO is fully fee funded and does not receive any taxpayer support. All lease and moving costs will be borne by PTO's customers in the normal course of business.

The Subcommittee on Transportation and Infrastructure intends to have a hearing on this matter in September. In the meantime, I am submitting a number of points regarding the procurement, in addition to a letter sent to me by Bruce A. Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

I urge you to take time to hear the real story of the PTO project. The clear facts are that failure to take action to consolidate PTO space will result in wasteful use of funds and prevents PTO from modernizing services for its customers.

The material follows:

THE FACTS ON THE PATENT AND TRADEMARK OFFICE PROCUREMENT

No taxpayer funds are being spent on the project. PTO is fully user fee funded.

PTO's largest user groups support the project. The American Intellectual Property Law Association, the Intellectual Property Owner's Association and the Intellectual Property Section of the ABA have all expressed strong support in numerous Congressional letters for continuation of the ongoing procurement.

Federal construction is not a viable option. The Administration and PTO's Appropriations Committees agree that a competitive lease is the only viable option since neither user fees nor taxpayer funding are available to construct or purchase a facility for PTO.

Consolidated project will save the PTO at least $72 million. Whether the project proceeds or the PTO remains at its current leased, unconsolidated locations, the PTO will spend approximately $1.3 billion in lease costs over the next 20 years to house the agency. Delaying consolidation will prevent PTO from passing this $72 million in savings on to its fee-paying customers.

Senate Bill already caps build-out costs. The Senate Appropriations Bill (S. 2260), as passed, would cap interior office build-out at $36.69 per square foot, the Government-wide standard rate. Moreover, these costs are included in the new rent amount.

PTO's projected moving costs are reasonable. All moving costs were taken into account in computing the $72 million in savings. PTO's projected costs are comparable to those spent by other recently consolidated agencies.

PTO will not purchase $250 shower curtains, etc. Estimates for $250 shower curtains for the fitness facility, $750 cribs for the child care center, $309 ash cans for smoking rooms, and $1,000 coat racks for training facilities were intentionally "worst case" estimates used for the purpose of calculating the cost savings that would result from consolidation. Standardization, mass buys and competitive furniture purchases will generate lower actual costs. PTO has not yet made any requested appropriations of user fees for furniture purchases. Proceeding with the procurement and applying a sharp pencil to PTO's future appropriations requests for furniture can only enhance the $72 million in savings.

Any environmental costs will be totally funded by the developer. All three sites competing for PTO's lease already house Federal employees. The Government just constructed a federal courthouse on the Carlyle site, the Defense Department has occupied the Eisenhower site for over 20 years, and the PTO has occupied the Crystal City site for over 25 years. There is no evidence that developers cannot accomplish any environmental work that may be required to further develop these sites.

DOC's IG concluded that the project should proceed. The IG's key conclusion was that PTO will benefit from the project and will realize long-term cost savings. Both the IG and an independent consultant to the DOC Secretary (Jefferson Solutions) found that enhanced building capability, which is the goal of planned interior upgrades, is not unreasonable in terms of cost and purpose. And S. 2260, as passed, would place the ceiling on build-out that the IG recommends.

Two of the PTO's three unions fully support the project. National Treasury Employees Union locals 243 (representing clerical and administrative staff) and 245 (representing trademark examining attorneys) have already signed a partnership agreement supporting PTO's plans for the project. The PTO is continuing talks with the third union.

U.S. DEPARTMENT OF COMMERCE,
PATENT AND TRADEMARK OFFICE,
Washington, DC, July 29, 1998.

Hon. JOHN W. WARNER,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: In light of recent reports on the U.S. Patent and Trademark Office's (PTO) on-going procurement process to competitively acquire new, consolidated space for the PTO, I want to assure you that this procurement is based on sound principles.

These reports are focused on estimates of furniture costs mentioned in our Deva and Associates business case study. This study was undertaken to compare our present, unconsolidated space with a worst-case scenario of moving to a new, consolidated facility under the GSA prospectus.

Many of the dollar amounts cited in the Deva report are being touted as what the

PTO is spending for furniture at a new facility. Nothing is farther from the truth. I personally assure you, we have never contemplated nor will we spend $250 for a shower curtain, $750 for a crib, or $1,000 for a coat rack. I agree that some of these furniture estimates are too high even for a worst-case scenario. However, it must be kept in mind that even with these extremely high estimates, this procurement project still shows savings of at least $72 million. No one is disputing this fact.

I look forward to working with you and our appropriators to ensure that any expenditures for furniture are prudent and responsible. Delaying or stopping this procurement will only increase space costs for our fee-paying customers.

Sincerely,

BRUCE A. LEHMAN,
Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.•

AUNG SAN SUU KYI THE INDOMITABLE

• Mr. MOYNIHAN. Mr. President, for eight years Nobel Peace Prize winner Aung San Suu Kyi has battled the military junta in an indomitable, peaceful way which deserves the admiration of us all. For five of these years she was held under house arrest. This is no longer the case, though events of the last week show that her freedom continues to be limited, as is the freedom of all Burmese citizens.

Last Friday, Aung San Suu Kyi began a journey to meet with members of her National League for Democracy in Nyaungdon township, outside of the capital. She never made it. The thugs who run the military junta blocked her passage. She spent six days in her car surrounded by soldiers who prevented her from crossing a bridge about 30 miles outside of the capital.

These actions were rightly criticized by many of the foreign ministers attending the annual meeting of the Association of Southeast Asian Nations (ASEAN), including our own Secretary of State, Madeleine Albright. As Keith B. Richburg reported in the Washington Post yesterday, "the foreign ministers of six nations and the European Union confronted a top Burmese official today with a blunt message: No harm must come to the Nobel Peace Prize winner." I think it is clear that we in the Senate share this sentiment. We hold the leaders of the military junta in Burma responsible for the safety of Aung San Suu Kyi. Period.

She has demonstrated uncommon restraint and valor in her often tense encounters with the junta. This last week has been no exception. She sat in her car for days, yet when she spoke, she did so firmly and without rancor. She called for dialogue between the NLD and the junta and consistently speaks of upholding the rule of law. She has recently called for the true parliament of Burma—the one elected in 1990—to be convened by August 21. Perhaps this will be an opportunity for the junta to step aside.

The junta has failed miserably. Burma is a country rich in resources which has been run into the ground by an irresponsible junta. Its elected leaders have been censored, jailed, and worse. The junta has no legitimacy and should step aside and let the rightful and elected government of Burma take control. The people of Burma made clear their preference. Eight years is long enough to wait.•

I-90 LAND EXCHANGE

• Mr. GORTON. Mr. President, on July 23, the Subcommittee on Forests and Public Land Management held a hearing on legislation I have introduced to complete an important land exchange in my state. The bill, S. 2136, would authorize and direct the Forest Service to conclude an exchange with Plum Creek Timber Company which has been under formal discussion for several years.

The exchange is in an area of Washington surrounding the Interstate 90 corridor through the central Cascades. This area is characterized by a "checkerboard" ownership pattern of intermingled ownership between Plum Creek and the Forest Service. These lands are among the most studied not only in my state but the Nation.

The problems of checkerboard ownership are well recognized and understood in the west and northwest. This exchange, trading 60,000 of Plum Creek land for 40,000 acres of Forest Service land, would help resolve many management issues for both owners. It would make management more efficient, especially on an ecosystem basis.

I introduced my bill to provide impetus to complete this exchange by year's end because of the need for a speedy resolution. If the exchange is not completed by the end of this year, Plum Creek will have no choice but to resume logging their land in 1999. The company has deferred harvests on 90 percent of the exchange lands for the past 2 years and they have firmly stated they cannot continue to do so.

There is broad public support for the exchange and for completing it in a timely fashion. Our governor, Gary Locke, and the Lands Commissioner, Jennifer Belcher, have endorsed the exchange—urging it's completion by the end of 1998. The State Legislature unanimously approved a resolution in support of the I-90 exchange. Major newspapers in Seattle and other cities have recognized the need to finish this exchange. Many environmental groups support a land exchange.

Mr. President, our subcommittee hearing pointed out the difficult problems we face in Washington when we try to resolve issues. There always seems to be a controversy, no matter how worthy the purpose. My legislation and the I-90 exchange are no different.

Representatives from the environmental community, Plum Creek and the Forest Service testified on July 23. While mainstream environmental groups heartily support an exchange, they would prefer to see changes in the lands package identified in a draft Environmental Impact Statement released earlier this spring. Environmental groups are concerned about legislation circumventing appeals and litigation.

The Forest Service wants to complete the exchange, but opposes legislation. I am disappointed that the Administration, having worked on this proposal for so long, would oppose a bill designed to enact a land exchange it has negotiated. Each party has spent over $1 million getting to this point. Must we spend more, only to run the risk of seeing the entire exchange fall apart as a result of the heavy weight of appeals and litigation?

The I-90 exchange has been proposed in various shapes and sizes for more than a decade. Since it was first considered, the Northern Spotted Owl has been listed under the Endangered Species Act and the President has put his Northwest Forest Plan in effect. Plum Creek has even completed a massive Habitat Conservation Plan on 170,000 acres of its lands—including those in this exchange. This Plan, now two years old, was negotiated with the U.S. Fish and Wildlife Service. With this background and the resulting studies, I am confident we can complete an exchange on these lands that represents a consensus.

Mr. President, I recognize and support the idea of getting it right. We have been at this exchange too long not to do just that. When I introduced S. 2136, I indicated it was simply a place holder. The final Environmental Impact Statement will be completed later this summer. It has been my intention to amend the legislation to incorporate necessary changes based on the final EIS.

After hearing the testimony of all parties, I have urged them to work together to identify a lands package that can be incorporated in the final EIS. Further I am asking the Forest Service to move up the deadline for completing a final EIS to September 10 and forwarding it to the Subcommittee on Forests and Public Lands Management. Such a document—presented to Congress in a timely manner—will leave all options open this year. I continue to believe legislating this exchange is the right thing to do.

Mr. President, there are many who question why Congress should legislate this or any land exchange. This is common practice. Congress has not shied away from passing land trades in the past and we should not in this instance when a consensus may be eminent.

In an editorial on the exchange The Seattle Times stated, "The perfect as enemy of the good is a common phrase these days, but it remains appropriate to this situation. A transfer of 100,000 acres with a net gain of 20,000 to the public has a long-term ring to it that future generations may see as prescient. Those are powerful reasons to walk toward this agreement with eyes open, but keep walking."•

TRIBUTE TO THE PROCTOR FIRE DEPARTMENT/SUTHERLAND FALLS HOSE COMPANY ON THEIR 100TH BIRTHDAY

• Mr. JEFFORDS. Mr. President, August 15, 1998, will be a great day for Vermont as we celebrate the centennial of the Proctor Fire Department/Sutherland Falls Hose Company. On behalf of all Vermonters, I want to wish the department a very happy birthday.

For a century, the Proctor Fire Department has been a vital part of its community. The firefighters continually risk their lives to protect the welfare of their neighbors. One such person was Firefighter Maurice "Sonny" Wardwell, a twenty-three year veteran of the department. He gave his life on January 23, 1994, while at the scene of a mutual aid fire in Pittsford, Vermont. Mr. Wardwell is a true hero and his sacrifice serves as a reminder to us all of dedication and selflessness of this profession.

Mr. President, the 100th birthday of the Proctor Fire Department/Sutherland Falls Hose Company is a monumental occasion. The department is a vital part of the town and provides prompt and reliable service to people in the most distressing situations. This tribute recognizes the importance of the Proctor Fire Department/Sutherland Falls Hose Company and, more importantly, the courageous firefighters who commit their time and service to the community.•

IN MEMORY OF MR. CLYDE RAYMOND BARROW

• Ms. MOSELEY-BRAUN. Mr. President, it is with great sadness that I rise today to pay tribute to the passing of Clyde Raymond Barrow. He was a dear friend, a devoted family man, and a committed community member. His life enriched the lives of countless people. I would like to take a few moments to reflect on this special person.

Clyde Barrow was born on March 3, 1923 in Belize, British Honduras. He passed just a few weeks ago at the age of 75 on July 9, 1998 in Chicago. He is survived by his wife of 54 years, the Reverend Willie Taplin Barrow; his adopted children, Dr. Patricia Carey and John Kirby, Jr.; his two sisters, Avis Barrow McKay and Peggy Barrow Foster; ninety eight Godchildren; many nieces and nephews; as well as friends and relatives too numerous to count. The Barrows are also the parents of Keith Errol Barrow, who preceded his father in death in 1983.

To Reverend Barrow, and Clyde's surviving family and friends, I wish there was some way that I could lift this burden of loss from your shoulders. We must take comfort in the fact that Clyde lived his life with tremendous courage, dignity, and kindness. Clyde Barrow's life is an example of righteousness for us all to follow.

Although Clyde Barrow is no longer with us, he has left scores of memories and a legacy of kindness and compassion that will live on forever. He was the strong, silent partner of the little warrior, Reverend Barrow, supporting her in her many civil rights battles and her stewardship of Operation Push.

A welder by trade, Clyde also labored countless hours to build and strengthen his community by volunteering his considerable time and talents. Clyde's involvement with organizations such as the Doctors Hospital of Hyde Park and the Vernon Park Church of God's MAST (Men Achieving Success and Training) Homeless Ministry represent his well earned reputation as a good Samaritan. As one who cherished children, Clyde Barrow went out of his way to know the name of each child in his church and neighborhood. Without a doubt, Clyde Barrow was the embodiment of the neighbor we all want living next door to us: a rock and a conscience within the community.

In times such as these, it is comforting to remember the words of our Lord: "Weeping may endure for a night, but joy comes with the dawn." Clyde Raymond Barrow was a fine man, dedicated to his family, his community, and his God. The Barrows are in my thoughts and prayers during this time of sorrow, and I trust that they are in the prayers of the Senate as well.•

RELIGIOUS PERSECUTION IN IRAN

• Mr. BROWNBACK. Mr. President, on December 10, 1948—nearly 50 years ago—the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights and called on member nations "to cause it to be disseminated, displayed, read and expounded . . . "Since that time, the Universal Declaration has become the bedrock document for human rights standards and aspirations for signatory governments.

One government, however, the government of Iran, is distinguished as an egregious violator of a central principle this document expounds—namely, that of religious freedom. Article 18 of the Universal Declaration explicitly states: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

On Tuesday, July 21st, the Iranian government summarily executed an Iranian Baha'i for the single alleged act of converting a Muslim to the Baha'i faith. The Baha'is are Iran's largest religious minority with about 300,000 adherents and suffer continuous persecution for their faith.

The executed, Mr. Ruhollah Rowhani, a medical equipment salesman with four children, had been picked-up near the northern Iranian city of Mashad by the Iranian authorities in September 1997. He was held in solitary confinement during that extended period until final execution.

The facts are stark in their cruelty. His family was allowed to visit him briefly the day before his execution but, amazingly and cynically, they were not notified that his execution was set for the next day. They finally discovered the death only after they were given one hour to arrange for his burial. With brutal disregard, the Iranian government refused to divulge any information to this grieving family who were forced to conclude from the rope marks that their beloved relative had been executed by hanging.

It is safe to say that Mr. Rowhani was accorded no due process nor afforded a lawyer prior to his execution. He died alone at the end of a rope for the alleged sin of sharing his sincerely held faith. I will state this very clearly—Mr. Rowhani was the victim of the most extreme form of religious persecution. Mr. Rowhani died for his faith and this is an outrage which must be denounced.

Mr. President, this barbarous act flies in the face of the Universal Declaration to which Iran is party. Mr. Rowhani had a fundamental right to practice his religion. Iran denied him that right. Mr. Rowhani had a fundamental right to a public trial. Iran denied him that right. Mr. Rowhani had a fundamental right to counsel. Iran denied him that right. Mr. Rowhani had a fundamental right to NOT be hung at the end of a rope for holding minority religious beliefs.

My deepest concern now rests with the fifteen other Baha'is now being held by the government of Iran for essentially the same charges that resulted in Mr. Rowhani's execution. As I speak now, at least three Baha'i men in the city of Mashad presently sit on death row, facing imminent execution because they dared to quietly celebrate their faith. I speak as much for them today as I do in protest to the brutal killing of their fellow-believer.

This hour, I call on the Government of Iran to ensure the safety of these individuals. Better yet, I call for the release of these individuals whose only crime was the sincere expression of their faith, which happens to be a minority religion. Most importantly, I call upon the government of Iran to provide freedom of religion to its people, including the famously peaceful yet brutalized Baha'is community.

I want to take this opportunity to commend the international community for its swift response to Mr. Rowhani's execution and urge other governments and organizations to vigilantly monitor the fate of the 15 jailed Baha'is, particularly the 3 jailed in Mashad presently facing the death penalty.

Religious persecution demands a tireless counter response; it demands a vigilant defense. If we hold the principle of religious freedom to be a precious and fundamental right, something worth protecting, then we must always defend those who are wrongfully and brutally crushed for their faith by hostile national governments.

We cannot bring Mr. Rowhani back or right the wrong that was done to him and his family, but we can advocate against this happening again. Iran must abide by global human rights principles. Accordingly, Iran must release the fifteen Bahai who have been incarcerated for their faith. Iran must preserve the lives of those facing execution for their faith. Iran must honor its commitment to the religious freedom principles of the Universal Declaration of Human Rights and set these prisoners free.●

NURSING SCHOOL ADMINISTERED PRIMARY CARE CLINICS

● Mr. INOUYE. Mr. President, I rise today to speak on an health issue of great importance now and in future years. As our population continues to increase, our elderly live longer, and healthcare technology advances, the need for access to care will undoubtedly also increase.

Because of these monumental increases in the need for healthcare access for many Americans, I wish to take a few minutes to discuss the need for support of nursing school administered primary care centers.

Nursing centers are university or nonprofit entity primary care centers developed (primarily) in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are public health nurses and nurse practitioners. Students supplement patient care while receiving preceptorships provided by colleges of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners.

Nurse practitioners, and public health nurses, in particular, are educated through programs which offer advanced academic and clinical experiences, with a strong emphasis on primary and preventive health care. In fact, schools of nursing that have established these primary health care centers blend service and education goals, resulting in considerable benefit to the community at large.

Nursing centers are rooted in health care models established in the early part of the 20th century. Lillian Wald in the Henry Street Settlement and Margaret Sanger, who opened the first birth control clinic, provided the earliest models of service.

Since the late 1970's, in conjunction with the development of educational programs for nurse practitioners, college of nursing faculties have established nursing centers. There are currently 250 centers nationwide, affiliated with universities and colleges of nursing in Arizona, Utah, Pennsylvania, South Carolina, Tennessee, Texas, Hawaii, Virginia, and New York. The Regional Nursing Centers Consortium, an association of eighteen nursing centers in New Jersey, Pennsylvania and Delaware, was established in 1996 to foster greater recognition of, and support for, nursing centers in their pursuit of providing quality care to underserved populations.

Nursing centers tend to be located in or near areas with a shortage of health professionals or areas that are medically underserved. The beneficiaries of their services have traditionally been the underserved and those least likely to engage in ongoing health care services for themselves or their family members. In the 1970's, I sponsored legislation that would give nurses the right to reimbursement for independent nursing services, under various federal healthcare programs. At the same time, one of the first academic nursing centers was delivering primary care services in Arizona.

As the Vice Chairman of the Committee on Indian Affairs, I am pleased to note that the University of South Carolina College of Nursing has established a Primary Care Tribal Practice Clinic, under contract with the Catawba Indian nation, which provides primary and preventive services to those populations. The University also has a Women's Health Clinic and Student Health Clinic, which are both managed by nurse practitioners.

Another prime example of services provided by nurse practitioners is the Utah Wendover Clinic. This clinic, in existence since 1994, provides interdisciplinary rural primary health services to more than 10,000 patients annually. The clinic now has telehealth capabilities that provide interactive links from the clinic to the university hospital, 120 miles away. This technology allows practitioners direct access to medical support for primary care, pediatrics, mental health, potential abuse, and emergency trauma treatment.

To date, nursing centers have demonstrated quality outcomes which, when compared to conventional primary health care, indicate that their comprehensive models of care have resulted in significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists. The Lasalle Neighborhood Nursing Center, for example, reported for 1997 that fewer than 0.02 percent of their primary care clients reported hospitalization for asthma; fewer than 4 percent of expectant mothers who enrolled delivered low birth rate infants; 90 percent of infants and young children were immunized on time; 50 percent fewer emergency room visits; and the clinic achieved a 97 percent patient satisfaction rate.

What makes the concept of nurse managed practices exciting and promising for the 21st century is their ability to provide care in a "spirit of serving" to underserved people in desperate need of health care services. Interestingly, nurse practitioners have consistently provided Medicaid sponsored primary care in urban and rural communities for a number of years, and have consistently demonstrated their commitment to these underserved areas.

The 1997 Balanced Budget Act (P.L. 105-33) included a provision that for the first time ever allowed for direct Medicare reimbursement of all nurse practitioners and clinical nurse specialists, regardless of the setting in which services were performed. This provision built upon previous legislation that allowed direct reimbursement to individual nurse practitioners for services provided in rural health clinics throughout America. The law effectively paved the way for an array of clinical practice arrangements for these providers; however, per visit payments to nurse run centers, as opposed to individual practitioners, was not formally included in the law.

Federal law now also mandates independent reimbursement for nurse practitioners under the Civilian Health and Medical Programs of Uniformed Services (CHAMPUS), the Federal Employee Health Benefits Plan (FEHBP) and in Department of Defense Medical Treatment Facilities.

As the Ranking Member of the Defense Appropriations Subcommittee, my distinguished colleagues and I have listened to the testimonies of the three Service Chief Nurses each year, during the Defense Medical hearings. I am proud to report that the military services have taken the lead in ensuring the advancement of the profession of nursing. Military advanced practice nurses provide care to service members and their families at all of the treatment facilities. The Graduate School of Nursing at the Uniformed University of the Health Sciences (USUHS), which has a very successful nurse practitioner program, was recently recognized in the top 100 graduate schools in the United States. The Commanding General at Tripler Army Medical Center, a two star position, is a nurse. This is a first ever accomplishment for nurses in the military. I hope to see more nurse officers in these leadership roles, even at the three star level.

At the beginning of this session of Congress, I proposed legislation to amend Title XIX of the Social Security Act to expressly provide for coverage of services by nursing school administered centers under state Medicaid programs, similiar to payments provided to rural health clinics. Today, as we debate a number of health care issues, I urge us to consider creative avenues for expanding health care access for all Americans, particularly the poor and underserved. Nursing centers, as new models of health care providers, offer quality services for lower payments.

In closing, I would like to reiterate that nurse practitioners provide cost effective, preventive care in underserved areas across America. Their educational programs emphasize the provision of care to patients with limited resources, financial and otherwise. A recent article in U.S. News and World Report showcased the successful Columbia Advanced Practice Nurse Associates (CAPNA), a nurse run primary care clinic in New York City. Dr. Mary Mundinger, the Dean of the Columbia School of Nursing and a Robert Wood Johnson Health Policy Fellow in 1984, was the catalyst for the center, which she envisions as a "prototype of a new branch of primary care."

Nurse practitioners have proven themselves to be well trained providers of high quality, cost effective care.

Nursing school administered centers offer viable alternatives to health care access for the poor and underserved, and allow Americans more choices in their selection of cost effective, quality care services. The issues surrounding quality, access and the provision of patient care services are, Mr. President, at the crux of our current debates over health care reform. We owe it to each and every American to provide the very best options for quality health care available.

Mr. President, I thank you for the opportunity to address my colleagues on this most important topic. I ask that an article on this subject be printed in the RECORD.

The article follows:

[From the U.S. News & World Report, July 27, 1998]

FOR NURSES, A BARRIER BROKEN—IT'S A TEST INSURERS ARE BACKING: CAN PRIMARY CARE WORK WITHOUT DOCTORS?

(By James Lardner)

Seems like everybody's been trying to take a bite out of doctors' paychecks lately—the federal government, employers, insurers, and now, of all people, nurses. In New York City, Medicare and eight private health plans have given their enrollees permission to get primary care from a group of nurse practitioners or NPs, who diagnose, treat, prescribe, refer, and bill very much as if they were M.D.'s.

About 250 New Yorkers have signed up with the 10-month-old practice, known as CAPNA (for Columbia Advanced Practice Nurse Associates), and though it's still a tiny operation—just four NPs—business is growing by six or seven new patients a week. Supporters think the idea of a nurse-run form of primary care has a lot of potential. Many doctors are dubious.

The New York State Medical Society's chief lobbyist, Anthony Santomauro, sees a threat to the well-being of physicians as well as of patients. "Your action," Santomauro warned his colleagues recently, "could decide whether nurse practitioners . . . continue to serve under your direction and supervision or . . . become independent practitioners in direct competition." To Robert Graham, executive vice president of the American Academy of Family Physicians, what the nurses are doing "comes very close to practicing medicine, which of course, requires a medical degree and a license."

The law aside, critics argue that primary care entails subtle diagnostic decisions that physicians are uniquely qualified to make. "The four years in medical school and three years in residency training and many hours of continuing education that physicians receive are very different from the 500 to 700 hours of training that most nurse-practitioner programs call for," says Nancy Dickey, a Texas physician who recently became president of the American Medical Association. (There are roughly 140,000 nurses with advanced degrees in the United States; as a rule, NPs have master's degrees that entail two years of classroom and clinical training.)

While physicians stress the possibility of confusion about who is or isn't an M.D., they may be up against a bigger problem: a widespread longing for a slower-paced, more personal form of health care than many people feel they can get from physicians these days. "If you spend 10 minutes with a doctor in New York City, you're doing well," says Doris Ward, a 77-year-old former nonprofit executive. Ward came to CAPNA's offices on East 60th Street seeking treatment for high cholesterol and anxious to find "someone who would sit down and talk to me for a little while." Her NP, Marlene McHugh, devoted an hour to the initial appointment and recommended a dietary rather than a medical approach to her problem.

Thomas Becker, a 36-year-old marketing manager, was confused about whom he was seeing. He didn't know that Edwidge Thomas was not a doctor when he picked her from a list supplied by his health plan; in fact, he didn't realize his mistake until his first visit. But Thomas asked such insightful questions that "it didn't really matter to me," Becker says. After three appointments, two for sports-related injuries and one for flu, he rates CAPNA "absolutely excellent."

Bedside manner. Mary O'Neil Mundinger, dean of the Columbia University School of Nursing and the driving force behind CAPNA, sees it as the prototype of a new branch of primary care. She spent 17 years as a bedside nurse before getting a doctorate in public health, and she dismisses the suggestion that nurses are likely to overlook symptoms or botch diagnoses ("We don't miss things," she says crisply). But physicians, she argues, overemphasize diagnosing and prescribing, and tend to consider their work over once they have recommended a program of treatment; nurses, she says, are better at getting patients to follow the program.

Two studies seem to bolster her case. Nurse practitioners have long provided primary care to those who might otherwise have gone unserved, such as residents of rural areas, and a 1986 study by the Office of Technology Assessment concluded that the care they provided was equivalent to that offered by physicians. When it came to communication and prevention, the OTA found NPs more adept.

In addition, a 1993 analysis of studies comparing care offered by physicians with that provided by NPs found that nurses spent about 25 minutes with a patient; doctors spent 17. The two groups were about equal in their rates of prescribing drugs, but the nurses provided more patient education and stressed exercise more often than the doctors.

While the debate may seem to pit nurses against doctors, the more important division exposed by CAPNA may be between two types of physician, primary-care providers and specialists. Critics of the CAPNA model fear that NPs, because they have less training than physicians, will rely too much on specialists. Many specialists respond that in the age of managed care, overreferral by nurses is far less of a danger than underreferral by doctors, who are torn between the interests of patients and, as Eric Rose, the chief of surgery at Columbia-Presbyterian Medical Center, puts it, "the care of their bankbooks and the HMOs' bankbooks." (CAPNA has been referring surgery cases to Columbia-Presbyterian.)

CAPNA's acceptance by insurers as a legitimate primary-care alternative to a practice run by physicians is clearly a breakthrough for nurses, who were long defined as hospital workers who existed to do the bidding of physicians. As recently as the 1970s, nursing-school curricula included elaborate protocols of respect (surrendering one's chair, for example) that a nurse was supposed to follow when a physician entered a room.

The power of physicians is also under attack from market-oriented critics, who see them as attempting to carve out a monopoly at the consumer's expense. In the past, physicians' organizations have used their clout to beat back proposals to give quasi-medical powers to nonphysicians. But CAPNA was created with no change in the law; Mundinger reasoned that the kind of health care she hoped to offer affluent patients in midtown Manhattan was already the norm in much of rural and inner-city America. New York itself allowed NPs to write prescriptions—otherwise, health care in many areas of the state would have ground to a halt. "As long as it was just poor folks, nobody was paying any attention," Mundinger says.

The groundwork was laid in 1993, when Columbia-Presbyterian sought the nursing school's help in expanding health care services in two poor, upper-Manhattan neighborhoods. Spotting an opportunity, Mundinger asked in return for something that earlier partnerships of nurse practitioners had lacked: hospital admitting privileges—the ability to get patients into Columbia-Presbyterian and supervise their care there. Two new primary-care practices were created, one with doctors and nurse practitioners working as equals, the other run entirely by NPs.

Mundinger's next brainstorm was to see if the concept would work in an affluent neighborhood. This time, in a move with widespread implications for health care, she went after managed-care plans for the right of reimbursement.

Equal treatment. For the HMOs—under constant pressure from employers to cut costs—a nurse-run practice had obvious appeal if it meant lower payments for the same services. But Mundinger rejected support that was conditioned on reduced reimbursement, insisting that would open the HMOs to the charge of chiseling and cast her practice as a cheap substitute for real medicine. After months of discussions, Oxford Health Plans agreed to go along. Seven more health plans followed suit, all giving the nurses the same fee-for-service rates as doctors.

Mundinger's admirers say she has not only created a significant new model of health care but, in doing so, has called the medical profession's bluff. Say Uwe Reinhardt, a health economist who teaches at Princeton University, "Doctors always say the are rugged individualists, for free enterprise and such, and now at the first sight of a nurse they run to the government and say, 'Please use your coercive powers to protect us!' "

Even some supporters, however, fear that Mundinger's model, for all its noble objectives, will appeal to the basest motives of insurers and employers, leaving patients, in the end, with less-trained people who are in just as much of a hurry. There is some reason for doubting this: A study in the April Nurse Practitioner, for example, found NPs more consistent than gynecologists in adhering to medical standards in evaluating cervical dysplasia, a precursor to cervical cancer. And as Robert Brook, a Rand analyst who is conducting an internal assessment for CAPNA, puts it: "It's not like we started out with a perfect system.•"

TRIBUTE TO LIEUTENANT COLONEL KEVIN "SPANKY" KIRSCH, USAF

• Mr. WARNER. Mr. President, I rise today to pay tribute to Lieutenant Colonel Kevin "Spanky" Kirsch, United States Air Force, on the occasion of his retirement after over twenty years of exemplary service to our nation. Colonel Kirsch's strong commitment to excellence will leave a lasting impact on the vitality of our nation's military procurement and information technology capabilities. His expertise in these areas will be sorely missed by his colleagues both in the Pentagon and on Capitol Hill.

Before embarking on his Air Force career, Colonel Kirsch worked as an estimator/engineer for Penfield Electric Co. in upstate New York, where he designed and built electrical and mechanical systems for commercial construction. In 1978, Colonel Kirsch received his commission through the Officer Training School at Lackland AFB in San Antonio, TX. Eagerly traveling to Williams AFB in Arizona for flight training, Colonel Kirsch earned his pilot wings after successful training in T–37 and T–38 aircraft.

In 1980, Colonel Kirsch was assigned to Carswell AFB, in Fort Worth, TX, as a co-pilot in the B–52D aircraft. While serving in this capacity on nuclear alert for the next five years, he earned his Masters degree, completed Squadron Officer School and Marine Corps Command and Staff School by correspondence, and earned an engineering specialty code with the Civil Engineering Squadron.

An experienced bomber pilot serving with the 7th Bomb Wing, Colonel Kirsch, then a First Lieutenant, served as the Resource Manager for the Director of Operations—a position normally filled by an officer much more senior in rank. He was selected to the Standardization Evaluation (Stan-Eval) Division and became dual-qualified in the B–52H. Subsequently, he was selected ahead of his peers to be an aircraft commander in the B–52H.

Colonel Kirsch was selected in 1985 as one of the top 1% of the Air Force's captains to participate in the Air Staff Training (ASTRA) program at the Pentagon. His experience during that tour, working in Air Force contracting and legislative affairs, would serve him well in later assignments.

In 1986, Colonel Kirsch returned to flying in the FB–111 aircraft at Plattsburgh AFB, NY. He joined the 529th Bomb Squadron as an aircraft commander and was designated a flight commander shortly thereafter. He employed his computer skills to help automate the scheduling functions at the 380th Bomb Wing and was soon designated chief of bomber scheduling.

Following his tour with the 529th, Colonel Kirsch was assigned to Strategic Air Command (SAC) Headquarters at Offutt AFB, NE. As Chief of the Advanced Weapons Concepts Branch, he served as a liaison with the Department of Energy on nuclear weapons programs and worked on development of new strategic systems—including the B–2 bomber. Colonel Kirsch was one of four officers chosen to be part of the commander-in-chief's (CINC's) staff group to facilitate the transition of SAC to Strategic Command (STRATCOM). Originally picked as a technical advisor for weapon systems, he soon became the legislative liaison for STRATCOM. In this capacity, Colonel Kirsch organized congressional delegations to visit STRATCOM, and managed CINC STRATCOM's interaction with Capitol Hill.

In 1994, Col Kirsch traveled here, to Washington, to begin his final assighment on active duty. Initially serving as a military assistant to the Assistant Secretary of Defense for Legislative Affairs, Colonel Kirsch once again quickly distinguished himself and was designated the special assistant for acquisition and C3 policy. Representing the Secretary of Defense, the Under Secretary of Defense for Acquisition and Technology and the Assistant Secretary of Defense for C3I, Colonel Kirsch managed a myriad of critical initiatives including acquisition reform and information assurance. He also served as the principal architect for the organization's web page, computer network, and many of the custom applications used to automate the office's administrative functions.

Colonel Kirsch's numerous military awards include the Defense Superior Service Medal, the Defense Meritorious Service Medal with Oak Leaf Cluster, the Air Force Meritorious Service Medal, the Air Force Commendation Medal with Oak Leaf Cluster, and the Air Force Achievement Award.

Following his retirement, Colonel Kirsch and his wife Carol will continue to reside in Springfield, VA with their children Alicia and Benjamin.

Mr President, our nation, the Department of Defense, the United States Air Force, and Lieutenant Colonel Kirsch's family can truly be proud of this outstanding officer's many accomplishments. His honorable service will be genuinely missed in the Department of Defense and on Capitol Hill. I wish Lieutenant Colonel Spanky Kirsch the very best in all his future endeavors.•

D.A.R.E. MICHIGAN OFFICER OF THE YEAR 1998

• Mr. ABRAHAM. Mr. President, I rise today to recognize Officer Kimberly Sivyer of the Redford Township Police Department. He has been named the D.A.R.E. Officer of the Year for 1998 in the state of Michigan.

Officer Sivyer started with the Redford Police Department in 1981. He has dedicated his time and service to D.A.R.E. since 1990. Over the course of these eight years he has touched many students' lives educating them about the dangers of drugs and violence. He has and continues to be an excellent role model for the youth of his community. His colleagues at the Redford Township Police Department and the members of his community recognize this and it is for these reasons that he is very deserving of this award.

I want to once again express my sincerest appreciation and congratulations to Officer Sivyer for being named D.A.R.E. Officer of the Year 1998. He should be very proud of this achievement.•

THE COUNTRY OF GEORGIA

• Mr. BROWNBACK. Mr. President, I would like to say a few words about Georgia and the recent events which have taken place in this impressive country. Several days ago, Georgia reaffirmed its commitment to full participatory democracy when the Minister of State requested the resignation of all cabinet ministers, and then resigned himself. His resignation was accepted, and President Eduard Shevardnadze has vowed to reconstitute a new government by the middle of August. This transition, so reminiscent of the ebb and flow of governments in great parliamentary democracies, has been accomplished without violence or bloodshed, without chaos or confusion, and with the support of the Georgian people. Truly Georgia is an inspiration to peoples everywhere who long for democracy and who struggle against the freedom-stifling legacy of the communist experiment.

Georgia is impressive in other ways as well. Its economy continues to grow in a positive direction, unlike the economies of some of its neighbors; Georgia is not perfect, and it is not pristine. But it is progressive. With a growth rate of nearly 8 percent in 1997 and projected growth of 11–13 percent in 1998, Georgia is on track to a significant economic turn-around.

This turn-around and the prosperity that will inevitably flow from it, still involve many hurdles. Georgians have bravely faced these challenges, and they face more still. Probably none is so painful as the ongoing conflict in Abkhazia, Georgia's most northwestern province bordering Russia. This brutal brushfire war has now claimed lives unnecessarily on both sides, and it must be ended. Mr. President, the CIS peacekeepers are a major part of the problem and the reason the war continues.

As the Times of London noted on July 27th, Georgia accepted the CIS peacekeepers only under duress, because the UN blinked. These CIS peacekeepers, the Times points out, have not exactly distinguished themselves by their impartiality. They are "entirely drawn from the Russian Army, and commanded from Russian, not CIS, headquarters. Of its four battalions, one fought the Georgians in the 1992–93 war, while another two are recruited from anti-Georgia nationalities." It is hard to imagine that this formula can create anything but conflict, and indeed, there have been constant complaints from Georgia that these so-called peacekeepers are merely part of a Russian strategy to destabilize Georgia, a strategy that includes several assassination attempts on President Shevardnadze.

From the beginning, the Abkhaz conflict has been widely acknowledged to be Russia's doing. The separatists who want to break off Abkhazia from Georgia are provoked, fueled and encouraged by the Russians. Georgia has offered Abkhazia full autonomy, an offer that has been answered by Russian guns.

As early as 1992 Russia provided the Abkhazians with weapons to conduct the war, and the Russian government today supports the Abkhaz leadership in its unwillingness to bring the conflict to a close through negotiation. One member of the Abkhaz leadership wrote in the Russian nationalist press in 1992 that "Abkhazia is Russia." Since then, Russia has managed to scuttle all budding negotiations, even while serving as the putative "mediator" at the recent Geneva talks between the Georgians and Abkhazians, and it has unfailingly sided with the Abkhaz against Georgia at the infrequent bargaining tables and on the battlefield.

Let us be frank: These Russian peacekeepers do not want peace. Rather, they seek to extend the hostilities so that Georgia will find it difficult to consolidate its hold over this breakaway region. These so-called peacekeepers have helped to create thousands of dead on both sides; they have created massive flows of Georgian refugees by turning a blind eye toward some of the most blatant ethnic cleansing anywhere in the world; and they have allowed the devastation of what is arguably one of the richest and most beautiful parts of the Georgian state.

Abkhaz leaders, with Russia's help, have perpetrated one of the world's most egregious examples of ethnic cleansing. Tens of thousands of Georgians have been forced out of their homes in Abkhazia and turned into homeless, hungry refugees. Georgia's many requests in recent years to the United Nations to condemn this blatant genocide have fallen on deaf ears, and most Georgians now attribute the Abkhazians' continued use of ethnic cleansing to UN inaction. Georgia has once again asked the UN to intervene in Abkhazia, but its willingness to do so, especially with Russia holding a seat on the Security Council, is in doubt.

How is it possible that ethnic cleansing can high behind a transparent veil of "peacekeeping"? Why has the UN shirked its duty to protect these vulnerable Georgians, when it seems willing, even eager, to condemn genocide elsewhere in the world? Where is the indignation and outrage from our statesmen? Where are the legions of human rights advocates that usually visit the corridors of our departments and ministries?

The Abkhazians (who constitute less than 20 percent of the population of the region they claim as their own) and their Russian supporters, should harbor no illusions about the ultimate outcome of this struggle: Abkhazia will remain part of Georgia. The Georgian government will never acquiesce in territorial claims on its historic territory, and the US government will never support such claims. Meanwhile, Abkhazians are poised to miss what could be one of the most exciting periods in the development of the South Caucasus. The opening of energy pipelines from the Caspian will create unprecedented opportunities for growth and development, and the forging of the Eurasian Transport Corridor, the New Silk Road, which originates in Georgia, foretells a future in which all Georgians, including Abkhazians, should prosper.

Those of my colleagues who have traveled to Georgia know of the immense beauty of the country, and the kindness and generosity of its people. They know of the Georgians' will in the face of numerous obstacles and barriers. And, increasingly, they understand why and where Georgia's interests intersect with America's interests.

Put simply, Georgia is a key strategic ally for America in a region in which America has few strategic anchors. America has a strong national interest in encouraging a close and multifaceted relationship with Georgia. Though small, poor and weak, Georgia has the potential to be small, yet rich and strong. It is in our best interest to promote this transition with American aid, American power and American prayers.●

EXPRESSING THE SENSE OF CONGRESS CONCERNING THE HUMAN RIGHTS AND HUMANITARIAN SITUATION FACING THE WOMEN AND GIRLS OF AFGHANISTAN

(The text of the concurrent resolution (S. Con. Res. 97), with its preamble, as agreed to by the Senate on July 29, 1998, is as follows:)

S. CON. RES. 97

Whereas the legacy of the war in Afghanistan has had a devastating impact on the civilian population, and a particularly negative impact on the rights and security of women and girls;

Whereas the current environment is one in which the rights of women and girls are routinely violated, leading the Department of State in its 1997 Country Report on Human Rights, released January 30, 1998, to conclude that women are beaten for violating increasingly restrictive Taliban dress codes, which require women to be covered from head to toe, women are strictly prohibited from working outside the home, women and girls are denied the right to an education, women are forbidden from appearing outside the home unless accompanied by a male family member, and beatings and death result from a failure to observe these restrictions;

Whereas the Secretary of State stated, in November 1997 at the Nasir Bagh Refugee Camp in Pakistan, that if a society is to move forward, women and girls must have access to schools and health care, be able to participate in the economy, and be protected from physical exploitation and abuse;

Whereas Afghanistan recognizes international human rights conventions such as the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the Covenant on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, and the International Covenant on Economic, Social, and Cultural Rights, which espouses respect for basic human rights of all individuals without regard to race, religion, ethnicity, or gender;

Whereas the use of rape as an instrument of war is considered a grave breach of the Geneva Convention and a crime against humanity;

Whereas people who commit grave breaches of the Geneva Convention are to be apprehended and subject to trial;

Whereas there is significant credible evidence that warring parties, factions, and powers in Afghanistan are responsible for numerous human rights violations, including the systematic rape of women and girls;

Whereas in recent years Afghan maternal mortality rates have increased dramatically, and the level of women's health care has declined significantly;

Whereas there has been a marked upswing in human rights violations against women and girls since the Taliban coalition seized

Kabul in 1996, including Taliban edicts denying women and girls the right to an education, employment, access to adequate health care, and direct access to humanitarian aid; and

Whereas peace and security in Afghanistan are conducive to the full restoration of all human rights and fundamental freedom, the voluntary repatriation of refugees to their homeland in safety and dignity, the clearance of mine fields, and the reconstruction and rehabilitation of Afghanistan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) deplores the continued human rights violations by all parties, factions, and powers in Afghanistan;

(2) condemns targeted discrimination against women and girls and expresses deep concern regarding the prohibitions on employment and education;

(3) strongly condemns the use of rape or other forms of systematic gender discrimination by any party, faction, or power in Afghanistan as an instrument of war;

(4) calls on all parties, factions, and powers in Afghanistan to respect international norms and standards of human rights;

(5) calls on all Afghan parties to bring an end without delay to—

(A) discrimination on the basis of gender; and

(B) deprivation of human rights of women;

(6) calls on all Afghan parties in particular to take measures to ensure—

(A) the effective participation of women in civil, economic, political, and social life throughout the country;

(B) respect for the right of women to work;

(C) the right of women and girls to an education without discrimination, reopening schools to women and girls at all levels of education;

(D) respect for the right of women to physical security;

(E) those responsible for physical attacks on women are brought to justice;

(F) respect for freedom of movement of women and their effective access to health care; and

(G) equal access of women to health facilities;

(7) supports the work of nongovernmental organizations advocating respect for human rights in Afghanistan and an improvement in the status of women and their access to humanitarian and development assistance and programs;

(8) calls on the international community to provide, on a nondiscriminatory basis, adequate humanitarian assistance to the people of Afghanistan and Afghan refugees in neighboring countries pending their voluntary repatriation, and requests all parties in Afghanistan to lift the restrictions imposed on international aid and to cease any action which may prevent or impede the delivery of humanitarian assistance;

(9) welcomes the appointment of Ambassador Lakhdar Brahimi as special envoy of the United Nations Secretary General for Afghanistan, and encourages United Nations efforts to produce a durable peace in Afghanistan consistent with the goal of a broad-based national government respectful of human rights; and

(10) calls on all warring parties, factions, and powers to participate with Ambassador Brahimi in an intra-Afghan dialogue regarding the peace process.

SEC. 2. ADDITIONAL ACTION BY PRESIDENT.

It is the sense of Congress that the President and Secretary of State should—

(1) work with the United Nations High Commissioner for Refugees and the international community to—

(A) guarantee the safety of, and provide international development assistance for, Afghan women's groups in Pakistan and Afghanistan;

(B) increase support for refugee programs in Pakistan providing assistance to Afghan women and children with an emphasis on health, education, and income-generating programs; and

(C) explore options for the resettlement of those Afghan women, particularly war widows and their families, who are under threat or who fear for their safety or the safety of their families;

(2) establish an Afghanistan Women's Initiative, based on the successful model of the Bosnian Women's Initiative and the Rwandan Women's Initiative, that is targeted at Afghan women's groups, in order to—

(A) facilitate organization among Afghan women's groups in Pakistan and Afghanistan;

(B) provide humanitarian and development services to the women and the families most in need; and

(C) promote women's economic security;

(3) make a policy determination that—

(A) recognition of any government in Afghanistan by the United States should depend, among other things, on the human rights policies towards women adopted by that government;

(B) the United States should not recognize any government which systematically maltreats women; and

(C) any nonemergency economic or development assistance will be based on respect for human rights; and

(4) call for the creation of—

(A) an international commission to establish a record of the criminal culpability of any individual or party in Afghanistan employing rape or other crimes against humanity considered a grave breach of the Geneva Convention as an instrument of war; and

(B) an ad hoc international criminal tribunal by the United Nations for the purposes of indicting, prosecuting, and imprisoning any individual responsible for crimes against humanity in Afghanistan.

SEC. 3. REPORT.

It is the sense of Congress that the Secretary of State should submit a report to Congress not later than 6 months after the date of the adoption of this resolution regarding actions that have been taken to implement this resolution.

WORKFORCE INVESTMENT ACT OF 1998—CONFERENCE REPORT

Mr. JEFFORDS. I ask unanimous consent that the Senate now turn to the consideration of the conference report to accompany H.R. 1385 to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1385), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 29, 1998.)

Mr. JEFFORDS. I ask unanimous consent that the conference report be adopted, the motion to reconsider be laid upon the table, and other statements relating to this conference report be printed in the RECORD.

Before you proceed, Mr. President, I believe the Senator from Ohio would like to make some comments, and I invite him to do so.

Mr. DEWINE. Mr. President, I thank the Chair. I thank the chairman of the committee, Senator JEFFORDS, for yielding to me and thank him also for the tremendous work he has done on this bill. He has been working on this for a number of years. This is the culmination of a great deal of work.

We are about to pass the conference report. Once the bill is sent on to the President and signed by the President, it will represent a major accomplishment of this Congress. This bill consolidates over 70 federally funded job training related programs—over 70 of them consolidated. This bill will make job training, federally funded job training, in this country much more accountable. It will also involve the business community much more in the development and design of job training.

The one thing Chairman JEFFORDS and I have learned as we have held hearings on this matter over the years is that if you want job training to work, it has to be run locally and it has to have great input from the local business community. This bill will make sure that we have that local input. We have to remember who the consumers are. When you are talking about job training, there are two consumers. One is the person who wants the job and wants to be trained for the job. But the other, equally as important, is the company or the individual who wants to hire that person, and so you have to involve them both in the design of job training.

That is what this bill does. This bill also dramatically reforms Job Corps. Job Corps is a Great Society-era job training program, residential, that is run by the Federal Government. It costs over $1 billion a year. It is targeted at our most at-risk young people in this country, people who desperately need our help, desperately need our assistance. What this bill does is make sure that $1 billion will be correctly spent. And again, we do that by measuring the results.

One of the things that Chairman JEFFORDS and I, I think, and the rest of the committee, were so shocked about when we held hearings several years ago on this—actually former Senator Kassebaum was chairman—was that

Job Corps did not really measure success or failure of the young people. It didn't measure the success or failure of a particular job training program. They looked at it and saw whether or not a person had a job for 2 weeks. If they kept a job for 2 weeks after graduating from the program—and it didn't matter what the job was—the program was considered a success. The contractor who was in charge of getting that person a job got paid, and then no one ever looked back.

What we do with this bill is say we are going to measure success or failure after 6 months. We are going to measure success or failure after 12 months. And then we are going to be able to tell which programs work and which do not work in regard to Job Fair.

Another change we are making in Job Corps is to involve the local business community. Too often Job Corps has herded young people from 500, 600, 700 miles a way. They go to the Job Corps. They stay there for awhile, they complete their program, and then they go back home, and it is very difficult to involve the local business community when they know that person is not going to be there to work for them. And so we change those priorities in regard to Job Corps as well.

We also in this bill make a major step forward to link the regular job training programs of this country with vocational rehabilitation. We do that by closing the gap. We do that by preserving the dedicated flow of money that will go for this targeted population, targeted population that is in need of our assistance, who wants to help themselves. We preserve that dedicated fund, those dedicated funds. But we give that recipient, that client, more resources. We empower that client to go to the vocational rehabilitation site or, if the services are not there, to make sure that the client has the legal right to go across the street or across the county, wherever that is, to get help and assistance from the regular system as well. It integrates the two.

In conclusion, let me say this bill is a bill for workers. It is a bill for people who want to be workers. It is a bill for young people. It is a bill that literally empowers the person who is seeking the job training. It gives them a lot more, many more rights. It gives them a lot more flexibility. It puts them into the ball game as far as choosing what is the job training that is best for them. So it makes a significant difference.

This bill also has a very significant component aimed directly at children. We set aside a significant sum of money for those young people between the ages of 14 and 21. We do it; we target it; we say it is important. There is nothing, I think, more important in this country than what we do with our young people and the assistance we try to provide for them. We have many young people in this country who we call at-risk youth. This bill will go a long way to give them direct assistance. However, even though we target it in this bill and say these funds are dedicated for these young people, we also at the same time give all the flexibility to the local community, States and local communities to allow them to design the specific program that will actually work for their young people in their local communities.

This is a revolutionary bill. It is a bill that dramatically changes the status quo. It is a bipartisan bill. It is a bill that Senator WELLSTONE worked on with me in the subcommittee. It is a bill on which Senator KENNEDY worked with Senator JEFFORDS. It is a bill that Secretary Alexis Herman has been very, very much involved in. She has been involved in it up until the last 10 minutes, as we have negotiated the final portions of this bill.

So, it is a bipartisan bill. It is a bill we can all be very proud of. It is a bill that will truly make a difference for our young people and for those who need to be trained in this country.

Again, I thank my chairman for the tremendous work that he has done; for his persistence. One of the qualities I think you have to have in the U.S. Senate is perseverance and persistence, as well as patience. He has demonstrated all three very well. The culmination is what we see tonight, which is a bill we are about to send to the President of the United States for his signature.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first, I thank my colleague from Ohio for his very eloquent description of the legislation, which makes it entirely unnecessary for me to go further. I appreciate the kind comments he made.

As he pointed out, this is an example of bipartisanship as well. Senator WELLSTONE and Senator KENNEDY, on the other side of the aisle, participated always in a constructive way and allowed us to come up with an excellent piece of legislation.

On the House side, Congressman GOODLING, my good friend and colleague for many years, as chairman of the committee, and Congressman CLAY, whom I also worked with in the past and to the present, Congressman MCKEON of California, and Congressman KILDEE of Michigan—all participated in this conference report.

It could not have been done without the fantastic help of our staff. The committee personnel, CRS, and legislative counsel, and DOL, Department of Education, the White House—all participated in bringing to fruition a piece of legislation which has been struggling for 4 years to be able to get there.

Mr. KENNEDY. Mr. President, final passage of the Workforce Investment Act is a landmark achievement in which we can all take pride. For years, Congress has struggled to design an employment training system that would provide America's workers with the skills they need to succeed in the 21st century workplace. I believe this legislation will accomplish that enormous task. Few bills which we consider will have a greater impact on more Americans than the Workforce Investment Act we pass today.

An educated workforce has become the most valuable resource in the modern economy. Our nation's long term economic vitality depends on the creation of an effective, accessible, and accountable system of job training and career development which is open to all our citizens. Schools must assume more responsibility for preparing their students to meet the challenges of the 21st century workplace. Disadvantaged adults and out of school youth need the opportunity to develop job skills which will make them productive members of the community. Dislocated workers who have been displaced by the rapid pace of technological change deserve the chance to pursue new careers. Individuals with disabilities need the opportunity to fully develop their career potential. The way in which we respond to these challenges today will determine how prosperous a nation we are in the next century.

The importance of highly developed employment skills has never been greater. The gap in earnings between skilled and unskilled workers is steadily widening. For those who enter the workforce with good academic training and well-developed career skills, this new economy offers almost unlimited potential. However, for those who lack basic proficiency in language, math and science and who have no career skills, the new economy presents an increasingly hostile environment.

Over three million young men and women between the ages of 16 and 24 in this country did not complete high school and are not enrolled in school. Many more graduate from high school without the level of knowledge and skill that a high school diploma should represent. They will require more education and job training in order to obtain stable, well-paying employment. Without it, they are in danger of becoming a lost workforce generation.

Effective job training is also essential to the success of welfare reform. More than 40 percent of those in the JTPA program for disadvantaged adults have come from the welfare rolls. Under the welfare reform legislation, an additional 1.7 million people will be entering the job market. Most of these individuals have little or no work background and very limited employment skills. In many cases, they are also the sole support of young children. They are making urgent new demands on a job training system that is already burdened beyond its capacity.

In addition, the combination of rapidly changing technology and the shift of manufacturing jobs overseas is creating an alarming number of dislocated workers. These individuals have extensive work experience, but their skills are no longer in demand. We must give them the opportunity for retraining, and for the development of new skills to enable them to compete in the 21st century workplace.

The accelerating pace of technological change has made much of the existing job training system obsolete. Broad reforms are clearly needed to meet the demands of the modern workplace.

The Workforce Investment Act will provide employment training opportunities for millions of Americans. It responds to the challenge of the changing workplace by enabling men and women to acquire the skills required to enter the workforce and to upgrade their skills throughout their careers. It will provide them with access to the educational tools that will enable them not only to keep up, but to get ahead.

The legislation is the product of a true bipartisan collaboration. I want to publicly commend Senators JEFFORDS and DEWINE for the genuine spirit of bipartisanship which has made this effort possible. Senator WELLSTONE and I appreciate it. This spirit of collaboration was also shared by the House conferees. The resulting legislation will, I believe, truly expand career options, encourage greater program innovation, and facilitate cooperative efforts amongst business, labor, education and state and local government.

I also want to recognize the important role President Clinton has played in bringing about this dramatic reform of our current job training system. He has consistently emphasized the need for greater individual choice in the selection of career paths and training providers. The philosophy behind his skill grant proposal is reflected in our legislation.

The Workforce Investment Act is designed to provide easy access to state of the art employment training programs which are geared to real job opportunities in the community through a single, customer-friendly system of One Stop Career Centers. Over 700 such Centers are already operating successfully across the country. This legislation will ensure that every individual in need of employment services will have access to such a facility. The cornerstones of this new system are individual choice and quality labor market information. In the past, men and women seeking new careers often did not know what job skills were most in demand and which training programs had the best performance record. All too often, they were forced to make one of the most important decisions of their lives based on anecdotes and late-night advertisements.

No training system can function effectively without accurate and timely information. The frequent unavailability of quality labor market information is one of the most serious flaws in the current system. This legislation places a strong emphasis on providing accurate and timely information about what area industries are growing, what skills those jobs require, and what earning potential they have. Extensive business community and organized labor participation are encouraged in developing a regional plan based on this information. Once a career choice is made, the individual must still select a training provider. At present, many applicants make that choice with a little or no reliable information. Under this bill, each training provider will have to publicly report graduation rates, job placement and retention rates, and average earnings of graduates.

Because of the extensive information which will be available to each applicant, real consumer choice in the selection of a career and of a training provider will be possible. The legislation establishes individual training accounts for financially eligible participants, which they can use to access career education and skill training programs. Men and women seeking training assistance will no longer be limited to a few predetermined options. As long as there are real job opportunities in the field selected and the training provider meets established performance standards, the individual will be free to choose which option best suits his or her needs.

An essential element of the new system we have designed is accountability. As I noted earlier, each training provider will have to monitor and report the job placement and retention achieved by its graduates and their average earnings. Only those training programs that meet an acceptable performance standard will remain eligible for receipt of public funds. The same principle of accountability is applied to those agencies administering state and local programs. They are being given wide latitude to innovate under this legislation. But they too will be held accountable if their programs fail to meet challenging performance targets.

The rapid pace of technological change in the workplace has produced an alarming number of workers who have become dislocated in mid-career. The dislocation has been compounded by the increasing number of labor intensive production employers relocating their businesses abroad. This trend has been particularly acute in the manufacturing sector. We have a special obligation to these dislocated workers who have long and dedicated work histories and now are unemployed through no fault of their own. The Workforce Investment Act makes a commitment to them by maintaining a special dislocated worker program, supported by a separate funding stream, which is geared to their retraining needs. The current dislocated worker program served approximately 540,000 dislocated workers nationwide in the most recent year. Of those who completed the program during that year, 71 percent were employed when they left the program, earning on average 93 percent of their previous wages. America's dislocated workers have earned the right to assistance in developing new skills which will allow them to be full participants in the 21st century economy.

There is no challenge facing America today which is tougher or more important than providing at-risk, often out-of-school, youth with meaningful education and employment opportunities. Far too many of our teenagers are being left behind without the skills needed to survive in the 21st century economy. I am particularly pleased with the commitment which the Workforce Investment Partnership Act makes to these young men and women. This legislation authorizes a new initiative focused on teenagers living in poverty in communities offering them few constructive employment opportunities. Each year, the Secretary of Labor will award grants from a $250 million fund to innovative programs designed to provide opportunities to youth living in these areas. The programs will emphasize mentoring, strong links between academic and worksite learning, and job placement and retention. It will encourage broad based community participation from local service agencies and area employers. These model programs will, we believe, identify the techniques which are most effective in reaching those youth at greatest risk.

Another important program for young people who face the highest barriers to employment is Job Corps. Most of the participants grow up in extreme poverty. Their educational opportunities are limited. Job Corps, at its best, moves them from deprivation to opportunity. But, for many of them, it is an extremely difficult transition. As a result, critics of the program are always able to point to failures. But for each story of failure, there are many stories of success. Job Corps is a program worth preserving and worth expanding too. Our legislation decisively rejects the view that Job Corps should be dismantled. Instead, it strengthens the program in several ways. It establishes closer ties between individual Job Corps Centers and the communities they serve. It ensures that training programs correspond with the area's labor market needs. It extends follow-up counseling for participants up to 12 months and established detailed performance standards to hold programs accountable.

The legislation also provides for the continuation of summer jobs as an essential element of the youth grant. For many youth, summer jobs are their first opportunity to work and their first critical step in learning the work ethic. The summer jobs program also provides many youth with quality learning experiences and follow up during the school year. Studies by the Department of Labor's Office of the Inspector General and research by Westat, Inc. have reported positive findings regarding the program, concluding that work sites are well-supervised and disciplined, that jobs provide useful work, that the education component teaches students new skills that they apply in school, and that students learn the value of work.

I believe that the summer jobs program needs to continue to be available on a significant scale with sufficient funding. This bill recognizes the critical importance of the summer youth program by requiring that it be a part of each local area's youth program and allowing local communities to determine the number of summer jobs to be created.

The Workforce Investment Act includes titles reauthorizing major vocation rehabilitation and adult literacy programs. Both programs will continue to be separately funded and independently administered. We have incorporated them in the Workforce Act because they must be integral components of any comprehensive strategy to prepare people to meet the demands of the 21st century workplace.

Vocational rehabilitation offers new hope to individuals with disabilities, allowing them to reach their full potential and actively participate in their communities. The Rehabilitation Title of the Act will ensure that all working-aged individuals with disabilities, even those with the most significant disabilities, have realistic opportunities to obtain the resources and support they need to reach their employment goals.

Adult literacy programs are essential for the 27% of the adult population who have not earned a high school diploma or its equivalent. Learning to read and communicate effectively are the first steps to career advancement. This legislation will increase access to educational opportunities for those people most in need of assistance and enhance the quality of services provided.

The Workforce Investment Partnership Act will make it possible for millions of Americans to gain the skills needed to compete in a global economy. In doing so, we are also enabling them to realize their personal American dreams.

I would like to recognize the substantial contributions made by several individuals to this enormous legislative effort. On my staff, Jeffrey Teitz has worked on the development of the workforce and education titles of this bill for nearly eighteen months and done an outstanding job. Connie Garner has devoted a comparable effort to the vocational rehabilitation title. Jane Oates' assistance throughout the conference process has also been invaluable. I am proud of their work.

I also want to call the Senate's attention to the role of my longtime friend, William Spring of Boston. Bill is a leader on training and education issues in Massachusetts and his creative recommendations are incorporated throughout this legislation. There is one further person who deserves special mention. Steven Spinner worked for me during the 104th Congress until his tragic and untimely death. His invaluable efforts helped to lay the groundwork for our success in reforming the workforce system.

Mr. DODD. Mr. President, I am pleased to join with my colleagues in support of the Workforce Investment Act Conference Report. This is a truly bipartisan bill. As a conferee, I would like to commend Senators JEFFORDS, KENNEDY, DEWINE, and WELLSTONE, as well as the House conferees, for shepherding this bill through the conference.

Few issues that we vote on in Congress are as important to the future of this country as the lifelong education and training of our workforce. We live in an era of a global economy, emerging industries and company downsizing. It is imperative that our delivery of services meets the employment and educational needs of the 21st century.

The current maze of more than 160 programs which are administered by 15 separate federal agencies has failed. The Workforce Investment Act streamlines these programs by giving more authority to state and local representatives of government, business, labor, education, and youth activities. The bill establishes a true collaborative process between the state and local representatives to ensure that training and educational services will be held to high standards. This bill also gives more flexibility to individuals seeking training assistance. Individuals will no longer be limited to a predetermined set of services.

I am especially pleased that the cornerstone of the Workforce Investment Act is streamlined service delivery through one-stop career centers. My state of Connecticut is nearing completion of implementation of its one-stop system, called Conneticut Works. This network has reformed the delivery of job training services in the state. I have had the privilege of visiting many of these centers and can attest to their success.

While I applaud the new system of providing training assistance incorporated in ths bill, I am pleased that the bill retains some direct federal involvement in order to ensure that disadvantaged youth, veterans and displaced workers receive the training assistance and support they need.

For many years, the Connecticut economy was dependent on defense-oriented industries. The Workforce Investment Act ensures that employees who are adversely affected by base closures and military downsizing will have access to job training and supportive services in order to acquire the skills needed for employment in the technology-driven economy of the 21st century.

This legislation also provides for the coordination of adult education systems, allowing adult education to play a crucial role in a participant's professional training program. In the area of adult education and literacy, this legislation specifically targets those communities that demonstrate significant illiteracy rates to receive adult education programs as a first priority. I am pleased that this legislation also includes a provision that will direct funds designated to support English as a Second Language (ESL) programs to those ESL programs in communities with designated need. This means that ESL programs with waiting lists—those in communities with the greatest need for the valuable services these programs provide—will receive funds on a prioritized basis.

Mr. President, in order to better assist nonnative English speakers and fully assimilate them into our society, we must help them become more fluent in English. I can think of few more important factors in determining whether or not someone new to this society will successfully make this difficult transition than their ability to speak English.

A clear and effective grasp of the English language is still the best indicator of success for nonnative English speakers. The ability to speak English for anyone in today's marketplace represents an "open door," Mr. President. This "open door" can lead to greater employment and advancement opportunities for those whose first language is not English.

Additionally, Mr. President, this legislation reauthorizes the Rehabilitation Act. This critically important legislation provides comprehensive vocational rehabilitation services designed to help individuals with disabilities become more employable and achieve greater independence and integration into society.

Under the Rehabilitation Act, states, with assistance provided by the federal government in the manner of formula-derived grants, provide a broad array of services to individuals with disabilities that includes assessment, counseling, vocational and other educational services, work related placement services, and rehabilitation technology services. More than 1.25 million Americans with disabilities were served by vocational rehabilitation programs in 1995 alone, Mr. President.

I am particularly pleased that a provision dealing with assistive technology was included in this legislation. This provision, Section 508, will require the federal government to provide assistive technology to Federal employees with disabilities. This provision will put into place for the first time regulations requiring the federal government to provide its employees with disabilities access to appropriate technology suited to their individual needs.

This legislation would allow the federal government to take the lead in providing critical access to information technology to all federal employees with disabilities in this country. It strengthens the federal requirement that electronic and information technology purchased by federal agencies be accessible to their employees with disabilities.

Electronic and information technology accessibility is essential for federal employees to maintain a meaningful employment experience, as well as to meet their full potential. We live in a world where information and technology are synonymous with professional advancement. Increasingly, essential job functions have come to involve the use of technology, and where it is inaccessible, job opportunities that others take for granted are foreclosed to people with disabilities.

Presently, there are approximately 145,000 individuals with disabilities in the federal workforce. Roughly 61 percent of these employees hold permanent positions in professional, administrative, or technical occupations. Nationally, there are 49 million Americans who have disabilities, nearly half of them have a severe disability. Yet most mass market information technology is designed without consideration for their needs.

Section 508, Mr. President, is the first step in an effort to ensure that all individuals with disabilities have access to the assistive technology providing them the ability to reach their full capability. Though Section 508 will presently only affect federal employees, it is my hope that one day all individuals with disabilities will have the same access to assistive technology now afforded federal employees because of this important legislation. The federal government must truly be an equal opportunity employer, and this equal opportunity must apply fully to individuals with special needs.

Finally, Mr. President, I would again like to commend Senators JEFFORDS, DEWINE, KENNEDY, and WELLSTONE, as well as Chairman GOODLING, Congressmen CLAY, KILDEE, and MARTINEZ for the important role they each played in making this conference agreement a reality. They all worked closely with myself and my staff to address numerous concerns and for that I would like to thank them.

Mr. WELLSTONE. Mr. President, I am extremely pleased we are about to pass this important conference report. I look forward to its enactment upon signature by the President, which I hope can occur very soon. It is my understanding that the House is prepared to act on the conference bill during the coming days.

I have spoken on numerous occasions regarding the subject. As the Ranking Democrat on the Senate Labor Subcommittee on Employment and Training, I have worked hard with my colleagues Senator DEWINE, Senator JEFFORDS and Senator KENNEDY to help bring us to where we are this evening. I thank them and the many Minnesotans who have worked directly with me and my staff during the months of hearings, preparations, debate and drafting.

The conference bill preserves important policy principles contained in the Senate bill. It will help coordinate, streamline and decentralize our federal job training system. At the same time, it will make that system more accountable to real performance measures. It gives private sector employers—the people who have jobs to offer and who need workers with the right skills—a greater role in directing policy at the state and local level, which is where most decision-making power resides in this bill. The bill retains crucial federal priorities, then allows state and local authorities to decide how best to address their needs.

And it will move the country to where Minnesota and a number of other states have already moved decisively: to a system of One-Stop service centers where people can get all the information they need in one location. It will replace currently over-bureaucratized systems in many states and localities with systems driven more by the needs of those who utilize them. Adults seeking training will receive Individual Training Accounts to give them direct control over their own careers. High quality labor market information will be accessible through the One-Stops, and training providers will be required to report publicly on their performance. Men and women will have the ability to make their own choices based on the best information about which profession they should pursue, about the skills and training they'll need, and about the best place to get those skills and that training.

This week in Minneapolis, concluding today, the U.S. Department of Labor and Minnesota's Department of Economic Security hosted a national conference on One-Stop Workforce centers. It is with some pride that I note that my state has been a real leader in innovation with respect to One-Stops. Minnesota has also been a national leader when it comes to workforce system performance.

The conference bill ensures that states such as Minnesota, and the localities within them, can continue to innovate within the new system created. Good-performing service delivery areas will be allowed to continue to perform successfully. The same is true of current collaborative one-stop structures and local workforce boards which currently successfully undertake a range of activities, such as what the bill calls core services and training services. We have intentionally built flexibility into the bill.

Veterans will be served both in State-administered training programs and the national veterans workforce investment programs. Veterans also will have a strong role in the policy processes established in the bill. Community-based organizations are assured an appropriate role in setting policy. Labor organizations, too, retain a prominent role. Crucial provisions regarding the federal employment service are protected.

Mr. President, it has been a very busy week. I have given longer speeches on this topic in the past and may yet again. For now, I am extremely satisfied with our accomplishment in this bill. I hope we will soon be able to celebrate its enactment.

Mr. REED. Mr. President, I rise in support of the Conference Report on H.R. 1385, the Workforce Investment Act of 1998.

In a world where economic activity knows no national boundaries, it is crucial we ensure that we have the most knowledgeable and best trained workers in the world.

As a member of the Conference Committee on H.R. 1385, I am pleased that the Conference Agreement before us today will help us reach this goal by streamlining and reforming job training, adult education, and vocational rehabilitation programs, while enhancing federal support and investment in these critical areas.

The Conference Agreement will help states implement a more coherent, performance-driven system to ensure that Americans receive the training and education they need throughout their lives.

The Conference Agreement will streamline services by establishing a one-stop delivery system; enhance accountability by requiring states, local boards, and training providers to meet higher performance measures; provide more reliable information on local career opportunities and training programs and providers; empower individuals to use individual training accounts to choose their own training programs and providers; and increase flexibility to allow states and local areas to implement innovative job training programs.

I am also particularly pleased that this Conference Agreement includes provisions which will benefit my home state of Rhode Island, such as preserving the state's successful service delivery area structure.

In addition to job training reform, the Conference Agreement also improves the accessibility and quality of adult literacy and education programs. Indeed, more aggressive adult literacy programs are essential if we are to ensure that everyone in the workforce has an ability to read.

Lastly, the Conference Agreement reauthorizes the Rehabilitation Act of 1973. In doing so, it links vocational rehabilitation to the new workforce system, while maintaining a separate funding stream for vocational rehabilitation. This will provide improved training and employment services to individuals with disabilities.

I want to thank Chairman JEFFORDS, Senator KENNEDY, Senator DEWINE, and Senator WELLSTONE, and their staffs, for their efforts on this important legislation and for working with me to address issues affecting Rhode Island.

Mr. President, I urge my colleagues to support this legislation.

Mr. JEFFORDS. Mr. President, I now renew my unanimous consent request.

The PRESIDING OFFICER. Without objection, the conference report is agreed to.

PATRIOTIC AND NATIONAL OBSERVANCES, CEREMONIES, AND ORGANIZATIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 477, H.R. 1085.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1085) to revise, codify and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, "Patriotic and National Observances, Ceremonies and Organizations."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1085) was ordered to a third reading, was read the third time, and passed.

AUTHORIZING THE PRINTING OF COPIES OF THE PUBLICATION ENTITLED "THE UNITED STATES CAPITOL" AS A SENATE DOCUMENT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 115, submitted earlier by Senator WARNER.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 115) to authorize the printing of copies of the publication entitled "The United States Capitol" as a Senate document.

The Senate proceeded to consider the concurrent resolution.

Mr. JEFFORDS. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 115) was considered and agreed to as follows:

S. CON. RES. 115

Resolved by the Senate (the House of Representatives concurring), That (a) a revised edition of the publication entitled "The United States Capitol" (referred to as "the pamphlet") shall be reprinted as a Senate document.

(b) There shall be printed 2,000,000 copies of the pamphlet in the English language at a cost not to exceed $100,000 for distribution as follows:

(1)(A) 206,000 copies of the publication for the use of the Senate with 2,000 copies distributed to each Member;

(B) 886,000 copies of the publication for the use of the House of Representatives, with 2,000 copies distributed to each Member; and

(C) 908,000 of the publication for distribution to the Capitol Guide Service; or

(2) if the total printing and production costs of copies in paragraph (1) exceed $100,000, such number of copies of the publication as does not exceed total printing and production costs of $100,000, with distribution to be allocated in the same proportion as in paragraph (1).

(c) In addition to the copies printed pursuant to subsection (b), there shall be printed at a total printing and production cost of not to exceed $70,000—

(1) 50,000 copies of the pamphlet in each of the following 5 languages: German, French, Russian, Chinese, and Japanese; and

(2) 100,000 copies of the pamphlet in Spanish;

to be distributed to the Capitol Guide Service.

AUTHORIZING THE PAYMENT OF THE EXPENSES OF REPRESENTATIVES OF THE SENATE ATTENDING THE FUNERAL OF A SENATOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 263, submitted earlier by Senator WARNER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 263) to authorize the payment of the expenses of representatives of the Senate attending the funeral of a Senator.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JEFFORDS. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The resolution (S. Res. 263) was agreed to, as follows:

S. RES. 263

Resolved, That, upon approval by the Committee on Rules and Administration, the Secretary of the Senate is authorized to pay, from the contingent fund of the Senate, the actual and necessary expenses incurred by the representatives of the Senate who attend the funeral of a Senator, including the funeral of a retired Senator. Expenses of the Senate representatives attending the funeral of a Senator shall be processed on vouchers submitted by the Secretary of the Senate and approved by the Chairman of the Committee on Rules and Administration.

CURT FLOOD ACT OF 1997

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 231, S. 53.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 53) to require the general application of the antitrust laws to major league baseball, and for other purposes.

The Senate proceeded to consider the bill which has been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Curt Flood Act of 1997".

SEC. 2. PURPOSE.

It is the purpose of this legislation to clarify that major league baseball players are covered under the antitrust laws (i.e., that major league players will have the same rights under the antitrust laws as do other professional athletes, e.g., football and basketball players), along with a provision that makes it clear that the passage of this Act does not change the application of the antitrust laws in any other context or with respect to any other person or entity.

SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO PROFESSIONAL MAJOR LEAGUE BASEBALL.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) The conduct, acts, practices, or agreements of persons in the business of organized professional major league baseball relating

to or affecting employment to play baseball at the major league level are subject to the antitrust laws to the same extent such conduct, acts, practices, or agreements would be subject to the antitrust laws if engaged in by persons in any other professional sports business affecting interstate commerce: Provided, however, That nothing in this subsection shall be construed as providing the basis for any negative inference regarding the caselaw concerning the applicability of the antitrust laws to minor league baseball.

"(b) Nothing contained in subsection (a) of this section shall be deemed to change the application of the antitrust laws to the conduct, acts, practices, or agreements by, between, or among persons engaging in, conducting, or participating in the business of organized professional baseball, except the conduct, acts, practices, or agreements to which subsection (a) of this section shall apply. More specifically, but not by way of limitation, this section shall not be deemed to change the application of the antitrust laws to—

"(1) the organized professional baseball amateur draft, the reserve clause as applied to minor league players, the agreement between organized professional major league baseball teams and the teams of the National Association of Professional Baseball Leagues, commonly known as the 'Professional Baseball Agreement', the relationship between organized professional major league baseball and organized professional minor league baseball, or any other matter relating to professional organized baseball's minor leagues;

"(2) any conduct, acts, practices, or agreements of persons in the business of organized professional baseball relating to franchise expansion, location or relocation, franchise ownership issues, including ownership transfers, and the relationship between the Office of the Commissioner and franchise owners;

"(3) any conduct, acts, practices, or agreements protected by Public Law 87–331 (15 U.S.C. 1291 et seq.) (commonly known as the 'Sports Broadcasting Act of 1961'); or

"(4) the relationship between persons in the business of organized professional baseball and umpires or other individuals who are employed in the business of organized professional baseball by such persons.

"(c) As used in this section, 'persons' means any individual, partnership, corporation, or unincorporated association or any combination or association thereof.".

AMENDMENT NO. 3479

Mr. JEFFORDS. Senator Hatch has a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. Jeffords], for Mr. Hatch, proposes an amendment numbered 3479.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Curt Flood Act of 1998".

SEC. 2. PURPOSE.

It is the purpose of this legislation to state that major league baseball players are covered under the antitrust laws (i.e., that major league baseball players will have the same rights under the antitrust laws as do other professional athletes, e.g., football and basketball players), along with a provision that makes it clear that the passage of this Act does not change the application of the antitrust laws in any other context or with respect to any other person or entity.

SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO PROFESSIONAL MAJOR LEAGUE BASEBALL.

The Clayton Act (15 U.S.C. §12 et seq.) is amended by adding at the end the following new section:

"Sec. 27(a) Subject to subsections (b) through (d) below, the conduct, acts, practices or agreements of persons in the business of organized professional major league baseball directly relating to or affecting employment of major league baseball players to play baseball at the major league level are subject to the antitrust laws to the same extent such conduct, acts, practices or agreements would be subject to the antitrust laws if engaged in by persons in any other professional sports business affecting interstate commerce.

"(b) No court shall rely on the enactment of this section as a basis for changing the application of the antitrust laws to any conduct, acts, practices or agreements other than those set forth in subsection (a). This section does not create, permit or imply a cause of action by which to challenge under the antitrust laws, or otherwise apply the antitrust laws to, any conduct, acts, practices or agreements that do not directly relate to or affect employment of major league baseball players to play baseball at the major league level, including but not limited to—

"(1) any conduct acts, practices or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting employment to play baseball at the minor league level, any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players.

"(2) the agreement between organized professional major league baseball teams and the teams of the National Association of Professional Baseball Leagues, commonly known as the 'Professional Baseball Agreement,' the relationship between organized profession major league baseball and organized professional minor league baseball, and organized professional minor league baseball, or any other matter relating to organized professional baseball's minor leagues;

"(3) any conduct, acts, practices or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting franchise expansion, location or relocation, franchise ownership issues, including ownership transfers, the relationship between the Office of the Commissioner and franchise owners, the marketing or sales of the entertainment product of organized professional baseball and the licensing of intellectual property rights owned or held by organized professional baseball teams individually or collectively;

"(4) any conduct, acts, practices or agreements protected by Public Law 87–331 (15 U.S.C. §1291 et seq.) (commonly known as 'the Sports Broadcasting Act of 1961');

"(5) the relationship between persons in the business of organized professional baseball and umpires or other individuals who are employed in the business of organized professional baseball by such persons; or

"(6) any conduct, acts, practices or agreements of persons not in the business of organized professional major league baseball.

"(c) Only a major league baseball player has standing to sue under this section. For the purposes of this section, a major league baseball player is—

"(1) a person who is a party to a major league player's contract, or is playing baseball at the major league level; or

"(2) a person who is a party to a major league player's contract or playing baseball at the major league level at the time of the injury that is the subject of the complaint; or

"(3) a person who has been a party to a major league player's contract or who has played baseball at the major league level, and who claims he has been injured in his efforts to secure a subsequent major league player's contract by an alleged violation of the antitrust laws, provided however, that for the purposes of this paragraph, the alleged antitrust violation shall not include any conduct, acts, practices or agreements of persons in the business of organized professional baseball relating to or affecting employment to play baseball at the minor league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

"(4) a person who was a party to a major league player's contract or who was playing baseball at the major league level at the conclusion of the last full championship season immediately preceding the expiration of the last collective bargaining agreement between persons in the business of organized professional major league baseball and the exclusive collective bargaining representative of major league baseball players.

"(d)(1) As used in this section, 'person' means any entity, including an individual, partnership, corporation, trust or unincorporated association or any combination or association thereof. As used in this section, the National Association of Professional Baseball Leagues, its member leagues and the clubs of those leagues, are not 'in the business of organized professional major league baseball.'

"(2) In cases involving conduct, acts, practices or agreements that directly relate or affect both employment of major league baseball players to play baseball at the major league level and also relate to or affect any other aspect of organized professional baseball, including but not limited to employment to play baseball at the minor league level and the other areas set forth in subsection (b) above, only those components, portions or aspects of such conduct, acts, practices or agreements that directly relate to or affect employment of major league baseball players to play baseball at the major league level.

"(3) As used in subsection (a), interpretation of the term 'directly' shall not be governed by any interpretation of 29 U.S.C. §151 et seq. (as amended).

"(4) Nothing in this section shall be construed to affect the application to organized professional baseball of the nonstatutory labor exemption from the antitrust laws.

"(5) The scope of the conduct, acts, practices or agreements covered by subsection (b) shall not be strictly or narrowly construed.

Mr. HATCH. Mr. President, today I offer on behalf of myself and Senator Leahy, the Ranking Member of the Judiciary Committee, an amendment in the nature of a substitute to S. 53, the Curt Flood Act of 1997. This bill, which was reported out of the Judiciary Committee on July 31, 1998, by a vote of 12–6, clarifies that the antitrust laws apply to labor relations at the major league level, but does not have any affect on any other persons or circumstances. Given our limited time, I will only make a few brief comments, and would ask unanimous consent that my full statement be entered into the RECORD.

In a baseball season that is likely to set records in a number of different categories, I am extremely pleased to be able to report that a truly historic milestone in the history of professional baseball has been reached. People said it would never happen, but today I can tell you that major league baseball players, along with both major and minor league club owners, have reached an agreement on a bill clarifying that the antitrust laws apply to major league professional baseball labor relations. This agreed upon language is reflected in the substitute we are offering today.

With this historic agreement, I am confident that Congress will, once and for all, make clear that professional baseball players have the same rights as other professional athletes, and will help assure baseball fans across the United States that our national pastime will not again be interrupted by strikes. With the home run battles and exciting pennant races, baseball is enjoying a resurgence. And, as fans are returning to the ballparks, they deserve to know that players will be on the field, not mired in labor disputes. I am pleased that Congress will, it now appears, be able to help guarantee that this is the case.

Due to an aberrant Supreme Court decision in 1922, labor relations in major league baseball have not been subject to antitrust laws, unlike any other industry in America. In every other professional sport, antitrust laws serve to stabilize relations between the team owners and players unions. That is one of the principal reasons why, in recent years, baseball has experienced more work stoppages, including the disastrous strike of 1994–95, than professional basketball, hockey and football combined.

In the 103d Congress, the House Judiciary Committee took the first important step by approving legislation which would have ensured that the antitrust laws apply to major league baseball labor relations, without impacting the minor leagues or team relocation issues. During the 104th Congress, the Senate Judiciary Committee approved and reported S. 627, The Major League Baseball Antitrust Reform Act, to apply federal antitrust laws to major league baseball labor relations. None of these bills were passed, however, as many Members of Congress were reluctant to take final action while there was an ongoing labor dispute.

With the settling of the labor dispute and with the signing of a long term agreement between the major league baseball team owners and the players union, the time was right this Congress finally to address this matter. In fact, in the new collective bargaining agreement, the owners pledged to work with the players to pass legislation that makes clear that major league baseball is subject to the federal antitrust laws with regard to owner-player relations.

At the beginning of this Congress, we introduced S. 53, a bill which was specifically supported by both the players and owners and which was reported out of the Judiciary Committee almost exactly one year ago. At the Committee markup, however, several Members indicated a concern that the bill might inadvertently have a negative impact on the Minor Leagues. Although both Senator LEAHY and myself were firmly of the view that the bill as reported adequately protected the minor leagues against such a consequence, we pledged to work with the minor leagues' representatives, in conjunction with the major league owners and players, to make certain that their concerns were fully addressed.

Although this process took much longer, and much more work, than I had anticipated, I am pleased to report that it has been completed. I have in my hand a letter from the minor leagues, and a letter co-signed by Don Fehr and Bud Selig, indicating that the major league players, and major and minor league owners, all support a new, slightly amended version of S. 53. I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
PROFESSIONAL BASEBALL LEAGUES, INC.,
Washington, DC, July 27, 1998.

Re: baseball legislation.

Hon. ORRIN HATCH,
Chairman, Senate Judiciary Committee, U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported out of the Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,
STANLEY M. BRAND.

July 21, 1998.

Hon. ORRIN HATCH, *Chairman,*
Hon. PATRICK LEAHY, *Ranking Member, Senate Judiciary Committee, U.S. Senate, Washington, DC.*

DEAR SENATOR HATCH AND SENATOR LEAHY: As requested by the Committee, the parties represented below have met and agreed to the attached substitute language for S. 53. In particular, we believe the substitute language adequately addresses the concerns expressed by some members of the Judiciary Committee that S. 53, as reported, did not sufficiently protect the interests of the minor leagues. We understand that the minor leagues will advise you that they agree with our assessment by a separate letter.

We thank you for your leadership and patience. Although, obviously, you are under no obligation to use this language in your legislative activities regarding S. 53, we hope that you will look favorably upon it in light of the agreement of the parties and our joint commitment to work together to ensure its passage.

If you have any questions or comments, please do not hesitate to contact us.

Sincerely,
DONALD M. FEHR,
Executive Director, Major League Baseball Players Association.
ALLAN H. "BUD" SELIG,
Commissioner, Major League Baseball.

OFFICE OF THE COMMISSIONER,
MAJOR LEAGUE BASEBALL,
July 21, 1998.

DONALD M. FEHR, Esquire,
Executive Director and General Counsel, Major League Baseball Players Association, New York, NY.

DEAR DON: As you know, in our efforts to address the concerns of the minor leagues with S. 53, as reported by the Senate Judiciary Committee, several changes in the bill were agreed to by the parties, i.e., the Major League Clubs, the Major League Baseball Players Association and the National Association of Professional Baseball Leagues (minor leagues). Among those changes was the addition of the word "directly" immediately before "relating to" in new subsection (a) of the bill.

This letter is to confirm our mutual understanding that the addition of that word was something sought by the Minor leagues and is intended to indicate that this legislation is not meant to allow claims by non major league players. By using "directly" we are not limiting the application of new subsection (a) to matters which would be considered mandatory subjects of bargaining in the collective bargaining context. Indeed, that is the reason we agreed to add paragraph (d)(3). There is no question that, under this Act, major league baseball players may pursue the same actions as could be brought by athletes in professional football and basketball with respect to their employment at the major league level.

I trust you concur with this intent and interpretation.

Very truly yours,
ALLAN H. SELIG,
Commissioner of Baseball.

Mr. HATCH. This new bill specifically precludes courts from relying on the bill to change the application of the antitrust laws in areas other than player-owner relations; clarifies who has standing under the new law; and adds several provisions which ensure that the bill will not harm the minor leagues.

Senator LEAHY and I have incorporated these changes into our substitute, which, given its support across the board, we hope and expect to be passed today without objection. I urge my colleagues to adopt this substitute.

This amendment, while providing major league players with the antitrust protections of their colleagues in the other professional sports, such as basketball and football, is absolutely neutral with respect to the state of the antitrust laws between all entities and in all circumstances other than in the area of employment as between major league owners and players. Whatever the law was the day before this bill passes in those other areas it will continue to be after the bill passes. Let me emphasize that the bill affects no pending or decided cases except to the extent a court would consider exempting major league clubs from the antitrust laws in their dealings with major league players.

But because of the complex relationship between the major leagues and their affiliated minor leagues, it was necessary to write the bill in a way to direct a court's attention to only those practices, or aspects of practices, that affect major league players. It is for that reason, that a bill that ought to be rather simple to write goes to such lengths to emphasize its neutrality. And, although much of the Report filed by the Committee with respect to S. 53 is still applicable to this substitute, there have been some changes.

Section 2 states the bill's purpose. As originally contained in S. 53, the purpose section used the word "clarify" instead of the word "state" as used in this substitute. That language had been taken verbatim from the collective bargaining agreement signed in 1997 between major league owners and major league players. When the minor leagues entered the discussions, they objected to the use of the word "clarify" on the grounds that using this term created an inference regarding the current applicability of the antitrust laws to professional baseball. The parties therefore agreed to insert in lieu thereof the word "state." Both the parties and the Committee agree that Congress is taking no position on the current state of the law one way or the other. It is also for that reason that subsection (b) was inserted, as will be discussed.

Section 3 amends the Clayton Act to add a new section 27. As was the case with S.53, as reported, new subsection 27(a) states that the antitrust laws apply to actions relating to professional baseball players' employment to play baseball at the major league level and as in S.53 is intended to incorporate the entire jurisprudence of the antitrust laws, as it now exists and as it may develop.

In order to accommodate the concerns of the minor leagues however, new subsection (a) has been changed by adding the word "directly" immediately before the phrase "relating to or affecting employment" and the phrase "major league players" has been added before the phrase "to play baseball." These two changes were also made at the behest of the minor leagues in order to ensure that minor league players, particularly those who had spent some time in the major leagues, did not use new subsection (a) as a bootstrap by which to attack conduct, acts, practices or agreements designed to apply to minor league employment. This is in keeping with the neutrality sought by the Committee with respect to parties and circumstances not between major league owners and major league players.

Additionally, the new draft adds a new paragraph (d)(3) that states that the term directly is not to be governed by interpretations of the labor laws. This paragraph was added to ensure that no court would use the word "directly" in too narrow a fashion and limit matters covered in subsection (a) to those that would otherwise be known as mandatory subjects of bargaining in the labor law context. The use of directly is related to the relationship between the major leagues and the minor leagues, not the relationship between major league owners and players. Mr. President, I have a letter from the Commissioner of Baseball, Mr. Allan H. "Bud" Selig, to the Executive Director of the Major League Baseball Players Association, confirming this interpretation of the use of the word "directly" and I ask unanimous consent that it be inserted in the RECORD at this time.

As in S. 53, as reported, new subsection (b) is the subsection which implements the portion of the purpose section stating that the "passage of the Act does not change the application of the antitrust laws in any other context or with respect to any other person or entity." In other words, with respect to areas set forth in subsection (b), whatever the law was before the enactment of this legislation, it is unchanged by the passage of the legislation. With the exception of the express statutory exemption in the area of television rights recognized in paragraph (d)(4), each of the areas set forth depend upon judicial interpretation of the law. But Congress at this time seeks only to address the specific question of the application of the antitrust laws in the context of the employment of major league players at the major league level.

Thus, as to any matter set forth in subsection (b), a plaintiff will not be able to allege an antitrust violation by virtue of the enactment of this Act. Nor can the courts use the enactment of this Act to glean congressional intent as to the validity or lack thereof of such actions.

New subsection "c" deals specifically with the issue of standing. Although normally standing under such an act would be governed by the standing provision of the antitrust laws, 15 U.S.C. Sec. 15, the minor leagues again expressed concern that without a more limited standing provision, minor league players or amateurs would be able to attack what are in reality minor league issues by bootstrapping under this Act through subsection (a). The subsection sets forth the zone of persons to be protected from alleged antitrust violations by major league owners under this Act.

New paragraph (d)(1) defines "person" for the purposes of the Act, but includes a provision expressly recognizing that minor league clubs and leagues are not in the business of major league baseball. This addition was requested by the minor leagues to ensure that they would not be named as party defendants in every action brought against the major leagues pursuant to subsection (a).

New paragraph (d)(2) was added to give the courts direction in cases involving matters that relate to both matters covered by subsection (a) and to those matters as to which the Act is neutral as set forth in subsection (b). In such a case, the acts, conducts or agreements may be challenged under this Act as they directly relates to the employment of major league players at the major league level, but to the extent the practice is challenged as to its effect on any issue set forth in subsection (b), it must be challenged under current law, which may or may not provide relief.

New paragraph (d)(5) merely reflects the Committee's intention that a court's determination of which fact situations fall within subsection (b) should follow ordinary rules of statutory construction, and should not be subject to any exceptions or departures from these rules.

As stated in the Committee Report, nothing in this bill is intended to affect the scope or applicability of the "nonstatutory" labor exemption from the antitrust laws. See, e.g., Brown v. Pro Football, 116 S.Ct. 2116 (1996).

Before yielding to my good friend from Vermont, I would like to thank him for his hard work on this bill. His bipartisan efforts have been vital to the process. I would also like to thank our original cosponsors, Senators THURMOND and MOYNIHAN. I urge the quick adoption of this bill, which will help restore stability to major league baseball labor relations.

Mr. LEAHY. Mr. President, this summer we are being treated to an exceptional season of baseball, from the record breaking pace of the New York Yankees and the resurgence of the Boston Red Sox, to a number of inspiring individual achievements, including the perfect game of David Wells and the home run displays of McGwire, Griffey and Sosa. Such are the exploits that childhood memories are made of—and which we all thought could be counted on, that is until the summer of 1994.

Now finally, after years of turmoil, major league baseball is just beginning to emerge from the slump it inflicted upon itself, by returning to that which makes the game great—the game and the players on the field. And, last weekend, Larry Doby and others at long last were inducted into the Baseball Hall of Fame. These are steps in the right direction.

Today, the Senate will give baseball another nudge in the right direction by passing S. 53, the "Curt Flood Act of 1998." Murray Chass, a gifted reporter writing for The New York Times noted that on this issue we have finally "moved into scoring position with a bill that would alter the antitrust exemption Major League Baseball has enjoyed since 1922."

I am gratified that 76 years after an aberrant Supreme Court decision, we are finally making it clear that with respect to the antitrust laws, major league baseball teams are no different than teams in any other professional sport. For years, baseball was the only business or sport, of which I am aware, that claimed an exemption from antitrust laws, without any regulation in lieu of those laws. The Supreme Court refused to undue its mistake with respect to major league baseball made in the 1922 case of Federal Baseball. Finally, in the most well-known case on the issue, Flood v. Kuhn, the Court reaffirmed the Federal Baseball case on the basis of the legal principle of stare decisis while specifically finding that professional baseball is indeed an activity of interstate commerce, and thereby rejecting the legal basis for the Federal Baseball case.

Mr. President, as a result of that and subsequent decisions, and with the end of the major league reserve clause as the result of an arbitrator's ruling in 1976, there has been a growing debate as to the continued vitality, if any, of any antitrust exemption for baseball. It is for precisely this reason that this bill is limited in its scope to employment relations between major league owners and major league players. That is what is at the heart of turmoil in baseball and what is at the heart of the breach of trust with the fans that marked the cancellation of the 1994 World Series. At least we can take this small step toward ensuring the continuity of the game and restoring public confidence in it.

When David Cone testified at our hearing three years ago, he posed a most perceptive question. He asked: If baseball were coming to Congress to ask us to provide a statutory antitrust exemption, would such a bill be passed? The answer to that question is a resounding no. Nor should the owners, sitting at the negotiating table in a labor dispute, think that their anticompetitive behavior cannot be challenged. That is an advantage enjoyed by no other group of employers.

The certainty provided by this bill will level the playing field, making labor disruptions less likely in the future. The real beneficiaries will be the fans. They deserve it.

Mr. President, I just wanted to comment briefly on a couple of changes made in the substitute from the bill as reported by the Committee. First, the changes in the language in subsection (a) are not intended to limit in any way the rights of players at the major league level as they would be construed under the language of the bill as reported by the Judiciary Committee last July. The additional language was added to ensure that a minor league player, or someone who had played at the major league level and returned to the minor leagues, cannot use subsection (a), concerned with play at the major league level, to attack what is really a minor league employment issue only. Alternatively, neither can the major leagues use the wording of subsection (a) and that of subsection (d) to subvert the purpose of subsection (a) merely by linking a major league practice with a minor league practice. That linkage itself may be an antitrust violation and be actionable under this Act. It cannot be used as a subterfuge by which to subject players at the major league level to acts, practices or agreements that teams or owners in other sports could not subject athletes to.

Finally, the practices set forth in subsection (b) are not intended to be affected by this Act. While this is true, it should be remembered that although the pure entrepreneurial decisions in this area are unaffected by the Act, if those decisions are made in such a way as to implicate employment of major league players at the major league level, once again, those actions may be actionable under subsection (a). More importantly, we are making no findings as to how, under labor laws, those issues are to be treated.

In closing, Mr. President, I would like to thank all those involved in this undertaking: Chairman HATCH, of course, without whose unfailing efforts this result would not be possible; our fellow cosponsors, Senators THURMOND and MOYNIHAN, and other members of our Committee; and JOHN CONYERS, the Ranking Democrat on the House Judiciary Committee, for making this bill a priority. And I want to commend the interested parties for working to find a solution they can all support. Not only have they done a service to the fans, but they may find, on reflection, that they have done a service to themselves by working together for the good of the game.

Finally, Mr. President, I would be remiss if I did not comment on the man for whom this legislation is named, Curt Flood. He was a superb athlete and a courageous man who sacrificed his career for perhaps a more lasting baseball legacy. When others refused, he stood up and said no to a system that he thought un-American as it bound one man to another for his professional career without choice and without a voice in his future.

I am sad that he did not live long enough to see this day. In deference to his memory and in the interests of every fan of this great game, I hope that Congress will act quickly on this bill. I am delighted that we are moving forward today and that we are finally able to enjoy the game once again.

Mr. JEFFORDS. I ask unanimous consent the amendment be considered as read and agreed to, the bill be considered read a third time and passed as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3479) was agreed to.

The bill (S. 53), as amended, was considered read a third time and passed.

INTERSTATE FOREST FIRE PROTECTION COMPACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 471, S. 1134.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1134) granting the consent and approval of Congress to an interstate forest fire protection compact.

The Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read three times and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1134) was deemed read the third time and passed, as follows:

S. 1134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS.

(a) IN GENERAL.—The consent and approval of Congress is given to an interstate forest fire protection compact, as set out in subsection (b).

(b) COMPACT.—The compact reads substantially as follows:

"THE NORTHWEST WILDLAND FIRE PROTECTION AGREEMENT

"THIS AGREEMENT is entered into by and between the State, Provincial, and Territorial wildland fire protection agencies signatory hereto, hereinafter referred to as "Members".

"FOR AND IN CONSIDERATION OF the following terms and conditions, the Members agree:

"Article I

"1.1 The purpose of this Agreement is to promote effective prevention, presuppression and control of forest fires in the Northwest wildland region of the United States and adjacent areas of Canada (by the Members) by providing mutual aid in prevention, presuppression and control of wildland fires, and by establishing procedures in operating plans that will facilitate such aid.

"Article II

"2.1 The agreement shall become effective for those Members ratifying it whenever any two or more Members, the States of Oregon, Washington, Alaska, Idaho, Montana, or the Yukon Territory, or the Province of British Columbia, or the Province of Alberta have ratified it.

"2.2 Any State, Province, or Territory not mentioned in this Article which is contiguous to any Member may become a party to this Agreement subject to unanimous approval of the Members.

"Article III

"3.1 The role of the Members is to determine from time to time such methods, practices, circumstances and conditions as may be found for enhancing the prevention, presuppression, and control of forest fires in the area comprising the Member's territory; to coordinate the plans and the work of the appropriate agencies of the Members; and to coordinate the rendering of aid by the Members to each other in fighting wildland fires.

"3.2 The Members may develop cooperative operating plans for the programs covered by this Agreement. Operating plans shall include definition of terms, fiscal procedures, personnel contacts, resources available, and standards applicable to the program. Other sections may be added as necessary.

"Article IV

"4.1 A majority of Members shall constitute a quorum for the transaction of its general business. Motions of Members present shall be carried by a simple majority except as stated in Article II. Each Member will have one vote on motions brought before them.

"Article V

"5.1 Whenever a Member requests aid from any other Member in controlling or preventing wildland fires, the Members agree, to the extent they possibly can, to render all possible aid.

"Article VI

"6.1 Whenever the forces of any Member are aiding another Member under this Agreement, the employees of such Member shall operate under the direction of the officers of the Member to which they are rendering aid and be considered agents of the Member they are rendering aid to and, therefore, have the same privileges and immunities as comparable employees of the Member to which the are rendering aid.

"6.2 No Member or its officers or employees rendering aid within another State, Territory, or Province, pursuant to this Agreement shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith to the extent authorized by the laws of the Member receiving the assistance. The receiving Member, to the extent authorized by the laws of the State, Territory, or Province, agrees to indemnify and save-harmless the assisting Member from any such liability.

"6.3 Any Member rendering outside aid pursuant to this Agreement shall be reimbursed by the Member receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment and for the cost of all materials, transportation, wages, salaries and maintenance of personnel and equipment incurred in connection with such request in accordance with the provisions of the previous section. Nothing contained herein shall prevent any assisting Member from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving Member without charge or cost.

"6.4 For purposes of the Agreement, personnel shall be considered employees of each sending Member for the payment of compensation to injured employees and death benefits to the representatives of deceased employees injured or killed while rendering aid to another Member pursuant to this Agreement.

"6.5 The Members shall formulate procedures for claims and reimbursement under the provisions of this Article.

"Article VII

"7.1 When appropriations for support of this agreement, or for the support of common services in executing this agreement, are needed, costs will be allocated equally among the Members.

"7.2 As necessary, Members shall keep accurate books of account, showing in full, its receipts and disbursements, and the books of account shall be open at any reasonable time to the inspection of representatives of the Members.

"7.3 The Members may accept any and all donations, gifts, and grants of money, equipment, supplies, materials and services from the Federal or any local government, or any agency thereof and from any person, firm or corporation, for any of its purposes and functions under this Agreement, and may receive and use the same subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

"Article VIII

"8.1 Nothing in this Agreement shall be construed to limit or restrict the powers of any Member to provide for the prevention, control, and extinguishment of wildland fires or to prohibit the enactment of enforcement of State, Territorial, or Provincial laws, rules or regulations intended to aid in such prevention, control and extinguishment of wildland fires in such State, Territory, or Province.

"8.2 Nothing in this Agreement shall be construed to affect any existing or future Cooperative Agreement between Members and/or their respective Federal agencies.

"Article IX

"9.1 The Members may request the United States Forest Service to act as the coordinating agency of the Northwest Wildland Fire Protection Agreement in cooperation with the appropriate agencies for each Member.

"9.2 The Members will hold an annual meeting to review the terms of this Agreement, any applicable Operating Plans, and make necessary modifications.

"9.3 Amendments to this Agreement can be made by simple majority vote of the Members and will take effect immediately upon passage.

"Article X

"10.1 This Agreement shall continue in force on each Member until such Member takes action to withdraw therefrom. Such action shall not be effective until 60 days after notice thereof has been sent to all other Members.

"Article XI

"11.1 Nothing is this Agreement shall obligate the funds of any Member beyond those approved by appropriate legislative action.".

SEC. 2. OTHER STATES.

Without further submission of the compact, the consent of Congress is given to any State to become a party to it in accordance with its terms.

SEC. 3. RIGHTS RESERVED.

The right to alter, amend, or repeal this Act is expressly reserved.

MEASURE READ FOR THE FIRST TIME—S. 2393

Mr. JEFFORDS. Mr. President, I understand that earlier today, Senator MURKOWSKI introduced S. 2393. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2393) to protect the sovereign right of the State of Alaska and prevent the Secretary of Agriculture and the Secretary of the Interior from assuming management of Alaska's fish and game resources.

Mr. JEFFORDS. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

Mr. JEFFORDS. The bill will be read a second time on the next legislative day.

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. Mr. President, this is legislation regarding the State of Alaska's sovereign right to manage its fish and game resources.

The legislation will extend a current moratorium on the federal government from assuming control of Alaska's fisheries for two years until December 1, 2000.

The language is similar to past moratoriums on this issue and is similar to language Congressman YOUNG added to the Interior Appropriations bill in the House, except that it is not conditioned upon action by the Alaska State Legislature.

To every one of my colleagues their respective state's right to manage fish and game is absolute—every other state manages its own fish and game.

In Alaska, this is not the case, and therefore, action must be taken to maintain the sovereign right of our state.

Mr. President, Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) requires the State of Alaska to provide a rural subsistence hunting and fishing preference on federal "public lands" or run the risk of losing its management authority over fish and game resources.

If the State fails to provide the required preference by state statute, the federal government can step in to manage federal lands.

The Alaska State Legislature passed such a subsistence preference law in 1978 which was upheld by referendum in 1982.

The law was slightly revised in 1986, and remained on the books until it was struck down by the Alaska Supreme Court in 1989 as unconstitutional because of the Alaska Constitution's common use of fish and game clause.

At that time, the Secretary of the Interior and the Secretary of Agriculture took over management of fish and game resources on federal public lands in Alaska.

In 1995 a decision by the Ninth Circuit Court of Appeals in Katie John v. United States extended the law far beyond its original scope to apply not just to "federal lands," but to navigable waters owned by the State of Alaska. Hence State and private lands were impacted too.

The theory espoused by the Court was that the "public lands" includes navigable waters in which the United States has reserved water rights.

If implemented, the court's decision would mean all fisheries in Alaska would effectively be managed by the federal government.

Indeed in April of 1996, the Departments of the Interior and Agriculture published an "advance notice of proposed rulemaking" which identified about half of the state as subject to federal authority to regulate fishing activities.

These regulations were so broad they could have affected not only fishing activities, but virtually all activities on state and federal lands that may have an impact on subsistence uses.

There is no precedent in any other state in the union for this kind of overreaching into state management prerogatives.

For that reason Congress acted in 1996 to place a moratorium on the federal government from assuming control of Alaska fisheries.

That moratorium has twice been extended and is set to expire December 1, 1998.

The State's elected leaders have worked courageously to try and resolve this issue by placing an amendment to the state constitution that would allow them to come into compliance with the federal law and provide a subsistence priority.

Unfortunately, the State of Alaska's constitution is not easily amended and these efforts have fallen short of the necessary votes needed to be placed before the Alaska voters.

In fact, the legislature—the elected representatives of the people—in the most recent special session indicated that they were not supportive of amending the State Constitution and putting the issue to a vote of the people.

Therefore we once again are in a position where we have no other alternative than to extend the moratorium prohibiting a federal takeover of Alaska's fisheries.

The bill I am introducing today will accomplish this. It extends the current moratorium through December 1, 2000.

I believe this will provide the State's elected leaders the needed time to work through this dilemma as they cannot finally resolve the matter of amending the State Constitution until November 2000.

Mr. President, I do not take this moratorium lightly.

I, along with most Alaskans, believe that subsistence uses of fish and game should have a priority over other uses in the state.

We have provided for such uses in the past, I hunted and fished under those regulations and I respected and supported them and continue to do so now. I believe the State can again provide for such uses without significant interruption to the sport or commercial fisherman.

I also believe that Alaska's rural residents should play a greater role in the management and enforcement of fish and game laws in Alaska.

They understand and live with the resources in rural Alaska. They see and experience the fish and game resources day in and day out. And, they are most directly impacted by the decisions made about use of those resources.

They should bear their share of the responsibility for formulating fish and game laws as well enforcing fish and game laws.

It is my hope that the State will soon provide for Alaska's rural residents to have this greater role while at the same time resolving the subsistence dilemma once and for all.

But until that happens, I cannot stand by and watch the federal government move into the State and assume control of the Alaska fish and game resources.

I have lived under territorial status and it does not work. In 1959 Alaskan's caught just 25.1 million salmon. Under State management we caught 218 million salmon in 1995.

Federal control would again be a disaster for the resources and those that depend on it.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 4059

Mr. JEFFORDS. Mr. President, I ask unanimous consent that immediately following the vote on the conference report to accompany H.R. 629, the Texas compact, previously ordered to occur when the Senate reconvenes following the August recess, the Senate turn to consideration of the conference report to accompany H.R. 4059, the military construction appropriations bill.

I further ask unanimous consent that the conference report be considered as having been read; further, the Senate immediately proceed to a vote on the adoption of the conference report without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIOMATERIALS ACCESS ASSURANCE ACT OF 1997

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 872, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 872) to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, the effort to pass legislation dealing with biomaterials has been a long fight. I want to thank Senator LIEBERMAN, and Congressman GEKAS for their extraordinary leadership and hard work on the issue. It has been a great privilege and honor working with them over the past several years to gain passage of this vital legislation.

I want to stress to my colleagues the importance of passing the Biomaterial Access Assurance Act. Over seven million lives depend upon an ample and reliable supply of medical devices and implants, such as pace makers and brain shunts.

Unfortunately, the supply of these life-saving products is in serious danger. Those who provide the raw materials from which medical implants are fashioned have been dragged into costly litigation over claims of damage from the finished product. This is the case even though such suppliers are not involved in the design, manufacture or sale of the implant. Many suppliers are unwilling to expose themselves to this enormous and undue risk. This bill will extend appropriate protection to raw material suppliers, while assuring that medical implant manufacturers will remain liable for damages caused by their products. It would permit suppliers of biomaterials to be quickly dismissed from a lawsuit if they did not manufacture or sell the implant and if they met the contract specifications for the biomaterial.

Mr. President, as my colleagues are aware, the bill's provisions do not extend to suppliers of silicone gel and silicone envelopes used in silicone gel breast implants.

I want to be quite clear this "carveout" as it's been called, is intended to have no effect on tort cases related to breast implants. The question of whether and to what degree silicone breast implants are hazardous is a determination that must be made by scientific experts. The question of whether and to what degree raw material suppliers are or are not liable is a determination that the courts must render.

Determining the safety or efficacy of a medical device is not the function of the Senate nor the United States Congress. This is not our role and nothing in this legislation should be construed otherwise. So, the exemption should not be interpreted as a judgement about silicone breast implants.

Our goal in this regard remains simply to ensure that this legislation draws no conclusion about and has no impact upon pending suits.

Finally, I would like to mention that this exemption should not be considered an invitation for additional carveouts or exemptions for other raw material or component part suppliers.

I do not wish to see suppliers, who trusting in the protections of this act, return to the medical device manufacturing marketplace only to find themselves again targeted as deep pockets in tort actions, and thereby threaten the supply of life saving products. I appreciate the opportunity to make this very important point about a bill vital to public health.

This is an important piece of legislation and it will make a great difference to millions of Americans.

Mr. President, I would now like to enter into a colloquy with the distinguished Senator from Wisconsin regarding several aspects of this legislation.

Mr. FEINGOLD. Mr. President, I rise to express my concern regarding three provisions of the Biomaterials Access Assurance Act of 1998. Although I have broader concerns with the bill including federalism issues, consumer protection issues, and evidentiary issues, I would like clarification from one of the sponsors of the bill, Senator McCAIN, on three specific points.

First, Section 7(a) the language reads that only "after entry of a final judgment in an action by the claimant against a manufacturer" can a claimant attempt to implead a biomaterials supplier. I am concerned that this could be interpreted to mean that the manufacturer must lose the underlying suit before the claimant may implead the supplier. Is this correct?

Mr. McCAIN. No. Although I do not believe that the situation you pose could happen very often—specifically that a supplier could be liable when the manufacturer is not—the language should be interpreted to mean that the claimant could bring a motion to implead the supplier whether or not the manufacturer is found liable in the underlying case, as long as the judgment is final.

Mr. FEINGOLD. Second, I am concerned that there would not be a sufficient introduction of evidence demonstrating the liability of the supplier in the underlying suit against the manufacturer for the court to make an independent determination that the supplier was an actual and proximate cause of the harm for purposes of the impleader motion as required in Sections 7(1)(A) and 7(2)(A) of the bill.

Mr. McCAIN. Under current FDA regulations and under current tort law, the manufacturer is responsible for the entire product they produce, including defects in the raw materials. Therefore, the claimant may enter evidence in the underlying action against the manufacturer regarding defect in the biomaterials used.

Mr. FEINGOLD. Finally, I am concerned that in a case where the manufacturer has gone bankrupt, the claimant will be unable to recover from the liable party. Does your bill address this issue?

Mr. McCAIN. Yes it does. Section 7(a)(2)(B) provides that in a case where the claimant is unlikely to recover the full amount of its damages from the manufacturer, if the other requirements of Section 7 are satisfied, the claimant can bring an action against the supplier. This covers bankruptcy and other scenarios where the manufacturer cannot satisfy an adverse judgment.

Mr. FEINGOLD. Senator McCAIN, I thank the Senator for addressing my concerns.

Mr. LIEBERMAN. Mr. President, I rise in strong support of the bill we are about to take up and vote upon, the Biomaterials Access Assurance Act. I am proud to have co-sponsored the Senate version of this bill with Senator McCAIN. We have worked together on this bill for a number of years now, and it is quite gratifying to see it now about to move toward enactment.

Mr. President, the Biomaterials bill is the response to a crisis affecting more than 7 million Americans annually who rely on implantable life-saving or life-enhancing medical devices—things like pacemakers, heart valves, artificial blood vessels, hydrocephalic shunts, and hip and knee joints. They are at risk of losing access to the devices because many companies that supply the raw materials and component parts that go into the devices are refusing to sell them to device manufacturers. Why? Because suppliers no longer want to risk having to pay enormous legal fees to defend against product liability suits when those legal fees far exceed any profit they make from supplying the raw materials for use in implantable devices.

Let me emphasize that I am speaking here about—and the bill addresses—the suppliers of raw materials and component parts—not about the companies that make the medical devices themselves. The materials these suppliers sell—things like resins and yarns—are basically generic materials that they sell for a variety of uses in many, many different products. Their sales to device manufacturers usually make up only a very small part of their markets—often less than one percent. As a result—and because of the small amount of the materials that go into the implants—many of these suppliers make very little money from supplying implant manufacturers. Just as importantly, these suppliers generally have nothing to do with the design, manufacture or sale of the product.

But despite the fact that they generally have nothing to do with making the product, because of the common practice of suing everyone involved in any way with a product when something goes wrong, these suppliers sometimes get brought into lawsuits claiming problems with the implants. One company, for example, was hauled into to 651 lawsuits involving 1,605 implant recipients based on a total of 5 cents worth of that company's product in each implant. In other words, in exchange for selling less than $100 of its product, this supplier received a bill for perhaps millions of dollars of legal fees it spent in its ultimately successful effort to defend against these lawsuits.

The results from such experiences should not surprise anyone. Even though not a single biomaterials supplier has ultimately been held liable so far—let me say that again: Not a single biomaterials supplier has ultimately been held liable so far—the message nevertheless is clear for any rational business. Why would any business stay in a market that yields them little profit, but exposes them to huge legal costs? An April 1997 study of this issue found that 75 percent of suppliers surveyed were not willing to sell their raw materials to implant manufacturers under current conditions. That study predicts that unless this trend is reversed, patients whose lives depend on implantable devices may no longer have access to them.

What is at stake here, let me be clear, is not protecting suppliers from liability and not even just making raw materials available to the manufacturers of medical devices. Those things in and of themselves might not be enough to bring me here. What is at stake is the health and lives of millions of Americans who depend on medical devices for their every day survival. What is at stake are the lives of children with hydrocephalus who rely on brain shunts to keep fluid from accumulating around their brains. What is at stake are the lives of adults whose hearts would stop beating without implanted automatic defibrillators. What is at stake are the lives of seniors who need pacemakers because their hearts no longer generate enough of an electrical pulse to get their heart to beat. Without implants, none of these individuals could survive.

We must do something soon to deal with this problem. We simply cannot allow the current situation to continue to put at risk the millions of Americans who owe their health to medical devices.

Senator McCain, and I and the bill's sponsors in the House have crafted what we think is a reasonable response to this problem. Our bill would do two things. First, with an important exception I'll talk about in a minute, the bill would immunize suppliers of raw materials and component parts from product liability suits, unless the supplier falls into one of three categories: (1) the supplier also manufactured the implant alleged to have caused harm; (2) the supplier sold the implant alleged to have caused harm; or (3) the supplier furnished raw materials or component parts that failed to meet applicable contractual requirements or specifications.

Second, the bill would provide suppliers with a mechanism for making that immunity meaningful by obtaining early dismissal from lawsuits. By guaranteeing suppliers in advance that they will not face needless litigation costs, this bill should spur suppliers to remain in or come back to the biomaterials market, and so ensure that people who need implantable medical devices will still have access to them.

Now, it is important to emphasize that in granting suppliers immunity, we would not be depriving anyone injured by a defective implantable medical device of the right to compensation for their injuries. Injured parties still will have their full rights against anyone involved in the design, manufacture or sale of an implant, and they can sue implant manufacturers, or any other allegedly responsible party, and collect for their injuries from them if that party is at fault.

We also have added a new provision to this version of the bill, one that resulted from lengthy negotiations with representatives of the implant manufacturers, the American Trial Lawyers Association—ATLA—the White House and others. This provision responds to concerns that the previous version of the bill would have left injured implant recipients without a means of seeking compensation if the manufacturer or other responsible party is bankrupt or otherwise judgment-proof. As now drafted, the bill provides that in such cases, a plaintiff may bring the raw materials supplier back into a lawsuit after judgment if a court concludes that evidence exists to warrant holding the supplier liable.

Finally, let me add that the bill does not cover lawsuits involving silicone gel breast implants.

In short, Mr. President, the Biomaterials bill is—and I am not engaging in hyperbole when I say this—potentially a matter of life and death for the millions of Americans who rely on implantable medical devices to survive. This bill would make sure that implant manufacturers still have access to the raw materials they need for their products, while at the same time ensuring that those injured by implants are able to get compensation for injuries caused by defective implants. This is a good bill, and I urge my colleagues to support it.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 872) was considered read the third time and passed.

IDENTITY THEFT AND ASSUMPTION DETERRENCE ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 460, S. 512.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 512) to amend chapter 47 of title 18, United States Code, relating to identity fraud, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Identity Theft and Assumption Deterrence Act of 1998".

SEC. 2. IDENTITY THEFT.

(a) ESTABLISHMENT OF OFFENSE.—Section 1028(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by adding "or" at the end;

(3) in the flush matter following paragraph (6), by striking "or attempts to do so,"; and

(4) by inserting after paragraph (6) the following:

"(7) knowingly possesses, transfers, or uses, without lawful authority, a means of identification of another person with the intent to commit, or otherwise promote, carry on, or facilitate any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law;".

(b) PENALTIES.—Section 1028(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "or" at the end

(B) in subparagraph (C), by adding "or" at the end; and

(C) by adding at the end the following:

"(D) an offense under paragraph (7) of such subsection that involves the transfer, possession, or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating $1,000 or more during any 1-year period;";

(2) in paragraph (2)(A), by striking "or transfer of an identification document or" and inserting "possession, transfer, or use of a means of identification, an identification document, or a";

(3) by striking paragraphs (3) and (4) and inserting the following:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

"(A) to facilitate a drug trafficking crime (as defined in section 929(a)(2)); or

"(B) after a prior conviction under this section becomes final;

"(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed—

"(A) to facilitate an act of international terrorism (as defined in section 2331(1)); or

"(B) in connection with a crime of violence (as defined in section 924(c)(3));";

(4) by redesignating paragraph (5) as paragraph (6); and

(5) by inserting after paragraph (4) (as added by paragraph (3) of this subsection) the following:

"(5) in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and".

(c) CIRCUMSTANCES.—Section 1028(c) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) either—

"(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce; or

"(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.".

(d) DEFINITIONS.—Section 1028 of title 18, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) DEFINITIONS.—In this section:

"(1) DOCUMENT-MAKING IMPLEMENT.—The term 'document-making implement' means any implement, impression, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement.

"(2) IDENTIFICATION DOCUMENT.—The term 'identification document' means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"(3) MEANS OF IDENTIFICATION.—The term 'means of identification' means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—

"(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

"(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

"(C) unique electronic identification number, address, or routing code; or

"(D) telecommunication identifying information or access device (as defined in section 1029(e)).

"(4) Personal Identification Card.—The term 'personal identification card' means an identification document issued by a State or local government solely for the purpose of identification.

"(5) Produce.—The term 'produce' includes alter, authenticate, or assemble.

"(6) State.—The term 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.".

(e) Attempt and Conspiracy.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(f) Attempt and Conspiracy.—Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

(f) Rule of Construction.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(g) Rule of Construction.—For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.".

(g) Conforming Amendments.—Chapter 47 of title 18, United States Code, is amended—

(1) in section 1028, by striking "or attempts to do so,";

(2) in the heading for section 1028, by adding "***and information***" *at the end; and*

(3) in the analysis for the chapter, in the item relating to section 1028, by adding "and information" at the end.

SEC. 3. RESTITUTION.

Section 3663A of title 18, United States Code, is amended—

(1) in subsection (c)(1)(A)—

(A) in clause (ii), by striking "or" at the end;

(B) in clause (iii), by striking "and" at the end and inserting "or"; and

(C) by adding at the end the following:

"(iv) an offense described in section 1028 (relating to fraud and related activity in connection with means of identification or identification documents); and"; and

(2) by adding at the end the following:

"(e) Fraud and Related Activity in Connection With Identification Documents and Information.—Making restitution to a victim under this section for an offense described in section 1028 (relating to fraud and related activity in connection with means of identification or identification documents) may include payment for any costs, including attorney fees, incurred by the victim, including any costs incurred—

"(1) in clearing the credit history or credit rating of the victim; or

"(2) in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.".

SEC. 4. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR OFFENSES UNDER SECTION 1028.

(a) In General.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate penalty for each offense under section 1028 of title 18, United States Code, as amended by this Act.

(b) Factors for Consideration.—In carrying out subsection (a), the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) the extent to which the number of victims (as defined in section 3663A(a) of title 18, United States Code) involved in the offense, including harm to reputation, inconvenience, and other difficulties resulting from the offense, is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(2) the number of means of identification, identification documents, or false identification documents (as those terms are defined in section 1028(d) of title 18, United States Code, as amended by this Act) involved in the offense, is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(3) the extent to which the value of the loss to any individual caused by the offense is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(4) the range of conduct covered by the offense;

(5) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to sentence above the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(6) the extent to which Federal sentencing guidelines sentences for the offense have been constrained by statutory maximum penalties;

(7) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code; and

(8) any other factor that the United States Sentencing Commission considers to be appropriate.

SEC. 5. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF IDENTITY THEFT.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall establish procedures to—

(1) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully acquired in violation of section 1028 of title 18, United States Code, as amended by this Act;

(2) provide informational materials to individuals described in paragraph (1); and

(3) refer complaints described in paragraph (1) to appropriate entities, which may include referral to—

(A) the 3 major national consumer reporting agencies; and

(B) appropriate law enforcement agencies for potential law enforcement action.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) Technical Correction Relating to Criminal Forfeiture Procedures.—Section 982(b)(1) of title 18, United States Code, is amended to read as follows: "(1) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).".

(b) Economic Espionage and Theft of Trade Secrets as Predicate Offenses For Wire Interception.—Section 2516(1)(a) of title 18, United States Code, is amended by inserting "chapter 90 (relating to protection of trade secrets)," after "to espionage),".

AMENDMENT NO. 3480

(Purpose: To provide a substitute)

Mr. JEFFORDS. Mr. President, Senator Kyl has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. Jeffords], for Mr. Kyl, for himself, Mr. Leahy, Mr. Hatch, Mrs. Feinstein, Mr. DeWine, Mr. D'Amato, Mr. Grassley, Mr. Abraham, Mr. Faircloth, Mr. Harkin, Mr. Warner, Mr. Murkowski and Mr. Robb, proposes an amendment numbered 3480.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

Mr. KYL. Mr. President, the purpose of this bill, "The Identity Theft and Assumption Deterrence Act", is to address one of the fastest growing crimes in America, identity theft. Losses related to identity theft have nearly doubled in the last two years. Today, 95% of financial crimes arrests involve identity theft. Trans Union, one of the country's three major credit bureaus, says calls to its fraud division have risen from 3,000 a month in 1992 to nearly 43,000 a month this year. This is more than a troubling trend. Indeed, with increasing frequency, criminals—sometimes part of an international criminal syndicate—are misappropriating law-abiding citizens' identifying information such as names, birth dates, and social security numbers. And while the results of the theft of identification information can be devastating for the victims, often costing a citizen thousands of dollars to clear his credit or good name, today the law recognizes neither the victim nor the crime.

The bill, as reported unanimously by the Judiciary Committee, does both. It recognizes the crime by making it unlawful to steal personal information and enhancing penalties against identity thiefs. It recognizes victims by giving them the ability to seek restitution for all costs involved in restoring lost credit and reputation. In addition, my bill provides real time relief to victims by directing the Federal Trade Commission to set up a centralized complaint center to provide information to consumers, refer cases to law enforcement, officially acknowledge complaints, and relay that acknowledgment to credit bureaus.

And while section 1028 of title 18 currently prohibits the production and possession of false identification documents, it does not make it illegal to steal or possess another person's personal information. By amending section 1028, this bill will help current law keep pace with criminals' exploitation of information technology.

The substitute I am offering today with Senators LEAHY, HATCH, FEINSTEIN along with Senators DEWINE, D'AMATO, GRASSLEY, ABRAHAM, FAIRCLOTH, HARKIN, WARNER, MURKOWSKI, and ROBB reflects two small but important improvements over the bill reported out of committee. Both changes were recommended by the Department of Justice. First, the substitute further refines the scope of the offense and applicable punishments by deleting the term "possession" from the offense and penalty sections of the reported bill. As explained by the Department, the term "possession" is overbroad as applied to identity theft offense added to the criminal code by this legislation. The second change simply adds standard forfeiture procedure to the existing criminal forfeiture penalty in the reported bill. Without a procedure attending the forfeiture penalty, the Department considers this penalty unenforceable.

There are numerous private entities and federal law enforcement agencies that supported and contributed to this bill through its redraftings to its present form that I would like to thank.

On the private side, thank yous go to the American Bankers Association, the Associated Credit Bureaus, Visa and Mastercard, the American Society of Industrial Services, and the United States Public Interest Research Group.

Public agencies which lent important support to this legislative effort are the: Federal Bureau of Investigation, Federal Trade Commission, and the U.S. Postal Inspectors. Special thanks goes to the Secret Service and the Department of Justice for the great deal of time and effort they have expended to help make this bill the well drafted piece of legislation it is today.

In conclusion, I also thank Senators LEAHY, HATCH and FEINSTEIN for lending their valuable support and input to this bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate today is adopting the Kyl-Leahy substitute amendment to S. 512, the "Identity Theft and Assumption Deterrence Act."

Protecting the privacy of our personal information is a challenge, especially in this information age. Every time we obtain or use a credit card, place a toll-free phone call, surf the Internet, get a driver's license or are featured in Who's Who, we are leaving virtual pieces of ourselves in the form of personal information, which can be used without our consent or even our knowledge. Too frequently, criminals are getting hold of this information and using the personal information of innocent individuals to carry out other crimes. Indeed, U.S. News & World Report has called identity theft "a crime of the 90's".

The consequences for the victims of identity theft can be severe. They can have their credit ratings ruined and be unable to get credit cards, student loans, or mortgages. They can be hounded by creditors or collection agencies to repay debts they never incurred, but were obtained in their name, at their address, with their social security number or driver's license number. It can take months or even years, and agonizing effort, to clear their good names and correct their credit histories. I understand that, in some instances, victims of identity theft have even been arrested for crimes they never committed when the actual perpetrators provided law enforcement officials with assumed names.

The new legislation provides important remedies for victims of identity theft. Specifically, it makes clear that these victims are entitled to restitution, including payment for any costs and attorney's fees in clearing up their credit histories and having to engage in any civil or administrative proceedings to satisfy debts, liens or other obligations resulting from a defendant's theft of their identity. In addition, the bill directs the Federal Trade Commission to keep track of consumer complaints of identity theft and provide information to victims of this crime on how to deal with its aftermath.

This is an important bill on an issue that has caused harm to many Americans. It has come a long way from its original formulation, which would have made it an offense, subject to 15 years' imprisonment, to possess "with intent to deceive" identity information issued to another person. I was concerned that the scope of the proposed offense in the bill as introduced would have resulted in the federalization of innumerable state and local offenses, such as the status offenses of underage teenagers using fake ID cards to gain entrance to bars or to buy cigarettes, or even the use of a borrowed ID card without any illegal purpose. This problem, and others, were addressed in the Kyl-Leahy substitute that was reported out of the Committee and further refined in the substitute amendment the Senate considers today.

Since Committee consideration of this bill, we have continued to consult with the Department of Justice to improve the bill in several ways. Most significantly, the Kyl-Leahy substitute amendment appropriately limits the scope of the new offense governing the illegal transfer or use of another person's "means of identification" to exclude "possession." This change ensures that the bill does not inadvertently subject innocuous conduct to the risk of serious federal criminal liability. For example, with this change, the bill would no longer raise the possibility of criminalizing the mere possession of another person's name in an address book or Rolodex, when coupled with some sort of bad intent.

At the same time, the substitute restores the nuanced penalty structure of section 1028, so that it continues to treat most other possessory offenses involving identification documents and document-making implements as misdemeanors. Thus, in the substitute, the use or transfer of 1 or more means of identification that results in the perpetrator receiving anything of value aggregating $1,000 or more over a 1-year period, would carry a penalty of a fine or up to 15 years' imprisonment, or both. The use or transfer of another person's means of identification that does not satisfy those monetary and time period requirements, would carry a penalty of a fine and up to three years' imprisonment, or both.

Finally, again with the support of the Department of Justice, we specified the forfeiture procedure to be used in connection with offenses under section 1028. The bill as reported created a forfeiture penalty for these offenses; the addition of a procedure simply clarifies how that penalty is to be enforced.

I am glad that Senator KYL and I were able to join forces to craft legislation that both punishes the perpetrators of identity theft and helps the victims of this crime.

Mr. HATCH. Mr. President, it is with pleasure that I rise today in support of S. 512, the "Identity Theft and Assumption Deterrence Act of 1998." This measure has bipartisan support, and I am pleased to be an original co-sponsor along with Senators LEAHY, FEINSTEIN, DEWINE, D'AMATO, GRASSLEY, ABRAHAM, FAIRCLOTH, HARKIN, WARNER, MURKOWSKI and ROBB.

Identity information theft is a crime that destroys the lives of thousands of innocent people each year. It occurs when an imposter, who has falsified or stolen personal information from another individual, uses the information to make financial transactions or conduct personal business in the name of another. This heinous crime often leaves victims with mountains of debt, ruins their credit history, and makes it difficult for the individuals to obtain employment. In short, it virtually takes over the lives of innocent citizens who find themselves trying to untangle an endless trail of obligations they did not make or actions they did not commit.

Many of you know individuals who have been victims of this crime. These are people whose lives have been destroyed because a con-artist gained access to and used their personal data, such as their address, date of birth, mother's maiden name, or social security number. This is information that you and I are asked to verify every day in our society. Once that information is obtained, these con-artists use it to open bank and credit card accounts and to obtain bank and mortgage loans. These fake business and personal commitments and obligations can ruin a lifetime of hard work.

Currently, the applicable federal statute, Title 18 United States Code Section 1028, only criminalizes the possession, transfer, or production of identity documents. In other words, you have to catch the culprit with the actual documents in order to bring a prosecution for fraud. Obviously, such criminals are not always going to keep these documents once they have acquired the information they need. Many times criminals simply misappropriate the information itself to facilitate their criminal activity.

As there is no specific statute criminalizing the theft of the information, when and if these criminals are prosecuted, law enforcement must pursue more indirect charges such as check fraud, credit card fraud, mail fraud, wire fraud, or money laundering. Unfortunately, these statutes do little to compensate the victim or address the horror suffered by the individual whose life has been invaded. Often these general criminal statutes treat only affected banks, credit bureaus, and other financial institutions as the victim, leaving the primary victim, the innocent person, without recourse to reclaim his or her life and identity.

S. 512 recognizes not only that it is a crime to steal personal information, and enhances penalties for such crimes, but it also recognizes the person, whose information has been stolen, as the real victim. Moreover, it gives the victim the ability to seek restitution and relief.

I believe this bill to be an important piece of legislation. It is supported by federal law enforcement agencies, credit bureaus, banking associations, and other private entities. I urge all of my colleagues to join us and support the passage of this bill.

Mrs. FEINSTEIN. Mr. President, I am proud to be an original cosponsor of the substitute version of S. 512, The Identity Theft and Assumption Deterrence Act of 1998, which the Senate is considering today.

On May 20, the Senate Judiciary Committee, Subcommittee on Technology, Terrorism, and Government Information, on which I serve as Ranking Member, heard from victims of identity theft from both Subcommittee Chairman KYL's and my home states. The victims told cautionary tales of lives suddenly, and without warning, turned upside down by the crime of identity theft.

Theirs are not isolated stories. The Secret Service last year made nearly 9,500 identity theft-related arrests, totaling three-quarters of a billion dollars in losses to individual victims and financial institutions. Such losses have nearly doubled in the last two years, and no end to the trend is in sight. In one out of every ten of these cases, identity theft is used to violate immigration laws, to illegally enter the country or to flee across international borders.

It used to be that identity theft required wading through dumpsters for discarded credit card receipts. Today, with a few keystrokes, a computer-savvy criminal can hack into databases and lift credit card numbers, social security numbers, and a myriad of personal information.

The Identity Theft and Assumption Deterrence Act does two critical things in the war on identity theft: it gives prosecutors the tools they need, and it recognizes that identity theft victimizes individuals.

Prosecutors tell us that they lack effective tools to prosecute identity theft and to make victims whole. S. 512 has been drafted in consultation with prosecutors to give them the tools they need. S. 512 does so in a number of important ways:

It updates pre-computer age laws to criminalize electronic identity theft;

It stiffens penalties and adds sentencing enhancements that prosecutors tell us they need to effectively prosecute crimes; and

It allows law enforcement agents to seize equipment used to facilitate identity theft crimes.

Earlier this month, the Senate Judiciary Committee passed the Victim's Rights Amendment to the Constitution, of which I was also proud to be an original cosponsor. Similarly, S. 512 for the first time recognizes that individuals, and not just credit card companies, are victims of identity theft, and it provides them with proper restitution. It protects victims rights, fully recognizing individuals as victims of identity theft, establishing remedies and procedures for such victims, and requiring restitution for the individual victim.

I am proud to be an original cosponsor of this legislation, and I urge my Senate colleagues to pass it.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3480) was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee amendment, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment, as amended, was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as amended; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 512), as amended, was considered read the third time and passed.

FEDERAL ACTIVITIES INVENTORY REFORM ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 502, S. 314.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (S. 314) to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu there of the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Activities Inventory Reform Act of 1998".

SEC. 2. ANNUAL LISTS OF GOVERNMENT ACTIVITIES NOT INHERENTLY GOVERNMENTAL IN NATURE.

(a) LISTS REQUIRED.—Not later than the end of the third quarter of each fiscal year, the head of each executive agency shall submit to the Director of the Office of Management and Budget a list of activities performed by Federal Government sources for the executive agency that, in the judgment of the head of the executive agency, are not inherently governmental functions. The entry for an activity on the list shall include the following:

(1) The fiscal year for which the activity first appeared on a list prepared under this section.

(2) The number of full-time employees (or its equivalent) that are necessary for the performance of the activity by a Federal Government source.

(3) The name of a Federal Government employee responsible for the activity from whom additional information about the activity may be obtained.

(b) OMB REVIEW AND CONSULTATION.—The Director of the Office of Management and Budget shall review the executive agency's list for a fiscal year and consult with the head of the executive agency regarding the content of the final list for that fiscal year.

(c) PUBLIC AVAILABILITY OF LISTS.—

(1) PUBLICATION.—Upon the completion of the review and consultation regarding a list of an executive agency—

(A) the head of the executive agency shall promptly transmit a copy of the list to Congress and make the list available to the public; and

(B) the Director of the Office of Management and Budget shall promptly publish in the Federal Register a notice that the list is available to the public.

(2) CHANGES.—If the list changes after the publication of the notice as a result of the resolution of a challenge under section 3, the head of the executive agency shall promptly—

(A) make each such change available to the public and transmit a copy of the change to Congress; and

(B) publish in the Federal Register a notice that the change is available to the public.

(d) COMPETITION REQUIRED.—Within a reasonable time after the date on which a notice of the public availability of a list is published under subsection (c), the head of the executive agency concerned shall review the activities on the list. Each time that the head of the executive agency considers contracting with a private sector source for the performance of such an activity, the head of the executive agency shall use a competitive process to select the source (except as may otherwise be provided in a law other than this Act, an Executive order, regulations, or any Executive branch circular setting forth requirements or guidance that is issued by competent executive authority). The Director of the Office of Management and Budget shall issue guidance for the administration of this subsection.

(e) REALISTIC AND FAIR COST COMPARISONS.—For the purpose of determining whether to contract with a source in the private sector for the performance of an executive agency activity on the list on the basis of a comparison of the costs of procuring services from such a source with the costs of performing that activity by the executive agency, the head of the executive agency shall ensure that all costs (including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs) are considered and that the costs considered are realistic and fair.

SEC. 3. CHALLENGES TO THE LIST.

(a) CHALLENGE AUTHORIZED.—An interested party may submit to an executive agency a challenge of an omission of a particular activity from, or an inclusion of a particular activity on, a list for which a notice of public availability has been published under section 2.

(b) INTERESTED PARTY DEFINED.—For the purposes of this section, the term "interested party", with respect to an activity referred to in subsection (a), means the following:

(1) A private sector source that—

(A) is an actual or prospective offeror for any contract, or other form of agreement, to perform the activity; and

(B) has a direct economic interest in performing the activity that would be adversely affected by a determination not to procure the performance of the activity from a private sector source.

(2) A representative of any business or professional association that includes within its membership private sector sources referred to in paragraph (1).

(3) An officer or employee of an organization within an executive agency that is an actual or prospective offeror to perform the activity.

(4) The head of any labor organization referred to in section 7103(a)(4) of title 5, United States Code, that includes within its membership officers or employees of an organization referred to in paragraph (3).

(c) TIME FOR SUBMISSION.—A challenge to a list shall be submitted to the executive agency concerned within 30 days after the publication of the notice of the public availability of the list under section 2.

(d) INITIAL DECISION.—Within 28 days after an executive agency receives a challenge, an official designated by the head of the executive agency shall—

(1) decide the challenge; and

(2) transmit to the party submitting the challenge a written notification of the decision together with a discussion of the rationale for the decision and an explanation of the party's right to appeal under subsection (e).

(e) APPEAL.—

(1) AUTHORIZATION OF APPEAL.—An interested party may appeal an adverse decision of the official to the head of the executive agency within 10 days after receiving a notification of the decision under subsection (d).

(2) DECISION ON APPEAL.—Within 10 days after the head of an executive agency receives an appeal of a decision under paragraph (1), the head of the executive agency shall decide the appeal and transmit to the party submitting the appeal a written notification of the decision together with a discussion of the rationale for the decision.

SEC. 4. APPLICABILITY.

(a) EXECUTIVE AGENCIES COVERED.—Except as provided in subsection (b), this Act applies to the following executive agencies:

(1) EXECUTIVE DEPARTMENT.—An executive department named in section 101 of title 5, United States Code.

(2) MILITARY DEPARTMENT.—A military department named in section 102 of title 5, United States Code.

(3) INDEPENDENT ESTABLISHMENT.—An independent establishment, as defined in section 104 of title 5, United States Code.

(b) EXCEPTIONS.—This Act does not apply to or with respect to the following:

(1) GENERAL ACCOUNTING OFFICE.—The General Accounting Office.

(2) GOVERNMENT CORPORATION.—A Government corporation or a Government controlled corporation, as those terms are defined in section 103 of title 5, United States Code.

(3) NONAPPROPRIATED FUNDS INSTRUMENTALITY.—A part of a department or agency if all of the employees of that part of the department or agency are employees referred to in section 2105(c) of title 5, United States Code.

(4) CERTAIN DEPOT-LEVEL MAINTENANCE AND REPAIR.—Depot-level maintenance and repair of the Department of Defense (as defined in section 2460 of title 10, United States Code).

SEC. 5. DEFINITIONS.

In this Act:

(1) FEDERAL GOVERNMENT SOURCE.—The term "Federal Government source", with respect to performance of an activity, means any organization within an executive agency that uses Federal Government employees to perform the activity.

(2) INHERENTLY GOVERNMENTAL FUNCTION.—

(A) DEFINITION.—The term "inherently governmental function" means a function that is so intimately related to the public interest as to require performance by Federal Government employees.

(B) FUNCTIONS INCLUDED.—The term includes activities that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as—

(i) to bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(ii) to determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(iii) to significantly affect the life, liberty, or property of private persons;

(iv) to commission, appoint, direct, or control officers or employees of the United States; or

(v) to exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriated and other Federal funds.

(C) FUNCTIONS EXCLUDED.—The term does not normally include—

(i) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials; or

(ii) any function that is primarily ministerial and internal in nature (such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services).

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on October 1, 1998.

Mr. THOMPSON. Mr. President, S. 314, originally sponsored by Senators THOMAS, among others, and Congressman DUNCAN in the House, was ordered reported by the Governmental Affairs Committee on July 15, 1998. The original S. 314 has had long and contentious past. The bill reported by our Committee represents months of drafting and redrafting to create language which truly represents a consensus.

I commend the original sponsors of this bill for their dedication to this issue and their willingness to accommodate the Governmental Affairs Committee's changes in order to develop legislation which could be supported by all sides. Interested industry groups have expressed their support of this legislation. And the Administration and the Federal employee unions, although opposed to the original S. 314, all have indicated they will not object to this legislation.

S. 314 would require Federal agencies prepare a list of activities that are not inherently governmental functions that are being performed by Federal employees, submit that list to OMB for review, and make the list publicly available. It also would establish an "appeals" process within each agency to challenge what is on the list or what is not included on the list. S. 314 also would create a statutory definition—identical to current regulation—for what is an "inherently governmental function" that must be performed by the government and not the private sector.

S. 314 adheres to the seven principles the Administration outlined in its testimony to this Committee. It reflects recommendations made by the General Accounting Office in testimony to this and other committees. And it provides a statutory basis for longstanding administrative policy.

Mr. CLELAND. Mr. President, I would like to add a few remarks concerning S. 314, the Federal Activities Inventory Reform (FAIR) Act of 1998. I understand that under this measure, each federal government agency will be required to annually publish an inventory of governmental activities that are not inherently governmental in nature.

Under S. 314, agencies will retain discretion to determine whether an activity is inherently governmental or commercial, and private industry will be given the option to challenge that decision. An agency may also decide that an activity is inherently governmental, but nonetheless pursue outsourcing. This latter practice can be continued and is encouraged by S. 314. For example, I would point my colleagues to the practices of the General Services Administration (GSA), the agency charged with managing all federal personal and real property—including the disposal of property no longer needed by the government, but desired by private consumers.

Three years ago, an Arthur Andersen study concluded that the auctioning function is inherently governmental to GSA's mission. Nevertheless, GSA has increasingly outsourced this function to the private sector.

Today's legislation in no way discourages the federal government's reliance on private industry—particularly, where, as in the case of GSA, a reputable commercial property disposal industry is established and no federal jobs or careers are displaced or otherwise placed at risk. Moreover, auctioning by commercial companies will yield a greater return on the government's investment due to the utilization of commercial incentives and practices. Under Office of Management and Budget Circular Number A–76, agencies are already required to maintain and update a baseline inventory of activities that could be performed by the private sector. S. 314 would largely codify current administrative policy.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as amended; that the motion to reconsider be laid upon the table; that the title amendment be agreed to; and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 314) was considered read the third time and passed.

The title was amended so as to read: "A bill to provide a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.".

BORDER IMPROVEMENT AND IMMIGRATION ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 342, S. 1360.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1360) to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Improvement and Immigration Act of 1998".

SEC. 2. AMENDMENT OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.

(a) IN GENERAL.—Section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended to read as follows:

"(a) SYSTEM.—

"(1) IN GENERAL.—Subject to paragraph (2), not later than 2 years after the date of enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

"(A) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States; and

"(B) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

"(2) EXCEPTION.—The system under paragraph (1) shall not collect a record of arrival or departure—

"(A) at a land border or seaport of the United States for any alien; or

"(B) for any alien for whom the documentary requirements in section 212(a)(7)(B) of the Immigration and Nationality Act have been waived by the Attorney General and the Secretary of State under section 212(d)(4)(B) of the Immigration and Nationality Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) REQUIREMENT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the feasibility of developing and implementing an automated entry-exit control system that would collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

(b) CONTENTS OF REPORT.—Such report shall—

(1) assess the costs and feasibility of various means of operating such an automated entry-exit control system, including exploring—

(A) how, if the automated entry-exit control system were limited to certain aliens arriving at airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(B) the feasibility of the Attorney General, in consultation with the Secretary of State, negotiating reciprocal agreements with the governments of contiguous countries to collect such information on behalf of the United States and share it in an acceptable automated format;

(2) consider the various means of developing such a system, including the use of pilot projects if appropriate, and assess which means would be most appropriate in which geographical regions;

(3) evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and

(4) estimate the length of time that would be required for any such system to be developed and implemented.

SEC. 4. ANNUAL REPORTS ON ENTRY-EXIT CONTROL AND USE OF ENTRY-EXIT CONTROL DATA.

(a) ANNUAL REPORTS ON IMPLEMENTATION OF ENTRY-EXIT CONTROL AT AIRPORTS.—Not later than 30 days after the end of each fiscal year until the fiscal year in which Attorney General certifies to Congress that the entry-exit control system required by section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 2 of this Act, has been developed, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that—

(1) provides an accurate assessment of the status of the development of the entry-exit control system;

(2) includes a specific schedule for the development of the entry-exit control system that the Attorney General anticipates will be met; and

(3) includes a detailed estimate of the funding, if any, needed for the development of the entry-exit control system.

(b) ANNUAL REPORTS ON VISA OVERSTAYS IDENTIFIED THROUGH THE ENTRY-EXIT CONTROL SYSTEM.—Not later than June 30 of each year, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report that sets forth—

(1) the number of arrival records of aliens and the number of departure records of aliens that were collected during the preceding fiscal year under the entry-exit control system under section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as so amended, with a separate accounting of such numbers by country of nationality;

(2) the number of departure records of aliens that were successfully matched to records of such aliens' prior arrival in the United States, with a separate accounting of such numbers by country of nationality and by classification as immigrant or nonimmigrant; and

(3) the number of aliens who arrived as nonimmigrants, or as visitors under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the system, or through other means, as of the end of such aliens' authorized period of stay, with an accounting by country of nationality and approximate date of arrival in the United States.

(c) INCORPORATION INTO OTHER DATABASES.—Information regarding aliens who have remained in the United States beyond their authorized period of stay that is identified through the system referred to in subsection (a) shall be integrated into appropriate databases of the Immigration and Naturalization Service and the Department of State, including those used at ports-of-entry and at consular offices.

SEC. 5. LIMITATION ON CERTAIN BORDER CROSSING-RELATED VISA FEES.

(a) LIMITATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of State may not charge a fee in excess of the following amounts for the processing of any application for the issuance of a visa under section 101(a)(15)(B) of the Immigration and Nationality Act if the appropriate consular officer has reason to believe that the visa will be used only for travel in the United States within 25 miles of the international border between the United States and Mexico and for a period of less than 72 hours:

(i) In the case of any alien 18 years of age or older, $45.

(ii) In the case of any alien under 18 years of age, zero.

(2) PERIOD OF VALIDITY OF VISAS FOR CERTAIN MINOR CHILDREN.—If a consular officer has reason to believe that a visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act to a child under 18 years of age will be used only for travel in the United States within 25 miles of the international border between the United States and Mexico for a period of less than 72 hours, then the visa shall be issued to expire on the date on which the child attains the age of 18.

(b) DELAY IN BORDER CROSSING RESTRICTIONS.—Section 104(b)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by striking "3 years" and inserting "4 years".

(c) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue until at least October 1, 2000, to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

SEC. 6. AUTHORIZATIONS OF APPROPRIATIONS FOR BORDER CONTROL AND ENFORCEMENT ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—

(1) INS.—In order to enhance enforcement and inspection resources on the land borders of the United States, enhance investigative resources for anticorruption efforts and efforts against drug smuggling and money-laundering organizations, process cargo, reduce commercial and passenger traffic waiting times, and open all primary lanes during peak hours at major land border ports of entry on the Southwest and Northern land borders of the United States, in addition to any other amounts appropriated, there are authorized to be appropriated for salaries, expenses, and equipment for the Immigration and Naturalization Service for purposes of carrying out this section—

(A) $113,604,000 for fiscal year 1999;

(B) $121,064,000 for fiscal year 2000; and

(C) such sums as may be necessary in each fiscal year thereafter.

(b) FISCAL YEAR 1999.—

(1) INS.—Of the amounts authorized to be appropriated under subsection (a)(2)(A) for fiscal year 1999 for the Immigration and Naturalization Service, $15,090,000 shall be available until expended for acquisition and other expenses associated with implementation and full deployment of narcotics enforcement and cargo processing technology along the land borders of the United States, including—

(A) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging to be distributed to border patrol checkpoints;

(B) $200,000 for 10 ultrasonic container inspection units to be distributed to border patrol checkpoints;

(C) $240,000 for 10 Portable Treasury Enforcement Communications System (TECS) terminals to be distributed to border patrol checkpoints;

(D) $1,000,000 for 20 remote watch surveillance camera systems to be distributed to border patrol checkpoints;

(E) $180,000 for 36 AM radio "Welcome to the United States" stations located at permanent border patrol checkpoints;

(F) $875,000 for 36 spotter camera systems located at permanent border patrol checkpoints; and

(G) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to border patrol checkpoints.

(c) FISCAL YEAR 2000 AND THEREAFTER.—

(1) INS.—Of the amounts authorized to be appropriated under this section for the Immigration and Naturalization Service for fiscal year 2000 and each fiscal year thereafter, $1,509,000 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (b)(1), based on an estimate of 10 percent of the cost of such equipment.

(d) NEW TECHNOLOGIES; USE OF FUNDS.—

(1) IN GENERAL.—The Attorney General may use the amounts authorized to be appropriated for equipment under this section for equipment other than the equipment specified in this section if such other equipment—

(A)(i) is technologically superior to the equipment specified; and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment specified; or

(B) can be obtained at a lower cost than the equipment authorized.

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Attorney General may reallocate an amount not to exceed 10 percent of the amount specified for equipment specified in this section.

(e) PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT.—

(1) INS.—Of the amounts authorized to be appropriated under this section for fiscal years 1999 and 2000, $98,514,000 in fiscal year 1999 and $119,555,000 for fiscal year 2000 shall be for—

(A) a net increase of 535 inspectors for the Southwest land border and 375 inspectors for the Northern land border, in order to open all primary lanes on the Southwest and Northern borders during peak hours and enhance investigative resources;

(B) a net increase of 100 inspectors and canine enforcement officers for border patrol checkpoints;

(C) 100 canine enforcement vehicles to be used by the Border Patrol for inspection and enforcement, and to reduce waiting times, at the land borders of the United States;

(D) a net increase of 40 intelligence analysts and additional resources to be distributed among border patrol sectors that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations;

(E) a net increase of 68 positions and additional resources to the Office of the Inspector General of the Department of Justice to enhance investigative resources for anticorruption efforts; and

(F) the costs incurred as a result of the increase in personnel hired pursuant to this section.

SEC. 7. SENSE OF THE SENATE CONCERNING AUTHORIZATION OF APPROPRIATIONS FOR BORDER CONTROL AND ENFORCEMENT ACTIVITIES OF THE UNITED STATES CUSTOMS SERVICE.

Given that the Customs Service is cross-designated to enforce immigration laws and given the important border control role played by the Customs Service, it is the sense of the Senate that authorization for appropriations should be granted to the Customs Service similar to those granted to the Immigration and Naturalization Service under section 6.

AMENDMENT NO. 3481

(Purpose: To provide a complete substitute)

Mr. JEFFORDS. Senator ABRAHAM has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] for Mr. ABRAHAM, proposes an amendment numbered 3481.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3481) was agreed to.

Mr. ABRAHAM. Mr. President, I rise today to remark on final passage of an important piece of legislation, the Border Improvement and Immigration Act of 1998. I am very pleased that we have been able to work together to produce a bill that the Senate can pass by unanimous consent.

The substitute amendment makes a number of improvements on the committee-reported version. I have worked particularly closely with Senators GRAMM and KYL to include provisions that would provide authorization for significant additional resources for the inspections and drug enforcement operations of the United States Customs Service at the land borders. These resources would help ease traffic and trade back-ups and would detect and deter drug trafficking. It is my hope that they be deployed on a fair basis among the northern and the southern border ports.

Senator KYL and I have also worked closely with the State Department and with the Immigration and Naturalization Service to make sure that modifications were made in the implementation of border crossing improvements so that local communities, particularly in Arizona, would not be unduly harmed by laws and regulations that could not be implemented without keeping travelers from visiting, shopping, and doing business in the United States.

I spoke at length on this legislation in the Judiciary Committee, and that Committee produced a full report on the difficulties that would be faced if Section 110 of the Illegal Immigration and Immigrant Responsibility Act of 1996 were not modified. I do not want to repeat myself here, but would like to comment briefly on some of the key issues.

The legislation first addresses the so-called Section 110 problem. Section 110 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act requires the INS to develop, by September 30, 1998, an automated entry and exit control system to document the entry and departure of "every alien" arriving in and leaving the United States. The problem is that the term "every alien" could be interpreted to cover all aliens entering at land borders and seaports, which are points of entry where entry-exit control has not been in place. My legislation exempts land borders and seaports from coverage of the system, and instead requires the Attorney General to submit a detailed feasibility report to Congress on what full entry-exit control would involve, what it would cost, and what burdens it would impose on our States and our constituents. This is simply a sensible and responsible approach.

The other provisions in the bill include reporting requirements on data obtained from the entry-exit control system that would be in operation at airports, provisions to fix some serious problems that are being experienced on the Southern border with the issuance of the new biometric "laser visas"—which I know is of great concern to Senator KYL and others on the Southern border—and authorization for additional Customs and INS resources for border inspections and enforcement.

I will say a bit more about the Section 110 problem because that is the provision that is most important to me. Implementing Section 110 at the land borders is essentially impossible at the moment. No one—not INS, not the State Department, and not anyone in Congress—has come up with a feasible way of implementing such a system at the land borders.

At a hearing before the House Subcommittee on Immigration and Claims just last week, testimony was heard from a private sector technology company that developing feasible technology to implement Section 110 would require "substantial" time, "ultimately long lead times", and "significant resources," none of which the company could specify with any precision given the absolutely monumental nature of the task. Commenting on the sheer size of the database that would be needed to contain the number of visitor entry and exit records that would in theory be collected and entered into the system by the INS, Ann Cohen, Vice President of the EDS Corporation, testified, "to put some perspective on the magnitude of this number, the information in this system at the end of one year would be equal to the amount of data stored in the U.S. Library of Congress."

In the Senate, we heard testimony at an earlier subcommittee hearing that if this system were implemented with just a 30-second inspection required for every border crosser, backups at the Ambassador Bridge in Detroit would immediately exceed 24 hours. That would be unbearable, and the border would effectively be closed. The impact would be immediate and would be staggering. The U.S. automobile industry alone conducts $300 million in trade with Canada everyday. I learned in Michigan that there are 800 employees of the Detroit Medical Center who commute from Canada every day and who would no longer be available to provide medical care to Michiganians. Tourism would be seriously harmed, families with members on each side of the land borders would be harmed, and our international relations with Canada and Mexico would likewise be seriously damaged.

To add to this, Congress did not have the chance to fully consider the question of entry-exit control at the land borders, as opposed to just at airports, because the final language of Section 110 appeared for the first time only in the Conference Report. Senator Simpson and Chairman SMITH acknowledged in letters to the Canadian Embassy following passage of the 1996 Act that they did not intend Section 110 to impose additional documentary burdens on Canadian border crossers.

The outpouring against this provision has been enormous. I would like to just mention a few. The approach this legislation takes is supported by the National Governors Association, the Republican Governors Association, Americans for Better Borders, the U.S. Chamber of Commerce, The Washington Post, The Los Angeles Times, the American Trucking Association, Ford, Chrysler, and GM, the Travel Industry Association of America, and many, many businesses, State and local governments and other organizations.

It is not enough to delay implementation of this requirement. The Governors and others have spoken loud and clear against delaying the effective date of this requirement on the grounds that the States, businesses, and families who would be affected by this would have no idea what would be imposed on them when. This is not a case of pressuring the INS or anyone else to come up with a plan that will work. The fact is that the only ones who will be pressured are my constituents—and many of my colleagues' constituents—and that is unacceptable.

Once we get the report from the Attorney General, we can consider all the options and make a collective decision of where and how we would like entry-exit control to be implemented. But it would simply be preposterous and irresponsible for us to keep a requirement in the law when we cannot say how it could possibly be met in any way and at what cost.

Finally, as the Judiciary Committee noted in its report on the legislation, Section 110 has "nothing to do with stopping terrorists or drug traffickers." I appreciate very much my colleagues' understanding of this issue, and their support of a rational approach that comprehends the important distinctions between hindering beneficial trade, travel, and tourism and taking affirmative steps to conquer illegal drug trafficking or other activities at the land borders. I am also pleased that this legislation includes additional law enforcement resources so that these important law enforcement issues can be addressed in the right way. This truly is a border improvement bill in all senses.

I owe a particular gratitude to all of my colleagues who cosponsored the legislation, particularly those who worked with me from the outset, including Senators KENNEDY, D'AMATO, LEAHY, GRAMS, DORGAN, COLLINS, MURRAY, and SNOWE. I very much appreciate their efforts and support.

Mr. LEAHY. Mr. President. I am pleased that after many months of debate, the Senate has finally passed S. 1360 today. This bill, "The Border Improvement and Immigration Act of 1998," will ensure that free trade and tourism continue to flourish along our nation's borders. It will preserve the status quo for our friendly neighbors to the north and will provide us with the necessary time to study and develop an appropriate way to monitor our nation's borders and sea ports.

I am proud to be an original co-sponsor of S. 1360 and have spoken repeatedly about the need for this remedy. Without this type of legislation, the Immigration and Naturalization Service might be obligated to begin implementing an enormously expensive automated entry-exit monitoring system at all of our nation's borders this fall without having the opportunity to study the situation and develop a workable system. The passage of this legislation means the Attorney General will now have one year to study and report to Congress on the feasibility of various means of tracking the entry and exit of immigrants crossing our country's land borders.

Over the past year, I have worked hard to ensure that this legislation does not negatively impact the thousands of people and the millions of dollars of trade which cross our borders each day. This bill preserves the integrity of our open border with Canada and ensures that no additional burden is placed upon Canadians who plan to shop or travel in the United States. Mexican nationals will also have additional time under this bill to acquire new border crossing cards and will be able to obtain border crossing cards for their children under age 15 at a reduced cost. Vermonters and others who cross our nation's land borders on a daily basis to work or visit with family or friends in Canada and Mexico should be able to continue to do so without additional border delays.

The Border Improvement Act also takes a more thoughtful approach to modifying U.S. immigration policies than that contained in section 110 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"). By requiring an automated system for monitoring the entry and exit of "all aliens", section 110 would subject Canadians, and others who are not currently required to show documentation, to unprecedented border checks at U.S. points of entry. This sort of tracking system would be enormously costly to implement along the borders, especially since there is no current infrastructure in place to track the departure of individuals leaving the United States at our land borders or sea ports. Section 110, as currently worded, would also lead to excessive and costly traffic delays for those living and working near the borders. That is why I am so pleased that we were able to pass this legislation today to remedy this situation.

Instead of requiring the INS to implement such a costly and burdensome border tracking system with little forethought, S. 1360 mandates that the Attorney General conduct a study over the next year of the feasibility of various automated monitoring systems. This study will include an assessment of the potential costs and impact of any new automated monitoring system on trade and travelers along the country's land borders and seaports. An entry-exit monitoring system at our nation's airports will still be implemented within the next two years.

The Border Improvement Act also authorizes additional funds to ensure that adequate staffing and the newest equipment is available for INS and Customs agents along both borders. S. 1360 authorizes nearly $120 million in fiscal year 1999 for INS enforcement and inspection equipment and personnel, and an additional $160 million for the U.S. Customs Service to acquire similar equipment and hire additional agents. The Customs Service is authorized to hire 535 inspectors and 60 special agents along the Southwest border and 375 inspectors along the Northern border. The INS is authorized to hire 535 and 375 inspectors for the Southwest and Northern border, respectively, under this bill. These additional resources will help these agencies in their investigations of drug and alien smuggling and should reduce traffic waiting times along the borders.

Overall, the Border Improvement and Immigration Act of 1998 is a sensible means of correcting the problematic language in section 110 of the IIRIRA while ensuring better tracking of aliens who overstay their visas.

Mr. MOYNIHAN. Mr. President, tonight the United States Senate has prevented a disaster on the Northern border of the United States by passing S. 1360, the Border Improvement and Immigration Act of 1997. I am proud to be a co-sponsor.

On September 28, 1996, the Senate passed the Omnibus Consolidated Appropriations Act, a 749-page bill with twenty-four separate titles. One small section of that bill, buried deep in the text, has been the subject of much consternation in northern New York. The provision, known as Section 110, requires the Immigration and Naturalization Service to develop a system to document the entry and departure of every alien entering and leaving the United States. Contrary to Congressional intent, the legislative language does not recognize the current practice of allowing most Canadian and American nationals to cross the border without registering any documents. Such an oversight is not uncommon in this type of omnibus bill that is hurried to passage in the final days of a legislative session.

If implemented, an automated entry-exit control system along the northern border would likely result in long delays at the border, hampering tourism and trade. This is not an inconsequential matter. The United States-Canadian trade relationship is the world's largest, totaling $272 billion in 1995. Compare this to $256 billion in trade with the entire European Union and $188 billion in trade with Japan during that same period.

The unnecessary border crossing delays which would surely result from the implementation of Section 110 would negatively affect our dynamic trading relationship with our Northern neighbor and would wreak havoc with the flow of traffic at the border. Each year, more than eight million trucks cross the eastern United States-Canada border carrying a variety of goods to market. Additionally, the Eastern Border Transportation Coalition has estimated that 57 million cars crossed that region in 1995. Sixty percent of these were day trips—people crossing the border to go to school or work, attend cultural events, shop, visit friends, and the like. The remaining forty percent of auto border crossings were by vacationers making significant contributions to both nations' economies. Might I note that visitors from the U.S. comprise the largest single group of vacationers in Canada and Canadians are the largest single non-U.S. group of vacationers in Florida.

It was not the intent of Congress to interfere with the vibrant trading relationship that we enjoy with our Canadian friends. On December 18, 1996, Representative LAMAR S. SMITH and then-Senator Alan K. Simpson sent a letter to Canadian Ambassador Raymond Chretien to assure him of this fact, writing that "we did not intend to impose a new requirement for border crossing cards or I-94's on Canadians who are not presently required to possess such documents." Thankfully, tonight this ambiguity has been resolved by this body.

By passing this bill and exempting land border crossings from the automated entry-exit control system created under Section 110, we have prevented what could have been a catastrophe at the Canadian border.

Mrs. FEINSTEIN. Mr. President, S. 1360, the "Border Improvement and Immigration Act of 1998" sponsored by Senator ABRAHAM requires an entry-exit system at air ports by the year 2000 and requires a feasibility study of an entry-exit system for land and sea ports within a year. However, it does not address all the problems for which Section 110 of the 1996 Act was intended. I hope that during conference, we can improve the bill by mandating a workable deadline for creating an entry-exit system at all land and sea ports.

Section 110 of the 1996 Immigration Act requires an automated entry-exit system by October 1, 1998. It also requires the Attorney General to identify visa overstays, making the system an integrated part of data collection by the INS.

The purpose of Section 110 in current law is to fix the problem which exists now. INS says that in FY96, over 24 million non-immigrants came into the U.S. INS also says that they are "unable to calculate overstay rates on nonimmigrants in general or for particular nationalities." INS also told my staff that they "do not have an estimate" of the average length of overstay for nonimmigrants or know the "destinations of nonimmigrants".

The purpose of Section 110 is to make sure INS has the ability, by building an integrated data system at all ports of entry—including air, sea and land ports of entry, in order to know who is coming into the country and who is leaving and more importantly, who is breaking the law by overstaying.

INS estimates that there are over 5 million illegal aliens in this country and 41% of the illegal alien population is due to visa overstays—that these aliens failed to depart. (source: 1996 Statistical Yearbook of INS).

In the 1997 report, the INS Inspector General concluded that currently, INS has no real ability to identify the characteristics of the visa overstays which could be used in developing an enforcement strategy that effectively targets visa overstays. It also found that capturing entry-exit information only at airports reveals information about 10% of the nonimmigrants in this country who come through airports. The other 90% come and leave through sea and land ports and therefore, are unknown if there is no entry-exist system at those ports.

INS' inability to identify visa overstays has greater significance when we add the fact that there are over 4.5-million border crossing cards which have been issued since 1940s.

Having an integrated entry-exit system at the land borders is critical in keeping track of all nonimmigrants, those with visas and border crossing cards, providing valuable information for law enforcements, not only to deport visa overstays but in prosecuting those drug runners who provide a critical link into the heartland of America.

Time has come to fully implement the 1996 Immigration Act. I hope that during conference, we can find a workable deadline for INS to create an entry-exit system at both sea and land ports. Doing a feasibility study is helpful in planning the implementation but without tough mandates to install entry-exit systems—while drug runners go back and forth freely at the Southwest border without law enforcement's knowledge, and while potential terrorists slip in easily through the Canadian border—is not the intent of Section 110 when Congress passed the 1996 Immigration Act last year.

Thank you Mr. President and I ask unanimous consent that this statement be printed in the RECORD after the text of S. 1360.

Mr. JEFFORDS. I ask unanimous consent that the committee amendment, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment, as amended, was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read a third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. JEFFORDS. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2920, the House companion bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. I ask unanimous consent that the Senate proceed to its consideration, all after the enacting clause be stricken, and the text of S. 1360, as amended, be inserted in lieu thereof. I further ask that the bill be read a third time, and passed, the motion to reconsider be laid upon the table, and any statements relating to this measure appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2920), as amended, was considered read the third time and passed.

Mr. JEFFORDS. I finally ask unanimous consent that S. 1360 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

STEVE SCHIFF AUDITORIUM

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3731, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3731) to designate the auditorium located within the Sandia Technology Transfer Center in Albuquerque, New Mexico, as the "Steve Schiff Auditorium."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, it is a real honor today to support legislation, H.R. 3731, honoring Representative Steve Schiff. This legislation designates a special auditorium at the Sandia National Laboratories as the "Steve Schiff Auditorium." Steve spoke in this Auditorium on several occasions, as part of his long service to the people of New Mexico.

Steve Schiff exemplified all that was good about public service: integrity of the highest order, deep and fundamental decency, and an acute and open mind. He went about his business quietly, but with wonderful efficiency. He was great at telling stories, usually about himself. He was a model for all politicians to admire.

Steve came to New Mexico from Chicago, where he was born and raised. He served the people of New Mexico in different capacities since 1972, when he graduated from the Law School at the University of New Mexico. Before election to Congress in 1988, he served as District Attorney for eight years.

One of Steve's favorite local programs was his Tree Give-Away Program. For eight years, Steve held a Saturday tree give-away day at the Indian Pueblo Cultural Center. He gave away more than 115,000 trees. Through those trees, he shared his own hope, faith, and love. Those trees now flourish throughout the Albuquerque area in New Mexico as lasting symbols of this man. In a similar way, his legislative achievements continue to serve the American people as another reminder of this great American.

Along with those trees and his legislation, the Steve Schiff Auditorium will serve as a lasting memorial. I'm happy and honored to have been a part of his life.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be considered read a third time, and passed, the motion to reconsider be laid upon the table, and that any Statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3731) was considered read the third time and passed.

COMMERCIAL SPACE ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of calendar No. 393, H.R. 1702.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1702) to encourage the development of a commercial space industry in the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commercial Space Act of 1997".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

Sec. 101. Commercialization of space station.
Sec. 102. Commercial space launch amendments.
Sec. 103. Promotion of United States Global Positioning System standards.
Sec. 104. Acquisition of space science data.
Sec. 105. Administration of Commercial Space Centers.

TITLE II—REMOTE SENSING

Sec. 201. Land Remote Sensing Policy Act of 1992 amendments.
Sec. 202. Acquisition of earth science data.

TITLE III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

Sec. 301. Requirement to procure commercial space transportation services.
Sec. 302. Acquisition of commercial space transportation services.
Sec. 303. Launch Services Purchase Act of 1990 amendments.
Sec. 304. Shuttle privatization.
Sec. 305. Use of excess intercontinental ballistic missiles.
Sec. 306. National launch capability.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "commercial provider" means any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments;

(3) the term "payload" means anything that a person undertakes to transport to, from, or within outer space, or in suborbital trajectory, by means of a space transportation vehicle, but does not include the space transportation vehicle itself except for its components which are specifically designed or adapted for that payload;

(4) the term "space-related activities" includes research and development, manufacturing, processing, service, and other associated and support activities;

(5) the term "space transportation services" means the preparation of a space transportation vehicle and its payloads for transportation to, from, or within outer space, or in suborbital trajectory, and the conduct of transporting a payload to, from, or within outer space, or in suborbital trajectory;

(6) the term "space transportation vehicle" means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload;

(7) the term "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(8) the term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company's subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

SEC. 101. COMMERCIALIZATION OF SPACE STATION.

(a) POLICY.—The Congress declares that a priority goal of constructing the International Space Station is the economic development of Earth orbital space. The Congress further declares that free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space. The Congress further declares that the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) REPORTS.—(1) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 90 days after the date of the enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers in fiscal year 1999 and 2000;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the Space Station.

(2) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 180 days after the date of the enactment of this Act, an independently-conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station. This study shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) The Administrator shall deliver to the Congress, no later than the submission of the President's annual budget request for fiscal year 2000, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar year 1998 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, broken down by each of these four categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by these four categories.

(4) Each of the studies and reports required by paragraphs (1), (2), and (3) shall include consideration of the potential role of State governments as brokers in promoting commercial participation in the International Space Station program.

SEC. 102. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

and

(D) by adding at the end the following new items:

"70120. Regulations.
"70121. Report to Congress.".

(2) in section 70101—

(A) by inserting "microgravity research," after "information services," in subsection (a)(3);

(B) by inserting ", reentry," after "launching" both places it appears in subsection (a)(4);

(C) by inserting ", reentry vehicles," after "launch vehicles" in subsection (a)(5);

(D) by inserting "and reentry services" after "launch services" in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting ", reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "conduct of commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4);

(3) in section 70102—

(A) in paragraph (3)—

(i) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth";

(ii) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a comma; and

(iii) by adding after subparagraph (C) the following:

"including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.";

(B) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(C) by redesignating paragraphs (10), (11), and (12) as paragraphs (14), (15), and (16), respectively;

(D) by inserting after paragraph (10) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return or attempt to return a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact."; and

(E) by inserting "or reentry services" after "launch services" each place it appears in paragraph (15), as so redesignated by subparagraph (C) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "commercial space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting "or reentry site, or to reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "Preventing Launches and Reentries.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following: "The Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 30 days after any occurrence when a license is not issued within the deadline established by this subsection.

"(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1);

(E) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(F) by striking "and" at the end of subsection (b)(2)(B);

(G) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and";

(H) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application."; and

(I) by inserting ", including the requirement to obtain a license," after "waive a requirement" in subsection (b)(3);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(D) by striking "source." in subsection (a)(2) and inserting "source, whether such source is located on or off a Federal range.";

(E) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(F) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(G) by inserting after subsection (b)(2) the following new paragraph:

"(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.";

(H) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(I) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) in subsection (a)(1), by inserting "launch or reentry" after "(1) When a";

(B) by inserting "or reentry" after "one launch" in subsection (a)(3);

(C) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(D) in subsection (b)(1), by inserting "launch or reentry" after "(1) A";

(E) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(F) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(G) by striking ", Space, and Technology" in subsection (d)(1);

(H) by inserting "or Reentries" after "Launches" in the heading for subsection (e);

(I) by inserting "or reentry site or a reentry" after "launch site" in subsection (e); and

(J) in subsection (f), by inserting "launch or reentry" after "carried out under a";

(13) in section 70113—by inserting "or reentry" after "one launch" each place it appears in paragraphs (1) and (2) of subsection (d);

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears;

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) Launch Not an Export; Reentry Not an Import.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports, except that payloads launched pursuant to foreign trade zone procedures as provided for under the Foreign Trade Zones Act (19 U.S.C. 81a–81u) shall be considered exports with regard to customs entry."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, or operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2); and

(16) by adding at the end the following new sections:

"§ 70120. Regulations

"(a) In General.—The Secretary of Transportation, within 9 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

"(1) guidelines for industry and State governments to obtain sufficient insurance coverage for potential damages to third parties;

"(2) procedures for requesting and obtaining licenses to launch a commercial launch vehicle;

"(3) procedures for requesting and obtaining operator licenses for launch;

"(4) procedures for requesting and obtaining launch site operator licenses; and

"(5) procedures for the application of government indemnification.

"(b) Reentry.—The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes—

"(1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;

"(2) procedures for requesting and obtaining operator licenses for reentry; and

"(3) procedures for requesting and obtaining reentry site operator licenses.

"§ 70121. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

(b) Authorization of Appropriations.—Section 70119 of title 49, United States Code, is amended to read as follows:

"§ 70119. Authorization of appropriations

"There are authorized to be appropriated to the Secretary of Transportation for the activities of the Office of the Associate Administrator for Commercial Space Transportation—

"(1) $6,182,000 for the fiscal year ending September 30, 1998;

"(2) $6,275,000 for the fiscal year ending September 30, 1999; and

"(3) $6,600,000 for the fiscal year ending September 30, 2000.".

(c) Effective Date.—The amendments made by subsection (a)(6)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(6)(H).

SEC. 103. PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS.

(a) Finding.—The Congress finds that the Global Positioning System, including satellites, *signal equipment, ground stations, data links, and associated command and control facilities, has become an essential element in civil, scientific, and military space development because of the emergence of a United States commercial industry which provides Global Positioning System equipment and related services.*

(b) INTERNATIONAL COOPERATION.—In order to support and sustain the Global Positioning System in a manner that will most effectively contribute to the national security, public safety, scientific, and economic interests of the United States, the Congress encourages the President to—

(1) ensure the operation of the Global Positioning System on a continuous worldwide basis free of direct user fees;

(2) enter into international agreements that promote cooperation with foreign governments and international organizations to—

(A) establish the Global Positioning System and its augmentations as an acceptable international standard; and

(B) eliminate any foreign barriers to applications of the Global Positioning System worldwide; and

(3) provide clear direction and adequate resources to United States representatives so that on an international basis they can—

(A) achieve and sustain efficient management of the electromagnetic spectrum used by the Global Positioning System; and

(B) protect that spectrum from disruption and interference.

SEC. 104. ACQUISITION OF SPACE SCIENCE DATA.

(a) ACQUISITION FROM COMMERCIAL PROVIDERS.—In order to satisfy the scientific and educational requirements of the National Aeronautics and Space Administration, and where practicable of other Federal agencies and scientific researchers, the Administrator shall to the maximum extent possible acquire, where cost effective, space science data from a commercial provider.

(b) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space science data shall be considered to be a commercial item for purposes of such laws and regulations. Nothing in this subsection shall be construed to preclude the United States from acquiring sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) DEFINITION.—For purposes of this section, the term "space science data" includes scientific data concerning the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets, microgravity acceleration, and solar storm monitoring.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) LIMITATION.—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

SEC. 105. ADMINISTRATION OF COMMERCIAL SPACE CENTERS.

The Administrator shall administer the Commercial Space Center program in a coordinated manner from National Aeronautics and Space Administration headquarters in Washington, D.C.

TITLE II—REMOTE SENSING

SEC. 201. LAND REMOTE SENSING POLICY ACT OF 1992 AMENDMENTS.

(a) FINDINGS.—The Congress finds that—

(1) a robust domestic United States industry in high resolution Earth remote sensing is in the economic, employment, technological, scientific, and national security interests of the United States;

(2) to secure its national interests the United States must nurture a commercial remote sensing industry that leads the world;

(3) the Federal Government must provide policy and regulations that promote a stable business environment for that industry to succeed and fulfill the national interest;

(4) it is the responsibility of the Federal Government to create domestic and international conditions favorable to the health and growth of the United States commercial remote sensing industry;

(5) it is a fundamental goal of United States policy to support and enhance United States industrial competitiveness in the field of remote sensing, while at the same time protecting the national security concerns and international obligations of the United States; and

(6) it is fundamental that the states be able to deploy and utilize this technology in their land management responsibilities. To date, very few states have the ability to do so without engaging the academic institutions within their boundaries. In order to develop a market for the commercial sector, the states must have the capacity to fully utilize the technology.

(b) AMENDMENTS.—The Land Remote Sensing Policy Act of 1992 is amended—

(1) in section 2 (15 U.S.C. 5601)—

(A) by amending paragraph (5) to read as follows:

"(5) Commercialization of land remote sensing is a near-term goal, and should remain a long-term goal, of United States policy.";

(B) by striking paragraph (6) and redesignating paragraphs (7) through (16) as paragraphs (6) through (15), respectively;

(C) in paragraph (11), as so redesignated by subparagraph (B) of this paragraph, by striking "determining the design" and all that follows through "international consortium" and inserting in lieu thereof "ensuring the continuity of Landsat quality data"; and

(D) by adding at the end the following new paragraphs:

"(16) The United States should encourage remote sensing systems to promote access to land remote sensing data by scientific researchers and educators.

"(17) It is in the best interest of the United States to encourage remote sensing systems whether privately-funded or publicly-funded, to promote widespread affordable access to unenhanced land remote sensing data by scientific researchers and educators and to allow such users appropriate rights for redistribution for scientific and educational noncommercial purposes.";

(2) in section 101 (15 U.S.C. 5611)—

(A) in subsection (c)—

(i) by inserting "and" at the end of paragraph (6);

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(B) in subsection (e)(1)—

(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking ", and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(iii) by striking subparagraph (C);

(3) in section 201 (15 U.S.C. 5621)—

(A) by inserting "(1)" after "NATIONAL SECURITY.—" in subsection (b);

(B) in subsection (b)(1), as so redesignated by subparagraph (A) of this paragraph—

(i) by striking "No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply" and inserting in lieu thereof "The Secretary shall grant a license if the Secretary determines that the activities proposed in the application are consistent";

(ii) by inserting ", and that the applicant has provided assurances adequate to indicate, in combination with other information available to the Secretary that is relevant to activities proposed in the application, that the applicant will comply with all terms of the license" after "concerns of the United States"; and

(iii) by inserting "and policies" after "international obligations";

(C) by adding at the end of subsection (b) the following new paragraph:

"(2) The Secretary, within 6 months after the date of the enactment of the Commercial Space Act of 1997, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this title. An application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information."; and

(D) in subsection (c), by amending the second sentence thereof to read as follows: "If the Secretary has not granted the license within such 120-day period, the Secretary shall inform the applicant, within such period, of any pending issues and actions required to be carried out by the applicant or the Secretary in order to result in the granting of a license.";

(4) in section 202 (15 U.S.C. 5622)—

(A) by striking "section 506" in subsection (b)(1) and inserting in lieu thereof "section 507";

(B) in subsection (b)(2), by striking "as soon as such data are available and on reasonable terms and conditions" and inserting in lieu thereof "on reasonable terms and conditions, including the provision of such data in a timely manner subject to United States national security and foreign policy interests";

(C) in subsection (b)(6), by striking "any agreement" and all that follows through "nations or entities" and inserting in lieu thereof "any significant or substantial agreement"; and

(D) by inserting after paragraph (6) of subsection (b) the following:

"The Secretary may not seek to enjoin a company from entering into a foreign agreement the Secretary receives notification of under paragraph (6) unless the Secretary has, within 30 days after receipt of such notification, transmitted to the licensee a statement that such agreement is inconsistent with the national security, foreign policy, or international obligations of the United States, including an explanation of such inconsistency.";

(5) in section 203(a)(2) (15 U.S.C. 5623(a)(2)), by striking "under this title and" and inserting in lieu thereof "under this title or";

(6) in section 204 (15 U.S.C. 5624), by striking "may" and inserting in lieu thereof "shall";

(7) in section 205(c) (15 U.S.C. 5625(c)), by striking "if such remote sensing space system is licensed by the Secretary before commencing operation" and inserting in lieu thereof "if such private remote sensing space system will be licensed by the Secretary before commencing its commercial operation";

(8) by adding at the end of title II the following new section:

"SEC. 206. NOTIFICATION.

"(a) LIMITATIONS ON LICENSEE.—Not later than 30 days after a determination by the Secretary to require a licensee to limit collection or

distribution of data from a system licensed under this title, the Secretary shall provide written notification to Congress of such determination, including the reasons therefor, the limitations imposed on the licensee, and the period during which such limitations apply.

"(b) TERMINATION, MODIFICATION, OR SUSPENSION.—Not later than 30 days after an action by the Secretary to seek an order of injunction or other judicial determination pursuant to section 202(b) or section 203(a)(2), the Secretary shall provide written notification to Congress of such action and the reasons therefor.";

(9) in section 301 (15 U.S.C. 5631)—

(A) by inserting ", that are not being commercially developed" after "and its environment" in subsection (a)(2)(B); and

(B) by adding at the end the following new subsection:

"(d) DUPLICATION OF COMMERCIAL SECTOR ACTIVITIES.—The Federal Government shall not undertake activities under this section which duplicate activities available from the United States commercial sector, unless such activities would result in significant cost savings to the Federal Government, or are necessary for reasons of national security or international obligations or policies.";

(10) in section 302 (15 U.S.C. 5632)—

(A) by striking "(a) GENERAL RULE.—";

(B) by striking ", including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303,"; and

(C) by striking subsection (b);

(11) by repealing section 303 (15 U.S.C. 5633);

(12) in section 401(b)(3) (15 U.S.C. 5641(b)(3)), by striking ", including any such enhancements developed under the technology demonstration program under section 303,";

(13) in section 501(a) (15 U.S.C. 5651(a)), by striking "section 506" and inserting in lieu thereof "section 507";

(14) in section 502(c)(7) (15 U.S.C. 5652(c)(7)), by striking "section 506" and inserting in lieu thereof "section 507"; and

(15) in section 507 (15 U.S.C. 5657)—

(A) by amending subsection (a) to read as follows:

"(a) RESPONSIBILITY OF THE SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense on all matters under title II affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States, and for notifying the Secretary promptly of such conditions. The Secretary of Defense shall convey to the Secretary the determinations for a license issued under title II, consistent with this Act, that the Secretary of Defense determines necessary to meet the national security concerns of the United States.";

(B) by striking subsection (b)(1) and (2) and inserting in lieu thereof the following:

"(b) RESPONSIBILITY OF THE SECRETARY OF STATE.—(1) The Secretary shall consult with the Secretary of State on all matters under title II affecting international obligations and policies of the United States. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying the Secretary promptly of such conditions. The Secretary of State shall convey to the Secretary the determinations for a license issued under title II, consistent with this Act, that the Secretary of State determines necessary to meet the international obligations and policies of the United States.

"(2) Appropriate United States Government agencies are authorized and encouraged to provide to developing nations, as a component of international aid, resources for purchasing remote sensing data, training, and analysis from commercial providers. National Aeronautics and Space Administration, United States Geological Survey, and National Oceanic and Atmospheric Administration should develop and implement a program to aid the transfer of remote sensing technology and Mission to Planet Earth (OES) science at the state level"; and

(C) in subsection (d), by striking "Secretary may require" and inserting in lieu thereof "Secretary shall, where appropriate, require".

SEC. 202. ACQUISITION OF EARTH SCIENCE DATA.

(a) ACQUISITION.—For purposes of meeting Government goals for Mission to Planet Earth, and in order to satisfy the scientific and educational requirements of the National Aeronautics and Space Administration, and where appropriate of other Federal agencies and scientific researchers, the Administrator shall to the maximum extent possible acquire, where cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that such data, services, distribution, and applications shall be considered to be a commercial item for purposes of such laws and regulations. Nothing in this subsection shall be construed to preclude the United States from acquiring sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(d) ADMINISTRATION AND EXECUTION.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

TITLE III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

SEC. 301. REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the Federal Government shall acquire space transportation services from United States commercial providers whenever such services are required in the course of its activities. To the maximum extent practicable, the Federal Government shall plan missions to accommodate the space transportation services capabilities of United States commercial providers.

(b) EXCEPTIONS.—The Federal Government shall not be required to acquire space transportation services under subsection (a) if, on a case-by-case basis, the Administrator or, in the case of a national security issue, the Secretary of the Air Force, determines that—

(1) a payload requires the unique capabilities of the Space Shuttle;

(2) cost effective space transportation services that meet specific mission requirements would not be reasonably available from United States commercial providers when required;

(3) the use of space transportation services from United States commercial providers poses an unacceptable risk of loss of a unique scientific opportunity;

(4) the use of space transportation services from United States commercial providers is inconsistent with national security objectives;

(5) the use of space transportation services from United States commercial providers is inconsistent with foreign policy purposes, or launch of the payload by a foreign entity serves foreign policy purposes;

(6) it is more cost effective to transport a payload in conjunction with a test or demonstration of a space transportation vehicle owned by the Federal Government; or

(7) a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(c) DELAYED EFFECT.—Subsection (a) shall not apply to space transportation services and space transportation vehicles acquired or owned by the Federal Government before the date of the enactment of this Act, or with respect to which a contract for such acquisition or ownership has been entered into before such date.

(d) HISTORICAL PURPOSES.—This section shall not be construed to prohibit the Federal Government from acquiring, owning, or maintaining space transportation vehicles solely for historical display purposes.

SEC. 302. ACQUISITION OF COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) TREATMENT OF COMMERCIAL SPACE TRANSPORTATION SERVICES AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space transportation services by the Federal Government shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space transportation services shall be considered to be a commercial item for purposes of such laws and regulations.

(b) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

SEC. 303. LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS.

The Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.) is amended—

(1) by striking section 202;

(2) in section 203—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(3) by striking sections 204 and 205; and

(4) in section 206—

(A) by striking "(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—"; and

(B) by striking subsection (b).

SEC. 304. SHUTTLE PRIVATIZATION.

(a) POLICY AND PREPARATION.—The Administrator shall prepare for an orderly transition from the Federal operation, or Federal management of contracted operation, of space transportation systems to the Federal purchase of commercial space transportation services for all nonemergency launch requirements, including human, cargo, and mixed payloads. In those preparations, the Administrator shall take into account the need for short-term economies, as well as the goal of restoring the National Aeronautics and Space Administration's research focus and its mandate to promote the fullest possible commercial use of space. As part of those preparations, the Administrator shall plan for the potential privatization of the Space Shuttle program. Such plan shall keep safety and cost effectiveness as high priorities. Nothing in this section shall prohibit the National Aeronautics and Space Administration from studying, designing, developing, or funding upgrades or modifications essential to the safe and economical operation of the Space Shuttle fleet.

(b) FEASIBILITY STUDY.—The Administrator shall conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that the National Aeronautics and Space Administration transition toward the privatization of the Space

Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Space Shuttle is privatized, including—

(1) whether the Federal Government or the Space Shuttle contractor should own the Space Shuttle orbiters and ground facilities;

(2) whether the Federal Government should indemnify the contractor for any third party liability arising from Space Shuttle operations, and, if so, under what terms and conditions;

(3) whether payloads other than National Aeronautics and Space Administration payloads should be allowed to be launched on the Space Shuttle, how missions will be prioritized, and who will decide which mission flies and when;

(4) whether commercial payloads should be allowed to be launched on the Space Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(5) whether National Aeronautics and Space Administration and other Federal Government payloads should have priority over non-Federal payloads in the Space Shuttle launch assignments, and what policies should be developed to prioritize among payloads generally;

(6) whether the public interest requires that certain Space Shuttle functions continue to be performed by the Federal Government; and

(7) how much cost savings, if any, will be generated by privatization of the Space Shuttle.

(c) REPORT TO CONGRESS.—Within 60 days after the date of the enactment of this Act, the National Aeronautics and Space Administration shall complete the study required under subsection (b) and shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

SEC. 305. USE OF EXCESS INTERCONTINENTAL BALLISTIC MISSILES.

(a) IN GENERAL.—The Federal Government shall not—

(1) convert any missile described in subsection (c) to a space transportation vehicle configuration or otherwise use any such missile to place a payload in space; or

(2) transfer ownership of any such missile to another person, except as provided in subsection (b).

(b) AUTHORIZED FEDERAL USES.—

(1) A missile described in subsection (c) may be converted for use as a space transportation vehicle by the Federal Government if except as provided in paragraph (2), at least 30 days before such conversion the agency seeking to use the missile as a space transportation vehicle transmits to the Committee on National Security and the Committee on Science of the House of Representatives, and to the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate, shall ensure in writing that the use of such missile—

(A) would result in cost savings to the Federal Government when compared to the cost of acquiring space transportation services from United States commercial providers;

(B) meets all mission requirements of the agency, including performance, schedule, and risk requirements;

(C) is consistent with international obligations of the United States; and

(D) is approved by the Secretary of Defense or his designee.

(2) The requirement under paragraph (1) that the assurance described in that paragraph must be transmitted at least 30 days before conversion of the missile shall not apply if the Secretary of Defense determines that compliance with that requirement would be inconsistent with meeting immediate national security requirements.

(c) MISSILES REFERRED TO.— The missiles referred to in this section are missiles owned by the United States that—

(1) were formerly used by the Department of Defense for national defense purposes as intercontinental ballistic missiles; and

(2) have been declared excess to United States national defense needs and are in compliance with international obligations of the United States.

SEC. 306. NATIONAL LAUNCH CAPABILITY.

(a) FINDINGS.—Congress finds that—

(1) a robust satellite and launch industry in the United States serves the interest of the United States by—

(A) contributing to the economy of the United States;

(B) strengthening employment, technological, and scientific interests of the United States; and

(C) serving the foreign policy and national security interests of the United States.

(b) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Defense.

(2) TOTAL POTENTIAL NATIONAL MISSION MODEL.—The term "total potential national mission model" means a model that—

(A) is determined by the Secretary, in consultation with the Administrator, to assess the total potential space missions to be conducted by the United States during a specified period of time; and

(B) includes all United States launches (including launches conducted on or off a Federal range).

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator and appropriate representatives of the satellite and launch industry and the governments of States and political subdivisions thereof—

(A) prepare a report that meets the requirements of this subsection; and

(B) submit that report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(2) REQUIREMENTS FOR REPORT.—The report prepared under this section shall—

(A) identify the total potential national mission model for the period beginning on the date of the report and ending on December 31, 2007;

(B) identify the resources that are necessary to carry out the total potential national mission model described in subparagraph (A), including providing for—

(i) launch property and services of the Department of Defense; and

(ii) the ability to support a launch within 6 hours after the appropriate official of the Federal Government receives notification by telephone at Government facilities located at—

(I) Cape Canaveral in Florida; or

(II) Vandenberg Air Force Base in California;

(C) identify each deficiency in the resources referred to in subparagraph (B);

(D) with respect to the deficiencies identified under subparagraph (C), including estimates of the level of funding necessary to address those deficiencies for the period described in subparagraph (A);

(E) identify opportunities for investment by non-Federal entities (including States and political subdivisions thereof and private sector entities) to assist the Federal Government in providing launch capabilities for the commercial space industry in the United States;

(F) identify 1 or more methods by which, if sufficient resources referred to in subparagraph (D) are not available to the Department of Defense, the control of the launch property and launch services of the Department of Defense may be transferred from the Department of Defense to—

(i) 1 or more other Federal agencies;

(ii) 1 or more States (or subdivisions thereof);

(iii) 1 or more private sector entities; or

(iv) any combination of the entities described in clauses (i) through (iii); and

(G) identify the technical, structural, and legal impediments associated with making launch sites in the United States cost-competitive on an international level.

AMENDMENT NO. 3482

(Purpose: To modify the provisions relating to national launch capability)

Mr. JEFFORDS. Mr. President, Senator FRIST has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont, [Mr. JEFFORDS], for Mr. FRIST, proposes an amendment numbered 3482.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, between lines 1 and 2, strike the item relating to section 306 and insert the following:

Sec. 306. National launch capability study.

On page 87, beginning in line 21, strike "Government, if except as provided in paragraph (2), at least 30 days before such conversion" and inserting "Government if, except as provided in paragraph (2) and at least 30 days before such conversion,".

On page 88, beginning, in line 3, strike "shall ensure in writing" and insert "a certification".

On page 89, line 7, strike "CAPABILITY" and insert "CAPABILITY STUDY.".

On page 91, strike lines 9 through 16 and insert the following:

(ii) the ability to support commercial launch-on-demand on short notification at national launch sites or test ranges;

On page 91, line 18, insert "and" after the semicolon.

On page 91, line 23, strike "(A);" and insert "(A).".

On page 91, between lines 23 and 24, insert the following:

(3) QUINQUENNIAL UPDATES.—The Secretary shall update the report required by paragraph (1) quinquennially beginning with 2012.

(d) RECOMMENDATIONS.—Based on the reports under subsection (c), the Secretary, after consultation with the Secretary of Transportation, the Secretary of Commerce, and representatives from interested private sector entities, States, and local governments, shall—

Reset the matter appearing on page 91, beginning with line 24 through line 22 on page 92, 2 ems closer to the left margin.

On page 91, line 24, strike "(E)" and insert "(1)".

On page 92, line 5, strike "(F)" and insert "(2)".

On page 92, beginning in line 6, strike "subparagraph (D)," and insert "subsection (c)(2)(D),".

On page 92, line 12, strike "(i)" and insert "(A)".

On page 92, line 13, strike, "(ii)" and insert "(B)".

On page 92, line 15, strike "(iii)" and insert "(C)".

On page 92, line 17, strike "(iv)" and insert "(D)".

On page 92, line 18, strike "clauses (i) through (iii);" and insert "subparagraphs (A) through (C);".

On page 92, line 19, strike "(G)" and insert "(3)".

On page 92, beginning in line 21, strike "launch sites in the United States cost-competitive on an international level." and insert "national ranges in the United States viable and competitive.".

Mr. MACK. Mr. President, the Federal Government should be encouraging private industry's involvement and investment in space, not competing with it and in some cases, stifling it. I am afraid that if we do not act on and pass this amendment, we will continue to encourage American companies to move their operations overseas. Companies need consistent government policy that encourages the development of new technology through private investment. We should enable private companies to locate and conduct their business here at home.

This growing sector of the economy provides jobs to many highly-skilled and technically-trained workers. To put it into perspective, industry revenues have exceeded $7.5 billion. Commercial space businesses have grown faster than the economy and have been relatively recession proof.

Senator GRAHAM and I have proposed a number of balanced changes to current law. Among them, our amendment requires a study by NASA to identify commercial opportunities and interest in servicing the International Space Station. Second, we authorize the Office of Commercial Space Transportation to license commercial providers to re-enter Earth's atmosphere and return payloads to Earth. Currently, only the Federal Government is permitted to do so.

Third, we encourage the President to enter into regional agreements with foreign governments to secure the U.S. Global Positioning System as the world's standard. Finally, we require the Federal Government to procure commercial space transportation services.

Space is a frontier for research and exploration. The Federal Government's investments in space technology have provided the private sector with impressive capabilities that can benefit both our citizens and the economy. It is now the private sector's challenge to make commercial space activities earn a profit. The role of the Federal Government should be to provide stable and supportive policies for these activities.

Mr. President, we are moving into the 21st century. However, the laws regulating this industry are decades old. It is critical that we update them. The Senate Commerce Committee reported this bill favorably on June 2, 1998, and the House passed a similar version on November 4, 1997. I hope it will receive broad, bipartisan support.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee substitute be agreed to, as amended, the bill be considered read a third time and passed, as amended, the motions to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3482) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (H.R. 1702), as amended, was considered read the third time and passed.

Mr. GRAHAM. Mr. President, thank you for the opportunity to address the Senate on the passage of the "Commercial Space Act," introduced by Senator MACK and myself in November 1997.

I am pleased this bill has passed today because it is critical in allowing United States launch companies to compete effectively in the growing commercial space race.

Having already passed the House by a large margin, the Commercial Space Act needed to be considered by the Senate. I was pleased to work with my colleagues to ensure the future of our nation's high-tech economic frontier: commercial space.

I speak to you today as a Senator concerned about both our national security and our nation's economic position. The United States cannot afford to descend into another "launch gap." Our recent discussions over why U.S. satellites are being launched from China demands that the U.S. Senate act quickly to make the commercial launch environment in this country as progressive and productive as possible.

When the space race began with the launch of Sputnik in October 1957, American citizens listened in indignation and fear as the first man-made satellite—a Soviet satellite—beeped its way around the earth. In the two decades that followed, an aggressive U.S. space program, both civil and military, brought our country back to its rightful lead in technology by putting a man on the moon and securing many other achievements in space.

But there is no denying that today, the United States preeminence in commercial space is threatened. If you were to step back in time 30 years to the nation's premier launch facility, Cape Canaveral, you would have seen a forest of launch vehicles ready on the pads. Visit our launch facilities today and you will see under-utilized launch facilities while at the same time U.S. commercial companies struggle to develop new space vehicles under constraints of outdated laws and policies.

A recent aerospace survey predicts over 2,000 satellites will be launched into earth orbit over the next decade. The good news is that the U.S. government and American companies may launch up to 65 percent of those payloads if the Commercial Space Act is implemented. The bad news is that many commercial satellite companies are already looking to foreign countries for launch services due to the restrictive environment in which they must operate in the United States and the lack of available launch vehicles.

In other words, Mr. President, while our space industry is rapidly preparing for the 21st Century, federal policy in dealing with this important source of economic activity is stuck on the launch pad.

The single most important provision of the Commercial Space Act is an amendment to the Commercial Space Launch Act of 1984 that gives the federal government the authority to license commercial space re-entry activities. In short: what goes up, must come down.

Can you imagine the Wright Brothers flight at Kitty Hawk ever being made if the government told them, "Sure you can fly it, just don't land." The way the law presently exists, commercial companies can launch but cannot land any vehicle returning from space. Only the U.S. government is allowed this privilege.

This provision must be changed to allow the development of future generations of spacecraft, such as the Reusable Launch Vehicle. This is the business of space: providing services, repeat services, to entrepreneurs. We must regulate in an efficient and expeditious manner to support this growing market.

That brings me to my next point: this bill, to borrow from Neil Armstrong, will take a giant leap in clarifying complex and sometimes divergent commercial space licensing requirements in federal agencies. By streamlining the regulations and licensing, we will allow commercial companies to raise capital, develop business plans, and create job opportunities that might otherwise go overseas.

Mr. President, U.S. commercial space industry faces a number of competitors from abroad. The most serious are the Russian Proton, the Chinese Long March, and the European Space Agency Ariane rockets launched from French Guiana in South America. But this is not a comprehensive list. There are numerous competitors who would be more than happy to see the U.S. commercial launch industry locked in a web of regulations and limitations.

I am proud to report that one thing our bill does not do is spend any new taxpayer dollars. As a policy bill, we are seeking to level the playing field without creating any new government programs. Our bill does require studies, but those studies will be accomplished using the existing resources of agencies involved and data that has already been collected.

For instance, our legislation would require the Department of Defense to conduct an inventory of its range assets and determine what, if any, deficiencies exist. Much of this information is already available through existing Defense Department reports. Armed with this information, we can convert our nation's launch ranges back to the busiest space facilities in the world.

But this legislation does more than just refrain from new spending. It actually saves money by allowing the conversion of excess ballistic missiles into space transportation vehicles. Due to the START treaty, these missiles can no longer be used for their original intended purpose. Furthermore, they are extremely expensive to store or destroy.

By using these missiles as launch vehicles, the government will be able to launch small scientific and educational payloads that cannot afford the larger and more expensive rocket systems. This is a legal and efficient way to dispose of an expensive asset. Our Russian counterparts have been firing their missiles as opposed to spending money to destroy them. We will implement one more practical step by firing them with a payload.

In closing, let me remind you of remarks that President John F. Kennedy made in the midst of the hotly contested space race. During one of his visits to Cape Canaveral, President Kennedy declared, "We choose to go the moon in this decade and do the other things, not because they are easy, but because they are hard."

As we consider this bill, we should all ponder that quote. It is not easy for the federal government to change the way it has done business for many years. It is hard; it is a challenge, for forward-thinking people both in and out of the government. But it is what we must do to protect our investment in the nation's economic future and our national pride. It is vital that we ensure our nation's position in the commercial space race of the 21st century.

I thank the distinguished Chairman and Ranking Member of the Senate Commerce Committee Senator MCCAIN and Senator HOLLINGS, and the Chairman of the Science, Technology, and Space Subcommittee Senator FRIST for supporting this legislation and guiding it through the Senate process.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: 605, 616, 617, 618, 652, 709, 711, 716, 719, 720, 721, 722, 739, 740, 741, 742, 743, 744 through 778, 779, 780, and 781, and all the nominations on the Secretary's desk in the Air Force, Army, Coast Guard, and Marine Corps and Navy.

I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF LABOR

Raymond L. Bramucci, of New Jersey, to be an Assistant Secretary of Labor.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Thelma J. Askey, of Tennessee, to be a Member of the United States International Trade Commission for the remainder of the term expiring December 16, 2000.

Jennifer Anne Hillman, of Indiana, to be a Member of the United States International Trade Commission for the term expiring December 16, 2006.

Stephen Koplan, of Virginia, to be a Member of the United States International Trade Commission for the term expiring June 16, 2005.

EXECUTIVE OFFICE OF THE PRESIDENT

Deidre A. Lee, of Oklahoma, to be Administrator for Federal Procurement Policy.

Rosina M. Bierbaum, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

COAST GUARD

The following named officer for appointment as Chief of Staff, United States Coast Guard, and to the grade indicated under title 14, U.S.C., section 50a:

To be vice admiral

Rear Adm. Timothy W. Josiah, 7249

CENTRAL INTELLIGENCE AGENCY

L. Britt Snider, of Virginia, to be Inspector General, Central Intelligence Agency.

FEDERAL ELECTION COMMISSION

Scott E. Thomas, of the District of Columbia, to be a Member of the Federal Election Commission for a term expiring April 30, 2003. (Reappointment)

Darryl R. Wold, of California, to be a Member of the Federal Election Commission for a term expiring April 30, 2001.

David M. Mason, of Virginia, to be a Member of the Federal Election Commission for a term expiring April 30, 2003.

Karl J. Sandstrom, of Washington, to be a Member of the Federal Election Commission for a term expiring April 30, 2001.

UNITED STATES INFORMATION AGENCY

Jonathan H. Spalter, of the District of Columbia, to be an Associate Director of the United States Information Agency.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Hugh Q. Parmer, of Texas, to be an Assistant Administrator of the Agency for International Development.

DEPARTMENT OF DEFENSE

Carolyn H. Becraft, of Virginia, to be an Assistant Secretary of the Navy.

Ruby Butler DeMesme, of Virginia, to be an Assistant Secretary of the Air Force.

Patrick T. Henry, of Virginia, to be an Assistant Secretary of the Army.

IN THE AIR FORCE

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10 U.S.C., section 12203:

To be brigadier general

Col. George W. Keefe, 3692

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10 U.S.C., section 12203:

To be major general

Brig. Gen. Richard C. Cosgrave, 5678

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. Roger G. DeKok, 6795

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. John W. Handy, 5379

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. Nicholas B. Kehoe, III, 3315

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. Maxwell C. Bailey, 0835

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Phillip J. Ford, 8359

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Ronald C. Marcotte, 7848

The following named officer for appointment in the United States Air Force as Chief, National Guard Bureau, and for appointment to the grade indicated under title 10, U.S.C., section 10502:

To be lieutenant general

Maj. Gen. Russell C. Davis, 2021

IN THE ARMY

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Richard S. Colt, 4147

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Keith B. Alexander, 9763

Dorian T. Anderson, 0294
Eldon A. Bargewell, 6135
David W. Barno, 9794
William H. Brandenburg, 9945
John M. Brown, III, 0258
Peter W. Chiarelli, 6598
Claude V. Christianson, 1982
Edward L. Dyer, 5307
William F. Engel, 8868
Barbara G. Fast, 1763
Stephen J. Ferrell, 9691
Thomas R. Goedkoop, 5449
Dennis E. Hardy, 6357
Steven R. Hawkins, 7697
John W. Holly, 6285
David H. Huntoon, Jr., 1919
Peter T. Madsen, 8165
Jesus A. Mangual, 6552
Thomas G. Miller, 3543
Robert W. Mixon, Jr., 6735
Virgil L. Packett, II, 9367
Donald D. Parker, 6333
Elbert N. Perkins, 0786
Joseph F. Peterson, 2747
David H. Petraeus, 1960
Marilyn A. Quagliotti, 8480
Maynard S. Rhoades, 6348
Velma L. Richardson, 6426
Michael D. Rochelle, 4381
Joe G. Taylor, Jr., 0884
Nathaniel R. Thompson, III, 5240
Alan W. Thrasher, 6690
James D. Thurman, 8182
Thomas R. Turner, II, 7116
John M. Urias, 6022
Michael A. Vane, 9890
Lloyd T. Waterman, 2903

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert F. Foley, 9574

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Dale R. Barber, 8409

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Robert T. Dail, 5056

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Robert A. Cocroft, 7353

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Leon J. LaPorte, 0933

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James M. Link, 6041

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Edmund C. Zysk, 6065

To be brigadier general

Col. William J. Davies, 1673
Col. James P. Combs, 0758

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. John N. Abrams, 5774

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. David H. Ohle, 2815

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Paul J. Glazar, 2517
Brig. Gen. John R. Groves, Jr., 2716
Brig. Gen. David T. Hartley, 1609
Brig. Gen. Lloyd E. Krase, 3636
Brig. Gen. Bennett C. Landreneau, 0645
Brig. Gen. Benny M. Paulino, 5606
Brig. Gen. Jean A. Romney, 1872
Brig. Gen. Allen E. Tackett, 5032

To be brigadier general

Col. Richard W. Averitt, 7139
Col. Daniel P. Coffey, 4196
Col. Howard A. Dillon, Jr., 1659
Col. Barry A. Griffin, 8148
Col. Larry D. Haub, 3445
Col. Robert J. Hayes, 7789
Col. Lawrence F. Lafrenz, 4984
Col. Victor C. Langford, III, 4215
Col. Thomas P. Mancino, 3133
Col. Dennis C. Merrill, 5790
Col. Walter A. Paulson, 4766
Col. Robley S. Rigdon, 7740
Col. Kenneth B. Robinson, 8162
Col. Roy M. Umbarger, 9266
Col. Jimmy R. Watson, 5571
Col. Paul H. Wieck, 5055

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Emilio Diaz-Colon, 2517

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward G. Anderson, III, 2536

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Thomas A. Schwartz, 0711

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624(c):

To be brigadier general, Judge Advocate General's Corps

Col. Thomas J. Romig, 9070

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Bruce W. Pieratt, 4901

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Peter A. C. Long, 9560

The following named officer for appointment as Chief of Chaplains and for appointment to the grade indicated under title 10, U.S.C., section 5142:

To be rear admiral

Rear Adm. (lh) Anderson B. Holderby, Jr., 9991

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Michael E. Finley, 8251
Capt. Gwilym H. Jenkins, Jr., 0193
Capt. James A. Johnson

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. James F. Amerault, 0491

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Michael L. Cowan, 2470

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Joseph S. Mobley, 1731

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Edward Moore, Jr., 0064

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. John W. Craine, Jr., 9037,

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Herbert A. Browne, Jr., II. 4815,

CORPORATION FOR PUBLIC BROADCASTING

Diane D. Blair, of Arkansas, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004.

DEPARTMENT OF TRANSPORTATION

Kelley S. Coyner, of Virginia, to be Administrator of the Research and Special Programs Administration, Department of Transportation.

CORPORATION FOR PUBLIC BROADCASTING

Ritajean Hartung Butterworth, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, COAST GUARD, MARINE CORPS, NAVY

Air Force nominations beginning Albert K. Aimar, and ending Jerry L. Wilper, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998.

Air Force nominations beginning Hedy C. Pinkerton, and ending Philip M. Shue, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998.

Air Force nominations beginning John J. Abbatiello, and ending Michael P. Zumwalt, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998.

Army nominations beginning Johan K. Ahan, and ending Clorinda K. Zawacki, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998.

Army nomination of Angela D. Meggs, which was received by the Senate and appeared in the Congressional Record of June 15, 1998.

Army nominations beginning Kevin C. Abbott, and ending Mark G. Ziemba, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998.

Army nominations beginning *Celethia M. Abner, and ending *Shanda M. Zugner, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998.

Army nominations beginning Robert D. Branson, and ending William B. Walton, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 1998.

Army nominations beginning Mark A. Acker, and ending X4578, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 1998.

Coast Guard nomination of Christopher A. Buckridge, which was received by the Senate and appeared in the Congressional Record of June 17, 1998.

Marine Corps nomination of Michael J. Colburn, which was received by the Senate and appeared in the Congressional Record of June 15, 1998.

Marine Corps nominations beginning Reginald H. Baker, and ending James J. Witkowski, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998.

Navy nominations beginning Mark T. Ackerman, and ending Mary J. Zurey, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998.

Navy nominations beginning David Abernathy, and ending Michael B. Witham, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998.

Navy nominations beginning Sanders W. Anderson, and ending Paul R. Zambito, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998.

Navy nominations beginning John S. Andrews, and ending William M. Steele, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1998.

Navy nominations beginning Paul S. Webb, and ending Wesley P. Ritchie, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 1998.

Navy nominations beginning Kevin J. Bedford, which was received by the Senate and appeared in the Congressional Record of July 7, 1998.

Navy nominations beginning Douglas J. McAneny, and ending Richard A. Mohler, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 1998.

NOMINATION OF RAYMOND BRAMUCCI AS ASSISTANT SECRETARY OF LABOR

Mr. LAUTENBERG. Mr. President, I rise in support of the nomination of Ray Bramucci for the position of Assistant Secretary of Employment and Training in the Department of Labor.

Mr. President, I have known Ray for many years. He is a man of enormous integrity, deep commitment to public service, and is ready and anxious to take up his responsibilities at the Department of Labor. Ray has a passion for making things better, and believes strongly in lifelong education and job training for our youth, especially our disadvantaged youth. He will give this job his full measure. I urge the Senate to move rapidly to confirm him.

A leading figure in New Jersey politics and public affairs, Ray's expertise in labor-management relations, job training initiatives, employment services, and policy development provides a solid foundation for overseeing the administration of agency programs as Assistant Secretary. From 1990 to 1994, Mr. Bramucci served as Commissioner of the New Jersey Department of Labor. In this position, he was a key cabinet member and principal advisor to the Governor on matters of both statewide and national impact, particularly in regard to economic development, education and training, and labor relations.

Mr. Bramucci also served as Chief Executive Officer of the New Jersey Department of Labor, an agency charged with workforce training and preparation, protecting workers from exploitation, and providing income security through benefit programs for injured, ill, and unemployed workers. While in office, he successfully created and implemented a number of ground breaking initiatives, including the Workforce Development Partnership, a program which has helped to train and upgrade worker skills since July 1992 and is training over 15,000 workers today. He helped to establish the nation's first state-funded program to provide extended unemployment benefits to workers who had exhausted their regular claims, as well as the New Jersey State Employment and Training Commission and the Employment Security Council, two national leaders in reforming and revitalizing the worker security system.

To the position of Assistant Secretary, he would also bring the skills he acquired in his 22 years of service as part of the International Ladies' Garment Workers' Union. During this time, he rose from shop floor worker to eventually become the senior executive and key negotiator for the Union, in which he played a central role in negotiating hundreds of individual and industry-wide contracts.

From 1979 to 1990, he was Director of New Jersey Operations for our former colleague, Bill Bradley. Ray was the eyes and ears for Senator Bradley in New Jersey, and a key adviser to him on political and policy matters. It was during this period that I got to know Ray well, and then when he served as Labor Commissioner. In recognition of his many accomplishments, he has been named to the Executive Board of CDS International, Inc., the Commission Board of the New Jersey Black Achievers Program of Business and Education, and President of the New Jersey Caucus Education Corporation.

Mr. President, the Assistant Secretary for Employment and Training is charged with directing Department programs and ensuring that programs funded through the agency are free from unlawful discrimination, fraud, and abuse. Ray Bramucci has the experience and commitment to assume these responsibilities with sensitivity and skill. He will make an exceptional Assistant Secretary. I thank my colleagues for confirming Ray Bramucci so he can get on with the job.

NOMINATION OF PATRICK T. HENRY TO BE ASSISTANT SECRETARY OF THE ARMY FOR MANPOWER AND RESERVE AFFAIRS

Mr. LEVIN. Mr. President, I am delighted to support the nomination of Patrick T. Henry to be the Assistant Secretary of the Army for Manpower and Reserve Affairs.

P.T. Henry has served on the staff of the Armed Services Committee for the last five years. Before that, he had a distinguished career on active duty in the Marine Corps and in the Office of the Secretary of Defense, as well as serving as the Chief of Staff of the American Red Cross here in Washington.

Mr. President, I can't think of a better person to serve in this important position. P.T. Henry has played a key role in virtually every Defense manpower and personnel issue in the last two decades. Whether the issue is quality of life issues, military pay and benefits questions, recruiting and retention, or military health care, the United States Senate and the men and women of our armed forces have benefitted tremendously from the advice and counsel of P.T. Henry.

I know that every member of the Armed Services Committee agrees with me that P.T.'s expertise in the area of Defense manpower and personnel issues is exceeded only by his commitment to the welfare of the men and women of the armed forces and their families. I am disappointed that P.T. will be leaving the Armed Services Committee staff, but I am delighted and proud that he will be moving to such an important position in the Defense Department. The Senate's and the Armed Services Committee's loss is certainly the Army's gain.

Mr. Chairman, I want to thank P.T. Henry for his service to the Senate and the nation. I know that he will do an outstanding job as the Assistant Secretary of the Army for Manpower and Reserve Affairs, and that he will continue to be an effective advocate for the men and women of the Army.

NOMINATION OF BRIGADIER GENERAL ALLEN E. TACKETT

Mr. BYRD. Mr. President, I am pleased that the President has nominated Brigadier General Allen E. Tackett for the rank of Major General. Brigadier General Tackett, a resident of Miami, West Virginia, graduated from East Bank High School and earned a Bachelor of Arts degree from the University of Charleston, Charleston, West Virginia. He began his military career over 35 years ago as a Private in the Special Forces. Advancing from a Private to a Major General is an accomplishment which exemplifies his dedication to the National Guard, our country, and our State of West Virginia.

Brigadier General Tackett is a military graduate of the Special Warfare Center, Jumpmaster Course; Infantry Officer Basic and Advanced Courses; Command and General Staff College; and the Special Warfare Center, Techniques of Special Operations.

Brigadier General Tackett's major decorations include the Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, National Defense Medal, Humanitarian Medal, and the Armed Forces Reserve Medal. He was awarded, through rigorous training and proven efficiency, the coveted Special Forces Tab and Master Parachutist Badge.

Three years ago, Brigadier General Tackett assumed his current prestigious command as Adjutant General, West Virginia National Guard, with leadership responsibility for six thousand men and women serving in the West Virginia National Guard.

Mr. President, I am pleased to cast my vote for the confirmation of Brigadier General Allen E. Tackett as Major General, and I urge my colleagues to support this nomination.

NOMINATIONS

Executive nominations received by the Senate July 30, 1998:

THE JUDICIARY

FRANCIS M. ALLEGRA, OF VIRGINIA, TO BE JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS, VICE LAWRENCE S. MARGOLIS, TERM EXPIRED.

LEGROME D. DAVIS, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE EDMUND V. LUDWIG, RETIRED.

FARM CREDIT ADMINISTRATION

MICHAEL M. REYNA, OF CALIFORNIA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, FOR A TERM EXPIRING MAY 21, 2004, VICE DOYLE COOK, TERM EXPIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CARDELL COOPER, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE SAUL N. RAMIREZ, JR.

DEPARTMENT OF THE INTERIOR

CHARLES G. GROAT, OF TEXAS, TO BE DIRECTOR OF THE UNITED STATES GEOLOGICAL SURVEY, VICE GORDON P. EATON, RESIGNED.

DEPARTMENT OF THE TREASURY

DAVID C. WILLIAMS, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY, VICE VALERIE LAU, RESIGNED.

DEPARTMENT OF STATE

CLAIBORNE DEB. PELL, OF RHODE ISLAND, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ROD GRAMS, OF MINNESOTA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JOSEPH R. BIDEN, OF DELAWARE, JR. TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

OFFICE OF PERSONNEL MANAGEMENT

JOHN U. SEPULVEDA, OF NEW YORK, TO BE DEPUTY DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT, VICE JANICE R. LACHANCE.

NATIONAL INDIAN GAMING COMMISSION

MONTIE R. DEER, OF KANSAS, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF THREE YEARS, VICE TADD JOHNSON.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

JOSEPH E. STEVENS, JR., OF MISSOURI, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2003. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 628, AND 531:

To be colonel

JEFFREY C. MABRY, 4178

To be lieutenant colonel

JEFFREY P. ALLERTON, 6736
DALE R. BROWN, 9660
MARK C. BRYANT, 2801
STUART D. HARTFORD, 1071
KENNETH R. NEUHAUS, 0347
ROBERT R. SELLERS, 9390
JOHN F. SIMONETTI, 3511
MICHAEL J. SUTTON, 6942
DAVID R. TAYLOR, 2430
THOMAS K. WIGGS, 9047

To be major

* RICHARD B. DELEON, 5530
JOHN F. EASTON, 7729
STEPHEN H. KENNEDY, 2523
TERRY J. LEWIS, 4759
JOEL J. SCHUBBE, 0285
ANA Y. VALDEZSCALICE, 4404

THE FOLLOWING NAMED OFFICER FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be captain

NEAL A. THAGARD, 2257

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DAVID W. BROOKS, 0890
RONALD M. PACKER, 5813
SHELBY R. PEARCY, 5880

DEPARTMENT OF DEFENSE

STEPHEN W. PRESTON, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE NAVY, VICE STEPHEN S. HONIGMAN.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HAROLD LUCAS, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE KEVIN EMANUEL MARCHMAN.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be lieutenant

DAVID W. ADAMS, 4432
KEDRIC M. BELLAMY, 0528
EVELYN T. GIBBS, 1413
THOMAS M. HENDERSCHEDT, 6190
ROSE E. JIMENEZ, 9885
THOMAS L. KENNEDY, 5425
JAMES D. MORALES, 3672
JOSEPH ROTH, 1046

To be lieutenant (junior grade)

CHRISTOPHER E. ARCHER, 7975
DEBRA A. DRAHEIM, 0582
JOHN S. DUENAS, 1553
BRIAN M. GOEBEL, 7966
DEVIN T. LASALLE, 4452
ERIC T. LOWMAN, 9079
STEPHANIE E. MITCHELLSMITH, 1198
RICHARD R. RIKER, 1239
JOHN C. RUDOLFS, 2791
JOHN A. VELOTTA, 9640

To be ensign

DOUGLAS W. ABERNATHY, 8721
GREGORY A. BESHORE, 3743
WILLIAM M. FELMLEE, 7819
PATRICK L. LAHIFF, 5682
SHAWN D. PETRE, 0611
MICHAEL Y. SNELLING, 6434

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

MARILYN E. BRADDOCK, 7175

To be lieutenant commander

STEVEN L. BANKS, 5264
LAFAYETTE B. BELK, JR., 8279
FRANK A. BIVINS, 4425
ROBERT BUCKLEY, 7183
THOMAS B. CALVIT, 6791
GERARD S. CHRABOT, 5407
DWAYNE C. CLARK, 7030
LOUIS A. DAMIANO, 8040
JAMES F. GALLAGHER, 6665
JAMES W. HANSEN, 1133
JOHN R. HOLMAN, 7898
STEPHEN H. HOOPER, 3052
KIMBROUGH M. HORNSBY, 3928
CHARLES JOHNSON, II, 7378
STEPHAN F. JUN, 5241
DAVID A. LOWREY, 8248
MARK A. MALAKOOTI, 7082
ANTHONY J. MARCIANTE, 5584
PETER G. MAYER, 3742
DAVID B. MCLAREN, 4734
KIMBERLY M. MCNEIL, 7278
ANDREW A. NELSON, 8868
DAVID NORMAN, 9178
JOESPH D. PAULDING, 9897
BILLY J. PHILLIPS, 8244
LARRY D. REID, JR., 9253
GIACINTO F. RUBINO, 7254
JEFFREY A. RUTERBUSCH, 8424
JUDY R. SCHAUER, 8440
EDWARD D. SIMMER, 6096
DONNA J. STAFFORD, 7276
PHILIP M. STOLL, 3387
MARK D. TURNER, 1517
BENJAMIN W. YOUNG, JR., 4774

To be lieutenant

TIMOTHY A. ACKERMAN, 4775
BARRY D. ADAMS, 0851
RICHARD E. AGUILA, 5100
MICHAEL T. AKIN, 0014
YVONNE ANDERSON, 1562
ELIZABETH A. G. ASHBY, 7492
DIXIE L. AUNE, 4167
JENNIFER L. BAILY, 5962
DARRELL A. BAKER, 4561
JULIE H. BALL, 3650
SCOTT J. BEATTIE, 6633
JAMES S. BIGGS, 1490
WILLIAM R. BLAND, 4351
ANNE K. BOURNE, 8882
MATTHEW R. BOWMAN, 7248
SCOTT D. BOXBERGER, 0888
GERALD BOYLE, 1502
RICK M. BROGDON, 7076
GREGORY H. BUBB, 4416
DELL D. BULL, 7342
WILLIAM E. BURNS, JR., 5495
TIERNEY M. CARLOS, 6140
ROBERT T. CARRETTA, 7044
DAVID J. CARRILLO, 3605
JOE V. CASEY, JR., 4695
GINA M. CAVALLI, 2323
KARINA J. CIESIELSKI, 7527
BARRY S. COHEN, 5415
THERON C. COLBERT, 8812
CANDACE A. CORNETT, 8869
MICHAEL T. COURIS, 3674
JAMES G. COX, 2917
CHERYL A. CREAMER, 3872
CHARLES J. CRUSE, 8027

ERIC E. CUNHA, 5130
PRESCOTT E. DALRYMPLE, 2234
GREGORY P. DAVIS, 3105
MARISA A. DECILLIS, 2746
DONALD R. DELOREY, 6703
DAWN DENNIS, 8985
HENRIQUE M. DEOLIVEIRA, 4369
BEVERLY A. DEXTER, 7726
KRISPEN S.J. DORFMAN, 2040
DEBORAH D. DREWS, 5127
ANTHONY L. DUCHI, III, 6550
JENNIFER K. EAVES, 0895
MARK T. EDGE, 1294
LANCE C. ESSWEIN, 8231
RICHARD L. FIELDS, JR., 1357
NANCY J. FINK, 8116
ANNE B. FISCHER, 4264
GLENN S. FISCHER, 1227
KEVIN FITZPATRICK, 0117
ROGER D. FLODIN, II, 8114
MARIA C. FLYNN, 7277
PHILIP A. FOLLO, 4354
WALTER H. FRENCH, III, 9575
EFRAM R. FULLER, 3375
JUAN M. GARCIA, III, 4560
PATRICA A. GARCIA, 9139
PEER E. GERBER, 2318
ELIZABETH K. GILLARD, 2319
BENNETT R. GLOVER, 6669
CARLOS D. GODINEZ, 5053
BABETTE R. GORDON, 4001
CHARLES M. GORDON, 4650
JOHN R. GOULDMAN, JR., 9496
DARLENE K. GRASDOCK, 3697
JOHN N. GREENE, 1787
KURT E. GRUNAWALT, 8201
LISA C. GUFFEY, 7354
RICHARD A. GUSTAFSON, 5125
RICHARD G. HAGERTY, 5835
CLYDE A. HAIG, 2967
WILLIAM O. HAISSIG, 4134
ERIC R. HALL, 3860
JON J. HANSON, 4565
WILLIAM T. HARDER, 5094
MARY K. HARRIS, 1521
RONALD G. HARTMAN, JR., 4778
MATTHEW J. HAUPT, 4320
ELIZABETH A. HAYDON, 3311
MATTHEW W. HEBERT, 5949
KEITH W. HENDERSON, 9656
GRANT R. HIGHLAND, 5527
LESTER E. HUILBERT, JR., 4257
MATTHEW W. HILDEBRANDT, 5729
JACK A. HINES, 6054
MARK A. HOFMANN, 3204
MICHAEL C. HOLIFIELD, 3949
NANCY E. HOLMES, 3867
JOHN M. HOOPES, 0688
JOHN L. HOWLAND, 2245
SALLY A. HUGHES, 4699
RICHARD L. INGRUM, JR., 2956
RAYMOND E. JACKSON, 2910
MICHAEL J. JAEGER, 8028
GREGORY A. JOHNSON, 7595
JEFFREY D. JOHNSON, 7557
ETHAN B. JOSIAH, 6590
LETITIA D. JUBERT, 6087
CYNTHIA L. JUDY, 9408
JOSEPH A. KAHN, 7622
JULIAN T. KELLY, 0337
STEVEN A. KEWISH, 4888
BARRY L. KILWAY, 9756
SUSANNE K. KITCHEN, 7435
KRISTIN L. KLIMISCH, 5655
PAMELA S. KUNZE, 5359
TAMERA L. LANE, 1384
BRIAN C. LANSING, 7587
JOSEPH T. LAVAN, 6481
JOHN LEE, 4842
WILLIAM J. LEONARD, JR., 8410
DANA L. LIZAK, 7769
CHARLES E. LOISELLE, 3511
JAMES J. LYNCH, 9304
TAMARA K. MAEDER, 5272
MICHAEL J. MAGUIRE, 2576
ERIC F. MANNING, 7917
STEPHEN J. MANNING, 6591
MARK A. MARZONIE, 8751
KAREN D. MC CORMICK, 9510
ELIZABETH H. MC DONNELL, 3027
JAMES R. MC FARLANE, 1403
WAINA J. MC FARLANE, 0260
CHELSEA T. MCKINLEY, 8301
SCOT C. MC MAHON, 4214
CAROLYN M. MEDINA, 8686
BRENDAN T. MELODY, 8884
KRISTEN L. MOE, 8494
STEPHEN R. MOLITOR, 2526
EDGARDO MONTERO, 0513
ERIN M. MOORE, 1205
ROBERT P. MOORE, IV., 4570
JOHN R. MORRIS, 8331
STEPHANIE J. MOSER, 4591
RAMIRO MUNOZ, JR., 1855
JASON C. NARGI, 0864
SCOTT V. NEEDLE, 7913
KEVIN H. ODLUM, 4524
CHRISTOPHER J. ODONNELL, 1685
HILARY S. D. OKELLEY, 6495
CHARLES E. OLSON, 3460
KEVIN R. ONEIL, 4709
ANTHONY J. OPILKA, 7193
SCOTT E. ORGAN, 6696
JOE V. OVERSTREET, 2767
LINDA M. PALMER, 7710
DOUGLAS A. PEABODY, 3023
ANN M. PERRY, 9285
RICHARD T. PETERSON, 9477
NICOLE K. POLINSKY, 6525
JASON R. PRICKETT, 5023
WILLIAM J. PROUT, 9710
EILEEN M. H. RACZYNSKI, 1304
JOHN G. RICE, 4366
TRACY V. RIKER, 9287
KIMBERLY S. ROBERTS, 8333
MARC D. RODRIGUEZ, 9270
MONICA G. ROMAN, 5890
CHERYLYNN A. ROSWELL, 5259
MICHELLE C. SAARI, 9975
STEPHANIE L. SANDERS, 7818
LYNNE T. SCHIERA, 5442
MICHAEL J. SCHWERIN, 2600
PATRICK B. SCOTT, 4249
CATHERINE A. SELLERS, 8015
WILLIAM H. SHEEHAN, 5758
MARIA T. SHELDRAKE, 2807
GREGORY J. SMITH, 1662
LOREN J. SMITH, 3996
SCOTT M. SMITH, 7080
VICTOR S. SMITH, 4224
ELIZABETH A. SNYDER, 6213
THEODORE J. STJOHN, 2452
MARK D. SULLIVAN, 2737
SCOTT A. SWOPE, 9423
ITZEL A. TALBOT, 5276
ELIZABETH A. H. TEWELL, 6252
DOUGLAS A. THIEN, 6129
SUSAN A. UNION, 3292
KEN H. UYESUGI, 7982
SHARON S. VETTER, 7136
SORAYA M. C. VILLACIS, 6175
CARLA L. VIVAR, 7967
ROGER F. WAKEMAN, 7274
JEFFREY A. WALTERS, 0198
THOMAS A. WALTZ, JR., 5644
MARCUS L. WARREN, 2166
MICHAEL S. WATHEN, 5800
DAVID C. WEIGLE, 1437
JASON A. WELCH, 8940
NELSON R. WELLS, 3806
KURT J. WENDELKIN, 0179
ROBERT B. WHITE, 2876
KENNETH J. WHITWELL, 2598
CATHERINE E. WIDMER, 6034
JEFFREY S. WILCOX, 5948
MITCHELL P. WRIGHT, JR., 6562
HENRY X. YOUNG, 2199
CAROL A. ZYLSTRA, 1240

To be lieutenant (junior grade)

KIMBERLY C. ABERCROMBIE, 6034
DOUGLAS J. ADKISSON, 6110
IVAN L. AGUIRRE, 1267
ROBERT E. ALEXANDER, 9965
DAVID W. ANDERSON, 5865
ROBERT E. BEBERMEYER, 5528
BRYAN L. BECK, 9995
DENNIS E. BLACKSMITH, 8509
CHRISTOPHER L. BLANCHARD, 0049
DALE S. BORDNER, 2909
JEFF W. BOWMAN, 2512
RODERICK L. BOYCE, 2425
RALPH V. BRADEEN, 0250
TRACY A. BRINES, 0598
CLAUDIA M. R. BROWN, 5744
MARK S. BUDELIER, 1495
TERRENCE E. CASEY, 2823
JEFF P. H. CAZEAU, 1327
JOHN T. CHAPMAN, 3799
RODNEY A. CHAPMAN, 5229
PETER D. CHAREST, 3912
ERIK C. CLINE, 9004
ANTHONY J. COKE, 3526
BRENDA M. COLLINS, 0473
GREGORY J. COTTON, 5007
GEORGE P. CULLEN, 4464
NICKI L. DAILEY, 4656
SHAHIN P. DANESHKHAH, 5319
SHARON L. DECANT, 4233
CARLOS F. DEJESUS, 3719
KENNETH P. DEUEL, 8154
LISA A. DIMARIA, 8354
THOMAS S. DIVITO, 5212
JIMI M. DOTY, 2757
DARREN P. DRESSER, 1360
THOMAS E. DUNMORE, 7274
GRANT A. DUNN, 8871
ERIK D. ECK, 0545
LANCE J. EDLING, 9114
KENDALL J. ELLINGTON, 1533
WILLIAM R. ELLIS, JR., 2487
JEFFREY N. FARAH, 8389
WILLIAM M. FAULKNER, 6536
ROBERT E. FENRICK, 2776
ALFREDO T. FERNANDEZ, JR., 5055
IVAN A. FINNEY, 9564
MARK J. FOLSLAND, 0397
JOHN H. FOX, 3748
JOHN P. FRIEDMAN, 9917
RAYMOND GARAY, 2621
MATTHEW M. GENTRY, 3103
BLAKE C. GIBSON, 7165
MARK W. GIBSON, 6719
JOHN B. GILLETT, III, 9673
CHRISTOPHER C. GILLETTE, 5339
JOSEPH A. GOODNER, 5157
STEVEN R. GUNTHER, 9010
SHISHIR K. GUPTA, 4985
AMY M. HAGEMAN, 8080
BRIAN G. HARRIS, 9717
RYAN J. HEILMAN, 8286
TIMOTHY J. HERALD, 8917
ERIC M. HOHL, 3466
WILLIAM D. HOLDER, 6847
ANDREW S. INMAN, 5491
KEVIN R. JODA, 6739
SANDRA D. JOHNSON, 7286
ROBERT A. KEATING, 8311
JOHN G. KEENAN, 7582
CORINNA M. KUPPER, 6671
MICHAEL S. LAGUITAN, 1347
EFREM R. LAWSON, 2043
SCOTT D. LOESCHKE, 6070
ANTONIA LOPEZ, 8510
CHRISTOPHER K. LUEDDERS, 4529
MATTHEW M. LYLE, 7639
KATHLEEN S. MAAS, 9085
PETER J. MACULAN, 7693
ERIC J. MATHIS, 1678
STUART M. MATTFIELD, 3581
MATTHEW J. MAXWELL, 9971
BRIAN L. MAZE, 7725
MARVIN B. MC BRIDE, III, 7817
JEFFREY E. MC COY, 8295
MASON C. MC DOWELL, 0861
CLAYTON D. MENSER, JR., 4258
DONALD H. MERTEN, III, 9115
GARRICK J. MILLER, 4261
STEVEN W. MILLER, 5260
DANNIEL A. MINES, 1844
IDELLA R. MOORS, 4751
JOHN S. MOYER, III, 3700
GORDON E. MUIR, JR., 0275
DAVID D. NEAL, 4170
PAUL R. OBER, 3531
JASON W. ORENDER, 9235
DANIEL A. PETNO, 7482
ERIK G. PITTMAN, 2427
GREGORY E. POOLE, 6088
ERIK J. POWELL, 3862
RICHARD L. PRINGLE, 7464
DEREK J. PURDY, 2314
JAMES E. REASOR, 4136
LAURIE H. REPPAS, 0905
TRAVIS B. RHOADES, 0713
CATHERINE E. RILEY, 1216
ROBERT S. RINEHART, 0717
JESS V. RIVERA, 2693
GREGORY D. ROSE, 3171
RICKEY G. RUFFIN, 8723
ROBERT S. RUSSELL, 3268
JEANNE M. SARMIENTO, 4487
BRYAN T. SCHLOTMAN, 3545
STEVEN C. SCHOENECKER, 7136
JAMES E. SCOTT, 6869
RAMON I. SERRANO, 8469
JAMES L. SHELTON, 2060
MARVIN L. SIKES, JR., 8890
DANIEL J. SIKKINK, 8486
JEFFREY S. SMITH, 6647
SCOTT M. SONDGERATH, 1695
KENNETH L. SPENCE, 9797
WINSTON R. SPENCER, 9015
GERALD W. SPRINGER, II, 0796
LOUIS J. SPRINGER, 6946
STEPHEN J. STANO, 4120
DANIEL M. STODDARD, 8046
JEROD D. SWANSON, 3049
EDMUND E. SWEARINGEN, 6104
MARK A. SWEARNGIN, 2909
STEPHEN L. I. THOMPSON, 5867
DONALD M. THORNER, 2690
DAVID A. URSINI, 6502
SEAN W. VALLIEU, 7200
JASON S. VANDONK, 2471
RANDY J. VANROSSUM, 3669
GUSTAVO J. VERGARA, 9617
SHANNON P. VOSS, 9034
KEVIN H. WAGNER, 9323
BENJAMIN J. WALKER, 9135
CEDRIC L. WALKER, 0692
JEFFREY S. WARREN, 8435
ERIC T. WHITELEY, 1834
ULYSSES V. WHITLOW, 3287
WILLIAM C. WHITSITT, 6325
DUNCAN L. WILLIAMS, 6451
BRIAN A. WILSON, 5503
ROBERT L. WING, 9943
COREY D. WOFFORD, 3157
DANIEL F. YOUCH, 8453
WILLIAM B. ZABICKI, JR., 6088
MATTHEW H. ZARDESKAS, 7517
JEFFREY B. ZILLMER, 1323

To be ensign

JOHN C. BAILLY, 1793
JEFFREY P. BROWN, 6854
GILLIAN B. BURNS, 5639
MICHAEL CHIN, 5971
JOSEPH W. COLEMAN, 5229
MICHAEL F. DAVIS, 6188
ROGELIO M. DU, 6044
ROBERT J. HAIRE, JR., 1949
RICHARD C. HAM, 8802
CORINNE D. HAMPSON, 2209
BRAD G. HARRIS, 2036

ROBERT C. HICKS, 3411
ERIC D. HOLLIS, 6392
SHAWN W. HUEY, 4931
JOHN B. HUGHES, 0433
DAVID R. JACKSON, 1564
HENRY A. JOHNSON, 1322
MARK E. JOHNSON, 0856
DINCHEN A. KLEIN, 1645
LAURA A. KNABB, 7866
KIRK A. KREISEL, 2698
ARRON W. LAYTON, 4228
TIFFANY A. LEHANE, 3492
GREGORY D. LEWIS, 8283
JEFFREY M. LISAK, 7010
RONALD B. LOTT, JR., 3606
JAMES MATHES, 5269
TODD D. MOORE, 4333
JEFFREY A. NESHEIM, 2695
RICK L. NICKERSON, 4686
GREGORY J. OSTIDIEK, 7258
NANNETTE M. PACO, 0955
CHRISTOPHER F. POULIOT, 9861
JASON A. SEIFERT, 6600
MARIANNE SIMMONS, 3836
GREGORY S. THOROMAN, 1459
BRIAN L. TOTHERO, 9272
PHILIP G. URSO, 0079
ROBERT J. WEGGEL, 4083
BRICE C. WEYER, 8720
STEVEN J. WICKEL, 1513
MARK A. WINTERS, 4332
MATTHEW A. WISE, 9852

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be lieutenant

NORA A. BURGHARDT, 8283
BRYAN E. HELLER, 1302
MARK R. LAUDA, 6736
STEVEN D. WATSON, 5118

To be lieutenant (junior grade)

DAVID M. ALGER, 6583
JEFFREY J. BLOCK, 4428
JAN C. CUNNION, 5275
KEITH W. MIERTSCHIN, 9925
ALLEN R. SULLIVAN, 0138

To be ensign

KEITH K. BENSON, 2066
MICHAEL J. BRADY, 0791
AMANDA E. MORRIS, 6306

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS FOR PERMANENT APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be lieutenant

CHARLES W. CORIELL, 9613
STANLEY D. WILLIAMS, 3558

To be lieutenant (junior grade)

JOHN R. ANDERSON, 7712

CONFIRMATIONS

Executive Nominations Confirmed by the Senate July 30, 1998:

DEPARTMENT OF LABOR

RAYMOND L. BRAMUCCI, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF LABOR.

UNITED STATES INTERNATIONAL TRADE COMMISSION

THELMA J. ASKEY, OF TENNESSEE, TO PE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 16, 2000.

JENNIFER ANNE HILLMAN, OF INDIANA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING DECEMBER 16, 2006.

STEPHEN KOPLAN, OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 2005.

EXECUTIVE OFFICE OF THE PRESIDENT

DEIDRE A. LEE, OF OKLAHOMA, TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.

ROSINA M. BIERBAUM, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

CENTRAL INTELLIGENCE AGENCY

L. BRITT SNIDER, OF VIRGINIA, TO BE INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY.

FEDERAL ELECTION COMMISSION

SCOTT E. THOMAS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2003.

DARRYL R. WOLD, OF CALIFORNIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2001.

DAVID M. MASON, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2003.

KARL J. SANDSTROM, OF WASHINGTON, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2001.

UNITED STATES INFORMATION AGENCY

JONATHAN H. SPALTER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

HUGH Q. PARMER, OF TEXAS, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

DEPARTMENT OF DEFENSE

CAROLYN H. BECRAFT, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

RUBY BUTLER DEMESME, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE.

PATRICK T. HENRY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

CORPORATION FOR PUBLIC BROADCASTING

DIANE D. BLAIR, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2004.

DEPARTMENT OF TRANSPORTATION

KELLEY S. COYNER, OF VIRGINIA, TO BE ADMINISTRATOR OF THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION.

CORPORATION FOR PUBLIC BROADCASTING

RITAJEAN HARTUNG BUTTERWORTH, OF WASHINGTON, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2004.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF STAFF, UNITED STATES COAST GUARD, AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50A:

To be vice admiral

REAR ADM. TIMOTHY W. JOSIAH, 7249.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10 U.S.C., SECTION 12203:

To be brigadier general

COL. GEORGE W. KEEFE, 3692.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10 U.S.C., SECTION 12203:

To be major general

BRIG. GEN. RICHARD C. COSGRAVE, 5678.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. ROGER G. DEKOK, 6795.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN W. HANDY, 5379.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. NICHOLAS B. KEHOE, III, 3315.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MAXWELL C. BAILEY, 0835.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. PHILLIP J. FORD, 8359.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RONALD C. MARCOTTE, 7848.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE AS CHIEF, NATIONAL GUARD BUREAU, AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 10502:

To be lieutenant general

MAJ. GEN. RUSSELL C. DAVIS, 2021.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. RICHARD S. COLT, 4147.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

KEITH B. ALEXANDER, 9763
DORIAN T. ANDERSON, 0294
ELDON A. BARGEWELL, 6135
DAVID W. BARNO, 9794
WILLIAM H. BRANDENBURG, 9945
JOHN M. BROWN, III, 0258
PETER W. CHIARELLI, 6598
CLAUDE V. CHRISTIANSON, 1982
EDWARD L. DYER, 5307
WILLIAM F. ENGEL, 8868
BARBARA G. FAST, 1763
STEPHEN J. FERRELL, 9691
THOMAS R. GOEDKOOP, 5449
DENNIS E. HARDY, 6357
STEVEN R. HAWKINS, 7697
JOHN W. HOLLY, 6285
DAVID H. HUNTOON, JR., 1919
PETER T. MADSEN, 8165
JESUS A. MANGUAL, 6552
THOMAS G. MILLER, 3543
ROBERT W. MIXON, JR., 6735
VIRGIL L. PACKETT, II, 9367
DONALD D. PARKER, 6333
ELBERT N. PERKINS, 0786
JOSEPH F. PETERSON, 2747
DAVID H. PETRAEUS, 1960
MARILYN A. QUAGLIOTTI, 8480
MAYNARD S. RHOADES, 6348
VELMA L. RICHARDSON, 6426
MICHAEL D. ROCHELLE, 4381
JOE G. TAYLOR, JR., 0884
NATHANIEL R. THOMPSON, III, 5240
ALAN W. THRASHER, 6690
JAMES D. THURMAN, 8183
THOMAS R. TURNER, II, 7116
JOHN M. URIAS, 6022
MICHAEL A. VANE, 9890
LLOYD T. WATERMAN, 2903

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT F. FOLEY, 9574.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DALE R. BARBER, 8409.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. ROBERT T. DAIL, 5056.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTION 12203:

To be brigadier general

COL. ROBERT A. COCROFT, 7353.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. LEON J. LAPORTE, 0933.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES M. LINK, 6041.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. EDMUND C. ZYSK, 6065.

To be brigadier general

COL. WILLIAM J. DAVIES, 1673.
COL. JAMES P. COMBS, 0758.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATEDWHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. JOHN N. ABRAMS, 5774.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID H. OHLE, 2815.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. PAUL J. GLAZAR, 2517.
BRIG. GEN. JOHN R. GROVES, JR., 2716.
BRIG. GEN. DAVID T. HARTLEY, 1609.
BRIG. GEN. LLOYD E. KRASE, 3636.
BRIG. GEN. BENNETT C. LANDRENEAU, 0645.
BRIG. GEN. BENNY M. PAULINO, 5606.
BRIG. GEN. JEAN A. ROMNEY, 1872.
BRIG. GEN. ALLEN E. TACKETT, 5032.

To be brigadier general

COL. RICHARD W. AVERITT, 7139.
COL. DANIEL P. COFFEY, 4196.
COL. HOWARD A. DILLON, JR., 1659.
COL. BARRY A. GRIFFIN, 8148.
COL. LARRY D. HAUB, 3445.
COL. ROBERT J. HAYES, 7789.
COL. LAWRENCE F. LAFRENZ, 4984.
COL. VICTOR C. LANGFORD, III, 4215.
COL. THOMAS P. MANCINO, 3133.
COL. DENNIS C. MERRILL, 5790.
COL. WALTER A. PAULSON, 4766.
COL. ROBLEY S. RIGDON, 7740.
COL. KENNETH B. ROBINSON, 8162.
COL. ROY M. UMBARGER, 9266.
COL. JIMMY R. WATSON, 5571.
COL. PAUL H. WIECK, 5055.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. EMILIO DIAZ-COLON, 2517.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EDWARD G. ANDERSON, III, 2536.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. THOMAS A. SCHWARTZ, 0711.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624(C):

To be brigadier general, judge advocate general's corps

COL. THOMAS J. ROMIG, 9070.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. BRUCE W. PIERATT, 4901.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) PETER A. C. LONG, 9560.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF CHAPLAINS AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5142:

To be rear admiral

REAR ADM. (LH) ANDERSON B. HOLDERBY, JR., 9991.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MICHAEL E. FINLEY, 8251.
CAPT. GWILYM H. JENKINS, JR., 0193.
CAPT. JAMES A. JOHNSON, 6264.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C. SECTION 601:

To be vice admiral

REAR ADM. JAMES F. AMERAULT, 0491.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH)MICHAEL L. COWAN, 2470.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOSEPH S. MOBLEY, 1731.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. EDWARD MOORE, JR., 0064.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOHN W. CRAINE, JR., 9037.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. HERBERT A. BROWNE, JR., II, 4815.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING ALBERT K AIMAR, AND ENDING JERRY L WILPER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 15, 1998.

AIR FORCE NOMINATIONS BEGINNING HEDY C. PINKERTON, AND ENDING PHILIP M. SHUE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 1998.

AIR FORCE NOMINATIONS BEGINNING JOHN J. ABBATIELLO, AND ENDING MICHEL P. ZUMWALT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 1998.

IN THE ARMY

ARMY NOMINATIONS BEGINNING JOHAN K. AHN, AND ENDING CLORINDA K. ZAWACKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 1998.

ARMY NOMINATION ANGELA D. MEGGS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 15, 1998.

ARMY NOMINATIONS BEGINNING KEVIN C. ABBOTT, AND ENDING MARK G. ZIEMBA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 1998.

ARMY NOMINATIONS BEGINNING CELETHIA M. ABNER, AND ENDING SHANDA M. ZUGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 1998.

ARMY NOMINATIONS BEGINNING ROBERT D. BRANSON, AND ENDING WILLIAM B. WALTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 1998.

ARMY NOMINATIONS BEGINNING MARK A. ACKER, AND ENDING X4578, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 1998.

IN THE COAST GUARD

COAST GUARD NOMINATION OF CHRISTOPHER A. BUCKRIDGE, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 17, 1998.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF MICHAEL J. COLBURN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 15, 1998.

MARINE CORPS NOMINATIONS BEGINNING REGINALD H. BAKER, AND ENDING JAMES J. WITKOWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 15, 1998.

IN THE NAVY

NAVY NOMINATIONS BEGINNING MARK T. ACKERMAN, AND ENDING MARY J. ZUREY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 1998.

NAVY NOMINATIONS BEGINNING DAVID ABERNATHY, AND ENDING MICHAEL B. WITHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 15, 1998.

NAVY NOMINATIONS BEGINNING SANDERS W. ANDERSON, AND ENDING PAUL R. ZAMBITO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 15, 1998.

NAVY NOMINATIONS BEGINNING JOHN S. ANDREWS, AND ENDING WILLIAM M. STEELE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 15, 1998.

NAVY NOMINATIONS BEGINNING PAUL S. WEBB, AND ENDING WESLEY P. RITCHIE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 1998.

NAVY NOMINATION OF KEVIN J. BEDFORD, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 7, 1998.

NAVY NOMINATIONS BEGINNING DOUGLAS J. MCANENY, AND ENDING RICHARD A. MOHLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 1998.

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 30, 1998, withdrawing from further Senate consideration the following nomination:

AIR FORCE

DARYL L. JONES, OF FLORIDA, TO BE SECRETARY OF THE AIR FORCE, VICE SHEILA WIDNALL, RESIGNED, WHICH WAS SENT TO THE SENATE ON OCTOBER 22, 1997.

NATIONAL INDIAN GAMING COMMISSION

TADD JOHNSON, OF MINNESOTA, TO BE CHAIR OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF THREE YEARS, VICE HAROLD A. MONTEAU, RESIGNED, WHICH WAS SENT TO THE SENATE ON JULY 31, 1997, AND SEPTEMBER 2, 1997.

ENVIRONMENTAL PROTECTION AGENCY

CARDELL COOPER, OF NEW JERSEY, TO BE AN ASSISTANT ADMINISTRATOR, OFFICE OF SOLID WASTE, ENVIRONMENTAL PROTECTION AGENCY, VICE ELLIOTT PEARSON LAWS, RESIGNED, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 2, 1997.

LEGISLATIVE SESSION

THE PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR FRIDAY, JULY 31, 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m. on Friday, July 31. I further ask that when the Senate reconvene on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the SEnate then begin a period of morning business, with Senators permitted to speak up to 5 minutes each.

THE PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

MR. JEFFORDS. For the information of all Senators, when the Senate reconvenes on Friday, there will be a period of morning business, with Senators permitted to speak for up to 5 minutes each. The Senate may also consider any executive or legislative items that may be cleared for action. The majority leader has announced there will be no rollcall votes during Friday's session and would like to thank all Members for their cooperation this week and wishes them a restful and productive August break.

If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

THE PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment untiL 10 a.m., Friday, July 31, 1998.

Thereupon, the Senate, at 11:05 p.m., adjourned until Friday, July 31, 1998.

HOUSE OF REPRESENTATIVES—*Thursday, July 30, 1998*

The House met at 1 p.m. and was called to order by the Speaker pro tempore (Mrs. EMERSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 30, 1998.

I hereby designate the Honorable JO ANN EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend W. Douglas Tanner, Jr., Faith & Politics Institute, Washington, D.C., offered the following prayer:

Let us pray. Almighty God, we come before You this day with hearts still heavy from the tragic events of last Friday. Even as we begin to heal, we are conscious that the pain of this week has been seared into our souls.

And yet, in our sorrow and vulnerability, we have deeply experienced our common humanity. Fierce political adversaries have reached out to each other. Mutual respect and genuine appreciation have been accorded across the lines of party, ideology and station. We have known in our hearts that every elected official, every police person, every staff member, every tourist is, first, a fellow human being. For that we are grateful.

We pray that a constant awareness of each other's humanity in this often fractious Capitol Hill community might become the lasting legacy of officers J.J. Chestnut and John Gibson. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3152. An act to provide that certain volunteers at private nonprofit food banks are not employees for purposes of the Fair Labor Standards Act of 1938.

The message also announced that the Senate passed a concurrent resolution of the following title, in which concurrence of the House is requested:

S. Con. Res. 97. Concurrent resolution expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1260) "An Act to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. D'AMATO, Mr. GRAMM, Mr. SHELBY, Mr. SARBANES, and Mr. DODD, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain five 1-minutes from each side.

RESPONSIBLE GAMING EDUCATION WEEK, AUGUST 3 TO AUGUST 7

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, as Members of Congress, we should always be encouraged when the private sector tackles one of the social problems facing our Nation. Such is the case with the Nation's gaming industry. However, a vast majority of Americans who choose to gamble do so responsibly.

In an effort to emphasize the casino gaming entertainment industry's commitment to responsible gaming, the American Gaming Association, along with International Gaming Technology, a company headquartered in my district, has designated August 3 through August 7 as Responsible Gaming Education Week. This campaign was designed to raise the awareness of disordered gaming and to educate casino employees and customers about the importance of responsible gaming.

During this week, all casino employees will be asked to actively promote responsible gaming practices within their companies. As part of this effort, over 200,000 educational brochures on disordered gambling and the importance of responsible gaming will be provided to casino employees across America.

THE QUESTIONABLE VALUE OF NEW GOVERNMENT STUDIES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, a new government study says if you are rich, you will live longer. If you are educated, you will live longer. If you do not smoke, you will probably live longer. If you can avoid cancer, you will live longer.

No kidding, Sherlock. After $1 million, our government is telling us what Grandma told us years ago: If you smoke, you will probably die; if you do not get an education, you are not going to get a job; and if you do not have a job, you are going to be poor and you are not going to eat.

Beam me up. What is next? Do we give these people more millions to tell us if you commit suicide, you will not live long? If there is any consolation to poor people in America who happen to smoke and do not have a job, I never heard of anybody committing suicide by jumping out of a basement window. There is some dignity in poverty. Poor people are God's people, too.

Madam Speaker, I think we should slow down the money for these scientific mind-benders.

GRENADA'S INVITATION TO CASTRO DENIES PAST MARXIST OPPRESSION AND AMERICAN SACRIFICES

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, in 1983, 19 American soldiers gave their lives to liberate the island of Grenada from the Marxist regime which,

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

under the manipulation of the Cuban dictator, Fidel Castro, had taken over that small nation. Thanks to U.S. troops and the leadership of President Ronald Reagan, the people of Grenada regained the freedom they had lost to the puppet regime backed by Castro.

Now it seems that the government of Grenada has forgotten about the repression imposed upon their Nation by Castro and has invited the dictator to visit the island this weekend. Castro's goal in this visit is to obtain support for his regime's membership to the Caribbean economic community, CARICOM, that will help him attain new financial resources to maintain in power.

How tragic that the government of Grenada has turned its back on its own people, who suffered under the Castro-sponsored Marxist regime. It has ignored and forgotten the 19 dead U.S. soldiers and the 115 wounded American patriots. Shame on the government of Grenada.

ONLY PARENTAL INVOLVEMENT ENSURES A GOOD EDUCATION FOR EVERY AMERICAN CHILD

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Madam Speaker, recently President Clinton vetoed the Education Savings Account Bill. In a letter to the House, he justified his action by calling the bill's provisions "bad education policy and bad tax policy."

Madam Speaker, how ironic. Americans have made it clear that parental involvement is essential to ensure our children receive a good education. Yet our President just vetoed a bill that would have extended tax relief to families who take part in the education of our Nation's children.

The Education Savings Account Bill would have offered parents the opportunity to save money in accounts that earn tax-free interest to pay for tuition, books and tools to help their children learn. It seems to me, by the President's veto, that he thinks parents and families do not deserve the right to take part in the education of their children.

Madam Speaker, the President is wrong. Only when we allow parental involvement can we ensure a good education is within the reach of every child in America.

WICKER AMENDMENT TO SHAYS-MEEHAN CAMPAIGN FINANCE PROPOSAL ALLOWS STATES TO REQUIRE PROPER IDENTIFICATION FOR VOTERS

(Mr. WICKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WICKER. Madam Speaker, later today Members will be given the opportunity to support a commonsense reform amendment to the Shays-Meehan campaign finance proposal. In far too many States and districts across this country, ineligible persons are voting. People are going to the polls without identification, and it turns out they are not eligible to vote.

Despite the resources and technology available to our government, cases of voter fraud continue to be brought to our attention year after year. My amendment simply permits States to require a valid photo identification before receiving a ballot; nothing more, nothing less. This is not a mandate. It grants permission to the States in the true sense of Federalism.

Madam Speaker, it is our duty as elected officials to preserve the integrity of the electoral process. Requiring proper ID is one step we can take to ensure valid elections.

THE DOLLARS TO THE CLASSROOM ACT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, I rise today to focus on the schoolchildren of our Nation. Parents in all 50 States are concerned that their children's classrooms are overcrowded, that their kids do not receive enough individual attention from their teachers, that classrooms are not yet connected to the Internet and many schools are not safe and well-supplied, and that basic academics are not being effectively learned.

For 30 years, the Federal Government has been trying to improve America's schools by creating big Federal programs. While the goal was admirable, this strategy has failed the schoolchildren of America. It is time for a new approach.

We know that effective teaching takes place when we begin helping children master basic academics, when parents are engaged and involved in their children's education, when a safe and orderly learning environment is created in a classroom, and when dollars actually reach the classroom.

The Dollars to the Classroom Act addresses the linchpin of these four key education premises, directing dollars to the classroom so that a teacher that knows the name of your child can educate more effectively.

Madam Speaker, I urge Members to improve the education of America's kids by supporting the Dollars to the Classroom Act.

PROVIDING SPECIAL INVESTIGATIVE AUTHORITY FOR THE COMMITTEE ON EDUCATION AND THE WORKFORCE

Mr. SOLOMON. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 507 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 507

Resolved,

SECTION 1. APPLICATION.

This resolution shall apply to the investigation by the Committee on Education and the Workforce into the administration of labor laws by Government agencies, including the Departments of Labor and Justice, concerning the International Brotherhood of the Teamsters, and other related matters.

SEC. 2. HANDLING OF INFORMATION.

Information obtained under the authority of this resolution shall be—

(1) considered as taken in the District of Columbia as well as at the location actually taken; and

(2) considered as taken in executive session by the subcommittee on Oversight and Investigations of the Committee on Education and the Workforce.

SEC. 3. DISPOSITION AND INTERROGATORIES.

The Chairman of the Committee on Education and the Workforce, after consultation with the ranking minority member of the committee, may—

(1) order the taking of depositions or interrogatories anywhere within the United States, under oath and pursuant to notice or subpoena; and

(2) designate a member or staff of the committee to conduct any such proceeding.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment:

Page 2, line 16, strike ", staff, or contractor" and insert "or staff".

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Madam Speaker, for purposes of debate only, I yield the half-hour of time to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for purposes of debate only.

Madam Speaker, this resolution providing special investigative authority for the Committee on Education and the Workforce was introduced on July 21, 1998, by our good chairman, the gentleman from Pennsylvania (Mr. BILL GOODLING), and the members of the Subcommittee on Oversight and Investigations.

The resolution applies its authority only to the investigation by the Committee on Education and the Workforce into the administration of labor laws by government agencies, including the Departments of Labor and Justice, concerning the International Brotherhood of Teamsters and other related matters; let me repeat that, "and other related matters," not "other matters," but "other related matters."

This resolution allows the chairman of the Committee on Education and the Workforce, after consultation with the ranking minority member, to order the taking of depositions or interrogatories anywhere within the United States under oath and pursuant to notice of subpoena.

Madam Speaker, the resolution further allows the chairman of the Committee on Education and the Workforce, after consultation with the ranking minority member, to designate a single member or staff of the committee to conduct depositions.

Finally, Madam Speaker, the resolution considers information taken under this new authority as taken in executive session by the Committee on Oversight and Investigations of the Committee on Education and the Workforce.

Madam Speaker, as the Members are aware, clause 2(h)(1) of House Rule XI requires two members to be present to take testimony or receive evidence in a committee. In order to allow a single member or staff designated by the chairman to receive evidence, it is necessary for the House to approve a resolution of this nature.

Madam Speaker, the Committee on Rules is generally hesitant to depart from the House rules, which properly assigns responsibility to Members of the House to take testimony and receive evidence. That is the normal rule of the House. However, extenuating circumstances dictate the need for this resolution today.

Madam Speaker, the chairman of the Committee on Education and the Workforce has indicated that some 40 witnesses must be deposed, and there are a scant few legislative days remaining in this session. As we know, a week from tomorrow we go off on a 4-week break for a work period back home in our districts, and then we return around September 9, and will be in session for about 10 or 12 more legislative days before we adjourn sine die for the year.

Madam Speaker, the chairman of that committee and several active members of the subcommittee conducting the investigation have testified before the Committee on Rules that they are encountering resistance to their legitimate inquiry from some potential targets of the investigation.

☐ 1315

Madam Speaker, attorneys for the Teamsters, and other potential witnesses as well in this investigation, have written to the subcommittee and indicated their refusal to comply with requests for voluntary interviews. In order then to understand the context of the documents already received by the subcommittee, it is necessary to depose these individuals.

So, Madam Speaker, this resolution is consistent with precedents from former Democrat and Republican control of the House, and a number of important safeguards have been included. The Committee on Education and the Workforce has adopted a new committee rule, which we insisted on before we gave them this new deposition authority, which sets forth appropriate procedures for how the staff depositions will be conducted, including provisions for notice, minority protections, and the rights of witnesses.

Madam Speaker, I would also note for the record that the information obtained under the authority of this resolution is considered as taken in executive session by the committee. That is very important. In order to release such information, again under normal rules of the House, clause 2(K)(7) of House Rule XI says that a committee vote is required.

Madam Speaker, the Committee on Rules believes that the Committee on Education and the Workforce has demonstrated a compelling need for the authority provided by this resolution, and it is my belief that they will exercise it judiciously. We have a great deal of faith and a great deal of respect for the gentleman from Pennsylvania (Chairman GOODLING) of the full committee, and I know that he and his committee, and the gentleman from Michigan (Chairman HOEKSTRA) of the subcommittee, will certainly act in a judicious manner, and we trust them to do that. So, I urge support for the resolution.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules, for yielding me this time. As my colleague has said and explained, this resolution will give authority to the staff of the Committee on Education and the Workforce to take depositions in connection with the committee's investigation into the International Brotherhood of Teamsters.

Madam Speaker, I must oppose this resolution, because it grants unnecessary authority for an investigation of questionable necessity. The standing rules of the House give deposition authority to committees as long as two Members are present. And since the rule was enacted in 1955, until the beginning of the 104th Congress, it has been the practice not to grant additional authority, except in cases of grave importance to the Nation. If we pass this resolution, it will be the third exception since 1996.

There is a question whether this authority is needed at all for the committee to obtain documents and testimony for the investigation. The Teamsters have already supplied the committee more than 50,000 documents. They have expressed in writing that they are willing to participate fully in public hearings of the committee, even without the force of subpoena. However, they do have grave and justified concerns with secret, behind-closed-doors witness interviews.

There is a question whether this whole investigation is needed. The Teamsters are already the subject of a full investigation by the U.S. Justice Department. That is their job. They already have the staff and the resources and the authority in place. I am disturbed that the committee has already spent hundreds of thousands of dollars on this investigation instead of on other, much higher priority concerns within the jurisdiction of the committee, such as the education of our children.

There is a question about whether this is an appropriate delegation of responsibility to staff. We, the Members of the House, are the elected officials entrusted with the authority to conduct investigations. This is not an authority we should delegate so quickly.

Finally, there is a question whether this authority creates opportunity for abuse of the powers of Congress to meddle in the matters of private individuals and organizations. Let us remember that the standing House rule on investigations was enacted to curb the abuses of the McCarthy era.

The Committee on Education and the Workforce requested this authority, saying it would be easier to obtain testimony and documents. The purpose of the House rules should not be to make our jobs easier. The House rules should promote democracy, preserve individual freedom, and keep the long arm of the government from stifling liberty.

Madam Speaker, I have too many questions about this resolution. I urge my colleagues to vote no on the resolution and vote no on granting unnecessary powers for unnecessary investigations.

Madam Speaker, I reserve the balance of my time.

Mr. SOLOMON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me just recall to the gentleman from Ohio (Mr. HALL), my good friend, that giving this temporary exception to the rules is not to make jobs easier or life easier for Members of Congress. Rather, it is to get the job done. It is to follow through with due diligence. That is why we are very careful to give out this kind of authority.

Madam Speaker, I yield 3 minutes to the gentleman from York, Pennsylvania (Mr. GOODLING), the person we are placing our trust in and who I hope is going to visit me up in Saratoga during the month of August.

Mr. GOODLING. Madam Speaker, I thank the gentleman from New York (Mr. SOLOMON) for yielding me this time, and I want to echo what the gentleman, the chairman of the Committee on Rules, just said. We really owe it to the rank and file of the Teamsters to complete this as expeditiously as we possibly can, and therefore need this deposition authority in order to do that.

The Committee on Education and the Workforce is examining the failed 1996 election of the International Brotherhood of Teamsters and related matters, including financial mismanagement at the union and possible manipulation of its pension fund.

Although the subcommittee's investigation has established a good foundation, its progress is increasingly slowed by obstructionist tactics of the IBT, including the refusal to allow interviews of relevant witnesses. We have been forced to issue subpoenas for documents to 14 organizations, most of whom refused to voluntarily provide information to the subcommittee at direction of the IBT. Subpoenas have also been issued to seven witnesses to secure their testimony at the subcommittee's public hearing.

Furthermore, the IBT has steadfastly refused on numerous occasions over the last 4 months to allow subcommittee investigators to interview current IBT employees and employees of its actuarial and accounting firms. IBT has even objected to the subcommittee interviewing former IBT employees.

To thoroughly and professionally examine outstanding issues, the investigation needs the authority to have designated staff conduct depositions. There are more than three dozen witnesses whose testimony would substantially further the investigation and who may have to be deposed. Much of this would be lengthy, detailed questioning which is not possible in a committee hearing. Some of it would also be very technical. Some of the depositions may have to be conducted after Congress adjourns for the year. All of it is needed if the investigation is to continue and make progress.

I want to ensure my colleagues that the authority granted through this resolution has safeguards to ensure that it is used appropriately. First, the authority is granted to the chairman of the full committee and can be used only in connection with the Teamsters investigation.

Second, information obtained under deposition authority is considered as having been taken in executive session by the subcommittee. That makes the information confidential and subject to the protocol under which the investigation is being conducted, a protocol which was agreed to by the minority.

Madam Speaker, the Committee on Education and the Workforce has judiciously adopted rules to assure proper use of deposition authority. We will provide for bipartisan participation in depositions. The ranking minority member will receive 3 business days' written notice before any deposition is taken, no matter where he may be, and all Members will receive 3 business days' written notice that a deposition has been scheduled. Finally, our proposed committee rules provide for various rights for witnesses, including the right to counsel.

This resolution is well planned and will be implemented with care. Deposition authority is a tool that will enable the Teamsters investigation to unravel the improprieties associated with the 1996 IBT election so they do not recur. It will also shed light on mismanagement and financial improprieties so that the International Brotherhood of Teamsters can become more responsive to its members.

Madam Speaker, I urge my colleagues to support rank-and-file Teamsters Union members and join me in voting for H. Res. 507.

Mr. HALL of Ohio. Madam Speaker, I yield 7 minutes to the gentleman from Missouri (Mr. CLAY), the ranking minority member on the Committee on Education and the Workforce.

Mr. CLAY. Madam Speaker, I thank the gentleman from Ohio (Mr. HALL) for yielding me this time.

Madam Speaker, I rise today to express my opposition to the proposed change in rules and regulations and procedures. In my estimation, a decision to grant deposition authority to the Committee on Education and the Workforce would be unwise, unwarranted, and a radical break with House tradition and practices, and a very real threat to the civil liberties and privacy rights of American citizens.

The new deposition authority is virtually unlimited in scope and duration. It permits the majority to engage in an unprecedented fishing expedition, even during the summer recess of this House.

The chairman is seeking to acquire an extraordinary array of powers. With the stroke of a pen, he could summon to this Congress any American citizen for secret, under oath, behind-closed-doors interrogation. I am sure that the confidential testimony that our chairman just described will then either be officially, or through leaks, made public.

Any citizen who is not frightened by this scenario should be, particularly given the very clear record of investigatory abuse by the Republican majority in this House. To place the Republicans' proposal in a fair historical context, I would remind the Members of this House that such a sweeping power has been assumed by this body or by the Senate very rarely and only under the most compelling of circumstances. Only when faced with grave accusations of government wrongdoing or with threats to our national security has this body deemed it necessary to assume a power which traditionally resides in the judicial branch of government.

Madam Speaker, there is no compelling reasons for this authority. I ask why is it necessary to depose 40 witnesses in secret session? Not one Teamster has refused a subpoena before this committee. Not one Teamster has refused to come before the committee and testify under oath and in public. There is nothing concerning fraudulent pension matters that has surfaced before this committee. And if there were, this committee does not have the expertise or the resources or the commitment to do anything about it.

Madam Speaker, I tell my colleagues that in this instance it is difficult to view the majority's proposal as anything other than a cynical power grab, a partisan fishing expedition, a concerted attack on organized labor, and an invitation to abuse innocent American citizens.

This investigation, which has cost the taxpayers millions of dollars and dragged on for nearly a year, has been a shameful waste of time and money and an embarrassment to this institution. It is simply disingenuous for Republicans on the Committee on Education and the Workforce to claim that their failure to produce any new or relevant information regarding the 1996 Teamsters election is due to a lack of authority.

The problem is that the story they wish to tell, one of widespread, systematic corruption throughout the International Brotherhood of Teamsters, is one of fiction. No amount of snooping, interrogating, or wishful thinking will make it otherwise. This is simply too awesome a power, especially when considering that the chairman of the committee already has unilateral authority to issue subpoenas.

Madam Speaker, I appreciate Chairman GOODLING's words of assurance that committee Democrats will be involved in the deposition process and that other safeguards will be constructed around the proceedings. But with all due respect to my good friend, the past record of Republicans ignoring the rights of the minority on this committee does not speak well for such assurances.

We were given the same guarantees regarding consultation and notice when the chairman appropriated the power to unilaterally issue subpoenas.

□ 1330

Those promises have been consistently, routinely and casually broken. Perhaps most disturbing is the majority's proposal to allow staff who are not attorneys to conduct sworn depositions. The very thought is mind-boggling, American citizens being drugged into this little star chamber to be interrogated under oath in secret by staff who are not bound by or trained in the Code of Legal Ethics. This is an open invitation for abuse and for the violation of legitimate legal and constitutional rights.

Legal proceedings should be conducted by those trained in the law, not by laymen. Testimony before Congress should be in a public arena for American citizens to judge guilt or innocence for themselves. I urge my colleagues to oppose this unwise and dangerous amendment to the rules of the House.

Mr. SOLOMON. Madam Speaker, I yield myself such time as I may consume.

I would just like to point out to the previous speaker, who is the ranking member of the Committee on Education and the Workforce, that the Committee on Rules has the responsibility of assigning the responsibilities and jurisdiction of committees.

We all know that the Committee on the Judiciary is primarily involved in looking into the legal code and the criminal law of the land. The Committee on Education and the Workforce has primary responsibility to look into labor issues and has oversight of the laws particularly as they pertain to pensions.

I know, I have worked for many years on the Social Security issue and the abuses that take place in the fiduciary accounts in Social Security. But here we have rank and file members of the Teamsters Union, and they want to know where their money went to and what happened.

Madam Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. PARKER).

Mr. PARKER. Madam Speaker, I rise in strong support of H. Res. 507, which would provide for deposition authority for the Teamsters investigation.

I am the newest member of the committee, and one reason I joined this committee was because of my interest in the investigation. I was appalled that the 1996 election of the International Brotherhood of Teamsters had to be invalidated. I have a keen interest in ensuring a fair rerun election.

To protect the rank and file members of the Union, we have to have a thorough accounting of what went wrong with the 1996 election. It is also in their interest and that of other American taxpayers that financial mismanagement at the Union be cleaned up.

I was shocked to learn, when I joined the committee, that the investigation does not have deposition authority. It was evident to me from the beginning of my involvement that that is a critical investigative tool without which the investigation will have little chance of success.

Over the past few weeks alone, we have had instance after instance of the Teamsters Union refusing to make critical witnesses available for interviews. The lawyers for the Union do not want us to talk to current or former employees of the Union or to employees of the Union's actuarial and accounting firms.

As just one example, on July 9, we received a letter from an attorney for the Teamsters' accounting firm informing us that the Union refuses to allow such interviews. It is evident to me that the officials of the Union are deliberately impeding the investigation and are trying to run out the clock on this Congress.

It is completely unrealistic to expect that Members of Congress will make themselves available to hold hearings to interview the more than three dozen witnesses from whom we need information. Unless the investigation receives deposition authority through the committee chairman, we are basically telling the Union officials that they have won, that they need not account for their actions either to their own membership or to the American public.

Madam Speaker, this authority will not be taken lightly. It will be used carefully. I understand what may be the reluctance of some Members of the House to provide extraordinary authority, but these are extraordinary circumstances which call for appropriate measures.

Madam Speaker, I urge approval of H. Res. 507.

Mr. HALL of Ohio. Madam Speaker, I yield 7 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Madam Speaker, I rise in opposition to H. Res. 507.

I serve, Madam Speaker, as the ranking member on the subcommittee that has responsibility for oversight and investigation in the Committee on Education and the Workforce. This investigation on the Teamsters Union election, which was set aside because of the illegal swapping of funds, began last October, and it has sort of limped along.

The majority members have a full staff of, I do not know quite how many individuals there are now on board, but I am told that there are at least five or six attorneys that have been engaged to work on this particular investigation. I have tried to be diligent in paying attention to the agenda, to the hearings that have been called and to all of the communications that have emanated from the majority chair of this subcommittee.

So I rise with great amazement today to hear that there is any justification whatsoever in asking this House for these extraordinary powers that invade the privacy of many individuals. We are going to put, because of some whim on the majority side, many individuals whose names are not even known to even myself as the ranking minority member of this subcommittee, who these persons are who have been reluctant to come before their staff for questioning or for discussions. Certainly I do not know of any Teamster member who has been asked for an interview who has not come before the subcommittee under subpoena to testify.

In every instance the Teamster members who declined these personal, closed-door discussions invited the subpoenas because what they wanted and what is their right in these United States is to come before bodies that are accusing them of misconduct to have their testimony taken in public.

What is so offensive about this rule today is an authority which is going to be granted to a very small number of individuals. These depositions could be held without one single Member of Congress present, because that is how the resolution reads. No Member needs to be there because of the word "or," member or staff.

Sure, I could be notified 3 days in advance that a deposition is going to take place during our district recess period when I am in Hawaii. I fully intend to do everything I can to be there, but I cannot guarantee that protection to these individual witnesses who are going to be deposed in this way, not by attorneys who know the rule of law, who know the rule of evidence, who respect the rights of privacy and privilege in this country, but by staff, who I do not say are going to have any ill temper or ill will but who might mistakenly invade into the high privileges which every Member of this Congress has sworn under oath to preserve. That is what is our constitutional right here.

I respect the millions of members in the Teamsters Union, and I want to do what is right for them. But I have not heard one single allegation of a reluctant witness who is not willing to come before the public, take an oath and testify to any question that this committee wants to put to them.

I believe that that is a right which is precious and should be protected by this House, and that is why the rule says we cannot depose unless the whole House agrees to it.

So I ask the Members today to search the record. There is no evidence of reluctant witnesses who have refused to come before the committee to testify. I think that that is the most important grounds upon which any such rule like this has to be premised.

I know most Members of the majority party are very much committed to the preservation of individual rights and democracy and freedom and civil liberties. What we are doing today is to trash all of that because of a political agenda.

Mr. WAXMAN. Madam Speaker, will the gentlewoman yield?

Mrs. MINK of Hawaii. I yield to the gentleman from California.

Mr. WAXMAN. Madam Speaker, I thank the gentlewoman for yielding.

If my colleagues want to see an example of deposition authority and power being abused, look no further than what this Congress has done in the Committee on Government Reform and Oversight. People are subpoenaed for depositions. They are forced to come against their will, hire lawyers at $300 an hour.

I just want Members to know this is not theoretical. I have seen people have to go hire lawyers, take time off from work, prepare for these depositions, go through the anxiety of it all to be questioned by staff people.

Just a couple days ago, we had a deposition in Los Angeles of one of these four people that we gave immunity to. It started at 1:00. It went until 8:30. This witness had almost nothing to say.

We have had staff people ask witnesses about their personal lives, whether they have ever been tested for drug abuse. We had one witness in a deposition who was asked whether they could tell about a colleague, whether that colleague had done something illegal.

This power can be abused. If there are hearings, at least the public will know what is asked. But if they are depositions, it is a staff person who can abuse that power, run roughshod over the rights of Americans by allowing them to, in closed door session, be asked any kind of question.

Be wary whenever we give deposition authority. In some cases, it is appropriate, but we know it can be abused because we have seen it abused in this Congress already.

Mrs. MINK of Hawaii. Madam Speaker, I know that all Members on the majority are always very cognizant of their responsibilities to protect individual rights. They are firm against big government coming in and intruding in this way, so I am personally shocked at this reckless venture into the invasion of these individuals. Forty people whose names I do not even know, and I am the ranking member, I do not know of any abuse with regard to the pension funds that has come to the attention of our subcommittee.

This is really a fishing expedition, reckless disregard of individuals who are going to have to hire attorneys at tremendous cost to themselves. We are not prepared to pay for it. I want to see the individual rights of this Union protected; and, if we really believe in their democracy and their individual rights to run their Union, by golly, we ought to allow them to have an election for their leadership.

Mr. SOLOMON. Madam Speaker, I will just say to the gentlewoman that, yes, the rights of the Union should be protected; but, even more so, so should the individual rights of the individual rank and file members of that Union.

Madam Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. NORWOOD), who has never won a green jacket in the Masters but has won my deep respect for the job he has done as a Congressman.

Mr. NORWOOD. I thank the gentleman from New York for yielding me the time.

Madam Speaker, I yield to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Madam Speaker, let us take a look at the record. Let us take a look at the judge who has had supervision of the consent decree for the last 9 years, since 1989. How does he feel about the Teamsters and Teamster leadership in 1998? Here is what he said to the Teamster lawyers in court on Tuesday:

"I believe it is time for the good members of this Union to rise up in revolt. This Union has been run by a small group for their own benefit. I want to hear what the membership thinks. It is time for the good members to rise up and revolt against the self-serving, little men in charge."

To the attorney, "You don't really speak for the Union. You speak for a small minority," Edelstein told Weich. "I can understand the wrath of Congress. They don't trust the Teamsters because of the Union's history of squandering taxpayer money. I'm going to get to the root of this evil. And if you don't have Sever here by noon, I will send the marshals for him."

□ 1345

The same type of stonewalling that this union leadership is imposing in New York in the Federal court is the same pattern of stonewalling that they are doing to this congressional committee, and the shame of it is we have funded this union and we have spent approximately $20 million and this is their thank you to the American taxpayer.

Mr. NORWOOD. Madam Speaker, reclaiming my time, I rise in strong support of H. Res. 507. I would say to my friend from California when it comes to being abused perhaps that we ought to be concerned a minute or two about the taxpayers of this country that have been abused to the tune of $20 million. Maybe we ought to be concerned about the members of the Teamsters Union that have been abused to the point where their treasury reduced from $155 million down to less than $1 million. There are all kind of things and people we ought to be concerned about in their abuse and our point of view in the oversight committee and our job in the oversight committee is to find out what went wrong in these illegal elections.

The Committee on Education and the Workforce needs deposition authority because the Carey administration at the Teamsters is stonewalling our investigation. It is just sort of that simple. Now, that is an unfortunate situation, but Congress has a duty, a constitutional duty to investigate a union that tramples its members' rights and flouts the very laws we have passed in this body.

Our investigation has been going on for almost a year now. We are starting to get the picture of how this union has been run. Frankly, Madam Speaker, it is not very pretty. The most recent development, of course, is that the president of the Teamsters, Ron Carey, has been barred from the union for life as has his former government affairs director William Hamilton. That is not fiction. In an election that cost the American taxpayers almost $20 million, Carey took his members' dues to pay for his reelection campaign. Clearly he was more interested in keeping his job than protecting the rank-and-file Teamster.

The record of evidence compiled by the subcommittee thus far indicates that the Carey administration also may have manipulated the union's pension funds. That is serious stuff. Notice I said "may have." We need to know for sure whether we are right or wrong. And may have made political contributions with their members' dues, which is very illegal. Obviously we need to interview all of the Teamsters employees and contractors involved in these matters to find out the extent of these problems and do our duty.

Do the people running the Teamsters Union now, who were elected in a sham election, want us to get to the bottom of this? No. No, unfortunately not. They will not allow us to interview their employees, their accountants or their actuaries about the financial shenanigans that did go on. What are they trying to hide?

I will say this about the unelected people in charge of the Teamsters today. They do have a lot of gall. Not only do they refuse to let this Congress do its job by performing an oversight investigation, but they turn around and say, "You've got to pay for the next election." They will not let Congress find out how the election went wrong, but they will come to us and demand that we kick in another $10 million so they can have another election.

I for one frankly have had enough of this, of the Carey administration's stonewalling. We need to pass this resolution today so that Congress can find out what they are trying to hide from. Union officials that misuse the hard-earned dues money of their members should not be allowed to thumb their nose at this Congress.

Mr. HALL of Ohio. Madam Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Madam Speaker, first I would like to insert in the RECORD the transcript later in that proceedings where Mr. Sever did appear in court and the judge indicated that he could not order the IBT to pay for the election.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA
PLAINTIFF
V.
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, ET AL.,
DEFENDANTS

July 29, 1998, 12 p.m.

(Hearing resumed)

(In open court)

THE COURT: Good afternoon, ladies and gentlemen.

The first item I will discuss is my request for a referendum. When I made that request, I had in mind that it was completely for the benefit of IBT. I call your attention to an item in their memorandum, which is very convincing and persuasive. The GEB's decision is consistent with the Court's statement on the record on June 29, 1998 that voluntary payment by IBT officers of the costs of supervision would be a "breach of a fiduciary relationship and something that is forbidden actually to do by law."

The thought occurred to me that the union could send a message to the IBT hierarchy that they would agree and it would not be considered by them a breach of a fiduciary relationship if they were voluntarily to agree to contribute some money to a rerun election. However, the memorandum is very persuasive that the cost and the effort involved in such an undertaking would be futile. So my good intention has come practically to naught.

I did say that voluntary contributions by the IBT in light of the decision by the Court of Appeals, dissent noted, would be a violation of their trust. Again, I repeat ad nauseam that it occurred to me that if they had a word from the membership that they would not be held to such an account they could then go ahead and make voluntary payments. So my request for a referendum is no longer in order. I am sorry it did not work out the way I thought it might.

I still am of the opinion, although I am not sure that I have the authority to order it, that instead of a referendum a poll of a very small but vital universe of 500 would give some indication to the hierarchy whether contributions could be made without being in default of their duty. I leave that to the entire discretion of the union itself.

Now let me address some verities. I think we all know that of all the many cases that are filed in this court and, indeed, in all the courts in all the land, if all those cases were to go to trial, the system would come to a creaking halt. Certainly it is not new news for you as practicing lawyers to know that compromises and agreements occur even after verdicts for a plaintiff and a defendant. And it also is not great news for you to understand that when one files an appeal, every effort is made by an instrument of that court to resolve the issue before the need of the decision.

I think common sense ought to be considered here. Is it your view that an unsupervised election does not have to put in place any assurance, any guarantee, any rules to demonstrate that a nonsupervised election will still be a democratic election, a free election, and that every effort will be made in a nonsupervised election, of which there have been many in the history of this union, that such an election should not raise any concern or fears that corruption would become the order of the day?

That is my concern. As I said, an unsupervised election sounds more fearsome than it can actually be. And what I want here today, and I took the liberty of asking Mr. Sever, a member of the executive team, to come and see if I can employ reason and amicability and some stability to a problem that should be settled, does this unsupervised election, and I am intending to go ahead with that, mean that I have to be concerned with chaos?

Mr. WEICH: Your Honor, I'm quite confident that an unsupervised election would not be chaotic. Almost every union in the country conducts an unsupervised election under federal labor law. And, of course, this union is additionally bound by the consent decree and its own constitution. I am very confident that safeguards would be in place to insure that corruption does not occur and that the election is carried out in an open and democratic manner.

THE COURT: Would a supervised election give more assurance of orderly procedure? Would it relieve us of certain, perhaps unrealistic, apprehensions that the election would go forward in a more orderly process?

Mr. WEICH: It's a very difficult question to answer under current circumstances. I can only say, your Honor, that the IBT supports the supervision process. We have said in every public statement and reiterate again today that we would like to see supervision. We insist, though, that the United States be made to meet its obligations under the consent decree to pay for that supervision if it is to occur.

THE COURT: Do you understand my reason for a referendum?

Mr. WEICH: I do understand.

THE COURT: I was trying to relieve you of the danger of irresponsibility in the event you voluntarily agreed to make contribution.

Mr. WEICH: I do understand that, your Honor.

THE COURT: And I thought the only way I could deal with that problem on your behalf and somewhat on the Court's behalf was to have the voice of the union say no, you will not be guilty of any betrayal of a fiduciary relationship if you make a voluntary contribution. That was my reason.

Mr. WEICH: I understand that.

THE COURT: And now that you have convinced me that there is no point to it, I withdraw that request.

Let's go on.

Ms. KONIGSBERG: Your Honor—

THE COURT: You say order the Congress to do something, in this case, to provide funds. Think about this clearly and analyze it. Here is this district court judge telling the mighty sovereign Congress, Do something. And if they say no, what is my next step? Dealing with an old truism, that no court should enter an order which ends up in futility, am I to say I am going to hold the entire Congress in contempt? To think about it shows it is absurd.

The same thing holds true, as I said, if I say to the government, Pay. It is your obligation. And if they say, We cannot, what do I do? Hold the United States of America in contempt? I do not think I could possibly survive that.

Now the focus here is, Oh, the Attorney General is not inhibited by anything that the committees have said about inhibiting the use of the funds. That is your interpretation. But if I were the Attorney General, I would want more to rely upon than an interpretation. It is not a matter of what we think the inhibition proscribes or what the Court may think or even what the government may think. But before I, as an Attorney General, would be free to do ahead and make my interpretation that the government is free to use certain funds, I would want more assurance than that, than face possible contempt by the House Appropriations Committee.

I implore you, why can't we be reasonable about this? Why can't we continue to have a supervised election by some contribution?

Mr. WEICH: Your Honor, we continue——

THE COURT: Am I off the wall when I say probably in your own experience that you have entered into compromises even when a verdict has been in your favor?

Mr. WEICH: Yes, your Honor, that's certainly true. I can only observe that we still await word from the United States whether it is prepared to put any money into this process. It strikes me that on this record, given the union's history of being willing to compromise in the past, it's the decision that the Court of Appeals handed down that at this time would be appropriate for the government to state whether it has any money before the question is put to the union.

THE COURT: You mean money that is absolutely free and clear and under no restrictions?

Mr. WEICH: Yes. Well, your Honor, you know our position, that there is money that the Court could order the government to pay. Our position there is not an extraordinary one. It's often the case that a government agency tells a federal court that it believes it doesn't have authority to do something or doesn't believe it's required to do something, the Court orders that agency to do it. And, as always, the United States complies.

But my point, in response——

THE COURT: Let's assume you are right, and I do not see how your logic can stand up, I say to the government, Pay, and they say, We cannot, we do not have the funds, whether under restrictions or not. What do I do, hold the United States in contempt? Well, what do I do? I have issued an order. I have said to the government, Pay, and they have said, We cannot. What do I do? Where does that lead us?

Mr. WEICH: The first place it would lead us——

THE COURT: Did you ever hear of sovereign immunity?

Mr. WEICH: Yes, I have.

THE COURT: Do you know what that means?

Mr. WEICH: Yes, I do.

THE COURT: Who would I hold in contempt? U.S. of America, you are held in contempt. Oh? Either you comply or I will send you to jail. Who will I send to jail, the U.S. of America? Isn't that what a lawyer is supposed to unravel in his thinking when he makes an argument? Is that order that I make now silly? Who would I hold in contempt?

Mr. WEICH: Your Honor, I——

THE COURT: Who would I drag into court? Uncle Sam, who is the symbol of America? Who would I hold in contempt? The Appropriations Committee? The subcommittee? The entire House of Representatives? The entire Senate? Whom would I hold in contempt? Do I fill the jailhouse with all these dignified representatives of their constituents?

You know, thought is a very important process. It is easy enough to embark on ideas that are grandiose and win favor with a constituency, but you have got to parse it and analyze it. No court is supposed to enter an order which is futile.

I have been dealing with this specter. Maybe the symbol of America is Uncle Sam and I will have Uncle Sam, I will even have his beard trimmed for television purposes, and I will put Uncle Sam in jail. The more you think of it, the less appealing it becomes. So unappealing that it is not even worth all the discussion and thought and sleepless nights I have given to this.

I have no hesitation where contempt is proper, and again I must remind you that contempt must be by trial to another judge. Do you know that?

Mr. WEICH: Yes, your Honor.

THE COURT: I am sure my colleagues would applaud my effort to ask them to try a case of contempt against the United States of America. I think that should convince you that it is an idea whose time has now come.

Now, can't we deal with this the way lawyers do all the time? Try to reach some understanding and agreement. I have had many cases resolved after a verdict by 12 men and women, good and tried, who found in a civil case by a preponderance, in a criminal case beyond a reasonable doubt, some negotiation. Why can't we do that here? Is there a motive why there is so much obstinacy here and obdurateness about coming to any understanding or realization?

Mr. WEICH. Your Honor, I ask again that you put the question to the United States if there is money.

THE COURT. What do I do if they say no? You beg the question. You are a lawyer. I have asked you a question. Give me some help. Who do I hold in contempt?

Mr. WEICH. I'm confident that if you put the question to Ms. Konigsberg whether the United States would obey a lawful order of this Court her answer would be yes, therefore contempt would be unnecessary. If contempt were necessary——

THE COURT. Is there a danger that I ought to consider sanctions against any lawyer who tries to bring an action or a cause that is absolutely absurd in its very, very root? Again, I have asked you ten times: Whom do I ask another judge to hold in contempt?

Mr. WEICH. If contempt were necessary——

THE COURT. Contempt is always necessary if an order is not obeyed.

Mr. WEICH. Yes. If contempt were necessary, your Honor, there are officers of the United States who stand in for the United States——

THE COURT. All the officers of the United States?

Mr. WEICH. No. Ms. Konigsberg——

THE COURT. Aren't you a little bit ashamed of your begging the question?

Mr. WEICH. No, your Honor.

THE COURT. All right. That would be quite a newspaper item, having all the 50 states and their senators and representatives hauled to court and put to jail. That would be novel. Instead of history of the law, it would be the hysterics of the law.

Again, can I bring you to the peace table?

Mr. WEICH. Your Honor, we've been at the peace table. We ask whether the United States is intending to come to the peace table.

THE COURT. I want to hear from the United States. Shall I hold you in contempt?

Ms. KONIGSBERG. No, your Honor.

THE COURT. As long as we are in the amusement circle, let me tell you my own personal experience, without much name. At one time in my career I was special assistant to the Attorney General of the United States, a rather important job. There was a case before a very distinguished justice and he wanted the government to produce certain documents. I told the judge I did not have these documents, I did not have control of them, I had never seen them, that they were exclusively in the possession of the Attorney General, who resided in Washington.

The judge gave me a brief period of time to produce those documents or to be held in contempt and possibly jailed.

I spoke to the Attorney General. I have never seen the documents. I did not know their relevance. I did not even know that they would lead to relevant evidence, and he said, You may not have them. And you must go before the court and say that I will not release them.

And then he said, with a broad Texas drawl, David, jail is not too bad at all. They feed you three meals a day.

Fortunately, the judge had some generosity and heart and did not hold me in contempt, which would certainly have hurt my career. He certainly did not jail me, but the documents were never produced and there was really nothing that he could do. That was my own personal experience.

I am, as the record will show, a very reluctant judge when it comes to dealing either with sanctions or with contempt because that has the very treacherous danger of doing substantial irreparable harm to a lawyer who might be more zealous than smart.

Ms. KONIGSBERG. Good afternoon, your Honor.

Let me first address the issue about whether or not it could be perceived as a breach of fiduciary duty for the union's leadership to agree to pay the costs, some of the costs, of the rerun election. It, in the government's view, would not be a breach of fiduciary duty and though the government supports the Court's idea of having a referendum, it would not take a referendum in order to reach that conclusion.

THE COURT.Wouldn't a poll do just as well? I have had some experience in that area. A poll could be done. A universe of 500 is sufficient. It could be done in two or three days.

Ms. KONIGSBERG. That is possible.

THE COURT. By telephone.

Ms. KONIGSBERG. That is possible, your Honor. But whether—irrespective of any referendum and irrespective of any poll, it cannot be considered a breach of the union's fiduciary duty to pay these costs, and let me explain why. Though I know the Court mentioned that at the prior hearing, I don't consider that a finding by this Court; that was not a matter that was briefed. The union indisputably is going to have to bear the cost anyway of an unsupervised election.

THE COURT. Has anybody an estimate of what that cost would be?

Ms. KONIGSBERG. I would like to know from the IBT what they project that cost to be. I mean, I would suspect it is at least the same amount of money, if not more so, than the amount of money that the union would pay if they share the costs of the election. I think it would be helpful if the Court, if we, could inquire of the IBT what that would cost. But I would suspect it is, at a minimum, $4 million for them to have to pay in any event if they have to conduct their own election.

Second of all, it is in the interests of the union membership to have a fair election and to have a supervised election. The union has said itself that they are in favor of a supervised election, and everybody here agrees that the best way to insure a fair, free, democratic election, that all the members and all the public can have confidence in, is to have election officer supervision. So regardless of the relative costs of an unsupervised election versus what they would contribute, the union leadership can decide that this is something that's in the members' interests to have an independent, court-appointed election officer supervise this so that the union membership can be assured of having a fair, free, democratic election.

Really what this can be, I suppose, likened to is, is the union saying that it would refuse, in effect, if the government is able to secure the agreement of Congress to pay $4 million, or plus, toward the cost of this rerun election supervised by an election officer, is the union saying that it would refuse to accept the government's money in order to be able to have a supervised election? Because we all agree that they're going to have to pay these costs anyway in an unsupervised election, and we all agree that the election officer supervision is necessary.

I mean, I would submit to the Court there is at least a question whether it could be perceived as a breach of fiduciary duty not to agree to pay the costs in order to have a supervised election. So, I think it would be helpful to take the question of a breach of fiduciary duty off the table here. I don't think there is any question that the union leadership can agree to pay this. What the Second Circuit's decision was about was whether the union could be obligated to pay.

THE COURT. The Second Circuit decision completely ignores the very powerful dissent, and although that dissent did not carry the day, it sends a powerful message. Nobody even refers to that. That is bad argument. The dissent did not carry the day. It did not persuade the majority. But it is a very powerful message and should not be ignored.

Ms. KONIGSBERG. We agree, your Honor. But even accepting the majority's opinion, which, of course, we accept, all it says is that the union cannot be compelled——

THE COURT. That's right.

Ms. KONIGSBERG [continuing]. Based on the misconduct. It does not say that the union voluntarily cannot agree. It also does not say the government is required to continue supervision. But it does not say that they cannot voluntarily agree. And it is clearly in the union members' interests, as the IBT has conceded, to have a supervised rerun election, so that it would not be a breach of fiduciary duty.

THE COURT. I brought you here, Mr. Sever, to lend a helping hand based on your long experience to resolve this problem. Maybe your lawyer will feel a little freer if he has some notion from you that you are willing to help.

Mr. SEVER. Your Honor——

THE COURT. You are no longer with the Mets, are you?

Mr. SEVER. Your Honor——

Mr. WEICH. It's Tom Sever, your Honor, not Tom Seaver.

Mr. SEVER. Your Honor, in due respect, you know, I must indicate that we do have a decision by the Second Circuit of the court. In light of that decision, I did proceed on to the general executive board on July the 20th, and the general executive board rejected to pay for any costs in light of that decision, and, you know, I believe that we ought to—I believe in the judicial system, your Honor. And I believe that we ought to abide by the courts and follow the appropriate procedures of appeal, if necessary. But certainly that's where we stand at this point, your Honor.

THE COURT. All right. But I am asking you: Can you not consider that there may be some room for compromise and negotiations?

Mr. SEVER. If there would be any room for compromise, your Honor, I would be more than happy to take that back to our general executive board.

THE COURT. Will you do that, please.

Mr. SEVER. I would take a poll with the board. I would do that if we could have a compromise.

THE COURT. And will you also say it is my——

Mr. SEVER. Would you repeat.

THE COURT. It is my passionate desire to see that this matter be resolved.

Mr. SEVER. It would—I would like to see it resolved, your Honor. However, you know, with respect to my fiduciary responsibility as the general secretary-treasurer, and with the due respect of the cost that may be associated, I believe that, you know, if there could be some kind of a compromise, such as maybe sending out the ballots, that I might be able to recommend that. And that cost would be somewhere around $2 million. I might be able to recommend that to the general executive board.

THE COURT. All right. That is something.

Mr. SEVER. Thank you, your Honor.

THE COURT. Did you want to say anything? Did you want to say anything?

Mr. WEICH. No your Honor.

THE COURT. I want this election to go forward. We have had some delays and I think it is time to fish or cut bait.

Now, in anticipation that we are going to have an unsupervised election, will you please give me some details of how you plan this election to go. I think my inherent power in terms of my need to manage my own caseload suggests that I can require you to give me some view of your plans.

I also think that hope does spring eternal. I think that perhaps the Senate, by its appropriate committees and their wisdom, might decide to allow the Attorney General some freedom in the use of funds. I just do not know how we can urge them to come forward with a yes-or-no answer, but perhaps they will.

Is there anything else?

Ms. KONIGSBERG: Yes, your Honor.

As the government set forth in its papers, the government believes that the Court has the authority to set a plan for this election, particularly given that the IBT——

THE COURT: You know their argument about the plan that you suggested, that this is just a disguise, using rhetoric, but to accomplish exactly the same thing that would occur in the hands of the supervised election. Isn't that your argument?

Mr. WEICH: Yes, your Honor.

Ms. KONIGSBERG: I'm aware of their argument, your Honor.

THE COURT: You have a chance to answer. I think your date is Monday.

Ms. KONIGSBERG: That's right, and we will respond to that on Monday, your Honor.

THE COURT: But the IBT makes a very persuasive argument that this is merely a camouflage and that the Court does not have inherent power to do anything by way of accepting a substitute monitored election.

Ms. KONIGSBERG: We will address that. We disagree.

THE COURT: That is the problem with appointing a special master.

Ms. KONIGSBERG: Your Honor, the government disagrees very strongly with that characterization; that is to say, that there can be no court-appointed election officer in the absence of a supervised election doesn't mean that you throw the baby out with the bath water and that all of the learning under the consent decree about how to have a democratic election——

THE COURT: I will read your papers and I will study your papers, and I hope to get another version of how an unsupervised election will proceed.

Ms. KONIGSBERG: Thank you, your Honor.

Mr. CHERKASKY: Your Honor, just very briefly, if I might. We also feel strongly that any——

THE COURT: Keep your voice up. Everybody wants to hear you.

Mr. CHERKASKY [continuing]. That any contribution that would be made by the International Brotherhood of Teamsters would not be a breach of their fiduciary duty.

THE COURT: Would not be what?

Mr. CHERKASKY: A breach of their fiduciary duty. I think all the parties agree——

THE COURT: I was trying to give you some assurance that under no circumstances would they be crucified on the cross for the sustaining of the fiduciary relationship.

Mr. CHERKASKY: I understand that, Judge. Certainly, it's—I think they've taken out of context your remarks at previous hearings. They have said previously that they would contribute some sums, so they didn't feel it was a breach of their fiduciary duty or they wouldn't have agreed to contribute anything.

Secondly, we would think that, we firmly believe that the Teamsters union, as was indicated yesterday, is a union that has every right to have a fair and free election as quickly as possible and that the membership, we believe, demand that. We also believe there are ways to do polling, ways that you could do polling going to each of the different locals and have a weighting voting process which could be done very quickly, very efficiently, and very inexpensively, so that in fact we could have a very quick read of what in fact the union felt as to the proposition of their making a contribution or not.

Finally, as unpleasant as it may be for us, we have to face the fact that this may be an unsupervised election and, your Honor, we will in fact be filing with your Honor a proposal of how to would wind down the matters of the election office. We, in fact, are continuing to spend money, continuing to do work. We have a number of very significant protest matters before us which, in fact, we think urgently need to be completed, and we would in fact by next Monday have a proposal for you if in fact it's necessary, if the draconian happens, how to wind down the election office.

THE COURT: I have a note from my worthy staff:

"You need to give the IBT a timetable for giving more definite statements for unsupervised election."

Thank you. What would I do without you? What timetable do you need?

Mr. WEICH: Respectfully, your Honor, it seems to us premature when the government has not, to date, withdrawn its election to supervise to order the IBT to do more than it has done, which is to set forth with a fair bit of specificity how it would conduct an unsupervised election in accordance with federal labor law, the IBT constitution and the consent decree. I really think that as a matter of logic and timing, the United States should conclude its efforts and say, finally, that it does not intend to supervise, if indeed that's the conclusion it reaches, despite our view that it should not be permitted to withdraw that.

THE COURT: If public relations and goodwill have any strong reason, and believe me they do, you cannot possibly estimate the goodwill and public relations game for the IBT to come forward generously to make some contribution.

I repeat this ad nauseam: In the ten years that I have been on this case, the union has spent millions upon millions of dollars fighting every single revision of this decree. Millions. Some of it so silly that it has been a mockery and a telltale at cocktail parties. The quarreling over my order for the IBT to provide a $50 secondhand cabinet file, in one matter where there were just a number of limited appearances, one law firm garnered $6 million in fees. I think from my point of view a forthcoming spirit of generosity does not have to wait for Christmas.

Yes. Go on.

Ms. KONIGSBERG: Your Honor, because there is such a strong interest in having a prompt rerun election, we believe that there should be a schedule set for the IBT to submit a plan that these two things can occur at the same time and we think that would make sense to do. In addition, I wonder if the IBT has an estimate of what they think it would cost them to conduct an unsupervised election.

Mr. WEICH: Your Honor, we're prepared to submit additional details about how we would conduct additional details about how we would conduct an unsupervised election next Wednesday, August 5.

THE COURT: Can you give us an estimate of what the cost would be?

Mr. WEICH: We will do our best.

THE COURT: You will do that?

Mr. WEICH: Yes, your Honor.

THE COURT: Is there anything else?

Ms. KONIGSBERG: That's it, your Honor.

THE COURT: Nothing else?

Mr. WEICH: No, your Honor.

THE COURT: Please come up with something. I think after ten years on this case I deserve a break. And I think we have done one tremendous job of ridding this union of a lot of corruption and we are still on it.

Madam Speaker, I rise in opposition to the resolution and particularly the portion of the resolution which allows nonattorneys to conduct depositions behind closed doors and without any member of the committee present. That authority is virtually unprecedented. The authority of having a nonattorney staff conduct the depositions was not given to the Committee on Government Reform and Oversight where we heard abuses even with attorneys doing it. The House did grant that authority in the committee on the transfer of technology to China, a select committee on which I sit, but it was understood by the members of the select committee and the Members of the whole House that an issue of that magnitude required swift but thorough investigation, staffed with personnel skilled with the nuances of deposing witnesses with sensitive and potentially classified material. We also recognized that some of the material and witnesses sought for that investigation would require travel to China and experienced staff must be allowed to pursue those matters when Members' schedules might preclude their attendance. The staff members hired for that purpose, the 6-month duration of the committee, will obviously be hired with the appropriate skills for taking depositions. In contrast, this investigation into the 1996 Teamsters election will not address matters of national security but the members of the subcommittee must apply equal vigilance to the rights of witnesses and the appropriate conduct of the investigation. Already the Subcommittee on Oversight and Investigations has come very close to interfering with an ongoing investigation by the U.S. Attorney's office into the Teamsters election, and we experienced a potentially damaging incident concerning the shocking modification of subpoenas without the approval of the committee. All of this occurred under the watchful eye of the consultants to the committee, whose professional credentials cannot be challenged.

In fact, the committee hired these consultants for the majority because the majority stated that it did not have qualified staff with the background, knowledge or experience to conduct the investigation. Now these consultants have given notice that they will be leaving the investigation, so I hesitate to think what will happen when staff who are not attorneys, not experienced in deposing witnesses and who are not required to abide by any codes of professional responsibility are allowed to continue where the consultants left off.

This subcommittee must be vigilant in its investigation into the Teamsters election. The rules of conduct must not allow the reckless endangerment of a process designed to prevent another failed election. In the end we must be responsible not only to the Teamsters but also to the taxpayers who paid for the 1996 election and who continue to pay for this investigation. We should not allow nonattorneys who have already been labeled by the majority as incapable of conducting the investigation to be granted the exceptional power to conduct depositions behind closed doors.

Mr. HALL of Ohio. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Madam Speaker, I thank the gentleman for yielding time to me. I think it is appropriate for the committee of the Congress to do an investigation. I think it is important to get to the bottom of the issues at stake. I also think in theory it is sometimes appropriate to have deposition authority. But when you look how this authority has been abused by the Republican majority in this very Congress, I think you have to step back and ask whether this is a wise thing to do.

If a committee is doing an investigation and they want to hear from a witness, bring a witness before the committee. If the witness will not come, subpoena the witness to come before the committee. Let members in an open session ask questions. But when you give deposition authority, it allows staff to bring in these people, behind closed doors, without the public even knowing what questions are being asked, and to abuse those people by making them hire attorneys, making them take time off from work, making them answer questions over and over and over again while the clock is ticking away and the costs are going up.

I can tell Members that in the Committee on Government Reform and Oversight, the staff has deposed 158 individuals. One-third of these people were compelled to give testimony under this threat of being held in contempt of Congress. Of these 158 depositions, 650 hours of testimony was taken. This is burdensome on people. It is a power that can and has been abused.

We have come now to a point where it is simply a partisan fishing expedition. Of 158 witnesses, 156 have only been asked about Democratic fundraising abuses while the committee has ignored substantial evidence of Republican campaign finance abuses. It becomes a partisan witch-hunt without any accountability to the American people.

Accountability is important. When you are in an open session, you have to be accountable because the public can see what you are doing. But when it is a deposition, behind closed doors, there is too much power and that power can be abused.

Mr. SOLOMON. Madam Speaker, I yield myself such time as I may consume. I hesitate to get involved in this at this time, but the gentleman is complaining that the committees were only investigating Democrat abuses on campaign finance. This gets under my skin a little bit, because no Republican has ever been accused of selling out our country. No Republican has ever been accused of accepting campaign money and then giving away the strategic interests of our country. Now that we have more than 18 intercontinental ballistic missiles aimed at America, we ought to get to the bottom of it.

Never before have we ever had an administration, whether Democrat or Republican and I go all the way back to Harry Truman's day when I was a Marine guard in this town never have we had a President, either Republican or Democrat, who deliberately withheld information and did not try to level with the American people. That is why we have had to have staff depositions in the past.

Madam Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. I thank the gentleman for yielding time. Just to clarify some of the remarks from my colleague who sits on the subcommittee. "Close to impairing an investigation." Give me a break. We went through negotiations and discussions with the Southern District in New York. We never came close to impairing an investigation. We went through that process. We went through that process with them in a very diligent way and never even came close to impairing that investigation.

Talking about these amateurs that are going to interrogate witnesses. The minority knows very well the kind of people that we need to have interviews and discussions with. What are we taking a look at? We are taking a look at very technical information. Where did $150 million of net worth from the Teamsters go over a period of 5 years? Rank-and-file Teamsters would like to know. We would like to know. How did they launder $1 million? How did they manipulate pension funds? We have got a specialist who was hired to do exactly that. It is a forensic auditor. We want a forensic auditor to go through it in detail. The forensic auditor and the staff needs to go through piles and piles of data, very technical data so that we can move forward.

We had a hearing where the IBT and Grant Thornton and the auditors brought in their people. They would not allow us to talk to them before the hearing. They came in and they had wonderful answers. "Oh, you were interested in that kind of information? Boy, you really ought to talk to so and so. I can't answer that question." The end result is they delay and they set back our progress at getting to this kind of information.

Mr. HALL of Ohio. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. I thank the gentleman for yielding time. I just want to point out the statement made by the gentleman from New York (Mr. SOLOMON) was completely irresponsible. No one has evidence to substantiate an accusation that the Administration sold out national security for campaign contributions. But we can substantiate the following: The Republicans have taken foreign money. We can substantiate the allegations that they have used illegal conduit payments, that money has been raised on government property.

□ 1400

And today is the anniversary of the Trent Lott–Newt Gingrich $50 billion tax break for the tobacco companies snuck into a bill in the middle of the night after they received millions of dollars of campaign contributions from the tobacco industry.

Why are we not investigating those issues? Because the Republican Congress is on a partisan witch-hunt.

Do not do the same thing in this committee that we are seeing on the Burton committee: a one-sided, partisan witch-hunt where Republican abuses are ignored and Democrat abuses are blown out of all proportion, where the evidence does not lend credibility to the conclusions that are stated.

Mr. HALL of Ohio. Madam Speaker, I yield 30 seconds to the gentleman from Missouri (Mr. CLAY) to respond.

Mr. CLAY. Madam Speaker, I just want to challenge the statement about whether the forensic auditor is paid. He is a paid consultant of that committee, and he made a statement about fraud, pension fraud, that the Department of Labor has challenged and criticized him, and the independent auditors of the Teamsters have challenged him. And there is no evidence of any pension fraud, and my colleague ought to stop saying it.

Mr. HALL of Ohio. Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Madam Speaker, I rise today as a member of the subcommittee not only to oppose this resolution but also to express my severe disappointment in the way this process has been conducted and also to indicate that I think that, by giving this unprecedented power to the subcommittee, we may end up doing more harm than good under the circumstances.

I am a former prosecutor. I know a little bit about conducting investigations. Subpoena power can be extremely useful in getting at the truth and uncovering the facts in a particular matter, if it is necessary and if it is done right.

But as member of the subcommittee, I do not see the necessity in it. I do not see this great conspiracy of obstruction and reluctance of Teamster members to appear before the committee. In fact, our subcommittee chair referenced Mr. Sever and stonewalling that he apparently was committing when, in fact, he had appeared before our committee May of this year, was subjected to our numerous questions from across both aisles, and unless there is other information that they are not sharing with us, I do not see the stonewalling tactic taking place. Also, if it is done right, Madam Speaker.

Now, giving deposition power or authority to Members who do not have training on how to conduct a proper deposition is very dangerous. There is no easier thing to do if you are not trained than to muck up a deposition in a transcript, especially with witnesses who may be under some other criminal investigation, and that exactly was being proposed in this resolution: for nonattorneys to come in behind closed doors with witnesses and to subject them to an array of questioning when they do not know whether to ask a leading question or an open-ended question, when it is appropriate, they do not know how to give proper documents into evidence as part of the transcript, and this is just a recipe for disaster.

But perhaps my greatest concern about this resolution today, Madam Speaker, is the fact that we may be impeding upon an ongoing criminal investigation in the Southern District of New York, the U.S. Attorney's Office. This is an issue that I have repeatedly raised in committee. As a former prosecutor, there was no greater fear for me when I was conducting an investigation than for outside forces to come in and start messing around with the conduct and the process of the criminal investigation and to start interfering with what we are trying do accomplish.

Madam Speaker, I just conclude by urging my colleagues to oppose this resolution.

Mr. SOLOMON. Madam Speaker, I yield myself such time as I may consume.

Again, Madam Speaker, the gentleman spoke about the fact that staff deposition authority is unprecedented. I think he said it three times; I wrote down three times. And I know he was not a Member of this Body when the Democrats controlled it for 40 years, but I would advise him to go back and do a little study about how many times the Democrats gave staff deposition authority.

And he also mentioned stonewalling four times. He ought to read his hometown newspapers and that of the New York Times and the Washington Post and all the other papers across the country; they will headline who has been stonewalling all of these investigations.

Madam Speaker, I yield 1 minute to the gentleman from Holland, Michigan (Mr. HOEKSTRA), the subcommittee chairman.

Mr. HOEKSTRA. Madam Speaker, I thank the gentleman from New York for yielding this time to me.

I would like to just insert for the RECORD a July 23, 1998, letter from Anthony Sutin, who is the Acting Assistant Attorney General, who highlights in his letter that we have not jeopardized investigations. As a matter of fact, his quote:

> We appreciate the subcommittee's cooperation in accommodating our law enforcement interests in the conduct of this oversight investigation.

We have consistently made sure in our efforts that we do not jeopardize what is going on in the courts, and we are complementing that effort, not jeopardizing that effort. We have been very, very conscious, and I think the gentleman from Wisconsin knows that because he has been in some of the discussions whenever there has been a conflict or when the Southern District has raised a concern. I think the one time they raised a concern we actually sat down with the minority and talked about that and jointly reached a decision that we would not proceed along that direction.

The letter in its entirety is as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, July 23, 1998.

Hon. PETER HOEKSTRA,
Chairman, Subcommittee on Oversight and Investigations, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your letter, dated July 15, 1998, regarding the Subcommittee's oversight investigation about the International Brotherhood of Teamsters (IBT) and, particularly, the Committee's subpoena to the Department for tapes relating to our on-going law enforcement action regarding IBT. As you know, the tapes were produced late on July 9, 1998, after service of the subpoena earlier on that date.

We appreciate the Subcommittee's cooperation in accommodating our law enforcement interests in the conduct of this oversight investigation. We also would like to resolve the apparent misunderstanding about the Department's actions in response to the subpoena. The Department undertook substantial efforts to assess our interests in this matter, which is consistent with our usual processes in response to congressional subpoenas. It is our long-standing practice to consider Department interests, such as law enforcement and individual privacy, among others, as well as a congressional committee's needs in responding to requests for information, including subpoenas. While the process in this instance included consultation with the United States Attorney in the Southern District of New York, the Department's response to the Subcommittee was neither dictated nor delayed by that Office. Indeed, the Department's same day response to the subpoena could not have occurred without the significant efforts of that Office.

It also should be noted that the United States Attorney obtained the tapes for law enforcement purposes and to facilitate the Committee's access by producing copies of them, and certainly not to thwart the Committee's access to them in any way. Because the IBT was to receive a complete copy of the tapes, production of the tapes to the United States Attorney and the Federal Bureau of Investigation could not possibly relieve the IBT of any obligation to respond to the Subcommittee's subpoena.

Congressional subpoenas are taken very seriously by the Department in every instance and we recognize a committee's authority to issue compulsory process when required in the exercise of its legitimate oversight functions. In some cases, subpoenas represent a collision of interests between the executive and legislative branches. Such a collision often can be mitigated through informal discussions designed to accommodate the needs of both branches, predicated upon an appropriate sense of comity between them. This also permits their representatives to scrutinize carefully the interests and needs of both branches so that satisfactory agreements can be reached. We regret that this particular subpoena did not permit us an opportunity to pursue such informal discussions; indeed, as far as we are aware, forthwith subpoenas are unprecedented in our relationship with Congress. Based upon our subsequent conversations with counsel, we look forward to working with the Subcommittee productively as this inquiry proceeds and hope that the misunderstandings of this experience can be avoided in the future.

Please do not hesitate to contact me if you would like additional information about this or any other matter.

Sincerely,

L. ANTHONY SUTIN,
Acting Assistant Attorney General.

Mr. HALL of Ohio. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Madam Speaker, we have a situation here where they are requesting overwhelming, extraordinary powers, and whereas sometimes that might be appropriate, for example, when Oliver North in the basement of the White House was committing treason by disobeying the laws of Congress and selling weapons to an obvious enemy of America. Then that was time to use these kinds of powers, and I think those kinds of powers were assumed, and we had an appropriate investigation.

When the savings and loan swindle was under way, we should have used those kinds of powers, but we did not. We had Silverado Bank in Denver, Colorado, where the directors told the client, "You need $13 million, we'll give you $26 million, and you deposit half of that back into the bank so that when the auditors come it will look good." Not a single director on that bank's board went to jail, and half a trillion dollars the taxpayers were out of as a result of the swindle by the savings and loans banks. We did not use those kinds of powers.

Here we have a situation where, yes, some wrong deeds have been committed. As my colleagues know, the Teamsters' elections are important. Irregularities in elections are not to be sneezed at. They are important. But we do not need these kinds of powers to deal with election irregularities.

Teamsters have a long history, and there was a time when millions of dollars were being stolen. Dave Beck, Jimmy Hoffa—Jimmy Hoffa ended up being convicted and sent to jail, and later on he disappeared and it was assumed that he was murdered. Some terrible things have happened. Ron Carey came in as a result of reform that this government supported, and if he has done something wrong in respect to elections, he deserves to be punished. He does not deserve the mobilizaton of these kinds of overwhelming powers.

Madam Speaker, this is a partisan grab for power because they want to use it in a very partisan way. They want to continue what they have been doing all along, trying to destroy the unions in America, the labor movement in America. Working families have a lot to fear from this kind of abuse of power because it is going to be used in a very one-sided way, as it has up to now. They are not going to use this power to get to the bottom of the situation in an objective manner. We know from past history that that is not what is going to be happening.

So it should be denied. We should not let these kinds of overwhelming powers be utilized by a committee that has already demonstrated they only want to use it for very bipartisan purposes. This is not Oliver North in the basement of the White House committing treason.

Mr. SOLOMON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, it is a good thing that this Member of Congress is on his good behavior here today because I heard my former good friend—I better not say that—my good friend from New York (Mr. OWENS) referring to Marine Colonel Oliver North as conducting treasonous activities. Let me tell the Members of this Body that there is no greater hero in this country than Marine Colonel Ollie North, who risked his life for my colleagues and I and every other American citizen. It was he and Ronald Reagan, our President, who stopped communism dead in its tracks in Central America. Otherwise, we might have the same kind of government there that we have in Vietnam today. We are going to be taking up a resolution on that in just a few minutes. Or we might have the same kind of a government in Central America that we have in China or North Korea or some of these other countries.

So, let me sing the praises of Colonel Oliver North and thank God that my grandchildren will have a free, democratic country to live in.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Madam Speaker, I thank the gentleman from Ohio (Mr. HALL) for yielding this time to me.

Madam Speaker, I rise today serving on both of the committees, and I thank my leadership for these assignments as a member of the Committee on Education and the Workforce and the Committee on Government Reform and Oversight. I serve on this oversight investigations committee and have had a firsthand view at how we have conducted ourselves as committee members and, more importantly, how the chairman of this subcommittee has conducted this committee.

This Congress has spent more than 20 or close to $20 million on 50 investigations, 50 different investigations.

Ken Starr, DAN BURTON, the gentleman from Michigan (Mr. HOEKSTRA), the gentleman from Pennsylvania (Mr. GOODLING); all of them have something in common, for they go after their political enemies. For, as we rise today, those on this side of the aisle, and I would hope that we would be joined by some of our colleagues on the other side of the aisle, asking simply for fairness, asking simply for us to follow the rules in which this Congress, and as a first-term Member I am not privy nor do I have practical experience in all the rules of this Body, but I do know my history.

Madam Speaker, the extraordinary power our colleagues seek to grant this committee, we set precedent by giving it to the committee of the gentleman from Indiana (Mr. BURTON). The gentleman from California (Mr. WAXMAN) spoke so eloquently about the abuses on that committee.

I would urge and caution my very dear friend, the gentleman from Michigan (Mr. HOEKSTRA) to pay close attention to how that committee conducted itself, to pay close attention to all the abuses and failures of that committee. We can get to the bottom of this Teamsters' investigation by simply following the rules.

I concur with my dear friend, the gentleman from Wisconsin (Mr. KIND) and all of my colleagues on this side of the aisle and hopefully some on their side of the aisle who firmly believe that we can, indeed, do our job, and I might add that we have spent $2 million, and I would ask that the gentleman from New York (Mr. SOLOMON) ask the gentleman from Michigan (Mr. HOEKSTRA) to provide us with the correct and accurate accounting of what we have spent. Then perhaps we can move from that point, I say to my colleagues, and make some valid and accurate decisions about where we go.

Mr. KIND. Madam Speaker, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Wisconsin.

Mr. KIND. Madam Speaker, I hate to disagree with the chairman of the subcommittee, but there have been two specific witnesses who have been called before us where the U.S. Attorney's Office was not consulted with, and they are very upset that they have been called and subject to our questioning who are part of the criminal investigation.

There are other examples like that, Madam Speaker. That is the concern that I have.

Mr. HALL of Ohio. Madam Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Madam Speaker, I include for the RECORD a letter from the U.S. Attorney's Office, Southern District of New York, which stated that taking testimony from certain witnesses who had been subpoenaed and scheduled to testify would impede an ongoing criminal investigation.

The letter referred to is as follows:

DEPARTMENT OF JUSTICE,
SOUTHERN DISTRICT OF NEW YORK,
April 28, 1998.

Re: Teamsters investigation.

Hon. PETE HOEKSTRA,
Chairman, House Subcommittee on Oversight and Investigation, House of Representatives.

DEAR MR. CHAIRMAN: I am writing to you as Chairman of the House Subcommittee on Oversight and Investigations (the "Subcommittee") to request that the Subcommittee not seek to question Brad Burton and Susan Mackie concerning involvement by individuals affiliated with the AFL in fundraising for the 1996 Ronald Carey campaign for re-election as general President of the International Brotherhood of Teamsters ("IBT"), a subject which is under criminal investigation by my Office and the Federal Bureau of Investigation. In my carefully considered judgment, such testimony taken at this time could seriously undermine and compromise this very active criminal investigation. While I fully recognize the importance of your Subcommittee's investigation, I respectfully urge you and your fellow members to balance the harm that the proposed testimony on this particular subject may cause to this important criminal investigation and prospective trials against any benefits that could come from the proposed examinations on this topic.

We understand that last week the Subcommittee sent letters requesting that these individuals appear to testify before the Subcommittee. We have no objection to testimony being taken from these witnesses, but only as to testimony regarding fundraising for the Carey campaign, which is the focus of the criminal investigation. At the request of Majority counsel, Deputy United States Attorney Shirah Neiman met with you and Congressman Norwood last week to explain, from our point of view, the negative impact we believe questioning these witnesses on this topic could have on the criminal investigation. Ms. Neiman also offered—consistent with grand jury secrecy obligations, and the integrity of the criminal investigation—to brief the Subcommittee or its counsel on matters of interest to the Subcommittee. Mr. Neiman also outlined the matters already in the public record regarding AFL involvement in the Carey campaign which might be of use to you in your hearings.

Today, the criminal investigation has resulted in felony prosecutions and guilty pleas of three individuals who are cooperating with the ongoing investigation and an indictment yesterday against the former Director of the IBT's Governmental Affairs Department. We have tried to be as cooperative as possible with all ongoing Congressional inquiries, Election Officer Investigations and Independent Review Board investigations, while at the same time ensuring the integrity of the ongoing criminal investigation and prosecutions. We are making this request because we believe that the criminal investigation and any potential criminal trials will suffer if witnesses are forced prematurely to go forward with deposition and/or public testimony. In addition, should the substance of interviews or testimony become public, the course of the criminal investigation could be irreparably damaged. We appreciate your weighing these factors in making your decision in this matter.

Thank you for your consideration.

Respectfully,

MARY JO WHITE,
U.S. Attorney.

Mr. HALL of Ohio. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Madam Speaker, I rise in opposition to this resolution.

During the past two years, the American working families have experienced some success in defending the minimum wage increase, protecting Medicare/Medicaid, saved Federal job safety protections, threw anti-worker legislators out of office and held back the Fast Track proposal that would have made it easier for jobs to leave for overseas.

Many of my colleagues and their corporate allies opposed every one of those victories for working families because they put more value on profits than on people. Now, it seems as though some of my Republican colleagues and their anti-union allies say it's payback time.

Madam Speaker, a million dollars and one year later the Republican Members of the House have devised another devious plot to destroy the unions and the people who they represent—our Nation's working families.

The Republican Members passed out of committee a resolution to allow the Education and Workforce Committee to take depositions behind closed doors, without a Member of Congress present as a part of the Teamsters Union investigation. Actions such as this have only been implemented during threats to national security.

Madam Speaker, this resolution is duplicative in nature and is an abuse of congressional power that tramples the civil liberties of our Nation's working families.

This is a simple backdoor attack on unions and working families. This is an unfair and unjustified attack on democracy; but I was told at an Acorn rally in Milwaukee this past week that, a people united will never be defeated.

I urge that we unite on behalf of working families, I urge that we unite and defeat this resolution.

Mr. HALL of Ohio. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Madam Speaker, I rise in opposition to House Resolution 507.

Mr. HALL of Ohio. Madam Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BONIOR), our leader.

Mr. BONIOR. Madam Speaker, this is just a continuation of the same old thing that we have seen for this whole Congress: Investigate, duplicate, waste taxpayers' dollars.

Madam Speaker, close to $20 million, 17 investigations; they want to go through this again.

We spent a million dollars on this investigation already; now they want to expand the powers. What they want to do is in secret, under oath, with no Member present they want to interrogate witnesses.

It is out of control. They cannot face the reality of the issues of education and of health care and the things that the people care about in this country. This Congress is exclusively, exclusively designed to deal with investigations of the political enemies of the other side of the aisle.

That is what this is about, make no mistake about it.

I urge my colleagues to vote no on this irresponsible resolution.

Mr. SOLOMON. Madam Speaker, we have just a closing statement, so I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would simply say that this is bad legislation. It is certainly to me very much of a power grab. It is not necessary because the Justice Department is already investigating.

I would urge a no vote, and I will ask for a vote on this particular resolution.

Madam Speaker, I yield back the balance of my time.

□ 1415

Mr. SOLOMON. Madam Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Ms. EMERSON). The gentleman from New York (Mr. SOLOMON) has 6½ minutes remaining.

PARLIAMENTARY INQUIRY

Mr. HOEKSTRA. Madam Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Michigan will state his parliamentary inquiry.

Mr. HOEKSTRA. Madam Speaker, is it a rule of the House that documents that are to be entered in the RECORD should be in the House?

The SPEAKER pro tempore. The House has authority by unanimous consent to admit those documents for printing.

Mr. HOEKSTRA. Madam Speaker, if they have asked for unanimous consent, should I not have access to those documents when they are inserted?

The SPEAKER pro tempore. The documents are available with the Official Reporters of Debate.

Mr. HOEKSTRA. Madam Speaker, if the document has been inserted for the RECORD, should the Clerk or someone have the document?

Mr. BECERRA. Madam Speaker, regular order.

The SPEAKER pro tempore. The documents should be delivered to the Official Reporters of Debate.

Mr. BECERRA. Madam Speaker, there was no objection raised earlier to any unanimous consent made before.

The SPEAKER pro tempore. The Chair is merely responding to a parliamentary inquiry.

The documents submitted by unanimous consent are delivered to the Official Reporters of Debates.

Mr. HOEKSTRA. Madam Speaker, have they been delivered?

The SPEAKER pro tempore. The gentleman may inquire of the Official Reporters.

Mr. HOEKSTRA. We have inquired, and the documents are not available.

The SPEAKER pro tempore. They should be submitted to the Official Reporters, or they will not appear in the RECORD.

Mr. HOEKSTRA. Madam Speaker, I would just like a copy as soon as they ever get delivered to the House.

Mr. SOLOMON. Madam Speaker, do I understand that the balance of the time was yielded back by my good friend, the gentleman from Ohio (Mr. HALL)?

The SPEAKER pro tempore. That is correct. The gentleman from New York

(Mr. SOLOMON) has 6½ minutes remaining.

Mr. SOLOMON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, before recognizing our last speaker to sum up, let me just point out that this Congress always has its job to do in oversight. That is what we are attempting to do here.

Madam Speaker, I yield 6½ minutes to my good friend, the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Madam Speaker, I thank the gentleman for yielding to me.

I thank the gentleman for leading the effort on this change to the rules. Let us just go through the process. In 1989, the IBT, because of massive influence by organized crime, was put under a consent decree with the Justice Department.

In 1996, they held an election. In the summer of 1997, there were severe questions about the validity of that election. I stood up and said, do not certify that election until all the objections have been investigated. The minority did not participate.

Shortly after that, the election was overturned. It was an election that cost the American taxpayer $20 million, was administered by an election officer under a consent decree at the same time that an independent review board was looking at the Teamsters. There, maybe, would be some questions about how, with all this oversight, could we not even run a fair election. But, no, the other side does not believe that that is an important question to ask.

Shortly after that, in August of 1997, the election was overturned. At that point in time, I suggested that the winner of that election, the now disqualified president, maybe, should resign or remove himself from office. Some on the other side thought that that was a radical step, a witch-hunt.

On Monday of this week, the independent review board removed that official, Mr. Carey, from the Teamsters for life.

Early in 1998, one of the new improvements that was put in place was to make sure that the Teamsters were acting in the best interest of their members. Why? Because we had exposed that their net worth had decreased from $157 million to $700,000. Why? Because we had identified that, perhaps, there had been pension fraud. Why? Because there had been three people who had plead guilty to laundering a million dollars of Teamsters rank and file money through the process back to benefit Mr. Carey.

This independent financial auditor, what did we find out? We found out that he was not much more than a bookkeeper. Very qualified, but not empowered to do the kind of work that needed to be done. It only cost the rank and file Teamsters around $60,000 a month, I believe.

What else do we know? What would we like to know? Have you heard reports that documents are being shredded at the IBT headquarters on a recent weekend? That was this past weekend. We have been informed that two IBT employees wearing green uniforms delivered an industry size shredder to the office of the IBT communications director, Matt Witt, during the week of July 13, 1998, and that the noise of the shredder operating in that office could be heard on Saturday, July 18, when Mr. Witt was in the building.

There is no corruption going on at the Teamsters. These people are acting in the best interest of the rank and file. They are acting in the best interest of the taxpayers since we have paid for this. Sorry. Wrong.

What did Mr. Edelstein say, the judge who has been watching these people for 9 years? He believes it is time for the good members of this union to rise up and revolt. Rather than aggressively going after and exercising our responsibilities, the minority says, no, let us not go too fast. This is a witch-hunt.

This is protecting the rank and file interest of the Teamsters. The nice thing about this investigation is that rank and file Teamsters are rising up in revolt, and they are sending us documents. They are sending us complaints because many of them believe that the only people who have been acting in their best interests is this subcommittee, because we have been focused on rank and file, and we are not focused on the people in the marble palace over here who are not a rightfully elected leadership, but who are all part of a failed leadership, and they are all part of a discredited election. We are not indebted to the people who write the political action committee checks out of that building to people in this building.

It is time for us to move forward. It is time for us to take a look at why all of this that has been put in place on the Teamsters, all this government intervention is not working the way that it should be.

Staff deposition authority, there are all kinds of protections built into the rules of our committee. The witnesses will be protected. They will be accompanied by counsel. The counsel will have the opportunity to review all transcripts. The minority will be advised 3 days before any staff depositions are taken.

This power is needed because, even though Mr. Severs came in and said I will do everything that I can to help move this investigation forward as quickly as possible, what does that mean that he does? It does not mean that he voluntarily sends people to interview with our staff prior to a hearing.

He says, I will only let people come if it is in a formal hearing setting. No, I am not going to help you go through these piles of documents to find out where $157 million went. I am not going to help you find out how we laundered a million dollars. As a matter of fact, he is not helping us. He is not even helping his own rank and file.

When we ask Mr. Severs, what investigation do you have going on? He said, I am not doing anything. Three people have plead guilty. His former bosses has been expelled from the union. This leadership is doing absolutely nothing. It is time for Congress to continue and let this committee move forward with its work.

Mr. COSTELLO. Madam Speaker, I rise today in opposition to H.Res. 507. This resolution grants unprecedented powers to the House Education and Workforce Committee to take depositions behind closed doors, without a Member of Congress present. Prior to this Republican-led Congress, the power for Committee staff to take depositions in closed-door sessions was granted on only two occasions—to the Judiciary Committee for impeachment proceedings and to the nonpartisan Ethics Committee.

Today, however, the Republican leaders of this House want to continue their witch hunt regarding the Teamsters presidential election. The Republican leaders want to use their partisan advantage to stomp on the civil liberties of union-associated individuals. By giving the power to Republican staff members of the Education and Workforce Committee to take depositions behind closed doors, this resolution prevents Democrats from having any role in this investigation. Shamefully, the public is shut out completely.

The Republican leaders in this House claim that this resolution is need because the Teamsters Union has been uncooperative. The Teamsters have complied with Committee requests and have already produced more than 50,000 documents for the Committee to review. Further, the Teamsters have not refused a request to testify before the Committee. Why must depositions be taken behind closed doors by Republican staff? What do the Republicans have to hide?

This resolution represents a back-handed attempt to circumvent an open process of investigation. This entire investigation has been duplicative and wasteful. After more than 18 months, more than a million taxpayer dollars have been spent on this investigation—with little to show for the effort. How much longer must we continue this partisan charade? Madam Speaker, I urge my colleagues to vote against this resolution.

Mr. SOLOMON. Madam Speaker, I move the previous question on the amendment and the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment recommended by the Committee on Rules.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question are postponed until later today.

The point of no quorum is considered withdrawn.

DISAPPROVING EXTENSION OF WAIVER AUTHORITY WITH RESPECT TO VIETNAM

Mr. CRANE. Madam Speaker, pursuant to the previous order of the House of Wednesday, July 29, 1998, I call up the joint resolution (H.J. Res. 120) disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 120 is as follows:

H.J. RES. 120

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to Congress on June 3, 1998, with respect to Vietnam.

The SPEAKER pro tempore. Pursuant to the order of the House on Wednesday, July 29, 1998, the gentleman from Illinois (Mr. CRANE) and the gentlewoman from California (Ms. LOFGREN) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. CRANE).

GENERAL LEAVE

Mr. CRANE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Joint Resolution 120.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CRANE. Madam Speaker, I ask unanimous consent to yield one-half of my time to our distinguished colleague, the gentleman from California (Mr. ROHRABACHER) in support of the resolution. I further ask that the gentleman from California be permitted to yield blocks of time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Ms. LOFGREN. Madam Speaker, I ask unanimous consent that half of the time yielded to me be yielded further to the gentleman from California (Mr. MATSUI) and that he be permitted to yield blocks of time and that I would be permitted to yield blocks of time.

The SPEAKER pro tempore. Is there objection to the gentlewoman from California?

There was no objection.

☐ 1430

Mr. CRANE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in opposition to H.J. Res. 120 and in support of the extension of Vietnam's Jackson-Vanik waiver.

Since President Clinton lifted the trade embargo against Vietnam in 1994, the administration has taken steps to normalize U.S. trade relations with that country. This process is subject to the Jackson-Vanik amendment to the Trade Act of 1974, the provision of U.S. law which contains emigration criteria that must be met or waived by the President before a country subject to Jackson-Vanik can engage in normal trade relations, including normal tariff treatment, with the United States and gain access to U.S. trade financing programs.

Because Vietnam is not eligible for normal trade relations with the U.S., pending the completion and approval by Congress of a bilateral commercial agreement, the immediate effect of Vietnam's Jackson-Vanik waiver is quite limited. Specifically, the waiver only allows Vietnam to be reviewed for possible coverage by U.S. trade financing programs such as OPIC, Eximbank, and the U.S. Department of Agriculture. Vietnam is not automatically covered by these programs as a result of its waiver, and must still face separate individual reviews against each program's relevant criteria.

The significance of Vietnam's waiver is that it permits us to stay engaged with the Vietnamese and to pursue further reforms. Vietnam is not an easy place to do business. However, our engagement enables us to influence the pace and direction of Vietnamese reform.

Madam Speaker, I would at this time insert in the RECORD a letter I received from 28 trade associations supporting Vietnam's Jackson-Vanik waiver as an important step in the ability of the business community to compete in the Vietnamese market which is the 12th most populous market in the world.

I would also insert in the RECORD a letter from our distinguished former colleague, Mr. Charlie Vanik. It is a letter that he sent to our current colleague, the gentleman from Virginia (Mr. MORAN) in support of this waiver.

JULY 22, 1998.

Hon. PHILIP CRANE,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CRANE: The American business community supports pursuing a policy of economic normalization with Vietnam. We endorse the decision to grant Vietnam a waiver of the "Jackson-Vanik" amendment. The waiver gives American companies selling to Vietnam access to crucial U.S. export promotion programs and is an important first step to normalizing trade relations with Vietnam. We strongly oppose H.J. Res. 120, which would overturn the waiver. A vote on this legislation might come during the week of July 27.

Vietnam has met the requirements for a waiver. The Jackson-Vanik amendment is meant to encourage a policy of free emigration in countries with nonmarket economies. Since the Administration normalized diplomatic relations with Hanoi in 1995, Vietnam has cleared for interview over 80 percent of all remaining applicants of the Resettlement Opportunity for Vietnamese Returnees agreement.

Pending legislation, H.J. Res. 120, would overturn the Jackson-Vanik waiver for Vietnam and deliver a serious setback to U.S.-Vietnam commercial relations. Without the waiver, American companies would be denied access to export promotion programs offered by the U.S. Export-Import Bank and the Overseas Private Investment Corporation. These programs are vital to meeting the challenges of doing business in Vietnam's emerging market.

Overturning the Jackson-Vanik waiver also would derail bilateral negotiations seeking commitments from Vietnam on market access, services, intellectual property and investment. The eventual agreement will bring Vietnamese law closer to international trade norms, thereby helping U.S. companies to tap the long-term potential of the Vietnamese market. If we fail to remain on the path of economic normalization, we risk ceding the potential of that market to competitors in Europe, Japan, and elsewhere in Asia.

Finally, overturning the Jackson-Vanik waiver for Vietnam would have important political implications. Vietnam has cooperated with efforts to search for American POWs and MIAs. Cooperation could be jeopardized if the House passes a disapproval resolution.

The American business community believes that a policy of economic normalization with Vietnam is in our national interest. We applaud the House Ways and Means Committee and Senate Finance Committee for reporting unfavorably disapproval resolutions regarding the Jackson-Vanik waiver for Vietnam. We urge you to support economic normalization with Vietnam by voting against H.J. Res. 120.

Sincerely,

Aerospace Industries Association.
American Chamber of Commerce, Hanoi.
American Chamber of Commerce, Ho Chi Minh City.
American Chamber of Commerce, Hong Kong.
American Farm Bureau.
Asia-Pacific Council of American Chambers of Commerce.
Association for Manufacturing Technology.
Chemical Manufacturers Association.
Coalition for Employment through Exports, Inc.
Electronic Industries Alliance.
Emergency Committee for American Trade.
Fertizlier Institute.
Footwear Distributors and Retailers of America.
International Energy Development Council.
International Mass Retail Association.
National Association of Manufacturers.
National Center for APEC.
National Foreign Trade Council.

National Oilseed Processors Association.
Pacific Basin Economic Council—U.S. Member Committee.
Securities Industry Association.
Telecommunications Industry Association.
U.S. Chamber of Commerce.
U.S. Council for International Business.
U.S. National Committee for Pacific Economic Cooperation.
U.S.-Vietnam Business Committee of the U.S.-ASEAN Business Council.
U.S.-Vietnam Trade Council.
USA*Engage.

Juniper, FL, July 28, 1998.

Hon. JAMES P. MORAN,
U.S. House of Representatives,
Washington, DC.

DEAR JIM: As one of the authors of the Jackson-Vanik provision of the 1974 Trade Act, I am writing to urge you to oppose the motion to disapprove trade credits for Vietnam (H.J. Res. 120).

The Jackson-Vanik provision was written with the intent of encouraging the Soviet Union to relax its restrictive emigration policy, particularly with Soviet Jewry. It specifically granted the President the power to waive restrictions on U.S. government credits or investment guarantees to communist countries if the waiver would help promote significant progress toward relaxing emigration controls. I am proud of the fact that the Jackson-Vanik provision was extremely helpful by encouraging the Soviet Union to relax its emigration policies and eventually helped open the door to improved economic relations with the Soviet Union.

In reviewing the current waiver that President Clinton granted Vietnam on June 3, I believe his actions are entirely consistent with the law. Vietnam has made significant progress on its commitments to resettle Vietnamese returnees and has consented to extend these more liberal emigration procedures to other refugee programs. I also believe the waiver will encourage the Government of Vietnam to continue to cooperate on locating U.S. servicemen missing in action, to become less isolated, and to follow the rule of law.

Sincerely,

CHARLES VANIK,
Former Member of Congress.

In the context of ongoing bilateral commercial agreement negotiations, Vietnam's Jackson-Vanik waiver puts the burden squarely on the Vietnamese to come forward with the market principles needed to conclude an agreement worthy of congressional approval and the extension of normal trade relations to Vietnam.

Terminating Vietnam's waiver will provide the Vietnamese with an excuse not to undertake further reforms and would reerect the barrier to the normalization of our bilateral trade relations.

I urge my colleagues not to take away our ability to pressure the Vietnamese for change and for progress on issues of importance to the U.S. I urge a "no" vote on H.J. Res. 120.

Madam Speaker, I reserve the balance of my time.

Ms. LOFGREN. Madam Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SÁNCHEZ), a leader in the efforts for freedom.

Ms. SANCHEZ. Madam Speaker, I rise today to lend my support to H.J. Res. 120, the resolution to disapprove the Jackson-Vanik waiver to Vietnam.

In March of this year, the government of Vietnam was granted a waiver from the Jackson-Vanik amendment. While this is a significant step towards the economic revitalization of Vietnam, the decision ignores basic human rights issues which still need to be resolved.

Madam Speaker, I have the privilege of representing one of the largest Vietnamese-American communities in the United States right in Orange County, almost 300,000 people. They are the parents, the siblings and the offspring of families who fought communism for 2 decades, and the majority of my constituents feel that economic relations with Vietnam should not be established until specific emigration, political and human rights issues are addressed.

The Orange County Register, one of the newspapers in our area, conducted informal reader polls and found huge multiracial majorities opposed the immediate lifting of the waiver. During this past year, many of my constituents have also contacted my office directly. In this debate I am their voice.

Jackson-Vanik is about emigration, then trade. Normalize emigration; move towards normalizing trade. Waiving the Jackson-Vanik requirement for Vietnam on March 10 was a mistake. This decision only makes it harder for many Vietnamese to reunite with their families.

The simple truth is that the Vietnamese Government does not meet the conditions of free emigration. Authorities have denied United States officials access to the vast majority of returnees who are eligible to emigrate. In other words, the way it was changed was that, first, one had to get an exit permit in order to be interviewed by the United States to see if one could come to the United States, and now they have changed that. Now they have the exit permit at the back end. And what they do is provide a list to the United States about whom we may interview. And, of course, that list is very limited.

The only significant human rights concession recently made was this exit permit at the back end instead of the front end.

Although this looks like an important concession, the United States is still forbidden to interview anyone whose name is not on the list supplied by the Vietnamese Government.

And although some of my colleagues, and I have seen these letters going around, will lead you to believe that Vietnam has cleared for interview over 80 percent of all of the remaining ROVR applicants, the fact of the matter is, many of those applicants are not even on the list.

What they leave out is the fact that the same officials who were denying the exit permits to begin with are now in the position to keep people off of those lists. And according to a recent report to Congress, the State Department acknowledges that some 15,000 former United States Government employees and their families have not been issued those exit permits.

Besides the administrative roadblocks, pervasive corruption at all levels of the government in Vietnam creates additional obstacles for emigration. Let us say that one is on that list and one moves forward to an interview by the U.S. and the U.S. says, okay, come here, and then one has to get the exit permit; what happens? One of those government officials says, it is going to cost you $2,000 to get this permit. Well, in a country where the annual per capita income is approximately $300 U.S. dollars, most Vietnamese wishing to emigrate cannot afford to pay such an amount.

Contrary to the Vietnamese Government's pretense, it is saying that it has no political or religious prisoners, but many Vietnamese continue to languish in prisons because of their political or religious beliefs.

Last September I, along with the gentlewoman from California (Ms. LOFGREN), chaired a human rights caucus briefing on Vietnam. We heard from representatives of the international organizations and from the Vietnamese American community leaders about what is going on in current social, political and economic conditions in Vietnam. And believe me, while we may not pay much attention to what is going on in Vietnam because we have so many other issues, the Vietnamese community in Orange County and across the United States does pay, day in and day out, attention to the details of what is going on in Vietnam. We learned that we must be concerned about Vietnam's poor human rights record and religious persecution.

Madam Speaker, I began by saying that this is about emigration, and that is what I believe we need to discuss today, but let us not lose sight of the fact that human rights and business interests are also denied in Vietnam. We have learned from that briefing that we had that all religious groups face great challenges in obtaining things in Vietnam. For example, basic religious materials. And we also learned in that congressional briefing that although the Vietnamese constitution prohibits discrimination based on gender, ethnicity, religion or social class, we find that women and children and ethnic minorities are often the victims of repression.

Reports show that the Hoa Hao Budhist Church, for example, continues to be suppressed. All of their religious activities and ceremonies are prohibited. Assembly of more than 3 persons is forbidden, and all of the assets and properties have been confiscated.

In my district, the Hoa Hao Buddhist Church brought my attention to the case of Buddhist priest Nam Liem. Mr. Liem is a 58-year-old Buddhist priest who practiced religion at a small family temple in Vietnam, and since 1975, he has been arrested and detained by the Communist authorities over 50 times. Today, he has not been released from prison.

In addition, there are many pro-democracy activists, scholars, poets, et cetera, whose only crime it was to "injure the national unity."

Of course, we have an "Adopt A Voice of Conscience Campaign" here in Congress to show the attention to the human rights abuses, religious persecution, and social state of Vietnam.

Madam Speaker, I would end by saying please, today, do not surrender our principal leverage with the Communist regime. Vote "yes" for free emigration, vote "yes" for family reunification, vote "yes" to end religious persecution. Vote "yes" to promote free speech and democracy. It is our honor at stake today as we honor the values which we are sworn to uphold.

Mr. ROHRABACHER. Madam Speaker, I yield myself such time as I may consume.

I ask my colleagues to support this disapproval of a waiver of the Jackson-Vanik requirements of the 1974 Trade Act. What were the Jackson-Vanik requirements in that 1974 Trade Act? They clearly stated that we have concerns in this House dealing with human rights, things like freedom of religion and freedom of emigration, and this President of the United States, consistent with what he has done in many other cases around the world, has decided they do not count, they do not count at all. Those requirements that were laid down by former Congresses, much less our Founding Fathers, they do not count, because human rights does not count for this administration.

I would hope that my colleagues would today join us in affirming that human rights and those principles that our country stands for do count for something, and that we do not believe in just waiving them.

What are we waiving them for? The President is waiving the Jackson-Vanik requirements in order to extend American tax dollars, our tax dollars to subsidize or insure private corporations who want to do business in Vietnam, who want to make money by investing in a Communist dictatorship. This is a moral travesty, as well as bad business.

Six months ago when the President first issued this Jackson-Vanik waiver, we basically have been looking at what Vietnam has been doing since then. There has been no liberalization, no opening up of their political system. There has been no major release of political prisoners. Human rights and religious rights continue to be trampled upon by those who hold power in Vietnam.

But what about the business end of it? Just this week I received a briefing by the GAO on the Vietnamese economy. People are jumping out of Vietnam because it is so corrupt. They showed me, the GAO showed me a 1998 report by the United Nations Development Program that shows that both the U.N., the IMF, the World Bank, and our own State Department is convinced that Vietnam has a lack of integrity and transparency in their economic dealings, and so businesses are pulling out.

Is this a time for us then to waive the human rights requirements so that businesses can go in with U.S. taxpayer guarantees and invest in Communist Vietnam? This is exactly the wrong time. They are going in the wrong direction economically, and they have not taken a step forward in terms of politically and morally.

No, what we are going to be doing is spending tax dollars with this waiver to guarantee American businessmen to go in and use cheap slave labor under a dictatorship to manufacture goods to export to the United States to put our own people out of work. That is immoral, and it does not work politically, and it does not work economically, because we are going to lose that investment money and the taxpayers will have to make up for it unless, of course, those big businessmen make a profit with the slave labor and then they will take all of that profit for themselves at our expense.

Mr. SOLOMON. Madam Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from New York.

Mr. SOLOMON. Madam Speaker, I rise in support of the gentleman's resolution not to give Most Favored Nation treatment to this Communist dictatorship.

Mr. ROHRABACHER. Madam Speaker, I ask my colleagues to join the gentleman from New York (Mr. SOLOMON) in support of denying this waiver.

Madam Speaker, I reserve the balance of my time.

Mr. MATSUI. Madam Speaker, I yield myself 1½ minutes.

Madam Speaker, I rise today in opposition to House Joint Resolution 120 and in support of continuing to normalize relations with Vietnam. This policy will promote American interests in receiving a greater accounting of our POWs, MIAs, promoting values of democracy and human rights, as well as helping American workers.

It is important to be clear about what extending Jackson-Vanik waivers will do and what it will not do. Today's vote is not about "for or against" normal trade relations for Vietnam; only when Vietnam concludes a bilateral agreement on trade approved by the Congress will it be eligible for normal trade relations.

□ 1445

Renewal of the waiver is the most recent step in the gradual normalization of the relationship with Vietnam in the postwar era.

I understand and appreciate the frustrations of the families seeking a greater accounting of POWs and MIAs by the Vietnamese government. We are all firmly committed to this goal. We will continue to make that clear to the Vietnamese government. However, the U.S. policy of incremental normalization has gone hand-in-hand with continued cooperation on this very, very important issue of accounting of POWs and MIAs.

Vietnam does in fact fall short of our standard of human rights and political and religious freedoms. However, their continued exposure to U.S. values on human and religious freedoms will promote progress in Vietnam on these objectives that we all share.

I disagree with those who argue that revocation of the waiver is an effective means to achieve further progress. Our former colleague and prisoner of war, Ambassador Pete Peterson, has noted that improvements in our relations have only been made since we have engaged the Vietnamese. In addition, many of my colleagues who have served in Vietnam support extending the waiver: Senator JOHN McCAIN, Senator JOHN KERRY, Senator BOB KERREY, the gentleman from Illinois Mr. LANE EVANS, Representative JACK MURTHA, to name a few.

I urge a no vote on this resolution.

Mr. CRANE. Madam Speaker, I yield myself such time as I may consume.

I would like to remind Members that they all received a letter from 17 of our colleagues, on a bipartisan basis, Vietnam vets, all in support of the waiver. I would urge them to make sure that they read it critically.

Madam Speaker, I yield 1½ minutes to my colleague, the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Madam Speaker, the Jackson-Vanik amendment to the 1974 Trade Act focuses on using various U.S. trade inducements to pressure non-market countries to allow freedom of emigration. It is not supposed to be a total referendum on that nation's internal policies, and it has nothing to do with MFN, and it has nothing to do with other human rights violations, other than the freedom to emigrate. That is what we are talking about today.

The practical effect of this waiver simply allows U.S. exporters to operate more efficiently in Vietnam. Our exporters face an uneven playing field when trying to sell to Vietnam. Foreign competitors have long had the support of their home governments, equivalents of the Eximbank, OPIC, TDA, and the USDA. Foreign countries have taken export opportunities away from Americans, simply because our foreign competitors obtained a government-subsidized rate for an export loan, or dangled a foreign aid incentive before certain Vietnamese government officials. Japan alone has an $850 million developmental assistance package to induce countries like Vietnam to buy Japanese exports.

Finally, we got the message, and the President's waiver is making a difference, particularly on infrastructure projects. U.S. workers are now making products to sell to Vietnam. Vietnam prefers buying American products. The waiver does not lower any U.S. import duties on Vietnamese products. It is totally one-sided in our favor in terms of our balance of trade.

If this resolution passes, only U.S. workers will be hurt. Larger American companies may still win export deals in Vietnam, but they will use foreign subsidiaries and foreign workers to complete the contracts. That is, U.S. companies will use their foreign subsidiaries to sell to Vietnam, thus displacing American jobs.

Ms. LOFGREN. Madam Speaker, I yield myself 5 minutes.

Madam Speaker, I support House Joint Resolution 120, which would disapprove the waiver of Jackson-Vanik. I cannot say strongly enough that 1998 is not the time to extend normal trade relations to Vietnam, to waive our requirement for free emigration from Vietnam.

I believe that Vietnam and the United States will be able to trade with each other in the future, but not until Hanoi ends its human rights abuses, allows for truly free emigration, and establishes a fair and sound economic environment for American businesses. This is going to take time to achieve. This also will require the U.S. to refrain from extending normal trade relations status to Vietnam until Hanoi makes these corrections.

I am very concerned about the human rights abuses in Vietnam that my colleagues, the gentlewoman from California (Ms. SÁNCHEZ) and the gentleman from California (Mr. ROHRABACHER), have already spoken to. While paying lip service to religious freedom and individual liberty, the Communist government of Vietnam continues to persecute those who question the authority of the state, including those in the Buddhist church who stand not only for freedom, but also for freedom to worship.

On July 15 Vietnam imposed prison sentences of 10 months to 2 year on 10 members of a religious group for engaging in heretical propaganda because they believe in their religious beliefs.

The heart of Jackson-Vanik focuses on freedom of emigration. Vietnam continues to restrict the right of its citizens to emigrate. I cannot even begin to tell you how many cases my office deals with concerning families who are split because Vietnamese authorities will not allow the emigration of a family member.

Despite these problems, I believe that, given time, Vietnam can make changes. These changes really began with the reform movement in 1986. Vietnam achieved high economic growth of 8 percent a year with low inflation. As a result, the U.S. lifted economic sanctions in 1994 and normalized relations in 1995.

That was the wrong thing to do, because it has all been downhill since then. The economic growth did not produce democratic and market reforms, as we have seen in other countries like China, South Africa, Zimbabwe. In addition to quashing the religious, political, and social freedom of its citizens, and restricting their right to emigrate, Hanoi has taken giant steps backward from fostering sound policies and stability to bolster its economy and to attract foreign investors.

As the gentleman from California (Mr. ROHRABACHER) pointed out, there has been a dramatic retraction of business from Vietnam because of these policies 40 percent contracted foreign investment decreased in the last year alone. U.S. exports to Vietnam plummeted from $616 million in 1996 to $286 million last year. As my hometown newspaper, the San Jose Mercury News, wrote, "The ruling Communist party has stalled further reform."

I am someone who believes in trade. I also believe that in specific cases, trade can be a useful tool to change behavior. I voted for normal trade relations between the United States and China. I believe that that has helped China to improve, and hopefully they will continue to improve.

All of us in this Chamber believe in human rights. Sometimes we have reasonable differences of opinion about what are the best tools in a particular case to achieve human rights. In this case, nothing could be clearer to me than using the tool of trade to improve human rights in Vietnam.

We used that tool effectively with South Africa. I am glad we did. It is very obvious to me that Vietnam is eager, for historical reasons as well as desperate economic reasons, to have a valuable trade relationship with the United States. Our history with Vietnam shows that they will collaborate with us in the effort for human rights if we just stand firm.

Now is the time for patience. While Vietnam has taken some steps toward improvement, it has very far to go as we can see from the Hanoi government's treatment of its own people. Vietnam has failed, it has flunked, in its effort to earn normal trade relations. I think it would be a dramatic mistake for our country, for the Vietnamese people, and for world peace, if we allow the waiver of Jackson-Vanik to move forward.

I strongly, strongly urge my colleagues to vote in favor of House Joint Resolution 120.

Madam Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Madam Speaker, I yield 3 minutes to the gentleman from New York (Mr. BEN GILMAN), the distinguished chairman of the Committee on International Relations.

Mr. GILMAN. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I am pleased to rise in strong support of House Joint Resolution 120, introduced by the gentleman from California (Mr. ROHRABACHER), in disapproving the extension of the waiver, the Jackson-Vanik amendment. The issues here are progress on human rights, freedom of religion, and freedom of emigration.

Simply stated, the Vietnamese government has not demonstrated any significant progress on any of these issues. Many of us have voiced our objections to the rapid pace of normalizing relations with Vietnam. Yet, our President insists that waiving the Jackson-Vanik amendment and opening programs of the Overseas Private Investment Corporation and the Export-Import Bank to Vietnam is in our best national interest, and will encourage the Vietnamese government to cooperate on many issues, including economic reforms. However, OPIC guarantees and Export-Import Bank financing programs should be a reward for achievement, and not offered as any fanciful incentive based on a hope for the future.

Despite the opening of relations 3 years ago, prisoners of conscience are still in prison. Thousands of our former comrades in arms are still unaccounted for in Vietnam.

The recent highly respected State Department Human Rights Report on Vietnam states,

> The government arbitrarily arrested and detained citizens, including detention for peaceful expression of political and religious objections to government policies. The Vietnamese government denied citizens the right to fair and expeditious trials, and still holds a number of political prisoners.

The consequence of the Jackson-Vanik waiver granted in March of this year by the President is that our taxpayers began paying for subsidies for U.S. trade and investment in Vietnam through the Export-Import Bank and Overseas Private Investment Corporation.

These programs were designed to overcome the risks for American companies operating in a corrupt, troubled business environment in Vietnam. Yet, the business climate in Vietnam is marked by limited market access, lack of transparency, unpredictability in business dealings, red tape, and corruption. Many firms are pulling out of Vietnam, and foreign direct investment was down 40 percent last year.

An example of the risk of doing business in Vietnam is that the Eximbank, which opened their programs to Vietnam in April of this year, has not approved any guarantees or loans or insurance since that date in Vietnam. Exim is offering a limited number of programs because of Vietnam's severe credit problems. OPIC has been open for a comparable period, and like Exim, has yet to approve any financing for any American investments in Vietnam.

So we ask, how has a waiver of important American laws served our interest, as promised by the President, who is determined to help U.S. business? Furthermore, will Jackson-Vanik improve the Vietnamese record on POW-MIA issues? In the several months since the waiver has been in place, it certainly has not.

So, in conclusion, a proposed extension of the waiver of Jackson-Vanik would reward a lack of progress on human rights, immigration, and economic reform, and the POW-MIA effort. Vote yes on this resolution of disapproval, and send a strong message that our Nation values principles over potential profits.

Mr. MATSUI. Madam Speaker, I yield 1 minute to the distinguished gentleman from Virginia (Mr. BOUCHER), a leader in the area of religious freedom in Vietnam.

Mr. BOUCHER. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, I rise today in support of the President's decision to extend the Jackson-Vanik waiver for Vietnam, and in strong opposition to the resolution of disapproval.

The Jackson-Vanik waiver process is designed to promote immigration from countries that do not have market economies. In the case of Vietnam, the waiver is clearly working as intended. Since the waiver was granted, Vietnam has made steady progress under both the ROVR and the Orderly Departure programs. If the waiver is rescinded through passage of this resolution of disapproval, that progress, which depends entirely on the cooperation of the Vietnamese government, will almost certainly be reversed.

I urge the defeat of this resolution, a step that will encourage greater cooperation by Vietnam in resolving our ongoing discussions on other issues of concern, including human rights and trade.

By the defeat of this resolution, we will also give a vote of confidence to the outstanding work of our ambassador in Vietnam and his very fine staff. I am pleased to urge defeat of this resolution.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Let me remind everyone, Mr. Speaker, that this waiver only allows that Vietnam be reviewed for possible coverage by U.S. trade financing programs.

Mr. Speaker, I yield 1½ minutes to our distinguished colleague, the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I rise in strong support of the waiver extension and in opposition of the resolution of disapproval.

□ 1500

I think that Thomas Jefferson was right on target when he said, "Two thinking men can be given the exact same set of facts and draw different conclusions."

Mr. Speaker, I obviously have the highest regard for the gentleman from Dallas, Texas (Mr. SAM JOHNSON), my very dear friend and a great hero, a former POW himself, as well as the gentleman from California (Mr. ROHRABACHER) and others who are supporting the resolution, and of course the gentleman from New York (Mr. GILMAN), chairman of the Committee on International Relations, and the gentleman from New York (Mr. SOLOMON), the chairman of my Committee on Rules.

Mr. Speaker, when I think about the changes that all of us have observed over the past several years in Vietnam, they are incredible. I went in the early part of this decade and had the chance to see Negen Kotach, who was the Foreign Minister, present to me translated copies of Paul Samuelson's economic text. There are very bold moves being made towards a free market, and in fact we are making progress in the area of human rights.

Mr. Speaker, I have had the privilege of serving on the POW/MIA Task Force. In 1986, I went with the gentleman from New York (Mr. SOLOMON) and the gentleman from New York (Mr. GILMAN) on my first trip to Vietnam. It was a very, very troubling experience for all of us.

But I have concluded that over this period of time, based on every shred of evidence that we have, we have seen a dramatic improvement in the cooperation of the Vietnamese Government with the United States in trying to resolve this issue.

So, I oppose the resolution of disapproval and support the extension of the Jackson-Vanik waiver.

Ms. LOFGREN. Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Speaker, I oppose the Rohrabacher motion. I do so with great reluctance, because I have tremendous respect for many of the people leading the fight against this waiver. But Jackson-Vanik is about immigration.

Anyone who has studied the statistics, because I know there are many anecdotal stories and there are many problems remaining, but anyone who has studied the statistics knows that in the last year there has been a dramatic reversal and a massive improvement in the Vietnamese Government's cooperation with us on processing refugees, people who were shipped back from the camps in Thailand, in Hong Kong, in Indonesia, to Vietnam against their will. Mr. Speaker, 15,000 interviews have been granted already; 82 percent of the people we are interviewing have been cleared for coming to the United States or other countries that they intend to go to.

The criteria for interviews is far more liberal than the traditional refugee definition. We cannot turn down and thereby risk the retrenchment of this program, and I urge a "no" vote on the resolution.

I urge a "no" vote against H.J. Res. 120. Vietnam is cooperating on the key issue behind granting this waiver: Jackson-Vanik.

Mr. Smith and I fought long and hard with the administration to get them to implement a Resettlement Opportunity for Vietnamese Returnees (ROVR) program. This involved Vietnamese boat people who were forced back to Vietnam after ending the program of keeping them in camps abroad. After we got the administration to go along with it, we pressed them hard to get the Vietnamese to ensure their cooperation. And they have been successful.

So successful is the program that there are now 343 cases, involving 601 people, who have not left because, after receiving clearance from the Vietnamese Government and after having been interviewed by the INS, they have decided suddenly to get married and bring their spouses and other relatives over.

We have submitted over 19,000 names to the Vietnamese. They have cleared for interview 15,572. 991 have not been cleared, mainly because we gave the Vietnamese the wrong address. Of these, 36 have not been cleared because of criminal charges. We have put 713 on medical hold and excluded 23 for medical reasons.

This is a great achievement. Over 5,000 people have already left for the United States. More are coming and the administration is optimistic that it will have completed the program by the year's end.

This is what the Jackson-Vanik requirement is all about and Vietnam has met that requirement. Sure there has been some pushing and pulling but Vietnam has made major and significant steps to ensure the program works even though we allowed more liberal definitions of eligibility than we had applied for other immigrant applicants.

We want to encourage more openness by Vietnam generally. The success of this program and the joint accounting for POW/MIA demonstrates that we can work with Vietnam to our mutual interest.

Vote "no" on H.J. Res. 120.

Mr. ROHRABACHER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. SMITH), chairman of the Subcommittee on International Operations and Human Rights of the Committee on International Relations, who is respected throughout this body for his commitment to human rights.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman from California (Mr. ROHRABACHER), my good friend, for yielding me this time and for his excellent work on this issue.

Mr. Speaker, let me just make it very clear what this vote is about. It is about U.S. taxpayer subsidies for one of the worst dictatorships in the world. Let us be clear on another thing. There is no freedom of immigration from Vietnam. If there were, there would be no need for this waiver. The administration could simply certify that Vietnam complies with the Jackson-Vanik Freedom of Information requirement. Instead, by waiving the requirement, the administration has conceded that there is no such freedom.

Yes, the government allows some people to leave when it is good and ready. But for the many thousands who have been persecuted because they were on our side during the Vietnam war, Vietnam is still a prison.

I hope my colleagues understand that this is not a vote about free trade. It is about subsidies; corporate welfare for Communists. Since the President gave the waiver in March, the U.S. taxpayer has been paying for Eximbank and OPIC subsidies of trade and investment in Vietnam. Many of these taxpayer dollars subsidize ventures owned in large part by the Government of the Socialist Republic of Vietnam. Overregulation and widespread corruption make Vietnam a terrible place to do business.

Mr. Speaker, let me also remind Members, I was the prime sponsor of the amendment back in 1995. We had a hot debate, because we were sending people back who were real refugees. Yes, there has been some progress on ROVR. But we find that it slows to a trickle, to nothingness, when they decide to turn off the spigot. We should not be intimidated by that kind of opening and closing of the gates for the ROVR program.

Let me also say that in Vietnam, human rights violations are many. Catholic priests, Buddhists, are arrested and imprisoned. Vietnam enforces a two-child-per-couple policy by depriving parents of unauthorized children of employment and other government benefits. It denies workers the right to organize independent trade unions and has subjected many to forced labor.

The government not only denies freedom of the press, but also systematically jams Radio Free Asia which tries to bring them the kind of broadcasting they would provide for themselves if their government would allow them free expression.

Many organizations support the Rohrabacher resolution: the American Legion, the veterans groups. I urge my colleagues to please vote for it.

So we should disapprove the Jackson-Vanik waiver at least until the government allows all the ROVR-eligible refugees to leave. And we should also stand up for the people who never left Viet Nam and are still trapped there, including long-term reeducation camp survivors and former U.S. government employees. Many of these people are members of the Montagnard ethnic minority who fought valiantly for the U.S. and have suffered greatly ever since. As of a few weeks ago, only 4 Montagnard applicants—out of over 800 we believe to be eligible for U.S. refugee programs—have been cleared for refugee interviews.

Finally, we must not forget the prisoners of conscience. Hanoi imprisons Catholic priests, Buddhist monks, pro-democracy activists, scholars, and poets. When we complain to the Vietnamese government, they just respond that "we have a different system." They need to be persuaded that a system like this is not one that Americans will subsidize.

In Vietnam human rights violations are many. Hanoi arrests and imprisons Catholic priests and Buddhist monks. Vietnam enforces a "two-child per couple" policy by depriving the parents of "unauthorized" children of employment and other government benefits. It denies workers the right to organize independent trade unions, and has subjected many to forced labor. The government not only denies freedom of the press, but also systematically jams Radio Free Asia, which tries to bring them the kind of broadcasting they would provide for themselves if their government would allow freedom of expression.

Mr. Speaker, the Vietnamese government and its victims will both be watching this vote. We must send the message that economic benefits from the United States absolutely depend on decent treatment of Vietnam's own people. We may not be able to insist on perfection, but we must insist on progress.

Ms. LOFGREN. Mr. Speaker, may I inquire how much time remains?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Illinois (Mr. CRANE) has 8½ minutes remaining; the gentlewoman from California (Ms. LOFGREN) has 3 minutes remaining; the gentleman from California (Mr. ROHRABACHER) has 6½ minutes remaining; and the gentleman from California (Mr. MATSUI) his 11½ minutes remaining.

Ms. LOFGREN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, at times the United States has been involved in Nation-building with our dollars. These are handouts. These are Communists.

Every Vietnam group that helped American troops while they were over there dying for peace, they have repressed every Vietnam group that was supportive of our troops.

I support the resolution. We just had a strike settled where General Motors workers won an agreement that they would not sell a couple of their plants by the year 2000. They are desperately fighting for jobs. The Congress of the United States and all our well-meaning, politically correct economic strategies is shipping jobs all over the world and is patting Communists on the back. I want no part of it.

Mr. Speaker, I support the resolution. I think we are rewarding Communists that screwed our soldiers and screwed their own people who tried to help our men who were protecting their buns.

Mr. Speaker, I urge Members to support the resolution. I ask Congress to approve it.

Mr. ROHRABACHER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON) who served as a prisoner of war in Vietnam and knows that they are not cooperating on the MIA/POW issue, just to back up what the distinguished gentleman from Ohio (Mr. TRAFICANT) just stated.

Mr. SAM JOHNSON of Texas. Mr. Speaker, this resolution is not about Vietnam. It is about honoring and respecting the over 58,000 American soldiers who gave their lives battling communism so we could remain free. It is about our soldiers who still remain missing in action. It is about keeping the hope alive for the families who still wake up every morning asking the same question: What happened to my child, my husband, my brother, my father?

I have seen how this Communist government conducts business. I have personally experienced their threats, their lies, and their so-called promises. My distrust lies with the Vietnamese Government.

To those Members of Congress and to the administration who believe that opening up the Vietnam markets will bring closure to this chapter in history, they are wrong. I listened to their propaganda that America had betrayed us, left us to die. I knew they were wrong.

As a member of the U.S.-Russia Joint Commission on POW/MIAs, we have been negotiating for the last 5 years to get a full accounting of our missing. I can tell my colleagues that the Government of Vietnam continually refuses to cooperate.

My only request is let us stop the suffering of the parents, the children, the relatives, those who do not know the fate of their brave loved ones. Let us stand up to the Vietnam Government today and say: Give us information on our missing who died.

America demands to know what happened to our servicemen and women, the soldiers who died for this Nation to keep it free.

Mr. CRANE. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER), chairman of the Subcommittee on Asia and the Pacific of the Committee on International Relations.

Mr. BEREUTER. Mr. Speaker, I rise in strong support for extension of the waiver and in opposition to the resolution.

In the mid-1960s, I was an infantry officer and intelligence officer with the

First Infantry Division. I completed my service, but within a month the members of my tight-knit unit were in Vietnam and taking casualties the first night. I have emotional baggage, we all have emotional baggage in this country, but I would suggest it is time to get on and not reverse course on Vietnam.

Mr. Speaker, I have great respect for the gentleman from Texas (Mr. SAM JOHNSON) who just spoke, but I bring to the attention of the Members what we know already. Another former POW, our former colleague Pete Peterson, tells us about the dramatic progress now being made, with the Vietnamese help, in remains recovery under some very difficult and dangerous and treacherous conditions. And in fact, of course, another POW, JOHN MCCAIN, has also, along with others who served in Vietnam, supported a waiver in this instance.

But after all, this issue is about emigration. That is what Jackson-Vanik is about. So, we ought to address the issue before us.

Under the statute, a waiver of the Jackson-Vanik amendment may be granted if it will substantially promote freedom of migration. Vietnam's record on emigration has improved dramatically in the last 10 to 12 years. Over 480,000 Vietnamese have emigrated to the United States under the Orderly Departure Program. And, despite some unwise things done in this House just a year or so ago, only about 6,900 ODP applicants remain to be processed.

Mr. Speaker, it is clear to this Member that in the case of Vietnam, the Jackson-Vanik amendment is working. Last October, Vietnam eliminated the requirement for applicants to obtain exit permits prior to interviews for the Resettlement Opportunity for Vietnamese Returnees, ROVR, greatly facilitating the implementation of ROVR.

Subsequently, as the waiver came up for renewal, Vietnam modified its procedures for handling the ODP cases of Montagnards and former reeducation camp detainees to conform with the ROVR procedures. The prospect of the initial waiver and later its renewal almost certainly factored in Vietnam's decision to liberalize procedures under the Orderly Departure Program and ROVR. The yearly renewal of the waiver will maintain incentives for progress toward free emigration.

Vietnam remains a difficult place for American firms to do business. That is sure. But we ought to extend the Jackson-Vanik waiver not to benefit the Government of Vietnam or its people, but for the benefit of the American people. The waiver should lead to increased U.S. exports and to have a greater impact on the way the Vietnamese regard human rights and democracy.

As Chairman of the Subcommittee on Asia and the Pacific, this Member would suggest that now is not the time to reverse course on Vietnam. Since establishing relations three years ago, Vietnam has increasingly cooperated with the United States on a range of issues. The most important of these is, I am informed, dramatic progress and cooperation in obtaining the fullest possible accounting of Americans missing from the Vietnam War. Those Members who attended the briefing by the distinguished Ambassador to Vietnam, a former Prisoner of War and former Member of this body, the Honorable Pete Peterson, learned of the great efforts to which Vietnam is now extending to address our concerns regarding the POW/MIA issue, including their participation in physically very dangerous remains recovery efforts.

Moreover, the Government of Vietnam is proving to be cooperative on the issue of emigration—which, as Members of this body must know, is actually the issue that Jackson-Vanik addresses.

This Member would not want to permit the impression to exist among any of his colleagues that support of the Jackson-Vanik waiver is an endorsement of the Communist regime in Hanoi. We cannot approve of a regime that places restrictions on basic freedoms, including the right to organize political parties, freedom of speech, and freedom of religion.

But even in this problematic area, engagement is producing results. The American presence in Vietnam exposes Vietnamese to American ideals and principles. Vietnamese visitors to the United States including official delegations, students and businessmen, learn about the American way of life. We can expect that over time these contacts, along with access to international media and telecommunications, will have a beneficial effect on Vietnamese attitudes. Greater prosperity will lead to increased demand for responsiveness from the government, an important first step on the road to democracy.

Vietnam remains a difficult place for American firms to do business. This Member is particularly concerned about the level of corruption that has been tolerated by Hanoi. A bilateral trade agreement is under negotiation that will improve Vietnam's trade and investment environment to benefit and protect American business. Rejection of the waiver would undermine the trade negotiations and remove any incentive for Vietnam to meet United States requirements. Extending the waiver will encourage economic reforms and maintain American firms' access to the trade promotion and investment support programs of the Export-Import Bank, OPIC and USDA, enabling the firms to compete with foreign businesses that receive benefits from their own governments.

The Jackson-Vanik waiver does not give MFN to Vietnam. MFN can be considered only following the waiver and the approval by Congress of a completed bilateral trade agreement.

We should extend the Jackson-Vanik waiver, not to benefit Vietnam's Government or people, but for the benefit of the American people. The waiver should lead to increased United States exports to and investment in Vietnam, which, in turn, will lead to more jobs for American workers. Continued engagement with Vietnam is the way to promote the democratic values we uphold. Approval of the waiver will encourage Vietnam's further integration into regional organizations and world markets. This integration is a positive force for regional stability.

I urge rejection of the resolution.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from Missouri (Ms. MCCARTHY).

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today in support of extension of the Jackson-Vanik waiver for Vietnam and in opposition to House Joint Resolution 120.

This resolution would deny my community and others like it the opportunity to continue its humanitarian efforts with the Vietnamese people to promote emigration. UPLIFT International, Heart to Heart, the Westmoreland Scholar Foundation have made generous contributions to those in need.

One of the recipients of the Westmoreland Scholar Foundation, Joyce Nguyen, is an intern in my district office. As a Student Ambassador from Rockhurst College, she traveled to Da Nang to assess the needs of the doctors and staff. She is a first generation American whose parents fled Vietnam after the war. Joyce learned of her cultural background and shared her American heritage with the doctors and the students that she taught English to. Her work in Vietnam allowed her to make permanent life friends and retrace the history of her ancestors.

I see many positive advantages at the local and national level for free emigration and social development. As the next millennium approaches, we should be concerned with forming a lasting friendship with Vietnam.

Mr. Speaker, I urge my colleagues to vote "no" on H.J. Res. 120.

Mr. Speaker, I rise today in support of the extension of the Jackson-Vanik waiver for Vietnam, and in opposition to House Joint Resolution 120. It is true that our relationship with Vietnam has been marked with sorrowful memories. Unfortunately, when the word Vietnam is spoken, it conjures up haunting images of war and not of the beautiful and culturally rich country that it is today. In 1994, the Clinton Administration lifted the U.S. Trade Embargo which allowed U.S. firms to enter Vietnam's economy and compete in the international community. This action has led to Vietnam being part of the ASEAN organization, a qualification which shows promising potential for the country to be a significant trade partner with the U.S. Our goal is to forge a new relationship for both nations, so that we can both benefit from a friendship dedicated to healing and reconciliation.

Trade is important to America. More importantly, trade relations are important to the Fifth District of Missouri. Currently, Vietnam has a crumbling infrastructure, a shortage of medicine, and limited technology. Companies like Black and Veatch, Hoechst Marion Roussel

(HMR), Butler Manufacturing, Burlington Air Express, and countless other companies have business ventures with the Vietnamese which are vital to my district.

Black and Veatch, an engineering firm, headquartered in Kansas City, Missouri is performing a $2.4 million project for the people of Vietnam. Black & Veatch is an 80 year old corporation which employs 2,500 engineers and architects in the Kansas City area and over 7,000 working professionals in over 90 offices worldwide. Black and Veatch was the first engineering company to set up an office in Vietnam and is currently upgrading water treatment plants in seven towns. HMR has a subsidiary in Vietnam which markets the drugs it makes here in the United States to the people of Vietnam. About 2,000 of my constituents work at HMR World Headquarters, an established pharmaceutical company which manufacturers and markets medicine you can find in your local drugstores and across the world. Another company, Butler Manufacturing and its 5,100 employees rely upon the economic ties established in Ho Chi Minh City to deliver preengineered metal buildings and structural frames.

In Missouri, corporations are looking overseas for opportunities to sell American goods and services. Proctor and Gamble, United Airlines, Ford Motor Company, Goodyear, Pfizer International, Harley Davidson, Caterpillar, and Lucent Technologies are just a handful of companies employing thousands of Missourians who have operations and ongoing projects with Vietnam.

This resolution would deny my community the opportunity to continue its humanitarian efforts with the Vietnamese people. UPLIFT International, Heart to Heart, and the Westmoreland Scholar Foundation have made generous contributions to those in need. Corporate sponsors like Black and Veatch, Hoechst Marion Roussel, Federal Express, and Boeing have helped establish trust, and placed people before profit. What began in 1995 as a Heart to Heart airlift to supply 46 tons of medical supplies has led to additional efforts to supply the Vietnamese people with undertakings like UPLIFT's Project HOPE to ensure tuberculosis education and prevention. Under the direction and vision of Mike Meyer, UPLIFT has gained much corporate sponsorship as well as the trust of the Vietnamese government. When Typhoon Linda struck the Vietnamese coastline, Mr. Meyer was specifically asked by the Vietnamese government to help out and quickly found a way to provide the supplies needed.

The Westmoreland Scholar Foundation, named in honor of General and Mrs. William C. Westmoreland, is a non-political, non-profit educational foundation established for the purpose of educating those young people who can best contribute to reconciliation and harmony between the people of the United States of America and the people of Vietnam.

One of the recipients of the Westmoreland Scholar Foundation, Joyce Nguyen, is an intern in my District Office. As a Student Ambassador, from Rockhurst College in Kansas City, Missouri, she traveled to Da Nang, Vietnam with the intent to assess the needs of the doctors and staff. She and a fellow Rockhurst student, Son Do, traveled to Da Nang and are both first generation Americans whose parents fled from Vietnam after the war. This was a unique experience for them to witness their parent's homeland and to communicate what the hospital lacked in essential equipment and medicines for its patients to UPLIFT International. With the support of Vietnam veterans like Ret. Col. Roger H. Donlon, the first soldier to receive a Congressional Medal of Honor in Vietnam, his wife Norma, and many community members, Joyce learned of her cultural background and shared her American heritage with the doctors and students as she taught them English. Her work in Vietnam allowed her to make permanent life friends and retrace this history of her ancestors.

The Westmoreland Scholar Foundation has Vietnamese American students enrolled in many colleges throughout the United States including Rockhurst College in my district. This program is meant to build bridges between both American and Vietnamese cultures. It ensures opportunities for students active in the Vietnamese-American communities for study and humanitarian services in Vietnam and for the exchange of Vietnamese students to study in the United States. This organization is dedicated to friendship with our Vietnamese allies, and the opportunity to gain the respect of our former Vietnamese adversaries in the tradition of patriotism, service, and leadership demonstrated by the lives of the Westmorelands.

I see many positive advantages at the local and national levels for free immigration and social development. As the next millennium approaches, we should be concerned with forming a lasting relationship with countries like Vietnam. I urge my colleagues to vote no on House Joint Resolution 120.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER), a distinguished Member who has been very active in the area of trade.

Mr. BLUMENAUER. Mr. Speaker, I disagree with the proponents on the narrow terms of the waiver. But more importantly, I feel that they are also wrong on the big picture.

This very day, my daughter, a college-age young woman, is in Vietnam going anywhere she wishes, marveling at the friendliness of the people, over 60 percent of whom are under 25 years of age with no connection to the war, other than to live with its horrible consequences.

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They are looking to America for a new relationship. This decision today is about whether we on this floor can exemplify the spirit of our late colleague, Walter Capps, about learning and reconciliation. It is about equipping our friend, Pete Peterson, in his mission as Ambassador to move the relationship between these two countries into the future in the spirit of healing and rehabilitation.

And most important, this debate is to assure that we, as Congress, can learn from this experience so that our children, their children and grandchildren will not be trapped by the web that so ensnared three generations of Americans.

Please, reject the resolution.

Mr. ROHRABACHER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROYCE), the father of Radio Free Europe.

Mr. ROYCE. Mr. Speaker, this is not a debate about trade or investment. American companies, I think we all know, are free to trade with and invest in Vietnam. We all wish them well in that. This resolution does nothing to change that.

What this resolution does is to say, now is not the time to send in government agencies, OPIC and the Eximbank, which is the practical effect of this waiver, and give us more leverage to fight for the many interests we have in Vietnam.

I urge my colleagues to support this resolution. Since we began normalizing relations with Vietnam, we have extended more and more to the Vietnamese government. As of today, we have given it recognition. We have opened an embassy in Hanoi. We have sent an ambassador to work out the many real interests we have in Vietnam. Today we are looking at letting a Jackson-Vanik waiver to go by and opening the door for OPIC and Eximbank funding, a subsidy to Vietnam. These gradual changes in our policy I thought were to be done with a sense of expectation of the Vietnamese government. My understanding was that this was supposed to be a two-way street.

Since we began normalizing relations with Vietnam, we have extended more and more to the Vietnamese government. As of today, we've given it recognition, opened an embassy in Hanoi, and sent an ambassador to work on the many real interests we have in Vietnam, including the POW/MIA issue. Today we're looking at letting a Jackson-Vanik waiver go by and opening the door for OPIC and Ex-Im Bank funding in Vietnam.

These gradual changes in our policy. I thought, were to be done with a sense of expectation of the Vietnamese government. My understanding was that this process was supposed to be a two-way street.

I also thought we were going to bring a healthy dose of skepticism to the table. We were going to be skeptical, not because of any bitterness over our past in Vietnam, but because we understood the type of government we're dealing with: in simple terms, one of the world's most politically and economically repressive regimes.

This is the reality we must deal with in asking whether progress has been made on the issues we care about and also whether it's likely that progress will be made if we give up one more lever of influence we have over the Vietnamese government: American taxpayer subsidized trade benefits. And we should all realize that the Vietnamese government very much wants this waiver. This is real leverage. So, why give it up without human rights progress from Vietnam.

And why should U.S. taxpayers support these subsidized U.S. businesses in Vietnam, one of the least open, most state-controlled economies in the world. This economy lacks property rights and suffers from corruption. Patent piracy is a problem. Not surprisingly, the first American corporation licensed to operate in Vietnam (Vatico, Inc.) closed shop and left the country earlier this summer. So let's send in OPIC and Ex-Im to aid U.S. businesses, and even Vietnamese government-controlled businesses in partnership with American firms?

This reminds me of another issue before this Congress: funding for the International Monetary Fund. There is debate over whether IMF funding, U.S. taxpayer-supported funding, can be effective in bringing about economic reform in aided countries. Many suggest that IMF support prolongs reform by propping up bad government policies. That's what happened in Indonesia. You know at least the subsidized IMF asks for change. With OPIC and Ex-Im Bank we will support businesses with only the hope that the Vietnamese government will change its policies. This is the type of wishful government-funded engagement we're considering. [By the way, the IMF has canceled loans to Vietnam.]

We've heard today that political and religious repression is pervasive in Vietnam. So it's not surprising that the Vietnamese government is jamming Radio Free Asia. Hanoi has done this almost from the beginning of RFA's Vietnamese broadcasting. Radio Free Asia is intended to provide Vietnamese with the range of information we believe will help them build democracy and free-market driven prosperity. The Vietnamese government wants none of this.

Let's remember the reaction many of us in this body had last month when Beijing denied Radio Free Asia reporters the right to travel with President Clinton to China. Many of us condemned that. Some of us thought President Clinton should have taken a stronger stand on this fundamental issue. Yet here we have Hanoi attacking the free press, RFA, in even more direct terms. What's our response: send in OPIC and the Ex-Im Bank!

Thank you, Mr. Speaker. This is not a debate about trade or investment. American companies are free to trade with and invest in Vietnam. We wish them well. This Resolution does nothing to change that. What this Resolution does do is to say now is not the time to send in government-agencies, OPIC and the Ex-Im Bank, which is the practical affect of this waiver, and give up more leverage to fight for the many interests we have in Vietnam. I urge my colleagues to support this Resolution.

Ms. LOFGREN. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in support of the resolution.

It is the actions of the 1980s and 1990s that are moving this country to a lower common denominator concerning basic human rights and disregard for the fundamental values that should serve as the core of our foreign and economic policies. We cannot change nor should we seek to change the outcome of military events in Southeast Asia 3 decades ago. But the United States can, through existing law and policy, assert foreign economic policies that provide for improvement and democratization of this part of the world, including Vietnam.

The fact is, we cannot keep spending the same dollar over and over again, talking about progress towards, while the fundamental tenets of Jackson-Vanik are not being met, much less basic human rights in this country. The fact is, we need to assert our influence now at this time to achieve that for those people in Southeast Asia that are still being ill-treated and not provided the opportunities that they merit much less any freedoms required by Jackson-Vanik.

Mr. Speaker, I urge the Members of this body to strongly support this resolution that opposes this type of trade liberalization.

I rise today in support of the resolution to disapprove the waiver of the Jackson-Vanik amendment to the Trade Act of 1974 for Vietnam. Serious issues remain in our relationship with Vietnam; the government of Vietnam is criticized by international human rights groups for a wide range of violations including arbitrary detention, disregard of workers rights and persecution of religious groups. The communist government in Vietnam will not allow democracy and freedom without pressure. What the United States does in regard to trade agreements does have an impact; we can be a force for positive change.

Actions of the U.S. are most important today, because of past actions of this Congress and Administration throughout the 1980s and 1990s; the United States is regrettably moving towards a lower common denominator—concerning basic human rights, disregard for fundamental values which should serve as the core of our foreign economic policies, and yielding to political expediency. We can't change nor should we seek to change the outcome of military events in South East Asia over two decades ago. But the U.S. can, through existing law, and policy assert foreign economic policies that achieve an improvement in the democratization of this region of the world, including Vietnam.

The year by year rubber stamping of normal trade relations, in light of the absolute contradiction of actions and deeds, is wrong. We should pass this resolution of disapproval.

The fact is that the Vietnamese government is not meeting the conditions of free emigration. It is irresponsible to allow this country beneficial trade relations, on a veneer argument that "progress towards" this goal is being made. With rights and privileges come responsibilities and hopefully, results. Supporters cannot keep spending the same currency piece in a circular manner—suggesting that maintaining the waiver and allowing the trade benefits to follow will facilitate the Vietnamese government's respect and embracing of human rights. At this point our United States forbearance should have produced positive results. Those who are persecuted and denied basic human rights look to us, as citizens of the world's oldest democracy, to responsibly pursue policies that would permit some hope of social, political, and economic benefit.

In its origins and provisions, Jackson-Vanik is centered on freedom of emigration. Advocates of this resolution will tell you that Vietnam has eliminated the requirement for an applicant under the Resettlement Opportunity for Vietnamese Returnees program to obtain an exit visa prior to an interview with the U.S. Immigration and Naturalization service. They will point out this "progress towards" free emigration satisfies the requirements of the Jackson-Vanik trade law.

The truth is that Vietnam has not dropped its requirement for exit permits. Rather, this requirement was merely delayed until after the applicant is interviewed and approved by the United States interviewing teams. In addition to this administrative roadblock, in any instances applicants to U.S. resettlement programs are charged inordinate and significant fees that they cannot afford, in order to gain access to the programs. Vietnam doesn't meet even the basic test of the controlling law, Jackson-Vanik, much less a broader test regarding essential human rights.

In fact, Vietnam remains one of the most repressive countries in the world. Basic rights that we in the United States take for granted are denied to the citizens of Vietnam. All opposition to the communist party is crushed. Religious activities are closely regulated. Human rights organizations are not allowed to operate. Workers are not free to join or form unions of their choosing; such action requires governmental approval. Children remain at risk of being exploited as child labor workers, and women are commonly subject to serious social discrimination. At this point, Congressional action to waive the Jackson-Vanik provisions would symbolize "business as usual" for the Vietnamese leaders. Therefore, they may continue the oppression of their own people and still reap the benefits of trade relations with the United States.

Consideration of waiving the Jackson-Vanik provisions should at least be delayed until there are concrete, rather than superficial actions demonstrating that Vietnam is prepared and willing to act in good faith. This resolution will not stop U.S. trade with Vietnam, nor will it hinder free trade as Vietnam is simply not currently eligible for Normal Trade Status (NTS). Passage of this resolution would send a clear message that our laws mean what they say, that the U.S. will stand behind its laws and values, and that freedoms systematically denied to the average Vietnamese citizens are worth speaking out in defense of and standing up for. Basic human rights are not an internal matter. Because of these unresolved issues, we should in good conscience go forward with approving this resolution of disapproval.

Mr. CRANE. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, the main discussion here seems to be, on both sides of the aisle, the question of human rights violations, the question of religious persecution, immigration policy, and the issue of the POW and the MIAs. So how best do we deal with that particular issue right now 2 or 3 decades after the war is over?

I think that the U.S. needs to exert its influence in those areas. So how best do we exert our influence to change that, when it seems to me very obvious America's absence of engagement will create a void that will be filled by a country with little or no interest in our POWs or MIAs, human rights violations or their emigration policy.

It is the United States in this world that wants to be engaged in those kinds of problems. The Vietnamese government has shown significant improvement in all of these areas in the last couple years, especially since our former colleague, Pete Peterson, a former POW, is now the ambassador to Vietnam.

With the Vietnamese and the Americans working side by side on roads, bridges, coastal hotels, dredging the harbors, et cetera, et cetera, with the Vietnamese paying the bill, with that kind of engagement, the human contact with this country and that country will make the difference.

I urge a no vote on the resolution.

Mr. ROHRABACHER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. DAVIS), who knows we are not talking about the Vietnamese paying the bill. We are paying the bill.

Mr. DAVIS of Virginia. Mr. Speaker, I just say to my friend who just spoke, this is not about staying engaged with the Vietnamese. We are fully engaged. We have normalized relations. We have full trade with Vietnam. Those policies are not in question.

What is in question, though, is about, and we are not refighting the Vietnam war. We are fully engaged in this. Although the Vietnamese are showing some improvement in the area of emigration with the Rover program and others, I think they are woefully short of meeting the threshold that would allow us to use American tax dollars to subsidize American businesses doing business in Vietnam.

I have from my own district Dr. Nguyen Dan Que and Doan Viet Hoat, who are still languishing in Vietnamese prisons, on trumped up charges, for 15 years. Their families are not allowed to visit. When I was there last January, I was not allowed to visit. They are not allowed to get correspondence. They are not allowed to emigrate and come back to Northern Virginia, where they would like to join their families.

We are in a sense, by ignoring existing prisoners there who are there on trumped up charges, rewarding behavior that is woefully short of the kinds of gains that we have seen in China and other places. I do not think this behavior should be rewarded, their human rights abuses being rewarded with tax subsidies from U.S. taxpayers. I think we need to send Vietnam a message that more freedom of emigration has to be accomplished, and I would urge my colleagues to support this resolution.

Mr. Speaker, I rise today in strong support of House Joint Resolution 120, which would disapprove the President's renewal of his waiver of the Jackson-Vanik amendment for the Socialist Republic of Vietnam. As many of you know, I have been a fervent supporter of U.S. engagement with countries who have had a history of committing human rights violations. My positions rests on my belief that it is only through the gradual building of trust between nations that arises when commerce and cultural ideas flow freely, that democracy and freedom will prevail in such societies. To my deep regret, the Vietnamese government has demonstrated that no amount of economic engagement will compel improvements in its human rights record, especially when it comes to its emigration policies. The President's waiver of the Jackson-Vanik amendment this year is clearly without any basis. Indeed, it is contrary to the overwhelming evidence that the Vietnamese government does not permit free emigration as the Jackson-Vanik amendment requires before normal trading status can be conferred on Vietnam.

Having visited Vietnam this past January, I can attest to the fact that Vietnam has done little to improve its human rights violations or loosened its restrictions on free emigration. Unlike China, which has made slow but measured progress in the area of human rights as witnessed by the many Chinese religious leaders and citizens that I spoke with during my visit to China last year, the same unfortunately cannot be said for Vietnam.

Two Vietnamese-American families in my district intimately understand the agony of having a family member thrown into a Vietnamese prison simply because they promoted human and political rights. Both Dr. Nguyen Dan Que, a 53-year-old endocrinologist, and Professor Doan Viet Hoat each received 20 year sentences for conducting "activities aimed at overthrowing the people's government." Professor Hoat's sentence was later reduced to 15 years of imprisonment and 5 years of house arrest and deprivation of his civil liberties. Worried about their health and safety, their families asked me to do all I could to learn about their medical conditions. We had understood that both men were suffering from serious kidney problems. However, my request was denied. I was not permitted to visit with any political prisoners and the medical information I did receive was unclear.

The Jackson-Vanik waiver exists for the express purpose of improving emigration between nations by using the promise of economic relations as leverage. With this in mind, I do not dispute the fact that it has an unquestionably important role in normalizing U.S.-Vietnam relations. However, so much work has yet to be done in the way of individual liberty in Vietnam. I cannot help but feel that the waiver is being improperly implemented this year.

Make no mistake, I consider productive relations with Vietnam's Government to be very important. But a relationship must stand on mutual understanding and clear expectations. It is time that we make a statement to the Government of Vietnam on the state of human rights in that country. I would hope that our support for the resolution would also carry the message that we will not stand for continued human rights abuses in Vietnam.

I would like to note that trade between nations implies a degree of mutual respect and acceptance. We as a nation have demonstrated goodwill in this endeavor and still have yet to see these efforts reciprocated in accord with the waiver's provisions. Vietnam's government has had adequate time to demonstrate its commitment towards improving its emigration policies since the President ended the U.S. trade embargo on Vietnam in 1994. Given the continued restrictions on emigration and political freedoms in Vietnam, I feel that we must voice our disapproval.

I am encouraged by the fact that many of my colleagues on both sides of the aisle have found the proposed waiver renewal to be ill-considered. Once we see concrete progress by the Vietnamese government—that real improvements are being made so far as human liberties are concerned—then I will be one of the first to say that waiving the Jackson-Vanik amendment and normalizing U.S.-Vietnamese trade relations would further the interests of civil liberty and freedoms. Until that time, however, we must send a clear message and vote in favor of this disapproval resolution. Doing otherwise will reflect poorly on this nation and on the principles for which it stands.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I am joining with what I think is one of America's greatest Vietnam war heroes, a former colleague and our present ambassador to Vietnam, in asking all my colleagues to vote in opposition to this bill.

The reason for it, I think, is clear. We have Vietnam now the 12th largest country in the world in terms of population. Almost 70 percent of those residents of Vietnam are under the age of 25, the vast majority of which were born after the Vietnam war.

I think, clearly, this country has demonstrated, by a policy of economic and social and cultural engagement, we have been able to have the greatest impact in improving the quality of lives of those countries in which we reach out to. We make the greatest difference advancing human rights, the greatest difference in advancing the issue of religious freedom, the greatest impact in advancing the concept of democracy when we choose to economically and culturally and socially engage with a country. That is what it is all about, when we continue with the waiver for Jackson-Vanik.

I urge my colleagues to vote no on this motion.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

Mr. BECERRA. Mr. Speaker, passage of House Joint Resolution 120 would not be a message, it would be a hammer. It would be a hammer because it sends the clear message to the people of Vietnam that we are not serious about trying to be constructive and open up our trade and open up our relations with this country.

If we believe that, by imposing these stricter standards of economic engagement with Vietnam, we are going to send a message and have some success; and if we are going to look at examples like South Africa, we have to remember that South Africa were multilateral sanctions where we had virtually an entire world behind those efforts to change South Africa.

We cannot say that about Vietnam. We know for a fact that the Europeans, Japan, other Asian countries, Latin America, they are all ready to go in and fill a void if the U.S. disengages. That will not just be at the expense of U.S. business, it will be at the expense of the U.S. government and the U.S. people.

We must engage. If no one has faith with the folks that are speaking here, please remember our former colleague, Pete Peterson, ambassador to Vietnam, a former POW who says it is right to do this. Please oppose House Joint Resolution 120.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I rise in support of the President's waiver of the Jackson-Vanik trade restrictions on Vietnam.

I am a veteran myself. I have served almost 30 years with the National Guard. I have been on the Committee on Veterans' Affairs, serve on the House Committee on International Relations. I realize that times come when we have to move toward normal relations with Vietnam. It was a terrible war. It was a terrible conflict. It was a war of containment. I would not call it a war that we won.

Our former colleague, now the U.S. ambassador to Vietnam, Pete Peterson has nothing but praise for the Vietnamese efforts to aid the U.S. in locating and identifying the remains of POWs and MIAs. The ambassador says that the two countries are cooperating at an unprecedented level for former combatants.

I say to the critics of the waiver, listen to the words of the VFW. They say, We believe that current U.S. trade policies may have resulted in both gradual improvement in U.S.-Vietnamese relations and general and proportional improvements.

Oppose the resolution.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, at this point I think we need to add little, but perhaps some other observations.

I consider the gentleman from California (Mr. ROHRABACHER) not only my colleague but my dear friend, and I would say that on almost everything we have been together where human rights are concerned. I feel that we just have a difference of view today, and I hope that his, in this instance, does not prevail. Not because of any argument about commitment to human rights but what the best course is today in order to advance human rights.

I make a plea to all of my colleagues who know Pete Peterson, not just as I do, as a colleague and dear friend, but know what he went through as a POW. Surely, surely, as the first ambassador to Vietnam since the war, we owe him the opportunity to carry through on all of the elements that he thinks he can bring to bear to see not only human rights but the relationship between Vietnam and the United States of America blossom.

If we can conduct trade with China, surely we can conduct trade, surely we can give Mr. Peterson the opportunity to conduct the business of the United States. Surely, if we have this opportunity to make a statement that individuals can make a difference, that the Vietnam war can be healed, that those of us who have been scarred in this country by everything that took place there can find a healing purpose in giving Pete Peterson the opportunity to carry through on the program that he has put forward. If that is accomplished, I can assure Mr. ROHRABACHER and my colleagues here, all of whom stand united on behalf of human rights, that a great advancement will have taken place. We will have made a step today in that direction that we can all be proud of.

Mr. Speaker, I want to add to the comments that have been made this afternoon opposing this resolution because I believe passing it will not accomplish goals we all seek, such as greater accounting for POW's/MIA's and economic reforms.

I firmly believe that we are more likely to succeed in our foreign policy and human rights objectives by continuing and building on the work already begun by our ambassador, Pete Peterson, a former Member of Congress and a POW.

The purpose of the Jackson-Vanik amendment is to promote free emigration. As of July 13, 4,388 Vietnamese had departed for the United States under the Resettlement Opportunity agreement. Since the Jackson-Vanik waiver was granted, Vietnam has greatly reduced the red tape for prospective emigrants.

Both supporters and opponents must concede that progress is being made in emigration, business development, investment opportunities, and accounting for U.S. military personnel which are of vital interest and concern to America and the families of missing service men and women.

This bill will not only end the progress that has been made, but reverse the positive developments that have occurred. It will be a setback for our efforts to account for missing U.S. military personnel and other objectives.

I urge a "no" vote on the resolution.

Mr. CRANE. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. CAMP), my distinguished colleague from the Committee on Ways and Means.

Mr. CAMP. Mr. Speaker, I thank the chairman for yielding me the time.

Mr. Speaker, there have been many references to our former colleague, now ambassador, Pete Peterson. I wish everyone could have heard his very powerful and compelling testimony before the Subcommittee on Trade about reconciliation and engagement in Vietnam. This is not about MFN. I have heard some references to MFN or normal trade relations. That only occurs after a negotiated bilateral trade agreement. This is about allowing private overseas investment loan guarantees.

□ 1530

We must talk about our relations with Vietnam and what kind of leverage we have if we do not engage Vietnam. We lose leverage in obtaining more information from the Vietnamese government on those POWs and MIAs that we are still not sure about.

The VFW in a statement released on July 28 said that disapproving the waiver would harm the prospects for the cooperation between our governments that is necessary for a successful resolution and accounting for our missing Americans. We also lose leverage in bringing Vietnam closer into the community of nations. We lose leverage in encouraging Vietnam to promote the freedom of immigration, the very point of the Jackson-Vanik amendment when it was passed back in 1974.

I urge the defeat of H.J. Res. 120.

Mr. ROHRABACHER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from San Diego, CA (Mr. HUNTER) a Vietnam veteran and a man whose standards are very much respected in this body.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding time. A couple of facts here are incontrovertible. One is that we have over 1,500 Americans still missing in Vietnam, including all 448 American pilots who were shot down in Vietnam-controlled Laos. That can mean only one thing. Not one of those pilots came home out of that 448. It means the North Vietnamese leaders had a policy of execution of the pilots that went down in that area. That is a war crime. There should be war trials for the criminals, for the Vietnamese communist leaders who propagated that policy of execution, if we could find them, if we could apprehend them, if we could lay hands on them. If we had treated Himmler and Goering like we are treating the Vietnamese communist dictatorship, they would be attending World Trade Organization meetings instead of the Nuremberg war trials. I think if we keep devaluing the sacrifices of our veterans like we are doing with this bill, someday we are going to have a war and they are not going to come.

Support Rohrabacher.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I rise in opposition to House Joint Resolution 120. I believe that this resolution is counterproductive to the national interests of the United States and to the continued improvement in the bilateral relationship between our Nation and Vietnam.

I did not have the privilege of serving in this House with Ambassador Pete Peterson, but over the course of the last 2 weeks I have had an opportunity to sit with him on several occasions and talk to him about his experience as ambassador to Vietnam from this country. Ambassador Peterson, I think, more than anyone else understands the problems and the complex nature of the issue as we transition from a very negative relationship with Vietnam to hopefully a better and more understanding relationship.

Ambassador Peterson tells me that Vietnam is a country in transition. It is a country in transition culturally, philosophically, economically, socially and even educationally. I believe that it is important, it is vital that we remain engaged with Vietnam and that we assist Vietnam and provide the leadership to help with that assistance to that country so that they can transition from a dictatorship to ultimately a democracy. I had an opportunity this morning to again be with Ambassador Peterson in the Cannon Building where there is an exhibition and it is simply titled "Vietnam, The Land That We Never Knew."

Mr. Speaker, I was in Vietnam 30 years ago. I spent 13 months there in the United States Army. I told Ambassador Peterson that I really did not have any interest in going back, but he has convinced me that with the policy of engagement, it is our obligation and our duty to go back and see the Vietnam that we never knew.

I am opposed to this resolution and I urge my colleagues to oppose it as well.

Mr. CRANE. Mr. Speaker, I yield 1½ minutes to distinguished gentleman from Arizona (Mr. KOLBE), a combat veteran who served in southeast Asia.

Mr. KOLBE. Mr. Speaker, I rise in opposition to this resolution. As the gentleman from Illinois said, I did serve in the Vietnam War. I was a Navy officer on swift boats patrolling rivers and canals down in the delta region. But let me make it very clear that in my view having served in Vietnam does not give me any special qualification to have an opinion on this issue. Maybe it gives me some background on which to draw in making a decision. And I would use it to draw on a historical perspective.

In 1991, it was President Bush that proposed a road map, and I was very much involved in the Congress at the time that was being considered, for improving our relations with Vietnam. To follow the road map, Vietnam had to take steps to help us account for our missing servicemen. In return for the cooperation, the United States was to move incrementally towards normalized relations.

Progress was made, and in 1994 a second step was taken when President Clinton lifted the trade embargo against Vietnam. In 1995, formal diplomatic relations were established between the United States and Vietnam.

Today's vote is just one more step along this road. As Ambassador Pete Peterson has said, if we grant this waiver today, he will have some of the tools he needs to convince Vietnam's leaders to improve human rights conditions, to continue support for the resolution of our POW and MIA cases that are still unresolved, and to maintain their commitment to liberalizing their economic and political institutions.

Mr. Speaker, our Nation has always recognized a clear distinction between being at peace and being at war. We cannot, we must not forget the pain and suffering of war. But by granting this waiver and advocating for even greater liberalization of Vietnamese society, we can say to Americans who served in Vietnam that their commitment is vindicated as economic and political freedom takes root in that country.

I urge my colleagues to defeat this resolution.

Mr. MATSUI. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois (Mr. EVANS), a Vietnam veteran, the ranking member of the Committee on Veterans' Affairs.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Illinois is recognized for 3 minutes.

Mr. EVANS. Mr. Speaker, this is really a vote on whether we are truly dedicated to resolve the full accounting of our missing from the Vietnam war. As the Veterans of Foreign Wars have said, passing this resolution of disapproval will only hurt our efforts at a time when we are receiving the access that we need from the Vietnamese to determine the fate of our POW/MIAs.

As many of the speakers have said, there is no more authoritative voice on this issue than our former colleague and now Ambassador to Vietnam, Pete Peterson. He supports the Jackson-Vanik waiver. As a prisoner of war who underwent years of imprisonment in the notorious Hanoi Hilton, Ambassador Peterson should have every reason to be skeptical and harbor bitterness towards the Vietnamese. Yet he believes that the best course is to further develop relations between our two nations.

He knows this because it is in our Nation's best interest. We have achieved progress on the POW/MIA issue because of our evolving relationship with Vietnam, not despite it. He also knows that without access to the jungles and the rice paddies, without access to the archival information and documents, and to the witnesses of these tragic incidents, we cannot give the families of the missing in action the answers they deserve.

Our Nation is making progress on providing these answers. Much of this is due to the Joint Task Force on Full Accounting, our military presence in Vietnam which is tasked with looking for our missing. I have visited these young men and women and they are among the bravest and most gung ho group of soldiers I have ever met. Every day, from the searches of battle sites in treacherous jungles or the excavation of crash sites on the sides of mountains, they put themselves in harm's way to perform a mission they deeply believe in. It is truly touching to these men and women, some of whom were not even born when our missing served, so dedicated to a mission that they see as a sacred duty. They told me time and time again, allow us to remain here so we can complete this mission, so that we can do this job. If we pass this resolution today, we risk all the progress we have made.

I ask my colleagues to please vote against the resolution.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume. Today's debate is not about whether we respect our wonderful former colleague and now ambassador, Mr. Peterson. We do, although we note there are others who were prisoners of War in Vietnam who feel that we should support this resolution. This debate is about whether we use this tool available to us to get Vietnam to do the right thing, to allow for free emigration. If they were doing the right thing, we would not need to have this waiver before us at all. We must stand firm for human rights by using this tool to increase performance.

Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Ms. SÁNCHEZ).

Ms. SANCHEZ. Mr. Speaker, I would just say to my colleagues that today is about reunification of families. It is not about trade. I am for trade. This is about reunification of families. It is about doing the right thing. I know. Because when you have a Vietnamese American in your district who wants to get their wife over after 15 or 20 years, after having tried to find her, after finding her in a camp and he cannot, he calls my office because I have the Vietnamese staffer who will help them. I get to hear the stories.

Please vote for this resolution.

Mr. ROHRABACHER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this resolution is about disapproving the waiving of the Jackson-Vanik restrictions which the President would like to do of the 1974 trade act. The fact that he is asking us to waive the restrictions of Jackson-

Vanik mean that the communist Vietnamese are not meeting the moral standards that we set. So all of this talk about all the progress that we have heard about going on in communist Vietnam is so much baloney. The President himself is acknowledging that they are not doing that because he has asked us to waive those standards.

What is the purpose behind waiving the standards, the standards we put in place in face of the persecution of Jews in Russia that we wanted to deal with back in the 1970s? Why he is doing this? Why are we replacing those standards? So that our businessmen can go over, with government guarantees and government subsidies, meaning our taxpayer dollars, and invest in this dictatorship and make a profit and then export their goods to the United States and put our own people out of work. That is what this is all about.

I ask the American people to determine if you tried to set up a business, if you are trying to pay your mortgage, do you get a loan guarantee or a subsidy from the taxpayers? No. This is what the gentleman from New Jersey (Mr. SMITH) said it is. This is corporate welfare for communists at its very worst because we are lowering our standards in order to do so.

By the way, all this talk about MIA and POWs, I hope Members listened to the gentleman from Texas (Mr. SAM JOHNSON) and all this talk about Pete Peterson whom I respect and admire and served with in this House. The communist government of Vietnam has not given us the records of the prison that the gentleman from Texas was kept in or the prison that Pete Peterson himself was incarcerated in for 6 years. We requested that and they have denied even giving us those records because if we got the records, we would know that they have not come clean on the MIA/POW issue. That is why almost all of the veterans organizations are asking support of my resolution because they want to keep faith with those people who fought for freedom and keep faith with our principles of democracy.

Mr. CRANE. Mr. Speaker, I yield myself the balance of my time.

I saw our distinguished ambassador, Mr. Peterson, sitting back here. I think he deserves the respect and honor of all of us not only for the outstanding job he has done there but for his service, his tour of duty, which included 6½ years at the Hanoi Hilton. And so we pay tribute to you, Pete. Keep up the good work.

Mr. Speaker, one of the issues that has not been elaborated on in this proposal deals with immigration. I want to just touch briefly on that and point out that over the past 10 to 15 years, more than 480,000 people have entered the U.S. under the Orderly Departure Program from Vietnam. Applicants under the Resettlement Opportunity for Vietnamese Returnees, what is called the ROVR program, those numbers are also impressive. The government of Vietnam has cleared for interview over 15,500 of the ROVR applicants and permitted over 4,300 persons qualified for ROVR already to depart to the United States.

□ 1545

INS expects to complete most interviews of ROVR applicants by the end of this year.

I think basically what we are talking about is maintaining an improved relationship rather than putting barriers to increased communication and improved relations with a country that is going through transition and going through a transition in a positive way, and we have encouraged that transition, and for that reason I would ask all of my colleagues to join with us in voting to oppose H.J.Res. 120 because I think it sets us back.

Mr. FAZIO of California. Mr. Speaker, I rise today in strong opposition to H.J. Res. 120.

America needs to heal from the tragedy of the Vietnam War.

Preserving the Presidential waiver for Vietnam will help alleviate the pain.

Extending the waiver promises a path towards mending the horrors of war because it provides an avenue for serious open dialogue.

The Jackson-Vanik waiver has given momentum to reconciling America's questions regarding POWs.

It has increased humanitarian efforts, enhanced leverage in treaty negotiations and allowed increased economic opportunities for American businesses.

The Veterans of Foreign Wars has witnessed first-hand the positive impact that the waiver has produced.

The Jackson-Vanik waiver has strengthened US-Vietnam cooperation by establishing the Joint Document Center in Hanoi.

The Trilateral Recovery Operations of the U.S., Laos and Vietnam.

And the Vietnamese government has publicized activities related to missing Americans.

These are concrete results and real outcomes.

And these accomplishments have come about because of the Jackson-Vanik waiver.

The Jackson-Vanik waiver has been our diplomatic leverage—without it, we threaten America's interests.

The past makes us all uneasy—however, as we enter into the new millennium, we must work on forging relationships for the future.

We must start now—this waiver provides the tool to achieve our goals.

A vote against this harmful resolution sends a clear message of a commitment to the healing of America and Vietnam.

I urge my colleagues to vote against this measure.

Mr. SOLOMON. Mr. Speaker, I rise in strong support of H.J. Res. 120. The full story of how the President and his senior advisors made decisions on Vietnam has never been told.

I am very concerned that the American people do not know the complete story on what influenced the decision to extend normal Diplomatic relations to the People's Republic of Vietnam.

Now we have to once again look at the President's actions and challenge why, in spite of evidence to the contrary, he is giving a waiver to Vietnam on an important human rights issue.

In October 1996 I began an inquiry of the current Administration and the potential impact foreign money might have had on our Foreign and Defense policy.

My goal was to acquire all information from the President and other senior members of his Administration about their connections with John Huang and the Lippo Group.

From 1996 to this day I believe the administration may have improperly assisted the Lippo Group in developing business in the People's Republic of Vietnam.

My fear was (and still is) that campaign contributions by Mochtar and James Riady and John Huang all improperly influenced our Foreign policy on Vietnam.

And to this day I feel the American people have not been given the truth on all the activities undertaken by the President, John Huang and the Lippo Group.

In 1992 the Riadys were the largest single campaign donors to then Presidential candidate Clinton.

Now all Americans are finally finding out that for the last five and a half years Foreign money may have corrupted our Foreign and Defense Policy, especially in Asia.

It was shocking to find, as early as November 1992, the late Ron Brown was meeting with Vietnamese government officials about lifting the U.S. embargo while Presidential candidate Clinton was taking a much harder line on full accounting for POW–MIAs.

Then, after being appointed Secretary of Commerce, Ron Brown met with John Huang, who at that time was the senior Lippo official in America, to discuss Vietnam.

It took years for the truth to come out.

Years later the Wall Street Journal reported that soon after he was first elected President, Mr. Clinton received a personal letter from Mochtar Riady, Chairman of the Lippo Group.

In his letter to the President, Riady was strongly lobbying for the immediate U.S. diplomatic recognition of Vietnam.

Riady's letter was very clear—not only should America move to quickly recognize Vietnam, but Mochtar brazenly informed the President that Lippo had employees on the ground in Vietnam ready to do business.

While Riady's letter was kept secret there were important and serious debates by well meaning members on both sides of the aisle as to the merits of recognizing Vietnam.

Issues such as full accounting for Pow-Mias, religious freedom for Vietnamese citizens, free emigration and free speech were debated. But one has to ask if the fix was in all along to help the Riadys.

Now, today once again with a bipartisan spirit Congress is addressing what to do about assisting Vietnam.

It is my position that, because of previous bad faith in providing full disclosure to congressional oversight, we can't have a fair debate on the merits of the assisting Vietnam until we find out exactly what the Administration did to help the Lippo group.

The great tragedy of the ethical cloud hanging over our Foreign Policy is that we become uncertain as to the validity of the Administration's position on any foreign economic issue.

Did the Administration sell out American business interests by improperly helping a foreign firm, the Lippo Group, with inside information about the timing of our recognition of Vietnam? This type of information could be worth millions at the expense of American Firms.

So I look with great skepticism at the President issuing a waiver. I am perplexed as to who will eventually benefit. On the merits of the case I don't think the average Vietnamese will benefit, since the IMF has held up loans to Vietnam because the government has not made appropriate economic reforms.

The President's waiver is suspect as to why he continues to insist his action will substantially promote the freedom of emigration provisions.

In fact Congress has the names of hundreds of Vietnamese who have been denied emigration since 1975. This pattern of human rights abuse continues to this day.

Finally, as a practical matter, if Vietnamese leaders think American Foreign Policy can be influenced by Lippo money they will have no incentive to take our positions seriously on any issue especially enforcing the freedom of emigration provisions in the Jackson-Vanik amendment.

Now is the time to send a signal to the World that the Congress takes very seriously our oversight responsibilities and we pledge to bring sunlight on the Administration's actions.

Vote to support H.J. Res. 120 and show Vietnam and the world that Congress will not allow our Foreign Policy to be sold for campaign contributions.

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to urge my colleagues to join the Congressional Dialogue on Vietnam. This group facilitates an open exchange among Members of Congress, the Administration, and the public on issues that affect those who have personal interests tied to Vietnam.

In particular, I wish to call attention to the grassroots campaign, "Adopt a Religious Prisoner in Vietnam." This group notifies its members on the current state of religious persecution in Vietnam as well as the plight of people who have been imprisoned for their religious beliefs.

The current Vietnamese government detains individuals for a variety of ideological reasons, including those who openly discuss religious ideas. These prisoners of conscience are writers, philosophers, and artists who have never served in combat and yet some have been incarcerated since the Vietnam War.

This past January I had the unique opportunity to visit Vietnam. Despite the advancements our countries have made in diplomatic relations, we still differ on issues concerning religious prisoners. On my visit I was denied the opportunity to visit with prisoners of conscience, and what medical information I did receive was ambiguous.

In my opinion, this underscores the value of the "Adopt a Religious Prisoner in Vietnam" campaign and its ties to overseas religious institutions. I want to take a moment to tell you about my own adoptee. The Venerable Thich Tue Sy has been a Buddhist monk from the age of seven years. He taught himself several languages including Classical Chinese, English, and Sanskrit. A noted scholar and founder of the Free Vietnam Force, he was arrested by Vietnamese government authorities on April 2nd, 1984. Four years later he was prosecuted on national security charges and sentenced to death, but protests from the international community helped to commute his sentence to 20 years in a government "re-education" camp. He has been jailed for the past 14 years in a camp where nutrition and health conditions are typically poor.

The "Adopt a Religious Prisoner in Vietnam" campaign affords Members of Congress the opportunity to address two very important audiences. One is the world community, and the message is that as concerned legislators we decry the blatant oppression of individuals worldwide, especially when it is based solely on differing ideology. We also send a message to the adoptee, telling that person there is an advocate who is appealing for his or her release, and encouraging that individual to continue pursue the goals of free speech and religious liberty.

Mr. Speaker, I again encourage my colleagues to join the Congressional Dialogue on Vietnam as well as the "Adopt a Religious Prisoner in Vietnam" program. The Congressional Dialogue was founded by the gentlewomen from California, Ms. LORETTA SÁNCHEZ and Ms. ZOE LOFGREN and represents a committed bipartisan endeavor to support the progress of US-Vietnam relations. In defense of fundamental human rights and in the interests of our many Vietnamese-Americans who have ties to Vietnam, I hope that all of my colleagues will participate in these efforts.

Mr, UNDERWOOD. Mr. Speaker, I rise in opposition to H.J. Res. 120 and in support of waiving the Jackson-Vanik amendment for Vietnam.

Last August, I visited Vietnam as part of a Congressional delegation, although there was a certain level of economic and political interaction between the United States and Vietnam, there was still the need to increase this interaction. The Jackson-Vanik waiver, enacted for the first time on March of this year, is a tool for this interaction, for this engagement.

Not only has the Jackson-Vanik increased the freedom of emigration in Vietnam, our American businesses investing and exporting to Vietnam are benefitting from federal economic programs, such as those administered by the Export-Import Bank. Removing the waiver could mean job losses for workers in the United States.

It will be a great setback not to grant the waiver. Let us not use this issue to act as a referendum on our total relationship with Vietnam. I understand that we still have many issues with Vietnam which we are not satisfied, such as human rights and POW/MIA concerns. In fact there are separate vehicles for these other concerns. By waiving the Jackson-Vanik, we continue to increase our engagement with Vietnam and we will have even greater opportunities to discuss other issues such as human rights, issues which I agree are just as important to the American people.

We are linked to Vietnam economically, politically and even culturally. We should not move backwards by passing this resolution. I urge my colleagues to vote against H.J. Res. 120.

Mr. NEAL of Massachusetts. Mr. Speaker, I rise in opposition to H.J. Res. 120 which denies President Clinton's waiver for Vietnam from the Jackson-Vanik freedom of emigration requirement of the Trade Act of 1974. On June 3, 1998, President Clinton notified Congress of his intention to extend Vietnam a Jackson-Vanik wavier for an additional year from July 3, 1998 to July 3, 1998.

Vietnam's trade status is subject to the Jackson-Vanik amendment to Title IV of the Trade Act of 1974. This provision of law governs the extension of normal trade relations, as well as access to U.S. government credits or credit or investment guarantees, to nonmarket economy countries ineligible for normal trade relations tariff treatment. A country subject to the provisions may gain MFN treatment and coverage by U.S. trade financing programs by complying with the freedom of emigration provisions of the Trade Act. The Trade Act authorizes the President to waive the freedom of emigration requirements with respect to a particular country if he determines that such a waiver will substantially promote the freedom of emigration provisions.

Extension of the Jackson-Vanik waiver for Vietnam gives Vietnam access to U.S. government credits or credit or investment guarantees such as those provided by Overseas Private Investment Corporation (OPIC) and Export-Import Bank support for U.S. businesses in Vietnam. Vietnam has not yet concluded a bilateral commercial agreement with the United States and therefore, Vietnam is ineligible to receive normal trade relations tariff treatment.

Recently, the Subcommittee on Trade held a hearing on Vietnam. U.S. Ambassador Pete Peterson and Senator JOHN KERRY eloquently testified about the importance of having a policy of engagement with Vietnam. Both of these men heroically served our country during the Vietnam War and they strongly believe that we should work with the Vietnamese government and form a stable, fruitful relationship between the two countries.

Vietnam has made consistent progress on its commitments under the Resettlement Opportunity for Vietnamese Returnees agreement. The United States government has made it its highest priority to obtain the fullest possible accounting of missing U.S. citizens from the Vietnam War. The Vietnamese government has been extremely cooperative. Human rights in Vietnam need to be improved and hopefully, engagement will do this.

I urge my colleagues to vote against this resolution. We should not forget about the past or the dedication of our servicemen who fought in Vietnam, but we should move forward. If those who were prisoners of war in Vietnam believe that it is time to engage Vietnam and normalize relations with Vietnam, we should listen to their advice. It is time to move forward with Vietnam and build a relationship that benefits both the United States and Vietnam.

Mr. RANGEL. Mr. Speaker, I rise in opposition to House Joint Resolution 120. This resolution would disapprove the President's determination that a waiver of the so-called Jackson-Vanik requirements would substantially promote freedom of emigration objectives with respect to Vietnam. This waiver permits U.S. Government financial support for American businesses to invest and trade with Vietnam and is a precondition for concluding a commercial agreement to establish normal trading relations.

By passing this resolution, Congress would disapprove and reverse the most recent step taken by the United States to normalize relations with Vietnam. This policy of gradual engagement after trying to isolate Vietnam began in the early 1990s with the lifting of the trade embargo and the establishment of full diplomatic relations in 1995.

Since the normalization process began the Vietnamese government has cooperated in POW/MIA accounting, made progress on its emigration practices, and is now undertaking market-oriented reforms of its state-controlled economy.

It is also true that Vietnam violates human rights and denies religious and political freedoms to its citizens. But as is the case with China, we cannot isolate Vietnam unilaterally in a global economy. Continued exposure of the Vietnamese people to American values of human and religious rights and democratic principles through increased trade and investment and continued engagement with the Vietnam government provides the best means to achieve fullest possible POW/MIA accounting and to promote political and economic reforms.

Disapproving the waiver will signal a return to a previous policy of isolation which failed. I urge my colleagues to vote "no" on H.J. Res. 120.

The SPEAKER pro tempore (Mr. SHIMKUS). All time for debate has expired.

The joint resolution is considered read for amendment.

Pursuant to the order of the House of Wednesday, July 29, 1998, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ROHRABACHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 163, nays 260, not voting 11, as follows:

[Roll No. 356]

YEAS—163

Aderholt
Andrews
Bachus
Baker
Barr
Bartlett
Barton
Bilirakis
Blunt
Bonilla
Bonior
Bono
Brown (OH)
Bryant
Bunning
Burton
Buyer
Canady
Chabot
Chenoweth
Christensen
Coble
Coburn
Collins
Cook
Cooksey
Cox
Coyne
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Duncan
Ehrlich
Emerson
English
Ensign
Everett
Forbes
Fossella
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilman
Goode
Goodling
Graham
Green
Gutknecht
Hall (TX)
Hansen
Hastert
Hayworth
Hefley
Hill
Hilleary
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Hurter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson, Sam
Jones
Kelly
Kennedy (RI)
Kildee
King (NY)
Kingston
Klug
Kucinich
LaHood
Lazio
Lewis (KY)
Lipinski
LoBiondo
Lofgren
McCarthy (NY)
McCollum
McGovern
McIntyre
McNulty
Meeks (NY)
Menendez
Metcalf
Miller (FL)
Myrick
Nadler
Neumann
Ney
Northup
Norwood
Packard
Pappas
Pascrell
Paul
Pelosi
Peterson (PA)
Pitts
Pombo
Porter
Quinn
Radanovich
Regula
Riley
Rivers
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Sanchez
Sanders
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shuster
Smith (MI)
Smith (NJ)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Strickland
Stump
Stupak
Talent
Tauzin
Thornberry
Thune
Tiahrt
Torres
Traficant
Turner
Upton
Vento
Wamp
Waters
Watts (OK)
Weldon (FL)
Whitfield
Wolf

NAYS—260

Abercrombie
Ackerman
Allen
Archer
Armey
Baesler
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Callahan
Calvert
Camp
Campbell
Cannon
Capps
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Costello
Cramer
Crane
Cummings
Danner
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Ford
Fowler
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Goodlatte
Gordon
Goss
Granger
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hastings (WA)
Hefner
Herger
Hilliard
Hinojosa
Hooley
Houghton
Hoyer
Hulshof
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennelly
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Livingston
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek (FL)
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nethercutt
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne
Pease
Peterson (MN)
Petri
Pickering
Pickett
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Ramstad
Rangel
Redmond
Reyes
Rodriguez
Roemer
Rogan
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sandlin
Sanford
Sawyer
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (OR)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Sununu
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thurman
Tierney
Velazquez
Visclosky
Walsh
Watkins
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Wicker
Wilson
Wise
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—11

Burr
Gonzalez
Istook
Linder
McDade
Neal
Rahall
Riggs
Smith, Linda
Towns
Young (FL)

□ 1609

Messrs. FOLEY, RANGEL, SPRATT, LEWIS of Georgia, and Ms. LEE changed their vote from "yea" to "nay."

Ms. ROS-LEHTINEN, Mrs. KELLY, and Messrs. SMITH of Michigan, NORWOOD, MCCOLLUM, PETERSON of Pennsylvania, TORRES, and COLLINS changed their vote from "nay" to "yea."

The joint resolution was not passed.

The result of the vote was announced as above recorded.

PROVIDING SPECIAL INVESTIGATIVE AUTHORITY FOR THE COMMITTEE ON EDUCATION AND THE WORKFORCE

The SPEAKER pro tempore (Mr. SHIMKUS). The pending business is the vote de novo on agreeing to the resolution, House Resolution 507, as amended, on which further proceedings were postponed.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HALL of Ohio. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 200, not voting 13, as follows:

[Roll No. 357]

AYES—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOES—200

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Traficant
Turner
Velazquez
Vento
Visclosky
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—13

Burr
Cox
Gonzalez
Istook
Linder
McDade
Neal
Rahall
Riggs
Torres
Towns
Waters
Young (FL)

□ 1627

So the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1630

PROVIDING FOR CONSIDERATION OF H.R. 4276, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, FY 1999

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 508 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 508

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI, clause 7 of rule XXI, or section 401(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. The amendments printed in the report of the Committee on Rules accompanying this resolution may be offered only by a Member designated in the report and only at the appropriate point in the reading of the bill, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Colorado (Mr. McINNIS) is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of the debate only.

Mr. Speaker, House Resolution 508 is an open rule providing for consideration of H.R. 4276, the Commerce, Justice, State, the Judiciary and Related Agencies Appropriations bill for fiscal year 1999.

The rule waives points of order against consideration of the bill for failure to comply with clause 2(1)(6) of rule 11, requiring a 3-day layover of the committee report, and clause 7 of rule 21, requiring relevant printed hearings and reports to be available for 3 days prior to the consideration of a general appropriations bill. The report has been available for the required time, but a printing mistake necessitates the rules waivers.

The rule also waives section 401(a) of the Budget Act, prohibiting consideration of legislation, as reported, providing new contract, borrowing or a credit authority that is not limited to amounts provided in the appropriations acts. This is simply a technical waiver.

House Resolution 508 provides for one hour of general debate, divided equally between the chairman and ranking minority Member of the Committee on Appropriations.

The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule 21, prohibiting unauthorized appropriations and legislative provisions in an appropriations bill, and clause 6 of rule 21, prohibiting reappropriations in a general appropriations bill.

House Resolution 508 provides for the consideration of the amendments printed in the report of the Committee on Rules, which may only be offered by a Member designated in the report and only at the appropriate point in the reading of the bill, shall be considered as read, shall be debatable for the time specified, and shall not be subject to further amendment or to a demand for a division of the question. The rule also waives all points of order against amendments printed in the Rules Committee report.

The rule also accords priority and recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and allows the chairman to postpone recorded votes and reduce to 5 minutes the voting time on any postponed question, provided voting time on the first in any series of questions is not less than the traditional 15 minutes. These provisions will facilitate consideration of amendments and guarantee the timely completion of the appropriation bills.

House Resolution 508 also provides for one motion to recommit, with or without instructions.

H.R. 4276 appropriates a total of $70.89 billion for fiscal year 1999. The bill provides ample funding for the Departments of Justice, State, and local law enforcement, the Violence Against Women Act, and restores Local Law Enforcement block grant funding.

I am also pleased to say that the bill provides $533 million to combat juvenile crime, including $283 for juvenile crime prevention programs, $5 million more than President Clinton has requested.

Mr. Speaker, House Resolution 508 is an open rule, an open rule, Mr. Speaker, providing Members with every opportunity to amend this appropriations bill.

In addition, the Committee on Rules has made three additional amendments in order. The rule makes in order an amendment offered by the gentleman from Alabama (Mr. CALLAHAN) dealing with fisheries and enforcement.

In addition, we have made in order the Hefley amendment, that will prevent funds from being implemented to enforce Executive Order 13087 and Executive Order 13083. I am concerned, frankly, Mr. Speaker, that the President has decided to use executive order strategy to incrementally implement portions of an agenda.

One of the President's advisers has recently put it best when he described the President's intent with this flurry of executive orders, which I think is causing an immense problem for this Congress: "The stroke of the pen, the law of the land. Kinda cool." Mr. Speaker, it is Congress' sole authority to make law. We must restrain the abuse of executive orders.

The Committee on Rules has made in order an amendment to be offered by the gentleman from West Virginia (Mr. MOLLOHAN) dealing with the Census. In this bill, the gentleman from Kentucky (Chairman ROGERS) has crafted a plan to ensure that Congress and the administration jointly decide how to conduct the 2000 Census.

Unfortunately, the amendment says that the U.S. Congress has no role to play in the 2000 Census, and the administration can move forward with a risky new plan that uses statistical sampling methods. Let me read the current law: "Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as 'sampling'." The law is clear, sampling is illegal for the purposes of reapportionment.

Mr. Speaker, every American must be counted. We should not allow the government bureaucrats to guess. We should not jeopardize the 2000 Census with an idea that the GAO and President Clinton's Commerce Inspector General call "high risk."

In addition, we cannot gamble with the trust the American people have in a successful Census. In the past, by naturalizing criminal aliens in time for the 1996 election, the Clinton administration has proven they will abuse power for political purposes. President Clinton should not be allowed just to delete certain American citizens from being counted.

Our plan will safeguard the Census. This bill provides $956 million for the Census, including $4 million for the Census Monitoring Board, an increase of almost $600 million over fiscal year 1998, and $107 million over the President's request. This Congress is insisting that we pay whatever it takes to do a good job counting every American, just as the United States Constitution requires us to do.

It is not a poll, it is not guesswork, it is an enumerated count of the American people. We cannot afford to let this administration guess about the official Census count. We will fulfill our constitutional duty to count the people in full. We must make sure we count every American.

H.R. 4276 was favorably reported out of the Committee on Appropriations, as was the open rule by the Committee on Rules. I urge my colleagues to support the rule so we may proceed directly to the general debate.

Mr. Speaker, I ask unanimous consent that during the consideration of H.R. 4276, pursuant to House Resolution 508, debate on the amendment offered by the gentleman from West Virginia (Mr. MOLLOHAN) printed in House Report 105–641 be extended to 2 hours.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. McINNIS. Mr. Speaker, it is our understanding that this agreed-to increase in debate time on that particular amendment is premised on the understanding that this would be the only amendment offered with respect to the Census.

Is that the understanding of the gentleman from Texas (Mr. FROST)?

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Texas.

Mr. FROST. Yes, that is my understanding, Mr. Speaker.

Mr. McINNIS. I reserve the balance of my time, Mr. Speaker.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in reluctant support of House Resolution 508. This rule is a mixed bag. While it provides for the consideration of the appropriations for the important functions of the Departments of State, Justice, and Commerce, it also makes in order an amendment which overturns an executive order which prohibits discrimination in employment in the Federal Government based on sexual orientation.

While the rule makes in order an amendment by the subcommittee ranking member to allow full debate on the issue of the manner in which the year 2000 Census will be conducted, the Committee on Rules did not allow for an amendment which would have aided in the hiring of Census enumerators, who will be necessary to ensure that an accurate count is made of all the residents of this country.

While the bill provides $20 million for programs to combat school violence, the Republican majority did not allow an amendment which would have earmarked $100 million for specific programs which would give schools and communities even greater opportunities to reduce violence in our public schools.

I hope the bill can be improved and that amendments which may trigger a veto can be defeated. I would also like to address the three issues I have just outlined.

To begin, Mr. Speaker, the provisions in the committee bill relating to the year 2000 Census are unreasonable and, quite frankly, unacceptable to Democratic members and to the administration. The committee has only provided for 6 months of funding for this massive and constitutionally required project, and has placed restrictions on planning that will result in delays and disruption in the management of the project.

The Republican majority, in their quest to force a political showdown with the administration over the issue of sampling, is risking not only a veto of this bill, but also a failed Census. The Republican majority's insistence on denying the Census Bureau the option of using statistical sampling as a means to aid in the gathering of an accurate and complete count of the number of individuals who are residing in this country is dangerous.

I am pleased that the rule will allow for the consideration of an alternative amendment to be offered by the gentleman from West Virginia (Mr. MOLLOHAN) which will remove these restrictions on funding, to allow planning for this enormous undertaking to go forward so that the count will be as accurate as possible. Mr. Speaker, we must allow the Census Bureau to go forward in its planning for the year 2000 Census. It is incumbent on the Members of this body to support the Mollohan amendment.

Secondly, Mr. Speaker, it is unfortunate that the Republican majority has seen fit to include in the rule the amendment offered by the gentleman from Colorado (Mr. HEFLEY). The Hefley amendment seeks to reverse Executive Order 13087, which was issued on May 28 by the President. As Members are very well aware, this executive order prohibits discrimination against individuals in Federal hiring because of their sexual orientation.

Mr. Speaker, this amendment is nothing but veto bait, and it is unfortunate that the Republican majority must use this issue as material for campaign brochures and speeches. I am sorry that the extreme agenda of the ultraconservative wing of the Republican Party must use the civil rights of gays and lesbians as a way to hold up funding for the important functions of the Departments of State, Justice, and Commerce.

There are other amendments which, if adopted, could trigger a veto. I urge my colleagues to resist adding language or reducing funding which would jeopardize the timely enactment of this bill.

If this bill is vetoed, Mr. Speaker, we risk providing timely funding for important Justice Department programs, such as providing $25 million to help State and local law enforcement agencies provide bulletproof vests for police officers, which is funded as part of the total $1.4 billion for the hugely successful COPS program.

To date 76,771 additional police have been put on the beat on the streets of our cities and towns since this program began in fiscal year 1994. The funding in this bill will allow for an additional 17,000 officers to be hired. COPS is a successful program, and has played a large part in the reduction of violent crime in this country. Its funding should not be jeopardized.

Mr. Speaker, this bill also includes an important earmark of $20 million for the unobligated balances of the COPS program, to be used for grants to policing agencies and schools for programs aimed at preventing violence in our public schools. This is a fine beginning as we struggle with the issue of violence in our schools. I commend the committee for including these funds.

In June I met with about 30 school administrators and schoolteachers in my congressional district to talk about what can and should be done to instill discipline in the classroom and to combat violence. The times have changed since I grew up in Fort Worth. Listening to these dedicated educators drove home that point.

Mr. Speaker, I was shocked to learn that more than 6,000 students were expelled from schools across the country last year for bringing a firearm to school, just as I had been shocked and deeply saddened by the violence that has taken the lives of 14 students and teachers and injured 47 others since last October.

But I came away from that meeting with a concrete idea of what we can do here in Washington to help schools in our home towns deal with disruptive students, gangs, drugs, and guns, because those concerned educators told me that one of their most pressing needs was more uniformed police officers in schools. They told me that having law enforcement officers in a school not only cuts down on crime, but also gives the students the opportunity to talk to an authority figure about what is happening on campus.

I have introduced H.R. 4224, the Safe Schools Act of 1998, as a follow-up to this forum. My bill would provide $175 million in funding to allow local communities to hire sworn law enforcement officers to patrol in and around their schools. This money will allow up to 7,500 police to be hired, in addition to the 100,000 new police who have been or will be hired under the COPS program.

While these funds are not part of this bill, it is my intention to work to see them included in next year's appropriation.

Mr. Speaker, some schools already have uniformed law enforcement officers. In fact, a number of school districts in my own congressional district already do. I would like to quote Sergeant James Hawthorne of the Arlington Texas Police Department, who has endorsed the continuation and expansion of this idea.

□ 1645

"It is worth every penny. You cannot put a price on a child's life. And above and beyond that, you hope to be a positive influence on kids throughout their lives." I could not agree more, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I rise in support of the rule specifically because it includes the Mollohan amendment to restore full, uninterrupted funding for the 2000 Census preparations.

Opponents of the Census Bureau's plans for 2000 say that we ought to take the census the same way we have for the last 200 years. They call the plan a "radical new approach to conducting the census." Nothing could be further from the truth.

The truth is that the census has changed immensely throughout its history because it has had to keep pace with a Nation that itself is changing. Counting the population in 2000 the same way we did in 1960, much less the way we did in 1790, would be simple folly.

In 1790, U.S. Marshals, 600 of them, went out on horseback and counted and tabulated information for about 4 million people in the new Nation. They missed about 100,000. They added enumerators over the year, but by 1850, the number of Americans had quadrupled, far too much information for census takers to add up on their own. So, for the first time, they sent the forms to Washington to count.

Thousands of clerks in hot, sticky rooms leafed through millions of forms by hand, while the population doubled again. By then it took 8 years to tabulate the 1880 census. Fortunately, the punch card arrived in 1890, allowing for automated tabulation. A radical new approach, but it saved time and money.

Our population would nearly triple over the next 50 years. By 1940, punch cards could not keep up and by 1950, crude computers took over the job.

In response to Americans' impatience with the growing response burden, the Bureau developed sampling techniques to gather vital data on everything from education to veterans status. But compiling the numbers was not the only problem. There were too many people in too many households spread out across four times more land area than in 1790. Workers knocking on every door were making more mistakes than the Nation could tolerate.

So, in 1970, the census underwent perhaps the most radical change in its history: counting people by mail, not by enumerator. That worked fairly well for a while. In 1970, 80 percent of the people returned their forms, but by 1990, only 65 percent did. That meant a half a million census workers had to knock on 35 million doors. The cost of the census skyrocketed, while the results worsened badly.

The 1990 census missed more than 8 million Americans, counting 4 million people twice and millions more in the wrong place; not because the Census Bureau did not know how to do its job, but because the methods it developed to count the country in previous decades were outdated by 1990.

So once again in 2000, the Census Bureau will make changes. It will make forms more widely available, pay for first-class advertising, and use widely accepted scientific methods to include all Americans this time around.

Take the census the same way we have done for 200 years? There is no "same way." The census has been changing from its beginning, just as the country has.

A radical new approach in 2000? Nope, just trying to keep up with a growing, changing, and moving Nation, the same way they always have.

Mr. McINNIS. Mr. Speaker, I yield 6 minutes to the gentleman from Kentucky (Mr. ROGERS) who is not only chairman of the committee, but also the sponsor of the bill.

Mr. ROGERS. Mr. Speaker, I thank the gentleman from Colorado (Mr. McINNIS) for yielding me this time.

Mr. Speaker, I rise in support, obviously, of this rule. It is an open rule, as is usual with appropriations bills. It waives all points of order against the bill as reported.

The important fact, I think I need to say, is that we need to take action on this bill as quickly as we can. This is the bill that provides the funding for our Federal law enforcement agencies: all of the Justice Department agencies, the FBI, the Drug Enforcement Administration, most all of the law enforcement agencies of the Federal Government.

We provide funding to our State and local law enforcement agencies; all of our sheriffs, all of our police departments, all of the local law enforcement folks out there who need the Federal assistance is in this bill.

We fund, of course, the Federal courts, from the Supreme Court all the way down, and most of the agencies that work with the courts, such as the Marshals Service.

We provide the funding for the National Weather Service and the modernization efforts of the National Weather Radar System that is increasingly providing advanced warning to our constituents of dangerous weather.

We provide, of course, in the State Department portion of the bill, all of our diplomacy operations around the globe. We provide assistance to small businesses in our communities and a host of other vital and necessary functions.

So, Mr. Speaker, it is important that this bill proceed and be passed and be signed and become law.

There are some controversial matters in the bill, but let us not lose sight of the fact, Mr. Speaker, that this bill is vitally necessary in so many areas of our national life.

If we set one priority in this bill, it is to provide increased funding for the fight against crime and to empower Federal, State, and local law enforcement with the resources they need to enforce our laws and prevent crime.

Mr. Speaker, thanks to this Congress and the work of this subcommittee and the full Committee on Appropriations, but most importantly the Congress, over the last several years we have fundamentally increased the funding for the law enforcement agencies, which I think is having a major impact on crime. We are seeing reductions of crime for the first time in many years in this Nation, a lot of which I think can be attributable to the fact that we have provided the funding in this bill, not just for the Federal agencies, but perhaps more importantly for the local law enforcement agencies by the billions of dollars. Now, over the last couple of years, we have funded the fight against juvenile crime and juvenile delinquency and juvenile crime prevention in this bill.

We provide in the bill that is before us an increase of over a half billion dollars for the Department of Justice crime programs.

We provide $4.9 billion for State and local law enforcement, $400 million more than was requested by the White House and $47 million more than the current spending.

We restore the Local Law Enforcement Block Grant to give local law enforcement agencies monies to spend for their specific needs. We give them maximum flexibility to spend according to their requirements. That figure is $523 million.

Mr. Speaker, we provide also a juvenile crime block grant to allow States and localities for their needs to prevent juvenile crime, a quarter of a billion dollars. The President proposed to eliminate this in his budget request. We restore it to the bill.

We provide $283 million also for juvenile crime prevention, most important in this era, a $44 million increase over current levels. And for the first time, Mr. Speaker, the Congress passed a bill recently authorizing bulletproof vests for our local police. This bill for the first time provides the money to buy and pay for the bulletproof vests that protect the lives of the people that protect us. That is in this bill.

We provide $104 million in new funding to help States and localities raise their level of preparedness for chemical and biological terrorism. First time funding, first time we have done this so that our local fire departments, rescue squads and local responders now have funds in this bill to train, to educate, to equip themselves to help fight off the awful things that may happen in our cities or localities that we would call terrorism. In this building, we know now what that really means.

We provide more than $8.4 billion for the war on drugs, including a $95 million increase for the Drug Enforcement Administration, $31 million more than they requested. We put $10 million more into the drug courts in localities which are doing wonderful work throughout the country, and $10 million for a new program to help small businesses create drug-free workplaces.

We provide a thousand new Border Patrol agents to guard the border, $216 million more than they have now for controlling illegal immigration. The bill provides a $47 million Interior enforcement initiative to force the INS to respond to State and local police in every State when they find suspected illegal aliens. Now, the INS simply does not answer the phone when the State police calls and says they have a vanload of illegals, and they are turned loose. We put money in here to respond to that, to give State and local police a way to have the INS assist in the removal of the illegal aliens they watch.

This rule will allow us to move forward. I am very appreciative of the Committee on Rules. They have done a wonderful job.

Mr. Speaker, I urge adoption of the rule to allow us to move ahead with this vitally important bill, vitally important to every Member and every district in the country.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for yielding me this time.

Mr. Speaker, I rise in support of the rule. I would like to take this opportunity to thank the distinguished gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules, for his fair consideration of our requests. I also want to thank my good friend, the distinguished gentleman from Massachusetts (Mr. MOAKLEY), the ranking member, for his guidance and advocacy of our interests in the development of the rule.

Mr. Speaker, let me first say that I am pleased that the Committee on Rules recommended an open rule for the consideration of this bill, for the same reasons our chairman just mentioned. It allows for all Members on both sides of the aisle to debate the issues thoroughly.

Mr. Speaker, I am also pleased that this rule makes in order my 2000 Census amendment, the "Let's Count Everybody Amendment," and allows 2 hours of debate on the issue. It is a very complicated matter, and any less time would not have allowed for a meaningful debate.

First, the 2000 Census is just around the corner, and what does this bill do? It cuts off funding for the census preparation in the middle of the year, putting at risk funding for the census preparation for the rest of the year. That is no way to do business. We cannot plan for a professionally run census with that kind of a funding scheme. My amendment fixes that. It guarantees funding for the whole fiscal year.

Second, I must note the seriousness with which the administration takes its duty to make sure that the 2000 Census is as accurate as possible in accounting for everyone in America: the urban and the rural, majorities and minorities, adults and children, especially the children.

During the 1990 failed census, one-half of those people who were never counted, the missed, the overlooked, the forgotten, were children. The administration is committed to veto this measure unless the Census Bureau is allowed to incorporate the recommendations of the National Academy of Sciences by employing scientific sampling in the conduct of the 2000 Census, so that those who were left out of the 1990 Census will be included in the 2000 Census. Everyone in our country.

If the language contained in the bill is not amended, we will end up with a census that is not credible to anyone. I believe my amendment provides an equitable approach to this issue, and hope that it represents a compromise that at the end of the day, everyone can support.

Our chairman, the distinguished gentleman from Kentucky (Mr. ROGERS) obviously disagrees with the merits of my amendment, but to his credit, he argued for my right to offer the amendment. The gentleman's friendship and bipartisan nature have made working on this subcommittee a pleasure and an honor and we thank him.

The open rule, of course, also allows for consideration of an additional amendment I intend to offer to increase funding for the Legal Services Corporation by $109 million. For the last 2 years, the subcommittee has recommended funding the Legal Services Corporation at $141 million. Consequently, the gentleman from Pennsylvania (Mr. FOX) and I have offered an amendment in each of the last 2 years to increase funding to $250 million. We again find ourselves in a similar situation and I urge my colleagues to vote for that amendment.

Finally, Mr. Speaker, I would like to express my disappointment that this rule makes in order an amendment to be offered by the gentleman from Colorado (Mr. HEFLEY). This amendment would in part prevent funds from being used to enforce an executive order prohibiting employment discrimination based on sexual orientation.

Mr. Speaker, I think the gentleman's amendment is misguided. It plays to fears and prejudices, and I hope the debate on this amendment will not degenerate as it has on similar amendments in the past. In any event, this bill is certainly not the appropriate vehicle for this kind of an amendment.

□ 1700

Additionally, I would like to note that my colleague, the gentleman from Colorado (Mr. HEFLEY), testified before the Committee on Rules on two separate and unrelated amendments, and I regret that the rule makes them in order together.

In conclusion, I think that this is a fair rule, and I urge its support.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

First of all, to respond to the previous speaker, this is a very fair rule. We appreciate his support. We have made it fair because we want open debate on this in regards to the Hefley amendment. This is not where that debate should take place. That debate should take place in the general debate. We are prepared to debate it, but the key here is openness and open debate by the Members of this body.

The gentleman from Colorado (Mr. HEFLEY) is entitled to that open debate, just the same as I am entitled to that debate, just the same as anyone on that side of the aisle is entitled to that debate, so that is why that is in order.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I rise in support of this rule, and I thank the committee for ruling the Mollohan amendment in order.

I would like to take this opportunity to thank the gentleman from West Virginia (Mr. MOLLOHAN) for his extraordinary leadership in working towards achieving an accurate census for 2000. The Nation needs an accurate census of our population, one that includes everybody. The Census Bureau has a modern, comprehensive plan for 2000 to eliminate the undercounting of the population and produce a more accurate census.

We should not be satisfied with a census which underrepresents millions of people, as the census did in 1990. Only with modern improvements in the census will we be able to achieve this.

We should not be satisfied with a census which underrepresents people. The Mollohan amendment allows the Census Bureau to move forward with the census by striking a provision in the bill that fences off half of the 1999 fiscal year appropriation. Americans in every community benefit from having a more accurate census. Census data helped direct Federal spending for schools, health care. Programs for seniors and children, businesses, industry, local governments and local communities all rely on accurate census data to make decisions. Without an accurate census, local communities will not receive their fair share.

We need to fund the census for the whole fiscal year. We cannot cut off funding in the middle of the year. They will not be able to do their job. We owe it to our country to ensure that we have the most fair and accurate census of all of our people that we can produce.

Let us put politics aside and allow the professionals at the Census Bureau to do their job. Let us fund it properly. Let us move forward. Let us support the Mollohan amendment.

Mr. McINNIS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I rise in support of the rule for the Commerce, Justice, State appropriations bill. I most especially want to thank the gentleman from Kentucky (Mr. ROGERS) for his leadership in bringing forth a bill that is very beneficial to all of the agencies that are affected by this appropriations bill and a bill that is going to be positive for the country.

One of the aspects of the bill that I am proud of is the funding that the gentleman from Kentucky (Mr. ROGERS) has provided for Radio and TV Marti, especially TV Marti. Because year after year this program comes under attack by those who are grabbing at straws, trying to find anything that they can to excuse their longstanding history of supporting excessive government spending and wasting taxpayer funds, and they come and use this bill in order to hide from these attacks. And year after year their target, unfortunately and unfairly, is TV Marti, which is one part of a two-prong strategy to reach the Cuban people, to inform them about the world outside their island prison, and to educate them about the democratic principles through the implementation of some of democracy's most important liberties, which is freedom of expression and freedom of the press, which are denied to them daily in Cuba.

TV and Radio Marti are reaching the Cuban people. If it were not, the Castro regime would not be obsessed with its demise. If it were not effective, Castro officials would not be roaming the halls of Congress lobbying for an end to these transmissions.

I ask my colleagues to remember the immortal words of a leader like Martin Luther King who said, Let freedom ring. Let the Cuban people then hear and see TV and Radio Marti. Let the echoes of democracy reach the enslaved Cuban people. Let them witness firsthand what it means to be free. Through these transmissions they can see what is going on in our country and in other free countries.

The United States has the tools to accomplish these lofty goals, and one of those tools is Radio and TV Marti. If we are truly committed to bringing all of the countries in our hemisphere into our democratic fold, if we are truly committed to helping the Cuban people free themselves from the enslavement, then we must render our full support for the rule and the bill, Commerce, State, Justice appropriations.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I want to commend the gentleman from West Virginia (Mr. MOLLOHAN) for bringing forth this amendment and also the gentleman from Ohio (Mr. SAWYER) for his work on the census and my colleague, the gentlewoman from New York (Mrs. MALONEY).

The fact of the matter is that the Mollohan amendment made in order by the rule will affect the future of everyone living in this country. We can either choose to miss the 8.4 million people residing in the United States, as we did in 1990, or we can make the best effort possible to count them. That is the choice that will be presented to us after the rule. Five percent of Latinos, 4 percent of African Americans and 2.3 percent of Asian Americans were not counted in the last census, and that is simply not right.

The Census Bureau wants to do the best it can to count every American, but this bill, as it exists, does not allow it. Instead, it ties the Census Bureau's hands and renders them ineffective. When some Americans are not counted, all Americans are diminished.

Undercounts affect the decision-making of 100 Federal programs that dispense over $100 billion in funds to our communities. Undercounts negatively affect economic empowerment and the decisions that flow from that undercount. Undercounts negatively affect political enfranchisement and political empowerment. Undercounts negatively affect business decisions, where to invest, what markets to pursue. The lasting effects of undercounts to communities, to Hispanic Americans, to African Americans are devastating in the long run.

So let us count every American in the new millennium. We do that by providing the appropriate resources to the census and by adopting the Mollohan amendment. That is why it is important to vote for the Mollohan amendment. We want to ensure that every American gets counted in this next census, the next census of the new century. It will be important to all of our communities.

Mr. McINNIS. Mr. Speaker, I yield 6 minutes to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, I rise in support of the rule and the Commerce, Justice and State appropriation bill that the gentleman from Kentucky (Mr. ROGERS) is presenting and we will be debating next week.

I commend the gentleman from Kentucky (Mr. ROGERS) for the handling of the census issue in this bill. The gentleman from Kentucky (Mr. ROGERS) provides over $100 million more than was provided, requested in the President's budget. Over $100 million more has been provided because we want to count everyone. It is going to cost money to do this. We are going to spend $4 billion.

This is not something we should play around with on polling to do that. We are talking about $4 billion of real money. We are providing $100 million more this year. And we all agree, Republicans and Democrats, that we want to count everybody. We should not miss anyone. It is hard work to do the census. We are prepared to put the resources in there to do the hard work.

This has to be done in a nonpartisan fashion. This should not be a partisan issue. We agree it should not be a partisan issue. There should not be a Democratic census. There should not be a Republican census. There should not be a Clinton census. There should not be a Newt Gingrich census. This has to be done in a bipartisan fashion.

It is very unfortunate that the President interjected politics on to this and said, it is going to be done my way or no way. That Congress is irrelevant in the issue, the President is, in effect, saying. Actually, the Mollohan amendment says the same thing, because he says, only let the President make that decision, that we in Congress have no input to the decision. It is only $4 billion. Let the President decide how to spend that money. Let the President decide whether he wants to have a failed census or not.

Hey, the Constitution says it is Congress' responsibility to design how the census is done. And now the gentleman from West Virginia (Mr. MOLLOHAN) says, no, no, no, no, Congress, you are not relevant anymore. We want to decide, and we are going to do it our way.

What the gentleman from Kentucky (Mr. ROGERS) has proposed is that we are going to make a decision next March. The Census Bureau agrees the decision should be made in March of next year. The President's own budget talks about a March 1 date. At hearings, under oath, they said, we can decide by March 1 of next year. So let us make the decision together then.

And the reason that date was chosen is partly because we have that much time. The other reason is, we will have dress rehearsals. We will not know the results of the dress rehearsals until the end of this year or the first of next year. The monitoring board will give their results, and we will have a report from them early next year. Some court cases will be heard, and maybe we will have some results from them by then.

So there is no reason the decision has to be made today, and there is no reason we should give the President total choice of the plan he wants to do. Why? Because the plan he has proposed is moving towards failure. It is based on this polling idea.

I know the President loves polling. He makes all his decisions on polling. But this is serious business. We all agree this is serious business. This is a basic democratic system which is dependent on this census. It is a trust in our system of government. Most elected officials in America are dependent on the census, whether it is a school board member, a city council person, State legislators and, yes, the House of Representatives, are going to be impacted by the census.

If we do not have a census we can trust, and that means a bipartisan census, it has got to be done together, then we are not going to have one that is going to be trusted by the American people. We must work together to get a census that is not based on polling, that says this will work out best for me.

We have to do everything we can to count everybody, everyone. Let us put the resources into counting everyone, and we are committed to doing that, as the gentleman from Kentucky (Mr. ROGERS) put over $100 million more into the appropriation for the Census Bureau this year alone.

We are moving towards failure. This idea of polling was attempted in the 1990 census. It was a failure in 1990. And now the administration says, we want to totally rely on this failed idea. That is irresponsible, in my opinion.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, I know the gentleman is chairman of the House Subcommittee on the Census, in charge of authorization and oversight on the census. Before he came to this body, did the gentleman have any expertise in this field? I know the gentleman does not like to brag. If I may say so, is the gentleman not a professor of statistics?

Mr. MILLER of Florida. Well, I taught at Georgia State University Atlanta, taught statistics for many years. It was the Department of Quantitative Methods up there. I taught at the graduate and undergraduate level, and the MBA. I have taught statistics for years at LSU, University of South Florida, Georgia State University.

I respect statistics. Polling has a relevant role. We all use polling all the time, especially if we do not have the time or money to do something else.

But statistics is a very dangerous thing. My first lecture, whenever I taught statistics, was based on a book, How to Lie with Statistics, because you can use statistics to achieve your point. People use it all the time. The way graphs are designed, what base years are used, there is a whole variety of ways.

Mr. ROGERS. Mr. Speaker, if the gentleman will continue to yield, well, if the Constitution says, as it does, that we have to have an actual enumeration for the purposes of reapportionment of this body, not for business decisions, not for finding out how many people have blue eyes on the third Sunday of every month, but for the reapportionment of the House of Representatives, as a doctor of statistics, what is your opinion that the drafters of the Constitution meant when they said, you must have an actual enumeration?

□ 1715

Mr. MILLER of Florida. We need to have actual counts. We should not use polling. And we need to work together to trust the system of government. It is too important to play politics with this issue. The President is playing politics with it. It is very clear. We need to count everybody. We need to put the resources in. There are a lot of good ideas, from paid advertising this time, and working in outreach programs, whether we need to use the WIC program. Why do we not use the WIC program to help count kids? Why do we not use Medicaid records? We can provide the resources to do that. We can come together and get a good census.

Mr. ROGERS. Does the gentleman say we should do away with this vote board up here and just guess on how the vote is going to go?

Mr. MILLER of Florida. That is right.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois (Mr. BLAGOJEVICH).

Mr. BLAGOJEVICH. I thank the gentlewoman for yielding time to me.

Mr. Speaker, I am pleased that the Committee on Rules has brought forth an open rule for consideration of the Commerce, Justice, State appropriations bill and I am happy to say that I plan to support that bill. But as a member of the Subcommittee on Census, I would like to express some of my concerns about the portion of the bill which places restrictions on the funding for the Census Bureau.

Withholding or conditioning funds for the Census Bureau places the 2000 census at risk. An inaccurate census affects everyone. More than $100 billion annually in Federal aid is allocated using census data. And when it comes to the census, the fact is if you are not counted, you do not count. You do not count when it comes to Federal dollars for road repair and mass transit. You do not count when it comes to helping public schools or for using Federal funds to fight juvenile crime. Everyone has a stake in making sure that the 2000 census is counted in a way that is fair and accurate. Just as we do when we determine unemployment statistics and the gross domestic product, just as we do when we determine labor statistics and statistics regarding our economy, we need to use the most modern statistics and methods possible. Let us put politics aside and let the professionals at the Census Bureau do their job. The Mollohan amendment helps us do this. I hope that my colleagues will join me in supporting the Mollohan amendment to remove these restrictions and fully fund the Census Bureau.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-McDONALD).

Ms. MILLENDER-McDONALD. I thank the gentlewoman for yielding time.

Mr. Speaker, I would like to thank the chairman of the Committee on Rules for making this rule in order and I would like to thank the gentleman from West Virginia (Mr. MOLLOHAN) for his leadership on this issue. Mr. Speaker, I rise to express my support for the rule which makes in order the Mollohan decennial census amendment. The debate on this amendment will say volumes about the People's House's desire to conduct the census in a fair, accurate, cost-effective and scientifically based way. It will also send a message to the low-income people living in socially and economically isolated urban and rural areas, especially people of color, women and their children, children who were undercounted by 50 percent. They want to know where they stand and whether they count. If you support a census that is fair, that is accurate, and that is inclusive, then support the Mollohan census amendment. I urge its passage for the sake of all the American people.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentlewoman for yielding time.

My father used to tell us that half a loaf is better than none. I would say that that is all right, except we are not talking about bread, we are talking about the census. And we are talking about counting all of the people. I can tell Members when it comes to counting the people, one-half is not enough. Three-fifths is not enough. None is not enough. Somebody is going to be miscounted, disenfranchised and left out. I wonder who those are going to be. It is already clear. They are going to be the poor, those in big urban centers, those in rural America, those who need every dime, every cent, every penny, those communities that are on the verge of collapse, who need all of their entitlement moneys, all of their entitlement programs, but even need representation more than they do anything else. We can cure this defect and we can cure it with the Mollohan amendment. We can cure it because we want to say to every American citizen that your dream of citizenship rights does not need to be deferred.

I know what it means to be uncounted, three-fifths of a person. Women know what it means not to count, not to be able to vote, not to be looked at on the landscape. I would urge that we vote for the Mollohan amendment and count all of the American people so that they will know that they do indeed count.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, this is a very important subject we are talking about. To set aside sampling and the science is to guess at what the population is.

Let me repeat. In Paterson, New Jersey, in 1995, with two other communities throughout the United States, $30 million was spent by this Congress, the gentlemen here, the ladies here, to absolutely do sampling and test other methodologies. Are you going to have us conclude, after the science has been supported by the National Academy of Sciences, that what the results were in those three tests are to be put aside so we can really go to the methodology that has been chosen by the other side, to guess?

You cannot count every nose in a census. You know it and everybody else on this side of the aisle knows it. We need to come together on this issue. It is critical. There are too many people out there who do not respond to the census questionnaire as it is. What you are going to do is establish even more questions and more anxiety. Do you want to have wasted $30 million? That is not including what we are spending right now to go through dress rehearsals. This is wrong. We need to accept the science, we need to understand that it was acceptable in 1995 where we prepared for the sampling, where we prepared for the testing and methodology.

It was not done helter-skelter. Stop the guessing and support sampling.

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, the test in Paterson, New Jersey is a good illustration of why polling does not work. We have got real problems with polling, especially when you get down to census block level. When you get down to census blocks and census tracks, the error rates are too great. We need to count everyone and we need to put the resources into it. It is hard work to count people. You do not count homeless people from 9 to 5 Monday through Friday. You may have to count them at 2 o'clock in the morning on a weekend. You work through homeless shelters. We are willing to put the resources in so everyone should be counted. Everyone should be counted. We should do it in the best way possible, working together. There are a lot of good ideas that have come out of past census tests and we can do that. But sampling or polling is the dangerous one and it will not be trusted by the American people.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, the National Academy of Sciences just turned over. To compare sampling with guessing or to compare sampling with any other methodology, they each are very different. It does not mean polling. Polling is a very different kind of situation. Sampling is science. Polling is not. You show me the definition where they both mean the same thing. What you have done is confused those definitions, on purpose, so that we in arguing sampling are going to fall into your trap about guessing and polling. They are very different.

Mr. McINNIS. Mr. Speaker, I yield 30 seconds to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, polling is based on sampling. We use polling all the time as based on sampling. President Clinton was down in Houston here a couple of months ago saying how great polling is for the purposes of the census. He is the one that used the comparison in Houston, Texas and some of your colleagues were right there in Houston when President Clinton specifically used the analogy of polling. Polling is based on sampling. Sampling is very appropriate where you do not have the time and money to go out and do an actual count. This is a $4 billion thing. This should not be the largest statistical experiment in history. That is what we are talking about, the largest statistical experiment in history. This is not an experiment we should test.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, in one short minute I just want to say to my colleagues, let us not fool ourselves. You cannot count everyone.

Now, you say, "Well, the Constitution says enumeration." The Constitution did not define enumeration. It did not say that you could not use a sampling technique. It is going to be difficult and almost impossible for you to count everyone. Show me how you are going to not have the undercount you had in the last two censuses. You overlooked a great proportion of the African-American community and the Hispanic community. Do you want to do that again? Do you want to send that message to this country that we want an undercount? If you look at this chart, you will see that the census had a big undercount in African-Americans. We do not want that again. We want a good count. Let us be real. You cannot do it by counting every head. That is just impossible. Last of all, you cannot count every head. And because you cannot count every head, let us use some scientific methodology that has been proven and approved by the scientific world so there will not be any more of this guessing. Let us have an accurate census. We are tired of inaccurate censuses.

Mr. Speaker, I include the following table for the RECORD:

MORE BLACKS THAN NON-BLACKS MISSED IN THE CENSUS

[Percent missed]

	Blacks	Non-Blacks
Census:		
1940	8.4	5.0
1950	7.5	3.8
1960	6.6	2.7
1970	6.5	2.2
1980	4.5	0.8
1990	5.7	1.3

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I rise today in strong support of the Mollohan amendment which provides full funding for the 2000 census, including the use of statistical sampling. Fundamental to our democracy is the notion that everyone counts. In 1990 the census missed millions of people. The Bureau believes it missed 1.8 million Americans. Most of those who were not counted were low-income people living in cities, in rural communities, African-Americans, Latinos, Asian Americans, immigrants and children. Almost 50 percent of the individuals not counted in the 1990 census were children. Are they not a part of this country? Funding for many of our school programs depends on an accurate count of our children. The goal of the Census Bureau is to achieve the most accurate count possible using the most up-to-date scientific methods and the best technology available. We are not talking about polling as you do in political campaigns. The use of statistical sampling will ensure that people who have historically been left out are counted and are included. Our responsibility is to ensure that every American counts. If you are not counted, you are irrelevant. No one in this country should be rendered irrelevant.

I urge passage of the Mollohan amendment.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume. Addressing the previous speaker, I am a little surprised by her comments. She says fundamental to our democracy, and I am quoting, everyone counts.

That is exactly why we are going out and counting everybody. That is exactly the benefit. I take it from her comments that she supports our position. So I welcome that. I also would hope that she supports the rule.

In fact, during this debate today, Mr. Speaker, I have not heard anyone say they are going to vote against the rule. That is what we are debating right here. We are going to have, and in fact the Committee on Rules was generous to allocate two full hours to this debate, so I think it is about time that we move rapidly to a vote on the rule. Let us get into the debate.

□ 1730

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, we have heard a good deal of reference to polling. The fact is that the plan for this 2000 census is very different from a poll.

It starts with an effort to contact personally and count virtually every single person in every single household in the country. Sampling is then used to further improve the results, but with a far larger sample than is ever used in political polls.

Sampling would be used to supplement that basic count in two ways. One is in following up on households that do not respond; and, second, sampling would be used to help check on those who might still have been missed even with these new procedures.

A very large, scientifically-selected sample of blocks would be drawn, 125,000 of them across the country, with approximately 750,000 households. If a poll were taken this way, with a major effort to contact everyone in the district, followed by a very large sample to account for those who did not respond, followed by another large sample of the whole district to further account for nonrespondents and errors, the results would be extremely accurate indeed, vastly more accurate than the failed techniques employed in the 1990 census.

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, let me correct what is being proposed this year by this polling plan of the President.

He is intentionally not going to count 10 percent of the people initially. He is not going to go out and count everyone.

In 1990, they tried to count everyone. They got 98.4 percent of the people. And, yes, we are not going to count everyone, we are going to miss a few people, but we need to do everything that we can to reach that 100 percent level.

But this time around they are only going to count 90 percent of the people intentionally. They are intentionally going to not count 10 percent of the people. Then they are going to do this second sample. That is correct. They are going to count 90 percent of the people.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I appreciate the gentleman's courtesy. Every effort will be made to reach 100 percent of the people more times than ever done in the past.

Mr. MILLER of California. No, that is not true. Reclaiming my time, that is absolutely not true. They are intentionally, intentionally going to not count 10 percent of the people and then use this ICM, this sample, to try to impute what the numbers are. That is where the problem of sampling is. They are going to have 60,000 separate samples to get to that 90 percent number. It is extremely complex. GAO, Inspector General are both saying it is a high-risk plan.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong support of the Mollohan amendment because it restores full funding for a fair and an accurate Year 2000 census.

The goal is to count 100 percent of the people. That is what we are talking about here on our side of the aisle, and let me just tell my colleagues what census data does:

It determines the distributions of 170 billion Federal dollars every single year. The dollars go to basic programs: Social Security, Medicare, better roads, child care for low-income families and middle-income families, school lunches. An accurate census will ensure sufficient funds to protect the well-being of American families, to protect child care, healthy meals for kids and security for our seniors in their golden years.

This should not be a political issue, but my Republican colleagues do not seem to get the message. Instead, they declare war against accuracy.

These tactics are not surprising. They have played politics with campaign finance, with tobacco, with health care and now with the census.

Stop the political games. Put families in this country first. Vote for a fair and accurate census with a hundred percent of the people counted in this country.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is interesting to hear the preceding speaker make the statement we are declaring war against accuracy by saying that we want to count everyone. It kind of does not make much sense, and the statement, I think, would probably would be appropriate if it were clarified.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, on the last gentlewoman's statement:

They can sample all they want on all of the decisions that they just talked about, such as for Social Security, funding for States and localities—sample all they want. All we are talking about here is not sampling for purposes of the reapportionment of the House of Representatives. We are only talking about prohibiting sampling on the apportionment of who represents whom in this body. We are not limiting sampling on all of the other aspects of the census. Only on the decennial census for the purposes of the apportionment of the House of Representatives do we require actual enumeration.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from West Virginia (Mr. MOLLOHAN).

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from West Virginia is recognized for 2 minutes.

Mr. MOLLOHAN. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I would like to engage the gentleman from Florida if I might. I am very impressed with his credentials, and I appreciate his position in this argument and his learned debate. It does puzzle me, though, how the gentleman, and he is a member of the American Statistical Association?

Mr. MILLER of Florida. Mr. Speaker, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from Florida.

Mr. MILLER of Florida. Mr. Speaker, I taught statistics in the School of Business at Georgia State University on quantitative methods, MBA program.

Mr. MOLLOHAN. I am sorry. I misunderstood that.

It puzzles me how he can develop a position with his learned background that is so at odds with not only the National Academy of Sciences, which has had three panels look at this issue and in a very scientific way with lots of, I think the gentleman would concede, learned people, had a lot of learned people look at this and conclude after the 1990 failed census, when the Congress asked the National Academy of Sciences to look at it and come up with a better technique and they recommended scientific sampling, how the gentleman's position can line up against the National Academy of Sciences' three panels and about six or seven scientific statistic organizations on the issue, all of whom recommended using this new science in trying to count everyone in this country.

Mr. MILLER of Florida. If the gentleman would yield further, I respond there is real division within the academic community, and we have had academics, prominent academics, before our committee, and we are going to have another hearing in September.

Mr. MOLLOHAN. Reclaiming my time on that point, indeed I am sure we can get individual academicians and statisticians to come up with any view. The thing that impresses me so much is that these associations have come up with a consensus position supporting sampling.

I yield to the gentleman from Florida.

Mr. MILLER of Florida. The Academy of Sciences is a respected organization, but not beyond politics, and sadly I think they have been used.

The SPEAKER pro tempore. All time of the gentlewoman from New York (Ms. SLAUGHTER) has expired.

Mr. McINNIS. Mr. Speaker, it is my understanding that I have about 4½ minutes remaining.

The SPEAKER pro tempore. The gentleman is correct.

Mr. McINNIS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, the Academy of Sciences is generally a respected organization, but it has been politically used. It was a hand-picked panel. For example, the chairman of the panel was a very partisan Democrat, Mr. Schultz, who, as my colleagues know, was head of the Council of Economic Advisors under Jimmy Carter and Lyndon Johnson.

Mr. MOLLOHAN. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Which organization is that?

Mr. MILLER of Florida. The Academy of Sciences study. It was a very partisan Democrat that led the study. There is a division within the academic community, and if I was a statistician looking at this, I would say, wow, the largest statistical experiment in history? Statisticians love to have experiments; statisticians love to play around with numbers. This is their opportunity, this is a golden opportunity for them to run some tests. That is what they are in favor of.

But let us run a test, and let us conduct a count of everyone to start with. At least use the model of 1990 as a minimum where we try, as the gentleman from Ohio (Mr. SAWYER) was saying, count everyone and then do a study on a statistical sample for test purposes or an ICM of some type.

So there are ways to do that, but we have to start basically with counting everyone first, and I yield.

Mr. MOLLOHAN. The gentleman, Mr. Speaker, is suggesting that the one panel was compromised in some political way. Is he suggesting that the other two at the National Academy of Sciences was politically compromised? And what about all these other organizations?

Mr. MILLER of Florida. Reclaiming my time, they were a hand-picked panel. We can create a panel of prestigious academics, will come up with a different study.

Mr. MOLLOHAN. It is quite a conspiracy.

Mr. MILLER of Florida. I have the time, if I might say, so the thing is we need to trust the system. It has to be done where we work together, Republican and Democrats, and we should not delegate it. It is something we do not delegate to some hand-picked group of academics over at the Academy of Sciences. It is our responsibility, not their responsibility.

It is our responsibility to do that. We need the input and advice of all the sources, but it is not going to be trusted if we turn it over to a group of academics who want to have this great statistical experiment, and I think I am excited for them to have this great statistical experiment, but let us just count everyone.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

It is obvious from the discussion we are going to have a lively evening, and we have got some real substance here as we have two very well-educated gentlemen going back and forth.

I think, in regards to the census part of this rule, I think it was best summarized by the gentlewoman from California (Ms. LEE), and that is, as my colleagues know, it is fundamental, and I quote her again because I think it was an excellent quote, fundamental to our democracy that everyone counts.

That is exactly the point that the gentleman from Florida is making, and that is this is not the time for a census experiment. This is not the time to put experimental aircraft in the side of this count. This aircraft has to fly and has to fly for a long time. Let us do it, and let us do it right. Sure, it is going to cost a little more money, sure we have got to count everybody, but that is what the Constitution demands.

That issue aside, the issue of the gentleman from Colorado (Mr. HEFLEY):

His amendment is certainly to bring up some lively debate that it is in order that that debate be allowed on this floor.

And finally, in conclusion, Mr. Speaker, it is important to note that throughout the number of speakers that we have had today in regards to this rule I have not heard anyone that objects to the rule. The gentleman from Texas (Mr. FROST), my good friend from the Committee on Rules, said, I think, and I quote that he reluctantly supported it. We have got the support for the rule. It is time to move the rule. It is time to get on with the general debate.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3736, WORKFORCE IMPROVEMENT AND PROTECTION ACT OF 1998

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–660) on the resolution (H. Res. 513) providing for consideration of the bill (H.R. 3736) to amend the Immigration and Nationality Act to make changes relating to H–1B nonimmigrants, which was referred to the House Calendar and ordered to be printed.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore (Mr. McINNIS). Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2183.

□ 1744

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. SHIMKUS (Chairman pro tempore) in the chair.

□ 1745

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. SHIMKUS). When the Committee of the Whole House rose on Monday, July 20, 1998, the request for a recorded vote on the amendment by the gentlewoman from Washington (Mrs. LINDA SMITH) to the amendment in the nature of a substitute No. 13 by the gentleman from Connecticut (Mr. SHAYS) had been postponed.

AMENDMENT OFFERED BY MR. SALMON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. SALMON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment is as follows:

Amendment offered by Mr. SALMON to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end the following new title:

TITLE —POSTING NAMES OF CERTAIN AIR FORCE ONE PASSENGERS ON INTERNET

SEC. 01. REQUIREMENT THAT NAMES OF PASSENGERS ON AIR FORCE ONE AND AIR FORCE TWO BE MADE AVAILABLE THROUGH THE INTERNET.

(a) IN GENERAL.—The President shall make available through the Internet the name of any non-Government person who is a passenger on an aircraft designated as Air Force One or Air Force Two not later than 30 days after the date that the person is a passenger on such aircraft.

(b) EXCEPTION.—Subsection (a) shall not apply in a case in which the President determines that compliance with such subsection would be contrary to the national security interests of the United States. In any such case, not later than 30 days after the date that the person whose name will not be made available through the Internet was a passenger on the aircraft, the President shall submit to the chairman and ranking member of the Permanent Select Committee on Intelligence of the House of Representatives and of the Select Committee on Intelligence of the Senate—

(1) the name of the person; and

(2) the justification for not making such name available through the Internet.

(c) DEFINITION OF PERSON.—As used in this Act, the term "non-Government person" means a person who is not an officer or employee of the United States, a member of the Armed Forces, or a Member of Congress.

The CHAIRMAN pro tempore. Pursuant to the previous order of the House, the gentleman from Arizona (Mr. SALMON) and a Member opposed each will control 5 minutes.

PARLIAMENTARY INQUIRY

Mr. SHAYS. Mr. Chairman, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Connecticut may state his parliamentary inquiry.

Mr. SHAYS. Mr. Chairman, I just need to know what list we are following in terms of order. I am not suggesting that the gentleman is out of order. I just do not know.

I thought we were going from the Smith amendment to the Rohrabacher amendment, which is the amendment which eliminates the individual contribution limits. I thought that was the next amendment in order. Is there an order that we are following?

The CHAIRMAN pro tempore. The Chair believes The Committee is following the order under the previous order of the House.

Mr. SHAYS. Right. Do we have that order available so that we could see what that order is?

The CHAIRMAN pro tempore. The order on July 17 was accompanied by a list of amendments in a prescribed order.

Mr. SHAYS. Mr. Chairman, I believe it has the gentleman from California (Mr. ROHRABACHER), which is unanimous consent No. 16 to be followed by the gentleman from Texas (Mr. PAUL), which is unanimous consent No. 17, again with the gentleman from Texas (Mr. PAUL), unanimous consent No. 18. That is what I had down as the order.

The CHAIRMAN pro tempore. The Chair understood that the gentleman from Arizona (Mr. SALMON) was offering Amendment No. 14.

Mr. SHAYS. Mr. Chairman, I am sorry. The gentleman from Arizona (Mr. SALMON) is next. I am sorry. I thought that amendment had been withdrawn. Okay.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Arizona (Mr. SALMON) for 5 minutes.

Mr. SALMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Air Force One and related aircraft have a noble history. These special aircraft were first put into service for President Franklin D. Roosevelt in 1944.

In 1961, the designation Air Force One was first used on behalf of President John F. Kennedy. President Lyndon Johnson took the oath of office on Air Force One in 1963.

Air Force One also provides all presidents with the security and the communications equipment they would need in case of an international crisis, a noble history now sullied.

President Clinton and Vice President GORE created a new use for Air Force One and Air Force Two, taxpayer-funded boondoggles for fat-cat contributors and toys for special interests.

According to the Boston Globe, President Clinton flew aboard Air Force One with 56 major contributors during 1996 and 1997, often with government picking up the tab. Donors who gave $5,000 or raised at least $25,000 for the Clinton-Gore campaign accompanied Clinton aboard the presidential aircraft.

Mr. Chairman, my amendment is very straightforward. It requires the President to make available via the Internet the name of any nongovernment person who is a passenger on an aircraft designated as Air Force One or Air Force Two no later than 30 days after that person is a passenger.

An exception is made if there are national security concerns. In such cases, the President shall submit to the chairman and ranking member of the Permanent Select Committee on Intelligence of the House and Select Committee on Intelligence of the Senate the name of the person and the justification for not making the name available through the Internet.

It is time the American people, our constituents, know which special interests are flying on taxpayer-funded aircraft. I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Is the gentleman from Massachusetts (Mr. MEEHAN) rising in opposition to the amendment?

Mr. MEEHAN. Mr. Chairman, I am rising in opposition. I would like to reserve the time in opposition.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MEEHAN) for 5 minutes.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just by way of explanation, what is the intent of the amendment? Because perhaps we can work out an agreement on it.

Mr. Chairman, I yield to the gentleman from Arizona.

Mr. SALMON. Mr. Chairman, the intent of the amendment is simply disclosure. It is not just for this administration, for any administration in the future. I have a concern that there are possibly people who are contributors to either of the parties or to candidates who may be rewarded by flying on Air Force One.

I am simply wanting to make sure that any nongovernmental person that flies aboard Air Force One or Air Force Two, those are the two specified in the amendment, would be disclosed via the Internet so that we would have full disclosure of who those people might be.

If there is a national security concern which would preclude them from disclosing that information, then that would be granted. That would waive them from that requirement.

Mr. MEEHAN. Reclaiming my time, right now the names of the people who fly on Air Force One would be of public record; is that correct?

Mr. SALMON. According to my understanding, not necessarily so, and not necessarily in a timely manner. I am asking that, through my amendment, that it be done within 30 days, just like we do in our campaigns. When we get contributions from special interests, we have to publish that information and fully disclose it to the public. I am simply asking that the White House live by the same standards when it comes to possible perks for contributors.

Mr. MEEHAN. Reclaiming my time, what specifically would be the provisions with regard to something that was in the national security interest not to disclose a name?

Mr. SALMON. That would be determined by members on the Committee on National Security. As I mentioned, they would be required to submit in writing to the chairman of the committee, the Permanent Select Committee on Intelligence, and the ranking member. If they concur there is a national security reason for not disclosing that information, then it is not disclosed.

Mr. MEEHAN. Reclaiming my time, the Pentagon would not be able to make those determinations, or the State Department would not be able to make those determinations?

Mr. SALMON. I am sure that they would work in tandem with those members. If they feel that there is a valid concern, absolutely, their input would be, I am sure, paramount, as it always is. If they feel that there is a literal reason that national security might be compromised by disclosing those names, that would be a compelling reason enough to not have to disclose that information, and that is included in the amendment.

Mr. MEEHAN. Mr. Chairman, we would accept the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SHAYS. Mr. Chairman, will the gentleman from Arizona yield to me?

Mr. SALMON. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I would like to agree that this is an amendment that we can accept, and I apologize to the gentleman. I thought he had withdrawn it, but I think this amendment does no harm to the bill.

Mr. SALMON. Mr. Chairman, I thank both gentlemen.

Mr. SHAYS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Arizona (Mr. SALMON) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ROHRABACHER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. ROHRABACHER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. ROHRABACHER to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PARTIAL REMOVAL OF LIMITATIONS ON CONTRIBUTIONS TO CANDIDATES WHOSE OPPONENTS USE LARGE AMOUNTS OF PERSONAL FUNDS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) If a candidate for Federal office makes contributions or expenditures from the personal funds of the candidate totaling more than $1,000 with respect to an election, the candidate shall so notify the Commission and each other candidate in the election. The notification shall be made in writing within 48 hours after the contribution or expenditure involved is made.

"(2) In any case described in paragraph (1), any person who is otherwise permitted under this Act to make contributions to such other candidate may make contributions in excess of any otherwise applicable limitation on such contributions, to the extent that the total of such excess contributions accepted by such other candidate does not exceed the total of contributions or expenditures from personal funds referred to in paragraph (1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to elections occurring after January 1999.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from California (Mr. ROHRABACHER) and a Member opposed, the gentleman from Connecticut (Mr. SHAYS) each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today I rise to introduce a nonpartisan amendment that will level the campaign playing field. Currently, the campaign playing field is heavily weighted to the advantage of wealthy Americans. By lifting the $1,000 limit a candidate may raise when a candidate is being faced with a wealthy opponent, this cap will be raised, which will make it possible to match the amount his or her wealthy opponent contributes to his or her own campaign.

In other words, and I know this sounds a little complicated, if my amendment passes, if my wealthy competitor writes a $1 million check to his or her own campaign, I will no longer be faced with the impossible task of raising the same amount of money that my opponent has donated to his or her campaign in $1,000 increments. Instead, the cap will be lifted so that it is possible for me to match the amount that my own opponent has spent on his or her own campaign.

As current campaign law stands, wealthy candidates can spend an unlimited amount of their own money, while their unfortunate opponents are stuck with raising small amounts of money in order to match that amount that their wealthy opponent has contributed to their own campaign. This has given the wealthy a tremendous advantage over their opponents.

It is the most glaring inequity of our current campaign finance system, and it has resulted in a spectacle that no one would have predicted. It is the unintended consequence of limiting contributions to political campaigns.

Instead of opening up our elections to the American people, today politics is becoming the arena of the rich, rich candidates who have nonwealthy opponents at a tremendous disadvantage. The rich pour resources into their own campaigns. This means most of us are in a position of getting steamrolled by a wealthy opponent.

So I urge my colleagues to level the campaign playing field and to update our campaign finance laws and give nonwealthy Americans a chance to be elected to Congress. Rather than having to worry and have the parties out always recruiting wealthy people, let us level this field so that if someone is wealthy and pumps $1 million into their campaign, a nonwealthy opponent can raise an equal amount to have an equal race.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to this amendment which was, frankly, one of my amendments. I do think that Congress needs to deal with how we respond to those who have unlimited wealth, and one way is to do it the way the gentleman from California (Mr. ROHRABACHER) has suggested.

Unfortunately, his amendment, an amendment that I offered on another bill, would kill the coalition that exists for passing bipartisan reform.

Let me explain to my colleagues that the Meehan-Shays bill does three basic things. It bans soft money, the unlimited sums from individuals, corporations, labor unions, and other interest groups that go to the political parties and then get rerouted right back down to individual candidates.

It secondly calls the sham issue ads what they truly are, campaign ads, which means we cannot use corporate money or dues money from labor 60 days from an election. It means that we have to report our expenditures.

The third thing we do is we have FEC enforcement, Federal Election Commission enforcement, and disclosure by way of electronic means in the Internet.

This amendment seeks to do something beyond the scope of our basic bill. I will also say that our basic bill includes the commission bill, the commission bill brought forward on a bipartisan basis. We would suggest that the very issue that the gentleman is presenting to this Congress should be dealt with by the commission.

We have 37 amendments, if no more are withdrawn before we deal with the Meehan-Shays substitute and deal with the various amendments. Sixteen are poison pills, seven are "no" votes in our view, four are leaning "no", seven are neutral, three are "yes".

The bottom line to the amendment of the gentleman from California (Mr. ROHRABACHER), he is one of the 16 poison pill amendments that will kill our coalition. On that basis, I have to encourage defeat of it.

Mr. Chairman, I reserve the balance of my time.

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Mr. ROHRABACHER. Mr. Chairman, how much time is remaining?

The CHAIRMAN pro tempore (Mr. SHIMKUS). The gentleman from California (Mr. ROHRABACHER) has 2½ minutes remaining; the gentleman from Connecticut (Mr. SHAYS) has 3 minutes.

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume.

I hope everyone is listening very closely to this argument. Supposedly, this will kill the whole purpose of this bill. That is a lot of baloney. If we are talking about campaign finance reform and we are going to leave the whole campaign arena to rich people, what good is that reform?

In fact, without my amendment, the good work of the gentleman from Connecticut (Mr. SHAYS) is going to do nothing but further give very wealthy Americans the leverage to take control of the political process in America. So what is all this reform about if we are not going to handle that problem?

Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, the problem with this amendment is we are trying to find a way to reduce the influence of money in American politics; we are not trying to find a way to allow hundreds of thousands of dollars of additional money into the process.

This amendment would potentially create a huge loophole through which wealthy individuals could funnel hundreds of thousands of dollars in contributions to a single candidate through the hard money system. The reason why the Shays-Meehan bill bans soft money is to put an end to the notion of these enormous contributions from private individuals.

This amendment would provide a new way for special interests to influence the legislative process. That is why I would urge my colleagues to oppose this amendment. Even when we have a wealthy candidate putting his or her own money into it, that is an excuse for a private individual to then begin to funnel hundreds of thousands of dollars into a campaign.

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume.

Obviously, if we just listen very closely to what is being said here, these gentlemen are trying to cut off other avenues for ordinary Americans to raise money for their campaigns, leaving the political arena in the control of such wealthy Americans that every Member of this body who is not rich shudders at the thought of having a wealthy candidate in their district step forward and pump so much money in that he or she will be eliminated just because they just cannot raise the money in small increments.

The Shays-Meehan supposed reform is making this problem worse, and by not accepting this amendment, I am afraid that they are disclosing themselves at just how effective they think their own bill is going to be

Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, how much time remains for both individuals?

The CHAIRMAN pro tempore. The gentleman from Connecticut (Mr. SHAYS) has 2 minutes remaining; the gentleman from California (Mr. ROHRABACHER) has 1½ minutes remaining.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentlewoman from Michigan (Ms. RIVERS), our distinguished colleague.

Ms. RIVERS. Mr. Chairman, there is a very interesting debate going on here, because the arguments are being put forward as if there is currently a provision within the system that allows for an offset of one individual, if a wealthy individual runs against them.

The law is very clear right now that if someone chooses to fund their campaign on their own dollars, they are allowed to do that, and a candidate who is running against them can raise money through a variety of ways to do it. They are not limited in how much money they can raise.

Nothing in Shays-Meehan limits the ability of people to raise money. So the argument that Shays-Meehan has to be amended to deal with a problem created by that proposal is ludicrous. It leaves the system exactly as it is now. Someone who is using their own money is free to use as much of that wealth as they would like to. Individuals who rely on contributions can raise as much as they wish, but this is not necessary.

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume.

Of course, anyone listening to this debate must wonder what bill we are really discussing after listening to that last statement.

The purpose of this bill, as we have heard from the authors of this bill, is to reduce the avenues of money coming into political campaigns. Let us restrict it.

What I am saying is that today, with an unintended consequence of similar legislation in the past, we have given a tremendous advantage to rich people. Both of our parties are going out enlisting very wealthy Americans, rich people, in order to run for office, and more and more millionaires are coming here, because we are restricting the avenues in which ordinary Americans can raise money for political campaigns. My amendment would correct that unintended consequence of this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

With the 1 minute I have remaining, I would just like to acknowledge the fact that the amendment that our colleague wants to offer is offering an amendment that would allow unlimited contributions from an individual; he can raise $1 million from one individual. This is contrary to the reform measure that we are bringing forward.

We ban soft money that goes to the political parties, the unlimited sums from individuals, corporations, labor unions and other interest groups. We call the sham issue ads what they truly are, campaign ads, and we have FEC disclosure and enforcement. We are against allowing unlimited sums from individuals, and that is why we oppose this, and that is why it would break apart the coalition that exists between Republicans and Democrats to pass this bill.

This amendment is offered in good faith by my colleague, but the bottom line is, it will kill Meehan-Shays.

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume.

First and foremost, this does not permit unlimited contributions, the gentleman is absolutely wrong, and I hope people are paying attention to the debate. The unlimited contributions that we are setting is the limit which a wealthy person puts into his or her own campaign. That is stated very clearly. There is a limit. Why should we permit wealthy Americans to buy these seats because we have not given a fair chance for nonwealthy Americans to have a shot at the election process?

This is not fair, and that is what we are trying to do. I thought that is what this bill was all about. I guess it is not.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, how much time do I have left?

The CHAIRMAN pro tempore. The gentleman has 15 seconds remaining.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

The bottom line is if a wealthy person spends $1 million under my colleague's proposal, he could raise $1 million from another wealthy individual.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The gentleman from California (Mr. ROHRABACHER) has 15 seconds remaining.

Mr. ROHRABACHER. Mr. Chairman, I yield myself the balance of my time.

Obviously we would like to be fair to all Americans, and that is not what this bill is all about, if we prevent nonwealthy Americans from raising the funds they need to deter these attacks on wealthy citizens trying to steal these elections for themselves.

Let us make sure we open up the system, make sure there is more money available to all candidates, not just to the rich.

The CHAIRMAN pro tempore. All time having expired, the question is on the amendment offered by the gentleman from California (Mr. ROHRABACHER) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. SHAYS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from California (Mr. ROHRABACHER) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

It is now in order to consider the amendment offered by the gentleman from Texas (Mr. PAUL).

AMENDMENT OFFERED BY MR. PAUL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. PAUL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. PAUL to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end the following new title:

TITLE ___—BALLOT ACCESS RIGHTS

SEC. ___01. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Voting participation in the United States is lower than in any other advanced industrialized democracy.

(2) The rights of eligible citizens to seek election to office, vote for candidates of their choice and associate for the purpose of taking part in elections, including the right to create and develop new political parties, are fundamental in a democracy. The rights of citizens to participate in the election process, provided in and derived from the first and fourteenth amendments to the Constitution, have consistently been promoted and protected by the Federal Government. These rights include the right to cast an effective vote and the right to associate for the advancement of political beliefs, which includes the "constitutional right . . . to create and develop new political parties." Norman v. Reed, 502 U.S. 279, 112 S.Ct. 699 (1992). It is the duty of the Federal Government to see that these rights are not impaired in elections for Federal office.

(3) Certain restrictions on access to the ballot impair the ability of citizens to exercise these rights and have a direct and damaging effect on citizens' participation in the electoral process.

(4) Many States unduly restrict access to the ballot by nonmajor party candidates and nonmajor political parties by means of such devices as excessive petition signature requirements, insufficient petitioning periods, unconstitutionally early petition filing deadlines, petition signature distribution criteria, and limitations on eligibility to circulate and sign petitions.

(5) Many States require political parties to poll an unduly high number of votes or to register an unduly high number of voters as a precondition for remaining on the ballot.

(6) In 1983, the Supreme Court ruled unconstitutional an Ohio law requiring a nonmajor party candidate for President to qualify for the general election ballot earlier than major party candidates. This Supreme Court decision, Anderson v. Celebrezze, 460 U.S. 780 (1983) has been followed by many lower courts in challenges by nonmajor parties and candidates to early petition filing deadlines. See, e.g., Stoddard v. Quinn, 593 F. Supp. 300 (D.Me. 1984); Cripps v. Seneca County Board of Elections, 629 F. Supp. 1335 (N.D.Oh. 1985); Libertarian Party of Nevada v. Swackhamer, 638 F. Supp. 565 (D. Nev. 1986); Cromer v. State of South Carolina, 917 F.2d 819 (4th Cir. 1990); New Alliance Party of Alabama v. Hand, 933 F. 2d 1568 (11th Cir. 1991).

(7) In 1996, 34 States required nonmajor party candidates for President to qualify for the ballot before the second major party national convention (Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wyoming). Twenty-six of these States required nonmajor party candidates to qualify before the first major party national convention (Arizona, California, Colorado, Connecticut Florida, Georgia, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Washington, and West Virginia).

(8) Under present law, in 1996, nonmajor party candidates for President were required to obtain at least 701,089 petition signatures to be listed on the ballots of all 50 States and the District of Columbia—28 times more signatures than the 25,500 required of Democratic Party candidates and 13 times more signatures than the 54,250 required of Republican Party candidates. To be listed on the ballot in all 50 States and the District of Columbia with a party label, nonmajor party candidates for President were required to obtain approximately 651,475 petition signatures and 89,186 registrants. Thirty-two of the 41 States that hold Presidential primaries required no signatures of major party candidates for President (Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin). Only three States required no signatures of nonmajor party candidates for President (Arkansas, Colorado, and Louisiana; Colorado and Louisiana, however, required a $500 filing fee).

(9) Under present law, the number of petition signatures required by the States to list a major party candidate for Senate on the ballot in 1996 ranged from zero to 15,000. The number of petition signatures required to list a nonmajor party candidate for Senate ranged from zero to 196,788. Thirty-one States required no signatures of major party candidates for Senate (Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, West Virginia, Wyoming). Only one State required no signatures of nonmajor party candidates for Senate, provided they were willing to be listed on the ballot without a party label (Louisiana, although a $600 filing fee was required, and to run with a party label, a candidate was required to register 111,121 voters into his or her party).

(10) Under present law, the number of petition signatures required by the States to list a major party candidate for Congress on the ballot in 1996 ranged from zero to 2,000. The number of petition signatures required to list a nonmajor party candidate for Congress ranged from zero to 13,653. Thirty-one States required no signatures of major party candidates for Congress (Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, West Virginia, Wyoming). Only one State required no signatures of nonmajor party candidates for Congress, provided they are willing to be listed on the ballot without a party label (Louisiana, although a $600 filing fee was required).

(11) Under present law, in 1996, eight States required additional signatures to list a nonmajor party candidate for President on the ballot with a party label (Alabama, Arizona, Idaho, Kansas, Nebraska, North Dakota, Ohio, Tennessee). Thirteen States required additional signatures to list a nonmajor party candidate for Senate or Congress on the ballot with a party label (Alabama, Arizona, Arkansas, California, Idaho, Hawaii, Kansas, Louisiana, North Dakota, Nebraska, Ohio, Oregon, Tennessee). Two of these States (Ohio and Tennessee) required 5,000 signatures and 25 signatures, respectively, to list a nonmajor party candidate for President or Senate on the ballot in 1996, but required 33,463 signatures and 37,179 signatures, respectively, to list the candidate on the ballot with her or his party label. One State (California) required a nonmajor party to have 89,006 registrants in order to have its candidate for President listed on the ballot with a party label.

(12) Under present law, in 1996 one State (California) required nonmajor party candidates for President or Senate to obtain 147,238 signatures in 105 days, but required major party candidates for Senate to obtain only 65 signatures in 105 days, and required no signatures of major party candidates for President. Another State (Texas) required nonmajor party candidates for President or Senate to obtain 43,963 signatures in 75 days, and required no signatures of major party candidates for President or Senate.

(13) Under present law, in 1996, seven States required nonmajor party candidates for President or Senate to collect a certain number or percentage of their petition signatures in each congressional district or in a specified number of congressional districts (Michigan, Missouri, Nebraska, New Hampshire, New York, North Carolina, Virginia). Only three of these States impose a like requirement on major party candidates for President or Senate (Michigan, New York, Virginia).

(14) Under present law, in 1996, 20 States restricted the circulation of petitions for nonmajor party candidates to residents of those States (California, Colorado, Connecticut, District of Columbia, Idaho, Illinois, Kansas, Michigan, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, Pennsylvania, South Dakota, Texas, Virginia, West Virginia, Wisconsin). Two States restricted the circulation of petitions for nonmajor party candidates to the county or congressional district where the circulator lives (Kansas and Virginia).

(15) Under present law, in 1996, three States prohibited people who voted in a primary election from signing petitions for nonmajor party candidates (Nebraska, New York, Texas, West Virginia). Twelve States restricted the signing of petitions to people who indicate intent to support or vote for the candidate or party (California, Delaware, Hawaii, Illinois, Indiana, Maryland, New Jersey, New York, North Carolina, Ohio, Oregon, Utah). Five of these 12 States required no petitions of major party candidates (Delaware, Maryland, North Carolina, Oregon, Utah), and only one of the six remaining States restricted the signing of petitions for major party candidates to people who indicate intent to support or vote for the candidate or party (New Jersey).

(16) In two States (Louisiana and Maryland), no nonmajor party candidate for Senate has qualified for the ballot since those States' ballot access laws have been in effect.

(17) In two States (Georgia and Louisiana), no nonmajor party candidate for the United States House of Representatives has qualified for the ballot since those States' ballot access laws have been in effect.

(18) Restrictions on the ability of citizens to exercise the rights identified in this subsection have disproportionately impaired participation in the electoral process by various groups, including racial minorities.

(19) The establishment of fair and uniform national standards for access to the ballot in elections for Federal office would remove barriers to the participation of citizens in the electoral process and thereby facilitate such participation and maximize the rights identified in this subsection.

(20) The Congress has authority, under the provisions of the Constitution of the United States in sections 4 and 8 of article I, section 1 of article II, article VI, the thirteenth, fourteenth, and fifteenth amendments, and other provisions of the Constitution of the United States, to protect and promote the exercise of the rights identified in this subsection.

(b) PURPOSES.—The purposes of this title are—

(1) to establish fair and uniform standards regulating access to the ballot by eligible citizens who desire to seek election to Federal office and political parties, bodies, and groups which desire to take part in elections for Federal office; and

(2) to maximize the participation of eligible citizens in elections for Federal office.

SEC. ___02. BALLOT ACCESS RIGHTS.

(a) IN GENERAL.—An individual shall have the right to be placed as a candidate on, and to have such individual's political party, body, or group affiliation in connection with such candidacy placed on, a ballot or similar voting materials to be used in a Federal election, if—

(1) such individual presents a petition stating in substance that its signers desire such individual's name and political party, body or group affiliation, if any, to be placed on the ballot or other similar voting materials to be used in the Federal election with respect to which such rights are to be exercised;

(2) with respect to a Federal election for the office of President, Vice President, or Senator, such petition has a number of signatures of persons qualified to vote for such office equal to one-tenth of one percent of the number of persons who voted in the most recent previous Federal election for such office in the State, or 1,000 signatures, whichever is greater;

(3) with respect to a Federal election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, such petition has a number of signatures of persons qualified to vote for such office equal to one-half of one percent of the number of persons who voted in the most recent previous Federal election for such office, or, if there was no previous Federal election for such office, 1,000 signatures;

(4) with respect to a Federal election the date of which was fixed 345 or more days in advance, such petition was circulated during a period beginning on the 345th day and ending on the 75th day before the date of the election; and

(5) with respect to a Federal election the date of which was fixed less than 345 days in advance, such petition was circulated during a period established by the State holding the election, or, if no such period was established, during a period beginning on the day after the date the election was scheduled and ending on the tenth day before the date of the election, provided, however, that the number of signatures required under paragraph (2) or (3) shall be reduced by 1/270 for each day less than 270 in such period.

(b) SPECIAL RULE.—An individual shall have the right to be placed as a candidate on, and to have such individual's political party, body, or group affiliation in connection with such candidacy placed on, a ballot or similar voting materials to be used in a Federal election, without having to satisfy any requirement relating to a petition under subsection (a), if that or another individual, as a candidate of that political party, body, or group, received one percent of the votes cast in the most recent general Federal election for President or Senator in the State.

(c) SAVINGS PROVISION.—Subsections (a) and (b) shall not apply with respect to any State that provides by law for greater ballot access rights than the ballot access rights provided for under such subsections.

SEC. ___03. RULEMAKING.

The Attorney General shall make rules to carry out this title.

SEC. ___04. GENERAL DEFINITIONS.

As used in this title—

(1) the term "Federal election" means a general or special election for the office of—

(A) President or Vice President;

(B) Senator; or

(C) Representative in, or Delegate or Resident Commissioner to, the Congress;

(2) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

(3) the term "individual" means an individual who has the qualifications required by law of a person who holds the office for which such individual seeks to be a candidate;

(4) the term "petition" includes a petition which conforms to section ___02(a)(1) and upon which signers' addresses and/or printed names are required to be placed;

(5) the term "signer" means a person whose signature appears on a petition and who can be identified as a person qualified to vote for an individual for whom the petition is circulated, and includes a person who requests another to sign a petition on his or her behalf at the time when, and at the place where, the request is made;

(6) the term "signature" includes the incomplete name of a signer, the name of a signer containing abbreviations such as first or middle initial, and the name of a signer preceded or followed by titles such as "Mr.", "Ms.", "Dr.", "Jr.", or "III"; and

(7) the term "address" means the address which a signer uses for purposes of registration and voting.

(Participation by presidential candidates in debates with candidates with broad-based support)

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes in support of his amendment.

POINT OF ORDER

Mr. PAUL. Mr. Chairman, point of order.

THE CHAIRMAN. The gentleman will state it.

Mr. PAUL. Mr. Chairman, I believe this is a perfecting amendment, it is not in the nature of a substitute, and that has been cleared in the Committee on Rules.

The CHAIRMAN pro tempore. The Clerk designated it as an amendment to the amendment in the nature of a substitute.

Mr. PAUL. Mr. Chairman, both amendments that I have should be perfecting amendments, and if permissible, I ask unanimous consent that they both be accepted as such.

The CHAIRMAN pro tempore. It is an amendment to the amendment in the nature of a substitute. The gentleman is amending the Shays-Meehan amendment in the nature of a substitute as permitted by the rules.

Mr. PAUL. I thank the Chair for the clarification.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is very simple. It is an amendment that deals with equity and fairness, so I would expect essentially no opposition to this.

It simply lowers and standardizes the signature requirements and the time required to get signatures to get a Federal candidate on the ballot. There are very many unfair rules and regulations by the States that make it virtually impossible for many candidates to get on the ballot.

Mr. Chairman, I want to make 4 points about the amendment. First, it is constitutional to do this. Article I, section 4, explicitly authorizes the U.S. Congress to, "At any time by law make or alter such regulations regarding the manner of holding elections." This is the authority that was used for the Voters Rights Act of 1965.

The second point I would like to make is an issue of fairness. Because of the excess petition requirements put on by so many States and the short period of time required, many individuals are excluded from the ballot, and for this reason, this should be corrected. There are some States, take, for instance, Georgia, wrote a law in 1943. There has not been one minor party candidate on the ballot since 1943, because it cannot meet the requirements. This is unfair. This amendment would correct this.

Number 3, the third point. In contrast to some who would criticize an amendment like this by saying that there would be overcrowding on the ballot, there have been statistical studies made of States where the number of requirements, of signature requirements are very low, and the time very generous. Instead of overcrowding, they have an average of 3.3 candidates per ballot.

Now, this is very important also because it increases interest and increases turnout. Today, turnout has gone down every year in the last 20 or 30 years, there has been a steady decline in interest. This amendment would increase the interest and increase the turnout.

The fourth point that I would like to make is that the setup and the situation we have now is so unfair, many are concerned about how money is influencing the elections. But in this case, rules and regulations are affecting minor candidates by pushing up the cost of the election, where they cannot afford the money to even get on the ballot, so it is very unfair in a negative sense that the major parties penalize any challengers. And the correction would come here by equalizing this, making it more fair, and I would expect, I think, just everybody to agree that this is an amendment of fairness and equity and should be accepted.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I request the time in opposition to the amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to this amendment, but the real purpose is to focus my remarks on the need for the Shays-Meehan substitute rather than the specifics of this particular amendment, which are not the real issue.

The reason we need Shays-Meehan is quite simple and quite stark. The legitimacy of the American political process is being undermined.

I do not use these words lightly or as a mere rhetorical flourish. We can try to convince ourselves that all is well, salving ourselves with polls showing the approval for Congress is relatively high. Ironically, some argue that all is well because money is flowing into our campaign covers. This is like saying that a cancer patient is in better shape than someone without cancer, because that person might have more cells.

But in any event, a closer look tells a less rosy story. Polls show that many Americans do not know the first thing about Congress, the names of their representatives, which party is in control, and so forth. Discussions with average Americans uncover a deep cynicism about the political process; and looking at what in other circumstances we call the only poll that truly counts, Americans are simply abandoning the election booth.

□ 1815

Turnout is at an alltime low. Alienation from the political system is at an historical high. There could be no greater danger in a democracy. We are in the midst of a silent crisis.

Campaign finance reform does not rank high as a concern in polls simply because no one believes we can truly do it. They believe we are hapless and that the situation is hopeless, so they just continue to turn away. This is as corrosive a disease for the body politic as can be imagined. It is no less serious because the symptoms do not appear fully until it is too late to fashion a cure. So I congratulate the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for designing a cure while there is still time.

Some people have said that the side effects of this cure are so severe that we should just let the disease take its course, but that is simply wrong. The cure is as mild as sunshine, ensuring that everyone can see who is spending money to influence the political system. Shays-Meehan is, quite literally, the very least we can do.

Let us look at some of the concerns opponents of this bill raise. They say that, like previous efforts at reform, it has many loopholes and unintended consequences. Yet, their solution is to have no system at all; in short, to get rid of individual loopholes by having a regime that is one giant void. That hardly seems like a positive alternative.

Opponents also raise the specter of a system overrun by Federal bureaucrats, their favored bugaboo, but this is really another way of saying that they do not want any limits on the flow of money into the political system.

Mr. Chairman, George Bernard Shaw once said, "A society's morals are like its teeth; the more decayed they are, the more it hurts to touch them." It is no accident that it hurts so much to discuss our political morality. It is time to correct it at its roots. I urge my colleagues to vote down this amendment and to support the Shays-Meehan substitute.

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

My amendment, once again, lowers and standardizes the required signatures to get Federal candidates on the ballot. There is a great deal of inequity among the States, and it works against the minor candidates and prevents many from even participating in the process.

For this reason, many individuals have lost interest in politics. They are disinterested, and every year it seems that the turnout goes down. This year is no exception. Forty-two percent of the American people do not align themselves with a political party. Twenty-nine percent, approximately, align themselves with Republicans and Democrats. Yet, the rules and the laws are written by the major party for the sole purpose of making it very expensive and very difficult, and sometimes impossible, to get on the ballot.

If we had more competition and more openness, we would get more people out to vote. It would not clutter the ballot, it would not have overcrowding, but it would allow discourse, and it would be beneficial to the process.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my problem with this amendment is that it would prohibit States from erecting excessive ballot access barriers to candidates for Federal office. It would set ballot petition signature limits for the President, the Vice President, United States Senate, and House candidates. In addition, it would set ballot petition time limitations.

Protections are important, but individual States should be allowed to control their campaign laws. Assuring there are no undue barriers to prevent individuals from running for Federal office is imperative to keeping our political process fair, but I am concerned with the Federal Government imposing limitations on the States for how they govern ballot access.

This deals with an important set of issues, and should be dealt with not solely with this amendment, but rather, should be fully debated in the House after the Shays-Meehan substitute has passed.

One of the things that the Shays-Meehan bill does is to provide for an opportunity for debate and discussion through the Commission. This is an issue that I think there should be hearings on, I think we should have a dialogue about. But I just do not think that an amendment to the Shays-Meehan bill is the appropriate place to deal with this issue.

Mr. Chairman, I yield back the balance of my time.

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

The gentleman suggests we should leave this to the States. I quoted and cited the constitutional authority for this. It is explicit. We have the authority to do this. There are many, many unfair laws.

Dealing with the President, for instance, the minor candidates, on average, to get on the ballot, are required to get 701,000 signatures. A major candidate gets less than 50,000. To get on an average Senate seat ballot, 196,000 signatures are required for the Senate, 15,000 for the major candidates. In the House, on the average for the minor candidate, it is more than 13,000, where it is 2,000 for a major candidate.

There is something distinctly unfair about this. This is un-American. We have the authority to do it. This is the precise time to do it. We are dealing with campaign reform, and they are forcing these minor candidates to spend unbelievable amounts of money. They are being excluded. They are 42 percent of the people in this country. They are the majority, when we divide the electorate up. They deserve representation, too.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas (Mr. PAUL) to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PAUL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant House Resolution 442, further proceedings on the amendment offered by the gentleman from Texas (Mr. PAUL) will be postponed.

It is now in order to consider the amendment offered by the gentleman from Texas (Mr. PAUL).

AMENDMENT OFFERED BY MR. PAUL TO AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. PAUL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. PAUL to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end the following new title:

TITLE —DEBATE REQUIREMENTS FOR PRESIDENTIAL CANDIDATES

SEC. —01. REQUIREMENT THAT CANDIDATES WHO RECEIVE CAMPAIGN FINANCING FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND AGREE NOT TO PARTICIPATE IN MULTICANDIDATE FORUMS THAT EXCLUDE CANDIDATES WITH BROAD-BASED PUBLIC SUPPORT.

(a) IN GENERAL.—In addition to the requirements under subtitle H of the Internal Revenue Code of 1986, in order to be eligible to receive payments from the Presidential Election Campaign Fund, a candidate shall agree in writing not to appear in any multicandidate forum with respect to the election involved unless the following individuals are invited to participate in the multicandidate forum:

(1) Each other eligible candidate under such subtitle.

(2) Each individual who is qualified in at least 40 States for the ballot for the office involved.

(b) ENFORCEMENT.—If the Federal Election Commission determines that a candidate—

(1) has received payments from the Presidential Election Campaign Fund; and

(2) has violated the agreement referred to in subsection (a); the candidate shall pay to the Treasury an amount equal to the amount of the payments so made.

(c) DEFINITION.—As used in this title, the term "multicandidate forum," means a meeting—

(1) consisting of a moderated reciprocal discussion of issues among candidates for the same office; and

(2) to which any other person has access in person or through an electronic medium.

The CHAIRMAN. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Texas (Mr. PAUL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is very simple. The major candidates receive a lot, a million dollars, to run their campaigns. Then they have national debates, and then they can purposely exclude other candidates. I am not talking about 10 or 20 or 30 very minor candidates, I am talking about candidates who spend weeks, months, years, hundreds of thousands of dollars, just to get on the ballot. Some will not even take the money, but some qualify to be on 40 and 50 ballots, and they are purposely excluded.

This amendment does not dictate to those who hold debates, but it would require that those major party candidates who take the taxpayers' money, they take it with the agreement that anybody else who qualifies for taxpayers' funding, campaign funds, or gets on 40 ballots, would be allowed in the debate.

I cannot think of anything that could boost the interest in the debates more. Fewer and fewer people are watching debates. There was the lowest turnout, the lowest listening audience to the debates in the last-go around. It was the lowest since we have had these debates on television.

Forty-two percent of the people turned out and were interested in the debates prior to the election in 1992, and we had a major candidate, Ross Perot. Of course, the only reason he was able to achieve a significant amount of attention was because he happened to be a billionaire. That is not fair. In 1996, they did a poll right before the election to find out who was paying attention. We were getting ready to pick the President of the United States. It dropped to 24 percent.

If we want people to be civic-minded, interested in what we are doing, feeling like they have something to say about their government, we ought to allow them in. We should not exclude this 42 percent that have been excluded. I think opening up the debates in this way would only be fair and proper. It would be the American way to do it. I strongly urge my colleagues to support this fair-minded amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I ask unanimous consent to take the 5 minutes in opposition to this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts (Mr. MEEHAN) is recognized for 5 minutes in opposition.

Mr. MEEHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. FARR), who has been a leader in our efforts to find a way to pass real campaign finance reform.

Mr. FARR of California. Mr. Chairman, I thank the gentleman for yielding time to me. The gentleman is doing a wonderful job on his bill, along with his colleague, the gentleman from Connecticut (Mr. SHAYS).

Mr. Chairman, I rise on this amendment in deep concern and in opposition to the amendment. I think the sincerity of the author is true, but I think this is the wrong place. This whole bill is about congressional campaign finance reform. It is how we regulate the money that controls our elections, to get elected to this House. It is not about presidential elections.

There might be a great debate about how to do that, but as the gentleman knows, the presidential election process is controlled by each of the 50 States. We have no national primary in the United States. I think there is room for that kind of debate, whether we ought to move in that direction, whether the process for qualifying for a ballot ought to be more uniform, as the gentleman suggests.

But to take the gentleman's ideas about presidential debates and move them into this bill is, I think, the wrong way to go; the wrong place, the wrong time, and frankly, the wrong issue. So I strongly oppose this amendment. I think the gentleman is going to try to confuse what the underlying bill is all about.

We have to keep that in focus. We have to keep it limited to that issue. We cannot build the coalition that we need to build if we try to put everything in this bill, and make it a Christmas tree on all of the ills about lack of voting in America, lack of enough debate for those who wish to run for President of the United States from minor parties.

With all due respect for the gentleman's sincerity, I strongly oppose this amendment, and recommend that all my colleagues oppose the amendment, because it is probably technically germane, but it is not politically germane to what we are trying to accomplish.

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

It is always interesting that when we have an appropriate amendment that seems to catch the attention of the Members, that it is probably not the appropriate time to bring it up, and that we should hold hearings and do it some other day.

We have been spending months, and I believe both sides of the aisle have been very sincere in their efforts to clarify and to improve our election process. I think this would be a tremendous benefit to the congressional candidates as well, because there would be more interest. People are not even listening to the debates. If they are not even willing to listen to the presidential debates, how can they get interested in Senate races and in House races?

The rating of the debates in 1996 was the lowest in 36 years. The Vice-Presidential debate, we cannot even get people to listen to the Vice-Presidential debates. It had dropped off 50 percent from 1992. In 1992, there was more interest. It is because we happened to have a billionaire interested, and he was able to stimulate some people in some debates.

All I am asking for is for us to endorse the notion, and we have the authority, the money comes from congressional appropriations. We have written these laws. These are election laws. We have this authority. We have the authority under the Constitution and we have the authority under our laws to do this.

So I would strongly suggest if Members are fair-minded and think they would like more interest, or if they want to continue the way we are going now, we are going to have less and less people interested. People are really tired of it. The American people do not understand this debate, but they do understand they would like to have somebody speak up for them.

Forty-two percent of the people have been essentially disenfranchised, and they are important. Hopefully they are important enough to go to the polls and let us know about it. But they have been disenfranchised because they have lost interest. They have been pushed around, either with ballot access rules and regulations, or not being allowed to appear.

This does not mean those candidates more on the right would happen to be in the debate, or more on the left. It would open it up. This is fair-minded, it is proper, it is a good place to do it. It is a chance to vote on it, and I ask for support on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will not use all of my time, but in conclusion, essentially what this does is, a presidential candidate who receives taxpayer-funded matching funds from participating in debates, they will not be able to participate in any debates to which equally qualifying candidates for funds would have participated in.

I agree that there should be more open and free debate, but I am also concerned that the bill might have the opposite effect. It might actually stifle debate, if a candidate who takes matching funds cannot participate in the debate.

Furthermore, Mr. Chairman, it seems to me that the Commission on Presidential Debates was established in 1987 to ensure debates are a permanent part of every general election.

☐ 1830

It handles the rules of who participates and how the presidential debates will take place. I am concerned with the fact that if this amendment were to pass, Congress would essentially be setting the rules for who can and who cannot participate in presidential debates. I believe that that decision should remain with the independent commission.

Certainly, this is an item that in another forum that we could discuss, have hearings on, and I think that would be in our interest. But in any event, I feel, Mr. Chairman, that we should vote "no" on this amendment and take it up at another point in time.

Mr. Chairman, I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I agree with the gentleman from Massachusetts (Mr. MEEHAN) on this. And in a way I have a lot of sympathy for the amendment, because I am one who feels that everyone should have a right to participate in these debates and opportunities.

But, Mr. Chairman, there are times in almost any election, particularly at the presidential level, in which we need to focus on the candidates who are going to be the major candidates who the majority of people by far in this country are going to vote on.

I think it should be up to the independent commission to make that decision so that they can formulate it, come forward with it, and make absolutely sure that everyone in this country who is going to be voting for the most important person in the United States has the opportunity to focus on how well those individuals know the issues, can handle themselves and deal with one another. So, I rise with some reluctance in opposition to this, but I do feel it should be opposed.

In addition, I would just like to take this moment to thank the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS) for the extraordinary work which they have done on this piece of legislation. It really has been an exceptional effort by them, and I think that they deserve all the credit we can possibly give them.

Indeed, at some later point perhaps an amendment like this should be considered, but I think in the context of this particular bill, and with the language which is in this amendment, we should rise in opposition to it and I would encourage us all to oppose it.

Mr. MEEHAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SHIMKUS). All time having expired, the question is on the amendment offered by the gentleman from Texas (Mr. PAUL) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PAUL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceeding on the amendment offered by the gentleman from Texas (Mr. PAUL) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

The CHAIRMAN pro tempore. It is now in order to consider the amendment offered by the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I ask unanimous consent that amendments Nos. 27 and 28 offered by me be withdrawn, and my amendments Nos. 25 and 26 be considered one after another, immediately after amendment No. 19, and the text of amendment No. 85 as submitted to the desk today be substituted for amendment No. 29.

Mr. SHAYS. Mr. Chairman, reserving the right to object.

The CHAIRMAN. The Chair cannot entertain the third element of the gentleman's request.

Is there objection?

Mr. SHAYS. Mr. Chairman, reserving the right to object. I first did not understand what the Chair cannot entertain.

The CHAIRMAN. The request had three parts.

Mr. SHAYS. Mr. Chairman, I would respectfully request that we have an understanding. We are eager to try to comply with the distinguished gentleman from Texas (Mr. DELAY), the majority whip, and also to welcome him back into the Chamber, because he has had some very difficult things to deal with with the death of our two colleagues who guard this place. But I would like to take each of those items so we can see what does not remain.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman's questions. What I am attempting to do is to group three amendments together. The first amendment would deal with what we call issue alerts, or what I call issue alerts. The second amendment deals with background music. And the third amendment deals with coordination.

And in order to do that, in my unanimous-consent request I am withdrawing completely amendments Nos. 27 and 28. Then I am taking Nos. 25 and 26 and moving them up to this point in time. Mr. Chairman, amendments 25 and 26 are the background music and the coordination amendment.

I am taking the text of an amendment way down below, No. 85 as pointed out in the rules, and submitting that language and substituting that language for amendment No. 29, which was my limit express advocacy communications.

So, I would take out the limit advocacy communications amendment completely and substitute the amendment that deals with issue alerts, if that makes any sense.

Mr. MEEHAN. Mr. Chairman, what is No. 85?

Mr. SHAYS. Mr. Chairman, I yield to the gentleman.

Mr. MEEHAN. We would need to know——

The CHAIRMAN. The gentleman will suspend. The Committee of the Whole cannot entertain a request to change the form of one of the amendments.

Mr. SHAYS. Then should there be two unanimous consent motions?

The CHAIRMAN. If the gentleman would offer amendment 19, maybe the staff——

Mr. DELAY. Mr. Chairman, if I could withdraw my unanimous consent request and make a new one. That would be that I would ask unanimous consent that amendments 27 and 28 be withdrawn completely, and 25 and 26 be considered one after another immediately after amendment 19.

To save confusion, I will go on to amendment 19 and we will work it out with the Parliamentarian.

AMENDMENT OFFERED BY MR. DELAY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. DELAY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substiute..

The CHAIRMAN. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment is as follows:

Amendment offered by Mr. DELAY to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end of section 301(20) of the Federal Election Campaign Act of 1971, as added by section 201(b) of the substitute, the following:

(C) Exception for legislative alerts: The term "express advocacy" does not include any communication which—

(i) deals solely with an issue or legislation which is or may be the subject of a vote in the Senate or House of Representatives; and

(ii) encourages an individual to contact an elected representative in Congress in order to exercise the right protected under the first amendment of the Constitution to inform the representative of the individual's views on such issue or legislation.

The CHAIRMAN. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Texas (Mr. DELAY), and the gentleman from Connecticut (Mr. SHAYS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I apologize for confusing the Committee. Mr. Chairman, I am offering this amendment in order to ensure issue-oriented citizens groups their first amendment right to urge like-minded citizens to contact their elected representatives about upcoming votes in Congress.

The Shays-Meehan substitute, in my opinion, would restrict communications that express viewpoints to incumbent lawmakers during the period of time that this House could be in session. Now, these communications are intended to encourage like-minded citizens to express themselves regarding upcoming votes on the floor of the House. My amendment makes a distinction between communications that address upcoming votes and communications that endorse candidates for elections, two very real differences.

Due to the time limit, I will concentrate on just one of these restrictions. Under section 201 of Shays-Meehan, if a group sends out a communication at any time of the year, this would include flyers or newspaper ads or any other printed communications, that explain that Congressman Doe, for instance, voted incorrectly on a given issue the last time it came up and the same issue is coming up, say, again the next week. And if voters are interested in Congressman Doe reconsidering his vote, they should give him a call.

Under the onerous provisions of Shays-Meehan, Congressman Doe would regard this as an attack on him and, therefore, an example of impermissible express advocacy. Congressman Doe's reason would lie in section 201 of the bill which states a given communication is express advocacy if it contains words that can have no reasonable meaning other than to advocate support or defeat, or if it contains words that express unmistakable and unambiguous opposition. These are the words in the bill.

Now, maybe the citizens' groups' words are like, "Do you know that Congresswoman Smith has voted time and again in favor of brutal partial-birth abortion procedures and has repeatedly described partial-birth abortion as a godsend?"

Maybe the words are, and I quote, "Congressman Jones voted to strip women of their constitutional right to choose and call it a great stride for mankind," closed quote.

It does not matter what the issue is. It does not matter what side of the issue a group is on. These groups have a right, a constitutionally protected right, to inform like-minded constituents to contact their representative, to let their representative know how his constituents may feel.

Simply put, issue-oriented citizens' groups have a first amendment right to express their opinions. These citizens deserve an unfettered, unobstructed right, not only to be informed of political issues but also to enjoy freedom of political speech.

I think that section 201 of Shays-Meehan prohibits any citizen group, other than, say, a Federal PAC, from even mentioning the name of a Member of Congress in a broadcast communication for 60 days before a primary election and again for 60 days before a general election, easily the most critical periods in the American electoral process. These are the times during which citizens are frantically seeking to inform and educate themselves as to what candidates stand for and against, and this provision undermines and subverts the entire electoral process.

So my amendment, I think, is a necessary measure to protect and secure free speech and the integrity of our electoral process and allow citizens' groups to participate in the legislative process. So I ask support for my amendment and support for freedom of speech.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, I yield 3½ minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Chairman, this amendment is once again an effort to really undermine and cancel out the so-called issue ads and all of the express advocacy and issue advocacy provisions in this bill.

If you look at the language of the amendment of the gentleman from Texas (Mr. DELAY), you see that there is an exception, an entire exception, to the issue advocacy provisions in case of any communication which deals solely with an issue or legislation which is or may be subject to a vote in the Senate or House of Representatives.

It does not say when. It could be next year. It could be 3 years from now. It could be anything. It encourages an individual to contact an elected representative in Congress in order to exercise the right protected under the first amendment.

So that once again opens the door to these so-called issue ads that attack a candidate in a clear campaign manner and does not say "defeats so and so," but says, after attacking him, after vilifying him or her, after making it clear that that person should be defeated, does not use the term "defeat" but says, contact so and so.

So, the amendment of the gentleman from Texas (Mr. DELAY) goes far beyond this instance of where we may be in session and where perhaps a group is truly not trying to campaign against that person but get a message to that person or to his or her constituents about something that is immediately pending.

Also I would urge that the protections we have in here are more than adequate to take care of the problem that the gentleman from Texas (Mr. DELAY) says he is trying to address. This is the effort of the gentleman from California (Mr. DOOLITTLE), all over again to take out of Shays-Meehan the issue advocacy provisions that attempt to get at ads that proclaim or parade as noncampaign ads but are truly nothing but that.

□ 1845

There would be no other reasonable interpretation. So this is bigger than driving a Mack truck through Shays-Meehan. This is one of these amendments that has a huge truck with a lot of poison pills in them which will sink Shays-Meehan. I think it is bad policy in and of itself. It goes way beyond its pretended purpose.

The momentum is now on the side of campaign finance reform. We should defeat amendments, the purpose of which is to throw a huge barrier in front of our reaching the promised land. We can reach it. There are some in this body who want to destroy it by any means. This is one such instance. We do not have to be worried about freedom of speech, in our judgment. We have carefully drafted this.

Defeat the DeLay amendment.

Mr. DELAY. Mr. Chairman, I yield 4 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. I thank the gentleman for yielding me the time.

If I heard the previous speaker correctly, and Shays-Meehan already allows this in all probability, why do we not just be specific about it? This really just says that you can contact, you can encourage others to contact a Member of the House or a Member of the Senate during this 60-day blockout period, if in fact there is an issue before the Congress or likely to come before the Congress, and encourage that they be contacted on how they would vote. When we come back in September, everything we deal with would be in that 60-day period, where it is arguable whether you could contact, whether you could encourage the contact of a Member of Congress.

I think it is probably not arguable that you could call a Member of Congress and say, we would like you to do this. It is probably not arguable that you could write your own letter. But Shays-Meehan appears to say that you cannot encourage others to do that.

We have got appropriations bills that will be coming, that we will send to the Senate, others that will be coming back in conference from the Senate. Are we saying that no group could send out a postcard that says, contact your Member of Congress about this issue that is coming up next week or a specific Member of Congress and mention their name? Are we saying that nobody could send out a postcard and say, last time this issue came up, this Member of Congress voted yes, contact them and encourage them to vote no on the bill that is coming up this week?

I think really this gets down to the very fundamental point of issues before the Congress at a time, if the gentleman from Michigan is correct and it is in there, what does it hurt to make it even more specific?

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Michigan.

Mr. LEVIN. My point is not that the DeLay amendment is in there. The way it is drafted, it refers to all of these sham ads, whenever they are produced, whether 60 days in advance or not. If you read section C, it applies to subsection A and B and all the provisions therein.

Mr. BLUNT. Mr. Chairman, if the gentleman would help me here for a minute, figure this out, if you cannot mention the name of a Member of Congress on anything you pay for, including a postcard, within 60 days of the election, how do you alert others who feel the same way you do about an issue to contact a given Congressman who may be, a given Member of Congress who may be thinking about which way they want to vote on that issue?

Mr. LEVIN. Mr. Chairman, if the gentleman will continue to yield, first of all, again, I urge that anyone who is thinking of supporting this amendment read it. It applies to all of the provisions on express advocacy, whenever an ad would be launched, whether it is 60 days, 90 days, 120 days or whatever. It destroys the entire issue advocacy provisions. That is number one.

Mr. BLUNT. Reclaiming my time, the amendment says that this deals solely with an issue or legislation which is or may be the subject of a vote in the Senate or House of Representatives.

Mr. LEVIN. But, if the gentleman will continue to yield, that could be 120 days before, it could be any time and something that is subject to a vote that could be a year away. So I just urge that the gentleman read the amendment.

Number two, in relation to the 60-day provision, that only relates to paid advertisements transmitted through radio or television 60 days preceding an election. And if it is a notification through paid media that is truly not an effort to influence a vote but influence an election, then it should come under the same rules and regulations as all other methods of communication relating to elections and candidates.

Mr. BLUNT. Reclaiming my time, Mr. Chairman, I would just say that if we begin to say that we cannot, with a radio ad or some other communication, some instant communication, try to encourage that specific Members of the Congress be contacted, we are a long way down, I think, the wrong road.

Mr. SHAYS. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, if we are going to maintain the express advocacy standard championed by the Shays-Meehan legislation, and we need to do that, we cannot go halfway on this. The distinguished whip, the distinguished leader from the other side, the gentleman from Texas (Mr. DELAY) knows that quite well. This is a complex issue. Folks listening and watching are trying to still figure out what is the difference between soft and hard money, maybe like some Members. But there is a very, very severe distinction here.

We are not saying in Shays-Meehan that the candidate or dollars cannot be spent on behalf of the candidate by other groups. What we are saying is it must be hard money or else it is wrong and it is banned. The whole purpose of this legislation is to ban soft money. We know how that has grown. We are talking about two political parties that have raised $67 million between them in the first 3 months of this year.

So we can really boil this down into two very basic things. There are those of us on both sides of the aisle who believe there is too much money in politics, too much money in our campaigns.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. PASCRELL. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, could the gentleman tell me how much money is enough money in politics? Could the gentleman tell me how much money is enough? The gentleman said there is too much money in it. How much money is enough?

Mr. PASCRELL. If the average, Mr. Chairman, if the average campaign costs $660,000, we know that we cannot put a cap on it due to a Supreme Court decision, but working together I am sure we can come to specific advocacy issues of ourselves, such as banning soft money. Because if you have $10 to spend in your campaign and not $660,000, and third-party advocacy groups can spend whatever they wish, that is not controlling expenditures in a campaign. The gentleman knows it, and I know it.

So I believe this Shays-Meehan is simply attempting to ban soft money so that all of the hard money that is spent is disclosed. That is a critical issue, Mr. Chairman.

We want the dollars, we want the names and the addresses of people who contributed to our campaigns. That is a very underlying argument within Shays-Meehan, disclosure, the banning of soft money. And the sooner we do it, the better.

I think that this is what this is all about, what we are going to open up here, and trying to go in the opposite direction. What we are going to open up is more advocacy, more issue advocacy, more spending of money, not only 6 months or 6 weeks but 6 days before a campaign.

I believe Shays-Meehan is on target. I believe we cannot equivocate. This amendment is a poison pill.

Mr. DELAY. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, the discussion that we are having right now goes to the very crux of this entire issue of campaign finance reform. Those who have been advocating reform talk about special interest money. One thing is pretty clear, special interest money is the money of any group you do not agree with.

Second of all, too much money, no one has been able to define what is too much money. Third of all, sham ads. What is a sham ad? It is an ad that you do not like. Then fourth of all, disclosure.

Now, I find it ironic that I am up here this evening speaking in favor of the majority whip's amendment to allow groups to take out ads in the newspaper or radio or whatever to express their concern about issues before the Congress; and you all want to stop that, in essence.

Yet a group called Public Campaign ran ads in every newspaper in my district 2 days ago saying that ED WHITFIELD does not think politicians are hooked on special interest money so he wants to triple the dose.

Now, I did not like this. It made me feel bad to read this, every newspaper in my district, but I think this group has a constitutional right to run this ad if they want to run it.

But in your definition of express advocacy, you expand it so far that you are going to eliminate and curtail the rights of groups like Public Campaign to talk about these issues.

In fact, the third way you expand express advocacy, it says, express advocacy is expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events such as proximity to an election.

This ad meets that definition. And under the Shays-Meehan, this ad would be illegal. So here I am, up here defending the right of this third party, independent group to run these ads, and all that the majority whip's amendment does is to be sure that they have a right to do that.

I might further say that the third way you expand the definition of express advocacy, the Supreme Court already, in a case FEC versus Maine Right to Life, has declared that specific language, not approximate language, but specific language unconstitutional.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

First off, we do not ban anything. This is just totally a misstatement. The issue is whether it is an issue ad or a campaign ad. The issue is whether you come under campaign rules or do not come under campaign rules.

First and foremost, Mr. Chairman, we ban soft money. I do not think that there is any amendment to try to deal with that, so that is off the table.

The issue is dealing with sham issue ads that are truly campaign ads. It is not that they do not have a right to do it, but they are campaign ads and should come under the campaign rules. Organizations and labor unions and other interest groups have tried to get around the campaign laws by simply pretending that they are issue ads, by not saying vote for or vote against, but mentioning the name of the candidate and showing a picture. We have the bright line test expanded by the name of the picture or the name of the candidate. That is for radio and TV.

□ 1900

This is not radio or TV. This does not ban it based on the issue of 60 days before an election.

Now, there is the issue of unambiguous and unmistakable support for or opposition to a clearly identified Federal candidate can run at any time. Telling an individual that he should vote for something or vote against to me does not meet that test at all. It does not meet the unambiguous and unmistakable test that would affect this paper.

So the bottom line is radio and TV, yes. Name or the picture of the candidate 60 days to an election, that is right. We are trying to get at these campaign ads so people do not get around disclosure of them and are not able to use corporate and dues money. That is the purpose of it.

The bottom line to the gentleman's amendment is it is an exemption that totally swallows the rule. He basically abolishes by this amendment any attempt to deal with the whole issue of not dealing with the recognition of sham issue ads. It basically allows for this loophole because all you have to do is say, "Contact your representative," and then two days before the election you can then say, "Contact your representative and say whatever you want," which is the reason why I have objection to it.

Mr. WHITFIELD. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. I would just say to the gentleman that I think he has confirmed my concern and his third method of expanding express advocacy can be by newspaper, radio, television or whatever. Reasonable minds can disagree about what is unmistakable and what is unambiguous, and that is the reason that the court has adopted a bright line test. Your expansion of express advocacy is going to end up right back in the courts.

Mr. SHAYS. The bright line test is emphatically what we do have, and the name or the picture of the candidate has been what is expanded to it.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, the previous speaker said that this issue goes to the crux of what this bill is about and it does.

A couple of weeks ago I very facetiously read a little poem by Dr. Seuss or in a Dr. Seuss like manner and I said that what this bill was about was about calling what waddles and quacks a duck, and that is what this bill is about. It is about ending the ability of some individuals and some groups to do an end run around the laws that we have in place for electing candidates.

This seems like a very innocent proposal. But frankly to pass it would allow some very pernicious political behavior to continue. This proposal includes a huge loophole, and the gentleman from Michigan did mention this to some extent. But I want to be very clear. The provision that the majority whip proposes would include not just issues that are scheduled to come up in front of a legislative body but issues that might or may be scheduled in the future. This is a huge issue. This means that any issue, any issue that conceivably could be put in front of a legislative body should fall within this particular exemption.

A couple of weeks ago when I spoke on issue advocacy, I read from the New York Times and other newspapers the express script of a campaign ad, really a whole series of campaign ads that ran in Staten Island. But they had similar gists to them. They went like this. Because one of the candidates was a member of the New York legislature, the ads ran talking about the number of times that that legislator had raised taxes, a number of things that he had done as a State legislator, they finished up by saying, even though there was no vote scheduled in the New York legislature on taxes, "Call Representative A and tell him to stop raising your taxes."

Would that fit within the exemption that the majority whip is proposing? Absolutely. Are we dealing with an express attempt to influence the election or defeat of a particular candidate? Yes. Are we talking about a legislative issue that just might at some time be in front of the legislative body that this individual belongs to? Yes. But this is the sort of behavior we are trying to stop. We are trying to make the rules clear and we are trying to make sure that everyone follows them. If you are attempting to elect or defeat a candidate, there are clear laws with which you must comply. What the majority whip tries to do is to blur those rules and to continue to provide an end run opportunity for those people who do not wish to follow the laws.

Please do not accept this. Let us do what I said a couple of weeks ago. Let us make sure that we call what waddles and quacks a duck.

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume. This is exposing Shays-Meehan for what it is. The opposition to my amendment is trying to confuse the Members. In one section of 202, they do talk about 60 days before an election. But in other sections in 202, they talk about other parts of the year. And 60 days it is radio or television communication. But in other parts of the year it could be the kind of ad that the gentleman from Kentucky was talking about.

My amendment is very, very simple. It simply states that an exemption to the express advocacy part of their bill that deals solely with an issue or legislation. I do not understand why the proponents of Shays-Meehan are scared to death to have ads run against them dealing with issues while we are in session or the next week of the session.

Mr. WHITFIELD. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. Mr. Chairman, there is one thing that I did want to clarify. Obviously if you have an ad that is running and under the new definition of express advocacy of Shays-Meehan that ad is included and, as I said, I think it is so broad and so ambiguous and subject to so many interpretations, the Supreme Court has already declared part of this language unconstitutional. But obviously you can run those ads. The gentleman was correct. You can run the ads, but the group would have to form a PAC, the group would have to have an attorney, the group would have to file all those reports with the FEC and that is precisely the type of chilling effect that the Supreme Court has repeatedly said you cannot require.

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for their extraordinary commitment to this issue and their hard work on it for many years.

Many of the amendments that come before us tonight collectively serve only one purpose, and, that is, to sidetrack reform. We have the power to change that today by passing and voting for Shays-Meehan, voting down absolutely every single amendment. We have a commission that is attached to it that can review all of these. The Shays-Meehan as we have said bans soft money and it also prevents the so-called independent groups from running sham issue advocacy ads whose true aim is to elect or defeat a particular candidate. This particular amendment really would create a sham legislative alert. Whether it is a sham issue advocacy ad or a sham legislative alert, all we are saying is disclose who is paying for it. Let the American public know who is wooing whom and pay for it, not with the huge loophole of soft money but with hard money.

I think that all of us have been attacked by these so-called independent groups in our campaigns. What is very troubling, in many cases I believe these independent groups are spending more money than the candidates themselves. But I am all for free speech. We all support free speech. Just let the American public know who is paying for it. Is that too much to ask? But the real point is that we have before us a very carefully crafted bill that has what I call the fragile flower of consensus. We have a majority of Members in this Congress that support Shays-Meehan. We can pass it and enact it into law. We can consider other important amendments in the commission bill. That is what we should be doing tonight.

What I find particularly troubling is that I suspect that many of the Members who have offered amendments this evening have absolutely no intention for voting for Shays-Meehan. Their real agenda is to try to destroy it with poison pills or with amendments that disrupt the balance that we have created.

Vote for Shays-Meehan. Vote against all amendments.

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding time. I would like to get back to the original intent of the maker of the amendment which I think is to preserve the right to give legislative alerts. I do not quarrel with the gentleman's motivation. I think the motivation is proper. I do think that the bill protects that right, because there is clearly a voting record or voting guide exception. The term express advocacy does not include printed communication that presents information in an educational manner solely about the voting record or positions on a campaign issue. I think that the gentleman's concern is well covered in the bill.

Let me tell Members the problem I think we are trying to solve with this legislation. I think the laws of this land with regard to campaign finance and campaign communication worked pretty well until the relatively recent number of years. And the intensity of the fight across the country for this Congress, for this House in particular, has been such that it has distorted the laws. It troubles me that whenever there is a special election in America now, we no longer rely upon the people of that community to listen to a good debate among the candidates, to identify who stands for which issue, participate in the campaign and they go vote. Instead, immediately out rushes Planned Parenthood, out rushes the Family Research Council, out rushes the AFL–CIO, out rushes the business organizations, term limits, every organization in America rushes out and starts dumping millions and millions of dollars into these sham ads which are just sham ads. They are sham ads not because, as my friend from Kentucky said, we do not agree with them, because they masquerade as something they are not. They masquerade as information when in fact they are the most clever and deceptive and nonproductive and nonsubstantive attacks on character and the record of the candidates, and they need to be managed as free speech does throughout our society.

I ask for a negative vote on the DeLay amendment.

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN), a distinguished freshman Member of Congress.

Mr. DELAY. Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, this amendment like others is a poison pill. It is designed to undermine campaign reform. It is designed to change the Shays-Meehan bill in a way to reduce its support.

I simply want to raise a couple of things, go back to a couple of things that have been said here. This is not about denying any group its right to speak in American politics. This is not about preventing groups from sending postcards. It is not about preventing people from communicating about their representatives. What it is about is saying, if you are going to communicate in a way that pretends to be about an issue but in fact is meant to influence an election, we need to know who is paying for the ads. We need to get disclosure. That is what this is about.

There are those on the other side who preach disclosure, disclosure, disclosure as one approach to the abuses of this campaign season, except when it comes to outside groups running ads. And then they say, "Oh, no, we can't have disclosure." We need disclosure when it comes to issue advocacy. That is why I think this is an amendment that needs to be defeated.

The second point I will make is just this. It was asked earlier how much money is too much money in politics. Well, this is not about free speech. It is about big money. It is not about protecting the free speech of a constituent. It is about preserving big money in this system. Too much money is unlimited money flowing to the national parties to run ads. Too much money in politics is unlimited money with no disclosure of who it is that is spending that money by outside groups.

The Shays-Meehan bill is a good approach to campaign reform. I believe there are other approaches.

Mr. BLUNT. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Missouri.

Mr. BLUNT. I would just like to ask the gentleman whom I think is well motivated and well intentioned in this debate, in your sense of an effort to persuade someone on an issue or to encourage a vote on the issue but you said that masquerades as that when it is really something else, who decides that is I think really my concern. Who draws the line between what masquerades as an ad or what is really clearly encouraging a result on an issue?

□ 1915

What we do not want to do here is shut the door on people's ability to rightly influence the legitimate debate of the Congress. And who decides where that line is? What is the standard?

Mr. ALLEN. I believe that in this, as in many other areas of law, that the law, the standard, will be developed. It will be developed by the FEC, it will be developed by the courts over time until we have a fairly clear understanding of what that standard is.

And we do this all the time. We write standards into law, and we hope they are clear enough to be effectively enforced.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Meehan-Shays substitute bans soft money, and then what we also do is we recognize that the sham issue ads are truly campaign ads, and that is the key point. They are not sham in the sense that they do not have a right to speak, but they are not issue ads, they are campaign ads, and we call them such. One of our provisions is obviously already in existing law. Vote for or vote against it; it makes it a campaign ad. And people get around the sham issue ads by not saying vote for or vote against, but they might as well based on what they say. When they mention the name or show a picture of a candidate by radio or TV, we call them campaign ads; that is true. The fact is, though, that these voter alerts, we do not impact the voter alerts through that process of the picture or the name.

The bottom line is, this is an amendment that is an exemption that truly does swallow the rule. It abolishes any attempt whatsoever to deal with sham issue ads. It is a gigantic loophole that is intending to deal with something that is not a problem.

Now my colleague used the word "manage." I do not agree it is managed. I think it is simply saying playing by the same rules. People have a right to speak out. They can do their legislative alerts. But if they are on radio or TV 60 days to an election, it is going to be a campaign ad and they come under the campaign rules with all the voice that is allowed under that process.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The time of the gentleman from Connecticut (Mr. SHAYS) has expired.

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the opponents to my amendment are very upset with this amendment because this amendment may pass, and they are upset with this amendment and oppose this amendment because it exposes the biggest part of the Shays-Meehan bill that we object to, and that is the part that manages free speech.

The gentleman from Pennsylvania used the term we need to "manage" free speech. To me, that is an oxymoron. We cannot manage free speech, particularly in the part of political advocacy and political participation that my amendment addresses.

My amendment is very simple. It just exempts from the section of the bill any ads or alerts sent out by groups that deal solely with an issue or legislation which is or may be subject to a vote in the Senate or the House of Representatives. Now why would they be afraid of issue ads that express opposition for or support for a vote in the House of Representatives or the Senate?

And it also exempts any communication that encourages an individual to contact an elected representative in Congress in order to exercise the right protected under the first amendment of the Constitution to inform the representative of the individual's views on such an issue of legislation.

Now, if we look at some of the opponents and what they have actually been saying, I am going to dissect a little of it. Number one, they confuse the whole issue by talking about bigger issues, smaller issues, loopholes, sham ads. In fact, the gentlewoman from New York has turned a new term of art in addition to the term of art "sham ads" that has been started by the Shays-Meehan. Now we have sham issue alerts.

Can my colleagues imagine in this country of free speech, free speech guaranteed by the Constitution of the United States, we are talking about sham issue alerts in the House of Representatives? We want to manage the free speech of groups that may want to tell the American people how we vote? This is what we have been talking about all along. The proponents of Shays-Meehan are proponents, number one, that are incumbents, and they are sick and tired of people around America revealing, using our communication services in this country to reveal how they vote, and so they want to get rid of these sham ads. Or they want to manage them in such a way as to discourage them.

The gentleman from New Jersey was talking about capping spending. The gentleman from Maine was talking about we need to know who these subversive people are that are writing ads that may tell the American people how we vote. And we need to know who is we? Who decides? Is we the big-brother government at the Federal Election Commission? Of course it is. They want big-brother government to manage free speech, if we put all the opponents' speech together. That is what they have been saying here.

What we are saying is very simple: As the gentleman from Connecticut has said, we take care of issue alerts in our bill. It is no problem. Of course, we cannot find it in their bill, but they just arbitrarily say we take care of it. Well, if they take care of it, why are they afraid of my amendment? They are afraid of my amendment because they are afraid for people to gather together, raise some money, send out an ad, do a radio spot that tells the American people and District 22 of Texas how the gentleman from Texas (Mr. TOM DELAY) votes.

Mr. Chairman, I am not afraid of how I vote, and I am not afraid to stand up and stand toe-to-toe and debate those groups that are against the way that I vote. That is the American process. What Shays-Meehan does in its limitation of free speech and its now-management of free speech is wants to shut down organizations' abilities and rights to freely express themselves in the political process because in their bill they say communications, radio and TV, that is run 60 days before an election, which means when we get back from the August recess in September, if my colleagues run a radio spot that happens to say, "Tom DeLay voted to ban partial-birth abortions and he is a bad dude for doing it," that organization could come under attack by the Federal Election Commission, and they have no defense to say we are just advocating a vote on the floor of the House during a pre-election period. But in my amendment that group, whether it be Planned Parenthood or others, could stand up and say, no, in the law it says that we are dealing with a vote on the floor of the Senate and the House of Representatives.

It just amazes me every time I debate this campaign reform why people want to limit people's freedom of speech to participate in the political process, and it all comes back to the same reason: They are afraid for the American people to know what is going on in this town, to know what is going on on the floor of this House, and they are uncomfortable sometimes by some of the ads that groups run, and they want to do away with them once and for all.

So I just ask the Members to look at my amendment, digest it, understand it and vote for it.

The CHAIRMAN pro tempore. All time having expired, the question is on the amendment offered by the gentleman from Texas (Mr. DELAY) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from Texas (Mr. DELAY) will be postponed.

Mr. DELAY. Mr. Chairman, I ask unanimous consent that Amendments 27 and 28 offered by me be withdrawn and my amendments 25 and 26 in the order of July 17 on H.R. 2183 may be considered in the sequence at this point and that 26 be modified by the form at the desk.

The CHAIRMAN pro tempore. The Chair cannot entertain that request in the Committee of the Whole.

Mr. DELAY. Mr. Chairman, I withdraw the unanimous consent, and I have Amendment No. 25 at the desk.

The CHAIRMAN pro tempore. Does the gentleman intend to offer Amendment No. 20?

Mr. DELAY. No, Mr. Chairman. No. 25, I ask unanimous consent to take No. 25 out of order and consider it.

The CHAIRMAN pro tempore. That being the case, it is now in order to consider the amendment by the gentleman from Pennsylvania (Mr. PETERSON). The Committee of the Whole may not entertain a request to consider an amendment that deviates from the previous order of the House.

AMENDMENT OFFERED BY MR. PETERSON OF PENNSYLVANIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. PETERSON of Pennsylvania. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. PETERSON of Pennsylvania to the amendment in the nature of a substitute offered by Mr. SHAYS:

Add at the end the following new title:

TITLE —VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Pennsylvania (Mr. PETERSON) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PETERSON).

PARLIAMENTARY INQUIRY

Mr. SHAYS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SHAYS. Mr. Chairman, I just need to know. We have gone from Amendment 19, and now we are going to Amendment 21. Does that mean Amendment 20 has been dropped?

The CHAIRMAN pro tempore. The gentleman from Texas did not offer Amendment 20.

Mr. MEEHAN. Mr. Chairman, I seek to take the time in opposition to the amendment.

The CHAIRMAN pro tempore. Without objection, the gentleman from Massachusetts (Mr. MEEHAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment that I offer today is an amendment that is a pilot program. It would allow the Attorney General, in consultation with the Commissioner of Social Security and the Immigration and Naturalization Service, to establish a pilot program to test a confirmation system through which they respond to inquiries made by State and local officials, including local voting registrars with responsibility for determining an individual's qualification to vote in a Federal or State or local election, to verify the citizenship of an individual who has submitted a voter registration application and maintain such record of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

This is a pilot project that would expire in 2001. It would give State and local officials the option, only an option if they want to use it, to verify the citizenship of voters using Social Security and INS records. It is totally voluntary. It is not a State mandate. It is a pilot program to be used in five States that already are testing an employee verification program for noncitizens: California, Florida, Illinois, New York and Texas. And this expires in the year 2001, and then a report would be written on how this system worked and if it was effective.

Currently, the law requires citizenship to vote. The Federal law requires it. All 50 States require it. I guess the question is, should we enforce the law? Or should we repeal the law and not require citizenship if one does not agree with this pilot? Currently, I would ask the question: Do we have the ability to enforce this law? And the answer is no.

□ 1930

Can local election officials currently stop the fraud that is far too common? Not often enough. So why do we have the requirement for citizenship? Elections are the very lifeblood of democracy. Fraud in election poisons our electorial system and undermines the trust that is essential to democracy.

Under this amendment we are introducing today, State and local election officials would be able to make inquiries to the Social Security Administration, which has a record of citizenship when they assign a Social Security number, and to the Immigration Naturalization Service which can also help verify people who have submitted to naturalization and citizenship. This would be set up by the Attorney General.

Voting, as I suggested, is the most fundamental act of citizenship. The people who administer our elections ought to have the access to the information they need to ensure integrity at the ballot box.

Mr. Chairman, I reserve the remainder of my time.

Mr. MEEHAN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Chairman, I rise in strong opposition to this amendment. It is perhaps the most significant poison pill amendment that has been offered to the underlying Shays-Meehan reform bill.

The motor voter law which passed this Congress in the early 1990s has proven to be a helpful way of bringing new people to the political process. If there is a need in this country, it is to engage people in the public debate, to bring them on to the voter rolls and to get them to participate.

People across the country have chronicled the decline in voter participation in primary elections and general elections. The public interest is not served when less than a third of the American people take the opportunity to participate in the elections that keep this representative form of democracy vibrant.

The motor voter law was established with broad bipartisan support so that we would remove impediments to becoming registered voters. By all accounts, it is working. In fact, there are even those who would argue that it is probably working far more to the benefit of Members of the other party than many anticipated when Republicans lead the opposition to this law.

This amendment would take on motor voter by setting up a very difficult and unworkable voter eligibility system using Social Security and the INS. The amendment would have, I think, a chilling effect on the effort to bring more people into the political process and would, as well, raise serious questions, not only of individual privacy, but of administrative workability.

All it would take would be a brief recollection of the difficulty we had in the case of my colleague from California Rep. LORETTA SÁNCHEZ, attempting to get information from the

INS in any timely fashion to give Members an impression that this proposal is a recipe for potential disaster.

There is no need for us at the moment to make any significant change in the motor voter law. There has been an outpouring of support for it from the League of Women Voters and many other groups who strive to introduce new participants to the American political process.

There has been no justification offered for this amendment. To the degree that we have people voting inappropriately, I know of no reason why our district attorneys, our State election officials, and others responsible at the State and local level do not have the authority today to step in and eliminate whatever minor amount of voter fraud may exist.

So this is really a solution in search of a problem. But in real terms, it threatens the passage of reform in this Congress, which we all know is far more important than tinkering with the motor voter law that, by all odds, has been implemented successfully.

If we were to take this amendment tonight and put it into this bill, we would destroy the coalition, the bipartisan coalition that is on the verge of enacting one of the most significant reforms in the last 25 years and under the guise of doing something to solve a problem that I believe no one can attest to in terms of the reality of its existence in any significant way anywhere in the country, including my home State of California.

It goes far beyond the scope of campaign finance reform. It would override innumerable anti-discrimination safeguards which must remain in the law to make sure that all Americans, regardless of birth place or appearance, ethnicity, race, creed, have equal access to the voter rolls.

Mr. Chairman, I am in strong opposition to the Peterson amendment. I would hope Members who care about the enactment of Shays-Meehan, who want to go right at the heart of the dilemma we face today, and that is that voters are opting out of the process because they do not believe that they can impact it. They think it is only for those with money who control our political system.

The Shays-Meehan campaign reform bill will do more to instill confidence in the average American that it still matters if they bother to vote. That is something that we ought to be working on, not this fictitious problem, which I know some people on the other side of the aisle are fixated on, that holds that there are somehow illegal voters determining the outcome of the elections.

If we really want to make sure that elections are fought fair and square, we ought to be encouraging more people to vote, not suppressing their interest, as this amendment does.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding to me.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield 10 seconds to me?

Mr. BLUNT. Mr. Chairman, I yield 10 seconds to my friend, the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, I am most grateful. I would simply ask that, at some point, the author might give me 30 seconds to ask a question, and that could come after the gentleman's prepared remarks.

Mr. BLUNT. Mr. Chairman, I would be pleased to hear the gentleman's question.

Mr. CAMPBELL. Mr. Chairman, that is very polite. I just wanted to ask about the bill's provision of what is called a final confirmation. If the Social Security or the INS does not have a record of you, as, for example, if you do not have a Social Security card, or you are born here so you do not have an INS record, the bill specifies that there must be what is called a "secondary verification," and it must provide "final confirmation." I just wonder what that might be. I appreciate the gentleman yielding to me.

Mr. BLUNT. Mr. Chairman, let me talk about the bill a little bit while the gentleman from Pennsylvania is getting that answer for the gentleman from California (Mr. CAMPBELL).

Let me also say that I think this is essentially the same kind of campaign reform that the House voted for on February 12, a bill that the gentleman from California (Mr. HORN) introduced, a bill that the chief election official from California said he thought was an improvement and an important addition to the ability of States to be able to, once again, manage the election process.

Until motor voter, with the exception of establishing age qualifications for voting for Federal office, which almost always, then, for reasons of practicality required the States to adopt that same age, we have left election administration to the States. This just simply allows the States to look at this to see if, in their State, this would work.

A majority of Members of this body said just a few months ago, on February 12, that this kind of thing was a good idea. It was a good addition to campaign reform.

I rise in support of the concept of the gentleman from Pennsylvania (Mr. PETERSON), that if we are going to reform campaigns, let us reach campaigns. A number of States already require that citizens give the Social Security number for registration.

So in Georgia, in Hawaii, in Kentucky, in New Mexico, in South Carolina, and Tennessee and Virginia, the only change in this law would be that we also would have access to INS records. We would only have access to those records until 2001 to see if this concept is helpful or harmful.

It allows a pilot project for the States that want to do it. It does not require a single State to do a single thing. It was approved by a majority of voters that voted on the floor of this House in February.

The gentleman from Pennsylvania (Mr. PETERSON) brings it as an additional element of campaign reform. It is not a mandate. It is a pilot program. I would suggest it is the kind of thing that we ought to return back to the States while we are talking about election reform.

Mr. Chairman, I yield back my time to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield to the gentleman from California (Mr. CAMPBELL) to answer his question.

Mr. CAMPBELL. Mr. Chairman, I would be so grateful. Of course it is the gentleman's time. If he would yield to me, I have a follow-up.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I heard the gentleman's question. It is my understanding that, if the INS records and the Social Security records did not prove one to be a citizen, then the body requiring that information could, if they choose, remove one from the rolls or refuse to enroll one as a voter.

Mr. CAMPBELL. Mr. Chairman, would the gentleman yield to me just a second longer?

Mr. PETERSON of Pennsylvania. Sure.

Mr. CAMPBELL. Mr. Chairman, let me say at the start, the gentleman has been very courteous to me and also my good friend, the gentleman from Missouri (Mr. BLUNT).

The gentleman says, at least as I read it, that if one is not going to be picked up by INS, which is going to be the case for those of us born in the United States, and, for some reason, one is not picked up by Social Security, which might be the case if one has not worked yet, it may be true for an 18 year old, then it says the Attorney General shall specify a secondary verification process to confirm the validity of information provided and to provide final confirmation or nonconfirmation.

So my question, if someone does not have a Social Security card because that person has not started working, and is born in this country, so there is no INS record, what would the secondary verification process be?

Mr. PETERSON of Pennsylvania. Well, I think, one, if one has some record as a person to prove that one is a citizen, and one should have if one is, then one would provide that; and that serves the bill. Or the Attorney General could come forth with other means that he felt was ample proof.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield just for two seconds further?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I appreciate the gentleman's answer. I will not use his time to make a comment about it.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I reserve the remainder of my time.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, 5 years ago, as a new Member of the House of Representatives, I was so proud to support the motor voter bill, a bill which made it easier for people to vote. It made it easier by allowing more convenient access to voter registration for new voters or for voters who had moved to a new area.

The motor voter bill is a symbol of our country's belief that it is every citizen's right to have access to the ballot box, every citizen's right, not just some citizens.

Today, I am ashamed that some in this body would turn the clock back, back to a time when the Federal Government would make it more difficult, not less difficult, for every person to vote in this country, every legitimate person.

For example, the amendment by the gentleman from Pennsylvania (Mr. PETERSON) would unreasonably burden some would-be voters by requiring them to show proof of citizenship at the polls on election day. Because of what? Their appearance? The color of their skin? That they have an accent?

I would ask my colleagues, at a time when voter turnout is embarrassingly low in this democratic country of ours, do we really want to make it more difficult for citizens to exercise the right to vote? Of course the answer is no, which is exactly how we should vote on this ill-conceived amendment: "No" on the Peterson amendment, "yes" on the Shays-Meehan bill.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself what time is needed to respond.

It is interesting. A few moments ago, we were told that this was the most significant poison that is being attempted to be added to this bill. That is a pretty significant statement, that it is poison to try to eliminate fraud. I have a hard time understanding that.

I am going to say it again. It has been said that this is the most significant poison that will be offered to this bill that only has a pilot program that allows States, if they choose, to try to eliminate fraud. I find that hard to understand.

Someone else just said that it was unthinkable to amend motor voter. Motor voter had some problems and has some problems today because there is no system of verification. I could register my dog "Ralph" by calling him Ralph Peterson, and he would be registered. I could register my cat. I do not happen to have one, but I could.

Motor voter has opened the registration process to fraud. That is one of the weaknesses of motor voter. Just to share with you, a Committee on House Oversight task force uncovered serious voter fraud in California during the 1996 election.

□ 2045

They conducted an exhaustive yearlong examination and found 820 individuals who were not citizens at the time of registration that likely voted. In 1996 the California Secretary of State found over 700 noncitizens on the California voter rolls and invalidated their registrations, and he would like this legislation to help him do that more effectively.

Texas Deputy Assistant Secretary of State Tom Harrison reports that 750 resident aliens from Guadalupe, Texas filed applications for absentee ballots in November of 1994 elections, after campaign workers told them that their green cards enabled them to vote by mail.

The Los Angeles Times reported in May of 1994 that Jay McKama, an undocumented immigrant, was sentenced to 16 months in State prison for registering noncitizens to vote. The bounty hunter worked for Steve Martinez, a Los Angeles political activist who paid $1 per registration. The practice of paying bounty hunters to register individuals to vote has contributed to an increase in noncitizen voting. In some cases noncitizens have been targeted by those bounty hunters.

Every time someone votes illegally, they cancel our vote. They cancel a good vote.

Mr. BLUNT. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from Missouri.

Mr. BLUNT. Mr. Chairman, I am glad the gentleman made that point, because our colleague from California just made the point that every legitimate voter, that is exactly the statement she made, should be allowed to register to vote and should be allowed to vote, and that is certainly right, and they should be allowed to do that with as little encumbrance as is reasonably possible. The least encumbrance would be no registration at all.

We tried that for generations in America, and finally we found out that that did not work, because people voted more than once, they voted at more than one location. We decided we had to have voter registration, and every legitimate voter should be allowed to register, every legitimate voter should be allowed to vote. But every time we let someone cast a ballot who is not a legitimate voter, who does not meet the requirements to vote in that election or in this country, we do just exactly what the sponsor of the amendment said; we cancel out the vote of voters who had a right to vote. That is every bit as big a problem as any other problem we could have in this process.

If people begin to think that there is no reason to go to the polls because their vote is going to be canceled by somebody who should not have been allowed to register because they were not a citizen, they stop going to the polls for that reason as well. Every legitimate voter should be able to vote.

This amendment, which the House has already passed in the form of a bill one other time and needs to be included in this reform package, merely says to the States, if the States want to try this as a way to verify that, in fact, the people who are casting ballots at your election have a right to do that as American citizens, give it a try until 2001 and we will see if that produces better results.

Mr. GREENWOOD. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Pennsylvania. I yield to the gentleman from Pennsylvania.

Mr. GREENWOOD. Mr. Chairman, I would like to convey to the gentleman that I rise to support the gentleman's idea and to oppose his amendment, and let me say why and why it is we call it a poison pill.

I think it was in 1995 when we voted for motor voter legislation. I voted against it and I drafted legislation to change it, not because I did not want to encourage Americans to register and to vote, but because I was afraid that we would never be able to purge people who should not vote, that, in fact, it would become a system too easily defrauded; and it does need to be changed, and I agree entirely with the gentleman and his proposal here.

It is a poison pill because the coalition that we need to pass this legislation consists of a lot of Democrats, and the motor voter bill is based on relatively party lines. What we do not want to happen, those of us who are just determined to do away with soft money in these sham ads, what we do not want to do is let the perfect become the enemy of the good.

We think that the gentleman's proposal, while it is a good one, becomes the enemy of the passage of our bill. It is not the idea that is poison, it is the way that it breaks up our coalition. I am sure that is not the gentleman's purpose.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, I thank my colleague for yielding. I have a warning to libertarians. Libertarians, please be worried, be very worried about a bill that creates, and I quote, ". . . the Attorney General shall specify . . . an available secondary verification process . . . to provide final confirmation," regarding citizenship status.

I do not see how this can be done without a new federal record system on individuals. "Secondary" means if one cannot prove citizenship by INS records, cannot prove it by Social Security records. I do not see how this can lead to anything but a national I.D. system. That is in the gentleman's amendment. Therefore, I oppose it.

Mr. MEEHAN. Mr. Chairman, I thank the gentleman from California for that warning to all of the libertarians and others. I appreciate that very articulate presentation.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BILBRAY), another leader in the bipartisan effort to pass campaign finance reform.

Mr. BILBRAY. Mr. Chairman, I rise regretfully in opposition to this amendment. I do not rise in opposition to the intention and the spirit of the amendment.

I think that, quite appropriately, the gentlewoman from California pointed out that qualified voters should vote. I think that the gentleman from California who spoke in opposition to this motion probably made his point clear, by saying that we want people to vote. We want people to be able to vote. We want people to be able to register to vote.

In all fairness, I agree with the gentleman from Pennsylvania that citizens should be able to vote. Qualified citizens, not just any person. I strongly support the intention of the gentleman's amendment.

I think that, sadly, as somebody who was a county supervisor and supervised the electoral process for over 2.7 million people, that too often we talk about quantity, and not the quality of the process. The fact is that the integrity of our electoral process needs to be defended.

But tonight I must speak in opposition to this special vehicle, which is asking Shays-Meehan to carry this burden, while trying to keep enough votes together to be able to pass comprehensive campaign finance reform. There are people on both sides of the aisle who will use this as an excuse to oppose our campaign finance reform, Shays-Meenhan, if we at this point require the system to require people to basically prove that they are qualified voters, that they are over 18, that they are a citizen of the United States.

I strongly support the intention that the gentleman is trying to make with his amendment. It is just that the vehicle, at this time, will kill campaign finance reform, because there are people in this Congress who will adamantly kill any piece of campaign finance legislation, no matter how good it is, if it means that we will address this problem of unqualified people being able to register and vote.

So I sadly have to oppose this, and I would ask the gentleman to join with those of us on both sides of the aisle that believe that the integrity of finance campaign reform and the integrity of our electoral process needs to be finally addressed one way or the other.

Campaign finance reform. We are trying to do it with this bill. I hope that, at the appropriate time in the future, Democrats will come across the aisle and join us in supporting the gentleman's thoughtful effort to ensure for the integrity of the electoral vote.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The gentleman from Massachusetts (Mr. MEEHAN) has 10½ minutes remaining; the gentleman from Pennsylvania (Mr. PETERSON) has 5½ minutes remaining and the right to close.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 2½ minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, if a national I.D. card is what we are concerned about, take some of those aspects out in conference. I heard some Members say this is good, but it is so good, it might hurt the bill.

Bob Dole cannot write a check in a supermarket without proving his identity. One cannot get on a plane without proving some identity. One cannot get a driver's license in America without proving some identity.

What is more important, and I always hear, "This is good, but not now, do not do it now." This is campaign finance reform. If we do not do it now, this turkey is dead in the future. If we are going to do it, do it now, if this thing is going to fly. I support it.

Citizens should vote. Noncitizens should not vote. We insult no one by ensuring that an illegal vote does not cancel out our legal votes. In America the people govern. There is nothing more important in this bill than foreign money influence, attempts to corrupt us for foreign interests and illegal votes cast in elections.

Mr. Chairman, I took a lot of heat on the Democrat side, the only one who took a parliamentary stand in the matter of the Dornan-Sánchez race, and I think the gentlewoman has done a great job. But I think that should be straightened out, and we should have the facts before we certify anybody's election, especially when there is a taint of illegal votes.

So look, if Bob Dole cannot write a check in a supermarket without proving that check with some identification, if one cannot get a driver's license, if one cannot get on a plane, then by God, in America, one should be able to do some reasonable identification to prove one is a citizen. Citizens govern.

Mr. CAMPBELL's concerns are very important, and Mr. Chairman, let me say this. We keep making it easy for illegal citizens and illegal votes in campaigns, and we will have done nothing with campaign finance reform. All we do is massage the politics of the American theater as far as politics is concerned.

Mr. CAMPBELL has a legitimate concern. He is a very astute man. That could be worked out in conference, but the concept of illegal votes not in elections must be determined. If we do not do it this way, how the hell do we do it?

Mr. MEEHAN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, this amendment has nothing to do with campaign finance reform, absolutely nothing to do with campaign finance reform. This bill, as we are on the verge of passing, is not an excuse for anyone who has any idea about anything to come into this House floor and try to defeat this bill. This has nothing to do with campaign finance reform. We are on the verge of making history with the most significant campaign finance reform bill in 20 years. Let us get on and pass this bill.

Mr. Chairman, I yield 4½ minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding me this time. I thank him for all of his hard work on this issue.

Mr. Chairman, the gentleman from Ohio (Mr. TRAFICANT), my friend, says that in America people govern, and that is true. All of the people govern, including those who have surnames such as mine, and who were born in this country. And they do not deserve the right to be discriminatorily applied against, which is in essence what this amendment does.

I heard before the suggestion of the fact that what is wrong with the pilot program? Well, nothing is wrong with a pilot program, but even abridging rights in a pilot program does not make it constitutionally firm, it makes it constitutionally infirm.

I also heard the discussion about cancelling out of a vote, but what happens to the American citizen who, through your process, is denied the ability to vote because of some problem with the INS, some problem with Social Security; is not their cancellation of their vote equal to the cancellation we are so worried about?

For members of my family who live in Cuba and others throughout the world who do not have the right to vote for this, basic freedom is only a cherished dream. Well, what the author of this amendment, however, forgot about is that in America, voting is not a dream, it is not just another government benefit or program to be means tested, it is a constitutional guarantee, what all who came to this Chamber were sworn to uphold.

□ 2000

Americans should not be subjected to a government background check when they register to vote. But that is just what this amendment does, it turns the ballot box into an interrogation zone, where Americans are guilty until they have proven themselves innocent.

Imagine going to vote, myself going to vote, having been born in this country, a member of the United States Congress, and having to be interrogated at the ballot box to try to prove that I should be able to vote. Particularly, I would urge some of my colleagues to look at the history of what has happened in different States where ballot security squads were created to disenfranchise minority voters. The application at that table by those election judges will be discriminatorily applied, if they wish to do so.

What will be the guarantee? How will Members ensure that my vote is not annulled, as the gentleman is concerned about his being annulled? And to show they are citizens, Republicans want the Social Security Administration and the Immigration and Naturalization Service to run background checks and share private information on American voters.

If it is not to be discriminatorily applied, everyone who seeks to register would have all of their private information given to electoral officials. Is that what they want, Big Brother? I have heard so many of them rail against that.

Now, where is this test going to take place? This test of this security checkout program will take place in California, Florida, Texas, New York, and Illinois, States with large minority populations, especially Americans with Hispanic descent.

We already know the problems with identical names and dates of birth, especially among minority voters, that caused many legal voters to be targeted by what is now the discredited Dornan investigation. If this new program goes forward, many, many other innocent Americans may find government officials targeting them, too.

Clearly, the right to vote in this Nation should not be subject to government intrusion, and I say specifically that Hispanic American voters will not forget Members' continuing persecution of their rights. Vote against the Peterson amendment and keep Shays-Meehan in order.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey (Mrs. ROUKEMA), a leader in our bipartisan effort.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as a person who was one of the strong supporters of the pilot program of the gentleman from California (Mr. HORN), and I not only voted for it, I promoted it back in March, that would deal with the eligibility of voters and the reforms that the gentleman from New Jersey (Mr. MENENDEZ) was just referring to, and to the essence of the proposal of the gentleman from Pennsylvania (Mr. PETERSON), here, I have to say that this is only an effort to really sabotage this bill.

We are so close. I am not going to let us take victory from the jaws of defeat, or defeat from the jaws of victory, either way that you want to say it. We must stick with Shays-Meehan. This is the golden opportunity in this Congress to get genuine campaign finance reform. The other issue is entirely separate, and we can take that up in a separate matter. I will be strongly supportive of that. But for now, we cannot sabotage Shays-Meehan. We must defeat the Peterson amendment.

Mr. Chairman, I rise in reluctant—yet clear-eyed opposition—to the amendment offered by my Colleague from Pennsylvania, Mr. PETERSON.

I want my Colleagues to know that I support the substance of this amendment. The events of the past several years have uncovered a disturbing trend in elections.

Without referring to a specific election or a specific state or a specific region, there is more than anecdotal evidence that more than a few of our elections are being tainted.

Tainted by voters who should not be voters. As Mr. PETERSON has reported—but this is not new. That's why we have had these legal actions.

Voters who have no right to participate in our electoral process.

My Colleagues, the very foundation of our representative democracy is "one man-one vote." We—in this body—have a solemn responsibility to preserve that foundation by protecting the integrity of the electoral process.

In this regard, I think it is a worthwhile exercise that we test new methods to verify the eligibility of all voters in all elections. Indeed, I voted for Rep. HORN's pilot program back in March.

And I have never been an enthusiastic supporter of the various motor-voter programs. I think they present an engraved invitation for fraud and abuse.

So I would support this legislation. But not here, Not now. Not on this bill. The clear purpose of this amendment is to undermine and divide support for this major reform that goes to the heart of abuses.

As you know, I have been an original cosponsor of the Shays-Meehan campaign finance reform bill—in all of its various iterations. I think the lack of comprehensive campaign reform has been one of the most glaring failures of this Congress . . . the last Congress . . . the Congress before that . . . and several Congresses before that.

It just reinforces the cynicism of the American people about our motives and our actions.

We have here in the Shays-Meehan substitute a golden opportunity to snatch victory from the jaws of defeat. We have a real opportunity to pass genuine campaign reform.

Unfortunately, the Peterson amendment threatens our efforts here.

I support the goals of the Peterson amendment and would pledge to work with the gentleman from Pennsylvania to pass this amendment as a free-standing bill. But I cannot support it as an amendment to Shays-Meehan.

Defeat the Peterson amendment.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I oppose this amendment on two grounds. I first oppose this amendment on the logic that says, because when you go to the supermarket and pay money, you sometimes have to show your license; and I oppose it on the logic that says when we go to get an airplane ride and we pay money, we have to show our license. Good grief, this is a constitutionally protected right. We do not have to pay money to vote, and why should we have to show a picture to vote?

On that ground, the logic of comparing this to airline traffic, or when we go to supermarkets, is beyond me. This is a constitutionally protected right. We should not have to pay money and we should not have to show our picture.

But I oppose it on other grounds, as well. The bottom line is, this is campaign finance reform we are debating. This legislation does not deal with campaign finance reform, it deals with motor voter. We are in the majority as Republicans, and we are pushing this proposal, this amendment. Just bring it out on its own separate merit and vote it up-or-down. Do not tie it in with campaign finance reform.

Mr. MEEHAN. Mr. Chairman, I yield 30 seconds to another leader in our bipartisan effort, the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, the operative word is "finance." This is about campaigns, this amendment. I agree, frankly, with the intent of the author of this amendment. I agree so many times with my friend, the gentleman from Ohio (Mr. TRAFICANT). But campaign finance is about raising money and spending money and reelecting Federal candidates. That is what we have been working on here.

This actually is a legitimate issue. It is like combining school vouchers with a higher education bill. They are both education, but they do not belong together. This issue does not belong in this bill. We need to pass this bill clean, and we need to vote down this amendment, even though I agree with the intent of the author, the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Chairman, the people that come before us and say they are for campaign finance changes say it will protect the integrity of elections. What about protecting the integrity of elections? Why do they want to so narrowly define it that they only stick to the subject areas they want to?

Kentucky is one of the States where we have to have a Social Security number to register. We did not do that to discriminate, we did that with a Democratic Party legislature, because we had such fraud in our voting process. We did it to protect the integrity of the election.

What the people who oppose this today say is that, we would rather make our bed and pass a law with people who do not want to protect certain portions of the integrity of the election process in order to pass our own version. This is exactly what I fear about campaign finance reform, that we will pass laws that certain people will not want enforced, they will not pursue, they will not really protect the election process.

If they are not willing to protect the laws that say only citizens can vote, I would never want to be on their team to pass any other laws.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

I would point out that the gentlewoman has no intentions of supporting campaign finance reform, Mr. Chairman.

Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. BECERRA).

The CHAIRMAN pro tempore. The gentleman from California (Mr. BECERRA) is recognized for 3½ minutes, the balance of time.

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me, but more, I thank him for his efforts to get this to the floor and finally get it passed. I think we are going to get there.

Mr. Chairman, this is truly a poison pill, but it is a poison bill for a number of different reasons. Perhaps the most important to a number of people is the fact that it poisons the well to people who wish to become for the first time ever participants in our democracy, because they have just become U.S. citizens.

Let us make no mistake, this is not an effort to try to make sure that only American citizens vote. This is an effort to try to exclude those who are our newest American citizens from participating. Because if it were an effort to try to address the issue of all of our citizens, all of the people who live in this country being eligible to vote, then it would not target just the States where the most new citizens happen to reside, States like mine in California.

If we look at page 2 of the bill, there it is, States of California, New York, Texas, Florida, and Illinois. If I were to name the five States with the highest Latino population in the Nation, they would be States like California, New York, Texas, Florida, Illinois. What a coincidence that this bill goes after those States where the most Hispanics happen to reside. That is where there are a lot of new Hispanic voters.

What else does this bill do? It tells us that somehow, through the Social Security Administration and the INS, we are going to be able to determine the citizenship of the 267 some-odd million people who live in this country.

Wake up. Social Security has never been able to determine citizenship for anyone. Wake up, the INS cannot determine the citizenship for even all the folks who have immigrateed into this country. Wake up, they are targeting only those who were not born in this country, and somehow in their mind they are not eligible to vote. Wake up, how will someone determine if this individual should or should not be checked in terms of citizenship?

Tell me how a county registrar of voters is supposed to determine which individual to ask, "Can I get your Social Security number?" How will someone at the Motor Vehicle Department, when someone is filling out an application for registration for voting, say, "Wait a minute, you have passed your license test to drive, but can I see your Social Security number? Because I need to check to find out if you are a citizen"?

What will determine when someone gets asked whether or not they are citizens or not? Will it be the way they speak or the way they look, or will it be by the spelling on the last name? When that official tries to check with the INS and SSA and finds out that they cannot do this, what happens to that person's eligibility to vote? This is a targeted effort, unfortunately, at people who are beginning to participate. It scares some people. I am sorry that it does. The intentions may be good, but the mechanics of this amendment are totally wrong.

Someone said, let us protect the integrity of elections. Absolutely, let us do that. Let us do so. But let us protect the integrity of the Bill of Rights. Let us protect the integrity of the right to privacy. Let us protect the integrity of the right to freedom. Let us protect the integrity of this effort to reform our campaign finance laws.

Let us not get involved in this whole debate about how we tell which of the 267 million people who reside in this country are or not citizens through a process that we know cannot work, because the Social Security Administration and the INS have told us they cannot give us that information.

Please defeat this amendment. This is not the way to do it, and certainly we send the wrong message to our newest citizens who are trying to live in this greatest of democracies.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

I want to respond to two issues first. Someone talked about safeguards. It says right in the bill, to have reasonable safeguards against the pilot program resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of this pilot program.

Someone else said a national ID card. Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards, or the establishment of a national identification card. Those are false, bogus arguments against this bill.

Is Shays-Meehan perfect? We are being told it is perfect. I get mail every day that says it is not perfect. I get phone calls every day that say it is not perfect. This is only a pilot program. If it works, we expand it. If it does not work in 2001, we throw it away. Why are we afraid about stopping voter fraud?

In my view, the two worst problems we face about elections are illegal foreign money and noncitizen voting, and Shays-Meehan does not do anything about either of them. The States that we have listed, many of them are asking for help. Local registrars are asking for help. How do they know if people are citizens when they register them? They are begging for us to help.

Mr. Chairman, this is an argument, and those who think we should not stop voter fraud, those who think we should not require citizenship, then should stand up and support a bill that does away with it, that you do not have to be a citizen to vote, that you just have to be here.

Mr. Chairman, this is a simple pilot project that makes sense, that can work. I urge all the Members to support it.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. PETERSON) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MEEHAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. PETERSON) will be postponed.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 9 offered by the gentleman from Virginia (Mr. GOODLATTE), amendment No. 10 offered by the gentleman from Mississippi (Mr. WICKER); amendment No. 13 offered by the gentleman from California (Mr. CALVERT); an amendment offered by the gentlewoman from Washington (Mrs. LINDA SMITH); amendment No. 16 offered by the gentleman from California (Mr. ROHRABACHER); amendment No. 17 offered by the gentleman from Texas (Mr. PAUL); amendment No. 18 offered by the gentleman from Texas (Mr. PAUL); amendment No. 19 offered by the gentleman from Texas (Mr. DELAY); amendment No. 21 offered by the gentleman from Pennsylvania (Mr. PETERSON).

AMENDMENT NO. 9 OFFERED BY MR. GOODLATTE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment No. 9 offered by Mr. GOODLATTE to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end the following new title:

TITLE ___—VOTER REGISTRATION REFORM

SEC. ___01. REPEAL OF REQUIREMENT FOR STATES TO PROVIDE FOR VOTER REGISTRATION BY MAIL.

(a) IN GENERAL.—Section 4(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–2) is amended—

(1) in paragraph (1), by adding "and" at the end;

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) CONFORMING AMENDMENTS RELATING TO UNIFORM MAIL VOTER REGISTRATION FORM.—(1) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) is amended by striking section 9.

(2) Section 7(a)(6)(A) of such Act (42 U.S.C. 1973gg–5(a)(6)(A)) is amended by striking "assistance—" and all that follows and inserting the following: "assistance a voter registration application form which meets the requirements described in section 5(c)(2) (other than subparagraph (A)), unless the applicant, in writing, declines to register to vote;".

(c) OTHER CONFORMING AMENDMENTS.—(1) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) is amended by striking section 6.

(2) Section 8(a)(5) of such Act (42 U.S.C. 1973gg–6(a)(5)) is amended by striking "5, 6, and 7" and inserting "5 and 7".

SEC. ___02. REQUIRING APPLICANTS REGISTERING TO VOTE TO PROVIDE CERTAIN ADDITIONAL INFORMATION.

(a) SOCIAL SECURITY NUMBER.—

(1) IN GENERAL.—Section 5(c)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–3(c)(2)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) shall require the applicant to provide the applicant's Social Security number.".

(2) CONFORMING AMENDMENT.—Section 5(c)(2)(A) of such Act (42 U.S.C. 1973gg–3(c)(2)(A)) is amended by inserting after "subparagraph (C)" the following: ", or the information described in subparagraph (F)".

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1999, and shall apply with respect to applicants registering to vote in elections for Federal office on or after such date.

(b) ACTUAL PROOF OF CITIZENSHIP.—

(1) REGISTRATION WITH APPLICATION FOR DRIVER'S LICENSE.—Section 5(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–3(c)) is amended by adding at the end the following new paragraph:

"(3) The voter registration portion of an application for a State motor vehicle driver's license shall not be considered to be completed unless the applicant provides to the appropriate State motor vehicle authority proof that the applicant is a citizen of the United States.".

(2) REGISTRATION WITH VOTER REGISTRATION AGENCIES.—Section 7(a) of such Act (42 U.S.C. 1973gg–5(a)) is amended by adding at the end the following new paragraph:

"(8) A voter registration application received by a voter registration agency shall not be considered to be completed unless the applicant provides to the agency proof that the applicant is a citizen of the United States.".

(3) CONFORMING AMENDMENT.—Section 8(a)(5)(A) of such Act (42 U.S.C. 1973gg–6(a)(5)(A)) is amended by striking the semicolon and inserting the following: ", including the requirement that the applicant provide proof of citizenship;".

(4) NO EFFECT ON ABSENT UNIFORMED SERVICES AND OVERSEAS VOTERS.—Nothing in the National Voter Registration Act of 1993 (as amended by this subsection) may be construed to require any absent uniformed services voter or overseas voter under the Uniformed and Overseas Citizens Absentee Voting Act to provide any evidence of citizenship in order to register to vote (other than any evidence which may otherwise be required under such Act).

SEC. ___03. REMOVAL OF CERTAIN REGISTRANTS FROM OFFICIAL LIST OF ELIGIBLE VOTERS.

(a) IN GENERAL.—Section 8(d) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(d)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) At the option of the State, a State may remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence if—

"(i) the registrant has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the day after the date of the second previous general election for Federal office held prior to the date the confirmation notice described in subparagraph (B) is sent and ending on the date of such notice;

"(ii) the registrant has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in any of the first two general elections for Federal office held after the confirmation notice described in subparagraph (B) is sent; and

"(iii) during the period beginning on the date the confirmation notice described in subparagraph (B) is sent and ending on the date of the second general election for Federal office held after the date such notice is sent, the registrant has failed to notify the State in response to the notice that the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction.

"(B) A confirmation notice described in this subparagraph is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which a registrant may state his or her current address, together with information concerning how the registrant can continue to be eligible to vote if the registrant has changed residence to a place outside the registrar's jurisdiction and a statement that the registrant may be removed from the official list of eligible voters if the registrant does not respond to the notice (during the period described in subparagraph (A)(iii)) by stating that the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction.".

(b) CONFORMING AMENDMENT.—Section 8(i)(2) of such Act (42 U.S.C. 1973gg–6(d)) is amended by inserting "or subsection (d)(3)" after "subsection (d)(2)".

SEC. ___04. PERMITTING STATE TO REQUIRE VOTERS TO PRODUCE ADDITIONAL INFORMATION PRIOR TO VOTING.

(a) PHOTOGRAPHIC IDENTIFICATION.—Section 8 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j) PERMITTING STATES TO REQUIRE VOTERS TO PRODUCE PHOTO IDENTIFICATION.—A State may require an individual to produce a valid photographic identification before receiving a ballot (other than an absentee ballot) for voting in an election for Federal office.".

(b) SIGNATURE.—Section 8 of such Act (42 U.S.C. 1973gg–6), as amended by subsection (a), is further amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following new subsection:

"(k) PERMITTING STATES TO REQUIRE VOTERS TO PROVIDE SIGNATURE.—A State may require an individual to provide the individual's signature (in the presence of an election official at the polling place) before receiving a ballot for voting in an election for Federal office, other than an individual who is unable to provide a signature because of illiteracy or disability.".

SEC. ___05. REPEAL OF REQUIREMENT THAT STATES PERMIT REGISTRANTS CHANGING RESIDENCE TO VOTE AT POLLING PLACE FOR FORMER ADDRESS.

Section 8(e)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(e)(2)) is amended—

(1) by striking "(2)(A)" and inserting "(2)"; and

(2) by striking "election, at the option of the registrant—" and all that follows and inserting the following: "election shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be

permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.".

SEC. ___06. EFFECTIVE DATE.

The amendments made by this title shall apply with respect to elections for Federal office occurring after December 1999.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote of this series.

The vote was taken by electronic device, and there were—ayes 165, noes 260, not voting 9, as follows:

[Roll No. 358]

AYES—165

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chambliss
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Gallegly
Gekas
Gibbons
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Inglis
Jenkins
Johnson, Sam
Jones
Kasich
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
Lucas
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Pease
Peterson (PA)
Pickering
Pitts
Pombo
Pryce (OH)
Radanovich
Redmond
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Spence
Stearns
Stump
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOES—260

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Chabot
Chenoweth
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Costello
Coyne
Cramer
Crapo
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Regula
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer, Bob
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Smith, Linda
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Turner
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
White
Wise
Woolsey
Wynn
Yates

NOT VOTING—9

Gonzalez
Istook
Linder
McDade
Moakley
Rangel
Riggs
Towns
Young (FL)

□ 2035

Messrs. CRAPO, LAZIO of New York, WAXMAN, McGOVERN, and HALL of Texas changed their vote from "aye" to "no."

Messrs. HILLEARY, WAMP, and LEWIS of California changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings. The chair would request Members to remain in the chamber and to vote in the allotted time.

AMENDMENT OFFERED BY MR. WICKER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE, NO. 13 OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Mississippi (Mr. WICKER) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. WICKER to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end the following new title:

TITLE —PHOTO IDENTIFICATION REQUIREMENT FOR VOTERS

SEC. 01. PERMITTING STATE TO REQUIRE VOTERS TO PRODUCE PHOTOGRAPHIC IDENTIFICATION.

Section 8 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-6) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(i) PERMITTING STATES TO REQUIRE VOTERS TO PRODUCE PHOTO IDENTIFICATION.—A State may require an individual to produce a valid photographic identification before receiving a ballot for voting in an election for Federal office.".

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 192, noes 231, not voting 11, as follows:

[Roll No. 359]

AYES—192

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bereuter
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble

Coburn
Collins
Combest
Condit
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler

Hulshof
Hunter
Hyde
Inglis
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
Martinez
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman

Pryce (OH)
Radanovich
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Saxton
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOES—231

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Cook
Costello
Coyne

Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon

Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Leach

Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal

Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schumer
Scott
Serrano

Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Smith, Linda
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Turner
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—11

Bateman
Gonzalez
Istook
Kennedy (MA)

McDade
Moakley
Rangel
Riggs

Scarborough
Towns
Young (FL)

□ 2042

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CALVERT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore (Mr. BLUNT). The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. CALVERT) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. CALVERT to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

TITLE —RESTRICTIONS ON NONRESIDENT FUNDRAISING

SEC. 01. LIMITING AMOUNT OF CONGRESSIONAL CANDIDATE CONTRIBUTIONS FROM INDIVIDUALS NOT RESIDING IN DISTRICT OR STATE INVOLVED.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Senator or the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions with respect to an election from persons other than local individual residents totaling in excess of the aggregate amount of contributions accepted from local individual residents (as determined on the basis of the information reported under section 304(d)).

"(2) In determining the amount of contributions accepted by a candidate for purposes of this subsection, the amounts of any contributions made by a political committee of a political party shall be allocated as follows:

"(A) 50 percent of such amounts shall be deemed to be a contributions from local individual residents.

"(B) 50 percent of such amounts shall be deemed to be contributions from persons other than local individual residents.

"(3) As used in this subsection, the term 'local individual resident' means—

"(A) with respect to an election for the office of Senator, an individual who resides in the State involved; and

"(B) with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, an individual who resides in the congressional district involved.".

(b) REPORTING REQUIREMENTS.—Section 304 of such Act (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) Each principal campaign committee of a candidate for the Senate or the House of Representatives shall include the following information in the first report filed under subsection (a)(2) which covers the period which begins 19 days before an election and ends 20 days after the election:

"(1) The total contributions received by the committee with respect to the election involved from local individual residents (as defined in section 315(i)(3)), as of the last day of the period covered by the report.

"(2) The total contributions received by the committee with respect to the election involved from all persons, as of the last day of the period covered by the report.".

(c) PENALTY FOR VIOLATION OF LIMITS.—Section 309(d) of such Act (2 U.S.C. 437g(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Any candidate who knowingly and willfully accepts contributions in excess of any limitation provided under section 315(i) shall be fined an amount equal to the greater of 200 percent of the amount accepted in excess of the applicable limitation or (if applicable) the amount provided in paragraph (1)(A).

"(B) Interest shall be assessed against any portion of a fine imposed under subparagraph (A) which remains unpaid after the expiration of the 30-day period which begins on the date the fine is imposed.".

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 147, noes 278, not voting 9, as follows:

[Roll No. 360]

AYES—147

Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)

Bartlett
Barton
Bereuter
Blunt
Boehner
Bono
Brady (TX)
Burr

Burton
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss

Chenoweth
Coble
Coburn
Collins
Combest
Condit
Cook
Costello
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Duncan
Dunn
Ehlers
Ehrlich
English
Everett
Ewing
Fawell
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hoekstra
Horn
Hulshof
Hunter
Inglis
Jenkins
Jones
Kingston
Klug
Knollenberg
Kolbe
LaHood
LaTourette
Lewis (CA)
Linder
Lipinski
Livingston
Lucas
Luther
Maloney (CT)
Manzullo
McCollum
McCrery
McHugh
McKeon
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Paxon
Pease
Peterson (PA)
Petri
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Regula
Rohrabacher
Royce
Salmon
Saxton
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shuster
Smith (MI)
Smith (TX)
Snowbarger
Souder
Spence
Stearns
Stump
Stupak
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
White
Wolf
Young (AK)

NOES—278

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Campbell
Capps
Cardin
Carson
Castle
Christensen
Clay
Clayton
Clement
Clyburn
Conyers
Cooksey
Cox
Coyne
Cramer
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Edwards
Emerson
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
LoBiondo
Lofgren
Lowey
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McInnis
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pickering
Pickett
Pitts
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Redmond
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schaefer, Dan
Schumer
Scott
Serrano
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snyder
Solomon
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Sununu
Tanner
Tauscher
Thompson
Thornberry
Thurman
Tierney
Torres
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Watts (OK)
Waxman
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—9

Buyer
Fox
Gonzalez
Istook
McDade
Moakley
Riggs
Towns
Young (FL)

☐ 2050

Mr. PICKERING changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FOX of Pennsylvania. Mr. Chairman, on rollcall No. 360, I was unavoidably detained. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MRS. LINDA SMITH OF WASHINGTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore (Mr. BLUNT). The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Washington (Mrs. LINDA SMITH) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. Shays) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. LINDA SMITH of Washington to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

In Section 301(20) of the Federal Election Campaign Act of 1971, as added by section 201(a) of the substitute, strike subparagraph (b) and add the following:

"(b) VOTING RECORD AND VOTING GUIDE EXCEPTION—The term "express advocacy" does not include a communication which is in printed form or posted on the Internet that—

"(1) presents information solely about the voting record or position on a campaign issue of 1 or more candidates, provided however, that the sponsor of the voting record or voting guide may state its agreement or disagreement with the record or position of the candidate and further provided that the voting record or voting guide when taken as a whole does not express unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates,

(ii) is not made in coordination with a candidate, political party, or agent of the candidate or party, or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent; provided that nothing herein shall prevent the sponsor of the voting guide from directing questions in writing to candidates about their position on issues for purposes of preparing a voter guide, and the candidate from responding in writing to such questions, and

"(iii) does not contain a phrase such as 'vote for,' 're-elect,' 'support,' 'cast your ballot for,' '(name of candidate) for Congress,' '(name of candidate) in 1997.' 'vote against,' 'defeat,' or 'reject,' or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates."

In Section 301(8) of the Federal Election Campaign Act of 1971, as added by section 205(a)(1)(B) of the substitute, strike paragraph (D) and insert:

"(D) For purposes of subparagraph (C), the term 'professional services' means polling, media advice, fundraising, campaign research or direct mail (except for mailhouse services solely for the distribution of voter guides as defined in section 431(20)(B)) services in support of a candidate's pursuit of nomination for election, or election, to Federal office."

In Section 301(8)(C)(v) of the Federal Election Campaign Act of 1971, as added by section 205(a)(1)(B) of the substitute, add at the end thereof,

", provided however that such discussions shall not include a lobbying contact under the Lobbying Disclosure Act of 1995 in the case of a candidate holding Federal office or consisting of similar lobbying activity in the case of a candidate holding State or elective office."

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 343, noes 84, not voting 7, as follows:

[Roll No. 361]

AYES—343

Abercrombie
Ackerman
Allen
Andrews
Archer
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (OH)
Bunning
Buyer
Calvert
Campbell
Canady
Capps
Cardin
Carson
Castle
Chabot
Christensen
Clay

Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hayworth
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Nussle
Oberstar
Olver
Ortiz
Owens
Pallone
Parker
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skelton
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Wilson
Wise
Wolf
Wynn
Yates
Young (AK)

NOES—84

Aderholt
Armey
Baker
Barr
Bartlett
Barton
Bateman
Bilirakis
Bono
Brown (FL)
Bryant
Burr
Burton
Callahan
Camp
Cannon
Chambliss
Chenoweth
Cox
Deal
DeLay
Doolittle
Dreier
Ehrlich
Gephardt
Goode
Goodling
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Herger
Hoekstra
Hulshof
Hutchinson
Johnson, Sam
Jones
King (NY)
Kingston
Knollenberg
Lewis (CA)
Manzullo
Martinez
McCollum
McInnis
Meek (FL)
Mollohan
Moran (KS)
Murtha
Northup
Norwood
Obey
Oxley
Packard
Pappas
Paxon
Peterson (PA)
Pickering
Pitts
Pombo
Radanovich
Riley
Rogers
Royce
Ryun
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Solomon
Stearns
Stump
Sununu
Waters
Weldon (FL)
Whitfield
Wicker
Woolsey

NOT VOTING—7

Gonzalez
Istook
McDade
Moakley
Riggs
Towns
Young (FL)

□ 2057

Mr. KINGSTON, Mr. SCARBOROUGH and Mrs. NORTHUP changed their vote from "aye" to "no."

Mr. BLAGOJEVICH changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ROHRABACHER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. ROHRABACHER) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 272, not voting 7, as follows:

[Roll No. 362]

AYES—155

Abercrombie
Aderholt
Archer
Armey
Bachus
Baker
Bartlett
Bateman
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boucher
Brady (TX)
Bryant
Bunning
Burton
Callahan
Calvert
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clay
Coble
Coburn
Collins
Combest
Conyers
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Ensign
Everett
Fossella
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Granger
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Holden
Hostettler
Hyde
Inglis
Jenkins
Johnson, Sam
Jones
Kasich
King (NY)
Klink
Kolbe
Kucinich
Largent
LaTourette
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
Lucas
Manzullo
Martinez
McCollum
McCrery
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Mink
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Norwood
Packard
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pombo
Pryce (OH)
Radanovich
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryun
Sabo
Salmon
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Snowbarger
Solomon
Souder
Spence
Stump
Sununu
Talent
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Wicker
Wilson
Young (AK)

NOES—272

Ackerman
Allen
Andrews
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Buyer
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Clayton
Clement
Clyburn
Condit
Cook
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastert
Hastings (FL)
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Hoekstra
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kingston
Kleczka
Klug
Knollenberg
LaFalce
LaHood
Lampson
Lantos
Latham
Lazio
Leach
Lee
Levin
Lewis (GA)

Linder
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mollohan
Morella
Nadler
Neal
Neumann
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Parker
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weller
Wexler
Weygand
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—7

Gonzalez
Istook
McDade
Moakley
Riggs
Towns
Young (FL)

☐ 2105

Mr. CONYERS changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PAUL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on Amendment No. 17 offered by the gentleman from Texas (Mr. PAUL) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore (Mr. BLUNT). A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 62, noes 363, not voting 9, as follows:

[Roll No. 363]

AYES—62

Abercrombie
Armey
Bartlett
Bilirakis
Boswell
Campbell
Chenoweth
Coble
Cook
Cooksey
Crane
Cunningham
Davis (IL)
Deal
Doggett
Doyle
Ehlers
Filner
Foley
Fox
Goodling
Hill
Hilleary
Hoekstra
Hostettler
Hulshof
Largent
LaTourette
Leach
McIntosh
Metcalf
Mica
Mink
Moran (KS)
Moran (VA)
Murtha
Nadler
Nethercutt
Norwood
Pastor
Paul
Pombo
Rahall
Redmond
Roemer
Rogan
Royce
Sanders
Sanford
Schaefer, Dan
Sessions
Sherman
Shimkus
Smith, Linda
Sununu
Taylor (NC)
Tiahrt
Torres
Traficant
Watts (OK)
Weller
Young (AK)

NOES—363

Ackerman
Aderholt
Allen
Andrews
Archer
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coburn
Collins
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Danner
Davis (FL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mollohan
Morella
Myrick
Neal
Neumann
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Regula
Reyes
Riley
Rivers
Rodriguez
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sawyer
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Thurman
Tierney
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—9

Bateman
Gonzalez
Herger
Istook
McDade
Moakley
Riggs
Towns
Young (FL)

☐ 2112

Mr. DICKEY changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PAUL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on Amendment No. 18 offered by the gentleman from Texas (Mr. PAUL) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 88, noes 337, not voting 9, as follows:

[Roll No. 364]

AYES—88

Abercrombie
Barcia
Bartlett
Bilirakis
Camp
Campbell
Chambliss
Chenoweth
Coble
Coburn
Collins
Conyers
Cook
Cooksey
Crane
Cubin
Cunningham
Davis (IL)
Deal
DeFazio
DeGette
Doolittle
Duncan
Ensign
Filner
Foley
Gibbons
Hayworth
Hill
Hilleary
Hobson
Hoekstra
Hooley
Hulshof
Hunter
Jackson-Lee (TX)
Kasich
LaTourette
Leach
Luther
Maloney (CT)
McCarthy (MO)
McHugh
McIntosh
Metcalf
Mink
Moran (KS)
Nethercutt
Neumann
Ney
Norwood
Pappas
Pastor
Paul
Pease
Pombo
Pryce (OH)
Rahall
Redmond
Regula
Rivers
Royce
Salmon
Sanders
Sanford
Scarborough
Schaefer, Dan
Sessions
Shadegg
Sherman
Shimkus
Shuster
Smith, Linda
Snowbarger
Sununu
Taylor (NC)
Thune
Tiahrt
Torres
Traficant
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weller
Whitfield
Young (AK)

NOES—337

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Christensen
Clay
Clayton
Clement
Clyburn
Combest
Condit
Costello
Cox
Coyne
Cramer
Crapo
Cummings
Danner
Davis (FL)
Davis (VA)
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hefner
Herger
Hilliard
Hinchey
Hinojosa
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Pascrell
Paxon
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Radanovich
Ramstad
Rangel
Reyes
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thurman
Tierney
Turner
Upton
Velazquez
Vento
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weygand
White
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn

NOT VOTING—9

Gonzalez
Istook
McDade
Moakley
Riggs
Towns
Wexler
Yates
Young (FL)

□ 2119

Mr. KASICH and Mr. SCARBOROUGH changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DELAY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore (Mr. BLUNT). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. DELAY) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore (Mr. BLUNT). A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 185, noes 241, not voting 8, as follows:

[Roll No. 365]

AYES—185

Aderholt
Archer
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fossella
Fowler
Gallegly
Gekas
Gibbons
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klink
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Young (AK)

NOES—241

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baesler
Baldacci
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)

Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klug
Knollenberg
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pascrell
Pastor
Payne
Pelosi
Petri
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schumer
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith, Adam
Smith, Linda
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wise
Wolf
Woolsey
Wynn

NOT VOTING—8

Gonzalez
Istook
McDade
Moakley
Riggs
Towns
Yates
Young (FL)

□ 2127

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PETERSON OF PENNSYLVANIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. PETERSON) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 165, noes 260, not voting 9, as follows:

[Roll No. 366]

AYES—165

Aderholt
Archer
Baker
Ballenger
Barr
Bartlett
Barton
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chambliss
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fawell
Fossella
Fowler
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Granger
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Jenkins
Johnson, Sam
Jones
Kasich
Kingston
Klug
Knollenberg
Lazio
Lewis (CA)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pryce (OH)
Radanovich
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOES—260

Abercrombie
Ackerman
Allen
Andrews
Armey
Bachus
Baesler
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Campbell
Capps
Cardin
Carson
Castle
Chabot
Chenoweth
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Costello
Coyne
Cramer
Crapo
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Hutchinson
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schaffer, Bob
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Turner
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wise
Woolsey
Wynn

NOT VOTING—9

Fox
Gonzalez
Istook
McDade
Moakley
Riggs
Towns
Yates
Young (FL)

□ 2134

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FOX of Pennsylvania. Mr. Chairman, on rollcall No. 366, I was inadvertently detained. Had I been present, I would have voted "no."

Mr. THOMAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LaHood) having assumed the chair, Mr. Blunt, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. BURR of North Carolina. Mr. Speaker, earlier today, I missed rollcall votes 356 and 357 because I was unavoidably detained in my district. Had I been present, I would have voted "no" on rollcall vote 356 and "aye" on rollcall vote 357.

UNITED STATES CAPITOL POLICE MEMORIAL FUND

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight and the Committee on Ways and Means be discharged from further consideration of the bill (H.R. 4354) to establish the United States Capitol Police Memorial Fund on behalf of the families of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HOYER. Mr. Speaker, reserving the right to object, and of course I will not object, but under my reservation, I would yield to the gentleman from California (Mr. Thomas), the chairman of the Committee on House Oversight.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Maryland (Mr. Hoyer) for yielding.

Mr. Speaker, this bill establishes the United States Capitol Police Memorial Fund on behalf of the families of detective John Michael Gibson and Private First Class Jacob Joseph Chestnut.

I want to make sure people understand that this bill establishes by law an official fund in the United States Treasury. Because of that, it is not only permissible, but obviously appropriate, to use official House resources in support of and to solicit contributions to the memorial fund.

In addition to that, the reason the Committee on Ways and Means had jurisdiction over this measure is that those donations to this fund are considered charitable and are, therefore, tax deductible. In addition, there is a provision which says that Federal campaign committees may, in fact, donate funds to the memorial fund.

It is an appropriate gesture, structured in the appropriate way, that it is a tax deduction and no tax would be levied against it.

Mr. Speaker, I thank the gentleman for yielding under his reservation.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, continuing under my reservation, many of us attended the funeral of Detective Gibson today, and tomorrow morning we will be attending the funeral of Officer Chestnut. It has been a sad week for all of us; in some ways, however, a very proud week as well when we consider the actions of these two brave and courageous men, and indeed, the actions of their colleagues on the Capitol Police Force and other emergency response teams that came to the Capitol to assist our own Capitol Police.

Mr. Speaker, as we drove from the church, there were literally thousands upon thousands of Americans who stood by the curb and watched the procession go by, waved, saluted, placed their hands on their hearts, in recognition of the contribution to their own welfare and the welfare of their country, that these two brave and courageous Americans had performed and the sacrifice they had made.

This will allow all of us, all Americans and indeed others, in a very tangible way to participate in showing to the families of Officer Chestnut and Detective Gibson that our words are not the only thing that we are prepared to raise on their behalf.

Mr. Speaker, I thank the gentleman from California for this action.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, the gentleman's words are quite appropriate and timely in terms of the death of these two particular officers.

I do want to underscore that the establishment of this United States Capitol Police Memorial Fund is dedicated on an even basis to the families of these two gentlemen for a 6-month period. It means that this fund will live beyond these two families' needs, and that it will become a perpetual memorial fund available to the Capitol Police; entirely appropriate for this occasion, but available in the future, unfortunately, if needed. I thank the gentleman for yielding.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments.

Mr. Speaker, obviously I am in strong support, as I know every Member of this House is, of this resolution.

Mr. Speaker, continuing my reservation for just a minute, I yield to the gentleman from Virginia (Mr. Moran).

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from Maryland for yielding to me.

I would just like to mention at this point, there is another organization that has fulfilled a complementary role. That organization's name is Heroes, Incorporated. They responded immediately with cash assistance to the family and are also prepared to provide scholarship funds, as they have for every police officer killed in the District of Columbia, I think it is over 300 now, and dozens of children are receiving college scholarships as a result of this organization. This is a wonderful fund, and I mean nothing pejorative, and I wholly support it. But I think it might be appropriate to mention the fact that the Heroes also responded in a very generous fashion and deserve some credit for doing that as well.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments, and I would point out that the gentleman from Texas (Mr. DeLay), the majority whip, when he made his initial presentation, did, in fact, speak directly of Heroes and the wonderful work they had done, not only with respect to their immediate response for these two officers, but the work that they had done for so many other officers, and indicated as well that the Hero scholarship is probably the most generous scholarship that is given in America and will ensure that the children of Detective Gibson and Officer Chestnut will not need to worry about their educational expenses.

But I thank the gentleman for his very appropriate remarks.

Mr. THOMAS. Mr. Speaker, I temporarily withdraw the bill.

DISTRICT OF COLUMBIA CONVENTION CENTER AND SPORTS ARENA AUTHORIZATION ACT AMENDMENTS

Mr. DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform and Oversight be discharged from further consideration of the bill (H.R. 4237) to amend the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 to revise the revenues and activities covered under such Act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVENUES AND ACTIVITIES COVERED UNDER WASHINGTON CONVENTION CENTER AND SPORTS ARENA AUTHORIZATION ACT OF 1995.

(a) In General.—Section 101 of the District of Columbia Convention Center and Sports

Arena Authorization Act of 1995 (DC Code, sec. 47-396.1) is amended by striking subsections (a) and (b) and inserting the following:

"The fourth sentence of section 446 of the District of Columbia Home Rule Act (DC Code, sec. 47-304) shall not apply with respect to the expenditure or obligation of any revenues of the Washington Convention Center Authority for any purpose authorized under the Washington Convention Center Authority Act of 1994 (D.C. Law 10-188).".

(b) RULE OF CONSTRUCTION REGARDING REVENUE BOND REQUIREMENTS UNDER HOME RULE ACT.—Nothing in the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 may be construed to affect the application of section 490 of the District of Columbia Home Rule Act to any revenue bonds, notes, or other obligations issued by the Council of the District of Columbia or by any District instrumentality to which the Council delegates its authority to issue revenue bonds, notes or other obligations under such section.

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW OF WASHINGTON CONVENTION CENTER AUTHORITY FINANCING AMENDMENT ACT OF 1998.

Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, the Washington Convention Center Authority Financing Amendment Act of 1998 (D.C. Act 12-402) shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. DAVIS) is recognized for 1 hour.

Mr. DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4237, which we have just passed, is a bill that permits the District of Columbia to move forward with a financing plan for the purpose of building a new state-of-the-art convention center in downtown Washington.

This bill authorizes the Washington Convention Center Authority, an independent agency, to issue bonds and waive the 30-day waiting period for the D.C. City Council enactment to go into effect. Its passage this evening is important so they can get immediate Senate consideration and be signed by the President, and we can be in the ground and starting construction the 1st of September.

Our subcommittee has followed the effort to build a new convention center in downtown Washington with great interest. We think this is critical for the city to reestablish a tax base in downtown Washington, and working with the MCI Center, we will build, we think, a revitalization of the downtown area.

Over time it is estimated that the situation only gets worse in terms of attracting tourism if we were to go with the existing center. The District of Columbia's existing Convention Center is now only the 30th largest in the country, and it can accommodate only approximately 55 percent of national conventions and exhibition shows. That is a serious blow to the District's economy. A new convention center will provide much needed jobs for the city, and an increase in locally-generated local tax base revenue. It will boost morale for the entire region.

I want to thank the General Accounting Office and the General Services Administration for their respective roles in analyzing the development of the financing plan for the new Washington Convention Center. Their thorough analysis has reinforced our confidence in permitting the District to move forward with this project.

I also want to thank the District's Financial Control Board for their hard work and oversight on the development of this project. The Control Board is empowered to approve or disapprove all city borrowing, and this sign-off of the financial package I think gives everyone more confidence in its viability.

After reviewing information from both the proponents and opponents of the project, our committee has unanimously approved the project, and the Control Board has, in effect, reported to Congress that all aspects of the project, including borrowing and costs, are compatible with the interests of the District of Columbia. The next step is for Congress to go ahead and pass this bill. Our action this evening is a giant step forward for the District.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I strongly support this legislation that moves the convention center forward for the District of Columbia. Frankly, having a world class convention center in the Washington metropolitan area is something that the entire region needs, and there are suburban jurisdictions that would have loved to have had this center within their jurisdiction. I can say, quite frankly, we had some great sites for it.

But the fact is, it belongs in the center city. Had the business community, the residential community, the political community not gotten their act together they might have lost this, but this is a credit to the fact that there is that kind of symbiotic relationship that is acting in a constructive manner today, particularly the hotel, the restaurant, and the tourism industry.

They deserve this convention center. Most importantly, the people of the District of Columbia deserve this convention center and all the economic benefits it will provide.

I thank the gentleman who chairs the District of Columbia authorizing committee for moving this legislation forward at a rapid pace, and I look forward to the day that we can all go to this convention center and enjoy not only the center itself, but all the economic and social benefits it will bring to this great capital city.

Mr. DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Virginia.

Mr. DAVIS of Virginia. Mr. Speaker, I also want to thank Trey Hardin and Peter Sirh of my staff for the staff work they have done on this.

Ms. NORTON. Mr. Speaker, I ask my colleagues to amend the D.C. Convention Center and Sports Arena Authorization Act of 1995 in order to enable the Washington Convention Center Authority (Authority) to finance revenue bonds for the cost of constructing a new convention center in downtown D.C. This legislation moves forward the hope and promise of the 1995 legislation for a sports arena and a convention center, twin centerpieces of economic development and jobs in the city and revitalization of downtown in the District. The quick and efficient construction of the MCI Center and the new jobs and revenue the arena has brought to D.C. residents have encouraged the city to complete its work on a convention center, where the need has long been conceded.

In every other city in the United States, this matter would not come before any but the local city council. Unfortunately, unlike every other city, the District does not have legislative and budget autonomy and therefore cannot spend its own funds unless authorized by Congress.

Extensive hearings in the D.C. City Council have been held on the underlying issues, with an informed and vigorous debate by members of the City Council. On June 16, the City Council approved legislation to finance the new convention center, and on July 7, the City Council passed a bond inducement resolution to approve the Authority's proposal for the issuance of dedicated tax revenue bonds to finance construction of the convention center. On July 13, the D.C. Financial Responsibility and Management Assistance Authority (Control Board) gave its final approval to the financing plan for the project, leaving only congressional authorization, which is necessary for the District to proceed to the bond market.

On July 15, the Subcommittee on the District of Columbia heard testimony from Mayor Marion Barry, City Council Chair Linda Cropp, City Council Member Charlene Drew Jarvis, Control Board Chair Andrew Brimmer, Authority President Terry Golden, and representatives of the General Accounting Office (GAO) and the General Services Administration (GSA) on the financial aspects of the project. After hearing this testimony, I am satisfied that the Authority is ready to proceed with the issuance of bonds to secure financing, allowing the Authority to begin to break ground possibly as early as September. Considering the many years' delay and the millions in lost revenue to the District, ground breaking cannot come too soon.

Although the GAO testified that the cost of constructing the new convention center would be $708 million, $58 million more than the $650 million estimate, this $58 million is not attributable to the cost of the center but to certain costs that should be borne by entities other than the Authority. For example, vendors who will operate in the facility are anticipated to contribute $17.7 million in equipment costs; the District government will provide $10 million for utility relocation from expected Department of Housing and Urban Development grants; and the President has requested $25 million in his budget to expand the Mount Vernon Square Metro station.

The GSA testified that the agency had worked closely with the Authority to keep the costs of the project down. With the GSA's assistance, the Authority secured a contract with a construction manager for a "Guaranteed Maximum Price," whereby the private contractor is given incentives to keep costs down and assumes the risk for any cost overruns.

Mayor Marion Barry testified, among other things, regarding the promise of additional jobs for District residents. He said that the new convention center would create nearly 1,000 new construction jobs, and that once the facility is completed, it would generate nearly 10,000 jobs in the hospitality and tourism industries. He testified that, using some of the approaches that were successful with the MCI Center, special training and goals for jobs for D.C. residents would be met.

The District of Columbia Subcommittee hearing was not a reprise of the lengthy D.C. City Council hearings, and, on home rule grounds, did not attempt to repeat issues of local concern. However, since the issues of financing and bonding before the Congress implicate other areas, the Subcommittee asked extensive questions and received testimony concerning many issues, including location, size, and job creation, in addition to the strictly financial issues.

This convention center has an unusual financial base, which I believe other cities might do well to emulate. The financing arises from a proposal by the hotel and restaurant industry for taxes on their own industry that would not have been available to the city for any other purpose. The proposal was made at a time when the city's need for revenue and jobs has been especially pressing. For many years, the District had been unable to attract large conventions. Not only has the District lost billions as a result; the local hotel and restaurant industry has suffered from the absence of a large convention center. It is estimated that the inadequacy of the current facility led to the loss of $300 million in revenue from lost conventions in 1997 alone. My legislation will enable the District to compete for its market share in the convention industry for the first time in many years.

The delay in building an adequate convention center has been very costly to the District. In a town dominated by tax exempt property, especially government buildings, a convention center is one of the few projects that can bring significant revenues. To that end, the District intends to break ground this September. I ask for expeditious passage on this bill.

Mr. Speaker, I yield back the balance of my time.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4194. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes.

H.R. 4328. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4194) "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations and offices for the fiscal year ending September 30, 1999, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon and appoints Mr. BOND, Mr. BURNS, Mr. STEVENS, Mr. SHELBY, Mr. CAMPBELL, Mr. CRAIG, Ms. MIKULSKI, Mr. LEAHY, Mr. LAUTENBERG, Mr. HARKIN, and Mr. BYRD, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4328) "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SHELBY, Mr. DOMENICI, Mr. SPECTER, Mr. BOND, Mr. GORTON, Mr. BENNETT, Mr. FAIRCLOTH, Mr. STEVENS, Mr. LAUTENBERG, Mr. BYRD, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mrs. MURRAY, and Mr. INOUYE, to be the conferees on the part of the Senate.

The message also announced that the Senate passed a concurrent resolution of the following title in which concurrence of the House is requested:

S. Con. Res. 114. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

□ 2145

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2183.

□ 2150

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. BLUNT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose earlier today, the amendment offered by the gentleman from Pennsylvania (Mr. PETERSON) had been disposed of.

It is now in order to consider amendment No. 22 offered by the gentleman from Georgia (Mr. BARR).

AMENDMENT OFFERED BY MR. BARR OF GEORGIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. BARR of Georgia. Mr. Chairman, I offer amendment No. 23 to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS.

The CHAIRMAN. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment No. 23 offered by Mr. BARR of Georgia to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end the following new title:

TITLE —PROHIBITING BILINGUAL VOTING MATERIALS

SEC. 01. PROHIBITING USE OF BILINGUAL VOTING MATERIALS.

(a) PROHIBITION.—

(1) IN GENERAL.—No State may provide voting materials in any language other than English.

(2) VOTING MATERIALS DEFINED.—In this subsection, the term "voting materials" means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots.

(b) CONFORMING AMENDMENTS.—The Voting Rights Act of 1965 is amended—

(1) by striking section 203 (42 U.S.C. 1973aa—1a);

(2) in section 204 (42 U.S.C. 1973aa–2), by striking ", or 203"; and

(3) in section 205 (42 U.S.C. 1973aa–3), by striking ", 202, or 203"and inserting "or 202".

The CHAIRMAN pro tempore. Pursuant to the order of the House on Friday, July 17, 1998, the gentleman from Georgia (Mr. BARR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have introduced an amendment which bans the use of bilingual ballots in Federal elections. We know that almost 25 years ago this Congress provided for bilingual ballots. Back then our country was just beginning to see a huge influx of immigrants to our shores who wished to exercise their right to vote when they became American citizens.

We need to recognize that if an individual becomes a naturalized citizen of this country, they are required to demonstrate a knowledge of English before they can achieve citizenship status. This Congress, in 1950, explicitly added a specific requirement that persons who wish to become citizens must "demonstrate an understanding of English language, including an ability to read, write, and speak words in ordinary usage in the English language."

While we require individuals to learn English, bilingual ballots contradict this by allowing them to vote in their native language, a language other than the English language.

We all recognize, Mr. Chairman, that our Nation is made up of more nationalities than any other country in the world. We are all proud of that fact, because it demonstrates and confirms to us what we have always known about America, that it remains the best country in the world.

However, all we need do is look to our neighbor in the north, Canada. Canada is a divided nation, a deeply divided nation, a sometimes violently divided nation, because of the acceptance of but two, but two, national languages, only two. Look at the problems they have: near secession, rioting. These are the wages of lingual disunity. It is essential to our national interest to maintain one language, the English language, in the transaction of our Nation's business, government services, and, most importantly, voting.

What business of government is more important to the government and the people of a country than voting? By making the choice to become an American citizen, immigrants take upon themselves the responsibility to learn the English language and to become productive citizens of this country. A foreign language on a Federal ballot provides that an individual can still easily exercise one civic duty, and yet completely neglect their other duty of mastering the English language.

Mr. Chairman, let us also note a paradox which exists with respect to this issue. Supporters of bilingual ballots have argued that they are desperately needed. Claims have been made that citizens who speak foreign languages would be less likely to register and vote if they could not vote with a bilingual ballot. Studies, I might add parenthetically, do not prove this to be the case.

Yet, the same people who support bilingual ballots because people are not learning English turn right around and say a constitutional amendment making English the official language of American government is unnecessary because everybody is already learning the language.

Mr. Chairman, the only essential thing is that when languages other than English appear on a ballot, the language of the "immigrant ancestors" is given official status by the Federal Government co-equal with the English language. That is neither contemplated nor appropriate. It is certainly not contemplated in our citizenship laws, which require proficiency in the English language to become a citizen.

Bilingual ballots are just one more way that well-meaning people hinder the progress of certain groups in this country of foreign ancestry. English is the language of this Nation. Those who do not learn it will be unable to take their rightful place and excel in the political arena, in the economic arena, in the education arena, and every other arena in this land.

I ask my colleagues to vote for this important amendment, which simply reaffirms existing law on citizenship and brings that down to the ballot box, where it is perhaps the most important indice and most important chore and responsibility, and indeed, right that any citizen has, naturalized or native born.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does the gentleman from Massachusetts (Mr. MEEHAN) rise in opposition to the amendment?

Mr. MEEHAN. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts (Mr. MEEHAN) is recognized for 5 minutes.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding time to me.

Again, the amendment of the gentleman from Georgia (Mr. BARR) has nothing to do with campaign finance reform. Mr. Chairman, Republicans have a great idea to improve democracy: let us hold an election, but make sure some specially singled out voters do not have the chance to read fully about what the issues are, or who they are voting for.

Who do they seek to single out? True to form, they single out immigrants who fled political persecution or economic repression, who encourage their children to study hard, who attend weekend classes to improve their English skills, all the while holding down two jobs to support their families. These are people proud to be American citizens.

Yes, there is an elementary language provision under the immigration law to become a United States citizen, but there are also exceptions for those seniors who are elderly and who are exempted. They would be not having the access to understand what they are voting for.

Think about the ballot questions that come forth and the complexity of those ballot questions. These are people Republicans want to punish. I say to my friends on the other side of the aisle, people who use bilingual voting materials are people who want to participate in the process, who want to be informed about the issues, who want to know where the candidates stand. Otherwise, they would not be using these materials in the first place.

Come November, I believe these hard-working Americans who pay their taxes, serve in the Armed Forces of the United States, and are Americans in all other respects, will remember the contempt this amendment treats them with.

We should vote down this amendment and at the same time keep Shays-Meehan free from anything that is not campaign finance reform.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I begin by saluting my colleague, the gentleman from Massachusetts (Mr. MEEHAN), and the gentleman from Connecticut (Mr. SHAYS), for their tremendous patience. Because as we are seeing with this amendment, we have been offered everything but the kitchen sink as an amendment to this bill.

This really has nothing to do with the underlying issue of campaign finance reform. It does have to do with a movement concerning proficiency in English, which I agree is an important part of being an American. But I also know that there are many people that are some of our strongest and best Americans whose first language is, in my community, Spanish or Vietnamese. They are some of our hardest working citizens. They pay taxes, they contribute to our community, and they deserve a right to participate in the electoral process.

□ 2200

As I review the specifics of this amendment that the gentleman from Georgia (Mr. BARR) is offering, it allows the ballots to be bilingual, which they certainly should be. It is the voting materials that he says cannot be in another language.

My goodness, in our State, we provide instructions, we use bilingual instructions to teach people how to get a driver's license. Why can we not provide the same manner of instruction for those who want to exercise their franchise as Americans? I can tell my colleagues that in the State of Texas, unlike some other parts of the world, language is not dividing us. It is only those who attack other languages and other cultures from their own misunderstanding who divide us.

Mr. Chairman, let us come together and support what this bill is all about and not get divided over a question of bilingual information for voters.

Mr. MEEHAN. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN pro tempore (Mr. BLUNT). The gentleman from Massachusetts (Mr. MEEHAN) has 1½ minutes remaining, and the gentleman from

Georgia (Mr. BARR) has 1 minute remaining, and has the right to close.

Mr. MEEHAN. Mr. Chairman, I yield the balance of my time to the gentleman from Rhode Island (Mr. WEYGAND), a leader in the effort of campaign finance reform.

Mr. WEYGAND. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. MEEHAN) for yielding me this time, and for the great work he has been doing on this. In closing, let me remake a couple of the points that have been said so eloquently by my colleagues here.

First, this proposed amendment is not about campaign finance reform. This is more properly before discussion and debate on voters' rights and the Voting Act.

Number two, the gentleman from Georgia (Mr. BARR) talks about this is not an allowable provision under the Voting Act. He in fact says that it is not allowable for people who do not understand English to be American citizens under the 1975 Voting Act.

Mr. Chairman, that is not true. The fact is that people that are older and have been here for 15 or 20 years, depending upon their age, are allowed to become citizens of the United States by taking a test in their own language. This, therefore, would discriminate against many of the older immigrant Americans who have been naturalized from participating in the voting process that they have worked so hard and so dearly to attain.

Last but not least is the complexity by which many questions are placed on the ballot. Again, they need some description, some assistance. By having such a referendum in their own language, it provides an easy way for people who are truly Americans to be able to participate in the voting process that we so rightly and so richly deserve.

Mr. BARR of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is interesting, of course, that the opponents of this very simple and straightforward amendment regarding the fact that voting materials provided by the government should be in English, not in other languages, it is very interesting that they refer several times to an amendment to the laws of this land that provide for a small category of persons, elderly, who speak another language who have been in this country for a certain lengthy number of years. They keep referring to that, yet I am sure that they would not agree to a friendly amendment that those people indeed could have bilingual materials. They are just opposed to having these materials in the English language.

Mr. Chairman, they are so opposed to it, that they call this a poison pill. A poison pill, simply saying that ballot materials, voting materials shall be in the English language. That is somehow poisonous to this country, that is poisonous to the standards, to voting procedures in this country.

That, I think, says perhaps more than anything else, more than all of the great eloquent words on the other side that this to them is poisonous, simply standing up for the English language.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. BARR) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BARR of Georgia. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Georgia (Mr. BARR) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

It is now in order to consider the amendment by the gentleman from Ohio (Mr. TRAFICANT).

AMENDMENT NO. 24 OFFERED BY MR. TRAFICANT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. TRAFICANT to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end the following new title:

TITLE —EXPULSION PROCEEDINGS FOR HOUSE MEMBERS RECEIVING FOREIGN CONTRIBUTIONS

SEC. 01. PERMITTING CONSIDERATION OF PRIVILEGED MOTION TO EXPEL HOUSE MEMBER ACCEPTING ILLEGAL FOREIGN CONTRIBUTION.

(a) IN GENERAL.—If a Member of the House of Representatives is convicted of a violation of section 319 of the Federal Election Campaign Act of 1971 (or any successor provision prohibiting the solicitation, receipt, or acceptance of a contribution from a foreign national), it shall be in order in the House at any time after the fifth legislative day following the date on which the Member is convicted to move to expel the Member from the House of Representatives. A motion to expel a Member under the authority of this subsection shall be highly privileged. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(b) EXERCISE OF RULEMAKING AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives, and as such it is deemed a part of the rules of the House of Representatives, and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of the House of Representatives to change the rule at any time, in the same manner and to the same extent as in the case of any other rule of the House of Representatives.

MODIFICATION TO AMENDMENT NO. 24 OFFERED BY MR. TRAFICANT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that my amendment be modified with the language that will be sent to the desk forthwith.

Mr. Chairman, I would like to read it and send it up to the Clerk here. It would strike on page 1, line 12, after "foreign national" and all that follows through line 14, page 2, and insert the following:

"The Committee on Standards of Official Conduct shall immediately consider the conduct of the Member and shall make a report and recommendation to the House forthwith concerning that Member, which may include a recommendation for expulsion."

Mr. Chairman, I will send it to the Committee and I would like to, if the Committee is satisfied and there is no objection, proceed with my amendment.

The CHAIRMAN pro tempore. The Chair will treat the modification as having been read.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The amendment is modified.

Pursuant to the order of the House on Friday, July 17, 1998, the gentleman from Ohio (Mr. TRAFICANT), and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it was not my intention to bypass the Committee on Standards of Official Conduct. It is my intention, however, to highlight the importance of the infusion of illegal foreign money into our campaigns.

If we are to truly reform this system, there must be that statement which exists within this reform. The original Traficant language said within 5 days it must be brought to the floor, once a Member has been convicted of having knowingly accepted an illegal campaign contribution.

The Committee on Standards of Official Conduct, and some of the Members who have done a good job, including the gentleman from Maryland (Mr. CARDIN), believe that perhaps it would be seen as an effort to circumvent and to bypass the Committee on Standards of Official Conduct. It is not my intentions to do that, but I will say this.

The key words in there, "it shall be immediately referred" to that committee and "it shall be brought forthwith" without placing any specific dates on that.

And the original Traficant amendment never did say that that Member had to be expelled, but there had to be a vote on expulsion. It would still be subject to the same constitutional requirements. I am hoping that this will satisfy, but it will still associate with that heinous crime some punishment timely with the deed.

Mr. Chairman, the House should not let those matters be carried over too long. And having conferred with our ranking member of that committee, I am comfortable with it.

Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, I was going to ask to claim the time in opposition, but I am not in opposition but in support of the gentleman's amendment. I appreciate the gentleman from Ohio (Mr. TRAFICANT) yielding me this time. Perhaps we could conclude debate on this quite quickly.

Mr. Chairman, I would like to put on the record that I appreciate two things: the conscientious concern of the gentleman from Ohio about the conduct of Members of this body; and, secondly, his accommodating the concerns that have been expressed about the appropriate functioning of our committee structure by the amendment that he made.

I think the gentleman's amendment leaves the authority with the committee. It does not compel an answer one way or the other.

So, I would rise in support, and yield back with my compliments to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Maryland (Mr. CARDIN), a fellow graduate of the University of Pittsburgh. I think his improvement of this amendment is well worth his time.

Mr. CARDIN. Mr. Chairman, I thank the gentleman from Ohio (Mr. TRAFICANT) for his willingness to work with us on this amendment. The point that he is raising is a very important point, and that is if a Member has been convicted of violating the foreign contribution ban, that that matter must be immediately considered by the Committee on Standards of Official Conduct and a report must come back forthwith to the House for action.

I think that that is the appropriate way to handle it. I want to congratulate the gentleman for bringing this to our attention. It is very important that the House have an opportunity to act promptly when these types of circumstances develop. Hopefully, it will never happen, but it is important that that statement be made. I congratulate my colleagues.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I thank the gentleman from Ohio (Mr. TRAFICANT) for yielding me this time.

Mr. Chairman, for those that may be following this debate and wonder at times what "poison pill" and some of the references actually mean, I want to point to the motives of the Shays-Meehan effort. That is really to try to remove the influence that special interests have on Federal election campaigns.

I also want to point out, with this amendment being an example, that we are not killing everything that comes up. If it is germane, if it is special interest, if it is about money in Federal elections, and it is something that is going in the same direction of real reform, we are willing to work with the authors of amendments such as the gentleman from Ohio (Mr. TRAFICANT) and this is a great example.

Mr. Chairman, I commend the gentleman for his work and his persistence on this legitimate issue of foreign money coming into the American Federal political process. There is some domestic money that we think is also egregious and we are trying to put some reasonable limitations on soft money and the proliferation of these outside interests. I thank the gentleman for his work.

Mr. TRAFICANT. Mr. Chairman, I appreciate the efforts of the committee in helping to fashion this amendment. It was no intent to circumvent the Committee on Standards of Official Conduct. They have done a fine job.

Mr. Chairman, I urge an "aye" vote.

Mr. Chairman, I reserve the balance of my time.

Mr. CAMPBELL. Mr. Chairman, I ask unanimous consent to claim the time otherwise reserved for one who is in opposition.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California (Mr. CAMPBELL)?

There was no objection.

Mr. CAMPBELL. Mr. Chairman, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Ohio (Mr. TRAFICANT) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The amendment, as modified, to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 25.

AMENDMENT OFFERED BY MR. BLUNT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. BLUNT. Mr. Chairman, I offer amendment No. 25 as the designee of the gentleman from Texas (Mr. DELAY) to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment No. 25 offered by Mr. BLUNT to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

At the appropriate place, insert the following:

SEC. . EXPRESS ADVOCACY DETERMINED WITHOUT REGARD TO BACKGROUND MUSIC.

Section 301 (2 U.S.C. 431) is amended by adding at the end the following new paragraph:

"(20) In determining whether any communication by television or radio broadcast constitutes express advocacy for purposes of this Act, there shall not be taken into account any background music used in such broadcast."

The CHAIRMAN pro tempore. Pursuant to the order of the House Friday, July 17, 1998, the gentleman from Missouri (Mr. BLUNT) and the gentleman from California (Mr. CAMPBELL) will each control 5 minutes.

The Chair recognizes the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment in defense of music. I represent one of the music capitals of the world, Branson, Missouri. In Branson, we do not quote Voltaire often but if we did, we might paraphrase Voltaire by saying, "I may not like your choice of music but I will defend to the death your right to play it."

We may ask ourselves, Mr. Chairman, what does music have to do with campaign reform? I asked that very question myself. Yet the Federal Election Commission speech police deemed background music relevant.

I, like most reasonable people, do not think that the FEC has the authority or the right to decide what background music can or cannot be used in issue ads. This amendment prohibits that kind of regulatory intimidation.

Now, I am not joking about this, Mr. Chairman. The FEC has a history of prosecuting on the basis of background music. For instance, in the case of Christian Action Network versus FEC, the FEC stated that background music should be a determining factor in establishing the presence of express advocacy. Thankfully, this case was dismissed and the FEC was severely castigated in court for pursuing it.

The Fourth Circuit Court of Appeals even awarded the victims of the FEC, the Christian Action Network, attorneys' fees because the prosecution was not substantially justified.

The Shays-Meehan bill is extremely vague and the expansive definition of express advocacy gives the FEC even more rope to strangle speech by private citizens and groups. Without my amendment, the FEC could again cite background music as a basis for persecution. Without my amendment, who knows what would happen if Shays-Meehan became the law of the land.

The Battle Hymn of the Republic, express advocacy if I ever heard it; John Philip Souza, forget it. You would have to have a legal defense fund. Francis Scott Key in the background, you better call your lawyer.

We are not just whistling Dixie with this amendment, Mr. Chairman. The FEC has already tried using background music in an enforcement action. If not for the Fourth Circuit Court, they would have gotten away with it. Do not let them try it again. It is time for the FEC to face the music, Mr. Chairman. Stand up for freedom of speech and freedom of music. Vote for this amendment. It is in tune with the first amendment.

Mr. CAMPBELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Washington (Mr. METCALF).

Mr. METCALF. Mr. Chairman, I have strongly supported campaign finance reform legislation for years and I have worked very hard for Washington State's excellent campaign finance reform bill, but our basic task today is to pass the Shays-Meehan bill.

Many of the amendments offered are good amendments, concepts I have supported for years. In fact, I would have voted for most of the amendments if they had not been added to this particular bill, but there is a larger goal here today to pass the Shays-Meehan bill.

We must not let the perfect be the enemy of the good. We cannot afford, in striving for a perfect bill, to add amendments that split off key voting blocks and thus sink the only chance for real reform this year. Some of these amendments have that purpose.

I have the faith that we will enact real and honest campaign finance reform. This bill is just the first step, not a complete fix. I have faith that my colleagues will not vote for the amendments that will kill this first step toward the reform that the American people are asking for.

□ 2215

I ask my colleagues to vote against this amendment and subsequent amendments that put the Shays-Meehan reform bill in jeopardy.

Mr. BLUNT. Mr. Chairman, I reserve the balance of my time.

Mr. CAMPBELL. Mr. Chairman, I yield myself such time as I may consume.

Our good friend and distinguished majority whip, the gentleman from Texas (Mr. DELAY), who offered this amendment, and I had a discussion. He is not present here, no doubt in connection with his duties of consoling the family of the heroic agent who died in his office and the other officer as well. But before this day, before that sad event, I discussed with the whip whether the phrase "music" may be ambiguous, and I certainly doubt it was the whip's intention, that lyrics be included in "music." That is just obvious.

The lyrics might say, and in giving this example, I will not sing, and impose that on my colleagues. Vote for DELAY, DELAY, DELAY; vote for DELAY, DELAY, DELAY," to allow that would obviously undermine the heart of the amendment.

What I am offering is, if my good friend and colleague from Missouri would be able, in the absence of the distinguished whip, to take a unanimous consent to amend so that the phrase "not including lyrics" is included right after the word "music."

Mr. Chairman, I reserve the balance of my time.

MODIFICATION TO AMENDMENT OFFERED BY MR. BLUNT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. BLUNT. Mr. Chairman, I ask unanimous consent that the words "not including lyrics" be added after the word "music."

The CHAIRMAN pro tempore (Mr. SNOWBARGER). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN pro tempore. The amendment is so modified.

Mr. CAMPBELL. Mr. Chairman, I yield back the balance of my time.

Mr. BLUNT. Mr. Chairman, I yield myself such time as I may consume.

I just, again, would like to urge that we clarify this and take the FEC clearly out of this realm of expression and, in defense of music, that we add this modified amendment to the bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. BLUNT), as modified, to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The amendment, as modified, to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 26.

AMENDMENT OFFERED BY MR. MC INTOSH TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. MCINTOSH. Mr. Chairman, I rise as the designee of the gentleman from Texas (Mr. DELAY) to offer amendment No. 84 to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCINTOSH to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

In section 301(8) of the Federal Election Campaign Act of 1971, as amended by section 205(a)(1)(B) of the substitute, add at the end the following:

(F) For purposes of subparagraph (C), no communication with a Senator or Member of the House of Representatives (including the staff of a Senator or Member) regarding any pending legislative matter, regarding the position of any Senator or Member on such matter, may be construed to establish coordination with a candidate.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday July 17, 1998, the gentleman from Indiana (Mr. MCINTOSH) and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Chairman, I understand there would be agreement to limit the time on each side to 3 minutes, which I would be willing to do, and I ask unanimous consent to so limit the debate.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. MEEHAN. Mr. Chairman, reserving the right to object, I just want to understand the amendment, and I yield to the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Chairman, I have seen it numbered 84. I have also seen it numbered 16 in some of the materials. And 26 is the number I understand that it is.

Mr. MEEHAN. Mr. Chairman, could the gentleman read the amendment so we are clear?

Mr. MCINTOSH. "For purposes of subparagraph (C), no communication with a Senator or Member of the House of Representatives (including the staff of a Senator or Member) regarding any pending legislative matter, regarding the position of any Senator or Member on such"——

Mr. MEEHAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. MCINTOSH) is recognized for 3 minutes.

Mr. MCINTOSH. Mr. Chairman, I yield myself such time as I may consume.

This amendment secures the right of Members of Congress and our staffs to receive information on pending legislative matters and to transmit information regarding our positions on issues without them being deemed to be coordinated with the various outside organizations that provide or receive such information.

This includes all two-way communication, whether it be questionnaires, conversations of any sort and exchange of letters or any other communication. The amendment offered by the gentlewoman from Washington (Mrs. LINDA SMITH) does not protect this right, as I will explain in a moment, and so it is necessary to bring this amendment forward.

Section 205 of the Shays-Meehan bill defines "coordination with a candidate" as any of 10 broad categories of direct or indirect contacts, actual or presumed, between a candidate, including offices of incumbent Members of Congress and a citizen group. This coordination includes all types of contact that are routine for issue-oriented groups that lobby Congress, whether it be an environmental group, a health issues group or an abortion control group, gun control or any other issue.

For example, section 205 can easily be construed to prohibit issue-oriented groups from soliciting information from candidates, including incumbent Members of Congress, regarding their positions on issues, then communicating that information to citizens in grassroots lobbying or voter education campaigns.

The bill states that "coordination with a candidate" includes "a payment made by a person pursuant to any general or particular understanding with a candidate or an agent."

I am afraid that this could apply, for example, to the common practice of issue-oriented groups sending candidates a survey regarding their positions on an issue or group of issues or sending a Member of Congress a letter soliciting his position on an issue and then subsequently using it in a grassroots communication.

Some groups use forms by which a lawmaker or other candidate can indicate his or her endorsement of a certain legislative initiative, for example, the balanced budget or even the Shays-Meehan bill. Of course, these questionnaires are submitted with the general understanding, as the bill says, that the sponsoring organization will disseminate the answers to interested citizens.

But under this bill, that coordination is an activity that would be defined as prohibited coordination. Any and all two-way communications, a phone call, an interview, a meeting or exchange of letters, all of these perfectly legitimate activities would be considered coordination under this bill.

I am sure that was not the intent of the authors, and we are offering this amendment as a way to correct that and construe the matter in a way that allows those type of communications.

Mr. Chairman, I yield back the balance of my time.

Mr. FARR of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from California (Mr. FARR) is recognized for 3 minutes.

Mr. FARR of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this amendment. Let us really look at the wording. I cannot believe that we want to suggest what this amendment does.

This amendment weakens the existing law, weakens the ability for the FEC to enforce the law. This amendment allows Members to conspire about a campaign issue.

Let us take the tobacco issue. This amendment allows you to meet with a lobbyist for the tobacco industry to figure out how you are going to vote and what Members are going to vote on it and devise a campaign out of that. I do not think that is really what you want to happen.

Look at the language, no communication with a Senator or Member of the House, including a staff member, regarding any pending legislative matter regarding the position of the Senator or the Member on such matter may be construed to establish coordination with a candidate. You are saying that you cannot use that collaboration as being construed as collaboration under the law. Therefore, illegal.

Mr. MCINTOSH. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Indiana.

Mr. MCINTOSH. Mr. Chairman, I am not aware of any current law that makes that type of communication illegal currently.

Mr. FARR of California. It does. You cannot sit down in your office with a group that wants to do a campaign and figure out and coordinate how you are going to be working on legislation and then go out and run a campaign on it. That is just totally illegal. You are making an exception for legislation.

I think it is an exception being made, frankly, that the big political battle here is for the tobacco interests. This bill would allow the tobacco interests and the legislators to sit down and figure out a plan of how to run a national campaign. Maybe that is not what you intended, but that is what the law allows. And I do not think it is good, and I would oppose it.

This is not about campaign finance reform. This is essentially about how to let more lobbyists into the door of legislative offices and be involved in designing and collaborating for campaigns.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, I want to say to the gentleman from Indiana that the present FEC law where there is that kind of a communication would result in an in-kind contribution. You really are changing, with your amendment, unintentionally perhaps, present FEC regulations. I would urge very much that you take another look, because we would have to oppose this as loosening present law. I think that is clear.

Mr. MCINTOSH. Mr. Chairman, if the gentleman will continue to yield, certainly the intent is not to loosen existing law, though I am not convinced that existing law puts those types of limits on issue-oriented campaigns. There is coordination as to helping a candidate with his or her election. Then that is a different matter. It is certainly not the intention to change existing law.

Mr. FARR of California. Mr. Chairman, reclaiming my time, it does. And the language, just look at it, no communication may be construed to establish coordination. Those are the operative words. I do not think that is in the best interest of campaign reform.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. MCINTOSH. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH) will be postponed.

It is now in order to consider amendment No. 27. The Chair understands that the amendment will not be offered.

It is now in order to consider amendment No. 28. It is the Chair's understanding that that amendment will not be offered.

It is now in order to consider amendment No. 29. It is the Chair's understanding that that amendment will not be offered as well.

It is now in order to consider the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT). Is there a designee for the gentleman from Minnesota (Mr. GUTKNECHT)?

It is now in order to consider the amendment offered by the gentleman from Colorado (Mr. BOB SCHAFFER). Is there a designee for the gentleman from Colorado (Mr. BOB SCHAFFER)?

It is now in order to consider the amendment by the gentleman from California (Mr. HORN).

AMENDMENT OFFERED BY MR. HORN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. HORN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 32 offered by Mr. HORN to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end the following new title:

TITLE—REDUCED POSTAGE RATES

SEC. 01. REDUCED POSTAGE RATES FOR PRINCIPAL CAMPAIGN COMMITTEES OF CONGRESSIONAL CANDIDATES.

(a) IN GENERAL.—Section 3626(e)(2)(A) of title 39, United States Code, is amended by striking "and the National Republican Congressional Committee" and inserting "the National Republican Congressional Committee, and the principal campaign committee of a candidate for election for the office of Senator or Representative in or Delegate or Resident Commissioner to the Congress".

(b) LIMITING REDUCED RATE TO TWO PIECES OF MAIL PER REGISTERED VOTER.—Section 3626(e)(1) of such title is amended by striking the period at the end and inserting the following: ", except that in the case of a committee which is a principal campaign committee such rates shall apply only with respect to the election cycle involved and only to a number of pieces equal to the product of 2 times the number (as determined by the Postmaster General) of addresses (other than business possible delivery stops) in the congressional district involved (or; in the case of a committee of a candidate for election for the office of Senator, in the State involved).".

(c) PRINCIPAL CAMPAIGN COMMITTEE DEFINED.—Section 3626(e)(2) of such title is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the term 'principal campaign committee' has the meaning given such term in section 301(5) of the Federal Election Campaign Act of 1971.".

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from California (Mr. HORN) and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. HORN).

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Mr. HORN. Mr. Chairman, I yield myself such time as I may consume. The amendment I am offering is a straightforward effort to take a positive step toward improving our campaigns. This proposal would reduce the cost of campaigns for all candidates for Congress, those that are incumbent, those that are challengers. It will create a better balance between incumbents and challengers and it will encourage real debate and discussion of these issues that are very important to our voters. This is a proposal to level the playing field, for incumbents and challengers.

With more and more millionaires entering politics, the change in the postal rate will give those who are not wealthy the opportunity to get out their message by two mailings to each household in their district. What this means is that you will get the postage at half the price it is now for candidates but at the price that is already authorized in law for national party committees and State party committees. This simply changes the law to include candidates for Congress, that includes the Senate and Members of the House of Representatives.

Under the current rules of the House, Mr. Chairman, we prohibit mass mailings under the frank in the 60-day period before a primary or a general election. This limit reduces one advantage enjoyed by incumbents under the current system. The Shays-Meehan bill would expand this prohibition by eliminating mass mailings under the congressional frank for the 6 months before an election. The limiting advantages for incumbents can be very appropriate reform, but I believe we should also seek to level the playing field for all candidates and thus improve the quality of the political dialogue. That is the goal essentially of this amendment. I think that the fact that we already can do that through the State and national committees, this is simply clearing out the intermediaries and the middle people and getting it directly to the challengers and to the incumbents. The difference is they would deliver the mail at 6.9 cents for what is generally a mailer versus the 13.2 cents that is already paid. So it would help everybody. That, I think, is in the interest of the public to have a decent political debate in this country.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. SNOWBARGER). The gentleman from California (Mr. FAZIO) is recognized for 5 minutes.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume. I think this is a very well-intentioned amendment, but I have problems with it from several perspectives.

First of all the estimate of cost made by the Postal Service based on eight candidates per district, primary and general, is $130 million. That is a very large sum, one that I think would bring this bill under criticism from many who support Shays-Meehan but do not support public financing. This would be perceived to be a backdoor way of providing public financing to candidates.

Now, there are those who would advocate some sort of proposal like this if it were tied to the concept of spending limits. But this bill has avoided getting into that thicket because the controversy would weigh down the basic benefits of passing the Shays-Meehan law which many of us think does not go far enough but many also believe is about all we can accomplish with this very even balance we have achieved here on a bipartisan basis in this Congress. Since there is no spending limit and there would be no way of inducing people, therefore, into agreeing to limit their public spending, we would have to raise issues with this amendment that frankly would cause us to come down on the side of a "no" vote.

The problem with this is that it is perceived as a way of giving challengers funding. And while there may be people in the country and certainly in this body who would like to help challengers, most of us want to deal with people on an equal basis and therefore provide equal benefits to people running as incumbents and as outsiders. Shays-Meehan has done a major thing to restore some balance by setting the date at 6 months prior to an election. I know the gentleman from California (Mr. HORN) voluntarily does not mail at all in the last year of the two-year cycle, but I do think that the effort made in this bill moves in the right direction, to move the franking privilege away from being a benefit to incumbent candidates.

I worry that the combination of opposition that might result both because it is too much reform, public financing and because it takes on the incumbent with money that would go to his challenger, creates a situation in which regrettably we would lose votes for this bill from both ends of the political spectrum and perhaps endanger the enactment of Shays-Meehan which we all believe is a major improvement, maybe not perfection but certainly the best we can do in this very evenly balanced proposal. I would have to on that basis regretfully indicate opposition.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Tennessee.

Mr. WAMP. I thank the gentleman for yielding. I rise, too, in very reluctant opposition and I say reluctant because the author of this bill the gentleman from California (Mr. HORN) is not only one of the brightest individuals in the House, he has been a true reformer, offering multiple bills and multiple amendments, really an academic expert in this issue of campaign finance reform. But I do come from the other ideological perspective.

I encouraged the authors of Shays-Meehan early on when it was in a different form not to go the route of public financing, not to go the route of broadcaster financing and we have put together this coalition amazingly well of people who had great heartburn with those two provisions. This would effectively take us there, albeit in a small way, but it would take us there to public financing. Frankly I am on this train with the understanding we were not going to go to this destination. So I certainly want to speak to that. But I very much commend the gentleman from California (Mr. HORN) for all that he continues to do because he is truly trying his best to go in our direction.

Mr. FAZIO of California. Mr. Chairman, I reserve the balance of my time.

Mr. HORN. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, to say this is public financing is not really accurate. Sure, money is involved in postage. This is the postal administration that has several billion, I believe, in profits now. They deliver these at both the nonprofit rate and the higher rate. It does not really make any cost change in adding people to the route they run. It simply gives now what is given to State parties to the candidates.

The original Shays-Meehan bill and McCain-Feingold reform plans had a proposal like this in them. Now, they probably took it out for some reason. But I cannot imagine except incumbents would not like this because that would give their challenger a chance. I think we ought to get a little broader and not just be protecting incumbency, we ought to let the challengers have the same type of opportunity we have; because, let us face it, incumbents generally, unless you are running against a millionaire, can have a lot in their bank accounts. I do not happen to. So do hundreds of others in here. But a few of our Members, as we know, have million-dollar campaign funds, and that scares off the competition. This would at least give the competition a chance to get the message out twice, to the households in the district at the nonprofit rate.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I yield myself the balance of my time.

Let me just conclude by saying I personally believe public financing is the way of the future. I think we have neglected it in the presidential system and need to reinvigorate public support for it. But I am more concerned tonight that we not impede progress on Shays-Meehan, that we not upset the balance that has been achieved in this version of this bill. It is the best we can accomplish under the circumstances. I would not want to endanger its enactment because we went too far in the direction that some of our colleagues that support this bill cannot go. I do not want to inflame some of our colleagues on the other end of the spectrum who are concerned about advantaging their challengers.

I realize we have not made perfection, but I think we have come a lot further than any would have anticipated. We are on the verge of success, enacting something we can all be proud of. I hope the gentleman from California (Mr. HORN) can accept our reluctant opposition to his amendment, and I hope he can support Shays-Meehan as a major step in the right direction. Hopefully in subsequent Congresses we can readdress some of these same kinds of issues and perhaps reach common ground on going further.

Mr. HORN. Mr. Chairman, I yield myself the balance of my time.

The gentleman from California knows that I have been a sponsor and coauthor of Shays-Meehan. I think there are a lot of good things in it. But these are simple, little things that can make a difference for candidates that are new to the political game and give them a chance to get their message over. I would hope the gentleman is not throwing the red herring of public finance out to this body to simply protect the incumbents' present superiority to most of the challengers, unless you have the increasing millionaires. I would hope we could rise above that and give the challenger two mailings to households in all our districts. You have to pay for them. You pay for them at half the rate you do now unless you go through the party committee at the State level and the national level, and then you are going to get the rate right now which you can already do. If you are calling that public financing, fine, but it makes no sense, because the public financing we are talking about is what is given Presidents of the United States, candidates for the presidency, and, that is, to have the money that is fungible throughout your campaign with no limit on when it is. This is one limit, getting the two mailers to the houses in your district.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HORN) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. HORN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from California (Mr. HORN) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

It is now in order to consider the amendment by the gentleman from Michigan (Mr. UPTON). Is there a designee for the gentleman from Michigan (Mr. UPTON)?

It is now in order to consider the amendment by the gentleman from Michigan (Mr. SMITH) as modified by the order of the House of July 20, 1998. Is there a designee for the gentleman from Michigan (Mr. SMITH)?

It is now in order to consider the amendment by the gentleman from Arizona (Mr. SHADEGG).

AMENDMENT OFFERED BY MR. SHADEGG TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. SHADEGG. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment No. 35 offered by Mr. SHADEGG to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. EXPEDITED COURT REVIEW OF CERTAIN ALLEGED VIOLATIONS OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Notwithstanding any other provision of this section, if a candidate (or the candidate's authorized committee) believes that a violation described in paragraph (2) has been committed with respect to an election during the 90-day period preceding the date of the election, the candidate or committee may institute a civil action on behalf of the Commission for relief) against the alleged violator in the same manner and under the same terms and conditions as an action instituted by the Commission under subsection (a)(6), except that the court involved shall issue a decision regarding the action as soon as practicable after the action is instituted and to the greatest extent possible issue the decision prior to the date of the election involved.

"(2) A violation described in this paragraph is a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 relating to—

"(A) whether a construction is in excess of an applicable limit or is otherwise prohibited under this act; or

"(B) whether an expenditure is an independent expenditure under section 301(17).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Arizona (Mr. SHADEGG) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume. I have an amendment which seeks to solve a problem in existing law. That problem is that under the way the FEC laws are currently written, if a campaign law violation occurs in the last 90 days before an election is held, there is essentially no remedy. That is, that violation goes by and cannot be remedied. The reason for that is that under current law, the only existing remedy is to go to the Federal Election Commission in Washington, D.C., file a complaint and under the FEC guidelines no action, absolutely no action is to be taken on that complaint for a period of 90 days.

What that means is that during the last 90 days of a campaign, there simply is no remedy for many of the violations which occurred. Indeed there is no remedy whatsoever. The FEC cannot get to it before the election. Oftentimes such complaints are rendered moot by the election and, therefore, there is a gaping hole in existing law. What my amendment would do is to solve this. It solves this problem by simply saying that for any violation of the FEC provisions which occurs in the last 90 days before the election, a candidate involved in that campaign would be able to pursue a remedy in Federal District Court in their district. And it requires that the Federal District Court give that candidate expedited review of their complaint.

What that means is that when an egregious violation of law occurs during this key last 90 days of the campaign, the candidate would have an option to go to Federal District Court, file a pleading, request a remedy, ask the court to give them a remedy, and say, yes, this is a violation and provide an answer to the problem. It is, I think, an eminently fair provision. It would bias neither side, but it would solve the problem in the way the current Federal Election Code is written.

I urge my colleagues to adopt this amendment. It is good sense. It would provide the court with the authority to grant injunctive relief if necessary, and it requires the court to both act on an expedited basis and if possible to resolve the complaint before the election. I think it has tremendous merit. I urge my colleagues to support it.

Mr. Chairman, I reserve the balance of my time.

Mr. WAMP. Mr. Chairman, I rise to claim the time normally in opposition but not to oppose the amendment.

The CHAIRMAN pro tempore. Without objection, the gentleman from Tennessee is recognized for 5 minutes.

There was no objection.

Mr. WAMP. Mr. Chairman, I yield myself such time as I may consume. This is another good example where the gentleman offering the amendment is in a constructive way enhancing what we are trying to accomplish with good reform. Certainly the reformers here in support of Shays-Meehan accept the amendment and commend the gentleman from Arizona (Mr. SHADEGG) for bringing this idea to us and actually putting it into a form that will certainly strengthen the Federal Election Commission and the laws and rules that govern we as candidates here in the House and in the Senate. I thank the gentleman very much.

Mr. Chairman, I yield back the balance of my time.

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Mr. SHADEGG. Mr. Chairman, is it my understanding the amendment has been accepted?

Mr. WAMP. Mr. Chairman, the amendment has been accepted, but we will have a voice vote at the pleasure of the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the expression of support from both this side and the other side. I think it is an improvement in the current law that will benefit the system and help to clean up elections in America.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SNOWBARGER). The question is on the amendment offered by the gentleman from Arizona (Mr. SHADEGG) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 36.

Is there a designee present for the gentleman from Texas (Mr. DELAY)?

It is now in order to consider the amendment offered by the gentleman from Florida (Mr. SHAW).

AMENDMENT OFFERED BY MR. SHAW TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. SHAW. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. SHAW to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. REQUIRING MAJORITY OF AMOUNT OF CONTRIBUTIONS ACCEPTED BY HOUSE CANDIDATES TO COME FROM IN-STATE RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) With respect to each reporting period or an election, the total of contributions accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress from in-State individual residents shall be at least 50 percent of the total of contributions accepted from all sources.

"(2) As used in this subsection, the term 'in-State individual resident' means an individual who resides in the State in which the congressional district involved is located.".

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Florida (Mr. SHAW) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are here tonight at a quarter of eleven. Unfortunately, it is so late the offices are closed; the staff have gone home; there is only a handful of Members here on the floor tonight. I was tempted to call a point of order to bring the Members back in because I think this is really pitiful that Members are not here to listen to what we are talking about here tonight.

But what we are talking about is campaign finance reform, and my amendment would be the most simple and, I think, productive type of campaign reform that we could possibly have, and that is just simply to say this, and it is so simplistic:

Half of the campaign money that my colleagues receive has to come from their home State. I am not talking about colleagues' home districts. Much in the Calvert amendment, much was to do with the question of poor districts. I understand that, and I can well understand that. My district is 91 miles long and only 3 miles wide, but I think that it is not too much to say if we want to be able to take campaign finance away from K Street and back to Main Street with our own districts that we should be able to do so.

We have found here, as incumbents and long-term incumbents such as me, we have found that it is so easy to raise money here in Washington that we are tempted to do so instead of going home and raising money in our own State, campaign in our own districts and our own States. And I think that if we are really going to be talking about campaign finance reform, me and all the incumbents who have found it so easy over the years to raise money here in Washington should be able to be required to say, hey, money is the mother milk of politics today. We should be able to require ourselves and anyone else running for office in a Federal election to be able to go home to their home State and raise half of their money.

This is not too much to ask. I think it is a very, very reasonable amendment. I cannot see how anybody could possibly oppose it. And if someone could come up here and say to me that I have got a good reason to say this is bad, this should not be, I would yield them the time.

I would say to the gentleman from California (Mr. FAZIO) who is standing there and all the gentlemen over there who are going to jump up and talk about a poison pill, if they can tell me how this is bad, I would yield them the time.

Does anybody want me to yield time because they can criticize the amendment? Or do they want to criticize it because it is a poison pill?

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Chairman, I would like to begin my argument against it, and then after I use the rest of the gentleman's time, I will ask for the time in opposition.

Mr. SHAW. Mr. Chairman, if the gentleman is going to criticize the amendment and come out and say this amendment is bad, and we go back a long time, but I do not think the gentleman would do that.

Mr. FAZIO of California. Mr. Chairman, I would stay on the merits of the argument, if the gentleman would continue to yield.

Mr. SHAW. I yield to the gentleman.

Mr. FAZIO of California. Mr. Chairman, I think this is a very, very difficult concept to administer, and let me give my colleagues some examples as to how difficult it would be.

If a Member is from Kansas City, Missouri, this places a much higher value on funds they would raise in St. Louis than in Kansas City, Kansas. In other words, if Members are one of those people on the borders of the State——

Mr. SHAW. Reclaiming my time, Mr. Chairman.

That cannot possibly be on the merits. If Members are from Kansas City, then they have got to decide which side of the border they are from, and then they should decide where they are running from, where their support should come from, who the people are that they are representing and bring this back closer to the people.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I rise in opposition to the amendment and I yield myself such time as I may consume.

Mr. Chairman, I was beginning to point out in my colloquy with my friend from Florida the unworkability of this amendment but also the fact that it is an artificial barrier. We ought to be focusing on the region that the individual comes from, for example, and why would not people who come from Kansas City, Missouri, have the same interests that people two miles away in the other State have on issues of importance to the region, to its economy, to its employers, to its workers?

This sets an artificial standard. For example, Members may have hundreds of bus drivers who want to support them in their district and in their State, but their home office where their PAC is located may be States away. This would mean that those people would, in effect, not been counted as people from their State. The same would be true of a corporate PAC that is home based at corporate headquarters hundreds of miles, thousands of miles away from where many of its workers are located in a plant in their district. They would not be counted as part of the in-State or in-district contributor base.

The marketplace of political debate should determine whether it is appropriate or not to raise money from any given place or individual. This can be an issue in a campaign. If Members are surviving only on the basis of Washington money or out-of-State money, it is a legitimate issue to be brought up. But to establish this standard is an artificial one, particularly difficult for Members who come from poor and small States, areas where it is hard to raise money and yet they have many legitimate issues they want to bring to the attention of their voters.

Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island (Mr. WEYGAND).

Mr. WEYGAND. Mr. Chairman, I want to thank the gentleman from California and I want to thank the gentleman from Florida for bringing up the issue, and I think the issue that he is talking about is important and pertinent for States like Florida or California or New York.

But I come from Rhode Island. Rhode Island has a total of a million people in the State, only two congressional districts. I can travel 20 minutes from the center of my district and be in the State of Connecticut, travel about a half hour and be into Massachusetts.

For us in small States like Rhode Island this is an extremely difficult kind of amendment that would be imposed upon us. Not that the people in Rhode Island should not deserve representation and contribute to campaigns, to those people they want to have represent them, but for many people in Rhode Island and other small States like Delaware it becomes virtually impossible to raise that kind of money for a congressional campaign.

Secondly, for people that may be low income or minority in my State or other small States, they often connect with other people from other States that happen to be of the same ethnic background or same political direction, and it becomes very important for them to do that.

This bill, if every State were the size of the State of Florida, I could understand the gentleman's point. If everybody were centered in the middle of a large State, I could understand his point. But for a very small State it becomes almost impossible.

The second point that the gentleman from California (Mr. FAZIO) made which is critical:

People within labor or business or advocacy groups that happen to be located in my State but their home or major office is someplace else, in Washington, New York, California or Texas, the funds that they use to support candidates in Rhode Island go to those Washington, Texas or California offices, then come back to us. They would not fall into the category within the confines of the gentleman's amendment, again hurting small States and low-income areas.

So I can sympathize with the intent of trying to keep the money within the area that Members represent, and when there is 30 seats, or 26 seats, or 52 seats in the Congress from one State, that is possible. But when there is only one or two seats, like Rhode Island, South Dakota, North Dakota, Delaware, it becomes very impossible.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

To conclude, Mr. Chairman, I would simply say this is an important effort in Shays-Meehan to stop the explosion of soft money and sham issue ads. It does not deal with many of the other issues that have been brought up in other campaign finance reform bills. It is a carefully crafted and balanced proposal, and many people who support it do not agree with the gentleman from Florida (Mr. SHAW) and therefore, regrettably for him, would oppose the overall bill were this amendment to be adopted.

So I hate to say it, but it is, in fact, the proverbial poison pill. It would cause the coalition to shatter and end up destroying what chance we have in this late hour in this Congress to take some fundamental steps forward, not perhaps addressing all of the issues that all the Members would like to have before us but making a real difference in the electoral process and in the restoration of confidence in the American political system.

Mr. Chairman, I yield back the balance of my time.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would briefly say in rebuttal to the gentleman I think what we are talking is trying to bring balance back to the American political system, and to stand there and argue that PACs may have some problem with this particular amendment is not a very good argument.

What we are talking about, Mr. Chairman, is trying to bring the political system back to the people that we represent. Now to bring it back to just their congressional district creates a problem, and we understand that problem because there are some districts that are extremely poor. But to say that we cannot bring it back to a State, I do not think that we have any States that are that poor that they cannot support the people that they send up here to represent them.

We think this is terribly important, Mr. Chairman, and I think that for us to turn our backs on the people that we represent and say that we are going to vote against this particular amendment, which just simply says to take back the political system back to the States, back to the people who have sent us here, it is very important and vital for us to remember where we came from and remember the people that sent us here.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time has expired. The question is on the amendment offered by the gentleman from Florida (Mr. SHAW) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from Florida (Mr. SHAW) to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS will be postponed.

It is now in order to consider the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I rise in support of this amendment.

The CHAIRMAN pro tempore. Will the gentlewoman designate which amendment? Is it amendment number 38?

Ms. KAPTUR. Mr. Chairman, for purposes of the RECORD, this would be the original amendment listed as 39. I will not be officially offering it this evening. It has to do with the constitutional amendment to overturn Buckley versus Valeo, which I think is the real answer to these questions. But we will be moving on to Amendment 39.

The CHAIRMAN pro tempore. Does the gentlewoman wish to offer Amendment No. 38?

Ms. KAPTUR. Not at this point.

The CHAIRMAN. It is now in order to consider Amendment No. 39 offered by the gentlewoman from Ohio (Ms. KAPTUR).

AMENDMENT OFFERED BY MS. KAPTUR TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Ms. KAPTUR. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Ms. KAPTUR to the Amendment in the Nature of a Substitute No. 13 offered by Mr. SHAYS:

Add at the end the following new title:

TITLE ____—ETHICS IN FOREIGN LOBBYING

SEC. ____01. PROHIBITION OF CONTRIBUTIONS AND EXPENDITURES BY MULTICANDIDATE POLITICAL COMMITTEES OR SEPARATE SEGREGATED FUNDS SPONSORED BY FOREIGN-CONTROLLED CORPORATIONS AND ASSOCIATIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 441 et seq.) is amended by adding at the end the following new section:

"PROHIBITION OF CONTRIBUTIONS AND EXPENDITURES BY MULTICANDIDATE POLITICAL COMMITTEES SPONSORED BY FOREIGN-CONTROLLED CORPORATIONS AND ASSOCIATIONS

"SEC. 323. (a) IN GENERAL.—Notwithstanding any other provision of law—

"(1) no multicandidate political committee or separate segregated fund of a foreign-controlled corporation may make any contribution or expenditure with respect to an election for Federal office; and

"(2) no multicandidate political committee or separate segregated fund of a trade organization, membership organization, cooperative, or corporation without capital stock may make any contribution or expenditure with respect to an election for Federal office if 50 percent or more of the operating fund of the trade organization, membership organization, cooperative, or corporation without capital stock is supplied by foreign-controlled corporations or foreign nationals.

"(b) INFORMATION REQUIRED TO BE REPORTED.—The Commission shall—

"(1) require each multicandidate political committee or separate segregated fund of a corporation to include in the statement of organization of the multicandidate political committee or separate segregated fund a statement (to be updated annually and at any time when the percentage goes above or below 50 percent) of the percentage of ownership interest in the corporation that is controlled by persons other than citizens or nationals of the United States;

"(2) require each trade association, membership organization, cooperative, or corporation without capital stock to include in its statement of organization of the multicandidate political committee or separate segregated fund (and update annually) the percentage of its operating fund that is derived from foreign-owned corporations and foreign nationals; and

"(3) take such action as may be necessary to enforce subsection (a).

"(c) LIST OF ENTITIES FILING REPORTS.—The Commission shall maintain a list of the identity of the multicandidate political committees or separate segregated funds that file reports under subsection (b), including a statement of the amounts and percentage reported by such multicandidate political committees or separate segregated funds.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'foreign-owned corporation' means a corporation at least 50 percent of the ownership interest of which is controlled by persons other than citizens or nationals of the United States;

"(2) the term 'multicandidate political committee' has the meaning given that term in section 315(a)(4);

"(3) the term 'separate segregated fund' means a separate segregated fund referred to in section 316(b)(2)(C); and

"(4) the term 'foreign national' has the meaning given that term in section 319.".

SEC. ____02. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decisionmaking process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-Federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.".

SEC. ____03. ESTABLISHMENT OF A CLEARINGHOUSE OF POLITICAL ACTIVITIES INFORMATION WITHIN THE FEDERAL ELECTION COMMISSION.

(a) ESTABLISHMENT.—There shall be established within the Federal Election Commission a clearinghouse of public information regarding the political activities of foreign principals and agents of foreign principals. The information comprising this clearinghouse shall include only the following:

(1) All registrations and reports filed pursuant to the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) during the preceding 5-year period.

(2) All registrations and reports filed pursuant to the Foreign Agents Registration Act, as amended (22 U.S.C. 611 et seq.), during the preceding 5-year period.

(3) The listings of public hearings, hearing witnesses, and witness affiliations printed in the Congressional Record during the preceding 5-year period.

(4) Public information disclosed pursuant to the rules of the Senate or the House of Representatives regarding honoraria, the receipt of gifts, travel, and earned and unearned income.

(5) All reports filed pursuant to title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) during the preceding 5-year period.

(6) All public information filed with the Federal Election Commission pursuant to the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) during the preceding 5-year period.

(b) DISCLOSURE OF OTHER INFORMATION PROHIBITED.—The disclosure by the clearinghouse, or any officer or employee thereof, of any information other than that set forth in subsection (a) is prohibited, except as otherwise provided by law.

(c) DIRECTOR OF CLEARINGHOUSE.—(1) The clearinghouse shall have a Director, who shall administer and manage the responsibilities and all activities of the clearinghouse.

(2) The Director shall be appointed by the Federal Election Commission.

(3) The Director shall serve a single term of a period of time determined by the Commission, but not to exceed 5 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to conduct the activities of the clearinghouse.

SEC. ____04. DUTIES AND RESPONSIBILITIES OF THE DIRECTOR OF THE CLEARINGHOUSE.

(a) IN GENERAL.—It shall be the duty of the Director of the clearinghouse established under section ____03—

(1) to develop a filing, coding, and cross-indexing system to carry out the purposes of this Act (which shall include an index of all persons identified in the reports, registrations, and other information comprising the clearinghouse);

(2) notwithstanding any other provision of law, to make copies of registrations, reports, and other information comprising the clearinghouse available for public inspection and copying, beginning not later than 30 days after the information is first available to the public, and to permit copying of any such registration, report, or other information by hand or by copying machine or, at the request of any person, to furnish a copy of any such registration, report, or other information upon payment of the cost of making and

furnishing such copy, except that no information contained in such registration or report and no such other information shall be sold or used by any person for the purpose of soliciting contributions or for any profitmaking purpose;

(3) to compile and summarize, for each calendar quarter, the information contained in such registrations, reports, and other information comprising the clearinghouse in a manner which facilitates the disclosure of political activities, including, but not limited to, information on—

(A) political activities pertaining to issues before the Congress and issues before the executive branch; and

(B) the political activities of individuals, organizations, foreign principals, and agents of foreign principals who share an economic, business, or other common interest;

(4) to make the information compiled and summarized under paragraph (3) available to the public within 30 days after the close of each calendar quarter, and to publish such information in the Federal Register at the earliest practicable opportunity;

(5) not later than 150 days after the date of the enactment of this Act and at any time thereafter, to prescribe, in consultation with the Comptroller General, such rules, regulations, and forms, in conformity with the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of section ___03 and this section in the most effective and efficient manner; and

(6) at the request of any Member of the Senate or the House of Representatives, to prepare and submit to such Member a study or report relating to the political activities of any person and consisting only of the information in the registrations, reports, and other information comprising the clearinghouse.

(b) DEFINITIONS.—As used in this section—

(1) the terms "foreign principal" and "agent of a foreign principal" have the meanings given those terms in section 1 of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611);

(2) the term "issue before the Congress" means the total of all matters, both substantive and procedural, relating to—

(A) any pending or proposed bill, resolution, report, nomination, treaty, hearing, investigation, or other similar matter in either the Senate or the House of Representatives or any committee or office of the Congress; or

(B) any pending action by a Member, officer, or employee of the Congress to affect, or attempt to affect, any action or proposed action by any officer or employee of the executive branch; and

(3) the term "issue before the executive branch" means the total of all matters, both substantive and procedural, relating to any pending action by any executive agency, or by any officer or employee of the executive branch, concerning—

(A) any pending or proposed rule, rule of practice, adjudication, regulation, determination, hearing, investigation, contract, grant, license, negotiation, or the appointment of officers and employees, other than appointments in the competitive service; or

(B) any issue before the Congress.

SEC. ___05. PENALTIES FOR DISCLOSURE.

Any person who discloses information in violation of section ___03(b), and any person who sells or uses information for the purpose of soliciting contributions or for any profitmaking purpose in violation of section ___04(a)(2), shall be imprisoned for a period of not more than 1 year, or fined in the amount provided in title 18, United States Code, or both.

SEC. ___06. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED.

(a) QUARTERLY REPORTS.—Section 2(b) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 612(b)), is amended in the first sentence by striking out ", within thirty days" and all that follows through "preceding six months' period" and inserting in lieu thereof "on January 31, April 30, July 31, and October 31 of each year, file with the Attorney General a supplement thereto on a form prescribed by the Attorney General, which shall set forth regarding the three-month periods ending the previous December 31, March 31, June 30, and September 30, respectively, or if a lesser period, the period since the initial filing,".

(b) EXEMPTION FOR LEGAL REPRESENTATION.—Section 3(g) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 613(g)) is amended by adding at the end the following: "A person may be exempt under this subsection only upon filing with the Attorney General a request for such exemption.".

(c) CIVIL PENALTIES.—Section 8 of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 618), is amended by adding at the end thereof the following:

"(i)(1) Any person who is determined, after notice and opportunity for an administrative hearing—

"(A) to have failed to file a registration statement under section 2(a) or a supplement thereto under section 2(b),

"(B) to have omitted a material fact required to be stated therein, or

"(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 or more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

"(2)(A) In conducting investigations and hearings under paragraph (1), administrative law judges may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

"(B) In the case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and, upon application by the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.".

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

Mr. SHAYS. Mr. Chairman, could I claim the 5 minutes in opposition?

The CHAIRMAN pro tempore. The gentleman from Connecticut has claimed the time in opposition and will be recognized later for 5 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, historically, Congress has been very clear about disallowing foreign contributions to U.S. campaigns at every level, and if we look, however, at the foreign lobbying activities that have grown, especially in this past quarter century, and the organization of multinational corporations that have in many ways outgrown existing law, it is clear that an amendment like this is needed and, as originally proposed, my amendment sought to both clarify the definition as well as the disclosure by foreign-controlled political action contributions to U.S. election campaigns.

□ 2300

But I am going to offer a modified version of this after considerable consultation with the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Ohio (Mr. GILLMOR) and others on the other side of the aisle and this one.

But it is certainly true to say that U.S. law has been abundantly clear about who can contribute to U.S. campaigns: citizens of this country as individuals and citizens through political action committees expressly organized for that purpose. But corporations cannot contribute directly, nor can trade unions outside of a formally recognized political action committee.

But because of a loophole dating back to 1934, while foreign nationals and foreign citizens cannot directly or indirectly contribute to U.S. elections, foreign-controlled corporations and trade associations, including those based in the United States, can contribute.

The Federal Election Campaign Act, section 441(e) says, and I quote,

> A foreign national shall not directly or through any other person make a contribution or expressly or implicitly promise to make a contribution in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office or for any person to solicit, accept, or receive any such contribution from a foreign national.

The Federal Elections Act defines a foreign principal as a government of a foreign country or a foreign political party; a person outside the United States who is not a citizen; or a partnership, association, corporation, or organization, or other combination of persons organized under the laws of or having its principal base of business in a foreign country.

The loophole in all of that is that foreign-owned corporations and trade associations which are organized under U.S. law and have their principal place of business in the United States are not classified as foreign principals and are, therefore, allowed to operate PACs, even though their control and ownership are foreign in nature.

The principal law governing the disclosure of lobbying by these entities, the Foreign Agents Registration Act, when the GAO studied in 1990 what had been happening, it is that, in fact, disclosure of those activities are very thin.

The GAO found that the lack of timeliness of the filing of reports required under the Foreign Agents Registration Act contributes to the failure to fulfill the Act's goal of providing the public with sufficient information on foreign agents and their activities in this country, including political activities.

As modified, my amendment will not disallow contributions as I had hoped to do in a bill that I had filed earlier, because, frankly, there was opposition to doing that. But it does take the one section of our proposal that will allow us to at least collect the information that we need to understand the impact and the extent of these involvements.

As presently constituted, my amendment would establish within the Federal Election Commission a clearinghouse on that of public information regarding the political activities of foreign principals or their agents.

Currently, public information on these activities is collected by the government in scattered ways. But this information would be brought together in one place and provide the public and Congress a better idea of what is actually going on in regard to foreign lobbying and giving activity.

No one will be required to provide any information that is not already collected but in several disparate places. Nor would anyone be required to provide duplicative information to a new agency.

The responsibility for furnishing the data to the FEC would rest with the agency itself. The clearinghouse will only collect public information already compiled and will provide a comprehensive picture of what political activities are taking place by these foreign interests.

The CHAIRMAN pro tempore. The gentlewoman's time has expired.

MODIFICATION TO AMENDMENT OFFERED BY MS. KAPTUR TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Ms. KAPTUR. Mr. Chairman, I ask unanimous consent to modify the amendment to the amendment in the nature of a substitute in the form at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Ms. KAPTUR to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. ESTABLISHMENT OF A CLEARINGHOUSE OF INFORMATION ON POLITICAL ACTIVITIES WITHIN THE FEDERAL ELECTION COMMISSION.

(a) ESTABLISHMENT.—There shall be established within the Federal Election Commission a clearinghouse of public information regarding the political activities of foreign principals and agents of foreign principals. The information comprising this clearinghouse shall include only the following:

(1) All registrations and reports filed pursuant to the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) during the preceding 5-year period.

(2) All registrations and reports filed pursuant to the Foreign Agents Registration Act, as amended (22 U.S.C. 611 et seq.), during the preceding 5-year period.

(3) The listings of public hearings, hearing witnesses, and witness affiliations printed in the Congressional Record during the preceding 5-year period.

(4) Public information disclosed pursuant to the rules of the Senate or the House of Representatives regarding honoraria, the receipt of gifts, travel, and earned and unearned income.

(5) All reports filed pursuant to title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) during the preceding 5-year period.

(6) All public information filed with the Federal Election Commission pursuant to the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) during the preceding 5-year period.

(b) DISCLOSURE OF OTHER INFORMATION PROHIBITED.—The disclosure by the clearinghouse, or any officer or employee thereof, of any information other than that set forth in subsection (a) is prohibited, except as otherwise provided by law.

(c) DIRECTOR OF CLEARINGHOUSE.—

(1) DUTIES.—The clearinghouse shall have a Director, who shall administer and manage the responsibilities and all activities of the clearinghouse. In carrying out such duties, the Director shall—

(A) develop a filing, coding, and cross-indexing system to carry out the purposes of this section (which shall include an index of all persons identified in the reports, registrations, and other information comprising the clearinghouse);

(B) notwithstanding any other provision of law, make copies of registrations, reports, and other information comprising the clearinghouse available for public inspection and copying, beginning not later than 30 days after the information is first available to the public, and permit copying of any such registration, report, or other information by hand or by copying machine or, at the request of any person, furnish a copy of any such registration, report, or other information upon payment of the cost of making and furnishing such copy, except that no information contained in such registration or report and no such other information shall be sold or used by any person for the purpose of soliciting contributions or for any profit-making purpose; and

(C) not later than 150 days after the date of the enactment of this Act and at any time thereafter, to prescribe, in consultation with the Comptroller General, such rules, regulations, and forms, in conformity with the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this section in the most effective and efficient manner.

(2) APPOINTMENT.—The Director shall be appointed by the Federal Election Commission.

(3) TERM OF SERVICE.—The Director shall serve a single term of a period of time determined by the Commission, but not to exceed 5 years.

(d) PENALTIES FOR DISCLOSURE OF INFORMATION.—Any person who discloses information in violation of subsection (b), and any person who sells or uses information for the purpose of soliciting contributions or for any profit-making purpose in violation of subsection (c)(1)(B), shall be imprisoned for a period of not more than 1 year, or fined in the amount provided in title 18, United States Code, or both.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to conduct the activities of the clearinghouse.

(f) Foreign Principal: Foreign principal shall have the same meaning given the term "foreign national" in this section (2 U.S.C. 441e), as that term was defined on July 31, 1998. For purpose of this section, the term "agent of a foreign principal" shall not include any person organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and that has its principal place of business within the United States.

Ms. KAPTUR (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the gentlewoman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Connecticut (Mr. SHAYS) for 5 minutes.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to state that, first, this is a fairly comprehensive amendment, but we are not sure whether or not it is in conflict with the amendment of the gentleman from Ohio (Mr. GILLMOR).

So what I am going to be suggesting to this Chamber is that we have a vote. I will be voting "no" tonight. I will be suggesting that we go over in depth line by line the gentlewoman's amendment to see if it is an amendment that, when we have an actual rollcall vote, it will be one that we can accept or not. Because the gentleman from Ohio (Mr. GILLMOR) is not here tonight, I am uncomfortable in suggesting that it meets the conflict that he had.

The bottom line is that his amendment said that any American citizen had a right to contribute. That was implicit, and that was whether or not they worked for an American company or a foreign company.

Our concern is that a company like, for instance, Chrysler, that now has significant ownership by German interests, that the employee still be allowed to organize a political action committee, still be allowed to contribute, still be allowed to fight for things they think are important for Chrysler and its workers just as the employees of Chrysler, to make sure that we have that same process that the workers have when they organize as well.

I am not passing judgment because we still just are not sure of it.

Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I want to point out that in my home State of

New York nearly 349,000 American citizens work for American subsidiaries of companies headquartered abroad. These are hard-working Americans that are employed by American subsidiaries of companies; and they, I believe, need to have the right to contribute their own money to candidates through employer-based PACs. It is a political right that is granted to all American citizens at this time.

Because we are not certain at this time about whether or not this amendment will change the amendment of the gentleman from Ohio (Mr. GILLMOR), I want to be certain that we have the right to vote on this tomorrow since the gentleman from Ohio (Mr. GILLMOR) is not here.

I believe that the political rights of all Americans should not be determined by where they work. I think it should be determined because they are American citizens. They should not be disenfranchised from the political process.

Mr. SHAYS. Mr. Chairman, may I inquire of the Chair how much time I have remaining?

The CHAIRMAN pro tempore. The gentleman from Connecticut (Mr. SHAYS) has 2½ minutes remaining. The gentlewoman from Ohio (Ms. KAPTUR) has no time remaining.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, evidently, I have misinterpreted the gentlewoman's amendment. I would like for her to describe what she thinks her amendment does, and I would respond to that.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio (Ms. KAPTUR) to explain what she feels her amendment does and does not do.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman very much for yielding to me and the gentlewoman from New York, because, in consultation with both of them, we substantially scaled back our original amendment. This particular amendment, as modified, that we are offering this evening would only take the clearinghouse section out of the original proposal to collect information from the lobbying disclosure.

Mr. SHAYS. Reclaiming my time, when the gentlewoman says take it out she means she leaves the clearinghouse in and take out the other parts?

Ms. KAPTUR. That is correct. We lift that out and we table the remainder of the bill.

The gentleman was saying and the gentlewoman from New York was saying that Chrysler Corporation employees could not contribute or people should not be allowed to contribute. We agree that U.S. citizens should be allowed to contribute. This amendment, as modified, has nothing to do with that. All it provides is for disclosure as we do with U.S. contributions that are currently flowing into campaigns.

We are saying that we want to create a clearinghouse at the FEC for all these donations. We will do that by recording existing information from the Lobbying Disclosure Act, from the Foreign Agents Administration.

Mr. SHAYS. If I can reclaim my time, if I can say to the gentlewoman, as the amendment is described, I am comfortable and I think other Members are. I do think it will be healthy to have a vote on this tomorrow. I am not going to oppose it if there is all yeses. I still ask for a rollcall vote. I think it is important for us to sit down with the gentleman from Ohio (Mr. GILLMOR) and others and make sure that we are clear as to our recommended vote to our colleagues when they vote on the floor.

☐ 2310

So I am not going to oppose the gentlewoman's amendment. I would suggest we get to a vote, but I will ask for a rollcall vote.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman and gentlewoman for working with us, and we look forward to having the gentleman from Ohio (Mr. GILLMOR) with us very soon here in resolving this.

Mr. SHAYS. Mr. Chairman, we will have a vote on the floor here tomorrow and by then it will be resolved.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SNOWBARGER). The question is on the amendment, as modified, offered by the gentlewoman from Ohio (Ms. KAPTUR) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. SHAYS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 442, further proceedings on the amendment, as modified, offered by the gentlewoman from Ohio (Ms. KAPTUR) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

It is now in order to consider amendment No. 46 offered by the gentleman from Michigan (Mr. SMITH) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS). Is there a designee for Mr. SMITH?

It is now in order to consider amendment No. 47 offered by the gentleman from Florida (Mr. STEARNS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

AMENDMENT OFFERED BY MR. STEARNS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. STEARNS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment to the amendment in the nature of a substitute No. 13 is as follows:

Amendment No. 47 offered by the gentleman from Florida (Mr. STEARNS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS):

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. CONSPIRACY TO VIOLATE PRESIDENTIAL CAMPAIGN SPENDING LIMITS.

(a) IN GENERAL.—Section 9003 of the Internal Revenue Code of 1986 (26 U.S.C. 9003) is amended by adding at the end the following new subsection:

"(g) PROHIBITING CONSPIRACY TO VIOLATE LIMITS.—

"(1) VIOLATION OF LIMITS DESCRIBED.—If a candidate for election to the office of President or Vice President who receives amounts from the Presidential Election Campaign Fund under chapter 95 or 96 of the Internal Revenue Code of 1986, or the agent of such a candidate, seeks to avoid the spending limits applicable to the candidate under such chapter or under the Federal Election Campaign Act of 1971 by soliciting, receiving, transferring, or directing funds from any source other than such Fund for the direct or indirect benefit of such candidate's campaign, such candidate or agent shall be fined not more than $1,000,000, or imprisoned for a term of not more than 3 years, or both.

"(2) CONSPIRACY TO VIOLATE LIMITS DEFINED.—If two or more persons conspire to violate paragraph (1), and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $1,000,000, or imprisoned for a term of not more than 3 years, or both."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to elections occurring on or after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to the order of the House on Friday, July 17, 1998, the gentleman from Florida (Mr. STEARNS), and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer this amendment because I think after the debate that I had concerning legal aliens, there was some question that came up, and I thought I should attempt to amend, offer an amendment tonight. It sort of rectifies a problem that was raised by the gentleman from Samoa (Mr. FALEOMAVAEGA).

During the debate a couple of weeks ago, this amendment that I sponsored and also the gentleman from New York (Mr. FOSSELLA) sponsored, both of them passed overwhelmingly. But there was something that was in both his amendment and mine that concerned me a bit. My amendment banned all political contributions from Federal, State or local elections from noncitizens, which included resident aliens.

But I realized, Mr. Chairman, during the debate that the gentleman from Samoa had a very valid point about resident aliens who are serving in the military. Such permanent residents may be drafted, as they were in Vietnam and other military actions.

So what I am trying to do tonight is to say okay, if one is serving in the military, I think one should be able to participate.

So frankly, this amendment seeks to rectify the situation with resident aliens who serve in the U.S. military, which includes the reserves.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Chairman, does this make them permanent in their status if they served and then leave the service, or do they lose their right to vote after they have left military service?

Mr. STEARNS. Mr. Chairman, if they are in the service for 3 years, they automatically become U.S. citizens.

Mr. FAZIO of California. Mr. Chairman, so in other words, at that point the issue goes away.

Mr. STEARNS. No, Mr. Chairman, but if during that period for 1 or 2 years they are serving in the military, we are saying we will allow them to contribute.

Mr. FAZIO of California. Now, Mr. Chairman, if the gentleman will continue to yield, as I remember the gentleman's comments from that earlier debate, he was also talking about people who were taxpayers, as many legal residents are, who are not citizens.

Mr. STEARNS. Mr. Chairman, I do not remember what I said about taxpayers, other than that I felt that non-U.S. citizens should not be participating, but I think after talking to the gentleman from Samoa, I think if they served in the military or are presently serving in the military, then I think that one should have a chance to vote on this.

Mr. FAZIO of California. Mr. Chairman, if the gentleman will yield further, I certainly do not oppose this. I think it makes a bad proposal less bad, but I understand that the gentleman has the votes on his side, so I certainly will not oppose it. In fact, I encourage him to offer it.

But I do think that when we begin to think about those things that cause us to recognize the contributions of legal residents, we should not just stop with military service; we should think of all of the things they do, including contributing in many other ways, as well as being taxpayers.

Mr. STEARNS. Mr. Chairman, reclaiming my time, I think the amendment is pretty simple and it will pass overwhelmingly. I think my good friend from Samoa had made a good point, so I am here really to recognize his point and to try to bridge the gap with the two amendments that passed, and I think that is pretty much my argument tonight.

Mr. Chairman, I reserve the balance of my time.

Mr. WEYGAND. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Rhode Island (Mr. WEYGAND) is recognized for 5 minutes.

Mr. WEYGAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, really it is a point of clarification, and I would like to yield to the gentleman.

Regarding those that have served in the military, am I to understand that not only those that are presently serving in the military and those that have served 3 years and are out of the military, what about those people who have served a year-and-a-half, 2 years, and perhaps have not reached the 3-year period of time?

Is the gentleman saying that anyone who has served, that is a resident, could contribute to a campaign?

Mr. STEARNS. Mr. Chairman, if the gentleman will yield, if they are serving in the military.

Mr. WEYGAND. Mr. Chairman, presently serving?

Mr. STEARNS. Presently serving, yes.

Mr. WEYGAND. Mr. Chairman, so that if they have served in Vietnam, in Desert Storm, if they have done that, but they are now out of the military, they are not eligible?

Mr. STEARNS. Mr. Chairman, that is correct.

Mr. WEYGAND. Mr. Chairman, I understand the gentleman's effort to try to make some amends, but it would seem to me that whether one is serving presently or one has served in Vietnam and one has provided that service to this country, the motivation for the gentleman's amendment would be indeed to provide some kind of an allowance for someone to contribute to a campaign by way of serving in the military, and I would think if anyone served 5 years ago, 10 years ago or 20 years ago, they would be eligible for the same merits that the gentleman is giving to the people who are presently serving in the military

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. WEYGAND. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, of course, if they served 3 years, then they automatically become U.S. citizens. So we are trying to bridge here a little bit of support.

Mr. WEYGAND. Mr. Chairman, reclaiming my time, I understand what the gentleman is saying, but if someone had served only a year-and-a-half, who was injured and was discharged from the military because of injury or something else and does not qualify for that 3-year citizenship that the gentleman is talking about, and therefore, in that case, may be still not an American citizen, but have served valiantly for this country, perhaps even given part of their body for this country, would now be eligible to contribute to a campaign.

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. WEYGAND. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, the gentleman can certainly offer an amendment to change what we have passed here on the House floor, but I think this amendment goes a long way and probably will receive a majority of support.

Mr. WEYGAND. Mr. Chairman, would the gentleman be willing to accept an amendment that would allow for someone who has served in the military, been discharged, to be eligible for this benefit of contributing to a campaign?

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. WEYGAND. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, probably not, just because I am just going to keep this amendment as it stands, but I think certainly the gentleman could offer his own amendment.

Mr. WEYGAND. Mr. Chairman, reclaiming my time, I yield to the gentleman from Massachusetts, (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I think my colleague makes a very valid point. I thank the gentleman for offering this amendment. Clearly, a member of the Armed Forces or the Armed Forces Reserves should have the right to contribute to a Federal election. Yet I would remind the gentleman that all legal permanent residents have the right to contribute in Federal campaigns, according to the United States Supreme Court.

With this amendment, it seems to me the gentleman is making a value judgment that legal permanent residents who served in the Armed Forces are worthy of first amendment protection because they laid down their lives for this country. But how about those legal permanent residents who are doctors? They save American lives every day. Or how about the legal permanent residents who are the parents of those young men and women who have lost their lives fighting for our country? Should they not also be given the full protection of the first amendment?

I do not object to the gentleman's amendment, but I do want to point out the arbitrary nature of this particular exclusion. This amendment is only necessary because the gentleman, rightly, perceives the inequities of a flat-out ban. The problem is, I could think of many worthy exemptions and exceptions.

There are so many ways that legal permanent residents prove their allegiance to this government and to the United States. Serving in the Armed Forces is only one example. But I certainly would accept the gentleman's amendment, but I think it is important to point out the injustice of just picking out one small group.

Mr. WEYGAND. Mr. Chairman, I yield to gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman I just have a question of how the gentleman would manage this, if the author would so indulge. One is a legal resident of the United States, one is here, the law says one is here.

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, a permanent legal alien, not a U.S. citizen.

□ 2320

Mr. FARR of California. The gentleman is going to check all of this? They are legally here. We do not go around every day trying to check whether someone is here legally. I mean, if they are here legally, they are here legally; right?

Mr. STEARNS. Mr. Chairman, I do not understand the gentleman's argument.

Mr. FARR of California. Mr. Chairman, reclaiming my time, the argument is how does the gentleman intend to enforce this amendment he is making? How do we enforce it? How do we check from campaign contributions? How do we go back to check whether the people are permanent residents, served in the Armed Forces? I mean, just look at the mountain of incredible research that we are going to have to do on everyone.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume. I do not think it will be hard to do that, because we have Social Security numbers and we could tell quickly and easily who was in the service.

Mr. Chairman, the argument of the gentleman from Rhode Island (Mr. Weygand), he wants to go back to the old argument that some wish to allow legal permanent aliens to contribute, has already been decided. We had a vote; 350 Members voted to do that. And now we have had two other votes, my vote and the vote on the Fossella amendment. In three cases now we have decided that legal permanent aliens should not contribute.

So my point is that I think it is easy to identify. And I think this is a step to try and really help the gentleman's cause by saying instead of ruling out all of them, let the people who are actually serving in the military less than 3 years have an opportunity to do so. And I am surprised that the other side objects to giving the military people an opportunity to contribute.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SNOWBARGER). The question is on the amendment offered by the gentleman from Florida (Mr. STEARNS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Florida (Mr. STEARNS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

It is now in order to consider the amendment No. 48 offered by the gentleman from Florida (Mr. STEARNS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

AMENDMENT OFFERED BY MR. STEARNS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. STEARNS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 48 offered by Mr. STEARNS to the amendment in the nature a substitute No. 13 offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PERMITTING PERMANENT RESIDENT ALIENS SERVING IN ARMED FORCES TO MAKE CONTRIBUTIONS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any other provision of this title, an individual who is lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act) and who is a member of the Armed Forces (including a reserve component of the Armed Forces) shall not be subject to the prohibition under this section.".

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Florida (Mr. STEARNS), and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment and the next one are generally just a little bit more clarification. This one goes to the fact that in presidential campaigns, oftentimes the folks who are running for office intentionally, perhaps not realizing it or perhaps they do, intentionally violate campaign spending limits.

So what I try to do in this amendment is to impose criminal penalties. My amendment would immediately close the current loop that I believe has been exploited under the law, which is the Federal Election Campaign Act. There are strict limitations and restrictions on presidential candidates who voluntarily accept, decide to receive public financing for their campaigns. The fundamental tenet of this law is that presidential candidates are eligible to receive funding if they comply with expenditure limits and other restrictions imposed by law.

Mr. Chairman, my amendment attempts to strengthen the law by ensuring that the presidential and vice presidential candidates do not try to evade the limits and restriction under the law by intentionally trying to circumvent these rules.

Of course, the reason, Mr. Chairman, I rise to offer this amendment is that I think myself and others were greatly troubled by the evidence that the Federal Elections Campaign Act was intentionally violated. I think this came out in the hearings in the Senate Committee on Government Affairs when they investigated campaign finance abuses in 1997.

The committee underlined the purpose of the law by reporting, quote "Under FECA, a presidential candidate who accepts Federal matching funds cannot exceed the applicable expenditure limits for the campaign." The intent of this, of course, in providing limited Federal funding is to remove the candidate from the fund-raising process and to prevent the raising of large private contributions.

The deal the taxpayers make with the candidate is that in exchange for their funding, the candidate will foreswear outside money and therefore make it less likely that the election will be influenced or appear to be influenced by big money.

Now the Senate Committee on Government Affairs found a great deal in their report. And, of course, the White House was cited several times. If I may, Mr. Chairman, I would like to report what the committee said.

During the 1996 election cycle, the White House was very close to the DNC and they tried to micromanage it. Harold Ickes, then Deputy Chief of Staff to the President, simply seized the reins of financial power and went about exerting direct control over the DNC's finance division.

Now, this is the type of thing we are trying to stop. I will not go through and read a lot of the testimony in there, because I am not here to point fingers at one side or the other. I am just trying to convince my colleagues of the need to put in place the penalties in this amendment.

Mr. Chairman, I think in short, though, most of us would agree that there were some evidence of collusion here. The purpose of our amendment here is to prevent this. The committee concluded that, "In the matter before us, the clear purpose of the law was circumvented." I mean, that is what they said. That is why I believe we need to protect the Federal Election Campaign Act.

We cannot allow the limits and restrictions in the law to be circumvented while candidates receiving public financing abuse the system in order to gain advantage over their opponent.

So in a sense what we tried to do is do the following: By putting in place that if a candidate or agent seeks to avoid the limits and restrictions by soliciting, receiving, transferring, or directing funds from any source other than the presidential election campaign fund for the direct or indirect benefit of such candidate's campaign, then the candidate, Mr. Chairman, or the agent shall be fined not more than $1 million or imprisoned for a term of not more than 3 years, or both.

So in essence, Mr. Chairman, what I have done is put in a penalty. I think that we have had the history of this, so I urge my colleagues to support it.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I ask unanimous consent to take the time reserved for anyone opposed to the amendment.

The CHAIRMAN pro tempore. Is the gentleman opposed to the amendment?

Mr. MEEHAN. No, but I would ask to take the time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts (Mr. MEEHAN)?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. MEEHAN) is recognized for 5 minutes.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this would ban any presidential or vice presidential candidate who receives public funding from raising soft money. While we support the gentleman's position, this amendment is really unnecessary in the context of the Shays-Meehan bill.

Not only does the Shays-Meehan bill ban soft money in Federal elections, but the Shays-Meehan bill expressly prohibits Federal candidates, office holders, and agents of Federal candidates and office holders from soliciting, receiving, directing, transferring or spending soft money on behalf of any other Federal candidates or office holders.

So, the Shays-Meehan bill takes care of exactly what the problems were in the last presidential election on both sides and both parties.

Mr. Chairman, I would ask the gentleman, he had an amendment pass just now. We are going to vote tomorrow. And this amendment I think we are going to agree to. And so certainly the gentleman from Florida, my friend from Florida is getting his amendments passed. Does this mean the gentleman is going to support and join the majority of Members here and support us in passing the Shays-Meehan bill that has such strong bipartisan support? Which, by the way, I have to say in all of the years we have been working on campaign finance reform, my colleague cannot look at any evening and have witnessed any more broad-based, incredible success and support for our legislation than this evening.

Mr. Chairman, I was wondering if the gentleman has decided to join us in our efforts.

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. MEEHAN. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, as the gentleman knows, there are a lot more amendments to come. Also, several amendments I voted for today were defeated. I think the Goodlatte amendment is a good example.

So I think this campaign finance bill is still in doubt. I think there are lots of areas that need to be improved, and frankly we have other substitutes and other bills that are going to be offered that I think we should look at.

I think it is premature to talk about that. I would remind the gentleman from Massachusetts that I think what he has to worry about is the executive branch micromanaging either the DNC, or either party.

□ 2330

Mr. MEEHAN. Reclaiming my time, Mr. Chairman, what we on this side and both sides who are fighting for campaign finance reform, what we have to worry about is making sure we get as many votes as we can. I am delighted that we are going to accept a couple of your amendments, but I just want to illustrate the point that ultimately you are not going to support our bill, which is unfortunate. But I will point out, this evening we had several historic votes, broad bipartisan support to defeat poison pill amendments.

I am encouraged, I think my colleagues who are here are encouraged with the tremendous support. We look forward to dealing tomorrow with the remaining amendments and voting yes on those amendments that we are accepting and voting no on those amendments which would destroy the unique and historic bipartisan coalition that we have in support of our legislation.

I look forward to getting through the amendments this evening. We are moving along slowly but surely. I am delighted at how well things are going this evening.

Mr. Chairman, I yield back the balance of my time.

Mr. STEARNS. Mr. Chairman, I yield myself the balance of my time.

Judging from the information given by my colleague, I assume he is supporting my amendment. I think that the idea of putting penalties in place is important. I think the whole idea of the executive branch micromanaging any other area of the campaign financing operations is what we are trying to prevent. I would say to my colleague that I appreciate his support.

The CHAIRMAN pro tempore (Mr. SNOWBARGER). The question is on the amendment offered by the gentleman from Florida (Mr. STEARNS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 49 offered by the gentleman from Florida (Mr. STEARNS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

AMENDMENT OFFERED BY MR. STEARNS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. STEARNS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 49 offered by Mr. STEARNS to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. ENFORCEMENT OF SPENDING LIMIT ON PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES WHO RECEIVE PUBLIC FINANCING.

(A) IN GENERAL.—Section 9003 of the Internal Revenue Code of 1986 (26 U.S.C. 9003) is amended by adding at the end the following new subsection:

"(f) ILLEGAL SOLICITATION OF SOFT MONEY.—No candidate for election to the office of President or Vice President may receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 unless the candidate certifies that the candidate shall not solicit any funds for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to elections occurring on or after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Florida (Mr. STEARNS) and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

This amendment is similar to the other one except we ask that candidates certify their intent. Let me just read a portion of this so we can clarify it:

> No candidate for election to the office of President or Vice President may receive amounts from the Presidential Election Campaign Fund unless the candidate certifies that the candidate shall not solicit any funds for the purpose of influencing such election, including any funds used for an independent expenditure, unless the funds are subject to the limitations, prohibitions and reporting requirements under the law.

The reason I offer this amendment, of course, is that, again, some of the testimony in the Senate hearing that brought forth the clear intent. And so we need to establish that a candidate for President and Vice President will certify that they are going to comply and that they have a full understanding so that they cannot use rigorous, specious logic to say they were not aware.

There was a lot of testimony that came out from Dick Morris, which I have here, and I will, Mr. Chairman, include Dick Morris's testimony as a part of the RECORD so I do not have to read the whole thing.

I just would like to summarize some of the things that he testified to that committee and that is why I think the certification is required.

The President reviewed and modified and approved all advertising copy, reviewed and adjusted and approved media time buys, reviewed and modified polling questions, received briefings on and analyzed polling results.

So the President had significant involvement with the DNC media consultants in the area of polling, advertising, speech writing, legislation strategy and general policy advice.

I think that is, frankly, what the Shays-Meehan bill is trying to prevent. I am hopeful that my colleagues will support this amendment and ask that the candidates who do run for President and Vice President will certify so that they have a full understanding before they go into this what their roles will be.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEEHAN. Mr. Chairman, I ask unanimous consent to claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. MEEHAN) is recognized for 5 minutes.

Mr. MEEEHAN. Mr. Chairman, I yield myself such time as I may consume.

I think we can support this amendment, although I was a little concerned when you indicated you are going to read into the RECORD some of Dick Morris' words. It makes me a little nervous as to whether or not we really support the amendment.

Everything sounded great until we got to that. I get a little concerned about which statements from Dick Morris were going to be read into the RECORD, but, in any event, we generally support the amendment.

I think that the Shays-Meehan legislation addresses precisely the matter that you are concerned about. I do not know that it does address matters that Dick Morris may be concerned about, but in any event we are delighted to accept the amendment, notwithstanding the statements of Mr. Morris that have been submitted into the RECORD.

Mr. Chairman, I reserve the balance of my time.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the reason I mentioned Dick Morris was just to give an example of what occurred, and I think the folks realize that he was the principal advisor to the President and basically they started running these ads that were constantly lauding the President all around the country and his record and running specific issue ads, and the problem was funding those ads.

So I am not categorically going after Mr. Morris or anybody but other than to say this is a clear example of what the committee on the Senate was talking about, which we need to prevent.

The problem of funding these ads got very difficult and where they got the money is where they started to get into the micromanaging. So putting this in the record is important to establish a reason why you support this amendment and why I support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, the gentleman makes some very good points. I have no idea why the President ever hired Dick Morris to begin with. After so many Republican campaigns, I have no idea why he did hire him. I think when the history books are written, the President will regret ever having hired him.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think Congress needs to strengthen the law by preventing the type of activity that Dick Morris mentioned in his testimony. This type of abuse should be prevented from ever happening again in presidential campaigns, and I urge my colleagues to support the amendment.

The infamous Dick Morris testified to the Committee that,

> The President had significant involvement with the DNC media consultants in the areas of polling, advertising, speech-writing, legislation strategy, and general policy advice. The President: (1) reviewed, modified and approved all advertising copy; (2) reviewed, adjusted and approved media time buys; (3) reviewed and modified polling questions; and (4) received briefings on the analyzed polling results.
>
> A significant amount of the polling work the consultants performed for the President "related to substantive issues in connection with his job as President, but is (also) could be considered political." The President wanted to keep total control over the advertising campaign designed by Morris and the DNC media consultants.

The defenders of the President will argue that this is not a violation of the letter of the law under the Federal Election Campaign Act, but this intertwined coordination between the President, his political advisors, and DNC media consultants is certainly a violation of the spirit of the law.

Congress needs to strengthen the law by preventing this type of abuse from happening again during another presidential campaign. I urge my colleagues to support this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield as much time as she may consume to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, a few weeks ago when we were discussing campaign finance abuses, I spent some time on the floor talking about a system that has been developed over time by both parties, where blame really needs to go, to both parties, and change really has to come from both parties.

So I listened with some interest tonight when the gentleman from Florida (Mr. STEARNS) was making his comments, because my recollection is there is, in addition to investigations going on around the Clinton-Gore campaign, there is currently an investigation going on around the Dole-Kemp campaign for their micromanagement of their money and coordination of their efforts in the campaign issues.

So I think what we need to do is to go back to the very place I started several weeks ago, which is we have a campaign system that has been built by both parties that does not work anymore, that has to be changed by people on both parties.

I applaud the fact that the gentleman from Florida (Mr. STEARNS) is now interested in soft money and very interested in making sure that some people in the system do not abuse soft money.

Those of us that are part of the reform group want to make sure that no one in the system abuses soft money, and I would invite the gentleman from Florida to join us in supporting a ban on all soft money, and then we would not have worry about whose words have to be read into the RECORD. Then we would know that no one is going to engage in the kind of behavior that we all find offensive.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just add on that, there is still a lot of room left on this Shays-Meehan bandwagon, and we would love to have you joining with us in abolishing soft money, sham issue ads, giving the FEC the teeth that they need to enforce the election laws that are on the book.

☐ 2340

We are very, very proud of the Members on both sides of the aisle that have demonstrated I think this evening on a number of votes wonderful support, Republicans, Democrats, conservatives, liberals. There is still plenty of room on this bandwagon as we roll to a majority vote by the Members of this body coming early next week. We would encourage the gentleman to join with us on those votes.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SNOWBARGER). The question is on the amendment offered by the gentleman from Florida (Mr. STEARNS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from Florida (Mr. STEARNS) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 50.

AMENDMENT OFFERED BY MR. WHITFIELD TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. WHITFIELD. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 50 offered by Mr. WHITFIELD to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end of title I the following new section (and conform the table of contents accordingly):

SEC. 104. INCREASE IN CONTRIBUTION LIMIT FOR CONTRIBUTIONS TO CANDIDATES BY PERSONS OTHER THAN PACS.

Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking "$1,000") and inserting "$3,000".

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Kentucky (Mr. WHITFIELD) and the gentleman from Tennessee (Mr. WAMP) each will control 5 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I yield myself such time as I may consume. As we conclude the debate on this important legislation, I have been very pleased with the debate that has been a long and lengthy debate and I think we have covered about every aspect of campaign finance that one can cover. The advocates for campaign finance have talked a lot about special interests. They have talked a lot about sham ads. They have talked a lot about too much money. They have talked about inadequate disclosure. We have said many times, I guess, that special interest depends on who supports you and who does not; and sham ads if you do not like it, maybe it is a sham ad. So those are valid reasons that people have for supporting this legislation.

I have told some people, and I firmly believe this, that one of the unintended consequences of this act is to protect incumbents. The amendment that I am offering is to try to help alleviate the burden that is placed on people running for Congress the first time. I think all of us know that about 80 percent of the political action committee money goes to incumbents. One thing about the Shays-Meehan bill, it does not do anything about the way candidates raise their money or spend their money. It applies only to the way other groups out in the country spend their money and participate in the political system.

This is a very simple amendment in that it increases the amount that an individual can give a candidate from $1,000 to $3,000. Now, this contribution limit was set in 1974. When you consider inflation, it is worth in today's dollars $325 instead of the $1,000 that was in 1974. But I would ask that Members give some serious thought to this, because, as I said, 80 percent of political action committee money goes to incumbents. All of us know the first time that we ran, it is very difficult to raise the money. If we can increase the amount that an individual can contribute from $1,000 to $3,000, I think it will go a long way in making this a more equitable system, particularly for those very few candidates, one of which may be on the floor this evening, who do not accept political action committee money. This kind of evens the playing field, and that is really my purpose in introducing this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WAMP. Mr. Chairman, I yield myself such time as I may consume. I may be uniquely qualified to address this amendment because, as the gentleman from Kentucky knows, he and I got here together in early 1995 and within just a few weeks, I had a bill on the floor called the Wamp Congress Act of 1995. I think the gentleman from Kentucky was probably one of my cosponsors, which actually did in fact increase the individual contribution limit. But over the last 4 years as I have worked this body on both sides of the aisle to try to build consensus around this issue of campaign reform, knowing that there were land mines throughout the entire process and knowing that this fundamental system has not been changed since Watergate because there are too many good ways to kill it, I looked for a consensus around a few principles, and that is what we have on the floor tonight represented in Shays-Meehan. That is why I reluctantly oppose the gentleman's amendment. Because there is an intellectual argument to be made for the fact that an individual contribution in 1974 is actually worth about $3,000 today, but the fact is there is not much support in this body for raising individual contribution limits, and none of us can be king for a day. If I were king for a day, I would have my own bill here and it would be much different than what we have. But this process is a process of compromise and consensus. We are looking for a majority, especially a bipartisan majority, so that we can actually accomplish something that has not been accomplished in a generation because there are too many ways to chop the legs out from underneath this particular issue, because this one issue is the issue that is at the heart of whether or not we can stay in power as Members of Congress, and that is why the oldest trick in this business is to put something on the floor and promote it, that then everybody can say, "Well, I supported that but I didn't support this, therefore, I didn't support final passage" and we never get reform.

That is why I rise today even though I did support this principle early in my career here, knowing that there is no support here for that, and we cannot add it to this bill because frankly it is one of the things that will sink the boat.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, I rise in opposition to this amendment because I cannot understand what is broken and needs fixing. This amendment suggests that there is not enough money in campaigns. This whole debate, this whole process started when we tried to put limits on what candidates running for a seat in Congress would spend in campaigns. They still have that comprehensive bill on the floor. That is the way this bill started out. Nowhere were we going to try to get more money into campaigns. And just to show you that only .1 percent of the American people, about 235 individuals gave contributions of $1,000 or more in 1995 and 1996 to Federal candidates and to PACs and parties that support candidates. Yet this group gave as much money for Federal elections, $638 million, as the millions who gave under $200.

This is not the part of the campaign finance system that is broken and needs fixing, to get more money into the system. In fact, this amendment, as well-intentioned as the author may be on it, is a poison pill. It is opposed by all of those groups that advocated for campaign finance reform, including League of Women Voters, Public Citizen, Common Cause, the U.S. PIRG and others.

I ask my colleagues to oppose this amendment, because it is not going to help get the Shays-Meehan bill passed, and it is not going to help the perception of the American public that we need to have more money and bigger contributions in campaigns.

Mr. WAMP. Mr. Chairman, recognizing that the gentleman from Kentucky has the right to close, I yield the balance of my time to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I just would like to say that Meehan-Shays does three primary things: It bans soft money, the unlimited sums of money that go from individuals, corporations, labor unions and other interest groups; it deals with the sham issue ads and calls them what they should, campaign ads; and it also has FEC enforcement and disclosure.

It does not have a lot of things. We did not deal with issues that some Members would like us to deal with, in-state, out-of-state. It does not deal with motor voter and Voter Rights Act. There are a number of things we do not do. We do not deal maybe with the need to increase PAC contributions or individual contributions but this only limits and allows individual contributions to be increased, and I would oppose it.

Mr. WHITFIELD. Mr. Chairman, I yield myself the balance of my time. I want to quote Justice Thurgood Marshall whom I do not think anyone could say is a very conservative judge, but in Buckley v. Valeo he said, "One of the points on which all Members of the Court agree is that money is essential to effective communication in a political campaign."

□ 2350

And we do live in a world where it costs a lot of money to buy TV ads, to buy newspaper ads, to buy radio ads, and I guess I am not surprised that incumbents would not support this because it would be easier for opponents to raise money if they raised the amount that an individual can give.

And we talked about the groups that supported Shays-Meehan, and one of those groups is Public Campaign that has been running newspaper ads in my district against me for the last day or two and also in the Washington Post; and, as I said earlier, I did not particularly like it, but I think they have a right to do that. That is an issue ad in my view. I think they have a right to do that, but they really pounded me because they said, "ED WHITFIELD is trying to triple the amount of money that an individual can give," and yet I find it quite ironic that one of their largest contributors is a guy named Mr. Solis, who is one of the wealthiest men in the world. He contributes heavily to them.

So I guess that sometimes it just depends upon who gives the money, but I think that we are doing a great disservice to our political system if we prevent individuals from giving up to $3,000 to candidates that they have confidence in, that they believe in and they want to support, particularly when they know that challengers are not going to receive political action committee money.

So I would urge the adoption of this amendment.

The CHAIRMAN pro tempore (Mr. SNOWBARGER). All time has expired.

The question is on the amendment offered by the gentleman from Kentucky (Mr. WHITFIELD) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS.)

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WHITFIELD. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from Kentucky (Mr. WHITFIELD) to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS will be postponed.

It is now in order to consider Amendment No. 51 offered by the gentleman from Kentucky (Mr. WHITFIELD).

AMENDMENT OFFERED BY MR. WHITFIELD TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. WHITFIELD. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. WHITFIELD to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Amend section 301(20)(A) of the Federal Election Campaign Act of 1971, as added by section 201(b) of the substitute, to read as follows:

"(A) IN GENERAL.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by containing a phrase such as 'vote for', 'reelect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject'."

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Kentucky (Mr. WHITFIELD) and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment simply defines "express advocacy" using the exact terms that the Supreme Court has used repeatedly in defining express advocacy. This issue goes to the very core, the very heart, of what this debate is about because the Shays-Meehan bill expands the definition of "express advocacy". And when we expand the definition of "express advocacy," we automatically increase the opportunities for hard money to be spent and decrease the opportunities for individuals to spend money who do not have political action committees, who have not hired lawyers to file all the reports with the FEC, and I think it is going to be a chilling effect upon the participation and the political system.

Now Shays-Meehan expands the definition in a number of ways way beyond what the Supreme Court has said. One way that they do it is they say if an ad refers to one or more clearly-identified candidates in a paid advertisement that is broadcast by a radio broadcast station or a television broadcast station within 60 calendar days preceding the date of an election of the candidate, that that is express advocacy. And in essence what they are doing here at a time when people focus on political campaigns, as we get closer to the election, people focus on it, and that is when we have groups like the Sierra Club, the Right to Life, Pro-choice, labor unions; all these groups take out ads, and they talk about voting records of candidates as you get within 60 days of an election.

Under this bill, they will not be able to run those ads unless they had raised the money under the hard money rules. In other words, they would be totally caught up in the rules of the Federal Election Commission. They would have to meet all the requirements of the Federal Election Commission, have to meet all of the limits, all of the financial disclosures. And the courts have repeatedly said that that is a very chilling effect on the participation of people in the political process, and the courts have repeatedly said that the very core of our system is to allow participation, and this definition explicitly makes it more difficult to participate.

And the thing that I find the most troubling about it in this particular section is that when we get down to the end of the campaign, the only people that are going to be talking about these campaigns are the candidates themselves, the money that they spend for our ads. Then we are going to have political action committees, that they can buy ads, and then we are going to have the news media doing editorials on who they support.

But the mass of people out there who belong to organizations, they are not going to have much say-so unless they want to go through all of this trouble, all of this burden of forming a political action committee, raising money, hiring lawyers, filing reports and so forth.

So I am very disappointed, I am extremely disappointed, in the way they expand the definition of "express advocacy," and my amendment simply brings it down to precisely what the Supreme Court has said: a bright line test so there is no question about what is and what is not express advocacy.

Mr. Chairman, I reserve the balance of my time.

Mr. CAMPBELL. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN pro tempore. Is the gentleman opposed to the amendment?

Mr. CAMPBELL. I am.

The CHAIRMAN pro tempore. The gentleman from California (Mr. CAMPBELL) is recognized for 5 minutes.

Mr. CAMPBELL. Mr. Chairman, the words kill. It is the spirit that giveth life. The Scriptural reference applies to this part of the bill.

My good dear friend from Kentucky has given us the words, and he says that all that may be condemned are those ads which are so explicit in using words that they qualify in his definition as express advocacy. But what about the spirit that giveth life? What about ads that, in every other meaning, affect intent, purpose, are an express advocacy ad, but they are clever enough not to use the word "vote for" or "vote against?"

This kind of abuse has been documented so many times in this debate that it is unnecessary to go too much into detail, but I refer all of my colleagues to the examples that have been raised regarding such comments as President Bill Clinton has done these wonderful things, but we do not at the end say "Vote for President Bill Clinton." Senator Bob Dole has done these wonderful things, great American, but at the end we do not say "Vote for Bob Dole."

It is the most gravid interpretation of campaign advocacy to say that only those ads that actually use the word "vote for" or "vote against" are express advocacy.

Second point: The gentleman intentionally strikes from this bill the prohibition on using undisclosed money, money from whom no one knows the source for advertisements that mention the name of the candidate on radio and television in the last 60 days of a campaign.

What is wrong with disclosure? Our good friend and colleague argues that disclosure chills. Not at all. In other contexts those who have been advocating against the Shays-Meehan bill have said all we need is disclosure. Indeed that was the view of many of our colleagues.

The Supreme Court's interpretations of disclosure certainly have identified the concern about membership in NAACP, for example, at a time when that civil rights group was under a great degree of strain in our country but have never said that it is chilling for the American people to know what source of money puts an ad on 60 days before the election using the name of the candidate and hiding the identity of the donor.

□ 2400

Yet that would be struck by the proposal of our good friend, the gentleman from Kentucky.

The Supreme Court has actually opined in an area very close to this in the matter before us, in Massachusetts Committee For Life. In Massachusetts Committee For Life, the Supreme Court says that publication at issue there, quote, "cannot be regarded as a mere discussion of public issues that, by their nature, raise the names of certain politicians. Rather, it provides, in effect, an explicit directive for these named candidates. The fact that this message is marginally less direct than 'vote for Smith' does not change its essential nature." End quote.

The Supreme Court has told us it is the spirit that giveth life when the words can kill. We have heard this argument many times. At this point, it is appropriate, I think, to recognize the fundamental difference between people of goodwill.

I have the highest regard for the gentleman from Kentucky. He is sincere. He would not make the campaign finance reform that is needed, the campaign finance reform that is at the heart of Shays-Meehan, and that is that the American people know who is paying for ads that are campaign ads in every sense.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. Mr. Chairman, will the Chair tell me how much time I have remaining?

The CHAIRMAN pro tempore (Mr. SNOWBARGER). The gentleman from California (Mr. CAMPBELL) has 1 minute remaining.

Mr. CAMPBELL. Mr. Chairman, I am pleased to yield such time as he may consume to the gentleman from California.

Mr. FAZIO of California. Mr. Chairman, I have been reading the gentleman's amendment, and I think that I can come up with a number of phrases that would apparently be permitted but which, under his amendment, would be very questionable.

Think of words like "Think Joe Smith" or "Joe Smith thinks about our Nation's future every day" or "Joe Smith, the 1st District's Congressman" or on the crime theme, "Joe Smith voted yes on the crime bill," "Joe Smith was sponsor of the crime bill," "Joe Smith is tough on crime."

All of these would be passing muster under the amendment that the gentleman from Kentucky offers. I think that they all have a clear purpose and intent. But under this amendment, they would be permitted.

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, all that we ask is that we know who is paying for these ads, not that they be stopped.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Chairman, I admire the gentleman from Kentucky (Mr. WHITFIELD) for his persistence. This is the sixth, seventh time. Do we have to beat him again?

The CHAIRMAN pro tempore. The gentleman's time is expired.

Mr. WHITFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, we keep talking about disclosure. As I said before, when the labor unions ran ads against me last time on television, every ad said "Paid for by AFL-CIO." The Federal Communication Commission requires that on television that we know who pays for these ads.

It is interesting the public campaign group is running these ads all over the country right now. We do not really know who pays for those ads either, but they have a right to do it.

In closing, I would simply say the third expansion of express advocacy in this bill has already explicitly been declared unconstitutional by the Supreme Court in FEC versus Maine Right To Life. The exact wording is in here, already been declared unconstitutional.

I just think it is a shame that we spend this much time on a bill that most people that have reviewed it, that have taken cases to the Supreme Court, say will be declared unconstitutional. Also, I think it shows very clearly that this really is an incumbent protection act. I would ask for the adoption of my amendment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Kentucky (Mr. WHITFIELD) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WHITFIELD. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from Kentucky (Mr. WHITFIELD) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

It is now in order to consider Amendment No. 52 offered by the gentleman from Pennsylvania (Mr. ENGLISH).

AMENDMENT OFFERED BY MR. ENGLISH OF PENNSYLVANIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ENGLISH of Pennsylvania to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PROHIBITING BUNDLING OF CONTRIBUTIONS.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) No person may make a contribution through an intermediary or conduit, except that a person may facilitate a contribution by providing—

"(A) advice to another person as to how the other person may make a contribution; and

"(B) addressed mailing material or similar items to another person for use by the other person in making a contribution.".

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Pennsylvania (Mr. ENGLISH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer an amendment that speaks to an issue fundamental to campaign finance reform, one that would close a gaping loophole in the existing campaign laws through which a torrent of special interest cash has poured in every recent election.

My amendment is a basic reform of the current system and something that the Shays-Meehan substitute unfortunately does not address.

Bundling is the process by which special interest groups solicit funds from donors around the country and then deliver the money in large bundles. It is a way of avoiding limits on donations to campaigns.

The Center for Responsive Politics identified at least 32 bundles in excess of $20,000 that went to House Members during the 1994 election cycle. The center surveying this practice wrote that bundling is "as predictable as the sunrise." This practice undermines the whole established structure of campaign finance.

My amendment simply states that intermediaries cannot engage in this practice. They can only provide advice to individuals about making a contribution.

In the past, opposition to bundling was close to a consensus issue among supporters of campaign finance reform. In the past, most campaign finance reform proposals have included some kind of antibundling language; indeed, earlier versions of Shays-Meehan included bundling restrictions.

I urge my colleagues to vote in favor of this amendment, to close this terrible conduit for cash.

Mr. Chairman, I reserve the balance of my time.

Ms. DELAURO. Mr. Chairman, I ask unanimous consent to claim the 5 minutes.

The CHAIRMAN pro tempore. Is the gentlewoman opposed to the amendment?

Ms. DELAURO. Yes, I am.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Connecticut (Ms. DELAURO) for 5 minutes.

Ms. DELAURO. Mr. Chairman, I yield myself such time as I may consume.

I rise in strong opposition to the English amendment. Three years ago when campaign finance reformers started out to change the American election system, our goal was to try to increase the number of participants in the political process and to take elections out of the hands of the big-money special interests.

This amendment would, in fact, do just the opposite. It would rob Americans of an essential tool in leveling the political playing field. It effectively prevents bundling, which lets ordinary Americans with limited resources pool their funds together into a single contribution and put themselves on equal footing with the more well-heeled political interests. It also would allow corporate officers to host campaign functions for candidates and collect checks.

I give you an example of women in politics. Today, thanks to coordinated grassroots efforts, over 45,000 members of EMILY'S List, who on average have contributed less than $100 per candidate, they had an opportunity to triple the number of women who serve in this body.

There is EMILY'S list on the Democratic side of the aisle. There is a group called Wish List on the Republican side of the aisle which, in fact, is looking at how we, in fact, change the face of the Congress and bring new people into the process and bring women, women of color into the process in this body. That has been accomplished by these groups.

The ability to pool political donations helps put average Americans on equal footing with the wealthiest of interests. This benefits everyone, regardless of what side of the political spectrum we may fall, self-employed men and women who sell Amway products, local environmentalists who participate in the League of Conservation Voters. I mentioned Wish List, the National Jewish Democratic Council, Council for a Livable World.

The English amendment cripples such organizations. It prevents ordinary voters from uniting together as significant political forces. What we want to do is to get more people in the process, not less people. The English amendment would cripple that process.

Mr. Chairman, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I am prepared to close.

The CHAIRMAN pro tempore. The gentleman has the right to close.

Ms. DELAURO. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentlewoman has 2½ minutes remaining.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, I found it very interesting to hear the comments from the gentleman from Pennsylvania because I was very concerned when this came forward about what evil was trying to be remedied by this particular amendment.

What the gentleman had to say does not square with my personal experience and my understanding of this system of contributing to campaigns. Number one, these are small donors, small donations. EMILY'S List, for example, has 45,000 members from all 50 States, and they have made an average contribution of less than $100 per time.

There is no ability to exceed campaign limits. All individual limits are counted in the aggregate. For any individual donor anywhere in the country, they cannot exceed the campaign limits put in place on any other donor. It simply is not true.

The other thing is that all of this money is fully disclosed twice, once when the donation is made to the bundling organization and secondly when the candidate receives it. So any individual who is interested in following this money can do to a much greater degree than any other campaign contributions that a candidate will get.

□ 0010

Again, I have to say, what is the evil that is to be remedied by this, unless, of course, that there are more women in Congress.

Ms. DELAURO. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. SNOWBARGER). The gentlewoman from

Connecticut (Ms. DELAURO) has 1½ minutes remaining.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Chairman, I thank my friend for yielding.

I think if we look at this amendment, it is obviously flawed in one sense, and that is that it only covers hard dollars. Triad Management is an organization that has gone out and organized all kinds of soft money bundling activities, including an entity called Citizens for the Republic Education Fund, which gave $2 million in the final weeks of the 1996 campaign to Republican candidates in targeted races all across the country. One of them happened to be, by the way, the gentleman from Pennsylvania (Mr. ENGLISH).

I am wondering why this amendment is directed only at small donors, largely, who are contributing through processes we have just heard described as hard dollars, to the campaigns of candidates. We ought to be attacking soft dollars that are flowing in, bundled by organizations outside the political structure in theory, but in reality tied directly into the political parties, the kinds of campaign expenditures that have benefited many of the Members who now oppose this bill and oppose the soft money ban included in it.

Mr. Chairman, I would be much more respectful of this amendment if it were broadly based and took on all the problems of bundling. This one is targeted to kill this bill and perpetuate a soft money political system.

Ms. DELAURO. Mr. Chairman, this amendment truly does cripple organizations, organizations that mobilize thousands of men and women behind issues that they care about. It prevents average people from getting together as a political force. Again, this benefits all sides of the spectrum. We are not talking about narrowly defining this effort. Why we want to, instead of expanding the opportunity for people to participate, to narrow these efforts, and "do in," if you will, the ability in terms of full disclosure. What we need to do, as my colleagues have said, is we need to ban the soft money, and bring participation in the political process back home to the American people.

The CHAIRMAN pro tempore. The time of the gentlewoman from Connecticut (Ms. DELAURO) has expired.

The gentleman from Pennsylvania (Mr. ENGLISH) is recognized.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. ENGLISH) has 3 minutes remaining.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield myself the balance of my time.

I was curious to listen to some of the arguments on the other side. They are kind of fascinating to me, because, Mr. Chairman, I served as the first chief of staff for the first woman to ever serve in the Republican Conference in the Pennsylvania Senate. I do not think anyone on the floor of this House has a stronger record than I do of promoting women in high office, and I can tell my colleagues, my old boss got elected at the age of 28 to a State Senate seat half the size of a congressional seat, on a shoestring and without bundling.

It is ridiculous to argue that bundling somehow has something to do with few women being in Congress. Quite the contrary. Bundling favors incumbents, and women as challengers would benefit from the reduction in the practice of bundling.

In the past, the authors of this substitute have opposed the practice of bundling. Unfortunately, tonight they have chosen to support this widely acknowledged abuse by opposing this amendment, along with many other worthy amendments necessary to perfect this substitute and restore balance to this campaign finance reform proposal.

For those of my colleagues who in the past have supported legislation that included anti-bundling provisions, including the Farr legislation, including the earlier Shays-Meehan legislation, my colleagues are already on record opposing bundling. Do not flip-flop tonight.

Remember, instead, the statement of Common Cause, which, as of today was printed on their Web site, and I quote: "Bundling, thus, is harmful because it is a way around the contributional limits for both individuals and PACs. It allows individuals and PACs to get credit from candidates for delivering the kind of big money that the contribution limits are intended to deter."

Mr. Chairman, this amendment is fundamental reform and it is fundamental to perfecting this legislation. I urge any Member who is serious about campaign finance reform to support it. It is the right thing to do. I urge a "yes" vote on the English amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ENGLISH) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. ENGLISH) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

It is now in order to consider amendment No. 53 offered by the gentleman from Pennsylvania (Mr. GEKAS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

AMENDMENT OFFERED BY MR. GEKAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. GEKAS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. GEKAS to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 326. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and "(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts require for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 201(b) and 307(b), is further amended by adding at the end the following:

"(22) DONATION.—The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Friday, July 17, 1998, the gentleman from Pennsylvania (Mr. GEKAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I have discussed this amendment with the gentleman from Connecticut (Mr. SHAYS) and with some representatives of the collaborators on the Democrat side in this venture. This is an amendment that simply states that when a political party, for instance, discovers all of a sudden that it has in its hands let us say $100,000 which it knows has an illegal source, my amendment would compel that organization to turn that money over to the FEC for a transitional position in which the FEC would determine the source, the nature of the illegality, and to see whether or not the IRS or the Attorney General or some law enforcement agency should be brought into the picture before that money is returned to the donor, as is the practice now. This would go a long way in bolstering our confidence that some illegal foreign source or some drug dealer who contributes grand sums of monies to a political party does not get the benefit twice, first of getting favor from a political party to which he makes a donation, and then when it is declared illegal, he gets the money back; he sort of launders his own money, as it were.

What we would accomplish with my amendment would be to have a scrutiny placed upon that money before, and it may still be returned, before it be returned to the donor when it is found to be illegal. That is the simple text of my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, I ask unanimous consent to control the 5 minutes, since I do support the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

We are concluding debate on all of the amendments that have come before us, and I think it is almost symbolic to have an amendment offered by the gentleman from Pennsylvania (Mr. GEKAS), and I appreciate him waiting so late to offer it, an amendment that I think we can support.

It makes logical sense that if money that was donated was not donated properly and may not be that individual's money, it should not be returned to that individual, it should be rushed to the FEC to determine whose money it is and if it properly should be returned, and so I compliment the gentleman on his amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. MEEHAN.)

Mr. MEEHAN. Mr. Chairman, this is an amendment that would require the FEC to expend its resources on investigating potentially a minor violation at the expense of focusing some of its time on other resources.

I would just point out that I support the amendment, but I am a little concerned about the resources of the FEC, and I would hope that as we look down the road when we give the FEC more responsibility that requires them, for example, in this case to keep track of these contributions, I hope that in the future we look to try to give the FEC not only the teeth it needs, but the resources that they need in order to do their job and keep the laws that are on the books and enforce the laws that will be on the books.

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So, I certainly support the gentleman's amendment and would like all of us to keep in mind the importance of fully funding the FEC in the future so that they can do not only their job on this amendment, but their job in other amendments and enforcing the laws that are on the books.

Mr. GEKAS. Mr. Chairman, I do not care to offer any more debate, but we do need to do an amendment process to conform the text to the sections that are outlined in Shays-Meehan.

Mr. SHAYS. Mr. Chairman, I reserve the balance of my time.

MODIFICATION TO AMENDMENT NO. 53 OFFERED BY MR. GEKAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. GEKAS. Mr. Speaker, I ask unanimous consent to modify my amendment pursuant to form A, which is at the desk.

The CHAIRMAN pro tempore (Mr. SNOWBARGER). The Clerk will report the modification to the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS).

The Clerk read as follows:

Modification to amendment No. 53 offered by Mr. GEKAS to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Strike the phrase "section 315, 316, 317, 319, or 320" and insert in lieu thereof the phrase "section 315, 316, 317, 319, 320, or 325" in the one place where the former phrase appears in the amendment.

Mr. GEKAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. CAMPBELL. Mr. Chairman, reserving the right to object, I yield to the gentleman from Pennsylvania (Mr. GEKAS) to explain his modification.

Mr. GEKAS. Mr. Chairman, what we are trying to do here is to offer an alteration to the amendment so it will conform to the Shays-Meehan substitute new ban on contributions by minors which is already in the text. And we are trying to fit it in so that it will make sense.

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, I appreciate the gentleman's explanation. I was yielding to give him a chance to explain if he wanted.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. The amendment is modified.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I understand the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS) are willing to accept the amendment. If that is the case, I will not ask for a recorded vote. I accept their acceptance, and they may accept the acceptance that I accept the acceptance.

Mr. MEEHAN. Mr. Chairman, if the gentleman would yield, there is a lot of acceptance here. And we will accept the gentleman's support on the final version of Shays-Meehan when we vote on it Monday night. We will accept the gentleman's support.

MODIFICATION TO AMENDMENT NO. 53 OFFERED BY MR. GEKAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. GEKAS. Mr. Chairman, I ask unanimous consent that my amendment be modified pursuant to form B, which is at the desk, which is another conforming amendment to the Shays-Meehan language.

The CHAIRMAN pro tempore. The Clerk will report second modification to the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS).

The Clerk read as follows:

Modification to amendment No. 53 offered by Mr. GEKAS to the amendment in the nature of a substitute No. 13 offered by Mr. SHAYS:

Strike the phrase "reason to believe" and replace it with the phrase "reason to investigate whether" in the one place where the former phrase appears in the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. GEKAS)?

Mr. CAMPBELL. Mr. Chairman, reserving the right to object, I yield to the gentleman from Pennsylvania (Mr. GEKAS) if he wishes to explain any further.

Mr. GEKAS. Mr. Chairman, I thank the gentleman from California (Mr. CAMPBELL) for yielding to me.

Mr. Chairman, what we are trying to do is to substitute the language that would give the Federal Elections Commission authority to investigate. To actually say "reason to investigate" whether or not something has happened, rather than what is now in the text, "reason to believe."

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman from Pennsylvania for his explanation, and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. The amendment is modified.

Mr. SHAYS. Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, with that we appear to accept everything, and I yield back the balance of my time

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Pennsylvania (Mr. GEKAS) to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The amendment, as modified, to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider the amendment No. 54 offered by the gentleman from Florida (Mr. MILLER).

It is now in order to consider the amendment No. 55 offered by the gentleman from California (Mr. DOOLITTLE).

Mr. FAWELL. Mr. Chairman, I rise in opposition to Section 501 of the Shays substitute amendment to H.R. 2183, the Bipartisan Campaign Integrity Act. Section 501, entitle "Codification of Beck Decision," does nothing to correct the current injustices in our federal labor law relating to the unions' use of their members hard-earned paychecks for political and other purposes.

The Shays amendment is not a codification of the Supreme Court's 1988 Beck decision relating to the use of union dues. First, Section 501 provides absolutely no notice of rights to members of the union—it applies only to non-members. Second, Section 501 redefines the dues payments that may be objected to, by limiting such to "expenditures in connection with a Federal, State, or local election or in connection with efforts to influence legislation unrelated to collective bargaining." This definition not only infers that there may be other types of political expenditures to which workers cannot object—but it also ignores Beck's holding that workers may object to any dues payments for any union activities not directly related to collective bargaining activities.

Mr. Chairman, if Congress is truly going to try to deal with the issue of organized labor taking dues money from rank-and-file members laboring under a union security agreement—taking it without their permission and spending it on causes and activities with which the workers disagree—then let us really deal with it. Mr. SHAYS' amendment is a fig leaf which falls woefully short of covering the problem.

The Shays amendment codifies a broken system that allows unions to raid workers' wallets, forces workers to resign from the union, requires workers to object—after the fact—to their money being removed from their paycheck, and then requires workers to wait for the union to rebate those funds, if they get around to doing so.

As Chairman of the Subcommittee on Employer-Employee Relations, I have held six hearings on this issue in the past four years. In each one, the Subcommittee has heard from worker after worker telling us about the one thing they wanted from their union—the basic respect of being asked for permission before the union spent their money for purposes unrelated to labor-management obligations. Yes, most of these employees were upset over finding out their head-earned dollars were being funneled into political causes or candidates they did not support. However, these employees supported their union and still overwhelmingly believe in the value of organized labor. A number of them were stewards in their union. All they want is to be able to give their consent before their union spends their money on activities which fall outside collective bargaining activities and which subvert their deeply held ideas and convictions.

As our six hearings demonstrated, individuals attempting to exercise their rights under current law often face incredible burdens, including harassment, coercion, and intimidation. The current system is badly broken and it is Congress' responsibility to fix it—not to legitimize it by adopoting the Shays amendment. I urge Members to join me in opposing Section 501's sugar-coated placebo and enact meaningful reform on behalf of union workers.

Mr. THOMPSON. Mr. Chairman, I rise in strong opposition to the amendment by Representative ROGER WICKER. Much like the standard bearers to long dead civilizations, Representative WICKER's amendment illustrates the same antiquated belief that there should be hurdles that citizens must clear in order to exercise their Constitutionally guaranteed right to vote. Land owners. Male. Caucasian. One by one the spirits of freedom and democracy have worked against other misguided attempts to disenfranchise certain American voters, and it is my hope that they will prevail here today.

There is an old saying that states, "Those who cannot remember the past are condemned to repeat it."

Well, Mr. Chairman, I remember.

I remember the days when African Americans in Mississippi sat cowering in their homes on election day because they were too afraid to go to the polls.

I remember when men like Medgar Evers and Vernon Dahmer were murdered in cold blood because they realized the importance of voting and tried to impress their convictions onto other African Americans in Mississippi.

I remember the two youths wounded by shotgun blasts fired through the window of a home in Ruleville, Mississippi where they were planning ways to register blacks to vote.

I remember the dead bodies of three civil rights workers, who had been trying to register blacks to vote, being discovered on a farm near Philadelphia, Mississippi.

I remember James Meredith being wounded by a white sniper as he walked in a voter registration march from Memphis to Jackson.

I remember poll taxes and literacy tests.

Mr. Chairman, I remember voter intimidation and have fought long and hard against it. This debate belongs in 1960's not in 1998, and it is time to bury ideas like Representative WICKER's in the same grave with separate drinking fountains and making blacks sit at the back of the bus. This legislation is simply another attempt to appeal to mainstream sensibilities while ignoring the realistic and historically based fears of Black Americans.

Having both grown up in Mississippi, Representative WICKER and I obviously have had universally different experiences, but the things I remember make it impossible for me to support this amendment. It would be a slap in the face of the civil rights pioneers who risked their lives, were beaten and murdered in cold blood to protect both my right to vote and Representative WICKER's.

Mr. SHAYS. Mr. Chairman, may I be clear that all amendments have been dealt with under Shays-Meehan?

The CHAIRMAN pro tempore. That is the Chair's understanding.

Mr. SHAYS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GEKAS) having assumed the chair, Mr. SNOWBARGER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

COMMUNICATION FROM HONORABLE JOHN A. BOEHNER, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from JOHN A. BOEHNER, Member of Congress:

WASHINGTON, DC, *July 28, 1998.*

Hon. NEWT GINGRICH,
Speaker of the House,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to L. Deschler, 3 *Deschler's Precedents of the United States House of Representatives* ch 11, §14.8 (1963), that I have been served with an administrative subpoena issued by the Federal Election Commission.

Sincerely,

JOHN A. BOEHNER.

COMMUNICATION FROM STAFF MEMBER OF HONORABLE JOHN A. BOEHNER, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from Barry Jackson, staff member of the Honorable JOHN A. BOEHNER, Member of Congress:

WASHINGTON, DC, *July 28, 1998.*

Hon. NEWT GINGRICH,
Speaker of the House,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to L. Deschler, 3 *Deschler's Precedents of the United States House of Representatives* ch. 11 §14.8 (1963), that I have been served with an administrative subpoena issued by the Federal Election Commission.

Sincerely,

BARRY JACKSON.

GENERAL LEAVE

Mr. METCALF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4237.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMITTEE ON HOUSE OVERSIGHT, COMMITTEE ORDER NO. 42, UNIFICATION OF THE MEMBERS' REPRESENTATIONAL ALLOWANCE ADOPTED ON JULY 30, 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. THOMAS) is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker. I submit a committee order from the Committee on House Oversight.

Resolved, That pursuant to 2 U.S.C. §57 and 2 U.S.C. §59e, the Committee hereby orders that:

SEC. 1. Effective January 3, 1999 the amount available within the Members' Representational Allowance for franked mail with respect to a session of Congress shall not be limited by subsection (b) of Committee Order No. 41.

SEC. 2. The Committee on House Oversight shall have the authority to prescribe regulations to carry out this resolution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ISTOOK (at the request of Mr. ARMEY) for today, July 31 and August 3 on account of personal reasons.

Mr. BURR of North Carolina (at the request of Mr. ARMEY) for today until 6 p.m. On account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WEYGAND) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. METCALF) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. THOMAS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. METCALF) and to include extraneous material:)

Mr. BEREUTER.
Mr. WOLF.
Mr. RADANOVICH.
Mr. DAVIS of Virginia.
Mr. TAYLOR.
Mr. BLILEY.
Mr. BUYER.
Mr. HOUGHTON.
Mr. BRYANT.
Mr. OXLEY.

(The following Members (at the request of Mr. WEYGAND) and to include extraneous material:)

Mr. NEAL of Massachusetts.
Mr. KIND.
Mr. TURNER.
Mr. VENTO.
Mr. PALLONE.
Mr. POSHARD.
Mr. BERMAN.
Mr. LANTOS.
Ms. ESHOO.
Mr. DOYLE.
Mr. CONYERS.
Mr. CLEMENT.
Mr. MCDERMOTT.
Mr. ROEMER.
Mr. KUCINICH.
Mr. SKELTON.
Mr. SANDERS.
Ms. JACKSON-LEE of Texas.
Mr. BARCIA.
Mr. DAVIS of Illinois.

SENATE CONCURRENT RESOLUTION REFERRED

A Concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 97. Concurrent resolution. Expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan; to the Committee on International Relations.

ADJOURNMENT

Mr. METCALF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 29 minutes a.m.), under its previous order, the House adjourned until today, Friday, July 31, 1998, at 1 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10394. A letter from the Secretary of Housing and Urban Development, transmitting notification that it is estimated that the limitation on the Government National Mortgage Association's ("Ginnie Mae's") authority to make commitments for a fiscal year will be reached before the end of that fiscal year, pursuant to 12 U.S.C. 1721 nt.; to the Committee on Banking and Financial Services.

10395. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Department's final rule—Authority to Approve Federal Home Loan Bank Bylaws [No. 98–32] (RIN: 3069–AA70) received July 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10396. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; And CERCLA Hazardous Substance Designation and Reportable Quantities [SWH-FRL 6122–7] (RIN: 2050–AD88) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10397. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Identification of Additional Ozone Areas Attaining the 1–Hour Standard and to Which the 1–Hour Standard is No Longer Applicable [FRL—6126–8] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10398. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices [ET Docket No. 94–45 RM–8125] received July 24, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10399. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fowler, Indiana) [MM Docket No. 98–38 RM–9223] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10400. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Israel [DTC 78–98] received July 29, 1998, pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

10401. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Belgium [RSAT 3–98] received July 17, 1998, pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

10402. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting copies of the original report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

10403. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting copies of the original report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

10404. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting copies of the original report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

10405. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Helium Contracts [WO–130–1820–00–24 1A] (RIN: 1004–AD24) received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10406. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Restrictions on Frequency of Limited Entry Permit Transfers; Sorting Catch by Species; Retention of Fish Tickets [Docket No. 971208294–8154–02; I.D. 103097B] (RIN: 0648–AJ20) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10407. A letter from the Deputy Assistant Administrator For Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Compensation for Collecting Resource Information [Docket No. 980501115–8160–02; I.D. 032498A] (RIN: 0648–AK86) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10408. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Changes [Docket No. 971229312–7312–01; I.D. 062698A] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10409. A letter from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Department of Commerce, transmitting the Department's final rule—Revision of Patent Fees for Fiscal Year 1999 [Docket No. 980713170–8170–01] (RIN: 0651–AA96) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10410. A letter from the Secretary, Naval Sea Cadet Corps, transmitting the Annual Audit Report of the Naval Sea Cadet Corps for the fiscal year ending 31 December 1997, pursuant to 36 U.S.C. 1101(39) and 1103; to the Committee on the Judiciary.

10411. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Amendments to the Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Organic Pesticide Chemicals Manufacturing Industry—Pesticide Chemicals Point Source Category [FRL–6126–6], pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10412. A letter from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Revisions to Part 1813 of the NASA FAR Supplement [48 CFR Parts 1801, 1812, 1813] received July 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

10413. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Provision of Drugs and Medicines to Certain Veterans in State Homes (RIN: 2900–AJ34) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

10414. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Revenue Ruling 98–36] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10415. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Reduction in Certain Deductions of Mutual Life Insurance Companies [Revenue Ruling 98–38] received July 24, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10416. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the report providing an itemized accounting of all non-appropriated funds obligated or expended by the Authority for the quarter, pursuant to Public Law 105—100; jointly to the Committees on Government Reform and Oversight and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DREIER: Committee on Rules. House Resolution 513. Resolution Providing for consideration of the bill (H.R. 3736) to amend the Immigration and Nationality Act to make changes relating to H–1B nonimmigrants (Rept. 105–660). Referred to the House Calendar.

Mr. BLILEY: Committee on Commerce. H.R. 2921. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to conduct an inquiry into the impediments to the development of competition in the market for multichannel video programming distribution; with an amendment (Rept. 105–661, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2921. Referral to the Committee on the Judiciary extended for a period ending not later than September 11, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BLILEY (for himself and Mr. OXLEY):

H.R. 4353. A bill to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977 to improve the competitiveness of American business and promote foreign commerce, and for other purposes; to the Committee on Commerce.

By Mr. GINGRICH (for himself, Mr. ARMEY, Mr. DELAY, Mr. HASTERT, Mr. BOEHNER, Ms. DUNN of Washington, Ms. PRYCE of Ohio, Mr. THOMAS, Mr. GEPHARDT, Mr. BONIOR, Mr. FAZIO of California, Mrs. KENNELLY of Connecticut, Mr. GEJDENSON, Mr. DAVIS of Virginia, and Mr. WYNN):

H.R. 4354. A bill to establish the United States Capitol Police Memorial Fund on behalf of the families of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police; to the Committee on House Oversight, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURTON of Indiana (for himself, Mr. HORN, Mrs. MORELLA, Mr. DAVIS of Virginia, Mr. SANFORD, Mr. KUCINICH, Mr. WAXMAN, Mr. SENSENBRENNER, Mr. BARCIA of Michigan, Mr. DINGELL, Mr. LEACH, Mr. LAFALCE, Mr. BOUCHER, Mr. GORDON, Ms. MCCARTHY of Missouri, Mr. BLUMENAUER, Mr. LUTHER, Mr. BROWN of California, Ms. DELAURO, Mr. CUMMINGS, Mr. MORAN of Virginia, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. DEGETTE, Mrs. CAPPS, Ms. LOFGREN, Mr. DOYLE, and Mr. LAMPSON) (all by request):

H.R. 4355. A bill to encourage the disclosure and exchange of information about computer processing problems and related matters in connection with the transition to the Year 2000; to the Committee on the Judiciary.

By Mr. ENGLISH of Pennsylvania:

H.R. 4356. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to assure that the full amount deposited in the Abandoned Mine Reclamation Fund is spent for the purposes for which the Fund was established; to the Committee on Resources.

By Mr. ENGLISH of Pennsylvania:

H.R. 4357. A bill to establish the Fort Presque Isle National Historic Site in Erie, Pennsylvania; to the Committee on Resources.

By Mr. HOUGHTON (for himself and Ms. SLAUGHTER):

H.R. 4358. A bill to amend the Harmonized Tariff Schedule of the United States to provide for equitable duty treatment for certain wool used in making suits; to the Committee on Ways and Means.

By Mr. LEACH (for himself, Mr. LAFALCE, Mr. CASTLE, and Ms. WATERS):

H.R. 4359. A bill to amend the Federal Reserve Act to broaden the range of discount window loans which may be used as collateral for Federal reserve notes; to the Committee on Banking and Financial Services.

By Mr. POMBO (for himself and Mr. PETERSON of Minnesota):

H.R. 4360. A bill to amend the Agricultural Adjustment Act to require the Secretary of Agriculture to establish a pilot program under which milk producers and cooperatives will be permitted to enter into forward price contracts with milk handlers; to the Committee on Agriculture.

By Mr. SHAW (for himself, Mr. BILIRAKIS, Mr. BOYD, Mr. CANADY of Florida, Mr. DEUTSCH, Mrs. FOWLER, Mr. GOSS, Mr. HASTINGS of Florida, Mr. MCCOLLUM, Mrs. MEEK of Florida, Mr. MICA, Mr. MILLER of Florida, Ms. ROS-LEHTINEN, Mr. STEARNS, Mrs. THURMAN, Mr. WELDON of Florida, and Mr. WEXLER):

H.R. 4361. A bill to amend the Internal Revenue Code of 1986 to provide that an organization shall be exempt from income tax if it is created by a State to provide property and casualty insurance coverage for property for which such coverage is otherwise unavailable; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 4362. A bill to authorize the Secretary of Veterans Affairs to conduct Stand Down events and to establish a pilot program that will provide for an annual Stand Down event in each State; to the Committee on Veterans' Affairs.

By Mr. WATT of North Carolina (for himself and Mr. BERMAN):

H.R. 4363. A bill to provide for the restructuring of the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

By Mr. ENGEL (for himself, Mr. KING of New York, Mr. MORAN of Virginia, and Mrs. KELLY):

H. Con. Res. 313. Concurrent resolution expressing the sense of the Congress with respect to self-determination for the people of Kosova, and for other purposes; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. BRADY of Pennsylvania, Mr. STRICKLAND, Mr. SMITH of New Jersey, and Ms. MILLENDER-MCDONALD.

H.R. 164: Mr. DOYLE.

H.R. 457: Mr. HILLIARD and Mr. PETRI.

H.R. 754: Mr. TOWNS.

H.R. 986: Mr. WAMP.

H.R. 1050: Mr. STARK.

H.R. 1063: Mr. BONIOR, Mrs. CUBIN, Mr. COOK, and Ms. STABENOW.

H.R. 1126: Mr. BRADY of Texas, Mrs. LINDA SMITH of Washington, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1173: Mr. LEVIN.

H.R. 1283: Mr. ENSIGN.

H.R. 1321: Mr. LUTHER.

H.R. 1382: Mr. MATSUI and Mr. BALDACCI.

H.R. 1401: Mr. SALMON.

H.R. 1525: Mr. ALLEN, Mr. MORAN of Kansas, and Mr. LATHAM.

H.R. 1712: Mr. SUNUNU.

H.R. 1995: Mr. ALLEN, Mr. PORTER, and Mr. LUTHER.

H.R. 2224: Mrs. KELLY.

H.R. 2275: Ms. NORTON and Ms. MILLENDER-MCDONALD.

H.R. 2504: Ms. BROWN of Florida.

H.R. 2701: Ms. KILPATRICK.

H.R. 2723: Mr. FOSSELLA.

H.R. 2733: Ms. BROWN of Florida, Mr. MARKEY, Mr. NUSSLE, Mr. NEAL of Massachusetts, Mr. THORNBERRY, Ms. ESHOO, Mr. KNOLLENBERG, and Mr. MEEHAN.

H.R. 2849: Mrs. MEEK of Florida, Ms. CARSON, Mr. ADAM SMITH of Washington, Mr. YATES, and Mr. UPTON.

H.R. 2921: Mr. EVANS.

H.R. 2955: Mr. JACKSON and Mr. PASTOR.

H.R. 3001: Mr. ENGEL, Mr. FRANK of Massachusetts, Mr. DEAL of Georgia, Mr. MARTINEZ, Mrs. THURMAN, and Mr. MANTON.

H.R. 3031: Mr. MARKEY, Mr. CUMMINGS, Mr. WAXMAN, Mr. MCNULTY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FILNER, Mr. FROST, Mr. FORD, Mr. ENGLISH of Pennsylvania, Mr. ACKERMAN, Ms. DANNER, Mr. BERMAN, Mr. TALENT, and Mr. RANGEL.

H.R. 3077: Mr. FROST, Mr. GOODE, Mr. KILDEE, and Mr. RAHALL.

H.R. 3248: Mr. JENKINS.

H.R. 3251: Mr. MALONEY of Connecticut and Mr. LANTOS.

H.R. 3320: Mr. POSHARD.

H.R. 3622: Ms. LEE, Mrs. MALONEY of New York, Ms. KILPATRICK, and Mrs. MINK of Hawaii.

H.R. 3629: Mr. BENTSEN.

H.R. 3632: Mr. FOSSELLA.

H.R. 3684: Mr. LATOURETTE.

H.R. 3688: Mr. SMITH of Texas.

H.R. 3774: Ms. STABENOW and Mr. WATKINS.

H.R. 3790: Mr. BECERRA, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BONIOR, Mr. BORSKI, Mr. BOSWELL, Mr. BROWN of Ohio, Mr. BUNNING of Kentucky, Mr. CLYBURN, Mr. COLLINS, Mr. CUMMINGS, Mr. CUNNINGHAM, Ms. DEGETTE, Mr. DOOLEY of California, Mr. EDWARDS, Ms. ESHOO, Mr. FAWELL, Mr. FILNER, Mr. FOX of Pennsylvania, Mr. GALLEGLY, Mr. GORDON, Mr. HANSEN, Mr. HASTERT, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. HINOJOSA, Ms. HOOLEY of Oregon, Ms. KAPTUR, Mr. KASICH, Mr. KIND of Wisconsin, Mr. KLECZKA, Mr. LAFALCE, Mr. LAHOOD, Mr. LAMPSON, Mr. LEVIN, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. LUTHER, Mrs. MCCARTHY of New York, Mr. MCDERMOTT, Mr. MCHUGH, Mr. MCINTYRE, Mr. MCKEON, Ms. MCKINNEY, Mr. MCNULTY, Mr. MATSUI, Mr. MENENDEZ, Mr. MORAN of Virginia, Mrs. MORELLA, Mrs. NORTHUP, Mr. NORWOOD, Mr. OBEY, Mr. PACKARD, Mr. PALLONE, Mr. PASTOR, Mr. PETRI, Mr. PRICE of North Carolina, Mr. QUINN, Mr. RAMSTAD, Mr. REYES, Mr. RODRIGUEZ, Mr. ROEMER, Mr. RUSH, Mr. SAWYER, Mr. SHAW, Mr. SKEEN, Ms. STABENOW, Mr. STUPAK, Mr. SUNUNU, Mrs. TAUSCHER, Mr. TAYLOR of North Carolina, Mr. THOMPSON, Mr. TOWNS, Mr. WYNN, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Ms. PELOSI, Mr. FARR of California, Mr. LIVINGSTON, Mr. STARK, Mr. SOLOMON, Mr. WHITFIELD, Mr. BILBRAY, Mrs. CHENOWETH, Mrs. ROUKEMA, Mr. TAUZIN, Mr. WATKINS, Mr. GOODLATTE, Mr. WELLER, Mr. GUTKNECHT, Mr. TALENT, Mr. CRAPO, Mr. YOUNG of Alaska, Mr. OXLEY, Ms. ROS-LEHTINEN, Mr. BURTON of Indiana, Mr. PETERSON of Pennsylvania, Mr. NETHERCUTT, Mr. ARMEY, Mrs. CUBIN, Mr. MILLER of Florida, Mr. METCALF, Mr. ROGAN, Mr. HEFLEY, Mr. GOSS, Mr. MCCRERY, Mr. ROGERS, Mr. BRYANT, Mr. LATHAM, Mr. TIAHRT, Mr. WELDON of Florida, Mr. HASTINGS of Washington, Mr. CAMP, Mr. EHRLICH, Ms. PRYCE of Ohio, Mr. DIAZ-BALART, Mrs. FOWLER, Mr. COX of California, Mr. COOKSEY, Mr. FORBES, Mrs. EMERSON, Mr. SMITH of New Jersey, Mr. FRANKS of New Jersey, Mrs. WILSON, Mr.

Gekas, Mr. Barton of Texas, Mr. Portman, Mr. Barr of Georgia, Mr. Davis of Virginia, Mr. Dickey, Mr. Knollenberg, Mr. Paxon, Mr. Scarborough, Mr. Buyer, Mr. Herger, Mr. Hobson, Mr. Leach, Mr. Smith of Oregon, Mr. Bartlett of Maryland, Mr. Salmon, Mr. Hoekstra, Mr. Kolbe, Mr. Kim, Mr. Thune, Mr. Lucas of Oklahoma, Mrs. Kelly, and Mr. Pombo.

H.R. 3792: Mr. Collins and Mr. Shimkus.

H.R. 3815: Mrs. Thurman and Mr. Hulshof.

H.R. 3831: Mr. Sherman and Mrs. Lowey.

H.R. 3879: Mr. Paxon and Mr. Thompson.

H.R. 3956: Mr. Hoyer and Ms. Woolsey.

H.R. 3976: Mr. Thornberry.

H.R. 3995: Mr. Engel.

H.R. 4031: Mr. Coyne and Ms. Kilpatrick.

H.R. 4037: Mr. Peterson of Pennsylvania.

H.R. 4053: Mr. Coyne.

H.R. 4121: Mrs. Capps, Mr. Kind of Wisconsin, Mrs. Kelly, and Mr. Matsui.

H.R. 4132: Mr. Campbell.

H.R. 4175: Mr. Cummings, Mr. Payne, and Mr. Engel.

H.R. 4188: Mr. English of Pennsylvania.

H.R. 4196: Mr. Weldon of Florida and Mr. Bachus.

H.R. 4197: Mrs. Linda Smith of Washington and Mr. Callahan.

H.R. 4209: Ms. Carson.

H.R. 4220: Mr. Bishop.

H.R. 4224: Mr. Stark.

H.R. 4232: Mr. Inglis of South Carolina, Mr. Hefley, Mr. Barrett of Nebraska, Mr. Goodlatte, Mr. Rogan, and Mr. Weldon of Florida.

H.R. 4235: Mr. Hilliard, Mr. Boehlert, and Mr. Abercrombie.

H.R. 4246: Mr. Blunt and Mr. Ewing.

H.R. 4283: Mr. Lampson and Mr. Waxman.

H.R. 4298: Mrs. Fowler.

H.R. 4302: Mr. Hilliard and Mr. Stark.

H.R. 4308: Mr. McGovern and Mr. Miller of California.

H.R. 4309: Mr. McGovern and Mr. Miller of California.

H.R. 4339: Mr. Frost and Mr. Murtha.

H.R. 4344: Mr. Hinojosa, Mr. Cummings, Ms. Pelosi, Mr. Franks of New Jersey, and Mr. Forbes.

H. Con. Res. 52: Mr. Sandlin, Mr. Bachus, and Mr. Lampson.

H. Con. Res. 251: Mr. Gejdenson.

H. Con. Res. 295: Mr. Pallone, Mr. Wexler, Mr. Berman, Mr. Hamilton, Mr. Frost, Mr. Engel, and Ms. Kilpatrick.

H. Con. Res. 304: Mr. Gilman.

H. Res. 171: Mr. Rangel.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

(Omitted from the Record of July 29, 1998)

H.R. 1515: Mr. Davis of Illinois.

H.R. 2801: Mr. Stabenow.

H.R. 3000: Mr. Ford.

H.R. 3396: Mr. Davis of Illinois and Mr. Moran of Virginia.

H. Res. 375: Mr. Fazio of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3736

Offered By: Mr. Watt of North Carolina

Amendment No. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Workforce Improvement and Protection Act of 1998".

SEC. 2. TEMPORARY INCREASE IN SKILLED FOREIGN WORKERS; TEMPORARY REDUCTION IN H-2B NONIMMIGRANTS.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(1) by amending paragraph (1)(A) to read as follows:

"(A) under section 101(a)(15)(H)(i)(b), subject to paragraph (5), may not exceed—

"(i) 95,000 in fiscal year 1998;

"(ii) 105,000 in fiscal year 1999;

"(iii) 115,000 in fiscal year 2000; and

"(iv) 65,000 in fiscal year 2001 and any subsequent fiscal year; or";

(2) by amending paragraph (1)(B) to read as follows:

"(B) under section 101(a)(15)(H)(ii)(b) may not exceed—

"(i) 36,000 in fiscal year 1998;

"(ii) 26,000 in fiscal year 1999;

"(iii) 16,000 in fiscal year 2000; and

"(iv) 66,000 in fiscal year 2001 and any subsequent fiscal year.";

(3) in paragraph (4), by striking "years." and inserting "years, except that, with respect to each such nonimmigrant issued a visa or otherwise provided nonimmigrant status in each of fiscal years 1998, 1999, and 2000 in excess of 65,000 (per fiscal year), the period of authorized admission as such a nonimmigrant may not exceed 4 years."; and

(4) by adding at the end the following:

"(5) The total number of aliens described in section 212(a)(5)(C) who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1999) under section 101(a)(15)(H)(i)(b) may not exceed 5,000.".

SEC. 3. PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS.

(a) In General.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following:

"(E)(i) Except as provided in clause (iv), the employer has not laid off or otherwise displaced and will not lay off or otherwise displace, within the period beginning 6 months before and ending 90 days following the date of filing of the application or during the 90 days immediately preceding and following the date of filing of any visa petition supported by the application, any United States worker (as defined in paragraph (3)) (including a worker whose services are obtained by contract, employee leasing, temporary help agreement, or other similar means) who has substantially equivalent qualifications and experience in the specialty occupation, and in the area of employment, for which H–1B nonimmigrants are sought or in which they are employed.

"(ii) Except as provided in clause (iii), in the case of an employer that employs an H–1B nonimmigrant, the employer shall not place the nonimmigrant with another employer where—

"(I) the nonimmigrant performs his or her duties in whole or in part at one or more worksites owned, operated, or controlled by such other employer; and

"(II) there are indicia of an employment relationship between the nonimmigrant and such other employer.

"(iii) Clause (ii) shall not apply to an employer's placement of an H–1B nonimmigrant with another employer if the other employer has executed an attestation that it satisfies and will satisfy the conditions described in clause (i) during the period described in such clause.

"(iv) This subparagraph shall not apply to an application filed by an employer that is an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, if the application relates solely to aliens who—

"(I) the employer seeks to employ—

"(aa) as a researcher on a project for which not less than 50 percent of the funding is provided, for a limited period of time, through a grant or contract with an entity other than the employer; or

"(bb) as a professor or instructor under a contract that expires after a limited period of time; and

"(II) have attained a master's or higher degree (or its equivalent) in a specialty the specific knowledge of which is required for the intended employment.".

(b) Definitions.—

(1) In general.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended by adding at the end the following:

"(3) For purposes of this subsection:

"(A) The term 'H–1B nonimmigrant' means an alien admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b).

"(B) The term 'lay off or otherwise displace', with respect to an employee—

"(i) means to cause the employee's loss of employment, other than through a discharge for cause, a voluntary departure, or a voluntary retirement; and

"(ii) does not include any situation in which employment is relocated to a different geographic area and the employee is offered a chance to move to the new location, with wages and benefits that are not less than those at the old location, but elects not to move to the new location.

"(C) The term 'United States worker' means—

"(i) a citizen or national of the United States;

"(ii) an alien lawfully admitted for permanent residence; or

"(iii) an alien authorized to be employed by this Act or by the Attorney General.".

(2) Conforming amendments.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by striking "a nonimmigrant described in section 101(a)(15)(H)(i)(b)" each place such term appears and inserting "an H–1B nonimmigrant".

SEC. 4. RECRUITMENT OF UNITED STATES WORKERS PRIOR TO SEEKING NONIMMIGRANT WORKERS.

Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)), as amended by section 3, is further amended by inserting after subparagraph (E) the following:

"(F)(i) The employer, prior to filing the application, has taken, in good faith, timely and significant steps to recruit and retain sufficient United States workers in the specialty occupation for which H–1B nonimmigrants are sought. Such steps shall have included recruitment in the United States, using procedures that meet industry-wide standards and offering compensation that is at least as great as that required to be offered to H–1B nonimmigrants under subparagraph (A), and offering employment to any United States worker who applies and has the same qualifications as, or better qualifications than, any of the H–1B nonimmigrants sought.

"(ii) The conditions described in clause (i) shall not apply to an employer with respect to the employment of an H–1B nonimmigrant who is described in subparagraph (A), (B), or (C) of section 203(b)(1).".

SEC. 5. LIMITATION ON AUTHORITY TO INITIATE COMPLAINTS AND CONDUCT INVESTIGATIONS FOR NON-H–1B-DEPENDENT EMPLOYERS.

(a) In General.—Section 212(n)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)(A)) is amended—

(1) in the second sentence, by striking the period at the end and inserting the following: ", except that the Secretary may only file such a complaint respecting an H–1B-dependent employer (as defined in paragraph (3)), and only if there appears to be a violation of an attestation or a misrepresentation of a material fact in an application."; and

(2) by inserting after the second sentence the following: "Except as provided in subparagraph (F) (relating to spot investigations during probationary period), no investigation or hearing shall be conducted with respect to an employer except in response to a complaint filed under the previous sentence.".

(b) Definitions.—Section 212(n)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)), as added by section 3, is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (E), respectively;

(2) by inserting after "purposes of this subsection:" the following:

"(A) The term 'H–1B-dependent employer' means an employer that—

"(i)(I) has fewer than 21 full-time equivalent employees who are employed in the United States; and

(II) employs 4 or more H–1B nonimmigrants; or

"(ii)(I) has at least 21 but not more than 150 full-time equivalent employees who are employed in the United States; and

(II) employs H–1B nonimmigrants in a number that is equal to at least 20 percent of the number of such full-time equivalent employees; or

"(iii)(I) has at least 151 full-time equivalent employees who are employed in the United States; and

(II) employs H–1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time equivalent employees.

In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer. Aliens employed under a petition for H–1B nonimmigrants shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b) under this subparagraph."; and

(3) by inserting after subparagraph (C) (as so redesignated) the following:

"(D) The term 'non-H–1B-dependent employer' means an employer that is not an H–1B-dependent employer.".

SEC. 6. INCREASED ENFORCEMENT AND PENALTIES.

(a) In General.—Section 212(n)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)(C)) is amended to read as follows:

"(C)(i) If the Secretary finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(B) or (1)(E), a substantial failure to meet a condition of paragraph (1)(C), (1)(D), or (1)(F), or a misrepresentation of material fact in an application—

"(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate; and

"(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(ii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1), a willful misrepresentation of material fact in an application, or a violation of clause (iv)—

"(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $5,000 per violation) as the Secretary determines to be appropriate; and

"(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(iii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1) or a willful misrepresentation of material fact in an application, in the course of which failure or misrepresentation the employer also has failed to meet a condition of paragraph (1)(E)—

"(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $25,000 per violation) as the Secretary determines to be appropriate; and

"(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

"(iv) It is a violation of this clause for an employer who has filed an application under this subsection to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this clause, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of this subsection, or any rule or regulation pertaining to this subsection, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of this subsection or any rule or regulation pertaining to this subsection.".

(b) Placement of H–1B Nonimmigrant With Other Employer.—Section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following:

"(E) Under regulations of the Secretary, the previous provisions of this paragraph shall apply to a failure of an other employer to comply with an attestation described in paragraph (1)(E)(iii) in the same manner as they apply to a failure to comply with a condition described in paragraph (1)(E)(i).".

(c) Spot Investigations During Probationary Period.—Section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)), as amended by subsection (b), is further amended by adding at the end the following:

"(F) The Secretary may, on a case-by-case basis, subject an employer to random investigations for a period of up to 5 years, beginning on the date that the employer is found by the Secretary to have committed a willful failure to meet a condition of paragraph (1) or to have made a misrepresentation of material fact in an application. The preceding sentence shall apply to an employer regardless of whether the employer is an H–1B-dependent employer or a non-H–1B-dependent employer. The authority of the Secretary under this subparagraph shall not be construed to be subject to, or limited by, the requirements of subparagraph (A).".

SEC. 7. PROHIBITION ON IMPOSITION BY IMPORTING EMPLOYERS OF EMPLOYMENT CONTRACT PROVISIONS VIOLATING PUBLIC POLICY.

Section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)), as amended by section (6), is further amended by adding at the end the following:

"(G) If the Secretary finds, after notice and opportunity for a hearing, that an employer who has submitted an application under paragraph (1) has requested or required an alien admitted or provided status as a nonimmigrant pursuant to the application, as a condition of the employment, to execute a contract containing a provision that would be considered void as against public policy in the State of intended employment—

"(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $25,000 per violation) as the Secretary determines to be appropriate; and

"(ii) the Attorney General shall not approve petitions filed by the employer under section 214(c) during a period of not more than 10 years for H–1B nonimmigrants to be employed by the employer.".

SEC. 8. COLLECTION AND USE OF H–1B NONIMMIGRANT FEES FOR STATE STUDENT INCENTIVE GRANT PROGRAMS AND JOB TRAINING OF UNITED STATES WORKERS.

(a) Imposition of Fee.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following:

"(9)(A) The Attorney General shall impose a fee on an employer (excluding an employer described in subparagraph (A) or (B) of section 212(p)(1)) as a condition for the approval of a petition filed on or after October 1, 1998, and before October 1, 2002, under paragraph (1) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(i)(b). The amount of the fee shall be $500 for each such nonimmigrant.

"(B) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(t).

"(C)(i) An employer may not require an alien who is the subject of the petition for which a fee is imposed under this paragraph to reimburse, or otherwise compensate, the employer for part or all of the cost of such fee.

"(ii) Section 274A(g)(2) shall apply to a violation of clause (i) in the same manner as it applies to a violation of section 274A(g)(1).".

(b) Establishment of Account; Use of Fees.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

"(t) H–1B Nonimmigrant Petitioner Account.—

"(1) In general.—There is established in the general fund of the Treasury a separate account which shall be known as the 'H–1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(9).

"(2) Use of half of fees by secretary of education for higher education grants.—Fifty percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available until expended to the Secretary of Education for additional allotments to States under subpart 4 of chapter 8 of title IV of the Higher Education Act of 1965 but only for the purpose of assisting States in providing grants to eligible students enrolled in a program of study leading to a degree in mathematics, computer science, or engineering.

"(3) Use of half of fees by secretary of labor for job training.—Fifty percent of amounts deposited into the deposits into such Account shall remain available until expended to the Secretary of Labor for demonstration programs described in section 104(d) of the Temporary Access to Skilled Workers and H–1B Nonimmigrant Program Improvement Act of 1998.".

(c) Conforming Modification of Application Requirements for State Student Incentive Grant Program.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (9), by striking "and" at the end;

(2) in paragraph (10), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(11) provides that any portion of the allotment to the State for each fiscal year that derives from funds made available under section 286(t)(2) of the Immigration and Nationality Act shall be expended for grants described in paragraph (2)(A) to students enrolled in a program of study leading to a degree in mathematics, computer science, or engineering.".

(d) Demonstration Programs and Projects to Provide Technical Skills Training for Workers.

(1) In general.—Subject to paragraph (3), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or demonstration programs or projects under a successor Federal law, the Secretary of Labor shall establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(2) Grants.—Subject to paragraph (3), the Secretary of Labor shall award grants to carry out the programs and projects described in paragraph (1) to—

(A)(i) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act; or

(ii) local boards that will carry out such programs or projects through one-stop delivery systems established under a successor Federal law; or

(B) regional consortia of councils or local boards described in subparagraph (A).

(3) Limitation.—The Secretary of Labor shall establish programs and projects under paragraph (1), including awarding grants to carry out such programs and projects under paragraph (2), only with funds made available under section 286(t)(3) of the Immigration and Nationality Act, and not with funds made available under the Job Training Partnership Act or a successor Federal law.

SEC. 9. IMPROVING COUNT OF H–1B AND H–2B NONIMMIGRANTS.

(a) Ensuring Accurate Count.—The Attorney General shall take such steps as are necessary to maintain an accurate count of the number of aliens subject to the numerical limitations of section 214(g)(1) of the Immigration and Nationality Act who are issued visas or otherwise provided nonimmigrant status.

(b) Revision of Petition Forms.—The Attorney General shall take such steps as are necessary to revise the forms used for petitions for visas or nonimmigrant status under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act so as to ensure that the forms provide the Attorney General with sufficient information to permit the Attorney General accurately to count the number of aliens subject to the numerical limitations of section 214(g)(1) of such Act who are issued visas or otherwise provided nonimmigrant status.

(c) Reports.—Beginning with fiscal year 1999, the Attorney General shall provide to the Congress not less than 4 times per year a report on—

(1) the numbers of individuals who were issued visas or otherwise provided nonimmigrant status during the preceding 3-month period under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act;

(2) the numbers of individuals who were issued visas or otherwise provided nonimmigrant status during the preceding 3-month period under section 101(a)(15)(H)(ii)(b) of such Act; and

(3) the countries of origin and occupations of, educational levels attained by, and total compensation (including the value of all wages, salary, bonuses, stock, stock options, and any other similar forms of remuneration) paid to, individuals issued visas or provided nonimmigrant status under such sections during such period.

SEC. 10. GAO STUDY AND REPORT ON AGE DISCRIMINATION IN THE INFORMATION TECHNOLOGY FIELD.

(a) Study.—The Comptroller General of the United States shall conduct a study assessing age discrimination in the information technology field. The study shall consider the following:

(1) The prevalence of age discrimination in the information technology workplace.

(2) The extent to which there is a difference, based on age, in promotion and advancement; working hours; telecommuting; salary; and stock options; bonuses, or other benefits.

(3) The relationship between rates of advancement, promotion, and compensation to experience, skill level, education, and age.

(4) Differences in skill level on the basis of age.

(b) Report.—Not later than October 1, 2000, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a). The report shall include any recommendations of the Comptroller General concerning age discrimination in the information technology field.

SEC. 11. GAO LABOR MARKET STUDY AND REPORT.

(a) Study.—The Comptroller General of the United States shall conduct a labor market study. The study shall investigate and analyze the following:

(1) The overall shortage of available workers in the high-technology, rapid-growth industries.

(2) The multiplier effect growth of high-technology industry on low-technology employment.

(3) The relative achievement rates of United States and foreign students in secondary school in a variety of subjects, including math, science, computer science, English, and history.

(4) The relative performance, by subject area, of United States and foreign students in postsecondary and graduate schools as compared to secondary schools.

(5) The labor market need for workers with information technology skills and the extent of the deficit of such workers to fill high-technology jobs during the 10-year period beginning on the date of the enactment of this Act.

(6) Future training and education needs of companies in the high-technology sector.

(7) Future training and education needs of United States students to ensure that their skills at various levels match the needs of the high-technology and information technology sectors.

(8) An analysis of which particular skill sets are in demand.

(9) The needs of the high-technology sector for foreign workers with specific skills.

(10) The potential benefits of postsecondary educational institutions, employers, and the United States economy from the entry of skilled professionals in the fields of engineering and science.

(11) The effect on the high-technology labor market of the downsizing of the defense sector, the increase in productivity in the computer industry, and the deployment of workers dedicated to the Year 2000 Project.

(b) Report.—Not later than October 1, 2000, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a).

SEC. 12. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to applications filed with the Secretary of Labor on or after 30 days after the date of the enactment of this Act, except that the amendments made by section 2 shall apply to applications filed with such Secretary before, on, or after the date of the enactment of this Act.

H.R. 4276

Offered By: Mr. Callahan

Amendment No. 36: Page 52, line 13, after the dollar amount, insert the following: "(reduced by $29,000,000)".

Page 52, line 25, after the dollar amount, insert the following: "(reduced by $29,000,000)".

Page 53, line 1, after the dollar amount, insert the following: "(reduced by $29,000,000)".

Page 53, line 6, after the dollar amount, insert the following: "(reduced by $29,000,000)".

H.R. 4276

Offered By: Mr. Sanders

Amendment No. 37: Page 101, line 21 insert "(increased by $4,000,000)" after the dollar amount.

Page 76, line 3 insert "(decreased by $4,000,000)" after the dollar amount.

EXTENSIONS OF REMARKS

ISSUES OF CONCERN TO YOUTH TODAY

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. SANDERS. Mr. Speaker, I would like to have printed in the RECORD statements by high school students from my home state of Vermont, who were speaking at my recent town meeting on issues facing young people today. I am asking that you please insert their statements in the CONGRESSIONAL RECORD as I believe that the views of these young persons will benefit my colleagues.

STATEMENT BY RACHEL SALYER REGARDING SUBSTANCE ABUSE

RACHEL SALYER: My name is Rachel Salyer. I am a senior at the Bellows Free Academy in St. Albans.

I think there are so many issues surrounding the youth of today, things like success—we are pressured to succeed in life, whether that is monetarily, or just self. And the adults in the community don't seem to be helping very much. When adults, parents and other adults alike throughout Vermont and the nation characterize teenagers as all being troublemakers or all being people who drink or party, then they are sending a message to the youth of the community that they don't care about our future, because it is our future, and they are not going to be around for it, and it is our own fault, basically.

These stereotypes are wrong. Not all youth in Vermont are people who like to drink, people who like to do drugs, people who go to parties every weekend. That's why organizations such as Green Mountain Prevention Project are such an important part of Vermont youth, because they sponsor programs like the Green Mountain Teens, which is a group of teens who have gotten together, who try to make other teens aware that there are all these issues surrounding them, that parents and adults have this image of us, and we want to try and change it.

Basically, what the Green Mountain Teens do is, we are a peer-awareness and prevention group. We provide healthy alternatives to doing drugs or drinking and things like that. We have coffee houses, we have haunted houses, winter balls, dances, anything you can imagine, any other kind of healthy lifestyle habit, we promote that, in order to tell teens that there is something else out there. We are setting examples for teens by being teens, and telling them that there are other choices. And we are trying to show the adults in the community that we need their support also, that we recognize there is a problem, and that it needs to be changed.

Congressman SANDERS: Thank you very much.

STATEMENT BY JOSH LEMIEUX, MARK BOYLE, CARL HALBACK AND RICHARD GONZALES REGARDING SKATEBOARD COMMUNITY BUILDING

CARL HALBACH: First of all, thank you for inviting us here. The point we are trying to prove today is, we have changed our community outlook and image from a negative to a positive outlook.

MARK BOYLE: A lot of groups here are talking about things they would like to do and things that they think need to be done, or processes they need to do. We would like to prove that works. We did a lot of community service and got help from a lot of community members in order to enhance what we enjoy. And this is one of those things that a lot of these groups out there need to think about doing, and this is how they need to do it, just like get a lot of help from the community and be able to follow the guidelines that the adult world uses, and not dwell on the fact that they need to let us do what we want to do, because we are going to do it anyway.

RICHARD GONZALES: Basically, I looked at the State of Vermont, and I seen that they don't recognize extreme sports as one of the big issues, as like physical activities, and, you know, we just took it upon ourselves to build our own park and raise money, and do stuff like that, try to help our city out.

JOSH LEMIEUX: Right now, we are building a new skate park. We just got done. It ran for like five years, and was getting too small. Right now, we are moving and expanding to a bigger skate park, and doing this by ourselves. And we have a grant from a couple of companies, and we are just raising money right now. We have the communities behind us, just trying to.

Carl, did you want to add something?

CARL HALBACH: Yes. Basically went around asking for donations, seeing who would like to help us. A lot of the times, we worked for the money, instead of having it handed to us. There is a sliding hill near our town. And we decided to go clean it up and put up all new fences and paint the buildings and take them down and rebuild them again, so they are in a much better condition, and made the sliding hill much more safe.

Congressman SANDERS: Are we talking about St. Albans?

CARL HALBACH: Yes.

Congressman SANDERS: Mark, did you want to add anything?

MARK BOYLE: We have done this all by ourselves. We have guidance of some outstanding citizens in our community, Miss Gridmore and Doctor Chip. I mean, they don't do work for us, but they help organize stuff, because not all community members are going to be totally accepting of a bunch of rag-tag kids coming and saying, can we do some work for money so we can do this, or can we have community support, and she helped us work through the right channels and we really appreciate it.

Congressman SANDERS: This is an excellent presentation.

STATEMENT BY JESS WALTERS, AND LINH NGUYEN, AND RYAN LAFEBVRE, AND GARY BAILEY REGARDING BURLINGTON'S OLD NORTH END

RYAN LEFEBVRE: Hello. My name is Ryan. I am here to represent Burlington's Old North End. We decided that one of the most important issues to us is how teens in the Old North End spend their out-of-school hours.

Each day, teens in the Old North End decide how they will spend at least five of their waking hours when not in school. For many of these, the hours harbor both risk and opportunity.

For many that are home alone, the out-of-school hours present serious risks for substance abuse, crime, violence and sexual activity, leading to unwanted pregnancy and sexually transmitted diseases, including AIDS. Time spent alone is not the crucial contributor to higher risk; it is what young people do during that time, where they do it, and with whom, that leads to positive or negative consequences.

According to a 1990 survey, my community contains 29 percent of the Burlington's population, and has the highest percentage of people of color in the city. Over half of the households are female-headed, and over 60 percent of these families live below the poverty line.

Poverty is especially pronounced for the Old North End's children, 42 percent of whom lived in poverty in 1990. That percentage is higher today. The Old North End has 32.1 percent of its residents living below the poverty level, compared with 19.3 percent for the city as a whole.

Recently, a number of focus groups were held, where youth, senior citizens, and business people spoke out about concerns they have about the Old North End. The following issues and concerns were continually mentioned: Public drinking, drug dealing, continuing poverty, racial tensions, and potential gang violence.

We proposed a teen center that would directly address many of our community concerns, as well as issues many of you will be presenting later today. Jessica is now going to tell you why there is a need for our teen center in Burlington.

JESSICA WALTERS: Hello. My name is Jessica Walters.

Yes, there are other teen centers in Burlington, but there are many reasons why they do not meet our needs.

First, they all have limited teen hours. For instance, I have nowhere to go after school until 5:30, and most youth centers close at 9:00 at night. My friends usually hang out on the street until teen hours start or until they have to go home.

Due to things mentioned by Ryan, North Street isn't really a safe place for teens to hang out. Most of the teens that live in the Old North End go to Burlington High School, where there is no computer and Internet access available to us after school. Currently, there is nowhere to go to do research or study after school hours. The other youth centers don't have a place for us to do this.

The final issue is the adults' role. Other youth centers have too much supervision and not enough opportunity for independence and creativity. There are also a lot of little kids around.

Now Gary is going to tell you about what our teen center will be like.

GARY BAILEY: Hello. My name is Gary, and I would like to tell you about our teen center.

Our teen center will be run by youth, it will be for ages 13 through 19, and it will be

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

free of charge. We feel that it should be open for longer hours, like said she before, because other teen programs like the one we want to open will have to be open for younger children also, so we only have a section of the day that we can go there, so we are still out in the streets.

We feel that it should have a resource room run by adults, with a mini library, mentoring and tutoring facilities, a career college center, and information on social services. Also, a job board for a list for people to get jobs easily, and maybe once a week somebody in there helping them out, somebody like Becky Trudeau or something, where they won't have to go five different places to look for a job, they can just go there and have one place to look.

We feel that it should have a computer room, with Internet access. A lot of people work right after school, and they have to be there around 3:30, including us. And we don't have the time to go after school and work on the computers to get an essay done, so we feel that it should have computers where it will be available for us after work.

We think there should be recreational rooms, including a gym, a game room. Also special events, such as, once a month, a dance or some sort like that. We also think there should be a lounge so that we can relax and watch TV.

Congressman SANDERS: Good. Linh, do you want to begin?

LINH NGUYEN: My name is Linh Nguyen. We would like to ask for continued support in finding out how we should embark on this teen center and after school program. We strongly believe this would make the Old North End a better place for teens, and not only the teens, but the community as a whole. We would, as well, be a model to replicate in the rest of Vermont.

Congressman SANDERS: Thank you very much. Thank you all very much.

REMEMBERING THE FLOOD VICTIMS OF FORT COLLINS AND LARIMER COUNTY, COLORADO

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to recall Monday, July 28, 1997 and to describe to the House, one year later, a natural disaster which occurred in Colorado on this date, when an intense storm produced record amounts of rainfall in Fort Collins and unincorporated Larimer County, Colorado. The storm devastated area residents as they watched their homes, schools, and churches roll into the immense current which swept through their city. However, the loss far more costly was that of human life. JoAnn Roth, Rose Marie Rodriguez, Sarah Payne, Estafana Guarneros, and Cindy Schulz died as they attempted to escape the storm. Although this event caused a multitude of pain and sorrow, it also enabled members of our community to reach out to one another as individuals struggled to put the pieces of their lives back in place. As a Member of Congress representing Colorado's Fourth District where citizens worked together to restore their way of life, I hereby commemorate the victory achieved through this widespread community spirit and recall the names of those who perished.

As we reflect on the events of the past year, we recall the words of Luke 8:23–24, ". . . A windstorm swept down on the lake, and the boat was filling with water, and they were in danger. They went to him and woke him up, shouting, 'Master, Master, we are perishing!' And he woke up and rebuked the wind and the raging waves; they ceased, and there was a calm."

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes:

Mr. STARK. Mr. Chairman, today I join with Congressman TIM ROEMER and Congressman DAVE CAMP to take a stand for common sense and fiscal responsibility when it comes to our budget.

When Congress first approved the International Space Station in 1984, the original price tag was $8 billion. A recent General Accounting Office [GAO] report projects the station's total operating costs at $95.6 billion. Congress keeps throwing taxpayer dollars into this money pit, and we have no tangible benefits to show for it.

Since its conception in 1984, the station has been redesigned three times. The latest model would accomplish only two of its eight original scientific missions. Furthermore, many of the remaining goals envisioned for the station could be accomplished aboard unmanned satellites or aboard the space shuttle for a small fraction of the cost.

Furthermore, the station's rising costs are a threat to other promising projects. Already, NASA has shifted $200 million from other programs like space shuttle safety and space education grants to pay for station cost overruns. This year, NASA has requested the authority to shift an additional $375 million. As the station experiences more cost overruns, the space station budget will literally consume the NASA budget at the expense of proven programs like probes within our solar system, the Space Shuttle, earth sciences, and aeronautics.

Every year we pour billions upon billions of dollars into NASA and the International Space Station at the expense of schoolchildren, the elderly and the infirm. We cannot afford the price of the space station when we have such pressing needs here on planet Earth. If we choose to look to the stars, we must first have our feet planted firmly on the ground.

THE LONG TERM CARE ADVANCEMENT ACT OF 1998

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. SMITH of New Jersey. Mr. Speaker, the aging of the Baby Boom generation has been extensively discussed in Congress and among the American people, with particular attention to the impact on Social Security and Medicare.

What has not been widely discussed, however, is a related but very distinct trend: the rapid expansion of the group of Americans defined by the Bureau of the Census as "the oldest old"—those senior citizens aged 85 and above. Often lost during discussions of the Baby Boom generation is the fact that the fastest growing demographic age group in the United States is the "oldest old."

That is why I am introducing legislation, joined by my colleagues PHIL ENGLISH (PA), RON PAUL (TX), JOHN ENSIGN (NV), and CHRIS SHAYS (CT) to help Americans better prepare themselves and their families for their long term health care needs of the future. The tax breaks contained in this legislation will go a long way towards providing families with peace and security against the massive costs of professionally provided long term care, including nursing home care, home health care, and adult day care services.

I am pleased that this legislation has already secured the support of the 60 Plus Association and the Home Health Assembly of New Jersey. The Health Insurance Association of America (HIAA) has also endorsed the concept behind the bill.

Our Nation will soon be grappling with a long term care crisis unless Congress acts now to prevent it. From 1960 through 1994, the senior citizen population (age 85+) increased by 274 percent. And the number of Americans in the 85+ age cohort is expected to double in size by the year 2020, reaching 7 million. The number of senior citizens between the ages of 75 and 84 will reach nearly 15.5 million by 2020. The sixty four thousand dollar question is: how will we as a nation meet our parents' and grandparents' long-term care need?

This demographic change will put an enormous strain on our nation's fragmented system of long-term care. Already, our Medicaid program has demonstrated its financial shortcomings when providing long-term care services to increasing numbers of the frail elderly. The Medicaid program already spends over $40 billion on long term care services for senior citizens. These expenditures are projected to double over the next 10 years.

A vital part of any comprehensive response to these trends must be the promotion of private long term care insurance (LTC) for Americans. Although the number of persons insured under LTC policies has nearly doubled between 1992 and 1996, this growth is from a very low base. The fact of the matter is that the overwhelming majority of Americans still do not have any private LTC insurance coverage at all. This needs to change, and soon.

Mr. Speaker, the Long Term Care Advancement Act of 1998 will assist Americans prepare for their future long term care needs. My bill will allow penalty-free withdrawal from IRAs and 401 (k) plans when the funds are used to pay for 'qualified' LTC insurance premiums (as defined by the Health Insurance Portability and Accountability Act of 1996).

In addition, a certain portion of the IRA/401 (k) withdrawals used for LTC will be excluded from taxable income. Depending on one's tax bracket, age, and type of policy purchased, the savings on a long term care insurance policy under my bill are considerable, and could range from 15 to 25 percent.

Lastly, the Long Term Care Advancement Act will provide a refundable $500 tax credit for families caring for a dependent elderly spouse or parent in the home. This tax credit is important because most of the long term care provided in America is provided by families in the home, and these families desperately need and deserve tax relief.

By encouraging more Americans to plan for their future care needs I believe we can improve the medical, social, and financial well being of families, as well as provide substantial future savings to the Medicaid and Medicare programs. According to the John Hancock Mutual Life Insurance Company, there is a 48% chance of any given individual of needing long term care in one's lifetime. And the costs of nursing home care for one year is approximately $40,000. The potential for savings to American families, as well as the Medicaid and Medicare programs, by encouraging families to purchase LTC insurance is simply enormous.

I look forward to working on and discussing long term care issues with my colleagues during the remainder of the 105th Congress, and urge all of my colleagues to support this important initiative.

IN TRIBUTE

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to Capitol Police Officers John Gibson and Jacob Chestnut who gave their lives last week in a vicious attack by a deranged gunman.

My heart goes out to the families of these officers, both of whom spent 18 years in courageous and devoted service to their country as members of the Capitol Police. They gave their lives, not only protecting Members of Congress, but the thousands of Americans and foreign visitors to this great monument, the people's house of government.

Officers Gibson and Chestnut were both known as kind, personable men who were especially devoted to their families. They performed their jobs with a special kind of pride in playing a small part in the smooth and efficient conduct of the processes of government.

As we go about our business in the Capitol, we tend to take for granted the freedom and protection we enjoy because of the selfless contributions of our Capitol Police who are constantly on guard against the type of insane acts which took the lives of Officers Chestnut and Gibson and wounded an innocent civilian.

This horrible act reminds us once again of the debt we owe to those officers who do their jobs daily in protecting those who work here and those who visit. With few exceptions, problems, large and small, are prevented so we are left free and comfortable to perform our jobs in peace.

We owe these men and their families a great debt of gratitude for their sacrifice. They will not be forgotten and their contributions will be forever recognized by the Members of the House of Representatives.

IN TRIBUTE

SPEECH OF

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. MANZULLO. Mr. Speaker, I rise today to help express my thoughts to the families of slain Capitol police officers John Gibson and Jacob Chestnut. I say "help express" because there is no total way to thank these men for laying down their lives for others. I would defer to the words of my wife, Freda, for these remarks, in the joint letter she sent to the Gibson and Chestnut families.

To the families of Officer John Gibson and Officer Jacob Chestnut:

My heart today is filled with a tremendous sense of debt and gratitude to your fathers and husbands and the sacrifice they have made. Scripture tells us in John 15:13, "Greater love has no one than this, that one lay down his life for his friend." Indeed, we consider each officer at the Capitol a friend. Daily we give thanks for their constant careful watch of the members of congress and the millions of visiting tourists. Last night as we welcomed my husband, Congressman Donald Manzullo, home we breathed a prayer of thanksgiving for his safe return. But also your families and great loss were uppermost in our thoughts. Our heartfelt thanks pour out to you. Our sorrow at your loss is overwhelming. Another scripture comes to mind, one that I believe the Lord said as he received your loved ones into this eternal kingdom, "Well done, good and faithful servants; you were faithful with a few things; enter into the joy of your master," Matthew 25:23.

With love and gratitude,
FREDA MANZULLO.

IN TRIBUTE

SPEECH OF

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to pay tribute to the two men who gave their last full measure of devotion in defense of the people's House, the U.S. Congress.

Capitol Police Officers John Gibson and J.J. Chestnut leave behind friends and family who will mourn their sacrifice for years to come. Today, a grateful Nation mourns with them.

Thousands of Americans are paying tribute as we speak, filing past their caskets in the Capitol Rotunda just a few hundred feet from where they died.

In the last few days, we've learned a great deal about Officers Gibson and Chestnut—their love of family and country, the many kindnesses they showed over the years to everyone on Capitol Hill, from committee chairmen to wandering tourists.

The focus on the lives of these two courageous men has been a poignant reminder of what America is really all about.

In death, Officers Gibson and Chestnut have been hailed as heroes, but they were quiet heroes each and every day of their lives. They symbolize what all of us strive to achieve.

J.J. Chestnut served his country in Vietnam, raised five children, loved gardening, and helped raise money in his neighborhood for college scholarships. He and his wife were often seen bicycling around their home in Fort Washington, MD.

John Gibson, from the great State of Massachusetts, suffered from the regional maladay known as Red Sox Fever and shared his tragic affliction with all who would listen.

John was married to the niece of my good friend and colleague JOE MOAKLEY. A deeply religious man, John was devoted to his wife and their three teenage children and worked hard to give them a stable and loving home. In the Lake Ridge neighborhood of Woodbridge, VA, John was known for an easy smile, a generous laugh, and the best-kept lawn on the street.

In some ways, these were ordinary men leading ordinary lives. But when duty called, they acted in extraordinary fashion. They acted just the way all who knew them always expected they would.

Every one of us in this chamber owes them a special debt of gratitude. They served the Congress faithfully. They served the country faithfully. They swore an oath to protect and serve, and they died as they lived—holding true to those vows.

There is nothing we can say or do to diminish the loss felt by those who loved these men and knew them best. But at one time or another, we have all lost friends, we have all lost brothers, we have all lost fathers, and so we share their loss as well.

And today, we pause to remember not just what we have lost, but what Officers Gibson and Chestnut gave to each and every one of us: a lesson of bravery and courage under fire and a reminder of the greatest love of all—that of laying your life down for others.

That's what these quiet heroes did. I'm grateful for the opportunity for us to come together as a Nation, here in the temple of democracy they gave their lives to defend, to offer them a final salute.

My heart goes out to their families and all those who feel their loss most of all.

Finally, I hope this tragic incident makes us look inside as a Nation to recognize the real meaning of Heroism—the selfless work that goes on each and every day by those who take an oath to protect us.

I would ask that we look around us today and take a moment to appreciate the men and women of our law enforcement community who serve with courage and devotion.

They are police officers and firefighters, soldiers and sailors, secret service and FBI agents. And, as we know too well, they are also mothers and fathers, husbands, sons, and daughters. Some serve in uniform, some do not, but each and every one carries the same badge of honor, and we should never, never, take them for granted.

Because of the sacrifice of Officers Gibson and Chestnut, I know I never will.

IN TRIBUTE

SPEECH OF

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. ABERCROMBIE. Mr. Speaker, Officers Jacob J. Chestnut and John M. Gibson are American heroes. They gave their lives protecting us, our staffs, and visitors to the United States Capitol. This tragedy reminds us that the members of the Capitol Police and other police officers across the country put their lives on the line for us every day.

We honor Officers Chestnut and Gibson for their bravery and sacrifice. We lost two good men and fine police officers. No words can adequately express our feelings on this sad occasion. Our hearts go out to their families and to their fellow officers.

This tragedy highlights a dilemma as old as democracy itself: the balance between security and openness. We have made a decision—the correct decision, I believe—to maintain public accessibility to the Capitol. The people's business must be open to the public gaze. Every year people from our districts, some traveling literally thousands of miles, visit the Capitol to share their views and urge us to support or oppose this or that bill. They come to partake of the history that walks these halls. They come simply to see us in the flesh, look us in the eye, and take the measure of the men and women whom they have elected to make our laws. Their right to do so is enshrined in the very concept of democracy. Nowhere is it more appropriate to exercise that right than here in the people's house.

At the same time, we can not escape the reality of the world in which we live. There are some individuals who would take advantage of that openness to enter this building and do violence to those engaged in the people's business. Their actions defile this temple of democracy. That is why it is necessary to have a Capitol Police force. Its members not only protect us as individuals, they defend the accessibility of this building, accessibility which is so important to our democracy.

On Friday, July 24, 1998, two of those officers made the ultimate sacrifice. Their bravery and devotion to duty enshrine the names of Jacob Chestnut and John Gibson among the heroes of our nation. We bow our heads in sorrow and gratitude. We pledge to honor their memories by keeping our nation's Capitol open, accessible, and safe for everyone who desires to enter this building, the people's house.

AN EXPRESSION OF CONGRATULATIONS TO COLONIA COUNTRY CLUB ON ITS 100TH ANNIVERSARY

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to congratulate the officers and members of Colonia Country Club on the occasion of their Club's 100th anniversary.

Colonia, the name of both the Club and the section of Woodbridge, New Jersey in which it is located, is a derivation of the word, colony, a term defined by Webster as "a body of people living in a new territory." Colonia is a most appropriate designation for the community-originally Houtenville-that was the site of many Revolutionary War events. Immediately adjacent to Colonia Country Club is the highway on which George Washington traveled on his way to his first Inauguration. That roadway was also a main north-south artery during the Civil War and was later named The Lincoln Highway. In Colonia, the highway is also bound, on its east side, by the nation's major east coast rail line.

It was in 1898 that a group of area residents agreed to form a golf and country club, using an Inn constructed just prior to the Civil War as its clubhouse. Designed to serve as a gathering place for sport and social occasions, their new "home-away from home" was to be called Colonia Country Club. Part of their agreement called for the purchase of a horse-drawn lawnmower to trim what would become a nine-hole golf course.

The century that followed will be remembered by the citizens of America and, indeed the world, as one filled with joys and achievements unparalleled in recorded history and with toils and tragedies that would test human endurance. A microcosm of that world, Colonia County Club rose from a small gathering of neighbors to become a proud and prominent member of its region's social fraternity, the site of a modern clubhouse and one of its region's most challenging 18-hole golf courses. In the process, those that charted the course of its progress proved they had the grit and determination to withstand depressions and years of mid-century decline. Colonia Country Club, like many venerable, sturdy American institutions both large and small, stands today as a model of a modern Americana. It is a story of people overcoming difficulty and proving their endurance as they share prosperity and camaraderie—and it offers its one hundred year history as evidence of that achievement.

Mr. Speaker, I ask you, my neighbors in the 7th Congressional District of New Jersey and my colleagues to join me in offering our congratulations to Colonia Country Club as it celebrates its 100th anniversary.

IN TRIBUTE

SPEECH OF

HON. BILL LUTHER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. LUTHER. Mr. Speaker, I would like to add my voice today to the much-deserved tributes being paid to U.S. Capitol Police Officers Jacob Joseph Chestnut and John Michael Gibson. This is a sad day for Congress and our nation. Just a few short steps from here two American heroes lay in honor in the rotunda of the United States Capitol. This past Friday these men gave the last full measure of devotion to their country. Their honored sacrifice no doubt saved numerous lives and served as a stark reminder of the reality of the violent world in which we live. This tragedy also reminds us of the price that must sometimes be paid for the great privilege of having our democratic form of government.

So today it is appropriate that all of us pause for a moment to thank officers Chestnut and Gibson for what they did last week. Their sacrifice will never be forgotten. And we should also extend our thanks to all of the members of the Capitol Police force and all other law enforcement officers throughout our nation. They have an incredibly difficult mission—providing security while serving as goodwill ambassadors for their communities. They do a terrific job day in and day out and frankly we don't do enough to show our appreciation for all of their hard work.

And finally, Mr. Speaker, I just want to point out that this seems like a different place today than it did when I left here on Friday. The tragic events of last week seem to have pulled us together. Democrats and Republicans, Members and staff, as well as so many people of our country have all joined hands in coming to terms with what happened here. If there is a silver lining in these tragic circumstances perhaps it is that we all may gain a little more appreciation for the people we work with on a daily basis and for the wonderful country we are proud to call our own. The differences we have pale in comparison to the bonds we share as Americans. A tragedy like this reminds us of this simple truth and affords us the opportunity for a renewed perspective as we face the challenges ahead.

IN TRIBUTE

SPEECH OF

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. RODRIGUEZ. Mr. Speaker, I wish to pay tribute to the ultimate sacrifice made by Detective John Gibson and Officer Jacob J.J. Chestnut while conducting their duty protecting the Capitol. I admire the tremendous sacrifice made by these individuals and my thoughts are with their families as they cope with the departure of their loved ones. Like countless others, I did not personally observe the tragedy. But like them, I have been shaken by the event and moved by the warm reception all have provided in memory of the fallen men.

No one can bring back these brave officers who gave their lives to protect us. But I stand today to recognize the risks that our law enforcement personnel face each day. I express the gratitude that I have for the dedication of these people, who each day leave the security of their homes and families to protect and serve those in need all across America.

PERSONAL EXPLANATION

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. SERRANO. Mr. Speaker, earlier today, I was recorded as voting in favor of agreeing to the conference report on H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact.

As should be obvious from my vote against the rule providing for consideration of the conference report, I had intended to vote against the conference report itself.

I am in complete agreement with my colleagues from Texas and elsewhere who have fought against the imposition of what could become the nation's major depository for low-level radioactive waste on the largely poor and minority community of Sierra Blanca, Texas.

I understand and share the concerns of Sierra Blanca and other minority communities. The siting of a disproportionate number of New York City's waste transfer and waste processing facilities in the Hunts Point area of my South Bronx congressional district, and the related particulate-spewing diesel truck traffic, have led to disproportionate levels of asthma and other respiratory illnesses among my Hunts Point constituents, especially the children. Without attention to environmental justice, the more disenfranchised a community is, the likelier it is to find itself the depository for more powerful people's waste.

TRIBUTE TO THE HONORABLE LOUIS STOKES

SPEECH OF

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. LEWIS of California. Mr. Speaker, I insert the following for the RECORD:

I want to add my voice to the tributes offered by the Congressional colleagues of the Honorable LOUIS STOKES. When I first came to Washington, nearly six years ago, as the Assistant Secretary of Community Planning and Development at the Department of Housing and Urban Development, LOUIS STOKES was Mr. Chairman. He was the Chairman of the Subcommittee that controlled the purse strings for all the creative ideas that a new Administration wanted to implement—an unprecedented increase in funding for the homeless, funding for partnerships between the Federal Government and not for profit organizations to build and rehabilitate affordable housing, a new economic development grant program. And he agreed with those initiatives and helped restore the Department as the agency that is dedicated to assisting the most vulnerable among us and to revitalizing our cities and towns.

Now as ranking member of that same Subcommittee, he continues to help this Administration and me as Secretary of the Department. He has been with me every step of the way as we have "reinvented" HUD and I counted on his advice and counsel. Now that we are beginning to see the results of that reinvention, he has fought to give the Department the resources it needs to create jobs and economic opportunity to meet the challenges of the global economy and the demands of American cities. He has fought steadfastly to expand and preserve housing opportunities for renters in public and assisted housing, for homebuyers, and for the homeless. He has fought unabashedly to end the scourge of housing discrimination. He has taken on all these battles even in the face of terribly tight budget strictures.

Perhaps it was growing up in public housing, but, whatever the reason, Congressman STOKES sought to serve on the two appropriations subcommittees that reach those most in need—VA, HUD and Independent Agencies and the Labor, Health and Human Services, Education, & Related Agencies. And serve those in need, he has. He is a man who cares deeply about the programs of this Department and the people they impact.

So I want to pay tribute to him and to say how deeply I appreciate his long, hard work. I will miss him and the people who rely upon HUD's programs will miss him.

IN TRIBUTE

SPEECH OF

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. UNDERWOOD. Mr. Speaker, upon my return from my home district of Guam yesterday, I had the privilege to pay respects to slain Officers Jacob J. Chestnut and John Gibson. As Members of Congress join the nation in mourning the passing of these two gentlemen who paid the supreme sacrifice for our safety and protection, I could not help but reflect upon my constituents from Guam, people who, like me, have to overcome the rigors of traveling several thousand miles in order to experience, to participate, or maybe even just to catch a glimpse of their government at work.

As with everyone, the highlight of my constituents' Washington, D.C. trip is a visit to Members' offices and a tour of the Capitol. Times like these remind us of the valuable service provided by police officers stationed at different posts within the Capitol complex ensuring the safety of constituents who travel the many miles in order to visit members who represent them in this body.

Speaking not only for myself but for the people of Guam, I wish to express appreciation to the Capitol Hill Police Force who, by the loss of Officers Gibson and Chestnut, demonstrated their willingness to lay down their lives for the safety and protection of Members of Congress and our constituents. As quoted from the Book of John, "Greater love hath no man than this, that a man lay down his life for his friends." John Gibson and J.J. Chestnut gave their lives so that others may live.

Roman Benavente, a retired Capitol Police officer—a native son of Guam who has chosen to reside in the State of Maryland, has called together members of the Guam Society of America to honor the slain officers in a Memorial Mass to be celebrated this Friday at St. Ignatius Catholic Church in Oxon Hill, Maryland. I hope that my colleagues would be able to join Guam residents in the area for this memorial service.

The sacrifice of Officers Gibson and Chestnut will never be forgotten. On behalf of the people of Guam, I extend sincerest thanks to Officer Chestnut and Officer Gibson for their sacrifice. To the families and loved ones of these two American heroes, we offer our most heartfelt sympathies.

FUNDING FOR THE INTERNATIONAL SPACE STATION

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. ROEMER. Mr. Speaker, this year, to my disappointment, the House of Representatives voted to continue funding the International Space Station. The amendment I introduced with Representative CAMP to cancel the space station program would have ended the single largest wasteful government program in history.

Today, I am proud and pleased to have introduced my amendment to the VA-HUD appropriations bill for fiscal year 1999 that was supported by 109 Representatives. I strongly believe that my amendment reflects the best interests of the United States, the taxpayers and certainly of NASA and the American space program.

Like most of my colleagues, I am a strong supporter of the American space program. However, I find it sad to see that productive and more worthwhile space programs are being shut down so that larger and larger amounts of NASA funding are claimed by a space station program that has already cost almost $20 billion with no hardware in space to show for it.

In 1993, upon NASA's final redesign of the space station, we were told that the program would cost no more than $17.4 billion and that our partnership with the Russian Government would save American taxpayers around $2 billion. This was still a huge increase over the Reagan Administration's initial plan to build the station for $8 billion and complete it by 1994. Now NASA has accepted the findings of the Cost Assessment and Validation Task Force, also known as the independent Chabrow committee, which concluded the program will cost $24 billion and an additional

$130 million to $250 million for each month that the station assembly is delayed. And it will be delayed—probably by at least two years.

Also, Mr. Speaker, GAO now tells us that the program will cost more than $100 billion. This does not include additional costs associated with Russia's potential withdrawal from the partnership or the costs of upgrading the station's defense system to protect it against meteorites and orbital debris. Nor does the $100 billion pricetag include disassembly costs, which GAO says could be "prohibitively expensive" and could exceed $5 billion. These "unforeseen" funding contingencies are indeed shocking and clearly jeopardize the future and integrity of the entire U.S. space program.

The magnitude of these dramatic cost overruns and assembly delays are unacceptable and sure to result in the cannibalization of the so-called "smaller, better, faster, cheaper" space missions. If we do not move to cancel the space station now, then these smaller, but important, missions will most likely never share the tremendous success of projects like the Hubble Space Telescope and the Mars Sojourner Pathfinder. This is a shame, and a disappointment to the entire scientific community.

While the Russians remain competent in repeating missions that have been flown for three decades, they have been unable to fund development of reliable new technologies or to deliver critical component parts such as the Service Module. Everything that worked on Mir involves 20-year-old technologies. A year ago, when a fundamentally new space docking procedure was attempted, the result was a collision that punched a hole in the space station, crippling it and almost killing the crew. Other new Russian space vehicles such as the Mars probe and its plutonium batteries have also failed. This does not bode well for the space station.

The Russians have repeatedly promised to develop a series of new and improved space vehicles to help assemble the space station. However, over the past several years, Russia's work on the components has fallen far behind schedule, causing significant delays and cost overruns which have spilled over into NASA's share of the work. Russia's Finance Ministry has repeatedly misled NASA and the American people, and we should not tolerate this continued foot-dragging. As I have said over the past six years, NASA's dependence on Russian participation in the space station will cripple other, more worthwhile U.S. space programs, and this will most likely continue to result in more assembly delays and cost overruns.

When the Administration approved the space station redesign in 1993, NASA promised the taxpayers that no more than $2.1 billion would be spent each year for the program. At that time, it was estimated that Russia's inclusion as a partner would reduce costs by $1.6 billion. Nevertheless, NASA has told us that the cap should be broken, despite Russia's repeated promises that the money and the critical hardware components like the Service Module would be delivered.

Far too many questions remain unanswered. NASA has yet to determine or release any cost figures for the program reflecting the likely scenario that Russia will drop out of the partnership, but continues to offer robust assurances that it will save money. While I support efforts to engage our former adversaries, and sharing our knowledge of important scientific issues, I do not believe it is prudent to perpetuate a back-door foreign aid project that makes Russia look more like an international welfare recipient than the major partner in the single largest construction project in the history of mankind.

While space station cost overruns to date are currently estimated at $800 million, NASA has cut mission control, shuttle safety, and more deserving programs such as Mission to Planet Earth and space education grants. Already $227 million has been diverted from space station science and $200 million has been shifted from the space shuttle payload and utilization operations. This year, NASA has asked for the authority to shift an additional $375 million.

Like our efforts aboard Mir, NASA has cannibalized the station's scientific research missions simply because all the funds are being consumed on construction. NASA has transferred a whopping $462 million from its science funding to space station development in fiscal years 1996 through 1998. Case in point: NASA dropped the centrifuge, a critical research component, and now depends on negotiations with the Japanese Government to provide it.

Throwing more money at the space station is adding fuel to the fire. We should not continue to approve NASA's repeated request for supplemental funding. Rather, we should hold NASA and the Russian Government's feet to the fire. The American taxpayers deserve accountability and demand that the integrity of our space program be maintained. We should therefore end this program before it kills NASA and its mission.

Mr. Speaker, for several years, we have known the solution to the many problems associated with the space station. In fact, the House almost got it right in 1993, when my amendment to terminate space station funding lost by a single vote. I suggest that we allow NASA the time and resources to improve its management structure, redefine its mission first, rather than move ahead with a mammoth, multi-billion dollar program whose costs will assuredly go over and beyond all reasonable budgetary expectations. All of the station's problems can be solved by simply canceling this wasteful, over-budget boondoggle, returning $80 billion to the American taxpayers, and saving the life and health of the rest of the U.S. space program. I will continue to fight this program and strongly encourage my colleagues to closely monitor this program as cost overruns and schedule delays will most assuredly continue to cheat the scientific community of funding that could be better spent on more worthwhile space research endeavors.

TRIBUTE FOR MAJOR GENERAL CLAUDE W. REINKE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. PACKARD. Mr. Speaker, I would like to acknowledge a brave soldier, strong leader, caring father and a very good friend. Major General Claude W. Reinke is the retiring Commanding General of the Marine Corps Base, Camp Pendleton, which is located in my District. I have grown very fond of General Reinke and would like to commend his leadership at the base.

General Reinke is a Texan by birth but has always been ready to move anywhere the Marines needed to send him, including a tour in Vietnam. The position of Commander General to a base like Pendleton is often like being the mayor of a city, as both require outstanding managerial skills. General Reinke has gone above and beyond the call of duty as Commander. His leadership has had a positive impact on both the Marines and the entire community.

Part of what makes General Reinke so special is how much he cares for his troops. Very few Commanding officers are more sensitive to the needs of their troops than Claude Reinke. General Reinke has become a champion for quality of life for our troops by emphasizing the need for improved base housing and training facilities for members of the Corps.

General Reinke has been decorated with the Legion of Merit, Bronze Star Medal with Combat "V," Meritorious Service Medal and the Combat Action Ribbon. He is a proud husband and father of five. I might also add that he plays a very good game of golf! If he reacts to the challenges of work like he reacts to the challenges on the golf course, I think the men and women of Camp Pendleton have been in very able hands!

Mr. Speaker, I would like to wish Claude my best and commend him on a job extremely well done.

A TRIBUTE TO DEPARTING HOUSE BANKING COMMITTEE STAFF ROBERT AUERBACH AND STEFANIE MULLIN

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. HINCHEY. Mr. Speaker, I rise to pay tribute to two dedicated members of the House Banking Committee Minority staff who are leaving the Committee this week to pursue endeavors in higher education. The efforts of Robert Auerbach, the Democratic staff economist, and Stefanie Mullin, the Democratic press secretary, will be greatly missed by all members of the Committee.

Bob Auerbach is a first-rate financial economist with a keen understanding of money and banking, the payments system, and the Federal Reserve System. He has served the members of the House Banking Committee well in more than 10 years and two separate tours of duty on Capitol Hill. During this time, he has worked on a number of initiatives from the deregulation of interest rates to the promotion of openness at the Federal Reserve Board. I have personally worked with Bob on a number of issues pertaining to monetary policy and have found his knowledge, insight, and guidance to be invaluable.

Bob is leaving Capitol Hill for the ivory tower of academia. Starting this fall, he will be a Professor at the LBJ School of Public Policy at the University of Texas where he will be teaching courses on money and banking. He also has plans to write a book. Though I will miss Bob's wise counsel here in Washington, I know that our loss is most definitely the University of Texas' and his students' gain.

As press secretary for the Democrats, Stefanie Mullin has the often thankless job of reminding the world that there is another perspective on the Banking Committee. For the past five years, she has accomplished this with grace and dignity, always making sure that the views of the minority were heard by the world outside the Rayburn Building. Stefanie is also leaving us to return to school, but as a student. She will be attending Columbia University in a masters program in the prestigious School of Journalism. I wish her luck, and look forward to the day when I meet her again as a member of the news media.

COMMEMORATING "HEARTS AND STARS"

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. VENTO. Mr. Speaker, I rise today to honor and recognize James M. McNeely's recent bronze sculpture "Hearts and Stars" that depicts the anguish, pain, honor and heroism displayed by young men and women while engaged in war.

Born and raised in St. Paul, Minnesota, James M. McNeely, was drafted into the United States Army in May of 1969. He served as an infantryman with the 196th Light Infantry Brigade, American Division, in I Corps, CCU Law, Vietnam. Serving courageously, McNeely rose to the rank of Sergeant and was awarded the Purple Heart and 3 Army Commendation Medals. After being discharged, he joined the Ramsey County Sheriffs Department in June of 1972. He has worked in Detention, patrol division and is currently working in the court security unit.

Jim McNeely is a self taught artist and member of the Vietnam Veterans Art Group. In the past, Jim's sculptures have recaptured the experiences of war and its effects upon humanity. In 1985, the 3rd Infantry Division at Fort Snelling, Minnesota commissioned McNeely to sculpt a bronze battle memorial of the Mexican American War to commemorate its bicentennial birthday. Currently, this celebrated bronze sculpture is on display at the Fort Snelling Museum in St. Paul, Minnesota.

His latest work, "Hearts and Stars" reminds us all that we must remember the suffering and agony endured by young men and women while engaged in war. The sculpture is a bronze sculpture of a soldier carrying another soldier on his back. The figures stand astride a creek bed with the silhouette of North and South Vietnam. A branch lays across the creek symbolizing the split between the North and South. On the front of the oak pedestal is a 10 inch bronze medallion of a bamboo grove and dragon with the words inscribed "Republic of South Vietnam 1965–1975." The stone is polished and crafted from rough cut limestone. After being on display at the St. Paul City Hall/Ramsey County Courthouse the sculpture is going to the National Vietnam Veterans Art Museum in Chicago on August 11th. Vice President ALBERT GORE and seven United States Senators who served in the Armed Forces during the Vietnam War will be attending the event. This ceremony will open McNeely's work and bring to life the experience and memories of Vietnam that might educate and guide the understanding of our history and the American experience. "Hearts and Stars" is a honorable and captivating tribute to those young men and women who have courageously served in the Armed Forces.

PERSONAL EXPLANATION

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. RADANOVICH. Mr. Speaker, I was unable to be present for rollcall votes 315, 319 and 320 last week. Let the RECORD state that I would have voted "no" on rollcall votes 315 and 320 and "yes" on 319.

PATIENT PROTECTION ACT OF 1998

SPEECH OF

HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. LINDER. Mr. Speaker, today the American people are feeling the pressure of rising health care costs paired with dwindling health care choices. They have called on us to do something that will make their lives better, to put health care decisions back in their hands.

Given that mandate, we have two choices. We can choose to task the government and lawyers with improving our health options. Or, we can choose to task the marketplace with offering us more health choices. My constituents have tasked me to do the latter.

For those who believe in the benevolence of lawyers, for those who believe in the wisdom of bureaucrats, the Dingell substitute is available to you today.

But for those who believe that the individual makes better choices about his family's health care than a government official does, you will share my excitement about the Patient Protection Act introduced by Speaker GINGRICH and Mr. HASTERT.

The Patient Protection Act protects the patient in three key ways. First, this legislation protects the patient's choice of doctors. For those patients in HMO's, the bill provides that they have a point-of-service option—so that patients can visit doctors outside of their HMO network. For those patients not in HMO's, the bill expands their access to Medical Savings Accounts—accounts that offer complete freedom of doctor and treatment. For all patients, the bill—for the first time—allows a woman to choose an OB/GYN as her primary care physician and allows a parent to choose a pediatrician as his child's primary care physician. These new choices assure patients that they will be able to choose the best doctor for their health care needs.

Second, the Patient Protection Act protects the individual's access to the care to which he is entitled. The bill moves the decision about access to care away from the insurance company and back to the patient and the doctor. For example, when a patient reasonably believes he or she is having a medical emergency, he or she should be able to seek care at a local emergency room and that care should be paid for by his or her insurance plan. Under the Patient Protection Act, the patient now has that freedom without being second-guessed by the insurance company. The Act also prohibits "gag rules"—insurance company restrictions on what information a doctor can give a patient. With the prohibition, we restore the complete disclosure—the complete freedom of communication—that is so essential to the doctor patient relationship.

Finally, the Patient Protection Act protects the individual from arbitrary decisions from the insurance company to deny care. We are all aware of the too familiar pattern of a patient calling his or her insurance company to request care and having the untrained, nonmedical reviewer deny the care without even reviewing the patient's medical history. The Patient Protection Act ends that practice forever. Under this bill, if the patient and her doctor believe that a certain medical procedure is indicated—but the insurance company declines to cover the expense—the patient has the right to an immediate appeal to a panel of doctors—not bureaucrats—who will decide whether the medical care is necessary. This new right of appeal will ensure that only medical professionals will make decisions about a patient's need for health care.

We have heard so much in this debate about the patient's right to sue. I'm so tired of that red herring. Patients sue their doctors and sue their insurance companies every day. While I abhor the litigious nature of our society today, I certainly support the patient's right to be made whole when malpractice of breach of contract or any other misconduct occurs.

In all my years, however, I've never met a patient who really believes that the legal process makes them whole. When you lose some of your hearing, or part of your sight, or any of your abilities, money is no substitute. Unfortunately, after the harm has occurred, money is all that society has left to offer. After the harm has occurred, it's too late to be made whole.

This is why the Patient Protection Act focuses on preventing the harm from occurring. Why spend two years to win a lawsuit for your injury when you can spend 1 hour on an appeal to your doctor that will prevent the injury all together. Our bill is about patients and doctors and healing. We provide access to the doctors, assure choice for patient, and believe that gives us the best chance at healing.

My constituents and I thank all of my colleagues for the many months of hard work that went into this bill. With the very first patient that is healed by a doctor rather than frustrated by an insurance company, we can all be certain that we have succeeded in our efforts.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. BECERRA. Mr. Speaker, on July 27, 1998, I was away from the House on official business during Monday's rollcall vote No. 340, on agreeing to the resolution honoring the memory of Detective John Gibson and Private First Class Jacob Chestnut of the United States Capitol Police. Had I been present for the vote, I would have voted "yes."

As the official designee of the House Minority Leader, I was present in Albuquerque, New Mexico on July 27 along with three of my Congressional colleagues representing the Speaker of the House, the Senate Majority Leader, and the Senate Minority Leader to join the President of the United States as participants in "The Great Social Security Debate #3." May I note for the record that immediately prior to the commencement of this debate President Clinton asked all in attendance, in person and via television, to observe a moment of silence in memory of the two heroic officers.

I join with my colleagues in the House to express my deepest condolences to the families of Detective John Gibson and Private First Class Jacob Chestnut who sacrificed their lives for our nation. For their acts of courage, this country is forever grateful; their memory will never be forgotten.

PATIENT PROTECTION ACT OF 1998

SPEECH OF

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Fridday, July 24, 1998

Mr. SESSIONS. Mr. Speaker, I spoke with Congressman HARRIS FAWELL, Chairman of the House Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce, on the occasion of the passage of H.R. 4250, the Patient Protection Act. I told Chairman FAWELL that instead of a 200 page bill full of mandates and Federal interference, I proposed a two-page clarification of the ERISA preemption that would get the Federal government out of the way of states to address these problems. I told him that the problem was with ERISA preemption. I asked Chairman FAWELL if he could assure me that the bill does not do anything to strengthen or broaden the ERISA preemption.

Chairman FAWELL assured me that H.R. 4250, the Patient Protection Act, does not amend the ERISA preemption clause. Therefore, it makes it neither broader nor narrower. We have left this to the courts to continue to develop.

Seeking further clarification, I told Chairman FAWELL that I appreciated his putting language in the committee report at the request of members of the Texas delegation to ensure that the Patient Protection Act neither broadens nor changes the current scope of the ERISA preemption as it is being developed in the courts. Again, Chairman FAWELL assured me that was the case.

I explained to Chairman FAWELL that the United States Supreme Court, in the last three years in cases like Travelers, Dillingham, and DeBuono, have narrowed the previously broadly interpreted scope of the ERISA preemption and clarified that ERISA does not preempt traditional state law areas of regulation such as "quality standards in health care." Federal Circuit courts of appeal have likewise been holding more recently that ERISA does not and should not preempt patient quality of care cases against HMOs like the 3rd Circuit held in the Dukes case. Five different Federal judges in the Dallas-Fort Worth area, all Republican, have also held that quality of care cases are not preempted by ERISA. Again, Chairman FAWELL assured me it would not.

Mr. Speaker, Republicans in Texas last year passed state patient protection legislation that is more comprehensive than the Patient Protection Act. Such protections include the right to sue HMOs for affecting the quality of health care treatment decisions. Aetna has gone to court in Houston to assert that Texas legislation is preempted by ERISA. I am glad that Chairman FAWELL could assure me that the Patient Protection Act would not affect the decision of the court in that case.

RECOGNIZING THE SACRIFICE AND SERVICE OF THE FIREFIGHTERS FROM AROUND THE NATION TO THE STATE AND PEOPLE OF FLORIDA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. HOYER. Mr. Speaker, as co-chairman of the Congressional Fire Service Institute I rise today to echo the sentiments of many of my colleagues in expressing my thanks and appreciation for all the firefighters who have worked so hard in battling the wildland fires in Florida.

The magnitude of the fires and the destruction they have caused is almost incomprehensible. In the last two months more than 500,000 acres in 67 counties have been burned by 200 separate fires. At least 367 homes and more than 33 businesses have been destroyed. Estimates are that it may take over 100 years for some of the burned acreage to return to normal. In short, Mr. Speaker, it has been a devastating disaster.

Thankfully, no lives have been lost. However, 95 people, mostly firefighters, have been injured. Many of the firefighters who are on the front lines are not even from Florida. Approximately 7000 first responders from 46 states have volunteered their time, effort and talent to help the people of Florida. From Maryland alone, over 200 firefighters left their homes and loved ones to battle fires that were threatening land they did not own and to protect people they have never met.

For anyone not familiar with the fire service it may sound amazing that firefighters from across the country would drop everything to help the people of Florida. However, it does not surprise me at all. In fire companies across the country firefighters do just that, day in and day out. They do not do it for money and they do not do it for fame. They do it because, Mr. Speaker, they are committed to bettering their community and serving their fellow citizens.

Mr. Speaker, in acknowledging their service, I would like to include in the RECORD a complete listing of all the Maryland firefighters who volunteered to battle the Florida wildfires.

Anne Arundel County: John Devine, William Evans, Tom Frankhow, David Owen; Baltimore County: Adam Bosely, Bob Bury, Andy Caladerge, Matt Fox, Charles Janney, Dawn Kaszek, Robert Lepin, William McCabe, Richard Muth, Randy Perky, Ron Sheldon, Claude Melcher; Calvert County: Ted Allen, Mike Cox, Joe Deltacame, John Gott, Gary Harrison, Rob Helms, Jean Miller, Seth Randelma, Rob Schultbur, Walter Taylor, Donnell Wallace, Kevin Whittington; Caroline County: Richard Baker, Steven Chaall, Donald Hill, Wayne Winchester, Heath Wroten; Carrol County: Robert Schoenber; Cecil County: Kevin Bell, Jim Bennett, Shawn Buckanian, Robert Caffrey, Adam Dommenic, Josh Eller, Mike Fifona, John Graham, Mike Lipka Jr., Mike Lipka Sr., Ron Miller, Aaron Neely, Tom Scott, John Smith, John Upp; Charles County: Tim Allen, Michael Carroll, Paul Donaldson, Trevor Forrestor, Christi Grey, Brian Harrison, Jimmy Herbert, Wayne Higdon, Justin Hutchinson, Scott Hutchinson, Dick Irby, Jimmy Jackson, David Jenkins, Tom Jenkins, Tom Kellom, Chris Maddox, Tim Massey, Chris Mattingly, Brent O'Neil, Billy Pimer, Duane Rice Jr., Tony Rose, Billie Stevens, Chris Thompson; Dorchester County: Thomas Coghlan, Brad Dickerson; Frederick County: Paul Cullen, Claude Droneberg, Paul Hackey, Mike Hayter, Jeremy Hutton, Chris Scneel, Brandyn Thomas; Harford County: Chris Rach; Howard County: Jeff Hooasis, Tom Norman, Robert Freeman, David Moynihan, George Pearman; Kent County: Randy Barr, Matt Burge, Chris Carter, Bobby Helmer, Jimmy Kirby, Antonio Leonardi; Maryland Department of Natural Resources: Kenneth Jolly; MEMA: Warren Campbell; Montgomery County: Jeff Bennett, Mark Brown, Paul Brubaker, Jay Bureau, John Collins, Seth Condon, Tim Dowd, Wayne Drapean, Bill Dunn, Jack Ferguson, Sarah Fields, Pam Foltz, Robert Golian, Mark Hopkins, Ken Knopp, Larry Lease, Drew Lermond, Bill Lucas, Mike McAdam, William McLaghtin, Peggy Miller, Joseph Mills, Rick Morrisey, Jim Roy, Barry Smith, Rick Tatum, Justin Thorew, Gina Young; Prince George's County: Ernie Alsop, Robert Bramhall, William Corrigan, Bill Edwards, Patrick Feehley, Shannon Foster, Scott Glazer, William Hinton, Abree Johnson, Gary Kirchbaum, Thomas Maddox, Angela Moore, Chris Ranson, Floyd Richerson, Larry Robey, Fred Sheckles, Jack Spencer, Ed Torrence, Michael Warhurst, Shannon Welch; Queen Anne County: Eric Arcane, Robbie Dixon, Sarah Holloman, Greg Johnston, Andy Robertson, David Steel; Somerset County: David Barnett, Brian Barnette, Grover Chatham, Chris Holland, Steve Mitchell, Scott Sturgis; St. Mary's County: Kevin Bannagan, Gerard Campbell, Andy Cather, Jim Foster, Boots Garner, George Gatton, Steve Gobson, Billy Hill, Bill Houle, Michael Huseman, Billy Long, C.J. Mattingly, George McKay, LeRoy Owen, and Francis Raley.

CELEBRATING THE 25TH ANNIVERSARY OF THE MASTERWORKS CHORALE

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. COSTELLO. Mr. Speaker, I rise today in honor of the 25th Anniversary concert season of the Masterworks Chorale in Belleville, Illinois and its founder and director, Dr. A. Dennis Sparger.

Masterworks Chorale began under the sponsorship of Belleville Area College as the BAC Community Chorus. In 1982, the chorus left the college and officially incorporated under the name Masterworks Chorale, Inc. The 65 members of the adult chorus must audition for their place in the group. The chorus has been awarded the first place gold medallion at the Great American Choral Festival competition, made the European Tour twice, sung with the St. Louis Symphony under the direction of Leonard Slatkin, and has been a major force in the arts in our community.

Dr. Sparger recently retired from the music faculty at Belleville Area College, where he served for 32 years. Under his baton, the Chorale has performed more than fifty major choral-orchestral works in the past 25 years. In addition to founding the Chorale, Dr. Sparger also founded the Masterworks Children's Chorus and was their director until 1990. In 1986, he was appointed music director and conductor of the Bach Society of St. Louis.

A native of Chicago, Dr. Sparger began musical studies at the age of eight and began conducting at sixteen. He earned both his bachelor's and master's degrees from Eastern Illinois University. In 1981, he was awarded a Doctor of Musical Arts degrees in conducting from the University of Illinois, where he studied under Harold Decker. According to Dr. Sparger, Harold Decker is responsible for teaching about 75 doctoral candidates during his career. These students have taken position at major universities and with symphonies around the nation. Dr. Sparger is the only one who chose to make his career at a community college. All of this makes Dr. Sparger's selection for the Harold A. Decker Choral Award, presented to him by the American Choral Directors Association of Illinois earlier this year, even more meaningful.

Masterworks Chorale is a member of the Arts and Education Council of Greater St. Louis and a member of Chorus America, the association of professional vocal ensembles. This special 25th anniversary concert is partially supported by a grant from the Illinois Arts Council.

Mr. Speaker, I ask my colleagues to join me in congratulating Dennis Sparger and Masterworks Chorale for 25 years of wonderful music.

TRIBUTE TO THE HONORABLE LOUIS STOKES

SPEECH OF

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SCOTT. Mr. Speaker, while I rejoice in the opportunity to sing the praises of my friend and mentor, the Honorable LOU STOKES, the Dean of the Ohio Delegation, I am saddened by the realization that he will be retiring from this body at the end of this Congress. His departure from Congress will constitute a great personal loss to me and a great loss to the nation.

LOU STOKES' Congressional contributions were legendary to me long before I came to the Congress. His successes toward developing health programs for underserved and disadvantaged populations were well known to me and to health care workers throughout the country. During my 15 years in the Virginia legislature, I was active in developing programs to prevent infant mortality. LOU STOKES was our champion in the Congress on this issue then, and since I came to the Congress has continued to be our champion on the issue.

I serve with Representative STOKES on the Congressional Black Caucus' Health Braintrust. Year after year, he has provided absolutely stellar leadership as Chairman of the Braintrust by focusing the attention of the Congress and the nation on efforts to improve the health care status of disadvantaged populations. Not only will he leave a legacy of legislative accomplishments such as the Minority and Disadvantaged Health Care Improvement Act, but his annual Spring and Fall Health Braintrust programs will leave a record, that will be difficult for us to maintain, of pulling together the sharpest minds and most accomplished people to focus on pressing health concerns.

Mr. Speaker, in all of his endeavors, LOU STOKES has shown himself to be the consummate professional, a distinguished legislator, and an outstanding human being. I will miss you, LOU. I thank you for all you done for me, for this Congress and for this nation. God bless you Representative LOUIS STOKES, and Godspeed on your future endeavors.

HONORING THE NORTH CAROLINA COOPERATIVE BRIGHT IDEAS PROGRAM

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. ETHERIDGE. Mr. Speaker, as a former Superintendent of Public Instruction for the State of North Carolina, I closely follow matters related to the quality of public education in my district and state. Nothing gives me more pleasure than acknowledging a joint public-private initiative at the local level that is having a positive impact on the quality of classroom instruction.

In North Carolina, our community-minded electric cooperatives have a grant program for teachers called Bright Ideas. It was established in 1994 while I was Superintendent to improve classroom instruction by encouraging innovative teaching techniques. Bright Ideas has been a great success. Bright Ideas awards up to $2,000 to teachers K–12 with no restrictions on subject matter. This year they received almost 2,000 applications and made more than 400 grants.

North Carolina's electric cooperatives, which provide power to 22 percent of my state's population and operate in 93 out of the 100 counties, made an early decision to consider any school's application regardless of its power supplier.

In 1994, North Carolina's electric cooperatives authorized $225,000 a year for a statewide Bright Ideas Program, which would have put the program over the $1,000,000 mark by the 1998–99 school year. However, through generous additional funding in their respective areas, the cooperatives were able to reach $1 million a full year ahead of schedule. I congratulate them for their achievement.

Chuck Terrill, Executive Vice President and CEO of the North Carolina Electric Membership Corporation, says that the program will break $1.5 million by the end of the 1998–99 school year, making the title of "Bright Ideas Classroom" a badge of honor in our schools.

In my district I have many cooperatives and thousands of cooperative members whom I count as friends. I salute these fine corporate citizens for their extraordinary contributions; more than $1 million benefiting more than 400,000 students and still counting.

IN TRIBUTE

SPEECH OF

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. ADERHOLT. Mr. Speaker, today we continue to mourn the loss of two of the finest men this Capitol has known. John 15:13 states that, "Greater love hath no man than this, that a man lay down his life for his friends." Had John Gibson and J.J. Chestnut not put themselves in harm's way, the lives of many would have been lost in last week's tragic event. These two men of courage laid down their lives so that their friends, coworkers and tourists visiting from around the world would be safe. We are truly blessed to have men and women of such noble character and bravery serving on the Capitol Police force.

As thousands of visitors came together yesterday to walk through the Capitol Rotunda to pay their respects to these men of courage, I realized that we are only able to safely visit this building which is a symbol of freedom because of the service of the many members of law enforcement we have here in Washington. We must never take for granted those who serve to protect and preserve the freedoms that we enjoy here in the United States Capitol, and across this nation.

My prayers go out to the families of these two heroes who died that we might live. The memory of their actions will not be soon forgotten.

AN OPEN LETTER TO PRESIDENT CLINTON, VICE PRESIDENT GORE AND THE OHIO CONGRESSIONAL DELEGATION

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. NEY. Mr. Speaker, I rise today to submit this open letter on behalf of many associations and federations from the state of Ohio:

We respectfully and urgently request you to reject efforts to accept the United Nations treaty signed in Rio de Janeiro, Brazil and further revised in Kyoto, Japan that deals with greenhouse gas emissions.

Acceptance of this treaty would bind the U.S. to restrict fossil fuels (coal, natural gas and petroleum) use which together provide 80% of America's energy, while exempting 2.5 billion people in foreign countries from these reductions. These reductions will greatly force up the price of coal, natural gas, gasoline and electricity. Ohioans' cost for each of these necessities could rise by roughly 50% by 2010.

The result will be anti-family; as families are forced to pay much more for the basic necessity of electricity, anti-farm; as the cost of farming and supplies soar, anti-jobs; as 56,000 Ohio-based jobs are lost, many going to the exempted foreign countries. All of this will devastate Americans and Ohioans in particular. Economic estimates suggest by the year 2010, Ohioans will pay $350 more for every man, woman and child in our state. This means we will together annually pay $3.8 billion more to heat our homes, run a business, or care for our loved ones. This will be especially harsh and unfair to Ohio seniors, the poor and others.

Global warming warrants thoughtful study but it does not make sense to strangle 80% of America's energy foundation while over half the world's population is exempted from this treaty's reach. Ohioans deserve better than this.

Please don't force Ohio families, seniors, those on the edge of poverty, our farmers and businesses to be saddled with this United Nations treaty.

Joel Hastings, Director of Local Affairs, Ohio Farm Bureau Federation, Columbus—192,000 members; Kelly McGivern, Director of Environment and Health Care Policy, Ohio Chamber of Commerce, Columbus—5,000 members; John C. Mahaney, Jr., President, Ohio Council of Retail Merchants, Columbus—3,000+ members; Alon Apel, Director of Government Affairs, Ohio Pharmacists Association, Dublin—4,000 members; Tom King, Executive Vice President, Ohio Trucking Association, Columbus—1,000 members; Sherry Weisgarber, Managing Director, Ohio Aggregates Association, Columbus—197 members; Ruth Ann Wilson, Executive Secretary, Ohio Assoc. of Meat Processors, Delaware—500 members; Gary A. Murdock, President, Ohio Valley Automotive Aftermarket Association, Hilliard—1,000 members; Roger P. Jones, President, Ohio Ready Mixed, Concrete Association, Columbus—210 members companies; Michael H. Cochran, Executive Director, Ohio Twp Assoc., Columbus—8,600 members; Holly Saelens, Director—Public Policy Services, The Ohio Manufacturers' Association, Columbus; Sheila Adams, President/CEO, Urban League of Greater Cincinnati, Cincinnati—700 members; Bernard Shoemaker, President (Master), Ohio State Grange, Columbus—17,000 members; Bryan Bucklew, Director-Governmental Affairs, Dayton Area Chamber of Commerce, Dayton—3,350 members; C. Clark Street, Executive Vice President, Ohio Contractors Association, Columbus—585 members; James H. Lee, Executive Director, Ohio Forestry Association, Columbus; Susie Calhoon, Executive Director, Ohio Soybean Council, Columbus—1,500 members; Jack Heavenridge, Executive Vice President, Ohio Poultry Association, Columbus—200 members

David M. Kelly, General Manager, Ohio Potato Growers Association; Tim Williams, Executive Vice President, Ohio Manufactured Housing Association, Dublin—500 members; David L. Kahler, Executive Vice President/CEO, Ohio Equipment Distributors Association, Dublin, 121 members/2,420 employees; Michael L. Wagner, Executive Director, Ohio Corn Growers Association, Marion—1,800 members; Jim Silvania, Executive Director, Ohio Association Security & Investigative Services, Columbus—33,000 members; John R. Langhirt, President, Mid-Ohio Electric Co., Columbus; Carmine J. Torio, Executive Vice President, Home Builders Association of Great Akron, 750 member Companies, 10,0000 employees; Robert D. Horne, President, United Steel Workers of America, Local 5L—Akron, 175 members; Daniel L. Neff, Executive Director, Ohio Mid-Eastern Governments Association, Cambridge, serves a 10 county area; Judy R. Bastian, President, Ohio Glass Association, Cleveland—250 members; Roger Tedrick, Secretary/Treasurer, Ohio Dairy Farmers Federation, Gahanna—1,000 members; Robert T. Lambert, Executive Vice President, Ohio Auto and Truck Recyclers Association, Columbus; Donald L. Buckley, President/Secretary, Midwest Dairy Foods Association, Inc., Columbus—52 companies; Amira F. Gohara, Vice President for Academic Affairs, Medical College of Ohio at Toledo, Toledo—3,400 members; Peggy J. Smith, Executive Director, Ohio Chemical Council, Columbus—100 members; Patricia R. Cooksey, President, True Blue Patriots, Cincinnati—10,000 members; Thomas L. Hart, Executive Director, The Building Industry Association of Central Ohio, Columbus—1,226 members; Richard Greenwalt, Camp Secretary, Sons of Union Veterans of the Civil War-McClellen Camp, No. 91—Alliance;

Joseph Divito, Financial Secretary & Treasurer, Iron Workers Local Union No. 172, Columbus—723 members; Sue Yang, Program Coordinator, International Community Empowerment Project A.S.I.A., Inc., Akron—50 families served; Rochelle Peoples, Director of Volunteers, Habitat for Humanity of Greater Akron, Akron—100 volunteer members; Carole Richards, President, Creative Education Institute, Chagrin Falls—50 people served; Mike P. Reilly, President-Elect, Cincinnati Master Plumbers Assoc., Cincinnati—80 contractors; W. Paul Kilway, Jr., M.D., Summit County Medical Society, Akron, 460 members; David L. Kahler, Executive Vice President/CEO, Ohio-Michigan Equipment Dealer Association, Dublin, 865 members/14,272 employees; Edward Tumulty, Regional Director, Precast/Prestressed Concrete Institute, Central Region Columbus; Russell K. Tippett, Dean, School of Natural Resources, Hocking College, Nelsonville; Randy Smith, Financial Secretary, Glass, Molders, Pottery, Plastic and Allied Workers Local 7A, Tiffin—573 members; Margaret F. Planton, Mayor, City of Chillicothe, 270 employees; Bill Hueckel, President, Central Ohio Flower Growers, Delaware—100 members; Hal Mullins, President, Central Ohio Chapter, Air Conditioning Contractors of America, Columbus—106 member companies; James Tann, President, Brick Institute of America, Mid East Region, North Canton; Ronald L. Kolbash, President, Ohio Mining & Reclamation Association, Columbus, 121 member companies; Richard C. Hannon, Jr., Chairman of Legislative Committee, Board Member, Carroll County Chamber of Commerce, Carrollton—150 members; John Nave, Director, Associated Risk Managers of Ohio, Powell; Jim Frost, Secretary/Treasurer, Akron/Medina County Labor Council AFL-CIO, Akron—18,000 members.

PATIENT PROTECTION ACT OF 1998

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. PAUL. Mr. Speaker, I appreciate the opportunity to explain why I cannot vote for the Patient Protection Act (H.R. 4250). However, I would first like to express my support for two of the bill's provisions, relating to Medical Savings Accounts and relating to the proposed national health ID.

Earlier this week I introduced legislation, the Patient Privacy Act (H.R. 4281), to repeal those sections of the Health Insurance Portability and Accountability Act of 1996 that authorized the creation of a national medical ID. I believe that the increasing trend toward allowing the federal government to track Americans through national ID cards and numbers represents one of the most serious threats to liberty we are facing. The scheme to create a national medical ID to enter each person's medical history into a national data base not only threatens civil liberties but it undermines the physician-patient relationship, the cornerstone of good medical practice. Oftentimes, effective treatment depends on a patient's ability to place absolute trust in his or her doctor, a trust that would be severely eroded if the patient knew that any and all information given their doctor could be placed in a data base accessible by anyone who knows the patient's "unique personal identifier."

While I was not here in 1996 when the medical ID was authorized, it is my understanding that this provision was part of a large bill rushed through Congress without much debate. I am glad that Congress has decided to at least take a second look at this proposal and its ramifications. I am quite confident that, after Congress hears from the millions of Americans who object to a national ID, my colleagues will do the right thing and pass legislation forbidding the federal government from instituting a "uniform standard health identifier."

Mr. Speaker, I am also pleased that Congress is addressing the subject of health care in America, for the American health care system does need reform. Too many Americans lack access to quality health care while millions more find their access to medical care blocked by a "gatekeeper," an employee of an insurance company or a Health Maintenance Organization (HMO) who has the authority to overrule the treatment decisions of physicians!

An an OB/GYN with more than 30 years experience, I find it outrageous that any insurance company bureaucrat could presume to stand between a doctor and a patient. However, in order to properly fix the problem, we must understand its roots. The problems with American health care coverage are rooted in the American tax system, which provides incentives for employers to offer first-dollar insurance benefits to their employees, while providing no incentives for individuals to attempt to control their own health care costs. Because "he who pays the piper calls the tune," it is inevitable that those paying the bill would eventually seize control over personal health care choices as a means of controlling costs.

Because this problem was created by distortions in the health care market that took control of the health care dollar away from the consumer, the best solution to this problem is to put control of the health care dollar back into the hands of the consumer. We also need to rethink the whole idea of first-dollar insurance coverage for every medical expense, no matter how inexpensive. Americans would be more satisfied with the health care system if they could pay for their routine expenses with their own funds, relying on insurance for catastrophic events, such as cancer.

An excellent way of moving toward a health care system where the consumer is in charge is through Medical Savings Accounts (MSA's). I enthusiastically endorse those provisions of this bill that expand access to MSA's. It may be no exaggeration to say that MSA's are vital to preserving the private practice of medicine.

MSA's provide consumers the freedom to find high-quality health care at a reasonable cost. MSA's allow consumers to benefit when they economize in choosing health care so they will be more likely to make informed health care decisions such as seeking preventive care and, when possible, negotiate with their providers for the lowest possible costs. Most importantly, MSA's are the best means available to preserve the patient's right to choose their doctor and the treatment that best meets their needs, free from interference by an insurance company or an HMO.

Mr. Speaker, all those concerned with empowering patients should endorse H.R. 4250's provisions lifting all caps on how many Americans may purchase an MSA and repealing federal regulations that discourage Americans from using MSA's. For example, a provision in the tax code limits the monthly contribution to the MSA to one-twentieth of the MSA's yearly amount. Thus, MSA holders have a small portion of their yearly contribution accessible to them in the early months of the year. The Patient Protection Act allows individuals to make the full contribution to their MSA at any time of the year, so someone who establishes an MSA in January does not have to worry if they get sick in February.

This legislation also allows both employers and employees to contribute to an employee's MSA. It lifts the arbitrary caps on how one can obtain MSA's and expands the limits on the MSA deductible. Also it provides that possession of an MSA satisfies all mandated benefits laws as long as individuals have the freedom to purchase those benefits with their MSA.

However, as much as I support H.R. 4250's expansion of MSA's, I equally object to those portions of the bill placing new federal standards on employer offered health care plans. Proponents of these standards claim that they will not raise cost by more than a small percentage point. However, even an increase of a small percentage point could force many marginal small businesses to stop offering health care for their employees, thus causing millions of Americans to lose their health insurance. This will then lead to a new round of government intervention. Unlike Medical Savings Accounts which remove the HMO bureaucracy currently standing between physicians and patients, the so-called patient protections portions of this bill add a new layer of government-imposed bureaucracy. For example, H.R. 4250 guarantees each patient the right to external and internal review of insurance company's decisions. However, this does not empower patients to make their own decisions. If both external and internal review turn down a patient's request for treatment, the average patient will have no choice but to accept the insurance companies decision. Furthermore, anyone who has ever tried to navigate through a government-controlled "appeals process" has reason to be skeptical of the claims that the review process will be completed in less than three days. Imposing new levels of bureaucracy on HMO's is a poor substitute for returning to the American people the ability to decide for themselves, in consultation with their care giver, what treatments are best for them. Medical Savings Accounts are the best patient protection.

Perhaps the biggest danger these regulations pose is ratification of the principle that guaranteeing a patients' access to physicians is the proper role for the government, thus opening the door for further federal control of the patient-physician relationship. I ask my physician-colleagues who support this regulation, once we have accepted the notion that federal government can ensure patients have access to our services, what defense can we offer when the government places new regulations and conditions on that access?

I am also concerned that this bill further tramples upon state automony by further preempting their ability to regulate HMO's and health care plans. Under the 10th amendment, states should be able to set standards for organizations such as HMO's without interference from the federal government. I am disappointed that we did not get an opportunity to debate Mr. BRADY's amendment that would have preserved the authority of states in this area.

In conclusion, Mr. Speaker, while the Patient Protection Act takes some good steps toward placing patients back in control of the health care system, it also furthers the federal role in overseeing the health system. It is my belief that the unintended, but inevitable, consequence of this bill, will require Congress to return to the issue of health care reform in a few years. I hope Congress gets it right next time.

PERSONAL EXPLANATION

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mrs. CLAYTON. Mr. Speaker, on Wednesday morning July 29, 1998 I was in my district attending to official business and as a result missed two roll call votes.

Had I been present, the following is how I would have voted:

Rollcall No. 343 (the "Rule" on H.R. 629) "Aye."

Rollcall No. 344 (final passage of H.R. 629) "Aye."

INTRODUCTION OF THE JACOB JOSEPH CHESTNUT-JOHN MICHAEL GIBSON CAPITOL VISITOR CENTER ACT OF 1998

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Ms. NORTON. Mr. Speaker, today, I am introducing the Jacob Joseph Chestnut-John Michael Gibson United States Capitol Visitor Center Act of 1998 (Chestnut-Gibson Act). I feel a special obligation to do so because I represent the District of Columbia in which the Capitol is located. I also introduce the bill because the residents of the District have a special relationship with the Capitol Police. In 1992, when there was a large spike in crime in the District, Congress passed the United States Capitol Police Jurisdiction Act, a bill I introduced authorizing the Capitol Police to patrol parts of the Capitol Hill residential community closest to the Capitol where various facilities of the Capitol are located. Capitol Police officers were not only willing; they were enthusiastic to use their excellent training and professionalism for the benefit of residents and the many tourists and visitors whose safety might be compromised by having to travel through high-crime areas in order to get to the Capitol.

My bill authorizes the Architect of the Capitol "to plan, construct, equip, administer, and maintain a Capitol Visitor Center under the East Plaza of the Capitol" grounds. The primary purpose of the bill is to increase public safety and security. A second purpose is to provide a place to welcome visitors who are seeking tours, taking into account their health and comfort. To guard against excessive costs and to obtain quick action, the bill requires the Architect to consider existing and alternative plans for a visitor center and to submit "a report containing the plans and designs" within 120 days.

I have supported a Capitol Visitor Center since it was first extensively discussed in 1991. During this decade of high deficits, the reluctance of Congress to appropriate funds for such a center has perhaps been understandable, until last Friday. No one knows whether Officer Chestnut or Detective Gibson or, for that matter, any other officer or individual would have been spared had a visitor center been in place. What we do know is that our nineteenth century Capitol was not built with anything like today's security hazards in mind. According to the Capitol Police and the United States Capitol Police Board, a visitor center would provide significant distance between the Capitol and visitors, and for a host of reasons they have documented, would make the Capitol more secure.

Our foremost obligation is to protect all who visit or work here and to spare no legitimate consideration in protecting the United States Capitol. The Capitol is a temple of democracy and is the most important symbol of the open society in which we live. It is more so than the White House, in part because the President's workplace is also a residence and cannot be entirely open. However, the Capitol symbolizes our free and open society not only because it is accessible but also because of what transpires here. It is here that the people come to petition their government, to lobby and to persuade us, and ultimately to discharge us if we stray too far from their democratic demands. Thus, we neither have nor would we want the option to make the Capitol more difficult to access. After last Friday's tragedy, we have an obligation to demonstrate that security is not inconsistent with democracy.

There is a second reason why this bill is necessary. Visitors are safe when they come to the Capitol, but the conditions they encounter do not ensure their health, convenience, and cordiality, nor afford them the welcome to which they are entitled. Members address constituents seated on stone steps outdoors. In the blistering heat and merciless cold of Washington, visitors wait in line outdoors to tour the Capitol. During this summer, the hottest on record in the United States, it has not been uncommon for tourists to faint during lengthy waits on line and then be rushed inside to be treated by our physicians. Even if the Capitol had not incurred a terrible tragedy, we would be in need of a more civil way to welcome the people we represent.

I will seek cosponsors for this bill at once. I have not waited to do so because I believe a bill requiring plans for a visitor center is necessary to provide the assurance of safety and comfort the public has a right to demand. We must do more than try to recover from the shock of the invasion of the Capitol by a gunman. We must do more than mourn the irreplaceable loss of two fine men. We must do what we can and we must do it now.

PERSONAL EXPLANATION

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Ms. MILLENDER-McDONALD. Mr. Speaker, on Wednesday, July 29, 1998, I was unavoidably detained while conducting official business and missed rollcall vote No. 344. Had I been present I would have voted "yea."

SHAME ON THE GOVERNMENT OF GRENADA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Ms. ROS-LEHTINEN. Mr. Speaker, it was 15 years ago that American soldiers liberated the small island of Grenada from the authoritarian government that, under the direction of Cuban dictator Fidel Castro, had overtaken that nation.

During the time the Castro regime manipulated the government of the island in an attempt to expand communism in the Americas, the people of Grenada lost all semblance of civil liberties and human rights that was then returned to them.

Unfortunately, it seems that the present Grenadian government has forgotten the repression brought upon their country by the Castro regime and it has invited the dictator to visit the island this week.

The visit comes as the nations members of the Caribbean Economic Community (CARICOM) continue to flirt with the Cuban tyrant, who desperately wants to enter the organization to obtain economic benefits that will strengthen his oppressive regime.

How sad that after 19 American soldiers died to liberate Grenada, that island's government now receives, with open arms, the dictator who orchestrated the repression of that island's citizens.

Shame on the government of Grenada!

TRIBUTE TO PEGGY CALDWELL BEESON

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. RIGGS. Mr. Speaker, I rise today to honor the life of Peggy Caldwell Beeson, who passed away this month. I, along with many other Northern Californians, cherished the friendship of Peggy who, with her husband Phillip, contributed greatly to our community.

Peggy had a special talent for sharing her visions with others and making them want to be a part of her ideas. This talent for consensus building and motivating others allowed her to accomplish things that most people would never attempt.

Over the years, Peggy was involved with a number of community action committees, including the Parent Teacher Association, the Lake Elephants Club, and the Konocti Lioness Club. She also served as Executive Director for Californians for a Drug Free Youth, President of the Conejo Republican Action Committee, and Director of the Riviera Yacht and Golf Club.

Peggy and Phillip raised four daughters: Karen, Lindsay, Cynthia, and Heidi. She also is survived by 13 grandchildren and two great-grandchildren.

Peggy Beeson's dedication to community and family should be held as a model for others. I have personally seen the results of Peggy's efforts and was impressed time and again with her hard work and determination. Her vision, innovation and accomplishments will benefit the people of Lake County for a long time.

CELEBRATING THE 175TH ANNIVERSARY OF THE GREAT GEAUGA COUNTY FAIR

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. BROWN of Ohio. Mr. Speaker, I rise to recognize and congratulate the people of Geauga County on the 175th anniversary of the Great Geauga County Fair. This special gathering has always been a time for people and families throughout Ohio to come together. It's also a wonderful way to celebrate community and the values we hold dear.

The Great Geauga County Fair brings to mind homemade pies, baking contests, 4–H club activities, the annual petting zoo, music, and pony rides for children. The Fair is also about celebrating the locally produced maple syrup, used in nearly every home throughout the region. Finally, the Fair provides a special moment for the community to honor area veterans and their service to Ohio and the nation.

The history of the Great Geauga County Fair is as rich as the Fair itself. In 1823, a group of pioneers, some of whom were among the first settlers in Ohio's Western Reserve, formed one of our state's first trade societies—called the Geauga County Agricultural and Manufacturing Society. The society was formed to promote the region's growing farming and manufacturing industries. To display and share the bounty from their farms, society members organized an annual county-wide fair. While the early Fairs alternated between the towns of Burton and Chardon, the Fair has been held in Burton at the County Fairgrounds since the mid-1800s.

This year's Fair also celebrates another birthday. Known as the oldest and only all-volunteer band in the Buckeye State, the Great Geauga County Fair Band turns 60 this year. To most people who go to the Fair today, the Band is a major presence. In a fitting tribute to this milestone, the band this year will play with three of the original "charter" band members.

Labor Day is always a bittersweet time. For kids, the holiday means back to school; for parents, it means a welcome day off to enjoy the good weather. Labor Day also means Fairtime—the "grand finale" to summertime in Geauga County. Without doubt, the Fair is one of our region's most important annual community events—for families and all residents of northeast Ohio. In fact, the "Great" in the Fair's name was officially added early this century to signify the Fair's senior standing as the "Great Granddaddy" of Ohio's county fairs.

The Great Geauga County Fair's motto says it all, "Something for Everyone Since 1823." On the 175th anniversary of the Great Geauga County Fair, I'm proud to represent the people of Geauga County, and proud to be a part of this community.

THE ORPHAN FOUNDATION: MAKING A DIFFERENCE IN THE LIVES OF YOUTH

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. WATTS of Oklahoma. Mr. Speaker, in the Tuesday, July 21, 1998 copy of the Washington Post, there is a front page story about how difficult it is to survive in society when you're an orphan and you turn 18. I would like to insert this article in the RECORD, Mr. Speaker, without objection. According to this article, in many states, when orphans turn 18 years of age, they are dropped from the state's child protection system. This means they have to pay their own rent, buy their own groceries and manage their own budget. Without parents to teach these orphans the importance of fiscal responsibility, and to provide for their needs when they do run out of money, it should not be a surprise that 4 out of 10 of the nation's homeless are orphans.

There is one statement in the Post article that sticks out in my mind. That statement reads, "* * * there is little public attention focused on how to keep foster children from migrating from their bureaucratic family to the streets." I agree that the public could be better informed about the problems many orphans face, but I wish the article had listed a group I work with called the Orphan Foundation of America as part of the solution. OFA has worked hard over the last two decades to provide financial assistance and counseling to orphans, help which has made a tangible difference in the lives of many.

Founded in 1981, the Orphan Foundation has awarded over $500,000 in scholarships to orphans in 44 states through its OLIVER Project, with the help of generous private and corporate donors such as: American Airlines; Gateway Computers; Kraft Foods, Inc.; General Electric; Prudential Securities; AT&T; J.C. Penney Company; Bristol Myers-Squibb Company; Jones, Day, Reavis and Pogue; Lockheed Martin; Fannie Mae; Lucent Technologies, Northrop Grumman; Time Warner, Inc.; The Limited, Inc.; Williams & Jensen; ESOP; and Kerr-MeGee Corporation. OFA also teaches orphans how to successfully manage their money and other basic life skills they will need to know to survive in an unforgiving world, and does this through volunteers in their communities.

Most of all, OFA and its tireless director, Eileen McCaffrey, provide orphans with something they receive all too little—an ear to talk to when they need encouragement, and a little love and understanding. Most of the staff is all volunteer, a true sign of their dedication. I have had the pleasure of meeting and talking with several orphans whose lives have been impacted by OFA, and these youth are quick to point to the organization as one big reason why they have a job and a good education, as opposed to being locked up in jail, or being forced to sleep in their car.

The Orphan Foundation receives no state or federal funding, and yet it has managed to improve the lives of orphans across America. To learn more about OFA, you can visit their web page at www.orphan.org. The Orphan Foundation of America is a great cause well worth assisting, and a testimony of the power of Americans who care.

[From the Washington Post, July 21, 1998]

At 18, It's Sink or Swim—For Ex-Foster Children Transition Is Difficult

(By Barbara Vobejda)

CINCINNATI—Seventeen-year-old Carrie Lucas has spent the past two years in the embrace of the state. Her mother was mentally ill, her father in jail, and Ohio's child protection officials considered it their business to place Carrie in a safe foster home.

Now she's about to be dropped. At the toll of her 18th birthday next spring, Carrie will be released from the state's child protection system. The federal and state bureaucracies that fashioned themselves into a substitute family will declare themselves done. And like 20,000 other young people across the country each year, Carrie will be left to pay her own rent, fill her own refrigerator, manage her own budget. In essence, she will be expected to become her own parent.

"It's sort of scary to think I have to do this on my own," Carrie said. "I don't want to think about it too much."

If ever there was proof that, for many children, the foster care system does not offer a stable, surrogate family, it comes at the point they turn 18. The day the money stops, the care stops too.

While a minority of teenagers stay on for some time with their foster families, most grow up knowing exactly when their funding will end. They accept that they will be forced to leave on or near that birthday, knowing they'll be replaced by a younger child, who comes with money attached. If the foster families had wanted to make a permanent commitment to one child, experts say, they would have adopted. Most don't.

"We can't dump them fast enough at 18," said Robin Nixon, director of youth services at the Child Welfare League of America, referring to the federal-state system that has responsibility for more than 500,000 children, most of them abused or neglected by their parents. "But kids in the average community are 25 and 26 years old before they're expected to live alone."

It is this large but mostly forgotten population of America's disadvantaged that social researchers now believe makes up a significant component of the nation's homeless population: One study found four of 10 of the nation's homeless are former foster children. Experts on homelessness say it is predictable—that young people isolated from their families often suffering from emotional problems, many of them former runaways, would end up in an emergency shelter. While some of these teenagers can go to grandparents or siblings for help, most are on their own.

The most recent study on the fate of foster children, conducted by University of Wisconsin researcher Mark Courtney, found that 12 to 18 months after they left foster care, just half were employed, one-third were receiving public assistance, one-fifth of the girls had given birth and more than one-quarter of the boys had been incarcerated.

Most of the teenagers had less than $250 in savings when they went out on their own.

Yet while other subgroups among the disenfranchised—the mentally ill, victims of domestic violence, welfare workers—have their vocal advocates in policy debates, there is little public attention focused on how to keep foster children from migrating from their bureaucratic family to the streets.

For Carrie Lucas, the journey to independence has already begun. It is both tangible and psychological. She is a 17-year-old constantly aware of a clock ticking. Nine more months of financial help. That's it. One minute she's sure she can handle it. The next, she's in a panic about what lies ahead.

The state will keep paying an agency more than $1,000 a month to help her until her 18th birthday. But after that, she can make no mistakes. Blow her rent money on a car, she may be sleeping in that car. Anger her landlord, she could be looking for a place to sleep. The same mistakes other kids make, but nobody to bail her out.

A month ago, she moved into a tiny attic apartment by herself. It is stifling, with no air conditioner, and the stairway leading up smells of cat urine. But she chose it because she loved the bathtub—an antique with claw feet and flowers painted on the side.

Carrie had trouble sleeping when she first moved in, frightened of the nighttime sounds echoing around her old building. But now she's more relaxed, cuddled on the living room carpet beside her worn, thrift store couch, or in her narrow bedroom, surrounded by stuffed toys.

When Carrie was 4, her grandmother took her in because Carrie's mother would stay away from home for long periods of time, leaving Carrie and her three siblings to care for themselves. Carrie grew up cooking for herself, washing her own clothes.

"I think my mother is mentally insane," Carrie said. "She was never reliable, always working, or out with whomever."

But Carrie's grandmother died of cancer two years ago, and the child protection system took over. Carrie moved in with a foster mother, a woman in her late sixties who had raised 10 children of her own. "Her message was, 'I'm here for you,'" Carrie said, "but there was distance between us."

Under the state's policy, her foster mother received more than $400 a month to keep Carrie, but that ended when Carrie asked to move out. She had heard of a program that would help her move into her own apartment, and her foster care money would go toward rent and utilities. So she left her foster mother's home and moved into her apartment. And since then, neither has picked up the phone to stay in touch.

In fact, Carrie says she's lucky. She lives in one of the few places around the country—Hamilton County, Ohio—where the child protection system places people as young as 16 in apartments to prepare them to live on their own. The program pays rent and sets up a savings account with a $60 weekly stipend—until she's 18.

Carrie likes living by herself. But already, her days play out with the rhythms of an adult, not a girl of 17.

This summer, she gets herself up at 6 each morning, eats a bowl of cereal and leaves her apartment by 7, catching a bus to work as an intern at a downtown bank, where she spends her days checking account numbers and ATM receipts. At 5 p.m., she heads home and fixes her own dinner. She is in bed by 9 p.m. On the weekends, she works a second job at a restaurant.

For now, she has $594 in savings, and in the fall, she'll return to finish her senior year in high school. The county and the judge overseeing her case could extend her funding long enough to help her get her high school diploma. But even if that happens, she'll be cut loose in less than a year.

She worries most about how she will pay her $240 monthly rent, or if she'll be able to afford college.

"I pray I can go to college," she said. "I'm going to try everything in my power to get a scholarship."

Some of the half-million children in the child protection system are allowed to stay with their biological families. But for those who are taken out of their homes, a combination of federal and state funds provides payments—averaging $431 a month for 16-year-olds—to foster families. The government may pay much more for group homes or residential treatment facilities, where many foster teens reside.

In 1986, after researchers began to notice the link between foster care and homelessness, Congress reacted by establishing an "independent living program" for states to help prepare foster children for life after 18. States can extend the program to older teens, which is common for those with disabilities.

While states have established these programs, many are cursory—occasional weekend seminars on housekeeping and budgeting, for example. And Courtney's study in Wisconsin found that one out of four teenagers had received no help in preparing for independence before they left the system.

In a handful of jurisdictions, however, welfare offices have gone to great lengths to ease this passage.

Los Angeles County, where about 800 young people leave foster care each year, has pulled together a package of subsidized housing, job training and some entry-level employment to help those moving out of the system.

And in Hamilton County, Ohio, where Carrie lives, dozens of teenagers, some as young as 16, are living in apartments as a transition to independence.

"Independent living without housing experience is like driver's education without the car," said Mark Kroner, who runs an independent living program for Lighthouse Youth Services, a nonprofit agency contracted by Hamilton County to put young people in apartments.

"You learn to budget food money when you go a day without food. You learn to budget utilities when you come home to a dark apartment," he said.

When young people come into his program, having been referred by county social workers or juvenile judges, they are matched with an adult on Kroner's staff who helps them find an apartment, shops with them for furniture and helps them move. The social worker stops by weekly, and the agency becomes the newest surrogate family.

But this family is dedicated to a daunting goal: sending a child, often one with emotional difficulties, out into the world.

It is not uncommon for Kroner to get a call saying one of his teenagers has been arrested. He has had kids knocking on a landlord's door asking for money just a week after moving in. Some have been kicked out of the program for failing to follow the rules.

Despite the problems, studies have found that placing kids in their own apartments is probably the most effective way to help them become independent.

One of Kroner's newest "clients," as the former foster children are called, is 16-year-old Ricky Bryant, who has dropped out of high school.

He lives in a second-floor, two-room apartment, where he sleeps on the living room floor. The dishes are carefully soaking in soapy water, and the refrigerator is virtually empty.

In just over a month of living on his own, it has become clear to Ricky that some things are beyond him: "My laundry. I cannot afford to do it. And keeping groceries in my house," he said. "I buy it and it's gone."

He says this on a Wednesday, five days until he gets his paycheck from Wendy's where he works nights. He has cereal in the cupboard, but no milk to pour on it. A loaf of bread, but nothing to put between the slices. He has, literally, one penny in cash.

When Kroner hears this, he gives Ricky a dollar and tells him to take the bus to the agency office and someone there will give him an advance on his weekly $60 stipend.

"I was afraid to ask," Ricky said. "I don't want to aggravate nobody."

Ricky landed here after years in the child welfare system, where he lived in 12 to 15 places, he estimates.

"My mom is the type who is a bar hopper," he said. "She was never home. She left us kids wherever." He was often home alone when he was just 7 and 8 years old. When his mother brought home a new boyfriend, and Ricky saw him abusing her, he left to live with his dad.

But that didn't work out either, "because I was a 'hood rat." And child protection workers moved Ricky to his first foster home. That began a long and sad list of fighting, running away, ending up in juvenile detention, until he was finally allowed this spring to return to his father.

That was the home Ricky had wished for all the years he was in foster care, he said. But three months later, in May, his father died of pulmonary disease.

Once again, a caseworker was ready to put him with a foster family, but Ricky wanted no more.

"I've never had a mother-father type deal in my life, so I wouldn't be ready for it," he said.

The next step for Ricky was his own apartment.

Last week, he sat huddled over a spiral notebook, the kind most kids his age would use for geography or math. He is no longer in any math classes, but the notebook is perfect for managing his money.

He budgets $144 for two weeks of groceries, $6 for "hygiene," $50 for "recreation," $20 for miscellaneous and $20 to pay back a debt. But when he totals up his expenses, he compares it with the paycheck he expects to get and realizes he's $3 short. He decides he will take it out of groceries.

He has written all this out carefully, underscoring the totals in pink highlighter.

Ricky has two years before his safety net is folded up.

He hopes he'll get a high school equivalency degree and a better job. In the meantime, he is learning to navigate the adult world. He lost his electricity in the middle of the night recently when he plugged in an old air conditioner he had found in the basement. But when he called the power company and heard they weren't going to send over any help right away, he told them he was blind. That got them over.

But for every victory, he discovers another trap. He is out of money because he blew a bundle on a Fourth of July cookout. He and his friends bought food and cases of soda pop and cigarettes, and that sent him way over budget.

"It was the first night of really enjoying myself," he said. It was Independence Day.

Struggling in the Adult World

Children leaving foster care at age 18, when federal and state funding ends, face a difficult future. Many suffer from emotional problems and are without financial help from relatives, making them vulnerable to homelessness and other problems. One study found that nearly four in 10 of the homeless population are former foster children.

12 to 8 months after leaving foster care system:

AVERAGE WEEKLY WAGE

$210 for males

$157 for females

PHYSICAL INJURY

26% of the males had been beaten or otherwise seriously injured.

15% of the females had been beaten.

10% of the females had been raped.

INCARCERATION

27% of the males had been incarcerated.

10% of the females had been incarcerated.

OTHER

33% were receiving some public assistance.

19% of the females had given birth to children.

37% had not finished high school.

50% were unemployed.

MENTAL HEALTH TREATMENT

Before leaving foster care: 47 percent were receiving some kind of counseling or medication for mental health problems.

After leaving foster care: 21 percent were receiving treatment, although there was no reduction in mental problems.

IN TRIBUTE

SPEECH OF

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. DELAY. Mr. Speaker, I want to place in the RECORD further tributes to the police officers who died protecting the United States Capitol last Friday.

SUSAN HIRSCHMAN, CHIEF OF STAFF TO THE MAJORITY WHIP

John Gibson made the ultimate sacrifice last Friday defending us. John's professional skills saved each of us. We will always remember John's sacrifice. But we will also remember the many other contributions John made to our lives. John's official duty was protecting Tom, the role that ultimately cost him his life. However, I will also remember that John had a quiet way of helping each of us do our job better. For example, as the person who spent more time with Tom than any of us, he was usually the first person to see when things weren't working right. Often, as I walked into the office passing his desk at the back door, he would look at me and simply say "Have you talked with the boss yet?"—gently letting me know that something was on Tom's mind. As we have gathered over the past few days to discuss how much we will miss John, I was not surprised that he had a similar way of helping each and every person in the office. John was a friend to each of us and he made our entire team work more effectively.

MONICA VEGAS KLADAKIS, MAJORITY WHIP STAFF

I got to know John Gibson better during the Republican Convention in 1996. I remember squeezing into a cab with him and a bunch of other staff people as we drove from place to place, and I thought, "He must really hate this." I had thought he was reserved and maybe even a little distant, but after that week I not only realized that he had a lot of patience to deal with all of us raucous staff people, I also discovered what a great sense of humor he had, how kind he was, and how much fun he was to be with.

And now he has saved my life. I feel an overwhelming sense of gratitude toward him, from a depth which I don't know if I've ever reached before. We can never thank him properly for what he did for us, but I hope he knows that we will never forget it.

I'll miss him.

SPECIAL AGENT BOB GLYNN AND DETECTIVE DOUG SHUGARS

Detective John M. Gibson and Officer Jacob J. Chestnut are American heroes. Their heroic actions and personal sacrifice was responsible for saving numerous lives and ensuring the freedoms which all American enjoy continue.

Officer Jacob J. Chestnut was a very professional member of the United States Capitol Police. The polite and friendly manner in which he did his job will always be remembered. Every evening as Congressman DeLay and his security would leave the U.S. Capitol, Officer Chestnut would always extend a friendly, "Have a good evening sir." This remark always made for a nice ending to a very long day.

Detective John M. Gibson was a cop's cop. Anytime John was working and there was some police action happening on Capitol Hill, John would be there. It might be standing in an intersection wearing a suit and directing traffic, assisting with the evacuation of a Congressional building that was on fire, or providing a backup for a fellow officer. John was always there. It was no surprise that John was involved in this kind of heroism. He would have had it no other way. John loved working the security detail for Congressman DeLay and took great pride in the assignment. John was considered to be a part of Congressman DeLay's staff and a very close friend to the DeLay family. John's unselfish actions and personal sacrifice ensured the safety and the lives of Congressman DeLay, his staff, and the public. John was an excellent police officer, a great partner and a wonderful friend. You will be missed.

There is an inscription on the National Police Memorial in Washington, D.C. by Vivian Eney, another survivor of a fallen Capitol Police Officer. This inscription is a fitting tribute to both Officer Chestnut and Detective Gibson: "It's not how these Officers died that made them heroes. It's how they lived."

KELLY POTTER, A TRUSTEE FOR THE D.C. LODGE OF THE FRATERNAL ORDER OF POLICE

I keep this poem on my refrigerator at home, which I thought was appropriate:

A PART OF AMERICA DIED

Somebody killed a policeman today, and
A part of America died.
A piece of our country he swore to protect
Will be buried with him at his side.
The suspect who shot him will stand up in court,
With counsel demanding his rights,
While a young widowed mother must
Work for her kids
And spend alone many nights.
The beat that he walked was a battlefield, too,
Just as if he'd gone off to war.
Though the flag of our nation won't fly at half mast,
To his name, they will add a gold star.
Yes, somebody killed a policeman today.
It happened in your town or mine.
While we slept in comfort behind our locked doors,
A cop put his life on the line.
Now his ghost walks a beat on a dark city street,
And he stands at each new rookie's side.
He answered the call and gave us his all,
And a part of America died.

SHAWNA BARNETT, FORMER DELAY STAFFER

May John's kind nature and selfless acts remind us always of our fallen hero. He is out of our grasp but so very close to our hearts.

TOM VINCENT, DELAY STAFFER

The biggest thing I remember was his sense of humor. I keep thinking of John taking a special effort to joke and tease Shawna Barnett and keep a smile on her face when she was down. It wasn't just Shawna he kept smiling, he made us all smile.

WILLY IMBODEN, DELAY STAFFER

When I reflect on John Gibson, I remember a man of quiet dignity, integrity, and resolve. He possessed a calming presence about him, his steady bearing lending a tranquil air to the constant chaos of Capitol Hill. In many ways, his 18 years of patient service to Congress and to the American people culminated finally in the greatest and noblest sacrifice, the laying down of his life for others. I am reminded of the Apostle Paul's words in the Epistle to the Philippians: 'Do nothing from selfishness or empty conceit, but with humility of mind let each of you regard one another as more important than himself; do not merely look out for your own personal interests, but also for the interests of others. Have this attitude in yourselves, which was also in Christ Jesus . . .' John Gibson's life and final sacrifice personified this ethic, and we are all humbly and eternally indebted to him."

IN MEMORY OF THE HONORABLE CARL S. SMITH OF HOUSTON, TEXAS

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. BENTSEN. Mr. Speaker, I rise to honor the memory of a legend in both Houston and Texas politics, my constituent, the Honorable Carl S. Smith, who died Tuesday afternoon, at the age of 89.

Carl S. Smith dedicated his life to public service. He was first appointed as Harris County Tax Assessor-Collector in 1947. He was elected in 1948 and re-elected an unprecedented 12 times, serving a total of 51 years. In fact, Carl was so dedicated to public service that he never considered his job "work." That's not just an assertion—Carl never retired. Throughout all these years, Carl helped Harris County residents meet their common obligations to one another and to their government by making it more convenient for citizens to pay taxes and register to vote. He was also responsible for car registration, alcohol license fees, and a host of state levies.

Carl lived a long and good life. He was born just as the combustible engine was first being applied in cars. He ended his life riding the crest of the information age. Not only can Carl's life chart the course of American history, his acts of courage foreshadow great changes in American history. For example, in 1952, Carl was the first county official to promote an African-American employee to an important government position, a deputy clerkship. This was a small but significant act in the early days of the Civil Rights movement. Additionally, Carl was an advocate for the elderly. He wrote the statewide property tax exemption for senior citizens that was later adopted as a constitutional amendment. Finally, Carl was able to adapt to the times. In the past few years, Carl received accolades for automating and computerizing his office's operations.

Carl's dedication to public service is an example to all Americans of what government is capable of accomplishing. Carl was first elected to office just two years after our victory in World War II, when it was thought that we could accomplish anything. He held on to that belief even in this cynical era where government is among the least trusted of public and private institutions. He is a model to all Americans involved in public service and especially elderly Americans. A few years ago, Carl joked that while his body had aged, his doctor said he had the "mind of a 20-year-old."

While he was tax assessor at the time of my birth and I remember learning his name at an early age, I first came to know Carl when I became the Chairman of the Harris County Democratic Party in 1990. Ever since then, whenever I was in the Harris County Administration Building, I would stop to say hello. Whether I was there on business or to register a car, Carl would always call me in to sit down and talk politics in his office, which consisted of maps, floor to ceiling boxes, and records. Just a few years ago, I was picking up new license plates, and Carl summoned me to another part of the office where he was helping staff and conducting a seminar. In his 51 years at the helm, it is fair to say that Carl S. Smith probably did every job there was to do in the Tax Assessor-Collectors' Office he ran.

Carl S. Smith was a good and great man. He was my constituent, but more importantly, he was my friend and one whose counsel I often sought. As much as Harris County loved and respected Carl, his family has suffered an even greater loss.

I ask unanimous consent to insert in the RECORD at this point an article and obituary which appeared in the Houston Chronicle on July 29, 1998.

[From the Houston Chronicle, July 29, 1998]

CARL SMITH, TAX CHIEF FOR 51 YEARS, DIES

(By Bob Tutt)

Carl S. Smith, who served 51 years as Harris County's tax assessor and collector and was the senior elected official here, died Tuesday afternoon. He was 89.

His death came at St. Luke's Hospital where he had been confined just over two weeks for treatment of heart problems and other complications.

The Harris County Commissioners Court appointed him to the tax assessor's office in 1947 upon the death of the incumbent, Jim Glass. The next year Smith won election to the post, then was re-elected 12 times. If he had completed the last two years of his term, he would have been 91.

County Judge Robert Eckels announced Smith's death during Tuesday's session of Commissioners Court, prompting gasps from the audience.

"The county has lost someone who's been an institution here," Eckels said. "He was a great leader . . . and someone who cared a great deal for the people of this country."

Eckels then led the court in a moment of silence in Smith's memory.

Commissioner Jim Fonteno, a 24-year veteran of the court, said Smith made him look like the new kid on the block.

"He's been a good one," Fonteno said. "He's been dedicated. He'd get with you too. If you said something he didn't like, he'd take you to task on it."

District Clerk Charles Bacarisse joined other department heads in praising Smith, calling him an "icon" of county government.

"He clearly was a man of honor and integrity and ran his office in an honorable fashion," Bacarisse said.

Jack Loftis, Chronicle executive vice president and editor, reflected, "To say that Carl Smith was the consummate public official would not be giving him proper credit for the 51 years of honest and gracious service he provided to the citizens of Harris County. He was an extraordinary man in every way."

Eckels added, "I remember that he would be down here many times at midnight helping people to file their taxes by the deadline so they wouldn't have to pay a penalty."

The court appointed Loretta Wimp, Smith's chief clerk, as temporary tax assessor-collector. Later it will appoint an acting assessor-collector to serve until a replacement is elected in November.

Under state law a successor to fill out Smith's term will be selected in an election held as part of the Nov. 3 general election. Had Smith died after Aug. 30, Commissioners Court would have named his successor.

Smith had considered retiring in 1996. He said he decided against it because his doctor had pronounced him very fit and he wanted to oversee installation of a new computer system to process motor vehicle titles and licenses. David Mincberg, the Democratic County Chairman, also had urged him to run again.

At the time, Smith joined, "My doctor said I have the mind of a 20-year-old, but that's stretching a bit."

He noted at the time that his years of service in the county's employ would make him eligible for a pension greater than his $93,000 salary.

In winning re-election in 1996 Smith captured almost 60 percent of the vote. He and state District Judge Katie Kennedy turned out to be the only Democrats to win countywide elections that year.

Reflecting on his tenure in office, Smith said he took special pride in establishing tax office substations around the county to dispense automobile and voter registrations and provide other services.

That, he pointed out, enabled citizens to avoid long lines at county offices downtown.

Smith also said he was proud of efforts he and the late state Sen. Criss Cole made in support of state legislation allowing homestead exemptions to reduce property taxes for senior citizens.

Smith boasted that in keeping with changing times he had computerized and upgraded his office's operations.

His responsibilities also included directing registration of voters and maintaining voter registration rolls.

A native of Lindale in Smith County in northeast Texas, Smith spent most of his life in Houston. A graduate of Reagan High School, he got a law degree from the Houston Law School in 1934, in addition to taking courses at the University of Houston.

Smith had served as president of the Tax Assessor-Collectors Association of Texas as well as the International Association of Assessing Officers.

His wife of 59 years, Dorothy, died in 1991. They were parents of two daughters, Nancy Stewart and Pam Robinson, both of Houston.

Visitation will be from 6 p.m. to 8 p.m. Friday at the Geo. H. Lewis & Sons Funeral Home, 1010 Bering Dr. Services will be held at 10 a.m. Saturday at Bethany Christian Church, 3223 Westheimer.

CARL S. SMITH

HARRIS COUNTY WILL MISS ITS LONG-TIME PUBLIC SERVANT

The secret of Harris County Tax Assessor-Collector Carl Smith's five decades in office has to be that he changed with the times yet managed to remain an old-fashion public servant. His reputation is that of an effective manager and an admirable man.

In his last terms in office, Smith became used to hearing about himself as "an institution" and "the dean" of Harris County government. He made no bones about his advancing years, sometimes joking that he could tune out nonsense by turning down the volume on his hearing aids. Smith was appointed to head the tax office after the death of the incumbent, Jim Glass, in 1947, and was fond of noting that he was elected in 1948, the same year Harry Truman was elected president.

"Youth and inexperience are no match for age and determination," Smith would say, crediting the comment to former President George Bush.

Well liked and respected at Commissioners Court, Smith was revered by many of his employees, from whom he insisted on unwavering courtesy to the public. A number of Smith's employees have been with him for decades. It was frequently said that when Smith finally left office, the average age of tax office employees likely would decline significantly.

Smith, a native of Lindale, Texas, took a law degree from Houston Law School before a great many of his Harris County constituency were born. Talk around the county was that Smith, one of the Harris County's last remaining Democrats elected countywide and serving his 12th term, was clinging to the office to keep it out of Republican hands. But there is no denying he managed an efficient shop.

Through the years, Smith fought off usurpers to his domain of tax collection and tax bill distribution, voter registration, motor vehicle registration, alcohol license fees and other state levies. Smith fended off a proposal by powerful former Mayor Bob Lanier to give a portion of his office's tax collection function to a law firm. And in his most recent re-election, Smith put down a challenger's campaign to shutter the tax office, pass voter registration duties to the county clerk and privatize tax collection.

Smith, in 1952, was the first county official to promote a black employee to an important government position, a deputy clerkship. And he wrote the statewide property tax exemption for citizens over 65 that was later adopted as a constitutional amendment.

Smith's wife of 59 years, Dorothy DeArman Smith, died in 1991. They were parents of two daughters, Nancy Stewart and Pam Robinson, both of Houston.

His mind clear, his wit sharp and his sense of humor intact, Smith's heart failed him in the end. He died at 89 at St. Luke's Hospital, where he was being treated for heart problems. Carl Smith will be long missed and remembered always.

INTRODUCTION OF THE STAND DOWN AUTHORIZATION ACT OF 1998

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. VENTO. Mr. Speaker, today I am introducing the Stand Down Authorization Act of 1998. This important legislation will build up and expand the VA's role in providing outreach assistance to homeless veterans.

According to the Department of Veterans Affairs (VA), more than 275,000 veterans are without homes every night and twice as many may be homeless during the course of the year. Based on this statistic, one out of every three individuals who is sleeping in a doorway, alley or box in our cities and rural communities has put on a uniform and served our country. Unfortunately, these numbers are only expected to increase as the military downsizes.

In times of war, exhausted combat units requiring time to rest and recover were removed from the battlefield to a place of safety. This procedure was known as "Stand Down."

Today, Stand Downs which help veterans are held across our nation. Stand Downs are grassroots, community-based intervention programs designed to help the estimated 275,000 veterans without homes in our country. Today's battlefield is too often life on the streets for our nation's veterans.

The Stand Down Authorization Act of 1998 will direct the VA to create a pilot program that would establish Stand Down programs in every state. Currently, only 100 Stand Down events take place in a handful of states annually. In addition, my legislation would also authorize the VA to distribute excess supplies and equipment to Stand Downs across the nation.

The first such special Stand Down, held in 1988, was the creation of several Vietnam veterans. The goal of the event was to provide one to three days of hope designed to serve and empower homeless veterans. Since, the, Stand Downs have provided a means for thousands of homeless or near-homeless veterans to obtain a broad range of necessities and services including food, clothing, medical care, legal assistance, mental health assessment, job counseling and housing referrals. Most importantly, Stand Downs provide a gathering that offers companionship, camaraderie and mutual support.

Thousands of volunteers and organizations over the past decade have done an outstanding job donating their time, expertise an energy to address the unique needs of homeless or near-homeless veterans ad their families. Currently, the VA coordinates with local veteran service organizations, the National Guard and Reserve Units, homeless shelter programs, health care providers and other members of the community in organizing the Stand Down events annually. However, much more action is needed to address the persistent and growing number of homeless veterans who have fought honorably to preserve our freedom and now face personal crisis in their lives.

Veterans in past service unconditionally stood up for America. Now we must speak up and stand up for veterans today. I urge all members to join with me in providing outreach assistance to veterans without homes by cosponsoring the Stand Down Authorization Act of 1988.

CLEVELAND HOPKINS INTERNATIONAL AIRPORT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to discuss a very important issue in my district, Cleveland Hopkins International Airport.

Just yesterday, the United States House of Representatives passed the Transportation Appropriations bill, an important piece of legislation for this country. The Honorable Chairman of the Transportation Appropriations Committee, Mr. WOLF, has crafted a bipartisan piece of legislation that will serve this country's transportation needs for the coming fiscal year.

Accompanying this bill is the House Committee Report (105–648). I would like to clarify something in the RECORD that is contained in this report as it relates to Cleveland Hopkins International Airport.

Cleveland Hopkins is vitally important to Northeast Ohio. It not only connects Northeast Ohio with the rest of the world, it provides jobs and economic opportunity for the people who live there. Cleveland Hopkins is also within the city limits, and is surrounded by residential communities that are being asked to adjust to the growing demands being placed on the airport.

Because the airport is very close to reaching overcapacity, the city of Cleveland has embarked upon a plan to expand the capacity of the airport and to improve it so that it may meet the needs of the 21st century. Improving the airport and expanding its capacity in the least intrusive manner to surrounding communities is something that I wholeheartedly support.

However, there is language in the Transportation Appropriations Committee Report that needs to be clarified. The language states on page 78, "The Committee urges the FAA administrator to give priority consideration to a request for discretionary funding for site and engineering studies for the proposed runway expansion at the Cleveland Hopkins International Airport.

The case to expand a specific runway has not yet been made, and singling out this one aspect of the proposed expansion could be misleading. Expanding the capacity of the airport to handle increased air traffic would not necessarily be advanced by merely lengthening one runway.

It is my understanding that it was not the intention of the Committee to determine particular airport improvements. The Committee wishes to urge the FAA to give priority to necessary studies of airport improvements at Cleveland Hopkins. Such studies might include a wide range of possible projects. All legitimate proposals for expanding the airport deserve equal consideration, as well as scrutiny by the FAA, air traffic controllers, local officials from the affected communities, residents, and my Congressional office.

To this end, I intend to work with the House-Senate Transportation Appropriation Conference Committee to clarify that the House Committee did not mean to specify a runway expansion, but to instruct the FAA to make Cleveland Hopkins airport improvements generally a priority for engineering and site studies.

Thank you Mr. Speaker for giving me this opportunity to clarify the Committee's intention for the RECORD.

HONORING ADMIRAL ROBERT E. KRAMEK

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. CLEMENT. Mr. Speaker, I rise today to honor Admiral Robert E. Kramek, Commandant of the United States Coast Guard, for his devoted service to the U.S. Coast Guard and his commitment to our country.

Admiral Kramek began his long road to become the 20th Commandant of the United States Coast Guard when he graduated with honors from the USCG Academy with a B.S. in Engineering in 1961. He attended post graduate schools at the University of Michigan, Johns Hopkins University, and the University of Alaska. He has received Master of Science Degrees in Naval Architecture and Marine Engineering, Mechanical Engineering, and Engineering Management. He also attended the U.S. Naval War College in Newport, RI and graduated with Highest Distinction. Admiral Kramek was selected for Flag rank in 1986. After selection for Flag rank, he completed the ""Capstone" Program at the National Defense University Institute of Higher Defense Studies.

ADM Kramek had many assignments before relieving ADM J. William Kime as Commandant on June 1, 1994. He was Chief of Staff of the U.S. Coast Guard and commanded two Coast Guard Districts: the 13th District in the Pacific Northwest and the 7th District in the Southeast U.S. and Caribbean. He commanded the Coast Guard Base at Governors Island, New York. He led the interdiction and rescue of 37,000 Haitians when he commanded the High Endurance Cutter *Midgett* and the Haitian Migration Task Force. During this same time period, he was also on the Drug Czar's Coordinator for the War on Drugs in the Southeast U.S. and Caribbean. He served as Regional Emergency Transportation Coordinator (RETCO) for the Secretary of Transportation in the Pacific Northwest. He also commanded Maritime Defense Zone sectors Pacific Northwest and Sector 7 Southeast U.S., which are Navy Coastal Defense Commands.

During his four years as Commandant, ADM Kramek has been responsible for many achievements within the U.S. Coast Guard. He launched four new classes of cutters: The *Keeper*- and *Juniper*-class buoytenders, the 87 foot Patrol Boat, and the Polar Icebreaker. He led the Coast Guard in an international effort to target chokepoints in the illegal drug trade, while overseeing record-setting cocaine seizures in Operations Frontier Shield, Gulf Shield, and Frontier Lance. He oversaw the integration of Reserve forces with the active-duty Coast Guard and advanced the Coast Guard's reputation as the world's premier maritime service. He created a fully integrated leadership development program that led to the Leadership Development Center of Excellence. He negotiated a memorandum of understanding with the Russian Federal Border Service that led to joint U.S.-Russian operations in the Bering Sea. He also set a government-wide example in National Performance Review improvements and signed a memorandum of agreement with the Secretary of Defense and the Secretary of Transportation defining the Coast Guard's unique defense role in the post-Cold War era.

In addition to his accomplishments, ADM Kramek has received many awards. These awards include two CG Distinguished Service Medals, two Legion of Merit awards, the Meritorious Service Medal, four CG Commendation Medals, the CG Achievement Medal, CG Unit

Commendations, the Meritorious Unit Commendation, the Special Operations Ribbon with silver star, the Humanitarian Service Medal with bronze star, and the Sea Service Ribbon with bronze star.

Admiral Kramek has left his own personal influence on the Coast Guard, which has helped make the United States Coast Guard such a valuable part of this country. Let us not forget the man we honor today, who lives his life to serve the United States of America.

Congratulations to Admiral Robert E. Kramek on his extraordinary life and career, and may God continue to bless him, his wife Patricia, and his four children, Tracy, Joseph, Suzanne, and Nancy.

"VIETNAM: THE LAND WE NEVER KNEW"—GEOFFREY CLIFFORD'S PHOTO EXHIBIT ABOUT PEOPLE, NOT WAR

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. LANTOS. Mr. Speaker, it is a privilege for me to call to the attention of my colleagues the work of an exceptional Bay Area photographer, Mr. Geoffrey Clifford. In an exhibit of his photographs—"Vietnam: The Land We Never Knew"—he shares with us his images of the people of Vietnam. I believe that it would be helpful for all of us to view Mr. Clifford's beautiful pictures, to obtain a greater understanding of the innate beauty of Vietnam, its ancient culture and its strong people. Those photographs are on display this week in the Cannon Rotunda here on Capitol Hill, and I urge my colleagues to stop for a moment to enjoy this outstanding exhibit.

Geoffrey Clifford first arrived in Vietnam not as a photographer, but as a soldier. He served his country as a helicopter pilot for 10½ months during the early 1970's, flying combat assaults and supply missions from bases in Chu Lai and Da Nang. He experienced Vietnam during its greatest turmoil, when its citizens were divided and its communities and landscapes ravaged by war.

Upon his return to the United States in 1972, Mr. Clifford built a career and started a family. But he never forgot Vietnam, and his inescapable memories led to his return many years later. As he wrote in the introduction of his stirring book "The Land We Never Knew" (San Francisco: Chronicle Books, 1989):

> I was never able to wander along Vietnam's back roads, experiencing life as it might be in that country; never able to see, feel, smell, touch or taste what I wanted; and most frustratingly, never able to make friends with the Vietnamese, to share common feelings in conversation with innocent people. . . . Vietnam was a trauma that had been lingering inside me for more than a decade. Photography allowed me to return and assemble a body of work that might benefit our progress. My sincerest wish is that this book, this "work in progress," will aid others with their perceptions of Vietnam and help guide us away from future tragedies.

"The Land We Never Knew" has achieved tremendous critical success, as Clifford's pictures are skillfully laid out and beautifully complemented by the poetic and thoughtful text of John Balaban, a professor of English at Pennsylvania State University. The brilliance of this book reflects years of diligent effort by these men; of the 10,000 photographs taken by Clifford over a period of several years, only the finest 200 made it into the book. Wrote the Los Angeles Times: "His handsome pictures celebrate the beauties of the land and the resilience of its people." Since "The Land We Never Knew" was published, Clifford's work has appeared in Life, Travel and Leisure, Fortune, and the New York Times Magazine.

Today, Mr. Speaker, the House will debate the future of our relationship with Vietnam. Trade, security, and POW/MIA issues may be discussed. Regardless of one's position on these important matters, I believe that it would be of great benefit to each and every one of my colleagues to view this exhibit, as the true beauty of Clifford's pictures rests in its apolitical content.

In contrast to most of the Vietnam images that we have seen over the past half-century—war, destruction, bloodshed, assassination—the theme of "The Land We Never Knew" is one of resilience. Despite decades of destruction to the culture and communities of Vietnam, we see in Clifford's photographs a people that refuse to allow a legacy of three millenniums collapse in a heap of napalm, bombing, and death. We witness in this beautiful book landscapes that reflect this irrepressibility—beautiful forests, river villages, and lotus ponds that display a pristine radiance seemingly unaffected by years of military strikes and counterstrikes. "The Land We Never Knew" is about the Vietnamese nation, not the Vietnamese government. It is about the people of Vietnam, not the Vietnam War.

Mr. Speaker, I invite my colleagues to join me in praising Geoffrey Clifford, who so ably uses his wondrous talents to communicate a greater understanding and appreciation for Vietnam. I strongly urge my fellow Members to admire his exhibit this week in the Cannon Rotunda.

TRIBUTE TO JEFFERSON ELEMENTARY SCHOOL

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Jefferson Elementary School. Jefferson Elementary has been credited as a California Distinguished School. The faculty and students of Jefferson Elementary exemplify excellence with exceptional student achievement.

Reflecting their school's motto, "High Above the Rest", Jefferson students demonstrate the highest tradition of individual academic success, school pride and ownership of their educational facility. Jefferson Elementary's mission is to enable each student to have equal access to the core curriculum regardless of his/her academic and language proficiency. Jefferson's school-wide goals are linked to their District's Mission. Jefferson has developed strong partnerships with the School Site Council (SSC) and the Bilingual Advisory Committee (BAC). Their "Student Compact" actively involves students, parents and teachers in focusing on the importance of student achievement and accountability, both academic and social.

Jefferson School is a well-established K–6 campus located on the southeast side of Dinuba (population 13,950) in rural Tulare County. Jefferson School serves approximately 700 students and their families. They are one of five schools (K–6) in the Dinuba Elementary School District. Dinuba Elementary School District has been experiencing steady growth in the student population over a number of years. Today it serves nearly 3,000 students.

Jefferson School's state-of-the-art technology gives students an added dimension to their educational program. Each teacher has a personal classroom computer that is networked to a school-wide web. E-mail and Internet will soon enhance teacher communication and professional discourse. To prepare students for a successful transition to middle school, their sixth grade students are introduced to a morning core block rotation, stressing reading/language and math. Jefferson Elementary, in recognition of the importance of solid study skills, provides all intermediate students with a Student Agenda, organizational tools and a vital home/school connection.

Student success in the result of a collaborative effort of all members of the Jefferson learning community. Their growth and achievement is showcased by their mathematics program, effective reading strategies, instruction of second language learners, judicious use of well-trained instructional assistants, Extended Day programs, use of technology and their P.E. and sports program.

Mr. Speaker, it is with great honor that I pay tribute to Dinuba Elementary School District Jefferson Elementary School. The students and faculty in this school exemplify a care for the community and a dedication to hard work. I ask my colleagues to join me in wishing Jefferson elementary many more years of success.

CONFERENCE REPORT ON H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

SPEECH OF

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

Mr. SMITH of New Jersey. Mr. Speaker, I rise today in support of the Military Construction Appropriations Act of Fiscal Year 1999 (H.R. 4059).

I am particularly pleased the House and Senate authorizing and appropriating committees have listened closely to the case I have been making for many years on behalf of funding the P–208 Lakehurst Aircraft Platform Interface (API) laboratory, and they are now responding.

I also want to extend my thanks to the support extended to the API lab by the Chairman of the Military Appropriations Subcommittee, RON PACKARD, and on the Senate side, by my New Jersey colleague, Senator FRANK LAUTENBERG. It is very encouraging to see that the report language contained in the House and Senate versions of H.R. 4059 have survived and are included in the final product tonight. As a result, H.R. 4059 includes directive report language that earmarks $1.65 million in planning and design funds to be used to begin designing the P–208 Lakehurst API lab project.

At my urging, the House reaffirmed its support for the P–208 project in the report accompanying H.R. 3616, the Fiscal Year 1999 Defense Authorization Act, and now Congress is specifically appropriating the funds to adequately finance the planning and design of the P–208 API lab.

I also want to commend the Navy for moving forward with this vital project in an expeditious manner. The Naval Facilities Engineering Command (NAVFAC), in response to one of my inquiries, has informed me that on May 22, 1998, the Navy issued the necessary authorization to begin the planning and design of those military construction projects listed for fiscal year 2000, which includes the Lakehurst API lab. The only questions remaining now are how many square feet the facility will have and what it will look like.

Mr. Speaker, today is a very good day for America, for naval aviation, and for the people of the 4th Congressional District. It has been a long, grueling fight to successfully get the Lakehurst API consolidation project to this point, and the battle is by no means over. However, in the end, our Navy pilots and carrier crew will be able to operate more safely, more efficiently, and more effectively because of the improvements that will be brought about by the P–208 API lab project.

IN MEMORY OF OFFICER JACOB CHESTNUT AND SPECIAL AGENT JOHN GIBSON

SPEECH OF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor the memories of Officer Jacob Chestnut and Special Agent John Gibson. The untimely and tragic deaths of these two men demand from all of us contemplation as to the awesome costs of freedom as well as the delicate nature of life.

The freedoms that we, as Americans, enjoy today are a direct result of a brave decision made long ago by the first Americans, a decision reaffirmed by every generation of the nation's citizenry. This was the decision made by Officer Jacob Chestnut and Special Agent John Gibson this past Friday. The measure of America's greatness, a greatness in which Officer Chestnut and Special Agent Gibson share, is this brave commitment to a free society.

The burden of this commitment is an unflinching vigilance against those who threaten our freedoms. Officer Chestnut and Special Agent Gibson devoted their lives to providing the very security that allows our free society to flourish. It was in providing this security that these two men lost their lives, a sacrifice which demands the reverence of a grateful nation.

My fellow colleagues, let us learn from the sacrifices of Officer Chestnut and Special Agent Gibson. The legacy of these two patriots offers important lessons to us all.

HONORING THE MEMBERS OF THE CHATTANOOGA ALL-STAR TRAMPOLINE AND TUMBLING TEAM

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. CLEMENT. Mr. Speaker, I rise today in honor of Courtney Bailey, Allison Bovell, Alice Ann Caldwell, Lindsay Davis, Sarah Harris, Lori Hughes, Samantha Robinson, Nat Davis, Caleb Hicks and Ashley Nickols for their competitive performances at the USA Trampoline and Tumbling National Championships in St. Paul, Minnesota on July 1–8, 1998. During these competitions, these fine young athletes earned eight first place national championships and made Tennesseans proud.

Even more outstanding that recognition, medals or fame is how these students have overcome the obstacles of our society and let their determination and perseverance win the ultimate goal. With all the negative publicity brought on our youth today, it is good to know that children like these are our true future of tomorrow. Their persistence has brought honor, pride and dignity not only to the state of Tennessee, but to the nation as a whole. With these achievements, these remarkable young athletes serve as role models for members of the younger community. I would also like to congratulate the coaches, teachers, parents and/or guardians who have provided these "champions" with spiritual and mental guidance. Without this influence, these extraordinary young men and women might not have learned how to excel in all realms of life.

I want to conclude with a special "thank-you" to Courtney, Allison, Alice Ann, Lindsay, Sarah, Lori, Samantha, Nat, Caleb and Ashley for their achievements. And I encourage them to continue to strive for their goals and to be a positive influence on those around them.

FAREWELL TRIBUTE TO ITZHAK OREN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in bidding farewell to Itzhak Oren, who for the past four years has been the Minister for Congressional Affairs at the Embassy of Israel here in Washington, D.C. During this time, he has been a major influence in maintaining and fostering the strong and friendly relationship between the United States and the State of Israel. For Members of Congress and for congressional staff, Itzhak has been a ready source of information and assistance.

Mr. Oren will shortly take up his new position as the Ambassador of Israel to Nigeria and Benin.

Mr. Oren has served in the Israeli Foreign Ministry for 17 years. Prior to assuming his position in Washington, he was head of the Foreign Ministry's Coordination Department and served as political advisor to Prime Ministers Yitzhak Rabin and Yitzhak Shamir. In 1991 and 1992, he was a participant in the multilateral peace talks in Moscow, Tokyo and the Hague. He has served a number of years in the United States as Consul of Israel in Boston, and prior to that he was posted in New York City.

Prior to joining the Foreign Ministry, Itzhak served as an officer in the Israeli Defense Forces and as an intelligence analyst. He holds a B.A. degree from Bar Ilan University and an M.A. from the City University of New York.

CONGRATULATIONS TO THE FRESNO BEE

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate the Fresno Bee on receiving the first-place award for general excellence from the California Newspaper Publishers Association. This is the second straight year the newspaper has won the organization's highest honor and the Fresno Bee is very deserving of this award.

The Fresno Bee has a daily circulation of 158,851 and a Sunday circulation of 191,963. It was judged against other daily newspapers with circulations of 75,001 to 200,000 copies. Clearly, this award displays the outstanding efforts of not only the Fresno Bee journalists, but of an entire newspaper staff who are committed to giving Fresno and the Central Valley a comprehensive, first-class newspaper. Naturally, the Fresno Bee exhibits strong local coverage, outstanding local photography and good local enterprise stories.

In addition to the general excellence award, the Fresno Bee received first-place awards for editorial comment, illustration/information graphics and design.

Associate Editor Russell Minick was honored for an editorial on a white supremacist groups' spreading of propaganda on the California State University Fresno campus. Mr. Minick took second place in the same category one year ago.

Bee artists John Alvin, Bob Campbell, Andrea Cooper and Severiano Galvan were given the graphics award for a two-page layout on the once-dominating Central Valley wetlands. Mr. Galvan earned the first-place award in the same category one year ago.

Bee photographer John Walker took second place for his photos featured in his portrait of Little Rascals star Tommy "Butch" Bond.

Mr. Speaker, it is with great honor that I congratulate the Fresno Bee on receiving the first-place award for general excellence from the California Newspaper Publishers Association. The Fresno Bee has provided 75 years of outstanding service to the Central Valley, using its excellent staff to create what truly is a first-class production. I ask my colleagues to join me in wishing the Fresno Bee and its staff many more years of success.

PERSONAL EXPLANATION

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Ms. ROYBAL-ALLARD. Mr. Speaker, due to a family emergency, I was unable to be present for rollcall votes 279 through 308. Had I been present, I would have voted yea on rollcall votes 279, 281, 286, 287, 288, 290, 294, 295, 297, 298, 299, 300, 301, 303, 305 and nay on rollcall votes 280, 282, 283, 284, 285, 298, 291, 292, 293, 296, 302, 304, 306, 307, and 308.

HONORING GRAND MASTER SEOUNG EUI SHIN FOR HIS CONTRIBUTIONS TO THE NASHVILLE COMMUNITY AND THE SUCCESS OF THE SOUTHERN U.S.A. TAE KWON DO CHAMPIONSHIPS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. CLEMENT. Mr. Speaker, I rise today in honor of Grand Master Seoung Eui Shin and the 23rd Southern U.S.A. Open Tae Kwon Do Championships, of which he is director. Master Shin has served the Nashville community faithfully for more than twenty years, donating his time and talents to make a difference in the lives of countless children and young adults.

Master Shin was born in North Korea and grew up in South Korea during the turbulent times following World War II. By the age of 13, he had earned his black belt in Tae Kwon Do. He began to teach the art in high school and, later, in the Korean Army. He came to the United States and Nashville in 1974, and has been an invaluable member of the community ever since.

Now a ninth degree black belt, Master Shin is recognized around the world for his Tae Kwon Do abilities and his contributions to the martial art. He has become a leader in Nashville's Korean community and operates Shin's Martial Arts Institute in Bellevue. He gives freely of his time to programs at local elementary schools and community centers. Through his instruction, Master Shin has influenced the lives of many of his students. His students learn the value of control and self-discipline while gaining new respect for themselves and others. Several of Master Shin's students have gone on to teach Tae Kwon Do themselves, passing on what they have learned.

Seoung Eui Shin, by giving selflessly of his time to the youth of Nashville, has quietly made our world a better place and his become a role-model for us all. I thank you Master Shin for your contributions to our community and congratulate you and all the participants in the 23rd Southern U.S.A. Tae Kwon Do Championships.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes:

Mr. POSHARD. Mr. Chairman, it is with deep regret that I rise today in opposition to the VA–HUD Appropriations measure for fiscal year 1999. I believe it provides inadequate funding for veterans' health care, and I cannot support a bill that shortchanges America's veterans in such an unjust manner.

As a veteran, I am acutely aware of and deeply grateful for the sacrifices that America's veterans have made in service to their country. As a legislator, I am committed to ensuring that the needs of these citizens are accorded the highest priority. I have great respect for Chairman LEWIS and Representative STOKES and am convinced of their concern for the welfare of our veterans. I also recognize the budget constraints which have forced them to make many difficult decisions. However, I believe that we can do better, and I am voting against this measure with the hope that veterans' health care and other programs will be granted the funding they deserve once it is made clear that this House will not tolerate such treatment of veterans' programs.

The funding levels provided in this measure are simply not sufficient to ensure the high quality health care our veterans deserve. The tragic result of such a shortfall will surely be the elimination or reduction of many VA specialized care programs and the inability of the VA to guarantee adequate care to the veterans who depend on its services. I trust that my fellow Members will agree that this is not the way we should demonstrate our appreciation for their service and sacrifice.

Mr. Speaker, I urge my colleagues to join me in opposing this measure in an effort to make it clear to the American people and to the leadership of this body that we assign the utmost importance to funding programs that will meet the needs of America's veterans, and that this bill is a woefully inadequate expression of that priority.

COMMEND SENATE FINANCE COMMITTEE EFFORTS TO REVIVE FAST TRACK

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. BEREUTER. Mr. Speaker, this Member would take a moment to commend the members of the Senate Finance Committee for their efforts last Tuesday to give "fast-track" authority to the President by attaching fast-track legislation to S. 778, the Africa Growth and Opportunity Act. This action by the Senate was also applauded on the editorial page in the July 24, 1998, edition of The Omaha World-Herald, as necessary to protecting the economic health of our nation by giving the President the flexibility and authority to negotiate international trade agreements expeditiously.

Unfortunately, the Clinton administration, which initially stated fast track was one of their top legislative priorities, labeled this initiative by the Senate Finance Committee as "political mischief." Why is it that the Nebraska press can readily identify legislation designed to safeguard the interests of U.S. workers and consumers when all the administration can do is play politics?

[From the Omaha World-Herald,
July 24, 1998]

CLINTON'S SWITCH ON FAST-TRACK A PUZZLING POLITICAL MANEUVER

The Senate Finance Committee has resurrected a plan that was considered dead: giving President Clinton "fast-track" authority to negotiate international trade deals. But now the administration seems to be balking.

Fast-track authority enables presidents to negotiate international trade agreements without interference from Congress. When a deal is made, Congress can say "yes" or "no," but cannot rewrite it. Presidents have had the authority, granted by Congress, since 1974. But in 1994, the authorizing legislation lapsed.

Efforts to revive it earlier this year were supported by President Clinton, many congressional Republicans and business groups. But opposition was strong from protectionist labor groups and environmental organizations worried about pollution abroad. Those groups with the cooperation of Democrats, helped kill the proposal.

Maverick Republicans also had a hand on the ax. They attempted to hold fast-track hostage until Clinton agreed to reduce family-planning aid to Third World countries.

The Finance Committee voted 18 to 2 Tuesday to attach fast-track to a bill, already passed by the House, that would expand trade with Africa. President Clinton should be delighted.

But no. Press Secretary Mike McCurry asserted that the committee vote was "political mischief" rather than a commitment to free trade. Senate Democrats, too, were unhappy with the revival of the potentially divisive issue before an election.

Fast-track eases the way for U.S. negotiators to join in drafting international agreements. Without it, possible trading partners aren't motivated to make their best deal because they know Congress can always revise any agreement that is reached.

International trade has become increasingly important to the U.S. economy. That is especially true in the Midlands, where agricultural exports are growing fast. In Nebraska, for instance, exports have increased fivefold in the last five years.

Surely something that was so important just a few months ago remains important, even though an election is approaching. The president still needs the flexibility and authority granted by fast track to deal with trade agreements expeditiously.

When President Clinton declared that fast-track authority was one of his top legislative priorities, he was speaking out of a concern for U.S. trade relations. Senators and members of the House who pushed the issue had the same worthy motive.

Political maneuvering had no place in the conversation then. It still does not.

SAN FRANCISCO BOARD OF SUPERVISORS CONDEMNS PERSECUTION OF CHINESE IN INDONESIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. LANTOS. Mr. Speaker, I call to the attention of my colleagues in the House a resolution condemning the persecution of Chinese in Indonesia which was recently adopted by the Board of Supervisors of the city of San Francisco. I want to mention in particular two outstanding Supervisors—Mabel Teng and Leland Yee—who took the initiative in calling for a resolution to condemn the at-times brutal treatment of ethnic Chinese living in Indonesia.

Mr. Speaker, the recent popular unrest in Indonesia led to gross abuse of the human rights of the Chinese population there. At my direction the Congressional Human Rights Caucus holds a briefing for Members of Congress and congressional staff today to understand the dimensions of this tragic assault against ethnic Chinese in Indonesia. The U.S. Government must make clear to the government in Jakarta that such abuses are totally unacceptable, and we must be certain that the Indonesian Government works to prevent the recurrence of such actions.

At a hearing of the Subcommittee on International Operations and Human Rights which was held last Thursday (July 23) and which focused on human rights in Indonesia, I raised the issue of Chinese human rights violations in Indonesia with our Assistant Secretary of State for Human Rights, John Shattuck. I want to reiterate, Mr. Speaker, what I said on that occasion. I earnestly hope that the cataclysmic changes which are sweeping over Indonesia today and which will have enormously negative ramifications for tens of millions of Indonesians in an economic sense, will herald the opening up of the process of democratization and respect for human rights—and particularly, respect for the rights of the Chinese population living in Indonesia.

One of the sad aspects of our Nation's own human rights record has been our failure to press for equal rights for the Chinese population of Indonesia, which has been pivotal in the economic development of that country. In the hearing last week with Assistant Secretary Shattuck, Mr. Speaker, I asked and received assurance that the Department of State will press the government of Indonesia for a full investigation of the brutal and violent acts taken against the ethnic Chinese community there and that we will actively and aggressively urge full observance of the human rights of Chinese in Indonesia.

Mr. Speaker, the resolution recently adopted by the San Francisco Board of Supervisors is an important statement on this important issue, and I commend Supervisor Teng and Supervisor Yee for their initiative. I submit the full text of this resolution to be placed in the Record.

Condemning the Persecution of Chinese in Indonesia

Condemning the persecution, racial violence and sexual brutality against ethnic Chinese in Indonesia and urging our congressional representatives to call for a full investigation into these atrocious acts of violence and pressure the Indonesian government for a full investigation to seek accountability and justice.

Whereas, recently 1,200 people died in Indonesia as a result of targeted and vicious attacks and riots; and

Whereas, ethnic Chinese in Indonesia were targeted for racial violence, looting and sexual brutality; and

Whereas, various human rights groups report that at least 70 Chinese women were systematically raped, and 20 of those women died due to complications from their injuries; and

Whereas, rape victims included young girls; and

Whereas, Indonesian Chinese have been subjected to organized persecution that included looting, burning of churches and homes and mass raping in public; and

Whereas, human rights groups, including the Jakarta Legal Aid Institute, have accused the Indonesian government represented by security forces of failing to control the violence, and encouraging the brutality; and

Whereas, the Jakarta Legal Aid Institute and other human rights groups have filed a class action lawsuit against the Indonesian government for these attacks; and

Whereas, much of the media worldwide covered the student demonstrations in Jakarta, however, the specific reports of the widespread violence and attacks against the ethnic Chinese have been largely ignored; and

Whereas, the United States must condemn and denounce these horrific atrocities of violence and express the moral outrage of the American people; therefore be it

Resolved, That the Board of Supervisors in the City and County of San Francisco condemns the persecution, racial violence and sexual brutality against ethnic Chinese in Indonesia; and be it

Further Resolved, That the Board of Supervisors in the City and County of San Francisco urges that our Congressional Representatives call for a full investigation into these atrocious acts of violence and pressure the Indonesian government for a full investigation to seek accountability and justice.

PERSONAL EXPLANATION

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Ms. ROYBAL-ALLARD. Mr. Speaker, due to business in my Congressional District, it is with deep regret that I was unable to vote in support of rollcall vote 340, a resolution honoring the slain capitol police officers, Jacob Chestnut and John Gibson. My sincerest condolences go out to their families and loved ones.

IN MEMORY OF ALAN J. GIBBS, LIFELONG PUBLIC SERVANT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1998

Mr. PALLONE. Mr. Speaker, Alan J. Gibbs, died Saturday, July 25, at the age of 60. Most recently, Alan served as the Director of the National Transit Institute (NTI) at Rutgers, the State University of New Jersey.

He was dedicated to public service, having worked for over 35 years at the federal, state, and local levels of government.

I join with his family, as well as my colleagues at Rutgers and throughout the State of New Jersey in remembering him, and honoring his accomplishments and great leadership. I know Rutgers is particularly proud of Alan's accomplishments at the National Transit Institute. Established at the Rutgers-New Brunswick campus in New Jersey's Sixth District in 1992, the NTI was created by Congress to develop education and training programs for transportation professionals and transit agencies across the nation. The NTI has trained thousands of individuals from transit agencies, metropolitan planning organizations, state departments of transportation, and employees of federal-aid transit systems to improve public transit in the United States.

Prior to heading the NTI, Alan served as the State Commissioner of the Department of Human Services, to which he was appointed by Governor Jim Florio in 1990. Under his leadership, the largest department in the State government underwent a major downsizing, reallocated resources to focus on non-institutional care for the developmentally disabled and mentally ill, developed a managed care program for Medicaid recipients, and implemented a welfare reform program.

Mr. Gibbs began his public service career in 1963 with the National Labor Relations Board. In 1968, Alan became the Equal Employment Opportunity Commission's (EEOC) first Area Director for Alabama and Tennessee. He then moved to Washington, DC to continue his work at the EEOC at the federal level. From 1970 to 1974, Alan served in the New York City Health Services Administration. In 1972, he was the first layperson to be appointed First Deputy Commissioner of Health.

Then, in 1974, Governor Brendan Byrne of New Jersey appointed Mr. Gibbs to serve as Deputy Commissioner of the New Jersey Department of Human Services. In that capacity, he was responsible for all management, planning, and budgetary activities in support of the State's corrections, mental health, mental retardation, public welfare, Medicaid, social services, and veteran programs. In 1981, as Secretary of the Washington State Department of Social and Health Services, Mr. Gibbs was honored by the National Governor's Association for reducing spending by $200 million, without eliminating or negatively affecting high-priority services for dependent populations.

As President Carter's appointee to the Assistant Secretary of the Army, he was presented with the Distinguished Civilian Service Award for his contribution to our nation's defense in 1981.

Clearly, Alan Gibbs' accomplishments were extensive. The national recognition he received throughout his career for his exemplary management of the most vital public services at all levels of government certainly was well deserved. I join his family, and those at Rutgers and elsewhere, in honoring Alan for his talent and deep commitment to public service. I know he will be missed.

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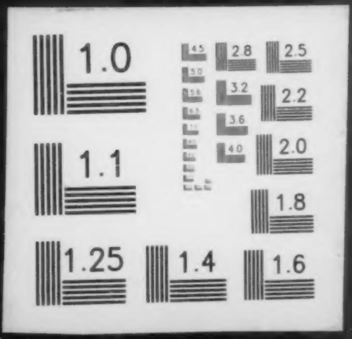
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